

Frederick County, VA
Friday, February 21, 2025

Chapter 165. Zoning

ARTICLE IV. Agricultural and Residential Districts

Part 401. RA Rural Areas District

§ 165-401.01. Purpose and intent.

[Amended 12-11-1991; 12-9-2009; 5-24-2017]

- A. The purpose of the rural area regulations is to preserve large, open parcels of land, tree cover, scenic views, sensitive environmental areas and prime agricultural and locally significant soils. The regulations provide for a variation in lot size, at a density not to exceed one unit per five acres. The varying lot size is permitted in order to facilitate designs that blend in with the existing landscape and preserve some larger tracts of undeveloped land in order to maintain the rural character of the County, as well as provide a choice to home buyers.
- B. The regulations are intended to reduce environmental impacts, such as soil erosion, by requiring development which is sensitive to the existing features of the natural terrain and by reducing the amount of clearing needed for roads. Diversity and originality in lot layout are encouraged in order to achieve the best possible relationship between the development and the land. Individual lots and streets should be designed to minimize alteration of the natural site features, relate positively to surrounding properties and protect the views from surrounding areas. It is intended that by allowing flexibility in the subdivision design, while at the same time requiring that environmental concerns be addressed, a more attractive, environmentally sound and economically viable development will result.

§ 165-401.02. Permitted uses.

Structures and land shall be used for one of the following uses:

- A. Agriculture, farming, dairies, animal husbandry, and forestry.
[Amended 12-9-2009]
- B. Orchards, horticulture and the production of nursery stock and products.
- C. Single-family dwellings.
- D. Mobile homes.
- E. Schools (without residential component).
[Amended 10-27-1999]
- F. Public parks and playgrounds.
- G. Churches and places of worship.
[Amended 7-10-2024]
- H. Home occupations (as defined).

[Amended 12-9-2009]

- I. Natural conservation areas.
- J. Winchester Airport.
- K. Group homes.
- L. Fire stations, companies and rescue squads.
- M. Frederick County sanitary landfill.
- N. Commercial and institutional cemeteries with or without funeral homes or cemetery office complexes.
- O. Post offices.
- P. Radio and television towers and their accessory buildings.
- Q. Public utilities, except utility-scale solar power generating facilities.
[Amended 1-8-2020]
- R. Required off-street parking.
- S. Oil and natural gas exploration, provided that the following requirements are met:
 - (1) All requirements of the Code of Virginia, as amended, and all applicable federal, state and local regulations shall be met.
 - (2) A site plan shall be reviewed and approved meeting all requirements of the Frederick County Code.
 - (3) Approval of the site plan and use shall be for 90 days, with subsequent renewals being approved by the Board of Supervisors.
[Amended 9-26-2012]
 - (4) In order to begin extraction of the resource, a rezoning to the EM Extractive Manufacturing Zoning District will be required.
- T. Museums, parks or historic sites used for educational or historic preservation purposes.
- U. (Reserved)^[1]
[1] *Editor's Note: Former Subsection U, Business signs, was repealed 5-10-2023.*
- V. (Reserved)^[2]
[2] *Editor's Note: Former Subsection V, Signs allowed in § 165-201.06B, amended 2-13-2008, was repealed 5-10-2023.*
- W. ^[3]Accessory uses.
[3] *Editor's Note: Former Subsection W, Cottage occupation signs, was repealed 12-9-2009. This ordinance also redesignated former Subsections X through CC as Subsections **W** through **BB**, respectively.*
- X. Poultry farms and hatcheries and egg production.
[Added 4-26-1995]
- Y. Fish hatcheries and fish production.
[Added 4-26-1995]
- Z. Hog farming. It shall be unlawful for any person to have or maintain or to permit to be erected, in the County, any hog pen that is located closer than 200 feet to a residence or an adjoining property that is used for human habitation.
[Added 4-26-1995]

- AA. Government services office.
[Added 11-10-2004; amended 9-14-2005]
- BB. Residential subdivision identification signs.
[Added 2-13-2008]
- CC. Farm wineries.
[Added 12-9-2009]
- DD. Temporary family health care structure.
[Added 8-14-2013]
- EE. Farm breweries.
[Added 8-12-2015]
- FF. Farm distilleries.
[Added 8-12-2015]
- GG. Agritourism.
[Added 5-24-2017]
- HH. Commercial stables, equestrian facilities and commercial riding facilities.
[Added 5-24-2017]
- II. Cut-your-own Christmas tree and evergreen tree.
[Added 5-24-2017]
- JJ. On-premises wayside stand, roadside stand, or wayside market, accessory to a bona fide operating farm.
[Added 5-24-2017]
- KK. Blacksmith shops.
[Added 11-13-2019; amended 12-13-2023]
- LL. Farriers.
[Added 11-13-2019]
- MM. Horseshoeing.
[Added 11-13-2019]
- NN. Taxidermists.
[Added 11-13-2019]
- OO. Short-term lodging.
[Added 9-28-2022]

§ 165-401.03. Conditional uses.

[Amended 8-8-1990; 12-9-1992; 4-26-1995; 1-27-1999; 10-27-1999; 8-24-2004; 12-9-2009; 11-10-2010; 6-13-2012; 5-24-2017; 7-12-2017; 9-13-2017; 11-13-2019]

The following uses of structures and land shall be allowed only if a conditional use permit has been granted for the use:

- A. Bed-and-breakfasts; farm stay.
- B. Off-premises farm markets and wayside stands.
- C. Country general stores without fuel sales.
- D. Antique shops.
- E. Restaurants without drive-through facilities, provided the following conditions are met:

- (1) Restaurants shall have an approved drainfield; alternative waste systems, including pump and hauls, are prohibited.
- F. Kennels.
- G. Auction houses.
- H. Campgrounds, tourist camps, recreation areas and resorts.
- I. Commercial outdoor recreation, athletic or park facilities, or country clubs with or without banquet facilities.
- J. Sawmills and planing mills, Type B.
- K. Retailing or wholesaling of nursery stock and related products.
- L. Landscape contracting businesses.
- M. Public garages, provided that the following conditions are met:
- (1) All repair work shall take place entirely within an enclosed structure.
 - (2) All exterior storage of parts and equipment shall be screened from the view of surrounding properties by an opaque fence or screen at least six feet in height. This fence or screen shall be adequately maintained.
- N. Sand, shale and clay mining, provided that the following conditions are met:
- (1) All mining shall be above the mean, existing grade level of a parcel of land.
 - (2) All mining operations shall meet all applicable requirements of state and federal agencies.
 - (3) Such mining operations shall meet the landscaping and screening requirements, supplementary regulations, height, area and bulk regulations and site plan requirements contained in the EM Extractive Manufacturing District regulations.
- O. Cottage occupations (as defined).
- P. Cottage occupation signs.
- Q. Veterinary office, clinic or hospital, including livestock services.
- R. Day-care facilities.
- S. Humanitarian aid organizational office.
- T. Schools (with residential component).
- U. Welding repair.
[Amended 12-13-2023]
- V. Flea markets, operated indoors or outdoors.
- W. Special event facility.
- X. Commercial shooting and archery ranges (indoor or outdoor).
- Y. Ice cream parlor or bakery.
- Z. Craft and gift shops.
- AA. Offices and clinics of doctors of medicine, dentists and other health practitioners.
[Amended 12-13-2023]
- BB. Slaughterhouses.

CC. Utility-scale solar power generating facilities.
[Added 1-8-2020]

DD. Boat repair shop.
[Added 4-14-2021]

EE. Agricultural supply cooperatives.
[Added 6-9-2021]

FF. Nationally chartered fraternal lodges or civic clubs, social centers and their related club facilities.
[Added 7-10-2024]

§ 165-401.04. Permitted residential density; exception.

[Amended 12-11-1991; 12-9-2009]

- A. The maximum density permitted on any parcel or group of parcels shall not exceed the equivalent of one unit per five acres as determined by the size of the parent tract as it existed on December 11, 1991.
- B. Exception to permitted density. On lots containing between seven and 10 acres which were lots of record prior to December 11, 1991, lots of two or more acres may be created despite the density limit of one unit per five acres, provided that they meet the requirements of § **165-401.06B** of this chapter.

§ 165-401.05. Minimum lot size.

[Amended 12-11-1991; 9-14-2011]

The minimum lot size for permitted uses shall be two acres, unless otherwise specified by § **165-204.26**.

§ 165-401.06. Permitted lot sizes.

[Amended 8-8-1990; 12-11-1991]

The following types of lots shall be permitted:

- A. Traditional five-acre lots. On any parcel, lots of five acres in size or greater shall be permitted.
- B. Family division lots. On any parcel which contained seven acres or more prior to December 11, 1991, lots as small as two acres may be created, provided that the following conditions are met:
[Amended 7-10-2002; 2-28-2007; 12-9-2009]
 - (1) Lots are conveyed to members of the immediate family of the owner of record of the parent tract. The conveyed lot(s) shall remain with the family member for a period of five years from the date of the creation of the family lot.
 - (2) Only one such lot shall be permitted per immediate family member.
 - (3) One parcel of at least five acres in size shall remain intact following the division.
 - (4) The creation of all such lots shall be in accordance with the provisions of the Frederick County Subdivision Chapter^[1] and § 15.2-2244 of the Code of Virginia.
[1] Editor's Note: See Ch. 144, Subdivision of Land.
- C. ^[2]Rural preservation lots.

- (1) Within the RA Rural Areas District, lots as small as two acres shall be permitted on tracts over 20 acres in size, subject to the following:
[Amended 10-13-1993]
- (a) Sixty percent or more of the parent tract shall remain intact as a contiguous parcel (Rural Preservation Tract).
[Amended 2-28-2007; 12-9-2009]
- (b) This acreage must be designated prior to the division of the fourth lot.
- (c) No future division of this designated Rural Preservation Tract shall be permitted, other than for the widening of existing VDOT road rights-of-way or public utility dedications, unless all the following are met:
[Amended 2-28-2007; 7-10-2013; 6-22-2016]
- [1] The division results in an overall acreage increase to the Rural Preservation Tract; and
- [2] Acreage added to the preservation tract may come from areas internal or external to the rural preservation subdivision; and
- [3] Acreage from the preservation tract may not be adjusted into parcels outside of the rural preservation subdivision; and
- [4] The Rural Preservation Tract continues to meet all requirements of Chapters **165** and **144**.
- (2) Exception to the Rural Preservation Tract. In cases where excessive topography or other natural features of a site create a situation where a higher quality subdivision design, resulting in less physical and/or visual disruption, could be achieved by allowing two residual parcels to be created, the Zoning Administrator may permit the 60% to be made up of two parcels.
[Amended 2-28-2007; 12-9-2009; 9-26-2012]
- (3) Board of Supervisors waiver of division restriction.
[Amended 2-28-2007]
- (a) The designated Rural Preservation Tract may be released from the restrictions of Subsection **C(1)** after a period of 10 years from its creation through the rezoning process.
- (b) The rezoning shall be consistent with the goals of the Frederick County Comprehensive Policy Plan in effect at the time of the rezoning application.
- (c) The designated Rural Preservation Tract which is within the Urban Development Area (UDA) at the time of its creation, or is included within the UDA as a result of a future expansion of the UDA, shall be eligible for rezoning at that point and shall not be subject to the ten-year restriction on rezoning.
- [2] *Editor's Note: Former Subsection C, Agricultural lots, was repealed 12-9-2009. This ordinance also redesignated former Subsection D as Subsection C.*

§ 165-401.07. Setback requirements.

[Amended 12-11-1991; 6-9-1993]

The following setback requirements shall apply to all parcels within the RA Rural Areas Zoning District:

- A. Setbacks for all lots other than rural preservation lots shall be as set out below.
[Amended 2-28-2007; 4-27-2011; 11-12-2015]

- (1) Front setbacks. The front setback for any principal use or structure shall be 60 feet from the property line or right-of-way of the street, road or ingress/egress easement.
[Amended 5-24-2017]
- (2) Side or rear setbacks. The minimum side or rear setback for any principal use or structure shall be determined by the primary use of the adjoining parcel as follows:

Adjoining Parcel Size	Setback (Side and Rear) (feet)
6 acres or less	50
More than 6 acres	100
Agricultural and Forestal District, 6 acres or less	50
Agricultural and Forestal District, more than 6 acres	200
Orchard (regardless of parcel size)	200

B. Rural preservation lots. The minimum setbacks from rural preservation lot lines which adjoin other rural preservation lots shall be as set out below. Side and rear setbacks from rural preservation lot lines which adjoin any parcel other than another rural preservation lot shall be determined by § 165-401.07A(2) of this chapter.

- (1) Front setback. The front setback for any principal use or structure shall be 60 feet from the right-of-way of any existing state-maintained road and 45 feet from the right-of-way of any existing private ingress/egress easement or state-maintained road constructed to serve the subdivision.
[Amended 5-24-2017]
- (2) Side setback. No principal use or structure shall be located closer than 15 feet from any side lot line.
- (3) Rear setback. No principal use or structure shall be located closer than 40 feet from any rear lot line.

C. ^[1]Accessory uses. The minimum setback for any accessory use or structure shall be as follows:
[Added 5-24-2017]

- (1) From the edge of right-of-way of any public street or roadway owned and maintained by VDOT: 60 feet.
- (2) From the edge of right-of-way of any private right-of-way or ingress/egress easement: 45 feet.
- (3) From any side or rear property line: 15 feet.

[1] *Editor's Note: Former Subsection C, Board waiver, as amended 9-25-2002 and 3-28-2007, was repealed 3-13-2013.*

D. One nonhabitable accessory structure that meets the minimum setbacks for an accessory use may be located on a lot prior to the construction of a principal structure. This accessory structure shall not be permitted to contain any residential uses prior to the construction of the primary structure on the lot and shall be a maximum of 650 square feet in size.
[Added 1-9-2013; amended 5-24-2017]

§ 165-401.08. Minimum width; maximum depth.

[Amended 9-12-1990; 12-11-1991; 12-9-2009]

A. Minimum width.

(1) Minimum width for rural preservation lots.

- (a) Lots fronting on roads proposed for dedication: 50 feet at the front setback line.
- (b) Lots fronting on the turnaround of a cul-de-sac for roads proposed for dedication: 50 feet at the front setback line.
- (c) Lots fronting on existing state roads: 250 feet at the front setback line.

(2) Minimum width for all other lots: 250 feet at the front setback line.

B. Maximum depth.

- (1) Within subdivisions utilizing rural preservation lots, the sixty-percent parcel (rural preservation tract) shall be exempt from the maximum depth requirement.
- (2) Depth/Width ratio at the front setback line: 5:1 maximum.

§ 165-401.09. Height restrictions.

No structure shall exceed 35 feet in height.