

MINUTES
BERRYVILLE TOWN COUNCIL
Berryville-Clarke County Government Center
Regular Meeting
October 10, 2023
7:00 p.m.

Town Council: Present—Harry Lee Arnold, Jr., Mayor; Erecka L. Gibson, Vice Mayor; William Steinmetz, Diane Harrison, Grant Mazzarino, Ryan Tibbens.

Staff: Present--Keith Dalton, Town Manager; Jean Petti, Deputy Town Manager; Paul Culp, Town Clerk; Christy Dunkle, Community Development Director; Chief Neal White, Berryville Police Department

Press: Mickey Powell, *The Winchester Star*

1. Call to Order

Mayor Arnold called the meeting to order at 7:00 p.m.

2. Pledge of Allegiance

3. Approval of Agenda

Vice Mayor Gibson moved to approve the agenda. The motion passed by unanimous voice vote.

4. Presentations, Awards, and Recognitions

None.

5. Public Hearings

Ms. Dunkle read the notice for the first of two hearings:

The Berryville Planning Commission is sponsoring a text amendment to Article I Definitions of the Berryville Zoning Ordinance in order to define short-term rentals in the Town of Berryville. Additional amendments are also proposed to establish short term rentals as a use by special permit in the following zoning districts: R-1 Residential (Section 201.2(c)), R-2 Residential (202.2(d)), R-3 Residential (203.2(j)), C General Commercial (204.2(i)), Open Space Residential (601.3(h)), DR-1 Detached Residential-1 (602.3(k)), DR-2 Detached Residential-2 (603.3(l)), DR-4 Detached Residential-4 (604.3(m)), AR Attached Residential (605.3(p)), MR Multifamily Residential (606.3(u)), C-1 Commercial (607.3(x)), L-1 Industrial (609.3(r)), and BC Business Commercial (v). (TA 01-23)

Mr. Mazzarino, referring to §16-109 in the Town Code, in which mention is made of the Council setting the interest rate, asked whether this had been done in the past. Mr. Dalton said yes and that he would research the matter to provide the Council with more details.

Mayor Arnold opened the hearing at 7:03 p.m.

Chris Clawson said he is an Airbnb superhost who owns such establishments elsewhere and favors having them in Berryville but that a \$250 yearly fee is what he pays in the Los Angeles area and is too high for this locale. He said it is a barrier to entry and that the Town will derive sufficient income from occupancy taxes.

In the absence of further comment, Mayor Arnold closed the hearing at 7:05 p.m.

Ms. Dunkle then read the notice for the second hearing:

The Council of the Town of Berryville will hold a public hearing in order to modify the Planning and Zoning Fees. Proposed fee changes include those for rezonings, text amendments, establishing a fee for special use permits for short-term rentals, residential and commercial/industrial special use permits, site development plans, Board of Zoning Appeals requests, sign permits, Erosion and Sediment Control Permits, zoning permits for Temporary Family Health Care Structures, zoning permits for residential and commercial/industrial development, zoning determination letters, subdivision ordinance plats, individual lot grading plans, and permits for activity within the Town of Berryville right-of-way including land use permits, commercial entrances, street connections, and traffic signals.

Mayor Arnold opened the hearing at 7:07 and closed it upon determining that no one wished to speak.

6. Discussion of Public Hearing Items

Mr. Mazzarino asked how the \$250 mentioned by Mr. Clawson had been determined. Ms. Petti said that the amount of the fee was to be set by the Council in the present meeting. Ms. Dunkle and Ms. Petti noted that a special use permit request fee would be involved as well. Ms. Petti said she was unfamiliar with any \$250 fee and reiterated that the Council had yet to set a fee amount.

Mayor Arnold asked Mr. Clawson where he had seen mention of the \$250 fee, and Mr. Clawson said he did not recall and that he might have combined an assortment of figures, perhaps from a newspaper account.

A discussion established that the special use permit application fee would be a one-time \$300 expense. Ms. Harrison expressed concern about the process and expense, and Ms. Dunkle explained that parking is a crucial consideration. Mayor Arnold noted that residents of neighboring properties

can address the question of whether a special use permit application is approved, and Mr. Steinmetz said the Planning Commission, of which he is chairman, had viewed the matter in that light.

There was a brief discussion of the effort to minimize paperwork and inspections.

Ms. Harrison and Ms. Dunkle briefly discussed entities already in business, for whom a special use permit would not be required.

Mr. Dalton said the special use permit fee does not cover the Town's costs, and Mayor Arnold noted that it is a one-time expense for the applicant.

Ms. Dunkle briefly enumerated the processes covered by the fee, which currently is \$250 and under the proposed fee schedule would rise to \$300.

Mr. Tibbens asked for clarification regarding whether the cost to apply would be \$450, encompassing the permit application plus annual fee. Ms. Dunkle said yes, plus the cost of business license.

Mayor Arnold asked staff about recommendations for the amount of the annual fee, and Ms. Petti said \$20 or thereabouts is typical.

There was a discussion of the range of the cost of a nightly stay in a short-term rental.

Ms. Harrison suggested \$20, equal to the cost of a business license. Mr. Mazzarino said it would be good idea to encourage business but not without a barrier of some sort.

Mr. Steinmetz and Ms. Petti briefly discussed what would be involved in keeping a registry.

Vice Mayor Gibson moved that the Council of the Town of Berryville approve the attached ordinance amending Article I of the Berryville Zoning Ordinance to establish a definition for short-term rentals and to approve the use by special permit in the zoning districts identified in the ordinance. The motion passed by unanimous voice vote.

Vice Mayor Gibson moved that the Council of the Town of Berryville approve the attached ordinance amending Chapter 9 Sections 9-2, 9-34, and 9-36, and Chapter 16 Sections 16-101,103,108, and 16-110 of the Berryville Code to establish a definition for short-term rentals, amend local licenses, taxes and fees in a manner that tracks the Virginia Code, establish a short-term rental registry, modify the definitions to include short-term rental, remove language addressing campgrounds, and to eliminate cumbersome gender specific language. The motion passed by unanimous voice vote.

Mr. Tibbens moved that the Council of the Town of Berryville establish an annual short-term rental registry fee of \$20 in accordance with §9-36.9. The motion passed by unanimous voice vote.

Ms. Harrison moved that the Council of the Town of Berryville approve the proposed Planning and Zoning Fee schedule modifications as presented to be effective October 11, 2023. The motion passed by unanimous voice vote.

Mr. Tibbens asked whether it would be possible to track staff time and postage expenditures for a year and increase the fee if needed, and Ms. Petti said yes.

7. Citizens' Forum

Craig Mattice thanked the Town for responding to his request for push notifications of upcoming meetings. He expressed concern about recent water-quality matters that he had addressed in other meetings, saying that three months had elapsed since the Town had notified residents of excess disinfectant byproducts in drinking water and that the Town was not communicating sufficiently at a time of public concern. He said state agencies had told him that other localities were likely to experience similar problems because of the recent drought.

Susan French, legal counsel for owners of multiple properties subject to blight abatement measures, said the non-profit organization now responsible for 112 Josephine Street had convened its board, would soon have a website, and would work on land title matters. Referencing an update she had sent the Council a few days previous, she said work at 229 Josephine was proceeding, noting trees, foundation, windows, and door as matters receiving attention.

Dan Loper thanked the Council for representing residents. He said he shared Mr. Mattice's concern about water quality and said he also had concerns about the effects of recent water-use restrictions. He also said that having moved to Berryville a year ago in order to avoid living in an excessively developed locale, he was apprehensive about the possibility of Berryville becoming such a place.

8. Consent Agenda

The consent agenda comprised the minutes of the September 12 Town Council regular meeting and the September 7 Town Council work session.

Vice Mayor Gibson moved to adopt the consent agenda as presented. The motion passed by unanimous voice vote.

9. Unfinished Business

None.

10. New Business

None.

11. Council Member Reports

Mayor Arnold addressed the September 2, 2023 Water Supply Warning Declaration, explaining that the Virginia Department of Environmental Quality Drought Monitoring Task Force had met on September 21 and determined that the drought warning status for the Berryville area should remain in place. He said the task force had been scheduled to meet and discuss the matter again on the day of the present meeting and that the Town would update the public about it as soon as possible after receiving notice of a decision. Mr. Tibbens asked how often the Task Force meets, and Mr. Dalton said it meets at intervals of two to three weeks.

Mr. Mazzarino of Ward 3 thanked those who provide comment to the Council and said the Council does take comments from the public seriously and listens conscientiously.

The other members had nothing to add.

12. Staff Reports

Nothing was added to the written reports for Public Works, Utilities, Police, or Administration and Finance.

Community Development

Ms. Dunkle explained the need for reduction of the erosion and sediment control bond for Phase V of the Hermitage subdivision.

Mr. Steinmetz moved that the Council of the Town of Berryville reduce the amount retained for the Hermitage Phase V Erosion and Sediment Control bond to \$130,714.38. The motion passed by unanimous voice vote.

Vice Mayor Gibson, Ms. Dunkle, and Mr. Dalton briefly discussed prepayment of water/sewer availability fees for the subdivision.

Town Manager

Mr. Dalton said he had followed through on the Council's request in June that staff confer further with VDOT regarding proposed truck-length restrictions on certain streets, and that staff would like to discuss the matter with the Streets and Utilities Committee in its October 24 meeting.

Mr. Dalton said proposed changes to regulations for use of Rose Hill Park had been reviewed by the Town attorney and that staff would like to discuss the matter with the Community Development Committee in its October 24 meeting.

There was a brief discussion of the blighted property at 229 Josephine Street, the consensus being that remedial measures were progressing and that no definite deadlines were looming.

13. Committee Updates

Vice Mayor Gibson said the Budget and Finance Committee would meet on October 23 at 3:00 p.m.

Mr. Tibbens said the Community Development Committee would meet on October 24 at 4:00 p.m.

Mayor Arnold said the Personnel Committee would meet on October 23 at 2:00 p.m.

Mr. Mazzarino said the Public Safety Committee would meet on October 26 at 3:00 p.m.

Ms. Harrison said the Streets and Utilities Committee would meet on October 24 at 3:00 p.m.

14. Other

No other business was discussed.

15. Closed Session

Not applicable.

16. Adjourn

The Council adjourned at 7:43 p.m. on a motion by Vice Mayor Gibson.

Erecka L. Gibson, Vice Mayor

Paul Culp, Town Clerk

AN ORDINANCE AMENDING
ARTICLE I, DEFINITIONS AND RESPECTIVE DISTRICTS AS RELATED
TO SHORT TERM RENTAL REGULATIONS
OF THE TOWN OF BERRYVILLE ZONING ORDINANCE

BE IT ORDAINED, by the Council of the Town of Berryville, that Article I, Definitions, and respective zoning districts of the Town of Berryville Zoning Ordinance establishing the use by special permit be amended as follows:

Article I, Section 102

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 short-term rental unit shall advertise and implement a maximum occupancy of no more than as permitted by the Virginia Uniform Statewide Building Code, whichever is less, and at no time exceed 13 individuals.

Article II

- R-1 Residential establishing Section 201.2(c)
- R-2 Residential establishing Section 202.2(d)
- R-3 Residential establishing Section 203.2(j)
- C General Commercial establishing Section 204.2(i)

Article VI

- OSR Open Space Residential establishing Section 601.3(h)
- DR-1 Detached Residential-1 establishing Section 602.3(k)
- DR-2 Detached Residential-2 establishing Section 603.3(l)
- DR-4 Detached Residential-4 establishing Section 604.3(m)
- AR Attached Residential establishing Section 605.3(q)
- MR Multifamily Residential establishing Section 606.3(w)
- C-1 Commercial Section establishing 607.3(x)
- L-1 Industrial Section establishing 609.3(r)
- BC Business Commercial establishing Section 610.3(e)

SIGNED: _____
Harry Lee Arnold, Jr., Mayor

ATTEST: _____
Erecka L. Gibson, Vice Mayor

BERRYVILLE TOWN COUNCIL
AN ORDINANCE AMENDING ARTICLES III and VIII OF THE BERRYVILLE CODE

Date: October 10, 2023

Motion By:

Second By:

Be it ordained, by the Council of the Town of Berryville, that the attached amendments be made to the Code of the Town of Berryville as follows:

Chapter 9- Licenses, Article I- In General, Sec. 9-2 Definitions, establishing a definition for "short-term rental";

Chapter 9- Licenses, Article III- Other Licenses, License requirements, Section 9-34 Exemptions from local license taxes and fees, deleting sections that are already established by VA state code, and to establish Code Section 9-36 Short-term Rental registry.

Chapter 16- Taxation, Article VIII- Transient Occupancy Tax, Section 16-101 Definitions, modifying definition of Room or Space rental to include terms previously classed under Hotel, adding 'short-term rental', and removing travel campground; removing 'to any hotel travel campground' from Sec. 16-103, and editing Sec. 16-108 and Sec. 16-110 to remove gender specific language.

VOTE:

Aye:

Nay:

Absent:

SIGNED: _____
Harry Lee Arnold, Jr., Mayor

ATTEST: _____
Erecka L. Gibson, Vice Mayor

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 aeriels 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.

- (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.

- (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)

Section 602 Detached Residential-1 (DR-1)

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
 - (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 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

Section 605 Attached Residential (AR) District

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

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- (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)

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- (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.

**Short-term Rentals Report for Berryville Town Council
10 October 2023**

Item Title: *Short-term Rentals*

Prepared By: *Jean Petti*

Background/History General Information

Since February 2023, short-term rental regulation has been reviewed, drafted, and revised in Public Safety Committee, Community Development Committee, and Planning Commission.

Findings/Current Activity

A text amendment to the definitions section of *T. of Berr. Zoning Regulations (July 2022)*, creating Short-term rental as a use permitted by special permit in the R-1, R-2, R-3, OSR, DR-1, DR-2, DR-4, AR, MR, BC, L1, C, and C-1 zoning districts has been recommended by Planning Commission and presented to Town Council

Relevant changes to *T. of Berr. Code Article III- Other Licenses* and *Article VIII- Transient Occupancy Tax* underwent legal review and are attached for Council review and potential adoption

Attachments

Chapter 9- Licenses, Article I- In General, Sec. 9-2 Definitions

Chapter 9- Licenses, Article III- Other licenses, Sec. 9-34 and Sec. 9-36

Chapter 16- Taxation, Article VIII Transient Occupancy Tax, Sec. 16-101, 16-108, and 16-110

Short-term rental code amendment DRAFT motion

Recommendation

Adoption of code changes as presented

Sec. 9-2. - Definitions.

For the purposes of this chapter, unless otherwise required by the context:

Affiliated group means:

- (1) One or more chains of includable corporations connected through stock ownership with a common parent corporation which is an includable corporation if:
 - a. Stock possessing at least eighty (80) percent of the voting power of all classes of stock and at least eighty (80) percent of each class of the nonvoting stock of each of the includable corporations, except the common parent corporation, is owned directly by one or more of the other includable corporations; and
 - b. The common parent corporation directly owns stock possessing at least eighty (80) percent of the voting power of all classes of stock and at least eighty (80) percent of each class of the nonvoting stock of at least one of the other includable corporations. As used in this subdivision, the term "stock" does not include nonvoting stock which is limited and preferred as to dividends. The term "includable corporation" means any corporation within the affiliated group irrespective of the state or country of its incorporation; and the term "receipts" includes gross receipts and gross income.
- (2) Two (2) or more corporations if five (5) or fewer persons who are individuals, estates or trusts own stock possessing:
 - a. At least eighty (80) percent of the total combined voting power of all classes of stock entitled to vote or at least eighty percent of the total value of shares of all classes of the stock of each corporation, and
 - b. More than fifty (50) percent of the total combined voting power of all classes of stock entitled to vote or more than fifty (50) percent of the total value of shares of all classes of stock of each corporation, taking into account the stock ownership of each such person only to the extent such stock ownership is identical with respect to each such corporation.

When one (1) or more of the includable corporations, including the common parent corporation is a nonstock corporation, the term "stock" as used in this subdivision shall refer to the nonstock corporation membership or membership voting rights, as is appropriate to the context.

Assessment means a determination as to the proper rate of tax, the measure to which the tax rate is applied, and ultimately the amount of tax, including additional or omitted tax, that is due. An assessment shall include a written assessment made pursuant to notice by the assessing official or a self-assessment made by a taxpayer upon the filing of a return or otherwise not pursuant to notice. Assessments shall be deemed made by an assessing official when a written notice of assessment is delivered to the taxpayer by the assessing official or an employee of the assessing official, or mailed to the taxpayer at his last known address. Self-assessments shall be deemed made when a return is filed, or if no return is required, when the tax is paid. A return filed or tax paid before the last day prescribed by ordinance for the filing or payment thereof shall be deemed to be filed or paid on the last day specified for the filing of a return or the payment of tax, as the case may be.

Assessor or assessing official means the town manager/treasurer of the Town of Berryville.

Base year means the calendar year preceding the license year, except for contractors subject to the provisions of the Code of Virginia, § 58.1-3715, and except for beginning businesses, as set forth in section 9-13 herein.

Business means a course of dealing which requires the time, attention and labor of the person so engaged for the purpose of earning a livelihood or profit. It implies a continuous and regular course of dealing, rather than an irregular or isolated transaction. A person may be engaged in more than one (1) business. The following acts shall create a rebuttable presumption that a person is engaged in a business:

- (1) Advertising or otherwise holding oneself out to the public as being engaged in a particular business; or
- (2) Filing tax returns, schedules and documents that are required only of persons engaged in a trade or business.

Contractor shall have the meaning prescribed in § 58.1-3714.B of the Code of Virginia, as amended, whether such work is done or offered to be done by day labor, general contract or subcontract.

Definite place of business means an office or a location at which occurs a regular and continuous course of dealing for thirty (30) consecutive days or more. A definite place of business for a person engaged in business may include a location leased or otherwise obtained from another person on a temporary or seasonal basis; and real property leased to another. A person's residence shall be deemed to be a definite place of business if there is no definite place of business maintained elsewhere and the person is not licensable as a peddler or itinerant merchant.

Financial Services means the buying, selling, handling, managing, investing, and providing of advice regarding money, credit, securities and other investments and shall include the service for compensation by a credit agency, an investment company, a broker or dealer in securities and commodities or a security or commodity exchange, unless such service is otherwise provided for in this chapter.

- (1) *Broker* shall mean an agent of a buyer or a seller who buys or sells stocks, bonds, commodities, or services, usually on a commission basis.
- (2) *Commodity* shall mean staples such as wool, cotton, etc. which are traded on a commodity exchange and on which there is trading in futures.
- (3) *Dealer* for purposes of this ordinance shall mean any person engaged in the business of buying and selling securities for his own account, but does not include a bank, or any person insofar as he buys or sells securities for his own account, either individually or in some fiduciary capacity, but not as part of a regular business.
- (4) *Security* for purposes of this ordinance shall have the same meaning as in the Securities Act (§ 13.1-501 et seq.) of the Code of Virginia, or in similar laws of the United States regulating the sale of securities.

Those engaged in rendering financial services include, but without limitation, the following:

Buying installment receivables

Chattel mortgage financing

Consumer financing

Credit card services

Credit Unions

Factors

Financing accounts receivable

Industrial loan companies

Installment financing

Inventory financing

Loan or mortgage brokers

Loan or mortgage companies

Safety deposit box companies

Security and commodity brokers and services

Stockbroker

Working capital financing

Gross receipts means the whole, entire, total receipts attributable to the licensed privilege, without deduction, except as may be limited by the provisions of Chapter 37 of Title 58.1 of the Code of Virginia.

State Law reference— Code of Virginia, §§ 58.1-3732, 58.1-3732.1 and 58.1-3732.2.

License year means the calendar year for which a license is issued for the privilege of engaging in business.

Personal services shall mean rendering for compensation any repair, personal, business or other services not specifically classified as "financial, real estate or professional service" under this ordinance, or rendered in any other business or occupation not specifically classified in this ordinance unless exempted from local license tax by Title 58.1 of the Code of Virginia.

Those engaged in conducting or rendering personal services include, but without limitation, the following:

Addressing letters or envelopes

Ambulance service

Answering service

Barbershop, beauty parlor, hairdressing establishment

Bicycle repair

Business consulting services (excluding professional services as defined herein)

Business and office machines repair and service

Chartered club

Cleaning chimneys or furnaces

Clinical laboratory

Correspondence establishment or bureau

Day nursery (other than foster homes)

Dental laboratory

Dressmaking, slipcovers, upholstering, drapery or curtain making

Electrical and home appliance repair

Exterminating, fumigating or disinfecting service

Funeral services and crematories

Furniture/upholstery refinishing and repair

Gunsmith or gun repairing

Hauling or transfer (excluding taxicab services)

Hotels, motels, bed and breakfast establishments

House-cleaning service

Janitorial service

Jewelry repair (including watches and clocks)

Job printer, printing shop, duplicating services

Kennel or small animal hospital

Laundry and/or dry cleaning services and establishments
Machine shop or boiler shop
Massage therapy (excluding massage parlors)
Messenger service, excluding telephone or telegraph services
Leasing or renting of motor vehicles, trucks and trailers
Nursing or convalescent home
Packing, crating, shipping, hauling or moving goods or chattel for others
Photographer (excluding non-resident photographic services)
Physicians, registry or nurses' registry
Picture framing or gilding
Private school (other than religious or nonprofit)
Renting any kind of tangible personal property not taxable under another section of this ordinance
Secretarial service
Shoe repair
Storage (all types)
Tire repair
Title insurance company
Tree surgery, trimming and removal
Vehicle and engine repair of any kind
Washing, cleaning, detailing of automobiles
Welding shops and services

In addition, any service rendered for compensation to any business, trade or occupation licensed under this chapter or to any governmental agency, unless such service is specifically provided for under another section of this chapter; any other personal service occupations, including any service rendered for compensation to private individuals, not provided for in another section of this chapter; and any other repair service, including repairing, renovating or servicing any article or item of personal property, unless such service is specifically provided for in another section of this chapter.

Professional services means services performed by architects, attorneys-at-law, certified public accountants, dentists, engineers, land surveyors, surgeons, veterinarians, and practitioners of the healing arts (the arts and sciences dealing with the prevention, diagnosis, treatment and cure or alleviation of human physical or mental ailments, conditions, diseases, pain or infirmities) and such occupations, and no others, as the Virginia Department of Taxation may list in the BPOL guidelines promulgated pursuant to § 58.1-3701 of the Code of Virginia. The department shall identify and list each occupation or vocation in which a professed knowledge of some department of science or learning, gained by a prolonged course of specialized instruction and study is used by its practical application to the affairs of others, either advising, guiding, or teaching them, and in serving their interests or welfare in the practice of an art or science founded on it. The word "profession" implies attainments in professional knowledge as distinguished from mere skill, and the application of knowledge to uses for others rather than for personal profit.

Purchases shall mean all goods, wares and merchandise received for sale at each definite place of business of a wholesale merchant. The term shall also include the cost of manufacture of all goods, wares and merchandise manufactured by any wholesaler or wholesale merchant and sold or offered for

sale. Such merchant may elect to report the gross receipts from the sale of manufactured goods, wares and merchandise if it cannot determine or chooses not to disclose the cost of manufacture.

Real estate services shall mean rendering a service for compensation as lessor, buyer, seller, agent or broker and providing a real estate service, unless the service is otherwise specifically provided for in this ordinance, and such services include, but are not limited to, the following:

Appraisers of real estate

Escrow agents, real estate

Fiduciaries, real estate

Lessors of real property, excluding any person, firm or corporation engaged 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

Real estate agents, brokers and managers

Real estate selling agents

Rental agents for real estate.

Retailer or Retail merchant shall mean any person or merchant who sells goods, wares and merchandise for use or consumption by the purchaser or for any purpose other than resale by the purchaser, but does not include sales at wholesale to institutional, commercial and industrial users.

Services shall mean things purchased by a customer which do not have physical characteristics, or which are not goods, wares, or merchandise.

Short-term rental shall mean 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.

Wholesaler or Wholesale merchant shall mean any person or merchant who sells wares and merchandise for resale by the purchaser, including sales when the goods, wares and merchandise will be incorporated into goods and services for sale, and also includes sales to institutional, commercial, government and industrial users which because of the quantity, price, or other terms indicate that they are consistent with sales at wholesale.

(Ord. of 12-10-96)

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. 9-36. 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:
 - (1) name, telephone number, mailing address, and email address of property owner;
 - (2) name, telephone number, mailing address, and email address of operator, if different;
 - (3) address of property;
 - (4) emergency contact telephone number and email address;
 - (5) number of bedrooms and maximum occupancy of short-term rental unit(s);
 - (6) listing platforms that will be used for advertisement of unit(s);
 - (7) Copy of Town of Berryville Business License;
 - (8) copy of certificate of occupancy issued by Clarke County Building Department; and
 - (9) 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 operator 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 AND ZONING FEES
Effective July 1, 2012 October 11, 2023

1. ZONING ORDINANCE

REZONING (MAP AMENDMENTS)

Base Fee \$4,000 \$5,500
Per Acre Fee after the first acre..... \$2,000
Consulting services, if required Cost

ORDINANCE TEXT AMENDMENT* \$700 \$900
Consulting services, if required..... Cost

* Provided that the Berryville Planning Commission or Town Council agree to sponsor the amendment

SPECIAL USE PERMIT

Residential, including home occupations, **short-term rentals,**
private swimming pools and tennis courts – when required \$250 \$300 (plus site plan fees)
Commercial/Industrial \$2,000 \$2,500 (plus cost of site plan)
Consulting services, if required..... Cost

SITE DEVELOPMENT PLANS

Residential (New/Major Revision) \$2,000 \$2,500
Per dwelling unit \$125 \$150
Commercial/Industrial (New/Major Revision)..... \$4,000 \$5,500
Plus Per required parking space \$125 \$150
Minor revision/administrative review..... \$125 \$150
Consulting services, if required Cost

BOARD OF ZONING APPEALS

Variance \$500 \$650
Per request, for two or more at same meeting \$225 \$325
Appeals \$500 \$650 (if finding for citizen, then fee refunded)
Consulting services, if required..... Cost

SIGN PERMITS \$25 \$35

EROSION/SEDIMENT CONTROL PERMITS

Base Fee \$500 \$650
Per Disturbed Acre Fee \$50 \$75
Consulting services, if required..... Cost

ZONING PERMITS

Residential Accessory Building \$50
Temporary Family Health Care Structure \$100 \$150
Residential Additions (incl. decks, porches,
basement remodeling, and swimming pools) \$75
Fence Permits \$50
Residential \$200 \$300
Commercial/Industrial \$250 \$350

ZONING DETERMINATION LETTER..... ~~\$175~~ **\$200**
 (Identification of property zoning and permitted uses requiring interpretation of Town regulations)

2. SUBDIVISION ORDINANCE

SUBDIVISION PLATS (Minor) ~~\$500~~ **\$650**
 (Two lots with no public improvements-pursuant to Article IIE)

PRELIMINARY PLATS (Major)

Base Fee ~~\$4,000~~ **\$5,550**
 Per Lot Fee ~~\$50~~ **\$100**

FINAL PLATS (Major)

Base Fee ~~\$1,000~~ **\$1,500**
 Per Lot ~~\$50~~ **\$100**

Consulting services, if required Cost

INDIVIDUAL LOT GRADING PLANS

Review of Grading Plan Prior to Issuance of Zoning Permit ~~\$150 or at cost, whichever is greater~~ **Cost**
 Review of As-Built Grading Plan ~~\$150 or at cost, whichever is greater~~ **Cost**
 Re-review of Grading Plan ~~\$75 or at cost, whichever is greater~~ **Cost**
 Re-review of As-Built Grading Plan ~~\$75 or at cost, whichever is greater~~ **Cost**

VACATION OF PLAT ~~\$350~~ **\$450**

PLAT REVISIONS/BOUNDARY LINE ADJUSTMENT..... ~~\$350~~ **\$500** (plus \$50 per lot)

~~3. STORMWATER MANAGEMENT ORDINANCE~~

~~Stormwater Management Plan~~

~~Base Fee \$150~~
~~Per Acre Fee (\$850 maximum) \$25~~
~~Consulting services, if required Cost~~

4. SALE OF PUBLICATIONS

Digital copies are available on the Town's website www.berryvilleva.gov
~~Zoning, Subdivision, and Stormwater Management Ordinances (single publication)....\$30~~
~~Comprehensive Plan\$30~~
~~Berryville Area Plan\$20~~
~~Construction Standards Manual\$10~~

5. COLLECTION PROCEDURES; EXPENSE REIMBURSEMENTS

Payment of all applicable fees and charges established herein shall be made to the Town Treasurer at the time of submission of application for actions pertaining to zoning and subdivision matters. Fees and expenses for professional consulting services deemed necessary by the Town Council for matters pertaining to zoning, subdivision and land development matters shall be reimbursed to the Town at cost, or as may be determined by separate, written agreement duly adopted and entered by the Town Council and the applicant. If payment is not made in a timely fashion, cost of collections (including attorney's fees) will be charged to the applicant.

6. PERMIT FEES FOR ACTIVITY IN THE TOWN OF BERRYVILLE RIGHT-OF-WAY

The application fee for a single permit is ~~\$100~~ **\$150**. Additive costs shall be applied as indicated below. The applicant shall submit the total costs for fees which will be reviewed by the Director of Public Works.

Activity	Additive Fee
Private Entrances	None
Commercial Entrance.....	\$150 \$200 for first entrance
.....	\$50 for each additional entrance
Street Connection	\$150 \$200 for first connection
.....	\$50 for each additional connection
Temporary Construction Entrance.....	\$10 for each entrance

Turn Lane	\$10 per 100 linear feet
Crossover	\$500 per crossover
Curb & Gutter	\$10 per 100 linear feet
Reconstruction of Roadway.....	\$10 per 100 linear feet
Sidewalk.....	\$10 per 100 linear feet
Traffic Signal.....	\$1,000 \$1,500 per signal installation
Tree Trimming.....	\$10 per acre or 100 feet of frontage
Landscaping	\$10 per acre or 100 feet of frontage
Storm Sewer	\$10 per 100 linear feet
Box Culvert or Bridge	\$5 per linear foot of attachment
Drop Inlet.....	\$10 per inlet
Paved Ditch.....	\$10 per 100 linear feet
Under Drain or Cross Drain.....	\$10 per crossing
Above-ground structure (including poles, pedestals, fire hydrants, towers, etc.)	\$10 per structure
Pole Attachment	\$10 per structure
Span guy.....	\$10 per crossing
Additive guy and anchor	\$10 per guy and anchor
Underground Utility – Parallel	\$10 per 100 linear feet
Overhead or Underground Crossing	\$10 per crossing
Excavation Charge (including Test Bores & Emergency Opening)	\$10 per opening

Time extensions for active permits shall incur a monetary charge equal to one-half the application fee charged to the initial permit. Expired permits may be reinstated; however, fees for reinstatement of expired permits shall equal the application fee.

Accommodation Fees

After Initial installation, the Town Council or a designee shall determine the annual compensation for the use of the right-of-way by a utility, except as provided in 24VAC30-151-740. The rates shall be established on the following basis:

1. Limited Access Crossings - \$50 per crossing.
2. Limited Access Longitudinal Installation - \$250 per mile annual use payment.

BERRYVILLE TOWN COUNCIL PERSONNEL, APPOINTMENTS, AND POLICY COMMITTEE
Berryville-Clarke County Government Center
MINUTES
October 23, 2023

A meeting of the Berryville Town Council Personnel, Appointments, and Policy Committee occurred at 2:00 p.m. in the Berryville-Clarke County Government Center, located at 101 Chalmers Court in Berryville, Virginia.

Attendance:

Members of the committee: Mayor Jay Arnold, Chair; Vice Mayor Erecka Gibson

Staff participating: Jean Petti, Deputy Town Manager; Paul Culp, Town Clerk

Also present: Planning Commission applicant Julie Abrera

1. Call to Order

Mayor Arnold called the meeting to order at 2:00 p.m.

2. Approval of Agenda

Vice Mayor Gibson moved to approve the agenda. The motion passed by consensus.

3. Unfinished Business

Mayor Arnold noted a vacancy on the Planning Commission in addition to the once for which Ms. Abrera was to be interviewed, and a vacancy on the Tree Board.

4. New Business

None.

5. Closed Session

Vice Mayor Gibson moved that the Personnel Committee of the Council of the Town of Berryville enter closed session in accordance with §2.2-3711-A-1 of the Code of Virginia, for discussion, consideration, or interviews of prospective candidates for appointment. The motion passed by consensus.

The committee entered closed session at 2:02 p.m. and returned to open session at 2:57 p.m. upon the approval of the attached motion and resolution read by Vice Mayor Gibson.

Mayor Arnold said the Town had received an application from another citizen interested in appointive office and that the committee would continue with interviews in its November meeting and make recommendations to the full Council in that body's December meeting.

6. Other

No other business came before the committee

7. Adjourn

The meeting adjourned by consensus at 2:59 p.m. on a motion by Vice Mayor Gibson.

Town of Berryville
Town Council Personnel Committee
MOTION TO ENTER CLOSED SESSION

Date: October 23, 2023

MOTION BY: Gibson

SECOND BY: _____

I move that the Personnel Committee of the Council of the Town of Berryville enter closed session in accordance with §2.2-3711-A-1 of the Code of Virginia, for discussion, consideration, or interviews of prospective candidates for appointment.

VOTE:

Aye: Unanimous voice vote

Nay:

Attest: _____


Erecka L. Gibson, Vice Mayor

BERRYVILLE TOWN COUNCIL PERSONNEL COMMITTEE

MOTION

CLOSED SESSION RESOLUTION

DATE: October 23, 2023

MOTION BY: *G. Gibson*

SECOND BY: _____

I move that the Personnel Committee of the Council of the Town of Berryville adopt the following resolution certifying it has convened a closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act:

Resolution

WHEREAS, Section 2.2-3712.D of the Code of Virginia requires a certification by this Council committee that such closed meeting was conducted in conformity with Virginia law,

NOW, THEREFORE, BE IT RESOLVED that the Personnel Committee of the Council of the Town of Berryville hereby certifies that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the committee.

VOTE:

Aye: *Unanimous roll-call vote.*

Nay:

Absent/Abstain:

ATTEST: 

Erecka L. Gibson, Vice Mayor

BERRYVILLE TOWN COUNCIL BUDGET AND FINANCE COMMITTEE
Berryville-Clarke County Government Center
MINUTES
October 23, 2023

The Berryville Town Council Budget and Finance Committee met on Monday, October 23, 2023 at 3:00 p.m. in the Berryville-Clarke County Government Center at 101 Chalmers Court in Berryville, Virginia.

Attendance: Members of the committee present: Vice Mayor Erecka Gibson, Chair; Grant Mazzarino

Staff: Jean Petti, Deputy Town Manager; Cynthia Poulin, Treasurer; Paul Culp, Town Clerk

1. Call to Order

Vice Mayor Gibson called the meeting to order at 3:05 p.m.

2. Approval of Agenda

Mr. Mazzarino moved to approve the agenda. The motion passed by consensus.

3. Unfinished Business

Ms. Poulin, responding to concerns about deposit insurance expressed previously by a member of the Town Council, said she had determined that the Town's funds deposited with Bank of Clarke were insured by the FDIC for the full amount.

A discussion established that further account diversification beyond Bank of Clark and Truist would be unnecessary.

Ms. Poulin briefly described the differences in how the Town uses various accounts for day-to-day operations, deposits, payroll, and capital improvements.

Vice Mayor Gibson said the current discussion would satisfy the requirement of a semi-annual review of bank accounts as established by the Council's bank accounts policy.

Ms. Poulin said the Town had just hired a new finance clerk to fill the vacancy that had occurred in July.

4. New Business

The committee briefly considered the budget calendar with an eye to setting a deadline for committees to report their priorities for the upcoming fiscal year.

The consensus of the Budget and Finance Committee was that its priorities should include an accounting of matters related to the American Rescue Plan Act of 2021 and a policy regarding fixed asset inventory.

5. Other

None.

6. Closed Session

None.

7. Adjourn

Vice Mayor Gibson invited a motion to adjourn. Mr. Mazzarino so moved, with the meeting adjourning by consensus at 3:36 p.m.

BERRYVILLE TOWN COUNCIL STREETS AND UTILITIES COMMITTEE
Berryville-Clarke County Government Center
MINUTES
October 24, 2023

A meeting of the Berryville Town Council Streets and Utilities Committee was held on Tuesday, October 24, 2023 at 3:00 p.m. in the Berryville-Clarke County Government Center, located at 101 Chalmers Court in Berryville, Virginia.

Members of the committee present: Diane Harrison, Chair; Ryan Tibbens

Staff present: Jean Petti, Deputy Town Manager; Christy Dunkle, Community Development Director; Rick Boor, Public Works Director; Paul Culp, Town Clerk; Chief of Police Neil White

1. Call to Order

Ms. Harrison called the meeting to order at 3:03 p.m.

2. Approval of Agenda

Ms. Harrison asked for approval of the agenda, with the first item of New Business being advanced to the first item for discussion to accommodate Mr. Boor's schedule. The agenda was then approved by consensus on a motion by Mr. Tibbens.

3. New Business: Construction Standards Revision

Mr. Boor referenced material in the agenda packet comparing PVC and ductile iron pipe, explaining that PVC is not as durable and that most nearby jurisdictions are now using ductile. He recommended removal of PVC water mains from the Town's construction standards.

There was a discussion of corrosion prevention, enhanced leak detection via use of ductile, long-term maintenance savings offsetting the higher initial cost of ductile, and the fact that in the case of a subdivision the builder and not the Town would bear the increased cost in new construction. Mr. Boor noted that meter boxes, having already been approved, would still be PVC.

Mr. Tibbens moved that the Streets and Utilities Committee recommend to the Town Council that it approve the suggested revisions to Section 3, Town of Berryville Construction Standards and Specifications 2015, Updated 2021 as presented. The motion passed by consensus.

Mr. Boor noted before leaving the meeting that current Public Works projects are proceeding in a desirable way.

4. Unfinished Business

Curb Painting

The discussion referenced Ms. Petti's report, compiled with Chief White's assistance, on curb painting, which Public Works had not done on East Main Street during the summer because of discussions about the need for the committee to consider the matter.

With reference to standards and criteria outlined by Chief White in the report, the committee discussed the merits of restricting parking at various locations and determined that there was no clear reason for yellow curbs in that part of town.

Mr. Tibbens moved that the Streets and Utilities Committee decline a request from the owners of 214 E. Main Street that the curb east of their entrance be painted. The motion passed by consensus.

Truck Restrictions

Ms. Harrison said that in light of the agenda report and previous discussions, she had come to favor VDOT's recommendation of a truck route sign to keep trucks off of Church Street. Mr. Tibbens said that more decisive measures such as creation of a cul-de-sac are many years in the future and that near-term ameliorative measures such as a truck route sign are needed.

There was a discussion of advisory signs and of a truck route sign being more efficient than taking measures that would lead to sign clutter and that would require the presence of a police officer and the imposition of penalties unlikely to be a sufficient deterrent. The discussion also established that a sign placed on Josephine Street telling trucks not to turn right would help, and that the new gate position at Berryville Graphics had substantially helped, as it had eliminated trucks backing back down the street, but a number still are turning right going toward downtown.

Ms. Petti said she would notify VDOT of the committee's decision, which would be forwarded to the full Council.

Restrooms at 23 East Main Street

Ms. Harrison said the funds had already been set aside as part of the program of refurbishment of the livery stable, that suitable restroom facilities would enhance the value of the building as a meeting-place. Ms. Petti said she would look further into details.

5. New Business Continued

Chlorination Byproduct Update

Ms. Petti said that she had contacted the Department of Environmental Quality after a local citizen had said that DEQ had told him that numerous other jurisdictions in this part of the state were experiencing problems with excessive chlorine byproducts occurring with the disinfection of drinking water. She said DEQ had confirmed that most jurisdictions in the region had not-unexpectedly experienced such problems in the third quarter of 2023, with seasonal algae possibly being a factor. She said the Town has greatly increased the frequency of sampling and cannot identify a single point of failure.

There was a discussion of how development and agriculture could affect conditions, and of storage tank testing.

Committee Budget Needs/Requests

Ms. Harrison asked whether some funds obtained via the American Rescue Plan Act of 2021 could be diverted to a transmission line. She said that otherwise her budget request would be that the Town follow the established ARPA expenditure plans.

There was a brief discussion of the possibility of hiring a part time staff member to handle Town Code enforcement.

6. Closed Session

None.

7. Adjournment

The meeting adjourned by consensus at 4:07 p.m. on a motion by Mr. Tibbens.

DUCTILE IRON PIPE VERSUS PVC PIPE COMPARISON

MCWANE DUCTILE

IRON STRONG

COMPARISON	DUCTILE IRON PIPE	C 900 PVC	C905 PVC	C909 PVC
SIZES	3" — 64"	4" — 12"	14" — 48"	4" — 24"
Pressure Ratings	12" and smaller: 350 psi min 14" — 20": 250 psi min 24": 200 psi min 30" — 64": 150 psi min	12" and smaller DR 25 — 165 psi DR 18 — 235 psi DR 14 — 305 psi	DR 51 — 80 psi DR 32.5 — 125 psi DR 25 — 165 psi DR 18 — 235 psi	Pressure Classes: 100, 150, 200 No DRs used but fused would be PC100 — DR 47 PC200 — DR 25.5
Surge Allowance	Higher pressure pipes are available. 100 psi	Material properties and pressure ratings reduced at temperatures other than 73.4 degrees Fahrenheit.		
Internal Pressure Safety Factor	Design Safety Factor is 2.0 based on Design Working Pressure PLUS surge allowance. Cyclic loading does not affect ductile iron pipe properties or performance over time.	No surge allowance is included in design. If surge pressures are anticipated, reduce pipe pressure rating by the design or anticipated surge pressure. Cyclic loading reduces the life span of the pipe. Pipe is affected by a minor change in velocity of 1.0 ft/sec.		Uses a higher HDB of 7,100 psi and a Safety Factor of 2.5 but no surge allowance. Not proven in practical experience.
Maximum Allowable Velocity	No max allowed velocity due to higher internal design pressure. Addition of surge allowance and safety factor applied to combined working and surge pressure.			
Capabilities for Fire Flows	Pipe design allows for high velocities plus surges based on 50 psi per ft/sec. change in velocity.	A 6" pipe and hydrant with 1,000 gal/min flow rate = a velocity of 10.36 ft/sec. (fps). This equates to 518 psi surge potential — PVC has no surge allowance. AWWA Manual M-23 "PVC Pipe Design & Installation states," adequate conditions where flow is maintained at or below 2 fps (page 64). AWWA Manual 31 "Distribution System Requirements for Fire Protection lists required fire flows at 2500 GPM or less and 3,000 GPM. A June 2013 AWWA CFP flow article stated; "flows below 500 GPM as inadequate for fire flow and flows of 500-999 GPM as marginally adequate.		
Special Considerations for Cyclic Loading	None needed because ductile iron does not lose strength over time.	Cyclic loading of Water Hammer A scratch with a depth of .01 inch reduces the fatigue factor of PVC pipe.		
Material Description	Recycled steel and iron scrap	Manufactured from Vinyl Chloride Monomer and other chemicals.		
Susceptibility to Shipping Damage	Scratch resistant. Not affected by cold temperatures. Not affected by truck smoke.	10 percent scratch depth reduces performance to rejection. Becomes brittle when temperatures are below freezing. Subject to smoke damage during transit.		

COMPARISON	DUCTILE IRON PIPE	C900 PVC	C905 PVC	C909 PVC
SIZES	3" — 64"	4" — 12"	14" — 48"	4" — 24"
Susceptibility to UV Rays	Does not affect tensile/impact strength.	Uni-Bell Study: Can lose up to 34 percent of impact strength after one year of exposure. Avoid discolored areas. Warranty Concern: Potential exclusions from coverage due to UV degradation.		
Direct Tap	DIPRA test shows .20" wall thickness capable of multiple taps.	Warning: Over-tightening tapping machine may distort the pipe. Do not use a hand-held drill. Rupture Hazard Warning posted on pipe.		Direct Tapping not permitted. Over-tightening tapping machine may distort the pipe. Do not use a hand-held drill.
Susceptibility to Corrosion	V-Bloc Polyethylene Encasement cost effective, proven method of corrosion control.	Does not resist damage from UV rays and temperature fluctuations. Strength breaks down over time.	Resistant to "hot" soils.	
Susceptibility to Temperature	Charpy Impact Test performed at -40 degrees Fahrenheit.	PVC becomes less resistant to impact at very low temperatures. At high temperatures, PVC lowers pressure rating and becomes more flexible and susceptible to over tightening of tapping machines and saddles.		
Tracer Wire Required	Tracer Wire is not necessary.	Tracer Wire required! Does not help with leak detection.		
Deflection	5 degrees/15 inches	No deflection at joints. Deflection by bending pipe which creates stress (DO NOT TAP HERE).		
Pumping Costs	No Increase	Increased due to wall thickness requirements. Weaker due to less tensile strength.		
100+ Year Service	600 Utilities in the U.S. and Canada with 100 years of service and 23 with 150 years of service.	The first PVC waterline installation occurred in 1955, therefore any communications suggesting PVC has a 100+ year lifespan has not been proven. AWWA's Study "Buried No Longer" gives independent life expectancy of 55 to 70 years.		
Sustainability & Recycled Content	Made from 95% recycled content. No end of life. Can easily be recycled.	PVC pipe can only be down-cycled, therefore the recyclability of PVC is nearly zero. Releases Carcinogens Vinyl Chloride, Ethylene, and Dichlorides during manufacturing. Not recognized by any Green organization as an environmentally sustainable product.		
Horizontal Directional Drilling	Extreme safe-end-pull capacities. Pipe not affected by scratches or bore loads.	Factors of concern include weakening from scratches and buckling loads from bore fluids or soils.		
Permeability & Absorption	Non-permeable	Susceptible to permeation and absorption of hydrocarbons and other harmful chemicals.		
Combustibility	Non-combustible	Combustible and subject to melting.		

To view an informative blog and video on the advantages of using Ductile iron pipe over PVC, visit McWaneDuctile.com/blog.

For information, McWane Ductile is a division of McWane Inc.

CONNECT WITH US ON

Rev. June 2020

Section 3

Water Main and Appurtenances

I. General

- A. This section includes construction of distribution system mains, service laterals, and other associated appurtenances. Also included are testing and disinfection requirements.
- B. All mains shall be cement mortar lined ductile iron or PVC (C909), with a minimum diameter of six inches (6"). The pipe shall have rubber gasket push-on joints, and all fittings shall be mechanical joint except as approved by the Town. Where special fabrication of ductile iron pipe is required to fit water mains within vaults, structures and buildings, the Contractor shall submit fully dimensioned drawings showing the piping in full detail with exact locations, dimensions, and schedules of all pipe, fittings, hangers, supports, and appurtenances before starting fabrication of the pipe and/or fittings. Where special fittings are required, they shall be shown in detail with all necessary dimensions. The design of such installations shall provide adequate space within the housing, and around the fittings to allow easy disassembly of pipe sections or other appurtenances.
- C. Utility Locations: Water mains shall be located a minimum of three (3) feet from the gutter of the streets with curb and gutter; or three (3) feet within the pavement edge of streets without curb and gutter. Whenever practical, sewer mains shall be located in the center of the street. A minimum 10 foot horizontal separation (outside to outside), or 6 feet horizontal separation with at least 1.5 foot vertical separation from bottom of water to top of sewer, shall be provided between all water lines and sanitary sewer lines. Should conditions require the water and sewer lines to be installed in the same trench, the water line must rest on a shelf of undisturbed earth to one side of the sewer with at least 18 inches of vertical separation between the top of the sewer line and bottom of the water line. Approval from the Town Engineer and Director of Public Works must be acquired before same trench installation is permitted. Typical minimum cover of four feet is to be provided for water mains. For short distances, reduced cover of as little as three feet may be approved, so as to preclude locating water below a crossing utility.

II. Mains

- A. Ductile Iron Pipe
 - 1. Ductile iron pipe shall be manufactured in accordance with ANSI A21.51/ AWWA C151. All pipe shall have a minimum Class 52 thickness.
 - 2. End designs shall conform to the ANSI/AWWA C 111/ A21.11 – "Rubber Gasket Joints Ductile Iron and Gray Iron Pressure Pipe and Fittings" Push-on

joints shall be "Tyton," "Super Bell Tite" or "Fast-Tite" joint, or approved equal.

3. The inside of the pipe shall be cement lined in accordance with ANSI/AWWA C 104/ A21.
4. Flanged connections shall only be permitted where indicated on construction plans and pre-approved by the Town, and shall conform to ANSI/AWWA C115/A21.15.

B. PVC (C909) Pipe

1. Select Backfill

- a. There shall be 24" of select backfill above the stone aggregate which shall be compacted in eight inch lifts. The maximum particle size of the backfill material shall be no greater than one (1) inch. Backfill shall be compacted to 95% of maximum density.
- b. Above the select backfill, material shall be deposited in lifts not to exceed two (2) feet, and have a compaction to 95% of maximum density.
- c. A six (6) inch wide magnetized locating ribbon labeled "WATER LINE BURIED BELOW" shall be placed above the select fill.
- d. No rock shall be used in the select backfill. Any rock used *above* the select backfill shall be no larger than six (6) inches in diameter.
- e. A #12 gauge wire shall be placed next to the PVC (C909) line during installation of the main. This wire must maintain positive continuity at all times.

2. Stone Bedding

1. For excavation in dirt or clay, there must be six (6) inches of stone under and over the pipe.
2. For excavation through rock, there shall be twelve (12) inches of stone under and over pipe in rock trenches.

C. Fittings

1. All fittings shall be cast of ductile iron, and shall conform to ANSI/AWWA C153/A21.53. Fittings shall be made with mechanical joint ends in accordance with ANSI/AWWA C 111/A21.11.
2. A sufficient number of bolts, nuts, glands and gaskets shall be provided for each fitting. These accessories shall be of the proper dimensions for the size pipe. The bolts shall be made of high strength low alloy steel in accordance with ANSI/AWWA C 111/ A21.11.
3. The cement lining, shall conform to ANSI/AWWA C 104/A21.4.

III. Handling Ductile Iron Pipe and Fittings

- A. It shall be the responsibility of the pipe manufacturer to thoroughly inspect each length of pipe according to the applicable ANSI and AWWA standards and other requirements as set forth in these specifications.

BERRYVILLE TOWN COUNCIL COMMUNITY DEVELOPMENT COMMITTEE
Berryville-Clarke County Government Center
MINUTES
October 24, 2023

A meeting of the Berryville Town Council Community Development Committee was held on Tuesday, October 24, 2023 at 4:00 p.m. in the Berryville-Clarke County Government Center, located at 101 Chalmers Court in Berryville, Virginia.

Attendance:

Members of the committee present: Ryan Tibbens, chair; Diane Harrison

Staff participating: Jean Petti, Deputy Town Manager; Christy Dunkle, Community Development Director; Paul Culp, Town Clerk; Chief of Police Neal White

1. Call to Order

Mr. Tibbens called the meeting to order at 4:18 p.m.

2. Approval of Agenda

The agenda was approved by consensus on a motion by Ms. Harrison.

3. Parking Permit Request

The discussion referenced a South Church Street resident's recent request for a parking permit or other accommodation to alleviate the inconvenience of living in the downtown parking enforcement area. Mr. Tibbens said granting such an accommodation could set a bad precedent. Ms. Harrison said other parking was available within reasonable walking distance, and Ms. Petti said staff recommended dismissal of the request.

Ms. Harrison moved that the Town Code not be amended to provide for parking permits and/or other accommodation for those who live and/or work downtown. The motion passed by consensus.

4. Security Update

Ms. Petti said the removal of a light pole from the Rixey Moore parking lot had been necessary and that the remaining light might not last much longer. The committee examined photos of available products, and also discussed with Chief White the possible need for additional lighting to accommodate some of the possible projects suggested for the parking lot by the Town Manager.

5. Hogan's Alley Update

Ms. Petti said numerous matters were in process, including a water infiltration problem at an adjacent property, signage, and the placement of the mural.

6. Vacancy Tax

Mr. Tibbens said the large number of vacant commercial properties downtown had prompted his request that the matter be placed on the agenda but that the necessary enabling legislation did not exist and that enforcement would be difficult in any case. He suggested a possible increase in the tax rate for commercial properties, acknowledging that this would not be popular.

There was a discussion of rationale and of enforcement problems. Ms. Harrison said the potential of the downtown area is considerable but that convincing property owners to do new things is difficult.

The consensus was that the matter should be revisited.

7. Wayfinding Update

Ms. Dunkle said the company responsible for developing signage is in regular contact with VDOT regarding the permissible number and size of signs.

8. Rules for Use of Town Property

Ms. Petti directed the committee's attention to the agenda materials related to proposed code changes and to rules of conduct to be posted in the park. She said legal review had occurred.

Ms. Harrison expressed concern about the need to accommodate pedestrians who need to traverse the park after dark, perhaps after attending events at Barns of Rose Hill. Ms. Petti said staff would address this.

There was a discussion of smoking and marijuana use in the park.

The consensus was that the subject should be revisited when more information becomes available.

9. Clarke County Litter Committee Sign Request

Ms. Dunkle show the committee the proposed signs, and the committee agreed that one should be placed at the kiosk near 23 Main Street.

10. Adjourn

The committee adjourned by consensus at 5:12 p.m. on a motion by Ms. Harrison.

BERRYVILLE TOWN COUNCIL PUBLIC SAFETY COMMITTEE
Berryville-Clarke County Government Center
MINUTES
October 26, 2023

A meeting of the Berryville Town Council Public Safety Committee was held on Thursday, October 26, 2023 at 3:00 p.m. in the Berryville-Clarke County Government Center, located at 101 Chalmers Court in Berryville, Virginia.

Attendance:

Members of the Committee: Chair Grant Mazzarino, William Steinmetz

Staff: Deputy Town Manager Jean Petti, Town Clerk Paul Culp; Chief of Police Neal White; Community Development Director Christy Dunkle

Also present: Mayor Jay Arnold

1. Call to Order

Mr. Mazzarino called the meeting to order at 3:00 p.m.

2. Approval of Agenda

The agenda was approved by consensus on a motion by Mr. Steinmetz.

3. Unfinished Business

None.

4. New Business

Ordinance Items

Chief White said the Berryville Code needs attention regarding its ordinances restricting the keeping of inoperable motor vehicles on property zoned for residential, commercial, or agricultural purposes. He said the Code carries no specific prohibition against the habitation of trailers or motor homes but that the zoning ordinance is clear on that matter, and that he believed that to be the correct place for the prohibition.

There was a discussion of the parking of trailers and of the forty-eight-hour limit for parking in a driveway or in front of a house in circumstances such as preparation for or unpacking from a journey. Chief White said the police receive approximately five complaints annually about parking or

habitation. He said short-term habitation is permissible if allowed by the town manager. Chief White also directed the committee's attention to the Town Code's redundancy on the matter of inoperable vehicles and recommended the repeal of §13-30 and retention of §10-79.

There was a discussion of automobile repair stations, body shops, and impound lots, which by ordinance may keep an inoperable vehicle for fifty-nine days. Chief White said the state code already addresses this matter and that the Town could tighten its code language to prevent automotive clutter on other types of properties.

There was a discussion of the need to amend the Town Code to correct multiple instances of the name of the John H. Enders Fire Company, Inc., being rendered in a manner not exactly corresponding to its official name.

The committee discussed the need to reflect the fact that the assistant town manager, treasurer, and community development director are now hired by the town manager rather than being appointed by the Town Council.

There was a discussion of the need to refine the Code language related to fire department officers directing traffic at or near emergency incidents.

The committee and Chief White then discussed nuisance ordinances as they pertain to excessive growth of grass and weeds. Chief White said complaints in this arena are increasingly frequent and that response and enforcement ought to be streamlined because at present they involve multiple departments. He said safety, particularly the control of pests, is the most important aspect. Chief White and Mr. Mazzarino discussed the possibility of involving a landscaping company and reducing the role of Public Works, but the committee determined that insurance complications might ensue.

Chief White said that owners of properties abutting pollinator gardens sometimes object to them, and asked whether the committee would want to protect those gardens. There was a discussion of how to define them in the absence of model legislation other than possible insight to be gained from the Invasive Species Act.

Mr. Mazzarino cautioned against creating a loophole for shaggy properties. He said the services of a botanist would be needed for determining definitions and criteria, and cautioned against interfering excessively with use of private property.

Mr. Steinmetz and Chief White discussed the possibility of deliberately using somewhat vague language in order to retain flexibility, and Chief White said this would make enforcement problematic.

Mr. Steinmetz said anything deliberately left in a wild condition should have a buffer. Mr. Mazzarino said maintenance of property must occur. Ms. Dunkle noted that seasonal changes could affect the condition of properties.

There was a discussion of size limits and setbacks. Chief White said it might be wise to consult the county Extension Service for help with definitions. Mr. Mazzarino said clear definitions were crucial for preventing loopholes.

Chief White recommended that code enforcement reside with the police department, and there was a discussion of possibly budgeting for a code enforcement officer who would also assist with the department's accreditation process. The consensus was that this would be desirable and that code enforcement by the police department would be stronger than the alternatives.

There was a discussion of the sliding scale of fees for remedial measures taken to address code violations.

The committee concluded that Chief White should provide the aforementioned language changes for the Council and research those matters that remain open for further discussion.

5. Other

Mr. Mazzarino asked Chief White about the inventory of critical assets for the police department. Chief White said it occurs annually for assets valued at over \$3,000 and semi-annually for others.

6. Closed Session

None.

7. Adjourn

The meeting adjourned by consensus at 4:06 p.m. on a motion by Mr. Steinmetz.