

TA-Z-12-07

September 17, 2012

AN ORDINANCE AMENDING APPENDIX "A" OF THE CHESAPEAKE CITY CODE, ENTITLED "ZONING," SECTION 3-403, 14-101 AND 14-102, TO PERMIT THE KEEPING OF FOUR OR FEWER FEMALE CHICKENS IN ALL SINGLE-FAMILY RESIDENTIAL ZONING DISTRICTS.

BE IT ORDAINED by the Council of the City of Chesapeake, Virginia, that Appendix "A" of the Chesapeake City Code, entitled "Zoning," Sections 3-403, 14-101.C.2 (adding subsection f.) and 14-102.B.7 be amended and reenacted as follows:

ARTICLE 3. - INTERPRETATION AND DEFINITIONS

§ 3-403. Definitions.

The following definitions shall be used in the interpretation and administration of this ordinance. The definitions of various terms as presented do not necessarily represent the same definitions as may be found for the same terms in other chapters of the City Code.

Pet. A domesticated animal kept for pleasure as an accessory use in a residential setting. The following animals may be considered pets if they are kept for pleasure and as an accessory use: hamsters, nonvenomous snakes less than six (6) feet long, iguanas, turtles, guinea pigs, domesticated birds kept indoors, ten (10) or fewer rabbits on one lot, fish kept indoors or outdoors in a manner that is accessory to a principal use, as defined and permitted in subsection 14-101.C of this Code, but shall not be construed to include the keeping or raising of fish for commercial or agricultural purposes and ~~four (4) or fewer female chickens on a lot zoned RE-1 and kept in an enclosed accessory structure located in accordance with subsection 14-102.B.7.d of this Code.~~ See article 14 of this Code and the definition of "livestock"

within this article, regarding specific inclusions and exclusions of livestock and other animals from the definition of "pet."

ARTICLE 14. - ACCESSORY USES AND STRUCTURES

§ 14-101. Permitted accessory uses and structures.

C. Uses.

2. On residential property. The following specific accessory uses are listed as examples of accessory uses permitted in residential districts, subject to the other applicable provisions of this ordinance. To be deemed accessory, such use must be designed and carried out to serve the residential use of that property.

f. Four or fewer female chickens may be kept as an accessory use in all single-family residential zoning districts subject to the following requirements: (i) the chickens shall be housed in a fully enclosed accessory structure that meets the requirements of section 14-102.B.1 through 6 set out below and (ii) the accessory structure shall be located in a rear yard that is surrounded by a six foot privacy fence that meets the requirements of section 14-201. Nothing herein shall be construed to permit the slaughtering of chickens on property zoned for residential use.

§ 14-102. - Accessory use and structure limitations.

B. *Residential districts.*

1. The total combined lot coverage for all accessory structures shall not exceed seventy-five (75) percent of the lot coverage of the principal building or structure. This standard is subject to the additional requirement that the total

lot coverage of the principal and accessory structures combined shall not exceed the maximum lot coverage required for the zoning district in which the lot is located. In calculating this lot coverage limitation, the following structures shall not be included: (a) structures which are less than forty-two (42) inches in height; (b) structures which are not normally used for occupancy or storage (for example, fences, hedges and playground equipment would not be included); provided, however, that patios, decks and other similar structures which are more than forty-two inches in height at any point shall be included in this calculation.

2. The height of the accessory structure above the grade of the property shall not exceed the height limitations of the zoning district or exceed by twenty-five (25%) the height of the dwelling, whichever is less, provided, however, that either a buffer yard A or B as described in section 19-600 of this ordinance is installed, to screen the accessory building from adjacent properties. The location and extent of the buffer shall be subject to the review and approval by the city arborist. Accessory buildings that exceed the height limitations herein may be approved only through the issuance of a conditional use permit as set forth in section 19-205 of this ordinance.

b. The roof mounting of accessory structures is not prohibited by this requirement, provided that the height of the accessory structure above the grade of the property does not exceed the height limitations of the zoning district or exceed by twenty-five (25%) the height of the dwelling, whichever is less (unless otherwise allowed under this ordinance; see

in particular article 19). For the purposes of this section only, the relative building heights of the principal structure and the accessory structure, when separated by a horizontal distance of more than six (6) feet, shall be established by comparing their vertical distances above grade to their highest roof surfaces.

3. Except as provided for in section 14-103 below, all accessory uses and structures shall meet the following yard setback requirements:
 - a. The front yard setback shall be the same as that required for the principal structure. Once the principal structure has been placed on a lot, all accessory structures must be placed in accordance with the established front yard, based upon the front building line of the principal structure, even when the principal structure is placed behind the required front yard.
 - b. The side yard setback shall be the same as that required for the principal structure. If the principal structure is erected so that it is behind the required side yard, the placement of accessory structures shall be based upon the required side yard rather than the established side yard.
 - c. The rear yard setback shall be as follows:
 - (1) Lots having a width of less than 65 feet: 3 feet.
 - (2) Lots having a width of 65 feet or more: 5 feet.

d. On through lots, accessory uses and structures that are located to the rear of the principal structure shall comply with the following:

(1) If a lot was platted as a through lot and remains a through lot, then all accessory uses and structures shall be located at least fifteen (15) feet from the lot line of the secondary front yard, as defined below. If an adjacent lot has the front of a principal structure facing the street on which the lot line of the secondary front yard is established, then accessory uses and structures located in the secondary front yard shall comply with the requirements applicable to required front yards set out in section 14-102.B.3.a. of this ordinance.

(2) If a lot was platted as an interior lot but has been converted to a through lot by subsequent development on adjacent property, then all accessory uses and structures shall comply with the requirements for rear yard setbacks as set out in section 14-102.B.3.c of this ordinance. A property owner or agent shall have the burden of demonstrating that an interior lot has been converted to a through lot by subsequent development on adjacent property.

e. On corner lots:

(1) The secondary front yard for accessory structures may be reduced to a minimum of 15 feet if one of the following conditions exists:

- (a) The lot to the rear of the dwelling does not front on the same street as the secondary front yard of the corner lot; or
- (b) The property to the rear of the dwelling consists of a permanent open space of fifty feet or more in width. For purposes of this subsection, the term "permanent open space" means areas not subject to development, including those having natural drainage features such as streams, rivers and lakes and those encumbered by drainage easements, utility easements or railroad rights-of-way; or
- (c) The lot to the rear of the dwelling is not located in a residential zoning district and has not been developed for residential purposes.

If one or more of these conditions exists, an accessory structure may be constructed on or behind the front building line of the principal dwelling constructed on the lot.

- (2) Notwithstanding subsection 14-102B.3.a. above, accessory structures located in the secondary front yard of a residential corner lot may be placed in accordance with the required front yard regardless of the placement of the principal structure on the lot; provided that, however, the accessory structure is not placed beyond the established front yard of any lot abutting the secondary front yard.

- (3) An accessory structure may encroach into the required side yards of a corner lot, provided that accessory structure is at least five (5) feet from any property line.
 - (4) For the purposes of this subsection, the term "secondary front yard" for corner lots shall mean the front yard other than that on which the front of the principal dwelling faces. Where the principal dwelling is situated catercorner on the two front yards, the zoning administrator shall designate the secondary front yard in consideration of such factors as the widths of the front yards, the location of driveways, the address of the residence, and the prevailing yard patterns in the neighborhood.
 - (5) Lots platted as interior lots which have been converted to corner lots by subsequent development on adjacent property shall comply with the requirements applicable to interior lots as set out in section 14-102.B.3.e.1-4. of this ordinance. A property owner or agent shall have the burden of demonstrating that an interior lot has been converted to a corner lot by subsequent development on adjacent property.
4. Accessory uses and structures shall be located on the same lot as the lot containing the principal use.
5. An accessory structure must be detached and separated from the principal structure by a distance of at least six (6) feet. No physical connection between a principal structure and an accessory structure shall be permitted unless both

structures comply with the setback requirements for principal structures.

6. Detached guesthouses and servants quarters shall be permitted under the following conditions:
 - a. The property is zoned for single-family residential use and has a lot area of at least 20,000 square feet.
 - b. The unit has no equipment, facilities or arrangements for the preparation of food, so that the preparation and eating of meals occurs in the principal structure.
 - c. The unit is used for housing of occasional guests or relatives of the occupants of the principal structure or the occupants' domestic employees.
 - d. The unit is not used as a rental unit or for permanent occupancy as a dwelling unit, as defined in this ordinance.
 - e. In certain zoning districts, a freestanding mobile home may be used to provide a supplemental living area, under the provisions of article 13 of this ordinance.

7. Enclosures for animals, if otherwise permitted, shall be subject to the following setbacks, except for female chickens as provided for in section 14-101.C.2.f set out above:
 - a. If the enclosure is not a stable, pen or kennel, the setback shall be twenty-five (25) feet from any exterior property line; provided, however,

that there shall be no setback requirement for the enclosure from the exterior property line in the following circumstances:

- (1) Where all or part of the adjacent lot is located in the A-1 agricultural district;
 - (2) Where all or part of the adjacent lot is located in the RE-1 residential district;
 - (3) Where no occupied structure is located on the adjacent lot at the time the enclosure for animals is established.
- b. If the enclosure is not a stable, pen or kennel, the setback shall be fifty (50) feet from any existing residential building located on an adjacent lot that is zoned exclusively for residential use; provided, however, that no such setback shall be required if the adjacent lot is zoned RE-1 residential district.
- c. If the enclosure is a kennel, as defined in this ordinance, a setback of five hundred (500) feet from any lot line of any property zoned or used for residential purposes shall be required; where the structure is soundproofed, the required setback shall be two hundred (200) feet. If such kennel is proposed to be located closer to property zoned or used for residential purposes, a conditional use permit shall be required for such kennel. No such facility shall be located in the established front yard of any lot.

- d. If the enclosure is a stable or pen for livestock, the setback shall be a minimum of one hundred twenty-five (125) feet from any existing inhabited residential structure located on an adjacent lot and a minimum of one hundred (100) feet from any existing habitable accessory building or structure located on an adjacent lot. An enclosed area keeping any livestock on a lot shall be deemed to be a stable and/or pen if the density of the animals within the area exceeds one (1) animal per ten thousand (10,000) square feet of land. A habitable accessory building or structure shall include pool houses, gazebos, swimming pools, decks, patios, detached guest houses, servant's quarters, and other similar structures as determined by the zoning administrator. Livestock may only be kept on residentially zoned property as an accessory use as provided for in section 14-900 et seq. of this ordinance.

ADOPTED by the Council of the City of Chesapeake, Virginia, this

_____ day of _____, 2012.

APPROVED:

Mayor

ATTEST:

Clerk of the Council