

ALBEMARLE COUNTY CODE

CHAPTER 18

ZONING

SECTION 10

RURAL AREAS DISTRICT, RA

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10.1 INTENT, WHERE PERMITTED

This district (hereafter referred to as RA) is hereby created and may hereafter be established by amendment of the zoning map for the following purposes: (Amended 11-8-89)

- Preservation of agricultural and forestal lands and activities;
- Water supply protection;
- Limited service delivery to the rural areas; and
- Conservation of natural, scenic, and historic resources. (Amended 11-8-89)

Residential development not related to bona fide agricultural/forestal use shall be encouraged to locate in the urban area, communities and villages as designated in the comprehensive plan where services and utilities are available and where such development will not conflict with the agricultural/forestal or other rural objective. Where development does occur, rural residents should expect to receive a lower level of service delivery than will be provided to residential developments in designated growth areas. In relation to residential development, agricultural/forestal activities shall be regulated only to the extent necessary to protect public health and safety. (Added 11-8-89; Amended 10-3-01)

In regard to agricultural preservation, this district is intended to preserve the county's active farms and best agricultural and forestal lands by providing lot areas designed to insure the continued availability of such lands for preferential land use tax assessment in order to enhance the economy, and maintain employment and lifestyle opportunities. In addition, the continuation and establishment of agriculture and agriculturally-related uses will be encouraged, and landowners will be encouraged to employ Virginia State Water Control Board best management practices. (Amended 11-8-89)

(§ 10.1, 12-10-80, 11-8-89; Ord. 01-18(6), 10-3-01)

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It is intended that permitted development be restricted to land which is of marginal utility for agricultural/forestal purposes, provided that such development be carried out in a manner which is compatible with other purposes of this district. Roadside strip development is to be discouraged through the various design requirements contained herein. (Amended 11-8-89)

10.2 PERMITTED USES

10.2.1 BY RIGHT

The following uses shall be permitted in any RA district subject to the requirements and limitations of these regulations:

1. Detached single-family dwellings, including guest cottages and rental of the same; provided that yard, area and other requirements of section 10.4, conventional development by right, shall be met for each such use whether or not such use is on an individual lot subject to section 10.3.
2. Side-by-side duplexes subject to the provisions of section 10.4; provided that density is maintained and provided that buildings are located so that each unit could be provided with a lot meeting all other requirements for detached single-family dwellings except for side yards at the common wall. Other two-family dwellings shall be permitted provided density is maintained.
3. Agriculture, forestry, and fishery uses except as otherwise expressly provided.
4. Game preserves, wildlife sanctuaries and fishery uses.
5. Wayside stands for display and sale of agricultural products produced on the premises (reference 5.1.19).
6. Electric, gas, oil and communication facilities excluding tower structures and including poles, lines, transformers, pipes, meters and related facilities for distribution of local service and owned and operated by a public utility. Water distribution and sewerage collection lines, pumping stations and appurtenances owned and operated by the Albemarle County Service Authority. Except as otherwise expressly provided, central water supplies and central sewerage systems in conformance with Chapter 16 of the Code of Albemarle and all other applicable law. (Amended 5-12-93)
7. Accessory uses and buildings including home occupation, Class A (reference 5.2) and storage buildings.
8. Temporary construction uses (reference 5.1.18).
9. Public uses and buildings including temporary or mobile facilities such as schools, offices, parks, playgrounds and roads funded, owned or operated by local, state or federal agencies (reference 31.2.5); public water and sewer transmission, main or trunk lines, treatment facilities, pumping stations and the like, owned and/or operated by the Rivanna Water and Sewer Authority (reference 31.2.5; 5.1.12). (Amended 11-1-89)
10. Temporary sawmill (reference 5.1.15 and subject to performance standards in 4.14).
11. Veterinary services - off-site treatment only.
12. Agricultural service occupation (subject to performance standards in 4.14).
13. Divisions of land in accordance with section 10.3.

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14. Tourist lodging (reference 5.1.17).
 15. Mobile homes, individual, qualifying under the following requirements (reference 5.6):
 - a. A property owner residing on the premises in a permanent home wishes to place a mobile home on such property in order to maintain a full-time agricultural employee.
 - b. Due to the destruction of a permanent home an emergency exists. A permit can be issued in this event not to exceed twelve (12) months. The zoning administrator shall be authorized to issue permits in accordance with the intent of this ordinance and shall be authorized to require or seek any information which he may determine necessary in making a determination of cases "a" and "b" of the aforementioned uses.
 16. Temporary mobile home in accordance with section 5.7. (Amended 11-8-89)
 17. Farm winery (reference 5.1.25). (Added 12-16-81)
 18. Borrow area, borrow pit, not exceeding an aggregate volume of fifty thousand (50,000) cubic yards including all borrow pits and borrow areas on any one parcel of record on the adoption date of this provision (reference 5.1.28). (Added 7-6-83)
 19. Mobile homes on individual lots (reference 5.6). (Added 11- 11-92)
 20. Commercial stable (reference 5.1.03). (Added 11-15-95)
 21. Stormwater management facilities shown on an approved final site plan or subdivision plat. (Added 10-9-02)
 22. Tier I and Tier II personal wireless service facilities (reference 5.1.40). (Added 10-13-04)
 23. Farm worker housing, Class A (up to ten occupants and up to two sleeping structures) (reference 5.1.44). (Added 12-13-06)
- (§ 20-10.2.1, 12-10-80; 12-16-81; 7-6-83; 11-1-89; 11-8-89; 11-11-92; 5-12-93; Ord. 95-20(5), 11-15-95; Ord. 98-A(1), § 18-10.2.1, 8-5-98; Ord. 02-18(6), 10-9-02; Ord 04-18(2), 10-13-04; Ord. 06-18(2), 12-13-06)

10.2.2 BY SPECIAL USE PERMIT

The following uses shall be permitted only by special use permit approved by the board of supervisors pursuant to section 31.2.4: (Added 10-9-02)

1. Community center (reference 5.1.04).
2. Clubs, lodges, civic, patriotic, fraternal (reference 5.1.02).
3. Fire and rescue squad stations (reference 5.1.09).
4. Swim, golf, tennis or similar athletic facilities (reference 5.1.16).
5. Private schools.
6. Electrical power substations, transmission lines and related towers; gas or oil transmission lines, pumping stations and appurtenances, unmanned telephone exchange centers; micro-wave and radio-wave transmission and relay towers, substations and appurtenances.

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7. Day care, child care or nursery facility (reference 5.1.06).
8. (Repealed 3-5-86)
9. Mobile home subdivisions (reference 5.5).
10. (Repealed 11-11-92)
11. (Repealed 3-15-95)
12. Horse show grounds, permanent.
13. Custom slaughterhouse.
14. Sawmills, planing mills and woodyards (reference 5.1.15 and subject to performance standards in 4.14).
15. Group homes and homes for developmentally disabled persons as described in section 15.1-486.2 of the Code (reference 5.1.07).
16. (Repealed 11-15-95)
17. Commercial kennel (reference 5.1.11 and subject to performance standards in 4.14).
18. Veterinary services, animal hospital (reference 5.1.11 and subject to performance standards in 4.14).
19. Private airport, helistop, heliport, flight strip (reference 5.1.01).
20. Day camp, boarding camp (reference 5.1.05).
21. Sanitary landfill (reference 5.1.14).
22. Country store.
23. Commercial fruit or agricultural produce packing plants. (Amended 11-8-89)
24. (Repealed 11-8-89)
25. Flood control dams and impoundments.
26. (Repealed 11-8-89)
27. Restaurants and inns that are:
 - a. Located within an historic landmark as designated in the comprehensive plan, provided:
 - (i) the structure has been used as a restaurant, tavern or inn; and (ii) the structure shall be restored as faithfully as possible to the architectural character of the period and shall be maintained consistent therewith; or
 - b. Nonconforming uses, provided the restaurant or inn is served by existing water and sewerage systems having adequate capacity for both the existing and proposed uses and facilities without expansion of either system. (Amended 11-8-89; 10-18-00)
28. Divisions of land as provided in section 10.5.2.1. (Amended 5-5-04 effective 7-1-04)

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29. Boat landings and canoe livery.
30. Permitted residential uses as provided in section 10.5.2.1. (Amended 5-5-04 effective 7-1-04)
31. Home occupation, Class B (reference 5.2).
32. Cemetery.
33. Crematorium.
34. (Repealed 3-21-01)
35. Church building and adjunct cemetery.
36. Gift, craft and antique shops.
37. Public garage. (Added 3-18-81)
38. Exploratory drilling. (Added 2-10-82)
39. Hydroelectric power generation (reference 5.1.26). (Added 4- 28-82)
40. Borrow area, borrow pit not permitted under section 10.2.1.18. (Added 7-6-83)
41. Convent, Monastery (reference 5.1.29). (Added 1-1-87)
42. Temporary events sponsored by local nonprofit organizations which are related to, and supportive of the RA, rural areas, district (reference 5.1.27). (Added 12-2-87)
43. Agricultural Museum (reference 5.1.30). (Added 12-2-87)
44. Theatre, outdoor drama. (Added 6-10-92)
45. Farm sales (reference 5.1.35). (Added 10-11-95)
46. Off-site parking for historic structures or sites (reference 5.1.38) or off-site employee parking for an industrial use in an industrial zoning district (reference 5.1.39).
47. Animal shelter (reference 5.1.11). (Added 6-16-99).
48. Tier III personal wireless service facilities (reference 5.1.40). (Added 10-13-04)
49. Historical centers, historical center special events, historical center festivals (reference 5.1.42). (Added 6-8-05)
50. Special events (reference 5.1.43). (Added 7-13-05)
51. Farm worker housing, Class B (more than ten occupants or more than two sleeping structures) (reference 5.1.44). (Added 12-13-06)

(§ 20-10.2.2, 12-10-80; 3-18-81; 2-10-82; 4-28-82; 7-6-83; 3-5-86; 1-1-87; 12-2-87; 11-8-89; 6-10-92; 11-11-92; Ord. 95-20(1), 3-15-95; Ord. 95-20(3), 10-11-95; Ord. 95-20(5), 11-15-95; Ord. 98-A(1), § 18-10.2.2, 8-5-98; Ord. 99-18(4), 6-16-99; Ord. 00-18(6), 10-18-00; Ord. 01-18(2), 3-21-01; Ord. 02-18(6), 10-9-02; Ord. 04-18(1), 5-5-04 effective 7-1-04; Ord.04-18(2), 10-13-04; Ord. 05-18(7), 6-8-05; Ord. 05-18(8), 7-13-05; Ord. 06-18(2), 12-13-06)

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10.3 APPLICATION OF REGULATIONS FOR DEVELOPMENT BY RIGHT

The following provisions shall apply to any parcel of record at 5:15 p.m., the tenth day of December, 1980 (reference 6.5). (Amended 11- 8-89)

10.3.1 CONVENTIONAL DEVELOPMENT (Amended 11-8-89; 6-14-00)

Regulations in section 10.5 governing development by right shall apply to the division of a parcel into five (5) or fewer lots of less than twenty-one (21) acres in area and to the location of five (5) or fewer dwelling units on any parcel in existence at the time of adoption of this ordinance (reference section 1.3). The aggregate acreage devoted to such lots or development shall not exceed thirty-one (31) acres, except in such case where this aggregate acreage limitation is precluded by other provisions of this ordinance. The second sentence of this provision shall not be applicable to land divided between the effective date of this ordinance (reference section 1.3) and November 8, 1989. (Amended 11-8-89; 9-9-92; 6-14-00)

- 10.3.2 In addition to the foregoing, there shall be permitted by right any division of land into parcels each of which shall be twenty-one (21) acres or more in area. No such parcel shall be included in determining the number of parcels which may be created by right pursuant to section 10.3.1; provided that (a) no such division shall affect the number of parcels which may be divided pursuant to section 10.3.1; (b) there may be located not more than one (1) dwelling unit on any parcel created pursuant to this section; (c) at the time of any such division, the owner of the parcel so divided shall designate the number of parcels into which each parcel so divided may be further divided pursuant to section 10.3.1 together with aggregate acreage limitations in accordance with section 10.3.1; and (d) no such division shall increase the number of parcels which may be created pursuant to section 10.3.1. (Amended 9-9-92)

10.3.3 RURAL PRESERVATION DEVELOPMENT (Added 11-8-89)

10.3.3.1 DEFINITIONS

The following definitions shall apply to any rural preservation development created under section 10.3.3: (Amended 10-3-01)

- a. Development Lot: A lot within a rural preservation development, other than a rural preservation tract, created for the purpose of residential or other permitted usage.
- b. Rural Preservation Development: A subdivision of land consisting of development lots together with a rural preservation tract.
- c. Rural Preservation Tract: A lot, the usage and diminishment of which is restricted and protected by legal arrangements to insure its maintenance and preservation for the purpose of: preservation of agricultural and forestal land and activity; water supply protection; and/or conservation of natural, scenic or historic resources.

(§ 10.3.3.1, 11-8-89; Ord. 01-18(6), 10-3-01)

10.3.3.2 INTENT; DESIGN STANDARDS (Added 11-8-89)

The rural preservation development option is intended to encourage more effective land usage in terms of the goals and objectives for the rural areas as set forth in the comprehensive plan than can be achieved under conventional development. To this end, application for rural preservation development shall be reviewed for:

- a. Preservation of agricultural and forestal lands and activities;
- b. Water supply protection; and/or

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- c. Conservation of natural, scenic or historic resources.

More specifically, in accordance with design standards of the comprehensive plan and where deemed reasonably practical by the commission:

- d. Development lots shall not encroach into prime, important or unique agricultural or forestal soils as the same shall be shown on the most recent published maps of the United States Department of Agricultural Soil Conservation Service or other source deemed of equivalent reliability by the Soil Conservation Service;
- e. Development lots shall not encroach into areas of critical slope or flood plain and shall be situated as far as possible from public drinking water supply tributaries and public drinking water supply impoundments;
- f. Development lots shall be so situated and arranged as to preserve historic and scenic settings deemed to be of importance to the general public and natural resource areas whether such features are on the parcel to be developed or adjacent to such parcel;

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- g. Development lots shall be confined to one area of the parcel and shall be situated so that no portion of the rural preservation tract shall intrude between any development lots;
- h. All development lots shall have access restricted to an internal street in accordance with Chapter 14 of the Code of Albemarle;
- i. Nothing stated herein shall be deemed to obligate the commission to approve a rural preservation development upon finding in a particular case that such proposal does not forward the purposes of rural preservation development as set forth hereinabove and that the public purpose to be served would be equally or better served by conventional development.

10.3.3.3 SPECIAL PROVISIONS (Added 11-8-89)

In addition to design standards as set forth in section 10.3.3.2 and other regulation, the following special provisions shall apply to any rural preservation development:

- a. The maximum number of lots within a rural preservation development shall be the same as may be achievable pursuant to section 10.3.1 and section 10.3.2 and other applicable law. Each rural preservation tract shall count as one (1) lot. In the case of any parcel of land which, prior to application for rural preservation development, has been made subject to a conservation, open space or other similar easement which restricts development on the parcel, the total number of lots available for rural preservation development shall not exceed the number available for conventional development as limited by any such previously imposed easement or easements;
- b. Section 10.3.3.3.a notwithstanding, no rural preservation development shall contain more than twenty (20) development lots (Amended 5-5-04 effective 7-1-04);
- c. Provisions of section 10.3.3, rural preservation development, shall be applied to the entire parcel. Combination of conventional and rural preservation development within the parcel shall not be permitted, provided that the total number of lots achievable under section 10.3.1 and section 10.3.2 shall be permitted by authorization of more than one (1) rural preservation tract. Nothing contained herein shall be deemed to preclude the director of current development and zoning from approving a rural preservation development for multiple tracts of adjoining land, or on land divided or otherwise altered prior to the effective date of this provision; provided that, in either case, the provisions of section 10.3.3 shall be applicable (Amended 5-5-04 effective 7-1-04);
- d. The area devoted to development lots together with the area of roadway necessary to provide access to such lots shall not exceed the number of development lots multiplied by a factor of six (6) expressed in acres;
- e. No rural preservation development shall contain less than one (1) rural preservation tract. The director of current development and zoning may authorize more than one (1) rural preservation tract in a particular case pursuant to the various purposes of rural preservation development as set forth in section 10.3.3.2 or in accord with section 10.3.3.3.c, as the case may be (Amended 5-5-04 effective 7-1-04);
- f. No rural preservation tract shall consist of less than forty (40) acres. Except as specifically permitted by the director of current development and zoning at time of establishment, not more than one (1) dwelling unit shall be located on any rural preservation tract or development lot. No rural preservation tract shall be diminished in area. These restrictions shall be guaranteed by perpetual easement accruable to the County of Albemarle and the public recreational facility authority of Albemarle County in a form acceptable to the board. In accordance with Chapter 14 of the Code of Albemarle, the director of planning and

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community development shall serve as agent for the board of supervisors to accept such easement. Thereafter, such easement may be modified or abandoned only by mutual agreement of the grantees to the original agreement (Amended 5-5-04 effective 7-1-04);

- g. Each application for a rural preservation development is subject to the review and approval of the director of current development and zoning (Added 5-5-04 effective 7-1-04).

(§ 20-10.3.3.3, 11-8-89; § 18-10.3.3.3, Ord. 98-A(1), 8-5-98; Ord. 04-18(1), 5-5-04 effective 7-1-04)

10.4 AREA AND BULK REGULATIONS

REQUIREMENTS	DIVISIONS BY RIGHT (Amended 8-14-85)	DIVISIONS BY SPECIAL USE PERMIT (Amended 8-14-85)
Gross density	0.5 du/ac	0.5 du/ac
Minimum lot size	2.0 acres	2.0 acres
Minimum frontage existing public roads	250 feet	250 feet
Minimum frontage internal public or private roads	150 feet	150 feet
Yards, minimum:		
Front (existing public roads)	75 feet	75 feet
Front (internal public or private road)(Amended 11-13-91)	25 feet	25 feet
Side	25 feet	25 feet
Rear	35 feet	35 feet
Maximum structure height	35 feet	35 feet

10.5 SPECIAL PROVISIONS FOR MULTIPLE SINGLE-FAMILY DWELLING UNITS

10.5.1 LIMITATIONS ON DIVISIONS PERMITTED BY RIGHT

Divisions of land shall be permitted as provided hereinabove; except that no parcel of land of record on the date of the adoption of this ordinance may be divided into an aggregate of more than five (5) parcels except as provided in section 10.3.2 and section 10.5.2 hereof nor shall there be constructed on any such parcel an aggregate of more than five (5) units. (Amended 11-8-89)

10.5.2 WHERE PERMITTED BY SPECIAL USE PERMIT

10.5.2.1 The board of supervisors may authorize the issuance of a special use permit for more lots than the total number permitted under section 10.3.1 and section 10.3.2; provided that no such permit shall be issued for property within the boundaries for the watershed of any public drinking water supply impoundment, and further provided that no such permit shall be issued to allow more development lots within a proposed rural preservation development than that permitted by right under section 10.3.3.3(b). (Added 11-8-89; Amended 5-5-04 effective 7-1-04)

The board of supervisors shall determine that such division is compatible with the neighborhood as set forth in section 31.2.4.1 of this chapter with reference to the goals and objectives of the

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comprehensive plan relating to rural areas including the type of division proposed and specifically, as to this section only, with reference to the following: (Amended 11-8-89)

1. The size, shape, topography and existing vegetation of the property in relation to its suitability for agricultural or forestal production as evaluated by the United States Department of Agriculture Soil Conservation Service or the Virginia Department of Forestry.
2. The actual suitability of the soil for agricultural or forestal production as the same shall be shown on the most recent published maps of the United States Department of Agriculture Soil Conservation Service or other source deemed of equivalent reliability by the Soil Conservation Service.
3. The historic commercial agricultural or forestal uses of the property since 1950, to the extent that is reasonably available.
4. If located in an agricultural or forestal area, the probable effect of the proposed development on the character of the area. For the purposes of this section, a property shall be deemed to be in an agricultural or forestal area if fifty (50) percent or more of the land within one (1) mile of the border of such property has been in commercial agricultural or forestal use within five (5) years of the date of the application for special use permit. In making this determination, mountain ridges, major streams and other physical barriers which detract from the cohesiveness of an area shall be considered.
5. The relationship of the property in regard to developed rural areas. For the purposes of this section, a property shall be deemed to be located in a developed rural area if fifty (50) percent or more of the land within one (1) mile of the boundary of such property was in parcels of record of five (5) acres or less on the adoption date of this ordinance. In making this determination, mountain ridges, major streams and other physical barriers which detract from the cohesiveness of an area shall be considered.
6. The relationship of the proposed development to existing and proposed population centers, services and employment centers. A property within areas described below shall be deemed in proximity to the area or use described:
 - a. Within one mile roadway distance of the urban area boundary as described in the comprehensive plan; (Amended 11-8-89)
 - b. Within one-half mile roadway distance of a community boundary as described in the comprehensive plan; (Amended 11-8-89)
 - c. Within one-half mile roadway distance of a village as described in the comprehensive plan. (Amended 11-8-89)
7. The probable effect of the proposed development on capital improvements programming in regard to increased provision of services.
8. The traffic generated from the proposed development would not, in the opinion of the Virginia Department of Transportation: (Amended 11-8-89)
 - a. Occasion the need for road improvement;
 - b. Cause a tolerable road to become a nontolerable road;
 - c. Increase traffic on an existing nontolerable road.

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9. With respect to applications for special use permits for land lying wholly or partially within the boundaries for the watershed of any public drinking water impoundment, the following additional factors shall be considered:
 - a. The amount and quality of existing vegetative cover as related to filtration of sediment, phosphorous, heavy metals, nitrogen and other substances determined harmful to water quality for human consumption;
 - b. The extent to which existing vegetative cover would be removed or disturbed during the construction phase of any development;
 - c. The amount of impervious cover which will exist after development;
 - d. The proximity of any paved (pervious or impervious) area, structure, or drain field to any perennial or intermittent stream or impoundment; or during the construction phase, the proximity of any disturbed area to any such stream or impoundment;
 - e. The type and characteristics of soils including suitability for septic fields and erodability;
 - f. The percentage and length of all slopes subject to disturbance during construction or upon which any structure, paved area (pervious or impervious) or active recreational area shall exist after development;
 - g. The estimated duration and timing of the construction phase of any proposed development and extent to which such duration and timing are unpredictable;
 - h. The degree to which original topography or vegetative cover have been altered in anticipation of filing for any permit hereunder;
 - i. The extent to which the standards of Chapter 17 et seq. of the Code of Albemarle can only be met through the creation of artificial devices, which devices will:
 1. Require periodic inspection and/or maintenance;
 2. Are susceptible to failure or overflow for run-off associated with any one hundred year or more intense storm.

(§ 20-10.5.2.1, 12-10-80; 11-8-89; §18-10.5.2.1, Ord. 98-A(1), 8-5-98; Ord. 04-18(1), 5-5-04 effective 7-1-04)

10.5.2.2 MATERIALS TO BE SUBMITTED BY THE APPLICANT

The commission and the board of supervisors may require the applicant to submit such information as deemed necessary for the adequate review of such application provided that such information shall be directly related to items 1, 2, 3 and 9 of section 10.5.2.1.