



PUBLIC NOTICE OF SPECIAL MEETING

DATE: February 24, 2016
ACTIVITY: Planning Commission Work Session
PURPOSE: Continued review of proposed amendments to the Nelson County Zoning Ordinance (Board of Supervisors Resolution R2015-68 – “Temporary Events, Festival Grounds, and Out-of-Door Accessory Uses”)

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In accordance with Code of Virginia §2.2-3707, this public notice is provided to inform the public that the Nelson County Planning Commission will be conducting a Work Session on Wednesday, February 24th beginning at 6:00 pm in the General District Courtroom, on the 3rd Floor of the County Courthouse, Lovingston.

The purpose of this Work Session special meeting is to continue the Commission’s review of proposed amendments to the Nelson County Zoning Ordinance regarding the definition and certain regulations designed to: address temporary uses in districts where such uses would not otherwise be permissible; establish certain criteria for the approval or disapproval of such temporary uses; and provide requirements for the permitting and conduct of such uses. The proposed Article would also require the issuance of a Special Use Permit for properties where the intended use envisions large scale events, and would provide for the regulation of out-of-door activities conducted as an accessory use to certain permitted commercial uses. The proposed Article is not intended to regulate, and would not regulate, the traditional non-commercial use of property by its owners.

Specifically, the proposed amendments were referred to the Planning Commission on August 11, 2015 by the Board of Supervisors in Resolution R2015-68 – “Temporary Events, Festival Grounds, and Out-of-Doors Accessory Uses.” These proposed amendments would affect the following zoning districts: Agricultural A-1, Business B-1, Business B-2, and Service Enterprise SE-1. The Planning Commission conducted a public hearing on these proposed amendments on January 27, 2016.

Copies of the proposed Ordinance amendments are available for public inspection in the Department of Planning & Zoning, 80 Front Street, and in the Office of the County Administrator, 84 Courthouse Square, both in Lovingston, VA, 22949, from Monday through Friday, between 9:00 a.m. and 5:00 p.m. Telephone inquiries may also be directed to the Dept. of Planning & Zoning, (434) 263-7090, or toll free at 888-662-9400, selections 4 and 1. The proposed Ordinance amendments will also be available for download on the County Calendar under the February 24th Planning Commission Work Session event at <http://www.nelsoncounty-va.gov/events/category/county-calendar/2014-08/>.

TMP/svh



NELSON COUNTY PLANNING COMMISSION

Meeting Agenda: February 24, 2016

General District Courtroom, 3rd Floor, Nelson County Courthouse, Lovingston

- **7:00 – Meeting Convenes / Call to Order**
- **Review of meeting minutes:** November 18th, December 16th, 2015; and January 27th, 2016
- **Public Hearing Items:** N/A
- **Other Agenda Items:**
 - Zoning Ordinance Amendments Referred from BOS (*continued from January 27th meeting*):
“Temporary Events, Festival Grounds, and Out-Of-Door Accessory Uses” – R2015-68
 - Zoning Ordinance Amendments Referred from BOS (*referred at January 12th BOS meeting*):
Review by the Planning Commission for consideration of possible amendments to Article 18 (Limited Industrial District M-1)
 - Zoning Ordinance Amendments Referred from BOS (*referred at December 8th, 2015 BOS meeting*):
Review by the Planning Commission for consideration of possible amendments to Article 10 (General Floodplain District FP)
- **Other Business** (*as determined by Planning Commission members / as applicable*)
- **Adjournment**
- **Next Meeting:** March 23, 2016 | 7:00pm

**NELSON COUNTY PLANNING COMMISSION
MEETING MINUTES
November 18, 2015**

Present: Chair Philippa Proulx, Commissioners Linda Russell, Robert Goad and Larry Saunders (Board of Supervisors Liaison)

Absent: Mike Harman and Mary Kathryn Allen

Staff Present: Tim Padalino, Director of Planning & Zoning and Stormy Hopkins, Secretary

Call to Order: Chair Proulx called the meeting to order at 7:00 P. M. in the General District Courtroom, County Courthouse, Lovington.

Chair Proulx announced that the Special Use Permit (deferred from the October 28th meeting) for the **Averitt's Averitts'** application for a remote farm winery/tasting room has been withdrawn and will not be discussed tonight.

Approval of Minutes – September 29, 2015: Chair Proulx asked if there were any further changes/corrections to the meeting minutes. No changes were made.

Commissioner Russell made a motion to approve the minutes of the Nelson County Planning Commission meeting of September 29, 2015. The vote 4-0.

Approval of Minutes – October 28, 2015: Chair Proulx asked if there were any further changes/corrections to the meeting minutes (draft dated November 16, 2015). No changes were made.

Commissioner Russell made a motion to approve the Nelson County Planning Commission meeting minutes of October 28, 2015 as updated on November 16, 2015. The vote 4-0.

1. Special Use Permit #2015-15 - “Dwelling” / Mr. Michael Tapager

Mr. Padalino noted that on October 27th, the Planning department received a Special Use Permit (SUP) application from Mr. Mike Tapager (property owner).

Mr. Padalino showed a slide that contained information regarding the subject property's location, characteristics, and other information. He explained that the property is located in Lovington proper at 622 Front Street, and is further identified as Tax Map Parcel #58B-3-2; and he noted that, according to the County's "ProVal" records, this parcel contains 0.0 acres, which he does not believe to be accurate.

Mr. Padalino noted that Minor Site Plans are required with all SUP applications. However, with this particular request, he indicated that he accepted a waiver from the requirement to prepare a Minor Site Plan based on the following reasons:

1. The Zoning Ordinance provides that authority and discretion;
2. This subject property is almost entirely built-out, with the historic structure sited right at the front property line, and with the upper-floor porches actually hanging over the sidewalk;
3. There is virtually no yard area; and
4. It is a previously developed site with no proposed modifications to the exterior of the building, the landscape, or the yard.

Mr. Padalino noted that the building is in the heart of the Lovingson Historic District, and that it has a long history of previously being used for residential purposes. He explained that the ground floor was historically used for retail space and the top two (2) stories have historically been used for residential dwelling uses.

He then explained that the reason for this request is because the property has not been used as a dwelling in more than two (2) years. That discontinuation means that the “non-conforming” or “grandfathered” status of that dwelling is no longer valid. The property owner would like to reestablish that use, which requires that a SUP be obtained.

Mr. Padalino concluded by providing his analysis of the four (4) evaluation criteria (Zoning Ordinance Article 12, Section 3-2) that must be considered with all SUP applications. He then stated that the opinion of Staff is that the proposed use is appropriate and acceptable (details described in the Staff Report dated November 10, 2015-see attached); and recommended approval of Special Use Permit #2015-15.

Commissioner Russell asked the following questions: If the BOS approves the proposal, does it mean that Mr. Tapager has to use the entire building, including the ground floor, for residential dwelling units? Mr. Padalino noted that he believes SUP approval would authorize the applicant to do so, but that it would not obligate him to do so – and that the property could still be used to conduct any permissible by-right B-1 use.

Chair Proulx opened the public hearing at 7:08 P.M. No public comments were made. The public hearing was closed.

Chair Proulx noted that she does not have any problems with the proposed use, but she added that she has that opinion because she thinks it is an appropriate use – and not because it would help make it easier to sell the property.

Commissioner Russell made the following motion:

I make a motion that the Planning Commission recommend the BOS approval of SUP #2015-15 for Michael Tapager for property that he owns with a Tax Map #58B-3-2, located in Lovingson, VA. Commissioner Goad provided the second; the vote 3-0 with Mr. Saunders abstaining.

2. Zoning Ordinance Amendments: “Bed and Breakfast Uses”

Mr. Padalino noted that the PC has reviewed the proposed amendments a few times before tonight’s scheduled public hearing. The amendments were originally referred to the PC by the BOS and have since been modified several times. He then noted that these were not law; they are recommendations. A public hearing is being held to gain good public input. He further noted that this one set of amendments actually has two areas to focus on:

1. Establishing new definitions for new uses and redefining some existing uses; and
2. Determining the regulation of those uses within various zoning districts.

Mr. Padalino made the recommendation to delete the following existing definitions: Boardinghouse, tourist home; and Tourist home. He stated these uses are addressed separately and differently in the proposed amendments.

Mr. Padalino then read the proposed definition for the following proposed new uses: Bed & Breakfast, Class A; Bed & Breakfast, Class B; Boardinghouse; Tent; Transient; Transient lodging; and Vacation House (see attached draft dated 10/30/2015).

Mr. Padalino noted that he received a “very insightful phone call from Mr. Curtis Bruguere. He pointed out that we are recommending that Vacation House be a special use in the Residential (R-1) district, and I think there are very good reasons for doing that. However, the language in the RPC Article references R-1 as to what’s permissible in RPC.” He thinks this makes sense in some cases, such as in traditional Residential (R-1) districts such as Windy Acres (Afton) or Green Acres (Lovingston), which are very different than a four-season resort. He believes the PC should have discussion as to how that discrepancy needs to be addressed. Currently, the proposed amendments would require a SUP for new homes to operate as a vacation house at Wintergreen or Stoney Creek; and it is his understanding that this is not the Commission’s intent.

Mr. Padalino concluded by noting that the third type of definition amendments would be modifications to existing definitions, and he read the proposed definition for each of the following existing uses: Campground; Dwelling; Dwelling, single-family detached; Home occupations, class A; Home occupation, class B; Hotel; and Travel Trailer.

Mr. Padalino then reviewed the proposed regulations of the various uses by zoning districts (see attached draft dated 10/31/2015).

After Mr. Padalino concluded his staff report, Chair Proulx opened the public hearing at 7:21 P.M.

Shelby Bruguere, Stoney Creek: Mrs. Bruguere stated that the issue of people renting rooms and vacation homes at Wintergreen and Stoney Creek seems that it will fall in a negative way, and she believes that was unintended. She noted that perhaps the remedy would be to remove the SUP for the Residential (R-1) and Residential (R-2) districts. She then noted that the easiest way may be to keep the definitions which would allow them by-right so that Wintergreen homeowners wouldn’t have to go through the SUP process. She further noted that there are very popular online rental programs, such as Air B&B that many people have started to use, including herself. She concluded by stating that she “has an older home that is in Afton that I rent the entire home as a B&B, so I’m not really sure where I’m gonna fall in that and it is the entire house, but it’s an older house.” She would like to see a “definition for a Bed & Breakfast Inn which would allow for older farm houses/older structures to not have to comply with new hotel requirements just to rent them, so that people can earn a little bit of extra money.”

Curtis Bruguere: Mr. Bruguere noted that the reason he came to tonight’s meeting is to try to get some understanding of why this amendment process was initiated. He noted that he understands some of these are for clarification, but some seem to be reducing some opportunities for people in Residential (R-1). He asked why R-1 was being restricted from renting a single room. They should be able to do that by-right and not have to go through the SUP process, which can get very expensive. He further noted that he had a conversation with Mr. Padalino today and noted that Green Acres was one of the places that this “would really make sense”, and that may be the case, but why would the County want to restrict that area if owners wanted to rent room. He also noted that as the area grows with more breweries, wineries, and other tourist-type places, there is going to be more of a need for these types of vacation places for people to come.

Mr. Bruguere then noted that Wintergreen falls under all of these criteria and is in the R-1 designation. He estimated that the County is comprised of about 20% of residential homes. He stated that he is afraid this is more restrictive government; and that by requiring a SUP, there’s the need for a Site Plan – and that would be putting

“a lot of hardship on folks for no real reason.” He then asked, “What’s the difference of having a vacation house rental versus a full-time rental?” He further noted that by having weekend guests, it would benefit the County because they would spend money in the County (revenue). He reiterated that he would like an explanation for why this amendment process is happening.

Chair Proulx noted that after the public hearing is concluded, the questions will be addressed.

Heather Goodwin: Mrs. Goodwin began by providing comments regarding Special Events Permits (SEP). Chair Proulx explained to Mrs. Goodwin that the PC is not currently conducting a public hearing on the temporary events, and that this public hearing is in regards to the “bed and breakfast uses” items. Mrs. Goodwin apologized and stated that her “concern with all the regulations that I’m seeing being stemmed is a lot of them are reaction to tourism coming into our County. People who are citizens here are paying taxes and trying to keep vast pieces of property in rental properties available; them trying to find a way to be able to pay those real estate taxes. My concern and what I caution the board, is that when you put definitions behind these, they have to be workable, or else all they are going to do is go around them and figure out how to list their item.” She encouraged the PC to take a “long look at what has been drafted; think about other angles from which this can come; and I do question if there is a real health or safety concern that is necessary for this.” She concluded by asking, “Is there a real harm here that we are trying to prevent or are we regulating for the sake of regulating.”

Ellie Ray, Afton: Ms. Ray noted that she thinks there have been good efforts put towards these and it helps bring clarity for residents that own property in the County. She then noted that there are some concerns that she doesn’t feel have been thought of, and that her husband would speak about those. The area that he lives in (Rt. 6 corridor) is split-zoned (R-1 and A-1) with R-1 being along the roadway.

Brian Ray, Afton: Mr. Ray noted that there seems to be a technicality issue with Home Occupations, A&B and Bed & Breakfast A&B; the intensity of the use is flipped with those and feels the assignment of letters or classes need to be consistent. He then noted that he was speaking on the R-1 rights and what is allowed and what is not. He further noted that none of the split-zoned properties in the area are protected from A-1 uses. He feels that those properties with the R-1 zoning are being restricted from doing what is a by-right use for their A-1 zoned neighbors, but he feels as if they “are not protected from the same [A-1] uses if our neighbors choose to do them and find them objectionable. So, we don’t have protection or property rights.” He noted that he feels that restricting the B&B uses in R-1 can be accomplished in other sections of the ordinance. He then stated that, “removing the home occupations lodging by-right use that currently exists in the Ordinance is just taking away property rights from R-1 owners.” He feels as though that would create a lot of unenforceable non-conforming uses (such as Air B&B) and eliminate tax opportunities for the County. He concluded by noting a large portion of the 151 Corridor is bordered by Albemarle County, specifically their RA [“Rural Area”] district (most protected), which allows for more intensive lodging options (by-right) than either of the proposed B&B uses; and that restricting the “ability to create flexible and creative lodging options for Nelson County” would encourage the development of these options in Albemarle instead of Nelson.

Anne Wachtmeister: Ms. Wachtmeister noted that she owns a B&B in Nelson County. She stated that, as a business owner in Nelson County, the proposed amendments are very helpful and provide clarity. She noted that owners/operators of B&B are required to get state permits, business licenses, and other documentation/approval to operate their businesses. She then noted that she believes this is about accountability and clarity. She concluded by stating that she doesn’t see the proposed amendments as an over-regulatory effort.

Chair Proulx closed the public hearing at 7:46 p.m.

The Commissioners provided the following comments:

1. It was a good catch on the RPC and R-1 issue; the resulting SUP requirement was not intentional.
2. Older structures can still be used as a B&B as long as they meet the business requirements; it doesn't have to be a new construction.
3. The main reasons this amendment process was initiated are the contradictions and lack of clarity in the current ordinance.
4. A Site Plan can be done cheaper than \$1,500, and a Site Plan can potentially be waived.
5. Once B&B are done and are permitted properly, the County will get the tax revenue.
6. Acknowledgement that there are some weird R-1 zoning patterns in the County.
7. Agreement that Home Occupations A & B and Bed & Breakfast A & B categories need to be switched.
8. They understand the thought that the County should not keep regulating, cause hardship, or create extra expense.
9. In a classic R-1 neighborhood (not including Wintergreen), ~~could provide conveniences~~ new planned development could provide neighborhood covenants.
10. Could possibly limit the amount of time that an entire house can be rented in the R-1 districts.

Chair Proulx indicated that she is not sure of the timeline for making recommendations to the BOS; and she feels these amendments need to be revisited further. Mr. Padalino noted that if a formal recommendation to the BOS is not made by December 4th, it would legally become the PC's recommendation that the referred amendments are the PC's recommendation.

Commission Russell made the following motion:

I make a motion that Staff ask for a three (3) month extension from December 4, 2015 to allow the PC to continue to refine their recommendations on Bed & Breakfast in the future in the County. Commissioner Goad provided the second; the vote 4-0.

Other Agenda Items:

1. Minor Site Plan #2015-16: "Woodbridge Farm Brewery & Tasting Room" / Mr. Barry Wood

Mr. Padalino noted this is a by-right use for a limited farm brewery. The subject property is located in Woods Mill; it is zoned Agricultural (A-1) and consists of 170-acres. Mr. Padalino showed slides of the subject property. He noted this is a bona-fide agricultural operation. The farm brewery and tasting room are already partially built, but an approved Site Plan is required for this project.

Mr. Padalino noted that the Site Plan Review Committee met in October and provided the following comments:

1. Jeff Kessler, Virginia Department of Transportation (VDOT): requested some changes; those changes have been made. Mr. Kessler noted that a Land Use permit would be required, but that would take place after County's approval of the Site Plan.
2. Alyson Sappington, Thomas Jefferson Soil & Water Conservation District (TJSWCD): reviewed the Erosion & Sediment Control Plan (E&S) and accepted the plan; it is complete and approved.
3. Tom Eick, Health Department: working with the applicant and his consultant, Mr. Roger Nelson, on the conventional drainfield and septic system (for bathrooms, sinks, etc.), which is not yet approved. Mr. Padalino noted that he received correspondence in writing from Mr. Eick that states, "Roger was just about to submit a report for the sanitary waste water stream. I quickly reviewed the submittal and found it

satisfactory. Seconds later, Roger said that Barry wanted him to enlarge the system for added capacity for any potential future growth, so Roger rescinded the submittal.” Mr. Eick further noted that, “I don’t expect there to be any problems with the revised plan, but don’t know if I’ll have a chance to review it before the meeting.” Mr. Padalino noted that brewery operations create a separate waste stream, and the Health Department does not review or regulate that process water; it is a separate review process handled through state and/or federal agencies.

Mr. Padalino noted that he accepted a request for a waiver from the requirement that an engineer prepare the Site Plan because of the acreage; because of the farm brewery use itself; because it is drawn to scale by a licensed contractor; and because it is partially built.

The following questions were asked by the Commissioners:

1. Does this fall under an agricultural exemption; will David Thompson (Building Official) oversee the building for safety regulations or would it be the responsibility of the Planning Office? Mr. Padalino noted that it would be Mr. Thompson’s office that administers the Uniform Statewide Building Code and which issues agricultural exemptions.
2. Will a Certificate of Occupancy be given? Mr. Padalino noted a CO will not be issued because it is an ag-exempt building.
3. Will the business sign and lights be added to the Site Plan? Mr. Padalino noted that the Site Plan includes the location of some light poles; and that the sign location and details could be submitted separately at a later time and reviewed administratively.

Mr. Wood then addressed the Planning Commission. He noted that it was done as a farm-exempt building and inspections would not be done. He then noted that what he is doing everything to [building] code, if not better; and that he would welcome any type of inspection. He then noted that, with respect to the septic system, he decided to increase the numbers for the flow rate and he is currently working on that issue. He noted that the drainfield for the brewery is an EPA injection system. He also explained his plan for some of the settled yeast to be drawn off, put in a tank, and sprayed on the areas of the farm in cultivation for the beneficial nutrients.

He then noted that there would be three (3) full-closure lights that will be twelve feet (12’) high located in the parking lot. He would also like to use 24-volt low wattage lights that would be installed close to the ground. There will be a handicap accessible ramp that will be lit with the low wattage lights as well. The sign will be located at the entrance, once the entrance is widened.

Commissioner Russell made the following motion:

Having met the Nelson County Zoning Ordinance requirements for Minor Site Plan approval, the Planning Commission approves this Minor Site Plan #2015-16 for Barry Wood to construct a farm brewery and tasting room on his property, identified as Tax Map #34-A-96A; and by three (3) pages of plans prepared by the applicant dated November 6, 2015. Commission Goad provided the second; the vote 3-0 with Mr. Saunders abstaining.

2. Referral of amendments from BOS – Temporary Events, Festival Grounds, and Out-Of-Door Accessory Uses – R2015-68:

Mr. Padalino noted that the three (3) month extension that the PC asked for was approved by the BOS.

The following questions/comments were posed by the Commissioners for Mr. Payne:

1. The use of the word “control” and how it’s used with regards to contiguous parcels.
2. Why Mr. Payne removed the stipulation that uses be regulated differently depending upon the acreage of the property and depending upon the number of attendees.
3. The provision that festival grounds SUPs automatically terminate in five (5) years should be eliminated.
4. Article 23 already exists, and this proposed new article needs to be changed to Article 24.

Chair Proulx asked for a revised draft of the proposed amendments before the December meeting. Mr. Padalino stated that he would have a revised copy for the PC.

Chair Proulx then asked if the PC had to make a recommendation regarding Mr. Phillip’s SUP application for Wintergreen Brewery. Mr. Padalino noted that he was not sure what the timeframe would be since it does not meet the legal definition of a “complete” application, because there are aspects of the Site Plan checklist that have not been completed. He then noted that there has been a lot of communication with Mr. Phillips, and “F.P.” knows what needs to be done – but no revised resubmissions have been received yet.

Staff Updates:

Mr. Padalino reported on the following:

1. The Virginia Department of Agricultural and Consumer Services (VDACS) awarded a grant to restart the Rockfish Valley Area Plan (RVAP). He noted that he met with individuals at the Thomas Jefferson Planning District Commission, who are available and eager to assist with the project.
2. The County received a response to the questionnaire for the Atlantic Coast Pipeline, LLC (ACP).

Board of Supervisors Report: Mr. Saunders did not report anything.

Mr. Padalino noted that a working group, headed up by Mr. Tommy Bruguire, is being established for the Wayside Stands/Farmers Market proposed amendments. Chair Proulx indicated that she believes Mr. Brady Nicks would be a good member to add to the working group, and asked staff to help coordinate his involvement.

Adjournment:

At 8:27 P.M. Commissioner Goad made a motion to adjourn; vote 4-0.

Respectfully submitted,

Stormy V. Hopkins
Secretary, Planning & Zoning

NELSON COUNTY PLANNING COMMISSION
MEETING MINUTES
December 16, 2015

Present: Chair Philippa Proulx, Commissioners Mike Harman, Linda Russell, Mary Kathryn Allen, Robert Goad and Larry Saunders (Board of Supervisors Liaison)

Staff Present: Tim Padalino, Director of Planning & Zoning and Stormy Hopkins, Secretary

Call to Order: Chair Proulx called the meeting to order at 7:00 P. M. in the General District Courtroom, County Courthouse, Lovingson.

Approval of Minutes: Chair Proulx noted that a copy of the November 18th meeting minutes were received; they will be reviewed at next month's meeting.

Public Hearing Items: Chair Proulx noted that there are not public hearing items.

1. "Bed and Breakfast Uses" – R2015-66

Mr. Padalino noted that the slides only reflect the modifications (noted in red) that were requested at the last meeting by the Planning Commissioners (PC), in response to comments received during the public hearing (see attached, dated October 30, 2015). He also noted that he did have Mr. Phil Payne review these; and that Mr. Payne indicated that they looked good from a technical standpoint and from here forward, it is a policy decision. He then noted that the PC's request to the Board of Supervisors (BOS) for a three (3) month extension was authorized/approved on December 8th. The new deadline for a recommendation is March 4th, 2016.

The Commissioners and Staff discussed the proposed changes and the PC recommended the following:

1. Article 5: Residential District R-1 – Section 5-1 Uses – Permitted by-right: remove the following:
 - a. Bed and breakfast, Class A and Vacation house: remove *"two or more of the following apply: (a) the subject property is five (5) acres or greater; (b)"; and "or (c) the subject property adjoins contiguous property(s) entirely zoning Agricultural A-1"*.
2. Article 5: Residential District R-1 – Section 5-1-a Uses – Permitted by Special Use Permit only: remove the following:
 - a. *5-1-6a Boardinghouse*
3. Article 6: Residential District R-2 – Section ~~5-1-a~~ 6-1-a Uses – Permitted by Special Use Permit only: add the following:
 - a. *Boardinghouse (rearrange number sequence accordingly)*
4. Article 2: Definitions: Bed and breakfast, Class A and Bed and Breakfast Class B – remove *home occupations* from both.
5. Article 2: Definitions: Hotel – remove *rooming house*,
6. Article 8: Business District B-2: remove the following:
 - a. *8A-1-15 Bed and breakfast, Class A*
 - b. *8A-1-16 Bed and breakfast, Class B*

c. 8A-1-18 Hotel

7. Article 8: Business District B-2 – Section 8A-1-a Uses – Permitted by Special Use Permit only; add 8A-1-15 Hotel
8. Article 8: Business District B-2 – Section 8A-1-a Uses – Permitted by Special Use Permit only; remove the following:
 - a. *8A-1-7a Campground*

The Commissioners posed the following questions:

1. If a SUP is applied for (such as a B&B) and the use requested is defined by ordinance, is it possible for conditions to be created that are more restrictive than what is allowed by definition? Mr. Padalino noted that the BOS could impose more restrictive conditions if there is a reason for doing so and if the conditions have a nexus with the protection or promotion of public health, safety, or welfare.
2. Is there a definition of the number of room there has to be to be called a hotel? Mr. Padalino noted that a hotel would allow for transient lodging exceeding eight (8) rooms, which is the maximum number of rooms permissible in a Bed & Breakfast, Class B definition. It would also depend on the length of stay.
3. Should the Uses – Permitted by right in Sections 8-1 and 8-2 be changed to Uses – Permitted by SUP only? Mr. Padalino stated that he does not think so. Commissioner Goad suggested the following:
 - a. Section 8-1 Uses – Permitted by right. *“subject to obtaining a SUP for a single family dwelling unless it is a non-conforming use.”*

Chair Proulx asked for another draft of the proposed amendments and to have Mr. Payne review those before the January meeting. Commissioner Russell asked if there needs to be an advertisement for a public hearing. Mr. Saunders noted that with removing some items, he thinks those are major changes. Mr. Padalino noted that he would check with Mr. Payne regarding the procedure.

Chair Proulx made a motion that Staff check with Phil Payne regarding advertising for a public hearing on the proposed amendment changes; if required to do so, advertise for the January Planning Commission meeting. Commissioner Russell provided the second; the vote 6-0.

The PC took a five (5) minute break at 8:10 p.m. The meeting reconvened at 8:15 p.m.

Other Agenda Items:

1. “Temporary Events, Festival Grounds, and Out-Of-Door Accessory Uses” – R2015-68:

Mr. Padalino noted that the slides only reflect the modifications (noted in red) that were requested at the last Planning Commission meeting (see attached documents dated 12/2/2015). He noted that he met with Mr. Payne on the 30th of last month regarding these proposed amendments. He further noted that the PC’s request to the BOS for a three (3) month extension was authorized/approved on December 8th, and the new deadline for a recommendation is March 4th, 2016.

The Commissioners and Staff discussed the proposed changes, and the PC had the following questions/comments/changes:

1. Is “temporary” defined? Mr. Padalino noted that it was specified in each of the event categories.
2. There needs to be some clarity given for chart in Section 24-3-C (page 5). It should include “and” to clearly indicate that someone could do all numbers in each category (as opposed to being an “either/or”).
3. Need to add “Planning & Zoning” before Director in Section 24-3-D (page 5).
4. Need to change spelling of promotor to “promoter” in Section 24-3-E (page 5).
5. What if a property is split-zoned (A-1 and R-1), that gets a Category 1 temporary event permit, does that follow under the third line (Any other property zoned A-1, B-1, B-2, or SE-1)? Mr. Padalino stated that he believes as long as the event is held in the A-1 portion of the property, it would be permissible.
6. In Section 24-2-E-2 (page 3), should/could the PC review the SUP first, every five (5) years before the BOS? Mr. Padalino referenced Section 12-3-8 (“Renewal of SUP with Time Limits, Expiration, Revocation”) in the current Zoning Ordinance, which contains established procedures.
7. Could an event permit be revoked? Mr. Padalino noted that it could be revoked, if the use is not being conducted as it is supposed to be under the terms or conditions or approval.
8. Are the fees a one-time thing? Mr. Padalino indicated that SUP application fees are a one-time payment and that Temporary Event Permits require fee payment for each permit application but not necessarily for each event, depending on the details of the application.
9. The word “renew” needs to be removed from Section 24-2-E-2 (page 3).

Mr. Saunders asked if the BOS could revoke a SUP? Mr. Padalino again referenced Section 12-3-8 and stated that a SUP could be revoked if there was a violation, and there would have to be cause to do so.

Commissioner Allen made a motion to hold a public hearing on temporary events. Commissioner Harman provided the second; the vote 6-0.

Chair Proulx asked for a revised draft of the proposed amendments before the January meeting. Mr. Padalino stated that he would have a revised copy for the PC.

Staff Updates:

Mr. Padalino reported on the following:

1. Farmer’s Market working group: The citizen’s working group, headed up by Mr. Tommy Bruguiere, met on November 19th. Mr. Brady Nicks was added to the group. A lot of progress has been made. A final draft reflecting the most recent discussions will be made available to the working group members before the next BOS meeting.
2. A SUP for a “banquet hall” for Mr. Thieblot will be on the PC’s agenda for next month.
3. Work on the Rockfish Valley Area Plan will soon begin due to a grant award through the AFID Planning Grant program. That program requires that an “Ag Working Group” be created with representatives from the community to participate in the RVAP in a formalized way. Within the grant application, staff recommended that the Ag Working Group contain two (2) County Supervisors, one (1) Planning Commissioner, and others from the local agricultural industries (agritourism/forestry). After discussion among the Commissioners, it was determined that Chair Proulx would be the PC representative on the Ag Working Group.

Board of Supervisors report: Mr. Saunders did not report anything.

Adjournment:

At 9:20 P.M. Commissioner Allen made a motion to adjourn; vote 6-0.

Draft: 1/4/2016
Updated: 2/12/2016

Respectfully submitted,

Stormy V. Hopkins
Secretary, Planning & Zoning

DRAFT

NELSON COUNTY PLANNING COMMISSION
MEETING MINUTES
January 27, 2016

Present: Chair Philippa Proulx, Commissioners Mike Harman, Mary Kathryn Allen, Robert Goad and Tommy Bruguiera (Board of Supervisors Liaison)

Absent: Commissioner Linda Russell, and Stormy Hopkins, Secretary

Staff Present: Tim Padalino, Director of Planning & Zoning

Call to Order: Chair Proulx called the meeting to order at 7:00 P. M. in the General District Courtroom, County Courthouse, Lovington.

Election of Officers: Chair Proulx asked for nominations of Chair. Commissioner Harman nominated Philippa Proulx to continue her role. Commissioner Allen provided the second and there being no further nominations, the vote 5-0. Chair Proulx asked for nominations for Vice Chair. Chair Proulx nominated Mike Harman for the role. Commissioner Allen provided the second and there being no further nominations, the vote 5-0. Chair Proulx noted the Secretary for the Planning Commission was Tim Padalino.

Approval of Minutes – November 18, 2015 and December 16, 2015:

Commissioner Allen made a motion that the approval of the November 18th, 2015 and the December 16th, 2015 meeting minutes be held postponed until the February 2016 Planning Commission meeting. Commissioner Harman provided the second; the vote 5-0.

1. Special Use Permit #2015-18 - Quarry Gardens at Schuyler / “Banquet Hall” / Mr. Armand Thieblot

Mr. Padalino noted that on November 23rd, the Planning & Zoning Department received a Special Use Permit (SUP) application and Site Plan from Mr. Armand Thieblot (property owner) and Mr. Chris Sonne (Engineer who prepared the Minor Site Plan). This is for the review and approval of SUP #2015-18, which is requesting permission to conduct “banquet hall” operations pursuant to Zoning Ordinance (Z.O.) §4-1-4a. Specifically, the banquet hall would be operated within an existing structure and conducted throughout the grounds of the “Quarry Gardens at Schuyler”, which is a partially implemented arboretum for native plant exhibits with walking paths that loop around former soapstone quarries. The Site Plan notes, “this facility shall serve as a public garden site as well as accommodating catered private functions.”

Mr. Padalino showed a slide that contained information regarding the subject property’s location, characteristics, and other information. He explained that the property is located in Schuyler (East District) on Salem Road, and is further identified as Tax Map Parcel #61-A-23, which is zoned Agricultural (A-1) with some General Floodplain overlay. The parcel contains approximately 440-acres, a large portion of which is held in a recently-recorded conservation easement. The application noted that a 40-acre parcel will be subdivided from the existing parcel.

He further noted that the requested application proposes renovations to the existing Quonset hut and its reuse as a space for educational exhibits, private events, and administrative facilities for a small number of staff. Mr. Padalino explained that the applicants emphasized that the requested use would be seasonal – it would not continuously operate year-round – and would have an estimated annual attendance of 1,000 visitors.

Mr. Padalino then explained that this application was made, in part, as an effort to resolve non-compliance with the Z.O. Specifically, some site preparations (clearing and grading) and some site improvements (parking areas

and drainage facilities and a scenic overlook) began in 2015 without County review or approval. He further noted that he met with Mr. Thieblot in July and they discussed the permitting process, which led to this application.

Mr. Padalino noted that the Site Plan Review Committee met on December 9th and, he then provided a detailed summary of the review comments from that meeting (described in the Staff Report dated January 19, 2016 – see attached).

He concluded by providing his analysis of the four (4) evaluation criteria (Z.O. §12-3-2) that must be considered with all SUP applications. He then stated that the opinion of Staff is that the proposed use is appropriate and acceptable (details described in the Staff Report dated January 19, 2016 – see attached) and recommends approval of Special Use Permit #2015-18, subject to Health Department approval (details found in attached Staff Report), for the proposed operation of a banquet hall at the “Quarry Gardens at Schulyer.”

Armand and Bernice Thieblot: Mr. Thieblot addressed the issue of the traffic survey and noted that he had indeed commissioned a group of engineers to conduct a traffic survey. He also noted that, “although there is no speed limit sign going north on Salem Road, the speed limit sign going south on Salem Road is 25 mph going through Schulyer and there is no sign that says end of 25 mph speed, so that speed sign would seem to pertain all the way past the end of our quarries, up to the point where there is a 55 mph sign; that’s about two (2) miles down the road.” Mr. Thieblot showed various slides and presented extensive information on the property. He noted that due to the amount of debris, litter, and trash removed and the amount of soil and vegetation added back to the viewing platform area, it has been stabilized. He then noted that the Quonset hut would be the main facility; he is proposing to repurpose the structure to serve as an administration, classroom, and display building. He further noted that the building would host a maximum of about forty (40) people. He concluded by noting that there is a website for the site, which can be found at (<http://quarrygardensatschulyer.com>).

The Commissioners asked the following questions:

1. Would there be a charge for people coming to view the area? Mr. Thieblot stated that it will be a public garden and they would be charging admission. He noted that currently, they are set up as a LLC and within the next month or so, they would make the transition to be set up as a private charitable foundation.
2. There was concern that quarries can be an attractive nuisance. Mr. Thieblot stated that there would be safety railings and plantings to prevent people from getting too close to the edges, and indicated that the project site would be gated and protected. He further noted that he understands that there are some quarries in the area which are nuisances, but theirs are sufficiently off the road (250 yards).
3. With the banquet hall being used as a classroom, do you envision people wanting to come and do a wedding on the outside of the property? Mr. Thieblot stated that he does and noted that there are two flat spaces; one of which is several years old, and one that was created last year. He noted that both are grassy stabilized areas.
4. How many people would use the flat areas? Mr. Thieblot indicated that he had no idea, and tents could be put up in that area to accommodate such a use. The Quonset hut would not be used during such temporary events, and portable toilets would be brought on site for those.
5. Has there been any contact from the person that has the house next to the property? Mr. Thieblot indicated that the house is a rental property and they have not had any contact with anyone, but doesn’t anticipate any conflicts created by the Quarry Gardens use.
6. Is there a plan to have a separate deed for the forty (40) acres? Mr. Thieblot noted that was correct. He noted that a plat has been prepared by Mr. Massie Saunders. The plat has not been filed because they are waiting on some resolution regarding the sanitary issue.

Mr. Thieblot concluded by stating the idea is to be open three (3) days a week; Friday, Saturday, and Sunday from April through November. It will not be open Monday through Thursday; nor at night; nor during the winter. He estimates about one thousand (1,000) guests per year with the amount of interest that has been expressed thus far.

Chair Proulx then opened the public hearing.

William (Buck) Whitehurst: Mr. Whitehurst indicated that he has lived in Schuyler for about sixteen (16) years. He noted that he is impressed by this proposed project, and welcomes the type of people this would bring to the area.

No further comments were given. Chair Proulx closed the public hearing.

Commissioner Harman noted that he personally feels that this is a great project and he's pleased that someone is doing something with this historic property. He believes this is something good for the County.

Commissioner Allen made the following motion:

I make a motion that the Planning Commission recommend to the BOS approval of SUP #2015-18 for property owner, Armand and Bernice Thieblot and applicant Chris Sonne, for property with a Tax Parcel Map #61-A-23, located on Salem Road in Schuyler. This motion is also an approval based on appropriate resolution of issues related to the safe and proper disposal of waste and appropriate resolution of issues related to a commercial entrance location and design by VDOT. We also make a recommendation for April through November to be months of operation. Commissioner Harman provided the second; the vote 5-0.

2. Zoning Ordinance Amendments: "Temporary Events, Festival Grounds, and Out-of-Door Accessory Uses":

Mr. Padalino noted that the PC has been working on the proposed amendments for several months; it was referred to them by the BOS; and provided an introduction and background regarding the proposed amendments. Specifically, he noted that this amendment process is being undertaken due to the fact that the existing provisions and regulations have become outdated and insufficient, and provided the following examples (details described in the Staff Report dated January 25, 2016 – see attached):

- Lack of distinction between which activities require Special Event Permits, and which do not;
- Lack of distinction among events of varying scale, duration, and frequency;
- Lack of specific evaluation criteria to guide the County's decision-making process during the review and approval/denial of Special Events Permit applications; and
- Lack of comprehensive provisions and regulations.

He then noted that County staff arrived at the conclusion that the appropriate long-term solution would be to amend the Z.O. with updated and improved provisions. He stated that a successful text amendment process would:

- benefit County staff by establishing a clean and consistent review process;
- benefit event promoters and members of the public by establishing a permitted process that is clearer, more straightforward, and more transparent; and

- benefit local businesses by establishing a large variety of activities that are exempt from permit requirements.

Mr. Padalino then provided a summary of the review process (details described in the Staff Report dated January 25, 2016 – see attached). He pointed out that Special Events Permits will be redefined as “Temporary Event Permits,” in order to avoid confusion with “Special Use Permits” and to emphasize that “Temporary Event Permits” are primarily meant to be temporary activities and not permanent land uses. He indicated that three (3) categories of events would be established. He also noted that these amendments would help clarify when permits are needed (or not); help ensure that the County is not over-regulating; help identify numerous types of events that would specifically be exempted from any Temporary Event Permit requirements; and would help provide for more appropriate regulations and permitting processes.

He further noted that the proposed amendments would be a new Article within the Z.O., which would replace §4-11-3 (Article 4 – Agricultural District). He then proceeded to provide a detailed summary of the most recent version of the (modified) referred amendments and noted that the proposed new Article 24 would also affect some of the existing sections of the Z.O. (details described in the Staff Report dated January 25, 2016 – see attached).

Chair Proulx then opened the public hearing.

George Hodson: Mr. Hodson stated that he is the General Manager at Veritas Vineyards and Winery, as well as the President of Nelson 151. He noted that, “we, as our family business but also as an organization (Nelson 151), are strongly in favor of good strategic planning in Nelson County.” He believes it is, “vitally important for the County and our businesses that we protect the character of Nelson County and preserve the reasons we established our businesses here; we are in favor of planning.” He noted that he has several concerns regarding the draft and the language in it. He then noted that, “we’ve consulted with a number of people and this is a part of a much bigger discussion that is going on statewide, and not just in Nelson County, but across the entire state, with land use and things of that nature. We feel the current document is a little overreaching and could have several unintended consequences going down the road.” He further noted that, “In the context of the fact that we have had a Rockfish Valley Area Plan commissioned by the BOS to create a strategic plan for zoning and planning for at least the Rockfish Valley area (the northern end of the County), we think that perhaps this language is a little bit premature. Ultimately, for the business (Veritas) but also for Nelson 151, we would ask that we wait for the results of the Rockfish Valley Area Plan before we make any big changes to this process, because we would like it to be strategically aligned, and for this document to be consistent with the long-term plan for the County and the land use in the County. We would also request that a working group be created to develop a document that is consistent; that is well thought out; and that won’t have unintended consequences.” He concluded by stating that he doesn’t want to go through the amendments line-by-line to point out areas of cause. He believes that those are the kinds of things that an affective working group can do to create something that is good for the business and the County.

Dave Frey: Mr. Frey stated that he is with the Lockn’ Festival. He is very happy to be in Nelson County and appreciates all the attributes that are here, noting it’s a great place to start their festival. He noted that they are looking into conducting other events; and that they’ve become property owners (purchasing the 387-acres Loving property) to augment Oak Ridge, which would make the events more safe. He further noted that they have made a lot of investments in permanent infrastructure to make it a better experience as well as a more efficient operation. He indicated that he agrees with Mr. Hodson, and stated that, “If there is a way to bring in some of the businesses that this would affect or perhaps impact the most, so that we could have a little bit of input into this, we might have some good ideas to share. We welcome clarity.” He noted that he wants to know what the rules are because

with the way it has been done in the past, it's been vague and somewhat outdated. He then noted that, "it would be really great if there was a way that maybe we could get together with the other businesses that this would impact and have some input into it. One thing that I was going to mention is that other states (just for events of our size) have something called a Mass Gathering Permit. The Mass Gathering Permit, they have it in California and Illinois, and I've talked to Tim about this but I know the amount of work that we create for the Department of Health is completely overwhelming to them. They have Charlottesville, they've got Lovingson, they've got Lynchburg, people from Roanoke that are trying to go through the oversight of this – and we don't want to create that type of burden on them every time we do an event, where they have to go to Richmond to get the campground waiver permit and do all these things like that. A Mass Gathering Permit has all those things defined in it – and as long as the event is compliant with what the Mass Gathering Permit says, then it can go ahead in that matter. Now that's a state legislative thing. So that's something that we've been talking to people in Richmond about and wanted to share that with you. I think it's good for everyone to communicate as well as possible." He concluded by saying he appreciates the work that is being done on this; believes it needs to be done; and welcomes the opportunity to help participate.

With no further comments, Chair Proulx closed the public hearing.

Mr. Bruguire suggested setting up a working group ~~The Commissioners discussed and decided that a working group would be formed~~ to include Mr. Bruguire himself, Ms. Maureen Kelley, a Planning Commissioner, Mr. Padalino and some of the business owners that this would affect to work out some of the issues/problems. Mr. Padalino suggested the PC finish their process with a recommendation to the BOS. At that point, the BOS could establish a working group if they choose to do so. The timeline and process was also discussed regarding the PC's referral. Mr. Padalino noted that March 4th would be the deadline so that a recommendation to the BOS would need to be made at the next PC meeting (under the current 100-day deadline). It was suggested that interested parties could email Mr. Padalino questions/concerns/suggestions and hold a work session before the next PC meeting. A tentative work session date was suggested for Wednesday, February 10th.

Other Agenda Items:

1. Minor Site Plan #2016-01: "Barefoot Bucha Farm Brewery" / Limited Farm Brewery – Ethan & Kate Zuckerman:

Mr. Padalino noted the subject property's location, characteristics, and other information. He explained that the subject property is located on Creek Road in the Greenfield area of Afton; is identified as Tax Map Parcel #12-10-1; is zoned Agricultural (A-1); and consists of 2.52-acres. It is an undeveloped site generally located behind and below Ashley's Market (on the opposite side of Creek Road). He noted that the Zuckermans' currently operate Barefoot Bucha in the same part of the County, and wish to relocate and expand their brewery. Specifically, the applicants are seeking Site Plan approval pursuant to the "Farm Brewery" provision in the Zoning Ordinance (Z.O.). The applicants do not own the property; however, the current owner, Mr. Morris Foster has provided a written and signed letter declaring his authorization of this application (dated December 16, 2015 – see attached).

Mr. Padalino noted that the applicants have submitted this Minor Site Plan in connection with a proposed use, (permitted by-right use in the Agricultural (A-1) District), for a "Limited Farm Brewery" pursuant to Z.O. §4-1-29. However, he noted that in order to be eligible for this by-right limited farm brewery use, the operation requires the on-site farming of agricultural (ag) products used in the brewing process. He then noted that Tax Map Parcel #12-10-1 does not currently contain an ag operation involving the cultivation of ag products used in the manufacture of the brewed beverage (kombucha). He further noted that he has discussed this important issue with

Mr. Zuckerman and the applicant has provided a detailed explanation of Barefoot Bucha's proposed ag operations in his project narrative (dated January 4th – see attached). Mr. Padalino proceeded to summarize the narrative that was provided. He then stated he believes that the seasonality and ownership are extenuating circumstances which presently prevent the establishment of on-site ag operations; and that these circumstances require careful consideration. He also believes that the applicants understand the Z.O. requirements and are genuinely intending to properly resolve those issues by establishing on-site ag operations at the earliest possible timeframe (pending zoning approvals/transfer of land). Therefore, it is his opinion that the requested use be considered eligible subject to the applicants implementing the terms and details contained on the Site Plan and contained in the January 4th project narrative document. He concluded by noting if the Minor Site Plan is approved for this use, and if for any reason the ag operations on-site are not established in the timeframe specified by the applicants or in connection with details shown on the Site Plan, the property could be considered in violation of Z.O. §13-2.

Mr. Padalino noted that the Site Plan Review Committee did not meet to review this Site Plan. However, written comments were received from the Review Committee members, and Mr. Padalino read those review comments (details described in the Staff Report dated January 19, 2016 – see attached).

Mr. Padalino noted that Mr. Jeff Kessler (VDOT) wrote to provide an update regarding the low-volume commercial entrance, "I do not foresee any issues at this time that would prevent VDOT's approval." Mr. Padalino further noted that the applicants have requested a waiver (letter dated December 15th – see attached) from the requirement to improve or upgrade the existing farm road to meet the County's private road standards. He noted that the 2014 state statute which established these farm breweries as by-right ag land uses explicitly allowed localities to exempt (at their own discretion) certain Site Plan requirements, including private road standards and parking standards.

Mr. Padalino then explained that Mrs. Alyson Sappington (Thomas Jefferson Soil & Water Conservation District) noted that an approved Erosion & Sediment Control Plan (E&S) will be required prior to breaking ground for this particular project; but he then noted that an E&S Control plan is not a required element of the County's Minor Site Plan checklist, and that can be submitted, reviewed, and approved after review of the Minor Site Plan but before obtaining a Land Disturbing Activity Permit or beginning any construction.

Mr. Padalino then noted that Mr. Tom Eick (Nelson County Health Department) provided comments on January 12th, which state, "The Zuckerman's plans to divide their sanitary and process wastewater flows to different treatment and disposal areas is in accordance with VDH guidance. This office has not reviewed the OSE design for the sanitary drain field and well location yet, but will do so as soon as it is submitted." He also noted that the "process waste water flow will probably be handled under an EPA Injection Well Permit."

Mr. Padalino concluded by recommending that the proposed use (as detailed on this Minor Site Plan and throughout the application materials and project narratives) is acceptable subject to the appropriate resolution of the following:

1. Issues relating to safe and proper disposal of sanitary waste as regulated by the Health Department;
2. Issues relating to safe and proper disposal of process water, which is regulated by DEQ and/or US EPA;
3. Issues relating to the commercial entrance location and design (may not apply at this design phase) regulated by VDOT; and
4. The establishment of on-site farming operations at the earliest possible timeframe and as specified on the Site Plan and as detailed on the project narrative (dated January 4th).

The following questions were asked by the Commissioners:

1. Are the private road standards for subdivisions? Mr. Padalino noted that was correct but they are also a part of the Site Plan requirement Article 13-7: Required Improvements.
2. Do they have a year to satisfy VDOT's requirements for the entrance? Mr. Padalino indicated that he believes the applicants are looking at an indefinite approval for a low-volume commercial entrance.
3. Is there going to be any retail at this site? Mr. Zuckerman noted that they are wanting to expand into a new facility and to be able to grow a lot of the products that they want to use as ingredients in their product. The potential site is a great location to do this. They are growing all organic products, which has to be certified by an inspector.

Commissioner Harman made the following motion:

I make a motion that the Planning Commission approve Minor Site Plan #2016-01 located on Creek Road in the Greenfield area of Afton; Tax Map Parcel #12-10-1. Also, the Planning Commission recommends approval of the request for waiver of the private road standards. Commissioner Allen provided a second; the vote 5-0.

2. Referral of amendments from BOS – Bed and Breakfast Uses – R2015-66:

Mr. Padalino noted that this is a continued review from the BOS referral. He provided a brief summary of the process as well as commentary on the most recent version of the modified referred amendments (details described in the Staff Report dated January 19, 2016 – see attached).

The following questions/comments were posed by the Commissioners:

1. Are Site Plans required for a Bed & Breakfast? Mr. Padalino noted a Site Plan would be required in connection with a SUP if it were a new construction with more than five (5) bedrooms.
2. Are campgrounds only permitted by SUP in Agricultural (A-1)? Mr. Padalino noted that was correct.

Commissioner Harman made the following motion:

I make a motion that the Planning Commission recommend approval to the BOS of the December 28th, 2015 draft for Zoning Ordinance Amendments to Bed and Breakfast Uses and Transient Lodging (BOS Resolution R2015-66). Commissioner Allen provided the second; the vote 5-0.

3. Referral of amendments from BOS – Article 10 (General Floodplain District FP):

Mr. Padalino noted that this is a referral from the BOS. He noted that the PC was provided a copy of the Staff Report (dated January 19 – see attached); a copy of the original Staff Report that was addressed to the BOS (dated October 8, 2015 – see attached) which summarizes the original amendments; and the “audit” that was completed by Mr. Charles Kline at the Virginia Department of Conservation and Recreation (DCR). He then noted that in the proposed text amendments, there is not an extensive amount of content but there is a relatively significant increase in regulation. He also noted that the largest amount of proposed new content was Section 24 (“Administration”) (page 79), and was added in response to DCR comments that such a section must be included in order to meet the Model Ordinance requirements.

Chair Proulx asked what the motivation behind these proposed amendments was. Mr. Padalino indicated that it partially stemmed from increasing public interest in the issue of Floodplain Management, given the proposed gas transmission pipeline and the perceived impacts to natural resources and public safety; and in the context of that

heightened interest, Mr. Steve Carter (County Administrator) contacted DCR in 2015 to perform an audit of the County's Floodplain Ordinance.

4. Referral of amendments from BOS – Article 18 (Limited Industrial District M-1):

Mr. Padalino noted that this has to do with whether a new use should be introduced in the Limited Industrial District (M-1) which currently exists in the Industrial District (M-2). Specifically, the use in question is "Contractors' equipment storage yard or plant, or rental of equipment commonly used by contractors." He indicated (as stated in the Staff Report dated January 19th – see attached) this could be a use that lends itself to being more appropriate for the heavy industrial district (M-2), but stated that he also believes this could be a use that is appropriate in a limited industrial district (M-1) as well. Mr. Padalino recommended that it be made permissible as a Special Use in M-1. He then explained that the BOS referral to the PC requested that it be reviewed as a by-right use in M-1, but noted that he believes it should become a Special Use so that specific projects or properties can be reviewed for appropriateness on a case-by-case basis.

The Commissioners and Mr. Padalino briefly discussed the use and decided that the proposed amendments would be reviewed further at next month's meeting.

Adjournment:

Commissioner Allen made a motion to adjourn; vote 5-0.

Respectfully submitted,

Stormy V. Hopkins
Secretary, Planning & Zoning



DEPARTMENT OF
PLANNING & ZONING

PLANNING COMMISSION
BOARD OF ZONING APPEALS

To: Chair and Members, Nelson County Planning Commission
From: Tim Padalino | Planning & Zoning Director
Date: February 16, 2016
Subject: Continued PC Review of Referred Zoning Ordinance Amendments –
“Temporary Events, Festival Grounds, and Out-of-Door Accessory Uses”
(BOS Resolution R2015-68)

Summary of Review Process:

<i>August 11, 2015</i>	BOS refers amendments to PC via BOS Resolution R2015-68
<i>August 26</i>	PC formally receives referred amendments and begins review
<i>September 23</i>	PC continues review and discusses various possible modifications
<i>October 28</i>	PC continues review and requests three (3) month extension from BOS for continued review(s) prior to making recommendation to BOS
<i>November 12</i>	BOS grants requested three (3) month extension
<i>November 18</i>	PC continues review inclusive of additional proposed modifications
<i>December 16</i>	PC continues review inclusive of additional proposed modifications and directs staff to advertise for a public hearing at the next PC meeting
<i>January 27, 2016</i>	PC conducts public hearing and continues review
<i>February 24</i>	PC continues review
<i>March 4</i>	deadline for PC recommendations to BOS

Brief Summary of Specific Issues Identified for Additional Review:

In the time since the initial BOS Referral of these amendments, the PC has made extensive progress in their review, and has recommended numerous modifications to the proposed text amendments.

However, several issues may still require final discussion, as identified during previous PC reviews, and also during the public comments received by two speakers during the public hearing on January 27th. Please see below for a summary list of issues which may require additional PC discussion and

decision prior to formally making recommendations to the BOS. Please review this list as well as the sections identified under each issue, and come to the work session prepared to offer questions and suggestions (as may be applicable):

A. The concept of limiting the hours in which certain uses or activities are permissible:

- See proposed §24-1 “Definitions” ... “Out-of-Door, Accessory Use”
- See proposed §24-2-A “Exempt Events” ... Item 9 “Farm winery and Agritourism activities conducted between the hours of 7:00 a.m. and 7:00 p.m.”
- See proposed §24-2-B “Temporary Event, Category 1”
- See proposed §24-2-C “Temporary Event, Category 2”
- See proposed §24-2-E “Temporary Event, Category 3”... Subsection 3
- See proposed §24-3 “Issuance of Temporary Event Permits” ... Subsection B ... Item 1

B. The concept of limiting the maximum total number of temporary events which can be conducted in any given calendar year on the same property:

- See proposed §24-3 “Issuance of Temporary Event Permits” ... Subsection C:
 - The PC should conduct a final review of whether or not this section should be modified to:
 - contain an increased (or decreased) maximum number of events per year;
 - create a procedural mechanism by which an applicant can formally request the BOS for an increase to the maximum number of events; and/or
 - specify that the maximum number of Category 3 Temporary Events shall be established on a case-by-case basis at the time the “Festival Grounds” Special Use Permit is reviewed/approved.

C. The concept of inserting a clause which would clearly authorize the Planning & Zoning Director to administratively approve amendments to Temporary Event Permit plans in the occurrence of a severe storm, traffic accident, etc.:

- See proposed §24-3 “Issuance of Temporary Event Permits” ... Subsection E
 - This subsection could include language such as: “After formal approval of a Temporary Event Permit, and in the event of unforeseen circumstances outside of the event promoter’s control or causation, the Planning & Zoning Director has the authority to formally approve modifications to the Temporary Event Permit (and/or the required components of such a permit, including Site Plan, Traffic Plan, etc.), in consultation with the applicable law enforcement and regulatory agencies and with the event promoter(s).”

D. The concept of providing a definition and provision(s) for principal uses/structures which are used for hosting Category 1 or 2 Temporary Events (smaller than “Festival Grounds” use and smaller than “Category 3 Temporary Events”):

☞ *See proposed §24-1 “Definitions”*

- This section could be modified to include a definition for “outdoor entertainment venue,” “performing arts stage,” “outdoor concert venue,” or some other similar type of land use that would provide an alternative option to “Festival Grounds” (which is directly connected with Category 3 Temporary Events and which, by definition, requires a minimum of 250 acres).
- If such a use/structure is defined, it would be necessary to determine the districts in which it would be permissible by-right, permissible as a special use, or not permissible.

Summary and Conclusion:

After the January 27th public hearing, there was extensive discussion among Planning Commissioners and staff regarding the possibility of establishing a “citizen’s working group,” inclusive of participation from community members who would be most directly affected by these proposed amendments. As you recall, the establishment of such a working group was requested during the public hearing by Mr. George Hodson (speaking on behalf of Veritas as well as Nelson 151) and also by Mr. Dave Frey (representing Lockn). In addition, BOS Liaison Mr. Tommy Bruguere also strongly suggested that such a working group be established.

While I certainly understand (and strongly agree with) the importance of establishing a citizens working group to conduct a separate review of these proposed text amendments, I remain concerned about the timing of establishing such a working group.

Specifically, I believe the most natural time to establish a working group would be after the PC makes its final recommendations, and before the BOS conducts a public hearing (as required prior to taking any formal action). Such a sequence would:

- ☞ allow the PC to finalize the long-running review process, and clearly and formally establish their recommendations;
- allow the members of the working group to begin their work by focusing on a specific, established work product (as opposed to beginning with a draft iteration of a “work-in-progress” document); and
- ☞ provide the most simple and appropriate sequence for inserting a citizen-based working group into the overall (ongoing) amendment review process.

Therefore, my recommendation is that the PC endeavor to make final recommendations during the upcoming work session on February 24th, and vote later that evening at the regular meeting to forward those recommendations to the BOS. I offer that recommendation in consideration of the benefits outlined above, as well as the following:

- ☞ This would allow the PC to provide the BOS with final PC recommendations in advance of the March 4th deadline (which represents a three-month extension from the original deadline); and
- The working group would include at least one Planning Commission, to ensure that the PC review and deliberation would be an integral part of the working group deliberations and eventual recommendations to the BOS.

In conclusion, please contact me with any questions, concerns, or requests for assistance leading up to the February 24th Planning Commission work session and regular meeting regarding these proposed amendments. Thank you very much for your time and attention to this important subject.

9/24 Draft Amendments for PC Consideration

Payne's comments 10/8/15

TP recommendations 10/20/2015

TP modifications 12/17/2015

ARTICLE 24. TEMPORARY EVENTS, FESTIVAL GROUNDS, OUT-OF-DOORS ACCESSORY USES

Statement of Intent

This Article provides regulations designed to address temporary uses in districts where such uses would not otherwise be permissible, establishes criteria for the approval or disapproval of such temporary uses, and provides requirements for the permitting and conduct of such uses. The Article also requires for the issuance of a Special Use Permit for properties where the intended use envisions large scale events, and provides for the regulation of out-of-door activities conducted as an accessory use to certain permitted commercial uses. The Article is not intended to regulate, and does not regulate, the traditional non-commercial use of property by its owners; such use is subject to other provisions of this Ordinance, the Noise Ordinance, and other applicable law.

24-1 *Definitions*

Agritourism Activity: any activity carried out on a farm or ranch engaged in bona fide Agricultural Operations that allows members of the general public, for recreational, entertainment, or educational purposes, to view or enjoy rural activities, including farming, wineries, ranching, historical, cultural, harvest-your-own activities, or natural activities and attractions. An activity is an agritourism activity whether or not the participant paid to participate in the activity.

Festival Grounds: The use of land for the hosting and operation of Category 3 Temporary Events, and the construction, erection, or other use of structures or other improvements (temporary or permanent) associated with Category 3 Temporary Events. The minimum acreage for a Festival Grounds is 250 acres. Contiguous parcels under the same or different ownership or control may be aggregated to attain the minimum acreage; if contiguous parcels are under different ownership or control, the owner or agent for each parcel must formally authorize the application for a Festival Grounds Special Use Permit.

Out-of-Door, Accessory Use: The following out-of-door activities are accessory uses to a Banquet Hall, Conference Center, Corporate Training Center, Restaurant, Brewery, and Distillery: receptions, dining, and entertainment, such as musical or small band performances, which (i) are conducted in connection with the primary permitted use, (ii) do not involve amplified sound later than 9:00 p.m. on Sundays through Thursdays or later than 10:00 p.m. on Fridays or Saturdays, and (iii) hosts less than 1,000 attendees at any one time during the activity. Unless otherwise specified in (ii), all such accessory activities are limited to 10:00 p.m. on Sundays through Thursdays, and are limited to 11:00 p.m. on Fridays and Saturdays.

Temporary Event: The temporary use of property that is not otherwise a by-right use or use permitted by special or conditional use permit.

Temporary Event, Historical Property: An event such as historical reenactments, living history, home tours, or similar activities which are conducted in connection with a property of historical or natural value when there is either (i) no admission or (ii) a nominal admission dedicated to preservation, restoration, or charitable purposes.

Temporary Event, Non-Profit: An event conducted by local non-profit community service organizations such as fire departments, rescue squads, schools, fraternal organizations, faith-based organizations, or community centers.

Temporary Event, Social: A one day private social event which is not open to the general public, such as weddings, receptions, and reunions, to which attendance does not exceed 300 people, conducted on property not zoned for commercial uses and for which the landowner charges a fee for the use of his property.

24-2 Temporary Event Permits

A Temporary Event Permit is required for Temporary Events defined in this subsection as either Category 1, 2, or 3.

24-2-A Exempt Events

The following Temporary Events are exempt from Temporary Event Permit requirements and fees:

1. Private non-commercial functions conducted on the property of the host
2. Social Temporary Events where permitted by right
3. Historical Property Temporary Events
4. Non-Profit Temporary Events having or projecting less than 1,000 attendees at any time during the event
5. Athletic and sporting events conducted on sites approved for such events
6. Political gatherings
7. Religious gatherings
8. Out-of-Door Accessory Uses
9. Farm winery and Agritourism activities conducted between the hours of 7:00 a.m. and 7:00 p.m.

24-2-B Temporary Event, Category 1

A Category 1 Temporary Event is any event which is neither an otherwise permitted use nor exempt and:

- (i) for which admission is charged or at which goods and services are sold, having or projecting less than 1,000 attendees, or,
- (ii) Non-Profit Temporary Events having or projecting more than 1,000 attendees, or,
- (iii) Farm winery or Agritourism activities conducted after 7:00 p.m. and having or projecting less than 1000 attendees..

Each such event may not exceed a maximum duration of four (4) consecutive days open to the attending public, inclusive of an arrival day and a departure day. Amplified sound is not permitted after 11:00 p.m. on any Sunday, Monday, Tuesday, or Wednesday night; nor after 11:59 p.m. on any Thursday night; nor after 1:00 a.m. on any Saturday or Sunday morning. A Category 1 Temporary Event Requires a Temporary Event Permit.

24-2-C Temporary Event, Category 2

24-2-C-1 A Category 2 Temporary Event is any event which is neither an otherwise permitted use nor exempt, for which admission is charged or at which goods and services are sold, having or projecting 1,000 or more attendees but less than 10,000 attendees. Each such event may not exceed a maximum duration of six (6) consecutive days open to the attending public, inclusive of an arrival day and a departure day. Amplified sound is not permitted after 11:00 p.m. on any Sunday, Monday, Tuesday, or Wednesday night; nor after 11:59 p.m. on any Thursday night; nor after 1:00 a.m. on any Saturday or Sunday morning. A Category 2 Temporary Event Requires a Temporary Event Permit.

24-2-D Structures for Category 1 and 2 Temporary Events

Each structure used for either a Category 1 or 2 event (i) shall have been in existence on the date of adoption of this Article, provided that this requirement shall not apply to accessory structures less than 150 square feet in size and (ii) shall be a lawful conforming properly permitted structure and shall support or have supported a lawful use of the property. The installation of temporary structures and facilities, such as tents and portable lavatories, is permissible in connection with approved Temporary Event Permits, subject to all applicable laws and regulations.

24-2-E Temporary Event, Category 3

24-2-E-1 A Category 3 Temporary Event is any event having or projecting more than 10,000 attendees and requires a Special Use Permit for Festival Grounds land use to be obtained pursuant to Article 12, Section 3 "Special Use Permits" and Article 13 "Site Development Plan" and also a Temporary Event Permit. The erection of permanent structures and/or the installation of permanent infrastructure used in connection with Category 3 Temporary Events is permissible, subject to all other Zoning Ordinance provisions, including but not limited to Article 13 "Site Development Plan."

24-2-E-2 A Festival Grounds Special Use Permit shall be automatically reviewed at a public hearing conducted by the Board of Supervisors every five (5) years after the initial issuance, after which hearing the Board may renew, revoke, or modify the terms and conditions of the Special Use Permit in accordance with Article 12, Section 3 "Special Use Permits."

24-2-E-3 A Category 3 Temporary Event may not exceed a maximum duration of six (6) consecutive days open to the attending public, inclusive of an arrival day and a departure day. Amplified sound is not permitted after 11:00 p.m. on any Sunday, Monday, Tuesday, or Wednesday night; nor after 11:59 p.m. on any Thursday night;

nor after 1:00 a.m. on any Saturday and Sunday morning. Without limiting the general authority of the Board of Supervisors under Article 12, the Board of Supervisors may impose additional conditions or further restrict the number of events, days, and times in granting a Special Use Permit for Festival Grounds land use.

24-2-F For the purposes of this Article 24, “applicant” includes the members of an applicant’s immediate family or an affiliated business entity relationship. An affiliated business entity relationship exists when (i) one business entity has a controlling ownership interest in the other business entity, (ii) a controlling owner in one entity is also a controlling owner in the other entity, or (iii) there is shared management or control between the business entities. Factors that may be considered in determining the existence of an affiliated business entity relationship include that the same person or substantially the same person owns or manages the two entities, there are common or commingled funds or assets, the business entities share the use of the same offices or employees, or otherwise share activities, resources or personnel on a regular basis, or there is otherwise a close working relationship between the entities.

24-3 Issuance of Temporary Event Permits

24-3-A The Planning and Zoning Director will consider the following factors when determining whether a Temporary Event Permit will be issued:

1. If and how the proposed event would result in undue interference with other planned activities in the County;
2. The schedules of churches, schools, governmental operations, and similar public and quasi-public entities;
3. The availability and provision of necessary resources such as transportation infrastructure, law enforcement, emergency services, parking, and similar considerations;
4. The location and operation(s) of other permitted Temporary Events during the same time period as the proposed event; and
5. Compliance with the requirements of other agencies and departments; and
6. The prior history of compliance by the applicant or landowner with this article, the zoning ordinance, and applicable conditions. Prior or existing non-compliance may be grounds for the denial of a permit.

24-3-B In issuing the permit, the Planning and Zoning Director, may, after consideration of the foregoing factors:

1. Establish or modify times during which activities or amplified sound, or both, may be conducted;
2. Fix the permitted dates for the event;
3. Limit the number of attendees; and
4. Impose such conditions as are necessary to protect the health, safety and welfare of attendees and residents of the County.

24-3-C The maximum number of properly-permitted non-exempt Temporary Events which may be conducted in a calendar year on the same subject property, or on properties contiguous to or adjacent to the subject property if under the same ownership or control as the subject property, is limited as follows:

Type of Property	Category 1	Category 2	Category 3
Farm Winery or Bona Fide Agricultural Operation, the aggregate acreage of which is equal to or greater than 250 acres*	16	8	4
Farm Winery or Bona Fide Agricultural Operation, the aggregate acreage of which is less than 250 acres*	12	6	3
Any other property zoned A-1, B-1, B-2, or SE-1**	8	4	2

**Contiguous parcels under the same or different ownership or control may be aggregated to attain the minimum acreage.*

***Category 3 Temporary Events are not permissible in Service Enterprise District (SE-1)*

24-3-D The Director may issue a single Temporary Event Permit for more than one Temporary Event if he determines that each Temporary Event is substantially similar in nature and size and that a single set of conditions would apply to each Temporary Event. Any such combined Temporary Event Permit shall not have the effect of allowing more Temporary Events than the limits set forth in the preceding subsections.

24-3-E A Temporary Event Permit application requires the following submissions to be considered a completed application:

1. Temporary Event Permit application signed by the property owner(s) and the event promotor or sponsor, who shall collectively constitute the "Applicant";
2. Temporary Event Permit application fee, as follows:
 - a. Category 1 Temporary Event Permit application = \$100
 - b. Category 2 Temporary Event Permit application = \$500
 - c. Category 3 Temporary Event Permit application = \$2,500
3. Site Plan, drawn to scale and containing all necessary dimensions, annotation, and other details regarding event layout and event operations; except that Category 3 Temporary Event Permit applications require a Site Plan to be prepared in accordance with Article 13 "Site Development Plan" and Article 24-2-E-1 and submitted with the Festival Grounds Special Use Permit in accordance with Article 12, Section 3 "Special Use Permits."
4. Transportation Plan, containing all necessary details regarding vehicular arrival, departure, informational signage, and on-site circulation (as applicable);

5. Safety Plan, containing all necessary details regarding emergency preparedness and emergency response plans, emergency services, medical services, law enforcement and security services, and similar details necessary for ensuring the safety of attendees and the general public; and
6. Any other event information deemed necessary by the Director of Planning and Zoning.

In addition to the proposed introduction of Article 24 (above), the following amendments are also proposed for existing Articles:

➤ **Article 4. Agricultural District (A-1)**

Remove the following:

4-11-3 Temporary events not otherwise a permitted use may be allowed pursuant to a Special Events Permit for a specified time period. [...]

Add the following:

4-1 Uses – Permitted by right:

- Agritourism Activity
- Social Temporary Event, provided that there are no more than fifty such events in a calendar year and that any noise generated by the event is not discernible by adjoining landowners.
- Category 1 Temporary Event
- Category 2 Temporary Event
- Category 3 Temporary Event in connection with a Festival Grounds Special Use Permit

4-1a Uses – Permitted by Special Use Permit Only:

Festival Grounds

➤ **Article 8. Business District (B-1)**

Add the following:

8-1 Uses – Permitted by right:

- Category 1 Temporary Event
- Category 2 Temporary Event
- Category 3 Temporary Event in connection with a Festival Grounds Special Use Permit

8-1a Uses – Permitted by Special Use Permit Only:

Festival Grounds

➤ **Article 8A. Business District (B-2)**

Add the following:

8A-1 Uses – Permitted by right:

Category 1 Temporary Event

Category 2 Temporary Event

Category 3 Temporary Event in connection with a Festival Grounds Special Use Permit

8A-1a Uses – Permitted by Special Use Permit Only:

Festival Grounds

➤ **Article 8B. Service Enterprise District (SE-1)**

Add the following:

8B-1 – Uses – Permitted by right:

Category 1 Temporary Event

Category 2 Temporary Event

LAW:

§ 15.2-2288.3. Licensed farm wineries; local regulation of certain activities. —

A. It is the policy of the Commonwealth to preserve the economic vitality of the Virginia wine industry while maintaining appropriate land use authority to protect the health, safety, and welfare of the citizens of the Commonwealth, and to permit the reasonable expectation of uses in specific zoning categories. Local restriction upon such activities and events of farm wineries licensed in accordance with Title 4.1 to market and sell their products shall be reasonable and shall take into account the economic impact on the farm winery of such restriction, the agricultural nature of such activities and events, and whether such activities and events are usual and customary for farm wineries throughout the Commonwealth. Usual and customary activities and events at farm wineries shall be permitted without local regulation unless there is a substantial impact on the health, safety, or welfare of the public. No local ordinance regulating noise, other than outdoor amplified music, arising from activities and events at farm wineries shall be more restrictive than that in the general noise ordinance. In authorizing outdoor amplified music at a farm winery, the locality shall consider the effect on adjacent property owners and nearby residents.

B, C. [Expired.]

D. No locality may treat private personal gatherings held by the owner of a licensed farm winery who resides at the farm winery or on property adjacent thereto that is owned or controlled by such owner at which gatherings wine is not sold or marketed and for which no consideration is received by the farm winery or its agents differently from private personal gatherings by other citizens.

E. No locality shall regulate any of the following activities of a farm winery licensed in accordance with subdivision 5 of § 4.1-207:

1. The production and harvesting of fruit and other agricultural products and the manufacturing of wine;
2. The on-premises sale, tasting, or consumption of wine during regular business hours within the normal course of business of the licensed farm winery;
3. The direct sale and shipment of wine by common carrier to consumers in accordance with Title 4.1 and regulations of the Alcoholic Beverage Control Board;
4. The sale and shipment of wine to the Alcoholic Beverage Control Board, licensed wholesalers, and out-of-state purchasers in accordance with Title 4.1, regulations of the Alcoholic Beverage Control Board, and federal law;
5. The storage, warehousing, and wholesaling of wine in accordance with Title 4.1, regulations of the Alcoholic Beverage Control Board, and federal law; or
6. The sale of wine-related items that are incidental to the sale of wine.

"Agritourism activity" means any activity carried out on a farm or ranch that allows members of the general public, for recreational, entertainment, or educational purposes, to view or enjoy rural activities, including farming, wineries, ranching, historical, cultural, harvest-your-own activities,

or natural activities and attractions. An activity is an agritourism activity whether or not the participant paid to participate in the activity. *Virginia Code* § 3.2-6400

§ 15.2-2288.6. Agricultural operations; local regulation of certain activities.

A. No locality shall regulate the carrying out of any of the following activities at an agricultural operation, as defined in § 3.2-300, unless there is a substantial impact on the health, safety, or general welfare of the public:

1. Agritourism activities as defined in § 3.2-6400;
2. The sale of agricultural or silvicultural products, or the sale of agricultural-related or silvicultural-related items incidental to the agricultural operation;
3. The preparation, processing, or sale of food products in compliance with subdivisions A 3, 4, and 5 of § 3.2-5130 or related state laws and regulations; or
4. Other activities or events that are usual and customary at Virginia agricultural operations. Any local restriction placed on an activity listed in this subsection shall be reasonable and shall take into account the economic impact of the restriction on the agricultural operation and the agricultural nature of the activity.

B. No locality shall require a special exception, administrative permit not required by state law, or special use permit for any activity listed in subsection A on property that is zoned as an agricultural district or classification unless there is a substantial impact on the health, safety, or general welfare of the public.

C. Except regarding the sound generated by outdoor amplified music, no local ordinance regulating the sound generated by any activity listed in subsection A shall be more restrictive than the general noise ordinance of the locality. In permitting outdoor amplified music at an agricultural operation, the locality shall consider the effect on adjoining property owners and nearby residents.

D. The provisions of this section shall not affect any entity licensed in accordance with Chapter 2 (§ 4.1-200 et seq.) of Title 4.1. Nothing in this section shall be construed to affect the provisions of Chapter 3 (§ 3.2-300 et seq.) of Title 3.2, to alter the provisions of § 15.2-2288.3, or to restrict the authority of any locality under Title 58.1.

§ 3.2-300. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Agricultural operation" means any operation devoted to the bona fide production of crops, or animals, or fowl including the production of fruits and vegetables of all kinds; meat, dairy, and poultry products; nuts, tobacco, nursery, and floral products; and the production and harvest of products from silviculture activity.

"Production agriculture and silviculture" means the bona fide production or harvesting of agricultural or silvicultural products but shall not include the processing of agricultural or silvicultural products or the above ground application or storage of sewage sludge.

§ 3.2-6400. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Agricultural products" means any livestock, aquaculture, poultry, horticultural, floricultural, viticulture, silvicultural, or other farm crops.

"Agritourism activity" means any activity carried out on a farm or ranch that allows members of the general public, for recreational, entertainment, or educational purposes, to view or enjoy rural activities, including farming, wineries, ranching, historical, cultural, harvest-your-own activities, or natural activities and attractions. An activity is an agritourism activity whether or not the participant paid to participate in the activity.

Land use tax consideration:

Real estate upon which recreational activities are conducted for a profit or otherwise shall be considered real estate devoted to agricultural use as long as the recreational activities conducted on such real estate do not change the character of the real estate so that it does not meet the uniform standards prescribed by the Commissioner. Real property that has been designated as devoted to agricultural use shall not lose such designation solely because a portion of the property is being used for a different purpose pursuant to a special use permit or otherwise allowed by zoning, provided that the property, excluding such portion, otherwise meets all the requirements for such designation. The portion of the property being used for a different purpose pursuant to a special use permit or otherwise allowed by zoning shall be deemed a separate piece of property from the remaining property for purposes of assessment. *Virginia Code § 58.1-3230*

State law mandates that day festival-type activities on farms are permitted by right (except, perhaps, Sundays, which is not worth trying to regulate). Night functions on farms can be regulated.

9/24 Draft Amendments for PC Consideration

Payne's comments 10/8/15

TP recommendations 10/20/2015

TP modifications 12/17/2015

ARTICLE 24. TEMPORARY EVENTS, FESTIVAL GROUNDS, OUT-OF-DOORS ACCESSORY USES

Statement of Intent

This Article provides regulations designed to address temporary uses in districts where such uses would not otherwise be permissible, establishes criteria for the approval or disapproval of such temporary uses, and provides requirements for the permitting and conduct of such uses. The Article also requires for the issuance of a Special Use Permit for properties where the intended use envisions large scale events, and provides for the regulation of out-of-door activities conducted as an accessory use to certain permitted commercial uses. The Article is not intended to regulate, and does not regulate, the traditional non-commercial use of property by its owners; such use is subject to other provisions of this Ordinance, the Noise Ordinance, and other applicable law.

24-1 *Definitions*

Agritourism Activity: any activity carried out on a farm or ranch engaged in bona fide Agricultural Operations that allows members of the general public, for recreational, entertainment, or educational purposes, to view or enjoy rural activities, including farming, wineries, ranching, historical, cultural, harvest-your-own activities, or natural activities and attractions. An activity is an agritourism activity whether or not the participant paid to participate in the activity.

Festival Grounds: The use of land for the hosting and operation of Category 3 Temporary Events, and the construction, erection, or other use of structures or other improvements (temporary or permanent) associated with Category 3 Temporary Events. The minimum acreage for a Festival Grounds is 250 acres. Contiguous parcels under the same or different ownership or control may be aggregated to attain the minimum acreage; if contiguous parcels are under different ownership or control, the owner or agent for each parcel must formally authorize the application for a Festival Grounds Special Use Permit.

Out-of-Door, Accessory Use: The following out-of-door activities are accessory uses to a Banquet Hall, Conference Center, Corporate Training Center, Restaurant, Brewery, and Distillery: receptions, dining, and entertainment, such as musical or small band performances, which (i) are conducted in connection with the primary permitted use, (ii) do not involve amplified sound later than 9:00 p.m. on Sundays through Thursdays or later than 10:00 p.m. on Fridays or Saturdays, and (iii) hosts less than 1,000 attendees at any one time during the activity. Unless otherwise specified in (ii), all such accessory activities are limited to 10:00 p.m. on Sundays through Thursdays, and are limited to 11:00 p.m. on Fridays and Saturdays.

Comment [TMP1]: This was added as a recommendation for amplified outdoor music to be conducted no later than 9:00pm on weeknights or 10:00pm on weekend nights, while allowing all other outdoor accessory uses (such as a theater performance, etc.) to be conducted until 10:00pm or 11:00pm on those same nights

The concept is to have amplified music stop earlier in the night as compared to other types of accessory uses, since amplified music may be more likely to cause a nuisance or impact to neighbors and adjoining properties

Deleted: comply in all respects with other applicable ordinances and regulations.

Deleted: Such

Temporary Event: The temporary use of property that is not otherwise a by-right use or use permitted by special or conditional use permit.

Temporary Event, Historical Property: An event such as historical reenactments, living history, home tours, or similar activities which are conducted in connection with a property of historical or natural value when there is either (i) no admission or (ii) a nominal admission dedicated to preservation, restoration, or charitable purposes.

Temporary Event, Non-Profit: An event conducted by local non-profit community service organizations such as fire departments, rescue squads, schools, fraternal organizations, faith-based organizations, or community centers.

Temporary Event, Social: A one day private social event which is not open to the general public, such as weddings, receptions, and reunions, to which attendance does not exceed 300 people, conducted on property not zoned for commercial uses and for which the landowner charges a fee for the use of his property.

24-2 Temporary Event Permits

A Temporary Event Permit is required for Temporary Events defined in this subsection as either Category 1, 2, or 3.

24-2-A Exempt Events

The following Temporary Events are exempt from Temporary Event Permit requirements and fees:

1. Private non-commercial functions conducted on the property of the host
2. Social Temporary Events where permitted by right
3. Historical Property Temporary Events
4. Non-Profit Temporary Events having or projecting less than 1,000 attendees at any time during the event
5. Athletic and sporting events conducted on sites approved for such events
6. Political gatherings
7. Religious gatherings
8. Out-of-Door Accessory Uses
9. Farm winery and Agritourism activities conducted between the hours of 7:00 a.m. and 7:00 p.m.

24-2-B Temporary Event, Category 1

A Category 1 Temporary Event is any event which is neither an otherwise permitted use nor exempt and:

- (i) for which admission is charged or at which goods and services are sold, having or projecting less than 1,000 attendees, or,
- (ii) Non-Profit Temporary Events having or projecting more than 1,000 attendees, or,
- (iii) Farm winery or Agritourism activities conducted after 7:00 p.m. and having or projecting less than 1000 attendees.

Deleted: The temporary outdoor use of property(s) for activities not otherwise permissible and which involve activities and/or structures outside the scope of the properly permitted use(s) of the subject property(s), or which otherwise extend beyond the normal uses and standards allowed by the Zoning Ordinance. Temporary events are subject to the provisions, regulations, and limitations of Article 23 of the Nelson County Zoning Ordinance.

Deleted: as permissible pursuant to VA Code §15.2-2288.3 and having or projecting less than 400 attendees for properties 5 acres or smaller, or having or projecting less than 1,000 attendees for properties greater than 5 acres

10. Agritourism activities as permissible pursuant to VA Code §15.2-2288.6, §3.2-300 and §3.2-640 and having or projecting less than 40 attendees for properties 5 acres or smaller, or having or projecting less than 1,000 attendees for properties greater than 5 acres

Deleted: for properties 5 acres or smaller, or having or projecting 1,000 or more attendees for properties greater than 5 acres, or, (iv) Agritourism activities having or projecting 400 or more attendees for properties 5 acres or smaller, or having or projecting 1,000 or more attendees for properties greater than 5 acres

Deleted: No more than (6) Category 1 Temporary Events may be conducted in a calendar year by the same applicant or on the subject property or on properties contiguous to or adjacent to the subject property if under the same ownership or control as the subject property.

Each such event may not exceed a maximum duration of four (4) consecutive days open to the attending public, inclusive of an arrival day and a departure day. Amplified sound is not permitted after 11:00 p.m. on any Sunday, Monday, Tuesday, or Wednesday night; nor after 11:59 p.m. on any Thursday night; nor after 1:00 a.m. on any Saturday or Sunday morning. A Category 1 Temporary Event Requires a Temporary Event Permit.

24-2-C Temporary Event, Category 2

24-2-C-1 A Category 2 Temporary Event is any event which is neither an otherwise permitted use nor exempt, for which admission is charged or at which goods and services are sold, having or projecting 1,000 or more attendees but less than 10,000 attendees. Each such event may not exceed a maximum duration of six (6) consecutive days open to the attending public, inclusive of an arrival day and a departure day. Amplified sound is not permitted after 11:00 p.m. on any Sunday, Monday, Tuesday, or Wednesday night; nor after 11:59 p.m. on any Thursday night; nor after 1:00 a.m. on any Saturday or Sunday morning. A Category 2 Temporary Event Requires a Temporary Event Permit.

24-2-D Structures for Category 1 and 2 Temporary Events

Each structure used for either a Category 1 or 2 event (i) shall have been in existence on the date of adoption of this Article, provided that this requirement shall not apply to accessory structures less than 150 square feet in size and (ii) shall be a lawful conforming properly permitted structure and shall support or have supported a lawful use of the property. The installation of temporary structures and facilities, such as tents and portable lavatories, is permissible in connection with approved Temporary Event Permits, subject to all applicable laws and regulations.

24-2-E Temporary Event, Category 3

24-2-E-1 A Category 3 Temporary Event is any event having or projecting more than 10,000 attendees and requires a Special Use Permit for Festival Grounds land use to be obtained pursuant to Article 12, Section 3 “Special Use Permits” and Article 13 “Site Development Plan” and also a Temporary Event Permit. The erection of permanent structures and/or the installation of permanent infrastructure used in connection with Category 3 Temporary Events is permissible, subject to all other Zoning Ordinance provisions, including but not limited to Article 13 “Site Development Plan.”

24-2-E-2 A Festival Grounds Special Use Permit shall be automatically reviewed at a public hearing conducted by the Board of Supervisors every five (5) years after the initial issuance, after which hearing the Board may renew, revoke, or modify the terms and conditions of the Special Use Permit in accordance with Article 12, Section 3 “Special Use Permits.”

24-2-E-3 A Category 3 Temporary Event may not exceed a maximum duration of six (6) consecutive days open to the attending public, inclusive of an arrival day and a departure day. Amplified sound is not permitted after 11:00 p.m. on any Sunday, Monday, Tuesday, or Wednesday night; nor after 11:59 p.m. on any Thursday night;

Deleted: ¶

-2-C-2 Except as provided in connection with Festival Grounds, and subject to the criteria for issuance of a Temporary Event Permit provided in Section 23-3, no more than two (2) Category 2 Temporary Events may be conducted in calendar year by the same applicant or on the subject property or on properties contiguous to or adjacent to the subject property if under the same ownership or control as the subject property. ¶

Deleted: no more than twelve Category 2 Temporary Events may be conducted in a calendar year two (2) Category 2 Temporary Event Permits may be issued in a calendar year to the same applicant or for the same property or for properties contiguous to, or adjacent to, such property

Deleted: A Festival Grounds Special Use Permit shall automatically terminate five years after its issuance, upon which time a new Festival Grounds Special Use Permit may be applied for.

Deleted: A property granted a Special Use Permit for Festival Grounds use may host no more than three (3) Category 3 Temporary Events and no more than six (6) three (3) Category 1 or 2 Temporary Event in a calendar year.

nor after 1:00 a.m. on any Saturday and Sunday morning. Without limiting the general authority of the Board of Supervisors under Article 12, the Board of Supervisors may impose additional conditions or further restrict the number of events, days, and times in granting a Special Use Permit for Festival Grounds land use.

Deleted: pursuant to this subsection

24-2-F For the purposes of this Article 24, “applicant” includes the members of an applicant’s immediate family or an affiliated business entity relationship. An affiliated business entity relationship exists when (i) one business entity has a controlling ownership interest in the other business entity, (ii) a controlling owner in one entity is also a controlling owner in the other entity, or (iii) there is shared management or control between the business entities. Factors that may be considered in determining the existence of an affiliated business entity relationship include that the same person or substantially the same person owns or manages the two entities, there are common or commingled funds or assets, the business entities share the use of the same offices or employees, or otherwise share activities, resources or personnel on a regular basis, or there is otherwise a close working relationship between the entities.

24-3 Issuance of Temporary Event Permits

24-3-A The Planning and Zoning Director will consider the following factors when determining whether a Temporary Event Permit will be issued:

Deleted: Whether a Temporary Event Permit will be issued will be determined after consideration of the following factors:

1. If and how the proposed event would result in undue interference with other planned activities in the County;
2. The schedules of churches, schools, governmental operations, and similar public and quasi-public entities;
3. The availability and provision of necessary resources such as transportation infrastructure, law enforcement, emergency services, parking, and similar considerations;
4. The location and operation(s) of other permitted Temporary Events during the same time period as the proposed event; and
5. Compliance with the requirements of other agencies and departments; and
6. The prior history of compliance by the applicant or landowner with this article, the zoning ordinance, and applicable conditions. Prior or existing non-compliance may be grounds for the denial of a permit.

Deleted: shall

24-3-B In issuing the permit, the Planning and Zoning Director, may, after consideration of the foregoing factors:

1. Establish or modify times during which activities or amplified sound, or both, may be conducted;
2. Fix the permitted dates for the event;
3. Limit the number of attendees; and
4. Impose such conditions as are necessary to protect the health, safety and welfare of attendees and residents of the County.

24-3-C The maximum number of properly-permitted non-exempt Temporary Events which may be conducted in a calendar year on the same subject property, or on properties contiguous to or adjacent to the subject property if under the same ownership or control as the subject property, is limited as follows:

Type of Property	Category 1	Category 2	Category 3
<u>Farm Winery or Bona Fide Agricultural Operation, the aggregate acreage of which is equal to or greater than 250 acres*</u>	<u>16</u>	<u>8</u>	<u>4</u>
<u>Farm Winery or Bona Fide Agricultural Operation, the aggregate acreage of which is less than 250 acres*</u>	<u>12</u>	<u>6</u>	<u>3</u>
<u>Any other property zoned A-1, B-1, B-2, or SE-1**</u>	<u>8</u>	<u>4</u>	<u>2</u>
<i>*Contiguous parcels under the same or different ownership or control may be aggregated to attain the minimum acreage.</i>			
<i>**Category 3 Temporary Events are not permissible in Service Enterprise District (SE-1)</i>			

24-3-D The Director may issue a single Temporary Event Permit for more than one Temporary Event if he determines that each Temporary Event is substantially similar in nature and size and that a single set of conditions would apply to each Temporary Event. Any such combined Temporary Event Permit shall not have the effect of allowing more Temporary Events than the limits set forth in the preceding subsections.

Deleted: , provided that, if allowable, no more than six such temporary events in a calendar year may be permitted under a single permit.

24-3-E A Temporary Event Permit application requires the following submissions to be considered a completed application:

1. Temporary Event Permit application signed by the property owner(s) and the event promotor or sponsor, who shall collectively constitute the "Applicant";
2. Temporary Event Permit application fee, as follows:
 - a. Category 1 Temporary Event Permit application = \$100
 - b. Category 2 Temporary Event Permit application = \$500
 - c. Category 3 Temporary Event Permit application = \$2,500
3. Site Plan, drawn to scale and containing all necessary dimensions, annotation, and other details regarding event layout and event operations; except that Category 3 Temporary Event Permit applications require a Site Plan to be prepared in accordance with Article 13 "Site Development Plan" and Article 24-2-E-1 and submitted with the Festival Grounds Special Use Permit in accordance with Article 12, Section 3 "Special Use Permits."
4. Transportation Plan, containing all necessary details regarding vehicular arrival, departure, informational signage, and on-site circulation (as applicable);

Deleted: , per event

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5. Safety Plan, containing all necessary details regarding emergency preparedness and emergency response plans, emergency services, medical services, law enforcement and security services, and similar details necessary for ensuring the safety of attendees and the general public; and
6. Any other event information deemed necessary by the Director of Planning and Zoning.

In addition to the proposed introduction of Article 24 (above), the following amendments are also proposed for existing Articles:

➤ **Article 4. Agricultural District (A-1)**

Remove the following:

4-11-3 Temporary events not otherwise a permitted use may be allowed pursuant to a Special Events Permit for a specified time period. [...]

Add the following:

4-1 Uses – Permitted by right:

- Agritourism Activity
- Social Temporary Event, provided that there are no more than fifty such events in a calendar year and that any noise generated by the event is not discernible by adjoining landowners.
- Category 1 Temporary Event
- Category 2 Temporary Event
- Category 3 Temporary Event in connection with a Festival Grounds Special Use Permit

4-1a Uses – Permitted by Special Use Permit Only:

Festival Grounds

➤ **Article 8. Business District (B-1)**

Add the following:

8-1 Uses – Permitted by right:

- Category 1 Temporary Event
- Category 2 Temporary Event
- Category 3 Temporary Event in connection with a Festival Grounds Special Use Permit

8-1a Uses – Permitted by Special Use Permit Only:

Festival Grounds

➤ **Article 8A. Business District (B-2)**

Add the following:

8A-1 Uses – Permitted by right:

Category 1 Temporary Event

Category 2 Temporary Event

Category 3 Temporary Event in connection with a Festival Grounds Special Use Permit

8A-1a Uses – Permitted by Special Use Permit Only:

Festival Grounds

➤ **Article 8B. Service Enterprise District (SE-1)**

Add the following:

8B-1 – Uses – Permitted by right:

Category 1 Temporary Event

Category 2 Temporary Event

LAW:

§ 15.2-2288.3. Licensed farm wineries; local regulation of certain activities. —

A. It is the policy of the Commonwealth to preserve the economic vitality of the Virginia wine industry while maintaining appropriate land use authority to protect the health, safety, and welfare of the citizens of the Commonwealth, and to permit the reasonable expectation of uses in specific zoning categories. Local restriction upon such activities and events of farm wineries licensed in accordance with Title 4.1 to market and sell their products shall be reasonable and shall take into account the economic impact on the farm winery of such restriction, the agricultural nature of such activities and events, and whether such activities and events are usual and customary for farm wineries throughout the Commonwealth. Usual and customary activities and events at farm wineries shall be permitted without local regulation unless there is a substantial impact on the health, safety, or welfare of the public. No local ordinance regulating noise, other than outdoor amplified music, arising from activities and events at farm wineries shall be more restrictive than that in the general noise ordinance. In authorizing outdoor amplified music at a farm winery, the locality shall consider the effect on adjacent property owners and nearby residents.

B, C. [Expired.]

D. No locality may treat private personal gatherings held by the owner of a licensed farm winery who resides at the farm winery or on property adjacent thereto that is owned or controlled by such owner at which gatherings wine is not sold or marketed and for which no consideration is received by the farm winery or its agents differently from private personal gatherings by other citizens.

E. No locality shall regulate any of the following activities of a farm winery licensed in accordance with subdivision 5 of § 4.1-207:

1. The production and harvesting of fruit and other agricultural products and the manufacturing of wine;

2. The on-premises sale, tasting, or consumption of wine during regular business hours within the normal course of business of the licensed farm winery;

3. The direct sale and shipment of wine by common carrier to consumers in accordance with Title 4.1 and regulations of the Alcoholic Beverage Control Board;

4. The sale and shipment of wine to the Alcoholic Beverage Control Board, licensed wholesalers, and out-of-state purchasers in accordance with Title 4.1, regulations of the Alcoholic Beverage Control Board, and federal law;

5. The storage, warehousing, and wholesaling of wine in accordance with Title 4.1, regulations of the Alcoholic Beverage Control Board, and federal law; or

6. The sale of wine-related items that are incidental to the sale of wine.

"Agritourism activity" means any activity carried out on a farm or ranch that allows members of the general public, for recreational, entertainment, or educational purposes, to view or enjoy rural activities, including farming, wineries, ranching, historical, cultural, harvest-your-own activities,

or natural activities and attractions. An activity is an agritourism activity whether or not the participant paid to participate in the activity. *Virginia Code* § 3.2-6400

§ 15.2-2288.6. Agricultural operations; local regulation of certain activities.

A. No locality shall regulate the carrying out of any of the following activities at an agricultural operation, as defined in § 3.2-300, unless there is a substantial impact on the health, safety, or general welfare of the public:

1. Agritourism activities as defined in § 3.2-6400;

2. The sale of agricultural or silvicultural products, or the sale of agricultural-related or silvicultural-related items incidental to the agricultural operation;

3. The preparation, processing, or sale of food products in compliance with subdivisions A 3, 4, and 5 of § 3.2-5130 or related state laws and regulations; or

4. Other activities or events that are usual and customary at Virginia agricultural operations. Any local restriction placed on an activity listed in this subsection shall be reasonable and shall take into account the economic impact of the restriction on the agricultural operation and the agricultural nature of the activity.

B. No locality shall require a special exception, administrative permit not required by state law, or special use permit for any activity listed in subsection A on property that is zoned as an agricultural district or classification unless there is a substantial impact on the health, safety, or general welfare of the public.

C. Except regarding the sound generated by outdoor amplified music, no local ordinance regulating the sound generated by any activity listed in subsection A shall be more restrictive than the general noise ordinance of the locality. In permitting outdoor amplified music at an agricultural operation, the locality shall consider the effect on adjoining property owners and nearby residents.

D. The provisions of this section shall not affect any entity licensed in accordance with Chapter 2 (§ 4.1-200 et seq.) of Title 4.1. Nothing in this section shall be construed to affect the provisions of Chapter 3 (§ 3.2-300 et seq.) of Title 3.2, to alter the provisions of § 15.2-2288.3, or to restrict the authority of any locality under Title 58.1.

§ 3.2-300. Definitions.

Deleted: ¶

As used in this chapter, unless the context requires a different meaning:

"Agricultural operation" means any operation devoted to the bona fide production of crops, or animals, or fowl including the production of fruits and vegetables of all kinds; meat, dairy, and poultry products; nuts, tobacco, nursery, and floral products; and the production and harvest of products from silviculture activity.

"Production agriculture and silviculture" means the bona fide production or harvesting of agricultural or silvicultural products but shall not include the processing of agricultural or silvicultural products or the above ground application or storage of sewage sludge.

§ 3.2-6400. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Agricultural products" means any livestock, aquaculture, poultry, horticultural, floricultural, viticulture, silvicultural, or other farm crops.

"Agritourism activity" means any activity carried out on a farm or ranch that allows members of the general public, for recreational, entertainment, or educational purposes, to view or enjoy rural activities, including farming, wineries, ranching, historical, cultural, harvest-your-own activities, or natural activities and attractions. An activity is an agritourism activity whether or not the participant paid to participate in the activity.

Land use tax consideration:

Real estate upon which recreational activities are conducted for a profit or otherwise shall be considered real estate devoted to agricultural use as long as the recreational activities conducted on such real estate do not change the character of the real estate so that it does not meet the uniform standards prescribed by the Commissioner. Real property that has been designated as devoted to agricultural use shall not lose such designation solely because a portion of the property is being used for a different purpose pursuant to a special use permit or otherwise allowed by zoning, provided that the property, excluding such portion, otherwise meets all the requirements for such designation. The portion of the property being used for a different purpose pursuant to a special use permit or otherwise allowed by zoning shall be deemed a separate piece of property from the remaining property for purposes of assessment. *Virginia Code* § 58.1-3230

State law mandates that day festival-type activities on farms are permitted by right (except, perhaps, Sundays, which is not worth trying to regulate). Night functions on farms can be regulated.



To: Chair and Members, Nelson County Planning Commission
From: Tim Padalino | Planning & Zoning Director
Date: February 16, 2016
Subject: **Continued PC Review of ZO Text Amendments Referred by BOS –
Article 18, Limited Industrial District (M-1)**

On January 12th, the Nelson County Board of Supervisors (BOS) acted to refer to the Planning Commission (PC) a possible text amendment to Zoning Ordinance Article 18 (“Limited Industrial District M-1”) for PC review and recommendations. The referral is in connection with a specific use which is currently provided for in the Industrial (M-2) District, but which is not currently provided for in the Limited Industrial (M-1) District. The PC review is to determine what (if any) amendments might be appropriate, inclusive of the proper advertising and conducting of a public hearing; and to provide formal recommendations back to the BOS in the allotted time.

Specifically, the BOS referral and requested review are essentially a question of whether the following use (below) should be permissible in the Limited Industrial District M-1, or not; and if so, whether it should be permissible by-right or only permissible as a special use –

“Contractors’ equipment storage yard or plant, or rental of equipment commonly used by contractors”

This use is not further defined in Article 2, Definitions. As noted above, this use is currently permissible by-right in the Industrial District (M-2), pursuant to Zoning Ordinance Article 9, Section 1-12; and is currently not provided for (and therefore not permissible) in Limited Industrial District (M-1). Please also consider the “Statement of intent” for the Limited Industrial (M-1) District:

“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.”

I present the following possible text amendments options (pages 2-3) for PC review and consideration.

Finally, I have also prepared and enclosed two countywide maps which highlight the location(s) of all properties currently zoned Limited Industrial (M-1), as recorded in the County's GIS database.

In conclusion, please contact me with any questions, concerns, or requests for assistance leading up to the Planning Commission's continued review of these referred amendments on February 24th. Thank you very much for your time and attention to this important subject.

OPTION 1: Not Permissible

Recommend that the use remain impermissible in Limited Industrial (M-1).

This would essentially be a "do nothing" option, if the PC considers the land use in question to be inherently inappropriate for, or fundamentally incompatible with, the Limited Industrial District.

Based on the "Statement of Intent" for Limited Industrial District (M-1), I do not support this option, as I believe the "contractor's equipment storage yard" may potentially be appropriate in the M-1 District in some instances (depending on site-specific details and project-specific details).

OPTION 2: SUP

Recommend that Article 18 ("Limited Industrial District M-1") be amended to provide for the use in question as a "Use – Permissible by Special Use Permit only."

This option would provide for the land use in question to be permissible on a case-by-case basis – but only after public input is solicited during public hearings conducted by the PC and BOS, and only if the BOS votes to approve a specific SUP request.

More specifically, this option would give M-1 property owners (or their authorized agents) the opportunity to request County approval to conduct the use in question; but it doesn't guarantee the property owner the right to use M-1 property for that land use (as it would be if it were made a "Use – permissible by-right"). It allows for the details and context of each case to be reviewed individually.

Importantly, please note that requiring a SUP for this type of land use in the M-1 District would allow the BOS to make case-by-case decisions about establishing conditions to any SUP approval, if the Board were to determine that there were property-specific or project-specific reasons for doing so.

Please also note that the "Statement of intent" declares, "*It is expected that uses in this district ... be operated from within a building.*" However, I believe that there could potentially be "contractor's equipment or storage yard" uses or structures which would be appropriate in the M-1 District – either indoors, outdoors, or a combination of the two – depending on the property, the adjoining properties, the proposed use, the scale and other details of the proposed operations, etc.

In consideration of the above factors, I believe that regulating this land use as a "special use" strikes the appropriate balance between providing for the use, but requiring case-by-case review and (ultimately) a determination by the BOS. Accordingly, I endorse this option as the most appropriate policy for the use in question.

OPTION 3: By-Right

Recommend that Article 18 (“Limited Industrial District M-1”) be amended to provide for the use in question as a “Use – Permitted by right.”

This option would make the use in question automatically permissible within the Limited Industrial District (M-1), regardless of the details or location of the subject property, and regardless of the details of the proposed use/structure(s).

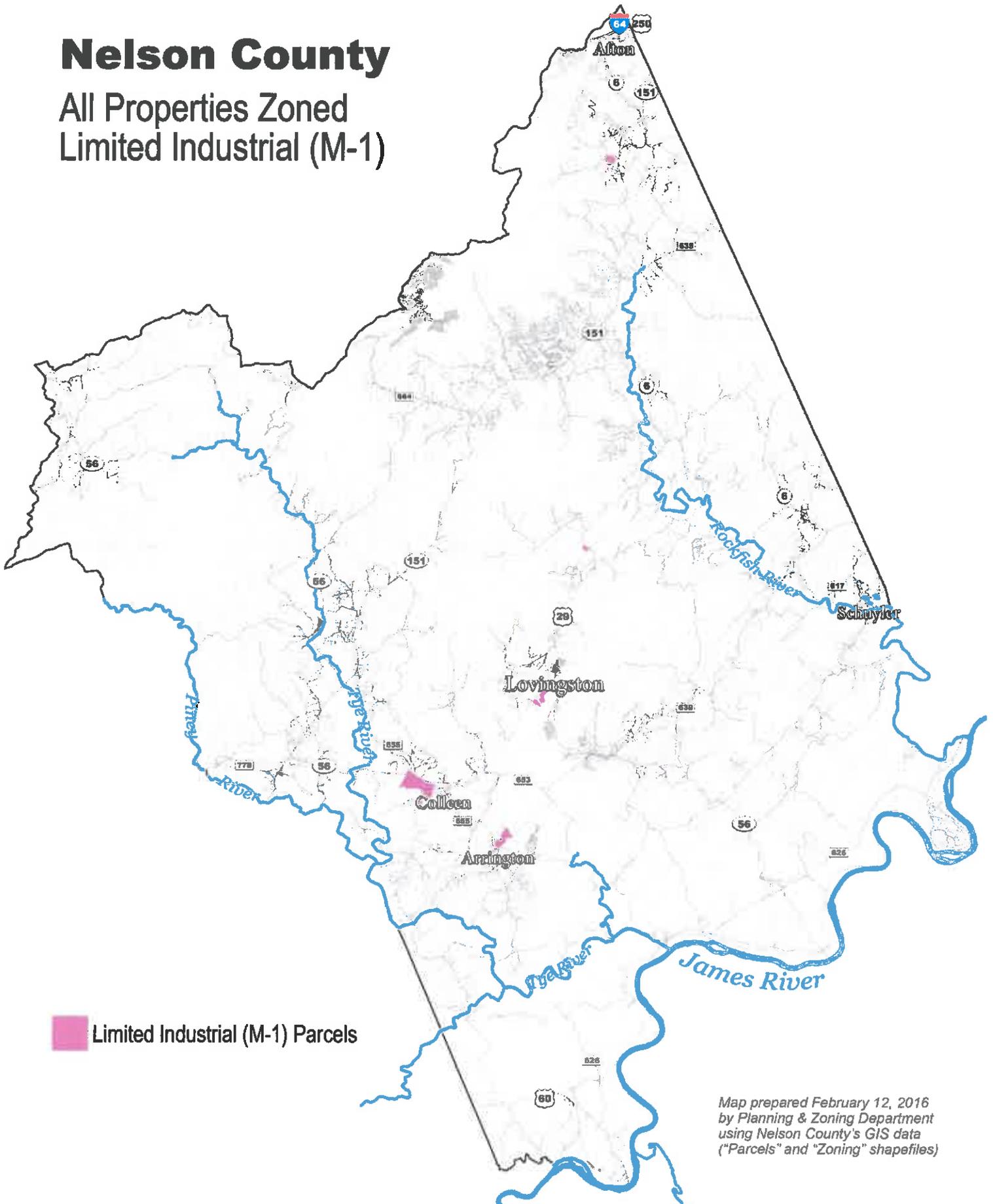
Based on the “Statement of Intent” for Limited Industrial District (M-1), I believe the “contractor’s equipment storage yard” may potentially be inappropriate in the M-1 District in some instances (depending on site-specific details and project-specific details).

Because of those concerns about potential incompatibility and inappropriateness (relative to surrounding properties, which may include adjoining properties with a different zoning classification), I believe it would be inadvisable to automatically permit all such uses on all M-1 properties countywide.

Therefore, I do not support this option.

Nelson County

All Properties Zoned
Limited Industrial (M-1)



 Limited Industrial (M-1) Parcels

Map prepared February 12, 2016
by Planning & Zoning Department
using Nelson County's GIS data
("Parcels" and "Zoning" shapefiles)

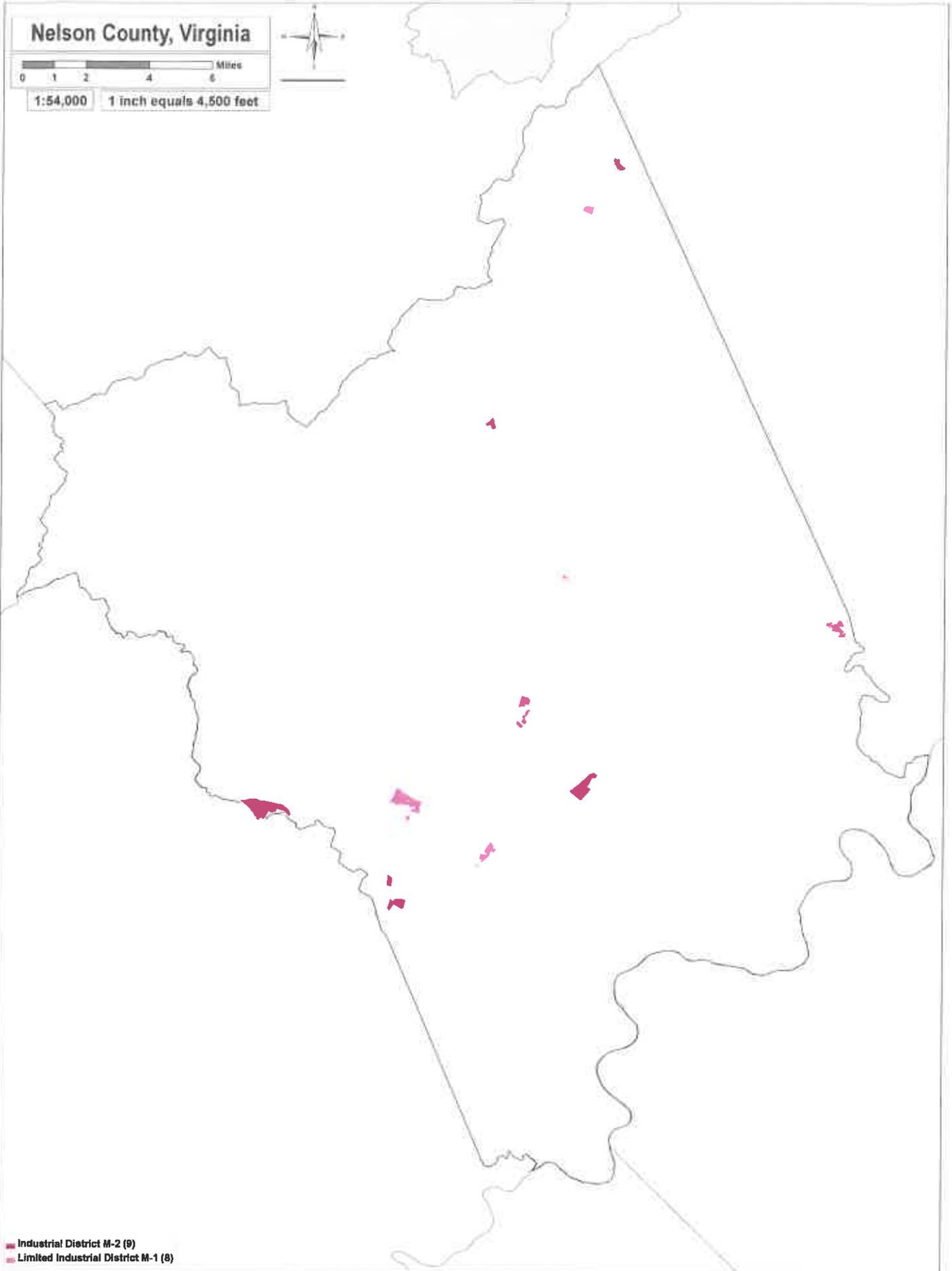
Nelson County, Virginia



0 1 2 4 6 Miles

1:54,000

1 inch equals 4,500 feet



- Industrial District M-2 (9)
- Limited Industrial District M-1 (8)

Limited Industrial	
(M-1) Zoning	Area
6-A-102A	20 HEDGE LN
6-A-102B	HEDGE LN
6-A-102C	47 MILL LN
6-A-102D	47 MILL LN
21-4-1	1368 ROCKFISH VALLEY
45-A-33	60 DAVIS CREEK LN
45-A-35	DAVIS CREEK LN
57-A-34B	JAMES RIVER RD
58A-1	THOMAS NELSON HWY
58A-1-13	FRONT ST
58A-2-15	THOMAS NELSON HWY
58A-2-16	THOMAS NELSON HWY
58A-2-17	THOMAS NELSON HWY
58A-2-18	THOMAS NELSON HWY
58A-1-21	THOMAS NELSON HWY
58A-1-22	THOMAS NELSON HWY
58A-2-22A	THOMAS NELSON HWY
66-A-36	COOPERATIVE WAY
66-A-36A	461 STAGE RD
66-A-36B	100 MOTORCYCLE RUN
66-A-36C	3660 TYE BROOK HWY
66-A-36D	TYE BROOK HWY
66-A-36E	TYE BROOK HWY
66-A-36F	TYE BROOK HWY
66-A-36H	495 COOPERATIVE WAY
66-A-36J	COOPERATIVE WAY
67-A-23	THOMAS NELSON HWY
67-A-27	THOMAS NELSON HWY
67-A-27A	THOMAS NELSON HWY
75-2-7A	TYE BROOK HWY
76-2-1C	3415 THOMAS NELSON HWY
76-A-3	37 COOPERATIVE WAY
76-A-4A	STAGE ROAD
76-A-4B	236 COOPERATIVE WAY
76-A-4C	THOMAS NELSON HWY
77-3-1	3721 ARRINGTON RD
77-3-2	COLD STORAGE LN
77-5-16	COLD STORAGE LN
77-12-3	ARRINGTON RD
77-12-4	COLD STORAGE LN
77-12-5	COLD STORAGE LN
77-A-3A	49 COLD STORAGE LN
77-A-5	2705 ARRINGTON RD
77-A-6	2651 ARRINGTON RD
77-A-46	ARRINGTON RD

Industrial (M-2)	
Zoning	Area
4-A-28	10368 CRITZER SHOP RD
4-A-29	200 AFTON MOUNTAIN RD
4-A-29A	10460 CRITZER SHOP RD
4-A-44A	10517 CRITZER SHOP RD
4A-3-106	CRITZER SHOP RD
4A-3-107	CRITZER SHOP RD
4A-3-107A	CRITZER SHOP RD
4A-3-108	CRITZER SHOP RD
4A-3-109	CRITZER SHOP RD
49-2-1	ROCKFISH RIVER RD
49-2-2	6556 ROCKFISH RIVER RD
49-2-40C	ROTHWELL RD
49-2-40A	232 ROTHWELL RD
57-A-34M	CALLOHILL DRIVE
57-A-34P	195 CALLOHILL WAY
57-A-34R	CALLOHILL DRIVE
57-A-34T	22 CALLOHILL WAY
62-4-C	6056 ROCKFISH RIVER RD
62-A-7	SCHUYLER RD
62-A-15	SCHUYLER RD
62-A-15H	SCHUYLER RD
62-A-17	6044 ROCKFISH RIVER RD
62-A-18	42 ALBERENE LOOP
62-A-18A	ROCKFISH RIVER RD
64-5-2	3241 PATRICK HENRY HWY
64-5-3A	PATRICK HENRY HWY
64-5-5A	PATRICK HENRY HWY
64-6-1	PATRICK HENRY HWY
64-A-66	LOWESVILLE RD
64-A-67	LOWESVILLE RD
64-A-68	LOWESVILLE RD
64-A-69	LOWESVILLE RD
64-A-70A	LOWESVILLE RD
64-A-268B	PATRICK HENRY HWY
68-A-194	10641 JAMES RIVER RD
68-A-196	10465 JAMES RIVER RD
68-A-197	10599 JAMES RIVER RD
68-A-198	10575 JAMES RIVER RD
68-A-201	10415 JAMES RIVER RD
68-A-202	JAMES RIVER RD
68-A-209	JAMES RIVER RD
68-A-210	JAMES RIVER RD
74-1-1B	PATRICK HENRY HWY
74-1-1C	PATRICK HENRY HWY
74-1-2	PATRICK HENRY HWY
74-1-2A	PATRICK HENRY HWY
74-1-2B	2983 PATRICK HENRY HWY

Industrial (M-2)	
Zoning	Area
74-1-2C	3129 PATRICK HENRY HWY
74-1-2D	2851 PATRICK HENRY HWY
74-1-3	PATRICK HENRY HWY
74-1-3A	3109 PATRICK HENRY HWY
74-1-3B	PATRICK HENRY HWY
74-1-3C	PATRICK HENRY HWY
74-2-2B	SHADY LANE
74-A-1	2820 PATRICK HENRY HWY
74-A-1A	PATRICK HENRY HWY
74-A-1B	PATRICK HENRY HWY
74-A-1C	PATRICK HENRY HWY
74-A-1D	PATRICK HENRY HWY
74-A-1F	PATRICK HENRY HWY
74-A-1G	PATRICK HENRY HWY
76-11-1	THOMAS NELSON HWY
85-A-7	485 TYE RIVER RD
85-A-7A	776 THOMAS NELSON HWY
85-A-7B	604 THOMAS NELSON HWY



DEPARTMENT OF SUPERVISORS

THOMAS H. HANLEY
North District

LARRY D. BALDWIN
South District

ELLEN M. PALE
East District

SHIMMIE BROUGHER
West District

BRUNSTANCE BERTINAKI
County District

STEPHEN A. CARTER
County Administrator

CANDICE W. MCGARRY
Administrative Assistant/
Deputy Clerk

DEBRA K. MCANN
Director of Finance and
Human Resources

14 January, 2016

To: T. Padalino, Director, Department of Planning and Zoning
From: S. Carter, County Administrator
Re: Planning and Zoning

Please be herewith advised of the following decisions by the Board of Supervisors from the Board's regular session on January 12, 2016:

1. Spruce Creek Resort & Market/Averitt (SUPs 2015-10, 11, 2 and 13): The four Special Use Permits were unanimously approved, including a condition that the permit holders have twenty-four months with which to initiate work on the subjects that encompass the approved SUPs. Please so notify the permit applicants of the Board's approval of the four SUPs (Mr. Richard Averitt, accompanied by his wife and the project's architectural consultant attended the public hearing on the SUPs and are aware of the Board's decision, subject to formal notification). Included with this communication are all of the subject documentation that were presented to the Board for review, including the January 5, 2016 letter from J. Kessler of VDOT advising on the project's Preliminary Transportation Assessment Report, as completed by the Timmons Group.

2. Zoning Fees: The Board of Supervisors directed that County staff continue to require the \$25.00 zoning permit fee for specific zoning permit types (the P&Z Department's memo on this subject, which was reviewed by the Board in making their decision, is attached for your reference). The question of whether or not additional formal action is required to affirm the \$25.00 fee is pending further review. The Department is, however, to proceed pursuant to the Board's decision.

3. Zoning Ordinance Related Citizen Correspondences: The Board of Supervisors acted as follows on citizen correspondences requesting amendments to the Zoning Ordinance:

A) Ms. Heather Goodwin – Correspondence dated December 15, 2015: The Board of Supervisors unanimously resolved (5-0) to refer to the Planning Commission, pursuant to §15.2-2285 of the Code of VA, a proposed amendment requested by letter received from Ms. Heather Goodwin (copy attached), as summarized by County staff, as follows: "Amend Zoning Ordinance Article 18, Limited Industrial District M-1, Section 3, to include "contractor's equipment and storage yard, or rental of equipment commonly used by contractors" as a Use – Permitted By Right." It is noted for clarification purposes that the Department of Planning and Zoning's report on this subject to the Board proposed that the requested amendment be considered as a Use – Permissible by Special Use Permit. However, as stated herein, Ms. Goodwin's proposed amendment seeks the use(s) described herein as a Use – Permitted by Right. The Board of Supervisors in deciding to refer the proposed amendment to the Planning Commission concurred that the Commission should consider the requested amendment as a Use-Permitted by Right rather than as proposed by County staff as a Use-Permissible by Special Use Permit. Please refer this subject to the Commission at the Department's earliest ability to do so.



To: Chair and Members, Nelson County Planning Commission
From: Tim Padalino | Planning & Zoning Director
Date: February 18, 2016
Subject: **PC Review of Referred Zoning Ordinance Amendments –
Article 10 (“General Floodplain District FP”)**

Issue Overview:

The Nelson County Zoning Ordinance contains provisions for floodplain management and land use regulations within Article 10, “General Floodplain District FP.”

Purpose of Floodplain Ordinance:

Referred to as the County’s “Floodplain Ordinance,” this set of regulations contained in the Zoning Ordinance is the local (municipal) manifestation of federal floodplain management regulations. In order for properties in any given locality to be eligible for flood insurance policies through the National Flood Insurance Program (NFIP), the local government must adopt, administer, and enforce a Floodplain Management Program (including a Floodplain Ordinance that is compliant with minimum standards as specified in the “model ordinance”).

As explained to me on January 12, 2015 by Mr. Charley Banks, NFIP Coordinator for Virginia Department of Conservation & Recreation (DCR): the National Floodplain Insurance Program is a voluntary program, stemming from Chapter 44 of the Code of Federal Regulations, which enables localities to opt-in to the FEMA floodplain management program (in order for property owners to be eligible to obtain federally-subsidized flood insurance). Participation in the NFIP is critical for homeowners (and others); hence most localities (including Nelson County) are part of the NFIP.

Mr. Banks also explained that being in the NFIP means that the participating locality must codify floodplain management regulations into their local zoning ordinance (and similar regulations are also placed in the building code, and enforced by the building official). He said that, beginning with the initial creation of the NFIP, the local zoning ordinance was always set up to be the mechanism through which to administer and enforce the federal law (NFIP).

Mr. Banks emphasized that for all localities participating in the NFIP, the local government has the authority and the responsibility to enforce those floodplain management regulations.

Review of Floodplain Ordinance:

County staff recently reviewed the Floodplain Ordinance with the assistance of Virginia DCR. That review, which included an “audit” of the existing Nelson County Floodplain Ordinance (see enclosed – dated “October 2014”) as well as an introduction to “higher standards” information produced by DCR, led to the identification of numerous recommended amendments as identified in this staff report (see page 3).

More specifically, Mr. Charles Kline, (former) Floodplain Program Planner for DCR, reviewed the existing ordinance and provided recommendations in an email dated June 10th. Those recommendations can generally be grouped into two categories, as follows:

- recommendations for how the existing ordinance could be amended to properly contain the regular standards specified in the “Example Floodplain Management Ordinance” (a.k.a. model ordinance); and
- recommendations for how the existing ordinance could be amended to include some of the higher standards contained in the “Guidance for Local Floodplain Ordinances in VA” document prepared by DCR’s Dam Safety and Floodplain Program in February 2014.

In total, Mr. Kline recommended twelve (12) new standards to be included in the Floodplain Ordinance. After reviewing and discussing all of those recommendations, County staff recommend adopting six (6) of them as explained in this report (see page 3) and as shown in the attached (draft) amended ordinance.

Floodplain Ordinance and “Community Rating System” Program:

Please also note the (potential) connection between a locality’s adoption and enactment of higher standards for Floodplain Management, and eligibility for participation in the “Community Rating System.”

Specifically, Mr. Kline noted in his June 10th email that, “Enacting even a few of these higher standards would also make Nelson County a great candidate for participation in the Community Rating System (CRS). CRS is a program for communities that already run a compliant NFIP program and go above and beyond. The more they do for managing their floodplains, the more points they receive. The more points they receive, the more money their citizens can save on flood insurance premiums. Citizens also receive a line item in their insurance bill showing these savings.” Mr. Kline also provided a hypothetical scenario showing potential savings on flood insurance premiums, depending on ^{Page 2 of 5} how many higher standards Nelson County incorporated into the Floodplain Ordinance (see enclosed – dated June 10, 2015).

Although participation in the CRS is a somewhat separate issue and process, the County should carefully consider the potential values and benefits in possible CRS participation (and thus possible cost savings on flood insurance premiums) while considering whether or not to adopt higher floodplain management standards into the Floodplain Ordinance.

Summary of Review Process:

<i>August 11, 2015</i>	Staff presented proposed (draft) amendments to BOS
<i>December 8</i>	BOS voted to refer amendments to PC
<i>January 27, 2016</i>	PC received referred amendments
<i>February 24</i>	PC continues review
<i>(?) – optional</i>	VA DCR staff attend PC meeting to assist with policy review/amendment process
<i>(?)</i>	PC conducts public hearing
<i>March 27</i>	Deadline for PC to provide BOS with recommendations (per ZO §16-2-2)
<i>May 6</i>	Deadline for PC to provide BOS with recommendations (per VA Code §15.2-2285)

Overview of Recommended Amendments by Issue and by Affected Section(s):

(*) Amendments intended to bring existing ordinance in line with model ordinance:

- There are numerous amendments identified by Mr. Kline which are relatively minor and which are intended to “clean up” the ordinance to more closely reflect the language and provisions contained in the state model ordinance. These include:
 - adding a statement about the authority of the county to have a floodplain management program and floodplain ordinance;
 - adding a section outlining the administration of the floodplain ordinance;
 - creating consistency with titles by replacing “Planning & Zoning Director” with “Floodplain Administrator” throughout the ordinance; and
 - several other instances of similar “housekeeping” updates
- *Affected sections – please see:*
 - 10.1 “Purpose”
 - 10.13-A “Permit and Application Requirements – Permit requirement.”
 - 10.13-C “Permit and Application Requirements – Site plans and permits applications.”
 - 10.15-C “Specific Standards – Elevated Buildings”
 - 10.24 “Administration”

A. Increase freeboard from existing 12" requirement to 18" requirement:

- This would require the lowest floor (including basement) of any new construction or substantial improvement to be located a minimum of 1.5 feet above the Base Flood Elevation. This would be an increase from the existing requirement of 1 foot minimum.
- *Affected sections – please see:*
 - 10.15-A “Specific Standards – Residential Construction”
 - 10.15-B “Specific Standards – Non-Residential Construction”

B. Define “critical facilities” and prohibit them in all Special Flood Hazard Areas (SFHA):

- This would prohibit the placement of critical facilities – such as emergency services and rescue squads, schools, medical facilities, hazardous materials and fuel storage, and other uses, structures, and improvements – within all Special Flood Hazard Areas.
- *Affected sections – please see:*
 - 10.7 “Definitions”
 - 10.14-L “General Standards”
 - 10.15-E “Specific Standards – Higher Standards and Critical Facilities”
 - 10.22-M “Variances and Special Use Permits”

C. Restrict hazardous materials and fuels in all Special Flood Hazard Areas:

- This would entirely prohibit the storage of certain hazardous materials within any SFHA; and would restrict the storage of other hazardous materials (including gasoline, petroleum products, and natural gas) for any time period longer than thirty (30) days.
- *Affected sections – please see:*
 - 10.14-M “General Standards”
 - 10.15-F “Specific Standards – Higher Standards and Hazardous Materials”
 - 10.22-N “Variances and Special Use Permits”

D. Limit land uses in the Floodway to only non-structural uses:

- This would prohibit any and all structures from being located within the Floodway, but would allow other non-structural uses within the portion of the floodplain designated as Floodway. The Floodway is, “the designated area of the floodplain required to carry and discharge flood waters” and is generally the lowest area in the middle of the floodplain which actually conveys surface waters.
- *Affected sections – please see:*
 - 10.17 “Permitted Uses in the Floodway District”

E. Modify the requirements for when the Base Flood Elevation needs to be identified and included on subdivision plats:

- This would change the threshold for when applicants need to identify and include the Base Flood Elevation (BFE) on a plat of division. Currently, this information needs to be included for subdivisions containing more than fifty lots or more five acres, whichever is lesser. Specifically, the recommended amendments would alter the threshold as follows:
 - Include the BFE if there are more than eleven (11) lots; and
 - Include the BFE if the subdivision acreage exceeds forty (40) acres.
- Affected sections – please see:
 - 10.20-D “Standards for Subdivision Proposals”

F. Restrict the placement of fill in all Special Flood Hazard Area (SFHA):

- This would prohibit certain fill materials from being placed within any designated SFHA, and would only allow for locally-borrowed mineral materials to be used as fill within an SFHA (and would still be subject to the existing requirement that a Special Use Permit be obtained prior to placing any such fill in a SFHA).
- Affected sections – please see:
 - 10.14-N “General Standards”

Summary & Conclusion:

Please review this staff report; the accompanying proposed amendments (showing “track changes” and comments from both reviewers); and the enclosed materials for discussion at the February 24th PC meeting. Please also note the information contained in the “Summary of Review Process” (see page 3) regarding the PC’s deadline for formally providing recommendations to the BOS.

Additionally, copies of the materials provided by DCR (including the model ordinance, the higher standards, recommendations from Mr. Kline, and detailed information regarding the Community Rating System program) can be provided for your reference – please let me or other County staff know if you need any assistance in obtaining those reference materials.

Please contact with me any questions you may have regarding the information contained in this report, or regarding the issue of floodplain management in general. Thank you for your attention to this important topic and for your participation in this ongoing amendment process.



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DEBRA K. MCANN
Director of Finance and
Human Resources

17 December, 2015

To: T. Padalino, Director, Department of Planning and Zoning
From: S. Carter, County Administrator *SAC*
Re: Board of Supervisors Actions

The Board of Supervisors took several actions at their regular session, as conducted on December 8, 2015, which pertain to the Nelson County Planning Commission and Department of Planning and Zoning. Please be advised of these subjects, as follows:

1. Referral of Article 10 (General Floodplain Ordinance within Appendix A – Zoning of the Code of the County of Nelson, VA)

The Board of Supervisors voted (a formal resolution was not introduced) to refer the local Floodplain Ordinance, as contained in the County's Zoning Ordinance, to the Planning Commission for review and submittal of recommendations for possible amendment(s) of the ordinance to the Board. (It is understood your office is in process with this subject, including conferring with VA-DCR). The Commission's review is requested, including acting pursuant to §15.2-2285 of the Code of VA, to provide for the Board's referral.

2. Planning Commission Request for Extension – Bed & Breakfast & Transient Lodging Uses"

The Commission's request for an extension of time was approved by the Board of Supervisors on 12-8.

3. Special Use Permit #2015-15 (Dwelling/Michael Tapager)

The Board of Supervisors unanimously approved the SUP on 12-8, as per the Planning Commission's recommendation(s).

Please advise should additional input on any of the above three subjects be necessary.

The Commission and your continued assistance and cooperation are appreciated.

Cc: Board of Supervisors
C. McGarry, Deputy Clerk
File

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ARTICLE 10. GENERAL FLOODPLAIN DISTRICT FP

10.1 *Purpose.*

This ordinance is adopted pursuant to the authority granted to localities by Va. Code §15.2 – 2280. 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 Floodplain Administrator.
- 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.

Comment [CBK1]: Need citation of statutory authority – see Model Ordinance 1.1.

Need section for administration – see Model Ordinance Article 2.

FEMA reviewers will need to see adoption date and date ordinance went into effect as well as signatures of officials certifying this adoption. See Model Ordinance Article VII.

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APPENDIX A - ZONING

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 Floodplain Administrator 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.

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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.

Comment [CBK2]: Include definitions from model ordinance glossary

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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.

Critical facilities: Structures, improvements, or uses that, by virtue of their importance to the community and/or their sensitivity to the risks of flooding, are prohibited from being located within any Special Flood Hazard Area. Critical facilities include but are not limited to: emergency services and rescue squads, schools, medical facilities, senior care centers, evacuation centers, hazardous materials or fuel storage, and other similar improvements and uses. See 10.14 and 10.15.

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

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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.

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

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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

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- 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

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

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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.

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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.

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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 Supervisors 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 **Floodplain Administrator**. 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

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Director

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(VA USBC) and the Nelson County Subdivision Regulations. Prior to the processing of any permit application the Floodplain Administrator shall review the application to ensure the proposed development is reasonably safe from flooding. Prior to the issuance of any permit the Floodplain Administrator 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.

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Comment [CBK3]: Needs to include permit review to ensure development is 'reasonably safe from flooding'.

- 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 Floodplain Administrator 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. Eight (8) copies of a site plan, 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.

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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.
- L. No Special Use Permit or Variance shall be granted for any proposed critical facilities as defined by this ordinance within any Special Flood Hazard Area (SFHA). See 10.15-E.
- M. No Special Use Permit or Variance shall be granted for the storage of hazardous materials for any time period longer than 30 days within any SFHA. See 10.15-F.
- N. No Special Use Permit or Variance shall be granted for the placement of any non-native fill materials (such as fly ash or other waste by-products) within the SFHA. Only locally-borrowed mineral materials may be used as fill within the SFHA, and all such uses must first obtain the necessary permit approval as required by this ordinance.

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10.15 *Specific Standards*

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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 **eighteen (18) inches** or more above the Base Flood Elevation.

Comment [CBK4]: RECOMMENDED

Increase freeboard to at least 18 inches

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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 **eighteen (18) inches** 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 **Floodplain Administrator**.

Comment [CBK5]: RECOMMENDED

Increase freeboard to at least 18 inches

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C. Elevated Buildings – **Space Below the Lowest Floor**

Fully enclosed areas, of new construction or substantially improved structures, which are below the regulatory flood protection elevation shall:

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Comment [CBK6]: Recommend changing to "Space Below the Lowest Floor" to avoid confusion. See Model Ordinance 4.3C

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

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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.

In addition, the following higher standards which go beyond National Flood Insurance Program minimum requirements shall apply to all Special Flood Hazard Areas, pursuant to 44 CFR 60.1(d):

E. Higher Standards and Critical Facilities.

For some activities and uses, even a slight chance of flooding poses too great a threat to public health, safety, and welfare. Critical facilities, as defined in this ordinance, are examples of such activities and uses which require special regulation. Therefore, critical facilities are prohibited from being constructed or operated within a SFHA. The following list of critical facilities provides examples of uses or improvements which are prohibited:

1. Structures or facilities that produce, use, store, or transport highly volatile, flammable, explosive, toxic, and/or water-reactive materials.
2. Hospitals, nursing homes, or other housing likely to have occupants who may not be sufficiently capable of avoiding injury or death during a flood.
3. Police stations, fire departments, rescue squads, and/or emergency operations centers and equipment storage facilities which are needed for flood response.

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Comment [TMP7]: This clause ("or transport") was added to these recommendations by staff and is not explicitly listed in the VA DCR "Guidance for Local Floodplain Ordinances in VA" document

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activities before, during, and after a flood.

4. Public and private utility facilities that are vital to maintaining or restoring normal services to flooded areas before, during, and after a flood.

F. Higher Standards and Hazardous Materials.

Some items and products are extremely hazardous and vulnerable to flood conditions, and would pose an unacceptable risk to public health, safety, and welfare during flooding. Therefore, the following hazardous materials are prohibited as follows:

1. The storage of Acetone, Ammonia, Benzene, Calcium carbide, Carbon disulfide, Celluloid, Chlorine, Hydrochloric acid, Magnesium, Nitric acid, Oxides of nitrogen, Phosphorus, Potassium, Prussic acid, Sodium, and/or Sulfur is prohibited in any and all SFHA.
2. The storage of Acetylene gas containers, Storage tanks, Lumber/buoyant items, Gasoline, Charcoal/coal dust, Petroleum products, and/or Natural gas for any time period longer than 30 days is prohibited in any and all SFHA.

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 Floodplain Administrator.

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 non-structural uses and activities

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Comment [TMP6]: This specific hazardous material ("Natural gas") was added to these recommendations by staff and is not explicitly listed in the VA DCR "Guidance for Local Floodplain Ordinances in VA" document.

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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 or equipment:

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- 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 A1-30, 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

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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 Floodplain Administrator.

The Floodplain Administrator 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 Floodplain Administrator 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 eleven lots or forty 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

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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.

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- 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. No Special Use Permit or Variance shall be granted for any proposed critical facility within any Special Flood Hazard Area (SFHA) as established by 10.14 and 10.15-E.
- N. No Special Use Permit or Variance shall be granted for any proposed hazardous materials within any SFHA as established by 10.14 and 10.15-F.
- O. Such other factors which are relevant to the purposes of this ordinance.

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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

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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.

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10.24 Administration.

A. Designation of the Floodplain Administrator. The Nelson County Planning & Zoning Director (or authorized designee) shall be designated as the Floodplain Administrator and is hereby appointed to administer and implement these regulations and is referred to herein as the Floodplain Administrator. The Floodplain Administrator may:

- 1. Do the work themselves. In the absence of a designated Floodplain Administrator, the duties are conducted by the chief executive officer for Nelson County.
- 2. Delegate duties and responsibilities set forth in these regulations to qualified technical personnel, plan examiners, inspectors, and other employees.
- 3. Enter into a written agreement or written contract with another community or private sector entity to administer specific provisions of these regulations. Administration of any part of these regulations by another entity shall not relieve the community of its responsibilities pursuant to the participation requirements of the National Flood Insurance Program as set forth in the Code of Federal Regulations at 44 C.F.R. Section 59.22.

B. Duties and Responsibilities of the Floodplain Administrator. The duties and responsibilities of the Floodplain Administrator shall include but are not limited to:

- 1. Review applications for permits to determine whether proposed activities will be located in the Special Flood Hazard Area (SFHA).
- 2. Interpret floodplain boundaries and provide available base flood elevation and flood hazard information.
- 3. Review applications to determine whether proposed activities will be reasonably safe from flooding and require new construction and substantial improvements to meet the requirements of these regulations.
- 4. Review applications to determine whether all necessary permits have been obtained from the Federal, State or local agencies from which prior or concurrent approval is required; in particular, permits from state agencies for any construction, reconstruction, repair, or alteration of a dam, reservoir, or waterway obstruction (including bridges, culverts, structures), any alteration of a watercourse, or any change of the course, current, or cross section of a stream or body of water, including any change to the 100-year frequency floodplain of free-flowing non-tidal waters of the State.
- 5. Verify that applicants proposing an alteration of a watercourse have notified adjacent communities, the Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management), and other appropriate agencies (VADEQ, USACE) and have submitted copies of such notifications to FEMA.

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6. Advise applicants for new construction or substantial improvement of structures that are located within an area of the Coastal Barrier Resources System established by the Coastal Barrier Resources Act that Federal flood insurance is not available on such structures; areas subject to this limitation are shown on Flood Insurance Rate Maps as Coastal Barrier Resource System Areas (CBRS) or Otherwise Protected Areas (OPA).
7. Approve applications and issue permits to develop in flood hazard areas if the provisions of these regulations have been met, or disapprove applications if the provisions of these regulations have not been met.
8. Inspect or cause to be inspected, buildings, structures, and other development for which permits have been issued to determine compliance with these regulations or to determine if non-compliance has occurred or violations have been committed.
9. Review Elevation Certificates and require incomplete or deficient certificates to be corrected.
10. Submit to FEMA, or require applicants to submit to FEMA, data and information necessary to maintain FIRMs, including hydrologic and hydraulic engineering analyses prepared by or for Nelson County, within six months after such data and information becomes available if the analyses indicate changes in base flood elevations.
11. Maintain and permanently keep records that are necessary for the administration of these regulations, including:
 - a. Flood Insurance Studies, Flood Insurance Rate Maps (including historic studies and maps and current effective studies and maps) and Letters of Map Change; and
 - b. Documentation supporting issuance and denial of permits, Elevation Certificates, documentation of the elevation (in relation to the datum on the FIRM) to which structures have been floodproofed, inspection records, other required design certifications, variances, and records of enforcement actions taken to correct violations of these regulations.
12. Enforce the provisions of these regulations, investigate violations, issue notices of violations or stop work orders, and require permit holders to take corrective action.
13. Advise the Board of Zoning Appeals regarding the intent of these regulations and, for each application for a variance, prepare a staff report and recommendation.
14. Administer the requirements related to proposed work on existing buildings:
 - a. Make determinations as to whether buildings and structures that are located in flood hazard areas and that are damaged by any cause have been substantially damaged.
 - b. Make reasonable efforts to notify owners of substantially damaged structures of the need to obtain a permit to repair, rehabilitate, or reconstruct. Prohibit the non-compliant repair of substantially damaged buildings except for temporary emergency protective measures necessary to secure a property or stabilize a building or structure to prevent additional damage.
15. Undertake, as determined appropriate by the Floodplain Administrator due to the circumstances, other actions which may include but are not limited to: issuing press releases, public service announcements, and other public information materials related to permit requests and repair of damaged structures; coordinating with other Federal, State, and local agencies to assist with substantial damage determinations; providing owners of damaged structures information related to the proper repair of

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damaged structures in special flood hazard areas; and assisting property owners with documentation necessary to file claims for Increased Cost of Compliance coverage under NFIP flood insurance policies.

16. Notify the Federal Emergency Management Agency when the corporate boundaries of Nelson County have been modified and:

- a. Provide a map that clearly delineates the new corporate boundaries or the new area for which the authority to regulate pursuant to these regulations has either been assumed or relinquished through annexation; and
- b. If the FIRM for any annexed area includes special flood hazard areas that have flood zones that have regulatory requirements that are not set forth in these regulations, prepare amendments to these regulations to adopt the FIRM and appropriate requirements, and submit the amendments to the governing body for adoption; such adoption shall take place at the same time as or prior to the date of annexation and a copy of the amended regulations shall be provided to Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management) and FEMA.

17. Upon the request of FEMA, complete and submit a report concerning participation in the NFIP which may request information regarding the number of buildings in the SFHA, number of permits issued for development in the SFHA, and number of variances issued for development in the SFHA.

18. It is the duty of the Community Floodplain Administrator to take into account flood, mudslide and flood-related erosion hazards, to the extent that they are known, in all official actions relating to land management and use throughout the entire jurisdictional area of the Community, whether or not those hazards have been specifically delineated geographically (e.g. via mapping or surveying).

C. Use and Interpretation of FIRMs. The Floodplain Administrator shall make interpretations, where needed, as to the exact location of special flood hazard areas, floodplain boundaries, and floodway boundaries. The following shall apply to the use and interpretation of FIRMs and data:

1. Where field surveyed topography indicates that adjacent ground elevations:
 - a. Are below the base flood elevation, even in areas not delineated as a special flood hazard area on a FIRM, the area shall be considered as special flood hazard area and subject to the requirements of these regulations;
 - b. Are above the base flood elevation, the area shall be regulated as special flood hazard area unless the applicant obtains a Letter of Map Change that removes the area from the SFHA.
2. In FEMA-identified special flood hazard areas where base flood elevation and floodway data have not been identified and in areas where FEMA has not identified SFHAs, any other flood hazard data available from a Federal, State, or other source shall be reviewed and reasonably used.
3. Base flood elevations and designated floodway boundaries on FIRMs and in FISs shall take precedence over base flood elevations and floodway boundaries by any other sources if such sources show reduced floodway widths and/or lower base flood elevations.
4. Other sources of data shall be reasonably used if such sources show increased base

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APPENDIX A - ZONING

flood elevations and/or larger floodway areas than are shown on FIRMs and in FISs.
5. If a Preliminary Flood Insurance Rate Map and/or a Preliminary Flood Insurance Study has been provided by FEMA:

- a. Upon the issuance of a Letter of Final Determination by FEMA, the preliminary flood hazard data shall be used and shall replace the flood hazard data previously provided from FEMA for the purposes of administering these regulations.
- b. Prior to the issuance of a Letter of Final Determination by FEMA, the use of preliminary flood hazard data shall be deemed the best available data pursuant to Section 3.1.A.3. and used where no base flood elevations and/or floodway areas are provided on the effective FIRM.
- c. Prior to issuance of a Letter of Final Determination by FEMA, the use of preliminary flood hazard data is permitted where the preliminary base flood elevations or floodway areas exceed the base flood elevations and/or designated floodway widths in existing flood hazard data provided by FEMA. Such preliminary data may be subject to change and/or appeal to FEMA.

D. Jurisdictional Boundary Changes. The County floodplain ordinance in effect on the date of annexation shall remain in effect and shall be enforced by the municipality for all annexed areas until the municipality adopts and enforces an ordinance which meets the requirements for participation in the National Flood Insurance Program. Municipalities with existing floodplain ordinances shall pass a resolution acknowledging and accepting responsibility for enforcing floodplain ordinance standards prior to annexation of any area containing identified flood hazards. If the FIRM for any annexed area includes special flood hazard areas that have flood zones that have regulatory requirements that are not set forth in these regulations, prepare amendments to these regulations to adopt the FIRM and appropriate requirements, and submit the amendments to the governing body for adoption; such adoption shall take place at the same time as or prior to the date of annexation and a copy of the amended regulations shall be provided to Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management) and FEMA.

In accordance with the Code of Federal Regulations, Title 44 Subpart (B) Section 59.22 (a) (9) (v) all NFIP participating communities must notify the Federal Insurance Administration and optionally the State Coordinating Office in writing whenever the boundaries of the community have been modified by annexation or the community has otherwise assumed or no longer has authority to adopt and enforce floodplain management regulations for a particular area.

In order that all Flood Insurance Rate Maps accurately represent the community's boundaries, a copy of a map of the community suitable for reproduction, clearly delineating the new corporate limits or new area for which the community has assumed or relinquished floodplain management regulatory authority must be included with the notification.

E. District Boundary Changes. The delineation of any of the Floodplain Districts may be revised by Nelson County where natural or man-made changes have occurred and/or where more detailed studies have been conducted or undertaken by the U. S. Army

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APPENDIX A - ZONING

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 Emergency Management Agency. A completed LOMR is a record of this approval.

F. Interpretation of District Boundaries. Initial interpretations of the boundaries of the Floodplain Districts shall be made by the Zoning Administrator. 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.

G. Submitting Model Backed Technical Data. A community's base flood elevations may increase or decrease resulting from physical changes affecting flooding conditions. As soon as practicable, but not later than six months after the date such information becomes available, a community shall notify the Federal Emergency Management Agency of the changes by submitting technical or scientific data. The community may submit data via a LOMR. 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.

H. Letters of Map Revision. When development in the floodplain will cause or causes a change in the base flood elevation, the applicant, including state agencies, must notify FEMA by applying for a Conditional Letter of Map Revision and then a Letter of Map Revision. Example cases:

- Any development that causes a rise in the base flood elevations within the floodway.
- Any development occurring in Zones A1-30 and AE without a designated floodway, which will cause a rise of more than one foot in the base flood elevation.
- Alteration or relocation of a stream (including but not limited to installing culverts and bridges) 44 Code of Federal Regulations §65.3 and §65.6(a)(12).

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FEMA Region III Ordinance Review Checklist (VA)

October 2014

Community: Nelson County County: Nelson State: VA CID: 510102
 State Reviewer: Charles Kline Date: 06/10/2015 Recommendation: Non-Compliant
 FEMA Reviewer: _____ Date: _____ FEMA Determination: _____
 Addl FEMA Reviewer: _____ Date: _____ Determination: _____

Notes: _____
 Minor problems noted in checklist.

Note: The "Item Description" is a synopsis of the regulatory requirement and should not be construed as a complete description. Refer to the actual language contained in the National Flood Insurance Program Rules and Regulations for complete descriptions of the required standards.

Flood Zones: A AO AH AE (w/o FW) AE w/ FW VE
 LIMWA **Level of Regulations:**

Item Description (Section reference to NFIP Regulations follows required Provisions.)	Model Location	State Review	FEMA Review	Comments
Adopt definitions of: <input checked="" type="checkbox"/> Base Flood <input checked="" type="checkbox"/> Base Flood Elevation <input checked="" type="checkbox"/> Basement <input checked="" type="checkbox"/> Development <input checked="" type="checkbox"/> Existing Manufactured Home Park or Subdivision Expansion to an Existing Manufactured Home Park or Subdivision <input checked="" type="checkbox"/> Flood Insurance Rate Map or Subdivision <input checked="" type="checkbox"/> Flood Insurance Rate Map <input checked="" type="checkbox"/> Flood Insurance Study <input checked="" type="checkbox"/> Floodway <input checked="" type="checkbox"/> Lowest Floor & other definitions as appropriate such as: <input checked="" type="checkbox"/> Floodproofing <input checked="" type="checkbox"/> Historic Structures	Glossary			NOTE: Definitions for Existing, Expansion to An Existing, Manufactured Home Park or Subdivision or New Manufactured Home Park are not required if community requires elevation of all manufactured homes to the BFE (1986 regulations). <input checked="" type="checkbox"/> Community requires elevation of all manufactured homes placed/substantially improved to the BFE (1986 regulations)
1. <input checked="" type="checkbox"/> Manufactured Home <input checked="" type="checkbox"/> Manufactured Home Park or Subdivision <input checked="" type="checkbox"/> New Construction Date: 08/01/1978 <input checked="" type="checkbox"/> New Manufactured Home Park or Subdivision <input checked="" type="checkbox"/> Recreational Vehicle <input checked="" type="checkbox"/> Special Flood Hazard Area <input checked="" type="checkbox"/> Start of Construction <input checked="" type="checkbox"/> Structure <input checked="" type="checkbox"/> Substantial Damage <input checked="" type="checkbox"/> Substantial Improvement <input checked="" type="checkbox"/> Violation <input checked="" type="checkbox"/> Highest Adjacent Grade (Required for AO Zones)			10.7	

Item Description (Section reference to NFIP Regulations follows required Provisions.)	Model Location	State Review	FEMA Review	Comments
2. Citation of Statutory Authorization. [59.22(a)(2)]	1.1			Not found - see Model Ordinance 1.1
3. Purpose section citing health, safety, and welfare reasons for adoption. [59.22(1)]	1.1	10.1		
4. Abrogation and Greater Restriction section. [60.1(b)]	1.4	10.4		
5. Adequate enforcement provisions including a violations/penalty section specifying community actions to assure compliance. [60.2(e)]	1.6	10.6		
6. Adopt or reference correct Flood Insurance Rate Map (and where applicable, Flood Boundary Floodway Map) and date. [60.2(h)]	3.1 A	10.8A1		
7. Adopt or reference correct Flood Insurance Study and date. [60.2(h)]	3.1 A	10.8A1		
8. Include a reference to all subsequent revisions and amendments to above-referenced flood maps and Flood Insurance Study.	3.1 A	10.8A1		
9. Severability section. (If any section, provision or portion of the ordinance is deemed unconstitutional or invalid by a court, the remainder of the ordinance shall be effective.)	1.6	10.5		
10. Disclaimer of Liability (Degree of flood protection required by the ordinance is considered reasonable but does not imply total flood protection.)	1.3 B & C	10.3B & D		
11. Framework for administering the ordinance (permit system, establish office for administering the ordinance, <i>recordkeeping</i>, etc.) [59.22(b)(1)]	2.1			Not adequate - need to add from Model Ordinance Article II.
12. Designate title of community Floodplain Administrator [59.22 (b)]	2.1			Not found - see Model Ordinance 2.1
13. Requirement to submit new technical data: within 6 months, notify FEMA of changes in the base flood elevation by submitting technical or scientific data so insurance & floodplain management can be based on current data. [65.3]	2.7	10.12		

Item Description (Section reference to NFIP Regulations follows required Provisions.)	Model Location	State Review	FEMA Review	Comments
Provisions for ordinances				
14. Variance section with evaluation criteria & insurance notice. [60.6 (a)]	Article VI	10.22		
Signature of Appropriate Official & Certification (adopted ordinance)				
15. Date ordinance adopted _____ Effective Date _____ Ordinance No. _____	Article VIII			Not found - see Model Ordinance Article VII
[60.3 (a)] When no SFHAs have been identified, no water surface elevation data has been provided, and no floodways or coastal high hazard areas have been identified and the community applies for participation in the NFIP, the following are required:				
16. Require permits for all proposed construction or other development including placement of manufactured homes. [60.3(a)(1)]	4.1 A	10.13A		
17. Assure that all other State and Federal permits are obtained. [60.3(a)(2)]	4.1 A	10.13A		
Review subdivision proposals to assure that:				
18. (a) Such proposals minimize flood damage. [60.3(a)(4)(i)]	4.4 A	10.20A		
(b) Public utilities and facilities are located & constructed so as to minimize flood damage. [60.3(a)(4)(ii)]	4.4 B	10.20B		
(c) Adequate drainage is provided. [60.3(a)(4)(iii)]	4.4 C	10.20C		
Review permits to assure sites are reasonably safe from flooding and				
19. require for new construction and substantial improvements in flood-prone areas: [60.3(a)(3)]	4.1 A			Not found - see Model Ordinance 4.1A
(a) Anchoring (including manufactured homes) to prevent floatation, collapse, or lateral movement. [60.3(a)(3)(i)]				
(b) Use of flood-resistant materials. [60.3(a)(3)(ii)]	4.2 A, B	10.14A & B		
(c) Construction methods/practices that minimize flood damage. [60.3(a)(3)(iii)]	4.2 C	10.14C		
(d) Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities designed and/or located to prevent water entry or accumulation. [60.3(a)(3)(iv)]				
	4.2 D	10.14D		
	4.2 E	10.14E		

Item Description (Section reference to NFIP Regulations follows required Provisions.)	Model Location	State Review	FEMA Review	Comments
Provisions for ordinances				
20. Require new and replacement water supply and sanitary sewer systems to be designed to minimize or eliminate infiltration. [60.3(a)(5) & (6)]	4.2 G	10.14G		
21. Require on-site waste disposal systems be located to avoid impairment or contamination. [60.3(a)(6)(ii)]	4.2 H	10.14H		
<p>(60.3(b)) When SFHA's are identified by the publication of a community's FIRM or FIRM, base water surface elevation data have not been provided on a floodway or coastal high hazard area has not been identified, then all of the above ordinance provisions for 60.3 (a) and the following are required:</p>				
22. Require permits for all proposed construction and other development within SFHAs on the FIRM [60.3(b)(1)]	4.1 A	10.13A		
23. Where BFE data are utilized, obtain and maintain records of lowest floor and floodproofing elevations for new construction and substantial improvements. [60.3(b)(5)]	4.1 B	10.13C2 & 3		
24. In A Zones, in the absence of FEMA BFE data and floodway data, consider other available data as basis for elevating residential structures to or above base flood level, and for floodproofing or elevating nonresidential structures to or above base flood level. [60.3(b)(4)]	3.3 (3)	10.19		
25. In riverine areas, notify neighboring communities of watercourse alterations or relocations. [60.3 (b)(6)]	4.2 I	10.13B		
26. Maintain flood carrying capacity of altered or relocated watercourse. [60.3(b)(7)]	4.2 J	10.14J		
27. Require base flood elevation data for subdivision proposals or other developments greater than 50 lots or 5 acres. [60.3 (b)(3)]	3.1(3)	10.20D		
28. Require all manufactured homes to be elevated and anchored to resist flotation, collapse, or lateral movement. [60.3(b)(8)]	4.3 D	10.14B, 10.15D1		

Item Description (Section reference to NFIP Regulations follows required Provisions.)	Model Location	State Review	FEMA Review	Comments
<p>60.3(c) When final flood elevations, but no floodways or coastal high hazard areas have been provided on a community's FIRM, then all the above ordinance provisions for 60.3(a) & 60.3(b) and the following are required:</p>				
29. Require all new and substantially improved residential structures within A, A1-30, AE, and AH Zones have their lowest floor (including basement) elevated to or above the BFE. [60.3(c)(2)]	4.3 A	10.15A		One foot of freeboard.
30. In AO Zones, require that new and substantially improved residential structures have their lowest floor (including basement) at or above the highest adjacent grade at least as high as the FIRM's depth number. [60.3(c)(7)]	3.1 A(4)(b) (1)	<input checked="" type="checkbox"/> Community has no AO Zones. N/A - No AO Zones.		
31. Require that new and substantially improved nonresidential structures within A, A1-30, AE, and AH Zones have their lowest floor elevated or floodproofed to or above the base flood elevation. [60.3(c)(3)]	4.3 B	10.15B		One foot of freeboard.
32. In AO Zones, require new and substantially improved nonresidential structures have their lowest floor elevated or completely floodproofed above the highest adjacent grade to at least as high as the depth number on the FIRM. [60.3(c)(8)]	3.1 A(4)(b) (2)	<input checked="" type="checkbox"/> Community has no AO Zones. N/A - No AO Zones.		
33. Require that, for floodproofed non-residential structures, a registered professional/architect certify that the design and methods of construction meet requirements at (c) (3) (ii). [60.3(c)(4)]	4.3 B	10.15B		
34. Within Zones A1-30 and AE without a designated floodway, new development shall not be permitted unless it is demonstrated that the cumulative effect of all past and projected development will not increase the BFE by more than 1 foot. [60.3(c)(10)]	3.1 A2	<input type="checkbox"/> All AE Zones have designated floodways 10.18		
35. Require, for all new construction and substantial improvements, that fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage have permanent openings designed to allow the entry and exit of flood waters in accordance with specifications of [60.3(c)(5)].	4.3 C	10.15C		

Item Description (Section reference to NFIP Regulations follows required Provisions.)	Model Location	State Review	FEMA Review	Comments
Provisions for ordinances				
36. In Zones AO and AH, require drainage paths around structures on slopes to guide water away from structures. [60.3(c)(11)]	3.1 A	<input checked="" type="checkbox"/> Community has neither AO nor AH zones N/A - No AO/AH Zones.		
37. Require that manufactured homes placed or substantially improved within A1-30, AH, and AE Zones, which meet one of the following location criteria, to be elevated such that the lowest floor is at or above the BFE and be securely anchored: i. outside a manufactured home park or subdivision; ii. in a new manufactured home park or subdivision; iii. in an expansion to an existing manufactured home park or subdivision; iv. on a site in an existing park which a manufactured home has incurred substantial damage as a result of flood. [60.3(c)(6)]	4.3 D	<input checked="" type="checkbox"/> Community requires elevation of all manufactured homes placed/substantially improved to the BFE (1986 regulations)		All Manufactured Homes placed/substantially improved to the BFE must be elevated and anchored.
38. In A1-30, AH, and AE Zones, require that manufactured homes to be placed or substantially improved in an existing manufactured home park to be elevated so that: i. the lowest floor is at or above the BFE <u>or</u> ii. the chassis is supported by reinforced piers no less than 36 inches above grade and securely anchored. [60.3(c)(12)]	4.3 D	<input checked="" type="checkbox"/> Community requires elevation of all manufactured homes placed/substantially improved to the BFE (1986 regulations)		All Manufactured Homes placed/substantially improved to the BFE must be elevated and anchored.
39. In A1-30, AH and AE Zones, all recreational vehicles to be placed on a site must be elevated and anchored <u>or</u> be on the site for less than 180 consecutive days <u>or</u> be fully licensed and highway ready. [60.3(c)(14)]	4.3 D2	10.14B, 10.15D1	10.15D2	
(60.3(d)) When final flood elevation and floodway definitions have been provided by a community's FIRM, then all the above ordinance provisions for 60.3(a), 60.3(b) & 60.3(c) and the following are required:				
40. In a regulatory floodway, prohibit any encroachment which would cause any increase in the base flood level unless hydrologic and hydraulic analyses prove that the proposed encroachment would not increase flood levels during the base flood discharge. [60.3(d)(3)]	3.1 A(4)(b) (2)	10.16A		

Item Description (Section reference to NFIP Regulations follows required Provisions.)	Model Location	State Review	FEMA Review	Comments
<p>60.3(e) When final flood elevations and coastal high hazard areas have been provided on a community's FIRIM, then all the above ordinance provisions for 60.3(a), 60.3(b) & 60.3(c), and the following are required: NOTE: If a community has both floodways and coastal high hazard areas, it must meet the requirements of both 60.3(d) & 60.3(e)</p>				
<p>41. In V1 - 30, VE, and V Zones, obtain and maintain the elevation of the bottom of the lowest <i>horizontal</i> structural member of the lowest floor of all new and substantially improved structures. [60.3(e)(2)]</p>		<p>N/A - no V/VE Zones.</p>		
<p>42. In V1-30, VE, and V Zones, require that all new construction and substantial improvement: (a) Are elevated on piling/columns so that the bottom of the lowest horizontal structural member is at or above the BFE and the pile/column foundation/structure are anchored to resist flotation, collapse & lateral movement. [60.3(e)(4)]</p>	<p>3.1 A(6)(a) (1) & (2)</p>	<p>N/A - no V/VE Zones.</p>		
<p>(b) A registered professional engineer/architect shall develop/review structural design, specs & plans; and shall certify that the design and methods of construction meet elevation and anchoring requirements at (e)(4)(i) and (ii). [60.3(e)(4)]</p>	<p>3.1 A(6)(b)</p>	<p>N/A - no V/VE Zones.</p>		
<p>(c) Have the space below the lowest floor either free of obstruction or constructed with non-supporting breakaway walls. Such enclosed space shall be useable solely for parking, building access, or storage. [60.3(e)(5)]</p>	<p>3.1 A(6)(e) & (f)</p>	<p>N/A - no V/VE Zones.</p>		
<p>(d) All new construction is landward of the reach of mean high tide. [60.3(e)(3)]</p>	<p>3.1 A(6)(d)</p>	<p>N/A - no V/VE Zones.</p>		
<p>(e) Prohibit use of fill for structural support. [60.3(e)(6)]</p>	<p>3.1A(6)(g)</p>	<p>N/A - no V/VE Zones.</p>		
<p>(f) Prohibit alteration of sand dunes and mangrove stands which would increase potential flood damage. [60.3(e)(7)]</p>	<p>3.1A(6)(h)</p>	<p>N/A - no V/VE Zones.</p>		

Item Description (Section reference to NFIP Regulations follows required Provisions.)	Model Location	State Review	FEMA Review	Comments
<p>60.3(c) When final flood elevations and coastal high hazard areas have been provided on a community's FIRM, then all the above ordinance provisions for 60.3(a), 60.3(b) & 60.3(c), and the following are required: NOTE: If a community has both floodways and coastal high hazard areas, it must meet the requirements of both 60.3(d) & 60.3(e)</p>				
<p><i>For numbers 43 and 44: if checked, then the provisions are NOT required.</i></p>		<input checked="" type="checkbox"/>		Community requires elevation of all manufactured homes placed/substantially improved to the BFE (1986 regulations).
<p>43. Require that manufactured homes placed or substantially improved within V1-30, VE, and V Zones, which meet one of the following location criteria, meet the V Zone standards in 60.3(e)(2) through (e)(7):</p> <ul style="list-style-type: none"> i. outside a manufactured home park or subdivision; ii. in a new manufactured home park or subdivision; iii. in an expansion to an existing manufactured home park or subdivision; iv. on a site in an existing park which a manufactured home has incurred substantial damage as a result of flood. [60.3(e)(8)] 	3.1 A(6)(i)	N/A - no V/VE Zones.		
<p>44. In V1-30, VE and V Zones, require that manufactured homes to be placed or substantially improved in an existing manufactured home park to be elevated so that:</p> <ul style="list-style-type: none"> i. the lowest floor is at or above the BFE, <u>or</u> ii. the chassis is supported by reinforced piers no less than 36 inches above grade and securely anchored. [60.3(e)(8)(iv); 60.3(c)(12)] 	3.1 A(6)(d)	N/A - no V/VE Zones.		
<p>45. In V1-30, VE, and V Zones, all recreational vehicles to be placed on a site must be elevated and anchored <u>or</u> be on the site for less than 180 consecutive days <u>or</u> be fully licensed & highway ready. [60.3(e)(9)]</p>	3.1 A(6)(d) (2)	N/A - no V/VE Zones.		

Additional Comments: Use this section to provide additional comments on the above provisions, including the specific provision location, or to make general comments on the ordinance.

- Recommendations for higher standards:
1. Increase freeboard (10.15A&B) to at least 1.5 feet.
 2. Define critical facilities (e.g. - emergency services, schools, evacuation centers, medical facilities, senior care centers, hazardous material or fuel storage, etc.) and prohibit them in the SFHA and/or 0.2% (500 year) flood zone.
 3. Empower the county to identify and enforce ordinance in local flood hazard areas not on FEMA maps (e.g. - areas known to flood, but not on FIRM).
 4. Add a cumulative damage section to substantial damage/improvement (e.g. - damage/improvement over 5 years that exceeds 50% of value).
 5. Require SFHA standards in 0.2% (500 year) floodplain.
 6. Require Elevation Certificates for all new construction/substantial improvement.
 7. Restrict Hazardous Materials or Fuels in SFHA (see critical facilities in #2 above).
 8. Limit uses in Floodway to non-structural (e.g. - lawns, non-structural agriculture use, parking, trails, boat launches, etc.)
 9. Lower Subdivision BFE requirement (10.20D) to less than fifty lots/five acres (e.g. - 25 lots, 2 acres).
 10. Enact a Shoreline Recreational Zoning District in identified SFHA areas along major rivers - see Grayson County, VA example in their ordinances, Article 3.8.
 11. Restrict encroachment in Special Floodplain District to less than .1 foot rise (10.18) (down from NFIP minimum of 1 foot).

Higher Standards: Use this section to identify higher standards and provide additional comments, including the specific provision location.

<input checked="" type="checkbox"/> Freeboard: <input style="width: 50px; text-align: center;" type="text" value="1"/> feet	<input type="checkbox"/> Coastal A Zone	<input type="checkbox"/> Lower Threshold for Subdivisions Proposals or other Developments	<input style="width: 50px;" type="text"/> lots/acres
<input type="checkbox"/> Cumulative Substantial Improvement	<input type="checkbox"/> Repetitive Loss (Cumulative Substantial Damage)	<input type="checkbox"/> Setbacks	10.14K - fences must be drop-down or suspended cable and must be parallel to waterway. 10.19 - County reserves the right for H&H for any development in A Zone.
<input type="checkbox"/> Hazardous Materials Restrictions	<input type="checkbox"/> Limiting Below BFE Enclosures	<input type="checkbox"/> Lower Threshold for Substantial Damage	
<input type="checkbox"/> Community Identified Flood Hazard Areas	<input type="checkbox"/> Require EC and FP Certificates	<input type="checkbox"/> Permit Review by Others	
<input type="checkbox"/> Encroachment that causes > 0.1 foot Rise	<input type="checkbox"/> New Construction	<input type="checkbox"/> Floodway Development	
<input type="checkbox"/> Recreational Vehicles	<input type="checkbox"/> Manufactured Homes	<input type="checkbox"/> Limit Critical Facilities	
<input type="checkbox"/> Prohibit Critical Facilities	<input type="checkbox"/> Prohibit Critical Facilities	<input type="checkbox"/> Subdivision of Floodplain	
<input type="checkbox"/> Structures in Floodplain	<input type="checkbox"/> Encroachment that causes > 0.1 foot Rise		

CRS What-If

Application CRS Coord 2ndPOC Activity Points Chronology [Print](#) [Help](#)

Community: NELSON COUNTY * **State:** VIRGINIA

County: **CID:** 510102

Current CRS Class = 10

[\[Printable Version\]](#)

CRS Class		TOTAL	SFHA *	X-STD/AR/A99 **	PRP ***
	PIF	97	35	6	66
	PREMIUM	\$75,541	\$46,358	\$5,050	\$24,133
	AVERAGE PREMIUM	\$779	\$1,325	\$842	\$431
09	Per Policy	\$26	\$66	\$42	\$0
	Per Community	\$2,570	\$2,318	\$253	\$0
08	Per Policy	\$50	\$132	\$42	\$0
	Per Community	\$4,888	\$4,636	\$253	\$0
07	Per Policy	\$74	\$199	\$42	\$0
	Per Community	\$7,206	\$6,954	\$253	\$0
06	Per Policy	\$101	\$265	\$84	\$0
	Per Community	\$9,777	\$9,272	\$505	\$0
05	Per Policy	\$125	\$331	\$84	\$0
	Per Community	\$12,094	\$11,589	\$505	\$0
04	Per Policy	\$149	\$397	\$84	\$0
	Per Community	\$14,412	\$13,907	\$505	\$0
03	Per Policy	\$172	\$464	\$84	\$0
	Per Community	\$16,730	\$16,225	\$505	\$0
02	Per Policy	\$196	\$530	\$84	\$0
	Per Community	\$19,048	\$18,543	\$505	\$0
01	Per Policy	\$220	\$596	\$84	\$0
	Per Community	\$21,366	\$20,861	\$505	\$0

* SFHA (Zones A, AE, A1-A30, V, V1-V30, AO, and AH): Discount varies depending on class.

** SFHA (Zones A99, AR, AR/A, AR/AE, AR/A1-A30, AR/AH, and AR/AO): 10% discount for Classes 1-6; 5% discount for Classes 7-9.

*** Preferred Risk Policies are not eligible for CRS Premium Discounts.



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- FAMS
- Log Out

2016 Schedule

JANUARY

S	M	T	W	T	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24/31	25	26	27	28	29	30

FEBRUARY

S	M	T	W	T	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29					

MARCH

S	M	T	W	T	F	S
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

APRIL

S	M	T	W	T	F	S
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30

MAY

S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

JUNE

S	M	T	W	T	F	S
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30		

JULY

S	M	T	W	T	F	S
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24/31	25	26	27	28	29	30

AUGUST

S	M	T	W	T	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

SEPTEMBER

S	M	T	W	T	F	S
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	

OCTOBER

S	M	T	W	T	F	S
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23/30	24/31	25	26	27	28	29

NOVEMBER

S	M	T	W	T	F	S
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30			

DECEMBER

S	M	T	W	T	F	S
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

BZA
 BZA Cutoff/Ad
 PC Cut-off for Foll. Mo.
 Legal Notice for PC
 BOS
 Holiday