NELSON COUNTY ZONING ORDINANCE

As amended through July 8, 2014

Adopted by

The Nelson County Board of Supervisors

January 11, 1977

APPENDIX A - ZONING

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ZONING*

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APPENDIX A - ZONING

ARTICLE 1. INTRODUCTION

1-1 Legislative Authority

This ordinance establishes comprehensive zoning regulations for Nelson County and provides for the administration, enforcement, and amendment thereof, in accordance with the provisions of Chapter 22, Code of Virginia, (1950), as amended.

***Editor's note**- This appendix contains the zoning ordinance adopted on January 11, 1977, as amended through September 14, 2010. Style and capitalization have been made uniform. Obvious misspellings have been corrected without notation and material in brackets [ ] has been added for clarity.

Cross references- Administration, Ch. 2; buildings, Ch. 4; licenses and business regulations, Ch. 6; planning and development, Ch. 9; subdivisions, App. B; automobile graveyards, ξ 7-131 et seq.

State law reference- Zoning, Code of Virginia, ξ 15.1-486 et seq.

1-2 Legislative Intent

It is the intention of the County to:

1-2a guide its future growth and development in accordance with a comprehensive plan of land use and population density that represents the most beneficial and convenient relationships among the residential, non-residential, and public areas within the County; and

1-2b provide adequate light, air, and privacy, to preserve and protect lives and property from fire, floods, and other dangers, and to prevent overcrowding of the land and undue congestion of population; and

1-2c protect the character and the social and economic stability of all parts of the County, to encourage the orderly and beneficial development of all parts of the County, and to protect and conserve the value of land and buildings appropriate to the various districts established by this comprehensive zoning ordinance; and

1-2d bring about the gradual conformity with the current Comprehensive Plan of Nelson County through the comprehensive zoning ordinance set forth herein, and to minimize conflicts among the uses of land and buildings; and

1-2e promote the most beneficial relationship between the uses of land and buildings and the road system which serves these uses, having particular regard for the potential amount and intensity of such land and building uses in relationship to the capacity of the road system, so as to avoid congestion on the roads, and to promote safe and convenient vehicular and pedestrian traffic movements appropriate to the various uses of land and buildings throughout the County; and

1-2f provide a guide for public action in the orderly and efficient provision of public facilities and services, and for private enterprise in building development, investment, and other economic activity relating to uses of land and buildings throughout the County.

1-3 Interpretation, Purpose of Conflict

In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements adopted for the promotion of health, safety, and the general welfare of the citizens of the County.

1-4 Enumeration of Districts

For the purpose of this ordinance, the unincorporated areas of Nelson County, Virginia are hereby divided into eleven (11) districts as follows:

Conservation C-1
Agricultural A-1
Residential R-1
Residential R-2
Residential Planned Community RPC
Industrial M-2
Limited Industrial M-1
Floodplain FP
Business B-1
Business B-2
Service Enterprise SE-1

ARTICLE 2. DEFINITIONS

For the purpose of this ordinance, certain words and terms are defined as follows: Words used in the present tense include the future. Words in the singular include the plural, and the plural includes the singular.

Abattoir: A commercial slaughterhouse.

Accessory use or structure: A subordinate use or building 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.

Activity center: An indoor facility used for athletic, recreational, therapeutic, and wellness activities, including but not limited to a gym, health club, fitness club, racquet sports, aquatics, yoga studio, dance studio, or martial arts studio. **O2013-07**

Agricultural: The tilling of the soil, the raising of crops, horticulture, and forestry, including the keeping of animals and fowl, and including any agricultural industry or business, such as fruit packing plants, dairies, or similar use associated with an active farming operation, unless otherwise specifically provided for in this ordinance.

Agricultural equipment: Vehicles, machinery and tools used for farming purposes.

Airstrip, private: A runway for the landing and take-off of small aircraft on a noncommercial basis, which shall be approved by the Federal Aviation Administrator and the Virginia Division of Aeronautics.

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

Antique motor vehicle: Antique means every motor vehicle, as defined in this section, which was actually manufactured or designated by the manufacturer as a model manufactured in a calendar year not less than 25 years prior to January 1 of each calendar year and is owned solely as a collector's item. The antique motor vehicle must display the appropriate license plates pursuant to ξ46.2-730 of the Code of Virginia, as amended.

Apartment house: See *Dwelling, multiple-family apartment.*

Automobile graveyard: See *Junkyard.*

Automobile graveyard, class A: Any rear yard or part of a rear yard upon which a maximum of two (2) inoperative vehicles of any kind are located and which is screened by natural plantings or by other reasonable means acceptable to the Administrator so that vehicles are not visible from the roadway or adjacent residential, commercial, or agricultural properties. A "Class A Automobile Graveyard" is considered to be an accessory use to single-family residential use.

Automobile graveyard, class B: Any place meeting setback side and rear yard requirements for buildings upon which a maximum of five (5) inoperative vehicles of any kind are located and which is screened by natural plantings or by other reasonable means acceptable to the administrator so that such vehicles are not visible from the roadway or adjacent residential, commercial, or agricultural properties.

Automobile graveyard, class C: Any place meeting setback side and rear yard requirements for buildings upon which more than five (5) inoperative vehicles of any kind are located, and which is screened by natural plantings or by other reasonable means acceptable to the Administrator, so that such vehicles are not visible from the roadway or adjacent residential, commercial or agricultural properties. **O2008-005**

Banquet hall: A facility for hosting public and/or private events, including but not limited to weddings, receptions, social events or parties, and/or workshops, which is used as a venue for social, cultural, recreational, and/or educational activities. Banquet halls do not include lodging accommodations. **O2013-07**

Basement: A story having part but not more than one-half of its height below grade. A basement shall be counted as a story for the purpose of height regulations, if it is subdivided and used for business purposes, or for dwelling purposes by other than a janitor employed on the premises.

Boardinghouse, tourist home: A building arranged or used for lodging, with or without meals, for compensation by more than five (5) and not more than fourteen (14) persons and open to transients. A boardinghouse or tourist home shall not be deemed a home occupation.

Borrow pit: Sand, soil, and gravel operation of a temporary nature.

Building: Any structure used or intended for supporting or sheltering any use or occupancy.

Building, accessory: A subordinate building, customarily incidental to and located upon the same lot occupied by the main building. No such accessory building shall be used for housekeeping purposes.

Building, height of: The vertical distance measured from grade to the highest roof beams of a flat roof, or to the mean level of the highest gable or slope of a gable, hip, or other roof.

Building, main: The principal building or one (1) of the principal buildings on a lot, or the building or one (1) of the principal buildings housing the principal use on the lot.

Camp, day: A tract of land devoted to primarily outdoor recreational uses not including overnight accommodations for users.

Camp, summer: A tract of land used or designed to be used for seasonal accommodation of individuals in tents or similar rustic structures and for use by such individuals for sports, handcrafts and other outdoor-oriented activities and recreation.

Campgrounds: A tract of land developed to accommodate paying guests, or nonpaying guests as in a group-sponsored outing, for short duration in tents designed for single families or travel trailers owned by the guests.

Cellar: A story having more than one-half of its height below grade and which may not be occupied for dwelling purposes.

Cemetery: A privately or church-owned and/or operated place for burial of the dead where lots may be sold and perpetual care of the grave may be furnished.

Church adjunct graveyard: An area one (1) acre or less, owned and operated by an adjoining church.

Conference center: A facility for hosting public and/or private events, including but not limited to weddings, receptions, social events or parties, workshops, and/or conferences, which is used as a venue for social, cultural, recreational, and/or educational activities. Conference centers may include lodging accommodations. **O2013-07**

Commission, the: The Planning Commission of Nelson County, Virginia.

Community Center: A building and grounds used for recreation, social, educational, health, and cultural activities open to the public or a portion of the public, owned and operated by a public or private non-profit group or agency. The activities may involve leasing of space within the building for the sale of goods and services, offices subject to site plan approval, and any additional conditions that may be imposed to such sales of goods and services by the Planning Commission. The sale of goods and services may be carried on a profit basis or for charitable non-profit purposes by the owner or the owner's approved lessee or licensee. There can be no exterior indication of commercial activities at the center such as outside storage, sales area and signage, except for a principal sign identifying the center with a listing of its tenants.

(Res. of 03/13/05)

Composting, Commercial: The process by which organic wastes are combined in proper ratios to which might be added bulking agents, such as wood chips, to provide air space and by using controlled temperature, moisture, and oxygen, to achieve accelerated decomposition, thereby producing a stable humus material. "Organic waste" includes, but is not limited to, yard trimmings, agricultural by-products, food wastes, and manures. **O2011-01**

Country club: A nonprofit entity organized to provide recreational facilities such as golf, swimming, and tennis to its membership.

Corporate Training Center: A commercial facility in which are offered instructional programs addressing organizational leadership and fostering organizational cohesiveness. Such facility may include lodging, dining and recreational amenities for those in attendance. (Res. of 5/11/04)

Cul-de-sac: A street with only one (1) outlet having an appropriate turn-around area for safe and convenient reverse of traffic movement.

Dairy plant: A commercial establishment for the processing and sale of milk or milk products at either wholesale or retail.

District: Districts as referred to in the State Code, Section 15.1-486.

Dwelling: Any building which is designed for residential purposes (except apartment houses, boardinghouses, dormitories, hotels and motels).

Dwelling, multiple-family apartment: A building or portion thereof arranged or designed for the purpose of providing three (3) or more separate dwelling units.

Dwelling, single-family attached: One (1) of three (3) or more dwelling units which are joined together by a common or party wall and/or connecting permanent structures such as breezeways, carports, garages, screening fences, or walls.

Dwelling, single-family detached: A building arranged or designed to contain one (1) dwelling unit with not more than (5) lodgers or boarders.

Dwelling, two-family detached: A building arranged or designed to contain two (2) dwelling units.

Dwelling unit: A single unit providing complete independent living facilities for one (1) or more persons including permanent provisions for living, sleeping, eating, cooking and sanitation.

Dwelling, boardinghouse, tourist home: See *Boardinghouse.*

Dwelling, hotel: See *Hotel.*

Dwelling, motel: See *Motel.*

Family: One (1) or more persons occupying a premise and living in a single dwelling unit, as distinguished from an unrelated group occupying a boardinghouse, hotel, or motel.

Farm winery: An establishment as defined in Va. Code ξ4.1-100 Subsection (i) and licensed by the Commonwealth pursuant to Va. Code ξ4.1-207 where wine may be sold for on-premise consumption and in closed containers for off-premise consumption. The serving of light snacks (cheese, crackers, peanuts, etc.) is permitted at a farm winery, without regulation. Other food prepared on-site shall be prepared in a facility in compliance with the Virginia State Building Code requirements and licensed by the Virginia Department of Health. The sale of wine-related items that are incidental to the sale of wine is permitted at a farm winery without regulation.

Farm winery permanent remote retail establishment: A permanent retail establishment located off of the farm winery premise but associated with a farm winery as defined in Va. Code ξ4.1-100 Subsection (ii) and licensed by the Commonwealth pursuant to Va. Code ξ4.1-207 where wine may be sold for on-premise consumption and in closed containers for off-premise consumption. The serving of light snacks (cheese, crackers, peanuts, etc.) is permitted at a farm winery permanent remote retail establishment, without regulation. Other food served on-site shall be prepared in an off-site facility licensed by the Virginia Department of Health. The sale of wine-related items that are incidental to the sale of wine is permitted at a farm winery permanent remote retail establishment without regulation.

Flea Market: Any outdoor commercial offering of items for sale at any location. Merchandise offered may include items purchased specifically for resale at a profit. Churches and other nonprofit organizations are exempt from these requirements. Permitted by right in Business (B-1) zone.

Fraternal lodges/community buildings: Places of assembly for clubs, community groups and/or civic organizations, at which regularly scheduled fraternal or public meetings and other public activities are conducted.

Frontage: The full length of a plot of land measured alongside the road onto which the plot fronts.

Funeral home: A building used for the preparation of a corpse for burial or the preparation of a corpse for cremation, which may also be used for funeral services and/or cremation services.

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 two (2) times as many automobiles as there are dwelling units.

Garage, public: A building or portion thereof, other than a private garage, designed or used for servicing, repairing, equipping, renting, selling, or storing motor-driven vehicles.

General store: See *Retail store, neighborhood.*

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 and miniature golf courses.

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.

Governing body: The Board of Supervisors of Nelson County, Virginia.

Grade: A reference plane representing the average of finished ground level adjoining the building at all exterior walls. (Unless otherwise modified in the text, the use of this definition in determining building height would apply height restrictions to entire building, not just front.)

Historical area: As defined on the zoning map in which the provisions of the ordinance apply for protection of a historical heritage.

Home occupation, class A: An occupation carried on by the occupant of a dwelling as a secondary use in connection with which there is no display, and not more than one (1) person is employed, other than members of the family residing on the premises such as the rental of rooms to tourists, the preparation of food products for sale, and similar activities; beauty parlors, professional offices such as medical, dental, legal, engineering, and architectural offices conducted within a dwelling or accessory building by the occupant.

Home occupation, class B: An occupation carried on by the occupant of a dwelling as a secondary use in connection with which there is no display, and not more than four (4) persons are employed, other than members of the family residing on the premises such as the rental of rooms to tourists, the preparation of food products for sale, and similar activities; beauty parlors, professional offices such as medical, dental, legal, engineering, and architectural offices conducted within a dwelling or accessory building by the occupant.

Hospital: An institution rendering inpatient or outpatient medical, surgical, obstetrical, or convalescent care, including nursing homes, homes for the aged and sanitariums, but in all cases excluding institutions primarily for mental or feeble-minded patients, epileptics, alcoholics, or drug addicts. (Certain nursing homes and homes for the aged may be "home occupations" if they comply with the definition herein).

Hospital, special care: A special care hospital shall mean an institution rendering care primarily for mental or feeble-minded patients, epileptics, alcoholics, or drug addicts.

Hotel: A building designed or occupied as the more or less temporary abiding place for fifteen (15) or more individuals who are, for compensation, lodged, with or without meals, and in which provision is not generally made for cooking in individual rooms or suites.

Inoperative motor vehicle: An inoperative motor vehicle shall mean one or more of the following: (i) any motor vehicle which is not in operating condition; (ii) any motor vehicle which for a period of 60 days or longer has been partially or totally disassembled by the removal of tires and/or wheels, the engine, or other essential parts required for operation of the vehicle; or (iii) any motor vehicle on which there are displayed neither valid license plates nor a valid inspection decal. However, this definition shall not apply in connection with properties: (i) lawfully used as an automobile dealership, public garage, automobile salvage operation or scrap processor; or (ii) when a Special Use Permit provides for the storage of inoperative vehicles. **O2010-09**

Intentional community: A tract of land developed or to be developed as a unit under single ownership, including, but not limited to ownership by a group of people or a corporation, or unified control which is to contain three (3) or more residential dwelling units.

Junkyard: The use of any area of land lying within one hundred (100) feet of a state highway or the use of more than two hundred (200) square feet of land area in any location for the storage, keeping, or abandonment of junk, including scrap metals or other scrap materials. The term "junkyard" shall include the term "automobile graveyard" as defined in Chapter 304, Acts of 1938, Code of Virginia.

Kennel: A place prepared to house, board, breed, handle, or otherwise keep or care for dogs, cats or similar small animals for sale or in return for compensation.

Landfill, sanitary: A method of disposing of refuse on land without creating nuisances or hazards to public health or safety, by confining the refuse to the smallest practical area, to reduce it to the smallest practical volume, and to cover it with a layer of earth at the conclusion of each day's operation, or at such more frequent intervals as may be necessary.

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

Lot: A parcel of land occupied or to be occupied by a main building or group of main buildings and accessory buildings, together with such yards, open spaces, lot width, and lot areas as are required by this ordinance, and having frontage upon a street either shown on a plat of record or considered as a unit property and described by metes and bounds.

Lot, corner: A lot abutting on 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 shortest of the two (2) sides fronting on streets.

Lot of record: A lot which has been recorded in the clerk's office of the Circuit Court.

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 structure subject to federal regulation, which is transportable in one or more sections; is eight (8) body feet or more in width and forty (40) body feet or more in length in the traveling mode, or is three hundred twenty (320) or more square feet when erected on site; is built on a permanent chassis, is designed to be used as a single-family dwelling, with or without a permanent foundation, when connected to the required utilities; and includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure.

Mobile home: A mobile home is a dwelling which is eight (8) body feet or more in width and is thirty-two (32) body feet or more in length, and which is designed for transportation, after fabrication, on streets and highways on its own wheels or on flatbed or other trailers, and arriving at the site where it is to be occupied as a dwelling complete and ready for occupancy; except for minor and incidental unpacking and assembly operation, location on jacks or permanent foundations, connection to utilities and the like. This dwelling is not subject to federal regulations. (See *Travel trailer.*)

Mobile home park: One (1) or more contiguous parcels of land in which two (2) or more rental lots are provided for mobile homes or upon which two (2) or more mobile homes are located. This shall include mobile homes that are stored on property, but shall not include mobile homes for sale by a bona fide licensed dealer.

Motel: One (1) or more buildings containing individual sleeping rooms designed for or used temporarily by automobile tourists or transients, with garage or parking space conveniently located to each unit. Cooking facilities may be provided for each unit.

*Motor vehicle***:** A motor vehicle means any vehicle defined in this section that is self-propelled or designed for self-propulsion. For the purpose of this ordinance, any device herein defined as a bicycle, electric personal assistive mobility device, electric power-assisted bicycle, or moped shall be deemed not to be a motor vehicle.

Nonconforming activity: The otherwise legal use of a building or structure or of a tract of land that does not conform to the use regulations of this ordinance for the district in which it is located, either at the effective date of this ordinance or as a result of subsequent amendments to the ordinance.

Nonconforming lot: A lot of record that does not conform to the minimum area or width requirements 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.

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

Off-street parking space: Space provided for vehicular parking outside the dedicated street right-of-way, of sufficient size and shape to park one (1) standard size automobile and containing not less than three hundred (300) square feet.

Parcel: A tract or plot of land for which a plat or description of record can be found.

Pen: See *Agriculture.*

Permanent foundation. Permanent foundations for manufactured homes or mobile homes include any of the following types of foundations selected by the owner, dealer or contractors:

(1) Masonry piers and anchoring systems, specified by the manufacturer of the home in the installation instructions, as required and approved in accordance with the Federal Manufactured Housing Construction and Safety Standards.
(2) Concrete foundations or permanent wood foundation systems constructed in compliance with the ANSI A225.1 Manufactured Home Installation Standard.
(3) Foundations meeting the requirements of the U.S. Department of Housing and Urban Development Handbook 430.3, Permanent Foundations Guide for Manufactured Housing.
(4) Foundation systems for manufactured homes over basements.
(5) Any other foundation system approved as a permanent foundation by the authority having jurisdiction as outlined in Section 107.1 of the USBC. (Ord. of 5-18-90)

Public water and sewer systems: A central water or sewer system owned and/or operated by a municipality, county or service authority or by an individual, partnership or corporation approved by the governing body in accordance with Title 15.1 of the Code of Virginia, as amended.

Quarrying: The industry of extracting stone from an open excavation, including both the extraction and processing of crushed stone for aggregate and related uses and the extraction of stone in blocks for building monumental and related uses.

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

Residue. The part of an original lot remaining after a portion has been divided off pursuant to Appendix B, Subdivisions, of the Code of Nelson County, as amended. The residue shall be treated as one of the lots within the subdivision. For example, for a two acre parcel divided off a six acre parcel, the new lot is identified as one parcel and the residue as the second parcel.

Restaurant: Any building in which for compensation, food or beverages are dispensed for consumption on the premises, including among other establishments cafes, tea rooms, confectionery shops, or refreshment stands. Dancing by patrons shall be considered as entertainment accessory to a restaurant, provided the space made available for such dancing shall not be more than one-eighth of that part of the floor area available for dining. Provisions for dancing made available under this definition shall be subject to the permit requirements of Nelson County.

Retail stores and services: Buildings for display and sale of merchandise at retail or for the rendering of business and personal services (but specifically exclusive of coal, wood and lumber yards) such as the following which will serve as illustration: bank, drugstore, laundromat, newsstand, food store, candy shop, milk dispensary, dry goods and notions store, antique store and gift shop, hardware store, household appliance store, furniture store, florist, optician, music and radio store, tailor shop, barbershop, and beauty parlor.

Retail store, neighborhood: A single store, the total floor area of which is four thousand (4,000) square feet or less and which offers for sale most of the following articles: bread, milk, cheese, meat, produce, canned and bottled foods and drinks, tobacco products, candy, papers and magazines, and general hardware articles. Gasoline may also be offered for sale but only as a secondary activity.

Sale of new and used vehicles: Any lot and accompanying structure meeting the requirements of the Virginia Department of Motor Vehicles, upon which new and/or used cars, trucks, or other vehicles may be sold.

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

Schools of special instruction: A commercial school giving instruction in business, cultural or dramatic subjects.

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

Sign: Any words, lettering, parts of letters, figures, numerals, phrases, sentences, emblems, devices, designs, trade names or marks, or combinations thereof, by which anything is made known, such as the designation of an individual, a firm, an association, a profession, a business, a commodity, or product, which are visible from any public way and used as an outdoor display. A display of less than one (1) 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, business: A sign painted, electrical, or otherwise, erected for the purpose of conveying information, knowledge, or ideas to the public about a subject related to the premises upon which said sign is located.

Sign, directional: A directional sign is one (one (1) end of which may be pointed or on which an arrow may be painted) indicating the direction to which attention is called giving only the name of the firm or business responsible for the erection of same and distance.

Sign, home occupation: A sign directing attention to a product, commodity, or service available on the premises; but which product, commodity, or service is clearly a secondary use of the dwelling.

Sign, location: A sign which directs attention to the approximate location of an establishment from which an advertised product or service may be obtained.

Sign, outdoor advertising: A structural poster panel or painted sign, either freestanding or attached to a building, for the purpose of conveying information, knowledge, or ideas to the public about a subject unrelated to the premises upon which it is located.

Sign structure: A structure, including the supports, uprights, bracing and framework be in single-faced, double-faced, V-type, or otherwise, which is located on the ground or on top of another structure and which supports no more than two (2) signs.

Sign 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.

Site Plan Review Committee: The Site Plan Review Committee shall consist of, but is not limited to, representatives from Federal, State, and local governments, utility companies, other agencies and departments, and other professionals as necessary to review, but not limited to, the site plan, subdivision plat, Special Use Permit application, Rezoning application, zoning amendment, in preparation of the Planning and Zoning Director's comments and recommendations. **O2010-09**

Store: See *Retail store, neighborhood; Retail stores and services.*

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.

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.

Street or *road:* A thoroughfare which affords principal means of access to abutting property.

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

Structure: Anything constructed or erected, the use of which required permanent location on the ground, or attachment to something having a permanent location on the ground. Fences are excluded from this definition.

Subdivision. A parcel of land which has been subdivided into smaller parcels or lots for the purpose, either immediate or future, of transfer of ownership or building development. The term "subdivision" includes family division, "re-subdivision," and, when appropriate to the context, shall relate to the process of subdividing or to the land subdivided. **O2009-06**

Tourist court: See *Motel.*

Tourist home: See *Boardinghouse.*

Travel trailer: Any vehicle less than thirty-two (32) feet and used or constructed for use as a conveyance upon highways, so designed and constructed as to permit occupancy thereof as a dwelling or sleeping place for one (1) or more persons.

Undertaking establishments: See *Funeral homes.*

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

Variance: A reasonable deviation from those provisions regulating the size or area of a lot or parcel of land, or the size, area, bulk or location of a building or structure when the strict application of the ordinance would result in unnecessary or unreasonable hardship to the property owner, and such need for a variance is not contrary to the intended spirit and purpose of the ordinance, and would result in substantial justice being done.

Vegetative rubbish recycling facility: A facility in which vegetative rubbish, as defined in Section 10-1.T. of the Solid Waste Ordinance, is received from off-site properties and temporarily stored until converted on-site into firewood, and into mulch and compost, and where the resultant firewood, mulch, compost, soil, and rocks are temporary stored prior to their removal.

Wayside stand, roadside stand, wayside market: Any structure or land used for the sale of agriculture or horticultural produce; livestock, or merchandise produced by the owner or his family on their farm.

Wildlife Rehabilitation Center: A facility whose purpose is the care, rehabilitation, and release of orphaned and injured Virginia native wildlife. Wildlife rehabilitation centers are regulated by the U.S. Fish and Wildlife Service, and the Virginia Department of Game and Inland Fisheries and must be supervised by a wildlife rehabilitator with valid permits from each of these agencies. **O2011-06**

Wood yard: A parcel of land or portion thereof, used for the commercial storing and marketing of logs. **O2009-03**

Yard: An open space on a lot other than a court, unoccupied and unobstructed from the ground upward, except as otherwise provided herein.

Front: An open space on the same lot as a building between the front line of the building (exclusive of steps) and the front lot or street line, and extending across the full width of a lot.

Rear: An open, unoccupied space on the same lot as a building between the rear line of the building (exclusive of steps) and the rear line of the lot, and extending the full width of the lot.

Side: An open, unoccupied space on the same lot as a building between the side line of the building (exclusive of steps) and the side line of the lot, and extending from the front yard line to the rear yard line.

Yard sale: Any offering of household items or clothing for sale on the premises of a private residence. Such sales shall be limited to not more than four (4) sale days in twelve (12) months and any proceeds shall accrue to no more than six (6) individuals not residing in the same household. No items offered shall have been purchased specifically for resale at a profit. Churches and other nonprofit organizations are exempt from these requirements. To be permitted by right in any residential yard. (Ord. of 9-13-88; Res. of 1-9-90; Res. of 9-11-90; Res. of 2-14-95)

Zoning Administrator, the: The official charged with the enforcement of the zoning ordinance. 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.

ARTICLE 3. CONSERVATION DISTRICT C-1

Statement of intent.

This district covers portions of the County which are occupied by various open spaces such as steep slopes, forests, parks, farms, marshland, lakes or stream valleys. This district is established for the specific purpose of facilitating existing and future farming operations, conserving water and other natural resources, reducing soil erosion, protecting watersheds, reducing hazards from flood and fire and preserving wildlife areas of the County.

3-1 *Uses—Permitted by right.*

3-1-1 Single-family detached dwellings

3-1-2 Agriculture

3-1-3 Public and semi-public uses such as churches, church adjunctive graveyards, schools (not schools of special instruction), hospitals (not special care), parks, playgrounds, and post offices

3-1-4 Conservation and preservation areas

3-1-4a Cluster housing development pursuant to Article 21 of this ordinance

3-1-5 Historical areas

3-1-6 Home occupations, class A

3-1-7 Accessory uses as defined.

3-1-8 Off-street parking as required by this ordinance

3-1-9 Public utilities generating, booster or relay stations, transformer substations, transmission lines with support structures, pipes, meters and other facilities for the provision and maintenance of public utilities, including railroads and facilities, water and sewerage installations, and water storage tanks

3-1-10 Business signs advertising the sale or rent of premises, up to six (6) feet in total area

3-1-11 Church bulletin boards

3-1-12 Directional signs, up to two (2) square feet in total area

3-1-13 Home occupation signs, up to four (4) square feet in total area

3-1-14 Identification signs, up to four (4) square feet in total area

3-1-15 Automobile graveyards, classes A and B

3-1-16	Communication Towers subject to Article 20, Communication Tower Ordinance	
3-1-17	Small wind energy system, per requirements in Article 22 of these regulations	**O2009-12**
3-1-a	*Uses–Permitted by Special Use Permit only:*	**O2010-09**
3-1-1a	Two or more small wind energy systems on a single tract of land, per requirements in Article 22 of these regulations.	**O2011-04**
3-1-1b	Small wind energy system(s) on a parcel of land 20 acres or larger in size with a height greater than 100 feet but less than 199 feet.	**O2011-04**
3-1-2a	Borrow pit	
3-1-3a	*Reserved for future use*	**O2013-07**
3-1-4a	Camp, day	
3-1-5a	Camp, summer	
3-1-6a	Campgrounds	
3-1-7a	Cemeteries	
3-1-8a	Country clubs	
3-1-9a	Golf courses (except driving ranges and miniature courses)	
3-1-10a	Hunting clubs	
3-1-11a	Lattice structure used to support a wind turbine	**O2009-12**
3-1-12a	Location signs, up to fifteen (15) square feet in total area	
3-1-13a	Lodges, fraternal	
3-1-14a	Private airstrips	
3-1-15a	Sawmills, permanent	
3-1-16a	Sawmills, temporary	
3-1-17a	Wildlife Rehabilitation Center	**O2011-06**
3-1-18a	*Reserved for future use*	
3-1-19a	*Reserved for future use*	

3-2 *Area regulations.*

3-2-1 The minimum lot area shall be twenty (20) acres (871,200 sq. ft.) or more per dwelling unit.

3-2-2 The minimum lot area shall be one (1) acre (43,560 sq. ft.) for a family subdivision lot. The required area for any such use shall be approved by the health official. The administrator may require a greater area if considered necessary by the health official.

3-3 *Setback regulations.*

3-3-1a Front yard:

Lots 1 to 20 acres in size: Minimum of seventy-five (75) feet from the center of the road or fifty (50) feet from the edge of the street right-of-way, whichever is the greater distance.

Lots greater than 20 acres in size: Minimum of three hundred (300) feet from the edge of the street right-of-way.

3-3-1b Internal lot without road frontage:

Lots 1 to 20 acres in size: Minimum of fifty (50) feet from the property line designated as the front of the lot or parcel.

Lots greater than 20 acres in size: Minimum of three hundred (300) feet from the property line designated as the front of the parcel.

3-3-2 Side yard:

Lots 1 to 20 acres in size: Minimum of ten (10) feet from the property line and the total width of the required side yards shall be twenty-five (25) feet or more.

Lots greater than 20 acres in size: Minimum of three hundred (300) feet from the property line on each side.

3-3-3 Rear yard:

Lots 1 to 20 acres in size: Minimum of twenty five (25) feet from the rear property line.

Lots greater than 20 acres in size: Minimum of 300 feet from the rear property line.

3-3-4 Accessory structure: Minimum of fifteen (15) feet from property line, except no accessory building shall be located within the required front yard setback.

3-3-5 Road frontage: Minimum of one hundred twenty five (125) feet fronting on a public or private road built to State or County road standards.

3-4 Reserved for future use.

3-5 Reserved for future use.

3-6 *Special provisions for corner lots.*

3-6-1 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.

3-6-2 The minimum side yard on the side facing the side street shall be thirty-five (35) feet for both main and accessory building.

3-7 *Height Limitations.*

Any structure erected up to a height greater than thirty-five (35) feet from grade requires a Special Use Permit with the following exceptions: Single family dwellings, two family dwellings, boardinghouse, tourist home, wooden poles for electric, telephone lines and similar lines/cables, public and semipublic uses such as churches, libraries, museums, schools, hospitals, parks, playgrounds, and post offices, agriculture, fire departments and rescue squad facilities, and water storage tanks. **O2011-04**

3-8 *Site plan.*

Before a building and zoning permit shall be issued for development to contain three (3) or more dwelling units on one (1) lot or on one (1) parcel of land, a site plan of proposed development shall be approved by the Commission in conformance with Article 13.

Reserved for future use.

ARTICLE 4. AGRICULTURAL DISTRICT A-1

Statement of intent.

This district is designed to accommodate farming, forestry, and limited residential use. While it is recognized that certain desirable rural areas may logically be expected to develop residentially, it is the intent, however, to discourage the random scattering of residential, commercial, or industrial uses in this district.

4-1 *Uses – Permitted by right.*

4-1-1 Single-family detached dwellings

4-1-2 Two-family detached dwellings

4-1-3 Boardinghouse, tourist home

4-1-4 Public and semi-public uses such as churches, church adjunctive graveyards, libraries, museums, schools (not schools of special instruction), hospitals (not special care), parks, playgrounds and post offices.

4-1-5 Agriculture

4-1-6 Fire departments and rescue squad facilities

4-1-7 Forestry operations including necessary temporary buildings and uses incidental thereto (not sawmills)

4-1-8 Home occupations, class A and B

4-1-9 Kennels

4-1-10 Off-street parking as required by this ordinance

4-1-11 Public utilities generating, booster or relay stations, transformer substations, transmission lines with support structures, pipes, meters and other facilities for the provision and maintenance of public utilities, including railroads and facilities, water and sewerage installations, and water storage tanks

4-1-12 Accessory uses as defined.

4-1-13 Business signs advertising the sale or rent of premises up to thirty-two (32) square feet in total area

4-1-14 Business signs, up to fifty (50) square feet in total area

4-1-15 Directional signs, up to two (2) square feet in total area

4-1-16 Home occupation signs, up to twelve (12) square feet in total area

4-1-17 Church bulletin boards

4-1-18 Automobile graveyards, class A and B

4-1-19 Yard sale

4-1-20 Manufactured homes

4-1-21 Intentional community

4-1-22 Communication Towers subject to Article 20, Communications Tower Ordinance

4-1-23 Cluster Housing Development pursuant to Article 21 of this Ordinance

4-1-24 Reserved

4-1-25 Farm winery

4-1-26 Small wind energy system, per requirements in Article 22 of these regulations **O2009-12**

4-1-27 Temporary placement and occupancy of a travel trailer not to exceed ten (10) consecutive days.

4-1-a *Uses – Permitted by Special Use Permit only:* **O2010-09**

4-1-1a Two or more small wind energy systems on a single tract of land, per requirements in Article 22 of these regulations **O2011-04**

4-1-1b Small wind energy system(s) on a parcel of land 20 acres or larger in size with a height greater than 100 feet but less than 199 feet **O2011-04**

4-1-2a Antique, craft, or gift shops

4-1-3a Automobile graveyards, class C

4-1-4a Banquet hall

4-1-5a Blacksmith shop

4-1-6a Borrow pit

4-1-7a *Reserved for future use* **O2013-07**

4-1-8a Camp, day

4-1-9a Camp, summer

4-1-10a Campgrounds

4-1-11a Cemeteries

4-1-12a Commercial sale of agricultural equipment

4-1-13a	Conference center	
4-1-14a	Corporate Training Center	(Res. 05/11/04)
4-1-15a	Dairy plant	
4-1-16a	Farm winery permanent remote retail establishment	
4-1-17a	Fraternal lodges and community buildings	
4-1-18a	Garage, public	
4-1-19a	Golf Courses	
4-1-20a	Labor camp facilities	
4-1-21a	Landfill, sanitary	
4-1-22a	Lattice structure used to support a wind turbine.	**O2009-12**
4-1-23a	Location signs, up to twenty-five (25) square feet in total area	
4-1-24a	Mobile home parks	
4-1-25a	Motels, hotels	
4-1-26a	Multifamily dwellings	
4-1-27a	Natural resource extractions	
4-1-28a	Offices, professional, and services	
4-1-29a	Open storage area with or without gates	
4-1-30a	Outdoor firing range in conjunction with the County noise control ordinance	
4-1-31a	Private airstrip	
4-1-32a	Quarrying	
4-1-33a	Race track	
	(Res. of 8-8-89; Res. of 9-11-90; Res. of 9-14-93; Res. of 2-14-95; Res. of 6-18-99)	
4-1-34a	Restaurants	
4-1-35a	Retail store, neighborhood	
4-1-36a	Sale of new and/or used cars	
4-1-37a	Sawmills, permanent	
4-1-38a	Sawmill, temporary	
4-1-39a	Vegetative rubbish recycling facility	
4-1-40a	Veterinary hospital	
4-1-41a	Wood yard	**O2008-10**
4-1-42a	Composting, Commercial	**O2011-01**
4-1-43a	Wildlife Rehabilitation Center	**O2011-06**
4-1-44a	Activity Center	**O2013-07**

4-1-45a *Reserved for future use*

4-2 *Lots Allowed and Area Regulations* **O2009-06**

4-2-1 A parcel of record in the Clerk's Office of the Circuit Court of Nelson County on the effective date of this subsection (June 1, 2007) may be divided into no more lots than are provided in the chart below. **O2009-06**

No. of Acres	***No. of lots allowed***
0-5	***2***
>5-10	***3***
>10-15	***4***
>15-20	***5***
>20-25	***6***
>25-35	***7***
>35-45	***8***
>45-55	***9***
>55-65	***10***
>65-75	***11***
>75 ***(> greater than)***	***A parcel of land larger than 75 acres has additional allowable lots, provided each additional lot created is 20 acres or more in size.***

At the time of division, the owner of the parcel so divided shall designate the number of lots into which each parcel so divided may be further divided pursuant to this section. No such division or adjustment of boundary lines or any other reconfiguration of a parcel shall increase the number of lots which may be created. **O2009-06**

Each plat of survey reflecting a division or adjustment of boundary line or any other reconfiguration of a parcel shall provide therein: (i) the original number of lots allowed for the parcel, together with appropriate instrument number references; (ii) the number of lots created in this division; (iii) the number of lots remaining; and (iv) the allocation of remaining lot rights among the newly created lots. **O2009-06**

4-2-1a The minimum lot area shall be two (2) acres (87,120 sq. ft) or more for single and two-family detached dwellings. For family subdivisions lots the minimum lot area shall be one (1) acre (43,560 sq. ft.) per dwelling unit. **O2014-04**

4-2-1b For single family dwelling units utilizing the Nelson County public sewage disposal system, the required area for such use shall be thirty thousand (30,000) sq. ft. **O2009-13**

4-2-1c For a two-family detached dwelling unit on a single lot utilizing the Nelson County public sewage disposal system, the required area for such use shall be thirty thousand (30,000) sq. ft. **O2009-13**

4-2-2 For permitted uses utilizing individual sewage disposal systems, the required area for any such use shall be approved by the health official. The administrator may require a greater area if considered necessary by the health official.

4-3 *Setback regulations.*

4-3-1a Front yard:

Minimum of seventy-five (75) feet from the center of the road or fifty (50) feet from the edge of the right-of-way, whichever is the greater distance.

4-3-1b Internal lot without road frontage:

Minimum of fifty (50) feet from the property line designated as the front yard.

4-3-2 Side yard:

Lots 1 to 5 acres in size: Minimum of ten (10) feet from the property line and the total width of the required side yards shall be twenty five (25) feet or more.

Lots greater than 5 acres in size: Minimum of twenty (20) feet from the property line and total width of the required side yards shall be fifty (50) feet or more.

4-3-3 Rear yard:

Lots 1 to 5 acres in size: Minimum of twenty-five (25) feet from the rear property line.

Lots greater than 5 acres in size: Minimum of fifty (50) feet from the rear property line.

4-3-4 Accessory structure:

Minimum of fifteen (15) feet from property line, except no accessory building shall be located within the required front yard setback.

4-3-5 Road frontage:

Minimum of one hundred twenty-five (125) feet fronting on a public or private road built to State or County road standards.

4-4 *Special provisions for corner lots.*

4-4-1 Of the two sides of a corner lot, the front shall be deemed to be the shortest of the two sides fronting on streets.

4-4-2 The minimum side yard on the side facing the side street shall be thirty (30) feet for both main and accessory building(s).

4-5 *Reserved for future use.*

4-6 *Height limitations.*

Any structure erected up to a height greater than thirty-five (35) feet from grade requires a Special Use Permit with the following exceptions: single family dwellings, two family dwellings, boardinghouse, tourist home, wooden poles for electric, telephone lines and similar lines/cables, public and semi-public uses such as churches, libraries, museums, schools, hospitals, parks, playgrounds, and post offices, agriculture, fire departments and rescue squad facilities and water storage tanks. **O2011-004**

4-7 *Site plan.*

Before a building and zoning permit shall be issued for any development for commercial purposes or for development to contain three (3) or more dwelling units on one (1) lot or parcel, a site plan of proposed development shall be approved by the Commission in conformance with Article 13 of this ordinance.
(Ord. of 12-14-93)

4-8 *Mobile home park lot size.*

The owner or operator of any mobile home park shall provide no less than four thousand (4,000) square feet of ground for each mobile home lot rented, inclusive of the ground underneath the mobile home. There should be a minimum distance of twenty-five (25) feet between each mobile home.
(Ord. of 12-14-93)

4-9 *Oil and gas exploration and extraction.*

The Board of Supervisors may authorize the issuance of a Special Use Permit for the exploration and extraction of oil and gas provided the Board of Supervisors determines that natural resource exploration and extraction are appropriate in the area in which the activity is to be located. In addition to the guidelines and standards concerning compatibility with existing uses in the neighborhood of the activity as set forth in Section 12-3-6 of this ordinance, the Board of Supervisors shall determine that the proposed activity will not constitute a significant threat to the environment. In order to insure that the proposed activity will be carried out in a manner which will minimize any environmental impact, the applicant shall have prepared an Environmental Management Plan. This plan, to be prepared at the applicant's expense, shall address, at a minimum, the following areas:

(1) The type, length, slope, and maintenance plans for any access roads or trails which will be constructed in connection with the activity. The Board of Supervisors shall require adherence to the guidelines set out for road construction in the Best Management Practices Handbook of the Virginia State Water Control Board.

(2) The amount of land which will be disturbed as a result of the proposed activity and in particular any changes in the topography which would alter natural drainage patterns. The Board of Supervisors shall require adherence to the guidelines of the Virginia State Water Control Board's Best Management Practices Handbook.

(3) The location of existing water wells and other existing or potential sources of water supply in the area to be establish. The Board of Supervisors shall require satisfactory proof that the proposed activity will not disturb the quality or production of water sources. Data describing area water quality and quantity shall be provided by the applicant.

(4) A plan for post drilling and post closure reclamation work. The Board of Supervisors shall require a detailed plan describing the measures to be taken by the applicant for the reclamation of the disturbed areas.

Prior to preparing the Environmental Management Plan, the applicant shall consult with the Zoning Administrator, who in consultation with appropriate local, state, and federal agencies and/or independent consultants, retained by the County, with professional expertise in the applicable fields will determine the specific areas to be addressed in the plan. Upon completion, copies of the plan shall be delivered to the Zoning Administrator for review.

The above review shall be conducted by the Zoning Administrator in consultation with the same parties conducting the original review. Based on this review, the Zoning Administrator shall prepare a recommendation for the Planning Commission and the Board of Supervisors.

The Board of Supervisors shall require a bond with surety or other approved security to ensure that any of the above conditions which are imposed shall be complied with. The amount of said bond shall be or an amount sufficient to complete all requisite preparation, drilling, and reclamation projects as well as potential significant environmental damage.

Prior to commencing any activity involving drilling for oil or gas, the operator of the activity shall obtain a drilling permit from the Zoning Administrator. Such permit shall be granted only after a state drilling permit has been issued to the applicant. The County drilling permit shall be valid for a period of two (2) years. Renewal of the permit shall require a reapplication.

Periodic inspection to determine the permittee's compliance with the approved plan shall be conducted by the Zoning Administrator or his designee. Failure on the part of the applicant to permit an inspection or failure to comply with any part of the plan during the course of the activity shall constitute grounds for revocation of the permit.
(Ord. of 12-14-93)

4-10 *Multifamily dwellings.*

The Board of Supervisors may authorize the issuance of a Special Use Permit for multifamily housing units of up to six (6) units and not more than two (2) stories, provided that the gross density is not greater than one (1) unit per acre for the first four (4) units and one-half acre for units thereafter up to six (6) units. Multifamily buildings shall be located seventy-five (75) feet or more from any street or highway right-of-way which is fifty (50) feet or greater in width or one hundred (100) feet or more from the centerline of any street less than fifty (50) feet in width. The minimum frontage shall be two hundred fifty (250) feet along a road built to County or State standards.

In addition to the guidelines and standards concerning compatibility with existing uses in the neighborhood of the proposed multifamily housing units as outlined in Section 12-3-6 of this ordinance, the Board of Supervisors may require:

(1) Evidence from a qualified soil scientist that the soils at the proposed site are suitable for septic fields.

(2) Evidence that adequate supplies of drinking water are available.

(3) An opinion from the Virginia Department of Highways that the traffic generated will not occasion the need for road improvements.

(4) A detailed site plan showing landscaping and screening.
(Ord. of 12-14-93)

4-11 *Administrative Approvals.*

The Zoning Administrator may administratively approve a zoning permit for the following uses, provided they are in compliance with the provisions of this Article.

4-11-1 Temporary placement of a travel trailer not to exceed three (3) years and temporary occupancy not to exceed thirty (30) consecutive days at any one time. A zoning permit will not be issued until a septic tank has been installed.

4-11-2 Wayside Stands.

4-11-3 Temporary events not otherwise a permitted use may be allowed pursuant to a Special Events Permit for a specified time period. The application for such a permit shall be submitted on a form provided by the Planning Director. The Planning Director may issue the permit upon his determination that: (i) all regulations of other agencies are satisfied; (ii) the use of the Special Events Permit is not for a purpose of circumventing other provisions of this ordinance. Additionally, the Zoning Administrator may attach specific conditions necessary to minimize the potential adverse impact on the surrounding area or general public. A Special Events Permit may include more than one event within a specified time period.

APPENDIX A - ZONING

Reserved for future use.

ARTICLE 5. RESIDENTIAL DISTRICT R-1

Statement of intent.

This district is composed of certain quiet, low density rural residential areas where similar residential development appears likely to occur. The regulations for this district are designed to stabilize and protect the essential characteristics of the district, to promote and encourage a suitable environment for family life and to prohibit all activities of a commercial nature. To these ends, development is limited to relatively low concentration and permitted uses are limited basically to single unit dwellings providing homes for the residents plus certain additional uses, such as schools, parks, and churches that serve the residents of the district.

5-1 *Uses – Permitted by right.*

5-1-1 Single-family detached dwellings

5-1-2 Two-family detached dwellings

5-1-2a Cluster Housing Developments pursuant to Article 21 of this Ordinance

5-1-3 Home occupations, class A

5-1-4 Public and semi-public uses such as churches, church adjunctive graveyards, libraries, museums, schools (not schools of special instruction), hospitals (not special care), parks, playgrounds and post offices

5-1-5 Accessory uses as defined; however, garages or other accessory structures attached to the main building shall be considered part of the main building. No accessory building may be closer than five (5) feet to any property line in the rear yard and ten (10) feet from the property line on a side yard.

5-1-6 Off-street parking as required by this ordinance

5-1-7 Public utilities: lines, distribution transformers, pipes, meters and other facilities necessary for the provision and maintenance of public utilities, including water and sewage facilities, and water storage tanks **O2011-04**

5-1-8 Business signs advertising the sale or rent of premises, up to six (6) feet in total area

5-1-9 Church bulletin boards

5-1-10 Directional signs, up to two (2) square feet in total area

5-1-11 Home occupation signs, up to four (4) square feet in total area

5-1-12 Identification signs, up to four (4) square feet in total area

5-1-13 Automobile graveyards, class A

5-1-14 Yard sales

5-1-15 Communication towers subject to Article 20, Communication Tower Ordinance

5-1-16 Small wind energy system, per requirements in Article 22 of these regulations **O2009-12**

5-1-a *Uses – Permitted by Special Use Permit only.* **O2010-09**

5-1-1a Additional small wind energy system(s), per requirements in Article 22 of these regulations **O2009-12**

5-1-2a Double-wide mobile home mounted on a permanent concrete or block foundation

5-1-3a Lattice structure used to support a wind turbine **O2009-12**

5-1-4a *Reserved for future use*

5-1-5a *Reserved for future use*

5-1-6a *Reserved for future use*

5-2 *Area regulations.*

5-2-1 The minimum lot area shall be two (2) acres (87,120 sq. ft.) or more per dwelling unit for lots being served by individual wells and septic systems. The required area for any such use shall be approved by the health official. The Administrator may require a greater area if considered necessary by the health official.

5-2-1a The minimum lot area shall be one (1) acre (43,560 sq. ft.) per dwelling for a family subdivision lot. The required area for any such use shall be approved by the health official. The Administrator may required a greater area if considered necessary by the health official.

5-2-1b For single family dwelling units utilizing the Nelson County public sewage disposal system, the required area for such use shall be thirty thousand (30,000) sq. ft. **O2009-13**

5-2-1c For a two-family detached dwelling unit on a single lot utilizing the Nelson County public sewage disposal system, the required area for such use shall be thirty thousand (30,000) sq. ft. **O2009-13**

5-2-2 For permitted uses utilizing public sewage disposal systems, the required area for any such use shall be thirty thousand (30,000) sq. ft**.**

5-3 *Setback regulations.*

5-3-1a Front yard: Minimum of seventy-five (75) feet from the center of the road or fifty (50) feet from the edge of the right-of-way, whichever is the greater distance.

5-3-1b Internal lot without road frontage: Minimum of fifty (50) feet from the property line designated as the front of the lot or parcel.

5-3-2 Side yard: Minimum of ten (10) feet from the property line and the total width of the required side yards shall be twenty-five (25) feet or more.

5-3-3 Rear yard: Minimum of twenty-five (25) feet from the rear property line.

5-3-4 Accessory structure: Minimum of fifteen (15) feet from a property line. An accessory structure shall not be located in the required front yard.

5-3-5 Road frontage: Minimum of one hundred twenty-five feet (125) fronting on a public or private road built to State or County road standards.

5-4 Reserved for future use.

5-5 Reserved for future use.

5-6 *Height regulations.*

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

5-6-1 The height limit for dwellings may be increased up to ten (10) feet and up to three (3) stories provided there are two (2) side yards, each of which is ten (10) feet or more, plus one (1) foot or more of side yard for each additional foot of building height over thirty-five (35) feet.

5-6-2 A public or semi-public building such as a school, church, library, or hospital, may be erected to a height of sixty (60) feet from grade provided that required front, side, and rear yards shall be increased one (1) foot for each foot in height over thirty-five (35) feet.

5-6-3 Church spires, belfries, cupolas, monuments, chimneys, flues, flagpoles, water storage tanks, wooden poles for electric, telephone lines and similar lines/cables are exempt. Television antennae, and radio aerials pursuant to the provisions of Article 20 are also exempt. Parapet walls may be up to four (4) feet above the height of the building on which the walls rest. **O2011-04**

5-7 *Special provisions for corner lots.*

5-7-1 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.

5-7-2 The side yard on the side facing the side street shall be twenty (20) feet or more for both main and accessory buildings.

5-7-3 For subdivisions platted after the enactment of this ordinance, each corner lot shall have a minimum width at the setback line of one hundred (100) feet or more.

5-8 *Site plan.*

Before a building and zoning permit shall be issued where three (3) or more dwelling units are to be placed on one (1) lot or parcel, a site plan of proposed development shall be approved by the Administrator, in conformance with Article 13 of this ordinance.

ARTICLE 6. RESIDENTIAL DISTRICT R-2

Statement of intent.

This district is composed of certain quiet, medium density residential areas plus certain open areas where similar residential development appears likely to occur and where public water and/or sewer service is available. The regulations for this district are designed to stabilize and protect the essential characteristics of the district, to promote and encourage a suitable environment for family life and to prohibit most activities of a commercial nature. To these ends, development is limited to concentrations of medium density single and multiple dwellings plus certain public facilities that serve the residents of the districts.

6-1 *Uses – Permitted by right.*

6-1-1 Single-family detached dwellings

6-1-2 Two-family detached dwellings

6-1-3 Home occupations, class A

6-1-4 Multifamily dwellings

6-1-5 Public and semi-public uses such as churches, church adjunctive graveyards, libraries, museums, schools (not schools of special instruction), hospitals (not special care), parks, playgrounds and post offices

6-1-6 Accessory uses as defined; however, garages or other accessory structures attached to the main building shall be considered part of the main building. No accessory building may be closer than five (5) feet to any property line in the rear yard and ten (10) feet from the property line on a side yard.

6-1-7 Off-street parking as required by this ordinance

6-1-8 Public utilities: lines, distribution transformers, pipes, meters and other facilitates necessary for the provision and maintenance of public utilities, including water and sewage facilities and water storage tanks **O2011-04**

6-1-9 Business signs advertising the sale or rent of premises, up to six (6) feet in total area

6-1-10 Church bulletin boards

6-1-11 Directional signs, up to two (2) square feet in total area

6-1-12 Home occupation signs, up to four (4) square feet in total area

6-1-13 Identification signs, up to four (4) square feet in total area

6-1-14 Automobile graveyard, class A

6-1-15 Yard sales

6-1-16 Communication towers subject to Article 20, Communication Tower Ordinance

6-1-17 Small wind energy system, per requirements in Article 22 of these regulations **O2009-12**

6-1-a *Uses – Permitted by Special Use Permit Only* **O2010-09**

6-1-1a Additional small wind energy system(s), per requirements in Article 22 of these regulations **O2009-12**

6-1-2a Lattice structure used to support a wind turbine **O2009-12**

6-1-3a *Reserved for future use*

6-1-4a *Reserved for future use*

6-1-5a *Reserved for future use*

6-2 *Area regulations.*

6-2-1 For residential lots containing or intended to contain a single-family dwelling served by public water and sewage disposal, the minimum lot area shall be ten thousand (10,000) square feet.

6-2-2 For residential lots containing or intended to contain a single-family dwelling served by public water systems, but having individual sewage disposal, the minimum lot area shall be thirty thousand (30,000) square feet.

6-2-3 For residential lots containing or intended to contain more than a single-family dwelling served by public water and sewage disposal systems, the minimum lot area shall be:

Two (2) units – twelve thousand (12,000) square feet or more
Three (3) units – fifteen thousand (15,000) square feet or more
For each additional unit above three (3) – one thousand five hundred (1,500) square feet

6-2-4 For residential lots containing or intended to contain more than a single-family dwelling served by public water systems, but having individual sewage disposal systems, the minimum lot area shall be:

Two (2) units – one (1) acre (43,560 square feet) or more
For each additional unit above three (3) – ten thousand (10,000) square feet

6-2-5 For permitted uses utilizing individual sewage disposal systems, the required area for any such use shall be approved by the health official. The Administrator may require a greater area if considered necessary by the health official.

6-3 *Setback regulations.*

Buildings shall be located thirty-five (35) feet or more from any street right-of-way which is fifty (50) feet or greater in width, or fifty-five (55) feet or more from the centerline of any street right-of-way less than fifty (50) feet in width, or eighty (80) feet from the center point of the turnaround of a cul-de-sac with a radius of less than fifty (50) feet. This shall be known as the "setback line".

6-4 *Frontage regulations.*

For single-family dwellings the minimum lot width shall be one hundred (100) feet or more, and for each additional dwelling unit there shall be at least ten (10) feet of additional lot width.

6-5 *Yard regulations.*

6-5-1 *Side:* The minimum side yard shall be ten (10) feet and the total width of the two (2) required side yards shall be twenty-five (25) feet or more.

6-5-2 *Rear:* Each main building shall have a rear yard of twenty-five (25) feet or more.

6-6 *Height regulations.*

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

6-6-1 The height limit for dwellings may be increased up to ten (10) feet and up to three (3) stories provided there are two (2) side yards, each of which is ten (10) feet or more, plus one (1) foot or more of side yard for each additional foot of building height over thirty-five (35) feet.

6-6-2 A public or semi-public building such as a school, church, library, or hospital, may be erected to a height of sixty (60) feet from grade provided that required front, side, and rear yards shall be increased one (1) foot for each foot in height over thirty-five (35) feet.

6-6-3 Church spires, belfries, cupolas, monuments, chimneys, flues, flagpoles and wooden poles for electric, telephone lines and similar lines/cables are exempt. Television antennas and radio aerials pursuant to the provisions of Article 20 are also exempt. Parapet walls may be up to four (4) feet above the height of the building on which the walls rest. **O2011-04**

6-6-4 No accessory building which is within ten (10) feet of any property lot line shall be more than one (1) story high. All accessory buildings shall be less than the main building in height. **O2010-6**

6-7 *Special provisions for corner lots.*

6-7-1 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.

6-7-2 The side yard on the side facing the side street shall be twenty (20) feet or more for both main and accessory buildings.

6-7-3 For subdivisions platted after the enactment of this ordinance, each corner lot shall have a minimum width of one hundred (100) feet or more.

6-8 *Site plan.*

Before a building and zoning permit shall be issued where three (3) or more dwelling units are to be placed on one (1) lot or parcel, a site plan of proposed development shall be approved by the Administrator, in conformance with Article 13 of this ordinance.

APPENDIX A - ZONING

Reserved for future use.

ARTICLE 7. RESIDENTIAL PLANNED COMMUNITY DISTRICT RPC

Statement of intent.

This district is intended to permit development in accordance with a master plan thereof of cluster-type communities containing not less than three thousand (3,000) contiguous acres under one (1) ownership or control, in a manner that will protect and preserve the natural resources, trees, watershed, contours and topographic features of the land, protect and enhance the natural scenic beauty and permit the greatest amount of recreational facilities by leaving as permanent open area not less than twenty-five (25) percent of the total acreage. Within such communities, the location of all improvement shall be controlled in such manner as to permit a variety of housing accommodations in an orderly relationship to one another, with the greatest amount of open area and the least disturbance to natural features. "Open area" shall include parks, lakes, roads, roadways, walkways, trails, playground and recreation facilities, golf, skiing, and other sports facilities, nonresidential clubhouse grounds and rights-of-ways and surface easement for drainage and other utilities over areas not within the lines of any residential lot. (A planned residential district may include a variety of residential accommodations with light commercial facilities and light craft manufacturing facilities in Village Centers to an extent necessary to serve the needs of the particular residential planned community and its visitors.)

Establishment.

7-1 *Request and master plan.*

Request for establishment of a residential planned community shall be made initially to the Planning Commission and subsequently to the County Board of Supervisors accompanied by a "Master Plan" for the proposed community of not less than three thousand (3,000) contiguous acres under one (1) ownership or control.

7-2 *Application.*

7-2-1 The applicant shall furnish with his application for establishment of a Residential Planned Community, ten (10) copies of a Master Plan prepared by a surveyor, engineer or architect, duly authorized by the state to practice as such, upon which shall be shown the approximate location of the open areas which shall comprise not less than twenty-five (25) percent of the whole and the general location of the various types of land uses, including the general location of any Village Centers and the residential density classifications of each residential area.

7-2-2 The applicant shall further submit with his application, ten (10) copies of a set of schematic preliminary plans which shall indicate a method by which the Master Plan may be implemented and show the general location of all public and private roads, the location and particular use of all open areas, the location and type of such proposed improvements and buildings as are required to be shown on the Final Plan, and a general sewer, storm drainage and water supply plan.

7-2-3 Upon approval by the County Board of Supervisors of the Master Plan, the Residential Planned Community shall be deemed established. After approval, the Master Plan may not be altered without approval of the County Board of Supervisors, but the preliminary plans shall be superseded by the Final Plans hereinafter provided for.

Development.

7-3 *Final plan.*

7-3-1 Following the establishment of a Residential Planned Community by approval of the Board of Supervisors of a Master Plan therefore, the applicant shall furnish to the Planning Commission, ten (10) copies of a Final Plan of any part or section of the community comprising not less than five (5) acres of land shown on the Master Plan and from time to time thereafter, shall submit additional Final Plans comprising the whole area of the Master Plan. The final plan shall be prepared or certified by a surveyor, engineer or architect. The final plans shall be consistent with the Master Plan as approved but may vary from the preliminary plans to any degree which the Planning Commission believes does not vary the basic concept or character of the development.

7-3-2 The final plans shall show by metes and bounds the layout of all major and local roads, public and private, the location of all buildings and improvements, other than single-family dwellings (as to these buildings the general location for improvements within the lines of each lot shall be shown) and other than school buildings or other buildings to be built by public authority (as to which the site or lot shall be shown), all parking areas, pedestrian ways, utility easements, lot lines, and shall show the different types of open areas and other public or community amenities, the proposed use of all buildings and of all areas dedicated for public or private common use.

7-3-3 The applicant shall furnish with a Final Plan a proposed deed of easement including restrictions safeguarding the permanent use of open areas and preventing encroachment thereupon.

7-3-4 When the Final Plan and deed of dedication shall have been approved by the Planning Commission as being in conformity with this ordinance and the Master Plan as approved by the County Board of Supervisors, and Final Plan submitted as provided for in the original Final Plan.

7-4 *Additional land.*

Additional land area may be added to an existing Residential Planned Community if it is adjacent (except for public roads) and forms a logical addition to the existing Residential Planned Community and if it is under the same ownership or control.

The procedure for an addition shall be the same as if an original application were filed, and all of the requirements of this ordinance shall apply except the minimum acreage requirement of three thousand (3,000) acres.

7-5 *Use regulations.*

All uses permitted by right or by special permit in the Conservation District C-1, Residential Districts R-1 and R-2, and Business District B-1 of the Nelson County Zoning Ordinance shall be permitted in the Residential Planned Community District, subject to the limitations hereinafter provided. In addition, the following land use categories (sectors) shall apply to Residential Planned Community Districts. All land use sectors shall be clearly indicated on the Master Plan and subsequent Final Plans, including the area of each sector in areas, maximum floor areas used for commercial or light craft manufacturing purposes, total numbers of dwelling units, and average gross densities in dwelling units per acre.

7-5-1 Multiple Use Sector - MU

In Multiple Use Sectors, the following uses are permitted:

a). Commercial, public, civic, and light craft manufacturing and sales uses as permitted in Business Districts B-1 and provided that the total floor areas used for commercial or light craft manufacturing purposes shall not exceed those shown on the Master Plan unless by special permit.

b). Residential, recreation, public, semi-public, community, and professional office uses as permitted in Residential Districts R-1 and R-2, and Multiple-Family Residential Sectors as provided hereinafter in Section 7-5-3, provided that the total number of dwelling units shall not exceed that shown on the Master Plan unless by special permit. The maximum allowable gross density shall not exceed twenty (20) dwelling units per acre, including roads, streets, parking, and open spaces and recreational areas.

c). Ancillary recreation and public and private uses not specifically provided for in the zoning ordinance shall be permitted, including:

1. Golf courses and country clubs.
2. Riding stables, horse show areas.
3. Indoor and outdoor recreation facilities.
4. Ski areas and facilities.

7-5-2 Single-Family Residential Sector – SR

In Single-Family Residential Sectors, the following uses will be permitted:

1. Single-family detached dwellings.
2. Single-family attached dwellings.
3. Other uses as permitted in Residential Districts R-1 and in Section 7-5-1(b).

The total number of dwelling units shall not exceed that shown on the Master Plan unless by special permit. The maximum allowable gross density shall not exceed ten (10) dwelling units per acre, including roads, streets, parking, open spaces and recreational areas.

7-5-3 Multiple-Family Residential Sector- MR

In Multiple-Family Residential Sectors, the uses permitted in Residential Districts R-1 and R-2 and in Section 7-5-1(b) will be permitted. The total number of dwelling units shall not exceed that shown on the Master Plan unless by special permit. The maximum allowable gross density shall not exceed fifteen (15) dwelling units per acre, including roads, streets, parking, open spaces and recreational areas.

7-6 *Building location requirements.*

The location of all structures shall be as shown on the Final Plan as required in Section 7-3 other than single-family dwellings as to which building restriction lines or construction area limit shall be shown with respect to each lot. The proposed location and arrangement of structures shall not be detrimental to the existing or prospective adjacent dwellings or to the existing or prospective development of the neighborhood.

Open spaces between structures shall be protected where necessary by adequate covenants running with the land, conveyances or dedications. There shall be no minimum lot size, no minimum setback lines, no maximum percentage of lot coverage, no minimum yard or side yard width and no frontage requirement on a public or private street in a Residential Planned Community except as shown on the approved Final Plan.

7-7 *Utilities.*

Prior to approval of the Final Plan, the applicant must submit plans and specifications of a public or private sewer and a public or private water supply system adequate to serve the area covered by the Final Plan in conformity with standards of the Virginia State Water Control Board and the Virginia State Health Department.

Approval may be granted to a Final Plan subject to the condition that no lot may be sold or conveyed until assurances satisfactory to the Planning Commission have been given by the applicant with respect to the timely extension of water and sewer to the particular lot.

7-8 *Street improvements.*

7-8-1 All dedicated public streets shown on the Final Plan shall meet all requirements of the Virginia Department of Highways Subdivision Standards. Before approval of any Final Plan the Resident Engineer shall so certify. Such public streets shall be coordinated with the Major Transportation Network shown in the County Comprehensive Plan.

7-8-2 Private streets shown on the Final Plan shall be similarly coordinated with existing or planned streets of both the Master Plan and the County Comprehensive Plan. Private streets shown on the Final Plan need not meet the requirements of the Virginia Department of Highways but shall meet all other requirements of the County Subdivision Ordinance as these may be waived or modified by the Planning Commission as set forth hereafter.

The following provisions of the subdivision ordinance as applicable to Residential Planned Communities are modified as follows, subject to approval of the Final Plans by the Planning Commission:

(a) There shall be no predetermined requirements for intersection or approach angles for private streets.

(b) There shall be no predetermined maximum number of lots or units served by a cul-de-sac. Cul-de-sac turnarounds will not be required if serving less than twenty (20) lots, and if required, shall not be less than sixty (60) feet in diameter.

7-8-3 To the extent, streets are private rather than public, the applicant must also submit assurances satisfactory to the Planning Commission that a property owners' community association or similar organization has been legally established under which the lots within the area of the Final Plan will be assessed for the cost of maintaining private streets, and that such assessments shall constitute a pro-rate [pro rata] lien upon the individual lots shown on the Final Plan.

7-8-4 Approval may be granted to a Final Plan subject to the condition that no lot may be sold or conveyed until assurances satisfactory to the Planning Commission have been given by the applicant with respect to the timely extension of public or private roads to the particular lot.

7-8-5 The uniqueness of each proposal for a Residential Planned Community requires that the specifications for the width, surfacing, construction and geometric design of streets, alleys, ways for public utilities, and the specifications for curbs, gutters, sidewalks, streetlights, and stormwater drainage shall be subject to modification from the specified, waive or modify the specifications otherwise applicable for a particular facility where the Planning Commission finds that such specifications are not required in the interests of the residents of the Residential Planned Community and that the modifications of such specifications are not inconsistent with the interests of the entire county.

7-8-6 It shall be the responsibility of the applicant to demonstrate to the satisfaction of the Planning Commission with respect to any requested waiver or modification:

(a) The waiver or modification will result in design and construction that is in accordance with accepted engineering standards;

(b) That the waiver or modification is reasonable because of the uniqueness of the Residential Planned Community or because of the large area of the Residential Planned Community within which the nature and excellence of design and construction will be coordinated, preplanned and controlled;

(c) That any waiver or modification as to streets is reasonable, with respect to the generation of vehicular traffic that is estimated will occur within the area of the Master Plan;

(d) That traffic lanes of streets are sufficiently wide to carry the anticipated volume and speed of traffic; and

(e) That waivers or modifications as to base and surface construction of streets and as to the construction of ditches or drainage way be based upon soil tests for CBR value and erosion characteristics of the particular subgrade soils in the area.

7-9 *Average daily traffic estimates.*

The bass for determining average daily traffic estimates from the Final Plans is:

Use	*Peak Occupancy*	*Average Daily Trips*	*No. of Dwelling Units*	*Average Daily Traffic*
Hotel	95% X	.75 X	=	
Multifam. Res.	80% A	1.00 X	=	
Single-Fam. Att. Res.	80% X	1.25 X	=	
Single-Fam. Det. Res.	80% X	1.50 X	=	

7-10 *Road Widths.*

The basis for determining road widths from the Final Plans is:

Average Daily Traffic	*Traffic Lanes Number*	*Traffic Lanes Width*
0-100	2	8’
100-500	2	9’
500-1000	2	10’
1000-3000	2	11’
3000-7500	2	12’
Over 7500	4	12’

7-11 *Special provisions.*

The provisions hereof shall not be limited by any provisions of any other part of the Nelson County Zoning or Subdivision Regulations herewith.

If following the establishment of a Residential Planned Community, a Final Plan shall be submitted to the Planning Commission as hereinbefore provided, such Final Plan shall be deemed approved by the Planning Commission if no action has been taken by the Planning Commission within sixty (60) days after such submission.

APPENDIX A - ZONING

Reserved for future use.

ARTICLE 8. BUSINESS DISTRICT B-1

Statement of intent.

Generally, this district covers that part of the community intended for the conduct of general business to which the public requires direct and frequent access, but which is not characterized by constant heavy trucking other than stocking and delivery of retail goods, or by nuisance factors other than occasioned by incidental light and noise of congregation of people and passenger vehicles.

8-1 *Uses—Permitted by right:*

8-1-1 Boardinghouse, hotel, motel

8-1-2 Retail drugstores, feed and seed stores, food sales and restaurants, wearing apparel shops, auto and home appliance services, banks, barber and beauty shops, hardware stores, offices and personal and professional services. Wholesale and processing activities that would be objectionable because of noise, fumes, or dust are excluded.

8-1-3 Fire departments and rescue squad facilities

8-1-4 Funeral home/crematorium

8-1-5 Gasoline filling stations and/or the servicing and minor repairing of motor vehicles when in an enclosed structure

8-1-6 Golf driving ranges and miniature golf courses

8-1-7 Public garages, for storage and/or repair of motor vehicles when in an enclosed space

8-1-8 Public and semi-public uses, such as churches, church adjunctive graveyards, libraries, museums, schools, hospitals, post offices and recreational facilities

8-1-9 Schools of special instruction

8-1-10 Veterinarian hospital

8-1-11 Waterfront business activities: wholesale and retail marine activities such as boat docks, piers, small boat docks, yacht clubs, and servicing facilities for the same; activities primarily conducted on or about a waterfront. All such uses shall be contiguous to a waterfront.

8-1-12 Accessory uses as defined

8-1-13 Off-street parking as required by this ordinance

8-1-14 Sale of new and/or used cars

8-1-15 Public utilities: lines, distribution transformers, pipes, meters and other facilities necessary for the provision and maintenance of public utilities, including water and sewerage facilities and water storage tanks **O2011-04**

8-1-16 Business signs advertising for sale or rent of premises only, up to fifty (50) square feet in total area

8-1-17 Business signs, up to one hundred fifty (150) square feet in total area. One sign less than five (5) feet beyond building.

8-1-18 Directional signs, up to two (2) square feet in total area

8-1-19 Location signs, up to one hundred fifty (150) square feet in total area

8-1-20 Automobile graveyard, class A

8-1-21 Flea markets

8-1-22 Communication towers subject to Article 20, Communication Tower Ordinance

8-1-23 Small wind energy system, per requirements in Article 22 of these regulations **O2009-12**

8-1-24 Activity center **O2013-07**

8-1-a *Uses—Permitted by Special Use Permit only.* **O2010-09**

8-1-1a Additional small wind energy system(s), per requirements in Article 22 of these regulations **O2009-12**

8-1-2a Borrow pit

8-1-3a Commercial amusement parks, theaters, commercial assembly halls, public billiard parlors and pool rooms, bowling alleys, dance halls and similar forms of public amusement

8-1-4a Farm winery permanent remote retail establishment

8-1-5a Fraternal lodges and community buildings

8-1-6a General advertising signs

8-1-7a Group homes

8-1-8a Hospitals, special care

8-1-9a Lattice structure used to support a wind turbine **O2009-12**

8-1-10a Single family dwelling units, two family dwelling units, and multi-family dwelling units

8-1-11a *Reserved for future use*

8-1-12a *Reserved for future use*

8-1-13a *Reserved for future use*

8-2 *Height regulations.*

8-2-1 Buildings may be erected up to thirty-five (35) feet in height from grade.

8-2-2 A public or semi-public building such as a school, church, library, or hospital may be erected to a height of sixty (60) feet from grade provided that required front, side and rear yards shall be increased one (1) foot for each foot in height over thirty-five (35) feet.

8-2-3 Church spires, belfries, cupolas, monuments, chimneys, flues, flagpoles, water storage tanks and wooden poles for electric, telephone lines and similar lines/cables are exempt. Television antennae, and radio aerials pursuant to the provisions of Article 20 are also exempt. Parapet walls may be up to four (4) feet above the height of the building on which the walls rest. **O2011-04**

8-2-4 No accessory building which is within ten (10) feet of any property line shall be more than one (1) story high. All accessory buildings shall be less than the main building in height.

8-3 *Setback regulations.*

Buildings or portions of buildings, including porches, shall be located behind the street right-of-way line. No porch in existence at the time of the adoption of this ordinance which is between the street right-of-way line and the center of the street can be enclosed or otherwise altered for any use. Porches must be kept in repair and in a safe condition. A reasonable setback distance may be required where necessary to provide traffic sight lines or to preserve or enhance the scenic character of a designed Virginia Scenic Byway.

8-4 *Yard regulations.*

8-4-1 The minimum side and rear yards adjoining a boundary of a residential, agricultural or conservation district shall be ten (10) feet or more.

8-4-2 Accessory uses, including parking areas, shall be located ten (10) feet or more from side and rear lot lines adjoining a boundary of a residential, agricultural or conservation district.

8-5 *Site plan.*

Before a building and zoning permit shall be issued for any use permitted in this district, a site plan of proposed development shall be approved by the Commission in conformance with Article 13 of this ordinance.

APPENDIX A - ZONING

Reserved for future use.

ARTICLE 8A. BUSINESS DISTRICT B-2

Statement of intent.

Generally, this district in intended to provide for commercial uses, which by nature of their associated traffic, noise production or lighting are less disruptive than those uses provided for in B-1.

8A-1 *Uses—Permitted by right.*

8A-1-1 Boardinghouse

8A-1-2 Banks

8A-1-3 Fire departments and rescue squads

8A-1-4 Funeral homes

8A-1-5 Public and semi-public uses, such as churches, church adjunctive graveyards, libraries, museums, schools, hospitals, post offices, and recreational facilities

8A-1-6 Veterinary hospital (indoor kennels only)

8A-1-7 Accessory uses as defined

8A-1-8 Off-street parking as required by this ordinance

8A-1-9 Fraternal lodges and community buildings

8A-1-10 Public utilities

8A-1-11 Professional office buildings

8A-1-12 Communication towers, subject to Article 20, Communication Tower Ordinance

8A-1-13 Small wind energy system, per requirements in Article 22 of these regulations **O2009-12**

8A-1-14 Activity center **O2013-07**

8A-1-a *Uses—Permitted by Special Use Permit only:* **O2010-09**

8A-1-1a Additional small wind energy system(s), per requirements in Article 22 of these regulations **O2009-12**

8A-1-2a Gasoline filling stations and/or the servicing and minor repairs of motor vehicles in an enclosed structure

8A-1-3a Lattice structure used to support a wind turbine **O2009-12**

8A-1-4a Offices, professional, and services

8A-1-5a Restaurants

8A-1-6a Retail sales (structure to be limited to four thousand (4,000) square feet or less)

8A-1-7a *Reserved for future use*

8A-1-8a *Reserved for future use*

8A-1-9a *Reserved for future use*

8A-2 *Height regulations.*

8A-2-1 Buildings may be erected up to thirty-five (35) feet in height from grade.

8A-2-2 A public or semi-public building such as a school, church, library, or hospital may be erected to a height of sixty (60) feet from grade provided that required front, side and rear yards shall be increased one (1) foot for each foot in height over thirty-five (35) feet.

8A-2-3 Church spires, belfries, cupolas, monuments, chimneys, flues, flagpoles, wooden poles for electric, telephone lines and similar lines/cables and water storage tanks are exempt. Television antennas and radio aerials pursuant to the provisions of Article 20 are also exempt. Parapet walls may be up to four (4) feet above the height of the building on which the walls rest. **O2011-04**

8A-2-4 No accessory building which is within ten (10) feet of any property lot line shall be more than one (1) story high. All accessory buildings shall be less than the main building in height. **O2010-6**

8A-2-5 Wooden poles with a maximum height of eighty (80) feet.

8A-3 *Setback.*

8A-3-1 Buildings in this zone shall be a minimum of fifty (50) feet from the right-of-way of any street or highway on which the lot fronts.

8A-4 *Yard regulations.*

8A-4-1 The minimum side and rear yards adjoining a boundary of a residential, agricultural, or conservation district shall be ten (10) feet or more.

8A-4-2 Accessory uses, including parking areas, shall be located ten (10) feet or more from side and rear lot lines adjoining a boundary of a residential, agricultural or conservation district.

8A-5 *Signage.*

8A-5-1 Business signs, up to fifty (50) square feet in total area.

8A-5-2 Business signs advertising the sale or rent of premises, up to thirty-two (32) square feet in total area.

8A-5-3 Directional signs, up to fifty (50) square feet in total area.

8A-5-4 Home occupational signs, up to twelve (12) square feet in total area. (Res. of 1-12-88)

ARTICLE 8B. SERVICE ENTERPRISE DISTRICT SE-1

Statement of intent.

This district is designed to allow limited service-oriented commercial uses not in conflict with the low-density appearance and quiet, rural atmosphere characterized and promoted within agricultural and residential districts. This zone shall be characterized by significant setback and yard requirements, by very limited signage and by uses balancing the area's need for service-oriented industry with adjoining residential and agricultural uses. It is anticipated that the zone shall consist of mixed agricultural, residential and service-oriented commercial uses in an overall atmosphere maintaining a low-density appearance and rural quality of life.

8B-1 *Uses—Permitted by right.*

8B-1-1 Single-family detached dwellings

8B-1-2 Two-family detached dwellings

8B-1-3 Boardinghouse, tourist house, bed and breakfast inn, churches, church adjunctive graveyards, libraries, schools, hospitals, clinics, parks, playgrounds, post offices, fire department, and rescue squad facilities

8B-1-4 Farming

8B-1-5 Home occupations, class A and B

8B-1-6 Kennels

8B-1-7 Public utilities limited to poles, lines, distribution transformers, pipes, meters, and other facilities necessary for the provision and maintenance of public utilities, including water and sewage facilities

8B-1-8 Manufactured home: provided that the house is nineteen (19) or more feet in width, on a permanent foundation, on an individual lot, and meets skirting standards of the Uniform Statewide Building Code

8B-1-9 Crafts, furniture making, cabinet making, upholstery, pottery, decorating, art and substantially similar trades, including production, assembly or sale of goods made, or finished in a manner contributing substantially to the final product, on the premises, and, provided the total floor space of all structures devoted wholly or partially to such uses does not exceed four thousand (4,000) square feet

8B-1-10 Restaurants

8B-1-11 Banks

8B-1-12 Barber and beauty shops

8B-1-13 Offices, professional and service

8B-1-14 Funeral home

8B-1-15 Golf driving range, not to include miniature golf courses

8B-1-16 Veterinary clinic

8B-1-17 Fraternal lodges and community buildings

8B-1-18 Summer and day camps

8B-1-19 Cemetery

8B-1-20 Antique shops

8B-1-21 Communication towers subject to Article 20, Communication Tower Ordinance

8B-1-22 Farm winery

8B-1-23 Small wind energy system, per requirements in Article 22 of these regulations **O2009-12**

8B-1-a *Uses—Permitted by Special Use Permit only:* **O2010-09**

8B-1-1a Additional small wind energy system(s), per requirements in Article 22 of these regulations **O2009-12**

8B-1-2a Amusement park, theater, bowling alleys, dance halls, and similar forms of public amusement

8B-1-3a Blacksmith shops (Res. of 9-11-90)

8B-1-4a Convenience store

8B-1-5a Farm winery permanent remote retail establishment

8B-1-6a Gasoline filling stations and/or servicing and minor repair of motor vehicles in an enclosed structure

8B-1-7a Hotel and motel

8B-1-8a Lattice structure used to support a wind turbine **O2009-12**

8B-1-9a Multi-family dwelling

8B-1-10a Wayside stands

8B-1-11a Activity center **O2013-07**

8B-1-12a *Reserved for future use*

8B-1-13a *Reserved for future use*

8B-2 *Regulations for SE-1 zone.*

8B-2-1 *Height:* The maximum height of any building shall be thirty-five (35) feet from grade. Church spires, belfries, cupolas, monuments, water storage tanks, chimneys, flues, flagpoles and wooden poles for electric, telephone lines and similar lines, are exempt. Television antennas and radio aerials pursuant to Article 20 are also exempt.

O2011-04

8B-2-2	Setback:	Commercial Buildings	Residential Buildings
8B-2-2a	Front:	75 feet from the right of way For public street, road or Highway.	25 feet from the right of way for a public or Private road.
8B-2-2b	Side:	25 feet	25 feet
8B-2-2c	Rear:	25 feet	25 feet
8B-2-2d	Corner Lot:	(As defined in Article 2 "Definitions")	
8B-2-2e	Front:	75 feet from the right of way for public street, road.	35 feet from the right of way for a public, private street or road.
8B-2-2f	Side:	75 feet from the right of way for a public street or road.	35 feet from the right of way for a public private street or road.
8B-2-2g		25 feet from any side yard that having no frontage on a public yard street, or road.	25 feet from any side having no frontage on a public, private street or road.

8B-2-3 *Area:* No lot shall be smaller than forty thousand (40,000) square feet.

8B-2-4 *Frontage:* No lot shall have less than one hundred twenty-five (125) feet of road frontage.

8B-2-5 *Yard:* No side yard shall be less than twenty-five (25) feet. No rear yard shall be less than twenty-five (25) feet.

8B-2-7 *Parking:* All parking areas shall be screened with vegetation where necessary to screen the parking area from view from the street and adjoining lots. Not to be located in front of the setback line.

8B-2-8 *Signage:* Signs within this zone shall be permitted and limited on a case-by-case basis, as part of the "Site Review" process, except that no sign shall be larger than those permitted in an Agricultural Zone.

8B-2-9 *Non-conforming lots:* Any lot not conforming with the regulations of this article as of its effective date shall be exempt from conformance, except upon any change in use of the lot requiring submission of a site plan.

8B-2-10 *Site plan:* A site plan shall be required upon any change in use from residential or farming to any other use permitted by right or by special use permit under this article. A site plan shall be required for any expansion of an existing nonresidential or non-farm use entailing an increase of twenty (20) percent or more in square footage of any building or buildings devoted in whole or in any part to such use. The site plan shall conform to the requirements of Article 13 of this ordinance, shall show the intended use of the property, and shall show compliance with the regulations of this Article.

APPENDIX A - ZONING

Reserved for future use.

ARTICLE 9. INDUSTRIAL DISTRICT M-2

Statement of intent.

This district is established primarily for industrial operations and for heavy commercial operations, which may create some nuisance, and which are not particularly compatible with residential, institutional, or retail commercial uses.

9-1 *Uses—Permitted by right.*

9-1-1 Assembly of electrical appliances, electronic instruments and devices, radios and phonographs. Also, the manufacture of small parts such as coils, condensers, transformers, and crystal holders, and other similar manufacture.

9-1-2 Automobile assembling, painting, upholstering, repairing, rebuilding, reconditioning, body and fender work, truck repairing or overhauling, tire retreading or recapping, or battery manufacture

9-1-3 Blacksmith shop, welding or machine shop, excluding punch presses exceeding forty-ton rated capacity and drop hammers

9-1-4 Fabrication of metal products

9-1-5 Laboratories, pharmaceutical and/or medical

9-1-6 Manufacture, compounding, processing, packaging or treatment of such products as bakery goods, candy, cosmetics, dairy products, drugs, perfumes, pharmaceuticals, perfumed toilet soap, toiletries, and food products other than a food or meat packing or processing plant

9-1-7a Manufacture, compounding, assembling, or treatment of articles of merchandise from the following previously prepared materials: bone, cellophane, canvas, cloth, cork, feathers, felt, fiber, fur, glass, hair, horn, leather, paper, plastic, precious or semiprecious metals or stone, shell, straw, textiles, tobacco, wood, yarn, and paint

9-1-7b Vegetative rubbish recycling facility

9-1-8 Manufacture of pottery and figurines or other similar ceramic products, using only previously pulverized clay, and kilns fired only by electricity or gas

9-1-9 Manufacture of musical instruments, toys, novelties, and rubber and metal stamps

9-1-10 Building materials, plumbing supplies, storage yards with or without sales

9-1-11 Coal and wood yards, lumberyards, feed and seed stores

9-1-12 Contractors' equipment storage yard or plant, or rental of equipment commonly used by contractors

9-1-13 Cabinet, furniture and upholstery shops

9-1-14 Draying and freighting or trucking yard or terminal

9-1-15 Cotton spinning mills

9-1-16 Boat building

9-1-17 Stone works

9-1-18 Glass manufacture

9-1-19 Sawmill

9-1-20 Veterinary or dog or cat hospital, kennels

9-1-21 Wholesale businesses, storage warehouse

9-1-22 Public utility: Generating, booster or relay stations, transformer substations, transmission lines with support structures, wooden poles for electric, telephone lines and similar lines and other facilities for the provision and maintenance of public utilities, including railroads and facilities, water and sewerage installations and water storage tanks **O2011-04**

9-1-23 Business signs advertising sale or rent of premises only. Up to sixty-four (64) square feet

9-1-24 Business signs. Up to sixty-four (64) square feet

9-1-25 Directional signs

9-1-26 Location signs

9-1-27 Automobile graveyard, class B

9-1-28 Communication towers subject to Article 20, Communication Tower Ordinance

9-1-29 Small wind energy system, per requirement in Article 22 of these regulations **O2009-12**

9-1-a *Uses—Permitted by Special Use Permit only:* **O2010-09**

9-1-1a Abattoir

9-1-2a Airport

9-1-3a Automobile graveyard, class C

9-1-4a Borrow Pit

9-1-5a Food or meat packing or processing plant

9-1-6a General advertising signs

9-1-7a Lattice structure used to support a wind turbine. **O2009-12**

9-1-8a Public and/or private penal, detention facilities

9-1-9a Quarrying

9-1-10a Restaurant

9-1-11a Two or more small wind energy systems(s), per requirements in Article 22 of these regulations **O2011-04**

9-1-12a Composting, Commercial **O2011-01**

9-1-13 Small wind energy system(s) on a parcel of land 20 acres or larger in size with a height greater than 100 feet but less than 199 feet **O2011-04**

9-1-14 *Reserved for future use*

9-1-14a Residential quarters for bona fide caretaker **O2013-07**

9-2 *Requirements for permitted uses.*

9-2-1 Permitted uses may be required to be conducted wholly within a completely enclosed building or within an area enclosed on all sides by a solid board fence or an evergreen hedge between six (6) and ten (10) feet in height.

9-2-2 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 three (3) feet, and to within fifty (50) feet from the corner of any intersecting streets.

9-2-3 Sufficient area shall be provided to screen adequately permitted uses from adjacent business and residential district and for off-street parking of vehicles incidental to the industry, its employees and clients.

9-2-4 Automobile graveyards and junkyards in existence at the time of the adoption of this ordinance are to be considered as non-conforming uses. They shall be allowed up to three (3) years after adoption of this ordinance in which to screen completely, on any open side, the operation or use by a masonry wall, a uniformly painted solid board fence, or an evergreen hedge six (6) feet in height.

9-2-5 The Administrator shall act on any application received within thirty (30) days after receiving the application. 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.

9-3 *Setback regulations.*

No setback required except that a reasonable distance may be required where necessary to provide traffic sight lines or to preserve or to enhance the scenic character of a designated Virginia Byway.

9-4 *Yard regulations.*

The minimum side and rear yards adjoining a boundary of a residential, agricultural or conservation district shall be twenty (20) feet or more.

9-5 *Site plan.*

Before a building and zoning permit shall be issued, a site plan of proposed development shall be approved by the Commission in conformance with Article 13 of this ordinance.

ARTICLE 10. GENERAL FLOODPLAIN DISTRICT FP

10.1 *Purpose.*

The purpose of these provisions is to prevent the loss of life and property, the creation of health and safety hazards, the disruption of commerce and governmental services, the extraordinary and necessary expenditure of public funds for flood protection and relief, and the impairment of the tax base by:

A. Regulating uses, activities, and development which, alone or in combination with other existing or future uses, activities, and development, will cause unacceptable increases in flood heights, velocities, and frequencies.

B. Restricting or prohibiting certain uses, activities, and development from locating within districts subject to flooding.

C. Requiring all those uses, activities, and developments that do occur in flood-prone districts to be protected and/or flood-proofed against flooding and flood damage.

D. Protecting individuals from buying land and structures which are unsuited for intended purposes because of flood hazards.

10.2 *Applicability.*

These provisions shall apply to all lands within the jurisdiction of Nelson County and identified as being in the 100-year floodplain by the Federal Insurance Administration.

10.3 *Compliance and liability.*

A. No land shall hereafter be developed and no structure shall be located, relocated, constructed, reconstructed, enlarged, or structurally altered except in full compliance with the terms and provisions of this ordinance and any other applicable ordinances and regulations, which apply to uses within the jurisdiction of this ordinance.

B. The degree of flood protection sought by the provisions of this ordinance is considered reasonable for regulatory purposes and is based on acceptable engineering methods of study. Larger floods may occur on rare occasions. Flood heights may be increased by manmade or natural causes, such as ice jams and bridge openings restricted by debris. This ordinance does not imply that districts outside the floodplain district or that land uses permitted within such district will be free from flooding or flood damages.

C. Records of actions associated with administering this ordinance shall be kept on file and maintained by the Planning and Zoning Director.

D. This ordinance shall not create liability on the part of Nelson County or any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

10.4 *Abrogation and greater restrictions.*

This ordinance supersedes any ordinance currently in effect in flood prone districts. However, any underlying ordinance shall remain in full force and effect to the extent that its provisions are more restrictive than this ordinance.

10.5 *Severability.*

If any section, subsection, paragraph, sentence, clause, or phrase of this ordinance shall be declared invalid for any reason whatever, such decision shall not affect the remaining portions of this ordinance. The remaining portions shall remain in full force and effect and for this purpose, the provisions of this ordinance are hereby declared to be severable.

10.6 *Penalties.*

A. Any person who fails to comply with any of the requirements or provisions of this ordinance or directions of the Planning and Zoning Director or any other authorized employee of Nelson County shall be guilty of a misdemeanor and subject to the penalties as provided in Section 15-2 of the Zoning Ordinance.

B. In addition to the above penalties, all other actions are hereby reserved, including an action of equity for the proper enforcement of this ordinance. The imposition of a fine or penalty for any violation of, or noncompliance with, this ordinance shall not excuse the violation or noncompliance to permit it to continue, and all such persons shall be required to correct or remedy such violations or noncompliance within a reasonable time. Any structure constructed, reconstructed, enlarged, altered or relocated in noncompliance with this ordinance may be declared by the Board of Supervisors to be a public nuisance and abatable as such. Flood insurance may be withheld from structures constructed in violation of this ordinance.

10.7 *Definitions*

For the purpose of this Article, words and terms are defined as follows:

Base flood: The flood having a one percent chance of being equaled or exceeded in any given year.

Base Flood Elevations (BFE): The Federal Emergency Management Agency designated one hundred (100)-year water surface elevation. The water surface elevation of the base flood in relation to the datum specified on the community's Flood Insurance Rate Map. For the purposes of this ordinance, the one hundred (100) year flood or 1% annual chance flood.

Basement: Any area of the building having its floor sub-grade (below ground level) on all sides.

Board of Zoning Appeals: The board appointed to review appeals made by individuals with regard to decisions of the zoning administrator in the interpretation of this ordinance.

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

Development: Any man made 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 or storage of equipment or materials.

Drop-down Fence: A fence design that gives way under the pressure of flood flows to lay flat on the ground, and which can be re-erected after the flood.

Elevated building: A non-basement building built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, or columns (posts and piers).

Encroachment: The advance or infringement of uses, plant growth, fill, excavation, buildings, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.

Existing construction: For the purposes of determining rates, structures for which the "start of construction" commenced before August 1, 1978. "Existing construction" may also be referred to as "existing structures." **O2010-4**

Existing manufactured home park or subdivision: A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community. **O2010-4**

Expansion to an existing manufactured home park or subdivision: The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads). **O2010-4**

Flood or flooding:

(a) A general and temporary condition of partial or complete inundation of normally dry land areas from:
   (1) The overflow of inland or tidal waters.
   (2) The unusual and rapid accumulation or runoff of surface waters from any source.
   (3) Mudslides (i.e. mudflows) which are proximately caused by flooding as defined in paragraph (a) (2) of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.

(b) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood or by some similarly unusual and unforeseeable event which results in flooding as defined in (a) (1) of this definition.

Flood-prone area: Any land area susceptible to being inundated by water from any source.

Flood Insurance Rate Map (FIRM): An official map of a community, on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).

Flood Insurance Study (FIS): An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudflow and/or flood-related erosion hazards.

Floodplain:

(a) A relatively flat or lowland area adjoining a river, stream or watercourse which is subject to partial or complete inundation;
(b) An area subject to the unusual and rapid accumulation or runoff of surface water from any source.

Flood-proofing: Any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

Floodway: The designated area of the floodplain required to carry and discharge flood waters of a given magnitude. For the purposes of this ordinance, the floodway shall be capable of accommodating a flood of the 100-year magnitude.

Freeboard: A factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization in the watershed.

Highest adjacent grade: The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic structure: Any structure that is:

(a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
(b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the secretary to qualify as a registered historic district;
(c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
(d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
    (1) By an approved state program as determined by the Secretary of the Interior; or
    (2) Directly by the Secretary of the Interior in states without approved programs.

Lowest floor: The lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of Federal Code 44CFR §60.3.

Manufactured home: A structure subject to federal regulations which is transportable in one or more sections**,** is eight (8) body feet or more in width and forty (40) body feet or more in length in the traveling mode~~,~~ or is three hundred twenty (320) or more square feet when erected on site**,** is built on a permanent chassis**,** is designed to be used as a single family dwelling, with or without a permanent foundation when connected to the required facilities**,** and includes the plumbing**,** heating, air conditioning and electrical system contained in the structure.

Manufactured home park/subdivision: A parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale. **O2010-4**

New construction: For the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after August 1, 1978 (the effective date of the initial FIRM) and includes any subsequent improvements to such structures. For floodplain management purposes new construction means structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures. **O2010-4**

New manufactured home park or subdivision: A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community. **O2010-4**

Recreational vehicle: A vehicle which is:

(a) Built on a single chassis;
(b) Four hundred (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 season use.

Special flood hazard area: The land in the floodplain subject to a one (1%) percent or greater chance of being flooded in any given year as determined in Section 10.8.A.1 of this ordinance.

O2010-4

Start of construction: The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within one hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or

the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration on any wall, ceiling, floor, or other structural part of a building, whether or not the alteration affects the external dimensions of the building.

Structure: For floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. **O2010-4**

Substantial damage: Damage of any origin sustained by a structure whereby the cost of restoring the structure to its predamaged condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.

Substantial improvement: Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures, which have incurred "structural damage" regardless of the actual repair work performed. The term does not, however, include either:

(1) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or

(2) any alteration of a "historic structure", provided that the alteration will not preclude the structures continued designation as a "historic structure".

Suspended cable fence: A steel cable or chain suspended across the waterway between two secured posts. From the cable a fence made of galvanized chain, chain mesh, galvanized mesh or prefabricated fencing or netting is attached. The suspended cable remains taut during the flood while the flood gate fence remains flexible and rises with the flow. Some variations of the flood gate fence have foam or plastic floats at the bottom of the fence to aid in flotation on the surface of the flood flow.

Violation: The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Code of Federal Regulations, Title 44: Emergency Management and Assistance, Part 60-Criteria For Land Management and Use, Subpart A-Requirements for Land Management Regulations, Sec. 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

Watercourse: A lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

10.8 *Establishment of Floodplain Districts*

A. *Description of districts.*

1. *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 (FIRM) for Nelson County, prepared by the Federal Emergency Management Agency, Federal Insurance Administration, dated June 18, 2010 and any subsequent revisions or amendments thereto.

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

2. The Floodway District is delineated, for purposes of this ordinance, using the criterion that certain areas within the floodplain must be capable of carrying the waters of the one hundred (100)-year flood without increasing the water surface elevation of that flood more than one (1) foot at any point. The areas included in this District are specifically defined in Table 4 of the above-referenced Flood Insurance Study and shown on the accompanying Flood Insurance Rate Map.

3. The Special Floodplain District shall be those areas identified as an AE Zone on the maps accompanying the Flood Insurance Study for which one hundred (100)-year flood elevations have been provided.

4. 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. For these areas, the one hundred (100)-year flood elevations and floodway information from federal, state, and other acceptable sources shall be used, when available. Where the specific one hundred (100)-year flood elevation cannot be determined for this area using other sources of data, such as the U.S. Army Corps of Engineers Flood Plain Information Reports, U.S. Geological Survey Flood-prone Quadrangles, etc., then the applicant for the proposed use, development and/or activity shall determine this elevation in accordance with hydrologic and hydraulic engineering techniques. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough review by the governing body.

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. 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.

10.9 *Official Zoning Map.* The boundaries of the floodplain districts are established as shown on the Flood Insurance Rate Map dated June 18, 2010 which is declared to be a part of this ordinance and which shall be kept on file at the Nelson County Planning and Zoning office.

10.10 *District boundary changes.* The delineation of any of the floodplain districts may be revised by the Board of **S**upervisors where natural or manmade 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.

10.11 *Interpretation of district boundaries.* Initial interpretations of the boundaries of the floodplain districts shall be made by the Planning and Zoning Director. 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.

10.12 *Submitting Technical Data.* A community's base flood elevations may increase or decrease resulting from physical changes affecting flooding conditions. As soon as practicable, but no later than six months after the date such information becomes available, a community shall notify the Federal Insurance Administrator of the changes by submitting technical or scientific data. Such a submission is necessary so that upon confirmation of those physical changes affecting flooding conditions, risk premium rates and flood plain management requirements will be based upon current data.

10.13 *Permit and Application Requirements.*

A. *Permit requirement.* All uses, activities, and development occurring within any floodplain district**,** including placement of manufactured homes**,** shall be undertaken only upon the issuance of a Special Use Permit. Such development shall be undertaken only in strict compliance with the provisions of the ordinance and with all other applicable codes and ordinances, such as the Virginia Uniform Statewide Building Code *(VA USBC)* and the Nelson County Subdivision Regulations. Prior to the issuance of

any permit the Planning and Zoning Director shall require all applications to include compliance with all applicable state and federal laws. Under no circumstances shall any use, activity, and/or development adversely affect the capacity of the channels or floodway of any watercourse, drainage ditch, or any other drainage facility or system.

B. *Alteration or relocation of watercourse.* Prior to any proposed alteration or relocation of any channels or of any watercourse, stream, etc., within this jurisdiction a permit shall be obtained from the U.S. Corps of Engineers, the Virginia State Water Control Board, and the Virginia Marine Resources Commission (a joint permit application is available from any of these organizations). Furthermore, notification of the proposal shall be given by the applicant to all affected adjacent jurisdictions, the Division of Soil and Water Conservation (Department of Conservation and Recreation), and the Federal Insurance Administration.

C. *Site plans and permits applications.* All applications for Special Use Permit for development in the floodplain district and all building permits issued for the floodplain shall incorporate the information contained in subparagraph 1., 2., 3., 4., and 5. and the Planning and Zoning Director may require the applicant to furnish any and all of the following information in subparagraphs 6. through 8. As deemed necessary for determining the suitability of the particular site for the proposed use**,** the following is required:

1. Plans in triplicate drawn to scale showing the nature, location, dimensions, and elevation of the lot, existing or proposed structures, fill, storage of materials, flood proofing measures, and the relationship of the above to the location of the channel, floodway, and the flood protection elevation.
2. For structures to be elevated, the elevation of the lowest floor (including basement).
3. For structures to be flood proofed (nonresidential only), the elevation to which the structure will be flood proofed.
4. The elevation of the 100-year flood.
5. Topographic information showing existing and proposed ground elevations.
6. A typical valley cross section showing the channel of the stream, elevation of land areas adjoining each side of the channel, cross sectional areas to be occupied by the proposed development, and high water information.
7. Plans (surface view) showing elevations or contours of the ground; pertinent structure, fill, or storage of all proposed and existing structures on the site; location and elevations of streets, water supply, sanitary facilities; photographs showing existing land uses and vegetation upstream and downstream, soil types, and other pertinent information.
8. Specifications for building construction and materials, flood proofing, filling, dredging, grading, channel improvement, storage of materials, water supply, and sanitary facilities.

10.14 *General Standards*

The following provisions shall apply to all permits:

A. New construction and substantial improvements shall be 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 anchoring 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.

In addition to provisions A. – H. above, in all special flood hazard areas, these additional provisions shall apply:

I. Prior to any proposed alteration or relocation of any channels or of any watercourse, stream, etc., within this jurisdiction a permit shall be obtained from the U. S. Corps of Engineers, the Virginia Department of Environmental Quality, and the Virginia Marine Resources Commission (a joint permit application is available from any of these organizations). Furthermore, in riverine areas, notification of the proposal shall be given by the applicant to all affected adjacent jurisdictions, the Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management) and the Federal Insurance Administrator.
J. The flood carrying capacity within an altered or relocated portion of any watercourse shall be maintained.
K. Fences shall be installed parallel to a waterway. When a fence crosses a waterway, it shall be designed as a drop-down fence or a suspended cable fence.

10.15 *Specific Standards*

In all special flood hazard areas where Base Flood Elevations have been provided in the Flood Insurance Study or generated according to Section 10.18, the following provisions 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 one foot or more above the Base Flood Elevation.

B. Non-Residential Construction
New construction or substantial improvement of any commercial, industrial, or non-residential building (or manufactured/mobile home) shall have the lowest floor, including basement, elevated one foot or more 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. Such certification, including the specific elevation (in relation to mean sea level) to which such structures are flood-proofed, shall be maintained by the Planning and Zoning Director.

C. Elevated Buildings
Fully enclosed areas, of new construction or substantially improved structures, which 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);

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 Section 10.13 A. and B. and Section 10.15 A.

2. 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 Section 10.13 and Section 10.15 D.

10.16 *Standards for the Floodway District*

The following provisions shall apply within the Floodway District:

A. Encroachments, including fill, new construction, substantial improvements and other developments are prohibited unless certification such as hydrologic and hydraulic analyses (with supporting technical data) is provided demonstrating that encroachments shall not result in any increase in flood levels during occurrence of the base flood. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough review by the Planning and Zoning Director.

Development activities which increase the water surface elevation of the base flood may be allowed, provided that the property owner first applies and obtains the following:

1. Receives an endorsement from the State's Floodplain Program Engineer;

2. Receives a Special Use Permit from The Nelson County Board of Zoning Appeals for a conditional Flood Insurance Rate Map and floodway revision; and
3. Receives the approval of the Federal Emergency Management Agency.

B. If Section 10.19 is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this Article.

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 in an existing manufactured home park or subdivision provided the anchoring, elevation, and encroachment standards are met.

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

A. Agricultural uses, such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming, and wild crop harvesting.
B. Public and private recreational uses and activities, such as parks, day camps, picnic grounds, golf courses, boat launching and swimming area, horseback riding and hiking trails, wildlife and nature preserves, game farms, fish hatcheries, trap and skeet game ranges, and hunting and fishing areas.
C. Accessory residential uses, such as yard areas, gardens, play areas, and pervious loading areas;
D. Accessory industrial and commercial uses, such as yard areas, pervious parking and loading areas, airport landing strips, etc.
E. Flood warning aids and water measurement devices.

10.18 *Standards for the Special Floodplain District*

The following provisions shall apply within the Special Floodplain District:

Until a regulatory floodway is designated, 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 Insurance Rate 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 foot at any point within Nelson County.

Development activities in Zones Al-30, AE, and AH, on the Nelson County's Flood Insurance Rate Map which increase the water surface elevation of the base flood by more than one foot may be allowed, provided the property owner first applies, with the Nelson County Board of Zoning Appeal's endorsement, for a conditional Flood Insurance Rate Map revision, and receives the approval of the Federal Emergency Management Agency.

10.19 *Standards for Approximated Floodplain*

The following provisions shall apply with the Approximated Floodplain District:

The Approximated Floodplain District shall be that floodplain area for which no detailed flood profiles or elevations are provided, but where a one hundred (100)-year floodplain boundary has been approximated. Such areas are shown as Zone A on the maps accompanying the Flood Insurance Study. For these areas, the one hundred (100)-year flood elevations and floodway information from federal, state, and other acceptable sources shall be used, when available.

Where the specific one hundred (100)-year flood elevation cannot be determined for this area using other sources of data, such as the U. S. Army Corps of Engineers Floodplain Information Reports, U. S. Geological Survey Flood-Prone Quadrangles, etc., then the applicant for the proposed use, development and/or activity shall determine this elevation. For development proposed in the approximate floodplain the applicant must use technical methods that correctly reflect currently accepted technical concepts, such as point on boundary, high water marks, or hydrologic and hydraulic analyses. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough review by the Planning and Zoning Director.

The Planning and Zoning Director reserves the right to require a hydrologic and hydraulic analyses for any development.

When such base flood elevation data is utilized, the lowest floor shall be elevated to one foot above the base flood elevation. During the permitting process, the Planning and Zoning Director shall obtain:

1. the elevation of the lowest floor (including the basement) of all new and substantially improved structures; and,
2. the elevation (in relation to mean sea level) to which the structure has been flood-proofed if the structure has been flood-proofed in accordance with the requirements of this article

10.20 *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 subdivision proposals and other development proposals (including manufactured home parks and subdivisions) that exceed fifty lots or five acres, whichever is the lesser.

10.21 *Design criteria for utilities and facilities.*

A. *Sanitary sewer facilities.* All new or replacement sanitary sewer facilities and private package sewage treatment plants (including all pumping stations and collector systems) shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into the flood waters. In addition, they should be located and constructed to minimize or eliminate flood damage and impairment.

B. *Water facilities.* All new or replacement water facilities shall be designed to minimize or eliminate infiltration of flood waters into the system and be located and constructed to minimize or eliminate flood damages.

C. *Drainage facilities.* All storm facilities shall be designed to convey the flow of surface waters without damage to persons or property. The systems shall ensure drainage away from buildings and on site waste disposal sites. The Board of Supervisors may require a primarily underground system to accommodate frequent floods and a secondary surface system to accommodate large, less frequent floods. Drainage plans shall be consistent with local and regional drainage plans. The facilities shall be designed to prevent the discharge of excess runoff onto adjacent properties.

D. *Utilities.* All utilities, such as gas lines, electrical and telephone systems being placed in flood prone areas should be located, elevated (where possible), and constructed to minimize the chance of impairment during a flooding occurrence.

E. *Streets and sidewalks.* Streets and sidewalks should be designed to minimize their potential for increasing and aggravating the levels of flood flow. Drainage openings shall be required to sufficiently discharge flood flows without unduly increasing flood heights.

10.22 *Variances and Special Use Permits*

Variances and Special Use Permits shall be issued by the Board of Zoning Appeals upon:

A. A showing of good and sufficient cause;
B. Determination by the Board of Zoning Appeals that failure to grant the variance would result in exceptional hardship to the applicant; and
C. Determination by the Board of Zoning Appeals that the granting of such Variance or Special Use Permit will not result in:
    1. Unacceptable or prohibited increases in flood heights;
    2. Additional threats to public safety;
    3. Extraordinary public expense;
    4. Nuisances being created;
    5. Fraud or victimization of the public; or
    6. Conflict with local laws or ordinances.

While the granting of variances generally is limited to a lot size less than one-half acre, deviations from that limitation may occur. However, as the lot size increases beyond one-half acre, the technical justification required for issuing a variance increases. Variances may be issued by the Board of Zoning Appeals for new construction and substantial improvements to be erected on a lot

of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, in conformance with the provisions of this section.

Variances may be issued for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that the criteria of this section are met, and the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

In passing upon applications for Variances and Special Use Permits, 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 danger to life and property due to increased flood heights or velocities caused by encroachments. No Special Use Permit or Variance shall be granted for any proposed use, development, or activity within any floodway district that will cause any increase in the Base Flood Elevation (BFE).
B. The danger that materials may be swept on to other lands or downstream to the injury of others.
C. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
D. The susceptibility of the proposed facility and its contents to flood damage and effect of such damage on the individual owners.
E. The importance of the services provided by the proposed facility to the community.
F. The requirements of the facility for a waterfront location.
G. The availability of alternative locations not subject to flooding for the proposed use.
H. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
I. The relationship of the proposed use to the Comprehensive Plan and floodplain management program for the area.
J. The safety of access by ordinary and emergency vehicles to the property in time of flood.
K. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters expected at the site.
L. 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.
M. Such other factors which are relevant to the purposes of this ordinance.

The Board of Zoning Appeals may refer any application and accompanying documentation pertaining to any request for a Special Use Permit or 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.

Special Use Permits or Variances shall be issued only after the Board of Zoning Appeals has determined that Special Use Permit or Variance will be the minimum required to provide relief from any hardship to the applicant.

The Board of Zoning Appeals shall notify the applicant for a Special Use Permit or Variance, in writing, that the issuance of a Special Use Permit or Variance to construct a structure below the Base 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 Special Use Permits or Variance actions, including justification for the issuance of a Special Use Permit or Variance. Any Special Use Permit or Variance which is issued shall be noted in the annual or biennial report submitted to the Federal Insurance Administrator.

10.23 *Existing Structures in Floodplain Districts*

A structure or use of a structure or premises which lawfully existed before the enactment of these provisions but which is not in conformity with these provisions may be continued subject to the following conditions:

A. Existing structures in the Floodway District shall not be expanded or enlarged unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed expansion would not result in any increase in the Base Flood Elevation.
B. Any modifications, alteration, repair, reconstruction, or improvement of any kind to a structure and/or use, located in any floodplain area to an extent or amount of less than fifty (50) percent of its market value, shall be elevated and/or flood-proofed to the greatest extent possible.
C. The modifications, alteration, repair, reconstruction, or improvement of any kind to a structure and/or use, regardless of its location in a floodplain area to an extent or amount of fifty (50) percent or more of its market value, shall be undertaken only in full compliance with the provisions of this ordinance and the Virginia Uniform Statewide Building Code. **O2010-003**

ARTICLE 11. NONCONFORMING USES

11-1 *Continuation.*

11-1-1 If at the time of enactment of this ordinance, any legal activity which is being pursued, or any lot or structure legally utilized in a manner or for a purpose which does not conform to the provisions of this ordinance, such manner of use or purpose may be continued as herein provided.

11-1-2 If any change in title of possession or renewal of a lease of any such lot or structure occurs, the use existing may be continued.

11-1-3 If any nonconforming use (structures or activity) is discontinued for a period exceeding two (2) years after the enactment of this ordinance, it shall conform to the requirements of this ordinance, except that, when a written notice of intent to continue the use of said structure or activity after the expiration of the two (2) year period shall be submitted by the owner of the property before the two (2) year discontinuance period shall expire, which notice shall state that the use will be continued within the next two-year period, the nonconforming activity may continue for an additional two years. The additional two-year discontinuance period permitted by this subsection may neither be extended nor renewed.

11-1-4 Whenever a nonconforming structure, lot or activity has been changed to a more limited nonconforming use, such use may not return to the previous nonconforming use but may only be changed to an even more limited use.

11-2 *Permits.*

11-2-1 All nonconforming uses shall obtain a certificate of occupancy. Such permits shall be issued promptly upon the written request of the owner or operator of a nonconforming use.

11-2-2 The construction or use of a nonconforming building or land area for which a permit was issued legally prior to the adoption of this ordinance may proceed, provided such building is completed within one (1) year, or such use of land established within thirty (30) days after the effective date of this ordinance.

11-3 *Changes in district boundaries.* Whenever the boundaries of a district are changed, any uses of land or buildings, which become nonconforming as a result of such change shall become subject to the provisions of this article.

11-4 *Expansion or enlargement.*

11-4-1 A nonconforming use or structure to be expanded or enlarged more than fifty (50) percent of the area occupied by such use or structure at the time of passage of this ordinance, shall conform with the provisions of this ordinance, except that any expansion of use or structure shall conform to Article 13 of this ordinance.

11-4-2 A nonconforming activity may be extended throughout any part of a structure, which was arranged or designed for such activity at the time of enactment of this ordinance.

11-5 *Nonconforming lots.* Any lot of record at the time of the adoption of this ordinance which is less in area or width than the minimum required by this ordinance may be used when the requirements of the Nelson County Zoning Ordinance regarding front setback, side and rear yards are met.

11-6 *Restoration or replacement.*

11-6-1 Where a conforming structure devoted to a nonconforming activity or where a nonconforming structure is damaged, either may be repaired or restored, provided any such repair or restoration is started within twelve (12) months and completed within twenty-four (24) months from the date of damage or destruction.

11-7 *Mobile home park compliance with ordinance.* That all persons operating, using, or maintaining any mobile home lot or camp in Nelson County in existence as of January 1, 1971, shall comply with all restrictions of this ordinance and of the local and State Building Code by January 1, 1979.

ARTICLE 12. GENERAL PROVISIONS

12-1 *Zoning Permits.*

12-1-1 Improvements shall be started, reconstructed, enlarged, or altered only after a zoning permit has been obtained from the Planning and Zoning Director. **O2010-5**

12-1-2 An application shall be made by all property owners, a contract purchaser with the owners' written consent, or the owners' agent. Each application shall be accompanied by three (3) copies of a Minor Site Plan or ten (10) copies of a Preliminary or Final Site Plan, as the case may be, pursuant to Article 13, accompanied by a filing fee as provided in Article 13. Upon approval of an optional Preliminary Site Plan, the applicant shall submit a Final Site Plan for review before issuance of the permit. **O2010-5**

12-1-3 In the event of a proposed expansion or other material change to improvements for which a zoning permit has been issued previously, the Planning and Zoning Director may approve an amended Minor Site Plan or Final Site Plan, as the case may be, in accordance with Section 13-2 of this Chapter. **O2010-5**

12-1-4 Where an individual septic system is to be used, the owner/agent must submit either a bare application (an application for an individual lot submitted to the Virginia Department of Health for which a representative of this Department will do the required site evaluation to issue a sewage disposal system construction permit) or an AOSE (Authorized Onsite Soil Evaluator) application for each lot to the Virginia Department of Health. The soils work for either application shall show the primary drainfield area together with a reserve area equal to:

(a) For Class 1 and 2 soils, a minimum of fifty (50) percent of the capacity of the primary area and;
(b) For all other soil classes, a minimum of one hundred (100) percent capacity of the primary area. **O2008-08**

12-1-5 Where an alternative waste treatment system is to be used, the developer/property owner shall provide to the Building Official and Planning Director documented proof that the soils and parent materials are satisfactory to the Department of Health, and shall obtain approval of the alternative waste treatment system from the appropriate state agencies, including the Virginia Department of Environmental Quality and the Virginia Department of Health. Such documented proof and approval shall be filed at the time a building permit and zoning permit are applied for.

In all zoning districts, the reserve area for an alternative waste treatment system shall be sufficient to accommodate a minimum of one hundred (100) percent of the capacity of the primary area. **O2008-08**

12-1-6 Any other information which the Planning and Zoning Director deems necessary for consideration of the application may be required. Article 13 shall govern consideration of the application.

12-2 *Certificate of occupancy.*

The Planning and Zoning Director and the County's Building Official shall develop joint forms and procedures designed to streamline applications to their respective offices. **O2010-5**

12-3 *Special Use Permits.*

12-3-1 For the purposes of this Article, the phrase "Special Use" shall mean either Conditional Use or Special Use, as the case may be. **O2010-5**

12-3-2 General Standards and Criteria for Special Use Permit Review.

All applications for Special Use Permits shall be reviewed using the following criteria:

a. The use shall not tend to change the character and established pattern of development of the area or community in which it proposes to locate;
b. The use shall be in harmony with the uses permitted by right in the zoning district and shall not affect adversely the use of neighboring property;
c. The proposed use shall be adequately served by essential public or private services such as streets, drainage facilities, fire protection and public or private water and sewer facilities; and
d. The proposed use shall not result in the destruction, loss or damage of any feature determined to be of significant ecological, scenic or historic importance. **O2010-5**

12-3-3 Special Conditions.
The Board of Supervisors may grant or deny the application either in part or in full and may impose such modifications, regulations, or restrictions, including a limitation of the time for which the permit shall be valid, which such Board in its discretion may determine necessary or requisite in order that the general objectives and purpose of this ordinance shall be complied with.

12-3-4 Application Requirements for Special Use Permits.

a. An application for a Special Use Permit shall be made by all property owners, a contract purchaser with the owners' written consent, or the owners' agent. The application shall be submitted to the Planning and Zoning Director, and shall be accompanied by the required filing fee.
b. If the request for a Special Use Permit has been denied by the Board of Supervisors, a request in substantially the same form shall not be resubmitted within one (1) year of the date of denial.
c. The application shall include the following information:
    1. A Minor Site Plan in accordance with Article 13 of this Ordinance.
    2. A description of the proposed use and, where applicable, the hours of operation and the proposed number of employees or patrons.
    3. A written statement of proposed project compatibility with the following:
        i. The Comprehensive Plan.
        ii. The applicable zoning district.
        iii. The surrounding properties.

iv. Current and future neighborhood conditions.
v. Traffic patterns, on-site and off-site.

4. When requested by the Planning and Zoning Director, the Commission, or the Board of Supervisors, the following information shall be provided by the applicant:
   i. The architectural elevations and floor plans of proposed building(s).
   ii. Traffic impact analysis.
   iii. Fiscal impact analysis.
   iv. Parking and site circulation analysis.
   v. Photographs of property and surrounding area.
   vi. Environmental impact statement.

The Planning and Zoning Director shall not refer the application to the Commission until the application contains all of the information required by this Article. **O2010-5**

12-3-5 Action by Planning Commission

a. No Special Use Permit shall be approved unless the proposal has been reviewed by the Commission. The Commission shall conduct at least one (1) public hearing in accordance with State law. Following the public hearing, the Commission shall prepare and by motion, adopt its recommendations, which may include changes in the applicant's original proposal, and shall report such recommendations, together with any explanatory material, to the Board of Supervisors.
b. Failure of the Commission to act within one hundred (100) calendar days of the first meeting of the Commission after official submission of the proposal shall be deemed approval, unless the proposed Special Use Permit has been withdrawn by the applicant prior to the expiration of such time period or the time period has been extended by mutual agreement by the County and the applicant. **O2010-5**

12-3-6 Action by Board of Supervisors.

Before approving a Special Use Permit, the Board of Supervisors will hold at least one (1) public hearing in accordance with State law, after which such Board may make appropriate changes to or impose appropriate conditions upon the proposed special use. Nothing herein shall preclude the Board from holding a joint public hearing with the Commission. Unless a longer period is agreed to by the applicant, the Board shall act within one (1) year of the official submission of the application. **O2010-5**

12-3-7 Major Site Plan.

Upon approval of the application by the Board of Supervisors, a Preliminary and Final Site Plan, if required, shall be filed with the Planning and Zoning Director and reviewed by the Planning Commission pursuant to Section 13-5 of this Chapter. **O2010-5**

12-3-8 Renewal of SUP with Time Limits, Expiration, Revocation.

a. Renewal of SUP with Time Limits.
   1. A renewal shall be for the purpose of allowing a new period of time for the operation of a currently valid Special Use Permit, provided, however, that the Board of Supervisors shall not approve a renewal application for a use which is no longer allowed as a Special Use Permit in the zoning district in which the Special Use Permit is located.
   2. The procedure for the renewal of a Special Use Permit shall be the same as specified herein for the approval of the original permit, except that the Planning and Zoning Director may waive any submission requirement if such requirement is deemed not necessary for an adequate review of the application.
   3. Any Special Use Permit that is not renewed prior to the established time shall expire without notice and become null and void.

b. Expiration
   1. Whenever a Special Use Permit is approved by the Board of Supervisors, the special use authorized shall be established, or any construction authorized shall be commenced and diligently pursued, within such time as the Board of Supervisors may have specified, or, if no such time has been specified, then within twelve (12) months from the approval date of such permit.
   2. If the special use or construction has not commenced in accordance with the above provisions, then the Special Use Permit shall automatically expire without notice and become null and void.

c. Revocation.
   1. Unless a time limit is specified for a Special Use Permit, the same shall be valid for an indefinite period of time, except that if the use or activity should cease for any reason for a continuous period of two (2) years or more, the permit shall automatically terminate without notice and become null and void.
   2. The approval of a new Special Use Permit shall be required prior to any subsequent reinstatement of the use.
   3. A Special Use Permit shall be revocable upon written order of the Board of Supervisors at any time because of the failure of the owner or operator of the use covered by the permit to observe all requirements with respect to the maintenance and conduct of the use and all conditions in connection with the permit that were imposed in issuing the same. A revoked permit shall become null and void.

d. Official submission.
   An "official submission" is an application or plan that has been filed in the correct form in the proper office accompanied by the appropriate fee and containing all information required by this Article. **O2010-5**

12-3-9 It shall be the duty of the Zoning Administrator to see that the decisions of the Board of Supervisors are complied with.

12-3-10 In enforcing the requirements of the Special Use Permit, the Planning and Zoning Director shall give written notice of violation by certified mail, return receipt requested, to the landowner and to any other person responsible for a violation and who shall be allowed a period of thirty (30) days to correct the violations or to respond to the Planning and Zoning Director seeking relief.

In addition to any other proceeding or remedy available, the Planning and Zoning Director may initiate legal action to force compliance. The foregoing provisions shall not be deemed to preclude the use of any other remedy prescribed by law with respect to violations of the provisions of this ordinance. **O2010-5**

12-3-11 A Special Use Permit becomes void if the permit is not utilized within twelve (12) months after approval, or in the event the use has been discontinued for a consecutive twelve-month period. **O2010-5**

12-4 *Reserved for future use.* **O2010-5**

12-5 *Reserved for future use.* **O2008-004**

12-6 *Widening of streets and highways.*

Whenever there shall be plans in existence, approved by either the State Department of Highways or by the governing body for the widening of any street or highway the Commission may recommend additional front yard setbacks for any new construction or for any structures altered or remodeled adjacent to the future planned right-of-way, in order to preserve and protect the right-of-way for such proposed street or highway widening.

12-7 *Minimum off-street parking.*

The purpose of the regulations set forth in this article is to set forth off-street parking requirements for different permitted uses in this Appendix, to provide necessary parking for the people using various facilities and services, and to reduce traffic hazards and conflicts.

12-7-1 General Requirements.

Off-street automobile and vehicular storage or parking spaces shall be provided as specified in this Section, except that an exemption from off-street parking requirements is herein provided. Required storage and parking spaces shall be provided on the same or an adjacent area within the County.

12-7-2 Meaning of "adjacent area of land."

"Adjacent area of land", as used in this Section shall mean any plat of land located not more than six hundred (600) feet from any nonresidential building or other nonresidential improvement served. Such distance shall be measured from the nearest parking space along the shortest line of public pedestrian access to the building or

improvement served. For the purposes of this article, such adjacent areas of land may be leased from another owner if the Director of Planning approves such lease agreement.

12-7-3 Area exempt from the minimum off-street parking requirements.

The following area shall be exempt from the requirements of this Section except as herein after provided: all property located east of the north lane of Thomas Nelson Highway (Rt. 29) between the intersection of Front Street and Thomas Nelson Highway (south Lovingston) and a point approximately six hundred and seventy-five (675) feet north of the intersection of Northside Lane (north Lovingston) east to the intersection of Front Street and Orchard Street to a line one hundred and fifty (150) feet east and parallel to Front Street and all the property located on the north and south sides of Main Street between Front and Court Street for a depth of one hundred and fifty (150) feet on each side street of this portion of Main Street.

12-7-4 Conditions of exempt area.

12-7-4a Any new construction in the exempt area which replaces the existing floor area or increases the existing floor area by less than ten (10) percent shall not be required to meet the requirements of this section.

12-7-4b Any addition to the exempt area which increases the existing floor area by more than ten (10) percent shall be required to provide one service space and at least one handicapped space unless waived by the Director of Planning or Planning Commission due to site space limitations or needs. Appeal from such a determination shall be the same as outlined in Section 13-5-5.

12-7-4c Any new construction on a parcel of land in the exempt area totally vacant at the time of adoption of this provision on March 10, 1998, shall be required to provide one service space and at least one handicapped space.

12-7-4d "Existing floor area" in this Section refers to the total existing floor area at the time of this provision on March 10, 1998.

12-7-5 Determination of conference.

Any use for which parking is approved as of March 10, 1998, shall be considered as conforming, so long as the use of the building remains undamaged.

12-7-6 Required spaces for specific uses.

The following chart sets forth the number of off-street parking spaces required for specific uses:

	USE	NUMBER OF SPACES
12-7-6a	Commercial	
	(1) Retail - Stores and other than commercial building not specified.	1 space for each 200 sq. ft. of of public floor area.
	(2) Shopping Centers or similar retail groups of buildings.	1 space for each 225 sq. ft. of of public floor area.
	(3) Restaurants	1 space for each 100 sq. ft. of of public floor area.
	(4) Fast food and/or drive-in restaurants.	2 spaces for each 100sq. ft. of public floor area, 15 spaces minimum.
	(5) Kennel, commercial	1 space for each 500 sq. ft of public floor area.
	(6) Furniture and Appliance Store	1 space for each 750 sq. ft. of public floor area.
	(7) Building Supply or Home Center	1 space for each 400 sq. ft. of public floor area located within a building plus one space for each 2,000 sq. ft. of storage outside main building.
	(8) Greenhouses, Nursery Centers, Lawn and Garden Centers	1 space for each 200 sq. ft. of public flor area located within a building plus 1 space for each 700 sq. ft. of gross area located in greenhouses or open storage/growing areas.
12-7-6b	Educational	
	(1) Schools, Colleges and similar establishments	2 spaces for each classroom and 1 space for each 300 sq. ft. of other teaching space.
	(2) Nursery Schools and Child Care	1 space for each 20 children plus 1 space for each employee

12-7-6c Industrial

(1) Manufacturing and Industrial plants including warehouses and storage.	1 space for each employee maximum shift

12-7-6d Medical

(1) Hospitals, Rest Homes, Nursing homes, sanitariums	1 space for each 2 beds

12-7-6e Office

(1) Office Buildings	1 space for each 300 sq. ft. of office floor area

12-7-6f Places of Assembly

(1) Churches and other places of worship	1 space for each 4 fixed seats public or fraction thereof for the main public room(s) or 1 space for each 100 sq. ft. of public assembly where there are no fixed seats.
(2) Clubs, lodges and assembly halls and similar uses without fixed seats.	1 space for each 100 sq. ft. of area used for assembly.
(3) Theaters, Auditoriums and other places of public assembly with fixed seats.	1 space for each 4 seats or 1 space for each 100 sq. ft. of public assembly where there are no fixed seats.

12-7-6g Recreation

(1) Bowling Alley	5 spaces for each lane
(2) Golf Courses	5 spaces for each hole
(3) Driving Ranges	1 space for each driving tee
(4) Miniature Golf Courses	3 spaces for each hole
(5) Dance halls, skating rinks and other similar indoor commercial facilities.	1 space for each 200 sq. ft. of public floor area.
(6) Swimming Pools (membership)	1 space for each 90 sq. ft. of swimming area.

12-7-6h Residential and Lodging

(1) Dwellings, one family, duplex, multi-family.	2 spaces for each dwelling unit.
(2) Motels, Hotels, Boarding Houses	1 space per bedroom plus 1 space for every 2 employees.

12-7-6i Vehicle Sales and Services

(1) Auto service stations and repair garages.	2 spaces for each service bay.
(2) Automobile self service stations	1 space for each 200 sq. ft. of floor area for stations attendant booth, store, etc.
(3) Vehicle sales, service, rental	1 space for each 400 sq. ft. of enclosed sales, rental office and parts floor area plus 2 spaces for each service bay.

12-7-7 Required Off-street loading spaces.

Spaces for the loading and unloading of trucks and vans shall be provided in association with business and industrial uses as follows: One (1) off-street loading space shall be provided and maintained for the first 5,000 square feet of gross floor area, plus one (1) additional space for each additional 20,000 square feet.

12-7-8 Design Standards.

All multi-family, business and industrial uses shall prepare and present for approval complete parking and loading plans which must meet the following standards as a minimum. Additional requirements may be imposed if it is determined that the proposed use would adversely impact the general public health, safety, or welfare without design modification.

12-7-8A Parking space dimensions.

All parking spaces shall be a minimum of eighteen (18) feet in length and nine (9) feet in width.

12-7-8B Handicapped parking spaces.

Parking spaces shall be provided and designated for use by the handicapped in accordance with the parking space accessibility requirements referenced in Chapter 11 of the Uniform Statewide Building Code, Volume 1.

12-7-8C Loading space dimensions.

Each loading space shall be at least twelve (12) feet wide and thirty (30) feet long. Each loading space shall have a vertical clearance of fifteen (15) feet.

12-7-8D Surface treatment.

The drives, parking areas, loading areas, and pedestrian walks shall be surfaced with concrete, bituminous concrete (asphalt), tar and gravel, or at least six (6) inches of stone. The perimeter of gravel parking lots shall be delineated by bumper blocks, railroad ties, or timbers or similar such treatment to maintain the integrity of the parking lot dimensions.

12-7-8E Space demarcations.

Concrete and bituminous concrete parking spaces shall be marked by durable painted lines. In gravel parking lots, each parking space shall be delineated at the end of each space by an individual bumper block, railroad tie, or timber.

12-7-8F Drainage.

Parking lot and loading space drainage shall be designed to comply with the requirements of the Nelson County Erosion and Sedimentation Control Ordinance.

12-7-8G Setbacks.

All parking lots shall be located no closer than five (5) feet from any side or rear property line when a commercial district is next to a residential district, the distance shall be fifteen (15) feet. The front setback shall comply with the requirements of the applicable zoning district. A minimum of fifty (50) percent of the road frontage shall be landscaped.

12-7-8H Internal circulation and access.

Traffic lanes between parking spaces and ingress and egress lanes shall be a minimum of twenty-two (22) feet in width. Sites shall be designed to achieve direct and convenient vehicular circulation between parking lots on adjacent properties. Signs and traffic markings shall be used as necessary to ensure safe traffic and pedestrian movement. All parking lots shall be provided with safe access to a public road using an entrance of such dimensions and location including any tapers and turn lanes as required by the Virginia Department of Transportation.

12-7-8I Drive-in (stacking) lanes.

Stacking space shall be provided for any use having drive-through facilities or areas having drop-off and pick-up areas. A separate lane, with a minimum width of nine (9) feet shall be provided for all drive-in or pick-up facilities. Such lanes shall be clearly separated from parking spaces, aisles and driveways. Stacking spaces shall have a

minimum length of twelve (12) feet, with a minimum of four (4) stacking spaces provided.

12-7-8J Dumpster and garbage can areas.

Solid waste storage areas (dumpster and garbage can) shall be fully screened from view by a solid fence, wall, and/or dense evergreen plantings.

12-7-8K Lighting.

Outdoor lighting for parking and loading spaces shall be arranged to deflect glare away from adjoining properties and public streets. Sources of light on a lot shall be hooded or of directional type capable of shielding the light source from shining on adjoining property or public right-of-way.

12-7-8L Landscaping shopping centers.

A minimum of eight (8) percent of the interior portions of a shopping center parking lot shall be landscaped. Such interior landscaping shall be provided on raised islands at least on hundred (100) sq. ft. in area with sides measuring at least five (5) feet in length. Within the parking lot, raised islands shall be reasonably dispersed throughout to break up the expanse of paving. One (1) tree must be planted for every two hundred (200) sq. ft. per island and three (3) shrubs with a minimum height of two (2) feet for each tree. The remainder of the area of the island shall be landscaped with low growing vegetative ground cover and material such as mulch.

12-7-8M Loading space obstruction and access.

Loading spaces shall be designed to permit loading and unloading without requiring the moving of any parked motor vehicle. In the process of loading and unloading, no vehicle shall block the passage of other vehicles or extend into any public or private drive or street used for traffic circulation. All loading spaces shall be provided with safe and convenient access to a public road using an entrance of such dimensions and location including any tapers and turn lanes as required by the Virginia Department of Transportation.

12-7-8N Loading space screening.

No loading space shall be located closer than fifty (50) feet to an adjoining residential district unless enclosed within the building or by a wall or uniformly painted solid board fence at least eight (8) feet high. Landscaping shall be designed and used to screen adjoining property from storage and loading operation.

12-7-9 Residential Driveway Standards.

To assure safe and convenient access for emergency vehicles to residential uses required off-street parking spaces for single family dwellings shall be served by a driveway with at least a gravel roadbed. Driveways shall provide vehicular access to a distance within one hundred (100) feet of the dwelling unit.

12-7-10 *Reserved for future use.*

12-7-11 *Reserved for future use.*

12-7-12 *Reserved for future use.*

12-7-13 *Reserved for future use.*

12-8 *Permanent mobile home parks.*

The location of mobile home parks shall require in addition to the zoning permit and certificate of occupancy a Special Use Permit issued by the governing body. Owners and/or operators of such parks shall comply with the building code adopted by the State of Virginia. **O2010-09**

12-9 *Fuel.*

Liquefied petroleum gas for cooking purposes shall not be used at individual mobile home or trailer spaced unless the containers are properly connected by copper or other suitable metallic tubing. Liquefied petroleum gas cylinders containing liquefied petroleum gas shall not be located in a mobile home or trailer, or within five (5) feet of a door thereof.

12-10 *Temporary mobile home parks.*

Special Use Permits for temporary mobile home parks may be issued by the governing body subject to the following conditions: **O2010-09**

12-10-1 That the location of a temporary mobile home park is necessary for the housing of construction workers employed on an industrial or highway construction project, or in event of a disaster which requires temporary housing.

12-10-2 That the request is filed by or certified to by the industry or State Department of Highways as being essential to the construction.

12-10-3 That a minimum area of two thousand (2,000) square feet be provided for each space.

12-10-4 That sanitary facilities conform to the State Health Department's "Trailer Camp Sanitation" requirements.

12-10-5 That the period for operating such temporary park shall concur with the anticipated period of the construction or disaster recovery. Applications for renewal may be submitted if more time is required to complete the project. However, such renewal applications must be filed at least ninety (90) days prior to the expiration of the original temporary use permit.

12-10-6 *Bond.* The governing body, in granting such a Special Use Permit, shall require the posting of a bond to assure that the temporary trailer court will be removed and the site left in good order at the expiration of the permit. **O2010-09**

12-10-7 The governing body shall establish such additional requirements as are in the best interest of the public.

12-11 *Signs.*

12-11-1 *Intent.* The purpose of the following sign requirements is to promote and protect the public health, welfare, and safety by regulating existing and proposed outdoor advertising, and outdoor 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 Nelson County. 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.

12-11-2 *General requirements.*

12-11-3 Except as provided in Sections 12-11-21—12-11-31 below and in Section 33.1-351 through Section 33.1-370, Code of Virginia, 1950, as amended, no outdoor advertising sign, or structure shall be erected without a Zoning and Building Permit. Failure to adhere to the requirements of this ordinance automatically cancels such permit and said structure shall be removed forthwith.

12-11-4 For the purpose of computing sign area only one (1) side of a "V-type" or double-faced sign shall be considered.

12-11-5 Rooftop signs or rooftop sign structures shall not extend more than thirty (30) feet above the roofline. Rooftop signs or sign structures shall not extend beyond or overhang any exterior wall of the building upon which secured.

12-11-6 Certain advertisements or structures are prohibited. No advertisement or advertising structure shall be erected, maintained, or operated:

(a) Within six hundred sixty (660) feet of nearest edge of the right-of-way of the Blue Ridge Parkway;

(b) Within six hundred sixty (660) feet of any public cemetery, public park, public playground, national forest, and state forest;

(c) Within fifteen (15) feet of the nearest edge of the pavement of any highway without the written findings from the Commissioner of the Virginia Department of Highways and Transportation, that the structure is anchored outside of the right-of-way and it does not constitute a safety hazard or conflict with any other restrictions contained in Section 33.1 of the Code of Virginia, 1950, as amended;

(d) Which advertise activities, which are illegal under state or federal laws or regulations.

12-11-7 No sign or sign structure shall be placed at any public road intersection in such manner as would obstruct the clear vision in either direction between a point on the centerline of the side road twenty (20) feet from the nearest edge of the pavement of the main road

and points on the main road four hundred (400) feet distant, measured along the nearest edge of the pavement of the main road.

12-11-8 No sign or sign structure shall be placed at any grade intersection of a public road and a railroad in such manner as would obstruct the clear vision in either direction within triangular areas formed by: (a) a point at the center of the railroad-public road intersection; (b) a point on the public road four hundred (400) feet from the center of the railroad-public road intersection as measured along the center of the public road; and (c) a point on the railroad five hundred (500) feet from the center of the railroad-public road intersection as measured along the center of the railroad.

12-11-9 No sign or sign structure shall be placed at or near any curve in a road in such a manner as to obstruct the clear vision of traffic from any one (1) point on such curve to any other point not more than four hundred (400) feet apart, as measured between each point from the nearest edge of the pavement.

12-11-10 No sign shall be erected, relocated, or maintained so as to prevent free ingress to or egress from any door, window, or fire escape.

12-11-11 No portion of any sign structure except official road markers, which shall adhere to the applicable state and local laws, shall be less than ten (10) feet above the level of any adjacent sidewalk or other pedestrian thoroughfare, no less than sixteen (16) feet above the level of an adjacent public driveway, alley or street.

12-11-12 All signs, whether permanent or temporary, shall comply with the applicable requirements of the Building Code.

12-11-13 In the event any sign is to be relocated, it shall be required that the owner of said sign obtain a new building permit.

12-11-14 All signs shall be subject to the setback requirements contained in Table 4, unless otherwise regulated by state or federal regulations.

12-11-15 All sign structures may be erected up to a height of thirty-five (35) feet, except in the business and industrial districts which may be erected up to a height of one hundred (100) feet.

12-11-16 All signs coming within the jurisdiction of state and federal laws along interstate highway and federal-aid primary highway systems shall conform to said laws in lieu of any other sign regulations in this ordinance.

12-11-17 All signs in existence at the time of the passage of this ordinance, which do not conform to this ordinance, shall be classified as nonconforming, but may be continued providing they are properly maintained during the life of such advertisement or advertising structure.

12-11-18 Informational signs of a public or quasi-public nature identifying or locating a town, planned community, hospital, community center, public building, or historic place situated in Nelson County, Virginia, and also signs identifying or locating a school,

college, YMCA, YWCA, church or similar place of worship, board of trade, service club, soil conservation activity, 4-H Club, Isaac Walton League, Chamber of Commerce, or similar public or quasi-public activity for religious, civic, educational or cultural purpose, and signs drawing attention to public parking lots, rest rooms, or to other public convenience relating to such places or activities are permitted. Such signs shall not exceed an area of six (6) square feet, shall not be illuminated, shall contain no advertising matter, and shall be set back not less than five (5) feet from the fronting highway. Nothing contained herein shall be construed to limit the effect of Section 12-11-16.

12-11-19 Official notices or signs posted or displayed by or under the direction of any public or court officer in the performance of his official or directed duties, or by trustees under deeds of trust, deeds of assignment or other similar instruments. Such signs shall not exceed an area of two (2) square feet, shall not be illuminated and shall contain no advertising matter, other than that which may be required by law.

12-11-20 *Permissible signs in all districts.*

The following signs are allowed in all districts and shall be exempt from permit requirements (12-11-21—12-11-31):

12-11-21 Real estate signs advertising sale, rental, or lease of the land or building upon which signs are located, provided that:

a. In residential districts, real estate signs shall not be in excess of six (6) square feet;
b. In business districts, there shall be no sign in excess of thirty-two (32) square feet and no more than three (3) such signs on any single lot;
c. In industrial districts, there shall be no sign in excess of ninety (90) square feet and no more than three (3) such signs on any single lot;

12-11-22 Where multifamily dwellings are a permitted use, one (1) sign for identifying multifamily dwellings of more than four (4) units, provided that such sign shall be located only on the premises of the multifamily dwellings, shall not exceed one hundred (100) square feet in area, shall indicate nothing other than the name and/or address of the premises and the name of the management, and may be illuminated;

12-11-23 Directional signs for parks and playgrounds and other permitted nonresidential uses, provided that such signs shall not exceed four (4) square feet in area;

12-11-24 Professional nameplates not exceeding two (2) square feet in area; such signs to be non-illuminated;

12-11-25 One (1) sign or bulletin board indicating the name of the institution or civic association not exceeding ten (10) square feet in area on premises of public or semi-public facilities;

12-11-26 Signs located on the premises relating to active construction projects;

12-11-27 Memorial signs or tablets, including names of buildings and date of erection when cut into masonry, bronze, or other materials;

12-11-28 Traffic or other public signs or notices posted or erected by or at the direction of a governmental agency;

12-11-29 Customary signs, in conjunction with residential usage, including mailbox lettering, names of residents, house number, names of farms and estates, and other similar usage not exceeding ten (10) square feet;

12-11-30 One (1) subdivision identification sign at the main entrance or entrances to the subdivision provided that such sign shall not exceed one hundred (100) square feet, may be illuminated, shall be so designed as to be in the public interest, and shall make no reference to the sale or lease of the lots or houses located within said identified subdivision;

12-11-31 Temporary signs, including political advertisements:

a. Not allowed longer than sixty (60) days; and

b. Shall be removed by sign owner within five (5) days after the date of the event or activity to which the sign makes reference, or if he fails to do so, by the Zoning Administrator at the owner's expense, five (5) days following registered notification of the owner.

12-11-32 *Permitted signs in all districts.* Table 4 identifies the signs, which are permissible in all districts, without a public hearing.

12-11-33 *Signs as conditional uses.* The following signs may be permitted as conditional or special uses:

12-11-34 Signs related to conditional or special uses. Except as hereinafter provided, signs relating to buildings and uses permitted conditionally or by special use permit, will be in accordance with signs as permitted in the district in which the use is permitted.

12-11-35 *Signs prohibited in all districts.* The following signs are prohibited in all districts:

12-11-36 Any sign which uses the word "stop" or "danger" prominently displayed or which is a copy imitation of official traffic-control signs;

12-11-37 Any sign which involves motion or rotation of any part of the structure or displays an intermittent light or lights within one hundred (100) feet of the nearest edge of the pavement of any highway; provided, however, that the prohibition of this subsection shall not apply to moving or rotating parts of structures, or to displays of intermittent lights, when such structures or displays are located along highways in this State, except the interstate system, and when the moving or rotating parts of such structures, or such displays, convey solely public service information. Public service information shall include all or any of the following information: date, time, temperature, weather, and other similar information; and shall specifically exclude any advertisement as defined in Section 33.1-351 of the Code of Virginia, 1950 as amended;

12-11-38 Any sign which is mobile and is designed to and effectively does distract the attention of passing motorists on any highways by flashing lights, loud and blatant noises, or movable objects;

12-11-39 Any sign which involves red, green, or amber lights or reflectorized material and which resemble traffic signal lights or traffic-control signs and are within visible distance of any highway.

12-11-40 *Maintenance and removal of signs.*

12-11-41 All signs and sign structures shall be kept in repair and in proper state of preservation by the landowner. All signs must adhere to the provisions of the Building Code;

12-11-42 Signs which are no longer functional, or are abandoned, shall be repaired, removed, or relocated at the landowner's expense in compliance with the provisions of this ordinance within thirty (30) days following dysfunction.

12-12 *Electrical hookup for manufactured home, mobile home, recreational vehicle, or travel trailer.* It shall be unlawful for any electric company or cooperative to furnish electric service for any manufactured home, mobile home, recreational vehicle, or travel trailer, as the term applies, unless the owner produces a zoning permit issued by the Zoning Administrator of Nelson County authorizing the placing of the manufactured home, mobile home, recreational vehicle, or travel trailer at the location where electric service is to be installed, which permit number may be checked against the records of Zoning Administrator for the purpose of ascertaining the validity of the permit.

It shall be the duty of the owner to display in a prominent and visible place a good and valid zoning permit at all times after requesting installation of electric service and until such services have been installed.

It shall be unlawful for any person to provide electrical services to a manufactured home, mobile home, recreational vehicle, or travel trailer in Nelson County when the manufactured home, mobile home, recreational vehicle, or travel trailer is to be used and/or equipped as a dwelling or residence unless the lessee or owner produces a valid zoning permit. **O2010-01**

12-13 *Reserved for future use.*

APPENDIX A - ZONING

TABLE 4

PERMITTED SIGNS IN NELSON COUNTY

Type of Sign/District	*Conser-vation C-1*	*Agricul-tural A-1*	*Residential R-1 & R-2*	*Business B-1*	*Industrial M-1 & M-2*	*Setback Require-ments*
General Advertising		50 sq. ft. unlighted	None	60 sq. ft.	100 sq. ft.	25 ft.
Location	35 sq. ft.	150 sq. ft.	See 12-11-22, 12-11-29 & 12-11-30	150 sq. ft.	150 sq. ft.	25 ft.
Directional	2 sq. ft.	2 sq. ft.	2 sq. ft.	2 sq. ft.	25 sq. ft.	5 ft.
Business		50 sq. ft.	Property (sell or rent) 6 sq. ft. churches 50 sq. ft.	150 sq. ft. 1 sign less than 5 ft. beyond building	60 sq. ft. less than 5 ft. beyond building	5 ft.
Home Occupation	2 sq. ft.	2 sq. ft.	2 sq. ft.	2 sq. ft.	2 sq. ft.	5 ft.
Professional Nameplate	2 sq. ft.	2 sq. ft.	2 sq. ft.	2 sq. ft.	2 sq. ft.	5 ft.
Temporary	32 sq. ft.	32 sq. ft.	32 sq. ft.	32 sq. ft.	32 sq. ft.	5 ft.

TABLE 5

ZONING FEES SCHEDULE FOR APPLICATIONS

1. Special Use Permit:

   An application permit fee of Two Hundred Dollars ($200).

2. Rezoning:

   An application permit fee of Three Hundred Dollars ($300).

3. Variance:

   An application permit fee of One Hundred Fifty Dollars ($150).

4. Appeal:

   An application permit fee of One Hundred Fifty Dollars ($150).

O2014-02

ARTICLE 13. SITE DEVELOPMENT PLAN

13-1 *Categories and Applicability of Site Plans.* This Article provides the requirements and applicability of the following site plans:

a. Major Site Plan
b. Minor Site Plan

Site Plans for Residential Planned Communities shall be governed by the provisions of Article 7 of this ordinance. **O2010-5**

13-1-1 *Requirements for site plans.*

A site plan shall be required for any development on any site, in all zoning districts, in any case in which construction or a change in use of the existing site increases the number of on-site parking spaces or anything that causes a visible change in the site. A "visible change" includes grading, removal of vegetation in preparation for future development of the site, mining, digging, and riverbank removal, addition to a building that changes the traffic circulation on the site, or any other change which the Planning and Zoning Director determines to cause a significant impact to the public health, safety and welfare of the citizens of the County.

Major Site Plan. A Major Site Plan shall be required when the project:

1. exceeds one acre of land-disturbed area and is commercial or industrial in nature, or is a mobile home park, or contains three (3) or more dwelling units on one lot, or is an Intentional Community; or
2. entails the erection of a structure or structures exceeding a total of 5000 square feet, excluding agricultural and single family residential construction, on a single parcel.

Minor Site Plan. A Minor Site Plan must accompany zoning permit applications in those undertakings which do not fall within the categories specified for Major Site Plans. A Minor Site Plan must also accompany the initial application for a Special Use Permit and for a rezoning request. For the purposes of this Article, the phrase “special use” shall mean either Conditional Use or Special Use, as the case may be. **O2010-5**

13-1-2 *Site plan exemptions.*

The foregoing notwithstanding, no site plan shall be required for the following:

a. Construction of, or addition to, a single family dwelling on an individual lot.
b. Construction of, or addition to, a two-family dwelling on an individual lot.
c. Accessory structures to single-family dwellings (not meant for commercial use).
d. Accessory buildings or structures on property used for the growing of agricultural crops, livestock, or forestry timber when such buildings or structures are necessary for such growing.
e. Harvesting of plants or trees growing on the site.
f. Clearing of a site for use for agricultural or pasture purposes.
g. Residential Planned Community **O2010-5**

13-2 *Issuance of permits by County.*

No building permit, or other County permit required prior to the initiation of construction of any building or structure or development, shall be issued by any officer or employee of the County for any development which is subject to the provisions of this article until a site plan has been approved. Compliance with the terms contained on any site plan shall be deemed a condition of each and every permit issued by the County. Any permit issued prior to the approval of a site plan is automatically null and void. **O2010-5**

13-3 *Amendment to final plans.*

Any change to an approved Minor Site Plan or Final Site Plan shall require submission and approval of a new plan, except that minor changes may be approved administratively by the Planning and Zoning Director. A minor modification is one that, in the opinion of the Planning and Zoning Director, will not substantially alter the terms of the original approval. Applications for minor modifications of final approved plans made during periods of validity of such plans shall not constitute a waiver of the provisions of this section, nor shall the approval of minor modifications operate to extend the period of validity of any such plans. Each application or submission for an amendment to a plan shall be accompanied by the required fee. **O2010-5**

13-4 *Site plan content.*

The site plan, or any portion thereof, involving engineering, urban planning, landscape architecture, architecture, or land surveying, shall be prepared by a qualified person. Final Site Plans submitted for approval shall be certified by an architect, landscape architect, engineer, or land surveyor licensed or certified to practice by the Commonwealth of Virginia within the limits of his respective license or certification.

The Major Site Plan shall include:

A. The plan shall be prepared at a scale of not less than 1”=20’ except for the index sheet, unless approved by the Planning and Zoning Director.
B. If the plan is prepared on more than one sheet, match lines shall clearly indicate where the several sheets join.
C. Dimensions shall be in feet and decimals of feet to the closest one hundredth of a foot.
D. The proposed title of the project and the name of the owner(s), engineer, architect, landscape architect, surveyor, and developer, as applicable.
E. A signature panel to indicate approvals from the following:
    a. Planning and Zoning Director
    b. Virginia Department of Transportation
    c. Virginia Department of Health
    d. Thomas Jefferson Soil and Water Conservation District
    e. Nelson County Service Authority
F. Tax Map and Parcel Number
G. Adjacent property owners
H. North arrow, scale graphic, and date.
I. Vicinity map.
J. Existing zoning and zoning district boundaries on the property in the development and on immediately surrounding properties. All special zoning requirements attached

directly to the site as a result of the issuance of any Special Use Permit, variance, or rezoning.

K. The boundaries of the property in the development, including bearings and distances.

L. All existing property lines, existing streets or rights-of-way opened or unopened; buildings, watercourses, and lakes; and other existing physical features in or adjoining the project. The physical features, such as watercourses, waterways and lakes on the adjoining properties need only be shown in approximate scale and proportion;

M. Features of particular historic, cultural, scientific, or scenic significance as identified in the Comprehensive Plan, by the Planning and Zoning Director, or by any County department or state agency having site plan review responsibilities, or by the Virginia Department of Historic Resources the Virginia Department of Conservation and Recreation, or the Virginia Outdoors Foundation including, but not limited to, historic features, archaeological features, and graveyards.

N. Building setback lines; the location of all proposed buildings and structures, accessory and main; number of stories and height; proposed general uses for each building; and the number, size, and type of dwelling units where applicable. Preliminary plans and elevations for main and accessory buildings.

O. Type, location, height, and materials of all existing and proposed fences and walls.

P. Site coverage, showing percentage of site in buildings, parking, and open space.

Q. Existing and proposed topography and contour lines of the development site with a contour interval of two (2) feet or less.

R. The location and size of sanitary and storm sewers, gas lines, water mains, culverts, and other underground structures; all overhead utilities and supporting poles in or affecting the development area, including existing and proposed facilities; and easements for these facilities, including the width of the easement.

S. The location of all existing and proposed off-street parking and parking bays, loading spaces, and pedestrian walkways, indicating types of surfacing, dimensions of stalls, width of aisles and a specific schedule showing the number of parking spaces.

T. Final plan for all signs to be erected and/or placed on building. The plan shall show the location and size of each sign along with the purpose of the sign.

U. A final landscape plan.

V. Outdoor lighting information, including a photometric plan and location, description and photograph or diagram of each type of outdoor luminary.

W. All paving, including, without limitation, gravel or other pervious surfaces, shall be of a design and quality to support the traffic which can reasonably be expected to be generated by the proposed use.

X. Limit of one-hundred-year floodplain, and floodway as defined in Article 10 of this Ordinance.

Y. Location of any wetlands in compliance with applicable federal, state, and local definition of wetlands.

Z. The location and dimensions of proposed recreation or open space, and required amenities and improvements, including details of disposition, in accordance with any open space or recreation plan adopted by the County.

AA. Cul-de-sacs may not be construed or employed as a parking area. Suitable easements for future public water and sewer facilities necessary to serve the property shall be indicated on the plan.

BB. All new electrical, telephone, cable television, fiber optic, and other utility lines on the site shall be installed underground.

CC. To the greatest extent possible, parking areas shall not be located between the adjacent public right-of-way and the principal structure on the site unless topographic features or vegetation provide effective screening.

DD. Site planning shall consider the future development of adjacent parcels as recommended by the Nelson County Comprehensive Plan or other approved local plan and as may be indicated by any filed site plan, whether approved or under review. The site plan shall provide for safe and convenient vehicular and pedestrian circulation between sites to be occupied by complementary uses.

EE. If phasing is planned, phase lines and proposed timing of development.

FF. A copy of the approved final Erosion and Sediment Control and Stormwater Management Plan.

GG. Option: A Preliminary Major Site Plan may be submitted to the Planning Commission for review and comment prior to submittal of the Final Site Plan for review and approval.

Minor Site Plan. A Minor Site Plan must accompany zoning permit applications in those undertakings which do not fall within the categories specified for Major Site Plans. A Minor Site Plan must also accompany the initial application for a Special Use Permit and for a rezoning request. For the purposes of this Article, the phrase "special use" shall mean either Conditional Use or Special Use, as the case may be.

A Minor Site Plan shall consist of the following:

A. A vicinity map showing the location of the subject property.
B. Boundary lines of subject property.
C. General layout design of what is proposed on a scale not smaller than one (1) inch equals twenty (20) feet, including the location of all proposed streets, pathways, easements, and all proposed uses of the land. A different scale may be used provided it is approved by the Planning and Zoning Director
D. Building setback lines.
E. Zoning of subject property and adjacent parcel.
F. Amount of land to be disturbed, including drain fields.
G. Tax map and parcel number.
H. Floodplains.
I. Wetlands, streams, rivers, etc.
J. Existing structures and roads.
K. Existing and proposed topography and contour lines of the development site with a contour interval of twenty (20) feet or less for Minor Site Plans, supplemented where necessary by spot elevations.
L. The location of all existing and proposed utilities and easements including the width of the easement.
M. A legend that shows:
    - Ownership (Name and Address)
    - North arrow
    - Graphic scale
    - Area in acres

N. A signature panel to indicate approvals from the following:
- Planning and Zoning Director
- Virginia Department of Transportation
- Virginia Department of Health
- Thomas Jefferson Soil and Water Conservation District
- Nelson County Service Authority

O. Any other information which the Planning and Zoning Director deems necessary for the proper consideration of the application. **O2010-5**

13-5 *Validity of site plans.*

a. An approved Minor Site Plan or Final Site Plan shall be valid for a period of five (5) years from the date of approval, or for such longer period as the Planning and Zoning Director may, at the time of approval, determine to be reasonable, taking into consideration the size and phasing of the proposed site. A plan shall be deemed final once it has been reviewed and approved by the Planning and Zoning Director or Planning Commission, where the only requirement remaining to be satisfied in order to obtain a building permit is the posting of required bonds and escrows.

b. Upon application filed prior to expiration of a plan, the Planning and Zoning Director may grant one (1) or more extension of such approval for additional periods as he may determine reasonable, taking into consideration the size and phasing of the proposed site and the laws, ordinances and regulations in effect at the time of the request for an extension.

c. For so long as the final approved plan remains valid, no change or amendment to any local ordinance, map, resolution, rule, regulation, policy or plan adopted subsequent to the date of approval shall adversely affect the right of the developer or his successor in interest to commence and complete an approved development in accordance with the lawful terms of the plan, unless: (1) the change or amendment is required to comply with state law, or (ii) there has been a mistake, fraud or a change in circumstances substantially affecting the public health, safety or welfare. **O2010-5**

13-6 *Improvements.*

13-6-1 All required improvements should be installed by the developer at his cost. In cases where specifications have been established either by the Virginia Department of Highways for streets, curbs, etc., or by local ordinances and codes, such specifications shall be followed. The developer's bond shall not be released until construction has been inspected and approved by the governing body. All improvements shall be in accordance with the following requirements:

b. *Streets.* All streets in the proposed development shall be designed and constructed by the developer at no cost to the locality.

c. *Alignment and layout.* The arrangement of streets in developments shall make provision for the continuation of existing streets in adjoining areas and proposed streets on adjacent approved site plans. The street arrangement must be such as to cause no unnecessary hardship to owners of adjoining property when they plat their

land and seek to provide for convenient access to it. Where, in the opinion of the Commission, 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. Half streets along the boundary of land proposed for development will not be permitted. Wherever possible, streets should intersect at right angles. In all hillside areas streets running with contours shall be required to intersect at angles of not less than sixty (60) degrees, unless approved by the Planning and Zoning Director upon recommendation of the highway engineer.

d. *Service drives.* Whenever a proposed development contains or is adjacent to a limited access highway or expressway, provision shall be made for a service drive or marginal street approximately parallel to such right-of-way at a distance suitable for an appropriate use of the land between such highway and the proposed development. Such distances shall be determined with due consideration of the minimum distance required for ingress and egress to the main thoroughfare. The right-of-way of any major highway or street projected across any railroad, limited access highway or expressway shall be of adequate width to provide for the cuts or fills required for any future separation of grades.

e. *Approach angle.* Major streets shall approach major or minor streets at an angle of not less than eighty (80) degrees, unless the Planning and Zoning Director, upon recommendation of the highway engineer, shall approve a lesser angle of approach for reasons of contour, terrain, or matching of existing patterns.

f. *Minimum widths.* The minimum width of proposed streets, measured from lot line to lot line, shall be as shown on the major street plan, or if not shown on such plan shall be as specified by the Virginia Department of Highways for acceptance into the State Secondary System.

g. *Construction requirements.* All public streets shall be constructed to requirements as specified by the Virginia Department of Highways for acceptance into the State Secondary System.

h. *Minimum street construction.* Private streets will be so constructed as to alignment and grade, that the minimum grade is no greater than the Virginia Department of Highways Standards for the particular terrain. Road metal or base shall be of a material and width acceptable to the Virginia Department of Highways. Proper drainage shall be installed and maintained.

i. *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 Planning and Zoning Director. Names of existing streets shall not be changed except by approval of the governing body.

i. *Storm drainage facilities.* The developer 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 developer shall also provide plans for all such improvements together with a properly qualified certified engineer's or surveyor's statement that such improvements, when properly installed, will be adequate for proper development. The highway engineer shall then approve or disapprove the plans. The developer shall also provide any other information required by the highway engineer. The developer shall install the approved storm drainage facilities.

j. *Fire protection.* Adequate fire hydrants in a development at locations approved by the Planning and Zoning Director shall be installed by the developer, provided adequate public water is available. The location of the fire hydrants shall meet the National Board of Fire Underwriters specifications.

k. *Easements.* The Commission may require that easements for drainage through adjoining property be provided by the developer. Easements of not less than fifteen (15) feet in width shall be provided for drainage, water, sewer, power lines and other utilities in the subdivision when required by the Planning and Zoning Director.

l. *Bond.* Before any site plan will be finally approved the developer shall, in lieu of construction, furnish bond, or other security acceptable to the governing body, in an amount calculated by the Planning and Zoning Director to secure the required improvements in accordance with specifications and construction schedules established, which bond shall be payable to and held by the governing body.

m. *Plans and specifications.* Two (2) blue or black line prints of the plans and specifications for all required physical improvements to be installed, shall be prepared by a licensed surveyor or licensed engineer and shall be submitted to the Planning and Zoning Director for approval or disapproval within sixty (60) days. If approved, one (1) copy bearing certification of such approval shall be returned to the developer. If disapproved, all papers shall be returned to the developer with the reason for disapproval in writing. If no action in sixty (60) days, the plat shall be deemed approved. **O2010-5**

13-6-2 Where the developer 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 Planning and Zoning Director a departure may be made without destroying the intent of such provisions, the Commission may authorize an exception. Any exception thus authorized is to be stated in writing in the report of the Commission, with the reasoning, on which the departure was justified, set forth. No such variance may be granted by this ordinance, which is opposed in writing by the highway engineer or health official.

13-7 *Administration.*

A. Administrative Authority.

1. The Board of Supervisors designates the Planning Commission to review and act to approve or disapprove Final Site Plans within its jurisdiction.

2. The Planning and Zoning Director is designated to review and act to approve or disapprove Minor Site Plans, provided however, that the Planning and Zoning Director may refer any application within his jurisdiction to the Planning Commission for review and action.

3. In the performance of its duties in the review of Final Site Plans, the Planning Commission shall request and consider the review and comments of the Planning and Zoning Director, the Site Plan Review Committee, selected County staff, and other public agencies.

4. Approval Procedures.

    a. The Planning and Zoning Director shall consult with the Virginia Department of Highways and Transportation, the Department of Health, and any other officials and professional representatives he deems necessary in preparation of his comments and recommendations.

    b. Upon the official submission of a Final Site Plan, the Planning Commission shall complete action in accordance with Section 15.2-2259 of the Code of Virginia as amended from time to time.

    c. Upon the official submission of a plan requiring approval by the Planning and Zoning Director, the Planning and Zoning Director shall complete action in accordance with Section 15.2-2259 of the Code of Virginia as amended from time to time.

    d. An "official submission" is a plan that has been filed in the correct form in the proper office accompanied by the appropriate fee and containing all information required by this Article.

B. Other Administrative Considerations.

1. The Planning and Zoning Director, as the designated agent of the Planning Commission, shall be responsible for the receipt and processing of all site plan applications, subject to the procedures provided in this chapter.

2. The Planning and Zoning Director may establish, from time to time, such proper and reasonable administrative procedures, in addition to those provided herein, as shall be necessary for the proper administration of this chapter.

3. County Staff and other designated public officials responsible for the supervision, inspection, testing and enforcement of this chapter shall have the right to enter upon any property subject to the provisions of this chapter and the Zoning Ordinance at all reasonable times during the periods of plan review and construction for the purpose of ensuring compliance with this chapter.

4. It shall be the responsibility of the applicant, owner or developer to notify the Planning and Zoning Director when each stage of the development shall be ready

for field inspection for compliance with the approved site plan in accordance with testing and inspection schedules and regulations promulgated by this chapter.

C. Waiver of Requirements for a Site Plan.

The Planning and Zoning Director, at his sole discretion, may waive the requirement for a Minor Site Plan or any required element specified within it upon consideration of the factors outlined below.

The Planning Commission, at its sole discretion, may waive the requirements for the Major Site Plan or any required element specified within it upon consideration of the following factors:

1. Where it can be clearly established by the applicant that the use will not require the improvements subject to review in this chapter.

2. Where it can be clearly demonstrated by the applicant that a waiver from the requirement to submit a site plan (or a portion thereof) will be in keeping with the intent of this chapter.

3. Where it can be clearly shown that the application for a site plan and building permit involves building and safety regulations which are not critical to the purpose and intent of the Zoning Ordinance.

4. Where it can be clearly established by the applicant that such waiver will not have an adverse effect on:

    a. the public health, safety, welfare, and convenience;
    b. the planning for and provision of adequate public facilities, utilities, drainage, environmental controls, and transportation facilities;
    c. preservation of agricultural, forestry and conservation lands; and
    d. other relevant considerations related to the Comprehensive Plan.

5. Where it can be demonstrated that any change in, or expansion of, a use that meets the following criteria:

    a. Such change or expansion does not occasion additional parking as required by this ordinance, and
    b. No additional ingress/egress to a public road or changed ingress/egress is recommended by the Planning and Zoning Director based on intensification or use, and
    c. No additional ingress/egress or alteration of existing ingress/egress is proposed, and
    d. Disturbed land is less than 5000 square feet in area, and
    e. It has been verified in writing by the Planning and Zoning Director that: (a) availability and connection to water and sewer are attainable; or (b) adequate private well and septic facilities can be provided where public water and sewer are not available.

6. An applicant seeking a waiver from a requirement to submit a Major or Minor Site Plan (or any portion thereof) shall, upon request, provide written documentation to the Planning and Zoning Director addressing the applicable conditions for waiver.

   For Final Site Plan waivers, the Planning and Zoning Director shall refer the request and applicant's supporting documentation to the Planning Commission for action at its next regularly scheduled meeting. The applicant shall be notified in writing of the outcome of such action by the Planning and Zoning Director within ten (10) days upon action by the Planning Commission.

7. Notwithstanding any grant of waiver, the applicant is not relieved by such grant of having to obtain all necessary permits and approvals, including but not limited to a building permit, erosion and sediment control permit, and, upon completion of improvements, a certificate of occupancy. **O2010-5**

13-8 *Reserved for future use.*

13-9 *Fees.*

There shall be a charge for the examination and approval or disapproval of every site plan. At the time of filing the site plan, the developer shall deposit with Nelson County a check payable to the Treasurer of Nelson County in the amount of:

a. $500.00 – Major Site Plan Approval

b. $100.00 – Planning Commission Review and Comment on Preliminary Major Site Plan

c. $100.00 – Minor Site Plan

d. $100.00 – Site Plan Amendment **O2010-5**

13-10 *Intentional Community.*

13-10-1 Intentional Communities shall be subject to the provisions of Article 13 of the Zoning Ordinance of Nelson County.

13-10-2 *Density.*

Intentional Communities shall have a density of no greater than one (1) dwelling per two (2) acres, unless there is central water or sewer. If the Intentional Community is to exceed the density of one (1) dwelling per two (2) acres, then the Intentional Community shall construct either a central water or central sewer system. Clustering will be allowed in an Intentional Community, but dwellings must be at least fifty (50) feet apart.

13-10-3 *Road Standards.*

For Intentional Communities that have private streets serving between three (3) and twenty (20) dwellings, each private street must be constructed to the Class 1 road standards described in the Subdivision Ordinance of Nelson County. For Intentional Communities with private streets serving more than twenty (20) dwellings, each private

street must be constructed to the Class 2 road standards described in the Subdivision Ordinance of Nelson County. All streets shall be named. Street names must be approved by the County Administrator. Names of existing streets shall not be changed except by approval of the County Administrator.

13-10-4 *Fire Protection*

Where public water is available, the developer shall install fire hydrants. The location and number of fire hydrants shall comply with the regulations of the Nelson County Service Authority. Where public water is not available and the Intentional Community contains fifteen (15) or more dwellings, the Intentional Community shall provide both dry hydrant with a natural or manmade water source meeting the specifications contained in the National Fire Code and an all-weather access road to the same.

13-10-5 *Open Space.*

At least sixty (60) percent of the property must be unimproved land, which may consist of any combination of open space, cultivated agricultural or forestall lands. This requirement also applies to any future subdivision of the subject parcel.

13-10-6 *Substandard Intentional Communities.*

An existing Intentional Community, which is not in conformity with this ordinance, may be further developed; however, any further development shall conform to the provisions of this ordinance and any other applicable local ordinances. If an Intentional Community is developed in accordance with a previously approved plan, the provisions of this ordinance do not apply. If an Intentional Community is developed beyond what is included in a previously approved plan, then the provisions of this ordinance do apply.

If, in the opinion of the Planning Commission, total compliance is impractical, the Planning Commission may approve further development of an Intentional Community which is not in compliance with the provisions of this ordinance if such further development will comply more closely to the existing local ordinances than does the substandard Intentional Community. Any exception so authorized shall be set forth in a written statement by the Planning Commission detailing the reason for the exception and filed as an addendum to the site plan.

13-10-7 *Subdivisions.*

Any subdivision of property for the purpose of conveying parcels of land developed under Section 13-8 can be subdivided only after meeting all provisions of the Nelson County Subdivision Ordinance in effect at the time the subdivision is requested.
(Res. of 2-14-95)

ARTICLE 14. BOARD OF ZONING APPEALS*

14-1 *Board of Zoning Appeals, membership and organization.*

14-1-1 A board consisting of five (5) members and one alternate shall be appointed by the Nelson County Circuit Court. Members of the board of zoning appeals may receive such compensation as may be authorized by the governing body. Appointments for vacancies occurring otherwise than by expiration of term shall in all cases be for the unexpired term. **O2009-11**

14-1-2 The term of office shall be for five (5) years, except that of the first five (5) members appointed, one shall serve for five (5) years, one for four (4) years, one for three (3) years, one for two (2) years, and one for one (1) year. One (1) of the five (5) appointed members shall be an active member of the Planning Commission.

14-1-3 Members may be removed for cause by the appointing authority upon written charges and after a public hearing.

14-1-4 Any member of the board shall be disqualified to act upon a matter before the board with respect to property in which the member has an interest.

14-1-5 The board shall choose annually its own chairman and vice-chairman who shall act in the absence of the chairman.

14-2 *Powers and duties of Board of Zoning Appeals.*

The Board of Zoning Appeals shall have the following powers and duties:

14-2-1 To hear and decide applications for Special Use Permits where authorized in this ordinance.

14-2-1a To hear and decide applications for Special Use Permits to erect an accessory building prior to the construction of the primary building on the same lot or parcel.

14-2-2 To hear and decide appeals from any order, requirement, decision, or determination made by an administrative officer in the administration or enforcement of this article or of any ordinance adopted pursuant thereto.

14-2-3 To hear and decide applications for interpretation of the district map where there is any uncertainty as to the location of a district boundary. After notice to the owners of the properties affected by any such question, and after public hearing with notice as required by Section 15.2-2204 of the Code of Virginia, 1950, as amended, the board may interpret the map in such way as to carry out the intent and purpose of the ordinance for the particular district in question.

14-2-4 To authorize upon appeal in specific cases such variance from the terms of the ordinance as will not be contrary to the public interest, when, owing to special conditions a literal enforcement of the provisions will result in unnecessary hardship; provided that the spirit of the ordinance shall be observed and substantial justice done, as follows:

When a property owner can show that his property was acquired in good faith and where by reason of the exceptional narrowness, shallowness, size, or shape of a specific piece of property at the time of the effective date of the ordinance, or where by reason of exceptional topographic conditions or other extraordinary situation or condition of such piece of property, or of the use or development of property immediately adjacent thereto, the strict application of the terms of the ordinance would effectively prohibit or unreasonably restrict the use of the property or where the board is satisfied, upon the evidence heard by it, that the granting of such variance will alleviate a clearly demonstrable hardship, as distinguished from a special privilege or convenience sought by the applicant, provided that all variances shall be in harmony with the intended spirit and purpose of the ordinance. **O2009-09**

The board shall authorize no such variance unless it finds:

(a) That the strict application of the ordinance would produce undue hardship;
(b) That such hardship is not shared generally by other properties in the same zoning district and the same vicinity;
(c) That the authorization of such variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance;
(d) That no rise will be created in the water level during flood conditions in a floodway, as defined in Article 10, as a result of issuing a variance.

No such variance shall be authorized except after notice and hearing as required by the Code of Virginia, 1950, as amended.

No variance shall be authorized unless the board finds that the condition or situation of the property concerned or the intended use of the property concerned or the intended use 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.

In authorizing a variance the board may impose such conditions regarding the location, character, and other features of the proposed structure for use as it may deem necessary in the public interest, and may require a guarantee or bond to insure 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 this ordinance; however, the use or the structure permitted by the variance may not be expanded. (The Code of Virginia, 1950, as amended.)

14-3 *Rules and regulations.*

14-3-1 The Board of Zoning Appeals shall adopt such rules and regulations, as it may consider necessary.

14-3-2 The meeting of the board shall be held at the call of its chairmen or at such times as a quorum of the board may determine.

14-3-3 The chairman, or in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses.

14-3-4 The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact. It shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the board and shall be a public record. The board shall submit an annual report of its activities to the governing body.

14-3-5 All meetings of the board shall be open to the public.

14-3-6 A quorum shall be at least three (3) members.

14-3-7 A favorable vote of three (3) members of the 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 the board is required to pass.

14-4 *Appeal to the Board of Zoning Appeals.*

An appeal to the board may be taken by any person aggrieved or by any officer, department, board, or bureau of the county or municipality affected by any decision of the Zoning Administrator. Such appeal shall be taken within thirty (30) days after the decision appealed from by filing with the Zoning Administrator, and with the board, a notice of appeal specifying the grounds thereof. The Zoning Administrator shall forthwith transmit to the board all the papers constituting the record upon which the action appealed was taken. An appeal shall stay all proceedings in furtherance of the action appealed from unless the Zoning Administrator certifies to the board that by reason of facts stated in the certificate a stay would in his opinion cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise, than by a restraining order granted by the board or by a court of record, on application, and on notice to the Zoning Administrator and for good cause shown.

14-5 *Procedures on appeal or application to the Board of Zoning Appeals.*

14-5-1 Appeals shall be mailed to the Board of Zoning Appeals c/o The Zoning Administrator, and a copy of the appeal mailed to the secretary of the Planning Commission. A third copy should be mailed to the individual, official, department, or agency concerned, if any.

14-5-2 Appeals requiring an advertised public hearing shall be accompanied by a certified check for one hundred fifty dollars ($150.00) payable to the County Treasurer for deposit in the general fund. **O2014-02**

14-5-3 The board shall give a reasonable time for the hearing of an appeal or application, give public notice as required by Section 15.1-431 of the Code of Virginia, as well as give due notice to the parties in interest, and decide the same within sixty (60) days.

14-5-4 In exercising its powers the board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from.

14-6 *Decision of Board of Zoning Appeals.*

14-6-1 Any person or persons jointly or severally aggrieved by any decision of the Board of Zoning Appeals, or any taxpayer or any officer, department, board, or bureau of the county or municipality, may present to the circuit court of the 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.

14-6-2 Upon the presentation of such petition, the court shall allow a writ of certiorari to review the decision of the Board of Zoning Appeals and shall prescribe therein the time within which a return thereto must be made and served upon the relater's attorney, which shall not be less than ten (10) days and may not 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.

14-6-3 The Board of Zoning Appeals 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 or 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.

14-6-4 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.

14-6-5 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 15. VIOLATION AND PENALTY

15-1 All departments, officials, and public employees of this jurisdiction 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.

15-2 Any person, firm, or corporation, whether as principal, agent, employed 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 not less than ten dollars ($10.00) nor more than one thousand dollars ($1,000.00). If the violation is uncollected at the time of the conviction, the court shall order the violator to abate or remedy the violation in compliance with the Zoning Ordinance within a time period established by the court. Failure to remove or abate a zoning violation within the specified time period shall constitute a separate misdemeanor offense punishable by a fine of not less than ten dollars ($10.00) nor more than one thousand dollars ($1,000.00), and any such failure during any succeeding thirty (30) day period shall constitute a separate misdemeanor offense for each ten (10) day period punishable by a fine of not less than one hundred dollars ($100.00) nor more than one thousand, five hundred dollars ($1,500.00).

ARTICLE 16. AMENDMENT AND REZONING

16-1 *Procedures for amendment.*

The regulations, restrictions and boundaries established in this ordinance may, from time to time, be amended, supplemented, changed, modified, or repealed by the governing body pursuant to Section 15.2-2285 of the Code of Virginia, as follows:

16-1-1 A petition for rezoning shall be made by all property owners, contract purchaser with the owners' written consent, or the owners' agent. The petition shall be submitted to the Planning and Zoning Director together with a Minor Site Plan pursuant to Article 13, Section 13-1-2 of this Chapter and the required fee. **O2010-5**

16-1-2 By the adoption by the governing body of a resolution of intention to amend, which resolution, upon adoption, shall be referred to the Planning Commission.

16-1-3 By the adoption by the Planning Commission of a resolution of intention to propose an amendment.

16-2 *Public hearing.*

16-2-1 The Planning Commission shall hold at least one (1) public hearing on such proposed amendment after notice as required by Section 15.2-2204 of the Code of Virginia, and may make appropriate changes in the proposed amendment as a result of such hearing. Upon the completion of its work, the Commission shall present the proposed amendment to the governing body together with its recommendations and appropriate explanatory materials.

16-2-2 No change shall be made by the governing body in the zoning ordinance or zoning map unless the governing body has referred the proposed change to the Planning Commission for its recommendations. Failure of the Commission to report sixty (60) days after the first meeting of the Commission after the proposed change has been referred to the Commission, shall be deemed approval.

16-2-3 Before approving and adopting any amendment, the governing body shall hold at least one (1) public hearing thereon, pursuant to public notice as required by Section 15.2-2204 of the Code of Virginia, after which the governing body may make appropriate changes or corrections in the proposed amendment; provided, however, that no additional land may be zoned to a different classification than was contained in the public notice without an additional public hearing after notice required by Section 15.2-2204 of the Code of Virginia. An affirmative vote of at least a majority of the members of the governing body shall be required to amend the zoning ordinance.

16-3 *Denial of petition to amend.*

In the event that the governing body shall deny the petition of any property owner or other petitioner to amend this ordinance, substantially the same petition shall not be reconsidered for a period of one (1) year from the date of the original denial by the governing body.

16-4 *Conditional zoning.*

16-4-1 In order to provide for the orderly development of land in special situations where existing zoning district regulations are inadequate to protect the community, rezoning or amendments to the zoning map may be allowed subject to conditions voluntarily proffered by the zoning applicant that are not generally applicable to land similarly zoned.

16-4-2 The governing body may approve reasonable conditions in addition to existing zoning district regulations as part of a rezoning or amendment of the zoning map, provided that the conditions meet the following criteria:

(a) The rezoning itself must give rise to the need for conditions.
(b) All conditions shall have a reasonable relation to the rezoning.
(c) No condition shall include a cash contribution to the County.
(d) No condition shall include a mandatory dedication of real or personal property for open space, parks, schools, fire stations or other public facilities except those provided for by law.
(e) No condition shall include payment for or construction of off-site improvements except those otherwise provided for by law.
(f) All conditions shall relate to the physical development or physical operation of the property.
(g) All conditions shall be in conformity with the County's comprehensive plan.
(h) No condition shall be used for the purpose of discrimination in housing.

16-4-3 The owner or owners of the property which is the subject of a conditional rezoning request shall voluntarily proffer in writing such conditions as he deems appropriate at the time of filing an application to rezone the property or by such later date as the planning commission shall establish in its rules and regulations, but in any event before the commission makes its recommendation to the governing body.

The governing body may consider additional proffers, deletions, and/or amendments to all such conditions provided same have been voluntarily proffered in writing by the owner of the property which is the subject of the rezoning request prior to the public hearing before the governing body.

After the public hearing before the governing body has commenced, should additional or modified conditions be proffered by the applicant, which conditions were discussed at the public hearing before the planning commission, then a second public hearing before the governing body shall be held before the application and the modified conditions can be approved.

Should additional conditions be proffered by the applicant at the time of the public hearing before the governing body, which conditions were not addressed at the public hearing before the planning commission, or if the proffered conditions are modified beyond the scope of any conditions considered at the public hearing before the planning commission, the application shall be the subject of a second public hearing before the planning commission and governing body.

If the amendment to the zoning map is adopted subject to the conditions proffered by the applicant as set forth above, then the property in question shall be appropriately annotated on the zoning map and all other land records referencing the conditions as adopted.

Such conditions shall become a part of the zoning regulations applicable to the property in question, unless subsequently changed by an amendment to the zoning map, and such conditions shall be in addition to the specific regulations set forth in this ordinance for the zoning district in question.

Upon approval, any site plan, subdivision plat, or development plan thereafter submitted for the development of the property in question shall be in substantial conformity with all proffered statements, plans, profiles, elevations, or other demonstrative materials, and no development shall be approved by any county official in the absence of said substantial conformity.

For the purposes of this section, substantial conformity shall mean that conformity which leaves a reasonable margin for adjustment due to final engineering data but conforms with the general nature of the development, the specific uses, and the general layout depicted by the plans, profiles, elevations, and other demonstrative materials presented by the applicant.

Once conditions have been approved, and there is cause for an amendment, which would not be in substantial conformity with the proffered conditions, then an application shall be filed for an amendment. Such amendment shall be the subject of public hearing in accordance with the provisions of Section 16-2 of this ordinance.

16-4-4 Proffered conditions shall be interpreted to include written statements, development plans, profiles, elevations, photographs of models, and/or other demonstrative materials.

All such materials shall be annotated with the following statement signed by the owner or owners of the subject property: "I (we) hereby proffer that the development of the subject property of this application shall be in strict accordance with the conditions set forth in this submission".

16-4-5 The zoning map shall show by an appropriate symbol the existence of conditions attaching to the zoning on the map.

The zoning administrator shall maintain a conditional zoning index, which shall be available in his office for public inspection during regular office hours. The index shall provide ready access to the ordinance creating such conditions in addition to the regulations provided for in a particular zoning district.

16-4-6 The zoning administrator shall be vested with all the necessary authority on behalf of the governing body to administer and enforce conditions attached to such rezoning or amendment of the zoning map, including:

(a) The ordering in writing of the remedy of any non-compliance with such conditions.
(b) The bringing of appropriate legal action to insure compliance with such conditions.
(c) The requiring of a guarantee or contract or both for construction of physical improvements required by such condition(s).
(d) The denial of zoning certification with regard to the issuance of any required use, occupancy or building permit.

16-4-7 Any zoning applicant who is aggrieved by the decision of the Planning and Zoning Director under Section 16-4-5 may petition the governing body for review of such decision(s).

Such petition shall be filed with the Planning and Zoning Director within thirty (30) days after the decision. The Planning and Zoning Director may schedule an appeal hearing by the governing body within forty-five (45) days of receipt of written notice of appeal. The Planning and Zoning Director shall forward the petition and his justification for his decision(s) to the governing body and aggrieved person no less than ten (10) days prior to the next regularly scheduled meeting of the governing body. Written notice of such meeting shall be given to all parties as required by Section 15.2-2204 of the Code of Virginia.

ARTICLE 17. ADMINISTRATION AND INTERPRETATION*

17-1 This ordinance shall be enforced by the Administrator who shall be appointed by the governing body. The Administrator shall serve at the pleasure of that body. Compensation for such shall be fixed by resolution of the governing body.

17-2 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, such construction must commence within thirty (30) days after this ordinance becomes effective. 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.

17-3 *Interpretation.*

Unless district boundary lines are fixed by dimensions or otherwise clearly shown or described, and where uncertainty exists with respect to the boundaries of any of the aforesaid districts as shown on the zoning map, the following rules shall apply:

17-3-1 Where district boundaries are indicated as approximately following or being at right angles to the centerlines of streets, highways, alleys, or railroad main tracks, such centerlines or lines at right angles to such centerlines shall be construed to be such boundaries as the case may be.

17-3-2 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 centerline of low water or at the limit of the jurisdiction.

17-3-3 If no distance, angle, 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 said zoning map. In case of dispute in the use thereof, the determination of the governing body shall be final.

17-4 *Effective date.*

The effective date of this ordinance shall be from and after its passage and legal application, and its provisions shall be in force thereafter until repealed.

17-5 *Severablility.*

Should any section of provisions of this ordinance be decided by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole, or any part thereof other than the part so held to be unconstitutional or invalid.

17-6 *Conflicting ordinances, statutes, and regulations.*

Whenever any section or provision of this ordinance or of any regulation adopted under the authority of this ordinance requires a greater width of lot or size of lot or yard or other open spaces, or requires a lower height of building or less number of stories, requires a greater percentage of lot to be left unoccupied or imposes other higher standards than are required in any state statute or other county ordinance or regulation, the provision of this ordinance or of the regulation adopted under the authority of this ordinance shall govern.

Whenever any section or provision of any state statute or other county ordinance or regulation requires a greater width or size of yards, courts, or other open spaces, requires a lower height of building or a less number of stories, requires a greater percentage of lot to be left unoccupied or imposes other higher standards than are required by any section or provision of this ordinance or of any regulation adopted under the authority of this ordinance, the provisions of such state statute or other county ordinance or regulation shall govern.

17-7 A certified copy of the foregoing zoning ordinance of Nelson County, Virginia, shall be filed in the office of the Zoning Administrator of Nelson County, and in the office of the clerk of the Circuit Court of Nelson County.

ARTICLE 18. LIMITED INDUSTRIAL M-1

Statement of intent.

This district is intended to provide for and encourage limited industries to locate and/or expand in order to foster development of the local economy. These industries are generally light industrial which are office oriented or oriented toward the manufacturing, processing, assembly, warehousing and/or distributing of goods and materials which are dependent upon previously prepared raw materials refined or processed elsewhere. It is expected that uses in this district be to be operated from within a building.

18-1 *Uses—Permitted by right.*

The following uses shall be permitted by right in Limited Industrial Districts subject to the regulations of Article B.

18-1-1 Dwellings and agricultural uses existing at the time the land is zoned in this district

18-1-2 Manufacturing, assembly, data processing, computing, warehousing, research and development, wholesaling, tele-marketing and similar industrial uses provided there is no air discharge requiring smoke stack approval and the use complies with Section 18-4

18-1-3 Office Complex - a minimum of 100,000 square ft. lot with a minimum aggregate in one (1) or more building of 5,000 square ft. of gross floor area

18-1-4 Public utility: Generating, booster or relay stations, transformer substations, transmission lines with support structures, and other facilities for the provision and maintenance of public utilities, including railroads and facilities, water and sewage installations, water storage tanks, and wooden telephone poles for electric, telephone lines and similar lines **O2011-04**

18-1-4 Communication towers subject to Article 20, Communication Tower Ordinance

18-1-5 Small wind energy system, per requirements in Article 22 of these regulations **O2009-12**

18-2 *Permitted accessory uses.*

18-2-1 Residential quarters for bona fide caretakers; or

18-2-2 Food service facilities expressly designed for use of an establishment or group of establishments located in the district.

18-2-3 Recreational facilities for employees of establishments in the district.

18-2-4 Retail stores, planned and built as part of manufacturing or processing operations dealing in the products produced in such operations, intended primarily for the exhibition and promotion of those products as well as their sale.

18-2-5 Warehouses and storage facilities except as prohibited in subsection 18-5 below, meeting other regulations of this section.

18-2-6 Offices planned and built as part of manufacturing or processing operation.

18-2-7 Public utilities: transform substations, transmission lines with support structures, pipes, meters, and other facilities for the provision and maintenance of public utilities, including railroads (except railroad yards), water and sewage installations, and water storage tanks.

18-3 Uses—Permitted by Special Use Permit only. **O2010-09**

18-3-1 Any use requiring outside storage or displays

18-3-2 Any television antennas, radio antennas, microwave towers, and other public communication facilities which exceed thirty-five (35) feet in height

18-3-3 Automobile service stations

18-3-4 Heliports, helistops, provided that such facilities meet all federal, state and local regulations and are located at least one-half (1/2) mile from any residential district or use

18-3-5 Lattice structure used to support a wind turbine **O2009-12**

18-3-6 Motels

18-3-7 Retail drug and food stores, wearing apparel shops, banks, barber shops, beauty shops, hardware stores, printing shops for paper goods and newspapers, professional offices, personal and professional services

18-3-8 Two or more small wind energy system(s), per requirements in Article 22 of these regulations **O2011-04**

18-3-9 Small wind energy system(s) on a parcel of land 20 acres or larger in size with a height greater than 100 feet but less than 199 feet **O2011-04**

18-3-10 *Reserved for future use*

18-4 *Special regulations.*

18-4-1 Required setbacks and other open areas not needed for operations shall be landscaped and such landscaping shall be maintained at all times.

18-4-2 No use shall be permitted which produces noise, smoke, unshielded lights, smell, dust or other airborne nuisance, which is perceptible beyond the building.

18-4-4 Parking and/or support facilities shall be screened from any adjacent residential use or district.

18-5 *Reserved for future use.*

O2008-01

18-6 *Area regulations.*

18-6-1 The minimum lot size shall be thirty (30,000) thousand square feet.

18-6-2 For permitted uses utilizing individual sewage disposal systems; the health official shall approve the required area for any such use. The administrator may require a greater area if considered necessary by the health official.

18-7 *Setback regulations.*

Buildings shall be located forty (40) feet or more from any street right-of-way. This shall be known as the "setback" line.

18-8 *Frontage and yard regulations.*

The minimum frontage shall be one hundred (100) feet. Each side and rear yard shall be a minimum of thirty (30) feet for principal structures and accessory structures may be located to within fifteen (15) feet of a side or rear property line. No structure shall be constructed closer than one hundred (100) feet to any adjacent property line if that property is a residential zoned district or contains a residential use; however, this distance may be reduced to fifty (50) feet if a screen buffer consisting of opaque screening is provided and the setback distance is reduced to fifty (50) feet, parking lots may be permitted to abut such screening.

The side yard facing the side street of corner lots shall be forty (40) feet or more.

The front of a corner lot shall be the shorter of the two sides.

18-9 *Height regulations.*

18-9-1 Buildings may be erected up to a height of thirty-five (35) feet. Parapet walls may be up to four (4) feet above the height of the building on which the walls rest. **O2011-04**

18-9-2 Water towers, chimneys, flues, and flagpoles, are exempt from height regulations.

18-9-3 Accessory buildings shall be less than the main building in height.

18-10 *Requirements for permitted uses.*

18-10-1 Before any permit shall be issued or construction commenced on any permitted use in this district, site plans and other documentation as requested by Article 13, shall be submitted to the Zoning Administrator. The administrator shall refer these plans to the Planning Commission for review and recommendation as provided in Article 13, except that the Zoning Administrator shall have the right to review and approve site plans for additions of five thousand (5,000) square feet or less to a main building, provided that said addition is of less size than the existing structure to which it is being added.

However, in cases of disagreement or public interest, the applicant, the Planning Director, or the chairman of the Planning Commission or any two members of the Planning Commission may require that the site plan be reviewed by the Planning Commission.

APPENDIX A - ZONING

Reserved for future use.

ARTICLE 19. NUCLEAR WASTE MATERIALS

19-1 No lot, parcel, or tract of land lying within the boundaries of the County of Nelson shall at any time be used as a permanent or temporary disposal site for the storage of nuclear waste materials or any spent radioactive substance. This section shall be applicable to all classes of land as defined in the Nelson County Zoning Ordinance.

ARTICLE 19A. (RESERVED)

ARTICLE 19B. PLANNED UNIT DEVELOPMENT – INDUSTRIAL PUD ID*

*Editor's note – This section was repealed by the Board of Supervisors on February 11, 1997.

ARTICLE 20. COMMUNICATION TOWER ORDINANCE

20-1 *Title.*

This section shall be known as the Communications Tower Ordinance of Nelson County, Virginia.

20-2 *Purpose.*

The purpose of this article is to establish a clear guideline for siting all types of communication towers in Nelson County so as to:

20-2-1 Protect the health, safety, and general welfare of residents and visitors in Nelson County.

20-2-2 Avoid potential damage to adjacent properties from Communication Tower failure including but not limited to excessive wind or ice, and falling ice or debris.

20-2-3 Minimize potential hazards from Communication Towers to private aircraft, low-flying law enforcement and medical aircraft, and helicopters.

20-2-4 Maximize the use of existing Communication Towers to reduce the collective number of towers required in Nelson County for all varieties, types, and forms of wireless service.

20-2-5 Regulate the placement, appearance, and construction of all varieties, forms, and types of Communications Towers.

20-2-6 Restrict the location of communication towers that adversely impact the natural beauty of the mountains in Nelson County.

20-2-7 Protect the view from the Blue Ridge Parkway, Appalachian National Scenic Trail, and along designated Virginia Scenic Byways.

20-2-8 Protect the University of Virginia's observatory on Fan Mountain from light pollution.

20-2-9 Promote and facilitate the availability of wireless telecommunication services to Nelson County citizens, businesses, and visitors, in support of advancing educational goals, attaining and maintaining a strong rural economy, and providing law enforcement and emergency services.

20-3 *Jurisdiction.*

This ordinance shall apply to all areas of unincorporated Nelson County.

20-4 *Definitions.*

For the purposes of this Article 20, the following definitions are provided:

ANSI: American National Standards Institute

Antenna: Any apparatus or device used for the purpose of collecting or transmitting electromagnetic waves, including, but not limited to, directional antennas, such as panels, microwave dishes and satellite dishes, and omni-directional antennas, such as whip antennas. Antennas for receiving broadcast signals only for non-commercial use and antennas for licensed amateur radio operators and citizens band operators are excluded from this definition.

Antenna array: An orderly arrangement of antennas mounted at the same height on a tower or other structure and intended to transmit a signal providing coverage over a specific area.

Base station: The wireless service provider's specific equipment used to transmit and receive radio signals within and including cabinets, shelters, pedestals or similar enclosures generally used to contain electronic equipment for said purpose.

Class A Personal Wireless Services: As defined in Section 20-6 of this Article.

Class B Communication Tower: A communication tower which is equal to or greater than forty (40) feet in tower height and which is less than or equal to one hundred (100) feet in tower height located in a Conservation District, C-1; Agricultural District, A-1; Service Enterprise District, SE-1; Business, B-1; Business, B-2; Industrial, M-1; or Industrial, M-2 zoning districts.

Class C Communication Tower: Any communication tower located in a Residential, R-1; Residential, R-2; or Residential Planned Community, (RPC) District; or any communication tower in any district that is greater than one hundred (100) feet in tower height, to a maximum allowed height of 130 feet; or any communication tower within three hundred (300) feet of an occupied dwelling, provided however, if the owners of all such occupied dwellings affirm in writing to the applicant that they have no objection to the proposed tower, then this final clause shall not, standing alone, cause the proposed communication tower to proceed as a Class C communication tower application. A communication tower greater than one hundred (100) feet in tower height is a telecommunications facility for purposes of state law.

Co-location: The practice of installing and operating multiple wireless carriers, service providers, and/or radio common carrier licensees on the same antenna support structure or attached wireless communication facility using different and separate antennas, feed lines, and radio frequency generating equipment.

Complete Application: Is an application that has been filed in the correct form in the proper office accompanied by the appropriate fee and all information required by this Article.

EIA: Electronic Industries Association.

Existing Vegetative Canopy: The existing vegetative plants, trees, or shrubs at the site-specific location of the proposed communication tower site that will provide natural camouflage, concealment, or otherwise hide the communication tower after its construction.

Existing structure: A lawfully constructed or established structure, but excluding (i) existing Communication Towers and (ii) flagpoles.

Feed lines: Cables used as the interconnecting media between the transmission/receiving base station and the antenna.

Final Approving Authority: The Nelson County Planning and Zoning Director or the Board of Supervisors, as designated in this Article.

Least Visually Obtrusive Profile: The design of a wireless communication facility intended to present a visual profile that is the minimum necessary for the facility to function properly.

Mountain Ridge: A ridge with an elevation of one-thousand (1,000) feet or higher above mean sea level and an elevation three hundred (300) feet or more above the elevation of an adjacent valley floor.

Personal Wireless Services: Commercial mobile services, unlicensed wireless services, common wireless exchange access services, and unlicensed wireless broadband internet access.

*Structure: A*nything constructed or erected, the use of which required permanent location on the ground, or attachment to something having a permanent location on the ground. Fences are excluded from this definition.

Substantial increase in the size of a previously approved Communication Tower:

(i) The mounting of the proposed antenna on the tower would increase the existing height of the tower by more than 10%, or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty feet, whichever is greater, except that the mounting of the proposed antenna may exceed the size limits set forth in this paragraph if necessary to avoid interference with existing antennas; or

(ii) The mounting of the proposed antenna would involve the installation of more than the standard number of new equipment cabinets for the technology involved, not to exceed four, or more than one new equipment shelter; or

(iii) The mounting of the proposed antenna would involve adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than twenty feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater, except that

the mounting of the proposed antenna may exceed the size limits set forth in this paragraph if necessary to shelter the antenna from inclement weather or to connect the antenna to the tower via cable; or

(iv) The mounting of the proposed antenna would involve excavation outside the current tower site, defined as the current boundaries of the leased or owned property surrounding the tower and any access or utility easements currently related to the site.

Telecommunication tower, communication tower: Any tower or structure, natural or man-made, existing or erected, used to support one or more antennas, including self-supporting lattice towers, guyed towers, or monopoles. This term includes radio and television transmission towers, broadband towers, microwave towers, common carrier towers, wireless telephone towers, alternative tower structures and the like.

Temporary Tower: A telecommunication tower, not exceeding one hundred (100) feet in height, erected for a duration not to exceed thirty (30) days, located in a Conservation District, C-1; Agricultural District, A-1; Service Enterprise District, SE-1; Business, B-1; Business, B-2; Industrial, M-1; or Industrial, M-2 zoning district. The duration of a temporary tower may be extended by the Planning and Zoning Director for an additional thirty days if necessary to facilitate the intended use of the tower.

Tower Height: The vertical distance from the finished grade to the uppermost point of a communication tower including any antenna, beacon, light, lightning rod, or other fixtures attached to the communication tower. In the event an antenna is attached to a structure, the height of the structure shall be included in the tower height.

Tower Site: The real property, which an applicant(s) is required to have ownership of, leasehold of, interest in, easement over, or any combination of the aforementioned to locate a communication tower and any auxiliary buildings.

Unlicensed Wireless Service: The offering of telecommunication services using duly authorized devices which do not require individual licenses from the Federal Communications Commission, but does not mean the provision of direct-to-home satellite services. This service is sometimes referred to “License-Exempt”. Users of the license-exempt bands do not have exclusive use of the spectrum and are subject to interference.

Viewshed (1) National Park System*:* An unobstructed sight or the range of one’s sight while traveling, visiting, driving or otherwise, using the natural or man-made resources of the Blue Ridge Parkway (BRP) or Appalachian National Scenic Trail (AT). For the purposes of this ordinance, the viewshed distance is a minimum of one (1) air mile from the outermost boundary line of the National Park System unit.

Viewshed (2) Virginia Scenic Byway: An unobstructed sight or the range of one’s sight while traveling, visiting, or driving along a highway that has been designated by the State of Virginia as a Scenic Byway.

20-5 *Telecommunication Facility Categories.*

A. Class A Personal Wireless Services must comply with Section 20-6.

B. A Class B Communication Tower requires approval by the Planning and Zoning Director and the issuance of a Class B Communication Tower Permit. For such applications, the Planning and Zoning Director shall be the Final Approving Authority.

C. A Class C Communication Tower requires approval by the Board of Supervisors and the issuance of a Class C Communication Tower Permit. For such applications, the Board of Supervisors shall be the Final Approving Authority.

D. Qualifying Permit Amendments and Temporary Tower permits require approval by the Planning and Zoning Director.

E. Any antenna used exclusively for non-profit, non-broadcast, and non-commercial applications including, but not limited to, residential broadcast reception, amateur radio, citizens band radio, and public safety, local government, fire, rescue, police, and non-profit medical radio services is exempt from the requirements of this Article.

20-6 Class A Personal Wireless Service Facilities.

A. Class A personal wireless service facilities ("Class A Facility") erected in accordance with this Section 20-6 are permitted as a by-right use in all zoning districts except as provided below.

B. A Class A Personal Wireless Service Facility is a facility that:

(i) is located within an existing structure but which may include a self-contained ground equipment shelter not exceeding one hundred fifty (150) square feet that is not within the building, or, a whip antenna that satisfies the design standards below; or

(ii) consists of one or more antennas, other than a microwave dish, attached to an existing structure and are flush mounted to the structure, together with associated personal wireless service equipment; or

(iii) consists of a single attachment pole attached to an existing structure the total height of which, together with a grounding rod, shall not exceed twenty (20) feet above the top of the structure. An attachment pole may be guyed to increase its stability; or

(iv) is located within or camouflaged by an addition to an existing structure; or,

(v) is the placement of a freestanding monopole forty (40) feet or less in height in the following zoning districts: Conservation C-1, Agricultural A-1, Service Enterprise SE-1, Business B-1, Business B-2, Limited Industrial M-1, and Industrial M-2.

20-6-1 *Design Standards.*

1. *General Design.* The Class A Facility shall be designed, installed, and maintained as follows: (i) guy wires shall not be permitted except with attachment poles; (ii) outdoor lighting for the Facility shall be permitted only during maintenance periods; (iii) any cabinet or shelter not located within the existing structure shall be screened from all lot lines either by terrain, existing structures, existing vegetation, or by added vegetation; (iv) in connection with an existing structure or monopole, a grounding rod, whose height shall not exceed two feet and whose width shall not exceed one inch in diameter at the base and tapering to a point, may be installed at the top of the structure and (v) a whip antenna less than six (6) inches in diameter may exceed the height of the existing structure or monopole.

2. *Antennas and associated equipment, existing structure exterior*. Equipment shall be attached to the exterior of an existing structure only as follows: (i) the total number of arrays of antennas attached to the existing structure shall not exceed three (3), (ii) each antenna shall not exceed one thousand one hundred fifty two (1152) square inches; (iii) each array shall contain no more than three (3) antennas, and (iv) no antenna shall project from the structure beyond the minimum required by the mounting equipment, and in no case shall any point on the face of an antenna project more than twelve (12) inches from the existing structure. These standards shall not apply to antennas and associated equipment that are located entirely within an existing structure.

3. *Antennas and associated equipment, attachment pole*. An attachment pole (i) shall not exceed three inches in diameter; and (ii) the total number of antennas shall not exceed three (3), and each antenna shall not exceed one thousand one hundred fifty two (1152) square inches.

4. *A freestanding monopole forty less than (40) feet in height*.

    a) shall be constructed of either wood, metal, or concrete;

    b) shall not exceed a maximum base diameter of thirty (30) inches and a maximum diameter at the top of eighteen (18) inches; and,

    c) the total number of arrays of antennas attached to the monopole shall not exceed three (3), each antenna shall not exceed one thousand one hundred fifty two (1152) square inches, and each array shall contain no more than three (3) antennas.

20-6-2 *Compliance.*

Any existing Class A Facility, not otherwise in compliance with the other provisions of the tower ordinance, shall be brought into compliance with the applicable provisions of this Article 20.

20-7 *Insurance.*

In connection with any application required in this Article, an applicant shall provide at the beginning of the permit application process a current Certificate of Insurance for general liability insurance for a minimum amount of one million dollars ($1,000,000) per occurrence. Annually, subsequent to approval of an application, evidence that such insurance remains in force shall be provided to the Planning and Zoning Director. Failure to maintain the required minimum insurance shall result in the automatic termination of the permit.

20-8 *Building Permits.*

All plans for communication tower structures and auxiliary structures shall be approved by the Nelson County Building and Inspections Department. The proper building and inspection permit(s) shall be issued before construction begins. No building permit(s) will be issued until a communication tower permit from the Nelson County Planning Department has been issued to the applicant(s).

20-9 *Standards for Location.*

A. National Park System Notification.

No application for a communication tower permit to be located within the viewshed of the Blue Ridge Parkway (BRP) or the Appalachian National Scenic Trail (AT) shall be considered a Complete Application without first notifying the Virginia Department of Historic Resources (DHR), the BRP Superintendent, and/or the AT Superintendent in writing. Such notice shall:

1. be sent by certified mail, return receipt requested;

2. provide the location of the proposed communication tower;

3. describe the proposed communication tower, proposed antennas, and proposed ground equipment, including a copy of the engineered drawings detailing the proposed tower project; and

4. request the Superintendent(s) comment on the proposed communications tower in writing.

Comments received from DHR and/or the Superintendent(s) shall be submitted with the application. In the event DHR and/or the Superintendent(s) do not provide written comments within 60 days of receiving the applicant's notification, a communication tower permit application for review and comment may be submitted with evidence that the notice was sent.

B. Required Minimum Setbacks – Viewsheds (1) and (2).

1. No communication tower shall be located within one hundred-twenty (120) feet of any Virginia Scenic Byway.

2. No communication tower shall be located within one thousand three hundred twenty (1,320) feet of the nearest boundary of the Blue Ridge Parkway or the Appalachian National Scenic Trail.

20-10 *Reserved.*

20-11 *Co-location.*

Applicants for new communication tower permits must agree to allow additional permitted uses of the tower by future applicants, provided: (a) that these future uses do not interfere with use(s) of the tower by its owner(s) or other lessee(s); (b) space is available on the tower for co-location; and (c) tower owner and co-locator agree to lease terms. Design plans of a metal communication tower shall contain provisions to allow additional sections to be added for possible co-location of other providers.

20-12 *Application and Procedure for Approval of a Class B Communication Tower Permit.*

A. Application Form: A Complete Application form, signed by the property owner(s), the property owner's agent or the contract purchaser, and the proposed facility's owner. If the owner's agent signs the application, he shall also submit written evidence of the existence and scope of the agency. If the contract purchaser signs the application, he shall also submit the owner's written consent to the application.

B. Property Description: A recorded plat or recorded boundary survey of the parcel on which the facility will be located, provided that, if neither a recorded plat nor boundary survey exists, a copy of the legal description of the parcel and the Nelson County Circuit Court deed book and page number.

C. Plans and Drawings: A scaled plan and a scaled elevation view and other supporting drawings, calculations, and other documentation required by the Planning and Zoning Director, signed and sealed by an appropriate licensed professional. The plans and supporting drawings, calculations and documentation shall show:

1. A design plan showing the communication tower, base, and the foundations for all support structures, all proposed auxiliary buildings and other proposed improvements, and the methods by which antennas shall be located on the proposed communication tower. Metal communication towers shall meet all requirements of federal, state, and local government regulations and EIA and ANSI standards. The Nelson County Building Official may request, at the applicant's expense, an independent engineer to confirm the safety of the tower.

2. The utility connections within and to the proposed site.

3. The location and dimensions of all existing and proposed improvements on the parcel, including access roads and structures, that are within one thousand (1,000) feet of the proposed tower site, and the maximum height above ground level of the facility (also identified in height above sea level).

4. The benchmarks and datum used for elevations. The datum shall coincide with the Virginia State Plane Coordinate System, South Zone, North American Datum

of 1983 (NAD83), United States Survey Feet North American Vertical Datum of 1988 (NAVD88), and the benchmarks shall be acceptable to the Planning and Zoning Director.

5. Except where the facility would be attached to an existing structure, the topography within three hundred (300) feet of the proposed facility, in contour intervals not to exceed ten (10) feet for all lands within Nelson County and, in contour intervals shown on United States Geological Survey topographic survey maps or the best topographic data available, for lands not within Nelson County.

6. The location of any stream, wetland, as identified by Army Corps of Engineers and/or the Virginia Department of Environmental Quality, and floodplain area within one thousand (1,000) feet of the proposed tower.

7. The height, caliper and species of all trees where the drip line is located within two hundred (120) feet of the facility that are relied upon to establish the existing vegetative canopy and screening of the tower and all trees that will be adversely impacted or removed during installation or maintenance of the facility shall be noted.

8. Fall Area: The minimum distance from the tower's base to the property line shall be**:** (i) wood poles – 100% of tower height; (ii) metal monopole - 110% of tower height; and (iii) lattice tower - 125% of tower height.

9. All existing and proposed setbacks, parking, fencing, and landscaping.

10. The proposed safety measure(s) at the base of the communication tower for the safety and general welfare of the public.

11. Federal Aviation Administration (FAA) hazard determination report and documentation that the request presents no hazard to any airport.

D. Design Standards:

1. The Final Approving Authority shall approve the color of each metal, wood, or concrete monopole. The antennas, supporting brackets, and all other equipment attached to the tower shall be a color that closely matches that of the tower. The ground equipment, the ground equipment cabinet, and the concrete pad shall be a color that is consistent with the character of the area.

2. Each wood or concrete tower shall be constructed so that all feed lines, wiring, and similar attachments are located within the tower structure or facing the interior of the property away from public view as reasonably determined by the Planning and Zoning Director.

3. The facility shall be designed, constructed and maintained as follows: (a) guy wired towers shall not be permitted, and (b) lightning rod, whose width shall not exceed one (1) inch in diameter at the base and tapering to a point, may be installed at the top of facility or the structure.

4. Unless waived or modified by the Final Approving Authority, equipment shall be attached to the tower as follows: (i) the total number of arrays of antennas attached to the existing structure shall not exceed three (3), (ii) each antenna shall not exceed one thousand one hundred fifty two (1152) square inches; (iii) each array shall contain no more than three (3) antennas, and (iv) no antenna shall project from the structure beyond the minimum required by the mounting equipment.

5. No slopes associated with the installation of the facility and accessory uses shall be created that are steeper than 2:1 unless proposed retaining walls, revetments, or other stabilization measures are acceptable to the Final Approving Authority.

6. The site shall provide adequate opportunities for screening and the tower shall be sited to have the Least Visually Obtrusive Profile from adjacent parcels and streets, regardless of their distance from the tower. If the tower would be visible from a state designated Scenic River, Scenic Byway, or a National Park or National Forest, regardless of whether the site is adjacent thereto, the facility also shall be sited to minimize its visibility from such River, Scenic Byway, Park, or Forest. If the tower would be located on lands subject to or adjacent to a conservation easement or an open space easement, the facility shall be sited so that it is not visible from any resources specifically identified for protection in the deed of easement.

7. Identification sign. A sign measuring six (6) square feet or less, clearly visible, identifying the owner(s) and operator(s) of the communication tower site and a local or toll free emergency phone number for each. The sign shall be posted at the entrance to the proposed communication tower site.

8. Security Fencing. Towers shall be enclosed by security fencing no less than eight (8) feet in height and shall also be equipped with an appropriate anti-climbing device, however, the Final Approving Authority may modify or waive such requirements.

9. Landscaping. The following requirements shall govern the landscaping surrounding the communication tower; however, the Final Approving Authority may modify or waive such requirements.

    a) Tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the support buildings at any time of year from adjacent property. The standard buffer shall consist of a landscaped strip at least four (4) feet wide outside the perimeter of the facilities.

    b) Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. In some cases, such as towers sited on large, wooded lots, the Final Approving Authority may determine that the natural growth around the property perimeter is sufficient buffer.

c) Existing trees within one hundred-twenty (120) feet of the tower shall not be removed except as may be authorized to permit construction of the tower and installation of access for vehicles and utilities.

10. Lighting.

a) The communication tower shall be unlit unless required by a federal agency.

b) A light installed on the outside of the building shall be a manually turned on/off switch for use only when service representatives are present on the site.

c) A light installed on an equipment cabinet shall be no more than one (1) foot above the top of the cabinet.

E. The Final Approving Authority reserve~~s~~ the right to refer this documentation to a telecommunication consultant for verification that the site selected is an appropriate site to provide reasonable communication service to Nelson County and to locate other alternative sites for consideration. The applicant will be responsible for the cost of this review.

F. The Planning and Zoning Director shall review a Complete Application for compliance with the foregoing requirements, the other provisions of this Article 20, and other applicable law, and upon finding the application to be in compliance, shall issue a Class B Communication Tower permit.

20-13 *Application and Procedure for Approval of a Class C Communication Tower Permit.*

A. A Class C Communication Tower may be established upon approval of a Class C Communication Tower Permit by the Nelson County Board of Supervisors initiated upon a Complete Application which satisfies the requirements for a Class B Communication Tower Permit and the additional requirements in this subsection.

B. Upon receipt by the Planning and Zoning Director of a Complete Application, the Planning Commission shall conduct a review of the application to determine whether the proposed communication tower is substantially in accord with the Comprehensive Plan and communicate its determination together with any additional recommendations to the Board of Supervisors. In connection with any such determination, the Planning Commission may, and at the direction of the Board of Supervisors shall, hold a public hearing, after notice as required by Section 15.2-2204 of the Code of Virginia. The Planning and Zoning Director shall mail by first class mail a copy of the public hearing notice to landowners adjacent to the proposed site and may rely upon the tax map and land books for purposes of determining such landowners and their mailing addresses. The Planning Commission's actions shall comply with the requirements of the Federal Telecommunications Act of 1996. Failure of the Planning Commission to act on any such application within 90 days of such submission shall be deemed approval of the application by the Planning Commission unless the Board of Supervisors has authorized an extension of time for consideration or the applicant has agreed to an extension of time. The Board of Supervisors may

extend the time required for action by the Planning Commission by no more than 60 additional days. If the Planning Commission has not acted on the application by the end of the extension, or by the end of such longer period as may be agreed to by the applicant, the application is deemed approved by the Planning Commission.

C. The Board of Supervisors shall hold at least one (1) public hearing on the application after notice as required by Section 15.2-2204 of the Code of Virginia, and make its decision on the application within one hundred fifty (150) days from the date the Complete Application was submitted to the Planning and Zoning Director. This time period may be extended by the Board of Supervisors provided the applicant consents to the extension.

D. Balloon Test. For any proposed tower requiring a Class C Communication Tower Permit, a balloon test shall be conducted as follows:

1. The applicant shall contact the Planning and Zoning Director within ten (10) days after the date the Complete Application was submitted to schedule a date and time when the balloon test will be conducted. The test shall be conducted within forty (40) days after the date the Complete Application was submitted, and the applicant shall provide the Planning and Zoning Director with at least seven (7) days prior notice, provided that this deadline may be extended due to inclement weather or by the agreement of the applicant and the agent. The applicant shall cause to be published in a newspaper having general circulation in the county notice of the time and place of the balloon test at least seven days prior to such test.

2. Prior to the balloon test, the location of the access road, the lease area, and the tower site of the proposed tower shall be surveyed and staked or flagged in the field.

3. The test shall consist of raising one or more balloons from the site to a height equal to the proposed tower.

4. Photographs of the balloon test shall be taken from the nearest residence and from appropriate locations on abutting properties, along each publicly used road from which the balloon is visible, and other properties and locations as directed by the Planning and Zoning Director and shall be superimposed to scale onto the photographs. The photographs must be filed with the Planning and Zoning Director before the application can be reviewed by the Planning Commission.

E. Alternative Site(s): No new Class C Communication Tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Board of Supervisors that:

1. No commercially reasonable co-location alternatives fulfill the applicant's desired coverage, or

2. The applicant's proposed antenna would cause electromagnetic interference with the antenna on existing towers or structures, or the antenna on the existing

tower or structure would cause interference with the applicant's proposed antenna, or

3. The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.

F. Factors considered in granting a Class C Communication Tower permit: The following factors shall be used in determining whether to issue a Class C Communication Tower Permit:

1. Height of the proposed tower or pole and proximity of the tower or pole to residential structures and residential district boundaries;

2. Nature of the uses on adjacent and nearby properties, surrounding topography, surrounding tree coverage and foliage, design of the tower or pole, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;

3. Proposed ingress and egress;

4. Applicant's co-location policy;

5. Consistency with the Comprehensive Plan and the purposes set forth in Section 20-2;

6. Proximity to commercial or private airports and heliports; and,

7. The results of the balloon test and subsequent photo simulations for compliance with the purposes as set forth in Section 20-2.

G. The Board of Supervisors may impose as conditions for approval such requirements and conditions as are necessary to satisfy or remedy the foregoing factors.

20-14 *Completion Requirement.*

Unless a longer period of time is authorized in the permit by the Final Approving Authority, construction of Class B and C tower structures shall be completed within one year of the date of issuance of the permit. The completion deadline may be extended for one additional year by the Planning and Zoning Director upon a showing by the applicant of unforeseen circumstances. In the event that the tower structure is not completed within the time specified, then the permit shall be void and any construction completed shall be removed within ninety (90) days.

20-15 *Removal and Reporting.*

A. The facility shall be disassembled and removed from the site within ninety (90) days of the date its use for wireless communication purposes is discontinued.

B. The applicant shall a report within thirty (30) days any change in the ownership of the facility. Information to be provided is the new owner(s) name, address, telephone

number, e-mail address, and a 24 hour emergency telephone number and contact person to the Planning and Zoning Director.

20-16 *Access to Site.*

Nelson County shall be provided reasonable access to a Communication Tower and other permitted sites for the purpose of ensuring compliance with this ordinance.

20-17 *Tower Permit Amendments, Temporary Towers.*

A. Tower Permit Amendments

1. *Policy*. The Planning and Zoning Director may administratively review and approve eligible applications for amendments or alterations to an approved Communication Tower Permit, if the proposed amendment or alteration would not, in the Director's opinion, substantially affect or deviate from the terms or conditions of the original approved permit. The following types of amendments or alterations are eligible:

   (i) the replacement or co-location of equipment that does not result in a substantial increase in the size of an existing Communication Tower, as defined; or

   (ii) the replacement of a wooden monopole with a metal monopole of the same height that does not exceed a maximum base diameter of thirty (30) inches and a maximum diameter at the top of eighteen (18) inches; or

   (iii) other amendments or alterations to an approved Communication Tower Permit that do not, in the Planning & Zoning Director's opinion, substantially affect the terms or conditions of the original permit, including but not limited to the replacement or alteration of equipment and related ground equipment or other facilities within the lease area.

2. *Procedures*. If an applicant's proposal for a Tower Permit Amendment meets the terms set forth in the Policy, the proposal requires a Complete Application containing the following information:

   (i) A Complete Application signed by the facility's owner.

   (ii) Specific information identifying the existing approved tower facility, including:
      a. Tower name, number, and/or location; and
      b. Approved Tower Permit number.

   (iii) The design of the facility, including the specific type of support structure and the design, type, location, size, height, and configuration of all existing and proposed antennas and other equipment. The method(s) by which the antennas will be attached to the mounting structure shall be depicted.

(iv) A scaled plan depicting fall area: The minimum distance from the tower's base to the property line shall be**:** (i) wood poles – 100% of tower height; (ii) metal monopole – 110% of tower height; and (iii) lattice tower – 125% of tower height.

(v) Any alterations to the facility's setbacks, parking, fencing, and landscaping, as applicable.

(vi) The requirements in items (iii) through (v) above may be waived by the Planning and Zoning Director if an appropriate approved plan is already on file with the County.

B. Temporary Tower Permit Applications

1. *Policy*. The Planning and Zoning Director may administratively review and approve eligible permit applications for a Temporary Tower, as defined. The Planning and Zoning Director may require a performance bond in an amount determined by the Planning and Zoning Director as sufficient to effect removal. The applicant shall comply with the applicable provisions of Section 20-8, Building Permits and Section 20-9, Standards for Location.

2. *Procedures*. If an applicant's proposal for a Temporary Tower Permit meets the terms set forth in the Policy, the proposal requires a Complete Application containing the following information:

(i) An application, signed by the parcel owner, the parcel owner's agent or the contract purchaser, and the proposed facility's owner. If the owner's agent signs the application, he shall also submit written evidence of the existence and scope of the agency. If the contract purchaser signs the application, he shall also submit the owner's written consent to the application.

(ii) The proposed duration for the Temporary Tower to be in place, including specific dates for placement and removal, not to exceed a maximum total duration of 30 days.

(iii) A sketch plan identifying the design of the Temporary Tower facility, including the location of the lease area within the property, the location of the Temporary Tower and other associated temporary equipment within the lease area, and the specific type of support structure, guy wires, and anchor.

(iv) A scaled, detailed drawing identifying the height of the Temporary Tower and the design, type, location, size, height, configuration, and method of mounting of all antennas and other equipment to be installed on the Temporary Tower.

(v) A scaled plan depicting fall area. The minimum distance from the base of a Temporary Tower to the property line(s) shall be a minimum of 150% of the Temporary Tower height.

(vi) All existing and proposed setbacks, parking, fencing, and landscaping.

(vii) The requirements in items (iii) through (vi) above may be waived by the Planning and Zoning Director if an appropriate approved plan is already on file with the County.

20-18 *Application Fee Schedule.*

Class B Communication Towers:
An application fee of $1,000.00.

Class C Communication Towers:
An application fee of $2,000.00.

Tower permit amendment:
An application fee of $100.00.

Temporary tower:
An application fee of $500.00.

20-19 *Exemption from Regulations Otherwise Applicable.*

Except as otherwise exempted in this paragraph, each facility shall be subject to all applicable regulations in this chapter.

A. The Final Approving Authority may authorize a metal communication tower to be located closer in distance than the required fall zone of the tower or other mounting structure to any lot line if the applicant obtains an easement or other recordable document showing agreement between the lot owners, acceptable to the County Attorney**,** addressing development on the part of the abutting parcel sharing the common lot line that is within the facility's fall zone. If the right-of-way for a public street is within the fall zone, the Virginia Department of Transportation shall be included in the staff review, in lieu of recording an easement or other document. The fall area for a metal monopole and lattice tower may be waived or modified by the Final Approving Authority upon certification by a licensed professional engineer that the tower is designed to collapse within the property lines of the subject property.

B. Except for towers subject to the location standards for View Shed (1) or View Shed (2) the area and bulk regulations or minimum yard requirements of the zoning district in which the facility will be located shall not apply.

C. Notwithstanding Zoning Ordinance Article 2, Definitions – Yard, a facility may be located in a required yard.

20-20 *Modification of Certain Regulations.*

A. The Board of Supervisors may modify the location or height restrictions, or both, upon a determination that (i) the strict application of the ordinance would produce undue hardship or severely limit the provision of telecommunication services; (ii) there are no commercially reasonable alternatives; and (iii) 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.

B. In authorizing a modification, the Board of Supervisors may impose such conditions regarding the location, character, and features of the communication tower as it may find necessary for compliance with the purposes set forth in Section 20-2.

C. No such modification shall be authorized except after notice and hearing as required by Section 15.2-2204 of the Code of Virginia.

20-21 *Authority of Planning and Zoning Director.*

A. In addition to the foregoing provisions, the Planning and Zoning Director shall have all necessary authority on behalf of the governing body to administer and enforce this Communication Tower Ordinance, including written orders to remedy any condition found in violation of this ordinance and the initiation of legal action to insure compliance with the ordinance, including injunction, abatement, or other appropriate action or proceedings.

B. If it should become necessary for an approved Communication Tower Permit to be changed, the Planning and Zoning Director shall upon an applicant's request either administratively approve an amendment to the permit in accordance with this Article, or, if the proposed change will substantially affect the terms of the original permit, require that a new application be submitted for review and action in accordance with this Article.

20-22 *Appeals.*

A. A decision of the Planning and Zoning Director may be appealed to the Nelson County Board of Supervisors. An appeal shall be submitted in writing to the office of the Planning and Zoning Director within thirty (30) calendar days after the date of the denial.

B. A decision of the Board of Supervisors may be appealed to the Nelson County Circuit Court by filing a petition specifying the grounds for the appeal within thirty (30) days after the Board's final decision.

C. The denial of a permit shall be in writing and supported by substantial evidence contained in a written record.

APPENDIX A - ZONING

Reserved for future use.

ARTICLE 21. CLUSTER HOUSING DEVELOPMENT

21-1 *Purpose.*

This section offers the option of creating subdivision consisting of clusters of small lots and open space by right in Conservation C-1, Agricultural A-1, and Residential, R-1, districts. The intent of cluster developments is to preserve rural character, reduce the amount of land consumed by development, and lower the cost of roads and other facilities. **O2007-003**

Cluster developments shall comply with the provisions of Article 13, Site Development Plan, of this Appendix and Appendix B, Subdivisions, of the Code of Nelson County. The implementation and approval of a cluster development shall be done by the Planning Director and without a public hearing as required by the Code of Virginia, 1950 as amended.

21-2 Area and density.

A. Conservation, C-1, District

The minimum area for a cluster development shall be two hundred (200) acres. The overall density of development shall not be greater than one dwelling unit per twenty (20) acres. A minimum of forty (40) percent of the land area shall be reserved for agricultural, forestry, recreation, or open space.

B. Agricultural, A-1, District

The minimum area for a cluster development shall be seventy-five (75) acres. The overall density of development shall not be greater than one dwelling unit per six and eight tenths (6.8) acres and one dwelling unit per twenty (20) acres for an area exceeding seventy-five (75) acres. A minimum of forty (40) percent of the land area shall be reserved for agricultural, forestry, recreation, or open space.

C. Residential, R-1, District

The minimum area for a cluster development shall be thirty (30) acres. The overall density of development shall not be greater than one dwelling unit per two (2) acres. A minimum of forty (40) percent of the land area shall be reserved for agriculture, forestry, recreation and/or open space.

21-3 *Design of the development.*

A cluster development shall consist of a reserved area, containing no less than forty (40) percent of the total area, and a subdivided area, containing the residue. It is recommended that the unique environmental features of the site, such as wetlands, streams, ridge tops, etc. are included in the reserved area.

21-4 *Subdivision street.*

A subdivision street, in a right-of-way fifty (50) feet wide, shall provide access from each lot in the subdivided area to a State maintained road or highway. The Planning Director is authorized to grant an exception to reduce the required fifty (50) foot right-of-way requirement for streets to no less than forty (40) feet. The street may be maintained either by a property owners' association or by the Virginia Department of Transportation and shall be constructed in accordance with the following specifications:

A. The street is constructed to the Virginia Department of Transportation Standards for Residential Streets, and is incorporated into the State's road system for maintenance.

B. Private streets shall consist of a minimum width of eighteen (18) feet of surface roadway with shoulders constructed to VDOT standards on both sides of the roadway. The road surface shall consist of a minimum of CBR #10 subgrade with six (6) inches of compacted aggregate of CBR #21 or #21A with prime and double seal surface treatment.

21-5 *Lot standards.*

A. The required lot area (square feet) shall be as follows:

1. Where no public water and sewer area provided: one acre (43,560 sq. ft.)
2. Where public sewer is provided: 30,000 sq. ft. per lot minimum, one acre (43,560 sq. ft.) maximum per lot.
3. Where both public water and sewer are provided: 10,000 sq. ft. per lot minimum, one acre (43,560 sq. ft.) maximum per lot.

B. The required setbacks shall be as follows:

1. The minimum street frontage shall be seventy (70) feet.
2. The minimum front yard setback shall be thirty-five (35) feet.
3. The minimum rear yard setback shall be twenty-five (25) feet.
4. The minimum side yard setback shall be ten (10) feet and the total of both side yards shall equal twenty-five (25) feet or more.
5. The minimum side yard setback for a zero lot line development shall be twenty-five (25) feet and there shall be at least a twenty-five (25) foot separation between zero lot primary buildings. The side of the building abutting the sideyard property must be constructed according to the Virginia Uniform Building Code.
6. The minimum setback for an accessory structure will be a minimum of ten (10) feet from a property line. An accessory structure shall not be located in the required front yard.

C. Dwelling units per lot.

Only one (1) dwelling unit is permitted per lot in a residential cluster development.

21-6 *Preservation of the reserved area.*

A. The reserved area shall be preserved for agriculture, forestry, recreation or open space, by any of the means stated in this section. The Planning Director shall issue no zoning permit and the subdivision agent shall approve no plat that would violate the terms or the intent of this article.

B. The reserved area may be leased for agriculture or forestry. The owner shall file with the Clerk of the Circuit Court a declaration of covenant stating that, in consideration of the County's approval of the subdivision as a cluster development, the owner agrees not to further subdivide or develop the reserved area, but to use it only for agriculture, forestry, recreation, and open space. Such declaration shall run with the land and shall be approved by the County Attorney and the Planning Director. Violation of the terms of such covenant shall constitute a violation of this chapter.

C. The reserved area may be held by the original owner. The owner shall file with the Clerk of the Circuit Court a declaration of covenant stating that, in consideration of the County's approval of the subdivision as a cluster development, the owner agrees not to further subdivide or develop the reserved area, but to use it only for agriculture, forestry, recreation and open space. Such declaration shall run with the land and shall be approved by the County Attorney and the Planning Director. Violation of the terms of such covenant shall constitute a violation of this chapter.

21-7 *Procedure for approval.*

A. A landowner who intends to develop a cluster subdivision must submit the required number of development plans and subdivision plats to the Planning Director for review and approval. In the performance of his/her duties, the Planning Director may request opinions or decisions in writing from various departments or agencies of the Commonwealth of Virginia, other departments of the Nelson County government, and utility companies.

B. The Planning Director shall act on the final development plan and subdivision plat within sixty (60) days after it has officially submitted for approval by either approving or disapproving the plans. The sixty (60) day time period for action shall not apply to cluster development plans and plats under the following circumstances:

1. If the subdivision plat and/or development has a feature(s) requiring approval by a State agency, the Planning Director shall approve or disapprove the plans within thirty-five (35) days, upon receipt of the approvals from all State agencies.

2. Nothing contained in paragraph B shall require approval of the final subdivision plat and development plan for a cluster housing development in less than sixty (60) days.

APPENDIX A - ZONING

Reserved for future use.

ARTICLE 22. SMALL WIND ENERGY ORDINANCE

22-1 *Title.*

This section shall be known as the Small Wind Energy Ordinance of Nelson County, Virginia.

22-2 *Purpose.*

It is the purpose of this ordinance to promote the safe, effective and efficient use of small wind energy systems for electrical generation**.**

22-3 *Definitions.*

Building-Mounted Small Wind Energy System: A small wind energy system that is directly installed on a building or its roof.

Building-Mounted Small Wind Energy System Height: The height of the small wind energy system above the point of attachment to the building or above the roof deck where the system is placed.

Building-Mounted Small Wind Energy System Height, Extended: The vertical distance from the point of attachment to the building or roof deck where the system is placed to the tip of the wind turbine blade when it is at its highest point.

Flicker: The moving shadow created by the sun shining on the rotating blades of the wind turbine.

Shadow: The outline created on the surrounding area by the sun shining on the small wind energy system.

Small Wind Energy System: A wind energy conversion system consisting of a wind turbine and associated control or conversion electronics which has a rated capacity of not more than 20 kW and which is intended to primarily reduce on-site consumption of utility power.

Tower: The monopole or lattice structure that supports a wind turbine.

Tower Height: The height above grade of the fixed portion of the tower, excluding the wind turbine itself.

Tower Height, Extended: The vertical distance from ground level to the tip of the wind turbine blade when it is at its highest point.

Tower, Lattice: A self-supporting three- or four-sided, open steel frame tower used to support a wind turbine.

Wind turbine: The blades and associated mechanical and electrical conversion components mounted on top of the tower whose purpose is to convert kinetic energy of the wind into rotational energy used to generate electricity.

22-4 *Permitted Use.*

A small wind energy system shall be permitted in all zoning districts, subject to certain requirements as set forth below:

(1) Number of small wind energy systems permitted by right:
- (a) Parcels less than one acre in size – one (1) building-mounted small wind energy system.
- (b) Parcels one (1) acre or greater in size – one (1) permitted. Special Use Permit required for additional system(s). **O2010-09**

(2) Height: The maximum height of a small wind energy system shall be:
- (a) Parcels 1-2 acres in size: Maximum tower height - 45 feet
- (b) Parcels greater than 2 acres and less than 5 acres in size: Maximum tower height - 60 feet
- (c) Parcels 5 acres or greater in size: Maximum tower height - 100 feet
- (d) Building-mounted small wind energy system: Maximum height – 15 feet above point of attachment to the building or above the roof deck where the system is placed.

(3) Setback**:** A small wind energy system shall be set back a minimum distance equal to one-hundred and ten (110) percent of the extended tower height or the building-mounted extended height from property lines, public and private roads, and overhead utility lines.

(4) Electrical Interconnections: All electrical interconnection or distribution lines shall be underground and comply with all applicable codes and public utility requirements.

(5) Signal Interference: No small wind energy system shall cause interference with television or other communication signals.

(6) Shadowing/Flicker: Small wind energy systems shall be sited in a manner that does not result in significant shadowing or flicker impact on adjoining properties. The applicant has the burden of proving that this effect does not have significant adverse impact on neighboring or adjacent uses.

(7) Signs: All signs, both temporary and permanent, are prohibited on the small wind energy system, except as follows:
- (a) Manufacturer's or installer's identification on the wind turbine.
- (b) Appropriate warning signs and placards.

(8) Visual Impacts: It is inherent that small wind energy systems may pose some visual impacts due to the tower height needed to access the wind resources. The purpose of this section is to reduce the visual impacts, without restricting the owner's access to the wind resources.

(a) The applicant shall demonstrate through project site planning and proposed mitigation that the small wind energy system's visual impacts will be minimized for surrounding neighbors and the community. This may include, but not be limited to information regarding site selection, turbine design or appearance, buffering, and screening of ground mounted electrical and control equipment. All electrical conduits shall be underground.

(b) The color of the small wind energy system shall be a non-reflective, unobtrusive color that blends in with the surrounding environment.

(c) A small wind energy system shall not be artificially lit unless such lighting is required by the Federal Aviation Administration (FAA). If lighting is required, the applicant shall provide a copy of the FAA determination to establish the required markings and/or lights for the small wind energy system.

(9) Access:

(a) All ground mounted electrical and control equipment shall be labeled and secured to prevent unauthorized access.

(b) The tower shall be designed and installed so as not to provide step bolts or a ladder readily accessible to the public for a minimum height of 12 feet above the ground.

(10) Code Compliance: A building permit is required for all small wind energy systems. Building permit applications for a small wind energy system shall be accompanied by standard drawings of the wind turbine structure, including the tower, base, and footings. An engineering analysis of the tower and a structural analysis for a building-mounted system showing compliance with the Virginia Uniform Statewide Building Code and certified by a licensed professional engineer shall also be submitted.

The applicant shall provide proof of adequate liability insurance for a small wind energy system. Whether or not the applicant is participating in the net metering program, the applicant will be required to meet the insurance coverage requirements set forth in 20 VAC 5-315-60 (Virginia Administrative Code).

22-5 *Noise.*

Small wind energy systems shall comply with Chapter 8, Article II, Noise Control, of the Nelson County Code.

22-6 *Utility Notification.*

No interconnected customer-owned wind generator shall be installed until evidence has been given that the utility company has been informed of the customer's intent. Off-grid systems shall be exempt from this requirement.

22-7 *Permit Requirements.*

(1) Zoning Permit:

A zoning permit approved by the Planning and Zoning Director shall be required for the installation of a small wind energy system.

(2) Documents:

The zoning permit application shall be accompanied by a plat which includes the following:

(a) Property lines, physical dimensions, and acreage of the property
(b) Location, dimensions, and types of existing major structures on the property
(c) Location of the proposed wind system tower
(d) The right-of-way of any public and private road that is contiguous with or crossing the property
(e) Any overhead utility lines
(f) Wind system specifications, including manufacturer and model, rotor diameter, tower height
(g) Tower foundation blueprints or drawings
(h) Tower blueprint or drawing
(i) The proposed color of the small wind energy system.

(3) Zoning Permit Procedure:

(a) An owner shall submit an application to the Planning and Zoning Director for a zoning permit for a small wind energy system. The application must be on a form approved by the Planning and Zoning Director and must be accompanied by three copies of the plat identified in 22-7 (2) above.
(b) The Planning and Zoning Director shall issue a permit or deny the application within one month of the date on which the application is received.
(c) The Planning and Zoning Director shall issue a zoning permit for a small wind energy system if the application materials show that the proposed small wind energy system meets the requirements of this ordinance.
(d) If the application is approved, the Planning and Zoning Director will return one signed copy of the application with the permit and retain the other copy with the application and forward the third copy to the Building Official.
(e) If the application is denied, the Planning and Zoning Director will notify the applicant in writing and provide a written statement of the reasons why the application was denied. The applicant may reapply for a zoning permit if the deficiencies specified by the Planning and Zoning Director are resolved or appeal the Planning and Zoning Director's decision to the Nelson County Board of Zoning

Appeals pursuant to Appendix A, Article 14 of the Code of the County of Nelson, 1989 as amended.

(4) Expiration:

A zoning permit issued pursuant to this Article shall expire if:

(a) The small wind energy system is not installed and functioning within 24 months from the date the permit is issued; or,
(b) The small wind energy system is out of service or otherwise unused for a continuous 12-month period.

22-8 *Abandonment.*

(1) A small wind energy system that is out of service for a continuous 12-month period will be deemed to have been abandoned. The Planning and Zoning Director may issue a Notice of Abandonment to the owner of a small wind energy system that is deemed to have been abandoned. The owner shall have the right to respond to the Notice of Abandonment within 30 days from notice receipt date. The Planning and Zoning Director shall withdraw the Notice of Abandonment and notify the owner that the notice has been withdrawn if the owner provides information that demonstrates the small wind energy system has not been abandoned.

(2) If the small wind energy system is determined to be abandoned, the owner of a small wind energy system shall remove the wind generator from the tower at the owner's sole expense within 3 months of receipt of Notice of Abandonment. If the owner fails to remove the wind generator from the tower, the Planning and Zoning Director may pursue a legal action to have the wind generator removed at the owner's expense. **O2009-12**

ARTICLE 23. TEMPORARY FAMILY HEALTH CARE STRUCTURES

23-1 *Temporary family health care structures.*

23-2 For purposes of this Article:

1 "Caregiver" means an adult who provides care for a mentally or physically impaired person. A caregiver shall be either related by blood, marriage, or adoption to or the legally appointed guardian of the mentally or physically impaired person for whom he/she is caring.

2 "Mentally or physically impaired person" means a person who is a resident of Virginia and who requires assistance with two (2) or more activities of daily living, as defined in Code of Virginia §63.2-2200, as certified in a writing provided by a physician licensed by the Commonwealth.

3 "Temporary family health care structure" means a transportable residential structure, providing an environment facilitating a caregiver's provision of care for a mentally or physically impaired person, that (i) is primarily assembled at a location other than its site of installation, (ii) is limited to one occupant who shall be the mentally or physically impaired person, (iii) has no more than three hundred (300) gross square feet, and (iv) complies with applicable provisions of the Industrialized Building Safety Law (Code of Virginia §§36-70 through 36-85.1) and the Uniform Statewide Building Code (Code of Virginia §§36-97 through 36-119.1).

23-3 Temporary family health care structures shall be allowed in the Conservation, C-1; Agricultural, A-1; Residential, R-1; Residential, R-2; and Residential Planned Community, RPC Zoning Districts as permitted accessory uses to single-family dwellings. Temporary family health care structures shall be only (i) for use by a caregiver in providing care for a mentally or physically impaired person and (ii) on property owned by or occupied by the caregiver as his or her residence.

23-4 Such structures shall comply with all setback requirements that apply to the primary structure. Only one (1) family health care structure shall be allowed on a lot or parcel of land. Placement of temporary family health care structures on a permanent foundation shall not be permitted.

23-5 A Zoning Permit to install a temporary family health care structure shall be obtained from the Department of Planning and Zoning. A Building Permit is also required and shall be obtained from the Department of Building Inspections. The applicant shall provide sufficient proof of compliance with this section, initially and annually thereafter, for as long as the temporary health care structure remains on the property. Such evidence may involve the inspection by the County of the temporary family health care structure at reasonable times convenient to the caregiver, not limited to any annual compliance confirmation.

23-6 Any temporary family health care structure installed pursuant to this section shall connect any water, sewer, and electric utilities that are serving the primary residence on the property and shall comply with all applicable requirements of the Virginia Department of Health.

23-7 No signage advertising or otherwise promoting the existence of the structure shall be permitted either on the exterior of the temporary family health care structure or elsewhere on the property.

23-8 Any temporary family health care structure installed pursuant to this section shall be removed no later than thirty (30) days after the mentally or physically impaired person is no longer receiving or in need of the assistance provided in this section.

23-9 The Director of Planning and Zoning, on behalf of the County, may revoke the permit granted pursuant to this section if the permit holder violates any provision of this section. The Planning and Zoning Director is vested with all necessary authority on behalf of the Board of Supervisors to ensure compliance with this section.

APPENDIX A - ZONING

Reserved for future use.

APPENDIX A - ZONING

Amendments to Ordinance Following Effective Date of June 1, 2007

Effective Date	Article	Section	Page Number
September 11, 2007	2	2.36a, 2.36b (2.36c & 36d number change only)	7, 8
September 11, 2007	4	4-1-25 4-1-15b	21 23
September 11, 2007	8	8-1-2b	42
September 11, 2007	8B	8B-1-22 8B-1-8a	47 47
April 24, 2008	18	18-5	103,104
May 13, 2008	12	12-5	69
May 22, 2008	2	2-8c	5
October 14, 2008	4	4-1-23a	22
November 18, 2008	12	12-1-4, 12-1-5.1.1, 12-1-6	67,68 (remaining sheets necessary for correct spacing)
January 13, 2009	2		15

<u>Page numbering changed as of 9/8/09</u>

Effective Date	Article	Section	Page Number
July 14, 2009	2 3 4	Subdivision Def. 3-1-12a 4-2-1	14 18 25
September 8, 2009	2 14 14	Nos. Removed 14-1-1 14-2-4, Par. 2	5-15 105 106

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Effective Date	Article	Section	Page Number
November 10, 2009 (The following page numbers changed because of additions to the section: Pgs. 19 – 22, 25, 27 – 30, 31, 33 – 35, 37 – 39, 49 - 50, 53-54, 56-57, 62-63, 122-123, 148. November 10 changes are marked with the ordinance number.)	Cover sheet w/ rev. dt. Appendix A 3 4 5 6 8 8A 8B 9 18 22 (New) List of amendments	 Addn. of Art. 22 3-1-17, 3-1-13a, 3-1-14a 4-1-26 4-1-25a, 4-1-26a 4-2-1b, 4-2-1c 5-1-16, 5-1-1a, 5-1-1b, 5-2-1b, 5-2-1c 6-1-17, 6-1-a, 6-1-1a, 6-1-2a 8-1-23, 8-1-7a, 8-1-8a 8A-1-13, 8A-1-b, 8A-1-1b, 8A-1-2b 8B-1-23, 8B-1-b, 8B-1-1b, 8B-1-2b 9-1-29 9-1-8a, 9-1-9a 18-1-6 18-3-7, 18-3-8 22-1 – 22-8	1 2 18 23 24 26 32 36 48 51 52 55 60 61 120 121 149-154 155-156
January 12, 2010	12	12-12	94
May 11, 2010 Note: Pages 62 & 78-97 are reprinted because of page number changes. No change in text.	10	10.1 – 10.23	63 – 77
July 13, 2010	Title page changed to show amended date of July 13, 2010		
“	1	Editor’s Note-Date change	2
“	2	Definitions – Site Plan Review Committee	14
“	4	4-2-1 – Table (chgd. “division rights” to “allowable lots”	25
“	6	6-6-4 – (Chgd. “party line” to “property line”	37
“	8A	8A-2-4 (Chgd. “party line” to “property line”	52

“	10	Additional definitions	65, 66, 67 (remainder of pages printed bec. of number changes)
“	12	12-1 – 12-5	80 – 84 (remainder of pages printed bec. of number changes)
“	13	13-1 – 13-10-7	98 – 108
“	20	20-7-4a, 2-7-5k(1) 20-8-9, 20-13-2	135,136 (editorial changes) 140-141 (corrected Va. Code section nos.)
September 14, 2010 (All changes to combine CUP & SUP into category of SUP)	1		1 & 2 (date change)
“	2		10 & 14
“	3	3-1-a	18-19
“	4	4-1-a, 4-9, 4-10	22-31
“	5	5-1-a	32-35
“	6	6-1-a	36-39
“	8	8-1-a	48-49
“	8A	8A-1-a	50-53
“	8B	8B-1-a	54-57
“	9	9-1-a	60-61
“	12	12-8, 12-10, 12-10-6	90-91
“	18	18-3	120-123
“	22	22-4(1)(b)	150-151
January 11, 2011 Definition added to Sections	2	Definitions-Composting, Commercial	6-13 (pages 8-13 printed bec. of number changes)
“	4	4-1-a, Subsection 4-1-42a	24-25
“	9	9-1-a,Subsection 9-1-12a	60-61
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	4	4-1-1a, 4-1-1b, 4-6	23, 27
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