

STATE OF SOUTH CAROLINA
COUNTY OF OCONEE
ORDINANCE NO. 2015-09

AN ORDINANCE AMENDING SECTION 12-34 OF ARTICLE II OF CHAPTER 12 OF THE OCONEE COUNTY CODE OF ORDINANCES, IN CERTAIN LIMITED REGARDS AND PARTICULARS ONLY, REGARDING NOISE REGULATIONS OF THE COUNTY; AND OTHER MATTERS RELATED THERE TO.

WHEREAS, Oconee County, South Carolina (the "County"), a body politic and corporate and a political subdivision of the State of South Carolina (the "State"), acting by and through its governing body, the Oconee County Council (the "County Council"), has adopted multiple ordinances for the effective, efficient governance of the County, which, subsequent to adoption, are codified in the Oconee County Code of Ordinances (the "Code of Ordinances"), as amended, from time to time; and

WHEREAS, the County, acting by and through the County Council, is authorized by Section 4-9-30(16.2) of the South Carolina Code, 1976, as amended, among other sources, to establish noise regulations in the unincorporated areas of the County; and

WHEREAS, Article II of Chapter 12 of the Code of Ordinances contains terms, provisions and procedures applicable to noise regulations in the County; and

WHEREAS, County Council recognizes that there is a need to revise the law of the County to meet the changing needs of the County and that there is a need to amend, specifically, certain sections of Article II of Chapter 12 of the Code of Ordinances to revise the County's noise regulations, and, specifically, but without limitation, to clarify the application and scope of the exceptions to such regulations in order to take into account the evolving needs of industrial development and operation, including the rapid technological and operational advances that allow companies to design and build facilities and their related operations that ensure increased operational efficiencies, and to ensure that the County maintains its competitive edge when recruiting new industry and when working with existing industry; and

WHEREAS, County Council has therefore determined to modify Article II of Chapter 12 of the Code of Ordinances, and to affirm and preserve all other provisions of the Code of Ordinances not specifically or by implication amended hereby,

NOW, THEREFORE, it is hereby ordained by the Oconee County Council, in meeting duly assembled, that:

1. Section 12-34 of Article II of Chapter 12 of the Code of Ordinances, entitled *Exceptions*, is hereby revised, rewritten, and amended to read as set forth in Attachment A,

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which is attached hereto and hereby incorporated by reference as fully as if set forth verbatim herein.

2. Should any part or provision of this Ordinance be deemed unconstitutional or unenforceable by any court of competent jurisdiction, such determination shall not affect the rest and remainder of this Ordinance, all of which is hereby deemed separable.

3. All ordinances, orders, resolutions, and actions of County Council inconsistent herewith are, to the extent of such inconsistency only, hereby repealed, revoked, and rescinded. However, nothing contained herein, or in the Attachment hereto, shall cancel, void, or revoke, or shall be interpreted as cancelling, voiding, or revoking in any regard any prior acts, actions, or decisions of the County or County Council, in any regard.

5. All other terms, provisions, and parts of the Code of Ordinances not amended hereby, directly or by implication, shall remain in full force and effect.

6. This Ordinance shall take effect and be in full force and effect from and after third reading and enactment by County Council.

ORDAINED in meeting, duly assembled, this _____ day of _____, 2015.

ATTEST:

Elizabeth Hulce,
Clerk to Oconee County Council

Wayne McCall,
Chairman, Oconee County Council

First Reading: _____
Second Reading: _____
Third Reading: _____
Public Hearing: _____

Attachment A

Sec. 12-34. – Exceptions.

(a)

This article does not apply to noise emanating from industrial, warehouse, distribution and manufacturing activities and facilities and operations related thereto, governmental activities, airports and aircraft, railways, emergency signal devices, firearms discharges as a result of lawful game hunting, agricultural activities, parades, carnivals, school band practice or performances, and school or government sponsored athletic events.

(b)

Additionally, this article does not apply to noise between the hours of 7:00 a.m. and 10:00 p.m. which emanates from lawn and yard maintenance activities, tree harvesting or clearing, or explosives for construction and land clearing.

(c)

Additionally, this article does not apply to any racing automobile equipped with and using a certified automotive racing muffler system, or to any automobile racing facility, at which all participating automobiles are using such a certified automotive racing muffler system, all between the hours of 10:00 a.m. and 11:30 p.m. local time, Monday through Saturday only.

(d)

Additionally, this article does not apply to trucking and railroad operations related to or arising out of industrial, warehouse, distribution or manufacturing activities and facilities, which are lawfully established and operated in the County, in the normal course of business of such activities and facilities, regardless of whether the trucks and rail operations are owned or operated by the industrial, warehouse, distribution or manufacturing entities, activities, and facilities, or by independent third party trucking or rail firms serving such entities, activities and facilities, as long as such trucking and rail operations are otherwise conducted in accordance with the laws and regulations of the State of South Carolina and the federal government.

(e)

Any lawful business operating as of the date of this article that is not in compliance with this article and does not fall under exceptions set out in this article shall have six months from the date of the ordinance from which this article derives to come into compliance with this article.

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(f)

Any lawful business or activity operating as of the date of this article that is not in compliance with this article and does not fall under exceptions set out in this article will nevertheless be considered to be in compliance with this article if such lawful business or activity has existed or occurred on or at its present location and made noise that is not in compliance with this article prior to the complaining party moving to an area that is affected by the noise. This exception shall not apply to the nuisance described in section 12-33(10), which has its own exception, herein.

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ARTICLE II. - NOISE

FOOTNOTE(S):

-- (2) --

State Law reference— Authority to abate nuisances created by the operation of business establishments in an excessively noisy manner, S.C. Code 1976, § 4-9-30(16.2).

Sec. 12-31. - Declaration of nuisance and prohibitions.

- (a) Any unreasonably loud, disturbing or unnecessary noise which causes material distress, annoyance, discomfort, endangerment, injury to a person of ordinary sensibilities in the immediate vicinity thereof is hereby declared to be a nuisance and is hereby prohibited.
- (b) Any noise of such character, intensity, and continued duration which substantially interferes with the comfortable enjoyment of private homes by persons of ordinary sensibilities is hereby declared a nuisance and is hereby prohibited.

(Ord. No. 1998-02, § 1, 4-28-1998)

Sec. 12-32. - Creation or continuation of nuisance.

- (a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:
Person means any individual, partnership, association, corporation or joint venture.
- (b) *Creation or continuance.* It shall be unlawful for any person to create or continue, or cause to be created or continued any such nuisance. It shall be unlawful for any person, whether present or not, to allow or permit the creation or continuance of any such nuisance at or on the premises over which such person has dominion or control.

(Ord. No. 1998-02, § 2, 4-28-1998)

Sec. 12-33. - Enumeration of specific nuisances.

The following acts, among others, are declared to be nuisances in violation of this article, but such enumerations shall not be exclusive:

- (1) *Musical instruments, radios, phonographs, or any device for production or reproduction of sound.* The using, playing or operating or permitting the use, play, or operation of any musical instrument, radio, phonograph, cassette player, compact disc player, television set, or any machine or device for the producing or reproducing of sound in such a manner or with such volume as to disturb the peace, quiet, comfort, and repose of persons nearby.
- (2) *Loudspeakers and amplifiers.* The use of loudspeakers or amplifiers in such a manner or with such volume as to disturb the peace, quiet, comfort, and repose of persons of ordinary sensibilities in the immediate vicinity thereof.
- (3) *Yelling, shouting and other loud, boisterous and unreasonable noise.* Yelling, shouting, hooting, or making or causing to be made any loud, boisterous, and unreasonable noise which disturbs other persons of ordinary sensibilities in the immediate vicinity thereof.

- (4) *Operation of vehicles.* The running of any automobile, motorcycle or other vehicle so out of repair, so loaded, or in such a manner as to create excessively loud noise or unnecessary grating, grinding, jarring, rattling or vibrating noise, the racing of any motor vehicle engine while such vehicle is not in motion, except when necessary to do so in the course of repairing, adjusting or testing the same between the hours of 7:00 a.m. and 10:00 p.m.
- (5) *Horns and other signal devices on vehicles.* The sounding of a vehicle horn or signal device except as a danger or warning signal, the continued or frequent sounding of any vehicle horn or signal device for an unnecessary or unreasonable period of time.
- (6) *Construction work.* The erection, excavation, demolition, renovation, alteration, or repair work on any building or building site, or the clearing of any tract of land between the hours of 10:00 p.m. and 6:00 a.m. which results in excessive and disturbing noise, except in cases of urgent necessity in the interest of public convenience or safety.
- (7) *Fireworks and other explosive devices.* Fireworks which are detonated within the exterior property line and in close proximity to a dwelling or occupied structure without consent of the person in control of the premises; detonation of carbide cannons, black powder or smokeless powder devices, or any explosive device or compound which when detonated causes a report which exceeds that caused by lawfully acquired fireworks and which disturbs the public peace. This subsection shall not apply to lawfully acquired fireworks which are detonated on the Fourth of July, Christmas Eve, Christmas Day, New Year's Eve or New Year's Day.
- (8) *Near schools, churches and hospitals.* Any excessive noise in the vicinity of a church, school, other institution of learning, or court of law while the same is in session or near any hospital, rest home, nursing home, or residential care center which unreasonably interferes with the working of such institutions or which unduly disturbs patients, residents, students and/or those in attendance at such institutions.
- (9) *Firearms.* The shooting of firearms which substantially interferes with the comfortable enjoyment of private homes by persons of ordinary sensibilities in the immediate vicinity thereof.
- (10) *Automobile racetracks.* The operation of any automobile for racing, and the operation of any facility for the conduct of automobile racing, which substantially interferes with the comfortable enjoyment of private homes by persons of ordinary sensibilities in the immediate vicinity thereof.

(Ord. No. 1998-02, § 3, 4-28-1998; Ord. No. 2009-28, § 1, 2-3-2010)

Sec. 12-34. - Exceptions.

- (a) This article does not apply to noise emanating from industrial and manufacturing operations, governmental activities, airports and aircraft, railways, emergency signal devices, firearms discharges as a result of lawful game hunting, agricultural activities, parades, carnivals, school band practice or performances, and school or government sponsored athletic events.
- (b) Additionally, this article does not apply to noise between the hours of 7:00 a.m. and 10:00 p.m. which emanates from lawn and yard maintenance activities, tree harvesting or clearing, or explosives for construction and land clearing.
- (c) Additionally, this article does not apply to any racing automobile equipped with and using a certified automotive racing muffler system, or to any automobile racing facility, at which all participating automobiles are using such a certified automotive racing muffler system, all between the hours of 10:00 a.m. and 11:30 p.m. local time, Monday through Saturday only.

(d)

Any lawful business operating as of the date of this article that is not in compliance with this article and does not fall under exceptions set out in this article shall have six months from the date of the ordinance from which this article derives to come into compliance with this article.

Any lawful business or activity operating as of the date of this article that is not in compliance with this article and does not fall under exceptions set out in this article will nevertheless be considered to be in compliance with this article if such lawful business or activity has existed or occurred on or at its present location and made noise that is not in compliance with this article prior to the complaining party moving to an area that is affected by the noise. This exception shall not apply to the nuisance described in section 12-33(10), which has its own exception, herein.

(Ord. No. 1998-02, § 4, 4-28-1998; Ord. No. 2009-28, § 2, 2-3-2010)

Sec. 12-35. - Enforcement of article provisions.

(a) The county sheriff's department or any duly constituted law enforcement officer will enforce the provisions of this article. After receiving a complaint and upon a finding by the officer of a violation, or upon the occurrence of a violation in the officer's presence which would be in the public interest to quell, the officer may take any one of the following actions:

- (1) Warn the offender who will have the opportunity to immediately abate the offending noise without penalty. If the violation continues or reoccurs the officer may cite or arrest the violator.
- (2) Issue a courtesy summons or other properly authorized citation device for the offender to appear in magistrate court.
- (3) Make a custodial arrest.

(b) Officers may consider the following factors, among others, when deciding the appropriate method of enforcement:

- (1) Number of citizen complaints;
- (2) Proximity and density of nearby dwellings or other occupied structures or areas;
- (3) Prior complaints regarding the same offender or same location;
- (4) Cooperation of violator and likelihood of compliance;
- (5) Nature and volume or intensity of noise; and
- (6) Time of day.

(c) In addition, private citizens may petition a county magistrate for an arrest warrant for violations of this article.

(Ord. No. 1998-02, § 5, 4-28-1998; Ord. No. 2009-28, § 3, 2-3-2010)

Sec. 12-36. - Penalties for violation of article.

Any person violating any provision of this article shall be deemed guilty of a misdemeanor and shall for every offense be punished in accordance with section 1-7. Each day on which there is a violation of this article, or every separate and distinct event, heat, race, vehicle, or activity, in the case of 12-33(10), shall constitute a separate and distinct violation and offense under this article.

(Ord. No. 1998-02, § 6, 4-28-1998; Ord. No. 2009-28, § 4, 2-3-2010)

Secs. 12-37—12-70. - Reserved.

STATE OF SOUTH CAROLINA
COUNTY OF OCONEE
ORDINANCE NO. 2015-08

AN ORDINANCE AMENDING CHAPTER 32 AND CHAPTER 38 OF THE OCONEE COUNTY CODE OF ORDINANCES, IN CERTAIN LIMITED REGARDS AND PARTICULARS ONLY, REGARDING SETBACKS, AND AMENDING CHAPTER 38 REGARDING AGRICULTURAL RESIDENTIAL ZONING DISTRICTS IN CERTAIN LIMITED REGARDS AND PARTICULARS; AND OTHER MATTERS RELATED THERETO.

WHEREAS, Oconee County, South Carolina (the "County"), a body politic and corporate and a political subdivision of the State of South Carolina (the "State"), acting by and through its governing body, the Oconee County Council (the "County Council"), has adopted multiple ordinances for the effective, efficient governance of the County, which, subsequent to adoption, are codified in the Oconee County Code of Ordinances (the "Code of Ordinances"), as amended, from time to time; and

WHEREAS, the County, acting by and through the County Council, is authorized by Section 4-9-30(9) and Chapter 29 of Title 6 of the South Carolina Code, 1976, as amended, among other sources, to impose land use restrictions and development standards in the unincorporated areas of the County; and,

WHEREAS, Chapter 32 of the Code of Ordinances contains terms, provisions and procedures applicable to performance standards in the County; and

WHEREAS, Chapter 38 of the Code of Ordinances contains terms, provisions and procedures applicable to zoning in the County; and

WHEREAS, County Council recognizes that there is a need to revise the law of the County to meet the changing needs of the County and that there is a need to amend, specifically, certain sections of Chapter 32 and Chapter 38 of the Code of Ordinances involving setbacks and setback lines, and to amend the Agricultural Residential District sections of Chapter 38, as to the "Intent" and "Definitions" provisions; and

WHEREAS, County Council has therefore determined to modify Chapters 32 and 38 of the Code of Ordinances, and to affirm and preserve all other provisions of the Code of Ordinances not specifically or by implication amended hereby;

NOW, THEREFORE, it is hereby ordained by the Oconee County Council, in meeting duly assembled, that:

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1. Section 32-214 of Chapter 32 of the Code of Ordinances, entitled *Lot Improvements*, is hereby revised, rewritten, and amended to read as set forth in Attachment A, which is attached hereto and hereby incorporated by reference as fully as if set forth verbatim herein.

2. Section 38-10.2 of Chapter 38 of the Code of Ordinances, entitled *Control Free District (CFD)*, is hereby revised, rewritten, and amended to read as set forth in Attachment B, which is attached hereto and hereby incorporated by reference as fully as if set forth verbatim herein.

3. The *Definition and Intent* portions of Section 38-10.12 of the Code of Ordinances, entitled *Agricultural Residential Districts (ARD)*, are hereby revised, rewritten and amended to read as set forth in Attachment C, which is attached hereto and hereby incorporated by reference as fully as is set forth verbatim herein.

4. County Council hereby declares and establishes its legislative intent that Attachment A, hereto, as may be amended from time to time, amend Section 32-214 of the land use performance standards of the County, and that Attachments B and C, hereto, as may perhaps be amended from time to time, become the applicable zoning provisions of the County, or parts thereof, with regard to the sections amended by Attachments B and C, from and after their adoption, states its intent to so adopt Attachments A, B and C, and directs that a public hearing thereon be undertaken by County Council or the Oconee County Planning Commission, in accord with and as required by Section 6-29-760 and by Section 4-9-130, South Carolina Code, 1976, as amended.

5. Should any part or provision of this Ordinance be deemed unconstitutional or unenforceable by any court of competent jurisdiction, such determination shall not affect the rest and remainder of this Ordinance, all of which is hereby deemed separable.

6. All ordinances, orders, resolutions, and actions of County Council inconsistent herewith are, to the extent of such inconsistency only, hereby repealed, revoked, and rescinded. However, nothing contained herein, or in the Attachments hereto, shall cancel, void, or revoke, or shall be interpreted as cancelling, voiding, or revoking, *ex post facto*, in any regard any prior performance standard, zoning or rezoning acts, actions, or decisions of the County or County Council based thereon, which were valid and legal at the time in effect and undertaken pursuant thereto, in any regard.

6. All other terms, provisions, and parts of the Code of Ordinances, and specifically, but without exception, the remainder of Section 38-10.2 of Chapter 38, not amended hereby, directly or by implication, shall remain in full force and effect.

7. This Ordinance shall take effect and be in full force and effect from and after third reading and enactment by County Council, and will apply to all zoning processes initiated after first (1st) reading hereof. All processes actually initiated by submitting a properly and legally completed petition to the County, at a minimum, prior to first (1st) reading of this ordinance and the establishment of the pending ordinance doctrine thereby, shall be completed under the zoning

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and performance standard rules and regulations of Chapters 32 and 38 of the Code of Ordinances, as in effect prior to final adoption of this ordinance.

ORDAINED in meeting, duly assembled, this ____ day of _____, 2015.

ATTEST:

Elizabeth Hulse,
Clerk to Oconee County Council

Joel Thrift,
Chairman, Oconee County Council

First Reading: _____
Second Reading: _____
Third Reading: _____
Public Hearing: _____

ATTACHMENT A
To Ordinance 2015-08

Sec. 32-214. - Lot improvements.

- (a) *Lot arrangements.* All lots shall be arranged such that there will be no apparent difficulties in securing driveway encroachment permits or building permits for reasons of topography or other conditions and must have driveway access from an approved road. The developer shall be liable for all lots within a proposed subdivision.
- (b) *Lot dimensions.* Except where circumstances such as topography, watercourses, road alignment or existing site boundary configurations dictate otherwise, the following requirements shall apply:
 - (1) Dimensions of corner lots shall be large enough to allow for the erection of buildings observing the minimum yard setbacks from both streets, without encroaching into side and rear yard setbacks, established in the building line section of this chapter.
 - (2) Depth and width of properties reserved or laid out for business, commercial, or industrial purposes shall be adequate to provide for off-street parking and loading facilities required for that type of development, without encroaching into yard setbacks.
- (c) *Lot size.* Minimum lot size shall be .57 acres (approximately 25,000 square feet) with traditional onsite septic tanks served by public water, unless DHEC requires greater area or dimensions. All required set backs shall be met regardless of lot size. No part of a septic system shall be located within any road right-of-way.
- (d) *Building Lines.* (See Section 38-10.2 for all setback requirements in the Control Free District of the County)
- (e) [Reserved]
- (f) *Usable area.* All lots adjacent to floodplains, creeks, and wetlands should use these natural features as lot boundaries when possible. Lots containing areas unsuitable for usage shall not use these areas in calculating minimum lot area.
- (g) *Septic system setback.*
 - (1) Traditional septic systems shall be constructed so that they comply with all regulations of the South Carolina Department of Health and Environmental Control (DHEC).
 - (2) The applicant shall provide the planning director a copy of all South Carolina Department of Health and Environmental Control (DHEC) permit drawings and an approved DHEC permit application for the proposed septic systems utilized within the development.
 - (3) The developer must demonstrate to the planning director that the proposed development will not adversely affect the present water table and the existing water supplies; and also demonstrate that the proposed water supply system will not be adversely affected by existing septic systems.
- (h) *Lot drainage.* Lots shall be laid out so as to provide positive drainage away from all buildings, and individual lot drainage shall be coordinated with the general storm drainage pattern for the area. Drainage shall be designed so as to prevent concentration of stormwater from each lot to any adjacent property. Drainage systems used to control water on one property shall not increase the water flow on adjacent properties without legal easements.
- (i) *Lakes and streams.* If a tract being subdivided contains a water body, or portion thereof, the ownership of and the responsibility for safe and environmentally compliant maintenance of the water body is to be placed so that it will not become a local government responsibility. The minimum area of a lot required under this article may not be satisfied by land that is under water. Where a watercourse other than storm drainage separates the lot's buildable area from the road providing access, an engineer's certified structure shall be provided linking the buildable area to the road. All watercourses shall remain free of obstructions and degradations.

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- (j) **Easements.** Easements having a minimum width of ten feet and located along the side or rear lot lines shall be provided as required for utilities and drainage.
- (k) **Entrances.** One entrance is required for every 100 lots in a proposed subdivision, or a maximum of 100 lots on a dead end road with a cul-de-sac. This requirement may be waived by the planning director due to topography and feasibility. Every effort shall be made to not have an entrance directly onto an arterial road.
- (l) **Vegetative buffers.** The approval of subdivisions, site plans and/or building permits for construction of new residential units or commercial projects to be located within 1,000 feet of Lakes Keowee, Hartwell, and Jocassee shall be contingent upon the establishment of a natural vegetative buffer of a width of less than 25 feet, with a view land width of no more than 15 percent of the total length of a natural vegetative buffer. The buffer shall meet the following standards:
 - (1) To reduce nonpoint source pollution, a natural buffer of 25 feet shall be maintained with no grasses or ornamental vegetation established within that buffer. To reduce nonpoint pollution a vegetative buffer of 25 feet measured horizontally from the full pond elevation shall be maintained with no manicured lawns or other managed grasses established within that buffer. A diverse mix of native plants and unmanaged (uncut below 12 inches and untreated) native grasses are preferred vegetation where available and suited to the site. Additionally, no clear cutting or mowing, cultivation activities, fertilization, use of herbicides, fungicides, or pesticides shall occur within the 25-foot buffer area. Right-of-way maintenance activities by utilities shall be exempt.
 - (2) No trees larger than six-inch caliper at four feet from the ground shall be removed unless certified to be a hazard by a registered forester or arborist.
 - (3) Trees may be limbed up to 50 percent of their height.

This regulation shall exempt projects that are located on parcels lying no closer than 25 feet from a lake shoreline or are located on parcels that are not traversed, either in full or in part, by a perennial stream, designed wetland, or other watercourse within 1,000 feet of Lakes Keowee, Hartwell, and Jocassee. The buffer shall begin at the lake's full pond level.

(Ord. No. 2008-20, Art. 4(4.1—4.12), 12-18-2008)

ATTACHMENT B
To Ordinance 2015-08

Sec. 38-10.2. - Control free district (CFD).

The control free district is intended to be the initial zoning district for all parcels within the jurisdiction at the time of initial adoption of zoning in Oconee County, only; any parcel subsequently rezoned to any other district shall not be a part of the control free district at any future date.

Dimensional requirements:

Residential uses	Density and Lot Size			Minimum Yard Requirements			Max. Height
	Min. lot size	Max. Density	Min. width (ft.)	Front setback (ft.)	Side setback (ft.)	Rear setback (ft.)	Structure height (ft.)
	N/A	N/A	N/A	25	5	10	65
Nonresidential Uses	Minimum Lot Size		Min. Width (ft.)	Minimum Yard Requirements			Max. Height
	Min. Lot Size			Front Setback (ft.)	Side Setback (ft.)	Rear Setback (ft.)	Structure Height (ft.)
	N/A		N/A	25	5	10	65

(Ord. No. 2012-14, § 1, 5-15-2012)

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ATTACHMENT C
To Ordinance 2015-08
Changes to the Intent and Definition portions of Section 38-10.12
Of the Oconee County Code of Ordinances

Intent: The Agricultural Residential districts are intended to allow for most agricultural, forestry, and other related uses that are typically found in rural communities; however, in consideration for the residential areas nearby, certain uses are prohibited in this zoning district.

Definition: For those areas that have maintained their rural uses, including engaging in agricultural and forestry practices, while the neighboring areas have experienced a growth in residential development not typical to rural areas.