

<b>C</b>	<b>WHAT ARE THE RULES FOR TRANSIENT LODGING BUSINESSES?</b>
<p>This section provides general information for operators of transient lodging businesses, including but not limited to:</p> <ul style="list-style-type: none"><li>• Short-term residential rentals (e.g., AirBNB, VRBO)</li><li>• Home occupation bed and breakfast</li><li>• Country inns</li><li>• Hotels</li></ul>	
<p><b><u>Contacts:</u></b></p> <p><b>Zoning Permits and Approvals</b> Jeremy Camp, Senior Planner/Zoning Administrator Clarke County Department of Planning Berryville-Clarke County Government Center, 101 Chalmers Court, Second Floor (540) 955-5131, <a href="mailto:jcamp@clarkecounty.gov">jcamp@clarkecounty.gov</a></p> <p><b>Private Well and Onsite Sewage Disposal System Permits</b> Virginia Department of Health -- VDH 100 North Buckmarsh Street, Berryville, VA (540) 955-1033</p> <p><b>Building Permits</b> Clarke County Building Department Berryville-Clarke County Government Center, 101 Chalmers Court, First Floor</p> <p><b>County Business Licenses</b> Office of the Commissioner of the Revenue Berryville-Clarke County Government Center, 101 Chalmers Court, First Floor (540) 955-5108</p>	

Transient lodging businesses offering temporary accommodations to transient guests are allowed in Clarke County subject to the regulations and permit processes described in this section. If you are interested in starting a transient lodging business, please also review [\*\*Section A \(General Information for Business Owners – What approvals do I need to operate a business in Clarke County?\)\*\*](#).

**Transient Lodging Businesses in Agricultural and Residential Areas**

A property owner (or tenant with the permission of the property owner) may operate a transient lodging business in a residence subject to compliance with applicable zoning regulations that are based on the nature of the lodging occupancy. Unless otherwise noted, transient lodging businesses in agricultural and residential areas are conducted in a single-family dwelling – either the primary residence on the lot or in an accessory dwelling.

Short-term residential rentals

A single-family dwelling or accessory dwelling may be rented out for period of less than 30 consecutive days subject to approval of a **short-term residential rental zoning permit**. A short-term residential rental is subject to the following regulations:

- Short-term residential rental operations are allowed in the Agricultural-Open Space-Conservation (AOC) and Forestal-Open Space-Conservation (FOC) zoning districts. They are **prohibited** in the Rural Residential (RR) zoning district, although owners of RR-zoned lots can apply for a **home occupation bed and breakfast zoning permit**.
- A short-term residential rental may be operated in a single-family dwelling, minor dwelling, or tenant house subject to total maximum occupancy limits for the structure and the lot. No rental occupancies are permitted in other permanent or temporary structures on the lot that are not dwellings such as accessory structures (such as sheds or garages), tents, or recreational vehicles.
- A maximum of two dwellings per lot may be used for short-term residential rental activities. This can consist of the main single-family dwelling and one accessory dwelling or two accessory dwellings on the lot.
- Short-term residential rentals are limited to a maximum of one “customer” per lot during rental periods. A “customer” may be one person or multiple people that are renting together under the same rental agreement. This requirement applies regardless of whether the operator proposes to use one or two dwellings for rental activities.
- Maximum occupancy for each dwelling used for short-term residential rentals includes both transient renters and residents of the lot and is based upon the following:
  - The maximum occupancy for the structure or structures proposed for rental use as allowed by the onsite sewage disposal system permit issued by the Virginia Department of Health (VDH).
  - The maximum occupancy for the structure or structures proposed for rental use as permitted by the Virginia Uniform Statewide Building Code.
- The property owner or operator of the business is not required to reside on the property during rental periods.
- Issuance of a business license by the Office of the Commissioner of the Revenue is required and such license must be maintained in good standing throughout the life of the use as a condition of zoning permit approval.

- The following activities are prohibited without additional zoning review and approval:
  - Provision of meals to transient renters.
  - Commercial public assembly activities such as special events, live music, weddings, meetings, conferences, and reunions.
  - Other gatherings of persons that are not transient renters or residents of the rental structure.

If the business owner intends to have serve meals to transient renters, zoning approval in the form of a **home occupation bed and breakfast zoning permit** is required. If the business owner wishes to exceed the maximum occupancy limitation of ten persons, approval of a **special use permit and site development plan for a country inn** is required.

Short-term residential rental regulations may be found in [Article I, Zoning Ordinance Section 5.2B \(Residential Uses – Short-Term Residential Rental\)](#).

### **Short-Term Residential Rental Review Process**

<b>Step</b>	<b>Description</b>
<b>1</b>	A <b>Zoning Permit Application</b> is filed in the Department of Planning by the property owner, or other applicant with property owner signature, along with application fee. The applicant states the proposed maximum occupancy of the lot during rental periods (including transient renters and residents of the lot), designates which dwelling(s) will be used for the proposed rental use, and includes any available information on the onsite sewage disposal system(s) on the lot.
<b>2</b>	<b>Zoning Permit Application Review:</b>
<b>2A</b>	The Zoning Administrator reviews the application for compliance with Zoning Ordinance requirements.
<b>2B</b>	The Zoning Administrator sends the application to the Virginia Department of Health (VDH). VDH staff reviews the proposed maximum occupancy of the lot against information in their files to determine if the onsite sewage disposal system(s) can support the proposed occupancy. VDH staff provides comments on this review to the Zoning Administrator.
<b>2C</b>	The Zoning Administrator sends the application to the Clarke County Building Department. Building Department staff reviews the application and proposed maximum occupancy to determine if there are any building code compliance issues. Building Department staff provides review comments to the Zoning Administrator.

<b>3</b>	<b>Action on Zoning Permit Application:</b>
<b>3A</b>	<p>The Zoning Administrator will approve the application only if:</p> <p>(1) The application complies with all Zoning Ordinance requirements,</p> <p>(2) VDH confirms that the onsite sewage disposal system(s) can support the proposed maximum occupancy, and</p> <p>(3) the Building Department identifies no building code issues, then the Zoning Administrator will approve the application.</p>
<b>3B</b>	<p>If VDH determines that the onsite sewage disposal system(s) cannot support the proposed maximum occupancy, or that there is insufficient information on file, the Zoning Administrator will deny the application. In order for the Zoning Administrator to approve the application, the Applicant must either:</p> <p>(1) reduce the proposed maximum occupancy to a level that can be confirmed by VDH, or</p> <p>(2) work with VDH through their processes to modify/upgrade the onsite sewage disposal system(s).</p>
<b>3C</b>	<p>If the Building Department determines that there are outstanding building code issues, the Zoning Administrator will deny the application. The Applicant then must work with the Building Department to resolve these code issues in order for the Zoning Administrator to approve the application.</p>

Home Occupation Bed and Breakfast

Bed and breakfast operations are allowed as a home occupation and require approval in the form of a **home occupation bed and breakfast zoning permit**. Home occupation bed and breakfast operations are subject to the following regulations:

- Home occupation bed and breakfast operations are allowed in the following zoning districts:
  - Agricultural-Open Space-Conservation (AOC) District
  - Forestal-Open Space-Conservation (FOC) District
  - Rural Residential (RR) District
  
- Maximum occupancy of five bedrooms and ten persons per lot regardless of the number of dwellings on the lot being used for short-term residential rental activities. Occupancy includes both transient renters and residents of the lot. The maximum occupancy

requirement applies at any point in time during rental periods.

- Maximum proposed occupancy may be further limited by:
  - The maximum occupancy for the structure or structures proposed for rental use as allowed by the onsite sewage disposal system permit issued by the Virginia Department of Health (VDH). See onsite sewage disposal system review process below.
  - The maximum occupancy for the structure or structures proposed for rental use as permitted by the Virginia Uniform Statewide Building Code.
- A home occupation bed and breakfast may be operated in a single-family dwelling, minor dwelling, or tenant house subject to total maximum occupancy limits for the structure and the lot. No rental occupancies are permitted in other permanent or temporary structures on the lot that are not dwellings such as accessory structures (such as sheds or garages), tents, or recreational vehicles.
- The home occupation bed and breakfast permit holder is required to reside on the property during all rental periods. The permit holder must be a permanent resident of the lot but does not have to be the property owner.
- Issuance of a business license by the Office of the Commissioner of the Revenue is required and such license must be maintained in good standing throughout the life of the use as a condition of zoning permit approval.
- If the business owner wishes to exceed the maximum occupancy limitation of five bedrooms and ten persons, approval of a **special use permit and site development plan for a country inn** is required.

Home occupation bed-and-breakfast regulations may be found in [Article I, Zoning Ordinance Section 5.2B \(Residential Uses – Home Occupation\)](#).

### **Home Occupation Bed and Breakfast Review Process**

Step	Description
1	A <b>Home Occupation Zoning Permit Application</b> is filed in the Department of Planning by the property owner, or resident of the dwelling with property owner signature, along with application fee. The applicant states the proposed maximum occupancy of the lot during rental periods (including transient renters and residents of the lot), designates which dwelling(s) will be used for the proposed rental use, whether meals will be served to renters, and includes any available information on the onsite sewage disposal system(s) on the lot.

GUIDANCE MANUAL TO THE CLARKE COUNTY ZONING & SUBDIVISION ORDINANCES  
2024 VERSION

<b>2</b>	<b>Home Occupation Zoning Permit Application Review:</b>
<b>2A</b>	The Zoning Administrator reviews the application for compliance with Zoning Ordinance requirements.
<b>2B</b>	The Zoning Administrator sends the application to the Virginia Department of Health (VDH). VDH staff reviews the proposed maximum occupancy of the lot against information in their files to determine if the onsite sewage disposal system(s) can support the proposed occupancy. VDH staff provides comments on this review to the Zoning Administrator.
<b>2C</b>	The Zoning Administrator sends the application to the Clarke County Building Department. Building Department staff reviews the application and proposed maximum occupancy to determine if there are any building code compliance issues. Building Department staff provides review comments to the Zoning Administrator.
<b>3</b>	<b>Action on Home Occupation Zoning Permit Application:</b>
<b>3A</b>	The Zoning Administrator will approve the application only if: <ul style="list-style-type: none"> <li>(1) The application complies with all Zoning Ordinance requirements,</li> <li>(2) VDH confirms that the onsite sewage disposal system(s) can support the proposed maximum occupancy, and</li> <li>(3) the Building Department identifies no building code issues, then the Zoning Administrator will approve the application.</li> </ul>
<b>3B</b>	If VDH determines that the onsite sewage disposal system(s) cannot support the proposed maximum occupancy, or that there is insufficient information on file, the Zoning Administrator will deny the application. In order for the Zoning Administrator to approve the application, the Applicant must either: <ul style="list-style-type: none"> <li>(1) reduce the proposed maximum occupancy to a level that can be confirmed by VDH, or</li> <li>(2) work with VDH through their processes to modify/upgrade the onsite sewage disposal system(s).</li> </ul>
<b>3C</b>	If the Building Department determines that there are outstanding building code issues, the Zoning Administrator will deny the application. The Applicant then must work with the Building Department to resolve these code issues in order for the Zoning Administrator to approve the application.

### Country inn

In the event that the transient lodging business does not meet the requirements for a short-term residential rental or a bed-and-breakfast home occupation, the business owner may apply for approval of a **country inn special use permit**. Country inns allow for rental of accommodations to a maximum of 15 transient guests for fewer than 30 continuous days of occupancy. Meal service may also be provided but only for overnight guests of the country inn.

There is no requirement that the business owner reside on the property. However the country inn must be developed either in a single-family dwelling or a structure designed to resemble a single-family dwelling that can be converted into a residence if the country inn is ever discontinued. A dwelling unit right (DUR) for the country inn structure is also required.

The country inn special use permit process requires the submission of a detailed **site development plan** and must be reviewed by the Clarke County Planning Commission and the Clarke County Board of Supervisors. Public hearings are also required in conjunction with the Commission and Board reviews. Planning Department Staff can provide additional information on the special use permit review process including application requirements and fees. Country inn regulations may be found in [Article I, Zoning Ordinance Section 5.2C \(Business Uses – Country Inn\)](#).

### **Transient Lodging Businesses in Commercial Areas**

Hotels are an allowable use in Clarke County but are limited to the Highway Commercial (CH) Zoning District. Approval of a hotel requires review and approval of a **site development plan** by the Clarke County Planning Commission. Hotels in certain areas of the County also require approval of a certificate of appropriateness by the Commission for compliance with historic access corridor design requirements. Hotels must have a minimum of two rooms and cannot allow occupancy longer than 14 continuous days. Minimum lot size for a hotel is 2,000 square feet per each unit to be developed. Hotels also include motels, motor lodges, and the like. Hotel regulations may be found in [Article 1, Zoning Ordinance Section 5.2C \(Business Uses – Hotel\)](#).

Country inns (described above) are an allowable use in the Neighborhood Commercial (CN) District. If developed in this commercial zoning district, a special use permit is not required but a **site development plan** approved by the Planning Commission is required. Country inns are also not required to be developed in a single-family dwelling or a structure designed to resemble a single-family dwelling.