

Section 9-5. Residential Uses

9-5.1 Ancillary residential structure or use

Where an ancillary residential structure meets the setbacks of the principal building, it may also utilize the principal building heights. **Ancillary residential structures and uses, must meet the setback and height restrictions for accessory structures for the district in which they are located. Ancillary residential structures that meet the setbacks for principal structures can also utilize the principal height for the district in which they are located.**

Staff notes

- Per PC/BOS discussion
 - Allow ancillary residential structures to meet the height and setback regulations for accessory structures in the district in which they are located.
 - Revisit height regulations for accessory structures (35' max). Is that too tall?

9-5.2 Dwelling Multifamily

Multifamily dwellings in the Residential Multi-Family (R-MF) district - A maximum of twelve (12) dwelling units per acre may be permitted with an approved Conditional Use Permit (See xxx Conditional Use Permits). The Planning Commission and Board of Supervisors may consider the recommendations of all reviewing agencies and public comments, and may consider in the conditional use permit decision, conditions and limitations on approval necessary for the protection of the public health, safety and welfare, which may include, but are not limited to:

- a) **Traffic impacts, on and off site**
- b) **Existing or proposed setbacks and/or buffers to mitigate adverse impacts to adjacent properties**

Staff notes

- New Article 9 to permit up to 12 DU / acre with an approved CUP.

9-5.3 Dwelling, secondary

The following requirements shall apply to accessory apartments and accessory dwellings:

- (1) At the time of application for a zoning permit for an accessory apartment or an accessory dwelling, the owner of the lot or parcel subject to the zoning permit shall occupy the principal dwelling unit on the property for all or some portion of the year as either their primary residence or as a secondary or vacation home.
- (2) Accessory apartments:
 - a. Only one accessory apartment per parcel is allowed.
 - b. On lots less than two (2) acres, the gross living area of an accessory apartment shall be no larger than 800 square feet or thirty five (35) percent of the gross floor area of the principal structure whichever is greater.

- c. On lots two acres or greater, the gross living area of an accessory apartment shall be no larger than 800 square feet or forty-nine (49) percent of the gross floor area of the principal structure whichever is greater.
- (3) Accessory dwellings:
- a. Only one accessory dwelling per parcel is allowed.
- b. The building footprint of the detached structure containing the accessory dwelling shall be no greater than seventy-five (75) percent of the gross floor area of the principal structure.
- c. On lots less than two (2) acres, the gross living area of the accessory dwelling unit shall be no larger than 800 square feet or thirty-five (35) percent of the gross floor area of the principal structure, whichever is greater.
- d. On lots two (2) acres or greater, the gross living area of the accessory dwelling unit shall be no larger than 800 square feet or forty-nine (49) percent of the gross floor area of the principal structure, whichever is greater.

The following requirements shall apply to secondary dwellings.

- i. **Secondary dwellings located in the Business General (B-G) and Business Rural (B-R) districts:**
- a. **Only one secondary dwelling is permitted per commercial structure.**
- b. **The gross living area square footage of the secondary dwelling shall be no greater than 1,200 square feet. However, in no case shall the gross living area of the secondary dwelling be equal to or greater than the building footprint of the commercial structure.**
- c. **In the B-G district the secondary dwelling must be located in the structure housing the business use. In the B-R district the secondary dwelling may be located in the structure housing the business use or in an accessory structure. Manufactured homes can not be utilized as secondary dwellings.**
- ii. **Secondary dwellings in the AG-1, AG-2, R-BC, R-SC, and R-SF districts.**
- a. **Only one secondary dwelling shall be permitted per primary residence. Secondary dwellings can be either located in the principal structure or an accessory structure.**
- b. On lots less than two (2) acres, the gross living area of the accessory **secondary** dwelling unit shall be no larger than 800 square feet or thirty-five (35) percent of the gross floor area of the principal structure, whichever is greater.
- c. On lots two (2) acres or greater, the gross living area of the accessory **secondary** dwelling unit shall be no larger than 800 square feet or forty-nine (49) percent of the gross floor area of the principal structure, whichever is greater.
- d. **Lots with manufactured homes as the principal dwelling can only have a secondary dwelling if the principal dwelling has been converted to real property as regulated by Va. Code Section 46.2-653.1.**
- e. **The following additional regulations shall apply to secondary dwellings located in an accessory structure.**
- i. ~~The building footprint of the detached structure containing the accessory secondary dwelling shall be no greater than seventy-five (75) percent of the gross floor area~~ **building footprint** of the principal structure.
- ii. **When the proposed secondary dwelling is located in a new accessory structure, the side and rear yard setbacks shall be 15 feet. When located in an existing legally established accessory structure the setbacks of that structure when legally established can be maintained provided the structure was established prior to the adoption of this ordinance.**

iii. **Manufactured homes cannot be utilized as secondary dwellings.**

Staff notes

- Secondary dwellings are now permitted in the general business district.
- Multiple individuals have circumvented the current code by signing an affidavit stating the principal residence is their secondary home when it is not. The requirement for primary, secondary, or vacation home occupancy is very difficult to enforce. Current draft removes requirement for owner occupancy of any kind.
- Currently both an accessory apt and accessory dwelling are permitted on one lot. This essentially allows multifamily (3 dwelling units) in single family districts. Current draft only allows for one secondary dwelling. It can be located in the primary residence or in an accessory structure.
- Secondary dwellings in new accessory structures must meet the proposed 15' setback, although existing structures utilized for new secondary dwellings do not, as long as the structure was legally established prior to the adoption of this ordinance. Staff to add statement to zoning permit related to setback so new applicants of accessory structures are aware of the different setbacks required should they ever desire to add a secondary residence in the accessory structure.
- Currently a lot with a manufactured home as the primary residence cannot apply for a secondary dwelling. The current proposed draft allows manufactured homes that have converted their home to real property per Va. Code 46.2-653.1 to have a secondary dwelling. However, the secondary dwelling must be smaller than the principal and cannot be a manufactured home. Additionally, the manufactured home cannot be located in a mobile home park.

9-5.4 Dwelling, single family attached (townhouse) **Will discuss at a future date.**

Staff notes

- Staff is taking pertinent information located in current *Section 5-3 Town house lot development provisions* and incorporating it into a supplementary regulation for single-family attached dwellings (townhouses).

9-5.5 Dwelling, single family detached, cluster **Will discuss at a future date.**

Staff notes

- Staff is taking pertinent information located in current *Section 5-4 Conservation and countryside district development provisions* and incorporating it into a supplementary regulation for single-family attached dwellings (townhouses).

9-5.6 Dwelling, single family detached, conventional

Conventional single family detached dwellings in the Residential Multi-family (R-MF) zoning district - More than one single family detached dwelling may be allowed on a single lot with an approved Conditional Use Permit (See xxx Conditional Use Permits).

Staff notes

- New Article 9 to permit more than one single family detached dwelling on a single lot with an approved CUP. This is to allow cottage or bungalow developments.

9.5-7 Home Occupations

Definitions

Add the following to new section 2-2 Definitions:

Motor vehicle – Any vehicle as defined in Virginia State Code Section 46.2-100 that is self-propelled or designed for self-propulsion.

Visible - Capable of being seen without visual aid by a person of normal visual acuity.

Revise the following definitions and add to new section 2-3.5 Residential Use Types Definitions:

Home occupation - An accessory use of a residential property which is a business owner's bona fide residence involving the provision of goods and/or services in accordance with section 9-5.7 of this ordinance. This definition shall be further classified as Type I and Type II home occupations.

Home occupation, Type I – Type I home occupations are permitted by right provided they meet the requirements of section 9-5.7 (a)

Home occupation, Type II – Type II home occupations are permitted by Special Exception (SE) and are subject to the requirements of section 9.5-7 (b)

9.5-7 Home Occupations

(a) Type I home occupations shall meet the following criteria:

1. **No alteration to the exterior of the principal residential building and accessory building shall be made which substantially changes the character thereof as a dwelling.**
2. **No sign may be placed on the property advertising the home occupation.**
3. **Home occupations shall be reasonably compatible with the district in which they are located. Vehicle and engine repair/services, and warehousing shall not be permitted as home occupations.**
4. **There shall be no employee, volunteer, or customer traffic.**
5. **All structures used for the home occupation must be lawfully permitted at the time of application.**

6. Commercial vehicles with a Gross Vehicle Weight Rating (GVWR) over 10,000 lbs. are not permitted with a Type I Home Occupation. This weight restriction shall not apply to a standard, unmodified pickup truck commonly used for private use.
7. For lots less than 5 acres in area in an AG-1, AG-2, R-BC, or R-SC district and all lots in other districts:
 - i. The home occupation must be conducted within the bona fide residence of the business owner or in an accessory building thereto. There shall be no outside storage or operations for Type I home occupations.
 - ii. The maximum floor area permitted for a Type I home occupation shall be twenty-five (25) percent of the gross floor area of the residence. An accessory structure may be used with the home occupation, provided that the combined total floor area devoted to the home occupation in the accessory structure and residence does not exceed twenty-five (25) percent of the gross floor area of the residence.
 - iii. One (1) commercial vehicle with a Gross Vehicle Weight Rating (GVWR) less than or equal to 10,000 lbs. is permitted to be associated with the home occupation.
8. For lots equal to or greater than five (5) acres in area in an AG-1, AG-2, R-BC, or R-SC district:
 - i. The maximum floor area permitted for a home occupation shall be the equivalent of twenty-five (25) percent of the cumulative gross floor area of the residence and any accessory buildings thereto.
 - ii. The maximum outdoor area permitted for storage and operations shall not exceed one half (0.5) acre (21,780 SF) of the parcel.
 1. All outdoor storage associated with the home occupation, with the exception of one (1) commercial vehicle with a Gross Vehicle Weight Rating (GVWR) less than or equal to 10,000 lbs., shall not be visible from any property line. Outdoor storage includes, but is not limited to, tools, equipment, products, and additional vehicles less than or equal to 10,000 lbs.
 2. Outdoor operations shall not be visible from any property line and shall meet the minimum setback requirements of the district for principal buildings.
 3. A plot plan drawn to scale shall be required with the zoning permit application for a Home Occupation Type I with outside storage or operations.
 - a. The plot plan shall show the location and dimensions of all outdoor areas utilized by the home occupation.
 - b. The plot plan shall indicate the existing or proposed screening that satisfies the requirement that the outdoor areas associated with the Home Occupation will not be visible from any property line.
 - c. The business owner shall be responsible to provide and maintain screening in compliance with this section. Noncompliance shall be enforced pursuant to Section 15 and may result in the revocation of the zoning permit.
9. Secondary Dwellings - Home occupations permitted in secondary dwellings must comply with the following criteria:
 - i. Must be conducted within a structure which is the bona fide residence of the business owner.
 - ii. The maximum floor area permitted for the home occupation shall be twenty-five (25) percent of the gross floor area of the secondary dwelling residence.
 - iii. Only one commercial vehicle associated with the home occupation is permitted and cannot exceed a Gross Vehicle Weight Rating (GVWR) of 10,000 lbs. This weight

restriction shall not apply to a standard, unmodified pickup truck commonly used for private use.

(b) Type II home occupations require a special exception (SE) and shall meet the following criteria along with any additional conditions imposed by the board of zoning (BZA) appeals:

1. The following activities associated with home occupations may be approved by the board of zoning appeals (BZA) upon meeting the requirements for a special exception, the requirements of this section, and any additional conditions imposed by the board of zoning (BZA) appeals.
 - i. Employee, volunteer, or customer traffic.
 - ii. Outside storage and/or operations.
 - iii. Commercial vehicles as follows:
 1. More than one (1) commercial vehicles associated with the business owner's business may be permitted provided that the commercial vehicles have a Gross Vehicle Weight Rating (GVWR) less than or equal to 10,000 lbs. This weight restriction shall not apply to a standard, unmodified pickup truck commonly used for private use.
 2. Commercial vehicles associated with the business owner's home occupation having a Gross Vehicle Weight Rating (GVWR) over 10,000 lbs. may be permitted for home occupations located only in the following zoning districts: AG-1, AG-2, R-BC, & R-SC. This weight restriction shall not apply to a standard, unmodified pickup truck commonly used for private use.
2. No alteration to the exterior of the principal residential building and accessory building shall be made which substantially changes the character thereof as a dwelling.
3. No sign may be placed on the property advertising the home occupation.
4. Type II Home Occupations are not permitted in secondary dwellings.
5. Home occupations shall be reasonably compatible with the district in which they are located. Vehicle and engine repair/services, and warehousing shall not be permitted as home occupations.
6. Home occupations with employee, volunteer and/or customer traffic may be considered a place of public accommodation under the Uniform Statewide Building Code (USBC) and accessibility requirements for such uses shall be determined by the Building Official prior to review by the BZA for a special exception.
7. All operations and storage shall be located on the same parcel as the business owner's bona fide residence.
8. All structures used for the home occupation must be lawfully permitted at the time of application.
9. If the home occupation parcel does not have frontage on, or exclusive deeded access to, a state maintained road, all property owners whose land abuts the private road, whether or not they have access to the road, shall be notified of the special exception application and hearing date.
 - i. This notification shall be in addition to the notification requirements of Section 14-18 and the property owners notified shall be based on the information available in county records at the time of application.
 - ii. The applicant is required to provide legal documentation of exclusive deeded access to a state road, if applicable, as part of their application for special exception.

Current Regulations

Home occupations are permitted in any residence subject to the following use limitations:

- ~~(1) A home occupation must be conducted within a structure which is the bona fide residence of the principal practitioner or in an accessory building thereto which is normally associated with a residential use.~~
- ~~(2) No alteration to the exterior of the principal residential building and accessory building shall be made which substantially changes the character thereof as a dwelling.~~
- ~~(3) Home occupations shall be reasonably compatible with the district in which they are located.~~
- ~~(4) The maximum floor area permitted for a home occupation shall be twenty-five (25) percent of the finished floor area of the residence. Storage of goods or products shall not exceed ten (10) percent of the finished floor area.~~
- ~~(5) An accessory structure may be used with the home occupation, provided that the combined total floor area devoted to the home occupation in the accessory structure and residence does not exceed twenty-five (25) percent of the finished floor area of the residence.~~
- ~~(6) No sign may be placed on the property advertising the home occupation.~~