



## Department of Planning and Community Development

### MEMORANDUM

TO: Thomas L. Mattis, City Manager

FROM: George W. Schanzenbacher, AICP, Director; Hugh P. Fisher, City Attorney

DATE: March 8, 2011

**SUBJECT: City Council Review of Zoning Ordinance (pp 138-166)**

After the February 16, 2010 meeting we discussed Council's suggested revisions with our Zoning Consultant Terry Harrington. As a result of those discussions enclosed please find the following:

1. Summary table of review comments of City Council at 2/16/2011 meeting.
2. Detailed staff response recommendations, with specific text changes as necessary to the following items:
  - Home Occupations-General Standards 3&4 –edited to delete unwanted text
  - Home occupation –maximum students per day
  - Buffering standards- wording clarified
  - Adult use –text adjusted
  - Office and sales trailers deleted
  - Accessory dwelling units deleted
3. Unresolved Issues From Previous meetings:
  - Tattoo Parlors- Please see enclosed memo and proposed language from the City Attorney
  - Minimum Square footage requirements for Multi-Family Dwellings-The City Attorney concurs with the staff's recommendation against adoption. Council action still necessary.

- Board of Architectural review- Council decision on composition, if different than Planning Commission necessary

We are ready to proceed with the detailed review of the proposed Zoning ordinance at the upcoming Council work session, starting on page 166.

Enc.

# **Zoning Ordinance- City Council review -11/16/2010**

page #	issue	discussion	requested council action	Staff recommended result	COUNCIL DECISION 12/21/2010
14	Administrator- not defined	Zoning Administrator is defined, makes reference to Administrator	add definition	(1).new definition	Agreed
	Special Use permit vs. Special Exception	CA explained differences	none		
17	Condominium	should there be a definition?	consider	definition is on page 17	
38	Medical office	clarify what this includes Medical doctors and/or other users	clarify definition	(2). revised definition	Agreed
	Nonconforming uses	explained concept and application	none		
49	Manufactured home, Emergency	discussed need for extension beyond 12 months	none- agreed to leave as is		
49	Accessory Apartments	discussed inclusion or not	none- agreed to leave as is		
52 & 55	Town House & Multi-Family Dwelling	need to include minimum square footage for individual dwelling units	staff to develop minimum standards for consideration	(3).min standards created for Council Consideration-exhibit A Staff does not recommend. No statutory basis for minimums Not found in other Tri-Cities communities	Requested legal opinion Legal opinion submitted-Final decision necessary
52		special exception permit for townhouses referenced in sec 286-404.36 (B) 8.;PP 143	review provision for consistency with special exception permit	last sentence needs to be removed- townhouses are allowed by right in RM District	Agreed
57	Max height of Accessory Structures in RH District	is 15' correct? Probably should be higher check other districts also	clarify	(4).revised standard	Agreed
57	Park & Ride facility	specific development standards not found	clarify	(6) standard created-same as Parking Facilities, Surface Structures	Agreed
59	Veterinary Hospital/Clinic	appropriateness of use in the RQ District	staff to review	(6). Use removed from district	Agreed
	Accessory Structures-20% max lot coverage in Residential areas	is standard appropriate?	none		
63	Parking Facility, Surface/Structure	are standards the same as Park & Ride?	clarify	same as Park and Ride	Agreed
63	Studio, Fine Arts	should this be (S) Special exception due to possible displays	none- CA clarified Adult use on page 39 of definitions		
62	Tattoo parlors and Check cashing (Personal Services)	could these uses be restricted to GB District?	explore possibility	(7). Add definition of Tattooing & Body piercing Add tattoo parlor as as permitted use in GB District Change def of personal services	Agreed
75	PUD	areas where this district could be used use for apartment development	none- clarified as overlay district Council would determine future areas		
91	Board of Arch review Historic Resources District	discussed creating board with broader representation than Planning Comm		Advisory review board composition could be modified	No decision
111	Arch Character District	incorporate as part of Historic Resources District and/or move closer together in text	staff to explore options	Keep separate- different uses and authorizations (Code of VA and City Charter). Uses are significantly different and mapped areas also are not similar.	Agreed
11/17/10 GS				Could locate Districts in code to be adjacent	Agreed

12/21/10 page #	issue	discussion	requested council action	Staff recommended result	COUNCIL DECISION 2/16/2011
110	wetlands setback	new provision-explanation	none		
113	Appeal of Decision to Arch Review Board 286-324.12	composition of Board-who has final decision	make up of bd needs to be determined		
131	18 month time frame for installing storm water management facilities	why so long a time frame?	explanation		
136	Home Occupation standards 4. no sale of goods or products on premise	May be too restrictive	Clarification of intent	revised wording proposed	deleted sentence-2/16/11
	3. sale of firearms	should be for modern firearms only	Clarification	revised wording proposed	deleted sentence-2/16/11
12/22/10GS					
Council also wanted follow-up on tattoo parlors and the minimum square footage area issue. It might be appropriate to list those matters under the 12/21/10 issues discussed.					
Tattoo Parlors					
2/16/2011	(revised 3/8/11)				City attorney to draft revised stds-2/16/11
137	#13. Class size and # of students per week	appropriate # and amount so as to not impact neighborhood	revise std to 5 students per day	revise to 5 students per day	Draft standards prepared
147	406.20(a) 1 & 2 Wording confusing on buffering	clarify wording- what is intent?	clarify	clarified-revised wording proposed	
149	410.04 Adult use (A) 3 & 4 word appears to be mis	clarify wording-what is intent?	clarify	text adjusted	
150	410.08 and 410.12- (a) 2 reference to section 510.12	what is correct reference	explain	reference should be to 286.512	
153	410.4 Itinerant merchant	Are the standards the same as in existing ordinance	verify if they are the same	Verified-they are the same	
163	500.04(A) 5 "office trailer	Whether or not to allow in residential active construction site	allow only with special exception permit	Not practical due to 4 month+- period time period necessary to secure	
163	500.04(A) 6 "sales" trailer	Whether or not to allow in residential active construction site	remove provision	Removed office from text	
164	500.08 (A) 5 "dwelling"	dwelling is confusing	remove word	Agree- remove "dwelling units as permitted use	
165	500.1	dwelling is confusing	remove word	Agree- remove "dwelling units as permitted use	
165	500.12	dwelling is confusing	remove word	Agree- remove "dwelling units as permitted use	

# Proposed Changes to City of Colonial Heights Zoning Ordinance 2/16/11

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## Section 286-404.12 Home Occupations

(B) General standards:

1. More than one home occupation shall be permitted provided the total floor area used for all home occupations does not exceed 20 percent of the principal dwellings gross floor area.
2. No dwelling or structure shall be altered, occupied or used in a manner which would cause the premises to differ from a character consistent with a residential use. The use of colors, materials, construction, lighting, or other means inconsistent with a residential use shall be prohibited.
3. There shall be no outside storage of goods, products, equipment, or other materials associated with the home occupation. No toxic, explosive, flammable, radioactive, or other hazardous materials used in conjunction with the home occupation shall be used, sold, or stored on the site. ~~The sale of modern firearms as a home occupation shall be prohibited.~~
4. ~~There shall be no sale of goods or products on the premises that are not produced on the premises.~~

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13. Lessons in the applied arts shall be permitted, *provided that no more than five (5) students per day shall be provided such lessons.* ~~the class size for any lesson does not exceed five (5) students per day at any one time and shall not exceed ten (10) students in any one week period.~~

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## Section 286-406.20 Educational Facility Primary/Secondary

(A) General standards:

1. Any outdoor activity area, ball field or court, or stadium which adjoins a residential use *types listed in Section 286-404* shall be landscaped with a minimum of one row of small evergreen trees in accordance with Section 286-512 along the property line adjoining the residential use type. Where night-time lighting of such areas is proposed, large evergreen trees shall be required.
2. Any area constructed in conjunction with an educational facility intended for the overnight storage of buses, trucks, or large equipment which adjoins residential use *types listed in Section 286-404* shall be landscaped with a minimum of one row of small evergreen trees in accordance with Section 286-.512 along the property line adjoining the residential use type. Where night-

time lighting of such areas ~~which~~ adjoins residential use types listed in Section 286-404, the areas shall be landscaped with ~~is proposed large evergreen~~ adjoins a residential use type shall provide a Type C buffer yard as specified in Section 286-512 of this chapter with large evergreen trees.

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*Section 286-410.04 Adult Use*

(A) General standards:

1. Sexually explicit material shall not be displayed in the windows of adult businesses. Further, adult merchandise as defined in Section 286-200, shall not be visible from any point outside the establishment.
2. Signs or attention-getting devices for the business shall not contain any words or graphics depicting, describing or relating to specified sexual activities or specified anatomical areas, as defined in Section 286-200.
3. All off-street parking areas of the adult use shall be illuminated from dusk to closing. Adequate lighting shall also be provided for all entrances and exits serving the adult use, and all areas of the establishment where the adult use is conducted, except for the private rooms of an adult motel or the movie viewing areas in an adult movie theater. "Adequate lighting" means sufficient lighting for clear visual and security camera surveillance.
4. No adult use shall be located within 1000 feet of any *family day care home; center; educational facility, primary/secondary; educational facility, college/university; residential use type; nursing home; assisted living-care residence; public park and recreation area; cultural service; religious assembly; hotel/motel/motor ledge; or any other adult use.*

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*Section 286-410.08 Automobile Dealership, New*

(A) General standards:

1. Outdoor vehicle display areas in conjunction with automobile sales shall be constructed of the same materials required for off-street parking areas.
2. The storage and/or display of motor vehicles in the parking area planting strip required by Section 286.510.12 512 shall be prohibited

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**Section 286-500.04 Accessory Uses: Residential Use Types**

(A) Residential use types may include the following accessory uses, activities or structures on the same site or lot:

1. Private garages and parking for the principal use.
2. Recreational activities and uses used by residents, including structures necessary for such uses.
3. Playhouses, gazebos, incidental household storage buildings, swimming pools, and other similar accessory structures.
4. Other uses and activities necessarily and customarily associated with purpose and function of residential use types, as determined by the Administrator.
5. Construction office or trailer associated with active construction on a site. A construction office or trailer shall be removed from an active construction site within 30 days of issuance of the final certificate of occupancy for the project.
6. ~~Sales trailer associated with active construction on a site. A sales trailer shall be removed from an active site within thirty (30) days of issuance of the final certificate of occupancy for the permanent sales office for the project.~~

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**Section 286-500.08 Accessory Uses: Office Use Types**

(A) Office use types may include the following accessory uses, activities or structures on the same site or lot:

1. Parking for the principal use.
2. Recreational facilities available only to the employees of the office use type.
3. Day care facilities available only to the employees of the office use type.
4. Other uses and activities necessarily and customarily associated with purpose or function of office use types, as determined by the Administrator.
5. ~~One accessory dwelling unit occupied by employees responsible for the security of the use.~~

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**Section 286-500.10 Accessory Uses: Commercial Use Types**

(A) Commercial use types may include the following accessory uses, activities or structures on the same site or lot:

1. Parking for the principal use.
2. Accessory storage buildings or areas.

- ~~3. One accessory dwelling unit occupied by employees responsible for the security of the use.~~

**Section 286-500.12 Accessory Uses: Industrial Use Types**

(A) Industrial use types may include the following accessory uses, activities or structures on the same site or lot:

1. Parking for the principal use.
2. Recreational facilities available only to the employees of the industrial use type.
3. Day care facilities available only to the employees of the industrial use type.
4. Cafeterias and sandwich shops available only to the employees of the industrial use type.
5. Incidental retail sale of goods associated with the industrial use type, provided the square footage does not exceed ten (10) percent of the gross floor area or three thousand (3,000) square feet, whichever is less.
6. ~~One accessory dwelling unit occupied by employees responsible for the security of the use.~~



**From:** Hugh (Chip) Fisher  
**Sent:** Tuesday, March 08, 2011 11:14 AM  
**To:** George Schanzenbacher  
**Cc:** Thomas Mattis  
**Subject:** Tattoos  
George,

At the last City Council work session, Council indicated that it wanted changes made to the draft zoning ordinance provisions on tattoo studios and body piercing. Therefore, I have made changes to sections 286-200, 286-202.10, and 286-310.04 – and created a new section, 286-410.68 – in attempting to address Council's comments. Please note that in addition to specifying that a tattoo studio requires a special exception permit, I have provided in section 286-410.68 for other conditions relating to its operation, despite our consultant's recommendation that there not be such conditions.

Also, I have drafted changes to City Code section 187-18, which relates to the granting of business licenses for tattooing and body piercing. While the amendments to this section are not part of the new zoning ordinance, they should be considered at the same time as the above-mentioned sections. Attached for your consideration, and Council's, are my draft amendments. Please keep in mind that the amendments have been prepared to satisfy Council's concerns rather than the preferences of the rest of us.

Please feel free to contact me if you have any questions about this matter.

Sincerely,  
Chip Fisher  
City Attorney

1   § 187-18. *Tattooing and Body Piercing.*

2           No business license shall be issued hereunder to any person *to be a tattoo operator,*  
3 *engage in the practice or business of tattooing as a tattoo artist, or engage in the practice or*  
4 *business of body piercing,* unless and until there is presented to the assessing official a license  
5 from the Board for Barbers and Cosmetology permitting the person to engage in tattooing or  
6 *body piercing. Any tattoo artist or tattoo operator shall also be a member in good standing of*  
7 *the Alliance of Professional Tattooists, Inc. (APT) and shall provide the assessing official with*  
8 *proof of such membership. As used in this chapter, the following words shall have the following*  
9 *meanings:*

10           *"Body piercing" means the creating of an opening in an individual's body, other than an*  
11 *individual's ear, to insert jewelry or another decoration.*

12           *"Tattoo artist" means any person who actually performs the work of tattooing.*

13           *"Tattoo operator" means any person who controls, operates, conducts, or manages any*  
14 *tattoo studio, whether actually performing the work of tattooing or not.*

15           *"Tattooing" means the placing of designs, letters, scrolls, figures, symbols or any other*  
16 *marks upon or under the skin of any person with ink or any other substance, resulting in the*  
17 *permanent coloration of the skin, including permanent makeup or permanent jewelry, by the aid*  
18 *of needles or any other instrument designed to touch or puncture the skin.*

19

1 § 286-200. Definitions.

2 . . . .

3 (C) The words and terms listed below shall have the following meanings:

4 . . . .

5 **BODY PIERCING** – *The creation of an opening in an individual's body, other than an*  
6 *individual's ear, to insert jewelry or another decoration.*

7 . . . .

8 **STUDIO, TATTOO** – *An establishment where tattooing and/or body piercing is performed as the*  
9 *principal business activity.*

10 **TATTOOING** – *The placing of designs, letters, scrolls, figures, symbols or any other marks*  
11 *upon or under the skin of any person with ink or any other substance, resulting in the permanent*  
12 *coloration of the skin, including permanent makeup or permanent jewelry, by the aid of needles*  
13 *or any other instrument designed to touch or puncture the skin.*

14  
15 § 286-202.10. Commercial Use Types.

16 . . . .

17 **PERSONAL SERVICES** – Establishments or places of business engaged in the provision of  
18 frequently or recurrently needed services of a personal nature. Typical uses include beauty and  
19 barber shops; massage clinics; ~~tattoo and piercing establishments~~; grooming of pets;  
20 seamstresses; tailors; florists; and laundry dry cleaning services.

21 . . . .

22 Studio, Fine Arts

23 . . . .

24 *Studio, Tattoo* – *An establishment where tattooing and/or body piercing is performed as the*  
25 *principal business activity.*

26 . . . .

1    § 286-310.04. Permitted Uses.

2    (A)    The following uses are permitted by right or by special exception permit in the GB  
3    General Business District, subject to all other applicable requirements contained in this chapter.  
4    An (S) indicates a special exception permit is required. An asterisk (\*) indicates that the use is  
5    subject to additional, modified or more stringent standards as listed in Article IV, Use and  
6    Design Standards.

7            . . . .

8            5.        Commercial Use Types

9                    Adult Use (S)\*

10            . . . .

11                   Studio, Fire Arts

12                   *Studio, Tattoo (S)\**

13            . . . .

14  
15    § 286-410.68. *Studio, Tattoo.*

16    (A)    *General Standards*

17            1.        *A tattoo studio shall be licensed pursuant to City Code § 187-18.*

18            2.        *Anyone engaging in tattooing, and the operator of a tattoo studio, shall be a*  
19    *member in good standing of the Alliance of Professional Tattooists, Inc. (APT).*

20            3.        *No tattoo studio shall be located within 500 feet of any other tattoo studio, private*  
21    *or public school, family day care home, public park and recreational area, religious assembly,*  
22    *governmental service, or any property zoned or used for residential purposes.*

23            4.        *Any special exception permit granted for a tattoo studio shall be valid only for the*  
24    *applicant to whom it is granted, and such permit shall not run with the land or be transferable.*

From: Terrance Harrington [mailto:tmhassociates@cox.net]  
Sent: Wednesday, March 09, 2011 10:58 AM  
To: Hugh (Chip) Fisher; George Schanzenbacher  
Subject: Alliance of Tattoo Professionals

Chip/George:

Have either of you had a chance to look at the web site for the Alliance of Tattoo Professionals? It is clearly a voluntary membership organization. Members "pledge" to meet certain voluntary minimum health and safety standards primarily pertaining to the sterilization of equipment. Members are listed by state. If Virginia is representative of the country as a whole, very few tattoo artists/studios are members of APT. Of all the tattoo artists/studios in Virginia (hundreds I assume) there are only fifteen (15) Virginia members...one of which is in Colonial Heights.

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Terrance L. Harrington, AICP  
TMH Associates LLC  
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Yorktown, VA 23690  
(757) 810-5303 v  
(757) 898-5004 f

A RESOLUTION NO. 11-9

Recognizing Elvira B. Shaw for dedicated service.

WHEREAS, Elvira B. Shaw, born on May 4, 1920, in Dinwiddie County, devoted wife to the late Lawrence "Larry" C. Shaw, and loving mother to her son Ben and his wife, Nancy, is one of the City's most distinguished and respected citizens; and

WHEREAS, since 1961 Mrs. Shaw has served as the Secretary of the Colonial Heights Electoral Board, representing the Democratic Party; and in addition to 50 years of dedicated service to the City's Electoral Board and City voters, Mrs. Shaw also served as an executive member of the Virginia Electoral Board Association and recently earned member emeritus status; and

WHEREAS, during her lifetime Mrs. Shaw has served as a founder or member of numerous organizations, including the Chesterfield-Colonial Heights Board of Social Services, the District 19 Community Services Board, the Board of Directors of the Crater District Area Agency on Aging, the Community Criminal Justice Board, the Senior Citizens Advisory Committee, the Richard Bland College Foundation Board, and the Colonial Heights Federated Women's Club, to name a few; and

WHEREAS, Mrs. Shaw has not only given extensive time to her community but also to the Commonwealth of Virginia, having been appointed by former Governors Robb, Baliles, Wilder, and Warner to various advisory boards on volunteerism and services for senior citizens; and

WHEREAS, Mrs. Shaw was formally recognized by the Virginia General Assembly, at its 2009 Session, for receiving the American Association of Retired Persons (AARP) Andrus Award for her outstanding volunteer work and community service; and

WHEREAS, as another recent example of the esteem in which Mrs. Shaw is held by her peers, in October 2010, she received the prestigious Judah P. Benjamin Award from the United Daughters of the Confederacy, Virginia Division, for her outstanding work in the fields of civic/community service, conservation, education, the environment, humanitarian efforts and patriotic service; and

WHEREAS, with the end of her term on the Electoral Board on February 28, 2011, it is only appropriate that Mrs. Shaw be recognized and commended for her personal dedication and devoted service; NOW, THEREFORE,

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF COLONIAL HEIGHTS:

1. That Council hereby expresses, on behalf of the City, its gratitude to Elvira B. Shaw, for her valuable service and innumerable contributions to the City of Colonial Heights and the Commonwealth of Virginia; and extends to her best wishes in future endeavors.

2. That, in attestation of the high regard in which Elvira B. Shaw is held by this Council, this resolution is read hereby into the minutes of this meeting and the permanent record of the City of Colonial Heights, this 15<sup>th</sup> day of March, 2011; and the members of Council unanimously affix their signatures.

/s/ C. Scott Davis, Mayor

/s/ Milton E. Freeland, Jr. Councilman

/s/ Elizabeth G. Luck, Vice Mayor

/s/ Kenneth B. Frenier, Councilman

[CITY SEAL]

/s/ W. Joe Green, Jr., Councilman

/s/ John T. Wood, Councilman

/s/ Diane H. Yates, Councilwoman

Approved:

\_\_\_\_\_  
Mayor

Attest:

  
City Clerk

\*\*\*\*\*

I certify that the above resolution was:

Adopted on \_\_\_\_\_.

Ayes: \_\_\_\_\_. Nays: \_\_\_\_\_. Absent: \_\_\_\_\_. Abstain: \_\_\_\_\_.

The Honorable Milton E. Freeland, Jr., Councilman: \_\_\_\_\_.

The Honorable Kenneth B. Frenier, Councilman: \_\_\_\_\_.

The Honorable W. Joe Green, Jr., Councilman: \_\_\_\_\_.

The Honorable Elizabeth G. Luck, Vice Mayor: \_\_\_\_\_.

The Honorable John T. Wood, Councilman: \_\_\_\_\_.

The Honorable Diane H. Yates, Councilwoman: \_\_\_\_\_.

The Honorable C. Scott Davis, Mayor: \_\_\_\_\_.

\_\_\_\_\_  
City Clerk

Approved as to form:

Hugh P. Foster, III  
City Attorney