



BOARD OF
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Director of Finance and
Human Resources

**AGENDA
COUNTY OF NELSON
JOINT MEETING OF BOARD OF SUPERVISORS AND PLANNING COMMISSION
FEBRUARY 26, 2025 AT 6:00 P.M.
FORMER BOARD ROOM AT THE COURTHOUSE IN LOVINGSTON
(The meeting is a continued session from 02/18/25 (BOS) and 01/22/25 (PC))**

- I. CALL TO ORDER**
- II. JOINT WORKSESSION WITH PLANNING COMMISSION ON ZONING AND SUBDIVISION ORDINANCE UPDATES.**
- III. OTHER BUSINESS (AS PRESENTED)**
- IV. ADJOURNMENT**

Nelson County Zoning Ordinance Update

Worksession 2 Memo

February 26, 2025



Overview:

Nelson County has partnered with the Berkley Group, a local government consulting firm, to update, modernize, and restructure the Zoning and Subdivision Ordinances. The revised Zoning and Subdivision Ordinance will:

- Provide streamlined and user-friendly regulations;
- Incorporate best planning practices and current state code requirements;
- Address the goals and strategies identified in the Comprehensive Plan; and,
- Consider citizen needs and issues identified through the public engagement process.

This process will be guided by County staff, the Planning Commission, and the Board of Supervisors with opportunities for input from the community.

Agenda:

The purpose of the joint work session scheduled for February 26, 2025, is to review the following Articles:

- Article 1 – General Provisions
- Article 2 – Administration
- Article 3 – Permits & Applications
- Article 9 – Nonconforming Uses, Lots, and Structures
- Article 11 - Definitions

The following agenda is provided as an outline for discussion:

- Schedule & Progress to Date – 5 minutes
- Article Review – 50 minutes
- Next Steps – 5 minutes

Schedule & Progress to Date:

See (Attachment A) for current schedule.

Progress to date includes:

- **Land Use Tools Diagnostic** – A diagnostic of the current Zoning and Subdivision Ordinances was conducted. The purpose of this diagnostic was to identify deficiencies in the Ordinances compared to requirements of state regulations and planning best practices. It also included a comparison of the Ordinances to the

Nelson County Zoning Ordinance Update

Worksession 2 Memo

February 26, 2025



updated Comprehensive Plan. This diagnostic was presented to the Board of Supervisors and Planning Commission on August 28, 2024.

- **Public Workshops** – Two public workshops were conducted on October 22, 2024, at the Rockfish Valley Community Center, and on October 30, 2024, at the Nelson Center. Following a presentation on the Zoning and Subdivision Ordinance Update, attendees worked in groups to respond to exercise questions and provide meaningful feedback on the project.
- **Focus Groups** - On October 30, 2024, Berkley Group facilitated four focus group listening sessions for the Zoning and Subdivision Ordinance update. The topics and list of invitees were selected by Nelson County, and each session was conducted in a roundtable discussion format. The four discussion topics were: agriculture and agritourism, natural and cultural preservation, development and real estate, and business and economic development. A list of relevant questions was used to guide discussions and identify challenges that participants or their organizations face related to the Zoning and Subdivision Ordinances.
- **Joint Worksession 1** – Berkley Group met with the Nelson County Planning Commission and Board of Supervisors on December 18, 2025, to review the public engagement for the project and discuss the organization of the Zoning Ordinance.

Article Review:

Article 1 – General Provisions (Attachment B)

Article 1 of the Zoning Ordinance establishes the legal authority for the County to regulate land through zoning, discusses conflicts with other ordinances, establishes the official zoning map, and details the transition from the existing ordinance. Some of the key changes in this Article compared to the existing ordinance are:

- Streamlining and reducing text to make it easier to comprehend. Where possible, reference the state code section rather than repeating those provisions within the ordinance.
- Combined general provisions from the subdivision and zoning ordinances to facilitate the merge into a unified development ordinance.
- Created procedures governing the creation and maintenance of the Official Zoning Districts Map.

Article 2 – Administration (Attachment C)

Article 2 details the powers and duties of the relevant bodies and entities responsible for administering the zoning ordinance. This Article also discusses the required enforcement

Nelson County Zoning Ordinance Update

Worksession 2 Memo

February 26, 2025



and fee structure for the ordinance. Some of the key changes in this Article compared to the existing ordinance are:

- Created provisions for the official appointment, powers, and duties of the Zoning Administrator.
- Moved provisions regarding the Planning Commission from Chapter 9 of the County Code into this Article.
- Included provisions to allow for civil penalties for violations of the ordinance prior to the issuance of criminal charges.
- Created the framework for a county-wide schedule of fees that can be created administratively outside of the County Code.

Article 3 – Permits & Applications (Attachment D)

Article 3 details the requirements for any zoning permits and applications, including rezonings, special use permits, variances, zoning permits, zoning determinations, temporary use permits, and site plans. This article also includes the process for appeals, public hearings, and notification requirements. Some of the key changes in this Article compared to the existing ordinance are:

- Application requirements have been streamlined to be more administratively determined, allowing the Zoning Administrator more flexibility in determining what is needed for an application to be deemed complete.
- Concept plan requirements have been fleshed out to require a concept plan for most applications, unless the administrator determines that a site plan is needed.
- Required content for a major site plan has been removed from the ordinance in favor of an administratively determined list to allow more flexibility for the County and to reduce the need for Zoning Text Amendments when additional requirements are desired.
- This article allows minor site plans to be approved or denied by the Zoning Administrator and major site plans to be reviewed by the Planning Commission.
- A new provision has been added to require the posting of a notice sign near the road on all properties undergoing potential zoning action.

Article 9 – Nonconforming Uses, Lots, and Structures (Attachment E)

Article 9 includes the regulations and procedures surrounding nonconforming uses, lots, and structures within the County, nonconforming being a legally protected status to such items that are conforming with the existing ordinance but may not conform to the new ordinance at the time of adoption. Many of the regulations found within this article are

Nelson County Zoning Ordinance Update
Worksession 2 Memo
February 26, 2025



controlled by state and federal codes but some changes have occurred. Some of the key changes in this Article compared to the existing ordinance are:

- Reorganization and streamlining of provisions to reference state code sections where possible and clarify any conflicting regulations.
- Removed the provision to allow for discontinued nonconforming uses to apply for an extension of their nonconforming use after two years of discontinuation.
- Added a provision to allow for building on nonconforming lots with reduced setbacks in special circumstances.

Article 11 – Definitions (Attachment F) & Changes Crosswalk (Attachment G)

Article 11 includes all relevant definitions and abbreviations to the zoning and subdivision ordinance. This article will be updated to include new definitions as more articles from the ordinance are drafted. New definitions will be highlighted in future drafts of the article. The current definitions included in this article are only those relevant to Articles 1, 2, 3, and 9.

In addition to this article, a definitions change crosswalk has been included (Attachment G). This document includes only those definitions from the existing ordinance that have been modified from their current definition. It includes the term, existing definition, and new proposed definition.

Table of Contents Crosswalk (Attachment H):

The table of contents crosswalk serves to ensure that all existing sections are accounted for throughout the phased drafting process. It does so by matching existing ordinance sections to their new proposed locations in the updated ordinance.

It is important to note that this is a proposed ordinance structure, and titles and sections may shift during drafting to achieve the best organization of the final document. When reviewing the crosswalk of existing sections and new proposed location, any items that contain more than one proposed location indicate that the existing text will be split into those locations, as appropriate.

Next Steps:

The Berkley Group will continue drafting ordinance articles. Articles to be discussed at the next meeting include:

- Primary Zoning Districts
- Overlay Zoning Districts
- Related Definitions

PROJECT TIMELINE																								
Phase	#	Task Description	2024						2025												2026			
			July	August	September	October	November	December	January	February	March	April	May	June	July	August	September	October	November	December	January	February	March	April
Investigation	A1	Project Management / Staff Input																						
	A2	Project Kickoff (Virtual)	V																					
	A3	Joint Kickoff & Land Use Diagnostic Presentation		X																				
	A4	Public Workshop (1)				X																		
	A5	Focus Group Listening Sessions (up to 4)				X																		
	A6	Engagment Summary																						
Development	B1	Joint Work Sessions (up to 6)					X		X		X		X		X		X							
	B2	Ordinance Table of Contents & Crosswalk						*																
	B3	Definitions																						
	B4	General, Administrative, Nonconformity								*														
	B5	Permit & Application Provisions								*														
	B6	District Standards										*												
	B7	Overlay & Special Districts										*												
	B8	Use Matrix											*											
	B9	Use Performance Standards											*											
	B10	Community Design Standards (Signs, Lighting, Subdivisions)												*										
	B11	Subdivisions												*										
	B12	Formatting & Final Review																	*					
	B13	Changes Matrix & Contents Crosswalk Update																	*					
Adoption	C1	Open House (Public Draft Review) (up to 1)																	X					
	C2	Pre-Adoption Joint Work Session (up to 1)																	X					
	C3	Incorporate Final Revisions																						
	C4	PC & Board of Supervisors Public Hearings																			X	X		
	C5	Post-Adoption Deliverables																						

X = Anticipated In-person Attendance; V = Virtual Attendance; * = Meeting Topic

ATTACHMENT A

Nelson County
Zoning & Subdivision Update
Project Timeline & Meeting Schedule – Updated 02/26/2025



Note: Topics to be covered at each meeting are tentative and subject to change. Public Meeting or Event

Date, Time, Location	Event	Topics/Notes	Attendees
7/24/2024, 10pm, Teams	Kickoff & Orientation	Staff & BG Internal Kickoff & Orientation	Berkley Group; County Staff
August 28, 2024 @6pm	Joint Worksession – Kickoff	Comprehensive Planning Overview Review Project Schedule Review Engagement Plan (Advertisement, Workshop Formats, Focus Groups) Review Land Use Report Discuss Current Issues, Challenges, and Opportunities	Berkley Group; County Staff; Planning Commission (PC); Board of Supervisors (BOS)
October 30, 2024	Focus Groups	Focus Topics (Development, Business, Agriculture, Conservation) and Issues Discussion with Stakeholder Groups – TBD	Berkley Group; Stakeholder Groups
October 22, 2024	Public Workshop # 1	Challenges & Opportunities Exercise	Public; Berkley Group; County Staff; Public Officials
October 30, 2024	Public Workshop # 2	Challenges & Opportunities Exercise	Public; Berkley Group; County Staff; Public Officials
December 18, 2024	Joint Worksession	Public Engagement Summary Report Table of Contents Crosswalk	Berkley Group; County Staff; Planning Commission (PC); Board of Supervisors (BOS)
February 26, 2025	Joint Worksession	Article Review: General Provisions Article Review: Administration Article Review: Permits and Applications Article Review: Nonconforming Uses, Lots, and Structures Article Review: Definitions Table of Contents Crosswalk Updates	Berkley Group; County Staff; Planning Commission (PC); Board of Supervisors (BOS)
April 23, 2025	Joint Worksession	Article Review: Primary Districts Article Review: Overlay Districts Article Review: Definitions Table of Contents Crosswalk Updates	Berkley Group; County Staff; Planning Commission (PC); Board of Supervisors (BOS)

ATTACHMENT A

Nelson County
Zoning & Subdivision Update
Project Timeline & Meeting Schedule – Updated 02/26/2025



Date, Time, Location	Event	Topics/Notes	Attendees
June 25, 2025	Joint Worksession	Article Review: Use Matrix Article Review: Use Performance Standards Article Review: Definitions Table of Contents Crosswalk Updates	Berkley Group; County Staff; Planning Commission (PC); Board of Supervisors (BOS)
August 27, 2025	Joint Worksession	Article Review: Community Design Standards Article Review: Subdivisions Article Review: Definitions Table of Contents Crosswalk Updates	Berkley Group; County Staff; Planning Commission (PC); Board of Supervisors (BOS)
October 22, 2025	Joint Worksession	Final Full Ordinance Review Table of Contents Crosswalk Updates	Berkley Group; County Staff; Planning Commission (PC); Board of Supervisors (BOS)
November, 2025	Public Open House	Present ordinance at a public open house. Receive feedback and comments from public.	Public; Berkley Group; County Staff; Public Officials
November, 2025	Joint Worksession – Final Review	Review open house public comments.	Berkley Group; County Staff; PC; BOS
January, 2026	Public Hearing & Recommendation	Present Final Ordinance for consideration by Planning Commission.	Berkley Group; County Staff; PC
February, 2026	Public Hearing & Adoption Present ZO/SO Diagnostic Part II	Present Final Ordinance for adoption by Board of Supervisors.	Berkley Group; County Staff; BOS

ATTACHMENT B

Nelson County, Virginia, Zoning & Subdivision Ordinance
Draft Article 1 – In General
February 26, 2025

Article-I General Provisions

Division I-1 Enactment and Authority

Section I-1-1 Title

This chapter shall be known and cited as the "Nelson County, Virginia, Zoning and Subdivision Ordinance" shall be permitted, for convenience, to be referred to as the "Zoning and Subdivision Ordinance" or "Ordinance."

Section I-1-2 Authority

- A. Pursuant to the code of Virginia, § 15.2-2280 et seq., Nelson County, Virginia, is given the authority to classify and regulate land development under its jurisdiction.
- B. Pursuant to the Code of Virginia, § 15.2-2240, et seq., Nelson County, Virginia, is authorized to adopt regulations to ensure the orderly subdivision of land and its development.

Section I-1-3 Purpose¹

- A. The purpose of this ordinance, together with the accompanying official Zoning Map, is to regulate the future growth and development of Nelson County; implement the goals and strategies of the Nelson County Comprehensive Plan; promote the health safety, and general well-being of the public; and to accomplish the objectives of the Code of Virginia, §§ 15.2-2200, 15.2-2240, 15.2-2241 and 15.2-2283.

Section I-1-4 Applicability

Pursuant to the Code of Virginia, §§ 15.2-2281, 15.2-2284, and 15.2-2293, the provisions of this Ordinance shall apply to all property within the incorporated territory of Nelson County, Virginia, with the exception that any property held in fee simple ownership and used by the United States of America, the Commonwealth of Virginia, or the government of Nelson County shall not be subject to the provisions contained herein. Upon transfer of ownership or control of any portion of government lands to private interests, the regulations of the district in which the land is located shall automatically apply.

¹ Editor's Note: This section includes provisions from Section 1-2 and has been amended to better address the provisions of the Code of Virginia §15.2-2283 as well as include the purpose of subdivision within the County.

ATTACHMENT B

Section 1-1-5 Conformity Required

Except as otherwise provided in this Ordinance or as modified through a zoning approval, all land, buildings, structures, and/or premises within the County shall only be subdivided, used, occupied, erected, constructed, moved, enlarged, and/or altered in conformance with this Ordinance and other applicable County regulations.

Section 1-1-6 Severability

Should any section of provisions of this Ordinance be decided by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole, or any part thereof other than the part so held to be unconstitutional or invalid.

Division 1-2 Ordinance Conflicts and Interpretation

Section 1-2-1 Interpretation²

- A. The Zoning Administrator, or their designee, is responsible for definitive interpretation of this Ordinance based upon the following criteria:
- (1) Provisions shall be considered the minimum required unless otherwise specified, to promote the public safety, health, convenience and general welfare;
 - (2) When regulations of this Ordinance conflict with each other, other County Ordinances, or state or federal law, the more restrictive regulation will govern, pursuant to the Code of Virginia § 15.2-2315;
 - (3) It is not the intent of the regulations of this Ordinance to interfere with, repeal, or annul any easements, covenants or other private agreements;
 - (4) The County is not responsible for the enforcement of private provisions, restrictions, or covenants;
 - (5) A building, structure, or use which was not legally existing on _____ (effective date of updated ordinance) shall not be made lawful solely by adoption of this Ordinance; and

² Editor's Note: This Section includes provisions from Section 1-3 and 17-6 that have been streamlined and amended for clarity.

ATTACHMENT B

Nelson County, Virginia, Zoning & Subdivision Ordinance

Draft Article 1 – In General

February 26, 2025

(6) Any condition imposed or proffer accepted as part of a zoning proposal in accordance with Code of Virginia § 15.2-2261.1, prior to _____ (effective date of updated ordinance) will be continued in effect. However, as stated in Code of Virginia § 15.2-2261.1, if there is a conflict between conditions imposed through those land use decisions and the regulations of the Ordinance, the conditions will apply. If there is no condition that addresses a specific use or development standard of this Ordinance, the requirements of this Ordinance will govern.

Section 1-2-2 Figures and References

- A. Where figures are contained in this Ordinance, they are provided for demonstrative purposes only, and in the event of a conflict between the text or tables of this Ordinance and any figures, the text and tables will control.
- B. If any section of this Ordinance incorporates by reference any state statute or regulation, then the Ordinance incorporates future amendments of the state statute regulation.

Division 1-3 Zoning Districts Map³

Section 1-3-1 Establishment, Maintenance, and Amendment

- A. The unincorporated areas of Nelson County, Virginia, are hereby divided into zoning districts, as shown on the official “Zoning Map of Nelson County, Virginia.” The Zoning Map of Nelson County, Virginia will be, for convenience, referred to as the “Zoning Map.”
- B. The Zoning Map shall be available for examination and inspection by the public at all reasonable times.
- C. The original of the Zoning Map shall be filed in the Zoning Administrator’s office and such original Zoning Map be updated from time to time as the result of the following actions:
 - (1) Amendments to the Ordinance (See Article 3, Division 2, of this Ordinance);
 - (2) Approval of a Rezoning (See Article 3, Division 2, of this Ordinance);

³ Editor’s Note: This section has been created to establish the procedures governing the official zoning map as a physical paper copy located within the Planning and Zoning offices. If so desired, this section can be modified so that the online GIS version of the zoning layer can be used for the official zoning map.

ATTACHMENT B

Nelson County, Virginia, Zoning & Subdivision Ordinance

Draft Article 1 – In General

February 26, 2025

(3) Approval of Conditional Zoning and Proffers (See **Article 3, Division 3**, of this Ordinance).

Section 1-3-2 Incorporated by Reference

The Zoning Map together with all notations, references, and other information shown thereon, is hereby adopted by reference and declared to be a part of this Ordinance.

Section 1-3-3 Interpretation of Boundaries⁴

- A. In any case in which there is uncertainty, contradiction, or conflict as to the location of any zoning district boundary – due to scale, illegibility, lack of detail, physical or natural features vary from those on the Zoning Map, or any other circumstances not covered by this Section – the Zoning Administrator or designee will have the authority to interpret the district boundaries as stated in this Section.
- (1) The Zoning Administrator’s interpretations may be appealed to the Board of Zoning Appeals in accordance with **Article 3, Division 12**, of this Ordinance. The Board of Zoning Appeals will only determine to the boundary lines of the parcel or parcels as included in the appeal, and shall act in keeping with the intent of this Ordinance as stated herein.
- B. The Zoning Map associated with this text and showing the division of the territory into districts will be interpreted with the following rules when uncertainty exists with respect to the boundaries of any of the districts:
- (1) Where district boundaries are indicated as approximately following or being at right angles to the centerlines of streets, highways, alleys or railroad tracks, such centerline, or lines at right angles to such centerlines, will be construed to be such boundaries.
- (2) Where district boundaries appear to approximately coincide with a property line or municipal border, the property line or municipal border will be considered the district boundary, unless otherwise expressly indicated on the map.
- (3) Where district boundaries are fixed by dimensions or otherwise shown or described, there will be no uncertainty.

⁴ Editor’s Note: This section includes text from Section 17-3 that has been amended for clarity including naming the Administrator as the interpreter and the BZA for appeals.

ATTACHMENT B

Nelson County, Virginia, Zoning & Subdivision Ordinance

Draft Article 1 – In General

February 26, 2025

- (4) Where a district boundary is indicated to follow a river, creek, or branch or other body of water, said boundary will be construed to follow the centerline at low water or at the limit of the jurisdiction, and in the event of change in shoreline, such boundary will be construed as moving with the actual shoreline.
- (5) Where the map shows a district boundary dividing a lot, each part of the lot shall be used in conformity with the standards established by this chapter for the zoning district in which that part is located.
- (6) If distances, boundaries, or other dimensions are not specifically indicated, or cannot be determined, on the Zoning Map, they will be determined by using the scale of the map and other shown features.

Section 1-3-4 Unauthorized Changes

No changes of any nature will be made on the Zoning Map except in conformity with the procedures and requirements of this Ordinance. It is unlawful for any person to make unauthorized changes on the Zoning Map.

Division 1-4 Transition of Regulations After Adoption

Section 1-4-1 Effective Date⁵

This Ordinance was adopted on _____ (adoption date of updated ordinance). This Ordinance will become effective on _____ (effective date of updated ordinance) and repeals and replaces any prior Zoning Ordinance adopted in Nelson County. Its provisions will be in force until repealed or amended.

Section 1-4-2 Violations Continue

Any development or activity in violation of the previous Zoning Ordinance will continue to be a violation under this Ordinance unless the development or activity complies with the express terms of this Ordinance.

⁵ Editor's Note: The text contained in this section is proposed to replace the text of section 17-4 for increased clarity.

ATTACHMENT B

Section 1-4-3 Nonconformities

If any use, structure, building, lot, or sign legally existed immediately prior to _____ (effective date of updated ordinance) but does not fully comply with the standards of this Ordinance or any amendment thereto, the use, structure, lot, sign, or site feature is considered nonconforming under this Ordinance and shall comply with the requirements in Article 9, Nonconforming Uses, Lots, and Structures, of this Ordinance.

Section 1-4-4 Complete Applications/Plats⁶

- A. This Section is applicable to the following:
- (1) Zoning Text and Map Amendments (rezoning);
 - (2) Conditional Zoning;
 - (3) Special Use Permits;
 - (4) Variances; and
 - (5) Subdivision Plats.
- B. Applications and/or plats accepted as complete prior to _____ (effective date of updated ordinance), or deemed by the Administrator to be complete, prior to _____ (effective date of updated ordinance), but still pending final action as of that date, will be processed in accordance with the regulations in effect when the submittal was accepted.
- C. An applicant with a pending application and/or plat accepted prior to _____ (effective date of updated ordinance), may opt to have the proposed development reviewed and decided under the standards of this Ordinance by withdrawing the pending submittal and submitting a new application and/or plat in accordance with the procedures and standards of this Ordinance.
- D. To the extent such a complete application and/or plat is approved and proposes development that does not comply with this Ordinance, the subsequent development, although permitted, will be nonconforming and subject to the requirements of Article 9, Nonconforming Uses, Lots, & Structures, of this Ordinance.

⁶ Editor's Note: This section, and the following section, have been added to help ease the process of transition from the old existing ordinance to this new ordinance.

ATTACHMENT B

Nelson County, Virginia, Zoning & Subdivision Ordinance

Draft Article 1 – In General

February 26, 2025

Section 1-4-5 Other Approved Permits and Development Approvals

- A. This Section pertains to applications for the following:
- (1) Site Plans;
 - (2) Zoning Permits; and
 - (3) All other permit and development approvals identified in **Article 3, Permits and Applications**, of this Ordinance, but not provided for in **Section 1-4-4, Complete Applications**, above.
- B. Any other permits or development approvals granted prior to _____ (effective date of updated Ordinance), will remain valid until their expiration date.⁷
- (1) Developments with valid permits or development approvals granted prior to _____ (effective date of updated Ordinance), may be carried out in accordance with the terms and conditions of their approval and the development standards in effect at the time of approval, provided the permit or development approval is valid and has not expired.
 - (2) If the prior approval expires or is revoked, any subsequent development or use of the site will be subject to the procedures and standards of this Ordinance.
 - (3) To the extent a prior-approved permit or development approval that does not comply with this Ordinance, the subsequent building, development, or use, although permitted, will be nonconforming and subject to the requirements of **Article 9, Nonconforming Uses, Lots, & Structures**, of this Ordinance.

Section 1-4-6 Vested Right⁸

- A. The provisions of this Ordinance will not impair a vested right of a property owner. Vested rights determinations will be made in accordance with the Code of Virginia § 15.2-2307.
- B. The Subdivision Agent will be authorized to make determinations on whether a property owner's right is deemed vested in a land use or division.

⁷ Editor's Note: This provision has been revised to align with State Code requirements. The current ordinance requires that construction commences 30 days after the ordinance becomes effective.

⁸ Editor's Note: This section contains regulations found in section 17-2 that have been amended and clarified for ease of use.

ATTACHMENT C

Article-2 Administration

Division 2-1 Zoning Administrator and Subdivision Agent

Section 2-1-1 Appointment, Powers, and Duties¹

- A. This Ordinance and the Zoning Map shall be administered, interpreted, and enforced by the Zoning Administrator (Administrator), who shall be appointed by the Board of Supervisors. The Administrator shall exercise their authority at the pleasure of the Board of Supervisors and may designate someone to act in their stead.
- B. The Administrator shall have such duties as are conferred by this Ordinance and the Code of Virginia § 15.2-2286(4), including:
 - (1) Enforce and administer this Ordinance;
 - (2) Interpret and determine zoning district boundaries and provisions of this Ordinance;
 - (3) Review and approve all related planning and zoning permits and applications as required per **Article 3, Permits and Applications**;
 - (4) Accept, review, certify, and forward all plats for conformance with this Ordinance;
 - (5) Establish any other procedures not expressly listed in this Ordinance to help facilitate the administration and enforcement of the Ordinance;
 - (6) Exercise such additional powers and perform such additional duties as may be set forth in this Ordinance, or as requested by the County Administrator or Board of Supervisors;
 - (7) Maintain records as required by this Ordinance, the Board of Supervisors, or any other chapter of the County Code; and
 - (8) Submit an annual report no later than March 1 of each year to the Commonwealth of Virginia's Department of Housing and Community Development containing the total fee revenue collected by the locality over the preceding calendar year in connection with the processing, reviewing, and

¹ Editor's Note: Much of the text in this section is new and outlines the specific duties of the Planning Director. Provisions from Section 3-1 of the Subdivision Ordinance have been incorporated here.

ATTACHMENT C

permitting of applications for residential land development and construction activities, pursuant to Code of Virginia § 15.2-2209.3.

- C. The Agent shall act as both Zoning Administrator and Subdivision Agent or may designate any qualified individual as such.
- D. The Agent may hold another office in the County.
- E. The Agent, or their designee, shall act as staff to the Planning Commission.

Division 2-2 Planning Commission

Section 2-2-1 Appointment, Terms, and Membership²

- A. In order to promote the orderly development of the County, a County Planning Commission shall be created and organized pursuant to the Code of Virginia, §§ 15.2-2203 and 15.2-2210.
- B. The Planning Commission shall consist of six (6) members, five (5) voting members consisting of one (1) member from each election district, appointed by the Board of Supervisors, and one (1) non-voting Board of Supervisors representative, elected by the Board of Supervisors to sit on the Planning Commission meetings and act as a liaison between the two bodies.³
- C. Each member shall be appointed for a four-year (4) term and members may be re-appointed without limitation.
- D. All members of the Planning Commission on the effective date of this Ordinance may continue as members until completion of their current terms, in accordance with the Code of Virginia § 15.2-2203.
- E. Members appointed to fill a vacancy shall serve the unexpired term of the member being replaced.
- F. The Board of Supervisors may request members to serve beyond the expiration of their term until such a time a successor can be appointed.

² Editor's Note: This and the following section contain the provisions from Chapter 9, Article II, of the County Code. Recommend that the provisions governing the creation and procedures of the Planning Commission be repealed from Chapter 9 and adopted in this Ordinance. This repeal will need to take place during adoption to avoid conflicting statutes.

³ Editor's Note: This is a recommended change from the current organization of the Planning Commission. We are recommending that the Board of Supervisors representative on the Planning Commission be a non-voting member.

ATTACHMENT C

Nelson County, Virginia, Zoning & Subdivision Ordinance

Draft Article 2 – Administration

February 26, 2025

Section 2-2-2 Powers and Duties

- A. The Planning Commission shall perform the duties as provided in this Ordinance and pursuant to the Code of Virginia, §§ 15.2-2221, 15.2-2230 and 15.2-2285.
- B. In addition to the duties detailed in Section 2-2-2(A), the Planning Commission shall also have the following duties:
 - (1) To review for approval or denial:⁴
 - (a) All major site plans; and
 - (b) Any subdivision of 51 lots or greater.

Section 2-2-3 Meetings and Procedures

The Planning Commission shall conduct meetings and public hearings pursuant to the Code of Virginia, §§ 15.2-2214 through 15.2-2217.

Section 2-2-4 Expenditures; Gifts and Donations.

The Planning Commission may expend sums appropriated to it for its purposes and activities pursuant to the Code of Virginia § 15.2-2222, et seq.

Division 2-3 Board of Zoning Appeals

Section 2-3-1 Appointment, Terms, and Membership

- A. Pursuant to the Code of Virginia, § 15.2-2308, et seq., a Board of Zoning Appeals (BZA) shall be created and organized as follows:
 - (1) A BZA consisting of five (5) members and one alternate, who are residents of Nelson County, shall be appointed by the circuit court.
 - (2) The term of office shall be for five (5) years, except that of the first five (5) members appointed, one shall serve for five (5) years, one for four (4) years, one for three (3) years, one for two (2) years, and one for one (1) year. One of the five (5) appointed members shall be an active member of the Planning Commission.
 - (3) The secretary of the BZA shall notify the court at least 30 days in advance of the expiration or a term of office, or promptly if a vacancy occurs. A member whose term expires shall continue to serve until the successor is appointed and qualifies.

⁴ Editor's Note: This section includes the minimum powers and duties allowed to the Planning Commission per the Code of Virginia and the two additional duties listed under this subsection. Additional powers or duties can be included here if desired.

ATTACHMENT C

Nelson County, Virginia, Zoning & Subdivision Ordinance

Draft Article 2 – Administration

February 26, 2025

- (a) Appointments for vacancies occurring by means other than expiration of term shall be appointed for the unexpired term.
 - (4) Any BZA member or alternate may be removed for malfeasance, misfeasance, or nonfeasance in office, or for other just cause, by the court which appointed them, after a hearing held after at least 15 days' notice.
 - (5) Members of the BZA may receive such compensation or reimbursement as authorized by the Board of Supervisors. Within the limits of funds appropriated by the Board of Supervisors, the BZA may employ or contract for secretaries, clerks, legal counsel, consultants, and other technical and clerical services.
Powers and Duties⁵
- B. Pursuant to the Code of Virginia § 15.2-2309, the BZA shall have the following powers and duties after required notice and hearing as provided in the Code of Virginia § 15.2-2204:
- (1) To hear and decide appeals from any order, requirement, decision, or determination made by an administrative officer in the administration or enforcement of this Ordinance as outlined in **Article 3, Division 10**.
 - (2) To authorize upon appeal or original application a variance, as defined in the Code of Virginia § 15.2-2201 from the terms of this Ordinance. Standards and procedures for determining variances are outlined in **Article 3, Division 5** of this Ordinance.
 - (3) To hear and decide applications for interpretation of the district map where there is any uncertainty as to the location of a district boundary, in accordance with the Code of Virginia § 15.2-2309.
 - (4) The provisions of this section shall not be construed as granting the BZA the power to rezone property, change the locations of district boundaries as established by this Ordinance, or to base decisions on the merits of the purpose and intent of local ordinances duly adopted by the governing body.

Section 2-3-2 Meetings and Procedures

- A. The BZA shall adopt such rules and regulations as it may consider necessary.

⁵ Editor's Note: This section includes text from section 14-2 of the existing Ordinance that has been streamlined and condensed. The legislative authority to grant SUPs has been removed from the BZA.

ATTACHMENT C

Nelson County, Virginia, Zoning & Subdivision Ordinance

Draft Article 2 – Administration

February 26, 2025

- B. Meetings of the BZA shall be held at the call of its Chair or at such times as a quorum of the BZA may determine.
- C. A quorum shall be at least three (3) members. A favorable vote of three (3) members of the BZA shall be necessary to reverse any order, requirement, decision or determination of any administrative official or to decide in favor of the applicant on any matter on which the BZA is required to pass.
- D. The BZA shall choose annually its own Chair and Vice-Chair. The Vice-Chair shall act in the absence of the.
- E. The Chair, or in their absence, the acting Chair, may administer oaths and compel the attendance of witnesses.
- F. The BZA shall appoint a secretary whose duty it shall be to keep the minutes and other records of the actions and deliberations of the BZA and perform such other duties as the BZA shall direct. The secretary may be a salaried County employee and shall perform the duties of secretary of the BZA in addition to their other regular duties.
- G. The BZA shall keep minutes of its proceedings, showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact. It shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the BZA and shall be public record.
- H. All meetings of the BZA shall be open to the public.
- I. County staff who are not part of the County’s legal counsel, applicant, landowner, or landowner’s agent/attorney may have communications with a member of the BZA prior to a hearing but may not discuss the facts or law relative to a particular case. However, all communications shall comply with the requirements of the Code of Virginia § 15.2-2308.1.

Division 2-4 Enforcement

Section 2-4-1 Authority

- A. As provided in **Article 1** of this Ordinance, conformity with the Ordinance is required. Failure to comply with the requirements of the Ordinance constitutes a violation thereof and is declared to be unlawful.
- B. As authorized by the Code of Virginia § 15.2-2286(A)(4) the Agent or designee shall be responsible for enforcing the provisions of this Ordinance.

ATTACHMENT C

Nelson County, Virginia, Zoning & Subdivision Ordinance

Draft Article 2 – Administration

February 26, 2025

- C. Any person who knowingly makes any false statements, representations or certifications in any record, report, or other document, either filed or requested pursuant to this Ordinance, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required or used by the Agent under this Ordinance in monitoring discharges, shall be guilty or liable of this Article.

Section 2-4-2 Complaints and Inspection

- A. Any person who alleges that violation of the Ordinance has occurred may file a complaint with the Agent or designee. Such complaint shall stipulate the cause and basis thereof and the location of the alleged violation. The Agent or designee shall properly record the complaint, investigate the facts thereof, and take action thereon as provided by the Ordinance.
- B. The Agent may enter upon or inspect any land or structure to ensure compliance with the provisions of this Ordinance, after requesting and receiving approval of the landowner to enter upon land for these purposes. If consent is not given by the landowner, the Agent may enter upon land with an inspection warrant in accordance with the Code of Virginia § 15-2.2286(A)16.

Section 2-4-3 Notice of Violation

- A. Upon completion of investigation and becoming aware of any violation of the provisions of this Ordinance, the Agent shall issue written notice of such violation to the person committing or permitting the violations.
- B. Notice of violation shall be mailed by registered or certified mail or hand delivered.
- C. The notice of violation shall state the violation, remedy, and right to appeal, pursuant to the Code of Virginia § 15.2-2311.
- D. Appeals of notice of violation shall be heard by the Board of Zoning Appeals in accordance with the procedures set forth in **Article 3, Division 10**, of this Ordinance.

Section 2-4-4 Remedies and Penalties for Violation⁶

- A. Upon becoming aware of any violation and determining validity of any of the provisions of this Ordinance, the Agent may institute appropriate action or proceedings, as permitted by law, including injunction, abatement to restrain, correction, or abatement.

⁶ Editor's Note: This section includes the provisions of section 15-2 of the existing ordinance that have been modified to allow for the issuance of both criminal and civil penalties to violators of this Ordinance in accordance with § 15.2-2209 of the Code of Virginia.

ATTACHMENT C

Nelson County, Virginia, Zoning & Subdivision Ordinance

Draft Article 2 – Administration

February 26, 2025

- B. The remedies provided in the penalties sections below are cumulative and not exclusive except to the extent expressly provided therein.
- (1) **Criminal Penalties.** Any violations of the requirements of this Ordinance that result in a criminal penalty pursuant to the Code of Virginia § 15.2-2286(A)(5) shall be treated as provided by the Code of Virginia § 15.2-2286(A)(5).
- (2) **Civil Penalties.**⁷ Any violation other than as provided in **Section 2-4-4 (B)(1)** for criminal penalties, shall be subject to the following civil penalties, as provided in the Code of Virginia § 15.2-2209 and subject to the following:
- (a) **Procedure.** Proceedings seeking civil penalties for violations of this Ordinance shall commence either by filing a civil summons in the general district court or by the Agent issuing a ticket.
- (b) **Civil summons or ticket.** A civil summons or ticket shall contain the name and address of the person charged, the violation, and methods of resolution.
- (c) **Failure to Enter Waiver.** If a person accused of a violation does not elect to waive trial and admit liability, the case will be tried in general district court in the same manner and with the same appeal rights as allowed by law. The County shall prove the person's liability based on a preponderance of the evidence. A finding of liability will not count as a criminal conviction.
- (d) **Fines.**
- i. **Amount of Civil Penalty.** A civil violation shall be subject to a civil penalty pursuant to the Code of Virginia § 15.2-2209.
- ii. **Daily Offense.** Each day during which a violation exists shall constitute a separate violation. However, in no event shall a violation arising from the same set of operative facts be charged more frequently than once in any ten-day period.
- iii. **Maximum Aggregate Penalty.** The total civil penalties from a series of violations arising from the same set of operative facts shall not exceed the limit pursuant to the Code of Virginia § 15.2-2209. If the violations exceed the limit, the violation may be prosecuted as a criminal misdemeanor as outlined above.

⁷ Editor's Note: Civil penalties have been added to the Ordinance as a less punitive form of violation enforcement. A schedule of penalties will need to be created by the County, based on the type of violation.

ATTACHMENT C

Nelson County, Virginia, Zoning & Subdivision Ordinance

Draft Article 2 – Administration

February 26, 2025

Division 2-5 Fees⁸

Section 2-5-1 Fees and Charges

- A. The Board of Supervisors shall establish, by ordinance, a schedule of fees, charges and expenses, and collection procedures for Zoning Permits, Special Use Permits, Variances, appeals, amendments, site plan reviews, and any other matters pertaining to this Ordinance.
- B. The schedule of fees shall be available for inspection in the office of the Agent and may be altered or amended by the Board of Supervisors by ordinance amendment, pursuant to the Code of Virginia § 15.2-107.
- C. In situations where the Administrator anticipates expenses for professional services related to review of an application that will exceed the amount recouped by the imposition of standard fees, the County shall require the applicant to pay the cost of the professional review service.⁹
 - (1) Examples of projects for which a deposit may be warranted include (but are not limited to) rezoning requests, planned development districts, and Special Use Permits that require professional review.
 - (2) The payment shall solely be applied to payment of professional services by engineers, attorneys, surveyors, architects, landscape architects, etc., that are specifically engaged by the County to consult directly on the applicant's proposed project.
 - (3) Payment is an express condition of the County's determination upon the application. Payment does not guarantee approval of the application. Nor does payment create a client relationship between the applicant and the professional services provider.

⁸ Editor's Note: This section includes all relevant fees from the existing ordinance that have been removed and are recommended to be put into a county wide fee schedule adopted by the Board of Supervisors.

⁹ Editor's Note: This provision has been included as a recommended inclusion to the Ordinance to allow the County to charge applicants for any professional services review of applications that the County may not have the staff to complete.

Article-3 Permits and Applications

Division 3-1 In General

Section 3-1-1 Preapplication Meeting¹

Prior to the submittal of any application associated with this Ordinance, a preapplication meeting may be held between the applicant, the Administrator, the Site Plan Review Committee, and any other relevant local, state, or federal representatives. During this meeting the applicant may submit a Concept Plan for preliminary review, comment, and recommendation by the Administrator.

Section 3-1-2 Community Meeting

- A. Where any application for permits contained within this Article would benefit from additional outreach with the community, any applicant may choose to hold a community meeting for public invitation intended to:
- (1) Better inform community members of the proposed application;
 - (2) Receive feedback from the community regarding the application prior to any required public hearing; and
 - (3) Address any concerns or opportunities posed by the community prior within the application.
- B. Community meetings shall be conducted by the applicant, at the applicant's expense, but the Administrator and other relevant Nelson County staff may participate or assist at their discretion.

Section 3-1-3 Minimum Submission Standards²

- A. The Administrator shall establish minimum standards for submission requirements of all applications associated with this Ordinance. Applications will only be considered complete and accepted by the Administrator once they contain all information required to meet the minimum standards of this Ordinance.

¹ Editor's Note: Preapplication and community meetings have been added as an optional service to applicants. These can be required for certain applications, such as large subdivisions, if desired.

² Editor's Note: The minimum submission standards found within the current Ordinance have been removed in favor of an administrative procedure that allows the Administrator authority to set minimum submission standards for each application as needed.

ATTACHMENT D

Nelson County, Virginia, Zoning & Subdivision Ordinance

Draft Article 3 – Permits and Applications

February 26, 2025

- B. Upon written request by an applicant, the Administrator may waive or modify a submission requirement(s) upon a determination that the information is not necessary to evaluate the merits of the application, such waivers or modifications are for application requirements only and do not include variances or modifications from zoning district or use standards.
- C. Additional information may be required as deemed reasonably necessary by the Administrator, Planning Commission, Board of Supervisors, or any other County, State, or Federal official.

Section 3-1-4 Application Fee

Applications shall not be considered complete until all associated fees, as outlined in the County fee schedule, are paid in full at the time the application is submitted.

Section 3-1-5 Forms

Applications associated with this Ordinance shall be made on official paper or digital forms created by the Administrator and provided by the County.

Section 3-1-6 Ownership and Interests Disclosure

- A. An applicant shall disclose all equitable ownership of the real estate included in an application. In the case of corporate ownership, the name of stockholders, officers and directors shall be provided, and in any case the names and addresses of all of the real parties of interest in accordance with the Code of Virginia § 15.2-2289.
- B. Pursuant to the Code of Virginia § 15.2-2287 petitions brought by property owners, contract purchasers, or their Administrators, shall be sworn to under oath stating whether or not any member of the local Planning Commission or governing body has any interest in such property:³
 - (1) Either individually;
 - (2) By ownership of stock in a corporation owning such land, partnership;
 - (3) As the beneficiary of a trust; or
 - (4) As the settlor of a revocable trust; or

³ Editor's Note: This added section would require any ownership disclosure include where there is a conflict of interest with any Commissioner or Supervisor and that that disclosure be officially notarized.

ATTACHMENT D

Nelson County, Virginia, Zoning & Subdivision Ordinance

Draft Article 3 – Permits and Applications

February 26, 2025

- (5) Whether a member of the immediate household or any member of the Planning Commission or governing body has any such interest.

Section 3-1-7 Oath Required⁴

Applications or applications for amendments (to the Zoning Ordinance or Official Zoning Map), variances, or special use permit, shall be sworn to under oath before a notary public, or other official before whom oaths may be taken.

Section 3-1-8 Delinquent Taxes and Charges; Outstanding Violations

- A. Pursuant to the Code of Virginia § 15.2-2286 (B), applicants shall produce satisfactory evidence that any taxes or other charges constituting a lien on the subject property are paid at the time the application is submitted or prior to issuance of the permit. The Administrator may waive this requirement for reasons of health, safety, or public welfare, provided that the applicant or owner has entered into a plan with the County Treasurer to pay all delinquent taxes, fees and charges as set forth in this Ordinance.
- B. No application or permit shall be approved or issued if a zoning violation exists on a parcel of land included on such application or permit.⁵

Section 3-1-9 Reconsiderations

- A. If an application request for a Zoning Text or Map Amendment, Special Use Permit, or Variance has been denied, then such application, or one substantially similar, shall not be reconsidered sooner than 12 months from the date of the previous denial.
- B. The limits on reconsideration shall not impair the right of either the Planning Commission or the Board of Supervisors to propose any amendment to this Ordinance on their motion at any time.

Division 3-2 Zoning Text and Map Amendments

Section 3-2-1 In General

Pursuant to the Code of Virginia § 15.2-2286 (7) whenever public necessity, convenience, general welfare, or good zoning practice requires, the governing body may, from time to time, amend, supplement or change, by Ordinance, the boundaries of the Zoning Districts or the regulations established in this Ordinance.

⁴ Editor's Note: This section has been added as a best practice standard but Nelson County should consider whether they wish to require a notarized oath to be taken for all applications.

⁵ Editor's Note: Recommend including this provision to prevent any new zoning action being taken on a parcel of land that has an outstanding zoning violation.

ATTACHMENT D

Nelson County, Virginia, Zoning & Subdivision Ordinance

Draft Article 3 – Permits and Applications

February 26, 2025

Section 3-2-2 Standards and Procedures

- A. Pursuant to the Code of Virginia § 15.2-2286 (7) any amendment to this Ordinance text or the Zoning Map may be initiated by:
- (1) Resolution of the Board of Supervisors;
 - (2) Resolution of the Planning Commission; or
 - (3) For Zoning Map amendments only, application of the owner, contract purchaser with the owner's written consent, or the owner's Administrator therefor, of the property which is the subject of the proposed Zoning Map Amendment (rezoning), addressed to the Board of Supervisors or Nelson County Planning Commission, who shall forward such application to the Board of Supervisors.
- B. **Zoning Map Amendments.** Applications for Zoning Map amendments, including Conditional Zoning requests, shall be accompanied by a Concept Plan⁶ in accordance with **Section 3-6-3**, of this Article.
- C. **Zoning Text Amendments.** The application for a text amendment to the Zoning Ordinance shall be filed with the Administrator. If the application proposes a change in a zoning classification or map boundaries, there shall be attached to the application:
- (1) Items required in **Section 3-2-2 (A)(2)**, as shown above.
 - (2) A written description of the nature and extent of the amendment desired together with an explanation of the reasons for seeking a change.
- D. **Standards for Review.**
- (1) Once the application is submitted in accordance with **Division 3-1** of this Article and has been determined to be complete, the County shall evaluate the application and may request that the applicant make revisions, as necessary.

⁶ Editor's Note: This provision has been modified to only require a concept plan for rezoning applications in the County. Section 3-6-3 includes a provision for any required concept plan that allows the Zoning Administrator to require a site plan if they deem the development too complex to be adequately covered by a concept plan.

ATTACHMENT D

Nelson County, Virginia, Zoning & Subdivision Ordinance

Draft Article 3 – Permits and Applications

February 26, 2025

- (2) The application for a rezoning or zoning text amendment shall be referred to the Planning Commission for public hearing and recommendation. The Planning Commission shall present their recommendation on the proposed ordinance or amendment, including the district maps, to the Board of Supervisors for public hearing and action. No recommendation or action shall be rendered until public notifications and hearings have been conducted in accordance with **Division 3-11** of this Article and the Code of Virginia.
 - (3) The Planning Commission shall advise the Board of Supervisors of their recommendation within 100 days. If after 100 days no recommendation has been made, the governing body shall assume that the Planning Commission concurs with the applicant and supports the amendment. The Board of Supervisors shall thereafter take any action it deems appropriate, unless the applicant requests an extension for a defined period not to exceed a total of 90 calendar days from the date of the public hearing.
 - (4) All motions, resolutions, or applications for amendment to the Zoning Ordinance and/or Zoning Map shall be acted upon, and a decision made within such reasonable time as may be necessary which shall not exceed 12 months unless the applicant requests or consents to action beyond such period or unless the applicant withdraws his motion, resolution, or application for amendment to the Zoning Ordinance or map, or both; otherwise, the amendment shall be deemed approved.
 - (a) In the event of and upon a withdrawal by the applicant, processing of the motion, resolution, or petition shall cease without further action as otherwise would be required.
- E. All changes affecting the Zoning Map that are approved by the Board of Supervisors shall be entered onto the official Zoning Map within 60 days following the approval of such changes.

ATTACHMENT D

Nelson County, Virginia, Zoning & Subdivision Ordinance

Draft Article 3 – Permits and Applications

February 26, 2025

Division 3-3 Conditional Zoning and Proffers

Section 3-3-1 Purpose and Intent

Conditional Zoning provides a method for permitting the reasonable and orderly development of land through Zoning Map Amendment with reasonable conditions governing the use and development of such property. As authorized under the Code of Virginia §§ 15.2-2296 through 15.2-2303.3 reasonable conditions may be voluntarily proffered for the protection of the community when combined with existing Zoning Ordinance district regulations. The exercise of authority shall not be construed to limit or restrict powers otherwise granted nor to affect the validity of any Ordinance adopted by the locality which would be valid without regard to this Division. In addition, the provisions of this Division shall not be used for the purpose of discrimination in housing.

Section 3-3-2 Standards and Procedures

- A. **Initiation.** Only an owner of the subject parcel or their agent may apply for a Conditional Zoning Map Amendment.
- B. **Application requirements.** Conditional Zoning applications shall comply with all requirements for a Zoning Map Amendment pursuant to **Division 3-2**, above; and include the following:
 - (1) An impact analysis demonstrating justification of proposed proffers;
 - (2) A statement describing the nature of the proposed development and explaining the relationship of the development to the Comprehensive Plan;
 - (3) A statement setting forth a maximum number of dwelling units or lots proposed, including density and open space calculations where applicable to any residential development, or a statement describing the types of uses proposed and the approximate square footage for each nonresidential development;
 - (4) A statement detailing any special amenities that are proposed;
 - (5) A statement of the public improvements both on and off site that are proposed for dedication and/or construction and an estimate of the date for providing such improvements;
 - (6) A Concept Plan, as detailed in **Section 3-6-3**, listing and detailing the nature and location of any proffered conditions and those proposed circumstances which prompted the proffering of such conditions; and

ATTACHMENT D

Nelson County, Virginia, Zoning & Subdivision Ordinance
Draft Article 3 – Permits and Applications
February 26, 2025

- (7) A statement setting forth the proposed approximate development schedule.
- C. **Proffer Statement.** All proposed proffers shall be:
- (1) In writing;
 - (2) On a form approved by the Administrator;
 - (3) In accordance with the Code of Virginia §§ 15.2-2297 and 15.2-2303;
 - (4) Accompanied by a statement signed by the applicant and the owner or their Administrators which states:
 - (a) “Each proffer made in connection with this application for rezoning was made voluntarily and complies with applicable law. No Administrator of the County has suggested or demanded a proffer that is unreasonable under applicable law. I hereby proffer that the development of the subject property of this application shall be in strict accordance with the conditions set forth in this submission”
- D. **Time to Submit.** All proposed proffered conditions shall be submitted by the following deadlines:
- (1) **Before the Planning Commission’s Public Hearing.** Proposed proffers, regardless of whether they are signed by the owners of all parcels subject to the zoning map amendment, shall be submitted to Planning at least 14 calendar days before the Commission's public hearing on the zoning map amendment.
 - (2) **Before the Board of Supervisors’ Public Hearing.** Proposed proffers, signed by the owners of all parcels subject to the zoning map amendment, shall be submitted to Planning no later than nine calendar days before the Board's advertised public hearing on the zoning map amendment.
 - (a) The Administrator may establish written guidelines that require signed proffers to be submitted a reasonable time prior to the public hearing to allow for review by County officers and employees and by the public.

Section 3-3-3 Amendments and Variations Prior to Final Decision

- A. The Board of Supervisors may accept amended proffers prior to a final decision if they:

ATTACHMENT D

Nelson County, Virginia, Zoning & Subdivision Ordinance

Draft Article 3 – Permits and Applications

February 26, 2025

- (1) Do not materially affect the overall proposal and are made voluntarily, and in writing, prior to the deadline for preparation of the advertisement of the public hearing by the Board of Supervisors on the rezoning request.
 - (a) If the Board of Supervisors determines that the amendment materially affects the overall proposal, the application with the amended proffers shall be remanded back to the Planning Commission for a public hearing and recommendation.
- B. Once the Board of Supervisors has approved proffered conditions, no material amendment or variation of such adopted conditions will be made until public hearings, in accordance with **Division 3-11 of this Article** and with Code of Virginia § 15.2-2302, have been held before the Board of Supervisors and the Planning Commission.
 - (1) If the proposed amendment or variation of conditions does not affect conditions of use or density, the Board of Supervisors may waive the requirement for a public hearing in accordance with the Code of Virginia § 15.2-2302, and under **Division 3-11** of this Article.

Section 3-3-4 Effect of Decision; Period of Validity

- A. All such conditions shall be in addition to the regulations provided for in the zoning district to which the land is rezoned.
- B. Upon the approval of any such rezoning, all conditions proffered and accepted by the governing body shall remain in full force and effect until amended or varied by the Board of Supervisors.
 - (1) If the Board of Supervisors rezones the land as part of a new or substantially revised Zoning Ordinance, such conditions shall continue in full force and effect automatically without notice or filing.

Section 3-3-5 Record of Conditional Zoning

- A. Pursuant to the Code of Virginia § 15.2-2300, each conditional rezoning shall be designated on the Zoning Map by an appropriate symbol designed by the Administrator.
- B. In addition, the Administrator shall keep and maintain a conditional zoning index which shall provide ready access to the ordinance creating such conditions in addition to the regulations provided for in the particular zoning district and which shall be available for public inspection. The Administrator shall update the Index annually and no later than November 30 of each year.

ATTACHMENT D

Division 3-4 Special Use Permits

Section 3-4-1 Intent

- A. A use requiring a Special Use Permit is a use that may be appropriate in a zoning district, but because of its nature, extent, or external effects, requires special consideration of its location, design, and methods of operation before it can be deemed appropriate in the district and compatible with its surroundings. The purpose of this division is to establish procedures and standards for review and approval of Special Use Permits that provide for such special consideration.
- B. The following will be met either by the proposal made in the application or by the proposal as modified and amended and made part of the Special Use Permit:
 - (1) **Conformity with Comprehensive Plan and policies.** The proposal as submitted or as modified shall conform to the Comprehensive Plan of the County or to specific elements of such plan and to official policies adopted in relation thereto, including the purposes of this Ordinance.
 - (2) **Impact on neighborhood.** The proposal as submitted or as modified shall not have undue adverse impact on the surrounding neighborhood, including, but not limited to: traffic congestion, noise, lights, dust, odor, fumes, and vibration with due regard for timing of operation, screening, or other matters which might be regulated to mitigate adverse impact.

Section 3-4-2 Applicability

In accordance with the Code of Virginia § 15.2-2286, a Special Use Permit is required for the development of any use designated in **Article 6, Use Matrix**, as a use requiring a Special Use Permit in accordance with this section, or as required by use standards provided in **Article 7, Use Performance Standards**, of this Ordinance.

Section 3-4-3 Standards and Procedures

- A. An application for a Special Use Permit shall be made by all property owners, a contract purchaser with the owners' written consent, or the owners' Administrator.
- B. In addition to the general application requirements supplied in **Division 3-1** of this Article, the applicant shall provide information and data to:
 - (1) Demonstrate that the proposed use, when complemented with additional measures, if any, will be in harmony with the purposes of the specific district in which it will be placed;

ATTACHMENT D

Nelson County, Virginia, Zoning & Subdivision Ordinance

Draft Article 3 – Permits and Applications

February 26, 2025

- (2) Demonstrate that there will be no undue adverse impact on the surrounding neighborhood in terms of public health, safety, or general welfare and show measures to be taken to achieve such goals;
 - (3) Is appropriately located with respect to County infrastructure including but not limited to transportation facilities, water supply, wastewater treatment, fire and police protection, and waste disposal;
 - (4) Demonstrate that the use will not tend to create congestion in streets, roads, alleys, and other areas; and
 - (5) Show that the proposal meets the applicable specific and general standards required by this Ordinance.
- C. **Concept Plan.**⁷ Applications for a Special Use Permit shall be accompanied by a Concept Plan in accordance with **Section 3-6-3, of this Article.**
- D. **Standards for Review.**
- (1) **Administrator Review.** The Administrator shall review any application requesting a Special Use Permit for its compliance with the provisions of this Ordinance and the Comprehensive Plan.
 - (a) If the application is not complete, then the Administrator shall notify the applicant of the deficiencies of the application and of the actions to be taken to remedy such deficiencies to complete the application.
 - (b) The Administrator shall supply the applicant with a reasonable amount of time to remedy any deficiencies associated with an incomplete application. The time allowed shall be based on the deficiencies. If the applicant fails to remedy the deficiencies before the end of the supplied timeline, the application shall be deemed incomplete and will need to be resubmitted pursuant to the provisions of this Article.
 - (2) **Planning Commission Review.** When it has been determined that the application is complete, the Administrator shall submit the application to the Planning Commission which shall make a recommendation to the Board of Supervisors following a public hearing in accordance with **Division 3-11 of this Article.**

⁷ Editor's Note: Special use permit applications have been modified to no longer require a minor site plan and instead now require a concept plan to be submitted which can be more general and less demanding on the applicant. If deemed necessary, the Administrator can still require a site plan to be accompanied by a special use permit for larger, more intense, uses.

ATTACHMENT D

Nelson County, Virginia, Zoning & Subdivision Ordinance

Draft Article 3 – Permits and Applications

February 26, 2025

- (a) Failure of the Commission to act within one hundred (100) calendar days of the first meeting of the Commission after official submission of the proposal shall be deemed approval, unless the proposed Special Use Permit has been withdrawn by the applicant prior to the expiration of such time period or the time period has been extended by mutual agreement by the County and the applicant.
 - (3) **Board of Supervisors Review.** The Board of Supervisors shall hold a public hearing after notice in accordance with **Division 3-10** of this Article, and pursuant to the Code of Virginia § 15.2-2286, the Board of Supervisors will make a decision within such reasonable time as may be necessary, which shall not exceed 12 months from the date that the application is determined complete unless the applicant requests or consents to action beyond such period or unless the applicant withdraws their application, or as otherwise specified by the Code of Virginia.
 - (a) Pursuant to Code of Virginia § 15.2-2309, the Board of Supervisors may require a guarantee or bond to ensure that the conditions imposed are being and will continue to be followed.
 - (4) If an applicant seeks both an amendment to the Zoning Ordinance and a Special Use Permit for the same property, both applications may be made jointly and processed at the same time if the proposed amendment does not add a Special Use not previously permitted by the terms of this Ordinance.
- E. **Criteria.** All applications for Special Use Permits shall be reviewed using the following criteria:
- (1) The use shall not tend to change the character and established pattern of development of the area or community in which it proposes to locate;
 - (2) The use shall be in harmony with the uses permitted by right in the zoning district and shall not affect adversely the use of neighboring property;
 - (3) The proposed use shall be adequately served by essential public or private services such as streets, drainage facilities, fire protection and public or private water and sewer facilities; and
 - (4) The proposed use shall not result in the destruction, loss or damage of any feature determined to be of significant ecological, scenic or historic importance.

ATTACHMENT D

Nelson County, Virginia, Zoning & Subdivision Ordinance

Draft Article 3 – Permits and Applications

February 26, 2025

- F. Upon approval of the application by the Board of Supervisors, a Site Plan, if required, shall be filed with the Planning and Zoning Director and reviewed by the Planning Commission pursuant to **Division 3-6** of this Article.

Section 3-4-4 Effect of Decision; Period of Validity

- A. A Special Use Permit authorizes only the particular use(s) and associated development that is approved and shall not ensure approval for any other permit or development approval.
- B. Unless otherwise specified in this Ordinance or specified as a condition of approval, the height limits, yard spaces, lot area, sign requirements, and other specified standards shall be the same as for other uses in the district in which the Special Use is located.
- C. Unless a time limit has been included as a condition, a Special Use Permit, including any approved plans and conditions, shall run with the land, and shall not be affected by a change in ownership, but shall expire as provided **in (D) below.**⁸
- D. A Special Use Permit shall expire upon the first to occur of the following:
 - (1) If a time limit has been included as a condition the Special Use Permit shall expire on the predetermined date, unless renewed as provided in **(E) below.**
 - (2) If the applicant does not obtain Site Plan approval or commence the use granted by the Special Use Permit within two (2) years (or such longer time as the governing body may approve) from the date of the approval;
 - (3) If an activity operating under an approved Special Use Permit ceases for a period greater than two (2) years; or
 - (4) Upon expiration of a Site Plan for the use granted by the Special Use Permit.
- E. Renewal of a Special Use Permit with a conditioned time limit:

⁸ Editor's Note: Recent changes in State Code now allow localities to prescribe a time limit to SUPs with restrictions to the amount of time allowed to be imposed on a residential SUP. This section has been added to allow Nelson County to impose time limits to SUPs which would require them to reapply at the expiration of their SUP.

ATTACHMENT D

Nelson County, Virginia, Zoning & Subdivision Ordinance

Draft Article 3 – Permits and Applications

February 26, 2025

- (a) A renewal shall be for the purpose of allowing a new period of time for the operation of a currently valid Special Use Permit, provided, however, that the Board of Supervisors shall not approve a renewal application for a use which is no longer allowed as a Special Use Permit in the zoning district in which the Special Use Permit is located.
- (b) The procedure for the renewal of a Special Use Permit shall be the same as specified herein for the approval of the original permit, except that the Administrator may waive any submission requirement if such requirement is deemed not necessary for an adequate review of the application.
- (c) Any Special Use Permit that is not renewed prior to the established time shall expire.

Section 3-4-5 Revocation

A Special Use Permit previously granted pursuant to this Ordinance may be revoked by the Board of Supervisors, after notice and hearing as provided in **Division 3-10** of this Article and in accordance with the Code of Virginia § 15.2-2204, if it is determined there has not been compliance with the conditions of the Permit.

Division 3-5 Variances

Section 3-5-1 Intent

Pursuant to the Code of Virginia § 15.2-2309 the purpose of a variance is to allow for a reasonable deviation from the provisions of this Ordinance regulating the shape, size, or area of a lot or parcel of land or the size, height, area, bulk, or location of a building or structure when the strict application of the Ordinance would unreasonably restrict the utilization of the property, other relief or remedy is not available, such need for a variance would not be shared generally by other properties, and provided such variance is not contrary to the purpose of the Ordinance.

Section 3-5-2 Standards and Procedures

A. Authority.

- (1) Pursuant to the Code of Virginia § 15.2-2309 (2) and (6) the Board of Zoning Appeals (BZA) is authorized to review applications for a variance, if the applicant proves the burden and provides evidence that the application meets the standard for a variance and the criteria set out in this Ordinance.

ATTACHMENT D

Nelson County, Virginia, Zoning & Subdivision Ordinance

Draft Article 3 – Permits and Applications

February 26, 2025

- (2) The BZA may approve, approve with conditions deemed necessary in the public interest, including limiting the duration of a permit and requiring a guarantee or bond to ensure the conditions will be complied with, or deny an application for a variance in accordance with the procedures and standards of this Article.

B. Standards for Review.

- (1) After application is made as required in **Division 3-1** of this Article, the Administrator shall review the application for compliance with this Ordinance.
 - (a) Each application for a variance shall include a Concept Plan, which may be general and schematic and shall show required details established in **Section 3-6-3** of this Article, unless the Administrator waives or modifies requirements due to the scope and nature of the proposed use.
- (2) When it has been determined that the application is complete, the Administrator shall submit the application to the BZA for a public hearing. No recommendation or action shall be rendered until public notice is given in accordance with Division 10 of this Article. The Administrator shall also transmit a copy of the application to the local Planning Commission, which may send a recommendation to the BZA or appear as a party at the hearing.
- (3) Pursuant to the Code of Virginia §15.2-2309 (2) a variance shall be granted if the evidence shows that the strict application of the terms of the Ordinance would unreasonably restrict the utilization of the property or that the granting of the variance would alleviate a hardship due to a physical condition relating to the property or its improvements at the time of the effective date of the Ordinance, and:
 - (a) The property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant for the variance;
 - (b) The granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area;
 - (c) That such condition or situation of the property concerned is not of so general or recurring a nature that it could be resolved with an amendment to this Ordinance;

ATTACHMENT D

Nelson County, Virginia, Zoning & Subdivision Ordinance

Draft Article 3 – Permits and Applications

February 26, 2025

- (d) The granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property; and
 - (e) The relief or remedy sought by the variance application is not available through a special exception process that is authorized in the ordinance pursuant to the Code of Virginia § 15.2-2309 (6) or the process for modification of this zoning ordinance pursuant to the Code of Virginia § 15.2-2286 (A) (4) at the time of the filing of the variance application.
- C. Any variance granted to provide a reasonable modification to a property or its improvements requested by, or on behalf of, a person with a disability may expire when the person benefited by it is no longer in need of the modification to such property or improvements provided by the variance, subject to the provisions of state and federal fair housing laws, or the Americans with Disabilities Act of 1990 (42 U.S.C. § 12131 et seq.), as applicable.
- D. If a request for a reasonable modification is made to a locality and is appropriate under the provisions of state and federal fair housing laws, or the Americans with Disabilities Act of 1990 (42 U.S.C. § 12131 et seq.), as applicable, such request shall be granted by the locality unless a variance from the BZA under this section is required in order for such request to be granted.

Section 3-5-3 Effect of Decision; Period of Validity

- A. Issuance of a variance shall authorize only the particular variance that is approved. A variance, including any conditions, shall run with the land, and not be affected by a change in ownership except for variances provided in **Section 3-5-2, C**, above.
- B. Use or development authorized by the variance shall not be carried out until the applicant has secured all other permits required by this Ordinance or any other applicable Ordinances and regulations of the County. A variance, in itself, shall not ensure that the development approved through said permit shall receive subsequent approval for any other necessary applications for permit or development approval.
- C. After the BZA has granted a variance, it shall become void after 12 months if no substantial construction or change of use has taken place in accordance with the plans for which such variance was granted, or if the BZA does not specify some longer period than one (1) year for good cause shown.

ATTACHMENT D

Nelson County, Virginia, Zoning & Subdivision Ordinance

Draft Article 3 – Permits and Applications

February 26, 2025

Division 3-6 Concept Plans & Site Plans

Section 3-6-1 Purpose and Intent

- A. The purpose of this section is to promote the orderly development of certain activities in the County and to ensure that such activities are developed in compliance with this Ordinance and other applicable regulations and in a manner harmonious with surrounding properties and in the interest of the general public health, safety, and welfare. More specifically, the Site Plan shall be used to review:
- (1) The project's compatibility with its environment and with other land uses and buildings existing in the area;
 - (2) The ability of the project's traffic circulation system to provide for the convenient and safe internal and external movement of vehicles and pedestrians;
 - (3) The quantity, quality, utility, and type of the project's required community facilities; and
 - (4) The location and adequacy of the project's landscape improvements and provision for drainage and utilities.

Section 3-6-2 Applicability

- A. This Division provides the requirements and applicability of the following:
- (1) Concept Plans.
 - (2) Minor Site Plans.
 - (3) Major Site Plans.
- B. A Concept Plan shall be required for:
- (1) Applications for a Zoning Map Amendment (Rezoning);
 - (2) Applications for Conditional Zoning;
 - (3) Applications for a Special Use Permit; and
 - (4) Applications for a Variance.
- C. A Minor Site Plan shall be required for:
- (1) Development of any building, structure, or improvement; or
 - (2) A change or intensification in use that results in:

ATTACHMENT D

Nelson County, Virginia, Zoning & Subdivision Ordinance

Draft Article 3 – Permits and Applications

February 26, 2025

- (a) An increase of required number of on-site parking spaces;
 - (b) Grading, erosion, land disturbance, or the removal of vegetation or landscaping;
 - (c) A change to the traffic patterns of the development site; or
 - (d) Any other change determined by the Administrator to have a significant impact to the public health, safety, and welfare of the County.
- D. A Major Site Plan shall be required for:
- (1) Projects with a total land disturbance greater than (1) acre of land-disturbed area;
 - (2) Commercial uses;
 - (3) Industrial uses;
 - (4) Three (3) or more dwelling units on one lot; or
 - (5) The erection of a structure or structures exceeding a total of 5,000 square feet.
- E. A Site Plan shall not be required in any of the following circumstances:
- (1) Development of up to two (2) dwelling units on one (1) lot or parcel;
 - (2) Development of any structure accessory to a dwelling unit;
 - (3) Agricultural activities; or
 - (4) Temporary uses with an approved Concept Plan.
- F. Site Plans for Residential Planned Communities shall be governed by the provisions of **Article 4, Division 7**, of this Ordinance.

Section 3-6-3 Concept Plan Specification and Contents

- A. The purpose of the Concept Plan is to graphically depict the concept or reasons for the requested action relative to the Zoning Ordinance and its provisions.
- B. A Concept Plan shall be submitted to the Administrator accompanying applications.
- C. The Concept Plan may be general and schematic and shall show:
 - (1) A certified plat of the subject property showing metes and bounds of all property lines, existing streets, and subdivisions – with reference to a record subdivision plat or the County’s tax map.

ATTACHMENT D

Nelson County, Virginia, Zoning & Subdivision Ordinance

Draft Article 3 – Permits and Applications

February 26, 2025

- (2) The names and addresses, as shown on the current real estate tax assessment books, or property owners abutting the property or owners located across the road/street.
- (3) Topography as shown by contour lines with a contour interval of not more than five feet.
- (4) Proposed land uses to be developed.
- (5) The general layout, orientation, and information describing buildings and improvements, including but not limited to parking, landscaping, fencing, signs, and trash enclosures, height, setbacks, and restriction lines.
- (6) If any, the approximate total number, density, type, and price range of dwelling units and the range of lot sizes for the various dwelling types.
- (7) If any, the general location of proposed open space and recreational areas.
- (8) If any, the general location and type of commercial uses to be developed.
- (9) The general location and character of the proposed roads, pedestrian circulation, trails, public utility, and storm drainage systems.
- (10) A statement on the proposed development schedule.
- (11) A written analysis of the public facilities, roadway improvements, and public utilities that will be required to serve the development.
- (12) Any additional information as deemed reasonably necessary by the Zoning Administrator.
- (13) Concept Plans shall be drawn to scale and include a scale bar.
- (14) Concept Plans shall include an approval block located along the right side of all sheets included.
- (15) The Zoning Administrator may require a full Major Site Plan in lieu of a Concept Plan if the project is deemed complex and requiring additional detail for review.

Section 3-6-4 Site Plan Specifications and Contents, Generally

- A. Site Plans, or any portion thereof, involving engineering, architecture, landscape architecture or land surveying, shall be prepared by persons professionally certified in the Commonwealth of Virginia to do such work.

ATTACHMENT D

Nelson County, Virginia, Zoning & Subdivision Ordinance

Draft Article 3 – Permits and Applications

February 26, 2025

- B. Site Plans shall be prepared to the scale of one (1)-inch equals 50 ft. or larger; no sheet shall exceed 42 inches in any dimensions.
- C. Site Plans may be prepared on one (1) or more sheets to clearly show the information required by this section and to facilitate the review and approval of the plan. If prepared on more than one (1) sheet, match lines shall clearly indicate where the several sheets join.
- D. When more than one (1) sheet is required to cover the entire project, a cover sheet, general in nature, shall be provided to identify all individual sheets of an application in proper relationship to each other.
- E. Site Plans shall include a signature panel to indicate approvals from the following:
 - (1) Planning and Zoning Director.
 - (2) Virginia Department of Transportation.
 - (3) Virginia Department of Health.
 - (4) Thomas Jefferson Soil and Water Conservation District.
 - (5) Nelson County Service Authority.
- F. Profiles shall be submitted on plan sheets. Special studies as required may be submitted on standard cross section paper and shall be an appropriate scale.
- G. All horizontal dimensions shown on Site Plans shall be in feet and decimals of a foot to be closest to 1/100 of a foot; and all bearings in degrees, minutes, and seconds to the nearest ten seconds.
- H. When the development is to be constructed in stages or units, a final development schedule shall be included with the Site Plan that shows the order of construction of such stages, an approximate completion date for the construction of each stage, and a final cost estimate of all improvements within each stage.
- I. A Site Plan for a particular development stage or unit other than the first, shall not be approved until the Site Plan has been approved for the immediately preceding stage or unit.

Section 3-6-5 Minor Site Plan Specifications and Contents

- A. A Minor Site Plan shall consist of the following:
 - (1) Project name and property owner(s) name(s) and address(es);

ATTACHMENT D

Nelson County, Virginia, Zoning & Subdivision Ordinance

Draft Article 3 – Permits and Applications

February 26, 2025

- (2) A description of the use and development along with the zoning classification;
- (3) Property lines;
- (4) Adjacent property tax map numbers and owner names;
- (5) Tax parcel number;
- (6) Acreage of the lot, scale, and north arrow;
- (7) The location, dimensions, height, and proposed setbacks from property lines and from bodies of water for all existing and proposed buildings and structures;
- (8) Existing and proposed driveways, vehicle access, and parking areas;
- (9) The location of streams and bodies of water;
- (10) The approximate limit of any floodplain limits, any drainage district, wetlands, or mapped dam break inundation zone.
- (11) For the purposes of protecting life and property from impounding structure failure consistent with requirements in Code of Virginia §§ 10.1-602, 10.1-606.3, and 15.2-2284, as amended, delineation of any dam break inundation zones shall be designated.
 - (a) This requirement does not apply to any development that is proposed to be downstream of a dam for which a dam break inundation zone map is not on file with the County at the time of submission of the Site Plan.
 - (b) All dam break inundation zones shall be identified and labeled with the name of the impoundment and the date of the study that established the dam break inundation zone.
 - i. When a state-regulated impounding structure is proposed to be constructed or altered, an approximate delineation of the future dam break inundation zone shall be provided with the submission of the Site Plan.
 - ii. Site Plans proposing developing within a dam break inundation zone will be submitted to the Department of Conservation and Recreation (DCR) for review and adjacent property owners will be notified.

ATTACHMENT D

Nelson County, Virginia, Zoning & Subdivision Ordinance

Draft Article 3 – Permits and Applications

February 26, 2025

- (c) If DCR determines it would change any spillway design flood standards for an impounding structure, the developer shall submit an engineering study meeting state standards to the state department of conservation and recreation prior to final approval of the proposed development.
 - i. Following the completion of the engineering study, and prior to any development within the dam break inundation zone, the developer shall change the proposed development so that it does not alter any spillway design flood standards for the impounding structure or shall pay fifty (50) percent of the contract-ready costs for necessary upgrades to any impounding structure attributable to the development, together with administrative fees required by state law.
 - ii. The payment shall be made to the Virginia Dam Safety, Flood Prevention and Protection Assistance Fund as provided by state law.
- (12) Modifications to existing drainageways;
- (13) Installation or modification of a stormwater best management practice (BMP);
- (14) Compliance with any proffers, variances, and/or County-imposed conditions; and
- (15) All public and private rights-of-way, including easements, their names, and widths.
- (16) All information to show compliance with applicable community design requirements as required in **Article 8, Community Design Standards**, of this Ordinance.

Section 3-6-6 Major Site Plan Specifications and Contents⁹

- A. A Major Site Plan shall include all of the required content and provisions of **Section 3-6-5**, above.
- B. In addition to the requirements of **Section 3-6-5**, a Major Site Plan shall also include all of the required elements deemed necessary by the Administrator.

⁹ Editor's Note: The required contents of a Major site plan shall be determined by the Administrator and kept in a checklist format in the Planning and Zoning Office to be shared with applicants. This allows more flexibility in requirements depending on the application and gives the Administrator opportunities to adjust said checklist without the need for a zoning text amendment.

ATTACHMENT D

Nelson County, Virginia, Zoning & Subdivision Ordinance

Draft Article 3 – Permits and Applications

February 26, 2025

- (1) The Administrator shall keep a list of all required Major Site Plan elements in the Nelson County Planning and Zoning Office and make it readily available and easily accessible to all.
- (2) The Administrator shall update the list of required Major Site Plan elements from time to time, as needed.
- (3) The Administrator may waive or add to the list of required Major Site Plan elements at their discretion.

Section 3-6-7 Waiver of Requirements

- A. The Administrator may waive the requirement for a Minor Site Plan, or any required element specified within it, upon consideration of the factors outlined below, provided that no such waiver shall be deemed to be a waiver of any other ordinance provision or requirement.
- B. The Planning Commission may waive the requirements for a Major Site Plan or any required element specified within it upon consideration of the following factors:
 - (1) Where it can be clearly established by the applicant that the use will not require the improvements subject to review in this Ordinance.
 - (2) Where it can be clearly demonstrated that a waiver will be in keeping with the intent of this Ordinance.
 - (3) Where it can be clearly shown that the application for a Site Plan and building permit involves building and safety regulations which are not critical to the purpose and intent of this Ordinance.
 - (4) Where it can be clearly established by the applicant that such waiver will not have an adverse effect on:
 - (a) The public health, safety, welfare, and convenience;
 - (b) The planning for and provision of adequate public facilities, utilities, drainage, environmental controls, and transportation facilities;
 - (c) Preservation of agricultural, forestry and conservation lands; and
 - (d) Other relevant considerations related to the Comprehensive Plan.
- C. An applicant may seek a waiver from a requirement for a Site Plan and shall, upon request, provide written documentation to the Administrator addressing the applicable conditions for waiver.

ATTACHMENT D

Nelson County, Virginia, Zoning & Subdivision Ordinance

Draft Article 3 – Permits and Applications

February 26, 2025

- D. For Major Site Plan waivers, the Administrator shall refer the request and applicant's supporting documentation to the Planning Commission for action at its next regularly scheduled meeting. The applicant shall be notified in writing of the outcome of such action by the Administrator within ten (10) days upon action by the Planning Commission.
- E. Notwithstanding any grant of waiver the applicant is not relieved by such grant of having to obtain all necessary permits and approvals, including but not limited to a building permit, erosion and sediment control plan approval, stormwater management permit coverage, and, upon completion of improvements, a certificate of occupancy.

Section 3-6-8 Standards and Improvements

- A. **Improvements Required.** All improvements required by this Ordinance shall be installed at the cost of the developer and in accordance with design and construction standards of the County.
- B. **Specifications.** In cases where specifications have been established either by the Board of Supervisors, the Virginia Department of Transportation for construction of streets, etc., or this Ordinance for related facilities and utilities, such specifications shall be followed. The most restrictive specifications will prevail.
- C. **Standards and Improvements¹⁰.** In addition to those improvements and standards specified in other sections of this Ordinance, the following minimum standards and improvements shall also be required for all Site Plans:
 - (1) All streets in the proposed development shall be designed and constructed by the developer at no cost to the locality.

¹⁰ Editor's Note: Many of the improvements standards listed here are already included in the current ordinance. This last has been expanded to include additional standard recommendations. Recommend that Nelson County review this list of standards and consider reducing or removing the standards that may not be appropriate for the entirety of the County. If needed, some of the standards can be changed to only apply to certain Zoning Districts.

ATTACHMENT D

Nelson County, Virginia, Zoning & Subdivision Ordinance

Draft Article 3 – Permits and Applications

February 26, 2025

- (2) The arrangement of streets in developments shall make provision for the continuation of existing streets in adjoining areas and proposed streets on adjacent approved Site Plans. The street arrangement shall be such as to cause no unnecessary hardship to owners of adjoining property when they plat their land and seek to provide for convenient access to it. Where, in the opinion of the Commission, it is desirable to provide for street access to adjoining property, proposed streets shall be extended by dedication to the boundary line of such property. Half streets along the boundary of land proposed for development will not be permitted. Wherever possible, streets should intersect at right angles. In all hillside areas streets running with contours shall be required to intersect at angles of not less than sixty (60) degrees, unless approved by the Administrator upon recommendation of the highway engineer.
- (3) Whenever a proposed development contains or is adjacent to a limited-access highway or expressway, provision shall be made for a service drive or marginal street approximately parallel to such right-of-way at a distance suitable for an appropriate use of the land between such highway and the proposed development. Such distances shall be determined with due consideration of the minimum distance required for ingress and egress to the main thoroughfare. The right-of-way of any major highway or street projected across any railroad, limited-access highway or expressway shall be of adequate width to provide for the cuts or fills required for any future separation of grades.
- (4) Major streets shall approach major or minor streets at an angle of not less than eighty (80) degrees, unless the Planning and Zoning Director, upon recommendation of the highway engineer, shall approve a lesser angle of approach for reasons of contour, terrain, or matching of existing patterns.
- (5) The minimum width of proposed streets, measured from lot line to lot line, shall be as shown on the major street plan, or if not shown on such plan shall be as specified by the Virginia Department of Highways for acceptance into the State Secondary System.
- (6) All public streets shall be constructed to requirements as specified by the Virginia Department of Highways for acceptance into the State Secondary System.

ATTACHMENT D

Nelson County, Virginia, Zoning & Subdivision Ordinance

Draft Article 3 – Permits and Applications

February 26, 2025

- (7) Private streets will be so constructed as to alignment and grade, that the minimum grade is no greater than the Virginia Department of Highways Standards for the particular terrain. Road metal or base shall be of a material and width acceptable to the Virginia Department of Highways. Proper drainage shall be installed and maintained.
- (8) Proposed streets which are obviously in alignment with other already existing and named streets, shall bear the names of the existing streets. In no case shall the names of proposed streets duplicate existing street names irrespective of the use of the suffix street, avenue, boulevard, driveway, place, lane, or court. Street names shall be indicated on the preliminary and final plats, and shall be approved by the Planning and Zoning Director. Names of existing streets shall not be changed except by approval of the governing body.
- (9) The developer shall provide all necessary information needed to determine what improvements are necessary to properly develop the subject property, including contour intervals, drainage plans and flood control devices. The developer shall also provide plans for all such improvements together with a properly qualified engineer's or surveyor's statement that such improvements when properly installed, will be adequate for proper development. The highway engineer shall then approve or disapprove the plans. The developer shall also provide any other information required by the highway engineer. The developer shall install and maintain the approved storm drainage facilities and other stormwater management facilities in accordance with applicable Virginia Stormwater Management Program regulations.
- (10) Adequate fire hydrants in a development at locations approved by the Planning and Zoning Director shall be installed by the developer, provided adequate public water is available. The location of the fire hydrants shall meet the National Board of Fire Underwriters specifications.
- (11) When a Site Plan is located on public roads of less than 50 feet in total width, additional right-of-way shall be dedicated to achieve a minimum 50-foot-wide right-of-way where appropriate as determined by the Administrator in consultation with the County Attorney. All building setbacks shall be measured from the additional dedicated right-of-way.
- (12) No alley on a Site Plan shall have a right-of-way of less than 20 feet.
- (13) All street and highway construction standards and geometric design standards shall be in accordance with **Article X, Subdivision**.

ATTACHMENT D

Nelson County, Virginia, Zoning & Subdivision Ordinance

Draft Article 3 – Permits and Applications

February 26, 2025

- (14) Private vehicular travel lanes or driveways designed to permit vehicular travel on the site and to and from adjacent property and parking areas shall be constructed not less than 20 feet in width, except within parking areas where it shall be not less than 22 feet.
- (15) Cul-de-sacs are to be designed in accordance with the standards specified in **Article X, Subdivision**.
- (16) Interior travel lanes, driveways, and parking bays are to be congruous with the public street to which the travel lanes, driveways and parking bays are connected. At a minimum, all surfaces shall be Class "A" prime and double seal. Every parking bay shall be so constructed that no vehicle when parked will overhang property lines or moving travel lanes.
- (17) Adequate easements shall be provided for drainage and all utilities. Where easements do not follow the established lot lines, the nearest edge of any easement shall be a minimum of 5 feet from any building.
- (18) The developer shall provide for all utilities and services required, to include both on-site and off-site improvements. The determination of the exact improvements required, i.e., size of lines and capacities, is to be established by the developer in conference with the County Administrator acting on the advice of appropriate officials, authorities, departments, and/or consultants having expertise on the subject.
 - (a) Tests and/or other methods of soil evaluation deemed necessary by the Virginia Department of Health wherever required shall be the responsibility of the developer.
 - (b) Utilities shall include but not be limited to electric, gas, water, sewer, storm drainage, telephones and/or cable television.
- (19) Adequate fire hydrants, with assurance of adequate water supply and distribution systems will be provided by the developer. Fire hydrants will be provided in the total area to be planned and in such locations as are approved by the Planning Commission or its designated Administrator.
- (20) All landscaping shall be designed in compliance with **Article VIII, Community Design Standards**, of this Ordinance.

ATTACHMENT D

Nelson County, Virginia, Zoning & Subdivision Ordinance

Draft Article 3 – Permits and Applications

February 26, 2025

- D. **Performance Bond.** After a Major Site Plan has been approved, and before any construction or land disturbance can occur, the developer shall furnish to the County an irrevocable letter of credit, cash escrow, or bonds (collectively referred to as “performance bond”) from a certified Virginia Lending Institution by corporate surety in a form and amount sufficient to guarantee the completion of all required improvements.
- (1) The cost of required improvements shall be determined by a bona fide estimate of construction cost prepared by a duly licensed engineer and such estimate shall be provided at the expense of the developer.
 - (2) The amount of the performance bond or other guarantee shall be 110% of the estimated construction cost.
 - (3) In the event the Administrator has rejected any such agreement or bond, the owners or developer shall have the right to have such determination made by the Board of Supervisors.
 - (4) If such performance bond contains an expiration date and all improvements have not been completed, then 30 days prior to expiration provisions shall be made for extension of the bond.
 - (5) The performance bond or other appropriate security shall not be released until construction has been inspected and accepted by the Zoning Administrator and by the Virginia Department of Transportation, where appropriate, except for an allowable periodic partial release in accordance with the Code of Virginia § 15.2-2245.
- E. **Supervision and Inspections.** It shall be the responsibility of the developer to provide adequate supervision and inspections on the site during the installation of all required improvements, and to have a responsible supervisor together with one (1) set of approved plans, profiles, and specifications at the site at all times when work is being performed.
- F. **Acceptance of Improvements.** The approval of the Site Plan or the installation of the improvements as required in this Ordinance shall in no case serve to bind the County to accept such improvements for maintenance, repair, or operation thereof. Such acceptance of each type of improvements shall be subject to the County and/or State regulations.

ATTACHMENT D

Section 3-6-9 Review

- A. **Site Plan Review Process.** Unless otherwise provided in another Article of this Ordinance, every Site Plan required by this Article shall be submitted to the Administrator who shall take the following actions:
- (1) Review the Site Plan for completeness. If deemed incomplete or having insufficient information for review, the application will be refused and returned to the applicant with a written list of deficiencies.
 - (2) Review the Site Plans for conformity with applicable development regulations and approved Concept Plans. Site Plans will be provided to the Site Plan Review Committee¹¹ and all relevant County departments and reviewing agencies for written comment.
 - (3) The Administrator shall notify the applicant of the action taken with respect to the Site Plan, which may include approval or disapproval.
- B. **Administrative Review.**¹² Minor Site Plans required under **Section 3-6-3** are subject to administrative approval by the Administrator.
- (1) The Administrator is responsible for the review, processing, and the requesting of additional agency and consultant reports relative to a Site Plan which has been submitted.
 - (2) Developers are encouraged to discuss the proposals contained in the Site Plan as submitted with the Administrator prior to official request for approval of that plan.
- C. **Planning Commission Review.** Major Site Plans required under **Section 3-6-4** are subject to approval by the Planning Commission.
- (1) Once determined complete, the Administrator shall forward the Major Site Plan to the Planning Commission for their review.
 - (2) The Administrator shall notify the applicant of the action taken with respect to the Major Site Plan, which may include approval or disapproval.

¹¹ Editor's Note: This provision is the only mention of the existing Site Plan Review Committee. Nelson County should consider whether or not they want to continue using the Site Plan Review Committee in the future.

¹² Editor's Note: This section lays out provisions to allow for administrative approval of any minor site plan and approval of major site plans by the Planning Commission. This can be modified to be administrative approval of all site plans if desired.

ATTACHMENT D

Nelson County, Virginia, Zoning & Subdivision Ordinance

Draft Article 3 – Permits and Applications

February 26, 2025

D. Time Period for Approval.

- (1) Pursuant to Code of Virginia, § 15.2-2259, Site Plans shall be approved or disapproved within 60 days after they have been officially submitted and accepted for review, if State agency review is required, within 35 days of receipt of approvals from all reviewing agencies. If disapproved, the reasons for disapproval shall be identified by reference to specific duly adopted Ordinances, regulations, or policies and shall identify, to the greatest extent practicable, modifications or corrections that will permit approval of the plan.
- (2) Pursuant to Code of Virginia, § 15.2-2259 a Site Plan that has previously been disapproved but has been modified, corrected, and resubmitted shall be acted on within 45 days of resubmission.

Section 3-6-10 Amendment of Site Plans

A. **Amendments of Minor Site Plans.** All amendments of Minor Site Plans shall be approved by the Administrator.

B. **Amendments of Major Site Plans.**

- (1) If it becomes necessary for an approved Major Site Plan to be changed, the Administrator may, at the applicant's request, administratively approve a minor amendment to the Site Plan if the change or amendment does not:
 - (a) Alter a recorded plat;
 - (b) Conflict with specific requirements of this Ordinance or proffered conditions;
 - (c) Change the general character or content of an approved Concept Plan or use;
 - (d) Have an appreciable effect on adjoining or surrounding property;
 - (e) Result in any substantial change of external access points;
 - (f) Increase the approved number of dwelling units or other buildings or height of buildings.
 - (g) Decrease the minimum specified yard and open spaces; and
 - (h) Substantially change architectural or site design features.

ATTACHMENT D

Nelson County, Virginia, Zoning & Subdivision Ordinance

Draft Article 3 – Permits and Applications

February 26, 2025

- (2) Amendments not in accordance with a) through (h) of this Section shall be considered as a new Site Plan and shall be subject to the provisions of Division 3-6 of this Article.
- C. If the Administrator fails to act on a request for an amendment to a Site Plan within 45 calendar days, it shall be considered approved.
- D. Upon final approval of the revised Site Plan by the Administrator, the Administrator shall transmit an approved set of plans to the authorized project Administrator and retain one copy of any correspondence and plans for the County records.

Section 3-6-11 Compliance with Approved Site Plan Required

- A. It shall be unlawful for any person to construct, erect, or substantially alter any building or structure, or develop, change, or improve land for which a Site Plan is required, except in accordance with an approved Site Plan. Deviation from an approved Site Plan without the written approval of the Administrator shall void the Site Plan and require submission of a new Site Plan for approval.
- B. No permit shall be issued for any structure in any area covered by the Site Plan that is required under the provisions of this Article except in conformity with such Site Plan which has been duly approved.
- C. The Building Official shall be responsible for enforcing the requirements as set forth in the final approved Site Plan, before issuance of a certificate of occupancy, and shall give written notice to the Administrator that the Site Plan has been completed before issuing the certificate of occupancy.
- D. Upon the satisfactory completion of the installation of all required improvements shown on the approved Site Plan, the developer shall submit completed As-Built Plans to the Utilities and Environmental Codes Departments, in accordance with all applicable regulations of the Nelson County Code. Such shall be submitted at least one week prior to the anticipated occupancy of any building for the review and approval by the County agent for conformity with the approved site plan and the ordinances and regulations of the County and State agencies.
- E. Where structures are completed and ready for occupancy prior to the completion of all improvements required by the Site Plan, the owner may provide bond with surety adequate to guarantee the completion of Site Plan, as outlined in **Section 3-6-8**, above, and upon providing of such bond with surety as agreed upon by the Zoning Administrator, a permit may be issued for the occupancy of those structures already completed.

ATTACHMENT D

Nelson County, Virginia, Zoning & Subdivision Ordinance

Draft Article 3 – Permits and Applications

February 26, 2025

Section 3-6-12 Period of Validity

- A. In accordance with Code of Virginia, § 15.2-2261 approval of a Site Plan submitted under the provisions of this Article shall expire five (5) years after the date of such approval unless building permits have been obtained for construction in accordance therewith.
- B. The application for and approval of minor modifications to an approved Site Plan shall not extend the period of validity of such plan and the original approval date shall remain the controlling date for purposes of determining validity.

Division 3-7 Zoning Permits

Section 3-7-1 Applicability

- A. No building or other structure shall be erected, moved, expanded, structurally altered, nor shall any building, structure, or land be established or changed in use without the owner or owners first obtaining a permit issued by the Administrator verifying that the building, structure, or use complies with the requirements of this Ordinance.
- B. No such permit shall be issued for a building, structure, or use unless it complies with the provisions of this Ordinance, or a Special Use Permit authorizing a use, variance, or written order from an appeal has been approved as provided by this Ordinance.

Section 3-7-2 Standards and Procedures

- A. Zoning Permit applications shall be reviewed using the procedures and minimum submission requirements established by the Administrator.
- B. The following shall be submitted to the Administrator for review:
 - (1) Site Plans shall be submitted as required in **Division 3-6, Site Plans**, of this Article.
 - (2) When Site Plans are not required, each Zoning Permit application shall be accompanied by a scale drawing or plan on a plat, or aerial GIS map when the property has not ever been surveyed, with dimensions, that shows:
 - (a) Lot lines;
 - (b) Location of buildings on the lot including setback measurements from each property boundary;
 - (c) Suitable notations indicating the proposed use of all land and buildings;

ATTACHMENT D

Nelson County, Virginia, Zoning & Subdivision Ordinance

Draft Article 3 – Permits and Applications

February 26, 2025

- (d) Points of connection to public water and sewer and/or location of wells and septic systems and reserve drainfields;
 - (e) The proposed nature and manner of grading the site, including proposed treatment of slopes more than ten percent (10%) to prevent soil erosion and excessive runoff. In cases where an erosion and sedimentation control permit is required, the necessary plans and data shall be submitted as required in the Nelson County Erosion and Settlement Control Ordinance.
 - (f) Delineation of all floodplain limits;
 - (g) Any additional information requested by the Administrator.
- C. If the proposed building or use is in conformity with the provisions of this Ordinance, a permit shall be issued to the applicant by the Administrator.
- D. The Administrator shall act on any application received within 30 days after receiving the application. Failure on the part of the Administrator to act on the application within the established time limit shall be deemed to constitute approval of the application.
- E. A Zoning Permit, in itself, shall not ensure that the development approved through said permit shall receive subsequent approval for any other necessary permits or development approvals as otherwise required.
- F. Where an individual septic system is to be used, the owner/Administrator shall submit either a bare application (an application for an individual lot submitted to the Virginia Department of Health for which a representative of this Department will do the required site evaluation to issue a sewage disposal system construction permit) or an AOSE (Authorized Onsite Soil Evaluator) application for each lot to the Virginia Department of Health. The soils work for either application shall show the primary drainfield area together with a reserve area equal to:
 - (1) For Class 1 and 2 soils, a minimum of fifty (50) percent of the capacity of the primary area; and
 - (2) For all other soil classes, a minimum of one hundred (100) percent capacity of the primary area.

ATTACHMENT D

Nelson County, Virginia, Zoning & Subdivision Ordinance

Draft Article 3 – Permits and Applications

February 26, 2025

- (3) Where an alternative waste treatment system is to be used, the developer/property owner shall provide to the Building Official and Planning Director documented proof that the soils and parent materials are satisfactory to the Virginia Department of Health, and shall obtain approval of the alternative waste treatment system from the appropriate state agencies, including the Virginia Department of Environmental Quality and the Virginia Department of Health. Such documented proof and approval shall be filed at the time a building permit and zoning permit are applied for.
- (4) In all zoning districts, the reserve area for an alternative waste treatment system shall be sufficient to accommodate a minimum of one hundred (100) percent of the capacity of the primary area.

Section 3-7-3 Period of Validity

- A. An approved Zoning Permit shall become null and void if the use described in the Zoning Permit has not begun within one (1) year from the date of issuance unless the applicant requests renewal.
 - (1) If the work described in any Zoning Permit has not been substantially completed within two (2) years of the date of issuance, the permit shall expire and be revoked by the Administrator.
- B. Prior to expiration of an approved Zoning Permit, if the applicant requests extension, the Administrator may grant extensions for additional periods as determined to be reasonable, taking into consideration, although not exclusively, the size and nature of the development, due diligence of the applicant to proceed, and other applicable laws in effect at the time of the extension request.

Division 3-8 Temporary Use Permit

Section 3-8-1 Applicability

Any temporary use or structure as identified in **Article 6, Use Matrix**, of this Ordinance, will not be conducted or erected without a temporary use permit issued by the Zoning Administrator or structure permit issued by the Building Official in accordance with the requirements in this Division. Standards and Procedures

Section 3-8-2 Standards and Procedures

- A. An application for a Temporary Use Permit shall be submitted to the Administrator for review.

ATTACHMENT D

Nelson County, Virginia, Zoning & Subdivision Ordinance

Draft Article 3 – Permits and Applications

February 26, 2025

- B. The Administrator shall evaluate Temporary Use Permit applications to determine if any substantial impacts to public health, safety, or welfare may occur due to the proposed use's operational details, which may include, but not be limited to, location, size, number of attendees, frequency of events, or hours of conduct.
- C. No Temporary Use Permit will be issued unless it is demonstrated by the applicant that the following requirements are met:
 - (1) Adjacent uses shall be suitably protected from any adverse effects of the use;
 - (2) The use shall not create hazardous conditions for vehicle or pedestrian traffic, or result in traffic in excess of the capacity of the streets serving the use;
 - (3) Adequate refuse management, security, emergency services, and similar necessary facilities and services shall be available for the temporary use or structure, and all necessary sanitary facilities will be approved by the County Health Department;
 - (4) The site is suitable for the proposed use, considering flood hazard, drainage, soils, and other conditions which may constitute a danger to life, health, or property;
 - (5) The use shall not have a substantial adverse impact on the natural environment, including trees, ground cover, and vegetation; and
 - (6) The use shall not have a substantial adverse impact on public safety.
- D. The Zoning Administrator may impose reasonable conditions on the proposed use to ensure compliance with these standards, or other applicable provisions of the law.

Section 3-8-3 Period of Validity

- A. **Duration.** A Temporary Use Permit will be valid for 12 months or less, as determined by the Zoning Administrator.
- B. **Extension.** A request for an extension of such permit shall be made to the Zoning Administrator at least 30 days before the expiration of the original time limit, who will make an administrative decision for approval or denial.
 - (1) An extension shall be applied for annually if the temporary use is to continue.
- C. **Termination.** At the end of such permitted time period, including extensions as approved by the Zoning Administrator, the use shall be discontinued and all temporary structures and signs shall be removed within 48 hours.

ATTACHMENT D

Nelson County, Virginia, Zoning & Subdivision Ordinance

Draft Article 3 – Permits and Applications

February 26, 2025

D. Revocations.

- (1) Any Temporary Use Permit previously issued pursuant to this Ordinance may be revoked by the Zoning Administrator if it is determined there has not been compliance with the conditions of the Permit.
- (2) Such revocation will be delivered to the owner or operator of the use, by hand-delivery or certified mail, setting forth the following:
 - (a) Reason(s) for the revocation;
 - (b) Date and time upon which the revocation is effective; and
 - (c) The appeals procedure, in accordance with **Division 3-10 of this Article**.

Division 3-9 Zoning Determinations

Section 3-9-1 Applicability

In administering, interpreting, and enforcing this Ordinance, the Zoning Administrator shall provide a written response to persons who have filed a specific request in writing for a decision or determination on zoning matters within the scope of the Administrator's authority.

Section 3-9-2 Standards and Procedures

- A. Persons requesting a determination by the Administrator shall do so in writing on forms provided by the County. The Administrator shall sign and date the form upon receipt.
- B. The Administrator's response shall be provided within 90 days of the date of the request unless the requestor agrees to a longer period of time.
- C. When the requestor is not the owner or the owner's Administrator of the property subject to the request, the Administrator in accordance with the Code of Virginia § 15.2-2204 (H), shall provide written notice within ten (10) days of receipt of the request to the owner of the property at the owner's last known address as shown on the County's real estate assessment records.
- D. The Administrator's written decision or determination shall include a statement informing the recipient of the right to appeal the decision as provided in **Division 3-10, Appeals**, of this Article.

ATTACHMENT D

Nelson County, Virginia, Zoning & Subdivision Ordinance

Draft Article 3 – Permits and Applications

February 26, 2025

Division 3-10 Appeals

Section 3-10-1 Appeals of Zoning Administrator Determinations and Decisions

- A. Pursuant to the Code of Virginia § 15.2-2311, an appeal to the BZA may be taken by any person aggrieved or by any officer, department, board, or bureau of the County affected by any decision of the Zoning Administrator or from any order, requirement, decision, or determination made by any other administrative officer in the administration or enforcement of this Ordinance.
- B. Such appeal shall be taken within 30 days after the decision appealed from by filing with the Administrator, and with the BZA, a notice of appeal specifying the grounds thereof. The Administrator shall forthwith transmit to the BZA all the papers constituting the record upon which the action appealed from was taken.
- C. A decision or interpretation of the Administrator shall be presumed correct and may not be reversed or modified unless there is evidence in the record that the decision is not correct, based on the relevant procedures and review standards of this Ordinance.

Section 3-10-2 Appeals to BZA Procedure

- A. Pursuant to the Code of Virginia § 15.2-2312, procedures for submitting an appeal or application shall be as follows:
 - (1) **Mailing Procedure.** Appeals and applications shall be mailed from the applicant seeking appeal to the BZA in care of the Administrator, and a copy of the appeal or application shall be mailed to the secretary of the Planning Commission. A third copy should be mailed to the individual, official, department, or agency concerned, if any.
 - (2) **Hearing.** The BZA shall fix a reasonable time for the hearing of an appeal, give public notice as outlined in **Division 3-10** of this Article as well as due notice to the parties in interest, and decide the same within 90 days of the filing of the appeal.
 - (3) **Decisions.** In exercising its powers, the BZA may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from. In any hearing, if a BZA's attempt to reach a decision, results in a tie vote, the matter may be carried over until the next scheduled meeting at the request of the person filing the appeal.

ATTACHMENT D

Section 3-10-3 Appeals of BZA, PC, or BOS

- A. Pursuant to the Code of Virginia §§ 15.2-2314, and 15.2-2285, any person jointly or severally aggrieved by any decision of the BZA, Planning Commission, or Board of Supervisors or any taxpayer or any officer, department, board, or bureau of the County may appeal the decision to the circuit court of Nelson County.
- B. An application specifying the grounds on which the applicant is aggrieved shall be submitted 30 days after the filing of the decision in the office of the BZA.

Section 3-10-4 Construction in Violation of Ordinance without Appeal to BZA

- A. Pursuant to the Code of Virginia § 15.2-2313, construction of a building with a valid building permit deemed in violation of this Ordinance may be prevented, restrained, corrected, or abated by suit filed within 15 days after the start of construction by a person who had no actual notice of the issuance of the permit.
- B. The court may hear and determine the issues raised in the litigation even though no appeal was taken from the decision of the Administrator to the BZA.

Section 3-10-5 Stay of Proceedings

An appeal shall stay all proceedings in furtherance of the action appealed from unless the Administrator certifies to the BZA that by reason of facts stated in the certificate a stay would, in their opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order granted by the BZA or by a court of record, on application and on notice to the Administrator and for good cause shown.

Division 3-11 Public Hearings and Notifications¹³

Section 3-11-1 Public Hearing Required

- A. In accordance with the Code of Virginia § 15.2-2204, the Planning Commission shall not recommend, nor shall the Board of Supervisors adopt or approve any plan, ordinance, amendment, or Special Use Permit, nor shall the BZA approve any variance, until it has held a duly advertised public hearing. Advertising and notice procedures shall be conducted according to the procedures under the Code of Virginia § 15.2-2204, as outlined in this Division.

¹³ Editor's Note: This section is new and includes language from the Code of Virginia § 15.2-2204 related to required public hearings and their notices.

ATTACHMENT D

Nelson County, Virginia, Zoning & Subdivision Ordinance

Draft Article 3 – Permits and Applications

February 26, 2025

- B. The Planning Commission and Board of Supervisors may hold a joint public hearing after public notice as set forth herein, and if such joint hearing is held, public notice as set forth below need be given only by the Board of Supervisors.
- C. No land may be zoned to a more intensive use classification than was contained in the public notice without an additional public hearing after notice pursuant to the Code of Virginia § 15.2-2204.

Section 3-11-2 Advertisement and Mailings

- A. In accordance with Code of Virginia § 15.2-2204, the notice for each proposal shall provide:
 - (1) Where copies of the proposal may be examined; and
 - (2) The time and place of any hearing at which persons affected may appear and present their views.
- B. Notice of public hearings shall also be published twice in some newspaper published or having general circulation in the County.
 - (1) The first notice appearing no more than 28 days before and the second notice appearing no less than seven (7) days before the date of the meeting referenced in the notice.
- C. Property owner notification shall be sent by the Administrator a minimum of five (5) days prior to any public hearing, except where a longer timing is required.
 - (1) Notifications shall be mailed to:
 - (a) The owner, owners, or their Administrator of the subject property;
 - (b) Persons owning any adjacent property, including property across any road, railroad right-of-way or body of water;
 - (c) A locality's chief administrative officer or their designee when the subject property is located within 0.5 mile of the boundary of the adjoining locality at least ten (10) days prior to the hearing;
 - (d) The commander of the applicable military operation when the subject property is located within 3,000 feet of the boundary of a military base, installation or airport, excluding armories operation by the Virginia National Guard, at least 30 days prior to the hearing;

ATTACHMENT D

Nelson County, Virginia, Zoning & Subdivision Ordinance

Draft Article 3 – Permits and Applications

February 26, 2025

- (e) The owner of a public use airport when the subject property is located within 3,000 feet of such airport at least 30 days prior to the hearing;
 - (f) For rezonings, the incorporated property owners' association within a planned development where the subject property is located within the planned development and the association's members also own property in the planned development that is located within 2,000 feet of any portion of the subject property; and
 - (g) In lieu of each individual unit owner, the unit owners' association or proprietary lessee's association when the property adjacent to the subject property is a condominium or cooperative, respectively.
- D. The following exceptions shall apply to property owner notification requirements, as outlined in this Section:
- (1) When a proposed amendment to the Zoning Ordinance involves a tract of land not less than 500 acres owned by the Commonwealth of Virginia or by the federal government, and when the proposed change affects only a portion of the larger tract, notice need be given only to the owners of those properties that are adjacent to the affected area of the larger tract.
 - (2) For Zoning Map amendments impacting more than 25 parcels or Ordinance amendments that decrease residential density:
 - (a) Adjacent property owner notification is not required.
 - (b) Owner notification is not required for lots less than 11,500 square feet and shown on approved and recorded subdivision plat.
- E. Notice, as required above, shall be sent by registered or certified mail to the last known address of such property owner(s) as shown on the current real estate tax assessment records. Notice may be sent by first class mail; however, a representative of the County shall sign an affidavit that such mailings have been made and file such affidavit with the papers in the case.
- F. The cost of all notice requirements shall be paid by the developer/applicant in addition to any other fees involved in the application. The County shall bill the applicant for such costs.

ATTACHMENT D

Nelson County, Virginia, Zoning & Subdivision Ordinance

Draft Article 3 – Permits and Applications

February 26, 2025

Section 3-11-3 Posting Notice on Property¹⁴

Additional notice of all public hearings involving rezonings and Special Use Permits shall be provided by means of posting a sign or signs, provided by the County, on the subject property which indicates that zoning action is pending.

- (1) The sign shall be posted on the subject property at least fifteen (15) days prior to the public hearing on the proposed SUP, rezoning, or variance.
- (2) The sign shall specify the date, time, and location of the public hearing.
- (3) The sign shall be placed so as to be clearly visible from the frontage road of the subject property.
- (4) The holding of a public hearing or the validity of action on an application will not be affected by the unauthorized removal of a notice which has been posted in accordance with this section.
- (5) It will be unlawful for any person, except the Administrator, to remove or tamper with any sign furnished during the period it is required to be maintained under this Section.

Section 3-11-4 Waiver of Notice

Actual notice of, or active participation in, a public meeting for which written notice is required shall waive the right of that party to challenge the validity of the proceedings based on failure of notice.

¹⁴ Editor's Note: This new provision would require a sign to be posted at any location where a public hearing will be conducted for a potential rezoning or SUP. This will hopefully increase clarity and transparency for the community.

ATTACHMENT E

Article-9 Nonconforming Uses, Lots, and Structures

Division 9-1 General

Section 9-1-1 Intent

With the adoption of this Ordinance or subsequent amendments, there exist lots, structures, and use of land and structures in combination which were lawful before this Ordinance was adopted or amended, but which would be prohibited, regulated, or restricted under the terms of this Ordinance or future amendments. It is the intent of this Ordinance to permit these nonconformities to continue as established prior to Ordinance adoption and in accordance with the Code of Virginia § 15.2-2307.

Section 9-1-2 General

- A. A change in occupancy or ownership will not affect the right for the nonconforming use to continue or the nonconforming building or structure to remain.
- B. If a building, structure, lot, or use does not conform to the zoning prescribed for the district in which such is situated, the owner, lessee, or contract purchaser of such building, structure, or use may apply for a rezoning or a Special Use Permit without charge by the County or any agency thereof for fees associated with such filing, provided that:¹
 - (1) A business license was issued by the County for such building, structure, lot, or use;
 - (2) The holder of such business license has operated continuously in the same location for at least fifteen (15) years; and
 - (3) All relevant local, state, and federal taxes or delinquent charges related to such building, structure, or use have been paid.

¹ Editor's Note: This section has been expanded to include buildings, structures, and lots beyond the current provision that only applies to uses.

ATTACHMENT E

Division 9-2 Nonconformities²

Section 9-2-1 Nonconforming Uses

- A. A legal nonconforming use may continue as it existed when it became nonconforming. A nonconforming use will not be reconstructed, relocated, altered, or expanded in any manner, including the addition of new accessory uses, except as provided for in this Section.³
- (1) A nonconforming use may change to a conforming use.
 - (2) A nonconforming use may be changed to another nonconforming use of the same or of a more restricted classification. Whenever a nonconforming use of land or buildings has been changed to a more restricted use or to a conforming use, such use shall not thereafter be changed to a less restricted use.
 - (3) No additional uses which would be prohibited generally in the Zoning District involved shall be permitted.
 - (4) The nonconforming use may be extended throughout those parts of a building which are lawfully and manifestly arranged or designed for such use at the time of enactment of this Ordinance provided there are no structural alterations, expansion, or enlargement except those required by law or lawful order.
 - (5) A nonconforming dwelling unit may have a home occupation subject to the requirements of Article 6, Use Matrix, and Article 7, Use Performance Standards, of this Ordinance.
- B. A nonconforming use shall lose its nonconforming status, and any further use shall conform to the requirements of this Ordinance when:
- (1) The nonconforming use is discontinued for a period of two (2) years, regardless of whether or not equipment or fixtures are removed, and shall be deemed abandoned.⁴

² Editor's Note: This division includes many of the sections found in Article 11 but has streamlined and clarified many of the provisions.

³ Editor's Note: This provision updates and clarifies conflicting language found in section 11-1-4, that did not allow for any expansion or enlargement of a nonconforming use, and 11-4-1, that allowed expansion of a nonconforming use of up to fifty percent. This section now only allows for the expansion of a nonconforming use into a pre-existing building.

⁴ Editor's Note: The current allowance for an extension to the two year discontinued use removing a nonconforming status has been removed in this section.

ATTACHMENT E

- (2) The nonconforming use is intentionally abandoned, regardless of the length of time that has passed.
- (3) The removal of a structure in which a nonconforming use is carried out inside; removal of the structure shall eliminate the nonconforming status of the land, and the nonconforming use may not continue in a new structure.
- C. All nonconforming uses shall obtain a certificate of occupancy. Such permits shall be issued promptly upon the written request of the owner or operator of a nonconforming use.
- D. The casual, intermittent, seasonal, temporary, or illegal use of land or buildings shall not be sufficient to establish the existence of a nonconforming use, and the existence of a nonconforming use on a part of a lot shall not be construed to establish a nonconforming use on the entire lot.
- E. When evidence available to the Agent is deemed to be inconclusive, whether a nonconforming use exists shall be a question of fact and shall be decided by the Board of Zoning Appeals (BZA) after public notice and hearing in accordance with **Article 3, Permits and Applications, Division 11, Public Hearings**, of this Ordinance, and in accordance with the rules of the BZA as provided in **Article 2, Administration, Division 3, Board of Zoning Appeals**, of this Ordinance.

Section 9-2-2 Nonconforming Lots of Record

- A. Any lot of record at the time of the adoption or amendment of this Ordinance does not meet the minimum area, length, or width required for the Zoning District it is in, it may be used or built upon without variance, provided that setbacks and other district requirements can be met.
 - (1) The front setback requirement shall be no greater than the average of the adjoining lots' existing structure setbacks fronting on the same street.⁵
 - (2) A lot of record without road frontage shall have a legally recorded access easement.
 - (3) If the lot cannot meet setback and other requirements, a variance shall be obtained through the variance processes outlined in **Article 3, Permits and Applications**, of this Ordinance.

⁵ Editor's Note: This provision updates section 11-1-2 to allow for nonconforming lots to be used when front setbacks can not be met in special circumstances rather than not be used at all. The County should consider if they want to specify only specific areas for this to apply.

ATTACHMENT E

- B. A developed nonconforming lot may continue in existence but may not be altered except in accordance with this Article.
- C. Any lot which is reduced in size and becomes less in area or width than the minimum required by the Zoning District, as the result of voluntary or required dedication of right-of-way shall be considered a nonconforming lot of record.
- D. A nonconforming lot may become a conforming lot by meeting the current minimum lot size, lot width, and lot frontage requirements of the Zoning District in which the lot is located through the following actions:
 - (1) A consolidation of the nonconforming lot with an adjacent lot;
 - (2) A boundary adjustment between two (2) contiguous lots, one (1) being nonconforming and the other being conforming, provided such adjustment does not make the conforming lot nonconforming, does not create an additional lot, and does not increase the nonconforming lot's nonconformity; or
 - (3) Rezoning to a different Zoning District to meet the lot size, lot width, and lot frontage requirements of that District.

Section 9-2-3 Nonconforming Structures, Buildings, and Improvements

- A. The construction of a nonconforming building for which a permit was issued legally prior to the adoption of this Ordinance may proceed in accordance with **Article 1, General, Division 4, Transition of Regulations After Adoption,** of this Ordinance.
- B. A nonconforming structure or nonconforming improvement may continue as it existed when it became nonconforming. A nonconforming structure or nonconforming improvement shall not be reconstructed, altered, or expanded in any manner, except as provided for in this Section.
- C. A nonconforming building or structure shall include those circumstances where Nelson County has:
 - (1) Issued a building permit or other permit authorizing construction and the building or structure was constructed in accordance with the building permit, and upon completion, the County issued a certificate of occupancy; or
 - (2) The owner of the building or structure has paid real estate taxes to the County for such building or structure for a period of more than the 15 years.

ATTACHMENT E

- (3) In no instances shall the nonconforming circumstance of the structure relate, or provide nonconforming status to, a use. Nonconforming uses are established as outlined in **Section 9-2-1, Nonconforming Uses**, above.
- (4) Additionally, a nonconforming building or structure will include those circumstances where:
- (a) A permit was not required, an authorized governmental official informed the property owner that the structure would comply with the Zoning Ordinance, and the improvements were then constructed accordingly.
 - (b) However, in any proceeding when the authorized County official is deceased or unavailable to testify, uncorroborated testimony of the oral statement of such official will not be sufficient evidence to prove that the authorized County official made such statement.
- D. No additional structure not conforming to the requirements of this Ordinance shall be erected in connection with such nonconforming uses of land.
- E. A nonconforming structure may be changed to make it a conforming structure.
- F. Any extension, alteration, or enlargement of a nonconforming structure shall conform with the provisions of this Ordinance, provided such extension, alteration, or enlargement does not increase the degree of nonconformity in any respect.
- G. Any nonconforming building or structure may be brought into compliance with the Uniform Statewide Building Code without affecting the nonconforming status of the building or structure.
- H. If a nonconforming structure is demolished or removed, no nonconforming structure shall be reestablished, except as provided under **Section 9-2-4, Repairs and Maintenance**, below.
- I. If a nonconforming structure is moved for any reason to another parcel of land, regardless of distance, every portion of the structure and its principal use must then conform with the requirements for the Zoning District in which it is located.
- J. Nothing in this Article shall be construed to restrict an owner from seeking a variance in order to bring a nonconforming structure or building into compliance in accordance with **Article 3, Permits and Applications, Division 5, Variances** of this Ordinance.

ATTACHMENT E

Section 9-2-4 Repairs and Maintenance

- A. On any nonconforming structure or portion of a structure containing a nonconforming use, work may be done in any period of 12 consecutive months if:
 - (1) Such repair constitutes routine maintenance necessary to keep the structure or improvement in the same general condition it was in when it originally became nonconforming; or
 - (2) Such repairs constitute minor exterior repairs, cosmetic modifications, interior renovations, and similar changes.
 - (3) The cubic content of the structure, as it existed at the time of passage or amendment of this Ordinance, shall not be increased.
- B. Nothing in this Ordinance shall permit a complete rebuild of a nonconforming structure, nor serve to circumvent the requirements of this Article, except for necessary rebuilds in accordance with **Section 9-2-4 (D)**, below.
- C. Nothing in this Ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any structure or part thereof declared to be unsafe by any official charged with protecting the public safety, on order of such official.
- D. If 50% or more of a nonconforming building or structure or a conforming building with a nonconforming use is damaged or destroyed by fire, natural disaster or other Act of God, such building or structure may be repaired, rebuilt, or replaced provided that:
 - (1) The nonconforming features are eliminated or reduced to the extent possible, without the need to obtain a variance;
 - (2) The owner shall apply for a building permit and any work done to repair, rebuild, or replace such building shall be in compliance with the provisions of the Uniform Statewide Building Code;
 - (3) The requirements of the Floodplain District of this Ordinance are met, if applicable; and
 - (4) The work is done within two (2) years unless the building is in an area under a federal disaster declaration and was damaged or destroyed as a direct result of the disaster, in which case the time period shall be extended to four (4) years.

ATTACHMENT E

- E. Owners of property damaged by an accidental fire have the same rights to rebuild such property as if it were damaged by an Act of God. Nothing herein shall be construed to enable the property owner to commit an arson and obtain vested rights under this Section.
- F. An owner of real property shall be permitted to replace an existing on-site sewage system for any existing building in the same general location on the property even if a new on-site sewage system would not otherwise be permitted in that location, unless access to a public sanitary sewer is available to the property. If access to a sanitary sewer system is available, then the connection to such system shall be required. Any new on-site system shall be installed in compliance with applicable regulations of the Department of Health in effect at the time of the installation.
- G. Pursuant to the Code of Virginia § 15.2-2307(H), if a nonconforming manufactured home is removed other than by natural disaster, an Act of God, or public action, it may not be replaced except as provided for below unless it complies with regulations within the Ordinance. Any such replacement home shall retain the valid nonconforming status of the prior home.
 - (1) Nothing in this Section shall be construed to prevent the landowner or homeowner from removing a valid nonconforming manufactured home from a mobile or manufactured home park and replacing that home with another comparable manufactured home that meets the current HUD manufactured housing code. In such mobile or manufactured home park, a single-section home may replace a single-section home and a multi-section home may replace a multi-section home.
 - (2) The owner of a valid nonconforming mobile or manufactured home not located in a mobile or manufactured home park may replace that home with a newer manufactured home, either single- or multi-section, that meets the current HUD manufactured housing code.

ATTACHMENT F

Nelson County, Virginia, Zoning & Subdivision Ordinance
Draft Article 11 – Definitions
February 26, 2025

Article-11 Definitions

Division 11-1 Abbreviations

A. Abbreviations used in this Ordinance are listed below with the term they abbreviate.

- (1) ANSI: American National Standards Institute
- (2) BFE: base flood elevation
- (3) BOS: Board of Supervisors
- (4) BZA: Board of Zoning Appeals
- (5) DEQ: Department of Environmental Quality
- (6) DU: dwelling unit
 - (a) du/acre: dwelling unit per acre
- (7) FT: feet
- (8) LF: linear foot
- (9) N/A: not applicable
- (10) PC: Planning Commission
- (11) SF: square feet
- (12) VDH: Virginia Department of Health
- (13) VDOT: Virginia Department of Transportation
- (14) USBC: Uniform Statewide Building Code
- (15) ZA: Zoning Administrator

Division 11-2 Word Usage

A. For the purposes of this Ordinance, certain words or terms shall be defined as follows:

- (1) Words used in the present tense include the future. Words in the singular include the plural, and the plural includes the singular.
- (2) The word "shall" or "must" is always mandatory; the word "may" is permissive.
- (3) The words "may not" indicate a prohibition.

ATTACHMENT F

Nelson County, Virginia, Zoning & Subdivision Ordinance

Draft Article 11 – Definitions

February 26, 2025

- (4) The words "used for" include "designed for," "arranged for" or "occupied for."
 - (5) The word "building" includes "structures" and shall be construed as if followed by the phrase "or part thereof."
 - (6) The word "person" includes "individual," "partnership," "company," "profit or nonprofit corporation," "organization" or other similar entities.
 - (7) The word "erected" shall be deemed also to include "constructed, reconstructed, altered, placed, or moved".
 - (8) The word "State" means the Commonwealth of Virginia.
 - (9) The word "County" means Nelson County, Virginia.
 - (10) The terms "land use" and "use of land" shall be deemed also to include "building use" and "use of building".
 - (11) Unless otherwise specified, the term 'day' means a calendar day.
 - (12) Unless otherwise specified, all distance shall be measured horizontally and at right angles to the line in relation to which the distance is tied.
 - (13) The terms "architect," "engineer," "landscape architect," and "surveyor," or other profession listed, refer to those professionals who are registered with the Virginia Department of Professional and Occupational Regulation to practice those professions.
 - (14) The words, terms, and phrases, when used in this Ordinance, shall have the meanings ascribed to them in this Article, except where the context clearly indicates a different meaning.
- B. When a term or phrase is not specifically defined within this Article, the common definition of such term or phrase shall be applied per the Merriam-Webster Dictionary.
- C. See **Article 11, Division 4** for definitions that specifically pertain to the Floodplain Management Overlay District.

Division 11-3 General and Use Definitions

Act of God. Pursuant to the Code of Virginia § 15.2-2307(E), any natural disaster or phenomena including, but not limited to, a hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, earthquake, or fire caused by lightning or wildfire.

Administrator. See "Zoning Administrator."

ATTACHMENT F

Nelson County, Virginia, Zoning & Subdivision Ordinance

Draft Article 11 – Definitions

February 26, 2025

Appeal. An action taken pursuant to Article 3, Division 10, of this Ordinance.

Board of Supervisors (BOS). The County’s governing body. Board of Supervisors members are elected by popular vote and are responsible for enacting ordinances, imposing taxes, making appropriations, and establishing County policy. The Board of Supervisors adopts the comprehensive plan, zoning, and subdivision regulations.

Board of Zoning Appeals (BZA). A quasi-judicial board appointed to review appeals and requests for variances made by individuals with regard to decisions of the Zoning Administrator in the interpretation of this ordinance and to authorize, upon appeal, variances from the terms of this ordinance when justified by special conditions.

Boundary. A line, which may or may not follow a visible feature, that defines the limits of a geographic entity such as a zoning district, block, census tract, county, or place.

Building. Any structure having a roof supported by columns, walls, or other means.

Building Official. An appointed official of Nelson County who is responsible for certifying building inspections, and who administers and enforces the provisions of the Nelson County Building Code.

Certificate of Occupancy. The permit issued by the building code official that is required under the Uniform Statewide Building Code prior to the use or occupancy of certain buildings and structures.

Circuit Court. The circuit court for Nelson County, Virginia.

Code of Virginia. The official code of laws of the Commonwealth of Virginia. The term “Code of Virginia” shall include “as amended.”

Comprehensive Plan. The official plan of Nelson County that sets forth goals, policies, objectives, or strategies intended to direct the present and future physical, social, and economic development that occurs within the County, adopted pursuant to Code of Virginia, § 15.2-2223.

Concept Plan. A generalized plan indicating the boundaries of a tract or tracts of land, and presenting the general arrangement of proposed facilities, uses, structures, and improvements.

Conditional Zoning. A method for rezoning that permits the reasonable and orderly development and use of land with special restrictions in those situations in which unique, specific circumstances indicate that the existing zoning district regulations are not adequate.

ATTACHMENT F

Nelson County, Virginia, Zoning & Subdivision Ordinance

Draft Article 11 – Definitions

February 26, 2025

County. Nelson County, Virginia.

County Code. The official code of laws of Nelson County, Virginia.

County Fee Schedule. The official schedule of County fees adopted by the Board of Supervisors.

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

Dam. A manmade structure across a watercourse used to retain water.

Dam break inundation zone. The area downstream of a dam that would be inundated or otherwise directly affected by the failure of the dam, as established in Code of Virginia § 10.1-604, as amended. The dam break inundation zone must be shown on the dam break inundation zone map filed with the County and Virginia Department of Conservation and Recreation.

Development. A tract of land developed or to be developed as a unit under single ownership or unified control which is to be used for any business or industrial purpose or is to contain three or more residential dwelling units. The term "development" will not be construed to include any tract of land which will be principally devoted to agricultural production.

District. See "Zoning District."

Engineer. A professional who is qualified to practice engineering by reason of his special knowledge and use of mathematical, physical, and engineering sciences and the principles and methods of engineering analysis and design acquired by engineering education and experience, and whose competence has been attested, through licensure, as a professional engineer by the Commonwealth of Virginia.

Engineer, Highway. The resident engineer employed by the Virginia Department of Transportation.

Governing Body. The Board of Supervisors of Nelson County, Virginia.

Health Official. An authorized official employed with the Virginia Department of Health.

Lot. A parcel of land intended to be separately owned, developed, or otherwise used as a unit, established by plat, subdivisions, or as otherwise permitted by law. May also be referred to in this Ordinance as a "parcel".

ATTACHMENT F

Nelson County, Virginia, Zoning & Subdivision Ordinance

Draft Article 11 – Definitions

February 26, 2025

Lot of record. A lot shown upon a plan of subdivision or upon a plat attached or referred to in a deed described by metes and bounds and recorded in the Circuit Court Clerk's Office of Nelson County.

Nonconforming lot. A lot of record that does not conform to the minimum area or width requirements of this ordinance for the district in which it is located either at the effective date of this ordinance or as a result of subsequent amendments to the ordinance.

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

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

Planning Commission. A board of the local government consisting of such appointed members whose functions include advisory or nontechnical aspects of planning and may also include such other powers and duties as may be assigned to it by the Board of Supervisors.

Proffer. A voluntary offer that addresses an impact or impacts from use of property or development, tendered by an applicant for conditional rezoning.

Public Hearing. A meeting announced and advertised for soliciting formal public comment on matters under consideration.

Rezoning. See “Zoning Map Amendment.”

Site Plan. A plan prepared by a professional engineer or land surveyor licensed by the state showing all proposed improvements to the site in accordance with this Ordinance. A Site Plan can be a Minor Site Plan or a Major Site Plan, see Article 3, Division 6.

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

ATTACHMENT F

Nelson County, Virginia, Zoning & Subdivision Ordinance

Draft Article 11 – Definitions

February 26, 2025

Special Use Permit. An approval for a use that may be appropriate in a zoning district, but because of its nature, extent, and external effects, requires special consideration and restrictions relating to its location, design, and methods of operation before it can be deemed appropriate in the district and compatible with its surroundings.

Subdivide. The process of dealing with land so as to establish a subdivision as defined herein.

Subdivision. The division of a parcel of land into two (2) or more lots or parcels of land for the purpose of transfer of ownership or building development, including any parcel previously separated by the owner or prior owner of such land for such purpose. The sale or exchange of parcels between adjoining lot owners, where such sale or exchange does not create additional building lots, shall be exempt from the provisions of this Ordinance.

Subdivision Agent. An official responsible for administering and enforcing the Subdivision Code of the County.

Surveyor. An individual or firm licensed by the Commonwealth of Virginia to practice surveying.

Variance. A reasonable deviation from those provisions regulating the shape, size, or area of a lot or parcel of land or the size, height, area, bulk, or location of a building or structure when the strict application of the ordinance would unreasonably restrict the utilization of the property, and such need for a variance would not be shared generally by other properties, and provided such variance is not contrary to the purpose of the ordinance. It shall not include a change in use, which change shall be accomplished by a rezoning or by a conditional zoning.

Vested Right. Any written order, requirement, decision, or determination regarding the permissibility of a specific use, structure, or density of a landowner's property that constitutes a significant affirmative governmental act pursuant to the Code of Virginia, § 15.2-2307 and is issued in strict accordance with the requirements of this Ordinance.

Zoning. The process of classifying land within a locality into areas and districts, such areas and districts being generally referred to as "zones," by legislative action and the prescribing and application in each area and district of regulations concerning building and structure designs, building and structure placement and uses to which land, buildings and structures within such designated areas and districts may be put.

ATTACHMENT F

Nelson County, Virginia, Zoning & Subdivision Ordinance

Draft Article 11 – Definitions

February 26, 2025

Zoning Administrator. The official, or an authorized agent thereof, responsible for administering and enforcing the Zoning Ordinance of the County, also referred to in this ordinance as the Administrator.

Zoning District. A specifically delineated section of the County in which the regulations are uniform and so designated on the Zoning Map.

Zoning Map. A legally adopted map depicting the location of each zoning district of the county and all amendments thereto.

Zoning Map Amendment. A change in the zoning or district boundaries of the Official Zoning Map.

Zoning Permit. A permit issued by the Zoning Administrator on an appropriate form or certificate which certifies that a building or use of property complies with the regulations of the Zoning District in which the building or use is located.

Zoning Text Amendment. A revision, change, addition, or deletion of the text of this Ordinance.

Division 11-4 Overlay District Definitions

ATTACHMENT G

Definitions		
Term	Existing Definition	Proposed Definition
Administrator	The official charged with the enforcement of the zoning ordinance. He may be any appointed or elected official who is by formal resolution designated to the position by the governing body. He may serve with or without compensation as determined by the governing body.	The official, or an authorized agent thereof, responsible for administering and enforcing the Zoning Ordinance of the County, also referred to in this ordinance as the Administrator.
Building	Any structure used or intended for supporting or sheltering any use or occupancy.	Any structure having a roof supported by columns, walls, or other means.
District	Districts as referred to in the Va. Code, § 15.1-486.	A specifically delineated section of the County in which the regulations are uniform and so designated on the Zoning Map.
Lot	A parcel of land occupied or to be occupied by a main building or group of main buildings and accessory buildings, together with such yards, open spaces, lot width, and lot areas as are required by this ordinance, and having frontage upon a street either shown on a plat of record or considered as a unit property and described by metes and bounds.	A parcel of land intended to be separately owned, developed, or otherwise used as a unit, established by plat, subdivisions, or as otherwise permitted by law.
Lot of record	A lot which has been recorded in the clerk's office of the Circuit Court.	A lot shown upon a plan of subdivision or upon a plat attached or referred to in a deed described by metes and bounds and recorded in the Circuit Court Clerk's Office of Nelson County.
Lot, corner	A lot abutting on two (2) or more streets at their intersection. Of the two (2) sides of a corner lot the front shall be deemed to be the shortest of the two (2) sides fronting on streets.	A lot abutting on two or more streets at their intersection, where the interior angle of the intersection does not exceed 135 degrees.
Subdivision	A parcel of land which has been subdivided into smaller parcels or lots for the purpose, either immediate or future, of transfer of ownership or building development. The term "subdivision" includes family division, "re-subdivision," and, when appropriate to the context, shall relate to the process of subdividing or to the land subdivided.	The division of a parcel of land into two (2) or more lots or parcels of land for the purpose of transfer of ownership or building development, including any parcel previously separated by the owner or prior owner of such land for such purpose. The sale or exchange of parcels between adjoining lot owners, where such sale or exchange does not create additional building lots, shall be exempt from the provisions of this Ordinance.
Variance	A reasonable deviation from those provisions regulating the size or area of a lot or parcel of land, or the size, area, bulk or location of a building or structure when the strict application of the ordinance would result in unnecessary or unreasonable hardship to the property owner, and such need for a variance is not contrary to the intended spirit and purpose of the ordinance, and would result in substantial justice being done.	A reasonable deviation from those provisions regulating the shape, size, or area of a lot or parcel of land or the size, height, area, bulk, or location of a building or structure when the strict application of the ordinance would unreasonably restrict the utilization of the property, and such need for a variance would not be shared generally by other properties, and provided such variance is not contrary to the purpose of the ordinance. It shall not include a change in use, which change shall be accomplished by a rezoning or by a conditional zoning

Nelson County Table of Contents Crosswalk - Current Location to Proposed Location				
Article	Section Number	Section Content	Proposed Location/Change	Actual Location
Zoning Ordinance				
Article 1 - Introduction	1-1	Legislative Authority	Article 1, Division 1	1-1-2
	1-2	Legislative Intent	Article 1, Division 1	1-1-3
	1-3	Interpretation, Purpose, or Conflict	Article 1, Division 2	1-2-1
	1-4	Enumeration of Districts	Article 4, Division 1	
Article 2 - Definitions	2-1	Definitions	Article 11, Division 2	
Article 3 - Conservation District C-1	3-1	Uses - Permitted by Right	Article 6, Division 2	
	3-1-a	Uses - Permitted by Special Use Permit Only	Article 6, Division 2	
	3-2	Area Regulations	Article 4, Division 3	
	3-3	Setback Regulations	Article 4, Division 3	
	3-4	Reserved	Remove	
	3-5	Reserved	Remove	
	3-6	Special Provisions for Corner Lots	Article 4, Division 1	
	3-7	Height Limitations	Article 4, Division 2 Article 4, Division 3	
3-8	Site Plan	Article 3, Division 6	3-6-2	
Article 4 - Agricultural District A-1	4-1	Uses - Permitted by Right	Article 6, Division 2	
	4-1-a	Uses - Permitted by Special Use Permit Only	Article 6, Division 2	
	4-2	Lots Allowed and Area Regulations	Remove	
	4-3	Setback Regulations	Article 4, Division 3	
	4-4	Special Provisions for Corner Lots	Article 4, Division 1	
	4-5	Reserved	Remove	
	4-6	Height Limitation	Article 4, Division 2 Article 4, Division 3	
	4-7	Site Plan	Article 3, Division 6	3-6-2
	4-8	Mobile Home Park Lot Size	Article 7, Division 2	
	4-9	Oil and Gas Exploration and Extraction	Article 7, Division 2	
	4-10	Multifamily Dwellings	Article 6, Division 2 Article 7, Division 2	
4-11	Administrative Approvals	Article 3, Division 8 Article 6, Division 2 Article 7, Division 2 Article 8, Division 7		
Article 5 - Residential District R-1	5-1	Uses - Permitted by Right	Article 6, Division 2	
	5-1-a	Uses - Permitted by Special Use Permit Only	Article 6, Division 2	
	5-2	Area Regulations	Article 4, Division 4	
	5-3	Setback Regulations	Article 4, Division 4	
	5-4	Reserved	Remove	
	5-5	Reserved	Remove	
	5-6	Height Limitation	Article 4, Division 2 Article 4, Division 4	
	5-7	Special Provisions for Corner Lots	Article 4, Division 1	
5-8	Site Plan	Article 3, Division 6	3-6-2	
Article 6 - Residential District R-2	6-1	Uses - Permitted by Right	Article 6, Division 2	
	6-1-a	Uses - Permitted by Special Use Permit Only	Article 6, Division 2	
	6-2	Area Regulations	Article 4, Division 4	
	6-3	Setback Regulations	Article 4, Division 4	
	6-4	Frontage Regulations	Article 4, Division 4	
	6-5	Yard Regulations	Article 4, Division 4	
	6-6	Height Limitation	Article 4, Division 2 Article 4, Division 4	
	6-7	Special Provisions for Corner Lots	Article 4, Division 1	
6-8	Site Plan	Article 3, Division 6	3-6-2	

Nelson County Table of Contents Crosswalk - Current Location to Proposed Location				
Article	Section Number	Section Content	Proposed Location/Change	Actual Location
Article 7 - Residential Planned Community District RPC	7-1	Request and Master Plan	Article 4, Division 7	
	7-2	Application	Article 3, Division 2 Article 4, Division 7	
	7-3	Final Plan	Article 3, Division 6 Article 4, Division 7	
	7-4	Additional Land	Remove	
	7-5	Use Regulations	Article 6, Division 2	
	7-6	Building Location Requirements	Article 3, Division 6 Article 4, Division 2	
	7-7	Utilities	Article 3, Division 6	
	7-8	Street Improvements	Article 3, Division 6	
	7-9	Average Daily Traffic Estimates	Article 3, Division 6	
	7-10	Road Widths	Article 3, Division 6	
	7-11	Special Provisions	Article 7, Division 7	
Article 8 - Business District B-1	8-1	Uses - Permitted by Right	Article 6, Division 2	
	8-1-a	Uses - Permitted by Special Use Permit Only	Article 6, Division 2	
	8-2	Height Regulations	Article 4, Division 2 Article 4, Division 5	
	8-3	Setback Regulations	Article 4, Division 5	
	8-4	Yard Regulations	Article 4, Division 5	
	8-5	Site Plan	Article 3, Division 6	3-6-2
Article 8A - Business District B-2	8A-1	Uses - Permitted by Right	Article 6, Division 2	
	8A-1-a	Uses - Permitted by Special Use Permit Only	Article 6, Division 2	
	8A-2	Height Regulations	Article 4, Division 2 Article 4, Division 5	
	8A-3	Setback Regulations	Article 4, Division 5	
	8A-4	Yard Regulations	Article 4, Division 5	
	8A-5	Signage	Article 8, Division 7	
Article 8B - Service Enterprise District SE-1	8B-1	Uses - Permitted by Right	Article 6, Division 2	
	8B-1-a	Uses - Permitted by Special Use Permit Only	Article 6, Division 2	
	8B-2	Regulations for SE-1 Zone	Article 4, Division 5 Article 8, Division 6 Article 8, Division 7 Article 9, Division 2	
Article 9 - Industrial District M-2	9-1	Uses - Permitted by Right	Article 6, Division 2	
	9-1-a	Uses - Permitted by Special Use Permit Only	Article 6, Division 2	
	9-2	Requirements for Permitted Uses	Article 3, Division 7 Article 7, Division 6 Article 8, Division 3	3-7-2
	9-3	Setback Regulations	Article 4, Division 6	
	9-4	Yard Regulations	Article 4, Division 6	
	9-5	Site Plan	Article 3, Division 6	3-6-2
Article 10 - General Floodplain District FP	10-1	Purpose	Article 5, Division 1	
	10-2	Applicability	Article 5, Division 2	
	10-3	Compliance and Liability	Article 5, Division 2	
	10-4	Abrogation and Greater Restrictions	Article 5, Division 2	
	10-5	Severability	Article 5, Division 2	
	10-6	Penalties	Article 5, Division 2	
	10-7	Definitions	Article 11, Division 4	
	10-8	Establishment of Floodplain Districts	Article 5, Division 2	
	10-9	Official Zoning Map	Article 5, Division 2	
	10-10	District Boundary Changes	Article 5, Division 2	
	10-11	Interpretation of District Boundaries	Article 5, Division 2	
	10-12	Submitting Technical Data	Article 5, Division 2	
	10-13	Permit and Application Requirements	Article 5, Division 2	
	10-14	General Standards	Article 5, Division 2	
	10-15	Specific Standards	Article 5, Division 2	
	10-16	Standards for the Floodway District	Article 5, Division 2	
	10-17	Standards for the Special Floodplain District	Article 5, Division 2	
	10-18	Standards for Approximated Floodplain	Article 5, Division 2	
	10-19	Standards for Subdivision Proposals	Article 5, Division 2	
	10-20	Standards for Subdivision Proposals	Article 5, Division 2	
	10-21	Variances	Article 5, Division 2	
	10-22	Existing Structures in Floodplain Districts	Article 5, Division 2	
	10-23	Administration	Article 5, Division 2	
	10-24	Enactment	Remove	
Article 11 - Nonconforming Uses	11-1	Intent	Article 9, Division 1 Article 9, Division 2	9-1-1 9-1-2 9-2-1 9-2-2 9-2-3
	11-2	Permits	Article 9, Division 2	9-2-1
	11-3	Changes in District Boundaries	Article 9, Division 2	9-2-1
	11-4	Expansion or Enlargement	Article 9, Division 2	9-2-2
	11-5	Nonconforming Lots	Article 9, Division 2	9-2-3
	11-6	Restoration or Replacement	Article 9, Division 2	9-2-4
	11-7	Mobile Home Compliance with Ordinance	Remove	9-2-4

Nelson County Table of Contents Crosswalk - Current Location to Proposed Location					
Article	Section Number	Section Content	Proposed Location/Change	Actual Location	
Article 12 - General Provisions	12-1	Zoning Permits	Article 3, Division 1 Article 3, Division 7	3-1-2 3-7-1	
	12-2	Certificate of Occupancy	Article 3, Division 1	3-1-3	
	12-3	Special Use Permits	Article 2, Division 4 Article 3, Division 4	2-4-3	3-1-2
				3-4-2 - 3-4-6	
	12-4	Reserved	Remove		
	12-5	Reserved	Remove		
	12-6	Widening of Streets and Highways	Article 4, Division 2		
	12-7	Minimum Off-Street Parking	Article 8, Division 2		
			Article 8, Division 3		
			Article 8, Division 5 Article 8, Division 6		
	12-8	Permanent Mobile Home Parks	Article 6, Division 2 Article 7, Division 2		
	12-9	Fuel	Remove		
	12-10	Temporary Mobile Home Parks	Remove		
12-11	Signs	Article 8, Division 7			
12-12	Electrical Hookup for Manufactured Home, Recreational Vehicle, or Travel Trailer	Remove			
12-13	Reserved	Remove			
Article 13 - Site Development Plan	13-1	Categories and Applicability of Site Plans	Article 3, Division 6	3-6-2	
	13-2	Issuance of Permits by County	Article 3, Division 6	3-6-2	
	13-3	Amendment to Final Plans	Article 3, Division 6	3-6-7	
	13-4	Site Plan Content	Article 3, Division 6	3-6-4	
	13-5	Validity of Site Plans	Article 3, Division 6	3-6-9	
	13-6	Improvements	Article 3, Division 6	3-6-5	
	13-7	Administration	Article 3, Division 6	3-6-6	3-6-10
				Remove	
	13-8	Reserved	Remove		
	13-9	Fees	Article 2, Division 5	2-5-1	
13-10	Intentional Community	Remove			
Article 14 - Board of Zoning Appeals	14-1	Board of Zoning Appeals Membership and Organization	Article 2, Division 3	2--3-1	
	14-2	Powers and Duties of Board of Zoning Appeals	Article 2, Division 3	2-3-2	
	14-3	Rules and Regulations	Article 2, Division 3	2-3-3	
	14-4	Appeal to the Board of Zoning Appeals	Article 3, Division 10	3-10-1	3-10-2
				Article 2, Division 5	
	14-5	Procedures on Appeals or Application to the Board of Zoning Appeals	Article 3, Division 10	2-5-1	
14-6	Decision of Board of Zoning Appeals	Article 3, Division 10	3-10-3		
Article 15 - Violation and Penalty	15-1	Authority	Article 2, Division 4	2-4-1	
	15-2	Violations	Article 2, Division 4	2-4-4	
Article 16 - Amendment and Rezoning	16-1	Procedures for Amendment	Article 3, Division 2	3-2-1	
	16-2	Public Hearing	Article 3, Division 2	3-2-2	
	16-3	Denial of Petition to Amend	Article 3, Division 2	3-2-3	
	16-4	Conditional Zoning		3-3-1	
			Article 3, Division 4	3-3-2	
Article 3, Division 3 Article 3, Division 10			3-3-3 3-3-4 3-3-5		
Article 17 - Administration and Interpretation	17-1	Enforcement	Article 2, Division 1	2-4-1	
	17-2	Construction Prior to Adoption	Article 1, Division 4	1-4-6	
	17-3	Interpretation	Article 1, Division 3	1-3-3	
	17-4	Effective Date	Article 1, Division 4	1-4-1	
	17-5	Severability	Article 1, Division 1	1-1-6	
	17-6	Conflicting Ordinance, Statutes, and Regulations	Article 1, Division 2	1-2-1	
	17-7	Certified Copy	Article 1, Division 1	1-3-1	
Article 18 - Limited Industrial M-1	18-1	Uses-Permitted by Right	Article 6, Division 2		
	18-2	Permitted Accessory Uses	Article 6, Division 2		
	18-3	Uses-Permitted by Special Use Permit Only	Article 6, Division 2		
	18-4	Special Regulations	Article 4, Division 6		
	18-5	Reserved	Remove		
	18-6	Area Regulations	Article 4, Division 6		
	18-7	Setback Regulations	Article 4, Division 6		
	18-8	Frontage and Yard Regulations	Article 4, Division 6		
	18-9	Height Regulations	Article 4, Division 2		
			Article 4, Division 6		
18-10	Requirements for Permitted Uses	Article 7, Division 6			
Article 19 - Nuclear Waste Materials	19-1	Nuclear Waste Storage Regulations	Remove		
Article 19B - Planned Unit Development - Industrial PUD ID	19-1	Repealed	Remove		
	20-1	Title	Article 7, Division 4		
	20-2	Purpose	Article 7, Division 4		

Nelson County Table of Contents Crosswalk - Current Location to Proposed Location				
Article	Section Number	Section Content	Proposed Location/Change	Actual Location
Article 20 - Communication Towers	20-3	Jurisdiction	Article 7, Division 4	
	20-4	Definitions	Article 11, Division 2	
	20-5	Tellecommunications Facility Categories	Article 7, Division 4	
	20-6	Class A Personal Wireless Service Facilities	Article 7, Division 4	
	20-6-1	Design Standards	Article 7, Division 4	
	20-6-2	Compliance	Article 7, Division 4	
	20-7	Insurance	Article 7, Division 4	
	20-8	Building Permits	Article 7, Division 4	
	20-9	Standards for Location	Article 7, Division 4	
	20-10	Reserved	Article 7, Division 4	
	20-11	Colocation	Article 7, Division 4	
	20-12	Application and Approval of a Class B Communication Tower Permit	Article 7, Division 4	
	20-13	Application and Approval of a Class C Communication Tower Permit	Article 7, Division 4	
	20-14	Completion Requirements	Article 7, Division 4	
	20-15	Removal and Reporting	Article 7, Division 4	
	20-16	Access to Site	Article 7, Division 4	
	20-17	Tower Permit Amendments, Temporary Towers	Article 7, Division 4	
	20-18	Application Fee Schedule	Article 7, Division 4	
	20-19	Exemption from Regulations Otherwise Applicable	Article 7, Division 4	
	20-20	Modification of Certain Regulations	Article 7, Division 4	
20-21	Authority of Planning and Zoning Director	Article 2, Division 1		
20-22	Appeals	Article 3, Division 10	3-10-2	
Article 21 - Cluster Housing Development	21-1	Purpose and Intent	Article 4, Division 1	
	21-2	Area and Density	Article 4, Division 8	
	21-3	Design of the Development	Article 4, Division 8	
	21-4	Subdivision Street	Article 4, Division 8	
	21-5	Lot Standards	Article 4, Division 8	
	21-6	Preservation of the Reserved Area	Article 4, Division 8	
	21-7	Procedure for Approval	Article 4, Division 8	
Article 22 - Small Wind Energy	22-1	Title	Article 7, Division 7	
	22-2	Purpose	Article 7, Division 7	
	22-3	Definitions	Article 11, Division 3	
	22-4	Permitted Uses	Article 6, Division 2 Article 7, Division 7	
	22-5	Noise	Article 7, Division 7	
	22-6	Utility Notification	Article 7, Division 7	
	22-7	Permit Requirements	Article 7, Division 7	
	22-8	Abandonment	Article 7, Division 7	
Article 22A - Solar Energy	22A-1	Title	Article 7, Division 7	
	22A-2	Purpose	Article 7, Division 7	
	22A-3	Definitions	Article 11, Division 2	
	22A-4	General Provisions	Article 7, Division 7	
	22A-5	Small Solar Energy Systems	Article 7, Division 7	
	22A-6	Large Solar Energy Systems	Article 7, Division 7	
Article 23 - Temporary Family Health Care Structures	23-1	Temporary Family Health Care Structures	Article 7, Division 2	
	23-2	Definitions	Article 11, Division 2	
	23-3	Applicability	Article 6, Division 2 Article 7, Division 2	
	23-4	Setback Regulations	Article 7, Division 2	
	23-5	Permit Requirements	Article 7, Division 2	
	23-6	Utility Requirements	Article 7, Division 2	
	23-7	Sign Requirements	Article 7, Division 2	
	23-8	Timeframe	Article 7, Division 2	
	23-9	Revocation	Article 2, Division 4	
Article 24 - Temporary Events, Festival Grounds, Out-of-Door Accessory Uses	24-1	Definitions	Article 11, Division 2	
	24-2	Temporary Events Permit	Article 7, Division 5	
	24-3	Issuance of Temporary Event Permits	Article 3, Division 8	3-8-2

Nelson County Table of Contents Crosswalk - Current Location to Proposed Location				
Article	Section Number	Section Content	Proposed Location/Change	Actual Location
Subdivision Ordinance				
Section 1 - Purpose and title.	1-1	Purpose of Ordinance	Article 10, Division 1	
	1-2	Title of Ordinance	Article 10, Division 1	
Section 2 - Definitions	2-1	Definitions	Article 11, Division 2	
Section 3 - Administration	3-1	Responsibility of Administration and Enforcement	Article 2, Division 1	2-1-1
	3-2	Exceptions to Review by Commission	Article 10, Division 6 Article 10, Division 7	
	3-3	Duty of the Agent When Reviewing Plats with Commission	Article 10, Division 6 Article 10, Division 7	
	3-4	Reserved	Remove	
	3-5	Reserved	Remove	
	3-6	Fees	Article 2, Division 5 Article 10, Division 9	2-5-1
	3-7	Plat Review - Time Limit	Article 10, Division 7	
	3-8	Preliminary Plat Approval - Limitations	Article 10, Division 6	
	3-9	When Plat may be Disapproved	Article 10, Division 7	
	3-10	Notice of Approval or Disapproval	Article 10, Division 7	
	3-11	Appeals	Article 3, Division 10	
	3-12	Reserved	Remove	
	3-13	Permits Required; Sale of Lots Prohibited	Article 10, Division 7	
	3-14	Maintenance of Private Streets, Easements, Facilities, or Other Improvements	Article 10, Division 3	
Section 4 - Design Standards	4-1	General	Article 10, Division 3	
	4-2	Improvements - General Requirements	Article 10, Division 3	
	4-3	Streams, Drainage and Erosion Control	Article 10, Division 3	
	4-4	Water and Sewer	Article 10, Division 3	
	4-5	Fire Protection	Article 10, Division 3	
	4-6	Streets	Article 10, Division 3	
	4-7	Lots	Article 10, Division 3	
	4-8	Blocks	Article 10, Division 3	
Section 5 - Platting	5-1	General Requirements	Article 10, Division 5	
	5-2	Changes on Preliminary Plats or Final Plats	Article 10, Division 5	
	5-3	Preliminary Sketch	Article 10, Division 6	
	5-4	Preliminary Plat	Article 10, Division 6	
	5-5	Final Plat	Article 10, Division 7	
Section 6 - Vacation of Plat	6-1	Prior to Sale of Lot	Article 10, Division 8	
	6-2	After Sale of Lot	Article 10, Division 8	
	6-3	Vacation of Boundary Lines	Article 10, Division 8	
Section 7 - Enforcement	7-1	Exception	Article 10, Division 1	
	7-2	Enforcement of Maintenance of Private Streets, Easements, Facilities or Other Improvements	Article 10, Division 9	
	7-3	Penalties	Article 10, Division 9	
Section 8 - Validity	8-1	Validity	Article 1, Division 1	1-1-6
Section 9 - Amendments	9-1	Amendments	Article 3, Division 2 Article 10, Division 1	
Section 10 - Filing of Ordinance	10-1	Filing of Ordinance	Article 1, Division 1	1-2-1