

## **Overview:**

Nelson County has partnered with [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:**

- Schedule & Progress to Date – 5 minutes
- Article Review – 110 minutes
  - Article 8 – Community Design Standards
  - Article 10 – Subdivisions
- Next Steps – 5 minutes

## **Schedule & Progress to Date**

**See Attachment A – Project Schedule**

## **Progress to date:**


- **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 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, 2024, to review the public engagement for the project and discuss the organization of the Zoning Ordinance.
- **Joint Worksession 2** - Berkley Group met with the Nelson County Planning Commission and Board of Supervisors on February 26, 2025, to review Article 1, General Provisions, Article 2, Administration, Article 3, Permits & Applications, Article 9, Nonconforming Uses, Lots, and Structures, and the relevant definitions in Article 11, Definitions.
- **Joint Worksession 3** – Berkley Group met with the Nelson County Planning Commission and Board of Supervisors on April 23, 2024, to review Article 4, Primary Zoning Districts, and Article 5, Overlay Zoning Districts, as well as their relevant definitions.
- **Joint Worksession 4** – Berkley Group met with the Nelson County Planning Commission and Board of Supervisors on June 25, 2024, to review Article 6, Use Matrix, and Article 7, Use Standards, as well as their relevant definitions.

## Article 8: Community Design Standards

### See Attachment B – Article 8

Article 8 contains design standards for the following: lighting, landscaping, walls and fences, streets, bikeways and sidewalks, parking and loading, and signage. The vast majority of this Article is proposed new content, with the exception of parking and loading, and signs; these provisions will help to implement the goals of the Comprehensive Plan (see table below).

 **Please note:** The editor's footnotes are provided to aid review of the Article. The footnotes explain inclusions, omissions, and modifications between the existing Ordinance and the proposed draft Ordinance.

Below is a synopsis of the Divisions in Article 8 and noted changes:

**Division 8-1.** New content. General — states the purpose and provides for visibility clearance at intersections.

**Division 8-2.** New content. Lighting — standards have been included that are compliant with recommendations from the International Dark Skies Association. These standards will apply to all new lighting in the County, however, there are several exemptions including agriculture lighting, single-family residential lighting, and athletic facility lighting. See Section 8-2-2 for the full list of exemptions. These provisions should help preserve night skies and reduce light pollution while providing for safety.

**Division 8-3.** New content. Landscaping and Screening — protects the visual character and natural environment and provides safety and privacy measures while promoting economic development. The landscape standards address buffers between districts with differing intents and density, such as commercial districts adjacent to residential. Existing parking lot landscaping is included in this division, but has been edited based on best practice and clarity. Frontage landscaping is added as a requirement along the Route 151 and Route 29 Corridor Overlay Districts. Tables are included to ease referencing and use of the Ordinance. For landscape plans and in general standards plants and trees are recommended to be biologically diverse and native to the region, however, the County should consider if it wants to make this a requirement for landscape plans, and/or general standards.

**Division 8-4.** New content. Walls and Fences — provides standards to ensure that walls and/or fences are used to provide buffering, privacy, separation, security, and aesthetic reasons. Standards apply to all construction, reconstruction, or replacement of walls and/or fences in the Village Overlay, Route 151 Corridor Overlay, and Route 29 Corridor Overlay, although there are exceptions for height limits when the underlying district is rural or industrial.

**Division 8-5.** Some new content. Streets, Bikeways, and Sidewalks — ensures adequate and safe pedestrian and vehicular improvements and connectivity. The provisions apply to all subdivisions and developments requiring submittal of site plans, unless granted a waiver if necessary to meet stormwater quality requirements on sites greater than one (1) acre. This division was added to help implement comprehensive plan strategies, but it does contain content regarding streets from the existing subdivision ordinance.

Section 8-5-5 A. requires that subdivisions construct either bicycle lanes or other forms of pedestrian and bicycle paths within the subdivision. Alternatively, 8-5-5 B. states that the developer may construct a bikeway when their land falls within the comprehensive plan's designated bikeway areas. The County should consider if it wants to change this to a requirement.

**Division 8-6.** Parking and Loading — ensure efficient traffic flow and reduce hazards by establishing standards for off-street parking and off-street loading areas. Standards have been expanded to include all areas of the County. Table 8-6 consolidates minimum parking requirements into a user-friendly format. Bicycle parking requirements are added for the Route 151 Corridor Overlay District and allowed in other districts for credit toward required vehicle spaces. In general, the amount of parking required for new developments has been lowered to reduce pervious surfaces. These minimum requirements can be further reduced if desired by the County.

**Division 8-7.** Sign regulations have been brought into compliance with Code of Virginia and the findings of *Reed v. Gilbert*. Allowable sign sizes have been modified based on zoning districts, while overlay districts have standards that supersede the underlying district standards. Included is a list of signs that are prohibited, and a list of signs that are exempt from regulation. Sign standards have been formatted into tables for ease of reference.

## Article 10: Subdivisions

### See Attachment C – Article 10

Article 10 establishes the regulations for subdividing land in the County. These standards expand upon and update the regulations in the existing ordinance to ensure compliance with the Code of Virginia. The existing Subdivision Ordinance will be repealed and the subdivision code will be contained in Article 10 of the Zoning and Subdivision Ordinance. Updates to these provisions will help to implement the goals of the Comprehensive Plan (see table below).

Below is a synopsis of the Divisions in Article 10 and noted changes:

**Division 10-1.** General. — establishes subdivision regulations, exemptions, and exceptions. Most of this division is new content.

**Division 10-2.** New content. Types of Subdivisions — establishes four types of subdivisions: major, minor, single lot, and family.

**Division 10-3.** Design Requirements — establishes requirements for how subdivisions are designed and managed, such as lot configurations and homeowners' associations. Most of this division is new content.

- All street, bikeway, and sidewalk standards are now in Article 8 rather than being in both 8 and 10.

**Division 10-4.** Guarantees — establishes the type, amount, and release of guarantees required for public and other site-related improvements. This division streamlines and reorganizes content from the existing subdivision ordinance and ensures Code of Virginia compliance.

**Division 10-5.** through **Division 10-8.** — Provide for plats. These divisions outline the required elements on plats, review timeframes, and approval and disapproval actions. These sections incorporate recent state code changes that reduce the review timeframes and remove the Planning Commission from the approval/disapproval process.

**Division 10-9.** Enforcement, Violations and Fees — provides the enforcement measures, penalties, and fees associated with the subdivision regulations.

## Definitions & Crosswalk

### See Attachment D – Article 11, Definitions

Definitions added since the July worksession are highlighted in green.

### See Attachment E – Crosswalk

The crosswalk shows the location and content of the existing zoning ordinance, and its location in the draft ordinance.

COMPREHENSIVE PLAN STRATEGIES ADDRESSED	
Strategy Number	Strategy Text
3.4	Encourage the use of energy-efficient lighting and investigate outdoor light standards to reduce the impacts of over-lighting, glare, and light pollution.
3.5	Explore changes to zoning and development provisions to update parking requirements and encourage permeable paving and other materials that promote infiltration of stormwater.
3.6	Revise landscaping regulations to require the placement of shade trees in parking lots and use of native plants in all commercial and institutional landscaping.
3.7	Identify opportunities to connect neighborhoods and development through sidewalks, shared use paths, and trails. Require such connections in new development or redevelopment proposals.
3.16	Ensure that new development complements and enhances its surroundings through proper land use, design, landscaping, and transitional buffers.
4.7	Identify areas to construct or expand natural trails and sidewalks for pedestrian traffic.

COMPREHENSIVE PLAN STRATEGIES ADDRESSED	
Strategy Number	Strategy Text
4.10	Support an expanded greenway trail network and ensure that the trail network connects to key public destinations such as parks, libraries, schools, and community centers, as well as to private developments and other trail systems, including regional trail networks.
5.16	Protect and connect to the surrounding environment by encouraging cluster developments and green infrastructure principles for new developments.
6.3	Implement green infrastructure principles to preserve and connect natural habitats to support native species and wildlife.
6.4	Support the use of low impact development and stormwater best management practices to reduce nonpoint source pollution in local waterways.
6.14	Carefully consider noise intensive uses near residential or rural properties, and require noise mitigation efforts such as perimeter buffers and sound barriers.
6.15	Adopt an outdoor lighting ordinance with design and performance standards that increase safety and protect dark skies, consistent with International Dark Sky Association recommendations.
7.10	Expand water access, trails, and bike infrastructure to promote outdoor recreation to encourage connection with the outdoors, encourage healthy recreation activities and enhance transportation options.

### **Next Steps:**

- Berkley Group will draft the 151 Corridor Overlay District and the Short-Term Rental standards for the October worksession. Any comments regarding these items are due to BG by September 8.
- Berkley Group will make revisions to the Articles as requested by the County throughout the first five work sessions and compile the draft ordinance for the final worksession (TBA).
- The full ordinance will be reviewed and discussed at the final worksession.
- Set dates for upcoming meetings, open house, and public hearings.

Nelson County  
Zoning & Subdivision Update  
Project Timeline & Meeting Schedule – Updated 8/1/2025

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																								

Nelson County  
Zoning & Subdivision Update  
Project Timeline & Meeting Schedule – Updated 8/1/2025



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 1	Public Engagement Summary Report Table of Contents Crosswalk	Berkley Group; County Staff; Planning Commission (PC); Board of Supervisors (BOS)
February 26, 2025	Joint Worksession 2	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 3	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)



Nelson County  
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Project Timeline & Meeting Schedule – Updated 8/1/2025



Date, Time, Location	Event	Topics/Notes	Attendees
June 25, 2025	Joint Worksession 4	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 5	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 6	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

# Article-8 Community Design Standards<sup>1</sup>

## Division 8-I General

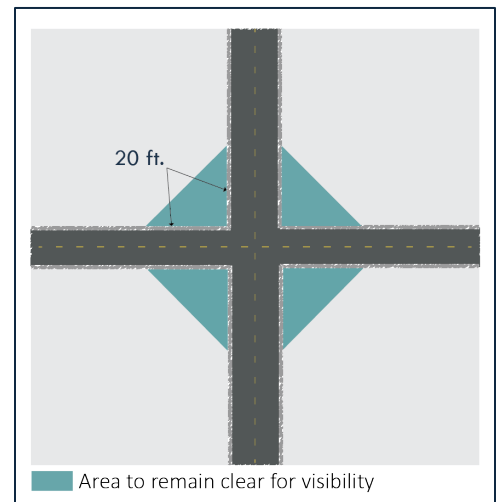
### Section 8-I-1 Purpose<sup>2</sup>

- A. The purpose of community design standards is to preserve community assets, help implement the vision of the Comprehensive Plan and other adopted policy documents, and to further enhance the character of development within Nelson County.
- B. Unless otherwise stated, the following standards shall apply to all development within the County and shall be in addition to district and use regulations found within the rest of this Ordinance.

### Section 8-I-2 Visibility Clearance<sup>3</sup>

- A. To prevent traffic hazards all signage, plantings, structures, or objects over three (3) ft. in height are prohibited within a sight triangle on any corner lot.
  - (1) The apex of the sight triangle will be at the intersection of the Virginia Department of Transportation (VDOT) or other designated right-of-way (ROW) lines (extended in the case of rounded corners), the sides being 20 ft. in length along the ROW lines, and the base of the triangle running through the lot, as shown in **Figure 8-1**.
  - (2) If topography prevents maintenance of this clearance, the Administrator, subject to final approval from VDOT, may permit reduced clearance.

Figure 8-1: Visibility Clearance



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<sup>1</sup> Editor's Note: Most of the Divisions and proposed text in this article are new except for parking and loading, and signs.

<sup>2</sup> Editor's Note: New provision that provides for the general purpose of community design standards.

<sup>3</sup> Editor's Note: New provision that prohibits the placement of large community design elements (landscaping, signs, etc.) in areas that may cause hazardous traffic conditions.

- (3) The approved clearance will be the maximum allowed to reasonably maintain and ensure the safety of road users.

## Division 8-2 Lighting<sup>4</sup>

### Section 8-2-1 Purpose

The purpose of these regulations is to preserve dark skies, protect the public welfare through controlling light spillover on adjacent residential properties, and protect public safety by preventing glare and distraction from outdoor lighting.

### Section 8-2-2 Applicability

- A. **General.** Unless exempted by **B. Exemptions**, below, the standards of this Division will apply to:
  - (1) All new development in the County; and
  - (2) To the maximum extent practicable, redevelopment of an existing structure, building, parking lot, or use for:
    - (a) The expansion, enlargement, or modification of the building's gross floor area (GFA) by 50% or more; or
    - (b) The alteration, reconstruction, or expansion by 50% or more of the total exterior impervious surface on-site.
- B. **Exemptions.** The following are exempted from the lighting standards of this Division:
  - (1) Lighting exempt under State or Federal law;
  - (2) FAA-mandated lighting associated with a utility tower or airport;
  - (3) Construction lighting, provided the lighting is temporary and discontinued upon completion of the construction activity each day;
  - (4) Agricultural lighting;
  - (5) Temporary lighting for special events, circuses, fairs, carnivals, outdoor theaters, and other performance areas, provided such lighting is turned off less than one (1) hour after the last event/performance of the day and discontinued upon completion of the final event/performance;

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<sup>4</sup> Editor's Note: This division is new and establishes lighting standards for all uses throughout the County that are compliant with the International Dark Sky Association recommendations.

- (6) Emergency, or holiday decorative or festive lighting, provided such lighting does not create unsafe glare on street rights-of-way; and provided that holiday or festive lighting is discontinued within 14 days upon completion of the holiday for which the lighting was provided.<sup>5</sup>
  - (7) Lighting for flags of the United States of America or the Commonwealth of Virginia, or any department, division, agency or instrumentality thereof, and other noncommercial flags expressing constitutionally protected speech;
  - (8) Security lighting, provided it is directed downward, does not glare onto adjacent property, and is controlled and activated by motion sensor devices for a duration of 15 minutes or less, unless it can be demonstrated otherwise that there is a need for constant security lighting;
  - (9) The replacement of a failed or damaged luminaire that is one of a matching group serving a common purpose installed prior to the adoption of this Division;
  - (10) Lighting for single-family residential development, duplexes, triplexes, or quadplexes. However, this exemption does not apply to residential street lights, community centers, or club houses and their accessory uses or parking facilities;
  - (11) Lighting within a public ROW or easement that is used principally for illuminating a roadway;
  - (12) Lighting for public monuments and statuary;
  - (13) Lighting required under the Uniform Statewide Building Code (USBC);
  - (14) Architectural lighting of 450 Lumens, 40 watts incandescent, or four (4) watts light emitting diode (LED), or less; and
  - (15) Field lighting for an outdoor athletic facility, provided such lighting is directed onto, and falls within, the primary playing area and is turned off at the end of the event.
- C. **Conformance with all Applicable Codes.** All exterior lighting must be installed in accordance with the provisions of this Ordinance, applicable Electrical and Energy Codes, and applicable sections of the USBC.

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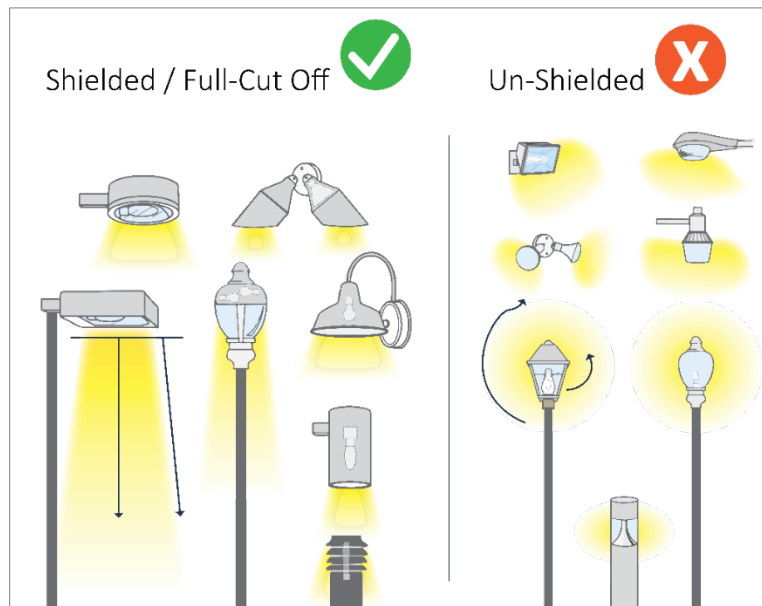
<sup>5</sup> Editor's Note: Nelson County should consider if they wish to include a timeframe for taking down these types of lights or if they just wish to provide a blanket exemption.

- D. **Time of Review.** Review for initial compliance with the standards of this Division will occur as part of the review of an application for a Site Plan, Planned Development, Zoning Permit, Special Use Permit (SUP), or Variance, as applicable.

### **Section 8-2-3 Standards**

- A. **Lighting Plan.** Where site lighting is required by this Division, or is proposed by an applicant, lighting plans must be submitted for County review and approval as part of Site Plans and Zoning Use Permits. The lighting plan must include:
- (1) **Site Layout.** A detailed layout showing all lot lines, structures, parking spaces, building entrances, traffic areas (vehicular and pedestrian), existing and proposed landscaping, and adjacent uses, including the zoning classification of adjacent properties;
  - (2) **Lighting Locations.** The placement of all proposed and existing light fixtures, including area, architectural, building entrance, canopy, soffit, landscape, flag, and sign lighting;
  - (3) **Isofootcandle Diagram.** A diagram showing fixture aiming angles and projected illumination levels down to 0.1 foot-candles. Diagram must extend to the property lines; and
  - (4) **Fixture Schedule and Specifications.** A schedule showing total quantity for each type of light fixture, and specification sheets showing (including but not limited to) fixture shielding, mounting height, pole design, lumen output, color temperature, and wattage.
- B. **Shielding.** Each exterior luminaire subject to this Article must be dark sky compliant with a full cutoff shield and aimed and controlled such that directed light is directed inward to the property and confined to the object intended to be illuminated. Directional control shields must be used to limit stray light and prevent glare to adjacent properties and public vehicular ROWs. **See Figure 8-2.**

**Figure 8-2: Shielded Lighting Examples**



- C. **Maximum Illumination Levels.** All lighting visible from outside, except for street lighting and pedestrian area lighting, must be designed and located so that the maximum illumination at any lot line abutting an agricultural district, residential district, dwelling, or any public ROW does not exceed 0.5 footcandles.
- D. **Hours of Illumination.** Public/civic/recreational uses, commercial uses, and industrial uses (as identified in [Article 6](#), Use Matrix) that are adjacent to existing residential development or residential zoning districts shall extinguish all exterior lighting, except lighting necessary for security or emergency purposes, within one (1) hour after closing and shall not turn on such lights until within one (1) hour of opening.
- (1) For the purposes of this subsection, lighting necessary for security or emergency purposes shall be construed to mean the minimum amount of exterior lighting necessary to illuminate possible points of entry or exit into a structure, to illuminate exterior walkways and parking areas, or to illuminate outdoor storage areas. Lighting activated by motion sensor devices is encouraged for these purposes.
- E. **Color Temperature.** All exterior lights must be 3,000 Kelvin light color temperature or less.
- F. **Uniformity.** Exterior luminaires must be of uniform style for each project site and conform to the design of the project.

- G. **Type.** Low-pressure sodium vapor (LPS), high-pressure sodium vapor (HPS), or light emitting diode (LED) lights will be the required type of site lighting.
- H. **Canopy Lighting.** Light fixtures under any fuel center canopy or other structural canopy must be recessed into the canopy ceiling with a flat lens to prevent glare.
- I. **Height.** Any pole-mounted lighting must not exceed a height of 30 ft. in industrial districts and 20 ft. in all other districts.
- J. **Window and Decorative Lighting.** Window and decorative lighting as defined in **Article 11**, Definitions, of this Ordinance:
  - (1) Must conform to **E**. Color Temperature, above.
  - (2) Must not flash, strobe, blink, or change color.

#### **Section 8-2-4 Prohibitions**

- A. The following are prohibited:
  - (1) Permanently mounted lighting consisting of neon or argon lighting, exposed tubing, rope lighting, or strings of lights outlining any door or window of a commercial, industrial, or mixed-use structure;
  - (2) Fixtures that imitate official highway or traffic control lights;
  - (3) Fixtures in the direct line of sight of or blocking a traffic control light; and
  - (4) Search lights, except those permitted in conjunction with a Temporary Use Permit or as necessary for public safety.

#### **Section 8-2-5 Modifications**

- A. Modifications of the lighting standards contained herein may be approved by the Administrator upon a determination that the lighting is necessary for nighttime safety, utility, security, productivity, and/or commerce and does not adversely impact pedestrians, traffic, or adjacent properties.
- B. Following a written request detailing the modification being requested and the reasoning for it, the Administrator may grant the modification if the applicant sufficiently proves that the lighting is necessary in accordance with Modifications **A**, above.

## Division 8-3 Landscaping and Screening

### Section 8-3-1 Purpose

- A. The purpose of this Division is to establish standards for landscaping, site design, site buffering, and screening. With the intent of preserving and promoting the health, safety, and general welfare of the County, this Division is intended to:
- (1) Preserve and enhance the aesthetic character and visual harmony of the County;
  - (2) Protect the quality of the County's natural rivers, streams, and wetlands;
  - (3) Enhance erosion control;
  - (4) Improve the relationship between adjacent properties through screening, buffering, and proper placement and design of landscaping and screening;
  - (5) Promote economic development in the County's commercial districts and main thoroughfares, and;
  - (6) Ensure the safety, security, and privacy of properties.

### Section 8-3-2 Applicability

- A. **General.** The requirements of this Division apply to new construction, developments, or redevelopments in all zoning districts requiring an approved Site Plan, SUP, or Zoning Permit as specified in **Article 3, Permits and Applications**, of this Ordinance.
- B. **Timing of Review.** Review for compliance with the standards of this Division will occur as part of the review of an application for a Site Plan, Planned Development, Zoning Permit, SUP, or Variance.

### Section 8-3-3 Landscape Plan Requirements

- A. **Landscape Plan Required.** A Landscape Plan is required for all new construction, developments, or redevelopments in all zoning districts requiring an approved Site Plan, SUP, or Zoning Use Permit as specified by this Ordinance. The Landscape Plan shall:
- (1) Be submitted with the required Site Plan.
  - (2) Be prepared and/or certified by a certified professional or firm qualified to create such a plan.



- (3) Cover the entire project area included in the overall Site Plan or development plan for which approval is sought.

**B. Landscape Plan Exemptions.** A landscape plan is not required to be submitted under the following conditions:

- (1) The clearing of trees on commercial forest land, provided that silvicultural activities are conducted pursuant to **Article 7, Use** Performance Standards, of this Ordinance;
- (2) Individual single-family dwellings, duplexes, triplexes, or quadplexes; and
- (3) The clearing of any tree which has become, or threatens to become, a danger to human life or property due to accidental or natural causes or other emergency.

**C. Landscape Plan Contents.** The landscape plan shall include:

- (1) Location, species, size, height, and number of proposed plantings;
- (2) Planting specifications or installation details with consideration of the appropriateness of plants and locations for the specific characteristics of the site and the purpose for installation;
- (3) Existing vegetation. Information about the general location, composition, and extent of existing vegetation (plants, trees, shrubs, etc.) to be retained during construction, as well as protection measures to be implemented during construction;
  - (a) The information shall include the successional stage of the vegetation, a list of the primary tree species, and a statement regarding the general age, health, and condition of the vegetation.
- (4) Location, size, and other related design details for all hardscape improvements, ground mounted signage, recreational improvements, and open space areas, fences, walls, barriers, and other related elements;
- (5) Designation of required setbacks, yards, and screening areas;
- (6) Location of other nonnatural site features, parking lots, overhead structures, and underground utilities to ensure that landscape materials will not be in conflict with the placement and operation of these improvements; and

- (7) A preference to design and plant materials which are<sup>6</sup> sustainable, biologically diverse, and tolerant of an urban environment with emphasis on trees and plants native to Virginia and the region.
- D. **Landscape Costs.** The cost of required landscaping shall be determined by an estimate prepared by a licensed landscape architect, engineer, or other licensed professional, and such estimate shall be provided at the expense of the developer.

### **Section 8-3-4 General Standards**

- A. **Existing trees and vegetation.** Existing trees and vegetation shall be preserved to the greatest extent possible.
  - (1) Existing, healthy trees and shrubs shall be credited toward any minimum landscaping required by this Division, provided they meet minimum size standards of **C. Tree Measurement Standards**, below, and are protected before and during construction and maintained thereafter in a healthy growing condition.
  - (2) Where existing vegetation is not adequate to achieve the required landscaping or screening, additional plants shall be installed to meet the objective, in accordance with the standards of this Division.
- B. **Tree and Plant Installation and Maintenance.**
  - (1) Any required landscaping and screening shall be installed prior to the issuance of a Certificate of Occupancy.
    - (a) When the planting of required landscaping conflicts with the planting season, a Certificate of Occupancy may be issued subject to approval by the Administrator that a sufficient surety is in place.
    - (b) The owner or developer shall provide a development agreement which sets a deadline by which the plantings will be installed to be approved by the Administrator.
  - (2) The owner of the property upon which the required landscaping or buffering is installed shall be responsible for maintenance and replacement.
  - (3) All plantings shall be maintained in perpetuity in such a way to ensure that the requirements of this Ordinance continue to be met.

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<sup>6</sup> Editor's Note: The County should consider if it wants to change this from a preference to a requirement.

- (a) Any dead or dying plants shall be removed within 30 days of notification by the Administrator. If notified during winter, such plants may be replaced by the property owner at the beginning of the next viable planting season.
- (4) Landscaping materials should be sustainable, biologically diverse, and tolerant of an urban environment with emphasis on trees and plants native to Virginia and the region.<sup>7</sup>
- (5) Plants shall be nursery grown and materials shall conform to the requirements described in the latest edition of American Standard for Nursery Stock Z-60.2, as published by the *AmericanHort* organization, as amended.
- (6) Landscaping should be on a scale commensurate with the dimensions of the property and buildings of the principal property as well as buildings on the adjacent parcels.
- (7) Plant materials shall be planted according to best practices.

**C. Tree Measurement Standards.**

- (1) **Diameter.** Tree calipers shall be used to measure tree diameter six (6) inches above grade. If the diameter is larger than four (4) inches then a second caliper measurement shall be taken 12 inches above grade.
- (2) All required landscaping materials shall conform to the standards provided in **Table 8 – 1:** Minimum Plant Measurements.

**Table 8-1: Minimum Plant Measurements**

PLANT TYPE	MINIMUM AT PLANTING	MINIMUM AT MATURITY
Deciduous trees	2-inch diameter; no height minimum	50 feet in height
Evergreen trees	6 feet in height	
Ornamental and understory trees	4 feet in height	20 feet in height
Shrubs	18-inch spread or height	3 feet spread or height

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<sup>7</sup> Editor’s Note: The County should consider if it wants to change this from “should” to “shall.”

### Section 8-3-5 Transitional Buffers

- A. **Intent.** Transitional buffers limit the view and reduce the noise between incompatible abutting uses to ease the transition from one district to another.
- B. **Applicability.** A transitional buffer shall be provided, in accordance with this Section, when:
  - (1) Any Zoning District abuts or adjoins a Zoning District of lower intensity;
  - (2) All new development, except as provided in (C), below;
  - (3) Major Subdivisions; and
  - (4) A proposed change of use that requires a Zoning Map Amendment (rezoning).
- C. **Exceptions.** A transitional buffer is not required:
  - (1) For any single-family dwelling, duplex, triplex, or quadplex not part of a larger development;
  - (2) Between uses, buildings, or lots developed under a common plan or operated under common management, except as required in **Section 8-3-7** Frontage Landscaping; or
  - (3) As exempt in **Table 8 – 2**: Transitional Buffer Standards.
- D. **Buffering Alternative.** The applicant may propose, and the Administrator may approve, a buffering alternative where a building, structure, or planting has been specifically designed to minimize adverse effects through a combination of natural land characteristics, architectural and landscaping techniques, and the Administrator determines the building, structure, or planting is consistent with the buffering and screening purposes of this Section. See **Table 8 – 4**: Transitional Buffer Alternatives.
- E. **Transitional Buffer Types Required.** **Table 8 – 2**: Transitional Buffer Standards, identifies the type of transitional buffer, if any, required between a district of proposed development and abutting districts. **Table 8 – 3**: Transitional Buffer Types, provides the minimum width and planting standards for each transitional buffer type.
  - (1) “Abutting” includes land closer to the proposed use than the required buffer width, even if they are separated by a narrow strip of land with different zoning districts.

- (2) Transitional buffers for planned developments will be determined as part of the rezoning process.

**F. Location and Design.**

- (1) Transitional buffers must be located along the boundaries of the abutting district, including those separated by any public road, as provided below, except where driveways or other openings are permitted.
- (2) Transitional buffers may be located within the required minimum front, side, or rear setbacks.
- (3) Type A and B buffers may be dispersed along the setback instead of planted in straight rows, to create a natural setting. However, the purpose and intent of this Division shall be met.
- (4) Type C shall be provided in a minimum of two staggered rows, with each row containing the plantings provided in **Table 8 – 3: Transitional Buffer Types**.
- (5) Development within a transitional buffer is limited to the following:
  - (a) Walls and fences, including retaining walls, in accordance with **Division 8-4** of this Article;
  - (b) Sidewalks, trails, and other pedestrian/bicycle paths that intersect the transitional buffer yard at or near a 90-degree angle;
  - (c) Areas of ingress and egress, fire hydrants, utilities, and other public infrastructure; and
  - (d) Flag poles and permitted signs.
- (6) Development within a transitional buffer must not reduce required Parking Lot Landscaping.

**G. Specific Standards.**

- (1) Buffering shall be continuous and in place at the time of occupancy. If vehicular or pedestrian access through the buffer is necessary, the screening function shall be preserved.
- (2) Architectural screening (fences, berms, etc.) may be supplemented with plantings and shall be at least six (6) feet in height and shall be subject to the provisions of **Section 8-1-2, Visibility Clearance**.

- (3) Screening design and development shall meet the requirements shown in **Table 8 – 3**: Transitional Buffer Types.
- (4) Vegetative material shall be maintained consistently to be alive and in good health.
- (5) Vegetation shall be planted according to **Table 8 – 1**: Minimum Plant Measurements.
- (6) Vegetative material shall be maintained in good condition and allowed to grow at least six (6) feet in height.
- (7) The transitional buffer shall be measured from the Zoning District line to produce a transitional buffer type and minimum depth in accordance with **Table 8 – 2**: Transitional Buffer Standards and **Table 8 – 3**: Transitional Buffer Types.
- (8) Between abutting zoning districts the transitional buffer shall be provided on the higher intensity zoned property.

**Table 8-2: Transitional Buffer Standards**

District of Proposed Development	Abutting District				
	C1, A-1	R-1, VO, CO151	R-2, R-3, CO29	B-1, B-2, SE-1	M-1, M2
C1, A-1	n/a				
R-1, VO, CO151	Type A	n/a			
R-2, R-3, CO29	Type B	Type A	n/a		
B-1, B-2, SE-1	Type B		Type B	n/a	
M-1, M2	Type C			Type B	n/a
n/a = transitional buffer not required					

**Table 8-3: Transitional Buffer Types**

Transitional Buffer Type	Minimum Buffer Width (in feet)	Minimum Plantings		
		Number of Required Large Deciduous or Evergreen Trees (per 100 linear feet)*	Number of Required Ornamental or Understory Trees (per 100 linear feet)*	Required Shrubs (per 100 linear feet)*
<b>A</b>	10	3	1	6
<b>B</b>	20	3	3	8
<b>C</b>	50	8	6	10
* Where fractional numbers result, the required number of plantings shall be rounded up to the nearest whole number.				

**Table 8-4: Transitional Buffer Alternatives**

Buffer Alternative	Minimum Height of Buffering Alternative (feet)	Reduction <sup>2</sup> in Minimum Buffer Width (feet)	Reduction in Required Plantings (percentage)
Solid wall/fence <sup>1</sup>	6	10	25
Evergreen plantings in an unbroken strip (at maturity)	6 (planted) 50 (maturity)		50
Berm <sup>3</sup>	6 ft., with a maximum slope of 2:1	No decrease	25
<sup>1</sup> Walls and fences must comply with the standards in <a href="#">Division 8-4, Walls and Fences</a> of this Article. <sup>2</sup> The minimum width of a transitional buffer cannot be reduced below 10 feet. <sup>3</sup> Required plantings shall be located on the berm.			

## Section 8-3-6 Parking Lot Landscaping

### A. Applicability.

- (1) To provide shade, screen views, and mitigate stormwater runoff, all vehicle parking areas, of greater than ten (10)<sup>8</sup> parking spaces, shall include landscaping as required in this Section.

<sup>8</sup> Editor's Note: Nelson County should consider if ten parking spaces is enough to trigger and warrant the need for parking lot landscaping or if a different number is preferred.

- (2) Parking lot landscaping for all developed, vacant, and abandoned commercial, industrial, or planned development shall be continuously maintained by the owner according to the requirements contained in this Article.
  - (a) Grass areas shall be maintained in good condition with uniform grass coverage and free from rill or gully erosion.
  - (b) Any dead or dying plants shall be removed within 30 days of notification by the Administrator. If notified during winter, such plants may be replaced by the property owner during the next viable planting season.

**B. Exemptions.**

- (1) The landscape provisions of this Division shall not apply to off-street parking for individual single-family dwellings, duplexes, triplexes, quadplexes, or for parking garages or similar multi-level parking structures.
- (2) In the case of redevelopment proposals, parking lot landscape requirements do not apply to those proposals that are not required to add parking spaces beyond those that currently exist.

**C. Parking Lot Landscape Buffers.**

- (1) Where a parking lot (or a private driveway providing access to a parking lot or building entry) abuts a residential district or a public ROW, a landscaping strip of at least ten (10) feet in width shall be located between the parking lot and the abutting property line.
- (2) A minimum of one (1) deciduous shade tree for each 50 feet of contiguous property line shall be planted in the landscape strip; however, this should not be construed as requiring the planting of trees on 50 foot centers.
- (3) A minimum of three (3) shrubs for each 50 feet of contiguous property line shall be planted in the landscape strip.
- (4) The landscape strip may include a sidewalk, trail, fence, or wall. The remainder of the landscape strip must contain groundcover, turf, trees, or shrubs, or be mulched.
- (5) The landscape strip shall maintain visibility clearance in accordance with **Section 8-1-2.**

**D. Parking Lot Landscape Islands.**

- (1) Landscape islands shall be provided in the interior of parking lots when:



- (a) The total size of the parking lot exceeds 30<sup>9</sup> total parking spaces; or
  - (b) Parking lot layout incorporates three (3) or more double-loaded or single-loaded parking bays which are contiguous and parallel to each other.
- (2) Landscape islands minimum standards:
  - (a) Landscape islands shall be at least eight percent (8%)<sup>10</sup> of the parking lot area.
  - (b) A minimum of one (1) tree shall be provided for each five (5) spaces of required parking. The remaining area of the island(s) shall be landscaped with shrubs, ground cover, lawn, or additional trees.<sup>11</sup>
  - (c) Landscape islands shall be at least 100 square feet in area with sides measuring at least five (5) feet in length.<sup>12</sup>
  - (d) Planting islands shall have a minimum width of eight (8) feet to allow for bumper overhang and shall otherwise provide adequate width for the growth and maintenance of landscape materials.
  - (e) Landscape islands shall maintain visibility clearance in accordance with **Section 8-1-2**.
  - (f) Landscape islands shall be dispersed throughout the parking lot.

### **Section 8-3-7 Frontage Landscaping**

A. **Applicability.** The standards of this Section shall apply to:

- (1) All new development within the CO151 or CO29 Overlay Districts, except as provided in (B), below.

B. **Exemptions.**

- (1) When the frontage is adjacent to a more intense zoning district the standards of **Section 8-3-5**, Transitional Buffers shall apply.

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<sup>9</sup> Editor's Note: Nelson County should review this figure and determine if this number of required parking spaces is sufficient to require parking lot landscape islands.

<sup>10</sup> Editor's Note: This figure has been carried over from the existing provisions in the Ordinance but should be reviewed to ensure it is still appropriate or if more is desired.

<sup>11</sup> Editor's Note: This provision is recommended to replace the current standards of one tree for every two hundred square feet per island and three shrubs with a minimum height of two feet for each tree.

<sup>12</sup> Editor's Note: This provision has been maintained from the current Ordinance.

- (2) Any single-family dwelling, duplex, triplex, or quadplex not part of a larger development.

**C. Frontage Landscaping Location and Design.**

- (1) **CO151.** In the Route 151 Corridor Overlay District, adjacent to any public ROW the following is required:
  - (a) A minimum of three (3) large native deciduous or evergreen trees per 100 linear feet, and
    - i. Each tree shall be a minimum of six (6) feet in height at planting.
  - (b) A minimum of six (6) native shrubs per 100 linear feet.
    - i. Each shrub shall be a minimum of three (3) feet in height at planting.
- (2) **CO29.** In the Route 29 Corridor Overlay District, one of the following is required, at a minimum, adjacent to any public right-of-way:
  - (a) Two (2) large native deciduous or evergreen trees per 100 linear feet;
    - i. Each tree shall be a minimum of six (6) feet in height at planting;
  - (b) Six (6) native shrubs per 100 linear feet;
    - i. Each shrub shall be a minimum of three (3) feet in height at planting.
  - (c) A wall or fence compliant with **Division 8-4** of this Article; or
  - (d) A planted berm of between four (4) and six (6) feet in height.

**Section 8-3-8 Screening and Enclosures**

- A. Except on lots where the principal use is a single- or two-unit dwelling or manufactured home, the following objects and areas shall be located to the side or rear of the principal structure, and shall be screened from public view at ground level, both on and off the premises, in accordance with this Section:
  - (1) Large waste receptacles (dumpsters) and refuse and recycling collection points (including containers);
  - (2) Loading and service areas;
  - (3) Outdoor storage areas;
  - (4) Utility and mechanical equipment such as generators, HVAC units, utility meters, junction and accessory boxes, and transformers;

- (5) Stormwater management facilities; and
  - (6) All other uses or elements where screening is required as identified in **Article 7**, Use Standards, of this Ordinance.
- B. Screening/enclosures shall be comprised singularly, or of a combination of:
- (1) A solid masonry wall or opaque fence, in accordance with **Division 8-4** of this Article;
  - (2) A double, unbroken row of evergreens that, at maturity, blocks visibility of the object being screened; or
  - (3) A planted berm.
- C. All grease containers, recycling and trash containers, and other outside storage shall be secured within closed, gated enclosures when not in use.

### **Section 8-3-9 Modifications**

- A. Modifications to the layout and design standards contained herein may be approved through a waiver by the Administrator upon a determination that the following conditions exist:
- (1) The proposed layout and design provide landscaping which will have the same or increased screening impact, intensity, or variation throughout the year when viewed from adjacent properties or ROWs as that which would be required by strict interpretation of the standards contained in this Division.
  - (2) The proposed layout and design fully integrate and complement the existing trees to be preserved on the site.
  - (3) Any trees or shrubs installed or preserved on the site which exceed the minimum numerical requirements of this Division shall not be subject to the species mixture, locational, maintenance, or replacement requirements contained herein.

## **Division 8-4 Walls and Fences**

### **Section 8-4-1 Purpose**

The purpose of this Division is to provide standards to ensure that walls and/or fences used to provide buffering, privacy, separation, security, or for aesthetic reasons, will not create an unsightly or unsafe condition on or off the public or private property on which the fence or wall is proposed.

### **Section 8-4-2 Applicability**

- A. The provisions of this Division shall apply to all construction, reconstruction, or replacement of walls and/or fences in the Village Overlay, Route 151 Corridor Overlay, and Route 29 Corridor Overlay districts except:
- (1) Walls and/or fences required for the physical support of a principal or accessory structure;
  - (2) Walls and/or fences erected temporarily for construction sites or a similar purpose, provided that they comply with all relevant requirements of the Uniform Statewide Building Code and do not block sight distance;
  - (3) Landscaped berms without fences;
  - (4) Walls and/or fences necessary for soil erosion control;
  - (5) Walls and/or fences at government facilities;
  - (6) Customary fencing provided as part of a permitted tennis court, athletic field, and similar recreational facility will be exempt from the height standards; and
  - (7) Fences for tree protection (temporary and permanent).

### **Section 8-4-3 Location**

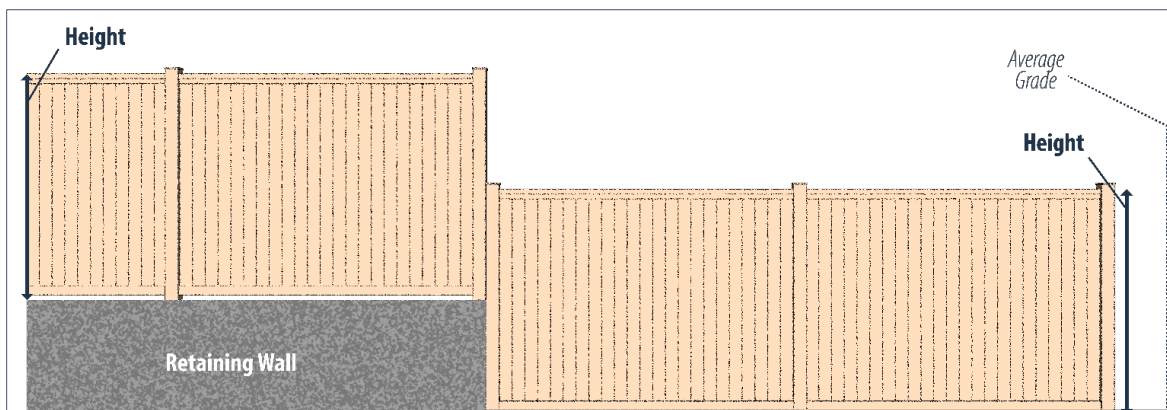
- A. Walls and/or fences shall not:
- (1) Be located within the public ROW;
  - (2) Be installed in a manner, or in a location, that blocks or diverts a natural drainage flow on to or off of any other property, unless the fence or wall is part of an approved stormwater management plan;
  - (3) Be constructed in a manner or in a location that impairs safety or sight lines for pedestrians and vehicles traveling on public ROWs; or
  - (4) Prevent immediate view of, or access to, fire hydrants or other fire-fighting water supply devices.
- B. Walls and/or fences may be located within any required setback or yard.
- C. Walls and/or fences located within an easement shall receive written authorization from the easement holder or the County (as appropriate).

- (1) The County shall not be responsible for damage to, or the repair or replacement of, fences that must be removed to access such easements or facilities.
- D. Walls and/or fences within required transitional buffers shall be installed so as not to disturb or damage existing vegetation or installed plant material.

### Section 8-4-4 Height

- A. **Maximum Height.** Walls and/or fences shall be permitted in accordance with the following standards:
  - (1) No wall and/or fence between a street and a front building line shall be more than four (4) feet in height, except rural districts may construct to a maximum of eight (8) feet to contain livestock.
  - (2) Corner lots with a fence shall comply with **Section 8-1-2**, Visibility Clearance of this Article.
  - (3) And not forgoing **8-4-4 A. (1)**, above:
    - (a) Walls and/or fences in any residential, commercial, or planned development district shall not exceed six (6) feet in height; and
    - (b) Walls and/or fences in any rural or industrial zoning district shall not exceed eight (8) feet in height above the existing grade.
- B. **Measuring Height.** Wall and/or fence height will be measured parallel along the side of the fence from the highest point above grade to where the grade is lowest but excluding the height of any retaining wall directly beneath the fence or wall. See Figure **8 - 3**.

Figure 8-3: Measuring Fence Height



### **Section 8-4-5 Materials and Maintenance**

- A. All wall and/or fence segments located along a single lot side must be composed of a uniform style, material, and color compatible with other parts of the wall and/or fence.
- B. Walls and/or fences made of debris, junk, rolled plastic, sheet metal, plywood, or waste materials are prohibited in all zoning districts, unless such materials have been recycled and reprocessed into new building materials that resemble the customary materials, such as wood, iron, brick, and masonry.
- C. The use of razor wire is prohibited except in the instance of a correctional facility or similar type of use.
- D. All walls and/or fences shall be maintained in good repair and in safe, attractive condition.
- E. The owner of the property on which walls and/or fences are located shall be responsible for maintenance including, but not limited to, the replacement of missing, decayed, or broken structural and decorative elements.

## **Division 8-5 Streets, Bikeways, and Sidewalks<sup>13</sup>**

### **Section 8-5-1 Purpose**

The purpose of this Division is to ensure adequate and safe pedestrian and vehicular improvements and connectivity for subdivisions and development. It provides uniform standards for development whether submitting a site plan or plat.

### **Section 8-5-2 Applicability**

Required improvements shall apply to all subdivisions and developments requiring submittal of site plans, unless granted a waiver if necessary to meet stormwater quality requirements on sites greater than one (1) acre.

### **Section 8-5-3 In General**

- A. Subject to all other applicable provisions of this section, the following street improvements shall be installed and provided by the developer and shall be dedicated to the County:

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<sup>13</sup> Editor's Note: Division 8-5 was added to help implement comprehensive plan strategies. The Division also includes existing text from section 4-6.

- (1) Cross drains and catch basins.
  - (2) Curbs and gutters.
  - (3) Street paving.
  - (4) Street name signs.
  - (5) Traffic signalization.
- B. **Right-of-Way Dedication.** When lots in a subdivision abut one side of any street within the VDOT system of secondary streets having less than 25 feet of ROW, measured from the centerline of the street to the subdivision property line, the developer shall dedicate to the Commonwealth of Virginia enough land to extend the ROW boundary to 25 feet measured from the centerline of the street. The developer shall not be responsible for any grading or surface treatment of the dedicated area.

#### **Section 8-5-4 Street Standards**

A. **Easements.**

- (1) The Administrator shall require utility easements of 20 feet minimum width on each side of the centerline of new streets, unless specifically exempted by the Administrator.
    - (a) Utility easements shall be laid out to ensure continuity for utilities from block to block and to adjacent properties.
    - (b) Utility easements shall be kept free of permanent structures and whenever possible shall be located adjacent to property lines.
    - (c) Nothing in this section is intended to prohibit the placement of public utilities within dedicated ROW.
  - (2) The Administrator may require that easements for drainage through adjoining property be provided by the developer.
- B. **Street Alignment.** Where practical, proposed streets shall align with platted or existing streets.
- C. **Street Angle.** The angle of intersection between streets shall be as close to a right angle (90 degrees) as possible, and in no case be less than 75 degrees, unless approved by the Administrator for specific reasons of contour, terrain, or matching of existing patterns.

- D. **Street Layout.** Streets in predominantly residential subdivisions shall be designed to discourage through traffic. Offset or jog streets shall not be permitted, unless approved by the Administrator for specific reasons of topography.
- E. **Reserved Strips.** Reserved or spite strips restricting access to streets or alleys shall not be permitted, and nothing herein shall prohibit areas of landscaping where adequate access is otherwise available.
- F. **Service Drives.** Whenever a proposed subdivision contains or is adjacent to a minor or principal arterial or a major collector road, provisions shall be made for a service drive approximately to serve the lots adjacent thereto. The area between the service drive and the arterial or collector road ROW shall be sufficient to provide for landscaping and screenings except where impractical by reason of topography.
- G. **Public Street Design.** For design standards not explicitly set forth herein, VDOT standards shall apply.
  - (1) Street grades shall not exceed ten percent (10%), nor be less than half percent (0.5%) except as expressly approved by the Administrator.
  - (2) Street intersections shall provide landings of not more than five percent (5%) grade for a distance of 100 feet.
- H. **Widening.** Whenever there are plans for the widening of any street or highway, approved by either VDOT or the Board of Supervisors, additional front yard setbacks may be required for any new construction, addition, or relocation of structures adjacent to the future planned ROW in order to preserve and protect the ROW for such proposed street or highway widening or planned improvement.
- I. **Alleys.** When new alleys are proposed for a subdivision, or when the improvement of existing alleys is proposed, the following standards shall apply:
  - (1) Frontage on an alley shall not be construed to satisfy any lot frontage requirements.
  - (2) Alleys shall be maintained and perpetuated by a duly constituted property owners' association and notations to this effect shall be clearly indicated on the face of the record plat.
  - (3) Alleys shall be designed to minimize the potential for through traffic.
  - (4) Alleys shall have a minimum paved or sealed surface width of ten (10) feet. New alleys shall have a minimum ROW width of 15 feet.



- (5) Alleys to serve single-family dwellings, duplexes, triplexes, or quadplexes shall have chip and seal surface. Alleys to serve developments of greater intensity than single-unit residential uses shall have an asphalt surface.
  - (6) Sight distances that comply with VDOT standards shall be provided at intersections with public streets. Alleys shall be built with a minimum pavement edge radius of 25 feet at their intersections with public streets.
  - (7) Alleys shall not dead end. Alleys shall end in an intersection with a public street, or in a cul-de-sac.
  - (8) Alley length shall not exceed 1,000 feet without an intersecting street.
- J. **Private Streets.** The following standards shall apply to any privately owned or maintained streets. Any street(s) that are not constructed for acceptance into the State Highway System shall be privately maintained and will not be eligible for acceptance unless improved to current VDOT standards, with funds other than those appropriated by the General Assembly and allocated by the Commonwealth Transportation Board.
- (1) Any lot fronting on a private street shall access said private street and shall have no immediate access to any public street.
  - (2) Any subdivided lot with access to a private street must contain a statement advising that such streets in the subdivision do not meet state standards and will not be maintained by VDOT or the County of Nelson on the subdivision plat and all deeds of conveyance of title of the subdivision lots.
    - (a) In addition, the developer shall record in the land records a document, which shall be referred to in the chain of title of each lot, addressing legally binding responsibilities for the parties who are responsible for construction, repair, and maintenance, including snow removal and all pertinent details of the private streets.
    - (b) The agreement shall be between the owner of the lot, the contract purchaser, and other parties, if pertinent to the purpose of the agreement.
  - (3) **Construction Standards for Private Streets.**<sup>14</sup>

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<sup>14</sup> Editor's Note: This content was taken from cluster development language in the existing ordinance. The County should consider requiring that private streets be constructed to VDOT standards in case of eventual adoption into the state highway system.

- (a) Private streets shall have a ROW width of 50 feet.
  - i. The average grade of gravel roads shall not exceed 15% and the maximum grade permitted on any section of an unpaved (not surface treated) private street shall be 20%.
  - ii. Drainage shall be accomplished in accordance with an approved plan submitted under the Nelson County Erosion and Sedimentation Control Ordinance.
  - iii. Culverts shall be constructed to VDOT standards.
  - iv. Bridges shall be designed by an engineer and meet the standards and specifications for their intended use.
- (b) **Class 1 Private Streets.** Private streets serving three (3) to 20 lots shall have a minimum width of 16 feet of surfaced roadway with shoulders constructed to VDOT standards. The road surface shall consist of a minimum of six (6) inches of compacted crushed aggregate.
  - i. Where lot size is greater than five (5) acres, road specifications shall conform to Class 1.
- (c) **Class 2 Private Streets.** Private streets serving 21 or more lots, any of which is five (5) acres or less, shall be built to VDOT's Standard Category I cross-section, and shall consist of a minimum width of 18 feet of surfaced roadway with shoulders constructed to VDOT standards on both sides of the roadway. The road surface shall consist of a minimum of CBR 10 subgrade with six (6) inches of compacted aggregate #21 or #21A with prime and double seal surface treatment.

K. **Street Names.** All streets within a proposed subdivision shall be named.

- (1) Streets that align with existing and named streets shall bear the names of the existing streets.
- (2) In no case shall a street name be used more than once within a proposed subdivision, nor duplicate the name of an existing street (irrespective of the use of the suffix street, avenue, boulevard, drive, way, place, lane, or court).
- (3) Street names must be approved by the Administrator, and shall comply with any other required County, State, or Federal provisions.
- (4) Names of existing streets shall not be changed except by approval of the Administrator.

**L. Driveways.**

- (1) A maximum of two (2) driveway entrances per lot is permitted for all single-family dwellings, duplexes, triplexes, and quadplexes.
  - (a) The curb cut shall be a minimum of 12 feet in width and a maximum of 20 feet in width at the ROW line.
  - (b) Curb cuts on the same lot shall be separated by a minimum of 40 feet, measured from centerline to centerline.
- (2) All commercial entrances constructed from a new or existing street or road shall be in accordance with the "Minimum Standards of Entrances to State Highways" of the VDOT, as amended, incorporated by reference except as these may be varied by this section.
- (3) Entrance to Public Road. Any entrance from a subdivision street onto a public street or onto a street which the developer/subdivider plans to dedicate for public use, shall be constructed in accordance with Virginia Department of Transportation (VDOT) standards.
- (4) On local and collector streets, driveways shall be no closer than 40 feet to an intersection with a public street.
- (5) On arterial streets, driveways shall be no closer than 75 feet to an intersection with a public street. This dimension may be reduced by the Administrator or Planning Commission when:
  - (a) A lot does not have access to collector or local streets; and
  - (b) When topography, sight distance, or other similar considerations make the 75-foot dimension infeasible.
- (6) Residential Entrance to Public Road. Whenever a proposed subdivision has three (3) or more lots adjacent to a public road, except for a minor or principal arterial or a major collector road, the approving Administrator and/or Planning Commission may require a shared driveway between the lots instead of each lot having its own separate entrance.

### **Section 8-5-5 Bicycle and Sidewalk Standards**

- A. **Bicycle lanes.** Bicycle lanes shall be constructed along all collector and arterial streets within subdivisions, unless an off-road bikeway, shared use path, multiuse trail, or sidewalk is provided as an alternative and dedicated to the County as provided in C. (1) sidewalks and walkways, below. The bicycle lane width and intersection configuration shall meet current VDOT standards.
- B. **Bikeways, shared use paths, or multiuse trails.**
- (1) Where a proposed subdivision fronts on a street or includes an area which is designated as a potential bikeway in the Comprehensive Plan, the developer may construct a bikeway to County standards and dedicate the bikeway ROW to the County for use as a public ROW.<sup>15</sup>
  - (2) Location of bikeways. The location of the bikeway route shall be determined by the Administrator in consultation with the developer and appropriate departments of the County. Placement of the bikeway route shall take into consideration the topography of the route, visibility, safe grades, and accessibility for recreational use.
  - (3) Access to future bikeway ROWs. The Administrator or Planning Commission may require the reservation and development of ROWs for additional bikeways in new subdivisions that will connect to routes shown in the Comprehensive Plan or bikeways plan.
  - (4) Bikeways construction and design standards.
    - (a) Bikeways shall be constructed of a minimum pavement section of four inches (4") 21B aggregate and 1 ½" SM2A asphalt.
    - (b) Bikeways shall be designed to minimize segments of trail where the slope exceeds eight percent (8%), to allow for handicap access. Where the slope exceeds eight percent (8%), pull-offs are required every 100 feet and a profile of the bikeway shall be submitted.

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<sup>15</sup> Editor's Note: The County should consider if it wants to change this to a requirement (the developer shall construct) in keeping with comprehensive plan strategy 4.10.

- (c) Culvert crossings shall be provided where the bikeway crosses an existing or proposed drainageway so as to eliminate flow across the trail. The Administrator may waive this requirement where the flow across the trail is deemed insignificant, for example, less than one (1) cubic foot per second.
  - (d) Minimum pavement width for bikeways is eight (8) feet with one (1) foot of clear shoulder on each side, except for any bikeway that is designated as an "arterial" the minimum paved width shall be ten (10) feet.
  - (e) Landings at road crossings shall be not more than two percent (2%) grade for a distance of 15 feet measured from the edge of the street pavement.
  - (f) Where the bikeway meets the curb, a handicap ramp shall be provided and approved by VDOT.
  - (g) A minimum four-foot grass strip separation shall be maintained between the back of the curb and the asphalt bikeway. Where there is no curb between the asphalt walkway and the street, the bikeway shall be placed beyond the road shoulder and roadside ditch. Minimum separation in this case shall be as approved by the Administrator or Planning Commission.
- C. **Sidewalks and walkways.** When new sidewalks are proposed in a site plan, or when the improvement of existing sidewalk is proposed, and when any new development or redevelopment in the Village Overlay, Route 151 Corridor Overlay, or High-Density Residential district is occurring the following standards shall apply:
- (1) Dedication of sidewalks. If the planned sidewalk is not currently within the County ROW, the owner shall dedicate fee simple title to the County for the area from the sidewalk to the ROW.
  - (2) Sidewalks shall be provided by the developer on all boundaries adjacent to the public ROW.
  - (3) Sidewalks shall be placed for eventual connectivity with future sidewalks in the vicinity of the site.
  - (4) Sidewalks shall be constructed of concrete and shall be a minimum of five (5) feet in width. A minimum two-foot planting strip is required between the curb and sidewalk for pedestrian/vehicle separation and to provide for mailbox and utility service placement.
  - (5) Sidewalk materials and specifications shall meet current VDOT standards.

## Division 8-6 Parking and Loading<sup>16</sup>

### Section 8-6-1 Purpose and Intent

- A. The purpose of this Division is to ensure efficient traffic flow and to reduce hazards to public safety by establishing standards for off-street parking and off-street loading areas. This Division is intended to:
- (1) Ensure adequate parking is designed and constructed during the erection of all new structures and the modifications to existing structures;
  - (2) Provide safe and convenient traffic flow and add to the beautification of the County;
  - (3) Provide for adequate but not excessive off-street parking and loading while accommodating alternative parking solutions for permanent, temporary, and seasonal demands;
  - (4) Minimize the environmental impact of parking by avoiding excessive paved surface areas, applying appropriate minimum parking requirements, and encouraging the use of pervious parking surfacing; and
  - (5) Support walking and bicycling in appropriate locations through the provision of bicycle parking.

### Section 8-6-2 Applicability

- A. The following are subject to the requirements of this Division:
- (1) Any new structure or use due to development or redevelopment;
  - (2) Any use when changed to a different use that has a higher minimum required parking ratio as provided in **Table 8-6: Minimum Off-street Parking Requirements**;
  - (3) Any new construction which increases the existing floor area by more than ten (10%) percent; and
  - (4) Upon any change to required parking for existing structures that is inconsistent with applicable zoning requirements.

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<sup>16</sup> Editor's Note: Unless otherwise stated, the provisions in this Division are being proposed as new.

### **Section 8-6-3 General**

- A. Off-street parking and loading must be provided in all zoning districts in accordance with the requirements of this Division.
- B. For the purposes of this Division, off-street parking will mean an improved surface not located in a street or alley.
- C. Parking must be provided at the time of erection of any building or structure, not less than the amount of parking space(s) given in **Section 8-6-10**, Schedule of Required Spaces, below.
- D. Parking space(s) must be maintained and shall not be encroached upon unless in conformance with **Section 8-6-5**, and **Section 8-6-6**, below.
- E. Loading space(s), as required in **Section 8-6-14**, below, will not be construed as supplying off-street parking.
- F. Walking distances must be demonstrated with existing or planned sidewalks and/or multiuse paths that create a walkable route.

### **Section 8-6-4 Exemptions<sup>17</sup>**

- A. The following shall be exempt from the requirements of this Division:
  - (1) Area 1 – Thomas Nelson Highway (Route 29): All property located east of the north lane of Thomas Nelson Highway (Route 29) between:
    - (a) The intersection of Front Street and Thomas Nelson Highway (south Lovington);
    - (b) A point approximately 675 feet north of the intersection of Thomas Nelson Highway and Northside Lane (north Lovington); and
    - (c) Extending east to the intersection of Front Street and Orchard Street to a line 150 feet east and parallel to Front Street.
  - (2) Area 2 – Main Street: All the property located on the north and south sides of Main Street between Front and Court Street for a depth of 150 feet on each side street of this section of Main Street.
- B. Condition of exempt area.

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<sup>17</sup> Editor's Note: This section includes provisions that have been retained from section 12-7-3 and 12-7-4 of the existing Ordinance.

- (1) Any new construction in the exempt area which replaces the existing floor area or increases the existing floor area by less than ten percent (10%) shall be exempt from the requirements of this section.
- (2) Any addition to the exempt area which increases the existing floor area by more than ten percent (10%) shall be required to provide one (1) service space and at least one (1) handicapped space unless waived by the Administrator due to site space limitations or needs. Any appeal from such a determination shall be in accordance with Article 3, Permits and Applications.
- (3) Any new construction on a parcel of land in the exempt area that was undeveloped at the time of adoption of this Ordinance, shall be required to provide one (1) service space and at least one (1) handicapped space.

#### **Section 8-6-5 Obligations of Owner**

- A. The requirements for off-street parking space(s) and off-street loading space(s) will be a continuing obligation of the owner of the real estate on which any structure or use is located, and the use requiring off-street parking or loading facilities continues.
- B. It shall be unlawful for the owner of any structure or use affected by this Division to discontinue, change, dispense with, or cause the discontinuance or change of the required off-street parking or loading space, apart from the alternate off-street parking or loading space which meets with the requirements of, and complies with, this Division.
- C. It shall be unlawful for any firm or corporation to use such structure without acquiring such land or other suitable land for off-street parking or loading space(s) which meets the requirements of, and complies with, this Division.

#### **Section 8-6-6 Location to Use**

- A. All required off-street parking spaces must be located on the same lot with the building or principal use served, except that:
  - (1) An off-site parking lot may be approved by the Administrator in accordance with Article 3, Permits and Applications, of this Ordinance, provided it is:
    - (a) Located and maintained not to exceed 500 ft. walking distance from the building entrance for the use intended;
    - (b) Located on land in the same ownership as the principal building or use;



- (c) Be established by a recorded covenant or agreement as parking space(s) to be used in conjunction with the principal building or use and must be reserved as such through an encumbrance on the title of the property; and
- (d) Have an existing sidewalk or improved pathway and a permanent access easement that connects the parking to the use.

### **Section 8-6-7 Joint/Shared Parking**

- A. **Joint Use of Parking Spaces.** Required parking spaces can be used jointly by two (2) or more buildings, uses, or establishments, as provided below:
  - (1) The shared parking space(s) may be used to meet no more than 75% of the off-street parking requirement.
  - (2) The shared parking space(s) must be for those uses that the normal periods of peak use are different from the shared use.
  - (3) The use(s) for which parking is being shared shall be within 500 feet to be measured along sidewalks or improved permanent access easements.
  - (4) All accessible parking spaces required in accordance with the Federal Americans with Disabilities Act must be located on-site and cannot be shared.
- B. **Different Peak Demand.** In the case of mixed or joint uses of a building or premises having different peak parking demands, the parking spaces required may be reduced up to 50% if approved by the Administrator, in conjunction with Site Plan approval.
  - (1) In such instances, the applicants shall demonstrate that the periods of peak use are separated sufficiently, and shared parking spaces are available to all uses sharing them, to not cause a parking demand problem.
- C. **Same Peak Demand.** In the case of joint use of a building or premises by more than one (1) use having the same peak parking demand, the parking spaces required shall equal the sum of the requirements of the various uses computed separately.
- D. **Bicycle Parking.** Bicycle parking may be provided for credit toward the minimum required vehicle spaces.
  - (1) Where bicycle facilities are provided on-site, the number of required off-street parking spaces may be reduced by ten percent (10%) for every five (5) bicycle parking facilities.

- (2) All bicycle parking areas must adhere to the requirements of **Section 8-6-11**, below.

E. **Ownership.** Parking location must be owned or under legal control of the same property where the building or use served is located. Should ownership be different, a shared parking agreement must be executed by all involved parties establishing the shared parking spaces.

- (1) Shared parking will continue for as long as the agreement remains in place.
- (2) Should the agreement expire or be terminated, parking must be provided as otherwise required by this Ordinance.

### **Section 8-6-8 Reduction or Increase in Parking**

- A. **Reduction in Required Spaces.** Off-street parking space(s) required under this Division may be reduced at a time when the capacity or use of a building is changed in such a manner that the new use or capacity would require less space than before the change.
- B. **Increase in Required Parking.** Whenever a building or use is changed or enlarged in floor area, number of employees, number of dwelling units, seating capacity or otherwise, to create a need under the requirements of this Division for an increase in parking spaces of ten percent (10%) or more, such additional spaces must be provided on a basis of the change or enlargement.

### **Section 8-6-9 Parking Design Standards**

- A. **Surfacing.**<sup>18</sup> Except where otherwise permitted, all parking areas containing ten (10) or more parking spaces must:
- (1) Be constructed and maintained with an improved surface as defined in **Article 11, Definitions, of this Ordinance**; and
  - (2) Be maintained in good condition at all times.
- B. **Alternative Parking Surfaces.** Parking areas containing less than ten (10) spaces may utilize alternative pervious and semi-pervious parking surfaces, such as grass, gravel, or gapped or open jointed pavers.
- (1) All alternative parking surfaces must:

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<sup>18</sup> Editor's Note: This subsection and the following are proposed to replace the existing section 12-7-8D.

- (a) Be maintained in good condition with uniform coverage and free from rill or gully erosion; and
  - (b) Have travelways appropriately marked to maintain egress.
- (2) Alternative parking surfaces must not:
  - (a) Be permitted for any parking area that includes drive-thru windows; or
  - (b) Include any existing or proposed landscaped area, stormwater management area, or easement.
- C. **Marking.**<sup>19</sup> Parking spaces must be marked by painted lines, curbs, individual bumper block, railroad tie, timber or other means to indicate individual spaces. Signs or markers must be used to ensure efficient traffic operation on the lot.
- D. **Parking Space Dimensions.**<sup>20</sup> All parking spaces, whether on-street or off-street, must be a minimum width of ten (10) ft. and a minimum length of 20 ft., with a minimum net area of 200 sq. ft., excluding area for egress and ingress and maneuvering vehicles.
- E. **Arrangement of Interior Aisles.**<sup>21</sup> All aisles within parking areas must have the following minimum widths:

**Table 8-5: Minimum Width of Parking Aisles**

Angle of Parking Spaces	Minimum Width of Aisle
Parallel/ 0°	12 ft.
45°	14 ft.
60°	18 ft.
90°	22 ft.

- F. **Handicap Accessible Parking.**<sup>22</sup>

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<sup>19</sup> Editor's Note: This section includes modified text from existing Section 12-7-8E.

<sup>20</sup> Editor's Note: This section is proposed to replace the existing standards of Section 12-7-8A, which requires a space size of 18x9 feet.

<sup>21</sup> Editor's Note: This section, and the table below, are proposed to replace the existing Section 12-7-8H.

<sup>22</sup> Editor's Note: This section includes modified text from Section 12-7-8B.

- (1) Parking spaces shall be provided and designated for use by the handicapped in accordance with the parking space accessibility requirements referenced in **Chapter 11** of the Uniform Statewide Building Code, Volume 1.
  - (2) These parking spaces will be included within the required amount of parking spaces, as provided in **Table 8-6**, below.
  - (3) Each accessible parking space must be identified by an above-grade sign conforming to the design and content specifications of the USBC and **Division 8-7, Signs**, of this Article.
- G. **Entrances and Exits.** The location and design of entrances and exits must meet the VDOT traffic safety and design requirements.
- H. **Drainage and Maintenance.** Parking lot and loading space drainage shall be designed to adequately drain parking spaces to eliminate standing water and prevent damage to abutting properties and/or public streets and alleys and comply with the requirements of the Nelson County Erosion and Sedimentation Control Ordinance.
- I. **Lighting**<sup>23</sup>. Adequate lighting shall be provided for all parking areas with ten (10) or more spaces in accordance with **Division 8-2, Lighting**, of this Article.
- (1) Lighting facilities must be arranged so that light is reflected away from adjacent properties and streets.
- J. **Screening.** Whenever a parking area is located in or adjacent to a residentially used or zoned property, it must be effectively screened in accordance with **Division 8-3, Landscaping and Screening**, of this Article.
- (1) However, areas requiring natural air circulation, unobstructed view, or other technical considerations necessary for proper operation, may submit an alternative screening plan to be approved by the Administrator.
- K. **Setback.**<sup>24</sup> Parking areas must meet the required setbacks for accessory uses in accordance with **Article 4, District Standards**, of this Ordinance. In addition:
- (1) No parking area shall be located closer than five (5) feet to any property line.

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<sup>23</sup> Editor's Note: Includes modified text from existing Section 12-7-8K.

<sup>24</sup> Editor's Note: This section includes retained and modified text from section 12-7-8G.

- L. **Emergency Access.**<sup>25</sup> To assure safe and convenient access for emergency vehicles, single-family dwellings, duplexes, triplexes, and quadplexes shall be served by a driveway which provides vehicular access to a distance within one hundred (100) feet of the dwelling unit.

### **Section 8-6-10 Schedule of Required Spaces**

- A. Except as otherwise provided in this Ordinance, when any building or structure is hereafter erected or structurally altered, or any building or structure hereafter erected is converted, off-street parking space(s) must be provided according to the requirements for individual uses in **Table 8-6**.
- B. Where fractional spaces result, the parking spaces required will be increased to the next highest whole number.
- C. Except as otherwise provided, the number of employees shall be compiled based on the maximum number of persons employed on the premises at one (1) time, on an average day or average night, whichever is greater. Seasonal variations in employment may be recognized in determining an average day.
- D. The parking requirements in this Division:
- (1) Are in addition to any other parking requirements contained in the district or use standards of this Ordinance;
  - (2) Are in addition to any space for storage of trucks, campers, recreational vehicles, or other similar vehicles used in connection with the use;
  - (3) Do not limit additional requirements that may be imposed for approval of a SUP; and
  - (4) A use not specifically listed in the table will be the same as for a listed use of similar characteristics of parking demand generation, as determined by the Administrator.
- E. In order to minimize the adverse impacts caused by large impervious surfaces, including increased stormwater run-off, urban heat island effects, and nonpoint source pollution, the total number of parking spaces serving a use may not exceed the minimum parking standards in **Table 8-6** by more than 20%, unless one of the following apply:<sup>26</sup>

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<sup>25</sup> Editor's Note: This section has been modified and retained from Section 12-7-9.

<sup>26</sup> Editor's Note: This provision is proposed as new text to limit the total number of parking spaces allowed with the goal of reducing large sections of unnecessary asphalt parking.

- (1) Any spaces in excess of 20% of the minimum number required are located in a structured parking facility; or
- (2) A Landscape Plan that provides additional pervious landscape surfaces and increases stormwater filtration has been reviewed and approved by the Administrator; or
- (3) The applicant for the project must apply and receive approval through a SUP.

**Table 8-6: Minimum Off-Street Parking Requirements**

Use(s)	Minimum Number of Required Spaces
<b>Agricultural Uses</b>	
Agritourism	1 per 150 sq. ft. of food or beverage preparation and consumption area, plus 1 per 800 sq. ft. GFA
Roadside Farm Stand	1 per 100 sq. ft. of sales and display area; 3 spaces minimum
<b>Residential Uses</b>	
Adult Day Care Center Family Home Day Care (5-12 children)	3, plus residential requirements
Bed and Breakfast	1 per guest room, plus 2 per DU
Dwelling, Single Family Dwelling, Duplex Dwelling, Manufactured Home Dwelling, Triplex Dwelling, Quadplex	2 per DU
Dwelling, Townhouse	2 per DU, plus 1 visitor space per unit
Dwelling, Multi-family	1-2 bedrooms: 1 per unit, plus 1 visitor space per 5 units 3+ bedrooms: 2 per unit, plus 1 visitor space per 5 units
Family Day Home (1-4 children)	1, plus residential requirements
Group Home Life Care Facility	1 per 4 residents, plus 1 per 2 employees

Use(s)	Minimum Number of Required Spaces
Public/Civic/Recreational Uses	
Club Community/Cultural Center	1 per 10 persons at maximum occupancy
Education Facility, Primary or Secondary (PreK-8)	1 per employee, plus 15 visitor spaces
Education Facility, Primary or Secondary (9-12)	1 per employee on largest shift, plus 15 visitor spaces, plus 1 per 30 full-time students
Education Facility, Business or Trade College or University	1 per employee on largest shift, plus 1 per 10 full-time students
Recreational Facility, Neighborhood Recreational Facility, Noncommercial	1 per 5 persons, based on the design capacity of the facility
Religious Assembly	1 per 4 fixed seats in main assembly area, <b>or</b> 1 per 200 sq. ft. of assembly floor space without fixed seating
Commercial Uses	
Alcohol Production and Sales	1 per 150 sq. ft. of food or beverage preparation and consumption area, plus 1 per 800 sq. ft. GFA
Automobile Sales and Rental	1 per 500 sq. ft. enclosed sales, rental, and service area
Car Wash Fuel Center	2 per bay, stall, rack, or pit, plus 1 per fuel pump; minimum 5 spaces
Day Care Center	1 per employee on largest shift, plus 1 per 12 children; plus an unobstructed pick-up space with a stacking area for 8 vehicles
Event Venue	10 per 1,000 sq. ft. GFA
Garden Center/Commercial Greenhouse	1 per 400 sq. ft. GFA
Kennel, Commercial Veterinary Hospital or Clinic	1 per 500 sq. ft. GFA
Hospital	1 per 3 patient beds
Hotel	1 per guest room or unit, plus 1 per employee on largest shift, plus required parking for any additional uses on site (restaurant, event venue, etc.)
Office, General	1 per 400 sq. ft. GFA

Use(s)	Minimum Number of Required Spaces
Office, Medical	1 per 400 sq. ft. GFA; 10 spaces minimum for a clinic
Recreation/Entertainment, Commercial Indoor	1 per 4 persons based on maximum occupancy, plus 1 per employee on largest shift
Recreation/Entertainment, Commercial Outdoor	<p><b>With fixed seating:</b> 1 per 4 seats, plus 1 per employee on largest shift</p> <p><b>Without fixed seating:</b> 1 per 300 sq. ft. GFA of enclosed buildings, plus 1 per 4 persons at maximum capacity</p>
Restaurant, General	1 per 150 sq. ft. GFA, including outside seating
Store, All Types	1 per 400 sq. ft. GFA
<b>Industrial Uses</b>	
Construction Yard; Data Center; Laboratory, Research, and Development; Manufacturing, Heavy; Manufacturing, Light; Manufacturing, Small Scale; Warehousing and Distribution;	1 per employee on largest shift

### Section 8-6-11 Bicycle Parking<sup>27</sup>

A. **When Required.** Bicycle parking will be required for the following:

- (1) Any commercial development within the CO151 Corridor Overlay District, requiring ten (10) or more vehicle parking spaces.

B. **Required Spaces.**

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<sup>27</sup> Editor's Note: This division is new and has been added to include standards and requirements for bicycle parking areas. Currently the Ordinance is proposing that bicycle parking be required for new commercial developments in the CO151 overlay district that would require at least 10 vehicle parking spaces. Nelson County should consider if this provision is desirable or if they wish to expand it to include more areas of the County, for example commercial areas in Lovingston.



- (1) Bicycle parking shall include two (2) spaces for the first ten (10) required off-street parking spaces, as shown in **Table 8-6**, above. Each additional ten (10) parking spaces shall require one (1) additional bicycle space.
- (2) The maximum number of bicycle parking spaces required shall be ten (10).

C. Standards.

- (1) A bicycle rack, bicycle loops, or other device must be installed to secure bicycles within the bicycle parking area.
- (2) Each rack must:
  - (a) Allow for the securing of the frame and at least one wheel of a bicycle in a bicycle parking space to the rack with an industry-standard U-shaped bike lock;
  - (b) Provide each bicycle parking space with support for a bicycle in a stable position with direct support to the bicycle frame;
  - (c) Be securely anchored to the ground or to a structural element of a building or structure; and
  - (d) Be constructed of materials designed to withstand cutting, severe weather, and permanent exposure to the elements, such as powder-coated steel or stainless steel.
- (3) Bicycle parking must be as close as practicable from the main entrance of the building it serves, unless the Administrator determines that another location is appropriate.
- (4) Lighting must be provided for bicycle parking spaces that are accessible after dark.
- (5) The location of the bicycle parking area, when fully occupied, must not obstruct any pedestrian way and a five (5) ft. wide pedestrian path must be maintained at all times.
- (6) A bicycle parking area may not be located in any minimum setbacks or within a required landscaping or transitional buffer.
- (7) Bicycle parking areas must be maintained free of inoperable bicycles (such as bicycles with flat tires or missing parts) and debris. Bicycle racks must be maintained in good repair and free of rust.

### **Section 8-6-12 Joint/Shared Off-Street Loading**

Required off-street loading spaces may be provided cooperatively for two (2) or more uses, subject to a private scheduling agreement between the two (2) parties that will assure the permanent availability of such spaces for each individual use. If the required number of off-street loading spaces is not the same for both uses, the use requiring the greater number of spaces will control.

### **Section 8-6-13 Off-Street Loading Design Standards**

- A. **Minimum Size.** For the purposes of this Division, a loading space must be at least 12 ft. wide, 30 ft. long, and have a 15-ft. vertical clearance.
- B. **Location.**
  - (1) All required off-street loading spaces must be located on the same lot as the principal use served; provided that the Administrator may waive such location requirement in those instances where the provisions of **Section 8-6-12**, above, are satisfied.
  - (2) No loading space or berth will be located in a required front yard.
- C. **Access.**
  - (1) All off-street loading spaces must be provided with safe and convenient access to a street.
    - (a) If any such space is located contiguous to a street, the street side must be curbed, and ingress and egress must be provided only through approved driveway openings.
    - (b) Loading spaces must not impede traffic circulation, including bicycle, pedestrian, and vehicular.
  - (2) Location and design of entrances and exits for off-street loading areas must be in accordance with VDOT traffic safety and design standards.
    - (a) Where the entrance or exit of a building is designed for truck loading and unloading, such an entrance or exit must be designed to provide at least one (1) off-street loading space.
    - (b) Where an off-street loading space is to be approached directly from a major thoroughfare, necessary maneuvering space must be provided on the lot without impeding the public ROW or any parking space or parking lot aisle.

- D. **Surfacing.** All off-street loading areas, including aisles and driveways, must be constructed and maintained with a dustless surface.
- E. **Screening.** Whenever an off-street loading area is located in or adjacent to a residential district or the primary Highway Corridor Overlay District HCOD, it must be effectively screened in accordance with **Division 8-3**, Landscaping and Screening, of this Article. However, areas requiring natural air circulation, unobstructed view, or other technical considerations necessary for proper operation, may submit a screening plan to be approved by the Administrator.
- F. **Setback.** No loading space shall be located closer than fifty (50) feet to an adjoining residential district unless enclosed within the building or by a wall or uniformly painted solid board fence at least eight (8) feet high.

#### **Section 8-6-14 Schedule of Required Off-Street Loading Spaces**

- A. Except as otherwise provided in this Ordinance, when any building or structure is hereafter erected, enlarged, or increased in capacity to the extent of increasing the floor area by 50% or more, or any building is hereafter converted, for the uses and floor areas listed below, accessory off-street loading spaces shall be provided as required in **Table 8 – 7**, Minimum Off-Street Loading Requirements, below.
- B. Space allocated to any off-street loading use shall not be used to satisfy the space requirements for any off-street parking area or portion thereof.
- C. The loading space requirements in this Division do not limit other loading requirements contained in the district or use standards of this Ordinance.
- D. The loading space requirements in this Division do not limit additional requirements that may be imposed in connection with uses permitted by approval of an SUP.

**Table 8-7: Minimum Off-Street Loading Requirements**

Use(s)	Floor Area (in sq. ft.)	Loading Space(s) Required
All commercial and Industrial Uses	0 – 4,999	0
	5,000 +	1 space, plus 1 space for each additional 20,000 sq. ft.

### **Section 8-6-15 Modifications**

The Administrator may reduce the total number of parking spaces required by this Division, provided that it has been conclusively demonstrated that circumstances, site design, or location do not warrant the number of spaces required and that such reduction will not adversely affect pedestrian or vehicular circulation on the site or on any abutting street.

## **Division 8-7 Signs**

### **Section 8-7-1 Purpose and Intent**

- A. The purpose of the following sign requirements is to promote and protect the public health, welfare, and safety by regulating existing and proposed outdoor advertising, and outdoor signs of all types in order to:
- (1) Protect property values;
  - (2) Create a more attractive economic and business climate;
  - (3) Enhance and protect the scenic and natural beauty of Nelson County;
  - (4) Reduce sign or advertising distraction and obstructions that may be caused by signs overhanging or projecting over public right-of-way;
  - (5) Provide more open space;
  - (6) Curb the deterioration of the natural environment; and
  - (7) Enhance community development.

### **Section 8-7-2 Administration**

A. **General.**

- (1) The regulations of this Division will apply to all new signs, replacement signs, and their modification(s) established after the effective date of this Ordinance.
- (2) Signs not expressly permitted by this Ordinance are prohibited.
- (3) Signs containing noncommercial speech are permitted anywhere that advertising or commercial signs are permitted, subject to the same regulations of such signs.
- (4) This Division will be interpreted in a manner consistent with the First Amendment guarantee of free speech.

### **Section 8-7-3 Prohibited<sup>28</sup>**

- A. The following types of signs are prohibited in all zoning districts, unless otherwise specifically permitted by this Ordinance:
- (1) Within 660 feet of nearest edge of the ROW of the Blue Ridge Parkway;
  - (2) Within 660 feet of any public cemetery, public park, public playground, national forest, and state forest;
  - (3) Signs on a roof surface or extending above the roofline of a structure, building, or parapet wall;
  - (4) Signs attached, painted, or mounted to unlicensed, inoperative, or generally stationary vehicles and/or trailers. Vehicles and/or trailers shall not be used primarily as static displays, advertising a business, product, or service;
  - (5) Any sign affixed to, hung, placed, or painted on any cliff, rock, tree, or other natural feature; public utility pole or structure supporting wire, cable, or pipe; or radio, television, or similar tower;
    - (a) This prohibition shall not affect official traffic, parking, or informational signs placed on utility poles by the County.
  - (6) Any sign or banner within or across a public ROW, unless specifically approved by the VDOT;
  - (7) Any sign that, due to its size, illumination, location, or height, obstructs the vision of motorists or pedestrians at any intersection, or similarly obstructs the vision of motorists entering a public right-of-way from private property or obscures traffic or safety signs;
  - (8) Signs simulating, or which are likely to be confused with, a traffic control sign or any other sign displayed by a public authority. Any such sign is subject to immediate removal and disposal by an authorized County official as a nuisance;
  - (9) Flashing or revolving lights or beacons intended to direct attention to a location, building, or service, or any device that imitates by its design or use emergency services vehicle or equipment;

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<sup>28</sup> Editor's Note: This list has been revised and updated in accordance with *Reed v. Gilbert* findings and Code of VA.

- (10) Any flashing sign or signs with intermittent lights or lights of changing degrees of intensity or color, or with non-shielded illumination within 200 ft. of a residential district, except those officially erected for safety purposes;
- (11) A sign or illumination that causes any glare into or upon any building or land other than the building and land to which the sign is accessory;
- (12) Signs which obstruct any window or door opening used as a means of egress, prevents free passage from one (1) part of a roof to any other part thereof, or interferes with an opening required for ventilation;
- (13) Any electrical sign that does not display the required UL, ETL, CSA, or ULC label.
- (14) Signs or sign structures that are erected on, or extend over, property without the expressed written permission of the property owner or the owner's Agent;
- (15) Permanent floating or stationary balloons;
- (16) Signs that emit sound, smoke, flame, scent, mist, aerosol, liquid, or gas;
- (17) Any sign representing or depicting illegal activity, or specified sexual activities and/or specified anatomical areas or sexually oriented goods;
- (18) Any sign containing information which states or implies that a property may be used for any purpose not permitted under the provisions of this Ordinance;
- (19) Off-site signs, unless specifically permitted by this Division; and
- (20) Any signs greater in size, quantity, or window coverage other than as provided for in the Sections below.

#### **Section 8-7-4 Exemptions<sup>29</sup>**

- A. The following signs are exempt from the provisions of this Division and may be displayed or constructed without a permit but shall be in accordance with all other provisions of this Ordinance and the structural and safety requirements of the USBC. An electrical permit shall be required for any sign requiring or incorporating electrical service.

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<sup>29</sup> Editor's Note: This list has been revised and updated in accordance with *Reed v. Gilbert* findings and Code of VA.

- (1) Signs erected by a governmental body or required by law, including but not limited to official traffic signs or sign structures, provisional warning signs or sign structures, and temporary signs indicating danger.
- (2) Flags up to 24 square feet in size.
  - (a) No freestanding pole will be permitted to be erected in the public ROW or within five (5) ft. of a service drive, travel lane, or adjoining street.
- (3) The changing of message content, including message content on a changeable sign if permitted in the district.
- (4) Signs affixed to the interior of a permanent fence of a recreational or sports facility.
- (5) Signs not visible from a public right-of-way.
- (6) Small signs.
  - (a) Two (2) minor signs per street frontage, each minor sign not to exceed three (3) sq. ft. in area.
  - (b) A minor sign is any wall or freestanding sign not exceeding three (3) sq. ft. in area, not exceeding four (4) ft. in height, and not illuminated. Examples include no trespassing signs, displays of building address, security warning signs, parking signs, entrance/exit signs, and on-site directional signs.
- (7) The repair of an existing permitted sign, provided that repairs of nonconforming signs comply with **Section 8-7-9**, below.
- (8) Temporary signs equal to or less than 32 sq. ft. in area, as follows:
  - (a) There will be no more than one (1) temporary sign per lot.
  - (b) Temporary signs must not be illuminated.
  - (c) Temporary signs shall be erected a maximum of 30 consecutive days, unless otherwise approved by the Administrator.
- (9) Pavement Markings, including any sign applied directly and entirely to and flush with an asphalt, concrete, or similar paved surface.
- (10) Permanent window signs, provided that the aggregate area of all window signs on each window or door does not exceed more than ten percent (10%) of the total area of the window or door.
- (11) Memorial plaques and building cornerstones not exceeding six (6) sq. ft. in area and cut or carved into a masonry surface or other noncombustible material and made an integral part of the building or structure.

- (12) Nameplates not exceeding two (2) sq. ft. in area to identify the owner or occupant of a dwelling or building, provided that:
    - (a) The nameplate is non-illuminated; and
    - (b) The nameplate must be securely attached to the building.
  - (13) A maximum of two (2) banner signs per lot, provided such signs do not exceed 60 sq. ft. in combined sign area.
  - (14) Legally required motor vehicle fuel price signs.
  - (15) Historical signs for historical attractions, provided a SUP is first obtained in accordance with **Article 3, Permits and Applications**, of this Ordinance.
  - (16) On-premises signs on active construction or renovation sites.
    - (a) One (1) sign identifying a construction site or project, located on the identified project site may be erected no more than five (5) days prior to the beginning of construction.
    - (b) No sign shall exceed 54 sq. ft. in area in commercial or industrial zoning districts, or 36 sq. ft. in agricultural or residential zoning districts.
    - (c) A setback of 15 ft. from any public right-of-way shall be required.
    - (d) All signs shall be removed from the project site prior to issuance of a Certificate of Occupancy for the project.
- B. Nothing in this Division will be construed to allow the placement of any sign:
- (1) Within the sight distance triangle of a public road as established in **Division 8-1**, above; or
  - (2) Above the height limits set forth below and calculated.

### **Section 8-7-5 Measurement and General Sign Standards**

#### **A. General.**

- (1) All signs, whether permanent or temporary, shall comply with the applicable requirements of the USBC.
- (2) In instances where there are multiple tenants or users on a property or in a building, allowable sign area for all parties must not exceed the maximum sign area computed as if there were a single tenant or user.

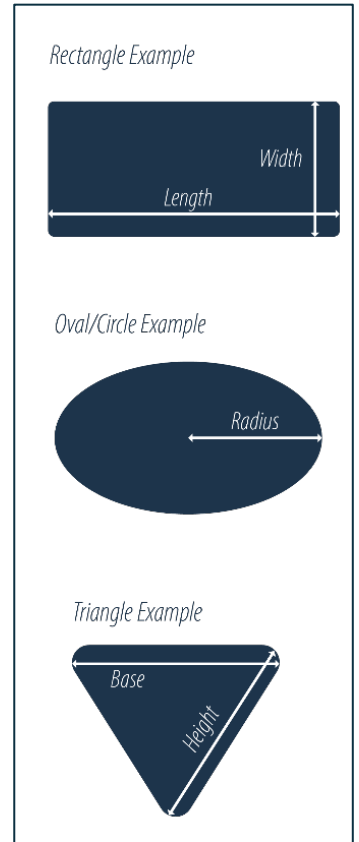


- (3) All signs under the jurisdiction of state and federal laws along interstate highway and federal-aid primary highway systems shall conform to said laws in lieu of any other sign regulations in this Ordinance.

**B. Sign Area.** Sign area is calculated under the following principles:

- (1) With signs that are regular polygons or circles, the area can be calculated by the mathematical formula for that polygon or circle. With signs that are not regular polygons or circles, the sign area is calculated using all that area within a maximum of three abutting or overlapping rectangles that enclose the sign face. **See Figure 8-4.**
- (a) Rectangle formula: sign area = length (L) x width (W)
- (b) Circle formula: sign area =  $\pi r^2$
- (c) Triangle formula: sign area =  $1/2 \times \text{base (B)} \times \text{height (H)}$
- (d) The surface area of any sign made up only of individual letters or figures shall include the space between such letters or figures.

**Figure 8-4: Sign Area Formulas**

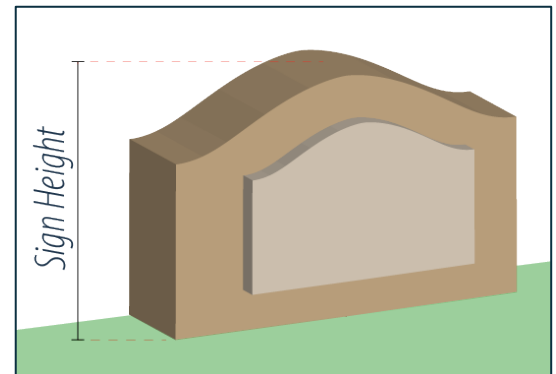


- (2) Whenever one sign contains information on both sides, sign area will be calculated based on the largest sign face. Faces are not totaled.
- (a) A double-faced sign must have an internal angle between its two faces of no more than 45 degrees.
- (3) Whenever one sign is multi-faceted (three-dimensional), sign area shall be calculated by adding together the area of all sign faces visible from any one point.
- (4) The supports, uprights, or structure on which any sign is supported will not be included in determining the sign area unless such supports, uprights, or structure area are designed in such a manner as to form an integral background of the display.

**C. Sign Height.**

- (1) The maximum height for signs will be as provided in Tables 8-12, 8-13, and 8-14 provided in Section 8-6-7, below.
- (2) The height of a sign will be computed as the distance from the base of the sign at average grade to the top of the highest attached component of the sign. See Figure 8-5.

Figure 8-5: Sign Height



### Section 8-7-6 Permitted Signs by District<sup>30</sup>

- A. The following standards, shown below in Tables 8-12, 8-13, and 8-14, show the maximum sign dimensions, per type of sign, permitted in each district for all uses, subject to all other requirements of this Ordinance.
  - (1) Signs requiring a permit within planned developments will be determined as part of the rezoning process.
- B. Sign area square footage limits are provided per sign, unless specified as a total.
  - (1) Total area is calculated as an aggregate of all signs of that type.
- C. Sign types provided in the tables of this Section are shown below in Figure 8-6 and further defined in Article 11, Definitions, of this Ordinance.
- D. For the purposes of Tables 8-8, 8-9, 8-10, and 8-11, the Residential Uses are listed in the Residential category in Article 6, Use Matrix, Table 6-1, and Non-Residential Uses shall be those listed in all other categories of Table 6-1.

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<sup>30</sup> Editor's Note: Sign sizes and quantities have been revised due to changes in sign types and reformatted into tables.

Figure 8-6: Examples of Sign Types



**Table 8-8: Sign Standards – Rural and Residential Districts**

Sign Type	Residential Uses			Non-Residential Uses		
	Number	Area (sq. ft.)	Height (ft.)	Number	Area (sq ft.)	Height (ft.)
Freestanding	1 per street frontage; 1 permitted for subdivision entrance	12 <sup>1</sup>	6	1 per street frontage	30	6
Wall	1 per street frontage	12	n/a	1 per street frontage	30	n/a
Canopy	n/a			1 per street frontage	1 sq. ft. per 3 LF of canopy fascia on which the sign is mounted	
<sup>1</sup> Subdivision monument signs may be a maximum of 32 sq. ft.						

**Table 8-9: Sign Standards – Commercial and Industrial Districts**

Sign Type	Number	Area (sq ft.)	Height (ft.)
Freestanding (1 business)	1 per street frontage	60	35
Freestanding (2+ businesses with shared access)	1 per street frontage, per access point	120	35
Projecting	1 per street frontage	16	Equal to the eave line, or the bottom of a second story windowsill, whichever is lower
Wall	1 per street frontage	1.5 sq. ft. for every 1 LF of building face occupied by the tenant; 200 sq. ft. maximum	n/a
Canopy	1 per street frontage	0.5 sq. ft. per LF of canopy fascia on which the sign is mounted	Shall not extend above, or be suspended below, the horizontal plane of the canopy fascia

**Table 8-10: Sign Standards – CO29 Overlay District**

Sign Type	Number	Area (sq ft.)	Height (ft.)
Freestanding (1 business)	1 per street frontage	30	6
Freestanding (2+ businesses with shared access)	1 per street frontage, per access point	60	12
Wall	1 per street frontage	1.5 sq. ft. for every 1 LF of building face occupied by the tenant; 200 sq. ft. maximum	n/a

**Table 8-11: Sign Standards – VO & CO151 Overlay District**

Sign Type	Number	Area (sq ft.)	Height (ft.)
Freestanding (1 business)	1 per street frontage	20	6
Freestanding (2+ businesses with shared access)	1 sign listing the tenants	40	8
Projecting	1 per street frontage	10	Equal to the eave line, or the bottom of a second story windowsill, whichever is lower
Wall	Unlimited	1.5 sq. ft. for every 1 LF of building face occupied by the tenant	n/a
Canopy	1 per street frontage	1 sq. ft. per LF of canopy fascia on which the sign is mounted	Shall not extend above, or be suspended below, the horizontal plane of the canopy fascia

### **Section 8-7-7 Special Sign Standards**

#### **A. Awnings.**

- (1) Awnings shall be treated as signs for permitting, maintenance, and repair purposes.

- (2) Awnings are permitted on the front or side of buildings.
  - (3) Awnings shall not project past the sidewalk or be placed on a building in such a manner as to constitute an obstruction or hazard to pedestrian or vehicular traffic.
  - (4) Awnings shall not obstruct lighting within the pedestrian way.
  - (5) Awnings shall be located above transom windows allowing a minimum of eight (8) feet clearance above the grade or the sidewalk.
  - (6) Awnings shall be constructed of high quality, weather resistant materials, and form and colors should complement the building architecture and that of adjacent buildings.
  - (7) Lettering or images painted on or attached as part of an awning cover shall be attached flat against the surface of the awning and shall not extend beyond the valance or be attached to the underside.
- B. Changeable Copy Signs.** Changeable copy signs include components to change the message either electronically or manually.
- (1) **Manually Changeable Signs.** Uses categorized as Public, Civic, and Recreational within **Article 6**, Use Matrix and properties within commercial or industrial districts shall be permitted to erect and maintain up to one (1) manually changeable signs not to exceed 30 sq. ft. for each sign.
  - (2) **Electronically Changeable Signs.** Within any commercial or industrial district, one (1) changeable sign per lot shall be permitted, subject to the following requirements:
    - (a) The changeable sign may be an existing or proposed freestanding, wall, or projected sign.
    - (b) The message shall not be changed more than once every ten (10) seconds, move, flash, or display animation, as prohibited in this Article.
  - (3) Any changeable message sign that malfunctions, fails, or ceases to operate in its usual or normal programmed manner, thereby causing motion, movement, flashing or any other similar effects, shall be repaired, covered, or disconnected by the owner or operator of such sign within 24 hours of Notice of Violation.

C. **Landmark signs.** The Administrator may grant exceptions to landmark signs, as defined, that are preserved and maintained, even if they no longer pertain to the present use of the premises.

D. **Projecting Signs.**

- (1) Signs projecting over public walkways, including doors and entryways, shall be a minimum height of eight (8) feet from average grade to the bottom of the sign.
  - (a) Projecting signs shall not extend more than four (4) feet beyond the face of the building or greater than two (2) feet from the curb line toward the building the sign is attached to.
- (2) Signs, architectural projections, or sign structures projecting over vehicular access areas shall have a minimum vertical clearance of 14 feet.

E. **Window Signs.**

- (1) Window signs, as defined by this Ordinance, shall be permitted at a maximum of ten percent (10%) of the window area, and in accordance with Sections 8-2-3 and 8-6-4 of this Article.
  - (a) No more than two (2) illuminated or lit window signs shall be allowed per establishment.

**Section 8-7-8 Nonconforming Signs**

- A. Any sign legally existing at the time of the effective date of this Ordinance that does not conform in use, location, height, or size with the regulations of the district in which such sign is located, shall be considered legally nonconforming and shall be permitted to continue in such status until such time as it is either abandoned or removed by its owner, subject to the following limitations:
- (1) A nonconforming sign shall not be enlarged, nor shall any feature of a nonconforming sign such as illumination, be increased.
  - (2) A nonconforming sign shall not be moved for any distance on the same lot or to any other lot unless:
    - (a) Such change in location will make the sign meet all current requirements of this Division; or
    - (b) Such change in location is to conform to required setbacks of this Ordinance.

- (3) A nonconforming sign that is destroyed or damaged by any casualty to an extent not exceeding 50% of its sign area, may be restored within two (2) years after such destruction or damage but shall not be enlarged in any manner.
  - (4) If such a sign is destroyed or damaged to an extent exceeding 50%, it shall not be reconstructed but may be replaced with a sign that meets all current requirements of this Division.
- B. Notwithstanding any contrary provision in this Ordinance, no nonconforming sign is required to be removed solely by the passage of time.

### **Section 8-7-9 Maintenance and Enforcement**

A. Maintenance, Repair, and Removal.

- (1) Every sign permitted by this Division shall be kept in good condition and repair. All signs shall be maintained, including the replacement of defective parts, painting, repainting, cleaning, and other acts required for the maintenance of such signs.
- (2) If a sign is in violation of the provisions of this Ordinance, the owner shall correct such violations and make the sign conform with the provisions of this Division, within ten (10) days of a Notice of Violation from the Administrator. Signs in violation may include:
  - (a) Any that becomes insecure, in danger of falling, or is otherwise deemed unsafe by the Administrator; or
  - (b) Any sign that is unlawfully installed, erected, or maintained in violation of any of the provisions of this Ordinance.
- (3) If within ten (10) days the Notice of Violation is not complied with, the Administrator shall be permitted to remove or cause such sign to be removed at the expense of the owner of the sign.
- (4) If a sign presents an imminent and immediate threat to life or property, then the Administrator may abate, raze, or remove it, and may bring an action against the responsible party to recover the necessary costs incurred for abating, razing, or removing the sign.



### **Section 8-7-10 Abandoned Signs**

- A. Except as otherwise provided in this Division, any sign that is located on a property which becomes vacant and is unoccupied for a period of three (3) months or more, or any sign which pertains to a time, event, or purpose which no longer applies, shall be deemed to have been abandoned.
  - (1) Business signs applicable to a business temporarily suspended because of a change of ownership or management shall not be deemed abandoned unless the property remains vacant for a period of 12 months or more.
- B. If the owner or lessee fails to remove such sign, the Administrator shall give the owner 30 days' written notice to remove it.
- C. Upon failure to comply with this notice, the Administrator may remove the sign at cost to the property owner.

# Article-10 Subdivisions

## Division 10-1 General<sup>1</sup>

### Section 10-1-1 Title & Purpose<sup>2</sup>

- A. This Article is a portion of the Zoning and Subdivision Ordinance of Nelson County, Virginia. It shall be permitted, for convenience, to be referred to as the “Subdivision Ordinance of Nelson County, Virginia,” “Subdivision Ordinance,” “Zoning & Subdivision Ordinance,” or “Ordinance.”
- B. The terms “developer” and “subdivider” are used synonymously in this Article and shall have the same meaning, as defined in this Ordinance.
- C. The purpose of this Ordinance is to establish standards and procedures for land subdivision and development in Nelson County, Virginia, in order to promote the orderly growth, public health, safety, convenience, comfort, prosperity, and general welfare of the community.

### Section 10-1-2 Recording of Ordinance

- A. Pursuant to the Code of Virginia §§ 15.2-2252 a certified copy of the adopted Zoning and Subdivision Ordinance of Nelson County, Virginia and any and all amendments thereto shall be filed in the office of the Subdivision Administrator (Administrator) and in the Clerk's Office of the Circuit Court of Nelson County, Virginia.

### Section 10-1-3 Amendments<sup>3</sup>

- A. Per the Code of Virginia, § 15.2-2251 and § 15.2-2253, this Article may be amended in whole or in part by the Board of Supervisors; provided:
  - (1) That any amendment shall either originate with, or be submitted to, the Planning Commission for recommendation;
  - (2) No such amendment shall be adopted without a public hearing having been held by the Board of Supervisors in accordance with the Code of Virginia § 15.2-2204; and

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<sup>1</sup> Editor’s Note: Unless otherwise stated, this Division includes new text and sections to establish the general procedures of subdivision in the County.

<sup>2</sup> Editor’s Note: Includes sections 1-1 and 1-2, reworded and modified for brevity and clarity.

<sup>3</sup> Editor’s Note: Includes section 9-1 with additional text for clarity.

- (3) In no instance shall an amendment be adopted by the Board of Supervisors without first seeking the recommendation of the Planning Commission. If no recommendation is made by the Planning Commission, the Board of Supervisors may take action 60 days from their inquiry.

#### **Section 10-1-4 Repeal<sup>4</sup>**

Upon the adoption of this Ordinance, any Subdivision Ordinance previously adopted by the Nelson County Board of Supervisors is hereby repealed.

#### **Section 10-1-5 Circumvention**

- A. Development of multiple adjoining Minor or Single Lot Subdivisions, over any amount of time, for the purpose of circumventing subdivision requirements, shall not be permitted.
- B. Development of multiple adjoining Major Subdivisions for the purpose of circumventing preliminary plat requirements, shall not be permitted.
- C. Creative lot layout, for the purpose of circumventing design requirements, shall not be permitted.

#### **Section 10-1-6 Exemptions**

- A. The following are exempt from this Article, but shall not be exempt from the other Articles of the Zoning and Subdivision Ordinance:
  - (1) **Existing Parcels.** The sale or exchange of existing parcels of land between owners and the creation of boundary surveys which do not change or alter any boundary lines of a parcel.
  - (2) **Utility Rights-of-Way; Public, Private Rights-of-Way.** When a parcel of land is subdivided in order that one (1) or more of the resulting parcels may be used as part of a public or private right-of-way (ROW):
    - (a) If a parcel resulting from such division is to be used as a building site for other than a ROW described above the minimum requirements of this Article shall be met before a Building Permit may be issued for such other use.

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<sup>4</sup> Editor's Note: This section formally repeals the existing subdivision ordinance which shall instead be part of the Zoning Ordinance as a unified zoning and subdivision ordinance.

- (3) **Wills, Court Action.** The partition of lands by will, by partition deed of intestate land, by the descendants of the deceased former owner or through action of a court of competent jurisdiction.

### **Section 10-1-7 Exceptions<sup>5</sup>**

- A. If the subdivider can show that a provision of this Article would cause unnecessary hardship if strictly enforced, the Planning Commission may authorize an exception if, in the judgement of the Planning Commission, an exception may be made without destroying the intent of such provision.
- (1) Any exception so authorized shall be set forth in a written statement by the Planning Commission detailing the reason for the exception and filed as an addendum with the final plat.

## **Division 10-2 Types of Subdivisions<sup>6</sup>**

### **Section 10-2-1 Major Subdivisions**

- A. Major Subdivisions are subdivisions of 12<sup>7</sup> or more lots, and therefore have greater impact on the environment, highways, and surrounding communities than smaller subdivisions.
- (1) Parcels in excess of 40 acres will not count toward a Major Subdivision but will be counted for street construction and platting requirements as provided in **Division 10-3 and Divisions 10-5, Division 10-6, Division 10-7, and 10-8** of this Article, respectively.

### **Section 10-2-2 Minor Subdivisions**

Minor Subdivisions are subdivisions of three 3 to 11 lots and have reduced impact on the environment, highways, and surrounding communities than larger subdivisions.

### **Section 10-2-3 Single Subdivisions**

Single Lot Subdivisions are subdivisions of one division of a single parent parcel of land, creating one new lot in addition to the original lot.

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<sup>5</sup> Editor's Note: Includes existing text from section 7-1.

<sup>6</sup> Editor's Note: This division includes all new text to establish, define, and explain the four different types of subdivisions in the County.

<sup>7</sup> Editor's Note: This text identifies subdivision of 12 or greater lots be considered major, based on current permitting standards for plats from section 3-2.

## Section 10-2-4 Family Subdivisions

A. Family Subdivisions are subdivisions of land for simultaneous conveyance to a member of the immediate family, or beneficiaries of a trust, of the property owner.

(1) **Purpose.** The purpose of Family Subdivisions is to:

- (a) Encourage and promote the ability of family members to live near one another as housing needs change;
- (b) Provide opportunities for mutual support and care of family members; and
- (c) Allow for the preservation of family land holdings which might otherwise be fragmented for economic reasons.

(2) **Applicability.**

- (a) For the purposes of this Article, a “member of the immediate family” is defined as any person who is the natural or legally defined offspring, stepchild, spouse, sibling, grandchild, grandparent, or parent of the owner, who is 18 years or older.
- (b) If the property to be subdivided is owned in joint tenancy, the necessary relationship to the grantee may exist with any one or more of the joint tenants.
- (c) Family Subdivisions may also be for immediate family of beneficiaries of a trust, of land held in trust. In addition to the requirements of (3) Standards, below, for Family Subdivisions of land held in trusts, all trust beneficiaries must:
  - i. Be immediate family members as defined in this Section (2) (a), above;
  - ii. Agree that the property should be subdivided, and
  - iii. Agree to place a restrictive covenant on the subdivided property that would prohibit the transfer of the property to a nonmember of the immediate family for a period of 5 years.<sup>8</sup>

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<sup>8</sup> Editor Note: The timeframe has been reduced from 15 years to 5 years to be consistent with other types of family division. If desired all timeframes maybe increased.

- (3) **Standards.** Per the Code of Virginia, § 15.2-2244, 2244.1, and 2244.2, all Family Subdivisions shall be subject to the following provisions and conditions in lieu of the other subdivision regulations imposed by this Article.
- (a) Only one such division shall be allowed within Nelson County for each immediate family member.
  - (b) The property to be subdivided has been owned for at least five (5) consecutive years by the current owner or member of the immediate family.<sup>9</sup>
  - (c) The grantee agrees to place a restrictive covenant on the subdivided property that would prohibit the transfer of the property to a nonmember of the immediate family for a period of five (5)<sup>10</sup> years. The lot or parcel created under this Section shall remain titled in the name(s) of the grantee for the 5-year period, from the date of recordation of the deed of conveyance, unless:
    - i. The parcel to be transferred out of the immediate family is the subject of an involuntary transfer such as foreclosure, divorce, death, judicial sale, condemnation, or bankruptcy, in which case, upon application to the Administrator, any remaining required holding period shall be waived;
    - ii. The owner(s) of the tract dies in which case, upon application to the Administrator, any remaining holding period shall be waived for the tract;
    - iii. The transferred property is later transferred to a subsequent grantee who qualifies as an immediate family member of the original grantor as set forth in this Article, in which case only the remainder of the initial required holding period shall apply to the subsequent grantee; or

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<sup>9</sup> Editor's Note: Recommend including this provision to decrease the potential for divisions that circumvent the ordinance. If desired, the timeframe can be increased up to 15 years. As provided, this standard plus the standard for the grantee, equates to the same family holding the land for a minimum of 10 years.

<sup>10</sup> Editor's Note: This is incorporated from the existing ordinance section 3-2 (4). If desired, this number can be increased up to 15 years.

- iv. An exception to these provisions is made by the Planning Commission, upon the determination of an injustice or hardship as permitted under the provisions of this Article.
- (d) The minimum width, yard, and area requirements of all lots or parcels, including the remaining property from which the lot or parcel is subdivided, shall be in accordance with the applicable provisions of this Ordinance.
- (e) Each lot or parcel shall front on a public road or a private driveway or road that is in a permanent easement.
- (4) **Final Plat.** In addition to the requirements of Division 10-7 of this Article, Family Subdivisions shall comply with the following:
  - (a) Along with the final plat, an affidavit, under oath, shall be submitted in the form prescribed by the Administrator, describing the purposes of the subdivision, and identifying the member of the immediate family receiving the lot created.
  - (b) The proposed deed of conveyance shall be submitted to the Administrator and once approved for compliance with this Article, recorded along with the approved final plat.
  - (c) Both the deed and the final plat shall contain the following statement set forth prominently:
    - i. “This lot is created as a Family Subdivision for an immediate family member, pursuant to the provisions of the Nelson County Zoning and Subdivision Ordinance. The use and transfer of this property is restricted by the terms of this Ordinance. The property to be subdivided has been owned for at least five (5) consecutive years by the current owner or member of the immediate family and the grantee agrees to place a restrictive covenant on the subdivided property that prohibits the transfer of the property to a nonmember of the immediate family for a period of five (5) years.”
- (5) **Circumvention.**
  - (a) No Family Subdivision shall be made for the purpose of circumventing the requirements of this Article.

- (b) The Administrator shall reject any proposed Family Subdivision if, after investigation of the facts and circumstances involved in the proposed subdivision, the Administrator believes that the proposed subdivision is for the purpose of circumventing the requirements of this Article and is not in accordance with the purpose and intent of this Ordinance.
  - i. The burden of proving compliance with the purpose, intent, and conditions of this Article shall be on the property owner.
  - ii. Nothing in this Article shall be deemed to exempt Family Subdivisions from the requirements of other provisions of the Nelson County Code which are deemed to be applicable by the Administrator.
- (c) In the event that the Board of Supervisors determines a circumvention to have occurred, the Family Subdivision approval shall be considered void, and Nelson County may take appropriate action to require compliance with all other applicable requirements of this Ordinance or may initiate action to vacate said lot.

## Division 10-3 Design Requirements<sup>11</sup>

### Section 10-3-1 Suitability of Land

- A. The Administrator shall not approve the subdivision of land if, from adequate investigation conducted by all public agencies concerned, it is determined that in the best public interest the site is not suitable for platting and development of the kind proposed.
- B. In investigating the suitability of land for subdivision, the Administrator may require the subdivider to furnish topographic maps, soil reports, established 100-year flood plain studies, wetlands delineation, and other information relevant to such determination.
- C. Sensitive lands, as provided below in (C) (1) through (5), shall not be platted for residential occupancy, nor for such other uses as may increase danger of health, life, or property, or may aggravate erosion or flood hazard.
  - (1) Land subject to flooding, except in accordance with Section 10-3-2, below;
  - (2) Land deemed to be topographically unsuitable;

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<sup>11</sup> Editor's Note: Unless otherwise noted, this Division includes new proposed text that establishes standards of design for newly created lots in Nelson County.



- (3) Land having unsuitable soils; and
- (4) Land having inadequate light and air.
- (5) Such land within the subdivision shall be set aside on the plat for such uses as shall not be endangered by periodic or occasional inundation or shall not produce conditions contrary to public welfare.

### **Section 10-3-2 Land Subject to Flooding<sup>12</sup>**

- A. When any stream is located within the boundaries of a property being subdivided, the developer/subdivider shall reserve a minimum 50-ft.-wide buffer zone (measured from the bank of the stream) on each side of the stream.
- B. If a stream lies outside the subdivision boundary and the property being subdivided is located less than 50 feet from the bank of the stream, the developer shall reserve as a buffer zone whatever portion of the subdivided property lies within 50 feet of the stream measured from the stream bank.
  - (1) No residential structure or associated outbuilding shall be permitted within the buffer zone and such buffer zone shall not be considered part of any required street width.
- C. Adequate easements, a minimum of ten (10) feet wide, shall be reserved over each manmade drainage course for drainage purposes.
- D. If any subdivision requires land disturbing activity for which an erosion and sedimentation control plan must be filed pursuant to the Nelson County Erosion and Sediment Control Ordinance, then the developer must submit such plan and receive approval from the plan approving authority.
- E. If any subdivision requires land disturbing activity for which a stormwater management plan must be filed pursuant to the Virginia Stormwater Management Program (VSMP) regulations, then the developer must submit such plan, receive approval from the Virginia Department of Environmental Quality, and provide documentation of VSMP permit coverage as an addendum to the final plat.

### **Section 10-3-3 Residential Density**

The maximum residential densities allowable within residential subdivisions shall be in accordance with the provisions of the applicable zoning district and guided by the Comprehensive Plan.

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<sup>12</sup> Editor's Note: Includes existing text from section 4-3.

### **Section 10-3-4 Lots<sup>13</sup>**

- (1) **Lot Size.** Minimum lot sizes for subdivided lots shall be in accordance with **Article 4, Primary Zoning Districts, or Article 5, Overlay Districts,** as applicable, of this Ordinance.
- A. **Lot Shape.**
  - (1) The lot arrangement, design, and shape shall be such that lots will provide satisfactory and desirable sites for buildings, and be properly related to topography, and conform to the requirements of this Ordinance.
  - (2) No more than 15% of the total number of lots within a subdivision shall have irregular extensions of land (such as narrow strips, stems, or tails) for the purpose of meeting the minimum lot area required by the Nelson County Zoning Ordinance, or for the purpose of providing individual lot access to a street.
- B. **Frontage.** Every subdivided lot shall front on a street.
- C. **Corner Lots.** Corner lots shall meet the required building setbacks on both streets in accordance with Article 4, Primary Zoning Districts, or Article 5, Overlay Districts, as applicable, of this Ordinance.

### **Section 10-3-5 Stem Lots<sup>14</sup>**

- A. **Applicability.**
  - (1) The use of Stem Lots is prohibited except within Cluster Developments, in accordance with Article 4, Primary Zoning Districts, of this Ordinance, and where safety or environmental factors prevent normal lot design, and the use of stem lots improves the quality of the design of the subdivision and provides for a better use of land.
  - (2) The financial cost of road construction, or the loss of lots, shall not by themselves constitute sufficient reasons to use Stem Lots.
  - (3) For purposes of determining the maximum number of allowable Stem Lots, all subdivisions of the original parcel shall be deemed to be included as part of the same subdivision, regardless of when subdivided.

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<sup>13</sup> Editor's Note: Includes existing text from section 4-7 that has been modified for additional detail, brevity, and clarity.

<sup>14</sup> Editor's Note: This section contains new language to limit the use of stem (or flag) lots within Nelson County.

- (a) The restrictions and limitations on the use and number of Stem Lots shall not be circumvented by the subdivision of land at different times.

**B. Standards.**

- (1) Each lot “stem,” or driveway, shall serve no more than two (2) lots.
- (2) A lot shall only be served by, or connected to, one “stem.”
- (3) No subdivision shall have more than two (2) contiguous Stem Lots, to avoid traffic hazards and confusion.
- (4) Stem Lots shall comprise no more than 15% of the total lots in the subdivision (percentages will be rounded to nearest whole number).
- (5) The required lot area shall be exclusive of the “stem” portion of the lot.
- (6) The stem that accesses the street or road shall be a minimum of 20 ft. in width at any point. The length of such stems shall be a maximum of 350 ft.
- (7) The final plat shall note each Stem Lot driveway as privately owned and maintained by the lot owners served.
- (8) Each house served by a stem driveway shall be numbered in accordance with the requirements of the Nelson County addressing system and have a sign showing the address and an arrow indicating the direction of the house to which the address applies.
- (9) The stem portion of a lot shall be a fee-simple part of the lot with cross easements for access in the case of a shared or common driveway.

**Section 10-3-6 Remnants<sup>15</sup>**

After subdividing a tract all remnants less than minimum lot size must be added to adjacent lots rather than allowed to remain unusable parcels, unless such lot is reserved as open space as defined herein.

**Section 10-3-7 Access**

Lot access shall be in accordance with **Article 8, Division 8-5**, Streets, Bikeways, and Sidewalks, of this Ordinance.

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<sup>15</sup> Editor’s Note: Includes text from section 4-7 about remnants of lots, maintaining the allowance of lot remnants to be used as open space.

### **Section 10-3-8 Blocks<sup>16</sup>**

- A. **Width.** Blocks shall be wide enough to allow two (2) tiers of lots of minimum depth fronting on streets unless prevented by topographical conditions or size of the property in which case the Administrator may approve a single tier of lots of minimum depth.
- (1) Double frontage or reversed frontage lots shall not be permitted except where essential to provide separation of residential development from streets or to overcome disadvantage of topography.
- B. **Orientation.** Where a proposed subdivision will adjoin a minor or principal arterial or a major collector road, blocks shall be oriented to minimize the number of access points to the road.

### **Section 10-3-9 Streets<sup>17</sup>**

Minimum street standards for subdivided lots shall be in accordance with **Article 8, Division 8-5**, Streets, Bikeways, and Sidewalks, of this Ordinance.

### **Section 10-3-10 Bikeways and Sidewalks.**

All bikeways and sidewalks shall be designed and constructed in accordance with Article 8, Division 8-5, Streets, Bikeways, and Sidewalks, of this Ordinance.

### **Section 10-3-11 Public and Semi-Public Facilities<sup>18</sup>**

- A. **Water and Sewer.**
- (1) In the event water and sewer systems, or other facilities or improvements within a subdivision are not constructed to meet the standards for dedication to public use, the developer shall record in the land records a document, which shall be referred to in the chain of title of each lot, addressing legally binding responsibilities for the parties who are responsible for construction, repair, and maintenance and all pertinent details of such water and sewer systems, or other facilities or improvements.

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<sup>16</sup> Editor's Note: Includes existing text from section 4-8.

<sup>17</sup> Editor's Note: Includes existing text from section 4-6.

<sup>18</sup> Editor's Note: Includes existing sections 4-4 and 4-5.

- (2) If any part of a subdivision falls within an area in which the Nelson County Service Authority operates a water and/or sewage system, the developer shall be subject to the regulations of the Service Authority for public water or sewer connections, including the extension of public water or sewer lines to lots within the subdivision.
  - (a) The regulations adopted by the Nelson County Service Authority shall govern the construction, easement specifications, and requirements for dedication of the same.
- (3) Central water and sewer systems shall meet all the requirements of Code of Virginia and the regulations promulgated by the Virginia Department of Environmental Quality and the Virginia Department of Health (VDH).
  - (a) When a subdivision contains any lot less than one (1) acre in size and the land does not have access to public water and sewer, then the developer shall construct both a central water system and a central sewer system.
  - (b) When a subdivision contains any lot at least one (1) acre, but less than two (2) acres in size, the developer shall construct either a central water system or a central sewer system.
- (4) In subdivisions having lots two (2) acres or greater in size, individual wells may be used provided that the developer states on the face of the plat that approval of the subdivision plat by the County of Nelson does not certify or guarantee the purchaser the presence of adequate subterranean water to support the purposes of the subdivision (whether residential, commercial or industrial) as no demonstration has been made by the developer of the same.
- (5) No subdivision shall be approved where individual septic systems are to be used until written approval has been secured from VDH. In order to grant approval, an AOSE (Authorized On-Site Soil Evaluator) shall submit a soil report to the Administrator to be forwarded to VDH, requesting review and approval. The soil report shall address the suitability for an onsite sewage disposal system for each lot.
  - (a) Each system approved after November 18, 2008, shall have an additional on-site septic system reserved for use in the event of failure of the initial on-site wastewater system.
  - (b) In all zones, the reserve on-site wastewater system area shall be sufficient to accommodate:

- i. For Class 1 and 2 soils, a minimum of 50% of the capacity of the initial on-site wastewater system; and
  - ii. For all other soil classes, a minimum of 100% of the capacity of the initial on-site wastewater system.
- (c) Exceptions to provisions (5) (a) and (b) above:
  - i. The residue (the remaining portion) of the original lot is 20 acres or larger. The following statement shall be clearly noted on the plat for this lot: "The approval of this residue lot by the County of Nelson does not certify or guarantee the owner or purchaser the presence of adequate soils to support an on-site wastewater treatment system for any development as no demonstration has been made by the developer/subdivider of the same."
  - ii. A lot with an existing on-site septic system.
- (6) Where an alternative waste treatment system is to be used, the developer shall provide to the Administrator documented proof that the soils and parent materials are satisfactory to VDH, and shall obtain approval of the alternative waste treatment system from the appropriate state agency, including the Virginia Department of Environmental Quality and VDH. Such documented proof and approval shall be filed as an addendum with the final subdivision plat.
- (7) In all zoning districts, the reserve area for an alternative waste treatment system shall be sufficient to accommodate a minimum of 100% of the capacity of the primary area.

**B. Fire Protection.**

- (1) Where public water is available, the developer shall install fire hydrants. The location and number of fire hydrants shall comply with the regulations of the Nelson County Service Authority.
- (2) Where public water is not available and the subdivision contains 15 or more lots, any one of which is five (5) acres or less in area, the developer shall provide a dry hydrant with a natural or manmade water source meeting the specifications contained in the National Fire Code for the subdivision density and an all-weather access road to the same. A Maintenance agreement shall be submitted detailing how the dry hydrants will be maintained by the property owners and/or developer.

### **Section 10-3-12 Homeowners Associations (HOA)<sup>19</sup>**

- A. Common areas such as private streets, open space, utilities, or stormwater management facilities provided by the developer within any Major or Minor Subdivision, if not dedicated to the County, shall be conveyed to a homeowners' association created for the subdivision.
- B. The developer shall file a declaration of covenants and restrictions that will govern the HOA. Such covenants and restrictions shall include, but not necessarily be limited to, the following:
  - (1) The HOA including by-laws, covenants and restrictions, and articles of the association or corporation must be legally constituted prior to the sale of any lot, dwelling unit, or other structure located within the subdivision.
  - (2) Such HOA must be effectual prior to the sale of 25% of the lots or dwelling units, on whichever assessments are based. The entire cost for maintenance of the open spaces, private streets, or other communally owned facilities shall be borne by the developer until such time as the HOA becomes effectual.
  - (3) All covenants and restrictions must:
    - (a) Be for a substantial period of time with a minimum of 25 years;
    - (b) Run with the land; and
    - (c) Apply to all lots and dwelling units located within the subdivision.
  - (4) The HOA must be responsible for liability insurance, local property taxes, and the maintenance of any private streets, land, communally owned facilities, and recreational facilities.
  - (5) Homeowners must pay their pro-rata share of the cost of the above through assessment levied by the HOA, which must become a lien on each homeowner's property. Every lot or landowner shall have the right to petition a court of competent jurisdiction to ensure adequate maintenance and upkeep of the HOA's responsibilities.
  - (6) The HOA must be able to adjust assessments to meet changing needs.

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<sup>19</sup> Editor's Note: This section is proposed as new to govern HOAs within a subdivision.

- (7) The HOA must be organized as a nonprofit unincorporated association or nonprofit corporation, managed by either a trained professional or a Board of Directors elected by the voting members of the HOA. In accordance with the Code of Virginia § 15.2-2256, the Board of Directors or other managing professional charged with collection of fees and the maintenance of common improvements shall provide an annual report to the lot owners of all fees collected and disposition of all funds.
- (8) Lots or dwelling units assessed by the HOA shall only be those indicated on the approved final plat.
- (9) It shall be mandatory for every lot or landowner to have membership in the HOA.
- (10) Nelson County shall bear no responsibility for enforcement, administration, or otherwise of any established HOA.

### **Section 10-3-13 Obligation of Improvements<sup>20</sup>**

- A. All improvements and facilities required by this Article shall be installed by the developer at their cost and are not the responsibility of the locality, as outlined in the Code of Virginia § 15.2-2268. However, the Board of Supervisors may commit the County to share the cost of the improvements with the developer. Any cost sharing or reimbursement arrangements between the developer and Nelson County shall be by written agreement executed prior to final plat approval.
- B. No bond or other surety posted by the developer shall be released until construction has been completed, inspected, and approved, or VDOT road acceptance has occurred. Periodic partial release is allowed as outlined in the Code of Virginia § 15.2-2245 and **Section 10-4-4** of this Article.

### **Section 10-3-14 Monuments**

- A. **Permanent Monuments.** Permanent monuments shall be placed by the developer in the ground at all corners, angle points and curvatures in the ROW lines of all streets; and at all lot corners within the subdivision prior to approval of the final plat by the Planning Commission.
  - (1) If placement of monuments at the above-mentioned points is impossible because of the topography, reference monuments may be set where appropriate.

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<sup>20</sup> Editor's Note: Includes existing text from section 4-2.



- (2) Monuments shall be constructed of stable material not less than four (4) inches square or four (4) inches in diameter and at 30 inches long; or monuments may be iron or steel pipe a minimum of one-half (½) inch and maximum of one (1) inch in diameter and a minimum of 24 inches long.
- (3) When rock is encountered a hole may be drilled four (4) inches deep in the rock into which shall be cemented a steel rod one-half (½) inch in diameter, the top of which shall be flush with the finished grade line; or a reference monument may be set at an appropriate point.

## Division 10-4 Guarantees<sup>21</sup>

### Section 10-4-I Required to be Guaranteed

- A. **Guarantees for Improvements Shown on Plat.** Before any final plat will be approved, the developer shall, in lieu of construction, furnish a guarantee in an amount approved by the Administrator to guarantee completion of the public and other site-related improvements in accordance with the specifications and construction schedules of this Division.
  - (1) The bond shall be payable to, and held by, the Board of Supervisors.
  - (2) In accordance with Code of Virginia § 15.2-2241 (B), any certified check, cash escrow, bond, letter of credit or other performance guarantee furnished pursuant to this Article shall only apply to, or include the cost of, any facility or improvement shown or described on the approved final plat or plan of the project for which such guarantee is being furnished. The guarantee shall remain in full force and effect until released, in accordance with the provisions of this Ordinance.
- B. **Guarantees for Dedicated Public Uses.** In accordance with Code of Virginia § 15.2-2241.1, provided the developer and the Board of Supervisors have agreed on the delineation of sections within a proposed development, the developer shall be required to furnish a bond for construction of public facilities only when construction plans are submitted for the section in which such facilities are to be located.

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<sup>21</sup> Editor's Note: This division includes text from section 4-2 that has been incorporated into new text that streamlines and reorganizes provisions that are compliant with the Code of Virginia.

- C. **Guarantees for Street Maintenance.** In the event a street is not accepted into the State Highway System, the developer shall furnish Nelson County with a maintenance and indemnifying bond, with surety satisfactory to the Nelson County Board of Supervisors in an amount set by the Board sufficient for, and conditional upon, the maintenance of such street or road until such time as it is accepted into the State Highway System.
- D. **Guarantees for Other Improvements.** Other improvements requiring a guarantee include, but are not limited to:
  - (1) Structures necessary to ensure stability of critical slopes, and for stormwater management facilities;
  - (2) Erosion and sediment control measures required as a condition to grading, building, or other permits;
  - (3) Any private streets to be constructed in a subdivision or other development; and
  - (4) Any privately-owned site-related improvements, including but not limited to fencing, landscaping, buffering, internal sidewalks, lighting, paving, private recreational facilities, and pavement marking, required by this Ordinance but not completed prior to issuance of a Certificate of Occupancy.

#### **Section 10-4-2 Types of Guarantees**

- A. The following guarantee options are available to the developer to provide to the County for acceptance by the Administrator or County Attorney:
  - (1) **Performance Bond.** A performance bond shall be executed by a surety company licensed to do business in the state of Virginia.
  - (2) **Letter of Credit.** A letter of credit shall be executed by a bank licensed to do business in the state of Virginia.
  - (3) **Cash Escrow.** The applicant shall provide to Nelson County cash or a cashier's check.

#### **Section 10-4-3 Amount**

- A. The guarantee shall be provided in the following amount:
  - (1) Total estimated cost of construction based on unit prices, approved by the Administrator or designee; and

- (2) An additional ten percent (10%) of the total estimated cost of construction to cover administrative costs, inflation, and potential damage to existing roads or facilities, as permitted by the Code of Virginia § 15.2-2241.

#### **Section 10-4-4 Release**

- A. As outlined in the Code of Virginia § 15.2-2245, the developer may apply for the periodic partial and final, complete release of any bond required under this Article.
- B. **Periodic Partial Release.** Upon the completion of at least 30% of the improvements covered by a performance guarantee, the applicant may file a written request with the Administrator for a partial release of such guarantee.
  - (1) The Administrator may inspect the facilities for conformance with the terms and conditions of the approved plan and specifications for the facilities for which the guarantee is applicable.
  - (2) The Administrator shall not refuse to make a periodic partial or final release of guarantee for any reason not directly related to the specified defects or deficiencies in construction of the facilities covered by such bond, escrow, letter of credit or other guarantee.
  - (3) The Administrator shall act upon the written request for a partial release within 30 days of receipt.
  - (4) If no action is taken by the Administrator within the 30-day time period, the request for partial release shall be approved, and a partial release shall be granted to the developer.
  - (5) Up to 90% of the original amount of the performance guarantee may be released through periodic partial releases, based upon the percentage of public facilities completed and approved by the County or other agency having jurisdiction.
- C. **Final Release.** Upon final completion of the facilities, the developer may file a written request for final release of the guarantee.
  - (1) The Administrator may inspect the facilities for conformance with the terms and conditions of the approved plan and specifications for the facilities for which the guarantee is applicable.
  - (2) The Administrator shall either accept the facilities and release the remaining guarantee or notify the applicant that the facilities are not accepted and that there are specific defects or deficiencies in construction.

- (3) If the Administrator fails to act within the 30-day time period, then the applicant may make an additional request in writing for final release, sent by certified mail to the County Administrator.
    - (a) The County Administrator shall act within ten (10) working days of the request.
    - (b) If no action is taken, the request shall be deemed approved and final release granted to the applicant.
- D. For the purposes of this Section and as defined in the Code of Virginia § 15.2-2245, the term "acceptance" means: when the public facility is accepted by and taken over for operation and maintenance by the State agency, local government department or agency, or other public authority which is responsible for maintaining and operating such public facility upon acceptance.
- E. As-built Plans shall be required prior to the release of any guarantee and the Developer shall certify that all agreed upon standards have been met.
  - (1) If a periodic release is requested, the As-builts Plans and certification for that phase of the development shall be provided prior to release of that portion of the guarantee.

#### **Section 10-4-5 Extension for Completion**

- A. If guaranteed improvements are not completed in a timely manner acceptable to the County, the Administrator may proceed via the provisions for default or allow an extension of time for the completion of facilities provided that:
  - (1) All surety consents have been acquired and approved by the County;
  - (2) The owner has submitted an acceptable revised schedule for completion; and
  - (3) Inspection of existing physical improvements is found to be satisfactory.

#### **Section 10-4-6 Default**

- A. In the event of default in the construction of guaranteed facilities, the Administrator is authorized to take such action as may be required to protect Nelson County including, but not limited to:
  - (1) Draw or make demand on the owner or developer's security;
  - (2) Contract for the completion of the work, following the rules for public procurement; and

- (3) Bring an action at law against the owner, developer, financial institution, or surety.

## Division 10-5 Platting Requirements

### Section 10-5-1 Approval Required Before Sale<sup>22</sup>

- A. No person shall sell, convey, or record a deed to land subdividing off a parcel without making and recording a final plat of such subdivision and without fully complying with the provisions of this Article.
- B. No final plat shall be approved unless all lots shown thereon comply with all applicable requirements of this Ordinance.

### Section 10-5-2 Subdivision Name

If applicable as determined by the Administrator, every subdivision shall be given a name which shall not duplicate or closely approximate that of any other subdivision existing or planned.

### Section 10-5-3 Changes to Plats

No change or erasure or revision shall be made on any preliminary or final plat, nor on any accompanying data sheets unless authorization for such change has been granted in writing by the Administrator.

### Section 10-5-4 Separate Ownership

Where the land covered by a subdivision includes two (2) or more parcels in separate ownership, and lot arrangement is such that a property ownership line divides one or more lots, the land in each lot so divided shall be transferred by deed to single ownership, simultaneous with the recording of the plat. Said deed is to be deposited with the Administrator and held with the plat until the subdivider is ready to record same, and they both shall then be recorded together.

## Division 10-6 Preliminary Plats

### Section 10-6-1 Applicability

- A. In accordance with the Code of Virginia § 15.2-2260, all proposed subdivisions involving more than 50 lots must submit a preliminary plat for approval.

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<sup>22</sup> Editor's Note: Includes text from Section 5-1.

- B. For any instances where a preliminary plat is not required in accordance with (A) in this Section, the developer may have a preliminary conference and voluntarily provide a sketch plat with the Administrator prior to submission of a final plat.

## **Section 10-6-2 Preliminary Plat Requirements**

### **A. General.**

- (1) All preliminary plats shall be prepared by a qualified professional engineer or land surveyor trained and experienced in the layout of subdivisions and licensed to do so within the Commonwealth of Virginia.
- (2) All preliminary plats shall be blueline or blackline prints on sheets a minimum of 24" x 36" in size, or a maximum of 30" x 42" in size, and at a scale of not more than 100 ft. to the inch.
- (3) The Designated Administrator may permit a different scale size, if it can be determined that all pertinent information can be clearly shown with a different scale.
- (4) North arrows and graphic scales shall be provided on each sheet, as applicable.

### **B. Contents of Preliminary Plat.** The preliminary plat shall include the following:

- (1) A topographic map with a contour interval of not greater than 20 feet (or as approved by the Administrator) showing the area covered by the proposed subdivision property related to Coast and Geodetic Survey data with the boundary lines of the tract to be subdivided and the 100-year flood plain limits delineated where applicable.
- (2) The approximate total acreage of the proposed subdivision, proposed location of lots, lot numbers in numerical order, approximate dimensions and area of each lot, and block identification.
- (3) The approximate location, width, and names of all existing or proposed streets within or adjacent to the proposed subdivision; the approximate locations of all railroads, watercourses, and existing buildings shown on Coast and Geodetic Survey maps or other topographic data and located within the boundaries of the proposed subdivision.
- (4) The approximate location of all parcels of land intended to be dedicated, or reserved for public use, or to be reserved in the deed for the common use of property owners in the subdivision.

- (5) The title under which the subdivision is proposed to be recorded, the names and addresses of the record owner and developer, the name of the individual who prepared the plat, the date of drawing, number of sheets, the North point, and the scale.
- (6) A vicinity sketch map of the area within a two-mile radius of the proposed subdivision showing the relationship of the proposed subdivision to the adjoining property; and showing all adjoining roads, their names and numbers, and other landmarks.
- (7) Proposed provisions for all utilities including, but not limited to, electric, telephone, water, sewage, and stormwater management facilities.

### **Section 10-6-3 Preliminary Plat Submission**

- A. Preliminary plat submission shall include a written application by the developer or their representative, on forms provided by the County, and the preliminary plat.
- B. Four (4) physical copies and one (1) digital PDF copy of the preliminary plat shall be submitted to the Administrator.<sup>23</sup>
- C. The preliminary plat, accompanied by the proper filing fee, shall be considered officially filed on the day it is received in the office of the Administrator and shall be so dated.

### **Section 10-6-4 Preliminary Plat Review**

- A. The Administrator shall act according to the Code of Virginia §§ 15.2-2222.1, 15.2-2259, 15.2-2260, and 15.2-2269 regarding preliminary plat review procedures and timeframes of review, resubmittals, and other agency reviews.<sup>24</sup>
- B. The Administrator may review, approve or disapprove all preliminary plats for subdivisions of less than 50 lots.
- C. Pursuant to the Code of Virginia § 15.2-2260, an approved preliminary plat shall be valid for a period of five (5) years, provided the developer:

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<sup>23</sup> Editor's Note: Current submission requirements require four physical copies of a plat be submitted. Recommend modifying to include a digital copy. This may allow reduction of paper copies in the future.

<sup>24</sup> Editor's Note: Propose simply referencing the Code of Virginia rather than restating all included requirements. This helps maintain compliance while accounting for the most current updates, including those that took effect on July 1, 2025.

- (1) Submits a final plat for all or a portion of the property within one year of such approval; and
- (2) Thereafter diligently pursues approval of the final plat, meaning that the developer has incurred extensive obligations or substantial expenses relating to the submitted final plat or modifications thereto.
- (3) If, as determined by the Administrator, approval of the final plat is not diligently pursued within three (3) years following such preliminary plat approval, the Administrator shall provide the subdivider with 90 days written notice by certified mail that because approval has not been diligently pursued, the approval of the preliminary plat has been revoked.
  - (a) "Diligent pursuit of approval" means that the subdivider has incurred extensive obligations or substantial expenses relating to the submitted final subdivision plat or modifications thereto.
- (4) Pursuant to the Code of Virginia § 15.2-2260, once an approved final plat for all or a portion of the property is recorded, the underlying preliminary plat shall remain valid for a period of five (5) years from the date of the latest recorded final plat of subdivision for the property.

## **Section 10-6-5 Changes to Preliminary Plats**

### **A. Technical Changes.**

- (1) If it becomes necessary for an approved preliminary plat, or accompanying data sheets, to be changed, the Administrator may, at the applicant's request, approve technical changes to such plat. The nature of technical changes are those that:
  - (a) Do not alter the basic design or layout of the subdivision;
  - (b) Do not alter the functional interrelationship of the individual features of the subdivision to each other and surrounding properties; and
  - (c) Comply with the provisions of this Article or other applicable Articles of this Ordinance, in effect at the time of preliminary plat approval:
- (2) Technical changes include:
  - (a) Changes to correct demonstrated errors;
  - (b) Changes to name of the subdivision or the name of a street;



- (c) Adjustment of the location of lot lines;
    - (d) Relocation or addition of utility easements;
    - (e) Changes in response to amendments to County ordinances; or
    - (f) Other changes which are clearly of a similar technical nature.
  - (3) A request for approval of a technical change shall be made in writing to the Administrator on an application provided by the County. The request shall fully describe the change and provide reasonable justification for the granting of the change.
  - (4) The Administrator shall either approve or disapprove the change within 30 days of the request.
- B. **Major Changes.** Any change to an approved preliminary plat or accompanying data sheets, beyond those technical changes provided in A. of this Section shall require review of the plat under the procedures of **Section 10-6-4(A)** for original review and approval.

## Division 10-7 Final Plats

### Section 10-7-1 Applicability

- A. Final plats shall be required for all subdivisions, boundary line adjustments, consolidations, and easements.
- (1) If a subdivision requires a preliminary plat, as provided in **Section 10-5-1**, final plat submission shall be after the preliminary plat is approved.
  - (2) Plat details shall meet the standard for plats as adopted under the Virginia Public Records Act, Code of Virginia § 42.1-76 et seq.
  - (3) All surveys shall meet current surveying practices as administered by the State and provided in Virginia Administrative Code 18VAC10-20-370.

### Section 10-7-2 Final Plat Requirements

- A. All final plats shall conform to the requirements established in this Section.
- B. **General.**
- (1) All final plats shall be prepared by a qualified professional engineer or land surveyor trained in the layout of subdivisions and licensed to do so within the Commonwealth of Virginia.

- (2) All final plats shall be blueline or blackline prints on sheets a minimum of 24" x 36" in size, or a maximum of 30" x 42" in size, and at a scale of not more than 100 ft. to the inch.
  - (a) The Administrator may permit a different scale size, if it can be determined that all pertinent information can be clearly shown with a different scale.
- (3) North arrows and graphic scales shall be provided on each sheet.

**C. Contents of Final Plat.** The final plat shall include the following:

- (1) The signature and seal of the certified professional engineer or Virginia licensed land surveyor.
- (2) A statement that: "The subdivision of the land described herein is with the free consent and in accordance with the desire of the undersigned owners, proprietors, and trustees." This statement shall be signed by such persons and duly acknowledged before an officer authorized to take acknowledgements of deeds.
- (3) The boundary lines of the area being subdivided which have been determined by a current and accurate field survey, with bearings shown in degrees, minutes, and seconds to the nearest ten (10) seconds; and with dimensions shown in feet to the nearest hundredth of a foot, total area in each proposed use shown in acres to the nearest hundredth of an acre; and with the 100-year flood plain delineated.
- (4) Identification on the plat of any part of the proposed subdivision land which lies in a drainage district.
- (5) Identification on the plat of any visible grave, object, or structure which marks a place of burial located on the proposed subdivision land.
- (6) Location of minimum building setback lines specified in this Ordinance.
- (7) Location and description of all permanent monuments and/or reference monuments pursuant to the requirements set forth in **Section 10-3-13**. Monuments found or installed prior to plat recordation may be referred to if permanent and undisturbed.
- (8) A definite bearing and distance tie shown between two (2) or more permanent monuments on the exterior boundaries of the subdivision, and further tie to existing street intersections or to a point(s) approved by the Administrator.

- (9) The accurate location and dimensions by bearings and distances (with all curve data) of all lots and street lines and center lines of streets; boundaries of all proposed or existing easements, parks and school sites; all streets with their names, numbers and widths; existing utilities, watercourses and their names; names of owners and their property lines, with deed book reference and tax parcel number, both within the boundaries of the subdivision and adjoining said boundaries.
- (10) Location of proposed dry hydrants and their water sources, fire ponds, or other water sources appropriate for fire control along with delineation of vehicular access easement to such water sources.
- (11) Signature spaces for "Approved" by the Administrator.
- (12) **Certificates.** The following certificates, in addition to that required in Section 10-7-2 (C), shall appear on the final plat, where appropriate:
  - (a) Certifications by subdivider. In the event that streets in a subdivision will not be constructed to meet the standards for inclusion in the secondary system of state highways:
    - i. "The streets in this subdivision do not meet VDOT standards and will not be maintained by VDOT or the County of Nelson."
  - (b) In subdivisions in which individual wells are to be utilized:
    - i. "Approval of this subdivision plat by the County of Nelson does not certify or guarantee the purchaser of the presence of adequate subterranean water to support the purposes of this subdivision."
  - (c) Certification by VDOT:
    - i. "The streets in this subdivision are not intended for inclusion in the system of State highways and will not be maintained by the Department of Transportation or the County and are not eligible for rural addition funds or any other funds appropriated by the General Assembly and allocated by the Commonwealth Transportation Board."
  - (d) Certification by the Nelson County Health Department:

- i. "This subdivision is approved for individual onsite sewage systems in accordance with the provisions of the Code of Virginia, and the Sewage Handling and Disposal Regulations (12 VAC 5-610-10 et seq., the "Regulations"), and local ordinances if the locality has authorized the local health department to accept private evaluations for compliance with local ordinances.
- ii. "This subdivision was submitted to the Health Department for review pursuant to Section 32.1-163.5 of the Code of Virginia which requires the Health Department to accept private soil evaluations and designs from an Authorized Onsite Soil Evaluator (AOSE) or a Professional Engineer working in consultation with an AOSE for residential development. The Department is not required to perform a field check of such evaluations. This subdivision was certified as being in compliance with the Board of Health's regulations by: (\_\_\_\_\_\_). This subdivision approval is issued in reliance upon that certification.
- iii. "Pursuant to Section 360 of the Regulations, this approval is not an assurance that Sewage Disposal System Construction Permits will be issued for any lot in the subdivision unless that lot is specifically identified as having an approved site for an onsite sewage disposal system, and unless all conditions and circumstances are present at the time of application for a permit as are present at the time of this approval. This subdivision may contain lots that do not have approved sites for onsite sewage systems.
- iv. "This subdivision approval is issued in reliance upon the certification that approved lots are suitable for 'traditional systems;' however, actual system designs may be different at the time construction permits are issued."
- v. If the approved onsite sewage system and well sites are not shown on the final plat of record, then a statement must be printed on the plat:
  - a. "The approved onsite sewage system and well sites are not shown on this plat. Those sites are shown on a separate plat on file in the Nelson County Health Department."
- vi. "Approved by the Nelson County Health Department."

**D. Addenda with Final Plat.**

- (1) A profile showing the proposed grades for the streets and drainage facilities, including elevations of existing and proposed ground surfaces at all street intersections and at points of major grade change along the center line of streets, together with the proposed connecting grade lines.
- (2) Cross-section drawings showing the proposed street construction of all streets which are required by this Ordinance to be built to VDOT standards or to standards specified in this Ordinance for private streets.
- (3) Certification from VDOT that specifications for streets which may be taken into its secondary road system and specifications for entrances onto such streets and onto public streets meet the standards of VDOT.
- (4) An erosion and sedimentation control plan if required by the Nelson County Code.
- (5) A soil report if required under **Section 10-3-10**.
- (6) Specifications for any gas, water, sewer, electric light or power works, pipes, wires, fixtures, or systems to be constructed in, on, or under any streets or alleys in a subdivision.
- (7) A report filed by the Administrator listing all authorized exceptions to the enforcement of the provisions of this Ordinance, with detailed reason(s) for each exception.
- (8) All necessary easements to the boundary of the subdivision for utilities.
- (9) An approved stormwater management plan and/or documentation of permit coverage under the Virginia Stormwater Management Program, as applicable under the Code of Virginia.

### **Section 10-7-3 Final Plat Submission**

- A. Final plat submission shall include a written application by the developer or their representative, on forms provided by the County, and the final plat.
- B. Three (3) physical copies and one (1) digital PDF copy of the final plat shall be submitted to the Administrator.<sup>25</sup>

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<sup>25</sup> Editor Note: Added one digital copy to the existing requirement. This may help ease paper storage and reduce physical copies in the future.

### **Section 10-7-4 Final Plat Review**

- A. The Administrator shall act according to the regulations of Code of Virginia §§ 15.2-2222.1, 15.2-2254, 15.2-2259, 15.2-2260, and 15.2-2269 with regard to the timeframes of resubmittals and other agency reviews, approvals, and disapprovals.
  - (1) The Administrator shall confirm that provisions for required guarantees, as established in **Division 10-4, Guarantees**, of this Article are met.
  - (2) If the Administrator does not act in accordance with the time constraints or disapproves a plat and the subdivider contends that the disapproval was not properly based, then the subdivider may seek approval as provided in the Code of Virginia § 15.2-2259.
- B. The Administrator's signature on the final plat shall constitute final approval of the platting of the area shown, but the owner or developer shall cause such plat to be recorded in accordance with **Section 10-7-7** below.
- C. Approval of the final plat shall not be deemed the acceptance of any public or semipublic improvement or space.

### **Section 10-7-5 Recording**

- A. **Recording of final plat.** Approval of the final plat shall be void unless the approved plat is presented or recorded in the clerk's office of the Circuit Court of Nelson County within six (6) months after approval. No subdivision plat shall be recorded by the clerk of the Circuit Court of Nelson County until it has been submitted to and approved by the Administrator or the Planning Commission.

## **Division 10-8 Vacation of Plats**

### **Section 10-8-1 Vacation**

- A. **Prior to Sale of Lot.** A plat, or part thereof, may be vacated by either of the following methods, where no lot has been sold:
  - (1) By written instrument signed by the owners, proprietors, or trustees and approved by the governing body, or its authorized Administrator, which signatures shall be duly acknowledged or proved for recordation in the clerk's office. The written instrument shall declare the plat or portion thereof as vacated pursuant to the provisions of Section 15.1-481(1) of the Virginia Code; or

- (2) If no facilities for which bonding is required under this Ordinance have been constructed on the subdivision land and no such improvements have been constructed on any related section of property located in the subdivision within five (5) years of the date on which the plat was first recorded the governing body may adopt an ordinance vacating the plat or portion thereof. Prior to adoption of the ordinance notice shall be given as required by Section 15.1-431 of the Virginia Code. The notice shall state the time and place of the meeting at which the adoption of the ordinance will be voted upon and clearly describe the plat or portion thereof to be vacated. 30 days from the date of adoption of the ordinance, a certified copy may be recorded in the clerk's office provided no appeal has been filed pursuant to the provisions of Section 15.1-481 of the Virginia Code.
- B. **After Sale of Lot.** The recorded plat, or part thereof, may be vacated by either of the following methods, after the sale of any lot:
  - (1) By written instrument signed by all owners of lots shown on said plat and also signed on behalf of the governing body for the purpose of showing the approval of such vacation by the governing body.
    - (a) For purposes of this section the word "owners" shall not include lien creditors except those whose debts are secured by a recorded deed of trust or mortgage and shall not include any consort of an owner. Any instruments of vacation shall be fully executed and acknowledged in the manner of a deed and filed for record in the clerk's office.
  - (2) By ordinance adopted by the governing body at the request of a member of the governing body or on application of any interested person. Prior to the adoption of an ordinance, notice shall be given which is required by Section 15.1-431 of the Virginia Code. Said notice shall state the time and place of the meeting at which the adoption of the ordinance will be voted upon and shall clearly describe the plat or portion thereof to be vacated. 30 days from the date of adoption of the ordinance, a certified copy may be recorded in the clerk's office provided no appeal has been filed pursuant to the provisions of Section 15.1-481 of the Virginia Code.
- C. **Vacation of Boundary Lines.** For any subdivision or resubdivision plat which has been approved as provided in this Ordinance or under any prior subdivision ordinance of this County:

- (1) The owners of the land, including lien creditors whose debts are secured by a recorded deed of trust or mortgage, may relocate or otherwise alter the boundary lines of any lot or parcel by:
  - (a) Executing a written document in the manner approved for recordation in the clerk's office, to which document shall be attached a plat evidencing the new boundary lines, provided that:
    - i. This procedure may not be used if it involves a relocation or alteration of streets, alleys, easements for public passage, or other public areas; and
    - ii. If the boundary line relocation or alteration affects an easement for utility ROWs then all persons holding an interest therein shall execute the written document described herein.

## **Division 10-9 Enforcement, Violations, and Fees**

### **Section 10-9-1 Enforcement**

- A. Enforcement of Maintenance of Private Streets, Easements, Facilities, or Other Improvements.
  - (1) No responsibility of enforcing a covenant or agreement for maintenance, upkeep, or repair of any private street, easement, or other facility or improvement is implied herein to any public official or agency.
  - (2) When this Ordinance calls for more restrictive standards than are required by private contract, the provisions of this Ordinance shall control.

### **Section 10-9-2 Violation and Penalty**

- A. Violations of this Article shall be in accordance with **Article 2**, Administration, of this Ordinance. Additionally:
  - (1) For each lot or parcel of land subdivided, transferred, or sold in violation of this Article, as allowed by the Code of Virginia, § 15.2-2254, any person violating any provision of this Article shall be subject to a maximum fine of \$500.
  - (2) The description of such lot or parcel by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from such penalties or from the remedies herein provided.



**Section 10-9-3 Fee**

- A. There shall be a charge to compensate the County for the costs incurred during the examination and approval or disapproval of every subdivision plat or lot required to be reviewed by the Administrator or Board of Supervisors.
- B. This fee shall be payable to the Nelson County Treasurer, in such amount as set by adopted ordinance of the Nelson County Board of Supervisors.

*This Article will contain all the definitions for the Zoning & Subdivision Ordinance. As articles are drafted, definitions related to the new proposed articles are added here for context and review. \*The most recent text related to the current Articles under review are highlighted in green to ease review.*

## 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) BMP: Best Management Practice
- (5) BZA: Board of Zoning Appeals
- (6) CBR: California Bearing Ratio
- (7) CO: Corridor Overlay
- (8) DEQ: Department of Environmental Quality
- (9) DU: dwelling unit
  - (a) du/acre: dwelling unit per acre
- (10) ft: feet
- (11) GFA: Gross floor area
- (12) HCOD: Highway Corridor Overlay District
- (13) LF: linear foot
- (14) N/A: not applicable
- (15) PC: Planning Commission
- (16) ROW: Right-of-way(s)
- (17) sq. ft.: square feet
- (18) SUP: Special Use Permit

- (19) VDH: Virginia Department of Health
- (20) VDOT: Virginia Department of Transportation
- (21) USBC: Uniform Statewide Building Code
- (22) 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.
  - (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 **Division 11-4** for definitions that specifically pertain to the Floodplain Management Overlay District.

## Division 11-3 General and Use Definitions<sup>1</sup>

**Abutting.** Having a common border with another or being separated from such other only by a right-of-way, alley, or easement.

**Access.** The right of pedestrians and vehicles to cross to or from a public right-of-way and private property.

**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.

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

**Adjacent.** To be separated by common property lines, lot lines, streets, or roads; also known as: abutting, adjoining, contiguous, or touching.

**Adjoining.** Touching and/or contiguous to.

**Administrator.** The person or their designated agent responsible for the administration and enforcement of this Ordinance. The term Administrator shall apply to the Subdivision Agent and Zoning Administrator.

**Agent.** See Administrator.

**Agricultural Purposes:** The production of fruits, vegetables, grains, hay, animals, and plants (such as trees, shrubs, and flowers); and the harvesting, preparation, and distribution of these products.

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<sup>1</sup> Editor's Note: Unless otherwise noted, definitions for Article 10 are carried over from the current Subdivision Ordinance.

**Agricultural lighting:** Lighting that is essential to agricultural practices.

**Alley:** A permanent service way providing a secondary means of vehicular access to abutting properties and not intended for general traffic circulation.

**Approve:** To judge and find acceptable.

**Architectural lighting.** Lighting of building surfaces, landscape features, statues, and similar items for the purpose of decoration, ornamentation, creation of visual hierarchy, sense of liveliness, or other purpose unrelated to safety, business operation, or essential lighting function.

**Agritourism.** Pursuant to the Code of Virginia §15.2-2288.6, any activity carried out at a farm winery, farm brewery, farm distillery, farm, ranch, or other agricultural operation, that allows members of the general public, for recreational, entertainment, or educational purposes, to view or enjoy rural activities, including farming, wineries, ranching, historical, cultural, harvest-your-own activities, or natural activities and attractions, regardless of whether or not the participant paid to participate in the activity. These rural activities also include, but are not limited to, farm tours, tours of an individual agricultural operation, hayrides, heirloom plant/animal exhibits, crop mazes, and educational programs, workshops, or demonstrations related to agriculture or silviculture. This use does not include weddings and other non-agricultural events as provided by the use Event Venue, as defined by this Ordinance.

**Appurtenance.** A feature or structure attached to a building that is used for or in connection with a building, incidental to such building and for its benefit.

**Architectural projection.** Any projection that is not intended for occupancy and that extends beyond the face of an exterior wall of a building, but that does not include signs as defined herein.

**Area, buildable.** The portion of a lot or site, exclusive of required setbacks, landscaping, or open space within which a structure may be built. May also be referred to in this Ordinance as “net area” or “net buildable area.”

**Area, gross.** The total area within a lot before dedication for roads, open spaces, or other public uses – but not including rights-of-way, easements owned by others, or marshlands/wetlands within a development.

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

**Berm.** A linear, rounded mound of earth added to a property to serve multiple functional and aesthetic purposes, including limiting visibility or screening between properties or to hide mechanical equipment, dumpsters, and the like.

**Best Management Practice (BMP).** A practice that is determined by a state or designated area-wide planning agency, or director of environmental engineering, to be the most effective, practical means of preventing or reducing the amount of pollution generated by nonpoint-sources to a level compatible with water quality goals. A BMP includes, but is not limited to, detention or retention basins.

**Bicycle rack.** A stationary fixture to which a bicycle can be supported upright, provide two points of contact, and be securely attached (typically using a bicycle lock) to prevent theft.

**Block:** An area enclosed by adjacent and intersecting streets.

**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.

**Buffer, transitional.** A strip of land, with plantings, designed to set apart and protect one space or activity from an adjacent space or activity.

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

**Building height.** The vertical distance, measured in feet, the vertical distance from the established curb grade to the roofline.

**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.

**Building Setback Line:** The distance between a building and the front boundary line of the lot on which the building is located.

**By Right:** Uses or structures that are allowed under a particular zoning district classification without the need for a special use permit.

**Caliper.** A device used to measure of the diameter of a tree trunk.

**Canopy.** An architectural projection or shelter projecting from and supported by the exterior wall of a building and composed of a covering of rigid or non-rigid materials and/or fabric on a supporting framework that may be either permanent or retractable.

**Central Sewer System:** A sewer system that serves two (2) or more lots.

**Central Water System:** A water system that serves two (2) or more lots.

**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.

**Clerk:** The Clerk of the Circuit Court for Nelson County.

**Cluster development.** A development design technique that concentrates buildings on a portion or portions of the site to allow the remaining land to be used for recreation, open space, or preservation of land areas.

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

**Commission:** The Planning Commission of Nelson County.

**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.

**Condition.** A specific requirement, restriction, or provision imposed as part of conditional zoning action that governs the use or development of land. A condition may supplement or modify the regulations of the underlying zoning district and is intended to address potential impacts or promote compatibility with surrounding land uses.

**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.

**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.

**Critical slope.** The portion of a lot with a grade of more than 35%, grade being the vertical elevation of land area divided by the horizontal distance.

**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.

**Deck line.** The intersection of two (2) roof surfaces of a mansard roof forming the highest horizontal line of the steeper roof slope.

**Density.** The number of dwelling units that are allowed on a given unit of land, which will be permitted to include dedicated streets contained within the development. Density is determined by dividing the total number of residential units or lots to be located on the parcel by the area of the base parcel, excluding any minimum required open space.

**Density Bonus.** Pursuant to the Code of Virginia § 15.2-2305.1, as amended, an increase in the maximum allowed gross residential density beyond the usual limit, based on the applicant's request, or, the applicant may choose, a lesser percentage of density increase, or even no increase in density.

**Developer:** An individual or other entity who subdivides and/or develops property by constructing improvements thereon.



**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.

**Diameter at breast height (DBH).** Diameter of a tree trunk (measured about forty-eight (48) to sixty (60) inches from the ground) measured at the breast for trees with multiple trunks.

**Dimensional standards.** Regulations controlling the size of structures and the relationship of structures and uses to each other and to open areas and lot lines, including but not limited to maximum building height, maximum floor area ratio, minimum setback and yard requirements, and grade.

**District.** See "Zoning District."

**Division, family.** The division of land for simultaneous conveyance to a member of the immediate family, or beneficiaries of a trust, of the property owner.

**Drainage Course.** A route or course on the surface of the ground along which water moves, after precipitation, to drain a region.

**Drip Line.** An imaginary, perpendicular line that extends downward from the outermost tips of the tree branches to the ground.

**Dry Hydrant.** A permanently installed piping system usable as a ready means of obtaining water from a natural or manmade water source.

**Dustless surface.** See *improved surface*.

**Easement:** A grant by a property owner of the use of land for a specific purpose.

**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.

**Fence.** A barrier of man-made construction preventing movement across a boundary, including walls that do not support a roof, but not retaining walls.

**Fence, ornamental.** A fence other than a chain link or barbed wire fence intended to decorate, accent, or frame a feature of the landscape. Ornamental fences are often used to identify a lot corner, or frame a driveway, walkway, or planting bed.

**Footcandle.** A measure of light falling on a surface. One footcandle equals the amount of light generated by one candle shining on one square foot surface located 1 ft. away. Footcandle measurements must be made with a photometric light meter.

**Functional classification.** The federal system of classifying groups of highways according to the character of service they are intended to provide and classifications made by the VDOT Commissioner based on the operational characteristics of a highway.

**Arterial, minor:** Roads that interconnect with and augment the principal arterial system. Minor arterials distribute traffic to smaller geographic areas providing service between and within communities. Development connections to the arterial need to be managed so as to not adversely affect their traffic movement function.

**Arterial, principal.** Major highways of regional and statewide significance intended to serve large amounts of traffic traveling relatively long distances at higher speeds. Direct property access requires careful management to preserve traffic mobility and avoid creating unsafe operations. For example, interstates, freeways, and expressways.

**Collector, major:** A street, or system of streets, that distributes traffic from the arterial through the area to the ultimate destination that may be a local or minor collector street. The major collector street also collects traffic from local and minor collector streets in the neighborhood and channels such traffic into the arterial systems.

**Collector, minor.** The principal entrance streets of a residential development and the principal circulating streets within a development.

**Local streets and roads.** The functional classification for highways that comprise all facilities that are not collectors or arterials. Local streets serve primarily to provide direct access to abutting land and to other streets.

**Glare.** The sensation produced by a bright light source within the visual field that is sufficiently brighter than the level to which the eyes are adapted, which causes annoyance, discomfort, or loss in visual performance. Disability glare is the effect of stray light in the eye where visibility and visual performance are reduced.

**Grade, curb.** The elevation of the recognized edge of the street, or centerline of the street, in front of a building or structure.

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

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

**High intensity discharge lamp.** A mercury vapor lamp, a metal halide lamp, or a sodium lamp (high-pressure and low-pressure).

**High-pressure sodium vapor.** A High Intensity Discharge light source in which the arc tube's primary internal element is Sodium Vapor. High-pressure sodium vapor lamps emit a broader spectrum of light than low-pressure lamps.

**Improved surface.** A surface made of asphalt, concrete, brick, stone pavers, or an equivalent hard, dustless, and bonded material.

**Interior aisle.** A portion of a parking area which abuts, on one or more sides, parking spaces to which it provides access, and which is not used for the parking of vehicles.

**Jurisdiction:** The area or territory subject to the legislative control of the Governing Body of Nelson County, Virginia.

**Kelvin light color temperature.** A light bulb color temperature's unit of absolute temperature, noted by the symbol K. The higher the Kelvin rating, the whiter the light will be. The Kelvin scale is generally as follows: 2700K (warm incandescent), 3000K (warm white halogen) and 3500K (household fluorescent).

**Lamp.** The component of a luminaire that produces light. A lamp is also commonly referred to as a bulb.

**Lamp, mercury vapor.** A gas discharge lamp that uses an electric arc through vaporized mercury to produce light.

**Landscaping.** The finishing and adornment of unpaved yard areas. Materials and treatment include naturally growing elements such as grass, trees, shrubs, and flowers. This treatment will be permitted also to include the use of logs, rocks, fountains, water features, and contouring of the earth.

**Leadership in Energy and Environmental Design (LEED) Certification.** An internationally used green rating designation given to a structure based on its performance in aspects of sustainability, including but not limited to energy use, water efficiency, and indoor environmental quality.

**Light emitting diode.** A semiconductor light source that emits light when current flows through it. Also referred to as an LED.

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

**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”.

**Lot, corner.** A lot abutting on two or more streets at their intersection, where the interior angle of the intersection does not exceed 135 degrees.

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

**Lot, regular.** A lot that has direct access to a public or approved private road. They are located, shaped, and oriented to adjacent lots in such a way that the application of general measurements can be reasonably applied, and the location of front, side, and rear setbacks is logically determined by, and related to, adjacent streets and setback patterns.

**Lot, stem.** A lot which does not abut a public street other than by its driveway which affords access to the lot; may also be referred to as a flag lot or pipestem lot.

**Lot, through.** An interior lot, but not a corner lot, abutting on two (2) or more roughly parallel public streets, but not including an alley.

**Lot area.** The total horizontal area included within the lot lines of a lot.

**Lot coverage.** The percentage of a lot, when viewed from above, that would be covered by a structure or structures (or any part thereof), including driveways, decks, stairs, eaves, and other improvements.

**Lot depth.** The distance between the front lot line and rear lot line of a lot, measured along a straight line.

**Lot frontage.** The horizontal distance between the side lot lines of a lot, measured at the street or road right-of-way.

**Lot line, front.** A lot line connecting the foremost points of the side lot lines and delineating the lot from the abutting street or road.

**Lot line, rear.** A lot line which is opposite and most distant from the front lot line and connecting the rearmost points of the side lot lines.

**Lot line, side.** Any lot line not considered a front or rear lot line.

***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.

***Low-Impact Development (LID).*** Methods of stormwater treatment and control that use the natural capacities of soil and vegetation to prevent or reduce stormwater runoff and associated nonpoint source pollution. LID methods may be combined with conventional or structural stormwater treatment systems. May also be referred to as “green infrastructure.”

***Low-pressure sodium vapor.*** A High Intensity Discharge light source in which the arc tube’s primary internal element is Sodium Vapor. Low-pressure sodium vapor lamps only give monochromatic yellow light and so inhibit color vision at night.

***Lumen.*** A standard unit of measurement of luminous flux.

***Luminaire.*** A complete electric light unit consisting of a lamp or lamps together with the components designed to distribute the light, to position and protect the lamps, and to connect the lamps to the power supply; may also be referred to as a fixture.

***Luminaire, full cut-off.*** An outdoor light fixture, independently certified by lighting manufacturers, shielded in such a manner that all light emitted by the fixture, either directly from the lamp or indirectly from the fixture, is projected down below the fixture.

***Luminaire, directionally shielded.*** An outdoor light fixture that contains visors, louvers, and other types of shields or lenses designed to direct light onto a targeted area and to minimize stray light. This can be determined by a "field test" or visual assessment of an operating sample, or fixture photographs and/or diagrams.

***Luminaire, outdoor.*** A luminaire which is permanently installed outdoors including, but not limited to, devices used to illuminate any site, structure, or sign, except that it does not include an internally illuminated sign.

***Luminance.*** A photometric measure of the luminous intensity per unit area of light travelling in a given direction.

***Market-rate affordable housing.*** A non-subsidized, privately owned dwelling unit that is either rented or owned by those who pay market-rate rents or who paid market value to purchase the property.

***Marquee.*** A permanent structure projecting beyond a building wall at an entrance to a building or extending along and projecting beyond the building's wall and generally designed and constructed to provide protection against the weather.

**Nit.** A measurement of candelas per square meter (cd/m<sup>2</sup>) and used frequently to describe sign luminance and to measure sign brightness.

**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.

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

**Open space.** The total area, inclusive of both land and water, in a development that is not covered by buildings, roads, driveway and parking areas, or outdoor storage areas – including, but not limited to, land area set aside for passive and active recreation, landscaping, and/or natural preservation.

**Parapet.** The extension of a building façade above the line of the structural roof.

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

**Parking lot.** An off-street, ground level area that is used to provide for the required parking spaces, and associated aisles, as provided in Article 8, Community Design Standards, of this Ordinance.

**Parking space.** A designated space designed to park a vehicle; such space being exclusive of necessary drives, aisles, entrances and exits and being fully accessible for the parking or storage of permitted vehicles.

**Performance Bond/Guarantee:** A bond, escrow, letter of credit, cash deposit, or other performance guarantee approved by the Agent or Planning Commission, in the amount equal to the full cost of improvements required by these regulations and providing for completion of said improvements within a definite period of time.

**Planned Development.** A type of development that is designed and approved as a unified project, typically allowing for a mix of land uses, flexible design standards, and coordinated site planning. Planned developments often depart from traditional zoning requirements in order to promote creative design, efficient land use, and compatibility with surrounding areas.

**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.

**Plat or plat of subdivision.**<sup>2</sup> The schematic representation of land divided or to be divided and information in accordance with the provisions of Virginia State Code §§ 15.2-2241, 15.2-2242, 15.2-2258, 15.2-2262, and 15.2-2264, and other applicable statutes.

**Plat, easement.** A plat that grants an interest to an adjacent landowner, the public, or a specific entity or person for a specific purpose.

**Plat, Final.** The map of a subdivision submitted to and approved by the County of Nelson, and subsequently recorded in the Office of the Clerk of the Circuit Court of Nelson County, Virginia.

**Plat, Preliminary Subdivision.** The proposed schematic representation of development or subdivision that establishes how the provisions of Virginia State Code §§ 15.2-2241 and 15.2-2242, and other applicable statutes will be achieved.

**Plat, Sketch.** An informal plan indicating general topography, approximate boundaries, and street frontage of property.

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

**Property:** Any tract to be subdivided, or several tracts or parcels collected together for the purpose of subdividing.

**Public Art.** Items expressing creative skill or imagination in a visual form, such as painting or sculpture, which are intended to beautify or provide aesthetic influences to public areas or areas which are visible from the public realm.

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<sup>2</sup> Editor's Note: All plat definitions are new, and updated per Code of VA.

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

**Public water and sanitary sewer systems.** A water or sanitary sewer system owned and operated by a municipality or county, or owned by a private individual or a corporation approved by the governing body and properly licensed by the state corporation commission.

**Quasi-public.** Essentially a public use, although under private ownership or control.

**Quorum.** A majority of the authorized members of a board or commission.

**Reserve Strip.** A narrow plot of land adjacent to a public street, of insufficient depth for subdivision, retained by the subdivider to prevent access to the street, by the owner of adjoining property. Also known as a spite strip.

**Residential:** Referring to a place of living or abode whether for single family or multi-family accommodation.

**Residue:** The part of an original lot remaining after a portion has been divided off pursuant to Appendix B of the Code of Nelson County as amended. The residue shall be identified as one (1) of the lots within the subdivision. For example, for a two-acre parcel divided off a six-acre parcel, the new lot is identified as one (1) parcel and the residue is the second parcel.

**Retaining wall.** A manmade barrier constructed for the purpose of stabilizing soil, retarding erosion, or terracing a slope.

**Rezoning.** See “Zoning Map Amendment.”

**Rill or Gully Erosion.** The removal of soil by concentrated water flow.

**Right-of-Way (ROW), public.**<sup>3</sup> A legally established area or strip on which an irrevocable public right of passage has been recorded, and which is occupied or intended to be occupied by a street, utility service, water main, sanitary or storm sewer main, or other similar use.

**Right-of-way width.** The total width of the strip of land dedicated or reserved for public travel within which roadway, curbs, gutters, sidewalks, planting strips, and undeveloped land may be located.

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<sup>3</sup> Editor’s Note: This definition has been updated.



**Roadway.** That paved portion of the street available for vehicular traffic, and where curbs are laid, the portion from face to face of curbs.

**Roof line.** The top edge of a peaked roof, or in the case of an extended façade or parapet, the uppermost point of said façade or parapet.

**Screening.** Landscaping, solid fencing, or masonry walls, or combination thereof, that physically and visually shields uses or their appurtenances, such as dumpsters and mechanical equipment, from adjacent property or uses.

**Setback.** The minimum distance by which any building or structure must be separated from a street right-of-way or lot line. Any area covered by a roof, such as a porch, will be subject to setback requirements.

**Setback, front.** The minimum distance from the edge of the public right-of-way, inwards towards the lot, until the distance required in the district standards is met. For Stem Lots, the front setback is the minimum distance from the edge of the right of way or “end” of the stem portion.

**Setback, rear.** The minimum distance from the rear lot line, inwards towards the lot, until the distance required in the district standards is met.

**Setback, side.** The minimum distance from the side lot line(s), inwards towards the lot, until the distance required in the district standards is met.

**Sidewalk.** A paved surface, the prime purpose of which is a pedestrian walkway.

**Sign.**<sup>4</sup> Any device (writing, letter work or numeral, pictorial presentation, illustration or decoration, emblem, device, symbol or trademark, flag, banner or pennant or any other device, figure or character) visible to and designed to communicate information to persons in a public area. However, the term “sign” does not include public art, holiday displays, or architectural features, except those that identify products or services or advertise a business use. The term “sign” also does not include the display of merchandise for sale on the site of the display.

**Awning Sign.** A sign placed directly on the surface of an awning.

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<sup>4</sup> Editor’s Note: Sign definitions are materially the same as those provided in the existing ordinance, however, they have been updated, deleted, or replaced for compliance with *Reed v. Gilbert* and Code of VA.

**Banner.** A temporary sign of flexible material designed to be installed with attachments at each of four corners and typically affixed to a framework or flat surface.

**Canopy Sign.** A sign attached to a canopy.

**Changeable copy sign.** A sign or part of a sign designed so that characters, letters or illustrations can be changed or rearranged without altering the face or surface of the sign.

**Directional sign.** Any sign displayed for the direction and convenience of the public, including signs which identify restrooms, location of public telephones, public entrances, freight entrances or the like.

**Flag.** A piece of cloth or similar material, typically oblong or square, attachable by one edge to a pole or rope and used as a symbol or decoration; this includes pennants but not “banner” as defined herein.

**Flashing sign.** A sign that includes lights that flash, blink, or turn on and off intermittently.

**Freestanding sign.** Any non-portable sign supported by a fence, retaining wall, or by upright structural members or braces on or in the ground and not attached to a building.

**Ground mounted sign.** A sign that is supported by structures or supports in or upon the ground and independent of any support from any building or wall.

**Illuminated sign.** A sign that is backlit, internally lighted, or indirectly lighted, but does not include a neon sign.

**Landmark sign.** A sign or plaque that is attached to the surface of a building or on a site that identifies or describes the historical, cultural, social, or other significance of a building or site.

**Marquee sign.** A sign attached to and made a part of a marquee or any similar projections from a building, with changeable, fixed or both types of lettering in use.

**Monument sign.** A sign affixed to a structure built on grade in which the sign and the structure are an integral part of one another; not a pole sign.

**Neon sign.** A sign containing exposed tubes filled with light-emitting gas.

**Off-premises sign.** A sign that directs attention to a business, product, service or activity conducted, sold or offered at a location other than the premises on which the sign is erected.

**Pole sign.** A sign that is mounted on one (1) or more freestanding poles.

**Projecting sign.** Any sign, other than a wall or awning sign, affixed to a building and supported only by the wall on which it is mounted.

**Roof sign.** A sign erected or constructed, in whole or in part, upon or above the highest point of a building with a flat roof, or the lowest portion of a roof for any building with a pitched roof.

**Temporary sign.** Any sign intended to be displayed for a limited period.

**Vehicle sign.** Any sign attached to or displayed on a vehicle, if the vehicle or trailer is used for the primary purpose of advertising a business establishment, product, service or activity. Any such vehicle or trailer will, without limitation, be considered to be used for the primary purpose of advertising if it fails to display current license plates, inspection sticker, or municipal decal, if the vehicle is inoperable, if evidence of paid-to-date local taxes cannot be made available, or if the sign alters the standard design of such vehicle or trailer.

**Wall Sign.** Any sign attached to a wall or painted on or against a flat vertical surface of a structure.

**Window sign.** Any sign visible outside the window and attached to or within 18 inches in front of or behind the surface of a window or door.

**Sign area.** The entire area enclosing the extreme limits of writing, representation, pictorial elements, emblems, or a figure of similar character, together with all material, color, or lighting forming an integral part of the display or used to differentiate the Sign from the background against which it is placed.

**Sign face.** The portion of a sign structure bearing the message.

**Sign structure.** Any structure bearing a sign face.

**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.

**Sight triangle.** A triangular area that is included between the lines of an intersecting public street or private driveway, extended to the point where the lines intersect, and, at points on each line 20 ft. distant from that point, a straight line connecting them. May also be referred to in this Ordinance as a “visibility triangle.”

**Special Use Permit (SUP).** 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.

**Steep slope.** The portion of a lot with a grade of more than 20%, grade being the vertical elevation of land area divided by the horizontal distance.

**Stream:** A body of running water flowing in a channel on the surface of the ground, and not wholly dependent on surface water in its own immediate vicinity.

**Street.**<sup>5</sup> A public thoroughfare providing the principal means of access to adjacent property. The term "street" includes all property dedicated or intended for public or private use for access to abutting lands or subject to public easements therefore, and whether designated as a street, highway, thoroughfare, parkway, thoroughway, expressway, road, drive, court, avenue, boulevard, lane, place, circle, or however otherwise designated. See *functional classification* for types of roads and streets.

**Street or alley, public use of.** The unrestricted use of a specified area or right-of-way for ingress and egress to two or more properties. Unless otherwise provided or regulated, a public street or alley may be used for the convenient transport of utility services.

**Street, public.** A street dedicated to public use and available to the public's unrestricted use without regard to the jurisdictional authority responsible for its operation and maintenance.

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<sup>5</sup> Editor's Note: All street definitions have been updated per Code of VA.

**Street, service drive.** A public right-of-way generally parallel and contiguous to arterial or collector roads, designed to promote safety by limiting access to the right-of-way using safe and orderly points of access.

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

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

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

**Structure, accessory.** A subordinate structure, use of land, building, or a portion of a main building or use which is clearly incidental to or customarily found in connection with and located on the same lot as the principal structure or use. Accessory structures must not be used for human habitation unless permitted as a Dwelling, accessory, as defined herein.

**Structure, mixed-use.** A building containing residential uses in addition to non-residential uses permitted in the zoning district. Mixed-use structure should not be confused with a mix of uses each in separate structures in a single development.

**Structure, non-residential.** A building or structure, or part of a building or structure, not occupied in whole or in part for the purpose of human habitation. Examples include warehouse and industrial buildings, commercial buildings, buildings for public entertainment, hotels, restaurants, educational buildings, health buildings, etc.

**Structure, principal.** A building in which is conducted the primary use of the lot on which it is situated, or where a lot contains residential uses, the principal structure on the lot will mean the largest building that contains any dwelling unit.

**Structure, residential.** A building, or any portion thereof, containing a complete set of living accommodations suitable for occupancy by one or more persons, consisting of sleeping, bathroom, and complete kitchen facilities for the exclusive use of such occupants.

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

**Subdivider:** Any person or entity who subdivides land. See *developer*.

**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 term "subdivision" includes family division, resubdivision, and, when appropriate to the context, shall relate to the process of subdividing or to the land subdivided.

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

**Subterranean Water:** Water within the earth that supplies wells and springs.

**Tree canopy or tree cover.** All areas of coverage by plant material exceeding 5 ft. in height, and the extent of planted tree canopy at 10- or 20-years maturity, as applicable. Planted tree canopy at maturity will be based on published reference texts generally accepted by landscape architects, nurserymen, and arborists, i.e., in The Manual of Woody Landscape Plants by Michael A. Dirr (4th edition, 1990).

**Tree, deciduous.** A tree that loses its leaves at the end of its growing season and becomes dormant during the winter.

**Tree, evergreen.** A tree that doesn't shed its leaves in the winter but stays green all year.

**Tree, ornamental.** A tree that is typically a deciduous tree possessing qualities such as flowers or fruit, attractive foliage, bark, or shape.

**Tree, protected.** Any healthy tree to be preserved on site must be protected before, during, and after the development process utilizing accepted practices; see Article 8 for the preference for which trees are to be protected on a given site.

**Tree, understory.** A tree that that is small enough, and sufficiently shade tolerant, to thrive under the canopies of other, taller trees.

**Use.** The activity occurring on a lot or parcel for which land or a building is arranged, designed, or intended, or for which land or a building is or may be occupied.

**Use, accessory.** Uses of land and buildings that are found on the same parcel as the principal use but are subordinate and incidental, including parking.

**Use, principal.** A use that fulfills a primary function of a household, establishment, institution, or other entity.

**Use, secondary.** A use that is intended to provide for the needs and conveniences of residents or property owners within a district and is only permitted in a development which contains one or more approved principal uses.

**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.

**Watercourse:** A natural stream of water, such as a river, brook, or creek, either permanent, intermittent or seasonal.

**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.

**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 district, overlay.** A district which addresses special land use circumstances or environmental safeguards by superimposing additional standards and regulations over the underlying Primary Zoning District.

**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 General Floodplain Overlay District Definitions**

For purposes of the Floodplain Overlay District, the following terms will have the meanings respectively ascribed to them, unless the context clearly requires otherwise:

**100-Year Flood.** The flood having a 1% chance of being equaled or exceeded in any given year. It does not imply that no greater flood is likely to occur, nor that such a flood will not happen more often than once every 100 years.

**Base flood.** The flood having a 1% chance of being equaled or exceeded in any given year.

**Base flood elevation (BFE).** The Federal Emergency Management Agency designated 100-year water surface elevation. The water surface elevation of the base flood in relation to the datum specified on the community's flood insurance rate map. For the purposes of this Division, the 100-year flood or 1% annual chance flood.

**Basement.** A portion of a building where at least 50% of the exterior wall area between the floor and the ceiling is below ground level.

**Development.** Pursuant to the Code of Virginia § 15.2-2201, 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.

**Dock.** A piling-mounted stationary or floating platform extending into the water and used as a landing place for boats or to protect or form a cove.

**Elevated building.** Any building without a basement built to have the lowest floor elevated above the ground by means of solid perimeter walls, pilings, or columns (posts and piers).

**Encroachment.** For the purposes of this Division, the advance or infringement of uses, plant growth, fill, excavation, buildings, permanent structures, or development into a floodplain, which may impede or alter the flow capacity of a floodplain.



**Existing construction.** For the purposes of the insurance program, structures for which the "start of construction" commenced before the effective date of the FIRM or before December 1, 1987 for FIRMs effective before that date. "Existing construction" may also be referred to as "existing structures" and "pre-FIRM".

**Existing development.** Any lawful development which existed on or before the effective date of the most-current FIRM, and/or development which has been properly permitted and for which construction has commenced on or before the effective date of the most-current FIRM.

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

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

**Federal Emergency Management Agency (FEMA).** An independent agency of the United States government that provides a single point of accountability for all federal emergency preparedness and mitigation and response activities.

**Fill.** The placing of any material which results in increasing the natural ground surface elevation.

***Flood or flooding.***

- (1) A general and temporary condition of partial or complete inundation of normally dry land areas from:
  - (a) The overflow of inland or tidal waters.
  - (b) The unusual and rapid accumulation or runoff of surface waters from any source.

- (c) Mudflows which are proximately caused by flooding as defined in this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.
- (2) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in subsection (1) of this definition.

**Flood Insurance Rate Map (FIRM).** The most recent official map prepared by the Federal Emergency Management Agency (FEMA) upon which has been delineated both the special hazard areas and risk premium zones applicable for Nelson County. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).

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

**Floodplain or flood-prone area.** Any land susceptible to being inundated by water from any source.

**Floodproofing.** A combination of design modifications that results in a building or structure that is subject to flooding, including the attendant utility and sanitary facilities, being watertight with walls substantially impermeable to the passage of water.

**Floodway.** The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot at any point within the community.

**Floodway fringe.** The floodway fringe encompasses the portion of the floodplain that could be completely obstructed without increasing the base flood elevation by more than 1.0 foot at any point.

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

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

**Historic structure.** Any structure in any of the following categories:

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

**Hydrologic/Hydraulic engineering analysis.** Analyses performed by a licensed professional engineer, in accordance with standard engineering practices that are accepted by the Virginia Department of Conservation and Recreation (DCR) and FEMA, used to determine the base flood, other frequency floods, flood elevations, floodway information and boundaries, and flood profiles.

**Letter of Map Change (LOMC).** An official written FEMA determination that amends or revises an effective FIRM or FIS. Letters of map change include:

- (1) **Letter of Map Amendment (LOMA):** An amendment based on technical data showing that a property was incorrectly included in a designated special flood hazard area, and which amends the current effective FIRM and establishes that a land as defined by meets and bounds or structure is not located in a special flood hazard area.
- (2) **Letter of Map Revision (LOMR):** A revision based on technical data that may show changes to flood zones, flood elevations, floodplain and floodway delineations, and planimetric features.

(3) **Letter of Map Revision Based on Fill (LOMR-F):** A determination that a structure or parcel of land has been elevated by fill, permitted and placed in accordance with applicable regulations of the County, above the base flood elevation and is, therefore, no longer exposed to flooding associated with the base flood.

(4) **Conditional Letter of Map Revision (CLOMR):** A formal review and comment as to whether a proposed flood protection project or other project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas, but does not revise the effective FIRM or FIS.

**Lowest floor.** The floor of the lowest enclosed area, including basement, but excluding any unfinished or flood-resistant enclosure, usable solely for vehicle parking, building access, or limited storage provided that such enclosure is not built to render the structure in violation of the applicable non-elevation design requirements of Federal Code 44 CFR §60.3.

**Lowest adjacent grade.** The lowest natural elevation of the ground surface next to the walls of a structure.

**Mean sea level.** For purposes of the National Flood Insurance Program, the datum to which base flood elevations shown on the County's FIRM are referenced.

**New construction.** For the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after **date of general floodplain district adoption**<sup>6</sup>, and includes any subsequent improvements to such structures. For floodplain management or development purposes, new construction means structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by Nelson County and includes any subsequent improvements to such structures.

**Post-FIRM structure.** A structure for which construction or substantial improvement occurred on or after **date of general floodplain district adoption**<sup>7</sup>.

**Pre-FIRM structure.** A structure for which construction or substantial improvement occurred before **date of general floodplain district adoption**<sup>8</sup>.

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<sup>6</sup> Editor's Note: The date when the general floodplain district was originally adopted by the County will need to be verified with and included here.

<sup>7</sup> Editor's Note: The date when the general floodplain district was originally adopted by the County will need to be verified with and included here.

<sup>8</sup> Editor's Note: The date when the general floodplain district was originally adopted by the County will need to be verified with and included here.

**Recreational vehicle.** Any vehicle which is:

- (1) Built on a chassis;
- (2) Four hundred (400) square feet or less when measured at the largest horizontal projection;
- (3) Designed to be self-propelled or permanently towable by a light duty truck; and
- (4) Designed primarily as temporary living quarters for recreational camping, travel, or seasonal use. May also be referred to as travel trailer, camper, or similar vehicle.

**Repetitive Loss Structure.** A building covered by a contract for flood insurance that has incurred flood-related damages on two occasions in a ten (10) year period, in which the cost of the repair, on the average, equaled or exceeded twenty-five percent (25%) of the market value of the structure at the time of each flood event; and at the time of the second incidence of flood-related damage, the contract for flood insurance contains increased cost of compliance coverage.

**Severe Repetitive Loss Structure.** A structure that:

- (1) Is covered under a contract for flood insurance made available under the NFIP; and
- (2) Has incurred flood-related damage for which:
  - (a) Four (4) or more separate claims payments have been made under flood insurance coverage with the amount of each such claim exceeding \$5,000, and with the cumulative amount of such claims payments exceeding \$20,000; or
  - (b) At least two (2) separate claims payments have been made under such coverage, with the cumulative amount of such claims exceeding the market value of the insured structure.

**Shallow flooding area.** A special flood hazard area with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

***Special Flood Hazard Area (SFHA).*** The land in the floodplain subject to a one percent (1%) or greater chance of being flooded in any given year as determined in Section 5-3-14 of this Ordinance. Properties within the SFHA are at a high risk of flooding, with at least a 26-percent chance of flooding over the course of a 30-year mortgage.

***Start of construction.*** The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, substantial improvement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms. For a substantial improvement, the actual start of the construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

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

***Substantial damage.*** Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred. Included in this term are flood-related damages sustained by a structure on two occasions in a ten (10)-year period, in which the cost of the repair, on the average, equals or exceeds twenty-five percent (25%) of the market value of the structure at the time of each such flood event.

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

- (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the building official and which are the minimum necessary to assure safe living conditions, or
- (2) Any alteration of a "historic structure", provided that the alteration will not preclude the structures continued designation as a "historic structure".
- (3) Historic structures undergoing repair or rehabilitation that would constitute a substantial improvement as defined above must comply with all ordinance requirements that do not preclude the structure's continued designation as a historic structure. Documentation that a specific ordinance requirement will cause removal of the structure from the National Register of Historic Places or the State Historic Places must be obtained from the Secretary of the Interior or the State Historic Preservation Officer. Any exemption from ordinance requirements will be the minimum necessary to preserve the historic character and design of the structure.

**Violation.** The failure of a structure or other development to be fully compliant with Nelson County's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in §60.3(d)(3) of the National Flood Insurance Program regulations, is presumed to be in violation until such time as that documentation is provided.

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

**Zone, A.** Those areas for which no detailed flood profiles or elevations are provided, but the 1% annual chance floodplain boundary has been approximated.

**Zone, AE.** Those areas for which one percent (1%) annual chance flood elevations have been provided and the floodway has been delineated on the FIRM.

**Zone, X.** If shaded on the FIRM, these are areas of the County where the annual flood risk is considered moderate at between one percent (1%) and 0.2 percent (0.2%). If unshaded, these are areas where the annual flood risk is considered low at below 0.2 percent (0.2%). There are no specific development requirements in the X Zone pursuant to this Division.