

**CHAPTER 25. ZONING.**

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## **CHAPTER 25. ZONING.**

### **DIVISION C. SINGLE RESIDENTIAL DWELLING DISTRICTS.**

#### **Article XII. Rural Residential (RR) Districts.**

##### **§ 25-121. Purpose.**

The Rural Residential Districts are intended to provide space for low density residential development of an exclusive nature interspersed with agricultural lands and uses.

##### **§ 25-122. Permitted uses.**

The following uses shall be permitted within all Rural Residential Dwelling Districts without Administrative or Special Use Permit:

- A. One (1) single family dwelling and certain group homes required to be permitted by state law.
- B. Christmas tree farm provided the following conditions are met:
  - 1. No trees are sold to the public on site.
  - 2. The tract or parcel is at least five (5) acres in size.
- C. Limited agriculture as defined by this chapter, but not including poultry and swine, provided that the lot is at least five (5) acres in area.
- D. Passive recreational facilities not requiring a building.
- E. Religious institutions.

##### **§ 25-122.1. Accessory buildings and uses.**

A. Accessory buildings and uses customary and clearly incidental to a permitted use and which will not create a nuisance or hazard shall be permitted in Rural Residential Districts, subject to the applicable provisions of article V of division A of this chapter.

B. In Rural Residential districts, accessory buildings and structures are permitted with the following limitations:

- 1. Lots containing up to five (5) acres in area:

Accessory buildings and structures not exceeding twenty feet (20') in height nor with an aggregate area of twelve hundred square feet (1200 sq. ft.) may be erected in side and rear yards, however, in no case shall any accessory building be larger than the footprint of the dwelling or taller than the height of the dwelling. Accessory buildings and structures must meet the applicable side and rear yard requirements of § 25-128.

2. Lots containing more than five (5) acres in area:

There is no limit to the size of accessory buildings and structures on lots greater than five (5) acres in size. The side and rear setback requirements listed in § 25-128 shall be observed.

3. Temporary family health care structure provided that:

a. Any person proposing to install a temporary family health care structure shall first obtain a permit from the Department of Community Development. After the permit is issued, the applicant must 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 locality of the temporary family health care structure at reasonable times convenient to the caregiver, not limited to any annual compliance confirmation.

b. Any temporary family health care structure installed pursuant to this section shall connect to any water, sewer, and electric utilities that serves the primary residence on the property and shall comply with all applicable requirements of the Virginia Department of Health.

c. 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.

d. 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.

C. Accessory buildings or other accessory structures which do not meet the criteria listed in § 25.122.1. A. and B. above may be permitted by Special Use Permit provided:

1. The accessory building or structure would not be out of character with the neighborhood or disproportionately large in relation to the size, location and character of other buildings and uses on the lot on which it is to be located and on adjoining and surrounding properties. For purposes of this section, "disproportionately large" shall

mean so large as to: (i) be larger than a principal building to which it is accessory; or (ii) appear out of character with surrounding properties.

2. Accessory buildings and structures shall meet the applicable side and rear yard requirements of § 25-128.

(Ord. 09/28/11; Ord. 8/27/14; Ord. 11/25/14)

**§ 25-123. Uses permitted by Administrative Permit.**

The uses listed in this section shall be permitted within Rural Residential Districts only upon the issuance of an Administrative Permit by the Zoning Administrator pursuant to the provisions of article LVI of division I of this chapter. Administrative permits are to be issued only for uses where the applicant can demonstrate that the proposal meets the standards required by this chapter and the uses will not have an undue adverse impact on the surrounding neighborhood. Among matters to be considered in this connection are traffic congestion, noise, lights, dust, odor, fumes, and vibration.

A. Home occupations, Class B.

Home occupations Class B, may be permitted by Administrative Permit provided:

1. The use of the home for the home occupation shall be clearly incidental and subordinate to the use of the dwelling for residential purposes. There shall be no change in the outside appearance of the dwelling or lot, nor other visible evidence of the conduct of such home occupation other than one (1) sign no more than four square feet (4 sq. ft.) in size; and

2. Such occupation shall be engaged in only by residents of the dwelling and no more than one (1) employee that comes to the home. The business can have multiple employees who do not come to the home; and

3. If the applicant is a tenant, written permission of the landowner is required; and

4. The use is conducted within the home or the use may occupy up to five hundred square feet (500 sq. ft.) of an accessory structure. All goods, equipment, and materials related to the home occupation must be stored indoors, within the accessory building, or on a single utility trailer with a trailer bed not to exceed sixteen feet (16') in length; and

5. No display of products made shall be visible from the street; and

6. No products shall be sold on the premises except such as are made on the premises. No other retail sales or wholesale sales shall occur unless:

a. No clients or customers come to the home in conjunction with the sales; all sales occur off-premises or via telephone, mail, computer, etc.

b. Items are accessory to the main use and sold only to clients or customers using the main business, e.g. shampoo for clients in a beauty or barber shop.

7. No outside display or storage of materials, goods, supplies, or equipment in relation to the home occupation shall be permitted, other than on the utility trailer listed above. Any animals associated with a permitted home occupation, e.g. pet grooming business; must be kept indoors; and

8. The occupation shall not generate more than ten (10) vehicular trips in a day. A trip consists of one (1) arrival and one (1) departure; and

9. Deliveries shall be limited to normal daily deliveries by public and private mail carriers, including USPS, Fed-Ex, UPS, and similar carriers; and

10. All parking associated with the business shall be off-street and not located in a required front yard, except within the existing driveway; and

11. No more than one (1) commercial vehicle may be used in conjunction with the home occupation. Commercial vehicles shall be allowed pursuant to the requirements of § 25-54.1.N. (10/28/15)

The following uses are not considered to be Home Occupations, Class B: trash and garbage collection, boarding houses, day care centers, private schools, firearm sales, and small engine repair and motor vehicle repair. Landscaping and mobile motor vehicle repair businesses are not considered Home Occupations unless all equipment, materials, and trailers over sixteen feet (16') are to be kept off site. The applicant shall supply written documentation such as a lease or contract describing where the equipment, materials, and utility vehicles are to be kept to the Community Development Department. (10/28/15)

B. Day care home occupations.

Day care home occupations may be permitted by Administrative Permit provided:

1. The use of the dwelling for the day care home occupation shall be clearly incidental and subordinate to the use of the dwelling for residential purposes. There shall be no change in the outside appearance of the dwelling, nor other visible evidence of the conduct of such home occupation other than one (1) sign no more than four square feet (4 sq. ft.) in size; and

2. Such occupation shall be engaged in only by residents of the dwelling and one (1) employee who comes to the home; and

3. Play equipment and similar facilities may be used; and
4. No accessory building shall be used for such occupation, except for storage of play equipment when not in use; and
5. All parking associated with the business shall be off-street and not located in any required front yard, except within an existing driveway; and
6. Approval from the Department of Social Services or proof that such approval may be obtained pending zoning approval; and
7. Notification of adjoining property owners. Upon receipt of an application for an Administrative Permit for a day care home occupation, the Zoning Administrator shall send by certified mail written notice of such application to all adjoining property owners as shown on the current real estate assessment books.

- a. Action if objection received.

If written objection is received from an adjoining property owner within thirty (30) days following the mailing of said notice, the application shall be denied, and the applicant advised that the day care home occupation may commence only upon the approval of a Special Use Permit by the board of zoning appeals.

- b. Action if no objection received.

If no written objection is received from an adjoining property owner within thirty (30) days following the mailing of said notice, and the applicant meets all other requirements of this section, the Zoning Administrator may approve the Administrative Permit.

C. Attached accessory dwelling units.

One (1) apartment constituting an attached accessory dwelling unit within what would otherwise be a single-family dwelling may be permitted by Administrative Permit provided:

1. It is attached by sharing one (1) common wall. In no case shall an enclosed or unenclosed breezeway be considered a common wall for the purposes of attaching an accessory dwelling unit to a dwelling; and
2. The apartment contains no more than six hundred square feet (600 sq. ft.) or forty percent (40%) of the amount of square footage in the footprint of the principal dwelling, whichever is greater, but not to exceed nine hundred square feet (900 sq. ft.); and

3. Exterior entrances to the apartment are on the side or rear only; and
4. There shall be no more than one (1) accessory dwelling unit, attached or detached, per principal dwelling; and
5. The owner of record personally resides in either the principal or accessory dwelling unit on the property. If this standard cannot be met, the accessory dwelling unit may be allowed only upon the approval of a Special Use Permit by the board of zoning appeals under § 25-124.E; and
6. The Building Inspection Department has indicated that either a Building Permit is not required, or a Building Permit can be issued for the apartment once the Administrative Permit has been approved; and
7. The dwellings are either connected to public sewer or the Virginia Department of Health has confirmed that the sewage disposal system is adequate for the proposed use; and
8. All parking shall be accommodated on-site.

D. Detached accessory dwelling attached to an accessory building.

One (1) apartment constituting a detached accessory dwelling unit may be permitted by Administrative Permit as an accessory to a single-family dwelling provided:

1. There shall be no more than one (1) accessory dwelling unit, attached or detached, per principal dwelling; and
2. The accessory dwelling unit is less than nine hundred square feet (900 sq. ft.), but in no case shall it be larger than the footprint of the principal dwelling or the structure to which it is attached; and
3. The accessory dwelling unit is attached to an accessory building which is accessory to an occupied principal dwelling; and
4. The owner of record personally resides in either the principal or accessory dwelling unit on the property. If this standard cannot be met, the accessory dwelling unit may be allowed only upon the approval of a Special Use Permit by the board of zoning appeals under § 25-124.E; and
5. The Building Inspection Department has indicated that either a Building Permit is not required, or a Building Permit can be issued for the apartment once the Administrative Permit has been approved; and

6. The dwellings are either connected to public sewer or the Virginia Department of Health has confirmed that the sewage disposal system is adequate for the proposed use; and

7. All parking shall be accommodated on-site.

E. Domestic Chickens.

The keeping of no more than four (4) chicken hens shall be permitted by Administrative Permit provided:

1. No more than four (4) chicken hens shall be allowed per parcel and will be accessory to a single-family dwelling. Chickens shall not be permitted on any parcel of land that is within five hundred (500) feet of any poultry house. Chickens shall only be raised for domestic purposes. No commercial on-site use on the property such as selling eggs or selling chickens for meat shall be allowed.
2. No roosters, capons, or crowing hens shall be allowed.
3. There shall be no outside slaughtering of birds.
4. All chicken hens must be kept at all times in an enclosed and covered, at a minimum with wire mesh, secure movable or stationary pen that contains at a minimum four (4) square feet of roost space per bird, with an additional five (5) square feet of run space per bird. The maximum total area of the coop and chicken enclosure shall not exceed one hundred fifty (150) square feet nor a height of ten feet (10').
5. All coops and enclosed pens must be located behind the front building line of the principal structure and may not be erected, altered, located, reconstructed, or enlarged nearer than twenty-five feet (25') from any property lines or thirty-five feet (35') from any stream or any river and shall not be located in any storm water management area, flood plain, or Source Water Protection Area 1.
6. All enclosed pens must be kept in a neat and sanitary condition at all times, and must be cleaned on a regular basis so as to prevent odors perceptible at the property boundaries.
7. All feed for the chickens shall be kept in a secure container or location to prevent the attraction of rodents and other animals.



8. Provisions shall be made for the storage and removal of chicken litter and chicken waste (manure). Chicken litter and chicken waste shall not be disposed of by composting on-site, but shall be collected by a bona-fide litter service, or bagged and taken to the county landfill. In no case shall such chicken litter and chicken waste be allowed to create a nuisance or health hazard to adjoining property owners.
9. Any dead bird shall be taken to the county landfill. Further all unexplained bird deaths shall be reported to the Virginia Department of Agriculture and Consumer Services prior to transport to the county landfill.
10. Persons wishing to keep chicken hens pursuant to this subsection must file an application with the Department of Community Development, which application shall include a sketch showing the area where the chickens will be housed and the types and size of enclosures in which the chickens shall be housed along with the fee for a Keeping of Poultry Permit. The sketch must show all dimensions and setbacks. As part of the application process all persons must complete the Virginia Livestock Premises Registration with the Virginia State Veterinarian's Office prior to the issuance of a permit. If the applicant is not the property owner, property owner consent is required.
11. Upon receipt of an application for a Keeping of Poultry Permit, the Director of the Community Development Department shall send by first class mail written notice of such application to all adjoining property owners as shown on the current real estate assessment books.

A. Action if objection received.

- i. If written objection is received from an adjoining property owner within twenty-one (21) days following the mailing of said notice, the application shall be denied, and the applicant advised that the keeping of chickens may be allowed only upon approval of a Special Use Permit by the board of zoning appeals.
- ii. If the Special Use Permit is granted by the board of zoning appeals, the keeping of chickens shall be permitted provided all terms and conditions of the Special Use Permit are satisfied.

B. Action if no objection received. If no written objection is received from an adjoining property owner within twenty-one (21) days

following the mailing of said notice, the keeping of chickens may be permitted by a Keeping of Poultry Permit.

- C. In all cases, the permit to keep chickens is issued non-transferrable and does not run with the land.
12. Once the permit has been issued, the site and enclosures shall be inspected and approved by the Director of the Community Development Department within thirty (30) days of construction of the pens. Permits shall be valid for one (1) year. Each existing permit must be renewed annually by filing a renewal application with the Community Development Department along with the payment of an annual license fee established in Section 19-53 of the Augusta County Code. Notification of adjacent property owners is not required for permit renewals.
  13. Each chicken will be tagged with an identification band provided by the county at the time the permit is issued, which shall be attached to either leg or wing.
  14. The permit applicant must be the owner of the property or must have and submit written consent of the owner of the property as part of the Keeping of Poultry Permit application to keep chickens on the property. Upon written notice of the property owner's withdrawal or cancellation or termination of such approval, the permit shall be revoked by the Director of Community Development.
  15. If the permit holder is convicted of any county or state code violation associated with the keeping of chickens, the permit shall be revoked.
  16. In the event of the Department of Community Development receiving and verifying three substantial and credible complaints of violation of any provision of this chapter and after notice given of such to the permit holder, the permit shall be revoked.
  17. Upon revocation of the permit, chickens must be removed within 30 days or be subject to removal. Any person(s) so having a permit revoked shall not be allowed, at any time, to make application for another permit for five years.
  18. Upon a finding by the zoning administrator that there is warning or equivalent notice or advisory or guidance issued by federal or state authorities regarding a present or forecasted substantial threat of the potential transmission or spread of avian influenza or other poultry disease, no further permits shall be

issued until such time that, by similar notice or advisory or guidance, the threat has been recognized by federal or state authorities as having been eliminated.

This ordinance shall become effective six months after adoption. (Ord. 2/22/17)

F. Firearms permits TYPE I or TYPE 3

Federal Firearms License (FFL) permits Type I or Type 3 for the purchase or sale of firearms may be permitted by Administrative Permit provided:

1. The use of the dwelling for the business or activity shall be clearly incidental and subordinate to the use of the dwelling for residential purposes. There shall be no change in the outside appearance of the dwelling or lot, nor other visible evidence of the conduct of this business or activity; and
2. No signs are permitted; and
3. Such business or activity shall be engaged in only by the owner of record who personally resides in the dwelling and has a valid FFL license; and
4. There shall be no employees; and
5. This dwelling will be only location for firearms to be transferred to the new owner, unless the firearm is shipped directly to a business which holds a valid FFL License, and
6. No display of products made shall be visible from the street; and
7. No outside display or storage of materials, goods, supplies, or equipment in relation to the home occupation; and
8. No accessory building shall be used for such occupation; and
9. No other products or accessories shall be sold on the premises; and
10. The occupation shall not generate more than five (5) vehicular trips in a day. A trip consists of one arrival and one departure; and
11. All parking associated with the business shall be off-street and not located in a required front yard, except within the existing driveway; and
12. Deliveries shall be limited to normal daily deliveries by public and private mail carriers, including USPS, Fed-Ex, UPS, and similar carriers.

(Ord. 3/13/19)

**§ 25-124. Uses permitted by Special Use Permit.**

The uses listed in this section shall be permitted within Rural Residential Districts only upon the issuance of a Special Use Permit by the board of zoning appeals pursuant to the provisions of article LVIII of division I of this chapter.

A. General standards applicable to all Special Use Permits. No Special Use Permit shall be issued without consideration that, in addition to conformity with any standards set forth in this chapter for Special Use Permit uses, the following general standards will be met either by the proposal made in the application or by the proposal as modified or amended and made part of the Special Use Permit:

1. Conformity with Comprehensive Plan and policies. The proposal as submitted or as modified shall conform to the Comprehensive Plan of the county or to specific elements of such plan, and to official policies adopted in relation thereto, including the purposes of this chapter.

2. Impact on neighborhood. The proposal as submitted or as modified shall not have undue adverse impact on the surrounding neighborhood.

*Note:* For restrictive conditions applicable to all Special Use Permits, see § 25-584 of division I of this chapter.

B. Day care centers and nursery schools.

Day care centers and nursery schools may be permitted by Special Use Permit provided:

1. Designated areas for pick-up and delivery are adequate to prevent traffic congestion both on and off site, thereby keeping waiting pedestrians out of vehicle passage ways and parking areas and preventing waiting vehicles from blocking access to and from parking areas or impeding traffic on adjoining streets; and

2. Proposed playgrounds are adequately fenced and subject to the same setback requirements as principal structures, unless the board of zoning appeals finds that greater setbacks are necessary in the interest of public safety and compatibility with the neighboring properties; and

3. The applicant demonstrates compliance with state licensing requirements and all applicable federal, state, and local regulations.

C. Residential care facilities.

Residential care facilities may be permitted by Special Use Permit provided:

1. The facility and anticipated enlargements thereof will be appropriate for residential areas; and

2. The facility, taking into account such things as its proposed size, parking facilities, setbacks, and landscaping, will not be out of character with neighboring properties; and

3. The permitting of the proposed facility, when taking into account the presence of other businesses in the neighborhood, will not result in such concentration or clustering of businesses as to create an institutional setting or business center or otherwise change the area's character and social structure; and

4. The applicant demonstrates compliance with state licensing requirements and all applicable federal, state, and local regulations.

D. Christmas tree farms where trees are sold to the public on site.

Christmas tree farms where trees are sold to the public on site may be permitted by Special Use Permit provided:

1. The tract or parcel is at least five (5) acres in size; and

2. The tract or parcel fronts on and has access from a state maintained road, or, if it fronts on a private road, the applicant has demonstrated that the private road is constructed and maintained to adequate standards so as to accommodate the anticipated traffic; and

3. Traffic generated by the proposed project will be compatible with the roads serving the site and other traffic utilizing said roads; and

4. On-site traffic flow will adequately and safely accommodate all traffic to and from adjoining and nearby streets and highways; and

5. Approval by the Virginia Department of Transportation.

E. Attached or detached accessory dwelling units where the owner of record does not personally reside in either the principal or accessory dwelling unit on the property.

A Special Use Permit for an attached or detached accessory dwelling unit where the owner of record does not personally reside in either the principal or accessory dwelling unit on the property may be granted provided:

1. The apartment was legally established with an Administrative or Special Use Permit; and

2. The accessory dwelling unit will not be out of character with the neighboring properties; and

3. All other provisions of §§25-123 C and D are met.

F. Accessory buildings or other accessory structures located in a front yard.

Accessory buildings or other accessory structures to be located in a front yard may be permitted by Special Use Permit provided:

1. The accessory building or structure would not appear out of character with surrounding properties; and
2. Be aesthetically damaging to the character of the surrounding properties; or
3. Adversely and substantially affect the fair market value of surrounding properties; and
4. The accessory building or structure must observe the front, side and rear yard requirements.

G. Operation of a Bed and breakfast or Short-term rental within a principal dwelling or detached accessory dwelling unit.

Operation of a Bed and breakfast or Short-term rental within a principal dwelling or detached accessory dwelling unit may be permitted by Special Use permit provided:

1. There shall be no more than one (1) principal dwelling, or part thereof, operating as a Bed and breakfast or Short-term rental per parcel; and
2. There shall be no more than one (1) detached accessory dwelling unit operating as a Bed and breakfast or Short-term rental per parcel; and
3. The lot is at least five (5) acres in area; and
4. The owner of record personally resides in the principal dwelling or accessory dwelling unit; and
5. The Building Inspection Department has indicated that either a Building Permit is not required, or a Building Permit can be issued for the use once the Special Use Permit has been approved; and

6. If the principal and/or detached accessory dwelling unit is not connected to public sewer, the Virginia Department of Health has confirmed that the sewage disposal system is adequate for the proposed use; and
7. All parking shall be accommodated on-site.

(Ord. 08/23/17)

**§ 25-125. Prohibited uses.**

All uses except those listed in §§25-122, 25-122.1, 25-123, and 25-124 above, including manufactured and mobile homes, are specifically prohibited in Rural Residential Dwelling Districts.

**§ 25-126. Lot area.**

In Rural Residential Districts, the minimum lot area shall be two (2) acres.

**§ 25-127. Lot width.**

- A. Every lot shall have at least forty feet (40') of frontage on a public street.
- B. The minimum lot width at the minimum front setback line shall be one hundred fifty feet (150').
- C. The minimum lot width at the rear lot line shall be forty feet (40').

**§ 25-128. Yard and setback requirements.**

In Rural Residential Districts the following yard and setback requirements are imposed:

A. Front lot lines.

1. No building or other structure shall be erected, altered, located, reconstructed or enlarged nearer to the right-of-way line of a public street identified by the Virginia Department of Transportation as an arterial or collector street than fifty feet (50').

2. No building or other structure shall be erected, altered, located, reconstructed, or enlarged nearer to the right-of-way line of any private street or any street identified by the Virginia Department of Transportation as a local street than twenty feet (20'). On lots in subdivisions where a master plan or preliminary plat was approved prior to February 28, 2010, no building or other structure shall be erected, altered, located, reconstructed, or enlarged nearer to the right-of-way line of any other public or private street than thirty-five feet (35').

3. In the absence of proof to the contrary, the width of a public street shall be presumed to be thirty feet (30'), and the setback may be measured by adding fifteen feet (15') to the required setback and measuring from the center of the general line of passage.

4. If a lot, tract or parcel fronts on two (2) or more streets, the foregoing minimum setbacks shall be required on all streets.

5. For an exception to front line setback requirements, see § 25-13 of article II, division A, of this chapter.

**B. Rear lot lines.**

1. No principal building or structure shall be erected, altered, located, reconstructed or enlarged nearer to any rear lot line than twenty-five feet (25').

2. An accessory building or structure which has an area of less than twelve hundred square feet (1200 sq. ft.) and is no more than twenty feet (20') in height may be erected in rear yards. Such accessory buildings and structures shall not be erected, altered, located, reconstructed, or enlarged nearer than five feet (5') to any rear lot line.

3. An accessory building or structure which has an area of twelve hundred square feet (1200 sq. ft.) or more or is taller than twenty feet (20') high shall not be erected, altered, located, reconstructed or enlarged nearer to any rear lot line than twenty-five feet (25').

**C. Side lot lines.**

1. No principal building or structure shall be erected, altered, located, reconstructed or enlarged nearer to any side lot line than fifteen feet (15').

2. Accessory buildings or structures may be erected in side yards but no nearer to any side lot line than fifteen feet (15').

*Note:* Accessory buildings or other accessory structures located in the front yard shall not be erected, altered, located, reconstructed, or enlarged unless a Special Use Permit is obtained from the board of zoning appeals pursuant to § 25-124 F of this article.

**§ 25-129. Height limitations.**

In Rural Residential Districts, all buildings and structures shall be subject to the following height limitations:



A. No building or structure shall exceed thirty-five feet (35') in height.

B. In no case shall the height of any building or structure exceed the height limitations of the transitional surface, approach surface, horizontal surface, and conical surface as required in any Airport Overlay (APO) District.

C. For exceptions to height limitations, see § 25-15 of article II, division A, of this chapter.

**§ 25-129.1. Access to public streets.**

Lots created in residential subdivisions after February 28, 2010 must access a subdivision street or an internal road system. Nothing contained in this section shall be deemed to affect the validity of any preliminary plat or master plan approved prior to February 28, 2010 in accordance with Chapter 21 of this Code.

Section 25-130 reserved.

**Article XII Division C, Chapter 25 revised and readopted 2/10/10, eff. 3/1/10**