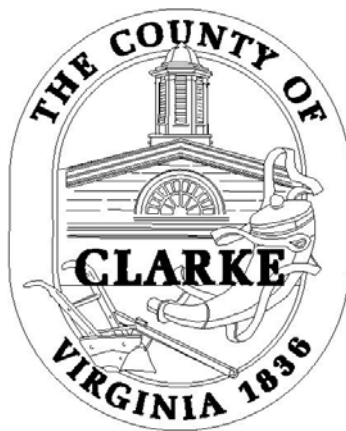


# ZONING ORDINANCE

Adopted  
August 14, 1985



2020 VERSION

EDITOR'S NOTE:

The Clarke County Zoning Ordinance is updated and reprinted annually in January to incorporate text amendments that were adopted in the previous year. The 2020 Zoning Ordinance also includes the following text amendment that was adopted since the printing of the 2019 version:

- TA-18-01, Antenna Support Structures

You may obtain copies of any text amendments that have been adopted in the current calendar year from the Department of Planning:

101 Chalmers Court, Suite B  
Berryville, VA 22611  
(540) 955-5132

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# **1 AUTHORITY, PURPOSES AND INTENT, PLANNING COMMISSION, AND ZONING ADMINISTRATOR**

## **1-A AUTHORITY AND ENACTMENT**

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.

## **1-B PURPOSES AND INTENT**

1-B-1 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.

1-B-2 This Ordinance is for the general purpose of promoting the health, safety or general welfare of the public and of accomplishing the objectives of Section 15.2-2200 and Section 15.2-2283 of the Virginia Code. To these ends, this Ordinance is designed:

- 1-B-2-a To provide for adequate light, air, convenience of access, and safety from fire, flood and other dangers;
- 1-B-2-b To reduce or prevent congestion in the public streets and roads;
- 1-B-2-c To facilitate the creation of a convenient, attractive and harmonious community;
- 1-B-2-d 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;
- 1-B-2-e To protect against destruction of, or encroachment upon, historic areas;
- 1-B-2-f 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;
- 1-B-2-g To encourage economic development activities that provide desirable employment and enlarge the tax base; and
- 1-B-2-h To protect and stabilize the rural agricultural, forestall and open space areas that are essential to maintaining the County's heritage, character and economy.

## 1-C PLANNING COMMISSION

(7/15/08)

- 1-C-1 The Clarke County Planning 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.
- 1-C-2 The Planning Commission shall consist of eleven members, appointed by the Board. Members of the Planning 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.
- 1-C-3 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 between the membership. Subsequent appointments shall be for terms of four years each. Vacancies shall be filled by appointment for the unexpired term only.
- 1-C-4 Each member of the Commission shall take an oath of office before the Clerk of the Circuit Court.
- 1-C-5 Meetings of the Planning Commission shall be in accordance with Virginia Code §15.2-2214.
- 1-C-6 A majority of the members shall constitute a quorum and no action of the Planning Commission shall be valid unless authorized by a majority vote of those present and voting.
- 1-C-7 The Planning Commission shall elect from its members a Chairman and a Vice-Chairman, whose terms shall be for one year.

## 1-D ZONING ADMINISTRATOR

(7/15/08)

- 1-D-1 This Ordinance shall be administered and enforced by an officer to be known as the Zoning Administrator who shall be appointed by the Board of Supervisors of Clarke County, Virginia.
- 1-D-2 The Zoning Administrator shall have all necessary authority on behalf of the Board to administer and enforce the Zoning 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 insure compliance with the Ordinance, including injunction, abatement, or other appropriate action or proceeding.
- 1-D-3 The Zoning Administrator may request and shall receive the assistance and cooperation of appropriate officials of Clarke County, including, but not limited to, the Sheriff and Commonwealth's Attorney, and the Virginia Department of Health.



- 1-D-4 (7/15/08) Any written notice of a zoning violation or any written order or administrative determination made by the Zoning Administrator shall include a statement informing the property owner and/or recipient the 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 unappealable if not appealed within 30 days after the decision appealed from by filing with the Zoning Administrator, and with the Board of Zoning Appeals, a notice of appeal specifying the grounds thereof.
- 1-D-5 In no event shall a written order, requirement, decision, or determination made by the Zoning Administrator or other administrative officer 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 order, requirement, decision, or determination where the person aggrieved has materially changed his position in good faith reliance on the action of the Zoning Administrator or other administrative officer, unless it is proven that such written order, requirement, decision, or determination was obtained through malfeasance of the Zoning Administrator or other administrative officer 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.

## 2 DISTRICTS, ZONING MAP & DISTRICT BOUNDARIES

### 2-A ESTABLISHMENT OF DISTRICTS

For the purpose of this Ordinance, the unincorporated areas of Clarke County are hereby divided into the following districts:

#### **RURAL**

AOC -- Agricultural-Open Space-Conservation  
FOC -- Forestal-Open Space-Conservation  
RR -- Rural Residential

#### **BERRYVILLE AREA**

OSR -- Open Space, Residential  
DR-1 -- Detached Residential-1  
DR-2 -- Detached Residential-2  
DR-4 -- Detached Residential-4  
BC -- Business Commercial  
B -- Business  
BP -- Business Park  
ITL -- Institutional

#### **COMMERCIAL**

CN -- Neighborhood Commercial  
CH -- Highway Commercial

#### **OVERLAY**

SC -- Spring Conservation  
H -- Historic  
HC -- Historic Access Corridor  
SP -- Stream Protection

### 2-B OFFICIAL ZONING MAP

#### 2-B-1 General

2-B-1-a The unincorporated areas of Clarke County are hereby divided into districts, as indicated on a set of sheets entitled "Zoning Map of Clarke County, Virginia" which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this Ordinance.

2-B-1-b The Zoning Map shall be identified by the signature of the Chairman of the Board of Supervisors, together with the date of adoption of this Ordinance.

2-B-1-c  
(1/20/15) Regardless of the existence of purported copies of the Official Zoning Map, which may from time to time be made or published, the Official Zoning Map, which shall be located in the Department of Planning, shall be the final authority as to the current zoning status of land and water areas, buildings, and other structures in the County.

2-B-2 Amendment of Zoning Map

Whenever any amendment is made to the Zoning Map by action of the Board of Supervisors, 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 validate said changes with reference to correct notation, who shall affix his signature thereto, thereby certifying that approved amendments to the Zoning Map have been correctly incorporated. The date of official action and nature of the change shall be entered on the map. Any such change shall have the effect of law 12:01 a.m., 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.

2-B-3 Unauthorized Changes

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-C.

2-C RULES FOR LOCATION OF DISTRICT BOUNDARIES

2-C-1 General

Where uncertainty exists with respect to the boundary of any district shown on the Zoning Map, the following rules shall apply:

- 2-C-1-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.
- 2-C-1-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.
- 2-C-1-c If no distance, angle, curvature, description, or other means are given to determine a boundary line accurately, and none of the provisions of paragraphs (a) and (b) apply, the location of such boundary line shall be determined by the use of the scale shown on the Zoning Map.
- 2-C-1-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.

2-C-1-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-C-2

Application for Interpretation by Board of Zoning Appeals

Where a dispute still exists in the location of a district boundary, application may be made to the Board of Zoning Appeals for an interpretation in accordance with Section 7-B-4 of this Ordinance.

### 3 DISTRICT REGULATIONS

#### 3-A SCHEDULE OF DISTRICT REGULATIONS

(4/21/92) (7/20/93)

##### 3-A-1 Agricultural-Open Space-Conservation District - AOC

(6/13/89) (7/15/97) Intent: 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.

##### 3-A-1-a Permitted Uses and Structures

(9/18/90)  
(7/15/97) (12/15/09)  
(7/21/15)  
(10/18/16)  
(3/21/17)

###### 1. Principal Uses and Structures

- a. Agriculture
- b. Forestry
- c. Open Space
- d. Single-family Detached Dwellings (see Section 3-D)
- e. Wineries, Farm
- f. Breweries, Farm
- g. Distilleries, Farm
- h. Farm machinery sales and service
- i. Farm supplies sales
- j. Historic Mill
- k. Wireless Communication Facilities – Class 1, 2, and 5

(11/20/01)  
(10/19/04)  
(4/18/06)  
(8/19/08)  
(11/18/08)  
(11/16/10)  
(10/18/11)  
(3/21/17)  
(2/19/19)

###### 2. Accessory Uses and Structures

- Uses and structures that are customarily accessory and clearly incidental and subordinate to permitted uses and structure, including:
- a. Home Occupations
  - b. Tenant Houses on premises of at least 20 acres, with not more than one such tenant house for each 80 acres, and further provided that any such tenant houses constructed subsequent to October 17, 1980, shall be in conformance with the provisions of Section 3-D-2
  - c. One dwelling of less than 600 square feet heated area on properties of six acres or more. (see Section 3-C-2-h)
  - d. Wind Turbine, Small (not more than two structures 100 feet in height or less for generating electrical energy primarily for on-site usage)
  - e. Temporary Family Health Care Structure
  - f. Bio-Solids Land Application, to the extent required by State law.
  - g. The wholesale or retail sale of agricultural products, grown or processed in conjunction with an agricultural operation, that is clearly accessory and incidental to that agricultural operation.
  - h. Co-location

- (5/17/94)
  - (10/18/94)
  - (2/18/97)
  - (3/16/99)
  - (10/17/00)
  - (6/19/01)
  - (8/21/01)
  - (11/20/01)
  - (6/18/02)
  - (6/15/04)
  - (5/15/07)
  - (8/19/08)
  - (11/18/08)
  - (12/16/08)
  - (12/15/09)
  - (1/20/09) (3/16/10)
  - (8/17/10) (11/16/10)
  - (2/15/11)
  - (10/18/11)
  - (10/21/14)
  - (07/21/15)
  - (3/21/17)
  - (6/20/17)
3. Special Uses and Structures
- a. Special Trade Contractors as defined by the North American Industry Classification System #238
  - b. Campgrounds
  - c. Summer Camps
  - d. Cemeteries
  - e. Churches and other places of religious assembly (with a maximum seating capacity in the main assembly area of 300 people)
  - f. Clubs (private)
  - g. Community Services
  - h. Country Inns
  - i. Day Care Centers (allowed only on parcels fronting on the business routes of Primary Highways as designated by the Virginia Department of Transportation)
  - j. Extraction of Natural Resources – Limited
  - k. Historic Structure Museums
  - l. Livestock Auction Markets
  - m. Public Assemblies, Minor Commercial
  - n. Public Utility Uses and Structures
  - o. Sanitary Landfills
  - p. Retail and Service Businesses
  - q. Small Scale Processing of Fruit and Vegetables
  - r. Solar Power Plant, Large Photovoltaic
  - s. Veterinary Services, Animal Hospitals, Breeding Kennels of more than 15 canine animals, Animal Shelter/Governmental
  - t. Wind Turbine, Small (three or more structures 100 feet in height or less for generating electrical energy primarily for on-site usage)
  - u. Wind Turbine, Small (structures greater than 100 feet in height or less for generating electrical energy primarily for on-site usage)
  - v. Farm machinery sales and service with floor area 12,000 square feet or greater.
  - w. Farm supplies sales with floor area 12,000 square feet or greater.
  - x. Wireless Communication Facilities – Class 3 and 4

### 3-A-1-b

- (6/13/89)
- (6/13/89)
- (1/16/90)
- (2/20/90)
- (3/20/90)
- (3/20/90)
- (8/20/91)
- (3/24/92)
- (7/20/93)
- (4/18/95)
- (6/18/96)
- (3/20/01)
- (8/19/03)
- (11/19/13)

### Lot Requirements

- 1. For Single Family Detached Dwellings:
  - a. The maximum lot size is four acres. The maximum average lot size is three acres. The minimum lot size is two acres; provided, however, the minimum lot size is one acre for lots created from the subdivision of parcels existing on 20 March 2001 that contain less than four acres. The minimum lot width is 150 feet. The calculation of the maximum average lot size in a subdivision shall not include parcels with a maximum average lot size exception or a single residual parcel remaining from the subdivision of lots meeting the maximum average lot size requirements. A lot or lots may qualify for a maximum average lot size exception by meeting one of the following four criteria:
    - (1) A new dwelling unit is to be located on a lot of record existing as of October 17, 1980, or;
    - (2) dwellings in existence and taxed as such or with a building permit issued before October 17, 1980, may be located on a lot larger than allowed in section 3-A-1-b Such lots may be created so long as their size and location does not create low Quality Land Characteristics on any other parcel(s) created as a result of the division, or if the parcels created have zero dwelling unit rights remaining (excluding lot(s) for residential dwelling units that do not exceed the AOC Maximum Lot Area). This exception shall not be applied more than once per

parcel existing on March 20, 2001 containing one or more such pre-1980 dwellings, or;

- (3) the entire tract of land being divided, including, without limitation, any residual parcel(s) irrespective of area, has been placed under an easement granted to the Clarke County Conservation Easement Authority, the Virginia Board of Historic Resources, the Virginia Outdoor Foundation, and/or any other entity authorized to hold an open-space easement pursuant to the Virginia Open-Space Land Act (§10.21-1700, Code of Virginia) and approved by the Clarke County Board of Supervisors, and that all the parcels of land in the division are located in a manner consistent with the physiographic and/or historic characteristics of the property. As to requests for a maximum lot size exception based upon the land having been 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, or;
- (4) it is determined by the Commission, prior to subdivision approval, that the parent tract is of sufficiently low quality to justify using more than the maximum lot size allowed in section 3-A-1-b-(1)-(b) of low quality land for a proposed lot.

b. Low Quality Land Characteristics

The following are considered characteristics of low quality land that would permit maximum lot sizes for dwelling purposes in excess of the maximum lot size allowed by this section:

- (1) Physical features or small size or irregular shape of potential residual parcel such that efficient use of farm machinery would not be possible or that said land would be left to no useful purpose;
- (2) Combination of physical features and setting such that the maximum lot size allowed in this section for a lot proposed in a Minor 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 the County Septic Ordinance] 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 parcel where such land has been determined by the Zoning Administrator to be not important farmland.

c. Important Farmland Determination

- (1) For the purpose of granting maximum lot size exceptions under this section, the dominant decision-making tool shall be the Clarke County Land Evaluation and Site Assessment (LESA) System, edition dated March 24, 1992, which is maintained for public use, inspection and information in the Clarke County Administrative Offices in Berryville, Virginia, and is hereby incorporated into and made a part of this Ordinance as if fully set out herein. The Zoning Administrator shall use the aforementioned LESA System to evaluate a maximum lot size exception. A report on the result shall be forwarded to the Commission. The applicable fee must be paid to the Treasurer of Clarke County.

- (2) The Commission shall designate as Important Farmland any lands with the following characteristics:

<u>Parent Parcel Size</u>	<u>LESA Rating</u>
Under 40 Acres	72% or More
40-129.99 Acres	68% or More
130 Acres or More	64% or More

- (3) In instances where the LESA score of a parcel is within four points above or below the minimum LESA rating that qualifies a parcel 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 parcel for continuing agricultural use; and
  - Factors reasonably related to agricultural suitability of the subject parcel that are not appropriately addressed by the LESA System, such as physical features.
- (4) In instances where the parcel being subdivided is 20 acres or larger and the LESA score of a parcel is within four points above or below the minimum LESA rating that qualifies a parcel as Important Farmland, and the Commission grants a maximum lot size exception, the area of the proposed parcel shall not exceed four acres. If the LESA score is between five and twelve points below the minimum LESA rating, the area of the proposed parcel shall not exceed six acres. In instances where the LESA score of a parcel is twelve or more points below the minimum LESA rating, or the parcel being subdivided is less than 20 acres, the area of the proposed parcel shall not exceed the acreage determined by the Commission. In any instance, the Commission may set a maximum area less than specified above.
- (5) Any party aggrieved by such decision may appeal any decision or designation made under the provisions of this Section to the Board of Supervisors.

2. For Other Permitted Uses, except as otherwise specified in Section 3-C, Supplementary Regulations:
- Minimum Area: 2 acres
  - Minimum Width: 200 feet



3-A-1-c Minimum Setback Requirements

	Parcels with less than 1 acre	Parcels with at least 1 but less than 4 acres	Parcels with at least 4, but less than 20 acres	Parcels with 20 acres and greater
(12/19/89) (10/16/90) (11/16/93) (3/18/97) (12/21/99)	25 feet	25 feet	50 feet	75 feet
(1/16/01) (12/17/02) (11/16/04) (10/18/11)	50 feet	50 feet	75 feet	100 feet
From the edge of a primary highway right of way -with less than 5000 trips per day -with 5000 or more trips per day	25 feet 50 feet	75 feet 75 feet	100 feet 100 feet	125 feet 125 feet
From all property lines (structures 200 sq. ft. or less)	10 feet 5 feet	25 feet 10 feet	50 feet 50 feet	75 feet 75 feet
From intermittent streams	0 feet	25 feet	50 feet	50 feet
From perennial streams, springs, & sinkholes	100 feet	100 feet	100 feet	100 feet

3-A-1-d Maximum Height of All Structures: 35 feet, except on parcels with a width of less than 75 feet, structures shall not exceed a height of 25 feet, and as otherwise provided.  
(10/18/11)

3-A-1-e Installation of Waterworks or Sewerage System & Treatment Works  
(10/18/16) No use in this District commencing operation after July 1, 1997 shall result in the installation of Waterworks or Sewerage System & Treatment Works. The prohibition on Waterworks usage shall not apply to farm breweries, farm wineries, and farm distilleries allowed as permitted uses by §3-A-1-a-1.

3-A-1-f Vegetated Property Buffer (AOC)  
(2/21/03)  
(3/12/07)  
(12/15/09)  
(10/18/11)  
(2/16/16)

Except for those land uses listed as exempt, existing woody vegetation within 25 feet of all property lines shall be retained on parcels of less than 20 acres recorded after 21 February 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, 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:
  - a. driveways and access easements of not less than 30 feet,
  - b. electric, gas, and telephone utility easements,
  - c. 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,
  - d. public water and sewer lines (including water and sewer lines
  - e. constructed by private interests for dedication to public agencies),
  - f. fences

4. 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. 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:

    - (1) a Virginia native tree species as identified in the Virginia Department of Forestry's Tree Seedling Brochure described by the Virginia Native Plant Society;
    - (2) be of minimum quality as identified in the American Standard for Nursery Stock (ANSI Z60.1-2004) (as amended);
    - (3) 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.

3-A-1-g Private driveway standards

(6/21/05)

All private driveways longer than 150 feet shall comply with all Private Access Easement travel way standards as stated in Subdivision Ordinance Section 8-J-2-c on parcels created after 21 June 2005.

3-A-2 Forestal-Open Space-Conservation District - FOC

(6/13/89) Intent: 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 flood plains. 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.

3-A-2-a Permitted Uses and Structures

- (12/19/89) 1. Principal Uses and Structures
  - (7/15/97) a. Agriculture
  - (12/15/09) b. Forestry
  - (07/21/15) c. Open Space
  - (10/18/16) d. Single-family Detached Dwellings (see Section 3-D)
  - (3/21/17) e. Wineries, Farm
  - (6/20/17) f. Breweries, Farm
  - g. Distilleries, Farm
  - h. Wireless Communication Facilities – Class 1, 2, and 5
  
- (7/15/97) 2. Accessory Uses and Structures
  - (8/21/01) Uses and structures that are customarily accessory and clearly incidental and subordinate to permitted uses and structure, including:
    - (10/19/04) a. Home Occupations
    - (4/18/06) b. Tenant Houses on premises of at least 20 acres, with not more than one such tenant house for each 80 acres, and further provided that any such tenant houses constructed subsequent to October 17, 1980, shall be in conformance with the provisions of Section 3-D-2
    - (8/19/08) c. One dwelling of less than 600 square feet heated area on properties of six acres or more. (see Section 3-C-2-h)
    - (11/18/08) d. Wind Turbine, Small (not more than two structures 100 feet in height or less for generating electrical energy primarily for on-site usage)
    - (11/16/10) e. Temporary Family Health Care Structure
    - (10/18/11) f. Bio-Solids Land Application, to the extent required by State law.
    - (3/21/17) g. The wholesale or retail sale of agricultural products, grown or processed in conjunction with an agricultural operation, that is clearly accessory and incidental to that agricultural operation.
    - (6/20/17) h. Co-location
    - (3/21/17)
    - (2/19/19)
  
- (10/16/90) 3. Special Uses and Structures
  - (5/17/94) a. Special Trade Contractors as defined by the North American Industry Classification System #238
  - (10/18/94) b. Campgrounds
  - (2/18/97) c. Summer Camps
  - (10/17/00) d. Cemeteries
  - (8/21/01) e. Churches and other places of religious assembly (with a maximum seating capacity in the main assembly area of 300 people)
  - (11/20-01) f. Clubs (private)
  - (6/18/02) g. Community Services
  - (6/15/04)
  - (5/15/07)
  - (8/19/08)

- (11/18/08) h. Country Inns
- (12/15/09) i. Historic Structure Museums
- (3/16/10) j. Small Scale Processing of Fruit and Vegetables
- (8/17/10) k. Public Utility Uses and Structure
- (11/16/10) l. Public Assemblies, Minor Commercial
- (2/15/11) m. Retail and Services Businesses
- (10/18/11) n. Sawmills
- (10/21/14) o. Veterinary Services, Animal Hospitals, Breeding Kennels of more than 15 canine animals, Animal Shelters/Governmental
- (07/21/15) p. Wind Turbine, Small (three or more structures 100 feet in height or less for generating electrical energy primarily for on-site usage)
- (3/21/17) q. Wind Turbine, Small (structures greater than 100 feet in height or less for generating electrical energy primarily for on-site usage)
- (6/20/17) r. Wireless Communication Facilities – Class 3 and 4

**3-A-2-b**

**Lot Requirements**

- (7/20/93) 1. For Single Family Detached Dwellings:
  - (6/21/05) a. Minimum Area: 3 acres for each dwelling unit right
  - (2/19/08) b. Maximum Area: None
  - (2/16/16) c. Minimum Width: 200 feet
- 2. For Other Permitted Uses, except as otherwise specified in Section 3-C, Supplementary Regulations:
  - a. Minimum Area: 2 acres
  - b. Minimum Width: 200 feet
- 3. Required Residual Parcel  
 Each subdivision plat of a parcel of record as of June 21, 2005 encompassing 40 or more acres shall have one parcel that contains a defined percentage of the total acreage in the subdivision, as shown below, left in a residual parcel with only an existing dwelling or, if no existing dwelling, not more than one dwelling unit right.

<u>Total acreage shown on subdivision plat</u>	<u>% in residual open space parcel</u>
40 to 179.99	65%
180 to 329.99	50%
330 and greater	35%

The residual open space parcel 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 parcel 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 parcel.

- 4. 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%.
- 5. Subdivisions. All minor and major subdivisions in the FOC District shall comply with Section 4N of the Subdivision Ordinance.

3-A-2-c Minimum Setback Requirements

	Parcels with less than 1 acre	Parcels with at least 1 but less than 4 acres	Parcels with at least 4, but less than 20 acres	Parcels with 20 acres and greater
(12/19/89) (10/16/90) (3/18/97) (12/21/99) (1/7/00)	25 feet	25 feet	50 feet	75 feet
(1/16/01) (12/17/02) (11/16/04) (10/18/11)	50 feet	50 feet	75 feet	100 feet
From the edge of a primary highway right of way				
-with less than 5000 trips per day	25 feet	75 feet	100 feet	125 feet
-with 5000 or more trips per day	50 feet	75 feet	100 feet	125 feet
From all property lines (structures 200 sq. ft. or less)	10 feet 5 feet	25 feet 10 feet	50 feet 50 feet	75 feet 75 feet
From intermittent streams	0 feet	25 feet	50 feet	50 feet
From perennial streams, springs, & sinkholes	100 feet	100 feet	100 feet	100 feet

3-A-2-d Maximum Height of All Structures: 35 feet, except on parcels with a width of less than 75 feet, structures shall not exceed a height of 25 feet, and as otherwise noted.  
(10/18/11)

3-A-2-e Installation of Waterworks or Sewerage System & Treatment Works  
(10/18/16) No use in this District commencing operation after July 1, 1997, shall result in the installation of Waterworks or Sewerage System & Treatment Works. The prohibition on Waterworks usage shall not apply to farm breweries, farm wineries, and farm distilleries allowed as permitted uses by §3-A-2-a-1.

3-A-2-f Vegetated Property Buffer and Clearing Limits  
(2/21/03)  
(6/21/05)  
(12/15/09)  
(10/18/11)  
(2/16/16)

1. Applicability. The requirements of this subsection shall apply to all parcels except for parcels with a dwelling constructed on or before February 28, 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 section 3-A-2-f-8, 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 section 3-A-2-f-8, 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 section 3-A-2-f-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.
  - 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, and
  - d. slippage soils.
  - e. For purposes of this section, “house site” is defined as the parcel’s buildable area as modified by the regulations enumerated in (a) and (b) 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 underneath the Tree Drip Line as defined in Article 9.
- 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 criteria in Subsection c 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:
    - (1) a Virginia native tree species as identified in the Virginia Department of Forestry's Tree Seedling Brochure described by the Virginia Native Plant Society;
    - (2) be of minimum quality as identified in the American Standard for Nursery Stock (ANSI Z60.1-2004) (as amended);
    - (3) 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 3-C-2-k.
  - 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:
    - (1) driveways and access easements of not more than 30 feet wide,
    - (2) electric, gas, and telephone utility easements,
    - (3) 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  
(4) public water and sewer lines (including water and sewer lines constructed by private interests for dedication to public agencies.

3-A-2-g Private driveway standards

(6/21/05)

All private driveways longer than 150 feet shall comply with all Private Access Easement travel way standards as stated in Subdivision Ordinance Section 8-J-2-c on parcels created after 21 June 2005.



3-A-3 Rural Residential District (RR)

(6/13/89) Intent: 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.

3-A-3-a Permitted Uses and Structures

(6/13/89)

1. Principal Uses and Structures

(7/15/97)

a. Forestry

(10/19/04)

b. Open Space

(6/15/04)

c. Single-family Detached Dwellings

(11/18/08)

d. Wireless Communication Facilities – Class 1, 2, and 5

(11/16/10)

(2/15/11)

2. Accessory Uses and Structures

(10/18/11)

Uses and structures that are customarily accessory and clearly incidental and subordinate to permitted uses and structures including:

(3/21/17)

a. Home Occupations

(6/20/17)

b. Wind Turbine, Small (not more than two structures 100 feet in height or less for generating electrical energy primarily for on-site usage)

(2/19/19)

c. Temporary Family Health Care Structure

d. Co-location

3. Special Uses and Structures

a. Agriculture

b. Churches and other places of religious assembly (with a maximum seating capacity in the main assembly area of 300 people)

c. Community Services

d. Historic Structure Museums

e. Golf Course

f. Wind Turbine, Small (three or more structures 100 feet in height or less for generating electrical energy primarily for on-site usage)

g. Wind Turbine, Small (structures greater than 100 feet in height or less for generating electrical energy primarily for on-site usage)

3-A-3-b Lot Requirements

(11/16/93)

1. For property not in a County Sewer Service Area

(3/19/03)

a. Minimum Area:

1 acre

(7/19/05)

b. Maximum Area for Single Family Dwellings:

4 acres

c. Maximum Average Area for All Lots in a Subdivision for Single Family Dwellings:

2 acres

d. Minimum Frontage:

150 feet

2. For property in a County Sewer Service Area

a. Minimum Area:

30,000 sq ft

b. Maximum Area for Single Family Dwellings:

1 acre

c. Minimum Frontage:

75 feet

**3-A-3-c Minimum Yard Requirements**

	Parcels with less than 15,000 sq. ft.	Parcels with 15,000 sq. ft. or more
(1/16/01)		
(12/17/02)		
(11/16/04)	From the edge of a private access easement	15 feet*
(10/18/11)	From the centerline of a secondary highway	40 feet*
(2/16/16)	From the edge of a primary highway right of way	
	With less than 5000 trips per day	15 feet*
	With 5000 or more trips per day	40 feet*
	From side property lines	5 feet
	From rear property lines	25 feet
	(structures 200 sq. ft. or less)	5 feet
	From intermittent streams	0 feet
	From perennial streams, springs, & sinkholes	100 feet

\*add 10 feet for entrance side of garages, carports, or other structures used to house vehicles

**3-A-3-d Maximum Residential Structure Size for property in a County Sewer Service Area**  
 (7/19/05) The maximum heated floor area of a dwelling shall not exceed: 2,000 sq ft or 10% of the lot area, whichever is greater.

**3-A-3-e Maximum Lot Coverage by All Impervious Surfaces: 30 percent**

**3-A-3-f Maximum Height of All Structures:** 35 feet, except on parcels  
 (11/16/04) with a width of less than 75 feet, structures shall not exceed a height of 25 feet, and as otherwise provided.

**3-A-3-g Critical Environmental Areas (CEAs)**  
 (7/19/05)

1. CEAs are 100-year flood plains, slopes in excess of 25 percent, and the area within 100 feet of perennial streams, perennial springs, and the discernable edge of sinkholes.
2. Structures requiring building permits shall not be located in CEAs.
3. CEAs shall not be included in maximum or minimum lot area or any density calculations, or be used to meet open space requirements.

**3-A-3-h Additional Regulations**  
 (8/15/06) The height of an accessory building shall not exceed 12 feet.

**3-A-3-i Access Easement Areas**  
 (2/19/08) Areas covered by access easements shall not be included in maximum or minimum lot area or any density calculations, or be used to meet open space requirements.

**3-A-4 Open Space Residential District – OSR**  
 Intent: 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: 1. existing residential properties and estates which have cultural and/or historical value, and 2. property with critical environmental features including 100 year flood plains, sink holes, slopes in excess of 15% and, rock outcrops. 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.

3-A-4-a  
(9/17/96)

Permitted Uses

1. Principal Uses and Structures
  - a. Single family detached dwellings
  - b. Accessory uses to include Home Occupations, detached carport and garages, tool sheds, children's playhouses, tennis courts, private swimming pools and dog houses.
  - c. Municipal utilities
2. Special Uses and Structures
  - a. Commercial swimming pools, tennis courts, and golf courses.
  - b. Country Inns
  - c. Libraries, museums and shrines
  - d. Plant nurseries, with no sale of nursery products permitted on premises.
  - e. Private and public schools, parks, playgrounds and related uses.
  - f. Public utility uses (sub-stations, pump stations, storage tanks, etc.) and related easements, except for municipal utilities.

3-A-4-b

Maximum Density

1. One dwelling unit per ten net developable acres, or 0.1 units per net acre.
2. A maximum floor area ratio of 0.10 shall apply to uses other than residential.

3-A-4-c

Lot Size, Yard and Bulk Requirements

1. Minimum lot area: 10 acres
2. Minimum lot width: 300 feet
3. Minimum lot depth: 300 feet
4. Minimum yard requirements:
  - a. Front yard: 50 feet
  - b. Side yard: 50 feet
  - c. Rear yard: 50 feet
5. Maximum building height: 35 feet
6. Environmental Setbacks

All Structures shall be set back 25 feet from intermittent streams and 100 feet from perennial streams and springs. The above stream setbacks do not apply where floodplains are identified on Flood Insurance Rate Maps (FIRM).

3-A-4-d  
(2/17/04)  
(6/8/04)

Additional Regulations

1. Refer to Section 3-C for general regulations and other provisions which may supplement those cited herein.
2. Refer to Section 4-J for off-street parking requirements.
3. Refer to specific Overlay Zoning Districts, where applicable.
4. Sinkholes or karst features on lots platted before 17 February 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 Informational Memorandum 228 (IIM-LD-228) or other means as approved by the County's engineer and County staff.

3-A-5

Detached Residential - 1 (DR-1)

Intent: 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.

3-A-5-a

Permitted Uses

1. Principal Uses and Structures
  - a. Single-family detached dwellings.
  - b. Accessory uses, to include detached carport and garages, tool sheds, children's playhouses, dog houses and private swimming pools.
  - c. Municipal utilities
2. Special Uses and Structures
  - a. Bed and breakfast lodging occupying more than 300 sq. ft. of a residence.
  - b. Cemeteries
  - c. Churches and shrines
  - d. Day care homes
  - e. Fire stations
  - f. Home occupations and home offices
  - g. Libraries and museums
  - h. Plant nurseries, with no sale of nursery products permitted on premises
  - i. Private or public schools, parks, playgrounds and related uses
  - j. Public utility uses (sub-stations, pump stations, storage tanks, etc.) and related easements, except for municipal utilities
  - k. Recreational uses such as public or private swimming pools, tennis courts and golf courses.

3-A-5-b

Maximum Density

1. One dwelling unit per net developable acre.
2. A maximum floor area ratio of 0.15 shall apply to uses other than residential.

3-A-5-c

(7/21/98)  
(4/20/04)

Lot Size, Yard and Bulk Requirements for Conventional Lots

1. Lot area: (see Section 3-C-3 regarding impact of critical environmental areas on lot size requirements)
2. Minimum: 40,000 sq. ft.
3. Maximum: 60,000 sq. ft.
4. Minimum lot width:
  - a. Interior lot: 125 feet
  - b. Corner lot: 150 feet
5. Minimum yard requirements:
  - a. Front yard: 40 feet
  - b. Side yard: 15 feet
  - c. Rear yard: 50 feet
  - d. Side and Rear yard: 5 feet setback for accessory structures
6. Maximum building height: 35 feet

3-A-5-d  
(7/21/98)

Minimum District Size for Cluster Subdivision: 4 acres

3-A-5-e  
(4/20/04)

Lot Size, Yard and Bulk Requirements for Cluster Lots

1. Minimum lot area: 20,000 square feet
2. Maximum lot area: 45,000 square feet  
(See Section 3-C-3 regarding impact of critical environmental areas on lot size requirements.)
3. Minimum lot width:
  - a. Interior lot: 100 feet
  - b. Corner lot: 120 feet
4. Minimum yard requirements:
  - a. Front yard: 35 feet
  - b. Side yard: 15 feet
  - c. Rear yard: 45 feet
  - d. Side/Rear yard: 5 feet setback for accessory structures
5. Maximum building height: 35 feet

3-A-5-f

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 flood plains, 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.

3-A-5-g  
(2/17/04)  
(6/8/04)  
(2/17/06)

Additional Regulations

1. Refer to Section 3-C for general regulations and other provisions that may supplement those cited herein.
2. Refer to Section 4-J for off-street parking requirements.
3. Refer to specific Overlay Zoning Districts, where applicable.
4. Refer to Section 3-C-3 for special regulations relating to cluster subdivisions, open spaces and critical environmental areas.
5. Sinkholes or karst features on lots platted before 17 February 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.
6. Environmental Setbacks: All Structures shall be set back 25 feet from intermittent streams and 100 feet from perennial streams and springs. The above stream setbacks do not apply where floodplains are identified on Flood Insurance Rate Maps (FIRM).

3-A-6

Detached Residential - 2 (DR-2)

Intent: 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.

3-A-6-a

Permitted Uses

1. Principal Uses and Structures
  - a. Single-family detached dwellings, either a conventional dispersed layout or a clustered layout subdivision; a clustered subdivision requires site plan approval.
  - b. Accessory uses, to include detached carport and garages, tool sheds, children's playhouses, dog houses and private swimming pools.
  - c. Municipal utilities
2. Special Uses and Structures
  - a. Bed and breakfast lodging occupying more than 300 sq. ft. of a residence.
  - b. Cemeteries
  - c. Churches and shrines
  - d. Day care homes
  - e. Fire stations
  - f. Home occupations and home offices
  - g. Libraries and museums
  - h. Plant nurseries, with no sale of nursery products permitted on premises
  - i. Private or public schools, parks, playgrounds and related uses
  - j. Public utility uses (sub-stations, pump stations, storage tanks, etc.) and related easements, except for municipal utilities.
  - k. Recreational uses such as public or private swimming pools, tennis courts and golf courses.

3-A-6-b

Maximum Density

1. Two dwelling units per net developable acre.
2. A maximum floor area ratio of 0.15 shall apply to uses other than residential.

3-A-6-c

(12/15/92)  
(4/20/04)

Lot Size, Yard and Bulk Requirements for Conventional Lots

1. Lot area: (See Section 3-C-3 regarding impact of critical environmental areas on lot size requirements.)
2. Minimum: 20,000 sq. ft.
3. Maximum: 45,000 sq. ft.
4. Minimum lot width:
  - a. Interior lot: 100 feet
  - b. Corner lot: 120 feet
5. Minimum yard requirements:
  - a. Front yard: 30 feet
  - b. Side yard: 15 feet
  - c. Rear yard: 40 feet
  - d. Side and Rear Yard: 5 feet setback for

- |                                  |  |   |
|----------------------------------|--|---|
|                                  | 6. Maximum building height:  | accessory structures:<br>35 feet        |
| 3-A-6-d                          | Minimum District Size for Cluster Subdivision:   | 4 acres                                 |
| 3-A-6-e<br>(4/20/04)             | Lot Size, Yard and Bulk Requirements for Cluster Lots  |   |
|                                  | 1. Minimum lot area:   | 12,500 square feet                      |
|                                  | 2. Maximum lot area:   | 30,000 square feet                      |
|                                  | (See Section 3-C-3 regarding impact of critical environmental areas on lot size requirements.)   |   |
|                                  | 3. Minimum lot width:  |   |
|                                  | a. Interior lot:   | 75 feet                                 |
|                                  | b. Corner lot:   | 90 feet                                 |
|                                  | 4. Minimum yard requirements:  |   |
|                                  | a. Front yard:   | 25 feet                                 |
|                                  | b. Side yard:  | 10 feet                                 |
|                                  | c. Rear yard:  | 35 feet                                 |
|                                  | d. Side and Rear yard  | 5 feet setback for accessory structures |
|                                  | 5. Maximum building height:  | 35 feet                                 |
| 3-A-6-f                          | 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 flood plains, 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.  |   |
| 3-A-6-g<br>(2/17/04)<br>(6/8/04) | Additional Regulations   |   |
|                                  | 1. Refer to Section 3-C for general regulations and other provisions that may supplement those cited herein.   |   |
|                                  | 2. Refer to Section 4-J for off-street parking requirements.   |   |
|                                  | 3. Refer to specific Overlay Zoning Districts, where applicable.   |   |
|                                  | 4. Refer to Section 3-C-3 for special regulations relating to cluster subdivisions, open spaces and critical environmental areas.  |   |
|                                  | 5. Sinkholes or karst features on lots platted before 17 February 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 litigation standard as recommended by a PE or PG, as approved by the County's Engineer. Sinkholes or karst features on lots platted after 7 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. |   |
|                                  | 6. Environmental Setbacks: All Structures shall be set back 50 feet from intermittent streams and 100 feet from perennial streams and springs. The above stream setbacks do not apply where floodplains are identified on Flood Insurance Rate Maps (FIRM).  |   |

3-A-7

Detached Residential- 4 (DR-4)

Intent: 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.

3-A-7-a

Permitted Uses

1. Principal Uses and Structures
  - a. Single-family detached dwellings, either a conventional dispersed layout or a clustered layout subdivision; a clustered subdivision requiring site plan approval.
  - b. Accessory uses, to include detached carport and garages, tool sheds, children's playhouses, dog houses and private swimming pools.
  - c. Municipal utilities
2. Special Uses and Structures
  - a. Bed and breakfast lodging occupying more than 300 sq. ft. of a residence.
  - b. Cemeteries
  - c. Churches and shrines
  - d. Community buildings, public and private
  - e. Day care homes, day care centers and nursery schools
  - f. Fire stations
  - g. Home occupations and home offices
  - h. Libraries, museums and historic markers
  - i. Plant nurseries, with no sale of nursery products permitted on premises
  - j. Private or public schools, parks, playgrounds and related uses
  - k. Public utility uses (sub-stations, pump stations, storage tanks, etc.) and related easements, except for municipal utilities
  - l. Recreational uses such as public swimming pools, tennis courts and golf courses.

3-A-7-b

Maximum Density

1. Four (4.0) dwelling units per net developable acre
2. A maximum floor area ratio of 0.15 shall apply to uses other than residential.

3-A-7-c

(12/15/92)  
(4/20/04)

Lot Size, Yard and Bulk Requirements for Conventional Lots

1. Lot area: (See Section 3-C-3 regarding the impact of critical environmental areas on lot size requirements.)
  - a. Minimum 10,000 sq. ft.
  - b. Maximum: 30,000 sq. ft.
2. Minimum lot width:
  - a. Interior lot: 75 feet
  - b. Corner lot: 90 feet
3. Minimum yard requirements:
  - a. Front yard: 20 feet for primary structures;  
25 feet for garages, carports, or other structures used to house vehicles
  - b. Side yard: 10 feet



- c. Rear yard: 30 feet
- d. Side and Rear yard: 5 feet setback for accessory structures
- 4. Maximum building height: 35 feet

3-A-7-d Minimum District Size for Cluster Subdivisions: 2 acres

3-A-7-e Lot Size, Yard and Bulk Requirements for Clustered Lots

(4/20/04)

- 1. Minimum lot area: 7,500 square feet
  - 2. Maximum lot area: 20,000 square feet
- (See Section 3-C-3 regarding the impact of critical environmental areas on lot size Requirements).
- 3. Minimum lot width:
    - a. Interior lot: 60 feet
    - b. Corner lot: 75 feet
  - 4. Minimum yard requirements:
    - a. Front yard: 15 feet for primary structures; 25 feet for garages, carports, or other structures used to house vehicles
    - b. Side yard: 10 feet
    - c. Rear yard: 25 feet
    - d. Side and Rear yard: 5 feet setbacks for accessory structures
  - 5. Maximum building height: 35 feet

3-A-7-f Open Space Requirements for Detached Residential Subdivisions

- 1. In subdivisions approved for cluster development, 20% of the net site area (which excludes one hundred year flood plains, 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. 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.

3-A-7-g Additional Regulations

(6/8/04)

(2/17/04)

- 1. Refer to Section 3-C for general regulations and other provisions that may supplement those cited herein.
- 2. Refer to Section 4-J for off-street parking requirements.
- 3. Refer to specific Overlay Zoning Districts, where applicable.
- 4. Refer to Section 3-C-3 for special regulations relating to cluster subdivisions, critical environmental areas and open spaces.
- 5. Sinkholes or karst features on lots platted before 17 February 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.
- 6. Environmental Setbacks: All Structures shall be set back 25 feet from intermittent streams and 100 feet from perennial streams and springs. The above stream setbacks do not apply where floodplains are identified on Flood Insurance Rate Maps (FIRM).

3-A-8

Business Commercial (BC)

Intent: 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.

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.

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.

3-A-8-a

(10/2/91)

Permitted Uses

1. Principal Uses and Structures

- a. Antique Sales (indoor only)
- b. Automobile service and repair establishments (including gas stations), with a convenience store (not occupying more than 2,000 square feet of gross floor area, excluding storage) as an accessory use, provided that all vehicle repair takes place in a fully enclosed building
- c. Automobile sales
- d. Broadcast station, studios, and offices for radio and television
- e. Car washes
- f. Churches and other places of worship
- g. Clubs or Lodges (including civic and public benefit organizations)
- h. Day care centers
- i. Financial institutions (with or without drive-thru windows)
- j. Funeral homes
- k. Government and other public buildings (including police, fire, library, museum, and postal facilities; excluding retail and service uses, except as provided in section 3-A-8-a-1-u.
- l. Grocery store (with at least 25,000 square feet gross floor area).
- m. Hotels and Motels
- n. Laundromat
- o. Medical care facilities, licensed
- p. Offices, Business or Professional
- q. Plant nurseries
- r. Public utilities and related easement
- s. Recreation facilities (indoor/outdoor), parks, playgrounds, fairgrounds, etc.
- t. Restaurants with or without drive-thru
- u. Retail and Service uses provided that:

(1) The areas to be reserved for retail uses shall be subject to those locations indicated on an approved site plan for the development,

(2) The gross floor area of the retail uses (excluding storage) shall not exceed 10% of the total proposed gross floor area as shown on the project site plan, or occupy more than 2,000 square feet of gross floor area of any individual structure

- v. Schools, public and private
- w. Veterinary hospitals (small animals), exclusive of out-door boarding kennels

- 2. Special Uses and Structures
  - a. Conference centers
  - b. Scientific research and development establishments
  - c. Theaters, in-door

- 3-A-8-b **Maximum Density**  
The maximum density shall not exceed a floor area ratio (FAR) of .30, based on the net developable area of the lot.
  
- 3-A-8-c **Minimum District Size:** 4 acres
  
- 3-A-8-d **Lot Requirements:**
  - 1. Minimum lot area: 20,000 square feet
  - 2. Minimum lot width: 100 feet
  
- 3-A-8-e **Building Height and Setback Regulations**
  - 1. Maximum building height: 40 feet
  - 2. Minimum yard requirements
    - a. Front yard: 40 feet
    - b. Side yard: 25 feet (40 feet on street side of corner lot)
    - c. Rear yard: 25 feet
    - d. Where a lot is contiguous to property located in any residential district, all buildings shall have a minimum setback of 40 feet from common property lines.
  
- 3-A-8-f **Open Space**
  - 1. A landscape and buffer plan shall be submitted with any application for site plan approval.
  - 2. Twenty percent (20%) of the gross site area shall be landscaped open space.
  
- 3-A-8-g **Additional Regulations**  
(01/17/17)
  - 1. **Parking, Streets, and Access**
    - a. All parking requirements shall be met by off-street, on-site spaces and shall include designated spaces for the handicapped.
    - b. 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.
    - c. Off-street parking spaces shall be accessed via private driveways and shall not be directly accessed from public rights of way.
  - 2. **Buffering and Landscaping**
    - a. Where a parcel 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.
    - b. Landscape materials and their placement 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.

3. Storage of Materials and Refuse
  - a. All refuse containers shall be screened by a solid wall or fence.
  - b. 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.
  - c. All storage shall be conducted within the principal structure, which is to be completely enclosed.
  - d. There shall be no outdoor storage and/or display of goods, with the exception of retail display such as plant materials associated with nurseries.
4. 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.
  - d. Of the Freestanding Signs allowed in Section 4-I-3-b, 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.
5. Site Plan
  - a. A site plan, which shall govern all development, shall be submitted for approval.
  - b. Site plans shall include provisions for:
    - (1) adequate public facilities,
    - (2) development phasing,
    - (3) stormwater management facilities that comply with State stormwater management regulations,
    - (4) lighting and signing,
    - (5) building placement and lot configuration, and
    - (6) other special site features and land use considerations deemed necessary to serve the district.
  - c. 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.
  - d. All uses shall be subject to final site plan approval.

3-A-9

Business (B)

Intent: 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.

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.

3-A-9-a

(10/18/94)

Permitted Uses

1. Principal Uses and Structures

- a. Antique Sales (indoor only)
- b. Auction establishments (indoor only)
- c. Automobile service and repair establishments (including gas stations) provided that all repair of vehicles takes place in a fully enclosed building
- d. Bakeries (with retail sales as provided in Section 3-A-9-a-1-w)
- e. Broadcast station, studios, and offices for radio and television
- f. Churches and other places of worship
- g. Cleaning of carpets and rugs
- h. Clubs or Lodges (including civic and public benefit organizations)
- i. Conference centers
- j. Contractor's establishments
- k. Financial institutions (with or without drive-thru windows)
- l. Government and other public buildings (including police, fire, library, museum, and postal facilities; excluding retail and service uses, except as provided in section 3-A-9-a-1-w).
- m. Machinery sales and service.
- n. Manufacturing, processing, assembly, or repair activities that are not objectionable because of smoke, odor, dust, or noise, or result in air or water pollution levels above any local, state, or federal regulations.
- o. Medical care facilities, licensed
- p. Mini-Storage facilities (indoor only)
- q. Offices, Business or Professional
- r. Plant nurseries
- s. Printing and publishing
- t. public utilities and related easements
- u. Recreation facilities (indoor/outdoor), parks, playgrounds, fairgrounds, etc.
- v. Restaurants with or without drive-thru
- w. Retail and Service uses provided that:
  - (1) The areas to be reserved for retail uses shall be subject to those locations indicated on an approved site plan for the development,
  - (2) The gross floor area of the retail uses (excluding storage) shall not exceed 10% of the total proposed gross floor area as shown on the project site plan, or occupy more

- than 2,000 square feet of gross floor area of any individual structure;
- x. Schools, public and private, academic and vocational
- y. Warehousing and distribution establishments
- z. Wholesale trade and distribution establishments
- aa. Veterinary hospitals (small animals), exclusive of out-door boarding kennels
- 2. Special Uses and Structures
  - a. Day care centers
  - b. Scientific research and development establishments
  - c. Lumber yards and building materials establishments

- 3-A-9-b **Maximum Density**  
The maximum density shall not exceed a floor area ratio (FAR) of .30 based on the net developable area of the lot.
- 3-A-9-c **Minimum District Size:** 4 acres
- 3-A-9-d **Lot Requirements**
  - 1. Minimum lot area: 20,000 square feet
  - 2. Minimum lot width: 100 feet
- 3-A-9-e **Building Height and Setback Regulations**
  - 1. Maximum building height: 40 feet
  - 2. Minimum yard requirements
    - a. Front yard: 40 feet
    - b. Side yard: 25 feet (40 feet on street side of corner lot)
    - c. Rear yard: 25 feet
    - d. Rear yard requirements may be reduced where that rear yard abuts a railroad right of way.
    - e. Where a lot is contiguous to property located in any residential district, all buildings shall have a minimum setback of 40 feet from common property lines.
- 3-A-9-f **Open Space**
  - 1. A landscape and buffer plan shall be submitted with any application for site plan approval.
  - 2. Fifteen percent (15%) of the gross site area shall be landscaped open space.
- 3-A-9-g **Additional Regulations**  
(01/17/17)
  - 1. Parking, Streets, and Access
    - a. All parking requirements shall be met by off-street, on-site spaces and shall include designated spaces for the handicapped.
    - b. 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.
    - c. Off-street parking spaces shall be accessed via private driveways and shall not be directly accessed from public rights of way.
    - d. 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.
  - 2. Buffering and Landscaping
    - a. Where a parcel in the B zoning district is contiguous to a residential zoning district or a

- public right of way of 60 feet or more, a landscaped buffer strip 15 feet wide 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 parcel.
- b. Where a parcel in the B zoning district is contiguous to another non-residential zoning district, a landscaped buffer strip 10 feet in width shall be provided.
  - c. Landscape materials and their placement 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.
3. Storage of Materials and Refuse
- a. All refuse containers shall be screened by a solid and opaque wall or fence.
  - b. 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.
  - c. The outdoor area devoted to storage, loading, and display of goods shall be limited to that area so designated on an approved site plan.
  - d. 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.
  - e. No material or equipment within an outdoor storage area shall be visible from any public right of way or any parcel in a residential zoning district.
4. Uses, Facilities and Improvements
- a. All business activities 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.
5. Site Plan
- a. A site plan, which shall govern all development, shall be submitted for approval.
  - b. Site plans shall include provisions for:
    - (1) adequate public facilities,
    - (2) development phasing,
    - (3) stormwater management facilities that comply with State stormwater management regulations,
    - (4) lighting and signing,
    - (5) building placement and lot configuration, and
    - (6) other special site features and land use considerations deemed necessary to serve the district.
  - c. 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.
  - d. All uses shall be subject to final site plan approval.

3-A-10 Business Park (BP)

(6/8/99) Intent: The Business Park (BP) District is established to provide locations within the Berryville  
(2/16/01) 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.

The application of this district is intended for those locations within the Berryville Area that are planned for Light Industrial/Research uses.

The following list of Permitted Uses, Accessory Uses, Uses allowed by Special Permit, and Prohibited Uses comprehensively addresses every use defined by the North American Industrial Classification System (NAICS) Codes as contained in the NAICS Manual, U.S. Office of Management and Budget, 1997. This Manual shall be used to define the uses listed and assist in the determination of the status of proposed uses. The three, four, or five digit categories listed below include all sub-categories except as noted; for example, 3121 includes 31211, 312111, but does not include 3122.

3-A-10-a  
(5/15/01)

Permitted Uses

1. Principal Uses and Structures

- |    | <u>NAICS Code</u> |   |
|----|-------------------|---|
| a. | 22112             | Utilities - Electric Power Transmission, Control, & Distribution  |
| b. | 2212              | Natural Gas Distribution  |
| c. | 2213              | Water, Sewage, & Other Systems  |
| d. | 233               | Building, Developing & General Contracting  |
| e. | 234               | Heavy Construction  |
| f. | 235               | Special Trade Contractors   |
| g. | 311               | Food Manufacturing (except 3116 Animal Slaughtering & Processing and 3117 Seafood Product Preparation & Packaging)  |
| h. | 3121              | Beverage Manufacturing  |
| i. | 314               | Textile Product Mills   |
| j. | 315               | Apparel Manufacturing   |
| k. | 316               | Leather and Allied Product Manufacturing (except 3161 Leather & Hide Tanning & Finishing)   |
| l. | 321               | Wood Product Manufacturing (except 3211 Sawmills & Wood Preservation)   |
| m. | 3222              | Converted Paper Product Manufacturing   |
| n. | 323               | Printing & Related Support Activities   |
| o. | 3261              | Plastics Product Manufacturing  |
| p. | 332               | Fabricated Metal Product Manufacturing (except 3328 Coating/Engrave/Heat Treating & Other Activity and 33292,3,4,5 Small Arms Ammunition, Other Ammunition, Small Arms, and Other Ordnance & Accessories Manufacturing) |
| q. | 334               | Computer & Electronic Product Manufacturing   |
| r. | 335               | Electrical Equipment, Appliance, & Component Manufacturing (except 335911 Storage Battery and 335912 Primary Battery)   |



- Manufacturing)
- s. 337 Furniture and Related Products Manufacturing
- t. 339 Miscellaneous Manufacturing
- u. 421 Wholesale Trade, Durable Goods (except 42152 Coal & Other Mineral & Ore Wholesale)
- v. 422 Wholesale Trade, Nondurable Goods (except 42244 Poultry & Poultry Product Wholesale, 42252 Livestock Wholesale, 4226 Chemical & Allied Products Wholesale and 4227 Petroleum & Petroleum Products Wholesale)
- w. 453998 General Merchandise Auction Houses (within 1000 feet of a state designated primary highway)
- x. 454 Non-store Retailers
- y. 4885 Freight Transportation Arrangement
- z. 488991 Packing & Crating
- aa. 493 Warehousing & Storage
- bb. 511 Publishing Industries
- cc. 512 Motion Picture & Sound Recording Industries
- dd. 513 Broadcasting & Telecommunications
- ee. 514 Information & Data Processing Services
- ff. 5324 Commercial/Industrial Equipment Rental & Leasing
- gg. 5417 Scientific Research and Development Services
- hh. 561 Administrative & Support Services (except 5615 Travel Arrangement & Reservation Services)
- ii. 811 Repair & Maintenance

2. Accessory Uses

Uses that are customarily accessory and clearly incidental and subordinate to the principal use:

NAICS Code

- a. 6244 Child Day Care Services
- b. 7222 Limited Service Eating Places
- c. 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.)

3. Special Uses and Structures

NAICS Code

- a. 3116 Animal Slaughtering & Processing
- b. 3117 Seafood Product Preparation & Packaging
- c. 321114 Wood Preservation
- d. 3254 Pharmaceutical & Medicine Manufacturing
- e. 325910 Printing Ink Manufacturing
- f. 327991 Cut Stone & Stone Product Manufacturing
- g. 333 Machinery Manufacturing
- h. 336 Transportation Equipment Manufacturing
- i. 484 Truck Transportation
- j. 6215 Medical & Diagnostic Laboratories
- k. 81233 Linen & Uniform Supply
- l. 71394 Recreation, Commercial Indoor

(1/20/15)

3-A-10-b  
(5/15/01)

Prohibited Uses

Uses not listed above (either as principal, accessory, or special uses) are prohibited, specifically including the following:

- |     | <u>NAICS Code</u> |   |
|-----|-------------------|---|
| 1.  | <b>11</b>         | Agriculture, Forestry, Fishing, & Hunting   |
| 2.  | <b>21</b>         | Mining  |
| 3.  | <b>2211</b>       | Electric Power Generation   |
| 4.  | <b>3122</b>       | Tobacco Manufacturing   |
| 5.  | <b>313</b>        | Textile Mills   |
| 6.  | <b>3161</b>       | Leather & Hide Tanning & Finishing  |
| 7.  | <b>3211</b>       | Sawmills & Wood Preservation  |
| 8.  | <b>3221</b>       | Pulp, Paper & Paperboard Mills  |
| 9.  | <b>324</b>        | Petroleum & Coal Products Manufacturing   |
| 10. | <b>325</b>        | Chemical Manufacturing  |
| 11. | <b>3262</b>       | Rubber Product Manufacturing  |
| 12. | <b>327</b>        | Nonmetallic Mineral Product Manufacturing (except 327991<br>Cut Stone & Stone Product Manufacturing)  |
| 13. | <b>331</b>        | Primary Metal Manufacturing   |
| 14. | <b>3328</b>       | Coating/Engraving/Heat Treating & Other Activity  |
| 15. | <b>33292</b>      | Small Arms Ammunition Manufacturing   |
| 16. | <b>33293</b>      | Ammunition (excluding Small Arms) Manufacturing   |
| 17. | <b>33294</b>      | Small Arms Manufacturing  |
| 18. | <b>33295</b>      | Other Ordnance & Accessories Manufacturing  |
| 19. | <b>335911</b>     | Storage Battery Manufacturing   |
| 20. | <b>335912</b>     | Primary Battery Manufacturing   |
| 21. | <b>42152</b>      | Coal & Other Mineral & Ore Wholesale  |
| 22. | <b>42244</b>      | Poultry & Poultry Product Wholesale   |
| 23. | <b>42252</b>      | Livestock Wholesale   |
| 24. | <b>4226</b>       | Chemical and Allied Products Wholesale  |
| 25. | <b>4227</b>       | Petroleum & Petroleum Products Wholesale  |
| 26. | <b>441</b>        | Motor Vehicle & Parts Dealers   |
| 27. | <b>442</b>        | Furniture & Home Furnishings Stores   |
| 28. | <b>443</b>        | Electronics & Appliance Stores  |
| 29. | <b>444</b>        | Building Material & Garden Equipment and Supply Dealers   |
| 30. | <b>445</b>        | Food & Beverage Stores  |
| 31. | <b>446</b>        | Health & Personal Care Stores   |
| 32. | <b>447</b>        | Gasoline Stations   |
| 33. | <b>448</b>        | Clothing & Clothing Accessories Stores  |
| 34. | <b>451</b>        | Sporting Goods, Hobby, Book & Music Stores  |
| 35. | <b>452</b>        | General Merchandise Stores  |
| 36. | <b>453</b>        | Miscellaneous Store Retailers except 4533 Used Merchandise Store<br>in a structure existing as of 1 March 2001 that is within 1000 feet of a<br>state designated primary highway and that is accessory to General<br>Merchandise Auction House and does not exceed 10% of the total<br>proposed gross floor area of the General Merchandise Auction House,<br>as shown on the project site plan or occupy more than 2,000 square feet<br>of gross floor area and 453998 General Merchandise Auction Houses<br>within 1000 feet of a state designated primary highway. |

37.	<b>481</b>	Air Transportation
38.	<b>482</b>	Rail Transportation
39.	<b>483</b>	Water Transportation
40.	<b>485</b>	Transit & Ground Passenger Transportation
41.	<b>486</b>	Pipeline Transportation
42.	<b>487</b>	Scenic & Sightseeing Transportation
43.	<b>488</b>	Transportation Support Activities (except 4885 Freight Transportation Arrangement and 488991 Packing & Crating)
44.	<b>491</b>	Postal Service
45.	<b>492</b>	Couriers & Messengers
46.	<b>521</b>	Monetary Authorities - Central Bank
47.	<b>522</b>	Credit Intermediation & Related Activities
48.	<b>523</b>	Security, Commodity Contracts & Like Activity
49.	<b>524</b>	Insurance Carriers & Related Activities
50.	<b>525</b>	Funds, Trusts & Other Financial Vehicles
51.	<b>531</b>	Real Estate
52.	<b>5321</b>	Automotive Equipment Rental & Leasing
53.	<b>5322</b>	Consumer Goods Rental
54.	<b>5323</b>	General Rental Centers
55.	<b>533</b>	Lessors of Other Non-financial Intangible Asset
56.	<b>541</b>	Professional, Scientific & Technical Services
57.	<b>551</b>	Management of Companies & Enterprises
58.	<b>5615</b>	Travel Arrangement & Reservation Services
59.	<b>562</b>	Waste Management & Remediation Services
60.	<b>611</b>	Educational Services
61.	<b>621</b>	Ambulatory Health Care Services
62.	<b>622</b>	Hospitals
63.	<b>623</b>	Nursing & Residential Care Facilities
64.	<b>624</b>	Social Assistance
65.	<b>711</b>	Performing Arts, Spectator Sports & Related Industries
66.	<b>712</b>	Museums, Historical Sites & Like Institutions
67.	<b>713</b>	Amusement, Gambling & Recreation Industries
68.	<b>721</b>	Accommodation
69.	<b>722</b>	Food Services & Drinking Places
70.	<b>812</b>	Personal & Laundry Services
71.	<b>813</b>	Religious, Grant-making, Professional, and Like Organizations
72.	<b>814</b>	Private Households
73.	<b>921</b>	General Government Administration
74.	<b>922</b>	Justice, Public Order & Safety Activities
75.	<b>923</b>	Administration of Human Resource Programs
76.	<b>924</b>	Administration of Environmental Quality Programs
77.	<b>925</b>	Administration of Housing, Urban Planning, Community Development
78.	<b>926</b>	Administration of Economic Programs
79.	<b>927</b>	Space Research & Technology
80.	<b>928</b>	National Security & International Affairs

- 3-A-10-c      **Maximum Density**  
The maximum floor area ratio shall not exceed 0.35, based on net developable area of lot.
- 3-A-10-d      **Lot Size Requirements**  
(1/11/01)
- |                           |                    |
|---------------------------|--------------------|
| 1. Minimum district size: | Not regulated      |
| 2. Minimum lot area:      | 60,000 square feet |
| 3. Minimum lot width:     | 100 feet           |
- 3-A-10-e      **Bulk Regulations**
- |   |         |
|---|---------|
| 1. Maximum building height:   | 40 feet |
| 2. Minimum yard requirements:   |         |
| a. Front yard:  | 40 feet |
| b. Side Yard:   | 25 feet |
| c. Rear Yard:   | 25 feet |
| d. Side and rear yard requirements may be waived where that side or rear yard abuts a railroad right-of-way.  |         |
| e. Where a lot is contiguous to property located in any zoning district whose permitted uses are not of a business, office, commercial, or industrial nature, all buildings shall have a minimum setback of 60 feet from common property lines. |         |
- 3-A-10-f      **Open Space**
1. An open space plan and landscape design program shall be submitted with applications for any land use governed by this district.
  2. 15% of the site shall be landscaped open space.
- 3-A-10-g      **Additional Regulations**  
(4/18/00)  
(4/20/04)  
(01/17/17)
1. **Parking**
    - a. All parking requirements shall be met by off-street, on-site spaces and shall include designated spaces for the handicapped.
    - b. 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.
    - c. Off-street parking spaces shall be accessed via private driveways and shall not be directly accessed from public rights of way.
    - d. 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.
  2. **Buffering and Landscaping**
    - a. Where a parcel 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.
  3. **Storage of Materials and Refuse**
    - a. All refuse containers shall be screened by a solid and opaque wall or fence.

- b. The outdoor area devoted to storage, loading, and display of goods shall be limited to that area so designated on an approved site plan.
  - c. All equipment, materials, and fuel storage tanks shall be contained entirely within a building or screened from public rights-of-way and contiguous parcels which are zoned for residential or institutional uses.
4. Site Plans and Special Use Permits
- a. All uses shall be subject to final site plan approval.
  - b. Final site plans shall include a report indicating compliance with any locally adopted performance standards and land use criteria.
  - c. 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.
  - d. 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.
  - e. 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.
5. 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.
6. Noise
- Sound levels at the perimeter property line of any parcel in the BP zoning district shall not exceed 65 decibels (dba).

3-A-11

Institutional (ITL)

Intent: 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.

The application of this district is intended for those areas within the Berryville Area which are planned for Institutional Uses.

3-A-11-a

Permitted Uses

1. Principal Uses and Structures
  - a. Agricultural, horticultural and farming uses.
  - b. Cemeteries
  - c. Day care centers
  - d. Churches and other places of worship
  - e. Clubs or Lodges (including civic and public benefit organizations)
  - f. Funeral Home
  - g. Government and other public buildings (including police, fire, library, museum, and postal facilities)
  - h. Public utilities uses (sub-stations, pump stations, storage tanks, railroad sidings, etc.) and related easements.
  - i. Recreation facilities, indoor or outdoor; parks, playgrounds, fairgrounds
  - j. Schools, public or private
2. Special Uses and Structures
  - a. Conference centers and retreat houses.
  - b. Hospitals and medical care facilities.
  - c. Housing for low and moderate income households.
  - d. Sports arenas or stadiums as a principal use.

3-A-11-b

Lot Size, Height and Bulk Requirements

1. When the lot size, height, bulk, and setbacks are not explicitly addressed in the Additional Regulations section below, then non-residential uses shall comply with all the requirements of the Business Commercial BC zoning district for conventional lots, including those for lot size, bulk, density, height and open space. Residential uses shall comply with all requirements of the Attached Residential (AR) zoning district.
2. All residential buildings shall be located not closer than 100 feet from a railroad right of way.

3-A-11-c

Open Space

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

3-A-11-d

Additional Regulations

1. General Regulations
  - a. All uses shall be subject to site plan review.

- b. 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.
2. Additional Standards for Child Care Centers and Nursery Schools
    - a. The minimum lot area shall be of such size that 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.
    - 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) per cent 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.
  3. Additional Standards for Public Uses
    - a. 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.
    - b. 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.
    - c. 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 for Public or Private Schools
    - a. 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
    - b. 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.
    - c. Such usable outdoor recreation area shall be delineated on a plat submitted at the time the application is filed.
    - d. For the purpose of these open space provisions, usable outdoor recreation 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) per cent of the combined total areas of the required rear and side yards.
  5. Additional Standards for Conference Centers and Retreat Houses
    - a. No building shall be located closer than 50 feet to any street right-of-way line.
    - b. No building shall be located closer than 100 feet to any lot line that abuts a residential district.

6. Additional Standards for Hospitals & Medical Care Facilities
  - a. 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.
  - b. 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.
  - c. No such use shall be located on a lot containing less than five (5) acres.
7. Additional Standards for Housing Low to Moderate Income Households
  - a. Such Housing shall be occupied only by households having an income not greater than 80% of the median household income in Clarke County.
  - b. Such housing may be in the form of Multi-family, Attached single family, or Detached single family.
  - c. All requirements for such housing, including uses, density, lot size, bulk, height, setbacks, and open space, shall be those found in the AR Residential zoning district with the following requirements for Multi-family development:
    - (1) Maximum Density: 12 units per net developable acre.
    - (2) Minimum District Size: 3 acres.
    - (3) Bulk and Open Space Regulations for Multi-family structures:
      - a. Maximum building height: 35 feet
      - b. Minimum yard requirements:
        - i. Front 25 feet
        - ii. Side 25 feet
        - iii. Rear 45 feet
      - c. Minimum building separation between multi-family structures on the same parcel: 25 feet
      - d. Forty percent (40%) of the site shall be open space.
  - d. Such 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.
  - e. All facilities of the development shall be solely for the use of the residents, employees and invited guests, but not for the general public.



3-A-12 Neighborhood Commercial District (CN)  
 (6/8/99) Intent: This district is intended for the conduct of business to which the public requires a direct and frequent access, but which is: 1. not located on a primary highway with more than 5,000 trips per day; 2. not characterized by constant heavy trucking other than stocking and delivery of retail goods; 3. not characterized by nuisance factors other than incidental light and noise resulting from the congregation of people and passenger vehicles; and 4. appropriate in scale to the residential character of its context.

3-A-12-a Permitted Uses and Structures

(7/21/92)  
 (7/15/97)  
 (10/17/00)  
 (1/18/05)  
 (11/18/08)  
 (2/15/11)  
 (10/21/14)  
 (3/21/17)  
 (6/20/17)  
 (3/21/17)  
 (2/19/19)

1. Principal Uses and Structures
  - a. Cemeteries
  - b. Churches and other places of religious assembly
  - c. Clubs, lodges (private)
  - d. Community centers
  - e. Community Services
  - f. Financial institutions
  - g. Country Inn
  - h. Offices
  - i. Professional services
  - j. Public utility uses and structures, except extensive storage or storage as a primary purpose
  - k. Broadcast Studios
  - l. Restaurants
  - m. Retail and Service Businesses (with a maximum gross floor area of 5,000 square feet for each free-standing business or for each business in a shopping center)
  - n. Volunteer fire and/or rescue squads
  - o. Historic Mill
  - p. Wireless Communication Facilities – Class 1, 2, and 5
  
2. Accessory Uses and Structures
 

Uses and structures which are customarily accessory and clearly incidental and subordinate to the permitted principal uses and structures, including, but not limited to:

  - a. Dwelling unit, provided:
    - (1) Such unit is in conjunction with any principal permitted use or structure;
    - (2) Only one such unit per establishment; and
    - (3) Such unit may be occupied only by the owner, manager, watchman, or caretaker of the establishment, and their immediate family
  - b. Enclosed outdoor storage
  - c. Parking areas and loading spaces
  - d. Towers (in combination with any other supporting structures) less than 50 feet high for Telecommunication Antennae
  - e. Wind Turbine, Small (not more than two structures 100 feet in height or less for a small wind turbine generating electrical energy primarily for on-site usage)
  - f. Co-location
  
3. Special Uses and Structures
  - a. Bowling alleys
  - b. Dance halls
  - c. Farm supplies sales

- d. Firearms sales and services
- e. Gasoline sales
- f. Garages for storage and repair of motor vehicles when in a completely enclosed structure
- g. Pool rooms, billiard parlors, game arcades
- h. Recreational structures and uses (commercial)
- i. Restaurants with entertainment, nightclubs, taverns, bars
- j. Shops for welding, blacksmith, tinsmith, woodworking
- k. Stone cutting, monument works
- l. Storage of lumber, building supplies, heavy machinery
- m. Theaters, indoor
- n. Undertaking establishments, mortuaries, funeral homes
- o. Veterinary services, animal hospitals, Breeding Kennels
- p. Wind Turbine, Small (three or more structures 100 feet in height or less for a small wind turbine generating electrical energy primarily for on-site usage)
- q. Wind Turbine, Small (structures greater than 100 feet in height for a small wind turbine generating electrical energy primarily for on-site usage).

3-A-12-b Minimum Lot Requirements

- 1. Area: 10,000 square feet
- 2. Frontage: 100 feet

3-A-12-c Yard Requirements  
(11/18/03)  
(1/18/11)

- 1. Minimum Yard Requirements
  - a. For parcels of any area
    - i. From all property lines of properties zoned AOC, FOC or Rural Residential: 25 feet
    - ii. From intermittent streams: 50 feet
    - iii: From Perennial streams and springs: 100 feet
  - b. For parcels larger than 3 acres
    - i. From the edge of any street or right-of-way 50 feet or greater in width: 35 feet
    - ii. From the centerline of any street or right-of-way less than 50 feet in width: 60 feet
- 2. Maximum Yard Requirements
  - a. For parcels of less than 1.5 acres
    - i. From the edge of any street or right-of-way 50 feet or greater in width: 35 feet
    - ii. From the center line of any street or right-of-way less than 50 feet in width: 60 feet
  - b. For parcels with frontage on more than one street, the maximum yard 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, and the pattern of development on the subject property and adjacent properties.

3-A-12-d Maximum Height of All Structures: 30 feet and two stories (not including basements as defined by the Commercial Building Code), except as otherwise provided  
(1/18/11)

3-A-12-e  
(10/17/17)

Off Street Parking Exemption for Certain Properties in Millwood

1. Purpose. The following provisions are 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 4-J (Off-Street Parking).
2. Exemption to Off-Street Parking Requirements; applicable properties.
  - a. Permitted uses on the properties listed in subsection (b) shall be exempt from the off-street parking requirements of Section 4-J (Off-Street Parking). Special uses on these properties shall comply with Section 4-J.
  - b. This exemption shall apply exclusively to permitted uses located on the following Neighborhood Commercial (CN) and Historic (H) District-zoned properties:
    - (1) 2009 Millwood Road, Tax Map Parcel #30A-A-60
    - (2) 2037 Millwood Road, Tax Map Parcel #30A-A-59
    - (3) 2038 Millwood Road, Tax Map Parcel #30A-A-28
    - (4) 2045 Millwood Road, Tax Map Parcel #30A-A-58
    - (5) 2049 Millwood Road, Tax Map Parcel #30A-A-57
    - (6) 2053 Millwood Road, Tax Map Parcel #30A-A-56
    - (7) Tax Map Parcel #30A-A-29
    - (8) 15 Tannery Lane, Tax Map Parcel #30A-A-30

3-A-13

Highway Commercial District (CH)

(6/8/99)

Intent: 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.

3-A-13-a

Permitted Uses and Structures

(8/14/95)

(7/15/97)

(5/19/98)

(10/17/00)

(8-21-01)

(11-20-01)

(1/18/05)

(11/18/08)

(2/15/11)

(3/21/17)

(2/19/19)

1. Principal Uses and Structures

- a. Agricultural, horticultural, and forestry uses and structures
- b. Cemeteries
- c. Churches and other places of religious assembly
- d. Clubs, lodges (private)
- e. Community Services
- f. Farm machinery sales and service
- g. Farm supplies sales
- h. Financial institutions
- i. Garages for storage and repair of motor vehicles when in a completely enclosed structure
- j. Gasoline filling stations for servicing and repair of motor vehicles when in a completely enclosed structure
- k. Motor vehicles sales, service, and rental
- l. Motels
- m. Offices
- n. Professional services
- o. Public utility uses and structures, except extensive storage or storage as a primary purpose
- p. Restaurants
- q. Retail and Service Businesses (with a maximum gross floor area of 15,000 sq. ft. for each free-standing business or for each business in a shopping center)
- r. Theaters, indoor
- s. Undertaking establishments, mortuaries, funeral homes
- t. Volunteer fire and/or rescue squads
- u. Veterinary services, animal hospitals, Commercial Boarding Kennels, Breeding Kennels
- v. Wireless Communication Facilities – Class 1, 2, and 5

2. Accessory Uses and Structures

Uses and structures which are customarily accessory and clearly incidental and subordinate to the permitted principal uses and structures, including, but not limited to:

- a. Dwelling unit, provided; and
  - (1) Such unit is in conjunction with any principal permitted use or structure;
  - (2) Only one such unit per establishment; and
  - (3) Such unit may be occupied only by the owner, manager, watchman, or caretaker of the establishment, and their immediate family
- b. Indoor storage
- c. Parking areas and loading spaces
- d. Structures (in combination with any other supporting structures) less than 50 feet high for commercial and noncommercial communication antennae/

- e. Wind Turbine, Small (not more than two structures 100 feet in height or less for a small wind turbine generating electrical energy primarily for on-site usage)
  - f. Co-location
3. Special Uses and Structures
- a. Bowling alleys
  - b. Dance halls
  - c. Enclosed outdoor storage
  - d. Feed and grain mill
  - e. Firearms sales and service
  - f. Mini-storage units, and, as an accessory use,-outdoor vehicle storage
  - g. Pool rooms, billiard parlors, game arcades
  - h. Recreational structures and uses (commercial)
  - i. Restaurants with entertainment, nightclubs, taverns, bars
  - j. Retail and Service Businesses (with a gross floor area of more than 15,000 sq. ft. but less than 50,000 square feet each free-standing business or for each business in a shopping center)
  - k. Shops for welding, blacksmith, tinsmith, woodworking
  - l. Stone cutting, monument works
  - m. Theaters, outdoor
  - n. Truck stop (no motor freight terminal)
  - o. Warehousing
  - p. Wind Turbine, Small (three or more structures 100 feet in height or less for a small wind turbine generating electrical energy primarily for on-site usage)
  - q. Wind Turbine, Small (structures greater than 100 feet in height for a small wind turbine generating electrical energy primarily for on-site usage)
  - r. Wireless Communication Facilities – Class 3 and 4

3-A-13-b

Minimum Lot Requirements

- 1. Area 20,000 square feet
- 2. Frontage: 100 feet

3-A-13-c  
(11-18-03)

Minimum Yard Requirements

- From any street or right-of-way 50 feet or greater in width 35 feet
- From the center line of any street or right-of-way less than 50 feet in width 60 feet
- From all property lines of properties zoned AOC, FOC, or Rural Residential 25 feet
- From all property lines of property zoned Highway Commercial 10 feet
- From intermittent streams 50 feet
- From perennial streams & springs 100 ft.

3-A-13-d

Maximum Lot Coverage by All Impervious Surfaces

85 percent

3-A-13-e  
(1/18/11)

Maximum Height of All Structures

40 feet and three stories (not including basements as defined by the Commercial Building Code), except as otherwise provided

### 3-B APPLICATION OF DISTRICT REGULATIONS

#### 3-B-1 General

Except as hereinafter provided in this Ordinance, the regulations set by this Ordinance within each district shall be minimum or maximum limitations, as appropriate, and shall apply uniformly to each class or kind of structure or land.

#### 3-B-2 Use, Occupancy and Construction

Except as otherwise provided in Section 4-K 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 district in which it is located.

#### 3-B-3 Height, Bulk, Density, Lot Coverage, Yards and Open Spaces

No building or other structure shall hereafter be erected or altered:

- a. To exceed the height or bulk as herein required;
- b. To accommodate or house a greater number of families or to have greater floor area than as herein required;
- c. To occupy a greater percentage of lot area than as herein required;
- d. To have narrower or smaller rear yards, front yards, side yards, or open spaces than as herein required.
- e. To be in any other manner contrary to the provisions of this Ordinance.

#### 3-B-4 Required Yard, Open Space, Area, Parking or Loading Space for One Structure, or Use, Not be Used to Meet Requirements for Another

No part of a yard or other open space, area, or off-street parking or loading space required about or in connection with any building for the purpose of complying with this Ordinance, shall be included as part of a yard, open space, area, or off-street parking or loading space similarly required for other building.

#### 3-B-5 Reduction of Lots or Areas Below Minimum Prohibited

No lot or area existing at the time of passage of this Ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. Lots or other areas created after the effective date of this Ordinance shall meet at least the minimum requirements established by this Ordinance.

#### 3-B-6 Reduction of Yards Below Minimum

No yard existing at the effective date of this Ordinance shall be, by the construction of a building, reduced in dimension below the minimum requirements set forth herein, unless such yard restrictions reduce the buildable area to unreasonable dimensions. In such cases, the Planning Commission shall determine the minimum requirements consistent with provision of adequate light and air, prevention of loss of life, health, or property from fire or other dangers, and prevention of danger in travel. Yards in lots created after the effective date of this Ordinance shall meet at least the minimum requirements established by this Ordinance.

#### 3-B-7 Reduction of Required Off-Street Parking or Loading Space

No existing off-street parking or loading space, and no off-street parking or loading space hereafter provided, which meets all or part of the requirements for off-street parking or loading space set forth in these regulations, shall be reduced or eliminated so that resulting reduction results in area not meeting requirements or standards contained herein. Reductions may be permitted where spaces are no longer required by these regulations or alternative spaces meeting the requirements of these regulations are provided.

3-B-8            Exception to Minimum Area and Frontage Regulations for Certain Residences Taxed in 1975 or for which Building Permit Issued Prior to August 13, 1974  
Where two or more residences are situated so that a residence or residences cannot be subdivided and separated from the other or others without violating the minimum lot area, then a residence or residences may be subdivided off into separate lots without complying with the minimum lot area and frontage requirements. Residences allowed to be subdivided off and excepted from complying with the minimum lot area and/or frontage requirements as aforesaid shall include only residences taxed by the County in 1975, and/or any residence built now or in the future for which a building permit was issued prior to August 13, 1974 and which permit had been kept valid, current, and unexpired until the completion of the residence. Motel units must comply with the minimum lot area.

### 3-C    SUPPLEMENTARY REGULATIONS

(4/21/92)

(7/20/93)

#### 3-C-1            General

The following regulations are supplementary regulations for districts listed in the Schedule of District Regulations, and are in addition to other provisions and requirements of this Ordinance.

#### 3-C-2            Uses in Various Districts

(10/18/94)

(5/16/95)

##### 3-C-2-a            Amusement Parks

Minimum required lot area for an amusement park shall be five acres. Equipment and facilities shall not be located closer than 500 feet to any residential district boundary.

##### 3-C-2-b            Bio-Solids Land Application

(01/25/00)

1. For review and fee purposes, a proposal to apply Bio-Solids shall be considered a site plan subject to administrative approval by the Zoning Administrator.
2. The following information shall be submitted to the Zoning Administrator when seeking administrative site plan approval for Bio-Solids Land Application:
  - a. The name, telephone number, and address of the applicant;
  - b. A brief description of the applicant's business;
  - c. Tax map parcel number and the number of acres of the property on which the Bio-Solids are to be applied;
  - d. Complete copies of application and other related materials required by the state permitting authority to be submitted to the County at the time of state submission;
  - e. A statement signed by the property owner(s) authorizing representatives of Clarke County access anywhere on the owner's land for the purpose of inspecting the Land Application process and the right to sample Bio-Solids when desired;
  - f. Proof of liability insurance in the aggregate amount of \$1,000,000.00;
  - g. A Nutrient Management Plan for the subject property prepared by an individual certified by the Commonwealth of Virginia as a Certified Nutrient Management Planner, who meets the standards and criteria contained in the Virginia Nutrient Management Training & Certification Regulations. Plans must be no more than three years old;
  - h. The source of the biosolids, including the name, address, and telephone number with a contact person of the source, within 48 hours of application.

3. Bio-Solids Land Application shall be conducted in accord with the following standards:
  - a. Bio-solids shall not be applied in areas with a slope exceeding 15% or where bedrock is shallow or the water table is high.
    - (1) Depth to Bedrock: Biosolids may not be applied to soil types with a depth to bedrock of less than 30 inches as identified in Table 16 of the Soil Survey of Clarke County, Virginia (USDA, 1982). These include the following soil types: 1B, 1C, 5B, 5C, 7D, 8D, 9D, 12D, 12E, 13D, 13E, 14C, 15B, 15C, 17B, 28B, 28C, 29C, 32B, 41C, 42C, 43C, 58D.
    - (2) Depth to High Water Table: Biosolids may not be applied to soil types with a depth to high water table of less than 30 inches as identified in Table 16 of the Soil Survey of Clarke County, Virginia (USDA, 1982). These include the following soil types: 1B, 1C, 24, 25B, 26B, 26C, 27B, 30B, 56.
  - b. If an applicator believes the Soil Survey is inaccurate, the applicator shall demonstrate to the Zoning Administrator that a minimum depth of 30 inches to bedrock or ground water exists. Demonstrating adequate depth shall be determined by auger borings. Auger borings shall be collected in the following manner:
    - (1) To determine depth of bedrock, there shall be at least one boring for each soil type in question with a minimum of one boring per 10,000 square feet.
    - (2) To determine depth to high water table there shall be at least one boring for each soil type in question with a minimum of one boring per 10,000 square feet. Borings shall be placed in the lowest areas of the soil type. Borings shall be exactly 30 inches deep. Groundwater may be assumed to be within two feet of the soil surface if any water appears in the bottom of the hole after 30 minutes (one hour if the soil is "heavy textured", i.e., high in clay content).
    - (3) Bio-Solids shall not be applied within the EPA designated Sole Source Aquifer of Prospect Hill Spring. This encompasses the surface water drainage area of Page Brook, and the Spring Protection Overlay District.
    - (4) In addition to the setback requirements established by the Virginia Department of Health, as listed in items one through six below, the additional setbacks, listed in items seven through seventeen below, shall be complied with:
      - a. occupied dwellings 200 feet  
(unless waived in writing by the owner and occupant of the dwelling)
      - b. property line 100 feet  
(unless waived in writing by the owner of the adjacent property)
      - c. public rights of way 10 feet
      - d. rock outcrop 25 feet
      - e. agricultural drainage ditches with slopes < 2% 10 feet
      - f. private wells 100 feet
      - g. Intermittent Streams or drainage swales 50 feet
      - h. Perennial Streams 100 feet
      - i. Parcels containing public water sources (including wells, springs, or surface water intakes) 1000 feet
      - j. Shenandoah River flood plain 100 year
      - k. Sinkholes (sinkholes as defined in the Clarke Co. Soil Survey) 100 feet
      - l. Springs-perennial
 

-above spring	500 feet
-below spring	200 feet



- m. incorporated town limits 1000 feet
- n. the Berryville Annexation Area 1000 feet
- o. residential zoning district 1000 feet
- p. parcels 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 1000 feet
- q. other human created, animal created, or natural features that could allow bio-solids to migrate to surface water or ground water to be identified by the applicator and the Zoning Administrator (including but not limited to perc. holes, old foundations, pulled up trees, animal holes on slopes, etc.) 100 feet

- (5) Land proposed for Bio-Solids Land Application shall be inspected before and during the application of Bio-Solids by a permanent committee. The committee shall consist of the Zoning Administrator, the County Natural Resources Planner, the local Extension Agent, the local Soil Conservationist, one person from the Planning Commission’s Agriculture Committee, and two persons appointed by the Board of Supervisors.
- (6) The requirements of the Stream Protection Overlay District that pertain to retention of existing vegetation shall also apply to setback areas adjacent to perennial springs and sinkholes.
- (7) The property proposed for bio-solids application is in the Clarke County Agricultural District or the owner of said property has requested, in writing, the inclusion of the property in the Clarke County Agricultural District;
- (8) The bio-solids applicator shall notify the Clarke County 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. a field map of the lands to which the biosolids will be applied;
  - b. how long the process is estimated to continue, and
  - c. 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.

- (9) The Zoning Administrator reserves the right to conduct random sampling of biosolids material. Bio-solid 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.

4. Suspension of Applicator Operation

- a. If the Zoning Administrator determines that a bio-solids applicator has not complied with the provisions of Federal, State, or local regulations or ordinances, the Zoning Administrator shall issue the applicator a Notice of Suspension from continued operation within Clarke County for a six-month period. This Notice shall be sent by certified mail to the last known address of the applicator. Following the expiration of the suspension, the applicator shall meet with the Zoning Administrator and review the improvements to their operations. If the Administrator concludes that the applicator will operate in a manner consistent

with all regulations or ordinances, the Administrator shall issue the applicator a Notice of Resumption of their operations within Clarke County. Any subsequent suspension of the same applicator shall be for a period of time set by the Board of Septic and Well Appeals.

- b. An applicator may appeal a Notice of Suspension to the Clarke County Board of Septic & Well Appeals. Such appeal shall be filed with the clerk of the board in writing within 30-days of the action of the Zoning Administrator. The appeal shall include scientific data demonstrating the applicator's compliance with all regulatory requirements. An owner of property adjacent to a bio-solids application site may appeal a Notice of Resumption to the Board of Septic & Well Appeals. Such appeal shall be filed with the clerk of the board in writing within 30-days of the action of the Zoning Administrator. The appeal shall cite reasons why the subject applicator should not be allowed to resume bio-solids applications.

3-C-2-c  
(8/19/08)

Camps, Summer:

Applicants for such uses shall demonstrate that all applicable regulations of the Department of Health and Commonwealth of Virginia (Specifically including Title 35, Code of Virginia), have been met. No such activity shall be permitted on a parcel of land less than three acres.

3-C-2-d

Cemeteries:

No grave, mausoleum, or other interment site shall be located nearer than 100 feet to a potable water supply source. 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-C-2-e

Circuses, Carnivals, and Similar Temporary Activities:

Proposed sites for such activities shall have direct access to a major street or highway, be of a size and shape appropriate for the proposed use, and be dimensioned or located in such a way as to provide spatial or other buffering to protect adjacent development from potentially adverse effects. The plan shall provide for safe and convenient parking, circulation, and ingress/egress to adjacent streets and highways.

3-C-2-f

Club or Lodge (Private):

No such activity shall be permitted on a parcel of land less than three acres.

3-C-2-g  
(9/18/90)  
(6/15/04)  
(1/16/07)  
(1/18/11)

Country Inn:

1. An establishment offering, for compensation to the public, not more than 15 guest rooms for transitory lodging or sleeping accommodations of not more than 14 days of continuous occupancy.
2. As accessory uses to a Country Inn, meal service and/or permanent places(s) of public assembly may be provided. The total maximum capacity of areas used for meal service and/or permanent places of public assembly shall be 149 people and as regulated by the Virginia Department of Health.
3. 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.

4. 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 4-J of this Ordinance;
5. 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;
6. The structure satisfies all applicable requirements of the Commonwealth of Virginia and the local Health Official;
7. All applicants for a country inn in an AOC zoning district shall accept the fact that adjoining agricultural land, due to fertilizing, manure spreading, lime spreading, feedlots, and other farming methods may produce offensive odors.
8. In the AOC or FOC Zoning Districts, a country inn shall be allowed only as an accessory use to a Single Family Detached Dwelling. Guestrooms shall be located in or attached to such a dwelling. For parcels larger than 20 acres, the Single Family Detached Dwelling may be the principal dwelling on the property and/or a tenant house. The defined accessory uses of meal service and/or permanent place(s) of public assembly shall be located in or attached to such a Single Family Dwelling.
9. Events, as defined by Clarke County Code Chapter 57, shall obtain all necessary approvals.

3-C-2-h

(10/19/04)  
(4/18/06)  
(10/18/11)

Dwellings of less than 600 square feet of Living Space:

One such dwelling, occupied by not more than two people, is allowed on parcels of six acres or more. Such dwellings shall be on the same parcel as a Single-Family Detached Dwelling Unit with more than 600 square feet of Living Space. For parcels not under permanent conservation easement, such dwellings shall be located within 300 feet of a Single-Family Detached Dwelling Unit with more than 600 square feet of Living Space. Living Space is space within a dwelling utilized for living, sleeping, eating, cooking, bathing, washing and sanitation purposes.

3-C-2-i

(16 May 06, adopted)  
(16 Nov 06 effective)

Dwellings, Single Family:

The number of persons, who are permanent full-time residents occupying a single-family dwelling served by an on-site sewage disposal system with a Virginia Department of Health Permit, shall not exceed two for the number of bedrooms allowed by that permit.

1. 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.
2. If the Health Department denies the expansion, the owner of the property shall apply for variance from Board of Septic and Well Appeals 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-C-2-j

(2/15/94)  
(11/17/95)  
(3/16/99)

Extraction of Natural Resources: Limited:

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.

1. 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 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.
2. Required Site Plan Elements
- a. The Site 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 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 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 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.
3. Asphalt production facilities are allowed as an accessory use to a stone quarry.

3-C-2-k

(8/16/94)  
(6/21/05)  
(2/16/16)

Forestry Uses and Structures:

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, that is reviewed by the County 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.

1. 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.

2. Pre-Harvest Plan

a. The Pre-Harvest Plan shall include a map identifying:

- (1) property boundaries,
- (2) streams and drainages,
- (3) vegetated buffers as described in Section 3-A-2-f,
- (4) road and trail locations,
- (5) stream and drainage crossings,
- (6) log landings, and mill seats,
- (7) streamside Management Zones (SMZs), and
- (8) other environmental concerns,

b. As appropriate, written notes shall address:

- (1) road and trail specifications,
- (2) harvesting equipment to be used,
- (3) timing of harvest,
- (4) logging contract specifications,
- (5) special Planning for wet areas,
- (6) obstructions such as rock outcroppings, and
- (7) when and where BMPs will be installed.

3. The guidelines in the “Virginia’s Forestry Best Management Practices for Water Quality, BMP Field Guide” July 2002 (and 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:

- a. haul roads
- b. skid trails
- c. haul Road and Skid Trail Drainage

- d. log decks, Landings, and Mill Seats
  - e. 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,
  - f. buffer area as described in section 3-C-2-k-(6),
  - g. 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
  - h. seeding bare soil.
4. A buffer shall be maintained, for commercial forestry activities with a Pre-Harvest Plan, 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).
- a. no skid trails shall be located within buffer areas,
  - b. tree removal in buffers shall be with directional felling and winching,
  - c. within this managed area up to 50% of the basal area or up to 50% of the forest canopy can be harvested,
  - d. salvage shall be conducted in accord with recommendations outlined in the BMP manual,
  - e. 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,
  - f. equipment shall not be operated in or adjacent to the buffer area for salvage and sanitation purposes when soils are saturated, and
  - g. areas of damage of less than 1 acre may be completely harvested.
5. Revegetation, as described in Section 3-A-2-f-(7), shall be required for all areas where any clearing occurs in excess of the standards for required vegetative buffers.

3-C-2-1 Gasoline Pump Canopies: Canopies covering gasoline pumps shall not exceed a height of 18  
(10/18/11) feet, 6 inches.

3-C-2-m Health Care Structure, Temporary Family  
(11/16/10)

1. A Temporary Family Health Care Structure 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 residence as a permitted accessory use. Such a structure shall comply with all setback requirements that apply to the primary structure and with any maximum floor area ratio limitations that may apply to the primary structure. Only one family health care structure shall be allowed on a lot or parcel of land.
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 Virginia Code § 63.2-2200, as certified in a 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 (§ 36-70 et seq.) and the Uniform Statewide Building Code (§ 36-97 et seq.). Placing the temporary family health care structure on a permanent foundation shall not be required or permitted.

3. 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.
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 Zoning Administrator may revoke the permit granted pursuant to subsection C 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.

### 3-C-2-n

(5/20/86)  
(7/15/97)  
(6/15/04)  
(10/17/06)  
(8/17/10)

### Home Occupations

1. A Home Occupation must be conducted by the residents of the dwelling. In addition, such residents must be the holder of the Business License for the occupation.
2. A Home Occupation Permit, signed by the residents of the dwelling (and the owner of the dwelling, if different), must be approved by the Zoning Administrator. In addition, home occupations shall have all permits and licenses as needed from the Clarke County Board of Supervisors, Clarke County Building Department, the Virginia Department of Health, and any other appropriate federal and state agency.
3. No more than one person, other than members of the family residing on the premises of less than six acres, shall be employed by such occupation and working on the premises on a regular basis. There shall not be more than two such persons on premises of six acres or more;
4. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants;
5. No more than 25 percent of the floor area of the dwelling unit, or not more than 25 percent of said floor area if the home occupation is conducted in an accessory building, shall be used in the conduct of the home occupation;
6. A bed and breakfast may use a maximum of three guestrooms for the conduct of the home occupation, regardless of the floor area of the dwelling unit. As an accessory use to a bed & breakfast, breakfast meal service may be provided only for overnight guests.

7. The number of clients, guests, or students (not residing in the home) of any occupation involving public assembly (either in a permanent or temporary structure, or out of doors) shall not exceed six people on parcels in the Rural Residential Zoning District, twelve people on parcels of less than 6 acres in the AOC or FOC Zoning Districts, or twenty-four people on parcels of 6 acres or more in the AOC or FOC Zoning Districts. Public assembly events, on parcels in the Rural Residential Zoning District, of more than three such persons or, on parcels in the AOC or FOC Zoning Districts, of more than six such persons, shall not occur on more than two days a month. The maximum number of people allowed shall be counted at any one point of time;
8. There shall be no change in the outside appearance of the building or premises, nor other visible evidence of the conduct of such home occupation;
9. Any need for parking generated by the conduct of such home occupation shall be met off the street and other than in a required front yard;
10. 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 unit, if the occupation is conducted in other than a single family residence. In the case of electrical interference, no equipment or process shall be used that creates audible or visual interference in any radio or television receivers off the premises or causes fluctuations in line voltage off the premises;
11. Use and storage of equipment and storage of vehicles
  - a. On parcels of less than 6 acres:
    - (1) The use and storage of all equipment and the storage of vehicles, taxed by the Commissioner of the Revenue as Machinery and Tools, shall occur within a totally enclosed structure.
    - (2) The area of such structure shall be included in the 25% limit established in section 3-C-2-n-5 above.
  - b. On parcels of 6 acres or more:
    - (1) The use and storage of all equipment and the storage of vehicles, taxed by the Commissioner of the Revenue as Machinery and Tools, if not in an enclosed structure, shall be shielded from view from adjacent parcels, public rights of way, and private access easements by solid fencing, evergreen trees, and/or topographic features.
    - (2) The area, not in an enclosed structure, used for the storage of such vehicles (described in section 10-B-1, above) shall not be included in the 25% limit established in section 3-C-2-n-5 above.
  - c. On parcels in the Rural Residential Zoning District:
    - (1) The storage of licensed business vehicles shall be limited to one motorized vehicle and one utility trailer (length less than 20 feet).
    - (2) No vehicles identified by the Clarke County Commissioner of the Revenue as Commercial/Industrial vehicles or vehicular Business Equipment (bull-dozers, back-hoes, etc.) shall be stored.
    - (3) The area used for the storage of licensed business vehicles shall not be included in the 25% limit established in section 3-C-2-n-5 above.
  - d. On parcels of less than 6 acres in the AOC or FOC Zoning Districts:
    - (1) The storage of licensed business vehicles shall be limited to one motorized vehicle and one utility trailer (length less than 20 feet).  
The storage of vehicles identified by the Clarke County Commissioner of the Revenue as Commercial/Industrial shall be limited to one such vehicle. The storage of Industrial trailers (20 feet or longer) shall be limited to one such



vehicle. The storage of vehicular Business Equipment (bull-dozers, back-hoes, etc.) shall be limited to one such vehicle. All such commercial/Industrial vehicles, Industrial trailers, and vehicular Business Equipment shall be shielded from view from adjacent parcels, public rights of way, and private access easements by solid fencing, evergreen trees, and/or topographic features.

(2) The area used for the storage of licensed business vehicles and Commercial/Industrial vehicles shall not be included in the 25% limit established in section 3-C-2-n-5 above.

e. On parcels of 6 acres or more in the AOC or FOC Zoning Districts:

(1) The storage of licensed business vehicles shall be limited to three motorized vehicles and three utility trailers (length less than 20 feet). Any combination of three or more such vehicles and/or trailers stored on the property shall be shielded from view from adjacent parcels, public rights of way, and private access easements by solid fencing, evergreen trees, or topographic features.

(2) The storage of vehicles identified by the Clarke County Commissioner of the Revenue as Commercial/Industrial shall be limited to three such vehicles. The storage of Industrial trailers (20 feet or longer) shall be limited to three such vehicles. The storage of vehicular Business Equipment (bull-dozers, back-hoes, etc.) shall be limited to three such vehicles. All such Commercial/Industrial vehicles, Industrial trailers, and vehicular Business Equipment shall be shielded from view from adjacent parcels, public rights of way, and private access easements by solid fencing, evergreen trees, and/or topographic features.

(3) The area used for the storage of licensed business vehicles and Commercial/Industrial vehicles shall not be included in the 25% limit established in section 3-C-2-n-5 above.

12. The limits described in this section shall not be exceeded regardless of whether there is one or multiple home occupations conducted in the residence; and

13. The following uses are not allowed as home occupations:

- (1) Assisted living facilities for three or fewer adults,
- (2) boarding and rooming houses, tourist homes, private educational institutions,
- (3) private educational institutions, and
- (4) vehicle repair or vehicle towing.

14. A Breeding Kennel is allowed as a Home Occupation in the AOC and FOC Zoning Districts when such facility houses 10 or fewer canine animals older than 6 months. Kennels housing five to 10 animals older than 6 months shall be setback 175 feet from property lines.

15. Commercial Boarding Kennel is allowed as a Home Occupation in the AOC and FOC Zoning Districts when such facility houses less than five canine and/or feline animals older than six months.

3-C-2-o

Hospitals:

Minimum required lot area for a hospital shall be two acres.

3-C-2-p

Hotels:

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

3-C-2-q  
(05/16/95)  
(8/22/00)

## Intensive Livestock, Dairy, or Poultry Facility

1. Minimum Setbacks:
  - a. The setback for intensive livestock, dairy, and poultry structures shall be at least 3,000 feet for swine and 1,000 feet for all other animals from:
    - (1) incorporated town limits;
    - (2) the Berryville Annexation Area;
    - (3) residential zoning districts;
    - (4) parcels 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;
    - (5) parcels containing public water sources (including wells, springs, or surface water intakes).
  - b. The setback for intensive livestock, dairy, poultry structures shall be at least 1,000 feet for swine and 300 feet for all other animals from property lines and public rights-of-way.
  - c. The setback for intensive livestock, dairy, poultry structures shall be at least 100 feet from perennial streams, perennial springs, private wells, sinkholes, and 50 feet from intermittent streams (streams and springs as identified by U.S. Geological Survey). Existing healthy trees, with a diameter of at least six inches, in the perennial spring and sinkhole setback areas shall not be removed.
  - d. The setbacks for intensive livestock, dairy, poultry structures shall be applied to all new free-standing structures. The setbacks for intensive livestock, dairy, poultry structures 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. The setbacks for intensive livestock, dairy, poultry structures for additions to existing structures that were designed for more than 50 Animal Units may be less than as specified in Sections 3-C-2-r(1)-(a), (b), and (c) above, but shall be not less than the setback of the existing structures or 50 feet, whichever is less.
2. Nutrient Management Plan
  - a. No intensive 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.
  - b. The nutrient management plan shall be reviewed and updated every three years by an agent of the Virginia Department of Conservation and Recreation.
3. Development Plan

Before any permanent structure for an intensive livestock operation is constructed, the owner of such facility shall file with the Zoning Administrator a Development Plan. If such a Development Plan shows or includes the following, a Zoning Permit shall be issued:

  - a. the number, size, and location of livestock, dairy, or poultry structures, and number of associated animals planned for the subject parcel;
  - b. 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;
  - c. a copy of the approved Nutrient Management Plan for the intensive facility and any subsequent revisions;
  - d. 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; and

- e. 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.

3-C-2-r  
(11/15/05)

**Livestock/Animal Units Limits (Residential)**

- 1. no livestock on any parcel of less than 1 acre;
- 2. a maximum of .5 animal units for any parcel of 1 acre to 1.999 acres;
- 3. no livestock limits for parcels of 2 acres or more;
- 4. no livestock limits for 4H/Future Farmer of America preparation animals; and
- 5. no limits on poultry.

3-C-2-s  
(6/19/92)

**Manufactured Homes (Mobile Homes):**

Manufactured homes, permitted in the AOC and FOC zoning districts only, shall be 19 or more feet in width, on a permanent foundation with transportation tongue and axles removed, and subject to all other zoning standards applicable to conventional, site-built single family dwellings within the AOC and FOC districts. Skirting requirements and other applicable manufactured housing regulations of the Virginia Uniform Statewide Building Code shall be met.

3-C-2-t  
(5/19/98)

**Mini-storage units and, as a accessory use, outdoor vehicle storage:**

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.

3-C-2-u  
(7/15/97)  
(4/18/00)  
(8/21/01)  
(11/20/01)  
(11/18/03)  
(7/21/15)  
(6/20/17)  
(2/19/19)

**Wireless Communications Facilities (WCFs):**

- 1. Purpose and objectives; Telecommunications Engineering Study.
  - a. Purpose. The purpose of this section and the design standards in §6-H-12 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:
    - (1) To reduce the adverse visual impact of such facilities
    - (2) 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
    - (3) To promote alternative stealth structure design
    - (4) 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 Code of Virginia §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.
  
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, §6-H-12, 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.
  - 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.
    - (1) Freestanding. A zoning permit issued by the Zoning Administrator shall be required for freestanding antenna support structures.

- (2) 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 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.
- a. 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, §6-H-12, and other applicable sections of the Zoning Ordinance:
    - (1) Class 3 & 4 WCFs.
    - (2) Any Class 3 or Class 4 WCF which is being rebuilt on the same parcel to accommodate the co-location of an additional WCF. The rebuilt WCF shall meet all requirements of this section and §6-H-12. There shall only be one (1) WCF per Special Use Permit in the designated compound area.
  - b. 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 §6-H-12-a-5 of this Ordinance.
  - 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 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.

**ZONING DISTRICTS FOR WIRELESS COMMUNICATION FACILITIES**

<b>Class</b>	<b>AOC</b>	<b>FOC</b>	<b>CH</b>	<b>CN</b>	<b>RR</b>	<b>Historic Overlay*</b>	<b>Historic Access Overlay*</b>
Co-Location	A	A	A	A	A	A	A
1 (max 50')	P	P	P	P	P	X	P
2 (max 80')	P	P	P	P	P	X	P
3 (max 120')	S	S	S	X	X	X	S
4 (max 199')	S	S	S	X	X	X	S
5 (am. radio)	P	P	P	P	P	P	P
6 (antenna support structure)	P	P	P	P	P	X	P

P - Permitted/by-right

A - Accessory use

S - Special Use

X - Prohibited use

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

**SUMMARY OF WIRELESS COMMUNICATION  
FACILITY CLASSES**

<b>Class</b>	<b>Max Height</b>	<b>Approval Authority</b>	<b>Special Use Permit Required?</b>	<b>Site Plan Required?</b>	<b>Engineering Review Required?</b>	<b>Design</b>
1	50 feet	Zoning Administrator	No -by right use	Yes*	Zoning Administrator's discretion	Monopole or stealth w/surface mounted antennas
2	80 feet	Planning Commission	No -by right use	Yes	Yes	Monopole or stealth w/surface mounted antennas
3	120 feet	BOS with PC review	Yes	Yes	Yes	Monopole
4	199 feet	BOS with PC review	Yes	Yes	Yes	Monopole
5	Per State Law	Zoning Administrator	No-by right use	Yes*	Zoning Administrator's discretion	Amateur radio antenna per State Law
6	80 or 100 feet	Zoning Administrator	No	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 per §6-C.

NOTE – Co-location of new antennas and equipment on existing WCFs and other structures are approved administratively by the Zoning Administrator.

- 3-C-2-v            **Motels:**  
Minimum lot area required for a motel shall be 2,000 square feet per unit exclusive of proprietor's dwelling, office and accessory building.
  
- 3-C-2-w            **Motor Vehicle Sales and Service:**  
No vehicles shall be parked or displayed in any required front, side, or rear yard.
  
- 3-C-2-x            **Noncommercial telecommunication antennae, structures up to 80 feet high.**  
{This section and other applicable sections expired on October 18, 2014.}
  
- 3-C-2-y  
    (6/15/05)  
    (2/16/16)        **Siting of Propane Tanks:**  
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.
  
- 3-C-2-z            **Public and Semi-Public Uses:**
  1. Private Schools - No private school shall be permitted on a parcel of land less than three acres in size. All applicable Commonwealth of Virginia, (specifically including Title 22 and Title 35, Code of Virginia), and the County Health Department regulations shall be met.
  2. Churches - No church, parish house, convent, monastery, or similar institution, shall be constructed on a parcel of land less than two acres in area.

- 3-C-2-aa  
(1/20/09) Public Assemblies  
The minimum area for a Public Assembly is a parcel, or multiple adjoining parcels of land under the same ownership, of at least six acres.
- 3-C-2-bb  
(7/20/93) Public Utility Uses:  
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 or a parcel of land containing such activities.
- 3-C-2-cc Racetracks: Minimum required lot area for a racetrack should be 10 acres.
- 3-C-2-dd  
(3/16/99) Recreational Facilities as an Institutional Use:  
No recreational activity shall be permitted that has the potential of adversely affecting the use and enjoyment of properties within residential districts. No minimum lot area or width is required.
- 3-C-2-ee  
(8/19/08)  
(3/16/10) Retail and Service Businesses that are permitted principle uses;  
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.
- 3-C-2-ff  
(3/16/10) Retail and Service Businesses that are permitted special uses;  
The total gross floor area is limited to 3,000 sq. ft. 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.
- 3-C-2-gg  
(6/15/10) Solar Power Plant, Large Photovoltaic  
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 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 Criteria  
The following topics shall be addressed in a Special Use application for such plant in addition to the Special Use Review Criteria in Section 5-B-5:
  - 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 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.

3-C-2-hh  
(9/17/96)  
(5/15/07)

Special Trade Contractor:

The maximum structure size is 1,800 sq ft. The minimum lot size is two acres. Structure setbacks are as established in the zoning district regulations. For such a use with access to a Primary Highway with more than 5,000 vehicle trips a day, the maximum structure size is 3,000 sq ft. For structures larger than 1,800 sq ft, the minimum parcel size is 10 acres and the minimum building setbacks is 200 feet from all property lines, rights of way, and access easements. 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 parcels, public rights of way, and private access easements by solid fencing, evergreen trees, and/or topographic features.

3-C-2-ii

Theaters:

Indoor - Minimum required lot area for an indoor theater shall be one acre. Outdoor, Motion Picture - Minimum area of site shall be five acres. Relation to Major Street; Entrances and Exits: The site shall be adjacent to a public road or roads and entrances and exits shall be from said roads. Waiting Areas: Off-street parking or storage lanes for waiting patrons shall be available to accommodate not less than 30% of the vehicular capacity of the theater unless at least six entrance lanes, each with a ticket dispenser, are provided in which case the amount may be reduced to not less than 10%. Orientation of Screen: The screen shall be located as to be reasonable non obtrusive to view from any major street, public area, or scenic lookout. A wall or fence of adequate height shall be provided to screen the patrons and cars in attendance at said theater from the view of the surrounding property. The perimeter of said fence shall be landscaped with suitable plants and shrubbery to preserve as far as possible the harmony with the appearance of the surrounding property. Individual loud speakers for each car shall be provided and no central loudspeaker shall be permitted. Exits and aisles and passageways shall be kept adequately lighted at all times when open to the public. Artificial lights shall be provided whenever natural light is inadequate.

3-C-2-jj  
(10/17/00)  
(7/18/06)  
(8/17/10)

Veterinary Services, Animal Hospitals, Commercial Boarding Kennels, Breeding Kennels, Animal Shelters:

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 for kennels and shelters 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 kennel staff during the hours of enclosed confinement.
3. A Breeding Kennel or Commercial Boarding Kennel is allowed only as an accessory use to a Single family Detached Dwelling. 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.

3-C-2-kk

Wayside Stands:

Structures for wayside stands shall not exceed 400 square feet in floor area nor be closer than 35 feet to the front property line or side property line adjoining a street. Entrances and exits shall be so located as to provide safe ingress and egress from roads and shall be channeled to prevent unobstructed ingress and egress to the premises.

3-C-2-ll  
(11/18/08)

Wind Energy Systems, Small

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 Virginia's net metering laws (Code of Virginia (COV) § 56-594), serving as an independent source of energy, or serving in a hybrid system.
2. 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 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.
3. 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.
4. 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 with 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.

3-C-2-mm  
(12/15/09)  
(07/21/15)

#### Wineries, Farm

1. Permitted Activities. A Farm Winery may include the following activities:
  - a. the production and harvesting of fruit and other agricultural products and the manufacturing of wine;
  - b. the on-premises sale, tasting, or consumption of wine during regular business hours within the normal course of business of the licensed farm winery;
  - c. the direct sale and shipment of wine by common carrier to consumers;
  - d. the sale and shipment of wine to the Alcoholic Beverage Control Board, licensed wholesalers, and out-of-state purchasers;
  - e. the storage, warehousing, and wholesaling of wine;
  - f. the sale of wine-related items that are incidental to the sale of wine;
2. Zoning Approval for Farm Wineries. Prior to commencing operations, the owner of a farm winery shall obtain zoning approval from the Department of Planning and a business license from the Commissioner of Revenue. As a prerequisite for zoning approval, the owner shall provide copies of approved private well and onsite septic system permits issued by the Virginia Department of Health for both domestic and process operations.

3. Special Events Conducted at Farm Wineries. The owner or occupant of the property shall obtain such permit as required by Clarke County Code Chapter 57 (unless exempt under the provisions of §57.3.2) for an activity/event that is not primarily the on-premises sale, tasting, or consumption of wine during regular business hours within the normal course of business of the farm winery, but which constitutes a Special Event as defined in §57.2.

3-C-2-nn  
(07/21/15)

#### Breweries, Farm

1. Permitted Activities. A Farm Brewery may include the following activities:
  - a. The production and harvesting of barley, other grains, hops, fruit, or other agricultural products and the manufacturing of beer;
  - b. The on-premises sale, tasting, or consumption of beer during regular business hours within the normal course of business of such licensed brewery;
  - c. The direct sale and shipment of beer in accordance with Title 4.1 and regulations of the Alcoholic Beverage Control Board;
  - d. The sale and shipment of beer to licensed wholesalers and out-of-state purchasers in accordance with Title 4.1, regulations of the Alcoholic Beverage Control Board, and federal law;
  - e. The storage and warehousing of beer in accordance with Title 4.1, regulations of the Alcoholic Beverage Control Board, and federal law; or
  - f. The sale of beer-related items that are incidental to the sale of beer.
2. Zoning Approval for Farm Breweries. Prior to commencing operations, the owner of a farm brewery shall obtain zoning approval from the Department of Planning and a business license from the Commissioner of Revenue. As a prerequisite for zoning approval, the owner shall provide copies of approved private well and onsite septic system permits issued by the Virginia Department of health for both domestic and process operations.
3. Special Events Conducted at Farm Breweries. The owner or occupant of the property shall obtain such permit as required by Clarke County Code Chapter 57 (unless exempt under the provisions of §57.3.2) for an activity/event that is not primarily the on-premises sale, tasting, or consumption of beer during regular business hours within the normal course of business of the farm brewery, but which constitutes a Special Event as defined in §57.2.

3-C-2-oo  
(10/18/16)

#### Distilleries, Farm

1. Permitted Activities. A Farm Distillery may include the following activities:
  - a. The production and harvesting of agricultural products and the manufacturing of alcoholic beverages other than wine or beer;
  - b. 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 Board pursuant to the provisions of Subsection D of Code of Virginia §4.1-119;
  - c. The sale and shipment of alcoholic beverages other than wine or beer to licensed wholesalers and out-of-state purchasers in accordance with Title 4.1, regulations of the Alcoholic Beverage Control Board, and Federal law;
  - d. The storage and warehousing of alcoholic beverages other than wine or beer in accordance with Title 4.1, regulations of the Alcoholic Beverage Control Board and Federal law; or
  - e. 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 Approval for Farm Distilleries. Prior to commencing operations, the owner of a farm distillery shall obtain zoning approval from the Department of Planning and a business license from the Commissioner of Revenue. As a prerequisite for zoning approval, the owner shall provide copies of approved private well and onsite septic system permits issued by the Virginia Department of Health for domestic and process operations.
3. Special Events Conducted at Farm Distilleries. The owner or occupant of the property shall obtain such permit as required by Clarke County Code Chapter 57 (unless exempt under the provisions of §57.3.2) for an activity/event that is not primarily the on-premises sale, tasting, or consumption of alcoholic beverages other than wine or beer during regular business hours within the normal course of business of the farm distillery, but which constitutes a Special Event as defined in §57.2

3-C-2-pp  
(3/21/17)

#### Farm Machinery Sales and Service

The following regulations shall apply to such uses that are proposed in the Agricultural-Open Space-Conservation (AOC) District:

1. Approval of a site development plan by the Planning Commission per Article 6 shall be required. 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. No onsite disposal of waste fluids or chemicals shall be permitted.
2. The property on which a farm machinery sales and service 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).
3. The total floor area of the building or buildings used for farm machinery sales and service shall not exceed 11,999 square feet without an approved special use permit.
4. All service activities shall be conducted within an enclosed building.
5. No outdoor storage shall be permitted. Outdoor display of machinery shall be permitted within the building envelope and shall be designated on the site plan.
6. Service and repair activities shall be limited to farm machinery and equipment including but not limited to farm tractors, combines, harvesters, and the like. No service or repair of automobiles, heavy trucks, or other motor vehicles shall be permitted.

3-C-2-qq  
(3/21/17)

#### Farm Supplies Sales

The following regulations shall apply to such uses that are proposed in the Agricultural-Open Space-Conservation (AOC) District:

1. Approval of a site development plan by the Planning Commission per Article 6 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 property on which a farm supplies sales business 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).
3. The total floor area of the building or buildings used for farm supplies sales shall not exceed 11,999 square feet without an approved 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.

3-C-2-rr  
(3/21/17)

#### Historic Mill

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 parcel, shall require site development plan approval per Article 6 and compliance with Section 3-E-3, Historic Districts, if applicable.

### 3-C-3 Supplementary Regulations for Development in Annexation Area B

3-C-3-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.

3-C-3-b  
(5/13/03)

#### 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.
2. Land designated in section 3-C-3-b-(1) as a CEA shall not be built upon.
3. Land designated in section 3-C-3-b-(1) 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.

3-C-3-c

Central Sewer System Required

1. No structure in a DR-1, DR-2, DR-4, and BP 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.

3-C-4  
(7/17/07)

Private Access Easements

3-C-4-a

In the AOC and FOC zoning districts, any one Private Access Easement may serve not more than nine lots or parcels. Parcels not served by Private Access Easements shall be served by dedicated public rights of ways improved to Virginia Department of Transportation standards.

3-C-4-b

In all other zoning districts, any one Private Access Easement may serve not more than two lots or parcels. Parcels not served by Private Access Easements shall be served by dedicated public rights of ways improved to Virginia Department of Transportation standards.

3-C-4-c

Interconnecting Private Access Easements shall be deemed to be a single Private Access Easement for purposes of this section.

3-C-4-d

A lot or parcel of land shall be deemed to be served by a Private Access Easement if the lot or parcel can access a public road by use of the Private Access Easement.

3-C-4-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 parcel 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 10 or more lots, that portion of the Private Access Easement serving 10 or more lots shall be dedicated as a public right of way and improved to Virginia Department of Transportation 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.



3-D ALLOCATION OF SINGLE-FAMILY DETACHED DWELLING UNIT RIGHTS IN THE AGRICULTURAL-OPEN SPACE-CONSERVATION (AOC) AND THE FORESTAL-OPEN SPACE-CONSERVATION (FOC) DISTRICTS AND LOT SIZE IN THE AOC DISTRICT

3-D-1 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 the unnecessarily costly provision of public facilities and services which are disruptive to historically significant scenic, agricultural, forestal, and open space areas which are remote from existing population centers.

3-D-2 Allocations

There shall be permitted on each tract, as defined in Article 9 of this Ordinance, the following number of single-family detached dwelling units (consistent with the provisions of Section 4-E herein and of the Clarke County Subdivision Ordinance):

<u>Size of Tract</u>	<u>Number of Single Family Detached Dwelling Units Permitted</u>
0 - 14.99 Acres	1
15 - 39.99 Acres	2
40 - 79.99 Acres	3
80 - 129.99 Acres	4
130 - 179.99 Acres	5
180 - 229.99 Acres	6
230 - 279.99 Acres	7
280 - 329.99 Acres	8
330 - 399.99 Acres	9
400 - 499.99 Acres	10
500 - 599.99 Acres	11
600 - 729.99 Acres	12
730 - 859.99 Acres	13
860 -1029.99 Acres	14
1030 Acres or More	15

3-D-3 Voluntary Termination of Dwelling Unit Allocation

(12/19/00) An owner of a tract may voluntarily terminate all or a portion of the dwelling unit right allocation for the tract. Such voluntary termination shall be accomplished by a notarized document, signed and recorded by the owner(s) of the tract in the Clarke County Land Records. The filing and recordation of such a document shall permanently terminate such dwelling unit rights.

3-D-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-D-2 are allowed in addition to any farmsteads and tenant houses that existed on a given tract.

3-D-5 Errors in 1980 Tax Map

(1/20/09)

- a. For the purposes of dwelling unit right allocations under Section 3-D-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 parcels 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 parcel from that shown on the 1980 Tax Map, it must be shown by a plat of the parcel, as it existed on October 17, 1980, prepared by a licensed land surveyor, that the acreage of the parcel as shown on the 1980 Tax Map was incorrect.
- b. The owner of the subject parcel 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-D-6 Burden of Proof

The subdivider or developer shall bear the burden of proving any allocation to which he believes to be entitled and/or of proving any maximum lot size increase, which he believes to be justified.

3-D-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 tract may have, in accordance with the provisions of Section 7-B-2-i and Section 7-C-3-m of the Clarke County Subdivision Ordinance.
- b. In circumstances where the division of a tract is not subject to approval pursuant to the provisions and requirements of the Clarke County Subdivision Ordinance, the property owner proposing to divide the tract shall submit to the Board of Supervisors of Clarke County, Virginia, a duly sworn affidavit setting forth the allocation of rights for new single-family detached dwellings, as provided in Sections 3-D-2 and 3-D-3 herein, to each of the parcels resulting from the division of the tract. Said affidavit shall further state that prior to conveyance or transfer of any such parcels, the grantor shall furnish a copy of the affidavit to the grantee.

3-D-8 Vacation or Merger of Lots or Parcels of Land in the AOC and FOC Districts

(6/17/03)

When dwelling unit rights have been allocated to any lots or parcel(s) of land of record as of October 17, 1980, and such lot(s) or parcel(s) of land are subsequently (i) vacated pursuant to Title 15.2, Chapter 22, Article 6, Sections 2271 and 2272 of the Code of Virginia, 1950 (as amended) or (ii) merged, the number of dwelling unit rights shall be reallocated, pursuant to Section 3-D-2, to the lot(s) or parcel(s) resulting from such vacation or merger as though the resulting lot(s) or parcels(s) had been the tract(s) of record that existed on the Clarke County Real Property Identification Maps on October 17, 1980.

3-D-9 Boundary Line Adjustment of Lots or Parcels of Land in the AOC/FOC Districts

- (6/21/05) If a boundary line adjustment results in an increase in acreage of a tract by 10% or more, the allocation of dwelling unit rights between the tracts may be adjusted by reallocation of not more than one dwelling unit right from the tract reduced in size to the parcel increased in size, provided:
- a. the resulting dwelling unit rights on the tract increased in size does not exceed the dwelling units rights that would have been allocated to such parcel under Section 3-D-2 if such parcel had been a parcel of record that existed in the Clarke County Real Property Identification Maps on October 17, 1980, 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-D-10 Parcels with Zero Dwelling Unit Rights

- (4/18/95)  
(11/24/98)  
(8/19/03)
- a. No parcel may be created with zero dwelling unit rights in the AOC or FOC zoning district unless it meets one of the following criteria:
    1. contains an existing dwelling pursuant to Section 3-D-4; or,
    2. has an approved Special Use, has a use allowed as a Special Use, or
    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 (§10.21-1700, Code of Virginia) and approved by the Clarke County Board of Supervisors.
  - b. The record subdivision plat creating a parcel 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.

3-D-11 Rezoning of a Portion of a Tract

- (12/19/00) If dwelling unit rights have been allocated to a tract of record as of October 17, 1980, and the Zoning District Map designation of a portion of such tract is subsequently changed from either the Agricultural-Open Space-Conservation (AOC) or Forestal-Open Space-Conservation (FOC) Zoning District, pursuant to Section 8 of this Ordinance, the number of dwelling unit rights for the portion of the tract remaining in the AOC or FOC zoning district shall be reallocated pursuant to Section 3-D-2, as though the remaining portion had been the tract of record on October 17, 1980.

### 3-E SCHEDULE OF OVERLAY DISTRICT REGULATIONS

(7/17/07)

#### 3-E-1 Flood Plain District (FP)

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:

- a. 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;
- b. restricting or prohibiting certain uses, activities, and development from locating within districts subject to flooding;
- c. requiring all those uses, activities, and developments that do occur in flood-prone districts to be protected and/or flood-proofed against flooding and flood damage; and,
- d. protecting individuals from buying land and structures that are unsuited for intended purposes because of flood hazards.

#### 3-E-1-a Boundary

(5/19/87)

The floodplain district shall include areas subject to inundation by waters of the one hundred (100) year floods. The basis for the delineation of these zones shall be the Flood Insurance Study (FIS) for Clarke County prepared by the Federal Emergency Management Agency, Federal Insurance Administration, dated September 28, 2007, as amended. The following zones further describe the district:

1. The Floodway Zone 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 hundred (100)-year flood without increasing the water surface elevation of that flood more than one (1) foot at any point. The areas included in this Zone are specifically defined in Table 2 of the above referenced Flood Insurance Study.
2. The Special Floodplain Zone shall be those areas identified as an AE Zone on the maps accompanying the Flood Insurance Study for which one hundred (100)-year flood elevations have been provided but for which no floodway has been delineated.
3. The approximated Floodplain Zone shall be those areas identified as an A Zone on the map accompanying the Flood Insurance Study. In this zone, no detailed flood profiles or elevations are provided, but the one hundred (100)-year floodplain boundary has been approximated.
4. The Floodplain District Maps are maintained for public use, inspection, and information in the Clarke County Administrative Offices in Berryville, Virginia, and are hereby incorporated into and made a part of this Ordinance as if fully set out herein.
  - a. The Flood Plain District shall also include those other areas in Clarke County which can be reasonably determined from local history, topographical conditions, drainage patterns, or by reference to soil surveys of Clarke County to be subject to periodic inundation by water.
  - b. In determining the 10 year and the 100 year flood elevations for the purposes of this Ordinance, additional sources of data may be used such as:
    - (1) U.S. Geological Survey - Flood Prone Quadrangles;
    - (2) U.S.D.A., Soil Conservation Service - Flood Hazard Analysis;

(3) Geology of the Berryville, Stephenson and Boyce Quadrangles, Report of Investigations 34 (1973) Virginia Division of Mineral Resources;

(4) Known high-water marks from past floods

(5) Other sources

- c. The delineation of areas designated as within the Flood Plain District shall be reconsidered by the Board of Supervisors and appropriate adjustments made only after the Planning Commission has had an opportunity to present their recommendations and public hearings have been held in accordance with Section 15.2-2204 of the Code of Virginia. Citizens may initiate such action by petition to the Planning Commission indicating that due to a flood control project, either public or private, more recent data compilation, or through new interpretation of present data the hazard from, and/or area subject to, flooding is significantly contrary to that controlled by the Ordinance. However, prior to any such change, approval must be obtained from the Federal Insurance Administrator.

### 3-E-1-b

(5/19/87)

(4/20/93)

(10/18/94)

(6/20/00)

(3/15/16)

### Permit and Application Requirements

1. All uses, activities, and development occurring within any Flood Plain District shall be undertaken only upon the issuance of property zoning and building permits. 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 and the Clarke County Subdivision Regulations. Prior to the issuance of any such permit, the Zoning Administrator shall require all applications to include compliance with all applicable state and federal laws.
2. All zoning and building permit application for development within the Flood Plain District shall incorporate the following information:
  - a. For structures to be elevated, the elevation of the lowest floor (including basement).
  - b. For structures to be flood-proofed (non-residential only), the elevation to which the structure will be flood-proofed.
  - c. Base flood elevation data shall be provided for subdivision proposals and other proposed development (including manufactured home parks and subdivisions) that exceed five acres or fifty lots, whichever is the lesser.
  - d. Any other requirements as set forth in this section on in Section 3-E-5, Stream Protection Overlay District (SP).
3. Any encroachments, including fill, new construction, substantial improvements and other developments is prohibited unless certification (with supporting technical data) by a registered professional engineer is provided demonstrating that encroachments shall not result in any increase in flood levels during occurrence of the base flood discharge.
4. The placement of manufactured homes (mobile homes) is prohibited, except in an existing manufactured homes (mobile homes) 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.

3-E-1-c  
(5/19/87)  
(3/16/16)

### Permitted Uses (Exceptions) in the Floodway District

The following uses and activities are permitted provided that they are in compliance with the provisions of the underlying area and are not prohibited by any other ordinance and provided that they do not require structures, fill, or storage of materials and equipment:

1. Agricultural uses, such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming, and wild crop harvesting.
2. 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.
3. Accessory residential uses, such as yard areas, gardens, play areas, and pervious loading areas.
4. Accessory industrial and commercial uses, such as yard areas, pervious parking and loading areas, etc.

3-E-1-d  
(5/19/87)  
(4/20/93)  
(10/18/94)  
(6/20/00)  
(10/18/11)  
(3/15/16)

### Use Regulations in the Flood Plain District

In the flood plain district the following provisions shall apply:

1. Under no circumstances shall any proposed 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. In riverine situations, adjacent communities and the Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management) shall be notified prior to any alteration or relocation of a watercourse, and copies of such notifications shall be submitted to FEMA.
3. Uses and Structures Prohibited in the Flood Plain District
  - a. Structures used for residential or non-residential use, either temporary or permanent, shall not be permitted in the Flood Plain District except as set forth in subsection 4 below.
  - b. Recreational vehicles 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.
  - c. There shall be no land disturbance of any kind within 100 feet of the Shenandoah River except as provided in Section 3-E-5, Stream Protection Overlay District.
4. The following uses may be permitted, with issuance of a Zoning and/or Building Permit, in the Flood Plain District limited by the regulations imposed by this section, the underlying zoning district, and the Uniform Statewide Building Code:
  - a. Recreational Vehicles located in the Flood Plain District shall meet the following minimum requirements:
    - (1) 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; or
    - (2) meet all the requirements for manufactured homes in this ordinance and the Uniform Statewide Building Code

- 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.
  - (1) Structures with walls related to such uses shall not exceed an aggregate floor area of five hundred (500) square feet per parcel or have less than one hundred and two hundred (200) square feet. Such structures shall be set back at least 100 feet from the Shenandoah River.
  - (2) Structures without walls related to such uses shall not exceed an aggregated floor area of 1500 square feet per parcel or have less than 200 square feet. Such structures' roof framing shall be at least one foot above the 100-year 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 200 square feet in floor area 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 for in Section 3-E-5, Stream Protection Overlay District.
- f. Siting of portable privies shall meet the requirements of the Clarke County Septic Ordinance (Chapter 143) and Section 3-E-5, Stream Protection Overlay District.

3-E-1-e Design Criteria for Utilities and Facilities in Flood Plain Districts

(01/17/17)

1. 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.
2. Any replacement water facilities shall be designed to minimize or eliminate infiltration of floodwaters into the system, and be located and constructed to minimize or eliminate flood damage.
3. All stormwater facilities shall comply with State stormwater management regulations.
4. 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.
5. 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.
6. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
7. The substantial damage or improvement of any structure and/or use shall require the entire structure to be in full compliance with the provisions of this ordinance.
8. All manufactured homes placed or substantially improved in an existing manufactured home park or subdivision must be elevated so that:

- a. the lowest floor of the manufactured home is elevated no lower than one (1) foot above the base flood elevation; or,
- b. the manufactured home chassis is supported by reinforced piers or other foundation elements of at least an equivalent strength, of no less than 36 inches in height above the grade;
- c. the manufactured home must be securely anchored to the adequately anchored foundation system to resist flotation, collapse and lateral movement.

3-E-1-f

Variances: Factors to be considered

1. In considering a variance application, 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 showing of good and sufficient cause.
  - b. 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, development, or activity within any Floodway Zone that will cause any increase in the one hundred (100)-year flood elevation.
  - c. The danger that materials may be swept on to other lands or downstream to the injury of others.
  - d. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
  - e. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners.
  - f. The importance of the services provided by the proposed facility to the community.
  - g. The requirements of the facility for a waterfront location.
  - h. The availability of alternative locations not subject to flooding for the proposed use.
  - i. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
  - j. The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.
  - k. The safety of access by ordinary and emergency vehicles to the property in time of flood.
  - l. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.
  - m. The repair or rehabilitation of historic structures 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.
  - n. Such other factors which are relevant to the purposes of this ordinance.
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. Variances shall be issued only after the Board of Zoning Appeals has determined that the granting of such 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.
4. Variances shall be issued only after the Board of Zoning Appeals has determined that the variance will be the minimum required to provide relief from exceptional hardship to the applicant.
5. The Board of Zoning Appeals shall notify the applicant for a variance, in writing, that the issuance of a variance to construct a structure below the one hundred (100)-year flood elevation (a) increases the risks to life and property and (b) will result in increased premium rates for flood insurance.
6. 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 the annual or biennial report submitted to the Federal Insurance Administrator.

3-E-2 Spring Conservation Overlay District (SC)

(1/7/00) Intent: 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.

3-E-2-a Use Regulations

(3/20/90)  
(6/15/93)  
(1/20/98)

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 general intent and purpose of the Spring Conservation District, as stated in Section 3-E-2, and that such proposed use and development will not have an adverse effect upon the environment. These provisions shall not apply to any uses and structures which otherwise legally existed as of 20 July 1983, provided such existing uses and structures shall be subject to the provisions of Section 4-K of this Ordinance, nor shall these provisions apply to ordinary gardening activities in lawn or garden areas which are primarily for home consumption. 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. In no event shall the following uses or development of land within the district be permitted: Mining, and/or extraction of natural resources; drilling, other than for private, on-site source of potable water; sanitary land filling, 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; underground storage of any chemical or petroleum products for commercial or industrial purposes; storage, disposal, and/or land application of sludge, residue and/or effluent resulting from treatment, storage, disposal or reclamation of sewage and industrial wastes; animal confinement operations (feedlots). 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 Agricultural-Open Space-Conservation (AOC) zoning district;
  - b. Maximum lot coverage by all impervious surfaces shall not exceed 20%
2. Subsurface Septic Systems Regulations
  - a. For subsurface septic systems within 1500 feet of Prospect Hill Spring:
    - (1) No sewage disposal system, including drainfields, shall be located within 1,000 feet of Prospect Hill Spring.

- (2) 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.
  - b. For subsurface septic systems between 1500 and 3000 feet of Prospect Hill Spring: Septic/drainfield systems shall be low pressure systems.
  - c. For any location in the overlay district:
    - (1) A 100% normal size reserve area shall be provided for the drainfield on each parcel.
    - (2) Installation of any septic/drainfield system shall be inspected and approved by the County's designated engineer or representative.
    - (3) Lot owners of all parcels 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).
3. Structure Location Regulations  
Within 400 feet of Prospect Hill Spring only public utility structures may be constructed.

3-E-3

Historic Districts (H)

Intent: 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.

3-E-3-a

The purposes for establishing a special Historic District zoning classification are:

1. To preserve and improve the quality of life for residents of the County by protecting familiar and treasured visual elements in the area.
2. To promote tourism by protecting historical and cultural resources attractive to visitors.
3. To stabilize and improve property values by providing incentive for the upkeep and rehabilitation of older structures.
4. 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.
5. 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.
6. To prevent the encroachment of buildings and structures which are architecturally incongruous with their environs within areas of architectural harmony and historic character.

3-E-3-b

Creation of Historic District

(7/17/93)

A special zoning overlay designation is hereby created for Historic Districts and historic landmarks properties under authority of Section 15.2-2306 of the Code of Virginia (1950), as amended. Location and boundaries of Historic Districts shall be delineated by the Board of Supervisors pursuant to Article 8 of this Ordinance, upon consultation with the Historic 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). In addition to the procedures established in Article 8, the following procedures shall also be followed. The Historic 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 Historic Preservation Commission shall hold a public hearing on such a petition following the same procedures for notice as established for the Planning Commission in Article 8-D. Following the public hearing, the Historic Preservation Commission shall report to the Planning Commission and the Board of Supervisors its recommendation with respect to the proposed amendment. The Historic Preservation Commission shall make its report in a manner following the same procedures established for the Planning Commission's recommendation in Article 8-D. An Historic District shall not be designated if the owner(s) of record of at least one-quarter of the parcels, 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, as such hearing is required pursuant to Article 8 of this Ordinance.

3-E-3-c

Criteria for Designation of Historic Districts

The Board of Supervisors may designate one or more Historic Districts pursuant to subsection 3-E-3-b provided that any such District conforms to the definition of Historic Areas set forth in Section 15.2-2201 of the Code of Virginia (1950), as amended, and that any such District meets one or more of the following criteria:

1. It is associated with a particular person, event, activity, or institution of local, state or national historical significance.
2. 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.
3. It possesses an identifiable character that reflects the cultural or architectural heritage of Clarke County.
4. 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.
5. Its unique location or physical characteristics represents an established and familiar pattern or unique visual feature of the County.

3-E-3-d

(7/17/90)

Historic Preservation Commission

1. Creation and Membership

For the purposes of carrying out the provisions of this Section, an architectural review board to be known as the Historic Preservation Commission is hereby created under authority of Section 15.2-2306, Code of Virginia (1950), as amended. The Historic Preservation Commission, hereafter referred to as the "Preservation Commission," shall consist of at least five members and shall not exceed seven members, to be appointed by the Board of Supervisors. Members shall be residents of Clarke County with a demonstrated interest in and knowledge of the historic character of Clarke County. 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, or related fields. The Board shall make every reasonable effort to appoint at least one member that is a professional architect or architectural historian. At least one member shall be appointed from the Planning Commission upon recommendation to the Board by the Planning Commission. After the establishment of an Historic District, at least one member shall be a resident of a local Historic District.

a. The professional qualifications for an architect are either:

- (1) professional degree in architecture with at least two years of full time professional experience in architecture, or
- (2) a state license to practice architecture.

b. The professional qualifications for an architectural historian are either:

- (1) a graduate degree in architectural history, art history, historic preservation, or closely related field, with course work in American architectural history, or
- (2) a bachelor's degree in architectural history, art history, historic preservation, or closely related field with one of the following, either:
  - a. 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
  - b. substantial contribution through research and publication to the body of scholarly knowledge in the field of American architectural history.

2. Officers and Terms

At its first meeting of each calendar year, the Preservation Commission shall elect from its members one chairperson, who will call and run meetings, and one vice-chairperson, 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 Preservation Commission 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 Commission and meet other membership requirements established in Section 3-E-3-d-(1). A secretary shall be chosen to record the activity at the meetings, and may be a nonmember with no voting privileges.

3. Responsibilities of the Preservation Commission shall include the following:

- a. Coordinate local historic preservation efforts with those of the Virginia Historic Landmarks Commission.
- b. 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.
- c. Review projects and developments which may change or alter the historic character of an existing Historic District and report findings to the Planning Commission.
- d. Issue Certificates of Appropriateness and formulate necessary administrative procedures, which shall include prescribed requirements for applications for such Certificates.
- e. Advise persons living within Historic Districts on measures which they may take to preserve the historic character of their District.
- f. 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 Preservation Commission and the status of historic preservation within the County.
- g. 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 subsection 3-E-3-e-(3) 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 re-viewable by the Planning Commission prior to institution or implementation of such changes or amendments.
- h. Hold public meetings, as often as necessary to fulfill the responsibilities assigned by this Section.
- i. Grant the right to display authorized plaques to commemorate buildings or sites which are important and significant physical features in Clarke County.
- j. Provide advice and recommendations to the Planning Commission on particular projects and developments as specifically requested by the Planning Commission.

3-E-3-e

(6/18/96)  
(6/20/00)  
(10/18/11)  
(3/26/13)

Certificate of Appropriateness

1. Erection, Reconstruction, Alteration, or Restoration in an Historic District
  - a. The Preservation Commission shall review a Certificate of Appropriateness before any of the following activities may occur within the boundaries of a Historic District:
    - (1) the erection of any building or structure; or
    - (2) major alteration or restoration of a contributing building or structure.
  - b. The Executive Committee of the Preservation Commission comprised of the Commission's Chair and the Vice-Chair, shall review a Certificate of Appropriateness before any of the following activities may occur within the boundaries of a Historic District:
    - (1) any degree of alteration or restoration of a non-contributing building or structure;
    - (2) minor alteration or restoration of a contributing building or structure, or
    - (3) the erection of a sign.
  - c. If the Executive Committee finds that the proposed activity is not compatible with the Historic District, as described in section 3-E-3-e(3), Criteria for Approval of Certificate Of Appropriateness, the matter shall be referred to the full Preservation Commission for consideration. A decision by the Executive Committee to approve a Certificate may be appealed to the full Preservation Commission by any aggrieved party (except as noted below) within 10 working days of the decision. A decision of the Preservation Commission may be appealed to the Board of Supervisors per section 3-E-3-f, appeals The Chair of the Commission shall inform the Historic Preservation Commission of any Executive Committee approvals in writing, within five working days of the action. A member of the Commission may request, in writing, that the full Commission review an approval by the Executive Committee. Such request for review must be submitted to the Zoning Administrator within five working days of action notification.
  - d. 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.
  - e. Approval of a Certificate 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 3-E-3-e(3). 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.
2. Razing, Demolition or Moving Within an Historic District  
No historic landmark, building, or structure within any Historic District shall be razed, demolished, or moved until a Certificate of Appropriateness is issued by the Preservation Commission, or upon appeal, by the Board of Supervisors. However, approval of such a Certificate of Appropriateness for demolition of a non-contributing structure within an Historic District may be delegated by the Historic Preservation Commission to the Zoning Administrator (following the criteria and notice set forth in this ordinance), with appeal to the Historic Preservation Commission, and with subsequent appeal to the Board of Supervisors.
3. Criteria for Approval of Certificate of Appropriateness  
In reviewing a request, the Preservation Commission shall not approve a Certificate of Appropriateness unless the applicant's proposals are architecturally compatible with the motif and character of the Historic District. The Preservation Commission 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 Preservation Commission 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.
- 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.

4. Action on Certificate of Appropriateness Application

a. Public Notice Required

The Commission shall provide public notice in accord with section 10-E, Public Hearings of an application for a Certificate of Appropriateness for any activity that is initially heard by the full Commission. Public notice is not required before action by the Executive Committee.

b. Time Period for Action

The Preservation Commission 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 Commission to act within this 60-day period shall be deemed approval of the request unless the Commission 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 Commission the requested Certificate of Appropriateness within 30 days of the first meeting of the Committee on the request. Failure of the Committee to act within this 30-day period shall be deemed approval of the request unless the Committee and the applicant agree upon an extension of the time period.

5. 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 shall no longer be valid after five years from the date of issuance by the Preservation Commission. Upon application of the developer filed before expiration of the Certificate, the Preservation Commission may grant one or more extensions of such approval for additional periods as the Preservation Commission, at the time the extension is granted, determines to be reasonable. Such extensions shall take into consideration:

1. Whether a building permit has been issued;
2. Whether substantial construction work has been completed;
3. The size and phasing of the project; and
4. The laws, ordinances, and regulations in effect at the time of application for the extension request.



3-E-3-f  
(10/18/11)

### Appeals

1. 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 Section 15.2-2306, Code of Virginia (1950), as amended.
2. In lieu of an appeal to the Board of Supervisors of a decision to deny a request to demolish an historic structure, Section 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.
  - 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.

3-E-3-g

### Penalties for Non-Compliance

Any violation of this section shall be subject to the provisions for violations and penalties set forth in Section 10 of this Ordinance.

3-E-3-h  
(6/20/17)

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

3-E-4            **Historic Access Corridor Overlay District - (HC)**  
(9-27-91)    Intent: 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.

3-E-4-a            **Creation of Historic Access Corridor District**  
A special zoning overlay designation is hereby created for parcels of land contiguous to arterial streets or highways which are significant routes of tourist access under authority of Section 15.2-2306 of the 1950 Code of Virginia, as amended. Location and boundaries of Historic Access Corridor Districts shall be delineated by the Board of Supervisors pursuant to Article 8 of this Ordinance, and shall be incorporated into the Official Zoning Map as special overly zones designated as Historic Access Corridor District (HC).

3-E-4-b            **Criteria for Designation of Historic Access Corridor Districts**  
The Board of Supervisors may designate one or more Historic Access Corridor Districts pursuant to section 3-E-4-a. Any such District shall encompass parcels of land 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 Section 15.2-2201 of the Code of Virginia (1950), as amended.

3-E-4-c            **Certificate of Appropriateness**  
1. When required no structure or building to which the HC District applies, shall be erected, reconstructed, altered, or restored unless a Certificate of Appropriateness is approved. 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 January 1, 1995 are excluded from the requirement for a Certificate of Appropriateness. If any part of a structure to be erected, altered, or restored is located with these boundaries, the entire structure shall be governed by this ordinance. Any structure proposed to be erected, altered, or restored within a parcel, which is partly located within the HC District, shall be exempt from this ordinance, if said structure is located entirely outside the HC District. The provisions of this ordinance shall not apply to the regular maintenance of structures within the HC 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.

2. Reviewing Board

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 (Town/County Annexation Agreement, December 1987) shall be the Berryville Area Development Authority. 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 County Planning Commission.

3. Applications

Applications for Certificates of Appropriateness shall be made on forms provided by the County 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.

4. 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, including 15 copies of the following:

- a. 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);
- b. approved or proposed site plans;
- c. landscaping plans, with signage, and lighting systems (including analysis of impacts on nearby parcels);

5. When filing an application for a Certificate of Appropriateness only for signs, applicants must submit the following information:

- a. a scale drawing of the proposed sign;
- b. propose materials for the sign, including supports, and the lighting method to be used;
- c. a sketch or photograph showing the proposed location of the sign on the building or site.

6. 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.

7. Application Action

- a. 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.
- b. 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.
- c. 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.
  - d. 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.
8. Public Meetings  
The meeting of the architectural review board shall be open to the public and a full and impartial hearing shall be granted to the applicant.
  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 Section 15.2-2306, Code of Virginia (1950), as amended.
  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. In the event work is performed not in conformance with the Certificate, the agent 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. Any violation of this section shall be subject to the provision for violations and penalties set forth in Article 11 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 agent prior to construction of the modified feature. The agent 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 agent shall be forwarded to the architectural review board, accompanied by additional application materials as determined necessary by the agent and the architectural review board to render a decision.

3-E-4-d  
(7/20/93)  
(11/22/94)

**Design Guidelines:**

Design criteria for that portion of the Historic Access Corridor Overlay District within the boundaries of the Berryville Area Plan. 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.
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.
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 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.

3-E-4-e

(11/22/94)

(2/21/12)

Design Criteria for that portion of the Historic Access Corridor Overlay District outside of the boundaries of the Berryville Area Plan.

1. Administration

a. 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:

- (1) Accommodate economic growth that will both maximize direct county revenues and minimize the indirect costs of eroding the distinctive rural character of Clarke County;
- (2) Protect private property values and related public investment from the detrimental impacts of indiscriminate and insensitive new construction;

- (3) Anticipate and guard against commonplace and uniform trademark architecture would create anonymous strip developments indistinguishable from those in other parts of the country;
- (4) Maintain the image of Clarke County as seen from its most traveled highways to benefit residents, attract tourists, and interest potential employers;
- (5) 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;
- (6) 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.

b. Compliance

- (1) 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.
- (2) 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.

2. Architectural Style and Form

- a. Historic design elements of contributing buildings found in Clarke County should be the basis for proposed designs.
- b. 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.
- c. 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.
- d. 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.

- e. The facades of large retail structures should be broken into smaller elements that are similar in scale to contributing commercial buildings.
3. 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.
4. Roofs
- a. 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.
  - b. 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.
  - c. 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.
5. Exterior walls
- a. 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.
  - b. 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.
  - c. 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.
  - d. 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.



- e. 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.
6. Windows and Doors
- a. 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.
  - b. 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.
7. 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.

3-E-4-f  
(6/20/17)

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 3-E-4.

3-E-5 Stream Protection Overlay District (SP)

(12/21/99) Intent: 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 retard runoff, prevent erosion, filter nonpoint source pollution from runoff, moderate stream temperature, and provides for the ecological integrity of stream corridors and networks.

3-E-5-a Vegetated Stream Buffer

(6/18/02) 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. 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 steam bank, also known as bank-full width, is the width of the steam at normal high water events. This is determined by considering differences in vegetation (aquatic vs. typical terrestrial) and physical characteristics of the stream bank. The width of buffers for sloped stream banks shall be increased. For slopes between 15% and 25%, 35-foot buffers shall be increased to 45 feet. For slopes over 25%, 35-foot buffers shall be increased to 55 feet. For slopes between 15% and 25%, 100 foot buffers shall be increased to 125 feet. For slopes over 25%, 100-foot buffers shall be increased to 150 feet.

1. All parcels shall retain a vegetated buffer a minimum of one hundred feet of each side of the stream or wetland.
2. Parcels created or site plans approved before 1 January 2000 or parcels that were created after 1 January 2000 that qualify for Land Preservation Special Assessment (land use taxation) should establish a vegetated buffer within the buffer area, if one does not exist as described in Section 3-E-5-b.
3. Parcels 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 1 January 2000. Shall establish a vegetated buffer a minimum of thirty-five feet of each side of the stream or wetland (see section 3-E-5-b).

3-E-5-b Vegetated stream buffer criteria

(3/19/02) 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 paragraphs (1) and (2) however; in no case shall vegetation be removed so as to disturb the soil.

1. Within a minimum of thirty-five feet of the top of the stream bank and on land classified as nontidal wetland:
  - 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 (see section 3-E-5-c);
    - (2) Have a diameter of four inches or greater (measured 4.5 feet above the ground) if small canopy trees (see section 3-E-5-c);
  - 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.
2. Between a minimum of thirty-five feet and a minimum of one hundred feet from the top of the stream bank and outside of nontidal wetlands:
- a. Dead, diseased, and dying trees may be removed;
  - b. Invasive non-native species, such as Ailanthus (Tree of Heaven), Malcura (Osage Orange), and Rosa Multiflora, may be removed regardless of size;
  - 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;
3. 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:
- a. Large Canopy Trees shall:
    - (1) have a mature height over forty-five feet;
    - (2) be native riparian species;
    - (3) be typical of, but not limited to American Basswood, Green Ash, Sycamore, Tulip Poplar, or Red Oak;
  - b. Medium Canopy Trees shall:
    - (1) have a mature height between thirty and forty-five feet;
    - (2) be native riparian species;
    - (3) be typical of, but not limited to Black gum, Red Maple, River Birch, or Persimmon;
  - c. Small Canopy Trees shall:
    - (1) have a mature height up to thirty feet;
    - (2) be native riparian species;
    - (3) be typical of, but not limited to Spicebush, Redbud, or Flowering Dogwood;
  - d. Evergreen Trees shall:
    - (1) have a mature height of at least ten feet;
    - (2) be native riparian species.
  - e. Shrubs shall:
    - (1) have a mature height of at least three feet;
    - (2) be native riparian species;
    - (3) be typical of, but not limited to Inkberry, Witch Hazel, Alder, or Hornbeam.
  - f. Ground cover shall consist of grasses and forbes.
4. Plant material required per square foot of buffer-area:  
 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).
- |                    |                         |
|--------------------|-------------------------|
| Large Canopy Tree  | 1/750 square feet or    |
| Medium Canopy Tree | 1/750 square feet or    |
| Small Canopy Tree  | 1/750 square feet and   |
| Evergreen Tree     | 1/750 square feet and   |
| Shrub              | 1/50 square feet and    |
| Ground cover       | 7 lbs. of seed per acre |

5. 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 Clarke County Natural Resource Planner.

3-E-5-c

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:

1. 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 (Virginia Code §§ 10.1-560 et seq.) or an erosion and sediment control plan approved by the Virginia Soil and Water Conservation Board.
2. 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:
  - a. To the extent practical, the location of such water or sewer lines shall be outside of all stream buffer areas;
  - b. No more land shall be disturbed than is necessary to construct, install and maintain the water or sewer lines; and
  - c. 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.
3. 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 parcels that qualify for Land Preservation Special Assessment (land use taxation).

3-E-5-d  
(3/15/16)

The following types of development shall be allowed in a stream buffer if allowed by the Zoning Ordinance and provided that the requirements of this section are satisfied:

1. A building or structure that existed as of 1 January 2000 may continue at such location.
2. However, any expansion or enlargement of such structure may not encroach upon the stream buffer more than the encroachment of the existing structure.
3. On-site or regional stormwater management facilities and temporary erosion and sediment control measures, provided that:
  - a. To the extent practical, as determined by the Natural Resource Planner, the location of such facilities shall be outside of the stream buffer;
  - b. 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;
  - c. The facilities are designed and constructed so as to minimize impacts to the functional value of the stream buffer and to protect water quality; and
4. 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.
5. Temporary siting of portable privies is allowed provided that they meet all requirements of the Clarke County Septic Ordinance and Section 3-E-1, Flood Plain District.

3-E-5-e  
(3/15/16)

Types of development in a stream buffer that may be authorized by the Natural Resource Planner in the circumstances described below, provided that a mitigation plan is submitted and approved pursuant to section 3-E-5-f:

1. a lake, pond, or ecological/wetland restoration project;
2. construction and maintenance of a driveway or roadway, if the Natural Resource Planner 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;
3. construction, installation and maintenance of water and sewer facilities or sewage disposal systems, on parcels recorded before 1 January 2000 if the Natural Resource Planner determines that the stream buffer would prohibit the practical development of such facilities or systems.
4. construction of a structure, on parcels recorded before 1 January 2000, if the Natural Resource Planner 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 parcel.
5. construction of boat ramps, boat landings, docks (permanent or floating) or similar structures provided that:
  - a. The property owner obtains any required State or Federal permits and provides copies of approved permits to the Natural Resources Planner prior to construction, if applicable;
  - b. Land disturbance and construction plans satisfy all requirements of Section 3-E-1, Flood Plain District; and
  - c. Land disturbance and construction plans are consistent with criteria for streambank construction listed in Subsections 6 and 7 below.
6. Decks, docks and stairs; site and construction criteria. In the Stream Protection Overlay District, no stairways, decks, docks or other structures shall be constructed until a permit is obtained from the Natural Resource Planner. 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.
  - a. Landings for stairs or decks shall not exceed 32 square feet in area.
  - b. Permanent canopies or roofs are not allowed on stairways, decks, or docks.
  - c. 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.
  - d. 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.
7. Private ramps: site and construction criteria. In the Stream Protection Overlay District, no private ramps shall be constructed until a permit is obtained from the Natural Resources Planner. 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.

3-E-5-f  
(3/15/16)

An owner who seeks to develop in a stream buffer pursuant to section 3-E-5-e shall submit to the Natural Resource Planner for review and approval a mitigation plan as provided herein:

1. The owner shall submit a mitigation plan that satisfies the applicable requirements of this section, required processing fees and a certification stating that all requirements of the approved plan will be complied with.
2. The mitigation plan shall be reviewed by the Natural Resource Planner to determine whether it complies with the requirements of this section and all other requirements of this article. The Natural Resource Planner shall approve or disapprove a mitigation plan within thirty days 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.
3. Each mitigation plan shall:
  - a. identify the impacts of proposed development on water quality and lands within the stream buffer;
  - b. 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;
  - c. demonstrate and assure that development will be conducted using best management practices;
  - d. specify mitigation that will address water quality and stream buffer impacts; and;
  - e. contain all other information requested by the Natural Resource Planner.
4. Each mitigation plan shall be evaluated by the Natural Resource Planner based on the following criteria:
  - a. whether all reasonable alternatives to development in the stream buffer have been explored and exhausted;
  - b. 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
  - c. whether best management practices will effectively mitigate adverse impacts from the encroachment on the stream buffer and its natural functions.

3-E-5-g  
(3/12/07)

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.

1. 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. 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.

3-E-5-h

Inspections

The Natural Resource Planner 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.

## 4 GENERAL REGULATIONS

### 4-A APPLICATION

Except as otherwise specifically provided in this Ordinance, general regulations set forth in this Article shall apply.

### 4-B USES GENERALLY

#### 4-B-1 Uses Not Provided For

- 4-B-1-a When a use is not specified in the regulations of any district in this Ordinance, a landowner may request in writing the Planning Commission to initiate an amendment to the Ordinance to provide for the use. The Planning Commission shall act upon said request within 63 days, and may pass a resolution to provide for the use if it finds:
1. That there is no clear intent to exclude such uses; and,
  2. That 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; and
  3. That the proposed is compatible with the Comprehensive Plan.

- 4-B-1-b Upon the passage of such a resolution by the Planning Commission, the Planning Commission and the Board of Supervisors shall proceed to act upon the proposed amendments as set forth in Article 8 of this Ordinance.

- 4-B-1-c In acting upon such proposed amendment, the Planning Commission and the Board of Supervisors shall be guided by the criteria set forth in Section 4-B-1-a above, in addition to the general criteria for amendments to this Ordinance.

#### 4-B-2 Structure that is Temporary

- 4-B-2-a The Zoning Administrator may, upon application, permit the erection and occupancy of a temporary dwelling or Major Recreational Equipment with cooking and toilet facilities during the construction of a dwelling on the same lot, and may specify appropriate conditions and requirements to be applied to the permit, in which event the permit shall be subject to such conditions and requirements; provided, however, if such temporary dwelling is a manufactured (mobile) home, the provisions of Section 4-B-2-b shall be met. This temporary dwelling permit shall be valid for one year, but may be renewed for one additional year by the Zoning Administrator.
- (6/16/92)  
(2/16/93)

- 4-B-2-b Temporary Parking of Manufactured (Mobile) Homes or Structures  
(1/16/07) Except as otherwise provided in this section, no manufactured home or structure shall be parked on a parcel for a period of more than five consecutive days unless such manufactured home meets the criteria provided in Section 3-C-2-q.
1. Hardship Exception  
A manufactured home may be parked on land temporarily in accordance with the following provisions:
    - a. The person desiring to use the manufactured home shall file with the Zoning Administrator an application for a temporary manufactured home permit.



- b. The Zoning Administrator shall issue the permit if it is found that:
    - (1) A hardship exists as a result of applicant's permanent structure in Clarke County, Virginia, having been destroyed by natural causes, such as fire, wind, flood or rain; and,
    - (2) The applicant needs to maintain temporary space while a permanent structure is being reconstructed; and,
    - (3) The applicant proves that there is a pressing need to maintain such temporary space on the subject land; and,
    - (4) The land on which the manufactured home is to be located is the land on which the destroyed structure was located.
  - c. The temporary manufactured home 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, for no more than three subsequent times to allow said use to exist for a total period of not to exceed two years.
2. Construction Project or School Exception
- A manufactured office or classroom used in conjunction with a construction project or public school may be parked on land temporarily, without a permanent foundation, in accordance with the following provisions:
- a. The person or organization desiring to use the manufactured structure shall file with the Zoning Administrator an application for a manufactured structure permit.
  - b. The Zoning Administrator shall issue the permit if it is found that:
    - (1) The location of the manufactured structure on the subject land is essential and necessary for the offices of full-time construction workers or officials on a construction project, or for educational activities associated with a public school.
    - (2) The sanitary facilities for the manufactured structure shall conform to the requirements established by the Commonwealth of Virginia and applicable Clarke County regulations.
  - c. The Zoning Administrator, in issuing any such Manufactured Structure permit, shall issue the permit to be effective for a period equal to the anticipated period of construction on the project or period of need as identified by public school officials, but not exceed two years. Applications for renewal may be submitted to the Zoning Administrator at least 60 days prior to the expiration date of the existing permit. The application for renewal shall identify the time period for the extended approval of the permit. Said permit may be renewed by the Planning Commission for a period of time it determines appropriate.
  - d. The Zoning Administrator, in issuing said Permit, may require the posting of a bond to assure that the manufactured structure will be removed and the site left in good order at the expiration of the Permit, and may establish such additional requirements as may be in the public interest.

4-B-3 Houses Displayed for Advertising Purposes

Construction of a house displayed for advertising purposes, not intended to be sold or occupied as a dwelling, whether in connection with a residential development or otherwise, shall not commence until a performance bond adequate to insure the removal of the structure has been posted.

4-B-4 Temporary Structure  
(1/16/07)  
(10/21/08) The owner of any parcel, on which a temporary structure is sited for more than ten days, must obtain a permit for such structure from the Zoning Administrator. Such a temporary structure shall comply with all applicable structure setback requirements and may not be located on a parcel for more than 90 days in any one 12-month period of time. The Zoning Administrator may renew the permit for a time period he or she determines appropriate if the property owner has a hardship circumstance beyond his or her control.

#### 4-C ACCESSORY STRUCTURES, RECREATIONAL EQUIPMENT VEHICLES

4-C-1 Residential Occupancy of Accessory Buildings  
Except as otherwise specifically provided in this Ordinance, use of accessory buildings as dwellings or lodgings is expressly prohibited.

4-C-2 Parking, Storage, or Use of Major Recreational Equipment  
The following regulations shall apply to parking, storage and use of major recreational equipment in residential, AOC or FOC districts.

4-C-2-a Major Recreational Equipment Defined  
Major recreational equipment as defined for purposes of these regulations, includes travel trailers, pick-up campers, motorized dwellings, tent trailers, boats and boat trailers, houseboats and the like, and cases or boxes used for transporting such recreational equipment, whether occupied by such equipment or not.

4-C-2-b No major recreational equipment shall be used for living, sleeping, or other occupancy when parked or stored in a residential lot, or any other location not approved for such use except as allowed in Section 4-B-2.  
(2/16/93)

4-C-2-c Major recreational equipment six feet or more in average height, not parked or stored in a garage, carport, or other building:  
1. Shall not be located in any required front or side yard;  
2. Shall be located at least three feet from all buildings.

4-C-2-d No major recreational equipment not in operating condition shall be parked outdoors in any residential, AOC or FOC district.

#### 4-C-3 Limitation on Parking or Storage of Inoperable Vehicles

(1/17/95)  
4-C-3-a Except as provided in 4-C-3-b, it shall be unlawful for any person to keep an inoperable motor vehicle, trailer or semi-trailer on any property zoned for residential, agricultural, forestal, or commercial purposes unless such motor vehicle, trailer or semi-trailer is kept within a fully enclosed building or structure.  
(12/15/92)  
(1/17/95)  
(10/18/05)

4-C-3-b 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. Code of Virginia Section 15.2-904(a) and 15.2-904(b).  
(12/15/92)  
(10/18/05)

4-C-3-c  
(12/15/92)  
(10/18/05)

#### Removal Notice

The owner of property upon which any inoperable motor vehicles, trailers, and semi-trailers are located in violation of section 4-C-3-a 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. Notice to the property owner may be given by:

1. first class and registered or certified mail addressed to the owner of the premises, as shown on the current real estate tax records, at the address to which the real estate tax bill is mailed;
2. personal service upon an owner of the premises upon which the vehicles are located; or
3. conspicuously posting notice of the violation upon the premises where the inoperative motor vehicles are located.

4-C-3-d  
(10/18/05)

#### Removal and Disposal

1. The Zoning Administrator may remove any motor vehicle, trailer or semi-trailer which is located in violation of section 4-C-3-a, whenever the owner of the premises upon which the same is located, has failed to do so after reasonable notice. When such a vehicle has been so removed, the Zoning Administrator may dispose of the same, after giving additional notice to the owner of the vehicle, when ownership can be determined.
2. 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 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. Code of Virginia Section 15.2-904(b).

### 4-D GENERAL REQUIREMENTS CONCERNING ARRANGEMENT AND LOCATION OF STRUCTURES

All buildings and other 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.

### 4-E ERECTION OF MORE THAN ONE PRINCIPAL STRUCTURE ON LOT

#### 4-E-1 Commercial and Industrial Districts

(1/18/94)

In Commercial and Industrial districts, more than one structure housing a principal permitted use, or a use permitted with a Special Use Permit, 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. In AOC, FOC and Residential 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 in the Schedule of District Regulations.

#### 4-E-2 Accessory Buildings

(1/19/93)

(7/20/93)

No accessory building larger than 150 square feet shall be erected on any lot or parcel without a building containing a permitted use or use with a special use permit, or prior to the issuance of a building permit for a building containing a permitted use or use with a special use permit.

4-F STORMWATER MANAGEMENT

(10/18/16) When required by the Virginia Department of Transportation 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 features shall comply with State stormwater management regulations. Appropriate drainage easements shall also be provided as required by the Planning Commission, Board of Supervisors, and/or the Virginia Department of Highways and Transportation.

4-G LOT REGULATIONS

(1/16/01)

4-G-1 Lot Access Requirements

No structure requiring a building permit shall be erected upon any lot that does not have frontage on a public right of way, except as specifically provided in subdivision regulations, or in planned developments in accordance with the provisions of this Ordinance.

4-G-2 Visibility Clearance at Intersections

For protection against traffic hazards, no materials impediment to visibility (defined as any impediment that could conceal a child on a bicycle from an approaching driver) shall be placed, allowed to grow, erected, or maintained within visibility triangles described as follows:

4-G-2-a At Street Intersections: The apex is at the intersecting right-of-way lines, the sides are 25 feet in length, and the base runs through the lot.

4-G-2-b At Driveway Intersection With Streets: The apex of the triangle is at the intersection of the street right-of-way line with the edge of the driving surface to the driveway nearest to the approaching traffic lane, the side of the triangle coterminous with the street right-of-way line is 25 feet in length, the side of the triangle coterminous with said edge of driveway is 20 feet in length, and the base runs through the lot.

4-G-2-c Exceptions: Where terrain features present substantial obstacles to provision and maintenance of such visibility triangles, the Zoning Administrator 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.

4-G-3 Uses and Structures Permitted in Required Setback Areas

(2/16/01) No portion of any building shall be permitted in any required setback area, however, the (11/17/09) following uses and structures shall be permitted in required setback areas, subject to the limitations established.

4-G-3-a Driveways or Patios with an elevation that is no more than 24 inches above grade. (11/17/09)

4-G-3-b Fences and Walls up to seven feet in height or Hedges. (11/17/09)

4-G-3-c Building Elements, defined as: porches/balconies/decks that do not have more than 36 square feet and do not have roofs, steps without roofs, bay or bow windows, projecting roof elements without columns, chimneys, eaves, architectural features, swimming pools (above or in ground), and mechanical equipment. 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. (11/17/09)

4-G-3-d Gasoline Pumps Canopies (11/17/09) Such canopies shall not be closer than 10 feet to any property line or right-of-way.

4-G-4 Regular Lots

4-G-4-a 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%.

4-G-4-b Frontage:

1. Regular Interior Lots: On regular interior lots, the front shall be construed to be the portion nearest the street.
2. 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.
3. 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.
4. Regular Through Lots: On regular through lots, the lot shall meet the frontage requirement on at least one of the two streets.

4-G-4-c Yards:

1. Yards Adjacent to Streets
  - a. Front Yards: Front yards of the depth required in the district shall be provided across the frontage of a regular lot.
  - b. 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.
  - c. 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.
2. 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.
3. 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.

4. 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.

4-G-5 Irregular Lots

- 4-G-5-a Dimensional Requirements: An irregular lot shall be considered to meet the dimensional requirements of the district in which located, provided:
1. Lot Area shall meet district requirements for the proposed use. Lot width need not meet district requirements if requirements sets forth below are met.
  2. 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.
  3. Building Area remaining after required yards have been provided shall have dimensions and location appropriate for all buildings proposed.

- 4-G-5-b 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 a irregular lot, except as provided with relation to accessory buildings in Section 4-G-3. 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.

4-G-6 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.

## 4-H HEIGHT REGULATIONS

### 4-H-1 General Intent

No building or structure shall be located on any property, which building or structure exceeds the height limitations set forth in the Schedule of District Regulations. 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.

### 4-H-2 Fire and Safety Requirements

4-H-2-a Fire Protection: No building exceeding forty feet in height above grade shall be erected without certification from the Zoning Administrator that such building as proposed to be located, constructed, and equipped, can be properly protected in case of fire. In determining whether to make such certification, the Zoning Administrator may consult appropriate county and/or state agencies or officials, or officials of firefighting and fire prevention organizations. In case of structures other than buildings exceeding forty feet in height, the Planning Commission may require such certification where the Planning Commission determines that there is substantial fire danger to surrounding properties.

4-H-2-b Aviation Hazards: No building or other structure shall be located in a manner or built to a height, which constitutes a hazard to aerial navigation. Where a structure is proposed in a location or to be built to a height which the Planning Commission believes may be hazardous to air traffic, such structures shall not be erected without certification from the Federal Aviation Administration that as proposed to be located, constructed, and equipped, it will not constitute a hazard to air traffic.

### 4-H-3 Height Limitations

#### 4-H-3-a Exceptions:

- (6/15/04)  
(10/21/08)  
(4/20/93)  
(7/15/97)  
(6/15/04)  
(10/21/08)  
(10/18/11) 1. Agricultural structures shall not exceed 50 feet in height, (except for silos, which shall not exceed 100 feet in height). However, in no event shall the height of agricultural structures exceed the distance from the structure to the nearest lot line.
2. 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.
3. Water tanks shall not exceed in height the distance from the nearest lot line.
4. Towers, 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 fifteen percent of the area of the roof on which it is to be erected; and provided, further, that no such exception shall exceed maximum height established in the district by more than forty percent.
5. 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.

4-I SIGN REGULATIONS

4-I-1 General
All signs shall comply with the following provisions, and it shall be unlawful for any person to erect or maintain a sign that does not comply with the following provisions:

4-I-2 Signs Prohibited
Signs with any of the following characteristics are prohibited:

4-I-2-a Violates Virginia Law: Any sign which violates any provision of the laws of Virginia relating to outdoor advertising, including Sections 33.1-351 to 33.1-381 inclusive, 33.1-279, and 46-187 of the Code of Virginia, as amended;

4-I-2-b Other Than on Property or Structure to Which it Directs Attention: Any sign which is located anywhere other than on the property or structure to which it directs attention or to which it is appurtenant, except (a) any sign erected or maintained by or under the supervision of county or other governmental authority or the Virginia Department of Highways and Transportation, and (b) any other sign which is specifically provided in this article.

4-I-2-c Outlines any Building with Neon or Other lights: Any sign which outlines any building or part thereof with neon or other lights;

4-I-2-d On Trees, Fences, Public Utility Pole, Etc.: 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 such as may be (a) required by law, (b) so placed by a duly authorized governmental agency, (c) so placed not as an advertisement but as a warning against hunting, fishing or trespassing, or (d) not visible from any highway.

4-I-2-e Casts Glare on Highway or Adjoining Property: Any illuminated sign, which reflects or casts a glare, directly or indirectly, on any public roadway or adjacent property.

4-I-2-f Roof Signs

4-I-2-g Billboards: Any billboard or general advertising sign.

4-I-2-h No prohibited sign shall be internally or externally illuminated.
(12/21/10)

4-I-2-i Changeable message signs (except time and temperature signs): Any sign on which the display or message changes more rapidly than once every five minutes and the display, message and/or background changes color.
(12/21/10)

4-I-2-j Moving signs or displays: Any sign and/or its display/message that moves, revolves, twirls, rotates, flashes, including animated signs, multi-prism signs, floodlights and beacon lights except when required by the Federal Aviation Agency or other governmental agency.
(12/21/10)



4-I-2-k Time and Temperature signs: Any sign displaying time and temperature in which such  
(12/21/10) message changes more rapidly than once every five seconds.

4-I-3 Signs Permitted

(1/21/92) Only signs as listed, described, or otherwise provided for as follows and any signs allowed by  
(7/15/97) the Virginia Department of Transportation shall be permitted as freestanding or wall signs. These signs shall be subject to such regulations as are specifically set forth in each case and to all other regulations in this Ordinance. No other signs shall be permitted.

4-I-3-a Signs for uses in the Berryville Annexation Area shall comply with the sign regulations of the Town of Berryville.

4-I-3-b Freestanding Signs in all zoning districts:

1. Maximum Area and Height:

Zoning Districts/Use/Location	Maximum Area	Maximum Height
a. Rural Residential: Principle and Accessory Uses		
on highways with speed limits of less than 55 mph	2 sq. ft.	4 ft.
on highways with speed limits of 55 mph or more	4 sq. ft.	4 ft.
b. AOC/FOC: Principle and Accessory Uses		
on highways with speed limits of less than 55 mph	8 sq. ft.	6 ft.
on highways with speed limits of 55 mph or more	16 sq. ft.	8 ft.
c. Rural Residential and AOC/FOC: Special Uses and Neighborhood Commercial (all uses)		
on highways with speed limits of 25 mph and less	8 sq. ft.	6 ft.
on highways with speed limits of more than 25 mph and less than 55 mph	16 sq. ft.	8 ft.
on highways with speed limits of 55 mph or more	24 sq. ft.	10 ft.
d. Highway Commercial (all uses)		
on highways with speed limits of less than 55 mph	32 sq. ft.	10 ft.
on highways with speed limits of 55 mph or more	48 sq. ft.	12 ft.

2. Maximum Number:

- a. All zoning districts (except as noted): 1
- b. Highway Commercial Zoning District:
  - 1 – for parcels with less than 300 ft. of public highway frontage;
  - 2 – for parcels with 300 ft. or more of public highway frontage

3. Minimum Setback:

All zoning districts: A distance equal to the height of the sign from public highways, private access easements, and property lines

4. Illumination:

- a. Rural Residential: Principle and Accessory Uses: No sign shall be illuminated
- b. AOC/FOC (Principle and Accessory Uses): No sign shall be illuminated
- c. Rural Residential and AOC/FOC (Special Uses) and Neighborhood Commercial (all uses): Signs may be externally illuminated. Such 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 10 p.m., if open for business during those hours

- d. Highway Commercial (all uses):  
Signs may be illuminated when a use is open for business

4-I-3-c Signs prohibiting hunting, fishing, or trespassing in all zoning districts:  
No limit as to number of signs or setback; maximum sign area is 2 sq. feet

4-I-3-d Wall Signs, in all zoning districts:  
(1/22/92)  
(11/22/94)  
No wall signs shall exceed one square foot of sign area per two linear feet of building frontage of the wall, which most directly faces a public road, up to maximum area of 200 square feet for all wall signs. For corner lots, this area calculation may be made for each of the two walls that most directly face public roads. Other walls shall not be included in calculating allowable sign areas; however, signs may be attached to any wall.

4-I-3-e Directional Signs in all zoning Districts:  
(11/22/94)

1. On-site Directional Signs:
  - a. Maximum Number Permitted: 2 for each VDOT approved curb cut
  - b. Maximum Sign Area for each sign: 2 square feet
  - c. Maximum Height: 4 feet
  - d. Minimum Setbacks from rights-of-way: a distance equal to the height of the sign
  - e. Illumination: Signs may be illuminated when a use is open for business.

4-I-3-f Temporary Signs: Temporary signs may be permitted provided these are not illuminated or located in a public right of way. Temporary signs may be located off-premises for directional purposes. In addition, temporary signs are subject to the following regulations:  
(9/19/95)  
(3/12/07)

1. For all uses in the Rural Residential zoning district: maximum sign area: 2 sq ft
2. For uses not requiring a Business License In AOC, and FOC zoning districts:  
maximum sign area: 8 sq ft
3. For uses requiring a Business License in the AOC and FOC Zoning Districts and for all uses in Commercial districts: maximum sign area: 16 sq ft
4. The Zoning Administrator shall determine the reasonable number of temporary signs, provided that any person desiring to erect three or more temporary signs of 8 square feet or less or one or more temporary signs of more than 8 square feet for one activity shall first obtain a temporary sign permit from the Zoning Administrator, giving all reasonable information required. The Zoning Administrator shall grant no temporary sign permit for a period of more than three months in a 12 month period, and only upon written agreement by the applicant that the signs shall be removed at applicant's expense before the expiration of a date specified in the permit. A reasonable bond to insure such removal may be required by the Zoning Administrator.

4-I-3-g Freestanding Community Events Information Signs:  
(3/12/07)  
In addition to the Freestanding Signs allowed in Section 4-I-3-b, one free-standing community events information sign is allowed on parcels in the Neighborhood Commercial District that also front on Routes 638, 643, 679, 658, and 723. No such sign shall be closer than one-quarter mile to any other such sign. The maximum sign area shall be 16 square feet. The minimum length or width dimension of a sign shall be 3 ft. The maximum sign height shall be 8 feet. The sign shall be setback a distance equal to its height from public rights of way, private access easements, and property lines. The sign shall only provide information regarding events and activities of nonprofit institutions.

- 4-I-4           **Removal of Signs**  
Whenever a sign becomes structurally unsafe or endangers the safety of a structure or premise or the public, or is erected or maintained in violation of this Ordinance, the Zoning Administrator shall order such sign to be made safe or comply with the Ordinance, as the case may be, or be removed. Such order shall be sent by registered mail and shall be complied with within 12 days from the date of mailing said order by the person owning or responsible for the sign. Failure to comply shall constitute grounds for the Zoning Administrator to have the sign removed, and the cost thereof shall be added to any fine imposed for violation under this Ordinance.
- 4-I-5           **Nonconforming Signs and Removal**  
(6/21/88) 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 following conditions:
- 4-I-5-a           Any nonconforming sign shall be subject to the provisions of Sect. 4-I-8.
- 4-I-5-b           In order for a nonconforming sign to be eligible for a permit, the applicant must show, in a scale drawing, a 25 percent reduction in the overall square footage of the sign will be made.
- 4-I-5-c           Repairs to a nonconforming sign shall not exceed 50 percent of the assessed value of the sign at the time the initial permit for repairs is granted. No Nonconforming sign shall be replaced.  
(12/21/10)
- 4-I-5-d           Whenever the use of a structure or lot by a specific business is discontinued for that business, signs pertaining to that business, whether located on the structure, lot or on other property in Clarke County, shall be removed within 30 days (except for those signs described in Section 4-I-7-a) of the business vacating the premises.
- 4-I-5-e           Any nonconforming sign shall be permitted to remain in existence for a period of ten years following the date of adoption of this ordinance. At the expiration of this ten-year period any such sign shall be removed at the expense of the owner of the property on which the sign is located within 30 days of a written notice being received from the Zoning Administrator. If after written notice from the Zoning Administrator to the owner of the signs, such signs are not removed within 30 days, the Zoning Administrator may cause removal and charge the owner of the signs.
- 4-I-6           **Traffic Hazards**  
No sign shall be located or illuminated in such a manner as to cause a traffic hazard. Where a permit is required, the permit shall not be issued until the location and illumination, if any, of the sign are approved by the Zoning Administrator.
- 4-I-7           **Sign Permits**  
(6/21/88) No sign shall be erected, reconstructed, or refaced so as to advertise, promote or depict a business, activity or location other than that originally advertised until the Zoning Administrator has issued a sign permit.
- 4-I-8           **Appeals**  
(6/21/88) Appeals from the terms of Section 4-I-5 shall be heard pursuant to the provisions of Section 7 of this Ordinance. Prior to hearing by the Board of Zoning Appeals, the Zoning Administrator

shall, within 30 days of the filing of an application for a variance from the terms of this ordinance, submit said application to the Planning Commission for their review and written recommendation that shall be forwarded to the Board of Zoning Appeals prior to action upon the application. The Board of Zoning Appeals may grant a variance, not to exceed three years, if each of the following conditions are present:

- a. There has been a change of ownership of the business advertised within five years of the effective date of this ordinance.
- b. The removal of the sign would cause undue hardship to the owner and threaten the solvency of the business.
- c. Application for such variance is received at least six months prior to the expiration of the ten years after the effective date of this ordinance.

#### 4-I-9 Definitions

- 4-I-9-a SIGN: Any device for visual communication out-of-doors which is used for 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.
- 4-I-9-b  
(12/21/10) SIGN, ANIMATED: 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.
- 4-I-9-c  
(11/17/09) SIGN, AREA OF: The area of a sign shall be determined from its outside measurements including the entire surface and any additional framing, molding or trim; it does not include the surface of supporting structures.
1. 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.
  2. 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.
- 4-I-9-d  
(12/21/10) SIGN, CHANGEABLE MESSAGE: 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.
- 4-I-9-e  
(11/22/94) SIGN, DIRECTIONAL: Any sign displaying directional messages for pedestrians or vehicular traffic.
- 4-I-9-f  
(12/21/10) SIGN, ELECTRONIC DISPLAY: A sign containing emitting diodes (LEDS), fiber optics, plasma display screen, or other similar electronic illumination.
- 4-I-9-g  
(1/22/92) SIGN, FREESTANDING: Any on-site sign, which is supported from the ground and is not attached to any building.
- 4-I-9-h 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.
- 4-I-9-i SIGN, TEMPORARY: A sign advertising a candidacy for public office, an event of public

- (9/19/95) interest, such as a public or general election, church or public meeting, fair, horse show, turkey shoot, sales, entertainment for charitable purposes and other similar social or permitted retail activities of temporary duration or nonrecurring nature.
- 4-I-9-j  
(12/21/10) SIGN, TIME AND TEMPERATURE: Any sign whose only function is the display of information about current time and/or temperature.
- 4-I-9-k  
(1/22/92) 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 by not more than 18 inches.

## 4-J OFF-STREET PARKING

(9/17/96)  
(10/17/00)  
(6/15/04)

### 4-J-1 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 the chart in Section 4-J-10. 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 so located, arranged, and safeguarded as to provide appropriate separation from streets and walkways. Spaces shall be so arranged that any vehicle may be moved without moving another.

### 4-J-2 Construction and Design Standards

(11/17/09)

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. 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. 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. 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.

### 4-J-3 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.

### 4-J-4 Buffer Required Where Adjoining Property Residential

4-J-4-a

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.

4-J-4-b

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.

4-J-5 Limitations on Use

4-J-5-a (6/15/04) 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 District Regulations.

4-J-5-b (6/15/04) Off-street parking (whether on-site or off-site) shall be allowed only for principal uses, accessory uses, or special uses (approved by the Clarke County Board of Supervisors) that are allowed by the regulations of zoning district in which the off-street parking is located.

4-J-6 To be Located on Same Lot as Principal Use: Exceptions

4-J-6-a General: Required off-street parking facilities shall be on the same lot with the principal use or structure except as provided below.

4-J-6-b (10/18/11) Exceptions: Where it is impractical to provide all or part of required off-street parking for non-single family uses on the same lot, exceptions may be permitted by the Planning Commission. Such an exception shall be considered only in conjunction with the review of a Site Plan, as described in Section 6.

- 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; and
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.

4-J-7 Joint Parking Facilities

4-J-7-a (11/17/09) 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.

4-J-7-b (11/17/09) 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 Site Plan approval.

4-J-7-c (11/17/09) 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.

Table with 4 columns: Use, Retail, Office, Lodging. Rows: Residential (1.2, 1.4, 1.1), Lodging (1.3, 1.7, --), Office (1.2, --, --)

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.

4-J-8 Other Areas Not Used to Meet Requirements  
Loading or other non-parking areas shall not be included to meet off-street parking requirements.

4-J-9 Computation of Requirements  
The following rules shall apply to computation of off-street parking requirements:

4-J-9-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.

4-J-9-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.

4-J-10 Off-Street Parking Standards  
The following chart shows the minimum number of required off-street parking spaces. The maximum number of provided off-street parking spaces shall not exceed 150% of the minimum required.

(7/17/90) (7/20/93) (10/17/00) (11/17/09)	<u>Use</u>	<u>Required Minimum Number of Off-street Parking Spaces</u>
	<u>RESIDENCE USES:</u>	
	Single-Family Detached, Two Family Detached, Manufactured Homes, Townhouses	2 for each dwelling unit
	Multiple-Family, Dwellings of less than 600 sq ft	1.5 for each dwelling unit
	<u>GROUP QUARTERS:</u>	
	Group Housing	1 for each residence unit, plus 2 spaces for employees
	Convalescent, Nursing or Rest Homes, Sanitariums	1 for each 4 beds
	Dormitory, Fraternity or Sorority	1 for each 2 beds
	<u>TRANSIENT LODGINGS:</u>	
	Hotel and Motel, Country Inn and Bed and Breakfast	1.0 for each guest room
	<u>EDUCATIONAL USES:</u>	
	Kindergarten, Day Care Center Nursery, Private or Public	1 for each 8 students based on maximum design capacity
	Elementary, Intermediate, or	1 for each 8 students



Junior High, Private or Public	based on maximum design capacity
High School or College, Private or Public	1 for each 4 students based on maximum design capacity
<u>BUSINESS USES:</u>	
Retail Space (Unless otherwise specified)	1 for each 250 square feet of floor area
Furniture, Hardware, Home Furnishings, Other Similar Establishments	1 for each 400 square feet of floor area
Vehicle Repair	2 for each repair bay, plus 1 for service vehicle
Retail Space with Fuel Sales	1 for each 200 square feet of floor area
Vehicle Fuel Sales	2 standing spaces for each gasoline pump
Restaurant, Night Club, or Similar Establishment	1 for each 100 square feet of floor area or 1 for each 4 people based on Building Code design capacity, whichever is greater
Restaurant, Fast Food	1 for each 60 square feet plus 3 queuing spaces for drive-up window
Wholesale, Inventory, Storage not otherwise classified	1 for each 2,000 square feet of floor area devoted to enclosed storage
Mini-storage (rental of storage units of less than 5,000 sq ft each)	1 for each employee
<u>INDUSTRIAL USES:</u>	
Factories, Laboratories, Laundries, etc.	1 for each 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.
<u>CULTURAL, ENTERTAINMENT, AND RECREATIONAL USES:</u>	
Amphitheaters, Auditoriums, Assembly Halls, Community Centers, Dance Halls, Legitimate and Motion Picture Theaters, Stadium or Gymnasium - Fixed Seats	1 for each 4 seats based on maximum seating capacity
- Without Fixed Seats	1 for each 4 people based on Building Code design capacity
Art Gallery, Library, Museum	1 for each 400 square feet of floor area

SPORTS ACTIVITIES:

Bowling	4 for each alley
Swimming Pools, Recreation Centers and Similar Establishments	1 for each 4 persons, based on Building Code design capacity
Skating Rinks	1 for each 25 persons based on Building Code design capacity
Health Clubs	1 for each 250 square feet of floor area
Golf Course	2 per hole
Outdoor Court Games (tennis, basketball and similar establishments)	1 per 2 players based upon maximum capacity

OFFICE USES:

General Business and Governmental Buildings, Professional Office Buildings, but not including Medical Offices	1 for each 333 square feet of floor area
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MEDICAL USES:

Physician's or Dentist's Office, Clinic, and Outpatient	1 for each 250 square feet of floor area
Hospital	2 for each bed
Veterinary Hospital	1 for each 300 square feet of floor area

SERVICES USES:

Barber, Beauty Salon	2 for each chair
Commercial kennels for boarding or breeding, Animal Shelters	1 for every 4 canine runs (maximum of 2 dogs per run)
Laundry: Self-service	1 for each 2 cleaning or laundry machines
Dry-Cleaning Establishment	1 for each 200 square feet of floor area
Other	1 for each 200 square feet of floor area

INSTITUTIONAL ASSEMBLY USES:

-Churches, Synagogues, Temples and Other Places of Worship;	1 for every 4 seats in assembly rooms with fixed seats or,
-Civic, Fraternal, Political, Private, Religious, and Social Nonprofit Organizations;	1 for each 4 people based on Building Code design capacity of the assembly rooms without fixed seats
-Funeral Home, Mortuary	

<u>HANDICAPPED</u>	1 for 1 to 25 total spaces provided
<u>ACCESSIBLE SPACES:</u>	2 for 26 to 50 total spaces provided
	3 for 51 to 75 total spaces provided
	4 for 76 to 100 total spaces provided
	5 for 101 to 150 total spaces provided
	6 for 151 to 200 total spaces provided
	7 for 201 to 300 total spaces provided
	8 for 301 to 400 total spaces provided
	9 for 401 to 500 total spaces provided
	2% of total for 501 to 1,000 total spaces provided
	20 plus 1 for each 100 spaces, if more than 1,000 total spaces provided

4-J-11 Off-Street Loading Space

4-J-11-a 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.

4-J-11-b 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 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.

4-J-11-c Location and Dimension Requirements

1. General: Loading spaces and maneuvering areas shall be appropriately dimensioned and located with relation to the type of deliveries and pick-ups 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 Section 4-J-11-c-2 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; and
  - d. Minimum width of maneuvering room for back-in loading shall be 115 feet.
2. Exceptions: 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.

- 4-J-11-d 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.
- 4-J-11-e 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.
- 4-J-11-f 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.
- 4-J-11-g 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.
- 4-J-12 Minimum Parking and Loading Space Requirements for Uses not Specified  
Where minimum parking or loading space is not specified herein for particular uses, the Zoning Administrator shall determine requirements appropriate to use, guided by anticipated employment, number of residents and visitors, and by the anticipated need for off-street loading space. Appeals from any such determination shall be to the Board of Zoning Appeals.
- 4-J-13 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.

## 4-K NONCONFORMING LOTS, USES AND STRUCTURES

### 4-K-1 Intent

Within the 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 Title 15.2, Chapter 22, Article 7, Section 15.2-2307 of the Code of Virginia.

### 4-K-2 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.

### 4-K-3 Nonconforming Lots of Record

#### 4-K-3-a General

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. Except as provided below, 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. Where the lot of record is nonconforming because of width, the side yard requirement applicable to said lot shall be the side yard required under the Ordinance in effect on the date the plat of the lot was recorded; provided, however, that in no event shall the required side yard be less than ten (10) feet.

#### 4-K-3-b Prohibition Against Creation of Other Lots Below Width and Area Requirements for District

No lot or parcel or portion thereof shall be used or sold in a manner diminishing compliance with lot width and area requirements established by this Ordinance, nor shall any division be made which created a lot with width or area below the requirements stated in this Ordinance.

#### 4-K-3-c 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 Article.

4-K-3-d            Damage or Destruction of Conforming Use and/or Structure  
Should conforming use or structure located on a nonconforming lot be damaged or destroyed, the use or structure may be replaced within the limits of the original foundation area of the structure damaged or destroyed.

4-K-4            Nonconforming Uses of Land

4-K-4-a            General  
(10/20/92)        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:

- 4-K-4-b            Conditions  
(10/20/92)  
(6/21/88)  
(2/17/09)
1. Not Enlarged: No nonconforming use shall be enlarged, increased, or extended.
  2. Not Moved: No nonconforming use shall be moved in whole or in part to any portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this Ordinance, or to any other lot which is not properly zoned to permit such use.
  3. No Additional Nonconforming Uses: No additional uses of a nature that would be prohibited generally in the district involved shall be permitted.
  4. Extension of Use in Existing Structure: Any 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 this Ordinance, but no such use shall be extended to occupy any land outside building.
  5. Change to Another Nonconforming Use: Any nonconforming use of a structure, or structure and premises, may be changed to another nonconforming use, provided that the Board of Supervisors, upon receiving a recommendation from the Planning Commission, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the Board of Supervisors may require appropriate conditions and safeguards in accord with the provisions of this Ordinance. The procedures for review of such change shall be the same procedures set forth in Section 5-B-1 through 5-B-3.
  6. 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.
  7. 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.
  8. The provisions of this Section shall not apply to off-premises signs (billboards) which were legally erected within the county. Such signs shall be governed by Section 4-I-5 of this Ordinance.

4-K-5 Nonconforming Structures

4-K-5-a General  
(10/20/92)

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:

4-K-5-b Conditions  
(10/20/92)

1. Not Enlarged: No nonconforming structure shall be enlarged, increased, structurally altered, or extended in a manner that increases its nonconforming status.
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. Destruction of Structure: Where nonconforming status applies to a structure, destruction of the structure shall terminate the nonconforming status unless repairs or restoration is started within twenty-four (24) months and completed within forty-eight (48) months. Destruction for the purpose of this subsection is defined as damage to an extent of more than fifty (50) percent of the replacement cost at time of destruction. No nonconforming structure shall be re-established after said destruction, unless the structure is restored or repaired within the time limits set forth above.
4. Unsafe Structures: If an nonconforming structure or portion of a structure, or a structure or a portion thereof containing a nonconforming use, 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.

4-K-6 Uses Eligible for Special Use Permits Not Nonconforming Uses

Any use that is permissible as a special use in a district under the terms of this Ordinance (other than a change through Board of Zoning Appeals action from a nonconforming use to another use not generally permitted in the district) shall not be deemed a nonconforming use in such district, but shall without further action be considered a conforming use.

4-K-7 Changes in District Boundaries

Whenever this Ordinance is amended to change the boundaries of any district, any lots, structures, or uses of land and/or structures that become nonconforming as a result of such change shall become subject to the provisions of this Article.

## 5 SPECIAL USE PERMITS

### 5-A GENERAL

Special Use Permits may be granted by the Board of Supervisors for any of the uses for which a permit is required by the provisions of this Ordinance.

### 5-B PROCEDURE

#### 5-B-1 Application:

##### 5-B-1-a Pre-application Conference Requirement.

(11/18/14)

No less than seven (7) days prior to filing an application, a pre-application conference shall be held between the Applicant and the Zoning Administrator. The applicant shall provide the following items for review which shall be retained by the Zoning Administrator as the initial public record for the application:

1. A conceptual or draft site plan showing the subject property, general site layout, and main elements to be proposed as part of the application.
2. A written description of the proposed special use including operations details such as the nature of the special use, hours of operation, number of employees, and measures to mitigate impacts on surrounding properties.

##### 5-B-1-b

(3/20/90)

(11/18/14)

An application for a Special Use Permit may be made by the record owner of the property or a contract purchaser. If the application is made by a contract purchaser, the record owner shall submit the following, in writing, as a part of the application:

1. Approval of the contract purchaser making the application;
2. Confirmation that the applicant is a contract purchaser under an existing written contract; and
3. Agreement to give written notification to the County if the purchase contract is terminated while the application is pending before the County.

##### 5-B-1-c

(11/18/14)

Such application shall be filed with the Zoning Administrator and shall be accompanied by fifteen (15) copies of the following:

1. A site development plan in accordance with Article 6 of this Ordinance.
2. Front, side, and rear elevations and floor plans of proposed buildings.
3. The applicable filing fee.

##### 5-B-1-d

(11/18/14)

The Zoning Administrator may require such other information to be submitted, as the Zoning Administrator deems necessary for a proper and intelligent consideration of the application. The Zoning Administrator may also establish regular filing deadlines to ensure that there is sufficient time to evaluate the application prior to the Planning Commission's initial review.

##### 5-B-1-e

(11/18/14)

The Zoning Administrator shall determine when the application is complete. After receipt of a complete application, the Zoning Administrator shall refer the application to the Planning Commission for initial review at its next regular monthly meeting.

#### 5-B-2 Recommendation by Planning Commission

##### 5-B-2-a Public Hearing Requirements

(6/13/89)

After referral of the application to the Planning Commission by the Zoning



- (9/19/89) Administrator, the Commission shall hold a public hearing on said application after
- (10/17/89) giving public notice as required by Section 15.2-2204, Code of Virginia, 1950, as
- (11/16/93) amended, and in accordance with the requirements of Section 10-E of this ordinance.
- (11/18/14)
- 5-B-2-b Action by Planning Commission
  - (9/19/89) Within one-hundred (100) days of the date of the meeting of the Planning Commission at
  - (11/18/14) which a complete application is referred to the Commission, the Commission shall make a recommendation on said application to the Board of Supervisors to approve or disapprove the application. The recommendation of the Planning Commission may include recommendations for conditions to be applied to the Special Use Permit should it be granted by the Board of Supervisors.
- 5-B-2-c Information Required Before Making a Recommendation
  - (6/13/89) Before making a recommendation, the Commission may require the applicant to furnish such information as it may deem necessary in order to determine whether the proposed special use permit is detrimental to the public health, safety, or general welfare. Such a determination shall be based on the specific findings listed in 5-B-5. The Commission may make any additional findings it may deem appropriate.
- 5-B-2-d Berryville Area Development Authority
  - (3/17/92) The Berryville Area Development Authority (BADA) shall assume the responsibilities of the Planning Commission regarding special use permit review, as detailed above, for properties located within Annexation Area "B" as identified in the Clarke County/Town of Berryville Annexation Agreement, December 1988.

5-B-3 Action by Board of Supervisors

- (1/21/97)
- 5-B-3-a Public Hearing Requirements
  - (9/18/89) Public Hearing: Within one hundred days of receiving the recommendation of
  - (10/17/89) the Planning Commission, at their next regular meeting, and before action on the
  - (11/16/93) application for a Special Use Permit, the Board of Supervisors shall hold a public hearing on said application, after giving public notice as required by Section 15.2-2204, Code of Virginia, 1950, as amended, and in accordance with the requirements of Section 10-E of this ordinance.
- 5-B-3-b Burden of Proof
  - (6/13/89) The burden of proof shall be on the applicant to show reasonableness of the proposed special use permit, the lack of adverse effect, and compliance with the elements of public health, safety, and general welfare as set forth in Section 5-B-5.
- 5-B-3-c Compliance
  - Upon the granting of a Special Use Permit, one copy of the site development plan submitted with the application shall be certified by the Zoning Administrator and returned to the applicant, together with a statement in writing of the conditions, if any, imposed by the Board in granting the permit. The applicant shall use the property for the proposed use only in such manner as provided in the site development plan and only in accordance with the conditions, if any, provided by the Board.

## 5-B-4 Procedures before Planning Commission and Board of Supervisors

(11/18/14)

### 5-B-4-a Deadlines for Applicant Submission of Materials Prior to Public Hearing

Following the filing of a complete application, the Applicant shall provide any new or revised materials demonstrating compliance with required technical elements no less than 14 days prior to the first Public Hearing and no less than 10 days prior to any continued Public Hearing. Required technical elements include any regulations governing site development such as building and lot dimensions, use standards, and site development plan elements. Any new or revised materials provided after the deadlines referenced above shall not be considered by the Planning Commission or Board of Supervisors at the scheduled meeting.

### 5-B-4-b Deferral of Application

An applicant may request that consideration of a special use permit application at a Public Hearing be deferred by submitting a written request for deferral to the Zoning Administrator.

1. If the deferral request is provided to the Zoning Administrator prior to finalizing the Public Hearing advertisement for consideration by the Planning Commission or Board of Supervisors, the Zoning Administrator shall determine whether to grant the deferral request. A request for deferral shall be approved only for good cause. If such request is approved by the Zoning Administrator, consideration of the application shall be deferred to the next regularly scheduled meeting of the Planning Commission or Board of Supervisors.

2. If the deferral request is provided after finalizing the Public Hearing advertisement, the request for deferral shall be placed on the Public Hearing agenda on the date the application is to be considered. The Planning Commission or Board of Supervisors, as applicable may approve the request for deferral for good cause. The applicant shall be responsible for a re-advertising fee which shall be paid in full prior to the application being placed on an upcoming meeting agenda of the Planning Commission or Board of Supervisors.

## 5-B-5 Criteria for Action on Special Use Permit

(1/21/97)

Before taking action, the Board may require the applicant to furnish such information as it may deem necessary in order to determine whether the proposed special use permit is detrimental to the public health, safety, or general welfare. Such a determination shall be based on the following specific findings. The Board may make any additional findings it may deem appropriate. The use requiring the special use permit:

5-B-5-a Will be consistent with the Comprehensive Plan of the County.

5-B-5-b Will be consistent with the Purposes and Intent of this Ordinance.

5-B-5-c Will not have an undue adverse impact on the short-term and longterm fiscal resources of the County for education, water, sewage, fire, police, rescue, solid waste disposal or other services, and will be consistent 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.

5-B-5-d Will not cause an undue adverse effect on neighboring property values without furthering the goals of the Comprehensive Plan to the benefit of the County.

- 5-B-5-e Will not cause an undue adverse effect on the preservation of agricultural or forestal land.
- 5-B-5-f Will not cause unreasonable traffic congestion or unsafe conditions on existing or proposed public roads and has adequate road access.
- 5-B-5-g Will not cause destruction of or encroachment upon historic or archeological sites, particularly properties under historic easement.
- 5-B-5-h Will not cause an undue adverse effect on rare and irreplaceable natural areas, areas of outstanding natural beauty, state-designated scenic byways or scenic rivers or properties under open space easement.
- 5-B-5-i Will not cause an undue adverse effect on wildlife and plant habitats.
- 5-B-5-j Will have sufficient water available for its foreseeable needs.
- 5-B-5-k Will not cause unreasonable depletion of or other undue adverse effect on the water source(s) serving existing development(s) in adjacent areas.
- 5-B-5-l Will not cause undue surface or subsurface water pollution.
- 5-B-5-m Will not cause an undue adverse effect on existing or proposed septic systems in adjacent areas.
- 5-B-5-n Will not cause unreasonable soil erosion.
- 5-B-5-o Will have adequate facilities to provide safety from flooding, both with respect to proposed structures and to downhill/downstream properties.
- 5-B-5-p Will not cause undue air pollution.
- 5-B-5-q Will not cause undue noise, light or glare, dust, odor, fumes, or vibration.
- 5-B-5-r If in the AOC or FOC zoning districts, will not result in scale or intensity of land use significantly greater than that allowed under the permitted uses for these districts.
- 5-B-5-s Will not cause a detrimental visual impact.

5-B-6 Special Use Deemed Approved

(2/17/09) A property shall be 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 in the district or a legal nonconforming use.

(2/17/09) The owner of a property, deemed to have been approved for a special use as a result of an amendment to the Zoning Ordinance, shall submit a site plan to the Zoning Administrator documenting the nature and extent of such use within six months of the adoption of the ordinance permitting the use as a special use.

Failure to do so shall constitute a violation of the Zoning Ordinance. Such a Site Plan shall address the Specifications and Contents of a Site Plan as listed in the Zoning Ordinance Sections 6-F and 6-G. The Zoning Administrator may waive any of these specifications or content items where such waiver is not inconsistent with the intent of Section 6, and the applicant establishes that an undue hardship would result from requiring a specific item or that providing the item is unreasonable.

#### 5-C REVOCATION

(11/16/04) 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 Planning Commission, the Board may revoke an active Special Use Permit for the following reasons:

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. A Special Use Permit approved before 2004 November 16 shall be eligible for revocation if it has not been established by 2006 November 16 or if it has been discontinued for one year as of 2005 November 16.
- (3/18/14) 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.
- (3/18/14) 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.

#### 5-D REQUIRED AMENDMENT

5-D-1 A property which has been granted a special use permit for a use, or a property which is  
(2/17/09) deemed to have been granted a special use permit for a use pursuant to section 5-B-5, shall be required to apply for an amended special use permit in the event the use is enlarged or expanded.

5-D-2 The procedures for applying for an amended special use permit shall be the same procedures  
(2/17/09) as for special use permit applications as set forth in Section 5-B.

## 6 SITE DEVELOPMENT PLANS

(7/20/93)  
(6/15/04)

### 6-A INTENT

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:

1. a project's compatibility with its environment,
2. the ability of proposed traffic circulation systems to provide for safe and convenient movement of vehicles and pedestrians,
3. the quantity, quality, utility, and type of the project's community facilities, and
4. the location and adequacy of the provision for drainage and utilities.

### 6-B WHEN REQUIRED

6-B-1 A site plan shall be submitted in accordance with this article for all proposed buildings, structures, or uses, except:

(7/17/12)

- a. Single family detached dwellings
- b. Small wind turbines subject to the following requirements:
  - (1) Single structures greater than 100 feet in height; or
  - (2) Less than three wind turbine structures 100 feet or less
- c. Agricultural buildings.

6-B-2 A site plan shall be submitted when a change of use of an existing structure requires additional parking or other significant external improvements.

6-B-3 A site plan shall be submitted when a change of use of an existing structure requires conformance to current site plan requirements such as parking, landscaping, signage, lighting, storm water control, etc.

(2/19/08)

### 6-C WAIVER OF REQUIREMENTS

6-C-1 Any requirement of this Section may be waived by the Agent 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.

6-C-2 The Agent may waive the requirements for site plan review for additions to buildings, structures, and uses, if in his/her opinion; such addition does not substantially affect the intent of this Section.

### 6-D ADMINISTRATION

6-D-1 The Berryville Area Development Authority (BADA) is the administrative body for property within Annexation Area "B" (as defined in the County/ Town Annexation Agreement of 1988) which is the subject of the application and for which no final Certificate of Occupancy has been granted.

(2/21/90)

- 6-D-2 In all other areas of the County, the Clarke County Planning Commission as the administrative body.
- 6-D-3 The Planning Commission and BADA may accept comments from the County of Clarke, Town of Berryville, and other applicable public agencies when reviewing site plans.
- 6-D-4 Agent  
The Planning Commission may act through the Clarke County planning staff, and the BADA through the Clarke County planning staff or the Berryville planning staff (the "Agent"), to the extent the Administrative Bodies find it appropriate for the administration of this Section. However, no Agent may act for the Administrative Bodies in approving, conditionally approving, or denying any site plan. The Agent shall be responsible for the processing of site development plan applications, subject to the procedures provided herein.
- 6-D-5 Inspection  
All government officers and employees responsible for the enforcement of this Section shall have the right to enter upon any property at all reasonable times during the period of construction for the purpose of making inspections for compliance with this Section. It shall be the responsibility of the developer to notify the Agent when each stage of the development is ready for inspection for compliance with the site plan as approved by the Administrative Body. The developer shall make one set of the approved site plan available at the site at all times during construction.

## 6-E PROCEDURES

### 6-E-1 Pre-Application Conference Requirement

- (11/18/14) No less than seven (7) days prior to filing an application, a pre-application conference shall be held between the Applicant and the Agent. The Applicant shall provide for review a conceptual or draft site plan showing the subject property, general site layout, and main elements to be proposed as part of this application. The draft site plan and any additional materials provided by Applicant shall be retained by the Agent as the initial public record for the application.

### 6-E-2 Application

- 6-E-2-a Application for approval of a site development plan shall be made by submitting an application form, paper copies of the site plan, a digital or electronic copy of the site plan (Portable Document Format) (PDF), digital files (as described below) and the applicable fee, to the Agent.
- (3/20/90)  
(10/18/11)

1. A total of 21 paper copies shall be submitted, 15 copies on 11 by 17 inch paper and six copies on 24 by 36 inch paper.
2. The digital files shall be provided in one of the following formats:  
DXF (AutoCAD ASCII Drawing Exchange File)  
ArcGIS shapefile  
ArcGis Personal geodatabase
3. The digital files shall provide individual layers for the following features:  
Site boundary  
Parcel lot lines

Lot numbers  
 Tax Map numbers  
 Streets and Roads  
 Road Right of Ways  
 Road names  
 Building footprints  
 Utilities and Lines  
 Easements

4. The digital files shall be submitted in the following projection:
  - Projected Coordinate System: NAD 1983 State Plane Virginia North FIPS 4501 Feet
  - Projection: Lambert Conformal Conic
  - False Easting: 11482916.666666666
  - False Northing: 6561666.666666667
  - Central Meridian: -78.50000000
  - Standard Parallel: 1:38.03333333
  - Standard Parallel: 2:39.20000000
  - Latitude Of Origin: 37.66666667
  - Linear Unit: Foot US
  - Geographic Coordinate System: GCS North American 1983
  - Datum: D North American 1983
  - Prime Meridian: Greenwich
  - Angular Unit: Degree

A minimum of two property corners shall be identified by xy coordinates in order to “tie to” existing GIS layers.  
 A Statement indicating the source of the northern meridian and amount of declination used
5. The Zoning Administrator may modify the number and size of paper copies or digital copies and may modify the format and features for such digital information based on unique circumstances.

- 6-E-2-b  
(11/18/14) The agent may require such other information to be submitted as the Agent deems necessary for a proper and intelligent consideration of the application. The Agent may also establish regular filing deadlines to ensure that there is sufficient time to evaluate the application prior to the Administrative Body’s initial review.
- 6-E-2-c  
(11/18/14) The Agent shall determine when the application is complete. After receipt of a complete application, the Agent shall refer the matter to the Administrative Body for initial review at its next regular meeting.
- 6-E-2-d The Agent shall forward copies of the site plan for all applicable agencies and officials for written comments and recommendations. After receiving such comments and recommendations, the Agent shall prepare a report for the Administrative Body.
- 6-E-2-e The site plan and accompanying materials shall be available for public review in the Clarke County Planning Department
- 6-E-2-f In addition to the fee set by the Board of Supervisors, the Board may require the applicant to bear the costs of any extraordinary professional services employed by the Administrative Body in reviewing the site plan.

## 6-E-3 Action on Site Plan Application

### 6-E-3-a Time Period

(11/18/14)

After receiving a complete application from the Agent, the Administrative Body shall initially review the application at the next regular monthly meeting. Within 60 days of this first meeting, the Administrative Body shall act to approve, approve with conditions, or disapprove the site plan.

### 6-E-3-b Public Notice and Hearings

(11/18/14)

1. The Administrative Body shall provide public notice and hold public hearings on the site plan application, in accordance with the requirements of Section 10-E of this ordinance.

2. Deadlines for Applicant Submission of Materials Prior to Public Hearing. Following the filing of a complete application, the Applicant shall provide any new or revised materials demonstrating compliance with required technical elements no less than 14 days prior to the first Public Hearing and no less than 10 days prior to any continued Public Hearing. Required technical elements include any regulations governing site development such as lot dimensions and plan submission requirements. Any new or revised materials provided after the deadlines referenced above shall be not considered by the Commission at the scheduled meeting.

### 6-E-3-c Action by the Administrative Body

(11/18/14)

1. The Administrative Body shall approve the site plan if it finds that the plan meets the requirements of this Ordinance, the Clarke County Code, the Code of Virginia, and the intent of the Clarke County Comprehensive Plan and/or its Berryville Area Plan component.

2. The Administrative Body may condition approval of the site plan upon the applicant making certain changes or modifications to the plan, said conditions to be stated in writing by the Administrative Body.

3. If the Administrative Body disapproves a site plan, it shall state in writing the reasons for such denial in a separate document or on the plan itself. 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.

### 6-E-3-d Appeals

Any applicant may appeal the decision of the Administrative Body by filing within 30 days of the decision of the Administrative Body an appeal in writing to the Board of Supervisors of Clarke County, Virginia.

### 6-E-3-e Site Plans Submitted with Special Use Permit Applications

(6/19/90)

Where a site plan is submitted with a Special Use Permit application as required in Section 5 of this Ordinance, the action of the Administrative Body shall be in the form of a recommendation to the Board of Supervisors. The Board shall then consider the site plan in conjunction with the Special Use Permit request, as outlined in Section 5.



6-E-4 Compliance with Conditions

(2/17/09)  
(10/18/11) A Site Plan shall become null and void if it is not submitted, in a form complying with all conditions established by the Planning Commission or Board of Supervisors, to the Planning Commission or Board of Supervisors Chair and Zoning Administrator for signature within six months from the date of approval by the Planning Commission or Board of Supervisors. The Planning Commission or Board of Supervisors may extend this time limit upon written request of the property owner. Such submittal shall include six copies on 24 by 36 inch paper, a digital or electronic copy of the site plan (Portable Document Format (PDF), digital files (see section 6-E-2-a-2 thru 5 for format, features, and projection). The Zoning Administrator may modify the number of paper copies or digital copies and may modify the format and features for such digital information based on unique circumstances.

6-E-5 Approval Expiration

(2/17/09) Unless a final Certificate of Occupancy has been issued for the structures shown on the Site Plan, an approved final Site Plan shall no longer be valid after five years from the date the Planning Commission or Board of Supervisors Chair sign a final version of the Site Plan that complies with any conditions set by the Planning Commission or Board of Supervisors in its approval action. Upon application of the developer, filed before expiration of a final Site Plan, the Planning Commission or Board of Supervisors may grant one or more extensions of such approval for additional periods as the Commission or Board, at the time the extension is granted, determines to be reasonable. Such extensions shall take into consideration:

1. whether a building permit has been issued,
2. whether substantial construction work has been completed,
3. the size and phasing of the proposed development, and
4. the laws, ordinances, and regulations in effect at the time of the request for an extension.

6-F SPECIFICATIONS

Every site plan shall be prepared in accordance with the following specifications:

6-F-1 The scale shall be one inch equals not more than 50 feet.

6-F-2 All site plans shall be submitted on 24 by 36 inch sheets.

6-F-3 If the site plan is on more than one sheet, match lines shall clearly indicate where the sheets join.

6-F-4 Horizontal dimensions shall be in feet and decimals of feet to the nearest 1/100 of a foot.

6-G CONTENTS

The site plan, or any portion thereof involving engineering, urban planning, landscape architecture, architecture or land surveying shall be prepared by qualified persons. Site 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 information, as applicable:

- 6-G-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.
- 6-G-2 A signature area for approvals by the chairman of the Administrative Body and the Agent.
- 6-G-3 Signature of the property owner.
- 6-G-4 North point, scale, and date.
- 6-G-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-G-6 Existing zoning and zoning district boundaries for the property in question, and on immediately surrounding properties.
- 6-G-7 The present owner and use of all properties contiguous or directly across any street.
- 6-G-8 The boundaries of the property involved by bearings and distances, certified by a land surveyor licensed to practice in the Commonwealth of Virginia.
- 6-G-9 All existing property lines, existing streets, buildings, watercourses, waterways, lakes, and other existing physical features on or adjoining the property. Size and height of existing buildings on the property should be shown. Features on adjoining properties need only be shown in approximate scale and proportion.
- 6-G-10 Topography of the project area with contour intervals of two feet or less
- 6-G-11 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.
- 6-G-12 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. When proposed streets intersect with existing streets, both edges of existing pavement or curb and gutter must be indicated for a minimum of 50 feet or the length of connections, whichever is greater.
- 6-G-13 The location of all off-street parking, loading spaces, and walkways, indicating types of surfacing, size and angle of stalls, width of aisles, and a schedule showing the number of parking spaces.
- 6-G-14 The location, height, type, and material of all fences, walls, screen planting, and landscaping details of all buildings and grounds, and the location, height, and character of all outdoor lighting systems.
- 6-G-15 The location of all proposed buildings and structures, primary and accessory; number of stories and height; proposed general use of each structure; and the number, size, and type of dwelling units, where applicable.

- 6-G-16 (01/17/17) For projects located in the Berryville Annexation Area, provision for the adequate disposition of natural and storm water indicating the location, sizes, types, and grades of ditches, catch basins, detention ponds (showing 10-year and 100-year elevations), and pipes and connections to existing drainage systems. Plans shall be in accordance with the Berryville Stormwater System Master Plan.
- 6-G-17 Provisions, plans and schedule for the adequate control of erosion and sediment, in accordance with the Clarke County Erosion and Sediment Control Ordinance.
- 6-G-18 Proposed finished grading by contour, supplemented where necessary by spot elevations.
- 6-G-19 Flood plain studies as required by the Agent.
- 6-G-20 The location, size, height, materials used, orientation, and illumination of proposed signs.
- 6-G-21 The location, dimensions and total area of proposed recreation, open space, and required amenities and improvements.
- 6-G-22 The location of all wooded areas on the site, including all individual large or medium canopy trees (see section 6-H-10-g) with a diameter of eight inches or more (measured 4½ feet above the ground) and all small canopy trees (see section 6-H-10-g) 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. The site plan shall provide an indication of which trees are to be retained and which are to be removed.
- 6-G-23 A landscape plan (same scale as site plan), meeting the minimum landscape design standards described below.
- 6-G-24 Development sequence for phased construction, if applicable.
- 6-G-25 Building restriction lines.
- 6-G-26 Distance to nearest school or school site.
- 6-G-27 Elevation plans for all exterior facades of proposed structures, showing design features and indicating materials and colors to be used.
- 6-G-28 Source of title of the owner of record, including deed book and page reference of the last instrument in the chain of title.
- 6-G-29 Total site acreage; acreage of individual lots and street rights-of-way.
- 6-G-30 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 flood plain soils; current drainage channels; bodies of water; stormwater management facilities; utilities; other sensitive areas defined by the Agent. The Agent may require that a geotechnical report be submitted where warranted by soil or water conditions.

- 6-G-31 (1/20/09) If explosives are proposed to be used in conjunction with development shown on a site plan, a Blasting Plan shall be provided per Clarke County Code Chapter 86, Explosives, approved by the Board of Septic and Well Appeals.
- 6-G-32 Floor area ratio (FAR) and impervious surface coverage for all structures on the property.
- 6-G-33 Maximum number of employees anticipated, if industrial, commercial, or office; net density of dwelling units, if residential.
- 6-G-34 Anticipated daily and peak water demand and sewage flows for the site.
- 6-G-35 (6/15/04) Anticipated daily vehicle trips generated by the site development based upon data found in Trip Generation, by the Institute for Transportation Engineers, latest edition; capacity of existing and proposed streets; sight distances for all intersections based on Virginia Department of Transportation (VDOT), "Road Design Manual and Minimum Standard of Entrances" to state highways, latest edition; proposed improvements within existing street rights-of-way; and, further traffic studies as required by the Agent. If additional traffic studies are required, the applicant shall use the applicable criteria and methodologies found in the VDOT Design Manual, latest edition. The Agent may assign all or a part of the VDOT "Guidelines for a Traffic Impact Study" depending on the type, size, and location of the development.
- 6-G-36 A copy of all proposed homeowners' association bylaws, and other covenants or maintenance documents where common ownership is anticipated.
- 6-G-37 A copy of rezoning proffers, Special Use Permit conditions or variances granted for the property shall be submitted with the site plan.
- 6-G-38 Bond estimates for all required improvements.
- 6-G-39 Any necessary notes required by the Agent to explain the purpose of specific items on the plan.
- 6-G-40 Additional information as deemed necessary by the Administrative Body or the Agent.

6-H IMPROVEMENTS AND MINIMUM STANDARDS

(6/15/04)  
(8/17/10)

To further the intent of this Section and to protect public safety and general welfare, no site plan shall be approved until the Administrative Body is assured that improvements will be made which meet the following minimum standards:

- 6-H-1 (6/15/04) **Streets and Rights-of-Way**  
A traffic impact study is required when the proposed new development will generate traffic in excess of 1000 vehicles per day. 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.

- 6-H-1-a Streets, driveways, access roads and rights-of-way shall be constructed and dedicated, and existing streets widened and improved as necessary, when the need for such streets and improvements is generated by the proposed development, or is indicated in the Clarke County Comprehensive Plan and/or its Berryville Area Plan component.
- 6-H-1-b All street construction standards and geometric design standards shall be in accord with the standards of the Clarke County Subdivision Ordinance, the Virginia Department of Transportation, or other standards provided by the County of Clarke. However, the Authority or the Agent may modify standards for local, collector, and minor loop streets provided that off-street parking sufficient to accommodate required parking ratios are provided to complement the street system, and approval of the modifications is obtained from the Virginia Department of Transportation, where applicable.
- 6-H-1-c (6/15/04) All development must 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/industrial development, accessed by a primary highway shall include interconnection and shared driveways with adjoining commercial/industrial property (vacant or developed) and, if conditions warrant, frontage roads.

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:

<u>Roadway</u>	<u>Driveway Spacing/Corner Clearance</u>
Frontage	100 feet
Secondary	600 feet
Primary	600 feet where there is no median opening 1000 feet where there is a median opening

- 6-H-1-d Where traffic generated from an entire development exceeds 2,000 vehicle trips per day, such development shall provide connectors to existing public roads at two or more locations. Where only one connection 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.
- 6-H-1-e Streets and rights-of-way shall permit access to adjoining properties in conformance with the Clarke County Comprehensive Plan, the Berryville Area Plan, and to the satisfaction of the Administrative Body or the Agent.

6-H-1-f (6/15/04) On-site travel ways shall be designed with the following standards:  
Turn Radius: Minimum turn radii shall be 25 feet (increased radii to be provided if site is to be used by large truck traffic);  
Driveway Width: Maximum driveway width: 14 feet per lane if one-way in and one-way out; 11 feet per lane for multi-lane entrance/exit;  
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;  
Right/Left Lanes: Required when right/left turn volume into or from the subject site exceeds 300 vehicles per lane; and  
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.

6-H-2 Cul-de-Sacs  
Cul-de-sacs shall be designed and constructed in accordance with the street standards of the Clarke County Subdivision Ordinance, or with other standards provided by the County of Clarke. Cul-de-sacs may not be used as parking areas.

6-H-3 Parking  
Parking bays shall be constructed to standards compatible with those of the adjoining public street, and shall be provided in quantity according to the schedule set forth in this Ordinance. Off-street parking spaces shall be accessed via private travel ways, and not directly accessed from public rights-of-way.

6-H-4 (6/15/04) 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 Administrative Body or the Agent. Where the Clarke County Comprehensive Plan designates a trail system and that system traverses commercial/industrial sites, the site plan shall incorporate the trail system into the design. All such sidewalks, paths, and walkways shall comply with the standards of the Americans with Disabilities Act.

6-H-5 (8/17/10) Curb and Gutter  
Curb and gutter (CG-6 or approved equivalent) shall be required on all new public streets in the Highway Commercial (CH) Zoning District. The Administrative Body 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 Administrative Body 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, Rural Residential (RR) and Neighborhood Commercial (CN) Zoning Districts curb and gutter shall not be required unless site conditions warrant.

6-H-6 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:

- 6-H-6-a Equipment such electric distribution transformers, switch gear, meter pedestals and telephone pedestals, which are normally installed aboveground, may continue to be so installed;
- 6-H-6-b Meters, connections, and similar equipment normally attached to outside walls, may be so installed;
- 6-H-6-c 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 Administrative Body, the Agent, or utility company.
- 6-H-7 **Water and Sewer Systems**  
All water distribution and sewer collection systems shall be designed to accommodate normal and peak demand loads. All such systems shall be designed to meet or exceed the specifications of the Berryville Area Water and Sewerage Program. Regulations of the Virginia Department of Health and other state agencies shall also be met, as applicable.
- 6-H-8 **Site Development Plans; Improvements and Minimum Standards; Stormwater Management**  
(01/17/17)
- 6-H-8-a **Stormwater management facilities shall be provided in conjunction with land development activities, which require the submission of a Site Plan. All stormwater management facilities shall comply with State stormwater management regulations. A copy of the permit or approval letter from the State stormwater management program authority shall be provided as a condition of final site plan approval.**  
(11/21/00)  
(8/17/10)  
(01/17/17)
- 6-H-9 **Soil Suitability**  
The U.S. Department of Agriculture, Soil Conservation Service, 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. The applicant shall provide a generalized mapping of on-site soils and their engineering characteristics.
- 6-H-10 **Landscaping Design Standards**
- 6-H-10-a **Purpose and Intent**  
(10/25/99)  
The purpose of this article is to:
1. Provide for the protection of ground water, improve air quality and stormwater management through the mitigating effects of trees;
  2. Preserve property values and retain the character of an area in a way that is conducive to economic development;
  3. Make incompatible land uses less disagreeable by requiring screening in order to minimize the harmful impact of noise, dust and vehicle headlight glare.
  4. Require landscaping of parking lots to reduce the harmful effects of wind, heat, noise and vehicle headlight glare;
  5. Improve the aesthetic appearance of commercial, industrial and residential areas to help create an attractive and harmonious community;
  6. Provide for site development protecting the health safety and welfare of the public and in conformance with zoning regulations as allowed in §15.2-2283 & 15.2-2286 of the Code of Virginia; and

7. Provide for preservation, planting, and replacement of trees in the development process to meet the objectives of §15.2-960 & 961 of the Code of Virginia, as amended.

6-H-10-b Existing Trees

1. Existing trees, with the following characteristics, should be preserved, but may be replaced as noted in section 3 below;
  - a. have a diameter of eight inches or greater (measured 4.5 feet above the ground) if large or medium canopy trees(see section 6-H-10-g);
  - b. have a diameter of four inches or greater (measured 4.5 feet above the ground) if small canopy trees;
  - c. be a native species;
  - d. be in a healthy condition; and
  - e. be located on the subject property within two years before site plan application.
2. Preservation shall be accomplished by maintaining current grade and installing a temporary four-foot high fence during site disturbance for the circular area centered on the tree with a diameter 1.5 times the canopy spread.
3. Replacement trees may be shown on the site plan for existing trees, as described above. Replacement trees shall be Large Canopy or Medium Canopy trees and meet the specifications of Section 6-H-10-g below. The total caliper of replacement trees shall equal or exceed the total caliper of existing trees being removed up to a maximum of four replacement trees per acre of the subject property. Existing or replacement trees shall not be considered buffer or parking trees.

6-H-10-c Buffer-areas

Buffer-areas provide for plant material screening between adjacent land uses and along public rights of way. The 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, or vehicular parking. Except for mulched areas adjacent to plant material, buffer-areas shall have a living ground cover.

1. The minimum Buffer-area widths are provided in the matrix below:

Proposed Use	Existing Zoning			
	Resid., AOC or FOC	Commercial & Institutional	Industrial	Public ROW
Residential	N/A	25 feet	25 feet	10 feet
Commercial & Institutional	25 feet	N/A	10 feet	10 feet
Industrial	25 feet	10 feet	N/A	10 feet
Public ROW	10 feet	10 feet	10 feet	N/A

2. Screening
  - a. Quantity: Plant material is required per square foot of buffer-area as listed below:
 

	Buffer areas less <u>than 25 feet wide</u>	Buffer areas <u>25 feet and wider</u>
Large Canopy Tree	1/500 square feet and	1/750 square feet or



Medium Canopy Tree	(none required)	1/750 square feet or
Small Canopy Tree	1/1000 square feet and	1/750 square feet and
Evergreen Tree	1/500 square feet and	1/250 square feet and
Shrub	1/50 square feet	1/50 square feet

- b. Utility Lines: Small Canopy Trees shall be substituted for Large Canopy Trees where buffer-areas are under and parallel to overhead utility lines. In other buffer-areas, Small Canopy Trees should be used whenever trees are placed under overhead utility lines.
- c. Screening of Parking Areas: Shrubs should be placed to screen parking areas from public rights of way.
- d. Commercial or Industrial Buffer-areas: Based on site characteristics, buffer-areas for commercial or industrial uses adjacent to Residential, AOC or FOC zoning districts may be required to include fences or walls with a minimum height of six feet.
- 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.
- f. Fence and Wall Materials: 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 is discouraged.
- g. Additional Plant Material: Wherever possible, installation of additional plant material, including annuals and perennials, is encouraged to maximize the attractiveness and value of a property.

6-H-10-d      **Parking Trees**

Trees shall be provided in parking areas, in addition to required buffer-area trees. 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.
2. A landscape island for each large canopy tree or two medium canopy trees shall be not 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.

6-H-10-e      **Plant Material Type and Location Specifications**

(1/20/09)

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. Size:

Minimum Caliper/Size	
a. Large Canopy Tree	Two inch caliper
b. Medium Canopy Tree	Two inch caliper
c. Evergreen Tree	Six feet tall
d. Small Canopy Tree	Six feet tall
e. All Shrubs	Eighteen inches tall

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.
6. Planting: All plant material shall be installed in accordance with good trade practices. Trees shall be planted at least ten feet apart. The Standardized Landscape Specifications for the Commonwealth of Virginia will serve as the basis for minimum acceptable plant installations (Plates 1 and 2). The Zoning Administrator or designee shall be notified seventy-two hours prior to plant installation. The Zoning Administrator will schedule a site visit to inspect all plant material to confirm minimum standards. Upon inspection the Zoning Administrator may reject any plant material due to non-conformance.
7. Selection: 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. All trees and shrubs will be based on their listing in the Manual of Woody Landscape Plants, fifth edition.
  - a. Large Canopy Trees shall:
    - (1) have a mature height over forty-five feet as described in the Manual of Woody Landscape Plants;
    - (2) 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;
    - (3) be typical of, but not limited to Maples or Oaks;
    - (4) not include: Female Ginkgo (*Ginkgo biloba*), Poplar (*Populus spp.*), Silver Maple (*Acer saccharinum*), Tree of Heaven (*Ailanthus altissima*) or Black Locust (*Robinia pseudoacacia*).
  - b. Medium Canopy Trees shall:
    - (1) have a mature height between thirty and forty-five feet, with a spread of thirty feet as described in the Manual of Woody Landscape Plants;
    - (2) 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;
    - (3) be typical of, but not limited to Honeylocusts (*Gleditsia triacanthos*), Blackgums (*Nyssa sylvatica*) or American Hophornbeams (*Ostrya virginiana*)
  - c. Small Canopy Trees shall:
    - (1) have a mature height up to thirty feet, with an equal spread as described in the Manual of Woody Landscape Plants;
    - (2) 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;
    - (3) be typical of, but not limited to Flowering Crabapple (*Malus sp.*) or Redbud

- (*Cercis canadensis*);
- (4) not include Bradford Pear (*Pyrus calleryana*).
- d. Evergreen Trees shall:
  - (1) have a mature height of at least ten feet as described in the Manual of Woody Landscape Plants;
  - (2) 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;
  - (3) be typical of, but not limited to American Arborvitae (*Thujaoccidentalis*), American Holly (*Ilex opaca*), or upright Juniper(*Juniperus sp.*).
- e. Shrubs shall:
  - (1) include evergreen varieties for at least 50% of the shrubs planted;
  - (2) have a mature height of at least three feet as described in the Manual of Woody Landscape Plants;
  - (3) 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;
  - (4) be typical of, but not limited to Inkberry (*Ilex glabra*), Sweetshrub (*Claycanthis floridus*), Juniper (*Juniperus sp.*), and Cherrylaurel (*Prunus caroliniana*).

6-H-10-f

Enforcement

The enforcement of this Ordinance shall be the responsibility of the Zoning Administrator or designee. The final Certificate of Occupancy shall not be signed until all trees, shrubs and screening material required by this Ordinance are installed and verified by the Zoning Administrator.

6-H-10-g  
(1/20/09)

Maintenance Standards

The owner or their agent shall be responsible for the general maintenance of all landscape areas as defined as such areas as parking lot landscape islands, screening and street trees.

1. These 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. Public water or groundwater should not be used to water plant material more than one year after its installation. Permanent irrigation facilities may be installed, however rain catchment systems are strongly encouraged as the water source. Such a rain catchment system shall be adequately sized to provide the amount of water likely to be used (a function of site design and the projected length of time without rain).
5. 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 Zoning Administrator. Preserved existing trees, that subsequently die, shall be replaced by new trees (as specified in the Existing Trees section 6-H-10-b).

6-H-10-h

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.

6-H-11

(8/15/06)  
(3/16/10)

Outdoor Lighting Standards

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.

6-H-11-a

(8/15/06)  
(3/16/10)  
(3/15/16)

General Outdoor Lighting 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.
  - 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.
  - b. 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 manufacturers 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.
  - c. 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.

8. Lighting Definitions

- a. Candela – The system of luminous intensity. One candela is one lumen per candle (steradian).
- b. 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.
- c. 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.
- d. 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.
- e. Lighting Fixture – 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.
- f. Lighting 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.
- g. Light fixture, recessed canopy – An outdoor lighting fixture recessed into a canopy ceiling so that the light source is either completely flush or recessed within the underside of the canopy.
- h. 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.
- i. 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.
- j. Nadir – The angle pointing directly downward from the luminaire.
- k. 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.

6-H-12 Design Standards for Wireless Communication Facilities (WCFs)  
6-H-12-a Design Standards

(11/20/01)  
(11/18/03)  
(07/21/15)  
(6/20/17)  
(2/19/19)

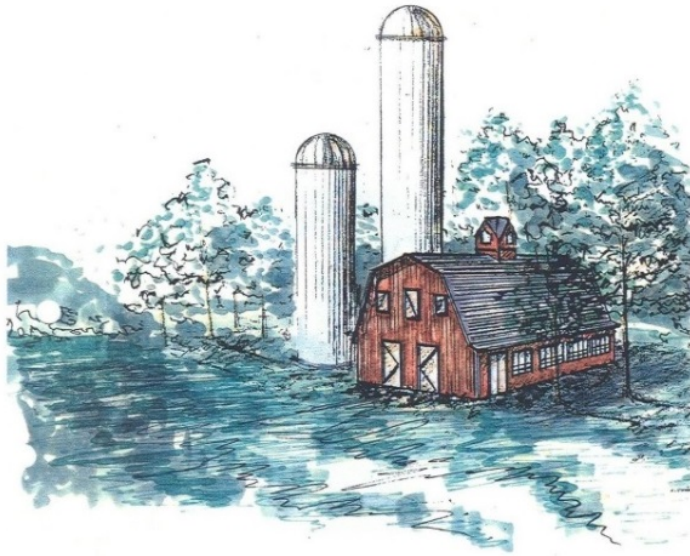
1. All WCFs shall be a monopole or stealth design.
2. Prohibition on lighted WCF.  
A WCF shall not trigger a requirement, public or private, that it be lighted nor shall it be lighted on a voluntary basis.
3. Height requirements.
  - a. The maximum height for a Class 1 WCF shall be fifty (50) feet including any attachments.
  - b. The maximum height of a Class 2 WCF shall be eighty (80) feet including any attachments.
  - c. The maximum height of a Class 3 WCF shall be one hundred and twenty (120) feet including any attachments.
  - d. The maximum height of a Class 4 WCF shall be one hundred and ninety nine (199) feet including any attachments.
  - e. The maximum height of a freestanding Class 6 antenna support structure shall be one hundred (100) feet above ground level (AGL). The maximum height of a building or structure mounted antenna support structure shall be eighty (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.
  - f. Class 5 WCFs shall conform to all Federal codes regulating amateur radio Licenses.
  - g. Determination of height shall include any attachments to the WCF. Lightning rods shall be exempt from the maximum height calculation.
4. 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. Class 3 or 4 WCFs shall not exceed the maximum height of the tree canopy on the topographic crest of the Blue Ridge Mountains.

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 objective stated within this Ordinance.

- b. 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, and dark green or

black in color made of chain link.

- c. 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.
  
- d. 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.
  - (1) The design standards for the “Silo” stealth structure shall be:
    - (a) 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.
    - (b) The silo shall not exceed eighty (80) feet at ground level (AGL).
    - (c) The silo shall match any existing silo on the property in architectural design and colors.
    - (d) Silo compounds must match existing fencing located on the agricultural property.
    - (e) Renderings prepared by a licensed landscape architect shall be provided for all stealth silo applications.
    - (f) The WCF shall be a Class 1 or Class 2.



Examples of well-designed stealth silo WCF's





- (2) The design standards for the bell tower stealth structure shall be:
- (a) All bell tower stealth WCFs shall match architecturally to the existing building's architecture.
  - (b) 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.
  - (c) All bell tower stealth WCFs shall be located within twenty (20) feet of the existing match structure.
  - (d) Renderings prepared by a licensed landscape architect shall be provided for all bell tower stealth structure applications.
  - (e) The WCF shall be a Class 1.



Example of a well-designed bell tower WCF

- (3) The design standards for a tree stealth structure shall be:
- (a) 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.
  - (b) The tree structure must be designed to resemble an evergreen species native to Clarke County.
  - (c) The tree structure must have textured bark, branches and foliage that encapsulate the cable, electronics and antennas.
  - (d) The colors of the tree structure must blend with existing trees of that species and variety.
  - (e) The structure must meet all design standards for stability and must be maintained for accuracy of the colors and foliage.
  - (f) Renderings prepared by a licensed landscape architect shall be provided for all tree stealth structure applications.
  - (g) 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.



Example of a well-designed tree WCF

- (4) The Design standards for the flag pole stealth structure shall be:
- (a) All antennas, cables, electronics and devices must fit within the designed enclosure of the flag pole.
  - (b) 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.
  - (c) The flag pole shall not have reflective paint.
  - (d) Renderings prepared by a licensed landscape architect shall be provided for all flag pole stealth structure applications.
  - (e) The WCF shall be a Class 1.



Example of a well-designed flag pole WCF

5. Setbacks and Buffering

a. Setback requirements from property lines and structures.

Class, 1, 2, 3, and 4 WCF's shall be set back from all property lines and structures a distance equivalent to the WCF's fall zone, or the WCF's fall zone and required perimeter buffer area, whichever distance is greater. The WCFs 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.

b. 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 (d), 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.

c. Method for measuring setback distances.

Setbacks shall be measured from the closest structural member on the WCF. Guy lines shall be exempt from the minimum setback requirements in side and rear yards for the respective zoning district but shall comply with the front yard setback requirements.

d. Perimeter buffer.

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.

e. 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.

6. Other Design Requirements

a. Compound design requirements.

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 requirements 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.

7. Siting and design requirements for Class 6 antenna support structures. 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.

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. 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.

6-H-12-b  
(2/19/19)

## 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:
  - 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 Architect, showing the following information:
    - (1) Legal description of subject property and proposed lease area (if applicable)
    - (2) Design and height of the proposed WCF
    - (3) Proposed means of access from the public road to the WCF site
    - (4) Setbacks from the property lines, existing structures on the subject property, and existing private access easements
    - (5) Distances to uses and structures on adjacent properties
    - (6) Elevation of the proposed WCF site and surrounding topography
    - (7) Location of all improvements including but not limited to compound location, equipment cabinets, structures, fencing, and signage
    - (8) Existing tree coverage and vegetation
    - (9) Zoning of subject property and adjacent properties
    - (10) General location of all residences and structures within two-thousand (2,000) feet of the proposed WCF
    - (11) 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 §6-H-15 shall be provided.
  - g. A statement justifying the need for the project by a licensed telecommunications provider. In the event that none of the applicants are a telecommunications provider, a letter of intent from a licensed telecommunications provider to operate on the proposed WCF upon its completion shall be provided. This statement shall include the following:
    - (1) A description of how the location of the proposed WCF is consistent with the guidance provided in the County's Telecommunications Engineering Study.
    - (2) The unsuitability of the use of existing WCFs, other structures or alternative technology not requiring the use of WCFs or structures to provide the services under consideration.
    - (3) A map depicting all co-location candidates in the search area, along with the RF analysis documentation as to their suitability. These include propagation modeling for the network before the applicant's request and after if approved.

- h. 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.
  - i. A landscape plan showing specific landscape materials including proposed plantings to comply with perimeter buffer requirements.
  - j. 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.
  - k. 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 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.
  - l. The applicant shall identify the type of construction of the existing WCF(s) and the owner/operator of the existing WCF(s), if known.
  - m. 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.
  - n. 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.
  - o. 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.
  - p. A cost estimate for removal of the WCF and facilities from the site.
  - q. 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 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:
      - a. The proposed site would provide a demonstrable coverage improvement over a Class 3 tower height and would be consistent with the guidance regarding the County’s coverage goals in the Telecommunications Infrastructure and Broadband Study.
      - b. 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.
      - c. 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. 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.
  - e. 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. Requirements for amateur radio antennas (Class 5 WCFs).
- a. A site development plan to be reviewed and acted upon administratively by the Zoning Administrator shall be provided for all Class 5 WCFs. The site development plan 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.
  - b. Maximum height. The maximum height of a Class 5 WCF shall be the lowest height limitation permitted by Code of Virginia §15.2-2293.1.
  - c. 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.
4. Requirements for Class 6 antenna support structures.
- a. Permit requirements. A zoning permit shall be required for an antenna support structures that are 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. Requirements for co-location applications.
  - a. 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 distributed antennas systems (DAS).
  - b. 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 Architect, shall be provided by the Applicant showing the following information:
    - (1) Legal description of subject property and proposed lease area (if applicable)
    - (2) 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.
    - (3) 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.
    - (4) All proposed changes to existing landscaping, buffering, fencing, signage, and other material site features.
    - (5) Any other information deemed by the Zoning Administrator to be necessary to assess compliance with this ordinance
  - c. Co-location applications shall be signed by the property owner or by the owner or lessee of the WCF or structure.
  - d. 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. Requirements for applications to upgrade/maintain existing equipment.
  - a. 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.
  - b. 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 Architect, shall be provided by the Applicant showing the following information:
    - (1) Legal description of subject property and proposed lease area (if applicable)
    - (2) 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.

(3) All proposed changes to existing landscaping, buffering, fencing, signage, and other material site features.

(4) Any other information deemed by the Zoning Administrator to be necessary to assess compliance with this ordinance

c. Applications to upgrade/maintain existing equipment shall be signed by the property owner or by the owner or lessee of the WCF or structure.

d. 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.

6-H-12-c  
(07/21/15)  
(6/20/17)

#### Inactive WCFs; Removal Bond Required

1. 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.

2. 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.

3. A bond or letter of credit shall be posted at the time of WCF approval, 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.

6-H-12-d  
(6/20/17)

#### 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.

6-H-12-e  
(6/20/17)

#### 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.

**REVIEW PROCEDURES BY CLASS**

<b>Class</b>	<b>Approval Authority</b>	<b>Review Process</b>
Co-location*	Zoning Administrator/ By-right	<ol style="list-style-type: none"> <li>1. Pre-application meeting held with Zoning Administrator, who determines whether engineering review will be required as well as whether any Article 6 requirements may be waived.</li> <li>2. Site Development Plan application filed with Zoning Administrator.</li> <li>3. Zoning Administrator acts on application within 60 days.</li> </ol>
1 (50' max)	Zoning Administrator/ By-right	<ol style="list-style-type: none"> <li>1. Pre-application meeting held with Zoning Administrator, who determines whether engineering review will be required as well as whether any Article 6 requirements may be waived.</li> <li>2. Site Development Plan application filed with Zoning Administrator.</li> <li>3. Zoning Administrator acts on application within 60 days.</li> </ol>
2 (80' max)	Planning Commission/ By-right	<ol style="list-style-type: none"> <li>1. Site Development Plan application filed with Zoning Administrator following required pre-application meeting.</li> <li>2. Application is routed to Planning Commission's Plans Review Committee, engineering consultant, Karst engineer, and other applicable agencies for review.</li> <li>3. Application forwarded to Planning Commission to schedule/hold public hearing once all reviewers have commented.</li> <li>4. Planning Commission acts on application within 60 days.</li> </ol>
3 (120' max)	Board of Supervisors with Planning Commission review/ Special Use	<ol style="list-style-type: none"> <li>1. Special use permit and site development plan applications filed with Zoning Administrator following required pre-application meeting.</li> <li>2. Application is routed to the engineering consultant, to the Planning Commission's Plans Review Committee, Karst engineer, and other applicable agencies for review.</li> <li>3. Application forwarded to Planning Commission to schedule/hold public hearing once all reviewers have commented.</li> <li>4. Planning Commission makes formal recommendation on application.</li> <li>5. Application forwarded to Board of Supervisors to schedule/hold public hearing.</li> <li>6. Board of Supervisors takes formal action on special use permit/site plan application.</li> </ol>
4 (199' max)	Board of Supervisors with Planning Commission review/ Special Use	<ol style="list-style-type: none"> <li>1. Special use permit and site development plan applications filed with Zoning Administrator following required pre-application meeting.</li> <li>2. Application is routed to the engineering consultant, to the Planning Commission's Plans Review Committee, Karst engineer, and other applicable agencies for review.</li> <li>3. Application forwarded to Planning Commission to schedule/hold public hearing once all reviewers have commented.</li> <li>4. Planning Commission makes formal recommendation on application.</li> <li>5. Application forwarded to Board of Supervisors to schedule/hold public hearing.</li> <li>6. Board of Supervisors takes formal action on special use permit/site plan application.</li> </ol>
5 (amateur radio)	Zoning Administrator/ By-right	<ol style="list-style-type: none"> <li>1. Pre-application meeting held with Zoning Administrator, who determines whether engineering review will be required as well as whether any Article 6 requirements may be waived.</li> <li>2. Site Development Plan application filed with Zoning Administrator.</li> <li>3. Zoning Administrator acts on application within 60 days.</li> </ol>
6 (antenna support structure)	Zoning Administrator/ By-right	<ol style="list-style-type: none"> <li>1. Zoning Permit application is filed with the Zoning Administrator.</li> <li>2. Zoning Administrator reviews the application for compliance with setback, maximum height, and maximum width requirements; acts on application following completion of administrative review.</li> </ol>

\*Review procedure is the same for new distributed antenna systems (DAS) and upgrades/equipment maintenance on an existing WCF

- 6-H-13            Erosion and Sediment Control  
 An erosion and sediment control plan for the entire disturbed area of a development shall be prepared in accordance with the Clarke County Erosion and Sediment Control Ordinance, and must receive the approval by the Zoning Administrator/Code Enforcement Officer or the Plan Approving Authority as designated by the county.
- 6-H-14            Explosives  
 (1/20/09)        If explosives are to be used in conjunction with the development of the site, the following note shall be included: “Explosives used in conjunction with the development of this property shall be done in accord with a Blasting Plan (per Clarke County Code 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: “No explosives will be used in conjunction with the development of this property.”
- 6-H-15            Sinkhole and Karst Features  
 6-H-15-a        Purpose and Intent  
 (2/17/04)        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.
- 6-H-15-b        Definitions  
 1. 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.  
 2. 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.
- 6-H-15-c        Site Review:  
 Investigation by Geotechnical Engineer  
 Whenever an application is filed for development, the applicant will hire a Geotechnical Engineer (GE) to undertake an inspection of the subject area. The GE shall review available geologic and engineering data and air-photographs relevant to the site and shall make on-site observations, photographs, and measurements as appropriate. The GE shall provide written summary of the initial findings along with a recommendation to perform Fracture Trace Analysis, Electrical Resistivity, Cone Sounding, Core Samples, Microgravity, and/or other geophysical or intrusive studies as appropriate to determine if the action requested may have a negative impact. The examination for karst features by the engineer shall take place prior to any public hearing process applicable to the parcel in question. The engineer will report to the zoning administrator any findings as to whether there may be significant karst features that apply to the site.
1. No Evidence of Karst Features  
 If the engineer finds that the site has no evidence of karst features, they shall so indicate in a written report provided to the reviewing body.

2. Evidence of Karst Features

In cases where the engineer 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.

3. 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.

6-H-15-d 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:

1. An engineering audit that identifies and maps karst features and the limitations that such features impose on site development. The audit shall include:
  - a. 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 of Clarke County, Virginia” (1990), or other reliable sources as may be approved by the Administrator;
  - b. locations of other karst features (fissures enlarged by dissolution and caves);
  - c. topographic contours at maximum intervals of two feet, and spot elevations sufficient to determine low points and discernable edges; and
  - d. setback distances of 25 feet and 100 feet from the discernable edge of each feature.
2. For structures proposed between 25 and 100 feet of the discernable edge of sinkholes or other karst features, engineering that ensures structural stability.

6-H-15-e Site Development Plans; Sinkhole and Karst Features; Requirements and Restrictions

(8/17/10)  
(01/17/17)

1. As identified in Section 6-H-15-d, 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.
2. 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 Section 6-H-14-d) indicates that such construction or earth disturbance is appropriate.
3. 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.

4. Stormwater management facilities shall comply with State stormwater management regulations for Karst Terrain.
5. 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.
6. 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.
7. 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.
8. 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.
9. Storage tanks shall have impervious secondary containment. Underground fuel storage tanks shall have interstitial monitoring of tanks and piping systems.
10. 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.*
11. Measures to permanently protect karst features shall be identified on the site plan. These measures may include fencing and/or signage.

6-H-16      Miscellaneous Design Criteria  
 All other criteria and specifications shall be in accordance with County standards, where provided. Where County standards are not provided, the Administrative Body shall provide those standards or shall rule upon the standards proposed by the developer.

6-I      CONSTRUCTION AND BONDING

6-I-1      No site improvement activities may occur unless all of the following have been met:

- 6-I-1-a      Approval of final site plan and erosion and sediment control plan.
- 6-I-1-b      Approval of erosion and sediment control bond, and installation of erosion and sediment control measures.
- 6-I-1-c      Posting of construction bond.

- 6-I-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; the same to be recognized by formal written approval prior to site plan approval.
- 6-I-3 The approval of a site 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.
- 6-I-4 The applicant is required to post a bond or other acceptable surety covering the construction and satisfactory completion of all required on-site and off-site public improvements.
- 6-J REVISIONS  
The Agent may administratively approve changes to an approved site plan which the Agent determines are minor revisions, complying with all provisions of this Section and having no additional adverse impact on public facilities or adjacent properties. Major revisions are permitted with approval by the Administrative Body.
- 6-K TERMINATION AND EXTENSION  
An approved site plan shall expire and become null and void if a building permit for approved development is not issued within five years from the date of site plan approval. The Administrative Body or the Agent may grant a one year extension upon written request.
- 6-L 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 improve land, until a site plan has been approved.

## 7 APPEALS, VARIANCES, INTERPRETATIONS, AND MODIFICATIONS

(11/16/04) (7/15/08) (10/18/11)

### 7-A APPEALS, VARIANCES, INTERPRETATIONS, AND MODIFICATIONS

There shall be established a Board of Zoning Appeals (Board) that shall consider appeals, variances, and zoning map interpretations.

#### 7-A-1 Board of Zoning Appeals – Organization and Procedures

##### 7-A-1-a Membership

The Board shall consist of five residents of Clarke County, appointed by the Circuit Court of Clarke County. Members of the Board shall hold no other public office in the locality except that one may be a member of the Clarke County Planning Commission.

##### 7-A-1-b Alternate Members

The Board of Supervisors may request the Circuit Court of Clarke County to appoint not more than three alternates to the Board of Zoning Appeals, pursuant to the provisions of Virginia Code §15.2-2308(A)

##### 7-A-1-c Terms of Office

The terms of office for members of the Board 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 of the Board 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.

##### 7-A-1-d Officers

With the exception of its Secretary and the alternates, the Board shall elect from its own membership its officers who shall serve annual terms as such and may succeed themselves. The Board may elect as its Secretary either one of its members or a qualified individual who is not a member of the Board, excluding the alternate members. A Secretary who is not a member of the Board shall not be entitled to vote on matters before the Board.

##### 7-A-1-e Quorum

(12/15/09)

For the conduct of any hearing, a quorum shall be not less than a majority of all the members of the Board.

##### 7-A-1-f Procedures

The Board may make, alter and rescind rules and forms for its procedures, consistent with County ordinances and general laws of the Commonwealth.

##### 7-A-1-g Records

The Board shall keep minutes and a full record of its proceedings and other official actions, which shall be filed in the office of the Board and shall be public records.



- 7-A-1-h **Report**  
The Board shall submit a report of its activities to the governing body at least once each year.
- 7-A-1-i **Witnesses**  
The Chairman of the Board, or the acting Chairman in the Chairman’s absence, may compel attendance of witnesses and administer oaths of witnesses.
- 7-A-1-j **Employees**  
Within the limits of funds appropriated by the Board of Supervisors, the Board may employ or contract for secretaries, clerks, legal counsel, consultants, and other technical and clerical services.
- 7-A-1-k **Compensation**  
Members of the Board may receive such compensation as may be authorized by the Board of Supervisors.
- 7-A-1-l **Removal**  
Any Board 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.
- 7-A-1-m **Meetings**  
The Board 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 Chairman, or Vice-Chairman if the Chairman 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 Virginia Code § 15.2-2312 shall be conducted at the continued meeting and no further advertisement shall be required.
- 7-A-1-n **Hearings - Procedures**  
(2/16/16)
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 §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 §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 §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 §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 §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 §15.2-2314, and the County staff.

7-A-1-o Appeal of Decision of Board

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.

7-A-2 Appeals of Administrative Determinations

7-A-2-a (2/16/16) The Board 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. The decision on such appeal shall be based on the Board'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 board 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 Board shall be in compliance with this section, notwithstanding any other provision of law, general or special.

7-A-2-b An appeal to the Board 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, or any modification of zoning requirements pursuant to Virginia Code Section 15.2-2286.

7-A-2-c (7/15/08) 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 unappealable 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 Board, a notice of appeal specifying the grounds thereof. The Zoning Administrator shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken.

- 7-A-2-d An appeal shall stay all proceedings in furtherance of the action appealed from unless the Zoning Administrator certifies to the Board 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 Board or by a court of record, on application and on notice to the Zoning Administrator and for good cause shown.
- 7-A-2-e The Board shall fix a reasonable time for hearing an appeal, and shall give public notice and hold a public hearing as provided by Virginia 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 Board may give such notice by first-class mail rather than by registered or certified mail.
- 7-A-2-f The Board shall make its decision within 90 days of the filing of the appeal, unless the appellant and the Board mutually agree upon an extended period.
- 7-A-2-g In exercising its powers, the Board may reverse or affirm, wholly or partly, or may modify, an order, requirement, decision, or determination appealed from.
- 7-A-2-h The concurring vote of a majority of the membership of the Board shall be necessary to reverse any order, requirement, decision, or determination of an administrative officer.
- 7-A-3 Variances
- 7-A-3-a The Board shall hear upon appeal or original application in specific cases requests for variances, as defined in Virginia Code §15.2-2201, from the terms of this ordinance. A variance shall not include a change in use.
- 7-A-3-b 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 Board. The application and accompanying maps, plans, or other information shall be transmitted promptly to the Secretary of the Board, who shall place the matter on the docket to be acted upon by the Board.
- 7-A-3-c The Zoning Administrator shall also transmit a copy of the application to the Planning Commission, which may send a recommendation to the Board or appear as a party at the hearing.
- 7-A-3-d No variance shall be considered except after public notice and hearing as required by Virginia 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 Board may give such notice by first-class mail rather than by registered or certified mail.
- (2/16/16)
- 7-A-3-e Action on Variance Application
- (2/16/16)
1. 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 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 §15.2-2309 or the process of modification of a zoning ordinance pursuant to subdivision A4 of §15.2-2286 at the time of the filing of the variance application.

7-A-3-f The concurring vote of a majority of the membership of the Board shall be necessary to approve a variance.

7-A-3-g  
(2/16/16) In granting a variance the Board shall tailor the variance to provide the minimum variance necessary to alleviate the hardship, and the Board 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 Board may require a guarantee or bond to ensure that the conditions imposed are being and will continue to be complied with.

7-A-3-h The Board will not consider substantially the same application within one year of previous Board action.

#### 7-A-4 Zoning District Map Interpretations

The Board 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. After notice to the owners of the property affected by the question, and after public hearing with notice as required by Virginia Code Section *15.2-2204*, the Board 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. 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 Board may give such notice by first-class mail rather than by registered or certified mail. The Board 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 Board shall be necessary to decide in favor of the applicant.

#### 7-A-5 Limitation on Powers of Board

The Board shall not have the power to rezone property or to base Board decisions on the merits of the purpose and intent of County ordinances duly adopted by the Board of Supervisors.

7-B MODIFICATIONS

- 7-B-1 The Zoning Administrator may grant a modification from any provision contained in the Zoning Ordinance with respect to physical requirements on a lot or parcel of land, including but not limited to size, height, location or features of or related to any building, structure, or improvements, if the Administrator finds in writing that:
  - 1. the strict application of the ordinance would produce undue hardship;
  - 2. such hardship is not shared generally by other properties in the same zoning district and the same vicinity; and
  - 3. the authorization of the modification will not be of substantial detriment to adjacent property and the character of the zoning district will not be changed by the granting of the modification.
  
- 7-B-2 The Zoning Administrator may not grant a modification that is more than 10% of a regulation standard.
  
- 7-B-3 Before the granting of a modification, the Zoning Administrator shall give, or require the applicant to give, all adjoining property owners written notice of the request for modification, and an opportunity to respond to the request within 21 days of the date of the notice. Before the granting of a modification, the Zoning Administrator shall consult with the Chair and Vice-Chair of the Board of Zoning Appeals.
  
- 7-B-4 The Zoning Administrator shall make a decision on the application for modification and issue a written decision with a copy provided to the applicant and any adjoining landowner who responded in writing to the notice sent pursuant to this paragraph. The Zoning Administrator shall provide a copy of a written decision to the Board of Zoning Appeals within five working days from making the decision.
  
- 7-B-5 The decision of the Zoning Administrator may be appealed to the Board of Zoning Appeals as provided in 7-A-2 of this Ordinance.  
(2/16/16)

## 8 AMENDMENTS

### 8-A GENERAL

Whenever the public necessity, convenience, general welfare, or good zoning practice require, the Board of Supervisors may amend, supplement, or change this Zoning Ordinance, including the Schedule of District Regulations and the official Zoning Map (Rezoning).

### 8-B METHOD OF INITIATING AMENDMENTS

Amendments to the Ordinance may be initiated by one of the following methods:

#### 8-B-1 Petition of Property Owner

##### 8-B-1-a Zoning Map Amendment (Rezoning)

(8/19/03)  
(11/18/14)

1. A property owner may initiate a request for an amendment to the official Zoning Map (Rezoning) by filing a petition with the Board of Supervisors with the Zoning Administrator, on forms provided by the Zoning Administrator, and paying the applicable fee.

##### 2. Pre-Application Conference Requirement

No less than seven (7) days prior to filing an application for an amendment to the official Zoning Map (Rezoning), a pre-application conference shall be held between the Applicant and the Zoning Administrator. The Applicant shall provide the following items for review which shall be retained by the Zoning Administrator as the initial public record for the application:

- a. A survey plat showing the subject property and the area(s) to be rezoned.
- b. A conceptual or draft site plan showing the subject property, general site layout, and main elements to be proposed as part of the application.
- c. A written description of any proposed development and use(s) including operational details such as the nature of the use, proposed physical improvements, and measures to mitigate impacts on surrounding properties.
- d. A draft list of proffered conditions, if applicable.

3. The Zoning Administrator may require such other information to be submitted, as the Zoning Administrator deems necessary for a proper and intelligent consideration of the application. The Zoning Administrator may also establish regular filing deadlines to ensure that there is sufficient time to evaluate the application prior to the Planning Commission's initial review.

4. The Zoning Administrator shall determine when the petition is complete. After receipt of a complete petition, the Zoning Administrator, on behalf of the Board of Supervisors, shall refer the petition to the Planning Commission at their next regular monthly meeting for initial review.

- 8-B-1-b Text Amendment.  
(8/19/03)  
(11/18/14) A property owner may request the Board of Supervisors or Planning Commission approve a resolution initiating a proposal to amend the text of the Zoning Ordinance (as described in sections 8-B-2 or 8-B-3, below). If the Board or Commission approves such resolution, the property owners shall pay the applicable fee.
- 8-B-2 Board of Supervisors Resolution  
(9/19/89) The Board of Supervisors may initiate a proposal of an amendment to the Ordinance by the adoption of a resolution proposing the amendment. Such resolution, upon adoption, shall be referred to the Planning Commission at their next regular monthly meeting for consideration. A recommendation shall be reported to the Board of Supervisors within 100 days after the first meeting of the Planning Commission after the resolution is referred to it.
- 8-B-3 Planning Commission Resolution  
The Planning Commission may initiate a proposal of an amendment to the Ordinance by the adoption of a resolution proposing the amendment.
- 8-B-4 Berryville Area Development Authority Resolution  
(3/17/92) The Berryville Area Development Authority (BADA) may initiate a proposal of an amendment to the Ordinance by the adoption of a resolution proposing the amendment, for those portions of the Zoning Ordinance which regulate properties in Annexation Area "B" as indicated in the County/Town Annexation Agreement, December 1988.

## 8-C AMENDMENTS WITH PROFFERED CONDITIONS

(12/21/99)

- 8-C-1            **Proffer of Conditions**  
Prior to any public hearing before the Planning Commission and/or the Board of Supervisors, any applicant for rezoning under Section 8-B-1 above may voluntarily proffer, in writing, reasonable conditions to be applied to such rezoning as part thereof. Such conditions shall comply with the provisions of Section 15.2-2298 of the Code of Virginia.
- 8-C-2            **Effects of Conditions**  
Upon the approval of any such rezoning, all conditions so proffered and accepted by the Board of Supervisors shall be deemed a part thereof and nonseverable there from and shall remain in force until amended or varied by the Board of Supervisors in accordance with Section 15.2-2302 of the Code. All such conditions shall be in addition to the regulations provided for the district by the Ordinance. 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 proffers.
- 8-C-3            **Zoning Map Notation**  
Each rezoning shall be designated on the Zoning Map by an appropriate symbol designed by the Zoning Administrator. In addition, the Zoning Administrator shall keep and maintain the conditional zoning index which shall be available for public inspection and which shall provide ready access to the ordinance creating such conditions.
- 8-C-4            **Authority of Zoning Administrator**  
The Zoning Administrator shall be vested with all necessary authority on behalf of the Board of Supervisors to administer and enforce conditions attached to a rezoning, 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; and requiring a guarantee, satisfactory to the governing body, 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.
- 8-C-5            **Petition for Review of Decision**  
Any zoning applicant who is aggrieved by the decision of the Zoning Administrator pursuant to the provisions of Section 8-C-4 above may petition the governing body for a review of the decision of the Zoning Administrator.
- 8-C-6            **Site Development Plan**  
(3/20/90) Every petition for zoning amendment which proposes conditions to be applied to the rezoning shall be accompanied by 15 copies of a site development plan prepared in accordance with the requirements of Article 6 of this Ordinance. In addition to the application forms and site development plan, each application for conditional rezoning shall include:



- 8-C-6-a A statement explaining the relationship of the development to the adopted Comprehensive Plan of the County.
  - 8-C-6-b A statement or presentation setting forth the maximum number of dwelling units proposed for any residential development, and the density and open space calculations when required by this Ordinance.
  - 8-C-6-c A statement certifying that the proposed development conforms to the provisions of all applicable ordinances, regulations and adopted standards. Any waiver, exception or variance sought by the applicant from such ordinances, regulations and standards shall be specifically noted on the development plan.
  - 8-C-6-d A statement of those special amenities that are proposed within the development.
  - 8-C-6-e A statement of the public improvements, both on and off-site, that are proposed for dedication and/or construction, and an estimate of the timing of providing such improvements.
  - 8-C-6-f A statement setting forth the proposed approximate development schedule.
  - 8-C-6-g Any additional information that the applicant may desire to proffer in the consideration of the application.
- 8-C-7 **Statement Regarding Conditions**  
 All petitions, statements, plans, and other materials submitted with an application for conditional zoning shall be annotated with the following statement signed by the applicant and the 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."
- 8-C-8 **Proffered Condition Regulations**  
 Proffered conditions shall include written statements, development plans, and/or other materials proffered in accordance with the provisions of Section 8-C-1 above and approved by the Board in conjunction with the approval of an amendment to the Zoning Map. Proffered conditions shall be subject to the following procedures and regulations:
- 8-C-8-a Once conditions to be proffered are signed and made available, and the public hearing before the Board has commenced, no change or modification to any condition shall be made and no additional conditions shall be proffered at that public hearing.
  - 8-C-8-b If the amendment to the Zoning Map is adopted subject to the conditions proffered by the applicant as set forth above, then the property in question shall be appropriately annotated on the Zoning Map and all other land records referencing the conditions as adopted.
  - 8-C-8-c Such proffered conditions shall become a part of the zoning regulations applicable to the property in question, unless subsequently changed by an amendment to the Zoning Map, and such conditions shall be in addition to the specific regulations set forth in this Ordinance for the zoning district in question.

- 8-C-8-d 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 by any County official in the absence of said substantial conformance.
- 8-C-8-e 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.
- 8-C-8-f Once conditions have been approved, and there is cause of an amendment which would not be in substantial conformance with the proffered conditions, or there is a request to proffer conditions on a parcel not currently the subject of a proffered condition, then an application shall be filed for an amendment. If the amendment concerns an approved site development plan, such application shall include the submission requirements for a site development plan set forth in Section 8-C-6 above, except the Zoning Administrator may waive any submission requirement if such requirement is not necessary for an adequate review of the generalized development plan amendment application. Such amendment shall be the subject of public hearing in accordance with the provisions of Section 8-E-1 below.

**8-D ACTION BY PLANNING COMMISSION**

- 8-D-1 **Public Hearing**  
 (11/16/93) Upon a property owner petition or Board of Supervisors resolution being referred to it, or upon passage of a resolution by the Planning Commission, the Planning Commission shall hold a public hearing on the petition or resolution as provided by Section 15.2-2285, Code of Virginia, 1950, as amended, after publishing notice as required by Section 15.2-2204, Code of Virginia, 1950, as amended, and in accordance with the requirements of Section 10-E of this ordinance.
- 8-D-2 **Recommendation by Commission**
  - 8-D-2-a Following the public hearing, the Planning Commission shall report to the Board of Supervisors its recommendation with respect to the proposed amendment.
  - 8-D-2-b  
 (9/19/89) Failure of the Planning Commission to report to the Board of Supervisors within 100 days after the first meeting of the Commission following the referral of the petition or resolution to it, shall be deemed a recommendation of approval by the Commission of the proposed amendment.
  - 8-D-2-c  
 (11/16/93) The Planning Commission, in making recommendations on the proposed amendment, may recommend appropriate changes in the proposed amendment; provided, however, that before recommending that land which was not included in the proposed amendment be rezoned or that land included in the proposed amendment be rezoned to a different use classification than proposed, the Commission shall hold a further public hearing after giving notice as required by Section 15.2-2204, Code of Virginia, 1950, as amended, and in accordance with the requirements of Section 10-E of this ordinance.

- 8-D-2-d (6/13/89) Before making a recommendation, the Commission may require the applicant to furnish such information as it may deem necessary in order to determine whether the proposed amendment is detrimental to the public health, safety, or general welfare. Such a determination shall be based on the specific findings listed in 8-E-2-c. The Commission may make any additional findings it may deem appropriate.
- 8-D-2-e (6/13/89) **Burden of Proof**  
The burden of proof shall be on the applicant to show the reasonableness of the proposed amendment, the lack of adverse effect, and compliance with the elements of public health, safety, and general welfare as set forth in Section 8-E-3.
- 8-D-3 (3/17/92) **Recommendation by Berryville Area Development Authority**  
The Berryville Area Development Authority (BADA) shall assume the responsibilities of the Planning Commission regarding recommendation to the Board of Supervisors, as detailed above, for proposed amendments to the official Zoning Map involving only properties within Annexation Area "B" as indicated in the County/Town Annexation Agreement, December 1988.
- 8-E **ACTION BY BOARD OF SUPERVISORS**  
(1/21/97)
- 8-E-1 (11/16/93) **Public Hearing**  
After receiving the recommendation of the Planning Commission, and before acting on a proposed amendment, the Board of Supervisors shall hold a public hearing, as provided in Section 15.2-2285, Code of Virginia, 1950, as amended, after giving public notice as required by Section 15.2-2204, Code of Virginia, 1950, as amended, and in accordance with the requirements of Section 10-E of this ordinance.
- 8-E-2 **Action by Board**
- 8-E-2-a After holding the public hearing, the Board of Supervisors shall act upon the proposed amendment. The Board may make appropriate changes or corrections in the proposed amendment; provided, however, that no land may be zoned to a different use classification than was contained in the public notice of the public hearing, without an additional public hearing after notice required by Section 15.2-2204, Code of Virginia, as amended.
- 8-E-2-b Amendments to this ordinance shall be enacted in the same manner by the Board as all other ordinances.
- 8-E-2-c (6/13/89) **Burden of Proof**  
The burden of proof shall be on the applicant to show the reasonableness of the proposed amendment, the lack of adverse effect, and compliance with the elements of public health, safety, and general welfare as set forth in Section 8-E-3.
- 8-E-3 (1/21/97) **Criteria for Action on Proposed Amendment**  
Before taking action, the Board may require the applicant to furnish such information, as it may deem necessary in order to determine whether the proposed amendment is detrimental to the public health, safety, or general welfare. Such a determination shall be based on the following specific findings.

- 8-E-3-a Will be consistent with the Comprehensive Plan of the County.
- 8-E-3-b Will be consistent with the Purposes and Intent of this Ordinance.
- 8-E-3-c 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 consistent 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.
- 8-E-3-d Will not cause an undue adverse effect on neighboring property values without furthering the goals of the Comprehensive Plan to the benefit of the County.
- 8-E-3-e Will not cause an undue adverse effect on the preservation of agricultural or forestal land.
- 8-E-3-f Will not cause unreasonable traffic congestion or unsafe conditions on existing or proposed public roads and has adequate road access.
- 8-E-3-g Will not cause destruction of or encroachment upon historic or archeological sites, particularly properties under historic easement.
- 8-E-3-h Will not cause an undue adverse effect on rare and irreplaceable natural areas, areas of outstanding natural beauty, state-designated scenic byways or scenic rivers or properties under open space easement.
- 8-E-3-i Will not cause an undue adverse effect on wildlife and plant habitats.
- 8-E-3-j Will have sufficient water available for its foreseeable needs.
- 8-E-3-k Will not cause unreasonable depletion of or other undue adverse effect on the water source(s) serving existing development(s) in adjacent areas.
- 8-E-3-l Will not cause undue surface or subsurface water pollution.
- 8-E-3-m Will not cause an undue adverse effect on existing or proposed septic systems in adjacent areas.
- 8-E-3-n Will not cause unreasonable soil erosion.
- 8-E-3-o Will have adequate facilities to provide safety from flooding, both with respect to proposed structures and to downhill/downstream properties.
- 8-E-3-p Will not cause undue air pollution.
- 8-E-3-q Will not cause undue noise, light or glare, dust, odor, fumes, or vibration.

8-F PROCEDURES BEFORE PLANNING COMMISSION AND BOARD OF SUPERVISORS

8-F-1 Deadlines for Applicant Submission of Materials Prior to Public Hearing  
Following the filing of a complete application, the Applicant shall provide any new or revised materials demonstrating compliance with required technical elements no less than 14 days prior to the first public hearing and not less than 10 days prior to any continued public hearing. Any new or revised materials provided after the deadlines referenced above shall not be considered by the Planning Commission or Board of Supervisors at the scheduled meeting.

8-F-2 Deferral of Application  
An applicant may request that consideration of a rezoning application at a public hearing be deferred by submitting a written request for deferral to the Zoning Administrator.

1. If the deferral request is provided to the Zoning Administrator prior to finalizing the public hearing advertisement for consideration by the Planning Commission or Board of Supervisors, the Zoning Administrator shall determine whether to grant the deferral request. A request for deferral shall be approved only for good cause. If such request is approved by the Zoning Administrator, consideration of the application shall be deferred to the next regularly scheduled meeting of the Planning Commission or Board of Supervisors.

2. If the deferral request is provided after finalizing the public hearing advertisement, the request for deferral shall be placed on the public hearing agenda on the date the application is to be considered. The Planning Commission or Board of Supervisors, as applicable, may approve the request for deferral for good cause. The applicant shall be responsible for a re-advertising fee which shall be paid in full prior to the application being placed on an upcoming public hearing agenda.

8-G WITHDRAWAL OF PETITIONS

A petition by a property owner proposing an amendment may be withdrawn at any time; provided, however, that if the petition is withdrawn at any time after the Planning Commission has commenced its public hearing on the petition, no new petition concerning any of the same land shall be filed by a property owner within 12 months of the withdrawal, unless the body before whom the petition is pending at the time specifies by resolution or motion that the time limit shall not apply or that a shorter time limit applies.

8-H LIMITATION ON FILING NEW PETITION AFTER DENIAL

8-H-1 Upon denial by the Board of Supervisors of any petition for amendment filed by a property owner, no new petition shall be filed within 12 months of the date of denial. This limitation shall not apply to applications for conditional zoning.

8-H-2 Nothing in this Section or in Section 8-F above, shall be held to impair the right of the Planning Commission or the Board of Supervisors by resolution to propose any amendment at any time.

## 9 DEFINITIONS

### 9-A GENERAL USAGE

For the purpose of this Ordinance, certain words and terms are herein defined as follows:

- 9-A-1 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.
- 9-A-2 The word "shall" is mandatory.
- 9-A-3 Unless otherwise specified, all distances shall be measured horizontally and at right angles to the line in relation to which the distance is specified.
- 9-A-4 The word "building" includes the word "structure;" the word "lot" includes the words "plot" and "parcel."
- 9-A-5 The word "used" shall be deemed also to include "erected", "reconstructed", "altered", "placed", or "moved."
- 9-A-6 The terms "land use" and "use of land" shall be deemed also to include "building use" and "use of a building."
- 9-A-7 The word "State" means the Commonwealth of Virginia.
- 9-A-8 The word "County" means the County of Clarke, Commonwealth of Virginia, and the term "county boundary" means any exterior boundary of the County or any boundary of unincorporated territory within the County.
- 9-A-9 The word "approve" shall be considered to be followed by the words "or disapproved."
- 9-A-10 The word "person" includes a firm, association, organization, partnership, trust, company, or corporation, as well as an individual.
- 9-A-11 Reference to "Code of Virginia" or this Ordinance shall include "as amended."
- 9-A-12 The word "adjacent" means "nearby" and not necessarily "contiguous," unless the obvious construction of the wording indicates otherwise.
- 9-A-13 (6/8/99) The North American Industrial Classification System (NAICS) Manual, U.S. Office of Management and Budget, 1997, shall be used to define the uses and assist in the determination of the status of proposed uses in zoning districts using the NAICS Codes for the list of Permitted Uses, Accessory Uses, Uses allowed by Special Permit, and Prohibited Uses.

## 9-B DEFINITIONS

**ACCESS:** A means of approach or admission.

**ACCESSORY BUILDING:** 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.

**ACCESSORY USE:** A use of a building, lot, or portion thereof, which is customarily incidental and subordinate to the principal use of the main building or lot.

(7/15/97) **AGRICULTURE:** The use of land for (i) tilling of the soil, (ii) the growing of crops or plant  
(10/21/97) growth of any kind, including fruit, flowers, and ornamental plants, (iii) pasturage, (iv) dairying,  
(12/16/08) or (v) the raising of poultry and/or livestock.

(3/21/17)

(8/19/08) **AGRICULTURAL PRODUCTS:** Any plant or part thereof, or animal or animal product, produced by agricultural, aquaculture, floricultural, horticultural, silvicultural, or viticultural activities.

**AIRPORT, HELIPORT, FLIGHT STRIP:** A place where aircraft may take off or land, discharge or receive cargoes and/or passengers, be repaired, take on fuel, or be stored.

**ALLEY:** A right-of-way, which provides secondary service access for vehicles to the side or rear of abutting properties

**ALTERATION, STRUCTURAL:** 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.

**AMENDMENT:** Any repeal, modification, or addition to this Ordinance or any part thereof; any change in the classification, shape, boundary, or area of a district; any repeal or abolition of, or any addition to, the zoning map.

**AMUSEMENT PARK:** A commercial recreational activity of a permanent nature offering amusements and diversions and operating either seasonally or all year long.

(7/18/06) **ANIMAL, COMPANION:** 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.

(10/17/00) ANIMAL SHELTER/GOVERNMENTAL: A facility or facilities, owned and/or operated by the  
(7/18/06) Clarke County government, used to house or contain companion animals and operated for the  
(10/21/14) purpose of finding permanent adoptive homes for such animals.

(2/19/19) 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.

AUTOMOBILE GRAVEYARD: Any lot or place upon which one or more vehicles of any kind do not possess a valid Commonwealth of Virginia inspection sticker, are placed and exposed to the weather.

(5/19/87) BASE FLOOD: A flood having a one percent chance of being equaled or exceeded in any given  
(7/17/07) year or the one hundred (100) year floods.

(7/17/07) BASE FLOOD ELEVATION: The Federal Emergency Management Agency designated one hundred (100)-year water surface elevation.

BASEMENT: Any area of the building having its floor sub-grade (below ground level) on all  
(7/17/07) sides.

(5/20/86) BED AND BREAKFAST: A home occupation where lodging or lodging and meals are provided for compensation for up to five transient guests.

(10/21/97) BIO-SOLIDS LAND APPLICATION

- a. Bio-Solids means a sewage sludge that (1) has received an established treatment for required pathogen control, (2) is treated or managed to reduce vector attraction to a satisfactory level and (3) contains acceptable levels of pollutants, so that it is acceptable for use in Land Application, marketing, or distribution in accordance with these regulations.
- b. 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 Bio-Solids); 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 Bio Solids are not to be considered treatment works.

BLOCK: That property abutting one side of a street, and lying between the two nearest intersecting streets or the nearest intersecting or intercepting street and railroad right-of-way, unsubdivided acreage, river or live stream or between any of the foregoing and any other barrier to the continuity of development.

BOARD: The Board of Supervisors of Clarke County, Virginia

BOARD OF SUPERVISORS: The Board of Supervisors of Clarke County, Virginia.



- (7/17/07) **BOARD OF ZONING APPEALS:** The board appointed to review appeals made by individuals with regard to decisions of the Zoning Administrator in the interpretation of this ordinance.
- (6/17/03) **BOUNDARY LINE ADJUSTMENT:** The relocation of one or more boundary lines between parcels of land, resulting in the same number of parcels of land as before the Boundary Line Adjustment.
- (7/21/15) **BREWERY, FARM:** An establishment that is licensed as a limited brewery by the Commonwealth of Virginia.

**BUFFERING, SCREENING:** Any device or natural growth, or a combination thereof, which shall serve as a barrier to vision or noise between adjoining properties. Whenever used for screening or buffering purposes, "natural growth" shall be taken to mean coniferous trees, bushes, and shrubbery.

**BUILDING:** A structure having one or more stories and roof, designed primarily for the shelter, support or closure of persons, animals or property of any kind.

**BUILDABLE AREA:** The area of a lot remaining after required yards, open spaces, parking, loading, and access areas have been provided.

- (7/15/97) **BUILDING, HEIGHT OF:** The vertical distance measured from the finished ground floor elevation of the building to the highest point of the roof surface, if a flat roof; to the deck line, if a mansard roof; or to the mean height level between eaves and ridge, if a gable, hip or gambrel roof.

**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.

- (2/18/97) **CAMP, SUMMER:** 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 proceeding 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.

(2/17/97) CAMPGROUND: a travel trailer camp, recreation camp, family campground, camping resort,  
(6/18/02) camping community or any other area, place, parcel or tract of land, by whatever name called, on which three or more campsites are temporarily occupied or intended for temporary occupancy, or facilities are established or maintained, wholly or in part, for the temporary accommodation of camping units for not more than 15 days in any 30-day period, whether the use of campsites and facilities is granted gratuitously, by rental fee, lease, by conditional sale, or by covenants, restrictions and easements. Campground does not include summer camp, migrant labor camp, construction camp, park for mobile homes, 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.

(2/18/97) CAMPING UNIT: 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.

(2/18/97) CAMPSITE: any plot of ground within a campground used or intended for occupation by the camping unit.

CARPORT: Any space outside a building and contiguous thereto, wholly or partly covered by a roof, and used for the shelter of motor vehicles. An unenclosed carport is a carport with no side enclosure that is more than eighteen inches in height, exclusive of screens (other than the side of the building to which the carport is contiguous).

CARNIVAL: A traveling or transportable group or aggregation of rides, shows, games or concessions or any combination thereof.

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.

CERTIFICATE OF APPROPRIATENESS: A document approved by the Historic Preservation Commission, which certifies that an activity is consistent with the mandates set forth in Sect., a 3-E-3-e of this Ordinance.

(6/21/05) 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.

(2/15/11) **CHURCHES AND OTHER PLACES OF ASSEMBLY:** 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. 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. This use includes cemeteries as an accessory use.

**CIRCUIT COURT:** The Circuit Court for Clarke County, Virginia.

**CIRCUS:** A traveling or transportable show or exhibition consisting of performances by persons and animals under one tent or similar structure, with or without other sideshows.

(2/16/16) **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.

**CLUB (PRIVATE):** Those associations and organizations of a fraternal or social character not operated or maintained for profit, but shall not include a night club or institution operated as a business.

(6/20/17)  
(2/19/19) **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.

**COMMISSION:** The Planning Commission of Clarke County, Virginia.

(2/15/11) **COMMUNITY SERVICES:** The following uses that are owned and/or operated by governmental entities or entities that are non-profit or not for profit: community centers, fire and/or rescue squad facilities, government offices, libraries, museums, passive use parks, playgrounds/parks/recreational facilities, 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) and visitor centers. 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.

(6/20/17) **COMPOUND AREA:** The area located at the base of the WCF, defined by a fenced boundary, that 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 Comprehensive Plan of Clarke County, Virginia.

(6/21/05) **CONSULTING FORESTER:** An individual who has at a minimum a 4-year degree in Forest Management from a college accredited by the Society of American Foresters.

**CONVALESCENT HOME:** (See Rest Home).

(7/17/90) (9/18/90)  
(4/18/00) (7/20/04)  
(10/19/04) (1/16/07)  
(1/20/09) (1/18/11) **COUNTRY INN:** An establishment offering for compensation to the public guestrooms for transitory lodging or sleeping accommodations. As accessory uses to a Country Inn, meal service and/or permanent place(s) of public assembly may be provided. The term Country Inn includes Tourist Home, Guest Ranch, Guest Farm, or other similar use.

**COUNTY:** Clarke County, Virginia.

**COURT:** An open, unoccupied space, other than a yard, with a building or group of buildings which is bounded on two or more sides by such building or buildings and every part of which is clear and unobstructed from its lowest point to the sky.

**DAIRY:** A commercial establishment for the manufacture, processing, and/or sale of dairy products.

(7/18/95) **DAY CARE CENTER:** A day-time care program offered for compensation in a commercial structure for any number of persons. A daytime care program offered for compensation in a dwelling unit for 13 or more persons (exclusive of the provider's immediate family members and any persons who reside in the dwelling). The persons receiving care may be either children or adults. A Day Care Center shall be licensed as required by the Commonwealth of Virginia.

(7/18/95) **DAY CARE CENTER, HOME:** A day-time care program offered for compensation in a dwelling unit for 12 or fewer persons (exclusive of the provider's immediate family members and any persons who reside in the dwelling). The persons receiving care may be either children or adults. A program for 6 to 12 persons shall be considered a Home Occupation. A program for 1 to 5 persons shall not be considered a Home Occupation or be subject to any other regulations more restrictive than those imposed on a Single Family Dwelling. A Home Day Care Center shall be licensed as required by the Commonwealth of Virginia.

(7/18/95) **DEVELOPMENT:** Any man-made change to improved or unimproved real estate including, but not limited to, buildings or other structures, the placement of mobile homes, streets, and other paving, utilities, filling, grading, excavation, mining, dredging, drilling operations or storage of equipment or materials.

(10/18/16) **DISTILLERY, FARM:** An establishment that produces alcoholic beverages other than wine or beer and is licensed as a limited distiller by the Commonwealth of Virginia.

(6/20/17) **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.

**DRIVEWAY:** A space or area specifically designated and reserved on a lot for the movement of vehicles from one lot to another or from a lot to a public street.

**DUPLEX:** A single structure containing two dwelling units, each with its own exterior entrance at grade.

**DWELLING:** A dwelling unit.

**DWELLING, ATTACHED:** A dwelling having all or a portion of a wall in common with an adjoining dwelling.

**DWELLING, DETACHED:** A dwelling that is entirely free standing.

**DWELLING, MULTI-FAMILY:** A building containing three or more units.

(6/16/92) **DWELLING, PORTABLE:** (See Manufactured Home).

(6/16/92) **DWELLING, SINGLE FAMILY:** A residential dwelling unit, other than a portable dwelling,  
(7/18/95) designed for and occupied by one (1) family only. This term shall include Group Homes, or  
(11/16/10) Assisted Living Facility (as defined in Section 15.2-2291 Code of Virginia, 1950, as amended).  
In the AOC and FOC zoning districts only, this term shall include manufactured homes of 19 feet or greater in width, on a permanent foundation.

**DWELLING, SEMI-DETACHED:** (See Duplex).

(6/16/92) **DWELLING, TEMPORARY:** A manufactured home, but not necessarily attached to a permanent foundation.

**DWELLING, TWO-FAMILY:** A residential building designed for and occupied by not more than two families.

**DWELLING UNIT:** One room, or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy, or rental or lease on a weekly, monthly, or longer basis, and physically separated from any other rooms or dwelling units which may be in the same structure, and containing independent cooking and sleeping facilities and containing not less than 600 square feet of residential floor area.

**EASEMENT:** A grant by a property owner of the use of his land, or a portion thereof, by another party for a specific purpose.

(7/17/07) **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.

**ERECT:** Construct, move, or structurally alter.

**EXTRACTION OF NATURAL RESOURCES- LIMITED:** 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.

**FAIRGROUND:** A parcel or tract of land used, either temporarily or permanently (as permitted herein), as the site of any fair, exposition, or public display.

(6/20/17) **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.

**FAMILY:** One or more persons related by blood, adoption, or marriage, living and cooking 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.

**FARMSTEAD:** The main dwelling unit, occupied by the owner or operator of an agricultural and/or forestal operation, which dwelling unit is located on a tract of land which is used for agriculture and which is eligible for land use assessment as of October 17, 1980.

(3/21/17) **FARM MACHINERY SALES AND SERVICE:** 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.

(3/21/17) **FARM SUPPLIES SALES:** Buildings and land used for the onsite sale of supplies that are primarily produced or manufactured for use by an agricultural operation.

(7/17/07) **FLOOD OR FLOODING:**

- a. A general or temporary condition of partial or complete inundation of normally dry land areas from:
  - (1) The overflow of inland or tidal waters; or,
  - (2) The unusual and rapid accumulation or runoff of surface waters from any source.
- b. 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 paragraph 1 (a) of this definition.

**FLOOD, ONE HUNDRED YEAR (INTERMEDIATE REGIONAL FLOOD):** A flood that, on the average, is likely to occur once every 100 years (i.e., that has one percent chance of occurring each year, although the flood may occur in any year).

(7/17/07) **FLOOD, TEN YEAR:** A flood that, on the average, is likely to occur once every ten years {i.e., that has a ten percent chance of occurring each year}.

(7/17/07) **FLOOD PLAIN or FLOOD-PRONE AREA:** A relatively flat or low land area adjoining a river, stream or watercourse, lake or other body of standing water, which has been or may be subject to partial or complete inundation by flood water.

(7/17/07) 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 a designated height.

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.

(7/15/97) FORESTRY: The use of land devoted to tree growth in such quantity and so spaced and maintained as to constitute a forest area.

FRONTAGE: The minimum width of a lot measured from one side lot line to the other along a straight line on which no point shall be further away from the street upon which the lot fronts than the required front yard.

FUNERAL PARLOR: An establishment used primarily for human funeral services, which may or may not include facilities on the premises for; (a) embalming, (b) performance of autopsies or other surgical procedures, (c) cremation.

GARAGE: A building designed or used for the parking or storage of motor vehicles

**GASOLINE FILLING STATION:** Automobile filling stations shall be considered as buildings and premises where gasoline, oil, grease, batteries, tires and automobile accessories may be supplied and dispensed at retail, and where, in addition the following services, may be rendered and sales made and no other:

- a. Sale and servicing of spark plugs, batteries, and distributor parts;
- b. Tire servicing and repair, but not recapping or re-grooving;
- c. Replacement or adjustment of mufflers and tail pipes, water hose, fan belts, brake fluid, light bulbs, fuses, floor mats, seat covers, windshield wipers and wiper blades, grease retainers, wheel bearings, mirrors and the like;
- d. Radiator cleaning and flushing, provision of water, anti-freeze and the like;
- e. Washing and polishing, and sale of automotive washing and polishing materials;
- f. Greasing and lubrication;
- g. Providing and repairing fuel pumps, oil pumps and liners;
- h. Servicing and repair of carburetors;
- i. Emergency wiring repairs;
- j. Adjusting and repair brakes;
- k. Minor motor adjustments not involving removal of the head or crankcase or racing the motor;
- l. Provision of cold drinks, packaged foods, tobacco, and similar convenience goods for gasoline supply stations customers, but only as accessory and incidental to principal operation; and
- m. Provision of road maps and other information and material to customers; provision of restroom facilities. Uses permissible at an automobile filling station do not include major mechanical body work, straightening of frames of body parts, steam cleaning, painting, welding, storage of automobiles not in operating condition, or any activity involving noise, glare, fumes, smoke or other characteristics to an extent greater than normally found in automobile filling stations.

(7/18/89) **GOLF COURSE:** A tract of land for playing golf, improved with trees, greens, fairways, hazards, and which may include the following:

(1/17/95)

(4/18/00)

- a. Pro Shop - Sale of golf instruction, golf supplies, and related merchandise,
- b. Equipment Shelter - Shed for golf carts, maintenance materials and equipment,
- c. Preparation and sale of food and beverages,
- d. Practice fairway and green facilities,
- e. Living quarters for manager/caretaker,
- f. County Inn, and/or
- g. Assembly or meeting activities; however, the total design capacity of permanent place(s) of assembly shall be for fewer than 150 people.

**GOVERNING BODY:** The Board of Supervisors of Clarke County, Virginia.

**HEALTH OFFICIAL:** HEALTH OFFICER: The legally designated health official of the Department of Health, Commonwealth of Virginia, for Clarke County, Virginia.

**HEIGHT:** (See Building, Height of).



**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.

(3/27/17) **HISTORIC MILL:** One of the County's two 18<sup>th</sup> 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.

**HISTORIC PRESERVATION:** Action that contributes to enhancement or protection of historic resources.

**HISTORIC PRESERVATION COMMISSION:** A body created by Section 3-E of this Ordinance, consisting of five to seven members appointed by the Board of Supervisors for the purposes of carrying out the responsibilities assigned it by the Historic Districts Section.

(7/17/07) **HISTORIC STRUCTURE -** Any structure that is:

- a. 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;
- b. 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; or,
- c. Individually listed on the Virginia Landmarks Register.

(2/15/11) **HISTORIC STRUCTURE MUSEUMS:** 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.

(12/15/92) (7/15/97)  
(6/18/02) (10/18/06) **HOME OCCUPATION:** An occupation conducted in a dwelling unit (or an accessory structure to a dwelling) as a secondary use.

(9/18/90) **HOSPITAL:** 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, senile psychotics and drug addicts are treated or cared for under the supervision of licensed medical personnel.

(7/15/97) **HOTEL:** Any place containing four 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.

**HOUSING FOR OLDER PERSONS:** Such housing shall be in accord with Virginia Code Section 36-96.7, as amended, and pursuant to said code section means housing: (i) provided under any state or federal program that is specifically designed and operated to assist elderly persons, as defined in the state or federal program; (ii) intended for, and solely occupied by, persons sixty-two years of age or older; or (iii) intended for, and solely occupied by at least one person fifty-five years of age or older per unit. The following criteria shall be met in determining whether housing qualifies as housing for older persons under subdivision (iii) of this section:

- a. The existence of significant facilities and services specifically designed to meet the physical or social needs of older persons, or if the provision of such facilities and services is not practicable, that such housing is necessary to provide important housing opportunities for older persons;
- b. That at least eighty percent of the units are occupied by at least one person fifty five years of age or older per unit; and,
- c. The publication of, and adherence to, policies and procedures, which demonstrate an intent by the owner or manager to provide housing for persons fifty-five years of age or older. In determining the criteria to be met, unoccupied units shall not be considered, provided such units are reserved for occupancy by persons who meet the above criteria.

**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.

(12/15/92) **INOPERABLE VEHICLE:** For the purposes of this Ordinance, an inoperable vehicle shall be 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.

**JUNK YARD:** Any land or building used for the abandonment, storage, keeping, collecting, or bailing of paper, rags, scrap metals, other scrap or discarded materials, or for the abandonment, demolition, dismantling, storage, or salvaging of motor vehicles, machinery, or parts thereof.

(10/17/00) **KENNEL:** A place designed prepared to house, board, breed, handle, or otherwise keep or care  
(6/15/04) for dogs and cats for sale or in return for compensation. A Kennel shall be allowed only as an accessory use to a Single Family Detached Dwelling and shall be located not more than 200 feet from such a dwelling.

(10/17/00) **KENNEL, Commercial Boarding**  
(6/15/04) A place designed or prepared to house, board, handle or otherwise keep or care for canine and/or feline animals in return for compensation. A Commercial Boarding Kennel shall be allowed only as an accessory use to a Single Family Detached Dwelling and shall be located not more than 200 feet from such a dwelling.

(10/17/00) **KENNEL, Breeding**  
(6/15/04) A place designed or prepared to house or handle canine animals for the purpose of breeding for  
(8/17/10) sale in return for compensation. A Breeding Kennel shall be allowed only as an accessory use to a Single Family Detached Dwelling and shall be located not more than 200 feet from such a dwelling. \*(See Animal Shelter)

(6/13/89) **LABOR CAMP:** A structure or structures for occupancy by seasonal farm/orchard employees and their families, used exclusively in association with the performance of agricultural labor for growers home based in Clarke County.

(5/16/95) **LIVESTOCK:** Includes all domestic or domesticated: hoofed animals and Struthioniformes  
 (10/18/11) order of animals (also known as ratite animals), including but not limited to ostriches and emus.

(11/15/05) **LIVESTOCK/ANIMAL UNITS:**

Livestock shall be considered hoofed animals or hoof stock with the following weight categories:

1 animal unit = 900 lb. animals and greater, examples: cows, horses, donkeys, etc.

0.5 animal unit = 600 - 899 lb. animals, examples: ponies, miniature horses or cows, donkeys, weaned calves etc.

0.25 animal unit = 300 - 599 lb. animals, examples: alpacas, llamas, pigs

0.125 animal unit = 1 - 299 lb. animals, examples: sheep, goats, and pigs

Nursing mothers and the juvenile animals they are nursing constitute a single animal unit for their particular weight class, for 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, for example: a calf weaned at 599 lbs. qualifies as 0.5 animal units.

(5/16/95) **INTENSIVE LIVESTOCK, DAIRY, OR POULTRY FACILITY:**

(8/22/00) A livestock or dairy 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 below chart: In such operations:

- a. Such 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,
- b. Crops, vegetation, forage growth or post-harvest residues are not sustained over any portion of the operation of the lot or facility.

TYPE OF FACILITY	ANIMAL UNITS		
	300	200	50
Cattle (slaughter and feeder)	300		50
Swine each weighing over 55 pounds	750		125
Horses	150		25
Sheep and Lambs	3,000		500
Mature Dairy Cattle (whether milked or dry cows)	200		33
Turkeys		11,000	2,750
Laying Hens or Broilers		20,000	5,000

(5/16/95) **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.

(5/16/95) **LIVESTOCK RAISER, DAIRY OPERATOR, POULTRY GROWER, (hereafter, "operator"):** The owner or operator of the livestock facility, dairy or poultry facility or the land on which the livestock, dairy or poultry facility is located.

**LIVESTOCK AUCTION MARKET:** A commercial establishment wherein livestock is collected for sale and auctioned.

**LODGE (PRIVATE):** (See Club, Lodge [Private])

**LOT:** A parcel of land occupied or to be occupied by a main structure or group of main structures and accessory structures, together with such yards, open space, lot width, and lot areas as are required by this Ordinance, and having frontage on an approved street.

**LOT AREA:** The total horizontal area included within the rear, side and front lot lines or proposed street lines of the lot, excluding any streets or highways, whether dedicated or not dedicated to public use, but including off-street automobile parking areas and other accessory uses. Lot area shall not include portions under water except where the total area of a body of water is within the lot or where the width included as part of the area of the lot does not exceed 30 feet.

**LOT, CORNER:** A lot abutting on two or more streets at their intersection.

**LOT COVERAGE:** The part or percent of the lot occupied by buildings or structures, including accessory buildings or structures.

**LOT, DEPTH OF:** The average horizontal distance between the front lot line and the rear lot line, measured along a straight line.

**LOT, INTERIOR:** Any lot other than a corner lot, and including a through 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, 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, THROUGH:** An interior lot having frontage on two parallel or approximately parallel streets.

**LOT, WIDTH OF:** The average horizontal distance between side lot lines.

**LOT OF RECORD; RECORD LOT:** Land designated as a separate and distinct parcel of land on a legally recorded subdivision plat filed in the land records of Clarke County, Virginia.

(5/19/87) **LOWEST FLOOR:** The lowest floor of the lowest enclosed area (including basement). An  
(7/17/07) 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 44CFR §60.3.

**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."

- (2/20/90) MANUFACTURED HOME (also known as MOBILE HOME): A portable dwelling unit, built  
(6/16/92) on a permanent chassis, transportable in one or more sections, and designed to be used as a  
(7/17/07) dwelling, with or without a permanent foundation. "Mobile home" shall include a "manufactured home" as defined in Section 1200.2 of the 1987 edition of the Industrialized Building and Manufactured Home Safety Regulations of the Virginia Uniform Statewide Building Code. A manufactured home (mobile home) is not a modular home. For floodplain management purposes the term manufactured home also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days.
- (6/17/03) MERGER: The elimination of one or more boundary lines between parcels of land, resulting in  
(11/20/12) a single parcel of land.
- (2/20/90) MODULAR HOME: A dwelling unit, consisting of one or more sections, manufactured off-site  
(6/16/92) and transported to the point of use for installation or erection on a permanent foundation. An "industrialized building" as defined in Section 200.0 of the 1987 edition of the Industrialized Building and Manufactured Home Safety Regulations of the Virginia Uniform Statewide Building Code, when used as a residential unit, is a "modular home". A modular home is not a manufactured home (mobile home).
- (6/20/17) MONOPOLE: A hollow or solid, cylindrical self-supporting structure which is made of steel, wood or concrete.
- (9/18/90) MOTEL: (see Hotel)
- (5/13/03) NET DEVELOPABLE ACRE: The area of a parcel of land, within the boundaries of the Berryville Area Plan, excluding the following:
- a. Land in one hundred-year floodplains,
  - b. Land within 25 feet of the discernible edge of sinkholes,
  - c. Land with slopes in excess of 25 percent,
  - d. 50 percent of land with slopes between 15 and 25 percent, and
  - e. Land within existing public rights of way and easements, and land within private access easements serving other properties.
- (7/17/07) NEW CONSTRUCTION - For the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial Flood Insurance Rate Map on or after December 31, 1974, whichever is later, 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.
- (2/16/16) 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.
- NONCONFORMING LOT: An otherwise legally platted lot that does not conform to the area or width requirements of this Ordinance for the district in which it is located.

**NONCONFORMING STRUCTURE:** An otherwise legal building or structure that does not conform to the lot area, yard, height, lot, coverage, or other area regulations of this Ordinance, or is designed or intended for a use that does not conform to the use regulations of this Ordinance for the district in which it is located.

**NONCONFORMING USE:** The otherwise legal use of a building or structure or of a tract of land that does not conform to the use regulations of this Ordinance for the district in which it is located.

**NONPROFIT ORGANIZATION:** An organization or group whose charter prohibits profit-making endeavors, and which enjoys tax exemption privileges.

(7/15/97) **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

**PARKING LOT:** A lot or portion thereof, other than an automobile sales lot, held out or used for the storage or parking of six or more motor vehicles, where service or repair facilities are not permitted. Such parking lot shall not be considered an accessory use; nor shall it be used for the storage of dismantled or wrecked motor vehicles, parts thereof, or junk.

**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 or upon a roof, allocated for parking, shall be included and considered a part of the required spaces.

(2/15/11) **PASSIVE USE PUBLIC PARKS:** 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. This use includes 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.

(6/20/17) **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.

**PLANNING COMMISSION:** The Planning Commission of Clarke County, Virginia.

PORCH: The term "porch" shall include any porch, 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. An "unendorsed porch" is a porch with no side enclosure (other than the side of the building to which the porch is attached) that is more than 18 inches in height, exclusive of screens.

(7/17/07) PRIVATE ACCESS EASEMENT: A perpetual easement, not a part of any public road system, which provides access on a continuing basis to any lot or parcel.

PROFESSIONAL OFFICE: The office, studio, or professional room of a doctor, architect, artist, musician, lawyer, or similar professional person, is excepting any funeral home or any establishment where goods are offered for sale.

(1/20/09) PUBLIC ASSEMBLIES, MINOR COMMERCIAL  
Any Public assembly,

- a. Which is conducted by an entity required to have a Business License,
- b. At which the total number of participants and spectators entering the site of a Public Assembly on an Event Day is 149 persons or fewer,
- c. And which is comprised of six or more event days in a calendar year, and
- d. Which is held at any place other than on property owned by the United States of America, the Commonwealth of Virginia or the County of Clarke.

Such an assembly shall not include demonstrations, parades, rallies, marches, or picketing activities.

RECREATION USES AND STRUCTURES (COMMERCIAL): Any establishment operated as a commercial enterprise 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.

(2/16/93) RECREATIONAL EQUIPMENT, MAJOR: Travel trailers, motorized dwellings, tent trailers,  
(10/18/94) boats and boat trailers, houseboats, and the like, which require licensing by the Virginia Department of Motor Vehicles, as well as truck campers and caps.

(7/17/07) RECREATIONAL VEHICLE: A vehicle which is:  
a. Built on a single chassis;  
b. 400 square feet or less when measured at the largest horizontal projection;  
c. Designed to be self-propelled or permanently towable by a light duty truck; and,  
d. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational camping, travel, or seasonal use.

(2/16/10) **RESTAURANT:** Any establishment, however designated, at which food is sold for consumption on or off the premises including any temporary food establishment or mobile vendors open for business activities on any specific parcel for more than seven days in any calendar year. However, a snack bar or refreshment stand at a public or nonprofit community swimming pool, playground, play field or park, operated solely by or for the agency or group operating the recreational facility, and for the convenience of patrons of the facility, shall not be deemed to be a restaurant. For purposes of administration and enforcement of this Ordinance, a Country Inn, Seasonal Farmer's Market and Wayside Stand as defined herein, shall not be deemed to be a restaurant.

(6/8/99) **RETAIL AND SERVICE BUSINESSES:** Buildings or land used for on site sale of merchandise at retail or for the rendering of personal services where such service is performed on site.

**ROAD** (including the terms street, avenue, way, court, drive, etc.): A public right of way.

**RHYTHM (Architectural Sense):** The established patterns of shape, sizes, color, and/or configuration of built forms in a certain area.

**SANITARY LANDFILL:** A method of disposing of refuse on land without creating nuisances or hazards to public health or safety, by utilizing the principles of engineering to confine the refuse to the smallest practical area, to reduce it to the smallest practical volume, and to cover it with a layer of earth at the conclusion of each day's operation, or at such more frequent intervals as may be necessary.

**SCREENING:** (See Buffering).

**SEASONAL BAKERY:** A business establishment for baking and selling of breads, cakes and pastries, which establishment distributes the greatest volume of its products by off-premise sales, and which establishment operates on a full-scale, full time basis solely during temporary, seasonal periods of a calendar year, and in no event, for more than six months during any calendar year. Such establishments shall satisfy all applicable requirements and regulations of Clarke County and Virginia Departments of Health and of the Virginia Department of Transportation.

**SETBACK:** The minimum distance by which any building or structure must be separated from the front lot line.

(7/15/97) **SEWERAGE SYSTEM & TREATMENT WORKS:**

- a. Sewerage System: pipelines or conduits, pumping stations and force mains and all other construction, devices and appliances appurtenant thereto, used for the collection and conveyance of sewage to a treatment works or point of ultimate disposal, and
- b. Treatment Works: any device or system used in the storage, treatment, disposal or reclamation of sewage or combinations of sewage and industrial wastes, including, but not limited to, pumping, power and other equipment and appurtenances, septic tanks and any works (including land) as components of a mass drainfield, that are or will be (1) an integral part of the treatment process or (2) used for ultimate disposal or residues or effluent resulting from such treatment. This term does not include Subsurface Drainfields smaller than Mass Drainfields. A Mass Drainfield is a subsurface drainfield that has loading rates in excess of 1,200 gallons per day for any acre and consists of more than 2,000 linear feet or percolation piping.



(7/17/07) **SHALLOW FLOODING AREA:** 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.

**SHOPPING CENTER:** Five or more buildings or establishments located on the same lot or parcel of ground; provided, however, that two or more buildings or establishments, located on the same lot or parcel of ground, which have a combined floor area of 40,000 square feet or more shall constitute a shopping center.

(12/17/02) **SINKHOLE:** A feature identified and mapped as a sinkhole in the “Soil Survey of Clarke County” (1982), or the “Map of Selected Hydrogeologic Components of 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. Setbacks from a sinkhole shall be measured from the sinkhole’s discernable edge. The Zoning Administrator shall determine the identification of a sinkhole as a class 1 sinkhole and the discernable edge of any sinkhole.

(6/21/05) **SLIPPAGE SOILS:** Soil types identified as 54C Udorthents in the “Soil Survey of Clarke County” (1982).

(7/15/97) **SMALL SCALE PROCESSING OF FRUIT AND VEGETABLES:** 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

(6/15/10) **SOLAR POWER PLANT, LARGE PHOTOVOLTAIC:** is 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).

(7/17/07) **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 Section 3-E-1-a of this ordinance.

**STABLE, COMMERCIAL:** An establishment where animals are cared for, boarded, and/or let for hire.

- (7/17/07) **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 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.
- (6/20/17) **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.
- (3/19/02) **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.

**STREET:** A public right of way.

**STREET, CENTER LINE OF:** A line established as a center line of a street by any State, County, or other official 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 established by the Commission, or in the absence of a determination by the Commission, shall be assumed to be a line midway between the edges of such pavement or traveled way.

- (10/21/08) **STRUCTURE:** Any man-made object having a stationary location on a parcel, 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.
- (1/16/07) **STRUCTURE TEMPORARY:** A structure, not permanently affixed to the ground, intended to be located on a parcel for not more than 90 days in any 12-month period of time.

**STRUCTURAL ALTERATION:** Any change, modification, addition or deletion to an existing structure.

- (7/17/07) **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.

(5/19/87) SUBSTANTIAL IMPROVEMENT: Any repair, reconstruction or improvement of a structure, (7/17/07) the cost of which equals or exceeds 50 percent of the market value of the structure either, (a) before the improvement or repair is started, or (b) if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either (a) any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions or (b) any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

SURFACE, ALL-WEATHER: A concrete, asphalt, or macadam surface for commercial, industrial, multi-family residential, and townhouse residential uses. A gravel, crushed rock, or similar surface for single and two-family residential uses.

TENANT HOUSE: A dwelling unit other than a farmstead, which dwelling unit is located on a tract of land used for agriculture.

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.

(11/16/10) TRACT: A parcel of land for which there exists a separate parcel designation on the Clarke County Real Property Identification Map as of October 17, 1980. Parcels that have been divided by a public road, which is maintained by the Virginia Department of Transportation, shall be considered as separate tracts, even though such tracts may be assigned one parcel designation as herein defined, except that if either of the parcels divided by a public road is located totally in the ten year floodplain, the parcels shall be considered a single tract.

(6/21/05) TREE: any living, self-supporting, wood perennial plant that normally grows to an overall height of no less than 10 feet.

(6/21/05) TREE CANOPY: the upper portion of the tree consisting of limbs, branches, and leaves.

(6/21/05) TREE CANOPY COVERAGE: the ground area within the drip line of the tree.

(6/21/05) TREE DIAMETER AT BREAST HEIGHT (DBH): the diameter of the trunk of a tree measured at breast height (a height of 4.5 feet above the natural grade). The DBH 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.

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 principal purpose for which a lot or the main building thereon is designed, arranged, or intended and for which it is or may be used, occupied, or maintained.

**VISUAL FABRIC:** The overall visual impression of a grouping of architectural elements.

(7/17/07) **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.

(7/15/97)  
(10/18/16) **WATERWORKS:** A system that serves piped water for drinking or domestic use for:  
a. The public, or  
b. At least 15 connections, or  
c. An average of 25 individuals for at least 60 days out of the year.

A waterworks shall include all structures, equipment, and appurtenances used in the storage, collection, purification, treatment, and distribution of pure water (except the piping and fixtures inside the building where such water is delivered).

(7/15/97) **WAYSIDE STAND:** A Home Occupation consisting of the sale or offering for sale by the owner, or his family or tenant, of agricultural or horticultural produce, livestock or merchandise coming from a home occupation and produced primarily on the premises, and that is clearly a secondary use of the premises and does not change the character thereof.

(11/18/08) **WIND ENERGY SYSTEM SMALL:** A wind energy conversion system, less than 100 kW, consisting of a wind turbine, tower, base and/or associated testing, control, or conversion electronics.

(11/1  
8/08) **WIND TURBINE TOTAL HEIGHT:** The distance measured from ground level to the blade extended at its highest point.

(11/18/08) **WIND TURBINE:** The parts of the wind system including the blades, generator and tail.

- (3/18/86) WINERY, FARM: An establishment, licensed as a farm winery by the Commonwealth of  
 (10/18/94) Virginia, with:  
 (10/19/04) a. a producing vineyard, orchard, or similar growing area and with facilities for  
 (12/15/09) fermenting and bottling wine on the premises where the owner or lessee manufactures  
 wine that contains not more than 18 percent alcohol by volume; or  
 b. a producing vineyard, orchard, or similar growing area or agreements for purchasing  
 grapes or other fruits from agricultural growers within the Commonwealth, and with  
 facilities for fermenting and bottling wine on the premises where the owner or lessee  
 manufactures wine that contains not more than 18 percent alcohol by volume.

The terms “owner” or “lessee” shall include a cooperative formed by an association of individuals for the purpose of manufacturing wine. In the event such cooperative is licensed as a Farm Winery, the term “farm” as used in this definition includes all of the land owned or leased by the individual members of the cooperative as long as such land is located in the Commonwealth. (Section 4.1-100 of the Code of Virginia)

- (6/20/17) WIRELESS COMMUNICATION FACILITY (WCF): All infrastructures and equipment  
 (2/19/19) 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.

YARD: An open space on a lot other than a court unoccupied and unobstructed from the ground upward by structures, except as otherwise provided herein.

YARD, FRONT: An open space, on the same lot as a building, between the front line of the building (excluding steps) and the front boundary line of the lot, and extending across the full width of the lot.

YARD, REAR: An open space, on the same lot as a building, between the rear line of the building (excluding steps) and the rear boundary line of the lot, and extending across the full width of the lot.

YARD, REQUIRED: A yard, as herein defined, located on a lot, the minimum dimensions of which are set by the district regulations of this ordinance.

YARD, SIDE: An open space, on the same lot as a building, between the side line of the building (excluding steps) and the side boundary line of the lot, and extending from the front yard line to the rear yard line

## 9-C 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 this Ordinance as set forth in Article 1; provided, however, that an appeal may be taken from any such determination as provided in Article 7.

## 10 ADMINISTRATION PROVISIONS

### 10-A CONFLICT WITH STATUTES, LOCAL ORDINANCES, OR REGULATIONS.

- 10-A-1 (7/15/08) Whenever the regulations made under authority of this article require a greater width or size of yards, courts, or other open spaces, require a lower height of building or less number of stories, require a greater percentage of lot to be left unoccupied, or impose other higher standards than are required in any other statute or local ordinance or regulation, the provisions of the regulations made under authority of this article shall govern. Whenever the provisions of any other statute or local ordinance or regulation require a greater width or size of yards, courts, or other open spaces, require a lower height of building or a less number of stories, require a greater percentage of lot to be left unoccupied, or impose other higher standards than are required by the regulations made under authority of this article, the provisions of such statute or local ordinance or regulation shall govern.

### 10-B ISSUANCE OF PERMITS AND LICENSES

(2/16/01)

- 10-B-1 All departments, officials, and public employees of Clarke County who are vested with the duty or authority to issue permits or licenses shall, when issuing said permits or licenses, conform to the provisions of this Ordinance.
- 10-B-2 Permits for uses, buildings, or purposes shall only be issued when such uses, buildings, or purposes comply with the provisions of this Ordinance.
- 10-B-3 Any permit or license issued which is in conflict with the provisions of this Ordinance shall be null and void.
- 10-B-4 (2/16/01) No permit for uses or buildings shall be issued for any subdivided lot (as defined in the Clarke County Subdivision Ordinance) until a subdivision plat has been approved by Clarke County land records, or unless the lot was created and recorded in the land records before August 19, 1957.

### 10-C VIOLATIONS AND PENALTIES

#### 10-C-1 Violations

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.

#### 10-C-2 Penalties

(10/18/05) Upon conviction of a violation of this Ordinance, the person, firm, or corporation so convicted shall be subject to the penalties set forth in Section 15.2-2286(A)(5), Code of Virginia.

10-D REMEDIES NOT EXCLUSIVE

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.

10-E PUBLIC HEARINGS

(11/16/93)

10-E-1 Public hearings held by the Board of Supervisors, Planning Commission, Board of Zoning Appeals, Berryville Area Development Authority, Septic and Well Appeals Board, Historic Preservation Commission or other duly appointed authority, shall be held in accordance with Section 15.2-2204 of the Code of Virginia, 1950, as amended. In accordance with applicable regulations, before such hearings, the following is required:

10-E-1-a (8/19/03) Notice of the intended action shall be published once a week for two successive weeks in some newspaper published or having general circulation in Clarke County; provided that such notice for matters to be considered by more than one board or commission may be published concurrently. Such notice shall specify the time and place of the hearing at which persons affected may appear and present their views, not less than five days or more than twenty-one days after the second advertisement shall appear in such newspaper.

10-E-1-b In accordance with Section 15.2-2206, Code of Virginia, 1950, as amended, the applicant for the action requiring a public hearing shall be responsible for providing the notice required in Sections 10-E-1-(b)-(1) and 10-E-1-(b)-(2); and shall bear the cost of said notice. The applicant shall be required to supply the names of those persons that were required to be notified and certify that notice was sent to those to whom notice was required to be sent. The certification of notice and a listing of the persons to whom notice has been sent shall be supplied by the applicant to the zoning administrator at least five days before the public hearing. Any person entitled to notice may waive such right in writing.

1. When a proposed amendment of the zoning ordinance involves a change in zoning classification of twenty-five or fewer parcels of land, then, in addition to the advertising required in Section 10-E-1-(a), written notices shall be given at least five days before the hearing to the owner (as shown on the current real estate assessment records of Clarke County) of each parcel involved, the owners of all abutting property and the owners of property immediately across the street or road from the property affected. If such notice is sent by an applicant other than a representative of the Board of Supervisors, it shall be sent by registered or certified mail. If such notice is sent by a representative of the Board, the notice may be sent first class mail; provided that the representative make affidavit that such mailings have been made and file such affidavit with the records of the case.
2. When a proposed amendment to the Zoning Ordinance involves a change in the zoning map classification of more than twenty-five but less than five hundred parcels of land, then, in addition to the advertising required in Section 10-E-1-(a), written notice shall be given at least 5 days before the hearing to the owners of each parcel of land involved. One notice sent by first class mail to the last known address of such owner as shown on the current real estate assessment records of Clarke County. The party responsible for sending the required notice shall make affidavit that such mailings have been made and file such affidavit with the papers in the case.
3. When a proposed amendment to the Zoning Ordinance involves a change in the zoning map classification of 500 or more parcels of land, written notice to the owners of each parcel of land is not required. Advertising is required as stated in Section 10-E-1-(a).

- 10-E-1-c (8/19/03) At least fifteen days preceding the hearing, the applicant shall erect on the involved parcel or parcels, a sign or signs, indicating the nature of the request and the body reviewing the request. If the public hearing concerns more than five parcels, the number and location of signs to be posted shall be determined by the Zoning Administrator. The Zoning Administrator may require a reasonable deposit for each sign furnished to the applicant. The sign shall be erected by the applicant within ten feet of whatever boundary line of such land abuts a public road and shall be so placed as to be clearly visible from the road with the bottom of the sign not less than one foot above the ground. Such sign shall not be erected on the public right-of-way. If more than one such road abuts the subject parcel or parcels, or if no public road abuts thereon, then the number and location of signs shall be determined by the Zoning Administrator. Any sign erected as required by this Section shall be maintained at all times by the applicant up to the time of the hearing. It shall be unlawful for any person, except the applicant or the Zoning Administrator, or authorized agent of either, to remove or tamper with any required sign during the period it is required to be maintained under this Section. All signs erected under this Section shall be removed by the applicant within fifteen days following the public hearing for which it was erected. Failure to return the undamaged sign or signs within the prescribed time period will result in the forfeiture of the sign deposit.
- 10-E-1-d At the hearing, the applicant shall submit an affidavit that he/she has fully complied with the requirements of this Section as to provision of written notice and posting of the property.
- 10-E-1-e If any hearing is continued to an unspecified date, written notice shall be remailed for notification of the date of continuation to those parties that received notice of the previous hearing, in accordance with Sections 10-E-1-(b) and 10-E-1-(d) of this Ordinance.
- 10-F FEES  
Fees for permits, applications, petitions, and other action under the provisions of this Ordinance shall be payable to "Treasurer, Clarke County", in such amount as shall from time to time be set by resolution of the Board of Supervisors.
- 10-G 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.
- 10-H REPEAL OF CONFLICTING ORDINANCES  
The Zoning Ordinance of Clarke County previously adopted with an effective date of December 21, 1977, as amended, is hereby repealed as of the effective date of this Ordinance. All other ordinances or parts thereof which conflict with the provisions of this Ordinance are hereby repealed as of the effective date of this Ordinance.
- 10-I EFFECTIVE DATE  
This Zoning Ordinance shall be effective at and after 12:01 A.M. the 14th day of August, 1985.