

Article III, Part 300 Table of Changes

Zoning Ordinance Section
PART 300. GENERAL REGULATIONS
Sec. 32-300.01. General Regulations.
Structures and uses in agricultural and residential districts shall be governed by the following regulations.
Sec. 32-300.02. Accessory Uses.
Accessory uses shall be permitted in all agricultural and residential districts, subject to the following limitations:
(1) Motor Vehicle Parking and Storage. Vehicles and motor vehicles shall be permitted in the agricultural, residential and residential portions of planned development districts as follows:
(a) Commercial Vehicles on Lots of Three (3) or More Acres. Except for the prohibited vehicles listed in section (e) below, commercial vehicles may be parked in any agricultural, residential or residential portion of a planned district on lots greater than or equal to three (3) acres in size provided the occupant of the dwelling unit is the operator of the vehicle.
(b) Commercial Vehicles on Lots of Less Than Three (3) Acres. Except for the prohibited vehicles listed in section (e) below, not more than one (1) commercial vehicle may be parked in any agricultural, residential, or residential portion of a planned district on lots less than three (3) acres in size provided the occupant of the dwelling unit is the operator of the vehicle.
(c) All permitted commercial vehicles must be kept in a garage, accessory building, or in designated parking spaces within off-street parking areas which meet or exceed standards and regulations of this chapter and the Design and Construction Standards Manual.
(d) Location and area of vehicle parking and storage on lots of less than one (1) acre or less . All vehicles that are permitted to be parked or stored on residential properties of one (1) acre or less shall be <u>parked or stored only on areas that are located in an area designated for such use and improved in accordance with § section 600 of the Design and Construction Standards Manual. Such Designated parking or storage areas and similarly improved driveways</u> shall not occupy more than thirty-five (35) percent of or seven hundred and twenty (720) square feet of the minimum required front yard, whichever is greater.
(1) In the case of pipestem lots, areas that are contained within the ingress and egress easement shall not be included when calculating the coverage of the front yard by parking areas and driveways.
(2) This maximum coverage requirement may be varied as a part of the consideration of a modified dwelling unit type requested pursuant to section 32-306.12(2) or (5).
(e) Prohibited Vehicles. Except as permitted by section 13-327 of the county code and subsections (f) and (g) below, the following types of vehicles shall not be parked or stored in any residential district or residential portion of a planned district, or on lots of less than ten (10) acres in agricultural districts: dump trucks, garbage, refuse or recycling trucks, tractors or trailers of a tractor trailer truck, tow trucks, passenger buses (excluding school buses), cement trucks, construction equipment, and the following vehicles registered with the Virginia Department of Motor Vehicles or any other state or government agency as having a gross vehicle weight of ten thousand, one hundred (10,100) pounds or more: stake bed trucks, flat bed trucks, box trucks, step vans, and trailers.
<u>(e) Prohibited Vehicles Regardless of Weight. Except as permitted by section 13-327 of the county code and subsections (g) and (h) below, the following types of vehicles shall not be parked or stored in any residential district or residential portion of a planned district, or on lots of less than ten (10) acres in agricultural districts:</u>
<u>(1) dump trucks</u>

Zoning Ordinance Section

- (2) garbage, refuse or recycling trucks
- (3) tractors or trailers of a tractor-trailer truck
- (4) tow trucks
- (5) passenger buses (excluding school buses)
- (6) cement trucks
- (7) construction equipment

(f) Prohibited Vehicles. Except as permitted by section 13-327 of the county code and subsections (g) and (h) below, the following vehicles registered with the Virginia Department of Motor Vehicles or any other state or government agency as having a gross vehicle weight of ten thousand, one hundred (10,100) pounds or more, shall not be parked or stored in any residential district or residential portion of a planned district, or on lots of less than ten (10) acres in agricultural districts:

- (1) stake bed trucks
- (2) flat bed trucks
- (3) box trucks
- (4) step vans
- (5) trailers

~~(f)~~ (g) Construction Equipment. Construction equipment and construction-related vehicles shall not be parked or stored in any agricultural, residential, or residential portion of a planned district except during the tenure of construction, and only when being used for construction purposes on the lot where parked or stored. Valid building and/or site development permits and continuous pursuit of completion of the permitted construction or development shall be required to demonstrate the existence of bona fide construction activity.

~~(g)~~ (h) Agricultural Uses and Service to Residential Properties. The provisions of the foregoing subsections (1)(a) through (f) shall not be construed to prohibit the parking in any agricultural district of any vehicle or equipment used in bona fide agricultural operations, nor shall the provisions be construed to prohibit the use of any vehicle for deliveries or pick-ups of goods or intermittent home services in residential or agricultural districts.

(2) Motor Vehicle Repair. Repair or service of motor vehicles in agricultural districts on lots less than ten (10) acres in size or in any residential district or residential portion of a planned development district shall be limited to permitted vehicles titled and registered to the owner and/or occupant or a member of the immediate family of the owner or occupant of the dwelling unit where service or repairs are taking place. For purposes of this subsection, a member of the immediate family is defined as any person who is naturally or legally defined offspring, spouse, sibling, grandchild, grandparent or parent of the owner/occupant.

(3) Fences, except those used in connection with a public use, shall be governed by the following standards:

(a) Electrified fences (other than underground fences) and fences using barbed wire shall be prohibited in all residential districts and on agricultural lots less than three (3) acres.

(b) In all residential districts and on agricultural lots less than three (3) acres, fences shall not exceed six (6) feet in height unless the fence is set back from the property line one foot for every one foot in height of the fence. Retaining walls over three (3) feet in height shall be permitted under the requirements of the Design and Construction Standards Manual, and if greater than six (6) feet in height, shall meet the setback imposed for fences.

(c) Fences on waterfront lots shall be designed and located to minimize any adverse effect on the light, air and view of adjacent waterfront properties.

(d) No fencing shall be erected so as to restrict access by emergency equipment to any building.

(4) Fences, landscaping and other improvements shall be located and maintained in a manner that does not obscure sight distances required by section 600 of the Design and Construction Standards Manual. ~~On every corner lot within the triangle formed by the street lines of such lot and a line drawn between points on such lines as established below, there shall be no structure or planting of such nature and dimension as to obstruct sight distance other than a post, column or trunk of a tree (but not branches or foliage), which is not greater than one foot in cross section or diameter. Such sight distance shall be maintained between two (2) horizontal planes, one of which is three and one-half (3 1/2)~~

Zoning Ordinance Section

~~feet, and the other ten (10) feet above the established grade of either street or, if no grade has been officially established, then above the average elevation of the existing surface of either street at the centerline thereof:~~

~~(a) For a lot having an interior angle of ninety (90) degrees or more at the street corner thereof: Points shall be thirty (30) feet from the property lines extended.~~

~~(b) For a lot having an interior angle of less than ninety (90) degrees at the street corner thereof: Points shall be thirty (30) feet from the property lines extended, plus one foot for every ten (10) degrees or major fraction thereof by which such interior angle is less than ninety (90) degrees.~~

~~(5) The type, height, location and shielding of all exterior lighting shall be designed not to reflect light or glare onto adjacent properties and roadways. Flashing, revolving or intermittent lighting shall be prohibited. Outdoor lighting shall meet the requirements of section 32-250.200, Outdoor Lighting.~~

(6) Farm animals (such as cows, pigs, hogs, goats, sheep, and other livestock, horses, mules and other equines, chickens and other fowl, and similar utilitarian animals) shall not be permitted as an accessory use in any residential district or on lots with a residential principal use in any agricultural district, except as follows:

(a) Horses, and other domesticated equines, shall be permitted as an accessory use to a residential principal use in the A-1, Agricultural, zoning district on lots of two (2) acres, or greater, in size at the rate of one such animal per acre over one.

(b) Horses, and other domesticated equines, shall be permitted as accessory use to a residential use in all ~~RR and SRR~~ SR zoning districts on lots of two (2) acres, or greater; in size at the rate of one such animal per acre over one.

(7) Small animals normally kept as pets (excluding farm animals as defined in subsection ~~(5)~~ (6) above) shall be permitted as an accessory use in all agricultural and residential zoning districts, regardless of lot size, except that no more than four (4) dogs, which are six (6) months of age or older; shall be allowed unless zoning approval for a kennel has been obtained. Any dogs, when not kept in the dwelling unit, shall be securely restrained by pens, fences or other restraining devices, except when otherwise under the control of the owner. Such facilities shall be located only in the side or rear yard(s), and shall be set back at least ten (10) feet from all property lines.

(8) The noncommercial keeping or breeding of exotic birds and miniature animals (other than dogs) shall be permitted in the A and SR districts; provided that no retail sales shall be permitted except by special use permit; no signs or customers relating to such activities shall be permitted on the premises; ancillary shipping shall be permitted; and no outside facilities or structures relating to such activities shall be permitted. These provisions shall not apply to a petting farm use approved by a special use permit.

(9) A noncommercial kennel, as defined by this chapter; shall be permitted as an accessory use as follows:

(a) A noncommercial kennel shall be permitted in the A-1, Agricultural, ~~RR-7.5 and RR-5~~ SR-5 zoning districts, provided that no more than eight (8) dogs may be kept in the kennel. A noncommercial kennel for more than eight (8) dogs shall be permitted in such zoning districts upon approval of a special use permit.

(b) A noncommercial kennel shall be permitted in the ~~SRR~~ SR zoning districts upon approval of a special use permit.

(c) Dogs kept as a part of a noncommercial kennel shall be securely restrained by pens, runs, fences or other restraining devices, except when otherwise under the control of the owner. Any structure or other facility or use associated with a noncommercial kennel shall be located only in the rear or side yard(s), and shall be set back a minimum of twenty-five (25) feet from all property lines. When a special use permit is required for a noncommercial kennel, in addition to other reasonable conditions, a greater setback may be required and a limit on the number of adult dogs may be established as a condition of approval of the special use permit.

(10) Beekeeping shall be permitted as an accessory use to a residential principal use on lots of two (2) acres or more.

Zoning Ordinance Section

(11) A wayside food stand shall be a permitted accessory use in all agricultural districts.

(12) For lots ~~greater than~~ ten (10) acres or greater in size in agricultural districts, one dwelling unit for farm employees shall be permitted as an accessory use for every ten (10) acres of lot area.

(13) Outside storage, including but not limited to refuse removal areas, shall be permitted only behind a solid, uniformly colored fence of sufficient height to block the stored material from view. In no case shall outside storage occupy more than twenty-five (25) percent of any yard area. Trash or garbage containers may be stored in the rear or side yards only, in accordance with the requirements of this subsection, or may be effectively blocked from view by vegetation; otherwise, such containers shall be stored within a principal or accessory structure. When provided, dumpsters shall be ~~blocked from view on at least three (3) sides and the fourth side need not be blocked from view if shielded from other residences, public view or from all public or private streets or easements by buildings, screening, landscaping or topography located within a screening enclosure, constructed as required by section 800 of the Design and Construction Standards Manual.~~

(14) Telecommunications equipment for private residential use or for amateur service use shall be permitted in all agricultural and residential districts ~~as an accessory use, and shall meet the standards for accessory buildings as set forth in subsections 32-300.03(1)(a), (d), and (f) of this chapter in accordance with the standards in section 32-240.01 et seq.~~

(15) A family day-care home, as defined herein and subject to the following standards:

(a) Family day-care homes on lots with five thousand (5,000) square feet or more and in a single-family detached dwelling unit:

(i) (1) The keeping of five (5) or less children, in addition to a provider's own children, as defined in Part 100 shall require a home occupation certificate, business license and certificate of occupancy.

(ii) (2) The keeping of more than five (5) children, in addition to a provider's own children, as defined in Part 100, shall be in accordance with the requirements of ~~Chapter 10, Title 63.1-195 through 63.1-219~~ Chapter 1, Title 63.2-100 through 63.2-1248 of the Code of Virginia. A home occupation certificate, business license and certificate of occupancy shall be required.

(iii) (3) Providers operating a child care center, involving ten (10) or more children, and as defined in Chapter 10, Title 63.1-195 through 63.1-219 of the Code of Virginia, shall obtain, in addition to a business license and certificate of occupancy, a special use permit and shall operate in accordance with requirements of appropriate county and state social service regulatory agencies.

(b) Family day-care homes in single-family detached dwelling units on lots with less than five thousand (5,000) square feet or in other permitted dwelling unit types;

(i) (1) The keeping of five (5) or less children, in addition to a provider's own children, as defined in Part 100, within a mobile home, townhouse, two-family dwelling, multifamily dwelling, other dwellings as defined by this ordinance, or a single-family detached dwelling unit on a lot with less than five thousand (5,000) square feet, shall require a home occupation certificate, business license and certificate of occupancy.

(ii) (2) The keeping of more than five (5) children, in addition to the provider's own children, as defined in Part 100, within a mobile home, townhouse, two-family dwelling, multifamily dwelling, other dwellings as defined by this ordinance, or a single-family detached dwelling unit on a lot with less than five thousand (5,000) square feet, shall require, in addition to a business license and certificate of occupancy, a special use permit and the requirements of Chapter 10, Title 63.1-195 through 63.1-219 of the Code of Virginia shall apply. No more than nine (9) children, including those that are the provider's own children under six (6) years of age, shall be allowed.

(c) Dwelling units in which a family day-care home is operated shall not be altered structurally or with respect to external decoration so as to be incompatible with surrounding dwelling units.

(d) Notwithstanding the provisions of subsection 32-700.55(4), site plan approval shall not be

Zoning Ordinance Section

required unless such approval is made a specific condition of a special use permit.

(e) Providers keeping five (5) or less children, in addition to their own children, shall renew the home occupation certificate, business license and certificate of occupancy annually. Providers keeping more than five (5) children, in addition to their own children, shall renew their home occupation certificate, business license and certificate of occupancy annually and also the appropriate county and state social service regulatory agency licenses and/or certificates in accordance with the requirements for the issuance of said licenses and certificates. For providers required to have a special use permit, the term of renewal shall be specified in the permit.

(16) The use of biosolids for land application is permitted as an accessory use in the A-1, Agricultural zoning district, on properties designated AE by the Comprehensive Plan, provided that the use is accessory to a primary agricultural use, and provided that provisions of all federal, state and local laws and regulations, are complied with. In addition, the property owner and/or the person applying the biosolids to the property shall ~~maintain a buffer of at least~~ not apply any biosolid within two hundred (200) feet from ~~any applied biosolids to~~ any occupied residence which is located on adjacent property.

For the purposes of this chapter, the term “biosolids” shall mean: a sewage sludge that has received an established treatment for required pathogen control and is treated or managed to reduce vector attraction to a satisfactory level and contains acceptable levels of pollutants, such that it is acceptable for use for land application, marketing, or distribution in accordance with all applicable federal, state and local laws and regulations. The director of public works shall determine whether any sludge proposed for land application has “acceptable” characteristics for the purposes of this definition.

(17) ~~Secondary food preparation areas kitchens~~ may be permitted in single-family detached dwellings by the zoning administrator when the following conditions are met and subject to criteria available from the Planning Office:

(a) ~~Secondary food preparation areas shall kitchens must~~ be contained within the principal dwelling unit or within an attached addition; and

(b) The addition or portion of the dwelling containing the second kitchen ~~may~~ shall not be used for commercial rental or other commercial purposes; and

~~(c) The applicant for approval of a second kitchen shall submit a sketch plan showing all proposed modifications to the principal dwelling unit, any addition and all new construction. Upon approval, all construction shall adhere to the approved plan.~~

(c) Secondary food preparation areas shall be located for the convenience and use by all residents of a dwelling and shall not create separate or private living areas.

(18) Boarders or lodgers. Providing sleeping facilities in exchange for compensation or as a provision of employment (as for an au pair, nanny, or other domestic employee) for unrelated persons in a single-family home is permitted as an accessory use in all agricultural, residential and residential portions of planned development districts as follows:

(a) In agricultural districts on lots less than ten (10) acres in size or in any residential district or residential portion of a planned development district, the total number of lodgers or boards shall not exceed two (2).

(b) In agricultural districts on lots of ten (10) or more acres in size, the total number of lodgers or boarders, not including domestic employees, nurses and therapists, shall not exceed two (2).

(c) The room or rooms provided for the lodgers or boarders shall not contain separate cooking or eating facilities.

(d) No alterations may be made to the structure to create independent living facilities for the use of the boarders or lodgers. (No. 92-70, 7-7-92; No. 94-1, 1-11-94; No. 94-76, 11-1-94; No. 96-6, 1-16-96; No. 98-62, 7-7-98; No. 99-27, 4-20-99; No. 99-46, 6-22-99; No. 00-79, 10-17-00; No. 03-4, 1-7-03)

Zoning Ordinance Section

Sec. 32-300.03. Accessory Buildings and Structures.

(1) Accessory buildings and structures shall be permitted in all agricultural and residential districts, subject to the following limitations:

~~(1)~~ (a) In the A-1, ~~RR-7.5, RR-5, SRR-3, SRR-1, R-20, R-10, SR-5, SR-3, SR-1, R-2, R-4, RPC, PMD and PMR (other than areas of single-family attached dwellings)~~, accessory buildings structures, antennas and their supporting structures, and in-ground swimming pools on lots greater than three (3) acres shall be subject to the required yards, setbacks and lot coverage of the zoning district in which they are located. Accessory structures on lots of three (3) acres or less shall be subject to the following requirements:

~~(a)~~ (1) Accessory buildings, antennas and their supporting structures, and in-ground swimming pools shall be allowed only in the rear and side yards.

~~(b)~~ (2) The maximum coverage for all accessory buildings on a lot shall be twenty-five (25) percent of the yard in which the accessory buildings, or any portion thereof, is located.

~~(c)~~ (3) The aggregate gross floor area of all accessory buildings on a lot shall not exceed thirty (30) percent of the gross floor area of the principal building, provided that every lot of record with a principal building shall be entitled to an aggregate of five hundred seventy-six (576) square feet of gross floor area for all accessory buildings.

~~(d)~~ (4) Accessory buildings structures in the rear yard, including above-ground pools and antennas and their supporting structure which are less than twenty (20) feet in height, shall be set back a minimum of five (5) feet from the rear and side property lines, and in the case of a corner lot a minimum of twenty (20) feet from the side property line adjacent to the side street.

~~(e)~~ (5) Accessory buildings structures in the side yard shall be subject to the yard and setback requirements for principal buildings in the zoning district in which they are located.

~~(f)~~ (6) Freestanding antennas and their supporting structure more than twenty (20) feet in height in the side and rear yard shall be subject to the yard and setback requirements of the zoning district in which they are located and also subject to the provisions of section 32-300.05(3). Antennas and their supporting structure which are more than twenty (20) feet in height and attached to buildings shall also meet the setback requirements cited herein.

~~(g)~~ (7) In-ground swimming pools shall be governed by this subsection, unless constructed on lots of more than three (3) acres, in which event the provisions of subsection ~~32-300.04(3) 2(c), below,~~ shall apply.

~~(h)~~ (8) Accessory buildings shall not exceed a height of eighteen (18) feet.

~~(2)~~ (b) In the ~~RM-1, RM-2~~ R-16 and R-30 and ~~RE~~ districts, accessory buildings structures shall be set back at least ten (10) feet from all property lines, and shall not exceed a height of fifteen (15) feet.

~~(3)~~ (c) In the ~~SR-6~~ R-6 district and townhouse areas in the RPC, PMD and PMR zoning districts, for individual townhouse unit lots, and in the RMH, Residential Mobile Home, zoning district for individual mobile home lots, accessory buildings shall not exceed twelve (12) feet in height, shall not cover more than fifty (50) percent of the yard in which they are located, and shall be allowed only in the rear yard.

~~(4)~~ (d) Unless otherwise provided for by this chapter, no accessory building structure in any agricultural or residential district shall be used as a dwelling, dwelling unit, or other place of residence, nor for housekeeping purposes. No accessory building structure shall be used as part of a home occupation or home business, unless otherwise provided for in this chapter.

~~(5)~~ (e) No accessory building shall be constructed, erected, or otherwise placed on a lot that is not occupied by a principal building, provided that an accessory building shall be permitted when a valid building permit

Zoning Ordinance Section

has been issued for a principal building and construction of that principal building is diligently pursued.

~~(6) (f)~~ Detached accessory buildings and structures shall be located not less than five (5) feet from any principal structure and shall not be connected thereto by means of a breezeway, walkway, steps or other impervious surface or structure not at grade.

~~(7) (g)~~ Temporary structures, ~~S~~storage containers, and containers used primarily for shipping purposes or truck compartments or trailers shall not be deemed principal or accessory structures or buildings and shall not be permitted.

~~(8) (h)~~ Accessory buildings and structures shall not be located so as to restrict access to ~~buildings structures~~ by emergency equipment.

~~(9) (i)~~ Private garages shall be permitted as accessory ~~buildings structures~~ in the A, SR and R districts and residential areas of planned development districts, in accordance with the standards set forth in this subsection:

~~(a) (1)~~ If attached to the principal structure, all setbacks for the principal structure shall be met.

~~(b) (2)~~ Parking credit allowance may be given only as provided in section 32-250.11.

~~(c) (3)~~ Private garages shall be used solely by the occupants of the dwellings to which they are accessory and only for noncommercial purposes.

(2) Accessory structures other than buildings shall be permitted in all agricultural and residential zoning districts, provided they are designed and located so as to minimize any adverse impact on streets or other public places, and on the full use and enjoyment of adjacent properties subject to the following limitations:

(a) Retaining walls greater than three (3) feet height in height as measured by the Building Code shall require zoning approval.

(b) No accessory structure shall be constructed, erected or otherwise placed on a lot that is not occupied by a principal building, provided that an accessory structure shall be permitted when a valid building permit has been issued for a principal building and construction of that principal building is diligently pursued.

(c) In-ground swimming pools on lots of more than three (3) acres shall be permitted in any yard and are subject to setbacks unless otherwise provided in this chapter. Other in-ground pools shall be governed by the provisions of subsection (1)(a)(7), above.

(d) Subject to the provisions of sections 32-250.75 and 32-250.93, drainfields and septic systems shall be permitted without regard to setbacks or yard restrictions, provided that health department approval shall be secured for any drainfield or septic tank.

Sec. 32-300.04. Additional Provisions for Accessory Structures Other Than Buildings.

Accessory structures other than buildings shall be permitted in all agricultural and residential zoning districts, provided they are designed and located so as to minimize any adverse impact on streets or other public places, and on the full use and enjoyment of adjacent properties subject to the following limitations:

~~(1) Retaining walls greater than three (3) feet in height as measured from grade to the top at their greatest elevation shall require a building permit.~~

~~(2) No accessory structure shall be constructed, erected or otherwise placed on a lot that is not occupied by a principal building, provided that an accessory structure shall be permitted when a valid building permit has been issued for a principal building and construction of that principal building is diligently pursued.~~

~~(3) In ground swimming pools on lots of more than three (3) acres shall be permitted in any yard~~

Zoning Ordinance Section

~~and are not subject to setbacks unless otherwise provided in this chapter. Other in-ground pools shall be governed by the provisions of subsection 32-300.03(1)(d).~~

~~————— (4) Subject to the provisions of section 32-300.08, drainfields and septic tanks shall be permitted without regard to setbacks or yard restrictions, provided that health department approval shall be secured for any drainfield or septic tank.~~

Sec. 32-300.04. Reserved.

Sec. 32-300.05. General Height Regulations.

(1) Except as otherwise provided for in this section or elsewhere in this chapter; the maximum height for all structures in all agricultural and residential districts shall be thirty- five (35) feet.

(2) The maximum building height for a ~~church~~ religious institution, barn, silo or other agricultural building, library, hospital, or building owned by a public use shall be sixty (60) feet, provided that all required yards and setbacks shall be increased one foot for each foot in height the building is constructed over thirty-five (35) feet.

(3) The height limit set forth in subsections (1) and (2) shall not apply to ~~public use buildings or~~ structures, flagpoles, chimneys, cupolas, bell towers, and domes not used for human occupancy, sky lights, solar collectors ~~energy devices~~, and supporting structures of antennas used by residents of a dwelling unit, provided that such structures or features shall be created only to a height necessary to accomplish the purpose intended, and further provided that the building official approves all such structures or features.

(4) The board of county supervisors may, as a part of a proffered rezoning application or a special use permit application, approve heights for buildings and other structures in excess of the maximums set forth in this section, subject to the following conditions:

(a) For a rezoning application the maximum height(s) shall be proffered by the applicant and accepted by the board of county supervisors; for a special use permit application the maximum height(s) shall be made a condition of approval of the permit; and

(b) The board of county supervisors shall be satisfied that the proposed height shall not have a substantial adverse impact on the light and air of adjacent and nearby properties; and

(c) The county fire marshal has certified in writing that the proposed building or other structure can be properly protected, and will not endanger improvements on adjacent properties, in case of fire; and

(d) All other requirements of this chapter for a conditional rezoning or special use permit have been met; and

(e) The proposal shall not constitute a hazard to aerial navigation. When the board of county supervisors believes a proposal may be such a hazard, the proposal shall not be approved unless the Federal Aviation Administration certifies in writing that the proposal does not constitute a hazard to aerial navigation.

(5) Heights for accessory buildings shall not exceed heights for principal buildings and shall be further governed by the provisions of section 32-300.03 of this chapter. (No. 94-76, 11-1-94)

Sec. 32-300.06. Yard Encroachments.

~~Required yard setback, or buffer shall be unoccupied and open to the sky except for accessory buildings and accessory structures as permitted by this chapter, and except for the following:~~

~~————— (1) Architectural features (such as windows, sills, chimneys, cornices, eaves, and gutters, but excluding cantilevers) may project up to three (3) feet into any required yard, setback, or buffer; provided they are at least five (5) feet from the property line.~~

Zoning Ordinance Section

~~(2) Open outside fire escapes may project up to five (5) feet into any required yard, setback, or buffer; provided that they shall be located at least five (5) feet from the property line.~~

~~(3) Open carports may encroach into side yard setback areas in the R-10 and R-20 zoning districts, excluding cluster developments, provided the following standards are met:~~

~~(a) A minimum five (5) foot setback distance shall be maintained between the carport and the side property line.~~

~~(b) Such encroachments shall not be permitted for side yards which abut a side street, except in accordance with subsection (8) below.~~

~~(c) The carport addition must be attached to the principal dwelling, open on the three (3) sides which do not abut the principal dwelling, and shall not be enclosed in the future.~~

~~(d) The minimum five (5) foot separation distance from the side property line shall be measured from the portion of the carport structure nearest to the side property line, including but not limited to, eaves, gutters, cantilevers, cornices, or roof overhangs.~~

~~(e) Such encroachments shall be permitted on one side yard only.~~

~~(f) No reduction shall be in addition to an encroachment allowed in this section 32-300.06.~~

~~(4) Unroofed landings, porches, decks, steps and stoops, in any combination, may encroach up to four (4) feet into a minimum required yard, setback, or buffer provided they shall be located at least five (5) feet from the property line.~~

~~(5) Roofed or unroofed above grade landings, open or screened porches, decks, steps and stoops may encroach into a front, rear, side or corner yard, setback, or buffer in the A-1, RR-7.5, RR-5, SRR-3, SRR-1, R-20 and R-10 districts, including districts in which cluster developments are allowed, and with single family detached dwellings allowed in accordance with the PMR district regulations, upon approval by the zoning administrator and subject to the following criteria. Requests for modification to the minimum yard, setback, or buffer requirements shall be submitted to the zoning administrator utilizing forms and attachments specifically provided by the planning office for yard, setback, and buffer reduction requests. All additions proposed to encroach upon a minimum yard, setback, or buffer shall also be subject to review and approval by the building official in accordance with the Uniform Statewide Building Code.~~

~~(a) No yard, setback, or buffer standard may be reduced by more than twenty (20) percent of the required minimum, except as provided for in subsection (f)(i), and for specific existing dwellings in the R-10 zoning district in accordance with subsection (8) below.~~

~~(b) No reduction shall be in addition to an encroachment allowed in subsection (4) above, or an encroachment allowed in subsection (8) below.~~

~~(c) There shall not be an access impact on an adjacent property.~~

~~(d) Sight distance for corner lots shall not be obstructed and the provisions of section 32-300.02(4)(a) and (b) shall be met.~~

~~(e) For side yard reductions, no side yard shall be reduced to less than five (5) feet.~~

~~(f) For rear yard reductions, no other dwellings and additions thereto shall be within forty (40) feet of any portion of the proposed structure which is to be permitted to encroach beyond the minimum setback line except as provided for in subsection (i) below.~~

~~(i) In the R-10 and R-20 districts, including cluster developments and single family detached dwellings allowed in accordance with the PMR district regulations, rear yard encroachments can be allowed to be no closer than ten (10) feet to the rear lot line provided:~~

Zoning Ordinance Section

~~no reduction of the rear yard shall be in addition to an encroachment allowed in subsection (3) above or this subsection (4).~~

~~no structures that are the subject of this subsection (i) shall be allowed in any easement.~~

~~no structures that are the subject of this subsection (i) shall be allowed in any buffer zone/area designated by proffer, special use permit or provisional use permit or pursuant to the provisions of Parts 250, 280 or 300, as applicable, of the zoning ordinance or § 800 of the Design and Construction Standards Manual.~~

~~no structures that are the subject of this subsection (i) shall be allowed in any RPA or flood hazard area/zone.~~

~~any structure that is the subject of this subsection (i) may be required to have an approved lot grading plan from the department of public works in the event lot clearing, grading, excavating or filling of land is proposed.~~

~~(g) For front yard reductions, no other dwellings and additions thereto shall be within twenty (20) feet of that portion of the proposed structure which is to be permitted to encroach beyond the minimum setback line.~~

~~(6) For encroachments permitted by subsection (2) above, no more than twenty five (25) percent of the length of any one side of a building shall contain such encroachments.~~

~~(7) Patios, decks, walkways, sidewalks, steps and driveways constructed no higher than eight (8) inches above existing grade of the contour of the land where located may encroach within any setback, provided that no permanent above grade affixed structures such as railings, planters, benches, roofs or other appurtenances are installed.~~

~~(8) In the R-10 zoning district for corner lots having dwelling units built before October 1975, all of the following provisions shall apply:~~

~~(a) The dwelling unit may be expanded provided such expansion shall be constructed no less than ten (10) feet from the side lot line adjacent to the side street. In addition, the expansion must meet all other applicable zoning regulations; including rear and front setbacks.~~

~~(b) The side street abutting the side yard must serve not more than twenty five (25) residential lots.~~

~~(c) The sight distance triangle for corner lots shall not be obstructed and the requirements of section 32-300.02(4)(a) and (b) shall be met.~~

~~(d) A minimum twenty (20) foot separation distance between the proposed addition and any other dwelling is required.~~

~~(e) No reduction in the side yard shall be in addition to an encroachment allowed in this section 32-300.06. (No. 93-20, 5-4-93; No. 94-1, 1-11-94; No. 96-17, 3-5-96; No. 97-29, 4-1-97; No. 00-36, 6-6-00)~~

Sec. 32-300.06. Setbacks for Architectural Features and Accessory Structures

The required yard or setback area for all properties shall be unoccupied and open to the sky except for architectural features and accessory structures as permitted by this chapter. Architectural features and accessory structures shall be set back from property lines subject to the following standards:

(1) Architectural features such as, but not limited to, windows, sills, cornices, eaves, and gutters, but excluding floor area supported by cantilevered construction:

Minimum Required Setbacks

Zoning Ordinance Section

	<u>Lot Size</u>	<u>Front</u>	<u>Side</u>	<u>Rear</u>
(a)	<u>Less than 10,000 square feet</u>	<u>20 feet</u>	<u>5 feet</u>	<u>15 feet</u>
(b)	<u>10,000 square feet to one acre</u>	<u>27 feet</u>	<u>8 feet</u>	<u>20 feet</u>
(c)	<u>Greater than one acre</u>	<u>35 feet</u>	<u>10 feet</u>	<u>20 feet</u>

(2) Open car ports, only in the R-4 and R-2 zoning districts, excluding cluster developments:

	<u>Lot Size</u>	<u>Minimum Required Setbacks</u>		
		<u>Front</u>	<u>Side</u>	<u>Rear</u>
(a)	<u>10,000 square feet to one acre</u>	<u>5 feet</u>	<u>5 feet</u>	<u>20 feet</u>
(b)	<u>Greater than one acre</u>	<u>5 feet</u>	<u>10 feet</u>	<u>20 feet</u>

(1) Car ports shall be attached to the principal dwelling.

(2) Car ports that do not meet the minimum setbacks for the principal structure shall remain open on the three (3) sides that do not abut the principal dwelling and shall not be enclosed in the future.

(3) Car port setbacks shall be permitted on one side yard only.

(3) Except for dwellings constructed pursuant to the provisions of 32-306.12(6), unroofed landings, porches, decks, steps, stoops, patios, walkways, sidewalks, chimneys, retaining walls four (4) feet or higher, as determined by the Building Code, and driveways constructed greater than eight (8) inches above existing grade in any combination:

	<u>Lot Size</u>	<u>Minimum Required Setbacks</u>		
		<u>Front</u>	<u>Side</u>	<u>Rear</u>
(a)	<u>Less than 10,000 square feet</u>	<u>15 feet</u>	<u>5 feet</u>	<u>8 feet</u>
(b)	<u>10,000 square feet to one acre</u>	<u>25 feet</u>	<u>6 feet</u>	<u>10 feet</u>
(c)	<u>Greater than one acre</u>	<u>35 feet</u>	<u>10 feet</u>	<u>15 feet</u>

(4) Open fire escapes shall be subject to the same setbacks identified in (3), above, and shall not comprise more than twenty-five (25) percent of the length of any one side of a building on which they are located.

(5) No setback shall apply to unroofed patios, walkways, sidewalks, and driveways constructed eight (8) inches or less above existing grade within five (5) feet of said feature of the contour of the land.

(a) Above-grade structures such as railings, planters, benches, or other appurtenances installed on such landings, porches, decks, steps, stoops, patios, walkways, sidewalks, and driveways are subject to the setback requirements of subsections (1) through (3), above.

(b) Notwithstanding (a), above, no setback shall apply to safety railings for below-grade stairwells.

(6) Roofed landings, porches, decks, steps, stoops, patios, walkways, sidewalks, and driveways shall be subject to the setback requirements for primary structures for the zoning district in which they are located.

(7) Notwithstanding the above, these standards for setbacks shall in no case:

(a) Allow architectural features and/or accessory structures to encroach into required buffer areas;
or

(b) Increase the lot coverage allowed in the zoning district in which they are located; or

(c) Reduce required setbacks along side streets in the zoning district in which they are located.

Zoning Ordinance Section

Sec. 32-300.07. Generally Permitted Uses.

The following uses shall be permitted in all agricultural and residential zoning districts (unless specifically noted otherwise), subject to the standards set forth for each use.

(1) A home sales office for the sale of new homes within the development, until all new homes in the development are sold. In lieu of a home sales office, modular or mobile sales units shall be permitted only in accordance with the provisions of section 32-210.12. This use shall not be permitted in the A-1, Agricultural, zoning district unless located in a legally platted subdivision containing ten (10) or more lots.

(2) A home occupation, regardless of lot size, subject to the following standards: Home occupations not meeting any one (1) or more of these standards may be considered a home business or home employment use.

(a) No signs shall be permitted.

(b) No employees shall be permitted to work on the premises, except for family members residing in the dwelling unit.

(c) One (1) company vehicle shall be permitted as accessory to a home occupation, provided, however, that overnight parking shall be limited as provided for in subsection 32-300.02(1) of this chapter.

(d) No outside storage shall be permitted. Commercial deliveries and pick-ups of supplies associated with the use shall be limited to not more than one (1) per day and shall be made only during business hours.

(e) The area devoted to the home occupation shall not exceed twenty-five (25) percent of the gross floor area of the dwelling unit.

(f) No customers or clients may be seen at the home, except for customers of family day care or daytime adult care.

(3) Home employment, ~~regardless of lot size, with a provisional use permit~~, in the A, ~~RR~~, SRR, R-202, R-404, RPC, PMR, PMD zoning districts if the requirements of section ~~32-230.23~~32-300.16 are met.

(4) A home business, regardless of lot size, subject to a special use permit and the standards set forth in the definition of the term and the permit.

~~(5) Hospitals with a special use permit.~~

~~(6)~~ (5) A group home as defined by Virginia Code § 15.2-2291 shall be permitted in any agricultural or residential district as a use by right and shall include group residences for ambulatory elderly persons, whether or not special accommodations are required, but shall not include nursing homes or hospitals.

~~(7)~~ (6) Community operated parks, clubhouses, swimming pools, racquet ball and tennis courts, health and fitness facilities, and other recreational or civic facilities, as secondary uses to a principal residential development for the exclusive use of the residents of the development and their guests.

~~(8)~~ (7) ~~Churches, religious institutions or places of religious worship or assembly, with a special use permit;~~ and the addition of or expansion to facilities within the definition of ~~church or place of religious worship or assembly institutions~~, and no others, where permitted with a special use permit, shall meet the following minimum standards:

(a) The minimum lot size in an agricultural district shall be two (2) acres and the minimum lot size in a residential district shall be one (1) acre.

~~(b) The use shall be limited to the facilities used in religious observance, ceremonies, or assembly, and may include administrative offices, parlors, meeting halls, rooms for choirs, and classrooms (not to be used for a private school or child care facility).~~

Zoning Ordinance Section

~~(c) A buffer area shall be established in accordance with section 802.11 of the Design and Construction Standards Manual.~~

~~(d) Notwithstanding the provisions of subsection 32-300.05(2), the maximum height shall be thirty five (35) feet except for church spires, domes, belfries or cupolas approved in accordance with the provisions of subsection 32-300.05(3).~~

~~(e) Signage shall be limited to one (1) monument sign not exceeding forty (40) square feet of advertising area and limited to eight (8) feet in height and one (1) facade sign of not more than twenty five (25) square feet.~~

~~(f)~~ (b) Religious institutions ~~and churches~~ shall be subject to a maximum lot coverage of eighty-five (85) percent and shall not be subject to minimum lot area requirements of the zoning district in which they are located.

~~(9)~~ (8) Satellite parking lot for religious institutions, churches or places of religious worship or assembly, as a secondary use, with a special use permit for no more than fifty (50) percent of the required off-street parking, provided that said parking is constructed in accordance with sections 32-250.10, 32-250.44 and the off-street parking requirements of the Design and Construction Standards Manual; and provided that said satellite parking lot, regardless of lot size, is located within five hundred (500) feet of the principal ~~church~~ religious institution parcel; and further provided that such off-street parking areas are landscaped in accordance with requirements of §§ 802.43 and 802.44 of the Design and Construction Standards Manual. No satellite parking lot shall be approved where any portion of the required off-street parking for the ~~church~~ religious institution or place of religious worship or assembly is being met on an adjacent parcel under the provisions of the Design and Construction Standards Manual. A satellite parking lot for the use of a ~~church~~, religious institution ~~or place of religious assembly~~, and no others, where permitted with a special use permit, shall meet the following minimum standards:

(a) The principal lot or parcel which will be served by the satellite parking lot must meet all requirements of section 32-300.07(8); the satellite parking lot must meet all minimum lot development standards for a ~~church~~ or religious institution use in the given zoning district.

(b) Only directional signs, as defined in this ordinance, will be permitted on the satellite parking lot parcel.

(c) A site plan showing all entrances, parking layout, landscaping, pavement materials, and storm water management must be prepared and submitted concurrently to the county. More than fifty (50) percent of the landscaping shall be indigenous, drought-tolerant species as listed in the Design and Construction Standards Manual.

(d) A minimum of one pedestrian crosswalk, including signalization if warranted, shall be provided for any satellite parking lot, the location and design of which shall be subject to the approval of the Virginia Department of Transportation and Prince William County Public Works; no satellite parking lot shall be approved with an at-grade pedestrian crossing without signalization, across any road designated as a minor arterial or greater classification, subject to warrants and approval by the Virginia Department of Transportation.

(e) The approval of the special use permit is subject to the approval of a site plan by relevant county agencies and Virginia Department of Transportation, and subsequent bond release after construction.

~~(10)~~ (9) The use of a single-family dwelling to provide a recovery home, subject to a special use permit and the following standards:

(a) The outside of the dwelling shall not be structurally altered to appear as any use other than a single-family dwelling.

(b) At least one adult supervisor shall be on the premises at all times.

(c) No more than two (2) adults (eighteen (18) years old or older) per bedroom shall reside in the dwelling at any one time.

Zoning Ordinance Section

~~(11) Recycling collection points shall be permitted in the SR 6, RT 10, RMH, RM 1, RM 2, RE, RPC, PMR and PMD zoning districts subject to the provisions of section 32-250.84. (No. 92-38, 3-17-92; No. 92-41, 4-7-92; No. 92-68, 6-23-92; No. 94-1, 1-11-94; No. 94-26, 5-3-94; No. 94-67, 10-4-94; No. 94-76, 11-1-94; No. 96-6, 1-16-96; No. 98-30, 4-21-98; No. 98-62, 7-7-98; No. 00-43, 6-27-00)~~

Sec. 32-300.08. Sanitary Facilities. Reserved.

~~(1) Development in every residential district, except the RR and SRR districts, and in every planned development district developed after adoption of this ordinance shall be connected to public sewer and water facilities when available to the site and connection is authorized under county policies.~~

~~(2) Notwithstanding the minimum lot sizes set forth in the A-1, Agricultural, zoning district and in all residential and planned development zoning districts, the minimum lot size for any lot not served by public water and public sewer shall be one acre.~~

~~(3) For the purposes of this provision, public sewer and water shall be deemed available when lines are located within one thousand (1,000) feet of the perimeter of the development and may be connected to in accordance with the comprehensive plan and other applicable law.~~

~~(4) Availability of public water and sewer within the meaning of this section shall not affect the determination of whether a parcel lies within an Intensely Developed Area (IDA) for purposes of Part 504 of this chapter.~~

Sec. 32-300.09. Calculation of Minimum Lot Areas.

~~For lots created after November 21, 1991, minimum lot size shall be calculated as the total horizontal area included within the front, side and rear lot lines or proposed street lines of the lot, excluding any street, or highway, whether dedicated or not dedicated to public use, but including that portion of ingress/egress easement incorporated into the lot for lots five (5) acres or greater in size, off street parking areas and other accessory use areas.~~

Sec. 32-300.09. Reserved.

Sec. 32-300.10. Multiple Principal Uses of Residential Lot Prohibited.

No nonresidential principal use may be established on a lot on which a principal residential use is conducted. For purposes of this section, residential uses lawfully established on parcels principally used for bona fide agricultural purposes shall be deemed accessory thereto.

Sec. 32-300.11. Multiple Residential Buildings on a Single Lot Prohibited; Exceptions.

(1) Unless otherwise permitted by this section, no more than one building used for residential purposes may be placed upon a lot.

(2) The prohibition of this section shall not apply to watchmen's dwellings approved in accordance with the provisions of section 32-230.21.

(3) The prohibition of this section shall not apply to tenant houses accessory to a bona fide agricultural use, in accordance with the provisions of subsection 32-300.02(12).

(4) The prohibition of this section shall not apply to buildings used for residential purposes subject to a lawful condominium, horizontal property or cooperative regime, nor to multifamily structures under a single ownership and used for rental purposes. The exemption provided by this subsection shall apply only to residential structures conforming to the requirements of subsection (5) below and of the zoning district in which such structures are located.

(5) Each building proposed for a residential use shall be located in such manner and reviewed as though every such building were to be located upon its individual lot and the requirements of this chapter and any other

Zoning Ordinance Section

applicable law shall be met with regard thereto. This review standard shall not be deemed to require subdivision into such lot or parcel, unless subdivision shall otherwise be required, but only that such structure shall be reviewed in conformity with construction and development standards without regard to form of ownership.

(6) The prohibition of this section shall not apply to temporary modular or mobile homes used for dwelling purposes while a principal dwelling is being constructed or reconstructed. It shall also not apply to using existing dwellings temporarily while a new dwelling is being constructed on the property. Temporary use of existing dwellings or modular or mobile homes shall only be permitted for a maximum of eighteen months, subject to issuance of zoning approval and deposit of adequate bond or guarantee to ensure diligent construction or reconstruction of a principal dwelling and removal of the temporary dwelling or modular or mobile home.

Sec. 32-300.12. Dump Heap Prohibited

Keeping or maintaining a dump heap, as defined herein, shall be prohibited on property in all agricultural or residential districts. (Ord. 00-10, 1-18-00)

Sec. 32-300.13. Limitation on Occupancy of a Dwelling Unit

A dwelling unit may be occupied by not more than one (1) of the following:

(1) One (1) person or two (2) or more persons related by blood or marriage with any number of offspring, foster children, step children or adopted children and ~~with~~ not to exceed two (2) roomers or boarders as permitted by section 32-300.02(18), "Accessory Uses – Boarders/Lodgers".

(2) Two (2) single parents or guardians with their dependent children, including natural children, foster children, step children, or adopted children, living and cooking together as a single housekeeping unit.

(3) A group of not more than three (3) persons not necessarily related by blood or marriage living and cooking together as a single housekeeping unit; provided that the limitation on the number of unrelated persons shall not apply to ~~residence~~ residents in a housekeeping unit by persons having handicaps within the meaning of § 3602 of the Fair Housing Act (42 USC 3601, *et seq.*, as amended).

(4) Those groups identified in the Fair Housing Act, § 15.2-2291, Va. Code Ann., or like groups licensed by the Virginia Department of Social Services which otherwise meet the criteria of § 15.2-2291, Va. Code Ann. (No. 99-46, 6-22-99)

Sec. 32-300.14. General Provisions for Rural Home Businesses

Where permitted, rural home businesses shall meet the following minimum standards:

(1) The lot on which such a business is conducted shall be at least five (5) acres in size.

(2) Outside storage shall be set back at least fifty (50) feet from all property lines, and blocked from view from adjacent properties and roadways by a board on board fence or a double row of evergreens.

(3) Accessory buildings shall be set back at least fifty (50) feet from all property lines.

(4) The business shall be allowed one unlighted facade or freestanding sign not to exceed four (4) square feet in area, nor five (5) feet in height, and which must be set back at least five (5) feet from all property lines. No other signs shall be permitted.

(5) No more than two (2) employees outside of family members residing in the dwelling unit shall be permitted, and employee parking shall be provided behind a screened area.

(6) The area of the dwelling unit devoted to the business shall not exceed twenty-five (25) percent of the dwelling's gross floor area; the area of the lot used for outside storage and parking shall not exceed twenty thousand (20,000) square feet; and the total gross area of accessory buildings shall not exceed ten thousand (10,000) square

Zoning Ordinance Section

feet.

(7) As a condition of a special use permit, the governing body may modify the standards set forth in subsections (1) through (6), if such modification is in keeping with the standards set forth by this chapter for consideration of special use permits.

Sec. 32-300.15. General Provisions for Bed and Breakfasts

When permitted, bed and breakfasts shall meet the following standards:

(1) The lot shall be at least ½ (one-half) acre in size, except as permitted in the A-1, Agricultural, zoning district.

(2) Outside storage shall be prohibited.

(3) The outside of the dwelling shall not be structurally altered to appear as any other use than a single-family detached dwelling.

Sec. 32-300.16. General Provisions for Home Employment.

Home employment uses as defined in Part 100 of this chapter shall meet the following standards:

(1) A home employment use shall be conducted as an accessory use entirely within a single-family detached dwelling unit and shall not change the character of the dwelling unit nor have any exterior evidence other than a sign as provided for in this section.

(2) Only product sales accessory to a home employment use shall be allowed.

(3) Outside storage associated with the business shall be prohibited. Pet grooming services shall be permitted to use a portion of a rear or side yard, if blocked from view from adjacent properties by a six-foot high solid board fence, for use by not more than three (3) pets at any time.

(4) One company vehicle, as defined by Part 100 of this chapter, may be permitted as accessory to the use; provided, however, that overnight parking at the dwelling shall be limited as provided in subsection 32-300.02(1).

(5) Hours of operation, excluding tutoring, education or training, shall be limited to between 7:00 a.m. and 7:00 p.m. Monday through Friday, 9:00 a.m. to 7:00 p.m. Saturday and Sunday. Hours of operation for tutoring, education or training shall be limited to between 7:00 a.m. and 9:00 p.m. Monday through Friday, 9:00 a.m. to 9:00 p.m. Saturday and Sunday.

(6) Customers shall be received by appointment only. No more than five (5) customers per day and no more than one (1) customer at a time shall be scheduled, however, this shall not apply to adult day care and tutoring. A customer shall be deemed: an individual or a group of individuals that arrive as a single unit at a destination usually by means of a motor vehicle.

(7) Minimum lot size: Five thousand (5,000) square feet.

(8) No more than one (1) employee, who is not a family member residing in the dwelling unit shall be permitted for a dwelling on a lot which is less than ten thousand (10,000) square feet. No more than two (2) employees shall be permitted for a dwelling on a lot which is ten thousand (10,000) square feet or larger.

(9) A home employment use shall be allowed either one (1) unlighted facade sign not to exceed one (1) square foot in area; or one (1) unlighted mailbox mounted sign not to exceed one (1) square foot in area nor three (3) feet in height from ground level when the dwelling unit is set back more than thirty-five (35) feet from the front property line.. No other signs shall be permitted.

Zoning Ordinance Section

(10) The area devoted to the home employment use shall not exceed twenty-five (25) percent of the gross floor area of the dwelling unit.

(11) Adequate parking shall be provided to accommodate the use.

(12) Commercial deliveries and pickups of supplies associated with the use shall be limited to one per day and shall be made only during business hours.

(13) The operator of a home employment use shall secure a business license, if required, and certificate of occupancy in advance of commencing the use.

(14) Provisions for disposal of waste generated by or associated with the home employment use shall be approved by the zoning administrator. Clippings and refuse from pet grooming service shall be cleaned up and properly bagged daily.

(15) For pet grooming service, all animals shall be kept inside and no animals may be kept overnight or boarded. (No. 94-1, 1-11-94; No. 96-6, 1-16-96; No. 96-34, 4-16-96; No. 97-88, 10-7-97; No. 98-30, 4-21-98; No. 00-43, 6-27-00)

(16) An application for a home employment use may be made by any property owner, and any lessee, contract purchaser, official, department, board or bureau of any government or its agent.

(17) The application shall be filed with the zoning administrator on forms provided by the planning office. All information required for evaluation of the application in accordance with the standards of this part shall be supplied and the applicant shall remit the fee established for such permits. No application shall be deemed filed until submission requirements are complete and found to be acceptable by the planning office.

(18) The zoning administrator shall approve or disapprove an application for a home employment use within forty-five (45) days of filing. Failure by the zoning administrator to act within the time period provided may, at the option of the applicant, be deemed approved. The reasons for disapproval of any application and the conditions attached to approval of any permit shall be stated in writing.

(19) An application for a home employment use, in addition to other items that may be required for combined permits, shall include:

(a) A filing fee;

(b) A copy of the latest deed or lease agreement;

(c) A copy of the plat or house location survey;

(d) A drawing showing the floor area of the home and shall identify the total area that will be subject to the proposed home employment use;

(e) A statement identifying the proposed hours of operation, the estimated number of patrons, and any other information to help describe the proposed home employment use; and

(f) Any further information or documentation required by the zoning administrator to demonstrate compliance with the provisions of this section.

(20) An application for home employment use shall be transmitted to the Planning Commission and Board of County Supervisor member(s) of the affected magisterial district(s), as well as to any other appropriate County agency.

(21) Whenever a home employment use is denied by the Zoning Administrator, the applicant may take any of the following actions in lieu of accepting the decision as final:

(a) Revise the application to satisfy the stated reason for denial, in which event it shall be handled

Zoning Ordinance Section

as a new application:

(b) Appeal the denial to the board of zoning appeals as provided by Part 900 of this chapter; or

(c) Apply for a special use permit for such proposed use in accordance with the requirements of Part 700 of this chapter.

(22) Approval of a home employment use shall be revocable on the order of the Zoning Administrator at any time because of the failure of the owner or operator of the use covered by the approval to observe all requirements of law with respect to the maintenance and conduct of the use and all conditions imposed in connection with the approval.

(23) Approval of a home employment use shall stand revoked, without any action by the Zoning Administrator, if the use authorized has been intentionally abandoned, has ceased for a period of one year, or has not commenced within one year of approval.

Sec. 32-300.40. Rural Cluster Development

(1) Rural cluster developments shall be permitted in the Rural Area, as designated on the comprehensive plan, on land in the A-1, agricultural zoning district.

(2) Within rural cluster developments, the permitted uses shall be one (1) family dwellings, home occupations, home employment uses, and agricultural uses and their accessory uses, and buildings and structures, as permitted in the A-1 agricultural zoning district and as determined under the homeowners' association covenants pursuant to section 32-300.42, provided that the processing of agricultural or silvicultural products shall be prohibited in rural cluster developments.

(3) If the property contains a designated cultural resource, that resource may be developed, as part of the rural cluster development, in accordance with the use(s) outlined for it in the Cultural Resources Plan chapter of the comprehensive plan. Any such use of a designated cultural resource, other than a one (1) family dwelling, shall require a special use permit.

(4) Upon approval of final plans for a rural cluster development, the property shall thereafter be depicted upon the zoning map as A-1C. (No. 99-26, 4-20-99)

Sec. 32-300.41. Same. Design Standards

(1) Any proposed rural cluster development shall be designed so as to foster the preservation of open space or existing farmland; to protect the distinct visual quality and the natural landscape, topographic, and natural resource features of the rural area; to provide landowners in the rural area an alternative use of their property; and to uphold the general intent of the A-1, agricultural zoning district.

(2) A minimum rural cluster development area of one hundred (100) acres shall be required. Additions to existing rural cluster developments may be less than one hundred (100) acres but must meet all other provisions of sections 32-300.40 through 32-300.44.

(3) No rural cluster development shall be further divided or otherwise redeveloped, except in accordance with sections 32-300.40 through 32-300.44.

(4) The minimum size of lots for residential use shall be three (3) acres and the maximum size of lots for residential use shall be five (5) acres; provided, however, that the total number of units within a rural cluster development shall not exceed one dwelling unit for each ten (10) acres of land.

(5) The rural cluster development shall have no more than one (1) access to a public street external to that development, unless more than one (1) access is required pursuant to § 600 of the Design and Construction Standards Manual. The access shall be consistent with the minimum state entrance requirements contained in § 600 of the Design and Construction Standards Manual.

Zoning Ordinance Section

(6) All buildings, including accessory structures, shall be set back thirty-five (35) feet from the front lot line.

(7) A one hundred (100) foot wide perimeter buffer shall be created and maintained between any external street and the edge of the rural cluster development. This buffer shall be used for the purpose of partially screening the view of the house in the rural cluster development from the public right-of-way external to the rural cluster development. This partial screening shall be achieved in one of the following ways:

(a) Where the buffer already contains mature shade trees, evergreen trees, shrubs, ~~and or~~ other vegetation adequate ~~to provide the equivalent planting standard of a one hundred (100) foot wide buffer in accordance with section 800 of the Design and Construction Standards Manual~~ screen the development from the external street, such vegetation shall be preserved during the development process and preserved and maintained in perpetuity.

(b) Where the buffer does not already contain mature shade trees, evergreen trees, shrubs, ~~and or~~ other vegetation adequate to screen the development from the external street, either such screening vegetation shall be provided or vegetation appropriate to a rural location, such as flowering meadows, meadow grasses, or similar indigenous vegetation, shall be provided and maintained in perpetuity to provide a one hundred (100) foot wide buffer in accordance with section 800 of the Design and Construction Standards Manual.

(c) Only ~~Stone~~ stone walls, brick walls, split-rail fences, and ~~other types of~~ board rail fences ~~that enhance rather than detract from the rural setting~~ are ~~discouraged~~ allowed. No berm, fence, or wall may be substituted for any portion of the required buffer.

(8) The maximum lot coverage for lots containing dwellings shall be twenty-five (25) percent.

(9) No fence or wall over four (4) feet high shall be permitted along the frontage of the rural cluster development or each lot within that development, provided that such fences that are needed to contain permitted animals may exceed four (4) feet.

(10) Ponds, meeting the requirements of § 700 of the Design and Construction Standards Manual and functioning as extensions of the site's natural drainage properties, may be used as stormwater management facilities.

(11) Subdivision sign, when provided, shall be integrated into the landscape. Internally illuminated subdivision signs are discouraged prohibited. (No. 99-26, 4-20-99)

Sec.32-300.42. Open Space

(1) Open space required in a rural cluster development shall not be less than fifty (50) percent ~~and no more than seventy (70) percent~~ of the gross acreage ~~of the rural cluster development~~.

(2) That portion of the gross acreage of a rural cluster development that is not developed as residential lots and as internal street(s) shall be provided as open space, as follows:

(a) A minimum of seventy (70) percent of the required open space shall be provided as perpetual open space, to be defined as follows:

(i) Open space maintained in its natural, scenic, open and/or wooded condition and/or planted and maintained in perpetuity with indigenous species and/or species appropriate to rural locations. Agricultural use of all or a portion of this open space is permitted. This open space shall be permanently undeveloped and undisturbed; provided, however, that appropriate maintenance of this open space and/or agricultural pursuits may be needed. In no instance shall this maintenance reduce the scenic, forestal and/or agricultural value of this open space.

a. Unless approved as part of a plan to establish significant vegetation, land disturbance in the designated open space areas shall be minimal.

b. Such perpetual open space ~~may~~ shall be limited to the use and enjoyment of

Zoning Ordinance Section

the residents of the rural cluster development only.

c. The purpose of perpetual open space is to ensure, for current and future county residents, that the rural, scenic, open, and natural resource values of the rural area, as defined in the comprehensive plan, shall be preserved.

(ii) The buffer required under section 32-300.41(7) shall be included in this perpetual open space.

(iii) The perpetual open space shall be conveyed to one or a combination of the following:

a. An authorized public or private grantee, as described in the Conservation Easement Act, Chapter 10.1, § 10.1-1009, *et seq.*, Va. Code Ann.

b. A homeowners' association.

(iv) The perpetual open space shall be governed by restrictive covenants that shall reaffirm and provide notice of, at a minimum, the development restrictions set forth in section 32-300.42(2)(a)(i). The restrictive covenants shall be achieved through a deed conveying the land to one of the entities identified in section 32-300.42(a)(iii) for use solely as perpetual open space, as defined in section 32-300.42(a)(i). This deed must be binding upon the party to which this perpetual open space is conveyed and that party's successors and assigns in perpetuity.

(b) The remaining thirty (30) percent of the required open space shall be provided as usable open space, as defined in section 100 of the zoning ordinance; provided, however, that the usable open space shall be conveyed to a homeowners' association. Use of this open space shall also be governed by covenants.

(3) Except with a formal public facility review under § 15.2-2232, Va. Code Ann., no portion of any land provided as perpetual open space may be used or disturbed for any public use. Such open space may, however, be permitted to contain any required stormwater management facilities.

(4) Maintenance of the perpetual and usable open space shall be the responsibility of the party or parties identified in section 32-300.42(2)(a)(iii) and (b) above.

(5) All lots and open space in rural cluster developments shall be laid out so as to provide adequate setbacks and other appropriate transitions to and from surrounding land uses. (No. 99-26, 4-20-99)

Sec. 32-300.43. Internal Streets

(1) Streets internal to the rural cluster development may be public or private; provided, however, that such streets shall be platted in accordance with § 601.04 of the Design and Construction Standards Manual. Pipestem lots leading from such private streets are prohibited. Common driveways serving a maximum of two (2) lots are, however, permitted if constructed in accordance with the standards contained in the Design and Construction Standards Manual. All internal streets shall be built to the RL-1 standards contained in the Design and Construction Standards Manual.

(2) All lots within a rural cluster development shall have direct access on internal streets. No lots shall have direct access to a street that is external to the rural cluster development. (No. 99-26, 4-20-99)

Sec. 32-300.50. Semi-rural Cluster Development.

(1) Cluster development of one-family dwellings in accordance with the standards set forth in these sections may be permitted in the ~~RR-7.5, RR-5, SRR-3 and SRR-1~~ **SR-5, SR-3 and SR-1** residential districts. In addition to the requirements set forth in these sections, all such cluster development proposals shall meet the applicable design criteria established in the underlying district regulations.

(2) Upon approval of final plans for a cluster development, the property shall thereafter be depicted upon the

Zoning Ordinance Section

zoning map as ~~RR 7-5C, RR 5C~~ SR-5C, etc., as appropriate, until the final plan is voided or the property is rezoned. (No. 99-26, 4-20-99)

Sec. 32-300.51. Same--General Design Standards.

(1) The proposed semi-rural cluster development shall be located within an area designated in the comprehensive plan for suburban residential purposes and shall be designed so as to protect natural vegetation and the topographic features of the site and concentrate construction so as to minimize the intrusion of manmade improvements upon the surrounding area.

(2) ~~A No~~ minimum development area of ~~fifty (50) acres shall be required~~ for lots served by public water and sewerage facilities. ~~and seventy five (75)~~ A minimum of twenty-five (25) acres for lots on well and septic shall be required unless the development area is part of and fully integrated into a larger cluster or planned residential project. ~~The minimum development area for semirural cluster developments for lots served by public water and sewerage may be reduced by up to twenty (20) percent, if the development designates additional gross acreage as open space as provided in section 32-300.51(5) below.~~

(3) Additions less than the minimum development area required in section 32-300.51(2) may be made to existing cluster developments provided all other design criteria of these provisions are met, the proposed addition is fully integrated into and compatible with the project to which it is to be added, and the existing homeowners association or other appropriate parties agree in writing to accept the new area.

(4) Notwithstanding the minimum lot size permitted for a cluster development in these provisions, the total number of units permitted shall not exceed that allowed in the regulations for the underlying zoning district.

(5) A minimum of thirty-five (35) percent of the gross acreage shall be designated as open space for semi-rural cluster developments ~~provided the size of the development is at least fifty (50) acres. Additional open space will be required for those cluster developments seeking a size reduction in accordance with section 32-300.51(2), above. A minimum of forty (40) percent of the gross acreage shall be designated as open space for those semirural cluster developments that contain at least forty five (45) acres. A minimum of fifty (50) percent of the gross acreage shall be designated as open space for those semirural cluster developments that contain at least forty (40) acres.~~ Such open space may be conveyed to a homeowners association, the park authority, or to an authorized public or private grantee, agreeing, in writing, to accept the land into an approved open space or preservation program. ~~Alternatively, such open space may be incorporated into platted lots provided that appropriate restrictions, approved by the county attorney, are recorded upon such lots. Open space shall be designed and appropriately restricted to promote rural and semirural cluster goals.~~

(6) Absent approval by the planning director, no portion of any land dedicated for a public school site, library site, or commuter parking facility may be counted as part of the required open space. Public parkland for passive recreational purposes beyond that otherwise required for such project, may be counted as part of the required open space, excluding land improved by structures or other impervious surfaces. All property dedicated for public uses not qualifying as open space (excluding street right-of-way) shall be deducted from the gross acreage of the project for calculation of open space required by subsection (5) above.

(7) Unless approved as part of a plan to establish significant vegetation, land disturbance in the designated open space shall be limited to the minimum necessary to permit extension of required utilities, construct required street crossings or connections, install drainage or other storm water management facilities, or create lakes or ponds as approved by the director of public works. Disturbed areas outside of utility easements shall be replanted in accordance with an approved landscaping plan and shall thereafter remain undisturbed, except for required maintenance. (No. 92-59, 6-16-92; No. 99-26, 4-20-99; No. 01-105, 12-4-01)

Sec. 32-300.52. Same--Lot Standards.

(1) The minimum residential lot size for semi-rural cluster developments served by public water and sewer shall be twenty thousand (20,000) square feet.

(2) The minimum residential lot size for semi-rural cluster developments not served by public water and

Zoning Ordinance Section

sewer shall be one (1) acre in the ~~RR-5, SRR-3 and SRR-1~~ SR-5, SR-3 and SR-1 districts ~~and 2.5 acres in the RR-7.5 district.~~

(3) Minimum lot sizes established in subsections (1) and (2) shall be determined excluding slopes ~~twenty-five (25)~~ fifteen (15) percent and greater adjacent to perennial streams, and 100-year floodplain, and Chesapeake Bay Resource Protection Area. (No. 94-1, 1-11-94; No. 01-105, 12-4-01)

Sec. 32-300.53. Development Standards.

(1) Semi-rural cluster developments served by public water and sewer shall have public streets and meet the following development standards:

(a) Maximum lot coverage shall be thirty (30) percent.

(b) Minimum setbacks shall be thirty-five (35) feet from the front property line; minimum side ~~yard~~ setback shall be ten (10) feet; minimum rear ~~yard~~ setback shall be twenty-five (25) feet.

(c) Minimum lot ~~Lot~~ frontage width shall be one hundred (100) feet; corner lots shall have one hundred (100) feet of ~~frontage~~ lot width along both streets. Minimum ~~frontage~~ lot width for lots abutting cul-de-sacs shall be eighty (80) feet, measured at the building restriction line.

(2) Semi-rural cluster developments not served by public water and sewer may have public or private streets and shall meet the following standards:

(a) Maximum lot coverage shall be twenty-five (25) percent ~~maximum.~~

(b) Minimum setbacks shall be thirty-five (35) feet from the front property line; minimum side ~~yard~~ setback shall be ten (10) feet; minimum rear ~~yard~~ setback shall be twenty-five (25) feet.

(c) Minimum lot ~~frontage~~ lot width shall be one hundred (100) feet; corner lots shall have minimum one hundred (100) feet of ~~frontage~~ lot width along both streets. Minimum lot ~~frontage~~ lot width for lots abutting cul-de-sacs shall be eighty (80) feet, measured at the building restriction line.

(3) All semi-rural cluster developments shall lay out lots and open space so as to integrate the projects perimeter with surrounding land uses developed in conformity with the comprehensive plan. (No. 94-1, 1-11-94; No. 01-105, 12-4-01)

Sec. 32-300.60. Suburban Cluster Development.

(1) Cluster development of one-family dwellings may be permitted in the ~~R-20 and R-10~~ R-2 and R-4 residential districts if the following design criteria, in addition to any specific design criteria for cluster developments set out in the regulations for each district are met.

(2) Upon approval of preliminary plans for a cluster development, the property shall thereafter be depicted upon the zoning map as ~~R-20C or R-10C~~ R-2C or R-4C, as appropriate, until the preliminary plan is voided or the property is rezoned.

Sec. 32-300.61. Same--General Design Standards.

(1) The proposed cluster development shall be designed so as to protect natural vegetation and the topographic features of the site and concentrate construction so as to minimize the intrusion of manmade improvements upon the surrounding area.

~~(2) A No~~ (2) A No minimum development area ~~of ten (10) acres~~ shall be required for a cluster development, ~~unless the development area is.~~ The cluster development may be a part of a larger planned residential or mixed use project approved in one preliminary subdivision or site plan, in which case the cluster development area shall be specifically set forth on such plan. Additions less than the minimum development area may be made to existing

Zoning Ordinance Section

cluster developments provided that ~~the overall area meets the minimum acreage requirements,~~ all other design criteria of this section are met, and the existing homeowners association agrees in writing to accept the new area as part of its association.

~~(2)~~ (3) A minimum of ~~twenty five (25)~~ thirty (30) percent of the gross acreage shall be designated as open space. ~~Of the area required to be designated open space, a minimum of forty (40) percent shall consist of usable open space.~~ Open space area shall be equitably and logically distributed throughout the development or concentrated in environmentally sensitive areas, particularly on slopes adjacent to perennial streams.

~~(a) When land is dedicated for a public school site, library site, commuter parking facility, or public parkland (dedicated open space) beyond that otherwise required for such parkland, a portion of such land may be counted as part of the required common open space, in accordance with the following schedule:~~

<i>Type of Facility</i>	<i>Percentage of the Dedicated Area Allowed to be Counted as Common Open Space</i>
School	50%
Library	25%
Commuter Parking	100%
Park (in excess of required parkland dedication only)	100%

~~(b) Notwithstanding the provisions of subsection (a) above, no land area thus dedicated shall be counted as any portion of the required usable open space, nor shall such land constitute any more than thirty (30) percent of the required common open space.~~

~~(c) In order to be counted as required open space, land dedicated pursuant to subsection (a) above must be for a public facility that is located in accordance with the adopted comprehensive plan, and must yield land that is suitable in location, size, shape, topography and other reasonable conditions for the public facility. The appropriate public body must agree to accept the dedication as shown, and conveyance in accordance with the requirements of the Design and Construction Standards Manual shall be made upon approval of final plans for the project, or the first phase thereof, unless a different timing is approved by the zoning administrator.~~

~~(3)~~ (4) No more than ~~fifty (50)~~ percent of the ~~required open space provided in accordance with the requirements of the Design and Construction Standards Manual shall be located within any wetland area (tidal or nontidal), one hundred (100) year floodplain, areas containing slopes of twenty five (25) percent or greater, or major utility easement or right-of-way for existing above-ground utilities, singly or in any combination.~~ In addition, ~~in no instance shall~~ land within a major utility easement or right-of-way for existing above-ground utilities shall not represent more than ten (10) percent of the area needed to satisfy the open space requirement, or be counted as any part of a required dedicated open space area. For the purpose of this section, a major utility easement or right-of-way for existing above-ground utilities shall be one having a width of twenty-five (25) feet or greater and used to support above-ground structures, existing at the time of final subdivision approval, that are associated with a public utility.

~~(4) All open space areas not dedicated and accepted for public use shall be conveyed, with appropriate restrictions as to use, to a bona fide homeowners association or other authorized grantee accepting the land into its approved open space program.~~

(5) A 50-foot wide perimeter landscaped buffer area surrounding the edge of suburban cluster developments shall be provided in accordance with ~~type C buffer standards~~ section 800 of the Design and Construction Standards Manual. When these buffer areas contain mature trees and other vegetation adequate to screen the development from the street, such vegetation may be used to satisfy the buffer area requirement; however, when the buffer areas are devoid of any significant vegetation, landscaping as set forth in the Design and Construction Standards Manual shall be provided. These buffer areas may be crossed by necessary street and utility connections, and necessary temporary disturbance of these buffer areas along the edges of such connections may be permitted, provided any disturbed areas are thereafter landscaped. Except for such temporary disturbance and the installation of landscaping, these buffer areas shall remain undisturbed. Buffer areas conveyed to a homeowners association or other authorized grantee accepting the buffer area into its approved open space program may be counted as a part of the required open space.

Zoning Ordinance Section

(6) Adequate access to and within the development for vehicular and pedestrian traffic shall be provided, including common walkways to ~~all usable open space and dedicated open space~~ areas.

(7) No portion of any residential lot shall be platted in the ~~RPA~~ Chesapeake Bay Resource Protection Area as defined in Part 504 of this chapter, any nontidal wetland area, any one hundred (100) year floodplain, perimeter buffers, ~~or~~ any major utility easement or right-of-way for existing above-ground utilities, as that term is defined in subsection (3) above, or on slopes greater than 15 percent adjacent to a perennial stream.

~~(8) No more than twenty (20) percent of any residential lot shall contain slopes of twenty five (25) percent or greater as measured in a natural state before any development. No grading shall be permitted to meet this requirement.~~

~~(9)~~ (8) No street shall be located in any wetland area (tidal or upland) or in any one hundred (100) year floodplain except for necessary crossings or access points.

~~(10)~~(9) Lot size, yard, coverage and ~~frontage~~ lot width standards shall be governed by the following schedule:

	<i>R-202 district</i>	<i>R-104 district</i>
(a) Minimum lot size (see Note #1)	15,000 sq. ft.	7,500 sq. ft.
(b) Minimum front yard <u>setback</u>	30 feet	25 feet
(c) Minimum side yard <u>setback</u>	8 10 feet	7 10 feet
(d) Minimum setback from an access easement or private street serving 5 lots or less	15 feet	15 feet
(e) Minimum side yard <u>setback</u> for side of corner lot abutting street	20 feet	20 feet
(f) Minimum rear yard <u>setback</u>	25 feet	20 feet
(g) Minimum yard <u>setback</u> adjacent to development boundary without intervening open space of at least 15 feet (when boundary abuts noncluster one-family residential development)	35 feet	35 feet
(h) Minimum lot frontage <u>width</u> (except pipestem lots)	80 feet	60 feet
(i) Minimum lot frontage <u>width</u> for corner lot	100 feet	100 80 feet
(j) Maximum lot coverage	35%	45%
(k) Maximum cluster density (see Note #2)	2.14 upa	4.35 upa

Note #1: The "pipestem area" of pipestem lots ~~may~~ shall not be included in calculations of minimum lot size; the minimum lot sizes set forth in subsection 32-300.61(10)(a) shall be considered to be exclusive of said pipestem areas and shall be calculated as provided in the Design and Construction Standards Manual. For the purposes of this section, the "pipestem area" shall be defined as any portion of the lot narrower than the minimum ~~frontage~~ lot width ~~distance~~ set forth in subsection 32-300.61(10)(g) for nonpipestem lots.

~~Note #2: For calculating maximum cluster density, see subsection 32-300.61(13) of this chapter.~~

(11) Pipestem lots may be permitted only in accordance with the following standards:

(a) No more than twenty (20) percent of the total number of lots shall be pipestem lots.

(b) Pipestem lots shall be designed to take advantage of the natural land features, and shall be located, to the extent possible, so as to abut areas of common or dedicated open space ~~to the maximum extent possible.~~ At least seventy five (75) percent of the pipestem lots shall abut areas of common or dedicated open space along the entire length of at least one side of the lot.

(c) No more than five (5) pipestem lots shall be served by a common driveway easement not less than forty (40) feet in width. No more than one (1) pipestem driveway connection shall be permitted on the cul-de-sac

Zoning Ordinance Section

portion of any public street; and the one (1) driveway permitted shall be permitted only if there is no driveway connection on the cul-de-sac for a common driveway permitted by subsection 32-300.61(11)(d) of this chapter.

(d) No more than ten (10) pipestem lots shall be served by a common driveway built to private street standards as set forth in the Design and Construction Standards Manual. Such driveways shall be privately maintained by a bona fide homeowners association. No more than one (1) such driveway connection shall be permitted on the cul-de-sac portion of any public street, and then only if there is no driveway connection on the same cul-de-sac for a driveway permitted by subsection 32-300.61(11)(c) of this chapter. Such driveways shall have two (2) public street connections, shall not connect with any other pipestem common driveway, and shall be permitted only in locations specifically approved.

(e) Minimum front, side and rear ~~yard~~ setback requirements shall be met for all pipestem lots. The minimum front ~~yard~~ setback for a pipestem lot shall be measured parallel to the common driveway property line, not to easement boundary lines or the edge of the driveway. If any lot in a cluster subdivision has the required minimum ~~frontage lot width~~ on a public right-of-way, such lot is not a pipestem lot and the front ~~yard~~ setback is measured parallel to the public right-of-way line.

(f) For lots located at the end of a group of pipestem lots, the minimum front ~~yard~~ setback shall be measured from the lot line where the common driveway enters the main body of the property.

~~(12) Commuter parking areas shall be constructed on site and shall contain at least one parking space for every four (4) dwelling units. In lieu of the construction of the commuter parking areas, a monetary donation per dwelling unit may be accepted for construction of off site commuter parking areas.~~

~~(13) Maximum cluster density shall be calculated either according to the formula set forth in subsection (a) hereafter or in accordance with the requirements of subsection (b) following:~~

~~_____ (a) Maximum cluster density formula:~~

$$~~(g - a - b + c)(u) = t~~$$

~~_____ where:~~

~~_____ g = The gross area of the site approved for cluster development.~~

~~_____ a = The area of the site within the boundaries of any one hundred (100) year floodplain (which, for the purpose of this definition, shall include any existing body of water located within the boundaries of the site approved for cluster development, which body of water or portion of body of water is one (1) acre or less) that results from a drainage area of forty (40) acres or greater; plus the area of the site devoted to storm water management ponds, except as provided for man-made bodies of water in the definition of the variable "b"; plus the area of the site within the boundaries of any wetland (tidal or upland); plus the area of the site consisting of slopes of twenty five (25) percent or greater; plus the area of the site consisting of existing bodies of water greater than one (1) acre that are not wholly surrounded by the site; plus the area of the site consisting of bodies of water greater than one (1) acre wholly within the site, which bodies of water are not incorporated into the open space design of the project; plus the area of the site within major utility easements or rights of way for existing above ground utilities, as that term is defined in subsection 32 300.61(3) of this chapter.~~

~~_____ b = One half (1/2) of the area of the site consisting of slopes of fifteen (15) percent or greater but less than twenty five (25) percent; plus one half (1/2) of the area of the site consisting of existing bodies of water greater than one (1) acre that are wholly surrounded by the site and incorporated into the open space design of the project; plus one half (1/2) of the area of the site that will consist of manmade bodies of water greater than one (1) acre and incorporated into the open space design of the project.~~

~~_____ c = One half (1/2) the area of the site dedicated to the county or to an appropriate public agency, board or body, as may be approved by the county, and intended for use as a park (excluding, however, any area of dedicated open space required to meet parkland dedication standards), school, fire station, library, or other approved public facility site (except commuter parking facilities), or for that portion of the right of way for a major through street that is in excess of the right of way needed for traffic generated by the cluster development itself; provided such dedication is (1) for a~~

Zoning Ordinance Section

~~facility or right of way that is located in accordance with the adopted comprehensive plan, and (2) yields land that is suitable in location, size, shape, topography and other conditions for the needed public facility or right of way.~~

~~_____ u = 2.17 if the site is zoned R-20, or 4.35 if the site is zoned R-10.~~

~~_____ t = Maximum number of lots that may be platted, with one (1) dwelling unit allowed per lot, provided all other applicable standards are met.~~

~~(b) Alternative density calculation: The maximum density for suburban cluster development shall be 2.17 dwelling units per acre in the R-20 district and 4.35 dwelling units per acre in the R-10 district, with acreage to be adjusted as follows: Acreage shall equal gross acreage less (a) public rights of way, internal to and within the development proper, (b) any area within the one hundred (100) year floodplain, and (c) any land designated as RPA in Part 504 of this chapter. The area of right of way dedication necessary for streets serving other properties and depicted in the comprehensive plan shall not be deducted from the gross acreage for the purpose of calculating density. (No. 94-1, 1-11-94; No. 96-6, 1-16-96)~~

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