Policy Committee
Government Center Complex
Conference Room, Building d

Feb. 13, 2014 - 3 p.m.

1. **Roll Call**
2. **Minutes**
   a. January 16, 2014
3. **Old Business**
   a. Case No. Z0-0007-2013, Zoning Ordinance Amendment to Consider the Keeping of Chickens in Residentially Zoned Areas of the County (Poquoson Ordinance) (York County Ordinance) (Policy Staff Report)
4. **New Business**
   a. Case No. ZO-0008-2013, Accessory Apartments
5.

MEMORANDUM

DATE: February 13, 2014

TO: The Policy Committee

FROM: W. Scott Whyte, Senior Landscape Planner II

SUBJECT: Case No. ZO-0007-2013. A Zoning Ordinance Amendment to Consider the Keeping of Chickens in Residential Zoned Areas of the County.

At its January 16, 2014 meeting the Policy Committee conducted a public input session on this matter. The committee reviewed results from a survey of over 600 interested citizens and parties. Ordinances from neighboring localities that have recently adopted chicken keeping ordinances were reviewed and the committee heard from interested citizens on many issues that they felt were important considertions for a chicken keeping ordinance. The issues included HOA and neighborhood convenants and restrictions, whether the County should consider chicken keeping in all residential areas, how many chickens should be allowed, coop construction and placement, and possible nuisences caused by chickens.

The primary issue of whether or not the County should consider allowing chickens in residentially zoned areas was a split issue on the survey with 44% agreeing and 54% opposed; however, it should be noted that over 200 of the 329 responses in opposition to chicken keeping were from one subdivision. Eighty six percent of the people who responded felt that if the county does allow chickens in residential areas certain restrictions should be applied. The types of restrictions that other localities have applied, and were suggested by the respondents, included the number of birds allowed, coops and construction standards, location and setbacks for coops, sanitation, and regulations to mitigate possible nuisance complaints from neighbors.

Citizens felt that the number of birds should be restricted, usually by lot size. For instance York County allows one bird for every 2,500 square feet of lot area, not to exceed sixteen birds. In Poquoson the Zoning Administrator determines the number of birds and setbacks that he feels is appropriate to maintain the residential nature and tranquility of the neighborhood. Most localities have requirements for coops and construction standards, usually requiring an enclosure with a roof to keep the birds contained and safe from the elements and predators. The location of the coop is often regulated, usually restricted to the back yard with setback regulations to keep the coops away from property lines and adjacent structures. Sanitation and rooster restrictions are often applied to mitigate possible nuisance complaints about noise and odor.

With respect to this particular case, the county attourney's office has issued the following opinion on HOA covenants and restrictions;

> There are two sets of restrictions to consider – County ordinances and private restrictions. Private restrictions may be in the form of an HOA regulation or may be a covenant. Covenants may be imposed on parcels inside or outside an HOA, but are most often found in older, non-HOA neighborhoods. The County is not a party to these private restrictions, so by necessity they must be privately enforced, usually by the neighbors or the HOA. Staff will usually recommend against approving a specific legislative action on a specific parcel (i.e., an SUP or rezoning) that directly conflicts with an HOA condition or a neighborhood covenant (e.g., an SUP application for a day care business on a parcel that is encumbered by a covenant that prohibits business use of that

parcel). Such a conflict does not prevent the Board of Supervisors from approving the application, however. In those situations, the applicant will have obtained County permission for the proposed use, but must then reconcile the private restriction conflict with their neighbors or HOA.

In this case, if the County adopted a change to the zoning ordinance that permitted chickens in every residential district, citizens in residential districts would only have the County's permission to keep chickens. If there are private restrictions that prohibit the keeping of chickens on property in a residential district, they would be privately enforced. This is not uncommon – for example, the County generally permits certain low-impact home occupations as a matter of right, but there are many HOA and covenant restrictions that prohibit commercial uses on residentially zoned property. Due to the varied nature of private restrictions and their tendency to change; Staff finds that it would be difficult to craft a zoning regulation that did not conflict with many existing neighborhood covenants and restrictions. Staff recommends that the committee review each residential district independently and determine whether this is a use that would be generally acceptable in that district. Individual HOAs and neighborhoods must then determine whether they wish to further restrict that use.

In cases where a conflict exists between zoning and private covenants, the more restrictive law prevails. If the more restrictive law is a County ordinance, then it would be enforced by the County. If the more restrictive law is private, it would be privately enforced.

Based on the previously provided survey results and in consideration of adopted ordinances from other localities and public input received to date, staff seeks feedback and direction from the Policy Committee to move forward. With the benefit of this input and direction, the next steps for staff would include preparing draft ordinance language options for your review at the March Policy Committee Meeting.

Attachments:

1. York County ordinance
2. City of Poquoson ordinance

Section 1-17. - Keeping of farm animals.

(a)

Farm animals, i.e., horses, cows, pigs, chickens, etc., may be kept in the city, subject to obtaining a use permit and subject to the following conditions:

(1)

Farm animals will be allowed only in conservation districts and in single-family residential districts. They will not be allowed in any other districts.

(2)

The following shall apply to hooved animals, i.e., horses, cows, goats, etc., except pigs:

a.

There shall be required a minimum of two acres, for one animal, and one acre, per each additional animal, of open space (pasture) in addition to the lot size requirements of the residential zone in which the animals will be kept. Properties belonging to another party cannot be used in meeting area and setback requirements, unless a copy of a written agreement, valid for the duration of the time the animal will be kept, is presented at the time of application for issuance or renewal of a use permit.

b.

All stables and pastures shall be kept in a sanitary condition. No storage or accumulation of manure shall be kept on the premises except in completely enclosed and screened structures. Stables and pasture areas must be kept in a dry and well drained condition in order to prevent bog or muddy areas.

c.

Stables adequate as to size and physical condition must be provided for all animals. Stables must not be allowed to fall into disrepair or to become unsightly. All stables shall be at least 300 feet from any residence belonging to a person other than an applicant and at least 50 feet from any adjoining property line. Pasture fencing shall be at least 50 feet from any property line (other than city right-of-way) and at least 100 feet from any residence. No stable shall be nearer than 200 feet to any public right-of-way or thoroughfare. All stables and fencing must be completed prior to an animal being placed on the property.

(3)

The following shall apply to pigs:

a.

Pigs shall be maintained in pens with at least a 36-inch high perimeter fence enclosed with wire mesh or wooden boards close enough to prevent small animals from escaping according to the following footage allowances:

Sows:

25—40 pounds: 12 square foot allowance per animal

40—100 pounds: 16 square foot allowance per animal

100—150 pounds: 25 square foot allowance per animal

150—200 pounds: 68 square foot allowance per animal

Boars require the same footage per animal until 150 pounds

150—210 pounds: 32 square foot allowance per animal

Boars with sows: 100 square foot allowance per animal

Pigs per pen while weaning: 75 pounds: 16 animals maximum; 16 square foot allowance per animal

Pigs per pen from weaning to market: Over 75 pounds: 8 animals maximum; 24 square foot allowance per animal

b.

All pens and yards shall be kept in a sanitary condition. No storage or accumulation of manure shall be kept on the premises, except in completely enclosed and screened structures. Pens and yard areas must be kept in a dry and well drained condition in order to prevent bog or muddy areas.

c.

Pens shall not be allowed to fall into disrepair or to become unsightly. All such pens shall be at least 300 feet from any residence belonging to a person other than the applicant and at least 50 feet from any adjoining property line. Fencing for such pens shall be at least 50 feet from any property line (other than city right-of-way) and 100 feet from any residence. No pen shall be nearer than 200 feet to any public right-of-way or thoroughfare. All pens and fencing shall be completed prior to an animal being placed on the property. If concrete is used in the pens, it should slope one-half inch per foot and include bedding.

(b)

All use permits for the keeping of farm animals shall be issued for a period of one year from January 1 to December 31. All use permits shall be subject to revocation upon violation of any of the conditions set forth in the permit. The grant of a use permit shall not vest in the recipient an unqualified right of renewal for the permit. Renewal of all use permits issued shall be subject to the imposition of additional restrictions as land uses in the area change. Individuals wishing to keep farm animals shall make application for a use permit on such forms as the city manager may require. A nonrefundable fee of $15.00 shall accompany the initial application. Prior to issuance of a use permit, the city manager shall notify all property owners adjacent to and across the street from the location at which the animals are proposed to be kept of the request for a permit and shall ensure that the applicant is capable of meeting all of the requirements imposed by this section. Each year, prior to renewal of the use permit, the city manager shall notify all adjacent property owners of the renewal and shall review the permit for compliance with all conditions imposed either by ordinance or by the terms of the permit itself. No fee shall be charged for the renewal permit.

(c)

For the keeping of nonhooved animals, i.e., chickens, fowl, the application and renewal procedures and sanitary conditions used for keeping hooved animals will be followed. However, the zoning administrator shall establish appropriate setbacks and other stipulations as necessary to preserve the residential nature and tranquility of the neighborhood.

Sec. 24.1-414.1 Standards for Domestic Chicken-keeping as an Accessory Activity on Residential Property

Keeping and housing domestic chickens on residentially-zoned and occupied property in the R20, R13 and WCI Districts shall be solely for purposes of household consumption and shall be permitted only in accordance with the following terms and conditions. These provisions shall not be construed to allow the keeping of game birds, ducks, geese, pheasants, guinea fowl, or similar fowl/poultry.

(a) Chickens allowed pursuant to this section shall be kept and raised only for domestic purposes and no commercial activity such as selling eggs or selling chickens for meat shall be allowed unless authorized as a home occupation through the issuance of a special use permit by the board of supervisors pursuant to the terms of Section 24.1-283(b) of this chapter.

(b) The maximum number of chickens permitted on a residential lot shall be one (1) hen per 2,500 square feet of lot area, not to exceed a maximum of sixteen (16) hens.

(c) No chickens shall be allowed on townhouse, duplex, condominium, apartment or manufactured housing park properties.

(d) No roosters shall be allowed.

(e) Pens, coops, or cages shall not be located in any front or side yard area.

(f) All pens, coops, or cages shall be situated at least ten (10) feet from adjoining property lines and twenty-five (25) feet from any dwelling located on a property not owned by the applicant. Pens, coops, or cages shall not be located in a storm drainage area that would allow fecal matter to enter any storm drainage system or stream.

(g) All chickens shall be provided with a covered, predator-proof shelter that is thoroughly ventilated, provides adequate sun and shade and protection from the elements, is designed to be easily accessed and cleaned. Such structures shall be enclosed on all sides and shall have a roof and at least one access door. Coops shall provide adequate space for free movement and a healthy environment for birds.

(h) All pens, coops, or cages shall be kept in a neat and sanitary condition at all times, and must be cleaned on a regular basis so as to prevent odors perceptible at the property boundaries. All feed for the chickens shall be kept in a secure container or location to prevent the attraction of rodents and other animals.

(i) No person shall store, stockpile or permit any accumulation of chicken litter and waste in any manner whatsoever that, due to odor, attraction of flies or other pests, or for any other reason diminishes the rights of adjacent property owners to enjoy reasonable use of their property. .

(j) In the case of proposals for backyard chicken-keeping in the R20, R13 and WCI Districts, the property owner must file an application with the Division of Development and Compliance, Department of Environmental and Development Services, on such forms as the Division provides. Such application shall be accompanied by a $15.00 processing fee. The application shall include a sketch showing the area where the chickens will be housed and the types and size of enclosures in which the chickens shall be housed. The sketch must show all dimensions and setbacks. Upon review and determination that the proposed chicken-keeping complies with the

standards set forth above, the Division of Development and Compliance shall issue a permit to document that the proposed activity has been reviewed and is authorized pursuant to the terms of this chapter. Accessory residential chicken- keeping operations shall be subject to periodic inspection to assure compliance with the performance standards established in this section.

(k) Proposals for keeping more chickens than allowed by subsection (b) above, for observing setbacks of a lesser dimension than any of those set forth above, or for keeping roosters, may be considered and approved by Special Use Permit in accordance with all applicable procedural requirements.

MEMORANDUM

DATE: February 13, 2014

TO: The Policy Committee

FROM: Jennifer VanDyke, John Rogerson

SUBJECT: Case No. ZO-0008-2013. Accessory Apartments

At its January 8, 2014, meeting the Planning Commission approved an initiating resolution to consider revisions to the Zoning Ordinance pertaining to the definition, provisions and procedures relating to accessory apartments. Staff has reviewed the Zoning Ordinance districts where accessory apartments are currently permitted as a matter of right or upon issuance of a special use permit. Currently, accessory apartments are allowed by-right on property that is zoned A-1, R-2, R-3, R-4, R-8, MU and PUD and are allowed as a specially permitted use on land that is zoned R-1 and R-6.

The Zoning Ordinance currently contains a definition for accessory apartments as well as requirements within Article II, Special Regulations. The definition states accessory apartments must be a separate, complete housekeeping unit that is substantially contained within the structure of, and clearly secondary to, a single-family dwelling. Accessory apartments may not occupy more than 35 percent of the floor area of the dwelling. Sec. 24-32 further outlines requirements; new entrances must be located on the side or rear of the building and all setback, yard and height regulations applicable to main structures in the zoning district must be met.

Current ordinance provisions require accessory apartments be substantially contained within the structure of, and clearly secondary to, the single-family dwelling, eliminating the possibility of having accessory apartments located above a detached garage or having the unit attached by breezeway. By definition accessory apartments must share a common wall with the single-family dwelling. Regulatory restrictions requiring that units be attached, the placement of new entrances on the side or rear as well as the limitation on size, were put in place to preserve the look and character of the existing, residential development. The close proximity of living spaces would also discourage homeowners from having non-family members reside in the accessory apartment. From the onset, establishing allowances for accessory apartments was intended to provide self-sufficient living accommodations for family members while maintaining the character of the neighborhood.

A homeowner can make improvements to a garage as well as other secondary structures to include establishing electrical, water and sewer services. Outside of the provisions for accessory apartments, the ordinance currently prohibits the establishment of a complete housekeeping unit. Any structure located outside of the primary, single-family dwelling cannot have both a full kitchen and bath. A sink and several smaller appliances that operate on regular electrical service (microwaves, small fridges) would not be considered a full kitchen. Zoning staff is responsible for reviewing building permits for new home construction. Electrical permits establishing 220 electrical service is what typically alerts staff to the establishment of an accessory apartment. The 220 electrical service required for a full-sized stove and range located in a food preparation area along with a full bath does establish a complete housekeeping unit.

In instances where the County permits accessory apartments, it is incumbent upon the property owner to ensure there are no existing, private covenants restricting the apartment. In the past, certain special use

permit applications were withdrawn after it had been realized that existing covenants would restrict the proposed apartment. Restrictive covenants are deed restrictions that apply to parcels of property, which are usually located within a neighborhood. The method by which restrictive covenants may be interpreted or enforced is usually set forth within the covenants themselves; however, in all cases the interpretation and enforcement is handled privately and not by the County.

In 2010, the State Code was amended to include new provisions for temporary, family health care structures otherwise known as medical cottages or "granny pods". This amendment enables property owners to place one temporary structure on their property for the purpose of providing care to a mentally or physically handicapped family member. State Code requires all setback requirements are met and unit can only be located on lots zoned for single-family detached dwellings. State code also limits the units to no more than 300 gross square feet. This provision also requires that the structure be removed no more than 30 days after the mentally or physically handicapped individual no longer requires or is receiving care.

Staff does not have an estimate of the number of by-right accessory apartments in James City County. Since 1988 there have been five specially permitted accessory apartments approved.

Staff has included an ordinance matrix that lists the provisions outlined by adjacent localities permitting accessory apartments.

Staff requests the Policy Committee review the enclosed material and provide staff with input and direction. Results from the citizen input survey will be provided at the meeting. For next steps, staff will provide the Policy Committee with draft ordinance options at your March meeting. The Policy Committee may also want to discuss the possibility of allowing accessory apartments as a matter or right or maintain that they be specially permitted in R-1 and R-6.

Attachments:

1. Adjacent locality provisions for accessory apartments matrix
   Code Requirements for Accessory Apartments in:
2. City of Charlottesville
3. Albemarle County
4. Chesterfield County
5. City of Williamsburg
6. York County
7. State code provisions for temporary family health care structures

Locality and type of unit permitted	Only attached units	Categorical division of accessory apartment allowances	Unit size restrictions	Lot size requirement, exceeding conventional requirements	Restrictions regarding occupants i.e. age, familial	Restrictions on number of occupants	Restrictions concerning aesthetics	Other
James City County	*	**By-right**: A-1, R-2, R-3, R-4, R-8, MU, PUD with **Special use permit**: R-1, R-6	Cannot occupy more than 35% of the floor area of the principal structure				Accessory apartment entrance must be located on side or rear of principal structure	
City of Charlottesville All accessory apartments (internal and external) require a provisional permit		General regulations concerning all accessory apartments	Cannot occupy more than 30% of rear yard		One of two dwelling units must be occupied by owner	Accessory apartment cannot have more than 2 occupants	Cannot be located in front yard	
		Additional regulations for interior (contained within principal structure) accessory apartments	Cannot exceed 40% of gross floor area of principal structure				Accessory apartment entrance and/or stairs cannot front a public street	
Albemarle County	*		Cannot exceed 35% of gross floor area of principal structure		One of two dwelling units must be occupied by owner			Must have minimum of 3 parkings spaces for property
Chesterfield County requires Conditional Use Permits for accessory apartments	*				Accessory apartment must be occupied by a family member			
City of Williamsburg	*	**Attached** accessory apartments are permitted in RS-1 and RS-2 contingent upon approval of a **special exception use**.	400 ≥ 800 and ≥25% of the floor area of principal structure No more than 2 bedrooms, 1 bath, 1 kitchen and 1 all-purpose room	Lot in which the dwelling will be located shall not have less than 90 % of the required minimum lot area for the district	Must be occupied by family member and must be 62 yrs. of age or older **OR** a physically or mentally handicapped individual and their caretaker	No more than 2	Elevations and architectural review board approval required for proposals involving any exterior changes to houses within the architectural preservation district	

York County - sliding scale of requirements allowing larger accessory apartments in specified zoning districts on parcels that exceed conventional area requirements	*	RC, RR, R20 and R13 **By right** and **attached** to principal structure	≥600 square feet/25% of the floor area of principal structure					
	*	RC, RR, R20 and R13 **Specially Permitted** and **attached** to principal structure	≤600 square feet/25% limitation but ≥800 square feet or 35% of the floor area of principal structure					
		RC, and RR **By right** and **detached**	≥600 square feet/25% of the floor area of principal strucutre	RC -10 acres RR - 2 acres, this doubles the area requirement for **both** zoning districts				
		RC, RR, R20, and R13 **Specially Permitted** and **detached**	≥800 square feet/35% of the floor area of principal structure					
		RC, RR and R20 **By right - attached or detached**	≥800 square feet/35% of the floor area of principal structure	RC -10 acres RR - 2 acres, this doubles the area requirement for **both** zoning districts R20 - 80,000 square feet, this is four times the area requirement for this zoning district				
		RC, RR and R20 **Specially Permitted - attached or detached**	≥ 1,000 square feet/49% of the floor area of principal structure	RC -10 acres RR - 2 acres, this doubles the area requirement for **both** zoning districts R20 - 80,000 square feet, this is four times the area requirement for this zoning district				
		Additional regulations applying to **All** accessory apartments	Cannot exceed 1 bedroom		Must be occupied by guest, family member, caretaker or employee. Unit cannot be rented out.		No additional entrance facing a street	

City of Newport News and Hampton do not permit accessory apartments.

Noteworthy York County Regulation- a breezeway connecting the primary structure to another would qualify **both** structures as attached.

CITY OF CHARLOTTESVILLE CITY CODE

Sec. 34-1105. Accessory buildings and structures.

(a) No accessory building or structure shall:

(1) be constructed upon a lot until the construction of the main building has been actually commenced;
(2) be used for dwelling purposes (except for accessory apartments, where such apartments are otherwise permitted within a residential zoning district);
(3) be located within any front yard; or, on a corner lot, project into the required yard adjacent to any street frontage; or
(4) exceed twenty five (25) feet in height or the highest point of the primary dwelling unit's roof surface, whichever is less.

(b) Accessory buildings may be erected in a required rear yard, provided that in any residential zone, accessory buildings and structures (when located within a required rear yard):

(1) cumulatively shall not occupy more than thirty (30) percent of a rear yard, and
(2) shall not be nearer than five (5) feet to any side or rear lot line
(3) when a garage situated within a required rear yard is entered from an alley, the garage shall not be nearer than 10 feet to the property line adjacent to the alley

Sec. 34-1171: Standards--accessory apartments

(a) In addition to the requirements of Sec. 34-1105, accessory apartments authorized by a provisional use permit shall be subject to the following regulations. Any property containing an accessory apartment shall comply with the following:

(1) One of the two dwelling units on the subject property must be occupied by the owner of the property.
(2) Use and occupancy of each dwelling unit comply with all applicable building code regulations.
(3) No accessory unit shall exceed twenty five (25) feet in height or the highest point of the primary dwelling unit's roof surface, whichever is less.
(4) Notwithstanding any other residential occupancy provisions set forth within this zoning ordinance, no accessory apartment may be occupied by more than two persons.

(b) In addition to the requirements set forth above in paragraph (a), the following shall apply to interior accessory apartments:

(1) The accessory apartment may not have its own separate entrance located on any façade of the principal ~~structure~~ dwelling that fronts on a public street. No exterior stairs providing access to the accessory apartment shall be visible from any public street.
(2) The accessory apartment must be entirely contained within the principal structure.
(3) The gross floor area of the accessory apartment may not exceed forty percent (40%) of the gross floor area of the principal structure in which it is located.

~~(4) In addition to the requirements set forth above in paragraph (a), exterior accessory apartments must be located within an accessory structure, and the accessory structure must itself be in compliance with all applicable zoning and building code regulations.~~

(c) In addition to the requirement set forth in paragraph (a), the following shall apply to exterior accessory apartments:

(1) must be located within an accessory structure, and the accessory structure must itself be in compliance with all applicable zoning and building code regulations

(2) the footprint of the exterior accessory dwelling may not exceed 40% of the average footprint of the principal dwelling and all principal dwellings on the parcels that share lot lines with the property

OR

(2) the foot print of the exterior accessory dwelling may not exceed 40% of the footprint of the primary dwelling on the property

Application for
Accessory Apartment

Tax map and parcel: _____ **Zoning:** _____

Physical Street Address (if assigned): _____

Location of property (landmarks, intersections, or other): _____

_____

Contact Person/Applicant (Who should we call/write concerning this project?): _____

Address _____ City _____ State _____ Zip _____

Daytime Phone (___) _____ Fax # (___) _____ E-mail _____

Owner of Record _____

Address _____ City _____ State _____ Zip _____

Daytime Phone (___) _____ Fax # (___) _____ E-mail _____

Section 5.1.34 Accessory Apartment

Each accessory apartment shall be subject to the following:

- ☐ a. An accessory apartment shall be permitted only within the structure of the main dwelling to which it is accessory. Usage of freestanding garage or other accessory structure for an accessory apartment is expressly prohibited. Not more than one (1) accessory apartment shall be permitted within any single-family detached dwelling.
- ☐ b. The gross floor area devoted to an accessory apartment shall not exceed thirty-five (35) percent of the total gross floor area of the structure in which it is located.
- ☐ c. The gross floor area of an accessory apartment shall not be included in calculating the gross floor area of the main dwelling unit for uses such as home occupations as provided in sections 5.2 and 5.2A and other similar uses in this chapter whose area within a dwelling unit is regulated. (Amended 1-12-11)
- ☐ d. An accessory apartment shall enjoy all accessory uses availed to the main dwelling, except that no accessory apartment shall be permitted as accessory to another accessory apartment.
- ☐ e. Any single family dwelling containing an accessory apartment shall be provided with a minimum of three (3) off-street parking spaces, arranged so that each parking space shall have reasonably uninhibited access to the street, subject to approval of the zoning administrator.
- ☐ f. A single-family dwelling which adds an accessory apartment shall be deemed to remain a single-family dwelling and shall be considered one (1) dwelling unit for purposes of area and bulk regulations of the district in which such dwelling is located.
- ☐ g. A guest or rental cottage shall not be deemed to be an accessory apartment, but shall be deemed to be a single-family detached dwelling, whether or not used as such, subject to area and bulk regulations of the district in which such cottage is located. No accessory apartment shall be permitted within any guest or rental cottage. (Amended 1-12-11)
- ☐ h. The owner must reside in any dwelling to which the apartment unit is accessory or the apartment unit itself.
- ☐ i. The provisions of section 4.1.6 notwithstanding, for lots not served by a central sewer system, no accessory apartment shall be established without written approval from the local office of the Virginia Department of Health of the location and area for both original and future replacement fields adequate to serve the main dwelling and accessory apartment.
- ☐ j. An accessory apartment shall be deemed to be a dwelling unit for the purposes of sections 14-234 and 14-410 of the Code. (Added 8-10-94, Amended 1-12-11)

_____ _____
Signature Date

_____ _____
Inspector Date

County of Albemarle Department of Community Development
401 McIntire Road Charlottesville, VA 22902 Voice: (434) 296-5832 Fax: (434) 972-4126

Chesterfield County ▪ Department of Planning
P.O. Box 40 ▪ Chesterfield, VA 23832 ▪ (804) 748-1050
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Parent/In-law SUITES

There are many considerations families must make when bringing a loved one in need of care into their home. One decision is whether accommodations, such as a suite, should be added to an existing residence to provide additional space and comfort.

The Chesterfield County Planning Department is providing the following information so that citizens may understand both the zoning regulations that are in place for additions, or suites, and so that they are aware that a level of flexibility is designed into the county's Zoning Ordinance.

This document is meant to serve as a preliminary guide to assist homeowners, however, it is not the Zoning Ordinance.

As Chesterfield County's population matures, more and more families are faced with the daily care of elderly relatives, especially parents or in-laws.

For many families, the easiest and most economical solution may be having a relative who is in need of care move in and share the use of an existing home. This involves minimal cost and will not require any zoning approvals from the county.

A homeowner may, however, decide to add a suite, or second-dwelling unit, to their home. In that case, the homeowner should always consult with the Chesterfield County Planning Department to determine whether a zoning amendment is required before building the addition.

Zoning regulations concerning "parent or in-law suites" are designed to provide ways for families to take care of relatives at home, but also to ensure that single-family homes aren't modified to the extent that they become duplexes.

Residential neighborhoods in Chesterfield County generally are zoned for single-family homes. A duplex is not permitted in residential zoning districts without a zoning amendment called a conditional use.

The Zoning Ordinance is designed to minimize the impact to families, while also minimizing the likelihood that an added suite transforms a residence into a duplex, which could be used as rental or investment property.

Whether a suite for a relative is considered a second dwelling depends heavily on its design and its kitchen and bathroom facilities. A relative may have

(CONTINUED ON BACK)

Adding a suite takes PLANNING

(CONTINUED FROM FRONT)
separate living, sleeping and bathroom areas without the need of a conditional-use permit if the home has only one shared kitchen; a relative may have separate living, sleeping and kitchen areas if he or she shares bathroom facilities with the homeowner.

The reasoning behind such regulations is that a suite is less likely to be used as a rental property in the future if it does not have either a kitchen or a bathroom.

The Planning Department defines a kitchen as an area with a sink and any major appliance, such as a full-size refrigerator or range. An area with a sink and small appliances, such as a microwave, hot plate, toaster oven and portable refrigerator (3.5 cubic feet or smaller), is not considered a kitchen. Therefore, such an arrangement could be combined with a bathroom and be in compliance with the zoning ordinance.

The zoning ordinance, of course, permits a parent or other relative to live within a house with their family. It also permits that relative to have a separate bedroom and bathroom. The ordinance also pertains to persons who are not relatives but are living in a home for the purpose of providing services to a family.

Conditional-use requests regarding the additions of suites to homes come before the county eight to 10 times per year. It is expected that more and more of these requests will be made as the county ages as a society.

Application Process

The Chesterfield County Board of Supervisors may approve a suite, or unit that constitutes a second dwelling, through a zoning process that provides a conditional-use permit. There is a $2,200 application fee, plus $95 per acre, that is non-refundable.

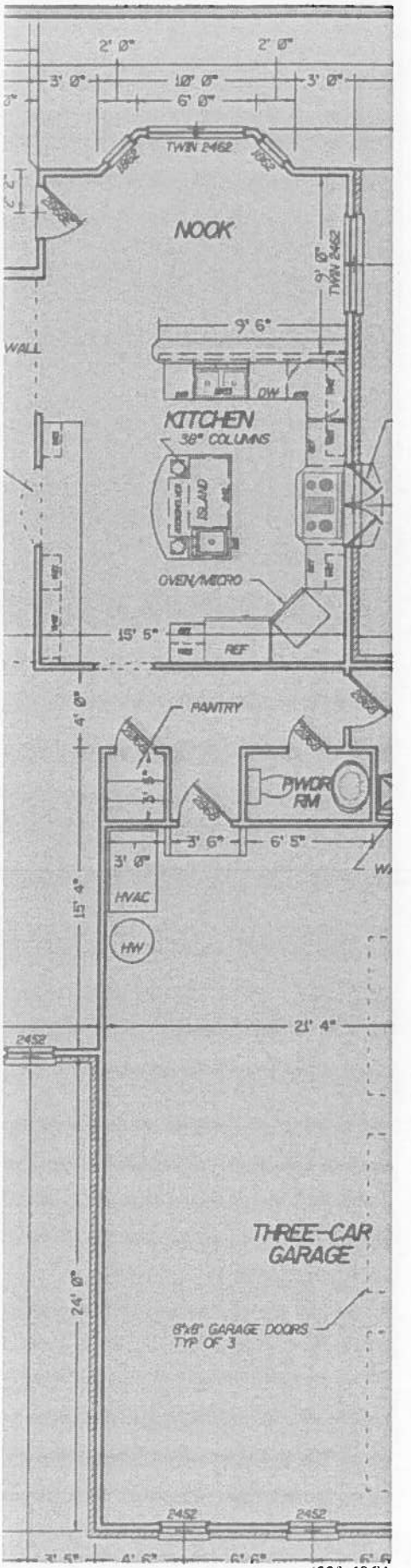
Though the application fee may seem expensive, it doesn't cover the entire cost of processing an application, the difference of which is absorbed by the county.

Because of the application fee it is suggested that homeowners considering applying for permits discuss their plans beforehand with neighbors and their Planning Commission representative. Homeowners also are encouraged to check for any neighborhood covenants that may prohibit duplexes.

When an application is submitted, the Planning Department processes it. The Planning Commission makes a recommendation on it, then the Board of Supervisors receives that recommendation and decides whether a permit should be granted.

Also, nearby property owners, or neighbors, are notified and given the opportunity to provide input at public hearings held by the Planning Commission and the Board of Supervisors. The board usually supports an application for a suite, or second-dwelling unit, if it is restricted to family members and if neighborhood issues are addressed.

For more information, please contact the Chesterfield County Planning Department, Customer Assistance Branch at 748-1050.



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Sec. 21-604. Accessory apartments.

One accessory apartment may be maintained in a single-family detached dwelling in an RS-1 or RS-2 zoning district, contingent upon approval as a special exception use by the board of zoning appeals, in accordance with section 21-97(f), and subject to the following:

(1) The occupants of the dwelling shall be a family related by blood, adoption or marriage.

(2) There shall be no other apartment facilities or room rentals in the dwelling or its accessory buildings.

(3) The dwelling shall be principally occupied during the maintenance of the accessory apartment by the fee simple owner and members of the owner's family related by blood, adoption or marriage.

(4) The permitted accessory apartment shall be exclusively occupied by not more than two persons, at least one of whom is related to the owner by blood, adoption or marriage and who must be either 62 years of age or older or must be physically or mentally handicapped, and the other of whom, if not of the requisite age, handicapped condition or familial relationship, is an attendant of the qualifying handicapped person. A person shall be deemed physically or mentally handicapped if by virtue of a physical or mental condition such person is permanently incapable of carrying on some material activity reasonably necessary to independent daily living. A written certification by the handicapped person's regular physician shall accompany the permit application. Such certification shall state the nature of the handicap, the effect upon the person's ability to function normally in daily life, the expected duration of the handicap and whether or not the handicap may be expected to moderate with time. The board may require such additional evidence as it shall deem necessary as to the handicapped person including, but not limited to: the appearance of the handicapped person before the board; an independent medical examination by a physician of the board's choice which shall be performed at the applicant's expense; appearance before the board of the handicapped person's treating physician; and access to all medical records of the handicapped person.

(5) The lot on which the dwelling is located shall not have less than 90 percent of the required minimum lot area for the district in which it is located.

(6) Off-street parking shall be as required by article V, Parking.

(7) When a building addition or additional parking is proposed, a minor site plan meeting the requirements of article VII, Site Plans, shall be submitted.

(8) The floor plan and exterior elevations of the proposed accessory apartment and of the building housing same shall be presented to and approved by the board of zoning appeals. Exterior elevations shall not be required if no exterior changes are proposed. Exterior elevations shall also be approved by the architectural review board when required by article IX, Architectural Review.

(9) An accessory apartment shall have a floor area of not less than 400 square feet nor greater than 800 square feet, but in no event shall the floor area of an accessory apartment exceed 25 percent of the existing floor area of the main building which will house same. An accessory apartment shall have one kitchen and shall have not more than two bedrooms, one bathroom and one all-purpose room and shall be entirely located within the main building (either within the outer walls of the main building or connected thereto by a common wall, ceiling or floor but not by a breezeway or porch). The architectural treatment of the accessory apartment shall be such as to portray the character of a single-family dwelling. An accessory apartment shall be accessible from the interior of the main building of which it is part. Only one main entrance shall be permitted on the front of the accessory apartment; all other exterior entrances shall be at the side or in the rear. No accessory apartment shall be permitted in a basement or cellar or above the first floor of the main building.

(10) If the board of zoning appeals, after holding the required public hearing, finds that all enumerated requirements have been met, and if the board of zoning appeals further finds that the requested accessory apartment will not have a negative effect upon the peace and tranquility of adjacent properties or upon the value thereof, and if all fee simple owners of the affected property shall execute in form recordable among the land records of the clerk's office of the circuit court of the city and the County of James City an agreement to remove all kitchen facilities from and to do all other things necessary to establish the accessory apartment area as a functional, nondiscrete portion of the single-family dwelling housing same upon termination of the required temporary special exception permit, and if applicable requirements of section 21-97(f) have been met, then the board of zoning appeals shall issue a temporary special use permit to allow the establishment and maintenance of such accessory apartment during the time of allowed occupancy.

(11) After completion of the accessory apartment, but prior to its occupancy, a fee simple owner of the main building housing same shall certify by affidavit delivered to the zoning administrator that the persons who will occupy such apartment are the same as those as to whom information was presented to the board of zoning appeals and that any handicap which formed the basis for the issuance of the temporary special exception permit continues. Upon receipt of such affidavit in proper form, an occupancy permit shall be issued. Thereafter, the applicant or other fee simple owner of the property in question shall submit such notarized affidavit to the zoning administrator by September 1 of each ensuing year as a requirement for the continuance of the temporary special use permit and the occupancy permit.

(12) Within 45 days after the use of an accessory apartment is discontinued or after said use ceases to comply with the requirements of this section, the kitchen facilities, other than permanently installed plumbing pipes located in the wall and/or floor, shall be removed and said accessory apartments shall be brought into compliance with this Code in all respects and the portion of the main building which had contained the accessory apartment shall not there after be occupied or maintained as a separate dwelling unit. "Kitchen facilities" shall include sinks, dishwashers, stoves, refrigerators and the like.

(Ord. No. 862, 10-10-91)

City of Williamsburg

(t) If centralized or grouped mailboxes are to be used in the park in lieu of individual mailboxes at each manufactured home space, the design of the mailbox structure and grouping shall be submitted to the zoning administrator for review and approval.

(u) Outdoor lighting shall be provided at appropriate locations in order to adequately illuminate group and recreational parking areas and pedestrian and bicycle and vehicular circulation routes. Such lighting fixtures shall be designed and arranged to be compatible with both natural and architectural characteristics.

(v) The developer of a manufactured home park shall be responsible for the proper maintenance of all portions of the park including streets, common parking areas, and recreation areas, open space and buffers. Applications for authorization of a manufactured home park shall be accompanied by a copy of the proposed park rules and regulations and plans and procedures for maintenance of all common areas.

(w) Where an existing or planned transit route is located in proximity (1,000'±) to the manufactured home park, provision shall be made for a transit stop at a convenient point where the development abuts a public street.

Sec. 24.1-407. Standards for accessory apartments in conjunction with single-family detached dwellings.

(a) Not more than one (1) accessory apartment may be permitted in conjunction with a single-family detached dwelling.

(b) Accessory apartments may be considered and authorized in accordance with the following schedule/procedures:

1. Accessory apartments not exceeding 600 square feet or 25% of the floor area of the principal structure, whichever is less, and attached to the principal structure (the single-family detached dwelling unit), shall be permitted as a matter of right in the RC, RR, R20 and R13 zoning districts. Attached accessory apartments in excess of the 600 square feet/25% limitation, but not exceeding 800 square feet or 35% of the floor area of the principal structure, whichever is less, may be authorized by special use permit in the RC, RR, R20 and R13 zoning districts.

2. Accessory apartments proposed in detached structures in the RC or RR zoning districts shall be permitted as a matter of right if the subject property meets the following minimum area requirements and the size of the accessory apartment does not exceed the 600 square feet or 25% of the principal structure floor area:

District	Minimum Area
RC	5 acres
RR	1 acre

In addition, detached accessory apartments may be authorized in the RC, RR, R20, and R13 zoning districts by special use permit up to a maximum floor area limit of 800 square feet or 35% of the principal structure floor area, whichever is less.

3. Notwithstanding the above limitations, on property in the RC or RR zoning districts which is at least twice as large as the applicable conventional development (i.e., not a "cluster" development) minimum lot size for that district/property, or on property in the R20 zoning district which is at least four times as large, an attached or detached accessory apartment shall be permitted as a matter of right provided that it does not exceed 800 square feet or 35% of the principal structure floor area, whichever is less. Upon authorization by special use permit, the maximum size of an accessory apartment, whether attached or detached, on properties meeting the above noted minimum area thresholds may be increased to 1,000 square feet or 49% of the floor area of the principal structure, whichever is less.

(c) Access to an accessory apartment whether in the principal structure or in a detached accessory structure, shall be designed so that the premises continues to have the appearance from the principal street frontage of one single family detached dwelling unit and its customary accessory struc-

tures. No new entrance to accommodate an accessory apartment shall be installed on the front façade (facing the street) of an existing or proposed principal structure. The applicant shall be responsible for submitting sketches and/or plans to demonstrate compliance with this condition.

(d) For the purposes of determining allowable floor area for an accessory apartment, all "habitable space," as defined and determined under the terms of the Building Code, shall be included in the calculation and shall be considered a part of the apartment. Space which does not meet the "habitable" criteria shall not be counted in floor area calculations for the accessory apartment.

(e) Notwithstanding the provisions of Section 24.1-273(c) of this chapter, for the purposes of this section, the term "attached" shall be construed to require connection by enclosed, heated, habitable space. Structures which are merely attached by a wall or roof construction, or which are within ten (10) feet of the principal structure shall not be considered "attached."

(f) The maximum number of bedrooms in an accessory apartment shall be one (1).

(g) Adequate provisions shall be made for off-street parking of motor vehicles in such a fashion as to be compatible with the character of the single-family residence and adjacent properties.

(h) Approval of accessory apartments shall be contingent upon prior certification by the health department that any on-site water supply and sewage treatment facilities are adequate to serve the total number of bedrooms proposed on the property (principal and accessory).

(i) The accessory apartment shall be occupied only by family members or guests of the occupant of the single-family dwelling or by a bona fide medical/health caretaker or domestic employee of the occupant of the single family dwelling. The apartment shall not be offered to the general public (i.e., non-family members/ non-guests) for rental or other occupancy arrangements.

(j) All utilities serving the accessory apartment (e.g., electric, water, sewer, gas) shall be registered to the occupant of the principal residence. Registration/billing of utility accounts to different parties (e.g. the occupant of the principal residence and the occupant of the accessory apartment) shall be prohibited, even if separate meters for the principal residence and accessory apartment are used.

(k) Prior to issuance of a Building Permit for the accessory apartment the property owner shall prepare and record with the Clerk of the Circuit Court, at his expense, a deed restriction on the property stipulating that the accessory apartment will be used, occupied and maintained in accordance with the above-noted restrictions and such others as may be prescribed by the York County Board of Supervisors in approving the special use permit. A copy of any resolution authorizing the accessory apartment shall be attached to the deed restriction as an exhibit. Such restrictions shall not be voided, in whole or in part, unless specifically authorized by the County Administrator in recognition of some subsequent change in the zoning restrictions applicable to accessory apartments or upon removal of the accessory apartment through demolition or alterations to the structure.

(Ord. No. 03-8(R), 3/4/03; Ord. No. 06-20(R), 8/15/06; Ord. No. 08-17(R), 3/17/09; Ord. No. 10-24, 12/21/10)

Sec. 24.1-408. Standards for group homes (with more than 8 occupants) and transitional homes.

(a) The maximum number of persons accommodated in any group home or transitional home shall not exceed twelve (12) exclusive of resident staff, provided however, that the board may specify a greater or lesser number in consideration of the density and character of the surrounding area and the characteristics of the site itself.

(b) The external appearance and arrangement of such facility shall be of a form and character which is compatible with the appearance and arrangement of other residential uses in the general area.

(c) All off-street parking and loading in excess of that required of single-family detached dwellings shall be located not less than twenty-five feet (25') from any residential property line and shall be effectively screened from view from adjacent residential properties by a Transitional Buffer Type 25.

(d) Such facility shall comply at all times with all applicable licensing requirements of the appropriate state regulatory agencies.

(e) Such facility shall be under 24-hour/day care and supervision of a professional staff person (or persons), one or more of whom may also reside in the facility. The required professional qualifications of the supervisory staff shall be submitted for review as part of the zoning authorization process.

§ **15.2-2292.1**. Zoning provisions for temporary family health care structures.

A. Zoning ordinances for all purposes shall consider temporary family health care structures (i) for use by a caregiver in providing care for a mentally or physically impaired person and (ii) on property owned or occupied by the caregiver as his residence as a permitted accessory use in any single-family residential zoning district on lots zoned for single-family detached dwellings. Such structures shall not require a special use permit or be subjected to any other local requirements beyond those imposed upon other authorized accessory structures, except as otherwise provided in this section. Such structures shall comply with all setback requirements that apply to the primary structure and with any maximum floor area ratio limitations that may apply to the primary structure. Only one family health care structure shall be allowed on a lot or parcel of land.

B. For purposes of this section:

"Caregiver" means an adult who provides care for a mentally or physically impaired person within the Commonwealth. A caregiver shall be either related by blood, marriage, or adoption to or the legally appointed guardian of the mentally or physically impaired person for whom he is caring.

"Mentally or physically impaired person" means a person who is a resident of Virginia and who requires assistance with two or more activities of daily living, as defined in § 63.2-2200, as certified in a writing provided by a physician licensed by the Commonwealth.

"Temporary family health care structure" means a transportable residential structure, providing an environment facilitating a caregiver's provision of care for a mentally or physically impaired person, that (i) is primarily assembled at a location other than its site of installation; (ii) is limited to one occupant who shall be the mentally or physically impaired person or, in the case of a married couple, two occupants, one of whom is a mentally or physically impaired person, and the other requires assistance with one or more activities of daily living as defined in § 63.2-2200, as certified in writing by a physician licensed in the Commonwealth; (iii) has no more than 300 gross square feet; and (iv) complies with applicable provisions of the Industrialized Building Safety Law (§ 36-70 et seq.) and the Uniform Statewide Building Code (§ 36-97 et seq.). Placing the temporary family health care structure on a permanent foundation shall not be required or permitted.

C. Any person proposing to install a temporary family health care structure shall first obtain a permit from the local governing body, for which the locality may charge a fee of up to $100. The locality may not withhold such permit if the applicant provides sufficient proof of compliance with this section. The locality may require that the applicant provide evidence of compliance with this section on an annual basis as long as the temporary family health care structure remains on the property. Such evidence may involve the inspection by the locality of the temporary family health care structure at reasonable times convenient to the caregiver, not limited to any annual compliance confirmation.

D. Any temporary family health care structure installed pursuant to this section may be required to connect to any water, sewer, and electric utilities that are serving the primary residence on the property and shall comply with all applicable requirements of the Virginia Department of Health.

E. No signage advertising or otherwise promoting the existence of the structure shall be permitted either on the exterior of the temporary family health care structure or elsewhere on the property.

F. Any temporary family health care structure installed pursuant to this section shall be removed within 60 days of the date on which the temporary family health care structure was last occupied by a mentally or physically impaired person receiving services or in need of the assistance provided for in this section.

G. The local governing body, or the zoning administrator on its behalf, may revoke the permit granted pursuant to subsection C if the permit holder violates any provision of this section. Additionally, the local governing body may seek injunctive relief or other appropriate actions or proceedings in the circuit court of that locality to ensure compliance with this section. The zoning administrator is vested with all

necessary authority on behalf of the governing body of the locality to ensure compliance with this section.

(2010, c. 296; 2013, c. 178.)

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