

B ZONING ORDINANCE, SUBDIVISION ORDINANCE, AND RELATED ORDINANCES

This Section contains a general description of the Clarke County Zoning and Subdivision Ordinances and related ordinances found in the Code of Clarke County that are pertinent to the development and use of land.

Zoning Ordinance ([County Code Chapter 200, Article I](#))

The County's Zoning Ordinance contains the laws and regulations governing the use of land in the unincorporated areas of the County. The County Zoning Ordinance does not apply to properties located in the Towns of Berryville and Boyce (see [Section C](#) below).

The Zoning Ordinance is the primary tool to ensure that development and construction in the County is consistent with the County's land use philosophy as described in the Comprehensive Plan (see [Section D – What is the Clarke County Comprehensive Plan?](#)). All properties in the County are assigned a zoning designation referred to as a “zoning district.” Zoning districts (described in [Zoning Ordinance Section 4](#)) are mostly contiguous units of properties that are designed to contain like uses with regulations to ensure that development occurs at a uniform density, scale, and intensity. There are five zoning districts assigned to the County's unincorporated areas:

- [Agricultural-Open Space-Conservation \(AOC\)](#) – This zoning district comprises the vast majority of the County land area west of the Shenandoah River and is generally designated for agricultural uses, open space, and rural-scale single-family residential lots. Properties zoned AOC generally are not intended to be served by public water and sewer.
- [Forestal-Open Space-Conservation \(FOC\)](#) – This zoning district comprises the vast majority of the County land area east of the Shenandoah River on the west slope of the Blue Ridge Mountains. Like the AOC District, the FOC District is generally designated for agricultural uses, open space, and rural-scale single-family residential lots. Special regulations for forestry and land development along steep slopes apply to this district. Properties zoned FOC generally are not intended to be served by public water and sewer.
- [Rural Residential \(RR\)](#) – This zoning district is designated for existing areas of village-scale residential development in the County primarily in the villages of Millwood and White Post and the Shenandoah Retreat subdivision. Regulations help to preserve the form and scale of these existing low to medium density residential neighborhoods.
- [Neighborhood Commercial \(CN\)](#) – This zoning district is designated for existing areas of small-scale commercial development that have traditionally served as a convenience for nearby residential areas. Uses and regulations for this district are designed to ensure compatible activities that are neighborhood-serving rather than more intensive regional-serving or destination centers. Properties in this zoning district are primarily found in the villages of Millwood and White Post.

- Highway Commercial (CH) – This zoning district is designated for larger-scale and regional-serving commercial activities primarily at the County’s two designated business intersection areas – Waterloo (intersection of US 50/17 and US 340) and Double Tollgate (intersection of US 340, US 522, and US 277).

Some County properties are located in an “overlay district” in addition to a zoning district. Overlay districts are designed to provide additional levels of protection for environmentally sensitive areas or areas with unique value or characteristics. Properties in an overlay district are subject to both the overlay district regulations and the underlying zoning district. The County has five overlay districts:

- Flood Plain Overlay District (FP) – For properties that are subject to inundation by waters of one-hundred year floods. This overlay district contains regulations to minimize property damage and other adverse impacts caused by flooding, as well as to comply with the requirements of the National Flood Insurance Program (NFIP).
- Spring Conservation Overlay District (SC) – For properties within the groundwater recharge area of the Prospect Hill Spring which is the primary water source for the Town of Boyce, villages of Millwood and White Post, and Waterloo business intersection area. This overlay district contains regulations to protect this important public water source.
- Stream Protection Overlay District (SPO) – This overlay district is designed to protect riparian buffer areas within 100 feet of all perennial streams and wetlands adjacent to those streams. This is to help mitigate runoff, prevent erosion, and improve water quality.
- Historic Overlay District (H) – For properties with special historical, cultural, architectural, or archaeological significance. The Historic Overlay District is found in the core of the villages of Millwood and White Post. Development activities in this overlay district require additional level of zoning review by the Historic Preservation Commission (HPC).
- Historic Access Corridor Overlay District (HAC) – This overlay district is designed to provide higher quality control over the architecture and design of structures along major highways which are significant routes of tourist access to features within the County. Development activities in this overlay district require additional level of zoning review by the Planning Commission.

The Zoning Ordinance also contains special zoning districts and regulations which apply only to properties that are located in the Berryville Annexation Area and are designated for future annexation into the Town of Berryville. More information on the Berryville Annexation Area can be found in [Section G](#) below.

In addition to regulations such as lot and building setbacks, each zoning district contains a specific list of “uses” – activities, construction, development, or similar use of properties that are allowed in that district. Uses can be “permitted” or “by-right,” meaning that the use is allowable

in accordance with the district’s administrative regulations. Uses can also be allowed only as “accessory uses” to a primary use on a lot, such as an outbuilding that is accessory to a single-family dwelling. Additionally, uses can be approved as a “special use” with the issuance of a “special use permit” by the Board of Supervisors. Special uses are reviewed on a case-by-case basis and involve public hearings before the Planning Commission and Board of Supervisors. Conditions can also be imposed by the Board to ensure compatibility with surrounding properties and mitigate potential adverse impacts.

[Zoning Ordinance Section 5](#) is a compilation of all allowable uses organized in a customer-friendly, categorized format:

- Agricultural uses
- Residential uses
- Business uses
- Recreation/education/assembly uses
- Public and miscellaneous uses

Each use contains a definition, applicable regulations and review processes, and a listing of the zoning districts in which they are allowed.

Other sections of the Zoning Ordinance are described below:

- **Administration (Zoning Ordinance Section 2)** – General rules governing the official zoning map, the roles and responsibilities of the advisory and decision-making bodies involved with Zoning Ordinance processes, issuance of permits and other formal approvals, submitting a complete application for processing, public hearings, and fees.
- **Sliding-Scale Zoning (Zoning Ordinance Section 3)** – Regulations pertaining to the County’s sliding-scale zoning and system of dwelling unit right allocation. Sliding-scale zoning is described in detail in Section 3 below.
- **Review Processes (Zoning Ordinance Section 6)** – Rules and procedures for various permits and approvals governed by the Zoning Ordinance as well as processes for requesting variances, appeals, and formal determinations from the Zoning Administrator.
- **Design Standards, and Development Regulations (Zoning Ordinance Section 7)** – Contains various regulations to be followed in developing properties and constructing buildings and infrastructure under the review processes in Zoning Ordinance Section 6.
- **Performance and Maintenance Guarantees (Zoning Ordinance Section 8)** – Requirements and procedures for the posting of bonds, letters of credit, and other sureties to guarantee the full installation of required public improvements such as roads, public utilities, and landscaping.

- **Nonconformities (Zoning Ordinance Section 9)** – Regulations for existing uses, lots, and structures that were previously approved but no longer meet current Zoning Ordinance requirements.
- **Enforcement (Zoning Ordinance Section 10)** – Contains the procedures for investigating and citing violations of the Zoning Ordinance and pursuing remedies to ensure correction of the violations.

Subdivision Ordinance (County Code Chapter 200, Article II)

The County's Subdivision Ordinance contains the laws and regulations governing the division of land and adjustment of property lines in the unincorporated areas of the County. The County's Subdivision Ordinance does not apply to properties in the Towns of Berryville and Boyce or in areas of the County that are designated for future annexation by the Town of Berryville (see further discussion in [Section G](#) below).

The Subdivision Ordinance contains review processes ([Subdivision Ordinance Section 3](#)) and design requirements ([Subdivision Ordinance Section 4](#)) for the following common transactions associated with lots:

- **Minor Subdivision** – A division of an existing lot into a maximum of two lots (one new lot and one residual lot).
- **Major Subdivision** – A division of an existing lot into three or more lots.
- **Administrative Land Division** – A division of an existing lot of 200 or more acres into two or more lots, all of which are a minimum of 100 acres in size.
- **Boundary Line Adjustment** – The rearrangement of one or more boundaries of an existing lot or lots which does not result in the creation of any new lots.

The Subdivision Ordinance also includes less common transactions such as plat vacation, public utility lot division, and court-ordered partitions of land. Other sections of the Subdivision Ordinance are described below:

- **Administration (Subdivision Ordinance Section 2)** – General rules governing the roles and responsibilities of the advisory and decision-making bodies involved with Subdivision Ordinance processes, submitting a complete application for processing, public hearings, and fees.
- **Performance and Maintenance Guarantees (Subdivision Ordinance Section 5)** – Requirements and procedures for the posting of bonds, letters of credit, and other sureties to guarantee the full installation of required public improvements such as roads, public utilities, and landscaping.

- **Enforcement ([Subdivision Ordinance Section 6](#))** – Contains the procedures for investigating and citing violations of the Subdivision Ordinance and pursuing remedies to ensure correction of the violations.

All regulations pertaining to the area and dimensional requirements for lots (such as required setback distances from property lines) are found in [Zoning Ordinance Section 4 \(Zoning Districts\)](#).

Zoning and Subdivision Ordinance Definitions

Definitions for key terms that are used in the Zoning and Subdivision Ordinances are listed in [County Code Chapter 200, Article III](#).

Electronic copies of the Zoning Ordinance, Subdivision Ordinance, and Definitions Article can be accessed from the Department of Planning page on the County's website – www.clarkecounty.gov.

Related Ordinances – Code of Clarke County

Below is a brief description of several related ordinances that may apply to land development and construction projects in addition to the Zoning and Subdivision Ordinances. These related ordinances are found in the Code of Clarke County and are enforced by various agencies and departments. The Code of Clarke County can be downloaded in electronic format from the County website – www.clarkecounty.gov.

Septic Ordinance ([Chapter 143 – Septic Systems](#))

This ordinance contains the County's regulations for the location, installation, and ongoing maintenance of onsite sewage disposal systems. The ordinance is administered and enforced by the [Virginia Department of Health \(VDH\)](#) in conjunction with State regulations for onsite sewage disposal systems. Regulations in this ordinance differ from and are more stringent than State regulations. Questions and concerns about the ordinance are addressed by the Department of Planning. Applications for variances and appeals are considered by the County's Board of Septic and Well Appeals.

Well Ordinance ([Chapter 184 – Wells](#))

This ordinance contains the County's regulations for the location, installation, and ongoing maintenance of private water wells. The ordinance is administered and enforced by the [Virginia Department of Health \(VDH\)](#) in conjunction with State regulations for private wells. Regulations in this ordinance differ from and are more stringent than State regulations. Questions and concerns about the ordinance are addressed by the Department of Planning. Applications for variances and appeals are considered by the County's Board of Septic and Well Appeals.

Erosion and Sediment Control Ordinance

(Chapter 148 – Soil Erosion and Sedimentation Control)

This ordinance contains regulations to ensure that land disturbance activities do not adversely impact adjoining properties and waterways with soil erosion and sedimentation. The ordinance is administered and enforced by the County Building Department. It contains regulations consistent with the Virginia Erosion and Sediment Control Law along with additional regulations to address land disturbance projects between 5,000 and 10,000 square feet, projects on steep slopes, and other specific development situations.

Sinkhole Regulations (Chapter 180 – Water and Wastewater)

County regulations addressing development impacts to and management of sinkholes on properties are found in the Water and Wastewater ordinance. Sinkhole regulations are administered and enforced by the Department of Planning.

Road Naming, Signage, and Structure Addressing

(Chapter 56 – County Road Naming, Property Numbering, and Road Sign System)

This ordinance contains the requirements for assigning addresses to structures, for naming public and private roads, and for installing new street signage. Structure addresses and road names are issued by the Department of Information Technology/GIS.

Special Events (Chapter 57 – Special Events)

This ordinance contains a permitting process for periodic events and activities that are open to the public. The ordinance is administered and enforced by County Administration with some applications for medium to large events to be reviewed and approved by the County Board of Supervisors.

Building Construction (Chapter 71 – Building Construction)

This ordinance contains the County's regulations for building construction in accordance with the Virginia Uniform Statewide Building Code and other applicable construction codes. The ordinance is administered and enforced by the County Building Department.

Blasting Regulations (Chapter 86 – Explosives)

This ordinance contains the regulations for blasting activities including prohibited activities, blasting in proximity to the Prospect Hill spring, and submission of a blasting plan for review and approval by the Board of Septic and Well Appeals for blasting activities within 100-500 feet of certain sensitive features. Blasting plan applications are administered by the Department of Planning.