

Berryville – Clarke County  
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**BERRYVILLE**  
EST. 1798 *Genuine* VIRGINIA

**BERRYVILLE PLANNING COMMISSION**

**Regular Meeting**

Tuesday, June 27, 2023 – 7:00 p.m.

101 Chalmers Court – Main Meeting Room – Second Floor

**AGENDA**

1. Call to Order – William Steinmetz, Chair
2. Approval of Agenda
3. Approval of Minutes – May 23, 2023
4. Public Hearing – Short-term Rental Regulations

The Berryville Planning Commission is sponsoring a text amendment to Article I Definitions in order to define short-term rentals in the Town of Berryville. Additional amendments are also proposed to residential and some commercial zoning districts to allow short-term rentals as a use by special permit. TA 01-23

5. Discussion – Public Hearing
6. Citizens' Forum
7. New Business – Set Public Hearing – Special Use Permit

Zion Baptist Church (Alethia Burks, Agent) is requesting a Special Use Permit in order to operate a day care center under Section 604.3(e) of the Berryville Zoning Ordinance at the property located at 13 Josephine Street, identified as Tax Map Parcel number 14A5-B-((8))-15, zoned DR-4 Detached Residential. SUP 02-23

8. Discussion - Planning Update
9. Other
10. Adjourn

**Harry Lee Arnold, Jr.**  
*Mayor*

**Erecka L. Gibson**  
*Vice Mayor*

**Council Members**

**William Steinmetz**  
*Ward 1*

**Diane Harrison**  
*Ward 2*

**Grant Mazzarino**  
*Ward 3*

**Ryan Tibbens**  
*Ward 4*

**Keith R. Dalton**  
*Town Manager*

**BERRYVILLE PLANNING COMMISSION**  
**Berryville-Clarke County Government Center**  
**Meeting Minutes**  
**May 23, 2023**

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A meeting of the Berryville Planning Commission was held on Tuesday, May 23, 2023 at 7:00 p.m. at the Berryville-Clarke County Government Center in Berryville.

**ATTENDANCE:** Members of the Planning Commission present: William Steinmetz, chair, Kim Kemp, vice chair, Michael Bell, Gwen Malone, Michelle Marino, Tom Parker, Sheryl Reid

Absent: no one

Staff present: Christy Dunkle, Community Development Director, Jean Petti, Deputy Town Manager

Press present: Mickey Powell, Winchester Star

**1. CALL TO ORDER – William Steinmetz, Chair**

Chair Steinmetz called the meeting to order at 7:00 p.m.

**2. APPROVAL OF AGENDA**

Ms. Reid made the motion to approve the agenda as presented, seconded by vice chair Kemp. The motion passed by voice vote.

**3. APPROVAL OF MINUTES**

Ms. Marino made the motion to approve the March 28, 2023 minutes as presented, seconded by vice chair Kemp. The motion passed by voice vote.

**4. CITIZENS' FORUM**

No one spoke.

**5. SET PUBLIC HEARING – TEXT AMENDMENTS FOR SHORT-TERM RENTAL REGULATIONS**

Ms. Dunkle read the proposed amendment to Article I defining short-term rental. Ms. Petti said there had been a number of discussions on the matter with staff and the Community Development Committee. She said she has been reviewing neighboring localities' regulations, adding that a registry is recommended by Chief White and the Public Safety Committee. Ms. Petti said that a registry will offer safety for the renters and neighbors and the investment of the property owner. She said a registry would feature emergency contact information similar to what downtown businesses have on file with the police department.

Ms. Petti identified the proposed zoning districts in which short-term rentals would be permitted by special permit. She said including the L-1 Industrial district should also be considered as there are allowances for residential lofts and apartments. She said the requirement of a special use permit would allow for communication with neighbors. She reviewed the relevant Town Code sections that were included in the staff report. There was a discussion about parking, accessory buildings, a definition of "event," and advertisement as they relate to proposed Town Code regulations.

Chair Steinmetz asked for comments about a registry. Mr. Parker and Ms. Marino thought it was a good idea. There was a discussion about what should be included in the application and the frequency of submission. Ms. Petti said the adjacent localities' registry applications varied from general to very specific. She said if it became too unwieldy for the Town Business Office, a fee could be applied.

Chair Steinmetz asked about parking and how it would be identified. Ms. Dunkle said it would be shown on a site plan which is a requirement of the special use permit application. He said he would be in favor of leaving parking requirements out of the requirements. Ms. Marino said an event would have a large impact on the parking. Mr. Parker said that parking may be more of an issue depending on the occupancy capped. Ms. Petti said the definition currently allows up to four people per bedroom. Mr. Parker said a three-bedroom house would be able to have 12 people which would likely create a parking problem.

Chair Steinmetz asked commissioners for their comments on accessory units. He said they may be better as long-term rental units. Vice chair Kemp said additional public input would be helpful on this matter. There was a discussion about the number of accessory units existing in Town. Mr. Parker referenced carriage houses as a possible scenario.

Mr. Parker asked about the building code requirements and the number of occupants per bedroom proposed in the definition. Ms. Petti said there were several ways to determine the number of occupants that may be permitted. Mr. Parker suggested reducing the number to two occupants per bedroom which would help with any parking concerns. Ms. Malone opined and chair Steinmetz said that sounded like a reasonable approach.

There being no further discussion, chair Steinmetz asked for a motion to set a public hearing on the matter. Vice chair Kemp made the motion, seconded by Ms. Malone, the motion passed by voice vote. Ms. Dunkle said she would send the information to those owners currently operating a legal short-term rental. Ms. Reid suggested referencing the public hearing on Facebook. Ms. Dunkle said she would contact Cathy Kuehner.

## **6. DISCUSSION – PLANNING UPDATE**

There was a discussion about the Battletown Inn.

## **7. OTHER**

Chair Steinmetz said the veterans' banners that have just been installed look great.

**8. ADJOURN**

There being no further discussion, Ms. Reid moved for adjournment, seconded by Mr. Bell, with the motion passing by consensus at 7:48 p.m.

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William Steinmetz, Chair

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Christy Dunkle, Secretary

DRAFT

# Planning Commission Agenda Item Report Summary

June 27, 2023

## Item Title

Public Hearing – Text amendments for short-term rentals

## Prepared By

Christy Dunkle

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## Background/History/General Information

Public hearing notices were published in the Winchester Star on Tuesday, June 13 and Tuesday, June 20, 2023. No comments were received in the Planning Office.

## Findings/Current Activity

After suggestions were made at the May 23, 2023 Planning Commission meeting, Deputy Town Manager Jean Petti modified the definition of short-term rental as follows:

***Short-term rental-** The provision of a room or space that is suitable or intended for occupancy for dwelling, sleeping, or lodging purposes, for a period of fewer than 30 consecutive days, in exchange for a charge for the occupancy. Advertisement or operation of a short-term rental unit requires registration, a business license, remittance of transient occupancy tax, and is limited to dwellings which hold a Clarke County Certificate of Occupancy. Events are prohibited. No food preparation or service may be provided to primary renter or guests of short-term rental.*

*Each **advertised** short-term rental unit shall advertise and implement a maximum occupancy of no more than as permitted by the Virginia Uniform Statewide Building Code, ~~(4) or two (2)~~ persons per bedroom, ~~or (2) adults per off-street parking space,~~ whichever is **least less**, and at no time exceed 13 individuals.*

Ms. Petti also modified the zoning districts recommended to allow this use by special permit to include the L-1 Industrial district:

### Short-term Rentals permitted as a Special Use Permit

R-1 Residential

R-2 Residential

R-3 Residential

OSR Open Space Residential

DR-1 Detached Residential

DR-2 Detached Residential

DR-4 Detached Residential  
AR Attached Residential  
MR Multifamily Residential  
BC Business Commercial  
C General Commercial  
C-1 Commercial  
**L-1 Industrial**

Short-term Rentals will not be permitted in the following:

LI Light Industrial  
C-2 Commercial  
**L-1 Industrial**  
B Business  
BP Business Park  
ITL Institutional  
OPR Older Person Residential

Additional information concerning the proposed amendment:

- A short-term rental would not be considered a home occupation, therefore a property owner renting rooms in their home would not be required to obtain a second special use permit for this use.
- Existing legally-operated short-term rentals may continue operation as long as there is no extension, change of use, or removal or destruction of the building in which a non-conforming use is located (Berryville Zoning Ordinance Section 408 Non-Conforming Uses of Structures or Buildings).
- The Town Business Office would be responsible for maintaining the registry.

Continued discussion at the meeting should include a definition of “event” and enforcement concerns.

Proposed modifications to the Town Code are included in this packet for informational purposes.

**Schedule/Deadlines**

Staff will forward recommendations to Town Council and request they set a public hearing for their September meeting. Planning Commission may wish to continue the public hearing or discuss the matter further at the August 22, 2023 meeting.

**Other Considerations**

N/A

## **Recommendation**

Make recommendations to Town Council. As previously written, discussion or continuance of the public hearing may also be considered.

## **Sample Motion**

I move that the Planning Commission of the Town of Berryville recommend approval of the text amendment establishing a definition for “short-term rentals” to Article I of the Berryville Zoning Ordinance and the addition of this use by special permit in the zoning districts identified in this report.

## **Attachments:**

- Public hearing notice
- Zoning map
- Proposed zoning district modifications
- Proposed changes to ARTICLE III. - OTHER LICENSES, LICENSE REQUIREMENTS (Town Code)
- Proposed changes to ARTICLE VIII. - TRANSIENT OCCUPANCY TAX (Town Code)

BB TUESDAY, JUNE 20, 2023

The Winchester Star

**Legal Notices**

**Legal Notices**

**BERRYVILLE PLANNING  
COMMISSION  
PUBLIC HEARING NOTICE**

The Berryville Planning Commission will hold the following public hearing at 7:00 p.m., or as soon after as this matter may be heard, on Tuesday, June 27, 2023, in the Main Meeting Room, Second Floor, of the Berryville/Clarke County Government Center, 101 Chalmers Court, Berryville, Virginia to consider the following:

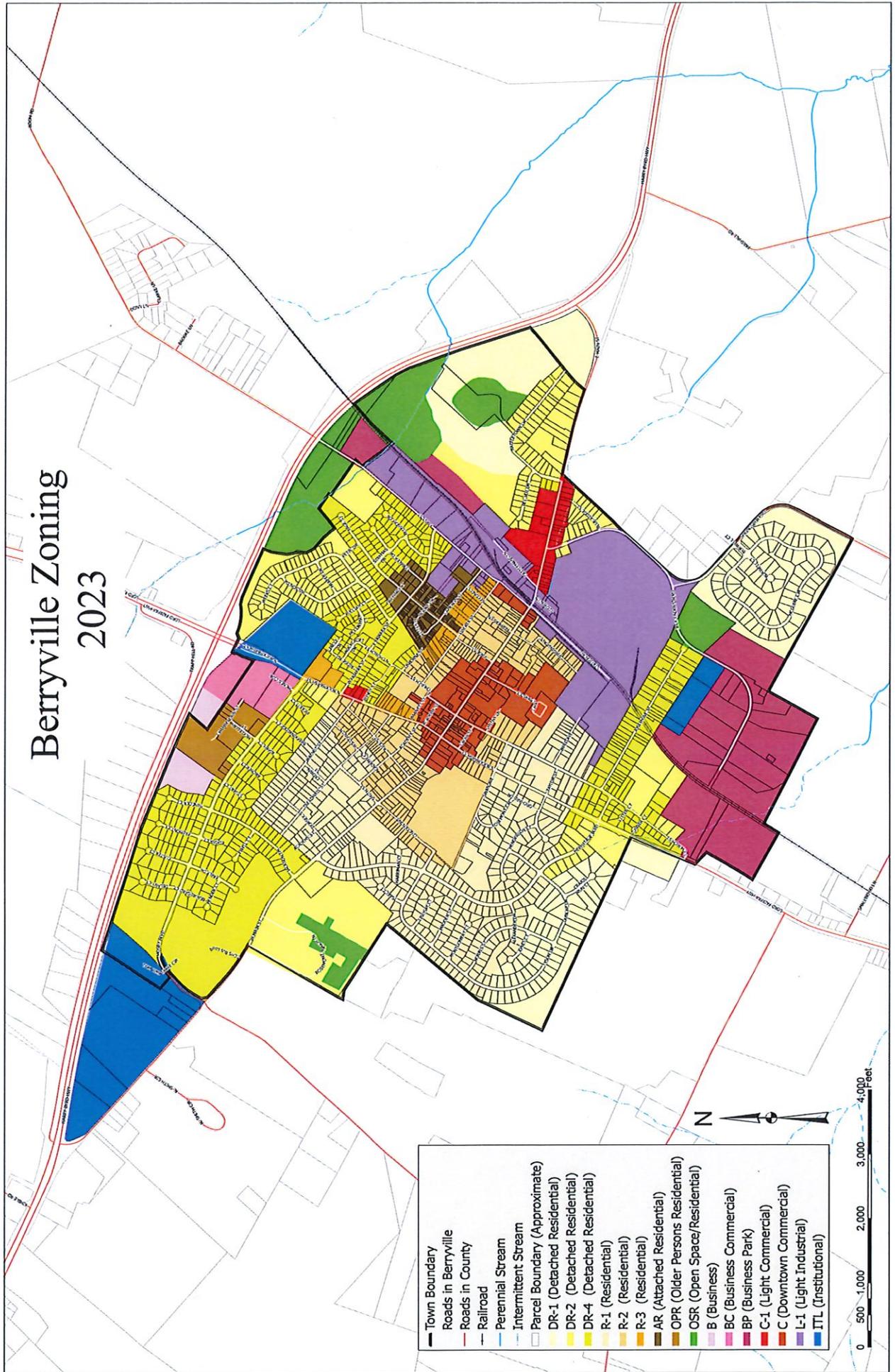
The Berryville Planning Commission is sponsoring a text amendment to Article I of the Berryville Zoning Ordinance in order to define short-term rentals in the Town of Berryville. Additional amendments are also proposed to residential and some commercial and industrial zoning districts to allow short-term rentals as a use by special permit. TA 01-23

Copies of the applications, amendments, and maps may be examined at the Town Business Office, Berryville/Clarke County Government Center (101 Chalmers Court), First Floor, Berryville, Virginia during regular business hours. Additional information may be obtained by calling Community Development Director Christy Dunkle at 540 955-4081. Any person desiring to be heard on this matter should appear at the appointed time and place.

The Town of Berryville does not discriminate against disabled persons in admission or access to its programs and activities. Accommodations will be made for disabled persons upon prior request.

By order of the Berryville Planning Commission  
Christy N. Dunkle, Community Development Director

# Berryville Zoning 2023



## ARTICLE II – DISTRICT REGULATIONS

### SECTION 201 - R-1 RESIDENTIAL DISTRICT

#### 201 STATEMENT OF INTENT

The R-1 District is composed of quiet, low-density residential areas plus undeveloped areas where similar residential construction appears likely to occur. The standards set forth for this district are designed to stabilize and protect the essential character of the areas so delineated, to promote and encourage a suitable environment for family life where there are children, and to prohibit all commercial activities. Development is, therefore, limited to relatively low concentration and permitted uses are limited to single-unit dwellings, plus selected additional uses such as schools, parks, churches, and certain public facilities that serve the residents of the district. No rooming houses are permitted.

#### 201.1 USES PERMITTED BY RIGHT

Only one use and its accessory buildings and/or uses may be erected on any lot or parcel of land in the R-1 Residential District.

- (a) Single-family dwellings.
- (b) Schools and offices for Clarke County Public Schools and related non-profit organizations **(07/16)**.
- (c) Churches.
- (d) Parks and playgrounds.
- (e) Off-street parking for permitted uses in the district as set forth in Section 305.
- (f) Accessory buildings and Temporary Family Health Care Structures as defined; however, garages, carports, porches, and stoops attached to the main building shall be considered part of the main building. Accessory buildings may be located in a rear yard area, but shall not be located closer than five (5) feet from any property line or to any other structure. **(11/10)**
- (g) Public utilities: poles, lines, distribution transformers, booster and relay stations, pipes, meters, and other facilities necessary for the provision and maintenance of public utilities, including water and sewage systems.
- (h) Signs as set forth in Section 307.
- (i) Travel trailers, which shall not be stored within the front setback area, and which shall be prohibited from occupancy. **(5/83)**
- (j) Fences as set forth in Section 303.

#### 201.2 USES PERMITTED BY SPECIAL PERMIT

- (a) Home Occupations. **(4/86)**
- (b) Planned Research Offices, as defined in Section 102.
- (c) Short-term rentals (XX/XX)**

#### 201.3 AREA REGULATIONS

The minimum lot area shall be fifteen thousand (15,000) square feet.

**201.4 SETBACK REGULATIONS**

Structures shall be located thirty-five (35) feet or more from any street right-of-way which is fifty (50) feet or greater in width, or fifty (50) feet or more from the center of any street right-of-way less than fifty (50) feet in width. (5/94)

**201.5 FRONTAGE REGULATIONS**

The minimum lot width at the setback line shall be one hundred (100) feet. Minimum width at the street right-of-way line shall be fifty (50) feet.

**201.6 YARD REGULATIONS**

- (a) Side - Each side yard shall be a minimum of fifteen (15) feet.
- (b) Rear - Each rear yard shall be a minimum of thirty (30) feet in depth.

**201.7 LOT COVERAGE**

Any structure or structures shall not occupy more than thirty (30) percent of the total area of the lot.

**201.8 HEIGHT REGULATIONS**

- (a) Buildings may be erected up to three (3) stories but shall not exceed thirty-five (35) feet in height.
- (b) A public or semi-public building such as a school, church, or library may be erected to a height of sixty (60) feet from grade, provided that required front, side, and rear yards shall be increased one (1) foot for each foot in height over thirty-five (35) feet.
- (c) Church spires, belfries, cupolas, municipal water towers, chimneys, flues, flagpoles, television antennae, and radio aerials are exempt. Parapet walls may be up to four (4) feet above the height of the building on which the walls rest.
- (d) No accessory building that is within twenty (20) feet of any party lot line shall be more than one (1) story high. All accessory buildings shall be less than the main building in height.

**201.9 SPECIAL PROVISIONS FOR CORNER LOTS**

- (a) Of the two sides of a corner lot fronting on streets, the shortest side shall be deemed to be the front.
- (b) Each corner lot shall have a minimum width at the setback line of one hundred twenty (120) feet.

**SECTION 202 - R-2 RESIDENTIAL DISTRICT**

**202 STATEMENT OF INTENT**

The R-2 District is composed of medium density residential uses and open areas where similar development appears likely to occur. The standards for this district are designed to stabilize and protect the essential character of the area so designated, to promote and encourage, insofar as compatible with the intensity of land use, a suitable environment for family life. Development is, therefore, limited to low-to-medium density, and permitted uses are limited to single- and two-family dwellings plus selected additional uses, such as schools, parks, churches, and certain public facilities that serve the residents of the district.

**202.1 USES PERMITTED BY RIGHT**

Only one use and its accessory buildings and/or uses may be erected on any lot or parcel of land in the Residential R-2 District.

- (a) Single-family dwellings.
- (b) Two-family dwellings.
- (c) Rooming houses.
- (d) Tourist homes.
- (e) Boarding houses.
- (f) Schools.
- (g) Churches.
- (h) Playgrounds
- (i) Home occupations.
- (j) Public, semi-public, or governmental buildings.
- (k) Off-street parking for permitted uses in the district as set forth in Section 305.
- (l) Accessory buildings and Temporary Family Health Care Structures permitted as defined; however, garages and other accessory structures, such as carports, porches, and stoops attached to the main building shall be considered part of the main building. Accessory buildings shall not be located closer than five (5) feet from any property line or to any other structure. **(11/10)**
- (m) Public utilities: poles, lines, distribution transformers, booster and relay stations, pipes, meters, and other facilities necessary for the provision and maintenance of public utilities, including water and sewage systems.
- (n) Signs as set forth in Section 307.
- (o) Travel trailers, which shall not be stored within the front setback area, and which shall be prohibited from occupancy.
- (p) Fences as set forth in Section 303.

**202.2 USES PERMITTED BY SPECIAL PERMIT**

- (a) Nursing, convalescent, or rest homes, pursuant to Section 311.
- (b) Professional offices as set forth in Section 312. **(10/94)**
- (c) Day care centers, barber, and beauty shops. **(5/95)**
- (d) Short-term rentals (XX/XX)**

**202.3 AREA REGULATIONS**

- (a) The minimum lot area shall be eight thousand (8,000) square feet for all permitted uses.
- (b) Each unit in a two-family structure arranged side by side shall be given four thousand (4,000) square feet of lot area.

**202.4 SETBACK REGULATIONS**

Structures shall be located thirty (30) feet or more from any street right-of-way fifty (50) feet or greater in width (~~5/94~~), or forty-five (45) feet or more from the center of any street right-of-way less than fifty (50) feet in width. This shall be known as the "setback line." (10/00)

**202.5 FRONTAGE REGULATIONS**

The minimum lot width at the setback line shall be eighty (80) feet.

**202.6 YARD REGULATIONS**

- (a) Side - Each side yard for structures less than three (3) stories shall be at least ten (10) feet. Each side yard for three-story buildings shall be at least fifteen (15) feet.
- (b) Rear - The minimum rear yard shall be twenty-five (25) feet.

**202.7 LOT COVERAGE**

Any structure, or structures, shall not occupy more than thirty-five (35) percent of the total area of the lot.

**202.8 HEIGHT REGULATIONS**

- (a) Buildings may be erected up to three (3) stories, but not exceed thirty-five (35) feet in height.
- (b) A public or semi-public building such as a school, church, or library may be erected to a height of sixty (60) feet from grade, provided that required front, side, and rear yards shall be increased one (1) foot for each foot in height over thirty-five (35) feet.
- (c) Church spires, belfries, cupolas, municipal water towers, chimneys, flues, flagpoles, television antennae, and radio aerials are exempt. Parapet walls may be up to four (4) feet above the height of the building on which the walls rest.
- (d) Accessory buildings over one story in height shall be at least ten (10) feet from any lot line. All accessory buildings shall be less than the main building in height.

**202.9 SPECIAL PROVISIONS FOR CORNER LOTS**

- (a) Of the two sides of a corner lot fronting on streets, the shortest shall be deemed to be the front.
- (b) Each corner lot shall have a minimum width at the setback line of ninety (90) feet.

**SECTION 203 - R-3 RESIDENTIAL DISTRICT**

**203 STATEMENT OF INTENT**

The R-3 District is composed of high-density residential uses and open area where similar development appears likely to occur. The standards for this district are designed to stabilize and protect the character of the area so designated and create areas for apartment and townhouse construction, along with appropriate living environments. These areas are located close to employment, shopping, and other community facilities. Development is limited to high-density residential uses of various types, plus selected additional uses, such as schools, parks, churches, and certain public facilities.

**203.1 USES PERMITTED BY RIGHT**

Only one use and its accessory buildings and/or uses may be erected on any lot or parcel of land in the R-3 Residential District.

- (a) Single-family dwellings.
- (b) Two-family dwellings.
- (c) Schools.
- (d) Churches.
- (e) Parks and playgrounds.
- (f) Home occupations.
- (g) Public, semi-public, or governmental buildings.
- (h) Off-street parking for permitted uses in the district as set forth in Section 305.
- (i) Accessory buildings and Temporary Family Health Care Structures permitted as defined; however, garages or other accessory structures, such as carports, porches, and stoops, attached to the main building, shall be considered part of the main building. Accessory buildings may be located in a rear yard area, but shall not be located closer than five (5) feet from any property line or to any other structure.  
**(11/10)**
- (j) Public utilities: poles, lines, distribution transformers, booster and relay stations, pipes, meters, and other facilities necessary for the provision and maintenance of public utilities, including water and sewage systems.
- (k) Signs as set forth in Section 307.
- (l) Travel trailers, which shall not be stored within the front setback area and which shall be prohibited from occupancy.
- (m) Fences as set forth in Section 303.
- (n) Rooming houses.
- (o) Boarding houses.
- (p) Tourist homes.

**203.2 USES PERMITTED BY SPECIAL PERMIT**

- (a) Nursing and/or convalescent homes as set forth in Section 311.
- (b) Professional offices as set forth in Section 312.
- (c) Townhouses as set forth in Section 309.
- (d) Apartments as set forth in Section 310.
- (e) Conversion of a structure originally intended and designed for occupancy as a single-family dwelling into a structure with two or more dwellings.

**Section 203 (R-3) Residential District**

- (f) Day care centers. (10/94)
- (g) Barber and beauty shops. (5/95)
- (h) Furniture and automobile upholstery businesses. (4/99)
- (i) Banks and financial institutions with drive-through facilities. (8/07)
- (j) Short-term rentals (XX/XX)**

**203.3 AREA REGULATIONS**

- (a) The minimum lot area shall be eight thousand (8,000) square feet for freestanding one- or two-family detached structures. Each unit in a two-family structure arranged side by side shall be given four thousand (4,000) square feet of lot area.
- (b) The minimum lot area for the conversion of structures to a larger number of dwelling units shall be eight thousand (8,000) square feet for the first two dwelling units and two thousand (2,000) square feet for each additional dwelling unit above two.
- (c) The minimum lot areas for townhouses and apartments are set forth in Section 309 and 310 respectively.
- (d) The minimum lot area for other permitted uses shall be eight thousand (8,000) square feet or as otherwise specified herein. Accessory uses may be located on the same lot as the principal use without increased lot size.

**203.4 SETBACK REGULATIONS**

Structures shall be located thirty (30) feet or more from any street right-of-way fifty (50) feet or greater in width (5/94), or forty-five (45) feet or more from the center of any street right-of-way less than fifty (50) feet in width.

**203.5 FRONTAGE REGULATIONS**

The minimum width at the setback line shall be seventy-five (75) feet.

**203.6 YARD REGULATIONS**

- (a) Side - Each side yard shall be a minimum of ten (10) feet.
- (b) Rear - The minimum rear yard shall be twenty-five (25) feet.

**203.7 LOT COVERAGE**

Any structure or structures shall not occupy more than 40 percent of the total area of the lot.

**203.8 OPEN SPACE**

Each dwelling created when a structure is converted to a larger number of units shall be provided with six hundred (600) square feet of usable open space per dwelling unit. Such space shall be exclusive of areas devoted to streets, alleys, and parking.

**203.9 HEIGHT REGULATIONS**

- (a) Buildings may be erected up to three (3) stories, but not to exceed thirty-five (35) feet in height.
- (b) A public or semi-public building such as a school, church, or library may be erected to a height of sixty (60) feet from grade provided that required front, side,

**Section 203 (R-3) Residential District**

and rear yards shall be increased one (1) foot for each foot in height over thirty-five (35) feet.

- (c) Church spires, belfries, cupolas, municipal water towers, chimneys, flues, flagpoles, television antennae and radio aerials are exempt. Parapet walls may be up to four (4) feet above the height of the building on which the walls rest.
- (d) Accessory buildings over one story in height shall be at least ten (10) feet from any lot line. All accessory buildings shall be less than the main building in height.

**203.10 SPECIAL PROVISIONS FOR CORNER LOTS**

- (a) Of the two sides of a corner lot fronting on streets, the shortest shall be deemed to be the front.
- (b) Each corner lot shall have a minimum width at the setback line of eighty-five (85) feet.

**SECTION 204 - C GENERAL COMMERCIAL DISTRICT**

**204 STATEMENT OF INTENT**

The C General Commercial District covers that portion of the community intended for the conduct of general business to which the public requires direct and frequent access, but which is not characterized either by constant heavy trucking other than stocking and delivery of retail goods, or by any nuisance factors other than occasioned by incidental light and noise of congregation of people and passenger vehicles. This includes such uses as retail stores, banks, theaters, business offices, newspaper offices, printing presses, restaurants and taverns, garages and services stations, and multi-family dwellings.

**204.1 USES PERMITTED BY RIGHT**

In District C, structures to be erected or land to be used shall be for one or more of the following uses:

- (a) Assembly halls.
- (b) Assembly of high-tech components and /or systems (not including manufacturing).  
(6/98)
- (c) Automobile and home appliance services.
- (d) Automobile service stations (with major repair under cover).
- (e) Automobile sales and service.
- (f) Bakeries.
- (g) Banks and financial institutions.
- (h) Barber and beauty shops.
- (i) Nursing homes.
- (j) Churches.
- (k) Day care centers. (10/94)
- (l) Department stores.
- (m) Drug stores.
- (n) Dry cleaners.
- (o) Fire and rescue squad stations.
- (p) Fraternal and auxiliary organizations.
- (q) Funeral homes.
- (r) Furniture repair.
- (s) Garages, public and commercial.
- (t) Hardware stores.
- (u) Hospitals, nursing homes, convalescent homes, rest homes.
- (v) (Deleted, 1982.)
- (w) Laundries.
- (x) Libraries.
- (y) Newspaper office buildings, including printing and publishing facilities incidental to such uses.
- (z) Office buildings.
- (aa) Personal and professional services.
- (bb) Pet shops, but excluding boarding kennels.
- (cc) Printing shops.
- (dd) Federal, state, county, or town governmental offices or buildings.

## Section 204 General Commercial (C) District

- (ee) Radio and television broadcasting stations and studios, or offices.
- (ff) Restaurants.
- (gg) Retail stores.
- (hh) Single-family detached dwellings. **(3/98)**
- (ii) Theaters, indoor.
- (jj) (Deleted, 1982.)
- (kk) Wearing apparel stores.
- (ll) Public utilities: poles, lines, booster and relay stations, distribution transformers, pipes, meters, and other facilities necessary for the provision and maintenance of public utilities, including water and sewerage facilities.
- (mm) Off-street parking for permitted uses in the district as forth in Section 305.
- (nn) Signs as set forth in Section 307.
- (oo) Fences as set forth in Section 303.
- (pp) Accessory uses clearly incidental to the principal use of the lot.
- (qq) Second story apartments as set forth in Section 310. **(02/14)**

### **204.2** USES PERMITTED BY SPECIAL PERMIT

- (a) Shopping centers as set forth in Section 308.
- (b) Townhouses as set forth in Section 309.
- (c) First story and basement apartments as set forth in Section 310. **(02/14)**
- (d) Conversion of residential and/or commercial structures into buildings with a greater number of dwelling units.
- (e) Public billiard parlors and poolrooms, bowling alleys, dance halls, health spas and clubs, and similar forms of public amusement only after a public hearing shall have been held by the Governing Body on an application submitted to the Body for such use. The Governing Body may request that the Planning Commission submit a recommendation to them concerning such use applications. In approving any such applications, the Governing Body may establish such special requirements and regulations for the protection of adjacent property, set the hours of operation, and make requirements as they may deem necessary in the public interest, before granting approval to said application.
- (f) Wholesale and distributive establishments which do not create hazards for traffic or adverse impacts on the surrounding area.
- (g) Boarding houses, hotels, motels, and tourist homes.
- (h) Veterinary hospitals **(10/16)**
- (i) Short-term rentals (XX/XX)**

### **204.3** AREA REGULATIONS

No requirements for commercial uses or for one (1) dwelling unit in conjunction with a commercial use. For two-family or multi-family dwellings, except as specified in Section 204.2, area requirements shall be the same as in the R-3 District for residential units above one (1).

### **204.4** SETBACK REGULATIONS

No requirement, except for townhouses and apartments as stated in Sections 309 and 310 respectively.

**204.5 FRONTAGE AND YARD REGULATIONS**

No requirement except that, if the property is adjacent to a residential district, each minimum side yard shall be ten (10) feet and the minimum rear yard shall be twenty (20) feet. Sections 309 and 310 shall apply for townhouses and apartments respectively.

**204.6 HEIGHT REGULATIONS**

Buildings may be erected up to thirty-five (35) feet in height from grade, except that:

- (a) A public or semi-public building such as a school, church, library, or general hospital may be erected to a height of sixty (60) feet from grade provided that required front, side, and rear yards shall be increased one (1) foot for each foot in height over thirty-five (35) feet.
- (b) Church spires, belfries, cupolas, monuments, water towers, chimney flues, flagpoles, television antennae, and radio aerials are exempt. Parapet walls may be up to four (4) feet above the height of the building on which the walls rest.
- (c) Accessory buildings over one (1) story in height shall be at least ten (10) feet from any lot line. All accessory buildings shall be less than the main building in height.

**204.7 SITE PLAN REQUIREMENTS**

All new structures, excepting accessory buildings of one hundred fifty (150) square feet or less, shall be subject to final site plan approval. Changes of use or additions to an existing structure requiring additional parking or other significant site changes applicable to a new use shall also be subject to final site plan approval. Site plans shall comply with the conditions of Section 314.

**ARTICLE VI – ADDITIONAL DISTRICTS (2/90)**

**SECTION 600 - GENERAL PROVISIONS**

**600.1 APPLICATION**

The additional zoning districts described in Article VI shall apply to designated property within the Berryville Town Limits.

**600.2 INCONSISTENCIES BETWEEN ARTICLE VI AND THE REMAINING PARTS OF THIS ORDINANCE**

All other parts of the Berryville Zoning Ordinance which are inconsistent with the provisions of Article VI shall be invalid as they relate to any districts within Article VI.

**(4/92) SECTION 601 - OPEN SPACE RESIDENTIAL**

**601.1 PURPOSE AND 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 floodplains, sinkholes, slopes in excess of fifteen (15) percent, and rock outcrops. The maximum density of one residence per ten (10.0) 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.

**601.2 PERMITTED USES**

- (a) Single family detached dwellings.
- (b) Accessory uses to include detached carports and garages, tool sheds, children's playhouses, swimming pools, doghouses and Temporary Family Health Care Structures as established in Section 323. **(11/10)**
- (c) Municipal utilities.

**601.3 SPECIAL PERMIT USES**

- (a) Commercial swimming pools, tennis courts, and golf courses.
- (b) Home occupations as defined in Section 315. **(12/93)**
- (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.
- (g) Country inn. **(6/09)**
- (h) **Short-term rentals (XX/XX)**

**601.4 MAXIMUM DENSITY**

- (a) One (1.0) dwelling unit per ten (10.0) net developable acres or one-tenth (0.1) unit per net acre.

**Section 601 Open Space Residential (OSR) District**

- (b) A maximum floor area ratio of 0:10 shall apply to uses other than residential.

**601.5 LOT SIZE REQUIREMENTS**

- (a) Minimum lot area: 10 acres
- (b) Minimum lot width: 300 feet
- (c) Minimum lot depth: 300 feet

**601.6 BULK REGULATIONS**

- (a) Maximum building height: 35 feet
- (b) All other structures: 35 feet
- (c) Minimum yard requirements
  - (1) Front yard: 50 feet **(7/04)**
  - (2) Side yard: 50 feet **(7/04)**
  - (3) Rear yard: 50 feet **(7/04)**

**601.7 ADDITIONAL REGULATIONS**

- (a) Refer to Article III for general regulations and other provisions which may supplement those cited herein.
- (b) Refer to Section 305 for off-street parking requirements.
- (c) Refer to specific Overlay Zoning Districts, where applicable.
- (d) Refer to Section 317 Karst Features for additional requirements **(7/04)**
- (e) The lot size, yard, and bulk requirements in effect at the time of subdivision plat approval prior to January 1, 2011 shall remain applicable to such subdivisions until July 1, 2017. The foregoing shall not be effective unless any unreleased performance bonds and agreements or other financial guarantees of completion of public improvements in or associated with the subdivision are continued in force. **(12/14)**

**(4/92) SECTION 602 - DETACHED RESIDENTIAL-1 (DR-1) DISTRICT**

**602.1 PURPOSE AND 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 (1) 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.

**602.2 PERMITTED USES**

- (a) Single-family detached dwellings.
- (b) Accessory uses to include detached carports and garages, tool sheds, children's playhouses, doghouses, private swimming pools and Temporary Family Health Care Structures as established in Section 323. **(11/10)**
- (c) Municipal utilities.

**602.3 SPECIAL PERMIT USES**

- (a) Bed and breakfast lodging occupying more than 300 square feet of a residence
- (b) Cemeteries
- (c) Churches and shrines
- (d) Fire stations **(10/94)**
- (e) Home occupations as defined in Section 315
- (f) Libraries and museums **(12/93)**
- (g) Plant nurseries, with no sale of nursery products permitted on premises
- (h) Private or public schools parks, playgrounds, and related uses
- (i) Public utility uses (sub-stations, pump stations, storage tanks, etc.) and related easements, except for municipal utilities
- (j) Recreational uses, such as public swimming pools, tennis courts, and golf courses
- (k) Short-term rentals (XX/XX)**

**602.4 MAXIMUM DENSITY**

- (a) One (1) dwelling unit per net developable acre.
- (b) A maximum floor area ratio of 0:15 shall apply to uses other than residential.

**602.5 LOT SIZE, YARD AND BULK REQUIREMENTS FOR CONVENTIONAL LOTS**

- (a) Lot area: Minimum--40,000 square feet; maximum--60,000 square feet. (Refer to Section 615.2 regarding the impact of Critical Environmental Areas on lot size requirements.)
- (b) Minimum lot width
  - (1) Interior lot: 125 feet **(7/04)**
  - (2) Corner lot: 150 feet **(7/04)**

**Section 602 Detached Residential-1 (DR-1)**

- (c) Minimum yard requirements
  - (1) Front yard: 40 feet **(7/04)**
  - (2) Side yard: 15 feet
  - (3) Rear yard: 50 feet (residences) **(7/04)**
  - (4) Accessory structure: 5 feet (rear and side setbacks)
  - (5) Maximum building height: 35 feet

**602.6 MINIMUM DISTRICT SIZE FOR CLUSTER SUBDIVISION**

Minimum district size for cluster subdivision is four acres.

**602.7 LOT SIZE, YARD AND BULK REQUIREMENTS FOR CLUSTER LOTS**

- (a) Minimum lot Area: 20,000 square feet, Maximum Area 45,000 square feet **(7/04)**  
(Please refer to Section 614 regarding the impact of critical environmental areas on lot size requirements.)
- (b) Minimum lot width:
  - (1) Interior lot: 100 feet
  - (2) Corner lot: 120 feet
- (c) Minimum lot yard requirements:
  - (1) Front yard: 35 feet
  - (2) Side yard: 15 feet
  - (3) Rear yard: 45 feet **(7/04)**
  - (4) Accessory structure: 5 feet (rear and side setback)
- (d) Maximum building height: 35 feet

**602.8 OPEN SPACE REQUIREMENTS FOR DETACHED RESIDENTIAL (DR-1) SUBDIVISIONS**

- (a) In subdivisions approved for cluster development, a minimum of 15 percent of the net site area which excludes 100-year floodplains, sinkholes, and slopes exceeding 25 percent and 50 percent of land with slopes between 15 and 25 percent shall be open space dedicated to common usage and ownership.

**602.9 ADDITIONAL REGULATIONS**

- (a) Refer to Article III for general regulations and other provisions which may supplement those cited herein.
- (b) Refer to Section 305 for off-street parking requirements.
- (c) Refer to specific Overlay Zoning Districts, where applicable.
- (d) Refer to Section 611 for special regulations relating to cluster subdivisions, open spaces and critical environmental areas.
- (e) The lot size, yard, and bulk requirements in effect at the time of subdivision plat approval prior to January 1, 2011 shall remain applicable to such subdivisions until July 1, 2017. The foregoing shall not be effective unless any unreleased performance bonds and agreements or other financial guarantees of completion of public improvements in or associated with the subdivision are continued in force. **(12/14)**

**602.10** ADDITIONAL REGULATIONS

- (a) Refer to Article III for general regulations and other provisions which may supplement those cited herein.
- (b) Refer to Section 305 for off-street parking requirements.
- (c) Refer to specific Overlay Zoning Districts, where applicable.
- (d) Refer to Section 615.2 for special regulations relating to cluster subdivisions, open spaces, and critical environmental areas.
- (e) Refer to Section 317 Karst Features for additional requirements. (7/04)

(4/92) **SECTION 603 - DETACHED RESIDENTIAL-2 (DR-2) DISTRICT**

**603.1 PURPOSE AND 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 (2) 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.

**603.2 PERMITTED USES**

- (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 carports and garages, tool sheds, children's playhouses, doghouses, private swimming pools and Temporary Family Health Care Structures as established in Section 323. **(11/10)**
- (c) Municipal utilities.

**603.3 SPECIAL PERMIT USES**

- (a) Bed and breakfast lodging occupying more than 300 square feet of a residence
- (b) Cemeteries
- (c) Churches and shrines
- (d) Day care centers and nursery schools **(10/94)**
- (e) Fire stations
- (f) Home occupations as defined in Section 315 **(12/93)**
- (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 swimming pools, tennis courts, and golf courses
- (l) Short-term rentals (XX/XX)**

**603.5 LOT SIZE, YARD, AND BULK REQUIREMENTS FOR CONVENTIONAL LOTS**

- (a) Lot area: Minimum--20,000 square feet; maximum--45,000 square feet.  
Refer to Section 611 regarding the impact of critical environmental areas on lot size requirements.) **(1/93)**
- (b) Minimum lot width
  - (1) Interior lot: 100 feet **(7/04)**
  - (2) Corner lot: 120 feet **(7/04)**
- (c) Minimum yard requirements
  - (1) Front yard: 30 feet **(7/04)**
  - (2) Side yard: 15 feet

## Section 603 Detached Residential-2 (DR-2)

- (3) Rear yard: 40 feet (residences) (7/04)
- (4) Accessory structure: 5 feet (rear and side setbacks)
- (d) Maximum building height: 35 feet

### **603.6** MINIMUM DISTRICT SIZE FOR CLUSTERING Minimum district size for cluster subdivision: 4 acres

### **603.7** LOT SIZE, YARD, AND BULK REQUIREMENTS FOR CLUSTER LOTS

- (a) Minimum lot area: 12,500 square feet (7/04)  
Maximum lot area: 30,000 square feet (7/04)  
(Refer to Section 614 regarding the impact of critical environmental areas on lot size requirements.)
- (b) Minimum lot width
  - (1) Interior lot: 75 feet
  - (2) Corner lot: 90 feet
- (c) Minimum yard requirements
  - (1) Front yard: 25 feet
  - (2) Side yard: 10 feet
  - (3) Rear yard: 35 feet (residences) (7/04)
  - (4) Accessory structure: 5 feet (rear and side setbacks)
- (d) Maximum building height: 35 feet

### **603.8** OPEN SPACE REQUIREMENTS FOR DR-2 CLUSTER SUBDIVISIONS

- (a) In subdivisions approved for cluster development, twenty (20) percent of the net site area which excludes 100-year floodplain, sinkholes, and slopes exceeding twenty-five (25) percent and fifty (50) percent of land with slopes between fifteen (15) and twenty-five (25) percent shall be open space, dedicated to common usage and ownership.

### **603.9** ADDITIONAL REGULATIONS

- (a) Refer to Article III for general regulations and other provisions which may supplement those cited herein.
- (b) Refer to Section 305 for off-street parking requirements.
- (c) Refer to specific Overlay Zoning Districts where applicable.
- (d) Refer to Section 614 for special regulations relating to cluster subdivisions, critical environmental areas, and open spaces.
- (e) Refer to Section 317 Karst Features for additional requirements. (7/04)
- (f) The lot size, yard, and bulk requirements in effect at the time of subdivision plat approval prior to January 1, 2011 shall remain applicable to such subdivisions until July 1, 2017. The foregoing shall not be effective unless any unreleased performance bonds and agreements or other financial guarantees of completion of public improvements in or associated with the subdivision are continued in force. (12/14)

(4/92) **SECTION 604 - DETACHED RESIDENTIAL-4 (DR-4) DISTRICT**

**604.1 PURPOSE AND INTENT**

The Detached Residential-4 District is created to provide for single-family detached residences at higher densities than other single-family detached districts. A maximum of four (4.0) units per net developable acre establishes a medium- to 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 Plan, as well as to “infill” 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.

**604.2 PERMITTED USES**

- (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 carports and garages, tool sheds, children’s playhouses, doghouses, private swimming pools and Temporary Family Health Care Structures as established in Section 323. **(11/10)**
- (c) Municipal utilities.

**604.3 SPECIAL PERMIT USES**

- (a) Bed and breakfast lodging occupying more than 300 square feet of residence.
- (b) Cemeteries.
- (c) Churches and shrines.
- (d) Community buildings, public and private.
- (e) Day care centers and nursery schools. **(10/94)**
- (f) Fire stations.
- (g) Home occupations as defined in Section 315. **(12/93)**
- (h) Libraries, museums, and historic markers.
- (i) Plant nurseries with no sale of nursery products permitted on premises.
- (j) Public utility uses (sub-stations, pump stations, storage tanks, etc.) and related easements, except for municipal utilities.
- (k) Recreational uses such as public swimming pools, tennis courts, and golf courses.
- (l) Public schools, parks, playgrounds and related uses. **(3/09)**
- (m) Short-term rentals (XX/XX)**

**604.4 MAXIMUM DENSITY**

- (a) Four (4.0) dwelling units per net developable acre.
- (b) A maximum floor area ratio of 0:15 shall apply to uses other than residential.

**604.5 LOT SIZE, YARD, AND BULK REQUIREMENTS FOR CONVENTIONAL LOTS**

- (1/93) (a) Lot area: Minimum--10,000 square feet; maximum - 30,000 square feet **(7/04)**.  
(Refer to Section 614 regarding the impact of critical environmental areas on lot Size requirements.

**Section 604 Detached Residential-4 (DR-4)**

- (b) Minimum lot width
  - (1) Interior lot: 75 feet
  - (2) Corner lot: 90 feet
- (c) Minimum yard requirements
  - (1) Front yard: 20 feet for primary structures;  
25 feet for garages, carports or other structures used to house vehicles **(7/04)**
  - (2) Side yard: 10 feet
  - (3) Rear yard: 30 feet (residences)
  - (4) Accessory structure: 5 feet (rear and side setbacks)
- (d) Maximum building height: 35 feet

**604.6 MINIMUM DISTRICT SIZE FOR CLUSTER SUBDIVISIONS**

Minimum district size for cluster subdivision: two (2) acres.

**604.7 LOT SIZE, YARD, AND BULK REQUIREMENTS FOR CLUSTERED LOTS**

- (a) Minimum lot area: 7,500 square feet.  
Maximum lot area: 20,000 square feet **(7/04)**  
(Refer to Section 614 regarding the impact of critical environmental areas on lot size requirements.)
- (b) Minimum lot width
  - (1) Interior lot: 60 feet
  - (2) Corner lot: 75 feet
- (c) Minimum yard requirements
  - (1) Front yard: 15 feet for primary structures;  
25 feet for garages, carports, or other structures used to house vehicles **(7/04)**
  - (2) Side yard: 10 feet
  - (3) Rear yard: 25 feet (residences)
  - (4) Accessory structure: 5 feet (rear and side setback)
- (d) Maximum building height: 35 feet

**604.8 OPEN SPACE REQUIREMENTS FOR DETACHED RESIDENTIAL SUBDIVISIONS**

- (a) In subdivisions approved for cluster development, twenty (20) percent of the net site area which excludes 100-year floodplain, sinkholes, and slopes exceeding twenty-five (25) percent and fifty (50) percent of land with slopes between fifteen (15) and twenty-five (25) percent shall be open space, dedicated to common usage and ownership.
- (b) In cluster subdivisions, at least one-fourth (1/4) of the required open space (five {5} percent of the net site area) shall be developed and designed for recreational and active community open space.

**604.9** ADDITIONAL REGULATIONS

- (a) Refer to Article III for general regulations and other provisions which may supplement those cited herein.
- (b) Refer to Section 305 for off-street parking requirements.
- (c) Refer to specific Overlay Zoning Districts, where applicable.
- (d) Refer to Section 615 for special regulations relating to cluster subdivisions, critical environmental areas, and open space.
- (e) Refer to Section 317 Karst Features for additional requirements. **(7/04)**
- (f) The lot size, yard, and bulk requirements in effect at the time of subdivision plat approval prior to January 1, 2011 shall remain applicable to such subdivisions until July 1, 2017. The foregoing shall not be effective unless any unreleased performance bonds and agreements or other financial guarantees of completion of public improvements in or associated with the subdivision are continued in force. **(12/14)**

**SECTION 605 - ATTACHED RESIDENTIAL (AR) DISTRICT**

**605.1 PURPOSE AND INTENT**

The Attached Residential (AR) District is created to provide for single-family attached residences at locations compatible with the Berryville Comprehensive Plan and at locations within the precincts of the Berryville Area Plan. A maximum density of six (6) units per net developable acre establishes this district as one recognizing townhouse-styled units as the dominant land use; however, single-family dwellings may also be developed in this district where appropriate. This district may be applied to undeveloped tracts and to existing townhouse development with the intent of preserving natural features and vegetation, promoting excellence in site planning and landscape design, and encouraging attached housing with compatible scale, materials and architectural character. Development in the AR District shall be sensitive to land physiography, provision of adequate public infrastructure, and development of high-quality transportation improvements while achieving optimal siting of dwellings, recreation areas, community facilities, and open space.

**605.2 PERMITTED USES**

- (a) Townhouse dwellings. An accessory structure, less than or equal to 120 square feet in area, is permitted on a private townhouse lot.
- (b) Duplex (two-family) attached dwellings and accessory structures
- (8/01) (c) Single-family detached dwellings
- (d) Private community facilities, recreation areas, and other common area improvements normally associated with residential developments (other than those requiring special use permits) may be permitted subject to final site plan approval.
- (e) Municipal utilities

**605.3 SPECIAL PERMIT USES (8/01)**

- (a) Churches
- (b) Community buildings
- (c) Commercial and private swimming pools and tennis courts
- (10/94) (d) Day care centers
- (e) Fire stations
- (f) Government offices
- (g) (Deleted 2010)
- (h) Institutional housing and general care for indigents or orphans
- (i) Libraries
- (j) Nursery schools
- (k) Private and public schools, parks, playgrounds, and related uses
- (n) Private clubs
- (o) Public utility uses (sub-stations, pump stations, storage tanks, etc.) and related easements, except for municipal utilities. (Refer to Section 615 regarding the impact of critical environmental areas on lot size requirements.)
- (p) Zero-lot-line detached dwellings
- (q) Short-term rentals (XX/XX)**

**Section 605 Attached Residential (AR) District**

**605.4 MAXIMUM DENSITY**

Maximum density:

Six (6) dwelling units per net developable acre.

**605.5 MINIMUM DISTRICT SIZE**

Minimum District Size: Three (3) acres.

**605.6 LOT SIZE AND BULK REQUIREMENTS FOR TOWNHOUSE-STYLE DWELLINGS**

- (a) Minimum lot area
  - (1) Interior lot: 2,000 square feet
  - (2) Corner lot: 2,400 square feet
  - (3) Condominium: Not regulated
- (b) Minimum lot width
  - (1) Interior lot: 20 feet
  - (2) Corner lot: 35 feet
  - (3) Condominiums subject to plan review and applicable performance zoning criteria.
- (c) Minimum yard requirements
  - (1) Front yard: 15 feet
  - (2) Side yard for end unit: 15 feet
  - (3) Rear yard: 30 feet
  - (4) Accessory structures: 5 feet (rear and side setback)
- (d) Maximum building height: 35 feet
- (e) Maximum Floor Area ratio (FAR): for non-residential uses - 0.25, or as otherwise dictated by applicable performance zoning criteria.
- (f) Other: Where a lot is to be divided into individual lots for the sale of single-family attached dwelling units:
  - (1) Lot lines shall conform with party wall centerlines and
  - (2) A privacy yard, having a minimum of two hundred (200) square feet, shall be provided on each lot. Privacy yards shall include screening, fencing, patio paving, and/or special landscaping treatment.

**605.7 LOT SIZE AND BULK REGULATIONS FOR DUPLEXES**

- (a) Minimum lot size:
  - (1) 10,000 square feet for total duplex structure
  - (2) 4,500 square feet each separate unit within a duplex
- (b) Minimum lot width:
  - (1) 75 feet per duplex structure
  - (2) 35 feet for each unit of a duplex
- (c) Minimum yard requirements:
  - (1) Front yard: 25 feet
  - (2) Side yard: 10 feet
  - (3) Rear yard: 40 feet (residences)
- (d) Maximum building height: 35 feet
- (e) Maximum lot coverage: 35 percent

**Section 605 Attached Residential (AR) District**

- (g) Other: Where a lot is to be subdivided into individual lots for the sale of single-family attached units, lot lines shall conform with party wall centerlines.

**605.8 LOT SIZE AND BULK REQUIREMENTS FOR SINGLE-FAMILY DETACHED DWELLINGS**

- (a) Minimum lot size: 7,500 square feet
- (b) Minimum lot width: 60 feet
- (c) Minimum setback: 20 feet or more from a right-of-way 50 feet or more in width; 35 feet or more from the center of any street right-of-way less than 50 feet in width. **(5/94)**
- (d) Minimum yard requirements
  - (1) Side yard: 10 feet, except for corner lots, the side yard facing the side street shall be 20 feet or more for both main and accessory buildings.
  - (2) Rear yard: 40 feet
  - (3) Accessory structures: 5 feet from side and rear lot lines, except as noted above in 605.8(d)(1).

**605.9 OPEN SPACE REQUIREMENTS FOR TOWNHOUSE DEVELOPMENTS**

- (a) An open space plan and landscape design program shall be submitted with applications for townhouse-style developments.
- (b) Thirty (30) percent of the net site area shall be open space dedicated to common usage and ownership.
- (c) At least twenty (20) percent of the required open space (six [6] percent of the net site area) shall be designed and developed as recreational and active community open space.
- (d) Refer to Section 615 regarding the impact of critical environmental areas on open space requirements.

**605.10 OPEN SPACE REQUIREMENTS FOR DUPLEX DEVELOPMENTS**

- (a) An open space plan shall be submitted with applications for duplex-style developments in this district.
- (b) Ten (10) percent of the net site area shall be open space dedicated to common usage and ownership.

**605.11 ADDITIONAL REGULATIONS FOR TOWNHOUSE DEVELOPMENTS**

- (a) Parking, parking access, and parking drives
  - 1. Two (2) off-street (private) parking spaces per dwelling unit shall be provided and shall be located not more than one hundred (100) feet from the individual dwelling unit served.
  - 2. Private driveways and parking bays shall be no closer than twelve (12) feet to any adjoining property line.
  - 3. Separate parking spaces shall be allocated and reserved for recreational vehicle parking and special guest parking. The number of parking spaces allocated for recreational vehicles shall be one (1) recreational vehicle

## Section 605 Attached Residential (AR) District

parking space per six (6) dwelling units. The number of spaces for guest parking shall be one (1) space for every two (2) dwelling units.

4. Refer to Section 305 for additional off-street parking requirements.

### (b) Streets

1. Attached dwelling units shall have access to a private street with a minimum width of twenty-two (22) feet. The paved street shall be constructed according to Virginia Department of Transportation standards.
2. No attached dwelling unit may be accessed directly from a public street unless approved by a Special Use Permit. In such case, the dwelling(s) must conform to AR District setback requirements.
3. No private street shall be located within twelve (12) feet of any property line.

### (c) Setback, yards, buffering, separation, and grouping of units

1. Where adjacent properties are zoned to a district other than the AR District, all AR buildings shall be set back at least forty (40) feet from the common property line(s).
2. Where an attached residential building or group of attached residential buildings are adjacent to a private drive, parking area, and/or walkway intended for the common use of the development's occupants, there shall be a minimum building setback of fifteen (15) feet from that drive, area, and/or walk.
3. Adjacent townhouse-style dwelling units with their accompanying lots shall be separated from one another by a minimum of fifteen (15) feet. This separation shall allow an unobstructed fire lane on all sides of the structure.
4. No more than eight (8) single-family attached residences (townhouses) shall be included in any one physically contiguous grouping.
5. Common property lines shall be screened and landscaped. Refer to Section 309.7 for additional landscaping and buffering requirements.

### (d) Maintenance of improvements, covenants, and required improvements

1. For any development in the AR District, 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 A-R development until such time as the developer-owner conveys such common area to a nonprofit (homeowners') entity consisting of at least all of the individual owners of the dwelling units in the development.
2. Deed restrictions and covenants shall be included with the conveyance to include, among other things, those assessments, charges, and costs of maintenance of such common areas shall constitute a pro-rata share lien upon the individual dwelling lots, such lien inferior only to taxes and recorded trusts. Furthermore, covenants shall specify the means by which the non-profit entity shall govern and manage itself and maintain building exteriors, landscaping, lighting, recreation areas, walkways parking areas, snow removal, and travel ways.
3. All deed restrictions, covenants, nonprofit (homeowners') entity incorporation documents, and information related to conveyance programs

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shall be prepared by the developer-owner. These papers and documents shall be submitted with the plat and plans, and shall be approved by the Town's legal representative.

4. On-site lighting, signing, and mailboxes shall be provided and installed by the owner-developer of townhouse developments. These improvements shall be of compatible scale, materials, and colors.

### **605.12 SITE PLAN AND MASTER PLAN REQUIREMENTS**

- (a) Development of all townhouse projects shall require site plan approval.
- (b) Development of any townhouse project that is to be built in phases shall require a master plan which is intended to serve as the master land use plan for the specific development proposal. Final engineering designs and final plats shall be in conformance with the development's master plan.

### **605.13 GENERAL REGULATIONS**

- (a) All refuse shall be contained in completely enclosed and screened facilities.
- (b) Refer to Section 309.9 for drainage regulations.
- (c) Refer to specific Overlay Zoning Districts, where applicable.

### **605.14 CONDOMINIUMS**

Any condominium development under the Condominium Laws of Virginia shall be subject to the following provisions:

- (a) Minimum lot size and yard and open space requirements of the district shall be met as if lot lines existed.
- (b) A site plan shall be required and subject to review by the Planning Commission. The site plan shall govern the location of all structures and improvements.
- (c) Setbacks, density, and other district requirements shall be met.

**SECTION 606 MULTIFAMILY RESIDENTIAL (MR) DISTRICT**

**606.1 PURPOSE AND INTENT**

The Multifamily Residential (MR) District is created to provide for multifamily residences at locations compatible with the Berryville Area Master Plan's goals for high-density residential development. A maximum density of ten (10) units per net developable acre establishes this district as one recognizing garden-styled apartment or condominium units as the dominant land use. Housing for the elderly is encouraged under this district. Townhouses are permitted in this district, subject to the AR District regulations. The application of this district shall be to undeveloped tracts lying within the Town of Berryville with the intent of preserving existing natural features and vegetation, promoting excellence in site planning and landscape design, and encouraging multifamily and attached housing with compatible scale, materials, and architectural character. Development in the MR District shall be sensitive to land physiography, provision of adequate public infrastructure, and development of quality transportation improvements while achieving optimal siting of dwellings, recreation areas, community facilities, and open space.

**606.2 PERMITTED USES**

- (a) Multifamily attached dwellings.
- (b) Townhouse dwellings. An accessory structure, less than or equal to 120 square feet in area, is permitted on a private townhouse lot.
- (c) Duplex and two-family attached dwellings and accessory structures.
- (d) A mix of dwelling types as set forth above.
- (e) Private community facilities, recreation areas, and other common area improvements normally associated with residential developments (other than those requiring special use permits) shall be permitted, subject to a generalized development plan and final site plan approval process.

**606.3 SPECIAL PERMIT USES**

- (a) Churches
- (b) Commercial swimming pools and tennis courts
- (c) Community association facilities
- (d) Community buildings, public and private
- (e) Day care centers
- (10/94) (f) Fire stations
- (g) Government offices
- (h) (Deleted 2010)
- (i) Institutional housing and general care for indigents and orphans
- (j) Libraries
- (k) Licensed nursing homes
- (l) Nursery schools
- (m) Private clubs
- (n) Private schools and related uses
- (r) Private swimming pools and tennis courts
- (s) Public schools, parks, playgrounds, and related uses

## Section 606 Multifamily Residential (MR) District

- (t) Public utility uses (sub-stations, pump stations, storage tanks, etc.) and related easements, except for municipal utilities
- (u) Zero-lot-line dwellings
- (v) In townhouse developments, private accessory structures larger than 120 square feet in area.
- (w) Short-term rentals (XX/XX)**

### **606.4** MAXIMUM DENSITY

- (a) Multifamily dwellings: ten (10) dwelling units per net developable acre.
- (b) Attached dwellings: six (6) dwelling units per net developable acre.

### **606.5** MINIMUM DISTRICT SIZE

Minimum district size: three (3) acres.

### **606.6** REGULATIONS FOR DUPLEXES

Refer to Section 605 for general regulations.

### **606.7** REGULATIONS FOR TOWNHOUSE DEVELOPMENTS

Refer to Section 605 for general regulations.

### **606.8** MULTIFAMILY DWELLINGS

- (a) Minimum lot area: Dwellings must be sited with respect to physiographic, air, solar, and environmental characteristics of their lots and to their relationship to adjoining properties.
- (b) Maximum building height: 40 feet
- (c) Minimum yard requirements
  - (1) Front yard: 25 feet
  - (2) Side yard: 20 feet
  - (3) Rear yard: 30 feet
- (d) For nonresidential uses, the maximum floor area ratio shall be 0.25, based on net developable area, and as otherwise dictated by applicable performance zoning criteria.
- (e) An open space plan and landscape design program shall be submitted with applications for any land use governed by this district.
- (f) Thirty (30) percent of the gross site area shall be open space, dedicated to common usage and ownership.
- (g) One-third (1/3) of the open space (ten [10] percent of the gross site area) shall be developed and designated as recreational and active community open space.

### **606.9** PARKING AREAS, DRIVEWAYS, AND WALKWAYS IN MULTIFAMILY DEVELOPMENTS

- (a) Two off-street (private) parking spaces per dwelling unit shall be provided and located not more than one hundred (100) feet from the individual dwelling unit served.
- (b) Additional parking spaces shall be provided and designated for recreational vehicle parking and special guest parking. One (1) recreational vehicle parking space per

## Section 606 Multifamily Residential (MR) District

twelve (12) dwelling units shall be required in the MR District. The number of spaces for guest parking shall be one (1) space for every two (2) dwelling units.

- (c) The location, spacing, and number of private driveway entrances serving any MR development shall comply with the adopted Transportation Plan for the Berryville Area and shall be subject to final approval by the Town Council or its agent.
- (d) Private driveways and parking bays shall be at least twelve (12) feet from any adjoining property line. Parking areas, driveways, and walkways intended for the common use of the development's occupants shall be placed at least fifteen (15) feet from all multifamily residential buildings.
- (e) Refer to Section 305 for additional off-street parking requirements.

### **606.10 STREETS IN MULTIFAMILY DEVELOPMENTS**

- (a) Attached and multifamily dwelling units shall have access to a private street with a minimum width of twenty-two (22) feet. The paved street shall be constructed according to Virginia Department of Transportation standards.
- (b) No multifamily dwelling may be accessible directly from a public street. No attached dwelling unit may be accessed directly from a public street unless approved by a special use permit. In such case, the dwelling(s) must conform to MR District setback requirements.

### **606.11 SETBACK, YARDS, BUFFERING, SEPARATION, AND GROUPING OF MULTIFAMILY BUILDINGS**

- (a) Where adjacent properties are zoned to a district other than the MR District, all MR buildings shall be set back at least forty (40) feet from the common property line(s).
- (b) Where an attached residential building or group of attached residential buildings are adjacent to a private drive, parking area, and/or walkway intended for the common use of the development's occupants, there shall be a minimum building setback of fifteen (15) feet from that drive, area, and/or walk.
- (c) No more than twenty-four (24) residential units shall be located within any one physical building structure. A waiver for this regulation may be given for those development proposals that are exclusively for elderly housing.
- (d) Multifamily dwelling structures shall have side yards separating individual buildings by a distance not less than the height of the tallest residential structure. Rear yards separating individual buildings shall be equal to one and one-half (1-1/2) times the height of the tallest structure. The larger yard size shall govern in instances where side and rear yard definition is subject to interpretation.
- (e) Common property lines shall be screened and landscaped. Refer to Section 310.8 for additional landscaping and buffering requirements.

### **606.12 MAINTENANCE OF IMPROVEMENTS, COVENANTS, AND REQUIRED IMPROVEMENTS**

- (a) For any development in the M-R District, 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 M-R development until such time as the developer-

## Section 606 Multifamily Residential (MR) District

owner conveys such common area to a nonprofit (homeowners') entity consisting of at least all of the individual owners of the dwelling units in the development.

- (b) 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. Furthermore, covenants shall specify means by 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.
- (c) All deed restrictions, covenants, nonprofit (homeowners') entity incorporation documents and information related to conveyance programs shall be prepared by the developer-owner. These papers and documents shall be submitted with the plat and plans, and shall be approved by the Town's legal representative.
- (d) On-site lighting, signing, and mailboxes shall be provided and installed by the owner-developer of townhouse or multifamily developments. These improvements shall be of compatible scale, materials, and colors.

### **606.13 SITE PLAN AND MASTER PLAN REQUIREMENTS**

- (a) Development of any and all sections within the M-R District shall require site plan approval.
- (b) Development of any project under M-R District zoning provisions shall require a master plan for the specific development proposal. Final engineering designs and final plats shall be in conformance with the development's master plan.
- (c) A parking and traffic impact study shall be provided with the submission of a preliminary site plan or master plan.

### **606.14 GENERAL REGULATIONS**

- (a) No privately-owned accessory buildings shall be permitted on multifamily building lots.
- (b) All refuse shall be contained in completely enclosed and screened facilities.
- (c) Refer to Section 310.10 for drainage regulations.
- (d) Refer to specific Overlay Zoning Districts, where applicable.

### **606.15 CONDOMINIUMS**

Any condominium development under the Condominium Laws of Virginia shall be subject to the following provisions:

- (a) Minimum lot size and yard requirements of the district shall be met as if lot lines existed.
- (b) A master plan shall be required and subject to review by the Planning Commission and approved by the Town Council. The master plan shall govern the location of all site structures and improvements on final plans.
- (c) Setbacks, density, and other district provisions shall be met.
- (d) Condominiums are subject to site plan review and applicable performance zoning criteria.

**SECTION 607 - C-1 COMMERCIAL DISTRICT**

**607.1 PURPOSE AND INTENT**

The C-1 Commercial District is established to provide selected locations in the Town of Berryville for light commercial activities that do not adversely impact adjoining residential neighborhoods. The C-1 District is intended to accommodate local retail uses at locations compatible with the Berryville Area Master Plan.

**607.2 PERMITTED USES**

- (12/00)
- (a) Assembly of high-tech components and/or systems (not including manufacturing)
  - (b) Restaurants, exclusive of fast-food restaurants
  - (c) Newspaper office buildings, including printing and publishing facilities incidental to such uses
  - (d) Quick-service stores with limited hours of operation (6:00 a.m. – 10 p.m.).
  - (e) Civic and public benefit organizations
  - (f) Churches and other places of worship
  - (g) Government and other public buildings (including libraries, post offices, police stations, fire stations, and rescue squads)
  - (h) Financial institutions without drive-in facilities
  - (i) Hospitals, nursing, convalescent, or rest homes, in accordance with Section 311
  - (j) Funeral homes
  - (k) Furniture repair
  - (l) Business and professional offices
  - (m) Personal services (including music services, barber and beauty shops, tailor shops)
  - (n) Printing shops
  - (o) Retail stores with a maximum gross floor area of 5,000 square feet for each free-standing business or for each business in a shopping center. **(07/05)**
  - (p) Day care centers **(10/94)**
  - (q) Auction House **(11/02)**

**607.3 SPECIAL PERMIT USES**

- (12/00)
- (a) Broadcast studios
  - (b) Business services and supply establishments
  - (c) Car wash
  - (d) Commercial recreational establishments
  - (e) Drive-in banking facilities **(10/94)**
  - (f) Fast-food restaurants
  - (g) Hardware stores
  - (h) Laundromats
  - (i) Movie theaters
  - (j) Plant nurseries
  - (k) Public billiard parlors and pool rooms, bowling alleys, dance halls, health spas and clubs
  - (l) Public utilities and related easements, except municipal utilities
  - (m) Quick-service stores with unlimited hours of operation

Section 607 Commercial (C-1) District

- (n) Residential apartments, as a secondary use to principal structure
- (o) Retail stores over 5,000 square feet for each free-standing business or for each business in a shopping center, not to exceed a maximum of 15,000 square feet for each free-standing business or for each business in a shopping center. **(07/05)**
- (p) Repair service establishments, without outdoor service and/or outdoor storage
- (q) Service stations (without outdoor storage)
- (r) Single-family detached dwellings **(9/96)**
- (s) Schools, public or private
- (t) Three-story buildings
- (u) Veterinary hospitals
- (v) Wood product manufacturing (NAICS 321) except 3211 sawmills and wood preservation **(12/11)**
- (w) Craft beverage manufacturing **(02/18)**
- (x) Short-term rentals (XX/XX)**

**607.4** MAXIMUM FLOOR AREA RATIO

The maximum floor area ration (FAR)—based on the net developable area of a lot—shall not exceed 0.25.

**607.5** MINIMUM DISTRICT SIZE

Minimum district size: 1 acre

**607.6** LOT SIZE REQUIREMENTS AND BULK REGULATIONS

- (a) Minimum lot area: 10,000 square feet
- (b) Minimum lot width: 100 feet
- (c) Maximum building height: 40 feet
- (d) Minimum yard requirements
  - (1) Front yard: 30 feet
  - (2) Side yard: 10 feet
  - (3) Rear yard: 30 feet

**607.7** OPEN SPACE

- (a) An open space plan and landscape design program shall be submitted with applications for any land use governed by this district.
- (b) Fifteen percent (15%) of the site shall be landscaped open space.

**607.8** PARKING AREA REGULATIONS FOR THE C-1 COMMERCIAL DISTRICT

- (a) All parking areas shall be located at least ten (10) feet from any property line except that parking areas may adjoin each other across common C-1 district property lines. Parking areas must be located at least thirty (30) feet from properties in contiguous residential districts.
- (b) All parking areas shall consist of off-street, on-site spaces and shall include designated spaces for the handicapped and elderly.
- (c) Refer to Section 305 for additional off-street parking requirements.

**607.9 LANDSCAPING, BUFFERING AND SETBACK ADJACENT TO RESIDENTIAL AREAS**

- (a) Where a lot is contiguous to a property located in any residential district, all buildings shall have a minimum setback of forty (40) feet from common property lines (5/94).
- (b) A landscaped buffer strip of fifteen (15) feet in width shall be provided, with landscape materials and placement subject to final plan approval. This buffer strip may be reduced to ten (10) feet with suitable fencing, but in such cases fence design shall be subject to final plan approval.

**607.10 STORAGE OF MATERIALS AND REFUSE**

- (a) The outdoor area devoted to storage, loading and display of goods shall be limited to that area so designated on an approved site plan.
- (b) Any establishment involved with the storage of fuel for sale, or for other purposes, shall be permitted only if the fuel is stored underground, except where otherwise permitted under provisions granted and other stipulations required by special use permit by the Town Council.
- (c) All refuse shall be contained in completely enclosed facilities and shall be screened.

**607.11 STREET ENTRANCES**

- (a) On a corner lot, no street entrance shall be located closer than sixty (60) feet to the curb line extended from the intersecting street.
- (b) (DELETED 4/98)
- (c) A freestanding use shall have no more than two street entrances on any single right-of-way.

**607.12 GENERAL REQUIREMENTS**

- (a) All uses shall be subject to final site plan approval.
- (b) Refer to Section 306 for off-street loading requirements.
- (c) Refer to Sections 301-304 for general regulations and other provisions which may supplement those cited herein.
- (d) Refer to specific Overlay Zoning Districts, where applicable.

**SECTION 609 L-1 INDUSTRIAL DISTRICT**

**609.1 PURPOSE AND INTENT**

The L-1 Industrial District is established to provide locations within the Town of Berryville for a broad range of general light-industrial uses, recreational and event venues, infill development, and employment-related businesses operating under well-governed performance standards. The specific uses permitted within the L-1 District must be in harmony with the cultural and environmental character of the Town of Berryville. No use should be permitted that might be harmful to the adjoining land uses and the residential ambience of the community at large. Adaptive reuse is encouraged in the L-1 District. Outdoor storage and heavy industrial uses are discouraged but may be permitted by special use and environmental performance review. The L-1 District recognizes and is to be applied to existing conforming industry in the Town of Berryville as of the date of adoption of this District. Existing industrial uses shall be considered as satisfying the purpose and intent of the L-1 District, but expansion of existing industrial uses shall conform to the provisions herein. **(08/16)**

**609.2 PERMITTED USES (12/94)**

- (a) Auction establishments (indoor only) **(5/95)**
- (b) Business and professional offices **(7/99)**
- (c) Business service, supply and delivery establishments
- (d) Contractor's establishments without outdoor storage
- (e) Establishments for the production, processing, assembly, manufacturing, compounding, cleaning, servicing, testing and repair of materials, goods or products which conform to applicable Federal, State and local environmental performance standards or other standards referenced by the Town as related to (a) air pollution; (b) fire and explosion hazards; (c) radiation hazards; (d) electromagnetic radiation and interference hazards; (e) liquid and solid wastes hazards; (f) noise and odor standards; and (g) vibration standards.
- (f) Existing or expansion of existing industrial uses in operation as of the date of adoption of this Ordinance which conform to the previous industrial zoning district requirements.
- (g) Farm supply establishments
- (h) Financial institutions
- (i) Indoor mini-storage facilities
- (j) Light manufacturing, fabrication, testing or repair establishments without outdoor storage
- (k) Light warehousing establishments, without outdoor storage
- (l) Light wholesale trade establishments, without outdoor storage
- (m) Printing and publishing establishments
- (n) Private training and vocational schools
- (o) Public utilities (sub-stations, pump stations, transmission/receiving facilities and lines for telecommunications and similar uses, storage tanks, etc.)
- (p) Sheet metal shops
- (q) Small animal veterinary hospitals, exclusive of boarding kennels
- (r) Vehicle and machinery service, and parts sales ("service" including but not limited to internal and external repair, body work, paint, car washes, etc.)

- (s) Welding shops
- (t) Craft beverage manufacturing (03/18)

**609.3 SPECIAL PERMIT USES**

- (a) All above permitted uses requiring outdoor storage (10/94)
- (b) Day care centers (12/94)
- (c) Eating establishments including microbreweries, wineries, and distilleries (05/95, 08/16)
- (d) Heliports
- (e) Laundry and dry cleaning establishments
- (f) Lumber yards and building materials establishments
- (g) Motor freight terminals
- (h) Retail sales incidental to a manufacturing, production or related use, provided that:
  - a) the gross floor area used for retail purposes (excluding storage) shall not occupy more than five-thousand (5,000) square feet of gross floor area on any one lot, and shall not exceed twenty-five (25) percent of the total floor area for the site; and
  - b) the areas dedicated for retail uses must be indicated on an approved site plan.The provisions of this Section shall not apply to those permitted or special permit uses for which retail sales are a primary activity. (12/07)
- (i) Scientific research, development, and training establishments
- (j) Service stations
- (k) Vehicle and machinery sales and rentals
- (l) Recreation, commercial indoor (06/10)
- (m) Retreat and conference centers (08/16)
- (n) Residential lofts and apartments (08/16)
- (o) Wholesale/retail food hubs (08/16)
- (p) Commercial kitchens (08/16)
- (q) Hotels, motels, and accommodations (08/16)
- (r) Short-term rentals (XX/XX)**

**609.4 PROHIBITED USES**

The specific uses which follow shall not be permitted in the L-1 District:

- (a) Asphalt mixing plants
- (b) Blast furnaces
- (c) Boiler works
- (d) Bulk storage of flammable materials
- (e) Coal, wood or wood distillation
- (f) Concrete mixing and batching products
- (g) Extraction or mining of rocks and minerals
- (h) Garbage incineration
- (i) Junk yards
- (j) Landfills
- (k) Manufacture of ammonia, chlorine, fertilizer, lime, cement, fireworks, explosives, soaps, acids, pesticides, herbicides or insecticides
- (l) Metal foundries and smelting
- (m) Petroleum, asphalt or related product refining
- (n) Rendering plants
- (o) Slaughterhouses

- (p) Stockyards
- (q) Tanning and curing of skins
- (r) Any other similar use which in the opinion of the Town Council might be injurious or noxious by reason of odor, fumes, dust, smoke, vibration, noise or other cause

**609.5 MAXIMUM LOT COVERAGE**

(12/91) The maximum lot coverage—including buildings, streets, parking spaces, driveways, loading areas and all other impervious surfaces—shall not be greater than seventy-five percent (75%) of the area of an L-1 lot.

**609.6 MINIMUM DISTRICT SIZE**

The minimum district size shall be four (4) acres.

**609.7 LOT SIZE REQUIREMENTS AND BULK REGULATIONS**

- (a) Minimum lot area: 30,000 square feet
- (b) Minimum lot width: 125 feet
- (c) The maximum building height shall be forty (40) feet, except in particular instances the Town Council may, upon recommendation from the Planning Commission or its agent, modify the maximum building height.
- (d) Minimum yard requirements
  - (1) Front yard: 50 feet
  - (2) Side yard: 25 feet (except where side yard abuts a public right-of-way the side yard shall be 50 feet)  
**(5/94)**
  - (3) Rear yard: 50 feet **(5/94)**

**609.8 OPEN SPACE**

- (a) An open space plan and landscape design program shall be submitted with applications for any land use governed by this District.
- (b) Twenty five percent (25%) of the site shall be landscaped open space. Landscaping may be limited to setback areas and unused portions.

**609.9 PARKING, PARKING ACCESS AND DRIVEWAYS**

- (a) No parking space shall be located closer than fifteen (15) feet from any common property line.
- (b) Where lot is contiguous to property located in any district other than the L-1, I, C-1 or C-2 District, no parking space shall be closer than 40 feet from such property line. **(5/94)**
- (c) All parking requirements shall be met by off-street, on-site spaces and shall include designated spaces for the handicapped and elderly.
- (d) Refer to Section 305 for additional off-street parking requirements.

**609.10 SETBACK, BUFFERING AND LANDSCAPING**

- (a) Where an L-1 lot is contiguous to property located in a district other than an L-1, I, C-1 or C-2 District, all buildings shall have a minimum 60-foot setback from lot lines. In particular instances the Town Council may waive the 60-foot setback requirement, upon recommendation from the Planning Commission. **(5/94)**

## Section 609 Industrial (L-1) District

- (b) Where an L-1 lot is contiguous to property located in a district other than an L-1, I, C-1 or C-2 District, a landscaped buffer strip of 30 feet in width shall be provided, with landscape materials and placement subject to final plan approval. Where contiguous to a C-1 or C-2 District property, the landscaped buffer strip shall be 15 feet. Approved fencing or additional buffering may be used in lieu of landscaping. (5/94)

### **609.11 STORAGE OF GOODS, MATERIALS, FUEL AND REFUSE**

- (a) The outdoor area devoted to storage, loading and display of goods shall be limited to that area so designated on an approved site plan.
- (b) All equipment and materials shall be contained entirely within a building or screened from public rights-of-way and contiguous properties that are in land uses other than industrial in nature.
- (c) Any establishment involved with the storage of fuel for sale, or for other purposes, shall be permitted only if the fuel is stored underground, except where otherwise permitted under provisions granted and stipulations required by the Town Council.
- (d) All refuse shall be contained in completely enclosed facilities and shall be screened.

### **609.12 STREET ENTRANCES**

- (a) On a corner lot, no street entrance shall be located closer than 60-feet to the curb line extended from the intersecting street. This distance may be increased with respect to the types and turning radii of vehicles using the site.
- (b) No street entrance shall be located closer than 30 feet to a side or rear lot line, unless a common street entrance serves adjacent uses, and in no instance shall the distance between separate street entrances serving adjacent uses be less than 60 feet. The maximum width of such street entrances shall not exceed thirty feet (30').
- (c) A freestanding use shall have no more than two street entrances on any single right-of-way, and such street entrances shall have a minimum distance of 90 feet between them.

### **609.13 SITE PLAN REQUIREMENTS AND PERFORMANCE STANDARDS**

- (a) All uses shall be subject to final site plan approval.
- (b) Any L-1 District land use application which is not in strict compliance 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.
- (c) Master site plans and preliminary plats for L-1 Districts shall include provisions for:
  - (1) adequate public facilities;
  - (2) development phasing;
  - (3) stormwater management facilities to address the ultimate development coverage within the district;
  - (4) lighting and signing; and
  - (5) other special features and land use considerations deemed necessary to serve the industrial district.

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- (d) Applications for all uses subject to special use permits shall be accompanied by a report indicating the compliance with and use compatibility issues related to the Town's applicable performance standards.

**609.14 ADDITIONAL REQUIREMENTS**

- (a) Public Streets within the L-1 District shall be constructed to industrial road standards as determined by the Town Council or its agent. Sidewalks may be required on one or both sides of the street.
- (b) Common property ownership agreements and covenants for L-1 District developments shall be reviewed and approved by the Town Council or its agent.
- (c) Refer to Section 306 for off-street loading requirements.
- (d) Refer to Sections 301-304 for general regulations and other provisions which may supplement those cited herein.
- (e) Refer to specific Overlay Zoning districts, where applicable.

**(3/92) SECTION 610 BC BUSINESS COMMERCIAL**

**610.1 PURPOSE AND INTENT**

The Business Commercial (BC) District is established to provide locations for highway commercial uses (such as retail uses dependent on automobile access, restaurants, 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 principles 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 ambience 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.

**610.2 PERMITTED USES**

- (a) Antique sales (indoor only)
- (b) Automobile service and repair establishments (including gas stations), with a convenience store (not occupying more than 3,000 square feet of gross floor area, excluding storage) as an accessory use, provided that all vehicle repair takes place in a fully enclosed building. **(04/16)**
- (c) Automobile sales
- (d) Broadcast stations, 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-through 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 610.2(u).
- (l) Grocery store (with at least 25,000 square feet gross floor area)
- (m) Hotels and motels
- (n) Laundromats
- (o) Medical care facilities, licensed
- (p) Offices, business or professional
- (q) Plant nurseries
- (r) Public utilities and related easements
- (s) Recreation facilities (indoor or outdoor), parks, playgrounds, fairgrounds, etc.

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- (t) Restaurants with or without drive-through
- (u) Retail stores and shops as an accessory use to the primary permitted use on the parcel, provided:
  - (1) the retail store or shop is directly related, ancillary, subordinate, and incidental to the primary permitted use;
  - (2) the gross floor area of the retail store or shop (excluding storage) does not exceed ten (10) percent of the gross floor area of the primary permitted use;
  - (3) the gross floor area of the retail store or shop (excluding storage) does not occupy more than 1,500 square feet; and
  - (4) the gross floor area for storage related to the retail store or shop does not exceed 500 square feet. **(8/01)**
- (v) Schools, public and private
- (w) Veterinary hospitals (small animals), exclusive of outdoor boarding kennels

**610.3 SPECIAL PERMIT USES**

- (a) Conference centers
- (b) Pharmaceutical centers **(5/06)**
- (c) Scientific research and development establishments
- (d) Theatres, indoor
- (e) Short-term rentals (XX/XX)**

**610.4 MAXIMUM DENSITY**

The maximum density shall not exceed a floor area ratio (FAR) of .30, based on the net developable area of the lot.

**610.5 MINIMUM DISTRICT SIZE**

Minimum District size is four (4) acres.

**610.6 LOT REQUIREMENTS**

- (a) Minimum lot area: 20,000 square feet
- (b) Minimum lot width: 100 feet

**610.7 BUILDING HEIGHT AND SETBACK REGULATIONS**

- (a) Maximum building height: 40 feet
- (b) Minimum yard requirements:
  - (1) Front yard: 40 feet
  - (2) Side yard: 25 feet (40 feet on street side corner lot)
  - (3) Rear yard: 25 feet
  - (4) 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.

**610.8 OPEN SPACE**

- (a) A landscape and buffer plan shall be submitted with any application for site plan approval.
- (b) Twenty (20) percent of the gross site area shall be landscaped open space.

**610.9** ADDITIONAL REGULATIONS

(a) Parking, Streets and Access

- (1) All parking requirements shall be met by off-street, on-site spaces and shall include designated spaces for the handicapped.
- (2) 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.
- (3) Off-street parking spaces shall be accessed via private driveways and shall not be directly accessed from public rights-of-way.

(b) Buffering and Landscaping

- (1) 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 fifteen (15) feet in width shall be provided.
- (2) 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.

(c) Storage of Materials and Refuse

- (1) All refuse containers shall be screened by a solid wall or fence.
- (2) 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.
- (3) All storage shall be conducted within the principal structure, which is to be completely enclosed.
- (4) There shall be not outdoor storage and/or display of goods with the exception of plant materials associated with nurseries.

(d) Uses, Facilities and Improvements

- (1) All business services (and storage) shall be conducted within the principal structure, which is to be completely enclosed.
- (2) 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.
- (3) Private streets, street lighting, sidewalks, curbing and gutters, and parking bays shall be constructed to standards specified by the administrative authority or its agents.

(e) Site Plan

- (1) A site plan, which shall govern all development, shall be submitted for approval.
- (2) Site plans shall include provisions for the following:
  - (A) adequate public facilities;
  - (B) development phasing;
  - (C) stormwater management facilities to address the ultimate development coverage within the district;
  - (D) lighting and signing;
  - (E) building placement and lot configuration; and

**Section 610 Business Commercial (BC) District**

- (F) Other special site features and land use considerations deemed necessary to serve the district.
  - (G) Any site plan application which is not in strict conformance with the pre-existing approved site plan for the District shall require an amendment to that site plan and preliminary plat prior to site plan approval of the specific use.
- (3) All uses shall be subject to final site plan approval.

ARTICLE III. - OTHER LICENSES, LICENSE REQUIREMENTS.

Sec. 9-31. - Alcoholic beverages.

- (a) Every person who shall engage in the business of manufacturing, bottling, wholesaling or retailing alcoholic beverages within the town shall obtain a license and shall pay an annual license tax, in addition to the business, professional and occupational license tax assessed upon the gross receipts of such person, an annual alcoholic beverage license tax as follows:
- (1) For each distiller's license, five hundred dollars (\$500.00); provided that no license shall be required of any distiller manufacturing not more than five thousand (5,000) gallons of alcohol or spirits, or both, during the license year;
  - (2) For each winery license, five hundred dollars (\$500.00);
  - (3) For each brewery license, five hundred dollars (\$500.00);
  - (4) For each bottler's license, two hundred dollars (\$200.00);
  - (5) For each wholesale beer license, twenty-five dollars (\$25.00);
  - (6) For each wholesale wine distributor's license, twenty-five dollars (\$25.00);
  - (7) For each retail on-premises wine and beer license for a hotel, motel, restaurant or club, twenty dollars (\$20.00);
  - (8) For each retail off-premises wine and beer license, twenty dollars (\$20.00);
  - (9) For each retail on-premises beer license for a hotel, motel, restaurant or club, twenty dollars (\$20.00);
  - (10) For each banquet license, five dollars (\$5.00);
  - (11) For each mixed beverage caterer's license, twenty dollars (\$20.00).
  - (12) Any person in the town who holds a mixed beverage restaurant license from the state shall obtain from the town a mixed beverage license and pay an annual license tax as follows:
    - a. Persons operating restaurants, including restaurants located on the premises of and operated by hotels or motels:
      1. Two hundred dollars (\$200.00) for each restaurant with a seating capacity at tables for up to one hundred (100) persons.
      2. Three hundred fifty dollars (\$350.00) for each restaurant with a seating capacity at tables for more than one hundred (100) but not more than one hundred fifty (150) persons.
      3. Five hundred dollars (\$500.00) for each restaurant with a seating capacity at tables for more than one hundred fifty (150) persons.
    - b. A private, nonprofit club operating a restaurant located on the premises of such club, three hundred fifty dollars (\$350.00).
- (b) The licenses referred to in this section shall be as respectively defined by Title 4.1, Chapter 1 of the Code of Virginia, and the terms used in this section shall have the meaning respectively prescribed to them by such Chapter 1 of Title 4.1.

- (c) No local alcoholic beverage license issued pursuant to this section shall exempt any licensee from the local license tax prescribed by section 9-26 of this chapter. The base for measuring the local license taxes prescribed in section 9-26 shall include sales from alcoholic beverages in addition to the local alcoholic beverage license tax prescribed by this section.
- (d) The provisions of this section shall not apply to any wholesaler for the privilege of delivering alcoholic beverages in the town when such wholesaler maintains no place of business within the town.
- (e) No license shall be issued under this section to any person unless such person shall hold or secure simultaneously therewith the proper state license, which state license shall be exhibited to the town treasurer. Any violation of the terms of this provision shall be sufficient grounds for the revocation of the license issued pursuant to this section.

(Ord. of 12-10-96)

**State Law reference**— Code of Virginia, §§ 4.1-205 and 4.1-233.

Sec. 9-32. - Amusement machines, coin operated machines.

- (a) For the purpose of this section, the term "amusement operator" means any person leasing, renting or otherwise furnishing or providing a coin-operated amusement machine, which machine or coin-operated device is located within the Town of Berryville; provided, however, that the term "amusement operator" shall not include a person owning less than three (3) such machines on property owned or leased by such person.
- (b) Every amusement operator shall pay an annual license tax of two hundred dollars (\$200.00) for the operation of ten (10) or more coin-operated amusement machines and one hundred ninety-five dollars (\$195.00) for the operation of less than ten (10) such machines located within the Town of Berryville, notwithstanding the situs requirements of Section 58.1-3703.1 of the Code of Virginia.
- (c) Every amusement operator subject to the provisions of this section shall furnish to the town treasurer a complete list of all coin-operated amusement machines such operator has located within the town, indicating the location and address of each location of each such machine, on or before January thirty-first of each year. Each such machine shall have conspicuously located thereon a decal, sticker, or other adhesive label, no less than one (1) by two (2) inches in size, clearly denoting the operator's name and address.
- (d) Upon payment of the license tax prescribed herein, the town treasurer shall issue a license which, when signed by the treasurer, shall evidence the payment of the license tax.
- (e) The license tax prescribed by this section shall not be applicable to operators of weighing machines, automatic baggage or parcel checking machines or receptacles, nor to operators of vending machines which are so constructed as to do nothing but vend goods, wares and merchandise or postage stamps or provide service only, nor to operators of viewing machines or photomat machines, nor operators of devices or machines affording rides to children, or for the delivery of newspapers.

(Ord. of 12-10-96)

**State Law reference**— Code of Virginia, §§ 58.1-3720, 58.1-3721 and 58.1-3722.

Sec. 9-33. - Taxicabs, motor vehicle carriers.

Every person who operates or intends to operate within the town any taxicab or other motor vehicle for the transportation of passengers for consideration shall pay an annual license tax of thirty dollars (\$30.00) for each vehicle.

(Ord. of 12-10-96)

**State Law reference**— Code of Virginia, § 46.2-2017.

Sec. 9-34. - Exemptions from local license taxes and fees.

No local license fee or license tax shall be imposed or levied upon the following:

- (1) For selling farm or domestic products or nursery products, ornamental or otherwise, or for the planting of nursery products, as an incident to the sale thereof, provided such products are grown or produced by the person offering such products for sale;
- (2) Upon the privilege or right of printing or publishing any newspaper, magazine, newsletter or other publication issued daily or regularly at average intervals not exceeding three months, provided the publication's subscription sales are exempt from the state sales tax, or for the privilege or right of operating or conducting any radio or television broadcasting station or service;
- (3) On a manufacturer for the privilege of manufacturing and selling goods, wares and merchandise at wholesale at the place of manufacture;
- (4) Upon a wholesaler for the privilege of selling goods, wares and merchandise to other persons for resale unless such wholesaler has a definite place of business or store within the town; provided, however, this subdivision shall not be construed as prohibiting the town from imposing the local license tax on a peddler at wholesale pursuant to section 58.1-3718 of the Code of Virginia;
- (5) Upon any person, firm or corporation for engaging in the business of renting, as the owner of such property, real property other than hotels, motels, motor lodges, auto courts, tourist courts, travel trailer parks, lodging houses, rooming houses and boarding houses;
- (6) Upon a wholesaler or retailer for the privilege of selling bicentennial medals or products on a nonprofit basis for the benefit of a local bicentennial commission or committee, provided such commission or committee has been officially sanctioned by the town;
- (7) On or measured by receipts of a charitable nonprofit organization except to the extent the organization has receipts from an unrelated trade or business the income of which is taxable under Internal Revenue Service Code Section 511, et seq. For the purpose of this subdivision, "charitable nonprofit organization" means an organization which is described in Internal Revenue Service Code Section 501(c)(3) and to which contributions are deductible by the contributor under Internal Revenue Code Section 170, except that educational institutions shall be limited to schools, colleges and other similar institutions of learning;
- (8) On or measured by gifts, contributions, and membership dues of a nonprofit organization. For the purpose of this subdivision, a "nonprofit organization" means an organization exempt from federal income tax under Internal Revenue Service Code Section 501(c)(3) other than charitable nonprofit organizations;

- (9) On any person or activity as may be specifically provided pursuant to Section 58.1-3703 of the Code of Virginia.

(Ord. of 12-10-96)

**State Law reference—** Code of Virginia, § 58.1-3703.

Sec. 9-35. - Carnivals, circuses, speedways; penalties; certain restrictions.

- (a) A license tax of five hundred dollars (\$500.00) is hereby imposed for each performance held in the town given by or upon carnivals, circuses or speedways which are operating within the limits of the town. Until such tax has been paid, the town shall have a lien upon the property of such carnival, circus or speedway to the extent of the unpaid tax. For the purpose of this section, a performance shall be the entire time or number of days the business is operated in the town during a calendar year.

Every person which exhibits or gives a performance or exhibition of any of the shows, carnivals, or circuses, above described in this section, without the license required shall be fined not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00) for each offense.

In addition to any other license tax imposed by this section, a license tax of one thousand (\$1,000.00) for each performance of a traveling circus, carnival or show giving performances in the town in the open air or in a tent or tents, within fifteen (15) days previous to, or during the week of, or within one (1) week after the time of holding any agricultural fair in the town is hereby imposed. The license taxes provided for in this section shall be assessed and paid before any performance is permitted to be held.

It shall be unlawful for any circus, carnival or show to publish or post in any way, in the town at any time within fifteen (15) days prior to the holding of such fair, in the town, advertising of the exhibition of any such circus, carnival or show.

A fine not to exceed two thousand dollars (\$2,000.00) for each offense of any person violating any provision of this section shall be imposed. The provisions of this section shall not apply to circuses, carnivals or shows inside the grounds of any agricultural fair held in the town.

For the purpose of this section a "carnival" shall mean an aggregation of shows, amusements, concessions, eating places and riding devices or any of them, operated together on one (1) lot or street or on contiguous lots or streets, moving from place to place, whether or not the same are owned and actually operated by separate persons.

- (b) A resident mechanic or artist may exhibit any production of his own art or invention without compensation and no registration, bond or license may be required of any industrial arts exhibit or of any agricultural fair or the shows exhibited within the grounds of such fair or fairs, during the period of such fair, whether an admission is charged or not. In addition, no registration, bond or license may be required of resident persons performing in a show or exhibition for charity or other benevolent purposes, or of exhibitions of volunteer fire companies, whether an admission is charged or not. Whenever such show, exhibition or performance is given, whether licensed or exempted by the terms of this subsection, those persons performing or acting in a show, exhibition or performance and operating under either license or exemption, shall be exempt from such tax.

The provisions of the preceding paragraph shall not be construed to allow, without payment of the tax imposed by this section, a performance for charitable or benevolent purposes by a company, association or persons, or a corporation, in the business of giving such exhibitions, no matter what terms of contract may be entered into or under what auspices such exhibition is given by such company, association or persons, or corporation. It is the intent and meaning of this section that every company, association, person, or corporation in the business of giving exhibitions for compensation, whether a part of the proceeds are for charitable or benevolent purposes or not, shall pay the tax imposed by the authority of this section. Such tax shall not be imposed on a bona fide local association or corporation organized for the principal purpose of holding legitimate agricultural exhibitions or industrial arts exhibits when they rent or lease fair or exhibition grounds or buildings for the purpose of giving such exhibitions or performances and exhibit therein agricultural or industrial arts products as a part of such exhibition.

( [Ord. of 10-8-19\(3\)](#) )

**Editor's note**— An [Ord. of 10-8-19\(3\)](#), set out provisions intended for use as 9-34. For purposes of maintaining the numbering style of the Code, and at the editor's discretion, these provisions have been included as 9-35.

**State Law reference**— Code of Virginia, § 58.1-3728.

### Sec. 9-35. Short-term Rental Registry

- (a) Registration of short-term rentals is required prior to operation, must be renewed annually, and be updated to reflect current contact information as needed. Each registration shall include:
- a. name, telephone number, mailing address, and email address of property owner;
  - b. name, telephone number, mailing address, and email address of operator, if different;
  - c. address of property;
  - d. emergency contact telephone number and email address;
  - e. number of bedrooms, bathrooms, and parking spaces that will support the short-term rental unit;
  - f. listing platforms that will be used for advertisement of unit;
  - g. copy of certificate of occupancy issued by Clarke County Building Department; and
  - h. filing fee as set by Town Council.
- (b) Registration of short-term rentals may be waived under Code of Virginia Title 15.2, Ch. 9, § 15.2-983 if such person is (i) licensed by the Real Estate Board or is a property owner who is represented by a real estate licensee; (ii) registered pursuant to the Virginia Real Estate Time-Share Act (§ 55.1-2200 et seq.); (iii) licensed or registered with the Department of Health, related to the provision of room or space for lodging; or (iv) licensed or registered with the locality, related to the rental or management of real property, including licensed real estate professionals, hotels, motels, campgrounds, and bed and breakfast establishments.

**State Law Reference** – Code of Virginia, § 15.2-983.

ARTICLE VIII. - TRANSIENT OCCUPANCY TAX

Sec. 16-101. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

~~Hotel shall mean any public or private hotel, inn, apartment hotel, bed and breakfast, hostelry, tourist home or house, motel, rooming house or other lodging place within the town offering lodging for two (2) or more persons at any one (1) time, and the owner and operator thereof, who, for compensation, furnishes lodging to any transients.~~

~~Room or space rental shall mean the total charge made by any hotel, inn, bed and breakfast, hostelry, tourist home or house, motel, rooming house, campground, short-term rental, or any other lodging furnished to any transient or travel campground for lodging or space furnished any transient. If the charges made by such room or space rental hotel or travel campground to transients includes any charge for services or accommodations, in addition to that of lodging, and the use of space, then such portion of the total charge as represents only room and space rental shall be distinctly set out and billed to such transient by such hotel or travel campground as a separate item.~~

~~Town shall mean Town of Berryville, Virginia.~~

~~Transient shall mean any natural person who, for any period of not more than thirty (30) consecutive days, either at his own expense or at the expense of another, obtains lodging or the use of any space in any room or space rental hotel or travel campground for which lodging or use of space a charge is made.~~

~~Travel campground means any area or tract of land used to accommodate two (2) or more camping parties, including tents, travel trailers or other camping outfits.~~

(Ord. of 4-21-15)

Sec. 16-102. - Penalty for violation.

Any person violating or failing to comply with any of the provisions of this article shall be guilty of a class 3 misdemeanor. Each such violation or failure and each day's continuance thereof shall constitute a separate offense. Such conviction shall not relieve any such person from the payment, collection or remittance of the tax as provided in this article.

(Ord. of 4-21-15)

Sec. 16-103. - Amount and levy.

There is hereby imposed and levied by the town, in addition to all other taxes, fees, and charges of every kind, now or hereafter imposed by law, a tax in the amount of two (2) percent of the total amount paid for room or space rental ~~to any hotel travel campground.~~

(Ord. of 4-21-15)

Sec. 16-104. - Collection.

Every person receiving any payment of room or space rental with respect to which a tax is levied under this article, shall collect the amount of tax hereby imposed from the transient on whom the same is levied or from the person paying for such room or space rental, at the time payment for such rooms or space is made, and the tax shall be paid to the town.

(Ord. of 4-21-15)

Sec. 16-105. - Delegation of administration.

The town treasurer is hereby delegated the authority to administer all provisions of this article.

(Ord. of 4-21-15)

Sec. 16-106. - Reports and remittances.

The person collecting any tax levied under this article shall make out a report upon forms, setting forth information as the town treasurer may prescribe and require, showing the amount of room or space rental charges collected and the tax required to be collected, and shall sign and deliver the same, along with a remittance of such tax, to the town treasurer. Such reports and remittances shall be made to the town treasurer on or before the twentieth day of the calendar month following the month being reported.

(Ord. of 4-21-15)

Sec. 16-107. - Reserved.

Sec. 16-108. - Advertising payment or absorption of tax.

No person shall advertise or hold out to the public in any manner, directly or indirectly, that all or any part of a tax imposed under this article will be paid or absorbed by ~~him~~ **them** or by anyone else, or that ~~he~~ **they** or anyone else will relieve any purchaser of the payment of all or any part of such tax.

(Ord. of 4-21-15)

Sec. 16-109. - Penalty and interest for failure to remit taxes when due.

If any person whose duty it is to do so shall fail or refuse to remit to the town treasurer the tax required to be collected under this article, within the time and in the amount specified in this article, there shall be added to such tax by the town treasurer a penalty as set from time to time by the town council. In addition, there shall be added to such unpaid tax interest at a rate as set from time to time by the town council on the amount of tax delinquent, such interest to commence on the first day of the month following the month in which such taxes are due. For the second and subsequent years of delinquency, interest shall be imposed at the rate established pursuant to section 6621 of the Internal Revenue Code of 1954, as amended, or at a rate as set from time to time by the town council, whichever is greater.

(Ord. of 4-21-15)

Sec. 16-110. - Procedure upon failure or refusal to collect taxes or make remittances and reports.

If any person whose duty it is to do so shall fail or refuse to collect the tax imposed under this article or to make within the time provided in this article the reports and remittances required by this article, the town treasurer shall proceed ~~in such a manner as he may deem best~~ to obtain the facts and information ~~as he is able to obtain~~ upon which to base the assessment of any tax payable by any person who has failed or refused to collect such tax or to make such report and remittance. The town treasurer shall proceed to determine and assess against such person such tax and penalty by registered mail at his last known place of address of the amount of such tax and interest and penalty and the total amount thereof shall be payable within ten (10) days from the date of such notice.

(Ord. of 4-21-15)

Sec. 16-111. - Preservation of records.

It shall be the duty of every person required by this article to pay to the town the taxes imposed by the article to keep and to preserve for a period of two (2) years records showing all purchases taxable under this article, the amount charged the purchaser for each purchase, the date thereof, the taxes collected thereon and the amount of tax required to be collected by this article. The town treasurer or duly authorized agents shall have the power to examine such records at reasonable times and without unreasonable interference with the business of such person, for the purpose of administering and enforcing the provisions of this article and to make transcripts of all or any parts thereof.

(Ord. of 4-21-15)

Sec. 16-112. - Cessation of business; report and tax due immediately.

Whenever any person required to collect and pay to the town a tax under this article shall cease to operate and shall otherwise dispose of his business, any tax payable under the provisions of this article shall become immediately due and payable. Such person shall immediately make a report and pay the tax due.

(Ord. of 4-21-15)

## Planning Commission Agenda Item Report Summary

June 27, 2023

### Item Title

Set Public Hearing – Special Use Permit

### Prepared By

Christy Dunkle

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**Zion Baptist Church (Alethia Burks, Agent) is requesting a Special Use Permit in order to operate a day care center under Section 604.3(e) of the Berryville Zoning Ordinance at the property located at 13 Josephine Street, identified as Tax Map Parcel number 14A5-B-((8))-15, zoned DR-4 Detached Residential. SUP 02-23**

### Background/History/General Information

Zion Baptist Church is located at 10 Josephine Street. The church owns the building located across the street at 13 Josephine Street which is used for a number of activities including vacation bible school and overflow from events at the church.

Church leaders would like to open a day care center which would also offer a before- and after-school program.

### Findings/Current Activity

Church leaders are proposing hours of operation from 6:00 a.m. until 6:00 p.m. With a maximum number of 18 children in the daycare program, they will offer the service for ages six months to five years old and after school programs for a maximum of 15 students ages five through 12 years old. The Certificate of Occupancy set by the Clarke County Building Department for this structure is 250. Representatives of the church have met with the County Building Official to determine any necessary upgrades required for this use.

There will be approximately 10 jobs created including a director, three to four certified teachers, full time maintenance staff, and certified kitchen personnel.

They will be adding a multi-purpose court and playground area at the rear of the property. These areas will be fenced.

Section 305 of the Zoning Ordinance regulates parking requirements. Section 305.11 requires one space for each eight students for this use. The applicant has indicated that no more than 24 students will be on-site at one time which would require three spaces. The site plan identifies six (6) spaces, all located on an existing concrete pad. A proposed drop-off will be constructed in front of the building.

**Schedule/Deadlines**

Staff is requesting that a public hearing be set for the July 25, 2023 Planning Commission meeting. Should Commissioners move forward with the public hearing, staff will request that Town Council hold a public hearing on the matter at their September 12, 2023 meeting. Council does not meet in August.

**Other Considerations**

N/A

**Recommendation**

Set a public hearing for the July 25, 2023 meeting.

**Sample Motion**

I move that the Planning Commission of the Town of Berryville set a public hearing for the July 25 meeting to consider a Special Use Permit in order to operate a day care center at the Zion Baptist Church property located at 13 Josephine Street.

**Attachments:**

- Special Use Permit application
- Vicinity map
- Aerial map of the site
- Section 604 DR-4 Detached Residential zoning district
- Section 503 Special Use Permit Berryville Zoning Ordinance

**Town of Berryville**  
101 Chalmers Court – Suite A  
Berryville, Virginia 22611  
Phone: (540) 955-4081 Fax: (540) 955-4524 E-mail: [planner@berryvilleva.gov](mailto:planner@berryvilleva.gov)

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## SPECIAL USE PERMIT APPLICATION

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Please Note: This is an application only. The permit will be issued only if approved by the Berryville Town Council after review and recommendation from the Planning Commission.

To be completed by Applicant: \_\_\_\_\_ Date: 6/13, 20 23  
Applicant's Name: Steve Washington and Otis Harper  
Applicant's Address: 102 P.O Box Berryville VA  
Use Applied For: Daycare Center  
At the following address: 13 Josephine St Berryville VA 22611  
Special Conditions: \_\_\_\_\_

Property Owner's Name: Zion Baptist Church  
Property Owner's Address: P.O Box 102 Berryville VA 22611

Owner or Agent: The information provided is accurate to the best of my knowledge. I understand that the Town may deny, approve, or conditionally approve the request for which I am applying. I certify that all property corners have been clearly staked and flagged.

Signature: Steve T. Washington Otis Harper Date: 6/13/23

Owner: I have read this completed application, understand its intent, and freely consent to its filing. Furthermore, I grant permission to the Town Planning Department and other government agents to enter the property and make such investigations and tests, as they deem necessary. I acknowledge that in accordance with Article X of the Subdivision Ordinance I am responsible for costs incurred for review of subdivision and/or development plans by the Town's engineer and that any other required tests or studies will be carried out at owner/agent expense.

Signature: Steve T. Washington Otis Harper Date: 6/13/23

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### TO BE COMPLETED BY ZONING ADMINISTRATOR

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Special Use: Day care center (604.3(e)) Zone: DR-4  
Street Address: 13 Josephine St Tax Map #: 14A5 (8) 15  
Special Use Permit Fee: \$2000 Paid: 6.13.23  
Site Plan Fee: \$125 Paid: 6.13.23  
Signature of Zoning Administrator: [Signature] Date: 6.14.23



## Zion Baptist Church

*Deacons Ministry*  
Ottis O Harper, Sr. Chairman  
(540)665-1998

P.O. Box 102  
10 Josephine Street  
Berryville, VA 22611  
(540) 955-1353  
Rev. Karlyle Hill, Pastor

*Trustees Ministry*  
Steve Washington,  
Chairman  
(540)327-1368

*Church Clerk*  
Sharlene Harris  
(540)662-7781

*Finance*  
Dottie Firestone  
(540)514-7557

June 13, 2023

Town of Berryville,

Zion Baptist Church on 10 Josephine Street, owns a historical building on 13 Josephine Street that we used over the years for children's church, vacation bible school, lock in for teens and a host of other activities for children in our community.

As of 2021 Zion Baptist Church is under new leadership. Rev Karlyle Hill's vision for the church is to serve the community in different capacities. We started by adopting D.G. Cooley Elementary School, providing school supplies and coats for cold winters. Today in 2023 we are ready to embark on serving the community in a larger capacity by opening a daycare and before/after school program.

***Name of Daycare/Before/Afterschool:*** Zion Christian Academy (Early Learning Development Center)

***Hours of Operation:*** 6:00am to 6:00pm

***Daycare Ages:*** 6 months to 5 years old (number of children 18)

***Before and After school Ages:*** 5 years old to 12 years old (number of students 10-15)

***Employees:*** Director, 3 to 4 certified teachers, 1 to 2 teacher assistants, 1 teacher and 1 assistant for before and after school, 1 full-time maintenance, 1 certified Kitchen personnel, and volunteers.

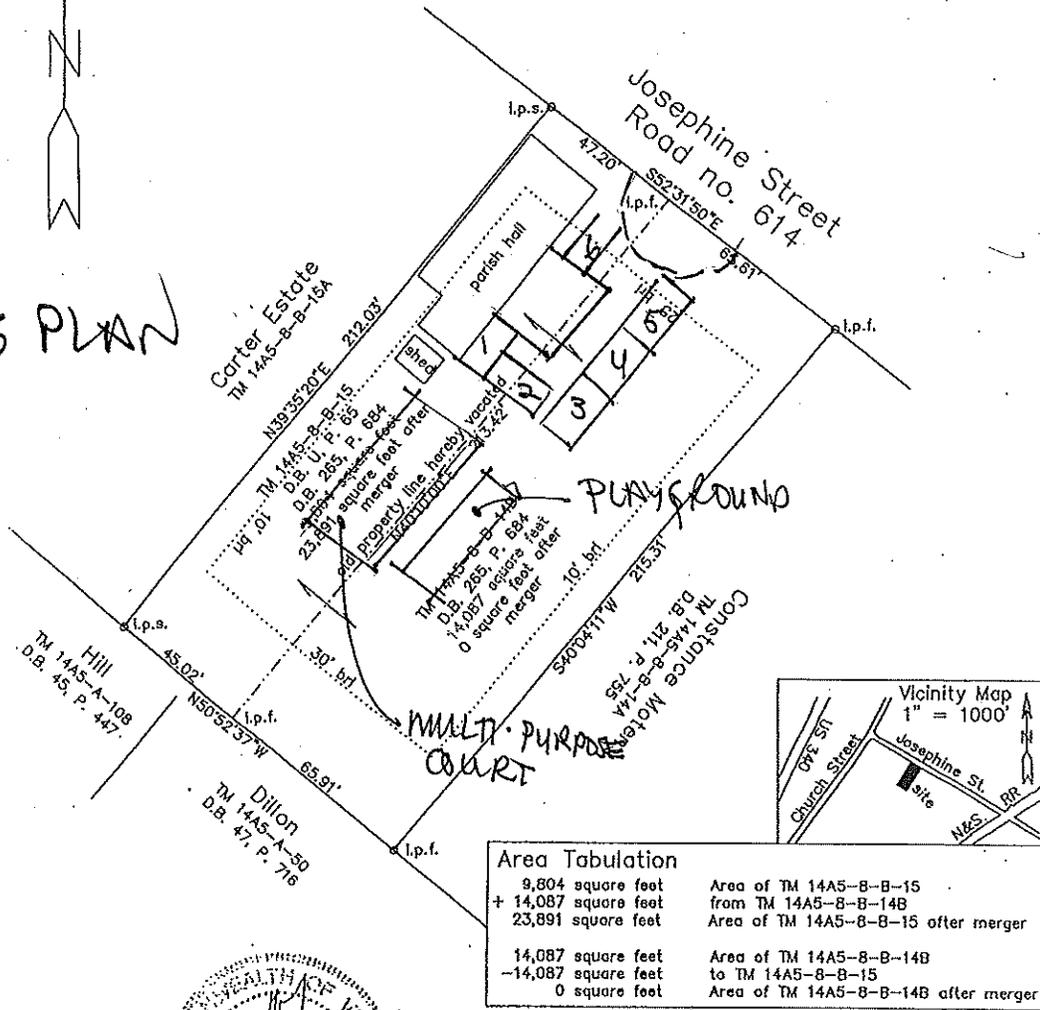
**Parking:** Zion Christian Academy will offer drop off and pick up, 4 parking spaces and transportation will be available. A picture of parking is attached to the letter.

Rev. Karlyle Hill, Pastor

Sharlene Harris, Church Clerk



SITE PLAN



Lot Merger of the Lands of  
the Trustees of the Zion Baptist Church  
Tax Map Reference 14A5-8-B-14B Deed Book 265, Page 684  
and Tax Map Reference 14A5-8-B-15 Deed Book U, Page 65 Deed Book 265, Page 684  
Town of Berryville Clarke County Virginia

SURVEY NO. 717  
SHEET NO. 1 OF 3

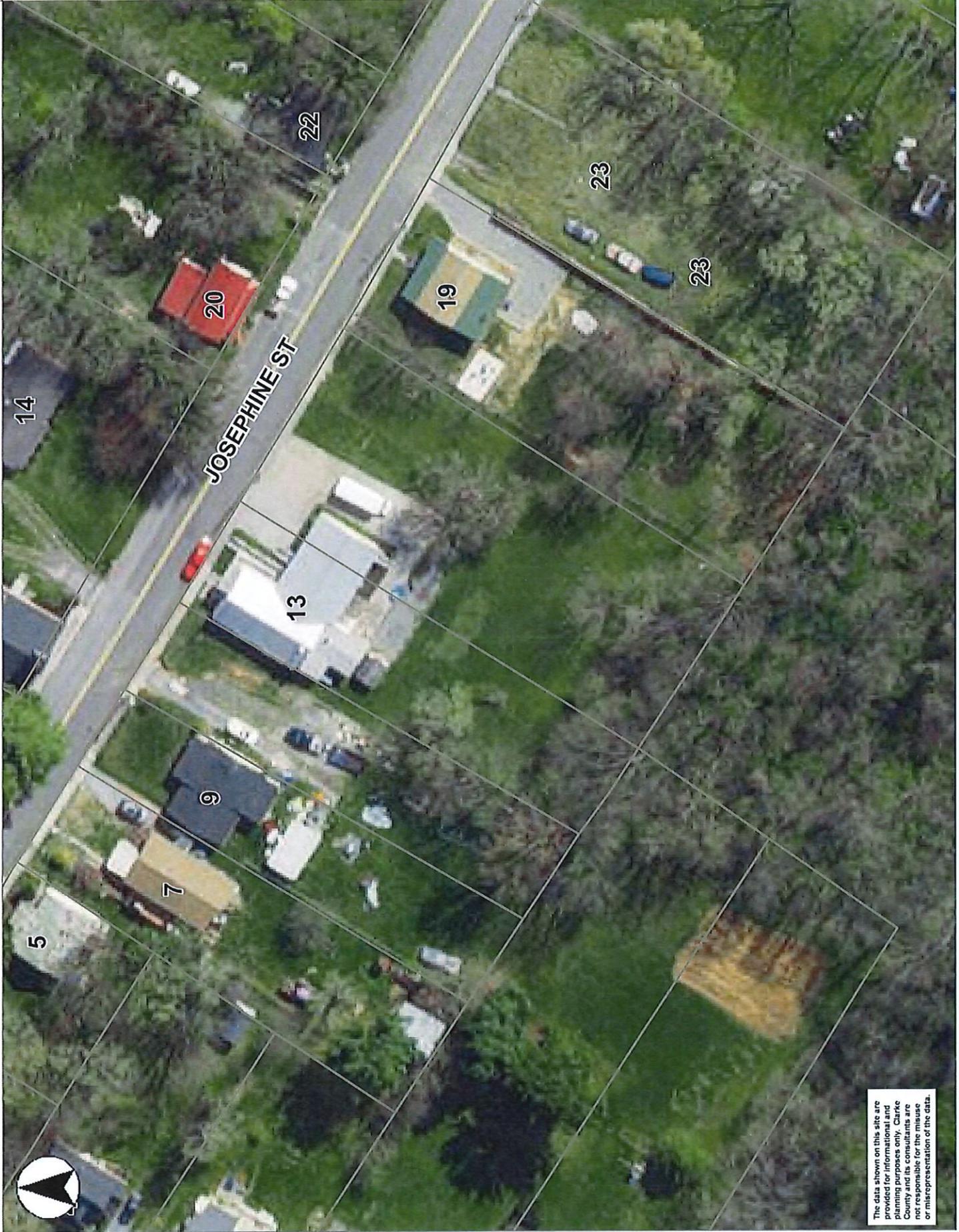
Clarke Co., SGT.  
This instrument of writing was produced to me on  
the 23<sup>rd</sup> day of May, 2001,  
at 9:40 A.M. and with certificate of  
acknowledgement thereto attached was  
admitted to record.  
Tester: Helen Kuttia

DUNN LAND SURVEYS, INC.  
30 East Main Street  
Berryville, Virginia 22611  
Tel.: 540-955-3388  
April 24, 2001





- Public
- Parcels
- Parcels With Orthos
- Clarke County Boundary
- Major Roads
- US Highway
- State Highway
- Surrounding Counties Open
- Surrounding Counties Non



The data shown on this site are provided for informational and planning purposes only. Clarke County and its consultants are not responsible for the misuse or misrepresentation of the data.

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Printed on 06/22/2023 at 01:00 PM

(4/92) **SECTION 604 - DETACHED RESIDENTIAL-4 (DR-4) DISTRICT**

**604.1 PURPOSE AND INTENT**

The Detached Residential-4 District is created to provide for single-family detached residences at higher densities than other single-family detached districts. A maximum of four (4.0) units per net developable acre establishes a medium- to 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 Plan, as well as to “infill” 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.

**604.2 PERMITTED USES**

- (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 carports and garages, tool sheds, children’s playhouses, doghouses, private swimming pools and Temporary Family Health Care Structures as established in Section 323. **(11/10)**
- (c) Municipal utilities.

**604.3 SPECIAL PERMIT USES**

- (a) Bed and breakfast lodging occupying more than 300 square feet of residence.
- (b) Cemeteries.
- (c) Churches and shrines.
- (d) Community buildings, public and private.
- (e) Day care centers and nursery schools. **(10/94)**
- (f) Fire stations.
- (g) Home occupations as defined in Section 315. **(12/93)**
- (h) Libraries, museums, and historic markers.
- (i) Plant nurseries with no sale of nursery products permitted on premises.
- (j) Public utility uses (sub-stations, pump stations, storage tanks, etc.) and related easements, except for municipal utilities.
- (k) Recreational uses such as public swimming pools, tennis courts, and golf courses.
- (l) Public schools, parks, playgrounds and related uses. **(3/09)**

**604.4 MAXIMUM DENSITY**

- (a) Four (4.0) dwelling units per net developable acre.
- (b) A maximum floor area ratio of 0:15 shall apply to uses other than residential.

**604.5 LOT SIZE, YARD, AND BULK REQUIREMENTS FOR CONVENTIONAL LOTS**

- (1/93) (a) Lot area: Minimum--10,000 square feet; maximum - 30,000 square feet **(7/04)**.  
(Refer to Section 614 regarding the impact of critical environmental areas on lot Size requirements.

**Section 604 Detached Residential-4 (DR-4)**

- (b) Minimum lot width
  - (1) Interior lot: 75 feet
  - (2) Corner lot: 90 feet
- (c) Minimum yard requirements
  - (1) Front yard: 20 feet for primary structures;  
25 feet for garages, carports or other  
structures used to house vehicles (7/04)
  - (2) Side yard: 10 feet
  - (5/94) (3) Rear yard: 30 feet (residences)
  - (4) Accessory structure: 5 feet (rear and side setbacks)
- (d) Maximum building height: 35 feet

**604.6 MINIMUM DISTRICT SIZE FOR CLUSTER SUBDIVISIONS**

Minimum district size for cluster subdivision: two (2) acres.

**604.7 LOT SIZE, YARD, AND BULK REQUIREMENTS FOR CLUSTERED LOTS**

- (a) Minimum lot area: 7,500 square feet.  
Maximum lot area: 20,000 square feet (7/04)  
(Refer to Section 614 regarding the impact of critical environmental areas on lot size requirements.)
- (b) Minimum lot width
  - (1) Interior lot: 60 feet
  - (2) Corner lot: 75 feet
- (c) Minimum yard requirements
  - (1) Front yard: 15 feet for primary structures;  
25 feet for garages, carports, or other  
structures used to house vehicles (7/04)
  - (2) Side yard: 10 feet
  - (5/94) (3) Rear yard: 25 feet (residences)
  - (4) Accessory structure: 5 feet (rear and side setback)
- (d) Maximum building height: 35 feet

**604.8 OPEN SPACE REQUIREMENTS FOR DETACHED RESIDENTIAL SUBDIVISIONS**

- (a) In subdivisions approved for cluster development, twenty (20) percent of the net site area which excludes 100-year floodplain, sinkholes, and slopes exceeding twenty-five (25) percent and fifty (50) percent of land with slopes between fifteen (15) and twenty-five (25) percent shall be open space, dedicated to common usage and ownership.
- (b) In cluster subdivisions, at least one-fourth (1/4) of the required open space (five {5} percent of the net site area) shall be developed and designed for recreational and active community open space.

**604.9** ADDITIONAL REGULATIONS

- (a) Refer to Article III for general regulations and other provisions which may supplement those cited herein.
- (b) Refer to Section 305 for off-street parking requirements.
- (c) Refer to specific Overlay Zoning Districts, where applicable.
- (d) Refer to Section 615 for special regulations relating to cluster subdivisions, critical environmental areas, and open space.
- (e) Refer to Section 317 Karst Features for additional requirements. **(7/04)**
- (f) The lot size, yard, and bulk requirements in effect at the time of subdivision plat approval prior to January 1, 2011 shall remain applicable to such subdivisions until July 1, 2017. The foregoing shall not be effective unless any unreleased performance bonds and agreements or other financial guarantees of completion of public improvements in or associated with the subdivision are continued in force. **(12/14)**

## Section 502 – Certificate of Occupancy

- 502.2** Prior to the issuance of a Certificate of Occupancy for a new structure, the Zoning Administrator will verify that all property corners have been set with permanent markers by a land surveyor licensed under the laws of the Commonwealth of Virginia. **(11/00)**
- 502.3** In addition to any other requirements for the issuance of a Certificate of Occupancy, a Certificate of Occupancy for a structure will not be issued unless (1) the structure is served by public water and sewer, (2) required curb and gutter and sidewalks are in place on the lot on which the structure is located and in place between said lot and an existing publicly maintained street, (3) a functional fire hydrant is located within three hundred (300) feet of the lot on which the structure is located, and (4) the lot on which the structure is located fronts on an existing publicly maintained street or street meeting Town requirements for a publicly maintained street. **(8/01)**
- 502.4** In addition to any other requirements for the issuance of a Certificate of Occupancy, after issuance of certificates of occupancy for structures on eighty percent (80%) of the lots in a section of a subdivision, a Certificate of Occupancy for a structure in the section will not be issued unless all public improvements in the section have been completed to Town requirements and all streets have been accepted for maintenance by the Virginia Department of Transportation (VDOT), or a complete application for acceptance thereof has been filed with VDOT. **(8/01)**
- 502.5** Upon written application, delayed installation of public improvements described in 502.3 and 502.4 may be considered by the Zoning Administrator. Approval of the application shall only be granted by the Zoning Administrator after consultation with the respective departments or agencies charged with the inspection, acceptance, and maintenance of the improvements, and only upon a further finding that the delayed installation will not be detrimental to the safety and welfare of the residents in the subdivision and the public. A written request for such delayed installation shall set forth the specific improvements sought to be delayed, the justification for the delay, and a committed date for completion of the improvements. A fifty-dollar (\$50.00) fee shall be paid with the request. If the Zoning Administrator approves the application for delayed installation of public improvements, the approval shall be subject to the applicant executing an agreement to hold harmless the town for any loss or liability occasioned by the lack of the improvements delayed. **(8/01)**

### **SECTION 503 - SPECIAL USE PERMIT**

#### **503.1 PROVISIONS FOR SPECIAL USE PERMITS**

- (a) In consideration of an application filed with the Zoning Administrator, the Council may, after a public hearing, authorize the establishment of those uses that are expressly listed as Special Permit uses in a particular zoning district.
- (b) In addition to all applicable conditions and requirements of this Ordinance, the Council may impose any conditions deemed appropriate in the public interest to secure compliance with the provisions of this Ordinance.
- (c) Once a Special Use Permit is granted, the use shall not be enlarged, extended, increased in intensity or relocated unless authorized by the Council.

- (d) Whenever a Special Use Permit is granted by the Council, the authorized activities shall be established within two (2) years of the date of approval with an extension of one (1) additional year with Council approval, or such Special Use Permit shall expire without notice. **(4/08)**
- (e) Should the owner or operator of the use covered by the Special Permit fail to observe all requirements of law with respect to the maintenance and conduct of the use and all permit conditions, the Council may, after due notice to permit holder and a public hearing, revoke the Special Use Permit.

**503.2 APPLICATIONS**

An application for a Special Use Permit may be submitted by the property owner of record, tenant, or contractor owner.

**503.3 APPLICATION REQUIREMENTS**

Applications for Special Use Permits shall be accompanied by seven (7) copies of the following items:

- (a) Letter of request, signed by property owner and applicant, outlining complete details of special use desired.
- (b) Site development plan.
- (c) Floor plan, front, side, and rear elevations of proposed new buildings.
- (d) Certified house location plat.
- (e) Information deemed necessary by the Zoning Administrator.
- (f) Applicable filing fee.

**503.4 APPLICATION PROCEDURE**

- (a) Application submitted to Zoning Administrator, which shall be referred to the Planning Commission for recommendation, and a public hearing shall be scheduled by the Town Council.
- (b) Review by the Planning Commission (public hearing if desired) and recommendation to Town Council.
- (c) Public hearing by Town Council.
- (d) Town Council action (In acting upon the application, the Town Council shall consider the following, among other relevant factors):
  - 1. The health, safety, and welfare of the general public.
  - 2. Physical and visual impact on adjoining and abutting properties.
  - 3. Adequate utilities, drainage, parking, and other necessary facilities to serve the proposed use.
  - 4. Compliance with the adopted master plan.
  - 5. Environmental compatibility.
  - 6. Community sentiment.
- (e) Applicant to be notified by Zoning Administrator of Town Council action.