

**AGENDA**  
**FLUVANNA COUNTY PLANNING COMMISSION**  
**Former Board of Supervisors Room**  
**October 10, 2012**  
**7:00 P.M.**

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**PLANNING COMMISSION WORK SESSION**

- 1. Open the Work Session** (Mr. Barry Bibb, Chairman)
- 2. Public Comment** (Limited to Three Minutes per Speaker)
- 3. Discussion of Rural Zoning**  
A discussion of rural zoning policies and regulations in Fluvanna County.
- 4. Adjourn**



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# COUNTY OF FLUVANNA

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*“Responsive & Responsible Government”*

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## MEMORANDUM

**Date:** October 1, 2012  
**From:** Andrew J. Pompei (Planner)  
**To:** Fluvanna County Planning Commission  
**Subject:** Rural Zoning Discussion – October 2012 Work Session

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Since the 1990s, the Planning Commission, Board of Supervisors, and Fluvanna County residents have discussed methods of managing growth in rural areas. In 2011, the Planning Commission developed three (3) new rural zoning districts, based on the recommendations of the Rural Zoning Task Force (RZTF), a committee appointed by the Board of Supervisors. The draft regulations were sent to the County Attorney for review in June 2011; since that time, there has not been further discussion regarding rural zoning.

At the October 2012 Planning Commission Work Session, rural zoning issues will again be discussed. Some of the following issues regarding rural zoning will be discussed:

- History of Rural Preservation Issues in Fluvanna County
- Rural Zoning and the Comprehensive Plan
- Development in Fluvanna County’s Rural Areas
- Defining Rural Character
- Regulating Subdivisions in Rural Areas

Attached are the following documents that will be discussed at the meeting (time-permitting):

- History of Rural Preservation Issues in Fluvanna County
  - Letter from Darren Coffey to Fred Payne (June 6, 2011) – County Attorney Review of Proposed Rural Zoning Amendments
  - Letter from Fred Payne to Darren Coffey (August 5, 2011) – Proposed Revisions to the Rural Areas’ Land Use Controls
  - Proposed Rural Zoning Districts (Prepared May 2011)
    - A-1 (Agricultural, General)
    - RP-1 (Rural Preservation, Limited)
    - RP-2 (Rural Residential, General)
  - Comparison of Existing A-1 Zoning District with Proposed Districts
- Rural Zoning and the 2009 Comprehensive Plan
- Development in Fluvanna County’s Rural Areas
- Defining Rural Character
- Comparison of Rural Subdivision Regulations in Virginia: Major Subdivisions & Utilities
- Subdivisions Only in Residentially-Zoned Districts (Prepared by Charles City Planning Dept.)

If you have any questions or concerns, please contact the Fluvanna County Planning Department at (434) 591-1910 or via email ([apompei@fluvannacounty.org](mailto:apompei@fluvannacounty.org)).



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## HISTORY OF RURAL PRESERVATION ISSUES IN FLUVANNA COUNTY

October 2012

Since the 1990s, Fluvanna County and its citizens have discussed methods of managing growth in rural areas. Many residents have been concerned that rapid development threatens the unique character of Fluvanna County’s rural areas and negatively impacts their quality of life. Below is a timeline of rural preservation efforts in Fluvanna County over the past fifteen years.

November 1998	Fluvanna County created its Agricultural and Forestal District (AFD) program (County Code: Chapter 3.1).
March 1999	The First Heritage Forum was held to discuss rural preservation in Fluvanna County, with the support of the National Park Service.
September 1999	The Fluvanna County Historical Society, with the support of the National Park Service, published <i>Preservation: The Key to Keeping Our County Rural</i> , which describes tools that can be used to protect rural areas from development.
November 1999	The Second Heritage Forum was held to discuss rural preservation in Fluvanna County, with the support of the National Park Service.
November 2000	The 2000 Comprehensive Plan encourages the protection of Fluvanna County’s rural areas.
April 2002	The Third Heritage Forum was held to discuss rural preservation in Fluvanna County, with the support of the National Park Service.
April 2004	Changes to the zoning and subdivision ordinance require major subdivisions in the A-1 (Agricultural, General) zoning district to be clustered (ZTA 03:01/03:02). Ordinance changes were based, in part, on recommendations from Hill Studio.
July 2004	Fluvanna Friends of Rural Preservation (FFRP), a private organization of local citizens, is formed.
November 2004	Proposed Rural Preservation zoning district and changes to the A-1 (Agricultural, General) district (ZTA 04:01) were rejected by the Board of Supervisors (Nov. 3), after the Planning Commission recommended denial of the proposal.
June 2006	Fluvanna County created its Conservation Easements Program (County Code: Chapter 5.5).
March 2009	The 2009 Comprehensive Plan encourages the protection of Fluvanna County’s rural areas.

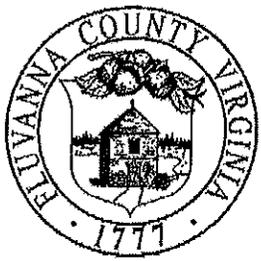
March 2010	Five (5) public meetings, sponsored by the Fluvanna County Planning Department, were held across the county to discuss rural zoning regulations and gather public input.
March 2010 – October 2010	The Rural Zoning Task Force (RZTF), appointed by the Board of Supervisors, develops recommendations for managing growth in rural areas.

Below is a more detailed timeline showing the activities related to the Rural Zoning Task Force (RZTF), which was part of Fluvanna County’s last major attempt at revising rural zoning regulations:

January 2010	Planning Department began researching rural zoning regulations in other localities.
March 2010	Five (5) public meetings were held across the county to discuss rural zoning regulations and gather public input
April 2010	Planning Commission recommended the formation of the Rural Zoning Task Force (RZTF).
May 2010	Board of Supervisors appointed 11 citizens, staff members, and elected officials to the RZTF.
September - October 2010	RZTF presented recommendations to the Planning Commission and Board of Supervisors.
January – May 2011	Planning Commission discussed rural zoning issues at a series of work sessions and regular meetings (Work Sessions: Jan., Feb., Mar., May; Regular Meetings: May)
June 2011	Proposed zoning regulations (A-1, RP-1, and RP-2 zoning districts) were sent to the County Attorney for review.
August 2011	County Attorney responded to the proposed zoning regulations.

Following this report are several documents related to the activities of the Rural Zoning Task Force (RZTF):

- Letter from Darren Coffey to Fred Payne (June 6, 2011) – County Attorney Review of Proposed Rural Zoning Amendments
- Letter from Fred Payne to Darren Coffey (August 5, 2011) – Proposed Revisions to the Rural Areas’ Land Use Controls
- Proposed Rural Zoning Districts (Prepared May 2011)
  - A-1 (Agricultural, General)
  - RP-1 (Rural Preservation, Limited)
  - RP-2 (Rural Residential, General)
  - Proposed Land Use Matrix
  - Other Proposed Revisions to the Fluvanna County Subdivision Ordinance
  - Other Proposed Revisions to the Fluvanna County Zoning Ordinance
- Comparison of Proposed Rural Zoning Districts with Existing A-1 Regulations



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June 6, 2011

Fredrick W. Payne, Esq.  
Fluvanna County Attorney  
Payne & Hodous, L.L.P.  
414 East Jefferson Street  
Charlottesville, VA 22902

Re: County Attorney Review of Proposed Rural Zoning Amendments

Fred,

Thank you for meeting with planning staff, along with the County Administrator, on June 2<sup>nd</sup> to discuss the Planning Commission's recommendations on rural zoning. I just wanted to take a minute to reiterate the process that has been used to get us to this point, as well as touch on some of the highlights of the proposal.

In January 2010, planning staff compiled research from approximately 20 counties from across the Commonwealth on their rural zoning regulations. Out of that analysis six counties were chosen for closer examination due either to their proximity to Fluvanna or the comparative value of their zoning information. The counties include Green, Orange, Madison, Hanover, Louisa, and Montgomery as compared to Fluvanna in five primary categories -- lot size, setbacks, lot width, frontage, and density.

In March 2010, five public meetings were conducted around the county to display this comparative information and to gather public input on this important topic regarding rural zoning, specifically a review of the County's A-1 zoning district, and how the county might begin to achieve its vision for rural preservation as outlined in the comprehensive plan. To that end, two key questions were asked of citizens to try to better understand the variety of perspective regarding this topic.

Should preserving and enhancing Fluvanna's unique identity and rural character be a major goal of the County as stated in the Comprehensive Plan? Why or why not?

What does rural preservation mean to you?

In addition to these two key questions, participants were also asked about their opinions on division rights, minimum lot size, setbacks, frontage, a variety of rural cluster questions, and any general comments. All of this information was compiled and distributed to the Planning Commission and Board of Supervisors.

In April 2010, the Planning Commission recommended the formation of a task force to the Board of Supervisors to more closely examine this public input and other issues regarding rural zoning. On May 5<sup>th</sup>, the Board appointed the Rural Zoning Task Force. Members of the task force included Shaun Kenney, John Gooch, Sam Babbitt, Barry Bibb, Darren Coffey, Renee Hoover, Elva Key, Patricia Eager, Tom Pratley, Bill Hughes and Elizabeth Franklin. The task force met over the summer and presented its recommendations to the Planning Commission on September 22<sup>nd</sup> and the Board of Supervisors on October 6<sup>th</sup>.

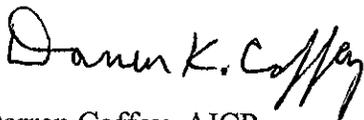
Finally, in January 2011, the Planning Commission began a series of work sessions to discuss the task force recommendations. In addition to the questions asked in the public meetings, and the concepts and strategies recommended by the task force, the Planning Commission wanted to make sure that it addressed the major land use challenge faced by the County that is contrary to the Comprehensive Plan's rural preservation vision – very large subdivisions in the rural areas of the county.

The Planning Commission substantially embraced the concepts recommended by the Rural Zoning Task Force, and after thoroughly discussing the nuances of different concepts, asked planning staff to draft an amended A-1 zoning district, along with two new zoning districts – Rural Preservation, Limited, RP-1 and Rural Preservation, General, RP-2. These drafts were also discussed in detail before being agreed upon by the Commission.

The Planning Commission has requested your review of this body of work prior to any further discussion with the Board of Supervisors. The Planning Commission needs to be aware of any legal principals that may support, or be an obstacle toward, implementing this set of recommendations. Please detail any specific changes that may better achieve the recommended land use changes. The Commission's understanding of such issues is critical to being able to successfully move this project forward.

Please let me know if further information is needed.

Kindest Regards,



Darren Coffey, AICP  
Planning Director

## MEMORANDUM

To: Darren Coffey, Director of Planning  
From: Frederick W. Payne, County Attorney  
Date: August 5, 2011

Re: Proposed revisions to the rural areas' land use controls

Please excuse my delay in responding formally to the proposed revisions to the zoning and subdivision ordinances regarding new growth controls in the County's rural areas. As you know, I have serious reservations about a number of the suggested changes. As they are currently written, I cannot recommend adoption of these changes. With that said, I believe that the apparent objectives of the project are probably achievable using some different methods.

As I have told you and the planning commission on many occasions, I believe that it is not productive to try to write an ordinance until (a) the specific objectives to be attained have been identified and (b) the appropriate legislative devices have been vetted, both as to permitted and to prohibited provisions. It appears to me that there are fundamental problems with these drafts. Therefore, rather than going down the drafts "line by line", I will try to lay out most of what I see as the major problems with the draft, along with proposed alternative solutions.

### 1. DISTINCTION BETWEEN SUBDIVISION AND ZONING ORDINANCES

The current draft addresses both the zoning and subdivision ordinances in its attempt to achieve its objectives. This is entirely appropriate in principle, but I have several concerns about how this is done in the draft.

The critical difference between zoning control and subdivision regulation is that the former (zoning) addresses WHAT the landowner can do with his property, whereas the latter (subdivision) addresses HOW he can do whatever it is he wants to do, within the constraints of the applicable zoning. In this regard, it is important to remember that a subdivision ordinance, by its nature, applies to ALL land in the County equally, regardless of its zoning or its location, as defined purely by its physical characteristics.

In the context of the proposed amendments, this leads to several apparently unintended consequences:

- a. Under the revised definition of subdivision, *any* division of land, under all circumstances and in all zoning districts, falls within the definition of subdivision. While this is not unlawful, I commend it to your attention since I suspect this conclusion will likely lead to problems, particularly in the case of very large parcels, boundary adjustments and development-oriented properties in the designated growth areas. As a corollary, you can expect this to lead to attempts by landowners to evade the effect of the subdivision ordinance. I think this is particularly problematic when leasehold interests are included, and I have doubts as to whether the inclusion of leasehold interests is authorized by the applicable statutes.

- b. As to the definition of “major subdivision”, the change from 5 lots to 7 is not substantial and is, in my judgment, defensible. I have concerns about the change to the “look back” provision, which goes from the previous 5 years to “previously”. Under the plain language of the proposed definition, the “count” of 7 lots would begin at any previous time a parcel had been subdivided.

The following hypothetical may help illustrate my concern: (1) Parcel X contains 400 acres. (2) In 1950, it is divided into 2 200-acre parcels, denominated X-1 and X-2. (3) Subsequently, in 1980, parcel X-2 is divided into 7 lots ranging in size from 3 to 120 acres. (4) In 2011, the proposed amended definition is adopted. At this time, all 8 parcels are under separate ownership.

Under this definition, the division of *any* of the 8 previously subdivided parcels would constitute a major subdivision, even though only the property which is proposed to be subdivided would be subject to the provisions of the ordinance. In practical effect, this is likely to impose a disproportionately great burden on the larger landowners and may well give each previously divided lot a veto power over the division of all of the others, since neither the County nor the proposed subdivider can require his neighbor to participate in the subdivision at all. Among other things, this would impact the “large lot” subdivision concept by subjecting it to consideration as a major subdivision only.

In addition, since linking two or more parcels constitutes a major subdivision, this is likely to impact the provisions of the ordinance which require interparcel connectivity. (See, e.g., proposed sec. 22-4.5-3(c)2(c).) This would likely tend to discourage landowners from making such connections and would penalize those who would wish to.

I would caution that any provision with a “look back” provision poses potentially substantial record-keeping problems. With this in mind, I would suggest using a “look back” period with a finite, and relatively limited, number of years. Thus, the above hypothetical becomes more of a problem if step (2) is changed to make the “first” division occur in 1750, rather than 1950.

- c. With respect to the “large lot subdivision” provisions, I know of no provision in the enabling legislation which would authorize a subdivision ordinance to, in effect, create an immutable 60-acre minimum lot size, and therefore I have serious reservations as to its legality.
- d. Both of the foregoing concerns are impacted by the proposed revision to Sec. 19-7-2, which requires that all subdivisions in the proposed RP and RR districts must be cluster divisions. This provision makes no allowance for (a) previously approved minor subdivisions, (b) “large lot” subdivisions or (c) family divisions. This inconsistency would likely be resolved by a court as either striking down this provision or applying it in a way that the County cannot currently foresee.

- e. While I question these provisions, I believe that the subdivision ordinance can, and should, be used extensively, as more particularly set forth hereinafter.
- f. One change I would make to the subdivision ordinance is to require that all major subdivisions provide public water and/or sewer to each lot, with public water and sewer being defined to include only systems owned and/or operated by the County or other political subdivision of the Commonwealth or by a public service company chartered and regulated by the State Corporation Commission. Please note that this suggested provision would apply to *all* zoning districts. This would address one of the major concerns which has arisen as to large-scale subdivisions in the rural areas—*i.e.*, that the proposed development will adversely affect the general public health, and in particular the welfare of adjacent properties—by potentially overloading local sewage disposal system and drawing down water tables. Unlike private and smaller-scale central systems, such public systems are always subject to review and approval for compliance with the Comprehensive Plan, which will allow the County to address the development of each such subdivision for its compliance with the Plan. This would also address the concerns about using cluster-subdivision open space for sewerage and/or water supply. Lest it be thought that such a provision cannot be practically applied in the A-1 district, I refer to the proposed A-1 cluster subdivision known as River Oaks, which is proposed to be served by sewer and water from Aqua Virginia.

## 2. PROPOSED ZONING ORDINANCE CHANGES

I do not consider it productive to address all of the concerns I have about the proposed amendments to the zoning ordinance, which are both detailed and quite extensive. However, below are listed some of the more salient and substantial concerns.

- a. I consider it affirmatively unlawful to regulate development under the zoning ordinance by reference to a maximum number of lots. As I understand the proposal for A-1, all parcels existing at the time of adoption of this amendment would be permitted to be divided into not more than 7 parcels, *i.e.*, no major subdivisions. This regulation would apply across the board, whether a particular parcel contained 50 acres or 5000. I believe that any such provision would be inconsistent with the “uniformity” provisions of the Code (VC Sec. 15.2-2282).
- b. “Density” in all three proposed districts (A-1, RR and RP) is defined in terms of numbers of lots, not dwelling units per acre as density is customarily defined. In light of the uniformity concern expressed above, I consider this a major problem.
- c. For similar reasons, I could not support the “sliding scale” for minimum lot size in the proposed A-1.
- d. In the A-1, there is reference to the “look back” provisions for major subdivisions. This illustrates the basic problem with the prohibition on creation of more than 7 lots in any division, particularly since the A-1 zoning provisions expressly require that the “look

back” period be indefinite in length. Technically, under these provisions, there are almost certainly no parcels that could be divided anywhere in the rural areas of the County since there remain very few parcels which have not been subdivided at least once in the last 200+ years.

- e. I agree with the requirement of a minimum area for any parcel to be served with private water supply and sewerage. I think the requirement of a 100 percent reserve area is a good one, but I would suggest that a minimum area also be required, since I think this would tend to make review much easier for the developer as well as for the County. I have no fixed area in mind, except to say that I have seen other localities use 60,000 square feet (Albemarle), 20,000 square feet (Augusta) and several others.
- f. I have reservations about a number of the proposed revisions to the rural cluster provisions of the ordinance, but I will mention only two of these here. First, I think that it is a major mistake not to allow private ownership of the “open space”. I agree that, if the open space is to be used as common area for all of the lots, private ownership would be a major problem for its owner. However, I believe that the landowner can make a reasoned decision as to this issue, and he should be free to retain the land if he chooses, and to restrict lot owner use of the common area. This concept was designed to permit a landowner to divide off a portion of his property but keep the rest—call it the “family farm” provision if you will. I cannot say that this is unlawful or unenforceable, but I think it is likely to be counterproductive, particularly in the case of small developments.

Second, I am strongly opposed to the requirement that all cluster open space be owned by a homeowners association. Applicable state law has evolved so that HOA ownership is increasingly expensive and complicated. In effect, our experience is that HOA ownership of common open space works very poorly except in the case of a relatively large and well-financed subdivision. The most obvious example in the County is, of course, Lake Monticello: With 3500 lots, a HOA works reasonably well; with 7 (or 10 or 30) it does not.

- g. I think the idea of including a new “rural preservation” district and a new “rural residential” district is a good one. However, I believe that each of those districts, as drafted raises serious legal issues, both as to their enforceability and as to their effectiveness. I believe that these issues can be resolved, along with greatly simplifying both provisions. In any case, I endorse the idea of adopting the textual provisions for these districts but applying them to the map only upon landowner application

### 3. AFFIRMATIVE RECOMMENDATIONS

It is readily apparent that the object of these revisions is to “preserve the rural character of the County.” The single most critical decision to be made is to define what is meant by “rural character.” I am not satisfied that this has been done. In any event, I would strongly recommend that these revisions be presented in context; *i.e.*, that a definition of “rural character” be articulated so as to assist in guiding the development, as well as the later application, of these and subsequent amendments to the land use control ordinances.

With this in mind, I recommend the following general revisions to the proposed amendments

- (1) Base all three rural districts on the format of the A-1, bearing in mind the need to maintain their compatibility with other applicable provisions, including, among others, the new telecommunications ordinance.
- (2) Eliminate the maximum number of lots as the "density" calculator in all of them.
- (3) Redesign the RP district to make it more restrictive than A-1, and act correspondingly to RR to make it more liberal.
- (4) Require public water and sewer for all major subdivisions
- (5) Provide for the application of TDR's. In RP and A-1, these should be "sending zones", in RR it could be either, but more likely a "receiving zone."
- (6) Otherwise, with relatively minor exceptions, retain the format and substance of the existing A-1.

I would be happy to provide more detailed comments, or to discuss these suggestions with the planning commission, if they or you so desire.

## **Article 3 ~~4~~ . Agricultural, General, District A-1**

### **Sec. 22-3 ~~4~~ -1. Statement of intent.**

This district covers areas of the county consisting of woodland, farmland, open space, mountains and areas of low density residential development. The primary objectives of this district are to conserve water and other natural resources, reduce soil erosion, protect watersheds and reduce hazards from floods; to preserve the rural character of the county; to promote existing and future farming and forestry operations; and to promote the retention of undisturbed open space. Limited residential development, and limited commercial and industrial uses which are supportive of and directly related to agriculture, forestry or other traditionally rural uses, are to be permitted, but only in a manner consistent with the primary objectives of the district. In particular, the provisions of this district are intended to significantly limit conventional and roadside strip development, especially on major arteries and commuter routes.

### **Sec. 22-3 ~~4~~ -2. Use regulations.**

In Agricultural, General District A-1, the following uses, together with ordinary and necessary accessory uses, shall be permitted, and no others.

#### **Sec. 22-3 ~~4~~ -2.1. Uses permitted by right.**

The following uses shall be permitted by right:

##### *Agricultural Uses*

- Agriculture
- Conservation areas
- Equestrian facilities
- Farm sales
- Hunt clubs
- Hunting preserves

##### *Civic Uses*

- Public parks and recreational areas
- Public uses

##### *Commercial Uses*

- Family daycare homes
- Home occupations

##### *Industrial Uses*

- Sawmills, temporary

##### *Miscellaneous Uses*

- Accessory uses
- Cemeteries, non-commercial

- Greenhouses, non-commercial
- Kennels, private
- Marinas, private
- Rural cluster developments
- Shooting, private recreational
- Utilities, minor
- Woodstorage, temporary

*Residential Uses*

- Dwellings, accessory
- Dwellings, two-family
- Farm tenant housing
- Group homes
- Manufactured homes
- Mobile homes, as defined in Sec. 22-4-2.3
- Single-family detached dwellings, including family *and large lot* subdivisions, and ~~conventional~~ minor subdivisions, but excluding ~~conventional~~ major subdivisions ~~recorded after April 5, 2004.~~

**Sec. 22-3 ~~4~~ -2.2. Uses permitted by special use permit only.**

The following uses shall be permitted by special use permit only:

*Agricultural Uses*

- Agricultural enterprise
- Agricultural sales, wholesale
- Livestock feed lots, commercial
- Livestock sales yards, commercial

*Civic Uses*

- Amusements, public
- Correctional facilities
- Cultural services
- Educational facilities
- Public assembly
- Public recreation assembly
- Religious assembly
- Sheltered care facilities

*Commercial Uses*

- Adult retirement communities
- Amusements, commercial
- Assisted living facilities
- Automobile repair service establishments
- Bed and breakfasts
- Boarding houses
- Butcher shops

Campgrounds  
Camps  
Car washes  
Cemeteries, commercial  
Communications service  
Dance halls  
Daycare centers  
Flea markets  
Funeral homes  
Gas stations  
Greenhouses, commercial  
Hotels  
Kennels, commercial  
Lodges  
Medical clinics  
Outdoor entertainment  
Outdoor recreation facilities  
Restaurants, small  
Retail stores, neighborhood convenience  
Retail stores, specialty  
Shooting ranges, indoor  
Shooting ranges, outdoor  
Small home industries  
Studios, fine arts  
Taxidermists  
Veterinary offices

*Industrial Uses*

Railroad facilities  
Resource extraction  
Solid waste collection facilities

*Miscellaneous Uses*

Aviation facilities  
Outdoor gatherings  
Telecommunication facilities  
Utilities, major

*Residential Uses*

Dormitories

**Sec. 22-3 ~~4~~ -2.3. Mobile homes.**

One mobile home per parcel shall be permitted, with issuance, by the Planning Director, of a zoning permit, in the following instances:

- (a) Mobile home to be occupied by a bona fide farm tenant with the permit to be revalidated ~~by the governing body~~ every two years so long as the conditions are met;
- (b) Mobile home to be occupied because of an emergency medical or moral obligation with the permit to be revalidated ~~by the governing body~~ every two years so long as the conditions exist. For purposes of this section, the term "an emergency medical or moral obligation" shall be deemed to mean a set of circumstances in which a landowner must provide shelter and/or care to one or more persons through the occupancy of the mobile home in order to alleviate a clearly demonstrable danger of serious impairment to the health and/or welfare of any person or persons which is occasioned by a medical disorder or condition or other compelling cause beyond the control of such person or persons and which cannot be remedied in any other reasonable manner;
- (c) Mobile home to be occupied by the owner of the property while constructing a permanent single-family dwelling on the same property or reconstructing a single-family dwelling destroyed by natural disaster. This permit shall be for a period of one year only but may be renewed each year ~~by the governing body~~ for a period of not more than five continuous years. In addition, the *Planning Director* ~~governing body~~ may grant an additional extension of time for the occupancy of any such mobile home, not to exceed 24 months from the expiration of the last renewal period of the original permit, upon a finding that the owner of the property has attempted in good faith to complete such single-family dwelling within the time permitted by law, but has been unable to do so as a result of adverse weather conditions, act of God, bona fide inability ~~timely~~ to timely obtain satisfactory building materials, or other circumstances or condition beyond the control of such owner.

**Sec. 22-3 ~~4~~ -3. Residential density; ~~minimum~~ lot size; dimensional requirements.**

Maximum ~~gross residential density and development~~, minimum lot size and minimum dimensional requirements for conventional development, but not for *Large Lot or Rural Cluster Subdivisions*, shall be as follows:

- (a) ~~Gross Residential density: 1 dwelling unit per 2 acres. In order to construct more than one dwelling on any one parcel, a sketch plan must be submitted that would demonstrate that all dwellings could be lawfully subdivided so as to be on their own lots. Maximum of seven (7) lots. Only one dwelling unit per parcel shall be permitted unless otherwise provided for herein. Well and septic with a 100 percent septic reserve field shall be located on the parcel being individually served by those utilities. Parcels subdivided prior to January 1, 2011 shall be~~

*counted toward the maximum and not further divided beyond that limit.  
Subdivisions that propose to link between parcels that contain a total of more than seven lots shall be considered major subdivisions.*

(b) Minimum lot size: ~~2 acres~~

(1) U.S. Route 250, U.S. Route 15, VA Primary Routes 6, 53, and VA Secondary Route 616: 5 acres

(2) All other public roads: 2 acres

(3) Private roads: 10 acres

(c) Minimum frontage ~~required~~:

(1) ~~Existing or proposed p~~Public roads, except as otherwise provided:

(a) U.S. Route 250, U.S. Route 15, VA Primary Routes 6, 53, and VA Secondary Route 616: 500 feet

(b) All other public roads: 300 feet

(2) Private roads: 200 feet

~~(d) Minimum lot width at minimum required setback shall be equal to the minimum required frontage.~~

~~(e)~~ (d) Minimum setback ~~required~~ (as measured from edge of right of way):

(1) U.S. Route 250, U.S. Route 15, VA Primary Routes 6, 53, and VA Secondary Route 616: 200 feet

(2) All other public roads: 125 feet

(3) Private roads: 100 feet

~~(f)~~ (e) Minimum side yard: 50 feet

~~(g)~~ (f) Minimum rear yard: 75 feet

(g) *Minimum lot width at minimum required setback shall be equal to the minimum required frontage.*

**Sec. 22-3 ~~4~~ -4. Reserved. Large lot subdivisions.**

*Large lot subdivisions are permitted and administered in accordance with the family subdivision process in lieu of the conventional or cluster subdivision processes. The following criteria applies to such subdivisions:*

- (a) *Residential density: There is no limit on the number of lots subdivided from a parent parcel provided that once divided, each new lot shall not be further subdivided unless rezoned for such use.*
- (b) *Minimum lot size: 60 acres*
- (c) *Minimum frontage:*
  - (1) *Public roads, except as otherwise provided:*
    - (a) *U.S. Route 250, U.S. Route 15, VA Primary Routes 6, 53, and VA Secondary Route 616: 500 feet*
    - (b) *All other public roads: 300 feet*
  - (2) *Private roads: 200 feet*
- (d) *Minimum setback (as measured from edge of right of way):*
  - (1) *U.S. Route 250, U.S. Route 15, VA Primary Routes 6, 53, and VA Secondary Route 616: 200 feet*
  - (2) *All other public roads: 125 feet*
  - (3) *Private roads: 100 feet*
- (e) *Minimum side yard: 50 feet*
- (f) *Minimum rear yard: 75 feet*
- (g) *Minimum lot width at minimum required setback shall be equal to the minimum required frontage.*

**Sec. 22-3 ~~4~~ -5. Special provisions for corner lots.**

Any lot or parcel fronting on two or more roads shall conform to the frontage, minimum lot width and setback requirements for all such roads.

**Sec. 22-3 ~~4~~ -6. Off-street parking.**

Off-street parking shall conform to Article 26 of this chapter.

**Sec. 22-3 ~~4~~ -7. Sign regulations.**

Sign regulations shall conform to Article 15 of this chapter.

**Sec. 22-3 ~~4~~ -8. Height regulations.**

Buildings and structures may be erected up to thirty-five (35) feet in height, except that:

- (a) The height limit for dwellings may be increased up to forty-five (45) feet provided one (1) foot or more per side yard is added for each additional foot of building height over thirty-five (35) feet.
- (b) A public or semi-public building such as a school, place of worship, or library ~~or general hospital~~ may be erected to a height of sixty (60) feet from grade provided that required front, side, and rear yards shall each be increased one (1) foot for every foot in height over thirty-five (feet).
- (c) Spires, belfries, cupolas, monuments, water towers, chimneys, flues, flagpoles, television antennae and radio aerials may be erected to a height of sixty (60) feet from grade. Parapet walls may be up to four (4) feet above the height of the building on which the walls rest.
- (d) Buildings and structures used for agricultural purposes, including barns, silos, windmills and the like, may be erected to a height of ninety (90) feet from grade.
- ~~(d)~~ (e) No accessory building which is within fifteen (15) feet of any property lot line shall be more than one (1) story high. All accessory buildings and structures, other than those permitted under subsection (c) above, shall be less than the main building or structure in height.

**Sec. 22-3 ~~4~~ -9. Intensive livestock, dairy and poultry facilities; statement of intent.**

This section (sections 22-3 ~~4~~ -9<sup>†</sup> through 22-3 ~~4~~ -9.4) encourages economic development, preserves farm land, and promotes the orderly and responsible growth of the livestock, dairy and poultry industries. In the Agricultural (A-1) district, all agricultural production uses, including the uses defined herein as intensive livestock, dairy and poultry facilities, shall be permitted by right.

**Sec. 22-3 ~~4~~ -9.1 Definitions.**

For the purpose of sections 22-3 ~~4~~ -9 through 22-3 ~~4~~ -9.4, the following terms shall have the meaning indicated:

- (1) Livestock includes all domestic or domesticated: bovine animals, such as cattle; equine animals, such as horses; ovine animals, such as sheep; and porcine animals, such as hogs.
- (2) Intensive livestock, dairy or poultry facility means a livestock, dairy or poultry operation where, for a period of 45 consecutive days or more, 300 animal units are closely confined and not free-ranging, and are fed in the area of confinement. For the purpose of this article, 300 animals units shall be equivalent to any of the following, or any combination thereof where the animals are confined in one location:

livestock 300 slaughter or feeder cattle

livestock 750 swine each weighing over 55 pounds

livestock 150 horses

livestock 3,000 sheep or lambs

dairy 200 mature dairy cows (whether milked or dry cows)

poultry 16,500 turkeys

poultry 30,000 laying hens or broilers

- (3) Intensive livestock, dairy or poultry structure means a building, structure or other improved area used in the operation of an intensive livestock, dairy or poultry facility; including, but not limited to, litter storage sites, incinerators, manure storage sites, poultry houses, poultry disposal pits, or dead poultry cold storage chests. The term shall not include structures that are used only indirectly in the operation of the facility.

<sup>†</sup> *Editor's Note*—Erroneously appears in original as 22-9-4.

- (4) Operator means any person who operates an intensive livestock, dairy or poultry facility, or the land on which it is located.
- (5) Poultry means any domestic or domesticated fowl raised for meat or eggs; including, but not limited to, chickens and turkeys.
- (6) Existing intensive livestock, dairy or poultry structure means an intensive livestock, dairy or poultry structure that has been in operation for one year within the five years immediately preceding the date on which a building or zoning permit is sought for a dwelling.

**Sec. 22-3 ~~4~~ -9.2 Setbacks.**

- (1) Except as otherwise expressly provided in this section, each intensive livestock, dairy or poultry structure shall be set back 300 feet from property line.
- (2) Any dwelling not owned by the operator shall be set back from any existing intensive livestock, dairy or poultry structure as follows:
  - (a) If the dwelling is an Agricultural (A-1) district, 300 feet;
  - (b) If the dwelling is in a residential district, 600 feet.
- (3) Each intensive livestock, dairy or poultry structure shall be setback at least 300 feet from any property line, at least 200 feet from the right-of-way of any secondary road, and at least 300 feet from the right-of-way of any primary highway.
- (4) Each intensive livestock, dairy or poultry structure shall be setback at least 1,000 feet from any incorporated town, public school, place of worship, public water intake from a stream or river and from the boundary of any adjacent residential district.

**Sec. 22-3 ~~4~~ -9.3 Development plans to include plat or similar document.**

- (1) Any person who intends to establish or expand an intensive livestock, dairy or poultry facility shall file with the zoning administrator a development plan, including a plat, or similar document, that indicates the number, size and location of all intensive livestock, dairy or poultry structures planned for the subject parcel; and a written statement, sworn to and subscribed before a notary public, by which the owner certifies to the zoning administrator that the facility meets all applicable requirements. Where a proposed expansion would not substantially change the character of the facility or the intensity of the use, the zoning administrator may approve the expansion without requiring a development plan.
- (2) If the plan meets the requirements of sections 22-3 ~~4~~ -9 through 22-3 ~~4~~ -9.4, the zoning administrator shall approve it within 30 days of receipt. If the plan does not meet the requirements of sections 22-3 ~~4~~ -9 through 22-3 ~~4~~ -9.4, the zoning administrator shall

return it to the applicant within 30 days of receipt, together with a written description of the portion or portions of the plan that do not meet such requirements. Any plan not returned to the applicant within 30 days of receipt shall be deemed approved. As long as an approved plan is in effect, the applicant shall have the right to build structures and operate the facilities shown thereon, notwithstanding any dwelling or other feature located after the time of approval.

(3) The development plan shall remain in force only so long as the proposed structures are constructed in accordance with the development plan. At least one-third of the number of livestock or dairy animals indicated in the development plan, or one poultry structure, shall be placed in service within five years of the date on which the development plan is approved by the zoning administrator, unless at least one-third the livestock, or one poultry structure, was already in service at the time the plan was filed. In the event the operator fails to obtain building and zoning permits for any of the proposed structures, or fails to have in place the minimum number of livestock required above, within five years of the date on which the development plan is approved by the zoning administrator, the development plan shall expire.

(4) The operator shall notify the zoning administrator in writing within 30 days of placement into service of any structure indicated on his plan.

(5) Each parcel for which a development plan has been approved shall display at its entrance a sign no smaller than two square feet, and no larger than four square feet, clearly visible from the nearest public road, indicating that a development plan is in effect for the parcel and containing the word "Certified Agricultural Development Site".

(6) Nothing herein shall be construed to prohibit an operator or a potential operator from submitting amendments to his or her original development plan, or from submitting revised plans. The zoning administrator shall review such amendments or revised plans as required in subsection (1) above according to the zoning ordinance in effect at the time the amendments or revised plans are received.

**Sec. 22-3 ~~4~~ -9.4 Nutrient management plan.**

After the effective date of this section, no intensive livestock, dairy or poultry facility for which the Commonwealth of Virginia requires a nutrient management plan shall commence operation until such plan has been approved by the Virginia Department of Conservation and Recreation, or by the Virginia Cooperative Extension Service, or by person certified or employed by the Commonwealth as a nutrient management planner.

If the nutrient management plan provides for off-site disposal of waste, the operator shall provide, as a part of the plan, written documentation of an agreement with the receiver of the waste produced at his facility, or affidavit, sworn and subscribed before a notary public, that states his intention to dispose of waste through sale in a retail establishment or otherwise marketing to consumers. Documentation shall specify the duration of the agreement and the nature of the application or use of the waste. A nutrient

management plan containing such an agreement shall be valid only as long as the agreement remains in force and shall be reviewed whenever such agreement expires or is terminated. If such an agreement is terminated before its expiration date, the operator shall notify the zoning administrator within fifteen days of termination.

### **Sec. 22-3 ~~4~~ -10. Rural Cluster Development**

It shall be the policy of the County to promote the preservation of open space and the rural character of the County, while at the same time accommodating growth and protecting the value of property. To implement such policy, development of property according to rural cluster principles shall be encouraged throughout the County in accordance with the provisions of this Section.

#### **Sec. 22-3 ~~4~~ -10.1 Definitions**

For purposes of this Section 22-3 ~~4~~ -10, the following terms *are used in this section* ~~shall be deemed to have the following meanings:~~

“Building lot” shall mean any lot which is sold or intended for use for the construction of one or more residential units.

“Rural cluster development” shall mean any subdivision or other development for sale or use *primarily* for residential purposes as provided in this Section.

~~“Existing public road”~~ shall mean any road which is maintained as part of the Virginia Highway System or the Virginia Secondary Highway System at the time of the final approval for any rural cluster development; provided that no road which is dedicated to public use in connection with the approval of any cluster option development, whether by depiction on a subdivision plat or otherwise, shall be deemed to be ~~an existing~~ public road for purposes of this section.

“Open space parcel” shall mean any parcel which is restricted from further ~~residential, commercial or industrial~~ development, *except as may be provided in this zoning district herein.*

#### **Sec. 22-3 ~~4~~ -10.2 Compliance with zoning and subdivision regulations**

Each rural cluster development shall comply with the provisions of this Section 22-3 ~~4~~ -10, and, to the extent that the provisions of this Section shall conflict with other provisions of this Chapter, the provisions of this Section shall control. Except to the extent of such conflict, the provisions of this Chapter shall control every rural cluster development. In addition, every rural cluster development shall comply with the provisions of Chapter 19 of the Code.<sup>2</sup>

<sup>2</sup> Chapter 19 of this code sets out the provisions adopted as the Subdivision Ordinance of Fluvanna County, Virginia.

### Sec. 22-3 ~~4~~ -10.3 Rural Cluster Regulations

Any parcel of land which is otherwise susceptible to development into building lots may be divided into lots which provide for the preservation of substantial open space as hereinafter provided. Such development shall be known as rural cluster development.

- ~~1.~~ (a) The ~~gross density~~ *maximum number of lots* for any rural cluster development shall not exceed *seven (7)* ~~one (1) dwelling unit per two acres~~, as provided in this district.

(1) *Only one primary dwelling unit per parcel shall be permitted.*

(2) *No minimum lot size with a well and septic, with a 100 percent septic reserve field, located on the parcel being individually served by those utilities.*

(3) *Half (1/2) acre minimum lot size with central utilities (water and/or sewer). Individual utilities shall be located on the parcel being individually served by those utilities.*

- ~~2.~~ Repealed. (Ord. 6-15-05)

- ~~3.~~ (b) *Open Space*

(1) ~~Not less than 3/4 of the area~~ *The open space* of any rural cluster development shall be permanently restricted to prohibit further ~~residential, commercial or industrial~~ development *unless otherwise provided for in this district.*

(a) *75 percent open space is required for subdivisions with central utilities.*

(b) *50 percent open space is required for subdivisions with individual well and septic systems.*

(2) *The open space* ~~Such~~ restriction may be made in the form of a covenant running with the land so restricted and in favor of each building lot in the rural cluster development, and in favor of the County. In the alternative, such restriction may be effected by the conveyance or dedication of such restricted land to the County, the Commonwealth or any other public body which is empowered to accept such conveyance or dedication. The substance of any such restriction, conveyance or dedication shall be subject to the approval of the County to ensure that such restriction shall be permanent and effective, which approval shall be made at the time

of final subdivision approval and shall not be unreasonably withheld. The form of each such restriction, conveyance or dedication shall be subject to the approval of the county attorney at the time of final subdivision approval. Nothing herein shall be deemed to require the acceptance of any conveyance or dedication or land by any public body except as may be approved by the governing body of such public body in its sole discretion.

(3) *The orientation and location of the open space shall be arranged such that it is to the maximum benefit to the residents of the development as well as to the adjacent property owners. The open space shall be used to buffer residential development from existing agricultural uses on adjacent land, and shall also provide a significant recreational benefit to the community. This determination shall be at the sole discretion of the Planning Director with an appeal to the Planning Commission if necessary.*

4. (4) Nothing contained herein shall be construed to prevent the *by-right* use or development of any open space parcel for one or more of the following:

- a) ~~The construction of a single family residence, provided that such residence shall be included in the calculation of maximum gross density permitted for the cluster option development.~~
- b) Agriculture, horticulture, silviculture, ~~including temporary sawmills, but not including any residential, commercial or industrial uses or structures.~~
- c) Parks; playgrounds; preserves; conservation areas; hunting and boating clubs and small boat docks; all of which shall be maintained for the use of the residents of the rural cluster development or of the public, ~~but, in any event, not for residential, commercial or industrial use.~~
- d) ~~Public~~ Utilities: Poles, lines, transformers, pipes, meters and related or similar facilities; *central* water and sewerage facilities, including distribution and collection lines.
- e) Cable communications distribution lines.
- f) Public uses and structures.
- g) ~~Water wells and other facilities for the production, storage and distribution of water exclusively for the use of the residents and users of uses permitted within the rural cluster development; subject, in the case of any such~~

~~facility which is a part of a central water system, to the issuance of a special use permit. (Ord. 9-17-08)~~

~~h) Septic systems and other sewage disposal facilities exclusively for the use of the residents and users of uses permitted within the rural cluster development subject, in the case of any such facility which is a part of a central sewer system, to the issuance of a special use permit. (Ord. 9-17-08)~~

i) Non-commercial cemeteries.

*(5) Individual wells or septic systems, including reserve fields, shall be located on each lot served, and shall not be permitted in the subdivision's open space.*

*(6) The open space shall be owned by the subdivision's homeowner's association (HOA or POA).*

5. (c) Building lots

(1) Each building lot shall be so designed as to provide minimum setbacks and yards. Except for buildings lots fronting on ~~existing~~ public roads, such setbacks and yards shall be not less than the *following* minimum setback and yard requirements ~~of the R-4 residential district which are as follows:~~

*(a) Minimum frontage: 60 feet*

~~The minimum frontage for permitted uses shall be sixty (60) feet, and for each additional permitted use there shall be at least ten (10) feet of additional lot width.~~

*(b) Minimum side yard: 10 feet*

~~Side. The minimum side yard for each accessory building and main structure, including a group of attached dwelling units, shall be ten (10) feet on each side.~~

*(c) Minimum rear yard: 25 feet*

~~Rear. Each main structure shall have a rear yard of twenty five (25) feet or more, and no accessory building shall be placed within twenty five (25) feet of any rear line.~~

(d) Any lot or parcel fronting on two or more roads shall conform to the frontage, minimum lot width and setback requirements for all such roads.

6. (2) Each building lot fronting on an ~~existing~~ public road shall conform to the minimum frontage, setback and yard requirements for conventional development in this district. For purposes of this section, any building lot which is separated from an ~~existing~~ public road by any open space parcel shall be deemed to front on such ~~existing~~ public road for purposes of the application of such minimum frontage, setback and yard requirements unless the distance between the boundary of such open space parcel and any abutting building lot shall be at least equal to the minimum setback requirement applicable to conventional development in this district.

7. (3) All building lots shall be designed with due consideration of the topography and soil suitability for the following purposes, ~~in such a manner as to maximize the efficient use and utility of the land; minimize development cost; protect existing scenic quality; discourage congestion in adjacent public roads; and minimize land disturbance, soil erosion and other potentially adverse consequences of development:~~

- (a) Construction of residential improvements;
- (b) Provision of utilities, including, where applicable, public or common sewer and/or water facilities;
- (c) Provision of roads and other transportation facilities, including pedestrian trails and other facilities designed for non-motorized traffic, and including particularly provisions for connections to existing, planned or potential transportation facilities on adjacent properties;
- (d) Protection of physical features having a recognized architectural, historic, scenic and/or economic value to the County; and
- (e) Provision of open space of a size, shape and character to promote the uses designated for such open space and to protect and promote the rural character of the area, and provide for contiguous greenways and wildlife corridors.

## **Article 4. Rural Preservation, Limited, District, RP-1**

### **Sec. 22-4-1. Statement of intent.**

The Rural Preservation District (RP) is intended to accommodate very low density residential development, while preserving the county's rural character, in those areas of the County designated for either rural preservation or rural residential in the Comprehensive Plan's Future Land Use Map. The regulations for this district are designed to protect the heritage of agricultural areas, by promoting permanent open space and requiring the thoughtful clustering of housing on larger lots, compatible with the rural environment. Development is limited to single-family dwellings, plus certain other uses, that serve the residents of the district. The creation of lots fronting on existing public roads is strongly discouraged. The use of development setbacks, shared access and roadside buffers are required to retain Fluvanna's rural character consistent with the agricultural history of the county.

### **Sec. 22-4-2. Use regulations.**

In the Rural Preservation District (RP), the following uses, together with ordinary and necessary accessory uses, shall be permitted, and no others.

#### **Sec. 22-4-2.1. Uses permitted by right.**

The following uses shall be permitted by right:

##### *Agricultural Uses*

- Agriculture
- Conservation areas
- Equestrian facilities

##### *Civic Uses*

- Public parks and recreational areas
- Public uses

##### *Commercial Uses*

- Family daycare homes
- Home occupations

##### *Miscellaneous Uses*

- Accessory uses
- Cemeteries, non-commercial
- Greenhouses, non-commercial
- Kennels, private
- Marinas, private
- Shooting, private recreational
- Utilities, minor

*Residential Uses*

- Dwellings, accessory
- Group homes
- Rural cluster developments (major or minor subdivisions)
- Single-family detached dwellings

**Sec. 22-4-2.2. Uses permitted by special use permit only.**

The following uses shall be permitted by special use permit only:

*Civic Uses*

- Amusements, public
- Cultural services
- Educational facilities
- Public assembly
- Public recreation assembly
- Religious assembly

*Commercial Uses*

- Adult retirement communities
- Assisted living facilities
- Bed and breakfasts
- Boarding houses
- Small home industries
- Studios, fine arts

*Miscellaneous Uses*

- Aviation facilities
- Outdoor gatherings
- Telecommunication facilities
- Utilities, major

*Residential Uses*

- Farm tenant housing

**Sec. 22-4-3. Residential density; lot size; building lots; open space.**

It shall be the policy of the County to promote the preservation of open space and the rural character of the County, while at the same time accommodating growth and protecting the value of property. To implement such policy, development of property according to rural cluster principles shall be required in accordance with the provisions of this Section.

Maximum residential development, minimum lot size, building lots and open space requirements shall be as follows:

(a) Residential density:

Maximum density of 15 lots. Only one dwelling unit per parcel shall be permitted unless otherwise provided for herein.

(b) Minimum lot size:

Five (5) acre minimum lot size, with any well or septic, including a 100 percent septic reserve field, located on the parcel being individually served by those utilities.

(c) Building lots

(1) Each building lot shall be so designed as to provide minimum setbacks and yards as follows:

(a) Minimum frontage required:

(1) Public roads, except as otherwise provided:

(a) U.S. Route 250, U.S. Route 15, VA Primary Routes 6, 53, and VA Secondary Route 616: 500 feet

(b) All other public roads: 300 feet

(2) Private roads: 200 feet

(b) Minimum lot width at minimum required setback shall be equal to the minimum required frontage.

(c) Minimum setback required (as measured from edge of right of way):

(1) U.S. Route 250, U.S. Route 15, VA Primary Routes 6, 53, and VA Secondary Route 616: 200 feet

(2) All other public roads: 125 feet

(3) Private roads: 100 feet

- (d) Minimum side yard: 50 feet
- (e) Minimum rear yard: 75 feet
- (2) All building lots shall be designed with due consideration of the topography and soil suitability for the following purposes:
  - (a) Construction of residential improvements;
  - (b) Provision of utilities, including, where applicable, public or common sewer and/or water facilities;
  - (c) Provision of roads and other transportation facilities, including pedestrian trails and other facilities designed for non-motorized traffic, and including particularly provisions for connections to existing, planned or potential transportation facilities on adjacent properties;
  - (d) Protection of physical features having a recognized architectural, historic, scenic and/or economic value to the County; and
  - (e) Provision of open space of a size, shape and character to promote the uses designated for such open space and to protect and promote the rural character of the area, and provide for contiguous greenways and wildlife corridors.

(d) Open Space

- (1) 50 percent open space is required.
- (2) The open space shall be permanently restricted to prohibit further development unless otherwise provided for in this district.
- (3) The open space restriction may be made in the form of a covenant running with the land so restricted and in favor of each building lot in the rural cluster development, and in favor of the County. In the alternative, such restriction may be effected by the conveyance or dedication of such restricted land to the County, the Commonwealth or any other public body which is empowered to accept such conveyance or dedication. The substance of any such restriction, conveyance or dedication shall be subject to the approval of the County to ensure that such restriction shall be permanent and effective, which approval shall be made at the time of final subdivision approval and shall not be unreasonably withheld. The form of each such restriction, conveyance or dedication shall be subject to the approval of the county attorney at the time of final subdivision approval. Nothing herein shall be deemed to require the acceptance of any

conveyance or dedication of land by any public body except as may be approved by the governing body of such public body in its sole discretion.

- (4) The orientation and location of the open space shall be arranged such that it is to the maximum benefit to the residents of the development as well as to the adjacent property owners. The open space shall be used to buffer residential development from existing agricultural uses on adjacent land, and shall also provide a significant recreational benefit to the community. This determination shall be at the sole discretion of the Planning Director with an appeal to the Planning Commission if necessary.
- (5) Nothing contained herein shall be construed to prevent the by-right use or development of any open space parcel for one or more of the following:
  - a) Agriculture, horticulture, or silviculture.
  - b) Parks; playgrounds; preserves; conservation areas; hunting and boating clubs and small boat docks; all of which shall be maintained for the use of the residents of the rural cluster development or of the public.
  - c) Utilities: Poles, lines, transformers, pipes, meters and related or similar facilities; central water and sewerage facilities, including distribution and collection lines.
  - d) Cable communications distribution lines.
  - e) Public uses and structures.
  - f) Non-commercial cemeteries.
- (6) Individual wells or septic systems, including reserve fields, shall be located on each lot served, and shall not be permitted in the subdivision's open space.
- (7) The open space shall be owned by the subdivision's homeowner's association (HOA or POA).

**Sec. 22-4-4. Reserved.**

**Sec. 22-4-5. Screening.**

A vegetative buffer shall be required in the Rural Preservation (RP) District in order to effectively screen the subdivision from existing primary and secondary roadways and associated rights-of-way. The purpose for this screening is to preserve the rural character of the county from the perspective of vehicles along these roadways. The screening is not intended to buffer the residents of the subdivision from noise or other impacts associated with adjacent roadways, nor are they intended to be the sole method of preserving the rural character of the county. The *Fluvanna County Tree Protection* ordinance (Article 24) shall be used for implementing new vegetative buffers. Any conflict between this section and Article 24 shall defer to the requirements set forth in this section.

- (a) Approval of subdivisions shall be contingent on the approval of the required vegetative buffer. Preservation of healthy existing trees and shrubs shall be maximized wherever practical and the clearing of existing vegetation is discouraged. The applicant may be required to supplement existing vegetation with additional plantings, in order to satisfy the standards of this section.
- (b) The applicant shall submit a tree survey, accurate photographs, or an equivalent method that identifies the composition, density, and health of the existing vegetation or submit a plan that serves the same purpose. The County shall determine the required vegetative buffer based on the general composition of vegetation and the topography. The Administrator reserves the right to require additional plantings or other measures that would ensure compliance with the standards and intent of this section. The applicant is encouraged to enhance the buffer with shrubs, as defined in the definitions section of this ordinance.
- (c) Subdivisions shall be screened from existing state roads beginning no closer than 15 feet from the assumed right-of-way. The applicant must implement a minimum 100-foot buffer from the edge of the assumed right-of-way with screening that generally consists of one of the following:
  - (1) An existing buffer with a mixture of mature deciduous and evergreen species.
  - (2) A newly planted buffer with a mixture of both deciduous and evergreen species.
  - (3) A berm that is at least three (3) feet in height and supplemented with a mixture of both deciduous and evergreen species.

- (d) Preservation of vegetation during clearing and grading operations shall include, but is not limited to, the following:
  - (1) The buffer boundary shall be clearly marked in the field before any clearing or grading operations begin.
  - (2) Heavy equipment, vehicular traffic, or stockpiles of any construction materials including topsoil shall not be permitted within the buffer area.
  - (3) Fires associated with land clearing and construction activities shall not be permitted within 125 feet of the buffer area.
- (e) Planted buffers are intended to become forested once mature, and shall use species as approved by the *Fluvanna County Plant List*. Plantings should generally be in irregular lines and planted at appropriate distances apart depending on species selection with consideration of the potential mature spread of the tree crowns (generally no more than 10-20 feet on center as approved by the County). Generally no more than 70% of the trees required to be planted on-site shall be of one genus. In addition, when more than 30 trees are required on a site, no more than 35% of the deciduous trees nor 35% of the evergreen trees shall be of a single species. All buffers shall generally have, at a minimum, 65 feet of vegetation or three rows of plantings, whichever is larger.
- (f) The applicant shall post a financial security (i.e., a letter of credit, surety bond, cash escrow, etc.) for the required landscaping. The County will retain 25 percent of that amount for three (3) years in order to ensure proper maintenance of the vegetative buffer.
- (g) Plantings in buffers shall be composed of plant species selected from the *Fluvanna County Plant List* depending on the type of buffer implemented by the applicant. The majority of new plantings in each buffer category shall generally meet the following standards:
  - (1) *Quality*: All plant materials shall be alive and in a healthy condition. Plant materials shall conform to the standards of the most recent edition of the "*American Standard for Nursery Stock*," published by the American Association of Nurserymen.

- (2) *Minimum size standards:*
- a. *Small deciduous trees:* Small deciduous trees shall be of a species having an average minimum mature crown spread of greater than 15 feet. At the time of planting, a minimum caliper of at least two (2) inches as measured six (6) inches above ground level shall be required. If a native species is selected from the *Fluvanna County Plant List*, the minimum caliper can be reduced to one and three-quarters inch. Multi-stem plants shall be a minimum of six (6) feet tall.
  - b. *Medium/Large deciduous trees:* Medium and large deciduous trees shall be of a species having an average minimum mature crown spread of greater than 30 feet. At the time of planting, a minimum caliper of at least two (2) inches as measured six (6) inches above ground level shall be required. If a native species is selected from the *Fluvanna County Plant List*, the minimum caliper can be reduced to one and three-quarters inch. Multi-stem plants shall be a minimum of eight (8) feet tall.
  - c. *Evergreen trees:* Evergreen trees shall be of a species that will reach a minimum height of 18 feet within 20 years. At the time of planting, a minimum height of eight (8) feet shall be required. If a native species is selected from the *Fluvanna County Plant List*, the minimum height can be reduced to six (6) feet.
- (3) *Planting:* All trees shall be installed, mulched, and supported in accordance with professionally accepted landscaping practices and procedures.
- (4) *Maintenance:* The owner or his/her agent shall be responsible for maintaining the planted trees for three (3) years from the date of final site plan approval, *or from the date of the final replacement of dead or dying trees.* All plant material shall be tended and maintained in a healthy growing condition. Maintenance includes, but is not limited to: watering in the first growing season, applying fertilizer and mulch yearly, and removing all support structures, cables and wires within six (6) months after the first growing season. Dying or dead trees shall be replaced during the next *available* planting season.
- (h) Preservation of existing trees and shrubs within required buffers shall be maximized to provide continuity and improved screening and to minimize new landscaping that needs watering. All trees located within the buffer shall be retained, unless removal is necessary to accommodate vehicular access and/or utilities that run generally perpendicular through the buffer, as approved by the Administrator. The removal or damage of existing trees in required buffers without written approval from the Administrator shall result in two (2) trees or shrubs being planted for each tree or shrub removed. Existing tree groups in the buffer that are too dense to support healthy forest

growth or that include diseased or dying trees may be evaluated by the Administrator and approved for thinning or removal.

**Sec. 22-4-6. Off-street parking.**

Off-street parking shall conform to Article 26 of this chapter.

**Sec. 22-4-7. Sign regulations.**

Sign regulations shall conform to Article 15 of this chapter.

**Sec. 22-4-8. Height regulations.**

Buildings and structures may be erected up to thirty-five (35) feet in height, except that:

- (a) The height limit for dwellings may be increased up to forty-five (45) feet provided one (1) foot or more per side yard is added for each additional foot of building height over thirty-five (35) feet.
- (b) A public or semi-public building such as a school, place of worship, or library may be erected to a height of sixty (60) feet from grade provided that required front, side, and rear yards shall each be increased one (1) foot for every foot in height over thirty-five (feet).
- (c) Spires, belfries, cupolas, monuments, water towers, chimneys, flues, flagpoles, television antennae and radio aerials may be erected to a height of sixty (60) feet from grade. Parapet walls may be up to four (4) feet above the height of the building on which the walls rest.
- (d) Buildings and structures used for agricultural purposes, including barns, silos, windmills and the like, may be erected to a height of ninety (90) feet from grade.
- (e) No accessory building which is within fifteen (15) feet of any property lot line shall be more than one (1) story high. All accessory buildings and structures, other than those permitted under subsection (c) above, shall be less than the main building or structure in height.

**Sec. 22-4-9. Compliance with zoning and subdivision regulations.**

Each development shall comply with the provisions of this Section, and to the extent that the provisions of this Section shall conflict with other provisions of this Chapter, the provisions of this Section shall control.

## **Article 4.5. Rural Preservation, General, District, RP-2**

### **Sec. 22-4.5-1. Statement of intent.**

The Rural Preservation, General, District (RP-2) is intended to accommodate very low density residential development, while preserving the county's rural character, in those areas of the County designated for rural residential in the Comprehensive Plan's Future Land Use Map. The regulations for this district are designed to protect the heritage of agricultural areas, by promoting permanent open space and requiring the thoughtful clustering of housing that is compatible with the rural environment. Development is limited to single-family dwellings, plus certain other uses, that serve the residents of the district. The creation of lots fronting on existing public roads is strongly discouraged. The use of development setbacks, shared access and roadside buffers are required to retain Fluvanna's rural character consistent with the agricultural history of the county.

### **Sec. 22-4.5-2. Use regulations.**

In the Rural Preservation, General, District (RP-2), the following uses, together with ordinary and necessary accessory uses, shall be permitted, and no others.

#### **Sec. 22-4.5-2.1. Uses permitted by right.**

The following uses shall be permitted by right:

##### *Agricultural Uses*

- Agriculture
- Conservation areas
- Equestrian facilities

##### *Civic Uses*

- Public parks and recreational areas
- Public uses

##### *Commercial Uses*

- Family daycare homes
- Home occupations

##### *Miscellaneous Uses*

- Accessory uses
- Cemeteries, non-commercial
- Greenhouses, non-commercial
- Kennels, private
- Marinas, private
- Shooting, private recreational
- Utilities, minor

*Residential Uses*

- Dwellings, accessory
- Group homes
- Rural cluster developments (major or minor subdivisions)
- Single-family detached dwellings

**Sec. 22-4.5-2.2. Uses permitted by special use permit only.**

The following uses shall be permitted by special use permit only:

*Civic Uses*

- Amusements, public
- Cultural services
- Educational facilities
- Public assembly
- Public recreation assembly
- Religious assembly

*Commercial Uses*

- Adult retirement communities
- Assisted living facilities
- Bed and breakfasts
- Boarding houses
- Small home industries
- Studios, fine arts

*Miscellaneous Uses*

- Aviation facilities
- Outdoor gatherings
- Telecommunication facilities
- Utilities, major

*Residential Uses*

- Farm tenant housing

**Sec. 22-4.5-3. Residential density; lot size; building lots; open space.**

It shall be the policy of the County to promote the preservation of open space and the rural character of the County, while at the same time accommodating growth and protecting the value of property. To implement such policy, development of property according to rural cluster principles shall be required in accordance with the provisions of this Section.

Maximum residential development, minimum lot size, building lot, and open space requirements shall be as follows:

(a) Residential density:

- (1) Maximum base density of 25 lots. Only one dwelling unit per parcel shall be permitted unless otherwise provided for herein.
- (2) Five (5) additional lots may be permitted in conjunction with a Transfer of Development Rights (TDR) program.

(b) Minimum lot size:

There is no minimum lot size, but any well or septic, including a 100 percent septic reserve field, shall be located on the parcel being individually served by those utilities.

(c) Building lots

- (1) Each building lot shall be so designed as to provide minimum setbacks and yards as follows:
  - (a) Minimum frontage required:
    - (1) Public roads, except as otherwise provided:
      - (a) U.S. Route 250, U.S. Route 15, VA Primary Routes 6, 53, and VA Secondary Route 616: 500 feet
      - (b) All other public roads: 300 feet
    - (2) Private roads: 200 feet
  - (b) Minimum lot width at minimum required setback shall be equal to the minimum required frontage.

- (c) Minimum setback required (as measured from edge of right of way):
  - (1) U.S. Route 250, U.S. Route 15, VA Primary Routes 6, 53, and VA Secondary Route 616: 200 feet
  - (2) All other public roads: 125 feet
  - (3) Private roads: 100 feet
- (d) Minimum side yard: 50 feet
- (e) Minimum rear yard: 75 feet
- (2) All building lots shall be designed with due consideration of the topography and soil suitability for the following purposes:
  - (a) Construction of residential improvements;
  - (b) Provision of utilities, including, where applicable, public or common sewer and/or water facilities;
  - (c) Provision of roads and other transportation facilities, including pedestrian trails and other facilities designed for non-motorized traffic, and including particularly provisions for connections to existing, planned or potential transportation facilities on adjacent properties;
  - (d) Protection of physical features having a recognized architectural, historic, scenic and/or economic value to the County; and
  - (e) Provision of open space of a size, shape and character to promote the uses designated for such open space and to protect and promote the rural character of the area, and provide for contiguous greenways and wildlife corridors.

(d) Open Space

- (1) 50 percent open space is required.
- (2) The open space shall be permanently restricted to prohibit further development unless otherwise provided for in this district.
- (3) The open space restriction may be made in the form of a covenant running with the land so restricted and in favor of each building lot in the rural cluster development, and in favor of the County. In the alternative, such restriction may be effected by the conveyance or dedication of such restricted land to the County, the Commonwealth or any other public body which is empowered to accept such conveyance or dedication. The substance of any such restriction, conveyance or dedication shall be

subject to the approval of the County to ensure that such restriction shall be permanent and effective, which approval shall be made at the time of final subdivision approval and shall not be unreasonably withheld. The form of each such restriction, conveyance or dedication shall be subject to the approval of the county attorney at the time of final subdivision approval. Nothing herein shall be deemed to require the acceptance of any conveyance or dedication or land by any public body except as may be approved by the governing body of such public body in its sole discretion.

- (4) The orientation and location of the open space shall be arranged such that it is to the maximum benefit to the residents of the development as well as to the adjacent property owners. The open space shall be used to buffer residential development from existing agricultural uses on adjacent land, and shall also provide a significant recreational benefit to the community. This determination shall be at the sole discretion of the Planning Director with an appeal to the Planning Commission if necessary.
- (5) Nothing contained herein shall be construed to prevent the by-right use or development of any open space parcel for one or more of the following:
  - a) Agriculture, horticulture, or silviculture.
  - b) Parks; playgrounds; preserves; conservation areas; hunting and boating clubs and small boat docks; all of which shall be maintained for the use of the residents of the rural cluster development or of the public.
  - c) Utilities: Poles, lines, transformers, pipes, meters and related or similar facilities; central water and sewerage facilities, including distribution and collection lines.
  - d) Cable communications distribution lines.
  - e) Public uses and structures.
  - f) Non-commercial cemeteries.
- (6) Individual wells or septic systems, including reserve fields, shall be located on each lot served, and shall not be permitted in the subdivision's open space.
- (7) The open space shall be owned by the subdivision's homeowner's association (HOA or POA).

**Sec. 22-4.5-4. Reserved.**

**Sec. 22-4.5-5. Screening.**

A vegetative buffer shall be required in the Rural Residential (RR) District in order to effectively screen the subdivision from existing primary and secondary roadways and associated rights-of-way. The purpose for this screening is to preserve the rural character of the county from the perspective of vehicles along these roadways. The screening is not intended to buffer the residents of the subdivision from noise or other impacts associated with adjacent roadways, nor are they intended to be the sole method of preserving the rural character of the county. The *Fluvanna County Tree Protection* ordinance (Article 24) shall be used for implementing new vegetative buffers. Any conflict between this section and Article 24 shall defer to the requirements set forth in this section.

- (a) Approval of subdivisions shall be contingent on the approval of the required vegetative buffer. Preservation of healthy existing trees and shrubs shall be maximized wherever practical and the clearing of existing vegetation is discouraged. The applicant may be required to supplement existing vegetation with additional plantings, in order to satisfy the standards of this section.
- (b) The applicant shall submit a tree survey, accurate photographs, or an equivalent method that identifies the composition, density, and health of the existing vegetation or submit a plan that serves the same purpose. The County shall determine the required vegetative buffer based on the general composition of vegetation and the topography. The Administrator reserves the right to require additional plantings or other measures that would ensure compliance with the standards and intent of this section. The applicant is encouraged to enhance the buffer with shrubs, as defined in the definitions section of this ordinance.
- (c) Subdivisions shall be screened from existing state roads beginning no closer than 15 feet from the assumed right-of-way. The applicant must implement a minimum 100-foot buffer from the edge of the assumed right-of-way with screening that generally consists of one of the following:
  - (1) An existing buffer with a mixture of mature deciduous and evergreen species.
  - (2) A newly planted buffer with a mixture of both deciduous and evergreen species.
  - (3) A berm that is at least three (3) feet in height and supplemented with a mixture of both deciduous and evergreen species.

- (d) Preservation of vegetation during clearing and grading operations shall include, but is not limited to, the following:
- (1) The buffer boundary shall be clearly marked in the field before any clearing or grading operations begin.
  - (2) Heavy equipment, vehicular traffic, or stockpiles of any construction materials including topsoil shall not be permitted within the buffer area.
  - (3) Fires associated with land clearing and construction activities shall not be permitted within 125 feet of the buffer area.
- (e) Planted buffers are intended to become forested once mature, and shall use species as approved by the *Fluvanna County Plant List*. Plantings should generally be in irregular lines and planted at appropriate distances apart depending on species selection with consideration of the potential mature spread of the tree crowns (generally no more than 10-20 feet on center as approved by the County). Generally no more than 70% of the trees required to be planted on-site shall be of one genus. In addition, when more than 30 trees are required on a site, no more than 35% of the deciduous trees nor 35% of the evergreen trees shall be of a single species. All buffers shall generally have, at a minimum, 65 feet of vegetation or three rows of plantings, whichever is larger.
- (f) The applicant shall post a financial security (i.e., a letter of credit, surety bond, cash escrow, etc.) for the required landscaping. The County will retain 25 percent of that amount for three (3) years in order to ensure proper maintenance of the vegetative buffer.
- (g) Plantings in buffers shall be composed of plant species selected from the *Fluvanna County Plant List* depending on the type of buffer implemented by the applicant. The majority of new plantings in each buffer category shall generally meet the following standards:
- (1) *Quality*: All plant materials shall be alive and in a healthy condition. Plant materials shall conform to the standards of the most recent edition of the "*American Standard for Nursery Stock*," published by the American Association of Nurserymen.
  - (2) *Minimum size standards*:
    - a. *Small deciduous trees*: Small deciduous trees shall be of a species having an average minimum mature crown spread of greater than 15 feet. At the time of planting, a minimum caliper of at least two (2) inches as measured six (6) inches above ground level shall be required. If a native species is selected from the *Fluvanna County Plant List*, the minimum caliper can be reduced to one and three-quarters inch. Multi-stem plants shall be a minimum of six (6) feet tall.

- b. *Medium/Large deciduous trees*: Medium and large deciduous trees shall be of a species having an average minimum mature crown spread of greater than 30 feet. At the time of planting, a minimum caliper of at least two (2) inches as measured six (6) inches above ground level shall be required. If a native species is selected from the *Fluvanna County Plant List*, the minimum caliper can be reduced to one and three-quarters inch. Multi-stem plants shall be a minimum of eight (8) feet tall.
  - c. *Evergreen trees*: Evergreen trees shall be of a species that will reach a minimum height of 18 feet within 20 years. At the time of planting, a minimum height of eight (8) feet shall be required. If a native species is selected from the *Fluvanna County Plant List*, the minimum height can be reduced to six (6) feet.
- (3) *Planting*: All trees shall be installed, mulched, and supported in accordance with professionally accepted landscaping practices and procedures.
- (4) *Maintenance*: The owner or his/her agent shall be responsible for maintaining the planted trees for three (3) years from the date of final site plan approval, *or from the date of the final replacement of dead or dying trees*. All plant material shall be tended and maintained in a healthy growing condition. Maintenance includes, but is not limited to: watering in the first growing season, applying fertilizer and mulch yearly, and removing all support structures, cables and wires within six (6) months after the first growing season. Dying or dead trees shall be replaced during the next *available* planting season.
- (h) Preservation of existing trees and shrubs within required buffers shall be maximized to provide continuity and improved screening and to minimize new landscaping that needs watering. All trees located within the buffer shall be retained, unless removal is necessary to accommodate vehicular access and/or utilities that run generally perpendicular through the buffer, as approved by the Administrator. The removal or damage of existing trees in required buffers without written approval from the Administrator shall result in two (2) trees or shrubs being planted for each tree or shrub removed. Existing tree groups in the buffer that are too dense to support healthy forest growth or that include diseased or dying trees may be evaluated by the Administrator and approved for thinning or removal.

**Sec. 22-4.5-6. Off-street parking.**

Off-street parking shall conform to Article 26 of this chapter.

**Sec. 22-4.5-7. Sign regulations.**

Sign regulations shall conform to Article 15 of this chapter.

**Sec. 22-4.5-8. Height regulations.**

Buildings and structures may be erected up to thirty-five (35) feet in height, except that:

- (a) The height limit for dwellings may be increased up to forty-five (45) feet provided one (1) foot or more per side yard is added for each additional foot of building height over thirty-five (35) feet.
- (b) A public or semi-public building such as a school, place of worship, or library may be erected to a height of sixty (60) feet from grade provided that required front, side, and rear yards shall each be increased one (1) foot for every foot in height over thirty-five (feet).
- (c) Spires, belfries, cupolas, monuments, water towers, chimneys, flues, flagpoles, television antennae and radio aerials may be erected to a height of sixty (60) feet from grade. Parapet walls may be up to four (4) feet above the height of the building on which the walls rest.
- (d) Buildings and structures used for agricultural purposes, including barns, silos, windmills and the like, may be erected to a height of ninety (90) feet from grade.
- (e) No accessory building which is within fifteen (15) feet of any property lot line shall be more than one (1) story high. All accessory buildings and structures, other than those permitted under subsection (c) above, shall be less than the main building or structure in height.

**Sec. 22-4.5-9. Compliance with zoning and subdivision regulations.**

Each development shall comply with the provisions of this Section, and to the extent that the provisions of this Section shall conflict with other provisions of this Chapter, the provisions of this Section shall control.

Use Types	Zoning District												
	A-1	RP-1	RP-2	R-1	R-2	R-3	R-4	B-1	B-C	I-1	I-2	MHP	PUD
<b>Agricultural</b>													
Agricultural enterprise	S	B											
Agricultural sales, wholesale	S												
Agriculture	B	B	B	B*	B*								
Conservation area	B	B	B			B	B						B
Equestrian facility	B	B	B	S*	S*	S	S						S
Farm sales	B			S*	S*								
Hunt club	B												
Hunting preserve	B												
Livestock feed lot, commercial	S												
Livestock sales yard, commercial	S												
<b>Residential</b>	<b>A-1</b>	<b>RP-1</b>	<b>RP-2</b>	<b>R-1</b>	<b>R-2</b>	<b>R-3</b>	<b>R-4</b>	<b>B-1</b>	<b>B-C</b>	<b>I-1</b>	<b>I-2</b>	<b>MHP</b>	<b>PUD</b>
Dormitory	S							S	S				S
Dwelling, accessory	B	B	B	B	B	B	B						B
Dwelling, multi-family					B	B	B						B
Dwelling, single-family attached					B	B	B						B
Dwelling, single-family detached	B	B	B	B	B	B	B						B
Dwelling, townhouse					B	B	B						B
Dwelling, two-family	B			B	B	B	B						B
Farm tenant housing	B	S	S										
Group home	B	B	B	B	B	B	B						B
Manufactured home	B											B	
Mobile home, as defined in Sec. 22-4-2.3	B												
Rural cluster development	B	B	B										
<b>Civic</b>	<b>A-1</b>	<b>RP-1</b>	<b>RP-2</b>	<b>R-1</b>	<b>R-2</b>	<b>R-3</b>	<b>R-4</b>	<b>B-1</b>	<b>B-C</b>	<b>I-1</b>	<b>I-2</b>	<b>MHP</b>	<b>PUD</b>
Amusement, public	S	S	S					B	B				B
Correctional facility	S												
Cultural services	S	S	S					B	B				B
Educational facility	S	S	S	S	S	S	S	S	S				S
Public assembly	S	S	S			S	S	S	S				S
Public park and recreational area	B	B	B	B	B	B	B						B
Public recreation assembly	S	S	S	S	S	S	S	B					B/S
Public use	B	B	B	B	B	B	B	B	B	B	B	B	B
Religious assembly	S	S	S	S	S	S	S	B	S				B/S
Sheltered care facility	S							B	S				B/S
<b>Commercial</b>	<b>A-1</b>	<b>RP-1</b>	<b>RP-2</b>	<b>R-1</b>	<b>R-2</b>	<b>R-3</b>	<b>R-4</b>	<b>B-1</b>	<b>B-C</b>	<b>I-1</b>	<b>I-2</b>	<b>MHP</b>	<b>PUD</b>
Adult retirement community	S	S	S	S	S	S	S						S
Amusement, commercial	S							S	S	S			S
Assisted living facility	S	S	S			S	S	B					S
Auction houses								B	S	S			B/S
Automobile repair service establishments	S							B	S	B			B/S
Automobile sales								B		B			B
Bakery						B		B	B				B
Bed and breakfast	S	S	S			S		B	B				B/S
Boarding house	S	S	S					B					B
Butcher shop	S					B		B	B				B
Camp	S												
Campground	S						S						S
Car wash	S					S		B	S	B			B/S
Cemetery, commercial	S							B					B
Communications service	S							B	S	B			B/S
Corporate office								B		B	B		B
Dance hall	S							S	S				S
Daycare center	S			S	S	S	S	B	B				B/S
Entertainment establishment, adult								S					S
Family daycare home	B	B	B	S	S	S	S						S
Financial institution						B		B	B	B			B
Flea Market	S							B		B			B
Funeral home	S							B	B				B
Gas Station	S					S		B	B	B			B/S
Greenhouse, commercial	S							B	B				B
Grocery store						S		B	B				B/S
Guidance services								B	S				B/S
Halfway house								S					S
Home occupation	B	B	B	B	B	B	B					B	B
Hospital						S		B					B/S
Hotel	S					S		B	S				B/S
Indoor entertainment								B					B
Indoor recreation facility								B					B
Kennel, commercial	S							S	S				S
Laundromat						S		S	S				S
Laundry								B	S	B			B/S

<b>Commercial (continued)</b>	<b>A-1</b>	<b>RP-1</b>	<b>RP-2</b>	<b>R-1</b>	<b>R-2</b>	<b>R-3</b>	<b>R-4</b>	<b>B-1</b>	<b>B-C</b>	<b>I-1</b>	<b>I-2</b>	<b>MHP</b>	<b>PUD</b>
Lodge	S					S	S	S	S				S
Manufactured home sales								S		S	S		S
Marina, commercial							S	B					B/S
Medical clinic	S					B	S	B	B	B	S		B/S
Nursing home						S		B					S
Office						B	S	B	B	B	S		B/S
Outdoor entertainment	S							S		S			S
Outdoor recreation facility	S					S	S	S		S			S
Parking facility								B	B	B			B
Personal improvement services						B		B	S				B/S
Personal service establishment						B		B	B				B
Pharmacy						B		B	B				B
Professional school								B	S	B			B/S
Recreational vehicle sales								B		B			B
Restaurant, fast food						S		B	B	S			B/S
Restaurant, general						B	S	B	B				B/S
Restaurant, small	S					B	S	B	B				B/S
Retail store, adult								S					S
Retail store, general						B		B	B	B			B
Retail store, large-scale								B		B			B
Retail store, neighborhood convenience	S					B	S	B	B	B			B/S
Retail store, specialty	S					B	S	B	B	B			B/S
Self-storage facility						S		B	S	B			B/S
Shooting range, indoor	S							B		B	S		B
Shooting range, outdoor	S									S	S		
Small home industry	S	S	S										
Studio, fine arts	S	S	S			B		B	B				B
Taxidermist	S					S		B	B				B/S
Transportation terminal								S		B	B		B/S
Vending cart								B	B	B			B
Veterinary office	S					S		B	S	B			B/S
<b>Industrial</b>	<b>A-1</b>	<b>RP-1</b>	<b>RP-2</b>	<b>R-1</b>	<b>R-2</b>	<b>R-3</b>	<b>R-4</b>	<b>B-1</b>	<b>B-C</b>	<b>I-1</b>	<b>I-2</b>	<b>MHP</b>	<b>PUD</b>
Contractor's storage yard								S		B	B		B/S
Lumberyard								S		B	B		B/S
Machine shop								S		B	B		B/S
Manufacturing, heavy											S		
Manufacturing, light										B	B		B
Manufacturing, medium										S	B		
Petroleum distribution facility											S		
Railroad facility	S							S		B	B		B/S
Research laboratory								S		B	B		B/S
Resource extraction	S										S		
Salvage and scrap yard											S		
Sanitary landfill										S	S		
Sawmill, permanent										S	B		
Sawmill, temporary	B									B	B		B
Slaughterhouse											S		
Solid waste collection facility	S									B	B		B
Solid waste material recovery facility										S	S		
Truck terminal										S	B		
Upholstery shop										B	B		B
Wholesale warehouse										B	B		B
<b>Miscellaneous</b>	<b>A-1</b>	<b>RP-1</b>	<b>RP-2</b>	<b>R-1</b>	<b>R-2</b>	<b>R-3</b>	<b>R-4</b>	<b>B-1</b>	<b>B-C</b>	<b>I-1</b>	<b>I-2</b>	<b>MHP</b>	<b>PUD</b>
Accessory use	B	B	B	B	B	B	B	B	B	B	B	B	B
Aviation facility	S	S	S							S	S		
Cemetery, non-commercial	B	B	B										
Cluster development	B			B	B		B						B
Greenhouse, non-commercial	B	B	B	B	B	B	B						B
Kennel, private	B	B	B	B	B	B	B						B
Marina, private	B	B	B			B	B						B
Outdoor gathering	S	S	S					S	S	S			S
Shooting, private recreational	B	B	B										
Telecommunication facility	S	S	S	S	S	S	S	S	S	S	S		S
Utility, major	S	S	S	S	S	S	S	S	S	S	B	S	S
Utility, minor	B	B	B	B	B	B	B	B	B	B	B	B	B
Woodstorage, temporary	B									B	B		B

Key: B = By-right; S = Special Use Permit

\*Only permitted in open space of cluster developments

## SUBDIVISIONS

### **Article 2. Definitions**

#### **Sec. 19-2-1. Rules of construction; definitions.**

*SHRUB: A woody plant producing multiple shoots or stems from the base height, with a total height of 15 feet or less. Also, when used to meet the landscaping criteria of the zoning ordinance, a perennial planting that, at the time of planting, has a minimum height of two feet measured from the ground elevation after planting.*

*SUBDIVISION, LARGE LOT: The division of land into 60 or more acre tracts, and not a family subdivision, that once divided, each new lot shall not be further subdivided unless rezoned for such use.*

~~MAJOR SUBDIVISION, MAJOR: The division of a parcel of land into six or more than seven (7) lots, and not a family subdivision. Parcels that have been previously subdivided shall be counted toward the maximum and not further divided beyond that limit. Subdivisions that propose to link between parcels that contain a total of more than seven lots shall be considered major subdivisions.~~

~~A subdivision shall be deemed to be a major subdivision if the parcel from which such subdivision is divided was, within the five years next preceding the application, divided into an aggregate of five or more lots or divided in such a way as to create a new public or central water or sewer system or one or more public streets.~~

~~MINOR SUBDIVISION, MINOR: Any division of a parcel of land creating seven (7) or fewer than six lots, and not a family subdivision.~~

~~SUBDIVISION: The division of any lot, parcel or tract of record into two or more lots, parcels or tracts, including residue, for the purpose of recordation, transfer of ownership, lease, or building development any one of which lots, parcels or tracts is less than 60 acres in area or has less than 1,500 feet of frontage on a highway maintained by the Virginia Department of Transportation. As the context requires, the term "subdivision" may mean the land divided, the process of division, or both.~~

## **Article 7. Subdivision Design Standards**

### **Sec. 19-7-2. Rural Cluster subdivisions.**

All subdividers shall strive to conserve the noteworthy features of the parcel to be subdivided and the rural landscape, in accordance with the Comprehensive Plan and the purpose of this chapter. To achieve these objectives, the subdivider shall follow the process set forth below in developing rural cluster subdivisions for the subdivision of a tract. All ~~major~~ subdivisions in the A-1 Agricultural General Zoning District Classification ~~shall~~ *may be developed as Rural Cluster subdivisions and subject to this section. All subdivisions in the RP-1 Rural Preservation, Limited and RP-2 Rural Preservation, General Zoning Districts shall be developed as Rural Cluster subdivisions and subject to this section.*

- (a) Determine the number of lots desired, not exceeding the number allowed to be subdivided from the tract under the ~~density~~ *development* provisions of Chapter 22;
- (b) Delineate areas of the tract to be conserved due to their noteworthy features and value to the continued rural character of the county, including, but not limited to, lands with high value for continued agricultural or forestry production, high scenic value including riparian corridors and wildlife habitat; high environmental sensitivity such as steep slopes, wetlands, floodplains; high recreational value and/or having noteworthy historical, natural, or cultural features;
- (c) Locate potential house sites on the area of the tract not delineated as conservation areas, with due consideration for topography, soil suitability for construction and septic system use, and efficient service by public or central water and/or sewerage systems, as applicable;
- (d) Align streets to serve house sites, with due consideration for topography and connections to existing, planned or potential streets in adjacent areas, and align pedestrian trails if planned; and
- (e) Delineate boundaries of individual residential lots and any residue, in accordance with the lot size, dimension, setback, and yard requirements of Chapter 22.

## **Article 2. Districts**

### **Sec. 22-2-1. Districts.**

For the purpose of this chapter, the unincorporated area of the county is hereby divided into the following districts:<sup>3</sup>

Agricultural, General, A-1  
*Rural Preservation District, RP*  
*Rural Residential District, RR*  
Residential, Limited, R-1  
Residential, General, R-2  
Residential, Planned Community, R-3  
Residential, Limited, R-4  
Business, General, B-1  
Business, Convenience, B-C  
Industrial, Limited, I-1  
Industrial, General, I-2  
Mobile Home Park, MHP.  
*Planned Unit Development District (PUD)*

<sup>3</sup> *Editor's note.* -- Prior to August 19, 1992, the Zoning Ordinance of Fluvanna County, Virginia, contained a district identified as "Conservation, C-1." The Conservation, C-1 district was repealed by ordinance adopted on that date.

## **~~Article 3. Reserved~~**

## **Article 22. Definitions**

### **Sec. 22-22-1. Rules of construction; definitions.**

*SHRUB: A woody plant producing multiple shoots or stems from the base height, with a total height of 15 feet or less. Also, when used to meet the landscaping criteria of the zoning ordinance, a perennial planting that, at the time of planting, has a minimum height of two feet measured from the ground elevation after planting.*

*SUBDIVISION: The division of any lot, parcel or tract of record into two or more lots, parcels or tracts, including residue, for the purpose of recordation, transfer of ownership, lease, or building development.*

*SUBDIVISION, LARGE LOT: The division of land into 60 or more acre tracts, and not a family subdivision, that once divided, each new lot shall not be further subdivided unless rezoned for such use.*

*SUBDIVISION, MAJOR: The division of a parcel of land into ~~six or~~ more than seven (7) lots, and not a family subdivision. *Parcels that have been previously subdivided shall be counted toward the maximum and not further divided beyond that limit. Subdivisions that propose to link between parcels that contain a total of more than seven lots shall be considered major subdivisions.**

~~A subdivision shall be deemed to be a major subdivision if the parcel from which such subdivision is divided was, within the five years next preceding the application, divided into an aggregate of five or more lots or divided in such a way as to create a new public or central water or sewer system or one or more public streets.~~

*SUBDIVISION, MINOR: Any division of a parcel of land creating seven (7) or fewer ~~than six~~ lots, and not a family subdivision.*

**Comparison of Existing and Proposed Rural Zoning Districts (Drafted May 2011) in Fluvanna County**

Based on recommendations from the Rural Zoning Task Force, the Planning Commission, with the assistance of the Planning Department, prepared new rural zoning regulations. The proposed regulations were drafted in May 2011. The proposed regulations:

- Modified the existing A-1 (Agricultural, General) zoning district
- Created a new RP-1 (Rural Preservation, Limited) zoning district; and
- Created a new RP-2 (Rural Residential, General) zoning district.

A comparison of the existing A-1 (Agricultural, General) and proposed rural zoning districts is below.

Zoning District	Minimum Lot Size	Permitted Density	Clustering Required?	Front Setbacks	Side Setbacks	Rear Setbacks	Frontage Requirements
A-1 (Agricultural, General) Existing	Conventional Sub.: 2 acres Rural Clusters: No min.	1 dwelling unit per 2 acres	Minor Subdivisions: No Major Subdivisions: Yes  75% Open Space Required	Primary Roads: 200' Other Public Roads: 125' Private Roads: 100'  (Rural Clusters: 25')	50'  Rural Clusters: 10'	75'  Rural Clusters: 25'	Primary Roads: 500' Other Public Roads: 300' Private Roads: 200'  (Rural Clusters: 60')
A-1 (Agricultural, General) Proposed	Conventional Sub.: 5 acres (Primary Roads) 2 acres (Other Public Roads) 10 acres (Private Roads)  Rural Clusters: No min. with well/septic on-site 1/2 acre with central utilities	Max. 7 lots per parent tract	Minor Subdivisions: No Major Subdivisions: Not Permitted*  75% Open Space Required with Central Utilities  50% Open Space Required with Individual Well/Septic	Primary Roads: 200' Other Public Roads: 125' Private Roads: 100'	50'  Rural Clusters: 10'	75'  Rural Clusters: 25'	Primary Roads: 500' Other Public Roads: 300' Private Roads: 200'  (Rural Clusters: 60')
RP-1 (Rural Preservation, Limited)	5 acres	Max. 15 lots per subdivision	Minor Subdivisions: Yes Major Subdivisions: Yes  50% Open Space Required	Primary Roads: 200' Other Public Roads: 125' Private Roads: 100'	50'	75'	Primary Roads: 500' Other Public Roads: 300' Private Roads: 200'
RP-2 (Rural Residential, General)	No min., provided that well or septic, including a 100% septic reserve field, is located on each development lot	Max. 25 lots per subdivision  Up to 5 additional lots with use of TDR program	Minor Subdivisions: Yes Major Subdivisions: Yes  50% Open Space Required	Primary Roads: 200' Other Public Roads: 125' Private Roads: 100'	50'	75'	Primary Roads: 500' Other Public Roads: 300' Private Roads: 200'

\*The definition of “major subdivision” would be changed from (A) any division of a parcel into six (6) or more lots to (B) any division of land into more than seven (7) lots.



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### **RURAL ZONING AND THE 2009 COMPREHENSIVE PLAN**

October 2012

Creating appropriate zoning and subdivision regulations for rural areas is discussed throughout the 2009 Comprehensive Plan, emphasizing the importance of the county's rural character on local quality-of-life.

#### **Comprehensive Plan: Rural Areas Overview**

There are two (2) land use classifications for rural areas within the 2009 Comprehensive Plan:

- Rural Residential
- Rural Preservation

*Rural residential* areas surround the community planning areas and are intended to accommodate single-family residential development at a density of up to one unit per two acres within rural clusters. Development within these areas should be designed to preserve as much open space as possible. Open space should be strategically located to preserve the viewsheds of local roadways and to accommodate traditional rural uses. Limited mixed-use development may occur at a small scale (p. 60 – 61).

*Rural preservation* areas are intended to be the least-developed areas of the county. Working farms and forestry operations are the predominant land use, with residential densities of less than one unit per five acres. Large subdivisions should be discouraged within the rural residential and rural preservation zoning districts (p. 61).

According to the Comprehensive Plan, new development should be dispersed as follows (p. 54):

- 70 percent in the community planning areas;
- 20 percent in the rural residential areas; and
- 10 percent in the rural preservation areas.

The desired distribution of development has not yet been realized, with about 70 percent of the subdivisions approved between 2000 and 2006 being located within rural areas (p. 58).

#### **Comprehensive Plan: Goals**

Modifying the rural zoning regulations may be consistent with the following goals of the 2009 Comprehensive Plan:

- Develop land-use policies and regulations that will help preserve and enhance the county's natural environment (*Natural Environment: Goal 1*).
- Protect environmental resources (*Natural Environment: Goal 2*).

- Effectively implement the Comprehensive Plan land-use strategies and the Future Land Use Map (*Land Use*: Goal 1).
- Enable well-planned, coordinated, and sustainable development to occur throughout the county (*Land Use*: Goal 2).
- Develop a transfer of development rights (TDR) or purchase of development rights (PDR) program (*Land Use*: Goal 4).
- Actively preserve and promote open space (*Land Use*: Goal 5).
- Preserve and enhance Fluvanna’s unique identity and rural character (*Community Design*: Goal 1).
- Protect the county’s natural and historic resources and critical wildlife habitats by the effective utilization of green infrastructure in all development projects (*Infrastructure*: Goal 1).
- Regulate private utilities, whether centralized or decentralized (*Infrastructure*: Goal 4).
- Protect rural areas through economic development (*Economic Development*: Goal 3).
- Provide a variety of well-planned housing choices (*Housing*: Goal 2).

### **Comprehensive Plan: Implementation Strategies**

Modifying the rural zoning regulations may help implement the following strategies described within the 2009 Comprehensive Plan;

- Empower the zoning administrator to ensure that the subdivision of land does not adversely affect adjacent open-space features, and require connections to open spaces within and outside the subdivision as appropriate (*Natural Environment*: Goal 1, Strategy 4).
- Protect farm and forest landowners from conflicting adjacent land uses with utilization of buffers, screening, and contiguous tracts of open space (*Natural Environment*: Goal 1, Strategy 5).
- Review zoning and subdivision regulations to maximize environmental benefits through best management practices such as low impact development, dark-sky lighting, quality and quantity stormwater controls, adequate buffering/screening, native landscaping, pervious surfaces, and walkability (*Natural Environment*: Goal 1, Strategy 6).
- Evaluate the implementation of a transfer of development rights (TDR) or purchase of development rights (PDR) program, or both, to effectively (and voluntarily) reduce development rights in the rural residential and rural preservation areas, and increase density in the community planning areas (*Natural Environment*: Goal 1, Strategy 9).
- Improve cluster development regulations to better preserve open space and natural resources, protect rural viewsheds, and buffer existing agricultural uses from development in the agricultural zoning district (*Natural Environment*: Goal 1, Strategy 11).

- Amend the subdivision ordinance to require new subdivisions to cluster open space with adjacent properties, and to minimize the fragmentation of open space within rural clusters (*Natural Environment*: Goal 1, Strategy 12).
- Promote development projects that minimize environmental impact through the effective utilization of green infrastructure, low-impact development practices, and other innovative sustainable development practices (*Natural Environment*: Goal 2, Strategy 1).
- Direct infill onto vacant parcels in the developed portions of the county's community planning areas, where suitable, to further reduce transportation energy requirements associated with sprawl development (*Natural Environment*: Goal 5, Strategy 2).
- Develop new zoning and subdivision regulations that will further the desired growth patterns and uses, as well as to help protect the rural preservation area (e.g., subdivisions with density of less than one unit per five acres, new zoning districts for rural areas to encourage a variety of housing types and rural mixture of uses, and so on) (*Land Use*: Goal 1, Strategy 5).
- Discourage centralized water and sewer utilities in the rural preservation area (*Land Use*: Goal 2, Strategy 8).
- Enact TDR or PDR regulations to provide incentives for property owners to preserve land in identified areas (e.g., the rural preservation and rural residential areas) by providing enough development right value to make them marketable (e.g., one dwelling unit/two acres depending on soils, etc.) (*Land Use*: Goal 4, Strategy 1).
- Require open-space preservation in major cluster developments, as well as other major subdivisions, including commercial and industrial projects (*Land Use*: Goal 5, Strategy 1).
- Evaluate the use of open space for utilities (e.g., septic fields, reserve areas, wells, and so on) (*Land Use*: Goal 5, Strategy 4).
- Evaluate the long-term viability of a development's dedicated open space as a private, individual lot that is restricted from further divisions (*Land Use*: Goal 5, Strategy 5).
- Require the location of a subdivision's open space to further the rural character of the area in terms of viewshed from the public roadway and existing surrounding development, and require open space to be designed for maximum connectivity to other open spaces of either existing or potential future adjacent developments, and to act as buffers to existing agricultural activities (*Land Use*: Strategy 5, Goal 6).
- Continue to enhance the cluster development provisions in the subdivision and zoning ordinances, particularly in regard to density and open-space utilization, among other considerations (*Community Design*: Goal 1, Strategy 1).
- Examine the differences and impacts of large-lot developments versus rural cluster developments, and amend the zoning and subdivision ordinances as appropriate (*Community Design*: Goal 1, Strategy 2).

- Discourage large subdivisions in the rural preservation area and control the density and size of major subdivisions in the rural residential areas (*Community Design: Goal 1, Strategy 3*).
- Require vegetated buffer zones between existing agricultural land and new developments to protect the interests of both the active farmer and future residents (*Community Design: Goal 1, Strategy 4*).
- Protect the forest, wildlife habitats, and the rural community landscape as part of a development's green infrastructure (*Community Design: Goal 1, Strategy 8*).
- Work with developers to minimize the impact of development by preserving wildlife corridors, wetlands, and other sensitive areas through the creation of greenways, trails, parks, and other open spaces (*Infrastructure: Goal 1, Strategy 1*).
- Require that open-space dedications that are to be privately maintained are adequately protected and may not be further developed as part of the associated project, or without further public or legal discussion and formal action (*Infrastructure: Goal 1, Strategy 3*).
- Discourage the use of central sewer in the rural preservation areas and carefully limit its use in the rural residential areas to primarily cluster developments (*Infrastructure: Goal 4, Strategy 5*).
- Work with large landowners to utilize their land for larger-scale agricultural, horticultural, or forestal activities that will economically benefit the county, landowner, and business, and help preserve the rural character of the county (*Economic Development: Goal 3, Strategy 1*).
- Amend the zoning and subdivision ordinances to allow for varying lot sizes from small clustered lots to large parcels suitable for continued farming and rural living (*Housing: Goal 2, Strategy 1*).



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### DEVELOPMENT IN FLUVANNA COUNTY’S RURAL AREAS

October 2012

In the past few decades, Fluvanna County has experienced significant population growth. While much of this growth has occurred within and surrounding Lake Monticello, new homes have also been constructed in more rural areas. In response to concerns that new development threatens Fluvanna County’s character and quality-of-life, some citizens and advocacy groups have urged local officials to adopt new policies that better manage growth in rural areas.

#### Population Growth

Like many rural localities in Virginia, Fluvanna County experienced little population growth between 1940 and 1970. During that period, the population only increased by about seven percent (7%), from 7,088 to 7,621. In 1970, Fluvanna County had 26.4% fewer residents than it did in 1860 (7,621 versus 10,353). Beginning with the development of Lake Monticello in the late 1960s, Fluvanna County experienced a population boom. In the 1990s and 2000s, Fluvanna County was one of the fastest-growing localities in Virginia (Table 1).

**Table 1: Fluvanna County Population (1940 – 2010)**

Census	Population	% Change from Previous Census
1940	7,088	-5.1
1950	7,121	0.5
1960	7,227	1.5
1970	7,621	5.5
1980	10,244	34.4
1990	12,429	21.3
2000	20,047	61.3
2010	25,691	28.2

#### Development Trends

According to the Comprehensive Plan, new development should be dispersed as follows (p. 54):

- 70 percent in the community planning areas;
- 20 percent in the rural residential areas; and
- 10 percent in the rural preservation areas.

In reality, approximately 35% of new construction over the past ten years has occurred in the rural residential and rural preservation areas (Table 2). For more detailed information, see the attached chart (Attachment A).

**Table 2: Building Permits for New Homes by Planning Area**

<b>Planning Area</b>	<b>Number of Building Permits for New Homes (2001 – 2011)*</b>	<b>% of Building Permits (2001 – 2011)*</b>
Community Planning Areas	1,462	55.5
Primary Residential Areas	263	10.0
Rural Residential Areas	444	16.9
Rural Preservation Areas	464	17.6
Total Countywide	2,633	100.0
<p><i>*Primary residential areas were designated within the 2000 Comprehensive Plan, but were removed from the 2009 Comprehensive Plan. The Route 250 Primary Residential area was largely reclassified as Rural Residential; the Lake Monticello Primary Residential area was incorporated into the Rivanna CPA and the Rural Residential area; and the Route 6 Primary Residential area was incorporated into the Rural Residential and Rural Preservation areas.</i></p>		

A total of 2,633 new homes were constructed in Fluvanna County from 2001 to 2011. This represents a 32.8% increase from the 2000 Census, when 8,018 homes were counted.

**Vacant Parcels**

As of March 2012, there were 6,181 vacant parcels in Fluvanna County, totaling 104,377.15 acres. The average lot size was 16.89 acres.

With an average household size of 2.58 (2010 Census), 6,181 new homes could cause a population increase of 15,946 (62.1% increase from 2010 population), for a total population of 41,637.

**Unrecorded Subdivisions**

Several subdivisions approved since 2004 have not been recorded. The Planning Department has been trying to determine which subdivisions have received final approval, but have not been officially recorded. Based on preliminary research, 36 lots approved from 2004 through 2011 have not been recorded (Table 3).

**Table 3: Unrecorded Subdivisions with Final Approval**

<b>Year Approved</b>	<b>Case Number(s)</b>	<b>Total Combined Number of Lots</b>
2004	-	-
2005	-	-
2006	SUB 06-11	2
2007	SUB 05-83A, SUB 06-98, SUB 07-15	26
2008	-	-
2009	SUB 08-27, SUB 08-59	6
2010	-	-
2011	SUB 11-23	2
<b>Total Number of Unrecorded Lots with Final Approval</b>		<b>36</b>

Major subdivisions (subdivisions containing six lots or more) must have a sketch plan approved by the Planning Commission. Based on preliminary research (as of October 2012), 27 major subdivisions submitted since 2004 have had a sketch plan and/or preliminary plan approved, but have not received final approval. Combined, these 27 major subdivisions contain **1,332 lots** (see Attachment B). Most of these subdivisions (24 out of 27) are rural clusters.

### **Development Potential**

As of March 2012, there were 5,000 parcels with 5 acres or more (178,349.90 acres)

178,349.9 acres

- 5% (8,917.5 acres) for roads and other infrastructure
- 20% (35,670.0 acres) unbuildable due to environmental conditions (wetlands, steep slopes, etc.)
- 12,488.6 acres in conservation easements

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121,273.8 developable acres within parcels with 5 acres or more

121,273.8 developable acres x 0.5 dwellings per acre = 60,636.9 dwellings

Approximately **60,636 lots** could be created on existing parcels with 5 acres or more, if the assumptions above are accurate.

With an average household size of 2.58 (2010 Census), 60,636 new homes could cause a population increase of 156,440 (608.93 % increase from 2010 population), for a total population of 182,131.

### **Attachments**

Att. A: Building Permits for New Construction by Planning Area (2001 – 2011)

Att. B: Major Subdivisions with Sketch Plan or Preliminary Plan Approval (2004 – 2011)

### Building Permits for New Construction by Planning Area (2001 – 2011)

Planning Area	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2001 - 2011
<b>Community Planning Areas</b>												
Columbia Community Planning Area	1	0	1	1	0	0	0	0	1	0	0	4
Fork Union Community Planning Area	2	4	2	0	2	2	0	3	1	0	0	16
Rivanna Community Planning Area	288	285	221	161	87	49	64	56	45	60	24	1340
Palmyra Community Planning Area	1	7	1	3	2	4	0	2	0	0	0	20
Zion Crossroads Community Planning Area	11	7	5	16	11	4	8	3	4	7	6	82
Community Planning Area Subtotal	303	303	230	181	102	59	72	64	51	67	30	<b>1462</b>
<b>Primary Residential Areas*</b>												
Lake Monticello Primary Residential	7	21	13	16	36	15	11	3	N/A	N/A	N/A	122
Route 250 Primary Residential	14	13	17	11	11	13	9	5	N/A	N/A	N/A	93
Route 6 Primary Residential	9	9	5	10	3	8	0	4	N/A	N/A	N/A	48
Primary Residential Subtotal	30	43	35	37	50	36	20	12	N/A	N/A	N/A	<b>263</b>
<b>Rural Areas</b>												
Rural Residential	53	39	42	51	55	59	38	26	34	22	25	444
Rural Preservation	57	46	52	67	56	64	47	16	27	20	12	464
Rural Ares Total	110	85	94	118	111	123	85	42	61	42	37	<b>908</b>
<b>Countywide Total</b>	<b>443</b>	<b>431</b>	<b>359</b>	<b>336</b>	<b>263</b>	<b>218</b>	<b>177</b>	<b>118</b>	<b>112</b>	<b>109</b>	<b>67</b>	<b>2633</b>

### Distribution of New Homes by Planning Area (2001 – 2011)

Planning Area	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2001 - 2011
Community Planning Areas	68.4%	70.3%	64.1%	53.9%	38.8%	27.1%	40.7%	54.2%	45.5%	61.5%	44.8%	55.5%
Primary Residential Areas	6.8%	10.0%	9.7%	11.0%	19.0%	16.5%	11.3%	10.2%	N/A*	N/A*	N/A*	10.0%
Rural Residential Areas	12.0%	9.0%	11.7%	15.2%	20.9%	27.1%	21.5%	22.0%	30.4%	20.2%	37.3%	16.9%
Rural Preservation Areas	12.9%	10.7%	14.5%	19.9%	21.3%	29.4%	26.6%	13.6%	24.1%	18.3%	17.9%	17.6%

\*Primary residential areas were designated within the 2000 Comprehensive Plan, but were removed from the 2009 Comprehensive Plan. The Route 250 Primary Residential area was largely reclassified as Rural Residential; the Lake Monticello Primary Residential area was incorporated into the Rivanna CPA and the Rural Residential area; and the Route 6 Primary Residential area was incorporated into the Rural Residential and Rural Preservation areas.

## Major Subdivisions with Sketch Plan or Preliminary Plan Approval (2004 – 2011)\*

Case Number	Subdivision Name	Number of Lots	Land Use Designation (When Reviewed**)	Rural Cluster
SUB 08-47	Piney Mountain	51	Rural Preservation	Yes
SUB 07-60	Brandywine Run	15	Primary Residential: Route 250	Yes
SUB 07-056	Rivanna Village	31	Rivanna CPA	No
SUB 07-55	Sager Property	8	Rural Preservation	Yes
SUB 07-42	Lone Pine	8	Rural Preservation	Yes
SUB 07-34	Central Meadows: Phase IV	24	Rural Preservation	Yes
SUB 07-13	Howell Property	16	Primary Residential: Route 250	Yes
SUB 07-12	Central Meadows: Phase III	84	Rural Preservation	Yes
SUB 06-99	Central Meadows: Phase II	161	Rural Preservation	Yes
SUB 06-85	Booker Property	24	Rural Preservation	Yes
SUB 06-81	Rivanna Crossing	40	Rural Residential	Yes
SUB 06-59	Central Meadows: Phase I	161	Rural Preservation	Yes
SUB 06-35	Wheeler Property	7	Rural Residential	Yes
SUB 06-34	Schiff Property	10	Rivanna CPA	No
SUB 06-20	Village Oaks	127	Rivanna CPA	No
SUB 06-08	Rivanna Prospect	51	Rural Preservation	Yes
SUB 06-06	Forest Manor	9	Rural Residential	Yes
SUB 06-01	Libbea Farms	26	Rural Residential	Yes
SUB 05-107	Hardware Landing	44	Rural Preservation	Yes
SUB 05-86	Antioch Acres	39	Primary Residential: Route 6	Yes
SUB 05-83C	Meadowbrook: Phase 4	N/A	Rural Preservation	Yes
SUB 05-83B	Meadowbrook: Phase 4	13	Rural Preservation	Yes
SUB 05-58	Southern Pines	253	Rural Preservation	Yes
SUB 05-18	Little Byrd Creek	62	Rural Preservation	Yes
SUB 05-033	Kingsbridge	28	Rural Preservation	Yes
SUB 05-41	Wildwood Farms (Resubdivision)	20	Rural Preservation	Yes
SUB 05-43	Carter Property	20	Rural Residential	Yes
<b>Total Number of Lots</b>		<b>1332</b>		

\* Data gathered in October 2011.

\*\* Note: In the 2009 Comprehensive Plan, the Primary Residential areas were eliminated and incorporated into other land use designations. Since many of these subdivisions were approved before the adoption of the 2009 Comprehensive Plan, their current land use designation may be different than the land use designation under the 2000 Comprehensive Plan.



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### DEFINING RURAL CHARACTER

October 2012

Large portions of Fluvanna County are considered *rural* by most residents. The area’s unique rural character is considered one of its defining characteristics. The term *rural* appears in the comprehensive plan approximately 325 times, while the phrase *rural character* is used 43 times. Although it is considered an important part of the community’s identity, the characteristics that make an area *rural* are not clearly defined within the comprehensive plan or land use regulations. In the past year, citizens have questioned what the phrase *rural character* means.

A definition of *rural character* may include the following elements:

- Farms and other agricultural lands
- Forested land
- Undeveloped open space
- Natural waterways and riparian areas
- Historic structures (farmhouses, churches, barns, general stores, etc.)
- Small villages and crossroads communities
- Few homes, businesses, or industrial buildings outside of small villages
- Close-knit, friendly communities
- Narrow roadways
- Abundant wildlife
- Little air, water, light and/or noise pollution
- Little traffic

Defining “rural character” will help the Planning Commission develop new zoning and subdivision regulations for Fluvanna County’s rural areas.

On the following pages, there are four pictures taken throughout Fluvanna County. What features shown in the pictures contribute to the area’s rural appearance?



**Figure 1:** Farmhouse on State Route 663 (Georges Mill Road) northeast of Palmyra



**Figure 2:** Field along State Route 619 (Ruritan Lake Road) west of Cunningham



**Figure 3:** Farmhouse off of State Route 629 (Deep Creek Road) northwest of Kents Store



**Figure 4:** Rivanna River at Carysbrook

**COMPARISON OF RURAL SUBDIVISION REGULATIONS**  
**Major Subdivisions & Utilities**  
**October 2012**

Throughout Virginia, every locality regulates rural subdivisions differently. Some localities severely restrict or prohibit major subdivisions in certain rural zoning districts, to prevent large-scale development outside of designated growth areas. Others allow major subdivisions in rural areas, but they may require that each lot connect to a central or public water and/or sewage system; not only does this requirement help protect local water quality (both on the surface and in aquifers), but it makes rural development more expensive, reducing its cost-effectiveness. The following pages summarize how several Virginia localities regulate major subdivisions within rural zoning districts and whether or not central or public utilities are required. The localities studied include:

Albemarle County	Cumberland County	Goochland County	James City County	Orange County
Buckingham County	Fauquier County	Greene County	Louisa County	
Culpeper County	Gloucester County	Hanover County	New Kent County	

**FLUVANNA COUNTY: CURRENT REGULATIONS**

Rural Zoning Districts	Minimum Lot Size	Permitted Residential Density	Major Subdivisions Permitted	Definition of Major Subdivision	Central or Public Water/Sewer Required
A-1 (Agricultural, General)	2 acres (Clusters: no min. with 75% Open Space)	1 unit per 2 acres	Rural Clusters Only	Divisions that create 6 or more lots.	No

**ALBEMARLE COUNTY**

Rural Zoning Districts	Minimum Lot Size	Permitted Density	Major Subdivisions Permitted	Definition of Major Subdivision	Central or Public Water/Sewer Required
<p>Rural Areas (RA)</p>	<p>Without Development Rights: 21 acres</p> <p>With Development Rights: 2 acres, with up to 5 development rights permitted for each lot existing in its current state prior to December 1980</p> <p>Rural Preservation/Clusters: 2 acres, provided that acreage devoted to development lots does not exceed 6x the number of lots, preservation tract/open space must be at least</p>	<p>Without Development Rights: 1 lot per 21 acres</p> <p>With Development Rights: 1 lot per 2 acres, provided that the total acreage of all lots created with development rights may not exceed 31 acres</p>	<p>Creating more than 5 lots less than 21 acres in size requires a Special Use Permit (SUP)</p>	<p>Not Defined</p> <p>Rural subdivisions (2 or more lots at least 5 acres in size and with at least 250' on an existing public road) and family subdivisions undergo less stringent review than other types of subdivisions.</p>	<p>Public water/sewer required if within the jurisdictional area of the Albemarle County Service Authority</p> <p>Central water/sewer not required if the subdivision is located outside of the jurisdictional area of the Albemarle County Service Authority</p>

**BUCKINGHAM COUNTY**

Rural Zoning Districts	Minimum Lot Size	Permitted Residential Density	Major Subdivisions Permitted	Definition of Major Subdivision	Central or Public Water/Sewer Required
A-1 (Agricultural)	2 acres	1 unit per 2 acres	No	Any subdivision divided into 4 or more lots.	No
A-C (Agricultural, Comprehensive)	2 acres	1 unit per 2 acres	No	In the A-1/A-C zoning districts: A subdivider creating more than 3 lots that are 7 to 19.99 acres in size must rezone to RSA-1.	No
RSA-1 (Rural Small Farm)	7 acres	1 unit per 7 acres	Yes	A subdivider creating 10 or fewer lots that are 20 to 39.9 acres in size may be exempt from rezoning, if each lot has deed restrictions barring subsequent subdivision. Divisions including 11 or more lots and/or that do not include deed restrictions barring further subdivision must rezone to RSA-1.  A subdivider creating 15 or fewer lots that are 40 or more acres in size may be exempt from rezoning, if each lot has deed restrictions barring subsequent subdivision. Divisions including 16 or more lots and/or that do not include deed restrictions barring further subdivision must rezone to RSA-1.	No

**CULPEPER COUNTY**

Rural Zoning Districts	Minimum Lot Size	Permitted Residential Density	Major Subdivisions Permitted	Definition of Major Subdivision	Central or Public Water/Sewer Required
A-1 (Agricultural)	5 acres	1 unit per 5 acres	No	Major subdivisions are all subdivisions except for the following “minor divisions”:  <i>Five-Year Divisions:</i> The creation of three or fewer lots, including the remnant, on an existing street within a five-year period.  <i>Ten-Acre Divisions:</i> In the A-1/RA zoning districts only, up to three (3) lots created within a 5 year period with a minimum lot size of 10 acres (except for family subdivisions)	No
RA (Rural Area)	3 acres	1 unit per 3 acres	No		No
RR (Rural Residential)	3 acres (Cluster: 1 acre—40% Open Space)	1 unit per 3 acres	Yes		No

**CUMBERLAND COUNTY**

Rural Zoning Districts	Minimum Lot Size	Permitted Residential Density	Major Subdivisions Permitted	Definition of Major Subdivision	Central or Public Water/Sewer Required
A-2 (Agricultural, General)	2 acres (Cluster: None—75% Open Space)	1 unit per 2 acres	Major Clusters Only	Any subdivision divided into 6 or more lots, or which have a new public/central water or sewer system, or which contain one or more public roads.  All major residential subdivisions must be developed as cluster subdivisions.	Required if adjacent to existing public water/sewer
A-20 (Agricultural, Rural Large Lot)	20 acres (1 lot permitted to be 10 acres per subdivision; no other lots may be further)	1 unit per 10 acres	Yes		Required if adjacent to existing public water/sewer
R-3 (Residential, Rural)	5 acres (Cluster: None—75% Open Space)	1 unit per 5 acres	Major Clusters Only		Required if adjacent to existing public water/sewer

**FAUQUIER COUNTY**

Rural Zoning Districts	Minimum Lot Size	Permitted Residential Density	Major Subdivisions Permitted	Definition of Major Subdivision	Central or Public Water/Sewer Required
RC (Conservation)	2 acres (50% Open Space)  (Cluster: 30,000 ft <sup>2</sup> —85% Open Space)	Sliding Scale  Parcel Size: # of Lots Permitted  0-9.99 acres: 1 Lot 10—19.0 acres: 2 Lots 20-34.99 acres: 3 Lots	Yes	Divisions creating 3 or more lots.	Central Sewer: Not Required Central Water: Required for lots 0.5—1 acre in size Public Water/Sewer: Required if located within a service area
RA (Agriculture)	2 acres (25% Open Space)  (Cluster: 30,000 ft <sup>2</sup> —85% Open Space)	35-54.99 acres: 4 Lots 55-79.9 acres: 5 Lots 8-104.99 acres: 6 Lots 105-129.99 acres: 7 Lots 130-154.99 acres: 8 Lots 155-179.99 acres: 9 Lots 180-204.99 acres: 10 Lots 205+ acres: 11 Lots (plus 1 additional lot per 50 acres)	Yes		Central Sewer: Not Required Central Water: Required for lots 0.5—1 acre in size Public Water/Sewer: Required if located within a service area
RR-2 (Rural Residential)	2 acres (35% Open Space)  (Cluster: 30,000 ft <sup>2</sup> —50% Open Space)	1 unit per 2 acres	Yes		Central Sewer: Not Required Central Water: Required for lots 0.5—1 acre in size Public Water/Sewer: Required if located within a service area

**GLOUCESTER COUNTY**

Rural Zoning Districts	Minimum Lot Size	Permitted Residential Density	Major Subdivisions Permitted	Definition of Major Subdivision	Central or Public Water/Sewer Required
C-1 (Conservation)	Residential Uses Not Permitted	Residential Uses Not Permitted	N/A	Major subdivisions are divisions that create 4 or more lots.  Major subdivisions are only permitted in residential zoning districts.	N/A
C-2 (Bayside Conservation)	5 acres (Clusters: min. 1 acre—max. 2 acres)	1 per 5 acres (Clusters: 1 per 4 acres)	Yes		No, except that every cluster subdivision creating lots of less than 2 acres must be served by public water and public sewer.
RC-1 (Rural Countryside)	5 acres (Clusters: min. 1 acre—max. 2 acres)	1 per 5 acres (Clusters: 1 per 4 acres)	No		No, except that every cluster subdivision creating lots of less than 2 acres must be served by public water and public sewer.
RC-2 (Rural Conservation)	5 acres (Clusters: min. 1 acre—max. 2 acres)	1 per 5 acres (Clusters: 1 per 4 acres)	No		No, except that every cluster subdivision creating lots of less than 2 acres must be served by public water and public sewer.

**GOOCHLAND COUNTY**

Rural Zoning Districts	Minimum Lot Size	Permitted Residential Density	Major Subdivisions Permitted	Definition of Major Subdivision	Central or Public Water/Sewer Required
A-1 (Agriculture, General)	Existing Public Roads: 3 acres Internal Public or Private Roads: 2 acres	Existing Public Roads: 1 unit per 3 acres Internal Public or Private Roads: 1 unit per 2 acres	No	Divisions that create 5 or more lots.  Every subdivision or cluster subdivision creating lots of less than 30,000 square feet must have public or centralized water and public or centralized sewer. All lots in major subdivisions must have the septic tanks and drainfields located on the same lot as the principal dwelling,	No
A-2 (Agriculture, Limited)	Existing Public Roads: 3 acres Internal Public or Private Roads: 2 acres	Existing Public Roads: 1 unit per 3 acres Internal Public or Private Roads: 1 unit per 2 acres	No		No
F-C (Forestal Conservation—Open Space)	25 acres (Cluster: 3 acres—50% to 75% Open Space)	1 unit per 25 acres (75% Open Space—1 additional lot)	Yes		No
R-R (Rural Residential)	5 acres (25% Open Space if >6 Lots)	1 unit per 5 acres (25% Open Space if >6 Lots)	Yes		No
R-P (Rural Preservation)	2 acres (50% Open Space Required)	1 unit per 2 acres with 50% open space	Yes		No

**GREENE COUNTY**

Rural Zoning Districts	Minimum Lot Size	Permitted Residential Density	Major Subdivisions Permitted	Definition of Major Subdivision	Central or Public Water/Sewer Required
C-1 (Conservation)	8 acres	Sliding Scale Parcel Size: # of Lots Permitted  <16 acres: 0 Lots 16-39.99 acres: 1 Lot per 8 acres ≥40 acres: 5 Lots + 1 per 16 acres over 40 acres	Yes	Divisions that create 5 or more lots.	No
A-1 (Agricultural)	2 acres	Sliding Scale Parcel Size: # of Lots Permitted  <4 acres: 0 Lots 4—9.99 acres: 1 Lot per 2 acres ≥10 acres: 5 Lots + 1 per 5 acres over 10 acres	Yes		No

**HANOVER COUNTY**

Rural Zoning Districts	Minimum Lot Size	Permitted Residential Density	Major Subdivisions Permitted	Definition of Major Subdivision	Central or Public Water/Sewer Required
A-1 (Agricultural)	10 acres (Clusters: no min. —max. 2 acres with 80% Open Space)	1 unit per 10 acres	Yes	Divisions that create 5 or more lots.	No
RC (Rural Conservation)	None (70% Open Space Required)	1 unit per 6.25 acres	Yes All subdivisions must be clustered		No
AR-6 (Agricultural Residential)	Varies per Use: 5 acres for single-family dwellings	Sliding Scale Parcel Size: # of Lots Permitted 4—13.99 acres: 2 Lots 14—24.99 acres: 3 Lots ≥25 acres: 1 Lot per 6.25 acres	Yes		No

**JAMES CITY COUNTY**

Rural Zoning Districts	Minimum Lot Size	Permitted Residential Density	Major Subdivisions Permitted	Definition of Major Subdivision	Central or Public Water/Sewer Required
A-1 (Agricultural)	3 acres	1 unit per 3 acres	Yes	Divisions that create 6 or more lots.	<p>Must Connect to Public Water/ Sewer if available</p> <p>All major subdivisions must be served by a central water system, which must be dedicated to the James City Service Authority upon completion (may be waived by the service authority manager)</p> <p>Central sewer not required</p>
R-8 (Rural Residential)	3 acres	1 unit per 3 acres	Yes		<p>Must Connect to Public Water/ Sewer if available</p> <p>All major subdivisions must be served by a central water system, which must be dedicated to the James City Service Authority upon completion (may be waived by the service authority manager)</p> <p>Central sewer not required</p>

**LOUISA COUNTY**

Rural Zoning Districts	Minimum Lot Size	Permitted Residential Density	Major Subdivisions Permitted	Definition of Major Subdivision	Central or Public Water/Sewer Required
A-1 (Agricultural)	1.5 acres	1 unit per 1.5 acres	Yes	Divisions that create 8 or more lots	No, except for subdivisions located within the utility service area
A-2 (Agricultural)	1.5 acres	Maximum of 7 lots per parent parcel (3 additional lots permitted if 3 lots are dedicated to affordable housing)	No (Except for Affordable Housing Bonuses)		No, except for subdivisions located within the utility service area

**NEW KENT COUNTY**

Rural Zoning Districts	Minimum Lot Size	Permitted Residential Density	Major Subdivisions Permitted	Definition of Major Subdivision	Central or Public Water/Sewer Required
C-1 (Conservation)	Residential Uses Not Permitted	Residential Uses Not Permitted	N/A	Divisions that create 21 or more lots less than 15 acres in size accessed by a new street or the extension of an existing street.	N/A
A-1 (Agricultural)	1.5 acres (Clusters—No min. with 50% Open Space)	1 unit per 1.5 acres	Yes		Major subdivisions located within the utility service area must connect to public water and sewer.  Central water systems required for subdivisions with lots less than 5 acres; upon completion, the system must be transferred to the county or

**ORANGE COUNTY**

Rural Zoning Districts	Minimum Lot Size	Permitted Residential Density	Major Subdivisions Permitted	Definition of Major Subdivision	Central or Public Water/Sewer Required
<p style="text-align: center;">A Agricultural</p>	<p>2 acres (Cluster: No Min. Lot Size —90% open space, min. of 100 acres)</p> <p>1 lot may be created from a parent tract once</p>	<p>1 unit per 2 acres (Clusters: 1 cluster per 112 acres, at least 100 acres open space per cluster)</p>	<p>Rural Clusters by Special Use Permit</p>	<p>Divisions that create 8 or more lots served by one or more new streets or the extension of public water or sewer.</p>	<p style="text-align: center;">No</p>

**SUBDIVISIONS ONLY PERMITTED WITHIN RESIDENTIAL ZONING DISTRICTS**  
**PREPARED BY CHARLES CITY COUNTY STAFF (PLANNING DEPARTMENT)**  
**2009**

Below is a memo circulated amongst staff at the Charles City County Planning Department, when the Planning Commission there was considering changes to its rural subdivision regulations. The Planning Department looked at the zoning and subdivision ordinances from other rural localities throughout Virginia; pertinent language from each locality is included.

Note:

On October 2, 2012, the Orange County Circuit Court ruled that part of Orange County's subdivision ordinance (described within the memo) was illegal. Specifically, the judge declared the stipulation that only one (1) lot could be created every four (4) years was illegal. The judge stated that there is no provision within the Code of Virginia permitting supervisors to impose a time delay on the subdivision of lots.

**To: Planning Staff**

**From: Christina Greene, Director of Planning**

**Date: April 13, 2009**

**Subject: Subdivisions only in Residentially Zoned Districts**

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**Dinwiddie County**

**Sec. 18-3. Definitions.**

***Subdivision:* Any division of a parcel of land into three or more lots or parcels, from a land parcel of record prior to June 2, 1999, any one of which contains an area of less than 20 acres for the purpose of transfer of ownership or building development, or, if a new street is involved in such division, any division of a parcel of land, except that the following divisions of land shall be exempted from this definition:**

- (1) The division or partitioning of land in an estate by court order or among heirs of the original owner unless or until development of the land is proposed.
- (2) A bonafide division of a tract of land made so that one or more of the resulting parcels may be used as part of a public utility right-of-way; provided, that if a parcel resulting from such a division is ever to be used as a building site for other than such right-of-way, before a building permit may be issued for such other use, the owner shall comply with the minimum requirements of this chapter and chapter 22 of this Code.
- (3) The sale or exchange of parcels of land between owners of adjoining properties for the purposes of small adjustments in boundaries; provided, that none of the original lots, portions of which are sold or exchanged, shall be reduced below the minimum sizes required by this chapter or chapter 22 of this Code.

(4) A single division of land into parcels where such division is for the sale or gift to a member of the immediate family of the property owner provided the following conditions are met:

- a. The property owner has owned the property for a minimum of two years prior to the sale or gift of the land to the family member;
- b. Only one such division shall be allowed per family member;
- c. Conveyance of the property shall not be for the purpose of circumventing this chapter;
- d. A deed and plat to the property conveying the property to the family member must be recorded in the office of the clerk of the circuit court within six months of the approval date noted on the plat by the subdivision agent for Dinwiddie County;
- e. The family member receiving the property must retain ownership of the property for a minimum of two years unless such property is subject to involuntary transfer such as by foreclosure, death, judicial sale, condemnation, bankruptcy, divorce or any circumstance deemed appropriate upon formal application being submitted to the subdivision agent;
- f. The member of the immediate family must be defined as a person who is a natural or legally defined offspring, spouse, sibling, grandchild, grandparent or parent of the property owner;
- g. All lots resulting from such division shall have exclusive access of 50 feet or more to a public street or thoroughfare. As used herein, exclusive may be interpreted to include use by other immediate family members, only. In the event a family member served by the 50-foot family easement shall convey ownership of their property to someone other than an immediate family member, then no further family divisions shall be permitted utilizing the above referenced 50-foot easement; and
- h. The lot area of each lot existing after the division shall comply with the minimum lot area criteria set forth in the zoning district within which the property is located.

The term "subdivision" shall include resubdivision and, when appropriate to the context shall relate to the process of subdividing or to the land subdivided and solely for the purpose of recordation of any single division of land into two lots or parcels, a plat of such division shall be submitted for approval in accordance with section 18-24 of this Code.

All plats showing the division of a land parcel to include the exemption categories stated herein shall be subject to the processing fees set forth in section 18-13 of this Code.

**Sec. 18-12. Mutual responsibility of county and subdivider.**

(a) It shall be the mutual responsibility of the subdivider and the county to divide the land so as to improve the general use pattern of the land being subdivided.

(b) All proposed subdivisions for residential purposes must be zoned in a residential category, pursuant to the Zoning Ordinance of Dinwiddie County prior to final subdivision approval.

**Dinwiddie Model Explanation:**

1. *Sec. 22-72 of the Zoning Ordinance requires a minimum lot area of three (3) acres.*
2. *Per Sec. 18-12, Dinwiddie County does not allow subdivisions in its agricultural districts.*
3. *Sec. 18-3 of the Subdivision Ordinance defines a subdivision as “any division of a parcel of land into three or more parcels, from a land parcel of record prior to June 2, 1999, any of which contains an area of less than 20 acres.....”*

*By deduction two divisions does not constitute a subdivision nor do parcels of 20 acres or more. Through this process you can see that the true density allowable in an agricultural district is a sliding scale system, in which a property could be divided into two (2) parcels of three (3) acres or more and then into as many 20 acre parcels thereafter.*

*For Example:*

<i>Size of Tract (in Acres)</i>	<i>Permitted Number of Lots in Agricultural Districts</i>
<i>3</i>	<i>1</i>
<i>6</i>	<i>2</i>
<i>26</i>	<i>3</i>
<i>46</i>	<i>4</i>
<i>46 + 20 (n)</i>	<i>4 + n</i>

*Another way to think of it—*

*A. The following table could be placed within the Agricultural Zoning Districts, A-1 and A-2 sections, subsequently cleaning up the current subdivision definition in order to avoid confusion:*

<i>Size of Parent Parcel in Agricultural Districts</i>	<i>Permitted # of Lots in Agricultural Districts</i>
<i>3</i>	<i>1</i>
<i>6</i>	<i>2</i>
<i>9</i>	<i>2</i>
<i>26</i>	<i>3</i>
<i>30</i>	<i>3</i>
<i>46</i>	<i>4</i>
<i>46 + 20n</i>	<i>4 + n</i>

*B.. The following could clean up the definition of subdivision in order to simplify.*

*First the subdivision definition could be shortened to say:*

***Subdivision: Any division of a parcel of land for the purpose of transfer of ownership or building development or if a new street is involved in such division, except that the following divisions of land shall be exempted from this definition:***

***Then the remaining parts of the definition would be reworded and placed as numbers 5 and 6 in the exemptions list.***

***(5) Two or less parcels only if divided from a land parcel of record prior to June 2, 1999.***

***(6) Parcel containing an area of 20 acres or greater.***

## **Orange County**

### **Sec. 54-3. Definitions.**

Major subdivision (including cluster housing developments) means any division of a parcel of land into ten or more lots, all phases included, or any division of land creating new community water or sewer systems.

Minor subdivision (including cluster housing developments) means any division of a parcel of land neither creating ten or more lots nor creating any new community water or sewer systems.

Subdivision means the division of any lot of record into two or more lots, parcels or building sites, including residue, for the purpose of recordation in the county land records, transfer of ownership, or building development. As the context requires, the term "subdivision" may mean the land divided, the process of division, or both.

Subdivision, adjustment, means any straightening or realigning of property lines that would not change the number of lots nor substantially change the area of any lot.

Subdivision, agricultural, means any bona fide partition of agricultural land for agricultural purposes, or for the purpose of providing a site for a dwelling for the owner separate from a large tract, but not for the purpose of circumventing this chapter.

Subdivision, court-ordered, means any division or partition of land ordered by a court of competent jurisdiction.

Subdivision, exempt, means a subdivision which the subdivision agent may approve notwithstanding the requirements of this chapter. Adjustment, agricultural and court-ordered subdivisions shall be administered as exempt subdivisions.

Subdivision, family, means a single division of a lot or parcel for the purpose of sale or gift to a member of the immediate family of the property owner.

### **Sec. 54-6. Agricultural zoning districts.**

No lot in an agricultural zoning district, as indicated by the county zoning maps, shall be subdivided into more than four lots (including the residue) within any four-year period. A special use permit to establish cluster housing development, pursuant to section 70-731 et seq. or a manufactured home subdivision or mobile home subdivision, pursuant to section 70-211 et seq., shall constitute an exception to this section pursuant to section 54-177.

### **Sec. 54-7. Exempt subdivision.**

Adjustment subdivisions, agricultural subdivisions and court-ordered subdivisions shall be exempt from the requirements of this chapter. For any exempt subdivision, the

subdivider shall submit a plat, including a note explaining why the subdivision is exempt, to the subdivision agent, who shall certify whether it is exempt within ten days of acceptance as complete.

**Sec. 54-8. Family subdivision.**

(a) For any family subdivision, the subdivider shall submit a plat, including a note explaining that it is a family subdivision, to the subdivision agent, who shall certify whether it is a bona fide family subdivision within ten days of acceptance.

(b) Only one such division shall be allowed per family member and shall not be for the purpose of circumventing this chapter. Any such lot less than five acres in area shall have reasonable right-of-way not less than 20 feet wide providing ingress and egress to a public road.

(c) Covenants outlining the responsibility of construction and maintenance of any right-of-way created to serve a family subdivision shall be submitted for review with a plat of said subdivision and subsequently recorded with said subdivision.

**Brunswick County**

**Section 2. Definitions**

**2-32. Subdivision.** Any division of a parcel of land into three (3) or more lots or parcels, either concurrently or cumulatively, any one of which contains an area of less than ten (10) acres for the purpose, either immediate or future, of transfer of ownership or building development, or, if a new street is involved in such division, any division of a parcel of land. In determining whether a new street is involved in such division, consideration will only be given to an existing street which is a State maintained road and to a private platted subdivision street of record. The following divisions of land shall be exempted from this definition:

- 1) The division or partitioning of land in an estate by court order or among heirs of the original owner unless or until development of the land is proposed.
- 2) A bonafide division of a tract of agricultural land for agricultural purposes. Such purpose shall be clearly noted on the recorded plat.
- 3) The straightening or rearranging of property lines of adjoining parcels for the purposes of small adjustments in boundaries; provided that none of the original lots, portions of which are sold or exchanged, shall be reduced below the minimum lot area requirements of the Brunswick County Zoning Ordinance.
- 4) A single division of land into parcels where such division is for the purpose of sale or gift to a member of the immediate family of the property owner, provided:
  - a) Only one (1) such division shall be allowed per family member;
  - b) Such division shall not be for the purpose of circumventing this Ordinance;
  - c) A member of the immediate family shall be defined as any person who is a natural or legally defined off spring, spouse, sibling, grandchild, grandparent, or parent of the property owner;
  - d) Such division shall otherwise comply with the applicable provisions of this Ordinance and the Brunswick County Zoning Ordinance.
  - e) Plats for such lot or parcel divisions shall be noted for the purpose of sale or gift to an immediate family member, and shall include a note stating the name of the immediate family member who will receive such lot or parcel and their family relationship to the property owner. Such plat shall be approved by the Subdivision Agent prior to recordation.

f) Where new streets are required to serve any one such division, the new street must be constructed in accordance with Section 5-4-1-9 of this Appendix.

g) No family divisions shall be transferred for the period of two (2) years, except for purposes of securing any purchase money and/or construction loan, including bona fide refinancing. During the initial two (2) year period following the creation of lots by Family Division, no sale of any such lot shall be made and no residential structure on such lot shall be rented to any person other than an immediate family member as defined above unless such lots are subject to involuntary transfer such as by foreclosure, death, judicial sale, condemnation, bankruptcy, divorce, or any circumstance deemed appropriate by the Director of Planning upon application.

## **5-2. Land must be suitable.**

**5-2-1. Residential zoning required for subdivisions.** All proposed subdivisions of three or more lots or parcels, concurrently or cumulatively, from any one tract or parcel of land for residential purposes must be zoned residential (R-1) or residential (R-2) under the Zoning Ordinance of Brunswick County prior to final plat approval. The residual of the parent tract or parcel shall meet the minimum underlying zoning district requirements for lot area and lot width for residential lots. Such lot shall be considered as a lot or parcel intended for residential purposes, unless it is expressly noted on the plat of such residual lot that it is intended for bona fide agricultural purposes in accordance with section 5-2-2.

**5-2-1a. Exception for immediate family divisions.** As such exception is granted by the Code of Virginia, § 15.2-2244, a single division of land into parcels where such division is for the purpose of a sale or gift to a member of the immediate family of the property owner is excepted from the residential zoning requirement set forth in section 5-2-1 above, provided:

- 1) Only one such division shall be allowed per family member.
- 2) Such division shall not be for the purpose of circumventing this ordinance.
- 3) A member of the immediate family shall be defined as any person who is a natural or legally defined offspring, spouse, sibling, grandchild, grandparent, or parent of the property owner.
- 4) Such division shall otherwise comply with applicable provisions of this ordinance and the Brunswick County Zoning Ordinance.
- 5) Plats for such lot or parcel divisions shall be noted for the purpose of sale or gift to an immediate family member, and shall include a note stating the name of the immediate family member who will receive such lot or parcel and their family relationship to the property owner. Such plat shall be approved by the subdivision agent prior to recordation.

**5-2-2. Subdivisions for agricultural uses.** Divisions of land may be permitted for bona fide agricultural or silvicultural purposes. Such divisions shall be restricted by deed restrictions or covenants from further subdivision for residential development. Plats for such lot or parcel divisions shall be noted for bona fide agricultural purposes and approved by the subdivision agent.

**5-4-1-9. All-weather roads for immediate family divisions.** Private streets shall be permitted only for immediate family divisions. At a minimum the road shall be constructed according to the following to provide for an all-weather road:

Private streets will be permitted contingent on the following statement being included on all plats, deeds and covenants: "The grantors hereby give notice as required by the Subdivision Ordinance of Brunswick County, Virginia, that they do not intend to construct, repair or maintain the streets according to the standard of specifications of the State Department of Transportation for the Commonwealth of Virginia and no local or state governmental agency will be responsible for the development, construction, repair or maintenance of said streets. The parties of this deed will hold all local and state agencies harmless from any liability or expense concerning road standards and maintenance within the above subdivision and this is a covenant which runs with the land." When a subdivision has private streets, the developer shall make provisions for the formation of a homeowners' association, which will be responsible for maintaining the streets, including the formulation of by-laws and electing officers. Until a homeowners' association is formed, the developer shall be responsible for the streets. Documentation for the organization of a homeowners' association must be submitted when the final plat is presented for approval.

When private streets are permitted they shall be constructed according to the following standards:

- (a) Each street shall have a minimum width right-of-way of 50 feet.
- (b) Each street shall have proper drainage.
- (c) Each street shall have a minimum of four inches of compacted base no larger than railroad ballast rock, covered by two inches of compacted crusher-run, 18 feet wide with 24-inch shoulders on each side.
- (d) Each street and drainage ditch shall comply with the Virginia Erosion and Sediment Control Manual.
- (e) Each street shall be inspected by the county subdivision agent or accept reports of inspection by approved agencies or individuals.
- (f) Geometric curves for road alignment shall meet Virginia Department of Transportation Standards.

**5-4-3-2a. Definition:** As used herein, the phrase "Parent Tract" shall refer to every parcel of land situate in Brunswick County, Virginia, on May 1, 2006.

## **Culpeper County**

### **ARTICLE VI. MINOR DIVISIONS--PLANS EXEMPTED FROM STANDARD PROCEDURE**

#### **610. Minor Divisions.**

**611 Five-year divisions.** The creation of not more than three (3) lots, including the remnant, on an existing street within a five (5) year period.

611.1 Such divisions shall not adversely affect the development of the remainder of the parcel or adjoining property.

611.2 Each lot created and the remnant shall conform to the provisions of the Culpeper County Zoning Ordinance, unless otherwise specifically provided in this Article.

**612 Ten-acre divisions.** In zoning districts zoned A-1 (Agricultural) or RA (Rural Residential) only, five-year divisions in which each lot, including the remnant, contains at least ten (10) acres of land.

612.1 Each and every lot, including any remaining land or remnant lot, created by such a division shall have perpetual ingress and egress to a dedicated, recorded public street, either by being located on such street or by a recorded, platted, irrevocable easement of at least fifty (50) feet in width ("private street"), linking such lot to such a public street.

612.2 No private street as provided in section 612.1 above may be approved unless the instrument creating the easement provides for a perpetual maintenance agreement, as a covenant running with the land, binding on all property owners having rights in the easement. The instrument creating the easement shall also provide for easements for the benefit of all parcels adjoining the easement for present or future facilities providing cable television, gas, telephone, electric, water, sewer or other service to the parcels. Such instrument shall be in a form acceptable to and approved by the County Attorney.

612.3 Every final plat prepared pursuant to this provision shall depict the exact placement and dimensions of the easement as part of the property survey and shall designate the easement as a "private street".

612.4 Expressly excepted from the definition of a "ten-acre division" otherwise permitted to be treated as a minor division under the provisions of this Article are:

612.4.1 Any division utilizing either a public road or a private street that connects to any street in a previously approved subdivision plat, without the consent of all the property owners in the affected subdivision.

## **Floyd County**

### **Sec. 66-181. Subdivision types; responsibilities of subdivider and agent.**

There are seven types of subdivisions recognized by this chapter. The responsibilities assigned the subdivider and the agent vary with the type of subdivision as described in this article.

### **Sec. 66-182. Lot subdivision.**

The agent may approve the division of a tract of land into three or fewer parcels; the planning commission must approve lot subdivisions with four parcels (residual counts as one parcel). The requirements are as follows:

(1) The division is not in conflict with the general meaning, purpose, and requirements of this chapter, no new streets are required to serve the parcel, all lots meet the general meaning, purpose, and requirements of this chapter, and each new lot has at least 50 feet of frontage on a public street or 30 feet of frontage if the new lot is located on a cul-de-sac. The original reproducible and three first generation copies with original signatures of the proposed plat must be signed by representatives of the health department, E 911 coordinator, and the state department of transportation prior to final action. All lots, except those located in a family subdivision, located and not served by public water and public wastewater disposal shall be two acres or more and are to be at least 175 feet in width, measured horizontally at the setback line, and have a depth greater than the width. The minimum size of a lot may be increased upon a finding by the health department that there is insufficient land to support water supply and wastewater disposal systems. In addition to the area requirements, lots shall be arranged in order that the considerations in section 66-233 are satisfied; provided that:

- a. For developments not proposing the use of public water supply and wastewater disposal, a subdivision approval letter from the state department of health shall be required by the agent. The subdivider shall submit the proposed subdivision to the health department for approval. Once approval of the health department is obtained, the agent shall confirm compliance of the subdivision with these regulations;
  - b. Subdividers must use the services of an authorized on-site soil evaluator (AOSE), certified professional soil scientist (CPSS), or soil consultant to determine the suitability of the soil and do appropriate system designs for the lots on the plat. The use of AOSEs is preferred, since they will be the only ones allowed to submit work to the health department after July 1, 2004;
  - c. Access to the lots must be provided by a publicly maintained street or by a secondary means maintained at the sole expense of the property owner; and
  - d. All lots must comply with the area, width, frontage and setback requirements of this chapter.
- (2) Any sketch plat prepared and discussed with the subdivision agent which is marked with required improvements shall be included with the filing of the preliminary plat.
  - (3) A plat meeting the requirements of a preliminary plat is submitted to the subdivision agent.
  - (4) A final plat is provided which includes the signatures of the health department and the E 911 coordinator for final approval and signature. The state department of transportation shall sign all plats involving the planned construction or a new street and/or road.
  - (5) The corners of all lots created by lot subdivision shall be marked with iron pipes or other standard permanent material by a duly licensed professional engineer or land surveyor.
  - (6) The drainfield and reserve areas and well site will be shown to scale on the final plat.
  - (7) An additional lot subdivision may be permitted after a period of five years.

**Sec. 66-183. Family subdivision.**

A division of a lot or parcel is permitted for the purposes of sale or gift to a member of the immediate family of the property owner, and subject only to any express requirement contained in the Code of Virginia and the following provisions:

- (1) Only one such division per parcel shall be allowed per family member and shall not be made for the purpose of circumventing this chapter. An additional lot may be granted per immediate family member after a period of five years. Lots must be a minimum of 100 feet in width.
- (2) Before a county building permit will be issued for any habitable structure created by this division, approval of the health department of the well, drainfield and reserve area alternate means of service is required. Such approval will be provided to the building official at the time a permit is requested.
- (3) Each lot or parcel or property shall:
  - a. Have the required frontage and width upon a public street; or
  - b. Front upon an access easement 20 feet or greater in width. Such right-of-way shall remain private, and any drive or road within it shall be maintained by the adjacent property owners in a condition passable in all weather by emergency vehicles.

(4) The corners of all lots created by family subdivision shall be marked with iron pipes or other standard permanent material by a duly licensed professional engineer or land surveyor.

(5) The subdivision must comply with the minimum lot area of one acre and width and width to depth requirements of this chapter.

(6) For every parcel not served by public water or sewer, or when an individual well or septic tank permit has not been issued, a statement must be included on the final plat: "This site has not been approved for a private water and/or wastewater system."

(7) The preliminary subdivision plat shall be submitted by the subdivider to the agent for consideration as provided for in this chapter. Such plat shall indicate that the subdivision is a family subdivision. If approved, one copy bearing certification of such approval shall be returned to the subdivider. The original reproducible plat shall be signed by all officials before recordation. If disapproved, all papers shall be returned to the subdivider with the reason for disapproval in writing. If no action is taken in 60 days, such subdivision shall be deemed approved.

(8) All deeds from the subdividers to purchasers of such lots shall contain the following language: "This lot is not being sold for purposes of residential development or the erection of any structure which requires a sewage disposal system and has not been approved for the installation of a sewage or septic disposal system. Prior to the issuance of any building permit for a structure which requires a sewage disposal system, the owner of this lot will be required to obtain a water and/or sewage disposal construction permit from the Virginia Department of Health or provide for a permit from the Virginia Department of Health or provide for connection to an approved public wastewater system." The failure of the subdivider to include such language in any deed shall constitute a violation of this chapter.

(9) Notwithstanding any other provision of this chapter, the residual parcel of a family subdivision need not be surveyed or shown upon the plat, provided the plat of the family subdivision contains a notarized statement by the subdivider that the residual parcel contains one acre or more and has the required frontage on a public street or on an access easement of 20 feet or greater in width.

#### **Sec. 66-184. Standard subdivision.**

(a) The planning commission may permit the division of land into two or more lots. Such subdivisions shall meet all of the applicable requirements outlined in this chapter. Such subdivisions must provide each lot with frontage on a public street or a street proposed to become public as required by this chapter and further must comply with the following requirements:

(1) The subdivision is not in conflict with the general meaning, purpose, and requirements of this chapter, new streets which are required to serve parcels and all lots meet the general meaning, purpose, and requirements of this chapter, and each new lot has at least 50 feet of frontage on a public street or 30 feet of frontage if the new lot is located on a cul-de-sac;

(2) For developments not proposing the use of public water supply and wastewater disposal, a letter of certification from the state department of health shall be available: To obtain the certification, subdivision approval must be requested by the county. Applicants must use the services of an authorized on-site soil evaluator (AOSE), certified professional soil scientist (CPSS), or soil consultant to determine the suitability of the soil and do appropriate system designs for the lots on the plat. The use of AOSE's is preferred, since they will be the only ones allowed to submit work to the health department after July 1, 2004;

- (3) The preliminary subdivision plat must provide the information specified in 12 VAC 5-610-360.B. This includes all information required by this chapter and includes the following, if not required: proposed streets, utilities, storm drainage, water supplies, on-site sewage facilities, easements, lot lines, neighboring property lines (within 200 feet), existing and proposed water supplies for each of the proposed lots and within 200 feet of the outermost property lines, and original topographic contour lines by detailed survey. Each plat shall contain abbreviated design calculations. Each lot shall have the house, well and on-site sewage disposal system indicated and contain the certification of compliance;
  - (4) Access to the lots must be provided by a publicly maintained street; and
  - (5) All lots must comply with the area, frontage, width and setback requirements of this chapter.
- (b) A sketch plat shall be prepared and discussed with the subdivision agent. If the sketch is marked with required improvements, it shall be included with the filing of the preliminary plat.
  - (c) A plat meeting the requirements of a preliminary plat shall be submitted to the subdivision agent for review by the planning commission.
  - (d) A final plat shall be provided which includes the signatures of the health department, state department of transportation, and the E 911 coordinator for final approval and signature.
  - (e) Additional documentation as may be required shall be submitted along with the final plat e.g., soil and erosion control plan, an estimate of the cost of providing utilities, roads, and other improvements which require surety, proposed surety, etc.
  - (f) The staking of all lots created by the subdivision shall be with iron pipes or other standard permanent materials by a duly licensed professional engineer or land surveyor.
  - (g) The corners of drainfield and reserve areas and the well site will be shown to scale on the final plat and staked on the ground to allow for finding the drainfield and well area. The method and/or figures must be on or with the final plat that is given to the local health department. An approximate location of the house will be shown on the final plat.
  - (h) Required notes on the final plat if it is not served with public water and/or public wastewater are as follows:
    - (1) If a well other than IIIC is required, the class of well and lot number will be noted;
    - (2) If a well cannot be separated from the house by the required distance for termite treatment, the appropriate lot number will be noted;
    - (3) If an on-site sewage disposal system other than a gravity flow system is required, the type system and lot number will be noted; and
    - (4) If no provisions for a basement sewer drain were considered in the on-site sewage disposal system design; such lack of provisions will be noted.
  - (i) Final action shall be taken by the planning commission. Such approval shall be of the subdivision as well as the surety.

**Sec. 66-185. Townhouse and condominium subdivision.**

- (a) Townhouse and condominium subdivisions shall meet the requirements outlined for standard subdivisions. However, the planning commission may approve such subdivisions with:
  - (1) Reduced side yard requirements for structures interior to main lot;
  - (2) Reduced lot size restrictions, which requires 50 percent open space and the land associated with any dwelling is dependent upon undivided interest;
  - (3) Side lot lines that are not perpendicular or radial to the street line; and

- (4) Reduced lot width at the setback requirements (Lot width is dependent upon dwelling style and undivided interest).
- (b) Townhouse and condominium subdivisions must also meet the following requirements:
  - (1) The plat clearly indicates that the subdivision is a townhouse or condominium subdivision;
  - (2) Adequate parking areas are provided and shown on the plat (minimum of 2.5 parking spaces per unit); and
  - (3) Adequate water and wastewater treatment facilities are available.

**Sec. 66-186. Agricultural subdivision.**

(a) The agent may approve the division of land into three or fewer parcels for the purpose of agricultural production or for the sole purpose of a single-family residence and agricultural production.

(b) Parcels in agricultural subdivisions shall not be less than 25 acres, except that the owner may retain a parcel of two acres or more, provided that if the retained parcel fronts on a public street, it shall meet the frontage and width requirements of this chapter.

(c) Access need not be constructed for agricultural subdivisions, but the plat must include a 50-foot wide access easement for use as access roads by all parcels shown upon the plat. The access easement shall be surveyed and shown upon the plat with either a boundary or a center line metes and bounds description.

(d) Notwithstanding any other provision of this chapter, provisions for on-site sewage disposal systems are not required for lots in agriculture subdivisions not intended to be used for residential purposes or for lots which are intended to be used for construction of improvements which do not require wastewater disposal. Any plat proposing such lots shall clearly contain provisions which inform prospective purchasers that lots have not been approved for sewage disposal systems and that residential structures or other structures requiring a sewage disposal system may not be constructed on any lot until such time as the lot has been approved by the state department of health for the installation of a sewage disposal system. All deeds from the subdividers to purchasers of such lots shall contain the following language: "This lot is not being sold for purposes of residential development or the erection of any structure which requires a sewage disposal system and has not been approved for the installation of a sewage or septic disposal system. Prior to the issuance of any building permit for a structure which requires a sewage disposal system, the owner of the lot will be required to obtain a water and/or sewage disposal construction permit and a septic system construction permit from the Virginia Department of Health or provide for permit from the Virginia Department of Health or provide for connection to an approved public wastewater system." The failure of the subdivider to include such language in any deed shall constitute a violation of this chapter.

**Sec. 66-187. Industrial subdivision.**

Industrial subdivisions of property owned or developed by the county board of supervisors or the county industrial development authority may be approved by the agent under such terms and conditions as determined by the county board of supervisors. Action of the board of supervisors shall be based on the promotion of the public health, safety and welfare.

## **Gloucester**

### **Sec. 15-3.1. Classification of subdivisions.**

Subdivisions shall be classified as follows:

(1) *Public service lots, rights-of-way.* When a parcel is created for the sole purpose of developing a sewage or water facility or any other public facility, or for the sole purpose of widening or enlarging a road right-of-way, to be owned and operated or maintained by the Commonwealth of Virginia, the county, other governmental or municipal entity, service authority, or sanitary district, and title to such property passes at the same time as the plat is recorded, such parcel shall be exempt from the requirements of this chapter except that the record plat shall adhere to the applicable requirements as set forth in section 15-63 of this chapter.

(2) *Minor subdivision.* A minor subdivision is any subdivision of no more than three (3) lots or any subdivision in which no new street is extended. A preliminary plat shall not be required for minor subdivisions.

(3) *Major subdivision.* A subdivision of four (4) or more lots or any subdivision in which a new street (whether public or private) is extended, except as permitted under subsection 15-31(c).

(4) *Townhouse/condominium subdivision.* A division of property into lots for townhouse or condominium development.

(5) *Planned development subdivision.* The division of property in accordance with an overall development master plan approved by the governing body as part of a rezoning to a planned unit development classification. A preliminary plat shall not be required for planned development subdivisions unless specifically required in the approval of the overall master plan by the governing body. Any requirements imposed by the approving ordinance shall be fully binding on the subdivision.

(6) *Boundary line adjustment.* A re-subdivision of a part of an otherwise valid and properly recorded plat of subdivision or of two (2) or more adjacent lots, where no additional lots are created and existing or platted streets, rights-of-way, public easements, and public improvements are unaffected by such action. Further, no private easements or private rights-of-way shall be relocated or altered without the recordation of appropriate documents effecting such relocation or alteration. Typically a boundary line adjustment is a minor realignment of a single line between two (2) adjacent lots. A preliminary plat is not required. This subsection shall not be interpreted to authorize the creation of a lot or lots which would otherwise be prohibited. Boundary line adjustments involving one (1) or more legally nonconforming lots shall not be permitted where the result of such adjustment would increase the degree of nonconformity. Boundary line adjustments shall be approved by the agent if such re-arrangements are reasonable and conforming to the intent of this section. The record plat shall adhere to the applicable requirements set forth in section 15-63 of this chapter.

(7) *Court partitions.* The division of land by court of competent jurisdiction shall be exempt from the requirements of this chapter except that the record plat shall adhere to the applicable requirements set forth in section 15-63 of this chapter.

(8) *Family transfer.* A subdivision of land for contemporaneous conveyance to a member of the immediate family of the property owner. Family transfers shall be permitted only in accordance with the provisions of section 15-3.2 of this chapter.

## **Goochland**

### **Section 1. Definitions.**

32. *Subdivision.* The term subdivision shall mean the division of land into two (2) parcels of land for the purpose of transfer of ownership or building development. The sale or exchange of parcels between adjoining lot owners, where such sale does not create additional lots, shall be exempt from the provision of the ordinance. Also, the first two (2) divisions of land into parcels which are twenty (20) acres or more and all parcels in excess of forty (40) acres will not count toward a major subdivision, but will be counted for road construction requirements as spelled out in Article 5, Section 6 of the Subdivision Ordinance.

## **Greene County**

### **Section 5. Minor Divisions—Plans-Exempted from Standard Procedure**

#### **5-1. Generally.**

Those subdivisions listed in paragraphs 5-2, 5-3, and 5-4 are exempt from the standard procedures outlined in sections 2, 3, and 4 of this ordinance. Such divisions are subject to the provisions and must follow the procedures as set forth in sections 5-1-1 through 5-1-5.

5-1-1. The developer shall prepare and submit preliminary plan maps and supportive data as may be required according to the procedures as set forth in section 3 for discussion with the department of planning and community development.

5-1-2. When no major incompatibility is found between the development potential of the site and the developer's general concept of the site, and within six months after completion of sketch plan review by the department of planning and community development, the zoning administrator shall authorize the preparation of a final plan which meets the requirements as set forth in section 4-2-2 of the ordinance. In addition, such plan must show any supplemental information as may be required by the highway department, health department, or soil and water conservation district and any approvals required thereof.

5-1-3. The final plan shall be submitted to the department of planning and community development and reviewed in accordance with the procedures as set forth in section 4-2 of this ordinance.

5-1-4. If all the requirements of this ordinance and other applicable county codes have been met, the final plan shall be granted approval by the zoning administrator and may be recorded according to the requirements as set forth in section 4-3 of this ordinance.

5-1-5. The zoning administrator may require the review and approval of minor divisions by the planning commission prior to the preparation of the final plat. The developer will be so notified in writing of the schedule and the stated reasons for such review. The planning commission may require, when it deems necessary for the protection of the public health, safety, and welfare, that a minor division comply with all or some of the procedures of sections 3 and 4 of this ordinance.

**5-2. Rearrangement of lot lines.**

5-2-1. Divisions for the purpose of boundary line adjustments between adjoining property owners and where no new building lots are created are subject to the provisions of section 5-1.

5-2-2. The division shall not result in the creation of a remnant lot which does not conform to the minimum requirements of the Greene County Zoning Ordinance and does not prevent the logical development of the remaining tract.

5-2-3. The final plan shall, in addition, contain wording of the same effect as the following, as approved by the zoning administrator: "For the purposes of application of the Zoning and Subdivision Ordinances of Greene County, Virginia, the tract or parcel shown on this plat shall be considered part of that tract or parcel conveyed to the undersigned owners by deed dated \_\_\_\_\_, and recorded in the Greene County Clerk's Office in Deed Book \_\_\_\_\_, Page \_\_\_\_\_, and the two parcels shall be considered as one."

**5-3. Family partitions.**

5-3-1. The single division of a lot or parcel for the purpose of gift or sale to a member of the immediate family or the property owner defined as his natural or legal offspring, spouse, or parent are subject to the provisions of section 5-1.

5-3-2. Only one such division shall be allowed per family member and shall be certified as such by the owner at the time of application to the department of planning and community development.

5-3-3. The exemption granted herein shall be for a bona fide family purpose and shall not constitute a circumvention of this article by enabling any further division of such lots created by this section, by providing ingress and egress to other than a dedicated recorded public street or by the transference of such lots, except by law, to a person other than a member of the immediate family or the transferor for a period of five years; provided, however, that the planning commission may approve a conveyance within such five-year period where the grantor demonstrates a financial or economic hardship or disaster which necessitates such reconveyance.

**5-4. Agricultural partitions.**

5-4-1. The division of a tract into one or more parcels each of which is ten acres or more in size to be used for bona fide agricultural purposes are subject to section 5-1 of this article.

**5-5. Single-lot exemption from the public road standard.**

5-5-1. On any parent tract of land that is zoned either A-1, Agricultural, or C-1, Conservation, one division of land may be allowed from the parent tract without meeting the requirements of section 6-4-1. The division of land and the parent tract may front on a private road as defined in the subdivision and zoning ordinance. Once a division of a parent tract has occurred, the single lot exemption is no longer valid for either the parcels that were divided from the parent tract or the residual parcel. The adjustment of boundary lines of a parent tract does not invalidate the single lot exemption. (Revised 5/8/01)

## **Isle of Wight County**

### **3-8. Required zoning.**

All proposed subdivisions for residential purposes must be zoned residential (RR, NC, SE, SR, UR, PD-R, PD-MH, or PD-MX) or conditional residential (C-RR, C-NC, C-SE, C-SR, C-UR, C-PD-R, C-PD-MH or C-PD-MX,) pursuant to the Zoning Ordinance of Isle of Wight County prior to final subdivision plat approval.

Provided, however, that a family member single division of a lot or parcel for the purpose of sale or gift to a member of the immediate family of the property owner as defined in section 7-28-1 of this Subdivision Ordinance and paragraph 12 of section 15.1-466 of the Code of Virginia shall be exempted from this residential zoning requirement.

Provided, further, that the placement of a manufactured house on a permanent foundation on an existing individual lot located in the Rural Agricultural Conservation District (RAC) as defined in section 15.1-486.4 of the Code of Virginia, shall be exempt from this rezoning requirement.