

Town Mayor
Christopher M. Hornbaker



TOWN
OF
Lovettsville
VIRGINIA

Town Council
Vice Mayor Joy Pritz
Council Member Brandon Davis
Council Member David Earl
Council Member Bobby Merhaut
Council Member Jennifer Reed
Council Member Buck Smith

ORDINANCE NO. 2023-01-0005
LVZA 2022-0004 AMENDMENTS TO
ARTICLE 42-VIII-2, ADDITIONAL STANDARDS,
TO AMEND SECTION 42-290, USES AND STRUCTURES
PERMITTED IN REQUIRED YARDS

MOTION: Smith
SECOND: Reed

WHEREAS, the amendment to Zoning Ordinance Article 42, Division VIII, to amend Section 42-290, Uses and Structures Permitted In Required Yards, was referred to the Planning Commission by the Town Council on April 28, 2022 upon approval of the Planning Commission work program for 2022; and

WHEREAS, on October, 2022, the Planning Commission initiated and directed staff to draft an amendment to address accessory structures on townhouse lots; and

WHEREAS, the Planning Commission has deemed it beneficial to adopt standards for townhouse lots to provide more flexible use of rear yards and to resolve existing nonconforming uses on townhouse lots; and

WHEREAS, the Planning Commission conducted a public hearing on Case No. LVZA 2022-0004 on December 7, 2022, after giving public notice in accordance with Section 42-34 of the Zoning Ordinance and § 15.2-2204 of the Code of Virginia, and subsequently voted to recommend approval of the amendment to the Town Council; and

WHEREAS, the Town Council conducted a public hearing on Case No. LVZA 2022-0004 on January 26, 2023, such public hearing having been duly advertised as required by Section 42-34 of the Zoning Ordinance and § 15.2-2204 of the Code of Virginia; and

WHEREAS, the Town Council has determined that adoption of the ordinance will promote the health, safety, and welfare of the citizens of the Town and is consistent with good zoning practices generally.

NOW, THEREFORE, BE IT ORDAINED that Chapter 42, Zoning, of the Code of the Town of Lovettsville be amended as set forth in the attachment hereto.

BE IT FURTHER ORDAINED that the Zoning Administrator and Town Attorney are hereby authorized to make corrections of misnumbering, grammatical errors or misspellings found in the said attachment without further action by the Council, and that the Town Clerk is authorized to amend the number assigned to this ordinance to reflect the correct order of approval of such ordinances and resolutions by the Council without further action by the Council.

VOTE:

Ayes: Merhaut, Smith, Davis, Reed, Pritz

Nays: None

Abstentions: None

Absent for Vote: Earl

ADOPTED:

ELIZABETH R. FONTAINE, TOWN CLERK

CHRISTOPHER M. HORNBAKER, MAYOR

Sec 42-290 Uses And Structures Permitted In Required Yards

Structures, including walls, accessory structures, decks, porches, overhangs, architectural features, balconies, air conditioners, heat pumps, satellite dishes, except for fences, shall not be located on or over any type of easement, whether in public or private or homeowners' association ownership, except as provided by the express terms of the instrument creating the easement or approved in writing by the party that holds the easement.

A property owner is responsible for repairing or reinstalling a fence in an easement when the fence is damaged, removed or destroyed by the party holding the easement, unless the express terms of the instrument creating the easement or approved in writing by the party that holds the easement states otherwise.

No structure shall be allowed in any yard of any district that does not comply with the Virginia Department of Transportation (VDOT) sight distance standards, regulations or requirements and visibility requirements, as contained in section 42-289.

(a) Fences and walls. Fences and walls in yards are subject to the following stipulations:

1. Front yard. Fences and walls shall not exceed three feet in height. For non-residential lots, where a commercial use adjoins a residential use, a fence may be located within the front yard along the side property line and may increase in height by one-half foot increments for every three feet of distance from the sidewalk or property line (whichever is greater), not to exceed six feet in height in any case.
2. Secondary front yard on corner lots. Fences and walls shall not exceed four feet in height. For residential corner lots, where the secondary front yard is adjacent to a public street, a wall or fence may be four feet in height if it is one foot or more from the property line or public access easement (whichever is greater).
3. Side yards. Fences and walls in residential districts shall not exceed six feet in height. Fences and walls in non-residential districts shall not exceed eight feet in height.
4. Rear yards. Fences and walls located on regular lots, other than "through lots", in residential districts shall not exceed six feet in height. For residential "through lots" where the rear yard is adjacent to a public street, a wall or fence may not exceed three feet in height at the public right-of-way and may increase in height by one-half foot increments for every five feet of distance from the right-of-way, not to exceed six feet in height in any case. Fences and walls on non-residential regular, "through lots" or corner lots, may be located within the required rear yard with a height not to exceed eight feet.
5. When elements such as columns, finials, pillars or posts are part of a wall, they may extend to no more than one foot above the fence itself if these features are no larger than two feet on any one side and such elements are no closer than three feet apart.
6. Exceptions to height limit. Fences in required side and rear yards of public playgrounds, institutions or schools located in residential districts may not exceed eight feet in height. Fences or walls may exceed the height limit where required to comply with screening provisions of this ordinance or the safety standards of other government regulations.

7. Prohibited fencing material in residential areas. No barbed wire, electrical elements or other hazardous materials, no fragile or unduly flammable materials and no unfinished concrete or cinder block or other similar unfinished materials shall be maintained as a fence or part of a fence or wall in residential district or abutting a residential district or use, except, however, that underground "invisible" fencing shall be permitted. Fences shall not be of temporary or semi-temporary materials, such as a silt fence, snow fence or construction fence, except for erosion or siltation controls during construction. Fences shall not create a hazard, impede traffic visibility or be installed within three feet of a fire hydrant. Fences must be kept in good condition, properly maintained and may not contain any signs, writing or graffiti.
- (b) Covered entry porches, enclosed or unenclosed, may project into any required yard, provided that no such porch shall project more than three feet into such yard, or may be closer than three feet to any lot line.
- (c) Balconies may project not more than four feet into any required yard other than a front yard but shall not be closer than three feet to any lot line.
- (d) Architectural features, chimneys, eaves, or the like may project into required side or rear yards not more than 36 inches, but not closer than three feet to any lot line, and into required front yards not more than three feet.
- (e) Decks require permits and may project into a required side yard provided that the deck is set back from a property boundary no less than the setback allowed for the primary building. **Townhouse decks may extend to the interior side lot lines and no closer than five (5) feet to any other lot line.** A deck may project into a required rear yard provided that the deck is set back from a property boundary no less than five feet. A deck may not project into a front yard, except on a through lot, in which case a deck may project into the front yard opposite the front entrance of the primary building on the lot no more than 15 feet. In the R-C zoning district, a deck shall be permitted to extend to one (1) foot from the side and rear property line provided the deck floor is 24 inches or less in height above ground level measured at the highest point above grade.
- (f) Air conditioners rated at 24,000 BTU or less shall not be so placed hereafter so as to discharge air within five feet of lot lines, and those rated over 24,000 BTU to discharge air within 12 feet of lot lines except where said air conditioners are separated from lot lines either by projections of buildings or by streets, alleys, or permanent open space at least 20 feet in minimum dimensions.
- (g) No portion of any accessory building shall be permitted in any required yard if any utility or drainage easements are adversely affected. Accessory buildings or portions thereof may be erected either to within five feet of adjacent lot lines (if such buildings are separated), or to a common wall, **or to an interior side property line or rear property line on townhouse lots,** in portions of required yards located as follows:
1. On regular lots, at least 60 feet from street lines at the front of the lot, and at least 24 feet from any street lines at the side of the lot.
 2. On irregular lots, at least 40 feet behind the front line of any building adjacent to the lot line, and at least 25 feet from any access easement or street.
- (h) Satellite dishes shall be subject to all regulations, and restrictions pertaining to accessory buildings. They shall require a location permit and should be adequately screened. Dishes of 24 inches, or less, shall be treated as a television antenna for purposes of height limitations only.

(Ord. of 9-21-2006, § 4-7; Ord. No. 2008-06-01, 6-26-2008; Ord. of 10-14-2010; Ord. No. 2013-02-000, 2-27-2014; Ord. No. 2019-05-0001, 5-9-2019, Ord. No. 2020-11-0001)