

**ZONING AND SUBDIVISION ORDINANCES
CODE OF CLARKE COUNTY
CHAPTER 200**

**Article I – Zoning Ordinance
Article II – Subdivision Ordinance
Article III – Definitions**

Current as of January 1, 2024

EDITOR'S NOTES

- **Code of Clarke County Chapter 200 -- Zoning and Subdivision Ordinances** is the work product of a cover-to cover review and recodification of the Clarke County Zoning and Subdivision Ordinances, conducted by the Department of Planning from late 2017 through August 2021.

The effective date of Chapter 200 is August 17, 2021.

- Chapter 200 consists of the **Zoning Ordinance (Article I)**, the **Subdivision Ordinance (Article II)**, and **Definitions (Article III)**. **Article III** contains definitions of terms found in both the Zoning and Subdivision Ordinances along with general rules for interpretation of the definitions. The definitions in **Article III** shall apply uniformly to the terms found in the Zoning and Subdivision Ordinances.
- The Department of Planning's **Guidance Manual to the Clarke County Zoning and Subdivision Ordinances** is a companion document to the Ordinances that is intended to present Ordinance regulations and processes in a citizen and customer-friendly format. The **Guidance Manual** is reviewed and updated by Department staff on an annual basis. The **Guidance Manual** is an advisory document only and is not intended to be a replacement for the regulatory provisions in the Zoning and Subdivision Ordinances.
- The 2024 Edition contains text amendments adopted through December 31, 2023. A list of these text amendments is included in **Appendix B, History of Amendments**. Text amendments adopted after January 1, 2024 may be obtained from the Clarke County Department of Planning and from the Department's webpage: **<https://www.clarkecounty.gov/government/planning-zoning>**.

TABLE OF CONTENTS

ARTICLE I – ZONING ORDINANCE

Section	Page(s)
Table of Contents	i -- ix
Section 1 – General Provisions	1-1 – 1-5
Section 2 – Administration	2-1 – 2-18
Section 3 – Sliding-Scale Zoning	3-1 – 3-6
Section 4 – Zoning Districts	4-1 – 4-76
Section 5 – Uses	5-1 – 5-120
Section 6 – Permits and Review Processes	6-1 – 6-55
Section 7 – Design Standards and Development Regulations	7-1 – 7-76
Section 8 – Performance and Maintenance Guarantees	8-1 – 8-6
Section 9 – Nonconformities	9-1 – 9-6
Section 10 – Enforcement	10-1 – 10-5

ARTICLE II – SUBDIVISION ORDINANCE

Section	Page(s)
Table of Contents	i – iv
Section 1 – General Provisions	1-1 – 1-5
Section 2 – Administration	2-1 – 2-8
Section 3 – Review Processes	3-1 – 3-19
Section 4 – Plat and Construction Plan Requirements	4-1 – 4-36
Section 5 – Performance and Maintenance Guarantees	5-1 – 5-6
Section 6 – Enforcement	6-1 – 6-3

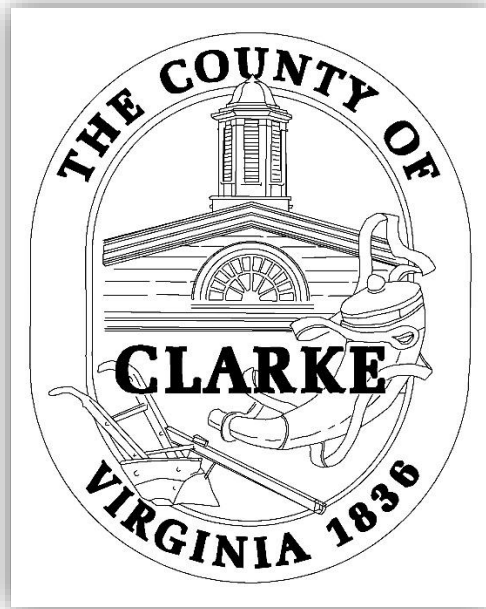
ARTICLE III – DEFINITIONS

Section	Page(s)
Table of Contents	1
Section 1 – Application of Article and General Rules for Interpretation	2 - 3
Section 2 – Definitions	4 - 25

APPENDIX

Section	Page(s)
Appendix A – Glossary of Abbreviations	A-1 – A-2
Appendix B – History of Amendments	B-1
Appendix C – Uses by Zoning District	C-1 – C-13

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ARTICLE I – ZONING ORDINANCE

ZONING AND SUBDIVISION ORDINANCES

CODE OF CLARKE COUNTY

CHAPTER 200

Current as of January 1, 2024

EDITOR'S NOTES

- Zoning Ordinance (**Article I**) is the work product of a cover-to cover review and recodification of the Clarke County Zoning and Subdivision Ordinances, conducted by the Department of Planning from late 2017 through August 2021.
- The Zoning Ordinance is intended to be used in concert with the Subdivision Ordinance (**Article II**). Definitions of key terms used in both the Zoning and Subdivision Ordinances are enumerated in **Article III (Definitions)**.
- The Department of Planning's **Guidance Manual to the Clarke County Zoning and Subdivision Ordinances** is a companion document to the Ordinances that is intended to present Ordinance regulations and processes in a citizen and customer-friendly format. The **Guidance Manual** is reviewed and updated by Department staff on an annual basis. The **Guidance Manual** is an advisory document only and is not intended to be a replacement for the regulatory provisions in the Zoning and Subdivision Ordinances.
- Descriptions of the various zoning districts depicted on the Official Zoning Map are enumerated in **Section 4 (Zoning Districts)**. Zoning district provisions are organized by County zoning districts (**Section 4.1**), County overlay districts (**Section 4.2**), and Berryville annexation area zoning districts (**Section 4.3**). Each district description contains applicable lot and building requirements, special regulations, and reference to related sections of the Zoning Ordinance.
- Allowable uses for each zoning district are enumerated in **Section 5 (Uses)** and are organized by County districts (**Section 5.2**), annexation area districts (**Section 5.3**) and temporary uses and structures (**Section 5.4**). Uses are grouped according to five categories (agricultural, residential, business, recreation/education/assembly, and public/miscellaneous). Each use includes a definition for the use term, allowable zoning districts, use regulations (formerly "supplemental regulations"), and required review processes with cross-references.
- Regulations for nonconforming uses, lots, and structures are consolidated in **Section 9 (Nonconformities)**.
- Regulatory processes including permits, plan and plat review, rezoning, variances, appeals, and the like are described in **Section 6 (Permits and Review Processes)**. Design standards that must be met in conjunction with the regulatory processes are listed in **Section 7 (Design Standards and Development Regulations)**. **Section 8** outlines requirements for performance and maintenance guarantees.
- An expanded section on administration (**Section 2**) contains a description of each advisory and decision-making body as well as regulations for common processes such as pre-application meetings, application filing, and public hearings.
- The provisions for the County's sliding-scale zoning system are found in **Section 3**.
- Other administrative sections include **Section 1 (General Provisions)** and **Section 10 (Enforcement)**.
- Cross-references to Zoning and Subdivision Ordinance sections, outside ordinances and codes, cited publications, and other resources are depicted in **bold blue underlined font**. Color-coding of certain sections is provided for ease in referencing the provisions.

TABLE OF CONTENTS

<u>SECTION 1 – GENERAL PROVISIONS</u>		
This Section contains regulations on the enactment of the Zoning Ordinance, rules for managing the transition from the previous to this current Ordinance, and how the Ordinance is to be applied generally.		
Section	Title	Page(s)
1.1	Ordinance Authority, Enactment, and Effective Date	1-2
1.2	Purposes and Intent	1-2
1.3	Applicability and Jurisdiction	1-2 – 1-3
1.3.1	Application to Federal, State, and Local Government	1-2 – 1-3
1.3.2	Conflict with Statutes, Local Ordinances, or Regulations	1-3
1.3.3	Severability	1-3
1.4	Transition to Current Zoning Ordinance	1-3
1.4.1	Repeal of Conflicting Ordinances	1-3
1.4.2	Transitional Rules	1-3
1.5	Ordinance Usage	1-4 – 1-5
1.5.1	Definitions	1-4
1.5.2	Meanings and Intent	1-4
1.5.3	Headings, Illustrations, and Text	1-4
1.5.4	Lists and Examples	1-4
1.5.5	Computation of Time	1-4
1.5.6	References to Other Regulations or Publications	1-4 – 1-5
1.5.7	Code of Virginia Citations	1-5
1.5.8	Delegation of Authority	1-5
1.5.9	Technical and Non-Technical Terms	1-5
1.5.10	Public Officials and Agencies	1-5

<u>SECTION 2 – ADMINISTRATION</u>		
This Section contains provisions pertaining to the general administration of the Zoning Ordinance including rules governing the Official Zoning Map, issuance of permits and approvals, submission and acceptance of applications, public hearing management, and authority for fees. This Section also contains detailed descriptions of advisory and decision-making bodies and their composition, roles, and responsibilities.		
Section	Title	Page(s)
2.1	Official Zoning Map	2-2 – 2-3
2.1.1	General Provisions and Location of Map	2-2
2.1.2	Changes to the Map	2-2
2.1.3	Rules for Location of District Boundaries	2-2 – 2-3
2.2	Advisory and Decision-Making Bodies	2-3 – 2-12
2.2.1	Generally	2-3

ARTICLE I – ZONING ORDINANCE
2024 EDITION

2.2.2	Board of Supervisors	2-3 – 2-4
2.2.3	Planning Commission	2-4 – 2-5
2.2.4	Berryville Area Development Authority	2-5 – 2-6
2.2.5	Historic Preservation Commission	2-6 – 2-9
2.2.6	Board of Zoning Appeals	2-9 – 2-10
2.2.7	Zoning Administrator	2-10 – 2-11
2.2.8	County Technical Consultants	2-11 – 2-12
2.2.9	Federal, State, and Local Review Agencies and Departments	2-12
2.3	Issuance of Permits and Approvals	2-12 – 2-13
2.4	Application Submission and Acceptance	2-13 – 2-17
2.4.1	Application Submission Requirements Generally; Pre-Application Conference Requirements; Acceptance of a Complete Application	2-13 – 2-15
2.4.2	Application Filing and Representation by Person or Entity Other Than Property Owner	2-15 – 2-16
2.4.3	Deferral of Application Review	2-16 – 2-17
2.4.4	Withdrawal of Application	2-17
2.5	Public Hearings	2-17 – 2-18
	TABLE 2.5[1], Required Public Hearings	2-18
2.6	Fees	2-18

SECTION 3 – SLIDING-SCALE ZONING

This Section addresses the allocation of single-family detached dwelling unit rights (DURs) on lots in the AOC and FOC Zoning Districts.

Section	Title	Page(s)
3.1	General Purposes; Definitions	3-2
3.2	Allocations (Include Dwelling Unit Right Allocation Table)	3-2 – 3-3
	TABLE 3.2[1], Dwelling Unit Right (DUR) Allocation	3-3
	TABLE 3.2[2], Compliance with Dwelling Unit Right (DUR) Allocation TABLE 3.2[1] Required	3-3
3.3	Voluntary Termination of Dwelling Unit Allocation	3-4
3.4	Exceptions to Allocation	3-4
3.5	Errors in 1980 Tax Map	3-4
3.6	Burden of Proof	3-4
3.7	Allocation Disclosure	3-5
3.8	Vacation or Merger of Lots in the AOC and FOC Districts	3-5
3.9	Boundary Line Adjustments of Lots in the AOC and FOC Districts	3-5
3.10	Lots with Zero Dwelling Unit Rights	3-6
3.11	Rezoning of a Portion of a Lot or Tract	3-6
3.12	Lots Divided by a Public Road	3-6

SECTION 4 – ZONING DISTRICTS		
This Section contains the descriptions of the County Zoning Districts, County Overlay Districts, and Berryville Annexation Area Zoning Districts. Each Zoning District description includes a purpose statement; lot dimension, density, and building requirements; and special district regulations.		
Section	Title	Page(s)
4.1	County Zoning Districts	4-3 – 4-17
4.1.1	Agricultural-Open Space-Conservation (AOC) District	4-4 – 4-7
	TABLE 4.1.1[1], Lot Requirements	4-4
	TABLE 4.1.1[2], Building Requirements	4-5 – 4-6
4.1.2	Forestal-Open Space-Conservation (FOC) District	4-7 – 4-10
	TABLE 4.1.2[1], Lot Requirements	4-7
	TABLE 4.1.2[2], Residual Open Space Lot Requirements	4-8
	TABLE 4.1.2[3], Building Requirements	4-8 – 4-9
4.1.3	Rural Residential (RR) District	4-10 – 4-12
	TABLE 4.1.3[1], Lot Requirements	4-10 – 4-11
	TABLE 4.1.3[2], Building Requirements	4-11 – 4-12
4.1.4	Neighborhood Commercial (CN) District	4-13 – 4-15
	TABLE 4.1.4[1], Lot Requirements	4-13
	TABLE 4.1.4[2], Minimum Building Requirements	4-13
	TABLE 4.1.4[3], Maximum Building Requirements	4-13 – 4-14
	TABLE 4.1.4[4], Millwood Properties Exempt from Section 7.2.5	4-14
4.1.5	Highway Commercial (CH) District	4-15 – 4-17
	TABLE 4.1.5[1], Lot Requirements	4-16
	TABLE 4.1.5[2], Building Requirements	4-16
4.2	County Overlay Districts	4-17 – 4-50
4.2.1	Flood Plain Overlay District (FP)	4-19 – 4-38
4.2.2	Spring Conservation (SC) Overlay District	4-38 – 4-40
4.2.3	Stream Protection (SPO) Overlay District	4-40 – 4-46
	TABLE 4.2.3[1], Increased Buffer Widths for Sloped Stream Banks	4-41
	TABLE 4.2.3[2], Planting Specifications	4-42
	TABLE 4.2.3[3], Required Plant Material in Buffer Area	4-43
4.2.4	Historic (H) Overlay District	4-47 – 4-48
4.2.5	Historic Access Corridor (HAC) Overlay District	4-49 – 4-50
4.3	Berryville Annexation Area Zoning Districts	4-51 – 4-76
4.3.1	Open Space Residential (OSR) District	4-52 – 4-53
	-- TABLE 4.3.1[1], Lot Requirements	4-52
	-- TABLE 4.3.1[2], Building Requirements	4-52
4.3.2	Detached Residential – 1 (DR-1) District	4-53 – 4-55
	TABLE 4.3.2[1], Lot Area/Width Requirements, Conventional Lots	4-54
	TABLE 4.3.2[2], Lot Area/Width Requirements, Cluster Lots	4-54
	TABLE 4.3.2[3], Building Requirements, Conventional Lots	4-54
	TABLE 4.3.2[4], Building Requirements, Cluster Lots	4-55

ARTICLE I – ZONING ORDINANCE
2024 EDITION

4.3.3	Detached Residential – 2 (DR-2) District	4-56 – 4-58
	TABLE 4.3.3[1], Lot Area/Width Requirements, Conventional Lots	4-56
	TABLE 4.3.3[2], Lot Area/Width Requirements, Cluster Lots	4-56
	TABLE 4.3.3[3], Building Requirements, Conventional Lots	4-57
	TABLE 4.3.3[4], Building Requirements, Cluster Lots	4-57
4.3.4	Detached Residential – 4 (DR-4) District	4-58 – 4-60
	TABLE 4.3.4[1], Lot Area/Width Requirements, Conventional Lots	4-58
	TABLE 4.3.4[2], Lot Area/Width Requirements, Cluster Lots	4-59
	TABLE 4.3.4[3], Building Requirements, Conventional Lots	4-59
	TABLE 4.3.4[4], Building Requirements, Cluster Lots	4-59
4.3.5	Business Commercial (BC) District	4-61 – 4-64
	TABLE 4.3.5[1], Lot Area/Width Requirements	4-61
	TABLE 4.3.5[2], Building Requirements	4-62
4.3.6	Business (B) District	4-64 – 4-67
	TABLE 4.3.6[1], Lot Area/Width Requirements	4-64
	TABLE 4.3.6[2], Building Requirements	4-65
4.3.7	Business Park (BP) District	4-67 – 4-70
	TABLE 4.3.7[1], Lot Area/Width Requirements	4-68
	TABLE 4.3.7[2], Building Requirements	4-68
4.3.8	Institutional (ITL) District	4-71 – 4-76
	TABLE 4.3.8[1], Lot Area/Width Requirements	4-71
	TABLE 4.3.8[2], Building Requirements	4-71
	TABLE 4.3.8[3], Lot Area/Width Requirements, Multifamily Dwellings	4-72
	TABLE 4.3.8[4], Building Requirements, Multifamily Dwellings	4-72
	TABLE 4.3.8[5], Lot Area/Width Requirements, Townhouse Dwellings	4-73
	TABLE 4.3.8[6], Building Requirements, Townhouse Dwellings	4-73
	TABLE 4.3.8[7], Lot Area/Width Requirements, Duplex Dwellings	4-73
	TABLE 4.3.8[8], Building Requirements, Duplex Dwellings	4-74
	TABLE 4.3.8[9], Lot Area/Width Requirements, Single-Family Detached Dwellings	4-74
	TABLE 4.3.8[10], Building Requirements, Single-Family Detached Dwellings	4-74

ARTICLE I – ZONING ORDINANCE
2024 EDITION

SECTION 5 – USES

This Section contains the definitions and use regulations for all permitted, accessory, and special uses regulated by this Ordinance along with tables listing how the uses are allowable in the County and Berryville Annexation Area Zoning Districts. Uses are organized into the following five categories:

- Agricultural Uses
- Residential Uses
- Business Uses
- Recreation, Education, and Assembly Uses
- Public and Miscellaneous Uses

Temporary uses are not organized by category.

Section	Title	Page(s)
5.1	Uses Generally	5-2 – 5-3
5.1.1	Description of Uses, Use Categories, and Use Regulations	5-2
5.1.2	Interpretation of Uses by the Zoning Administrator	5-3
5.1.3	Multiple Permitted and/or Special Uses on a Lot	5-3
5.2	Uses, Definitions, and Use Regulations – County Districts	5-4 – 5-74
A.	Agricultural Uses	5-4 – 5-14
B.	Residential Uses	5-15 – 5-31
C.	Business Uses	5-32 – 5-61
D.	Recreation/Education/Assembly Uses	5-62 – 5-68
E.	Public and Miscellaneous Uses	5-68 – 5-75
5.3	Uses, Definitions, and Use Regulations – Annexation Area Districts	5-76 – 5-112
A.	Agricultural Uses	5-76 – 5-77
B.	Residential Uses	5-77 – 5-82
C.	Business Uses	5-83 – 5-100
D.	Recreation/Education/Assembly Uses	5-100 – 5-105
E.	Public and Miscellaneous Uses	5-105 – 5-108
F.	Business Park (BP) District Uses	5-108 – 5-112
5.4	Uses, Definitions, and Use Regulations – Temporary Uses and Structures	5-113 – 5-120

ARTICLE I – ZONING ORDINANCE
2024 EDITION

SECTION 6 – PERMITS AND REVIEW PROCESSES

This Section contains detailed descriptions of all the permit types and review processes administered through the Zoning Ordinance. Processes are categorized as follows:

- Administrative Processes
- Legislative Processes
- Quasi-Judicial Processes
- Zoning Administrator Letters

Section	Title	Page(s)
6.1	Permits and Review Processes Generally	6-2
6.2	Administrative Review Processes	6-2 – 6-26
6.2.1	Zoning Permit	6-2 – 6-3
6.2.2	Site Development Plan	6-4 – 6-7
6.2.3	Site Development Plan Amendment	6-8 – 6-9
6.2.4	Administrative Site Development Plan	6-9 – 6-11
6.2.5	Certificate of Appropriateness	6-12 – 6-18
6.2.6	Maximum Lot Size Exception (AOC District)	6-19 – 6-22
6.2.7	Pre-Harvest Plan	6-22 – 6-23
6.2.8	Intensive Livestock, Dairy, or Poultry Facility Development Plan	6-23 – 6-24
6.2.9	Stream Buffer Mitigation Plan	6-25 – 6-26
6.3	Legislative Review Processes	6-26 – 6-46
6.3.1	Special Use Permit	6-26 – 6-30
6.3.2	Special Use Permit Amendment	6-31 – 6-32
6.3.3	Rezoning	6-32 – 6-36
6.3.4	Conditional Zoning	6-37 – 6-41
6.3.5	Amendment of Proffered Conditions	6-41 – 6-43
6.3.6	Text Amendment	6-44 – 6-46
6.4	Quasi-Judicial Processes	6-46 – 6-52
6.4.1	General Procedures -- Board of Zoning Appeals	6-47
6.4.2	Variance	6-48 – 6-49
6.4.3	Appeal	6-50 – 6-51
6.4.4	Interpretation of Zoning District Map	6-51 – 6-52
6.5	Zoning Administrator Letters	6-52 – 6-53
6.6	Review of Public Facility Projects	6-53 – 6-55

**SECTION 7 – DESIGN STANDARDS
AND DEVELOPMENT REGULATIONS**

This Section contains the technical regulations that apply to the development and operation of certain uses enumerated in [Section 5 \(Uses\)](#). These regulations can apply to uses in specific zoning districts or to uses generally in all districts, and many are applied in conjunction with the review processes listed in [Section 6 \(Permits and Review Processes\)](#).

Section	Title	Page(s)
7.1	Lot and Structure Regulations Generally	7-2 – 7-7
7.1.1	Lot Regulations and Measurements	7-2 – 7-5
7.1.2	Structure Regulations	7-5 – 7-7
7.2	Site Development Plan Design Standards and Development Regulations	7-8 – 7-40
7.2.1	Site Development Plan Requirements	7-8 – 7-11
7.2.2	Streets, Public Rights-of-Way, and Pedestrian Facilities	7-11 – 7-13
7.2.3	Public Utilities; Use of Private Wells and Onsite Sewage Disposal Systems	7-13 – 7-14
7.2.4	Landscaping Design Standards	7-14 – 7-23
	TABLE 7.2.4[1], Credit for Existing Trees	7-17
	TABLE 7.2.4[2], Buffer Area Width Requirements	7-17
	TABLE 7.2.4[3], Required Plant Material in Buffer Areas	7-18
	TABLE 7.2.4[4], Minimum Planting Size Requirements	7-18
	TABLE 7.2.4[5], Specifications for Trees and Shrubs	7-20
7.2.5	Parking Regulations	7-23 – 7-33
	TABLE 7.2.5[1], Factors for Joint Parking Facility Calculation	7-25
	TABLE 7.2.5[2], Minimum Off-Street Parking Requirements	7-25 – 7-32
	TABLE 7.2.5[3], Minimum Required Handicapped Accessible Spaces	7-32
7.2.6	Outdoor Lighting Standards	7-34 – 7-36
7.2.7	Environmental Reviews	7-36 – 7-39
7.2.8	Plan Approval and Construction	7-39 – 7-40
7.3	Wireless Communication Facility (WCF) Design Standards	7-40 – 7-52
7.4	AOC and FOC District Design Standards and Development Regulations	7-52 – 7-58
7.4.1	Vegetated Property Buffer Requirements – AOC District	7-52 – 7-53
7.4.2	Vegetated Property Buffer Requirements – FOC District	7-53 – 7-56
7.4.3	Outdoor Lighting Requirements	7-56
7.4.4	Private Driveway Standards	7-57
7.4.5	Use of Private Wells and Onsite Sewage Disposal Systems; Use of Public Water and Public Sewer	7-57 – 7-58
7.5	RR District Design Standards and Development Regulations	7-58 – 7-59
7.5.1	Outdoor Lighting Requirements	7-58
7.5.2	Use of Private Wells and Onsite Sewage Disposal Systems; Use of Public Water and Public Sewer	7-59

ARTICLE I – ZONING ORDINANCE
2024 EDITION

7.6	Historic Access Corridor (HC) Overlay District Design Standards	7-59 – 7-65
7.6.1	Standards for Properties Located Within the Berryville Annexation Area	7-59 – 7-61
7.6.2	Standards for Properties Located Outside of the Berryville Annexation Area	7-62 – 7-65
7.7	Annexation Area B Development Regulations	7-65 – 7-66
7.8	Sign Regulations	7-66 – 7-71
	TABLE 7.8[1], Freestanding Sign Area and Height Requirements by Zoning District	7-67 -7-68
	TABLE 7.8[2], Temporary Sign Maximum Area Requirements by Zoning District	7-70
7.9	Pre-Harvest Plan Regulations	7-72 – 7-74
7.10	Siting of Propane Tanks	7-74
7.11	Use of Private Access Easements	7-74 – 7-75
7.12	Parking and Storage of Inoperable Vehicles	7-75 – 7-76

SECTION 8 – PERFORMANCE AND MAINTENANCE GUARANTEES

This Section contains the requirements for posting performance and maintenance guarantees (e.g., bonds, letters of credit) for construction, maintenance, and/or removal of improvements.

Section	Title	Page(s)
8.1	Performance Guarantees	8-2 – 8-4
8.1.1	General Provisions	8-2
8.1.2	Performance Guarantee Term	8-2
8.1.3	Performance Guarantee Form	8-2
8.1.4	Performance Guarantee Amount	8-3
8.1.5	Release of Performance Guarantee	8-3 – 8-4
8.1.6	Default and Forfeiture	8-4
8.2	Maintenance Guarantees	8-5 – 8-6
8.2.1	General Provisions	8-5
8.2.2	Maintenance Guarantee Term	8-5
8.2.3	Maintenance Guarantee Form	8-5
8.2.4	Maintenance Guarantee Amount	8-6
8.2.5	Release of Maintenance Guarantee	8-6
8.2.6	Default and Forfeiture	8-6

SECTION 9 – NONCONFORMITIES

This Section contains the regulations for nonconforming lots, uses, and structures.

Section	Title	Page(s)
9.1	General Provisions	9-2
9.2	Nonconforming Lots	9-2
9.3	Nonconforming Uses	9-3
9.4	Nonconforming Structures	9-3 – 9-4
9.5	Nonconforming Signs	9-4 – 9-5
9.6	Nonconforming Site Features	9-5
9.7	Deemed Special Use Status	9-6

SECTION 10 – ENFORCEMENT

This Section establishes procedures through which the County seeks to ensure compliance with the provisions of this Ordinance and obtain corrections for Ordinance violations. It also sets forth the remedies and penalties that apply to violations of this Ordinance. The provisions of this article are intended to encourage the voluntary correction of violations, where possible.

Section	Title	Page(s)
10.1	Compliance Required	10-2
10.2	Specific Violations	10-2 – 10-3
10.3	Responsible Persons	10-3
10.4	Enforcement	10-3 – 10-5
10.5	Remedies and Penalties	10-5

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SECTION 1	GENERAL PROVISIONS
<p>This Section contains regulations on the enactment of the Zoning Ordinance, rules for managing the transition from the previous to this current Ordinance, and how the Ordinance is to be applied generally.</p>	

Table of Contents

Section	Title	Page(s)
1.1	Ordinance Authority, Enactment, and Effective Date	1-2
1.2	Purposes and Intent	1-2
1.3	Applicability and Jurisdiction	1-2 – 1-3
1.3.1	Application to Federal, State, and Local Government	1-2 – 1-3
1.3.2	Conflict with Statutes, Local Ordinances, or Regulations	1-3
1.3.3	Severability	1-3
1.4	Transition to Current Zoning Ordinance	1-3
1.4.1	Repeal of Conflicting Ordinances	1-3
1.4.2	Transitional Rules	1-3
1.5	Ordinance Usage	1-4 – 1-5
1.5.1	Definitions	1-4
1.5.2	Meanings and Intent	1-4
1.5.3	Headings, Illustrations, and Text	1-4
1.5.4	Lists and Examples	1-4
1.5.5	Computation of Time	1-4
1.5.6	References to Other Regulations or Publications	1-4 – 1-5
1.5.7	Code of Virginia Citations	1-5
1.5.8	Delegation of Authority	1-5
1.5.9	Technical and Non-Technical Terms	1-5
1.5.10	Public Officials and Agencies	1-5

1.1 ORDINANCE AUTHORITY, ENACTMENT, AND EFFECTIVE DATE

This Ordinance, to be cited as the Zoning Ordinance of Clarke County, is hereby ordained, enacted and published by the Board of Supervisors of Clarke County, Virginia, pursuant to the provisions of [Title 15.2, Chapter 22, Article 7, Code of Virginia, 1950](#), and amendments thereto. This Zoning Ordinance shall be effective at and after August 17, 2021.

1.2 PURPOSES AND INTENT

This Ordinance, insofar as is practicable, is intended to be in accord with and to implement the Comprehensive Plan of Clarke County adopted pursuant to the provisions of [Title 15.2, Chapter 22, Article 3, Code of Virginia, 1950](#), as amended, and has the purposes and intent set forth in [Title 15.2, Chapter 22, Article 7](#). This Ordinance is for the general purpose of promoting the health, safety or general welfare of the public and of accomplishing the objectives of [Va. Code §15.2-2200 and §15.2-2283](#). To these ends, this Ordinance is designed:

- To provide for adequate light, air, convenience of access, and safety from fire, flood and other dangers;
- To reduce or prevent congestion in the public streets and roads;
- To facilitate the creation of a convenient, attractive and harmonious community;
- To expedite the provision of adequate police and fire protection, disaster evacuation, civil defense, transportation, water, sewerage, flood protection, schools, parks, forests, playgrounds, recreational facilities, airports, and other public requirements;
- To protect against destruction of, or encroachment upon, historic areas;
- To protect against one or more of the following: Overcrowding of land, undue density of population in relation to the community facilities existing or available, obstruction of light and air, danger and congestion in travel and transportation, or loss of life, health, or property from fire, flood, panic or other dangers;
- To encourage economic development activities that provide desirable employment and enlarge the tax base; and
- To protect and stabilize the rural agricultural, forestal, and open space areas that are essential to maintaining the County's heritage, character and economy.

1.3 APPLICABILITY AND JURISDICTION

This Ordinance applies to the development of all lands within unincorporated areas of Clarke County unless it is expressly exempted by a specific section or subsection of this Ordinance.

- 1.3.1 Application to Federal, State, and Local Government.** Except as stated herein, the provisions of this Ordinance do not apply to development owned or held in tenancy by the government of the United States, its agencies, departments or corporate services, to the full extent required by law; and to development of land owned by the Commonwealth of Virginia, unless the Code of Virginia authorizes local regulation by this Ordinance. The provisions of this Ordinance do apply to development by Clarke County or its

agencies, and to development by any other local government or its agencies within the unincorporated areas of Clarke County.

- 1.3.2 Conflict with Statutes, Local Ordinances, or Regulations.** If a provision of this Ordinance is inconsistent with another provision of this Ordinance, or with a provision found in other codes or ordinances of the County, the more restrictive provision shall govern. The more restrictive provision is the one that imposes the greater restrictions or burdens, or more stringent controls.

If a provision of this Ordinance is inconsistent with a provision found in the law or regulations of the State or Federal government, the more restrictive provision shall control, to the extent permitted by law.

- 1.3.3 Severability.** Should any section or provision of this Ordinance be held by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole, or any part thereof other than the part so held to be unconstitutional or invalid.

1.4 TRANSITION TO CURRENT ZONING ORDINANCE

- 1.4.1 Repeal of Conflicting Ordinances.** The Zoning Ordinance of Clarke County previously adopted with an effective date of August 14, 1985, as amended, is hereby repealed as of the effective date of this Ordinance.

1.4.2 Transitional Rules.

- A. Violations Continue.** Any violation of the previous Zoning Ordinance shall continue to be a violation under this Ordinance unless the use or development complies with the express terms of this Ordinance or a subsequently adopted Zoning Ordinance.
- B. Nonconformities.** If any use, structure, or lot legally existed on August 17, 2021, but does not fully comply with the standards of this Ordinance, the use, structure, or lot shall be considered nonconforming under this Ordinance and shall comply with the requirements of [Section 9 \(Nonconformities\)](#).
- C. Status of Applications.** Applications for review processes filed under the previous Ordinance, which were duly filed with all required application fees and which were determined to be complete by the Zoning Administrator prior to the effective date of this Ordinance, shall continue to be governed by the regulations of the previous Ordinance until action is taken on the application by the approval authority. If such application is approved and the approved use, structure, or lot does not fully comply with the standards of this Ordinance, then compliance with the requirements of Section 9 (Nonconformities) shall be required.

1.5 ORDINANCE USAGE

The following rules shall apply for construing or interpreting the terms and provisions of this Ordinance.

1.5.1 Definitions. Certain words and terms used in this Ordinance are defined in [Section 2 of Article III, Zoning and Subdivision Ordinance Definitions](#). Rules governing the usage of specific words and terms are found in [Section 1 of Article III](#).

Uses that are enumerated in this Ordinance are defined in:

- [Section 5.2 \(Uses, Definitions, and Use Regulations – County Districts\)](#)
- [Section 5.3 \(Uses, Definitions, and Use Regulations – Annexation Area Districts\)](#)
- [Section 5.4 \(Uses, Definitions, and Use Regulations – Temporary Uses and Structures\)](#)

1.5.2 Meanings and Intent. All provisions, terms, phrases, and expressions contained in this Ordinance shall be interpreted in accordance with the Purposes and Intent set forth in [Section 1.2](#), and the specific purpose statements set forth throughout this Ordinance.

1.5.3 Headings, Illustrations, and Text. In the event of a conflict or inconsistency between the text of this Ordinance and any heading, caption, figure, illustration, or map, the text shall control. Graphics and other illustrations are provided for informational purposes only and should not be relied upon as a complete and accurate description of all applicable regulations or requirements.

1.5.4 Lists and Examples. Unless otherwise specifically indicated, lists of terms or examples that use terms like, “for example,” “including,” and “such as,” or similar language are intended to provide examples and are not exhaustive lists of all possibilities.

1.5.5 Computation of Time.

- A.** The time in which an act is to be done shall be computed by excluding the first day and including the last day. If a deadline or required date of action falls on a Saturday, Sunday, or holiday observed by the County, the deadline or required date of action shall be the next business day. References to days are calendar days unless otherwise stated.
- B.** A “day” shall be generally interpreted as one 24 hour period or less beginning at 12:00AM. For the purposes of events or uses that are conducted across two days, the Zoning Administrator on a case-by-case basis may interpret “day” to begin with the commencement of any activities associated with the event or use and continuing for a length of time not to exceed 24 hours.

1.5.6 References to Other Regulations or Publications. Whenever reference is made to a resolution, ordinance, statute, regulation, or document, it shall be construed as a reference

ARTICLE I – ZONING ORDINANCE
2024 EDITION

to the most recent edition of such regulation, resolution, ordinance, statute, regulation, or document unless otherwise specifically stated.

- 1.5.7 Code of Virginia Citations.** All citations to provisions of the [Code of Virginia](#) in this Ordinance shall reference **Va. Code §_____**.
- 1.5.8 Delegation of Authority.** Any act authorized by this Ordinance to be carried out by the Zoning Administrator may be delegated by the Zoning Administrator.
- 1.5.9 Technical and Non-Technical Terms.** Words and phrases shall be construed according to the common and approved usage of the language. Technical words and phrases that may have acquired a specific and appropriate meaning in law shall be construed and understood according to such meaning.
- 1.5.10 Public Officials and Agencies.** All public officials, bodies, and agencies referenced in this Ordinance are those of Clarke County unless otherwise indicated.

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SECTION 2	ADMINISTRATION
<p>This Section contains provisions pertaining to the general administration of the Zoning Ordinance including rules governing the Official Zoning Map, issuance of permits and approvals, submission and acceptance of applications, public hearing management, and authority for fees. This Section also contains detailed descriptions of advisory and decision-making bodies and their composition, roles, and responsibilities.</p>	

Table of Contents

Section	Title	Page(s)
2.1	Official Zoning Map	2-2 – 2-3
2.1.1	General Provisions and Location of Map	2-2
2.1.2	Changes to the Map	2-2
2.1.3	Rules for Location of District Boundaries	2-2 – 2-3
2.2	Advisory and Decision-Making Bodies	2-3 – 2-12
2.2.1	Generally	2-3
2.2.2	Board of Supervisors	2-3 – 2-4
2.2.3	Planning Commission	2-4 – 2-5
2.2.4	Berryville Area Development Authority	2-5 – 2-6
2.2.5	Historic Preservation Commission	2-6 – 2-9
2.2.6	Board of Zoning Appeals	2-9 – 2-10
2.2.7	Zoning Administrator	2-10 – 2-11
2.2.8	County Technical Consultants	2-11 – 2-12
2.2.9	Federal, State, and Local Review Agencies and Departments	2-12
2.3	Issuance of Permits and Approvals	2-12 – 2-13
2.4	Application Submission and Acceptance	2-13 – 2-17
2.4.1	Application Submission Requirements Generally; Pre-Application Conference Requirements; Acceptance of a Complete Application	2-13 – 2-15
2.4.2	Application Filing and Representation by Person or Entity Other Than Property Owner	2-15 – 2-16
2.4.3	Deferral of Application Review	2-16 – 2-17
2.4.4	Withdrawal of Application	2-17
2.5	Public Hearings	2-17 – 2-18
	TABLE 2.5[1], Required Public Hearings	2-18
2.6	Fees	2-18

2.1 OFFICIAL ZONING MAP

The unincorporated areas of Clarke County are hereby divided into Zoning Districts as indicated on a map entitled, “Clarke County Zoning District Map” which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this Ordinance. The Official Zoning Map shall be the final authority as to the status of the current zoning district classification of land in the County.

2.1.1 General Provisions and Location of Map. The Official Zoning Map designates the location and boundaries of the various zoning districts described in Section 4 (Zoning Districts) of this Ordinance. The Official Zoning Map shall be kept on file in the office of the Zoning Administrator and shall be made available for public inspection during normal business hours. The Map may be kept in either hard copy or digital form.

2.1.2 Changes to the Map. The Official Zoning Map shall only be amended in accordance with the processes enumerated in either [Section 6.3.3 \(Rezoning\)](#) or [Section 6.3.4 \(Conditional Zoning\)](#). Whenever any amendment is made to the Zoning Map by action of the Board of Supervisors in accordance with these Sections, such change shall be incorporated onto such Zoning Map at such time and in such manner as the Board of Supervisors may prescribe. The Zoning Administrator shall document that approved amendments to the Zoning Map have been correctly incorporated. Any such change shall have the effect of law at 12:01AM, on the day following its legal adoption, or on its effective date if officially established as other than on the day following its legal adoption, whether or not it has been shown on said Zoning Map.

No changes of any nature shall be made on said Zoning Map or any matter shown thereon except in conformity with the procedures and requirements of this Ordinance. It shall be unlawful for any person to make unauthorized changes on the Zoning Map. Violations of this provision shall be punishable as provided in [Section 10 \(Enforcement\)](#).

2.1.3 Rules for Location of District Boundaries. The Zoning Administrator shall be responsible for interpreting the district boundaries on the Official Zoning Map. Where uncertainty exists with respect to the boundary of any district shown on the Zoning Map, the following rules shall apply:

- A.** Where a district boundary is indicated as approximately following or being at right angles to the center lines of streets, highways, alleys, or railroad tracks, such center lines or lines at right angles to such center lines, as the case may be, shall be construed to be such boundary.
- B.** Where a boundary is indicated to follow a river, creek, branch, or other body of water, said boundary shall be construed to follow the center line at low water, or, if applicable, shall follow the limits of the jurisdiction. If such boundary follows a shoreline, in the event of a change in shoreline, such boundary shall be construed as moving with the actual shoreline.

- C. If no distance, angle, curvature, description, or other means are given to determine a boundary line accurately, and none of the provisions of Subsections A and B apply, the location of such boundary line shall be determined by the use of the scale shown on the Zoning Map.
- D. **Unclassified Areas.** Where areas appear to be unclassified on the Zoning Map and classification cannot be established by rules set forth herein, such areas shall be considered to be classified AOC until amending action is taken.
- E. **Boundary Changes with Changes in Jurisdictional Area.**
1. Additions to Jurisdictional Area. Where territory is added to the jurisdictional area, it shall be considered to be classified as AOC until amending action is taken.
 2. Reduction in Jurisdictional Area. Where territory is removed from the jurisdictional area, the zoning boundaries coterminous with the jurisdictional boundary shall be considered to move with the jurisdictional boundary.

2.2 ADVISORY AND DECISION-MAKING BODIES

2.2.1 Generally. The following advisory bodies, decision-making bodies, and County Staff have powers and responsibilities in administering and reviewing applications under this Ordinance:

- Board of Supervisors (“Board”)
- Planning Commission (“Commission”)
- Berryville Area Development Authority (“BADA”)
- Historic Preservation Commission (“HPC”)
- Board of Zoning Appeals (“BZA”)
- Zoning Administrator

Additionally, there are technical consultants, agencies, and departments who may review and comment on specific application types during the review process.

2.2.2 Board of Supervisors

A. **Purposes and Duties.** To exercise the authority granted to the Board of Supervisors (“Board”) by the Code of Virginia, the Board shall have the following purposes and duties under this Ordinance:

1. Review and Decision. To review and act on applications for the following:
 - Special Use Permit ([Section 6.3.1](#)) and Special Use Permit Amendment ([Section 6.3.2](#))
 - Rezoning ([Section 6.3.3](#))

ARTICLE I – ZONING ORDINANCE
2024 EDITION

- Conditional Zoning ([Section 6.3.4](#)) and Amendment of Proffered Conditions ([Section 6.3.5](#))
 - Text Amendments ([Section 6.3.6](#))
 - Site Development Plan ([Section 6.2.2](#)) and Site Development Plan Amendment ([Section 6.2.3](#)), when submitted in conjunction with a Special Use Permit, Rezoning, or Conditional Zoning application
2. Schedule of Fees. To approve by resolution a schedule of fees governing applications for permits and other development approvals reviewed under this Ordinance.
3. Other Actions. To take any other action not delegated to the Commission, BADA, HPC, BZA, or Zoning Administrator, within the Board’s authority and as the Board may deem desirable and necessary to implement the provisions of this Ordinance.
- B. Membership, Term of Office, and Operating Procedures.** Membership, Term of Office, and Operating Procedures shall be as set forth in the [Code of Clarke County](#) and the [Code of Virginia](#).

2.2.3 Planning Commission

- A. Generally.** The Clarke County Planning Commission (“Commission”) is created and organized pursuant to [Article 2, Chapter 22 of the Code of Virginia \(§15.2-2210, et seq.\)](#) and shall have the purposes, duties, and authority set forth therein.
- B. Purposes and Duties.** The Commission shall have the following purposes and duties under this Ordinance for applications located outside of Annexation Area “B” (as defined in the [1988 Agreement Defining Annexation Rights between the Town of Berryville and Clarke County](#)):
1. Review and Decision. To review and act on applications for the following:
- Site Development Plan ([Section 6.2.2](#)) and Site Development Plan Amendment ([Section 6.2.3](#))
 - Certificate of Appropriateness in the Historic Access Corridor Overlay (HAC) District ([Section 6.2.5](#))
2. Recommendations. To review and make recommendations to the Board of Supervisors on the following:
- Special Use Permit ([Section 6.3.1](#)) and Special Use Permit Amendment ([Section 6.3.2](#))
 - Rezoning ([Section 6.3.3](#))
 - Conditional Zoning ([Section 6.3.4](#)) and Amendment of Proffered Conditions ([Section 6.3.5](#))
 - Text Amendments ([Section 6.3.6](#))

ARTICLE I – ZONING ORDINANCE
2024 EDITION

- Site Development Plan ([Section 6.2.2](#)) and Site Development Plan Amendment ([Section 6.2.3](#)), when submitted in conjunction with a Special Use Permit, Rezoning, or Conditional Zoning application
3. Other Powers and Duties. To carry out any other powers and duties delegated to it by the Board of Supervisors consistent with the Code of Virginia.
- C. **Composition.** The Commission shall consist of eleven members, appointed by the Board. Members of the Commission shall be residents of the County, with there being two residents of each of the Board Election Districts. In addition, one member of the Commission shall be a member of the Board. Members of the Commission shall be qualified by knowledge and experience to make decisions on questions of community growth and development. At least one-half of the members of the Planning Commission shall be owners of real property in the County.
- D. **Terms of Office.** The term of the member who is also a member of the Board shall be co-extensive with the term of office to which he or she has been elected or appointed, unless the Board, at the first regular meeting each year, appoints another to serve as its representative. The remaining members of the commission first appointed shall serve respectively for terms of one year, two years, three years, and four years, divided equally or as nearly equal as possible among the membership. Subsequent appointments shall be for terms of four years each. Vacancies shall be filled by appointment for the unexpired term only.
- E. **Oath of Office Required.** Each member of the Commission shall take an oath of office before the Clerk of the Circuit Court.
- F. **Meetings.** Meetings of the Commission shall be conducted in accordance with [Va. Code §15.2-2214](#).
- G. **Quorum.** A majority of the members shall constitute a quorum and no action of the Commission shall be valid unless authorized by a majority vote of those present and voting.
- H. **Officers.** The Commission shall elect from its members a Chair and a Vice-Chair, whose terms shall be for one year.

2.2.4 Berryville Area Development Authority

- A. **Generally.** The Berryville Area Development Authority (“BADA”) is created and organized pursuant to [Article 2, Chapter 22 of the Code of Virginia \(§15.2-2210, et seq.\)](#) and shall have the purposes and duties set forth therein.
- B. **Purposes and Duties.** The BADA shall have the following purposes and duties under this Ordinance for applications located within Annexation Area “B” (as defined in the [1988 Agreement Defining Annexation Rights between the Town of Berryville and](#)

Clarke County) on properties for which no final Certificate of Occupancy has been granted:

1. Review and Decision. To review and act on applications for the following:
 - Site Development Plan ([Section 6.2.2](#)) and Site Development Plan Amendment ([Section 6.2.3](#))
 - Certificate of Appropriateness in the Historic Access Corridor Overlay (HAC) District ([Section 6.2.5](#))
 2. Recommendations. To review and make recommendations to the Board of Supervisors on the following:
 - Special Use Permit ([Section 6.3.1](#)) and Special Use Permit Amendment ([Section 6.3.2](#))
 - Rezoning ([Section 6.3.3](#))
 - Conditional Zoning ([Section 6.3.4](#)) and Amendment of Proffered Conditions ([Section 6.3.5](#))
 - Text Amendments ([Section 6.3.6](#))
 - Site Development Plan ([Section 6.2.2](#)) and Site Development Plan Amendment ([Section 6.2.3](#)), when submitted in conjunction with a Special Use Permit, Rezoning, or Conditional Zoning application
 3. Other Purposes and Duties. To carry out any other powers and duties delegated to it by the Board of Supervisors consistent with the Code of Virginia.
- C. Membership, Term of Office, and Operating Procedures.** Membership, Term of Office, and Operating Procedures shall be as set forth in the [1992 Amended Resolution and Agreement between the Town of Berryville and Clarke County](#).

2.2.5 Historic Preservation Commission

- A. Generally.** For the purposes of carrying out the provisions of this Section, an architectural review board to be known as the Historic Preservation Commission (“HPC”) is hereby created under authority of [Va. Code §15.2-2306](#).
- B. Purposes and Duties.** The HPC shall have the following purposes and duties under this Ordinance:
 1. Review and Decision. To review and act on Certificate of Appropriateness applications for properties located in the Historic Overlay (H) District.
 2. Coordinate local historic preservation efforts with those of the Virginia Historic Landmarks Commission.

ARTICLE I – ZONING ORDINANCE
2024 EDITION

3. Sponsor public information activities, where deemed appropriate, publicizing historic preservation efforts, which activities may include, but are not limited to speaking engagements, handouts, press releases, and films.
 4. Review projects and developments which may change or alter the historic character of an existing Historic District and report findings to the Planning Commission.
 5. Formulate necessary administrative procedures for review of Certificates of Appropriateness, which shall include prescribed requirements for applications for such Certificates.
 6. Advise persons living within Historic Districts on measures which they may take to preserve the historic character of their District.
 7. Report to the Planning Commission on its activities and make recommendations in an annual report to the Planning Commission and the Board of Supervisors concerning the operation of the HPC and the status of historic preservation within the County.
 8. Develop specific guidelines for each Historic District, prior to establishment of each such District, which guidelines delineate specific criteria for the approval of Certificates of Appropriateness, based upon the general criteria listed in [Section 4.2.4 \(Historic \(H\) Overlay District\)](#) and the distinctive characteristics and features of each District. Subsequent to establishment of any Historic District, proposed changes or amendments to the specific guidelines for that District shall be reviewable by the Planning Commission prior to institution or implementation of such changes or amendments.
 9. Hold public meetings, as often as necessary to fulfill the responsibilities assigned by this Section.
 10. Grant the right to display authorized plaques to commemorate buildings or sites which are important and significant physical features in Clarke County.
 11. Provide advice and recommendations to the Planning Commission on particular projects and developments as specifically requested by the Planning Commission.
 12. Other Powers and Duties. To carry out any other powers and duties delegated to it by the Board of Supervisors consistent with the Code of Virginia.
- C. Composition.** The composition of the HPC shall be as follows:
1. The HPC shall consist of at least five members and shall not exceed seven members, to be appointed by the Board of Supervisors.
 2. Members shall be residents of Clarke County with a demonstrated interest in and knowledge of the historic character of Clarke County.

ARTICLE I – ZONING ORDINANCE
2024 EDITION

3. The Board shall make every reasonable effort to appoint at least two members with professional training or equivalent experience in one or more of the following areas:
 - Architecture
 - Architectural history
 - Historic preservation
 - Archeology
 - Land use planning
 - Related fields
 4. The Board shall make every reasonable effort to appoint at least one member that is a professional architect or architectural historian.
 5. At least one member shall be appointed from the Planning Commission upon recommendation to the Board by the Planning Commission.
 6. After the establishment of a Historic District, at least one member shall be a resident of a local Historic District.
- D. Qualifications for Professional Architect.** The professional qualifications for an architect are either:
- Professional degree in architecture with at least two years of full time professional experience in architecture, or
 - A state license to practice architecture.
- E. Qualifications for Architectural Historian.** The professional qualifications for an architectural historian are either:
- A graduate degree in architectural history, art history, historic preservation, or closely related field, with course work in American architectural history, or
 - A bachelor's degree in architectural history, art history, historic preservation, or closely related field with one of the following, either:
 - At least two years of full time experience in research, writing, or teaching in American architecture or restoration architecture with an academic institution, historical organization, agency, museum, or other professional institution, or
 - Substantial contribution through research and publication to the body of scholarly knowledge in the field of American architectural history.
- F. Officers and Terms.** At its first meeting of each calendar year, the HPC shall elect from its members a Chair, who will call and run meetings, and a Vice-Chair, who will call and run meetings in the absence of the chairperson. Each member shall be appointed for a term of four years, except for the first established HPC wherein two members shall be appointed for a two year term and three members shall be appointed for a four year term.

All subsequent appointments shall be for a four year term. When a term expires, a member may be re-appointed or a new member appointed to begin a four year term. When a term expires, or whenever a vacancy occurs, a member shall be appointed or re-appointed within 60 days when necessary to maintain at least five members on the HPC and meet other membership requirements established in [Subsection 1](#). A Secretary shall be chosen to record the activity at the meetings, and may be a nonmember with no voting privileges.

2.2.6 Board of Zoning Appeals

- A. Generally.** The Board of Zoning Appeals (“BZA”) is created and organized pursuant to [Va. Code §15.2-2308](#) and shall have the purposes and duties set forth therein.
- B. Purposes and duties.** The BZA shall review and act on applications for the following:
- Variances [\(Section 6.4.2\)](#)
 - Appeals [\(Section 6.4.3\)](#)
 - Variances and appeals to the Flood Plain Overlay District requirements [\(Section 4.2.1\)](#)
 - Interpretations of Zoning District Map [\(Section 6.4.4\)](#)
- C. Membership.** The BZA shall consist of five residents of Clarke County, appointed by the Circuit Court of Clarke County. Members of the BZA shall hold no other public office in the locality except that one may be a member of the Planning Commission.
- D. Alternate Members.** The Board of Supervisors may request the Circuit Court of Clarke County to appoint not more than three alternates to the BZA, pursuant to the provisions of [Va. Code §15.2-2308\(A\)](#).
- E. Terms of Office.** The terms of office for members of the BZA shall be for five years each except that original appointments shall be made for such terms that the term of one member shall expire each year. The Secretary shall notify the court at least thirty (30) days in advance of the expiration of any term of office, and shall also notify the Court promptly if any vacancy occurs. Appointments to fill vacancies shall be only for the unexpired portion of the term. Members may be reappointed to succeed themselves. A member whose term expires shall continue to serve until his successor is appointed and qualifies.
- F. Officers.** With the exception of its Secretary and the alternates, at its first meeting of each calendar year the BZA shall elect from its own membership its officers who shall serve annual terms as such and may succeed themselves. The BZA may elect as its Secretary either one of its members or a qualified individual who is not a member of the BZA, excluding the alternate members. A Secretary who is not a member of the BZA shall not be entitled to vote on matters before the BZA.

ARTICLE I – ZONING ORDINANCE
2024 EDITION

- G. Quorum.** For the conduct of any hearing, a quorum shall be not less than a majority of all the members of the BZA.
- H. Procedures.** The BZA may make, alter and rescind rules and forms for its procedures, consistent with County ordinances and general laws of the Commonwealth.
- I. Records.** The BZA shall keep minutes and a full record of its proceedings and other official actions, which shall be filed in the office of the BZA and shall be public records.
- J. Report.** The BZA shall submit a report of its activities to the governing body at least once each year.
- K. Witnesses.** The Chair, or the Vice-Chair or acting Chair in the Chair’s absence, may compel attendance of witnesses and administer oaths of witnesses.
- L. Employees.** Within the limits of funds appropriated by the Board of Supervisors, the BZA may employ or contract for secretaries, clerks, legal counsel, consultants, and other technical and clerical services.
- M. Compensation.** Members of the BZA may receive such compensation as may be authorized by the Board of Supervisors.
- N. Removal.** Any BZA member or alternate may be removed for malfeasance, misfeasance, or nonfeasance in office, or for other just cause, by the Court that appointed the member or alternate, after a hearing held after at least fifteen (15) days notice.
- O. Meetings.** The BZA by resolution may fix a schedule of regular meetings, and may also fix the day or days to which any meeting shall be continued if the Chair, or Vice-Chair if the Chair is unable to act, finds and declares that weather or other conditions are such that it is hazardous for members to attend the meeting. Such finding shall be communicated to the members and the press as promptly as possible. All hearings and other matters previously advertised for such meeting in accordance with [Va. Code §15.2-2312](#) shall be conducted at the continued meeting and no further advertisement shall be required.
- 2.2.7 Zoning Administrator.** This Ordinance shall be administered and enforced by the Zoning Administrator in accordance with [Va. Code §15.2-2286](#). The Zoning Administrator shall have the following purposes and duties under this Ordinance:
- A. Review and Decision.** To review and act on applications and requests for the following:
- [Zoning Permits \(Section 6.2.1\)](#)
 - [Administrative Site Development Plans \(Section 6.2.4\)](#)
 - [Pre-Harvest Plans \(Section 6.2.7\)](#)
 - [Intensive Livestock, Dairy, or Poultry Facility Development Plan \(Section 6.2.8\)](#)

- [Stream Buffer Mitigation Plan \(Section 6.2.9\)](#)
- [Zoning Administrator Letters \(Section 6.5\)](#)

B. Additional Duties. The Zoning Administrator shall have the following additional duties:

1. Review and make recommendations on applications for action by the Board, Commission, BADA, HPC, or BZA under this Ordinance.
2. Interpretation of district boundaries, and ongoing maintenance of, the Official Zoning Map.
3. Administration and enforcement of this Ordinance including the ordering in writing of the remedying of any condition found in violation of this Ordinance, and the bringing of legal action to ensure compliance with the Ordinance, including injunction, abatement, or other appropriate action or proceeding.
4. Issue final zoning approval on construction projects.

C. Administrative Authority. The Zoning Administrator shall have the following administrative authority regarding review processes governed by this Ordinance:

- To determine completeness of an application as described in [Section 2.4.1](#).
- To establish application forms, zoning permits, the number and size of paper copies of required plans and supporting documentation, the format of digital files to be provided, and required information and materials to constitute a complete application per [Section 2.4.1](#).
- To vary application requirements based on unique circumstances which may require submission of required materials in a different format or quantity.
- To require such other information to be submitted as deemed necessary for a proper and intelligent consideration of an application.
- To establish regular filing deadlines to ensure that there is sufficient time to review applications prior to an approval authority's initial review of an application.
- To delegate administrative authority to designated County staff as needed.

D. Disapproval of Application. Any disapproval of an application made by the Zoning Administrator shall include a written statement informing the property owner and/or recipient the right to appeal the certification or determination within 30 days, and that the decision shall be final and un-appealable if not appealed within 30 days after the decision by filing an application for appeal with the Board of Zoning Appeals. The written statement shall include the applicable appeal fee and information regarding the process for filing of an appeal.

2.2.8 County Technical Consultants. The County may employ private sector consultants to review and provide recommendations to the Zoning Administrator, Planning Commission, Board of Supervisors, or other advisory or decision-making bodies. All

applicable costs for application review by a consultant shall be paid by the applicant as directed in the Department of Planning Fee Schedule.

Private sector consultants that may be employed and consulted include but are not limited to:

- General engineering
- Karst geology specialist
- Architectural historian
- Telecommunications/Wireless communication facilities consultant (WCFs)

2.2.9 Federal, State, and Local Review Agencies and Departments. The Zoning Administrator reserves the right to consult with Federal, State, County, and other local review agencies and departments on permits, plans, and applications. This consultation may include forwarding copies of permits, plans, and applications to agencies and departments for evaluation and comment in conjunction with a permit or review process. Such review and comment shall be completed within the required time frame of the permit or review process unless otherwise prescribed by State law.

Agencies and departments that may be consulted include but are not limited to:

- Virginia Department of Transportation (VDOT)
- Virginia Department of Health (VDH)
- Virginia Department of Environmental Quality (DEQ)
- Virginia Outdoors Foundation (VOF)
- Virginia Department of Historic Resources (DHR)
- U.S. Army Corps of Engineers (USACE)
- Federal Emergency Management Agency (FEMA)
- Town of Berryville
- Clarke County Sanitary Authority
- Clarke County Building Department
- Clarke County Fire, EMS, and Emergency Management
- Clarke County Easement Authority
- Piedmont Environmental Council (PEC)
- Winchester Regional Airport Authority

2.3 ISSUANCE OF PERMITS AND APPROVALS

- A. All departments, officials, and public employees of Clarke County who are vested with the duty or authority to issue permits or approvals shall, when issuing said permits or licenses, conform to the provisions of this Ordinance.
- B. Permits for uses, buildings, or purposes shall only be issued when such uses, buildings, or purposes comply with the provisions of this Ordinance.

- C. Any permit or approval issued which is in conflict with the provisions of this Ordinance shall be null and void subject to the provisions of [Section 6.5C-2](#) and [Va. Code §15.2-2311\(C\)](#).
- D. No permit for uses or buildings shall be issued for any subdivided lot (as set forth in [Article II -- Subdivision Ordinance](#)) until a subdivision plat has been recorded in the Clarke County land records, or unless the lot was created and recorded in the land records before August 19, 1957.
- E. **Unpaid taxes and charges.** Payment of all unpaid taxes and charges associated with a subject property and owed to Clarke County is required prior to acceptance of an application associated with that subject property. Applications subject to this requirement include:
- Any permit or review process delineated in [Zoning Ordinance Section 6 \(Permits and Review Processes\)](#)
 - Land disturbing permits issued in conjunction with [Code of Clarke County Chapter 148 \(Erosion and Sediment Control Ordinance\)](#)
 - Building permits issued in conjunction with [Code of Clarke County Chapter 71 \(Building Construction\)](#)

Payment of unpaid taxes and charges shall include all delinquent real estate taxes, nuisance charges, and any other charges that constitute a lien on the subject property, that are owed to Clarke County and have been properly assessed against the subject property, unless otherwise authorized by the Treasurer of Clarke County.

2.4 APPLICATION SUBMISSION AND ACCEPTANCE

This section describes the standard procedural steps and rules that are generally applicable to applications reviewed under this Ordinance, unless otherwise expressly exempted or alternative procedures are specified.

2.4.1 Application Submission Requirements Generally, Pre-Application Conference Requirements; Acceptance of Complete Application

A. Application Submission Requirements Generally.

1. Content. The Zoning Administrator is authorized to establish the requirements for the content and form of each type of specific development application reviewed under this Ordinance. The Zoning Administrator may update these standards as necessary to ensure effective and efficient review. It is the applicant's responsibility to ensure that an application contains sufficient information to demonstrate compliance with all applicable standards.

ARTICLE I – ZONING ORDINANCE
2024 EDITION

2. Submission and Review Schedule. The Zoning Administrator is authorized to establish specific rules for the submission and review schedule for the various types of development applications. The review schedule shall be consistent with this Ordinance and Code of Virginia requirements. The Zoning Administrator may update these provisions as necessary to ensure effective and efficient review.
 3. Application Submission. Applications shall be submitted to the Department of Planning in the form established by the Zoning Administrator along with the required application fee.
- B. Pre-Application Conference.** The purpose of a pre-application conference is to provide an opportunity for the applicant to determine the submission requirements and the procedures and regulations that will apply to an anticipated development application. A pre-application conference is also intended to provide an opportunity for the Zoning Administrator to become familiar with, and offer the applicant preliminary comments about, the anticipated development application as its scope and features relate to the regulations in this Ordinance.
1. Pre-Application Conference Required. A pre-application conference is required for the following applications:
 - Special Use Permit ([Section 6.3.1](#)) and Special Use Permit Amendment ([Section 6.3.2](#))
 - Rezoning ([Section 6.3.3](#))
 - Conditional Zoning ([Section 6.3.4](#)) and Amendment of Proffered Conditions ([Section 6.3.5](#))
 - Text Amendments ([Section 6.3.6](#))
 - Site Development Plan ([Section 6.2.2](#)) and Site Development Plan Amendment ([Section 6.2.3](#))

A pre-application conference shall be held with the Zoning Administrator no less than seven (7) days prior to filing an application.

2. Required Information to Be Provided at the Pre-Application Conference. The applicant shall provide an exploratory sketch plan or conceptual drawings that show the location, general layout, and main elements of the proposed development. For text amendment and amendment of proffered conditions applications, the applicant shall provide draft text of the requested text amendment or changes to the proffered conditions. Additional information or materials may be required by the Zoning Administrator.
3. Effect of Pre-Application Conference. The pre-application conference is intended to facilitate the application review process and any discussions held in accordance with this section are not binding on the County. Processing times for review of development applications do not begin until a formal application is submitted and determined to be complete in accordance with Subsection C below.

C. Acceptance of a Complete Application.

1. Completeness Review. Upon receiving an application, the Zoning Administrator shall, within five business days, determine whether an application is complete or incomplete. A complete application is one that:
 - Contains all information and materials and is in the form required by the Zoning Administrator and by this Ordinance, as required for submission of the particular type of application;
 - Includes information containing sufficient detail to evaluate the application to determine whether it complies with the applicable review standards of this Ordinance; and
 - Is accompanied by the fees established for this particular type of application.
2. Application Incomplete. Upon determining an application to be incomplete, the Zoning Administrator shall provide the applicant with written notice of the submission deficiencies. The Zoning Administrator may also return the submission and fees to the applicant. The applicant may correct the deficiencies and resubmit the application for a completeness review. The Zoning Administrator shall not process an application for further review or process the application fees until the application is determined to be complete.
3. Application Complete. Upon determining that the application is complete, the Zoning Administrator shall accept the application for review in accordance with the procedures and standards of this Ordinance and shall process the application fees that have been paid.

D. Application Revision.

1. An applicant may revise an application after receiving initial review comments on the application or in response to comments from an advisory or decision-making body. Revisions shall be limited to changes that directly respond to specific comments made by the Zoning Administrator, reviewing agency or department, advisory body, or decision-making body, so long as they constitute only minor additions, deletions, or corrections and do not constitute significant substantive changes to the development proposed in the application.
2. Any revisions that constitute significant substantive changes and that materially alter the application that was originally submitted shall require that application to be withdrawn and resubmitted. The revised application shall be treated as a new submission that is subject to application fees and review deadlines.

2.4.2 Application Filing and Representation by Person or Entity Other Than Property Owner

A. Authority to File Applications. Unless expressly stated otherwise in this Ordinance, applications for permits and approvals reviewed under this Ordinance shall be submitted by:

1. The property owner or any other person having a recognized ownership interest in the land on which the development is proposed; or
2. A person authorized to submit the application on behalf of the property owner or other person having a recognized ownership interest in the land, as evidenced by a letter or document signed by that property owner or other person with a recognized ownership interest.

If there are multiple property owners or other persons with a recognized ownership interest who are authorized to submit the application, all such persons shall sign the application or a letter or document consenting to the application.

B. Authority to Represent Property Owner. Any person representing a property owner regarding an application for a permit or approval shall provide written evidence of the property owner’s consent and the scope of such representation. Such written evidence shall be provided in the form of a signature on the application, or a letter or document that is signed by the property owner. In the case of multiple property owners or other persons with a recognized property interest, all such persons shall sign the letter or document authorizing the representation.

2.4.3 Deferral of Application Review. An applicant may request that consideration of an application be deferred for a specific period of time by submitting a written request for deferral to the Zoning Administrator. If the deferral request is granted as described below, any applicable statutory review period shall be held in abeyance until such time as the application review is scheduled to resume.

A. Consideration of Deferral Request by the Zoning Administrator. The Zoning Administrator shall consider and decide on a deferral request for any application that has not been scheduled for Public Hearing by an advisory or decision-making body. A deferral request shall be approved only for a good cause and for a specific and reasonable period of time.

B. Consideration of Deferral Request by an Advisory or Decision-Making Body. For any application that has been scheduled for Public Hearing by an advisory or decision-making body (such as the Planning Commission or Board of Supervisors), that advisory or decision-making body shall consider and decide on a deferral request from the applicant. A deferral request shall only be approved for good cause. Deferral requests shall be for specific and reasonable periods of time to coincide with the body’s regular meeting schedule. The advisory or decision-making body may authorize the Zoning

ARTICLE I – ZONING ORDINANCE
2024 EDITION

Administrator to accept additional deferral requests made by the applicant for good cause not to exceed one month per request. The Zoning Administrator shall report to the advisory or decision-making body any deferral requests that are accepted through this delegated authority.

- C. **Additional Fees Required.** For any deferral request accepted for an application that was previously scheduled for Public Hearing, the applicant shall be responsible for a re-advertising fee that shall be paid in full prior to the application being placed on the advisory or decision-making body’s meeting agenda for consideration.

- 2.4.4 **Withdrawal of Application.** An applicant may withdraw an application at any time by submitting notice in writing to the Zoning Administrator. Application fees may be refunded in whole or in part as enumerated in the Department of Planning Fee Schedule.

2.5 PUBLIC HEARINGS

Public hearings held by advisory or decision-making bodies for certain application types as noted in the table below shall be held in accordance with [Va. Code §15.2-2204](#). The Zoning Administrator shall be responsible for preparing and effecting the Public Hearing notification, including all required advertisements, mailings to adjoining and affected property owners, and posting of County notification signage on the subject property.

ARTICLE I – ZONING ORDINANCE
2024 EDITION

TABLE 2.5[1], Required Public Hearings

	Planning Commission	Berryville Area Development Authority	Board of Supervisors	Historic Preservation Commission	Board of Zoning Appeals
Site Development Plan (or Amendment of)	PH	PH**	PH*		
Certificate of Appropriateness, Historic (H) District				PH***	
Certificate of Appropriateness, Historic Overlay (HAC) District	PH				
Special Use Permit (or Amendment of)	PH	PH**	PH		
Rezoning (or Proffer Amendment)	PH	PH**	PH		
Text Amendment	PH		PH		
Variance					PH
Appeal					PH

PH – Public Hearing required

* -- For site development plans filed with a special use permit or rezoning application only.

** -- For applications involving lots located within the Berryville Annexation Area only.

*** -- For applications requiring a building permit only.

2.6 FEES

Fees for permits, applications, petitions, and other action under the provisions of this Ordinance shall be in accordance with the Department of Planning Fee Schedule which is established and amended from time to time by the Board of Supervisors. In addition to these fees, an applicant may be required to bear the costs of any extraordinary professional services employed by the approval authority in reviewing an application.

SECTION 3	SLIDING-SCALE ZONING
<p>This Section addresses the allocation of single-family detached dwelling unit rights (DURs) on lots in the AOC and FOC Zoning Districts.</p>	

Table of Contents

Section	Title	Page(s)
3.1	General Purposes; Definitions	3-2
3.2	Allocations (Include Dwelling Unit Right Allocation Table)	3-2 – 3-3
	TABLE 3.2[1], Dwelling Unit Right (DUR) Allocation	3-3
	TABLE 3.2[2], Compliance with Dwelling Unit Right (DUR) Allocation TABLE 3.2[1] Required	3-3
3.3	Voluntary Termination of Dwelling Unit Allocation	3-4
3.4	Exceptions to Allocation	3-4
3.5	Errors in 1980 Tax Map	3-4
3.6	Burden of Proof	3-4
3.7	Allocation Disclosure	3-5
3.8	Vacation or Merger of Lots in the AOC and FOC Districts	3-5
3.9	Boundary Line Adjustments of Lots in the AOC and FOC Districts	3-5
3.10	Lots with Zero Dwelling Unit Rights	3-6
3.11	Rezoning of a Portion of a Lot or Tract	3-6
3.12	Lots Divided by a Public Road	3-6

3.1 GENERAL PURPOSES; DEFINITIONS

A. General Purposes. The purposes of these requirements are:

- To maintain and promote the rural, agricultural, forestal and open space character of the land in the AOC and the FOC zoning districts;
- To minimize conflicting land uses detrimental to the historical landscape and to agricultural and forestal operations;
- To minimize land disturbance which may result in adverse environmental impacts such as increased erosion and sedimentation, non-point pollution of surface waters, and/or contamination of ground water; and
- To limit construction and development of new residential subdivisions which require unnecessary and costly provision of public facilities and services to areas that are remote from existing population centers, and which are disruptive to historically significant scenic, agricultural, forestal, and open space areas.

B. Definitions. The following terms as defined below shall apply to the provisions of this Section.

1. **Farmstead.** The main dwelling unit located on a tract which was a minimum of six acres in size and eligible for land use assessment as of October 17, 1980.
2. **Tract.** A lot for which there exists a separate parcel designation on the Clarke County Real Property Identification Map as of October 17, 1980 and upon which the initial allocation of dwelling unit rights was made in accordance with this Section.

3.2 ALLOCATIONS

There shall be permitted on each tract the following number of single-family detached dwelling unit rights (consistent with the district regulations for the AOC and FOC Districts and with the provisions of [Article II, Subdivision Ordinance](#)) set forth in [Table 3.2\[1\], Dwelling Unit Right \(DUR\) Allocation](#) below. No dwelling unit right shall be allocated, re-allocated, or transferred except in accordance with the provisions of [Section 3](#).

TABLE 3.2[1], Dwelling Unit Right (DUR) Allocation

Size of Lot or Tract	Number of Single-Family Detached Dwelling Units Permitted	Size of Lot or Tract	Number of Single-Family Detached Dwelling Units Permitted
0-14.99 Acres	1	330-399.99 Acres	9
15-39.99 Acres	2	400-499.99 Acres	10
40-79.99 Acres	3	500-599.99 Acres	11
80-129.99 Acres	4	600-729.99 Acres	12
130-179.99 Acres	5	730-859.99 Acres	13
180-229.99 Acres	6	860-1,029.99 Acres	14
230-279.99 Acres	7	1,030 Acres or More	15
280-329.99 Acres	8		

**TABLE 3.2[2],
Compliance with Dwelling Unit Right (DUR) Allocation Table 3.2[1] Required**

Land Transaction Type	Compliance with Allocation Table Required?	Comments
Subdivision	No	DURs may be allocated in a subdivision at the subdivider’s discretion. No lot may contain zero DURs unless in conformance with Section 3.10 . See also Residual Open Space Lot Requirements in Section 4.1.2A-1 for subdivisions in the FOC District.
Administrative Land Division	No	DURs may be allocated in an administrative land division at the applicant’s discretion. No lot may contain zero DURs unless in conformance with Section 3.10 .
Boundary Line Adjustment	Yes (see Comments)	See Section 3.9 for boundary line adjustments between lots zoned AOC or FOC resulting in the increase in acreage of a lot or tract by 10% or more. See also Residual Open Space Lot Requirements in Section 4.1.2A-1 for boundary line adjustments in the FOC District.
Merger	Yes	The resultant number of DURs on a merged lot shall comply with the Allocation Table -- See Section 3.8 .
Vacation	Yes	The resultant number of DURs on a vacated lot shall comply with the Allocation Table -- See Section 3.8 .

3.3 VOLUNTARY TERMINATION OF DWELLING UNIT ALLOCATION

An owner of a lot or tract may voluntarily terminate all or a portion of the dwelling unit right allocation for the lot or tract. Such voluntary termination shall be accomplished by a notarized document, signed and recorded by the owner(s) of the lot or tract in the Clarke County Land Records. The filing and recordation of such a document shall permanently terminate such dwelling unit rights.

3.4 EXCEPTIONS TO ALLOCATION

Farmsteads and tenant houses existing on October 17, 1980, are hereby excluded from the permitted allotment. That is, the permitted number of single-family detached dwelling units listed under [Section 3.2](#) are allowed in addition to any farmsteads and tenant houses that existed on a given tract.

3.5 ERRORS IN 1980 TAX MAP

- A. For the purposes of dwelling unit right allocations under [Section 3.2](#), the Clarke County Real Property Identification Map as of October 17, 1980 (1980 Tax Map) shall be presumed to be correct. In order to alter the dwelling unit right allocation to property based upon a difference in the number of lots of an owner’s property from that shown on the 1980 Tax Map, it must be clearly shown from documents recorded in the Clarke County land records that the 1980 Tax Map was incorrect. In order to alter the dwelling unit right allocation to property based upon a difference in the size of a lot from that shown on the 1980 Tax Map, it must be shown by a plat of the lot, as it existed on October 17, 1980, prepared by a licensed land surveyor, or by property description in the Clarke County Land Records, that the acreage of the lot as shown on the 1980 Tax Map was incorrect.
- B. The owner of the lot or the Zoning Administrator may assert an error in the 1980 Tax Map. The burden of proof shall be on the party asserting the error. The Zoning Administrator shall be responsible for determining if an error exists in the 1980 Tax Map. The Zoning Administrator shall provide written notice to the property owner of any change in allocation of dwelling unit rights based upon an error in the 1980 Tax Map, and the Zoning Administrator’s determination may be appealed to the Board of Zoning Appeals as an appeal of an administrative determination.

3.6 BURDEN OF PROOF

The property owner, subdivider, or developer shall bear the burden of proving any allocation to which they believe to be entitled.

3.7 ALLOCATION DISCLOSURE

- A. A property owner submitting a subdivision plat shall specify on that plat which lot or lots shall carry with them the right to erect or place any unused quota of dwelling unit rights which the parent parcel or tract may have, in accordance with the provisions of [Section 4.1.3A-2-v \(Record Plat Requirements for Subdivisions\)](#) of [Article II, Subdivision Ordinance](#).
- B. In circumstances where the division of a lot or tract is not subject to approval pursuant to the provisions and requirements of the [Subdivision Ordinance](#), the property owner proposing to divide the lot or tract shall submit to the Board of Supervisors a duly sworn affidavit setting forth the allocation of dwelling unit rights, as provided in [Sections 3.2 and 3.3](#) herein, to each of the lots resulting from the division of the lot or tract. Said affidavit shall further state that prior to conveyance or transfer of any such lots, the grantor shall furnish a copy of the affidavit to the grantee.

3.8 VACATION OR MERGER OF LOTS IN THE AOC AND FOC DISTRICTS

When dwelling unit rights have been allocated to any lot of record as of October 17, 1980, and such lot is subsequently vacated pursuant to [Va. Code §2271 and §2272](#) or merged, the number of dwelling unit rights shall be reallocated, pursuant to [Section 3.2](#), to the lot(s) resulting from such vacation or merger as though the resulting lot(s) had been the tract(s) of record that existed on the [Clarke County Real Property Identification Maps](#) on October 17, 1980. No lot resulting from a merger of lots shall have more dwelling unit rights than the total number of dwelling unit rights that are assigned to the lots at the time of merger plat application filing per [Subdivision Ordinance Section 4.2.3 \(Merger\)](#).

3.9 BOUNDARY LINE ADJUSTMENTS OF LOTS IN THE AOC AND FOC DISTRICTS

If a boundary line adjustment results in an increase in acreage of a lot or tract by 10% or more, the allocation of dwelling unit rights between the lots or tracts may be adjusted by reallocation of not more than one dwelling unit right from the lot or tract reduced in size to the lot or tract increased in size, provided:

- A. The resulting dwelling unit rights on the lot or tract increased in size does not exceed the allocation of dwelling unit rights in [Table 3.2\[1\]](#) for the new acreage of the lot or tract, and
- B. Not more than one boundary line adjustment that includes reallocation of a dwelling unit right may be approved in any two year period.

3.10 LOTS WITH ZERO DWELLING UNIT RIGHTS

- A. No lot may be created with zero dwelling unit rights in the AOC or FOC Zoning Districts unless it meets one of the following criteria:
1. Contains an existing dwelling pursuant to [Section 3.4](#).
 2. Has an approved special use permit or a use allowed as a special use.
 3. Is subject to a recorded permanent open-space, conservation, or historic easement granted to one or more of the following: the Clarke County Conservation Easement Authority, the Virginia Board of Historic Resources, the Virginia Outdoor Foundation, or any other entity authorized to hold an open-space easement pursuant to the Virginia Open-Space Land Act ([Va. Code §10.21-1700](#)).
 4. Was created by court-ordered partition of land or division by will.
- B. The record subdivision plat creating a lot with zero dwelling unit rights shall be accompanied by an affidavit signed by the property owner that shall be recorded in the office of the Clerk of the Circuit Court with the subdivision plat stating that the owner acknowledges that there are no dwelling unit rights assigned to the property, that no dwelling may be constructed on the property, and that these circumstances are binding on all subsequent owners.
- C. A lot created by public utility lot division per [Subdivision Ordinance \(Article II\) Section 3.3.5](#) and located in the AOC or FOC Zoning District shall contain zero (0) dwelling unit rights.

3.11 REZONING OF A PORTION OF A LOT OR TRACT

If dwelling unit rights have been allocated to a lot or tract of record as of October 17, 1980, and the zoning district designation of a portion of such lot or tract is subsequently changed from either the Agricultural-Open Space-Conservation (AOC) or Forestal-Open Space-Conservation (FOC) Zoning District, pursuant to either [Section 6.3.3 \(Rezoning\)](#) or [Section 6.3.4 \(Conditional Zoning\)](#) of this Ordinance, the number of dwelling unit rights for the portion of the lot or tract remaining in the AOC or FOC zoning district shall be reallocated pursuant to [Section 3.2](#), as though the remaining portion had been the tract of record on October 17, 1980.

3.12 LOTS DIVIDED BY A PUBLIC ROAD

Lots that have been divided by a public road, which is maintained by the Virginia Department of Transportation, shall be considered as separate lots, even though such lots may be assigned one lot designation as herein defined, except that if either of the lots divided by a public road is located totally in the ten-year floodplain, the lots shall be considered a single lot.

SECTION 4	ZONING DISTRICTS
<p>This Section contains the descriptions of the County Zoning Districts, County Overlay Districts, and Berryville Annexation Area Zoning Districts. Each Zoning District description includes a purpose statement; lot dimension, density, and building requirements; and special district regulations.</p> <p>NOTE – Uses that are allowed in each district are described in Section 5 (Uses). Development regulations are found in Section 7 (Design Standards and Development Regulations).</p>	

Table of Contents

Section	Title	Page(s)
4.1	County Zoning Districts	4-3 – 4-17
4.1.1	Agricultural-Open Space-Conservation (AOC) District	4-4 – 4-7
	TABLE 4.1.1[1], Lot Requirements	4-4
	TABLE 4.1.1[2], Building Requirements	4-5 – 4-6
4.1.2	Forestal-Open Space-Conservation (FOC) District	4-7 – 4-10
	TABLE 4.1.2[1], Lot Requirements	4-7
	TABLE 4.1.2[2], Residual Open Space Lot Requirements	4-8
	TABLE 4.1.2[3], Building Requirements	4-8 – 4-9
4.1.3	Rural Residential (RR) District	4-10 – 4-12
	TABLE 4.1.3[1], Lot Requirements	4-10 – 4-11
	TABLE 4.1.3[2], Building Requirements	4-11 – 4-12
4.1.4	Neighborhood Commercial (CN) District	4-13 – 4-15
	TABLE 4.1.4[1], Lot Requirements	4-13
	TABLE 4.1.4[2], Minimum Building Requirements	4-13
	TABLE 4.1.4[3], Maximum Building Requirements	4-13 – 4-14
	TABLE 4.1.4[4], Millwood Properties Exempt from Section 7.2.5	4-14
4.1.5	Highway Commercial (CH) District	4-15 – 4-17
	TABLE 4.1.5[1], Lot Requirements	4-16
	TABLE 4.1.5[2], Building Requirements	4-16
4.2	County Overlay Districts	4-17 – 4-50
4.2.1	Flood Plain Overlay District (FP)	4-19 – 4-38
4.2.2	Spring Conservation (SC) Overlay District	4-38 – 4-40
4.2.3	Stream Protection (SPO) Overlay District	4-40 – 4-46
	TABLE 4.2.3[1], Increased Buffer Widths for Sloped Stream Banks	4-41
	TABLE 4.2.3[2], Planting Specifications	4-42
	TABLE 4.2.3[3], Required Plant Material in Buffer Area	4-43
4.2.4	Historic (H) Overlay District	4-47 – 4-48
4.2.5	Historic Access Corridor (HAC) Overlay District	4-49 – 4-50

ARTICLE I – ZONING ORDINANCE
2024 EDITION

Section	Title	Page(s)
4.3	Berryville Annexation Area Zoning Districts	4-51 – 4-76
4.3.1	Open Space Residential (OSR) District	4-52 – 4-53
	-- TABLE 4.3.1[1], Lot Requirements	4-52
	-- TABLE 4.3.1[2], Building Requirements	4-52
4.3.2	Detached Residential – 1 (DR-1) District	4-53 – 4-55
	TABLE 4.3.2[1], Lot Area/Width Requirements, Conventional Lots	4-54
	TABLE 4.3.2[2], Lot Area/Width Requirements, Cluster Lots	4-54
	TABLE 4.3.2[3], Building Requirements, Conventional Lots	4-54
	TABLE 4.3.2[4], Building Requirements, Cluster Lots	4-55
4.3.3	Detached Residential – 2 (DR-2) District	4-56 – 4-58
	TABLE 4.3.3[1], Lot Area/Width Requirements, Conventional Lots	4-56
	TABLE 4.3.3[2], Lot Area/Width Requirements, Cluster Lots	4-56
	TABLE 4.3.3[3], Building Requirements, Conventional Lots	4-57
	TABLE 4.3.3[4], Building Requirements, Cluster Lots	4-57
4.3.4	Detached Residential – 4 (DR-4) District	4-58 – 4-60
	TABLE 4.3.4[1], Lot Area/Width Requirements, Conventional Lots	4-58
	TABLE 4.3.4[2], Lot Area/Width Requirements, Cluster Lots	4-59
	TABLE 4.3.4[3], Building Requirements, Conventional Lots	4-59
	TABLE 4.3.4[4], Building Requirements, Cluster Lots	4-59
4.3.5	Business Commercial (BC) District	4-61 – 4-64
	TABLE 4.3.5[1], Lot Area/Width Requirements	4-61
	TABLE 4.3.5[2], Building Requirements	4-62
4.3.6	Business (B) District	4-64 – 4-67
	TABLE 4.3.6[1], Lot Area/Width Requirements	4-64
	TABLE 4.3.6[2], Building Requirements	4-65
4.3.7	Business Park (BP) District	4-67 – 4-70
	TABLE 4.3.7[1], Lot Area/Width Requirements	4-68
	TABLE 4.3.7[2], Building Requirements	4-68
4.3.8	Institutional (ITL) District	4-71 – 4-76
	TABLE 4.3.8[1], Lot Area/Width Requirements	4-71
	TABLE 4.3.8[2], Building Requirements	4-71
	TABLE 4.3.8[3], Lot Area/Width Requirements, Multifamily Dwellings	4-72
	TABLE 4.3.8[4], Building Requirements, Multifamily Dwellings	4-72
	TABLE 4.3.8[5], Lot Area/Width Requirements, Townhouse Dwellings	4-73
	TABLE 4.3.8[6], Building Requirements, Townhouse Dwellings	4-73
	TABLE 4.3.8[7], Lot Area/Width Requirements, Duplex Dwellings	4-73
	TABLE 4.3.8[8], Building Requirements, Duplex Dwellings	4-74
	TABLE 4.3.8[9], Lot Area/Width Requirements, Single-Family Detached Dwellings	4-74
	TABLE 4.3.8[10], Building Requirements, Single-Family Detached Dwellings	4-74

4.1	County Zoning Districts
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Applicability

The following districts shall only be applied to areas of the County that are not subject to an annexation agreement between Clarke County and the Town of Berryville.

- 4.1.1 – Agricultural-Open Space-Conservation (AOC)
- 4.1.2 – Forestal-Open Space-Conservation (FOC)
- 4.1.3 – Rural Residential (RR)
- 4.1.4 – Neighborhood Commercial (CN)
- 4.1.5 – Highway Commercial (CH)

4.1.1	Agricultural-Open Space-Conservation District	AOC
<p><u>Purpose:</u> This district includes portions of the County that are located west of the Shenandoah River and that consist primarily of various open lands such as farms, fields, forests, parks, lakes and flood plains. The district is intended for agricultural, forestal, and low activity recreational and service uses that will facilitate the conservation and preservation of agricultural, forestal and open space lands; the protection of water and clean air sheds; the conservation of water and other natural and ecological resources; the reduction of soil erosion and flood and fire hazards; and the enhancement of the aesthetic value of the district as a whole.</p>		

- A. Lot Density and Dimensional Requirements.** The density and dimensional requirements for existing lots and new lots created through subdivision shall be as set forth in the tables below.

TABLE 4.1.1[1], Lot Requirements

LOT AREA REQUIREMENTS -- EXISTING LOTS	
-- Minimum area	2 acres
-- Minimum area, Lot subdivided from lot(s) existing on March 20, 2001 containing less than 4 Acres	1 acre
-- Maximum area	None
-- Minimum lot width	150 feet
-- Maximum lot coverage	None
LOT AREA REQUIREMENTS – NEW LOTS CREATED THROUGH SUBDIVISION	
-- Minimum area	2 acres
-- Minimum area, new lot subdivided from lot(s) existing on March 20, 2001 containing less than 4 Acres	1 acre
-- Maximum area	4 acres
-- Maximum average area of new lots created through subdivision	3 acres
-- Minimum/maximum area with maximum lot size exception	None
-- Minimum lot width	150 feet
-- Maximum lot coverage	None
SPECIAL LOT REQUIREMENTS – BOUNDARY LINE ADJUSTMENTS	
<u>(See Article II Subdivision Ordinance, Section 4.2.2)</u>	
-- Minimum area, agricultural lot	20 acres
-- Maximum area, residential lot	Less than 20 acres
SPECIAL LOT AREA REQUIREMENTS – EXEMPTION FROM CERTAIN WELL AND SEWAGE DISPOSAL SYSTEM REQUIREMENTS	
<u>(See Article II Subdivision Ordinance, Section 4.5.6)</u>	
-- Minimum lot area to be exempt from requirements	40 acres

ARTICLE I – ZONING ORDINANCE
2024 EDITION

1. **Maximum Average Area.** For all major and minor subdivisions, a maximum average area shall be calculated from the area of the new proposed lots. The calculation of the maximum average area shall not include:
 - a. Lots proposed with a maximum lot size exception
 - b. Any residual lot remaining from a subdivision of lots that exceeds the maximum lot area.

 2. **Administrative Land Divisions.** Any division of a lot into two or more lots with each being a minimum of 100 acres shall not be considered a major or minor subdivision and shall be acted upon administratively by the Zoning Administrator pursuant to [Section 3.3.1 \(Administrative Land Division Review Process\) of Article II \(Subdivision Ordinance\)](#).

 3. **AOC-zoned lots 4 acres or less in size.** No residential lot of 4 acres in size or less and zoned Agricultural-Open Space-Conservation (AOC) may be increased in size above 4 acres through boundary line adjustment without approval by the Planning Commission for one or both of the following hardship reasons:
 - To correct a minor encroachment of a driveway, fence, or other structure onto an adjoining lot to a maximum of 10% of the total area of the lot
 - To repair or replace a failing onsite sewage disposal system located on the lot
- B. Building Requirements.** Setback, structure height, and vegetated buffer width requirements shall be as set forth in the tables below:

TABLE 4.1.1[2], Building Requirements

BUILDING SETBACK REQUIREMENTS				
Building Setback	Lots less than 1 acre	Lots 1 acre but less than 4 acres	Lots 4 acres but less than 20 acres	Lots 20 acres and greater
Edge of private access easement, private road, or private lane	25 feet	25 feet	50 feet	75 feet
Centerline of secondary highway	50 feet	50 feet	75 feet	100 feet
Centerline of scenic byway	50 feet	100 feet	125 feet	150 feet
Edge of primary highway right of way, less than 5000 trips per day	25 feet	75 feet	100 feet	125 feet
Edge of primary highway right of way, 5000 trips per day or greater	50 feet	75 feet	100 feet	125 feet
All other property lines, structures 200 square feet or less	5 feet	10 feet	50 feet	75 feet
All other property lines, all other structures	10 feet	25 feet	50 feet	75 feet

ARTICLE I – ZONING ORDINANCE
2024 EDITION

Intermittent streams	0 feet	25 feet	50 feet	50 feet
Perennial streams, springs, and sinkholes	100 feet	100 feet	100 feet	100 feet
MAXIMUM STRUCTURE HEIGHT*				
-- Lots with width of less than 75 feet				25 feet
-- All other lots				35 feet
VEGETATED PROPERTY BUFFER WIDTH REQUIREMENTS				
-- Lots less than 20 acres recorded after February 21, 2003				25 feet
-- All other lots				None

* See [Subsection B2](#) – Maximum height requirements for agricultural structures

1. Vegetated Property Buffer Requirements. A vegetated property buffer containing existing woody vegetation within 25 feet of all property lines shall be retained on all lots of less than 20 acres recorded after February 21, 2003. Specific requirements for vegetated property buffers are set forth in [Section 7.4.1](#).
2. Maximum height requirement for agricultural structures. Agricultural structures shall have a maximum height of 50 feet in height except for silos which shall have a maximum height of 100 feet. In no event shall the height of an agricultural structure exceed the distance from the structure to the nearest lot line.

C. Special District Regulations.

1. Maximum lot size exceptions. The maximum lot size requirement in Subsection A may be exceeded when creating new lots via the minor subdivision review process with approval of a maximum lot size exception by the Planning Commission. Application requirements, procedures, and review criteria for maximum lot size exceptions are set forth in [Section 6.2.6 \(Maximum Lot Size Exceptions\)](#).
2. Buffer areas for commercial forestry activities. Required buffer areas for commercial forestry activities shall be as set forth in [Section 7.9, Pre-Harvest Plan Regulations](#).

D. Uses and Use Regulations. The list of allowable uses and use regulations for the AOC District is located in [Section 5.2 \(Uses, Definitions and Use Regulations – County Districts\)](#).

E. Development Regulations. The following regulations apply to development and uses in the AOC District:

- [Lot and Structure Regulations \(Section 7.1\)](#)
- [Vegetated Property Buffer Requirements – AOC District \(Section 7.4.1\)](#)
- [Outdoor Lighting Requirements \(Section 7.4.3\)](#)
- [Private Driveway Standards \(Section 7.4.4\)](#)
- [Use of Private Wells and Onsite Sewage Disposal Systems; Use of Public Water and Public Sewer \(Section 7.4.5\)](#)

ARTICLE I – ZONING ORDINANCE
2024 EDITION

- [Sign Regulations \(Section 7.8\)](#)
- [Siting of Propane Tanks \(Section 7.10\)](#)
- [Use of Private Access Easements \(Section 7.11\)](#)
- [Parking and Storage of Inoperable Vehicles \(Section 7.12\)](#)

4.1.2	Forestal-Open Space-Conservation District	FOC
<p><u>Purpose:</u> This district includes portions of the County that are located east of the Shenandoah River and that consist primarily of various open lands such as forests, mountains, farms, lakes and floodplains. The district is intended for forestal, agricultural, and low activity recreational and service uses that will facilitate the conservation and preservation of forestal, agricultural, open space and mountain lands; the protection of forestal and agricultural uses; the protection of water and clean air sheds; the conservation of water and other natural and ecological resources; the reduction of soil erosion and flood and fire hazards; and the enhancement of the aesthetic value of the district as a whole.</p>		

- A. Lot Density and Dimensional Requirements.** The density and dimensional requirements for lots shall be as set forth in the tables below.

TABLE 4.1.2[1], Lot Requirements

LOT AREA REQUIREMENTS	
-- Minimum area	3 acres
-- Maximum area	None
-- Minimum lot width	200 feet
-- Maximum lot coverage	None
SPECIAL LOT AREA REQUIREMENTS – EXEMPTION FROM CERTAIN WELL AND SEWAGE DISPOSAL SYSTEM REQUIREMENTS	
<u>(See Article II Subdivision Ordinance, Section 4.5.6)</u>	
-- Minimum lot area to be exempt from requirements	40 acres

1. **Residual Open Space Lot Requirements.** Each subdivision plat of a lot of record as of June 21, 2005 encompassing 40 or more acres shall have one lot that contains a defined percentage of the total acreage in the subdivision, as shown in [Table 4.1.2\[2\]](#) below, left in a residual lot with only an existing dwelling or, if no existing dwelling, not more than one dwelling unit right.

TABLE 4.1.2[2], Residual Open Space Lot Requirements

Total Area of Subdivision	% of Area in Residual Open Space
40-179.99 acres	65%
180-329.99 acres	50%
330 Acres or More	35%

The residual open space lot shall not be reduced in size through boundary line adjustment by more than 10% of the total area and the dwelling unit right shall not be transferred to another property. The residual open space lot may be increased in size through boundary line adjustment or merger without limitation; however no additional dwelling unit rights shall be transferred to the residual open space lot.

2. Provision of area with slopes less than 25%. No lot shall be created unless it contains at least one (1) acre of area with slopes less than 25%.
 3. All minor and major subdivisions shall comply with [Article II Subdivision Ordinance, Section 4.4.2 \(Subdivision of Land in the FOC District\)](#).
 4. Administrative Land Divisions. Any division of a lot into two or more lots with each being a minimum of 100 acres shall not be considered a major or minor subdivision and shall be acted upon administratively by the Zoning Administrator pursuant to [Section 3.3.1 \(Administrative Land Division Review Process\) of Article II \(Subdivision Ordinance\)](#).
- B. Building Requirements.** Setback, structure height, and vegetated buffer width requirements shall be as set forth in the tables below:

TABLE 4.1.2[3], Building Requirements

BUILDING SETBACK REQUIREMENTS				
Building Setback	Lots less than 1 acre	Lots 1 acre but less than 4 acres	Lots 4 acres but less than 20 acres	Lots 20 acres and greater
Edge of private access easement, private road, or private lane	25 feet	25 feet	50 feet	75 feet
Centerline of secondary highway	50 feet	50 feet	75 feet	100 feet
Centerline of scenic byway	50 feet	100 feet	125 feet	150 feet
Edge of primary highway right of way, less than 5000 trips per day	25 feet	75 feet	100 feet	125 feet
Edge of primary highway right of way, 5000 trips per day or greater	50 feet	75 feet	100 feet	125 feet
All other property lines, structures 200 square feet or less	5 feet	10 feet	50 feet	75 feet

ARTICLE I – ZONING ORDINANCE
2024 EDITION

All other property lines, all other structures	10 feet	25 feet	50 feet	75 feet
Intermittent streams	0 feet	25 feet	50 feet	50 feet
Perennial streams, springs, and sinkholes	100 feet	100 feet	100 feet	100 feet
MAXIMUM STRUCTURE HEIGHT*				
-- Lots with width of less than 75 feet				25 feet
-- All other lots				35 feet
VEGETATED BUFFER WIDTH REQUIREMENTS				
Vegetated Buffer Width – Along Property Lines				
-- Lots 4 acres or larger				25 feet
-- Lots less than 4 acres				None
-- Lots of any size containing a dwelling constructed on or before February 18, 2003				None
Vegetated Buffer Width – Along Public Rights of Way and Private Access Easements, Private Roads, and Private Lanes				
-- From public rights of way, lots 4 acres or larger				50 feet
-- From private access easements, private roads, private lanes on lots 4 acres or larger				25 feet
-- Lots less than 4 acres				None
-- Lots of any size containing a dwelling constructed on or before June 21, 2005				None

* See [Subsection B4](#) – Maximum height requirements for agricultural structures

1. Vegetated Buffer Requirements Along Property Lines. Existing woody vegetation shall be retained within 25 feet of all property lines on lots of four acres or more except for clearing activities listed in [Section 7.4.2 \(Vegetated Property Buffer Requirements – FOC District\)](#). Lots with a dwelling constructed on or before February 18, 2003 shall be exempt from this provision. Specific requirements for vegetated property buffers are set forth in [Section 7.4.2](#).
2. Vegetated Buffer Requirements Along Public Rights of Way, Private Access Easements, Private Roads, and Private Lanes. On lots of four acres or more, existing woody vegetation shall be retained within 50 feet of the edge of public rights of way and within 25 feet of the edge of private access easements, private roads, and private lanes except for clearing activities listed in [Section 7.4.2](#). Lots with a dwelling constructed on or before June 21, 2005 shall be exempt from this provision. Specific requirements for vegetated property buffers are set forth in [Section 7.4.2](#).
3. Retain existing vegetation on slopes. Existing woody vegetation shall be retained on all lots in accordance with [Section 7.4.2](#) except for clearing activities permitted by that Section.
4. Maximum height requirement for agricultural structures. Agricultural structures shall have a maximum height of 50 feet in height except for silos which shall have a maximum

ARTICLE I – ZONING ORDINANCE
2024 EDITION

height of 100 feet. In no event shall the height of an agricultural structure exceed the distance from the structure to the nearest lot line.

C. Special District Regulations.

1. Buffer areas for commercial forestry activities. Required buffer areas for commercial forestry activities shall be as set forth in [Section 7.9, Pre-Harvest Plan Regulations](#).

D. Uses and Use Regulations. The list of allowable uses and use regulations for the FOC District is located in [Section 5.2 \(Uses, Definitions, and Use Regulations – County Districts\)](#).

E. Development Regulations. The following regulations apply to development and uses in the FOC District:

- [Lot and Structure Regulations \(Section 7.1\)](#)
- [Vegetated Property Buffer Requirements – FOC District \(Section 7.4.2\)](#)
- [Outdoor Lighting Requirements \(Section 7.4.3\)](#)
- [Private Driveway Standards \(Section 7.4.4\)](#)
- [Use of Private Wells and Onsite Sewage Disposal Systems; Use of Public Water and Public Sewer \(Section 7.4.5\)](#)
- [Sign Regulations \(Section 7.8\)](#)
- [Siting of Propane Tanks \(Section 7.10\)](#)
- [Use of Private Access Easements \(Section 7.11\)](#)
- [Parking and Storage of Inoperable Vehicles \(Section 7.12\)](#)

4.1.3	Rural Residential District	RR
<p><u>Purpose:</u> This district is for single-family residential and open space areas and is intended to stabilize and protect the essential characteristics of the district, to promote and encourage a suitable environment for family life, and to prohibit all activities of a commercial or industrial nature.</p>		

A. Lot Density and Dimensional Requirements. The density and dimensional requirements for lots shall be as set forth in the tables below.

TABLE 4.1.3[1], Lot Requirements

LOT AREA REQUIREMENTS – LOT NOT IN A COUNTY SEWER SERVICE AREA	
-- Minimum area	1 acre
-- Maximum area	4 acres
-- Maximum average area for all lots in a subdivision	2 acres
-- Minimum lot width	None

ARTICLE I – ZONING ORDINANCE
2024 EDITION

-- Minimum frontage	150 feet
-- Maximum lot coverage (percentage of total lot area)	30%
LOT AREA REQUIREMENTS – LOT IN A COUNTY SEWER SERVICE AREA	
-- Minimum area	30,000 square feet
-- Maximum area	1 acre
-- Maximum average area for all lots in a subdivision	None
-- Minimum lot width	None
-- Minimum frontage	75 feet
-- Maximum lot coverage by all impervious surfaces	30%

B. Building Requirements. Setback, structure height, and vegetated buffer width requirements shall be as set forth in the tables below:

TABLE 4.1.3[2], Building Requirements

BUILDING SETBACK REQUIREMENTS		
Building Setback	Lots less than 15,000 square feet	Lots 15,000 square feet or more
Edge of private access easement, private road, or private lane	15 feet	25 feet
-- For entrance side of garages, carports, or other structures that house vehicles	25 feet	25 feet
Centerline of secondary highway	40 feet	50 feet
-- For entrance side of garages, carports, or other structures that house vehicles	50 feet	50 feet
Edge of primary highway right of way, less than 5000 trips per day	15 feet	25 feet
-- For entrance side of garages, carports, or other structures that house vehicles	25 feet	25 feet
Edge of primary highway right of way, 5000 trips per day or greater	40 feet	50 feet
-- For entrance side of garages, carports, or other structures that house vehicles	50 feet	50 feet
Rear property lines, structures 200 square feet or less	5 feet	10 feet
Rear property lines, all other structures	25 feet	25 feet
Side property lines	5 feet	10 feet
Intermittent streams (includes Burwell-Morgan Mill millrace)	0 feet	25 feet
Perennial streams, springs, and sinkholes	100 feet	100 feet
MAXIMUM RESIDENTIAL STRUCTURE SIZE (HEATED FLOOR AREA)		
-- For lots in a County Sewer Service area	2000 square feet or 10% of the lot area	
-- For lots not in a County Sewer Service Area	None	

ARTICLE I – ZONING ORDINANCE
2024 EDITION

MAXIMUM STRUCTURE HEIGHT	
-- Lots with width of less than 75 feet	25 feet
-- All other lots	35 feet
-- Accessory buildings on all lots	12 feet

C. Special District Regulations.

1. Critical Environmental Areas (CEAs). CEAs are 100 year floodplains, slopes in excess of 25 percent, and the area within 100 feet of perennial streams, perennial springs, and the discernable edge of sinkholes. Structures requiring building permits shall not be located in CEAs. CEAs shall not be included in maximum or minimum lot area or any density calculations, or be used to meet open space requirements.
2. Access Easement Areas. Areas covered by access easements shall not be included in maximum or minimum lot area or any density calculations.

D. Uses and Use Regulations. The list of allowable uses and use regulations for the RR District is located in [Section 5.2 \(Uses, Definitions, and Use Regulations – County Districts\)](#).

E. Development Regulations. The following regulations apply to development and uses in the RR District:

- [Lot and Structure Regulations \(Section 7.1\)](#)
- [Outdoor Lighting Requirements \(Section 7.5.1\)](#)
- [Sign Regulations \(Section 7.8\)](#)
- [Siting of Propane Tanks \(Section 7.10\)](#)
- [Use of Private Access Easements \(Section 7.11\)](#)
- [Parking and Storage of Inoperable Vehicles \(Section 7.12\)](#)

4.1.4	Neighborhood Commercial District	CN
<p><u>Purpose:</u> This district is intended for the conduct of business to which the public requires a direct and frequent access, but which is:</p> <ul style="list-style-type: none"> • Not located on a primary highway with more than 5,000 trips per day; • Not characterized by constant heavy trucking other than stocking and delivery of retail goods; • Not characterized by nuisance factors other than incidental light and noise resulting from the congregation of people and passenger vehicles; and • Appropriate in scale to the residential character of its context. 		

A. Lot Density and Dimensional Requirements. The density and dimensional requirements for lots shall be as set forth in the tables below.

TABLE 4.1.4[1], Lot Requirements

LOT AREA REQUIREMENTS	
-- Minimum area	10,000 square feet
-- Minimum frontage	100 feet
-- Minimum lot width	None

B. Building Requirements. Setback, structure height, and vegetated buffer width requirements shall be as set forth in the tables below:

TABLE 4.1.4[2], Minimum Building Requirements

Building Setback – Minimum Requirements	Lots 3 Acres or Less	Lots Larger Than 3 Acres
-- From property lines of lots zoned AOC, FOC, or RR	25 feet	25 feet
-- From intermittent streams & Burwell-Morgan Mill millrace	50 feet	50 feet
-- From perennial streams and springs	100 feet	100 feet
-- From edge of any public road right of way 50 feet or greater in width	No requirement	35 feet
From centerline of any public road right of way less than 50 feet in width	No requirement	60 feet

TABLE 4.1.4[3], Maximum Building Requirements

Building Setback – Maximum Requirements	Lots Less Than 1.5 Acres	Lots 1.5 Acres or Larger
-- From edge of any public road right of way 50 feet or greater in width	35 feet	No requirement

ARTICLE I – ZONING ORDINANCE
2024 EDITION

From centerline of any public road right of way less than 50 feet in width	60 feet	No requirement
MAXIMUM STRUCTURE HEIGHT		
-- All lots and structures		30 feet

1. For lots with frontage on more than one street, the maximum building setback requirement shall be applied to only one street or right of way to be determined by the Zoning Administrator based on the following site conditions:
 - Access
 - Topography
 - Pattern of development on the subject property and adjacent properties.

2. Structures shall have a maximum of two stories not including basements as defined by the Commercial Building Code, except as otherwise provided.

C. Special District Regulations.

1. Off-Street Parking Exemption for Certain Properties in Millwood. The following exemption is established to preserve the historic character of certain properties in the village of Millwood that lack available lot area to provide conforming off-street parking in accordance with [Section 7.2.5](#). Permitted uses on the Neighborhood Commercial (CN) and Historic (H) District-zoned properties listed in [Table 4.1.4\[5\]](#) shall be exempt from [Section 7.2.5 \(Parking Regulations\)](#). Special uses on these properties shall comply with [Section 7.2.5](#).

TABLE 4.1.4[4], Millwood Properties Exempt from Section 7.2.5 Parking Regulations

2009 Millwood Road, Tax Map Parcel #30A-A-60
2037 Millwood Road, Tax Map Parcel #30A-A-59
2038 Millwood Road, Tax Map Parcel #30A-A-28
2045 Millwood Road, Tax Map Parcel #30A-A-58
2049 Millwood Road, Tax Map Parcel #30A-A-57
2053 Millwood Road, Tax Map Parcel #30A-A-56
Tax Map Parcel #30A-A-29
15 Tannery Lane, Tax Map Parcel #30A-A-30

2. Two business uses on one lot. A maximum of two business uses shall be allowed per lot. Two business uses may occupy the same structure provided that the structure does not

ARTICLE I – ZONING ORDINANCE
2024 EDITION

exceed a maximum floor area of 5,000 square feet, and may occupy shared space or separate commercial tenant spaces.

D. Uses and Use Regulations. The list of allowable uses and use regulations for the CN District is located in [Section 5.2 \(Uses, Definitions, and Use Regulations – County Districts\)](#).

E. Development Regulations. The following development regulations for the CN District may be found in [Section 7.2 \(Site Development Plan Design Standards and Development Regulations\)](#):

- [Site Development Plan Requirements \(Section 7.2.1\)](#)
- [Streets, Public Rights of Way, and Pedestrian Facilities \(Section 7.2.2\)](#)
- [Public Utilities; Use of Private Wells and Onsite Sewage Disposal Systems \(Section 7.2.3\)](#)
- [Landscaping Design Standards \(Section 7.2.4\)](#)
- [Parking Regulations \(Section 7.2.5\)](#)
- [Outdoor Lighting Standards \(Section 7.2.6\)](#)
- [Environmental Reviews \(Section 7.2.7\)](#)
- [Plan Approval and Construction \(Section 7.2.8\)](#)

The following additional regulations apply to development and uses in the CN District:

- [Lot and Structure Regulations \(Section 7.1\)](#)
- [Sign Regulations \(Section 7.8\)](#)
- [Siting of Propane Tanks \(Section 7.10\)](#)
- [Use of Private Access Easements \(Section 7.11\)](#)
- [Parking and Storage of Inoperable Vehicles \(Section 7.12\)](#)

4.1.5	Highway Commercial District	CH
<p><u>Purpose:</u> This district is intended to provide sufficient space in appropriate locations for a wide variety of commercial activities, generally serving a wide area and located on primary highways with more than 5,000 trips per day. The uses in this district should not be characterized by extensive warehousing, frequent heavy trucking activity, open storage of materials, or the nuisance factors of dust, odor, and noise associated with light industrial activities.</p>		

A. Lot Density and Dimensional Requirements. The density and dimensional requirements for lots shall be as set forth in the tables below.

TABLE 4.1.5[1], Lot Requirements

LOT AREA REQUIREMENTS	
-- Minimum area	20,000 square feet
-- Minimum frontage	100 feet
-- Minimum lot width	None

B. Building Requirements. Setback, structure height, and vegetated buffer width requirements shall be as set forth in the tables below:

TABLE 4.1.5[2], Building Requirements

BUILDING SETBACK – MINIMUM REQUIREMENTS	
-- From property lines of lots zoned AOC, FOC, or RR	25 feet
-- From all property lines of lots zoned CN or CH	10 feet
-- From intermittent streams	50 feet
-- From perennial streams and springs	100 feet
-- From edge of any public road right of way 50 feet or greater in width	35 feet
From centerline of any public road right of way less than 50 feet in width	60 feet
MAXIMUM LOT COVERAGE BY ALL IMPERVIOUS SURFACES	
-- All lots and structures	85%
MAXIMUM STRUCTURE HEIGHT*	
-- All lots and structures	40 feet

* See [Subsection B-2](#) – Maximum height requirement for agricultural structures

1. Structures shall have a maximum of three stories not including basements as defined by the Commercial Building Code, except as otherwise provided.
2. Maximum height requirement for agricultural structures. Agricultural structures shall have a maximum height of 50 feet in height except for silos which shall have a maximum height of 100 feet. In no event shall the height of an agricultural structure exceed the distance from the structure to the nearest lot line.

C. Uses and Use Regulations. The list of allowable uses and use regulations for the CH District is located in [Section 5.2 \(Uses, Definitions, and Use Regulations – County Districts\)](#).

D. Development Regulations. The following development regulations for the CH District may be found in [Section 7.2 \(Site Development Plan Design Standards and Development Regulations\)](#):

- [Site Development Plan Requirements \(Section 7.2.1\)](#)
- [Streets, Public Rights of Way, and Pedestrian Facilities \(Section 7.2.2\)](#)
- [Public Utilities; Use of Private Wells and Onsite Sewage Disposal Systems \(Section 7.2.3\)](#)

ARTICLE I – ZONING ORDINANCE
2024 EDITION

- [Landscaping Design Standards \(Section 7.2.4\)](#)
- [Parking Regulations \(Section 7.2.5\)](#)
- [Outdoor Lighting Standards \(Section 7.2.6\)](#)
- [Environmental Reviews \(Section 7.2.7\)](#)
- [Plan Approval and Construction \(Section 7.2.8\)](#)

The following additional regulations apply to development and uses in the CH District:

- [Lot and Structure Regulations \(Section 7.1\)](#)
- [Sign Regulations \(Section 7.8\)](#)
- [Siting of Propane Tanks \(Section 7.10\)](#)
- [Use of Private Access Easements \(Section 7.11\)](#)
- [Parking and Storage of Inoperable Vehicles \(Section 7.12\)](#)

4.2 County Overlay Districts

Applicability

The following overlay districts shall only be applied to areas of the County that meet the criteria set forth in the regulations for each overlay district. Regulations governing overlay districts shall apply in addition to or in lieu of (if more restrictive) the regulations governing the underlying zoning district. If the regulations governing an overlay district expressly conflict with those governing an underlying zoning district, the overlay district regulations shall control. If land is classified into multiple overlay districts and the regulations governing one overlay district conflict with those governing another overlay district, the more restrictive regulations shall apply.

- 4.2.1 – Flood Plain (FP) Overlay District
- 4.2.2 – Spring Conservation (SC) Overlay District
- 4.2.3 – Stream Protection (SPO) Overlay District
- 4.2.4 – Historic (H) Overlay District
- 4.2.5 – Historic Access Corridor (HAC) Overlay District

4.2.1	Flood Plain Overlay District	FP
<p><u>Purpose:</u> These regulations are adopted pursuant to the authority granted per Va. Code §15.2-2280. The purpose of these provisions is to prevent the loss of life and property, the creation of health and safety hazards, the disruption of commerce and governmental services, the extraordinary and unnecessary expenditure of public funds for flood protection and relief, and the impairment of the tax base by:</p> <ul style="list-style-type: none">• Regulating uses, activities, and development which -- alone or in combination with other existing or future uses, activities, and development -- will cause unacceptable increases in flood heights, velocities, and frequencies;• Restricting or prohibiting certain uses, activities, and development from locating within areas subject to flooding;• Requiring all those uses, activities, and development that do occur in flood-prone areas to be protected and/or flood-proofed against flooding and flood damage; and,• Protecting individuals from buying land and structures that are unsuited for intended purposes because of flood hazards.		

A. General Provisions

1. Applicability. These regulations shall apply to all privately and publicly owned lands within the jurisdiction of Clarke County and identified as areas of special flood hazard identified by the community or shown on the flood insurance rate map (FIRM) or included in the flood insurance study (FIS) that are provided to Clarke County by the Federal Emergency Management Agency (FEMA).
2. Compliance and Liability.
 - a. No land shall hereafter be developed and no structure shall be located, relocated, constructed, reconstructed, enlarged, or structurally altered except in full compliance with the terms and provisions of this Ordinance and any other applicable ordinances and regulations which apply to uses within the jurisdiction of this Ordinance.
 - b. The degree of flood protection sought by the provisions of this Ordinance is considered reasonable for regulatory purposes and is based on acceptable engineering methods of study, but does not imply total flood protection. Larger floods may occur on rare occasions. Flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This Ordinance does not imply that districts outside the floodplain district or land uses permitted within such district will be free from flooding or flood damages.

ARTICLE I – ZONING ORDINANCE
2024 EDITION

- c. This Ordinance shall not create liability on the part of Clarke County or any officer or employee thereof for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made thereunder.
3. Records. Records of actions associated with administering these regulations shall be kept on file and maintained by or under the direction of the Floodplain Administrator in perpetuity.
4. Abrogation and Greater Restrictions. To the extent that the provisions are more restrictive, these regulations supersede any ordinance or regulations currently in effect in flood-prone districts. To the extent that any other existing law or regulation is more restrictive or does not conflict it shall remain in full force and effect.

These regulations are not intended to repeal or abrogate any existing ordinances including subdivision regulations, zoning ordinances, or building codes. In the event of a conflict between these regulations and any other ordinance, the more restrictive shall govern.

5. Severability. If any section, subsection, paragraph, sentence, clause, or phrase of these regulations shall be declared invalid for any reason whatever, such decision shall not affect the remaining portions of these regulations. The remaining portions shall remain in full force and effect; and for this purpose, the provisions of these regulations are hereby declared to be severable.
6. Penalty for Violations. The failure of a structure or other development to be fully compliant with the community's floodplain management regulations shall be considered a violation of this Ordinance. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.

Any person who fails to comply with any of the requirements or provisions of this article or directions of the Floodplain Administrator or any authorized employee of the County shall be guilty of the appropriate violation and subject to the penalties thereof.

The [Virginia Uniform Statewide Building Code](#) addresses building code violations and the associated penalties in [Section 104](#) and [Section 115](#). Violations and associated penalties of the Zoning Ordinance are addressed in [Section 10 \(Enforcement\)](#) of this Ordinance.

In addition to the above penalties, all other actions are hereby reserved, including an action in equity for the proper enforcement of this article. The imposition of a fine or penalty for any violation of, or noncompliance with, this article shall not excuse the violation or noncompliance or permit it to continue; and all such persons shall be required to correct or remedy such violations within a reasonable time. Any structure constructed, reconstructed, enlarged, altered or relocated in noncompliance with this article may be declared by the County to be a public nuisance and abatable as such. Flood insurance may be withheld from structures constructed in violation of this article.

B. Administration

1. Designation of the Floodplain Administrator. The Zoning Administrator is hereby appointed to administer and implement these regulations and is referred to herein as the Floodplain Administrator. The Floodplain Administrator may:
 - a. Do the work themselves. In the absence of a designated Floodplain Administrator, the duties are conducted by the County's Director of Planning or other designee.
 - b. Delegate duties and responsibilities set forth in these regulations to qualified technical personnel, plan examiners, inspectors, and other employees.
 - c. Enter into a written agreement or written contract with another community or private sector entity to administer specific provisions of these regulations. Administration of any part of these regulations by another entity shall not relieve the community of its responsibilities pursuant to the participation requirements of the National Flood Insurance Program as set forth in the [Code of Federal Regulations at 44 C.F.R. Section 59.22](#).

2. Duties and Responsibilities of the Floodplain Administrator. The duties and responsibilities of the Floodplain Administrator shall include but are not limited to:
 - a. Review applications for permits to determine whether proposed activities will be located in the Special Flood Hazard Area (SFHA).
 - b. Interpret floodplain boundaries and provide available base flood elevation and flood hazard information.
 - c. Review applications to determine whether proposed activities will be reasonably safe from flooding and require new construction and substantial improvements to meet the requirements of these regulations.
 - d. Review applications to determine whether all necessary permits have been obtained from the Federal, State, or local agencies from which prior or concurrent approval is required; in particular, permits from state agencies for any construction, reconstruction, repair, or alteration of a dam, reservoir, or waterway obstruction (including bridges, culverts, structures), any alteration of a watercourse, or any change of the course, current, or cross section of a stream or body of water, including any change to the 100-year frequency floodplain of free-flowing non-tidal waters of the State.
 - e. Verify that applicants proposing an alteration of a watercourse have notified adjacent communities, the Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management), and other appropriate agencies (VADEQ, USACE), and have submitted copies of such notifications to FEMA.

ARTICLE I – ZONING ORDINANCE
2024 EDITION

- f. Approve applications and issue permits to develop in flood hazard areas if the provisions of these regulations have been met, or disapprove applications if the provisions of these regulations have not been met.
- g. Inspect or cause to be inspected, buildings, structures, and other development for which permits have been issued to determine compliance with these regulations or to determine if non-compliance has occurred or violations have been committed.
- h. Review Elevation Certificates and require incomplete or deficient certificates to be corrected.
- i. Submit to FEMA, or require applicants to submit to FEMA, data and information necessary to maintain FIRMs, including hydrologic and hydraulic engineering analyses prepared by or for the County, within six months after such data and information becomes available if the analyses indicate changes in base flood elevations.
- j. Maintain and permanently keep records that are necessary for the administration of these regulations, including:
 - Flood Insurance Studies, Flood Insurance Rate Maps (including historic studies and maps and current effective studies and maps), and Letters of Map Change; and
 - Documentation supporting issuance and denial of permits, Elevation Certificates, documentation of the elevation (in relation to the datum on the FIRM) to which structures have been floodproofed, inspection records, other required design certifications, variances, and records of enforcement actions taken to correct violations of these regulations.
- k. Enforce the provisions of these regulations, investigate violations, issue notices of violations or stop work orders, and require permit holders to take corrective action.
- l. Advise the Board of Zoning Appeals regarding the intent of these regulations and, for each application for a variance, prepare a staff report and recommendation.
- m. Administer the requirements related to proposed work on existing buildings:
 - Make determinations as to whether buildings and structures that are located in flood hazard areas and that are damaged by any cause have been substantially damaged.
 - Make reasonable efforts to notify owners of substantially damaged structures of the need to obtain a permit to repair, rehabilitate, or reconstruct. Prohibit the non-compliant repair of substantially damaged buildings except for temporary emergency protective measures necessary

ARTICLE I – ZONING ORDINANCE
2024 EDITION

to secure a property or stabilize a building or structure to prevent additional damage.

- n. Undertake, as determined appropriate by the Floodplain Administrator due to the circumstances, other actions which may include but are not limited to: issuing press releases, public service announcements, and other public information materials related to permit requests and repair of damaged structures; coordinating with other Federal, State, and local agencies to assist with substantial damage determinations; providing owners of damaged structures information related to the proper repair of damaged structures in special flood hazard areas; and assisting property owners with documentation necessary to file claims for Increased Cost of Compliance coverage under NFIP flood insurance policies.
 - o. Notify the Federal Emergency Management Agency when the corporate boundaries of the County have been modified and:
 - Provide a map that clearly delineates the new corporate boundaries or the new area for which the authority to regulate pursuant to these regulations has either been assumed or relinquished through annexation; and
 - If the FIRM for any annexed area includes special flood hazard areas that have flood zones that have regulatory requirements that are not set forth in these regulations, prepare amendments to these regulations to adopt the FIRM and appropriate requirements, and submit the amendments to the governing body for adoption; such adoption shall take place at the same time as or prior to the date of annexation and a copy of the amended regulations shall be provided to Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management) and FEMA.
 - p. Upon the request of FEMA, complete and submit a report concerning participation in the NFIP which may request information regarding the number of buildings in the SFHA, number of permits issued for development in the SFHA, and number of variances issued for development in the SFHA.
 - q. It is the duty of the Floodplain Administrator to take into account flood, mudslide and flood-related erosion hazards, to the extent that they are known, in all official actions relating to land management and use throughout the entire jurisdictional area of the County, whether or not those hazards have been specifically delineated geographically (e.g. via mapping or surveying).
3. Use and Interpretation of FIRMs. The Floodplain Administrator shall make interpretations, where needed, as to the exact location of special flood hazard areas, floodplain boundaries, and floodway boundaries. The following shall apply to the use and interpretation of FIRMs and data:

ARTICLE I – ZONING ORDINANCE
2024 EDITION

- a. Where field surveyed topography indicates that adjacent ground elevations:
- Are below the base flood elevation in riverine SFHAs even in areas not delineated as a special flood hazard area on a FIRM, the area shall be considered as special flood hazard area and subject to the requirements of these regulations
 - Are above the base flood elevation and the area is labelled as a SFHA on the FIRM, the area shall be regulated as special flood hazard area unless the applicant obtains a Letter of Map Change (LOMR) that removes the area from the SFHA.
- b. In FEMA-identified special flood hazard areas where base flood elevation and floodway data have not been identified and in areas where FEMA has not identified SFHAs, any other flood hazard data available from a Federal, State, or other source shall be reviewed and reasonably used.
- c. Base flood elevations and designated floodway boundaries on FIRMs and in FISs shall take precedence over base flood elevations and floodway boundaries by any other sources if such sources show reduced floodway widths and/or lower base flood elevations.
- d. Other sources of data shall be reasonably used if such sources show increased base flood elevations and/or larger floodway areas than are shown on FIRMs and in FISs.
- e. If a Preliminary Flood Insurance Rate Map and/or a Preliminary Flood Insurance Study has been provided by FEMA:
- Upon the issuance of a Letter of Final Determination by FEMA, the preliminary flood hazard data shall be used and shall replace the flood hazard data previously provided from FEMA for the purposes of administering these regulations.
 - Prior to the issuance of a Letter of Final Determination by FEMA, the use of preliminary flood hazard data shall be deemed the best available data pursuant to [Section 4.2.1C-1c \(Description of Special Flood Hazard Districts – A Zone\)](#) and used where no base flood elevations and/or floodway areas are provided on the effective FIRM.
 - Prior to issuance of a Letter of Final Determination by FEMA, the use of preliminary flood hazard data is permitted where the preliminary base flood elevations or floodway areas exceed the base flood elevations and/or designated floodway widths in existing flood hazard data provided by FEMA. Such preliminary data may be subject to change and/or appeal to FEMA.

ARTICLE I – ZONING ORDINANCE
2024 EDITION

4. Jurisdictional Boundary Changes. The County’s floodplain regulations in effect on the date of annexation shall remain in effect and shall be enforced by the municipality for all annexed areas until the municipality adopts and enforces an ordinance which meets the requirements for participation in the National Flood Insurance Program. Municipalities with existing floodplain ordinances shall pass a resolution acknowledging and accepting responsibility for enforcing floodplain ordinance standards prior to annexation of any area containing identified flood hazards. If the FIRM for any annexed area includes special flood hazard areas that have flood zones that have regulatory requirements that are not set forth in these regulations, the governing body shall prepare amendments to these regulations to adopt the FIRM and appropriate requirements, and submit the amendments to the governing body for adoption; such adoption shall take place at the same time as or prior to the date of annexation and a copy of the amended regulations shall be provided to Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management) and FEMA.

In accordance with the [Code of Federal Regulations, Title 44 Subpart \(B\) Section 59.22\(a\)\(9\)\(v\)](#), all NFIP participating communities must notify the Federal Insurance Administration and optionally the State Coordinating Office in writing whenever the boundaries of the community have been modified by annexation or the community has otherwise assumed or no longer has authority to adopt and enforce floodplain management regulations for a particular area.

In order that all Flood Insurance Rate Maps accurately represent the community’s boundaries, a copy of a map of the community suitable for reproduction, clearly delineating the new corporate limits or new area for which the community has assumed or relinquished floodplain management regulatory authority must be included with the notification.

5. District Boundary Changes. The delineation of any of the Floodplain Districts may be revised by the County where natural or man-made changes have occurred and/or where more detailed studies have been conducted or undertaken by the U. S. Army Corps of Engineers or other qualified agency, or an individual documents the need for such change. However, prior to any such change, approval must be obtained from the Federal Emergency Management Agency. A completed LOMR is a record of this approval.
6. Interpretation of District Boundaries. Initial interpretations of the boundaries of the Floodplain Districts shall be made by the Zoning Administrator. Should a dispute arise concerning the boundaries of any of the Districts, the Board of Zoning Appeals shall make the necessary determination. The person questioning or contesting the location of the District boundary shall be given a reasonable opportunity to present his case to the Board and to submit his own technical evidence if he so desires.
7. Submitting Model Backed Technical Data. The County’s base flood elevations may increase or decrease resulting from physical changes affecting flooding conditions. As soon as practicable, but not later than six months after the date such information becomes available, a community shall notify the Federal Emergency Management Agency of the

changes by submitting technical or scientific data. The community may submit data via a LOMR. Such a submission is necessary so that upon confirmation of those physical changes affecting flooding conditions, risk premium rates and floodplain management requirements will be based upon current data.

8. Letters of Map Revision. When development in the floodplain will cause or causes a change in the base flood elevation, the applicant, including state agencies, must notify FEMA by applying for a Conditional Letter of Map Revision and then a Letter of Map Revision.

C. Description of Special Flood Hazard Districts

1. Basis of Districts. The Flood Plain Overlay District (FP) shall include the Special Flood Hazard Areas (SFHAs). The basis for the delineation of these districts shall be the FIS and the FIRM for Clarke County prepared by the Federal Emergency Management Agency, Federal Insurance Administration, dated September 28, 2007, and any subsequent revisions or amendments thereto.

The County may identify and regulate local flood hazard or ponding areas that are not delineated on the FIRM. These areas may be delineated on a “Local Flood Hazard Map” using best available topographic data and locally derived information such as flood of record, historic high water marks, or approximate study methodologies.

The boundaries of the SFHA Districts are established as shown on the FIRM which is declared to be a part of this ordinance and which shall be kept on file at the County offices.

- a. The Floodway District is in an AE Zone and is delineated, for purposes of this ordinance, using the criterion that certain areas within the floodplain must be capable of carrying the waters of the one percent (1%) annual chance flood without increasing the water surface elevation of that flood more than one (1) foot at any point. The areas included in this District are specifically defined in Table 2 of the above-referenced FIS and shown on the accompanying FIRM.

The following provisions shall apply within the Floodway District of an AE zone:

- Within any floodway area, no encroachments, including fill, new construction, substantial improvements, or other development shall be permitted unless it has been demonstrated through hydrologic and hydraulic analysis performed in accordance with standard engineering practice that the proposed encroachment will not result in any increase in flood levels within the community during the occurrence of the base flood discharge. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently-accepted technical concepts. Studies, analyses, computations, etc., shall be

ARTICLE I – ZONING ORDINANCE
2024 EDITION

submitted in sufficient detail to allow a thorough review by the Floodplain Administrator.

Development activities which increase the water surface elevation of the base flood may be allowed, provided that the applicant first applies – with the County’s endorsement – for a Conditional Letter of Map Revision (CLOMR), and receives the approval of the Federal Emergency Management Agency.

If the requirements listed above are satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of [Section 4.2.1E \(Permit and Application Requirements\)](#).

- The placement of manufactured homes (mobile homes) is prohibited, except in an existing manufactured home (mobile home) park or subdivision. A replacement manufactured home may be placed on a lot in an existing manufactured home park or subdivision provided the anchoring, elevation, and encroachment standards are met. For floodplain management purposes, the term “manufactured home” shall also include park trailers, travel trailers, and other similar vehicles placed on a site for a period greater than 180 days.
- b. The AE Zones on the FIRM accompanying the FIS shall be those areas for which one percent (1%) annual chance flood elevations have been provided and the floodway has not been delineated. The following provisions shall apply within an AE zone where FEMA has provided base flood elevations:

Until a regulatory floodway is designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within the areas of special flood hazard, designated as Zone AE on the FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the County.

Development activities in Zone AE on the County’s FIRM which increase the water surface elevation of the base flood by more than one foot may be allowed, provided that the applicant first applies – with the County’s endorsement – for a Conditional Letter of Map Revision, and receives the approval of the Federal Emergency Management Agency.

- c. The A Zone on the FIRM accompanying the FIS shall be those areas for which no detailed flood profiles or elevations are provided, but the one percent (1%) annual chance floodplain boundary has been approximated. For these areas, the following provisions shall apply:

ARTICLE I – ZONING ORDINANCE
2024 EDITION

The Approximated Floodplain District shall be that floodplain area for which no detailed flood profiles or elevations are provided, but where a one percent (1%) annual chance floodplain boundary has been approximated. Such areas are shown as Zone A on the maps accompanying the FIS. For these areas, the base flood elevations and floodway information from Federal, State, and other acceptable sources shall be used, when available. Where the specific one percent (1%) annual chance flood elevation cannot be determined for this area using other sources of data, such as the U. S. Army Corps of Engineers Floodplain Information Reports, U. S. Geological Survey Flood-Prone Quadrangles, etc., then the applicant for the proposed use, development and/or activity shall determine this base flood elevation. For development proposed in the approximate floodplain the applicant must use technical methods that correctly reflect currently accepted practices, such as point on boundary, high water marks, or detailed methodologies hydrologic and hydraulic analyses. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough review by the Floodplain Administrator.

The Floodplain Administrator reserves the right to require a hydrologic and hydraulic analysis for any development. When such base flood elevation data is utilized, the lowest floor shall be elevated to or above the base flood level plus one (1) foot.

During the permitting process, the Floodplain Administrator shall obtain:

- The elevation of the lowest floor (in relation to mean sea level), including the basement, of all new and substantially improved structures; and,
- If the structure has been floodproofed in accordance with the requirements of this article, the elevation (in relation to mean sea level) to which the structure has been floodproofed.

Base flood elevation data shall be obtained from other sources or developed using detailed methodologies comparable to those contained in a FIS for subdivision proposals and other proposed development proposals (including manufactured home parks and subdivisions) that exceed fifty lots or five acres, whichever is the lesser.

2. Overlay Concept.

The FP District described above shall be an overlay to the existing underlying districts as shown on the Official Zoning Map, and as such, the provisions for the FP District shall serve as a supplement to the underlying district provisions.

If there is any conflict between the provisions or requirements of the FP District and those of any underlying district, the more restrictive provisions and/or those pertaining to the FP District shall apply.

In the event any provision concerning an FP District is declared inapplicable as a result of any legislative or administrative actions or judicial decision, the basic underlying provisions shall remain applicable.

D. Permitted and Prohibited Uses; Special District Regulations

1. Permitted Uses. The following uses and activities are permitted in the FP District provided that they comply with the provisions of the underlying zoning district and are not prohibited by any other ordinance and provided that they do not require structures, fill, or storage of materials and equipment:
 - a. Agricultural uses, such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming, and wild crop harvesting.
 - b. Public and private recreational uses and activities, such as parks, day camps, picnic grounds, golf courses, horseback riding and hiking trails, wildlife and nature preserves, game farms, fish hatcheries, trap and skeet game ranges, and hunting and fishing areas.
 - c. Accessory residential uses, such as yard areas, gardens, play areas, and pervious loading areas.
 - d. Accessory business uses, such as yard areas, pervious parking and loading areas, etc.

2. Permitted Uses Subject to Special Regulations. The following uses may be permitted, with issuance of a Zoning and/or Building Permit, in the FP District limited by the regulations imposed by this Section, the underlying zoning district, and the [Uniform Statewide Building Code](#):
 - a. Recreational Vehicles subject to the following regulations:
 - Shall not be located on the site for 180 consecutive days or more.
 - Shall be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.
 - Shall not be located within 100 feet of the Shenandoah River from January 1 through March 31 of any year.
 - A truck camper or cap, located within 100 feet of the Shenandoah River, shall not be removed from its transporting vehicle nor shall wheels be removed from a trailer or recreational vehicle at any time of the year.

ARTICLE I – ZONING ORDINANCE
2024 EDITION

- b. Agricultural uses which do not include utilization of structures with an aggregate floor area of more than 500 square feet. However, no structure for such uses shall be allowed within 100 feet of the Shenandoah River.
 - c. Recreational uses limited to parks, playgrounds, golf courses, driving ranges, picnic grounds, and transient amusement enterprises, provided such facilities are not usable for human habitation.
 - Structures with walls related to such uses shall not exceed an aggregate floor area of five hundred (500) square feet per lot or have less than the minimum floor area requiring a building permit as set forth in the Virginia Uniform Statewide Building Code. Such structures shall be set back at least 100 feet from the Shenandoah River.
 - Structures without walls related to such uses shall not exceed an aggregated floor area of 1500 square feet per lot or have less than the minimum floor area requiring a building permit as set forth in the Virginia Uniform Statewide Building Code. Such structures' roof framing shall be at least one foot above the one percent (1%) chance flood elevation; however, the structures' height shall not be more than 15 feet above grade. Such structures shall be set back at least 500 feet from the Shenandoah River.
 - d. Accessory structures not more than 500 square feet or less than the minimum floor area requiring a building permit as set forth in the Virginia Uniform Statewide Building Code. Use of accessory structures shall be limited to roadside and park stands for the sale of food, fruit and vegetables, fishing bait, and boat rental, provided such facilities are not usable for human habitation. However, no structure for such uses shall be allowed within 100 feet of the Shenandoah River.
 - e. Construction of boat ramps, boat landings, docks (permanent or floating), and similar structures shall meet the requirements set forth in [Section 4.2.3 \(Stream Protection \(SPO\) Overlay District\)](#).
 - f. Siting of portable privies shall meet the requirements of the [Clarke County Septic Ordinance \(Chapter 143\)](#) and [Section 4.2.3 \(Stream Protection \(SPO\) Overlay District\)](#).
 - g. Siting of new onsite sewage disposal systems shall meet the requirements of the [Clarke County Septic Ordinance \(Chapter 143\)](#).
3. Prohibited Uses. The following uses and structures are prohibited in the FP District:
- a. New residential structures including manufactured homes and accessory dwellings.

- b. Non-residential structures, either temporary or permanent, shall not be permitted in the Flood Plain District except as allowed by [Subsection 2](#) above.
- c. There shall be no land disturbance of any kind within 100 feet of the Shenandoah River except as provided in [Section 4.2.3 \(Stream Protection \(SPO\) Overlay District\)](#).

E. Permit and Application Requirements

- 1. Permit Requirement. All uses, activities, and development occurring within the FP District shall be undertaken only upon the issuance of a permit. Such development shall be undertaken only in strict compliance with the provisions of the Ordinance and with all other applicable codes and ordinances, as amended, such as the [Virginia Uniform Statewide Building Code](#) and [Article II \(Subdivision Ordinance\)](#). Prior to the issuance of any such permit, the Floodplain Administrator shall require all applications to include compliance with all applicable state and federal laws and shall review all sites to assure they are reasonably safe from flooding. Under no circumstances shall any use, activity, and/or development adversely affect the capacity of the channels or floodways of any watercourse, drainage ditch, or any other drainage facility or system.
- 2. Site Development Plans and Permit Applications. All applications for development within the FP District and all permits issued for the FP District shall incorporate the following information:
 - a. The elevation of the Base Flood at the site.
 - b. For structures to be elevated, the elevation of the lowest floor (including basement).
 - c. For structures to be floodproofed (non-residential only), the elevation to which the structure will be floodproofed.
 - d. Topographic information showing existing and proposed ground elevations.
 - e. Any other requirements as set forth in this section and in [Section 4.2.3 \(Stream Protection \(SPO\) Overlay District\)](#).

F. General Standards

The following provisions shall apply to all permits:

- 1. New construction and substantial improvements shall be built according to this ordinance and the [Virginia Uniform Statewide Building Code](#), and anchored to prevent flotation, collapse, or lateral movement of the structure.

ARTICLE I – ZONING ORDINANCE
2024 EDITION

2. New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
3. New construction or substantial improvements shall be constructed by methods and practices that minimize flood damage.
4. Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities, including duct work, shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
5. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
6. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.
7. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
8. Any replacement sewer facilities and private package treatment plants (including all pumping stations and collector systems) shall be designed to minimize or eliminate infiltration of flood waters into the system and discharges from the system into the flood waters. In addition, they shall be located and constructed to minimize or eliminate flood damage impairment.
9. All stormwater facilities shall comply with State stormwater management regulations.
10. All utilities such as gas lines, electrical and telephone systems being located in flood prone areas shall be located, elevated (where practicable) or buried and constructed to minimize the chance of impairment during a flood occurrence.
11. Streets and sidewalks shall be designed to minimize their potential for increasing and aggravating the levels of flood flow. Drainage openings shall be required to sufficiently discharge flood flows without unduly increasing flood heights.

In addition to subsections 1-11 above, in all special flood hazard areas, the additional provisions shall apply:

12. Prior to any proposed alteration or relocation of any channels or of any watercourse, stream, etc., within this jurisdiction a permit shall be obtained from the U. S. Army Corps of Engineers, the Virginia Department of Environmental Quality, and the Virginia Marine Resources Commission (a joint permit application is available from any of these organizations). Furthermore, in riverine areas, notification of the proposal shall be given by the applicant to all affected adjacent jurisdictions, the Department of Conservation and

Recreation (Division of Dam Safety and Floodplain Management), other required agencies, and the Federal Emergency Management Agency.

13. The flood carrying capacity within an altered or relocated portion of any watercourse shall be maintained.

G. Elevation and Construction Standards

In all identified flood hazard areas where base flood elevations have been provided in the FIS or generated by a certified professional in accordance with [Section 4.2.1C-1c \(Description of Special Flood Hazard Districts – A Zone\)](#) the following provisions shall apply:

1. Residential Construction. Substantial improvement of any existing residential structure in Zones AE and A with detailed base flood elevations shall have the lowest floor, including basement, elevated to or above the base flood level plus one (1) foot.
2. Non-Residential Construction.
 - a. New construction or substantial improvement of any non-residential building shall have the lowest floor, including basement, elevated to or above the base flood level plus one (1) foot.
 - b. Non-residential buildings located in Zone AE may be floodproofed in lieu of being elevated provided that all areas of the building components below the elevation corresponding to the base flood elevation plus two (2) feet are water tight with walls substantially impermeable to the passage of water, and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification, including the specific elevation (in relation to mean sea level) to which such structures are floodproofed, shall be maintained by the Floodplain Administrator.
3. Space below the Lowest Floor. In zones A and AE, fully enclosed areas, of new construction or substantially improved structures, which are below the regulatory flood protection elevation shall:
 - a. Not be designed or used for human habitation, but shall be used solely for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator).
 - b. Be constructed entirely of flood resistant materials below the regulatory flood protection elevation;

ARTICLE I – ZONING ORDINANCE
2024 EDITION

- c. Include measures to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet the following minimum design criteria:
- Provide a minimum of two openings on different sides of each enclosed area subject to flooding.
 - The total net area of all openings must be at least one (1) square inch for each square foot of enclosed area subject to flooding.
 - If a building has more than one enclosed area, each area must have openings to allow floodwaters to automatically enter and exit.
 - The bottom of all required openings shall be no higher than one (1) foot above the adjacent grade.
 - Openings may be equipped with screens, louvers, or other opening coverings or devices, provided they permit the automatic flow of floodwaters in both directions.
 - Foundation enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires openings as outlined above.
4. Accessory Structures. Accessory structures in the SFHA shall comply with the elevation requirements and other requirements of [Section 4.2.1G-2 \(Elevation and Construction Standards – Non-Residential Construction\)](#) or, if not elevated or dry floodproofed, shall:
- a. Not be used for human habitation.
 - b. Be limited to no more than 500 square feet or less than the minimum floor area requiring a building permit as set forth in the Virginia Uniform Statewide Building Code.
 - c. Be usable only for parking of vehicles or limited storage.
 - d. Be constructed with flood damage-resistant materials below the base flood elevation.
 - e. Be constructed and placed to offer the minimum resistance to the flow of floodwaters.
 - f. Be anchored to prevent flotation.
 - g. Have electrical service and mechanical equipment elevated to or above the base flood elevation.
 - h. Shall be provided with flood openings which shall meet the following criteria:

ARTICLE I – ZONING ORDINANCE
2024 EDITION

- There shall be a minimum of two flood openings on different sides of each enclosed area; if a building has more than one enclosure below the lowest floor, each such enclosure shall have flood openings on exterior walls.
 - The total net area of all flood openings shall be at least 1 square inch for each square foot of enclosed area (non-engineered flood openings), or the flood openings shall be engineered flood openings that are designed and certified by a licensed professional engineer to automatically allow entry and exit of floodwaters; the certification requirement may be satisfied by an individual certification or an Evaluation Report issued by the ICC Evaluation Service, Inc.
 - The bottom of each flood opening shall be 1 foot or less above the higher of the interior floor or grade, or the exterior grade, immediately below the opening.
 - Any louvers, screens or other covers for the flood openings shall allow the automatic flow of floodwaters into and out of the enclosed area.
- i. A signed Declaration of Land Restriction (Non-Conversion Agreement) shall be recorded on the property deed.

5. Standards for Subdivisions

- a. All subdivision proposals shall be consistent with the need to minimize flood damage;
- b. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;
- c. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards, and
- d. Base flood elevation data shall be obtained from other sources or developed using detailed methodologies, hydraulic and hydrologic analysis, comparable to those contained in a Flood Insurance Study for subdivision proposals and other proposed development proposals that exceed fifty lots or five acres, whichever is the lesser.

H. Existing Structures in the FP District

Any structure or use of a structure or premises must be brought into conformity with these provisions when it is changed, repaired, or improved unless one of the following exceptions is established before the change is made:

- 1. The Floodplain Administrator has determined that:
 - a. Change is not a substantial repair or substantial improvement AND

ARTICLE I – ZONING ORDINANCE
2024 EDITION

- b. No new square footage is being built in the floodplain that is not complaint AND
 - c. No new square footage is being built in the floodway AND
 - d. The change complies with this ordinance and the [Virginia Uniform Statewide Building Code](#) AND
 - e. The change, when added to all the changes made during a rolling 5-year period does not constitute 50% of the structure’s value.
- 2. The changes are required to comply with a citation for a health or safety violation.
 - 3. The structure is a historic structure and the change required would impair the historic nature of the structure.

I. Variances; Factors to Be Considered

- 1. Variances shall be issued only upon (i) a showing of good and sufficient cause, (ii) after the Board of Zoning Appeals has determined that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) after the Board of Zoning Appeals has determined that the granting of such variance will not result in (a) unacceptable or prohibited increases in flood heights, (b) additional threats to public safety, (c) extraordinary public expense; and will not (d) create nuisances, (e) cause fraud or victimization of the public, or (f) conflict with local laws or ordinances.

While the granting of variances generally is limited to a lot size less than one-half acre, deviations from that limitation may occur. However, as the lot size increases beyond one-half acre, the technical justification required for issuing a variance increases. Variances may be issued by the Board of Zoning Appeals for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, in conformance with the provisions of this Section.

Variances may be issued for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that the criteria of this Section are met, and the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

In passing upon applications for variances, the Board of Zoning Appeals shall satisfy all relevant factors and procedures specified in other sections of the zoning ordinance and consider the following additional factors:

- a. The danger to life and property due to increased flood heights or velocities caused by encroachments. No variance shall be granted for any proposed use,

ARTICLE I – ZONING ORDINANCE
2024 EDITION

development, or activity within any FP District that will cause any increase in the one percent (1%) chance flood elevation.

- b. The danger that materials may be swept on to other lands or downstream to the injury of others.
 - c. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
 - d. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners.
 - e. The importance of the services provided by the proposed facility to the community.
 - f. The requirements of the facility for a waterfront location.
 - g. The availability of alternative locations not subject to flooding for the proposed use.
 - h. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
 - i. The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.
 - j. The safety of access by ordinary and emergency vehicles to the property in time of flood.
 - k. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.
 - l. The historic nature of a structure. Variances for repair or rehabilitation of historic structures may be granted upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
 - m. Variances will not be issued for any accessory structure within the SFHA.
2. The Board of Zoning Appeals may refer any application and accompanying documentation pertaining to any request for a variance to any engineer or other qualified person or agency for technical assistance in evaluating the proposed project in relation to flood heights and velocities, and the adequacy of the plans for flood protection and other related matters.

3. A record shall be maintained of the above notification as well as all variance actions, including justification for the issuance of the variances. Any variances that are issued shall be noted in any required reports.

4.2.2	Spring Conservation Overlay District	SC
<p><u>Purpose:</u> The Spring Conservation District (SC) is designed to apply special regulations to the groundwater recharge area of the Prospect Hills Spring, which serves as the source of the Clarke County Sanitary Authority's Boyce-Millwood-White Post Public Water System. The purpose of the District is to protect those water resources in Clarke County which are necessary to serve adequately and efficiently the public need, health and welfare, to preserve the natural environmental qualities and function of the land to purify water before it reaches such resources, and to prevent the use and development of land in designated water resource recharge areas in a manner tending adversely to affect the quantity and/or quality of such significant water resources or tending to destroy or have a substantially adverse effect on such resources by virtue of pollution of the land and water by foreign substances, including noxious or hazardous biological and/or chemical substances, materials, and/or wastes, whether gas, liquid, or solid.</p>		

A. Overlay District Regulations.

1. Development and use of land permitted in accordance with the district regulations for the underlying zoning district may be permitted within the SC District, provided the developer presents satisfactory evidence that such use and development is compatible with the purpose of the Spring Conservation District as noted above and that such proposed use and development will not have an adverse effect upon the environment.
2. These provisions shall not apply to any uses and structures which otherwise legally existed as of July 20, 1983, provided such existing uses and structures shall be subject to the provisions of [Section 9 \(Nonconformities\)](#), nor shall these provisions apply to ordinary gardening activities in lawn or garden areas which are primarily for home consumption.
3. No person shall engage in any land disturbing activity within the district in the absence of an approved erosion and sedimentation control plan prepared in accordance with the provisions of the Clarke County Erosion and Sedimentation Control Ordinance.
4. In no event shall the following uses or development of land within the district be permitted:
 - a. Mining, and/or extraction of natural resources;
 - b. Drilling, other than for private, on-site source of potable water;
 - c. Sanitary land filling;

ARTICLE I – ZONING ORDINANCE
2024 EDITION

- d. Application, depositing, spreading or spraying of any hazardous or toxic chemical and/or biological materials or substances except applications of such pesticides and/or herbicides as may be required under emergency situations and as such applications of pesticides and/or herbicides may be permitted by the Zoning Administrator upon an affirmative recommendation from the Virginia Cooperative Extension Service;
 - e. Underground storage of any chemical or petroleum products for commercial or industrial purposes;
 - f. Storage, disposal, and/or land application of sludge, residue and/or effluent resulting from treatment, storage, disposal or reclamation of sewage and industrial wastes;
 - g. Animal confinement operations (feedlots).
5. Residential use and development of the land within the district may be permitted in accordance with the provisions of the underlying zoning district, except that such residential use and development shall be subject to the following conditions:
- a. Any lot upon which a new dwelling is to be located, if such dwelling is to be served by an individual subsurface septic system, shall have a minimum lot area of 2 acres and a maximum lot area of 4 acres, in the AOC District.
 - b. Maximum lot coverage by all impervious surfaces shall not exceed 20%.
6. Within 400 feet of Prospect Hill Spring only public utility structures may be constructed.

B. Special Regulations for Subsurface Septic Systems

1. For subsurface septic systems within 1,500 feet of Prospect Hill Spring:
- a. No sewage disposal system, including drainfields, shall be located within 1,000 feet of Prospect Hill Spring.
 - b. The septic/drainfield system shall be low pressure systems with oversized drainfields (1.5 times the normal size). Manhole access shall be provided to the low pressure pump on each system.
2. For subsurface septic systems between 1,500 and 3,000 feet of Prospect Hill Spring, septic/drainfield systems shall be low pressure systems.
3. For any location in the SC District:
- a. A 100% normal size reserve area shall be provided for the drainfield on each lot.
 - b. Installation of any septic/drainfield system shall be inspected and approved by the County's designated engineer or representative.
 - c. Owners of all lots shall be required to have septic systems maintained at least once every seven years. Maintenance will consist of pump out if determined necessary by a qualified septic hauler, and clean out and leveling of distribution boxes and associated lines.

- d. On-site individual subsurface septic systems shall be permitted only in accordance with page 17 of the report of [Schnabel Engineering and Associates, Contract V82600, Hydrogeologic and Engineering Study, Prospect Hills Spring, Clarke County, Virginia, dated May 2, 1983](#), and where applicable, such systems shall be designed, placed and constructed only in accordance with the recommended guidelines for installation thereof set forth in [Appendix B of the aforesaid report of Schnabel Engineering Associates \(Contract V82600\)](#).

4.2.3	Stream Protection Overlay District	SPO
<p><u>Purpose:</u> The Stream Protection Overlay District (SP) is designed to apply special regulations to the riparian buffer area no less than one hundred feet wide on each side of perennial streams and wetlands adjacent to those streams. The purpose of the buffer is to mitigate runoff, prevent erosion, filter nonpoint source pollution from runoff, moderate stream temperature, and provides for the ecological integrity of stream corridors and networks.</p>		

A. Vegetated Stream Buffer Regulations.

1. Except for those land uses listed as exempt, land containing perennial streams, and/or nontidal wetlands adjacent to these streams, shall provide for vegetated stream buffers of either 35 or 100 feet, as described below.
 - a. All lots shall retain a vegetated buffer a minimum of one hundred (100) feet from each side of the stream or wetland.
 - b. Lots that do not have sufficient acreage to qualify for the Land Preservation Special Assessment (land use taxation), that are shown on subdivision plat recorded or a site plan approved after January 1, 2000 shall establish a vegetated buffer a minimum of thirty-five (35) feet from each side of the stream or wetland per [Subsection B](#) below.
2. The minimum stream buffer width shall be measured horizontally from the top edge of the stream bank or nontidal wetlands. The top edge of the stream bank, also known as bank-full width, is the width of the stream at normal high water events. This is determined by considering differences in vegetation (aquatic vs. typical terrestrial) and physical characteristics of the stream bank.
3. The width of buffers for sloped stream banks shall be increased according to the table below:

TABLE 4.2.3[1], Increased Buffer Widths for Sloped Stream Banks

Minimum Buffer Width and Slope Percentage	Increased Buffer Width
-- 35-foot buffer with 15% - 25% slope	45 feet
-- 35-foot buffer with slope over 25%	55 feet
-- 100-foot buffer with 15% - 25% slope	125 feet
-- 100-foot buffer with slope over 25%	150 feet

B. Vegetated Stream Buffer Criteria.

1. In order to maintain the runoff, erosion, non-point source pollution control, stream temperature, and ecological values of the stream buffer, indigenous vegetation shall be preserved to the maximum extent possible. The target vegetative cover in the stream buffer shall be an indigenous riparian forest with ground cover, shrub, and tree canopy layers. Removal or preservation of vegetation in the stream buffer shall be allowed as provided in [Subsections 2 and 3](#) below. In no case shall vegetation be removed so as to disturb the soil.

2. Removal or preservation of vegetation in the stream buffer within a minimum of 35 feet of the top of the stream bank and on land classified as a nontidal wetland shall be in accordance with the following provisions:
 - a. Existing trees, with the following characteristics, shall be preserved:
 - (1) Have a diameter of 6 inches or greater (measured 4.5 feet above the ground) if large or medium canopy trees
 - (2) Have a diameter of 4 inches or greater (measured 4.5 feet above the ground) if small canopy trees
 - b. Invasive non-native species, such as Ailanthus, may be removed regardless of size.
 - c. Dead, diseased, and dying trees may be removed.
 - d. Fallen trees that are blocking stream channels, or trees with undermined root systems in imminent danger of falling, may be removed where stream bank erosion is a current or potential problem that outweighs any positive effects the fallen tree or trees may have on the stream ecosystem.
 - e. Pesticides shall not be applied, except by licensed applicators following pesticide label requirements.

3. Removal or preservation of vegetation in the stream buffer between a minimum of 35 feet and a minimum of 100 feet from the top of the stream bank and outside of nontidal wetlands shall be in accordance with the following provisions:
 - a. Dead, diseased, and dying trees may be removed.
 - b. Invasive non-native species, such as ailanthus (Tree of Heaven), maclura (Osage Orange), and rosa multiflora, may be removed regardless of size.

ARTICLE I – ZONING ORDINANCE
2024 EDITION

- c. Trees six inches in diameter or greater at breast height shall be preserved, unless removed as part of a silvicultural thinning operation based upon the best available technical advice of a professional forester.
4. For the purpose of establishing vegetation, the stream buffers shall consist of a mix of Large, Medium, and Small Canopy trees, shrubs, and warm season grasses, with the following specifications:

TABLE 4.2.3[2], Planting Specifications

Plant Type	Specifications
Large Canopy Trees	<u>Mature Height</u> – Over 45 feet
	<u>Species Type</u> – Native riparian
	<u>Typical of but not limited to</u> -- American Basswood, Green Ash, Sycamore, Tulip Poplar, or Red Oak
Medium Canopy Trees	<u>Mature Height</u> – 30-45 feet
	<u>Species Type</u> – Native riparian
	<u>Typical of but not limited to</u> -- Black gum, Red Maple, River Birch, or Persimmon
Small Canopy Trees	<u>Mature Height</u> – Up to 30 feet
	<u>Species Type</u> – Native riparian
	<u>Typical of but not limited to</u> -- Spicebush, Redbud, or Flowering Dogwood
Evergreen Trees	<u>Mature Height</u> – 10 feet
	<u>Species Type</u> – Native riparian
Shrubs	<u>Mature Height</u> – 3 feet
	<u>Species Type</u> – Native riparian
	<u>Typical of but not limited to</u> -- Inkberry, Witch Hazel, Alder, or Hornbeam
Ground Cover	<u>Mature Height</u> – N/A
	<u>Typical of but not limited to</u> – Grasses and forbes

5. Tree and shrub species must be at a minimum, one to two year old bare root seedlings, ground cover must be ordered as Pure Live Seed (PLS). Plant material required per square foot of buffer area shall be in accordance with the following table:

TABLE 4.2.3[3], Required Plant Material in Buffer Area

Plant Type	Required Plant Material
Canopy Trees – All Sizes	1 per 750 square feet of buffer area
Evergreen Trees	1 per 750 square feet of buffer area
Shrubs	1 per 50 square feet of buffer area
Ground Cover	7 lbs. of seed per acre

6. The property owner or their agent shall maintain any plant material required by this Ordinance, and any plant material that dies must be replaced in kind or with a suitable substitute as granted by the Zoning Administrator or designee.

C. Development Types Exempt from Stream Buffer Requirements

1. The following types of development shall not be required to retain or establish a stream buffer, provided that the requirements of this section are satisfied:
- a. The construction, installation, operation and maintenance of electric, gas and telephone transmission lines, railroads, and activities of the Virginia Department of Transportation, and their appurtenant structures, which are accomplished in compliance with the Erosion and Sediment Control Law or an erosion and sediment control plan approved by a duly authorized Commonwealth of Virginia agency or department.
 - b. The construction, installation, and maintenance by public agencies of water and sewer lines, including water and sewer lines constructed by private interests for dedication to public agencies, provided that:
 - (1) To the extent practical, the location of such water or sewer lines shall be outside of all stream buffer areas.
 - (2) No more land shall be disturbed than is necessary to construct, install and maintain the water or sewer lines.
 - (3) All such construction, installation, and maintenance of such water or sewer lines shall comply with all applicable federal, state and local requirements and permits and be conducted in a manner that protects water quality.
 - c. Silvicultural activities, provided that such activities are conducted in compliance with the water quality protection procedures established by the [Virginia Department of Forestry in its "Best Management Practices Handbook for Forestry Operations,"](#) and are conducted on lots that qualify for Land Preservation Special Assessment (land use taxation).

D. Permitted Uses and Structures in a Stream Buffer

1. The following types of uses and structures shall be allowed in a stream buffer if allowed by the Zoning Ordinance and provided that the requirements of this section are satisfied:
 - a. A building or structure that existed as of January 1, 2000 may continue at such location. Any expansion or enlargement of such structure may not encroach upon the stream buffer more than the encroachment of the existing structure.
 - b. On-site or regional stormwater management facilities and temporary erosion and sediment control measures, provided that:
 - (1) To the extent practical, as determined by the Natural Resource Planner, the location of such facilities shall be outside of the stream buffer.
 - (2) No more land shall be disturbed than is necessary to provide for construction and maintenance of the facility, as determined by the Natural Resource Planner.
 - (3) The facilities are designed and constructed so as to minimize impacts to the functional value of the stream buffer and to protect water quality.
 - c. Water wells; passive recreation access, such as pedestrian trails and bicycle paths; historic preservation; archeological activities; provided that all applicable federal, state and local permits are obtained.
 - d. Temporary siting of portable privies is allowed provided that they meet all requirements of the [Clarke County Septic Ordinance](#) and [Section 4.2.1 \(Flood Plain Overlay District\)](#).

2. The following types of uses and structures shall be allowed in a stream buffer if allowed by the Zoning Ordinance, the requirements of this section, and with approval of a [Stream Buffer Mitigation Plan per Section 6.2.9](#):
 - a. Lake, pond, or ecological/wetland restoration project.
 - b. Construction and maintenance of a driveway or roadway, if the Zoning Administrator or designee determines that the stream buffer would prohibit reasonable access to a portion of the lot which is necessary in order for the owner to have a reasonable use of the lot.
 - c. Construction, installation and maintenance of water and sewer facilities or sewage disposal systems, on lots recorded before January 1, 2000 if the Zoning Administrator or designee determines that the stream buffer would prohibit the practical development of such facilities or systems.
 - d. Construction of a structure on lots recorded before January 1, 2000 if the Zoning Administrator or designee determines that the stream buffer would result in the loss of a building site, and there are no other available building sites outside the stream buffer on the lot.
 - e. Construction of boat ramps, boat landings, docks (permanent or floating) or similar structures provided that:

ARTICLE I – ZONING ORDINANCE
2024 EDITION

- f. The property owner obtains any required State or Federal permits and provides copies of approved permits to the Zoning Administrator or designee prior to construction, if applicable;
 - g. Land disturbance and construction plans satisfy all requirements of [Section 4.2.1, Flood Plain Overlay District](#); and
 - h. Land disturbance and construction plans are consistent with criteria for streambank construction listed in [Subsections 3 and 4](#) below.
3. Site and Construction Criteria for Decks, Docks, and Stairs. No stairways, decks, docks or other structures shall be constructed until a permit is obtained from the Zoning Administrator or designee. Stairways and decks shall meet the following design requirements:
 - a. Stairways shall not exceed four feet in width. Wider stairs may be used for public open-space recreational properties.
 - b. Landings for stairs or decks shall not exceed 32 square feet in area.
 - c. Permanent canopies or roofs are not allowed on stairways, decks, or docks.
 - d. Stairways, docks, or decks may be either constructed above the ground on posts or pilings or placed into the ground provided they are designed and built in a manner that ensures control of soil erosion.
 - e. Stairways, docks or decks shall be located in the most visually inconspicuous portion on lots, as viewed from the river assuming summer leaf-on conditions, whenever practical.
4. Site and Construction Criteria for Private Ramps. No private ramps shall be constructed until a permit is obtained from the Zoning Administrator or designee. Private ramps shall meet the following design requirements:
 - a. The site can support a ramp without pilings, dredging, or other special site preparations.
 - b. Boat ramps with vehicular access shall have slopes no greater than 15% and no less than 12%.
 - c. Ramps shall be constructed of gravel, natural rock, steel matting, or other durable inorganic material not exceeding 7 inches in thickness.
 - d. Ramps shall be no more than 12 feet wide along the shore and 10 feet waterward of the shoreline or into a water depth of 4 feet, whichever is less.
 - e. Excavation of no more than 5 cubic yards (to create a suitable slope and launching area) and placement of no more than 5 cubic yards of crushed rock, gravel, clean sand, or small stone are allowed to provide a stable base or maintain use of the ramp.
 - f. Boat ramp construction requires erosion –control measures such as a floating silt fence to limit the spread of sediment stirred by construction.

E. Revegetation/Tree Replacement

1. Revegetation/tree replacement, in consultation with a Forestry Consultant or Certified Arborist and within the guidelines described below, shall be required for all areas where any clearing occurs in excess of the standards for maximum cleared area or in required vegetative buffer.
2. Replacement criteria. Trees that are removed shall be replaced so that there is, at a minimum, no loss of tree canopy coverage upon maturity of the replacement trees. All trees to be used as replacement trees shall be:
 - a. Virginia native tree species as identified in the [Virginia Department of Forestry’s Tree Seedling Brochure described by the Virginia Native Plant Society.](#)
 - b. Be of minimum quality as identified in the [American Standard for Nursery Stock \(ANSI Z60.1-2004\) \(as amended\).](#)
 - c. Planted as described in the [American Standard for Nursery Stock ANSI Z60.1-2004 \(as amended\);](#) by a qualified landscape contractor to insure survival; and a minimum of 4 feet in height with caliper dependent on species.

F. Inspections

The Zoning Administrator or designee shall inspect any land subject to establishing a vegetated stream buffer to insure that the buffers are installed as per the criteria outlined in this Ordinance.

G. Measurement of Tree Diameter at Breast Height

The diameter of the trunk of a tree is measured at breast height (a height of 4.5 feet above the natural grade). The diameter at breast height of trees with multiple trunks shall be the assumed diameter obtained from the sum of the cross-sectional areas of individual trunks at breast height. Trees with less than 4.5 feet of clear trunk shall be measured at the diameter of the largest vertical branch or leader at breast height.

4.2.4	Historic Overlay District	H
<p><u>Purpose:</u> The intent of this Section is to promote and protect the health, safety, comfort, and general welfare of the community through the preservation and enhancement of buildings, structures, places, and areas that have special historical, cultural, architectural or archaeological significance. It is hereby recognized that the destruction or alteration of said buildings, structures, places, and areas may cause the permanent loss of resources that are of great value to the people of Clarke County, and that special controls and incentives are warranted to ensure that such losses are avoided when possible.</p> <p>The purposes for establishing a special Historic District zoning classification are:</p> <ul style="list-style-type: none">• To preserve and improve the quality of life for residents of the County by protecting familiar and treasured visual elements in the area.• To promote tourism by protecting historical and cultural resources attractive to visitors.• To stabilize and improve property values by providing incentive for the upkeep and rehabilitation of older structures.• To educate residents on the local cultural and historic heritage as embodied in the Historic District(s) and to foster a sense of pride in this heritage.• To promote local historic preservation efforts and to encourage the nomination of qualified historic properties to the National Register of Historic Places and the Virginia Historic Landmarks Register.• To prevent the encroachment of buildings and structures which are architecturally incongruous with their environs within areas of architectural harmony and historic character.		

A. Creation of Historic Overlay District

1. A special zoning overlay designation is hereby created for Historic Districts and historic landmarks properties under authority of [Va. Code §15.2-2306](#). Location and boundaries of Historic Districts shall be delineated by the Board of Supervisors upon consultation with the Historic Preservation Commission (“Preservation Commission”), the Planning Commission, residents of proposed Historic Districts and local citizens' groups, and shall be incorporated into the Official Zoning Map as special overlay zones designated as Historic Districts (H).
2. Procedures for Establishing Historic Overlay Districts. The Preservation Commission may initiate a proposal of an amendment to the Ordinance for the establishment of a Historic District (H) by adoption of a resolution proposing the amendment. Prior to the public hearing of the Planning Commission on a petition for the establishment of an Historic District (H), the Preservation Commission shall hold a public hearing on such a petition following the procedures for notice as established in [Section 2.5 \(Public Hearings\)](#). Following the public hearing, the Preservation Commission shall report to

the Planning Commission and the Board of Supervisors its recommendation with respect to the proposed amendment. A Historic District shall not be designated if the owner(s) of record of at least 25% of the lots, shown on the Commissioner of Revenue Tax Maps, within a proposed Historic District filed written objection thereto with the Board of Supervisors prior to commencement of the public hearing before the Board.

3. Criteria for Designation of Historic Districts. The Board of Supervisors may designate one or more Historic Districts provided that any such District conforms to the definition of Historic Areas set forth in [Va. Code §15.2-2201](#), and that any such District meets one or more of the following criteria:
 - a. It is associated with a particular person, event, activity, or institution of local, state or national historical significance.
 - b. It contains buildings whose exterior design or features embody or exemplify the distinctive design characteristics of one or more historic areas, styles, materials, or construction methods, or exemplify the work of an acknowledged master or masters.
 - c. It possesses an identifiable character that reflects the cultural or architectural heritage of Clarke County.
 - d. It contains qualities and/or artifacts that significantly contribute to present-day knowledge and understanding of lifestyles, activities, events or experiences of a previous area.
 - e. Its unique location or physical characteristics represents an established and familiar pattern or unique visual feature of the County.

B. Certificates of Appropriateness

A Certificate of Appropriateness shall be required for the erection of any building or structure, or the major alteration or restoration of a contributing building or structure, within the boundaries of a Historic Overlay District. A Certificate of Appropriateness shall also be required prior to the razing, demolition, or moving of any historic landmark, building, or structure within a Historic Overlay District. The requirements for the application, review, and approval of certificates of appropriateness are set forth in [Section 6.2.5 \(Certificate of Appropriateness\)](#).

C. Penalties for Noncompliance

Any violation of this section shall be subject to the provisions for violations and penalties set forth in [Section 10 \(Enforcement\)](#) of this Ordinance.

D. Special Overlay District Regulations – Uses

Class 5 wireless communication facilities (WCFs) and co-location on existing structures may be permitted subject to compliance with the requirements of this Section. Class 1, 2, 3 and 4 WCFs shall be prohibited.

4.2.5	Historic Access Corridor Overlay District	HAC
<p><u>Purpose:</u> The intent of this Section is to promote and protect the health, safety, comfort, and general welfare of the community through establishing high quality design criteria. The purpose of the quality design criteria is to achieve architectural control of the buildings, structures, places, and areas of new development along the arterial streets or highways which are significant routes of tourist access to the County, municipalities in the County, to designated historic landmarks, buildings, structures or district therein, or in a contiguous county or municipality. The purpose of architectural control is to preserve and enhance areas of special historical, cultural, architectural or archaeological significance. The protection of these vital corridors will help stabilize and improve property values, protect and enhance the designated area's attraction to tourists and visitors, and will support and stimulate complimentary development appropriate to the prominence afforded properties contiguous to significant arterial routes. Benefits attributable to the promotion of superior design and appearance of structures constructed and altered along arterial highways will ultimately promote the public health, safety, and general welfare of the citizens of Clarke County.</p>		

A. Creation of Historic Access Corridor Overlay District

1. A special zoning overlay designation is hereby created for lots contiguous to arterial streets or highways which are significant routes of tourist access under authority of [Va. Code §15.2-2306](#). Location and boundaries of Historic Access Corridor Districts shall be delineated by the Board of Supervisors and shall be incorporated into the Official Zoning Map as special overlay districts designated as Historic Access Corridor District (HAC).
2. Criteria for Designation of Districts. The Board of Supervisors may designate one or more Historic Access Corridor Districts. Any such District shall encompass lots contiguous to arterial streets or highways which are significant routes of tourist access to the County, municipalities in the County, to designated historic landmarks, buildings, structures or district therein, or in a contiguous county or municipality and shall conform to the definition of such corridors set forth in [Va. Code §15.2-2201](#).

B. Certificates of Appropriateness

No structure or building to which the HAC District applies shall be erected, reconstructed, altered, or restored unless a Certificate of Appropriateness is approved. The requirements for the application, review, and approval of certificates of appropriateness are set forth in [Section 6.2.5 \(Certificate of Appropriateness\)](#).

C. Penalties for Noncompliance

Any violation of this section shall be subject to the provisions for violations and penalties set forth in [Section 10 \(Enforcement\)](#) of this Ordinance.

D. Special Overlay District Regulations – Uses

Wireless communication facilities (WCFs) may be permitted as allowed by the regulations of the underlying zoning district and subject to compliance with the requirements of this section.

4.3

Berryville Annexation Area Zoning Districts

Applicability

The following districts shall only be applied to areas of the County that are subject to an annexation agreement between Clarke County and the Town of Berryville. These districts shall not be applied to any other areas of the County.

- 4.3.1 – Open Space Residential (OSR)
- 4.3.2 – Detached Residential – 1 (DR-1)
- 4.3.3 – Detached Residential – 2 (DR-2)
- 4.3.4 – Detached Residential – 4 (DR-4)
- 4.3.5 – Business Commercial (BC)
- 4.3.6 – Business (B)
- 4.3.7 – Business Park (BP)
- 4.3.8 – Institutional (ITL)

4.3.1	Open Space Residential District	OSR
<p><u>Purpose:</u> The Open Space Residential (OSR) District is created to preserve and protect two sensitive areas in the Town of Berryville and within the precincts of the Berryville Area Plan:</p> <ul style="list-style-type: none"> Existing residential properties and estates which have cultural and/or historical value. Properties with critical environmental features including 100 year floodplains, sink holes, slopes in excess of 15% and, rock outcrops. <p>The maximum density of one residence per ten net developable acres establishes this district as one with a low-density residential character. This district shall have the intent of preserving valued residences, promoting open space, and protecting existing vegetation and sensitive environmental areas within the district boundaries.</p>		

A. Lot Density and Dimensional Requirements. The density and dimensional requirements for lots shall be as set forth in the tables below.

TABLE 4.3.1[1], Lot Requirements

LOT AREA AND WIDTH REQUIREMENTS	
-- Maximum density, residential uses	1 dwelling per 10 acres
-- Maximum floor area ratio, non-residential uses	0.10
-- Minimum area	10 acres
-- Minimum lot width	300 feet
-- Minimum lot depth	300 feet

B. Building Requirements. Setback, structure height, and vegetated buffer width requirements shall be as set forth in the tables below:

TABLE 4.3.1[2], Building Requirements

BUILDING SETBACK REQUIREMENTS	
Front yard	50 feet
Side yard	50 feet
Rear yard	50 feet
Intermittent streams*	25 feet
Perennial streams*, springs, and sinkholes	100 feet
MAXIMUM BUILDING HEIGHT	
Maximum building height	35 feet

* -- Stream setbacks do not apply where floodplains are identified on Flood Insurance Rate Maps.

C. Special District Regulations

Sinkholes or karst features on lots platted before February 17, 2004, shall be mitigated as described in the [Virginia Department of Transportation’s Location and Design Division Instructional and Informational Memorandum 228 \(IIM-LD-228\)](#), or other applicable mitigation standard as recommended by a PE or PG, as approved by the County’s Engineer.

Sinkholes or karst features on lots platted after February 17, 2004, shall be mitigated in accordance with the [Virginia Department of Transportation’s Location and Design Division Instructional Informational Memorandum 228 \(IIM-LD-228\)](#) or other means as approved by the County’s engineer and County staff.

D. Development Regulations. The following development regulations for the OSR District may be found in the sections noted below:

- [Lot and Structure Regulations \(Section 7.1\)](#)
- [Parking Regulations \(Section 7.2.5\)](#)
- [Annexation Area B Development Regulations \(Section 7.7\)](#)
- [Sign Regulations \(Section 7.8\)](#)
- [Siting of Propane Tanks \(Section 7.10\)](#)
- [Use of Private Access Easements \(Section 7.11\)](#)
- [Parking and Storage of Inoperable Vehicles \(Section 7.12\)](#)

4.3.2	Detached Residential – 1 District	DR-1
<p><u>Purpose:</u> The Detached Residential - 1 (DR-1) District is created to provide for single family detached residences in a carefully planned pattern compatible with the comprehensive plan's goals for residential development in the Town of Berryville and within the precincts of the Berryville Area Plan. A maximum density of one unit per net developable acre establishes a low density district for detached residences. This district shall be applied with the intent of preserving existing natural features and vegetation, promoting excellence in site planning and landscape design, and encouraging housing of compatible scale and architectural character.</p>		

A. Lot Density and Dimensional Requirements. The density and dimensional requirements for lots shall be as set forth in the tables below.

TABLE 4.3.2[1], Lot Area/Width Requirements, Conventional Lots

-- Maximum density, residential uses	1 dwelling per net developable acre
-- Maximum floor area ratio, non-residential uses	0.15
-- Minimum area*	40,000 square feet
-- Maximum area	60,000 square feet
-- Minimum lot width, interior lot	125 feet
-- Minimum lot width, corner lot	150 feet

* -- See [Section 7.7](#) regarding impact of Critical Environmental Areas on lot size requirements.

TABLE 4.3.2[2], Lot Area/Width Requirements, Cluster Lots

-- Minimum district size for cluster subdivision	4 acres
-- Minimum area*	20,000 square feet
-- Maximum area	45,000 square feet
-- Minimum lot width, interior lot	100 feet
-- Minimum lot width, corner lot	120 feet

* -- See [Section 7.7](#) regarding impact of Critical Environmental Areas on lot size requirements.

- B. Building Requirements.** Setback, structure height, and vegetated buffer width requirements shall be as set forth in the tables below:

TABLE 4.3.2[3], Building Requirements, Conventional Lots

BUILDING SETBACK REQUIREMENTS	
Front yard	40 feet
Side yard	15 feet
Rear yard	50 feet
Side and rear yards, accessory structures	5 feet
Intermittent streams*	25 feet
Perennial streams and springs*	100 feet
MAXIMUM BUILDING HEIGHT	
Maximum building height	35 feet

* -- Stream setbacks do not apply where floodplains are identified on Flood Insurance Rate Maps (FIRM).

TABLE 4.3.2[4], Building Requirements, Cluster Lots

BUILDING SETBACK REQUIREMENTS	
Front yard	35 feet
Side yard	15 feet
Rear yard	45 feet
Side and rear yards, accessory structures	5 feet
Intermittent Streams*	25 feet
Perennial Streams and Springs*	100 feet
MAXIMUM BUILDING HEIGHT	
Maximum Building Height	35 feet

* -- Stream setbacks do not apply where floodplains are identified on Flood Insurance Rate Maps (FIRM).

C. Special District Regulations

1. Open Space Requirements for Detached Residential-1 (DR-1) Subdivisions. In subdivisions approved for cluster development, a minimum of 15% of the net site area (which excludes one hundred year floodplains, sinkholes, and slopes exceeding 25% and 50% of land with slopes between 15 and 25%) shall be open space dedicated to common usage and ownership.

2. Sinkholes or karst features on lots platted before February 17, 2004, shall be mitigated as described in the [Virginia Department of Transportation’s Location and Design Division Instructional and Informational Memorandum 228 \(IIM-LD-228\)](#), or other applicable mitigation standard as recommended by a PE or PG, as approved by the County’s Engineer. Sinkholes or karst features on lots platted after 17 February 2004, shall be mitigated in accordance with the [Virginia Department of Transportation’s Location and Design Division Instructional and Informational Memorandum 228 \(IIM-LD-228\)](#) or other means as approved by the County’s engineer and County staff.

D. Development Regulations. The following development regulations for the DR-1 District may be found in the sections noted below:

- [Lot and Structure Regulations \(Section 7.1\)](#)
- [Parking Regulations \(Section 7.2.5\)](#)
- [Annexation Area B Development Regulations \(Section 7.7\)](#)
- [Sign Regulations \(Section 7.8\)](#)
- [Siting of Propane Tanks \(Section 7.10\)](#)
- [Parking and Storage of Inoperable Vehicles \(Section 7.12\)](#)

4.3.3	Detached Residential – 2 District	DR-2
<p><u>Purpose:</u> The Detached Residential - 2 (DR-2) District is created to provide for single family detached residences in a carefully planned pattern compatible with the comprehensive plan's goals for residential development in the Town of Berryville and within the precincts of the Berryville Area Plan. A maximum density of two units per net developable acre establishes a low density district for detached residences. This district shall be applied with the intent of preserving existing natural features and vegetation, promoting excellence in site planning and landscape design, and encouraging housing of compatible scale and architectural character. Cluster residential development shall be encouraged and permitted, by right, so that specific environmental preservation and land use goals may be promoted.</p>		

- A. Lot Density and Dimensional Requirements.** The density and dimensional requirements for lots shall be as set forth in the tables below.

TABLE 4.3.3[1], Lot Area/Width Requirements, Conventional Lots

-- Maximum density, residential uses	2 dwellings per net developable acre
-- Maximum floor area ratio, non-residential uses	0.15
-- Minimum area*	20,000 square feet
-- Maximum area	45,000 square feet
-- Minimum lot width, interior lot	100 feet
-- Minimum lot width, corner lot	120 feet

* -- See [Section 7.7](#) regarding impact of Critical Environmental Areas on lot size requirements.

TABLE 4.3.3[2], Lot Area/Width Requirements, Cluster Lots

-- Minimum district size for cluster subdivision	4 acres
-- Minimum area*	12,500 square feet
-- Maximum area	30,000 square feet
-- Minimum lot width, interior lot	75 feet
-- Minimum lot width, corner lot	90 feet

* -- See [Section 7.7](#) regarding impact of Critical Environmental Areas on lot size requirements.

- B. Building Requirements.** Setback, structure height, and vegetated buffer width requirements shall be as set forth in the tables below:

TABLE 4.3.3[3], Building Requirements, Conventional Lots

BUILDING SETBACK REQUIREMENTS	
Front yard	30 feet
Side yard	15 feet
Rear yard	40 feet
Side and rear yards, accessory structures	5 feet
Intermittent streams*	25 feet
Perennial streams and springs*	100 feet
MAXIMUM BUILDING HEIGHT	
Maximum building height	35 feet

* -- Stream setbacks do not apply where floodplains are identified on Flood Insurance Rate Maps (FIRM).

TABLE 4.3.3[4], Building Requirements, Cluster Lots

BUILDING SETBACK REQUIREMENTS	
Front yard	25 feet
Side yard	10 feet
Rear yard	35 feet
Side and rear yards, accessory structures	5 feet
Intermittent streams*	25 feet
Perennial streams and springs*	100 feet
MAXIMUM BUILDING HEIGHT	
Maximum building height	35 feet

* -- Stream setbacks do not apply where floodplains are identified on Flood Insurance Rate Maps (FIRM).

C. Special District Regulations

1. Open Space Requirements for Detached Residential (DR-2) Subdivisions. In subdivisions approved for cluster development, 20% of the net site area (which excludes one hundred year floodplains, sinkholes and slopes exceeding 25% and 50% of land with slopes between 15 and 25%) shall be open space dedicated to common usage and ownership.
2. Sinkholes or karst features on lots platted before February 17, 2004, shall be mitigated as described in the [Virginia Department of Transportation’s Location and Design Division Instructional and Informational Memorandum 228 \(IIM-LD-228\)](#), or other applicable mitigation standard as recommended by a PE or PG, as approved by the County’s Engineer. Sinkholes or karst features on lots platted after 17 February 2004, shall be mitigated in accordance with the [Virginia Department of Transportation’s Location and Design Division Instructional and Informational Memorandum 228 \(IIM-LD-228\)](#) or other means as approved by the County’s engineer and County staff.

D. Development Regulations. The following development regulations for the DR-2 District may be found in the sections noted below:

- [Lot and Structure Regulations \(Section 7.1\)](#)
- [Parking Regulations \(Section 7.2.5\)](#)
- [Annexation Area B Development Regulations \(Section 7.7\)](#)
- [Sign Regulations \(Section 7.8\)](#)
- [Siting of Propane Tanks \(Section 7.10\)](#)
- [Parking and Storage of Inoperable Vehicles \(Section 7.12\)](#)

4.3.4	Detached Residential – 4 District	DR-4
<p><u>Purpose:</u> The Detached Residential - 4 (DR-4) District is created to provide for the single family detached residences at higher densities than other single family detached districts. A maximum density of four (4.0) units per net developable acre establishes a medium-low density district for detached residences. The application of this district shall be to undeveloped tracts lying within the Town of Berryville and within the precincts of the Berryville Area Plan, as well as to fill lots within the existing stable neighborhoods, with the intent of preserving existing natural features and vegetation, promoting excellence in site planning and landscape design, and encouraging housing of compatible scale and architectural character. Cluster residential development shall be encouraged and permitted, by right, so that specific environmental preservation and land use goals may be promoted.</p>		

A. Lot Density and Dimensional Requirements. The density and dimensional requirements for lots shall be as set forth in the tables below.

TABLE 4.3.4[1], Lot Area/Width Requirements, Conventional Lots

-- Maximum density, residential uses	4 dwellings per net developable acre
-- Maximum floor area ratio, non-residential uses	0.15
-- Minimum area*	10,000 square feet
-- Maximum area	30,000 square feet
-- Minimum lot width, interior lot	75 feet
-- Minimum lot width, corner lot	90 feet

* -- See [Section 7.7](#) regarding impact of Critical Environmental Areas on lot size requirements.

TABLE 4.3.4[2], Lot Area/Width Requirements, Cluster Lots

-- Minimum district size for cluster subdivision	2 acres
-- Minimum area*	7,500 square feet
-- Maximum area	20,000 square feet
-- Minimum lot width, interior lot	60 feet
-- Minimum lot width, corner lot	75 feet

* -- See [Section 7.9](#) regarding impact of Critical Environmental Areas on lot size requirements.

- B. Building Requirements.** Setback, structure height, and vegetated buffer width requirements shall be as set forth in the tables below:

TABLE 4.3.4[3], Building Requirements, Conventional Lots

BUILDING SETBACK REQUIREMENTS	
Front yard	
-- For primary structures	20 feet
-- For garages, carports, or other structures used to house vehicles	25 feet
Side yard	10 feet
Rear yard	30 feet
Side and rear yards, accessory structures	5 feet
Intermittent streams*	25 feet
Perennial streams and springs*	100 feet
MAXIMUM BUILDING HEIGHT	
Maximum building height	35 feet

* -- Stream setbacks do not apply where floodplains are identified on Flood Insurance Rate Maps (FIRM).

TABLE 4.3.4[4], Building Requirements, Cluster Lots

BUILDING SETBACK REQUIREMENTS	
Front yard	
-- For primary structures	15 feet
-- For garages, carports, or other structures used to house vehicles	25 feet
Side yard	10 feet
Rear yard	25 feet
Side and rear yards, accessory structures	5 feet
Intermittent streams*	25 feet
Perennial streams and springs*	100 feet
MAXIMUM BUILDING HEIGHT	
Maximum building height	35 feet

* -- Stream setbacks do not apply where floodplains are identified on Flood Insurance Rate Maps (FIRM).

C. Special District Regulations

1. Open Space Requirements for Detached Residential (DR-4) Subdivisions. In subdivisions approved for cluster development, 20% of the net site area (which excludes one hundred year floodplains, sinkholes and slopes exceeding 25% and 50% of land with slopes between 15 and 25%) shall be open space dedicated to common usage and ownership. In cluster subdivisions, at least one-fourth of the required open space (5% of the net site area) shall be developed and designed for recreational and active community open space.
2. Sinkholes or karst features on lots platted before February 17, 2004, shall be mitigated as described in the [Virginia Department of Transportation’s Location and Design Division Instructional and Informational Memorandum 228 \(IIM-LD-228\)](#), or other applicable mitigation standard as recommended by a PE or PG, as approved by the County’s Engineer. Sinkholes or karst features on lots platted after 17 February 2004, shall be mitigated in accordance with the [Virginia Department of Transportation’s Location and Design Division Instructional and Informational Memorandum 228 \(IIM-LD-228\)](#) or other means as approved by the County’s engineer and County staff.

D. Development Regulations. The following development regulations for the DR-4 District may be found in the sections noted below:

- [Lot and Structure Regulations \(Section 7.1\)](#)
- [Parking Regulations \(Section 7.2.5\)](#)
- [Annexation Area B Development Regulations \(Section 7.7\)](#)
- [Sign Regulations \(Section 7.8\)](#)
- [Siting of Propane Tanks \(Section 7.10\)](#)
- [Parking and Storage of Inoperable Vehicles \(Section 7.12\)](#)

4.3.5	Business Commercial District	BC
<p><u>Purpose:</u> The Business Commercial (BC) District is established to provide locations for highway commercial uses (such as retail uses dependent on automobile access, restaurants, and motels), offices, and employment related businesses within the precincts of the Berryville Area Plan. The BC District is further established to encourage innovative design of office, employment, and retail related development; and to these ends, development under this district is permitted only in accordance with a site plan.</p> <p>The application of this district is intended for newly developing locations in the Berryville Area where office, retail, and similar activities are the principal use. High quality business park and commercial site design principals are to be incorporated into the BC District uses. Highway oriented commercial uses shall be located where they are pre-planned and creatively grouped in an efficient manner meeting the comprehensive planning objectives.</p> <p>The specific uses permitted within the BC District must be in harmony with the cultural and environmental character of the Berryville Area. No use should be permitted which might be harmful to the adjoining land uses and the residential ambiance of the community at-large. Adequate transportation and site planning of all land uses shall have the goal of minimizing traffic conflicts with all other activities within the Berryville Area.</p>		

- A. Lot Density and Dimensional Requirements.** The density and dimensional requirements for lots shall be as set forth in the tables below.

TABLE 4.3.5[1], Lot Area/Width Requirements

-- Maximum floor area ratio (based on net developable area of lot)	0.30
-- Minimum district size	4 acres
-- Minimum lot area	20,000 square feet
-- Minimum lot width	100 feet

- B. Building Requirements.** Setback, structure height, and vegetated buffer width requirements shall be as set forth in the tables below:

TABLE 4.3.5[2], Building Requirements

BUILDING SETBACK REQUIREMENTS	
Front yard	40 feet
Side yard	
-- Street side of corner lot	40 feet
-- All other lots	25 feet
Rear yard	25 feet
Setback from property lines shared with residential zoning districts	40 feet
MAXIMUM BUILDING HEIGHT	
Maximum building height	40 feet

C. Special District Regulations

1. Open Space. A landscaping plan shall be submitted with any application for site plan approval depicting a minimum of twenty percent (20%) of the gross site area as landscaped open space.
2. Parking, Streets, and Access. All parking requirements shall be met by off-street, on-site spaces as enumerated in [Section 7.2.5 \(Parking Regulations\)](#) and shall include designated spaces for the handicapped. The location, spacing and number of private driveway entrances shall comply with Virginia Department of Transportation standards and shall be subject to final site plan approval. Off-street parking spaces shall be accessed via private driveways and shall not be directly accessed from public rights of way.
3. Buffering and Landscaping. Where a lot in the BC District is contiguous to a residential zoning district or public right of way with limited access, a landscaped buffer strip 15 feet in width shall be provided. Landscape materials and their placement shall comply with [Section 7.2.4 \(Landscaping Design Standards\)](#) and shall be subject to final site plan approval. With the approval of the administrative body, walls, fences, or wider buffer strips may be used in lieu of landscaping.
4. Storage of Materials and Refuse. All refuse containers shall be screened by a solid wall or fence. Any establishment involved with the storage of any fuel for sale, for on-site use, or for any other purposes, shall be permitted only if the fuel is stored underground, except where otherwise permitted under provisions granted and stipulations required by the administrative body. All storage shall be conducted within the principal structure, which is to be completely enclosed. There shall be no outdoor storage and/or display of goods, with the exception of retail display such as plant materials associated with nurseries.
5. Uses, Facilities and Improvements.
 - a. All business services (and storage) shall be conducted within the principal structure, which is to be completely enclosed.

ARTICLE I – ZONING ORDINANCE
2024 EDITION

- b. Signing, mailboxes, site lighting, and architectural materials shall be provided and installed by the property's owner-developer and shall be consistent and compatible with the scale and character of the development.
 - c. Private streets, street lighting, sidewalks, curbing and gutters, and parking bays shall be constructed to standards specified by the administrative authority or its agent.
 - d. Of the Freestanding Signs allowed in [Section 7.8](#), one of these signs may be located on a property other than the property to which the freestanding sign directs attention, provided that:
 - (1) The property on which the sign is located is in the same Business Commercial, BC, zoning district as the property to which the freestanding sign directs attention,
 - (2) The property on which the sign is located is within 1000 feet of the property to which the freestanding sign directs attention, and
 - (3) The off-site freestanding sign is not closer than 100 feet to any other freestanding sign.
6. **Site Plan.** A site plan, which shall govern all development, shall be submitted for approval. Site plans shall include provisions for:
- a. Adequate public facilities,
 - b. Development phasing,
 - c. Stormwater management facilities that comply with State stormwater management regulations,
 - d. Lighting and signing,
 - e. Building placement and lot configuration, and
 - f. Other special site features and land use considerations deemed necessary to serve the district.

Any site plan application which is not in strict conformance with a pre-existing approved master plan for the district shall require an amendment to that master plan and preliminary plat, if necessary, prior to site plan approval of the specific use. All uses shall be subject to final site plan approval.

- D. Development Regulations.** The following development regulations for the BC District may be found in [Section 7.2 \(Site Development Plan Design Standards and Development Regulations\)](#):

- [Site Development Plan Requirements \(Section 7.2.1\)](#)
- [Streets, Public Rights of Way, and Pedestrian Facilities \(Section 7.2.2\)](#)
- [Public Utilities; Use of Private Wells and Onsite Sewage Disposal Systems \(Section 7.2.3\)](#)
- [Landscaping Design Standards \(Section 7.2.4\)](#)

- [Parking Regulations \(Section 7.2.5\)](#)
- [Outdoor Lighting Standards \(Section 7.2.6\)](#)
- [Environmental Reviews \(Section 7.2.7\)](#)
- [Plan Approval and Construction \(Section 7.2.8\)](#)

The following additional regulations apply to development and uses in the BC District:

- [Lot and Structure Regulations \(Section 7.1\)](#)
- [Annexation Area B Development Regulations \(Section 7.7\)](#)
- [Sign Regulations \(Section 7.8\)](#)
- [Siting of Propane Tanks \(Section 7.10\)](#)
- [Parking and Storage of Inoperable Vehicles \(Section 7.12\)](#)

4.3.6	Business District	B
<p><u>Purpose:</u> The Business (B) District is established to provide locations for a broad range of general business activities, particularly employment-related businesses, in a business park setting in the precincts of the Berryville Area Plan. The B District is established to encourage innovative design of employment related development; to these ends, development under this district will be permitted only in accordance with a site plan. The B District is intended to provide business "incubator" locations that allow one or more small businesses to operate in one or more buildings under common ownership.</p> <p>The specific uses permitted within the B District must be in harmony with the cultural and environmental character of the Town of Berryville. No use should be permitted which might be harmful to adjoining land uses or to the community at large. Adequate transportation and site planning of all land uses shall have the goal of minimizing traffic conflicts with all other activities within the Berryville Area.</p>		

- A. Lot Density and Dimensional Requirements.** The density and dimensional requirements for lots shall be as set forth in the tables below.

TABLE 4.3.6[1], Lot Area/Width Requirements

-- Maximum floor area ratio (based on net developable area of lot)	0.30
-- Minimum district size	4 acres
-- Minimum lot area	20,000 square feet
-- Minimum lot width	100 feet

- B. Building Requirements.** Setback, structure height, and vegetated buffer width requirements shall be as set forth in the tables below:

TABLE 4.3.6[2], Building Requirements

BUILDING SETBACK REQUIREMENTS	
Front yard	40 feet
Side yard	
-- Street side of corner lot	40 feet
-- All other lots	25 feet
Rear yard (may be reduced where rear yard abuts a railroad right of way)	25 feet
Setback from property lines shared with residential zoning districts	40 feet
MAXIMUM BUILDING HEIGHT	
Maximum building height	40 feet

C. Special District Regulations

1. Open Space. A landscaping plan shall be submitted with any application for site plan approval depicting a minimum of fifteen percent (15%) of the gross site area as landscaped open space.
2. Parking, Streets, and Access. All parking requirements shall be met by off-street, on-site spaces as enumerated in [Section 7.2.5 \(Parking Regulations\)](#) and shall include designated spaces for the handicapped. The location, spacing and number of private driveway entrances shall comply with Virginia Department of Transportation standards and shall be subject to final site plan approval. Off-street parking spaces shall be accessed via private driveways and shall not be directly accessed from public rights of way.

Public streets within or immediately adjacent to the B zoning district shall be constructed to industrial road standards if determined necessary by the administrative body. Sidewalks may be required on such streets if determined necessary by the administrative body.

3. Buffering and Landscaping.
 - a. Where a lot in the B District is contiguous to a residential zoning district or public right of way of 60 feet or more, a landscaped buffer strip 15 feet in width shall be provided. Such a buffer strip shall include any combination of masonry or wooden walls or fences and/or evergreen shrubs that provide an opaque visual buffer at least 6 feet high within 6 months of occupancy of a lot.
 - b. Where a lot in the B zoning district is contiguous to another non-residential zoning district, a landscaped buffer strip 10 feet in width shall be provided.

ARTICLE I – ZONING ORDINANCE
2024 EDITION

- c. Landscape materials and their placement shall comply with [Section 7.2.4 \(Landscaping Design Standards\)](#) and shall be subject to final site plan approval. With the approval of the administrative body, walls, fences, or wider buffer strips may be used in lieu of landscaping.
 - d. Common property ownership agreements and covenants shall be reviewed and approved by the administrative body.
 4. Storage of Materials and Refuse. All refuse containers shall be screened by a solid and opaque wall or fence. Any establishment involved with the storage of any fuel for sale, for on-site use, or for any other purposes, shall be permitted only if the fuel is stored underground, except where otherwise permitted under provisions granted and stipulations required by the administrative body. The outdoor area devoted to storage, loading, and display of goods shall be limited to that area so designated on an approved site plan. Outdoor storage for any use in the B zoning district shall be completely enclosed within solid and opaque masonry, metal, or wooden fences at least 6 feet in height. No material or equipment within an outdoor storage area shall be visible from any public right of way or any lot in a residential zoning district.
 5. Uses, Facilities and Improvements.
 - a. All business services (and storage) shall be conducted within the principal structure, which is to be completely enclosed.
 - b. Signing, mailboxes, site lighting, and architectural materials shall be provided and installed by the property's owner-developer and shall be consistent and compatible with the scale and character of the development.
 - c. Private streets, street lighting, sidewalks, curbing and gutters, and parking bays shall be constructed to standards specified by the administrative authority or its agent.
 6. Site Plan. A site plan, which shall govern all development, shall be submitted for approval. Site plans shall include provisions for:
 - a. Adequate public facilities,
 - b. Development phasing,
 - c. Stormwater management facilities that comply with State stormwater management regulations,
 - d. Lighting and signing,
 - e. Building placement and lot configuration, and
 - f. Other special site features and land use considerations deemed necessary to serve the district.

Any site plan application which is not in strict conformance with a pre-existing approved master plan for the district shall require an amendment to that master plan and

preliminary plat, if necessary, prior to site plan approval of the specific use. All uses shall be subject to final site plan approval.

D. Development Regulations. The following development regulations for the B District may be found in [Section 7.2 \(Site Development Plan Design Standards and Development Regulations\)](#):

- [Site Development Plan Requirements \(Section 7.2.1\)](#)
- [Streets, Public Rights of Way, and Pedestrian Facilities \(Section 7.2.2\)](#)
- [Public Utilities; Use of Private Wells and Onsite Sewage Disposal Systems \(Section 7.2.3\)](#)
- [Landscaping Design Standards \(Section 7.2.4\)](#)
- [Parking Regulations \(Section 7.2.5\)](#)
- [Outdoor Lighting Standards \(Section 7.2.6\)](#)
- [Environmental Reviews \(Section 7.2.7\)](#)
- [Plan Approval and Construction \(Section 7.2.8\)](#)

The following additional regulations apply to development and uses in the B District:

- [Lot and Structure Regulations \(Section 7.1\)](#)
- [Annexation Area B Development Regulations \(Section 7.7\)](#)
- [Sign Regulations \(Section 7.8\)](#)
- [Siting of Propane Tanks \(Section 7.10\)](#)
- [Parking and Storage of Inoperable Vehicles \(Section 7.12\)](#)

4.3.7	Business Park District	BP
<p><u>Purpose:</u> The Business Park (BP) District is established to provide locations within the Berryville Area for a broad range of light industrial and business uses. Such uses should be capital intensive (rather than labor intensive), having a significant investment in machinery and tools that should generate maximum revenue for local government. Such uses should promote horizontal and vertical integration of industrial and business activities, so that new businesses enhance and expand the base of existing businesses. All uses shall be in harmony with the cultural and environmental character of the Berryville Area and conform to all federal, state, and local environmental performance standards. Transportation and site planning of all land uses shall have the goal of minimizing traffic congestion.</p> <p>The application of this district is intended for those locations within the Berryville Area that are planned for Light Industrial/Research uses.</p>		

A. Lot Density and Dimensional Requirements. The density and dimensional requirements for lots shall be as set forth in the tables below.

TABLE 4.3.7[1], Lot Area/Width Requirements

-- Maximum floor area ratio (based on net developable area of lot)	0.35
-- Minimum district size	None
-- Minimum lot area	60,000 square feet
-- Minimum lot width	100 feet

- B. Building Requirements.** Setback, structure height, and vegetated buffer width requirements shall be as set forth in the tables below:

TABLE 4.3.7[2], Building Requirements

BUILDING SETBACK REQUIREMENTS	
Front yard	40 feet
Side yard (may be reduced where side yard abuts a railroad right of way)	25 feet
Rear yard (may be reduced where rear yard abuts a railroad right of way)	25 feet
Setback from property lines shared with zoning district whose permitted uses are not of a business, office, commercial, or industrial nature	60 feet
MAXIMUM BUILDING HEIGHT	
Maximum building height	40 feet

C. Special District Regulations

- Open Space.** An open space plan and landscape design program shall be submitted with applications for any land use governed by this district. 15% of the site shall be landscaped open space.
- Parking, Streets, and Access.** All parking requirements shall be met by off-street, on-site spaces as enumerated in [Section 7.2.5 \(Parking Regulations\)](#) and shall include designated spaces for the handicapped. The location, spacing and number of private driveway entrances shall comply with Virginia Department of Transportation standards and shall be subject to final site plan approval. Off-street parking spaces shall be accessed via private driveways and shall not be directly accessed from public rights of way.

Public streets within or immediately adjacent to the BP zoning district shall be constructed to industrial road standards if determined necessary by the administrative body. Sidewalks may be required on such streets if determined necessary by the administrative body.

ARTICLE I – ZONING ORDINANCE
2024 EDITION

3. Buffering and Landscaping.
 - a. Where a lot in the BP district is contiguous to property located in any residential or institutional district, a landscaped buffer strip of 25 feet in width shall be provided.
 - b. Where a lot is contiguous to property located in any business, office, or commercial district, a landscaped buffer strip of 10 feet in width shall be provided.
 - c. Where a lot is contiguous to property located in any industrial district, a landscaped buffer strip of 5 feet in width shall be provided.
 - d. Landscape materials and placement subject to site plan approval in all landscaped buffer strips.
4. Storage of Materials and Refuse. All refuse containers shall be screened by a solid and opaque wall or fence. The outdoor area devoted to storage, loading, and display of goods shall be limited to that area so designated on an approved site plan. All equipment, materials, and fuel storage tanks shall be contained entirely within a building or screened from public rights-of-way and contiguous lots which are zoned for residential or institutional uses.
5. Site Plans and Special Use Permits. All uses shall be subject to final site plan approval. Final site plans shall include a report indicating compliance with any locally adopted performance standards and land use criteria. Applications for all uses subject to special use permits shall be accompanied by an environmental impact assessment addressing land use compatibility issues related to locally adopted performance standards. Any BP Business Park District land use application which is not in strict conformance with the pre-existing approved master site plan and preliminary plat for the district shall require an amendment to that master site plan and preliminary plat prior to site plan approval of the specific use. Site plans for development in BP Business Park Districts shall include provisions for
 - a. Adequate public facilities,
 - b. Development phasing,
 - c. Stormwater management facilities that comply with State stormwater management regulations,
 - d. Lighting and signing, and
 - e. Other special site features and land use considerations deemed necessary to serve the industrial district.
6. Covenants. Common property ownership agreements and covenants for BP Business Park District developments shall be reviewed and approved by the governing body or its agent.

ARTICLE I – ZONING ORDINANCE
2024 EDITION

7. Noise. Sound levels at the perimeter property line of any lot in the BP zoning district shall not exceed 65 decibels (dba).

D. Development Regulations. The following development regulations for the BP District may be found in [Section 7.2 \(Site Development Plan Design Standards and Development Regulations\)](#):

- [Site Development Plan Requirements \(Section 7.2.1\)](#)
- [Streets, Public Rights of Way, and Pedestrian Facilities \(Section 7.2.2\)](#)
- [Public Utilities; Use of Private Wells and Onsite Sewage Disposal Systems \(Section 7.2.3\)](#)
- [Landscaping Design Standards \(Section 7.2.4\)](#)
- [Parking Regulations \(Section 7.2.5\)](#)
- [Outdoor Lighting Standards \(Section 7.2.6\)](#)
- [Environmental Reviews \(Section 7.2.7\)](#)
- [Plan Approval and Construction \(Section 7.2.8\)](#)

The following additional regulations apply to development and uses in the BP District:

- [Lot and Structure Regulations \(Section 7.1\)](#)
- [Annexation Area B Development Regulations \(Section 7.7\)](#)
- [Sign Regulations \(Section 7.8\)](#)
- [Siting of Propane Tanks \(Section 7.10\)](#)
- [Parking and Storage of Inoperable Vehicles \(Section 7.12\)](#)

4.3.8	Institutional District	ITL
<p><u>Purpose:</u> The Institutional District (ITL) is created to identify locations for municipal government properties and land uses (both Town, County, State, and/or Federal), semi-public uses, residential uses serving general public purpose, and natural open space resources deemed necessary in providing areas for "passive" and "active" recreational areas within the precincts of the Berryville Area Plan. This district is established to clearly identify these lands and to distinguish them from other areas of the Berryville Area which are held appropriate for private urban land uses. Lands in this designation are primarily intended for governmental agency use and mixed-use (public/private) orientations.</p> <p>The application of this district is intended for those areas within the Berryville Area which are planned for Institutional Uses.</p>		

- A. Lot Density and Dimensional Requirements.** The density and dimensional requirements for lots shall be as set forth in the tables below. Lot requirements for the “housing for low and moderate income households” use are set forth in [Subsection C](#) below.

TABLE 4.3.8[1], Lot Area/Width Requirements

-- Maximum floor area ratio (based on net developable area of lot)	0.30
-- Minimum district size	4 acres
-- Minimum lot area	20,000 square feet
-- Minimum lot width	100 feet

- B. Building Requirements.** Setback, structure height, and vegetated buffer width requirements shall be as set forth in the tables below. Building requirements for the “housing for low and moderate income households” use are set forth in [Subsection C](#) below.

TABLE 4.3.8[2], Building Requirements

BUILDING SETBACK REQUIREMENTS	
Front yard	40 feet
Side yard	
-- Street side of corner lot	40 feet
-- All other lots	25 feet
Rear yard	25 feet
Setback from property lines shared with residential zoning districts	40 feet
MAXIMUM BUILDING HEIGHT	
Maximum building height	40 feet

ARTICLE I – ZONING ORDINANCE
2024 EDITION

1. Maximum height requirement for agricultural structures. Agricultural structures shall have a maximum height of 50 feet in height except for silos which shall have a maximum height of 100 feet. In no event shall the height of an agricultural structure exceed the distance from the structure to the nearest lot line.

C. **Special District Regulations – Housing for Low and Moderate Income Households.** The following special regulations apply for the creation of lots and construction of residential buildings as “housing for low and moderate income households.” This use is a special use in the ITL District and is described in detail in [Section 5.3 \(Uses, Definitions, and Use Regulations –Annexation Area Districts\)](#).

Housing for low and moderate income households may be in the form of multifamily, attached single-family (townhouses and duplexes), or detached single-family dwellings. Lot requirements and building requirements are set forth in the tables below according to structure type:

TABLE 4.3.8[3], Lot Area/Width Requirements, Multifamily Dwellings

-- Maximum density	12 units per net developable acre
-- Minimum district size	3 acres
-- Minimum lot area	n/a
-- Minimum lot width	n/a

TABLE 4.3.8[4], Building Requirements, Multifamily Dwellings

BUILDING SETBACK REQUIREMENTS	
Front yard	25 feet
Side yard	25 feet
Rear yard	45 feet
Minimum setback from railroad right-of-way	100 feet
OTHER BUILDING REQUIREMENTS	
Maximum building height	35 feet
Minimum building separation between multifamily structures on the same lot	25 feet
Minimum required open space (percentage of total lot area)	40%

TABLE 4.3.8[5], Lot Area/Width Requirements, Townhouse Dwellings

-- Maximum density	12 units per net developable acre
-- Minimum district size	3 acres
Minimum lot area	
-- Interior lot	2,000 square feet
-- Corner lot	2,400 square feet
Minimum lot width:	
-- Interior lot	20 feet
-- Corner lot	35 feet

TABLE 4.3.8[6], Building Requirements, Townhouse Dwellings

BUILDING SETBACK REQUIREMENTS	
Front yard	15 feet
Side yard (for end unit)	15 feet
Rear yard	30 feet
Minimum setback from railroad right-of-way	100 feet
Minimum setback from property zoned other than ITL	40 feet
Minimum setback from private drives, parking areas, and common use walkways	15 feet
Accessory structures (rear and side yards)	5 feet
OTHER BUILDING REQUIREMENTS	
Maximum building height	35 feet
Minimum required open space (percentage of total lot area)	30%
Minimum separation between townhouse buildings	15 feet

TABLE 4.3.8[7], Lot Area/Width Requirements, Duplex Dwellings

Lot Area and Width Requirements	
-- Maximum density	12 units per net developable acre
-- Minimum district size	3 acres
Minimum lot area	
-- Total duplex structure	10,000 square feet
-- Each duplex unit	4,500 square feet
Minimum lot width:	
-- Total duplex structure	75 feet
-- Each duplex unit	35 feet

TABLE 4.3.8[8], Building Requirements, Duplex Dwellings

BUILDING SETBACK REQUIREMENTS	
Front yard	25 feet
Side yard	10 feet
Rear yard	40 feet
Minimum setback from railroad right-of-way	100 feet
OTHER BUILDING REQUIREMENTS	
Maximum building height	35 feet
Maximum lot coverage (percentage of total lot area)	35%
Minimum required open space (percentage of total lot area)	10%

TABLE 4.3.8[9], Lot Area/Width Requirement, Single-Family Detached Dwellings

-- Maximum density	12 units per net developable acre
-- Minimum district size	3 acres
-- Minimum lot area	7,500 square feet
-- Minimum lot width	60 feet

TABLE 4.3.8[10], Building Requirements, Single-Family Detached Dwellings

BUILDING SETBACK REQUIREMENTS	
Front yard	
-- From right-of-way 50 feet or more in width	20 feet
-- From center of street right-of-way less than 50 feet in width	35 feet
Side yard	
-- Side yard facing side street on corner lots	20 feet
-- All other yards	10 feet
Rear yard	40 feet
Minimum setback from railroad right-of-way	100 feet
Accessory structures – Side and Rear Yards	
-- Side yard facing side street on corner lots	20 feet
-- All other yards	5 feet
MAXIMUM BUILDING HEIGHT	
Maximum building height	35 feet

D. Other Special District Regulations

1. Open Space. An open space plan and landscape design program shall be submitted with applications for any land use governed by this district.

For housing for low and moderate income households developed as townhouses, at least 20 percent of the required open space shall be designed and developed as recreational and active community open space.

ARTICLE I – ZONING ORDINANCE
2024 EDITION

2. General Regulations. All uses shall be subject to site plan review. Applications for residential uses shall be submitted with copies of deed covenants with prospective purchasers, or conservation easements with the Town and/or County, describing land management practices to be followed by whichever party or parties are responsible for regular maintenance, mowing or gardening.
3. Additional Standards for Public Uses. For public uses, a certified copy of the law, ordinance, resolution or other official act adopted by the governmental entity proposing the use, authorizing the establishment of the proposed use at the proposed location, shall be provided. For public uses, a statement by an official or officer of the governmental body shall be presented giving the exact reasons for selecting the particular site as the location for the proposed facility. For public uses, it shall be concluded that the proposed location of the use is necessary for the rendering of efficient governmental services to residents of properties within the Town of Berryville and the County of Clarke.
4. Additional Standards – Housing for Low and Moderate Income Households developed as townhouses.
 - a. Parking, parking access, and parking drives.
 - (1) Two off-street (private) parking spaces per dwelling unit shall be provided and shall be located not more than 100 feet from the individual dwelling unit served.
 - (2) Private driveways and parking bays shall be no closer than twelve (12) feet to any adjoining property line.
 - (3) Separate parking spaces shall be allocated and reserved for recreational vehicle parking and special guest parking. The number of parking spaces allocated for recreational vehicles shall be one parking space per six dwelling units. The number of parking spaces allocated for guests shall be one parking space per two dwelling units.
 - b. Streets.
 - (1) Attached dwelling units shall have access to a private street with a minimum width of 22 feet. The paved street shall be constructed according to Virginia Department of Transportation (VDOT) standards.
 - (2) No attached dwelling unit may be accessed directly from a public street unless approved by a special use permit.
 - (3) No private street shall be located within 12 feet of any property line.
 - c. No more than eight (8) townhouses shall be included in any one physically contiguous grouping.
 - d. Common property lines shall be screened and landscaped.
 - e. All common improvements (including open space, recreational facilities, private streets, walkways, parking areas, and other community facilities) shall be maintained by and be the sole responsibility of the developer-owner of the development until such time as the developer-owner conveys such common area to a nonprofit (homeowners’) entity consisting of at least all of the individual owners of the dwelling units in the development.

ARTICLE I – ZONING ORDINANCE
2024 EDITION

- f. Deed restrictions and covenants shall be included with the conveyance to include, among other things, those assessments, charges, and costs of maintenance of such common areas shall constitute a pro-rata share lien upon the individual dwelling lots, such lien inferior only to taxes and recorded trusts. Furthermore, covenants shall specify the means by which the non-profit entity shall govern and manage itself and maintain building exteriors, landscaping, lighting, recreation areas, walkways, parking areas, snow removal, and travel ways.
 - g. All deed restrictions, covenants, nonprofit (homeowners) entity incorporation documents, and information related to conveyance programs shall be prepared by the developer-owner. These documents shall be submitted with the plat and plans and shall be reviewed by the County Attorney.
 - h. Onsite lighting, signing, and mailboxes shall be provided and installed by the developer-owner. These improvements shall be of compatible scale, material, and colors.
 - i. Where a lot is to be divided into individual lots for the sale of townhouse units, lot lines shall conform with party wall centerlines. A privacy yard, having a minimum area of 200 square feet, shall be provided on each lot. Privacy yards shall include screening, fencing, patio paving, and/or special landscaping treatment.
5. Additional Standards – Housing for Low and Moderate Income Households developed as duplexes. Where a lot is to be divided into individual lots for the sale of individual units, lot lines shall conform with party wall centerlines.
- E. Development Regulations.** The following development regulations for the ITL District may be found in [Section 7.2 \(Site Development Plan Design Standards and Development Regulations\)](#):

- [Site Development Plan Requirements \(Section 7.2.1\)](#)
- [Streets, Public Rights of Way, and Pedestrian Facilities \(Section 7.2.2\)](#)
- [Public Utilities; Use of Private Wells and Onsite Sewage Disposal Systems \(Section 7.2.3\)](#)
- [Landscaping Design Standards \(Section 7.2.4\)](#)
- [Parking Regulations \(Section 7.2.5\)](#)
- [Outdoor Lighting Standards \(Section 7.2.6\)](#)
- [Environmental Reviews \(Section 7.2.7\)](#)
- [Plan Approval and Construction \(Section 7.2.8\)](#)

The following additional regulations apply to development and uses in the ITL District:

- [Lot and Structure Regulations \(Section 7.1\)](#)
- [Annexation Area B Development Regulations \(Section 7.7\)](#)
- [Sign Regulations \(Section 7.8\)](#)
- [Siting of Propane Tanks \(Section 7.10\)](#)
- [Parking and Storage of Inoperable Vehicles \(Section 7.12\)](#)

SECTION 5	USES
<p>This Section contains the definitions and use regulations for all permitted, accessory, and special uses regulated by this Ordinance along with tables listing how the uses are allowable in the County and Berryville Annexation Area Zoning Districts. Uses are organized into the following five categories:</p> <ul style="list-style-type: none"> • Agricultural Uses • Residential Uses • Business Uses • Recreation, Education, and Assembly Uses • Public and Miscellaneous Uses <p>Temporary uses are not organized by category.</p> <p>NOTE – Zoning District descriptions and regulations are found in Section 4 (Zoning Districts). Development regulations are found in Section 7 (Design Standards and Development Regulations).</p>	

Table of Contents

Section	Title	Page(s)
5.1	Uses Generally	5-2 – 5-3
5.1.1	Description of Uses, Use Categories, and Use Regulations	5-2
5.1.2	Interpretation of Uses by the Zoning Administrator	5-3
5.1.3	Multiple Permitted and/or Special Uses on a Lot	5-3
5.2	Uses, Definitions, and Use Regulations – County Districts	5-4 – 5-74
A.	Agricultural Uses	5-4 – 5-14
B.	Residential Uses	5-15 – 5-31
C.	Business Uses	5-32 – 5-61
D.	Recreation/Education/Assembly Uses	5-62 – 5-68
E.	Public and Miscellaneous Uses	5-68 – 5-75
5.3	Uses, Definitions, and Use Regulations – Annexation Area Districts	5-76 – 5-112
A.	Agricultural Uses	5-76 – 5-77
B.	Residential Uses	5-77 – 5-82
C.	Business Uses	5-83 – 5-100
D.	Recreation/Education/Assembly Uses	5-100 – 5-105
E.	Public and Miscellaneous Uses	5-105 – 5-108
F.	Business Park (BP) District Uses	5-108 – 5-112
5.4	Uses, Definitions, and Use Regulations – Temporary Uses and Structures	5-113 – 5-120

5.1 USES GENERALLY

5.1.1 Descriptions of Uses, Use Types, Use Categories, and Use Regulations.

- A. **Uses.** The uses described in the following sections shall constitute the complete list of uses allowed by this Ordinance:
- [Section 5.2 \(Uses, Definitions, and Use Regulations – County Districts\)](#) contains the list of allowable uses in the County Zoning Districts described in [Section 4.1 \(County Zoning Districts\)](#).
 - [Section 5.3 \(Uses, Definitions, and Use Regulations – Annexation Area Districts\)](#) contains the list of allowable uses in the Berryville Annexation Area Zoning Districts described in [Section 4.3 \(Berryville Annexation Area Zoning Districts\)](#).
 - [Section 5.4 \(Uses, Definitions, and Use Regulations – Temporary Uses and Structures\)](#) contains the list of temporary uses that are allowed in the County and Berryville Annexation Area Zoning Districts.

Definitions for uses are listed with each use. Definitions for general terms used in the Zoning Ordinance are found in [Article III – Definitions](#).

- B. **Use Types.** Uses may be permitted uses, accessory uses, or special uses. Review processes for permitted and accessory uses are listed in [Section 6.2 \(Administrative Review Processes\)](#). The review process for special uses is listed in [Section 6.3.1 \(Special Use Permit\)](#).
- C. **Use Categories.** Allowable uses are grouped into broad general classifications of land use to aid in identifying and describing the uses. Use categories are provided for organizational purposes and are not intended to be used to interpret a specific use. Use categories include:
- Agricultural Uses
 - Residential Uses
 - Business Uses
 - Recreation, Education, and Assembly Uses
 - Public and Miscellaneous Uses
- D. **Use Regulations.** Formerly known as “supplementary regulations,” use regulations are the rules and standards that apply to specific uses in addition to the other provisions and requirements of this Ordinance.
- E. The Business Park (BP) District’s permitted, accessory and special uses and definitions of each as listed in [Section 5.3F \(Business Park \(BP\) District Uses\)](#) are taken from the [North American Industrial Classification \(NAICS\) Manual](#).

5.1.2 Interpretation of Uses by the Zoning Administrator.

A. General Rules. If a proposed use does not meet the definition of any use that is listed in [Sections 5.2, 5.3, or 5.4](#), it is considered to be a prohibited use. If a proposed use clearly meets the definition of a use that is listed in [Sections 5.2, 5.3, or 5.4](#), the use shall not be classified as any other listed use for the purposes of allowing that use in a different zoning district or as a different use type.

B. Interpretation of Uses. The Zoning Administrator shall identify a proposed use as an allowable enumerated use based on the characteristics of the proposed use and that the impact of allowing it in the zoning district are so similar to those of an enumerated use that the proposed use should be deemed allowable as that enumerated use. Characteristics of the proposed use that shall be considered in making this interpretation include but are not limited to:

- Actual or projected activities likely to occur at the proposed use;
- Type, size, orientation, and nature of buildings and structures devoted to each activity;
- Number and density of employees and customers per area of site in relation to business hours and employment shifts;
- Vehicles used and their parking requirements including the ratio of the number of spaces required per area or activity;
- Relative amount of sales from each activity;
- Nature and location of storage and outdoor display of merchandise, whether enclosed, open, inside, or outside the principal building, and the predominant types of items stored;
- How each use is advertised including signage;
- Amount and nature of any nuisances generated on the premises, including but not limited to noise, smoke, odor, glare, vibration, radiation, and fumes;
- Any special public utility requirements for serving the proposed use type, including but not limited to water supply, wastewater output, pre-treatment of wastes and emissions required or recommended, and any significant power structures and communication towers or facilities; and
- Whether any of the aforementioned or other relevant criteria, or the scope of activity of the proposed use, is usual and customary of activities associated with an enumerated use.

5.1.3 Multiple Permitted and/or Special Uses on a Lot. Unless otherwise specifically noted, more than one permitted use, special use, or combination of permitted and special uses may be allowed on a lot subject to the requirements of this Ordinance.

5.2 USES, DEFINITIONS, AND USE REGULATIONS – COUNTY ZONING DISTRICTS

A. AGRICULTURAL USES

Agricultural Use	AOC	FOC	RR	CN	CH
Agricultural Building	A	A	X	X	A
Agriculture	P	P	X	X	P
Biosolids Land Application	A	A	X	X	X
Farm Winery, Farm Brewery, or Farm Distillery	P	P	X	X	X
Forestry	P	P	X	X	X
Intensive Livestock, Dairy, or Poultry Operation	P	P	X	X	X
Livestock Auction Markets	S	X	X	X	X
Small-scale Processing of Fruits and Vegetables	S	S	X	X	X
Wholesale or Retail Sale of Agricultural Products	A	A	X	X	X

P -- Permitted Use S -- Special Use P/S – Permitted or Special Use
A -- Accessory Use X -- Prohibited Use

AGRICULTURAL BUILDING	
Permitted Use	None
Accessory Use	AOC, FOC, CH
Special Use	None

Definition:

A structure under roof that is accessory to an agriculture use located on the same lot, or that is accessory to a forestry use located on the same lot that is subject to a pre-harvest plan as set forth in [Section 6.2.7 \(Pre-Harvest Plan\)](#), and is exempt from building permit requirements by the Clarke County Building Official.

Use Regulations:

None

Required Review Processes:

1. A Zoning Permit is required per [Section 6.2.1](#).
2. Certificate of Appropriateness review is required per [Section 6.2.5](#) for lots located within the Historic Access Corridor (HAC) Overlay District.

ARTICLE I – ZONING ORDINANCE
2024 EDITION

AGRICULTURE	
Permitted Use	AOC, FOC, CH
Accessory Use	None
Special Use	None

Definition:

The use of land for tilling of the soil; the growing of crops or plant growth of any kind, including fruit, flowers, and ornamental plants; pasturage; dairying; or the raising of poultry and/or livestock.

Use Regulations:

1. Keeping of livestock on AOC and FOC zoned lots less than two acres in size. The following limitations shall apply to the keeping of livestock on AOC and FOC zoned lots less than two acres in size:
 - a. No livestock shall be kept on any lot of less than 1 acre in size
 - b. A maximum of 0.5 animal units is allowed for any lot of 1 acre to 1.999 acres
 - c. No livestock limits on the keeping of 4H/Future Farmer of America preparation animals
 - d. No limits on the keeping of poultry.

2. Livestock/Animal Units. Livestock shall be considered hoofed animals or hoof stock with the following weight categories:

Animal Units	Weight	Examples
1.0	900 lbs. and greater	Cows, horses, donkeys
0.5	600 – 899 lbs.	Ponies, miniature horses or cows, donkeys, weaned calves
0.25	300 – 599 lbs.	Alpacas, llamas, pigs
0.125	299 lbs. or less	Sheep, goats, pigs

Nursing mothers and the juvenile animals they are nursing constitute a single animal unit for their particular weight class. Example: a cow/calf (ves) pair qualifies as 1 animal unit; an ewe/lamb(s) pair constitutes 0.25 animal units. Once a newborn is weaned it becomes an animal unit of its respective species. Example: a calf weaned at 599 lbs. qualifies as 0.5 animal units.

Required Review Processes: **None**

BIOSOLIDS LAND APPLICATION	
Permitted Use	None
Accessory Use	AOC, FOC
Special Use	None

Definition:

Biosolids means a sewage sludge that:

- Has received an established treatment for required pathogen control,
- Is treated or managed to reduce vector attraction to a satisfactory level and
- Contains acceptable levels of pollutants, so that it is acceptable for use in land application, marketing, or distribution in accordance with these regulations.

Land application means the distribution of treated wastewater of acceptable quality (referred to as effluent) or stabilized sewage sludge of acceptable quality (referred to as biosolids); placed upon or inserted into the land with a uniform application rate for the purpose of utilization, assimilation or pollutant removal. Bulk disposal of stabilized sewage sludge in confined areas, like landfills, is not land application. Sites approved for land application of biosolids are not to be considered treatment works.

Use Regulations:

1. The biosolids applicator shall notify the Zoning Administrator in writing of its intent to begin land application on an approved site at least 48 hours before such application. The notice shall include:
 - A field map of the lands to which the biosolids will be applied;
 - How long the process is estimated to continue, and
 - When the application will terminate.

If circumstances cause the commencement of land application to take place more than five days after the date indicated, the Zoning Administrator shall be so notified promptly in writing.

2. The Zoning Administrator reserves the right to conduct random sampling of biosolids material. Biosolid sample analysis shall include as a minimum: percent solids, pH, the dry weight concentration of total Kjeldahl nitrogen, ammonium nitrogen, nitrate nitrogen, total phosphorous, total potassium, cadmium, copper, mercury, nickel, lead, and zinc. The Zoning Administrator may require analysis of other bio-solids constituents if necessary to adequately assess the potential public health and environmental impacts of the application. The samples shall be collected by a County representative and analyzed by a State Certified Testing Laboratory at the expense of the applicator.

Required Review Processes: **None**

ARTICLE I – ZONING ORDINANCE
2024 EDITION

FARM WINERY, FARM BREWERY, OR FARM DISTILLERY	
Permitted Use	AOC, FOC
Accessory Use	None
Special Use	None

Definition:

An agricultural operation with agricultural activities conducted on the same lot or on contiguous lot under common ownership which is licensed as a farm winery, a farm brewery, or a farm distillery by the Commonwealth of Virginia.

General Use Regulations:

1. Permitted activities not subject to zoning regulation per Code of Virginia 15.2-2288.3:
 - A. Farm wineries may conduct the following activities:
 - The production and harvesting of fruit and other agricultural products and the manufacturing of wine.
 - The on-premises sale, tasting, or consumption of wine during regular business hours within the normal course of business of the licensed farm winery.
 - The direct sale and shipment of wine by common carrier to consumers in accordance with [Va. Code Title 4.1](#) and regulations of the Board of Directors of the Virginia Alcoholic Beverage Control Authority.
 - The sale and shipment of wine to the Virginia Alcoholic Beverage Control Authority, licensed wholesalers, and out-of-state purchasers in accordance with [Va. Code Title 4.1](#), regulations of the Board of Directors of the Virginia Alcoholic Beverage Control Authority, and federal law.
 - The storage, warehousing, and wholesaling of wine in accordance with [Va. Code Title 4.1](#), regulations of the Board of Directors of the Virginia Alcoholic Beverage Control Authority, and Federal law.
 - The sale of wine-related items that are incidental to the sale of wine.
 - B. Farm breweries may conduct the following activities:
 - The production and harvesting of barley, other grains, hops, fruit, or other agricultural products and the manufacturing of beer.
 - The on-premises sale, tasting, or consumption of beer during regular business hours within the normal course of business of such licensed brewery.
 - The direct sale and shipment of beer in accordance with [Va. Code Title 4.1](#) and regulations of the Board of Directors of the Alcoholic Beverage Control Authority.
 - The sale and shipment of beer to licensed wholesalers and out-of-state purchasers in accordance with [Va. Code Title 4.1](#), regulations of the Board of Directors of the Alcoholic Beverage Control Authority, and Federal law.

ARTICLE I – ZONING ORDINANCE
2024 EDITION

- The storage and warehousing of beer in accordance with [Va. Code Title 4.1](#), regulations of the Board of Directors of the Alcoholic Beverage Control Authority, and Federal law.
 - The sale of beer-related items that are incidental to the sale of beer.
- C. Farm distilleries may conduct the following activities:
- The production and harvesting of agricultural products and the manufacturing of alcoholic beverages other than wine or beer.
 - The on-premises sale, tasting, or consumption of alcoholic beverages other than wine or beer during regular business hours in accordance with a contract between a distiller and the Alcoholic Beverage Control Authority pursuant to the provisions of [subsection D of Va. Code § 4.1-119](#).
 - The sale and shipment of alcoholic beverages other than wine or beer to licensed wholesalers and out-of-state purchasers in accordance with [Va. Code Title 4.1](#), regulations of the Alcoholic Beverage Control Authority, and Federal law.
 - The storage and warehousing of alcoholic beverages other than wine or beer in accordance with [Va. Code Title 4.1](#), regulations of the Alcoholic Beverage Control Authority, and Federal law.
 - The sale of items related to alcoholic beverages other than wine or beer that are incidental to the sale of such alcoholic beverages.
2. Zoning permit required. A zoning permit shall be required to operate a farm winery, farm brewery, or farm distillery. No zoning permit shall be issued until the following information is confirmed by the Zoning Administrator:
- A. That the proposed farm winery, farm brewery, or farm distillery will be conducted as an agricultural operation with agricultural activities conducted on the same lot.
 - B. That the applicant has filed an application with the Virginia Alcoholic Beverage Control Authority to operate a farm winery, farm brewery, or farm distillery, as defined in [Va. Code Title 4.1](#), on the same property as proposed on the zoning permit. The applicant shall provide a copy of the approved license prior to commencing production of wine, beer, or alcoholic beverages.
 - C. That the applicant has filed a business license application with the Commissioner of the Revenue of Clarke County. An approved business license shall be maintained in good standing throughout the life of the use.
 - D. That the Virginia Department of Health (VDH) has approved private well and onsite sewage disposal permits for both domestic and process operations as applicable.
 - E. That the Virginia Department of Transportation (VDOT) has approved the property entrance for use by the farm winery, farm brewery, or farm distillery.

ARTICLE I – ZONING ORDINANCE
2024 EDITION

- F. That an erosion and sediment control plan and stormwater management plan, if required, have been approved for the subject property per use regulation 7 below.
 - G. That the applicant has provided any other pertinent information required by the zoning administrator.
3. Minimum lot size. No farm winery, farm brewery, or farm distillery shall be operated on a lot less than five (5) acres in size unless such lot is part of an agricultural operation located on multiple contiguous lots in common ownership.

Use Regulations for Public Operations

- 1. Hours of operation. Farm wineries, farm breweries, and farm distilleries shall not be open to the public between the hours of 9:00PM and 8:00AM Friday and Saturday and between the hours of 8:00PM and 8:00AM Sunday through Thursday.
- 2. Food service.
 - A. No food service shall be provided to the public which requires approval as a “Food Establishment” or which requires issuance of a “Temporary Food Establishment Permit” by the Virginia Department of Health (VDH).
 - B. Temporary food vendors are permitted to operate at a farm winery, farm brewery, or farm distillery and shall comply with all use regulations as set forth in [Zoning Ordinance Section 5.4 \(Temporary Uses – Temporary Vendor\)](#). An area designated for temporary food vendors shall be shown on the zoning permit site sketch and shall be located within all building setback areas.
- 3. Entertainment activities and amplified sound.
 - A. Live music and similar performance-based entertainment activities shall be incidental and accessory to the farm winery, farm brewery, or farm distillery. Any such activities that are advertised and/or promoted as a separate event or for which a separate admission fee is charged shall not be considered incidental and accessory.
 - B. Any building in which live music and similar performance-based entertainment activities are held or in which amplified sound is conducted shall be located a minimum of 300 feet from all property lines.
 - C. Amplified sound from live music or similar performance-based entertainment activities, whether generated indoors or outdoors, shall not be audible at or beyond the property lines of the subject property. No amplified sound shall be conducted after 9:00PM Friday and Saturday and after 7:00PM Sunday through Thursday.

ARTICLE I – ZONING ORDINANCE
2024 EDITION

4. Direct access to public road required. Farm wineries, farm breweries, and farm distilleries that are open to the public shall have direct access to a public road and shall use such direct access as the means of public ingress and egress. Use of a shared driveway or private access easement shall not constitute direct access to a public road and shall not be used for public ingress and egress.
5. Parking. Off-street parking shall be provided per [Zoning Ordinance Section 7.2.5](#).
6. Outdoor Lighting. Outdoor lighting shall conform to the requirements of [Zoning Ordinance Section 7.4.3](#) for outdoor lighting in the AOC and FOC Districts. Lighting provided for the public’s safe egress from the property shall be turned off within one hour of closing or 10:00PM, whichever is earlier.
7. Erosion and sediment control; stormwater management.
 - A. An erosion and sediment control plan shall be provided if required per [Code of Clarke County Chapter 148 \(Erosion and Sediment Control\)](#) for areas which are not agriculturally exempt as determined by the Building Official or designee.
 - B. A stormwater management plan shall be provided if required by the Virginia Department of Environmental Quality (DEQ).
 - C. Land disturbance activities shall be conducted in accordance with the approved erosion and sediment control plan and/or stormwater management plan, if applicable.
8. Agritourism Activity Zoning Permit. Any event proposed to be held at a farm winery, farm brewery, or farm distillery as an agritourism activity zoning permit per [Zoning Ordinance Section 5.4](#) shall be subject to the limitations of these use regulations.
9. Special Events. Any special event approved per [Code of Clarke County Chapter 57 \(Special Events\)](#) shall be subject to the limitations of these use regulations and shall conform to the requirements of the special event permit approval.
10. Prohibited activities shall include but are not limited to:
 - Retail sales of merchandise not related to wine, beer, or alcoholic beverages
 - Minor commercial public assembly activities, such as weddings and private parties
 - Personal services such as spa and beauty services or educational/recreational classes
 - Amusement devices and similar rides including motorized go-karts, ATVs, hot air balloons, helicopters
 - Overnight accommodations
 - Camping

Required Review Processes:

A Zoning Permit is required per [Section 6.2.1](#)

FORESTRY	
Permitted Use	AOC, FOC
Accessory Use	None
Special Use	None

Definition:

The operation of timber tracts, tree farms, forest nurseries, the gathering of forest products, or the performing of forest services.

Use Regulations:

1. The cutting or logging of any trees for profit that exceeds one acre of harvested area, shall not be conducted without a Pre-Harvest Plan as set forth in [Section 6.2.7 \(Pre-Harvest Plan\)](#). The Pre-Harvest Plan shall include Virginia Department of Forestry Best Management Practices, which are reviewed by the Zoning Administrator and a consulting forester or certified arborist for compliance with County ordinance. The Pre-Harvest Plan shall be submitted to the Zoning Administrator at least 10 business days before the start of a harvest operation.

Required Review Processes:

Pre-Harvest Plan review is required per [Section 6.2.7](#).

INTENSIVE LIVESTOCK, DAIRY, OR POULTRY OPERATION	
Permitted Use	AOC, FOC
Accessory Use	None
Special Use	None

Definition:

A livestock, dairy, or poultry operation with accessory uses or structures which at any one time has at least 300 animal units, or a poultry operation with accessory uses or structures which at any one time has at least 200 animal units, as referenced in the chart below:

FACILITY TYPE	300 AU	200 AU
Cattle (slaughter and feeder)	300	
Swine each weighing over 55 pounds	750	
Horses	150	
Sheep and lambs	3,000	
Mature Dairy Cattle (whether milked or dry cows)	200	
Turkeys		11,000
Laying Hens or Broilers		20,000

ARTICLE I – ZONING ORDINANCE
2024 EDITION

In such operations, animals are or will be stabled or confined and fed or maintained for a total of forty-five days or more in any twelve month period; and crops, vegetation, forage growth or post-harvest residues are not sustained over any portion of the operation of the lot or facility.

Use Regulations:

1. Minimum setbacks for structures:

Feature	Minimum Setback Distance
From: <ul style="list-style-type: none"> • Incorporated town limits • Berryville Annexation Area limits • Residential zoning districts • Lots containing public or private schools, authorized by the Commonwealth of Virginia, providing instruction at any grade(s) from K through 12, with at least 50 students • Lots containing public water sources (including wells, springs, or surface water intakes) 	3000 feet for swine, 1000 feet for all other animals
From property lines and public rights of way	1000 feet for swine, 300 feet for all other animals
From perennial streams, perennial springs, private wells, sinkholes	100 feet
From intermittent streams as identified by U.S. Geological Survey	50 feet

2. Minimum setback requirements shall be applied to all new free-standing structures. Minimum setback requirements shall be applied to additions to existing structures if these existing structures were designed for fewer than 50 Animal Units (as determined by the County Extension Agent based on Best Management Practices) or if they housed a livestock species different from that proposed in the intensive facility. Minimum setback requirements for additions to existing structures that were designed for more than 50 Animal Units may be less than as specified but shall be not less than the setback of the existing structures or 50 feet, whichever is less.

FACILITY TYPE	50 AU
Cattle (slaughter and feeder)	50
Swine each weighing over 55 pounds	125
Horses	25
Sheep and lambs	500
Mature Dairy Cattle (whether milked or dry cows)	33
Turkeys	2,750
Laying Hens or Broilers	5,000

ARTICLE I – ZONING ORDINANCE
2024 EDITION

3. Existing healthy trees with a diameter of at least six inches which are located in the perennial spring and sinkhole setback areas shall not be removed.
4. Livestock/Animal Units. Livestock shall be considered hooved animals or hoof stock with the following weight categories:

Animal Units	Weight	Examples
1.0	900 lbs. and greater	Cows, horses, donkeys
0.5	600 – 899 lbs.	Ponies, miniature horses or cows, donkeys, weaned calves
0.25	300 – 599 lbs.	Alpacas, llamas, pigs
0.125	299 lbs. or less	Sheep, goats, pigs

Nursing mothers and the juvenile animals they are nursing constitute a single animal unit for their particular weight class. Example: a cow/calf (ves) pair qualifies as 1 animal unit; a ewe/lamb(s) pair constitutes 0.125 animal units. Once a newborn is weaned it becomes an animal unit of its respective species. Example: a calf weaned at 599 lbs. qualifies as 0.5 animal units.

Required Review Processes:

1. Intensive Livestock, Dairy, or Poultry Facility Development Plan – Plan approval and issuance of a Zoning Permit is required per [Section 6.2.8](#).
2. No facility shall commence operation until a nutrient management plan for the proposed facility has been reviewed and approved by the Virginia Department of Conservation and Recreation. The nutrient management plan shall be reviewed and updated every three years by an agent of the Virginia Department of Conservation and Recreation.

LIVESTOCK AUCTION MARKET	
Permitted Use	None
Accessory Use	None
Special Use	AOC

Definition:

A commercial establishment wherein livestock is collected for sale and auctioned.

Use Regulations: None

Required Review Processes:

1. Special Use Permit Review is required per [Section 6.3.1](#)
2. Site Development Plan Review is required per [Section 6.2.2](#)

SMALL-SCALE PROCESSING OF FRUITS AND VEGETABLES	
Permitted Use	None
Accessory Use	None
Special Use	AOC, FOC

Definition:

An enterprise that does not require the installation of a Sewerage System & Treatment Works devoted to canning, drying, freezing, or otherwise preparing, preserving, packaging, and storing fruit, vegetables, and/or apiary products.

Use Regulations: None

Required Review Processes:

1. Special Use Permit Review is required per [Section 6.3.1](#)
2. Site Development Plan Review is required per [Section 6.2.2](#)

WHOLESALE OR RETAIL SALE OF AGRICULTURAL PRODUCTS	
Permitted Use	None
Accessory Use	AOC, FOC
Special Use	None

Definition:

The onsite sale of agricultural products by an agricultural operation.

Use Regulations:

1. For the purposes of this use, an agricultural operation shall consist of all lots upon which the operation’s agricultural activities occur.
2. Only agricultural products that were grown by the agricultural operation shall be sold onsite. An agricultural product that was processed using offsite products may be sold onsite provided that a portion of the ingredients or materials used to make the agricultural product was produced by the agricultural operation.
3. The sale of agricultural products shall be clearly accessory or incidental to the agricultural operation.

Required Review Processes:

A Zoning Permit per [Section 6.2.1](#) is required for construction of any new structure(s) or addition to any existing structure(s) to house this use.

ARTICLE I – ZONING ORDINANCE
2024 EDITION

B. RESIDENTIAL USES

Residential Use	AOC	FOC	RR	CN	CH
Accessory Structure	A	A	A	X	X
Commercial District Accessory Dwelling	X	X	X	A	A
Group Home	P	P	P	X	X
Home Garden	A	A	A	X	X
Home Occupation	A	A	A	X	X
Manufactured Home	P	P	X	X	X
Minor Dwelling	A	A	X	X	X
Non-Residential Building	P	P	X	X	X
Short-Term Residential Rental	P/A	P/A	X	X	X
Single-Family Dwelling	P	P	P	X	X
Temporary Family Health Care Structure	A	A	A	X	X
Tenant House	A	A	X	X	X

P -- Permitted Use **S -- Special Use** **P/S – Permitted or Special Use**
A -- Accessory Use **X -- Prohibited Use** **P/A – Permitted or Accessory**

ACCESSORY STRUCTURE	
Permitted Use	None
Accessory Use	AOC, FOC, RR
Special Use	None

Definition:

A structure detached from the principal structure located on the same lot and customarily incidental and subordinate to the principal structure or use. Examples include detached carports, garages, utility buildings, swimming pools, and children’s playhouses.

Use Regulations:

1. Residential Occupancy of Accessory Structures. Except as otherwise specifically provided in this Ordinance, use of accessory structures as dwellings or lodgings is expressly prohibited.

Required Review Processes:

1. A Zoning Permit is required per [Section 6.2.1](#).
2. Certificate of Appropriateness review is required per [Section 6.2.5](#) for lots located within the Historic Access Corridor (HAC) Overlay District, and for lots located within the Historic (H) Overlay District.

ARTICLE I – ZONING ORDINANCE
2024 EDITION

COMMERCIAL DISTRICT ACCESSORY DWELLING	
Permitted Use	None
Accessory Use	CN, CH
Special Use	None

Definition:

A dwelling unit that is clearly incidental and subordinate to a commercial use that is located on the same lot.

Use Regulations:

1. A commercial district accessory dwelling shall be occupied only by the owner of the commercial use on the lot and their immediate family or by a manager, watchman, or caretaker of the commercial use and their immediate family.
2. A maximum of one dwelling unit shall be allowed per commercial use.
3. A commercial district accessory dwelling may occupy one or more rooms within the commercial structure or may be located in a separate freestanding structure located on the same property.

Required Review Processes:

1. A Zoning Permit is required per [Section 6.2.1](#).
2. Certificate of Appropriateness review is required per [Section 6.2.5](#) for lots located within the Historic Access Corridor (HAC) Overlay District, and for lots located within the Historic (H) Overlay District.

GROUP HOME	
Permitted Use	AOC, FOC, RR
Accessory Use	None
Special Use	None

Definition:

A residential facility as described in [Va. Code §15.2-2291](#) in which no more than eight individuals reside with one or more resident or nonresident counselors or staff persons.

Use Regulations:

Valid State licensure shall be maintained throughout the life of the group home. For facilities housing individuals with mental illness, intellectual disability, or developmental disabilities, licensure issued by the Department of Behavioral Health and Developmental Services shall be maintained. For facilities housing individuals that are aged, infirm, or disabled, licensure issued by the Department of Social Services shall be maintained.

Required Review Processes:

1. A Zoning Permit is required per [Section 6.2.1](#).
2. Certificate of Appropriateness review is required per [Section 6.2.5](#) for lots located within the Historic (H) Overlay District.

HOME GARDEN	
Permitted Use	None
Accessory Use	AOC, FOC, RR
Special Use	None

Definition:

The outdoor cultivation of vegetables, fruits, flowers, or other small plants as accessory to a principal residential use primarily for consumption or enjoyment by the occupants of the residence.

Use Regulations: None

Required Review Processes: None

HOME OCCUPATION	
Permitted Use	None
Accessory Use	AOC, FOC, RR
Special Use	None

Definition:

A for-profit or non-profit business or activity conducted in a dwelling unit (or an accessory structure to a dwelling) as a secondary use.

General Use Regulations

1. Home occupations generally.
 - a. A home occupation must be conducted by a resident or residents of the property. For the purposes of this section, “property” shall mean the lot containing the residence and any accessory structures where the home occupation is proposed to operate.
 - b. Use of the property for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants.
 - c. The regulations described in this section shall not be exceeded regardless of whether there is one or multiple home occupations conducted in the residence.

ARTICLE I – ZONING ORDINANCE
2024 EDITION

- d. Uses that are allowed as permitted or special uses may operate as home occupations so long as the home occupation is operated in full compliance with the regulations set forth in this section.
- 2. Permits and licenses required. Home occupations shall have all necessary permits, licenses, and approvals from County, State, and Federal departments and agencies and shall maintain such permits, licenses, and approvals in good standing for the life of the use.
- 3. Employees. For home occupations conducted on lots less than six acres in size, the maximum number of employees shall be one. For home occupations conducted on lots six acres or more in size, the maximum number of employees shall be two. For the purposes of this section, an “employee” is a person who is employed by the home occupation and who works on the lot on a regular basis. The permit holder and family members of the permit holder that also reside on the lot are not considered to be employees.
- 4. Maximum allowable area within a dwelling or accessory structure for home occupation use. A maximum of 25 percent of the floor area of the dwelling shall be used for home occupation activities. For activities conducted exclusively in an accessory structure, the maximum floor area that may be used for home occupation activities shall not exceed an area equal to 25 percent of the floor area of the dwelling. If activities are conducted in both a dwelling and accessory structure, the total floor area cannot exceed 25 percent of the floor area of the dwelling.
- 5. Maximum allowable customers. The maximum number of customers allowed onsite at any one point in time shall be in accordance with the chart below. For the purposes of this section, “customers” shall include clients, guests, and students not residing in the home:

District	Maximum Allowable Customers
RR	6
AOC	12
FOC	12

- 6. Parking.
 - a. Parking for customers shall be located off-street and other than in a required front yard.
 - b. Parking of employee vehicles, including parking for employees who do not work on the property on a regular basis, shall be in accordance with the following chart:

ARTICLE I – ZONING ORDINANCE
2024 EDITION

District	Maximum Employee Vehicles Allowed
RR	1
AOC/FOC, lot less than six acres	3*
AOC/FOC, lot six acres or greater	3

* Parking spaces shall be screened from view from adjacent properties and public rights of way

7. Use and storage of equipment and vehicles. Use and storage of equipment and storage of vehicles shall be in accordance with the regulations set forth in the table below:

USE/STORAGE OF EQUIPMENT AND STORAGE OF VEHICLES

	RR District; AOC/FOC Districts, Two (2) Acres or Less	AOC/FOC Districts, Greater than Two (2) Acres and Less than Six (6) Acres	AOC/FOC Districts, Six (6) Acres or More
<p>Business Equipment (equipment that is not a self-propelled motorized vehicle)</p> <p>Business Product (merchandise produced by the home occupation)</p>	<p>-- Use/storage shall be within a totally enclosed structure</p> <p>-- Shall be included in the maximum 25% floor area requirement</p>	<p>-- Use/storage shall be within a totally enclosed structure</p> <p>-- Shall be included in the maximum 25% floor area requirement</p>	<p>-- Use/storage shall be shielded from view*</p> <p>-- Shall be included in the maximum 25% floor area requirement if in an enclosed structure**</p>
<p>Licensed Business Vehicles (motorized vehicles or utility trailers requiring license plates)</p>	<p>-- Maximum of one (1) motorized vehicle</p> <p>-- Maximum of one (1) utility trailer less than 20' in length</p> <p>-- Shall NOT be included in the maximum 25% floor area requirement</p>	<p>-- Maximum of one (1) motorized vehicle</p> <p>-- Maximum of one (1) utility trailer less than 20' in length</p> <p>-- Shall NOT be included in the maximum 25% floor area requirement</p>	<p>-- Maximum of three (3) motorized vehicles</p> <p>-- Maximum of three (3) utility trailers less than 20' in length</p> <p>-- Any combination of three (3) or more shall be shielded from view*</p> <p>-- Shall NOT be included in the maximum 25% floor area requirement</p>

* “Shielded from view” from adjacent lots, public rights of way, and private access easements by solid fencing, evergreen trees, and/or topographic features.

** Storage outside of a totally enclosed structure is not required to be included in the 25% maximum floor area.

USE/STORAGE OF EQUIPMENT AND STORAGE OF VEHICLES (CONT)

	RR District; AOC/FOC Districts, Two (2) Acres or Less	AOC/FOC Districts, Greater than Two (2) Acres and Less than Six (6) Acres	AOC/FOC Districts, Six (6) Acres or More
Vehicular Business Equipment (motorized vehicles not requiring license plates, e.g., bulldozers, backhoes)	-- Not allowed	-- Maximum of one (1) -- Shall be shielded from view* -- Shall NOT be included in the maximum 25% floor area requirement	-- Maximum of three (3) -- Shall be shielded from view* -- Shall NOT be included in the maximum 25% floor area requirement
Commercial or Industrial- classified Vehicles (e.g., semi-trucks and trailers, dump trucks, box trucks, bucket trucks)	-- Not allowed	-- Maximum of one (1) -- Maximum of one (1) industrial trailer (20’ or more in length) -- Shall be shielded from view* -- Shall NOT be included in the maximum 25% floor area requirement	-- Maximum of three (3) vehicles -- Maximum of three (3) industrial trailers (20’ or more in length) -- Shall be shielded from view* -- Shall NOT be included in the maximum 25% floor area requirement

* “Shielded from view” from adjacent lots, public rights of way, and private access easements by solid fencing, evergreen trees, and/or topographic features.

8. Impacts of home occupation on nearby properties.

- a. There shall be no change in the outside appearance of the building or lot, nor other visible evidence of the conduct of such home occupation within the parameters of these regulations.
- b. No equipment or process shall be used in such home occupation that creates electrical interference, fumes, glare, noise, odors, or vibration, detectable to the normal senses off the lot, if the occupation is conducted in a single family residence, or outside the dwelling. In the case of electrical interference, no equipment or process shall be used that creates audio or visual interference in any

radio or television receivers off the lot or causes fluctuations in line voltage off the lot.

Use Regulations for Specific Types of Home Occupations

1. **Bed and breakfast.** A bed and breakfast is a home occupation where lodging, or lodging and meals, is offered for a period of fewer than 30 consecutive days in exchange for a charge subject to the following regulations:
 - a. A home occupation bed and breakfast may be conducted in the single-family dwelling and in any minor dwelling or tenant house located on the same lot so long as each structure used is in full compliance with these use regulations. Minor dwellings or tenant houses used for home occupation bed and breakfast uses shall be fully conforming to all Zoning Ordinance requirements at the time of zoning permit issuance. No bed and breakfast use shall be permitted in structures other than a single-family dwelling, minor dwelling, or tenant house.
 - b. As a home occupation use, the permit holder shall occupy the lot at all times during bed and breakfast rental periods.
 - c. The maximum occupancy of the single-family dwelling and any accessory dwellings on a lot housing a bed and breakfast shall not exceed a total of five bedrooms and ten persons during the rental period including transient guests and residents of the lot. The maximum occupancy of each single-family dwelling and any accessory dwelling housing a bed and breakfast use shall be further limited by:
 - (1) The maximum occupancy for the structure as allowed by the onsite sewage disposal system permit issued by the Virginia Department of Health (VDH).
 - (2) The maximum occupancy for the structure as permitted by the Virginia Uniform Statewide Building Code.
 - d. **Compliance with onsite sewage disposal system requirements.**
 - (1) An application for a bed and breakfast use that is served by an onsite sewage disposal system shall be reviewed by the Virginia Department of Health (VDH) in conjunction with the zoning permit application review. Written confirmation by VDH that the existing onsite sewage disposal system can support the proposed maximum occupancy of the bed and breakfast use shall be a prerequisite to issuance of a zoning permit.
 - (2) In the event that an onsite sewage disposal system cannot support the proposed maximum occupancy of the bed and breakfast use, the system shall be upgraded to current Virginia Department of Health (VDH) regulations including provision of a 100% reserve area before a home occupation zoning permit may be issued.

ARTICLE I – ZONING ORDINANCE
2024 EDITION

- (3) An onsite sewage disposal system shall be maintained and remain in an operable condition for the life of the use. In the event that the system fails as determined by VDH, the Zoning Administrator shall issue a notice of violation to cease the bed and breakfast use until the system is repaired or replaced and is approved in writing by VDH.
- e. Compliance with building code requirements. All applications for bed and breakfast uses shall be reviewed by the Clarke County Building Department to determine whether a change of use or other building code compliance measures are required. Written confirmation from the Building Department that the structure to be used for the bed and breakfast use conforms to building code requirements shall be a prerequisite to issuance of a home occupation zoning permit.
- f. Issuance of a business license by the Clarke County Commissioner of the Revenue shall be a prerequisite to issuance of a home occupation zoning permit. The business license shall also be maintained in good standing throughout the life of the use as a condition of zoning permit approval.
- g. As an accessory use to a bed and breakfast, breakfast meal service may be provided only for overnight guests.
- h. A bed and breakfast is not required to comply with [General Use Regulation 4](#) regarding maximum allowable area within a dwelling or accessory structure for home occupation use.
2. Family day home.
- a. A “family day home” is a child day program offered in the residence of the provider for a maximum of 12 children under the age of 13, exclusive of the provider's own children and any children who reside in the home, when at least one child receives care for compensation.
- b. A family day home in which 5-12 children are cared for shall require a home occupation zoning permit.
- c. A child day program for more than 12 children as a home occupation is allowable in the AOC District with a special use permit for a “day care center” use.
- d. A family day home is not required to comply with [General Use Regulation 4](#) regarding maximum allowable area within a dwelling or accessory structure for home occupation use.

ARTICLE I – ZONING ORDINANCE
2024 EDITION

3. Home occupation breeding kennel.
 - a. A home occupation breeding kennel is a place designed or prepared to house or handle a limited number of canine animals for the purpose of breeding for sale in return for compensation.
 - b. A home occupation breeding kennel is allowed in the AOC and FOC Districts and is prohibited in the RR District.
 - c. A maximum of 10 canine animals older than six months shall be housed onsite in conjunction with a home occupation breeding kennel.
 - d. A breeding kennel for more than 10 canine animals is allowable in the AOC and FOC Districts with a special use permit for a “commercial breeding kennel” use.
 - e. Structures that house canine animals shall be located not more than 200 feet from the home occupation permit holder’s dwelling and shall be set back 175 feet from property lines.
4. Home occupation boarding kennel.
 - a. A home occupation boarding kennel is a place designed or prepared to house, board, handle or otherwise keep or care for canine and/or feline animals in return for compensation.
 - b. A maximum of four canine and/or feline animals older than six month shall be housed onsite in conjunction with a home occupation boarding kennel.
 - c. Structures that house canine animals shall be located not more than 200 feet from the home occupation permit holder’s dwelling.
5. Prohibited home occupations. Onsite vehicle repair businesses and vehicle towing businesses shall not be allowed as home occupations.

Required Review Processes:

A Zoning Permit is required per [Section 6.2.1](#).

MANUFACTURED HOME	
Permitted Use	AOC, FOC
Accessory Use	None
Special Use	None

Definition:

A structure subject to federal regulation, which is transportable in one or more sections; is eight body feet or more in width and forty body feet or more in length in the traveling mode, or is 320

ARTICLE I – ZONING ORDINANCE
2024 EDITION

or more square feet when erected on site; is built on a permanent chassis; is designed to be used as a single-family dwelling, with or without a permanent foundation, when connected to the required utilities; and includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure.

Use Regulations:

1. A manufactured home requires use of a dwelling unit right (DUR).
2. Manufactured homes shall be sited on a permanent foundation with skirting installed and the transportation tongue and axles removed.
3. Except as otherwise provided in this section, no manufactured home or structure shall be parked on a lot for a period of more than five consecutive days unless such manufactured home is permitted as a temporary dwelling.

Required Review Processes:

A Zoning Permit is required per [Section 6.2.1](#).

MINOR DWELLING	
Permitted Use	None
Accessory Use	AOC, FOC
Special Use	None

Definition:

An accessory dwelling that is located on a lot that is zoned AOC or FOC, is six acres or more in size, and is designed to be occupied by not more than two people.

Use Regulations:

1. A maximum of one minor dwelling is allowed per qualifying lot and shall not require the use of a dwelling unit right (DUR).
2. The total floor area of living space, separate from the living space of the single-family dwelling, shall be less than 600 square feet.
3. A minor dwelling shall be accessory to a single-family dwelling or manufactured home located on the same lot. A minor dwelling may be attached to a single-family dwelling but shall not share a common, unpierced wall with the single-family dwelling.
4. For lots not under permanent conservation easement, minor dwellings shall be located within 300 feet of the single-family dwelling.
5. Onsite sewage disposal systems
 - a. For a minor dwelling that will utilize the single-family dwelling’s onsite sewage disposal system, the existing system shall be upgraded to current [Virginia](#)

ARTICLE I – ZONING ORDINANCE
2024 EDITION

Department of Health (VDH) regulations including provision of a 100% reserve area.

- b. For a minor dwelling with its own onsite sewage disposal system:
 - If the main dwelling’s existing system is functioning properly but lacks a 100% reserve area, a 100% reserve area shall be identified and approved by VDH for the existing system.
 - If the main dwelling’s existing system is not functioning properly, the system shall be repaired to bring into compliance with current VDH regulations including provision of a 100% reserve area.
- c. VDH approval is a condition of zoning approval.

Required Review Processes:

A Zoning Permit is required per [Section 6.2.1](#).

NON-RESIDENTIAL BUILDING	
Permitted Use	AOC, FOC
Accessory Use	None
Special Use	None

Definition:

A structure under roof, not permitted for occupancy as a dwelling or residence, which is the principal structure on a lot zoned Agricultural-Open Space-Conservation (AOC) or Forestal-Open Space-Conservation (FOC).

Use Regulations:

- 1. Non-residential buildings shall have a maximum floor area that is less than the minimum floor area requiring a building permit as set forth in the [Virginia Uniform Statewide Building Code](#).

Required Review Processes:

A Zoning Permit is required per [Section 6.2.1](#).

SHORT-TERM RESIDENTIAL RENTAL	
Permitted Use	AOC, FOC
Accessory Use	AOC, FOC
Special Use	None

Definition:

The rental of one or more rooms within a single-family dwelling, minor dwelling, or tenant house; or the rental of an entire single-family dwelling, minor dwelling, or tenant house; by the owner to a maximum of one customer for lodging purposes for a period of fewer than 30

consecutive days in exchange for a charge. A customer may be one person or multiple people that are renting together under the same rental agreement.

Use Regulations:

A short-term residential rental may be conducted in a single-family dwelling, minor dwelling, or tenant house subject to the following requirements:

1. A short-term residential rental may be occupied as a permitted use or as an accessory use to a single-family dwelling. The property owner is not required to reside on the lot during rental periods.
2. A short-term residential rental use may be conducted in a maximum of two (2) dwellings located on the same lot so long as each dwelling used is in full compliance with the zoning permit requirements listed in Subsection 3. A maximum of one customer per lot is allowed during rental periods regardless of the number of dwellings proposed for use. Minor dwellings or tenant houses used for short-term residential rental uses shall be fully conforming to all Zoning Ordinance requirements at the time of zoning permit issuance. No short-term residential rental uses shall be permitted in structures other than a single-family dwelling, minor dwelling, or tenant house.
3. A zoning permit is required per [Section 6.2.1](#). Issuance of a zoning permit is subject to the following requirements:
 - a. Maximum occupancy. The maximum occupancy of a single-family dwelling, minor dwelling, or tenant house used for short-term residential rental activities shall not exceed the following:
 - (1) The maximum occupancy for the structure as allowed by the onsite sewage disposal system permit issued by the Virginia Department of Health (VDH).
 - (2) The maximum occupancy for the structure as permitted by the Virginia Uniform Statewide Building Code.

Occupancy of a dwelling shall include transient renters and any residents who may remain present in the dwelling during rental periods.

- b. Compliance with onsite sewage disposal system requirements.
 - (1) An application for a short-term residential rental that is served by an onsite sewage disposal system shall be reviewed by the Virginia Department of Health (VDH) in conjunction with the zoning permit application review. Written confirmation by VDH that the existing onsite sewage disposal system can support the proposed maximum occupancy of the short-term residential rental shall be a prerequisite to issuance of a zoning permit.
 - (2) In the event that an onsite sewage disposal system cannot support the proposed maximum occupancy of the short-term residential rental, the

ARTICLE I – ZONING ORDINANCE
2024 EDITION

system shall be upgraded to current Virginia Department of Health (VDH) regulations including provision of a 100% reserve area before a zoning permit may be issued.

- (3) An onsite sewage disposal system shall be maintained and remain in an operable condition for the life of the use. In the event that the system fails as determined by VDH, the Zoning Administrator shall issue a notice of violation to cease the short-term residential rental use until the system is repaired or replaced and is approved in writing by VDH.

c. Compliance with building code requirements. All applications for short-term residential rental uses shall be reviewed by the Clarke County Building Department to determine whether a change of use or other building code compliance measures are required. Written confirmation from the Building Department that the structure to be used for the short-term residential rental use conforms to building code requirements shall be a prerequisite to issuance of a zoning permit.

d. Issuance of a business license by the Clarke County Commissioner of the Revenue shall be a prerequisite to issuance of a zoning permit. The business license shall also be maintained in good standing throughout the life of the use as a condition of zoning permit approval.

4. Prohibited activities include:

- 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 single-family dwelling, minor dwelling, or tenant house being used for short-term residential rental activities

Required Review Processes:

A Zoning Permit is required per [Section 6.2.1](#).

SINGLE-FAMILY DWELLING	
Permitted Use	AOC, FOC, RR
Accessory Use	None
Special Use	None

Definition:

A dwelling unit, other than a manufactured home, designed for and occupied by one family. A single-family dwelling shall not include attached dwellings such as duplexes and townhouses.

Use Regulations:

1. A single-family dwelling requires use of a dwelling unit right (DUR).

ARTICLE I – ZONING ORDINANCE
2024 EDITION

2. The number of persons, who are permanent full-time residents occupying a single-family dwelling served by an onsite sewage disposal system with a Virginia Department of Health Permit, shall not exceed two for the number of bedrooms allowed by that permit. If it is found that a property is not in compliance with this requirement, then the owner of the property shall apply for a permit with the Health Department to expand the current disposal system for a sufficient number of bedrooms to accommodate the number of permanent full-time resident occupants in the dwelling. If the Health Department denies the expansion, the owner of the property shall apply for variance from Board of Septic and Well Appeals per [County Code Chapter 143 \(Septic Systems\)](#) for a system designed for a sufficient number of bedrooms to accommodate the number of permanent full-time resident occupants in the dwelling and install such a system if approved. Such a variance can only be requested for owner occupied property.
3. An as-built setback certification, prepared by a licensed surveyor, is required for all new single-family dwellings constructed in the RR District as a prerequisite for issuance of a certificate of occupancy. The Zoning Administrator may also require an as-built setback certification for projects in the AOC and FOC Districts in the following situations:
 - a. For any proposed setback shown on the site sketch that is 10% or less of the minimum required setback.
 - b. If, prior to issuance of a certificate of occupancy, the Zoning Administrator has reason to believe that the single-family dwelling may be constructed in violation of a minimum required setback.
4. A secondary dwelling may be located within the footprint of a single-family dwelling subject to the following requirements:
 - a. A single-family dwelling shall be limited to a maximum of one secondary dwelling. A secondary dwelling shall not require use of a dwelling unit right (DUR).
 - b. A secondary dwelling shall not be served by a separate electric meter and shall not be separately addressed.
 - c. A secondary dwelling shall require approval of a Zoning Permit per [Section 6.2.1](#).
 - d. For single-family dwellings with onsite sewage disposal systems, the addition of a secondary dwelling shall require the existing onsite sewage disposal system to be upgraded to current Virginia Department of Health (VDH) regulations including provision of a 100% reserve area. VDH approval is a condition of zoning approval.

- e. A secondary dwelling that is physically separated from the balance of the single-family dwelling as defined above shall be considered a minor dwelling and shall comply with the regulations for the minor dwelling use per [Section 5.2B](#).

Required Review Processes:

- 1. A Zoning Permit is required per [Section 6.2.1](#).
- 2. Certificate of Appropriateness review is required per [Section 6.2.5](#) for lots located within the Historic Access Corridor (HAC) Overlay District, and for lots located within the Historic (H) Overlay District.

TEMPORARY FAMILY HEALTH CARE STRUCTURE	
Permitted Use	None
Accessory Use	AOC, FOC, RR
Special Use	None

Definition:

An accessory dwelling defined by the Code of Virginia as follows:

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 [Va. Code §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 \(Va. Code §36-70 et seq.\)](#) and the [Uniform Statewide Building Code \(Va. Code §36-97 et seq.\)](#).

Use Regulations:

- 1. A Temporary Family Health Care Structure shall be for use by a caregiver in providing care for a mentally or physically impaired person and on a lot containing the caregiver's primary residence. Only one family health care structure shall be allowed on a lot.
- 2. For purposes of this section:
 - a. "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.
 - b. "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 [Va. Code § 63.2-2200](#), as certified in a writing provided by a physician licensed by the Commonwealth.

ARTICLE I – ZONING ORDINANCE
2024 EDITION

3. A temporary family health care structure shall be accessory to a single-family dwelling or manufactured home located on the same lot. A temporary family health care structure shall not require use of a dwelling unit right (DUR).
4. Placing the temporary family health care structure on a permanent foundation shall not be required.
5. Any person proposing to install a temporary family health care structure shall first obtain a Zoning Permit. To obtain Zoning Permit approval, the applicant shall provide sufficient proof of compliance with this section. The applicant shall 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.
6. 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.
7. 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.
8. Any temporary family health care structure installed pursuant to this section shall be removed within 30 days in which the mentally or physically impaired person is no longer receiving or is no longer in need of the assistance provided for in this section.
9. The Zoning Administrator may revoke the permit granted pursuant to [Subsection 5](#) if the permit holder violates any provision of this section. Additionally, the Board of Supervisors may seek injunctive relief or other appropriate actions or proceedings in Circuit Court to ensure compliance with this section. The Zoning Administrator is vested with all necessary authority to ensure compliance with this section.

Required Review Processes:

A Zoning Permit is required per [Section 6.2.1](#).

TENANT HOUSE	
Permitted Use	None
Accessory Use	AOC, FOC
Special Use	None

Definition:

An accessory dwelling that is located on a lot that is zoned AOC or FOC and is a minimum of twenty acres in size.

Use Regulations:

1. A tenant house shall be accessory to a single-family dwelling or manufactured home located on the same lot.

2. One or more tenant houses may be constructed on a lot according to the following scale:

Minimum Lot Area	Maximum Number of Tenant Houses Permitted	Available Dwelling Unit Rights (DURs) Needed
20 acres	1	1
80 acres	2	2
160 acres	3	3
240 acres*	4	4

* An additional tenant house is permitted for each additional 80 acres of lot area and subject to available DURs.

3. Each tenant house requires use of a dwelling unit right (DUR).

4. Onsite sewage disposal systems

a. For a tenant house that will utilize the main dwelling’s onsite sewage disposal system, the existing system shall be upgraded to current [Virginia Department of Health \(VDH\) regulations](#) including provision of a 100% reserve area.

b. For a tenant house with its own onsite sewage disposal system:

- If the main dwelling’s existing system is functioning properly but lacks a 100% reserve area, a 100% reserve area shall be identified and approved by VDH for the existing system.
- If the main dwelling’s existing system is not functioning properly, the system shall be repaired to bring into compliance with current VDH regulations including provision of a 100% reserve area.
- VDH approval is a condition of zoning approval.

Required Review Processes:

A Zoning Permit is required per [Section 6.2.1](#).

ARTICLE I – ZONING ORDINANCE
2024 EDITION

C. BUSINESS USES

Business Use	AOC	FOC	RR	CN	CH
Automobile Repair Business	X	X	X	X	S
Bowling Alley	X	X	X	X	S
Catering	X	X	X	P	P
Commercial Accessory Structure	X	X	X	A	A
Commercial Boarding Kennel	X	X	X	X	P
Commercial Breeding Kennel	S	S	X	S	P
Commercial Center	X	X	X	X	P/S
Commercial Recreational Uses and Structures	X	X	X	S	S
Convenience Store with Gasoline Sales	X	X	X	X	P
Country Inns	S	S	X	P	X
Day Care Center	S	X	X	X	X
Farm Machinery Sales and Service	P/S	X	X	X	P
Farm Supplies Sales	P/S	X	X	S	P
Feed and Grain Mill	X	X	X	X	S
Financial Institutions	X	X	X	P	P
Firearms Sales and Service	X	X	X	S	S
Funeral Home	X	X	X	X	S
Hotels	X	X	X	X	P
Limited Extraction of Natural Resources	S	X	X	X	X
Personal Service Business	S	S	X	P/S	P/S
Professional Service Business	X	X	X	P	P
Restaurants	X	X	X	P	P
Retail Business	S	S	X	P/S	P/S
Sawmill	X	S	X	X	X
Self-Service Storage Facility	X	X	X	X	S
Shop for Welding, Blacksmith, Tinsmith, Woodworking	X	X	X	S	S
Solar Power Plant	S	X	X	X	X
Specialty Trade Contractor	S	S	X	X	X
Veterinary Clinic	S	S	X	S	P
Wireless Communication Facilities (WCFs) – See Table in use description below					

P -- Permitted Use
A -- Accessory Use

S -- Special Use
X -- Prohibited Use

P/S – Permitted or Special Use

AUTOMOBILE REPAIR BUSINESS	
Permitted Use	None
Accessory Use	None
Special Use	CH

Definition:

A business primarily engaged in providing repair and maintenance services for automotive vehicles such as passenger cars, sport utility vehicles, pickup and other light trucks, small vans, and motorcycles.

This use includes the following types of businesses:

- Oil change and lubrication shops, which primarily engage in checking and changing motor oil and lubricating the chassis
- Automotive glass shops, which primarily engage in replacing, repairing, or tinting vehicle windows
- General automotive repair garages or shops, which provide a wide range of mechanical and electrical repair and maintenance services including diagnosing, rebuilding, or reconditioning engines and other mechanical and electrical systems.

This use does not include the following types of businesses:

- Automotive painting or body shops
- Heavy vehicle/equipment repair and servicing

Use Regulations:

1. All repair and maintenance services shall be conducted within an enclosed building. No outdoor storage shall be permitted.
2. No onsite disposal of waste fluids or chemicals shall be permitted.
3. Retail sale of automotive parts and supplies is permitted as an accessory use to the servicing of automotive vehicles.
4. A plan for the effective onsite containment and offsite disposal of waste fluids and other chemicals in accordance with State requirements shall be provided with the site development plan.

Required Review Processes:

1. Special Use Permit Review is required per [Section 6.3.1](#).
2. Site Development Plan Review is required per [Section 6.2.2](#)
3. Certificate of Appropriateness review is required per [Section 6.2.5](#) for lots located within the Historic Access Corridor (HAC) Overlay District.

BOWLING ALLEY	
Permitted Use	None
Accessory Use	None
Special Use	CH

Definition:

A business containing facilities for the sport of bowling, open to the public for compensation.

Use Regulations:

1. The sale of meals or prepared food, which may include beverages and confections, is permitted as an accessory use to a bowling alley. Approvals or permits by applicable State agencies shall be obtained and remain active for the lifespan of this activity.
2. Assembly activities for compensation are permitted as an accessory use.

Required Review Processes:

1. Special Use Permit Review is required per [Section 6.3.1](#).
2. Site Development Plan Review is required per [Section 6.2.2](#).
3. Certificate of Appropriateness review is required per [Section 6.2.5](#) for lots located within the Historic Access Corridor (HAC) Overlay District.

CATERING	
Permitted Use	CN, CH; AOC and FOC (see limitations below)
Accessory Use	None
Special Use	None

Definition:

A business that prepares a specific menu and amount of food for service to a client's guests or customers at a service location different from the permanent business location. Catering may also include cooking or performing final preparation of food at the service location.

Use Regulations:

1. Catering is allowed in the AOC and FOC Districts if operated as a home occupation and in compliance with the home occupation regulations.
2. A State permit for onsite food preparation shall be maintained in good standing throughout the lifespan of the use.

Required Review Processes:

1. Site Development Plan review is required per [Section 6.2.2](#).

2. Certificate of Appropriateness review is required per [Section 6.2.5](#) for lots located within the Historic Access Corridor (HAC) Overlay District, and for lots located within the Historic (H) Overlay District.

COMMERCIAL ACCESSORY STRUCTURE	
Permitted Use	None
Accessory Use	CH, CN
Special Use	None

Definition:

A structure detached from the principal commercial structure located on the same lot and customarily incidental and subordinate to the principal commercial structure or use. Examples include storage or equipment sheds,

Use Regulations: None

Required Review Processes:

1. Site Development Plan review is required for this use. Depending upon the nature and proposed use of the commercial accessory structure and whether a site development plan exists for the subject property, one of the following three review processes for Site Development Plans shall apply:
 - Site Development Plan review per [Section 6.2.2](#)
 - Site Development Plan Amendment review per [Section 6.2.3](#)
 - Administrative Site Development Plan review per [Section 6.2.4](#)
2. Certificate of Appropriateness review is required per [Section 6.2.5](#) for lots located within the Historic Access Corridor (HAC) Overlay District, and for lots located within the Historic (H) Overlay District.

COMMERCIAL BOARDING KENNEL	
Permitted Use	CH
Accessory Use	None
Special Use	None

Definition:

A business which houses, boards, handles, or otherwise keeps or cares for companion animals in return for compensation.

Use Regulations: None

Required Review Processes:

1. Site Development Plan review is required per [Section 6.2.2](#).

ARTICLE I – ZONING ORDINANCE
2024 EDITION

2. Certificate of Appropriateness review is required per [Section 6.2.5](#) for lots located within the Historic Access Corridor (HAC) Overlay District.

COMMERCIAL BREEDING KENNEL	
Permitted Use	CH; AOC and FOC as home occupation (see limitations below)
Accessory Use	None
Special Use	AOC, FOC, CN

Definition:

A business which houses or handles canine animals older than six months for the purpose of breeding for sale in return for compensation.

Use Regulations:

1. Regulations for the AOC, FOC, and CN Districts:
 - a. Canines shall be confined in an enclosed building, which shall be climate controlled and be constructed of sound absorbing materials so as to mitigate animal noise at adjacent property lines. Such an enclosed facility may also include a fenced exercise area. Such enclosed facilities and exercise areas shall be at least 200 feet from any property line. Areas of confinement not fully enclosed (such as dog runs) shall be at least 500 feet from any property line.
 - b. The hours of operation shall not be earlier than 7:00 a.m. or later than 9:00 p.m. In all cases, canines shall be confined in an enclosed building from 9:00 p.m. to 6:00 a.m. In exceptional cases, a canine may be briefly escorted outside by kennel staff during the hours of enclosed confinement.
2. Regulations for the AOC and FOC Districts:
 - a. A commercial breeding kennel for a maximum of ten canines older than six months is allowable as a home occupation with approval of a Zoning Permit per [Section 6.2.1](#).
 - b. A commercial breeding kennel is allowed only if located on the same lot as a single-family dwelling and shall be located not more than 200 feet from the single-family dwelling.

Required Review Processes:

1. Special Use Permit Review is required per [Section 6.3.1](#) for breeding kennels housing more than 10 canines. If operating as a home occupation, a Zoning Permit is required per [Section 6.2.1](#). Special Use Permit Review is not required for uses in the CH District.
2. Site Development Plan Review is required per [Section 6.2.2](#) unless operated as a home occupation.

ARTICLE I – ZONING ORDINANCE
2024 EDITION

3. Certificate of Appropriateness review is required per [Section 6.2.5](#) for lots located within the Historic Access Corridor (HAC) Overlay District, and for lots located within the Historic (H) Overlay District, unless operated as a home occupation.

COMMERCIAL CENTER	
Permitted Use	CH (see limitations below)
Accessory Use	None
Special Use	CH (see limitations below)

Definition:

A structure containing two or more commercial tenant spaces for occupancy by individual businesses.

Use Regulations:

1. As a permitted use, the maximum floor area of a commercial center is 15,000 square feet. As a special use, the maximum floor area of a commercial center is 50,000 square feet.
2. A commercial center may house any permitted or special use, or combination of both, subject to applicable use regulations.
3. No business shall occupy a free-standing building on a lot that is occupied by a commercial center.
4. For commercial centers located in the Historic Access Corridor (HAC) Overlay District, each commercial tenant space with an external public ingress/egress shall have an entrance and roof lines with a distinctive design from the other commercial tenant spaces within the center. This regulation does not apply to commercial tenant spaces that only have internal public ingress/egress.

Required Review Processes:

1. Special Use Permit Review is required per [Section 6.3.1](#) for commercial centers larger than 15,000 square feet up to a maximum of 50,000 square feet.
2. Site Development Plan Review is required per [Section 6.2.2](#).
3. Certificate of Appropriateness Review is required per [Section 6.2.5](#) for lots located within the Historic Access Corridor (HAC) Overlay District.

COMMERCIAL RECREATIONAL USES AND STRUCTURES	
Permitted Use	None
Accessory Use	None
Special Use	CN, CH

Definition:

A business in which seasonal facilities directly related to outdoor recreation are provided for all or any of the following: Camping, lodging, picnicking, boating, fishing, swimming, outdoor games and sports, and activities incidental and related to the foregoing. A commercial recreation area does not include miniature golf grounds, golf driving ranges, mechanical amusement devices, or accessory uses such as refreshment stands, equipment sales or rentals.

Use Regulations: None

Required Review Processes:

1. Special Use Permit Review is required per [Section 6.3.1](#).
2. Site Development Plan Review is required per [Section 6.2.2](#).
3. Certificate of Appropriateness Review is required per [Section 6.2.5](#) for lots located within the Historic Access Corridor (HAC) Overlay District, and for lots located within the Historic (H) Overlay District.

CONVENIENCE STORE WITH GASOLINE SALES	
Permitted Use	CH
Accessory Use	None
Special Use	None

Definition:

A business which carries a range of food and merchandise oriented to the convenience and needs of automotive travelers and nearby residents and offers onsite dispensing of gasoline and other petroleum products for sale.

Use Regulations:

1. The sale of meals or prepared food, which may include beverages and confections, is permitted as an accessory use to a convenience store with gasoline sales. Approvals or permits by applicable State agencies shall be obtained and remain active for the lifespan of this activity.
2. Gasoline Pump Canopy Regulations. Canopies covering gasoline pumps shall not exceed a height of 18 feet, 6 inches and shall not be closer than 10 feet to any property line or right-of-way.

Required Review Processes:

1. Site Development Plan Review is required per [Section 6.2.2](#).

ARTICLE I – ZONING ORDINANCE
2024 EDITION

2. Certificate of Appropriateness Review is required per [Section 6.2.5](#) for lots located within the Historic Access Corridor (HAC) Overlay District.

COUNTRY INN	
Permitted Use	CN
Accessory Use	None
Special Use	AOC, FOC

Definition:

A business offering for compensation to the public guestrooms for transitory lodging or sleeping accommodations for a period of fewer than 30 consecutive days. As accessory uses to a country inn, meal service and/or permanent place(s) of public assembly may be provided.

Use Regulations:

1. Maximum occupancy and use of onsite sewage disposal system.
 - a. A maximum of 15 guest rooms for transitory lodging or sleeping accommodations shall be permitted subject to compliance with Virginia Department of Health (VDH) regulations for onsite sewage disposal systems if applicable. The maximum occupancy shall not exceed the maximum occupancy allowed by the onsite sewage disposal system permit issued by the Virginia Department of Health (VDH). If the onsite sewage disposal system serving the country inn is shared with another structure or structures, the maximum occupancy of all structures shall not exceed the maximum occupancy allowed by the onsite sewage disposal system permit.
 - b. An application for a country inn that is served by an onsite sewage disposal system shall be reviewed by VDH in conjunction with the site development plan application review. Written confirmation by VDH that the existing onsite sewage disposal system can support the proposed maximum capacity of the country inn shall be a prerequisite to approval of a site development plan.
 - c. If a country inn is served by an onsite sewage disposal system, that system shall be maintained and remain in an operable condition for the life of the use. In the event that the system fails as determined by the Virginia Department of Health (VDH), the zoning administrator may issue a notice of violation to cease the country inn use until the system is repaired or replaced and is approved in writing by VDH.
2. The sale of meals or prepared food, which may include beverages and confections, is permitted as an accessory use to a country inn. Approvals or permits by applicable State agencies shall be obtained and remain active for the lifespan of this activity.

ARTICLE I – ZONING ORDINANCE
2024 EDITION

3. Assembly activities for compensation are permitted as an accessory use. The maximum number of building occupants during an assembly activity shall not exceed 149, or the maximum occupancy of the facility as approved by the Building Department, whichever is lesser.
4. One bathroom shall be provided per each bedroom in structures less than 50 years old or one bathroom shall be provided per each two bedrooms in structures 50 years or older.
5. Any need for parking shall be met off the street and other than in a required front yard, and shall conform in all other ways with the provisions of [Section 7.2.5 \(Parking Regulations\)](#).
6. No equipment, process, or vehicles which create unreasonable noise, vibration, glare, fumes or odors which are detectable to the normal sense off the premises shall be permitted.
7. Regulations for country inns in the AOC and FOC Districts:
 - a. A country inn shall require the use of a dwelling unit right (DUR).
 - b. If a country inn is developed in a structure other than an existing single-family dwelling, the structure shall be designed to resemble a single-family dwelling and constructed to enable the structure to be converted to a single-family dwelling if the country inn use is discontinued. Architectural renderings and construction plans for the proposed structure shall be submitted for review with the special use permit application.
8. Special events shall comply with [Chapter 57 of the Code of Clarke County](#).

Required Review Processes:

1. Special Use Permit Review is required per [Section 6.3.1](#) for country inns in the AOC and FOC Districts.
2. Site Development Plan Review is required per [Section 6.2.2](#).
3. Certificate of Appropriateness Review is required per [Section 6.2.5](#) for lots located within the Historic Access Corridor (HAC) Overlay District, and for lots located within the Historic (H) Overlay District.

ARTICLE I – ZONING ORDINANCE
2024 EDITION

DAY CARE CENTER	
Permitted Use	None
Accessory Use	None
Special Use	AOC

Definition:

A business, licensed by the Commonwealth of Virginia, which offers daytime care for children or adults.

Use Regulations:

1. Day care centers are allowed only on lots with frontage on Federal primary highways, four-lane divided State primary highways, and business routes of State primary highways.

Required Review Processes:

1. Special Use Permit Review is required per [Section 6.3.1](#).
2. Site Development Plan Review is required per [Section 6.2.2](#).

FARM MACHINERY SALES AND SERVICE	
Permitted Use	AOC (see limitations below), CH
Accessory Use	None
Special Use	AOC (see limitations below)

Definition:

Buildings and land used for the onsite sale of machinery, equipment, and parts, and/or for the onsite service of machinery and equipment, manufactured primarily for use by an agricultural operation.

Use Regulations:

The following regulations shall apply to such uses that are proposed in the AOC District:

1. Approval of a site development plan per [Section 6.2.2](#) shall be required. A plan for the effective onsite containment and offsite disposal of fertilizers, pesticides/herbicides, and chemicals in accordance with State requirements shall be provided with the site development plan. No onsite disposal of fertilizers, pesticides/herbicides, or chemicals shall be permitted.
2. The lot on which a farm supplies sales business is located shall have frontage on a Federal primary highway (US 340, US 522, US 50/17) or four-lane divided State primary highway (VA 7) and shall have a commercial entrance approved by the Virginia Department of Transportation (VDOT).

ARTICLE I – ZONING ORDINANCE
2024 EDITION

3. The total floor area of the building or buildings used for farm supplies sales shall be less than 12,000 square feet. A farm machinery sales and service business may exceed this limitation with approval of a special use permit.
4. Outdoor storage of supplies shall only be permitted within the rear yard building envelope and shall be designated on the site plan. Outdoor storage areas shall be secured with fencing.
5. Outdoor display of supplies shall only be permitted in a designated area within the building envelope not to exceed 750 square feet.
6. Retail sale of non-agricultural merchandise is allowed so long as sale of such merchandise is accessory and clearly incidental to the sale of farm supplies.

Required Review Processes:

1. Special Use Permit Review is required per [Section 6.3.1](#) for uses in the AOC District with a total building floor area of 12,000 square feet or greater.
2. Site Development Plan Review is required per [Section 6.2.2](#).
3. Certificate of Appropriateness Review is required per [Section 6.2.5](#) for lots located within the Historic Access Corridor (HAC) Overlay District.

FARM SUPPLIES SALES	
Permitted Use	AOC (see limitations below), CH
Accessory Use	None
Special Use	AOC (see limitations below)

Definition:

Buildings and land used for the onsite sale of supplies that are primarily produced or manufactured for use by an agricultural operation.

Use Regulations:

The following regulations shall apply to such uses that are proposed in the AOC District:

1. Approval of a site development plan per [Section 6.2.2](#) shall be required. A plan for the effective onsite containment and offsite disposal of fertilizers, pesticides/herbicides, and chemicals in accordance with State requirements shall be provided with the site development plan. No onsite disposal of fertilizers, pesticides/herbicides, or chemicals shall be permitted.
2. The lot on which a farm supplies sales business is located shall have frontage on a Federal primary highway (US 340, US 522, US 50/17) or four-lane divided State primary highway (VA 7) and shall have a commercial entrance approved by the Virginia Department of Transportation (VDOT).

ARTICLE I – ZONING ORDINANCE
2024 EDITION

3. The total floor area of the building or buildings used for farm supplies sales shall be less than 12,000 square feet. A farm machinery sales and service business may exceed this limitation with approval of a special use permit.
4. Outdoor storage of supplies shall only be permitted within the rear yard building envelope and shall be designated on the site plan. Outdoor storage areas shall be secured with fencing.
5. Outdoor display of supplies shall only be permitted in a designated area within the building envelope not to exceed 750 square feet.
6. Retail sale of non-agricultural merchandise is allowed so long as sale of such merchandise is accessory and clearly incidental to the sale of farm supplies.

Required Review Processes:

1. Special Use Permit Review is required per [Section 6.3.1](#) for uses in the AOC District with a total building floor area of 12,000 square feet or greater.
2. Site Development Plan Review is required per [Section 6.2.2](#).
3. Certificate of Appropriateness Review is required per [Section 6.2.5](#) for lots located within the Historic Access Corridor (HAC) Overlay District.

FEED AND GRAIN MILL	
Permitted Use	None
Accessory Use	None
Special Use	CH

Definition:

A business that is primarily engaged in the grinding of grains or dried vegetables to produce flour or meal.

Use Regulations: None

Required Review Processes:

1. Special Use Permit Review is required per [Section 6.3.1](#).
2. Site Development Plan Review is required per [Section 6.2.2](#).
3. Certificate of Appropriateness Review is required per [Section 6.2.5](#) for lots located within the Historic Access Corridor (HAC) Overlay District.

FINANCIAL INSTITUTION	
Permitted Use	CN, CH
Accessory Use	None
Special Use	None

Definition:

A business which provides financial services which may include, but are not limited to, loans, savings, checking, money management and other similar services and includes, but is not limited to banks, savings and loan associations, credit unions, finance companies, and mortgage companies.

Use Regulations: None

Required Review Processes:

1. Site Development Plan Review is required per [Section 6.2.2](#).

2. Certificate of Appropriateness Review is required per [Section 6.2.5](#) for lots located within the Historic Access Corridor (HAC) Overlay District, and for lots located within the Historic (H) Overlay District.

FIREARMS SALES AND SERVICE	
Permitted Use	None
Accessory Use	None
Special Use	CN, CH

Definition:

A business that is primarily engaged in the retail sale and maintenance of firearms, ammunition, and accessories. This use shall not include the manufacture of firearms or ammunition.

Use Regulations: None

Required Review Processes:

1. Special Use Permit Review is required per [Section 6.3.1](#).

2. Site Development Plan Review is required per [Section 6.2.2](#).

3. Certificate of Appropriateness Review is required per [Section 6.2.5](#) for lots located within the Historic Access Corridor (HAC) Overlay District, and for lots located within the Historic (H) Overlay District.

FUNERAL HOME	
Permitted Use	None
Accessory Use	None
Special Use	CH

Definition:

An establishment used for human funeral services, which must include facilities on the premises for embalming and may or may not include facilities for the performance of autopsies, other surgical procedures, or cremation.

Use Regulations: None

Required Review Processes:

1. Special Use Permit Review is required per [Section 6.3.1](#).
2. Site Development Plan Review is required per [Section 6.2.2](#).
3. Certificate of Appropriateness Review is required per [Section 6.2.5](#) for lots located within the Historic Access Corridor (HAC) Overlay District.

HOTEL	
Permitted Use	CH
Accessory Use	None
Special Use	None

Definition:

Any place containing two or more guest rooms offering to the public compensation transitory lodging or sleeping accommodations, overnight or otherwise, with any period of continuous occupancy being not longer than 14 days, including but not limited to facilities known by varying nomenclatures or designations as hotels, motels, or travel lodges.

Use Regulations:

1. The minimum lot area required for a hotel shall be 2,000 square feet per unit exclusive of proprietor's dwelling, office and accessory building.

Required Review Processes:

1. Site Development Plan Review is required per [Section 6.2.2](#).
2. Certificate of Appropriateness Review is required per [Section 6.2.5](#) for lots located within the Historic Access Corridor (HAC) Overlay District.

LIMITED EXTRACTION OF NATURAL RESOURCES	
Permitted Use	None
Accessory Use	None
Special Use	AOC

Definition:

Extraction of clay (types used in landfills), shale, and top soil by a public entity for use in a existing public landfill serving only Clarke County, Frederick County, and Winchester City residents.

Use Regulations:

1. Intent. It is intended that the public interest be protected by regulations assuring that both present and future results of such removal do not create effects adverse to the public health, safety, comfort or convenience or significantly damaging to the value of surrounding property.

2. General Requirements.
 - a. Public Hazards and Improvements. Operations as proposed at the location shall not create unusual traffic hazards or the need for special public improvements or special public maintenance of public streets, bridges, drainage or flood control works or any other facilities, nor need for special protection, repair or maintenance of adjacent private property; provided, however, that the applicant may, by agreement and with sureties in form and amount approved by the County, assume the costs created.

 - b. Size. The site shall be of sufficient size and dimensions to accommodate proposed operations in accordance with the criteria for Special Use Permits set forth in Section 5, with measurements made at site boundaries; provided, however, that upon written agreement by adjoining property owners, the points of measurement may be extended to include their property.

 - c. Location. Location shall be appropriate to existing or proposed development during the exploitation phase. The site shall be so located with respect to roads as to make it unnecessary to conduct trucking operations through residentially zoned areas while products are being removed.

 - d. Time Limits. In addition to limitations established by conditions placed on the Special Use Permit, blasting operations shall be restricted to Mondays through Fridays between 8:00 a.m. and 5:00 p.m. In addition, the Special Use Permit conditions may set a time limit on the exploitation phase(s).

 - e. Care of Land. Creation of undrained pockets and stagnant pools shall be avoided to the maximum extent reasonably practicable and all such undrained pockets and stagnant pools resulting from surface drainage shall be sprayed in accordance

ARTICLE I – ZONING ORDINANCE
2024 EDITION

with requirements of the County Health Department to eliminate breeding places for mosquitoes and other insects.

- f. Off-Street Parking. Off-street parking areas adequate for all employees' vehicles and trucks shall be provided.

3. Required Site Development Plan Elements.

- a. The Site Development Plan shall show the proposed extraction activities as planned and staged, in relation to surrounding property within 300 feet, or such greater distance as may be required by the Planning Commission as appropriate in the particular case, and shall include topographic surveys indicating present conditions (including drainage) and the conditions (including topography, drainage and soils) to be left at the end of the exploitation phase. Contour intervals for topography shall be five feet in areas where general slope is greater than 10 percent, two feet in areas where general slope is 10 percent or less.
- b. The Site Development Plan shall show that the extraction activities will not cause hazards or damage to other properties by reason of increased flooding or undesirable rise or reduction in ground water levels, erosion caused by increased rate of flow or redirection of flow in flood channels, deposits of debris from flood or erosion, excessive slopes remaining at cuts or fills, or undermining or creation of settlement in adjoining areas. This plan shall also show important locational aspects of the stages of exploitation, where and how traffic on and from the development will be handled, where equipment will be operating, the location and dimension of structures, the manner in which appropriate safeguards will be provided, including, without limitation, those for preventing access by children and other unauthorized persons to dangerous areas. The Site Plan shall indicate how the project is to be finished in accordance with the plan for reuse.
- c. The Site Development Plan shall show feasible circulation patterns in and around the site, the treatment of exposed soil or subsoil (including measures to be taken to replace topsoil and/or establish vegetation in excavated areas) in order to make the property suitable for the proposed reuse, treatment of slopes to prevent erosion and delineation of floodways and flood plans (if any) to be maintained in open usage. In such plans for reuse, where conditions are suitable, permanent lakes may be permitted, but intermittent lakes and marshes shall not be allowed except within flood plain areas.
- d. The Site Development Plan shall show the property, in its entirety, returned to a state suitable for reuse for purposes permissible in the district, relating such reuses to uses existing or probable for surrounding property.

Required Review Processes:

1. Special Use Permit Review is required per [Section 6.3.1](#).
2. Site Development Plan Review is required per [Section 6.2.2](#).

PERSONAL SERVICE BUSINESS	
Permitted Use	CN, CH
Accessory Use	None
Special Use	AOC, FOC, CH (see limitations below)

Definition:

A business primarily engaged in the onsite provision of frequent or recurrent services of a personal nature such as hair, nail, or tanning salons.

Use Regulations:

1. Personal Service Businesses in the CN District. The total floor area of the building or buildings used for a personal service business shall not exceed 5,000 square feet. A maximum of two businesses per lot is allowed. Two businesses may be located in the same structure provided that the structure does not exceed 5,000 square feet in area and the businesses occupy shared space and not individual commercial tenant spaces.
2. Personal Service Businesses in the CH District. The total floor area of the building or buildings used for a personal service business shall not exceed 15,000 square feet. A personal service business may exceed this limitation with approval of a special use permit up to a maximum floor area of 50,000 square feet.
3. Personal Service Businesses in the AOC and FOC Districts. The total gross floor area is limited to 3,000 square feet. Outdoor storage is not permitted.

Required Review Processes:

1. Special Use Permit Review is required per [Section 6.3.1](#) for personal service businesses in the AOC and FOC Districts.
2. Site Development Plan Review is required per [Section 6.2.2](#).
3. Certificate of Appropriateness review is required per [Section 6.2.5](#) for lots located within the Historic Access Corridor (HAC) Overlay District, and for lots located within the Historic (H) Overlay District.

PROFESSIONAL SERVICE BUSINESS	
Permitted Use	CN, CH
Accessory Use	None
Special Use	None

Definition:

A business that does not involve the onsite sale of goods or commodities or dispensing of personal services and provides legal, architectural, engineering, real estate brokerage, insurance, accounting, art, photography, music, or similar related service to the public. Professional services also includes medical and dental offices.

Use Regulations: None

Required Review Processes:

1. Site Development Plan Review is required per [Section 6.2.2](#).
2. Certificate of Appropriateness Review is required per [Section 6.2.5](#) for lots located within the Historic Access Corridor (HAC) Overlay District, and for lots located within the Historic (H) Overlay District.

RESTAURANT	
Permitted Use	CN, CH
Accessory Use	None
Special Use	None

Definition:

An establishment where meals or prepared food, which may include beverages and confections, are served to customers for a fee.

Use Regulations:

1. Drive-through service is permitted as an accessory activity to a restaurant. Drive-through service is prohibited in the Neighborhood Commercial (CN) District.
2. Entertainment (including live music, recorded music, or performance acts) is permitted as an accessory activity to a restaurant but shall be periodic in nature and remain accessory to the sale of food.
3. Catering may be operated as an accessory use to a restaurant.

Required Review Processes:

1. Site Development Plan Review is required per [Section 6.2.2](#).
2. Certificate of Appropriateness Review is required per [Section 6.2.5](#) for lots located within the Historic Access Corridor (HAC) Overlay District, and for lots located within the Historic (H) Overlay District.

RETAIL BUSINESS	
Permitted Use	CN, CH (see limitations below)
Accessory Use	None
Special Use	AOC, FOC, CH (see limitations below)

Definition:

Buildings or land used for onsite sale of merchandise at retail.

ARTICLE I – ZONING ORDINANCE
2024 EDITION

Use Regulations:

1. Outdoor storage is not permitted. Outdoor display of the business products is permitted. The area used for such display (excluding living plant material in containers or ball and burlap), top soil, or mulch) may cover up to 750 square feet.
2. Retail Businesses in the CN District. The total floor area of the building or buildings used for a retail and service business shall not exceed 5,000 square feet. A maximum of two businesses per lot is allowed. Two businesses may be located in the same structure provided that the structure does not exceed 5,000 square feet in area and the businesses occupy shared space and not individual commercial tenant spaces.
3. Retail Businesses in the CH District. The total floor area of the building or buildings used for a retail and service business shall not exceed 15,000 square feet. A retail and service business may exceed this limitation with approval of a special use permit up to a maximum floor area of 50,000 square feet.
4. Retail Businesses in the AOC and FOC Districts. The total gross floor area is limited to 3,000 square feet. Outdoor storage is not permitted. Outdoor display of the business products is permitted. The area used for such display may cover up to 750 square feet, except for the area used for outdoor display of living plant material (in containers or ball and burlap), top soil, or mulch, which may cover up to 2250 square feet.

Required Review Processes:

1. Special Use Permit Review is required per [Section 6.3.1](#) for retail businesses in the AOC and FOC Districts and for retail businesses in the CH District with a total floor area of between 15,000 square feet and 50,000 square feet.
2. Site Development Plan Review is required per [Section 6.2.2](#).
3. Certificate of Appropriateness review is required per [Section 6.2.5](#) for lots located within the Historic Access Corridor (HAC) Overlay District, and for lots located within the Historic (H) Overlay District.

SAWMILL	
Permitted Use	None
Accessory Use	None
Special Use	FOC

Definition:

A business established for the purpose of sawing or cutting of logs or trees into rough slabs.

Use Regulations: None

Required Review Processes:

1. Special Use Permit Review is required per [Section 6.3.1](#).

2. Site Development Plan Review is required per [Section 6.2.2](#).

SELF-SERVICE STORAGE FACILITY	
Permitted Use	None
Accessory Use	None
Special Use	CH

Definition:

A building or group of buildings divided into separate self-contained units or areas offered for rent for self-service storage of household and personal property. The storage units or areas are designed to allow private access by the tenant for storing and removing personal property. Accessory uses may include leasing offices, outdoor storage of boats and recreational vehicles, and incidental sales or rental of moving supplies and equipment such as boxes and dollies.

Use Regulations:

Not more than one outdoor vehicle storage space for each 750 square feet of indoor storage area for vehicles and trailers in operating condition, fully assembled, and displaying appropriate and current county license, state plates, and inspection sticker.

Required Review Processes:

1. Special Use Permit Review is required per [Section 6.3.1](#).
2. Site Development Plan Review is required per [Section 6.2.2](#).
3. Certificate of Appropriateness Review is required per [Section 6.2.5](#) for lots located within the Historic Access Corridor (HAC) Overlay District.

SHOP FOR WELDING, BLACKSMITH, TINSMITH, WOODWORKING	
Permitted Use	None
Accessory Use	None
Special Use	CN, CH

Definition:

A business established for the purpose of fabricating, crafting, or repairing products from metal or wood.

Use Regulations: None

Required Review Processes:

1. Special Use Permit Review is required per [Section 6.3.1](#).
2. Site Development Plan Review is required per [Section 6.2.2](#).

ARTICLE I – ZONING ORDINANCE
2024 EDITION

3. Certificate of Appropriateness Review is required per [Section 6.2.5](#) for lots located within the Historic Access Corridor (HAC) Overlay District, and for lots located within the Historic (H) Overlay District.

SOLAR POWER PLANT	
Permitted Use	None
Accessory Use	None
Special Use	AOC

Definition:

A utility-scale commercial facility with a rated nameplate capacity greater than 100kW (DC), which uses solar energy specifically for the conversion of sunlight into electricity by photovoltaics (a technology that converts light directly into electricity).

Use Regulations:

The following regulations establish minimum requirements and standards for the placement, construction and modification of large photovoltaic solar power plants, while promoting the safe, effective and efficient use of such energy systems.

1. **Location.** If such plant is not part of a “behind-the-meter” program, then such plant shall be adjacent to and all facilities located within one mile of a pre-existing electrical sub-station of 138 kV or higher voltage.
2. **Minimum Lot Size.** No such plant shall be erected on any lot less than twenty acres in size.
3. **Setbacks.** All above ground facilities associated with such plant (excluding perimeter security fencing) shall be considered a structure for the purposes of determining required setbacks.
4. **Safety/Access.** A security fence (height and material to be established through the special use permit process) shall be placed around the perimeter of the solar power plant and electrical equipment shall be locked. Knox boxes and keys shall be provided at locked entrances for emergency personnel access. Warning signage shall be placed on electrical equipment and plant entrances.
5. **Noise.** No such plant shall exceed sixty-five dBA as measured at the property line or fifty dBA as measured at the nearest neighboring inhabitable building.
6. **Landscaping.** Such a power plant shall be considered a commercial use for the purposes of determining landscaping requirements.
7. **Local, State, and Federal Permits.** Such a plant shall be required to obtain all necessary permits from the U.S. Government, Commonwealth of Virginia, and Clarke County, and comply with standards of the major code and safety organizations that apply to

ARTICLE I – ZONING ORDINANCE
2024 EDITION

generation projects (the National Fire Protection Association (NFPA), Underwriters Laboratories (UL), and Institute of Electrical and Electronics Engineers (IEEE)).

8. Electrical Interconnections. All electrical interconnection or distribution lines shall comply with all applicable codes and standard commercial large-scale utility requirements. Use of above ground transmission lines shall be minimized.
9. Additional Special Use Factors. The following additional factors shall be addressed in the Special Use Permit application for such plant:
 - a. Project description and rationale. Identify the type, size, rated power output, performance, safety and noise characteristics of the system, including the name and address of the manufacturer, model. Identify time frame, project life, development phases, likely markets for the generated energy, and possible future expansions.
 - b. Economic analysis. Provide economic cost/benefit analysis describing generated property taxes, sales taxes, other taxes, construction dollars spent locally, estimated construction jobs and construction payroll, estimated permanent jobs and continuing payroll, and costs associated with impact on roads and other county infrastructure in the area.
 - c. Visual impacts, appearance and scenic view sheds. Provide visual simulations providing vantage points considering a three hundred sixty degree view of the project site.
 - d. Wildlife habitat areas and migration patterns. Address potential impact on wildlife especially endangered or threatened species, on the site and in a biologically significant area surrounding the site.
 - e. Environmental analysis. Identify impact analysis on historic, cultural and archaeological resources, soil erosion, flora in the project area, water quality and water supply in the area, dust from project activities, and cumulative impacts of other adjacent power plant projects.
 - f. Waste. Identify solid waste or hazardous waste generated by the project and methods of disposal.
 - g. Lighting. Provide lighting plan showing impacts on adjacent properties.
 - h. Transportation plan. Provide access plan during construction and operation phases. Show proposed project service road ingress and egress access onto primary and secondary routes, layout of the plant service road system and degree of upgrade plan to new and existing roads, anticipated volume and route for traffic, including oversized and heavy equipment needed for construction, maintenance and repairs, methodology of repairs and maintenance of roads and

ARTICLE I – ZONING ORDINANCE
2024 EDITION

bridges used for the project, and related public pedestrian and vehicular access and associated fencing.

- i. Public safety. Identify emergency and normal shutdown procedures. Identify potential hazards to adjacent properties, public roadways, communities, aviation, etc., that may be created and address response to such hazards.
- j. Noise limitations. Identify noise levels at the property line of the project boundary.
- k. Telecommunications interference. Identify electromagnetic fields and communications interference generated by the project.
- l. Life of the project and final reclamation. Describe the decommissioning and final land reclamation plan after anticipated useful life or abandonment or termination of the project, including evidence of an agreement with the property owner that ensures proper final removal of power generating equipment.

Required Review Processes:

- 1. Special Use Permit Review is required per [Section 6.3.1](#).
- 2. Site Development Plan Review is required per [Section 6.2.2](#).

SPECIALTY TRADE CONTRACTOR	
Permitted Use	None
Accessory Use	None
Special Use	AOC, FOC

Definition:

The definition for this use is referenced as the Specialty Trade Contractors subsector (#238) in the North American Industry Classification System (NAICS) Manual, 2017 Edition (U.S. Office of Management and Budget).

Use Regulations:

- 1. Maximum floor area. The maximum floor area of a building housing a special trade contractor use is 1,800 square feet. For lots with access to a primary highway with more than 5,000 vehicle trips a day, the maximum structure size is 3,000 square feet.
- 2. Minimum lot size. For buildings housing a special trade contractor use with a floor area up to 1,800 square feet, the minimum lot size is two acres. For such buildings with a floor area over 1,800 square feet and up to 3,000 square feet, the minimum lot size is 10 acres.

ARTICLE I – ZONING ORDINANCE
2024 EDITION

3. Setbacks. Building setbacks are as established in the zoning district regulations. For buildings with a floor area over 1,800 square feet and up to 3,000 square feet, the minimum setback is 200 feet from all property lines, rights of way, and access easements.
4. Storage of equipment and materials. As determined by the Planning Commission, there may be limited exterior storage of equipment or materials based on site related circumstances. Such storage shall be shielded from view from adjacent lots, public rights of way, and private access easements by solid fencing, evergreen trees, and/or topographic features.

Required Review Processes:

1. Special Use Permit Review is required per [Section 6.3.1](#).
2. Site Development Plan Review is required per [Section 6.2.2](#).

VETERINARY CLINIC	
Permitted Use	CH
Accessory Use	None
Special Use	AOC, FOC, CN

Definition:

A facility for the medical care and treatment of animals including companion animals and agricultural animals. Such facilities may provide grooming and boarding services as well as limited retail sales of pet-related merchandise.

Use Regulations:

1. In the AOC, FOC, and CN Districts, companion animals shall be confined in an enclosed building, which shall be climate controlled and be constructed of sound absorbing materials so as to mitigate animal noise at adjacent property lines. Such an enclosed facility may also include a fenced exercise area. Such enclosed facilities and exercise areas shall be at least 200 feet from any property line. Areas of confinement not fully enclosed (such as dog runs) shall be at least 500 feet from any property line.

Required Review Processes:

1. Special Use Permit Review is required per [Section 6.3.1](#) for uses in the AOC, FOC, and CN Districts.
2. Site Development Plan Review is required per [Section 6.2.2](#).
3. Certificate of Appropriateness Review is required per [Section 6.2.5](#) for lots located within the Historic Access Corridor (HAC) Overlay District, and for lots located within the Historic (H) Overlay District.

ARTICLE I – ZONING ORDINANCE
2024 EDITION

WIRELESS COMMUNICATION FACILITY (WCF)							
Class	AOC	FOC	CH	CN	RR	Historic Overlay*	Historic Access Overlay*
Co-Location	A	A	A	A	A	A	A
1 (Maximum height 50')	P	P	P	P	P	X	P
2 (Maximum height 80')	P	P	P	P	P	X	P
3 (Maximum height 120')	S	S	S	X	X	X	S
4 (Maximum height 199')	S	S	S	X	X	X	S
5 (Amateur radio antenna)	P	P	P	P	P	P	P
6 (Antenna support structure)	P	P	P	P	P	X	P

P -- Permitted Use **S -- Special Use**
A -- Accessory Use **X -- Prohibited Use**

* -- Subject to the underlying zoning district regulations and compliance with overlay district review criteria.

Definition:

All infrastructures and equipment including, but not limited to, structures, antennas, transmission cables, equipment shelters, equipment cabinets, utility pedestals, ground equipment, fencing, signage, and other ancillary equipment associated with the transmission or reception of wireless communications.

Use Regulations:

1. Purpose and Objectives; Telecommunications Engineering Study.
 - a. Purpose. The purpose of this section and the Wireless Communication Facility Design Standards in [Section 7.3](#) is to provide for the siting of Wireless Communication Facilities (WCFs) by establishing requirements for the siting, construction and modification of monopoles, towers, stealth structures, support structures, and associated equipment.
 - b. Objectives. The objectives of this section are:
 - To reduce the adverse visual impact of such facilities.

ARTICLE I – ZONING ORDINANCE
2024 EDITION

- To encourage the placement of WCFs in locations with appropriate vegetative cover and screening, and encourage co-location of antennas as an alternative to construction of new WCFs.
 - To promote alternative stealth structure design
 - To facilitate deployment of WCFs to provide coverage to residents and businesses of Clarke County in a manner consistent with the County’s character
- c. Telecommunications Infrastructure and Broadband Study. This section is intended to be applied in conjunction with the County’s [Telecommunications Infrastructure and Broadband Study](#). The Study’s proposed locations for new WCFs are a guide to maximize telecommunications service to residents and businesses and to minimize adverse impact on the County’s scenic and historic resources.
2. Classes of Wireless Communication Facilities. WCFs shall be divided into the following classes:
- a. Class 1. WCFs with a height not to exceed fifty (50) feet above ground level (AGL). Such design shall be limited to a monopole or “stealth” design. Antennas must be surface mounted on the monopole.
 - b. Class 2. WCFs with a height not to exceed eight (80) feet above ground level (AGL). Such facilities shall be limited to a monopole or “stealth” design. Antennas must be surface mounted on the monopole.
 - c. Class 3. WCFs with a height not to exceed one hundred and twenty (120) feet above ground level (AGL). Such facilities shall be limited to a monopole design as the support structure.
 - d. Class 4. WCFs with a height not to exceed one hundred and ninety nine (199) feet above ground level (AGL). Such facilities shall be limited to a monopole design as the support structure.
 - e. Class 5. Amateur radio antennas subject to the limitations of [Va. Code §15.2-2293.1](#) and Federal Communications Commission (FCC) provisions specified in the Code of Federal Regulations.
 - f. Class 6. Freestanding antenna support structures with a height not to exceed one hundred (100) feet above ground level, and building or structure mounted antenna support structures with a height not to exceed eighty (80) feet above ground level. Antenna support structures shall not exceed the maximum height of the tree canopy on the topographic crest of the Blue Ridge Mountains.

ARTICLE I – ZONING ORDINANCE
2024 EDITION

Class	Maximum Height	Approval Authority	Site Development Plan Required?	Engineering Review Required?	Permitted Design Type(s)
1	50 feet	Zoning Administrator	Yes*	Yes*	Monopole or stealth with surface-mounted antennas
2	80 feet	Planning Commission	Yes	Yes	Monopole or stealth with surface-mounted antennas
3	120 feet	Board of Supervisors	Yes	Yes	Monopole
4	199 feet	Board of Supervisors	Yes	Yes	Monopole
5	Per State law	Zoning Administrator	Yes*	Yes*	Per State law
6	80 or 100 feet	Zoning Administrator	No	No	Monopole or lattice

* Depending on the nature and design of the Class 1 or Class 5 WCF, the Zoning Administrator has the discretion to waive certain site development plan requirements. Review by engineering consultant(s) is subject to the Zoning Administrator’s discretion.

3. General Use Standards.

- a. All WCFs must meet current standards and regulations of the Federal Aviation Administration (FAA), FCC, and any other agency of the county, state, or federal government with the authority to regulate WCFs. If regulations change and WCFs are required to comply with such changes, the owners of the WCFs governed by this ordinance shall bring WCFs into compliance within six (6) months of the effective date of such change in standards or regulations. Failure to comply shall constitute grounds for the removal of the WCFs at the owner’s expense.
- b. WCFs shall be considered either a principal or accessory use.

4. By-right uses. The uses listed in this subsection are deemed to be by-right uses subject to review and approval of a site development plan demonstrating compliance with this section, the Wireless Communication Facility (WCF) Design Standards in [Section 7.3](#), and other applicable sections of the Zoning Ordinance:

- a. Co-location. Co-location of new antennas, electronics, cables, and ground support equipment to include cabinets, shelters, power supply transformers, generators, fuel tanks, power meters and other required support equipment on existing WCFs or other structures. The site development plan shall be subject to administrative review and approval by the Zoning Administrator. Third-party engineering review may be required if deemed necessary by the Zoning Administrator.

ARTICLE I – ZONING ORDINANCE
2024 EDITION

- b. Class 1 and Class 5 WCFs. The site development plan shall be subject to administrative review and approval by the Zoning Administrator. Third-party engineering review may be required if deemed necessary by the Zoning Administrator.
 - c. Class 2 WCFs. The site development plan shall be subject to administrative review and approval by the Planning Commission including third-party engineering review.
 - d. Class 6 antenna support structures.
 - Freestanding. A zoning permit issued by the Zoning Administrator shall be required for freestanding antenna support structures.
 - Building or structure mounted. A zoning permit issued by the Zoning Administrator shall be required for an antenna support structure that is installed in the ground and attached to a building or structure for additional support. No zoning permit shall be required for an antenna support structure that is mounted on a building or structure.
 - e. Distributed antenna systems (DAS). Installing a DAS (such as a cable microcell network) through the use of multiple low-powered transmitters/receivers attached to existing wireless systems, such as conventional cable or telephone equipment, or similar technology that does not require the use of WCFs. The site development plan shall be subject to administrative review and approval by the Zoning Administrator. Third-party engineering review may be required if deemed necessary by the Zoning Administrator.
 - f. WCF upgrades/equipment and maintenance of an existing wireless provider on a WCF. The site development plan shall be subject to administrative review and approval by the Zoning Administrator. Third-party engineering review may be required if deemed necessary by the Zoning Administrator.
5. Special Uses. The uses listed in this subsection require issuance of a Special Use Permit including review and approval of a site development plan demonstrating compliance with this section, the Wireless Communication Facility (WCF) Design Standards in [Section 7.3](#), and other applicable sections of the Zoning Ordinance:
- a. Class 3 & 4 WCFs.
 - b. Any Class 3 or Class 4 WCF which is being rebuilt on the same lot to accommodate the co-location of an additional WCF. The rebuilt WCF shall meet all requirements of this section and the Wireless Communication Facility (WCF) Design Standards in [Section 7.3](#). There shall only be one (1) WCF per Special Use Permit in the designated compound area.

ARTICLE I – ZONING ORDINANCE
2024 EDITION

In granting a Special Use Permit, the Planning Commission may recommend and the Board of Supervisors may impose conditions to the extent that the Board concludes such conditions are necessary to minimize any adverse effect of the proposed WCF on adjoining properties.

6. Co-location of antennas as required by Federal law. Notwithstanding any provision of this Ordinance related to Special Use Permit requirements and procedures on any specific special use condition placed on an approved WCF, the Zoning Administrator shall administratively approve a site development plan to allow co-location, removal or replacement of antennas, electronics, cables, and ground support equipment to include cabinets, shelters, power supply transformers, generators, fuel tanks, power meters and other required support equipment on existing Class 1, 2, 3, or 4 WCFs as required by Federal law, that meets all of the following standards:
 - a. The co-location, removal, or replacement of equipment does not result in the WCF failing to meet the requirements of [Section 7.3B \(Setbacks and Buffering\)](#).
 - b. Installation of the proposed equipment does not increase the height of the WCF by more than 10% of the original approved height or by the height needed to provide 20 feet of separation from the closest antenna array location on the WCF, whichever is greater, except that the mounting of the proposed equipment may exceed these limits if necessary to avoid interference with equipment existing on the WCF. For any request to exceed height limits to avoid interference with existing equipment on the WCF, the applicant shall provide a report by a licensed engineer to justify the request. Such report shall be evaluated the County's engineering consultant and the applicant shall be responsible for reimbursing the county for all costs associated with the consultant's review.
 - c. Installation of the proposed equipment would not involve the installation of more than the standard number of new equipment cabinets for the technology involved, not to exceed four, or more than one new equipment shelter. New equipment shelters and cabinets shall be located within the existing approved compound.
 - d. Installation of the proposed equipment would not involve excavation outside the boundaries of the WCF site depicted on the original approved site development plan.
7. Compliance with Federal and State regulations required. Compliance with all Federal Aviation Administration and Federal Communication Commission requirements, including review by the Virginia Department of Historic Resources of properties eligible for listing and listed on the [National Register of Historic Places in accord with Section 106 procedures](#), shall be demonstrated in writing if required by statute.
8. Commercial use of Class 5 WCFs prohibited. There shall be no co-locations of any commercial antennas or equipment on any Class 5 amateur radio WCF for service other than the owner/operator of the Class 5 structure. If any commercial service is located on

ARTICLE I – ZONING ORDINANCE
2024 EDITION

the WCF, the Class 5 WCF shall lose its status as a Class 5 WCF and shall become a commercial facility and be treated as such under County, State and Federal regulations.

9. Existing monopoles and telecommunication towers. Monopoles in existence as of the adoption date of this ordinance shall be considered as WCFs with a Class that corresponds to the monopole’s height. Existing telecommunication towers in excess of 199 feet in height or having a design other than a monopole shall not be considered WCFs for the purpose of this ordinance.

Required Review Processes:

1. Special Use Permit Review is required per [Section 6.3.1](#).
2. Site Development Plan Review is required per [Section 6.2.2](#). Compliance with the Wireless Communication Facility (WCF) Design Standards per [Section 7.3](#) is also required.
3. Certificate of Appropriateness review is required per [Section 6.2.5](#) for lots located within the Historic Access Corridor (HAC) Overlay District, and for lots located within the Historic (H) Overlay District.

D. RECREATION/EDUCATION/ASSEMBLY USES

Recreation/Education/Assembly Use	AOC	FOC	RR	CN	CH
Campground	S	S	X	X	X
Churches and Other Places of Worship	S	S	S	P	P
Community Center	X	X	X	P	X
Historic Mill	P	X	X	P	X
Historic Structure Museum	S	S	S	X	X
Indoor Theater	X	X	X	S	P
Minor Commercial Public Assembly	S	S	X	X	X
Private Club	S	S	X	P	P
Summer Camp	S	S	X	X	X

P -- Permitted Use **S -- Special Use**
A -- Accessory Use **X -- Prohibited Use**

CAMPGROUND	
Permitted Use	None
Accessory Use	None
Special Use	AOC, FOC

Definition:

Any area, place, or lot, by whatever name called, on which three or more campsites are occupied or intended for occupancy, or facilities are established or maintained, wholly or in part, for the accommodation of camping units for periods of overnight or longer, whether the use of the campsites and facilities is granted gratuitously, or by rental fee, lease, or conditional sale, or by covenants, restrictions, and easements, including any travel trailer camp, recreation camp, family campground, camping resort, or camping community. "Campground" does not mean a summer camp, migrant labor camp, or park for mobile homes as defined in Code of Virginia, or a construction camp, storage area for unoccupied camping units, or property upon which the individual owner may choose to camp and not be prohibited or encumbered by covenants, restrictions, and conditions from providing his sanitary facilities within his property lines.

Use Regulations:

1. Additional terms. For the purposes of this section, the term “camping unit” shall mean a tent, tent trailer, travel trailer, camping trailer, pickup camper, motor home, and any other vehicular type structure for use as temporary living quarters or shelter during periods of recreation, vacation, leisure time, or travel. The term “campsite” shall mean any delineated area within a campground used or intended for occupation by the camping unit.

2. Duration of accommodations. A campground shall be for the temporary accommodation of a camping unit for not more than 15 days in any 30-day period.

Required Review Processes:

1. Special Use Permit Review is required per [Section 6.3.1](#).
2. Site Development Plan Review is required per [Section 6.2.2](#).

CHURCHES AND OTHER PLACES OF WORSHIP	
Permitted Use	CN, CH
Accessory Use	None
Special Use	AOC, FOC, RR

Definition:

A structure where persons regularly assemble for religious purposes and related social events, which is maintained and controlled by a religious entity, qualified for tax-exempt status under [§501\(c\)\(3\) of the Internal Revenue Code](#), that is organized to sustain public worship. This term includes synagogue, temple, mosque, or other such places of worship and religious activities. This term includes the following related facilities: administrative offices, assembly hall, cemeteries, meeting rooms, playgrounds, day-care centers, schools for day students serving grades Pre-K through 12 (including as an accessory use: advanced and continuing education, training, and retraining activities for students and adults), social halls, and communal living accommodations for religious organizations of groups of men or women permanently living in such accommodations in accordance with a common rule and owing obedience to a single superior (i.e. monastery). This term does not include permanent facilities for overnight sleeping except for communal living accommodations for such religions organizations.

Use Regulations:

1. Churches and other places of worship as a special use in the AOC, FOC, and RR Districts shall be limited to a maximum seating capacity of 300 people in the main assembly area.
2. Minimum lot area. Churches and other places of worship shall not be located on a lot less than two (2) acres in size.
3. Accessory dwelling. This use includes as an accessory use one single-family residence for occupancy by clergy, watchman, or caretaker of the church and their family. In the AOC and FOC Zoning Districts, such a residence shall use a dwelling unit right or be a house that existed on the property on October 17, 1980.
4. Cemetery as an accessory use. Cemeteries are permitted as an accessory use and are not required to comply with the use regulations for cemeteries as a primary use.

Required Review Processes:

1. Special Use Permit Review is required per [Section 6.3.1](#) for proposed uses in the AOC, FOC, and RR Districts.
2. Site Development Plan review is required per [Section 6.2.2](#) for all uses.

ARTICLE I – ZONING ORDINANCE
2024 EDITION

3. Certificate of Appropriateness review is required per [Section 6.2.5](#) for lots located within the Historic Access Corridor (HAC) Overlay District, and for lots located within the Historic (H) Overlay District.

COMMUNITY CENTER	
Permitted Use	CN
Accessory Use	None
Special Use	None

Definition:

A building used for recreational, social, educational, and cultural activities, open to the public or a designated part of the public and usually owned and operated by a public or nonprofit group or agency. This use includes community centers focused on serving senior citizens or youth.

Use Regulations: None

Required Review Processes:

1. Site Development Plan Review is required per [Section 6.2.2](#).
2. Certificate of Appropriateness review is required per [Section 6.2.5](#) for lots located within the Historic (H) Overlay District.

HISTORIC MILL	
Permitted Use	AOC, CN
Accessory Use	None
Special Use	None

Definition:

One of the County's two 18th Century water mills -- Burwell-Morgan Mill (15 Tannery Lane) and Locke's Mill (1600 Locke's Mill Road) -- originally constructed for the grinding of grains.

Use Regulations:

1. Primary uses that are permitted at an historic mill include grinding of grains and historical/educational activities.
2. Retail sales are permitted so long as the activity is accessory and clearly incidental to the primary uses.
3. Any expansion of the existing mill footprint as of the adoption date of this ordinance, or construction of new structures or parking areas on the same lot, shall require site development plan approval.

Required Review Processes:

1. Site Development Plan Review is required per [Section 6.2.2](#).

ARTICLE I – ZONING ORDINANCE
2024 EDITION

2. Certificate of Appropriateness review is required per [Section 6.2.5](#) for lots located within the Historic (H) Overlay District.

HISTORIC STRUCTURE MUSEUM	
Permitted Use	None
Accessory Use	None
Special Use	AOC, FOC, RR

Definition:

Structures listed on the Virginia Landmarks Registry or National Register of Historic Places (individually or as a contributing structure) that are arranged, intended, and designed to be viewed by the public with or without an admission charged, and which may include retail sales as an accessory and secondary use.

Use Regulations: None

Required Review Processes:

1. Special Use Permit Review is required per [Section 6.3.1](#).
2. Site Development Plan Review is required per [Section 6.2.2](#).
3. Certificate of Appropriateness review is required per [Section 6.2.5](#) for lots located within the Historic (H) Overlay District.

INDOOR THEATER	
Permitted Use	CH
Accessory Use	None
Special Use	CN

Definition:

A building or portion of a building used to show motion pictures or for drama, dance, musical, or other live performances.

Use Regulations:

1. The minimum required lot area for an indoor theater shall be one acre.

Required Review Processes:

1. Special Use Permit Review is required per [Section 6.3.1](#) for proposed uses in the CN District.
2. Site Development Plan Review is required per [Section 6.2.2](#).

ARTICLE I – ZONING ORDINANCE
2024 EDITION

3. Certificate of Appropriateness review is required per [Section 6.2.5](#) for lots located within the Historic Access Corridor (HAC) Overlay District, and for lots located within the Historic (H) Overlay District.

MINOR COMMERCIAL PUBLIC ASSEMBLY	
Permitted Use	None
Accessory Use	None
Special Use	AOC, FOC

Definition:

A business which provides, for a fee, a venue for temporary public or private assemblies including meetings, conferences, weddings, parties, and similar events for six or more event days in a calendar year on property other than that owned by Federal, State, or local government.

Use Regulations:

1. **Minimum lot area.** A lot, or multiple adjoining lots under the same ownership, containing a minor commercial public assembly use shall have a minimum lot area of six acres.
2. **Maximum number of attendees.** The maximum number of attendees allowed onsite at an event at any one time is 149. Attendees shall include all individuals present including but not limited to guests, employees, caterers, and attendants.

Required Review Processes:

1. Special Use Permit Review is required per [Section 6.3.1](#).
2. Site Development Plan Review is required per [Section 6.2.2](#).

PRIVATE CLUB	
Permitted Use	CN, CH
Accessory Use	None
Special Use	AOC, FOC

Definition:

Buildings or facilities owned and operated by associations and organizations of a fraternal or social character not operated or maintained for profit and whose members meet certain prescribed qualifications for membership. This term shall include lodges and country clubs but shall not include fairgrounds.

Use Regulations:

1. No private club shall be permitted on a lot of less than three acres in size.
2. Private clubs in the AOC or FOC Districts shall have frontage on a Federal primary highway (US 340, US 522, US 50/17) or four-lane divided State primary highway (VA 7)

ARTICLE I – ZONING ORDINANCE
2024 EDITION

and shall have a commercial entrance approved by the Virginia Department of Transportation (VDOT).

3. Entertainment (including live music, recorded music, or performance acts) is permitted as an accessory activity to a private club but shall be periodic in nature and remain accessory to the overall operation of the operating association or organization.
4. Special Events Conducted at Private Clubs. The owner or operator of a private club shall obtain such permit as required by [Chapter 57 of the Code of Clarke County](#) (unless exempt under the provisions of [Section 57.3.2](#)) for any activity or event that constitutes a Special Event as defined in [Section 57.2](#).

Required Review Processes:

1. Special Use Permit Review is required per [Section 6.3.1](#) for uses in the AOC and FOC Districts.
2. Site Development Plan Review is required per [Section 6.2.2](#).
3. Certificate of Appropriateness review is required per [Section 6.2.5](#) for lots located within the Historic Access Corridor (HAC) Overlay District, and for lots located within the Historic (H) Overlay District.

SUMMER CAMP	
Permitted Use	None
Accessory Use	None
Special Use	AOC, FOC

Definition:

Any building, tent, or, vehicle, or group of buildings, tents or vehicles, if operated as one place or establishment, or any other place or establishment, public or private, together with the land and waters adjacent thereto, which is operated or used in the Commonwealth from the Saturday immediately preceding Memorial Day through Labor Day for the entertainment, education, recreation, religion instruction or activities, physical education, or health of persons under eighteen years of age who are not related to the operator of such place or establishment by blood or marriage within the third degree of consanguinity or affinity, if twelve or more such person at any one time are accommodated, gratuitously or for compensation, overnight and during any portion of more than two consecutive days.

Use Regulations:

1. The minimum lot size for a summer camp is three acres.
2. Applicants for such uses shall demonstrate that all applicable regulations of the Department of Health and Commonwealth of Virginia (specifically including [Title 35.1, Code of Virginia](#)), have been met.

Required Review Processes:

1. Special Use Permit Review is required per [Section 6.3.1](#).
2. Site Development Plan Review is required per [Section 6.2.2](#).

E. PUBLIC AND MISCELLANEOUS USES

Public and Miscellaneous Use	AOC	FOC	RR	CN	CH
Animal Shelter, Governmental	S	S	X	S	P
Cemetery	S	S	X	P	P
Community Services Facility	S	S	S	P	P
Fire and/or Rescue Squads	X	X	X	P	P
Passive-Use Public Park	S	S	S	P	P
Public Utility Facility	S	S	X	P	P
Small Wind Energy System	A/S	A/S	A/S	A/S	A/S

P -- Permitted Use S -- Special Use A/S – Accessory or Special Use
A -- Accessory Use X -- Prohibited Use

ANIMAL SHELTER, GOVERNMENTAL	
Permitted Use	CH
Accessory Use	None
Special Use	AOC, FOC, CN

Definition:

A facility or facilities, owned and/or operated by the Clarke County government, used to house or contain companion animals and operated for the purpose of finding permanent adoptive homes for such animals.

Use Regulations:

1. Companion animals shall be confined in an enclosed building, which shall be climate controlled and be constructed of sound absorbing materials so as to mitigate animal noise at adjacent property lines. Such an enclosed facility may also include a fenced exercise area. Such enclosed facilities and exercise areas shall be at least 200 feet from any property line. Areas of confinement not fully enclosed (such as dog runs) shall be at least 500 feet from any property line.
2. The hours of operation shall not be earlier than 7:00 a.m. or later than 9:00 p.m. In all cases, companion animals shall be confined in an enclosed building from 9:00 p.m. to 6:00 a.m. In exceptional cases, a companion animal may be briefly escorted outside by staff during the hours of enclosed confinement.

Required Review Processes:

1. Special Use Permit Review is required per [Section 6.3.1](#) for uses proposed in the AOC, FOC, and CN Districts.

ARTICLE I – ZONING ORDINANCE
2024 EDITION

2. Site Development Plan Review is required per [Section 6.2.2](#).
3. Certificate of Appropriateness review is required per [Section 6.2.5](#) for lots located within the Historic Access Corridor Overlay District, and for lots located within the Historic Overlay District.

CEMETERY	
Permitted Use	CN, CH
Accessory Use	None
Special Use	AOC, FOC

Definition:

A facility for the burial of human dead and dedicated for cemetery purposes. A cemetery may include mausoleum or columbarium but shall not include a funeral home, mortuary, or crematory.

Use Regulations:

1. No grave, mausoleum, or other interment site shall be located nearer than 100 feet to a potable water supply source.
2. Fee simple ownership of land used for interment of bodies shall be required. The section of a proposed location set aside for interment shall be free of all financial encumbrances, and after approval of a proposed location, it shall be unlawful to encumber any section thereof in which interments have been made or which is set aside for interments.
3. Cemetery as an accessory use. Cemeteries are permitted as accessory uses to churches and other places of worship use and are not required to comply with the requirements of this section.
4. Interment of members of a family on private property shall not constitute a cemetery for the purposes of this section.
5. Cemeteries shall be located in accordance with regulations set forth in [Code of Virginia Chapter 57](#).

Required Review Processes:

1. Special Use Permit Review is required per [Section 6.3.1](#) for uses proposed in the AOC and FOC Districts.
2. Site Development Plan Review is required per [Section 6.2.2](#).
3. Certificate of Appropriateness review is required per [Section 6.2.5](#) for lots located within the Historic Access Corridor (HAC) Overlay District, and for lots located within the Historic (H) Overlay District.

COMMUNITY SERVICES FACILITY	
Permitted Use	CN, CH
Accessory Use	None
Special Use	AOC, FOC, RR

Definition:

Lots, buildings, and/or accessory structures that are owned and/or operated by Federal, State, or local government or by non-profit or not-for-profit entities to provide a service or benefit to the general public. Community services facilities include:

- Community centers operated by governmental entities
- Government offices
- Libraries
- Museums (other than historic structure museums)
- Playgrounds, parks, and non-commercial recreational facilities
- Schools for day students serving grades Pre-K through 12. Advanced and continuing education, training, and retraining activities for students and adults is permitted as an accessory use
- Visitor centers

Use Regulations:

1. Private schools shall not be located on a lot less than three (3) acres in size.
2. Permanent overnight sleeping facilities shall not be permitted.
3. The sale of meals or prepared food in a permanent structure (e.g., snack bar), which may include beverages and confections, is permitted as an accessory activity. Approvals or permits by applicable State agencies shall be obtained and remain active for the lifespan of this activity.

Required Review Processes:

1. Special Use Permit Review is required per [Section 6.3.1](#) for uses proposed in the AOC, FOC, and RR Districts.
2. Site Development Plan Review is required per [Section 6.2.2](#).
3. Certificate of Appropriateness review is required per [Section 6.2.5](#) for lots located within the Historic Access Corridor (HAC) Overlay District, and for lots located within the Historic (H) Overlay District.

FIRE AND/OR RESCUE SQUADS	
Permitted Use	CN, CH
Accessory Use	None
Special Use	None

Definition:

A facility for the provision of local rapid response emergency services such as firefighting and mobile medical emergency services, including areas for the storage and maintenance of emergency vehicles, and equipment and facilities for the housing and feeding of emergency personnel while on duty.

Use Regulations:

1. Permanent overnight sleeping facilities may be provided as an accessory activity only for the employees/staff of fire and/or rescue squad facilities. Such sleeping facilities shall not have more than 150 square feet per person.

Required Review Processes:

1. Site Development Plan Review is required per [Section 6.2.2](#).
2. Certificate of Appropriateness review is required per [Section 6.2.5](#) for lots located within the Historic Access Corridor (HAC) Overlay District, and for lots located within the Historic (H) Overlay District.

PASSIVE-USE PUBLIC PARK	
Permitted Use	CN, CH
Accessory Use	None
Special Use	AOC, FOC, RR

Definition:

Parks for passive recreation pursuits, which are owned and/or operated by a governmental entity or an entity that is non-profit or not for profit. Such passive recreation pursuits shall include educational and interpretive programs as well as trail systems that take advantage of geological, biological, or scenic resources located within the park and shall not include active recreational facilities such as swimming pools, gyms, or playing fields.

Use Regulations:

1. A passive-use public park may have as an accessory use one single-family residence for occupancy by watchman or caretaker of the park, and their family. In the AOC and FOC Zoning Districts, such a residence shall use a dwelling unit right or be a house that existed on the property on October 17, 1980.

Required Review Processes:

1. Special Use Permit Review is required per [Section 6.3.1](#) for uses proposed in the AOC, FOC, and RR Districts.

ARTICLE I – ZONING ORDINANCE
2024 EDITION

2. Site Development Plan Review is required per [Section 6.2.2](#).
3. Certificate of Appropriateness review is required per [Section 6.2.5](#) for lots located within the Historic Access Corridor (HAC) Overlay District, and for lots located within the Historic (H) Overlay District.

PUBLIC UTILITY FACILITY	
Permitted Use	CN, CH
Accessory Use	None
Special Use	AOC, FOC

Definition:

Public facilities and structures for exclusively public purposes that are owned, operated, or managed by any department or branch of the federal government; Commonwealth of Virginia; Clarke County or Town of Berryville governments; the Clarke County Sanitary Authority; or any licensed public utility. This use includes facilities for provision of water or sanitary sewer services, citizen convenience centers for solid waste and/or recyclable material collection, and public utility substations. This use does not include solar power plants.

Use Regulations:

1. No such activity shall occur unless and until all applicable Federal and Commonwealth of Virginia requirements concerning safety and environmental impact have been met.
2. No minimum lot area or width shall be required for a lot containing such activities.

Required Review Processes:

1. Special Use Permit Review is required per [Section 6.3.1](#) for uses proposed in the AOC and FOC Districts.
2. Site Development Plan Review is required per [Section 6.2.2](#).
3. Certificate of Appropriateness review is required per [Section 6.2.5](#) for lots located within the Historic Access Corridor (HAC) Overlay District, and for lots located within the Historic (H) Overlay District.

SMALL WIND ENERGY SYSTEM	
Permitted Use	None
Accessory Use	AOC, FOC, RR, CN, CH
Special Use	AOC, FOC, RR, CN, CH

Definition:

A wind energy conversion system, less than 100 kW, for generating electrical energy primarily for on-site usage. A small wind energy system consists of a wind turbine, tower, base and/or

associated testing, control, or conversion electronics. Wind turbine is defined as the parts of the wind system including the blades, generator and tail.

Use Regulations:

1. Small wind energy systems shall be used solely for the purpose of generating electricity pumping water, or performing work that may be connected to the utility grid pursuant to the Code of Virginia's net metering laws, serving as an independent source of energy, or serving in a hybrid system.
2. The total height of a wind turbine shall be the distance measured from ground level to the blade extended at its highest point.
3. As an Accessory Use. A small wind energy system may be installed as an accessory use in the AOC, FOC, RR, CN, and CH Districts provided that the system consists of no more than two structures with a maximum height of 100 feet.
4. As a Special Use. A special use permit is required for any small wind energy system to be installed on a lot in the AOC, FOC, RR, CN, and CH Districts which consists of three or more structures with a maximum height of 100 feet, or consists of structures with a maximum height in excess of 100 feet.
5. Siting and Design Requirements:
 - a. Small wind energy towers shall maintain a galvanized steel finish or painted to conform the tower to the surrounding environment and architecture.
 - b. No tower should have any sign, writing, or picture that may be construed as advertising or be used for any purpose other than support of the wind turbine and associated equipment.
 - c. Small wind energy systems shall not exceed sixty (60) decibels, as measured at the closest property line. The level, however, may be exceeded during short-term events such as utility outages and/or severe windstorms.
 - d. The proposed height of the small wind energy system tower shall not exceed the height recommended by the manufacturer or distributor of the system.
 - e. If the small wind system is to be connected to the electricity grid, written evidence shall be provided from the electric utility provider that the provider of electric utility service to the site has been informed of the intent to install an interconnected customer-owned electricity generator.
 - f. The minimum distance between the ground and any protruding blades used on a small wind-energy system shall be fifteen (15) feet, as measured at the lowest point of the arc of the blades. The lowest point of the arc of the blade shall also be

ARTICLE I – ZONING ORDINANCE
2024 EDITION

ten (10) feet above the height of any structure within one hundred fifty (150) feet of the base. The supporting tower shall also be enclosed with a six-foot tall fence or the base of the tower shall not be climbable for a distance of twelve (12) feet.

- g. Liability insurance shall be provided, whether or not the applicant is participating in the net metering program, meeting the insurance coverage requirements set forth in [20 VAC 5-315-60](#).
- h. The small wind energy system generators and alternators should be constructed so as to prevent the emission of radio and television signals and shall comply with the provisions of [Section 47 of the Federal Code of Regulations, Part 15 and subsequent revisions governing said emissions](#).
- i. Wind energy system shall be set back a distance at least equal to the height of the tower plus the blade length from all adjacent property lines. Additionally, no portion of the small wind energy system, including guy wire anchors, may extend closer than ten (10) feet to the property line.

6. Code Requirements:

- a. Compliance with Uniform Statewide Building Code. Building permit applications for wind energy systems shall be accompanied by standard drawings of the wind turbine structure, including the tower, base, and footings. An engineering analysis of the tower showing compliance with the [Uniform Statewide Building Code](#) and certified by a licensed professional engineer shall also be submitted.
- b. Compliance with National Electric Code. Building permit applications for wind energy systems shall be accompanied by a line drawing of the electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the [National Electrical Code](#).
- c. Compliance with regulations governing energy net metering. Wind energy systems connected to the utility grid must comply with the [Virginia Administrative Code 20 VAC 5-315: Regulations Governing Energy Net Metering](#).

7. Any wind energy system found to be unsafe by the Clarke County Building Official shall be repaired by the owner to meet federal, state and local safety standards or removed within six (6) months. Any wind energy system that is not operated for a continuous period of twenty-four (24) months shall be considered abandoned and the owner of the system shall remove the turbine within ninety (90) days of receipt of notice from the county instructing the owner to remove the abandoned wind energy system.

Required Review Processes:

- 1. Special Use Permit Review is required per [Section 6.3.1](#) for small wind energy systems that exceed the scope of an accessory use as noted above.

ARTICLE I – ZONING ORDINANCE
2024 EDITION

2. Site Development Plan Review is required per [Section 6.2.2](#) for small wind energy systems requiring a special use permit and for small wind energy systems as an accessory use in the CN and CH Districts. Zoning Permit review per [Section 6.2.1](#) is required for small wind energy systems as an accessory use in the AOC, FOC, and RR Districts.
3. Certificate of Appropriateness Review is required per [Section 6.2.5](#) for lots located within the Historic Access Corridor (HAC) Overlay District, and for lots located within the Historic (H) Overlay District.

**5.3 USES, DEFINITIONS, AND USE REGULATIONS --
BERRYVILLE ANNEXATION AREA ZONING DISTRICTS**

A. AGRICULTURAL USES

Agricultural Use	OSR	DR-1	DR-2	DR-4	BC	B	ITL
Agriculture	X	X	X	X	X	X	P
Plant nurseries	S	S	S	S	P	P	X

P -- Permitted Use S -- Special Use P/S – Permitted or Special Use
A -- Accessory Use X -- Prohibited Use P/A – Permitted or Accessory

AGRICULTURE	
Permitted Use	ITL
Accessory Use	None
Special Use	None

Definition:

The use of land for tilling of the soil; the growing of crops or plant growth of any kind, including fruit, flowers, and ornamental plants; pasturage; dairying; or the raising of poultry and/or livestock.

Use Regulations: None

Required Review Processes: None

PLANT NURSERIES	
Permitted Use	BC, B
Accessory Use	None
Special Use	OSR, DR-1, DR-2, DR-4

Definition: None

Use Regulations:

The onsite sale of nursery products is prohibited at plant nurseries approved by special use permit in the OSR, DR-1, DR-2, and DR-4 Districts.

Required Review Processes:

1. Special Use Permit Review is required per [Section 6.3.1](#) for uses in the OSR, DR-1, DR-2, and DR-4 Districts.
2. Site Development Plan Review is required per [Section 6.2.2](#) for uses in all districts.

ARTICLE I – ZONING ORDINANCE
2024 EDITION

3. Certificate of Appropriateness review is required per [Section 6.2.5](#) for lots located within the Historic Access Corridor (HAC) Overlay District.

B. RESIDENTIAL USES

Residential Use	OSR	DR-1	DR-2	DR-4	BC	B	ITL
Accessory structure	A	A	A	A	X	X	X
Home occupation	S	S	S	S	X	X	X
Housing for low and moderate income households	X	X	X	X	X	X	S
Single-family detached dwelling	P	P	P	P	X	X	X
Temporary family health care structure	A	A	A	A	X	X	X

P -- Permitted Use **S -- Special Use** **P/S – Permitted or Special Use**
A -- Accessory Use **X -- Prohibited Use** **P/A – Permitted or Accessory**

ACCESSORY STRUCTURE	
Permitted Use	None
Accessory Use	OSR, DR-1, DR-2, DR-4
Special Use	None

Definition:

A building subordinate to, and located on the same lot with a main building, the use of which is clearly incidental to that of the main building or to the use of the land, and which is not attached by any part of a common wall or roof to the main building. Examples include detached carports, garages, utility buildings, dog houses, private swimming pools, and children’s playhouses.

Use Regulations:

1. One accessory structure of 150 square feet or less may be erected on a lot without the existence of a main building on the lot.

Required Review Processes:

1. A Zoning Permit is required per [Section 6.2.1](#).
2. Certificate of Appropriateness review is required per [Section 6.2.5](#) for lots located within the Historic Access Corridor (HAC) Overlay District.

HOME OCCUPATION	
Permitted Use	Home Office only – OSR, DR-1, DR-2, DR-4
Accessory Use	None
Special Use	OSR, DR-1, DR-2, DR-4

Definitions:

- Home Occupation -- Any activity carried for gain by a resident conducted as an accessory use in the resident’s dwelling unit.
- Home Office -- A home occupation consisting only of an office and meeting the requirements of this section.

Use Regulations:

1. Intent. Home Occupations and Home Offices in the Annexation Area Districts are allowed in order to foster economic activity. Through the application of this Ordinance, the sanctity, tranquility, value, appearance, and ambiance of the residential neighborhoods, residential units, or residential uses are intended to be preserved and home-based businesses that negatively impact residents living near, around, or next to the site of the home-based business are to be prevented, eliminated, or discontinued.
2. Allowance of Home Occupations and Home Offices. Under the terms of the Section, a Home Office may be conducted by right in any dwelling unit in the OSR, DR-1, DR-2, and DR-4 Districts. Home occupations are allowed in residences by Special Use Permit in the aforementioned Districts. No such use shall be instituted or maintained unless the Zoning Administrator has first issued a home occupation zoning permit for this use.
3. Administration and Enforcement.
A Home Occupation or Home Office may be conducted within a dwelling unit or accessory building only so long as the business use remains incidental and secondary to the use of the dwelling unit as a place of residence. The Zoning Administrator shall determine if a Home Occupation or Home Office is not, or stops being, incidental and secondary to the use of the dwelling unit as a place of residence if and when the Zoning Administrator or designee, or residents living near, around, or next to the dwelling unit used for a Home Occupation or Home Office may hear, see, smell, or detect the existence of this use, in such a manner as alters the residential character of the zoning district in which the Home Occupation or Home Office is located. In making this determination, the Zoning Administrator shall rely on the intent Section of the respective zoning district regulations, the Intent Section of this Article, and any public affidavits filed by such residents. If the Zoning Administrator determines that due to growth or change in the Home Occupation or Home Office, the Home Occupation or Home Office is no longer consistent with this Article and other relevant provisions of this Section, the Zoning Administrator may revoke the zoning permit issued to the person conducting the Home Occupation or Home Office. The person conducting this use shall cease operation after forty-five days written notice mailed by certified mail. During this time period the

ARTICLE I – ZONING ORDINANCE
2024 EDITION

business owner may apply to the Board of Zoning Appeals for a determination of the Zoning Administrator’s decision.

4. General Restrictions on Home Occupations and Home Offices. A use within a residential dwelling shall meet the following criteria in order to qualify as either a Home Occupation or Home Office:
 - a. Such use shall be clearly incidental to a dwelling and if located within the dwelling, it must not occupy more than twenty-five (25) percent of the floor area of the principle structure.
 - b. No Home Occupation conducted in any accessory building shall occupy more than four hundred (400) square feet, which area shall be included in the maximum square footage allowed in this section. If located within an accessory building, a landscaping plan must be submitted for review and approval by the Zoning Administrator. If a Special Use Permit is required, the landscaping plan will be reviewed by the Berryville Area Development Authority.
 - c. Such use shall be carried on by a resident or residents of the premises. No person not a resident on the premises may be employed, nor may there be sub-contracting of any work performed at the premises.
 - d. No stock, commodity, equipment or process shall be used in the Home Occupation which creates noise, vibration, glare, fumes, odors, electromagnetic interference, or radio frequency interference detectable to the normal senses off the lot if the occupation is conducted in a detached single-family residence, or outside the dwelling unit if conducted in an attached residence.
 - e. There shall be no exterior evidence that the building is being used for any purpose other than a dwelling.
 - f. There shall be no motor vehicle regularly operated from the premises that carries advertising.
 - g. All applicable licenses and permits shall be secured and other local, state, and federal requirements satisfied.

5. Additional Requirements for Home Occupations. In addition to those requirements listed above, a use within a residential dwelling shall meet the following criteria in order to qualify as a Home Occupation:
 - a. There shall be no advertising sign displayed other than a nameplate not exceeding two (2) square feet in area on each face of said plate.
 - b. No storage of explosive or hazardous material is permitted in quantities not normally found in a residence.
 - c. Vehicular repair is specifically prohibited as a Home Occupation.

6. Home Offices. In addition to the requirements listed above, a Home Office shall be a permitted use in a residential dwelling when fully meeting each of the following criteria:
 - a. Customers shall not come to the premises in order to receive the service provided.

ARTICLE I – ZONING ORDINANCE
2024 EDITION

- b. There shall be no signs identifying or advertising the Home Office either attached to the dwelling or posted in the yard.
- c. There shall be no advertising of the street address.

Required Review Processes:

- 1. Home Office. A Zoning Permit is required per [Section 6.2.1](#).
- 2. Home Occupation.
 - a. Special Use Permit Review is required per [Section 6.3.1](#).
 - b. Site Development Plan Review is required per [Section 6.2.2](#).

HOUSING FOR LOW AND MODERATE INCOME HOUSEHOLDS	
Permitted Use	None
Accessory Use	None
Special Use	ITL

Definition: None

Use Regulations:

- 1. Such housing shall be occupied only by households having an income not greater than eighty (80) percent of the median household income in Clarke County.
- 2. Such housing may be in the form of Multifamily, Attached Single-Family, or Detached Single-Family.
- 3. Housing for the elderly (62 or older, or handicapped and 55 or older) may include general nursing facilities designed solely for the residents as an accessory use.
- 4. All facilities of the development shall be solely for the use of the residents, employees and invited guests, but not for the general public.

Required Review Processes:

- 1. Special Use Permit Review is required per [Section 6.3.1](#).
- 2. Site Development Plan Review is required per [Section 6.2.2](#).
- 3. Certificate of Appropriateness review is required per [Section 6.2.5](#) for lots located within the Historic Access Corridor (HAC) Overlay District.

SINGLE-FAMILY DETACHED DWELLING	
Permitted Use	OSR, DR-1, DR-2, DR-4
Accessory Use	None
Special Use	None

Definition:

A residential dwelling unit other than a mobile home, designed for and occupied by one family. This term shall include group homes, family day homes or assisted living facility (as defined in [Va. Code §15.2-2291](#)).

Use Regulations: None

Required Review Processes:

1. A Zoning Permit is required per [Section 6.2.1](#).
2. Certificate of Appropriateness review is required per [Section 6.2.5](#) for lots located within the Historic Access Corridor (HAC) Overlay District.

TEMPORARY FAMILY HEALTH CARE STRUCTURE	
Permitted Use	None
Accessory Use	OSR, DR-1, DR-2, DR-4
Special Use	None

Definition:

A structure that shall be (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/her residence as a permitted accessory use.

Use Regulations:

1. A Temporary Family Health Care Structure shall be (i) for the use by a caregiver in providing care for a mentally or physically impaired person and (ii) on property owned or occupied by the caregiver at his/her residence as a permitted accessory use. Such a structure shall comply with all setback requirements that apply to the primary structure primary structure and with any maximum floor area ration limitations that may apply to the primary structure. Only one family health care structure shall be allowed on a lot.
2. For purposes of this section:
 - a. “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.
 - b. “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

ARTICLE I – ZONING ORDINANCE
2024 EDITION

defined in [Va. Code §63.2-2200](#), as certified in writing provided by a physician licensed by the Commonwealth.

- c. 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, (iii) has no more than 300 gross square feet, and (iv) complies with applicable provisions of the [Industrialized Building Safety Law \(Va. Code §36-70 et seq.\)](#) and the [Uniform Statewide Building Code \(Va. Code §36-97 et seq.\)](#). Placing the temporary family health care structure on a permanent foundation shall not be required or permitted.
3. Any person proposing to install a temporary family health care structure shall first obtain a permit from the Zoning Administrator. The Zoning Administrator may not withhold such permit if the applicant provides sufficient proof of compliance with this section. The Zoning Administrator 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 Zoning Administrator of the temporary family health care structure at reasonable times convenient to the caregiver, not limited to any annual compliance confirmation.
4. 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.
5. 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.
6. Any temporary family health care structure installed pursuant to this section shall be removed within 30 days in which the mentally or physically impaired person is no longer receiving or is no longer in need of the assistance provided for in this section.
7. 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 to ensure compliance with this section.

Required Review Processes:

A Zoning Permit is required per [Section 6.2.1](#).

ARTICLE I – ZONING ORDINANCE
2024 EDITION

C. BUSINESS USES

Business Use	OSR	DR-1	DR-2	DR-4	BC	B	ITL
Antique sales (indoor only)	X	X	X	X	P	P	X
Auction establishments (indoor only)	X	X	X	X	X	P	X
Automobile sales	X	X	X	X	P	X	X
Automobile service and repair establishments (including gas stations)	X	X	X	X	P	P	X
Bakeries (with accessory retail sales)	X	X	X	X	X	P	X
Bed and breakfast lodging	X	S	S	S	X	X	X
Broadcast station, studios, and offices for radio and television	X	X	X	X	P	P	X
Car washes	X	X	X	X	P	X	X
Cleaning of carpets and rugs	X	X	X	X	X	P	X
Contractor's establishments	X	X	X	X	X	P	X
Country Inn	S	X	X	X	X	X	X
Day care centers	X	X	S	S	P	S	P
Financial Institutions (with or without drive-thru windows)	X	X	X	X	P	P	X
Funeral homes	X	X	X	X	P	X	P
Grocery store (with at least 25,000 square feet gross floor area)	X	X	X	X	P	X	X
Hospitals	X	X	X	X	X	X	S
Hotels and motels	X	X	X	X	P	X	X
Laundromat	X	X	X	X	P	X	X
Lumber yards and building materials establishments	X	X	X	X	X	S	X
Machinery sales and service	X	X	X	X	X	P	X
Manufacturing, processing, assembly, or repair activities	X	X	X	X	X	P	X
Medical care facilities, licensed	X	X	X	X	P	P	S
Mini-storage facilities (indoor only)	X	X	X	X	X	P	X
Offices, business or professional	X	X	X	X	P	P	X
Pharmaceutical centers	X	X	X	X	S	S	X
Printing and publishing	X	X	X	X	X	P	X
Restaurants with or without drive-thru	X	X	X	X	P	P	X
Retail stores and shops as an accessory use to the primary permitted use on the parcel	X	X	X	X	A	A	X

ARTICLE I – ZONING ORDINANCE
2024 EDITION

Use	OSR	DR-1	DR-2	DR-4	BC	B	ITL
Scientific research and development establishments	X	X	X	X	S	S	X
Veterinary hospitals (small animals), exclusive of outdoor boarding kennels	X	X	X	X	P	P	X
Warehousing and distribution establishments	X	X	X	X	X	P	X
Wholesale trade and distribution establishments	X	X	X	X	X	P	X

P -- Permitted Use **S -- Special Use** **P/S – Permitted or Special Use**
A -- Accessory Use **X -- Prohibited Use** **P/A – Permitted or Accessory**

ANTIQUÉ SALES (INDOOR ONLY)	
Permitted Use	BC, B
Accessory Use	None
Special Use	None

Definition: None

Use Regulations: None

Required Review Processes:

1. Site Development Plan Review is required per [Section 6.2.2](#).
2. Certificate of Appropriateness review is required per [Section 6.2.5](#) for lots located within the Historic Access Corridor (HAC) Overlay District.

AUCTION ESTABLISHMENTS (INDOOR ONLY)	
Permitted Use	B
Accessory Use	None
Special Use	None

Definition:

An establishment, excluding community centers and publicly owned property, used for the sale of property, other than livestock, to bidders by an auctioneer.

Use Regulations:

1. No outside storage of materials is permitted.
2. Outside auction activities and display shall only occur in areas so designated on an approved site plan.
3. Auction activities shall not begin prior to 8:00a.m. and shall not continue past 10:00p.m.

Required Review Processes:

1. Site Development Plan Review is required per [Section 6.2.2](#).
2. Certificate of Appropriateness review is required per [Section 6.2.5](#) for lots located within the Historic Access Corridor (HAC) Overlay District.

AUTOMOBILE SALES	
Permitted Use	BC
Accessory Use	None
Special Use	None

Definition:

A lot arranged, designed, or used for the storage and display for sale of any new or used motor vehicle capable of independent operation or any type of travel trailer and recreation vehicle provided the travel trailer and recreation vehicle is unoccupied, and where repair work is done wholly enclosed within a building.

Use Regulations: None

Required Review Processes:

1. Site Development Plan Review is required per [Section 6.2.2](#).
2. Certificate of Appropriateness review is required per [Section 6.2.5](#) for lots located within the Historic Access Corridor (HAC) Overlay District.

AUTOMOBILE SERVICE AND REPAIR ESTABLISHMENTS (INCLUDING GAS STATIONS)	
Permitted Use	B, BC
Accessory Use	Convenience store – BC District only
Special Use	None

Definition:

Any place of business with pumps and underground storage tanks, having as its purpose the servicing, at retail, of motor vehicles, but not including a paint or body shop, machine shop, or vulcanizing shop.

Use Regulations:

1. All vehicle repair shall take place in a fully enclosed building.
2. A convenience store may be operated as an accessory use provided that it does not occupy more than 3,000 square feet of gross floor area, excluding storage. Convenience store accessory uses are allowed only in the BC District.

Required Review Processes:

1. Site Development Plan Review is required per [Section 6.2.2](#).
2. Certificate of Appropriateness review is required per [Section 6.2.5](#) for lots located within the Historic Access Corridor (HAC) Overlay District.

BAKERIES (WITH ACCESSORY RETAIL SALES)	
Permitted Use	B
Accessory Use	None
Special Use	None

Definition: None

Use Regulations:

Retail sales are allowed as an accessory use to a bakery provided:

1. The retail activity is directly related, ancillary, subordinate, and incidental to the primary permitted use;
2. The gross floor area of the retail activity (excluding storage) does not exceed ten (10) percent of the gross floor area of the primary permitted use;
3. The gross floor area of the retail activity (excluding storage) does not occupy more than 1,500 square feet; and
4. The gross floor area for storage related to the retail activity does not exceed 500 square feet.

Required Review Processes:

1. Site Development Plan Review is required per [Section 6.2.2](#).
2. Certificate of Appropriateness review is required per [Section 6.2.5](#) for lots located within the Historic Access Corridor (HAC) Overlay District.

BED AND BREAKFAST LODGING	
Permitted Use	None
Accessory Use	None
Special Use	DR-1, DR-2, DR-4

Definition:

A home occupation consisting of rooms maintained for the purpose of providing overnight sleeping accommodations and breakfast for paying guests, and which occupies more than 300 square feet of a residence.

ARTICLE I – ZONING ORDINANCE
2024 EDITION

Use Regulations:

1. A maximum of five (5) guest rooms, with a maximum occupancy of six (6) persons, shall be permitted.
2. No receptions, private parties, or similar events for a fee shall be permitted.
3. Guest stays shall be limited to thirty (30) days.
4. Applicable provisions and requirements of the Unified Statewide Building Code and the Virginia Department of Health shall be satisfied.
5. Adequate on-site or off-site parking shall be provided so as not to interfere with or result in inconvenience to surrounding residences.
6. All other provisions pertaining to home occupations shall be satisfied.

Required Review Processes:

1. Special Use Permit Review is required per [Section 6.3.1](#).
2. Site Development Plan Review is required per [Section 6.2.2](#).

BROADCAST STATION, STUDIOS, AND OFFICES FOR RADIO AND TELEVISION	
Permitted Use	BC, B
Accessory Use	None
Special Use	None

Definition: None

Use Regulations: None

Required Review Processes:

1. Site Development Plan Review is required per [Section 6.2.2](#).
2. Certificate of Appropriateness review is required per [Section 6.2.5](#) for lots located within the Historic Access Corridor (HAC) Overlay District.

CAR WASHES	
Permitted Use	BC
Accessory Use	None
Special Use	None

Definition: None

Use Regulations: None

Required Review Processes:

1. Site Development Plan Review is required per [Section 6.2.2](#).
2. Certificate of Appropriateness review is required per [Section 6.2.5](#) for lots located within the Historic Access Corridor (HAC) Overlay District.

CLEANING OF CARPETS AND RUGS	
Permitted Use	B
Accessory Use	None
Special Use	None

Definition: None

Use Regulations: None

Required Review Processes:

1. Site Development Plan Review is required per [Section 6.2.2](#).
2. Certificate of Appropriateness review is required per [Section 6.2.5](#) for lots located within the Historic Access Corridor (HAC) Overlay District.

CONTRACTOR’S ESTABLISHMENTS	
Permitted Use	B
Accessory Use	None
Special Use	None

Definition: None

Use Regulations: None

Required Review Processes:

1. Site Development Plan Review is required per [Section 6.2.2](#).
2. Certificate of Appropriateness review is required per [Section 6.2.5](#) for lots located within the Historic Access Corridor (HAC) Overlay District.

COUNTRY INN	
Permitted Use	None
Accessory Use	None
Special Use	OSR

Definition:

An establishment offering for compensation to the public not more than 12 guestrooms for transitory lodging or sleeping accommodations of not more than 14 days of continuous occupancy.

Use Regulations:

1. As accessory uses to a Country Inn, meal services and/or permanent places of public assembly may be provided. The total maximum capacity of areas used for meal service and/or places of public assembly for special events shall be 500 people without additional permitting provided that areas to be used for this purpose, including food service and parking, are provided for on an approved site plan on the site on which the inn is located.

Required Review Processes:

1. Special Use Permit Review is required per [Section 6.3.1](#).
2. Site Development Plan Review is required per [Section 6.2.2](#).
3. Certificate of Appropriateness review is required per [Section 6.2.5](#) for lots located within the Historic Access Corridor (HAC) Overlay District.

DAY CARE CENTERS	
Permitted Use	BC, ITL
Accessory Use	None
Special Use	B, DR-2, DR-4

Definition:

A day care program offered to two or more persons in a facility that is not a residence for any family. The persons receiving care may be either children (“child care center” or “nursery school”) or adults (“elder care” or “adult care”).

Use Regulations:

1. Day care centers shall be licensed, when required by the Commonwealth of Virginia.
2. Use regulations for child care centers and nursery schools:
 - a. The minimum lot area shall be of such size that one-hundred (100) square feet of usable outdoor recreation area shall be provided for each child that may use the space at any one time. Such area shall be delineated on a plat submitted at the time the application is filed.

ARTICLE I – ZONING ORDINANCE
2024 EDITION

- b. The usable outdoor recreation area shall be limited to:
 - (1) That area not covered by buildings or required off-street parking spaces.
 - (2) That area outside the limits of the required front yard
 - (3) Only that area which is developed for active outdoor recreation purposes.
 - (4) An area which occupies no more than eighty (80) percent of the combined total areas of the required rear and side yards.
- c. All such uses shall be located so as to have direct access to an existing or programmed public street of sufficient right-of-way and cross section width to accommodate pedestrian and vehicular traffic to and from the use as determined by the administrative body. To assist in making this determination, each applicant, at the time of application, shall provide an estimate of the maximum expected trip generation, the distribution of these trips by mode and time of day, and the expected service area of the facility.
- d. All such uses shall be located so as to permit the pick-up and delivery of all persons on the site.

Required Review Processes:

- 1. Special Use Permit Review is required per [Section 6.3.1](#) for uses in the B, DR-2, and DR-4 Districts.
- 2. Site Development Plan Review is required per [Section 6.2.2](#) for uses in all Districts.
- 3. Certificate of Appropriateness review is required per [Section 6.2.5](#) for lots located within the Historic Access Corridor (HAC) Overlay District.

<u>FINANCIAL INSTITUTIONS (WITH OR WITHOUT DRIVE-THRU WINDOWS)</u>	
Permitted Use	BC, B
Accessory Use	None
Special Use	None

Definition: None

Use Regulations: None

Required Review Processes:

- 1. Site Development Plan Review is required per [Section 6.2.2](#).
- 2. Certificate of Appropriateness review is required per [Section 6.2.5](#) for lots located within the Historic Access Corridor (HAC) Overlay District.

FUNERAL HOMES	
Permitted Use	BC, ITL
Accessory Use	None
Special Use	None

Definition

An establishment used for human funeral services, which must include facilities on the premises for embalming and may or may not include facilities for the performance of autopsies, other surgical procedures, or cremation.

Use Regulations: **None**

Required Review Processes:

1. Site Development Plan Review is required per [Section 6.2.2](#).
2. Certificate of Appropriateness review is required per [Section 6.2.5](#) for lots located within the Historic Access Corridor (HAC) Overlay District.

GROCERY STORE (WITH AT LEAST 25,000 SQUARE FEET GROSS FLOOR AREA)	
Permitted Use	BC
Accessory Use	None
Special Use	None

Definition: **None**

Use Regulations: **None**

Required Review Processes:

1. Site Development Plan Review is required per [Section 6.2.2](#).
2. Certificate of Appropriateness review is required per [Section 6.2.5](#) for lots located within the Historic Access Corridor (HAC) Overlay District.

HOSPITALS	
Permitted Use	None
Accessory Use	None
Special Use	ITL

Definitions:

Any institution receiving in-patients and rendering medical, surgical and/or obstetrical care. This shall include general hospitals and institutions in which service is limited to special fields such as cardiac, eye, ear, nose, and throat, pediatric, orthopedic, skin and cancer, mental, tuberculosis, chronic disease and obstetrics. The term "hospital" shall also include sanitariums and sanitariums including those wherein feeble-minded and mental patients, epileptics, alcoholics,

ARTICLE I – ZONING ORDINANCE
2024 EDITION

senile psychotics and drug addicts are treated or cared for under the supervision of licensed medical personnel.

Use Regulations:

1. All applications for hospitals shall be filed at the same time as the application for a State Medical Facilities Certificate of Public Need.
2. In the governing body’s granting of an approval to the applicant, in addition to the information provided by the applicant, the governing body may solicit information and comment from such providers and consumers of health planning organizations as may seem appropriate, provided that the governing body shall not be bound by any such information or comment.
3. No such use shall be located on a lot containing less than five (5) acres.

Required Review Processes:

1. Special Use Permit Review is required per [Section 6.3.1](#).
2. Site Development Plan Review is required per [Section 6.2.2](#).
3. Certificate of Appropriateness review is required per [Section 6.2.5](#) for lots located within the Historic Access Corridor (HAC) Overlay District.

HOTELS AND MOTELS	
Permitted Use	BC
Accessory Use	None
Special Use	None

Definitions:

Hotel

A building designed or occupied as the temporary abiding place for fourteen (14) or more individuals who are, for compensation, lodged, with or without meals, and in which no provision is made for cooking in individual rooms or suites.

Motel

An establishment consisting of a group of living or sleeping accommodations, each with a bathroom and closet space, located on a single zoning lot, and designed for use by transient automobile tourists; less than 50 percent of the living and sleeping accommodations are occupied or designed for occupancy by persons other than transient automobile tourists.

Use Regulations: None

Required Review Processes:

1. Site Development Plan Review is required per [Section 6.2.2](#).

ARTICLE I – ZONING ORDINANCE
2024 EDITION

2. Certificate of Appropriateness review is required per [Section 6.2.5](#) for lots located within the Historic Access Corridor (HAC) Overlay District.

LAUNDROMAT	
Permitted Use	BC
Accessory Use	None
Special Use	None

Definition:

A building or part thereof where clothes or other household articles are washed or dry-cleaned in self-service machines with a capacity for washing not exceeding twenty-five (25) pounds dry weight and where such washed clothes and articles may also be dried or ironed and no delivery services provided in connection therewith.

Use Regulations: None

Required Review Processes:

1. Site Development Plan Review is required per [Section 6.2.2](#).
2. Certificate of Appropriateness review is required per [Section 6.2.5](#) for lots located within the Historic Access Corridor (HAC) Overlay District.

LUMBER YARDS AND BUILDING MATERIALS ESTABLISHMENTS	
Permitted Use	None
Accessory Use	None
Special Use	B

Definition: None

Use Regulations: None

Required Review Processes:

1. Special Use Permit Review is required per [Section 6.3.1](#).
2. Site Development Plan Review is required per [Section 6.2.2](#).
3. Certificate of Appropriateness review is required per [Section 6.2.5](#) for lots located within the Historic Access Corridor (HAC) Overlay District.

MACHINERY SALES AND SERVICE	
Permitted Use	B
Accessory Use	None
Special Use	None

Definition: None

Use Regulations: None

Required Review Processes:

1. Site Development Plan Review is required per [Section 6.2.2](#).
2. Certificate of Appropriateness review is required per [Section 6.2.5](#) for lots located within the Historic Access Corridor (HAC) Overlay District.

MANUFACTURING, PROCESSING, ASSEMBLY, OR REPAIR ACTIVITIES	
Permitted Use	B
Accessory Use	None
Special Use	None

Definition: None

Use Regulations:

1. Manufacturing, processing, assembly or repair activities shall not be objectionable because of smoke, odor, dust, or noise, or result in air or water pollution levels above any local, state or federal regulations.

Required Review Processes:

1. Site Development Plan Review is required per [Section 6.2.2](#).
2. Certificate of Appropriateness review is required per [Section 6.2.5](#) for lots located within the Historic Access Corridor (HAC) Overlay District.

MEDICAL CARE FACILITIES, LICENSED	
Permitted Use	BC, B
Accessory Use	None
Special Use	ITL

Definition:

Skilled nursing facilities and nursing facility care, licensed by the Virginia Department of Health and providing 24-hour medical care to residents.

Use Regulations:

1. All applications for medical care facilities shall be filed at the same time as the application for a State Medical Facilities Certificate of Public Need.
2. In the governing body’s granting of an approval to the applicant, in addition to the information provided by the applicant, the governing body may solicit information and comment from such providers and consumers of health planning organizations as may seem appropriate, provided that the governing body shall not be bound by any such information or comment.
3. No such use shall be located on a lot containing less than five (5) acres.

Required Review Processes:

1. Special Use Permit Review is required per [Section 6.3.1](#) for ITL District uses.
2. Site Development Plan Review is required per [Section 6.2.2](#) for all District uses.
3. Certificate of Appropriateness review is required per [Section 6.2.5](#) for lots located within the Historic Access Corridor (HAC) Overlay District.

MINI-STORAGE FACILITIES (INDOOR ONLY)	
Permitted Use	B
Accessory Use	None
Special Use	None

Definition: None

Use Regulations: None

Required Review Processes:

1. Site Development Plan Review is required per [Section 6.2.2](#).
2. Certificate of Appropriateness review is required per [Section 6.2.5](#) for lots located within the Historic Access Corridor (HAC) Overlay District.

OFFICES, BUSINESS OR PROFESSIONAL	
Permitted Use	BC, B
Accessory Use	None
Special Use	None

Definition:

A structure used by a person or persons, in offering a service which requires specialized knowledge gained by intensive academic preparation such as medicine, law, engineering, dentistry, and other like endeavors.

Use Regulations:

1. All activity and equipment (other than parking) must be housed in a fully enclosed building.
2. No noise or odor produced as a result of activity in such offices shall be discernible beyond the boundaries of the lot.
3. All vehicular access to the site shall be from a public road.
4. No display in the building shall be visible from outside the building.

Required Review Processes:

1. Site Development Plan Review is required per [Section 6.2.2](#).
2. Certificate of Appropriateness review is required per [Section 6.2.5](#) for lots located within the Historic Access Corridor (HAC) Overlay District.

PHARMACEUTICAL CENTERS	
Permitted Use	None
Accessory Use	None
Special Use	BC, B

Definition:

An establishment in which only pharmaceutical services are provided. Its purpose shall be limited to providing the public and various health professionals with information and articles intended for the use in diagnosis, cure, mitigation, treatment, or prevention of a disease state, including drugs and medical instruments or devices of the type used under the strict supervision of a physician in the treatment of a specific disease entity. No articles shall be displayed for sale, except for those articles directly related to the diagnosis, cure, mitigation, treatment, or prevention of a disease. Articles displayed for sale and product advertisements shall not be visible from outside the building.

Use Regulations: None

Required Review Processes:

1. Special Use Permit Review is required per [Section 6.3.1](#).
2. Site Development Plan Review is required per [Section 6.2.2](#).
3. Certificate of Appropriateness review is required per [Section 6.2.5](#) for lots located within the Historic Access Corridor (HAC) Overlay District.

PRINTING AND PUBLISHING	
Permitted Use	B
Accessory Use	None
Special Use	None

Definition: None

Use Regulations: None

Required Review Processes:

1. Site Development Plan Review is required per [Section 6.2.2](#).
2. Certificate of Appropriateness review is required per [Section 6.2.5](#) for lots located within the Historic Access Corridor (HAC) Overlay District.

RESTAURANTS WITH OR WITHOUT DRIVE-THRU	
Permitted Use	BC, B
Accessory Use	None
Special Use	None

Definitions:

Restaurant

Any building in which for compensation, food or beverages are dispensed for consumption on the premises, including, among other establishments, fast-food restaurants, cafes, tea rooms, confectionery shops, and refreshment stands.

Fast-food restaurant

Any place or premises used for sale, dispensing, or serving of food, refreshments, or beverages in automobiles, including those establishments where customers may serve themselves and may eat or drink the food, refreshments, or beverages in motor vehicles on the premises; a refreshment stand; a "drive-through" or primarily a "carry-out" establishment. Food may also be eaten inside.

Use Regulations: None

Required Review Processes:

1. Site Development Plan Review is required per [Section 6.2.2](#).
2. Certificate of Appropriateness review is required per [Section 6.2.5](#) for lots located within the Historic Access Corridor (HAC) Overlay District.

RETAIL STORES AND SHOPS AS AN ACCESSORY USE TO THE PRIMARY PERMITTED USE ON THE PARCEL	
Permitted Use	None
Accessory Use	BC , B
Special Use	None

Definition:

Buildings for display and sale of merchandise at retail or rendering of personal services, but specifically exclusive of coal, wood, oil storage, lumberyards, and contractor storage yards.

Use Regulations:

Retail stores and shops are allowed as an accessory use to the primary permitted use on the parcel, provided:

1. The retail store or shop is directly related, ancillary, subordinate, and incidental to the primary permitted use;
2. The gross floor area of the retail store or shop (excluding storage) does not exceed ten (10) percent of the gross floor area of the primary permitted use;
3. The gross floor area of the retail store or shop (excluding storage) does not occupy more than 1,500 square feet; and
4. The gross floor area for storage related to the retail store or shop does not exceed 500 square feet.

Required Review Processes:

1. Site Development Plan Review is required per [Section 6.2.2](#).
2. Certificate of Appropriateness review is required per [Section 6.2.5](#) for lots located within the Historic Access Corridor (HAC) Overlay District.

SCIENTIFIC RESEARCH AND DEVELOPMENT ESTABLISHMENTS	
Permitted Use	None
Accessory Use	None
Special Use	BC, B

Definition: None

Use Regulations: None

Required Review Processes:

1. Special Use Permit Review is required per [Section 6.3.1](#).

ARTICLE I – ZONING ORDINANCE
2024 EDITION

2. Site Development Plan Review is required per [Section 6.2.2](#).
3. Certificate of Appropriateness review is required per [Section 6.2.5](#) for lots located within the Historic Access Corridor (HAC) Overlay District.

VETERINARY HOSPITALS (SMALL ANIMALS), EXCLUSIVE OF OUTDOOR BOARDING KENNELS	
Permitted Use	BC, B
Accessory Use	None
Special Use	None

Definition: None

Use Regulations: None

Required Review Processes:

1. Site Development Plan Review is required per [Section 6.2.2](#).
2. Certificate of Appropriateness review is required per [Section 6.2.5](#) for lots located within the Historic Access Corridor (HAC) Overlay District.

WAREHOUSING AND DISTRIBUTION ESTABLISHMENTS	
Permitted Use	B
Accessory Use	None
Special Use	None

Definition: None

Use Regulations: None

Required Review Processes:

1. Site Development Plan Review is required per [Section 6.2.2](#).
2. Certificate of Appropriateness review is required per [Section 6.2.5](#) for lots located within the Historic Access Corridor (HAC) Overlay District.

WHOLESALE TRADE AND DISTRIBUTION ESTABLISHMENTS	
Permitted Use	B
Accessory Use	None
Special Use	None

Definition: None

ARTICLE I – ZONING ORDINANCE
2024 EDITION

Use Regulations: None

Required Review Processes:

1. Site Development Plan Review is required per [Section 6.2.2](#).
2. Certificate of Appropriateness review is required per [Section 6.2.5](#) for lots located within the Historic Access Corridor (HAC) Overlay District.

D. RECREATION/EDUCATION/ASSEMBLY USES

Recreation/Education/Assembly Use	OSR	DR-1	DR-2	DR-4	BC	B	ITL
Churches and other places of worship	X	S	S	S	P	P	P
Clubs or lodges (including civic and public benefit organizations)	X	X	X	X	P	P	P
Commercial/public swimming pools, tennis courts, and golf courses	S	S	S	S	X	X	X
Conference centers and retreat houses	X	X	X	X	S	P	S
Fairgrounds	X	X	X	X	X	X	P
Libraries, museums, shrines, and historic markers	S	S	S	S	X	X	X
Public or private schools	S	S	S	S	P	P	P
Recreation Facilities (Indoor/Outdoor), Parks, Playgrounds, and Related Uses	S	S	S	S	P	P	P
Sports arenas and stadiums as a principal use	X	X	X	X	X	X	S
Theaters, indoor	X	X	X	X	S	X	X

P -- Permitted Use S -- Special Use P/S – Permitted or Special Use
A -- Accessory Use X -- Prohibited Use P/A – Permitted or Accessory

CHURCHES AND OTHER PLACES OF WORSHIP	
Permitted Use	BC, B, ITL
Accessory Use	None
Special Use	DR-1, DR-2, DR-4

Definition: None

Use Regulations: None

Required Review Processes:

1. Special Use Permit Review is required per [Section 6.3.1](#) for uses in the DR-1, DR-2, and DR-4 Districts.

ARTICLE I – ZONING ORDINANCE
2024 EDITION

2. Site Development Plan Review is required per [Section 6.2.2](#) for uses in all Districts.
3. Certificate of Appropriateness review is required per [Section 6.2.5](#) for lots located within the Historic Access Corridor (HAC) Overlay District.

CLUBS OR LODGES (INCLUDING CIVIC AND PUBLIC BENEFIT ORGANIZATIONS)	
Permitted Use	BC, B, ITL
Accessory Use	None
Special Use	None

Definition: None

Use Regulations: None

Required Review Processes:

1. Site Development Plan Review is required per [Section 6.2.2](#).
2. Certificate of Appropriateness review is required per [Section 6.2.5](#) for lots located within the Historic Access Corridor (HAC) Overlay District.

COMMERCIAL/PUBLIC SWIMMING POOLS, TENNIS COURTS, AND GOLF COURSES	
Permitted Use	None
Accessory Use	None
Special Use	OSR, DR-1, DR-2, DR-4

Definition: None

Use Regulations: None

Required Review Processes:

1. Special Use Permit Review is required per [Section 6.3.1](#).
2. Site Development Plan Review is required per [Section 6.2.2](#).
3. Certificate of Appropriateness review is required per [Section 6.2.5](#) for lots located within the Historic Access Corridor (HAC) Overlay District.

CONFERENCE CENTERS AND RETREAT HOUSES	
Permitted Use	B
Accessory Use	None
Special Use	BC, ITL

Definition: None

Use Regulations:

1. No building shall be located closer than fifty (50) feet to any street right-of-way line.
2. No building shall be located closer than one-hundred (100) feet to any lot line which abuts a residential district.

Required Review Processes:

1. Special Use Permit Review is required per [Section 6.3.1](#) for uses in the BC and ITL Districts.
2. Site Development Plan Review is required per [Section 6.2.2](#) for uses in all Districts.
3. Certificate of Appropriateness review is required per [Section 6.2.5](#) for lots located within the Historic Access Corridor (HAC) Overlay District.

FAIRGROUNDS	
Permitted Use	ITL
Accessory Use	None
Special Use	None

Definition:

A lot or lots used, either temporarily or permanently (as permitted herein), as the site of any fair, exposition, or public display.

Use Regulations: None

Required Review Processes:

1. Site Development Plan Review is required per [Section 6.2.2](#).
2. Certificate of Appropriateness review is required per [Section 6.2.5](#) for lots located within the Historic Access Corridor (HAC) Overlay District.

LIBRARIES, MUSEUMS, SHRINES, AND HISTORIC MARKERS	
Permitted Use	B, BC, ITL
Accessory Use	None
Special Use	DR-1, DR-2

Definition: None

Use Regulations: None

Required Review Processes:

1. Special Use Permit Review is required per [Section 6.3.1](#).
2. Site Development Plan Review is required per [Section 6.2.2](#).
3. Certificate of Appropriateness review is required per [Section 6.2.5](#) for lots located within the Historic Access Corridor (HAC) Overlay District.

PUBLIC OR PRIVATE SCHOOLS	
Permitted Use	B, BC, ITL
Accessory Use	None
Special Use	OSR, DR-1, DR-2, DR-4

Definition: None

Use Regulations:

1. Two-hundred (200) square feet of usable outdoor recreation area shall be provided for each child in grades K-3 that may use the space at any one time, and
2. Four-hundred thirty (430) square feet of usable outdoor recreation area shall be provided for each child in grades 4-12 that may use the space at any one time.
3. Such usable outdoor recreation area shall be delineated on a plat submitted at the time the application is filed.
4. For the purpose of these open space provisions, usable outdoor recreation shall be limited to:
 - a. That area not covered by buildings or required off-street parking spaces.
 - b. That area outside the limits of the required front yard.
 - c. Only that area which is developed for active outdoor recreation purposes.
 - d. An area which occupies no more than eighty (80) per cent of the combined total areas of the required rear and side yards.

Required Review Processes:

1. Special Use Permit Review is required per [Section 6.3.1](#) for uses in the OSR, DR-1, DR-2, and DR-4 Districts.
2. Site Development Plan Review is required per [Section 6.2.2](#) for uses in all Districts.
3. Certificate of Appropriateness review is required per [Section 6.2.5](#) for lots located within the Historic Access Corridor (HAC) Overlay District.

RECREATION FACILITIES (INDOOR/OUTDOOR), PARKS, PLAYGROUNDS, AND RELATED USES	
Permitted Use	BC, B, ITL
Accessory Use	None
Special Use	OSR, DR-1, DR-2, DR-4

Definition:

Commercial indoor recreation facility

A sports or activity facility either open to the general public for a fee or for members and their guests, located in an enclosed building or structure designed to accommodate gatherings for athletic, training, recreational purposes, games, martial arts, and the like. Office, retail sales and rentals, food service and other uses commonly established in such facilities and related parking shall be permitted as ancillary uses and shall not occupy more than 5,000 square feet of gross floor area (not including storage) on any one lot and shall not exceed twenty-five (25) percent of total floor area for the site. The areas dedicated to ancillary uses must be indicated on an approved site plan.

Use Regulations: None

Required Review Processes:

1. Special Use Permit Review is required per [Section 6.3.1](#) for uses in the OSR, DR-1, DR-2, and DR-4 Districts.
2. Site Development Plan Review is required per [Section 6.2.2](#) for uses in all Districts.
3. Certificate of Appropriateness review is required per [Section 6.2.5](#) for lots located within the Historic Access Corridor (HAC) Overlay District.

SPORTS ARENAS AND STADIUMS AS A PRINCIPAL USE	
Permitted Use	None
Accessory Use	None
Special Use	ITL

Definition: None

Use Regulations: None

Required Review Processes:

1. Special Use Permit Review is required per [Section 6.3.1](#).
2. Site Development Plan Review is required per [Section 6.2.2](#).
3. Certificate of Appropriateness review is required per [Section 6.2.5](#) for lots located within the Historic Access Corridor (HAC) Overlay District.

ARTICLE I – ZONING ORDINANCE
2024 EDITION

THEATERS, INDOOR	
Permitted Use	None
Accessory Use	None
Special Use	BC

Definition: None

Use Regulations: None

Required Review Processes:

1. Special Use Permit Review is required per [Section 6.3.1](#).
2. Site Development Plan Review is required per [Section 6.2.2](#).
3. Certificate of Appropriateness review is required per [Section 6.2.5](#) for lots located within the Historic Access Corridor (HAC) Overlay District.

E. PUBLIC AND MISCELLANEOUS USES

Public and Miscellaneous Uses	OSR	DR-1	DR-2	DR-4	BC	B	ITL
Cemetery	X	S	S	S	X	X	P
Community buildings, public and private	X	X	X	S	X	X	X
Fire stations	X	S	S	S	X	X	X
Government and other public buildings (including police, fire, and postal facilities; excluding retail and services uses, except as an accessory use)	X	X	X	X	P	P	P
Public Utility Facility	S	S	S	S	P	P	P

P -- Permitted Use **S -- Special Use** **P/S – Permitted or Special Use**
A -- Accessory Use **X -- Prohibited Use** **P/A – Permitted or Accessory**

CEMETERY	
Permitted Use	ITL
Accessory Use	None
Special Use	DR-1, DR-2, DR-4

Definition:

A place of burial of the human dead, or remains of the human dead.

Use Regulations: None

Required Review Processes:

1. Special Use Permit Review is required per [Section 6.3.1](#).
2. Site Development Plan Review is required per [Section 6.2.2](#).
3. Certificate of Appropriateness review is required per [Section 6.2.5](#) for lots located within the Historic Access Corridor (HAC) Overlay District.

COMMUNITY BUILDINGS, PUBLIC AND PRIVATE	
Permitted Use	None
Accessory Use	None
Special Use	DR-4

Definition: None

Use Regulations: None

Required Review Processes:

1. Special Use Permit Review is required per [Section 6.3.1](#).
2. Site Development Plan Review is required per [Section 6.2.2](#).

FIRE STATIONS	
Permitted Use	None
Accessory Use	None
Special Use	DR-1, DR-2, DR-4

Definition: None

Use Regulations: None

Required Review Processes:

1. Special Use Permit Review is required per [Section 6.3.1](#).
2. Site Development Plan Review is required per [Section 6.2.2](#).
3. Certificate of Appropriateness review is required per [Section 6.2.5](#) for lots located within the Historic Access Corridor (HAC) Overlay District.

GOVERNMENT AND OTHER PUBLIC BUILDINGS (INCLUDING POLICE, FIRE, AND POSTAL FACILITIES; EXCLUDING RETAIL AND SERVICES USES, EXCEPT AS AN ACCESSORY USE)	
Permitted Use	BC, B, ITL
Accessory Use	None
Special Use	None

Definition: None

Use Regulations:

1. Retail sales are allowed as an accessory use provided:
 - a. The retail activity is directly related, ancillary, subordinate, and incidental to the primary permitted use;
 - b. The gross floor area of the retail activity (excluding storage) does not exceed ten (10) percent of the gross floor area of the primary permitted use;
 - c. The gross floor area of the retail activity (excluding storage) does not occupy more than 1,500 square feet; and
 - d. The gross floor area for storage related to the retail activity does not exceed 500 square feet.

Required Review Processes:

1. Site Development Plan Review is required per [Section 6.2.2](#).
2. Certificate of Appropriateness review is required per [Section 6.2.5](#) for lots located within the Historic Access Corridor (HAC) Overlay District.

PUBLIC UTILITY FACILITY	
Permitted Use	BC, B, ITL
Accessory Use	None
Special Use	OSR, DR-1, DR-2, DR-4

Definition:

Public facilities and structures for exclusively public purposes that are owned, operated, or managed by any department or branch of the federal government; Commonwealth of Virginia; Clarke County or Town of Berryville governments; the Clarke County Sanitary Authority; or any licensed public utility. This use includes facilities for provision of water or sanitary sewer services, citizen convenience centers for solid waste and/or recyclable material collection, and public utility substations. This use does not include solar power plants, large photovoltaic.

Use Regulations:

1. No such activity shall occur unless and until all applicable Federal and Commonwealth of Virginia requirements concerning safety and environmental impact have been met.

ARTICLE I – ZONING ORDINANCE
2024 EDITION

2. No minimum lot area or width shall be required for a lot containing such activities.

Required Review Processes:

1. Special Use Permit Review is required per [Section 6.3.1](#) for uses proposed in the OSR, DR-1, DR-2, and DR-4 Districts.
2. Site Development Plan Review is required per [Section 6.2.2](#) for uses in all Districts.
3. Certificate of Appropriateness review is required per [Section 6.2.5](#) for lots located within the Historic Access Corridor (HAC) Overlay District.

F. Business Park (BP) District Uses

The BP District’s permitted, accessory, and special uses are taken from the [North American Industrial Classification \(NAICS\) Manual \(U.S. Office of Management and Budget\)](#). The NAICS Manual contains detailed definitions for each use listed below. The NAICS code for each use also includes all subcategories within that code with the exception of any that are specifically excluded from the use. For example, NAICS code 3121 would include subcategories numbered as 31211 and 312111 but would not include 3122.

Unless noted below, the [1997 Edition of the NAICS Manual](#) shall be applied.

NAICS Code	Permitted Uses
22112	Utilities - Electric Power Transmission, Control, & Distribution
2212	Natural Gas Distribution
2213	Water, Sewage, & Other Systems
233	Building, Developing & General Contracting
234	Heavy Construction
235	Special Trade Contractors
311	Food Manufacturing -- Exclude 3116 (Animal Slaughtering & Processing) and 3117 (Seafood Product Preparation & Packaging)
3121	Beverage Manufacturing
314	Textile Product Mills
315	Apparel Manufacturing
316	Leather and Allied Product Manufacturing -- Exclude 3161 (Leather & Hide Tanning & Finishing)
321	Wood Product Manufacturing -- Exclude 3211 (Sawmills & Wood Preservation)
3222	Converted Paper Product Manufacturing
323	Printing & Related Support Activities
3261	Plastics Product Manufacturing

ARTICLE I – ZONING ORDINANCE
2024 EDITION

332	Fabricated Metal Product Manufacturing -- Exclude 3328 (Coating/Engrave/Heat Treating & Other Activity) and 33292,3,4,5 (Small Arms Ammunition, Other Ammunition, Small Arms, and Other Ordnance & Accessories Manufacturing)
334	Computer & Electronic Product Manufacturing
335	Electrical Equipment, Appliance, & Component Manufacturing -- Exclude 335911 (Storage Battery) and 335912 (Primary Battery Manufacturing)
337	Furniture and Related Products Manufacturing
339	Miscellaneous Manufacturing
421	Wholesale Trade, Durable Goods -- Exclude 42152 (Coal & Other Mineral & Ore Wholesale)
422	Wholesale Trade, Nondurable Goods -- Exclude 42244 (Poultry & Poultry Product Wholesale), 42252 (Livestock Wholesale), 4226 (Chemical & Allied Products Wholesale) and 4227 (Petroleum & Petroleum Products Wholesale)
453998	General Merchandise Auction Houses (within 1000 feet of a state designated primary highway)
454	Non-store Retailers
4885	Freight Transportation Arrangement
488991	Packing & Crating
493	Warehousing & Storage
511	Publishing Industries
512	Motion Picture & Sound Recording Industries
513	Broadcasting & Telecommunications
514	Information & Data Processing Services
5324	Commercial/Industrial Equipment Rental & Leasing
5417	Scientific Research and Development Services
561	Administrative & Support Services -- Exclude 5615 (Travel Arrangement & Reservation Services)
811	Repair & Maintenance
NAICS Code	Accessory Uses
6244	Child Day Care Services
7222	Limited Service Eating Places
4533	Used Merchandise Store (in a structure existing as of 1 March 2001 that is within 1000 feet of a state designated primary highway and that is accessory to General merchandise Auction House and does not exceed 10% of the total proposed gross floor area of the General Merchandise Auction House, as shown on the project site plan or occupy more than 2,000 square feet of gross floor area.)

ARTICLE I – ZONING ORDINANCE
2024 EDITION

NAICS Code	Special Uses and Structures
3116	Animal Slaughtering & Processing
3117	Seafood Product Preparation & Packaging
321114	Wood Preservation
3254	Pharmaceutical & Medicine Manufacturing
325910	Printing Ink Manufacturing
327991	Cut Stone & Stone Product Manufacturing
333	Machinery Manufacturing
336	Transportation Equipment Manufacturing
484	Truck Transportation
6215	Medical & Diagnostic Laboratories
81233	Linen & Uniform Supply
713940	Fitness and Recreational Sports Centers
424710	Petroleum Bulk Stations and Terminals*

* Reference 2007 NAICS Manual

NAICS Code	Prohibited Uses
11	Agriculture, Forestry, Fishing, & Hunting
21	Mining
2211	Electric Power Generation
3122	Tobacco Manufacturing
313	Textile Mills
3161	Leather & Hide Tanning & Finishing
3211	Sawmills & Wood Preservation
3221	Pulp, Paper & Paperboard Mills
324	Petroleum & Coal Products Manufacturing
325	Chemical Manufacturing
3262	Rubber Product Manufacturing
327	Nonmetallic Mineral Product Manufacturing -- 327991 (Cut Stone & Stone Product Manufacturing) is allowed as a special use as referenced above
331	Primary Metal Manufacturing
3328	Coating/Engraving/Heat Treating & Other Activity
33292	Small Arms Ammunition Manufacturing
33293	Ammunition (excluding Small Arms) Manufacturing
33294	Small Arms Manufacturing
33295	Other Ordnance & Accessories Manufacturing
335911	Storage Battery Manufacturing
335912	Primary Battery Manufacturing

ARTICLE I – ZONING ORDINANCE
2024 EDITION

42152	Coal & Other Mineral & Ore Wholesale
42244	Poultry & Poultry Product Wholesale
42252	Livestock Wholesale
4226	Chemical and Allied Products Wholesale
4247	Petroleum & Petroleum Products Wholesale* -- 42471 (Petroleum Bulk Stations and Terminals) is allowed as a special use as referenced above
441	Motor Vehicle & Parts Dealers
442	Furniture & Home Furnishings Stores
443	Electronics & Appliance Stores
444	Building Material & Garden Equipment and Supply Dealers
445	Food & Beverage Stores
446	Health & Personal Care Stores
447	Gasoline Stations
448	Clothing & Clothing Accessories Stores
451	Sporting Goods, Hobby, Book & Music Stores
452	General Merchandise Stores
453	Miscellaneous Store Retailers -- 4533 (Used Merchandise Store) is allowed as an accessory use as referenced above
481	Air Transportation
482	Rail Transportation
483	Water Transportation
485	Transit & Ground Passenger Transportation
486	Pipeline Transportation
487	Scenic & Sightseeing Transportation
488	Transportation Support Activities -- 4885 (Freight Transportation Arrangement) and 488991 (Packing & Crating) are allowed as permitted uses as referenced above
491	Postal Service
492	Couriers & Messengers
521	Monetary Authorities - Central Bank
522	Credit Intermediation & Related Activities
523	Security, Commodity Contracts & Like Activity
524	Insurance Carriers & Related Activities
525	Funds, Trusts & Other Financial Vehicles
531	Real Estate
5321	Automotive Equipment Rental & Leasing
5322	Consumer Goods Rental
5323	General Rental Centers

* Reference 2007 NAICS Manual

ARTICLE I – ZONING ORDINANCE
2024 EDITION

533	Lessors of Other Non-financial Intangible Asset
541	Professional, Scientific & Technical Services
551	Management of Companies & Enterprises
5615	Travel Arrangement & Reservation Services
562	Waste Management & Remediation Services
611	Educational Services
621	Ambulatory Health Care Services
622	Hospitals
623	Nursing & Residential Care Facilities
624	Social Assistance
711	Performing Arts, Spectator Sports & Related Industries
712	Museums, Historical Sites & Like Institutions
713	Amusement, Gambling & Recreation Industries
721	Accommodation
722	Food Services & Drinking Places
812	Personal & Laundry Services
813	Religious, Grant-making, Professional, and Like Organizations
814	Private Households
921	General Government Administration
922	Justice, Public Order & Safety Activities
923	Administration of Human Resource Programs
924	Administration of Environmental Quality Programs
925	Administration of Housing, Urban Planning, Community Development
926	Administration of Economic Programs
927	Space Research & Technology
928	National Security & International Affairs

**5.4 USES, DEFINITIONS, AND USE REGULATIONS –
TEMPORARY USES**

County Zoning Districts

Use	AOC	FOC	RR	CN	CH
Agritourism Activity	A	A	X	X	X
Model Home	P	P	P	X	X
Temporary Dwelling	P	P	P	X	X
Temporary Office Trailer	A	A	A	A	A
Temporary Structure	A	A	A	A	A
Temporary Use of Major Recreational Equipment	A	A	A	X	X
Temporary Vendor	A	A	X	A	A
Yard Sale	A	A	A	X	X

P -- Permitted Use S -- Special Use P/S – Permitted or Special Use
A -- Accessory Use X -- Prohibited Use P/A – Permitted or Accessory

Berryville Annexation Area Zoning Districts

Use	OSR	DR-1	DR-2	DR-4	BC	B	ITL
Agritourism Activity	X	X	X	X	X	X	A
Model Home	P	P	P	P	X	X	X
Temporary Dwelling	P	P	P	P	X	X	X
Temporary Office Trailer	A	A	A	A	A	A	A
Temporary Structure	A	A	A	A	A	A	A
Temporary Use of Major Recreational Equipment	A	A	A	A	X	X	X
Temporary Vendor	X	X	X	X	A	A	A
Yard Sale	A	A	A	A	X	X	X

P -- Permitted Use S -- Special Use P/S – Permitted or Special Use
A -- Accessory Use X -- Prohibited Use P/A – Permitted or Accessory

AGRITOURISM ACTIVITY	
Permitted Use	None
Accessory Use	AOC, FOC, ITL
Special Use	None

Definition:

A temporary activity conducted as an accessory use to an agricultural operation that allows members of the general public to view or participate in agricultural activities for recreational, entertainment, or educational purposes. An activity is an agritourism activity regardless of

ARTICLE I – ZONING ORDINANCE
2024 EDITION

whether the participant paid to participate in the activity. Examples of agritourism activities include:

- Harvest-your-own fruits, vegetables, Christmas trees, and the like
- Farm tours and educational activities associated with the agricultural operation
- Seasonal activities which may include the following periodic accessory activities:
 - Corn mazes, petting zoos, animal exhibitions, and similar activities
 - Incidental sale of agricultural or silvicultural-related products
 - Incidental live music or similar performance-based entertainment activities
 - Incidental sale of food and beverages
 - Temporary vendors
- Farm-to-table events at which food products produced in whole or in part from products grown by the agricultural operation are served to patrons

Use Regulations:

1. An agritourism activity shall be conducted as an accessory use and shall be subordinate to an agricultural operation that is located on the same lot.
2. All necessary permits, licenses, and approvals from County, State, and Federal departments and agencies shall be obtained by the Applicant prior to issuance of an Agritourism Activity Zoning Permit by the Zoning Administrator.
3. No agritourism activity shall be conducted for more than 180 days in a calendar year. Applicants for Agritourism Activity Zoning Permits shall provide a schedule demonstrating compliance with this requirement.
4. An Agritourism Activity Zoning Permit is not required if the full duration of the activity is regulated by a Special Event Permit issued by the Board of Supervisors per [Chapter 57 of the Code of Clarke County](#). If a specific event or events are conducted in conjunction with an agritourism activity that meets the criteria for a Special Event Permit issued by the Board of Supervisors per [Chapter 57 of the Code of Clarke County](#), approval of the Special Event Permit shall be required prior to issuance of the Agritourism Activity Zoning Permit.
5. A Temporary Vendor operating at an agritourism activity is not required to remove all equipment and vehicles and leave the agritourism activity site each day provided that the temporary vendor locations are shown on a site sketch approved in the Agritourism Activity Zoning Permit.
6. Equestrian activities. An equestrian activity shall not be considered an agritourism activity if the full duration of the activity is regulated by a Special Event Permit per [Chapter 57 of the Code of Clarke County](#), or if the equestrian activity meets all of the following requirements:
 - a. The activity shall not be advertised as open to the general public with or without an admission fee.

ARTICLE I – ZONING ORDINANCE
2024 EDITION

- b.. The activity shall not include live music or similar performance-based entertainment activities that are spectator-oriented.
 - c. The activity is periodic in nature and shall not occur for more than three consecutive days or for more than 10 days in any 30-day period.
7. Entertainment activities. Live music and similar performance-based entertainment activities shall be incidental and accessory to the permitted agritourism activity. Any such activities that are advertised and/or promoted as a separate event or for which a separate admission fee is charged shall not be considered incidental and accessory to the agritourism activity.

Required Review Processes:

- 1. A Zoning Permit is required per [Section 6.2.1](#).
- 2. A Special Event Permit issued by the Board of Supervisors per [Chapter 57 of the Code of Clarke County](#) may be required in lieu of or in addition to an Agritourism Activity Zoning Permit.

MODEL HOME	
Permitted Use	AOC, FOC, RR, OSR, DR-1, DR-2, DR-4
Accessory Use	None
Special Use	None

Definition:

A single-family dwelling located within a subdivision that is used for sales, marketing, and other administrative functions in conjunction with the development of that subdivision.

Use Regulations:

- 1. A model home shall be constructed as a single-family dwelling and shall meet all lot requirements for a single-family dwelling in the applicable zoning district. Upon conclusion of its use as a model home, a model home shall thereafter be utilized as a single-family dwelling or other allowable use subject to zoning approval or shall be removed from the lot. In the AOC and FOC Districts, a dwelling unit right is required in order to construct a model home.
- 2. A model home shall not be used to advertise or serve as a real estate sales or leasing office for the sale or lease of dwellings outside of the subdivision in which it is located.

Required Review Processes:

- 1. A Zoning Permit is required per [Section 6.2.1](#).

ARTICLE I – ZONING ORDINANCE
2024 EDITION

TEMPORARY DWELLING	
Permitted Use	AOC, FOC, RR, OSR, DR-1, DR-2, DR-4
Accessory Use	None
Special Use	None

Definition:

A dwelling unit that is permitted for temporary residential occupancy during the construction of a permanent residence on the same lot, or due to a hardship resulting from the destruction of a residence on the lot.

Use Regulations:

1. A temporary dwelling may be a manufactured home or major recreational equipment with cooking and toilet facilities.
2. Temporary dwelling permitted during construction of a permanent residence.
 - a. The Zoning Administrator may, upon application, permit the use of a temporary dwelling. This temporary dwelling zoning permit shall be valid for one year, but may be renewed for one additional year by the Zoning Administrator with a valid Building Permit and Virginia Department of Health permit for onsite well and sewage disposal system.
 - b. Approvals by the Building Department for compliance with building code requirements, and by the Virginia Department of Health for compliance with onsite well and sewage disposal systems, shall be issued prior to occupancy of the temporary dwelling.
 - c. Upon completion of the new dwelling or expiration of the Building Permit, the temporary dwelling shall be removed from the lot or shall be converted to an allowable use subject to zoning approval within 30 days. No final zoning approval shall be issued for the new dwelling until the temporary dwelling has been removed or converted to an allowable use.
3. Temporary dwelling permitted in hardship instances.
 - a. The Zoning Administrator may, upon application, permit the use of a temporary dwelling in hardship situations arising as a result the destruction of the applicant’s residence on the lot by natural causes, such as fire, wind, flood or rain.
 - b. The zoning permit shall be valid for a period of six months. The permit may be renewed for a period of six months, upon a showing of satisfactory progress toward securing a permanent structure and with a valid Building Permit and Virginia Department of Health permit for onsite well and sewage disposal system, for no more than three subsequent times to allow said use to exist for a total period of not to exceed two years.
 - c. Approvals by the Building Department for compliance with building code requirements, and by the Virginia Department of Health for compliance with

ARTICLE I – ZONING ORDINANCE
2024 EDITION

onsite well and sewage disposal systems, shall be issued prior to occupancy of the temporary dwelling.

- d. Upon completion of the new dwelling or expiration of the Building Permit, the temporary dwelling shall be removed from the lot or shall be converted to an allowable use subject to zoning approval within 30 days. No final zoning certificate of occupancy shall be issued for the new dwelling until the temporary dwelling has been removed or converted to an allowable use.

Required Review Processes:

- 1. A Zoning Permit is required per [Section 6.2.1](#).

TEMPORARY OFFICE TRAILER	
Permitted Use	None
Accessory Use	All Districts
Special Use	None

Definition:

An industrialized building which may be constructed on a chassis for the purpose of towing to the point of use and designed to be used with or without a permanent foundation. Temporary office trailers shall be used only as an office that is accessory to a construction project on the same lot or adjoining lots, or as a temporary classroom that is accessory to a public or private school on the same lot.

Use Regulations:

- 1. An industrialized building may be used as a temporary office trailer upon issuance of a Temporary Office Trailer Zoning Permit by the Zoning Administrator.
 - a. Construction office. Such permit shall be issued for a period equal to the anticipated period of construction not to exceed two years. Upon completion of the construction project, the temporary office trailer shall be removed from the lot or shall be converted to an allowable use subject to zoning approval within 30 days. No final zoning certificate of occupancy shall be issued for the construction project until the temporary office trailer has been removed or converted to an allowable use.
 - b. School classroom. Such permit shall be issued for a period equal to a period of need as identified for school officials. Upon completion of the permit term, the school classroom shall be removed from the lot or shall be converted to an allowable use subject to zoning approval within 30 days.
- 2. If the temporary office trailer contains restroom facilities, the Applicant shall connect it to an approved private well and onsite sewage disposal system, or to public water and public sewer, prior to occupancy and shall provide evidence of approval by the Virginia

ARTICLE I – ZONING ORDINANCE
2024 EDITION

Department of Health or municipal authority (if applicable) as a condition of Zoning Permit approval.

Required Review Processes:

1. A Zoning Permit is required per [Section 6.2.1](#).

TEMPORARY STRUCTURE	
Permitted Use	None
Accessory Use	All Districts
Special Use	None

Definition:

A structure, not permanently affixed to the ground, intended to be located on a lot for a limited period of time.

Use Regulations:

1. The owner of any lot on which a temporary structure is sited for more than ten days shall obtain a Zoning Permit for such structure from the Zoning Administrator.
2. A temporary structure shall not be located on a lot for more than 90 days in any 12 month time period.
3. Use regulations for specific types of temporary structures:
 - a. Portable canopies. Portable canopies that require a building permit shall comply with all lot setback and height requirements for the applicable zoning district.
 - b. Tents. Tents that require a building permit shall comply with all lot setback and height requirements for the applicable zoning district.
 - c. Shipping containers. Shipping containers, regardless of whether placed on a permanent foundation, shall comply with all lot setback and height requirements for the applicable zoning district.

Required Review Processes:

1. A Zoning Permit is required per [Section 6.2.1](#).

TEMPORARY USE OF MAJOR RECREATIONAL EQUIPMENT	
Permitted Use	None
Accessory Use	AOC, FOC, RR, OSR, DR-1, DR-2, DR-4
Special Use	None

Definition:

The temporary parking, storage, or non-residential use of major recreational equipment on a lot.

ARTICLE I – ZONING ORDINANCE
2024 EDITION

Use Regulations:

The following regulations shall apply to the temporary use of major recreational equipment which includes parking and storage.

1. No major recreational equipment shall be used for living, sleeping, or other occupancy on lots zoned RR, OSR, DR-1, DR-2, and DR-4 except as a temporary dwelling use.
2. Major recreational equipment six feet or more in average height, not parked or stored in a garage, carport, or other building, shall not be located in any required front or side yard and shall be located at least three feet from all buildings.
3. Major recreational equipment that is not in operating condition shall not be parked outdoors and shall be stored in a garage, carport, or other building.

Required Review Processes: **None**

TEMPORARY VENDOR	
Permitted Use	None
Accessory Use	AOC, FOC, CN, CH, BC, B, ITL
Special Use	None

Definition:

A business that is operated in a fixed location on a periodic basis in the open air, under a portable shelter, or within a motor vehicle or trailer or any combination thereof.

Use Regulations:

1. A temporary vendor shall be accessory to an existing approved use that is located on the same lot. No temporary vendor shall operate on a vacant lot.
2. No temporary vendor may operate in a specific location for more than three consecutive days or for more than 10 days in any 30 day period. Temporary vendors shall remove all equipment and vehicles at the end of each day unless approved in conjunction with an Agritourism Activity Zoning Permit or Special Event Permit (County Code Chapter 57).
3. A temporary vendor may operate as an accessory use to an approved business use located on the same lot for a period in excess of three consecutive days or 10 days in any 30 day period with approval of a site development plan amendment for the approved business use.

Required Review Processes: **None**

ARTICLE I – ZONING ORDINANCE
2024 EDITION

YARD SALE	
Permitted Use	None
Accessory Use	AOC, FOC, RR, OSR, DR-1, DR-2, DR-4
Special Use	None

Definition:

Any household sale (including garage sale, porch sale, estate sale and the like) conducted by a resident who resides on the same lot for the purpose of disposing of used, unwanted, or surplus household furnishings or items.

Use Regulations:

1. A yard sale shall be accessory to and located on the same lot as the single-family dwelling in which the operator resides.
2. A yard sale may be conducted for a maximum of three consecutive days and a maximum of 10 days in any 30 day period.

Required Review Processes: **None**

SECTION 6	PERMITS AND REVIEW PROCESSES
<p>This Section contains detailed descriptions of all the permit types and review processes administered through the Zoning Ordinance. Processes are categorized as follows:</p> <ul style="list-style-type: none"> • Administrative Processes • Legislative Processes • Quasi-Judicial Processes • Zoning Administrator Letters 	

Table of Contents

Section	Title	Page(s)
6.1	Permits and Review Processes Generally	6-2
6.2	Administrative Review Processes	6-2 – 6-26
6.2.1	Zoning Permit	6-2 – 6-3
6.2.2	Site Development Plan	6-4 – 6-7
6.2.3	Site Development Plan Amendment	6-8 – 6-9
6.2.4	Administrative Site Development Plan	6-9 – 6-11
6.2.5	Certificate of Appropriateness	6-12 – 6-18
6.2.6	Maximum Lot Size Exception (AOC District)	6-19 – 6-22
6.2.7	Pre-Harvest Plan	6-22 – 6-23
6.2.8	Intensive Livestock, Dairy, or Poultry Facility Development Plan	6-23 – 6-24
6.2.9	Stream Buffer Mitigation Plan	6-25 – 6-26
6.3	Legislative Review Processes	6-26 – 6-46
6.3.1	Special Use Permit	6-26 – 6-30
6.3.2	Special Use Permit Amendment	6-31 – 6-32
6.3.3	Rezoning	6-32 – 6-36
6.3.4	Conditional Zoning	6-37 – 6-41
6.3.5	Amendment of Proffered Conditions	6-41 – 6-43
6.3.6	Text Amendment	6-44 – 6-46
6.4	Quasi-Judicial Processes	6-46 – 6-52
6.4.1	General Procedures -- Board of Zoning Appeals	6-47
6.4.2	Variance	6-48 – 6-49
6.4.3	Appeal	6-50 – 6-51
6.4.4	Interpretation of Zoning District Map	6-51 – 6-52
6.5	Zoning Administrator Letters	6-52 – 6-53
6.6	Review of Public Facility Projects	6-53 – 6-55

6.1 PERMITS AND REVIEW PROCESSES GENERALLY

The following sections provide the specific required procedures, deadlines, and related information for each permit application or review process that is governed by this Ordinance. Other sections of this Ordinance that are pertinent to these processes include:

- [Section 2.3 \(Issuance of Permits and Approvals\)](#)
- [Section 2.4 \(Application Submission and Acceptance\)](#)
- [Section 7 \(Design Standards and Development Regulations\)](#)

The administrative requirements for development applications including but not limited to specific application forms, number of copies to provide of required information, and electronic file submission shall be established by the Zoning Administrator and set forth in the Guidance Manual.

6.2 ADMINISTRATIVE PROCESSES

6.2.1	ZONING PERMIT (ZP) A Zoning Permit ensures that a proposed use, activity, or development complies with the requirements of this Ordinance before the use or activity is allowed to commence or before a Building Permit is issued for a development project.	
	<u>Approval Authority:</u> Zoning Administrator	<u>Time Limit for Review:</u> None
	<u>Pre-Application Meeting Required:</u> No	<u>Public Hearing Required:</u> No
	<u>Applicable Deadlines:</u> None	<u>Expiration:</u> Yes – See Subsection D

A. When Required. A zoning permit is required for the administrative approval by the Zoning Administrator of uses, activities, and structures that are not reviewed in accordance with the site development plan review process or the special use permit review process. The Zoning Administrator shall have the authority to establish zoning permit applications and submission requirements for all uses and activities for which the Zoning Administrator is the administrative approval authority.

B. General Review Procedures.

1. The following procedures shall apply generally to all zoning permits:
 - a. Applicant submits a complete zoning permit application and required fees to the Zoning Administrator.

ARTICLE I – ZONING ORDINANCE
2024 EDITION

- b. Zoning Administrator reviews the application for compliance with Ordinance requirements and consults with reviewing agencies and departments if necessary.
- c. Zoning Administrator either approves the application, requests additional information or corrections from the applicant, or disapproves the application.

C. Review Criteria.

- 1. A zoning permit shall be approved upon a finding that the proposed use, activity, or construction complies with all applicable regulations in this Ordinance and all applicable conditions of permits or development approvals under this Ordinance.
- 2. The Zoning Administrator may disapprove a zoning permit application if, in consultation with an agency or department, it is determined that the applicant has not addressed the requirements of that agency or department.
- 3. Approval of a zoning permit is a prerequisite for the issuance of a building permit by the Building Department for any buildings, uses, or activities regulated by this Ordinance.

D. Expiration. Zoning permits that are issued in conjunction with a building permit shall expire if the building permit expires. Zoning permits not issued in conjunction with a building permit shall have no expiration date unless otherwise set forth in the regulations for the approved use.

E. Appeal. A decision on a zoning permit application may be appealed to the Board of Zoning Appeals (BZA) per [Section 6.4.3 \(Appeal\)](#).

ARTICLE I – ZONING ORDINANCE
2024 EDITION

<p>6.2.2</p>	<p>SITE DEVELOPMENT PLAN (SP)</p> <p>The purpose of these requirements is to promote the orderly development of certain activities in the County and to insure that such activities are developed in a manner harmonious with surrounding properties and in the interest of public health, safety, and welfare. The site plan shall be used to review:</p> <ul style="list-style-type: none"> • A project's compatibility with its environment, • The ability of proposed traffic circulation systems to provide for safe and convenient movement of vehicles and pedestrians, • The quantity, quality, utility, and type of the project's community facilities, and • The location and adequacy of the provision for drainage and utilities. 	
<p><u>Approval Authority:</u></p> <ul style="list-style-type: none"> • Planning Commission (for areas outside of the Berryville Annexation Area) • Berryville Area Development Authority (for areas within the Berryville Annexation Area) • Board of Supervisors if in conjunction with a rezoning, conditional zoning, or special use permit application 	<p><u>Time Limit for Review:</u> Yes – See Subsection B</p>	
<p><u>Pre-Application Meeting Required:</u> Yes – See Subsection B</p>	<p><u>Public Hearing Required:</u> Yes – See Subsection B</p>	
<p><u>Other Applicable Deadlines:</u> Submission of materials prior to Public Hearing – See Subsection B</p>	<p><u>Expiration:</u> Yes – See Subsection D</p>	

A. When Required. Site development plan review is required for all proposed buildings, structures, or uses except for the following:

- Single-family dwellings and accessory structures to single-family dwellings
- Agricultural buildings
- Small wind energy systems as accessory uses in the AOC, FOC, and RR Districts

Site development plan review is also required when a change of use of an existing structure that was not previously approved by site development plan requires significant improvements or conformance to current regulations such as provision of additional parking, landscaping, outdoor lighting, or stormwater management.

Additions, modifications, and changes of use to uses that were previously approved by site development plan are reviewed by the Site Development Plan Amendment process in [Section 6.2.3 \(Site Development Plan Amendment\)](#).

B. Review Procedures.

1. Approval Authority. The approval authority for site development plan review shall be as set forth below:
 - a. The Planning Commission shall be the approval authority for proposed site development plans on lots located outside of the Berryville Annexation Area.
 - b. The Berryville Area Development Authority shall be the approval authority for proposed site development plans on lots located inside the Berryville Annexation Area.
 - c. The Board of Supervisors shall be the approval authority for all proposed site development plans that are filed for review in conjunction with an application for rezoning, conditional zoning, or special use permit. In such cases, the Planning Commission or Berryville Area Development Authority shall review and provide recommendations on actions to be taken on the site development plan.
2. Pre-Application Conference Required. A Pre-Application Conference per [Section 2.4.1B](#) is required for site development plan applications.
3. Application Filing, Processing, and Review by Approval Authority.
 - a. An application for review of a site development plan shall be made by submitting a complete application and the applicable fee to the Zoning Administrator, who will review the application for completeness in accordance with [Section 2.4.1C \(Acceptance of a Complete Application\)](#).
 - b. After receipt of a complete application, the Zoning Administrator shall refer the matter to the approval authority for initial review at its next regular meeting and shall schedule a Public Hearing in accordance with [Section 2.5 \(Public Hearings\)](#).
 - c. The Zoning Administrator shall forward copies of the application and supporting documents to all applicable agencies and officials for written comments and recommendations. After receiving such comments and recommendations, the Zoning Administrator shall prepare a report for the approval authority.
 - d. The Applicant shall provide any new or revised materials demonstrating compliance with any technical requirements no less than 14 days prior to the first Public Hearing and no less than 10 days prior to any continued Public Hearing. Technical requirements include any regulations governing site development such as lot or building requirements and plan submission requirements. Any new or revised materials provided after the deadlines referenced above shall be not considered by the approval authority at the scheduled meeting.

ARTICLE I – ZONING ORDINANCE
2024 EDITION

- e. The approval authority shall act to approve, approve with conditions, or disapprove the site development plan application within 60 days of its first meeting to review the application unless the applicant requests a deferral in accordance with [Section 2.4.3 \(Deferral of Application Review\)](#). If the application is disapproved and the applicant files a corrected application, the approval authority shall act to approve, approve with conditions, or disapprove the corrected application within 45 days of its first meeting to review the application unless the applicant requests a deferral in accordance with [Section 2.4.3](#).
 4. Submission of Final Plan for Signature. An approved site development plan shall become null and void if a final plan is not submitted within six months from the date of approval by the approval authority, in a form complying with all conditions established by the approval authority, to the approval authority’s chair and the Zoning Administrator for signature. The approval authority may extend this time limit upon written request of the applicant.
- C. Review Criteria and Regulations.**
1. Waiver of Review Process. The Zoning Administrator may waive the requirements for site development plan review for additions or modifications to buildings, structures, and uses, if in the Zoning Administrator's opinion, such addition does not substantially affect the intent of this Section. If the Zoning Administrator waives the requirement for site development plan, the proposed addition or modification shall require zoning permit review.
 2. Required Components of a Site Development Plan. The required components of a site development plan are enumerated in [Section 7.2 \(Site Development Plan Design Standards and Development Regulations\)](#).
 3. Action by the Approval Authority.
 - a. The approval authority shall approve the site development plan if it finds that the plan meets the requirements of this Ordinance, the [Code of Clarke County](#), the [Code of Virginia](#), and any other applicable State or Federal regulations.
 - b. To further the intent of this Section and to protect public safety and general welfare, no site development plan shall be approved until the approval authority is assured that proposed improvements will be constructed in compliance with the [Section 7.2 \(Site Development Plan Design Standards and Development Regulations\)](#), and all County, State, and Federal requirements. Proposed improvements include but are not limited to:
 - Streets, rights-of-way, and pedestrian facilities
 - Stormwater management facilities
 - Utilities and utility easements

ARTICLE I – ZONING ORDINANCE
2024 EDITION

- Public water and/or public sewer systems
 - Onsite wells and/or onsite sewage disposal systems
- c. The approval authority may condition final approval of the site development plan upon the applicant making certain administrative changes or modifications to the plan with such conditions to be stated in the approval authority’s motion for conditional approval of the plan. If conditional approval is granted, authority shall be delegated to the Zoning Administrator to determine compliance with the approval authority’s conditions.
- d. If the approval authority disapproves a site development plan, it shall state the reasons for such denial in the approval authority’s motion to disapprove the plan. The reason for disapproval shall identify deficiencies in the plan that caused the disapproval, and shall identify, to the extent practicable, modifications or corrections that will permit approval of the site plan.
4. Inspections. The Zoning Administrator shall have the right to enter upon the subject property at all reasonable times during the period of construction for the purpose of making inspections for compliance with this Section. The developer or property owner shall make one set of the approved site development plan available at the subject property at all times during construction.
5. As-Built Drawings Required. Prior to issuance of a Certificate of Occupancy, as-built drawings demonstrating conformance of the project with the approved site development plan shall be submitted to the Zoning Administrator. As-built drawings shall be certified by a licensed surveyor or engineer.
- D. Expiration.** Unless a final Certificate of Occupancy has been issued for the structures shown on the plan, approval of a site development plan shall expire after five years from the date that the chair of the approval authority and Zoning Administrator signed the final plan. Upon written request by the applicant filed with the Zoning Administrator prior to expiration of the plan, the approval authority may grant one or more extensions of such approval for additional periods as the approval authority determines to be reasonable. Such extensions shall take into consideration:
- Whether a building permit has been issued,
 - Whether substantial construction work has been completed,
 - The size and phasing of the proposed development, and
 - The laws, ordinances, and regulations in effect at the time of the request for an extension.
- E. Appeal.** A decision of the approval authority may be appealed in accordance with [Va. Code §15.2-2259\(D\)](#).

<p>6.2.3 SITE DEVELOPMENT PLAN AMENDMENT (SPA) This process ensures that substantive changes to buildings, developed sites, and uses which were previously approved by the site development process are reviewed for compliance, and that an amended plan approving these changes is distributed to all applicable agencies and departments.</p>	
<p><u>Approval Authority:</u></p> <ul style="list-style-type: none"> • Planning Commission (for areas outside of the Berryville Annexation Area) • Berryville Area Development Authority (for areas within the Berryville Annexation Area) • Board of Supervisors (for amendment of site development plans approved in conjunction with a rezoning, conditional zoning, or special use permit application) 	<p><u>Time Limit for Review:</u> Yes – See Subsection B</p>
<p><u>Pre-Application Meeting Required:</u> Yes – See Subsection B</p>	<p><u>Public Hearing Required:</u> Yes – See Subsection B</p>
<p><u>Other Applicable Deadlines:</u> Submission of materials prior to Public Hearing – See Subsection B</p>	<p><u>Expiration:</u> Yes – See Subsection D</p>

A. When Required. Additions, modifications, and changes of use to buildings, developments, or uses that were previously approved by the site development plan process in [Section 6.2.2 \(Site Development Plan\)](#) shall be reviewed in accordance with the site development plan amendment process.

This process may not be used for existing buildings, developments, or uses that were not previously approved by site development plan in which new construction is proposed, or when a change of use of an existing structure is proposed which requires significant improvements or conformance to current regulations. Significant improvements include but are not limited to provision of additional parking, landscaping, outdoor lighting, or modification of stormwater management features. In these cases, the site development plan review process in [Section 6.2.2](#) is required.

B. Review Procedures. The review procedures for a site development plan amendment application shall be the same as the procedures for review of a site development plan application in [Section 6.2.2B \(Site Development Plan Review Procedures\)](#).

C. Review Criteria and Regulations. The review criteria and regulations for a site development plan amendment application shall be the same as the review criteria and regulations for a special use permit application in [Section 6.2.2C \(Site Development Plan Review Criteria and Regulations\)](#).

ARTICLE I – ZONING ORDINANCE
2024 EDITION

- D. Expiration.** Unless a final Certificate of Occupancy has been issued for the structures shown on the plan, approval of an amended site development plan shall expire after five years from the date that the chair of the approval authority and Zoning Administrator signed the final plan. The process for extending the plan approval shall be the same as the process for site development plan as set forth in [Section 6.2.2D \(Site Development Plan Expiration\)](#).
- E. Appeal.** A decision of the approval authority may be appealed in accordance with [Va. Code §15.2-2259\(D\)](#).

6.2.4	ADMINISTRATIVE SITE DEVELOPMENT PLAN (ASP) This limited process is for the review of amendments to previously approved site development plans at the discretion of the Zoning Administrator which do not propose material changes to buildings, structures, or uses on the site.	
<u>Approval Authority:</u> Zoning Administrator		<u>Time Limit for Review:</u> Yes – See Subsection B
<u>Pre-Application Meeting Required:</u> Yes – See Subsection B		<u>Public Hearing Required:</u> No
<u>Other Applicable Deadlines:</u> Yes – See Subsection B		<u>Expiration:</u> Yes – See Subsection D

A. When Required. Additions and modifications to buildings, structures, or uses, whether or not previously approved by site development plan, may be reviewed in accordance with the administrative site development plan process at the Zoning Administrator’s discretion. Such additions or modifications shall not constitute material changes to the previously approved site development plan. Examples of material changes include but are not limited to:

- Changes requiring review by the Virginia Department of Transportation.
- Land disturbance requiring submission of an erosion and sediment control plan in accordance with [Code of Clarke County Chapter 148 \(Erosion and Sediment Control\)](#) or review of stormwater management features by the Department of Environmental Quality.
- Changes that require provision of additional parking, landscaping, or outdoor lighting controls.
- Change of use.

B. Review Procedures

1. Approval Authority. The approval authority for administrative site development plan review shall be the Zoning Administrator.

ARTICLE I – ZONING ORDINANCE
2024 EDITION

2. Pre-Application Conference Required. A Pre-Application Conference per [Section 2.4.1B](#) is required for administrative site development plan applications.
3. Application Filing, Processing, and Review by Approval Authority.
 - a. An application for administrative review of a site development plan amendment shall be made by submitting a complete application and the applicable fee to the Zoning Administrator, who will review the application for completeness in accordance with [Section 2.4.1C \(Acceptance of a Complete Application\)](#).
 - b. If applicable, the Zoning Administrator may forward copies of the application and supporting documents to applicable agencies and officials for comments or to verify that the proposed changes will not require their review.
 - c. The Zoning Administrator shall act to approve or disapprove the administrative site development plan amendment application within 60 days of the Zoning Administrator’s determination that a complete application was filed. If the application is disapproved and the applicant files a corrected application, the Zoning Administrator shall act to approve or disapprove the corrected application within 45 days of the Zoning Administrator’s determination that a complete corrected application was filed.
4. Submission of Final Plan for Signature. An approved administrative site development plan shall become null and void if a final plan is not submitted to the Zoning Administrator for signature within six months from the date of approval. The Zoning Administrator may extend this time limit upon written request of the applicant.

C. Review Criteria and Regulations

1. Waiver of Review Process. The Zoning Administrator may waive the requirements for administrative site development plan review if in the Zoning Administrator's opinion, such changes do not substantially affect the intent of this Section. If the Zoning Administrator waives the requirement for administrative site development plan amendment, the proposed addition or modification shall require zoning permit review.
2. Required Components of an Administrative Site Development Plan. The required components of a site development plan, as enumerated in [Section 7.2 \(Site Development Plan Design Standards and Development Regulations\)](#), shall be the same for administrative site development plans. The Zoning Administrator may waive any required components that are not pertinent to the review of the proposed administrative site development plan.
3. Action by the Zoning Administrator.
 - a. The Zoning Administrator shall approve an administrative site development plan upon a finding that the proposed use, activity, or construction complies with all

ARTICLE I – ZONING ORDINANCE
2024 EDITION

applicable regulations in this Ordinance and all applicable conditions of permits or development approvals under this Ordinance.

- b. If the Zoning Administrator disapproves an administrative site development plan, the reasons for such denial shall be provided in writing. The reason for disapproval shall identify deficiencies in the plan that caused the disapproval, and shall identify, to the extent practicable, modifications or corrections that will permit approval of the site plan.
4. **Inspections.** The Zoning Administrator shall have the right to enter upon the subject property at all reasonable times during the period of construction for the purpose of making inspections for compliance with this Section. The developer or property owner shall make one set of the approved site development plan available at the subject property at all times during construction.
- D. Expiration.** Unless a final Certificate of Occupancy has been issued for the structures shown on the plan, approval of an administrative site development plan shall expire after five years from the date that the chair of the approval authority and Zoning Administrator signed the final plan. Upon written request by the applicant, the Zoning Administrator may grant one or more extensions of such approval for additional periods as the approval authority, at the time the extension is granted, determines to be reasonable. Such extensions shall take into consideration:
- Whether a building permit has been issued,
 - Whether substantial construction work has been completed,
 - The size and phasing of the proposed development, and
 - The laws, ordinances, and regulations in effect at the time of the request for an extension.
- E. Appeal.** A decision on an administrative site development plan may be appealed to the Board of Zoning Appeals (BZA) per [Section 6.4.3 \(Appeal\)](#)

ARTICLE I – ZONING ORDINANCE
2024 EDITION

6.2.5	CERTIFICATE OF APPROPRIATENESS (CA) Certificate of Appropriateness review is required to ensure that proposed construction, alteration, and restoration projects in the Historic (H) Overlay and Historic Access Corridor (HAC) Overlay Districts are compatible with the historic character of these historic preservation areas.	
<u>Approval Authority:</u>	<ul style="list-style-type: none"> • Historic (H) Overlay District properties – Historic Preservation Commission (HPC); HPC Executive Committee in limited situations (see Subsection B) • Historic Access Corridor (HAC) Overlay District properties – <ul style="list-style-type: none"> ○ Berryville Area Development Authority (BADA) if located in Berryville Annexation Area ○ Planning Commission if located outside Berryville Annexation Area 	<u>Time Limit for Review:</u> Yes – See Subsection B-6 for applications in the H District, and Subsection C-6 for applications in the HAC District
<u>Pre-Application Meeting Required:</u> No	<u>Public Hearing Required:</u> Yes if reviewed by full HPC, BADA, or Planning Commission	
<u>Other Applicable Deadlines:</u> None	<u>Expiration:</u> Yes, for certificates issued in the Historic Overlay District – See Subsection B-7	

A. When Required.

1. Properties Located in the Historic (H) Overlay District. A certificate of appropriateness shall be required for the following activities:
 - Erection of any building, structure, or sign
 - The major alteration or restoration of a contributing building or structure
 - Razing, demolishing, or moving any historic landmark, building, or structure

2. Properties Located in the Historic Access Corridor (HAC) Overlay District.
 - a. No structure or building to which the HAC District applies shall be erected, reconstructed, altered, or restored unless a Certificate of Appropriateness is approved.

 - b. Single family detached dwellings or any structures existing as of January 1, 1995 that are expanded by not more than 100% of their heated square footage as of

ARTICLE I – ZONING ORDINANCE
2024 EDITION

January 1, 1995 are excluded from the requirement for a Certificate of Appropriateness.

- c. If any part of a structure to be erected, altered, or restored is located within these boundaries, the entire structure shall be governed by this ordinance.
- d. Any structure proposed to be erected, altered, or restored within a lot, which is partly located within the HAC District, shall be exempt from this ordinance, if said structure is located entirely outside the HAC District.
- e. Signs. A certificate of appropriateness shall be required only for signs proposed on lots located within in the HAC District and the Berryville Annexation Area.
- f. The provisions of this ordinance shall not apply to the regular maintenance of structures within the HAC District. For the purposes of this section, changing the exterior color and/or materials of a structure or building shall be deemed an alteration and not regular maintenance.

B. Review Procedures and Criteria – Historic (H) Overlay District.

1. Review Procedures. The Executive Committee of the Historic Preservation Commission (HPC), comprised of the Commission’s Chair and the Vice-Chair, shall review a certificate of appropriateness application before any of the following activities may occur within the boundaries of the H District:
 - Any degree of alteration or restoration of a non-contributing building or structure.
 - Minor alteration or restoration of a contributing building or structure.
 - The erection of a sign.

If the Executive Committee finds that the proposed activity is not compatible with the Historic District, as described in [Subsection 5](#), the matter shall be referred to the full HPC for consideration. A decision by the Executive Committee to approve a certificate of appropriateness may be appealed to the full HPC by any aggrieved party (except as noted below) within 10 working days of the decision. A decision of the HPC may be appealed to the Board of Supervisors per [Subsection 8](#). The Chair shall inform the HPC of any Executive Committee approvals in writing, within five working days of the action. A member of the HPC may request, in writing, that the full HPC review any approval by the Executive Committee. Such request for review must be submitted to the Zoning Administrator within five working days of action notification.

2. A major alteration of a building or structure shall include any work that requires a building permit, or the repair or replacement of windows or roofs. A minor alteration of a building or structure does not require a building permit or does not involve the repair or replacement of windows or roofs.

ARTICLE I – ZONING ORDINANCE
2024 EDITION

3. Approval of a certificate of appropriateness certifies that such erection, reconstruction, alteration or restoration is compatible with the historic landmarks, buildings, or structures within the District, based upon criteria listed in [Subsection 5](#). This section shall not be construed as to include normal repairs and maintenance such as repainting, provided such repair and maintenance activity does not include any architectural changes or alterations.
4. Razing, Demolition or Moving Within the H District. No historic landmark, building, or structure within the H District shall be razed, demolished, or moved until a certificate of appropriateness is issued by the HPC, or upon appeal, by the Board of Supervisors. However, approval of such a certificate of appropriateness for demolition of a non-contributing structure within the H District may be delegated by the HPC to the Zoning Administrator (following the criteria and notice set forth in this ordinance), with appeal to the HPC, and with subsequent appeal to the Board of Supervisors.

For purposes of this subsection, demolition is defined as removal of forty percent (40%) of a building or structure's total exterior wall or roof structure.

When considering a request for razing, demolishing, or moving, the criteria of [Subsection 5](#) shall apply. In addition, the following criteria shall be considered:

- a. How the historic landmark, building, or structure contributes to the District.
 - b. If the proposed demolition impacts the architectural and historic integrity of the District.
 - c. What alterations have been made in the past.
 - d. If the building or structure provides significant historic context to the local community.
 - e. The impact of the proposed demolition on the visual continuity of the streetscape.
 - f. If it is feasible to stabilize the historic landmark, building, or structure. A structural engineer's report may be required.
 - g. If rehabilitation is feasible instead of demolition. A cost analysis may be required that details the cost of rehabilitation in comparison to the market value.
 - h. If the plans for the proposed replacement building (if any) meet the design criteria of the District.
5. Criteria for Approval of Certificate of Appropriateness. In reviewing a request, the HPC shall not approve a certificate of appropriateness unless the applicant's proposals are architecturally compatible with the motif and character of the H District. The HPC shall base its decision on whether the proposed action conforms to the criteria set forth by the [Secretary of the Interior's Standards for Rehabilitation](#). The HPC shall also consider the following factors:
 - a. The extent to which the project will affect the overall character, visual fabric, rhythm, and continuity of the District.
 - b. Whether the height, proportion, openings, spacing, roofs, walls, fences, landscaping, ground cover, scale, and directionality of the proposed work are visually compatible with the surrounding community.

ARTICLE I – ZONING ORDINANCE
2024 EDITION

- c. Whether the materials, textures, and colors planned for use are compatible with the District's character.
 - d. In the case of a building to be razed, demolished, or moved, the extent to which the loss of said building will detract from the Historic District and the purposes of this Section.
6. Action on Certificate of Appropriateness Application. The HPC shall conduct a Public Hearing in accord with [Section 2.5 \(Public Hearings\)](#) of an application for a certificate of appropriateness for any activity that is initially heard by the full HPC. Public notice is not required before action by the Executive Committee.

The HPC shall act to approve, approve with conditions, or deny the requested certificate of appropriateness within 60 days of the initial Public Hearing on the request. Failure of the HPC to act within this 60-day period shall be deemed approval of the request unless the HPC and the applicant agree upon an extension of the time period. The Executive Committee shall act to approve, approve with conditions, or refer to the HPC the requested certificate of appropriateness within 30 days of the first meeting of the HPC on the request. Failure of the HPC to act within this 30-day period shall be deemed approval of the request unless the HPC and the applicant agree upon an extension of the time period.

7. Approval Expiration. Unless a final certificate of occupancy has been issued for the structure or structures described in the certificate of appropriateness, an approved certificate of appropriateness shall no longer be valid after five years from the date of issuance by the HPC. Upon application of the developer filed before expiration of the certificate of appropriateness, the HPC may grant one or more extensions of such approval for additional periods as the HPC, at the time the extension is granted, determines to be reasonable. Such extensions shall take into consideration:
- Whether a building permit has been issued;
 - Whether substantial construction work has been completed;
 - The size and phasing of the project; and
 - The laws, ordinances, and regulations in effect at the time of application for the extension request.
8. Appeal. Any decision made under the provisions of this Section may be appealed to the Board of Supervisors by any party aggrieved by such decision and may be further appealed pursuant to [Va. Code §15.2-2306](#). In lieu of an appeal to the Board of Supervisors of a decision to deny a request to demolish an historic structure, [Va. Code §15.2-2306](#) provides a procedure to allow a property owner to demolish an historic structure after it has been offered for sale “at a price reasonably related to its fair market value:”
- a. Such price shall be not more than 120% of the assessed value of the property as set by the County Commissioner of the Revenue.

ARTICLE I – ZONING ORDINANCE
2024 EDITION

- b. If the property owner does not believe that a price that is not more than 120% of the assessed value is reasonable, he or she may obtain a value from a certified appraiser at his or her expense. If the value determined by the property owner's appraiser exceeds 120% of the assessed value, the appraiser and the Commissioner of the Revenue shall establish a mutually agreed upon price. If the appraiser and the Commissioner are unable to establish a mutually agreed upon price, the County shall obtain the services of a certified appraiser to establish a third value. The cost of this appraiser to establish a third value shall be paid by the property owner. The price reasonably related to fair market value shall then be the average of the assessed value, the value established by the appraiser hired by the property owner, and the value established by the third appraiser.

C. Review Procedures and Criteria – Historic Access Corridor (HAC) Overlay District.

1. Reviewing Boards. The architectural review board responsible for the administration of this ordinance and approval or denial of certificates of appropriateness for activity in Annexation Area B shall be the Berryville Area Development Authority (BADA). The architectural review board responsible for the administration of this ordinance and approval or denial of certificates of appropriateness for activity outside of Annexation Area B shall be the Planning Commission.
2. Applications. Applications for certificates of appropriateness shall be made on forms provided by the Zoning Administrator, who shall serve as agent for the architectural review board. Applications for new construction shall be submitted with the applications for site plan approval and shall be considered in conjunction with the site plan. Other applications shall be submitted at least 15 calendar days before the next regularly scheduled meeting of the architectural review board. The Zoning Administrator may require a revised application with a new application date when alterations or modifications are made to the accepted application.

Except as further provided, when filing an application of a certificate of appropriateness, applicants must submit the following information for consideration by the architectural review board:

- Architectural elevations of all building facades and structures, drawn to scale, identifying all colors and materials to be used (a set of samples shall be submitted wherever practical), and showing spatial relationships with neighboring properties (use of photographs or drawings relating the proposed project to the surrounding streetscape is encouraged).
 - Approved or proposed site plans.
 - Landscaping plans, with signage, and lighting systems (including analysis of impacts on nearby lots).
3. Applications for Signs. When filing an application for a certificate of appropriateness for signs, applicants must submit the following information:

ARTICLE I – ZONING ORDINANCE
2024 EDITION

- A scale drawing of the proposed sign.
 - Proposed materials for the sign, including supports, and the lighting method to be used.
 - A sketch or photograph showing the proposed location of the sign on the building or site.
4. Waiver of Application Requirements. Upon written request from the applicant, the Zoning Administrator may waive any of the requirements in the previous section, deemed not to be necessary for review of the application. The architectural review board may overrule these waivers if additional information is determined to be required by the board at its meeting to consider the application. The Zoning Administrator may promulgate rules and procedures for the filing application under this ordinance not in conflict with the provisions of this ordinance.
5. Public Hearing Required. The architectural review board shall conduct a Public Hearing in accord with [Section 2.5](#) of an application for a certificate of appropriateness.
6. Action on Application. In response to applications for certificate of appropriateness, the architectural review board shall vote and announce its decision to approve, deny, or approve with conditions that modify the application. Action on any matter properly before the architectural review board shall be taken not later than 45 days after the conclusion of the public meeting on the matter, unless the time is extended by mutual agreement between the architectural review board and the applicant. All decisions of the architectural review board in granting or denying a certificate of appropriateness shall be in writing, a copy of which shall be sent to the applicant and a copy filed with the agent. In the case of denial of a certificate of appropriateness, the architectural review board shall state the reasons for such denial in writing. In citing the reasons for denial, the architectural review board may make suggestions that would assist the applicant in the resubmitting of an application.
7. Design Guidelines for development in the HAC District are set forth in [Section 7.6 \(Historic Access Corridor \(HAC\) Overlay District Design Standards\)](#).
8. Approval Expiration. Unless a final certificate of occupancy has been issued for the structure or structures described in the certificate of appropriateness, an approved certificate of appropriateness shall no longer be valid after five years from the date of issuance by the Planning Commission. Upon application of the developer filed before expiration of the certificate of appropriateness, the Commission may grant one or more extensions of such approval for additional periods as the Commission, at the time the extension is granted, determines to be reasonable. Such extensions shall take into consideration:
- Whether a building permit has been issued;
 - Whether substantial construction work has been completed;
 - The size and phasing of the project; and

ARTICLE I – ZONING ORDINANCE
2024 EDITION

- The laws, ordinances, and regulations in effect at the time of application for the extension request.
9. Appeals. Any decision made under the provisions of this Section may be appealed to the Board of Supervisors by any applicant aggrieved by such decision and may be further appealed pursuant to [Va. Code §15.2-2306](#).
10. Conformance with Certificate of Appropriateness.
- a. Before the issuance of building permits for any work that has been approved by the architectural review board, the Zoning Administrator shall require applicants to submit plans that accurately reflect any changes or conditions imposed by the architectural review board in its approval of projects.
 - b. All work performed pursuant to issuance of a certificate of appropriateness shall conform to the approved plans and specifications and to any modifications required by the certificate of appropriateness. In the event work is performed not in conformance with the certificate of appropriateness, the Zoning Administrator shall notify the responsible person or firm in writing of the violations and shall take the necessary legal steps to ensure that the work is performed in conformance with the certificate of appropriateness. Any violation of this section shall be subject to the provision for violations and penalties set forth in [Section 10 \(Enforcement\)](#) of this Ordinance.
 - c. Any change in the approved plans subsequent to the issuance of the certificate of appropriateness shall be promptly submitted to the Zoning Administrator prior to construction of the modified feature. The Zoning Administrator may administratively approve non-substantial modifications with notice thereof to the architectural review board at its next meeting. Copies of any proposed revisions deemed substantive by the Zoning Administrator shall be forwarded to the architectural review board, accompanied by additional application materials as determined necessary by the Zoning Administrator and the architectural review board to render a decision.

6.2.6	MAXIMUM LOT SIZE EXCEPTION (MLSE) This process, applicable only to the AOC District, allows for a new lot to be created through the Minor or Major Subdivision review process that exceeds the maximum lot size requirement for the District so long as certain criteria are met as described below.	
	<u>Approval Authority:</u> Planning Commission	<u>Time Limit for Review:</u> Yes – see Minor and Major Subdivision review requirements (Article II, Subdivision Ordinance, Section 3.2)
	<u>Pre-Application Meeting Required:</u> Yes – see Minor and Major Subdivision review requirements (Article II, Subdivision Ordinance, Section 3.2)	<u>Public Hearing Required:</u> For Major Subdivision applications only (Article II, Subdivision Ordinance, Section 3.2.2)
	<u>Other Applicable Deadlines:</u> Yes – see Minor and Major Subdivision review requirements (Article II, Subdivision Ordinance, Section 3.2)	<u>Expiration:</u> Yes – See Subsection D

- A. **When Required.** In the AOC District only, a maximum lot size exception is required in order to allow the maximum lot size requirement for the district to be exceeded when creating a new lot through the minor or major subdivision review processes.
- B. **Review Procedures.** An application for maximum lot size exception shall be filed in conjunction with an application for a minor or major subdivision ([Article II, Subdivision Ordinance, Section 3.2, Subdivision Review Processes](#)) for a new lot or lots proposed to exceed the maximum lot size requirement in the AOC District. The maximum lot size exception application shall be reviewed concurrently and in accordance with the review procedures for a minor or major subdivision application.
- C. **Review Criteria and Regulations.**
 - 1. Procedures for maximum lot size exceptions. A lot may qualify for a maximum lot size exception by meeting one of the following criteria described in subsections 2-4 below.
 - 2. Exception for dwelling existing prior to October 17, 1980. A lot with a dwelling that existed prior to October 17, 1980 and is recognized as a farmstead or tenant house per [Zoning Ordinance Section 3.4 \(Exceptions to Allocation\)](#) may be subdivided with a maximum lot size exception. Such lots may be created so long as:
 - a. Their size and location does not create low quality land characteristics as described in subsection 4 below on any other lots created as a result of the division, or

ARTICLE I – ZONING ORDINANCE
2024 EDITION

- b. If the lot created has zero dwelling unit rights remaining.

This exception shall not be applied more than once per lot existing on March 20, 2001 containing one or more such pre-1980 dwellings. The maximum lot size exception may be applied to any lot created in the subdivision.

3. Exception for lot in permanent conservation easement. A lot may be created with a maximum lot size exception if the parent parcel has been placed under permanent easement granted to the Clarke County Conservation Easement Authority, the Virginia Board of Historic Resources, the Virginia Outdoors Foundation, and/or any other entity authorized to hold an open-space easement pursuant to the [Virginia Open-Space Land Act \(Va. Code §10.1-1700 et seq.\)](#). Additional requirements include:
- a. All lots in the proposed subdivision shall be located in a manner consistent with the physiographic and/or historic characteristics of the property as recommended by the primary holder of the conservation easement.
- b. For lots that were placed in an easement held or co-held by the Clarke County Conservation Easement Authority (recorded after November 19, 2013), said easement must have included the termination of at least one (1) dwelling unit right in order for the property to qualify for a maximum lot size exception under this paragraph.
4. Exception for low quality land. A lot may be created with a maximum lot size exception if it is determined by the Planning Commission prior to subdivision approval that the lot to be subdivided is of sufficiently low quality as described below to justify using more than the maximum lot area of low quality land for a proposed lot.
- a. Low quality land characteristics. Low quality land contains one or more of the following characteristics:
- Physical features or small size or irregular shape of potential residual lot such that efficient use of farm machinery would not be possible or that said land would be left to no useful purpose; or
 - Combination of physical features and setting such that the maximum lot size allowed in this section for a lot proposed in a minor or major subdivision is too small to accommodate a dwelling, drainfield, and well so as to meet the minimal applicable health standards and provided that no lot may be created or increased in area so as to exceed a maximum area of four acres. An application for a maximum lot size exception, submitted under this section, shall be accompanied by a written statement prepared by the Virginia Department of Health or an onsite soil evaluator (OSE) (as defined in [County Code Chapter 143, Septic Systems](#)) stating why the proposed lot could not accommodate a dwelling, drainfield, and well meeting Virginia and Clarke County health standards within the maximum

ARTICLE I – ZONING ORDINANCE
2024 EDITION

lot size allowed in this section. Lots proposed in a major subdivision are not eligible for a maximum lot size exception under this section; or

- Land that is part of a lot where such land has been determined by the Zoning Administrator not to be important farmland.

b. Important farmland determination. The [Clarke County Land Evaluation and Site Assessment \(LESA\) System, edition dated March 24, 1992](#) shall be used as the primary decision-making tool to evaluate maximum lot size exception requests under this subsection. This tool is maintained for public use, inspection and information in the Clarke County Department of Planning and is hereby incorporated into and made a part of this Ordinance as if fully set out herein. A report on the result shall be forwarded to the Commission. The Commission shall designate as Important Farmland any lands with the following characteristics:

Lot Size	LESA Rating
Under 40 Acres	72% or More
40-129.99 Acres	68% or More
130 Acres or More	64% or More

In instances where the LESA score of a lot is within four points above or below the minimum LESA rating that qualifies a lot as Important Farmland, the Commission may grant or deny a maximum lot size exception, depending on the evidence presented indicating whether the subject land is important farmland. In these instances, the Commission may consider:

- The extent that the proposed lot exceeds the maximum lot size allowed in this section;
- Whether the LESA System accurately reflects the suitability of the subject lot for continuing agricultural use; and
- Factors reasonably related to agricultural suitability of the subject lot that are not appropriately addressed by the LESA System, such as physical features.

The maximum allowable lot size shall be determined using the following chart however, in any instance, the Commission may set a maximum lot size less than specified in the chart:

LESA rating for important farmland	Maximum lot size
Within 4 points above or below minimum LESA rating, lot is 20 acres or larger	4 acres
Between 5 and 12 points below the minimum LESA rating, lot is 20 acres or larger	6 acres
12 or more points below the minimum LESA rating OR the lot is less than 20 acres	As determined by the Commission

ARTICLE I – ZONING ORDINANCE
2024 EDITION

5. No lot approved with a maximum lot size exception shall be reduced in size by boundary line adjustment without approval by the Planning Commission for one or both of the following hardship reasons:
- To correct an encroachment of a driveway, onsite sewage disposal system, or a structure located on an adjacent lot
 - To aid in the repair or replacement of a failing onsite sewage disposal system located on an adjacent lot
- D. Expiration.** A maximum lot size exception approval by the Planning Commission shall remain valid for so long as the Commission’s approval of the accompanying minor or major subdivision application remains valid in accordance with [Article II, Subdivision Ordinance, Section 3.2 \(Subdivision Review Processes\)](#).
- E. Appeal.** An applicant aggrieved by a decision of the Planning Commission on a maximum lot size exception request may appeal any decision or designation made under the provisions of this Section to the Board of Supervisors. Such appeal shall be filed with the Zoning Administrator within 30 days of the date of action by the Planning Commission.

6.2.7	PRE-HARVEST PLAN (PHP) This review process is required for commercial forestry activities that exceed one acre of harvested area.	
<u>Approval Authority:</u> Zoning Administrator	<u>Time Limit for Review:</u> None	
<u>Pre-Application Meeting Required:</u> No	<u>Public Hearing Required:</u> No	
<u>Other Applicable Deadlines:</u> Application to be filed at least 10 business days before start of a harvest operation	<u>Expiration:</u> See Subsection D	

- A. When Required.** The cutting or logging of any trees for profit that exceeds one acre of harvested area, shall not be conducted without a pre-harvest plan, which shall include Virginia Department of Forestry Best Management Practices. Pre-harvest plans are reviewed by the Zoning Administrator and a consulting forester or certified arborist for compliance with County ordinance.

B. Review Procedures.

1. Applicant submits a complete pre-harvest plan application and required fees to the Zoning Administrator at least 10 business days before the start of a harvest operation.
2. Zoning Administrator reviews the application for compliance with Ordinance requirements and consults with reviewing agencies and departments if necessary.
3. Zoning Administrator either approves the application, requests additional information or corrections from the applicant, or disapproves the application.

C. Review Criteria and Regulations. The components of a pre-harvest plan, required buffer areas, and revegetation regulations are set forth in [Section 7.9 \(Pre-Harvest Plan Regulations\)](#). Additional vegetated buffer requirements are set forth in [Section 4.1.1 \(AOC District\)](#) and [4.1.2 \(FOC District\)](#).

D. Expiration. A pre-harvest plan shall remain valid until completion of the depicted forestry activity including all required stabilization and remediation activities. Any substantive changes impacting the approved plan components shall require submission of a revised mitigation plan for review in accordance with this section.

E. Appeal. A decision on a pre-harvest plan application may be appealed to the Board of Zoning Appeals (BZA) per [Section 6.4.3 \(Appeal\)](#).

6.2.8	INTENSIVE LIVESTOCK, DAIRY, OR POULTRY FACILITY DEVELOPMENT PLAN (ILD P) This review process is required for any agricultural operation in the AOC or FOC Districts which meets the requirements for classification as an intensive livestock, dairy, or poultry operation use per Section 5.2 .	
	<u>Approval Authority:</u> Zoning Administrator	<u>Time Limit for Review:</u> None
	<u>Pre-Application Meeting Required:</u> No	<u>Public Hearing Required:</u> No
	<u>Other Applicable Deadlines:</u> None	<u>Expiration:</u> See Subsection D

A. When Required. Before any permanent structure for an intensive livestock, dairy, or poultry operation is constructed, the owner of such facility shall file with the Zoning Administrator a facility development plan.

B. Review Procedures.

1. Applicant submits a complete facility development plan application and required fees to the Zoning Administrator.
2. Zoning Administrator reviews the application for compliance with Ordinance requirements and consults with reviewing agencies and departments if necessary.
3. Zoning Administrator either approves the application, requests additional information or corrections from the applicant, or disapproves the application.

C. Review Criteria and Regulations. If the facility development plan shows or includes the following, the Zoning Administrator shall approve the facility development plan application:

- The number, size, and location of livestock, dairy, or poultry structures, and number of associated animals planned for the subject lot
- A surveyed plat showing all required setbacks verifying the accuracy of the distances shown in the development plan and any area within the Stream Protection Overlay District
- A copy of the approved Nutrient Management Plan for the intensive facility and any subsequent revisions
- Documentation showing that the property containing the intensive facility is not located within the Prospect Hill Spring surface water recharge area as described in the U.S. E.P.A. Sole Source Aquifer designation
- A written statement, sworn to and subscribed before a notary public, by which the owner certifies to the zoning administrator that the intensive facility shown in the development plan meets all applicable requirements of this Ordinance.

D. Expiration. An approved facility development plan shall remain valid for the life of the intensive facility. Any substantive changes impacting the approved plan components shall require submission of a revised facility development plan for review in accordance with this section.

E. Appeal. A decision on a facility plan application may be appealed to the Board of Zoning Appeals (BZA) per [Section 6.4.3 \(Appeal\)](#).

6.2.9	STREAM BUFFER MITIGATION PLAN (SBP) This review process is required for any land disturbance or other development activity that is proposed to occur within a required stream buffer as described in Section 4.2.3 (Stream Protection Overlay District) .	
<u>Approval Authority:</u> Zoning Administrator	<u>Time Limit for Review:</u> 30 days – see Subsection B	
<u>Pre-Application Meeting Required:</u> No	<u>Public Hearing Required:</u> No	
<u>Other Applicable Deadlines:</u> None	<u>Expiration:</u> None	

A. When Required. A property owner who seeks to develop in a stream buffer pursuant to [Section 4.2.3 \(Stream Protection \(SP\) Overlay District\)](#) shall submit to the Zoning Administrator for review and approval a mitigation plan as provided herein.

B. Review Procedures.

1. The applicant shall submit a mitigation plan that satisfies the applicable requirements of this section, required processing fees, and a certification stating that the mitigation plan meets all applicable requirements of this Ordinance. The mitigation plan shall be reviewed by the Zoning Administrator to determine whether it complies with the requirements of this section and all other requirements of this article.
2. The Zoning Administrator shall approve or disapprove a mitigation plan within thirty (30) days from the date that a complete plan was accepted for review. The decision shall be in writing and shall be communicated to the owner. If the plan is disapproved, the reasons for such disapproval shall be stated in the decision.

C. Review Criteria and Regulations. Each mitigation plan shall:

- Identify the impacts of proposed development on water quality and lands within the stream buffer;
- Ensure that, where development does take place within a stream buffer, it will be located on those portions of a site and in a manner that will be least disruptive to the natural functions of the stream buffer;
- Demonstrate and assure that development will be conducted using best management practices;
- Specify mitigation that will address water quality and stream buffer impacts; and;
- Contain all other information requested by the Zoning Administrator.

Each mitigation plan shall be evaluated by the Zoning Administrator based on the following criteria:

- Whether all reasonable alternatives to development in the stream buffer have been explored and exhausted;
- Whether the development in the stream buffer is the minimum necessary and is conducted in a manner that will be least disruptive to the natural functions of the stream buffer; and
- Whether best management practices will effectively mitigate adverse impacts from the encroachment on the stream buffer and its natural functions.

D. Expiration. An approved mitigation plan shall remain valid for the duration of the development activity including all required stabilization and remediation activities. Any substantive changes impacting the approved plan components shall require submission of a revised mitigation plan for review in accordance with this section.

E. Appeal. A decision on a facility plan application may be appealed to the Board of Zoning Appeals (BZA) per [Section 6.4.3 \(Appeal\)](#).

6.3 LEGISLATIVE REVIEW PROCESSES

6.3.1	SPECIAL USE PERMIT (SUP) This review process is required for approval to conduct any use that is listed as a special use in Section 5 (Uses) .	
	<u>Approval Authority:</u> Board of Supervisors	<u>Time Limit for Review:</u> Yes – See Subsection B
	<u>Pre-Application Meeting Required:</u> Yes – See Subsection B	<u>Public Hearing Required:</u> Yes
	<u>Other Applicable Deadlines:</u> Yes – See Subsection B	<u>Expiration:</u> See Subsection D

A. When Required. A special use permit issued by the Board of Supervisors is required for approval of any special use listed in [Section 5.2 \(Uses, Definitions, and Use Regulations -- County Districts\)](#) and [Section 5.3 \(Uses, Definitions, and Use Regulations – Annexation Area Districts\)](#).

B. Review Procedures

1. Advisory Body and Approval Authority. The advisory body for applications filed for properties located outside of the Berryville Annexation Area shall be the Planning Commission. The advisory body for applications filed for properties located in the Berryville Annexation Area shall be the Berryville Area Development Authority. The Board of Supervisors shall be the approval authority for special use permit applications

ARTICLE I – ZONING ORDINANCE
2024 EDITION

and for site development plan applications required for concurrent review per [Subsection 3](#) below.

2. Pre-Application Conference Required. A Pre-Application Conference per [Section 2.4.1B](#) is required for special use permit applications.
3. Application Filing, Processing, and Review by Approval Authority.
 - a. An application for special use permit review shall also be accompanied by an application for site development plan review per [Section 6.2.2 \(Site Development Plan\)](#). Such applications shall be reviewed concurrently and acted upon by the Board of Supervisors.
 - b. An application for concurrent review of a special use permit and site development plan shall be made by submitting complete applications and the applicable fees to the Zoning Administrator, who will review the applications for completeness in accordance with [Section 2.4.1C \(Acceptance of a Complete Application\)](#).
 - c. After receipt of a complete application, the Zoning Administrator shall forward copies of the applications and supporting documents to all applicable agencies and officials for written comments and recommendations. After receiving such comments and recommendations, the Zoning Administrator shall prepare a report for the advisory body and Board of Supervisors.
 - d. The Zoning Administrator shall refer the applications to the advisory body for initial review at the next regularly-scheduled business meeting following the preceding application filing deadline. The advisory body shall conduct the initial review of the applications and determine whether to schedule a Public Hearing in accordance with [Section 2.5 \(Public Hearings\)](#) at the next regularly-scheduled business meeting.
 - e. The advisory body shall conduct the Public Hearing prior to taking formal action on the applications. The applicant shall provide any new or revised materials demonstrating compliance with any technical requirements no less than 14 days prior to the first Public Hearing and no less than 10 days prior to any continued Public Hearing. Technical requirements include any regulations governing site development such as lot or building requirements and plan submission requirements. Any new or revised materials provided after the deadlines referenced above shall be not considered by the approval authority at the scheduled meeting.
 - f. Formal action shall be taken within 100 days of the date that the advisory body conducts the initial review of the applications, and shall be in the form of a recommendation to the Board of Supervisors.

ARTICLE I – ZONING ORDINANCE
2024 EDITION

- g. Following action by the advisory body, the Zoning Administrator shall refer the applications to the Board of Supervisors for initial review at the next regularly-scheduled business meeting following the preceding application filing deadline. The Board shall conduct the initial review of the applications and determine whether to schedule a Public Hearing in accordance with [Section 2.5](#) at the next regularly-scheduled business meeting.
 - h. The Board shall conduct the Public Hearing prior to taking formal action on the applications. The Applicant shall provide any new or revised materials demonstrating compliance with any technical requirements no less than 14 days prior to the first Public Hearing and no less than 10 days prior to any continued Public Hearing. Technical requirements include any regulations governing site development such as lot or building requirements and plan submission requirements. Any new or revised materials provided after the deadlines referenced above shall be not considered by the approval authority at the scheduled meeting.
 - i. Formal action shall be taken by the Board within one year of the date that the advisory body conducts the initial review of the applications. Formal action shall be to approve, approve with conditions, or disapprove the special use permit and site development plan applications. If a site development plan application is disapproved and the applicant files a corrected application, the Board shall act to approve, approve with conditions, or disapprove the corrected application within 45 days of its first meeting to review the application unless the applicant requests a deferral in accordance with [Section 2.4.3 \(Deferral of Application Review\)](#).
4. Special Use Permit Conditions. The Board of Supervisors may impose conditions on an approval of the special use permit to address the review factors enumerated in [Subsection C-1](#) below, or to address any other factors that may be unique to the application under review. Any conditions adopted by the Board shall be provided in writing to the applicant and the property owner (if different from the applicant) within 7 business days of the Board’s approval of the permit. Acceptance of the conditions shall be provided by the applicant and property owner in accordance with [Subsection C-3](#) below.
5. Submission of Final Plan for Signature. A site development plan approved in conjunction with a special use permit shall become null and void if a final plan is not submitted, in a form complying with all conditions established by the Board of Supervisors, to the Board chair and the Zoning Administrator for signature within six months from the date of approval by the approval authority. The Board may extend this time limit upon written request of the applicant.

C. Review Criteria and Regulations.

1. **Burden of Proof.** The burden of proof shall be on the applicant to show reasonableness of the proposed special use permit and compliance with the applicable review factors as set forth in [Subsection 2](#) below.
2. **Special Use Permit Review Factors.** The following factors, as applicable, together with other factors deemed applicable, may be considered by the advisory body and the Board of Supervisors in acting upon a special use permit application. The advisory body and Board of Supervisors may require the applicant to furnish information which the advisory body or Board of Supervisors deems necessary to address such factors and any conditions to be applied:
 - a. Consistency with the [Clarke County Comprehensive Plan](#) and any applicable implementing component plans.
 - b. Will not have an undue adverse impact on the short-term and long-term fiscal resources of the County for education, water, sewage, fire, police, rescue, solid waste disposal or other services, and will be compatible with the capital improvement goals and objectives of the Comprehensive Plan, to the end that growth of the community will be consonant with the efficient and economic use of public funds.
 - c. Will not cause an undue adverse impact that would reduce the conservation value of adjacent or nearby agricultural or forestal land or would impede the operations of an active agricultural or forestal operation.
 - d. Compliance with Virginia Department of Transportation (VDOT) regulations and recommendations of VDOT deemed necessary for safe and efficient movement of traffic.
 - e. No destruction of or encroachment upon historic or archeological sites, particularly properties under historic easement.
 - f. Will not cause an undue adverse impact on the following important resources located on the subject property or surrounding properties:
 - Surface or groundwater resources including but not limited to mitigation of pollution of such resources.
 - Natural areas such as unique geological features, rare plant habitats, or wildlife nesting areas.
 - Areas designated for conservation, recreation, or natural preservation including but not limited to properties under permanent conservation easement, State-designated scenic byways, scenic rivers, Blandy Experimental Farm, and the Appalachian National Scenic Trail corridor.

ARTICLE I – ZONING ORDINANCE
2024 EDITION

- g. Will not cause undue noise, light or glare, dust, odor, fumes, or vibration.
 - h. Availability of sufficient water for foreseeable needs.
 - i. No unreasonable depletion of or other undue adverse effect on the water source(s) serving existing development(s) in adjacent areas.
 - j. Effective screening and buffering is provided, or the proposed development will be situated away from adjacent properties, in a manner to avoid causing detrimental visual impacts.
3. Special use permit applications involving private access easements. If the property on which the proposed special use is to be located is served by a private access easement, the owners of all lots on which the private access easement is located, from the public road to the lot on which the special use is to be located, shall be an applicant for the SUP and shall sign the application.
4. Transferability of special use permit. A special use permit shall be issued for the subject property for the intended use solely by the applicant and/or property owner (if different from the applicant) and shall not be transferable to any other person or entity without prior approval of the Board of Supervisors as an amendment to the approved special use permit conditions. Approval of an amendment shall not be unreasonably withheld by the Board of Supervisors.
5. Acceptance of adopted conditions required. The applicant and property owner (if different from the applicant) shall sign a list of adopted conditions provided by the Zoning Administrator to indicate receipt of the conditions and the intention to comply fully with the conditions for the life of the permit. A signed copy of the conditions shall be provided by the applicant and property owner to the Zoning Administrator within thirty (30) days of the applicant's and property owner's receipt of the adopted conditions.
6. Access for Inspections Required. Staff and other County officials shall have access to the property with 24 hour notice to the applicant or property owner in order to conduct periodic compliance inspections of the subject property throughout the life of the permit.
- D. Expiration.** A special use permit shall remain valid for the life of the use unless the Board of Supervisors establishes an expiration date by a condition of the permit approval.
- E. Revocation.** The Board of Supervisors may, by resolution, initiate the revocation of any active Special Use Permit. The consideration of the revocation shall proceed following the procedure set forth for approving a new Special Use Permit. Following a recommendation by the advisory body, the Board may revoke an active Special Use Permit for the following reasons:

ARTICLE I – ZONING ORDINANCE
2024 EDITION

1. Failure to establish or discontinuance of the approved Special Use. If the approved Special Use has not been established within two years of its approval or if it has been discontinued for one year, the Special Use Permit may be revoked.
2. Repeated or continuing violations of the conditions placed on the Permit. Failure to comply with any one or more of the conditions of a Special Use Permit may result in the issuance of a Notice of Violation (NOV) by the Zoning Administrator. The Zoning Administrator may present a Special Use Permit to the Board of Supervisors for revocation if the NOV is not resolved as directed. Upon the issuance of a third NOV for violations of any one or more of the permit conditions, and failure of the permit holder to appeal to the Board of Zoning Appeals, the Zoning Administrator shall present the Special Use Permit to the Board of Supervisors for revocation.
3. Fraudulent, false, or misleading information supplied by the applicant in applying for the Special Use Permit.
4. Violations of other provisions of the Zoning Ordinance not addressed by the Special Use Permit conditions, the [Code of Clarke County](#), or State and Federal law related to the activities of the Special Use.

6.3.2	SPECIAL USE PERMIT AMENDMENT (SUP-A)	
	This review process is required in order to amend the conditions of a previously approved special use permit or if the approved special use is enlarged or expanded.	
	<u>Approval Authority:</u> Board of Supervisors	<u>Time Limit for Review:</u> Yes – See Subsection B
	<u>Pre-Application Meeting Required:</u> Yes – See Subsection B	<u>Public Hearing Required:</u> Yes
	<u>Other Applicable Deadlines:</u> Yes – See Subsection B	<u>Expiration:</u> See Subsection D

- A. **When Required.** If a special use permit or a previously deemed special use per [Section 9.7 \(Deemed Special Use\)](#) is enlarged or expanded, approval of a special use permit amendment shall be required. A special use permit amendment shall also be required in order to amend the conditions of a previously approved special use permit.
- B. **Review Procedures.** The review procedures for a special use permit amendment application shall be the same as the procedures for review of a special use permit application in [Section 6.3.1B \(Special Use Permit Review Procedures\)](#). An application for site development plan amendment per [Section 6.2.3 \(Site Development Plan Amendment\)](#) shall be filed and reviewed concurrently with the special use permit amendment application. The Zoning Administrator may waive the requirement for site

development plan amendment application if the proposed change to the special use will not require any changes to the approved site development plan.

- C. Review Criteria and Regulations.** The review criteria and regulations for a special use permit amendment application shall be the same as the review criteria and regulations for a special use permit application in [Section 6.3.1C \(Special Use Permit Review Criteria and Regulations\)](#).
- D. Expiration.** An amended special use permit shall remain valid for the life of the use unless the Board of Supervisors establishes an expiration date by a condition of the permit approval.
- E. Revocation.** The process and requirements for revocation of an amended special use permit shall be the same as the revocation process for a special use permit in [Section 6.3.2E \(Special Use Permit Revocation\)](#).

6.3.3	REZONING (RZ) This review process is required in order to change the current zoning district classification of a lot or lots to a new zoning district classification.	
<u>Approval Authority:</u> Board of Supervisors	<u>Time Limit for Review:</u> Yes – See Subsection B	
<u>Pre-Application Meeting Required:</u> Yes – See Subsection B	<u>Public Hearing Required:</u> Yes	
<u>Other Applicable Deadlines:</u> Yes – See Subsections B and C	<u>Expiration:</u> None	

- A. When Required.** Rezoning (also referred to as a “zoning map amendment”) is required in order to change the current zoning district classification of a lot or lots, or a portion of a lot or lots, to a new zoning district classification.
- B. Review Procedures – Rezoning by Applicant.**
 1. Advisory Body and Approval Authority. The advisory body for applications filed for properties located outside of the Berryville Annexation Area shall be the Planning Commission. The advisory body for applications filed for properties located in the Berryville Annexation Area shall be the Berryville Area Development Authority. The Board of Supervisors shall be the approval authority for rezoning applications.
 2. Pre-Application Conference Required. A Pre-Application Conference per [Section 2.4.1B](#) is required for rezoning applications.

3. Application Filing, Processing, and Review by Approval Authority.
- a. A rezoning application shall be made by submitting a complete application and the applicable fees to the Zoning Administrator, who will review the applications for completeness in accordance with [Section 2.4.1C \(Acceptance of a Complete Application\)](#). A rezoning application shall be accompanied by a survey plat showing the boundaries of the subject property or properties and the boundaries of the area to be rezoned. A site development plan or subdivision application is not required to be filed in conjunction with a rezoning application.
 - b. After receipt of a complete application, the Zoning Administrator shall forward copies of the application and supporting documents to all applicable agencies and officials for written comments and recommendations. After receiving such comments and recommendations, the Zoning Administrator shall prepare a report for the advisory body and Board of Supervisors.
 - c. The Zoning Administrator shall refer the application to the advisory body for initial review at the next regularly-scheduled business meeting following the preceding application filing deadline. The advisory body shall conduct the initial review of the application and determine whether to schedule a Public Hearing in accordance with [Section 2.5 \(Public Hearings\)](#) at the next regularly-scheduled business meeting.
 - d. The advisory body shall conduct the Public Hearing prior to taking formal action on the application. The applicant shall provide any new or revised materials demonstrating compliance with any technical requirements no less than 14 days prior to the first Public Hearing and no less than 10 days prior to any continued Public Hearing. Technical requirements include any regulations governing site development such as lot or building requirements and plan submission requirements. Any new or revised materials provided after the deadlines referenced above shall be not considered by the approval authority at the scheduled meeting.
 - e. Formal action shall be taken within 100 days of the date that the advisory body conducts the initial review of the application, and shall be in the form of a recommendation to the Board of Supervisors.
 - f. Following action by the advisory body, the Zoning Administrator shall refer the application to the Board of Supervisors for initial review at the next regularly-scheduled business meeting following the preceding application filing deadline. The Board shall conduct the initial review of the application and determine whether to schedule a Public Hearing in accordance with [Section 2.5](#) at the next regularly-scheduled business meeting.
 - g. The Board shall conduct the Public Hearing prior to taking formal action on the application. The Applicant shall provide any new or revised materials

demonstrating compliance with any technical requirements no less than 14 days prior to the first Public Hearing and no less than 10 days prior to any continued Public Hearing. Technical requirements include any regulations governing site development such as lot or building requirements and plan submission requirements. Any new or revised materials provided after the deadlines referenced above shall be not considered by the approval authority at the scheduled meeting.

- h. Formal action shall be taken by the Board within one year of the date that the advisory body conducts the initial review of the application. Formal action shall be to approve, approve with conditions, or disapprove the rezoning application.

C. Review Procedures – Rezoning by Resolution of the Planning Commission, Berryville Area Development Authority, or Board of Supervisors.

1. The advisory body (as described in [Subsection B-1](#) above) or the Board of Supervisors may initiate a rezoning of a property or properties by the adoption of a resolution proposing such amendment. A rezoning by resolution adopted by the Board of Supervisors shall be referred to the advisory body for initial review at the next regularly-scheduled meeting in accordance with the procedures listed below. A rezoning by resolution adopted by the advisory body shall also follow the procedures listed below.
2. The advisory body shall conduct the initial review of the rezoning resolution and determine whether to schedule a Public Hearing in accordance with [Section 2.5](#) at the next regularly-scheduled business meeting.
3. The advisory body shall conduct the Public Hearing prior to taking formal action on the rezoning resolution. The advisory body, in making recommendations on the proposed rezoning resolution, may recommend appropriate changes or corrections; provided, however, that before recommending that land which was not included in the rezoning resolution be rezoned or that land included in the proposed rezoning resolution be rezoned to a different use classification than proposed, the Commission shall hold an additional Public Hearing in accordance with [Section 2.5](#). Formal action shall be taken within 100 days of the date that the advisory body conducts the initial review, and shall be in the form of a recommendation to the Board of Supervisors.
4. Following action by the advisory body, the Zoning Administrator shall refer the rezoning resolution and advisory body recommendations to the Board of Supervisors for initial review at the next regularly-scheduled business meeting. The Board shall conduct the initial review of the rezoning resolution and determine whether to schedule a Public Hearing in accordance with [Section 2.5](#) at the next regularly-scheduled business meeting.
5. The Board shall conduct the Public Hearing prior to taking formal action on the rezoning resolution. The Board may make appropriate changes or corrections. Formal action shall be to approve, approve with conditions, or disapprove the rezoning application.

D. Review Criteria and Regulations.

1. **Burden of Proof.** The burden of proof shall be on the applicant to show reasonableness of the proposed rezoning and compliance with the applicable review factors as set forth in [Subsection 2](#) below.
2. **Rezoning Review Factors.** The following factors, as applicable, together with other factors deemed applicable, may be considered by the advisory body and the Board of Supervisors in acting upon a rezoning application. The advisory body and Board of Supervisors may require the applicant to furnish information which the advisory body or Board of Supervisors deems necessary to address such factors:
 - a. Consistency with the [Clarke County Comprehensive Plan](#) and any applicable implementing component plans.
 - b. Will not have an undue adverse impact on the short-term and long-term fiscal resources of the County for education, water, sewage, fire, police, rescue, solid waste disposal or other services, and will be compatible with the capital improvement goals and objectives of the Comprehensive Plan, to the end that growth of the community will be consonant with the efficient and economic use of public funds.
 - c. Will not cause an undue adverse impact that would reduce the conservation value of adjacent or nearby agricultural or forestal land or would impede the operations of an active agricultural or forestal operation.
 - d. Compliance with Virginia Department of Transportation (VDOT) regulations and recommendations of VDOT deemed necessary for safe and efficient movement of traffic.
 - e. No destruction of or encroachment upon historic or archeological sites, particularly properties under historic easement.
 - f. Will not cause an undue adverse impact on the following important resources located on the subject property or surrounding properties:
 - Surface or groundwater resources including but not limited to mitigation of pollution of such resources.
 - Natural areas such as unique geological features, rare plant habitats, or wildlife nesting areas.
 - Areas designated for conservation, recreation, or natural preservation including but not limited to properties under permanent conservation easement, State-designated scenic byways, scenic rivers, Blandy Experimental Farm, and the Appalachian National Scenic Trail corridor.
 - g. Will not cause undue noise, light or glare, dust, odor, fumes, or vibration.

ARTICLE I – ZONING ORDINANCE
2024 EDITION

- h. Availability of sufficient water for foreseeable needs.
 - i. No unreasonable depletion of or other undue adverse effect on the water source(s) serving existing development(s) in adjacent areas.
 - j. Effective screening and buffering is provided, or the proposed development will be situated away from adjacent properties, in a manner to avoid causing detrimental visual impacts.
3. Conversion of Rezoning Application to Conditional Zoning Review. Prior to any Public Hearing before the advisory body or the Board of Supervisors, any rezoning applicant may voluntarily proffer, in writing, reasonable conditions to be applied to such rezoning as part thereof. Upon agreement of the advisory body or Board of Supervisors to consider the applicant’s proffers, the application shall be converted to a conditional zoning application and shall thereafter be reviewed in accordance with [Section 6.3.4 \(Conditional Zoning\)](#).
- E. Withdrawal.** A rezoning application may be withdrawn at any time; provided, however, that if the application is withdrawn at any time after the Planning Commission or the Board of Supervisors has commenced its public hearing on the application, no new application concerning any of the same land shall be filed within 12 months of the withdrawal, unless the body before whom the application is pending at the time specifies by resolution or motion that the time limit shall not apply or that a shorter time limit applies.
- F. Limitation on Filing New Application after Denial.** Upon denial by the Board of Supervisors of any rezoning application, no new application shall be filed within 12 months of the date of denial. Nothing in this section shall be held to impair the right of the Planning Commission or the Board of Supervisors by resolution to propose any rezoning at any time.

6.3.4	CONDITIONAL ZONING (CZ)	
	This review process is used in lieu of the rezoning process in Section 6.3.3 to provide a more flexible and adaptable zoning method. The process, as authorized by the Code of Virginia, allows for a change in the zoning district classification of a lot or lots subject to certain conditions voluntarily proffered by the applicant for the protection of the community that are not generally applicable to land similarly zoned.	
	<u>Approval Authority:</u> Board of Supervisors	<u>Time Limit for Review:</u> Yes – See Subsection B
	<u>Pre-Application Meeting Required:</u> Yes – See Subsection B	<u>Public Hearing Required:</u> Yes
	<u>Other Applicable Deadlines:</u> Yes – See Subsection B and C	<u>Expiration:</u> None

- A. When Required.** Conditional zoning review is required when an applicant proposes the rezoning of a lot or lots, or a portion of a lot or lots, and voluntarily proffers reasonable conditions to be applied to such rezoning as part thereof in accordance with Code of Virginia requirements. Such proffers shall be provided in writing by the applicant prior to any Public Hearing before the advisory body or the Board of Supervisors.
- B. Review Procedures.**
1. Advisory Body and Approval Authority. The advisory body for applications filed for properties located outside of the Berryville Annexation Area shall be the Planning Commission. The advisory body for applications filed for properties located in the Berryville Annexation Area shall be the Berryville Area Development Authority. The Board of Supervisors shall be the approval authority for conditional zoning applications.
 2. Pre-Application Conference Required. A Pre-Application Conference per [Section 2.4.1B](#) is required for conditional zoning applications.
 3. Application Filing, Processing, and Review by Approval Authority.
 - a. A conditional zoning application shall be made by submitting a complete application and the applicable fees to the Zoning Administrator, who will review the applications for completeness in accordance with [Section 2.4.1C \(Acceptance of a Complete Application\)](#). A conditional zoning application shall be accompanied by the following:
 - A survey plat showing the boundaries of the subject property or properties and the boundaries of the area to be rezoned.

ARTICLE I – ZONING ORDINANCE
2024 EDITION

- Proffered conditions provided in writing and signed by the applicant and property owner(s) in a format as required by the Zoning Administrator. In the event that these proffered conditions are amended, including addition or deletion of conditions, during the review process, a complete list of revised proffered conditions shall be provided in writing with required signatures as noted above.

A site development plan or subdivision application is not required to be filed in conjunction with a conditional zoning application. If an applicant voluntarily files a site development plan or subdivision plat application per [Subdivision Ordinance Section 3.2](#) for concurrent review with a conditional zoning application, the Board of Supervisors shall be the approval authority for that application.

- b. After receipt of a complete application, the Zoning Administrator shall forward copies of the application and supporting documents to all applicable agencies and officials for written comments and recommendations. After receiving such comments and recommendations, the Zoning Administrator shall prepare a report for the advisory body and Board of Supervisors.
- c. The Zoning Administrator shall refer the application to the advisory body for initial review at the next regularly-scheduled business meeting following the preceding application filing deadline. The advisory body shall conduct the initial review of the application and determine whether to schedule a Public Hearing in accordance with [Section 2.5 \(Public Hearings\)](#) at the next regularly-scheduled business meeting.
- d. Once the applicant's proffered conditions are provided in accordance with this Section and the Public Hearing before the advisory body or Board of Supervisors has commenced, no change or modification to any condition shall be made and no additional conditions shall be proffered at that Public Hearing unless the amended or additional proffers do not materially affect the overall proposal.
- e. The advisory body shall conduct the Public Hearing prior to taking formal action on the application. The applicant shall provide any new or revised materials demonstrating compliance with any technical requirements no less than 14 days prior to the first Public Hearing and no less than 10 days prior to any continued Public Hearing. Technical requirements include any regulations governing site development such as lot or building requirements and plan submission requirements. Any new or revised materials provided after the deadlines referenced above shall be not considered by the approval authority at the scheduled meeting.

ARTICLE I – ZONING ORDINANCE
2024 EDITION

- f. Formal action shall be taken within 100 days of the date that the advisory body conducts the initial review of the application, and shall be in the form of a recommendation to the Board of Supervisors.
- g. Following action by the advisory body, the Zoning Administrator shall refer the application to the Board of Supervisors for initial review at the next regularly-scheduled business meeting following the preceding application filing deadline. The Board shall conduct the initial review of the application and determine whether to schedule a Public Hearing in accordance with [Section 2.5](#) at the next regularly-scheduled business meeting.
- h. The Board shall conduct the Public Hearing prior to taking formal action on the application. The Applicant shall provide any new or revised materials demonstrating compliance with any technical requirements no less than 14 days prior to the first Public Hearing and no less than 10 days prior to any continued Public Hearing. Technical requirements include any regulations governing site development such as lot or building requirements and plan submission requirements. Any new or revised materials provided after the deadlines referenced above shall be not considered by the approval authority at the scheduled meeting.
- i. Formal action shall be taken by the Board within one year of the date that the advisory body conducts the initial review of the application. Formal action shall be to approve subject to the applicant’s proffered conditions or to disapprove the conditional zoning application.

C. Review Criteria and Regulations.

- 1. Burden of Proof and Review Factors. The burden of proof and review factors for conditional zoning applications shall be the same as required for rezoning applications in [Section 6.3.3D-1](#) and [D-2](#).
- 2. Statement Regarding Conditions. All conditions proffered by the applicant shall be annotated with the following statement signed by the applicant and the property owner. The signed statement shall be made available prior to the public hearing before the Board:

I hereby proffer that the development of the subject property of this application shall be in strict accordance with the conditions set forth in this submission.
- 3. Proffered Condition Regulations. Proffered conditions shall include written statements, development plans, and/or other materials proffered by the applicant and approved by the Board of Supervisors in conjunction with the approval of conditional zoning application. Proffered conditions shall be subject to the following procedures and regulations:

ARTICLE I – ZONING ORDINANCE
2024 EDITION

- a. Upon approval, any site plan, subdivision plat, or development plan thereafter submitted for the development of the property in question shall be in substantial conformance with all proffered conditions and no development shall be approved in the absence of said substantial conformance. For the purposes of this Section, substantial conformance shall mean that conformance which leaves a reasonable margin for adjustment due to final engineering data but conforms with the general nature of the development, the specific uses, and the general layout depicted by the plans, and other material presented by the applicant.
 - b. In the event that the applicant or property owner proposes to amend conditions that have been approved by the Board of Supervisors, an application for amendment of proffered conditions shall be filed in accordance with [Section 6.3.5](#).
4. Effects of Conditions. Upon the approval of a conditional zoning application by the Board of Supervisors, all conditions so proffered and accepted by the Board shall be deemed a part thereof and non-severable therefrom and shall remain in force unless amended by the Board of Supervisors in accordance with [Section 6.3.5 \(Amendment of Proffered Conditions\)](#). All such conditions shall be in addition to the regulations provided for the zoning district. If the property should be annexed by a town and placed in the same or similar zoning district of the town upon annexation, the proffered conditions shall remain a part of the zoning regulations applicable to the property, with the town to administer the proffered conditions.

The Zoning Administrator shall be vested with all necessary authority on behalf of the Board to administer and enforce proffered conditions, including:

- The ordering in writing the remedy of any noncompliance with such conditions.
- The bringing of legal action to insure compliance with such conditions, including injunction, abatement, or other appropriate action or proceeding.
- Requiring a guarantee in accordance with [Section 8 \(Performance and Maintenance Guarantees\)](#) in an amount sufficient for and conditioned upon the construction of any physical improvements required by the conditions, or a contract for the construction of such improvements and the contractor's guarantee in like amount and so conditioned, which guarantee may be reduced or released by the governing body, or agent thereof, upon the submission of satisfactory evidence that construction of said improvements has been completed in whole or in part.

Failure to meet all conditions shall constitute cause to deny the issuance of any of the required use, occupancy, or building permits as may be appropriate.

5. Zoning Map Notation Required. Each property subject to a conditional zoning approval shall be designated on the Zoning Map by a symbol as designated by the Zoning Administrator to indicate the application of proffer requirements on those properties. In addition, the Zoning Administrator shall keep and maintain a conditional zoning index

ARTICLE I – ZONING ORDINANCE
2024 EDITION

which shall be available for public inspection and which shall provide ready access to the ordinance creating such conditions.

- D. Withdrawal.** A conditional zoning application may be withdrawn at any time; provided, however, that if the application is withdrawn at any time after the Planning Commission or the Board of Supervisors has commenced its public hearing on the application, no new application concerning any of the same land shall be filed within 12 months of the withdrawal, unless the body before whom the application is pending at the time specifies by resolution or motion that the time limit shall not apply or that a shorter time limit applies.
- E. Limitation on Filing New Application after Denial.** Upon denial by the Board of Supervisors of any conditional zoning application, no new application shall be filed within 12 months of the date of denial.

6.3.5	AMENDMENT OF PROFFERED CONDITIONS (APC)	
	This review process is required in order to amend proffered conditions that were previously accepted by the Board of Supervisors in conjunction with a conditional zoning application.	
	<u>Approval Authority:</u> Board of Supervisors	<u>Time Limit for Review:</u> No
	<u>Pre-Application Meeting Required:</u> Yes – See Subsection B	<u>Public Hearing Required:</u> Yes unless waived per Subsection B
	<u>Other Applicable Deadlines:</u> No	<u>Expiration:</u> None

- A. When Required.** The owner of any property subject to proffered conditions may apply to the Board of Supervisors for amendments to or variations of such proffered conditions.
- B. Review Procedures.**
 1. Approval Authority. The Board of Supervisors shall be the approval authority for applications to amend proffered conditions. The Board may, at its discretion, forward such applications to the Planning Commission (for properties located outside of the Berryville Annexation Area) or to the Berryville Area Development Authority (for properties located in the Berryville Annexation Area) to review and provide formal recommendations as the advisory body.
 2. Pre-Application Conference Required. A Pre-Application Conference per [Section 2.4.1B](#) is required for proffer amendment applications.

3. Application Filing, Processing, and Review by Approval Authority.

- a. An application to amend proffered conditions shall be made by submitting a complete application and the applicable fees to the Zoning Administrator, who will review the applications for completeness in accordance with [Section 2.4.1C \(Acceptance of a Complete Application\)](#). Such application shall be accompanied by proffered conditions proposed for addition, deletion or amendment, provided in writing and signed by the applicant and property owner(s) in a format as required by the Zoning Administrator. In the event that these proffered conditions are amended further during the review process, a complete list of revised proffered conditions shall be provided in writing with required signatures as noted above.

A site development plan or subdivision application is not required to be filed in conjunction with an amendment of proffered conditions application. If an applicant voluntarily files a site development plan or subdivision plat application per [Subdivision Ordinance Section 3.2](#) for concurrent review with an amendment of proffered conditions application, the Board of Supervisors shall be the approval authority for that application.

- b. After receipt of a complete application, the Zoning Administrator shall forward copies of the application and supporting documents to all applicable agencies and officials for written comments and recommendations. After receiving such comments and recommendations, the Zoning Administrator shall prepare a report for the Board of Supervisors.
- c. The Zoning Administrator shall refer the application to the Board of Supervisors for initial review at the next regularly-scheduled business meeting following the preceding application filing deadline. The Board shall conduct the initial review of the application and determine whether to forward the application to the advisory body for review, and whether to schedule a Public Hearing in accordance with [Section 2.5 \(Public Hearings\)](#) at the next regularly-scheduled business meeting.

A Public Hearing is required for an application to amend proffered conditions. However, where the amendment does not affect conditions of use or density, the Board of Supervisors may waive the requirement for a public hearing under this section in accordance with [Va. Code §15.2-2302](#). Written notice of an application to amend proffered conditions shall be provided in accordance with [Va. Code §15.2-2204\(B\)](#).

- d. If required, the Board shall conduct the Public Hearing prior to taking formal action on the application. The Applicant shall provide any new or revised materials demonstrating compliance with any technical requirements no less than 14 days prior to the first Public Hearing and no less than 10 days prior to any continued Public Hearing. Technical requirements include any regulations

governing site development such as lot or building requirements and plan submission requirements. Any new or revised materials provided after the deadlines referenced above shall be not considered by the approval authority at the scheduled meeting.

- e. There is no time limitation on the Board’s review of an application to amend proffered conditions. Formal action shall be to approve or to disapprove the applicant’s request to amend the previously-approved proffered conditions.

C. Review Criteria and Regulations.

1. Burden of Proof and Review Factors. The burden of proof and review factors for applications to amend proffered conditions shall be the same as required for rezoning applications in [Section 6.3.3D-1](#) and [D-2](#).
2. Statement Regarding Conditions. All amended conditions proffered by the applicant shall be annotated with the following statement signed by the applicant and the property owner. The signed statement shall be made available prior to the public hearing before the Board:

"I hereby proffer that the development of the subject property of this application shall be in strict accordance with the conditions set forth in this submission."

3. Proffered Condition Regulations. Proffered condition regulations shall be the same as set forth in [Section 6.3.4C-3 \(Conditional Zoning – Proffered Condition Regulations\)](#).
4. Effects of Conditions. Effects of amended conditions shall be the same as described in [Section 6.3.4C-4 \(Conditional Zoning – Effects of Conditions\)](#).

- D. Withdrawal.** An application to amend proffered conditions may be withdrawn at any time; provided, however, that if the application is withdrawn at any time after Board of Supervisors has commenced its public hearing on the application, no new application concerning any of the same land shall be filed within 12 months of the withdrawal, unless the Board specifies by resolution or motion that the time limit shall not apply or that a shorter time limit applies.

- E. Limitation on Filing New Application after Denial.** Upon denial by the Board of Supervisors of any application to amend proffered conditions, no new application shall be filed within 12 months of the date of denial.

6.3.6	TEXT AMENDMENT (TA) This process is required in order to amend any provision of the Zoning Ordinance.	
<u>Approval Authority:</u> Board of Supervisors		<u>Time Limit for Review:</u> Yes – See Subsection B
<u>Pre-Application Meeting Required:</u> Yes – See Subsection B		<u>Public Hearing Required:</u> Yes
<u>Other Applicable Deadlines:</u> Yes – See Subsection B		<u>Expiration:</u> None

A. When Required.

1. A property owner, contract purchaser with the property owner's consent, or an agent authorized to represent a property owner in accordance with [Section 2.4.2](#) may request the Planning Commission, Berryville Area Development Authority, or Board of Supervisors to consider a text amendment of the Zoning Ordinance.
2. No text amendment shall be considered unless a resolution to initiate consideration of such text amendment is adopted by the Commission, BADA, or Board.
3. The Commission, BADA, or Board may consider a text amendment without an application from a property owner, contract purchaser, or authorized agent by formal adoption of a resolution to initiate consideration of such text amendment. In such cases, review by the advisory body and approval authority as described in Subsection B shall be followed after adoption of the resolution to initiate consideration of the text amendment.

B. Review Procedures.

1. Advisory Body and Approval Authority. The advisory body for text amendment applications shall be the Planning Commission. The Berryville Area Development Authority shall be the advisory body for text amendments of Zoning Ordinance provisions which regulate properties in the Berryville Annexation Area.

The Board of Supervisors shall be the approval authority for text amendment applications.

2. Pre-Application Conference Required. A Pre-Application Conference per [Section 2.4.1B](#) is required for text amendment applications.
3. Application Filing, Processing, and Review by Approval Authority.
 - a. A text amendment application shall be made by submitting a complete application and the applicable fees to the Zoning Administrator, who will review the

ARTICLE I – ZONING ORDINANCE
2024 EDITION

applications for completeness in accordance with [Section 2.4.1C \(Acceptance of a Complete Application\)](#). A text amendment application shall be accompanied by the following:

- A written description of the purpose for the text amendment including an explanation of how the text amendment is not in conflict with the Comprehensive Plan or implementing component plans
- A draft of the proposed text amendment language

The applicant shall also indicate in the application whether they are requesting the Commission, BADA, or Board to initiate consideration of the text amendment by resolution.

- b. After receipt of a complete application, the Zoning Administrator shall forward the application to the Commission, BADA, or Board as requested by the applicant to initiate consideration of the text amendment. If the applicant's selected body does not adopt such resolution, the proposed text amendment shall not be considered and the application fees shall be returned to the applicant.
- c. If the selected body adopts a resolution to initiate consideration of the text amendment, the Zoning Administrator shall forward copies of the application and supporting documents to all applicable agencies and officials for written comments and recommendations. After receiving such comments and recommendations, the Zoning Administrator shall prepare a report for the advisory body and Board of Supervisors.
- d. The Zoning Administrator shall refer the application to the advisory body for initial review at the next regularly-scheduled business meeting following the preceding application filing deadline. The advisory body shall review the application and determine whether to schedule a Public Hearing in accordance with [Section 2.5 \(Public Hearings\)](#) at the next regularly-scheduled business meeting.
- e. The advisory body shall conduct the Public Hearing prior to taking formal action on the application. Formal action shall be taken within 100 days of the date that the advisory body conducts the initial review of the application, and shall be in the form of a recommendation to the Board of Supervisors.
- f. Following action by the advisory body, the Zoning Administrator shall refer the application to the Board of Supervisors for review at the next regularly-scheduled business meeting following the preceding application filing deadline. The Board shall conduct the initial review of the application and determine whether to schedule a Public Hearing in accordance with [Section 2.5](#) at the next regularly-scheduled business meeting.

- g. The Board shall conduct the Public Hearing prior to taking formal action on the application. Formal action shall be taken by the Board within one year of the date that the advisory body conducts the initial review of the application. Formal action shall be to approve, approve with modifications, or disapprove the text amendment application.

C. Review Criteria and Regulations.

1. **Burden of Proof.** The burden of proof shall be on the applicant to show reasonableness of the proposed text amendment and compliance with the applicable review factors as set forth in [Subsection 2](#) below.
2. **Text Amendment Review Factors.** The following factors, as applicable, together with other factors deemed applicable, may be considered by the advisory body and the Board of Supervisors in acting upon a text amendment application. The advisory body and Board of Supervisors may require the applicant to furnish information which the Planning Commission or Board of Supervisors deems necessary to address such factors and any conditions to be applied:
 - a. Consistency with the Clarke County Comprehensive Plan and any applicable implementing component plans.
 - b. The proposed text amendment does not conflict with any current provisions of the Zoning Ordinance or [Subdivision Ordinance \(Article II\)](#).
 - c. For text amendments proposing the addition of a new use:
 - There is no clear intent to exclude such uses, and
 - The proposed use is appropriate within the district and would have no more adverse effects on other uses within the district, or on uses in adjoining districts, than would uses of the same general character permitted in the district.

- D. Withdrawal.** A text amendment application may be withdrawn at any time; provided, however, that if the application is withdrawn at any time after the Planning Commission or the Board of Supervisors has commenced its public hearing on the application, no new application concerning the same text amendment shall be filed within 12 months of the withdrawal, unless the body before whom the application is pending at the time specifies by resolution or motion that the time limit shall not apply or that a shorter time limit applies.

- E. Limitation on Filing New Application after Denial.** Upon denial by the Board of Supervisors of any text amendment application, no new application shall be filed within 12 months of the date of denial. Nothing in this section shall be held to impair the right of the Planning Commission, Berryville Area Development Authority, or the Board of Supervisors by resolution to propose any text amendment at any time.

6.4 QUASI-JUDICIAL PROCESSES

6.4.1 General Procedures – Board of Zoning Appeals

A. Hearings.

1. The non-legal staff of the Board of Supervisors may have ex parte communications with a member of the Board prior to the hearing but may not discuss the facts or law relative to the case before the Board. The applicant, landowner, or their agent or attorney may have ex parte communications with a member of the Board prior to the hearing but may not discuss the facts or law relative to the case before the Board. If any ex parte discussion of facts or law in fact occurs, the party engaging in such communication shall inform the other party as soon as practicable and advise the other party of the substance of such communication. For purposes of this section, regardless of whether all parties participate, ex parte communications shall not include (i) discussions as a part of a public meeting or (ii) discussions prior to a public meeting to which staff of the governing body, the applicant, landowner, or their agent or attorney are all invited. For purposes of this section, “non-legal staff of the Board of Supervisors” shall mean any staff who is not in the office of the attorney for the County, or for the Board, or who is appointed by special law or pursuant to [Va. Code §15.2-1542](#). Nothing in this section shall preclude the Board from having ex parte communications with any attorney or staff of any attorney where such communication is protected by the attorney-client privilege or protection of confidentiality.
2. Any materials relating to the case before the Board, including a staff recommendation or report furnished to a member of the Board, shall be made available without cost to an applicant, appellant, or other person aggrieved under [Va. Code §15.2-2314](#), as soon as practicable thereafter, but in no event less than three business days of providing such materials to a member of the Board. If the applicant, appellant, or other person aggrieved under [Va. Code §15.2-2314](#) requests additional documents or materials to be provided by the locality other than those materials provided to the Board, such request shall be made pursuant to [Va. Code §2.2-3704](#). Any such materials furnished to a member of the Board shall also be made available for public inspection pursuant to [Subsection F of Va. Code §2.2-3707](#).
3. At a hearing the board shall offer an equal amount of time to the applicant, appellant, any other person aggrieved under [Va. Code §15.2-2314](#), and the County staff.

- B. Appeal of Board of Zoning Appeals Decision.** Any person or persons jointly or severally aggrieved by any decision of the Board, or any aggrieved taxpayer, or any officer, department, board, or bureau of the locality, may file with the Clerk of the Clarke County Circuit Court a petition specifying the grounds on which aggrieved within 30 days after the final decision of the Board.

ARTICLE I – ZONING ORDINANCE
2024 EDITION

6.4.2	VARIANCE (VAR) This review process allows certain lot or building dimensional requirements to be varied upon demonstration by a property owner that special circumstances or conditions exist which are beyond the property owner’s control, warranting the granting of a variance to the dimensional requirements.	
<u>Approval Authority:</u> Board of Zoning Appeals (BZA)		<u>Time Limit for Review:</u> Yes – See Subsection B
<u>Pre-Application Meeting Required:</u> No		<u>Public Hearing Required:</u> Yes
<u>Other Applicable Deadlines:</u> No		<u>Expiration:</u> None

A. When Required. The Board of Zoning Appeals (BZA) shall hear requests for variances, as defined in [Va. Code §15.2-2201](#), from the terms of this Ordinance. A variance shall not include a change in use.

B. Review Procedures.

1. Any property owner, tenant (with the written consent of the property owner), government official, department, board, or bureau may make application for a variance. Applications shall be made to the Zoning Administrator in accordance with rules adopted by the BZA. The application and accompanying maps, plans, or other information shall be transmitted promptly to the Secretary of the BZA, who shall place the matter on the docket to be acted upon by the BZA.
2. No variance shall be considered except after public notice and hearing as required by [Va. Code §15.2-2204](#). However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the BZA may give such notice by first-class mail rather than by registered or certified mail.
3. The BZA shall make its decision within 90 days of the filing of the application, unless the applicant and the BZA mutually agree upon an extended period.

C. Review Criteria and Regulations.

1. Burden of Proof. The burden of proof shall be on the applicant for a variance to prove by a preponderance of the evidence that the application meets the standards for a variance as defined in [Va. Code §15.2-2201](#) and the criteria set out in this section.
2. Notwithstanding any other provision of law, general or special, a variance shall be

ARTICLE I – ZONING ORDINANCE
2024 EDITION

granted if the evidence shows that the strict application of the terms of the ordinance would unreasonably restrict the utilization of the property or that the granting of the variance would alleviate a hardship due to a physical condition relating to the property or improvements thereon at the time of the effective date of the ordinance, and:

- a. The property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant for the variance;
 - b. The granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area;
 - c. The condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance;
 - d. The granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property; and
 - e. The relief or remedy sought by the variance application is not available through a special exception process that is authorized in the ordinance pursuant to [Subdivision 6 of Va. Code §15.2-2309](#) at the time of the filing of the variance application.
3. Special Review Criteria -- Flood Plain (FP) Overlay District Requirements. In addition to the criteria set forth in [Subsection C-2](#), the BZA shall also consider the factors enumerated in [Section 4.2.1I \(Variances; Factors to Be Considered\)](#) in evaluating an application for variance to the requirements of the FP Overlay District.
 4. The concurring vote of a majority of the membership of the BZA shall be necessary to approve a variance.
 5. In granting a variance the BZA shall tailor the variance to provide the minimum variance necessary to alleviate the hardship, and the BZA may impose such conditions regarding the location, character, and other features of the proposed structure or use, as it may deem necessary in the public interest. The BZA may require a guarantee or bond to ensure that the conditions imposed are being and will continue to be complied with.
 6. The BZA will not consider substantially the same application within one year of previous BZA action.

ARTICLE I – ZONING ORDINANCE
2024 EDITION

6.4.3	APPEAL (AP) This review process allows an applicant to appeal the decision of the Zoning Administrator regarding interpretations or enforcement of the Zoning Ordinance to the Board of Zoning Appeals.	
<u>Approval Authority:</u> Board of Zoning Appeals (BZA)		<u>Time Limit for Review:</u> Yes – See Subsection B
<u>Pre-Application Meeting Required:</u> No		<u>Public Hearing Required:</u> Yes
<u>Other Applicable Deadlines:</u> Yes – See Subsection C		<u>Expiration:</u> None

A. When Required. The Board of Zoning Appeals (BZA) shall hear and decide appeals from any order, requirement, decision, or determination made by an administrative officer in the administration or enforcement of the Zoning Ordinance.

B. Review Procedures.

1. An appeal to the BZA may be taken by any person aggrieved or by any officer, department, board, or bureau of the County affected by any decision of the Zoning Administrator, or from any order, requirement, decision or determination made by any other administrative officer in the administration or enforcement of the Zoning Ordinance.
2. The BZA shall fix a reasonable time for hearing an appeal, and shall give public notice and hold a public hearing as provided in [Section 2.5 \(Public Hearings\)](#).
3. The BZA shall make its decision within 90 days of the filing of the appeal, unless the appellant and the BZA mutually agree upon an extended period.
4. In exercising its powers, the BZA may reverse or affirm, wholly or partly, or may modify, an order, requirement, decision, or determination appealed from.
5. The concurring vote of a majority of the membership of the BZA shall be necessary to reverse any order, requirement, decision, or determination of an administrative officer.

C. Review Criteria and Regulations.

1. The BZA’s decision on an appeal shall be based on the BZA's judgment of whether the administrative officer was correct. The determination of the administrative officer shall be presumed to be correct. At a hearing on an appeal, the administrative officer shall explain the basis for their determination after which the appellant has the burden of proof to rebut such presumption of correctness by a preponderance of the evidence. The BZA

ARTICLE I – ZONING ORDINANCE
2024 EDITION

shall consider any applicable ordinances, laws, and regulations in making its decision. For purposes of this section, “determination” means any order, requirement, decision, or determination made by an administrative officer. Any appeal of a determination to the BZA shall be in compliance with this section, notwithstanding any other provision of law, general or special.

2. Any written notice of a zoning violation or any written order or administrative determination of the Zoning Administrator shall include a statement informing the recipient of the recipient’s right to appeal the notice of zoning violation or the written order or administrative determination within 30 days, and that the decision shall be final and un-appealable if not appealed within 30 days. The appeal period shall not commence until the statement is given. The appeal shall be taken within 30 days after the decision appealed from by filing with the Zoning Administrator, and with the BZA, a notice of appeal specifying the grounds thereof. The Zoning Administrator shall forthwith transmit to the BZA all the papers constituting the record upon which the action appealed from was taken.

3. An appeal shall stay all proceedings in furtherance of the action appealed from unless the Zoning Administrator certifies to the BZA that by reason of facts stated in the certificate a stay would in his opinion cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order granted by the BZA or by a court of record, on application and on notice to the Zoning Administrator and for good cause shown.

6.4.4	INTERPRETATION OF ZONING DISTRICT MAP (IZM)	
This review process allows an applicant to request an interpretation of the location of zoning district boundaries as depicted on the Clarke County Zoning District Map.		
<u>Approval Authority:</u> Board of Zoning Appeals	<u>Time Limit for Review:</u> Yes – See Subsection B	
<u>Pre-Application Meeting Required:</u> No	<u>Public Hearing Required:</u> Yes	
<u>Other Applicable Deadlines:</u> None	<u>Expiration:</u> None	

- A. **When Required.** The Board of Zoning Appeals shall hear and decide applications for interpretation of the zoning district map where there is any uncertainty as to the location of a district boundary.

B. Review Procedures.

1. After notice to the owners of the property affected by the question, and after public hearing as provided in [Section 2.5 \(Public Hearings\)](#), the BZA may interpret the map in such way as to carry out the intent and purpose of the ordinance for the particular section or district in question.
2. The BZA shall make its decision within 90 days of the filing of the appeal, unless the appellant and the BZA mutually agree upon an extended period.

- C. Review Criteria and Regulations.** The BZA shall not have the power to change substantially the locations of district boundaries as established by ordinance. The concurring vote of a majority of the membership of the BZA shall be necessary to decide in favor of the applicant.

6.5 ZONING ADMINISTRATOR LETTERS

Zoning letters may be issued by the Zoning Administrator at the request of a property owner, agent, or other stakeholder to serve as official verification or determination of rights or responsibilities under the Zoning Ordinance.

A. Types of Letters.

1. Zoning Certification Letter. A zoning certification letter is issued by the Zoning Administrator to provide written confirmation of factual elements regarding a lot or lots including but not limited to zoning district classification, applicable ordinance requirements, and dwelling unit right allocation.
2. Zoning Determination Letter – A zoning determination letter is issued by the Zoning Administrator to provide a written interpretation of the applicability of Zoning Ordinance regulations to a specific property or situation.
3. Zoning Violation Letter – A zoning violation letter (NOV) is issued by the Zoning Administrator as an enforcement instrument to notify a property owner of a specific violation of a Zoning Ordinance provision in accordance with [Section 10 \(Enforcement\)](#).

B. Review Procedures for Zoning Certification and Zoning Determination Letters.

1. Applicant submits an application to the Zoning Administrator for a zoning certification letter or zoning determination letter along with the required application fee. Such application shall contain the specific information and/or zoning determination being requested by the applicant. The Zoning Administrator may require the applicant to provide any supporting documentation necessary in order to respond to the applicant's request for certification or determination.

2. The Zoning Administrator assembles the requested information and issues the certification letter or determination letter to the applicant.
3. The Zoning Administrator shall respond within 90 days of a request for a zoning certification letter or zoning determination letter unless the requester has agreed to a longer period.

C. Review Regulations.

1. Any written certification or determination made by the Zoning Administrator shall include a statement informing the property owner and/or recipient the right to appeal the certification or determination within 30 days, and that the decision shall be final and unappealable if not appealed within 30 days after the decision appealed from by filing an application for appeal with the Board of Zoning Appeals.
2. In no event shall a written certification or determination made by the Zoning Administrator be subject to change, modification, or reversal by any Zoning Administrator or other administrative officer after 60 days have elapsed from the date of the written certification or determination where the person aggrieved has materially changed his position in good faith reliance on the action of the Zoning Administrator, unless it is proven that such written order, requirement, decision, or determination was obtained through malfeasance of the Zoning Administrator or through fraud. The 60-day limitation period shall not apply in any case where, with the concurrence of the attorney for the Board, modification is required to correct clerical or other nondiscretionary errors.

6.6 REVIEW OF PUBLIC FACILITY PROJECTS

- A. **Applicability.** As stated in [Section 1.3.1 \(Application to Federal, State, and Local Government\)](#), the provisions of this Ordinance, including the review processes set forth in this [Section 6](#), apply to development by Clarke County or its agencies, and to development by any other local government or its agencies within the unincorporated areas of Clarke County.
- B. **Public Facilities Review Process.** Prior to approval of a public facility, whether publicly or privately owned, a public facilities review process shall be completed in order to determine whether the proposed facility is in substantial accord with the [Clarke County Comprehensive Plan](#) per [Va. Code §15.2-2232](#).
 1. **Public Facility Review Process Applicability.** Public facilities are those facilities required to support the services and functions provided by County government or public utility companies. This review process applies to:
 - a. Any uses directly under the control of the County government.

ARTICLE I – ZONING ORDINANCE
2024 EDITION

- b. Any uses under the control of an authority or board appointed by the County government.
- c. Any uses under the control of a quasi-governmental entity which is directly supported with County funds.
- d. Proposals of other local governments (including towns and counties) to construct public facilities within the unincorporated areas of the County.

The review process does not apply to:

- a. Maintenance, repair, reconstruction, or improvement of existing public facilities.
- b. Extension of water and sewer infrastructure to individual customers within established service districts.

2. Review Procedures.

- a. Applicant submits a Public Facilities Review Process application to the Zoning Administrator containing a detailed description of the proposed facility and a justification of how it will be in substantial accord with the [Clarke County Comprehensive Plan](#). An application may be filed prior to or in conjunction with the filing of an application for an administrative and/or legislative review under this [Section 6](#).
- b. The Zoning Administrator forwards the application to the Director of Planning for staff-level review. The Director of Planning may consult with the County Attorney to assist with the application review.
- c. Upon completion of the staff-level review, the Zoning Administrator shall refer the application to the Planning Commission for review at the next regularly-scheduled business meeting following the preceding application filing deadline.
- d. The Commission shall review the application and take formal action on the application. Formal action shall be in the form of a resolution finding the proposed public facility either to be in substantial accord or not in substantial accord with the [Clarke County Comprehensive Plan](#). The Commission shall act within 60 days of the date of its initial review or the application shall be deemed approved.
- e. The Commission shall communicate its findings to the Board of Supervisors, indicating its approval or disapproval with written reasons therefor. The Board may overrule the action of the Commission by a vote of a majority of its membership.

ARTICLE I – ZONING ORDINANCE
2024 EDITION

- f. The owner or owners or their agents may appeal the decision of the Commission to the Board of Supervisors within 10 days after the decision of the Commission. The appeal shall be by written petition to the Board setting forth the reasons for the appeal. The appeal shall be heard and determined within 60 days from its filing. A majority vote of the Board shall overrule the Commission.

- g. No application for administrative and/or legislative review under this [Section 6](#) shall be approved until final action is taken on the public facilities review application.

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SECTION 7	DESIGN STANDARDS AND DEVELOPMENT REGULATIONS
<p>This Section contains the technical regulations that apply to the development and operation of certain uses enumerated in Section 5 (Uses). These regulations can apply to uses in specific zoning districts or to uses generally in all districts, and many are applied in conjunction with the review processes listed in Section 6 (Permits and Review Processes).</p>	

Table of Contents

Section	Title	Page(s)
7.1	Lot and Structure Regulations Generally	7-2 – 7-7
7.1.1	Lot Regulations and Measurements	7-2 – 7-5
7.1.2	Structure Regulations	7-5 – 7-7
7.2	Site Development Plan Design Standards and Development Regulations	7-8 – 7-40
7.2.1	Site Development Plan Requirements	7-8 – 7-11
7.2.2	Streets, Public Rights-of-Way, and Pedestrian Facilities	7-11 – 7-13
7.2.3	Public Utilities; Use of Private Wells and Onsite Sewage Disposal Systems	7-13 – 7-14
7.2.4	Landscaping Design Standards	7-14 – 7-23
	TABLE 7.2.4[1], Credit for Existing Trees	7-17
	TABLE 7.2.4[2], Buffer Area Width Requirements	7-17
	TABLE 7.2.4[3], Required Plant Material in Buffer Areas	7-18
	TABLE 7.2.4[4], Minimum Planting Size Requirements	7-18
	TABLE 7.2.4[5], Specifications for Trees and Shrubs	7-20
7.2.5	Parking Regulations	7-23 – 7-33
	TABLE 7.2.5[1], Factors for Joint Parking Facility Calculation	7-25
	TABLE 7.2.5[2], Minimum Off-Street Parking Requirements	7-25 – 7-32
	TABLE 7.2.5[3], Minimum Required Handicapped Accessible Spaces	7-32
7.2.6	Outdoor Lighting Standards	7-34 – 7-36
7.2.7	Environmental Reviews	7-36 – 7-39
7.2.8	Plan Approval and Construction	7-39 – 7-40
7.3	Wireless Communication Facility (WCF) Design Standards	7-40 – 7-52
7.4	AOC and FOC District Design Standards and Development Regulations	7-52 – 7-58
7.4.1	Vegetated Property Buffer Requirements – AOC District	7-52 – 7-53
7.4.2	Vegetated Property Buffer Requirements – FOC District	7-53 – 7-56
7.4.3	Outdoor Lighting Requirements	7-56
7.4.4	Private Driveway Standards	7-57
7.4.5	Use of Private Wells and Onsite Sewage Disposal Systems; Use of Public Water and Public Sewer	7-57 – 7-58

ARTICLE I – ZONING ORDINANCE
2024 EDITION

Section	Title	Page(s)
7.5	RR District Design Standards and Development Regulations	7-58 – 7-59
7.5.1	Outdoor Lighting Requirements	7-58
7.5.2	Use of Private Wells and Onsite Sewage Disposal Systems; Use of Public Water and Public Sewer	7-59
7.6	Historic Access Corridor (HC) Overlay District Design Standards	7-59 – 7-65
7.6.1	Standards for Properties Located Within the Berryville Annexation Area	7-59 – 7-61
7.6.2	Standards for Properties Located Outside of the Berryville Annexation Area	7-62 – 7-65
7.7	Annexation Area B Development Regulations	7-65 – 7-66
7.8	Sign Regulations	7-66 – 7-71
	TABLE 7.8[1], Freestanding Sign Area and Height Requirements by Zoning District	7-67 -7-68
	TABLE 7.8[2], Temporary Sign Maximum Area Requirements by Zoning District	7-70
7.9	Pre-Harvest Plan Regulations	7-72 – 7-74
7.10	Siting of Propane Tanks	7-74
7.11	Use of Private Access Easements	7-74 – 7-75
7.12	Parking and Storage of Inoperable Vehicles	7-75 – 7-76

7.1 LOT AND STRUCTURE REGULATIONS GENERALLY

7.1.1 Lot Regulations and Measurements.

A. Measurements

1. Lot Area. Lot area is determined by measuring the total horizontal area included within the lot lines of a lot excluding any street rights-of-way.
2. Lot Width. Lot width is determined by measuring the average horizontal distance between side lot lines.
3. Lot Depth. Lot depth is determined by measuring the average horizontal distance between the front lot line and the rear lot line, measured along a straight line.
4. Lot Coverage. Lot coverage is determined by measuring the total area of a lot that is occupied by buildings, structures, and other impervious surfaces.
5. Height. Unless otherwise provided for in this Ordinance, the height of a structure shall be the vertical distance measured from the finished ground floor elevation of the building to a specified point as follows:
 - Flat roof -- To the highest point of the roof surface

ARTICLE I – ZONING ORDINANCE
2024 EDITION

- Mansard roof -- To the deck line
 - Gable, hip, or gambrel roof -- To the mean height level between eaves and ridge
6. Distance. Unless otherwise specified, distances shall be measured horizontally and at right angles to the line in relation to which the distance is specified.
7. Floor Area Ratio – Floor area ratio shall be determined by measuring the floor area of all buildings on a lot to total lot area.
8. Net Developable Area -- For lots located in the Berryville Annexation Area, net developable area shall be determined by measuring the area of a lot excluding areas of the lot with the following characteristics:
- Areas in the one-hundred year floodplain
 - Areas containing and located within 25 feet of the discernible edge of sinkholes
 - Areas with slopes in excess of 25%
 - 50% of total lot area with slopes between 15% and 25% (the remaining 50% is included in the net developable acreage calculation)
 - Areas within existing public rights of way and easements
 - Areas within private roads, major access easements, and minor access easements
- B. Frontage on Corner Lots.** The shortest side fronting upon a street shall be considered the front of the lot, and the longest side fronting upon a street shall be considered the side of the lot.
- C. Regular Lots.**
1. Width Measurements. The width of a regular lot shall be determined by measurement across the rear of the required front yard between side lot lines, and such width shall not be less than eighty percent of the required width. However, in cases where lots front on curved or circular (cul-de-sac) streets, the radii of which do not exceed 90 feet, the distances between side lot lines (measured in a straight line) may be reduced to 60%.
2. Frontage.
- a. Regular Interior Lots: On regular interior lots, the front shall be construed to be the portion nearest the street.
 - b. Regular Corner Lots: On regular corner lots, the front shall be construed to be the shortest boundary fronting on a street. If the lot has equal frontage on two or more streets, frontage shall be construed in accordance with the prevailing building pattern, or the prevailing lot pattern if a building pattern has not been established.
 - c. Regular Through Corner Lots: On regular through corner lots, if the shortest boundary fronting on a street is eighty percent or more of the length of the longest boundary fronting on a street, the applicant may select either frontage if lot width requirements of the district are met.

- d. Regular Through Lots: On regular through lots, the lot shall meet the frontage requirement on at least one of the two streets.

3. Yards.

a. Yards Adjacent to Streets:

- (1) Front Yards: Front yards of the depth required in the district shall be provided across the frontage of a regular lot.
- (2) Other Yards Adjacent to Streets: Other yards adjacent to streets shall be provided across or along the portion of the lot adjacent to the street, and shall be half the minimum dimension for required front yards in the district.
- (3) Street Line for Measurement of Required Yards Adjacent to Streets: Where the lot line adjacent to a street is straight, required yards shall be measured from such line, extended in the case of rounded corners. On convex lots, a straight line shall be drawn between the two points at which lot lines from the portion of the lot involved intersects street lines, extended in the case of rounded corners. On concave lots, a straight line shall be drawn tangent to the arc of a curve at the street line, extended in the case of rounded corners. Depth of required yards adjacent to streets shall be measured perpendicular to such straight lines, and the inner line of such required yards shall be parallel to the outer line.

- b. Rear Yards on Interior Regular Lots: Rear yards on interior regular lots shall be provided at the depth required for the district, and shall run across the full width of the lot at the rear. Depth of a required rear yard shall be measured in such a manner that the yard is a strip of minimum depth required by district regulations with its inner edge parallel to its outer edge.

- c. Yards on Corner Lots: Regular corner lots shall be deemed to have two front yards (one adjoining each street on which the lot abuts) and two side yards. Through corner lots shall be deemed to have three front yards (one adjoining each street on which the property abuts) and one side yard.

- d. Side Yards on Regular Lots: Side yards on regular lots are defined as running from the required front yard line to the required rear yard line. On corner lots the required side yards shall run from the point where side yard lines intersect, to required front yards lines.

D. Irregular Lots.

- 1. Dimensional Requirements: An irregular lot shall be considered to meet the dimensional requirements of the district in which located, provided:

- a. Lot area shall meet district requirements for the proposed use. Lot width need not meet district requirements if requirements sets forth below are met.
- b. Open space in required yards and elsewhere on the lot shall be not less than as required for the use in the district on a regular rectangular lot of required minimum width and area.

ARTICLE I – ZONING ORDINANCE
2024 EDITION

- c. Building area remaining after required yards have been provided shall have dimensions and location appropriate for all buildings proposed.
 2. **Yard Requirements:** In general, all yards shall provide at least the same separation from all lot lines as required for minimum side yards in the district, provided, however, that where district regulations permit building to the lot line of a regular lot under specified circumstances, the same regulations shall apply on an irregular lot, except as provided with relation to accessory buildings in **Section 7.1.2C (Uses and Structures Permitted in Required Setback Areas)**. Additionally, if an irregular lot abuts a street at any point, a distance equal to the required yard on a regular lot adjacent to a street in the district shall be provided.
 - E. **Lot Coverage by Buildings.** Except as otherwise specifically provided, in computations to determine lot coverage by buildings, building coverage shall be construed as including all areas under roofs or projections from buildings on the lot.
 - F. **Visibility Clearance at Intersections.** For protection of vehicular, bicycle, and/or pedestrian movements at intersections, no structures, vegetation (including trees, shrubs, and hedges), or other materials shall be placed, constructed, or allowed to grow resulting in a sight distance impediment within visibility triangles described as follows:
 1. **At street intersections and commercial entrances.** The visibility triangle shall be determined in accordance with the Virginia Department of Transportation (VDOT) sight distance requirements.
 2. **At driveway intersection with streets.** The apex is at the intersecting public right-of-way line with the center of the driveway, the sides are 25 feet in length, and the base runs through the lot(s).
 3. **Exceptions.** Where terrain, historical, or long-standing existing features present substantial obstacles to provision and maintenance of such visibility triangles, the Zoning Administrator, upon consultation with VDOT officials, may permit the provision and maintenance of lesser visibility clearance, but such clearance shall be the maximum which is reasonably practicable to provide and maintain. In no case shall the visibility triangle for street intersections or commercial entrances be smaller than the area bounded by a triangle with sides 25 feet in length, the apex located at the intersecting right-of-way lines, and the base running through the lot(s).
- 7.1.2 Structure Regulations.**
- A. **General Requirements Concerning Arrangement and Location of Structures.** All buildings and structures shall be so located and arranged on lots as to provide safe and convenient access for firefighting equipment, servicing, and off-street parking located on the premises.

B. Erection of More Than One Principal Structure on Lot.

1. Structures Housing Principal Permitted Uses or Special Uses.
 - a. CN, CH, BC, B, BP, ITL Districts -- More than one structure housing a principal permitted use or a special use may be erected on a single lot, provided that yard, area and other requirements of this Ordinance shall be met for each structure as though it were on an individual lot.
 - b. AOC, FOC, RR, OSR, DR-1, DR-2, and DR-4 Districts -- Only one structure housing a principal permitted or one structure housing a use permitted with a Special Use Permit may be erected on a single lot, unless otherwise approved and permitted in conjunction with the granting of the Special Use Permit or unless otherwise permitted by this Ordinance.
2. Accessory Buildings. Unless approved as a non-residential building per [Section 5.2 \(Uses, Definitions, and Use Regulations -- County Districts\)](#), no accessory building larger than 150 square feet shall be erected on any lot without a building containing a permitted use or special use, or prior to the issuance of a building permit for a building containing a permitted use or special use.

C. Structures or Portions of Structures Permitted in Required Setback Areas. No structure or portion of any structure shall be permitted in any required setback area, however, the following structures may be permitted in required setback areas subject to the limitations established below.

1. Driveways or patios with an elevation that is no more than 24 inches above grade.
2. Fences and freestanding walls up to seven feet in height.
3. Building elements as enumerated below. Such elements or equipment may project into any required setback area, but shall be set back from property lines at least 50% of the minimum setback requirement:
 - Porches, balconies, or decks with a maximum area of 36 square feet and without roofs
 - Steps without roofs
 - Bay or bow windows
 - Projecting roof elements without columns
 - Chimneys
 - Eaves
 - Decorative architectural features which are not required structural elements of the building
 - Mechanical equipment essential to the building's heating, cooling, electrical, water or sewer/sewage disposal systems. This provision shall not apply to mechanical equipment housed within or supported on a separate, freestanding

ARTICLE I – ZONING ORDINANCE
2024 EDITION

structure such as an outdoor wood furnace or solar panels except as described in [Subsections 4 and 5](#) below.

4. Freestanding structures associated with a private well (such as a well head) or onsite sewage disposal system (such as a riser and associated equipment) may be located within a setback area subject to compliance with any other State or local ordinance requirements which govern the installation of such features.
5. Structures owned or provided by a public utility company or telecommunications service provider for the operations of an electrical, telephone, or internet system (such as a transformer, equipment box, meter, dish antenna, or utility pole) may be located within a setback area subject to compliance with any other State or local ordinance requirements which govern the installation of such features. This subsection shall not apply to wireless communication facilities (WCFs) per [Section 5 \(Uses\)](#).
6. Gasoline pump canopies shall not be closer than 10 feet to any property line or right-of-way.

D. Structure Height Regulations.

1. No building or structure shall be located on any property, which building or structure exceeds the height limitations set forth in the [Section 4 \(Zoning Districts\)](#). It is the intent of the height regulations to secure safety, to provide adequate light and air, and to protect the character of districts and the interests of the general public in important views.
2. Special maximum height requirements for certain structures and architectural features.
 - a. Freestanding flagpoles may exceed the maximum height limit established in each zoning district by 50%, but shall not exceed in height the distance from the nearest lot line.
 - b. Water tanks shall not exceed in height the distance from the nearest lot line.
 - c. Gables, penthouses, scenery lofts, residential chimneys, cupolas, spires, flagpoles, similar structures, smokestacks, and necessary mechanical appurtenances, may be erected on a building to a height greater than the limit established for the district in which the building is located; provided, that no such exception shall cover at any level more than 15% of the area of the roof on which it is to be erected; and provided, further, that no such exception shall exceed the maximum height established in the district by more than 40%.
 - d. A parapet wall, cornice, or similar projection may exceed the height limit established for each zoning district by not more than three feet, six inches.

7.2 SITE DEVELOPMENT PLAN DESIGN STANDARDS AND DEVELOPMENT REGULATIONS

This section contains the design standards and development regulations for the required components of the following administrative review processes:

- [Site Development Plan \(Section 6.2.2\)](#)
- [Site Development Plan Amendment \(Section 6.2.3\)](#)
- [Administrative Site Development Plan \(Section 6.2.4\)](#)

7.2.1	Site Development Plan Requirements
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- A. Required Components of a Site Development Plan.** The site development plan, or any portion thereof involving engineering, urban planning, landscape architecture, architecture or land surveying, shall be prepared by qualified persons. Site development plans shall be certified by seal and signature of an architect, engineer, or land surveyor licensed to practice by the Commonwealth of Virginia within the limits of their respective licenses. The site plan shall contain the following components, as applicable:
1. The proposed title of the project and the name of the engineer, architect, landscape architect or surveyor; the name of the developer; name and address of the property owner.
 2. Source of title of the owner of record, including deed book and page reference of the last instrument in the chain of title.
 3. A signature area containing the property owner’s signature and signature blocks for approval by the chair of the approval authority and the Zoning Administrator.
 4. North point, scale, and date.
 5. Vicinity map at a scale of one inch equals not more than 2,000 feet, showing the location of the project in relation to state roads and other prominent features.
 6. Total site acreage; acreage of individual lots and street rights-of-way.
 7. Existing zoning and zoning district boundaries for the subject property, and on immediately surrounding properties.
 8. The present owner and use of all properties contiguous or directly across any street.
 9. The boundaries of the property involved by bearings and distances, certified by a land surveyor licensed to practice in the Commonwealth of Virginia.

ARTICLE I – ZONING ORDINANCE
2024 EDITION

10. All existing property lines, existing streets, buildings, watercourses, waterways, lakes, and other existing physical features on or adjoining the property. Features on adjoining properties need only be shown in approximate scale and proportion.
11. Topography of the project area with contour intervals of two feet or less.
12. Building restriction lines.
13. Location and sizes of sanitary and storm sewers, gas lines, water lines, culverts, fire hydrants, and other above-ground or underground structures in or affecting the project, including existing and proposed facilities, and easements for these facilities.
14. The location, dimensions, name, and construction details (including typical sections) of proposed streets, alleys, driveways, and the location, type, and size of ingress and egress to the site.
15. The location of all proposed buildings and structures; number of stories and height; proposed general use of each structure; and the number, size, and type of dwelling units, where applicable.
16. Floor area ratio (FAR) and impervious surface coverage for all structures on the property.
17. Maximum number of employees anticipated, if industrial, commercial, or office; net density of dwelling units, if residential.
18. Elevation plans for all exterior facades of proposed structures, showing design features and indicating materials and colors to be used.
19. Proposed finished grading by contour, supplemented where necessary by spot elevations.
20. The location, dimensions and total area of proposed recreation, open space, and required amenities and improvements.
21. Development sequence for phased construction, if applicable.
22. Location and acreage to the nearest 0.1 acre of critical environmental areas, including the following:
 - Slopes between 15%-25%
 - Slopes greater than 25%
 - Rock outcroppings
 - Sinkholes
 - Floodplains and floodplain soils
 - Current drainage channels
 - Stormwater management facilities
 - Utilities

ARTICLE I – ZONING ORDINANCE
2024 EDITION

- Other sensitive areas defined by the Zoning Administrator
23. Landscaping plan demonstrating compliance with [Section 7.2.4 \(Landscaping Design Standards\)](#).
 24. Off-street parking plan demonstrating compliance with [Section 7.2.5 \(Parking Regulations\)](#).
 25. Outdoor lighting plan demonstrating compliance with [Section 7.2.6 \(Outdoor Lighting Standards\)](#).
 26. Erosion and sediment control plan demonstrating compliance with [Code of Clarke County Chapter 148 \(Erosion and Sediment Control\)](#). For projects requiring compliance with State stormwater management regulations, the applicant shall also provide the stormwater management plan and accompanying documentation that was submitted for compliance review to the State stormwater management review authority.
 27. Floodplain information for any portion of the subject property that is located in the Flood Plain (FP) Overlay District.
 28. The location, size, height, materials used, orientation, and illumination of proposed signs demonstrating compliance with [Section 7.8 \(Sign Regulations\)](#).
 29. Karst plan demonstrating compliance with [Section 7.2.7 \(Environmental Reviews\)](#), if applicable.
 30. If explosives are proposed to be used in conjunction with development shown on a site plan, a Blasting Plan shall be provided per [Code of Clarke County Chapter 86 \(Explosives\)](#), approved by the Board of Septic and Well Appeals.
 31. For projects using public water and/or public sewer, anticipated daily and peak water demand and sewage flows for the site shall be provided.
 32. Copies of construction profiles, traffic impact studies, and other transportation information that was submitted to the Virginia Department of Transportation (VDOT) for compliance review.
 33. For projects in the Berryville Annexation Area, a copy of all proposed homeowners' association bylaws, and other covenants or maintenance documents where common ownership is anticipated.
 34. A copy of any approved conditional zoning proffers, approved special use permit conditions, or variances previously granted for the property.

35. Surety estimates for all required improvements in accordance with [Section 8 \(Performance and Maintenance Guarantees\)](#).
 36. Any necessary notes required by the Zoning Administrator to explain the purpose of specific items on the plan.
 37. Additional information as deemed necessary by the approval authority or Zoning Administrator.
- B. Waiver of Requirements.** Any requirement of this Section may be waived by the approval authority where the waiver is not inconsistent with this Section, and the applicant establishes that an undue hardship would result from a strict enforcement of this Section, or that the requirement is unreasonable.
- C. Miscellaneous Design Criteria.** All other criteria and specifications shall be in accordance with County standards, where provided. Where County standards are not provided, the approval authority shall provide those standards or shall rule upon the standards proposed by the developer.

7.2.2	Streets, Public Rights-of-Way, and Pedestrian Facilities
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- A. Traffic Impact Study Required.** A traffic impact study is required when the proposed new development will generate traffic in excess of 1000 vehicles per day or when required by the Virginia Department of Transportation. If the proposed development generates less than 1000 vehicles per day, but the nearest intersection is known to be near its design capacity, or there is a high accident rate as determined by the Planning Commission, a traffic impact study may be required. The parameters of the traffic impact study will be decided by the Planning Commission, however, the methodology for preparing the study will be that found in the VDOT Design Manual.
- B. Construction, Dedication, and Improvement.** Streets shall be dedicated and constructed, driveways, access roads and rights-of way shall be constructed, and existing streets shall be widened and improved as necessary when the need for such streets and improvements is generated by the proposed development.
- C. Construction and Design Standards.** All street construction standards and geometric design standards shall be in accord with the standards of [Article II, Subdivision Ordinance](#), the Virginia Department of Transportation, or other standards provided by the County.

D. Public Road Access Required; Provision of Shared Access and Interconnection with Adjacent Lots.

1. All development shall have direct access to public dedicated and State maintained roads. Lots with less than 70 feet of frontage shall not have a permanent single separate access to any primary road unless the physiography, shape or size of the tract precludes other methods of access. Common (joint) access shall be used where available. The site design of new commercial development with access to a primary highway shall include interconnection and shared driveways with adjoining commercial property (vacant or developed) and, if conditions warrant, frontage roads.
2. The Planning Commission may allow temporary access points if phased development is occurring, as long as a plan is approved that guarantees the new commercial/industrial development shall design site access so that interconnection with an adjoining property, shared driveways, or a frontage road can be incorporated into the design. Except where impractical by reason of topography hardship, the area between the frontage road and the primary highway shall be sufficient to provide area for scenic planting and screening. The dimension of the area between the frontage road and the primary highway shall be determined after due consideration of traffic safety requirements. Driveway spacing and corner clearance with public highways (the distance from the nearest driveway travel lane centerline to the nearest street corner right-of-way) shall be:

Roadway	Driveway Spacing/Corner Clearance
Frontage	100 feet
Secondary	600 feet
Primary	600 feet where there is no median opening; 1000 feet where there is a median opening

3. Streets and rights-of-way shall permit access to adjoining properties in conformance with the [Clarke County Comprehensive Plan](#), the [Berryville Area Plan](#), and applicable implementing component plans.

E. Multiple Access Points Required. Where traffic generated from an entire development exceeds 2,000 vehicle trips per day, such development shall provide access points to existing public roads at two or more locations. Where only one access point is physically achievable, the connecting portion of the entrance road must be a four-lane divided road extending not less than 250 feet into the development. No internal vehicular connection shall be permitted on this entrance section.

F. On-site Travel Way Design Standards. On-site travel ways shall be designed with the following standards:

1. Turn Radius: Minimum turn radii shall be 25 feet (increased radii to be provided if site is to be used by large truck traffic).

2. Driveway Width: Maximum driveway width of 14 feet per lane if one-way in and one-way out, 11 feet per lane for multi-lane entrance/exit.
 3. Driveway Throat Length: To be determined on a case by case basis; desired length will depend on vehicle peak hour demand and resultant expected queuing needs.
 4. Right/Left Lanes: Required when right/left turn volume into or from the subject site exceeds 300 vehicles per lane
 5. Taper Lane: The Planning Commission may require an on-site right turn taper when right turn traffic volumes are less than 300 vehicles per hour.
- G. Cul-de-sacs.** Cul-de-sacs shall be designed and constructed in accordance with Virginia Department of Transportation (VDOT) requirements. Cul-de-sacs may not be used as parking areas.
- H. Sidewalks, Paths, and Walkways.** Sidewalks, paths, and/or walkways shall be provided to enable the public to walk safely and conveniently from one building to another on the site, to and from adjacent sites, and to and from sidewalks in the public right-of-way. The construction material to be used must meet the approval of the approval authority.
- I. Curb and Gutter.** Curb and gutter (CG-6 or approved equivalent) shall be required on all new public streets in the CH District. The approval authority may require curb and gutter on off-street parking areas, service drives, private streets and around medians, where warranted by conditions. Upon recommendation from the Virginia Department of Transportation, the approval authority may waive the requirement for curb and gutter when in keeping with existing conditions on adjacent sites, and when safe travel and adequate stormwater management can be assured without curb and gutter. In the AOC, FOC, RR, and CN Districts, curb and gutter shall not be required unless site conditions warrant.

7.2.3	Public Utilities; Use of Private Wells and Onsite Sewage Disposal Systems
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- A. Utilities and Utility Easements.** All utilities necessary to serve the proposed development shall be installed by the developer, and shall be installed underground in accordance with the appropriate facilities plans; provided however, that:
1. Equipment such electric distribution transformers, switch gear, meter pedestals and telephone pedestals, which are normally installed aboveground, may continue to be so installed.
 2. Meters, connections, and similar equipment normally attached to outside walls, may be so installed.

3. Dedications of right-of-way easements shall be made for all utilities and facilities that are intended to be publicly maintained. Easements shall be clearly defined for the purposes intended. Minimum easement widths shall be as specified by the approval authority or utility company.

B. Public Water and Public Sewer Systems.

1. No use shall be served by a public water or public sewer system that is not owned and/or operated by a governmental entity authorized to provide such utility service by the Clarke County Board of Supervisors.
2. All public water distribution and public sewer collection systems shall be designed to accommodate normal and peak demand loads. All such systems shall be designed to meet or exceed the regulations and specifications of the Clarke County Sanitary authority and/or any other applicable federal, state, or local agency.

- C. Use of Private Wells and Onsite Sewage Disposal Systems.** Private wells and onsite sewage disposal systems proposed for use shall be designed in accordance with [Code of Clarke County Chapter 143 \(Septic Ordinance\)](#) and [Chapter 184 \(Well Ordinance\)](#), the regulations of the Virginia Department of Health, and any other applicable regulations.

7.2.4	Landscaping Design Standards
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A. Purpose. The purpose of this section is to:

- Provide for the protection of ground water, improve air quality and stormwater management through the mitigating effects of trees;
- Preserve property values and retain the character of an area in a way that is conducive to economic development;
- Make incompatible land uses less disagreeable by requiring screening in order to minimize the harmful impact of noise, dust and vehicle headlight glare;
- Require landscaping of parking lots to reduce the harmful effects of wind, heat, noise and vehicle headlight glare;
- Improve the aesthetic appearance of commercial, industrial and residential areas to help create an attractive and harmonious community;
- Provide for site development protecting the health safety and welfare of the public and in conformance with zoning regulations; and
- Provide for preservation, planting, and replacement of trees in the development process.

B. Preparation of Landscaping Plan and Certification of Plantings

1. For projects resulting in land disturbance requiring submission of an erosion and sediment control plan, the landscaping plan shall be prepared and sealed by a certified landscape architect. For projects that do not require submission of an erosion and sediment control plan, the landscaping plan may be prepared and sealed by an architect, engineer, or surveyor.
2. The size, species, and health of any existing trees proposed for credit against required landscaping in accordance with this section shall be inspected and certified by a certified landscape architect or by a professional with a landscaping or horticultural background such as:
 - Certified arborist (International Society of Arboriculture)
 - Registered consulting arborist (American Society of Consulting Arborists)
 - Certified member, Virginia Landscape Designers
 - Licensed Virginia nurseryman
 - Any other professional determined to be qualified by the Zoning Administrator
3. The final installation of all plantings shall be inspected and certified in writing by a certified landscape architect or by any of the landscaping professionals listed in [Subsection 2](#) above.

C. Existing Trees

1. Existing trees with all of the following characteristics shall be preserved within required buffer areas:
 - For large or medium canopy trees, trees with a diameter of eight inches or greater measured 4.5 feet above the ground;
 - For small canopy trees, trees with a diameter of four inches or greater measured 4.5 feet above the ground;
 - Trees of any size that are a native species;
 - Trees of any size that are in a healthy condition; and
 - Trees of any size that are located on the subject property for a minimum of two years before site development plan application.

The location of all wooded areas outside of required buffer areas shall be shown on the landscaping plan. All individual large or medium canopy trees with a diameter of eight inches or more (measured 4½ feet above the ground) and all small canopy trees with a diameter four inches or greater (measured 4½ feet above the ground) that are located within the areas proposed for clearing and within 20 feet of the proposed limit of clearing shall be identified on the landscaping plan. The landscaping plan shall provide an indication of which trees in these areas are to be retained and which are to be removed.

ARTICLE I – ZONING ORDINANCE
2024 EDITION

Existing trees that constitute a sight distance hazard at an access point to a public road may be pruned or removed.

2. Tree Protection during Construction.

- a. Tree preservation areas shall be identified on the landscaping plan and construction plans. “Critical root zones” (CRZ) shall be delineated on the plans and clearly marked and protected in the field. Field delineation of tree preservation areas and critical root zones shall be inspected by County staff prior to any land disturbance. The CRZ is the area located underneath the tree drip line.
- b. Before any land disturbance, suitable protective barriers, such as safety fencing, shall be erected outside of the CRZ of any tree or stand of trees to be preserved. Protective barriers shall remain so erected throughout all phases of construction. No grade changes or storage of equipment, materials, debris, or fill shall be allowed within the area protected by the barrier. No construction traffic, parking of vehicles or disposal of liquids is permitted within the CRZ.
- c. Trees likely to die as a result of site disturbance activities within 25 feet of the safety fence, as identified in the tree conservation plan, shall be removed.

3. Replacement of Existing Trees Damaged/Destroyed during Construction.

- a. Any existing tree that is destroyed or irreparably damaged during construction shall be replaced with a new tree of the same type (large/medium/small canopy, evergreen) that complies with the minimum planting size requirements of this section.
- b. Any damage to existing trees that occurs shall be remediated in accordance with this section. If a violation is discovered during the land clearing, land disturbance, or construction process, no certificate of occupancy (temporary or permanent) or surety release shall be granted until the violation is remediated and such remediation is inspected and approved by the Zoning Administrator. If a violation is discovered after completion of construction, it shall be remediated within thirty (30) days of the date of written notice by the Zoning Administrator. The Zoning Administrator may grant additional time to complete remediation activities if such timeframes will help ensure viability of replacement plantings due to weather or seasonal conditions.

4. Credit for Preservation of Existing Trees. Existing trees located within a required buffer area that are healthy, native species and have a caliper of 2 inches or more may be credited towards new trees required by this section. In order to receive credit for existing trees, the specific location of such trees shall be shown on the landscaping plan with a notation indicating the species of each tree, its condition, and its caliper size. Each qualifying tree shall result in a credit against any required tree in accordance with [Table 7.2.4\[1\]](#) below:

TABLE 7.2.4[1] – CREDIT FOR EXISTING TREES

Existing Tree Caliper	Tree Credit
2-4 inches	1
5-9 inches	2
10-14 inches	3
15-19 inches	4
20 inches or more	5

Credit for preservation of existing trees located outside of a required buffer area may be given with the submission of an alternative landscaping plan in accordance with [Subsection H](#).

D. Buffer Area Landscaping.

1. Purpose and application. Buffer areas provide for plant material screening between adjacent land uses and along public rights of way. Buffer areas are required to run the length of adjacent property boundaries and public rights of way. Buffer areas shall not be used for buildings, the storage of materials, display of merchandise, or vehicular parking. Except for mulched areas adjacent to plant material, buffer areas shall have a living ground cover.
2. Buffer area widths between properties with different zoning district classifications shall be in accordance with [Table 7.2.4\[2\]](#) below:

TABLE 7.2.4[2] – BUFFER AREA WIDTH REQUIREMENTS

	Agricultural	Residential	Business	Institutional	Industrial	Public Right of Way
Business	25 feet	25 feet	n/a	n/a	10 feet	10 feet
Institutional	25 feet	25 feet	n/a	n/a	10 feet	10 feet
Industrial	25 feet	25 feet	10 feet	10 feet	n/a	10 feet

The following zoning districts compose each of the categories in [Table 7.2.4\[2\]](#):

- “Agricultural” includes the following districts – AOC, FOC
- “Residential” includes the following districts – RR, OSR, DR-1, DR-2, DR-4
- “Business” includes the following districts – CN, CH, BC, B,
- “Institutional” includes the following district -- ITL
- “Industrial” includes the following district – BP

3. Required plant material in buffer areas shall be in accordance with [Table 7.2.4\[3\]](#) below:

TABLE 7.2.4[3] – REQUIRED PLANT MATERIAL IN BUFFER AREAS

Buffer Area Type	Plant Type	Required Plant Material
10-foot buffer areas	Large Canopy Trees	1 per 500 square feet of buffer area
	Medium Canopy Trees	None required
	Small Canopy Trees	1 per 1000 square feet of buffer area
	Evergreen Trees	1 per 500 square feet of buffer area
	Shrubs	1 per 50 square feet of buffer area
25-foot buffer areas	Canopy Trees – All Sizes	1 per 750 square feet of buffer area
	Evergreen Trees	1 per 250 square feet of buffer area
	Shrubs	1 per 50 square feet of buffer area

4. The minimum size of required trees or shrubs at the time of planting shall be in accordance with [Table 7.2.4\[4\]](#) below. Caliper is measured six inches above the soil on trees up to three inches in caliper, and twelve inches above the soil on trees greater than three inches in caliper.

TABLE 7.2.4[4] – MINIMUM PLANTING SIZE REQUIREMENTS

Plant Type	Minimum Size at Time of Planting	Minimum Distance Between Plantings
Large Canopy Trees	2” caliper	10 feet from other trees
Medium Canopy Trees	2” caliper	10 feet from other trees
Small Canopy Trees	6 feet tall	10 feet from other trees
Evergreen Trees	6 feet tall	10 feet from other trees
Shrubs	18 inches tall	n/a

- E. Screening of Outdoor Storage Areas.** All outdoor storage areas shall be screened from all public streets and adjacent properties. Screening shall be comprised of fences or walls with a minimum height of six feet. Fences and walls used for screening shall be solid and should be the same material as the primary site structure. Use of chain link, plastic, fiberglass, and plywood shall not constitute a screening fence or wall.
- F. Parking Lot Landscaping.** Landscaping shall be provided in required parking areas, in addition to required buffer area plantings. The requirements of this section shall apply to the construction or enlargement of any parking lot containing eight or more spaces.
1. One large canopy tree or two medium canopy trees are required for every eight parking spaces.

ARTICLE I – ZONING ORDINANCE
2024 EDITION

2. A landscape island for each large canopy tree or two medium canopy trees shall be no less than three hundred square feet of permeable, unpaved area, and have a minimum width of nine feet.
3. Landscape areas within the parking lot shall be reasonably dispersed throughout the parking lot.
4. Except for mulched areas adjacent to plant material, landscape islands shall have a living ground cover.

G. Plant Material Type and Location Specifications

1. Schedule. All plans shall contain a schedule of plants proposed, indicating the number proposed, caliper or gallon size, and both common and botanical names.
2. Condition. All plant material shall comply with the [American Standard for Nursery Stock \(ANSI Z60.1-1996\)](#). All plants shall be well formed, vigorous, healthy and free of disease, sunscald, windburn and insects or their eggs.
3. Diversity. No single species of tree or shrub shall comprise more than 1/3 of the total number of trees or shrubs to be planted.
4. Sight Distance. No tree, shrub, hedge or existing vegetation shall be planted or maintained in a way that interferes with prescribed sight distances.
5. Plantings Located Under Utility Lines. Small Canopy Trees shall be substituted for Large Canopy Trees where buffer areas are located under and parallel to overhead utility lines.
6. Planting. All plant material shall be installed in accordance with good trade practices. Trees shall be planted at least ten feet apart unless otherwise approved in an alternative landscaping plan. All trees and shrubs shall be native to the region if possible. Non-native species are allowed if they will grow in this region's environmental conditions and are non-invasive.
7. Revegetation of Disturbed Areas. Disturbed areas not covered by paving, stone, or other solid materials shall be revegetated with plant species that are compatible with the natural vegetation and tree cover and that have low water and nutrient requirements. Xeriscape practices (use of native plant materials and landscape materials that have low water and nutrient requirements) is encouraged. The landscape plan shall state the degree to which xeriscape practices are being applied.
8. Specifications for Trees and Shrubs. The specifications for all canopy trees, evergreen trees, and shrubs shall be as enumerated in [Table 7.2.4\[5\]](#) below.

TABLE 7.2.4[5] – SPECIFICATIONS FOR TREES AND SHRUBS

Tree/Shrub Type	Specifications
Large Canopy Trees	<u>Mature Height</u> – Over 45 feet
	<u>Typical of but not limited to</u> -- Maples or Oaks
	<u>PROHIBITED SPECIES</u> -- Female Ginkgo (Ginkgo biloba), Silver Maple (Acer saccharinum), or Tree of Heaven (Ailanthus altissima)
Medium Canopy Trees	<u>Mature Height</u> – 30-45 feet <u>Spread</u> – 30 feet
	<u>Typical of but not limited to</u> -- Honeylocusts (Gleditsia triacanthos), Blackgums (Nyssa sylvatica) or American Hophornbeams (Ostrya virginiana)
Small Canopy Trees	<u>Mature Height</u> – Up to 30 feet <u>Spread</u> – Equal
	<u>Typical of but not limited to</u> -- Flowering Crabapple (Malus sp.) or Redbud (Cercis canadensis)
	<u>PROHIBITED SPECIES</u> -- Bradford Pear (Pyrus calleryana)
Tree/Shrub Type	Specifications
Evergreen Trees	<u>Mature Height</u> – Minimum of 10 feet
	<u>Typical of but not limited to</u> -- American Arborvitae (Thujaoccidentalis) or American Holly (Ilex opaca).
	<u>PROHIBITED SPECIES</u> – Leyland cypress
Shrubs	<u>Mature Height</u> – Minimum of 3 feet
	<u>Typical of but not limited to</u> -- Inkberry (Ilex glabra), Sweetshrub (Claycanthis floridus), and Cherrylaurel (Prunus caroliniana)
	<u>Special Requirements</u> -- Include evergreen varieties for at least 50% of the shrubs planted.

H. Alternative Landscaping Plan.

1. An alternative landscaping plan may be approved by the Planning Commission where a deviation from the requirements of this section is justified because of site or development conditions that make strict compliance with such requirements impossible or impractical, or when a different landscaping approach is desired to meet the purpose of this section. Conditions justifying approval of an alternative landscaping plan include but are not limited to:
 - a. Natural conditions such as topography, rock formations, and watercourses.
 - b. The likelihood that landscaping material would be ineffective at maturity due to site conditions.
 - c. Lot size or configuration.
 - d. Road rights-of-way, utility easements, or other easements.
 - e. Potential for interference with vehicular sight distance or public safety (including crime prevention through environmental design (CPTED) methods).
 - f. Other situations in which strict adherence to the landscaping or tree protection standards in this section are determined to be impractical by the Commission.
2. All requests for approval of an alternative landscaping plan shall be reviewed and acted upon by the Planning Commission.
3. Allowable deviations from the requirements of this section include but are not limited to:
 - a. Reduced planting rates and locations due to presence of public facilities. An adjustment to planting locations or reduction in the total number of required trees and shrubs may be allowed when underground connections to public facilities or utilities, or public easements or rights-of-way, are located upon or in close proximity to the parcel.
 - b. Reduced planting rates and locations due to nature of lot. An adjustment to planting locations, plant type, or reduction in the total number of required trees and shrubs may be allowed to provide enhanced protection of natural resources, greater consistency with the intent of this section, or to provide a site design that exceeds the quality and effectiveness of what would otherwise result under a strict application of the regulations in this section.
 - c. Reduced planting rates and locations due to nonconformities of lot. An adjustment to planting locations or reduction in the total number of required trees and shrubs may be allowed in cases in which a lot is nonconforming to dimensional requirements.
 - d. Upgrading of nonconforming landscaping. An adjustment to planting locations or reduction in the total number of required trees and shrubs may be allowed in conjunction with an upgrading of nonconforming landscaping.
4. Screening fences or walls may be proposed as a substitution for required landscaping for business, institutional, or industrial buffer areas adjacent to agricultural or residential zoning districts. Such fences or walls shall be a minimum of six feet in height, solid, and

ARTICLE I – ZONING ORDINANCE
2024 EDITION

composed of the same or compatible all-weather materials as the primary structure on the site.

5. Installation of additional hardy plant material such as non-invasive ornamental grasses and perennials, and usage of rain catchment systems, are encouraged as part of an alternate landscaping plan.
- I. Maintenance Standards.** The owner or their agent shall be responsible for the general maintenance of all landscaped areas delineated on the site development plan in accordance with the requirements set forth below. Any landscaping that dies, including preserved existing trees, shall be replaced with new plants. Any existing tree for which credit was given on the approved landscaping plan that dies shall be replaced with the credited number of new trees.
1. Landscaped areas shall be annually mulched to prevent weed growth and to retain soil moisture.
 2. Plant material shall be pruned to maintain healthy and vigorous growth. All pruning shall be performed in accordance with [American National Standards Institute ANSI A300-1995, Tree, Shrub and Other Woody Plant Maintenance-Standard Practices](#), such that no trees are topped or large stub cuts are made.
 3. All turf areas shall be mowed.
 4. Watering shall be carried out as part of the initial installation of plant material to prevent plant loss.
- J. Performance Guarantee.** Installation of all landscaping in accordance with the approved plan shall be required prior to issuance of a certificate of occupancy unless a performance guarantee is provided and approved in accordance with [Section 8.1 \(Performance Guarantees\)](#).
- K. Maintenance Guarantee Required.** A maintenance guarantee as described in [Section 8.2 \(Maintenance Guarantees\)](#) shall be provided for all existing trees and new plantings for a period of one year from the date of issuance of a certificate of occupancy, or for one year from the date of final installation of required plantings subject to a performance guarantee approved per [Subsection J](#) above. Such guarantee may be released following inspection by the Zoning Administrator including confirmation that any dead or dying plants have been replaced in accordance with this section.
- L. Protection of Public Trees.** All publicly owned property that contains trees shall be protected from construction of any building, structure, or street work by maintaining current grade and installing a four foot high fence during site disturbance for the circular area centered on the tree with a diameter 1.5 times the canopy spread. Public trees that die because they were not protected from construction shall be replaced by the property

owner with trees similar in size, variety, and location approved by the Zoning Administrator.

- M. Enforcement.** The enforcement of this section shall be the responsibility of the Zoning Administrator or designee. The final Certificate of Occupancy shall not be signed until all required trees, shrubs and screening material are installed and verified by the Zoning Administrator in accordance with the approved site development plan.

7.2.5 Parking Regulations

- A. General Specifications.** There shall be provided at the time of erection of any building or at the time any building is altered, enlarged, or increased in size, the required minimum off-street parking spaces as provided in [Table 7.2.5\[2\], Minimum Off-Street Parking Requirements](#) for the specified uses. Said space or spaces shall be properly related to a street for access purposes, to maneuvering space of sufficient dimensions such that users may find safe and convenient parking movements without resorting to maneuvering on any street or sidewalk. Spaces and access ways shall be located, arranged, and safeguarded so as to provide appropriate separation from streets and walkways. Spaces shall be so arranged that any vehicle may be moved without moving another.
- B. Construction and Design Standards.**
1. All off-street parking spaces and access driveways shall be covered with an all-weather surface, shall be graded and drained, to dispose of surface water, and shall be constructed and maintained in a manner permitting safe and convenient use. An all-weather surface shall consist of a concrete, asphalt, or macadam surface designed for commercial uses.
 2. No surface water from any parking area or access driveway shall be permitted to drain onto adjoining property so as to change existing drainage patterns or so as to cause damage to adjoining property from any increased runoff.
 3. For parking areas with spaces arranged at 90° to access driveways, standard off-street parking spaces shall be 9 feet wide and 18 feet long. However, up to 33% of provided off-street parking spaces may be for compact cars (defined as vehicles of 14 feet, 6 inches in length or less); such spaces shall be 8 feet wide and 16 feet long. Signage for such compact car spaces shall be provided, to the extent determined appropriate by the Zoning Administrator. Access driveway aisles shall be 24 feet wide.
 4. For parking areas with spaces arranged at an angle less than 90° to access driveways, space and driveway dimensions shall follow standard engineering practice as determined appropriate by the Zoning Administrator.
- C. Parking Prohibited in Required Yards Adjacent to Streets.** Except as otherwise specifically provided herein, no off-street parking areas for four or more automobiles

shall be permitted in any required yard adjacent to a street, nor shall any maneuvering areas serving such spaces be so located.

D. Buffer Required Where Adjoining Property is Zoned Residential.

1. Where off-street parking areas for four or more automobiles, or loading or service areas, are to be located closer than 50 feet to a lot in any residential zoning district, or to any lot upon which a dwelling exists as a conforming use under these regulations, without an intervening street, and where such parking, loading or service areas are not entirely screened visually from first floor residential windows at such adjacent locations, there shall be provided on the lot with the parking a continuous visual buffer with a minimum height of 6 feet. The buffer shall be a compact evergreen hedge or other foliage having the same effect, or shall be combined fence or wall with shrubbery screening on the side toward the residential lot.
2. No such buffer shall extend to any required yard adjacent to a street, or be so located as to interfere with traffic visibility required for reasons of safety.

E. Limitations on Use.

1. No required off-street parking shall be used for the sale, repair, dismantling, or servicing of any vehicles, equipment, materials, or supplies, and no other parking or other area on a lot shall be used for such purposes unless permitted under the use regulations for an allowable use as set forth in [Section 5 \(Uses\)](#).
2. Off-street parking (whether on-site or off-site) shall be allowed only for permitted uses, accessory uses, or special uses that are allowed by the use regulations of zoning district in which the off-street parking is located.

F. Parking to be Located on Same Lot as Principal Use; Exceptions. Required off-street parking facilities shall be on the same lot with the principal use or structure. Where it is impractical to provide all or part of required off-street parking on the same lot, exceptions may be permitted by the Planning Commission in conjunction with the review of a site development plan ([Section 6.2.2](#)) or site development plan amendment ([Section 6.2.3](#)) subject to the following:

1. Buffering and design and improvement standards applying generally to off-street parking.
2. Special conditions and safeguards called for in the circumstances of the case.
3. Requirements of satisfactory assurance that such required parking will remain available for the use or structure, or that equivalent similarly approved parking will be provided before such parking is diminished in whole or in part.

G. Joint Parking Facilities.

1. Where there are multiple uses on one lot, or where uses on adjoining lots propose to combine parking areas and/or access ways, such joint parking facilities shall be permitted, subject to the general requirements and limitations applying to all parking areas. Such combinations shall be permitted by the Zoning Administrator subject to the general requirements and standards set forth.
2. Where it is proposed to establish off-street joint parking facilities not contiguous to the uses served, but serving more than one use, such facilities may be permitted by the Planning Commission in conjunction with a site development plan or site development plan amendment review.
3. In joint parking facilities of multiple uses, the total number of parking spaces must at least equal the sum of the minimum number of required off-street spaces computed separately for each use with the following factors divided into this sum as described in [Table 7.2.5\[1\]](#) below.

TABLE 7.2.5[1], FACTORS FOR JOINT PARKING FACILITY CALCULATION

	Retail	Lodging	Office
Retail	1.0	1.3	1.2
Lodging	1.3	1.0	1.7
Office	1.2	1.7	1.0

Example:

Retail Use A requires a minimum 30 parking spaces and Lodging Use B requires a minimum of 40 parking spaces. Calculation would be $30 + 40 = 70 \div 1.3 = 54$ spaces required.

When more than two of the three above uses share parking, the lowest factor shall be used. For multiple uses involving uses not listed above, the Zoning Administrator shall determine the appropriate reduction factor based on the specific characteristics of such uses.

H. Other Areas Not Used to Meet Requirements. Loading or other non-parking areas shall not be included to meet off-street parking requirements.

I. Computation of Requirements. The following rules shall apply to computation of off-street parking requirements:

- a. Fractional Spaces: Where requirements result in computations including fractional off-street parking spaces, any fraction up to and including one-half shall be disregarded and fractions over one-half shall be counted as one space.

ARTICLE I – ZONING ORDINANCE
2024 EDITION

b. **Computing Number of Employees:** Where requirements are based on number of employees, number shall be computed as the average number employed on the shift with the highest usual employment.

J. Off-Street Parking Standards. Unless otherwise provided for in this Ordinance, the minimum number of required off-street parking spaces shall be as listed in [Table 7.2.5\[2\], Minimum Off-Street Parking Requirements](#). The maximum number of provided off-street parking spaces shall not exceed 150% of the minimum required.

TABLE 7.2.5[2], MINIMUM OFF-STREET PARKING REQUIREMENTS

This table contains the minimum parking requirements for County Uses, Annexation Area Uses, and Temporary Uses found in [Section 5 \(Uses\)](#).

Agricultural Uses	
<u>County Uses (Section 5.2)</u>	
No minimum parking requirements for County agricultural uses: Agriculture; Farm Brewery; Farm Winery; Farm Distillery; Forestry; Intensive Livestock, Dairy, or Poultry Operation; Livestock Auction Market; Small-scale Processing of Fruits and Vegetables; Wholesale or Retail Sale of Agricultural Products	
<u>Annexation Area Uses (Section 5.3)</u>	Minimum Parking Requirements
Agriculture	None
Plant nurseries	1 space per 250 square feet of floor area
Residential Uses	
<u>County Uses (Section 5.2)</u>	Minimum Parking Requirements
Accessory Apartment	1.5 spaces
Accessory Structure	None
Commercial District Accessory Dwelling	2 spaces
Group Home	1 space for each residence unit plus 2 spaces for employees
Home Garden	None
Home Occupation	See Use Regulations
Manufactured Home	2 spaces
Minor Dwelling	1.5 spaces
Single-Family Dwelling	2 spaces
Temporary Family Health Care Structure	1.5 spaces
Tenant House	2 spaces

ARTICLE I – ZONING ORDINANCE
2024 EDITION

<u>Annexation Area Uses</u> <u>(Section 5.3)</u>	Minimum Parking Requirements
Accessory Structure	None
Home Occupation	See Use Regulations
Housing for Low and Moderate Income Households	<u>Single-family</u> – 2 spaces per unit; <u>Townhouse</u> – 2 spaces per unit; <u>Multi-Family</u> – 1.5 per unit
Single-family Detached Dwelling	2 spaces
Temporary Family Health Care Structure	1.5 spaces
Business Uses	
<u>County Uses (Section 5.2)</u>	Minimum Parking Requirements
Automobile Repair Business	2 spaces for each bay plus one space for service vehicle
Bowling Alley	4 spaces per alley
Catering	1 per 200 square feet of floor area
Commercial Boarding Kennel, Commercial Breeding Kennel	1 space for every 4 canine runs, 2 dogs per run
Commercial Center	1 space per 250 square feet of floor area
Commercial Recreational Uses and Structures	1 space for every 4 persons based on Building Code design capacity
Convenience Store with Gasoline Sales	1 space per 200 square feet of floor area
Country Inns	1 space per guest room
Day Care Center	1 space per 200 square feet of floor area
Financial Institutions	1 space per 200 square feet of floor area
Farm Machinery Sales and Service	1 space per 250 square feet of floor area
Farm Supplies Sales	1 space per 250 square feet of floor area
Feed and Grain Mill	1 space per 200 square feet of floor area
Firearms Sales and Service	1 space per 250 square feet of floor area
Funeral Home	1 space for every 4 seats in assembly rooms with fixed seats; 1 space for every 4 people based on Building Code design capacity for assembly rooms without fixed seats
Hotels	1 space per guest room
Limited Extraction of Natural Resources	None
Personal Service Business	<u>Barber or beauty salon</u> – 2 spaces per chair; <u>Laundromat</u> – 1 space for every 2 cleaning or laundry machines; <u>All Other Uses</u> – 1 space per 200 square feet of floor area
Professional Service Business	1 per 333 square feet of floor area

ARTICLE I – ZONING ORDINANCE
2024 EDITION

Restaurants	<u>With Drive-Through</u> – 1 space per 60 square feet plus 3 queuing spaces for drive-through; <u>Without Drive-Through</u> – 1 space per 100 square feet OR 1 space per 4 persons based on Building Code design capacity, whichever is greater
Retail Business	1 space per 250 square feet of floor area
Sawmill	None
Self-Service Storage Facility	1 space per employee
Shop for Welding, Blacksmith, Tinsmith, Woodworking	1 space per 500 square feet of floor area plus required spaces for office, retail, or other uses, and to accommodate all trucks and other vehicles used in connection therewith
Solar Power Plant	None
Specialty Trade Contractor	1 space per 200 square feet of floor area
Veterinary Clinic	1 space per 300 square feet of floor area
Wireless Communication Facilities	None
<u>Annexation Area Uses</u> <u>(Section 5.3)</u>	Minimum Parking Requirements
Antique Sales (indoor only)	1 space per 250 square feet of floor area
Auction Establishments (indoor only)	1 space per 250 square feet of floor area
Automobile Sales	1 space per 250 square feet of floor area
Automobile Service and Repair Establishments (including gas stations)	2 spaces for each repair bay plus 1 space for service vehicle; 2 standing spaces for each gasoline pump
Bakeries (with accessory retail sales)	1 space per 250 square feet of floor area
Bed and Breakfast Lodging	1 space per guest room
Broadcast Station, Studios, and Offices for Radio and Television	1 space per 333 square feet of floor area
Car Washes	1 space per 200 square feet of floor area
Cleaning of Carpets and Rugs	1 space per 200 square feet of floor area
Contractor's Establishments	1 space per 200 square feet of floor area
Country Inn	1 space per guest room
Day Care Centers	1 space per 200 square feet of floor area
Financial Institutions (with or without drive-thru windows)	1 space per 200 square feet of floor area
Funeral Homes	1 space for every 4 seats in assembly rooms with fixed seats; 1 space for every 4 people based on Building Code design capacity for assembly rooms without fixed seats
Grocery Store (with at least 25,000 square feet gross floor area)	1 space per 250 square feet of floor area

ARTICLE I – ZONING ORDINANCE
2024 EDITION

Hospitals	2 spaces for each bed
Hotels and Motels	1 space per guest room
Laundromat	1 space for every 2 cleaning or laundry machines
Lumber Yards and Building Materials Establishments	1 space per 250 square feet of floor area
Machinery Sales and Service	1 space per 250 square feet of floor area
Manufacturing, Processing, Assembly, or Repair Activities	1 space per 500 square feet of floor area plus required spaces for office, retail, or other uses, and to accommodate all trucks and other vehicles used in connection therewith
Mini-storage Facilities (indoor only)	1 space per employee
Medical Care Facilities, Licensed	1 space per 250 square feet of floor area
Offices, Business or Professional	1 space per 333 square feet of floor area
Pharmaceutical Centers	1 space per 250 square feet of floor area
Printing and Publishing	1 space per 333 square feet of floor area
Restaurants with or without Drive-Through	<u>With Drive-Through</u> – 1 space per 60 square feet plus 3 queuing spaces for drive-through; <u>Without Drive-Through</u> – 1 space per 100 square feet OR 1 space per 4 persons based on Building Code design capacity, whichever is greater
Retail Stores and Shops as an Accessory Use to the Primary Permitted Use on the Parcel	1 space per 250 square feet of floor area
Scientific Research and Development Establishments	1 space per 333 square feet of floor area
Veterinary Hospitals (small animals), Exclusive of Outdoor Boarding Kennels	1 space per 300 square feet of floor area
Warehousing and Distribution Establishments	1 space per 2,000 square feet of floor area devoted to enclosed storage

Recreation/Education/Assembly Uses	
<u>County Uses (Section 5.2)</u>	Minimum Parking Requirements
Campgrounds	None
Churches and Other Places of Worship	1 space for every 4 seats in assembly rooms with fixed seats; 1 space for every 4 people based on Building Code design capacity for assembly rooms without fixed seats
Community Centers	1 space for every 4 seats in assembly rooms with fixed seats; 1 space for every 4 people based on Building Code design capacity for assembly rooms without fixed seats
Historic Mill	1 space for every 4 people based on Building Code design capacity

ARTICLE I – ZONING ORDINANCE
2024 EDITION

Historic Structure Museums	1 space for every 4 people based on Building Code design capacity
Indoor Theater	1 space for every 4 seats based on maximum seating capacity
Minor Commercial Public Assembly	1 space for every 4 seats in assembly rooms with fixed seats; 1 space for every 4 people based on Building Code design capacity for assembly rooms without fixed seats
Private Club	1 space for every 4 seats in assembly rooms with fixed seats; 1 space for every 4 people based on Building Code design capacity for assembly rooms without fixed seats
Summer Camp	None
<u>Annexation Area Uses</u> <u>(Section 5.3)</u>	Minimum Parking Requirements
Churches and Other Places of Worship	1 space for every 4 seats in assembly rooms with fixed seats; 1 space for every 4 people based on Building Code design capacity for assembly rooms without fixed seats
Clubs or Lodges (including civic and public benefit organizations)	1 space for every 4 seats in assembly rooms with fixed seats; 1 space for every 4 people based on Building Code design capacity for assembly rooms without fixed seats
Commercial/Public Swimming Pools, Tennis Courts, and Golf Courses	1 space for every 4 persons based on Building Code design capacity
Conference Centers and Retreat Houses	1 space for every 4 seats in assembly rooms with fixed seats; 1 space for every 4 people based on Building Code design capacity for assembly rooms without fixed seats
Fairgrounds	None
Libraries, Museums, Shrines, and Historic Markers	1 space per 400 square feet of floor area
Public or Private Schools	<u>Kindergarten/Nursery, Elementary, Intermediate/Middle/Junior High</u> – 1 space per 8 students based on maximum design capacity; <u>High School or College</u> – 1 space per 4 students based on maximum design capacity
Recreation Facilities (Indoor/Outdoor), Parks, Playgrounds, and Related Uses	<u>Recreation Centers</u> – 1 space per every 4 persons based on Building Code design capacity; <u>Outdoor Court Games</u> – 1 space per 2 players based on maximum capacity; No minimum requirement for parks or playgrounds
Sports Arenas and Stadiums as a Principal Use	1 space per every 4 persons based on Building Code design capacity
Theaters, Indoor	1 space for every 4 seats based on maximum seating capacity

Public and Miscellaneous Uses	
<u>County Uses (Section 5.3)</u>	Minimum Parking Requirements
Animal Shelter, Governmental	1 space for every 4 canine runs, 2 dogs per run
Cemetery	None

ARTICLE I – ZONING ORDINANCE
2024 EDITION

Community Services Facility	<u>Offices</u> – 1 space per 333 square feet of floor area; <u>Library, Museum, or Visitor Center</u> --- 1 space per 400 square feet of floor area; <u>Elementary, Intermediate/Middle/Junior High School</u> – 1 space per 8 students based on maximum design capacity; <u>High School</u> – 1 space per 4 students based on maximum design capacity <u>Assembly</u> -- 1 space for every 4 seats in assembly rooms with fixed seats; 1 space for every 4 people based on Building Code design capacity for assembly rooms without fixed seats
Fire and/or Rescue Squads	None
Passive Use Park	None
Public Utility Facility	None
Small Wind Energy System	None
<u>Annexation Area Uses</u> <u>(Section 5.3)</u>	Minimum Parking Requirements
Cemetery	None
Community Buildings, Public and Private	<u>Offices</u> – 1 space per 333 square feet of floor area; <u>Assembly</u> -- 1 space for every 4 seats in assembly rooms with fixed seats; 1 space for every 4 people based on Building Code design capacity for assembly rooms without fixed seats
Fire Stations	None
Government and Other Public Buildings (including police, fire, library, museum, and postal facilities; excluding retail and services uses, except as an accessory use)	<u>Offices</u> – 1 space per 333 square feet of floor area; <u>Library, Museum, Postal Facility</u> --- 1 space per 400 square feet of floor area
Public Utility Facility	None

Business Park (BP) District Uses. The minimum parking requirements for BP District uses shall be based on the following requirements that apply most closely to the specific use:	
Industrial uses	1 space per 500 square feet of floor area plus required spaces for office, retail, or other uses, and to accommodate all trucks and other vehicles used in connection therewith
Warehousing and distribution	1 space per 2,000 square feet of floor area devoted to enclosed storage
Office uses	1 space per 333 square feet of floor area

<u>Temporary Uses (Section 5.4)</u>	
Uses	Minimum Parking Requirements
Agritourism Activity	None
Model Home	None
Temporary Dwelling	2 spaces
Temporary Office Trailer	1 space per 333 square feet
Temporary Structure	None
Temporary Use of Major Recreational Equipment	None
Temporary Vendor	None
Yard Sale	None

- K. Handicapped Accessible Parking Spaces Required.** In addition to the parking space requirements in Subsection J above, the minimum number of handicapped accessible parking spaces to be provided shall be as set forth in [Table 7.2.5\[3\]](#) below:

TABLE 7.2.5[3], MINIMUM REQUIRED HANDICAPPED ACCESSIBLE SPACES

Total Parking Spaces Provided	Minimum Required Handicapped Accessible Spaces
1-25 spaces	1
26-50 spaces	2
51-75 spaces	3
76-100 spaces	4
101-150 spaces	5
151-200 spaces	6
201-300 spaces	7
301-400 spaces	8
401-500 spaces	9
501-1,000 spaces	2% of the total parking spaces
Over 1,000 spaces	20 spaces plus 1 for each 100 spaces

L. Off-Street Loading Space.

1. General. Off-street loading facilities shall be provided on the premises of any use hereafter established or enlarged which during the course of a normal operating week customarily receives or distributes goods or materials by trucks. There shall be sufficient spaces to accommodate the maximum number of such trucks that will normally be loading, unloading or stored on the premises at any one time.
2. Construction Standards. All off-street loading spaces shall be covered with an all-weather surface, shall be graded and drained to dispose of surface water, and shall be constructed and maintained in a manner permitting safe and convenient use. No surface water from

ARTICLE I – ZONING ORDINANCE
2024 EDITION

any loading area shall be permitted to drain onto adjoining property so as to change existing drainage patterns or so as to cause damage to adjoining property from any increased runoff.

3. Location and Dimensional Requirements. Loading spaces and maneuvering areas shall be appropriately dimensioned and located with relation to the type of deliveries and pickups anticipated. In no case shall the use of such loading space or related maneuvering hinder free movement of pedestrians or vehicles on streets or sidewalks. The following basic dimensional requirements for loading spaces and maneuvering areas shall apply except upon findings by the Zoning Administrator or described in [Subsection 4](#) below:
 - a. Minimum depth of the loading space shall be 55 feet
 - b. Minimum width shall be 14 feet
 - c. Minimum height clearance shall be 15 feet
 - d. Minimum width of maneuvering room for back-in loading shall be 115 feet
4. Exceptions to Location and Dimensional Requirements. Upon findings by the Zoning Administrator, based on satisfactory evidence supplied by applicants, observation of similar uses in the general area, or standard reference works or recommendations by qualified officials of the County that more or less off-street loading spaces, or off-street loading and maneuvering spaces with greater or lesser dimensions, will be required in connection with a proposed use, he may require or permit such variation from the basic requirements set forth herein.
5. Prohibited in Required Yards. Except as otherwise specifically provided herein, no loading space shall be permitted in any required yard adjacent to a street, nor shall any maneuvering areas serving such spaces be so located.
6. Limitations on Use. No required loading space shall be used for the sale, repair, dismantling, or serving of any vehicles, equipment, materials or supplies and no other loading area or other area on a lot shall be used for such purposes unless permitted by the district regulations.
7. Other Areas Not Used to Meet Requirements. Off-street parking spaces or other non-loading areas shall not be included as meeting off-street loading space requirements.
8. Computation of Requirements. In computing off-street loading requirements, where computations indicate fractional loading spaces, any fraction up to and including one-half shall be disregarded and fractions over one-half shall be counted as one space.
- M. Required Off-Street Parking and Loading Spaces to be Maintained.** Where off-street parking and loading spaces are required by these regulations, no owner or occupant of any land or building shall discontinue, change or dispense with such facilities without establishing alternate facilities complying equally with the requirements of these regulations.

7.2.6 Outdoor Lighting Standards

- A. Purpose and Intent.** The purpose and intent of this section is to establish outdoor lighting standards that reduce the impacts of glare, light trespass, and over-lighting, promote safety and security and encourage energy conservation.
- B. General Standards.**
1. Requirements for lighting fixtures; maximum installation height.
 - a. All exterior light fixtures shall be a full cut-off type. Such light fixtures shall have flat cut-off lenses. The lenses of lights mounted into eaves or canopies shall be mounted so as to be flush or recessed. The direct light from exterior light fixture elements shall not be visible off the subject property.
 - b. No exterior light fixture shall be installed at a height greater than 25 feet above finished grade as measured from the bottom of the fixture.
 - c. This section shall not apply to the installation of public outdoor recreational lighting as set forth in [Subsection 6](#) below.
 2. Flashing, revolving, intermittent, or high intensity beams used for exterior lighting shall be prohibited.
 3. Up-cast Lighting used to illuminate flags, signs, landscaping, buildings, or other objects and structures shall have directional control shields to prevent stray lighting and to ensure that no light source is visible from or causes glare on public right-of-ways or adjacent properties and shall be limited to 150 watts or less standard incandescent light elements or equivalent brightness (defined as 2500 lumens).
 4. All exterior lighting shall be oriented not to direct glare or excessive illumination on streets in a manner that may distract or interfere with the vision of drivers on such roads and streets.
 5. All canopy lighting shall be recessed and flush mounted. That portion of the canopy façade not included in the sign area shall not be illuminated.
 6. Public outdoor recreational facility lighting.
 - a. In addition to the general requirements of Subsection 7 below, photometric plans for public outdoor recreational facility lighting shall conform to the requirements set forth in the most current edition of the [Illuminating Engineering Society of North America \(IESNA\) RP-6 Recommended Practice for Sports and Recreational Area Lighting](#) and the [IESNA Lighting Handbook](#). Appropriate lighting criteria shall be selected based on the class of play of the facility and participants as defined by the IESNA.
 - b. For the purposes of this subsection, poles for the mounting of lighting fixtures shall be exempt from minimum setback requirements.

ARTICLE I – ZONING ORDINANCE
2024 EDITION

- c. Event hours – All events shall be scheduled so as to complete all activity before or as near to 11:00 p.m. as practical, but under no circumstances shall any illumination of the playing field, court, or track be permitted after 11:00 p.m. except to conclude an event that was reasonably scheduled to conclude prior to 11:00 p.m.
- d. Lighting fixtures shall be installed to meet the criteria of a full cutoff fixture and shall include internal and/or external glare-control louvers.
- e. Initial lighting levels shall not exceed the target levels specified by the IESNA by more than 30% to account for light loss factors such as lamp lumen depreciation and luminaire dirt depreciation.

7. Photometric Plan Requirements.

- a. A photometric lighting plan shall be submitted and approved in conjunction with any required site plan. The photometric lighting plan shall be certified by the National Council on Qualifications for the Lighting Professions (NCQLP), or a licensed professional engineer, or architect. All such plans shall include the following:
 - (1) Plans indicating the location on the premises of all lighting fixtures, both proposed and existing on the site, including a schematic layout of proposed outdoor lighting fixture locations that demonstrate adequate intensities and uniformity, and light coverage resulting from the proposed light layout.
 - (2) Description of all lighting fixtures, both proposed and existing, which shall include but are not limited to catalog cuts and illustrations by manufactures that describes the equipment, including lamp types, wattage and initial lumen outputs, glare control devices, lamps, proposed placement of all fixtures, including engineering detail of fixtures, manufacturer, model and installation of same.
 - (3) Photometric data, such as that furnished by manufacturers, or similar, showing the angle cut-off light emissions and glare control devices.
 - (4) Lighting levels for exterior lighting, except for public outdoor recreational facility lighting described in [Subsection 6](#), shall not exceed the following standards:
 - (a) 2.5 foot-candles for parking lots;
 - (b) 5 foot-candles at entrances from local rural/urban road entrances;
 - (c) 10 foot-candles along fronts of buildings, at loading docks, and at entrances from primary highways and rural/urban arterials and collectors;
 - (d) A uniformity ratio of 4:1 shall be provided across all parking lots, travelways, and private/public streets and roads. The project site shall be modeled with all lighting (building, canopy, parking, etc.) in operation.

- (e) Lighting levels shall not exceed 0.2 foot-candles at any common property line.
 - (f) The first three measurements shall be made at the ground surface. The fourth measurement shall be made on a vertical face with the property line at five feet above the ground.
- (5) Field verification of installation required. Upon completion of lighting installation, the applicant shall provide written certification that the lighting is installed and operates in conformance with the approved photometric plan and the provisions of this ordinance.

7.2.7 Environmental Reviews

- A. Erosion and Sediment Control.** An erosion and sediment control plan for all disturbed areas of a development as depicted on the site development plan shall be submitted for review in accordance with [Code of Clarke County Chapter 148 \(Erosion and Sediment Control Ordinance\)](#) and Code of Virginia requirements. Erosion and sediment control plan approval is a prerequisite to approval of a site development plan.
- B. Stormwater Management.** If State law requires submission and review of a stormwater management plan for a proposed development, a copy of the submission to the State stormwater management program authority shall be filed in conjunction with the site development plan. A copy of an approved permit or approval letter from the State stormwater management program authority shall be provided by the applicant as a condition of final site development plan approval.
- C. Soil Suitability.** A generalized mapping of on-site soils and their engineering characteristics shall be submitted with a site development plan. The U.S. Department of Agriculture, Natural Resources Conservation Service (NRCS), shall be referred to for commenting on the suitability of soils for intended development, and on any special measures that are recommended for development on a certain soil classification.
- D. Geotechnical Issues – Karst and Sinkholes.** The purpose and intent of this section is to establish review procedures, use limitations, design standards, and performance standards applicable to land development activities that encompass or affect sinkholes or other karst features. The intent of this section is to protect the public health, safety and welfare by requiring the development and use of karst areas to proceed in a manner that promotes safe and appropriate construction and storm water management.
1. Site Review and Investigation by Geotechnical Engineer. For all site development plan applications, the applicant shall undertake a geotechnical inspection of the subject area by a qualified Geotechnical Engineer (GE). The GE shall review available geologic and engineering data, aerial photographs, and other information relevant to the site and shall make on-site observations, photographs, and measurements as appropriate. The GE shall prepare a written report of the initial findings along with a recommendation to perform Fracture Trace Analysis, Electrical Resistivity, Cone Sounding, Core Samples,

ARTICLE I – ZONING ORDINANCE
2024 EDITION

Microgravity, and/or other geophysical or intrusive studies as appropriate to determine if the action requested may have a negative impact. Such report shall be submitted in conjunction with the site development plan and shall include any findings as to whether there may be significant karst features that apply to the site.

- a. No Evidence of Karst Features. If the GE finds that the site has no evidence of karst features, they shall so indicate in the written report.
 - b. Evidence of Karst Features. In cases where the GE finds evidence that karst features do exist, and which would be impacted by development, electrical resistivity testing, core drilling or microgravity tests, shall be required within a 100 foot radius for all locations on the property where karst features were identified and along any linear trend of at least three or more features. For sinkholes the 100 foot radius shall be measured from the discernable edge. At the conclusion of the tests the applicant shall submit a karst review plan to the Zoning Administrator and follow specific development procedures.
 - c. The presence of karst features on the site that are not impacted. At the discretion of the Zoning Administrator, the karst plan may be simplified if the environmental constraint found to be present on the site is not impacted by the proposed site development.
2. Karst Plan. A karst plan shall be developed for the property identified as having evidence of karst features (i.e., sites upon which sinkholes are fully or partially located and/or which drain to sinkholes). The burden of proof for establishing that there will be no significant impacts shall rest with the applicant. A karst plan shall include the following:
- a. An engineering audit that identifies and maps karst features and the limitations that such features impose on site development. The audit shall include:
 - (1) The physical location and limits of the area of the sinkhole depression as determined by field survey, the [Soil Survey of Clarke County \(1982\)](#), or the [Map of Selected Hydrogeologic Components or Clarke County, Virginia \(1990\)](#), or other reliable sources as may be approved by the Zoning Administrator;
 - (2) Locations of other karst features (fissures enlarged by dissolution and caves);
 - (3) Topographic contours at maximum intervals of two feet, and spot elevations sufficient to determine low points and discernable edges; and
 - (4) Setback distances of 25 feet and 100 feet from the discernable edge of each feature.
 - b. For structures proposed between 25 and 100 feet of the discernable edge of sinkholes or other karst features, engineering that ensures structural stability.
3. Requirements and Restrictions. The following provisions shall apply to developments containing sinkholes and karst features:

ARTICLE I – ZONING ORDINANCE
2024 EDITION

- a. As identified in [Subsection 2](#) above, no construction or land disturbance shall occur within a minimum buffer distance of 25 feet from the discernable edge of a sinkhole or other karst feature. Vegetation in the buffer area shall not be altered from predevelopment conditions. While vegetation should not be removed so as to disturb the soil, invasive species identified by the Virginia Department of Conservation and Recreation or dead plant material may be removed with the approval of the Zoning Administrator. Fertilizers, herbicides, and pesticides shall not be applied within the buffer area.
- b. No construction shall take place between 25 and 100 feet of the discernable edge of a sinkhole or other karst feature unless a geological and geophysical survey (as described in [Subsection 2](#)) indicates that such construction or earth disturbance is appropriate.
- c. Sinkholes or karst features identified during construction shall be mitigated as described in the [Virginia Department of Transportation’s Location and Design Division Instructional and Informational Memorandum 228 \(IIM-LD- 228\)](#), or other applicable standard as recommended by a GE.
- d. Stormwater management facilities shall comply with State stormwater management regulations for Karst Terrain.
- e. Underground utilities located within 100 feet of karst features shall be laid out so that they do not intersect those features. Along all such underground utilities, a dike of clay or other suitable material shall be constructed across the trench of the transmission lines and pipelines at intervals of 20 feet or less, or as directed by a GE.
- f. For any tests requiring boreholes, such as air track drilling, the boreholes must be grouted upon completion. Grouting should be done with a mixture of 50% bentonite and 50% portland cement.
- g. If air track drilling is used to determine the depth of overburden and continuity of bedrock, then these operations must be monitored full time by a GE to confirm the findings of the driller.
- h. Geotechnical studies shall be conducted at each proposed structure site before issuance of a building permit to determine the existence of karst features. If karst features are found, remediation shall be done to protect the health, safety, and welfare of occupants of the structure.
- i. Storage tanks shall have impervious secondary containment. Underground fuel storage tanks shall have interstitial monitoring of tanks and piping systems.
- j. Where applicable, the following Consumer Disclosure Statement that provides information on what review occurred and what was discovered shall be included in the Deed of Dedication:

This property is located in an area identified as having karst features. Karst features are created by groundwater dissolving sedimentary rock such as limestone. Features include sinkholes, fissures enlarged by dissolution, and caves. Geologic tests were conducted and one or more of these features were identified on this property. Karst features are unstable and collapse may occur. Measures have been taken to ensure structural stability in this area; however, karst areas are dynamic and geologic changes may cause future structural

instability. Fertilizers, herbicides, and pesticides shall not be applied within designated buffer areas.

- k. Measures to permanently protect karst features shall be identified on the site plan. These measures may include fencing and/or signage.

- E. Use of Explosives.** If explosives are to be used in conjunction with the development of a site, the following note shall be included on the site development plan:

Explosives used in conjunction with the development of this property shall be done in accord with a Blasting Plan per Code of Clarke County Chapter 86 (Explosives) approved by the Board of Septic and Well Appeals.

If explosives are not to be used, the following note shall be included on the site development plan:

No explosives will be used in conjunction with the development of this property.

7.2.8 Plan Approval and Construction

- A. Construction and Performance Guarantees.**

1. No site improvement activities may occur unless the final site development plan has been approved and all required performance guarantees have been posted in accordance with [Section 8 \(Performance and Maintenance Guarantees\)](#).
2. All improvements required by this Section shall be installed at the cost of the developer, except where cost sharing or reimbursement agreements between the County and the applicant are appropriate. Such cost sharing or reimbursement agreements shall be recognized by formal written approval prior to site development plan approval.
3. The approval of a site development plan and/or the installation of improvements shall not obligate the County to accept the improvements for maintenance, repair, or operation. Acceptance shall be subject to County and/or State regulations, where applicable, and dependent on the satisfactory nature of the improvements.

- B. Building Permits.** For all properties and uses subject to this Section, no building permit shall be issued to construct or alter any structure, or authorization granted to disturb or improve land, until a site development plan has been approved.

- C. Minor Revisions.** The Zoning Administrator may administratively approve changes to an approved site development plan which the Zoning Administrator determines:

- Are minor revisions of a non-substantive or editorial nature
- Comply with all provisions of this Section

- Would produce no additional adverse impact on public facilities or adjacent properties
- Would require no substantive review by the approval authority

Minor revisions approved by the Zoning Administrator shall be documented by the applicant on revised plan sheets and shall be retained with all copies of the approved site development plan. The Zoning Administrator shall include a written justification for approving the minor revisions in the documentation for the site development plan.

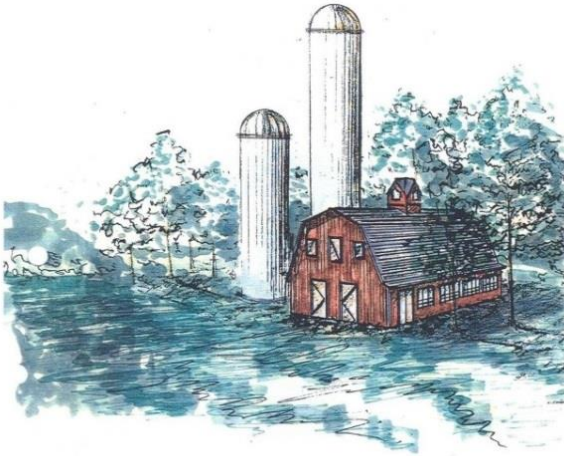
7.3 WIRELESS COMMUNICATION FACILITY (WCF) DESIGN STANDARDS

A. Design Standards

1. With the exception of amateur radio antennas (Class 5) and antenna support structures (Class 6), all WCFs shall be a monopole or stealth design.
2. Prohibition on lighted WCF. A WCF shall not trigger a requirement, public or private, that it be lighted nor shall it be lighted on a voluntary basis.
3. Aesthetic requirements. WCFs shall meet the following aesthetic requirements:
 - a. The visual impact of a WCF shall blend with the natural and built environment of the surrounding area using mitigation measures such as: architecture, color, innovative design, landscaping, setbacks greater than the minimum required, materials, siting, topography, and visual screening. The number of existing readily apparent Class 2, 3, and 4 WCFs in an area shall also be considered when determining visual impact of a new WCF.
 - b. Administrative review of the site development plan, including third-party engineering review, will determine if stealth technology shall be used and what type of stealth technology is required if the WCF design and placement is determined not to meet the objectives stated within this Ordinance.
 - c. The design of buildings and related structures within the WCF compound area shall, to the extent possible, use materials and colors that will blend into the natural setting and surrounding trees. Security fencing shall be six (6) feet tall, dark green or black in color, and made of chain link.
 - d. If various antennas, cables and electronics are installed on a structure other than another WCF (i.e., water tower, light pole, rooftop, sign or silo), the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.
4. Stealth Technology. Stealth technology may be used on WCFs as set forth below. Because of the agrarian nature and beauty of the County, the silo structure will be the highest valued stealth technology. This technology of silo stealth structures should blend harmoniously with the existing farm structures.

ARTICLE I – ZONING ORDINANCE
2024 EDITION

- a. The design standards for the “Silo” stealth structure shall be as follows:
- (1) All equipment except for local commercial power service shall be placed inside of the silo. This provision shall not apply to the co-location of antennas on existing silos.
 - (2) The silo shall not exceed eighty (80) feet at ground level (AGL) including any attachments.
 - (3) The silo shall match any existing silo on the property in architectural design and colors.
 - (4) Silo compounds must match existing fencing located on the agricultural property.
 - (5) Renderings prepared by a licensed landscape architect shall be provided for all stealth silo applications.
 - (6) The WCF shall be a Class 1 or Class 2.



Examples of well-designed stealth silo WCFs

- b. The design standards for the bell tower stealth structure shall be as follows:
- (1) All bell tower stealth WCFs shall match architecturally to the existing building’s architecture.
 - (2) All bell tower stealth WCFs shall be no more than a 2:1 ratio from height of the bell tower to roof line of existing structure not to exceed fifty (50) feet AGL including any attachments.
 - (3) All bell tower stealth WCFs shall be located within twenty (20) feet of the existing match structure.
 - (4) Renderings prepared by a licensed landscape architect shall be provided for all bell tower stealth structure applications.
 - (5) The WCF shall be a Class 1.



Example of a well-designed bell tower WCF

- c. The design standards for a tree stealth structure shall be as follows:
- (1) Must not be higher than twenty (20) feet above the existing tree line measured from trees within a 200 foot radius of the proposed site.
 - (2) The tree structure must be designed to resemble an evergreen species native to Clarke County.
 - (3) The tree structure must have textured bark, branches and foliage that encapsulate the cable, electronics and antennas.
 - (4) The colors of the tree structure must blend with existing trees of that species and variety.
 - (5) The structure must meet all design standards for stability and must be maintained for accuracy of the colors and foliage.
 - (6) Renderings prepared by a licensed landscape architect shall be provided for all tree stealth structure applications.
 - (7) The WCF shall be a Class 1 or 2. May be a Class 3 WCF depending upon topography of site and surrounding properties and the height of surrounding tree coverage.

ARTICLE I – ZONING ORDINANCE
2024 EDITION



Example of a well-designed tree WCF

- d. The design standards for the flag pole stealth structure shall be:
- (1) All antennas, cables, electronics and devices must fit within the designed enclosure of the flag pole.
 - (2) The flag pole shall be used as a flag pole and fly a flag accordingly. If the flag is flown at night adequate lighting shall be installed.
 - (3) The flag pole shall not have reflective paint.
 - (4) Renderings prepared by a licensed landscape architect shall be provided for all flag pole stealth structure applications.
 - (5) The WCF shall be a Class 1.



Example of a well-designed flag pole WCF

5. Siting and Design Standards for Amateur Radio Antennas (Class 5). The following regulations shall apply to the siting of amateur radio antennas:
 - a. Maximum height. The maximum height of a Class 5 WCF shall be the lowest height limitation permitted by [Va. Code §15.2-2293.1](#).
 - b. Setback requirements. Class 5 WCFs shall be set back a minimum distance of 100% of the antenna's height from all property lines and private access easements.

6. Siting and Design Standards for Antenna Support Structures (Class 6). The following regulations shall apply to the siting of antenna support structures:
 - a. Size. The maximum width of the antenna support structure and foundation shall not exceed eight (8) feet, excluding wires and anchors if the structure is guyed.
 - b. Design. Freestanding antenna support structures may be a monopole or lattice design and may be guyed. There are no design requirements for building or structure mounted antenna support structures.

ARTICLE I – ZONING ORDINANCE
2024 EDITION

- c. Building or structure mounted. Antenna support structures may be mounted on or attached to a building or structure at a maximum height of 80 feet above ground level (AGL) including the height of the building or structure. Antenna support structures shall not exceed the maximum height of the tree canopy on the topographic crest of the Blue Ridge Mountains. No zoning permit is required for a building or structure mounted antenna support structure.
- d. Freestanding. Antenna support structures that are freestanding or that are attached to a building or structure shall be set back a minimum of 100 feet from any property line, public right of way, and private access easement. All wires, anchors, and other structures associated with a guyed antenna support structure shall be set back a minimum of 50 feet from any property line, public right of way, and private access easement.

7. Other Design Standards.

- a. Compound design standards. The area to be cleared for the compound containing a Class 1, 2, 3 or 4 WCF and support facilities shall be the minimum necessary to accommodate the facilities and shall not exceed 2,500 square feet. The driveways accessing the compound shall be gated.
- b. Design standards for buildings and support equipment.
 - (1) Equipment cabinets shall not be more than twelve (12) feet in height. Structures designed to house equipment shall not exceed the maximum building height for the zoning district in which the subject property is located.
 - (2) If the equipment cabinet or structure is located on the roof of a building, the area of the equipment structure and related equipment shall not occupy more than 25% of the roof area. The equipment cabinet or structure and related equipment shall also be completely screened from view on all sides of the building.
 - (3) Equipment cabinets or structures shall comply with all applicable building codes.
- c. Advertisement signs are prohibited. Signs compliant to FCC requirements containing ownership, operational, and name plate data shall be allowed.
- d. All WCFs shall have appropriate FCC signage and contact information for emergency communications.

B. Setbacks and Buffering

- 1. Setback requirements from property lines and structures. Class, 1, 2, 3, and 4 WCFs shall be set back from all property lines and structures a distance equivalent to the WCF's fall zone plus ten percent of the WCF height, or the WCF's fall zone plus ten percent of the WCF height and required perimeter buffer area, whichever distance is greater. The WCF's designed fall zone shall be described in the applicant's site development plan. For

parcels located adjacent to the Appalachian National Scenic Trail Corridor, WCFs shall be set back a minimum of 400 feet from the footprint of the Appalachian Trail.

2. Setback requirements for buildings and support equipment. For any building or structure associated with a WCF and inclusive of required perimeter buffer areas per Subsection 4, the minimum setback from any property line abutting a public road or shared private access easement right of way shall be fifty (50) feet and in all other instances shall be no less than twenty-five (25) feet. No setback shall be required for private access easements or portions thereof designed exclusively to provide ingress and egress from the WCF compound to a public road.
3. Method for measuring setback distances. Setbacks shall be measured from the closest structural member on the WCF.
4. Perimeter buffer requirements for Class 3 and 4 WCFs. Class 3 and 4 WCFs shall be located in a wooded area of dense tree cover referred to as the perimeter buffer. The perimeter buffer shall have a minimum depth of 50 feet from the compound fencing as a radius around the perimeter of the area to be cleared for the WCF. All trees within the perimeter buffer for the Class 3 or 4 WCF must be retained, unless specifically approved for removal on the site development plan. Within 25 feet of the compound fencing, the perimeter buffer shall be supplemented with evergreen trees planted in a double-staggered row and shrubs as necessary to effectively screen the compound and WCF structure base from view. The Planning Commission may request additional planting within the remaining 25 feet of the perimeter buffer on a case-by case basis to ensure effective and appropriate screening. All vegetation within the perimeter buffer shall be maintained throughout the lifespan of the WCF.
5. Setbacks for co-location on other support structure. For co-location of antennas and equipment on a support structure other than a WCF (e.g., building, water tower, silo), the governing setbacks shall be the support structure’s current setback requirements as enumerated in the Ordinance.

C. Application Requirements

1. Requirements for Class 1 and Class 2 WCF applications. Applicants requesting approval of a Class 1 or Class 2 WCFs shall submit the following information to the Zoning Administrator for review. Class 1 WCF applications shall be reviewed and acted upon by the Zoning Administrator in accordance with [Section 6.2.1 \(Zoning Permit\)](#) including review and approval of a site development plan meeting the requirements of this Section. Site development plans for Class 2 WCF applications shall be reviewed and acted upon by the Planning Commission in accordance with [Section 6.2.2 \(Site Development Plan\)](#).
 - a. A site development plan consisting of a scaled plan and a scaled elevation view and other supporting drawings, calculations, and other documentation, signed and sealed by a licensed Professional Engineer, Surveyor, Landscape Architect or

ARTICLE I – ZONING ORDINANCE
2024 EDITION

Architect, showing the following information:

- Legal description of subject property and proposed lease area (if applicable)
 - Design and height of the proposed WCF
 - Proposed means of access from the public road to the WCF site
 - Setbacks from the property lines, existing structures on the subject property, and existing private access easements
 - Distances to uses and structures on adjacent properties
 - Elevation of the proposed WCF site and surrounding topography
 - Location of all improvements including but not limited to compound location, equipment cabinets, structures, fencing, and signage
 - Existing tree coverage and vegetation
 - Zoning of subject property and adjacent properties
 - General location of all residences and structures within two-thousand (2,000) feet of the proposed WCF
 - Any other information deemed by the Zoning Administrator to be necessary to assess compliance with this ordinance
- b. A cover letter that outlines what the applicant is proposing to do on-site.
- c. Any fees associated with the review of the application by the county and/or its consultant shall be paid by the applicant at submittal.
- d. Structural engineering documentation shall be provided demonstrating compliance with all applicable building codes and regulations. A diagram and statement certified and sealed by a licensed structural engineer shall also be provided that describes the fall zone for the proposed WCF.
- e. The Zoning Administrator may request additional information if needed while reviewing an application for administrative approval. Failure to provide the requested information shall result in the denial of the application.
- f. A Karst plan per [Section 7.2.7 \(Environmental Reviews\)](#) shall be provided.
- g. A description of how the location of the proposed WCF is consistent with the guidance provided in the County’s Telecommunications Engineering Study.
- h. A map depicting all co-location candidates in the search area, along with the RF analysis documentation as to their suitability.
- i. A description of compliance with all applicable Federal, State, or local laws including the following actual documents addressing the historic site impact review Section 106 Historical Review portion of the approved National Environmental Policy Act (NEPA) statement, and the TOWAIR determination results for FAA registration.
- j. A landscape plan showing specific landscape materials including proposed plantings to comply with perimeter buffer requirements.
- k. If required, a method of security fencing (no less than six (6) feet in height) with anti-climbing device and finished color and, if applicable, the method of camouflage and illumination.
- l. At least 2 (two) actual photographs of the site that include simulated photographic images of the proposed WCF at the proposed construction height and at a height

ARTICLE I – ZONING ORDINANCE
2024 EDITION

10% greater than the proposed construction height to simulate future co-location. The photographs with the simulated image shall illustrate how the facility will look from adjacent roadways, nearby residential areas, or public buildings such as a school, church, etc. The Zoning Administrator reserves the right to select the location for the photographic images and require additional images. The applicant at the Zoning Administrator’s request shall conduct a balloon test to demonstrate the height of a proposed WCF with a potential 10% increase to simulate future co-location and provide adjoining property owners with a 48-hour notice of the test.

- m. The applicant shall identify the type of construction of the existing WCF(s) and the owner/operator of the existing WCF(s), if known.
 - n. A statement by the applicant as to whether construction of the WCF will accommodate co-location of antennas including the number and dimensions of available co-location positions.
 - o. Identification of the entities providing the backhaul network for the WCF(s) described in the application and other cellular sites owned or operated by the applicant in the County.
 - p. A description, including mapping at an appropriate scale, of the search area and coverage objective. A figure depicting the radio frequency coverage (or propagation map) of the proposed facility and all nearby facilities shall also be provided. Propagation maps shall show a minimum of three (3) signal intensities in milliwatts.
 - q. A cost estimate for removal of the WCF and facilities from the site.
 - r. An application for a site development plan review shall be signed by the owner(s) of the property on which the WCF is to be sited and by the telecommunications provider or developer of the WCF site.
2. Requirements for Class 3 and 4 WCF applications. In addition to the application requirements for Class 1 and Class 2 WCF applications, applicants requesting a [Special Use Permit per Section 6.3.1](#) to construct a new Class 3 or 4 WCF shall submit the following information to the Zoning Administrator for review and action by the Planning Commission and Board of Supervisors:
- a. Applications for new proposed Class 3 WCFs shall depict a location that is consistent with the guidance regarding the Permitted Commercial Tower Development Areas (PCTDA) depicted in the [County’s Telecommunications Infrastructure and Broadband Study](#).
 - b. Applications for new proposed Class 4 WCFs shall demonstrate the following:
 - (1) A location that is consistent with the guidance regarding the Permitted Commercial Tower Development Areas (PCTDA) depicted in the [County’s Telecommunications Infrastructure and Broadband Study](#).
 - (2) In order to justify a maximum height in excess of 120 feet, the applicant shall demonstrate one or more of the following conditions:
 - The proposed site would provide a demonstrable coverage improvement over a Class 3 tower height and would be consistent

ARTICLE I – ZONING ORDINANCE
2024 EDITION

with the guidance regarding the County’s coverage goals in the Telecommunications Infrastructure and Broadband Study.

- Need to ensure proper connectivity for microwave “point to point” systems. A Path Study and evidence of rejection from fiber optic providers shall be submitted with the application.
 - Proposed WCF is required by the property owner to be located in an area with a lower elevation in relation to the overall elevation of the subject property. Setback calculations with ground elevation profile diagrams and property owner requirements shall be submitted with the application.
- c. An application for a Special Use Permit and Site Development Plan review shall be signed by the owner(s) of the property on which the WCF is to be sited and by the telecommunications provider or developer of the WCF site.
- d. The applicant shall indicate in writing at the time of application whether or not they voluntarily agree to an extension of the review period required by the Code of Virginia, if determined by the County to be needed, along with the maximum length of such time extension. The applicant’s decision at the time of application shall not prevent the applicant and the County from mutually agreeing on a time extension later in the review process.
- e. At time of submission of a special use permit and site development plan application, the applicant shall document that a new WCF is required because there is no existing structure of sufficient height within the Applicant’s search ring available for possible co-location, and set forth its reasons for selecting the site proposed. After a public hearing on an application, an applicant may be requested to consider alternate sites that in the opinion of the reviewing body will better comply with the objectives and regulations for siting of new WCFs.
- f. Verifiable evidence shall be provided in writing showing the lack of antenna space on existing towers, building, or other structures suitable for antenna location, or evidence of the unsuitability of existing tower locations for co-location.
3. Application requirements for amateur radio antenna (Class 5).
- a. Site sketch required. A Zoning Permit application containing a site sketch shall be provided to the Zoning Administrator for all Class 5 WCFs. The site sketch shall depict the antenna design, height, and setbacks from property lines, public rights of way, private access easements, and existing structures on the subject property.
4. Application requirements for antenna support structures (Class 6).
- a. Permit requirements. A Zoning Permit shall be required for an antenna support structure that is freestanding or that is installed in the ground and attached to a building or structure for additional support. No zoning permit shall be required

for an antenna support structure that is mounted on a building or structure.

5. Application requirements for co-location and distributed antenna systems (DAS). This section shall apply to all applications to co-locate new antennas and required support equipment on existing WCFs and structures, including the installation of DAS.
 - a. An administrative site development plan application per [Section 6.2.4](#) (for co-location or installation of DAS on an existing WCF or structure previously approved by site development plan) or a zoning permit application per [Section 6.2.1](#) (for co-location or installation of DAS on all other structures) consisting of a scaled plan and a scaled elevation view and other supporting drawings, calculations, and other documentation, signed and sealed by a licensed Professional Engineer, Surveyor, Landscape Architect or Architect, shall be provided by the Applicant showing the following information:
 - Legal description of subject property and proposed lease area (if applicable)
 - Sketch showing the existing WCF or structure, the dimensions and location of the antenna and equipment to be co-located, and the proposed change in the height of the structure as a result of the co-location if applicable.
 - Sketch showing dimensions and location of all proposed equipment, cabinets, and structures to be added to the WCF compound. For co-location on structures other than a WCF, setback distances from property lines and adjacent structures shall be shown.
 - All proposed changes to existing landscaping, buffering, fencing, signage, and other material site features.
 - Any other information deemed by the Zoning Administrator to be necessary to assess compliance with this ordinance
 - b. Co-location applications shall be signed by the property owner or by the owner or lessee of the WCF or structure.
 - c. Applications to co-locate a new antenna and equipment on an existing WCF shall be considered an amendment of the existing site development plan for the WCF and shall be acted upon administratively by the Zoning Administrator. For co-location on Class 3 or Class 4 WCFs, such applications shall demonstrate compliance with any special conditions imposed in conjunction with the special use permit.
6. Application requirements to upgrade/maintain existing equipment. This section shall apply to all applications to upgrade, change, modify, or maintain existing equipment on a WCF or a structure containing antennas for telecommunications. This section shall also apply to applications to upgrade, change, modify, or maintain structural elements of existing WCFs or structures containing antennas for telecommunications.

ARTICLE I – ZONING ORDINANCE
2024 EDITION

- a. An administrative site development plan application per [Section 6.2.4](#) (for co-location or installation of DAS on an existing WCF or structure previously approved by site development plan) or a zoning permit application per [Section 6.2.1](#) (for co-location or installation of DAS on all other structures) consisting of a scaled plan and a scaled elevation view and other supporting drawings, calculations, and other documentation, signed and sealed by a licensed Professional Engineer, Surveyor, Landscape Architect or Architect, shall be provided by the Applicant showing the following information:
 - Legal description of subject property and proposed lease area (if applicable)
 - Sketch showing dimensions and location of all proposed equipment, cabinets, and structures to be added, changed, or otherwise altered and their position on the WCF compound. For changes to existing equipment on structures other than a WCF, changes to setback distances from property lines and adjacent structures shall be shown.
 - All proposed changes to existing landscaping, buffering, fencing, signage, and other material site features.
 - Any other information deemed by the Zoning Administrator to be necessary to assess compliance with this ordinance
- b. Applications to upgrade/maintain existing equipment shall be signed by the property owner or by the owner or lessee of the WCF or structure.
- c. Applications to replace equipment on an existing WCF shall be considered an amendment of the existing site plan for the WCF and shall be acted upon administratively by the Zoning Administrator. For co-location on Class 3 or Class 4 WCFs, such applications shall demonstrate compliance with any special conditions imposed in conjunction with the special use permit.

D. Additional Regulations

1. Inactive WCFs; Removal Bond Required.

- a. Inactive WCFs. The owner of an inactive WCF shall dismantle the support structure, antennas, and all associated structures if no functioning WCF is operated for a continuous period of six (6) months, and restore the site as nearly as possible to preexisting site conditions. The owner of the WCF shall remove the same within ninety (90) days of receipt of notice from the County notifying the owner of the inactive WCF. If there are two or more users of a single WCF, then this provision shall not become effective until all users cease using the WCF.
- b. Annual user reports. The owner of a class 1, 2, 3 or Class 4 WCF shall provide, by July 1 annually to the Zoning Administrator, an inventory of all active and inactive users on the WCF.
- c. Removal bond required. A bond or letter of credit shall be posted at the time of WCF approval in accordance with [Section 8 \(Performance and Maintenance Guarantees\)](#), in the event the County must remove the WCF upon abandonment.

This bond or letter of credit shall be equal to the cost to remove the WCF, all WCF and fence footers, underground cables, and support buildings, plus 25%. The bond or letter of credit shall remain in effect for the life of the WCF.

2. Third-Party Engineering Review. The County reserves the right to employ the services of a third-party wireless telecommunications engineer or consultant to review all WCF applications. All applicable costs for the third-party review shall be the responsibility of the applicant.
3. Engineering Information Provided by Applicant. Any information of an engineering nature that the applicant submits, whether civil, mechanical, or electrical, shall be certified by a licensed professional engineer.

7.4 AOC AND FOC DISTRICT DESIGN STANDARDS AND DEVELOPMENT REGULATIONS

7.4.1	Vegetated Property Buffer Requirements – AOC District
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- A. **Vegetated property buffer required**. Except for those land uses listed below as exempt, existing woody vegetation within 25 feet of all property lines shall be retained on parcels of less than 20 acres recorded after February 21, 2003.
 1. Dead trees and shrubs may be removed.
 2. Invasive alien species may be removed. Invasive alien species shall be those listed by the Virginia Department of Conservation and Recreation.
 3. The following types of development may be located in the vegetated property buffer, provided no more land, trees, or vegetation shall be disturbed than is necessary for construction, use, and maintenance of:
 - Driveways and access easements of not less than 30 feet
 - Electric, gas, and telephone utility easements
 - On-site water facilities and sewage disposal systems proposed in conjunction with a major or minor subdivision per [Article II \(Subdivision Ordinance\)](#), if the Planning Commission determines that not allowing such facilities or systems in the buffer would prohibit the practical development of such facilities or systems
 - Public water and sewer lines (including water and sewer lines constructed by private interests for dedication to public agencies)
 - Fences

- B. Replacement of trees removed from vegetated property buffer.** Revegetation/tree replacement, in consultation with a Forestry Consultant or Certified Arborist and within the guidelines described below, shall be required for all areas where any clearing occurs in excess of the standards for maximum cleared area or in required vegetative buffer.
- C. Replacement criteria.** Trees that are removed shall be replaced so that there is, at a minimum, no loss of tree canopy coverage upon maturity of the replacement trees. All trees to be used as replacement trees shall be:
- A Virginia native tree species as identified in the [Virginia Department of Forestry’s Tree Seedling Brochure](#) described by the Virginia Native Plant Society;
 - Be of minimum quality as identified in the [American Standard for Nursery Stock \(ANSI Z60.1-2004\) \(as amended\)](#);
 - Planted as described in the [American Standard for Nursery Stock ANSI Z60.1-2004 \(as amended\)](#) by a qualified landscape contractor to insure survival; and
 - A minimum of 4 feet in height with caliper dependent on species.

7.4.2	Vegetated Property Buffer Requirements – FOC District
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- A. Vegetated Property Buffer and Clearing Limits**
1. Applicability. The requirements of this subsection shall apply to all parcels except for parcels with a dwelling constructed on or before February 18, 2003, unless a different effective date or minimum parcel size is specified.
 2. Vegetated buffer required along property lines. Except for those clearing activities listed in [Subsections 7 and 8](#) below, existing woody vegetation shall be retained within 25 feet of all property lines on parcels of four acres or more. Parcels with a dwelling constructed on or before February 18, 2003 shall be exempt from this provision.
 3. Vegetated buffer required from public rights of way and private access easements. Except for those clearing activities listed in [Subsections 7 and 8](#) below, existing woody vegetation shall be retained within 50 feet of the edge of public rights of way or 25 feet of the edge of private access easements on parcels of four acres or more. Parcels with a dwelling constructed on or before June 21, 2005 shall be exempt from this provision.
 4. Retain existing vegetation on slopes. Except for those clearing activities listed in [Subsections 7 and 8](#), existing woody vegetation shall be retained on all parcels with:
 - a. An average slope (within area to be cleared) from 7% up to 15 % and over the elevation of 800 feet above sea level, except for 2 acres for a house site for dwellings constructed after June 21, 2005.

ARTICLE I – ZONING ORDINANCE
2024 EDITION

- b. An average slope (within area to be cleared) from 15% up to 25 % and over the elevation of 800 feet above sea level, except for 1 acre for a house site, or 1.5 acres if an erosion and sediment control plan is prepared by a professional engineer and approved by the Zoning Administrator for dwellings constructed after June 21, 2005.
- c. Slopes of 25% or more.
- d. Slippage soils.

For purposes of this section, “house site” is defined as the parcel’s buildable area as modified by the regulations enumerated above.

- 5. Tree Protection during Construction. Tree preservation areas shall be identified on the subdivision plat and construction plans. Critical root zones (CRZ) shall be delineated on the plans and clearly marked and protected in the field. Field delineation of tree preservation areas and critical root zones shall be inspected by County staff prior to any land disturbance. The CRZ is the area located underneath the tree drip line.
 - a. Before any land disturbance, suitable protective barriers, such as safety fencing, shall be erected outside of the CRZ of any tree or stand of trees to be preserved. Protective barriers shall remain so erected throughout all phases of construction. No grade changes or storage of equipment, materials, debris, or fill shall be allowed within the area protected by the barrier. No construction traffic, parking of vehicles or disposal of liquids is permitted within the CRZ.
 - b. Trees likely to die as a result of site disturbance activities within 25 feet of the safety fence, as identified in the tree conservation plan, shall be removed.
- 6. Remediation of excessive clearing activities. Revegetation/tree replacement, in consultation with a Forestry Consultant or Certified Arborist and within the guidelines described below, shall be required for all areas where any clearing occurs in excess of the standards for maximum cleared area or in required vegetative buffer.
 - a. Violations. Any excessive clearing that occurs in violation of the requirements of this ordinance or in violation of any approved subdivision plat, site plan, or construction plan shall be remediated in accordance with this subsection. If a violation is discovered during the land clearing, land disturbance, or construction process, no certificate of occupancy (temporary or permanent) or surety release shall be granted until the violation is remediated and such remediation is inspected and approved by the Zoning Administrator. If a violation is discovered after completion of construction, it shall be remediated within thirty (30) days of the date of written notice by the Zoning Administrator. The Zoning Administrator may grant additional time to complete remediation activities if such timeframes will help ensure viability of replacement plantings due to weather or seasonal conditions.
 - b. Remediation plan. The property owner shall be responsible for providing a written remediation plan with the Zoning Administrator to correct instances of excessive clearing. The remediation plan shall be consistent with the replacement

ARTICLE I – ZONING ORDINANCE
2024 EDITION

criteria below and with the approved conservation subdivision plat, land disturbance plan, or other approved plan. The property owner shall be responsible for ensuring the viability of all replacement plantings, shall request inspection by the Zoning Administrator or designated agent within two (2) years of planting to confirm viability, and shall replace any trees that may die. Additional fees may be imposed by the County to cover the cost of reviewing the remediation plan and conducting compliance inspections.

- c. Replacement criteria. Trees that are removed shall be replaced so that there is, at a minimum, no loss of tree canopy coverage upon maturity of the replacement trees. All trees to be used as replacement trees shall be:
 - A Virginia native tree species as identified in the [Virginia Department of Forestry’s Tree Seedling Brochure](#) described by the Virginia Native Plant Society.
 - Be of minimum quality as identified in the [American Standard for Nursery Stock \(ANSI Z60.1-2004\) \(as amended\)](#).
 - Planted as described in the [American Standard for Nursery Stock ANSI Z60.1-2004 \(as amended\)](#); by a qualified landscape contractor to insure survival; and a minimum of 4 feet in height with caliper dependent on species.

7. Permitted clearing for agricultural uses. Clearing for agricultural uses shall require a Conservation Farm Management Plan approved by either the regional Soil and Water Conservation District or the federal Natural Resources Conservation Service and submitted to the Zoning Administrator. Prior to conducting the clearing activity, an affidavit for agricultural clearing shall be completed by the property owner and filed with the Zoning Administrator stating the nature of the agricultural use(s) and affirmation that they will comply with the Conservation Farm Management Plan.

8. Other permitted clearing activities. The following clearing activities shall be allowed in the no-clear areas:
 - a. Dead trees and shrubs may be removed.
 - b. Invasive alien species may be removed. Invasive alien species shall be those listed by the Virginia Department of Conservation and Recreation.
 - c. Forestry activities as described in [Section 5.2 \(Uses\)](#).
 - d. Clearing for the following activities may occur in the vegetated property buffer, with the written approval of the Zoning Administrator, provided no more land, trees, or vegetation shall be disturbed than is necessary for construction, use, and maintenance of:
 - Driveways and access easements of not more than 30 feet wide
 - Electric, gas, and telephone utility easements
 - On-site water facilities and sewage disposal systems, if the Planning Commission determines that not allowing such facilities or systems in the

buffer would prohibit the practical development of such facilities or systems

- Public water and sewer lines (including water and sewer lines constructed by private interests for dedication to public agencies.

7.4.3 Outdoor Lighting Requirements

- A. Purpose.** The purpose of this section is to regulate placement, orientation, distribution patterns, and fixture type of outdoor lighting in the AOC and FOC Districts. The intent of this section is to allow lighting that provides safety, utility and security, prevents glare on public rights of ways, prevents light trespass onto adjoining properties, protects the privacy of adjacent property owners, and reduces atmospheric light pollution.
- B. Lighting Regulations.**
1. All exterior light fixtures shall be of a type that are downcast and shielded such that all light emitted is projected below a horizontal plane running through the lowest part of the fixture. The direct light from the light element and reflective surface of exterior light fixtures not on public rights of way or recorded private access easements shall not be visible off the subject property.
 2. No exterior light fixture shall be installed at a height greater than 30 feet above the ground under the light fixture.
 3. Any freestanding pole lighting, not on public rights of ways or recorded private access easements, shall be setback from property lines in accordance with setback requirements for principal structures in the subject property’s zoning district except for street lighting in public rights of ways or recorded private access easements.
 4. The following types of exterior lighting are excluded from these regulations:
 - 60 watt or less standard incandescent light elements or equivalent brightness (defined as 1000 lumens)
 - Decorative holiday lighting
 - Emergency lighting
 - Lighting for special events that are approved by the Board of Supervisors in accordance with [Code of Clarke County Chapter 57 \(Special Events\)](#)
 - Lighting of the flag of the United States, such lighting shall have directional control shields so that the directed light is substantially confined to the flag

7.4.4 Private Driveway Standards

- A. Applicability.** This Section shall apply to private driveways serving one lot and to private access easements serving a maximum of two lots. A private access easement serving three or more lots shall meet the design requirements of [Article II, Section 4.5.3 \(Subdivision Ordinance – Private Access Easements\)](#).
- B. Construction and maintenance requirements.** Construction shall consist of an all-weather surface that shall be maintained to permit effective ingress/egress for fire and emergency services vehicles.
- C. Maximum grade requirements.** Grades shall not exceed the following thresholds measured along the centerline of the travelway:
1. 4% within 25 feet of a public right of way
 2. A vertical curve providing a transition between the above grades in the area between 25 feet and up to 125 feet from a public right of way
 3. 8% for any portion of the travel way more than 125 feet from a public right of way, however up to 12% may be allowed for short distances if specifically approved by the Zoning Administrator in consultation with the Building Official and Fire & Emergency Services Director.
- D. Sedimentation and runoff discharge.** No private driveway or private access easement shall be constructed in a manner that increases sedimentation or runoff discharge from the property.

7.4.5 Use of Private Wells and Onsite Sewage Disposal Systems; Use of Public Water and Public Sewer

- A.** Private wells and onsite sewage disposal systems proposed for use shall be designed in accordance with [Code of Clarke County Chapter 143 \(Septic Ordinance\)](#) and [Chapter 184 \(Well Ordinance\)](#), the regulations of the Virginia Department of Health, and any other applicable regulations.
- B.** No use in the AOC or FOC Districts shall be served by public water or public sewer provided by the Town of Berryville, Clarke County Sanitary Authority, or other local governmental entity without approval by the Clarke County Board of Supervisors.

- C. Uses in the AOC and FOC Districts that are required to obtain a permit from the Virginia Department of Health (VDH) to operate a waterworks (as defined by the Virginia Waterworks Regulations) shall maintain such permit in good standing for the life of the use as a condition of zoning approval.

7.5 RR DISTRICT DESIGN STANDARDS AND DEVELOPMENT REGULATIONS

7.5.1 Outdoor Lighting Requirements

- A. **Purpose.** The purpose of this section is to regulate placement, orientation, distribution patterns, and fixture type of outdoor lighting in the RR District. The intent of this section is to allow lighting that provides safety, utility and security, prevents glare on public rights of ways, prevents light trespass onto adjoining properties, protects the privacy of adjacent property owners, and reduces atmospheric light pollution.
- B. **Lighting Regulations.**
1. All exterior light fixtures shall be of a type that are downcast and shielded such that all light emitted is projected below a horizontal plane running through the lowest part of the fixture. The direct light from the light element and reflective surface of exterior light fixtures not on public rights of way or recorded private access easements shall not be visible off the subject property.
 2. No exterior light fixture shall be installed at a height greater than 30 feet above the ground under the light fixture.
 3. Any freestanding pole lighting, not on public rights of ways or recorded private access easements, shall be setback from property lines in accordance with setback requirements for principal structures in the subject property's zoning district except for street lighting in public rights of ways or recorded private access easements.
 4. The following types of exterior lighting are excluded from these regulations:
 - 100 watt or less standard incandescent light elements or equivalent brightness (defined as 1700 lumens)
 - Decorative holiday lighting
 - Emergency lighting
 - Lighting for special events that are approved by the Board of Supervisors in accordance with [Code of Clarke County Chapter 57 \(Special Events\)](#)
 - Lighting of the flag of the United States, such lighting shall have directional control shields so that the directed light is substantially confined to the flag

7.5.2	Use of Private Wells and Onsite Sewage Disposal Systems; Use of Public Water and Public Sewer
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- A. Private wells and onsite sewage disposal systems proposed for use shall be designed in accordance with [Code of Clarke County Chapter 143 \(Septic Ordinance\)](#) and [Chapter 184 \(Well Ordinance\)](#), the regulations of the Virginia Department of Health, and any other applicable regulations.
- B. No use in the RR District shall be served by public water or public sewer provided by the Town of Berryville, Clarke County Sanitary Authority, or other local governmental entity without approval by the Clarke County Board of Supervisors.
- C. Uses in the RR District that are required to obtain a permit from the Virginia Department of Health (VDH) to operate a waterworks (as defined by the Virginia Waterworks Regulations) shall maintain such permit in good standing for the life of the use as a condition of zoning approval.

7.6 HISTORIC ACCESS CORRIDOR (HC) OVERLAY DISTRICT DESIGN STANDARDS

7.6.1	Standards for Properties Located Within the Berryville Annexation Area
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- A. **Design Standards.** Project Plans must adequately address and respond to each of the eighteen guidelines listed below in order to receive a certificate of appropriateness. In instances where these guidelines discuss or imply compatibility with existing structures, such compatibility should be primarily with contributing structures in national, state, or local historic district in Clarke County and secondarily with existing structures within 300 feet of the proposed site.
 - 1. Architectural Style. No specific architectural style shall be imposed in the administration of the historic district ordinance. Buildings should be designed as single entities, with the character and design of the primary facade continued on side and rear elevations. Architectural elements from widely different styles should not be mixed on a single building. Design themes unrelated to the traditions of Clarke County should be avoided. For example, buildings that attempt to look like a Bavarian cottage, Spanish mission, Asian pagoda, Polynesian village, Tudor mansion, waterfront shanty, etc., bear no relationship to the history or architecture of this area.

ARTICLE I – ZONING ORDINANCE
2024 EDITION

2. Height. It is important along street facades that the height of new buildings, especially those between two contributing structures, conforms to the average height of other buildings in the block.
3. Proportion. New construction should relate to the dominant proportions of buildings in the immediate area. Overall proportion (i.e. the total ratio of height to width) is the most important consideration. Also important is the overall ratio to space to void (i.e. the mass of the walls and the places where this mass has been broken up by openings for windows and doors).
4. Scale. Scale is determined by several factors including cornice or eave height, the elevation of the first floor, floor-to-floor heights, and the proportions determined by the size and arrangement of door and window openings and porch column spacing. The scale and mass of a proposed project should relate to nearby buildings or open space surrounding it.
5. Openings. New construction should take into account the ratio of solid to void. The pattern of overall proportion of openings should relate to other buildings in the district. Large expanses of blank walls facing a street are not generally compatible with historic development patterns.
6. Orientation. The orientation and setback of the main facades of new construction should respect the precedent set by existing buildings in the surrounding district. Commercial and office structures should direct their primary orientation and entrance to the major adjacent public right-of-way from which traffic arrives to the structure.
7. Entrances. The spacing and proportion of entrances and porches along the street help determine the rhythm of the streetscape. New construction of entrances should continue the existing rhythm. Building entrances should be clearly defined, and pedestrian walkways clearly associated with the entrance.
8. Rhythm. Rhythm is the repetition of architectural elements such as doors, windows, porches and cornice decorations. A building or project should continue the architectural rhythm already established in the district.
9. Spacing. The spacing between buildings helps determine the rhythm of the streetscape. New construction should be spaced to continue the existing pattern of the surrounding area.
10. Materials. In order prevent disruption of the visual quality of the neighborhood, an effort shall be made to use traditional materials that are predominantly used in the area. Use of inappropriate materials, including reflective glass, metal wall panels, plastic, fiberglass stone, or fiberglass brick, should be avoided.

ARTICLE I – ZONING ORDINANCE
2024 EDITION

11. Texture. The texture of materials used in new construction should conform to existing texture patterns such as brick, stucco, horizontal or vertical wood siding, rough rock, or smooth sand. Introducing non-traditional textures is discouraged.
12. Color. The predominant colors of any unpainted materials proposed should resemble predominant tones in the district. Paint color shall not be considered as part of these guidelines, though the use of trim colors to accent architectural details is encouraged.
13. Details. Architectural details are very important in maintaining the character of a district; new construction should employ some of the details typical of the district. These may include: cornice design, window trim, chimney shapes, shutters, door paneling, porches, railing, and fence designs. Architectural details should be continued on any side or rear building facade that is visible from a public right-of-way. Any facade that presents a blank wall must be screened in an acceptable manner. Small attachments to buildings (such as meters, telephone and cable connections) should be placed so as not to detract from the overall project. Large attachments (such as air conditioning units, fuel tanks, antennas and satellite dishes) should either be screened or placed out of view from any public right-of-way.
14. Roofs. Roof shape, pitch, and material on new projects should be similar to existing roofs in the district.
15. Walls and Fences. These items can add visual cohesiveness to a project. Use of traditional materials such as wood, stone, brick, iron, or evergreens is encouraged. Chain link fences, including those with slats, are discouraged, particularly when visible from a public right-of-way.
16. Signs. The size and height of signs in developed areas should reflect the slower automobile speeds and pedestrian scale of such areas. Projecting and other wall-mounted signs are encouraged for commercial structures in developed areas. Monument signs are encouraged, rather than pole-mounted signs. Signs should reflect the buildings to which they refer, and be part of an overall landscape plan.
17. Off-Street Parking. Large expanses of off-street parking should be avoided. Parking areas should be divided into smaller units through landscaping or building location.
18. Walkways. Walkways should be delineated by the use of special paving materials.
19. Building Arrangement. When several structures are planned on a single site, structures should complement one another, and reflect an overall plan for the appearance of the property. Commercial and office development should cluster buildings into organized groups.

7.6.2	Standards for Properties Located Outside of the Berryville Annexation Area
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A. Administration.

1. Purpose and intent. The purpose of these Design Criteria is to insure that new or remodeled commercial buildings along arterial highways that are routes of access to designated historic areas in Clarke County are compatible with the character of these historic areas. The purpose is also to establish a coherent commercial identity among these new or remodeled buildings through shared design principles as a common denominator. It is the intent of these Criteria to:

- Accommodate economic growth that will both maximize direct county revenues and minimize the indirect costs of eroding the distinctive rural character of Clarke County.
- Protect private property values and related public investment from the detrimental impacts of indiscriminate and insensitive new construction.
- Anticipate and guard against commonplace and uniform trademark architecture would create anonymous strip developments indistinguishable from those in other parts of the country.
- Maintain the image of Clarke County as seen from its most traveled highways to benefit residents, attract tourists, and interest potential employers.
- Encourage new commercial ventures to produce new architecture compatible with the traditional building forms of Clarke County by recognizing that design principles from the past can both inspire and discipline change for today.
- Provide for an appropriate and attractive yet diverse mix of new buildings that relate to one another in a coherent way by guiding them toward shared design principles without imposing any specific architectural style.

2. Compliance.

- a. These criteria identify the design elements found in Clarke County buildings that are at least 50 years old and have retained their architectural integrity. The Virginia Department of Historic Resources and the U.S. Department of the Interior use this standard to determine whether or not a structure is considered to be “contributing” to the historic character of a community. The term "contributing buildings," as used here, refers to those buildings that have been identified in the [Clarke County Rural Reconnaissance Survey, 1989 & 1993](#), [White Post National Register Nomination, 1986](#), and [Berryville/Boyce/Millwood Historic Districts Survey, 1985](#), all surveys prepared according to the standards established by the Virginia Department of Historic Resources.
- b. These criteria shall be followed to the greatest extent possible, as determined by the review board, given the physical nature of a specific site and its intended use. Although achieving compliance with all these criteria is desired, the review board may use its discretion in determining an application's degree of compliance, as

long as a proposed design is consistent with the purpose and intent of these criteria.

B. Architectural Style and Form.

1. Historic design elements of contributing buildings found in Clarke County should be the basis for proposed designs.
2. The architectural style and form of existing commercial buildings should be retained. New commercial construction, including additions to existing buildings, should represent the era in which it is built, while including design elements found on the County's historical commercial buildings.
3. Design concepts foreign in time and place to Clarke County are inconsistent with the county's architectural character and should not be used. For example, a building that imitates a Bavarian cottage, Spanish mission, Asian pagoda, Polynesian village, Tudor mansion, or New England sea shanty bears no relationship to the history or architecture of Clarke County. A building that exhibits many design elements present in Clarke County but nonetheless gives the overall appearance of caricature or exaggeration is also not acceptable.
4. Form should reflect function. New commercial buildings should not be disguised as residential buildings. Traditional commercial design features should be employed to reflect the new building's function.
5. The facades of large retail structures should be broken into smaller elements that are similar in scale to contributing commercial buildings.

C. Height. Most contributing buildings in Clarke County have no more than two stories with a few structures in Berryville with three stories. New construction should be consistent with this pattern and not exceed three stories.

D. Roofs

1. Contributing commercial buildings in Clarke County have roofs with the following characteristics: flat or shed pitches with front and side parapets or steep pitches (slopes between 8/12 and 12/12) with front or side gables. Roof material is primarily standing seam metal. Roofs are one color, usually dark green or black with dark red and silver also found to a lesser extent.
2. Existing commercial buildings should retain their roof configuration and elements. New commercial construction should use the most common characteristics of contributing commercial buildings: flat or shed roofs with parapets or steeply pitched front or side gable roofs, clad in standing seam metal of one dark color. Parapets should shield, on all sides, any roof-mounted mechanical equipment.

3. Gambrel roofs, true mansard roofs (which conceal an additional story) or other double-pitched roofs should not be used. These roof types are not common in Clarke County. They exist on a few agricultural buildings in the case of gambrel, on a few urban buildings in terms of true mansard, or are a late-20th century phenomenon in the case of other types of double pitched roofs. Fake roof fronts should not be used.

E. Exterior Walls

1. Exterior walls of contributing commercial buildings in Clarke County are most commonly clad in horizontal wood siding or stucco. To a lesser extent, red clay brick (painted or unpainted), native limestone, and cinder blocks were used. The same cladding material was typically applied to all sides and all stories of a building. Exposed foundations were usually of native limestone or formed concrete.
2. Existing commercial structures should retain their architectural character by maintaining their exterior wall and foundation materials. For cladding, new construction should use painted horizontal wood siding, stucco, red clay brick (painted or unpainted: solid red, not variegated), or limestone. Although use of authentic materials is encouraged, some modern alternative materials like hardi-plank for siding, split-face block for stone, or synthetic stucco for true stucco, can be used. Lesser quality materials like vinyl or aluminum siding should not be used.
3. No more than two cladding materials should be used on any building. No more than one cladding material should be used on any story of a building. Cladding materials should be uniform on all sides of a building. Stone should be natural local limestone.
4. Aside from buildings of unpainted red clay brick or native limestone, exterior wall colors of contributing buildings are characteristically painted white or off-white, and occasionally light gray or light yellow. Exterior wall color is different from and contrasts with roof color. Trim is usually painted white or matches the accompanying dark roof color. Typically, only two or three colors, including roof color, are used on a building. In new construction, such colors and patterns should be used. Naturally stained wood siding should not be used.
5. All building elevations should include the principal design features and materials used on the front of the building, so not to look like the rear of the building.

F. Windows and Doors

1. Windows and doors of contributing buildings in Clarke County are most commonly arranged in symmetrical and orderly relationships. Windows and doors at entrance levels of such buildings are square or rectangular.
2. The pattern and character of windows and doors on existing commercial buildings should be retained. Windows on new commercial buildings should include storefronts with large expanses of glass, and raised panels below the display windows. Windows with

small panes are found primarily in residential buildings, not in commercial buildings, and should not be used. A structure’s primary entrance should be off the front sidewalk, with additional entrances from parking lots to the side and rear of the structure as needed.

- G. Structural Details.** Building elements of contributing commercial buildings in Clarke County were generally functional. Structural details should be retained on existing buildings. Building elements in new construction should also be functional. Porches or awnings were typically added to many contributing commercial buildings and are encouraged. Shutters were not used for commercial storefront display windows and should not be used. Lighting was typically installed to serve the function of illuminating building entrances, walkways, driveways and/or parking. Light fixtures should be placed for a functional purpose and not installed for decorative reasons, such as above or within awnings. When used, brackets should support roof elements, porches and awnings should shelter doors and windows, etc. When used on more than one side, building details should not vary and should be applied consistently.

7.7 ANNEXATION AREA B DEVELOPMENT REGULATIONS

A. Common Areas and Improvements in Cluster Developments

1. For any cluster development, all common improvements (including open space, recreational facilities, private streets, walkways, parking areas, and other community facilities) shall be maintained by and be the sole responsibility of the developer-owner of the cluster development until such time as the developer-owner conveys such common area to a nonprofit (homeowner's) entity consisting of at least all of the individual owners of the dwelling units in the development.
2. Deed restrictions and covenants shall be included with the conveyance to include, among other things, that assessments, charges and costs of maintenance of such common areas shall constitute a pro-rata share lien upon the individual dwelling lots, such lien inferior only to taxes and recorded trusts. Further, covenants shall specify means in which the nonprofit entity shall govern and manage itself and maintain building exteriors, landscaping, lighting, recreation areas, walkways, parking areas, snow removal, and travel ways.
3. All deed restrictions, covenants, nonprofit (homeowner's) entity incorporation documents, and information related to conveyance programs shall be prepared by the developer-owner. These documents shall be presented at the time plat and site plans are submitted and shall meet the approval of the Town's legal representative.

B. Critical Environmental Areas

1. Critical Environmental Areas (CEAs) shall include one hundred year floodplains, land within 25 feet of the discernible edge of sinkholes, and slopes in excess of 25 percent.

ARTICLE I – ZONING ORDINANCE
2024 EDITION

2. Land designated as a CEA shall not be built upon.
3. Land designated as a CEA shall not contribute toward the maximum or minimum lot area or to open space requirements.
4. CEA also includes slopes between 15 and 25 percent to the extent set forth below:
 - a. Not more than 50 percent of land area with slopes between 15 and 25 percent shall contribute toward the maximum or minimum lot area or to open space requirements.
 - b. Land with slopes between 15 and 25 percent may be built upon.

C. Central Sewer System Required

1. No structure in a Berryville Annexation Area Zoning District as enumerated in [Section 4.3 \(Berryville Annexation Area Zoning Districts\)](#) shall be served by an individual septic system.
2. No structure with a lot size of less than one acre shall be served by an individual septic system.
3. Individual septic systems must be approved by the Health Department.
4. Lots of Record in any district in existence on October 1, 1977, regardless of size, may be served by individual septic system with Health Department approval.
5. Notwithstanding the provisions of the paragraphs above, all approved individual septic systems in existence on the effective date of this Ordinance may continue to be used so long as such system meets Health Department requirements.

7.8 SIGN REGULATIONS

7.8.1 General Provisions

- A. **Permit required.** A zoning permit per [Section 6.2.1](#) shall be required prior to installing any new sign or reconstructing or re-facing any existing sign unless otherwise noted in this section.
- B. **Governmental signs exempt.** Any sign installed, maintained, or under the supervision of any County, State, or Federal government authority shall be exempt from the requirements of this section.

C. Calculating the area of a sign.

1. The area of a sign shall be calculated using its outside measurements including the entire surface and any additional framing, molding or trim. The calculation does not include the surface of supporting structures.
2. For a sign of nonrectangular shape or a sign made up of individual letters, numbers, or designs, the area measured is the smallest rectangle required to enclose the nonrectangular sign or all the individual parts together.
3. For a double-faced sign, the area measured is one face of the display. The interior angle where the two parts connect may not be greater than 30 degrees. If the interior angle is greater than 30 degrees, the area is measured as two separate signs.

7.8.2 Permitted Signs. The following signs are permissible with approval of a sign permit unless otherwise noted and are subject to the regulations as enumerated.

A. Freestanding signs.

1. The maximum allowable area and height of freestanding signs shall be in accordance with the regulations listed in [Table 7.8\[1\]](#) below:

**TABLE 7.8[1] – FREESTANDING SIGN AREA AND HEIGHT REQUIREMENTS
BY ZONING DISTRICT**

Zoning District	Maximum Area	Maximum Height
RR District -- Permitted Uses -- Fronting on road with speed limit <55MPH -- Fronting on road with speed limit of 55MPH or more	2 square feet 4 square feet	4 feet 4 feet
RR District -- Special Uses -- Fronting on road with speed limit 25 MPH or less -- Fronting on road with speed limit >25MPH and < 55MPH -- Fronting on road with speed limit of 55MPH or more	8 square feet 16 square feet 24 square feet	6 feet 8 feet 10 feet
AOC and FOC Districts – Permitted Uses -- Fronting on road with speed limit <55MPH -- Fronting on road with speed limit of 55MPH or more	8 square feet 16 square feet	6 feet 8 feet
AOC and FOC Districts – Special Uses -- Fronting on road with speed limit 25 MPH or less -- Fronting on road with speed limit >25MPH and < 55MPH -- Fronting on road with speed limit of 55MPH or more	8 square feet 16 square feet 24 square feet	6 feet 8 feet 10 feet

ARTICLE I – ZONING ORDINANCE
2024 EDITION

Zoning District	Maximum Area	Maximum Height
CN District – Permitted and Special Uses -- Fronting on road with speed limit 25 MPH or less -- Fronting on road with speed limit >25MPH and < 55MPH -- Fronting on road with speed limit of 55MPH or more	8 square feet 16 square feet 24 square feet	6 feet 8 feet 10 feet
CH District – Permitted and Special Uses -- Fronting on road with speed limit <55MPH -- Fronting on road with speed limit of 55MPH or more	32 square feet 48 square feet	10 feet 12 feet
Annexation Area Residential Districts (OSR, DR-1, DR-2, DR-4) -- Fronting on road with speed limit <55MPH -- Fronting on road with speed limit of 55MPH or more	2 square feet 4 square feet	4 feet 4 feet
Annexation Area Commercial Districts (BC, B, BP, ITL) -- Fronting on road with speed limit 25 MPH or less -- Fronting on road with speed limit >25MPH and < 55MPH -- Fronting on road with speed limit of 55MPH or more	8 square feet 16 square feet 24 square feet	6 feet 8 feet 10 feet

2. A maximum of one (1) freestanding sign per lot shall be allowed in all zoning districts except for the CH District. In the CH District, lots with 300 feet or more of public road frontage shall have a maximum of two (2) freestanding signs.
3. The minimum setback for freestanding signs shall be a distance equal to the height of the sign from public highways, private access easements, and property lines.
4. Illumination of freestanding signs. Illumination of freestanding signs shall be in accordance with the following regulations:
 - a. For all uses in the CH District, a freestanding sign may only be internally or externally illuminated when a use is open for business.
 - b. For all uses in the CN District and for special uses only in the RR, AOC, and FOC Districts, a freestanding sign shall only be externally illuminated. External illumination shall be comprised of not more than two shielded, down-cast lights (maximum 150 watts for incandescent lights or equivalent for non-incandescent lights) from sunset to 10PM, if open for business during those hours.
 - c. No illuminated sign shall reflect or cast a glare, directly or indirectly, on any public road or adjacent property.

ARTICLE I – ZONING ORDINANCE
2024 EDITION

5. Ingress/egress signs. Signage that delineates the flow of traffic from the public right of way to property entrances and exits shall be considered freestanding signs for the purpose of this section but shall not be included in the total number of allowable freestanding signs. Such signs shall have a maximum area of 2 square feet and a maximum height of 4 feet.

B. Wall signs.

1. Maximum area calculation:

- a. Maximum allowable wall signage shall be calculated using the building walls which most directly face a public road. Wall signs shall not exceed one square foot of sign area per two linear feet of building frontage of the wall, and shall not exceed a maximum area of 200 square feet for wall signs on all buildings located on the lot. For corner lots, this area calculation may be made for each of the two walls that most directly face public roads.
- b. Canopy signage as described below shall be calculated separately from wall signage.
- c. Other walls shall not be included in calculating allowable sign areas; however, signs may be attached to any wall.

2. Limits on projection. Wall signs shall not project out from or above the wall by more than 18 inches.

3. Canopy signage. No canopy signage shall exceed one square foot of sign area per two linear feet of canopy frontage up to a maximum area of 50 feet. Canopy signage shall be calculated separately from wall signage.

C. Temporary signs.

1. Permit not required. A sign permit is not required for a temporary sign. All temporary signs shall comply with the regulations set forth in this section.

2. The maximum allowable area of temporary signs shall be in accordance with the regulations listed in [Table 7.8\[2\]](#) below:

**TABLE 7.8[2] – TEMPORARY SIGN MAXIMUM AREA REQUIREMENTS
BY ZONING DISTRICT**

Zoning District	Maximum Total Area of Signage	Maximum Number Per Lot
RR District	2 square feet	2
AOC and FOC Districts	16 square feet	2
CN District	16 square feet	2
CH District	16 square feet	2
Annexation Area Residential Districts (OSR, DR-1, DR-2, DR-4)	2 square feet	2
Annexation Area Commercial Districts (BC, B, BP, ITL)	16 square feet	2

3. Duration. A temporary sign may be posted for a maximum of 60 days and shall be removed within seven (7) days of the completion of the activity or event that is referenced on the temporary sign.
 4. Illumination prohibited. Temporary signs shall not be illuminated either internally or externally.
 5. Location in public right of way prohibited. Temporary signs shall not be located in any public right of way.
 6. Attention-getting devices. Attention-getting devices shall not be displayed on a lot for more than three (3) consecutive days or for more than ten (10) days in any thirty (30) day period. Attention-getting devices shall not count against the allowable number of temporary signs on a lot.
 7. Special event signage. Temporary signs posted in conjunction with a special event that is duly permitted in accordance with [Code of Clarke County Chapter 57 \(Special Events\)](#) shall not be regulated by this section.
- D. Changeable message signs.** Changeable message signs are permissible subject to the following provisions:
1. The display or message shall not change more rapidly than once every five minutes. For time and temperature signs, the message shall not change more rapidly than once every five seconds.

ARTICLE I – ZONING ORDINANCE
2024 EDITION

2. The display, message, and/or background shall not change color.
3. The maximum allowable area of a changeable message sign shall be based on the area regulations for freestanding or wall signs, whichever category is applicable.
- E. **Internal signs.** Any sign located within the interior of a lot which is intended to convey a message only to visitors or patrons on the lot and is not situated or designed to draw attention from adjacent streets or lots shall be permissible without a sign permit and shall not count against the total allowable freestanding or wall signs for that lot.
- F. **Signs prohibiting hunting, fishing, and/or trespassing.** Signs that prohibit hunting, fishing, and or trespassing on a lot shall be permissible without a sign permit. The maximum area of such signs is 2 square feet. There is no limit as to the number of signs that may be posted on a lot and there is no setback requirement.
- G. **Certain place name signs.** Signs listing only the name, address, and/or establishment date of a farm, residence, lot, historic place, or historic structure shall be exempt from the requirements of this section. Signs listing information pertaining to a business on the same lot or other information not specifically referenced above shall not be exempt under this section.

7.8.3 Prohibited signs. The following types of signs are prohibited:

1. Any sign which outlines any building structure or part thereof with neon or other lights.
2. Any sign which is fastened, placed, painted, or attached in any way to, in, or upon any tree, fence, public utility pole, rock, curbstone, sidewalk, lamp post, hydrant, bridge, highway marker or another sign, except signs that required by law, placed by a duly authorized governmental agency, or (d) not visible from any public road.
3. Roof signs.
4. Billboard signs, as defined in [Va. Code §33.2-1200](#).
5. Any sign and/or its display or message that moves, revolves, twirls, rotates, or flashes. Such prohibited signs include animated signs, multi-prism signs, floodlights and beacon lights except when required by the Federal Aviation Agency or other governmental agency.

7.8.4 Nonconforming signs. Any sign existing prior to the effective date of this ordinance which does not meet the requirements of this ordinance shall be deemed a nonconforming sign, and shall be subject to the provisions of [Section 9 \(Nonconformities\)](#).

7.9 PRE-HARVEST PLAN REGULATIONS

- A. **Intent.** The standards for the Pre-Harvest Plan are Best Management Practices (BMPs) specifically established to reduce logging costs, reduce erosion, and prevent water quality problems.
- B. **Pre-Harvest Plan Requirements.** The Pre-Harvest Plan shall include a map identifying:
- Property boundaries
 - Streams and drainages
 - Vegetated buffers as described in [Section 7.4](#)
 - Road and trail locations
 - Stream and drainage crossings
 - Log landings, and mill seats
 - Streamside Management Zones (SMZs)
 - Other environmental concerns

As appropriate, written notes shall address:

- Road and trail specifications
 - Harvesting equipment to be used
 - Timing of harvest
 - Logging contract specifications
 - Special planning for wet areas
 - Obstructions such as rock outcroppings
 - When and where BMPs will be installed
- C. **Minimum Standards and Criteria.** The guidelines in the [Virginia’s Forestry Best Management Practices for Water Quality, BMP Field Guide July 2002 \(as amended\)](#) shall be the minimum standards and criteria for the Pre-Harvest Plan and shall be understood and applied as the minimum requirements for:
- Haul roads
 - Skid trails
 - Haul Road and Skid Trail Drainage
 - Log decks, Landings, and Mill Seats
 - Stream side management zone (SMZ); however, in no instance shall a SMZ be less than 100 feet for a perennial stream or 50 feet for an intermittent stream as identified on the 7.5 USGS topographic maps,
 - Buffer area as described in [Subsection D](#),
 - Clear cuts for forest regeneration and wildlife habitat should be laid out with an undulating perimeter instead of squares or rectangles. This is to increase the “edge” effect between adjacent forested areas so vital to wildlife, and to help them blend into the surrounding forest, and
 - Seeding bare soil.

ARTICLE I – ZONING ORDINANCE
2024 EDITION

- D. Required Buffer Area.** For commercial forestry activities with a Pre-Harvest Plan, a buffer with a minimum width of 25 feet along public rights of way and 25 feet along property lines, allowing for the thinning of trees not to exceed 50% of the crown cover (50% crown cover retained at all times).
1. No skid trails shall be located within buffer areas.
 2. Tree removal in buffers shall be with directional felling and winching.
 3. Within this managed area up to 50% of the basal area or up to 50% of the forest canopy can be harvested.
 4. Salvage shall be conducted in accord with recommendations outlined in the BMP manual.
 5. Removal of harvested timber in the buffer shall be done so that the forest floor remains virtually undisturbed. If disturbance does occur, a permanent vegetative cover shall be established on exposed soil within the buffer area.
 6. Equipment shall not be operated in or adjacent to the buffer area for salvage and sanitation purposes when soils are saturated.
 7. Areas of damage of less than 1 acre may be completely harvested.
- E. Remediation of excessive clearing activities.** Revegetation/tree replacement, in consultation with a Forestry Consultant or Certified Arborist and within the guidelines described below, shall be required for all areas where any clearing occurs in excess of the standards for required vegetative buffers.
1. Violations. Any excessive clearing that occurs in violation of the requirements of this ordinance or in violation of any approved subdivision plat, site plan, or construction plan shall be remediated in accordance with this subsection. If a violation is discovered during the land clearing, land disturbance, or construction process, no certificate of occupancy (temporary or permanent) or surety release shall be granted until the violation is remediated and such remediation is inspected and approved by the Zoning Administrator. If a violation is discovered after completion of construction, it shall be remediated within thirty (30) days of the date of written notice by the Zoning Administrator. The Zoning Administrator may grant additional time to complete remediation activities if such timeframes will help ensure viability of replacement plantings due to weather or seasonal conditions.
 2. Remediation plan. The property owner shall be responsible for providing a written remediation plan with the Zoning Administrator to correct instances of excessive clearing. The remediation plan shall be consistent with the replacement criteria in Subsection 3 below and with the approved conservation subdivision plat, land disturbance plan, or other approved plan. The property owner shall be responsible for

ensuring the viability of all replacement plantings, shall request inspection by the Zoning Administrator or designated agent within two (2) years of planting to confirm viability, and shall replace any trees that may die. Additional fees may be imposed by the County to cover the cost of reviewing the remediation plan and conducting compliance inspections.

3. **Replacement criteria.** Trees that are removed shall be replaced so that there is, at a minimum, no loss of tree canopy coverage upon maturity of the replacement trees. All trees to be used as replacement trees shall be:
 - A Virginia native tree species as identified in the Virginia Department of Forestry’s Tree Seedling Brochure described by the Virginia Native Plant Society.
 - Be of minimum quality as identified in the [American Standard for Nursery Stock \(ANSI Z60.1-2004\) \(as amended\)](#).
 - Planted as described in the [American Standard for Nursery Stock ANSI Z60.1-2004 \(as amended\)](#); by a qualified landscape contractor to insure survival; and a minimum of 4 feet in height with caliper dependent on species.

7.10 SITING OF PROPANE TANKS

- A. Propane tanks of 500 gallons or larger shall be placed underground or shall be completely screened from view of adjoining properties through siting, vegetated screening, fencing, or other methods deemed acceptable by the Zoning Administrator, Screening methods, whether natural or manmade, shall be maintained throughout the life of the propane tank.
- B. These regulations shall apply to the siting of propane tanks in all zoning districts unless otherwise permitted by the regulations for a specific use.

7.11 USE OF PRIVATE ACCESS EASEMENTS

Requirements for the creation and modification of private access easements, including design standards and construction requirements, are set forth in [Section 4.5.3 of the Subdivision Ordinance \(Article II\)](#).

- A. In the AOC and FOC Districts, any one private access easement may serve not more than nine lots. Lots not served by private access easements shall be served by public roads constructed to Virginia Department of Transportation (VDOT) standards.
- B. In all other zoning districts, any one private access easement may serve not more than two lots. Lots not served by private access easements shall be served by public roads constructed to VDOT standards.
- C. Two or more interconnecting private access easements shall be deemed to be a single private access easement for purposes of this section.

- D. A lot shall be deemed to be served by a private access easement if the lot can access a public road by use of the private access easement.
- E. Private access easements existing as of July 17, 2007 and serving nine lots or more may continue to serve those lots, but no additional lots may be served by that private access easement unless such additional lots are created as the result of a minor subdivision approved at least five years after any previous subdivision of the parcel being divided. When a minor subdivision of a lot approved less than five years after approval of a previous subdivision or a major subdivision creates a situation where a private access easement, existing as of July 17, 2007, would provide access to ten or more lots, that portion of the private access easement serving ten or more lots shall be a public road constructed to VDOT standards. Private access easements existing as of July 17, 2007 and serving less than nine lots may serve an additional lot or lots with the limitation that the private access easement may not serve more than a total of nine lots.

7.12 PARKING AND STORAGE OF INOPERABLE VEHICLES

- A. Except as provided in [Subsection B](#), it shall be unlawful for any person to keep an inoperable motor vehicle, trailer or semi-trailer on any property unless such motor vehicle, trailer or semi-trailer is kept within a fully enclosed building or structure.
- B. Unless otherwise permitted by the regulations of a specific use as set forth in [Section 5 \(Uses\)](#), a maximum of one inoperable motor vehicle, trailer, or semi-trailer may be kept outside of a fully enclosed building or structure, as long as such vehicle, trailer, or semi-trailer is shielded or screened from view. “Shielded or screened from view” means not visible by someone standing at ground level from outside of the property on which the subject vehicle is located, or the vehicle is covered by a cover made for vehicles.
- C. **Removal Notice.** The owner of property upon which any inoperable motor vehicles, trailers, and semi-trailers are located in violation of this section shall cause such motor vehicle to be removed from the premises within 30 days from the date notice to do so is given by the Zoning Administrator in accordance with [Section 10 \(Enforcement\)](#).
- D. **Removal and Disposal.**
 - 1. The Zoning Administrator may order the removal of any motor vehicle, trailer or semi-trailer which is located in violation of this section, whenever the owner of the premises upon which the same is located, has failed to do so after reasonable notice.
 - 2. When such a vehicle has been so removed, the Zoning Administrator may order the disposal of the same, after giving additional notice to the owner of the vehicle, when ownership can be determined.
 - 3. The cost of any removal and disposal under this section shall be chargeable to the owner of the vehicle or the premises, may be collected by the County as taxes and levies are

ARTICLE I – ZONING ORDINANCE
2024 EDITION

collected, and shall constitute a lien against the property from which the vehicle was removed, the lien to continue until actual payment of such costs shall have been made to the County.

SECTION 8	PERFORMANCE AND MAINTENANCE GUARANTEES
<p>This Section contains the requirements for posting performance and maintenance guarantees (e.g., bonds, letters of credit) for construction, maintenance, and/or removal of improvements.</p>	

Table of Contents

Section	Title	Page(s)
8.1	Performance Guarantees	8-2 – 8-4
8.1.1	General Provisions	8-2
8.1.2	Performance Guarantee Term	8-2
8.1.3	Performance Guarantee Form	8-2
8.1.4	Performance Guarantee Amount	8-3
8.1.5	Release of Performance Guarantee	8-3 – 8-4
8.1.6	Default and Forfeiture	8-4
8.2	Maintenance Guarantees	8-5 – 8-6
8.2.1	General Provisions	8-5
8.2.2	Maintenance Guarantee Term	8-5
8.2.3	Maintenance Guarantee Form	8-5
8.2.4	Maintenance Guarantee Amount	8-6
8.2.5	Release of Maintenance Guarantee	8-6
8.2.6	Default and Forfeiture	8-6

8.1 PERFORMANCE GUARANTEES

8.1.1 General Provisions. A performance guarantee in accordance with the standards in this Section shall be required in the following circumstances:

- A. To ensure completion and acceptance of public infrastructure improvements that are required as part of an approved site development plan (e.g., streets, sidewalks, stormwater management facilities, public water facilities, public sewage facilities, street lights), but are not installed before occupancy of the development.
- B. To ensure completion of private site improvements (other than landscaping) that are required as part of an approved site development plan (e.g., walkways, exterior lighting), but are not installed before occupancy of the development provided that the Zoning Administrator, in consultation with the Building Official, determines that the property may be safely occupied and used pending the delayed installation of the improvements.
- C. To ensure completion of landscaping improvements that are required in accordance with [Section 7.2.4 \(Landscaping Design Standards\)](#) but are not installed before occupancy of the development.

8.1.2 Performance Guarantee Term. The term of a performance guarantee shall reflect any time limit for completing installation of required improvements that is included in approval of the site development plan, building permit, or Certificate of Occupancy, as appropriate, but in any case, the term shall not exceed two years. The Zoning Administrator may, for good cause shown and with approval of the provider of the guarantee, grant up to two extensions of the term, with each extension not exceeding one year.

8.1.3 Performance Guarantee Form

- A. Where required, the owner or developer shall furnish a performance guarantee in any of the following acceptable forms:
 - Cash deposit with the County
 - Certified check from a Virginia lender based upon a cash deposit, in a form acceptable to the County Attorney
 - Irrevocable letter of credit from a Virginia banking institution in a form acceptable to the County Attorney
 - Surety bond from a Virginia surety bonding company in a form acceptable to the County Attorney
- B. The performance guarantee shall be conditioned on the performance of all work necessary to complete the installation of the required improvements within the term of the performance guarantee. In the event of the owner’s or developer’s failure to complete the guaranteed improvements, the County shall be able to immediately obtain the funds necessary to complete installation of the improvements utilizing the performance guarantees.

8.1.4 Performance Guarantee Amount

- A. Performance guarantees for required improvements shall be in an amount equal to at least 125 percent of the estimated full cost of completing the installation of the required improvements, including the costs of materials, labor, and project management.
- B. Estimated costs for completing installation of required public infrastructure improvements shall be itemized by improvement type and certified by the owner’s or developer’s licensed professional engineer, and are subject to approval by the Zoning Administrator. Estimated costs for completing installation of required landscaping or other private site improvements shall be itemized and certified by the owner’s or developer’s landscape architect or contractor, and are subject to approval by the Zoning Administrator.
- C. If the guarantee is renewed, the Zoning Administrator may require the amount of the performance guarantee be updated to reflect cost increases over time.
- D. The amount of a performance guarantee may be waived or reduced by the Board of Supervisors where the improvements are being installed with federal funds or in other circumstances where similar third-party assurance of their completion exists.

8.1.5 Release of Performance Guarantee

- A. **Request for Release.** The owner or developer may submit to the Zoning Administrator a written request for a periodic partial release or a final complete release of a performance guarantee. Such a request shall include:
 - 1. Certification by the owner’s or developer’s engineer that construction or installation of the public infrastructure improvements for which release of a performance guarantee is sought has been completed in accordance with approved plans and specifications, and that the improvements have been accepted and taken over for maintenance and operations by a state agency, local government department or agency, or other authority responsible for maintenance and operation of such improvements; or
 - 2. Certification by the owner’s or developer’s landscape architect or contractor that construction or installation of landscaping or other private site improvements for which release of a performance guarantee is sought has been completed in accordance with approved plans and specifications.
- B. **Action on Request for Release.** The Zoning Administrator shall grant a requested release of a performance guarantee only after:

ARTICLE I – ZONING ORDINANCE
2024 EDITION

1. County staff has performed inspections of the improvements and has certified in writing that the guaranteed improvements have been approved and accepted by the state agency, local government department or agency, or other authority responsible for maintenance and operation of such improvements;
 2. The owner or developer has reimbursed the County for all costs associated with conducting any inspection that finds the guaranteed public infrastructure improvements have not been installed in accordance with approved plans and specifications;
 3. The owner or developer has provided the Zoning Administrator with assurances in writing that liens against guaranteed public infrastructure improvements will not be filed after their acceptance by the County (e.g., through affidavits, releases, or waivers of liens from all contractors and subcontractors); and
 4. The owner or developer has provided the Zoning Administrator with any required maintenance guarantee for the same public infrastructure improvements per [Section 8.2](#).
- C. Time Limits on Action on Request for Release.** The Zoning Administrator shall release a performance guarantee within 30 days after receiving a written request for the release unless the Zoning Administrator notifies the requestor in writing of the non-receipt of applicable state agency approval or of specified defects or deficiencies and suggested corrective measures before expiration of the 30-day period.
- D. Limit on Partial Releases.** No performance guarantee for improvements shall be partially released until construction or installation of at least 30 percent of the guaranteed improvements has been completed. No performance guarantee shall be reduced to less than ten percent of the full amount of the performance guarantee until construction or installation of all the guaranteed improvements has been completed.

8.1.6 Default and Forfeiture

- A. Notice of Failure to Complete Improvements.** If the owner or developer fails to complete installation of the guaranteed improvements (and in the case of public infrastructure improvements, to have the improvements accepted) within the term of the performance guarantee (as may be extended), the Zoning Administrator shall give the owner or developer 30 days written notice of the default by certified mail.
- B. County Completion of Improvements.** After the 30-day notice period expires, the County may draw on the security and use the funds to perform work necessary to complete installation of the guaranteed improvements. After completing such work, the County shall provide a complete accounting of the expenditures to the owner or developer and, as applicable, refund all unused security deposited, without interest.

8.2 MAINTENANCE GUARANTEES

8.2.1 General Provisions. A maintenance guarantee in accordance with the standards in this Section is required in the following circumstances:

- A. To ensure against defects in workmanship or materials in providing public infrastructure improvements other than public streets that are required as part of an approved site development plan.
- B. To ensure the survival and health of existing trees and new required landscaping in accordance with [Section 7.2.4 \(Landscaping Design Standards\)](#).

8.2.2 Maintenance Guarantee Term

- A. **Public Infrastructure Improvements.** The term of a maintenance guarantee for required public infrastructure improvements shall be two years from the date of acceptance.
- B. **Existing Trees and New Required Landscaping.** The term of a maintenance guarantee for existing trees and new required landscaping shall be one year from the date the landscaping is installed. For new required landscaping installed after issuance of a certificate of occupancy and subject to a performance guarantee per [Section 8.1](#), the maintenance guarantee term shall be one year from the date of final installation.

8.2.3 Maintenance Guarantee Form

- A. Where required, the owner or developer shall furnish a maintenance guarantee for the provision of required landscaping in any of the following acceptable forms:
 - Cash deposit with the County
 - Certified check from a Virginia lender based upon a cash deposit, in a form acceptable to the County Attorney
 - Irrevocable letter of credit from a Virginia banking institution in a form acceptable to the County Attorney
 - Surety bond from a Virginia surety bonding company in a form acceptable to the County Attorney.
- B. The maintenance guarantee shall be conditioned on the performance of all work necessary to maintain required public infrastructure improvements or landscaping during the term of the maintenance guarantee, including work needed to repair or replace infrastructure defects or to replace plants that have died during the term of the maintenance guarantee.
- C. In the event of the owner’s or developer’s failure to maintain and repair or replace the guaranteed public infrastructure improvements or landscaping, the County shall be able to immediately obtain the funds necessary to make necessary repairs or replacements.

8.2.4 Maintenance Guarantee Amount

- A. Maintenance guarantees shall be in an amount equal to at least 50 percent of the full actual cost, including the costs of materials and labor, of installing the required public infrastructure improvements or landscaping.
- B. Actual costs for installing required public infrastructure improvements shall be itemized by improvement type and certified by the owner’s or developer’s licensed professional engineer. Actual costs for installing required landscaping shall be itemized and certified by the owner’s or developer’s landscape architect.
- C. The amount of a maintenance guarantee may be waived or reduced by the Board of Supervisors where alternative means of ensuring proper maintenance of the improvements or landscaping are used.

8.2.5 Release of Maintenance Guarantees. The Zoning Administrator shall release a maintenance guarantee at the end of the term of the maintenance guarantee only after an inspection of the infrastructure or landscaping has been performed and certified in writing that the guaranteed public infrastructure improvements have been maintained in accordance with approved plans and specifications or that the guaranteed landscaping has been maintained in a healthy state or replaced with new plants meeting required standards.

8.2.6 Default and Forfeiture

- A. **Notice of Failure to Maintain Improvements or Replacement Landscaping.** If the owner or developer fails to maintain the guaranteed public infrastructure improvements or landscaping during the term of the performance guarantee, the Zoning Administrator shall give the owner or developer 30 days written notice of the default by certified mail.
- B. **County Correction of Defects or Replacement of Landscaping.** After the 30-day notice period expires, the County may draw on the security and use the funds to perform work necessary to ensure the public guaranteed infrastructure improvements comply with approved plans and specifications or to replace any dead landscaping. After completing such work, the County shall provide a complete accounting of the expenditures to the owner or developer and, as applicable, refund all unused security deposited, without interest.

SECTION 9	NONCONFORMITIES
This Section contains the regulations for nonconforming lots, uses, and structures.	

Table of Contents

Section	Title	Page(s)
9.1	General Provisions	9-2
9.2	Nonconforming Lots	9-2
9.3	Nonconforming Uses	9-3
9.4	Nonconforming Structures	9-3 – 9-4
9.5	Nonconforming Signs	9-4 – 9-5
9.6	Nonconforming Site Features	9-5
9.7	Deemed Special Use Status	9-6

9.1 GENERAL PROVISIONS

- A. **Intent.** Within the zoning districts established by this Ordinance, or amendments thereto, there may be lots, structures, or uses of land and/or structures which were lawful before this Ordinance was passed or amended but which would not conform to regulations and restrictions under the terms of this Ordinance or future amendments thereto. It is the intent of the Ordinance to abide by the letter and spirit of the provisions of [Va. Code §15.2-2307](#).
- B. **Use, Occupancy, and Construction.** Except as otherwise provided by this Section, no building, structure, or land shall be used or occupied, and no building or structure or part thereof shall be constructed except in conformity with all the regulations herein specified for the zoning district in which it is located.
- C. **Existing Construction.** To avoid undue hardship, nothing in this Ordinance shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction pursuant to a legally issued permit, was lawfully begun prior to the effective date of adoption or amendment of this ordinance and upon which actual building construction has been carried on diligently, provided such construction is completed within one (1) year. For good cause shown, the Zoning Administrator shall have authority to extend said one (1) year period for such period of time, as he may deem reasonable under the circumstances. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where excavation or demolition or removal of an existing building has been substantially begun prior to rebuilding, such excavation or demolition or removal shall be deemed to be actual construction, provided that work shall be carried on diligently.

9.2 NONCONFORMING LOTS

- A. **Generally.** In any district, permitted structures may be erected or enlarged on any lot which was a single lot of record on the effective date of this Ordinance, and which lot fails to meet the requirements for area or width, or both, which are applicable in the district. Yard requirements and requirements of this Ordinance, other than lot area and width requirements, shall be met on such lots for the erection of any new structure, or addition of any existing structure, unless a variance from such requirements is granted by the Board of Zoning Appeals.
- B. **Nonconforming Lots Created by Highway, Realignment, Condemnation, or Court Decree.** Any lot, which by reason of realignment of a Federal or State highway, by reason of condemnation proceedings, or by reason of the decree or order of a Court of competent jurisdiction, has been reduced in size to an area less than that required by law, shall be considered a nonconforming lot of record subject to the provisions of this Section.

9.3 NONCONFORMING USES

- A. Generally.** Where at the time of the effective date of this Ordinance, or any amendments thereto, lawful use of land exists which would not be permitted by this Ordinance, the use may be continued so long as it remains otherwise lawful, subject to the following conditions:
1. No Expansion of Nonconforming Use.
 - a. A nonconforming use shall be not be enlarged, increased, or extended. No nonconforming use shall be moved, in whole or in part, to any portion of a lot not occupied by such use at the time of adoption or amendment of the Ordinance which established the nonconformity.
 - b. A nonconforming use may be extended throughout any parts of a building that were manifestly arranged or designed for such use at the time of adoption or amendment of the Ordinance which established the nonconformity, but no such use shall be extended to occupy any land outside building.
 2. Change to Permitted Use. When any nonconforming use is superseded by a permitted use, the use shall thereafter conform to the regulations for the district, and no nonconforming use shall thereafter be resumed, except as provided in [Va. Code §15.2-2307](#) as to uses not discontinued for more than two years.
 3. Discontinuance of Use for More Than Two (2) Years. If any nonconforming use of land is discontinued for any reason for a period of more than two (2) years (except when government action impedes access to the premises), any subsequent use of such land shall conform to the regulations specified by this Ordinance for the district in which such land is located.

9.4 NONCONFORMING STRUCTURES

- A. Generally.** Where at the time of the effective date of this Ordinance, or any amendments thereto, lawful use of structures which would not be permitted by this Ordinance, the structure may remain so long as it remains otherwise lawful, subject to the following conditions:
1. No Expansion of Nonconforming Structure. A nonconforming structure shall not be enlarged, increased, structurally altered, or extended in a manner that increases its nonconforming status. If a nonconforming structure is partially conforming as to building setback or height, those conforming portions of the structure may be enlarged or extended in conformance with setback or height requirements.

2. Change to Permitted Structure. When any nonconforming structure is superseded by a permitted structure, the structure shall thereafter conform to the regulations for the district, and no nonconforming structure shall thereafter be resumed.
3. Repair, Reconstruction, or Replacement after Damage or Destruction. A nonconforming structure damaged or destroyed as a result of a natural disaster or other unforeseen and unpreventable accident or occurrence (e.g., hurricane, tornado, storm, flood, high water, earthquake, fire caused by lightning, wildfire, and accidental fire) may be repaired, reconstructed, or replaced, provided that the repair, reconstruction, or replacement:
 - a. Does not increase, expand, enlarge, or extend the extent of the nonconformity.
 - b. Complies with the floodplain provisions in [Section 4.2.1 \(Flood Plain Overlay District - FP\)](#) where applicable.
 - c. Is completed within two years after the damage or destruction, or within four years after the damage or destruction if the structure is in an area under a federal disaster declaration and the damage or destruction is a direct result of the conditions giving rise to the declaration.
4. Unsafe Structure. If a nonconforming structure or portion of a structure becomes physically unsafe or unlawful due to lack of repairs and maintenance, and is declared by any duly authorized official to be unsafe or unlawful by reason of physical condition, it shall not thereafter be restored, repaired, rebuilt, or used except in conformity with the regulations of the district in which it is located.

9.5 NONCONFORMING SIGNS

- A. **Enlargement or Alteration.** A lawful nonconforming sign shall not be enlarged or structurally altered in any way that increases the extent of nonconformity.
- B. **Repair, Reconstruction, or Replacement after Damage or Destruction.** Any repair, reconstruction, or replacement of a damaged or destroyed nonconforming sign shall be subject to the same provisions applicable to the repair, reconstruction, or replacement of a damaged or destroyed nonconforming structure in [Section 9.4A-3 \(Repair, Reconstruction, or Replacement after Damage or Destruction\)](#).
- C. **Removal of Abandoned Nonconforming Signs.**
 1. The Zoning Administrator may order the removal of an abandoned sign after making a reasonable attempt to notify the owner of the property on which an abandoned sign is located. A sign shall be considered to be abandoned if it identifies or advertises a business, service, commodity, accommodation, attraction, or other enterprise or activity that has not been in operation for a period of at least two years.
 2. If the Zoning Administrator has made a reasonable attempt to notify the property owner and the owner refuses to remove the sign, the County, through its agents or employees,

may enter the property on which the sign is located and remove the sign. The cost of such removal shall be chargeable to the owner of the property. Alternatively, the County may petition a court of competent jurisdiction for an order requiring removal of an abandoned nonconforming sign by the owner by means of injunction or other appropriate remedy.

D. Billboards.

1. Construction of new billboards as defined in [Va. Code §33.2-1200](#) shall be prohibited. Existing billboards shall be considered nonconforming signs and shall not be enlarged or structurally altered in any way that increases the extent of nonconformity.
2. Maintenance and repair of nonconforming billboards shall be in accordance with [Va. Code §33.2-1219](#).

9.6 NONCONFORMING SITE FEATURES

A. Purpose. The purpose of this section is to require certain nonconforming site features to be brought into compliance with the standards of this Ordinance as part of remodeling or expansion of an existing development. This section shall apply to remodeling or expansion projects that require approval of a new site development plan per [Section 6.2.2](#) or a site development plan amendment per [Section 6.2.3](#).

B. Nonconforming Site Features. For purposes of this Ordinance, the term "nonconforming site feature" includes the following site features to the extent they fail to fully comply with applicable standards in the referenced sections:

- Landscaping Design Standards ([Section 7.2.4](#))
- Parking Regulations ([Section 7.2.5](#))
- Outdoor Lighting Standards ([Section 7.2.6](#))
- Sign Regulations ([Section 7.8](#))
- Historic Access Corridor Overlay District Design Standards ([Section 7.6](#))

C. Required Compliance of Nonconforming Site Features.

1. In conjunction with the review of a site development plan or site development plan amendment, any existing use containing nonconforming site features shall be required to bring existing parking into full compliance with [Section 7.2.5](#) if applicable and at least one additional nonconforming site feature into full compliance with Ordinance requirements.
2. The approval authority shall have the discretion to determine which nonconforming site feature shall be brought into full compliance with Ordinance requirements.

9.7 DEEMED SPECIAL USE STATUS

- A. Under prior Zoning Ordinance provisions, a property was deemed to have been approved for a special use if, at the time of the adoption of the Ordinance provision permitting that use in the zoning district as a special use, the use was either a permitted use or a nonconforming use.
- B. No use shall be deemed as a special use without approval of a special use permit in accordance with the process set forth in [Section 6.3.1 \(Special Use Permit\)](#).
- C. Any use that was previously deemed as approved for a special use through written determination by the Zoning Administrator shall continue to be recognized as a special use unless revoked in accordance with [Section 6.3.1E \(Special Use Permit – Revocation\)](#).

SECTION 10	ENFORCEMENT
<p>This Section establishes procedures through which the County seeks to ensure compliance with the provisions of this Ordinance and obtain corrections for Ordinance violations. It also sets forth the remedies and penalties that apply to violations of this Ordinance. The provisions of this article are intended to encourage the voluntary correction of violations, where possible.</p>	

Table of Contents

Section	Title	Page(s)
10.1	Compliance Required	10-2
10.2	Specific Violations	10-2 – 10-3
10.3	Responsible Persons	10-3
10.4	Enforcement	10-3 – 10-5
10.5	Remedies and Penalties	10-5

10.1 COMPLIANCE REQUIRED

- A. Compliance with all the procedures, standards, and other provisions of this Ordinance is required by all persons owning, developing, managing, using, or occupying land or structures in the County.
- B. Any person, firm, or corporation, whether as owner, lessee, principal, agent, employee, or otherwise, who violates, causes a violation, or permits a violation of any or the provisions of this Ordinance, shall be guilty of a misdemeanor and shall be subject to the penalties set forth in [Va. Code §15.2-2286](#).

10.2 SPECIFIC VIOLATIONS

It shall be a violation of this Ordinance to undertake any activity contrary to the provisions of this Ordinance, including but not limited to any of the following:

- A. Develop land or a structure without first obtaining all appropriate development approvals or permits, and complying with their terms and conditions.
- B. Occupy or use land or a structure without first obtaining all appropriate development approvals or permits, and complying with their terms and conditions.
- C. Undertake any land disturbing activity without first obtaining all appropriate development approvals or permits, and complying with their terms and conditions.
- D. Disturb any landscaped area or vegetation required by this Ordinance.
- E. Install, create, erect, alter, or maintain any sign without first obtaining the appropriate permit, and complying with its terms and conditions.
- F. Fail to remove any sign installed, created, erected, or maintained in violation of this Ordinance, or for which the permit has expired.
- G. Create, expand, replace, or change any nonconformity except in compliance with this Ordinance.
- H. Reduce or diminish the requirements for development, design, or dimensional standards below the minimum required by this Ordinance.
- I. Increase the intensity or density of development, except in accordance with the standards of this Ordinance.
- J. Engage in any development or other activity of any nature in any way inconsistent with a development approval or permit, or other form of authorization granted for such activity by the County.

- K. Engage in any development or other activity of any nature in any way inconsistent with the regulations, standards, and requirements of this Ordinance.
- L. Violate, by act or omission, any term, condition of approval, or qualification placed by a decision-making body on a development approval or permit, or other form of authorization granted by the County to allow development.

10.3 RESPONSIBLE PERSONS

The owner, tenant, or occupant of any land or structure, and an architect, engineer, builder, contractor, agent, or any other person who participates in, assists, directs, creates, or maintains a situation that constitutes a violation of this Ordinance may be held responsible for the violation and subject to the remedies and penalties set forth in this article.

10.4 ENFORCEMENT

A. Enforcement Generally.

1. Enforcement Responsibility. The Zoning Administrator shall be responsible for enforcing the provisions of this Ordinance in accordance with the [Code of Virginia](#).
2. Complaints Regarding Violations. Whenever a violation of this Ordinance occurs, or is alleged to have occurred, any person may file a complaint. The complaint, stating fully the cause and basis therefore shall be filed with the Zoning Administrator, who shall properly record such complaint, investigate, and take appropriate action as provided by this Ordinance.
3. Inspections. Upon presenting proper credentials, the Zoning Administrator or other County official designated by the Zoning Administrator may enter upon land or inspect any structure to ensure compliance with the zoning provisions of this Ordinance, after requesting and receiving approval of the landowner to enter upon land for these purposes. If consent is not given by the landowner, the Zoning Administrator may enter upon land in accordance with [Va. Code §15.2-2286](#).

B. Enforcement Procedures.

1. Investigation of Potential Violations
 - a. Upon receiving a complaint alleging a potential violation of this Ordinance, the Zoning Administrator shall investigate and determine whether a violation of this Ordinance exists.
 - b. When the Zoning Administrator has reasonable cause to believe a person has engaged in or is engaging in any violation of this Ordinance that limits occupancy in a residential dwelling unit, and has been unable, after a good faith effort, to

ARTICLE I – ZONING ORDINANCE
2024 EDITION

obtain information needed to determine whether a violation has occurred, the Administrator may seek a subpoena to obtain such information in accordance with [Va. Code §15.2-2286](#).

- c. Following an unsuccessful good faith effort to obtain consent to investigate an alleged violation of this Ordinance, the Zoning Administrator may present sworn testimony to a magistrate or court of competent jurisdiction and request an inspection warrant to enable the Zoning Administrator to enter the premises for the purpose of determining whether a violation exists.

2. Notice of Zoning Violation (NOV)

- a. Upon finding that a violation of the zoning provisions of this Ordinance exists, the Zoning Administrator shall take appropriate action to ensure compliance with this Ordinance. Such action may include written notification of the violation through a notice of violation, by personal service or certified mail, return receipt requested, to the owner of the property on which the violation exists and/or the person causing or maintaining the violation. Such notification shall:

- (1) Describe the location and nature of the violation
- (2) State the actions necessary to abate the violation
- (3) Order that the violation be corrected within a specified reasonable time period not to exceed 30 days after receipt of the notice of violation.

- b. The notice of violation shall advise the alleged violator(s) of their right to appeal the notice of violation to the BZA in accordance with [Section 6.4.3 \(Appeal\)](#), within 30 days of receipt of the notice of violation, and that the decision not to appeal shall be final and unappealable if not appealed within 30 days.
- c. Upon receiving a written request for extension of the time limit for correction specified in the notice of violation, the Zoning Administrator may, for good cause shown, grant an extension of the time for up to 30 days.
- d. If the owner of the property cannot be located or determined, the Zoning Administrator shall post a copy of the notice of violation on the building, structure, sign, or site that is the subject of the violation. In such a case, the time limit for correction of the violation shall be deemed to begin five days after the notice is posted.

3. Application of Remedies and Penalties. Upon determining that the violator has failed to correct the violation by the time limit set forth in the notice of violation, or any granted extension, or has failed to timely appeal the notice of violation in accordance with [Section 6.4.3 \(Appeal\)](#), the Zoning Administrator shall, after consultation with the County Attorney or Commonwealth’s Attorney, take appropriate action, as provided in [Section 10.5](#), to correct and abate the violation and to ensure compliance with this Ordinance.

4. Emergency Enforcement without Notice. Upon determining that delay in correcting the violation would pose a danger to the public health, safety, or welfare, the Administrator

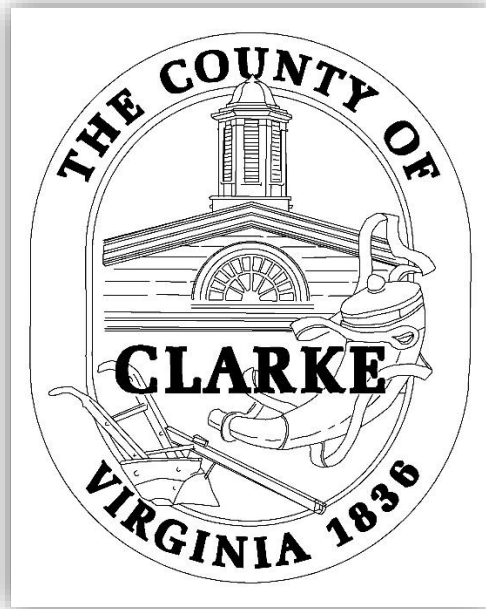
may seek immediate enforcement without prior written notice by invoking any of the remedies authorized in [Section 10.5](#).

10.5 REMEDIES AND PENALTIES

- A.** Any violation of this article may be corrected, restrained, or abated by any of the following proceedings and remedies in accordance with the [Code of Virginia](#).
1. **Stop Work Order Issuance.** The County may issue a stop work order on any building or structure on any land on which there is or has been an uncorrected violation of this Ordinance or of a development approval or permit or other form of authorization issued hereunder in accordance with its powers to stop work under the [Virginia Uniform Statewide Building Code](#).
 2. **Penalties.** Upon conviction of a violation of this Ordinance, the person, firm, or corporation so convicted shall be subject to the penalties set forth in [Va. Code §15.2-2286](#).
 3. **Correct and Abate.** Any violation or attempted violation of this Ordinance may be restrained, corrected, or abated by injunction or other appropriate proceeding in accordance with the [Code of Virginia](#).
 4. **Court Imposed Penalties.** In accordance with the [Code of Virginia](#), the court may impose penalties upon the conviction of any violator. A violation shall be a misdemeanor punishable by a fine that does not exceed the maximum allowed by the [Code of Virginia](#). If the violation is uncorrected at the time of conviction, the court shall order the violator to abate or remedy the violation to comply with the violation, within a time period established by the court. Failure to remove or abate a zoning violation within the specified time period shall constitute a separate misdemeanor offense punishable by a fine that does not exceed the maximum allowed by the [Code of Virginia](#).
 5. **Memorandum of Lis Pendens.** At any time after the filing of an injunction or other appropriate proceeding to restrain, correct, or abate an alleged violation of a zoning provision of this Ordinance where the owner of the real property is a party to such proceeding, the Zoning Administrator may record a memorandum of lis pendens in accordance with the [Code of Virginia](#).
 6. **Other Penalties Authorized by Code of Virginia.** The County shall have such other remedies as are and as may from time to time be provided for or allowed by the [Code of Virginia](#), for the violation of zoning, subdivision, and other provisions of the County Code of Ordinances.
- B.** The remedies for violations and enforcement of this Ordinance are cumulative and not exclusive, and shall be in addition to any other remedies provided by law.

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ARTICLE II – SUBDIVISION ORDINANCE

ZONING AND SUBDIVISION ORDINANCES

CODE OF CLARKE COUNTY

CHAPTER 200

Current as of January 1, 2024

EDITOR'S NOTES

- Subdivision Ordinance (**Article II**) is the work product of a cover-to cover review and recodification of the Clarke County Zoning and Subdivision Ordinances, conducted by the Department of Planning from late 2017 through August 2021.
- The Subdivision Ordinance is intended to be used in concert with the Zoning Ordinance (**Article I**). Definitions of key terms used in both the Zoning and Subdivision Ordinances are enumerated in **Article III (Definitions)**.
- The Department of Planning's **Guidance Manual to the Clarke County Zoning and Subdivision Ordinances** is a companion document to the Ordinances that is intended to present Ordinance regulations and processes in a citizen and customer-friendly format. The **Guidance Manual** is reviewed and updated by Department staff on an annual basis. The **Guidance Manual** is an advisory document only and is not intended to be a replacement for the regulatory provisions in the Zoning and Subdivision Ordinances.
- An expanded section on administration (**Section 2**) contains a description of each advisory and decision-making body as well as regulations for common processes such as pre-application meetings, application filing, and public hearings.
- Regulatory processes including subdivisions, boundary line adjustments, and mergers are described in **Section 3 (Review Processes)**. Application, platting, and construction plan requirements that must be met in conjunction with the regulatory processes are listed in **Section 4 (Plat and Construction Plan Requirements)**. **Section 5** outlines requirements for performance and maintenance guarantees.
- Other administrative sections include **Section 1 (General Provisions)** and **Section 6 (Enforcement)**.
- Cross-references to Zoning and Subdivision Ordinance sections, outside ordinances and codes, cited publications, and other resources are depicted in **bold blue underlined font**. Color-coding of certain sections is provided for ease in referencing the provisions.

TABLE OF CONTENTS

<u>SECTION 1 -- GENERAL PROVISIONS</u>		
This Section contains regulations on the enactment of the Subdivision Ordinance, rules for managing the transition from the previous to this current Ordinance, and how the Ordinance is to be applied generally.		
Section	Title	Page(s)
1.1	Ordinance Authority, Enactment, and Effective Date	1-2
1.2	Purposes and Intent	1-2
1.3	Applicability and Jurisdiction	1-2 – 1-3
1.3.1	Application to Federal, State, and Local Government	1-2 – 1-3
1.3.2	Conflict with Statutes, Local Ordinances, or Regulations	1-3
1.3.3	Severability	1-3
1.3.4	Private Contracts	1-3
1.4	Transition to Current Subdivision Ordinance	1-3
1.4.1	Repeal of Conflicting Ordinances	1-3
1.4.2	Transitional Rules	1-3
1.5	Ordinance Usage	1-4 – 1-5
1.5.1	Definitions	1-4
1.5.2	Meanings and Intent	1-4
1.5.3	Headings, Illustrations, and Text	1-4
1.5.4	Lists and Examples	1-4
1.5.5	Computation of Time	1-4
1.5.6	References to Other Regulations or Publications	1-4
1.5.7	Code of Virginia Citations	1-4
1.5.8	Delegation of Authority	1-4
1.5.9	Technical and Non-Technical Terms	1-5
1.5.10	Public Officials and Agencies	1-5

<u>SECTION 2 – ADMINISTRATION</u>		
This Section contains provisions pertaining to the general administration of the Subdivision Ordinance including submission and acceptance of applications, public hearing management, and authority for fees. The Section also contains detailed descriptions of advisory and decision-making bodies and their composition, roles, and responsibilities.		
Section	Title	Page(s)
2.1	Advisory and Decision-Making Bodies	2-2 – 2-4
2.1.1	Generally	2-2
2.1.2	Zoning Administrator	2-2 – 2-3
2.1.3	Planning Commission	2-3
2.1.4	Board of Supervisors	2-3
2.1.5	County Technical Consultants	2-4

ARTICLE II – SUBDIVISION ORDINANCE
2024 EDITION

2.1.6	Federal, State, and Local Review Agencies and Departments	2-4
2.2	Application Submission and Acceptance	2-4 – 2-8
2.2.1	Application Submission Requirements Generally; Pre-Application Conference Requirements; Acceptance of a Complete Application	2-5 – 2-6
2.2.2	Application Filing and Representation by Person or Entity Other Than Property Owner	2-7
2.2.3	Deferral of Application Review	2-7 – 2-8
2.2.4	Withdrawal of Application	2-8
2.2.5	Public Disclosure	2-8
2.3	Public Hearings	2-8
2.4	Fees	2-8
2.5	Text Amendments	2-8

SECTION 3 – REVIEW PROCESSES

This Section contains detailed descriptions of all review processes administered through the Subdivision Ordinance. Processes are categorized as Subdivision Review Processes and as Non-Subdivision Review Processes.

Section	Title	Page(s)
3.1	Review Processes Generally	3-2 – 3-3
3.1.1	Subdivision and Non-Subdivision Review Processes	3-2
3.1.2	Transfers, Sales, and Permits to Build	3-2
3.1.3	Plat Recordation	3-2 – 3-3
3.2	Subdivision Review Processes	3-3 – 3-9
3.2.1	Minor Subdivision	3-3 – 3-6
3.2.2	Major Subdivision	3-6 – 3-8
3.2.3	Family Division	3-8 – 3-9
3.3	Non-Subdivision Review Processes	3-9 – 3-18
3.3.1	Administrative Land Division	3-9 – 3-10
3.3.2	Boundary Line Adjustment	3-11 – 3-13
3.3.3	Merger	3-13 – 3-14
3.3.4	Vacation of Plat	3-15
3.3.5	Public Utility Lot Division	3-16 – 3-17
3.3.6	Court-Ordered Partitions of Land	3-17 – 3-18
3.4	Construction Plan Review Process	3-18 – 3-19
3.5	Appeals	3-19

SECTION 4		
<u>PLAT AND CONSTRUCTION PLAN REQUIREMENTS</u>		
This Section contains the technical regulations that apply to subdivision and non-subdivision applications described in Section 3 (Review Processes) . These regulations include but are not limited to platting requirements, required application documentation, design standards for infrastructure improvements, and special regulations for certain types of subdivision and non-subdivision applications.		
Section	Title	Page(s)
4.1	Subdivision Plat and Application Requirements	4-2 – 4-11
4.1.1	Minor Subdivision	4-2 – 4-3
4.1.2	Major Subdivision	4-3 – 4-5
4.1.3	Record Plat Requirements for Subdivisions	4-5 – 4-11
4.2	Non-Subdivision Plat and Application Requirements	4-11 – 4-15
4.2.1	Administrative Land Division	4-11
4.2.2	Boundary Line Adjustment	4-12 – 4-13
4.2.3	Merger	4-13
4.2.4	Vacation of Plat	4-14
4.2.5	Public Utility Lot Division	4-14 – 4-15
4.3	Construction Plan Requirements	4-15 – 4-17
4.4	Special Regulations	4-17 – 4-24
4.4.1	Boundary Line Adjustments – Special Regulations	4-17 – 4-19
4.4.2	Subdivision of Land in the Forestal-Open Space-Conservation (FOC) District	4-20 – 4-22
4.4.3	Subdivision of Land in the Flood Plain (FP) Overlay District	4-22
4.4.4	Subdivisions and Boundary Line Adjustments along Jurisdictional Boundaries	4-22 – 4-23
4.4.5	Administrative Land Divisions – Special Regulations	4-23 – 4-24
4.5	Subdivision and Construction Plan Design Standards	4-24 – 4-33
4.5.1	Lots and Building Areas	4-24
4.5.2	Public Streets	4-24 – 4-26
4.5.3	Private Access Easements	4-26 – 4-30
4.5.4	Public Utilities and Utility Easements	4-30 – 4-31
4.5.5	Stormwater Management	4-31
4.5.6	Private Wells and Onsite Sewage Disposal Systems	4-31 – 4-32
4.5.7	Monuments	4-33
4.6	Required Documents and Statements	4-33 – 4-36
4.6.1	Deed or Deed of Dedication As Applicable	4-33
4.6.2	Environmental Inventory and Impact Statement	4-34 – 4-35
4.6.3	Consumer Disclosure Statement	4-35 – 4-36

SECTION 5
PERFORMANCE AND MAINTENANCE GUARANTEES

This Section contains the requirements for posting performance and maintenance guarantees (e.g., bonds, letters of credit) for construction and/or maintenance of improvements.

Section	Title	Page(s)
5.1	Performance Guarantees	5-2 – 5-4
5.1.1	General Provisions	5-2
5.1.2	Performance Guarantee Term	5-2
5.1.3	Performance Guarantee Form	5-2
5.1.4	Performance Guarantee Amount	5-3
5.1.5	Release of Performance Guarantee	5-3 – 5-4
5.1.6	Default and Forfeiture	5-4
5.2	Maintenance Guarantees	5-5 – 5-6
5.2.1	General Provisions	5-5
5.2.2	Maintenance Guarantee Term	5-5
5.2.3	Maintenance Guarantee Form	5-5
5.2.4	Maintenance Guarantee Amount	5-5 – 5-6
5.2.5	Release of Maintenance Guarantee	5-6
5.2.6	Default and Forfeiture	5-6

SECTION 6 – ENFORCEMENT

This Section establishes procedures through which the County seeks to ensure compliance with the provisions of this Ordinance and obtain corrections for Ordinance violations. It also sets forth the remedies and penalties that apply to violations of this Ordinance. The provisions of this article are intended to encourage the voluntary correction of violations, where possible.

Section	Title	Page(s)
6.1	Compliance Required	6-2
6.2	Responsible Persons	6-2
6.3	Enforcement	6-2 – 6-3
6.4	Violations and Penalties	6-3

SECTION 1	GENERAL PROVISIONS
<p>This Section contains regulations on the enactment of the Subdivision Ordinance, rules for managing the transition from the previous to this current Ordinance, and how the Ordinance is to be applied generally.</p>	

Table of Contents

1.1	Ordinance Authority, Enactment, and Effective Date	1-2
1.2	Purposes and Intent	1-2
1.3	Applicability and Jurisdiction	1-2 – 1-3
1.3.1	Application to Federal, State, and Local Government	1-2 – 1-3
1.3.2	Conflict with Statutes, Local Ordinances, or Regulations	1-3
1.3.3	Severability	1-3
1.3.4	Private Contracts	1-3
1.4	Transition to Current Subdivision Ordinance	1-3
1.4.1	Repeal of Conflicting Ordinances	1-3
1.4.2	Transitional Rules	1-3
1.5	Ordinance Usage	1-4 – 1-5
1.5.1	Definitions	1-4
1.5.2	Meanings and Intent	1-4
1.5.3	Headings, Illustrations, and Text	1-4
1.5.4	Lists and Examples	1-4
1.5.5	Computation of Time	1-4
1.5.6	References to Other Regulations or Publications	1-4
1.5.7	Code of Virginia Citations	1-4
1.5.8	Delegation of Authority	1-4
1.5.9	Technical and Non-Technical Terms	1-5
1.5.10	Public Officials and Agencies	1-5

1.1 ORDINANCE AUTHORITY, ENACTMENT, AND EFFECTIVE DATE

This Ordinance, to be cited as the Subdivision Ordinance of Clarke County, is hereby ordained, enacted and published by the Board of Supervisors of Clarke County, Virginia, pursuant to the provisions of [Title 15.2, Chapter 22, Article 6, Code of Virginia, 1950](#), and amendments thereto. This Subdivision Ordinance shall be effective at and after August 17, 2021.

1.2 PURPOSES AND INTENT

The purpose of this Ordinance is to establish subdivision standards and procedures for all the unincorporated areas of Clarke County, Virginia, except for that area which is under the extraterritorial jurisdiction of the Town of Berryville insofar as subdivision control is concerned. These regulations are part of a long range plan to guide and facilitate the orderly, beneficial growth of the community and to promote the public health, safety, convenience, comfort, prosperity and general welfare. More specifically, but not in limitation, the purpose of these standards and procedures is as follows:

- To avoid undue water pollution, unreasonable depreciation of existing water supplies, unreasonable soil erosion, undue air pollution, unreasonable and unsafe highway conditions, and undue adverse effects on existing septic systems.
- To assure sufficient water supplies, adequate drainage, and adequate access to lots.
- To adequately provide for traffic, recreation, light, and air.
- To control subdivision or building in floodplain areas, in unsafe land areas, and in unsuitable and unsightly areas.
- To assure that consumers are purchasing property that is suitable for development and use.

1.3 APPLICABILITY AND JURISDICTION

This Ordinance applies to the subdivision and development of all lands within unincorporated areas of Clarke County unless it is expressly exempted by a specific section or subsection of this Ordinance. This Ordinance shall not apply to designated areas which are under the extraterritorial jurisdiction of the Town of Berryville in accordance with the [1988 Agreement Defining Annexation Rights \(Clarke County and Town of Berryville\)](#) and [Va. Code §15.2-2248](#).

1.3.1 Application to Federal, State, and Local Government. Except as stated herein, the provisions of this Ordinance do not apply to development owned or held in tenancy by the government of the United States, its agencies, departments or corporate services, to the full extent required by law; and to development of land owned by the Commonwealth

of Virginia, unless the Code of Virginia authorizes local regulation by this Ordinance. The provisions of this Ordinance do apply to development by Clarke County or its agencies, and to development by any other local government or its agencies within the unincorporated areas of Clarke County.

- 1.3.2 Conflict with Statutes, Local Ordinances, or Regulations.** If a provision of this Ordinance is inconsistent with another provision of this Ordinance, or with a provision found in other codes or ordinances of the County, the more restrictive provision shall govern. The more restrictive provision is the one that imposes the greater restrictions or burdens, or more stringent controls.

If a provision of this Ordinance is inconsistent with a provision found in the law or regulations of the State or Federal government, the more restrictive provision shall control, to the extent permitted by law.

- 1.3.3 Severability.** Should any section or provision of this Ordinance be held by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole, or any part thereof other than the part so held to be unconstitutional or invalid.

- 1.3.4 Private Contracts.** This Ordinance bears no relation to any private easement or covenant, and the responsibility of enforcing such private easement, covenant, agreement, or restriction is not implied herein to any public official. When this Ordinance calls for more restrictive standards than those required by private contract, the provisions of this Ordinance shall control.

1.4 TRANSITION TO CURRENT SUBDIVISION ORDINANCE

- 1.4.1 Repeal of Conflicting Ordinances.** The Subdivision Ordinance of Clarke County previously adopted with an effective date of May 14, 1974, as amended, is hereby repealed as of the effective date of this Ordinance.

1.4.2 Transitional Rules.

- A. Violations Continue.** Any violation of the previous Subdivision Ordinance shall continue to be a violation under this Ordinance unless the use or development complies with the express terms of this Ordinance or a subsequently adopted Subdivision Ordinance.
- B. Status of Applications.** Applications for review processes filed under the previous Ordinance, which were duly filed with all required application fees and which were determined to be complete by the Zoning Administrator prior to the effective date of this Ordinance, shall continue to be governed by the regulations of the previous Ordinance until action is taken on the application by the approval authority.

1.5 ORDINANCE USAGE

The following rules shall apply for construing or interpreting the terms and provisions of this Ordinance.

- 1.5.1 Definitions.** Certain words and terms used in this Ordinance are defined in [Section 2 of Article III, Zoning and Subdivision Ordinance Definitions](#). Rules governing the usage of specific words and terms are found in [Section 1 of Article III](#).
- 1.5.2 Meanings and Intent.** All provisions, terms, phrases, and expressions contained in this Ordinance shall be interpreted in accordance with the Purposes and Intent set forth in [Section 1.2](#), and the specific purpose statements set forth throughout this Ordinance.
- 1.5.3 Headings, Illustrations, and Text.** In the event of a conflict or inconsistency between the text of this Ordinance and any heading, caption, figure, illustration, or map, the text shall control. Graphics and other illustrations are provided for informational purposes only and should not be relied upon as a complete and accurate description of all applicable regulations or requirements.
- 1.5.4 Lists and Examples.** Unless otherwise specifically indicated, lists of terms or examples that use terms like, “for example,” “including,” and “such as,” or similar language are intended to provide examples and are not exhaustive lists of all possibilities.
- 1.5.5 Computation of Time.**
- A. The time in which an act is to be done shall be computed by excluding the first day and including the last day. If a deadline or required date of action falls on a Saturday, Sunday, or holiday observed by the County, the deadline or required date of action shall be the next business day. References to days are calendar days unless otherwise stated.
 - B. A “day” shall be generally interpreted as one 24 hour period or less beginning at 12:00AM. For the purposes of events or uses that are conducted across two days, the Zoning Administrator on a case-by-case basis may interpret “day” to begin with the commencement of any activities associated with the event or use and continuing for a length of time not to exceed 24 hours.
- 1.5.6 References to Other Regulations or Publications.** Whenever reference is made to a resolution, ordinance, statute, regulation, or document, it shall be construed as a reference to the most recent edition of such regulation, resolution, ordinance, statute, regulation, or document unless otherwise specifically stated.
- 1.5.7 Code of Virginia Citations.** All citations to provisions of the [Code of Virginia](#) in this Ordinance shall reference [Va. Code §](#) _____.
- 1.5.8 Delegation of Authority.** Any act authorized by this Ordinance to be carried out by the Zoning Administrator may be delegated by the Zoning Administrator.

ARTICLE II – SUBDIVISION ORDINANCE
2024 EDITION

1.5.9 Technical and Non-Technical Terms. Words and phrases shall be construed according to the common and approved usage of the language. Technical words and phrases that may have acquired a specific and appropriate meaning in law shall be construed and understood according to such meaning.

1.5.10 Public Officials and Agencies. All public officials, bodies, and agencies referenced in this Ordinance are those of Clarke County unless otherwise indicated.

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SECTION 2	ADMINISTRATION
<p>This Section contains provisions pertaining to the general administration of the Subdivision Ordinance including submission and acceptance of applications, public hearing management, and authority for fees. The Section also contains detailed descriptions of advisory and decision-making bodies and their composition, roles, and responsibilities.</p>	

Table of Contents

2.1	Advisory and Decision-Making Bodies	2-2 – 2-4
2.1.1	Generally	2-2
2.1.2	Zoning Administrator	2-2 – 2-3
2.1.3	Planning Commission	2-3
2.1.4	Board of Supervisors	2-3
2.1.5	County Technical Consultants	2-4
2.1.6	Federal, State, and Local Review Agencies and Departments	2-4
2.2	Application Submission and Acceptance	2-4 – 2-8
2.2.1	Application Submission Requirements Generally; Pre-Application Conference Requirements; Acceptance of a Complete Application	2-5 – 2-6
2.2.2	Application Filing and Representation by Person or Entity Other Than Property Owner	2-7
2.2.3	Deferral of Application Review	2-7 – 2-8
2.2.4	Withdrawal of Application	2-8
2.2.5	Public Disclosure	2-8
2.3	Public Hearings	2-8
2.4	Fees	2-8
2.5	Text Amendments	2-8

2.1 ADVISORY AND DECISION-MAKING BODIES

2.1.1 Generally. The following decision-making bodies and County Staff have powers and responsibilities in administering and reviewing applications under this Ordinance:

- Zoning Administrator
- Planning Commission (“Commission”)
- Board of Supervisors

Additionally, there are technical consultants, agencies, and departments who may review and comment on specific application types during the review process.

2.1.2 Zoning Administrator. The Zoning Administrator shall have the following purposes and duties under this Ordinance:

A. Review and Decision. To review and act as the approval authority on applications and requests for the following except when the review process directs the Commission to review and act as the approval authority:

- [Administrative Land Division \(Section 3.3.1\)](#)
- [Boundary Line Adjustment \(Section 3.3.2\)](#)
- [Merger \(Section 3.3.3\)](#)
- [Public Utility Lot Division \(Section 3.3.5\)](#)
- [Court-Ordered Partitions of Land \(Section 3.3.6\)](#)

B. Additional Duties. The Zoning Administrator shall have the following additional duties:

- Review and make recommendations on applications for action by the Commission or Board of Supervisors under this Ordinance.
- Administration and enforcement of this Ordinance including the ordering in writing of the remedying of any condition found in violation of this Ordinance, and the bringing of legal action to ensure compliance with the Ordinance, including injunction, abatement, or other appropriate action or proceeding.
- Determine whether to issue partial or final release of performance guarantees upon partial or final completion of required infrastructure construction approved under this Ordinance.

C. Administrative Authority. The Zoning Administrator shall have the following administrative authority regarding review processes governed by this Ordinance:

- To determine completeness of an application as described in [Section 2.2.1](#).
- To establish application forms, the number and size of paper copies of required plans and supporting documentation, the format of digital files to be provided, and required information and materials to constitute a complete application per [Section 2.2.1](#).

ARTICLE II – SUBDIVISION ORDINANCE
2024 EDITION

- To vary application requirements based on unique circumstances which may require submission of required materials in a different format or quantity.
- To require such other information to be submitted as deemed necessary for a proper and intelligent consideration of an application.
- To establish regular filing deadlines to ensure that there is sufficient time to review applications prior to an approval authority’s initial review of an application.
- To delegate administrative authority to designated County staff as needed.

2.1.3 Planning Commission

- A. Generally.** The Clarke County Planning Commission (“Commission”) is created and organized pursuant to [Article 2, Chapter 22 of the Code of Virginia \(§15.2-2210, et seq.\)](#) and shall have the purposes, duties, and authority set forth therein.
- B. Purposes and Duties.** The Commission shall have the authority to review and act on the following applications for properties located outside of the Berryville Annexation Area (Annexation Area “B” as defined in the [1988 Agreement Defining Annexation Rights \(Clarke County and Town of Berryville\)](#)):
- [Administrative Land Division \(Section 3.3.1\)](#), when the Commission is specified as the approval authority
 - [Boundary Line Adjustment \(Section 3.3.2\)](#), when the Commission is specified as the approval authority
 - [Minor Subdivision \(Section 3.2.1\)](#)
 - [Major Subdivision \(Section 3.2.2\)](#)
- C. Membership, Term of Office, and Operating Procedures.** Membership, Term of Office, and Operating Procedures shall be as set forth in [Zoning Ordinance \(Article I\), Section 2.2.3 \(Planning Commission\)](#).

2.1.4 Board of Supervisors

- A. Purposes and Duties.** To exercise the authority granted to the Board of Supervisors (“Board”) by the Code of Virginia, the Board shall have the following purposes and duties under this Ordinance:
1. **Review and Decision.** To review and act on applications for [Vacation of Plat \(Section 3.3.4\)](#).
 2. **Schedule of Fees.** To approve by resolution a schedule of fees governing applications for permits and other development approvals reviewed under this Ordinance.
- B. Membership, Term of Office, and Operating Procedures.** Membership, Term of Office, and Operating Procedures shall be as set forth in the [Code of Clarke County](#) and the [Code of Virginia](#).

2.1.5 County Technical Consultants. The County may employ private sector consultants to review and provide recommendations to the Zoning Administrator, Planning Commission, Board of Supervisors, or other advisory or decision-making bodies. All applicable costs for application review by a consultant shall be paid by the applicant as directed in the Department of Planning Fee Schedule.

Private sector consultants that may be employed and consulted include but are not limited to:

- General engineering
- Karst geology specialist
- Architectural historian
- Telecommunications/Wireless communication facilities consultant (WCFs)

2.1.6 Federal, State, and Local Review Agencies and Departments. The Zoning Administrator reserves the right to consult with Federal, State, County, and other local review agencies and departments on subdivision and non-subdivision applications. This consultation may include forwarding copies of applications, plats, and construction plans to agencies and departments for evaluation and comment in conjunction with a review process. Such review and comment shall be completed within the required time frame of the permit or review process unless otherwise prescribed by State law.

Agencies and departments that may be consulted include but are not limited to:

- Virginia Department of Transportation (VDOT)
- Virginia Department of Health (VDH)
- Virginia Department of Environmental Quality (DEQ)
- Virginia Outdoors Foundation (VOF)
- Virginia Department of Historic Resources (DHR)
- U.S. Army Corps of Engineers (USACE)
- Federal Emergency Management Agency (FEMA)
- Town of Berryville
- Clarke County Sanitary Authority
- Clarke County Building Department
- Clarke County Fire, EMS, and Emergency Management
- Clarke County Easement Authority
- Piedmont Environmental Council (PEC)
- Winchester Regional Airport Authority

2.2 APPLICATION SUBMISSION AND ACCEPTANCE

This section describes the standard procedural steps and rules that apply generally to applications reviewed under this Ordinance, unless otherwise expressly exempted or alternative procedures are specified.

2.2.1 Application Submission Requirements Generally, Pre-Application Conference Requirements; Acceptance of Complete Application

A. Application Submission Requirements Generally.

1. Content. The Zoning Administrator is authorized to establish the requirements for the content and form of each type of specific development application reviewed under this Ordinance. The Zoning Administrator may update these standards as necessary to ensure effective and efficient review. It is the applicant’s responsibility to ensure that an application contains sufficient information to demonstrate compliance with all applicable standards.
2. Submission and Review Schedule. The Zoning Administrator is authorized to establish specific rules for the submission and review schedule for the various types of development applications. The review schedule shall be consistent with this Ordinance and Code of Virginia requirements. The Zoning Administrator may update these provisions as necessary to ensure effective and efficient review.
3. Application Submission. Applications shall be submitted to the Department of Planning in the form established by the Zoning Administrator along with the required application fee.

B. Pre-Application Conference. The purpose of a pre-application conference is to provide an opportunity for the applicant to determine the submission requirements and the procedures and regulations that will apply to an anticipated development application. A pre-application conference is also intended to provide an opportunity for the Zoning Administrator to become familiar with, and offer the applicant preliminary comments about, the anticipated development application as its scope and features relate to the regulations in this Ordinance.

1. Pre-Application Conference Required. A pre-application conference is required for the following applications:

- Minor Subdivision
- Major Subdivision

A pre-application conference shall be held with the Zoning Administrator no less than seven (7) days prior to filing an application.

2. Required Information to Be Provided at the Pre-Application Conference. The applicant shall provide an exploratory sketch plan or conceptual drawings that show the location, general layout, and main elements of the proposed subdivision. Additional information or materials may be required by the Zoning Administrator.
3. Effect of Pre-Application Conference. The pre-application conference is intended to facilitate the application review process and any discussions held in accordance with this

section are not binding on the County. Processing times for review of development applications do not begin until a formal application is submitted and determined to be complete in accordance with [Subsection C](#) below.

C. Acceptance of a Complete Application.

1. Completeness Review. Upon receiving an application, the Zoning Administrator shall, within five business days, determine whether an application is complete or incomplete. A complete application is one that:
 - Contains all information and materials and is in the form required by the Zoning Administrator and by this Ordinance, as required for submission of the particular type of application;
 - Includes information containing sufficient detail to evaluate the application to determine whether it complies with the applicable review standards of this Ordinance; and
 - Is accompanied by the fees established for this particular type of application.
2. Application Incomplete. Upon determining an application to be incomplete, the Zoning Administrator shall provide the applicant with written notice of the submission deficiencies. The Zoning Administrator may also return the submission and fees to the applicant. The applicant may correct the deficiencies and resubmit the application for a completeness review. The Zoning Administrator shall not process an application for further review or process the application fees until the application is determined to be complete.
3. Application Complete. Upon determining that the application is complete, the Zoning Administrator shall accept the application for review in accordance with the procedures and standards of this Ordinance and shall process the application fees that have been paid.

D. Application Revision.

1. An applicant may revise an application after receiving initial review comments on the application or in response to comments from an advisory or decision-making body. Revisions shall be limited to changes that directly respond to specific comments made by the Zoning Administrator, reviewing agency or department, advisory body, or decision-making body, so long as they constitute only minor additions, deletions, or corrections and do not constitute significant substantive changes to the subdivision proposed in the application.
2. Any revisions that constitute significant substantive changes and that materially alter the application that was originally submitted shall require that application to be withdrawn and resubmitted. The revised application shall be treated as a new submission that is subject to application fees and review deadlines.

2.2.2 Application Filing and Representation by Person or Entity Other Than Property Owner

A. Authority to File Applications. Unless expressly stated otherwise in this Ordinance, applications for permits and approvals reviewed under this Ordinance shall be submitted by:

- The property owner or any other person having a recognized ownership interest in the land on which the subdivision is proposed; or
- A person authorized to submit the application on behalf of the property owner or other person having a recognized ownership interest in the land, as evidenced by a letter or document signed by that property owner or other person with a recognized ownership interest.

If there are multiple property owners or other persons with a recognized ownership interest who are authorized to submit the application, all such persons shall sign the application or a letter or document consenting to the application.

B. Authority to Represent Property Owner. Any person representing a property owner regarding an application for a permit or approval shall provide written evidence of the property owner’s consent and the scope of such representation. Such written evidence shall be provided in the form of a signature on the application, or letter or document that is signed by the property owner. In the case of multiple property owners or other persons with a recognized property interest, all such persons shall sign the letter or document authorizing the representation.

2.2.3 Deferral of Application Review. An applicant may request that consideration of an application be deferred for a specific period of time by submitting a written request for deferral to the Zoning Administrator. If the deferral request is granted as described below, any applicable statutory review period shall be held in abeyance until such time as the application review is scheduled to resume.

A. Consideration of Deferral Request by the Zoning Administrator. The Zoning Administrator shall consider and decide on a deferral request for any application that has not been scheduled for Public Hearing by an advisory or decision-making body. A deferral request shall be approved only for a good cause and for a specific and reasonable period of time.

B. Consideration of Deferral Request by an Advisory or Decision-Making Body. For any application that has been scheduled for Public Hearing by an advisory or decision-making body (such as the Planning Commission or Board of Supervisors), that advisory or decision-making body shall consider and decide on a deferral request from the applicant. A deferral request shall only be approved for good cause. Deferral requests shall be for specific and reasonable periods of time to coincide with the body’s regular meeting schedule. The advisory or decision-making body may authorize the Zoning Administrator to accept additional deferral requests made by the applicant for good cause

ARTICLE II – SUBDIVISION ORDINANCE
2024 EDITION

not to exceed one month per request. The Zoning Administrator shall report to the advisory or decision-making body any deferral requests that are accepted through this delegated authority.

- C. **Additional Fees Required.** For any deferral request accepted for an application that was previously scheduled for Public Hearing, the applicant shall be responsible for a re-advertising fee that shall be paid in full prior to the application being placed on the advisory or decision-making body’s meeting agenda for consideration.

2.2.4 **Withdrawal of Application.** An applicant may withdraw an application at any time by submitting notice in writing to the Zoning Administrator. Application fees may be refunded in whole or in part as enumerated in the Department of Planning Fee Schedule.

2.2.5 **Public Disclosure.** Plats and other documents comprising an application shall be available for public viewing in the Department of Planning or other location designated by the Zoning Administrator.

2.3 PUBLIC HEARINGS

A. **Generally.** Public hearings held by advisory or decision-making bodies shall be held in accordance with [Va. Code §15.2-2204](#). The Zoning Administrator shall be responsible for preparing and effecting the Public Hearing notification, including all required advertisements and mailings to adjoining and affected property owners, and posting of County notification signage on the subject property.

B. **Public Hearing Continued.** If any hearing is continued to an unspecified date by the Planning Commission, written notice shall not be required to be re-mailed for the notification of the date of continuation to those parties that received notice of the previous hearing.

2.4 FEES

Fees for permits, applications, petitions, and other action under the provisions of this Ordinance shall be in accordance with the Department of Planning Fee Schedule which is established and amended from time to time by the Board of Supervisors. In addition to these fees, an applicant may be required to bear the costs of any extraordinary professional services employed by the approval authority in reviewing an application.

2.5 TEXT AMENDMENTS

This Ordinance may be amended in whole or in part by the Board of Supervisors, provided that any such amendment shall either originate with or be submitted before amendment to the Planning Commission for its recommendation in accordance with [Va. Code §15.2-2253](#).

SECTION 3	REVIEW PROCESSES
<p>This Section contains detailed descriptions of all review processes administered through the Subdivision Ordinance. Processes are categorized as follows:</p> <ul style="list-style-type: none"> • Subdivision Review Processes • Non-Subdivision Review Processes 	

Table of Contents

3.1	Review Processes Generally	3-2 – 3-3
3.1.1	Subdivision and Non-Subdivision Review Processes	3-2
3.1.2	Transfers, Sales, and Permits to Build	3-2
3.1.3	Plat Recordation	3-2 – 3-3
3.2	Subdivision Review Processes	3-3 – 3-9
3.2.1	Minor Subdivision	3-3 – 3-6
3.2.2	Major Subdivision	3-6 – 3-8
3.2.3	Family Division	3-8 – 3-9
3.3	Non-Subdivision Review Processes	3-9 – 3-18
3.3.1	Administrative Land Division	3-9 – 3-10
3.3.2	Boundary Line Adjustment	3-11 – 3-13
3.3.3	Merger	3-13 – 3-14
3.3.4	Vacation of Plat	3-15
3.3.5	Public Utility Lot Division	3-16 – 3-17
3.3.6	Court-Ordered Partitions of Land	3-17 – 3-18
3.4	Construction Plan Review Process	3-18 – 3-19
3.5	Appeals	3-19

3.1 REVIEW PROCESSES GENERALLY

The following sections provide the specific required procedures, deadlines, and related information for each review process that is governed by this Ordinance. Other sections of this Ordinance that are pertinent to these processes include:

- [Section 2.2 \(Application Submission and Acceptance\)](#)
- [Section 4 \(Plat and Construction Plan Requirements\)](#)

The administrative requirements for applications -- including but not limited to specific application forms, number of copies of required information to be provided, and electronic file submission -- shall be established by the Zoning Administrator.

3.1.1 Subdivision and Non-Subdivision Review Processes

- A. Subdivision Review Processes.** A subdivision review process is used to review the creation of a subdivision as defined in [Article III \(Definitions, Clarke County Zoning and Subdivision Ordinances\)](#) as follows:

The division of a lot of record into two or more lots, including the residual lot, and in which one or both of the resultant lots are under 100 acres in area.

Subdivision review processes are set forth in [Section 3.2](#) below.

- B. Non-Subdivision Review Processes.** A non-subdivision review process is used to review certain modifications to lots that do not meet the definition of a subdivision but are regulated by this Ordinance. Non-Subdivision review processes are set forth in [Section 3.3](#) below.

- 3.1.2 Transfers and Permits to Build.** No property in a subdivision shall be transferred by reference to, or exhibition of, or by other use of, a plat of a subdivision, nor shall a permit be issued for a structure thereon, until a record plat of such subdivision shall have been approved in accordance with this Ordinance and the approved record plat and a deed of dedication (if required by this Ordinance) have been recorded in the Office of the Clerk of the Circuit Court of Clarke County.

3.1.3 Plat Recordation.

- A.** No subdivision plat shall be recorded unless and until it shall have been submitted to and approved by the Planning Commission as herein provided and is in full accordance with the regulations set forth in this Ordinance.
- B.** No plat shall be recorded unless all the monuments shown and described on the record plat are in place as evidenced by the certificate of a licensed surveyor endorsed on said plat.

ARTICLE II – SUBDIVISION ORDINANCE
2024 EDITION

- C. Deadline to Record Plat.** An approval of a subdivision or non-subdivision plat shall become null and void if a record plat approved per [Section 4 \(Subdivision Plat Requirements\)](#) is not submitted to the Clerk of the Circuit Court of Clarke County for recordation within six months from the date evidencing approval by the approval authority.

- D. Recordation Deadline Extension.** The approval authority may approve a longer period before recordation is required. The owner of the property being subdivided must submit a written request to the approval authority for such a longer period within six months of the date of the approval authority’s original approval. In any case where construction of facilities to be dedicated for public use has commenced pursuant to an approved plan or permit with surety approved by the approval authority, or where the developer has furnished surety to the by certified check, cash escrow, bond, or letter of credit in the amount of the estimated cost of construction of such facilities, the time for plat recordation shall be extended to one year after final approval or to the time limit specified in the surety agreement approved by the approval authority, whichever is greater.

- E.** Recordation of the Record Plat of a subdivision shall not be deemed to be the acceptance by the County of any street or road or other public place shown on the plat for maintenance, repair or operation thereof.

3.2 SUBDIVISION REVIEW PROCESSES

3.2.1	MINOR SUBDIVISION (MS)
<u>Approval Authority:</u> Planning Commission	<u>Time Limit for Review:</u> -- 60 days from date of first review of the application by the approval authority -- 45 days from date of first review of a resubmitted application by the approval authority
<u>Pre-Application Meeting Required:</u> Yes – No less than 7 days prior to filing an application	<u>Public Hearing Required:</u> No
<u>Other Applicable Deadlines:</u> Submission of new or revised materials (See Subsection D4)	<u>Expiration:</u> Yes – See Section 3.1.3

- A. When Required.** Minor subdivision review is required for the proposed division of one existing lot into a maximum of one new lot and one residual lot. Minor subdivision review is also required for the division of one existing lot into a maximum of two new lots and one residual lot and where at least one but not more than two of the resultant lots will have an area of 100 acres or more.

- B. Approval Authority.** The approval authority for minor subdivision review shall be the Planning Commission.
- C. Pre-Application Conference Required.** A Pre-Application Conference per [Section 2.2.1B](#) is required for minor subdivision applications.
- D. Application Filing, Processing, and Review by Approval Authority.**
1. An application for review of a minor subdivision shall be made by submitting a complete application, construction plans (if applicable) per [Section 4.3](#), and the required fees to the Zoning Administrator, who will review the application for completeness in accordance with [Section 2.2.1C \(Acceptance of a Complete Application\)](#).
 2. After receipt of a complete application, the Zoning Administrator shall refer the matter to the approval authority for initial review at its next regular meeting.
 3. The Zoning Administrator shall forward copies of the application and supporting documents to all applicable agencies and officials for written comments and recommendations. After receiving such comments and recommendations, the Zoning Administrator shall prepare a report for the approval authority.
 4. The Applicant shall provide any new or revised materials no less than 3 business days prior to the work session at which the approval authority will be discussing the application. Any new or revised materials provided after the deadlines referenced above shall be not considered by the approval authority at the scheduled meeting.
 5. The approval authority shall act to approve, approve with conditions, or disapprove the minor subdivision application within 60 days of its first business meeting to review the application unless the applicant requests a deferral in accordance with [Section 2.2.3 \(Deferral of Application Review\)](#). The first business meeting shall constitute officially submitting the application for approval. If the application is disapproved and the applicant files a corrected application, the approval authority shall act to approve, approve with conditions, or disapprove the corrected application within 45 days of its first meeting to review the application unless the applicant requests a deferral in accordance with [Section 2.2.3](#).
- E. Plat recordation and performance guarantees.** Following approval of the plat by the approval authority, the Zoning Administrator shall coordinate resolution of any outstanding review items and obtain all required signatures on the final plat for recordation. If construction of infrastructure improvements is required in conjunction with an approved construction plan per [Section 3.4](#), the applicant shall provide performance guarantees in accordance with [Section 5](#) prior to approval of the final plat for recordation. As an alternative, the applicant may complete construction of the required infrastructure improvements in accordance with the approved construction plans. If the applicant selects this alternative approach, all construction shall be completed in

accordance with [Section 3.1.3C \(Deadline to Record Approved Plat\)](#) prior to approval of the final plat for recordation.

F. Required Components.

1. The required components of a minor subdivision plat are enumerated in [Section 4.1.1A](#).
2. The required components of a construction plan are enumerated in [Section 4.3](#).
3. Additional required documentation for a minor subdivision plat application is set forth in [Section 4.1.1B](#).
4. Compliance with regulations for subdivisions in the Forestal-Open Space-Conservation (FOC) District, if applicable, shall be demonstrated per [Section 4.4.2](#).
5. Compliance with regulations for subdivisions along jurisdictional boundaries, if applicable, shall be demonstrated per [Section 4.4.4](#).

G. Action by the Approval Authority.

1. The approval authority shall approve the minor subdivision plat if it finds that the plat meets the requirements of this Ordinance, the [Zoning Ordinance \(Article I\)](#), the [Code of Clarke County](#), the [Code of Virginia](#), and any other applicable State or Federal regulations.
2. To further the intent of this Section and to protect public safety and general welfare, no minor subdivision plat shall be approved until the approval authority is assured that any proposed improvements will be constructed in compliance with [Section 4.5 \(Subdivision and Construction Plan Design Standards\)](#), and all County, State, and Federal requirements. Proposed improvements include but are not limited to:
 - Public streets, rights-of-way, and pedestrian facilities
 - Private access easements
 - Public water and/or public sewer systems
 - Onsite wells and/or onsite sewage disposal systems
 - Stormwater management facilities
 - Utilities and utility easements
3. The approval authority may condition final approval of the minor subdivision upon the applicant making certain administrative changes or modifications to the record plat with such conditions to be stated in the approval authority's motion for conditional approval of the plan. If conditional approval is granted, authority shall be delegated to the Zoning Administrator to determine compliance with the approval authority's conditions.
4. If the approval authority disapproves a minor subdivision, it shall state the reasons for such denial in the approval authority's motion to disapprove the plat. The reason for

disapproval shall identify deficiencies in the plat that caused the disapproval, and shall identify, to the extent practicable, modifications or corrections that will permit approval of the plat.

3.2.2 MAJOR SUBDIVISION (S)	
<u>Approval Authority:</u> Planning Commission	<u>Time Limit for Review:</u> -- 60 days from date of first review of the application by the approval authority -- 45 days from date of first review of a resubmitted application by the approval authority
<u>Pre-Application Meeting Required:</u> Yes – No less than 7 days prior to filing an application	<u>Public Hearing Required:</u> Yes
<u>Other Applicable Deadlines:</u> Submission of materials prior to Public Hearing – See Subsection D4	<u>Expiration:</u> Yes – See Section 3.1.3

- A. When Required.** Major subdivision review is required for the proposed division of one existing lot into two or more new lots and one residual lot and where none of the resultant lots have an area of 100 acres or more.
- B. Approval Authority.** The approval authority for major subdivision review shall be the Planning Commission.
- C. Pre-Application Conference Required.** A Pre-Application Conference per [Section 2.2.1B](#) is required for major subdivision applications.
- D. Application Filing, Processing, and Review by Approval Authority.**
 - 1. An application for review of a major subdivision shall be made by submitting a complete application, construction plans (if applicable) per [Section 4.3](#), and the required fees to the Zoning Administrator, who will review the application for completeness in accordance with [Section 2.2.1C \(Acceptance of a Complete Application\)](#).
 - 2. After receipt of a complete application, the Zoning Administrator shall refer the matter to the approval authority for initial review at its next regular meeting and shall schedule a Public Hearing in accordance with [Section 2.3 \(Public Hearings\)](#). A Public Hearing shall be required for any major subdivision.
 - 3. The Zoning Administrator shall forward copies of the application and supporting documents to all applicable agencies and officials for written comments and

ARTICLE II – SUBDIVISION ORDINANCE
2024 EDITION

recommendations. After receiving such comments and recommendations, the Zoning Administrator shall prepare a report for the approval authority.

4. The Applicant shall provide any new or revised materials demonstrating compliance with any technical requirements no less than 14 days prior to the first Public Hearing and no less than 10 days prior to any continued Public Hearing. Technical requirements include any regulations governing site development such as lot or building requirements and plan submission requirements. Any new or revised materials provided after the deadlines referenced above shall be not considered by the approval authority at the scheduled meeting.
5. The approval authority shall act to approve, approve with conditions, or disapprove the minor subdivision application within 60 days of its first business meeting to review the application unless the applicant requests a deferral in accordance with [Section 2.2.3 \(Deferral of Application Review\)](#). The first business meeting shall constitute officially submitting the application for approval. If the application is disapproved and the applicant files a corrected application, the approval authority shall act to approve, approve with conditions, or disapprove the corrected application within 45 days of its first meeting to review the application unless the applicant requests a deferral in accordance with [Section 2.2.3](#).
- E. Plat recordation and performance guarantees.** Following approval of the plat by the approval authority, the Zoning Administrator shall coordinate resolution of any outstanding review items and obtain all required signatures on the final plat for recordation. If construction of infrastructure improvements is required in conjunction with an approved construction plan per [Section 3.4](#), the applicant shall provide performance guarantees in accordance with [Section 5](#) prior to approval of the final plat for recordation. As an alternative, the applicant may complete construction of the required infrastructure improvements in accordance with the approved construction plans. If the applicant selects this alternative approach, all construction shall be completed in accordance with [Section 3.1.3C \(Deadline to Record Approved Plat\)](#) prior to approval of the final plat for recordation.
- F. Required Components.**
 1. The required components of a major subdivision plat are enumerated in [Section 4.1.2A](#).
 2. The required components of a construction plan are enumerated in [Section 4.3](#).
 3. Additional required documentation for a major subdivision plat application is set forth in [Section 4.1.2B](#).
 4. Compliance with regulations for subdivisions in the Forestal-Open Space-Conservation (FOC) District, if applicable, shall be demonstrated per [Section 4.4.2](#).

5. Compliance with regulations for subdivisions along jurisdictional boundaries, if applicable, shall be demonstrated per [Section 4.4.4](#).

G. Action by the Approval Authority.

1. The approval authority shall approve the major subdivision plat if it finds that the plat meets the requirements of this Ordinance, the [Zoning Ordinance \(Article I\)](#), the [Code of Clarke County](#), the [Code of Virginia](#), and any other applicable State or Federal regulations.

2. To further the intent of this Section and to protect public safety and general welfare, no major subdivision plat shall be approved until the approval authority is assured that any proposed improvements will be constructed in compliance with [Section 4.5 \(Subdivision and Construction Plan Design Standards\)](#), and all County, State, and Federal requirements. Proposed improvements include but are not limited to:

- Public streets, rights-of-way, and pedestrian facilities
- Private access easements
- Public water and/or public sewer systems
- Onsite wells and/or onsite sewage disposal systems
- Stormwater management facilities
- Utilities and utility easements

3. The approval authority may condition final approval of the major subdivision upon the applicant making certain administrative changes or modifications to the record plat with such conditions to be stated in the approval authority’s motion for conditional approval of the plan. If conditional approval is granted, authority shall be delegated to the Zoning Administrator to determine compliance with the approval authority’s conditions.

4. If the approval authority disapproves a major subdivision, it shall state the reasons for such denial in the approval authority’s motion to disapprove the plat. The reason for disapproval shall identify deficiencies in the plat that caused the disapproval, and shall identify, to the extent practicable, modifications or corrections that will permit approval of the plat.

3.2.3	FAMILY DIVISION
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A. When Required. A single division of a lot for conveyance to a family member in accordance with [Va. Code §15.2-2244](#) may be accomplished through the minor subdivision review process set forth in [Section 3.2.1](#). A division of more than one lot for conveyance to family members in accordance with [Va. Code §15.2-2244](#) may be accomplished through the major subdivision review process set forth in [Section 3.2.2](#). Such divisions shall be subject to the following requirements:

ARTICLE II – SUBDIVISION ORDINANCE
2024 EDITION

1. The creation of a family division lot shall comply with the lot area and dimensional requirements of the [Zoning Ordinance \(Article I\)](#).
 2. For family divisions of lots in the Agricultural-Open Space-Conservation (AOC) and Forestal-Open Space-Conservation (FOC) Zoning Districts, a dwelling unit right (DUR) shall be required for the family division lot and at least one (1) DUR shall remain on the residual lot following the division.
- B. Review Procedures and Review Criteria.** The review procedures and review criteria for family division of one lot shall be the minor subdivision review process set forth in [Section 3.2.1](#). The review procedures and review criteria for family divisions of two or more lots shall be the major subdivision review process set forth in [Section 3.2.2](#).

3.3 NON-SUBDIVISION REVIEW PROCESSES

3.3.1 ADMINISTRATIVE LAND DIVISION (ALD)	
<u>Approval Authority:</u> -- Zoning Administrator	<u>Time Limit for Review:</u> -- 60 days from date of first review of the application by the approval authority -- 45 days from date of first review of a resubmitted application by the approval authority
<u>Pre-Application Meeting Required:</u> No	<u>Public Hearing Required:</u> No
<u>Other Applicable Deadlines:</u> None	<u>Expiration:</u> Yes – See Section 3.1.3

- A. When Required.** Administrative land division review is required for the proposed division of a lot into two or more lots with each lot having a minimum area of 100 acres including the residual lot.
- B. Approval Authority.** The approval authority for administrative land division review shall be the Zoning Administrator.
- C. Application Filing, Processing, and Review by Approval Authority.**
1. An application for review of an administrative land division shall be made by submitting a complete application, construction plans (if applicable) per [Section 4.3](#), and the required fees to the Zoning Administrator, who will review the application for completeness in accordance with [Section 2.2.1C \(Acceptance of a Complete Application\)](#).

ARTICLE II – SUBDIVISION ORDINANCE
2024 EDITION

2. The Zoning Administrator may forward copies of the application and supporting documents to applicable agencies and officials for written comments and recommendations.
 3. Once the application is determined to be complete, the Zoning Administrator shall act to approve or disapprove the administrative land division application within 60 days of receipt of a complete application. If the application is disapproved and the applicant files a corrected application, the Zoning Administrator shall act to approve or disapprove the corrected application within 45 days of receipt of a complete corrected application.
- D. Plat recordation and performance guarantees.** Following approval of the plat by the approval authority, the Zoning Administrator shall coordinate resolution of any outstanding review items and obtain all required signatures on the final plat for recordation. If construction of infrastructure improvements is required in conjunction with an approved construction plan per [Section 3.4](#), the applicant shall provide performance guarantees in accordance with [Section 5](#) prior to approval of the final plat for recordation. As an alternative, the applicant may complete construction of the required infrastructure improvements in accordance with the approved construction plans. If the applicant selects this alternative approach, all construction shall be completed in accordance with [Section 3.1.3 \(Deadline to Record Approved Plat\)](#) prior to approval of the final plat for recordation.
- E. Required Components.**
1. The required components of an administrative land division plat are enumerated in [Section 4.2.1A](#).
 2. Additional required documentation for an administrative land division application is set forth in [Section 4.2.1B](#).
- F. Action by the Approval Authority.** The Zoning Administrator shall approve the administrative land division plat if it finds that the plat meets the requirements of this Ordinance, the [Zoning Ordinance \(Article I\)](#), the [Code of Clarke County](#), the [Code of Virginia](#), and any other applicable State or Federal regulations.

3.3.2 BOUNDARY LINE ADJUSTMENT (BLA)	
<u>Approval Authority:</u> -- Zoning Administrator -- Planning Commission, in specific situations (See Subsection B)	<u>Time Limit for Review:</u> -- 60 days from date of first review of the application by the approval authority -- 45 days from date of first review of a resubmitted application by the approval authority
<u>Pre-Application Meeting Required:</u> No	<u>Public Hearing Required:</u> No
<u>Other Applicable Deadlines:</u> None	<u>Expiration:</u> Yes – See Section 3.1.3

A. When Required. Boundary line adjustment review is required for the proposed adjustment or reconfiguration of one or more lot lines of an existing lot to establish, straighten, or rearrange the boundaries between existing lots or to accomplish conveyance of part of a lot to the owner of an adjoining lot. Boundary line adjustment review may be conducted in conjunction with the review of a minor subdivision review, major subdivision review, or administrative land division review.

A boundary line adjustment alone shall not result in the creation of a new lot or lots, and shall not involve the relocation or alteration of streets, alleys, easements for public passage, or other public areas. No easements or utility rights-of-way shall be relocated or altered without the express consent of all persons holding any interest therein.

B. Approval Authority. The approval authority for boundary line adjustment review shall be the Zoning Administrator. If a boundary line adjustment proposes to exceed the area limitations set forth in [Section 4.4.1 \(Special Regulations – Boundary Line Adjustments\)](#), the Planning Commission shall be the approval authority.

C. Application Filing, Processing, and Review by Approval Authority.

1. An application for review of a boundary line adjustment shall be made by submitting a complete application, construction plans (if applicable) per [Section 4.3](#), and the required fees to the Zoning Administrator, who will review the application for completeness in accordance with [Section 2.2.1C \(Acceptance of a Complete Application\)](#).
2. The Zoning Administrator may forward copies of the application and supporting documents to applicable agencies and officials for written comments and recommendations.
3. Once the application is determined to be complete, the Zoning Administrator shall act to approve or disapprove the boundary line adjustment application within 60 days of receipt

of a complete application. If the application is disapproved and the applicant files a corrected application, the Zoning Administrator shall act to approve or disapprove the corrected application within 45 days of receipt of a complete corrected application.

4. Procedures for boundary line adjustments in which the Planning Commission is the approval authority ([Section 4.4.1A-1a and 4.4.1A-1b](#)):
 - a. After receipt of a complete application, the Zoning Administrator shall refer the matter to the Commission for review at its next regular meeting.
 - b. The Zoning Administrator shall forward copies of the application and supporting documents to all applicable agencies and officials for written comments and recommendations. After receiving such comments and recommendations, the Zoning Administrator shall prepare a report for the Commission.
 - c. The Applicant shall provide any new or revised materials no less than 3 business days prior to the work session at which the Commission will be discussing the application. Any new or revised materials provided after the deadlines referenced above shall be not considered by the Commission at the scheduled meeting.
 - d. The Commission shall act to approve, approve with conditions, or disapprove the boundary line adjustment application within 60 days of its first meeting to review the application unless the applicant requests a deferral in accordance with [Section 2.2.3 \(Deferral of Application Review\)](#). If the application is disapproved and the applicant files a corrected application, the approval authority shall act to approve, approve with conditions, or disapprove the corrected application within 45 days of its first meeting to review the application unless the applicant requests a deferral in accordance with [Section 2.2.3](#).
- D. Plat recordation and performance guarantees.** Following approval of the plat by the approval authority, the Zoning Administrator shall coordinate resolution of any outstanding review items and obtain all required signatures on the final plat for recordation. If construction of infrastructure improvements is required in conjunction with an approved construction plan per [Section 3.4](#), the applicant shall provide performance guarantees in accordance with [Section 5](#) prior to approval of the final plat for recordation. As an alternative, the applicant may complete construction of the required infrastructure improvements in accordance with the approved construction plans. If the applicant selects this alternative approach, all construction shall be completed in accordance with [Section 3.1.3C \(Deadline to Record Approved Plat\)](#).
- E. Required Components.**
 1. The required components of a boundary line adjustment plat are enumerated in [Section 4.2.2A](#).

ARTICLE II – SUBDIVISION ORDINANCE
2024 EDITION

2. Additional required documentation for a boundary line adjustment application is set forth in [Section 4.2.2B](#).
 3. Compliance with special regulations for boundary line adjustments shall be demonstrated per [Section 4.4.1](#).
 4. Compliance with regulations for boundary line adjustments along jurisdictional boundaries, if applicable, shall be demonstrated per [Section 4.4.4](#).
- F. Action by the Approval Authority.** The approval authority shall approve the boundary line adjustment plat if it finds that the plat meets the requirements of this Ordinance, the [Zoning Ordinance \(Article I\)](#), the [Code of Clarke County](#), the [Code of Virginia](#), and any other applicable State or Federal regulations.

3.3.3 MERGER (MG)	
<u>Approval Authority:</u> -- Zoning Administrator	<u>Time Limit for Review:</u> -- 60 days from date of first review of the application by the approval authority -- 45 days from date of first review of a resubmitted application by the approval authority
<u>Pre-Application Meeting Required:</u> No	<u>Public Hearing Required:</u> No
<u>Other Applicable Deadlines:</u> None	<u>Expiration:</u> Yes – See Section 3.1.3

- A. When Required.** Merger plat review is required for the proposed elimination of one or more boundary lines between lots, resulting in a single lot.
- B. Approval Authority.** The approval authority for merger plat review shall be the Zoning Administrator.
- C. Application Filing, Processing, and Review by Approval Authority.**
 1. An application for review of a merger plat shall be made by submitting a complete application and the required fees to the Zoning Administrator, who will review the application for completeness in accordance with [Section 2.2.1C \(Acceptance of a Complete Application\)](#).

ARTICLE II – SUBDIVISION ORDINANCE
2024 EDITION

2. The Zoning Administrator may forward copies of the application and supporting documents to applicable agencies and officials for written comments and recommendations.
 3. Merger of lots in the Agricultural-Open Space-Conservation (AOC) or Forestal-Open Space-Conservation (FOC) Zoning Districts shall be subject to the provisions of [Section 3.8 \(Vacation or Merger of Lots in the AOC and FOC Districts\) of Article I, Zoning Ordinance](#). The Zoning Administrator shall review and determine the resultant dwelling unit right (DUR) allocation of the merged lots in accordance with [Zoning Ordinance \(Article I\), Section 3 \(Sliding-Scale Zoning\)](#) and shall inform the applicant of the determination prior to approval of the merger plat.
 4. Once the application is determined to be complete, the Zoning Administrator shall act to approve or disapprove the merger application within 60 days of receipt of a complete application. If the application is disapproved and the applicant files a corrected application, the Zoning Administrator shall act to approve or disapprove the corrected application within 45 days of receipt of a complete corrected application.
- D. Plat recordation.** The Zoning Administrator shall coordinate resolution of any outstanding review items and obtain all required signatures on the final plat for recordation. An approved final plat shall be recorded within six (6) months of approval, and a copy of the recorded plat shall be returned to the Zoning Administrator.
- E. Required Components.**
1. The required components of merger plat are enumerated in [Section 4.2.3A](#).
 2. Additional required documentation for a merger application is set forth in [Section 4.2.3B](#).
- F. Action by the Approval Authority.** The Zoning Administrator shall approve the merger plat if it finds that the plat meets the requirements of this Ordinance, the [Zoning Ordinance \(Article I\)](#), the [Code of Clarke County](#), the [Code of Virginia](#), and any other applicable State or Federal regulations.

3.3.4 VACATION OF PLAT (VAC)	
<u>Approval Authority:</u> -- Planning Commission or Board of Supervisors (see Subsection B)	<u>Time Limit for Review:</u> None
<u>Pre-Application Meeting Required:</u> No	<u>Public Hearing Required:</u> Yes, in specific situations (See Subsection B)
<u>Other Applicable Deadlines:</u> None	<u>Expiration:</u> Not applicable

- A. When Required.** The vacation of plat review process is required in order to vacate a recorded plat or a portion of a recorded plat in accordance with Code of Virginia requirements.
- B. Approval Authority.** The approval authority for vacation of plat or portion of plat prior to sale of lot therein ([Code of Virginia §15.2-2271](#)) may be delegated by the Board of Supervisors to the Planning Commission. The approval authority for vacation of plat or portion of plat after sale of lot ([Code of Virginia §15.2-2272](#)) shall be the Board of Supervisors.
- C. Review Procedures.** The procedures and review criteria for vacation of plat applications by the Board of Supervisors shall be as set forth in the Code of Virginia:

 - [Code of Virginia §15.2-2271\(1\)](#) for vacation of plat or portion of plat prior to sale of lot.
 - [Code of Virginia §15.2-2272](#) for vacation of plat or portion of plat after sale of one or more lots).
- D. Sliding-Scale Zoning.** Vacation of any plat of record, or of any portion of a plat of record, of subdivided land situated in the Agricultural-Open Space-Conservation (AOC) or the Forestal-Open Space-Conservation (FOC) Districts shall be subject to the provisions of [Section 3.8 \(Vacation or Merger of Lots in the AOC and FOC Districts\) of Article I, Zoning Ordinance.](#)

3.3.5 PUBLIC UTILITY LOT DIVISION (PULD)	
<u>Approval Authority:</u> -- Zoning Administrator	<u>Time Limit for Review:</u> -- 60 days from date of first review of the application by the approval authority -- 45 days from date of first review of a resubmitted application by the approval authority
<u>Pre-Application Meeting Required:</u> No	<u>Public Hearing Required:</u> No
<u>Other Applicable Deadlines:</u> None	<u>Expiration:</u> Yes – See Section 3.1.3

- A. When Required.** Public utility lot division plat review is required for the proposed division of one existing lot into a maximum of one residual lot and one new lot for the purpose of housing a public utility facility as described in [Zoning Ordinance \(Article I\), Section 5.2E \(Uses, Definitions, and Use Regulations – County Districts\)](#) or [Section 5.3E \(Uses, Definitions, and Use Regulations – Annexation Area Districts\)](#).
- B. Approval Authority.** The approval authority for public utility lot division plat review shall be the Zoning Administrator.
- C. Application Filing, Processing, and Review by Approval Authority.**
1. An application for review of a public utility lot division shall be made by submitting a complete application, construction plans (if applicable) per [Section 4.3](#), and the required fees to the Zoning Administrator, who will review the application for completeness in accordance with [Section 2.2.1C \(Acceptance of a Complete Application\)](#).
 2. The Zoning Administrator may forward copies of the application and supporting documents to applicable agencies and officials for written comments and recommendations.
 3. Once the application is determined to be complete, the Zoning Administrator shall act to approve or disapprove the public utility lot division application within 60 days of receipt of a complete application. If the application is disapproved and the applicant files a corrected application, the Zoning Administrator shall act to approve or disapprove the corrected application within 45 days of receipt of a complete corrected application.
- D. Plat recordation and performance guarantees.** Following approval of the plat by the approval authority, the Zoning Administrator shall coordinate resolution of any outstanding review items and obtain all required signatures on the final plat for recordation. If construction of infrastructure improvements is required in conjunction

with an approved construction plan per [Section 3.4](#), the applicant shall provide performance guarantees in accordance with [Section 5](#) prior to approval of the final plat for recordation. As an alternative, the applicant may complete construction of the required infrastructure improvements in accordance with the approved construction plans. If the applicant selects this alternative approach, all construction shall be completed in accordance with [Section 3.1.3 \(Deadline to Record Approved Plat\)](#).

E. Required Components.

1. The required components of a public utility lot division plat are enumerated in [Section 4.2.5A](#).
2. Additional required documentation for a public utility lot division application is set forth in [Section 4.2.5B](#).

F. Action by the Approval Authority. The Zoning Administrator shall approve the public utility lot division plat if it finds that the plat meets the requirements of this Ordinance, the [Zoning Ordinance \(Article I\)](#), the [Code of Clarke County](#), the [Code of Virginia](#), and any other applicable State or Federal regulations.

3.3.6	COURT-ORDERED PARTITIONS OF LAND (CPL)
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- A. When Required.** Where a court of appropriate jurisdiction has ordered the partition of a lot among multiple parties of interest, plat review and approval is required as a prerequisite for the resultant lots to receive permits or other approvals from the County.
- B. Approval Authority.** The approval authority for plat review of court-ordered partitions of land shall be the Zoning Administrator.
- C. Application Filing, Processing, and Review by Approval Authority.**
1. An application for plat review of a court-ordered partition of land shall be made by submitting a complete application, a plat of the partitioned lots prepared by a licensed surveyor, and the required fees to the Zoning Administrator, who will review the application for completeness in accordance with [Section 2.2.1C \(Acceptance of a Complete Application\)](#).
 2. If the subject lots are located in the AOC or FOC zoning districts per [Zoning Ordinance \(Article I\), Section 4](#), there shall be submitted to the Board of Supervisors an affidavit duly sworn by the owners of each of the lots setting forth the dwelling unit right allocation among the lots, pursuant to, and in conformity with, [Zoning Ordinance \(Article I\), Section 3.7 \(Sliding-Scale Zoning – Allocation Disclosure\)](#).

3. The Zoning Administrator may forward copies of the application and supporting documents to applicable agencies and officials for written comments and recommendations.
 4. Once the application is determined to be complete, the Zoning Administrator shall act to approve or disapprove the court-ordered partition plat application within 60 days of receipt of a complete application. If the application is disapproved and the applicant files a corrected application, the Zoning Administrator shall act to approve or disapprove the corrected application within 45 days of receipt of a complete corrected application.
 5. Following approval of the plat by the Zoning Administrator, the applicant shall record the plat in the County land records in order for the lots to receive permits or other County approvals.
- D. Review Criteria.** The Zoning Administrator shall approve the court-ordered partition plat if it finds that the plat meets the requirements of this Ordinance, the [Zoning Ordinance \(Article I\)](#), the [Code of Clarke County](#), the [Code of Virginia](#), and any other applicable State or Federal regulations.

3.4 CONSTRUCTION PLAN REVIEW PROCESS

- A. When Required.** Construction plan review is required to ensure that required infrastructure improvements to be constructed in conjunction with a subdivision or non-subdivision application comply with the regulations of this Ordinance, the [Zoning Ordinance \(Article I\)](#), and any applicable County, State, or public utility regulations. Types of required construction plans include but are not limited to:

- Construction of public roads and required public road improvements
- Construction of private access easements
- Erosion and sediment control plans per [Code of Clarke County Chapter 148 \(Erosion and Sediment Control Ordinance\)](#)
- Installation of public utilities
- Common use elements such as sidewalks, trails, and other community facilities

Approval of a construction plan is a prerequisite for approval of any subdivision plat or non-subdivision plat application in which a construction plan is required.

- B. Review Procedures.** Construction plans, if required, are reviewed in conjunction with the review of a subdivision application per [Section 3.2](#) or a non-subdivision application per [Section 3.3](#). The approval authority for construction plans shall be the approval authority for the subdivision or non-subdivision application with which the construction plans have been filed for review.

C. Required Components.

1. The required components of a construction plan are enumerated in [Section 4.3](#).
2. Construction plan design standards are set forth in [Section 4.5](#).

D. Action by the Approval Authority. The approval authority shall approve the construction plan, in conjunction with approval of the corresponding subdivision or non-subdivision application, if it finds that the construction plan meets the requirements of this Ordinance, the [Zoning Ordinance \(Article I\)](#), the [Code of Clarke County](#), the [Code of Virginia](#), and any other applicable State or Federal regulations.

3.5 APPEALS

Any subdivider aggrieved by an interpretation, administration, or enforcement of this Ordinance may appeal to the Circuit Court of Clarke County, as provided by law.

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SECTION 4	PLAT AND CONSTRUCTION PLAN REQUIREMENTS
<p>This Section contains the technical regulations that apply to subdivision and non-subdivision applications described in Section 3 (Review Processes). These regulations include but are not limited to platting requirements, required application documentation, design standards for infrastructure improvements, and special regulations for certain types of subdivision and non-subdivision applications.</p>	

Table of Contents

4.1	Subdivision Plat and Application Requirements	4-2 – 4-11
4.1.1	Minor Subdivision	4-2 – 4-3
4.1.2	Major Subdivision	4-3 – 4-5
4.1.3	Record Plat Requirements for Subdivisions	4-5 – 4-11
4.2	Non-Subdivision Plat and Application Requirements	4-11 – 4-15
4.2.1	Administrative Land Division	4-11
4.2.2	Boundary Line Adjustment	4-12 – 4-13
4.2.3	Merger	4-13
4.2.4	Vacation of Plat	4-14
4.2.5	Public Utility Lot Division	4-14 – 4-15
4.3	Construction Plan Requirements	4-15 – 4-17
4.4	Special Regulations	4-17 – 4-24
4.4.1	Boundary Line Adjustments – Special Regulations	4-17 – 4-19
4.4.2	Subdivision of Land in the Forestal-Open Space-Conservation (FOC) District	4-20 – 4-22
4.4.3	Subdivision of Land in the Flood Plain (FP) Overlay District	4-22
4.4.4	Subdivisions and Boundary Line Adjustments along Jurisdictional Boundaries	4-22 – 4-23
4.4.5	Administrative Land Divisions – Special Regulations	4-23 – 4-24
4.5	Subdivision and Construction Plan Design Standards	4-24 – 4-33
4.5.1	Lots and Building Areas	4-24
4.5.2	Public Streets	4-24 – 4-26
4.5.3	Private Access Easements	4-26 – 4-30
4.5.4	Public Utilities and Utility Easements	4-30 – 4-31
4.5.5	Stormwater Management	4-31
4.5.6	Private Wells and Onsite Sewage Disposal Systems	4-31 – 4-32
4.5.7	Monuments	4-33
4.6	Required Documents and Statements	4-33 – 4-36
4.6.1	Deed or Deed of Dedication As Applicable	4-33
4.6.2	Environmental Inventory and Impact Statement	4-34 – 4-35
4.6.3	Consumer Disclosure Statement	4-35 – 4-36

4.1 SUBDIVISION PLAT AND APPLICATION REQUIREMENTS

4.1.1 Minor Subdivision

- A. Required Components of a Minor Subdivision Plat Application.** A minor subdivision plat application shall contain the following components:
1. Minor subdivision plat. A plat, prepared by a licensed surveyor or other licensed professional authorized by the Code of Virginia to survey land and to prepare and certify plats, depicting a minor subdivision as described in [Section 3.2.1A \(Minor Subdivision–When Required\)](#) shall be provided. Such plat shall comply with the record plat requirements set forth in [Section 4.1.3](#).
 2. Deed of dedication. A deed of dedication as described in [Section 4.6.1](#) shall be provided if applicable.
 3. Review of proposed entrances to public roads. Copies of construction profiles and other required transportation information that was submitted to the Virginia Department of Transportation (VDOT) for compliance review of proposed entrances to lots and private access easements shall be provided.
 4. Use of onsite sewage disposal systems. For any lot less than 40 acres in size, a report from the Virginia Department of Health (VDH) shall be provided evidencing suitability of soils for individual on-site septic systems with subsurface disposal.
 5. Use of public water and/or public sewer.
 - a. If public water and/or sewer is to be provided by a town or by the Clarke County Sanitary Authority, a certificate from an authorized agent of the Authority or the governing body approving the use of public water and/or public sewer shall be provided. Said certificate may require that certain specifications be met as a condition to furnishing such public water and/or sewer.
 - b. If public water and/or sewer facilities are to be accepted by a town or by the Clarke County Sanitary Authority for purposes of the town’s or Authority’s operation and maintenance of such facilities, for public use, a certificate from the Virginia Department of Health shall be provided evidencing conformance of plans for such facilities with all applicable requirements and specifications. A certificate from an authorized agent or the governing body of the town or of the Sanitary Authority evidencing agreement to accept such facilities and setting forth all conditions of the agreement for such acceptance shall also be provided.
- B. Additional Required Documentation.** The following additional documentation shall be filed with a minor subdivision application, if applicable:

ARTICLE II – SUBDIVISION ORDINANCE
2024 EDITION

1. Construction plans. Construction plans shall be provided in accordance with [Section 4.3](#) for the construction of required infrastructure including but not limited to private access easements, public utilities, and common use elements.
2. Erosion and sediment control plan required. Erosion and sediment control plan review per [Code of Clarke County Chapter 148 \(Erosion and Sediment Control\)](#) is required if construction of proposed infrastructure improvements for the minor subdivision will result in land disturbance that requires plan review per [Chapter 148](#). For projects requiring compliance with State stormwater management regulations, the applicant shall also provide the stormwater management plan and accompanying documentation that was submitted for compliance review to the State stormwater management review authority.
3. Prior legislative approvals and variances. Copies of any approved conditional zoning proffers, approved special use permit conditions, or variances previously granted for the property.
4. Performance guarantees. Surety estimates for all required improvements in accordance with [Section 5 \(Performance & Maintenance Guarantees\)](#).
5. Required plat notes. The following notes shall be provided on the record plat:
 - a. A note shall be included indicating the date that the plat shall become null and void if not recorded within six months from the date evidencing approval by the approval authority, as required by [Section 3.1.3 \(Plat Recordation\)](#). The note shall provide a line or block for the Zoning Administrator to affix the date in writing, by stamp, or by other suitable means.
 - b. Any notes required by the Zoning Administrator to explain the purpose of specific items on the plat shall be provided.
6. Additional information as deemed necessary by the approval authority or Zoning Administrator shall be provided.

4.1.2 Major Subdivision

- A. Required Components of a Major Subdivision Plat Application.** A major subdivision plat application shall contain the following components, as applicable:
1. Major subdivision plat. A plat, prepared by a licensed surveyor or other licensed professional authorized by the Code of Virginia to survey land and to prepare and certify plats, depicting a major subdivision as described in [Section 3.2.2A \(Major Subdivision—When Required\)](#) shall be provided. Such plat shall comply with the record plat requirements set forth in [Section 4.1.3](#).

ARTICLE II – SUBDIVISION ORDINANCE
2024 EDITION

2. Deed of dedication. A deed of dedication as described in [Section 4.6.1](#) shall be provided if applicable.
 3. Environmental Inventory and Impact Statement. An Environmental Inventory and Impact Statement as described in [Section 4.6.2](#) shall be provided.
 4. Consumer Disclosure Statement. A Consumer Disclosure Statement as described in [Section 4.6.3](#) shall be provided.
 5. Review of proposed entrances to public roads. Copies of construction profiles and other required transportation information that was submitted to the Virginia Department of Transportation (VDOT) for compliance review of proposed entrances to lots and private access easements shall be provided.
 6. Review of new proposed public roads. If new public roads are proposed to be constructed, a certificate from an authorized agent of the Virginia Department of Transportation (VDOT) evidencing approval of the proposed design and construction of all public roads shall be provided. The certificate shall also verify that all public roads will be accepted into the state highway system for maintenance at such time that criteria for establishment of genuine public need is satisfied, provided such public roads are constructed in accordance with the approved plans and profiles and comply with all regulations for state maintenance acceptance.
 7. Use of onsite sewage disposal systems. For any lot less than 40 acres in size, a report from the Virginia Department of Health (VDH) shall be provided evidencing suitability of soils for individual on-site septic systems with subsurface disposal.
 8. Use of public water and/or public sewer.
 - a. If public water and/or sewer is to be provided by a town or by the Clarke County Sanitary Authority, a certificate from an authorized agent of the Authority or the governing body approving the use of public water and/or public sewer shall be provided. Said certificate may require that certain specifications be met as a condition to furnishing such public water and/or sewer.
 - b. If public water and/or sewer facilities are to be accepted by a town or by the Clarke County Sanitary Authority for purposes of the town's or Authority's operation and maintenance of such facilities, for public use, a certificate from the Virginia Department of Health shall be provided evidencing conformance of plans for such facilities with all applicable requirements and specifications. A certificate from an authorized agent or the governing body of the town or of the Sanitary Authority evidencing agreement to accept such facilities and setting forth all conditions of the agreement for such acceptance shall also be provided.
- B. Additional Required Documentation.** The following additional documentation shall be filed with a major subdivision application, if applicable:

1. Construction plans. Construction plans shall be provided in accordance with [Section 4.3](#) for the construction of required infrastructure including but not limited to private access easements, public utilities, and common use elements.
2. Erosion and sediment control plan required for certain major subdivisions. For major subdivisions resulting in five or more lots, an erosion and sediment control plan demonstrating compliance with [Code of Clarke County Chapter 148 \(Erosion and Sediment Control\)](#) shall be submitted for review. Erosion and sediment control plan review is also required if construction of proposed infrastructure improvements for the major subdivision will result in land disturbance that requires plan review per [Chapter 148](#). For projects requiring compliance with State stormwater management regulations, the applicant shall also provide the stormwater management plan and accompanying documentation that was submitted for compliance review to the State stormwater management review authority.
3. Prior legislative approvals and variances. Copies of any approved conditional zoning proffers, approved special use permit conditions, or variances previously granted for the property.
4. Performance guarantees. Surety estimates for all required improvements in accordance with [Section 5 \(Performance & Maintenance Guarantees\)](#).
5. Required plat notes. The following notes shall be provided on the record plat:
 - a. A note shall be included indicating the date that the plat shall become null and void if not recorded within six months from the date evidencing approval by the approval authority, as required by [Section 3.1.3 \(Plat Recordation\)](#). The note shall provide a line or block for the Zoning Administrator to affix the date in writing, by stamp, or by other suitable means.
 - b. Any notes required by the Zoning Administrator to explain the purpose of specific items on the plat shall be provided.
6. Additional information as deemed necessary by the approval authority or Zoning Administrator shall be provided.

4.1.3 Record Plat Requirements for Subdivisions

- A. Record Plat Requirements.** A Record Plat shall be prepared by a surveyor or engineer, duly licensed by the Commonwealth of Virginia, who shall endorse upon such plat a signed certificate setting forth the source of title of the land subdivided, and the place of record of the last instrument or instruments in the chain of title. A record plat for a major or minor subdivision shall consist of the following:
1. The record plat shall be drawn at a scale of one inch equals not more than 100 feet for any subdivision having lots less than three acres in area, or at a scale of one inch equals

ARTICLE II – SUBDIVISION ORDINANCE
2024 EDITION

not more than two hundred feet for any subdivision having lots of three acres or more in area. The approval authority may, at its discretion, permit different suitable scales for plats of dedication or other special plats. If the subdivision is shown on more than one sheet, the sheet number, total number of sheets and subdivision name shall be shown on each sheet, and match lines shall clearly indicate where the several sheets join.

All dimensions shall be shown in feet and decimals of a foot to the closest 1/100 of a foot; and all bearings in degrees, minutes and seconds to the nearest 10 seconds. The data for all curves shall be shown in detail at the curve or in a curve data table containing the following: Radius, delta, arc, tangent, chord and chord bearing. Bearings and distances of corners to the nearest recorded property corners or monuments.

2. The Record Plat shall contain a statement to the effect that the said subdivision is with the free consent and in accordance with the desire of the undersigned, executed by the owners or trustees of the property. The record plat shall also contain, at a minimum, the following applicable items:
 - a. The scale, north point and date.
 - b. The proposed name of the subdivision. The name shall not duplicate nor too closely approximate that of any existing subdivision in this or neighboring counties.
 - c. The name, address, and signature of the owner of record, the name and address of the subdivider, and the name and address of the engineer or surveyor preparing the plat.
 - d. Number of sheets comprising the plat.
 - e. Magisterial District, County, and State.
 - f. Sources of data used in preparing the plat, including, but not limited to, plats of record and the deed book and page number of the last instrument in the chain of title.
 - g. Names of all adjoining property owners.
 - h. If any land is being dedicated or reserved for streets, easements, parking space, onsite sewage disposal systems, or for public or private use, or for the common use of future property owners of the subdivision, the record plat shall so state and indicate which.
 - i. Zoning Requirements: A notation setting forth the zoning district, the building setback requirements for principal structures from front, side and rear lot lines, the vegetated property buffer in the AOC and FOC Zoning Districts, and the purpose, residential or otherwise, for which the proposed lots are to be used. Such notation

ARTICLE II – SUBDIVISION ORDINANCE
2024 EDITION

shall further set forth reference to an outline of any variance, special exception, special use permit, and/or conditions established pursuant to conditional zoning with respect to the subject property.

- j. Location of the proposed subdivision by an insert vicinity map drawn to a scale of one inch equals not more than two thousand feet and indicating thereon:
 - The boundary lines of the proposed subdivision and of any larger tract of which the subdivision forms a part. All lots of less than 100 acres resulting from the division of the larger tract are a part of the subdivision.
 - All adjoining roads and streets with their numbers and/or names.
 - All subdivisions, town boundary lines, and other landmarks, if any, within one mile.
- k. Boundary lines and total acreage of the proposed subdivision, and the acreage remaining in the parent parcel, if any.
- l. Location of existing buildings within the subdivision and within 200 feet thereof.
- m. Location and width of each proposed street, easement, including utilities and drainage easements, parking area, or other public or private right-of-way within and abutting the subdivision. Location and width of all adjoining roads and streets with their names and/or numbers.
- n. Lots: All proposed lot lines showing dimensions, total number of lots, proposed block and lot numbers, area of each lot.
- o. Building setback lines shown as dashed lines with dimensions to front property line along each street, and length of setback line within each lot.
- p. All applicable platting requirements of the Virginia Department of Transportation (VDOT) in connection with each proposed street and public right-of-way.
- q. Location and size in acres of land, if any, to be dedicated or reserved for public use, or for the common use of future property owners in the subdivision.
- r. Location and description of all existing monuments.
- s. Utilities, existing and proposed. Appropriate easements for the placement of all proposed utilities underground shall be required pursuant to [Section 4.5.4](#).
- t. Location of all pertinent natural and historical features and landmarks including:
 - Perennial streams and springs, intermittent streams, and other surface water features as identified by the U.S. Geological Survey (USGS).

ARTICLE II – SUBDIVISION ORDINANCE
2024 EDITION

- Sinkholes as identified by the [Soil Survey of the U.S. Soil Conservation Service](#) and/or confirmed by onsite inspection.
 - 100-year floodplain of the Shenandoah River and Opequon Creek as identified by the USGS and/or U.S. Army Corps of Engineers (USACE), or confirmed by onsite inspection by a professional engineer.
 - Major land cover, including general locations of wooded areas or individual trees, within 100 feet of perennial streams and springs and 50 feet of intermittent streams.
 - Being within the square mile block of land identified by Virginia Department of Conservation and Recreation as containing rare or endangered plant and animal species.
 - Scenic resources adjoining or within 200 feet of the applicant's property: the Shenandoah River, the Opequon Creek, the Appalachian Trail, County and State designated scenic roads, Permanent Open Space/Historic Conservation Easements or the County Agricultural District.
- u. Boundaries of all easements, school sites, parks or other public areas.
- v. Dwelling Unit Rights: The record plat of a subdivision of land in the Agricultural-Open Space-Conservation (AOC) or Forestal-Open Space-Conservation (FOC) Zoning Districts shall specify which lot or lots contained therein shall carry with them the right to erect or place a single-family detached dwelling unit, as determined by the number of unused dwelling unit rights assigned to the parent tract pursuant to [Zoning Ordinance Section 3](#).
- w. The Record Plat shall provide space, preferably in the lower right hand corner, and contain suitable lettering for:
- The surveyor's certificate, as to title.
 - The surveyor's certificate, as to monuments
 - Signature block for the property owner
 - Signature block for the Zoning Administrator to indicate approval of the plat
 - Signature block for the chair of the approval authority to indicate approval of the plat
 - Signature block for a duly authorized representative of the Virginia Department of Health (VDH) evidencing conformity with VDH requirements respect to onsite sewage disposal systems and potable water supply systems, as applicable
 - Additional signature blocks as required by the Zoning Administrator or the approval authority
3. Required Statements. The following required statements shall be included on record plats as indicated:

ARTICLE II – SUBDIVISION ORDINANCE
2024 EDITION

- a. The following statement shall be shown on the record plat of property located in the Agricultural-Open Space-Conservation (AOC) District:

AGRICULTURAL OPERATIONS NOTICE

This property is in the Agricultural-Open Space-Conservation (AOC) Zoning District. Agriculture is the primary economic activity of this zoning district. Owners, residents, and other users of property in the AOC District may be subjected to inconvenience, discomfort, and the possibility of injury to property and health arising from agricultural operations even though conducted in accordance with best management practices and/or in accordance with existing laws and regulations of the Commonwealth and the County. Such agricultural operations may generate noise, odors, and dust, may involve the operation of machinery, including aircraft, the storage and disposal of manure, and the application of fertilizer, soil amendments, and pesticides. Owners, occupants, and users of land in the AOC district should be prepared to accept such inconveniences or discomfort as a normal and necessary aspect of living in a zoning district in a county with a strong rural character and an active agricultural sector.

- b. The following statement shall be shown on all record plats:

FERTILIZERS AND PESTICIDES NOTICE

Before fertilizers and pesticides are used for lawn or landscaping purposes, a soil test should be conducted. The application of such chemicals should be limited due to the potential for groundwater contamination and should not exceed that determined necessary by the soil test.

- c. The following statements shall be shown on the record plat of property located in the Forestal-Open Space-Conservation (FOC) District:

EMERGENCY SERVICES NOTICE

The rural location of and limited access of this property, combined with adverse weather conditions, may delay or totally impede the timely response of emergency service agencies (police, fire, medical) despite their best efforts. The County of Clarke will not be subject to liability claims because of a delay in response from emergency service agencies resulting from the rural location of and limited access to the property.

FORESTRY OPERATIONS NOTICE

This property is in the Forestal-Open Space-Conservation (FOC) Zoning District. Forestry is the primary economic activity of this zoning district and is necessary for the health and viability of the forest resource itself. Owners, residents, and other users of property in the FOC District may be subjected to inconvenience, discomfort, and the possibility of injury to property and health arising from forestry operations even though conducted in accordance with best management practices and/or in accordance with existing laws and regulations of the

ARTICLE II – SUBDIVISION ORDINANCE
2024 EDITION

Commonwealth and the County. Such forestry operations may generate noise, odors, and dust, and may involve the operation of machinery, including heavy equipment and chain saws. Debris such as treetops and limbs may be left on site at the conclusion of a forestry operation. Owners, occupants, and users of land in the FOC district should be prepared to accept such inconveniences or discomfort as a normal and necessary aspect of living in a zoning district in a county with a strong rural character and an active forestal sector.

B. Items to Accompany Record Plat

1. Statement by the subdivider acknowledging that any percolation tests, topographic studies, or other requirements of the Health Official and/or Commission, in addition to and pursuant to [Section 4.5.6 \(Private Wells and Onsite Sewage Disposal Systems\)](#), will be carried out at the expense of the subdivider.
2. If it is proposed to dedicate or reserve land (other than for streets) and private access easements for public use, or for the common use of future property owners in the subdivision, a statement by the subdivider to that effect, giving an outline of the terms proposed and acreage involved.
3. If it is proposed that access to any lots will be served by private access easement, a copy of proposed restrictive covenants, which shall set forth the terms and provisions for construction and maintenance of such easements, and which covenants shall further state that such easements are not a part of any public road system and that at no time will the County or Virginia Department of Transportation (VDOT) accept responsibility for construction, upgrading and/or maintenance of such easements. Prior to any future request for the acceptance of such easements for maintenance as part of the Secondary System of State Highways, such easement or easements shall be made to comply with the prevailing Subdivision Street Requirements of VDOT, or to another standard deemed acceptable by VDOT, at no cost to funds administered by it.
4. Certificate signed by the County Treasurer evidencing payment of all applicable taxes.
5. If water is to be provided by, or if sewerage facilities are to be connected with, an approved system in a town, or if water and/or sewerage facilities are to be provided by, or under the terms of written agreement with the Clarke County Sanitary Authority, a certificate signed by an authorized official or the governing body of such town or an authorized official of the Sanitary Authority shall also be submitted and, in addition, a certificate stating that the performance bond or other acceptable surety referred to in Section 5 (Performance Guarantees) is adequate to insure the installation of such water or sewerage facilities in a manner which will satisfy the requirements of both the Virginia Department of Health and the Town or Sanitary Authority, as applicable.
6. Certificate signed by the Residency Administrator or designee that all streets, parking areas, street signs and drainage systems required, if already constructed by the subdivider, are approved as being in conformance with the Record Plat and requirements

of this Ordinance; or, if they are not yet constructed, that the surety performance bond or certified check referred to in Section 5 (Performance Guarantees) is adequate to guarantee satisfactory and acceptable installation thereof within a designated reasonable time.

7. In cases where land or facilities are to be dedicated to, and held in perpetuity by, a homeowner’s association, copies of all approved homeowner's association documents shall be provided with the record plat.

4.2 NON-SUBDIVISION PLAT AND APPLICATION REQUIREMENTS

4.2.1 Administrative Land Division

- A. Required Components of an Administrative Land Division Plat Application.** An administrative land division plat application shall contain the following components, as applicable:
 1. Administrative land division plat. A plat, prepared by a licensed surveyor or other licensed professional authorized by the Code of Virginia to survey land and to prepare and certify plats, depicting an administrative land division as described in [Section 3.3.1A \(Administrative Land Division – When Required\)](#) shall be provided.
 2. Deed of dedication. A deed of dedication as described in [Section 4.6.1](#) shall be provided if applicable.
- B. Additional Required Documentation.** The following additional documentation shall be filed with an administrative land division application, if applicable:
 1. Prior legislative approvals and variances. Copies of any approved conditional zoning proffers, approved special use permit conditions, or variances previously granted for the property.
 2. Required plat notes. The following notes shall be provided on the record plat:
 - a. A note shall be included indicating the date that the plat shall become null and void if not recorded within six months from the date evidencing approval by the approval authority, as required by [Section 3.1.3 \(Plat Recordation\)](#). The note shall provide a line or block for the Zoning Administrator to affix the date in writing, by stamp, or by other suitable means.
 - b. Any notes required by the Zoning Administrator to explain the purpose of specific items on the plat shall be provided.
 3. Additional information as deemed necessary by the approval authority or Zoning Administrator shall be provided.

4.2.2 Boundary Line Adjustment

- A. Required Components of a Boundary Line Adjustment Application.** A boundary line adjustment application shall contain the following components:
- 1. Boundary line adjustment plat.** A plat, prepared by a licensed surveyor or other licensed professional authorized by the Code of Virginia to survey land and to prepare and certify plats, depicting a boundary line adjustment as described in [Section 3.3.2A \(Boundary Line Adjustment -- When Required\)](#) shall be provided. Any existing structure (or structures) and existing or proposed well(s) and on-site sewage disposal system(s) shall be shown on a boundary line adjustment plat. Structures shall be identified as to their use and show the physical address of each structure where applicable. All wells and on-site sewage disposal systems shall be verified by the Virginia Department of Health (VDH) as to location, capacity, type and use and be noted accordingly on such plat.
 - 2. Deed of dedication.** A deed of dedication as described in [Section 4.6.1](#) shall be provided if applicable.
 - 3. Review of proposed entrances to public roads.** Copies of construction profiles and other required transportation information that was submitted to the Virginia Department of Transportation (VDOT) for compliance review of proposed entrances to lots and private access easements shall be provided.
 - 4. Use of onsite sewage disposal systems.** If a lot with an area equal to or greater than forty (40) acres is reduced in size below (40) acres by boundary line adjustment, the resultant lot shall comply with the private well and sewage disposal system requirements set forth in [Section 4.5.6](#).
- B. Additional Required Documentation.** The following additional documentation shall be filed with a boundary line adjustment application, if applicable:
- 1. Construction plans.** Construction plans shall be provided in accordance with [Section 4.3](#) for the construction of required infrastructure including but not limited to private access easements, public utilities, and common use elements.
 - 2. Prior legislative approvals and variances.** Copies of any approved conditional zoning proffers, approved special use permit conditions, or variances previously granted for the property.
 - 3. Performance guarantees.** Surety estimates for all required improvements in accordance with [Section 5 \(Performance & Maintenance Guarantees\)](#).
 - 4. Required plat notes.** The following notes shall be provided on the record plat:
 - a.** A note shall be included indicating the date that the plat shall become null and void if not recorded within six months from the date evidencing approval by the

approval authority, as required by [Section 3.1.3 \(Plat Recordation\)](#). The note shall provide a line or block for the Zoning Administrator to affix the date in writing, by stamp, or by other suitable means.

- b. Any notes required by the Zoning Administrator to explain the purpose of specific items on the plat shall be provided.
5. Additional information as deemed necessary by the approval authority or Zoning Administrator shall be provided.

4.2.3 Merger

- A. Required Components of a Merger Plat Application.** A merger plat application shall contain the following components, as applicable:
1. Merger plat. A plat, prepared by a licensed surveyor or other licensed professional authorized by the Code of Virginia to survey land and to prepare and certify plats, depicting a merger as described in [Section 3.3.3A \(Merger – When Required\)](#) shall be provided.
 2. Deed of dedication. A deed of dedication as described in [Section 4.6.1](#) shall be provided if applicable.
- B. Additional Required Documentation.** The following additional documentation shall be filed with a merger application, if applicable:
1. Prior legislative approvals and variances. Copies of any approved conditional zoning proffers, approved special use permit conditions, or variances previously granted for the property.
 2. Required plat notes. The following notes shall be provided on the record plat:
 - a. A note shall be included indicating the date that the plat shall become null and void if not recorded within six months from the date evidencing approval by the approval authority, as required by [Section 3.1.3 \(Plat Recordation\)](#). The note shall provide a line or block for the Zoning Administrator to affix the date in writing, by stamp, or by other suitable means.
 - b. Any notes required by the Zoning Administrator to explain the purpose of specific items on the plat shall be provided.
 3. Additional information as deemed necessary by the approval authority or Zoning Administrator shall be provided.

4.2.4 Vacation of Plat

The required components for vacation of plat applications shall be as set forth in the Code of Virginia:

- [Va. Code §15.2-2271\(1\)](#) for vacation of plat or portion of plat prior to sale of lot.
- [Va. Code §15.2-2272](#) for vacation of plat or portion of plat after sale of one or more lots).

4.2.5 Public Utility Lot Division

A. Required Components of a Public Utility Lot Division Plat Application. A public utility lot division plat application shall contain the following components, as applicable:

1. **Public utility lot division plat.** A plat, prepared by a licensed surveyor or other licensed professional authorized by the Code of Virginia to survey land and to prepare and certify plats, depicting a public utility lot division as described in [Section 3.3.5A \(Public Utility Lot Division – When Required\)](#) shall be provided. The plat shall contain a note in a format approved by the Zoning Administrator stating that the public utility lot shall be used only for a public utility facility use as described the Clarke County Zoning Ordinance and shall not be used for any other use.
2. A deed as described in [Section 4.6.1](#) shall be provided which identifies the grantee of the public utility lot as a provider of public utilities.

B. Additional Required Documentation. The following additional documentation shall be filed with a merger application, if applicable:

1. **Prior legislative approvals and variances.** Copies of any approved conditional zoning proffers, approved special use permit conditions, or variances previously granted for the property.
2. **Required plat notes.** The following notes shall be provided on the record plat:
 - a. A note shall be included indicating the date that the plat shall become null and void if not recorded within six months from the date evidencing approval by the approval authority, as required by [Section 3.1.3 \(Plat Recordation\)](#). The note shall provide a line or block for the Zoning Administrator to affix the date in writing, by stamp, or by other suitable means.
 - b. Any notes required by the Zoning Administrator to explain the purpose of specific items on the plat shall be provided.

3. Additional information as deemed necessary by the approval authority or Zoning Administrator shall be provided.

4.3 CONSTRUCTION PLAN REQUIREMENTS

- A. **Required Components of a Construction Plan.** A construction plan for required infrastructure improvements or any portion thereof involving engineering, landscape architecture, or land surveying shall be prepared by qualified persons and shall be certified by seal and signature of an engineer, landscape architect, or land surveyor licensed to practice by the Commonwealth of Virginia within the limits of their respective licenses. The construction plan shall contain the following components, as applicable:
 1. The proposed title of the project and the name of the engineer, landscape architect, or land surveyor; the name of the developer; name and address of the property owner.
 2. Source of title of the owner of record, including deed book and page reference of the last instrument in the chain of title.
 3. A signature area containing the property owner’s signature and signature blocks for approval by the chair of the approval authority and the Zoning Administrator.
 4. North point, scale, and date.
 5. Total site acreage; acreage of individual lots and rights-of way.
 6. Boundaries of the subject property as depicted on the corresponding subdivision or non-subdivision plat.
 7. Existing streets, buildings, watercourses, waterways, lakes and other existing physical features on or adjoining the property. Features on adjoining properties need only by shown in approximate scale and proportion.
 8. Current topography of the project area with contour intervals of two feet or less; proposed finished grading by contour, supplemented where necessary by spot elevations.
 9. Location and sizes of sanitary and storm sewers, gas lines, water lines, culverts, fire hydrants, and other above-ground or underground structures in or affecting the project, including existing and proposed facilities, and easements for those facilities.
 10. Location, dimensions, names, and construction details (including typical sections) of proposed streets, alleys, driveways, and the location, type, and size of ingress and egress to the site.

ARTICLE II – SUBDIVISION ORDINANCE
2024 EDITION

11. Location, dimensions, and total area of proposed recreation, open space, and required amenities and improvements.
 12. Sequence for phased development, if applicable.
 13. Location and acreage to the nearest 0.1 acre of critical environmental areas including the following:
 - Slopes between 15% - 25%
 - Slopes greater than 25%
 - Rock outcroppings
 - Sinkholes
 - Floodplains and floodplain soils
 - Current drainage channels
 - Stormwater management facilities
 - Utilities
 - Other sensitive areas defined by the Zoning Administrator
 14. Erosion and sediment control plan.
 - a. An erosion and sediment control plan meeting the requirements of the [Code of Clarke County Chapter 148 \(Erosion and Sediment Control Ordinance\)](#) shall be submitted for review and approval for any proposed construction or land disturbance that meets the requirements for submission of such plan per [Chapter 148](#).
 - b. For projects requiring an erosion and sediment control plan for general clearing and grading of the subject property and which involve no other substantive construction of required infrastructure, the construction plan requirements of this subsection may be waived by the approval authority and only the plan requirements of [Chapter 148](#) shall apply.
 15. Stormwater management. For construction or land disturbance projects requiring compliance with State stormwater management regulations, the applicant shall provide the stormwater management plan and accompanying documentation that was submitted for compliance review to the State stormwater management review authority.
 16. For projects using public water and/or public sewer, anticipated daily and peak water demand and sewage flows for the site shall be provided.
 17. Copies of construction profiles, traffic impact studies, and other transportation information that was submitted to the Virginia Department of Transportation (VDOT) for compliance review.
- B. Additional Required Documentation.** Additional information as deemed necessary by the approval authority or Zoning Administrator shall be provided.

C. Construction and Performance Guarantees.

1. No site improvement activities may occur until the construction plans have been approved and all required performance guarantees have been posted in accordance with [Section 5 \(Performance & Maintenance Guarantees\)](#).
2. All improvements required by this Section shall be installed at the cost of the developer, except where cost sharing or reimbursement agreements between the County and the applicant are appropriate. Such cost sharing or reimbursement agreements shall be recognized by formal written approval prior to site development plan approval.
3. The approval of a construction plan and/or the installation of improvements shall not obligate the County to accept the improvements for maintenance, repair, or operation. Acceptance shall be subject to County and/or State regulations, where applicable, and dependent on the satisfactory nature of the improvements.
4. The subdivider and/or contractor shall have available on the project, at all times, a clearly readable copy of all approved construction plans and specifications and shall cooperate in every way possible with the Zoning Administrator and any inspector or representative of the County and of any other federal, state, and local agency.
5. Upon completion of construction, the applicant’s design professional shall provide written certification that the improvements have been constructed in accordance with the approved construction plans, the requirements of this Ordinance, and any other applicable County, State, or Federal regulations. Written certification may include as-built construction plans for public infrastructure improvements if required by the Zoning Administrator.

4.4 SPECIAL REGULATIONS

4.4.1 Boundary Line Adjustments – Special Regulations

- A. Lots Located in the Agricultural-Open Space-Conservation (AOC) District.** In the Agricultural-Open Space-Conservation Zoning District, the relocation or altering of property lines is permitted in the following cases:
1. Adjustments where a residential lot is increased in size and an agricultural lot is decreased.
 - a. Boundary Line Adjustments are permitted where a residential lot is increased in size to a maximum of three acres, or so that it becomes an agricultural lot, if the residential lot qualifies for the Land Preservation Special Assessment (land use taxation) and the agricultural lot involved in the adjustment remains an agricultural lot.

ARTICLE II – SUBDIVISION ORDINANCE
2024 EDITION

- b. Upon application, the Planning Commission may permit boundary line adjustments exceeding the maximum area of three acres. Such boundary line adjustments shall be approved when it is determined by the Commission that the lot is of sufficiently low quality to justify a boundary line adjustment exceeding the area limitations.
 - c. Low quality land characteristics. The following are considered characteristics of low quality land that would permit boundary line adjustments exceeding the maximum area of three acres:
 - (1) Physical features or small size or irregular shape of potential residual lot such that efficient use of farm machinery would not be possible or that said land would be left to no useful purpose; or
 - (2) Combination of physical features and setting such that the maximum lot size allowed in this section for a lot proposed in a minor or major subdivision is too small to accommodate a dwelling, drainfield, and well so as to meet the minimal applicable health standards and provided that no lot may be created or increased in area so as to exceed a maximum area of four acres. An application for a maximum lot size exception, submitted under this section, shall be accompanied by a written statement prepared by a Virginia Health Department environmental specialist or a professional soil scientist (as defined in County Code Chapter 143, Septic Systems) stating why the proposed lot could not accommodate a dwelling, drainfield, and well meeting Virginia and Clarke County health standards within the maximum lot size allowed in this section. Lots proposed in a major subdivision are not eligible for a Maximum Lot Size Exception under this section; or
 - (3) Land that is part of a lot where such land has been determined by the Zoning Administrator to be not important farmland.
 - d. In no case shall an agricultural lot be reduced in size below twenty acres.
- 2. Adjustments of boundary lines where a residential lot is decreased in size and an adjoining agricultural lot is increased.
 - 3. Adjustments of boundary lines between agricultural lots, provided that no resulting lot is less than 20 acres.
 - 4. Adjustments of boundary lines between adjoining residential lots where the total acreage in the subject lots is not increased except in the following situations:
 - a. AOC-zoned lots 4 acres or less in size. No residential lot of 4 acres in size or less and zoned Agricultural-Open Space-Conservation (AOC) may be increased in

ARTICLE II – SUBDIVISION ORDINANCE
2024 EDITION

size above 4 acres through boundary line adjustment without approval by the Planning Commission for one or both of the following hardship reasons:

- To correct a minor encroachment of a driveway, fence, or other structure onto an adjoining lot to a maximum of 10% of the total area of the lot
- To repair or replace a failing onsite sewage disposal system located on the lot

b. Lots approved with a maximum lot size exception. No residential lot approved with a maximum lot size exception per [Zoning Ordinance Section 6.2.6](#) shall be reduced in size by boundary line adjustment without approval by the Planning Commission for one or both of the following hardship reasons:

- To correct an encroachment of a driveway, onsite sewage disposal system, or a structure located on an adjacent lot
- To aid in the repair of a failing onsite sewage disposal system located on an adjacent lot.

5. For the purposes of this subsection, a residential lot is a tract of under 20 acres with at least one dwelling unit right or existing dwelling; and an agricultural lot is a tract of 20 or more acres.

B. Lots Located in the Forestal-Open Space-Conservation (FOC) District. No required residual open space lot, established in accord with [Zoning Ordinance Section 4.1.2A](#), shall be reduced in area below the requirements established in [Section 4.1.2A](#).

C. Boundary Line Adjustments Coincident with a Zoning District Boundary. Any boundary line adjustment which would alter a property line that is coincident with a zoning district boundary is prohibited.

D. Limitations on Allocation of Dwelling Unit Rights. If a boundary line adjustment results in an increase in acreage of a lot or tract by 10% or more, the allocation of dwelling unit rights between the lots or tracts may be adjusted by reallocation of not more than one dwelling unit right from the lot or tract reduced in size to the lot or tract increased in size as set forth in [Zoning Ordinance Section 3.9 \(Boundary Line Adjustments of Lots in the AOC and FOC Districts\)](#).

E. Frontage on or Deeded Access to a Public Road Required. All lots resulting from a boundary line adjustment shall have frontage on a public road or existing deeded access to a public road. If a lot had frontage on or deeded access to a public road prior to the boundary line adjustment and no longer has such frontage or deeded access as a result of the boundary line adjustment, the lot shall be provided new deeded access to a public road with a minimum right-of-way width of 30 feet.

4.4.2 Subdivision of Land in the Forestal-Open Space-Conservation (FOC) District

- A. Applicability.** To assure compliance with [Zoning Ordinance Section 7.4.2 \(Vegetated Buffer Requirements – FOC District\)](#), and to assure that development on subdivision lots in the FOC District result in the least practicable amount of tree and vegetation clearing and in the preservation of the integrity of sensitive slopes, applications for subdivisions in the FOC District, in addition to meeting other requirements of this Ordinance, shall meet the requirements of this section. Any amendments to approved major or minor subdivision plats shall comply with the requirements of this section.
- B. Special Plat Requirements.** Plats for subdivisions in the FOC District shall include the following special requirements in addition to the standard requirements of this Ordinance:
1. Topography and elevation.
 2. Slippage soils which are identified as soil type 54C Udorthents in the [Soil Survey of Clarke County \(1982\)](#).
 3. Highly erodible soils which are defined as the following soil types identified in the [Soil Survey of Clarke County \(1982\)](#):

2C, 3D, 5C, 6C, 7D, 8D, 9D, 11B, 12D, 12E, 13D, 14C, 17B, 19D, 20D, 22C, 22D, 25B, 26B, 26C, 27B, 28C, 29C, 38C, 39C, 39D2, 41C, 42C, 43C, 47C, and 57D2
 4. Slope categories of 7-15%, 15-25%, and greater than 25%.
 5. Existing woody vegetation.
 6. Location of intermittent and perennial streams and other similar features.
 7. For each proposed lot, the following shall be shown:
 - Clearing area dimensions for proposed building site(s)
 - Location and dimensions of proposed building envelope(s), drainfield site(s), and reserve area site(s)
 - Location and dimensions of proposed access and utility easements
 - Location and dimensions of no clear areas consisting of required vegetated perimeter buffers, tree preservation areas, critical root zones, and highly erodible soils/slippage soils.
 8. Required plat notes. The plat shall include the following required notes in addition to any notes required by the Zoning Administrator or Planning Commission:

NOTICE OF DEVELOPMENT REGULATIONS

This subdivision is subject to the buffering and preservation requirements depicted herein. No land disturbance, construction, or clearing shall take place within the delineated buffering and preservation areas without prior inspection and authorization by the County of Clarke.

AGRICULTURAL AND FORESTAL ACTIVITIES

Clearing for agricultural activities shall not occur prior to the filing of a Farm Management Plan as required by the Clarke County Zoning Ordinance. Clearing for conservation forestry activities shall not occur without the filing of a Pre-Harvest Plan as required by the Clarke County Zoning Ordinance.

- C. Development plan narrative.** In addition to providing the Environmental Inventory and Impact Statement as described in [Section 4.6.2](#), a development plan narrative shall be provided that includes the following elements. The narrative shall be a binding part of the conservation plat approval and shall be recorded with the record plat.
- Description of the type of existing woody vegetation on the subject property including native species to be protected and invasive species and/or dead vegetation to be removed.
 - Methods to be used to protect no clear areas during site development and construction including a plan for field delineating the no clear areas to guard against future clearing.
 - In the event that the applicant proposes clearing for agricultural activities, the narrative shall also include a copy of the proposed Conservation Farm Management Plan.
- D. Building site amendments.** Building sites depicted on the record plat may be amended with approval by the approval authority. A plat of the lot showing the new proposed building site shall be submitted to the approval authority for review and shall meet all requirements set forth in [Subsection B](#).
- E. Required meetings and inspections.** The following meetings and inspections with the Zoning Administrator shall be conducted:
1. **Pre-Application Site Visit.** In addition to any required Pre-Application Conference, a site visit to the subject property shall be conducted. The purpose of the site visit is to ensure that the applicant, the applicant’s engineer or surveyor, and County staff understand the subject property’s vegetative and topographic characteristics. This site visit shall be conducted any time before or in conjunction with the Pre-Application Conference.
 2. **Pre-Construction Site Inspection.** Following approval of the plat by the approval authority, the Applicant shall be required to schedule a pre-Construction Site Inspection involving the Zoning Administrator and the County’s erosion and sediment control program administrator prior to commencing clearing or land disturbance activities. The purpose of this inspection is to ensure that the developer has marked the no clear areas in

the field and has installed protection measures (e.g., safety fencing, permanent delineation markers) in accordance with the approved plat. No building permit or land disturbance permit shall be issued prior to conducting this inspection.

3. **Post Construction Final Inspection.** A final inspection shall be conducted by the Zoning Administrator or designee prior to issuance of a certificate of occupancy to ensure that the site has been developed in accordance with the approved plat. In the event that the developer has encroached into no clear areas or otherwise violated the plat requirements, no temporary or permanent certificate of occupancy shall be issued until the violation is remediated according to Zoning Ordinance requirements.
- F. Field adjustments prohibited.** Field adjustments or administrative variances to the approved plan during the construction process shall be processed as an amendment to the previously approved plat for consideration by the approval authority and cannot be granted by the Zoning Administrator.

4.4.3 Subdivision of Land in the Flood Plain (FP) Overlay District

In a proposed subdivision which includes property, in whole or in part, within a Flood Plain (FP) Overlay District as described in [Zoning Ordinance Section 4.2.1](#), the floodplain shall be shown on the plat of the subdivision as a floodplain easement across the lots located in such floodplain.

4.4.4 Subdivisions and Boundary Line Adjustments along Jurisdictional Boundaries

- A. Subdivision of Land Located Partly within the Town of Berryville or Boyce.**
1. **Town of Berryville.** Should a lot be located partly in the County and partly in the Town of Berryville or an area subject to the extraterritorial subdivision jurisdiction of the Town, and it is proposed to divide the lot along the line demarcating Town and County jurisdiction, the locality that has subdivision jurisdiction over the greater area of the lot shall have jurisdiction over such subdivision of the lot.
 2. **Town of Boyce.** Should a lot be located partly in the County and partly in the Town of Boyce, and it is proposed to divide the lot along the line demarcating Town and County jurisdiction, the locality in which the greater area of the lot is located shall have jurisdiction over such subdivision of the lot.
- B. Divisions of land and boundary line adjustments along jurisdictional boundaries.** This section shall apply to lots that are bisected by a jurisdictional boundary line (town, county, or state line) and in which the lot owner proposes to establish the jurisdictional boundary line as a new property line:

- Division of land along jurisdictional boundary – Lot is divided by creating a new property line contiguous with the jurisdictional boundary, resulting in the creation of two new lots of record with no change to the lot area or existing boundary lines located in Clarke County.
- Boundary line adjustment along jurisdictional boundary – A lot that is bisected by a jurisdictional boundary line is reduced in area through boundary line adjustment with a lot located outside of Clarke County, establishing a new property line that is contiguous with the jurisdictional boundary. This transaction results in no change to the lot area or existing boundary lines located in Clarke County.

1. Review process. Any division of land or boundary line adjustment along jurisdictional boundary lines as described in this section shall require approval of a plat by the Zoning Administrator. The plat shall be submitted to the Zoning Administrator depicting a new boundary line to be established that is contiguous with the jurisdictional boundary line. If the lot is located in the AOC or FOC Districts, the plat shall show the number of dwelling unit rights which shall comply with the provisions of [Section 3 of the Zoning Ordinance](#).

The Zoning Administrator shall review the plat to verify conformance with Subdivision Ordinance platting requirements and dwelling unit right allocation, and shall approve, disapprove, or approve with modifications. This review shall not include confirmation by the Zoning Administrator of the lot's degree of conformity with Zoning Ordinance lot dimension or building requirements or the lot's suitability for an onsite well and/or sewage disposal system. The plat shall include the following note:

This plat has been reviewed by Clarke County as a boundary survey. It has not been approved for conformance with Zoning Ordinance requirements, for the location of a private well or private onsite sewage disposal system, or for compliance with any other County or agency requirements.

2. Plat recordation. An approved plat shall be recorded within six (6) months of approval and a copy of the recorded plat shall be returned to the Zoning Administrator.

4.4.5 Administrative Land Divisions – Special Regulations

- A. If one or more of the lots resulting from an administrative land division are to be served by a private access easement, the private access easement shall comply with all applicable design requirements set forth in [Section 4.5.3](#).
- B. Utility installation on lots resulting from an administrative land division shall comply with all applicable design requirements set forth in [Section 4.5.4B](#). The Zoning Administrator shall have the authority to act on behalf of the Planning Commission in applying [Sections 4.5.4B-1 and 3](#).

- C. **Frontage on or Deeded Access to a Public Road Required.** All lots shall have frontage on a public road or existing deeded access to a public road. If a lot had frontage on or deeded access to a public road prior to the boundary line adjustment and no longer has such frontage or deeded access as a result of the boundary line adjustment, the lot shall be provided with a new deeded access to a public road having a minimum right-of-way width of 30 feet.

4.5 SUBDIVISION AND CONSTRUCTION PLAN DESIGN STANDARDS

4.5.1 Lots and Building Areas

- A. **Generally.** The lot area, width, depth, shape and orientation and the minimum building setback lines shall be appropriate for the location of the subdivision, for the type of development and use contemplated, in accordance with the lot arrangement, design and shape, and shall be such that all lots provide satisfactory and desirable sites for home or buildings, recognizing natural terrain and conforming to this Ordinance.
- B. **Conformance to Zoning Ordinance Lot Area Requirements.** All lot sizes shall conform to the Zoning Ordinance in effect in Clarke County at the time of filing of a major or minor subdivision plat application.
- C. **Limitations on Lot Shape.** Lots shall not contain peculiarly shaped elongations, solely to meet lot size or frontage requirements, which would be unusable for normal purposes.
- D. **Frontage Required.** Except where otherwise specifically provided for in this Ordinance or the Zoning Ordinance regarding use of private access easements, all lots shall front on a public road, and the side lot lines shall be approximately at right angles, or radial to the street line.
- E. **Corner Lots.** Corner lots shall have a width sufficient to conform to required building setback lines and Zoning Ordinance requirements on both streets, and to provide adequate building sites.

4.5.2 Public Streets

- A. **Generally.**
1. Dedication of Streets. The subdivider shall dedicate to Clarke County or to the Virginia Department of Transportation (VDOT), for public use, all land required for streets in the subdivision, except land used as a Private Access Easement in accordance with [Section 4.5.3](#).
 2. A construction plan per [Section 4.3](#) shall be required for development of new public streets and associated infrastructure. The arrangement, character, extent, width, grade,

and location of all streets and roads shall be designed and constructed in accordance with Virginia Department of Transportation specifications. The approval authority shall have the right of review and approval, or disapproval, or the arrangement, character, extent and location of proposed streets within a subdivision.

- B. Naming of New Streets and Street Signs.** New streets shall be named and name signs shall be posted in accordance with [Code of Clarke County Chapter 56 \(County Road Naming, Property Numbering and Road Sign System\)](#).
- C. Stormwater Management.**
1. Streets shall be so designed as to provide stormwater management measures in accordance with State stormwater management regulations, and shall have geometric design in compliance with the requirements of the Virginia Department of Transportation (VDOT).
 2. Curb and gutter (CG-6 or approved equivalent) shall be required on all new public streets in the CH District as described in [Zoning Ordinance Section 4.1.5](#). Upon recommendation from the Virginia Department of Transportation, the approval authority may waive the requirement for curb and gutter when in keeping with existing conditions on adjacent sites, and when safe travel and stormwater management compliance can be assured without curb and gutter. In the AOC ([Zoning Ordinance Section 4.1.1](#)), FOC ([Zoning Ordinance Section 4.1.2](#)), RR ([Zoning Ordinance Section 4.1.3](#)), and CN ([Zoning Ordinance Section 4.1.4](#)) Districts, curb and guttering shall be not be required unless site conditions warrant.
- D. Use of Reserve Strips.** Reserve strips controlling access to streets shall be prohibited except in cases of limited access roads.
- E. Use of Cul-de-sacs.** Cul-de-sacs shall be permitted only with the concurrence of the approval authority and the Virginia Department of Transportation (VDOT), and shall be designed and constructed in accordance with VDOT specifications and requirements.
- F. Street Jogs.** Street jogs with centerline offsets of less than 225 feet shall be avoided.
- G. Access to Adjacent Streets.** Vehicular access to other streets or portions of streets from off-street parking and service areas shall be so combined, limited, located, designed, and controlled as to channel traffic from and to such areas conveniently, safely, and in a manner which minimizes marginal traffic friction and promotes free traffic flow on streets without excessive interruption.
- H. Street Intersections.** Streets shall be laid out in such a manner as to intersect as nearly as possible at right angles and no street shall intersect any other street at less than 80 degrees.

I. Half Streets

1. Half streets shall not be permitted except where such streets are essential to the reasonable development of the proposed subdivision in conformity with the other requirements of these regulations and where the approval authority finds it will be practical to require the dedication of the other half of the street when the adjoining property is subdivided.
2. When the approval authority deems it essential for the development and construction of a half street when a subdivision abuts one side of any public street which is in the State Highway System, the subdivider shall be required to construct street improvements, storm drainage facilities, pavement, curb and gutter, and sidewalk on the one-half of said street abutting said subdivision as may be required by the approval authority, upon recommendation of the Virginia Department of Transportation (VDOT).
3. Whenever a half street is adjacent to a tract to be subdivided, the other half of the street shall be platted within such tract.
4. Half streets shall not be less than one-half the standard width for the appropriate right-of-way as required by VDOT for that said street.

4.5.3 Private Access Easements

- A. Categories of Private Access Easements.** As defined in [Article III \(Definitions, Clarke County Zoning and Subdivision Ordinances\)](#), a private access easement is a perpetual easement, not part of any public road system, which provides access on a continuing basis to any lot. Private access easements are categorized based on their degree of compliance with minimum easement width requirements and road design requirements.
1. Private Roads. A private access easement having a minimum easement width of 30 feet, complies with all current private access easement design standards, and was approved in accordance with the requirements of this Ordinance.
 2. Major Access Easements. An existing private access easement that has a minimum easement width of 30 feet but does not comply with all current private access easement design standards. A minor access easement may or may not have been originally approved in accordance with a prior County subdivision ordinance.
 3. Minor Access Easement. An existing private access easement with an easement width of less than 30 feet.
- B. General Regulations.**
1. Regulations for the use of private access easements are set forth in [Article I \(Zoning Ordinance\), Section 7.11 \(Use of Private Access Easements\)](#).

ARTICLE II – SUBDIVISION ORDINANCE
2024 EDITION

2. A construction plan per [Section 4.3](#) shall be required for development of a new private road or for modifications to an existing private access easement to comply with the requirements of this Section.
3. Lots in a proposed subdivision may be served by a private road if in compliance with [Zoning Ordinance Section 7.11](#). All private roads shall comply with the design standards set forth in [Subsection C](#) of this Ordinance.
4. Addition of lots to a major access easement. No proposed lots may utilize a major access easement as the primary means of ingress and egress to a public street unless one of the following requirements is met:
 - a. The nonconforming design features of the major access easement are brought into full compliance with current design standards in [Subsection C](#), subject to review and approval of a construction plan for the improvements.
 - b. The approval authority authorizes a waiver of the nonconforming design standards of a major access easement which would serve a proposed new lot or lots. Approval of such waiver is contingent upon the applicant obtaining written consent to the waiver by the owners of all lots served by the major access easement from the public road to the location of the proposed new lot or lots.
5. Addition of lots to a minor access easement. No proposed lots may utilize a minor access easement as the primary means of ingress and egress to a public street.
6. Inter-parcel access to adjoining subdivisions prohibited. No private road approved pursuant to the provisions of this Ordinance shall provide thoroughfare to subdivisions of adjoining property, unless such adjoining property is a part of the parent parcel as it existed on the date of approval of such private road.
7. Plat note requirement. The following note shall be added to any subdivision plat showing lots accessed by a private access easement:

The private access easements in this subdivision do not meet the standards necessary for inclusion in the system of state highways and will not be maintained by the VDOT or Clarke County and are not eligible for rural addition funds or any other funds appropriated by the Virginia General Assembly and allocated by the Commonwealth Transportation Board.
8. Restrictive covenants requirement. Restrictive covenants shall be included in the deed of dedication for any proposed subdivision which utilizes private roads. The restrictive covenants shall set forth the terms and provisions for construction and maintenance of proposed private roads, and shall further state that such private roads are not a part of any public road system and that at no time will the County of Clarke or the Virginia Department of Transportation (VDOT) accept responsibility for construction, upgrading and/or maintenance of such private roads. Prior to any future request for the acceptance

of such private roads for maintenance as part of the Secondary System of State Highways, such private road or roads shall be made to comply with VDOT's public road requirements, or to another standard deemed acceptable by such Department, at no cost to funds administered by it.

C. Design Standards

1. Private roads serving three or more lots shall comply with the design standards set forth in this Subsection. Private access easements serving two lots shall comply with the private driveway design standards set forth in [Zoning Ordinance Section 7.4.4](#).
2. All private roads shall have a minimum width of 30-foot right-of-way, and any additional right of way necessary to include the travel surface and the drainage facilities necessary to carry the 2-year storm event. The maximum right of way width shall be 40 feet with 50 feet allowed for short distances when the approval authority determines there are unique site-specific circumstances.
3. No telescoping, stacking, paralleling, or similar design configuration of private roads shall be permitted.
4. All private roads serving three or more lots shall have travel ways which comply with all of the design standards listed below:
 - a. A minimum design speed of 15 miles per hour.
 - b. An all-weather surface (graveled or asphalt):
 - Minimum gravel road construction. All travel ways, pull-offs, and turn-arounds shall consist of a single compacted aggregate base material course of 7 inches.
 - Minimum asphalt road construction. All travel ways, pull-offs, and turn-arounds shall have insitu CBR tests at 300 foot intervals along the road centerline to verify the CBR value is at least 4. If the CBR test results in a value less than 4, the subgrade must be improved with “soil cement” or other means as recommended by the onsite geotechnical engineer. Asphalt road construction shall also consist of the following:
 - Asphalt surface course: 1.5 inches
 - Asphalt base course: 3 inches
 - Aggregate base (21B) course: 4 inches
 - c. A minimum radius of 100 feet for gravel roads and 70 feet for asphalt roads. The radius shall be measured along the centerline of the travel way. The maximum super-elevation of travel ways in such radii shall be 4%.

ARTICLE II – SUBDIVISION ORDINANCE
2024 EDITION

- d. The following maximum grades, measured along the centerline of the travel way:
- 4% within 25 feet of a public right of way
 - A vertical curve providing a transition between the above grades in the area between 25 feet and up to 125 feet from a public right of way
 - 8% for any portion of the travel way more than 125 feet from a public right of way, however up to 12% may be allowed for short distances if specifically approved by the approval authority based on site-specific circumstances
- e. Not more than 100 linear feet, measured on the centerline, that crosses pre-development slopes of 25% or greater.
- f. A minimum stopping sight distance of 65 feet (distance is based on a 3.5 foot height of eye and a 0.2 foot height of object).
- g. A minimum intersection sight distance of 60 feet (distance is based on a 3.5 foot height of eye and a 4.25 foot height of object).
- h. A travel way crown with a minimum of 2%.
- i. A minimum travel way surface width (graveled or paved) of 14 feet and a maximum travel way surface width of 18 feet.
- j. No obstruction (such as posts, pillars, walls, or fences) erected within 10 feet of the centerline a travel way or within a public right of way.
- k. A pull-off area(s) not further than 900 feet from a public right of way or other pull-off area to accommodate emergency vehicles.
- l. A turn around area (either circular or ‘T’ shaped) at the end of a travel way.
- m. Drainage facilities to allow a 14-foot wide travel way on the roadway during the 2-year storm event.
- n. A minimum travel way side slope of 3:1 (horizontal: vertical) to the flow line of the ditch or the limit of the easement, however a slope of 2:1 may be approved by the approval authority if there are unique site-specific circumstances.
- o. Stormwater management features, including storm drain culverts, shall meet VDOT standards and State stormwater management regulations, if applicable.
- p. A minimum 100 foot setback for travel ways and drainage facilities from sinkholes and perennial streams (except for approved stream crossings).

D. Performance Guarantees and Certification of Construction; Timing of Construction.

1. As described in [Section 4.3C \(Construction Plan Requirements -- Construction and Performance Guarantees\)](#), no construction activities associated with development of a new private road or modifications to an existing private access easement may occur until the construction plans have been approved and all required performance guarantees have been posted in accordance with [Section 5 \(Performance & Maintenance Guarantees\)](#).
2. Before a building permit may be issued for a residential use per [Zoning Ordinance Section 5 \(Uses\)](#), the grading and base shall be completed for that portion of a travel way accessing such use. Before a certificate of occupancy may be issued for a residential use per [Zoning Ordinance Section 5 \(Uses\)](#), all construction shall be completed for that portion of a travel way accessing such use.
3. Upon completion of construction, the applicant’s design professional shall provide written certification that the improvements have been constructed in accordance with the approved construction plans, the requirements of this Ordinance, and any other applicable County, State, or Federal regulations. Written certification may include as-built construction plans if required by the Zoning Administrator.

4.5.4 Public Utilities and Utility Easements

A. Public Utilities.

1. Where public water and/or public sewer facilities are available or required by the Clarke County Zoning Ordinance or the Code of Clarke County, or may be reasonably required by the approval authority in the interest of the public health, safety and general welfare, the service shall be extended to all lots within a subdivision and shall meet or exceed the regulations and specifications of the Clarke County Sanitary Authority and/or any other applicable federal, state, or local agency.
2. No new subdivision approved after December 20, 2022 shall be served by a waterworks (as defined by the Virginia Waterworks Regulations) or by a sewerage system and treatment works (as defined by the Sewage Handling and Disposal Regulations, Virginia Administrative Code) that is not owned and/or operated by a governmental entity authorized to provide public water or public sewer by the Clarke County Board of Supervisors.

B. Utility Easements.

1. Utilities shall be installed or easements for such utilities shall be provided and delineated on the final plat in the location and to the width designated by the approval authority after receiving recommendations from the agencies responsible for the installation of same. In no case shall an easement be less than 10 feet in total width.

2. Utility and cable television transmission lines shall be placed underground.
3. Where determined appropriate by the approval authority, utility easements shall be provided on each side of all rear lot lines, and along side lot lines where necessary for utility installation and maintenance.
4. Public utility installations should be so located as to permit multiple installations within the easements.
5. Where it is proposed to place public utilities within the rights-of-way shown for public streets on a final plat, such utility installations shall be coordinated with the street construction plans and profiles as approved by the Virginia Department of Transportation (VDOT), and such installation shall be performed in accordance with all requirements of said Department.

4.5.5 Stormwater Management

Subdivisions shall be protected from flood hazard and inundation by storm water, springs, and other surface waters. When required by the Virginia Department of Transportation (VDOT) or by State stormwater management regulations, stormwater management systems shall be provided by means of culverts, ditches, catch basins, cross drains, curbs and gutters, and any other facilities that are necessary to provide adequate management of surface and storm waters from or across all streets and adjoining properties. Stormwater management facilities and drainage easements shall comply with State stormwater management regulations.

4.5.6 Private Wells and Onsite Sewage Disposal Systems

- A. **Generally.** No subdivision shall be approved by the approval authority where private wells and/or onsite sewage disposal systems are to be used until written approval has been secured from the Virginia Department of Health (VDH) and the primary and reserve drain field areas for each septic system have been shown on the final plat. The VDH official shall determine the suitability of soil for the use of septic tank systems with sub-surface disposal and shall advise the approval authority of its findings. The VDH official may require percolation tests or other methods of soil evaluation in determining the suitability of the soil for sub-surface disposal. Percolation tests and/or other soil evaluation shall be the responsibility of the developer, with supervision by the VDH official.
- B. **Use of Private Wells.**
 1. Private wells proposed to serve new lots shall be designed in accordance with [Code of Clarke County Chapter 184 \(Well Ordinance\)](#), the regulations of the Virginia Department of Health, and any other applicable regulations.

ARTICLE II – SUBDIVISION ORDINANCE
2024 EDITION

2. If lots less than 40 acres in size are to be served by an individual onsite water well, the well site for each lot shall show the distance and bearing to one corner of the well from two property corners. The final plat shall indicate Health Department approval of such sites, pursuant to a certificate of approval signed by the Health Official evidencing conformity with VDH requirements with respect to individual on-site subsurface septic systems and potable water supply systems, as applicable.

C. Use of Onsite Sewage Disposal Systems.

1. Onsite sewage disposal systems proposed to serve new lots shall be designed in accordance with [Code of Clarke County Chapter 143 \(Septic Ordinance\)](#), the regulations of the Virginia Department of Health, and any other applicable regulations.
2. If lots less than 40 acres in size are to be served by an individual onsite sewage disposal systems, the primary and reserve drain field areas for each lot so served shall show the distance and bearing to one corner of the drainfield from two property corners. The final plat shall indicate Health Department approval of such areas, pursuant to a certificate of approval signed by the Health Official evidencing conformity with VDH requirements with respect to individual on-site subsurface septic systems and potable water supply systems, as applicable.

- D. Drainfield Capacity.** The capacity of new drainfield areas shall be provided with the subdivision application for each lot stating the maximum number of gallons of effluent per day (daily design flow), maximum number of bedrooms, and maximum number of full-time occupants.

- E. Existing Onsite Sewage Disposal Systems.** If any lot contains an existing dwelling, the plat shall indicate one of the following:

- Location of an existing approved standard septic system as shown by the Virginia Department of Health (VDH) records and 100% reserve drain field area, or
- Location of a new primary and a 100% reserve drain field area, as shown in a permit, approved by VDH, pursuant to a certificate of approval signed by the Health Official evidencing conformity with VDH requirements with respect to individual on-site subsurface septic systems and potable water supply systems, as applicable. Such location shall be shown by distance and bearing to one corner of the primary drain field and one corner of the reserve drain field from two property corners.

- F. Proof of Existing Septic Tank Installation and/or Maintenance.** If any lot contains an existing dwelling, evidence shall be submitted with the proposed record plat showing that any existing septic tank has been installed or pumped within the past five years.

4.5.7 Monuments

All subdivision plats shall be monumented in accordance with State standards for land boundary surveying practice.

4.6 REQUIRED DOCUMENTS AND STATEMENTS

4.6.1 Deed or Deed of Dedication As Applicable

- A. **Generally.** When required by this Ordinance, a deed of dedication shall be provided with a plat application for review by the approval authority and, upon approval of the plat, shall be recorded in the Office of the Clerk of the Circuit Court of Clarke County, Virginia.
- B. **Required Conditions in Deed of Dedication.** Approval of a subdivision plat may be conditioned upon, among other things, the subdivider including in the deed of dedication of the property, and/or in the deed of conveyance for each lot within the subdivision, restrictive covenants required by this Ordinance and agreed to by the subdivider in hearings before the approval authority. In the event any lot or lots within a proposed subdivision are to be served by one or more private access easements, restrictive covenants as required by [Section 4.5.3B-7](#) of this Ordinance shall be included in the deed of dedication of the property and in the deed of conveyance for each lot so served.
- C. **Recordation.** An unexecuted copy of the proposed deed of dedication accompanied by a certificate signed by the subdivider and duly acknowledged before some officer authorized to take acknowledgments of deeds, to the effect that this is a true copy of the proposed deed of dedication which will be presented for recordation. Said deed of dedication shall:
1. Contain a correct description of the land subdivided and state that said subdivision is with the free consent and in accordance with the desire of the undersigned owners, and the undersigned proprietors and trustees, if any.
 2. Contain language such that when the deed is recorded, it shall operate to transfer in fee simple to Clarke County or to other applicable political subdivisions, departments, or agencies such portion of the platted premises as on such plat is set apart for public streets, easements, or other public use, and to create a public right of passage over the same, and that all such dedicated rights-of-way are guaranteed and are unrestricted and unencumbered. This provision shall not apply to any private access easement.

4.6.2 Environmental Inventory and Impact Statement

- A. **Application.** Every application for subdivision of land shall include as a part of said application an Environmental Inventory and Impact Statement (“Statement”); provided, however, that this requirement may be waived or modified in whole or in part, in writing by the Zoning Administrator where such statement is not deemed to be material. The Statement shall cover the area of proposed subdivision and areas within 500 feet of the nearest boundary of the proposed subdivision. Included in the Statement shall be the following:
1. **Inventory.** Existing characteristics and conditions of the natural and cultural environment shall be addressed in the Statement, including, but not limited to, the topics listed below. Where applicable, the applicant shall be responsible for contacting the agencies or resources where listed for each topic and provide written documentation to the Planning Commission of existing (or lack of) these characteristics and conditions.
 - a. **Endangered Species or Habitats** (Virginia Department of Conservation and Recreation – Division of Natural Heritage): A site map shall be provided to DNH in order that they may compare the location to existing data regarding threatened or endangered species or habitat.
 - b. **Appalachian Trail** (Appalachian Trail Conservancy, Potomac Appalachian Trail Club): Provide site map for evaluation of access, sensitive features, proximity to trail, and other issues related to the Appalachian Trail (re: property in the Forestal-Open Space-Conservation (FOC) District as described in [Zoning Ordinance Section 4.1.2](#)).
 - c. **Historic/Archeological Resources** (Virginia Department of Historic Resources (DHR)): Identification of archeologic/historic resources more than 50 years old, including resources on, or determined eligible for, the Virginia Landmarks Register and/or the National Register of Historic Places.
 - d. **Conservation Easements** (Virginia Outdoors Foundation, Virginia Department of Historic Resources, Clarke County Conservation Easement Authority, Lord Fairfax Soil and Water Conservation District, and other easement holders): Easements held by the above referenced entities shall be identified.
 - e. **Soils** ([Clarke County Soil Survey](#) and [National Wetlands Inventory](#)): The following soils shall be identified:
 - **Slippage Soils:** Soil type 54C
 - **Groundwater Recharge Areas:** Soil types 19D, 20D, 22C, 2D, 49B, 50B
 - **Wetlands:** Hydric soil types 6B, 6C, 7D, 16B, 23, 24, 54C
 - f. **Water features:** All features shall be shown including springs, intermittent streams, perennial streams, or ponds.

- g. Sinkholes ([Clarke County Soil Survey](#) and on-site research): Existing sinkholes shall be identified on the plat.
 - h. Ridgelines: Prominent ridgelines (watershed divides or slopes exceeding 15% over 800 feet elevation) shall be identified.
 - i. Slopes: Slopes (in categories of 15% up to 25% and 25% and greater) shall be identified.
 - j. Pollution Sources: Known pollution sources (including without limitation dump sites, drainfields, buried fuel tanks, solid and liquid disposal sites, etc.) shall be identified
 - k. Large Trees: Trees or clusters of trees greater than 6 inches in diameter at breast height (DBH) shall be shown, and the areas and acreage to be cleared of such trees for construction activities shall also be shown.
2. Impact. Applicant shall show how the proposed subdivision will impact any items identified in [Subsection 1](#) above, and how that impact will be remediated so as to reduce or eliminate the impact.
- B. When Required.** The approval authority may require the subdivider to provide a Statement or to provide additional information or amplification with respect to the Statement, whether or not initially considered material by the Zoning Administrator, where the approval authority considers such to be material.

4.6.3 Consumer Disclosure Statement

- A. When Required.** Every application for subdivision of land shall include, as a part of said application, a Consumer Disclosure Statement; provided, however, this requirement may be waived or modified in whole or in part by the Zoning Administrator where he does not deem such Statement to be material. In any event, such Statement, or approved modification thereof, shall be included as a part of all applications for subdivision in which more than three lots are to be served by one or more private access easements. Unless otherwise modified by the Zoning Administrator, the Consumer Disclosure Statement shall include the following:
- 1. The name and address of each person having a beneficial interest in the land proposed to be subdivided and the extent of such interest.
 - 2. The state of formation and the name and address of the person upon whom legal service may be made, if a corporation, limited liability company, trust, partnership, unincorporated association, or other form or organization has a beneficial interest in said property.

ARTICLE II – SUBDIVISION ORDINANCE
2024 EDITION

3. A statement of the condition of the title to the land comprising the subdivision, including all encumbrances, deed restrictions, covenants applicable thereto, and including a reference to all deeds or other instruments by which the current owner acquired title to the property.
 4. A statement as to how consumers purchasing land in the subdivision will be protected with respect to any encumbrances on the property.
 5. A statement of the means of access to the property and to lots within the proposed subdivision from a public road. If such access from a public road is served by private road, a statement of the terms and provisions for maintenance of such road, including a statement that at no time will the County or the Virginia Department of Transportation (VDOT) accept responsibility for the upgrading and/or maintenance of such road. If any lots within the proposed subdivision are to be served by one or more private access easements, a statement of the terms and provisions setting forth responsibility for construction and maintenance of such easements, including a statement that at no time will the County or VDOT accept responsibility for construction, upgrading, or maintenance of such private access easements.
 6. A statement of the availability of sewage disposal facilities, water, electricity, gas, telephone, and fire and police protection.
 7. A statement of the nature of improvements to be made to the property by the subdivider for the benefit of purchasers, and the estimated schedule for completion of said improvements.
 8. Such other information or documents, including financial information, as the approval authority may require as being reasonably necessary or appropriate for the protection of consumers.
 9. Where appropriate, copies of covenants, contracts, or other writings whereby provision is made for supplying common necessities and maintaining common areas after development is completed.
- B. Additional Information Required.** The approval authority may require the subdivider to provide a Consumer Disclosure Statement or to provide additional information or amplification with respect to the Statement, whether or not initially considered material by the Zoning Administrator, where the Commission considers such to be material.

SECTION 5	PERFORMANCE AND MAINTENANCE GUARANTEES
<p>This Section contains the requirements for posting performance and maintenance guarantees (e.g., bonds, letters of credit) for construction and/or maintenance of improvements.</p>	

Table of Contents

5.1	Performance Guarantees	5-2 – 5-4
5.1.1	General Provisions	5-2
5.1.2	Performance Guarantee Term	5-2
5.1.3	Performance Guarantee Form	5-2
5.1.4	Performance Guarantee Amount	5-3
5.1.5	Release of Performance Guarantee	5-3 – 5-4
5.1.6	Default and Forfeiture	5-4
5.2	Maintenance Guarantees	5-5 – 5-6
5.2.1	General Provisions	5-5
5.2.2	Maintenance Guarantee Term	5-5
5.2.3	Maintenance Guarantee Form	5-5
5.2.4	Maintenance Guarantee Amount	5-5 – 5-6
5.2.5	Release of Maintenance Guarantee	5-6
5.2.6	Default and Forfeiture	5-6

5.1 PERFORMANCE GUARANTEES

5.1.1 General Provisions. A performance guarantee in accordance with the standards in this Section shall be required in the following circumstances:

- A. To ensure completion and acceptance of public infrastructure improvements that are required as part of an approved subdivision plat or non-subdivision plat application (e.g., streets, sidewalks, stormwater management facilities, public water facilities, public sewage facilities, street lights), but are not installed before recordation of the record plat.
- B. To ensure completion of private site improvements that are required as part of an approved subdivision plat or non-subdivision plat application (e.g., private roads, common use elements), but are not installed before recordation of the record plat.

5.1.2 Performance Guarantee Term. The term of a performance guarantee shall reflect any time limit for completing installation of required improvements that is included in approval of the construction plans associated with the subdivision or non-subdivision plat application, but in any case the term shall not exceed two years. The Zoning Administrator may, for good cause shown and with approval of the provider of the guarantee, grant up to two extensions of the term, with each extension not exceeding one year.

5.1.3 Performance Guarantee Form.

- A. Where required, the owner or developer shall furnish a performance guarantee in any of the following acceptable forms:
 - Cash deposit with the County
 - Certified check from a Virginia lender based upon a cash deposit, in a form acceptable to the County Attorney
 - Irrevocable letter of credit from a Virginia banking institution in a form acceptable to the County Attorney
 - Surety bond from a Virginia surety bonding company in a form acceptable to the County Attorney
- B. The performance guarantee shall be conditioned on the performance of all work necessary to complete the installation of the required improvements within the term of the performance guarantee. In the event of the owner's or developer's failure to complete the guaranteed improvements, the County shall be able to immediately obtain the funds necessary to complete installation of the improvements utilizing the performance guarantees.

5.1.4 Performance Guarantee Amount

- A. Performance guarantees for required improvements shall be in an amount equal to at least 110 percent of the estimated full cost of completing the installation of the required improvements, including the costs of materials, labor, and project management.
- B. Estimated costs for completing installation of required public infrastructure improvements shall be itemized by improvement type and certified by the owner’s or developer’s licensed professional engineer, and are subject to approval by the Zoning Administrator. Estimated costs for completing installation of required landscaping or other private site improvements shall be itemized and certified by the owner’s or developer’s landscape architect or contractor, and are subject to approval by the Zoning Administrator.
- C. If the guarantee is renewed, the Zoning Administrator may require the amount of the performance guarantee be updated to reflect cost increases over time.
- D. The amount of a performance guarantee may be waived or reduced by the Board of Supervisors where the improvements are being installed with federal funds or in other circumstances where similar third-party assurance of their completion exists.

5.1.5 Release of Performance Guarantee

- A. **Request for Release.** The owner or developer may submit to the Zoning Administrator a written request for a periodic partial release or a final complete release of a performance guarantee. Such a request shall include:
 - Certification by the owner’s or developer’s engineer that construction or installation of the public infrastructure improvements for which release of a performance guarantee is sought has been completed in accordance with approved plans and specifications, and that the improvements have been accepted and taken over for maintenance and operations by a state agency, local government department or agency, or other authority responsible for maintenance and operation of such improvements; or
 - Certification by the owner’s or developer’s engineer, landscape architect, or contractor that construction or installation of private roads or other private site improvements for which release of a performance guarantee is sought has been completed in accordance with approved plans and specifications.
- B. **Action on Request for Release.** The Zoning Administrator shall grant a requested release of a performance guarantee only after:
 - The applicant’s design professional or County staff, as applicable, has performed any needed inspection of the improvements and has certified in writing that the guaranteed improvements have been approved and accepted by the state agency,

ARTICLE II – SUBDIVISION ORDINANCE
2024 EDITION

local government department or agency, or other authority responsible for maintenance and operation of such improvements.

- The owner or developer has reimbursed the County for all costs associated with conducting any inspection that finds the guaranteed public infrastructure improvements have not been installed in accordance with approved plans and specifications.
- The owner or developer has provided the Zoning Administrator with assurances in writing that liens against guaranteed public infrastructure improvements will not be filed after their acceptance by the County (e.g., through affidavits, releases, or waivers of liens from all contractors and subcontractors).
- The owner or developer has provided the Zoning Administrator with any required maintenance guarantee for the same public infrastructure improvements per [Section 5.2](#).

C. Time Limits on Action on Request for Release. The Zoning Administrator shall release a performance guarantee within 30 days after receiving a written request for the release unless the Zoning Administrator notifies the requestor in writing of the non-receipt of applicable state agency approval or of specified defects or deficiencies and suggested corrective measures before expiration of the 30-day period.

D. Limit on Partial Releases. No performance guarantee for improvements shall be partially released until construction or installation of at least 30 percent of the guaranteed improvements has been completed. No performance guarantee shall be reduced to less than ten percent of the full amount of the performance guarantee until construction or installation of all the guaranteed improvements has been completed.

5.1.6 Default and Forfeiture

A. Notice of Failure to Complete Improvements. If the owner or developer fails to complete installation of the guaranteed improvements (and in the case of public infrastructure improvements, to have the improvements accepted) within the term of the performance guarantee (as may be extended), the Zoning Administrator shall give the owner or developer 30 days written notice of the default by certified mail.

B. County Completion of Improvements. After the 30-day notice period expires, the County may draw on the security and use the funds to perform work necessary to complete installation of the guaranteed improvements. After completing such work, the County shall provide a complete accounting of the expenditures to the owner or developer and, as applicable, refund all unused security deposited, without interest.

5.2 MAINTENANCE GUARANTEES

5.2.1 General Provisions. A maintenance guarantee in accordance with the standards in this Section is required to ensure against defects in workmanship or materials in providing landscaping or public infrastructure improvements other than public streets that are required as part of an approved subdivision plat or non-subdivision plat application.

5.2.2 Maintenance Guarantee Term. The term of a maintenance guarantee for required landscaping or public infrastructure improvements shall be two years from the date of acceptance unless the approval authority authorizes a shorter maintenance period.

5.2.3 Maintenance Guarantee Form

A. Where required, the owner or developer shall furnish a maintenance guarantee for the provision of required landscaping in any of the following acceptable forms:

- Cash deposit with the County
- Certified check from a Virginia lender based upon a cash deposit, in a form acceptable to the County Attorney
- Irrevocable letter of credit from a Virginia banking institution in a form acceptable to the County Attorney
- Surety bond from a Virginia surety bonding company in a form acceptable to the County Attorney.

B. The maintenance guarantee shall be conditioned on the performance of all work necessary to maintain required public infrastructure improvements or landscaping during the term of the maintenance guarantee, including work needed to repair or replace infrastructure defects or to replace plants that have died during the term of the maintenance guarantee.

C. In the event of the owner’s or developer’s failure to maintain and repair or replace the guaranteed public infrastructure improvements or landscaping, the County shall be able to immediately obtain the funds necessary to make necessary repairs or replacements.

5.2.4 Maintenance Guarantee Amount

A. Maintenance guarantees shall be in an amount equal to at least 50 percent of the full actual cost, including the costs of materials and labor, of installing the required public infrastructure improvements or landscaping.

B. Actual costs for installing required public infrastructure improvements shall be itemized by improvement type and certified by the owner’s or developer’s licensed professional engineer. Actual costs for installing required landscaping shall be itemized and certified by the owner’s or developer’s landscape architect.

- C. The amount of a maintenance guarantee may be waived or reduced by the Board of Supervisors where alternative means of ensuring proper maintenance of the improvements or landscaping are used.

5.2.5 Release of Maintenance Guarantees. The Zoning Administrator shall release a maintenance guarantee at the end of the term of the maintenance guarantee only after an inspection of the infrastructure or landscaping has been performed and certified in writing that the guaranteed public infrastructure improvements have been maintained in accordance with approved plans and specifications or that the guaranteed landscaping has been maintained in a healthy state or replaced with new plants meeting required standards.

5.2.6 Default and Forfeiture

- A. **Notice of Failure to Maintain Improvements.** If the owner or developer fails to maintain the guaranteed public infrastructure improvements during the term of the performance guarantee, the Zoning Administrator shall give the owner or developer 30 days written notice of the default by certified mail.
- B. **County Correction of Defects.** After the 30-day notice period expires, the County may draw on the security and use the funds to perform work necessary to ensure the public guaranteed infrastructure improvements comply with approved plans and specifications. After completing such work, the County shall provide a complete accounting of the expenditures to the owner or developer and, as applicable, refund all unused security deposited, without interest.

SECTION 6	ENFORCEMENT
<p>This Section establishes procedures through which the County seeks to ensure compliance with the provisions of this Ordinance and obtain corrections for Ordinance violations. It also sets forth the remedies and penalties that apply to violations of this Ordinance. The provisions of this article are intended to encourage the voluntary correction of violations, where possible.</p>	

Table of Contents

6.1	Compliance Required	6-2
6.2	Responsible Persons	6-2
6.3	Enforcement	6-2 – 6-3
6.4	Violations and Penalties	6-3

6.1 COMPLIANCE REQUIRED

- A. Compliance with all the procedures, standards, and other provisions of this Ordinance is required by all persons owning, developing, managing, using, or occupying land or structures in the County.
- B. Any person, firm, or corporation, whether as owner, lessee, principal, agent, employee, or otherwise, who violates, causes a violation, or permits a violation of any or the provisions of this Ordinance, shall be guilty of a misdemeanor. Each day upon which such violation continues shall constitute a separate offense.

6.2 RESPONSIBLE PERSONS

The owner, tenant, or occupant of any land or structure, and an architect, engineer, builder, contractor, agent, or any other person who participates in, assists, directs, creates, or maintains a situation that constitutes a violation of this Ordinance may be held responsible for the violation and subject to the remedies and penalties set forth in this article.

6.3 ENFORCEMENT

A. Enforcement Generally.

- 1. Enforcement Responsibility. The Zoning Administrator shall be responsible for enforcing the provisions of this Ordinance in accordance with the Code of Virginia.
- 2. Complaints Regarding Violations. Whenever a violation of this Ordinance occurs, or is alleged to have occurred, any person may file a complaint. The complaint, stating fully the cause and basis therefore shall be filed with the Zoning Administrator, who shall properly record such complaint, investigate, and take appropriate action as provided by this Ordinance.
- 3. Inspections. Upon presenting proper credentials, the Zoning Administrator or other County official designated by the Zoning Administrator may enter upon land or inspect any structure to ensure compliance with the provisions of this Ordinance, after requesting and receiving approval of the landowner to enter upon land for these purposes. If consent is not given by the landowner, the Zoning Administrator may enter upon land in accordance with [Va. Code §15.2-2241](#).

B. Enforcement Procedures.

- 1. Investigation of Potential Violations. Upon receiving a written complaint or otherwise learning there is a potential violation of this Ordinance, the Zoning Administrator shall investigate and determine whether a violation of this Ordinance exists. Upon finding that a violation of the zoning provisions of this Ordinance exists, the Zoning Administrator shall take appropriate action to ensure compliance with this Ordinance. Such action may include written notification of the violation through a notice of violation, sent by personal

ARTICLE II – SUBDIVISION ORDINANCE
2024 EDITION

service or certified mail, return receipt requested, to the owner of the property on which the violation exists and/or the person causing or maintaining the violation.

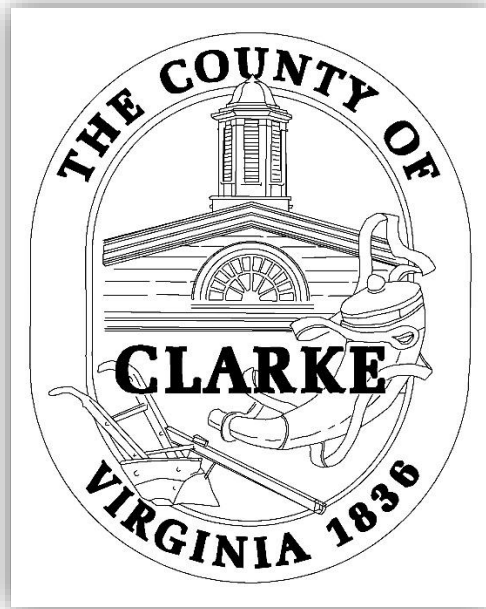
2. Application of Remedies and Penalties. Upon determining that the violator has failed to correct the violation in accordance with the notice of violation, the Zoning Administrator shall, after consultation with the County Attorney or Commonwealth’s Attorney, take appropriate action to correct and abate the violation and to ensure compliance with this Ordinance.
3. Emergency Enforcement without Notice. Upon determining that delay in correcting the violation would pose a danger to the public health, safety, or welfare, the Administrator may seek immediate enforcement without prior written notice by invoking any of the remedies authorized in [Section 6.4](#).

6.4 VIOLATIONS AND PENALTIES

- A. All departments, officials, and public employees of Clarke County vested with the duty or authority to issue permits or licenses shall conform to the provisions of this Ordinance and shall issue no such permit or license for uses, structures, or purposes where the same would be in conflict with the provisions of this Ordinance, and any such permit or license, if issued in conflict with the provisions of this Ordinance, shall be null and void.
- B. It shall constitute a violation of this Ordinance for any person, firm, corporation, owner, or agent to disobey, neglect, or refuse to comply with, or resist the enforcement of, any of the provisions of this Ordinance.
- C. The Zoning Administrator, in addition to other remedies including penalties set forth in [Code of Clarke County Section 1.6 \(Classification of and penalties for violations; continuing violations\)](#), may institute any appropriate action or proceedings to prevent a violation or attempted violation of this Ordinance; to restrain, correct, or abate such violation; or to prevent any act that would constitute such a violation.

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ARTICLE III – DEFINITIONS

ZONING AND SUBDIVISION ORDINANCES CODE OF CLARKE COUNTY CHAPTER 200

Current as of January 1, 2024

EDITOR'S NOTES

- This Article contains definitions of terms found in the **Clarke County Zoning Ordinance (Article I)** and the **Clarke County Subdivision Ordinance (Article II)**, along with general rules for interpretation of the definitions. The definitions in this Article shall apply uniformly to the terms found in the Zoning and Subdivision Ordinances.
- Cross-references to Zoning and Subdivision Ordinance sections, outside ordinances and codes, cited publications, and other resources are depicted in **bold blue underlined font**. Color-coding of certain sections is provided for ease in referencing the provisions.

ARTICLE III -- DEFINITIONS
2024 EDITION

Table of Contents

SECTION 1	APPLICATION OF ARTICLE AND GENERAL RULES FOR INTERPRETATION	
1.1	Applicability to the Zoning Ordinance (Article I) and the Subdivision Ordinance (Article II)	2
1.2	General Usage of Terms	2
1.3	Term Not Defined	3
1.4	Definition Disputes	3
SECTION 2	SECTION 2 – DEFINITIONS	
	Definitions	4-25

SECTION 1	APPLICATION OF ARTICLE AND GENERAL RULES FOR INTERPRETATION
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**1.1 APPLICABILITY TO THE ZONING ORDINANCE (ARTICLE I) AND
SUBDIVISION ORDINANCE (ARTICLE II).**

- A. Definitions and Rules Apply to Zoning and Subdivision Ordinances.** The definitions and rules for interpretation in this Article III shall apply uniformly to the corresponding terms found in the [Zoning Ordinance \(Article I\)](#) and [Subdivision Ordinance \(Article II\)](#).
- B. Terms Defined Elsewhere.** Definitions of terms that are not included in this Article but are enumerated in either the [Zoning Ordinance \(Article I\)](#) or the [Subdivision Ordinance \(Article II\)](#) shall apply only to the Article in which they are included and in the manner in which their applicability is described.

Definitions of terms for allowable uses are found in [Section 5 \(Uses\)](#) of the [Zoning Ordinance \(Article I\)](#).

1.2 GENERAL USAGE OF TERMS.

For the purpose of this Ordinance, certain words and terms are herein defined as follows:

- A.** Words used in the present tense include the future tense and words in the singular number include the plural number or words in the plural number include the singular number, unless the obvious construction of the wording indicates otherwise.
- B.** The words “shall,” “must,” and “will” are mandatory in nature, establishing an obligation or duty to comply with the particular provision. The words “may” and “should” are permissive or discretionary in nature.
- C.** The word "building" includes the word "structure."
- D.** The word "lot" includes the word “parcel,” however it does not include the word “tract.” The word “tract” is specific term defined in [Zoning Ordinance Section 3.1 \(Sliding-Scale Zoning\)](#).
- E.** The word "used" shall be deemed also to include "erected," "reconstructed," "altered," "placed," or "moved."
- F.** The terms "land use" and "use of land" shall be deemed also to include "building use" and "use of a building."
- G.** The word "State" means the Commonwealth of Virginia.

ARTICLE III -- DEFINITIONS
2024 EDITION

- H.** The word "County" means the County of Clarke, Virginia. The term "county boundary" means any exterior boundary of the County or any boundary of incorporated towns within the County.
- I.** The word "approve" shall be considered to be followed by the words "or disapprove."
- J.** The word "person" includes a firm, association, organization, partnership, trust, company, or corporation, as well as an individual.
- K.** The word "adjacent" means "nearby" and not necessarily "contiguous," unless the obvious construction of the wording indicates otherwise.

1.3 TERM NOT DEFINED.

If a term is used in Article I (Zoning Ordinance) or Article II (Subdivision Ordinance) is not defined in this Section, the Zoning Administrator is authorized to provide a definition based upon definitions used in accepted sources, including but not limited to:

- [The Latest Illustrated Book of Development Definitions](#)
- [A Planners Dictionary](#)
- [A Glossary of Zoning, Development, and Planning Terms](#)
- [A Survey of Zoning Definitions](#)

1.4 DEFINITION DISPUTES.

In case of any dispute over the meaning of a word, phrase or sentence, whether defined herein or not, the Zoning Administrator is hereby authorized to make a definitive determination thereof, being guided in such determination by the purposes and intent of the Zoning Ordinance as set forth in [Article I, Section 1.2](#) and the purposes and intent of the Subdivision Ordinance as set forth in [Article II, Section 1.2](#) provided, however, that an appeal may be taken from any such determination made in conjunction with the Zoning Ordinance as provided in [Article I, Section 6.4.3 \(Appeal\)](#).

ARTICLE III -- DEFINITIONS
2024 EDITION

SECTION 2	DEFINITIONS
Access	A means of approach or admission.
Accessory building	A structure detached from a main building located on the same lot and customarily incidental and subordinate to the main building or use.
Administrative land division	A division of land into two or more lots with each lot being a minimum of 100 acres. Such divisions shall not be considered a major or minor subdivision and shall be acted upon administratively by the Zoning Administrator.
Adverse drainage condition	The absence of stormwater management facilities that would provide adequately for stormwater runoff, or that would prevent flooding, erosion, silting, or other damaging effects to a street, road, drainage structure, or property, or that would remove the threat of such damage.
Agricultural products	Any plant or part thereof, or animal or animal product, produced by agricultural, aquaculture, floricultural, horticultural, silvicultural, or viticultural operations.
Alley	A service roadway providing a secondary means of access to abutting property and not intended for general traffic circulation.
Alteration	Any change, removal, replacement, reinforcement, or addition of beams, ceiling and floor joists, reinforced concrete floor slabs (except those on fill), load bearing partitions, columns, exterior walls, stairways, roofs, corridors, or other structural materials used in a building that supports the said beams, ceiling and floor joists, load bearing partitions, columns, exterior walls, stairways, roofs, or structural materials used in the building or structure.
Antenna support structure	A structure that is designed for the express purpose of accommodating wireless internet service provider (WISP) equipment, television antennas, satellite dishes, or other communications equipment at a desired height. Antenna support structures may be attached to or mounted on a structure or may be freestanding, and shall not include Class 1-4 wireless communication facilities (WCFs) or Class 5 amateur radio antennas.
Applicant	A person who submits an application requesting approval of a permit or development approval under the Zoning Ordinance (Article I) or the Subdivision Ordinance (Article II) .

ARTICLE III -- DEFINITIONS
2024 EDITION

Application	The completed form or forms and all accompanying documents, exhibits, and fees required by this Ordinance to be submitted for review when a person requests approval of a permit or development approval.
Attention-getting device	Any pennant, balloon, inflatable device, feather flag, propeller, streamer, portable sign mounted on a trailer or vehicle and not affixed to the ground, or similar device or ornamentation used for promoting, advertising, or attracting attention to an activity occurring on the same lot.
Base flood	The flood having a one percent chance of being equaled or exceeded in any given year.
Base flood elevation	The water surface elevations of the base flood, that is, the flood level that has a one percent or greater chance of occurrence in any given year. The water surface elevation of the base flood in relation to the datum specified on the community's Flood Insurance Rate Map. For the purposes of this ordinance, the base flood is the 1% annual chance flood.
Basement	Any area of the building having its floor sub-grade (below ground level) on all sides.
Berryville Annexation Area	The lands that are the subject of an active annexation agreement between the Town of Berryville and Clarke County.
Billboard	Any sign, advertisement, or advertising structure as defined in Code of Virginia §33.2-1200 et seq. , owned by a person, firm, or corporation in the business of outdoor advertising.
Boundary line adjustment	The adjustment or reconfiguration of one or more lot lines to establish, straighten, or rearrange the boundaries between existing lots or to accomplish conveyance of part of a lot to the owner of an adjoining lot. A boundary line adjustment shall not result in the creation of additional lots.
Buffer area	An area containing plants (including trees and shrubs), fences, walls, or a combination thereof which provides a barrier to vision or noise between adjoining properties and along rights-of-way.
Buildable area	The area of a lot remaining after required yards, open spaces, parking, loading, and access areas have been met.

ARTICLE III -- DEFINITIONS
2024 EDITION

Building	A structure having one or more stories and a roof, designed primarily for the shelter, support or enclosure of persons, animals or property of any kind.
Building, elevated	A non-basement building built to have the lowest floor elevated above the ground level by means of solid foundation perimeter walls, pilings, or columns (posts and piers).
Building, main	A building in which is conducted the principal use of the lot on which it is situated. In any residential zone, any dwelling shall be deemed to be a main building on the lot on which the same is located if the lot is used primarily for residential purposes.
Building permit	An approval statement signed by the Building Official or designee authorizing the construction, alteration, reconstruction, or demolition of all or part of any building and certifying that the proposed activity complies with the Building Code .
Candela	The system of luminous intensity. One candela is one lumen per candle (steradian).
Carport	A roofed structure providing space for the parking of motor vehicles and enclosed on not more than three sides.
Cellar	That portion of a building below the first floor joists at least half of whose clear ceiling height is below the main level of the adjacent ground. Such a portion of a building shall not be used for habitation.
Center line	A line established as a center line of a street by any agency or governing body having jurisdiction thereof and shown as such on an officially adopted or legally recorded map, or, if there is no official center line of a street, the center line shall be a line lying midway between the street right-of-way lines. Where street right-of-way lines are indeterminate and a pavement or a traveled way exists, the center line shall be assumed to be a line midway between the edges of such pavement or traveled way.
Certificate of occupancy	A written document, issued by the Building Official or designee, which permits the use of a building or property in accordance with the approved plans and specifications and which certifies compliance with the provisions of law for the use and occupancy of the building in its several parts together with any special stipulations or conditions of the zoning and/or building permit.

ARTICLE III -- DEFINITIONS
2024 EDITION

Certified arborist	An individual certified by the International Society of Arboriculture (ISA) who has demonstrated through a professionally developed examination and education program a thorough knowledge of tree biology and tree care practices.
Clear cut	A harvesting technique which removes all the trees (regardless of size) in an area in one operation but does not involve land disturbance or removal of stumps.
Co-location	The shared use of a structure by two or more wireless service providers or other entities that operate antennas. Co-location may occur on structures other than wireless communication facilities (WCFs) including but not limited to water tanks, lattice towers, rooftops, utility poles, silos, and similar structures. The use of a non-WCF structure by one wireless service provider or other entity that operates antennas shall also be considered co-location.
Commercial	Any wholesale, retail, or service business activity established to carry on trade for a profit.
Commercial tenant space	An independent, attached unit located within a commercial center that is designed to be occupied by a single business and containing a separate entrance for public ingress/egress.
Companion animal	Any domestic or feral dog, domestic or feral cat, nonhuman primate, guinea pig, hamster, rabbit not raised for human food or fiber, exotic or native animal, reptile, exotic or native bird, or any feral animal or any animal under the care, custody, or ownership of a person or any animal that is bought, sold, traded, or bartered by any person. Agricultural animals, game species, or any animals regulated under federal law, as research animals shall not be considered companion animals for the purposes of this ordinance.
Compound area	The area located at the base of the WCF, defined by a fenced boundary, which contains support structures, generators, equipment cabinets or shelters, and other accessory items necessary to the function of the WCF and the antennas located on it.
Comprehensive Plan	The current version of the Clarke County Comprehensive Plan .
Covenant	A written agreement or promise between two or more parties, especially for the performance of some action.
Dairy	A commercial establishment for the manufacture, processing, and/or sale of dairy products.

ARTICLE III -- DEFINITIONS
2024 EDITION

Development	The initiation or change of any use and any man-made change to improved or unimproved real estate including, but not limited to, the subdivision of land into two or more parcels; the construction, reconstruction, conversion, alteration, relocation, enlargement, or demolitions of any structure including temporary structures; any mining, excavation, landfill, or land disturbance; any permanent or temporary storage of equipment or materials; or any use or extension of the use of land.
Distributed antenna system (DAS)	A network of spatially separated antenna nodes connected to a common source via a transport medium that provides wireless service within a geographic area or structure.
Drive-through service	Any portion of a building from which business is transacted, or is capable of being transacted, directly with customers located in a motor vehicle during such business transactions.
Driveway	The primary means of ingress and egress for a single lot to a State-maintained road, private road, or access easement. A driveway may or may not have a dedicated easement.
Duplex	A building containing two single-family dwelling units, each with its own exterior entrance at grade, totally separated from each other by an unpierced wall extending from basement or ground level to roof.
Dwelling	A structure or portion thereof which contains at least one dwelling unit.
Dwelling, accessory	A structure, permitted for occupancy as a residence, which is accessory to a single-family dwelling that is located on the same lot. Accessory dwellings include tenant house, minor dwelling, and temporary family healthcare structure.
Dwelling, secondary	A dwelling unit that is subordinate to and located within the footprint of a single-family dwelling provided that it is not physically separated from the balance of the single-family dwelling. “Not physically separated” means that the secondary dwelling has internal access to the single-family dwelling via doorway, hallway, or other means of ingress/egress.
Dwelling unit	One room, or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy, or for rental or lease on a periodic basis. A separate, independent housekeeping unit consists of one kitchen and at least one bathroom and one bedroom.

ARTICLE III -- DEFINITIONS
2024 EDITION

Easement	A grant by an owner of land to another owner of land or to the public, of a right to occupy or use designated land for specific purposes such as access, drainage, conservation, the location of public improvements, or other specified purpose. An easement does not constitute fee simple ownership of the land.
Easement, drainage	Assignable rights-of-way across land to provide for the alignment and maintenance of drainage course, installation of drainage facilities, enlargement of existing drainage ways or for similar or related storm drainage purposes.
Easement, private access	A perpetual easement, not a part of any public road system, which provides access on a continuing basis to any lot. Private access easements include private roads, major access easements, and minor access easements as defined in Article II, Subdivision Ordinance .
Encroachment	The advance or infringement of uses, plant growth, fill, excavation, buildings, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.
Entertainment	Live music, recorded music, or performance acts.
Erect	Construct, move, or structurally alter.
Existing construction	For the purposes of the insurance program, structures for which the “start of construction” commenced before the effective date of the FIRM or before January 1, 1975 for FIRMs effective before that date. “Existing construction” may also be referred to as “existing structures” and “pre-FIRM.”
Expansion	An increase in the floor area of an existing structure or the increase of area of a use.
Exploratory sketch plan	A layout of a proposed subdivision, site plan, or development scheme of sufficient accuracy and detail to be used for the purpose of discussion and classification.
Fall zone	The maximum distance from the structure base of a wireless communications facility (WCF) that the WCF is designed to fall in the event of a structural failure and collapse.

ARTICLE III -- DEFINITIONS
2024 EDITION

Family	One or more persons related by blood, adoption, or marriage, living together as a single housekeeping unit, and also including foster and step children, domestic servants, and a number of persons, not exceeding four, not related by blood, adoption, or marriage. For the purpose of this definition, a person related by blood, adoption, or marriage is a natural or legally defined offspring, spouse, sibling, grandchild, grandparent, parent, aunt, uncle, niece, or nephew of the property owner or lessee.
Fixture, lighting	A complete lighting unit consisting of the lamp, lens, optical reflector, housing and electrical components necessary for ignition and control of the lamp, which may include ballast started and/or photo control.
Fixture, full cut-off	A lighting fixture from which a luminaire has zero candela intensity occurring at or above an angle of 90% above nadir.
Flood or flooding	<p>1. A general or temporary condition of partial or complete inundation of normally dry land areas from:</p> <p>A. The overflow of inland or tidal waters; or,</p> <p>B. The unusual and rapid accumulation or runoff of surface waters from any source.</p> <p>C. Mudflows which are proximately caused by flooding as defined in subsection 2 of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.</p> <p>2. The collapse or subsistence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in subsection 1 of this definition.</p>
Flood Insurance Rate Map (FIRM)	An official map of a community, on which the Federal Emergency Management Agency has delineated both the special hazard areas and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).
Flood Insurance Study (FIS)	A report by FEMA that examines, evaluates and determines flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudflow and/or flood-related erosion hazards.

ARTICLE III -- DEFINITIONS
2024 EDITION

Floodplain or flood prone area	Any land area susceptible to being inundated by water from any source.
Floodplain, ten-year	The floodplain that is at or below the ten-year flood elevation, that is, the area which has a minimum statistical probability of one in ten of being flooded in any given year. The ten-year floodplain shall be regulated as delineated in the <u>Clarke County Floodplain Study prepared by Dewberry and Davis (September 1, 1997)</u> .
Floodproofing	Any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.
Floodway	The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot at any point within the community.
Floor area	The aggregate area of all floors included within the outer wall of a building, measured at the exterior of such walls, excluding basements not used for living or recreational purposes, cellars, rooms for heating equipment, garages and unenclosed porches, breezeways and other unheated areas, and including only such floor area under a sloping ceiling for which the headroom is not less than five feet, six inches and then only if at least 50 percent of such floor area has a ceiling height of not less than seven feet, four inches and provided any such floor area that is situated above another story has access to the floor below by a permanent built in stairway.
Foot-candle	A measure of light falling on a surface. One foot-candle is equal to the amount of light generated by one candle shining on one square foot surface located one foot away. Foot-candle measurements shall be made with a photometric light meter with a specified horizontal orientation.
Foot-candle (average maintained)	The average of a number of points of foot-candle calculations or foot-candle readings in a given area which have been adjusted to account for maintenance which includes luminaire dirt depreciation and lamp lumen depreciation.

ARTICLE III -- DEFINITIONS
2024 EDITION

Freeboard	A factor of safety usually expressed in feet above a flood level for purposes of floodplain management. “Freeboard” tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization in the watershed.
Frontage	The side or sides of a lot abutting a public street, private road, or access easement.
Functionally dependent use	A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. This term includes only docks as accessory structures.
Garage	A building designed or used for the parking or storage of motor vehicles.
Geotechnical engineer (GE)	A Virginia Registered Professional Engineer engaged in the practice of geotechnical engineering or a Virginia-Registered Professional Geologist who is engaged in the practice of engineering geology.
Glare	The sensation produced a bright source within the visual field that is sufficiently brighter than the level to which the eyes are adapted to cause annoyance, discomfort, or loss in visual performance and visibility. The magnitude of glare depends on such factors as the size, position, brightness of the source, and on the brightness level to which the eyes are adapted.
Highest adjacent grade	The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
Historic	Relating to or associated with a place, time, event, and/or person that played a significant role in influencing or affecting the past course of human activity that shaped the visual, cultural, or political character of the U.S., Virginia, and/or Clarke County.
Historic landmark	A building, site, structure, or object that has been determined to be historic.
Historic preservation	Action that contributes to enhancement or protection of historic resources.
Hydrologic and hydraulic engineering analysis	Analyses performed by a licensed professional engineer, in accordance with standard engineering practices that are accepted by the Virginia Department of Conservation and Recreation and FEMA, used to determine the base flood, other frequency floods, flood elevations, floodway information and boundaries, and flood profiles.

ARTICLE III -- DEFINITIONS
2024 EDITION

Impervious surfaces	Buildings, structures, and all other man-made improvements on the ground surface, such as pavings and driveways, which are more impervious than the natural surface, thereby increasing the potential for surface runoff.
Incidental	Subordinate and minor in significance and bearing a reasonable relationship to the primary use.
Ingress/egress	Access or entry to a building or lot. Also referred to as "ingress and egress."
Inoperable vehicle	Any motor vehicle, trailer, or attachment thereto which is not in operating condition, or which, for a period of 60 days or longer has been partially or totally disassembled by the removal of tires and wheels, the engine, or essential parts required for the operation of the vehicle, or which is required to display current County license, state plates and inspection sticker, and which does not display such current county license, state plates, and inspection sticker.
Karst feature	Karst topography is a landscape created by groundwater dissolving sedimentary rock such as limestone. Karst features include sinkholes, fissures enlarged by dissolution, and caves.
Light trespass	Unwanted light going beyond the property line and spilling over onto the adjacent or neighboring property. It can also represent the direct light (glare) that reduces a person's vision or ability to see.
Letters of Map Change (LOMC)	<p>A Letter of Map Change is an official FEMA determination, by letter, that amends or revises an effective Flood Insurance Rate Map or Flood Insurance Study. Letters of Map Change include:</p> <ol style="list-style-type: none"> 1. Letter of Map Amendment (LOMA) - An amendment based on technical data showing that a property was incorrectly included in a designated special flood hazard area. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a land as defined by meets and bounds or structure is not located in a special flood hazard area. 2. Letter of Map Revision (LOMR) - A revision based on technical data that may show changes to flood zones, flood elevations, floodplain and floodway delineations, and planimetric features. A Letter of Map Revision Based on Fill (LOMR-F), is a determination that a structure or parcel of land has been elevated by fill above the base flood elevation and is, therefore, no longer exposed to flooding associated with the base flood. In order to qualify for this determination, the fill must have been

ARTICLE III -- DEFINITIONS
2024 EDITION

	<p>permitted and placed in accordance with the community’s floodplain management regulations.</p> <p>3. Conditional Letter of Map Revision (CLOMR) - A formal review and comment as to whether a proposed flood protection project or other project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective Flood Insurance Rate Map or Flood Insurance Study.</p>
Livestock	Domestic or domesticated hooved animals and Struthioniformes order of animals (also known as ratite animals), including but not limited to ostriches and emus.
Livestock, dairy, poultry structure	Any building, structure, installation, storage container, or storage site used in the operations of an intensive livestock, dairy, or poultry facility, including, but not limited to, feed storage bins, litter storage sites, incinerators, manure storage sites, poultry houses, poultry disposal pits, and dead poultry cold storage chests.
Lot	A parcel of land occupied or capable of being occupied by a principal use or structure, together with any accessory structures or uses and such accessways, parking areas, yard, and open spaces required by these regulations located within its boundaries.
Lot, corner	A lot abutting on two or more streets at their intersection.
Lot, interior	A lot other than a corner lot.
Lot, irregular	A lot, which is so located, shaped, or oriented to adjacent lots that application of general measurement methods or dimensional yard requirements of the district in which located serves no significant public purpose, and/or with location of yards by type (front, side and rear) not logically determined by nor related to yard patterns on nearby regular lots.
Lot line	A line of record bounding a lot that divides one lot from another lot or from a public street, private road, access easement, or any other public space.
Lot, nonconforming	A lot, the area, dimensions, or location of which was lawful prior to the adoption, revision, or amendment of the Zoning Ordinance (Article I) but that fails by reason of such adoption, revision, or amendment to conform to the present requirements of the zoning district.

ARTICLE III -- DEFINITIONS
2024 EDITION

Lot of record	A lot that exists as shown or described on a plat or deed that is recorded in the land records of Clarke County, Virginia.
Lot, regular	A lot which is so located, shaped, and oriented to adjacent lots as to be reasonably adapted to application of general measurement methods and dimensional yard requirements, and with location of yards by type (front, side, rear and special) logically determined by and related to adjacent street or streets and adjacent yard patterns.
Lot, residual	The portion of a lot of record that remains after the creation of a new lot or lots.
Lot, through	An interior lot having frontage on two parallel or approximately parallel streets.
Lowest adjacent grade	The lowest natural elevation of the ground surface next to the walls of a structure.
Lowest floor	The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor, provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of Federal Code 44 CFR §60.3 .
Luminaire	A complete lighting unit consisting of a lamp or lamps and the parts designed to distribute the light, to position and protect the lamp(s), and to connect the lamp(s) to the power supply.
Maneuvering space	An area directly related to required parking areas, designed to permit easy vehicular movement. Maneuvering space shall not be considered as part of any required "parking space" or "loading space."
Mean sea level	For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or the North American Vertical Datum (NAVD) of 1988 to which base flood elevations shown on a community's FIRM are referenced.
Merger	The elimination of one or more boundary lines between lots, resulting in a single lot.
Monopole	A hollow or solid, cylindrical self-supporting structure which is made of steel, wood or concrete.
Nadir	The angle pointing directly downward from the luminaire.

ARTICLE III -- DEFINITIONS
2024 EDITION

New construction	For the purposes of determining insurance rates, structures for which the “start of construction” commenced on or after September 24, 1984 (the effective date of the County’s initial Flood Insurance Rate Map), and includes any subsequent improvements to such structures. For floodplain management purposes, new construction means structures for which start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.
No-clear areas	Areas designated for the preservation and protection of existing trees and vegetation including but not limited to vegetated buffers, tree preservation areas and critical root zones. Such areas may be depicted on an approved site plan or subdivision plat, or may be generally designated by regulations set further in this Ordinance.
Non-profit organization	An organization or group whose charter prohibits profit-making endeavors, and which enjoys tax exemption privileges.
Open space	Land (including forests and farmlands, greenbelts, hilltops or hill sides, mountain tops or mountainsides, parkways and trail ways, scenic vistas, and stream valleys) that is used or preserved for: floodways, historic or scenic purposes, natural resource conservation, park or recreation purposes, the public interest, or the shaping of the character, direction and timing of community development.
Overlay district	A zoning district superimposed over one or more underlying zoning district that imposes standards and requirements in addition to those required by the underlying zoning district.
Owner	The person in whom is vested the ownership, dominion, or title of property.
Parent parcel	A lot from which new lots are subdivided.
Parking area	An off-street, ground level open area that provides temporary storage for motor vehicles.
Parking, off-street	Space specifically allotted to the parking of motor vehicles, which space is not in a public right-of-way.
Parking space, off-street	A space suitable for parking one automobile and including adequate driveways, if necessary, to connect such space with a public right-of-way. Space within a building, allocated for parking, shall be included and considered a part of the required spaces.

ARTICLE III -- DEFINITIONS
2024 EDITION

Permit	Written governmental permission issued by an authorized official, empowering the holder thereof to do some act not forbidden by law but not allowed without such authorization.
Permitted commercial tower development area (PCTDA)	Pre-planned location areas where it is recommended that WCFs be constructed to provide for commercial wireless carriers. PCTDAs are designated in the County’s Telecommunications Infrastructure and Broadband Study and are plotted at road intersections with a ½ mile radius for proposed WCF locations.
Person	Any individual, corporation, government agency, business trust, partnership, two or more persons having a joint interest, or any other legal entity.
Plat	A map depicting an area of land, showing the boundaries and location of individual lots, public streets, easements, and other physical features.
Plat, record	A final map of all or a portion of a subdivision which, when approved, shall meet all the applicable requirements of this Ordinance and shall be in a form suitable for recording.
Porch	Any structure including veranda, gallery, terrace, portico, or similar projection for a main wall of a building and covered by a roof, other than a carport as defined in this chapter.
Post-FIRM structure	A structure for which construction or substantial improvement occurred on or after September 24, 1984.
Pre-FIRM structure	A structure for which construction or substantial improvement occurred before September 24, 1984.
Poultry	Domestic or domesticated birds including but not limited to chickens, turkeys, ducks, and other fowl. Poultry does not include birds from the Struthioniformes order of animals (also known as ratite animals) such as ostriches and emus.
Principal use	The primary or predominant use of any lot.
Public outdoor recreational facility lighting	Lighting fixtures and mounting structures designed to provide permanent outdoor lighting for public recreational and athletic fields and facilities, owned and/or operated by a unit of Federal, State, or local government or by the Clarke County Public Schools.

ARTICLE III -- DEFINITIONS
2024 EDITION

Recreational equipment, major	A boat, boat trailer, travel trailer, pick-up truck camper or cap, motor coach, motorized dwelling, tent trailer, or similar recreational vehicle or equipment, as well as any cases, boxes, or towing trailers used for transporting recreational equipment, whether or not occupied by such equipment.
Recreational vehicle	A vehicle which is: <ol style="list-style-type: none"> 1. Built on a single chassis; 2. 400 square feet or less when measured at the largest horizontal projection; 3. Designed to be self-propelled or permanently towable by a light duty truck; and, 4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational camping, travel, or seasonal use.
Repetitive loss structure	A structure covered by a contract for flood insurance that has incurred flood-related damages on two occasions in a 10-year period, in which the cost of the repair, on the average, equaled or exceeded 25 percent of the market value of the structure at the time of each such flood event; and at the time of the second incidence of flood-related damage, the contract for flood insurance contains increased cost of compliance coverage.
Rhythm	The established patterns of shape, sizes, color, and/or configuration of built forms in a certain area.
Road	A public or private right of way for ingress/egress.
Screening	A method of visually shielding or buffering one abutting or nearby structure or use from another by fencing, walls, berms, or densely planted vegetation.
Setback	The minimum distance by which any building or structure must be separated from any lot line.

ARTICLE III -- DEFINITIONS
2024 EDITION

Severe repetitive loss structure	<p>A structure that:</p> <ol style="list-style-type: none"> 1. Is covered under a contract for flood insurance made available under the NFIP; and 2. Has incurred flood related damage: <ol style="list-style-type: none"> A. For which 4 or more separate claims payments have been made under flood insurance coverage with the amount of each such claim exceeding \$5,000, and with the cumulative amount of such claims payments exceeding \$20,000; or B. For which at least 2 separate claims payments have been made under such coverage, with the cumulative amount of such claims exceeding the market value of the insured structure.
Shallow flooding area	<p>A special flood hazard area with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.</p>
Shipping container	<p>A standardized, reusable metal container used in the intermodal transportation of freight and capable of being mounted on a rail car, mounted on a chassis for movement by truck trailer, or loaded on a ship.</p>
Sign	<p>Any device for visual communication out-of-doors which is used or the purpose of bringing the subject thereof to the attention of the public, but not including when standing alone, a flag, emblem, badge, or insignia of any governmental unit.</p>
Sign, animated	<p>Any sign which includes action, motion, or color changes, or the optical illusion of action, motion, or color changes, including signs set in motion by movement of the atmosphere, or made up of a series of sections that turn.</p>
Sign, changeable message	<p>A sign or portion of a sign where the message copy is changed manually or automatically through the utilization of attachable, reflective, or illuminated letters, numbers, symbols, images and other similar characteristics, including electronic reader boards or electronic display signs.</p>
Sign, directional	<p>Any sign displaying directional messages for pedestrians or vehicular traffic.</p>

ARTICLE III -- DEFINITIONS
2024 EDITION

Sign, electronic display	A sign containing emitting diodes (LEDS), fiber optics, plasma display screen, or other similar electronic illumination.
Sign, freestanding	Any on-site sign, which is supported from the ground and is not attached to any building.
Sign, illuminated	A sign, or any part of a sign, which is illuminated, externally or internally, by lights from a source located for the specific purpose of such lighting.
Sign, roof	A sign that is mounted on the roof of a building or that is wholly dependent upon a building for support and that projects above the top edge of the roof line of a building with a flat roof; the eave line of a building with a gambrel, gable or hip roof; or the deck line of a building with a mansard roof.
Sign, temporary	A sign that is designed or intended to be displayed for a short period of time.
Sign, time and temperature	Any sign which only displays information about current time and/or temperature.
Sign, wall	A sign painted on or attached to a wall of a building parallel to the wall and projecting out from or above the wall.
Sinkhole	A feature identified and mapped as a sinkhole in the Soil Survey of Clarke County (1982) , or the Map of Selected Hydrogeologic Components or Clarke County, Virginia (1990) or those that meet the definition of a Class 1 sinkhole. A Class 1 sinkhole is any sinkhole that presents significant subsurface water pollution hazard if, due to the drainage pattern of the land surrounding the sinkhole or the nature of the substances or objects in the sinkhole, the sinkhole may permit the entry of pollutants into subsurface water.
Slippage soils	Soil types identified as 54C Udorthents in the Soil Survey of Clarke County (1982) .
Special event	A public assembly activity that is regulated under Code of Clarke County Chapter 57 .
Special flood hazard area	The land in the floodplain subject to a one (1%) percent or greater chance of being flooded in any given year as determined in Article I (Zoning Ordinance), Section 4.2.1A (Flood Plain Overlay District – Boundary) .

ARTICLE III -- DEFINITIONS
2024 EDITION

Start of construction	The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, substantial improvement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of the construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.
Stealth technology	A design method to conceal or disguise antenna structures and antennas associated with wireless communication facilities including, but not limited to, tree poles, flag poles, bell towers, silos, and lookout towers.
Streams, intermittent or perennial	Any stream that is depicted as intermittent or perennial on the most recent U.S. Geological Survey 7½ minute topographic quadrangle (scale 1:24,000) . A millrace or other such manmade flowing surface water shall be considered an intermittent stream. The Shenandoah River and Opequon Creek shall be considered perennial streams.
Street	Any public right-of-way for vehicular travel that has been accepted by the Virginia Department of Transportation (VDOT) or the Town of Berryville for maintenance. The term shall not include any private access easement.
Street, cul-de-sac	A street with a single common ingress and egress and with a turnaround at the end.
Structure	<p>Any man-made object having a stationary location on a lot, whether or not it is permanently affixed to the ground. All buildings are structures. Structures shall include, without limitation, chimneys, cupolas, flagpoles, monuments, smokestacks, spires, and towers, but shall not include underground utility structures.</p> <p>For floodplain management purposes, a structure is a walled and roofed building, including a gas or liquid storage tank, which is principally above ground, as well as a manufactured home.</p>

ARTICLE III -- DEFINITIONS
2024 EDITION

Structure, historic	<p>Any structure that is:</p> <ol style="list-style-type: none"> 1. Listed individually on the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; 2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; 3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or, 4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either: <ol style="list-style-type: none"> A. By an approved state program as determined by the Secretary of the Interior; or, B. Directly by the Secretary of the Interior in states without approved programs.
Structure, nonconforming	<p>A structure or building, the size, dimensions, or location of which was lawful prior to the adoption, revision, or amendment of the Zoning Ordinance (Article I) but that fails by reason of such adoption, revision, or amendment to conform to the present requirements of the zoning district.</p>
Structure, principal	<p>A building or other structure in which the principal use of the lot is conducted. A lot may contain more than one principal structure.</p>
Subdivision	<p>The division of a lot of record into two or more lots, including the residual lot, where one or more of the resultant lots are under 100 acres in area.</p>
Subdivider	<p>Any person, persons, firm, corporation, partnership, or other entity, and the agent or agents thereof, subdividing or proposing to subdivide land as herein defined.</p>

ARTICLE III -- DEFINITIONS
2024 EDITION

Substantial damage	Damage of any origin sustained by a structure whereby the cost of restoring the structure to it's before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. It also means flood-related damages sustained by a structure on two occasions in a 10-year period, in which the cost of the repair, on the average, equals or exceeds 25 percent of the market value of the structure at the time of each such flood event.
Substantial improvement	<p>Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. The term does not, however, include either:</p> <ol style="list-style-type: none"> 1. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or 2. Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure. 3. Historic structures undergoing repair or rehabilitation that would constitute a substantial improvement as defined above, must comply with all ordinance requirements that do not preclude the structure's continued designation as a historic structure. Documentation that a specific ordinance requirement will cause removal of the structure from the National Register of Historic Places or the State Inventory of Historic places must be obtained from the Secretary of the Interior or the State Historic Preservation Officer. Any exemption from ordinance requirements will be the minimum necessary to preserve the historic character and design of the structure.
Townhouse	A single-family dwelling unit being one of a group of not less than three or more than ten units, with such units attached to the adjacent dwelling or dwellings by party walls with lots, utilities, and other improvements being designed to permit individual and separate ownership of such lots and dwelling units.
Tree canopy	The upper portion of the tree consisting of limbs, branches, and leaves.
Tree canopy coverage	The ground area within the drip line of the tree.

ARTICLE III -- DEFINITIONS
2024 EDITION

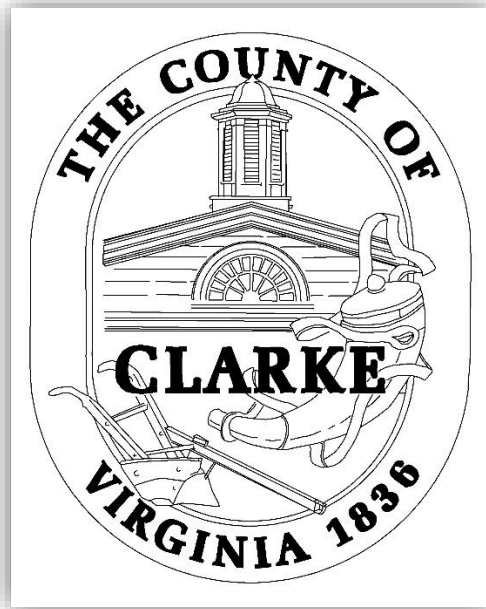
Tree drip line	The peripheral limits of the horizontal crown of a tree spread vertically to the ground, provided, however, that the same shall not be less than a circle with a 5 foot radius measured from the center of the tree.
Tree, mature	Any tree that has a DBH of 18 inches or greater; with the exception of non-active, dead, dying or diseased trees.
Tree protective barrier	Fences or like structures at least 4 feet in height that are conspicuously colored and prevent or obstruct passage.
Tree pruning	To cut away, remove, cut off or cut back parts of a tree for general maintenance purposes.
Tree removal	To cut down, dig up, destroy, effectively destroy, or the unlicensed relocation of any tree.
Use	The purpose or activity for which land or buildings are designed, arranged, or intended or for which land or buildings are occupied or maintained.
Use, accessory	A use of land or of a building or portion thereof customarily incidental and subordinate to the principal use of the land or building and located on the same lot with the principal use.
Use, change of	The change in use of a structure or land which shall include a change from one use type to another use type as described in Article II (Zoning Ordinance), Section 5 (Uses) .
Use, nonconforming	A use or activity that was lawful prior to the adoption, revision, or amendment of the Zoning Ordinance (Article I) but that fails by reason of such adoption, revision, or amendment to conform to the present requirements of the zoning district.
Use, temporary	A use of land that occurs periodically or for a limited period of time.
Visual fabric	The overall visual impression of a grouping of architectural elements.
Watercourse	A lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.
Xeriscape practices	A landscaping method that utilizes water-conserving techniques such as the use of drought-tolerant plants, mulch, and efficient irrigation.

ARTICLE III -- DEFINITIONS
2024 EDITION

Yard	A space on a lot that lies between the building or buildings and the nearest lot line.
Yard, front	A space on a lot extending the full width of the lot between any building, excluding steps, and the front lot line and measured perpendicular to the building at the closest point to the front lot line.
Yard, rear	A space on a lot extending the full width of the lot between any building, excluding steps, and the rear lot line and measured perpendicular to the building at the closest point to the rear lot line.
Yard, required	The minimum space between a lot line and the yard line within which no structure is permitted to be located except as provided in the Zoning Ordinance (Article I) .
Yard, side	A space on a lot extending the full width of the lot between any building, excluding steps, and the side lot line and measured perpendicular to the building at the closest point to the side lot line.
Zoning district	An area, delineated on the Official Zoning Map and described in Zoning Ordinance (Article I) Section 4 (Zoning Districts) , containing a prescribed set of allowable uses and use standards.
Zoning permit	A document signed by the Zoning Administrator or designee, as required in the Zoning Ordinance (Article I) , as a condition precedent to the commencement of a use or the erection, construction, reconstruction, restoration, alteration, conversion, or installation of a structure or building, which acknowledges that such proposed use, structure, or building complies with the provisions of the Zoning Ordinance (Article 1) .

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APPENDIX

ZONING AND SUBDIVISION ORDINANCES CODE OF CLARKE COUNTY CHAPTER 200

Current as of January 1, 2024

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**APPENDIX A
GLOSSARY OF ABBREVIATIONS**

ZO – Zoning Ordinance (Article I); SO – Subdivision Ordinance (Article II)

AGL	Above ground level	ZO Section 5.2C
ALD	Administrative Land Division	SO Section 3.3.1
AOC	Agricultural-Open Space-Conservation District	ZO Section 4.1.1
AP	Appeal	ZO Section 6.4.3
APC	Amendment of Proffered Conditions	ZO Section 6.3.5
ASP	Administrative Site Development Plan	ZO Section 6.2.4
AU	Animal Unit	ZO Section 5.2A
B	Business District	ZO Section 4.3.6
BADA	Berryville Area Development Authority	ZO Section 2.2.4
BC	Business Commercial District	ZO Section 4.3.5
BLA	Boundary Line Adjustment	SO Section 3.3.2
BMP	Best Management Practices	ZO, various sections
BP	Business Park District	ZO Section 4.3.7
BZA	Board of Zoning Appeals	ZO Section 2.2.6
CA	Certificate of Appropriateness	ZO Section 6.2.5
CBR	California Bearing Ratio Test	SO Section 4.5.3C
CCEA	Clarke County Easement Authority	Agency
CCSA	Clarke County Sanitary Authority	Agency
CEA	Critical Environmental Area	ZO Section 4, 7.7
CH	Highway Commercial District	ZO Section 4.1.5
CN	Neighborhood Commercial District	ZO Section 4.1.4
CPL	Court-Ordered Partition of Land	SO Section 3.3.6
CRZ	Critical root zone	ZO Section 7.2.4, 7.4.2
CZ	Conditional Zoning	ZO Section 6.3.4
DAS	Distributed antenna system	Article III
dBA	A-weighted decibel	ZO, various sections
DBH	Diameter at Breast Height	ZO Section 4.2.3G SO Section 4.6.2
DCR	Virginia Department of Conservation and Recreation	Agency
DEQ	Virginia Department of Environmental Quality	Agency
DHR	Virginia Department of Historic Resources	Agency
DR-1	Detached Residential-1 District	ZO Section 4.3.2
DR-2	Detached Residential-2 District	ZO Section 4.3.3
DR-4	Detached Residential-4 District	ZO Section 4.3.4
DUR	Dwelling Unit Right	ZO Section 3
EPA	U.S. Environmental Protection Agency	Agency
FAA	Federal Aviation Administration	Agency
FEMA	Federal Emergency Management Agency	Agency
FOC	Forestal-Open Space-Conservation District	ZO Section 4.1.2

APPENDIX TO ZONING AND SUBDIVISION ORDINANCES
2024 EDITION

FP	Flood Plain Overlay District	ZO Section 4.2.1
GE	Geophysical engineer	ZO Section 7.2.7
H	Historic Overlay District	ZO Section 4.2.4
HAC	Historic Access Corridor Overlay District	ZO Section 4.2.5
HPC	Historic Preservation Commission	ZO Section 2.2.5
ILD	Intensive Livestock, Dairy, or Poultry Facility Development Plan	ZO Section 6.2.8
ITL	Institutional District	ZO Section 4.3.8
IZM	Interpretation of Zoning District Map	ZO Section 6.4.4
kV	Kilovolt	ZO Section 5.2C, E
LESA	Land Evaluation and Site Assessment System	ZO Section 6.2.6
MPH	Miles per hour	ZO, various sections
MLSE	Maximum Lot Size Exception	ZO Section 6.2.6
MG	Merger	SO Section 3.3.3
MS	Minor Subdivision	SO Section 3.2.1
NAICS	North American Industrial Classification Manual	ZO Section 5.3F
NOV	Notice of Violation	ZO Section 6.5, 10
OSR	Open Space Residential District	ZO Section 4.3.1
PCTDA	Permitted Commercial Tower Development Area	ZO Section 7.3
PEC	Piedmont Environmental Council	Agency
PH	Public Hearing	ZO Section 2.5 SO Section 2.3
PHP	Pre-Harvest Plan	ZO Section 6.2.7
PULD	Public Utility Lot Division	SO Section 3.3.5
RR	Rural Residential District	ZO Section 4.1.3
RZ	Rezoning	ZO Section 6.3.3
S	Major Subdivision	SO Section 3.2.2
SBP	Stream Buffer Mitigation Plan	ZO Section 6.2.9
SC	Spring Conservation Overlay District	ZO Section 4.2.2
SP	Site Development Plan	ZO Section 6.2.2
SPA	Site Development Plan Amendment	ZO Section 6.2.3
SPO	Stream Protection Overlay District	ZO Section 4.2.3
SUP	Special Use Permit	ZO Section 6.3.1
SUPA	Special Use Permit Amendment	ZO Section 6.3.2
TA	Text Amendment	ZO Section 6.3.6
USACE	U.S. Army Corps of Engineers	Agency
USGS	U.S. Geological Survey	Agency
VAC	Vacation of Plat	SO Section 3.3.4
VAR	Variance	ZO Section 6.4.2
VDH	Virginia Department of Health	Agency
VDOT	Virginia Department of Transportation	Agency
VOF	Virginia Outdoors Foundation	Agency
WCF	Wireless Communication Facility	ZO Section 5.2C, 7.3
ZP	Zoning Permit	ZO Section 6.2.1

APPENDIX TO ZONING AND SUBDIVISION ORDINANCES
2024 EDITION

APPENDIX B
HISTORY OF AMENDMENTS
CLARKE COUNTY ZONING AND SUBDIVISION ORDINANCES

ZONING ORDINANCE – ARTICLE I		
Date	File #	Title
2/15/2022	TA-21-03	Short-Term Residential Rental, Home Occupation Bed and Breakfast, and Country Inn
6/21/2022	TA-22-01	Unpaid Taxes and Charges
6/21/2022	TA-22-02	Mergers and Dwelling Unit Right (DUR) Allocation
9/20/2022	TA-22-03	Historic Overlay District Demolition Criteria
11/22/2022	TA-22-04	Boundary Line Adjustment Regulations
12/20/2022	TA-22-05	Waterworks and Sewerage System and Treatment Works Regulations
12/20/2022	TA-22-06	Structures or Portions of Structures Permitted in Required Setback Areas
9/19/2023	TA-23-02	Maximum Lot Size Exception Regulations
9/19/2023	TA-23-03	Farm Winery, Farm Brewery, and Farm Distillery Regulations
		5.2B (Residential Uses) 5.2C (Business Uses) 2.3 (Issuance of Permits and Approvals) 3.8 (Vacation or Merger of Lots in the AOC and FOC Districts) 6.2.5B-4 (Razing, Demolition or Moving Within the H District) 4.1.1A (Agricultural-Open Space-Conservation District) 6.2.6C (Maximum Lot Size Exception – Review Criteria and Regulations) 7.2.3B (Public Water and Public Sewer Systems) 7.4.5 (Waterworks and Sewerage System and Treatment Works) 7.5 (RR District Design Standards and Development Regulations) 7.1.2C (Uses and Structures Permitted in Required Setback Areas) 6.2.6C (Maximum Lot Size Exception (MLSE) – Review Criteria and Regulations) 5.2A (Agricultural Uses)

SUBDIVISION ORDINANCE – ARTICLE II		
Date	File #	Title
11/22/2022	TA-22-04	Boundary Line Adjustment Regulations
12/20/2022	TA-22-05	Waterworks and Sewerage System and Treatment Works Regulations
		4.4.1A (Boundary Line Adjustments – Special Regulations) 4.5.4A (Public Utilities) 4.5.6 (Private Wells and Onsite Sewage Disposal Systems)

DEFINITIONS – ARTICLE III		
Date	File #	Title
None		

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USES BY ZONING DISTRICT

County Zoning Districts

Agricultural-Open Space- Conservation (AOC)

Agricultural Uses	Use Type(s)
Agricultural Building	Accessory
Agriculture	Permitted
Biosolids Land Application	Accessory
Farm Winery, Farm Brewery, Farm Distillery	Permitted
Forestry	Permitted
Intensive Livestock, Dairy, or Poultry Operation	Permitted
Livestock Auction Markets	Special
Small-scale Processing of Fruits and Vegetables	Special
Wholesale or Retail Sale of Agricultural Products	Accessory

Residential Uses	Use Type(s)
Accessory Structure	Accessory
Group Home	Permitted
Home Garden	Accessory
Home Occupation	Accessory
Manufactured Home	Permitted
Minor Dwelling	Accessory
Non-Residential Building	Permitted
Short-Term Residential Rental	Permitted or Accessory*
Single-Family Dwelling	Permitted
Temporary Family Health Care Structure	Accessory
Tenant House	Accessory

* See use regulations for details

Business Uses	Use Type(s)
Commercial Breeding Kennel	Special
Country Inns	Special
Day Care Center	Special
Farm Machinery Sales and Service	Permitted or Special*
Farm Supplies Sales	Permitted or Special*
Limited Extraction of Natural Resources	Special
Personal Service Business	Special
Retail Business	Special
Solar Power Plant	Special

APPENDIX TO ZONING AND SUBDIVISION ORDINANCES
2024 EDITION

Specialty Trade Contractor	Special
Veterinary Clinic	Special
Wireless Communication Facilities	Accessory, Permitted, or Special*

* See use regulations for details

Recreation/Education/Assembly Uses	Use Type(s)
Campground	Special
Churches and Other Places of Worship	Special
Historic Mill	Permitted
Historic Structure Museum	Special
Minor Commercial Public Assembly	Special
Private Club	Special
Summer Camp	Special

Public and Miscellaneous Uses	Use Type(s)
Animal Shelter, Governmental	Special
Cemetery	Special
Community Services Facility	Special
Passive-Use Public Park	Special
Public Utility Facility	Special
Small Wind Energy System	Accessory or Special*

* See use regulations for details

Forestal-Open Space- Conservation (FOC)

Agricultural Uses	Use Type(s)
Agricultural Building	Accessory
Agriculture	Permitted
Biosolids Land Application	Accessory
Farm Winery, Farm Brewery, Farm Distillery	Permitted
Forestry	Permitted
Intensive Livestock, Dairy, or Poultry Operation	Permitted
Small-scale Processing of Fruits and Vegetables	Special
Wholesale or Retail Sale of Agricultural Products	Accessory

Residential Uses	Use Type(s)
Accessory Structure	Accessory
Group Home	Permitted
Home Garden	Accessory
Home Occupation	Accessory

APPENDIX TO ZONING AND SUBDIVISION ORDINANCES
2024 EDITION

Manufactured Home	Permitted
Minor Dwelling	Accessory
Non-Residential Building	Permitted
Short-Term Residential Rental	Permitted or Accessory*
Single-Family Dwelling	Permitted
Temporary Family Health Care Structure	Accessory
Tenant House	Accessory

* See use regulations for details

Business Uses	Use Type(s)
Commercial Breeding Kennel	Special
Country Inns	Special
Personal Service Business	Special
Retail Business	Special
Sawmill	Special
Specialty Trade Contractor	Special
Veterinary Clinic	Special
Wireless Communication Facilities	Accessory, Permitted, or Special*

* See use regulations for details

Recreation/Education/Assembly Uses	Use Type(s)
Campground	Special
Churches and Other Places of Worship	Special
Historic Structure Museum	Special
Minor Commercial Public Assembly	Special
Private Club	Special
Summer Camp	Special

Public and Miscellaneous Uses	Use Type(s)
Animal Shelter, Governmental	Special
Cemetery	Special
Community Services Facility	Special
Passive-Use Public Park	Special
Public Utility Facility	Special
Small Wind Energy System	Accessory or Special*

* See use regulations for details

APPENDIX TO ZONING AND SUBDIVISION ORDINANCES
2024 EDITION

Rural Residential (RR)

Residential Uses	Use Type(s)
Accessory Structure	Accessory
Group Home	Permitted
Home Garden	Accessory
Home Occupation	Accessory
Single-Family Dwelling	Permitted
Temporary Family Health Care Structure	Accessory
Wireless Communication Facilities	Accessory, Permitted, or Special*

* See use regulations for details

Recreation/Education/Assembly Uses	Use Type(s)
Churches and Other Places of Worship	Special
Historic Structure Museum	Special

Public and Miscellaneous Uses	Use Type(s)
Community Services Facility	Special
Passive-Use Public Park	Special
Small Wind Energy System	Accessory or Special*

* See use regulations for details

Neighborhood Commercial (CN)

Residential Uses	Use Type(s)
Commercial District Accessory Dwelling	Accessory

Business Uses	Use Type(s)
Catering	Permitted
Commercial Accessory Structure	Accessory
Commercial Breeding Kennel	Special
Commercial Recreational Uses and Structures	Special
Country Inns	Permitted
Farm Supplies Sales	Special
Financial Institutions	Permitted
Firearms Sales and Service	Special
Personal Service Business	Permitted or Special*
Professional Service Business	Permitted
Restaurants	Permitted
Retail Business	Permitted or Special*
Shop for Welding, Blacksmith, Tinsmith, Woodworking	Special

APPENDIX TO ZONING AND SUBDIVISION ORDINANCES
2024 EDITION

Veterinary Clinic	Special
Wireless Communication Facilities	Accessory, Permitted, or Special*

* See use regulations for details

Recreation/Education/Assembly Uses	Use Type(s)
Churches and Other Places of Worship	Permitted
Community Center	Permitted
Historic Mill	Permitted
Indoor Theater	Special
Private Club	Permitted

Public and Miscellaneous Uses	Use Type(s)
Animal Shelter, Governmental	Special
Cemetery	Permitted
Community Services Facility	Permitted
Fire and/or Rescue Squads	Permitted
Passive-Use Public Park	Permitted
Public Utility Facility	Permitted
Small Wind Energy System	Accessory or Special*

* See use regulations for details

Highway Commercial (CH)

Agricultural Uses	Use Type(s)
Agricultural Building	Accessory
Agriculture	Permitted

Residential Uses	Use Type(s)
Commercial District Accessory Dwelling	Accessory

Business Uses	Use Type(s)
Automobile Repair Business	Special
Bowling Alley	Special
Catering	Permitted
Commercial Accessory Structure	Accessory
Commercial Boarding Kennel	Permitted
Commercial Breeding Kennel	Permitted
Commercial Center	Permitted or Special*
Commercial Recreational Uses and Structures	Special
Convenience Store with Gasoline Sales	Permitted

APPENDIX TO ZONING AND SUBDIVISION ORDINANCES
2024 EDITION

Farm Machinery Sales and Service	Permitted
Farm Supplies Sales	Permitted
Feed and Grain Mill	Special
Financial Institutions	Permitted
Firearms Sales and Service	Special
Funeral Home	Special
Hotels	Permitted
Personal Service Business	Permitted or Special*
Professional Service Business	Permitted
Restaurants	Permitted
Retail Business	Permitted or Special*
Self-Service Storage Facility	Special
Shop for Welding, Blacksmith, Tinsmith, Woodworking	Special
Veterinary Clinic	Permitted
Wireless Communication Facilities	Accessory, Permitted, or Special*

* See use regulations for details

Recreation/Education/Assembly Uses	Use Type(s)
Churches and Other Places of Worship	Permitted
Indoor Theater	Permitted
Private Club	Permitted

Public and Miscellaneous Use	Use Type(s)
Animal Shelter, Governmental	Permitted
Cemetery	Permitted
Community Services Facility	Permitted
Fire and/or Rescue Squads	Permitted
Passive-Use Public Park	Permitted
Public Utility Facility	Permitted
Small Wind Energy System	Accessory or Special*

* See use regulations for details

Berryville Annexation Area Zoning Districts

Open Space Residential (OSR)

Agricultural Uses	Use Type(s)
Plant nurseries	Special

Residential Uses	Use Type(s)
Accessory structure	Accessory
Home occupation	Special
Single-family detached dwelling	Permitted
Temporary family health care structure	Accessory

Business Uses	Use Type(s)
Country Inn	Special

Recreation/Education/Assembly Uses	Use Type(s)
Commercial/public swimming pools, tennis courts, and golf courses	Special
Libraries, museums, shrines, and historic markers	Special
Public or private schools	Special
Recreation Facilities (Indoor/Outdoor), Parks, Playgrounds, and Related Uses	Special

Public and Miscellaneous Uses	Use Type(s)
Public Utility Facility	Special

Detached Residential 1 (DR-1)

Agricultural Uses	Use Type(s)
Plant nurseries	Special

Residential Uses	Use Type(s)
Accessory structure	Accessory
Home occupation	Special
Single-family detached dwelling	Permitted
Temporary family health care structure	Accessory

Business Uses	Use Type(s)
Bed and breakfast lodging	Special

APPENDIX TO ZONING AND SUBDIVISION ORDINANCES
2024 EDITION

Recreation/Education/Assembly Uses	Use Type(s)
Churches and other places of worship	Special
Commercial/public swimming pools, tennis courts, and golf courses	Special
Libraries, museums, shrines, and historic markers	Special
Public or private schools	Special
Recreation Facilities (Indoor/Outdoor), Parks, Playgrounds, and Related Uses	Special

Public and Miscellaneous Uses	Use Type(s)
Cemetery	Special
Fire stations	Special
Public Utility Facility	Special

Detached Residential 2 (DR-2)

Agricultural Uses	Use Type(s)
Plant nurseries	Special

Residential Uses	Use Type(s)
Accessory structure	Accessory
Home occupation	Special
Single-family detached dwelling	Permitted
Temporary family health care structure	Accessory

Business Uses	Use Type(s)
Bed and breakfast lodging	Special
Day care centers	Special

Recreation/Education/Assembly Uses	Use Type(s)
Churches and other places of worship	Special
Commercial/public swimming pools, tennis courts, and golf courses	Special
Libraries, museums, shrines, and historic markers	Special
Public or private schools	Special
Recreation Facilities (Indoor/Outdoor), Parks, Playgrounds, and Related Uses	Special

APPENDIX TO ZONING AND SUBDIVISION ORDINANCES
2024 EDITION

Public and Miscellaneous Uses	Use Type(s)
Cemetery	Special
Fire stations	Special
Public Utility Facility	Special

Detached Residential 4 (DR-4)

Agricultural Uses	Use Type(s)
Plant nurseries	Special

Residential Uses	Use Type(s)
Accessory structure	Accessory
Home occupation	Special
Single-family detached dwelling	Permitted
Temporary family health care structure	Accessory

Business Uses	Use Type(s)
Bed and breakfast lodging	Special
Day care centers	Special

Recreation/Education/Assembly Uses	Use Type(s)
Churches and other places of worship	Special
Commercial/public swimming pools, tennis courts, and golf courses	Special
Libraries, museums, shrines, and historic markers	Special
Public or private schools	Special
Recreation Facilities (Indoor/Outdoor), Parks, Playgrounds, and Related Uses	Special

Public and Miscellaneous Uses	Use Type(s)
Cemetery	Special
Community buildings, public and private	Special
Fire stations	Special
Public Utility Facility	Special

Business Commercial (BC)

Agricultural Uses	Use Type(s)
Plant nurseries	Permitted

APPENDIX TO ZONING AND SUBDIVISION ORDINANCES
2024 EDITION

Business Uses	Use Type(s)
Antique sales (indoor only)	Permitted
Automobile sales	Permitted
Automobile service and repair establishments (including gas stations)	Permitted
Broadcast station, studios, and offices for radio and television	Permitted
Car washes	Permitted
Day care centers	Permitted
Financial Institutions (with or without drive-thru windows)	Permitted
Funeral homes	Permitted
Grocery store (with at least 25,000 square feet gross floor area)	Permitted
Hotels and motels	Permitted
Laundromat	Permitted
Medical care facilities, licensed	Permitted
Offices, business or professional	Permitted
Pharmaceutical centers	Special
Restaurants with or without drive-thru	Permitted
Retail stores and shops as an accessory use to the primary permitted use on the parcel	Accessory
Scientific research and development establishments	Special
Veterinary hospitals (small animals), exclusive of outdoor boarding kennels	Permitted

Recreation/Education/Assembly Uses	Use Type(s)
Churches and other places of worship	Permitted
Clubs or lodges (including civic and public benefit organizations)	Permitted
Conference centers and retreat houses	Special
Public or private schools	Permitted
Recreation Facilities (Indoor/Outdoor), Parks, Playgrounds, and Related Uses	Permitted
Theaters, indoor	Special

Public and Miscellaneous Uses	Use Type(s)
Government and other public buildings (including police, fire, and postal facilities; excluding retail and services uses, except as an accessory use)	Permitted
Public Utility Facility	Permitted

APPENDIX TO ZONING AND SUBDIVISION ORDINANCES
2024 EDITION

Business (B)

Agricultural Uses	Use Type(s)
Plant nurseries	Permitted

Business Uses	Use Type(s)
Antique sales (indoor only)	Permitted
Auction establishments (indoor only)	Permitted
Automobile service and repair establishments (including gas stations)	Permitted
Bakeries (with accessory retail sales)	Permitted
Broadcast station, studios, and offices for radio and television	Permitted
Cleaning of carpets and rugs	Permitted
Contractor's establishments	Permitted
Day care centers	Special
Financial Institutions (with or without drive-thru windows)	Permitted
Lumber yards and building materials establishments	Special
Machinery sales and service	Permitted
Manufacturing, processing, assembly, or repair activities	Permitted
Medical care facilities, licensed	Permitted
Mini-storage facilities (indoor only)	Permitted
Offices, business or professional	Permitted
Pharmaceutical centers	Special
Printing and publishing	Permitted
Restaurants with or without drive-thru	Permitted
Retail stores and shops as an accessory use to the primary permitted use on the parcel	Accessory
Scientific research and development establishments	Special
Veterinary hospitals (small animals), exclusive of outdoor boarding kennels	Permitted
Warehousing and distribution establishments	Permitted
Wholesale trade and distribution establishments	Permitted

Recreation/Education/Assembly Uses	Use Type(s)
Churches and other places of worship	Permitted
Clubs or lodges (including civic and public benefit organizations)	Permitted
Conference centers and retreat houses	Permitted

APPENDIX TO ZONING AND SUBDIVISION ORDINANCES
2024 EDITION

Public or private schools	Permitted
Recreation Facilities (Indoor/Outdoor), Parks, Playgrounds, and Related Uses	Permitted

Public and Miscellaneous Uses	Use Type(s)
Government and other public buildings (including police, fire, and postal facilities; excluding retail and services uses, except as an accessory use)	Permitted
Public Utility Facility	Permitted

Institutional (ITL)

Agricultural Uses	Use Type(s)
Agriculture	Permitted

Residential Uses	Use Type(s)
Housing for low and moderate income households	Special

Business Uses	Use Type(s)
Day care centers	Permitted
Funeral homes	Permitted
Hospitals	Special
Medical care facilities, licensed	Special

Recreation/Education/Assembly Uses	Use Type(s)
Churches and other places of worship	Permitted
Clubs or lodges (including civic and public benefit organizations)	Permitted
Conference centers and retreat houses	Special
Fairgrounds	Permitted
Public or private schools	Permitted
Recreation Facilities (Indoor/Outdoor), Parks, Playgrounds, and Related Uses	Permitted
Sports arenas and stadiums as a principal use	Permitted

Public and Miscellaneous Uses	Use Type(s)
Cemetery	Permitted
Government and other public buildings (including police, fire, and postal facilities; excluding retail and services uses, except as an accessory use)	Permitted
Public Utility Facility	Permitted

Business Park (BP) – See Section 5.3F for allowable uses as referenced in the [1997 Edition of the North American Industrial Classification \(NAICS\) Manual \(U.S. Office of Management and Budget\)](#)

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