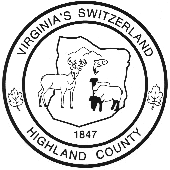
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**HIGHLAND COUNTY**

**ZONING AND SUBDIVISION**

**ORDINANCE**

**July 1, 2017**

**Amended November 21, 2019**

**Amended April 6, 2021**

**HIGHLAND COUNTY  
ZONING AND SUBDIVISION ORDINANCE**

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# ARTICLE 1

## AUTHORITY AND ENACTMENT

**101.00 AUTHORITY TO ESTABLISH ZONING**

Whereas, by act of the General Assembly of Virginia as recorded in Title 15.2, Chapter 22, Section 2280, Code of Virginia, 1950, as amended, the Governing Body of any county or municipality may, by ordinance, classify the territory under its jurisdiction into districts of such number, shape, and size as it may deem best suited to carry out the purpose of zoning, and in each district it may regulate the following:

**101.01** The use of land, buildings, structures, and other premises for agricultural, business, industrial, residential, floodplain, and other specific uses.

**101.02** The size, height, area, bulk, location, erection, construction, reconstruction, alteration, repair, maintenance, razing, or removal of structures.

**101.03** The areas and dimensions of land, water, and air space to be occupied by buildings, structures, and uses, and of courts, yards, and other open spaces to be left unoccupied by uses and structures, including variations in the sizes of lots based on whether a public or community water supply or sewer system is available and in use.

**101.04** The excavation or mining of soil or other natural resources.

**102.00 AUTHORITY TO DEVELOP SUBDIVISION ORDINANCES**

WHEREAS, Article 6 of the Code of Virginia, 1950, as amended, Section 15.2-2240, et seq., the Governing Body of Highland County, Virginia is authorized to adopt regulations to providefor the making and recording of plats of such subdivision and the certification of same, and provide for the approval of plats.

**103.00 ENACTMENT**

Therefore, be it ordained by the Board of Supervisors of Highland County and the Town Council, Town of Monterey, Virginia for the purpose of promoting the health, safety, or general welfare of the public and of further accomplishing the objectives of Sections 15.2-2283, 15.2-2240, and Title 15.2, Chapter 22 of the Code of Virginia, 1950, as amended, that the following be adopted as the Zoning and SubdivisionOrdinance of Highland County and the Town of Monterey, Virginia.

# ARTICLE 2

## PURPOSES OF THE REGULATIONS

**201.00 PURPOSES OF ZONING AND SUBDIVISION**

The Highland County-Town of Monterey Planning Commission, the Board of Supervisors, and Town Council have undertaken to achieve the delicate balance between the individual property rights of their citizens and the health, safety, and general welfare of the public and accomplish the objectives of Section 15.2-2283 by reasonable restrictions on those property rights. The purposes of this Ordinance are:

**201.01** To provide for adequate light, air, convenience of access, and safety from fire, flood, and other dangers.

**201.02** To reduce or prevent congestion in the public streets.

**201.03** To facilitate the creation of a convenient, attractive, and harmonious community.

**201.04** To facilitate the provision of adequate police and fire protection, disaster evacuation, civil defense, transportation, water, sewerage, flood protection, schools, parks, forests, playgrounds, recreational facilities, airports, and other public requirements.

**201.05** To protect against destruction of or encroachment upon historic areas.

**201.06** To protect against one or more of the following: overcrowding of land; undue density of population in relation to the community facilities existing or available; obstruction of light and air; danger and congestion in travel and transportation; or loss of life, health, or property from fire, flood, panic, or other dangers.

**201.07** To encourage economic development activities that provide desirable employment and enlarge the tax base.

**201.08** To provide for the preservation of agricultural and forestal lands and other lands of significance for the protection of the natural environment.

**201.09** To protect approach slopes and other safety areas of licensed airports.

**201.10** To promote the creation and preservation of affordable housing suitable for meeting the current and future needs of the locality as well as a reasonable proportion of the current and future needs of the planning district within which the locality is situated.

**202.00** The Governing Bodies of Highland County and the Town of Monterey, Virginia are authorized to adopt subdivision regulations to provide:

**202.01** For plat details which shall meet the standard for plats as adopted under §42.1-82 of the Virginia Public Records Act (§42.1-76 et seq.).

**202.02** For the coordination of streets within and contiguous to the subdivision with other existing or planned streets within the general area as to location, widths, grades, and drainage.

**202.03** For adequate provisions for drainage and flood control and other public purposes, and for light and air, and for identifying soil characteristics.

**202.04** For the extent to which and the manner in which streets shall be graded, graveled, or otherwise improved, and water, storm, sanitary sewer, and other public utilities or other community facilities are to be installed.

**202.05** For the acceptance of dedication for public use of any right-of-way located within any subdivision which has constructed therein, or proposed to be constructed therein, any street, curb, gutter, sidewalk, drainage or sewage system, or other improvement, financed, or to be financed, in whole or in art by private funds in accordance with §15.2-2241(A)(5) of the Code of Virginia.

**202.06** For conveyance of common or shared easements to franchised cable television operators furnishing cable television and public service corporations furnishing cable television, gas, telephone and electric service to the proposed subdivision in accordance with §15.2-2241(A)(6) of the Code of Virginia.

**202.07** For monuments of specific types to be installed establishing street and property lines.

**202.08** That unless a plat is filed for recordation within six months after final approval thereof or such longer period as may be approved by the governing body, such approval shall be withdrawn and the plat marked void and returned to the approving official in accordance with §15.2-2241(A)(8) of the Code of Virginia.

**202.09** For the administration and enforcement of such ordinance, not inconsistent with provisions contained in this chapter, and specifically for the imposition of reasonable fees and charges for the review of plats and plans, and for the inspection of facilities required by any such ordinance to be installed; such fees and charges shall in no instance exceed an amount commensurate with the services rendered taking into consideration the time, skill and administrator's expense involved. All such charges heretofore made are hereby validated.

**202.10** For reasonable provisions permitting a single division of a lot or parcel for the purpose of sale or gift to a member of the immediate family of the property owner in accordance with the provisions of §15.2-2244 of the Code of Virginia.

**202.11** For the periodic partial and final complete release of any bond, escrow, letter of credit, or other performance guarantee required by the governing body under this section in accordance with the provisions of § 15.2-2245 of the Code of Virginia.

**202.12** No locality shall require that any certified check, cash escrow, bond, letter of credit or other performance guarantee furnished pursuant to this chapter apply to, or include the cost of, any facility or improvement unless such facility or improvement is shown or described on the approved plat or plan of the project for which such guarantee is being furnished in accordance with §15.2-2241(B) of the Code of Virginia.

**203.00 NON-EXCLUSIONARY INTENT**

It is not the intent of this Ordinance to exclude any economic, racial, religious, or ethnic group from enjoyment of residence, land ownership, or tenancy within Highland County or the Town of Monterey, nor is it the intent of this Ordinance to use public powers in any way to promote the separation within Highland County or the Town of Monterey of economic, racial, religious, or ethnic groups, except as may be an incidental result of meeting the purposes outlined in Section*s* 201 and 202, herein.

# ARTICLE 3

# DEFINITIONS OF TERMS

**301.00 GENERAL**

Except as otherwise provided herein, all words shall have the customary dictionary meaning. The present tense includes the future tense. The singular number includes the plural and the plural includes the singular. The masculine gender includes the feminine and neuter genders. The word "person" includes a firm, corporation, association, organization, trust, or partnership. The word "lot" includes "plot" or "parcel." The word "building" includes "structure." The word "shall" is always mandatory, the word “may” or “should” is permissive. The word "used" or "occupied" as applied to any land or building shall be construed to include the words "intended, arranged, or designed to be used or occupied."

**302.00 SPECIFIC DEFINITIONS**

When used in this Ordinance, the following words and phrases shall have the meaning given in this section:

***Abattoir***. A commercial slaughterhouse, except poultry slaughterhouse, designed for the purpose of killing animals, skinning, dressing and cutting up of carcass, wrapping for sale for human consumption with cooler and freezer storage and includes confinement of animals while awaiting slaughter and may include cooking or process relating to processing plants, such as smoking. May include wholesale and/or retail sales of product on the premises from a separate room designated to that purpose, as a secondary use.

***Access road.***The principal means of ingress or egress to fewer than three (3) abutting properties.

***Accessory apartment****.* A separate, independent dwelling unit located on the same property as the primary dwelling unit subject to the following:

a. A dwelling unit contained within a single-family dwelling that may equal the existing finished square footage of the primary dwelling, such as a basement, attic, or additional level; or,

b. A dwelling unit attached to the primary single-family dwelling, or as a dwelling unit located above a detached accessory unit; that shall be no more than one half the size of the finished square footage of the primary dwelling unit located on the subject property.

***Accessory use or structure***. A subordinate use or structure customarily incidental to and located upon the same lot occupied by the main use or building.

***Acreage***. A parcel of land, regardless of area, described by metes and bounds which is not a numbered lot on any recorded subdivision plat.

***Administrator***. Also referred to as the Zoning Administrator; the official charged with the enforcement of the Zoning Ordinance, and in approving subdivision plats. He may be any appointed or elected official who is by formal resolution designated to the position by the Governing Body. He may serve with or without compensation as determined by the Governing Body.

***Advertising sign, off-premises.*** A sign that directs attention to a business, commodity, activity, service or product not conducted, sold or offered upon the premises where such sign is located. (adopted 11/21/19)

***Advertising sign, on premises.*** A sign that directs attention to a business, profession, commodity, service or entertainment sold or offered upon the premises where such sign is located or to which it is attached. (adopted 11/21/19)

***Affordable housing***. Housing that is affordable to families with incomes at or below 80% of the area median income, provided that the occupant pays no more than 30% of his or her gross income for gross housing costs, including utilities.

***Agent*.** One who represents another, called the principal, in dealings with third persons. The agent undertakes some business by authority of the principal. The principal is the property owner.

***Aggrieved person****.* A person or group of people with an immediate, pecuniary and substantial interest in an action taken by the administrator or board of zoning appeals under this ordinance, as opposed to a remote or indirect interest. A person is also aggrieved if the person suffers a denial of some personal or property right or imposition of a burden or obligation different from that suffered by the public in general.

***Agriculture***. The tilling of soil, raising of crops, horticulture, aquaculture, hydroponics, forestry, gardening, livestock and fowl keeping and breeding, and the production of natural products with resources primarily derived from the land upon which it is produced. These include preliminary processing of products such as eggs, milk, wool, etc. as well as the small-scale processing of animals for consumption, dairies, and similar farm production uses. Agriculture shall be permitted by-right in residentially zoned districts provided that the operation shall be conducted on a tract of land not fewer than five (5) acres in area, and that no storage of manure or other odor or dust producing substances shall be permitted. In a residential district, no structure containing poultry or livestock shall be located within two hundred (200) feet of a property line. This definition includes the small-scale conversion of biomass, wineries, and breweries in accordance with §15.2-2288.01, 2288.3, and 2288.3:1 of the Code of Virginia.

***Airport***. A place, either on land or on water, where aircraft may land to discharge or receive cargo and passengers, make repairs, or take in fuel.

***Airport hazard***. Any structure, tree, or use of land which obstructs the airspace required for, or is otherwise hazardous to, the flight of aircraft in landing or taking off at the airport.

***Alley***. A permanent service way providing a secondary means of access to abutting properties.

***Alteration***. Any change in the total floor area, use, adaptability, or external appearance of an existing structure.

***Alternative tower structure.***Man-made trees, clock towers, bell steeples, light poles and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.

***Amateur radio antenna.***Pursuant to all conditions set forth in the Code of Virginia §15.2-2293.1, an antenna, or any combination of a mast or tower plus an attached or mounted antenna, which transmits noncommercial communication signals and is utilized by an operator licensed by the Federal Communications Commission.

***Antenna***. Any exterior apparatus designed for telephone, radio, or television communications through the sending and/or receiving of electromagnetic waves.

***Apartment***. A unit in a multi-family dwelling providing living quarters for a single-family in which separate access to the outside is usually not provided, and in which the major orientation of the unit is horizontal rather than vertical, or any condominium unit of similar physical character, appearance, and structure.

***Applicant****.* Any person submitting any application required or permitted pursuant to any of the provisions of this chapter, including his successors and assigns.

***Assisted living facility.*** Residences for the frail or elderly that provide rooms, meals, personal care and supervision of self-administered medication. May also provide services including but not limited to recreational facilities, financial services and transportation.

***Automobile graveyard***. Any lot or place which is exposed to the weather upon which more than five (5) motor vehicles of any kind, incapable of being operated, and which it would not be economically practical to make operative, are placed, located, or found. Operability is the determination of the Zoning Administrator. See *Salvage and scrap service* use*.*

***Automobile repair service.*** Repair of automobiles, noncommercial trucks, motorcycles, motor homes, recreational vehicles, or boats, including the sale, installation, and servicing of equipment and parts. Typical uses include tire sales and installation, wheel and brake shops, oil and lubrication services and similar repair and service activities where minor repairs and routine maintenance are conducted.

***Awning****.* A shelter constructed of rigid or nonrigid materials on a supporting framework, either freestanding, or projecting from and supported by an exterior wall of a building.

***Basement***. Any floor at least half of which is subgrade (below ground level).

***Bed and breakfast.*** A dwelling in which not more than twelve bedrooms are provided for overnight guests for compensation, on daily or weekly basis, with or without breakfast. The serving of meals other than breakfast, or the serving of breakfast to other than overnight guests, shall be considered a Restaurant.

***Bikeway.*** A bicycle pathway: either a bike lane, a bike trail, or bike route.

***Board of Zoning Appeals.*** Also referred to as the BZA; the term refers to the Highland County Board of Zoning Appeals.

***Boarding house (Rooming house)***. A building or part thereof, other than a hotel, motel or restaurant, where meals and/or lodging are provided for compensation for three (3) to fifteen (15) unrelated persons where no cooking or dining facilities are provided in individual rooms and in which the length of stay usually exceeds one (1) week in duration. A lodging house is also included in this definition.

***Boundary line adjustment.*** The adjustment of the boundary line between two or more lots, or the vacation of a lot line for the purpose of combining two or more lots, but not including any action which would result in a creation of additional building lots or the vacation of any street, alley, easement for public passage or other public feature (§15.2-2275).

***Broadcasting or communication tower****.* Any unstaffed facility for the transmission and/or reception of radio, television, radar, cellular telephone, personal paging device, specialized mobile radio (SMR), and similar services. A broadcasting or communication tower usually consists of an equipment shelter or cabinet, a support tower or other structure used to achieve the necessary elevation, and the transmission or reception devices or antenna. Excluded are amateur radio antennas, which are described separately. Also excluded are wireless communication antennas which fit the definition of *Utility services, minor.*

***Buffer yard****.* A yard with screening and landscaping materials required between abutting zoning districts of differing intensities or between adjoining land uses for the purpose of decreasing the adverse impact of differing uses and districts.

***Building***. Any structure having a roof supported by columns or walls, for the shelter, housing or enclosure of any individual, animal, activity, process, equipment, goods or materials of any kind.

***Building, accessory***. A subordinate building located on the same lot as the main building, the use of which is incidental and accessory to that of the main building or use.

***Building Code***. The Virginia Uniform Statewide Building Code, as adopted by Highland County and the Town of Monterey and as amended.

***Building, height of***. The vertical distance measured from the adjoining grade at the front entrance of the building or structure to the highest point of the structure. For corner lots, the building height shall be the average of the front height defined above and the building side height adjacent to the street. The building side height shall be defined as the vertical distance measured from the lowest adjoining grade on the side adjacent to the street to the highest point of the structure.

***Building inspector***. The building official appointed by the Board of Supervisors and/or Town Council to administer and enforce the provisions of the Building Code, or his designated representative or agent.

***Building line or setback line*.** A line that establishes the area within which the principal building or structure must be erected or placed and which may be located by means of a plat of subdivision or site plan at a distance greater than, but in no case less than, the minimum setbacks or yard spaces required by the zoning ordinance.

***Building, main***.The principal structure or one of the principal buildings on a lot, or the building or one of the principal buildings housing the principal use on the lot.

***Business or trade school****.* A use providing education or training in business, commerce, language, or other similar activity or occupational pursuit, and not otherwise defined as an Educational facility, either primary and secondary, or college and university, or as a Home occupation.

***Business support service****.* Establishment or place of business engaged in the sale, rental or repair of office equipment, supplies and materials, or the provision of services used by office, professional and service establishments. Typical uses include office equipment and supply firms, small business machine repair shops, convenience printing and copying establishments, as well as temporary labor services.

***Caliper****.* The diameter of the trunk of a tree at the height of 4.5 feet above grade.

***Camp****.* A use which primarily provides recreational opportunities of an outdoor nature on a daily or overnight basis. Included in this use type would be scout camps, religious camps, children's camps, wilderness camps, summer camps and similar uses which are not otherwise specifically described in this ordinance.

***Campground****.* Facilities providing camping or parking areas and incidental services for travelers in recreational vehicles and/or tents.

***Canopy.*** A covered, unconditioned structure with at least one side open for pedestrian and/or vehicular access. (An unconditioned structure is one that may be open to the elements and has no heat or air conditioning.)

***Car wash****.* Washing and cleaning of vehicles. Typical uses include automatic conveyor machines and self-service car washes.

***Cellar***. See *Basement*.

***Cemetery***. A place where human remains are interred, above or below ground, and where plots are sold for that purpose, and perpetual care of the graves is furnished.

***Cemetery, private*.** A place where human remains are interred above or below ground and where plots are not sold.

***Central sewage system***. Any system of collection and treatment of sewage, as defined by rules and regulations of the state board of health governing the disposal of sewage, serving two or more connections, whether the system is privately or publicly owned and operated.

***Central water*.** Any water supply and distribution system, whether privately or publicly owned and operated, serving two or more individual connections.

***Civic use***. Public parks and playgrounds, public schools, municipal buildings including police, fire and rescue facilities and all other publicly owned structures.

***Clerk***. The Clerk of the Circuit Court having jurisdiction in Highland County and the Town of Monterey.

***Clinic****.* A facility providing medical, psychiatric, or surgical service for sick or injured persons exclusively on an out-patient basis including emergency treatment, diagnostic services, training, administration and services to outpatients, employees, or visitors. The term, "clinic" includes immediate care facilities, where emergency treatment is the dominant form of care provided at the facility.

***Club.*** A use providing educational, meeting, or social facilities for civic or social clubs and similar organizations and associations, primarily for use by members and guests. Recreational facilities, unless otherwise specifically cited in this section, may be provided for members and guests as an accessory use. A Club does not include a building in which members reside.

***Cluster development.*** A development design technique that concentrates buildings on a part of a site to allow the remaining land to be used for recreation, common open space, and the preservation of environmentally sensitive features.

***Cluster subdivision****.* A development that may allow for a reduction in lot area and bulk requirements, and may provide for an increase in the number of lots permitted under a conventional subdivision (an increase in overall density of development), in proportion to the remaining land area that is devoted to open space.

***Code of Virginia.*** The Code of Virginia of 1950, as it may be amended from time to time.

***Commercial indoor amusement****.* Establishments which provide multiple coin operated amusement or entertainment devices or machines as other than an incidental use of the premises. Such devices would include pinball machines, video games, and other games of skill or scoring, and would include pool and/or billiard tables, whether or not they are coin operated. Typical uses include game rooms, billiard and pool halls, and video arcades.

***Commercial indoor entertainment****.* Predominantly spectator uses conducted within an enclosed building. Typical uses include, but are not limited to, motion picture theaters, and concert or music halls.

***Commercial indoor sports and recreation****.* Predominantly participant uses conducted within an enclosed building. Typical uses include bowling alleys, ice and roller skating rinks, indoor racquetball, swimming, and/or tennis facilities.

***Commercial outdoor entertainment****.* Predominantly spectator uses conducted in open or partially enclosed or screened facilities. Typical uses include, but are not limited to, sports arenas, motor vehicle or animal racing facilities, and outdoor amusement parks.

***Commercial outdoor sports and recreation****.* Predominantly participant uses conducted in open or partially enclosed or screened facilities. Typical uses include, but are not limited to, driving ranges, miniature golf, swimming pools, tennis courts, outdoor racquetball courts, motorized cart and motorcycle tracks, paintball facilities, and motorized model airplane flying facilities.

***Commercial vehicle repair service****.* Repair of construction equipment, commercial trucks, agricultural implements and similar heavy equipment, including automobiles, where major engine and transmission repairs are conducted. Typical uses include automobile and truck repair garages; transmission shops; radiator shops; paint, body and fender shops; equipment service centers; machine shops and other similar uses where major repair activities are conducted.

***Commission***. The Highland County-Town of Monterey Planning Commission.

***Common area****.* A tract or parcel of land not devoted to residential uses or structures; but directly related to, and adjacent to, a planned development, cluster development or subdivision and which is owned and/or controlled by the residents of owners of such development.

***Communications service.*** Establishment primarily engaged in the provision of broadcasting and other information relay services accomplished through the use of electronic and telephonic mechanisms. Excluded from this use type are facilities classified as Utility services, major or Broadcasting or communication towers. Typical uses include television studios, telecommunication service centers, telegraph service offices or film and sound recording facilities.

***Community center***. Non-profit community entertainment, recreation, and meeting place.

***Conditional use****.* A use listed in this chapter as requiring a conditional use permit and which may be permitted under certain conditions, by the Board of Supervisors after public hearing and report by the Planning Commission, in accordance with the procedures specified by the Zoning Ordinance and applicable state law.

***Condominium.*** See *Dwelling, multi-family.*

***Conservation easement.*** The granting of a property’s development rights to an agency that stipulates that the described land will remain in its natural state and precludes future or additional development.

***Construction sales and service***. Establishment or place of business primarily engaged in retail or wholesale sale, from the premises, of materials used in the construction of buildings or other structures, but specifically excluding automobile or equipment supplies otherwise classified herein. Typical uses include building material stores and home supply establishments.

***Construction trailer.***Temporary buildings for uses incidental to construction work, provided that such buildings shall be removed upon completion or abandonment of the construction work.

***Construction yard****.* Establishment or place of business primarily engaged in construction activities, including outside storage of materials and equipment. Typical uses are building contractor's yards.

***Consumer repair service****.* Establishment or place of business primarily engaged in the provision of repair services to individuals and households, rather than businesses, but excluding automotive and equipment repair use types. Typical uses include appliance repair shops, shoe repair, watch or jewelry repair shops, or repair of musical instruments.

***County*.** Shall mean Highland County, Virginia.

***Cul-de-sac***. The circular end of a street with only one outlet and having an appropriate turnaround for a safe and convenient reverse traffic movement.

***Cultural services****.* A library, museum, or similar public or quasi-public use displaying, preserving and exhibiting objects of community and cultural interest in one or more of the arts or sciences.

***Custom manufacturing****.* Establishments primarily engaged in the on-site production of goods by hand manufacturing, within enclosed structures, involving the use of hand tools, or the use of mechanical equipment commonly associated with residential or commercial uses, or a single kiln.

***Dairy***. A commercial establishment for the manufacture and sale of dairy products.

***Dark sky lighting.*** A term that refers to shielded light fixtures that cast light downward and generally conform to the specifications endorsed by the International Dark-Sky Association (IDA).

***Day care center****.* Any facility operated for the purpose of providing care, protection and guidance to 10 or more individuals during only part of a twenty-four hour day. This term includes nursery schools, preschools, day care centers for individuals including adults, and other similar uses but excludes public and private educational facilities or any facility offering care to individuals for a full twenty-four hour period.

***Deck****.* A structure, without a roof, directly adjacent to a principal building, which has an average elevation of 30 inches or greater from finished grade. A deck may be constructed of any materials.

***Dedication****.* The transfer of private property to public ownership upon written acceptance.

***Developer.*** See *Applicant.*

***Development***. Any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

***District***. A section of Highland County or the Town of Monterey within which the zoning regulations are uniform as referred to in Section 15.2-2282 of the Code of Virginia, 1950, as amended.

***Driveway****.* A private access for vehicles to a parking space, garage, dwelling, or other structure.

***Dwelling***. Any building or portion thereof which is designed for or used for residential purposes, except hotels, boarding houses, lodging houses, tourist cabins, or camping trailers.

***Dwelling, multi-family***. A building designated for or occupied exclusively by three (3) or more families living independently of each other. The term includes condominiums of similar physical appearance, character, and structure.

***Dwelling, single-family***. A building designed for or occupied exclusively by one (1) family, containing a minimum of 900 square feet.

***Dwelling, two-family.*** Also referred to as a duplex; The use of an individual lot for two dwelling units which share at least one common wall, each occupied by one family, that separates living space (i.e., living room, kitchen, bedroom, bathroom, etc.). Each dwelling unit may be vertically stacked. The exterior appearance of the whole resembles a single structure.

***Dwelling unit***. One (1) or more rooms in a dwelling designed for living or sleeping purposes, and having at least one (1) kitchen.

***Easement***. A grant by a property owner of the use of land for a specific purpose (e.g., a right-of-way).

***Educational facility.*** A public or private institution for the teaching of children or adults including primary and secondary schools, colleges, and similar facilities.

***Emergency medical services helipad.***An area designated for the take-off and landing of emergency services helicopters.

***Emergency shelter****.* A facility providing temporary housing for one or more individuals who are otherwise temporarily or permanently homeless.

***Engineer***. An engineer registered by the Commonwealth of Virginia.

***Equipment sales and rental****.* Establishments primarily engaged in the sale or rental of tools, trucks, tractors, construction equipment, agricultural implements, and similar industrial equipment, and the rental of mobile homes. Included in this use type is the incidental storage, maintenance, and servicing of such equipment.

***Establishment****.* Any entity or individual conducting a business, profession, or trade; and any entity or individual conducting a civic, community service, or nonprofit activity.

***FAA****.* The Federal Aviation Administration.

***Façade****.* An entire outside wall of a structure, including wall faces, parapets, fascia, windows, and doors, of one complete elevation.

***Fair market value****.* The price at which property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or to sell and both having reasonable knowledge of relevant facts.

***Family***. One or more persons related by blood, marriage, legal adoption, or under approved foster care. Private household workers employed and housed on the premises may be considered as included in the family occupying said premises.

***Family day home***. A single-family dwelling in which more than five but fewer than 13 individuals, are received for care, protection and guidance during only part of a twenty-four-hour day. Individuals related by blood, legal adoption or marriage to the person who maintains the home shall not be counted towards this total. The care of 5 or fewer individuals for portions of a day shall be considered as a Home occupation.

***Family subdivision***. A division made pursuant to Code of Virginia, § 15.2-2244, i.e., a single division of a lot or parcel for the purpose of sale or gift to a member of the immediate family of the property owner, including the family member's spouse, subject only to any express requirement contained in the Code of Virginia and to any requirement imposed by the governing body that all lots of fewer than five acres have reasonable right-of-way of not less than ten feet or more than 20 feet providing ingress and egress to a dedicated recorded public street or thoroughfare. Unless otherwise constructed to meet standards eligible for addition to the secondary system of highways, access to such divisions shall be deemed to be privately maintained roads and the deeds and plats of such divisions shall include the language required under this chapter. Only one such division in the County shall be allowed per family member, and shall not be for the purpose of circumventing this subsection. Each such division shall remain in the name of the qualified family member for a minimum of five years from the date of recordation, unless the lot is the subject of an involuntary transfer such as foreclosure, death, divorce, judicial sale, condemnation or bankruptcy. For the purpose of this subsection, a member of the immediate family is defined as any person who is a natural or legally defined offspring, stepchild, spouse, sibling, grandchild, grandparent, aunt, uncle, niece, nephew or parent of the owner.

***Farm dwelling.*** A single-family dwelling or a manufactured home used in conjunction with a farming operation of any kind.

***Farm sales****.* Any agricultural produce or merchandise produced on the farm and offered for sale from the farm. Typical uses would include Nursery and Greenhouse, commercial, but not Garden center.

***Farmhouse***. A single-family dwelling that is the principal residence of the farm and an accessory use to the farm, barn, outbuildings and activities that dominate the primarily agricultural use of the property.

***Farmland.*** Land in active agricultural or horticultural use.

***FCC.*** The Federal Communications Commission.

***Financial institution.*** An establishment whose principal purpose is the provision of financial services, including but not limited to, banks, accounting offices, tax-preparation offices, lenders and securities brokers.

***Fish hatchery.***An establishment in which young fish are produced and reared especially for later release in natural waters.

***Flag lot****.* See *Lot, pipe stem.*

***Flood or flooding***. A general and temporary inundation of normally dry land areas.

***Flood elevation, base****.* The Federal Emergency Management Agency designated 100-year water surface elevation.

***Flood hazard area***. The maximum area of the floodplain which is likely to be flooded once every one hundred (100) years or for which mudslides can be reasonably anticipated. These areas are defined by the Department of Housing and Urban Development's Flood Hazard Mapping or Rate Study Mapping as appropriate.

***Floodplain or flood-prone area***. (1) A relatively flat or lowland area adjoining a river, stream or watercourse which is subject to partial or complete inundation of water; or, (2) an area subject to the unusual and rapid accumulation or runoff of surface water from any source.

***Flood, one hundred year***. A flood that, on the average, is likely to occur once every 100 years (i.e., that has a one percent chance of occurring each year, although the flood may occur in any year).

***Flood proofing***. A combination of structural provisions, changes, or adjustments to properties and structures subject to flooding required for new construction in the floodway by the Virginia Uniform Statewide Building Code.

***Floodway***. The channel of a river or other water course and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

***Floor area ratio (FAR)***. The ratio of gross floor area of all structures on a lot to total lot area.

***Floor area***. The sum of the gross horizontal areas of the total number of floors of a building measured from the exterior faces of the exterior walls or from the centerline of walls separating two (2) buildings, but not including any attic space providing headroom of less than seven (7) feet, unusable basement or cellar space not used for retailing, uncovered steps or fire escapes, open porches, accessory water or cooling towers, accessory off-street parking spaces, and accessory off-street loading berths.

***Forestry use****.* The use of land for the raising and harvesting of timber, pulp woods and other forestry products for commercial purposes, including the temporary operation of a sawmill and/or chipper to process the timber cut from that parcel or contiguous parcels. Such land shall be at least 20 acres to be considered, or be covered with more than 50 percent contiguous tree growth if larger. Associated uses include timber tracts, tree farms, forest nurseries, sawmills, and on-site wood gathering for transport to a processing facility.

***Frontage road****.* A service road, usually parallel to a highway, designed to reduce the number of driveways that intersect the highway. Also see Service Drive Street.

***Full cutoff luminaire****.* An outdoor light fixture shielded in such a manner that all light emitted by the fixture is projected below the horizontal plane; also a type of dark sky lighting.

***Funeral home****.* Establishments engaged in undertaking services such as preparing the dead for burial, and arranging and managing funerals. Typical uses include funeral homes or mortuaries.

***Garage, commercial****.* See *Auto repair service* or *Commercial vehicle repair service.*

***Garage, private***. Accessory building designed or used for the storage of not more than three (3) automobiles owned and used by the occupants of the building to which it is accessory. On a lot occupied by a multiple unit dwelling, the private garage may be designed and used for the storage of one and one-half (1½) times as many automobiles as there are dwelling units.

***Gardening***. Any use of land unenclosed except for fencing for the raising of grass, flowers, vegetables, crops, trees, or other botanical objects of natural growth, generally for the use and/or consumption of the occupants of the premises, but not including accessory structures used for the same purpose.

***Garden center****.* Establishments or places of business primarily engaged in retail sales from the premises including trees, shrubs, seeds, fertilizers, pesticides, plants and plant materials primarily for agricultural, residential and commercial consumers. Such establishments typically sell products purchased from others, but may sell material which they grow themselves.

***Gasoline station****.* Any place of business with fuel pumps and underground storage tanks which provides fuels and oil for motor vehicles. A store associated with automobile fuel sales shall be considered a gasoline station.

***Glare.*** Lighting entering the eye directly from luminaires or indirectly from reflective surfaces that causes visual discomfort or reduced visibility. Also, the effect produced by brightness sufficient to cause annoyance, discomfort, or loss in visual performance and visibility.

***Golf course***. Any golf course, publicly or privately owned, on which the game of golf is played, including accessory uses and buildings customary thereto, but excluding golf driving ranges as defined herein. See *Commercial outdoor sports and recreation*.

***Golf driving range***. A limited area on which golf players do not walk, but onto which they drive golf balls from a central driving tee. See *Commercial outdoor sports and recreation*.

***Governing Body***. The Board of Supervisors of Highland County or the Town Council of Monterey, Virginia, as applicable.

***Grandfathered****.* A term referencing a use or structure that is not in conformance with the current ordinance but that was legal at the time it was established or constructed. Also referred to as a legally, non-conforming use/structure.

***Greenhouse****.* A building with transparent walls and roof; for the cultivation and exhibition of plants under controlled conditions.

***Greenhouse, commercial****.* A greenhouse operation in which plants are offered for sale to the public, either at wholesale or at retail.

***Greenway****.* A corridor of open space managed for conservation, recreation and non-motorized transportation. Greenways often follow natural geographic features such as ridge lines, stream valleys, and rivers, but may also be built along canals, utility corridors, abandoned rail lines and the like. Greenways may include a trail or bike path or may be designed strictly for environmental or scenic protection.

***Group home***. A licensed residential facility in which no more than eight mentally ill, mentally retarded, or developmentally disabled persons reside, with one or more resident counselors or other staff persons, shall be considered a residential occupancy by a single family. Mental illness and developmental disability shall not include current illegal use of or addiction to a controlled substance. Such facility shall be licensed by the Commonwealth of Virginia Department of Mental Health, Mental Retardation and Substance Abuse Services, in order to qualify as a single family use.

***Guest home****.* A single-family dwelling used to house persons receiving the hospitality of the property owner. This unit is to be for temporary use, for stays of no longer than one (1) month. The guest home shall be considered an accessory structure for use by family and friends and prohibited for use as a rental unit. The guest home shall meet primary structure setbacks.

***Guest room***. A room which is intended, arranged, or designed to be occupied, or which is occupied, by one (1) or more guests paying direct or indirect compensation therefore, but in which no provision is made for cooking.

***Halfway house****.* An establishment providing accommodations, supervision, rehabilitation, counseling, and other guidance services to persons suffering from alcohol or drug addiction, to persons re-entering society after being released from a correctional facility or other institution, or to persons suffering from similar disorders.

***Health Department***. The Highland County Health Department or its designated agent or representative.

**Health Official.** The Health Director of Highland County, VA.

***Height****.* When referring to a tower or other structure, the distance measured from ground level to the highest point on the tower or other structure, even if said highest point is an antenna.

***Highway Engineer***. The official designated by the Virginia Department of Transportation to inspect subdivision streets and alleys, and other public ways.

***Historic District***. An area containing buildings or places in which historic events occurred, or having special public value because of notable architectural or other features relating to the cultural or artistic heritage of the community, of such significance as to warrant conservation and preservation.

***Home for adults***. See *Group home.*

***Home occupation***. An accessory use of a dwelling located either in the dwelling or an accessory building, for gainful employment involving the production, provision, or sale of goods and/or services, which is clearly incidental to or secondary to the residential use of a dwelling.

***[Type 1](http://www.highlandcova.org/Zoneord/ART7_704.htm)*** is a home occupation of an intensity suitable for more densely established residential neighborhoods typically found in areas of the County and Town of Monterey that are zoned residential.

[***Type II***](http://www.highlandcova.org/Zoneord/ART7_704.htm) is a home occupation of an intensity suitable for agricultural and rural areas of the County.

***Hospital***. An institution rendering medical, surgical, obstetrical, or convalescent care, including any institution licensed as a hospital by the State Hospital Board.

***Hotel***. A building in which lodging, or board and lodging, are provided and offered to the public for compensation and in which cooking facilities may be provided, or in which lodging facilities are provided primarily for travelers and in which the length of stay is usually less than one (1) week in duration. The term "hotel" includes the term "motel."

**Hunt camp.** An area of a property devoted to the temporary, seasonal use for a camp dedicated for hunting that often includes a structure for sleeping, but not for permanent use. The structure may or may not include such features as a kitchen, indoor plumbing, and other amenities found in a typical dwelling unit.

***Industrial, light.***Includes light manufacturing uses which produce some noise, traffic congestion or danger, but which are of such limited scale or character that they present no serious hazard to neighboring properties from fire, smoke, noise, or odors. Examples are lumber yards, research laboratories, food preparation or processing, meat processing, bakeries, bottling plants, electronic plants, storage of farm implements, tobacco warehouses, steel or metal fabrication, and garment manufacturing.

***Interior parking lot island***. An island or planter that is surrounded on at least 3 sides by a parking lot or access road.

***Itinerant vendor***. Any person who engages in, does, or transacts any temporary or transient business in the county and who, for the purpose of carrying on such business, occupies any location for a period of less than 45 days.

***Junk yard***. A lot, land, or structure, or part thereof, used primarily for the collecting, storage, and sale of waste paper, rags, scrap metal, or discarded material, or for the collection, dismantling, storage, and salvage of machinery or vehicles not in running condition, or for the sale of parts thereof. See *Salvage and scrap service.*

***Kennel***. Any location where raising, grooming, caring for or boarding of dogs, cats, or other small animals for commercial purposes is carried on.

***Landscaping***. The improvement of the appearance of an area by the planting of trees, grass, shrubs, or other plant materials, or by the alteration of the contours of the ground.

***Land Use Plan.*** Highland County-Town of Monterey Comprehensive Plan Land Use Element.

***Life care facility***. A residential facility primarily for the continuing care of the elderly, providing for transitional housing progressing from independent living in various dwelling units, with or without kitchen facilities, and culminating in nursing home type care where all related uses are located on the same lot. Such facility may include other services integral to the personal and therapeutic care of the residents. An Assisted living facility would be included in this definition.

***Light pollution****.* Any adverse effect of man-made light including sky glow, glare, light trespass, light clutter, and decreased visibility at night.

***Light trespass****.* Light that falls beyond the property it is intended to illuminate. Light trespass occurs when unwanted light shines on neighboring property or in neighboring windows or when the tranquility of the nighttime environment is disturbed and the quality of life diminished. Also called light spillover.

***Livestock***. Any animal customarily kept by humans for the purpose of providing food, clothing, or work, including but not limited to, cows, goats, horses, pigs, barnyard fowl, etc., but not including cats, dogs, or other house pets.

***Livestock market***. A commercial establishment wherein livestock is collected for sale and auctioned off.

***Living quarters.*** Residence for persons employed on the premises.

***Loading space***. A space within the main building or on the same lot, providing for the standing, loading, or unloading of trucks and other carriers.

***Lot****.* A parcel of land intended to be separately owned, developed, or otherwise used as a unit, established by plat, subdivisions or as otherwise permitted by law*.*

***Lot, corner***. A lot abutting upon two (2) or more streets at their intersection. Of the two (2) sides of a corner lot, the front shall be deemed to be the shorter of the two (2) sides fronting on streets.

***Lot coverage***. The ratio of the horizontally projected area of the main and accessory buildings on a lot to the total area of the lot, except where otherwise defined herein.

***Lot, depth of***. The average horizontal distance between the front and rear lot lines.

***Lot, double frontage (through lot)***. An interior lot having frontage on two (2) streets as distinguished from a corner lot.

***Lot, interior***. Any lot other than a corner lot.

***Lot line (property boundary line).*** Lines as shown on a recorded plat or metes and bounds description designating the lot.

***Lot line, front.***The property boundary along the front yard as defined.

***Lot, pipestem***. A "panhandle" or "flag" shaped lot with its widest point set back from the road at the rear of another lot (called the pipe), and having a thin strip of land connecting to the road to provide legal access and frontage (called the stem). Pipestem lots are also referred to as panhandle lots or flag lots.

***Lot of record***. A lot or parcel of land whose existence, location, and dimensions have been recorded in the Office of the Clerk of the Circuit Court.

***Lot, width of***. The average horizontal distance between side property lot lines.

***Luminaire.*** A complete lighting unit or fixture, consisting of a lamp, or lamps and ballast(s), together with the parts designed to distribute the light (reflector, lens, diffuser), to position and protect the lamps, and to connect the lamps to the power supply. See also *Full cutoff luminaire*.

***Main use***. The primary purpose for which land or a building is used.

***Manufacture and/or Manufacturing***. The processing and/or converting of raw, unfinished materials, or products, or either of them, into articles or substances of different character, or for use for a different purpose.

***Manufactured home***. A manufactured dwelling unit designated for long-term occupancy and constructed originally with wheels for movement (whether or not such wheels have later been removed) and which has plumbing and electrical connections provided for attachment to outside systems. A camping vehicle or travel trailer shall not be considered a manufactured home.

***Manufactured home park***. Any development in which space is for three (3) or more manufactured homes for a longer period of time than thirty (30) days.

***Mini-warehouse.*** A building designed to provide rental storage space in cubicles where each cubicle has a maximum floor area of 400 square feet. Each cubicle shall be enclosed by walls and ceiling and have a separate entrance for the loading and unloading of stored goods.

***Mixed use structure.*** Any combination of residential and commercial uses within the same building or premises.

***Mobile Food Vendor.*** A readily moveable wheeled vehicle or towed vehicle designed and equipped for the preparation and sale of food and/or drink, which is provided to walk-up customers. This term includes mobile food units, food trucks, and similar apparatuses. Mobile food vendors are by definition itinerant and not permanent fixtures to a specific property.

***Modular home***. A dwelling unit primarily manufactured off-site in accordance with the Virginia Uniform Statewide Building Code standards and transported to the building site for final assembly on a permanent foundation.

***Motor home or camper***. A unit or subunit which is or becomes self-propelled and is designed for human habitation on a short-term basis.

***Nonconforming building****.* Any building the size, dimensions or location of which was lawful when erected or altered, but which fails to conform to the current standards and regulations due to the adoption, revision or amendment of this ordinance.

***Nonconforming lot.*** A lot, the area, dimensions or location of which were lawful at the time the lot was created, but which fail to conform to the current standards and regulations due to the adoption, revision or amendment of this ordinance.

***Non-conforming use of structures***. The otherwise legal use of a building or structure that does not conform to the use regulations of this Ordinance for the district in which it is located, either at the effective date of this Ordinance or as a result of subsequent amendments to the Ordinance.

***Non-conforming structure***. An otherwise legal building or structure that does not conform with the lot area, yard, height, lot coverage or other area regulations of the Zoning Ordinance, or is designed or intended for a use that does not conform to the use regulations for the district in which it is located either at the effective date of the ordinance or as a result of subsequent amendments thereto.

***Non-conforming use of land***. A use of land existing at the time of the enactment of this Ordinance, or at the time of a zoning amendment, which does not conform to the regulations of the use district in which it is located.

***Nursery.***A place where plants are grown commercially, either for sale direct to the public or to other retailers.

***Nursing home***. A use providing bed care and in-patient services for persons requiring regular medical attention but excluding a facility providing surgical or emergency medical services and excluding a facility providing care for alcoholism, drug addiction, mental disease, or communicable disease.

***Occupancy.***The period during which one owns, rents, uses, or occupies a certain premises or land.

***Occupant*.** A person who, on a regular basis, spends nights at a residence. A person is considered an occupant regardless of whether they spend the majority of their nights at a residence, if the times they do stay overnight are regular and recurrent. In addition, a person shall be considered an occupant if their clothes or other daily living supplies are maintained at the residence.

***Office, general****.* Use of a site for business, professional, or administrative offices, excluding medical offices. Typical uses include real estate, insurance, management, travel, computer software or information systems research and development, or other business offices; organization and association offices; or law, architectural, engineering, accounting or otherprofessional offices. Retail sales do not comprise more than an accessory aspect of the primary activity of a general office.

***Office, medical.***Use of a site for facilities which provide diagnoses, minor surgical care and outpatient care on a routine basis, but which does not provide overnight care or serve as a base for an ambulance service. Medical offices are operated by doctors, dentists, or similar practitioners licensed by the Commonwealth of Virginia. Emergency treatment is not the dominant type of care provided at this facility.

***Off-Street Parking Area***. Space provided for vehicular parking outside the dedicated street right-of-way.

***Open Space***. Any parcel of land or water essentially unimproved and set aside, dedicated, designated, or reserved for public or private use or enjoyment. Open space may include active recreational facilities such as swimming pools, play equipment, ball fields, court games, and picnic areas.

***Open space, common****.* Land within or related to a development, not individually owned or dedicated for public use, which is intended for the common use or enjoyment of the residents of the development and may include such complementary structures as are necessary and appropriate. Common open space may include, recreation centers, swimming pools, tennis and basketball courts, and similar facilities.

***Outdoor gathering****.* Any temporary organized gathering expected to attract 200 or more people at one time in open spaces outside an enclosed structure. Included in this use type would be entertainment and music festivals, church revivals, carnivals and fairs, and similar transient amusement and recreational activities not otherwise listed in this section. Such activities held in public parks or on public school property shall not be included within this use type.

***Parcel or parcel of land****.* A lot or parcel which is described by a plat or other legal description.Also, see *Lot.*

***Parking facility.***As regulated in Article 7, a site for surface parking or a parking structure use which provides one or more parking spaces together with driveways, aisles, turning and maneuvering areas, incorporated landscaped areas, and similar features meeting the requirements established by this ordinance. This use type shall not include parking facilities accessory to a permitted principal use.

***Parking lot area.*** The square foot area of the parking spaces and aisles and interior parking lot islands, excluding access drives that do not have parking spaces within them.

***Patio****.* A level surfaced area directly adjacent to a principal building which has an average elevation of not more than 30 inches from finished grade, and without walls or a roof. A patio may be constructed of any materials.

***Pedestrian ways****.* Paved, marked or otherwise designated pedestrian treatments meeting AASHTO standards.

***Pen***. A small enclosure used for the concentrated confinement and housing of animals or poultry, a place for feeding and fattening animals, a coop. Enclosed pasture or range with an area in excess of one hundred (100) square feet for each hog or small animal or two hundred (200) square feet for each larger animal shall not be regarded as a pen.

***Person***. An individual, firm, corporation, or association.

***Personal improvement services.*** Establishments primarily engaged in the provision of informational, instructional, personal improvements and similar services. Typical uses include driving schools, health or physical fitness studios, reducing salons, dance studios, handicraft and hobby instruction.

***Personal services.***Establishments or places of business engaged in the provision of frequently or recurrently needed services of a personal nature. Typical uses include beauty and barber shops; grooming of pets; seamstresses, tailors, or shoe repairs; florists; and laundromats and dry cleaning stations serving individuals and households.

***Picnic shelter.*** A structure with no more than two (2) walls, which provides protection or shelter to persons which are picnicking. Picnic shelters shall not be used for human habitation.

***Plat***. A map or plan of a parcel of land that is to be, or has been subdivided. When used as a verb, “plat” is synonymous with “subdivide.”

***Porch****.* A roofed open area, which may be glazed or screened, usually attached to or part of and with direct access to or from, a building.

***Post office****.* Postal services directly available to the consumer operated by the United States Postal Service. See *Civic use.*

***Poultry.*** Domestic fowl normally raised on a farm, such as chickens, ducks, geese, turkeys, peafowl, guinea fowl, etc.

***Prefabricated building (modular)***. The completely assembled and erected building or structure, including the service equipment, of which the structural parts consist of prefabricated individual units or subassemblies using ordinary or controlled materials, and in which the service equipment may be either prefabricated or on-site constructed.

***Premises*.** See *Lot.*

***Preservation.***The act or process of applying measures to sustain the existing form, integrity, and material of a site, structure, or landmark and their existing form and vegetative cover. Preservation may include initial stabilization work, where necessary, as well as ongoing maintenance of these elements.

***Principal building or structure.***A building or structure in which the primary use of the lot on which the building is located is conducted.

***Property*.** Any tract, lot, parcel or several of such tracts, lots or parcels collected together.

***Public assembly****.* Facilities that accommodate public assembly for sports, amusements, or entertainment purposes. Typical uses include auditoriums, sports stadiums, convention facilities, and incidental sales and exhibition facilities.

***Public maintenance and service facility****.* A public facility supporting maintenance, repair, vehicular or equipment servicing, material storage, and similar activities including street or sewer yards, equipment services centers, and similar uses having characteristics of commercial services or contracting or industrial activities.

***Public park and recreational area.*** Publicly owned and operated parks, picnic areas, playgrounds, indoor/outdoor athletic or recreation facilities, indoor/outdoor shelters, amphitheaters, game preserves, open spaces, and other similar uses. This shall not include *Public recreation assembly*.

***Public recreation assembly.*** Publicly-owned and operated community, civic, or recreation centers, year-round swimming facilities, or indoor performing arts/auditoriums.

***Public water and sewage disposal***. The water and sewage disposal systems owned and operated by the Town of Monterey or the County of Highland.

***Public utilities***. See *Utility services, major.*

***Ramada***. A structure erected over a manufactured home for the purpose of providing shade or shelter.

***Recreation, active.*** Those recreational pursuits which require physical alteration to the area in which they are performed including, but not limited to, pedestrian ways, bikeways, tennis courts, swimming and boating areas, playgrounds, and play fields.

***Recreation, passive****.* Recreational activities that generally do not require a developed site such as hiking, horseback riding, and picnicking.

***Recreation facility, private.*** A private recreational facility for use solely by the residents and guests of a particular residential development, planned unit development, or residential neighborhood, including indoor and outdoor facilities. These facilities are usually proposed or planned in association with development and are usually located within or adjacent to such development.

***Recreation facility, public.*** Publicly owned or operated recreation facilities.

***Recreational vehicle.*** A vehicle which is (a) built on a single chassis; (b) 400 square feet or less when measured at the largest horizontal projection; (c) designed to be self-propelled or permanently towable by a light duty truck; and (d) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational camping, travel, or seasonal use.

***Recreational vehicle sales and service.*** Retail sales of recreational vehicles and boats, including service and storage of vehicles and parts and related accessories.

***Recycling center.*** A facility used by the general public for the collection of materials for recycling or reuse, including bins, boxes, buildings, self-propelled motor vehicles, trailers and other enclosures or receptacles. Except for County or other governmental sponsored programs to collect and/or recycle household hazardous wastes, this definition shall not include facilities for the collection of non-recyclable materials, such as business and household refuse, garbage, organic materials, medical waste, trash, junk, toxic substances or similar materials.

***Refuse collection site.***Facility for the collection of non-recyclable materials, such as business and household refuse, garbage, organic materials, medical waste, trash, junk, toxic substances or similar materials.

***Religious assembly.*** A use located in a permanent building and providing regular organized religious worship and related incidental activities, except primary or secondary schools and day care facilities.

***Replacement cost.***The cost of restoring a damaged building or structure to its original condition. Replacement cost shall include reasonable estimates of the cost of materials and labor and shall be compared with the assessed value as determined by the County Assessor to determine the percentage of the cost of improvements.

***Required open space***. Any space required in any front, side, or rear yard.

***Research and development*.** A business which engages in research, or research and development, of innovative ideas in technology-intensive fields. Examples include research and development of communication systems, transportation, geographic information systems, multi-media and video technology. Development and construction of prototypes may be associated with this use.

***Residential density.*** A measure of dwelling units per acre. The number of units shall be rounded up to the next whole unit (e.g. a 5.2 unit/acre average would be counted as 6 units/acre).

***Residential dwelling.*** A building or part of a building, containing living, sleeping, housekeeping accommodations, and sanitary facilities for occupancy by one or more individuals or families.

***Residential use***. Any place, building, or establishment used in whole or in part as a dwelling, or used for the care, protection, or guidance of any persons during any part of the day, including, but not limited to, hospitals, schools, single-family and multi-family dwellings, manufactured homes, child care centers, family day care homes, group homes, homes for adults, colleges, and correctional institutions.

***Resource extraction.*** A use involving on-site extraction of surface or subsurface mineral products or natural resources. Typical uses are quarries, borrow pits, sand and gravel operation, mining, and soil mining. Specifically excluded from this use type shall be grading and removal of dirt associated with an approved site plan or subdivision, or excavations associated with, and for the improvement of, a bona fide agricultural use.

***Restaurant***. Any building in which, for compensation, food or beverages are dispensed to persons not residing on the premises for consumption on the premises including, among other establishments, cafes, delicatessens, or refreshment stands.

***Restaurant, drive-in***. An eating and/or drinking establishment which caters to motor-driven vehicle businesses where the person being served may consume his food and/or drink while sitting in a motor-driven vehicle, as opposed to a restaurant serving exclusively inside or adjacent to the main building.

***Restaurant, fast food.*** An establishment primarily engaged in the preparation of food and beverages, for either take-out, delivery or table service, served in disposable containers at a counter. This use type does not employ a drive-up or drive-through service facility, and does not offer curb service.

***Restaurant, general.*** An establishment engaged in the preparation of food and beverages containing more than 2,000 gross square feet and characterized primarily by table service to customers in non-disposable containers.

***Restaurant, small.*** An establishment engaged in the preparation of food and beverages containing no more than 2,000 gross square feet and characterized primarily by table service to customers in non-disposable containers. Typical uses include cafes, coffee shops, and eat-in delis.

***Review board***. The Architectural Review Board of Highland County and the Town of Monterey, Virginia.

***Right-of-way***. A legally established area or strip of land, either public or private, on which an irrevocable rite of passage has been recorded, and which is occupied or intended to be occupied by a street, utility service, water main, sanitary or storm sewer main, or other similar use. Also commonly referred to as an easement.

***Right-of-way line***. The dividing line between a lot, tract, or parcel of land and a contiguous street, railroad, or public utility right-of-way.

***Salvage and scrap service.*** Place of business primarily engaged in the storage, sale, dismantling or other processing of uses or waste materials which are not intended for reuse in their original forms. Typical uses included paper and metal salvage yards, automotive wrecking yards, junk yards, used tire storage yards, or retail and/or wholesale sales of used automobiles parts and supplies.

***Sanitary landfill***. An engineered land burial facility for the disposal of solid waste (as defined by the Virginia Department of Waste Management) which is so located, designed, constructed, and operated as to contain and isolate the solid waste so that it does not pose a substantial present or potential hazard to human health or the environment.

***Sawmill, permanent.*** A sawmill permanently located for the purpose of processing timber from the property on which located, from adjoining property, or from other properties removed from the sawmill or its environs without regard to point of origination. Such mill may or may not be held out for the processing of timber bought or sold on a price basis.

***Sawmill, temporary.*** A portable sawmill located on private property for the processing of timber cut only from that property or from property immediately contiguous and adjacent thereto, or incidental processing of timber transported from other property.

***Screening.*** A method of visually shielding or obscuring one abutting or nearby structure or use from another by fencing, walls, berms or densely planted vegetation. Screening is intended to substantially, but not necessarily totally, obscure visual impacts between adjoining uses.

***Setback***. The minimum distance by which any building or structure must be separated from the front lot line.

***Setback line***. A line generally parallel with and measured from the front lot line, defining the limits of a defined yard in which no building or structure may be located above ground.

***Shelter.*** A facility providing temporary protective sanctuary for victims of crime or abuse including emergency housing during crisis intervention for individuals, such as victims of rape, child abuse, or physical beatings.

***Shooting, private recreational.***The use of land for target shooting and other recreational activities, other than hunting, involving the use of firearms or other projectiles (e.g., archery) by the owner or occupant of a parcel and their guests, not in return for compensation and not including formal competitions. Facilities that appear to be commercially oriented shall be subject to review and approval by the zoning administrator in accordance with safety guidelines issued by the National Rifle Association (NRA) or other recognized authority.

***Shooting range, indoor.***The use of a structure for firearms or other projectiles for the purpose of target practice or competitions, and in return for compensation.

***Shooting range, outdoor.***The use of land for shooting clubs and other facilities for the discharge of firearms or other projectiles for the purposes of target practice, skeet and trap shooting, mock war games, or formal competitions, or in return for compensation.

***Shrub.*** A woody plant producing multiple shoots or stems from the base height, with a total height of 15 feet or less. Also, when used to meet the landscaping criteria of the zoning ordinance, a perennial planting that, at the time of planting, has a minimum height of two (2) feet measured from the ground elevation after planting.

***Sign***. As regulated in Article 7, any display of letters, words, numerals, figures, devices, emblems, pictures, or any parts or combinations thereof, by any means whereby the same are made visible for the purpose of making anything known, whether such display be made on, or attached to, or as a part of a structure, surface or any other thing, including, but not limited to, the ground, any rock, tree or other natural object, which display is visible beyond the boundaries of the parcel of land on which the display is made. A display of less than one square foot in area is excluded from this definition

***Sign area***. The smallest square, rectangle, triangle, circle, or combination thereof encompassing the entire advertising area, excluding architectural trim and structural supports.

***Sign, freestanding****.* A sign standing on the ground. Such signs are usually, but not necessarily always supported from the ground by one or more poles or posts or similar uprights with or without braces. This term includes benches and A-frame or sandwich board signs.

***Sign, illuminated.*** Any sign with an artificial light source incorporated internally or externally for the purpose of illuminating the sign.

***Sign, location.*** An off-premises sign which directs attention to the approximate location of a church, school or other nonprofit institution.

***Sign, monument*.** A freestanding sign attached to a continuous structural base, which base is not less than half the width of the message portion of the sign and is permanently affixed to the ground. Monument signs do not include freestanding signs supported by poles.

***Sign, nonconforming.*** Any sign, the area, dimensions or location of which were lawful at the time the sign was erected, but which fail to conform to the current standards and regulations due to the adoption, revision or amendment of this ordinance.

***Sign, portable****.* A freestanding temporary sign that is designed to be moved easily, and is not permanently affixed to the ground.

***Sign structure***. A structure composed of a single pole or multiple poles which is located on the ground or on top of another structure and which supports no more than two (2) signs.

***Signs structure facing***. The surface of the sign upon, against, or through which the message of the sign is exhibited, not including architectural trim and structural supports.

***Sign, temporary***. Any sign, banner, pennant, valance, or advertising display constructed of cloth, canvas, light fabric, cardboard, wallboard, or other materials with or without frames intended to be displayed for a period of not more than sixty (60) consecutive days. Event related signs such as auction signs, advertising and directional signs located on or off-premises is an example of temporary signs.

***Single-family dwelling, attached.*** Two or more single family dwellings sharing two or more common walls, each on its own individual lot. Attached dwellings are not vertically stacked.

***Single-family dwelling, detached.*** A site built or modular building designed for or used exclusively as one dwelling unit for permanent occupancy, which is surrounded by open space or yards on all sides, is located on its own individual lot, and which is not attached to any other dwelling by any means.

***Site plan***. The proposal for a development or a subdivision including all covenants, grants, or easements and other conditions relating to use, location, and bulk of buildings, density of development, common open space, public facilities, and such other information as is required in applicable sections of this Ordinance such as with conditional use, rezoning, or variance applications.

***Small-scale.*** Small in output or operation; involving few people or things. The issue of commercial scale shall be the determination of the zoning administrator or as otherwise clarified by State Code. If a use is determined to not be small-scale in nature then it shall be treated as a commercial (or industrial) use, as appropriate.

***Solid waste.*** Any garbage, refuse, sludge and other discarded material, including solid, liquid, semisolid or contained gaseous material, resulting from industrial, commercial, mining and agricultural operations and from community activities.

***Stable, commercial.***The sheltered boarding of horses or ponies not owned by the owner or occupant of the property or riding of horses by other than the owner or occupant of the property and their non-paying guests. Commercial stables with fewer than 20 horses shall be permitted by-right in the Agricultural (A) District. Included in this definition are riding academies.

***Stable, private.***The keeping, breeding, or raising of horses or ponies exclusively for the personal use and enjoyment of the owner or occupant of the property or the riding of horses or ponies by the owner or occupant of the property and their guests.

***Store, general****.* Buildings for display and sale of merchandise at retail.

***Store, grocery.***A retail business primarily engaged in the sale of unprepared food for personal or household preparation and consumption. Such a facility may also engage in incidental sales of prepared foods for personal consumption on-or off-site.

***Store, neighborhood convenience***. Establishments primarily engaged in the provision of frequently or recurrently needed goods for household consumption, such as prepackaged food and beverages, and limited household supplies and hardware. Convenience stores shall not include fuel pumps or the selling of fuel for motor vehicles. Typical uses include neighborhood markets and country stores.

***Story***. That portion of a building, other than the basement, included between the surface of any floor and the surface of the floor next above it. If there is no floor above it, the space between the floor and the ceiling next above it.

***Story, half***. A space under a sloping roof, which has the line of intersection of roof decking and wall face not more than three (3) feet above the top floor level, and in which space not more than two-thirds (2/3) of the floor area is finished off for use.

***Street***. A dedicated strip of land or right-of-way subject to vehicular or pedestrian traffic providing means of access to property. Also, any public or private thoroughfare providing access to three (3) or more lots, or abutting properties, but not including driveways.

***Street centerline***. A line generally parallel to the right-of-way lines that equally divide the street right-of-way.

***Street, private.*** A street providing access to lots within a development, but not including driveways. Also referred to as an internal street*.*

***Street, privately maintained****.* Any roadway that is restricted as to the hours of access by the general public or by those who may use it. The definition shall be construed to include public roads that are maintained by the individuals living along or otherwise served by the road or by a property owners association created for purposes including maintenance of streets.

***Street, public****.* A street which affords principal means of access to abutting property, and encompassed by a right-of-way dedicated to public use and maintained by the Commonwealth as a part of the state primary or secondary road system.

***Street, service drive***. Also referred to as a Frontage road; A public right-of-way generally parallel and contiguous to a major highway, primarily designed to promote safety by controlling ingress and egress to the right-of-way by providing safe and orderly points of access to the highway.

***Street line***. The dividing line between a street or road right-of-way and the contiguous property.

***Street width.*** The total width of the strip of land dedicated or reserved for public travel, including roadway, curbs, gutters, sidewalks, planting strips, and bikeways.

***Structure***. Anything constructed or erected, the use of which requires a location on the ground, or attached to something having a location on the ground.

***Subdivider***. Any person, or group of persons*,* owning, or having interest in, a tract or parcel of land to be subdivided, including, but not limited to, an individual, a corporation, or a general or limited partnership.

***Subdivision***. The division of a parcel of land into three (3) or more lots or parcels fewer than ten (10) acres each for the purpose of transfer of ownership or building development*.* The term shall include the resubdivision of land and any division of land with a new street, but does not include a family subdivision.

***Surveyor***. A land surveyor certified by the Commonwealth of Virginia.

***Taxidermy.***  The art of preparing, stuffing, and mounting the skins of animals, which may include freeze drying.

***Temporary family health care structure****.* Pursuant to all conditions set forth in the Code of Virginia §15.2-2292.1, a transportable residential structure, providing an environment facilitating a caregiver's provision of care for a mentally or physically impaired person, that (i) is primarily assembled at a location other than its site of installation; (ii) is limited to one occupant who shall be the mentally or physically impaired person or, in the case of a married couple, two occupants, one of whom is a mentally or physically impaired person, and the other requires assistance with one or more activities of daily living as defined in §63.2-2200, as certified in writing by a physician licensed in the Commonwealth; (iii) has no more than 300 gross square feet; and (iv) complies with applicable provisions of the Industrialized Building Safety Law (§36-70 et seq.) and the Uniform Statewide Building Code (§36-97 et seq.).

***Tourist home***. A dwelling*,* not more than two stories and in compliance with building fire safety regulations*,* where only lodging is provided for compensation for up to ten (10) persons and which is open to transients.

***Townhouse***. A grouping of three or more attached single-family dwellings in a row in which each unit has its own front and rear access to the outside, no unit is located over another unit, and each unit is separated from any other unit by one or more common walls.

***Townhouse development***. One (1) or more single-family dwellings containing townhouses with accessory parking, open space, and recreational and management facilities.

***Transfer station.*** Any storage or collection facility which is operated as a relay point for municipal solid waste which ultimately is to be transferred to a landfill.

***Tree***. A woody perennial plant having a single main stem.

***Use, Accessory***. A subordinate use, customarily incidental to and located upon the same lot occupied by the main use.

***Utility lot.*** A parcel(s) of land, area of water or combination of land and water within a subdivision or development site designed and intended for the use of residents, occupants of the development or the general public and set aside for nonresidential and/or public service purposes; not including streets, off-street parking or private yard space.

***Utility service, major.***Service of a regional nature which normally entails the construction of new buildings or structures such as electric generating plants and sources, electrical switching facilities and stations or substations, community waste water treatment plants, and similar facilities. Included in this definition are also traditional methods of electric, gas, and other utility provisions as well as non-traditional methods such as windmills and solar power. All overhead service, distribution and transmission lines are included in this definition.

***Utility service, minor.***Service which is necessary to support development within the immediate vicinity and involve only minor structures. Included in this use type are small facilities such as transformers, relay and booster devices, and well, water and sewer pump stations. Also included in this use type are wireless communication antennas which are attached to an existing building or structure, including but not limited to utility poles, signs, broadcasting or communication facilities, and water towers, and which are not greater than 20 feet in length.

***Variance***. A variance is a relaxation of the terms of the Zoning Ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the action of the applicant, a literal enforcement of the Ordinance would result in unnecessary and undue hardship. As used in this Ordinance, a variance is authorized only for height, area, and size of structure or size of yards and open spaces, establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of nonconformities in the zoning division or district or adjoining zoning divisions or districts.

***VDOT.*** The Virginia Department of Transportation.

***Vegetative buffer.***Deciduous and evergreen plants, shrubs, or trees that are mature enough to act as an effective visual and audible buffer.

***Vegetative filter strip.*** Perennial vegetation established or left undisturbed adjacent to the shoreline of a watercourse intended to filter out sediment and other non-point source pollutants from runoff before it reaches a watercourse.

***Veterinary hospital/clinic.*** Any establishment rendering surgical and medical treatment of animals. Boarding of domestic animals shall only be conducted indoors, on a short term basis, and shall only be incidental to such hospital/clinic use, unless also authorized and approved as a commercial kennel. Agricultural livestock such as horses and cows may be boarded outdoors as appropriate.

***Warehousing and distribution.*** Uses including storage, warehousing and dispatching of goods within enclosed structures, or outdoors. Typical uses include wholesale distributors, storage warehouses, moving/storage firms.

***Water control structures.***A structure in a water management system that conveys water, controls the direction or rate of flow, maintains a desired water surface elevation or measures water. Includes flood and watershed control structures.

***Wayside Stand.*** An establishment for the seasonal retail sale of agricultural goods and merchandise primarily produced by the operator on the site, or on nearby property. Agricultural goods produced on other properties owned or leased by the operator may also be allowed provided a majority of the produce comes from land surrounding the wayside stand. This use type shall include agricultural products picked by the consumer. Also referred to as a roadsidestand or wayside market.

***Wildlife reservation.*** Land set aside to achieve the preservation or conservation of wildlife including associated habitat. Includes game refuge and forest preserve uses.

***Winter recreational facility.*** Ski areas and ice skating facilities, including lodge and accessory buildings and parking area.

***Wood yard.*** Locations where raw or partially processed logs and other wood or forest products are stored.

***Yard***. A space on the same lot with a main building, such space being open, unoccupied, and unobstructed by buildings from ground to sky except where encroachments and accessory buildings are expressly permitted.

***Yard, front***. An open, unoccupied space, excluding steps, on the same lot with the main building, extending the full width of the lot and situated between the right-of-way line and the front line of the building projected to the side lines of the lot. On corner lots, the depth of the front yard shall be considered as parallel to the street upon which the lot has its least dimension.

***Yard, rear***. An open space on the same lot with the main building, such space being unoccupied except possibly by an accessory building and extending the full width of the lot, and situated between the rear line of the lot and the rear line of the main building projected to the side lines of the lot. On all corner lots, the rear yard shall be the opposite end of the lot from the front yard.

***Yard, side***. An open, unoccupied space on the same lot with a main building situated between the side line of the building, and the adjacent side line of the lot extending from the rear line of the front yard to the front line of the rear yard. If no front yard is required, the front boundary of the side yard shall be the front line of the lot and if no rear yard is required, the rear boundary of the side yard shall be the rear line of the lot. On corner lots, the side yard shall be considered as parallel to the street upon which the lot has its greatest dimension.

# ARTICLE 4

## ESTABLISHMENT OF DISTRICTS

**401.00 DIVISION OF HIGHLAND COUNTY AND THE TOWN OF MONTEREY, VIRGINIA INTO DISTRICTS**

For the purposes of this Ordinance, Highland County and the Town of Monterey, Virginia are divided into zoning districts named and described in the following sections. The boundaries of said zoning districts are hereby established and shown on the Official Zoning Map maintained in the office of the Zoning Administrator and shown as originally adopted within Article 12, Zoning Map et seq.

**402.00 INCORPORATION OF THE ZONING MAP**

The Zoning Map entitled the "Official Zoning Map for Highland County and the Town of Monterey, Virginia," dated July 1, 2017 hereinafter referred to as the Official Zoning Map, with all notations, references, amendments, and dates thereof, and other information shown thereon, shall constitute a part of this Ordinance. Said map shall be made a public record and be accessible to the general public.

**403.00 MAP AMENDMENT**

If, in accordance with the provisions of Article 8, herein, changes are made in the district boundaries or other information portrayed in the Official Zoning Map, such changes shall be entered on the Official Zoning Map within ten (10) days after the amendment has been approved by the Governing Body. A numerical entry shall state the reference number of the application in the records of the Zoning Administrator and the date of the approval of the amendment by the Governing Body. The Official Zoning Map, which shall be located in the office of the Zoning Administrator, shall be the final authority in determining the current zoning status of land and water areas, buildings, and other structures in the County or Town. No changes of any nature shall be made in the Official Zoning Map except in accordance with the procedures set forth herein.

**404.00 REPLACEMENT OF THE OFFICIAL ZONING MAP**

In the event that the Official Zoning Map becomes damaged, destroyed, lost, or difficult to interpret because of the nature or number of changes and additions, the Governing Body may, by resolution, adopt a new Official Zoning Map which shall supersede the prior Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map. Unless the prior Official Zoning Map has been lost, or has been totally destroyed, the prior map or any significant parts thereof remaining shall be preserved, together with all available records pertaining to its adoption or amendment.

**405.00 RULES FOR DETERMINING BOUNDARIES**

Unless district boundary lines are fixed by dimensions, and where uncertainty exists with respect to the boundaries of any of the aforesaid districts as shown on the Official Zoning Map, the following shall apply:

**405.01** Unless otherwise indicated, district boundaries indicated as approximately following property lines, land lines, center lines of streams, roads, highways, alleys or railroads, or the shorelines of reservoirs, or other bodies of water, or civil boundaries, shall be construed to follow such lines.

**405.02** District boundaries indicated as approximately parallel to the center lines of streams, roads, highways, or railroads, or rights-of-way of the same, or the shorelines of reservoirs, or other bodies of water, or said lines extended, shall be construed as being parallel thereto and at such distance therefrom as indicated on the Official Zoning Map. If no distance is given, such dimensions shall be determined by the use of the scale shown on the Official Zoning Map.

**405.03** Where a district boundary line as appearing on the Official Zoning Map divides a lot which is in single ownership at the time of this enactment, the use classification of the larger portion may, on application, be extended to the remainder by the Board of Supervisors in accordance with Article 8 of this Ordinance.

**405.04** Where a public road, street, or alley is officially vacated or abandoned, the regulations applicable to the property to which it is reverted shall apply to such vacated or abandoned road, street, or alley.

**405.05** Where a district boundary is indicated to follow a river, creek, branch, or other body of water, said boundary shall be construed to follow the center line at low water or at the limit of the jurisdiction, and in the event of change in the shoreline, such boundary shall be construed as moving with the actual shoreline with its reestablished center or channel.

**405.06** If no distance, curvature description, or other means is given to determine a boundary line accurately, and the foregoing provisions do not apply, the same shall be determined by the use of the scale shown on the Official Zoning Map. In case of subsequent dispute, the matter shall be referred to the Board which shall determine the boundary in accordance with Section 807 of this Ordinance.

**405.07** In case the exact location of a boundary cannot be determined by the foregoing methods, the Governing Body shall, upon application, determine the location of the boundary in accordance with Article 8 of this Ordinance.

# ARTICLE 5

## APPLICATION OF ZONING REGULATIONS

The regulations established herein within each district shall be minimum regulations and shall be uniformly applied to each class of structure or land, except as hereinafter provided:

**501.00 USES**

No building or land shall hereafter be used or occupied and no building or part thereof shall be erected, constructed, moved, or structurally altered except in conformity with the regulations herein specified for the district in which it is or is to be located.

**501.01** ***Permitted Uses***. A permitted use is one which is allowed by-rightin the district in which the land is situated. Where the proposed use is permitted and is in accordance with other regulations herein, a Zoning Permit will be issued by the Zoning Administrator, without a public hearing.

**501.02 *Conditional Use***. A conditional use is one which may be allowed when the Governing Body, after review of the application and hearing thereon finds, as a fact, that the proposed use or uses are consistent with the Comprehensive Plan and the policies of the County or Town and the public interest. Where the use is conditional, a Zoning Permit will be issued by the Zoning Administrator after such conditional use has been approved by the appropriate Governing Body.

***501.03******Uses not provided for.***If in any district established under this chapter, a use is not specifically permitted and an application is made by a property owner to the administrator for such use, the administrator shall refer the application to the planning commission as a proposed zoning text amendment to consider the validity of the use.

***501.04 Unpermitted uses.*** Any use not specifically listed in a zoning district is not permitted subject to ordinance amendment per §501.03. The determination of an allowable use consistent with those permitted uses listed and defined in the ordinance is at the discretion of the Zoning Administrator, subject to appeal to the Board of Zoning Appeals and the Circuit Court.

**502.00 BUILDINGS**

No building shall hereafter be erected, constructed, or altered so as to exceed the height limit, to accommodate or house a greater number of families, or to occupy a greater percentage of the lot area than is required or specified in the regulations herein for the district in which it is located.

**503.00 LOTS AND YARDS**

No new lot or yard shall hereafter be created, nor shall any lot or yard existing at the time of enactment of this Ordinance be altered, nor shall any building or structure, whether new or existing, be moved so that lot width, depth, or area requirements, front, side, or rear yard requirements, or inner or outer court requirements, or other requirements of this Ordinance are not maintained, except when a portion of a lot is acquired for public use. No part of a yard or other open space required for any building for the purpose of complying with the provisions of this Ordinance shall be included as part of a yard or other open space similarly required for another building. Every part of a required yard or court shall be open from its lowest point to the sky unobstructed, except for the ordinary projection of sills, cornices, buttresses, ornamental features, chimneys, flues, and eaves, provided such projections shall not extend into the required yard areas for a distance exceeding two (2) feet.

**504.00 GARDENING**

Gardening shall be exempt from Zoning Permit requirements in any district allowing residential uses provided that such gardening shall not be objectionable by reason of odor, dust, noise, pollution, soil erosion, sedimentation, or drainage.

**505.00 PERMITS ISSUED PRIOR TO ADOPTION OF ORDINANCE**

Nothing contained herein shall require any change in the plans or construction of any building or structure for which a permit was granted prior to the effective date of this Ordinance. However, if such construction does not commence within thirty (30) days after this Ordinance becomes effective, or if construction is discontinued for a period of six (6) months or more, further construction shall be in conformity with the provisions of this Ordinance for the district in which the operation is located.

# ARTICLE 6

## USES IN DISTRICTS

**601.00 CONSERVATION DISTRICT, C-1**

**601.01** ***Intent of the Conservation District***. This District covers portions of the County that are occupied are occupied by various open uses such as forests, parks, farms, or mountains.  This District is established for the specific purpose of facilitating existing and future farm operations, conservation of water and other natural resources, reducing soil erosion, protecting watersheds, and reducing hazards from flood and fire. Uses not consistent with the existing character of this District are not permitted.

**601.02 *Permitted Uses***. Within the Conservation District C-1, the following uses are permitted by-right:

Agricultural

Agriculture

Dairy

Farm employee housing

Farm sales

Fish hatchery

Forestry use

Nursery

Sawmill, temporary

Residential

Farmhouse

Hunt camp

Living quarters

Manufactured home

Single-family dwelling, detached

Civic

Public park and recreational area

Recreation facility, public

Commercial

Family day home

Greenhouse, commercial

Home occupation, type II

Winter recreational facility

Miscellaneous

Amateur radio antenna

Cemeteries*,* private

Construction trailer

Garage, private

Kennel, private

Recreation facility, private

Shooting, private recreational

Taxidermy

Utility service, minor

Water control structures

Wildlife reservation

**601.03 *Conditional Uses***. When, after review of an application and hearing thereon, in accordance with Article 8 herein, the appropriate Governing Body finds, as a fact, that the proposed use is compatible with surrounding uses, is consistent with the intent of this Ordinance and of the Land Use Element of the Comprehensive Plan, is in the public interest, and will comply with all other provisions of laws and ordinances of Highland County or the Town of Monterey, Virginia, the following uses may be permitted:

Agricultural

Sawmill, permanent

Civic

Religious assembly

Commercial

Automobile repair service

Bed and breakfast

Camp

Campground

Commercial outdoor sports and recreation

Communications service

Hotel

Kennel

Shooting range, outdoor

Store, neighborhood convenience

Tourist home

Industrial

Industrial, light

Resource extraction

Sanitary landfill, public

Miscellaneous

Broadcasting or communication tower

Utility, major

**602.00 AGRICULTURAL DISTRICT**

**602.01 *Intent of the Agricultural District.*** This District covers the portion of the County which contains the most productive agricultural and forest lands. This District is established for the specific purpose of facilitating agricultural operations. The character of the District should remain agricultural in nature with industry or commercial activities allowed when they will benefit the area without degrading the environment*.* The only uses permitted are listed below.

**602.02 *Permitted Uses***. Within the Agricultural District for the following uses are permitted by-right:

Agricultural

Agriculture

Dairy

Farm employee housing

Farm sales

Fish hatchery

Forestry use

Nursery

Sawmill, temporary

Stable, commercial (< 20 horses per definition)

Stable, private

Wayside stand

Residential

Accessory apartment

Farmhouse

Group home

Guest home

Guest room

Hunt camp

Living quarters

Manufactured home

Single-family detached dwelling

Civic

Civic use

Community center

Public maintenance and service facility

Public park and recreational area

Public recreation assembly

Recreation facility, public

Religious assembly

Commercial

Bed and breakfast

Custom manufacturing

Family day home

Greenhouse, commercial

Home occupation, type II

Store, neighborhood convenience

Tourist home

Miscellaneous

Amateur radio antenna

Cemetery, private

Construction trailer

Garage, private

Kennel, private

Shooting, private recreational

Taxidermy

Utility service, minor

Water control structures

Wildlife reservation

**602.03 *Conditional Uses.*** When, after review of an application and hearing thereon, in accordance with Article 8 herein, the appropriate Governing Body finds, as a fact, that the proposed use is compatible with surrounding uses, is consistent with the intent of this Ordinance and of the Land Use Element of the Comprehensive Plan, is in the public interest, and will comply with all other provisions of laws and ordinances of Highland County or the Town of Monterey, Virginia, the following uses may be permitted:

Agricultural

Livestock market

Sawmill, permanent

Stable, commercial (20+ horses per definition)

Wood yard

Residential

Single-family dwelling, attached

Two-family dwelling

Civic

Educational facility

Emergency medical services helipad

Public assembly

Recycling center

Refuse collection site

Commercial

Abattoir

Assisted living facility

Automobile repair service

Boarding house

Business support service

Camp

Campground

Cemetery

Commercial indoor sports and recreation

Commercial outdoor entertainment

Commercial outdoor sports and recreation

Commercial vehicle repair service

Communications service

Construction sales and service

Construction yard

Equipment sales and rental

Garden center

Gasoline station

Kennel

Life care facility

Mini-warehouse

Nursing home

Office, general

Office, medical

Personal improvement services

Personal services

Restaurant, small

Restaurant, general

Shooting range, indoor

Shooting range, outdoor

Store, general

Store, grocery

Veterinary hospital/clinic

Winter recreational facility

Industrial

Industrial, light

Resource extraction

Salvage and scrap service

Sanitary landfill, public

Transfer station

Miscellaneous

Airport

Broadcasting or communication tower

Mixed use structure

Other uses similar to the foregoing

Outdoor gathering

Recreation facility, private

Utility services, major

***Accessory Uses***. Where a lot is devoted to a permitted principal use, customary accessory uses and structures are authorized, including:

Mobile food vendor

**603.00 Reserved**

**604.00 RESIDENTIAL LIMITED DISTRICT, R-1**

**604.01** ***Intent of Residential Limited District, R-1***. The intent of the R-1 Residential District is to protect the residential character of established neighborhoods and communities. The regulations for this District tend to protect established neighborhoods which reflect a long-standing character. The only uses permitted are listed below.

**604.02 *Permitted Uses***. Within the Residential Limited District, R-1, the following uses are permitted by-right:

Agricultural

Agriculture (5-acre min lot size per definition)

Residential

Accessory apartment

Group Home

Guest room

Single-family dwelling, detached

Commercial

Family day home

Home occupation, type I

Miscellaneous

Cemetery, private

Construction trailer

Garage, private

Temporary family health care structure

Utility services, minor

**604.03** ***Conditional Uses***. When, after review of an application and hearing thereon, in accordance with Article 8 herein, the Governing Body finds, as a fact, that the proposed use is compatible with the surrounding uses, is consistent with the intent of this Ordinance and of the Land Use Element of the Comprehensive Plan, is in the public interest, and will comply with all other provisions of law and ordinances of Highland County or the Town of Monterey, the following uses may be permitted:

Agricultural

Agriculture (fewer than 5 acres)

Residential

Hunt camp

Single-family, attached

Two-family dwelling

Civic

Public park and recreational area

Recreation facility, public

Religious assembly

Commercial

Bed and breakfast

Miscellaneous

Mixed use structures

Recreational facility, private

Taxidermy

**605.00 RESIDENTIAL GENERAL DISTRICT, R-2**

**605.01 *Intent of Residential General District, R-2***. The intent of the R-2 District is to encourage residential neighborhoods and to stabilize and protect the essential character of such neighborhoods. The regulations for this District tend to protect against encroachment of commercial or industrial uses and other uses likely to generate noise, crowds, concentrations of traffic, light, dust, odors, smoke, or other obnoxious influences. No residential structure shall be constructed within two hundred (200) feet of an agricultural district. The only uses permitted are listed below.

**605.02 *Permitted Uses***. Within Residential General District, R-2, the following uses are permitted by-right:

Agricultural

Agriculture (5-acre min lot size per definition)

Residential

Accessory apartment

Group home

Guest room

Single-family dwelling, attached or detached

Two-family dwelling

Civic

Religious assembly

Commercial

Family day home

Home occupation, type I

Miscellaneous

Cemetery, private

Construction trailer

Garage, private

Temporary family health care structure

Utility services, minor

**605.03** ***Conditional Uses***. When, after review of an application and hearing thereon, in accordance with Article 8 herein, the Governing Body finds, as a fact, that the proposed use is compatible with surrounding uses, is consistent with the intent of this Ordinance and of the Land Use Element of the Comprehensive Plan, is in the public interest, and will comply with all other provisions of law and ordinances of Highland County or the Town of Monterey, the following uses may be permitted:

Agricultural

Agriculture (fewer than 5 acres)

Residential

Hunt camp

Civic

Cultural services

Educational facility

Public maintenance and service facility

Public park and recreational area

Recreation facility, public

Commercial

Bed and breakfast

Hospital

Life care facility

Miscellaneous

Mixed-use structures

Recreation facility, private

Taxidermy

Utility services, major

**606.00 RESIDENTIAL ESTATE DISTRICT, R-3**

**606.01 *Intent of the Residential Estates District,* R-3.**This District is intended to provide space for very low density residential development of an exclusive nature interspersed with agricultural lands and uses. The only uses permitted are listed below.

**606.02** ***Permitted Uses***. Within the Residential Estates District, the following uses are permittedby-right:

Agricultural

Agriculture (5-acre min lot size per definition)

Stable, private

Residential

Accessory apartment

Group home

Guest room

Living quarters

Single-family, detached

Civic

Community center

Commercial

Family day home

Home occupation, type I

Miscellaneous

Amateur radio antenna

Cemetery, private

Construction trailer

Garage, private

Shooting, private recreational

Temporary family health care structure

Utility service, minor

Water control structures

**606.03** ***Conditional Uses***. When, after review of an application and hearing thereon, in accordance with Article 8, herein, the Governing Body finds, as a fact, that the proposed use is compatible with surrounding uses, is consistent with the intent of this Ordinance and of the Land Use Element of the Comprehensive Plan, is in the public interest, and will comply with all other provisions of law and ordinances of Highland County and the Town of Monterey, the following uses may be permitted:

Agricultural

Agriculture (fewer than 5 acres)

Residential

Hunt camp

Civic

Civic use

Commercial

Bed and breakfast

Custom manufacturing

Miscellaneous

Recreation facility, private

Taxidermy

Utility service, major

**607.00 *Reserved.***

**608.00 PLANNED DEVELOPMENT DISTRICT, R-4**

**608.01 *Intent of Planned Development District.*** The intent of the Planned Development District is to provide for larger scaled development and clustering to provide for a neighborhood with a variety of housing types and densities, which may include neighborhood shopping facilities, schools, parks, playgrounds, off-street parking and, where necessary, land reserved to provide local employment opportunities. The only uses permitted are listed below.

**608.02** ***Permitted Uses***. Within the R-4 District, the following uses are permitted by-right:

Agricultural

Agriculture

Farm sales

Stable, commercial (< 20 horses per definition)

Stable, private

Wayside stand

Residential

Accessory apartment

Group home

Living quarters

Multi-family dwelling

Single-family dwelling, attached or detached

Two-family dwelling

Civic

Civic Use

Community center

Cultural services

Educational facility

Religious assembly

Commercial

Family day home

Home occupation, type I

Miscellaneous

Cemetery, private

Construction trailer

Garage, private

Utility services, minor

**608.03** ***Uses Permitted by Approval***. Additional development authorized within this District is regulated by a comprehensive development and management plan proposed by the developer. Conventional zoning lot restrictions are waived in favor of the detailed site plan and dedication of common open space.

**608.04** ***Data to Accompany Application.*** Within the Planned Unit District, there shall be submitted a tentative, overall development plan which shall include:

608.04-1 Scale accurate proposed development plan mapping of the project to consider:

* 1. Proposed land uses including residential types, commercial types, recreation, and any other proposed use.
  2. Proposed street system including public and private right-of-way.
  3. Proposed parking areas and parking space delineations.
  4. Proposed plat showing subdivision lot lines.
  5. Proposed utility rights-of-way or easements including water, sewer, gas, power, and telephone.
  6. Proposed drainage plan.
  7. Proposed location of buildings, structures, and improvements.
  8. Property lines of proposed common property.
  9. Proposed pedestrian circulation system.
  10. Proposed landscaping plan.
  11. Proposed treatment of the project perimeter such as screening or landscaping.
  12. Relationships and tie-ins to adjacent property.

608.04-2 Supporting documentation to include the following minimum data:

* 1. A legal description of the project boundaries.
  2. A statement of existing and proposed property owners.
  3. Names and addresses of all adjacent property owners.
  4. A statement of project development objectives and character to be achieved.
  5. An approximate development schedule including dates of proposed construction beginning and completion and staging plan, if appropriate.
  6. A statement of intention regarding future selling or leasing of land areas, dwelling units, commercial areas, etc.
  7. Quantitative data including the number and type of dwelling units, parcel sizes, gross and net residential densities, total amount and percentage of open space, residential, commercial, and other land use types.
  8. Proposed building types including architectural style, height, and floor area.
  9. Approvals from the Virginia Department of Transportation and the County Health Officer.
  10. Proposed agreements, provisions, or covenants which govern the use, maintenance, and continued protection of property to be held in common ownership.
  11. A statement of proposed temporary and permanent erosion and sedimentation control measures to be taken.

608.04-3 *Application*. Application for meeting the foregoing requirements shall be filed with the Zoning Administrator. The Zoning Administrator shall forward the application and data to the Planning Commission for their review and recommendation. The Planning Commission shall consider the general plan for the development with respect to, the location, arrangement, and size of lots, parks, school sites, and other reservations of open space; the location, width, and grade of streets; the location and arrangement of parking spaces; the location, arrangement, and height of buildings; the location, arrangement, and design of neighborhood business areas and accessory parking spaces; the gross densities proposed for the area; and such other features as will contribute to the orderly and harmonious development of the area with due regard to the type and the character of adjoining neighborhoods and the peculiar suitability of the proposed uses;

608.04-4 *Appearance of Developer*. The Planning Commission and/or the Governing Body may require the developer to appear to discuss the planned development;

608.04-5 *Planning Commission Report*. The Planning Commission shall report to the Governing Body, within sixty (60) days, one of the following:

* 1. Recommend approval of the plan as presented, or
  2. Recommend approval of the plan as revised by concurrence of the Planning Commission and the developer, or
  3. Recommend disapproval.

608.04-6 *Final Approval.* Upon the preliminary approval by the Governing Body, the developer shall, within ninety (90) days, furnish three (3) copies of the plan for public hearing and final disposition.

**609.00- 611.00 *Reserved.***

**612.00 GENERAL BUSINESS DISTRICT**

**612.01** ***Intent of General Business District***. The intent of the General Business District is to provide space for general commercial development to which the public requires direct and frequent access, including retail business and services. The only uses permitted are listed below.

**612.02** ***Permitted Uses***. Within the General Business District, the following uses are permittedby-right:

Residential

Accessory apartment

Guest room

Living quarters

Civic

Civic use

Club

Community center

Cultural services

Educational facility

Public park and recreational area

Recreation facility, public

Religious assembly

Shelter

Commercial

Assisted living facility

Boarding house

Business or trade school

Business support service

Car wash

Clinic

Commercial indoor amusement

Commercial indoor entertainment

Commercial indoor sports and recreation

Communications service

Construction sales and service

Consumer repair service

Custom manufacturing

Day care center

Equipment sales and rental

Financial institution

Funeral home

Garden center

Gasoline station

Greenhouse, commercial

Halfway house

Home occupation, type I

Hotel

Life care facility

Mini-warehouse

Nursing home

Office, general

Office, medical

Personal improvement services

Personal services

Recreational vehicle sales and services

Restaurant, drive-in

Restaurant, fast food

Restaurant, general

Restaurant, small

Shooting range, indoor

Store, general

Store, grocery

Store, neighborhood convenience

Tourist home

Veterinary hospital/clinic

Miscellaneous

Construction trailer

Parking facility

Taxidermy

Utility services, minor

**612.03** ***Conditional Uses***. When, after review of an application and hearing thereon, in accordance with Article 8 herein, the Governing Body finds, as a fact, that the proposed use is compatible with surrounding uses, is consistent with the intent of this Ordinance and of the Land Use Element of the Comprehensive Plan, is in the public interest, and will comply with all other provisions of law and ordinances of Highland County or the Town of Monterey, the following uses may be permitted:

Residential

Multi-family housing

Civic

Emergency medical services helipad

Emergency shelter

Public assembly

Public maintenance and service facility

Public recreation assembly

Recycling center

Refuse collection site

Commercial

Automobile repair service

Bed and breakfast

Commercial outdoor entertainment

Commercial outdoor sports and recreation

Commercial vehicle repair service

Construction yard

Hospital

Kennel

Industrial

Industrial, light

Warehousing and distribution

Miscellaneous

Broadcasting or communication tower

Mixed-use structures

Other uses similar to the foregoing

Outdoor gathering

Utility service, major

***Accessory Uses***. Where a lot is devoted to a permitted principal use, customary accessory uses and structures are authorized, including:

Mobile food vendor

**613.00 LIGHT INDUSTRIAL DISTRICT*,* I**

**613.01** ***Intent of Light Industrial District***. The intent of the Light Industrial District is to accommodate industrial uses that provide desirable employment consistent with the goal of maintaining environmental quality. The IDistrict is to permit the manufacturing, compounding, processing, packaging, assembly, sales and/or treatment of finished or semifinished products from previously prepared material. The only uses permitted are listed below.

**613.02** ***Permitted Uses***. Within the Light Industrial District, the following uses are permittedby-right:

Agricultural

Agriculture

Residential

Living quarters

Civic

Public maintenance and service facility

Recycling center

Refuse collection site

Commercial

Automobile repair service

Business or trade school

Business support service

Commercial indoor sports and recreation

Commercial vehicle repair service

Communications service

Construction sales and service

Construction yard

Consumer repair service

Custom manufacturing

Equipment sales and rental

Home occupation, type II

Mini-warehouse

Recreational vehicle sales and service

Shooting range, indoor

Industrial

Industrial, light

Laboratory

Research and development

Transfer station

Warehousing and distribution

Miscellaneous

Airport

Broadcasting or communication tower

Construction trailer

Parking facility

Taxidermy

Utility service, major

Utility service, minor

**613.03** ***Conditional Uses***. When, after review of an application and hearing thereon, in accordance with Article 8 herein, the Governing Body finds, as a fact, that the proposed use is compatible with surrounding uses, is consistent with the intent of this Ordinance and of the *Land Use Element of the Comprehensive Plan*, is consistent with the intent of this Ordinance and is in the public interest, and will comply with all other provisions of law and ordinances of Highland County or the Town of Monterey, the following uses may be permitted:

Agricultural

Livestock market

Sawmill, permanent

Wood yard

Civic

Emergency medical services helipad

Commercial

Abattoir

Commercial outdoor entertainment

Commercial outdoor sports and recreation

Kennel

Shooting range, outdoor

Veterinary hospital/clinic

Industrial

Resource extraction

Salvage and scrap service

Sanitary landfill, public

Miscellaneous

Other uses similar to the foregoing

Outdoor gathering

***Accessory Uses***. Where a lot is devoted to a permitted principal use, customary accessory uses and structures are authorized, including:

Mobile food vendor

**613.05** ***Requirements for Uses:***

613.05-1 Before a building permit shall be issued or construction commenced on any permitted use in this District, or a permit issued for a new use, the plans, in sufficient detail to show the operations and processes, shall be submitted to the Zoning Administrator. Modifications of the plans may be required;

613.05-2 Landscaping may be required within any established or required front setback area. The plans and execution must take into consideration traffic hazards. Landscaping may be permitted up to a height of eight (8) feet and to within fifty (50) feet from the corner of any intersecting streets;

613.05-3 Sufficient area shall be provided: (a) to adequately screen permitted uses from adjacent business and residential districts; and (b) for off-street parking of vehicles incidental to the industry, its employees, and clients;

613.05-*4* The Administrator shall act on any application received within twenty (20) days after receiving the application. If formal notice in writing is given to the applicant, the time for action may be extended for a twenty (20) day period. Failure on the part of the Administrator to act on the application within the established time limit shall be deemed to constitute approval of the application.

**614.00 FLOOD HAZARD OVERLAY DISTRICT**

**614.01** **Intent of Flood Hazard Districts**. To preserve and protect lives and property in the floodplains of Highland County and the Town of Monterey and to satisfy the United States Department of Housing and Urban Development and the State Water Control Board requirements for full entry into the National Flood Insurance Program, upon adoption of the Official Flood Hazard District Map.

**614.02** **Description of Districts**

A. Basis of Districts

The various floodplain districts shall include special flood hazard areas. The basis for the delineation of these districts shall be the Flood Insurance Study (FIS) and the Flood Insurance Rate Maps for Highland County prepared by the Federal Emergency Management Agency, Federal Insurance Administration, dated April 2009, as amended.

1. The Special Floodplain District shall be those areas identified as either an AE zone or A1-30 zone on the maps accompanying the Flood Insurance Study for which one hundred (100)-year flood elevations have been provided but for which no floodway has been delineated.

2. The Approximated Floodplain District shall be those areas identified as an A or A99 Zone on the maps accompanying the Flood Insurance Study. In these zones, no detailed flood profiles or elevations are provided, but the one hundred (100)-year floodplain boundary has been approximated.

3. The Shallow Flooding District shall be those areas identified as Zone AO or AH on the maps accompanying the Flood Insurance Study.

B. Overlay Concept

1. The Floodplain Districts described above shall be overlays to the existing underlying districts as shown on the Official Zoning Ordinance Map, and as such, the provisions for the floodplain districts shall serve as a supplement to the underlying district provisions.

2. If there is any conflict between the provisions or requirements of the Floodplain Districts and those of any underlying district, the more restrictive provisions and/or those pertaining to the floodplain districts shall apply.

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

**614.03** **Official Zoning Map**

The boundaries of the Special Flood Hazard Area and Floodplain Districts are established as shown on the Flood Boundary and Floodway Map and/or Flood Insurance Rate Map which is declared to be a part of this ordinance and which shall be kept on file at the Highland County Zoning office.

**614.04** **District Boundary Changes**

The delineation of any of the Floodplain Districts may be revised by the Highland County Board of Supervisors where natural or man-made changes have occurred and/or where more detailed studies have been conducted or undertaken by the U.S. Army Corps of Engineers or other qualified agency, or an individual documents the need for such change. However, prior to any such change, approval must be obtained from the Federal Insurance Administration.

**614.05** **Interpretation of District Boundaries**

Initial interpretations of the boundaries of the Floodplain Districts shall be made by the Zoning Officer. Should a dispute arise concerning the boundaries of any of the Districts, the Board of Zoning Appeals shall make the necessary determination. The person questioning or contesting the location of the District boundary shall be given a reasonable opportunity to present his case to the Board and to submit his own technical evidence if he so desires.

**DISTRICT PROVISIONS**

**614.06** **Permit and Application Requirements**

A. Permit Requirement

All uses, activities and development occurring within any floodplain district shall be undertaken only upon the issuance of a zoning permit. Such development shall be undertaken only in strict compliance with the provisions of the Ordinance, the VA USBC, all other applicable codes and ordinances, as amended, and the Highland County Subdivision Regulations. Prior to the issuance of any such permit, the Zoning Officer shall require all applications to include compliance with all applicable state and federal laws.

B. Site Plans and Permit Applications

All applications for development within any floodplain district and all building permits issued for the floodplain shall incorporate the following information:

1. The elevation of the Base Flood for the site.

2. The elevation of the lowest floor (including basement).

3. For structures to be flood-proofed (non-residential only), the elevation to which the structure will be flood-proofed.

**614.07** **General Standards**

In all special flood hazard areas the following provisions shall apply:

A. New construction and substantial improvements shall be done according to the VA USBC and anchored to prevent flotation, collapse or lateral movement of the structure.

B. Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state requirements for resisting wind forces.

C. New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

D. New construction or substantial improvements shall be constructed by methods and practices that minimize flood damage.

E. Electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities, including duct work, shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

F. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.

G. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.

H. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.

I. Any alteration, repair, reconstruction or improvements to a building that is in compliance with the provisions of this ordinance shall meet the requirements of “new construction” as contained in the ordinance.

J. Any alteration, repair, reconstruction or improvements to a building that is not in compliance with the provisions of this ordinance, shall be undertaken only if said non-conformity is not furthered, extended, or replaced.

K. In riverine situations, adjacent communities and the Department of Conservation and Recreation (Department of Floodplain Management) shall be notified prior to any alteration or relocation of a watercourse, and copies of such notifications shall be submitted to FEMA.

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

**614.08** **Specific Standards**

In all special flood hazard areas where base flood elevations have been provided in the Flood Insurance Study or generated according to Article 4, section 4.4 (A), the following shall apply:

A. Residential Construction

New construction or substantial improvement of any residential structure (including manufactured homes) shall have the lowest floor, including basement, elevated no lower than one (1) foot above the base flood elevation.

B. Non-Residential Construction

New construction or substantial improvement of any commercial, industrial, or non-residential building (or manufactured home) shall have the lowest floor, including basement, elevated to no lower than one (1) foot above the base flood elevation. Buildings Located in all A1-30, AE, and AH zones may be flood-proofed in lieu of being elevated provided that all areas of the building components below the elevation corresponding to the BFE plus one foot are water tight with walls substantially impermeable to the passage of water, and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied.

C. Elevated Buildings

Enclosed areas of new construction or substantially improved structures that are below the regulatory flood protection elevation shall:

1. not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator). The interior portion of such enclosed area shall not be partitioned or finished into separate rooms, except to enclose storage areas;

2. be constructed entirely of flood resistant materials below the regulatory flood protection elevation;

3. include, in Zones A, AO, AE, and A1-30, measures to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet the following minimum design criteria:

a. Provide a minimum of two openings on different sides of each enclosed area subject to flooding.

b. The total net area of all openings must be at least one (1) square inch for each square foot of enclosed area subject to flooding.

c. If a building has more than one enclosed area, each area must have openings to allow floodwaters to automatically enter and exit.

d. The bottom of all required openings shall be no higher than one (1) foot above the adjacent grade.

e. Openings may be equipped with screens, louvers, or other opening coverings or devices, provided they permit the automatic flow of floodwaters in both directions.

f. Foundation enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires openings as outlined above.

D. Standards for Manufactured Homes and Recreational Vehicles

1. All manufactured homes placed, or substantially improved, on individual lots or parcels, in expansions to existing manufactured home parks or subdivisions, in a new manufactured home park or subdivision or in an existing manufactured home park or subdivision on which a manufactured home has incurred substantial damage as the result of a flood, must meet all the requirements for new construction, including the elevation and anchoring requirements in Article 4, section 4.2 (A) and (B), and section 4.3 (A).

2. All manufactured homes placed or substantially improved in an existing manufactured home park or subdivision must be

a. elevated so that the lowest floor of the manufactured home is elevated no lower than one (1)foot above the base flood elevation; and,

b. securely anchored to the adequately anchored foundation system, to resist flotation, collapse and lateral movement;

3. All recreational vehicles placed on sites must either

a. be on the site for fewer than 180 consecutive days;

b. be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions); or

c. meet all the requirements for manufactured homes in Article 4, section 4.3 (D).

**614.09** **Standards for Approximated Floodplain**

The following provisions shall apply within the Approximate Floodplain District:

A. When base flood elevation data or floodway data have not been provided, the zoning administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state, or any other source, in order to administer the provisions of Article 4. When such base flood elevation data is utilized, the zoning administrator shall obtain

1. the elevation (in relation to the mean sea level) of the lowest floor (including the basement) of all new and substantially improved structures; and,

2. If the structure has been flood proofed in accordance with the requirements of Article 4, Section 4.3 (B) of this ordinance, the elevation in relation to the mean sea level to which the structure has been flood proofed.

B. When the data is not available from any source as in Article 4, Section 4.4 (A), the lowest floor of the structure shall be elevated to no lower than three (3) feet above the highest adjacent grade.

**614.10** **Standards for the Special Floodplain District**

The following provisions shall apply within the Special Floodplain District:

Until a regulatory floodway is designed, no new construction, substantial improvements, or other development (including fill) shall be permitted within the areas of special flood hazard, designated as Zones A1-30 and AE on the Flood Rate Insurance Map, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood more than one (1) foot at any point within the county.

Development activities in Zones A1-30, AE, and AH, on the county’s Flood Insurance Rate Map that increase the water surface elevation of the base flood by more than one (1) foot may be allowed, provided that the developer or applicant first applies – with the county’s endorsement – for a conditional Flood Insurance Rate Map revision, and receives the approval of the Federal Emergency Management Agency.

**614.11** **Standards for the Floodway**

The following provisions shall apply within the Floodway when it has been identified as in Section 4.4 (A):

A. Encroachments, including fill, new construction, substantial improvements and other developments are prohibited unless certification (with supporting technical data) by a registered professional engineer is provided demonstrating that encroachments shall not result in any increase in flood levels during occurrence of the base flood.

Development activities which increase the water surface elevation of the base flood may be allowed, provided that the developer or applicant first applies – with the county’s endorsement – for a conditional Flood Insurance Rate Map and floodway revision, and receives the approval of the Federal Emergency Management Agency.

B. If Article 4, Section 4.6 (A) is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Article 4.

C. The placement of manufactured homes (mobile homes) is prohibited, except in an existing manufactured homes (mobile homes) park or subdivision. A replacement manufactured home may be placed on a lot on an existing manufactured home park or subdivision provided the anchoring, elevation, and encroachment standards are met.

**614.12** **Standards for the Shallow Flooding District**

The following provisions shall apply within the Shallow Flooding District:

A. All new construction and substantial improvements of residential structures shall have the lowest floor, including basement, elevated to or above the flood depth specified on the Flood Insurance Rate Map, above the highest adjacent grade. If no flood depth number is specified, the lowest floor, including basement, shall be elevated no less than two feet above the highest adjacent grade.

B. All new construction and substantial improvements of non-residential structures shall

1. have the lowest floor, including basement, elevated to or above the flood depth specified on the Flood Insurance Rate Map, above the highest adjacent grade. If no flood depth number is specified, the lowest floor, including basement, shall be elevated at least two feet above the highest adjacent grade; or,

2. together with attendant utility and sanitary facilities be completely flood proofed to the specified flood level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

C. Adequate drainage paths around structures on slopes shall be provided to guide floodwaters around and away from proposed structures.

**614.13** **Standards for Subdivision Proposals**

A. All subdivision proposals shall be consistent with the need to minimize flood damage;

B. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;

C. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards, and

D. Base flood elevation data shall be provided for substantial proposals and other proposed development proposals (including manufactured home parks and subdivisions) that exceed fifty lots or five acres, whichever is the lesser.

**614.14** **Variances: Factors to be Considered**

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

A. The showing of good and sufficient cause.

B. The danger to life and property due to increased flood heights or velocities caused by encroachments. No variance shall be granted for any proposed use, development, or activity within any Floodway District that will cause any increase in the one hundred (100) – year flood elevation.

C. The danger that materials may be swept on to other lands or downstream to the injury of others.

D. The proposed water supply and sanitation systems and the ability to these systems to prevent disease, contamination, and unsanitary conditions.

E. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners.

F. The importance of the services provided by the proposed facility to the community.

G. The requirements of the facility for a waterfront location.

H. The availability of alternative locations not subject to flooding for the proposed use.

I. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.

J. The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.

K. The safety of access by ordinary and emergency vehicles to the property in time of flood.

L. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.

M. The repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure’s continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

N. Such other factors which are relevant to the purpose of this ordinance.

The Board of Zoning Appeals may refer any applicant and accompanying documentation pertaining to any request for a variance to any engineer or other qualified person or agency for technical assistance in evaluating the proposed project in relation to flood heights and velocities, and the adequacy of the plans for flood protection and other related matters.

Variances shall be issued only after the Board of Zoning Appeals has determined that the granting of such will not result in (a) unacceptable or prohibited increases in flood heights, (b) additional threats to public safety, (c) extraordinary public expense; and will not (d) create nuisances, (e) cause fraud or victimization of the public, or (f) conflict with local laws or ordinances.

Variances shall be issued only after the Board of Zoning Appeals has determined that the variance will be the minimum required to provide relief from exceptional hardship to the applicant.

The Board of Zoning Appeals shall notify the applicant for a variance, in writing, that the issuance of a variance to construct a structure below the one hundred (100) – year flood elevation (a) increases the risks to life and property and (b) will result in increased premium rates for flood insurance.

A record shall be maintained of the above notification as well as all variance actions, including justification for the issuance of the variances. Any variances that are issued shall be noted in the annual or biennial report submitted to the Federal Insurance Administrator.

**615.00 AIRPORT HAZARD OVERLAY DISTRICT, AH**

**615.01** ***Intent of Airport Hazard Overlay District***. The intent of the Airport Hazard Overlay District is to protect airports from encroachment of obstructions of hazards to aircraft.

**615.02 *Approach Zone***. An "approach zone" to an airport shall include an area of eleven thousand (11,000) feet from the end of any runway. The "approach zone" for airports accommodating heavy jet aircraft extends out three and one-half (3 1/2) miles from the end of any runway.

615.02-1 Proposals for the establishment of uses within the "approach zone" shall be accompanied by Federal Aviation Administration's recommendation.

615.02-2 Places of public assembly such as schools, churches, hospitals, apartment houses, theaters, and assembly halls shall not be erected or otherwise located in any area which will be classified as an "approach zone."

**616.00 *Reserved.***

# ARTICLE 7

## USE REGULATIONS

**701.00 AREA REGULATIONS**

Area and density regulations are provided by district in the *Zoning Schedule, Table 1*.

**701.01 Conditional Height Regulation:**

701.01-1 Structures or facilities exceeding the heights specified in the Zoning Schedule, Table 1, may be permitted by conditional use permit issued by the Governing Body.

701.01-2 The Governing Body, or the Highland County Zoning Administrator at the request of the Governing Body, may require certain information from an applicant at any time during the conditional use permit process including fire safety measures or cross-section drawings or other illustrations of the physical impact the structure will have upon the area.

701.01-3 It shall be the responsibility of the applicant to comply with all applicable federal and state standards and regulations as set forth by agencies with the authority to regulate such structures or facilities. If such standards and regulations are changed, then the owners or operators of the structure or facility governed by this section shall bring such structure or facility into compliance as required.

**701.02 Modified Yard Requirements. Yard requirements may be modified to provide:**

701.02-1 Minimum setback requirements of this Ordinance for yards facing streets shall not apply to any lot where the average setback on developed lots within the same block and zoning district and fronting on the same street is less than the minimum. In such cases, the setback on such lot may be less than the required setback, but not less than the average of the existing setbacks on the existing developed lots;

701.02-2 Signs advertising sale or rent of premises may be erected up to the property line.

**701.03 Special provisions for corner lots:**

701.03-1 Of the two (2) sides of a corner lot, the front shall be deemed to be the shortest of the two (2) sides fronting on streets;

701.03-2 The side yard on the side facing the side street shall be thirty-five (35) feet or more for both main and accessory buildings;

701.03-3 Each corner lot shall have a minimum width at the setback line of one hundred twenty-five (125) feet or more.

**TABLE 1  
HIGHLAND COUNTY ZONING DISTRICT**

**LOT REGULATIONS**

|  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| MINIMUM LOT REQUIREMENT | | | | | | | | | | | | ACCESSORY BUILDINGS | | | | |
| DISTRICT & PRIMARY PURPOSE | PERMITTED USES | CONDITIONAL USES | PUBLIC WATER & SEWER | PUBLIC WATER & INDIVIDUAL SEWERb | INDIVIDUAL WATER & SEWERb | FRONTAGE INTERIOR LOT | MAXIMUM LOT COVERAGE | MAXIMUM HEIGHT IN FEET | FRONTb | SIDE YARD | REAR | MAXIMUM HEIGHT IN FEET | PRINCIPAL BUILDING | SIDE LOT LINE | REAR LOT LINE | OTHER REQUIRE- MENTS |
| Conservation Resource Production | Forest and Agricultural Uses | Residential Related Commercial | 20,000 | *3*~~2~~0,000 | 80,000 | 200’ | N/A | 35’ | 35’ | 35’ | 35’ | 35’ | 20’ | 35’ | 35’ | 150’ From property boundary to central use. |
| A  Agricultural General  Ag. Production | Agricultural Production & Associated Uses | Limited Residential Convenience Commercial | 20,000 | *3*~~2~~0,000 | 43,560 | 100’ | N/A | 35’ | 35’ | 10’ | 35’ | 60’ | 20’ | 10’ | 10’ | - |
| R-1  Residential Limited Perpetuation of Established Communities | Single-Family Residential | Public, Semi-Public | 4,000 | 20,000 | 20,000 | 50’ | 60% | 35’ | 35’ | 5’ | 10’ | 35’ | 10’ | 5’ | 10’ | - |
| R-2  Residential General  Single-Family Residential | Single & Two-Family Residential | Residential Support Facilities | 20,000 | 20,000 | 20,000 | 100’ | 40% | 35’ | 35’ | 15’ | 50’ | 35’ | 20’ | 15’ | 15’ | - |
| R-3  Residential Estates | Single-Family Residential | Residential Support Facilities | 5 Acrese | 5 Acrese | 5 Acrese | 200’ | 5% | 35’ | 50’ | 5’ | 50’ | 35’ | 20’ | 15’ | 15’ | - |
| R-4  Planned Development Neighborhood Development | Single-Family Residential | Mixed Residential& Neighborhood Commercial | 20,000d | 20,000d | 20,000d | 100’ | 40% | 35’ | 35’ | 15’ | 50’ | 35’ | 20’ | 15’ | 15’ | - |
| B  General Business | Commercial Develop-ment | Shopping Center | None | b | b | N/A | 70% | 35’ | 35’ | 10’ | 25’ | 35’ | 20’ | 20’ | 25’ | - |
| I  Industrial | Light Industrial | Wholesale | None | b | b | N/A | 70% | 35’ | 35’ | 20’ | 25’ | 35’ | 40’ | 20’ | 20’ | - |

FOOTNOTES:

a Assumes farm dwelling as "Single Structural Use."

b For permitted uses utilizing individual sewage disposal systems, the required area for any such use shall be approved by the health official. The Zoning Administrator shall require greater area as considered necessary by the health official.

d Densities and use variations are approvable based upon the plan submitted for the planned development.

e Police, fire, rescue and public utility stations – one acre.

**702.00 ADDITIONAL BUILDINGS ON A SINGLE LOT**

After review of an application, additional buildings on the same lot or parcel of land may be permitted.

**702.01 *Additional dwellings on a single lot may be permitted provided that:***

702.01-1 Additional dwellings conform to the minimum lot area, minimum lot width, maximum lot coverage, and yard requirements;

702.01-2 The arrangement of such additional dwellings are in such a manner that if the lot or parcel of land is ever subdivided, no substandard lots or nonconforming buildings are created;

702.01-3 Each additional dwelling has access to a public street by means of a passageway open to the sky at least fifteen (15) feet in width.

**702.02 *Accessory Buildings.*** The location of accessory buildings and uses must meet the following conditions:

702.02-1 Where an accessory building is attached to the main building, a substantial part of one (1) wall of the accessory building shall be an integral part of the main building, or such accessory building shall be attached to the main building in a substantial manner by a roof and, therefore, such attached accessory building shall comply in all respects with the requirements applicable to the main building;

702.02-2 A detached accessory building shall not be closer than twenty (20) feet to the main building, nor closer than ten (10) feet to a lot line, or closer to a lot line than the minimum side yard distance for interior lots for the district in which the lot is located;

702.02-3 A detached accessory building, not more than two (2) stories in height, may be constructed on not more than thirty (30) percent of the rear yard;

702.02-4 No detached accessory building may be located in the front yard of a lot.

**702.03 *Temporary Buildings****.* Temporary buildings (defined as construction trailers) used in conjunction with construction work only may be permitted in any district, but shall be removed immediately upon completion or abandonment of construction.

**703.00 OFF-STREET PARKING**

Off-street automobile storage or parking space shall be provided on every lot on which any permitted or conditional use is established in accordance with this Ordinance.

**703.01** ***General Requirements***. The following general requirements are specified:

703.01-1 The term "off-street parking space" shall mean a space at least nine (9) feet wide and eighteen (18) feet in length with a minimum net area of 162 square feet, excluding area for egress and ingress and maneuvering of vehicles;

703.01-2 Parking spaces for all dwellings shall be located on the same lot with the main buildings to be served;

703.01-3 If an off-street parking space cannot be reasonably provided on the same lot on which the main use is conducted, such space may be provided on other off-street property, provided such space lies within six hundred (600) feet of the property line of such main use;

703.01-4 When computing the number of off-street parking spaces required on a lot with more than one use, the total number of required spaces shall be the sum of the number of parking spaces required for each use evaluated individually. Off-street parking for multiple, separate uses may be provided collectively. A reduction in the off-street parking required for each separate use may be allowed when the separate uses involve differing hours of operation, days of operation, or other circumstances that make it unlikely that the separate uses will experience peak-hours of usage simultaneously.

703.01-5 Area reserved for off-street parking in accordance with the requirements of this Ordinance shall not be reduced in area, encroached upon or changed to any other use unless the use which it serves is discontinued or modified;

703.01-6 Off-street parking existing at the effective date of this Ordinance, in connection with the operation of an existing building or use shall not be reduced to an amount less than hereinafter required for a similar new building or use. Existing off-street parking which is provided in an amount less than the requirements stated hereinafter shall not be further reduced.

703.01-7 When determination of the number of parking or loading spaces required by this ordinance results in a fractional number, any fraction shall be rounded up, to the nearest whole number.

**703.02 *Site Requirements***. All off-street parking shall be laid out, constructed, and maintained in accordance with the following requirements:

703.02-1 All such parking areas, except those serving one (1) and two (2) family dwellings, shall consist of an improved, dustless surface, shall be designed to maintain proper drainage, and shall be striped and properly maintained. A good stand of vegetative cover shall be maintained on the remainder of the lot;

703.02-2 Lighting facilities shall be so arranged that light is fully shielded and reflected away from adjacent properties;

703.02-3 The parking lot shall be adequately drained.

**703.03 *Parking Space Requirements for All Districts***. Off-street automobile storage or parking space shall be provided with vehicular access to a street or alley, and shall be equal in area to at least the minimum requirements for the specific land use set forth. The total number of off-street parking spaces serving any commercial use shall not exceed 125% of the minimum off-street parking requirement. If a particular use is not specified on the table, then the number of spaces required shall be established by the zoning administrator.

|  |  |
| --- | --- |
| **MINIMUM OFF-STREET PARKING REQUIREMENTS** | |
| **USE** | **SPACE REQUIREMENT** |
| ***Residential*** | |
| Duplex or Single-family | 2 spaces per dwelling unit (DU) |
| Multi-family | 1.75 per DU |
| Group home | 1 plus resident spaces |
|  |  |
| ***Assembly/Institutional*** | |
| Assembly, Place of (less than 50 people) | 1 per 50 square feet (SF) assembly area |
| Assembly, Place of (more than 50 people) | 1 per 4 seats |
| Business or trade school | 1 space per employee on largest shift, plus 1 space per 4 students |
| Cultural Facility | 1 per 500 SF |
| Day Care Center, Adult | 1 plus 1 per 10 attendees |
| Educational facility | 1 space per employee on largest shift, plus 1 space per 20 students |
| Medical Care Facility | 1 per 250 SF |
| Nursing Home | 0.67 per LU |
|  |  |
| ***Commercial*** (except as listed below) | **1 space per 250 SF** (\*max. parking = 125% of the min. requirement) |
| Assisted living | 1 per living unit (LU) |
| Automobile repair service | 3 per bay |
| Bed and breakfast | 1 per guest room plus resident spaces |
| Business support service | 1 per 800 SF |
| Car wash | 1 per bay |
| Cemetery | Zoning Administrator |
| Construction sales and service | 1 per 300 SF |
| Consumer repair service | 1 per 800 SF |
| Family day care home | 1 plus resident spaces |
| Financial institution | 1 per 250 SF |
| Garden center | 1 per 300 SF |
| Gasoline station | 1 per 100 SF |
| Home occupation, type II | 1 per employee plus resident spaces |
| Hotel | 1.3 per room |
| Kennel | 1 per 400 SF |
| Mini-warehouse | 3 plus 1 per 100 units |
| Office, general or medical | 1 per 250 SF |
| Personal improvement services | 1 per 500 SF |
| Restaurant | 1 per 150 SF of enclosed building area |
| Store, general | 1 per 250 SF |
| Veterinary hospital/clinic | 2 per examination room, plus 1 per day shift employee |
|  |  |
| ***Industrial*** (except as listed below) | **1 space per 850 SF** |
| Industrial, light | 1 per 800 SF |
| Laboratory/Research and Development | 1 per 400 SF |
| Warehousing and Distribution | 1 per 1,250 SF |
|  | |

**703.04** ***Off-Street Loading and Unloading Space.*** Off-street loading and unloading spaces shall be provided as hereinafter required by this Ordinance:

703.04-1 Size of off-street loading spaces: each off-street loading space shall have minimum dimensions of fourteen (14) feet in height, twelve (12) feet in width, and fifty (50) feet in length;

703.04-2 Connection to road or alley: each required off-street loading space shall have direct access to a road or alley or have a driveway which offers satisfactory ingress and egress for trucks;

703.04-3 Permanent reservation: area reserved for off-street loading in accordance with the requirements of this Ordinance shall not be reduced in area or changed to any other use unless the use which is served is discontinued or modified, except where equivalent loading space is first provided that meets the requirements herein.

|  |  |  |
| --- | --- | --- |
| **OFF-STREET LOADING REQUIREMENTS** | | |
| **USES** | **GROSS FLOOR AREA**  **(square feet) \*** | **NO. OF**  **LOADING AREAS** |
| ***RESIDENTIAL USES***  **(only those listed below)** | 10,000 – 100,000  100,000 – 200,000 | 1 |
| Nursing Home |
| ***COMMERCIAL USES***  **(except those listed below)** | 10,000 - 40,000  40,000 – 100,000  Each additional 200,000 | 2  3  1 |
| Retail or Wholesale Establishment | 5,000 – 10,000 | 1 |
| Hospital, Educational Facility | 10,000 – 100,000  Each additional 100,000 | 1  1 |
| Hotel | 10,000 – 100,000  each additional 100,000 | 1  1 |
| Office | 10,000 – 100,000  Each additional 100,000  up to 500,000 | 1  1 |
| Places of Assembly (excluding theaters) | 10,000 – 20,000  20,000 – 100,000 | 1  1 |
| Theater | 10,000 – 25,000  each additional 50,000 | 1  1 |
| ***PUBLIC FACILITIES AND CULTURAL FACILITY USES***  **(except those listed below)** | 10,000 – 100,000  Each additional 100,000  up to 500,000 | 1  1 |
|  |  |  |
| ***INDUSTRIAL USES***  **(except those listed below)** | 10,000 – 40,000  40,000 – 100,000  Each additional 100,000 | 1  2  1 |
|  |  |  |
| \* Gross Floor Area includes all principal buildings or structures on premises | | |

**704.00 HOME OCCUPATIONS,** [**Type I and Type II**](http://www.highlandcova.org/Zoneord/ART3.htm#HOMEOCC)

A. These provisions are adopted in recognition that certain small-scaled commercial activities may be appropriate accessory uses within residential dwellings and/or accessory buildings on residential lots. The character and scale of such commercial activities must be subordinate and incidental to the principal use of the premises for dwelling purposes, and may not conflict with or change the predominant character of the property and/or surrounding neighborhood.

B. Type I home occupations are generally more restrictive in the size and intensity of the home occupation use and are principally permitted in the County’s and Town of Monterey’s residential zoning districts. The limitations found in Type I are designed to protect this residential use and neighborhood atmosphere from unwanted commercial influences and impacts.

C. Type II home occupations are permitted in the County’s agricultural and industrial zoning districts and are not as restrictive due to the lesser density and broader range of uses found in those districts.

D. Beauty parlors, medical and veterinary clinics, and anything related to the sale or service of automobiles or anything commonly associated with automobiles are not home occupations.

E. Type I and Type II home occupations are subject to the following general standards and the respective specific standards provided herein.

**704.01 *General standards:***

704.01-1 More than one home occupation may be permitted provided the total floor area used for all home occupations does not exceed the applicable Type I or Type II standard.

704.01-2 No dwelling or structure shall be altered, occupied, or used in a manner that would cause the premises to differ from a character consistent with a residential use. The use of materials, construction, lighting, or other means inconsistent with a residential use shall be prohibited.

704.01-3 All storage of goods, products, equipment, or other materials associated with the home occupation, excluding vehicles, shall be in an enclosed building. No toxic, explosive, flammable, radioactive, or other hazardous materials shall be used, sold, or stored on the site.

704.01-4 The type and volume of traffic generated by a home occupation shall be consistent with the traffic generation characteristics of other dwellings in the area.

704.01-5 The home occupation shall not involve the commercial delivery of materials or products to or from the premises, excluding deliveries by UPS, Federal Express, etc., that routinely deliver in residential neighborhoods.

704.01-6 Product sales associated with private social events (i.e., Tupperware parties) shall not be considered a home occupation, so long as they occur no more than six (6) times a year at any given residence.

704.01-7 The home occupation shall not increase demand on water, sewer, or garbage collection services to the extent that the combined demand for the dwelling and home occupation is significantly more than is normal to the use of the property for residential purposes.

704.01-8 No equipment or process shall be used in a home occupation that creates noise or vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the premises or through common walls. In the case of electrical interference, no equipment or process shall be used that creates visual or audible interference in any radio or television receivers off the premises or through common walls.

704.01-9 Home occupations shall meet all applicable fire and building codes.

704.01-10 The maximum floor area permitted for a home occupation shall be 25 percent of the finished floor area of the dwelling. Storage of goods or products shall not exceed 10 percent of the finished floor area. Use of an accessory building exceeding 800 square feet for a home occupation shall require a conditional use permit.

704.01-11 Lessons in the applied arts (music, dance, art, etc.) shall be permitted, provided the class size for any lesson does not exceed 5 students at any one time.

704.01-12 No sign may be placed on the property advertising the home occupation. There shall be no evidence outside the dwelling unit or accessory building that it contains a home occupation.

**704.02 *Additional standards for all Type I home occupations:***

704.02-1 No one other than permanent residents of the dwelling shall be engaged or employed in such occupation. In addition, the lot or property on which the home occupation is conducted shall not have any parking spaces added to it during the time the home occupation is being conducted, nor shall any parking space be used that was not customarily or regularly used prior to that time.

704.02-2 There shall be no display or storage of goods visible outside the dwelling or accessory building.

704.02-3 The sale of goods or products produced on the premises, or providing services that involve the consumer coming to the premises shall be limited to no more than 3 customers or vehicles per day; however, day care or babysitting for no more than 5 children or adults shall be permitted.

704.02-4 No more than one (1) commercial vehicle per dwelling shall be allowed with the following additional limitations:

1. No semi-trailer of a tractor-trailer truck, solid waste collection vehicle, construction equipment, cement-mixer truck, dump truck, wrecker, or similar such vehicles or equipment with an empty weight of twenty thousand (20,000) pounds or more shall be permitted.

2. Any parked commercial vehicle in a residential zone shall be owned and/or operated only by an occupant of the dwelling at which it is parked.

**704.03 *Additional standards for all Type II home occupations:***

704.03-1 No more than two persons who are not permanent residents of the dwelling may be engaged or employed in the home occupation.

**704.04 *Modifications***

The zoning administrator is authorized to grant a modification to the general and specific standards applying to home occupations provided that the administrator finds in writing the following: (i) the proposed home occupation meets the majority of the general and specific standards set forth in the Ordinance; (ii) the proposed use is compatible in the zoning district; (iii) the strict application of the standards would produce undue hardship; (iv) such hardship is not shared generally by other properties in the same zoning district and the same vicinity; and (v) the authorization of the modification will not be of substantial detriment to adjacent property and the character of the zoning district will not be changed by the granting of the modification. Prior to the granting of a modification, the zoning administrator shall give, or require the applicant to give, all adjoining property owners written notice of the request for modification, and an opportunity to respond to the request within 21 days of the date of the notice. The zoning administrator shall make a decision on the application for modification and issue a written decision with a copy provided to the applicant and any adjoining landowner who responded in writing to the notice sent pursuant to this paragraph. The decision of the zoning administrator shall constitute a decision within the purview of Virginia Code §15.2-2311, and may be appealed to the board of zoning appeals as provided by that section. Decisions of the board of zoning appeals may be appealed to the circuit court as provided by Virginia Code §15.2-2314.

**704.05 *Home Occupation Conditional Use***

Any proposed home occupation that does not meet the general standards or specific standards, and when the zoning administrator has not granted a modification from the standards, may be the subject of a conditional use permit application for consideration by the Planning Commission and the Highland County Board of Supervisors or Town Council in all zoning districts.

**705.00 SIGNS**

**705.01 *Intent.*** The purpose of the following sign requirements is to promote and protect the public health, welfare, and safety by regulating existing and proposed signs of all types. It is intended to protect property values, create a more attractive economic and business climate, and enhance and protect the scenic and natural beauty of Highland County and the Town of Monterey. It is further intended to reduce sign or advertising distraction and obstructions that may be caused by signs overhanging or projecting over public right-of-way, provide more open space, curb the deterioration of the natural environment, and enhance community development. This article shall be interpreted in a manner consistent with the First Amendment guarantee of free speech and in a manner consistent with the County’s Comprehensive Plan. If any provision of this article is found by a court of competent jurisdiction to be invalid, such finding shall not affect the validity of other provisions of this article, which can be given effect without the invalid provision.

**705.02 *General Requirements for Permanent and Temporary Signs:***

705.02-1 Except as provided in Sections 705.03 and 705.04 below, no sign or structure shall be erected without a Zoning Permit. Failure to adhere to the requirements of this Ordinance automatically cancels such Permit and said structure shall be removed forthwith;

705.02-2 For the purpose of computing sign area, only one (1) side of a double-faced sign shall be considered;

705.02-3 Roof top signs or sign structures shall not extend more than fifteen (15) feet above the roof line. Roof top signs or sign structures shall not extend beyond or overhang any exterior wall of the building upon which secured;

705.02-4 No sign or sign structure other than official road markers placed by the Virginia Department of Transportation or authorized local governmentsshall be placed upon any road right-of-way;

705.02-5 No sign or sign structure shall be located in such a manner as to materially impede the view of any road intersection, or in such a manner as to materially impede the view of the intersection of a road with a railroad grade crossing;

705.02-6 No sign shall be erected, relocated, or maintained so as to prevent free ingress to or egress from any door, window, or fire escape;

705.02-7 No portion of any sign structure, except official road markers placed by the Virginia Department of Transportation or authorized local governmentsshall be less than ten (10) feet above the level of an adjacent sidewalk or other pedestrian thoroughfare, and no less than sixteen (16) feet above the level of an adjacent public driveway, alley, or street;

705.02-8 Permanent signs shall comply with the applicable requirements of the Building Code.

705.02-9 There may be additional use-specific requirements for signs found elsewhere in this Ordinance that may apply.

705.02-10 FOR THE TOWN OF MONTEREY ONLY: All signs and sign structures must be a minimum of twelve inches (one foot) away from the existing sidewalk.

705.02-11 FOR THE TOWN OF MONTEREY ONLY: Any illumination shall be focused upon the area of the sign and be limited to the property of the sign owner or licensee and be designed to prevent glare or interference with traffic signals. No moving or flashing signs, except temporary signs erected by government officials shall be permitted. No illumination sign shall be permitted within 50 feet of property in any residential district unless the illumination of such sign is so designed that it does not shine or reflect light onto such property.

705.02-12 FOR THE TOWN OF MONTEREY ONLY: No temporary sign area or permanent sign area shall exceed thirty-two (32) square feet.

**705.03 *Additional Requirements for Temporary Signs:***

705.03-1 Temporary signs may not be displayed for more than two 30 consecutive day periods, not to exceed 60 days in any 12-month period;

705.03-2 Temporary signs must include somewhere on the sign the name of the person responsible for the sign and the date erected. A temporary sign shall be removed by the owner or, if he fails to do so, by the Zoning Administrator at the owner's expense at the end of each thirty (30) day period;

705.03-3 No temporary sign shall exceed thirty-two (32) square feet per sign area;

705.03-4 All portable and vehicular signs shall adhere to the requirements set forth herein except for those signs not exceeding forty (40) square feet and attached to vehicles which are used primarily for other purposes than displaying an outdoor advertising sign;

705.03-5 Permits are not required for temporary signs, however, in the event a person fails to comply with the provisions for temporary signs contained herein, the Zoning Administrator or his/her agent may remove the offending sign.

705.03-6 Temporary signs shall not require a public hearing.

**705.04 *Reserved.***

**705.05 *Signs as Permitted Uses.*** The following signs are permitted uses in the following districts without a public hearing:

705.05-1 *Residential Districts*. Within any residential district, the following signs are permitted:

A. One (1) sign for each single or two-family dwelling, provided that such sign shall not to exceed four (4) square feet in area, and shall not be illuminated.

B. Where multi-family dwellings are a permitted use, one (1) sign for each multi-family building, provided that such sign shall not exceed nine (9) square feet in area, and may be illuminated only be indirect illumination.

C. One (1) at each entrance to a subdivision containing more than ten (10) lots, provided that such sign shall not exceed one hundred (100) square feet in area, shall not be illuminated, shall be located on property owned by a home owners’ association, and shall be maintained by such home owners’ association.

705.05-2 *Agricultural and Business Districts*. Within any agricultural orbusiness district, the following signs are permitted:

A. Eighty-five (85) square feet of aggregate sign area per business, provided that no one sign shall exceed thirty-five (35) square feet in area.

B. Off-premises advertising signs shall be included in the square footage limitation provided in Paragraph A, and in no event may an off-premises or on-premises advertising sign exceed 35 square feet in area. (adopted 11/21/19)

705.05-3 *Industrial Districts*. Within any industrial district, the following signs are permitted:

A. Signs having a maximum aggregate area not-to-exceed thirty-five (35) square feet.

B. Off-premises advertising signs shall be included in the square footage limitation provided in Paragraph A, and in no event may an off-premises or on-premises advertising sign exceed 35 square feet in area. (adopted 11/21/19)

**705.06 *Signs as Conditional Uses*.** The following signs may be permitted as conditional uses:

705.06-1 Signs Related to Conditional Uses. Except as hereinafter provided within any districts, signs relating to buildings and uses permitted as conditional uses are also permitted, provided that they shall not exceed twenty (20) square feet in area, shall be limited to two (2) signs per use, and may be indirectly illuminated at the discretion of the Board. In business and industrial districts, signs relating to buildings and uses permitted conditionally shall alsobe permitted, provided that all requirements of sign area for permitted signs are met;

**705.07 *Signs Prohibited in All Districts*.** The following signs are prohibited in all districts:

705.07-1 Any sign erected or painted upon a fence, tree, fire escape, or utility pole; HOWEVER, exceptions may be made to this prohibition if it is contrary to state or federal statute, or is necessary to protect the community’s health, safety and welfare; so long as the total signage square footage does not exceed the limit for the appropriate district; and so long as the exception is made and granted pursuant to a conditional use permit; (amended 11/21/19)

705.07-2 Any sign which contains flashing or intermittent illumination, which imitates official traffic control signs, or which should pose any danger to motorists.

***705.08 Signs on Properties for Sale, Rent, or Under Construction***. During the course of any construction activity, or during any offering of a property for sale or for rent, additional signage shall be allowed beyond that which is otherwise permitted by this ordinance, according to the following:

705.08-1 Residential Districts. Within any residential district, when a property is for sale, rent, or under construction, the following signs are permitted, and shall be exempt from permit requirements:

A. Up to three (3) signs for each property, provided that each such sign shall not exceed six (6) square feet in area, and shall not be illuminated.

705.08-2 Agricultural or Business Districts. Within any agricultural or business district, when a property is for sale, rent, or under construction, the following signs are permitted, and shall be exempt from permit requirements:

A. Up to three (3) signs for each property, provided that each such sign shall not exceed thirty-two (32) square feet in area, and shall not be illuminated.

705.08-3 Industrial Districts. Within any industrial district, when a property is for sale, rent, or under construction, the following signs are permitted, and shall be exempt from permit requirements:

A. Up to three (3) signs for each property, provided that each such sign shall not exceed ninety (90) square feet in area, and shall not be illuminated.

**705.09 *Maintenance and Removal of Signs.***

705.09-1 All signs and sign structures shall be kept in repair and in proper state of preservation. All unsafe signs must adhere to the provisions of the Building Code;

705.09-2 Signs which are no longer functional, or are abandoned, shall be repaired, removed, or relocated at the owner’s expense in compliance with the provisions of this Ordinance within thirty (30) days following dysfunction.

**706.00 MANUFACTURED HOME PARKS**

Any manufactured home placed in Highland County or the Town of Monterey after the date of enactment or amendment of this Ordinance shall meet the following requirements:

706.00-1 All manufactured homes shall meet the plumbing requirements and the electrical wiring and connection, construction blocking, and anchoring requirements of the Virginia State Building Code and shall display the seal of a testing laboratory approved by the State of Virginia;

706.00-2 All manufactured homes shall be completely skirted, such that no part of the undercarriage shall be visible to a casual observer, in accordance with methods and materials approved by the Building Official;

706.00-3 All manufactured homes shall be supplied with public water and wastewater disposal or such individual service evidenced by permits from the Health Department.

**706.01 *Manufactured Home Lot Requirements:***

706.01-1 Individual manufactured home lots shall be a minimum of twenty thousand (20,000) square feet.

**706.02 *Manufactured Home Park and Setback Requirements***. All manufactured home parks shall meet the following minimum area and setback requirements:

706.02-1 All manufactured home parks shall have a minimum area of at least ten (10) acres. A minimum of twenty (20) spaces shall be completed and ready for occupancy before the first occupancy is permitted;

706.02-2 The overall density of any manufactured home development shall not exceed seven (7) units per net acre. The density of any particular acre within such park shall not exceed eight (8) units per net acre. For density purposes, net acreage shall be defined as all land within the development except land in the one hundred (100) year floodplain, land needed for the right-of-way for any highway with a planned right-of-way width of ninety (90) feet or more, and land dedicated for other non-street public uses;

706.02-3 No main or accessory building shall be located closer than twenty-five (25) feet to any property line of a manufactured home park.

**706.03** ***Manufactured Home Park Lot Requirements***. All manufactured home lots shall meet the following requirements:

706.03-1 The area of any manufactured home lot shall not be less than three thousand four hundred (3,400) square feet. Lot coverage, herein defined as the percentage of the manufactured home lot area covered by the manufactured home stand and any manufactured home accessory structure, driveway, and parking area, excluding patios, shall not exceed thirty-five (35) percent as an average, nor forty (40) percent for a given lot, the minimum area of any site devoted to common open space shall be ten thousand (10,000) square feet;

706.03-2 No manufactured home or permanent building shall be closer than twenty (20) feet to any manufactured home;

706.03-3 The minimum length of a manufactured home lot shall be eighty-five (85) feet and the minimum width shall be forty (40) feet. On all lots larger than the minimum, the ratio of length to width shall not exceed 2.2 to 1.0;

706.03-4 Where laundry facilities are not made available, the rear yard of each manufactured home lot shall be provided with a clothesline which shall be exempt from setback and other requirements of manufactured home accessory structures;

706.03-5 A patio of two hundred (200) square feet in area shall be provided adjoining each manufactured home stand.

**706.04** ***Manufactured Home Accessory Structures***. All manufactured home accessory structures erected or constructed after the date of enactment or amendment of this Ordinance must meet the following requirements:

706.04-1 All manufactured home accessory structures must meet the plumbing, electrical connection wiring, construction, and other applicable requirements of the Building Code;

706.04-2 Except in the case of an awning, ramada, or other shade structure, where a manufactured home accessory structure is attached to the manufactured home unit, a substantial part of one (1) wall of the accessory structure shall be flush with part of the manufactured home unit, or such accessory structure shall be attached to the manufactured home unit in a substantial manner of means of a roof. All manufactured home accessory structures, whether attached or detached, shall be designed and constructed as free standing structures. No detached manufactured home accessory structure, except ramadas, shall be erected closer than twenty (20) feet to a manufactured home;

706.04-3 Manufactured home accessory structures, except ramadas, shall not exceed the height of the manufactured home;

706.04-4 No manufactured home accessory structure shall be erected or constructed on any manufactured home lot except as an accessory to a manufactured home;

706.04-5 Awnings, additions, and other shade structures, except ramadas, shall conform to the requirements of applicable sections of the Building Code;

706.04-6 Porches may be placed adjacent to manufactured homes, provided they are constructed in accordance with the provisions of the Building Code.

**706.05** ***Manufactured Home Park Application and Site Plan***. Applicants for manufactured home parks shall meet the following special requirements:

706.05-1 Site plans shall be legibly drawn at a scale consistent with its purpose;

706.05-2 The following information shall be required of site plans:

A. The date of the site plan, the name of the surveyor or engineer preparing it, and the number of sheets comprising the site plan.

B. The scale and the north meridian, designated "true" or "magnetic."

C. The name and signature of the owner and the name of the proposed park, said name shall not closely approximate that of any existing manufactured home park or subdivision in Highland County or the Town of Monterey.

D. A vicinity map showing the location and area of the proposed park.

E. The boundary lines, area, and dimensions of the proposed park, with the locations of property line monuments shown.

F. The names of all adjoining property owners, the location of each of their common boundaries, and the approximate area of each of their properties.

G. The location and dimensions of all existing streets and street right-of-way, easements, water, sewerage, drainage facilities, and other community facilities and utilities on and adjacent to the proposed park.

H. All existing significant natural and historical features on or adjacent to the proposed park, including, but not limited to, significant vegetation, lakes, streams, swamps, lands subject to flooding and other waterways, views from the property and views from adjoining properties that might be affected by the proposed park, existing structures, and topographic features shown by contour lines.

I. Proposed layout including interior streets with dimensions and such typical street cross sections and center line profiles as may be required in evaluating the street layout; water, sewer, drainage, and utility lines, facilities and connections with dimensions shown; location and type of solid waste collection facilities; interior monuments and lot lines, dimensions, and areas of manufactured home lots, common open space and recreation areas, common parking areas, and other common areas; locations and dimensions of manufactured home stands and parking spaces, management offices, laundry facilities, recreation buildings, and other permanent structures; location and nature of fire-fighting facilities, including hydrants, fire extinguishers, and other fire-fighting equipment; location of fuel storage facilities and structure of high flammability; and location and dimensions of landscaping amenities, including street lights, sidewalks, planted areas, significant natural features to be retained, and fencing and screening.

706.05-3 The site plan shall be accompanied by a narrative statement describing how the standards and requirements set forth herein are to be met, a statement from the Health Official certifying approval of the proposed site plan and, where appropriate, statements from the Highway Engineer certifying approval of the street and drainage, water and sewer, or utility system layouts by the owner/operator.

**706.06** ***Manufactured Home Park Design Standards***. Manufactured Home Parks shall meet the subdivision regulations of Highland County and the Town of Monterey along with all other applicable state and local regulations.

**707.00 NON-CONFORMING LOTS, BUILDINGS, AND USES**

It is the intent of this Ordinance to recognize that the elimination of existing lots, buildings, and structures or uses that are not in conformity with the provisions of this Ordinance is as much a subject of health, safety, and general welfare as is the prevention of the establishment of new uses that would violate the provisions of this Ordinance. It is, therefore, the intent of this Ordinance to permit these non-conformities to continue, but not to encourage their survival, permit their expansion, or permit their use as grounds for adding other structures or uses prohibited elsewhere in the same district. Therefore, any structure or use of land existing at the time of the enactment of this Ordinance, and amendments thereto, but not in conformity with its regulations and provisions, may be continued subject to the following provisions:

**707.01** ***Lots of Record***. Where a lot of record at the time of enactment of this Ordinance does not contain land, sufficient area, or width to permit conformity with the dimensional requirements of this Ordinance, the following provisions shall apply:

707.01-1 *A* single non-conforming lot of record at the time of enactment or amendment of this Ordinance may be used as a building site provided that yard dimensions and requirements other than those applying to area or width of the lot shall conform to the regulation for the district in which such lot is located. Variances of yard requirements may be obtained only through appeal to the Board, as outlined in Section 807.00 herein.

**707.02** ***Non-Conforming Structures***. Where a lawful structure exists at the time of enactment or amendment of this Ordinance that could not be built in the district in which it is located by reason of restrictions on area, lot coverage, height, yard dimensions, or other requirements, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

707.02-1 Any structure or portion thereof declared unsafe by the Building Official may be restored to a safe condition, provided that the requirements of this section are met, and that the cost of restoration of the structure to a safe condition shall not exceed fifty (50) percent of its replacement cost at the time of the Building Official declaration;

707.02-2 No non-conforming structure may be enlarged or altered in any way which increases its non-conformity, and any structure or portion thereof may be altered to decrease its non-conformity;

707.02-3 Notwithstanding the provisions of Section 707.02-2 above, whenever repairs on or installation of plumbing fixtures in residential structures is required by law or administrative action of the Health Official or the Building Official, such alterations shall be permitted provided that where such alterations require an addition to the structure, such addition shall be no nearer the lot line than permitted by the requirements of this Ordinance. Where an existing residential structure exceeds these requirements, the said addition shall extend no nearer the lot line than the existing building line;

707.02-4 Should a non-conforming structure be moved, it shall thereafter conform to the yard dimension requirements of the district in which it is located after it is moved;

707.02-5 Should a non-conforming structure or non-conforming portion of a structure be destroyed by any means, it shall not be reconstructed to a greater degree of nonconformity.

**707.03** ***Non-Conforming Uses of Land***. Where a lawful use of land exists at the time of enactment or amendment of this Ordinance that would not be permitted by the regulations imposed herein and where such is either: (1) an accessory use involving the use of no separate accessory structure; or (2) a principal use involving no individual structure, such use may be continued as long as it remains otherwise lawful, subject to the following provisions:

707.03-1 No such non-conforming use shall be enlarged or increased nor extended to occupy a greater area of land than was occupied at the time of enactment or amendment of this Ordinance;

707.03-2 No such non-conforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use at the time of enactment or amendment of this Ordinance;

707.03-3 In the event that such use ceases for reasons other than destruction for a period of more than two years, any subsequent use shall conform to all requirements of this Ordinance for the district in which the land is located;

707.03-4 No additional structure not conforming to the requirements of this Ordinance shall be constructed in connection with such non-conforming use.

**707.04** ***Non-Conforming Uses of Structure***. Where a lawful use involving an individual structure or structures in combination exists at the time of enactment or amendment of this Ordinance, that would not be permitted in the district in which it is located under the requirements of this Ordinance, such use may be continued as long as it remains otherwise lawful, subject to the following provisions:

707.04-1 No structure existing at the time of enactment or amendment of this Ordinance devoted to a nonconforming use shall be enlarged, extended, moved, or structurally altered, except repairs on or installation of plumbing fixtures required by law or administrative action of the Health Official or the Building Official, or the changing of interior partitions or interior remodeling, or except in changing the use of the structure to a conforming use;

707.04-2 A non-conforming use of a structure may be extended to include use of the entire structure, but shall not be extended to include either additional structures or land outside the structure;

707.04-3 When a non-conforming use of a structure or structure and premises in combination is discontinued or abandoned for two years, except when government action impedes access to the premises, or when a non-conforming use is superseded by a permitted use, the structure and premises shall not thereafter be used except in conformity with the regulations of the district in which it is located.

**708.00 TELEVISION ANTENNAS AND RECEIVERS**

Any television antenna or receiver system placed in Highland County or the Town of Monterey after the date of this amendment shall meet the following requirements:

**708.01** Television antennas serving single residences and having a height of fifty (50) feet or less shall be exempt from the requirements of this Ordinance.

**708.02** TVRO Receive Units and similar television receiving systems shall be considered as accessory structures. Such units shall be located to the rear or side of the principal structure and shall have a minimum setback of ten (10) feet from such principal structure in any district. The minimum setback from the property lines shall be the setback for accessory structures in each district.

**708.03** TVRO Receive Units and similar television receiving systems shall be exempt from the height requirements of this Ordinance.

**709.00 SANITARY LANDFILLS**

All sanitary landfills are expressly prohibited except those owned and/or operated by Highland County or the Town of Monterey.

**710.00 RECREATIONAL VEHICLE ORDINANCE, HIGHLAND COUNTY**

It is the purpose of this Ordinance to regulate the placement of recreational vehicles in Highland County, Virginia.

**710.01 *Regulation of Recreational Vehicles***. Any recreational vehicle placed or used in Highland County, must meet the zoning requirements for the property on which it is to be placed/used. Any landowner placing more than two (2) recreational vehicles on his/her property must comply with all requirements of a campground, as herein described. However, a landowner may apply to the Office of Building and Zoning for a permit to place more than two (2) recreational vehicles. The request for the permit shall state the number of recreational vehicles to be placed on the property, and describe the tract of property on which they are to be placed. The permit shall be for no longer than five (5) days. No more than two (2) such permits may be issued annually to any landowner. There shall not be any fee for the issuance of said permit. The holder of a permit may allow more than two (2) recreational vehicles on his/her property, up to the number specified in the permit for the length of time specified in the permit, without meeting the requirements of a campground.

**710.02 *Space and Density Requirements for Permitted Campgrounds***. The density of recreational vehicle spaces within a campground shall not be more than twenty (20) per acre. The minimum area of any space for a recreational vehicle shall be sixteen hundred (1,600) square feet with no dimension less than twenty-five (25) feet. No such space shall be located less than thirty-five (35) feet from the street lot lines and alley lines, and no less than ten (10) feet from interior lines. Recreational vehicles shall be so located on each space so that there will not be less than twenty (20) feet to any other vehicle or building within the campground.

710.02-1 All recreational vehicles located in a campground shall be set no less than fifty (50) feet from adjoining property lines, unless written permission is given from that property owner.

**710.03** ***Health and Safety Standards for Permitted Campgrounds***. An approved water and sewage system shall be a prerequisite to obtaining a permit for a private campground.

710.03-1 All campgrounds are subject to periodic inspections by the Virginia Health Department for water and sewage system compliance as required by law;

710.03-2 The collection, storage, and disposal of refuse shall be so conducted as not to create a health hazard, rodent harborage, insect breeding area, accident or fire hazard, or air pollution and is the responsibility of the land owner;

710.03-3 All refuse shall be handled as provided for by Virginia State Law.

**710.04 *Screening Requirements for Campgrounds and Commercial Recreational Vehicle Storage Areas***. All campgrounds covered in this Ordinance shall be screened from the view of passersby, or any public roads. Waiver: the constructed screening and planting requirements of this section shall be applied equally to all similarly classified and situated properties, but may be modified or waived in certain cases where a site is subject to any of the following circumstances, as determined by the Highland County Planning Commission. Natural land and land covet characteristics would achieve the same intent of this section.

710.04-1 All refuse service and outdoor storage areas shall be screened from surrounding views.

**710.05** ***General Standards for this Section shall be as follows:***

710.05-1 Constructed screening shall refer to the construction of a visually opaque, physical barrier of a height, to be determined by the Planning Commission, within a required buffer zone;

710.05-2 Constructed screens shall be continuously maintained, present an attractive exterior appearance, and be of durable construction;

710.05-3 Planting shall refer to the preservation of existing vegetation or planting, or new growth within a required buffer zone as approved by the Planning Commission. New screen plantings will be accomplished with deciduous and evergreens in accordance with standard horticultural practices. All plantings will be presented for approval by the Planning Commission;

710.05-4 Buffer zone shall refer to a landscaped strip of specified width along certain segments of the building site perimeter. The buffer zone shall be reserved solely for screening and plantings, no driveways (except where necessary for safe access), parking areas, nor building structures shall be permitted.

**710.06** ***Storage of Recreational Vehicles in Campground***:

710.06-1 Recreational vehicles may not be occupied for more than fourteen (14) consecutive days. However, they may be stored, unoccupied, for more than fourteen (14) consecutive days.

**710.07** ***Recreational Vehicles - Hunting Season***:

710.07-1 Recreational vehicles may not be placed on private property without written permission of the property owner at any time.

**710.08 *Non-Compliance with this Section***:

710.08-1 Violation of the standards and provisions of this Ordinance shall be subject to the penalties as provided for in Article 10, Section 1003 of the County of Highland/Town of Monterey Zoning Ordinance.

**711.00 MIXED USE STRUCTURES**

**711.01** ***Intent.*** The purpose of this section is to allow for the use of one structure for both residential and commercial purposes.

**711.02 *General Requirements:***

711.02-1 Mixed uses will be allowed by Conditional Use Permit only in the A, R-1, R-2, and B zoning districts, and will comply with procedures as established in Section 802.03, Application Procedures for Conditional Use;

711.02-2 Primary use of the building, covering more than fifty (50) percent of the floor area, shall be a use that is permitted by right in the district;

711.02-3 The secondary use shall occupy less than fifty (50) percent of the floor area, and shall not distract from the intent of the district;

711.02-4 Lot size, setbacks, parking, etc. shall be reviewed by the Zoning Administrator for his/her approval;

711.02-5 The building shall appear to be "ordinary" with respect to exterior appearance with other buildings customarily found in the district.

**712.00 POULTRY ORDINANCE**

**712.01 *Intent.*** It is the intent of this Ordinance to provide Highland County farmers with guidance to locate poultry facilities and all other structures used in poultry growing. In doing so, protect the public health, welfare and the environment of Highland County and the Town of Monterey while providing for orderly growth of the agriculture industry.

**712.02 *Building Permit Requirements.*** All proposed poultry facility construction will be approved by the County Zoning Administrator, before any construction is begun. Application for a building permit must include the following:

A. An erosion and sedimentation plan to be approved by the Mountain Soil and Water Conservation District and to be enforced by the Highland County Erosion and Sediment Control Officer.

B. A Growers Nutrient Management Plan to be approved by the Mountain Soil and Water Conservation District that includes the following:

* 1. Amount of nutrients to be produced at the facility.
  2. Amount of nutrients to be used on grower’s property.
  3. Amount of nutrients to be disposed off property for which complete and accurate sale or transfer records will be maintained.

**712.03 *Definitions (for this Section).***

* 1. **Existing Poultry Facility.** A poultry house that is occupied or has been occupied by a commercial poultry flock for any time within the five (5) years immediately preceding date of a completed poultry facility application.
  2. **Existing Residential Dwelling.** Any building or portion thereof which is occupied at date of a completed poultry house application or has been occupied for a minimum of three (3) consecutive months within the prior five (5) years including recreation type permanent structures such as mobile homes and hunting camps.
  3. **Nutrient Management Plan.** A plan developed and approved by the Mountain Soil and Water Conservation District that provides for usage of poultry nutrients for agricultural use.
  4. **Poultry.** Any fowl raised in a confined intensive growing environment.
  5. **Poultry Facility.** A building or group of buildings related to the housing of more than one hundred fifty (150) fowls.

**712.04 *Setbacks.***

A.   Setbacks from Existing Residences (including people occupied facilities but not limited to churches, schools, and commercial establishments).

Each poultry facility shall be set back from all existing residences not owned by the grower, as follows:

* 1. From an existing dwelling in the agriculture district. Three Hundred (300) feet, with a like setback required for dwelling construction next to an existing poultry facility.
  2. From an existing dwelling in a residential, business or light industrial district (R-1, R-2, R-3, R-4). Six Hundred (600) feet, with a like setback required for dwellings constructed next to an existing poultry facility.
  3. From a flood hazard (FH) and conservation (C) overlay district seventy-five (75) feet.

Setbacks from existing residences may be reduced by the mutual consent of the grower and adjacent landowner. Consent shall be shown by a signed agreement stating the agreed-upon distance between the existing residence and the poultry facility. The signed agreement shall be presented to the zoning administrator at the time the grower applies for a poultry facility permit.

B.   Setbacks from property lines and public roads.

* 1. The setback for poultry facilities from property lines shall be fifty (50) feet.
  2. The setback from primary roads (Routes 220, 250, and 84) shall be seventy-five (75) feet.
  3. The setback from secondary roads shall be fifty (50) feet.

The setbacks from property lines may be reduced no less than thirty-five (35) feet by mutual consent of the grower and adjacent landowners. Consent shall be shown by a signed agreement stating the agreed-upon distance between the property line and the poultry facility. The signed agreement shall be presented to the Zoning Administrator at the time the grower applies for a poultry facility permit.

The setback from public roadways shall not be subject to reduction.

C.   Setbacks from water sources. Setbacks from streams, springs, and open water shall be one hundred (100) feet.

D.   Setbacks from wells. Setbacks from wells shall be according to State Health Department Regulations.

E.   Setbacks from sinkholes. Setbacks from sinkholes that are to remain open shall be seventy-five (75) feet.

F.   Dead poultry disposal. Dead poultry shall be disposed of by a procedure approved by the State Veterinary Office of the Virginia Department of Agriculture and Consumer Services, Division of Animal Health. Dead bird disposal facilities shall be according to setbacks designated for other facilities. Dead birds will not be discarded in open pits or on ground surface.

G.   Setbacks for divided parcels. No poultry facility permitted under this ordinance shall continue in operation if, after meeting requirements for obtaining a poultry facility permit, land is divided from the parcel on which the poultry facility is located, such that the setback requirements no longer conforms to this ordinance.

**712.05 *Catastrophic losses***. Dead poultry numbering above normal losses or in excess of capacity of on-site disposal facilities shall be disposed of as directed by the State Veterinary Office of the Virginia Department of Agriculture and Consumer Services, Division of Animal Health.

**712.06** ***Nutrient Management Plan***

* 1. After January 1, 1992, each on going poultry operation shall have an approved nutrient management plan on file with the Zoning Administrator within 18 months of the adoption of this ordinance.
  2. The Nutrient Management Plan shall provide for the lawful disposal or use of one hundred (100) percent of the poultry waste used by each poultry facility and amounts to be disposed off property. Each Nutrient Management Plan shall be approved by the Mountain Soil and Water Conservation District. Growers must comply with their nutrient management plan.

Proper off-site disposal of nutrients purchased or received from a grower will be the responsibility of the user.

* 1. The Nutrient Management plan and Erosion and Sedimentation Plan also shall provide for a site, with or without a permanent structure, for the storage of poultry wastes.
  2. The Nutrient Management Plan shall be revised every five (5) years, or more frequently if deemed necessary by the County. All revised Nutrient Management Plans shall be approved by the Mountain Soil and Water Conservation District.

**712.07 *Variances Of The Ordinance***. Variances from provisions of the Ordinance must follow provisions of Article 807.00 of the County of Highland/Town of Monterey Zoning Ordinance of which this is a part.

**712.08 *Poultry Development Plans (Optional).*** A grower or potential grower may file with the Zoning Administrator a development plan, which indicates the number, size, and location of poultry facilities planned for the subject parcel. When a poultry development plan has been approved and filed with the Zoning Administrator and during the period in which it remains in effect, the planned poultry facilities shall meet setbacks only from those dwellings existing at the time the poultry development plan is approved.

* 1. The Poultry Development Plan shall be based on the requirements of this section and shall be accompanied by a plat prepared and signed by a land surveyor certified by the Commonwealth of Virginia verifying the accuracy of the distances shown in the Poultry Development Plan.
  2. The Poultry Development Plan shall remain in force only so long as the poultry facilities proposed are constructed in accordance with the Poultry Development Plan and are placed in service in a timely manner.
  3. At least one (1) poultry facility indicated in the Poultry Development Plan must be constructed within twelve (12) months of the date of plan approval, unless at least one (1) poultry facility is already constructed on the subject parcel at the time the Poultry Development Plan is filed.
  4. If a grower fails to build a poultry facility, indicated in the Poultry Development Plan, within twelve (12) months of obtaining zoning approval or if a poultry facility existed at the time a plan was approved for any of the additional poultry facilities as indicated on the plan within a five (5) year period, the Zoning Administrator shall revoke the Poultry Development Plan of all future development of poultry facilities and the subject parcel shall strictly conform to the requirements of this Ordinance.

**712.09 *Town of Monterey.*** No commercial poultry houses shall be permitted within the limits of the Town of Monterey. Small private flocks intended primarily for the use of the owners shall be permitted, up to a capacity of twenty-five (25) birds. Larger poultry houses may not be built, maintained or operated if located entirely or partially within the town boundaries.

**712.10** ***Prior Permits Valid***. The provisions of this Ordinance notwithstanding, a poultry house permit approved by the County prior to the adoption of this Ordinance shall remain valid, as issued, on condition that all requirements set forth in the permit are met and construction is started. Extension permitted under circumstances as judged by the Zoning Administrator to be beyond control of the poultry producer.

**712.11 *Violation and Penalty***. Enforcement of this Ordinance shall conform to the provisions of Article 10 of the County of Highland Zoning Ordinance of which this is a part.

**713.00 EXTERIOR LIGHTING STANDARDS**

**713.01. *Purpose and Intent.***

The purpose of this section is to regulate exterior lighting to:

A. Permit the use of exterior lighting at the minimum level necessary for nighttime safety, utility, security, productivity, enjoyment, and commerce;

B. Ensure exterior lighting does not adversely impact land uses on adjacent land by minimizing light trespass, obtrusive light, and glare;

C. Curtail light pollution, reduce sky glow, and preserve the nighttime environment for astronomy, wildlife, and enjoyment of residents and visitors;

D. Conserve energy and resources to the greatest extent possible by encouraging the use of timers and motion sensors to switch the lights off when not needed, and;

E. Ensure security for persons and property.

**713.02. *Reserved.***

**713.03 *Application.***

**A. Applicability.**

The provisions of Section 713.00 *et seq.* shall apply to all business and industrial zoning districts (General Business District and Light Industrial District) and on any property located within any other zoning district that is used for business or commercial purposes through a permitted use, an administrative permit, or a conditional use permit.

**B. Exemptions**.

The following are exempted from the exterior lighting standards of Section 713.00 *et seq*.:

1. Lighting within a public street right-of-way or easement that is used principally for illuminating a roadway;

2. Lighting exempt under state or federal law;

3. Lighting for public monuments and statuary;

4. Lighting that is required under the Uniform Statewide Building Code;

5. Construction, emergency, or holiday decorative or festive lighting, provided such lighting does not create unsafe glare on street rights-of-way and is temporary;

6. Temporary lighting for circuses, fairs, carnivals, theatrical and other performance areas, provided such lighting is discontinued upon completion of the performance;

7. Security lighting controlled and activated by motion sensor devices for a duration of fifteen (15) minutes or less;

8. Lighting for flags of the United States of America or the Commonwealth of Virginia, or any department, division, agency or instrumentality thereof, and other noncommercial flags expressing constitutionally protected speech;

9. Lighting for an outdoor athletic facility;

10. The replacement of an inoperable lamp or component which is in a luminaire that was installed prior to the date of the adoption of this section;

11. The replacement of a failed or damaged luminaire that is one of a matching group serving a common purpose installed prior to the adoption of this section.

**713.04. *Exterior Lighting Standards.***

**A. Prohibited Lighting.**

The following lighting is prohibited:

1. Luminaires that imitate an official highway or traffic control light or sign;

2. Luminaires in the direct line of vision with any traffic control light or sign;

3. Luminaires that have a flashing or intermittent pattern of illumination, except for time and temperature displays;

4. Privately owned luminaires located in the public right-of-way;

5. Search lights, except when used by federal, state, or localauthorities.

**B. Exterior Lighting Standards.**

1. Parking lot light fixtures and light fixtures on buildings shall be full cut-off fixtures;

2. Light fixtures in parking lots shall not be more than twenty feet (20') in height in the General Business District and no more than thirty feet (30') in height in the Light Industrial District.

3. Light fixtures under any canopy shall be recessed into the canopy ceiling with a flat lense to prevent glare.

4. In addition to being full cut-off lighting, all lighting shall be aimed and controlled so directed light is confined to the object intended to be illuminated. Directional control shields shall be used when necessary to limit stray light.

5.  It is recommended that all exterior luminaires be 3,000 Kelvin light color temperature or less.

**713.05 *Compliance.***

The exterior lighting standards shall be enforced by the Highland County Zoning Administrator. Any applications for a conditional use permit or a variance that would permit business or commercial activity in an agricultural or residential zoning district shall include a light plan describing the nature and configuration of lighting for the proposed use that shows compliance with this section of this Ordinance.

**FOR THE TOWN OF MONTEREY ONLY:**

**714.00 OIL AND GAS EXPLORATION, MINING AND TRANSMISSION.**

**714.01** The exploration, sampling, drilling, excavation, well development, transmission, construction of gathering lines and pipelines, and other infrastructure and appurtenances related to oil and gas is prohibited in all Highland County zoning districts except by conditional use permit. Above-ground seismology implemented for exploratory purposes is excluded from this requirement.

**714.02**  The applicant shall comply with all federal and state standards, regulations and requirements on a continuous and ongoing basis as such are amended from time to time.

**714.03**  In addition to the site plan requirements set out in §802.03-1 of the Ordinance, the site plan shall be designed to minimize adverse impact to public health and safety and natural resources; minimize hazard to pedestrians, vehicles, livestock, structures and agriculture; minimize lighting, glare impact, and light pollution; minimize noise; and minimize land disturbance. The site plan shall identify groundwater wells and spring water sources of potable water within 800 feet of the proposed construction area.

**714.04**  A conditional use permit granted pursuant to this section shall be reviewed for compliance by the Planning Commission every 184 days.

**714.05**  In addition to the considerations set out in §802.03-6 of the Ordinance, the Governing Body may place such conditions on the permit as are necessary to protect the public interest, including, but not limited to, the requirement of an emergency preparedness plan; on-going sampling of groundwater wells and spring water sources used for potable water to identify any adverse impact; consideration of light and noise pollution; disposal of waste; hours of operation; transportation of resources including impacts on County roads; and termination of operations, removal of improvements and a remediation and land restoration plan.

**715.00 Solar Energy Systems**

The purpose of these regulations is to provide for the siting, development and decommissioning of all solar energy systems, subject to reasonable conditions that promote and protect the public health, safety and welfare of the community while promoting the development of renewable energy resources.

These regulations shall be interpreted to be consistent with and pursuant to Virginia Code §15.2-2288.7.

**715.01 Small-scale Solar Energy System**

A small-scale solar energy system is an energy conversion system that either (a) generates fewer than 15 kilowatts (kW) electricity from sunlight, consisting of one or more Photovoltaic (PV) systems and other appurtenant structures and facilities within the boundaries of the site, or (b) utilizes sunlight as an energy source to heat or cool buildings, heat or cool water, or produce electrical or mechanical power by means of any combination of collecting, transferring, or converting solar-generated energy; and (c) meets at least one of the following criteria: has a disturbance zone equal to or less than an acre; is mounted on or over a building, parking lot, or other previously disturbed area; or utilizes integrated PV only.

A small-scale solar system is intended solely for residential or business use, where the power generated will remain on the property on which the solar array is located.

715.01-01Small-scale solar energy systems are permitted by-right in the following districts: C, A, all residential (R) districts, B and I. A conditional use permit is required for small-scale solar systems in the FHA district. See Sections 715.05 and 715.06 for permit standards.

**715.02 Medium-scale Solar Energy System**

An energy conversion system that generates electricity from sunlight primarily to reduce onsite consumption of utility power that has a capacity of producing greater than 15 kW but fewer than 999 kW. No more than two (2) acres may be involved with the energy conversion system.

715.02-1 Medium-scale solar energy systems are permitted in the following districts by conditional use permit only: A, all residential (R) districts, B and I. Medium-scale solar energy systems are not permitted in the C district. A conditional use permit is required for a medium-scale solar energy system in the FHA district. See Section 715.08 for conditional use application requirements.

**715.03 Utility-scale Solar Energy System**

An energy conversion system that generates electricity from sunlight that will be used to provide electricity to a utility provider and has a capacity of one megawatt (1 MW) or greater.

715.03-1 Utility-scale solar energy systems are permitted in the following districts by conditional use permit only: A and I. Utility-scale solar systems are not permitted in the following districts: C, all residential (R) districts, B and FHA. See Section 715.08 for conditional use application requirements. Utility-scale solar energy systems may also be called solar farms.

**715.04 Use of Consultant**. The County reserves the right to employ the services of an engineer or an energy consultant to review all solar energy system use permits. All applicable costs associated with the use of such expertise shall be the responsibility of the applicant. These costs must be paid before any permit can be granted by the governing body.

**715.05 General Standards applicable to all solar energy systems.**

715.05-1All solar energy systems shall conform with the Comprehensive Plan.

715.05-2No solar energy system shall have an undue adverse impact on the surrounding neighborhood.

**715.06 Standards applicable to small-scale solar energy systems**.

715.06-1 Setbacks. All equipment and accessory structures associated with the small solar energy system shall be setback twenty five feet (25’) from side and rear property lines and fifty feet (50’) from the right of way of any public or private street*,* unless mounted on an existing building approved by the Zoning Administrator.

Setbacks shall not be required along property lines adjacent to other parcels which are part of the solar energy system; however, should properties be removed from the system, setbacks must be installed along all property lines of those properties remaining within the project and which are adjacent to a parcel which has been removed.

715.06-2 Ground-mounted systems shall not exceed fifteen feet (15’) in height when oriented at maximum tilt.

715.06-3 Site control. The applicant shall submit documentation of the legal right to install and use the proposed system at the time of application.

715.06-4 Solar energy systems shall meet or exceed all applicable federal and state standards and regulations.

715.06-5 Signs. No signs or advertising of any type may be placed on the small solar energy system unless required by any state or federal agency.

715.06-6 The applicant shall submit documentation that the design of any buildings and structures associated with or part of the solar energy system complies with applicable sections of the Virginia Uniform Statewide Building Code (USBC) (13VAC5-63). This requirement includes all electrical components of the solar energy systems.

715.06-7 Non-reflective glass shall be required and any resulting glare generated by the system must be mitigated or directed away from an adjoining property or from any road when it creates a nuisance or safety hazard.

**715.07 Applications, Procedures and Standards for Medium-scale Solar Energy Systems.**

715.07-1 The Planning Commission and the governing body shall follow all of the procedures in Section 802.03 of this Ordinance. In addition, the Planning Commission may recommend, and the governing body may consider and adopt, any additional requirements deemed necessary to protect the public health, safety and welfare of the community, including, but not limited to, any and all of the requirements required for a utility-scale solar energy system as contained in this Ordinance.

715.07-2 A medium-scale solar energy system shall also meet all of the standards provided herein for a small-scale solar energy system.

**715.08 Applications, Procedures and Standards for Utility-scale Solar Energy Systems.**

715.08-1 Project Description. A narrative identifying the applicant and describing the proposed solar energy system, including an overview of the project and its location; approximate rated capacity of the solar energy system; the approximate number, representative types and expected footprint of solar equipment to be constructed; and a description of ancillary facilities, if applicable.

715.08-2 Submission of a Cost Benefit Analysis. An assessment of the impact on the immediate vicinity of the proposed solar energy system as well the greater Highland County community shall be submitted by a professional.

715.08-3 Site plan. The site plan shall conform to the preparation and submittal requirements of Section 802.03-1, including supplemental plans and submissions, and shall include the following information:

A. Property lines and setback lines.

B. Existing and proposed building and structures, including location(s) of the proposed solar equipment.

C. Existing and proposed access roads, drives, turnout locations, and parking.

D. Location of substations, electrical cabling from the solar systems to the substations, accessory equipment, buildings, and structures, including those within any applicable setbacks.

E. Additional information may be required, as determined by the Zoning Administrator, such as a scaled elevation view and other supporting drawings, photographs of the proposed site, photo or other realistic simulations or modeling of the proposed solar energy project from potentially sensitive locations as deemed necessary by the Zoning Administrator to assess the visual impact of the project, landscaping and screening plan, coverage map, and additional information that may be necessary for a technical review of the proposal.

F. Documentation shall include proof of control over the land or possession of the right to use the land in the manner requested. The applicant may redact sensitive financial or confidential information.

G. The application shall include a decommissioning plan and other documents required by Section 715.08-3 of this ordinance.

H. The applicant shall provide proof of adequate liability insurance for a utility-scale solar energy system at the time of application.

715.08-4 Location, Appearance and Operation of a Project Site

A. Visual impacts. The applicant shall demonstrate through project siting and proposed mitigation, if necessary, that the solar project minimizes impacts on the visual character of a scenic landscape, vista, or scenic corridor. A visual impact analysis may be required.

B. Ground-mounted systems shall not exceed fifteen feet (15’) in height when oriented at maximum tilt.

C. Signage. Warning signage shall be placed on solar equipment to the extent appropriate. Solar equipment shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the solar energy project. All signs, flags, streamers or similar items, both temporary and permanent, are prohibited on solar equipment except as follows: (a) manufacturer’s or installer’s identification; (b) appropriate warning signs and placards; (c) signs that may be required by a state or federal agency; and (d) signs that provide a 24-hour emergency contact phone number.

D. Noise. Audible sound from a solar energy system shall not exceed 60 dBA (A-weighed decibels), as measured at any adjacent non-participating landowner’s property line. The level, however, may be exceeded during short-term exceptional circumstances, such as severe weather.

E. Setbacks. All equipment, accessory structures and operations associated with a utility-scale solar energy system shall be setback at least two-hundred feet (200’) from all property lines and at least one thousand feet (1,000’) from any residentially zoned properties; unless the governing body is satisfied that different setbacks are adequate to protect neighboring properties. In general, a utility-scale solar energy system shall not be closer than two (2) miles from an identified population center, village or town.

1. Setbacks shall be kept free of all structures and parking lots.

2. Setbacks shall not be required along property lines adjacent to other parcels which are part of the solar energy system; however, should properties be removed from the system, setbacks must be installed along all property lines of those properties remaining within the project and which are adjacent to a parcel which has been removed.

3. No utility-scale solar energy system may be located within three (3) miles of a known environmentally sensitive area.

F. Lot Requirements. No more than 400 acres can be included in any utility-scale solar energy system. Utility-scale solar energy systems are restricted to no more than sixty-five percent (65%) lot coverage. Utility-scale solar energy systems must be located within one (1) mile of existing electric transmission lines. Every utility-scale solar energy system must be a minimum of two (2) miles from another utility-scale solar energy system.

G. Siting Requirements. Sites may not be deforested. No wetland removal or top soil removal is permitted without approval from the governing body.

H. Buffering. A buffer yard shall be provided and maintained adjacent to any property line, except those property lines interior to the solar energy system, and landscaped in one (1) of two (2) ways. If a property ceases being used for the solar energy system, buffering will be required along all property lines adjacent to the property which has been removed.

Alternative A. A ten foot (10’) wide strip of land with a six foot (6’) opaque privacy fence, wall, berm or combination thereof. Opaque privacy fences shall be construction of good quality materials such as vinyl, pressure treated lumber, brick, stone, or similar materials approved by Zoning Administrator. For the purposes of this chapter tarps, car covers tents, fabric, chain link fences with slats, or similar materials shall not be deemed to satisfy the requirements of opaque fencing.

Alternative B. A twenty foot (20’) wide strip of land with 2 white pine or spruce trees, 2 canopy trees, 2 understory trees and 24 shrubs planted per fifty linear feet (50’) of buffer. The trees shall be a minimum of six feet (6’) at the time of planning and the shrubs shall be a minimum of eighteen inches (18”) at the time of planting.

1. The applicant is free to choose from Alternatives A or B. Buffers planted below overhead utility lines shall apply any of the allowed buffer alternatives, except that understory trees shall replace any canopy trees at a rate of two (2) understory trees per required canopy tree.

2. Plant and structure location within buffer. The placement of required plants and structures shall be the decision of the applicant; however, they shall be located so as to achieve the maximum level of protection. Plant material shall meet the buffer requirements every fifty feet (50’). Buffer areas not retained in native habitat shall be seeded or sodded with lawn and maintained at a height of no more than 15 inches, established with ground cover, or mulched with organic mulch. Inorganic ground cover shall not exceed fifty percent (50%) of the total required area of the buffer.

3. Where a fence or wall is used as part of a buffer, the decorative side of the fence or wall shall be faced to the adjacent property.

4. Permitted structures in buffer area.

A. Where walls are placed within any required buffer area:

1. No walls of exposed concrete block are permitted, whether painted or not.

2. The applicant shall be required to demonstrate provisions for access and maintenance of landscaping and the wall structure at the time of site plan approval.

3. Breaks in the wall may be provided for pedestrian and vehicular connections to adjacent developments.

B. Where berms are placed within any required buffer area:

1. A berm or combination of materials such as a berm and a fence shall be a minimum six feet (6’) in height.

2. Berms shall have slopes of not less than three feet (3’) horizontal for each one foot (1’) vertical.

3. Slopes in excess of three feet (3’) horizontal for each one foot (1’) vertical may be permitted if sufficient erosion control methods are taken and deemed by the Zoning Administrator to be maintainable.

C. Where opaque privacy fences are placed within any required buffer area:

1. No reduction in buffer width shall be provided based on the provision of a chain-link fence.

2. Fences shall be a minimum of six feet (6’) in height unless paired with a berm and in such case the combination of berm and fence shall be a minimum of six feet (6’) in height.

3. Breaks in the fence may be provided for pedestrian and vehicular connections to adjacent developments.

4. Fences shall be maintained in a structurally safe and attractive condition and with finished faces located towards the adjacent property.

5. Permitted use of buffer area. A buffer area shall not be used for anything except:

A. Passive recreation and picnic facilities, including pedestrian and bike trails.

B. Other appurtenances which require high visibility and easy access, such as fire hydrants and utilities, public and emergency telephones, mail boxes, and bus shelters, or benches, are also permitted in a buffer. No screening of such appurtenances shall be required or permitted.

C. Access ways when necessary to provide access to adjacent properties.

D. A required buffer is encouraged to retain areas of native habitat and may incorporate water resources including stormwater management facilities. However, the minimum width of the buffer shall be preserved as a planting area and there shall be no reduction in buffer width based on the stormwater management facilities.

6. Alternative compliance. The buffer requirements may be modified by the governing body upon a finding that a modification would be consistent with the purpose of this ordinance, this section, and the adopted plans and policies of the county; that such modification would not adversely affect the land use compatibility or public interest; and that the subject parcel or modified buffer complies with one (1) or more of the following criteria:

A. The buffer is parallel and adjacent to an existing utility or drainage easement of at least one hundred feet (100’) in width.

B. The buffer is between uses that are to be developed under a common development plan or series of development plans.

C. The buffer is parallel and adjacent to an existing railroad right-of-way;

D. The topography of the parcel is such that buffering would not be effective;

E. The property is adjacent to an established industrial use;

F. There is existing vegetation either on this lot or the adjacent lot to provide the required buffer benefit

Financial hardship due to meeting the requirements of this section shall not be sufficient justification for alternative compliance.

7. Site Plan. Landscaping of buffer yards shall be shown on the site plan and shall be provided and maintained in accordance with sound horticultural practices.

8. Fencing. All property containing panels must be enclosed with chain link fencing seven feet (7’) tall, topped with barbed wire, and secured with gates.

715.08-5 Safety and Construction

A. Design. The applicant shall submit documentation that the design of any buildings and structures associated with or part of the solar energy project complies with applicable sections of the Virginia Uniform Statewide Building Code (USBC) (13VAC5-63). This requirement includes all electrical components of the solar energy project.

B. Construction and installation. In the construction and installation of a large solar energy system, the owner or operator shall install all electrical wires associated with the large solar energy system underground unless the applicant can demonstrate the necessity for aboveground installations as determined by the governing body.

C. Ground water monitoring. Ground water monitoring to assess the level of groundwater contamination shall take place prior to and upon completion of construction of the project throughout the area of the solar energy system. Ground water monitoring shall take place every five (5) years of the operation of the project, and upon completion of decommissioning. Results from said monitoring shall be delivered to the Virginia Department of Health and Highland County Department of Building and Zoning.

D. Traffic Impact Statement and/or Analysis. As part of the project application, the applicant shall submit a traffic impact statement. If required by the Virginia Department of Transportation, the applicant shall submit a Traffic Impact Analysis found to be in compliance with the requirements of Chapter 527 (24VAC30-155).

715.08-6 Project Completion. Construction on all utility-scale solar energy system projects must begin within one (1) year of the permit date and must be completed within five (5) years of the permit date. If the project fails to comply with this requirement, the permit shall be revoked. However, the governing body may extend these construction time limits for good cause shown due to no fault of the project or property owner.

715.08-7 Height. The drip line of the lowest part of the solar array must be ten feet (10’) or less, unless the drip is onto a non-erodible surface.

715.08-8 Inspections. Any engineers or consultants the County believes are necessary to adequately review the applicant’s documents, or consultants necessary for the on-going inspection of the projections shall be chosen by the County and paid for by the applicant. No final permits will be issued until all such costs are paid in full.

715.08-9 Decommissioning.

A. Decommissioning plan. As part of the project application, the applicant shall submit a decommissioning plan, which shall include the following: (1) the anticipated life of the project; (2) the estimated decommissioning cost in current dollars; (3) how said estimate was determined; (4) the method of ensuring that funds will be available for decommissioning and restoration; (5) the method that the decommissioning cost will be kept current; and (6) the manner in which the project will be decommissioned and the site restored.

B. Discontinuation or Abandonment of Project.

1. Thirty (30) days prior to such time that a utility-scale solar energy system is scheduled to be abandoned or discontinued, the owner or operator shall notify the Department of Building and Zoning by certified U. S. Mail of the proposed date of abandonment or discontinuation of operations. Any solar project that has been inoperable or unutilized for a period of 12 consecutive months shall be deemed abandoned and subject to the requirements of this section.

2. Within 365 days of the date of abandonment or discontinuation, the owner or operator shall complete the physical removal of the solar energy project and site restoration. This period may be extended at the request of the owner or operator, upon approval of the governing body.

3. Decommissioning of discontinued or abandoned large solar energy systems shall include the following:

a) Physical removal of all solar energy equipment and above-ground appurtenant structures from the subject property including, but not limited to, buildings, machinery, equipment, cabling and connections to transmission lines, equipment shelters, security barriers, electrical components, roads, unless such roads need to remain to access buildings retrofitted for another purpose, or the landowner submits a request to the Board of Supervisors that such roads remain.

b) Below-grade structures, such as foundations, underground collection cabling, mounting beams, footers, and all other equipment installed with the system shall be completely removed: however, these structures may be allowed to remain if a written request is submitted by the landowners and a waiver is granted by the governing body.

c) Compacted soils shall be decompacted as agreed to by the landowner.

d) Restoration of the topography of the project site to is pre-existing condition, except that any landscaping or grading may remain in the after-condition if a written request is submitted by the landowner and a waiver is granted by the Board of Supervisors.

e) Proper disposal of all solid or hazardous materials and wastes from the site in accordance with local, state, and federal solid waste disposal regulations.

715.08-10 Bonding. Prior to the issuance of a Building Permit for a utility-sized solar energy system, the applicant shall:

A. Submit to the Zoning Administrator an itemized cost estimate of the work to be done to completely remove the entire solar energy system plus twenty-five percent (25%) of said estimate costs as a reasonable allowance for administrative costs, inflation, and potential damage to existing roads or utilities.

B. Submit a bond, irrevocable Letter of Credit, or other appropriate surety acceptable to the County in the amount of the estimate as approved by the Zoning Administrator that shall:

1. Secure the cost of removing the system and restoring the site to its original condition to the extent reasonable possible; and

2. Include a mechanism for a Cost of Living Adjustment after ten (10) and fifteen (15) years.

C. The applicant will ensure the bond, irrevocable Letter of Credit, or other surety shall remain in full force and effect until the Department of Building and Zoning has inspected the site and verified that the solar energy system has been removed. At which time the Department of Building and Zoning shall promptly release the bond, irrevocable Letter of Credit, or other surety.

# ARTICLE 8

## ADMINISTRATION

This Ordinance shall be administered in accordance with the provisions below.

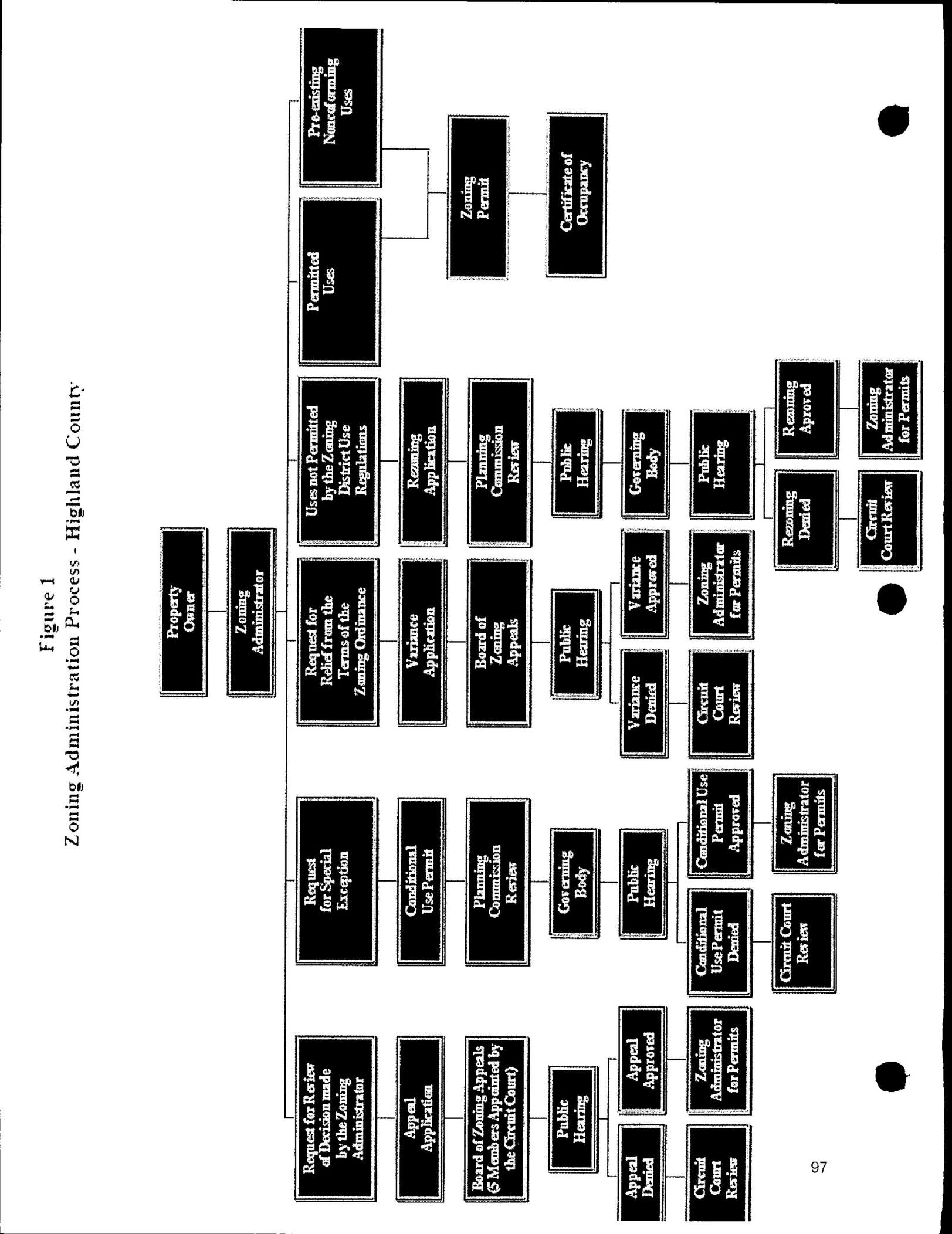
**801.00 ADMINISTRATOR**

**801.01 *Appointment***. The Zoning Administrator and Subdivision Agent shall be jointly appointed by and shall serve at the pleasure of the Highland County Board of Supervisors and the Monterey Town Council which shall fix the compensation of the Administrator.

**801.02** ***Powers and Duties Relating to Zoning and Subdivision***. The Zoning Administrator is authorized and empowered on behalf of and in the name of the Highland County Board of Supervisors or the Monterey Town Council to administer and enforce the provisions set forth herein to include receiving applications, inspecting premises, issuing Zoning Permits and Certificates of Occupancy for uses and structures which are in conformance with the provisions of this Ordinance. The Zoning Administrator shall have all necessary authority on behalf of the Highland County Board of Supervisors or the Monterey Town Council to administer and enforce this Ordinance, including the ordering in writing of the remedying of any condition found in violation of this Ordinance, and the bringing of legal actions, including injunction, abatement, or other appropriate action or proceeding, to insure compliance with this Ordinance. The Zoning Administrator does not have the authority to take final action on applications or matters involving variances nor on conditional uses or other special exemptions on which final action is reserved to the Board of Zoning Appeals or the Governing Body. In subdivision matters, the agent shall approve or disapprove applications in accordance with this Ordinance as though it were given by the Governing Body. The agent shall also consult with the Planning Commission as appropriate.

***Additional Authority.*** In addition to the regulations herein contained for the platting of the subdivisions, the agent may, with the approval of the Planning Commission, establish any reasonable additional administration of this Ordinance. The agent may call for opinions or decisions, either verbal or written, from other departments or agencies in considering details of any submitted plat.

**801.03**  ***Zoning Administration Process***. [*Figure 1*](#CHART) outlines the administrative process to be followed under various provisions of this Ordinance.



**802.00 ZONING PERMIT PROCEDURES**

Zoning Permits shall be issued in accordance with the following provisions and procedures:

**802.01** ***Issuance and Display***. The Zoning Administrator shall issue a Zoning Permit, which may be incorporated into the Building Permit issued under the Building Code, for any permitted use or structural alteration, provided such proposed use of land or structure, or structural alteration is in conformance with the provisions set forth herein. The Zoning Permit shall indicate whether the use is a permitted use, a conditional use, or a variance and shall be conspicuously posted and displayed on the premises during the period of construction or reconstruction.

**802.02 *Application Procedure for Permitted Uses***. Applications for a Zoning Permit shall be submitted to the Zoning Administrator according to the following provisions:

802.02-1 An application for a Zoning Permit for a permitted use shall be accompanied by two (2) copies of an acceptable site plan with such reasonable information shown thereon as shall be required by the Zoning Administrator. Such site plan shall include, as a minimum, the following: lot dimensions with property line monuments located thereon; location and size of existing and proposed structures; yard dimensions and the use of structures; easements (private and public); water courses; fences; street names and street right-of-way lines; and such other information regarding abutting property as directly affects the application;

802.02-2 Each application for a Zoning Permit shall be accompanied by payment of a fee as set forth in Article 9 to help defray expenses of administration;

802.02-3 If the proposed excavation, filling, construction, or movement set forth in said sketch of plan are in conformity with the provisions set forth herein, and other appropriate codes and regulations of Highland County or the Town of Monterey then in effect, the Zoning Administrator shall sign and return one (1) copy of the site plan to the applicant and shall issue a Zoning Permit. The Zoning Administrator shall retain the application and one (1) copy of the site plan for his records;

802.02-4 If the application and site plan submitted describes work which does not conform to the requirements set forth herein, the Zoning Administrator shall not issue a Zoning Permit, but shall return one (1) copy of the site plan to the applicant along with a signed refusal in writing. Such refusal shall state the reasons for refusal and shall cite the portions of this Ordinance with which the submitted plan does not comply. The Zoning Administrator shall retain one (1) copy of the site plan and one (1) copy of the refusal.

*802.02-5* In compliance with the Code of Virginia §15.2-2259, the local planning commission or other agent shall act on any proposed plat, site plan, or plan of development within 60 days after it has been officially submitted by either approving or disapproving the plat in writing with specific reasons for the action. If approval of a feature or features of the plat by a state agency or other public authority is necessary, the commission or agent shall forward the plat to the appropriate state agency or agencies for review within 10 business days of receipt of the plat. The state agency shall respond in accord with the requirements set forth in §15.2-2222.1, which shall proportionally extend the time for action by the locality. Specific reasons for disapproval shall be contained either in a separate document or on the plat itself. The reasons for disapproval shall identify deficiencies in the plat that cause the disapproval and shall identify modifications that will permit approval of the plat. The local planning commission or other agent shall act on any proposed plat that it has previously disapproved within 45 days after the plat has been modified, corrected and resubmitted for approval. Once approved, the recorded plat, site plan or plan of development is valid for at least five years in compliance with § 15.2-2261 of the Code of Virginia.

**802.03 *Application Procedures for Conditional Uses***. Applications for a Zoning Permit for a conditional use shall be submitted to the Zoning Administrator, who shall refer the application to the Governing Body for a public hearing. Applications for Zoning Permits for conditional uses must be submitted in accordance with the following procedures:

802.03-1 An application shall be accompanied by two (2) copies of an acceptable site plan drawn in accordance with applicable provisions of Section 802.00 of this Ordinance, with such reasonable information shown thereon as may be required by the Zoning Administrator. Such site plan shall include, as a minimum, the following: lot dimensions with property line monuments located thereon; location and size of existing and proposed structures; yard dimensions and the use of structures; easements (private and public); water courses, fences, street names and street right-of-way lines; and such other information regarding abutting property as directly affects the application;

802.03-2 Each application for a Zoning Permit for a conditional use or other special exception shall be accompanied by payment of a fee as set forth in Article 9 to help defray the cost of publicizing and conducting the public hearing;

802.03-3 The Zoning Administrator shall cause to have posted in a conspicuous place on the property in question one (1) or more signs, each of which shall not be less than six (6) square feet in area, shall contain information as to the proposed change, and the date and time of the public hearing, and the cost of each shall be paid by the applicant prior to the public hearing; these signs shall be posted at least fifteen (15) days prior to the public hearing;

802.03-4 The application shall be sent to the Commission for review and recommendation, and said Commission shall have sixty (60) days within which to submit a report. If the Commission fails to submit a report within a sixty (60) day period, it shall be deemed to have approved the proposed conditional use;

802.03-5 The Governing Body shall consider the proposed conditional use or other special exception after notice and public hearing in accordance with Section 15.2-2204 of the Code of Virginia, 1950, as amended, and shall take action on the proposed conditional use within sixty (60) days from the date of the public hearing;

802.03-6 In evaluating the proposed conditional use or other special exception, the Governing Body shall address the following concerns:

A. The effect of the proposed use or special exception on existing and projected traffic volumes in the neighborhood.

B. The current and future need for the proposed use in Highland County or the Town of Monterey, and in the area.

C. The character of the existing neighborhood and the effect of the proposed use or special exception on existing property values.

802.03-7 Conditions set forth in Article 802.03-6 for the various conditional uses are minimum. In approving a proposed conditional use or other special exception, the Governing Body may stipulate such additional requirements as are necessary to protect the public interest. The Governing Body may require the applicant to furnish a performance bond in an amount sufficient for and conditioned upon the fulfilling of any and all conditions and requirements stipulated by the Governing Body;

802.03-8 If the Governing Body approves the application for a Zoning Permit for a proposed conditional use, the Zoning Administrator shall issue a Zoning Permit, indicating the conditional nature of the use;

802.03-9 If the Governing Body disapproves the application for a Zoning Permit for a proposed conditional use or other special exception, the Governing Body shall inform the applicant of the decision in writing within sixty (60) days from the date of the public hearing, stating the reasons for disapproval. The Zoning Administrator shall retain one (1) copy of the site plan and two (2) copies of the refusal, and shall keep them as a public record;

802.03-10 A property owner, or his appointed agent, shall not initiate action for a Zoning Permit relating to the same conditional use affecting the same parcel of land more often than once every twelve (12) months;

802.03-11 A conditional use permit must be put into effect six (6) months after the date the permit is issued, unless otherwise provided in the permit itself.

**802.04 *Application Procedures for Ordinance or Map***. The Highland County Board of Supervisors or the Monterey Town Council may, from time to time, amend these regulations or district maps whenever the public necessity, convenience, general welfare, or good zoning practice require. Any resolution or motion by the Governing Body or Planning Commission proposing the rezoning shall state the above public purposes therefore:

802.04-1 Applications for amendments, initiated by the Board of Supervisors, the Town Council, the Commission, or any person, firm, or corporation, shall be submitted in writing to the Zoning Administrator and shall be accompanied by two (2) copies of an acceptable site plan, where applicable, of the proposed amendment with such reasonable information shown thereon as shall be required by the Zoning Administrator. Where site plans are required, they shall show, as a minimum, the following: lot dimensions with property line monuments located thereon, location and size of existing and proposed structures, yard dimension and the use of structures, easements (private and public), water courses, fences, street names, and street right-of-way lines, and such other information regarding abutting property as directly affects the application. Proposals for amendments not initiated by either the Commission, the Town Council, or the Board of Supervisors shall be accompanied by payment of a fee as set forth in Article 9;

802.04-2 The Commission shall consider the proposed amendment after notice and public hearing in accordance with Section 15.2-2204 of the Code of Virginia, 1950, as amended. The Commission shall then present the proposed amendment along with site plans and explanatory materials, where applicable, to the Board of Supervisors or the Town Council with its recommendations. If the Commission fails to submit its recommendations within sixty (60) days of the first meeting of the Commission after the proposed amendment has been referred to it, the Commission shall be deemed to have approved the proposed amendment;

802.04-3 Whenever a proposed amendment to this Ordinance involves changing the zoning classification of a parcel of property from one (1) district to another, the Zoning Administrator shall cause to have posted in a conspicuous place on said property one (1) or more signs, each of which shall not be less than six (6) square feet in area and shall contain information as to the proposed change, and the date and time of the public hearing. The cost of each sign shall be included in the fee assessed the applicant, as specified in Section 902.00;

802.04-4 The Board of Supervisors or the Town Council shall consider the proposed amendment after notice and public hearing in accordance with Section 15.2-2204 of the Code of Virginia, 1950, as amended, and shall take action on the proposed amendment within ninety (90) days from the date of the public hearing. The Board of Supervisors or the Town Council and the Commission may hold a joint public hearing in accordance with Section 15.2-2204 of the Code of Virginia, 1950, as amended;

802.04-5 Any petition for an amendment may be withdrawn prior to action thereon by the Board of Supervisors or the Town Council at the discretion of the person, firm, or corporation initiating such a request, upon written notice to the Zoning Administrator;

802.04-6 No more than one (1) application for any amendment affecting a specific parcel of land may be initiated during any single twelve (12) month period.

*802.04-7* In accordance with Code of Virginia § 15.2-2286, all motions, resolutions or petitions for amendment to the zoning ordinance or map shall be acted upon and a decision made within such reasonable time as may be necessary which shall not exceed 12 months.

**802.05 *Procedures for Proffering Conditions to Zoning District Regulations***:

802.05-1 Intent. The intent of this section is to provide (pursuant to Sections 15.2-2296 through 15.2-2303 of the Code of Virginia, 1950, as amended) a more flexible and adaptable zoning method to cope with situations found in such zones whereby a zoning reclassification may be allowed subject to certain conditions proffered by the zoning applicant for the protection of the community that are not generally applicable to land similarly zoned;

802.05-2Proffer of Conditions. An owner may proffer reasonable conditions, in addition to the regulations established elsewhere in this Ordinance, as part of an amendment to the zoning district regulations or the Zoning District Map. The proffered condition shall be in writing and shall be made prior to the public hearing before the Board of Supervisors or Town Council. In addition: (1) the rezoning itself must give rise to the need for the conditions; (2) the conditions proffered shall have a reasonable relation to the rezoning; and (3) the conditions proffered shall not include a cash contribution to the County or Town;

802.05-3Expiration. Any Zoning Permit shall automatically expire six (6) months from the date of issuance if the person, firm, or corporation to which the Permit was issued has not clearly demonstrated that the Permit is being exercised for the purpose for which it was issued, or if the work so authorized is suspended or discontinued for a period of one (1) year.

**803.00 CERTIFICATE OF OCCUPANCY**

Certificates of Occupancy shall be issued by the Building Official in accordance with the following provisions:

**803.01** ***Certificate of Occupancy Required***. A Certificate of Occupancy shall be required in advance of occupancy or use of:

803.01-1 A building hereafter erected;

803.01-2 A building hereafter altered so as to affect height or the side, front, or rear yard dimensions;

803.01-3 A change of type of occupancy or use of any building or premises.

**803.02** ***Issuance of Certificate of Occupancy***. The Building Officialshall sign and issue a Certificate of Occupancy *if*, as stated on the application for such certificate and signed thereto by the owner or his appointed agent, *it* is found to conform to the applicable provisions set forth herein and approved by the Zoning Administrator; and if the building, as finally constructed, complies with the sketch or plan submitted for the Zoning Permit.

**803.03 *Denial of Certificate of Occupancy***. A Certificate of Occupancy shall not be issued unless the proposed use of a building or land conforms to the applicable provisions set forth herein.

**804.00 BOARD OF ZONING APPEALS**

The Board of Zoning Appeals shall consist of five (5) members who shall be appointed by the Circuit Court of Highland County.

**804.01** ***Initial Appointment***. The initial appointment of the Board shall be asfollows: one (1) member for one (1) year; one (1) member for two (2) years; one (1) member for three (3) years; one (1) member for four (4) years; and one (1) member for five (5) years.

**804.02** ***Terms of Office***. Appointments shall be for five (5) years each. The Secretary of the Board of Appeals shall notify the Circuit Court at least thirty (30) days in advance of the expiration of any term of office. A member whose term expires shall continue to serve until his successor is appointed.

**804.03** ***Public Offices Held***. No member shall hold any public office except that one (1) member may be a member of the Commission.

**804.04** ***Compensation***. Members of the Board may receive such compensation as may be authorized by the Governing Body.

**804.05** ***Support***. Within the limits of funds appropriated by the Governing Body, the Board of Appeals may employ or contract for secretaries, clerks, legal counsel, consultants, and other technical and clerical services.

**804.06** ***Vacancies***. Appointments for vacancies occurring otherwise than by expiration of term shall, in all cases, be for the unexpired term. Members shall be removable for cause by the Circuit Court upon written charges and after hearing held after at least fifteen (15) days notice.

**805.00 RULES OF PROCEDURE**

The Board shall observe the following procedures:

**805.01** Said Board shall adopt rules in accordance with the provisions of this Ordinance and consistent with other ordinances of Highland County or the Town of Monterey, and general laws of the Commonwealth for the conduct of its affairs.

**805.02** Said Board shall elect a chairman, vice chairman, and secretary from its own membership who shall serve annual terms as such and may succeed themselves.

**805.03** Said Board will keep a full public record of its proceedings and shall submit a report of its activities to the Board of Supervisors and Town Council at least once each year.

**805.04** All meetings of said Board shall be open to the public.

**805.05** Any member of said Board shall be disqualified to act upon a matter before said Board with respect to property in which the member has an interest.

**805.06** The meetings of said Board shall be held at the call of the chairman and at such other times as a quorum of said Board may determine.

**805.07** The chairman, or in his absence the vice chairman or acting chairman, may administer oaths and compel the attendance of witnesses.

**805.08** A quorum shall be at least three (3) members.

**805.09** A favorable vote of three (3) members of said Board shall be necessary to reverse any order, requirement, decision, or determination of any administrative official or to decide in favor of the applicant on any matter upon which said Board is empowered.

**806.00 POWERS AND DUTIES OF THE BOARD OF ZONING APPEALS**

The Board of Zoning Appeals shall have the following duties and powers:

**806.01** To hear and decide appeals from any order, requirement, decision, or determination made by an administrative officer in the administration or enforcement of the Ordinance.

**806.02** To authorize upon appeal or original application in specific cases such variance as defined in Code of Virginia, § 15.2-2201 from the terms of this chapter if the evidence shows that the strict application of the terms of the ordinance would unreasonably restrict the utilization of the property or that the granting of the variance would alleviate a hardship due to a physical condition relating to the property or improvements thereon at the time of the effective date of the ordinance, and:

806.02-1 the property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant for the variance;

806.02-2 the granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area;

806.02-3 the condition or situation of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance;

806.02-4 the granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property.

806.02-5 In authorizing a variance, the board may impose such conditions regarding the location, character and other features of the proposed structure or use as it may deem necessary in the public interest, and may require a performance guarantee or bond to ensure that the conditions imposed are being and will continue to be complied with. Notwithstanding any other provision of law, the property upon which a property owner has been granted a variance shall be treated as conforming for all purposes under state law and local ordinance; however, the structure permitted by the variance may not be expanded unless the expansion is within an area of the site or part of the structure for which no variance is required under the ordinance. Where the expansion is proposed within an area of the site or part of the structure for which a variance is required, the approval of an additional variance shall be required. **807.00 APPLICATION FOR VARIANCES**

Application for variances from this Ordinance may be made by any property owner, tenant, governmental official department, board, or bureau.

**807.01 *Application***. Applications shall be made to the Zoning Administrator. The application shall be accompanied by an acceptable site plan with such reasonable information shown thereon as may be required by the Zoning Administrator. Such site plan shall include, as a minimum, the following: lot dimensions with property line monuments located thereon, location and size of existing and proposed structures, yard dimensions and the use of structures, easements (private and public), water courses, fences, road names and road right-of-way lines, and such other information regarding abutting property as directly affects the application. The application and accompanying maps, plans, or other information shall be transmitted promptly to the Secretary of the Board. The Zoning Administrator shall also transmit a copy of the application and materials to the local commission which may send a recommendation to the Board within thirty (30) days or appear as a party at the hearing.

**807.02 *Posting and Land***. The Zoning Administrator shall cause to have posted in a conspicuous place on the property in question one (1) or more signs, each of which shall not be less than six (6) square feet in area, shall contain information as to the proposed change, and the date and time of the public hearing, and the cost of each shall be paid by the applicant prior to the public hearing. These signs shall be posted at least fifteen (15) days prior to the public hearing.

**807.03** ***Hearing and Action***. The secretary shall place the matter on the docket to be acted upon by the Board. No such variance shall be authorized except after notice and hearing as required by Section 15.2-2204 of the Code of Virginia, 1950, as amended. The Board shall decide same within sixty (60) days from the date of such hearing.

**807.04 *Limitation of Hearings***. A property owner, or his appointed agent, shall not initiate action for a hearing before the Board relating to the same parcel of land more often than once every twelve (12) months without specific approval of the Board.

**807.05 *Withdrawal of Application***. Any petition for a hearing before the Board may be withdrawn prior to action thereon by said Board at the discretion of the person, firm, or corporation initiating such request upon written notice to the Secretary of said Board.

**807.06** ***Fee***. Each application for a variance shall be accompanied by payment of a fee as set forth in Article 9 to help defray the cost of publicizing and conducting the public hearing. Upon withdrawal of an application, the fee required will be refunded provided no expenditures have been made for publicizing or conducting the public hearing at the time the notice is received.

**808.00 PROCEDURES FOR REQUESTING A HEARING BEFORE THE BOARD OF ZONING APPEALS**

Requests for a hearing before the Board of Zoning Appeals for an administrative review shall observe the following procedures:

**808.01** An appeal to the Board may be taken by a person aggrieved by or by an officer, department, board, or bureau of Highland County or the Town of Monterey affected by, and decision of the Zoning Administrator within thirty (30) days after the decision.

**808.02** Applications for appeal shall be submitted to the Zoning Administrator who shall refer the application to the Board, such applications shall specify the grounds for appeal.

**808.03** The Zoning Administrator shall forthwith transmit to the Board all of the papers constituting the record upon which the action appealed from was taken.

**808.04** An appeal shall stay all proceedings in furtherance of the action appealed from unless the Zoning Administrator certifies to the Board that by reason of acts stated in the certificate, a stay would in his opinion cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order granted by the Board or by a Court of Record, and on notice to the Zoning Administrator and for good cause shown.

**808.05** The Board shall fix a reasonable time for the hearing of appeals, the Board shall consider appeals after notice and hearing as required by Section 15.2-2204 of the Code of Virginia, 1950, as amended, and decide the same within sixty (60) days from the date of such public hearing.

**808.06** In exercising the powers granted the Board in Section 806.00 of this Ordinance, the said Board may, in conformity with the provisions of this Ordinance, reverse or affirm, wholly or in part, or may modify the order, requirements, decisions, or determination of the Zoning Administrator, and to that end shall have all the powers of the Zoning Administrator and may issue or direct the issuance of a Zoning Permit.

**808.07** Any application for appeal before the Board may be withdrawn prior to action hereon by said Board at the discretion of the person, firm, or corporation initiating such a request upon written notice to the Secretary of said Board.

**808.08** Each application for an appeal shall be accompanied by payment of a fee as set forth in Article 9 to help defray the cost of publicizing and conducting the public hearing. Upon withdrawal of an application, the fee required will be refunded provided no expenditures have been made for publicizing or conducting the public hearing at the time the notice is received.

**809.00 DECISION OF BOARD OF ZONING APPEALS**

**809.01** Any person or persons jointly or severally aggrieved by any decision of the Board, or any taxpayer or any officer, department, board, or bureau of Highland County or the Town of Monterey may present to the Circuit Court of Highland County a petition specifying the grounds on which aggrieved within thirty (30) days after the filing of the decision in the office of the Board.

**809.02** Pursuant to Code of Virginia §15.2-2313, where a building permit has been issued and the construction of the building for which the permit was issued is subsequently sought to be prevented, restrained, corrected, or abated as a violation of this chapter, by suit filed within fifteen (15) days after the start of construction by a person who had no notice of the permit issuance, the court may hear and determine the issues raised in the litigation even though no appeal was taken from the decision of the administrative officer to the board of zoning appeals.

**809.03** Upon the presentation of such petition, the Court shall allow a writ of certiorari to review the decision of the Board and shall prescribe therein the time within which a return thereto must be made and served upon the aggrieved’s attorney, which shall not be less than ten (10) days and may be extended by the Court. The allowance of the writ shall not stay proceedings upon the decision appealed from, but the Court may, on application, on notice to the Board, and on due cause shown, grant a restraining order.

**809.04** The Board shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies thereof of such portions thereof as may be called for by such writ. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.

**809.05** If, upon the hearing it shall appear to the Court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a commissioner to take such evidence as it may direct and report the same to the Court with his findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the Court shall be made. The Court may reverse or affirm, wholly, or partly, or may modify the decision brought up for review.

**809.06** Costs shall not be allowed against the Board, unless it shall appear to the Court that it acted in bad faith or with malice in making the decision appealed from.

**ARTICLE 9**

## SUBDIVISION REGULATIONS

The following regulations shall be followed in the implementation of this Ordinance as it pertains to the platting and recordation of subdivisions in Highland County and the Town of Monterey.

**901.00** **PLATTING REQUIRED**

Any owner or developer of any tract of land situated within Highland County who desires to subdivide, shall cause a plat of such subdivision, with reference to known or permanent monuments to be made and recorded in the Office of the Clerk of the Circuit Court. No such plat of subdivision shall be recorded unless and until it shall have been submitted, approved, and certified by the Planning Commission or agent in accordance with the regulations set forth in this Ordinance. No lot shall be sold in any such subdivision before the plat shall have been recorded.

A. If the Planning Commission or agent fails to approve or disapprove the proposed plat within sixty (60) days after it has been officially submitted for approval, the subdivider, after ten (10) days written notice to the Planning Commission or agent, may petition the Circuit Court of Highland County to decide whether the plat should or should not be approved.

B. If the Planning Commission or agent disapproves a lot and the subdivider contends that such disapproval was not properly based on the Ordinance applicable thereto, or arbitrary or capricious, he may appeal to the Circuit Court having jurisdiction.

**901.01 DRAW AND CERTIFY**

Every such plat shall be prepared by a surveyor or engineer duly licensed by the State of Virginia, who shall endorse upon each plat a certificate signed by him setting forth the source of the last title of the land subdivided, and the place of record of the last instrument in the chain of title. When the plat is of land acquired from more than one (1) source of title, the outlines of the several tracts shall be indicated upon such plat, within an insert block, or by means of a dotted boundary line upon the plat.

**901.02 OWNER'S STATEMENT**

Every such plat, or the deed of dedication to which the plat is attached, shall contain, in addition to the surveyor's or engineer's certificate, a statement to the effect that "the above and foregoing subdivision of (here insert correct description of the land going subdivided) as appears in this plat is with the free consent and in accordance with the desire of the undersigned owners, proprietors, and trustees~~,~~ (if any)”, which shall be signed by the owner's, proprietors, and trustees~~,~~ (if any), and shall have duly acknowledgements of deeds, and when thus executed and approved as herein specified, shall be filed and recorded in the Office of the Clerk of the Circuit Court, and indexed under the names of the landowners signing such statement and under the names of the subdivision.

**902.00 GENERAL REGULATIONS**

**902.01 MUTUAL RESPONSIBILITY**

There is mutual responsibility between the subdivider and Highland County to divide the land so as to improve the general use pattern of the land being subdivided.

**902.02 LAND MUST BE SUITABLE**

The agent shall not approve the subdivision of land if, from adequate investigation conducted by all public agencies concerned, it has been determined that, in the best interest of the public, the site is not suitable for platting and development purposes of the kind proposed.

**902.03 FLOODING**

Land subject to flooding and land deemed to be topographically unsuitable shall not be platted for residential occupancy, nor for such other uses as may increase danger of health, life, or property, or aggravate erosion or flood hazard. Such land within the subdivision shall be set aside on the plat for such uses as shall not be endangered by periodic or occasional inundation or shall not produce conditions contrary to the public welfare. Additionally, the dam break inundation zone requirements set forth in §2243.1 of the Code of Virginia shall be adhered to if the Department of Conservation and Recreation determines that a plan of development proposed by a developer or subdivider is wholly or partially within a dam break inundation zone and would change the spillway design flood standards of an impounding structure.

**902.04 BUILDING SITE**

To insure that residents shall have sufficient land upon which to build a house which is flood free, the agent requires the subdivider to provide elevation and flood profiles sufficient to demonstrate the land to be completely free of the danger of flood waters.

**902.05 IMPROVEMENTS**

All required improvements shall be installed by the subdivider at his cost. In cases where specifications have been established, either by the Virginia Department of Transportation for streets, curbs, etc., or by local ordinances and codes, such specifications shall be followed. The subdivider’s performance bond shall not be released until construction has been inspected and approved by the appropriate engineer, Planning Commission, or agent. All improvements shall be in accordance with the following requirements:

A. All lot sizes shall be in accordance with this Ordinance.

1. Exceptions - Greater lot areas may be required where individual sewage disposal systems or individual wells are used if the Health Official determines that there are factors of drainage, soil condition, or other conditions to cause potential health problems. The agent shall require data from soil studies be submitted as a basis for such determination.
2. Flood Control and Drainage - The subdivider shall provide all necessary information needed to determine what improvements are necessary to properly develop the subject property, including contour intervals, drainage plans, and flood control devices. The subdivider shall also provide plans for all such improvements together with a properly qualified certified engineer or surveyor's statement that such improvements, when properly installed, will be adequate for development. The Highway Engineer shall then approve or disapprove the plans. The subdivider shall also provide any other information required by the Highway Engineer.

**902.06 EASEMENTS**

The agent will require that easements for drainage through adjoining property be provided by the subdivider. Easements of not less than ten (10) feet in width shall be provided for water, sewer, power lines, and other utilities in the subdivision.

**902.07 SEPTIC TANKS**

The agent shall not approve any subdivision where sanitary sewers are not provided unless the agent shall receive, in writing from the Health Department, a statement to the effect that the area contained in the subdivision is generally satisfactory for the installation of septic tanks, and that they will not, so far as can be determined, create hazards to public health, and that such approval by the agent is only with the understanding that where septic tanks are to be installed, these must be approved on an individual lot basis by the Health Department.

**902.08 PUBLIC WATER AND/OR SEWER**

Where public water and/or sewer is available, the service shall be extended to all lots within a subdivision.

**902.09 PRIVATE WATER AND/OR SEWER**

Nothing in this regulation shall prevent the installation of privately-owned water distribution systems or sewage collection and treatment facilities provided; however, that any such installations must meet all of the requirements of the State Water Control Board, the State Health Department, and any other State or local regulation having authority over such installations.

**902.10 FIRE PROTECTION**

The installation of adequate fire hydrants in a subdivision at locations approved by the Planning Commission or agent are required, provided necessary public water is available. The agent shall consult with the proper authority before approving such location.

**902.11 BOND**

Before any subdivision plat will be finally approved by the agent, the subdivider shall, in lieu of construction, furnish a performance bond with acceptable surety in an amount calculated by the agent to secure the required improvements in a workmanlike manner, and in accordance with specifications and construction schedules established or approved by the appropriate engineer, which bond shall be payable to and held by the Governing Body.

**902.12 PLANS AND SPECIFICATIONS**

Three (3) blue or black line prints of the plans and specifications, for all required physical improvements to be installed, shall be prepared by an engineer and shall be submitted to the agent for approval or disapproval within sixty (60) days. If approved, one (1) copy bearing certification of such approval shall be returned to the subdivider. If disapproved, all papers shall be returned to the subdivider with the reason for disapproval in writing.

**902.13 PART OR TRACT**

Whenever part of a tract is proposed for platting and it is intended to subdivide additional parts in the future, a sketch plan for the entire tract shall be submitted with the preliminary plat. This sketch is merely for informational purposes and is not binding on the subdivider or the Governing Body.

**902.14 LOTS**

A. ***Shape -*** The lot arrangement, design, and shape shall be such that lots will provide satisfactory and desirable sites for buildings, and be properly related to topography, and conform to requirements of this Ordinance. Lots shall not contain peculiarly shaped elongations solely to provide necessary square footage of area which would be unusable for normal purposes.

B. **Location -** Each lot shall abut on a street with a right-of-way of fifty (50) feet dedicated by the subdivision plat, or on an existing publicly dedicated street. If the existing streets are not fifty (50) feet in width, the subdivider shall make provisions to permit the widening of such roads or streets to a width of fifty (50) feet.

C. **Corner Lots -** Corner lots shall have extra width sufficient for maintenance of any required building lines on both streets as determined by the agent.

D. **Side Lines -** Side lines of lots shall be approximately at right angles, or radial to the street line.

E. **Remnants -** All remnants of lots below minimum size, left over after subdividing of a tract, must be added to adjacent lots, or otherwise disposed of rather than allowed to remain as unusable parcels.

F. **Separate Ownership -** Where the land covered by a subdivision includes two (2) or more parcels in separate ownership, and lot arrangement is such that a property ownership line divides one (1) or more lots, the land in each lot so divided shall be transferred by deed to single ownership, simultaneously with the recording of the final plat. Said deed is to be deposited with the Clerk of the Court and held with the final plat until the subdivider is ready to record same, and they both shall then be recorded together.

**902.15 BLOCKS**

A. **Length -** Generally the maximum length of blocks shall be twelve hundred (1,200) feet, and the minimum length of blocks upon which lots have frontage shall be five hundred (500) feet.

B. **Width -** Blocks shall be wide enough to allow two (2) tiers of lots of minimum depth, except where fronting on major streets, unless prevented by topographical conditions or size of the property, in which case the agent may approve a single tier of lots of minimum depth.

C. **Orientation -** Where a proposed subdivision will adjoin a road, the agent may require that the greater dimension of the block shall front or back upon such thoroughfare to avoid unnecessary ingress or egress.

D. **Business or Industrial -** Lots intended for business or industrial use shall be designed specifically for such purposes with adequate space set aside for off-street parking and delivery facilities.

**902.16 STREETS**

A. **Alignment and Layout -** The arrangement of streets in new subdivisions shall make provision for the continuation of existing streets in adjoining areas. The street arrangement must be such as to cause no unnecessary hardship to owners of adjoining property when they plat their own land and see to provide for convenient access to it. Where, in the opinion of the agent, it is desirable to provide for street access to adjoining property, proposed streets shall be extended by dedication to the boundary line of such property. Wherever possible, streets should intersect at right angles. In all hillside areas, streets running with contours shall be required to intersect at angles of sixty (60) degrees or more, unless approved by the Highway Engineer.

B. **Approach Angle -** Streets shall approach other streets an any angle of not eighty (80) degrees or more, unless the agent, upon recommendation of the Highway Engineer, shall approve a lesser angle of approach for reasons of contour, terrain, or matching existing patterns.

C. **Design and Construction Requirements -** All subdivision streets must be designated either public or private. All public streets must meet the standards necessary for inclusion in the secondary system of state highways and comply with the regulations set forth in Article 2 of this Ordinance. All private streets shall be owned and maintained by an association of owners of lots in the subdivision. In the event streets in a subdivision will not be constructed to meet the standards necessary for inclusion in the secondary system of state highways or for state street maintenance moneys paid to municipalities, the subdivision plat and all approved deeds of subdivision, or similar instruments, must contain a statement advising that the streets in the subdivision do not meet state standards and will not be maintained by the Department of Transportation or the localities enacting the ordinances.

D. **Cul-De-Sacs -** The circular end of a street with only one outlet and having an appropriate turnaround for a safe and convenient reverse traffic movement.

E. **Alleys -** A permanent service way providing a secondary means of access to abutting properties*.* Dead-end alleys, if unavoidable, shall be provided with adequate turn-around facilities as determined by the agent.

F. **Names -** Proposed streets, which are obviously in alignment with other already existing and named streets, shall bear the names of the existing streets. In no case shall the names of proposed streets duplicate existing street names irrespective of the use of the suffix – street, avenue, boulevard, driveway, place, lane, or court. Street names shall be indicated on the preliminary and final plats, and shall be approved by the agent. Names of existing streets shall not be changed except by approval of the Governing Body.

G. **Identification Signs -** Street identification signs of a design approved by the agent shall be installed at all intersections.

**902.17 MONUMENTS**

A. **Visible for Inspection -** Upon completion of subdivision streets, sewers, and other improvements, the subdivider shall make certain that all monuments required by the agent are clearly visible for inspection and use. Such monuments shall be inspected and approved by the agent before any improvements are accepted by the Governing Body.

B. **Location, Concrete -** Concrete monuments four (4) inches in diameter or square, three (3) feet long, with a flat top, shall be set at all street corners, at all points where the street line intersects the exterior boundaries of the subdivision, and at right angle points, and points of curve in each street. The top of the monuments shall have an indented cross to identify properly the location and shall be set flush with the finished grade.

C. **Location, Iron Pipe -** All other lot corners shall be marked with iron pipe not less than three-fourths (3/4) inch in diameter and twenty-four (24) inches long and driven so as to be flush with the finished grade. When rock is encountered, a hole shall be drilled four (4) inches deep in the rock into which shall be cemented a steel rod one-half (1/2) inch in diameter, the top of which shall be flush with the finished grade line.

**902.18 RESERVATION OF LAND FOR PUBLIC PURPOSES**

A. **Land for Public Purposes -** The agent may require subdividers of residential subdivisions to set aside land for parks, playgrounds, schools, libraries, municipal buildings, and similar public and semipublic uses, subject to the following requirements:

(1) Subdividers shall not be required to dedicate land for parks or playgrounds, exclusive of street and drainage reservations, without reimbursement by the Governing Body. Where land is required in excess of this amount, the reimbursement by the Governing Body shall be based on a proportionate share of the: (a) cost of raw land; (b) cost of improvements, including interests or investments; (c) development costs; plus (d) not more than ten (10) percent profit on the total of such costs.

(2) Subdividers shall not be required to reserve land for public purposes other than streets, drainage, and parks and playgrounds, except on a reimbursement basis. They shall be reimbursed by the jurisdiction or agency requiring the land. They shall not be required to hold the land longer than eighteen (18) months following the recording of the plat for such purchase. If the land is not purchased within the said eighteen (18) months, it may be sold as lots for the same purposes for which the subdivision was platted. To facilitate such possible eventual sale of reserved land as separate lots, the subdivider shall show on the final plat, by dotted lines and dotted numbers, the area and dimensions of lots to be created within the boundaries of any such reserve land, and may sell such lots after the expiration date of the reservation by lot number without filing an amended plat.

(3) The Planning Commission shall make certain that lands so reserved are divisible in the same manner as the remainder of the subdivision so that the subdivider will not be required to reserve an unusable portion of his subdivision.

(4) Nothing herein shall be construed to mean that land may be set aside for commercial purposes in a Residential District without the land so required for commercial use being zoned appropriately in accordance with this Ordinance.

**902.19 USE OF SOLAR ENERGY IS ENCOURAGED**

The use of solar heating and cooling devices in new subdivisions is encouraged and shall be permitted when so requested by the subdivider. Design specifications shall be approved by the agent with respect to aesthetic, health and safety considerations and in comparison, to best available technologies and practices.

**902.20 CLUSTERING OF SINGLE-FAMILY DWELLINGS**

The clustering of single-family dwellings and preservation of open space is encouraged in developments in accordance with the requirements and procedures set forth in §15.2-2286.1 of the Code of Virginia.

**902.21 DEDICATION OF LAND FOR SIDEWALKS**

Where a lot is being subdivided or developed adjacent to an existing street, and adjacent property on either side has an existing sidewalk, the dedication of land for, and construction of, a sidewalk to connect to the existing sidewalk is required on the property being subdivided or developed.

**903.00 APPROVAL OF PLATS**

**903.01** **APPROVAL REQUIRED BEFORE SALE**

Whenever any subdivision of land is proposed, and before any permit for the erection of a structure shall be granted, the subdivider or his agent shall apply in writing to the agent for the approval of the subdivision plat and submit three (3) copies of the preliminary plat including the lot, street, and utilities layout. No lot shall be sold until a final plat for the subdivision shall have been approved and recorded.

**903.02** **PRELIMINARY SKETCH**

The subdivider may, if he so chooses, submit to the agent a preliminary sketch of the proposed subdivision prior to his preparing engineered preliminary and final plats. The purpose of such preliminary sketch is to permit the agent to advise the subdivider whether his plans in general are in accordance with the requirements of this Ordinance. The Planning Commission, upon submission of any preliminary sketch, shall study it and advise the subdivider wherein it appears that changes would be necessary. The agent may mark the preliminary sketch indicating necessary changes and any such marked sketch shall be returned to the Planning Commission with the preliminary plat. The preliminary sketch shall be as follows:

It shall be drawn on white paper or on a print of a topographic map of the property. It shall be drawn to a scale of one hundred (100) feet to the inch. It shall show the name, location, and dimensions of all streets entering the property, adjacent to the property, or terminating at the boundary of the property to be subdivided. It shall show the location of all proposed streets, lots, parks, playgrounds, and other proposed uses of the land to be subdivided and shall include the approximate dimensions.

**903.03 PRELIMINARY PLAT**

The subdivider shall present to the agent a preliminary layout at a scale of one hundred (100) feet to the inch as a preliminary plat; one (1) copy to be retained by the agent, one (1) copy to be sent to the Virginia Department of Transportation, and one (1) copy to the Health Official. The preliminary plat shall include the following information:

A. Name of the subdivision, owner, subdivider, surveyor or engineer, date of drawing, number of sheets, north point and scale. It true north is used, method of determination must be shown.

B. Location of proposed subdivision by an inset map at a scale of not less than two (2) inches equal one (1) mile showing adjoining roads, their names and numbers, towns, subdivisions, and other landmarks.

C. The boundary survey or existing survey of record provided such survey shows a closure with an accuracy of not less than one (1) in twenty-five hundred (2,500), total acreage, acreage of subdivided area number, and approximate area and frontage of all building sites, existing buildings within the boundaries of the tract, names of owners and their property lines within the boundaries of the tract and adjoining such boundaries.

D. All existing, platted, and proposed streets, their names, numbers and widths, existing utility and other easements, public areas and parking spaces, culverts, drains, and water courses, their names, and pertinent data.

E. All parcels of land to be dedicated for public use and the conditions of such dedication.

F. Topography at intervals satisfactory to the Highway Engineer and Health Official if required.

G. Elevations of existing and proposed ground surface at all street intersections and at points of major grade change along the center line of streets, together with proposed grade lines connecting therewith.

H. Proposed connections with existing sanitary sewers and existing water supply or alternate means of sewage disposal and water supply.

I. Provisions for collecting and discharging surface drainage and preliminary designs of any structure that may be required.

**903.04 PROCEDURE**

The Planning Commission or agent shall discuss the preliminary plat with the subdivider in order to determine whether or not the preliminary plat generally conforms to the requirements of this Ordinance. The subdivider shall then be advised in writing within sixty (60) days, which may be by formal letter or by legible markings on his copy of the preliminary plat, concerning any additional data that may be required, the character and extent of public improvements that will have to be made, and an estimate of the cost of construction or improvements, and the amount of the performance bond which will be required as a prerequisite to approval of the final subdivision plat. In determining the cost of required improvements and the amount of the performance bond, the agent may consult with a duly licensed engineer who shall prepare this data for the agent, or preferably may require a bona fide estimate of the cost of improvements to be furnished by the subdivider.

**903.05** **NO GUARANTEE**

Approval by the Planning Commission or agent of the preliminary plat does not constitute a guarantee of approval of the final plat.

**903.06 SIX MONTHS LIMIT**

The subdivider shall have not more than six (6) months after receiving official notification concerning the preliminary plat to file with the agent a final subdivision plat in accordance with this Ordinance. Failure to do so shall make preliminary approval null and void. The agent may, on written request by the subdivider, grant an extension of this time limit.

**903.07 FINAL PLAT**

The subdivision plats submitted for final approval by the Governing Body and for the subsequent recording shall be of a size to clearly and legibly show all data required by this Ordinance. The scale shall be no less than one hundred (100) feet to the inch.

A. A blank oblong space three by five inches (3" x 5") shall be reserved for the use of the approving authority.

B. Certificates signed by the surveyor or engineer, Highway Engineer, Health Official, and agent on the form as set forth in Appendix A.

C. A statement to the effect that, “the subdivision as it appears on this plat is with the free consent and in accordance with the desires of the property owners, proprietors, and trustees, if any”, which shall be signed by the owners, proprietors, and trustees, if any, and shall be duly acknowledged before some officer authorized to take acknowledgements of deeds on the form as set forth in Appendix A.

D. The accurate location and dimensions by bearings and distances with all curve data on all lots and street lines and center lines of streets, boundaries of all proposed and existing easements, parks, school sites, or

other public areas, the number and area of all building sites, all existing public and private streets, their names, numbers, and widths, existing utilities, and those to be provided such as sanitary sewers, storm drains, water mains, manholes, and underground conduits, including their size and type, water courses, and their names, names of owners and their property lines, both within the boundary of the subdivision and adjoining said boundaries.

E. Distances and bearings must balance and close with an accuracy of not less than one (1) in five thousand (5,000).

F. The data of all curves along the street frontages shall be shown in detail at the curve in a curve data table containing the following: delta, radius, arc, tangent, chord, and chord bearings.

**903.08 CONDITIONS**

The plat shall not be approved until the subdivider has complied with the general requirements and minimum standards of design in accordance with this Ordinance, and has made satisfactory arrangements for performance bond, cash, or cash bond to cover the cost of necessary improvements, in lieu of construction, to the satisfaction of the agent. Approval of final plat shall be written on the face of the plat by the agent. The subdivider shall record plat within sixty (60) days after final approval, otherwise the agent shall mark plat "void" and return same to subdivider.

**903.09 RECORDATION**

The recordation of such plat shall operate to transfer, in simple fee, to Highland County such portion of the premises platted as is on such plat set apart for streets, alleys, or other public use and to transfer to the County any easement indicated on such plat to create public right of passage over the same; unless the plat contains language to the contrary pursuant to Section 902.16(C) or some other authority. An approved final subdivision plat which has been recorded or an approved final site plan, hereinafter referred to as "recorded plat or final site plan," shall be valid for a period of not fewer than five years from the date of approval thereof or for such longer period as the local planning commission or other agent may, at the time of approval, determine to be reasonable, taking into consideration the size and phasing of the proposed development in accordance with §15.2-2261 of the Code of Virginia.

**904.00 VACATION OF PLAT**

**904.01** **VACATION OF PLAT BEFORE SALE OF LOT**

By ordinance of the Governing Body of the county or municipality in which the land shown on the plat or part thereof to be vacated lies on motion of one (1) of its members or on application of any interested person. Such ordinance shall not be adopted until after notice has been given as required by Section 15.2-2271 of the Code of Virginia, 1950, as amended. Said notice shall clearly describe the plat or portion thereof to be vacated and state the time and place of the meeting of the Governing Body at the adoption of the Ordinance. An appeal from the adoption of the Ordinance may be filed within thirty (30) days with the Circuit Court having jurisdiction of the land shown on the plat or part thereof to be vacated. Upon such appeal, the Court may nullify the Ordinance if it finds that the owner of any lot shown on the plat will be irreparably damaged. If no appeal from the adoption of the Ordinance is filed within the time above provided, or if the Ordinance is upheld on appeal, a certified copy of the Ordinance of vacation may be recorded in the Clerk's office of any court in which the plat is recorded.

**904.02** **VACATION OF PLAT AFTER SALE OF LOT**

In cases where any lot has been sold, the plat or part thereof, may be vacated according to either of the following methods:

A. By instrument in writing agreeing to said vacation signed by all the owners of lots shown on said plat and also signed on behalf of the Governing Body of the county or municipality in which the land shown on the plat or part thereof to be vacated lies for the purpose of showing the approval of such vacation by the Governing Body. The word "owner's" shall not include lien creditors except those whose debts are secured by a recorded deed of trust or mortgage and shall not include any consort of an owner. The instrument of vacation shall be acknowledged in the manner of a deed and filed for record in the Clerk's office of any court in which said plat is recorded.

B. By ordinance of the Governing Body of the county or municipality in which the land shown in the plat or part thereof to be vacated lies on motion of one (1) of its members or on application of any interested person. Such ordinance shall not be adopted until after notice has been given as required by Section 15.2-2272 of the Code of Virginia, 1950, as amended. Said notice shall clearly describe the plat or portion thereof to be vacated and state the time and place of the meeting of the Governing Body at which the adoption of the Ordinance will be voted upon. Any person may appear at said meeting for the purpose of objecting to the adoption of the Ordinance. An appeal from the adoption of the Ordinance may be filed within thirty (30) days with the Circuit Court having jurisdiction of the land shown on the plat or part thereof to be vacated. Upon such appeal, the Court may nullify the Ordinance if it finds that the owner of any lot shown on the plat will be irreparably damaged. If no appeal from the adoption of the Ordinance is filed within the time above provided or if the Ordinance is upheld on appeal, a certified copy of the Ordinance of vacation may be recorded in the Clerk's office of any court in which the plat is recorded.

**905.00 ADVERTISING STANDARDS**

**905.01** **REQUIREMENTS**

A subdivider, when advertising a subdivided tract or land for sale, shall be specific as to the following items:

A. Whether officially approved water and sewage facilities are available or not.

B. The amount of officially approved water available to each lot purchaser in terms of gallons per day.

**906.00 EFFECTUAL CLAUSES**

**906.01 EXCEPTIONS**

Where the subdivider can show that a provision of these standards would cause unnecessary hardship if strictly adhered to, and where because of topographical or other conditions peculiar to the site in the opinion of the agent a departure may be made without destroying the intent of such provisions, the agent may authorize an exception. Any exception thus authorized is to be stated in writing in the report of the agent with the reasoning on which the departure was justified set forth. No exception to this Ordinance may be granted which is opposed in writing by the County or Highway Engineer or Health Official.

# ARTICLE 10

## VIOLATION AND PENALTY

**1001.00 VIOLATION**

All departments, officials, and public employees of Highland County and the Town of Monterey, which are vested with the duty or authority to issue permits or licenses, shall conform to the provisions of this Ordinance. They shall issue permits for uses, buildings, or purposes only when they are in harmony with the provisions of this Ordinance. Any such permit, if issued in conflict with the provisions of this Ordinance, shall be null and void.

**1002.00 COMPLAINTS REGARDING VIOLATIONS**

Whenever a violation of this Ordinance occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint stating fully the causes and basis thereof shall be filed with the Zoning Administrator. He shall record properly such complaint, immediately investigate, and take action thereon provided by this Ordinance.

**1003.00 PENALTIES**

Any person, firm, or corporation, whether as principal agent, employee, or otherwise, violating, causing, or permitting the violation of any of the provisions of this Ordinance shall be guilty of a misdemeanor and, upon conviction thereof, may be fined up to two hundred and fifty dollars ($250.00). Such person, firm, or corporation shall be deemed to be guilty of a separate offense for each and every day during which any portion of any violation of this Ordinance is committed, continued, or permitted by such person, firm, or corporation and shall be punishable as herein provided.

# ARTICLE 11

## LEGAL STATUS PROVISIONS

**1101.00 CONFLICT WITH OTHER LAWS**

Wherever the requirements of this Ordinance are at variance with the requirements of any other lawfully adopted statues, rules, regulations, or ordinances, the most restrictive or that imposing higher standards, shall govern.

**1102.00 VALIDITY**

Each phrase, sentence, paragraph, section, or other provision of this Ordinance is severable from all other such phrases, sentences, paragraphs, sections, and provisions. Should any phrase, sentence, paragraph, section, or provision of this Ordinance be declared by the Courts to be unconstitutional or invalid, such declaration shall not affect any other portion or provision of this Ordinance.

**1103.00 REPEALED RESOLUTIONS AND ORDINANCES**

This Ordinance is a comprehensive enactment of all of the resolutions and ordinances of the Highland County Board of Supervisors and the Monterey Town Council relating to zoning. All prior ordinances affecting zoning are hereby repealed.

**1104.00 EFFECTIVE DATE**

This Ordinance shall take effect and be in force from and after \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. A certified copy of the foregoing Zoning and Subdivision Ordinance of the Highland County-Town of Monterey shall be filed in the office of the Zoning Administrator and in the office of the Clerk of the County of Highland, Virginia.

# ARTICLE 12

## SCHEDULE OF FEES

The Board of Supervisors and Monterey Town Council shall adopt a comprehensive Schedule of Fees for all activities in order to help defray the expense~~s~~ of processing applications, publicizing, and conducting public hearings and performing necessary inspections. All fees referenced in this Ordinance shall defer to the most currently adopted Schedule of Fees for each jurisdiction.

**APPENDIX A  
CERTIFICATES REQUIRED**

**OWNER´S CONSENT AND DEDICATION**

     Know all men by these presents, that the subdivision of land as shown on this plat, containing \_\_\_\_\_\_ acres, more or less, and designated as \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ subdivision, situated in the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ District in the County of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, Virginia, is with the free consent and in accordance with the desires of the undersigned owners thereof, that all streets shown on said plat are hereby dedicated to the public use, and that all lots within the subdivision are subject to certain restrictions, reservations, stipulations, and covenants as contained in a writing executed by the undersigned, under the date of \_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_, and recorded in the Clerk´s office of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ County, in Deed Book \_\_\_\_\_\_\_, page \_\_\_\_\_\_. The said \_\_\_\_\_\_ acres of land hereby subdivided having been conveyed to \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ buy \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ by deed dated \_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_, and recorded in the Clerk´s office of the Circuit Court of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ County, Virginia, in Deed Book \_\_\_\_\_\_, page \_\_\_\_\_.  
  
     Given under our hands this \_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (SEAL)

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (SEAL)

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (SEAL)

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (SEAL)

**Surveyor´s Certificate\***

     I hereby certify that to the best of my knowledge and belief, all of the requirements of the Board of Supervisors and Ordinances of the County of Highland, Virginia, regarding the platting of subdivisions within the County, have been complied with.

     Given under my hand this \_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_.

spacer                         \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  
spacer                         State Certified Engineer  
spacer                         (or Land Surveyor)

**Certificate of Approval**

     This subdivision, known as \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ subdivision, is approved by the undersigned in accordance with the existing subdivision regulations and may be committed to record.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_     (Signed) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

*Date*\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_     (Signed) *Highway Engineer*

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_     (Signed) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

*Date*\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_     (Signed) *Health Officer*

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_     (Signed) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

*Date*\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_     (Signed) *Chairman or Agent*

*Date*\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_     (Signed) *Highland County Board of Supervisors*

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\*The foregoing plat is not approved until all signatures have been obtained.

**APPENDIX B  
SUBDIVISION CHECKLIST**

Three prints, scale 100 feet to the inch on sheets 11" by 17" showing the following:

|  |  |
| --- | --- |
| \_\_\_\_\_ | Dimension showing feet and decimals of a foot to the closest 2 figures. |
|  |  |
| \_\_\_\_\_ | Name of subdivision, owner, subdivider, surveyor or engineer, date of drawing, number of sheets, true north point, and scale. |
|  |  |
| \_\_\_\_\_ | Vicinity map scaled not less than 2" equal 1 mile showing adjoining roads, their names and numbers, town, subdivisions, and other landmarks. |
|  |  |
| \_\_\_\_\_ | Boundary survey (or survey of record) with an accuracy of not less than one in 5,000. |
|  |  |
| \_\_\_\_\_ | Total acreage. |
|  |  |
| \_\_\_\_\_ | Acreage of subdivided area. |
|  |  |
| \_\_\_\_\_ | Number, area, and frontage of all building sites. |
|  |  |
| \_\_\_\_\_ | Existing buildings, names of owners, and their property lines. |
|  |  |
| \_\_\_\_\_ | Boundaries of existing and proposed public or private streets, names, numbers, and widths. |
|  |  |
| \_\_\_\_\_ | Boundaries of existing or proposed easements, public areas, and parking spaces. |
|  |  |
| \_\_\_\_\_ | Culverts, drains, water courses, their names, and survey cross section. |
|  |  |
| \_\_\_\_\_ | Parcels to be dedicated for public use and conditions of each dedication. |
|  |  |
| \_\_\_\_\_ | Topography, if required by the Engineer. |
|  |  |
| \_\_\_\_\_ | Elevations of existing and proposed ground surfaces at street intersections and points of major grade change. |
|  |  |
| \_\_\_\_\_ | Proposed connections with existing sewers and water lines or alternate means of sewage disposal and water supply. |
|  |  |
| \_\_\_\_\_ | Provisions for collecting and discharging surface drainage and preliminary design of any required structures. |
|  |  |
| \_\_\_\_\_ | Blank oblong space for signatures of approving authority. |
|  |  |
| \_\_\_\_\_ | Certificate signed by Surveyor or Engineer setting forth source of title of owners of land to be subdivided and place of record. |
|  |  |
| \_\_\_\_\_ | Statement that subdivision as it appears on plat is with free consent and in accordance with the desires of the owners, signed by the owners. |
|  |  |
| \_\_\_\_\_ | Outline of various tracts when land is acquired from more than one source. |
|  |  |
| \_\_\_\_\_ | Easements, 10 feet in width or more. |
|  |  |
| \_\_\_\_\_ | Blocks 500 to 1,200 feet in length. |
|  |  |
| \_\_\_\_\_ | Adequate space for off-street parking. |
|  |  |
|  | Street intersections, approach angles: |
| \_\_\_\_\_ | Not less than 80 degrees on major street. |
|  |  |
| \_\_\_\_\_ | Not less than 60 degrees on hillsides. |
|  |  |
| \_\_\_\_\_ | Street widths, major 80´, feeder or collector 50´, others 50´, and alleys 20´. |
|  |  |
| \_\_\_\_\_ | Cul-de-sac, 400´ or less in length, 100´ turnaround. |
|  |  |
| \_\_\_\_\_ | Street names, same where alignment with existing streets, no names to be duplicated. |
|  |  |
| \_\_\_\_\_ | Approval of Health Officer. |
|  |  |
| \_\_\_\_\_ | Approval of Highway Engineer. |
|  |  |
| \_\_\_\_\_ | Approval of Subdivision Agent. |
|  |  |
| \_\_\_\_\_ | Fees have been deposited. |