

ARTICLE 4
DISTRICT REGULATIONS

Section 1. A-R Agricultural - Rural Residence District

1.1. Purpose of the District

The purpose of this district is to encourage continued agricultural and forest uses and preserve the natural beauty of rural areas of the County where urban services, such as sewer and water mains, are not planned. At the same time, the district is intended to provide for spacious residential development for those who choose to live in a rural environment and to protect this development where it occurs. In order to aid in preservation of prime agricultural land, a special review procedure is established for non-farm construction proposed in fields or pasture lands to insure that alternative locations have been properly investigated. This district is intended to permit traditional animal farming as represented by current standards promulgated by the Virginia Cooperative Extension Service of the Virginia Polytechnic Institute and State University, and Virginia State University. A special review is also required for mobile homes for the same reasons and to insure compatibility with their surroundings. In order to protect against premature subdivision of land and the formation of urban clusters where none are planned, large-scale subdivisions are controlled.

1.2 Permitted Uses

A building or land shall be used only for the following purposes:

1. Single-family dwellings as the main building on a farm or any lot of ten acres or more, no restriction on location except for general slope restrictions and yard spaces as required below.
2. Non-farm single-family dwelling on a lot meeting minimum requirements set forth below and not in an open field or pasture or other land used or capable of being used for agricultural purposes, field crops or grazing, without application of special equipment for clearing and grubbing.
3. Non-farm single-family dwelling on a lot meeting minimum requirements set forth below but located in a field or pasture, as a special exception approved by the Board of Zoning Appeals under the procedures and general guides and standards of Article 7 and provided the Board finds affirmatively on at least one of the following:

- a. That the crop land has not historically produced high agricultural yields relative to other soils in the County yet is suitable for operation of a waste disposal system as proposed for the dwelling in question.
- b. The slope of the land is 10 percent or more and as such is not suitable for best agricultural use, yet is not in excess of 25 percent so as to be unsuitable for construction without extensive grading.
- c. That the location of the dwelling, the shape of the lot, and the irregular shape of the field is such that the pattern of cultivation would not be seriously disrupted.
- d. That land of equal area and agricultural quality has been or will be cleared and placed in agricultural use on the same farm prior to issuance of an occupancy permit.
- e. That no reasonable alternatives exist for placement of a dwelling on the property in question, either because of physical conditions of the property or the size and dimensions of the property.

If creation of a new lot is involved for placement of said non-farm dwelling, said lot or lots shall be subjected to the same review as for the dwelling and shall not be sold or recorded until approved under this section.

4. Mobile home on an individual lot as a special exception by the board of Zoning Appeals, subject to findings as to compatibility as specified in Article 7 and to findings as specified above for single-family dwellings, and to the general placement standards for mobile home as specified below in this article.
 - a. Mobile home accessory to a farm for use by one or more persons employed on the farm or by members of the family operating the farm, as a special exception by the Board of Zoning Appeals if located at least 500 feet from any public street or road or located as part of a group of farm buildings, no separate lot required. Additional units may be approved (as special exceptions) for such purposes at no more than one for each 100 acres over 50 acres in the farm.
 - b. However, a mobile home may be placed temporarily on an individual lot up to 60 days or until the next appropriate Board of Zoning Appeal's meeting upon specific findings, in writing, by the Zoning Administrator that such placement is to provide replacement living quarters for individuals dispossessed of their home by circumstances beyond their control. (Amended, October 7, 1976)

20. Hospital or clinic for humans as a conditional use.
21. Hospital or clinic for large or small animals; provided that all buildings, structures, pens, or open kennels shall be located at least 200 feet from any lot line.
22. Hospital or clinic for small animals (dogs, cats, birds, and the like); provided on a lot of less than five acres such hospital or clinic and any treatment rooms, cages, pens or kennels be maintained within a completely enclosed, soundproof building, and that such hospital or clinic be operated in such a way as to produce no objectionable odors outside its walls.
23. Hunting, commercial or private.
24. Livestock auction market as a special exception.
25. Marina or yacht club as a conditional use.
26. Nursery schools, kindergartens, child care centers, day nursery, or day care centers as a special exception.
27. Private schools, colleges, or universities as a conditional use.
28. Public or governmental buildings and uses, including schools, fire stations (volunteer or otherwise), parks, parkways, playgrounds and public boat landings except those which have been approved as a part of the subdivision plan, as a conditional use and except federal, state, regional and local prisons, jails, prison and jail camps and farm camps. (Amended, January 7, 1993).
29. Radio or television transmission or receiving station or tower more than 125 feet in height as a special exception.
30. Recreational uses or facilities, commercially operated or for a private membership, such as golf courses, game courts, swimming pools, archery range, fishing or boating lakes, camping areas, picnic grounds, dude ranch or similar activities, and accessory facilities, including sale of food, beverages, bait, incidentals, supplies and equipment. Amusement parks, fairs, circuses and carnivals may be permitted as conditional uses.
31. Rifle or pistol range, trap or skeet shooting, as a special exception.
32. Sanitary landfill, public up to 100 acres, as a conditional use.
(Amended, October 20, 1988)
 - a. Landfill for tree stumps and other natural vegetation not to include a residual product from a manufacturing operation provided:

- 1) a surveyed plat of the site noting the location of the landfill site is recorded in the clerk of the circuit court's office.
 - 2) submission of an approved erosion and sediment control plan and an approved plan of reclamation to the Department of Planning. (Amended, October 20, 1988).
33. Sawmill, temporary, for cutting timber not grown on the premises, as a special exception.
34. Stable, commercial; provided that any buildings for keeping of animals shall be located at least 200 feet from any side or rear lot lines.
35. Stable, private, or keeping of horses, ponies or other livestock for personal enjoyment and not as a business, provided that any building for keeping of animals shall be located at least 100 feet from any side or rear lot line.
36. School Bus Shelter.
- 36A. Home Occupations subject to the following:
- No signage is permitted.
 - The home based business is limited to a business office.
 - No exterior storage of equipment is permitted.
 - The home based business is limited to a maximum of 15% of the dwelling's total living area. (Amended, August 3, 2006).
37. Accessory buildings and uses, including but not limited to accessory private garages, farm buildings and structures, servants or caretakers quarters, guest houses, swimming pools, home occupations, accessory storage and accessory non-illuminated or indirectly illuminated signs as follows:
- a. A name plate or directional sign, limited in area to two square feet, to identify the owner or occupant of dwelling or building or a permitted home occupation.
 - b. No trespassing or no hunting signs, without limitations on number or placement, limited in area to two square feet.
 - c. A sign, limited in area to 12 square feet advertising products raised or made on the premises.
 - d. A sign, limited in area to 12 square feet for identification of a farm or estate or a subdivision or its occupants.
 - e. A sign, limited in area to 32 square feet, for a church bulletin board or identification of permitted public or semi-public uses, wildlife reservations, recreational uses, or clubs.

ARTICLE 7
BOARD OF ZONING APPEALS

Section 1. Composition

There shall be a Board of Zoning Appeals (hereinafter called the Board) which shall consist of five members, each to be a resident of the County and each to be appointed by the Circuit Court of Surry County for terms of five years except that original appointments shall be made for such terms that the term of one member shall expire each year. Vacancies shall be filled by such Court for the unexpired portion of the term. A member may be removed by the said Court for cause, upon written charges and after a public hearing. Each member shall receive such compensation as the Board of Supervisors may authorize for attendance at each regular or called meeting of the Board.

Section 2. Organization

The Board shall elect one of its members as Chairman. The Chairman shall preside at all meetings of the Board and in his absence a member designated acting Chairman shall preside. The County Administrator shall appoint a Secretary whose duty it shall be to keep the minutes and other records of the actions and deliberations of the Board and perform such other ministerial duties as the Board shall direct. The Secretary shall be a salaried County employee and shall perform the duties of Secretary of the Board in addition to his other regular duties.

Section 3. Procedure

The Board shall adopt such rules of procedure as it may deem necessary in order to carry into effect the provisions of this Ordinance, said rules to be in writing and copies available to the public at the office of the Administrator and the Secretary of the Board. Meetings of the Board shall be held at the call of the Chairman and at such other times as the Board may determine. Such Chairman, or in his absence the acting Chairman, may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board and shall be a public record. The Board shall submit a report of its activities to the Board of Supervisors at least once each year.

Section 4. Powers

The Board of Zoning Appeals shall have the following powers and duties:

1. To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the administration or enforcement of this Ordinance.
2. To hear and decide on applications for special exceptions upon which the Board is specifically authorized to pass under this Ordinance.
3. To authorize upon appeal in specific cases such variance from the terms of this Ordinance as will not be contrary to the public interest, when, owing to special conditions, a literal enforcement of the provisions of this Ordinance will result in unnecessary hardship; provided that the spirit of the Ordinance shall be observed, public safety and welfare secured, and substantial justice done as hereinafter provided.
4. To hear and decide applications for interpretation of the Zoning District Map where there is any uncertainty as to the location of a district boundary.
5. To determine, in cases of uncertainty, of the district classification of any use not specifically named in these regulations; provided, however such use shall be in keeping with uses specifically permitted in the districts in which such use is to be classified.

Section 5. Special Exceptions

In order to provide for adjustments in the relative locations of uses and buildings of the same or different classifications, to promote the usefulness of these regulations as instruments for fact finding, interpretation, application and adjustment, and to supply the necessary elasticity to their efficient operation, special use exceptions and, limited as to location and especially in locations described in the district regulations and in this Article, special use, yard, height exceptions are permitted by the terms of these regulations. In considering an application for a special exception, the Board shall give due regard to the specific guides and standards of this Section and those listed elsewhere in this Ordinance, and in general to the nature and condition of adjacent uses and structures, and the probable effect upon them of the proposed exception. It shall also take into account the special characteristics, design, location, construction, method of operation, effect on traffic conditions,

or any other aspects of the particular use or structure, that may be proposed by the applicant. If it should find, after the hearing, that the proposed establishment or use will not adversely affect the health, safety or welfare of persons residing or working on the premises or in the neighborhood, will not unreasonably impair an adequate supply of light and air to adjacent property, nor increase congestion in the streets, nor increase public danger from fire or otherwise unreasonably affect public safety, nor impair the character of the district or adjacent districts, nor be incompatible with the general plans and objectives of the official Land Use Plan of Surry County, nor be likely to reduce or impair the value of buildings or property in surrounding areas, but that such establishment or use will be in substantial accordance with the general purpose and objectives of this Ordinance, the Board shall grant the exception and authorize the issuance, of a special exception permit. In those instances where the Board finds that the proposed use may be likely to have an adverse effect as above, the Board shall determine whether such effect can be avoided by the imposition of any special requirements or conditions with respect to location, design, construction, equipment, maintenance or operation, in addition to those expressly stipulated in this Ordinance.

The following buildings and uses are permitted as special exceptions under the terms and conditions specified above:

5.1. Special Use Exceptions

1. Buildings and uses listed as special exceptions in the district regulations for the various districts.
2. Detached mobile homes for dwellings on separate lots in the A-R Agricultural-Rural Residence and R-2 Residence Districts or as guest homes in the R-2 Vacation Residence District or as accessory to a farm in the A-R Agricultural-Rural Residence District, in accord with district regulations, provided:

- (a) In consideration of the general character of the area, the location of other mobile homes, proposed location with respect to a street or road, the characteristics of the proposed site, open or wooded, proposals for landscaping and screening, and the design, age and condition of the unit itself, including roof lines, peaked, shed or flat; siding and roofing material and color; and proposed unit extensions such as porches, decks, and the like; and that the proposed locations is not proximate to historic sites or structures or homes of conventional or permanent construction, existing or planned, or is not incompatible therewith.

- (b) That approval be obtained from the Health Officer and that within thirty days of placement the mobile home shall be firmly anchored to the ground and the open space beneath the unit shall be skirted with approved material appropriate for the proposed unit in accordance with the requirements of the Building Inspector.
 - (c) The Board may establish a specific time period for which an approval may be valid based upon the facts of a particular case, including but not limited to a) the proximity of homes of permanent construction and trends of change in the vicinity of the subject property; b) a proposal for temporary use for a period not to exceed two years while a permanent dwelling is under construction on the same or an adjacent lot; c) timely compliance with such reasonable special conditions as the Board may establish for an approval in a particular case. In specification of a time period, the Board may also provide for extension of the time period by application prior to or within thirty days of expiration of said time period, provided however that where temporary approval has been granted while a permanent dwelling is to be under construction no extension of time shall be granted unless substantial progress has been made in construction of said permanent dwelling.
 - (d) That on a nonconforming lot the Board may permit a mobile home to be located no less than 12 feet from a side lot line if the mobile home is oriented generally perpendicular to that lot line. (Amended, October 2, 1986).
3. General advertising sign where permitted in the district regulations with consideration given to the following:
- (a) Obstruction to traffic visibility.
 - (b) Proximity to dwellings, historic places, and other signs (generally not within 300 feet of any other general advertising sign.)
 - (c) Disruption of agricultural operations.
 - (d) Design and appearance of the sign and its supporting structure, hours and manner illumination, if any, area of countryside affected by sign placement and possible obstruction or disruption of a scenic view.

4. Excavation or filling, borrow pits, extraction, processing and removal of sand, or gravel and stripping of top soil and other major excavations in a district where listed as a special exception and subject to the following conditions for major borrow pits, clay pits, mines, quarries, sand and gravel mining, and similar operations:
- (a) The excavations shall be confined to areas distant at least 50 feet from all adjoining property lines, at least 100 feet from any and all adjoining property lines in any R-1 or R-2 Residence or Business District, and distant at least 200 feet from any dwelling or any and all property lines in any platted subdivision except that excavations may be conducted within such limits provided the written consent of the owners of such adjoining properties are secured.
 - (b) The excavations shall be confined to areas distant at least 200 feet from the right of way lines of any existing or platted street, road or highway, except that where the ground level is higher than the road the Board may permit excavations down to the road level.
 - (c) Any building containing power driven or power producing machinery or equipment shall be distant at least 600 feet from all adjacent property in any R-1 or R-2 Residence or Business District or the right of way lines of any existing or platted street, road or highway.
 - (d) Access shall not be from a minor residential street. All roadways on and all vehicular entrances and exits from the premises on which such operations are conducted to any public roads shall be located to secure public safety, lessen congestion and facilitate transportation, and shall be so maintained as to eliminate any nuisance from dust to neighboring properties.
 - (e) All equipment used for the production or transportation of materials shall be constructed, maintained and operated in such a manner as to eliminate as far as practicable noises, vibrations or dust which are injurious or annoying to persons living in the vicinity.
 - (f) A specific plan of systematic operation and simultaneous rehabilitation shall be submitted to and approved by the Board of Zoning Appeals which shall provide in all respects for the adequate safeguarding and protection of other nearby

interests and the general public health, safety, convenience, prosperity and welfare, and which shall include a satisfactory plan and program showing, by contour maps and otherwise, how the land is to be restored to a safe, stable, usable and generally attractive condition by regrading, draining, planting, or other suitable treatment to resist erosion and conform substantially with adjacent land characteristics.

- (g) Whenever the special use exception permit issued by the Board of Zoning Appeals shall have expired, or whenever the operations shall have ceased for any period exceeding 12 consecutive months, then all plants, buildings, structures (except fences), stockpiles and equipment shall be entirely removed from the premises, and the premises shall be restored as required above.
 - (h) A bond or other suitable guarantee shall be furnished prior to undertaking any work under the permit guaranteeing the faithful performance of all of the applicable requirements in this Ordinance. A certificate shall be filed annually stating the effectiveness of the bond.
 - (i) The Board of Zoning Appeals may renew a permit, after a public hearing, provided an application thereof is filed within 60 days before its expiration date, in the same manner as for an original permit, provided the applicant is carrying out the requirements of his existing permit in good faith.
5. A garage or other building accessory to a single-family dwelling which building does not comply with the regulations of the district in which it is located.
 6. Extension of a nonconforming use in a building so as to increase floor area by not more than 25 percent.
 7. Temporary uses and structures in any district not specifically listed in the regulations for and determined by the Board to be in the public interest for the district in which located; provided that such uses be of a temporary nature and do not involve the erection of substantial buildings. Such use or structure shall be authorized by the issuance of a temporary and revocable permit for not more than a 24 month period subject to such conditions as will safeguard the public health, safety and welfare.

5.2. Special Yard Exceptions

1. An exception in the yard regulations on a lot where on the adjacent lot, there is a front, side, or rear yard that does not conform with such yard regulations in a way similar to the exception applied for, but not to encroach upon an existing or proposed right-of-way.
2. An exception in the depth of a rear yard on a lot, in a block where there are nonconforming rear yards.
3. An exception where there are irregularities in depths of existing front yards on a street frontage on the side of a street between two intersecting streets, so that any one of the existing depths shall, for a building hereafter constructed or extended be the required minimum front yard depth.

5.3. Special Height Exceptions

1. An exception to the height regulations in an M-1 or M-2 Industrial District.

Section 6. Variances

Subject to the provisions of Section 4 of the Article, the Board shall have the power to grant the following variances:

1. A variation in the yard and lot area requirements in any district so as to relieve practical difficulties or particular hardships in cases, when a property owner can show that his property was acquired in good faith and where, by reason of exceptional narrowness, shallowness, size, or shape of a specific piece of property at the time of the effective date of this Ordinance, or where by reason of exceptional topographic conditions of other extraordinary situation, or condition of such piece of property, or the use or development or property immediately adjacent thereto, the strict application of the terms of this Ordinance would effectively prohibit or unreasonably restrict the use of the property, or where the Board is satisfied, upon the evidence heard by it, that the granting of such variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant, provided, that all variances shall be in harmony with the intended spirit and purpose of this Ordinance.

No variance shall be authorized by the Board unless it finds:

1. That the strict application of the Ordinance would produce undue hardship.

2. That such hardship is not shared generally by other properties in the same zoning district and the same vicinity.
3. That the authorization of such variance will not be substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance.

No variance shall be authorized unless the Board finds that the condition or situation of the property concerned or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the Ordinance.

Section 7. Conditions Attached to Approvals

Where, in these regulations, special exceptions are permitted, provided they are approved by the Board where the Board is authorized to decide appeals or approve certain uses, and where the Board is authorized to approve variances, such approval, decision, or authorization shall be limited by such conditions as the case may require, including the imposition of any of the following specifications:

1. No outside signs or advertising structures except professional or directional signs.
2. Limitation of signs as to size, type, color, location, or illumination.
3. Amount, direction, and location of outdoor lighting.
4. Amount and location of off-street parking and loading space.
5. Cleaning or painting.
6. Gable roof or other type.
7. Construction and materials.
8. Connected or disconnected with other buildings.
9. Exits or entrances, doors, and windows.
10. Paving, shrubbery, landscaping, or ornamental or screening fences, walls, or hedges, or security fences.
11. Time of day or night for operating.
12. No store fronts.
13. No structural changes.

14. Control or elimination of smoke, dust, gas, noise, or vibration caused by operations.
15. Requirements for termination of a use based on lapse of time or such other conditions as the Board may specify.
16. Such other conditions as are necessary.

Section 8. Performance Bond

The Board may require satisfactory evidence and guarantee or bond that the conditions stipulated will be and will continue to be complied with. Any special exception or variance permit may be authorized and issued for either a limited or an indefinite period of time and shall be revocable by the Board at any time for failure to adhere to the applicable conditions. Before revoking any such permit, however, the Board shall afford the permit holder an opportunity to be heard, giving him at least five days written notice of the time and place of such hearing, served as prescribed by law.

Section 9. Lapse of Special Exception or Variance

After the Board of Appeals has approved a special exception or granted a variance, the special exception or variance so approved or granted shall lapse after the expiration of one year if no substantial construction or change of use has taken place in accordance with the plans for which such special exception or variance was granted, or if the Board does not specify some longer period than one year for good cause shown, and the provisions of these regulations shall thereafter govern.

Section 10. Amendment of Special Exception or Variance

The procedure for amendment of a special exception or variance already approved, or a request for a change of conditions attached to an approval, shall be the same as for a new application except that where the Administrator determines the change to be minor relative to the original approval he may transmit the same to the Board with the original record without requiring that a new application be filed.

Section 11. Procedure on Applications and Appeals

11.1. Applications for Special Exceptions

An application to the Board for a special exception permit or other action in which the Board has original jurisdiction under this Ordinance may be made by any property owner, tenant, government official, department, board or bureau. Such application shall be made to the Secretary of the Board on forms which shall be provided for the purpose, in accordance with rules which shall be adopted by the Board. All

information, including maps and plans required by such forms, or otherwise required by the Board in order that it might be fully informed, shall be furnished by the applicant. The Secretary of the Board shall place the matter on the agenda. Every application or appeal shall automatically be advertised for a public hearing, said notice to appear at least once a week for two successive weeks in a newspaper having general circulation in the County. Such notice shall specify the time and place of hearing, not less than six days nor more than 21 days after the second advertisement and the property shall be posted in accordance with the rules of the Board. The Secretary of the Board shall also transmit a copy of the application to the Planning Commission so that the latter, if it finds that the application is related in any way to any provision or general policy or objective of the Comprehensive Plan or any of its components, or of the official Land Use Plan, may send a recommendation to the Board based upon such relationship.

11.2. Appeals

An appeal to the Board may be taken by any person aggrieved or by any officer, department, board or bureau of the County affected, by any decision of the Administrator. Such appeal shall be taken within 30 days after the entry of the decision appealed from by filing with the Administrator, and with the Board, a notice of appeal specifying the grounds thereof. The Administrator shall forthwith transmit to the Secretary of the Board all the papers constituting the record upon which the action appealed from was taken. An appeal stays all proceedings in the furtherance of the action appealed from, unless the Administrator certifies to the Board after the notice of appeal shall have been filed with him that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril of life or property. In such case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board or a court of record, on application and on notice to the Administrator and on due cause shown.

In any case where the Administrator has certified conformity with the provisions of this Ordinance and a building permit has been issued and construction of the building for which such permit was issued is subsequently sought to be prevented, restrained, corrected or abated as a violation of the zoning ordinance, suit may be filed within 30 days after the start of construction by a person who had no actual notice of the issuance of such permit. The Court may hear and determine issues raised in the litigation

even though no appeal was taken from the decision of the Administrator to the Board of Zoning Appeals.

11.3. Hearing and Decision

The Board shall fix a reasonable time for the hearing of the application or appeal, give public notice thereof as required by law, as well as due notice to the parties in interest, and decide the same within 60 days. Upon the hearing any part may appear in person or by agent or by attorney. In exercising its powers, the Board may, in conformity, with the provisions of this Ordinance, reverse or affirm, wholly or partly, or may modify, the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as ought be made and to that end shall have all the powers of the officer from whom the appeal is taken. The concurring vote of three members of the Board shall be necessary to reverse any order, requirement, decision or determination of the administrative officer or to decide in favor of the applicant on any matter upon which it is required to pass under the Ordinance, or to effect any variance from the Ordinance.

Section 12. Appeals to Courts

Appeals to courts from a decision of the Board may be filed in the manner prescribed by law.