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**AGENDA
COUNTY OF NELSON
JOINT MEETING OF BOARD OF SUPERVISORS AND PLANNING COMMISSION
OCTOBER 22, 2025 AT 5:00 P.M.
FORMER BOARD ROOM AT THE COURTHOUSE IN LOVINGSTON
(The meeting is a continued session from 10/14/25 (BOS) and 10/07/25 (PC))**

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

MEMO: CO151 STANDARDS

Introduction

Nelson County requested that a corridor overlay district be added to the Zoning Ordinance for the Route 151 corridor. The CO151 District has been drafted in the proposed Zoning Ordinance, however, standards for the overlay exist in multiple articles of the Ordinance. This memo gathers all the provisions for CO151 into one document for the County's convenience. Please also see Article 5, Overlay Districts, Divisions 5-1 and 5-5, and Article 8, Division 8-8 Open Space, for new content (denoted with footnotes in red text) drafted since the Joint Worksession on August 27, 2025.

Article 5 Overlay Districts.

Division 5-5 CO151- Route 151 Corridor Overlay District¹

Applicability

CO151 District boundaries shall be as follows:

- 500 feet on either side of U.S. Route 151, measured from the edge of the road ROW.²
- The length of the CO151 shall be from the Albemarle County boundary line to the intersection of Route 151 with Beech Grove Road.
- Any new commercial, minor subdivision, or major subdivision development within the CO151 must conform with the regulations of this Division, the requirements of this Ordinance, and the underlying zoning district(s).
- If a conflict exists between the standards of the CO151 found within this Division and the rest of the Ordinance, regulations in this Division shall govern.

Applications and Process

In addition to all applicable requirements of **Article 3, Permits and Applications**, and **Article 8, Community Design Standards**, of this Ordinance, the following is required to be submitted for all development within the CO151 as part of a Site Plan or, in the case of a subdivision, as part of the plat submission:

- An access plan, drawn to scale, including dimensions and distances, and clearly detailing:
 - All nearby entrances and access points on both sides of the corridor highway within 400 ft. of the property line(s), and any entrances, including inter-parcel and secondary street access, for all adjacent properties; and

¹ Editor's Note: This overlay was added after the 8/27/25 worksession as requested by the County.

² Editor's Note: Most of the parcels fronting along Route 151 are a minimum of about 500 ft. deep. If this number is reduced the CO151 would only apply to the front portion of most parcels. Recommend keeping a 500 foot boundary.

- The traffic circulation system and the pedestrian circulation system as coordinated with adjacent properties, including the location and width of all streets, driveways, access aisles, entrance to parking areas, walkways, and paths.
- A traffic impact analysis detailing:
 - The anticipated additional Annual Daily Traffic (ADT) generated by the development; and
- Any proposed improvements to mitigate potential negative impacts to the traffic circulation system.
- A landscape plan showing compliance with the requirements of the CO151 Landscape Design Standards of **Article 8, Community Design Standards**.

Permitted Uses

Uses which are permitted by-right and by Special Use Permit in the underlying primary districts shall be permitted in the CO151; see **Article 6**, Use Matrix.

Prohibited uses. Regardless of **Section 5-5-3 A** and the allowances in the Use Matrix, the following uses shall be prohibited within the CO151:

- Adult use;
- Automobile sales and rental;
- Car wash;
- Confined animal feeding operation;
- Drive-through window;
- Firing range, outdoor;
- Manufactured home park;
- Meat processing facility;
- Migrant labor camp;
- Parking lot, recreational vehicle;
- Race track;
- Self storage facility;
- Smoke/Vape shop;
- Solar energy, utility-scale;
- Utility service, major; and

- Any use within the Industrial category of **Article 6**, Use Matrix.

Uses by Special Use Permit. Regardless of **Section 5-5-3 A and B**, the following uses shall be permitted by Special Use Permit within the CO151:

- Animal Shelter;
- EV charging station;
- Fuel center;
- Recreation/Entertainment, commercial, indoor;
- Recreation/Entertainment, commercial, outdoor;
- Solar energy, medium-scale;
- Stable, commercial;
- Store, large;
- Telecommunications facility; and
- Utility service, major.

Development Standards

In addition to the development standards specified in this Ordinance for underlying primary zoning districts, the following standards shall apply in the CO151:

- **Open space requirements.** All new development in the CO151 shall provide open space in accordance with this Division and the open space shall be designed and used in accordance with the standards for open space provided in **Article 8**, Community Design Standards, of this Ordinance.
 - Open space, as defined in this Ordinance, requirements shall apply to all new construction, developments, or redevelopments that require an approved Site Plan, Special Use Permit, or Zoning Permit in accordance with this Ordinance.
 - All development is required to preserve a minimum of 50% of the total acreage as open space, unless developed in accordance with the cluster development standards of this section.
 - Open Space Plan Required. All development applications subject to review for compliance with the standards of this Division must include an Open Space Plan, which must designate all open-space areas, including the amount of each type of open space provided, and the relation of each open space area to the constructed areas of the site, including all buildings and circulation systems.

CO151 Cluster Development Purpose.

- The purpose of CO151 Cluster Development provisions is to:
 - Provide cluster development standards and options that differ from cluster housing development provisions in **Article 4**, Primary Zoning Districts;
 - Encourage the protection and preservation of open space and agricultural lands in the CO151;
 - Encourage development in a manner which reduces the cost of infrastructure;
 - Provide incentives for clustering development in the CO151;
 - Create and encourage the use of a variety of development choices to satisfy the changing needs of the County; and
 - Offer flexibility to the developer in their approach and solution to land development problems.

CO 151 Cluster Development Standards.

- The dimensional requirements set forth in this Section shall supersede those stipulated for other development types, except that:
 - All residential lots, buildings, and structures must be interior and setback 50 ft. from the development property line. Minimum setbacks included in **Table 5-3** apply to interior lots adjoining other lots within the cluster development.
 - The requirements for corner visibility, as set forth in **Article 8**, Community Design Standards, of this Ordinance are not waived.
 - The setback requirement for any building on a cluster lot which abuts a lot located outside the cluster development, shall be no less than the greater of the required setbacks for either lot.
 - All cluster developments shall adhere to the requirements of **Article 10**, Subdivisions, of this Ordinance.
- Development regulations shall be as specified in the underlying zoning district, except as shown in **Table 5-3** and the following:
 - Overall Residential Development Density Calculation:
$$\text{Total Development Acreage} \times \text{Density} = \text{number of units allowed (refer to Table 5-3)}$$

Number of units allowed are built on a maximum of 40% of the total property.
 - Overall Commercial Development Density Calculation:
$$\text{Total Development Area} - \text{Minimum Open Space} = \text{Buildable Area}$$

Table 5-3: Route 151 Cluster Development Standards

CO151 CLUSTER DEVELOPMENT						
Standard	Residential			Commercial		
MINIMUM DEVELOPMENT AREA						
With public water AND sewer; OR private, centralized system	2 Acres			0.5 acre		
With private well and/or septic	5 Acres			1 acre		
MAXIMUM DENSITY ¹						
With public water AND sewer; OR private, centralized system	4 du/acre ³			100% lot coverage of the buildable area		
With private well and/or septic	2 du/acre					
¹ Calculated as provided in Section 5-5-4 A (3) (b)						
MINIMUM OPEN SPACE						
Percent of development area	60%			0.5 acre to 1.5 acre = 30% More than 1.5 acre = 40%		
DIMENSIONAL STANDARDS						
MINIMUM LOT SIZE						
With public water AND sewer; OR private, centralized system	2,178 sq. ft.			0.5 acre		
With private well and/or septic	0.5 acre			1 acre		
MINIMUM FRONTAGE						
	25 ft.			In accordance with underlying district standards		
MINIMUM SETBACKS						
	Front	Side	Rear	Front	Side	Rear
All structures- Measured from the structure's property line	15 ft.	5 ft.	10 ft.	No minimum	5 ft.	10 ft.

³ Editor's Note: The County should consider if this density suits the purpose of the overlay.

CO151 CLUSTER DEVELOPMENT		
Standard	Residential	Commercial
MAXIMUM STRUCTURE HEIGHT		
Principal structure	35 ft.	30 ft.
Accessory structures	No taller than principal structure	

Design Standards. The following standards will apply in the CO151, unless otherwise noted:

- The design of new construction, exterior renovations, and additions must be complementary to the character and materiality of the principal structure and adjacent properties.
- Any alteration or expansion of a structure that is nonconforming to height, area, yard, setback, or bulk requirements of the CO151 shall be in accordance with **Article 9, Nonconformities**, of this Ordinance.
- Walls and fences, lighting, and landscaping and screening, must be installed in accordance with **Article 8, Community Design Standards**, of this Ordinance.
- **Signs.** All signs erected shall be in accordance with **Article 8, Community Design Standards**, of this Ordinance, in addition to the following standards:
 - Pole mounted signage is prohibited.
 - Sign materials and colors must complement the overall design of the building.
 - The base of signs placed at the primary access to the parcel must be landscaped in accordance with **Article 8, Community Design Standards**, of this Ordinance.
 - Plantings at the base of signage must not grow to a height that partially or fully obstructs sign copy, as visible from the Route 151 ROW.
- All new roads must conform to VDOT standards and be adopted for public use within six (6) months of the completion of new developments.⁴
 - **Vehicular Access and Circulation.**⁵
 - Any parcel, subdivision, or cluster development having frontage along Route 151 or a roadway within CO151 will be allowed only one direct access to that roadway, unless an access plan is submitted to, and approved by the Administrator for more than one access point.

⁴ Editor's Note: This provision would restrict private roads for new developments within the CO151 district.

⁵ Editor's Note: The provisions in this subsection are designed to promote inter-connectivity between developments and restrict access points along Route 151.

- Additional access points, associated with subdivision or commercial development, must also provide access to adjacent parcels for existing or future development.
- The Administrator may approve additional direct access points to roadways if it is demonstrated that the proposed design accomplishes the purpose of the CO151. Access design must conform to VDOT standards.
- There will be no direct access onto Route 151 or a roadway within CO151 from out-parcels which are part of a larger, coordinated development site or shopping center. Access via the following means will be approved:
 - By provision of shared entrances, inter-parcel connections and travel routes, or on-site service drives connecting adjacent properties;
 - By access from a secondary public street rather than a primary street; or
 - By the internal streets of a commercial, office, or institutional complex.
- All primary travel lanes and streets designed to allow vehicular access between properties must be established in recorded ingress/egress easements, which are reciprocal in nature and address the shared cost of construction and ongoing maintenance.
 - Such easements or dedicated public ROWs must be extended to the property line where inter-parcel access or dedicated public ROWs are required.
- **Parking.**
 - Parking shall be behind the front building line; and
 - Shall be landscaped in accordance with **Article 8**, Community Design Standards, of this Ordinance.

Existing parcels of land will not be denied access to a public highway if no reasonable shared or cooperative access is possible, at the time of development.

Waivers and Modifications

- The requirements of this Division may be modified by the Board of Supervisors in connection with the approval of an SUP or Zoning Map Amendment, in accordance with **Article 3, Permits and Applications**, of this Ordinance.
- The requirements of this Division may be waived or modified by the Administrator in accordance with modification criteria and procedures for a design requirement provided in **Article 8, Community Design Standards**, of this Ordinance.
 - If modification criteria and procedures for a design requirement are not provided in **Article 8, Community Design Standards**, of this Ordinance, then administrative modification shall not be granted in the CO151.

- The Administrator may attach conditions to any waiver or modification as deemed reasonably necessary.

Article 8 Community Design Standards.

Standards below are included as they relate specifically to CO151. Article 8 has many additional standards that apply to all districts, including the CO151.

DIVISION 8-3. Landscaping and Screening.

Section 8-3-5.

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					

Section 8-3-7 Frontage Landscaping.

A. 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 deciduous or evergreen trees native to Virginia and the region, 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.

DIVISION 8-5. Streets, Bikeways, and Sidewalks.

Section 8-6-11 Bicycle Parking.

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.

DIVISION 8-7. Signs.

Section 8-7-6 Permitted Signs by District.

Table 8-1 I: 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

DIVISION 8-8. Intent.

Section 8-8-1. Intent

- A. The standards in this Division are intended to ensure that a minimum amount of required open space is provided in new development for the use and enjoyment of the development's residents, employees, and users in a manner that:
- 1) Preserves the County's natural, environmental, and historic resources;
 - 2) Provides open areas for use as active and passive recreation;
 - 3) Reduces the heat island effect of developed areas;
 - 4) Provides civic and meeting spaces for use by the public;
 - 5) Preserves trees and stands of older growth;
 - 6) Enhances stormwater management;
 - 7) Provides other public health benefits; and
 - 8) Provides open space and amenities in proximity to users, which promotes compact development patterns and reduces the consumption of resources and capital costs.

Section 8-8-2. Applicability

- A. General.
 - 1) This Division applies to all open space required by this Ordinance.
- B. Open Space Plan Required. All development applications subject to review for compliance with the standards of this Division must include an Open Space Plan, which must designate all open space areas, including the amount of each type of open space provided, and the relation of each open space area to the constructed areas of the site, including all buildings and circulation systems.

Section 8-8-3. Amount of Open Space Required

- A. Development subject to these standards must provide the required open space in an amount that meets or exceeds the minimum standard provided in **Article 4, Primary Zoning Districts, Division 4-8, Table 4-9** and **Article 5, Overlay Zoning Districts, Division 5-5, Section 5-5-4**, and **Article 7, Use Performance Standards**, based on the district where the development is proposed.
 - 1) The minimum required open space will be calculated as a percentage of the gross development area.

Section 8-8-4. Areas Counted as Open Space

- A. Natural Features.
 - 1) Description. Naturally sensitive areas, such as floodplains, wetlands, steep slopes, native mixed forests, streams, ponds, rivers, existing and healthy wooded areas, and natural vegetation.
 - 2) Limitation.
 - a. Up to 50% of the required open space may be comprised of natural features.
 - b. Notwithstanding (a), above, streams, rivers, ponds, lakes, wetlands, steep slopes, drainageways, riparian buffers, other riparian areas, or flood hazard areas may not be included as part of the required open space unless approved through a rezoning or located within a Cluster Subdivision, in accordance with Code of Virginia § 15.2-2286.1.
- B. Passive Recreation Areas.
 - 1) Description. Planned and regularly maintained open areas that provide passive recreation opportunities, including bicycle or pedestrian trails, landscaping, gardens, community gardens, picnic shelters, gazebos, and similar structures.
 - 2) Design Requirements. The cumulative gross floor area of picnic shelters, gazebos, and similar structures shall not exceed 50% of the total square footage of all passive recreation areas.

- C. Active Recreation Areas.
 - 1) Description. Land occupied by areas and facilities used for active recreational purposes, including, but not limited to ballfields, playgrounds, and tennis courts.
 - 2) Design Requirements. Land shall be compact and contiguous unless used to link or continue an existing or planned open space resource.
- D. Required Landscaping and Buffers.
 - 1) Description. All areas occupied by required landscape areas and transitional buffers, except for parking lot landscaping, designed in accordance with **Division 8-3**, Landscaping and Screening, of this Article.
- E. Stormwater Management Areas/Facilities Treated as Site Amenities.
 - 1) Description. Stormwater management and/or Best Management Practice (BMP) features that are incorporated into a site amenity (e.g., with low fencing, vegetative landscaping, gentle slopes, fountain or other visible water circulation device, and pedestrian access or seating) and meet the criteria below:
 - a. Support passive recreation uses by incorporating pedestrian elements such as paths and benches;
 - b. Exhibit gentle slopes, with a ratio of less than 3:1, and
 - c. Incorporate vegetative landscaping.
 - 2) Limitation. A maximum of 50% of the land area occupied by stormwater management facilities (including retention and detention ponds and other bioretention devices) may be included as open space.
 - a. Pursuant to Code of Virginia § 15.2-2286.1, stormwater management facilities (whether they are or are not located and designed as a site amenity) may be used in, and count towards, open space within cluster developments with no limitation.
- F. Public Access Easements.
 - 1) Description. Public access easements that include bicycle or pedestrian paths or trails.
- G. Squares and Plazas.
 - 1) Description. Flat, open areas immediately in front of a building/group of buildings or framed by buildings or streets that provide gathering places, opportunities for outdoor dining, and other similar activities.
 - 2) Design Requirements.
 - a. A square or plaza shall be at least 250 sq. ft., but no more than one (1) acre, in area.

- b. A square or plaza shall have at least one (1) direct improved access to a principal building, or to a street or walkway accessible to the public or the development's residents and users.
- c. The surrounding principal buildings shall be oriented toward the square or plaza where possible.

Section 8-8-5. Areas Not Counted as Open Space

A. The following features and areas shall not be counted as required open space for purposes of this Division:

- 1) If Cluster Development setbacks are used towards open space, the portion of the setback used as open space shall be adjacent to the remaining required open space.
- 2) Yards on lots containing a single- or two-unit dwelling, townhouse, or manufactured home;
- 3) Street rights-of-way, private access easements, or utility easements;
- 4) Parking areas and driveways, including parking lot landscaping and walkways;
- 5) Designated outdoor storage areas and mechanical yards; and
- 6) Stormwater management facilities not located and designed as a site amenity or located within a cluster development, as described in Section 8-8-4 (E), above.
- 7) Stormwater management areas enclosed by a wall or fence.

Section 8-8-6. Design and Development Standards

A. Location.

- 1) Required open space shall be readily accessible by residents and users of the development to the maximum extent practicable.
- 2) To the extent practicable, a portion of the open space should provide focal points for the development through prominent placement or direct visibility from streets.

B. Access to open space. Where common open space or public parkland is provided in a development, the developer shall provide pedestrian access to the site.

C. Configuration.

- 1) Required open space shall be compact with a minimum of 40% of the required open space contiguous, unless:
 - a. A linear configuration is needed to continue an existing trail or accommodate preservation of natural features; or

- b. It can be sufficiently demonstrated that a different configuration provides better access for intended users of the open space.
 - 2) If the development site is adjacent to existing or planned public trails, parks, or other public open space area, the required open space shall, to the maximum extent practicable, be located to adjoin, extend, and enlarge the trail, park, or other public open space area.
- D. Phasing of Open Space.
 - 1) When a development shown on a Concept or Site Plan is to be constructed in phases, the timing of the provision of required open space shall be specifically addressed in the development schedule.
 - 2) Unless an alternate timing is specified by approved proffers, required open space shall be constructed and available for use at an equivalent or greater rate than the construction of adjacent lots and uses.
- E. Limitations.
 - 1) Development within any required open space shall be appropriate to the purposes of the type of required open space.
 - 2) All structures within any required open space shall comply with setback and other dimensional requirements of the district for which the development is located.

Section 8-8-7. Ownership and Maintenance

- A. All required open space shall include deed restrictions, covenants, or other legal instruments that ensure continued use of the land for its intended open space purposes and provide for the continued and effective management, operation, and maintenance of the land and facilities.
 - 1) Stormwater management and/or BMP facilities treated as site amenities shall be maintained to provide for the effective management of stormwater and as passive recreation.
 - 2) Unless otherwise open to the public, amenity space shall be permanently set aside for the sole benefit, use, and enjoyment of present and future occupants and visitors of the development through covenant, deed restriction, or similar legal instrument.
 - 3) Adequate liability insurance shall be secured for the intended purposes of the land.
- B. Required open space shall be maintained by the developer or owner of the project or by a property owners' association comprising owners of the property in the project.
 - 1) If property is conveyed to the property owners' association:

- a. Deed restrictions and covenants, in form satisfactory to the County Attorney, shall provide that any assessments, charges, or costs of maintenance of required open space constitute a pro rata lien upon the individual properties inferior in lien and dignity only to taxes and bona fide duly recorded first deeds of trust on each property or lot.
 - b. The association shall be organized prior to the sale of any lots.
 - c. Membership in the organization shall be mandatory for all property owners, present or future, and such organization shall not discriminate in its members or shareholders.
- C. Required open space may be dedicated to the County for public use only in a manner and form approved by the County.
- D. Maintenance of natural features is limited to the minimum removal and avoidance of hazards, nuisances, and unhealthy conditions, and the clearing of debris from trails.

Article-5 Overlay Zoning Districts

Division 5-I Establishment and Purpose

Section 5-I-1 General

- A. This Article establishes overlay districts, which apply additional standards to the development and design requirements of land in the County. These district standards exist as overlays to the primary zoning districts, and, as such, do not replace, but will supplement the underlying primary district provisions.
- B. If there is any conflict between the provisions or requirements of an overlay district and those of any underlying primary district, the provisions or requirements of the overlay district shall apply.
- C. Nelson County hereby establishes and designates the following overlay zoning districts:

Table 5-I: Overlay Zoning Districts

Overlay Districts	
FP	General Floodplain District
VO	Village Overlay District ¹
CO29	Route 29 Corridor Overlay District ²
CO151	Route 151 Corridor Overlay District ³

Section 5-I-2 Purpose and Intent of Overlay Districts

- A. **FP, General Floodplain District.** The purpose of these provisions is to prevent the loss of life and property, the creation of health and safety hazards, the disruption of commerce and governmental services, the extraordinary and necessary expenditure of public funds for flood protection and relief, and the impairment of the tax base by:
 - (1) Regulating uses, activities, and development which, alone or in combination with other existing or future uses, activities, and development, will cause unacceptable increases in flood heights, velocities, and frequencies;

¹ Editor's Note: The Village Overlay District is a new overlay district proposed in this text.

² Editor's Note: The Route 29 Corridor Overlay District is a new overlay district proposed in this text.

³ Editor's Note: The Route 151 Corridor Overlay District is a new proposed overlay district.

- (2) Restricting or prohibiting certain uses, activities, and development from locating within districts subject to flooding;
 - (3) Requiring all those uses, activities, and developments that do occur in flood-prone districts to be protected and/or flood-proofed against flooding and flood damage; and
 - (4) Protecting individuals from buying land and structures which are unsuited for intended purposes because of flood hazards.
- B. **VO, Village Overlay District.** The Village Overlay District is established to preserve and enhance traditional village character in historic communities by promoting walkable, mixed-use development that integrates residential, office, commercial, and public uses. This district provides flexibility for small-scale businesses, housing, and essential services and supports the rehabilitation of older structures, infill development of vacant lots, and infrastructure improvements to reinforce the village as a rural community hub. This district is intended to promote the land use policies for rural villages throughout the County as established in the Comprehensive Plan.
- C. **CO29, Route 29 Corridor Overlay District.** The Route 29 Corridor Overlay District is intended to promote high-quality commercial development along Nelson County’s key thoroughfare and gateway. This district allows for a broader range of tourism-friendly businesses and services while emphasizing cohesive design and development standards that enhance the corridor’s visual character and functionality. Additional design standards, including those related to landscaping, signage, and site aesthetics, are encouraged to support the preservation and promotion of the County’s natural beauty and promote a gateway corridor that reflects the values of the County.

- D. **CO151, Route 151 Corridor Overlay District.**⁴ The Route 151 Corridor Overlay District is intended to preserve the rural and scenic character of the gateway corridor and to protect its role as an outdoor, rural tourism destination. This district promotes safe and efficient travel by preventing traffic congestion along the corridor. Design standards, including those related to landscaping, signage, and site aesthetics, ensure that new businesses and services enhance and support the preservation and promotion of the County's natural beauty and promote a gateway corridor that reflects the values of the County. Growth within the corridor should complement the County's tourism economy and rural identity, supporting both economic vitality and long-term preservation of the corridor's unique character.

Division 5-2 FP — General Floodplain District⁵

Section 5-2-1 Authority

This Division is adopted pursuant to the authority granted to localities by the Code of Virginia §§ 15.2-2200, 15.2-2280, and 15.2-2283, as amended, and may be referred to as the Nelson County General Floodplain Overlay District, floodplain management overlay district, floodplain district, or flood hazard overlay district.

Section 5-2-2 Applicability

These provisions shall apply to all lands within the jurisdiction of Nelson County and identified as special flood hazard areas (SFHAs) identified by the County, shown on the flood insurance rate map (FIRM), or included in the flood insurance study (FIS) that are provided to the County by the Federal Emergency Management Agency (FEMA).

Section 5-2-3 Compliance and liability.

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

⁴ Editor's Note: This purpose was added for the CO151 after the 8/27/25 worksession, as requested.

⁵ Editor's Note: The floodplain district has been slightly modified from its current version to promote better organization, improve clarity, and better match FEMA's model floodplain ordinance. Standards from the current floodplain ordinance have primarily been maintained.

- B. The degree of flood protection sought by the provisions of this Division is considered reasonable for regulatory purposes and is based on acceptable engineering methods of study. Larger floods may occur on rare occasions. Flood heights may be increased by manmade or natural causes, such as ice jams and bridge openings restricted by debris. This Division does not imply that districts outside the floodplain district or that land uses permitted within such district will be free from flooding or flood damages.
- C. This Division shall not create liability on the part of Nelson County or any officer or employee thereof for any flood damages that result from reliance on this Division or any administrative decision lawfully made under these regulations.

Section 5-2-4 Abrogation and Greater Restrictions.

- A. This Division shall supersede any other regulation currently in effect in flood prone districts. Any regulations, however, shall remain in full force and effect to the extent that its provisions are more restrictive.
- B. These regulations are not intended to repeal or abrogate any existing ordinances including Zoning and/or Subdivision Ordinances or Building Codes. In the event of a conflict between these regulations and any other ordinance, the more restrictive shall govern.

Section 5-2-5 Penalties.

- A. Any person who fails to comply with any of the requirements or provisions of this Division, or directions of the Administrator, or any other authorized employee of Nelson County, shall be subject to the penalties pursuant to the Code of Virginia, and as outlined in the VA Uniform Statewide Building Code (USBC) for building code violations, and **Article 2, Administration**, of this Ordinance for violations and associated penalties.
- B. In addition to the above penalties, all other actions are hereby reserved, including an action of equity for the proper enforcement of this Division.
- C. The imposition of a fine or penalty for any violation of, or noncompliance with, this Division shall not excuse the violation or noncompliance or permit it to continue, and all such persons shall be required to correct or remedy such violations or noncompliance within a reasonable time.
- D. Any structure constructed, reconstructed, enlarged, altered or relocated in noncompliance with this Division may be declared by the Board of Supervisors to be a public nuisance and abatable as such.

- E. Flood insurance may be withheld from structures constructed in violation of this Division.

Section 5-2-6 Designation of the Floodplain Administrator.

- A. The Zoning Administrator (or their designee) (hereby referred to as the Administrator) shall serve as the Floodplain Administrator. The Administrator may:
 - (1) Administer the duties and responsibilities herein.
 - (2) Delegate duties and responsibilities set forth in these regulations to qualified technical personnel, plan examiners, inspectors, and other employees.
 - (3) Enter into a written agreement or written contract with another community or private sector entity to administer specific provisions of this Division. Administration of any part of this Division by another entity will not relieve the County of its responsibilities pursuant to the participation requirements of the National Flood Insurance Program (NFIP) as set forth in the Code of Federal Regulations at 44 CFR Section 59.22.

Section 5-2-7 Duties and Responsibilities of the Floodplain Administrator.

- A. The duties and responsibilities of the Administrator shall include but are not limited to:
 - (a) Review applications for permits to determine whether proposed activities will be located in the Special Flood Hazard Area (SFHA).
 - (b) Interpret floodplain boundaries and provide available BFEs (BFEs) and flood hazard information.
 - (c) Review applications to determine whether proposed activities will be reasonably safe from flooding and require new construction and substantial improvements to meet the requirements of these regulations.
 - (d) Review applications to determine whether all necessary permits have been obtained from the Federal, State, or local agencies from which prior or concurrent approval is required; in particular, permits from state agencies for any construction, reconstruction, repair, or alteration of a dam, reservoir, or waterway obstruction (including bridges, culverts, structures), any alteration of a watercourse, or any change of the course, current, or cross section of a stream or body of water, including any change to the 100-year frequency floodplain of free-flowing non-tidal waters of the State.

- (e) Verify that applicants proposing an alteration of a watercourse have notified adjacent communities, the Virginia Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management), and other appropriate agencies (such as Virginia Department of Environmental quality and U.S. Army Corps of Engineers), and have submitted copies of such notifications to FEMA.
- (f) Approve applications and issue permits to develop in SFHAs if the provisions of these regulations have been met, or disapprove applications if the provisions of these regulations have not been met.
- (g) Inspect or cause to be inspected, buildings, structures, and other development for which permits have been issued to determine compliance with these regulations or to determine if non-compliance has occurred or violations have been committed.
- (h) Review Elevation Certificates prepared in accordance with FEMA standards and require incomplete or deficient certificates to be corrected.
- (i) Submit to FEMA, or require applicants to submit to FEMA, data and information necessary to maintain FIRMs, including hydrologic and hydraulic engineering analyses prepared by or for Nelson County, within six (6) months after such data and information becomes available if the analyses indicate changes in BFEs.
- (j) Maintain and permanently keep records that are necessary for the administration of these regulations, including:
 - i. Copies of Flood Insurance Studies, FIRMs (including historic studies and maps and current effective studies and maps) and Letters of Map Change; and
 - ii. Documentation supporting issuance and denial of permits, Elevation Certificates, documentation of the elevation (in relation to the datum on the FIRM) to which structures have been flood-proofed, inspection records, other required design certifications, variances, and records of enforcement actions taken to correct violations of these regulations.
- (k) Enforce the provisions of these regulations, investigate violations, issue notices of violations, and require permit holders to take corrective action.

- (l) Advise the Board of Zoning Appeals regarding the intent of these regulations and, for each application for a variance, prepare a staff report and recommendation.
- (m) Administer the requirements related to proposed work on existing buildings:
 - i. Make determinations as to whether buildings and structures that are located in SFHAs and that are damaged by any cause have been substantially damaged.
 - ii. Make reasonable efforts to notify owners of substantially damaged structures of the need to obtain a permit to repair, rehabilitate, or reconstruct the structure.
 - iii. Prohibit the non-compliant repair of substantially damaged buildings except for temporary emergency protective measures necessary to secure a property or stabilize a building or structure to prevent additional damage.
- (n) Undertake, as determined appropriate by the Administrator due to the circumstances, other actions which may include but are not limited to:
 - i. Issuing press releases, public service announcements, and other public information materials related to permit requests and repair of damaged structures;
 - ii. Coordinating with other Federal, State, and local agencies to assist with substantial damage determinations;
 - iii. Providing owners of damaged structures information related to the proper repair of damaged structures in SFHAs; and
 - iv. Assisting property owners with documentation necessary to file claims for Increased Cost of Compliance coverage under NFIP flood insurance policies.
- (o) Notify FEMA when the corporate boundaries of Nelson County have been modified and:
 - i. Provide a map that clearly delineates the new corporate boundaries or the new area for which the authority to regulate pursuant to these regulations has either been assumed or relinquished through annexation; and

- ii. If the FIRM for any annexed area includes SFHAs that have flood zones that have regulatory requirements that are not set forth in these regulations:
 - a. Prepare amendments to these regulations to adopt the FIRM and appropriate requirements;
 - b. Submit the amendments to the governing body for adoption; and
 - c. Such adoption shall take place at the same time as or prior to the date of annexation and a copy of the amended regulations shall be provided to the Virginia Department of Conservation and Recreation and FEMA.
- (p) Upon the request of FEMA, complete and submit a report concerning participation in the NFIP which may request information regarding the number of buildings in the SFHA, number of permits issued for development in the SFHA, and number of variances issued for development in the SFHA.
- (q) Take into account flood, mudslide and flood-related erosion hazards, to the extent that they are known, in all official actions relating to land management and use throughout the entire jurisdictional area of the County, whether or not those hazards have been specifically delineated geographically (e.g. via mapping or surveying).

Section 5-2-8 Records

Records of actions associated with administering this Division shall be kept on file and maintained by the Administrator or their designee.

Section 5-2-9 Use and Interpretation of FIRMs.

- A. The Administrator shall make interpretations, where needed, as to the exact location of SFHAs, floodplain boundaries, and floodway boundaries. The following shall apply to the use and interpretation of FIRMs and data:
 - (a) Where field surveyed topography indicates that adjacent ground elevations:
 - i. Are below the base flood elevation, even in areas not delineated as a Special Flood Hazard Area on a FIRM, the area shall be considered as Special Flood Hazard Area and subject to the requirements of these regulations; or

- ii. Are above the Base Flood Elevation, the area shall be regulated as a Special Flood Hazard Area unless the applicant obtains a Letter of Map Change that removes the area from the SFHA.
- (b) In FEMA-identified SFHAs where Base Flood Elevation and floodway data have not been identified and in areas where FEMA has not identified SFHAs, any other flood hazard data available from a federal, state, or other source shall be reviewed and reasonably used.
- (c) BFEs and designated floodway boundaries on FIRMs and in FISs shall take precedence over BFEs and floodway boundaries by any other sources if such sources show reduced floodway widths and/or lower BFEs.
- (d) Other sources of data shall be reasonably used if such sources show increased BFEs and/or larger floodway areas than are shown on FIRMs and in FISs.
- (e) If a Preliminary FIRM and/or a Preliminary FIS has been provided by FEMA:
 - i. Upon the issuance of a Letter of Final Determination by FEMA, the preliminary flood hazard data shall be used and shall replace the flood hazard data previously provided from FEMA for the purposes of administering these regulations.
 - ii. Prior to the issuance of a Letter of Final Determination by FEMA, the use of preliminary flood hazard data shall be deemed the best available data pursuant to **Section 5-2-14** and used where no BFEs and/or floodway areas are provided on the effective FIRM.
 - iii. Prior to issuance of a Letter of Final Determination by FEMA, the use of preliminary flood hazard data is permitted where the preliminary BFEs or floodway areas exceed the BFEs and/or designated floodway widths in existing flood hazard data provided by FEMA. Such preliminary data may be subject to change and/or appeal to FEMA.

Section 5-2-10 Jurisdictional Boundary Changes.

- A. The Nelson County General Floodplain Overlay District in effect on the date of annexation shall remain in effect and shall be enforced by the municipality for all annexed areas until the municipality adopts and enforces an ordinance which meets the requirements for participation in the National Flood Insurance Program. Nelson County shall pass a resolution acknowledging and accepting responsibility for enforcing floodplain ordinance standards prior to annexation of any area containing identified flood hazards.

- (1) If the FIRM for any annexed area includes SFHAs that have flood zones that have regulatory requirements that are not set forth in these regulations, prepare amendments to these regulations to adopt the FIRM and appropriate requirements, and submit the amendments to the governing body for adoption; such adoption shall take place at the same time as or prior to the date of annexation and a copy of the amended regulations shall be provided to DCR Division of Dam Safety and Floodplain Management and FEMA.
- B. In accordance with the Code of Federal Regulations, Title 44 Subpart (B) Section 59.22 (a) (9) (v) all NFIP participating communities must notify the Federal Insurance Administration and optionally the State Coordinating Office in writing whenever the boundaries of the community have been modified by annexation or the community has otherwise assumed or no longer has authority to adopt and enforce floodplain management regulations for a particular area.
- C. To ensure that all FIRMs accurately represent the community's boundaries, a copy of a map of the community suitable for reproduction, clearly delineating the new corporate limits or new area for which the community has assumed or relinquished floodplain management regulatory authority must be included with the notification.

Section 5-2-11 District Boundary Changes.

The delineation of the general boundaries of the General Floodplain District may be revised by Nelson County where natural or man-made changes have occurred and/or where more detailed studies have been conducted or undertaken by the U.S. Army Corps of Engineers or other qualified agency, or an individual documents the need for such change. However, prior to any such change, approval must be obtained from the Federal Emergency Management Agency. A completed Letter of Map Revision (LOMR) is a record of this change.

Section 5-2-12 Interpretation of District Boundaries.

Initial interpretations of the boundaries of the Floodplain Districts shall be made by the Administrator. Should a dispute arise concerning the boundaries of any of the Districts, the Board of Zoning Appeals shall make the necessary determination in accordance with **Article 3, Permits and Applications**, of this Ordinance. The person questioning or contesting the location of the District boundary shall be given a reasonable opportunity to present their case to the Board of Zoning Appeals and to submit his own technical evidence if they so desire.

Section 5-2-13 Letters of Map Revision (LOMR).

- A. The County's BFEs may increase or decrease resulting from physical changes affecting flooding conditions. As soon as practicable, but not later than six (6) months after the date such information becomes available, the County shall notify the Federal Emergency Management Agency of the changes by submitting technical or scientific data. The County may submit data via a LOMR. Such a submission is necessary so that upon confirmation of those physical changes affecting flooding conditions, risk premium rates and floodplain management requirements will be based upon current data.
- B. When development in the floodplain will cause or causes a change in the Base Flood Elevation, the applicant, including state agencies, must notify FEMA by applying for a Conditional Letter of Map Revision (CLOMR) and then a LOMR. Examples include:
 - (a) Any development that causes a rise in the BFEs within the floodway.
 - (b) Any development occurring in Zones A1-30 and AE without a designated floodway, which will cause a rise of more than one (1) foot in the BFE.
 - (c) Alteration or relocation of a stream (including but not limited to installing culverts and bridges) 44 Code of Federal Regulations §65.3 and §65.6(a)(12).

Section 5-2-14 Establishment of Flood Hazard Zones.

- A. **Basis of Flood Hazard Zones.** The various floodplain districts shall include special flood hazard areas (SFHAs). The basis for the delineation of these districts shall be the FIS and the FIRMs for Nelson County, prepared by FEMA.
- (1) The County may identify and regulate local flood hazard or ponding areas that are not delineated on the FIRM. These areas may be delineated on a "Local Flood Hazard Map" using best available topographic data and locally derived information such as flood of record, historic high water marks, or approximate study methodologies.
 - (2) The boundaries of the special flood hazard area and floodplain districts are established as shown on the FIRM which is declared to be a part of this ordinance and which shall be kept on file at the Nelson County Planning and Zoning Office.
- B. **Description of Flood Hazard Zones.** The flood hazard zones described below constitute the General Floodplain Overlay District. The General Floodplain Overlay District is an overlay to the existing underlying zoning districts as shown on the official zoning ordinance map, and as such, the provisions for the Floodplain Overlay District will serve as a supplement to the underlying district provisions.⁶
- (1) **AE Zone.** Those areas for which one percent (1%) annual chance flood elevations have been provided and the floodway has been delineated on the FIRM.
 - (2) **Floodway Zones.** Those areas in a AE Zone(s) and delineated, for purposes of this Division, using the criterion that certain areas within the floodplain must be capable of carrying the water of the one percent (1%) annual chance flood without increasing the water surface elevation of that flood more than one foot at any point.
 - (3) **A Zone.** Those areas for which no detailed flood profiles or elevations are provided, but the one percent (1%) annual chance floodplain boundary has been approximated.

⁶ Editor's Note: This newly proposed text has been updated to better describe flood zone areas as they appear on FEMA's FIRM maps.

- (4) **X Zone.** 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.
- C. Where the specific base flood elevation cannot be determined for an area using other sources of data, such as the U.S. Army Corps of Engineers Flood Plain Information Reports, U.S. Geological Survey Flood-prone Quadrangles, etc., then the applicant for the proposed use, development and/or activity must determine this elevation in accordance with hydrologic and hydraulic engineering techniques. Hydrologic and hydraulic analyses must be undertaken only by professional engineers or others of demonstrated qualifications, who must certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computations, etc., must be submitted in sufficient detail to allow a thorough review by Nelson County.

Section 5-2-15 Permits and Applications.

- A. All uses, activities, and development occurring within any floodplain district shall be undertaken only upon the issuance of a zoning permit. Such development shall be undertaken only in strict compliance with the provisions of this Ordinance, the Virginia USBC, and all other applicable codes and ordinances.
 - (1) Prior to the issuance of any such permit, the Administrator shall require all applications to include compliance with all applicable state and federal laws, and shall review all sites to assure they are reasonably safe from flooding. Under no circumstances shall any use, activity, and/or development adversely affect the capacity of the channels or floodways of any watercourse, drainage ditch, or any other drainage facility or system.
- B. Prior to any proposed alteration or relocation of any channel or of any watercourse within this jurisdiction, a permit shall be obtained from the U. S. Army Corps of Engineers, the Virginia Department of Environmental Quality, and the Virginia Marine Resources Commission (a joint permit application is available from any one of these organizations).

- (1) In riverine areas, notification of the proposal shall be given to all adjacent jurisdictions, the Department of Conversation and Recreation (Division of Dam Safety and Floodplain Management) other required agencies, and FEMA. A completed CLOMR is required from FEMA prior to commencement of work, and a completed LOMR is required pursuant to Section 5-2-11 upon completion of work.
- C. All applications for development within any floodplain district and all building permits issued for the floodplain shall incorporate the following information, to be provided by a licensed professional, in addition to applicable requirements of **Article 3, Permits and Applications**, of this Ordinance:
- (1) The elevation of the Base Flood at the site.
 - (2) For structures to be elevated, the elevation of the lowest floor (including basement).
 - (3) For non-residential structures to be floodproofed, the elevation to which the structure will be floodproofed.
 - (4) Topographic information showing existing and proposed ground elevations.
- D. **Standards for Subdivision Proposals.**
- (1) All subdivision proposals shall be consistent with the need to minimize flood damage;
 - (2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;
 - (3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards; and
 - (4) Base Flood Elevation data shall be provided for subdivision proposals and other development proposals (including manufactured home parks and subdivisions) that exceed eleven lots or five acres, whichever is the lesser.
 - (5) **Sanitary sewer facilities.** All new or replacement sanitary sewer facilities and private package sewage treatment plants (including all pumping stations and collector systems) shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into the flood waters. In addition, they should be located and constructed to minimize or eliminate flood damage and impairment.

- (6) **Water facilities.** All new or replacement water facilities shall be designed to minimize or eliminate infiltration of flood waters into the system and be located and constructed to minimize or eliminate flood damages.
- (7) **Drainage facilities.** All storm facilities shall be designed to convey the flow of surface waters without damage to persons or property. The systems shall ensure drainage away from buildings and on site waste disposal sites. The Board of Supervisors may require a primarily underground system to accommodate frequent floods and a secondary surface system to accommodate large, less frequent floods. Drainage plans shall be consistent with local and regional drainage plans. The facilities shall be designed to prevent the discharge of excess runoff onto adjacent properties.
- (8) **Utilities.** All utilities, such as gas lines, electrical and telephone systems being placed in flood prone areas should be located, elevated (where possible), and constructed to minimize the chance of impairment during a flooding occurrence.
- (9) **Streets and sidewalks.** Streets and sidewalks should be designed to minimize their potential for increasing and aggravating the levels of flood flow. Drainage openings shall be required to sufficiently discharge flood flows without unduly increasing flood heights.

Section 5-2-16 Permitted Uses in the Floodway District.

- A. The following non-structural uses and activities are permitted in any floodplain district and the Floodplain Administrator may waive the requirements for an application for a zoning permit, provided the uses are in compliance with the zoning provisions of the underlying area and are not prohibited by any other ordinance and further provided that they do not require structures, fill, or storage of materials or equipment:
 - (1) Agricultural uses, such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming, and wild crop harvesting.
 - (2) Public and private recreational uses and activities, such as parks, day camps, picnic grounds, golf courses, boat launching and swimming area, horseback riding and hiking trails, wildlife and nature preserves, game farms, fish hatcheries, trap and skeet game ranges, and hunting and fishing areas, but excluding golf courses and other recreational uses that cause change in land contours.

(3) Accessory residential uses, such as yard areas, gardens, play areas, and pervious loading areas.

(4) Flood warning aids and water measurement devices.

B. Higher Standards and Critical Facilities. For some activities and uses, even a slight chance of flooding poses too great a threat to public health, safety, and welfare. Critical facilities, as defined in this Ordinance, are examples of such activities and uses which require special regulation. Therefore, critical facilities are prohibited from being constructed or operated within a SFHA unless a variance is granted pursuant to **Section 5-2-21**. The following list of critical facilities provides examples of uses or improvements which are prohibited in a SFHA:

(1) Structures or facilities that produce, use, store, or transport highly volatile, flammable, explosive, toxic, and/or water-reactive materials.

(2) Hospitals, nursing homes, or other housing likely to have occupants who may not be sufficiently capable of avoiding injury or death during a flood.

(3) Police stations, fire departments, rescue squads, and/or emergency operations centers and equipment storage facilities which are needed for flood response activities before, during, and after a flood.

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

C. Higher Standards and Hazardous Materials. Some items and products are extremely hazardous and vulnerable to flood conditions, and would pose an unacceptable risk to public health, safety, and welfare during flooding. Therefore, the following hazardous materials are prohibited as follows, unless a variance is granted pursuant to **Section 5-2-21**:

(1) The storage of Acetone, Ammonia, Benzene, Calcium carbide, Carbon disulfide, Celluloid, Chlorine, Hydrochloric acid, Magnesium, Nitric acid, Oxides of nitrogen, Phosphorus, Potassium, Prussic acid, Sodium, and/or Sulfur is prohibited in a SFHA.

(2) The storage of Acetylene gas containers, Storage tanks, Lumber/buoyant items, Gasoline, Charcoal/coal dust, Petroleum products, and/or Natural gas for any time period longer than thirty (30) days is prohibited in a SFHA.

Section 5-2-17 Elevation and Construction Standards

- A. In all identified flood hazard areas where BFEs have been provided in the FIS or generated by a certified professional in accordance with **Section 5-2-11**, above, the following provisions shall apply:
- (1) New construction and substantial improvements shall be according to the VA USBC, and anchored to prevent flotation, collapse or lateral movement of the structure.
 - (2) Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable State anchoring requirements for resisting wind forces.
 - (3) New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
 - (4) New construction or substantial improvements shall be constructed by methods and practices that minimize flood damage.
 - (5) The flood carrying capacity within an altered or relocated portion of any watercourse shall be maintained.
 - (6) New construction and replacement of any utilities and facilities shall follow the provisions of **Section 5-2-16** of this Article.
 - (7) Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities, including duct work, shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
 - (8) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.
 - (9) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
 - (10) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.

B. Development in Floodway District.

- (1) Within any designated Floodway Areas, no encroachments, including fill, new construction, substantial improvements, or other development shall be permitted unless it has been demonstrated through hydrologic and hydraulic analysis performed in accordance with standard engineering practice that the proposed encroachment will not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
 - (a) Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough review by the Administrator.
 - (b) If (1), above, is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of **Section 5-2-16**, above.
- (2) Development activities which increase the water surface elevation of the base flood may be allowed, provided that the applicant first applies for a Conditional Letter of Map Revision (CLOMR) and receives the approval of FEMA.

C. Development in AE Zones.

- (1) Until a regulatory floodway is designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within AE zones, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within Nelson County.
- (2) Development activities which increase the water surface elevation of the base flood by more than one (1) foot may be allowed, provided that the applicant first applies a Conditional Letter of Map Revision (CLOMR) and receives the approval of FEMA.

D. Development in A Zones.

- (1) Until a regulatory floodway is designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within A zones, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within Nelson County.
 - (2) Development activities which increase the water surface elevation of the base flood by more than one (1) foot may be allowed, provided that the applicant first applies – with Nelson County’s endorsement – for a Conditional Letter of Map Revision (CLOMR) and receives the approval of FEMA.
 - (3) For these areas, the base flood elevations and floodway information from Federal, State, and other acceptable sources shall be used, when available [44 CFR 60.3(b)].
 - (4) Where the specific one percent (1%) annual chance flood elevation cannot be determined for this area using other sources of data, such as the U. S. Army Corps of Engineers Floodplain Information Reports, U. S. Geological Survey Flood-Prone Quadrangles, etc., then the applicant for the proposed use, development and/or activity shall determine this base flood elevation, in the following manner:
 - (a) The elevation shall be determined by using the elevation of a point on the boundary of the identified floodplain area which is nearest the construction site.
 - (b) Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough review by the Administrator.
 - (c) The Administrator reserves the right to require a hydrologic and hydraulic analysis for any development in this zone.
 - (d) When such base flood elevation data is utilized, the freeboard shall be 24 inches. Permits and Applications.
- E. In addition, in all SFHAs (SFHA), these additional provisions shall apply:
- (1) Fences shall be installed parallel to a waterway. When a fence crosses a waterway, it shall be designed as a drop-down fence or a suspended cable fence.

- (2) No zoning permit shall be administratively issued by the Administrator for any proposed critical facilities as defined by this Ordinance within any SFHA.
 - (3) No zoning permit shall be administratively issued for the storage of hazardous materials within any SFHA.
 - (4) No zoning permit shall be administratively issued by the Administrator for the placement of any non-native fill materials (such as fly ash or other waste by-products) within any SFHA. Only locally-borrowed mineral materials may be used as fill within a SFHA, and all such uses must first obtain the necessary permit approval(s) as required by this Ordinance.
- F. In all SFHAs where BFEs have been provided in the FIS or generated according to **Section 5-2-11**, the following provisions shall apply:
- (1) **Residential construction.** New construction or substantial improvement of any residential structure (including manufactured homes) shall have the lowest floor, including basement, elevated 18 inches or more above the Base Flood Elevation.
 - (2) **Nonresidential construction.** New construction or substantial improvement of any commercial, industrial, or non-residential building (or manufactured/mobile home) shall have the lowest floor, including basement, elevated 18 inches or more above the Base Flood Elevation.
 - (a) Buildings located in all A1-30, AE, and AH zones may be flood-proofed in lieu of being elevated provided that all areas of the building components below the elevation corresponding to the BFE plus one (1) foot are water tight with walls substantially impermeable to the passage of water, and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy.
 - (b) A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification, including the specific elevation (in relation to mean sea level) to which such structures are flood-proofed, shall be maintained by the Floodplain Administrator.
 - (3) **Elevated Buildings - Space Below the Lowest Floor.** Fully enclosed areas of new construction or substantially improved structures, which are below the regulatory flood protection elevation shall:

- (a) Not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator);
 - (b) Be constructed entirely of flood resistant materials below the regulatory flood protection elevation; and
 - (c) Include, in Zones A, AO, AE, and A1-30, measures to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet the following minimum design criteria:
 - i. Provide a minimum of two (2) openings on different sides of each enclosed area subject to flooding.
 - ii. The total net area of all openings must be at least one (1) square inch for each square foot of enclosed area subject to flooding.
 - iii. If a building has more than one (1) enclosed area, each area must have openings to allow floodwaters to automatically enter and exit.
 - iv. The bottom of all required openings shall be no higher than one (1) foot above the adjacent grade.
 - v. Openings may be equipped with screens, louvers, or other opening coverings or devices, provided they permit the automatic flow of floodwaters in both directions.
 - vi. Foundation enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires openings as outlined above.
- (4) **Standards for Manufactured Homes and Recreational Vehicles.**

- (a) All manufactured homes placed, or substantially improved, on individual lots or parcels, in expansions to existing manufactured home parks or subdivisions, in a new manufactured home park or subdivision or in an existing manufactured home park or subdivision on which a manufactured home has incurred substantial damage as the result of a flood, must conform to either of the following:
 - i. Meet all the requirements for new construction, including the elevation and anchoring requirements of **Section 5-2-17**; or
 - ii. Be on the site for fewer than 180 consecutive days, be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions).
- (5) Accessory structures in the Special Flood Hazard Area shall comply with the elevation requirements and other requirements of this Section or, if not elevated or dry flood-proofed shall:
 - (a) Not be used for human habitation;
 - (b) Be limited to no more than 600 square feet in total floor area;
 - (c) Be usable only for parking of vehicles or limited storage;
 - (d) Be constructed with flood damage-resistant materials below the base flood elevation;
 - (e) Be constructed and placed to offer the minimum resistance to the flow of floodwaters;
 - (f) Be anchored to prevent flotation;
 - (g) Have electrical service and mechanical equipment elevated to or above the base flood elevation; and
 - (h) Shall be provided with flood openings which shall meet the following criteria:
 - i. There shall be a minimum of two (2) flood openings on different sides of each enclosed area; if a building has more than one (1) enclosure below the lowest floor, each such enclosure shall have flood openings on exterior walls.

- ii. The total net area of all flood openings shall be at least one (1) square inch for each square foot of enclosed area (non-engineered flood openings), or the flood openings shall be engineered flood openings that are designed and certified by a licensed professional engineer to automatically allow entry and exit of floodwaters; the certification requirement may be satisfied by an individual certification or an Evaluation Report issued by the ICC Evaluation Service, Inc.
 - iii. The bottom of each flood opening shall be one (1) foot or less above the higher of the interior floor or grade, or the exterior grade, immediately below the opening.
 - iv. Any louvers, screens, or other covers for the flood openings shall allow the automatic flow of floodwaters into and out of the enclosed area.
- (i) A signed Declaration of Land Restriction (Non-Conversion Agreement) shall be recorded on the property deed.

Section 5-2-18 Existing Structures in Floodplain Districts

- A. Any structure or use of a structure or premises must be brought into conformity with these provisions when it is changed, repaired, or improved unless one (1) of the following exceptions is established before the change is made.
- (1) The Administrator has determined that:
 - (a) Change is not a substantial repair or substantial improvement;
 - (b) No new square footage is being built in the floodplain that is not compliant;
 - (c) No new square footage is being built in the floodway;
 - (d) The change complies with this ordinance and the VA USBC; and
 - (e) The change, when added to all the changes made during a rolling 5-year period does not constitute 50% of the structure's value.
 - (2) The changes are required to comply with a citation for a health or safety violation.
 - (3) The structure is a historic structure and the change required would impair the historic nature of the structure.

Section 5-2-19 Variances⁷

A. General.

- (1) A request for a variance to the requirements of the Floodplain Overlay District may be made in accordance with **Article 3, Permits and Applications**, of this Ordinance.
- (2) The BZA has the authority to grant variances to the provisions of the Floodplain Overlay District only in strict compliance with this Section.
- (3) The BZA may refer any application and accompanying documentation pertaining to any request for a variance to any engineer or other qualified person or agency for technical assistance in evaluating the proposed project in relation to flood heights and velocities, and the adequacy of the plans for flood protection and other related matters.

B. In reviewing Variances, the BZA shall satisfy all relevant factors and procedures specified in other sections of this Ordinance, in addition to considering the following additional factors:

- (1) A showing of good and sufficient cause;
- (2) The BZA's determination that failure to grant the variance would result in exceptional hardship to the applicant;
- (3) The BZA's determination that the variance will be the minimum required to provide relief; and
- (4) The BZA's determination that the granting of such variance will not result in:
 - (a) Unacceptable or prohibited increases in flood heights;
 - (b) Additional threats to public safety;
 - (c) Extraordinary public expense; and
 - (d) The authorization of such variance will not:
 - i. Create nuisances;
 - ii. Cause fraud or victimization of the public; or

⁷ Editor's Note: Text from Sec. 10-21 has been included in this new Section but modified to better address requirements for variances within the floodplain district. These variance standards are higher than those imposed in Article 3.

iii. Conflict with local laws or ordinances.

C. The BZA will also give due consideration and weight to the following additional factors before granting a variance:

- (1) The danger to life and property due to increased flood heights or velocities caused by encroachments;
 - (a) No variance will be granted for any proposed use, development, or activity within any floodway zone that will cause any increase in the one percent (1%) chance flood elevation.
- (2) The danger of materials being swept on to other lands or downstream to the injury of others;
- (3) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions;
- (4) The susceptibility of the proposed facility and its contents to flood damage, and the effect of the damage on the individual owners;
- (5) The importance of the services provided by the proposed facility to the community;
- (6) The requirements of the facility for a waterfront location;
- (7) The availability of alternative locations for the proposed use which are not subject to flooding;
- (8) The compatibility of the proposed use with existing and anticipated development;
- (9) The relationship of the proposed use to the Comprehensive Plan and floodplain management program for the area;
- (10) The safety of access by ordinary and emergency vehicles to the property in time of flood;
- (11) The expected heights, velocity, duration, rate of rise, and sediment transport of flood waters expected at the site;

- (12) The historic nature of a structure. Variances for repair or rehabilitation of historic structures may be granted upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure; and
 - (13) Such other factors which are relevant to the purposes of this Ordinance.
- D. The BZA shall notify the applicant for a variance, in writing, that the issuance of a variance to construct a structure below the 100-year flood elevation:
 - (1) Increases the risks to life and property; and
 - (2) Will result in increased premium rates for flood insurance.
- E. A record shall be maintained of the above notification as well as all variance actions, including justification for the issuance of the variances. Any variances that are issued shall be noted in the annual or biennial report submitted to FEMA.

Division 5-3 VO — Village Overlay District

Section 5-3-I Applicability

- A. The Village Overlay District shall apply to all lands designated as such and shown on the official Zoning Map.
- B. Any new development within the VO District must conform with the regulations of this Division.
- C. Development within the VO shall adhere to the requirements of this Ordinance and the underlying zoning district.
- D. If a conflict exists between the standards of the VO found within this Division and the rest of this Ordinance, regulations in this Division shall govern.

Section 5-3-2 Applications and Process

Prior to issuance of a building or zoning permit for development in the VO District, a minor site plan must be approved for the proposed development in accordance with **Article 3, Permits and Applications**, of this Ordinance.

Section 5-3-3 Permitted Uses⁸

- A. Uses which are permitted by-right and by Special Use Permit in the underlying primary districts shall be permitted in the VO; **see Article 6**, Use Matrix.
- B. **Prohibited uses.** Notwithstanding **Section 5-3-3 A**, the following uses shall be prohibited within the CO151 Overlay District:
 - (1) Adult use;
 - (2) Biosolid application;
 - (3) Cemetery, public;
 - (4) Firing range, indoor;
 - (5) Firing range, outdoor;
 - (6) Manufactured home park;
 - (7) Outdoor storage;
 - (8) Parking lot, recreational vehicle;
 - (9) Private airstrip;
 - (10) Self-storage facility;
 - (11) Solar energy, medium scale;
 - (12) Solar energy, utility-scale;
 - (13) Utility service, major; and
 - (14) Any use within the Industrial category of **Article 6**, Use Matrix.
- C. **Uses by Special Use Permit.** Notwithstanding **Section 5-3-3 A and B**, the following uses shall be permitted by Special Use Permit within the 220-NSG Overlay District:

⁸ Editor's Note: This section was revised after the original worksession for this article to better articulate permitted and prohibited uses in the overlay.

- (1) Store, large.

Section 5-3-4 Development Standards

- A. The VO District shall have the following district standards:

Table 5-1: Village Overlay District Regulations

VO Village Overlay	
Minimum Area Requirements	
Minimum Lot Size	20,000 sq. ft.
Minimum Lot Size with Public Water and Sewer	10,000 sq. ft.
Minimum Required Setbacks	
Front	10 ft.
Side	-
Rear	20 ft.
Corner Lot Side	10 ft.
Accessory Structure, Rear	15 ft. *
Accessory Structure, Side	10 ft. *
Minimum Lot Width	
Road Frontage	100 ft.
Maximum Structure Height	
Building Height	35 ft. **

* Accessory uses shall not be located within the front or corner lot side setback.

** Building height may be increased up to a maximum of 45 ft. with additional setbacks of 1 ft. for every foot of height above 35 ft.

- B. In addition to the development standards specified in this Ordinance for underlying primary zoning districts, the following standards will apply in the VO, unless otherwise noted:
- (1) Approval from the Virginia Department of Health is required for any development utilizing a private sewer system. Minimum area requirements may be altered by the Administrator to accommodate these systems.

- (2) Commercial uses shall not exceed 12,000 square feet of gross floor area per story.
- (3) All commercial uses within the VO District must conform with the VO District Landscape Design Standards and screening requirements of **Article 8, Community Design Standards**.⁹
- (4) All off-street parking requirements of **Article 8, Community Design Standards**, shall be located in the side or rear yards of any commercial use.
- (5) **Roads.**
 - (a) All new roads must conform to VDOT standards and be adopted for public use within six (6) months of the completion of new development.¹⁰
 - (b) Any building along a public or private road shall architecturally front and have main entrances that face that road. For corner lots, the building shall front the more highly trafficked street or provide an angled corner entrance.
 - (c) Roads and parking areas shall be arranged to serve and connect to adjacent development and provide an interconnected pattern of walkable blocks unless deemed infeasible by the Administrator.
 - (d) Unless otherwise approved at the time of site plan review, direct and convenient onsite vehicular circulation and access between properties shall be provided. The intent is to provide shared access drives located to the rear of buildings fronting public roadways and to minimize the need of separate individual vehicular entrances along public roads.
 - (e) New roads within the VO District that connect to two or more existing public roadways, shall include one of the following:¹¹

⁹ Editor's Note: The intent of this provision is to require additional landscaping standards, notably within the developments road frontage area and parking areas, that will be detailed in Article 8. These additional standards are intended to promote aesthetically improved development along the County's main thoroughfare.

¹⁰ Editor's Note: This provision would restrict private roads for new developments within the VO district.

¹¹ Editor's Note: This provision would require new roads to include pedestrian infrastructure if they connect to roads that already have such infrastructure, otherwise they must dedicate an easement for public access that can be developed with pedestrian infrastructure in the future.

- i. Pedestrian accommodations, such as sidewalks and bicycle lanes, shall be provided along both sides of the entire length of the roadway whenever such road connects to an existing road where existing pedestrian accommodations exist; or
- ii. Dedication of a public easement consisting of a five-foot-wide strip of land along both sides of the roadway, extending the full length of the road, to allow for the future installation of pedestrian accommodations, such as sidewalks and bicycle lanes.

Section 5-3-5 Waivers and Modifications

- A. The requirements of this Division may be modified by the Board of Supervisors in connection with the approval of an SUP or Zoning Map Amendment, in accordance with **Article 3, Permits and Applications**, of this Ordinance.
- B. The requirements of this Division may be waived or modified by the Administrator in accordance with modification criteria and procedures for a design requirement provided in **Article 8, Community Design Standards**, of this Ordinance.
 - (1) If modification criteria and procedures for a design requirement are not provided in **Article 8, Community Design Standards**, of this Ordinance, then administrative modification shall not be granted in the VO.
 - (2) The Administrator may attach conditions to any waiver or modification as deemed reasonably necessary.

Division 5-4 CO29 — Route 29 Corridor Overlay District

Section 5-4-1 Applicability

- A. CO29 District boundaries shall be as follows:
 - (1) 500 feet on either side of U.S. Route 29, measured from the edge of the road right-of-way (ROW).¹²

¹² Editor's Note: This provision would apply the overlay district to all of Route 29 within the County. The BOS and PC should review and decide if they wish to restrict the overlay district to only certain sections of Route 29 or keep the recommended provision.

- B. Any new commercial or industrial development within the CO29 District must conform with the regulations within this Division.¹³
- C. Development within the CO29 shall adhere to the requirements of this Ordinance and the underlying zoning district(s).
- D. If a conflict exists between the standards of the CO29 found within this Division and the rest of the Ordinance, regulations in this Division shall govern.

Section 5-4-2 Applications and Process

- A. In addition to all applicable requirements of **Article 3, Permits and Applications**, and **Article 8, Community Design Standards**, of this Ordinance, the following is required to be submitted for all development within the CO29 as part of a Site Plan or, in the case of a subdivision, as part of the plat submission:
 - (1) An access plan, drawn to scale, including dimensions and distances, and clearly detailing:
 - (a) All nearby entrances and access points on both sides of the corridor highway within 400 ft. of the property line(s), and any entrances, including inter-parcel and secondary street access, for all adjacent properties; and
 - (b) The traffic circulation system and the pedestrian circulation system as coordinated with adjacent properties, including the location and width of all streets, driveways, access aisles, entrance to parking areas, walkways, and paths.
 - (2) A traffic impact analysis detailing:
 - (a) The anticipated additional Annual Daily Traffic (ADT) generated by the development; and
 - (3) Any proposed improvements to mitigate potential negative impacts to the traffic circulation system.

¹³ Editor's Note: The recommend text will require the provisions of this district to only apply to commercial and industrial districts and not residential subdivisions. This text can be modified to only apply to developments of a certain size or all uses.

- (4) A landscape plan showing compliance with the requirements of the CO29 Landscape Design Standards of **Article 8, Community Design Standards**.¹⁴

Section 5-4-3 Permitted Uses¹⁵

- A. Uses which are permitted by-right and by Special Use Permit in the underlying primary districts shall be permitted in the CO29; see **Article 6**, Use Matrix.
- B. **Prohibited uses.** Notwithstanding **Section 5-4-3 A**, the following uses shall be prohibited within the CO29 Overlay District:
 - (1) Adult use;
 - (2) Cemetery, public;
 - (3) Confined animal feeding operation;
 - (4) Dwelling, duplex;
 - (5) Dwelling, manufactured home;
 - (6) Dwelling, single-family;
 - (7) Dwelling, single-unit, attached;
 - (8) Firing range, outdoor;
 - (9) Migrant labor camp;
 - (10) Parking lot, recreational vehicle;
 - (11) Race track;
 - (12) Self storage facility;
 - (13) Solar energy, utility-scale;
 - (14) Utility service, major; and
 - (15) Any use within the Industrial category of **Article 6**, Use Matrix.

¹⁴ Editor's Note: The intent of this provision is to require additional landscaping standards, notably within the developments road frontage area and parking areas, that will be detailed in Article 8. These additional standards are intended to promote aesthetically improved development along the County's main thoroughfare.

¹⁵ Editor's Note: This section was revised after the original worksession for this article to better articulate permitted and prohibited uses in the overlay.

C. **Uses by Special Use Permit.** Notwithstanding **Section 5-4-3 A and B**, the following uses shall be permitted by Special Use Permit within the CO29 Overlay District:

- (1) Dwelling, multi-family;
- (2) Firing range, indoor; and
- (3) Utility service, major.

Section 5-4-4 Development Standards¹⁶

A. The CO29 District shall have the following district standards:

Table 5-2: Route 29 Corridor District Regulations

CO29 Route 29 Corridor Overlay	
Lot Size	
Minimum Lot Size	2 acres
Minimum Setbacks	
Front	50 ft.
Side	20 ft.
Rear	50 ft.
Corner Lot Side	30 ft.
Accessory Structure	15 ft.
Minimum Lot Width	
Road Frontage	125 ft.
Maximum Structure Height	
Building Height	35 ft.

B. In addition to the development standards specified in this Ordinance for underlying primary zoning districts, the following standards will apply in the CO29, unless otherwise noted:¹⁷

¹⁶ Editor's Note: In addition to the uses and design standards that will be drafted for this district in future Articles, the provisions in this section shall also apply. The BOS and PC should review these standards and give direction for any changes.

¹⁷ Editor's Note: The development standards included in this section are some baseline recommendations for the County to consider. In addition to these standards, the County may wish to consider regulating building materials, colors, or facades, alternate parking and loading requirements, or open space requirements.

- (1) The design of new construction, exterior renovations, and nonexempt additions must be complementary to the character and materiality of the principal structure and adjacent properties.
- (2) Any alteration or expansion of a structure that is nonconforming to height, area, yard, setback or bulk requirements of the CO29 shall be in accordance with **Article 9, Nonconformities**, of this Ordinance
- (3) All fencing, lighting, landscaping, and screening must be installed in accordance with **Article 8, Community Design Standards**, of this Ordinance.
- (4) **Signs.** All signs erected in the CO29 shall be in accordance with **Article 8, Community Design Standards**, of this Ordinance, in addition to the following standards:
 - (a) Pole mounted signage is prohibited.
 - (b) Sign materials and colors must complement the overall design of the building.
 - (c) The base of signs placed at the primary access to the parcel must be landscaped in accordance with **Article 8, Community Design Standards**, of this Ordinance.
 - i. Plantings at the base of signage must not grow to a height that partially or fully obstructs sign copy, as visible from the Route 29 ROW.
- (5) All new roads must conform to VDOT standards and be adopted for public use within six (6) months of the completion of new developments.¹⁸
- (6) **Vehicular Access and Circulation.** ¹⁹

¹⁸ Editor's Note: This provision would restrict private roads for new developments within the CO29 district.

¹⁹ Editor's Note: The provisions in this subsection are designed to promote inter connectivity between developments and restrict access points along Route 29.

- (a) Any parcel or assembly of parcels having frontage along Route 29 or a roadway within CO29 will be allowed only one direct access to the roadway, unless an access plan is submitted to, and approved by the Planning Commission for more than one access point. However, additional access points, associated with subdivision, commercial, or industrial development, must also provide access to adjacent parcel for existing or future development.
 - i. The Administrator may approve additional direct access points to roadways if it is demonstrated that the proposed design accomplishes the purpose of the CO29. Access design must conform to VDOT standards.
- (b) There will be no direct access onto Route 29 or a roadway within CO29 from out-parcels which are part of a larger, coordinated development site or shopping center. Access via the following means will be approved:
 - i. By provision of shared entrances, inter-parcel connections and travel routes, or on-site service drives connecting adjacent properties;
 - ii. By access from a secondary public street rather than a primary street; or
 - iii. By the internal streets of a commercial, office, or institutional complex.
- (c) All primary travel lanes and private streets designed to allow vehicular access between properties must be established in recorded ingress/egress easements, which are reciprocal in nature and address the shared cost of construction and ongoing maintenance.
 - i. Such easements or dedicated public ROWs must be extended to the property line where inter-parcel access or dedicated public ROWs are required.
 - ii. Existing parcels of land will not be denied access to a public highway if no reasonable shared or cooperative access is possible, at the time of development.

Section 5-4-5 Waivers and Modifications

- A. The requirements of this Division may be modified by the Board of Supervisors in connection with the approval of an SUP or Zoning Map Amendment, in accordance with **Article 3, Permits and Applications**, of this Ordinance.
- B. The requirements of this Division may be waived or modified by the Administrator in accordance with modification criteria and procedures for a design requirement provided in **Article 8, Community Design Standards**, of this Ordinance.
 - (1) If modification criteria and procedures for a design requirement are not provided in **Article 8, Community Design Standards**, of this Ordinance, then administrative modification shall not be granted in the CO29.
 - (2) The Administrator may attach conditions to any waiver or modification as deemed reasonably necessary.

Division 5-5 CO151 – Route 151 Corridor Overlay District²⁰

Section 5-5-1 Applicability

- A. CO151 District boundaries shall be as follows:
 - (1) 500 feet on either side of U.S. Route 151, measured from the edge of the road ROW.²¹
- B. The length of the CO151 shall be from the Albemarle County boundary line to the intersection of Route 151 with Beech Grove Road.
- C. Any new commercial, minor subdivision, or major subdivision development within the CO151 must conform with the regulations of this Division, the requirements of this Ordinance, and the underlying zoning district(s).
- D. If a conflict exists between the standards of the CO151 found within this Division and the rest of the Ordinance, regulations in this Division shall govern.

²⁰ Editor's Note: This overlay was added after the 8/27/25 worksession as requested by the County.

²¹ Editor's Note: Most of the parcels fronting along Route 151 are a minimum of about 500 ft. deep. If this number is reduced the CO151 would only apply to the front portion of most parcels. Recommend keeping a 500 foot boundary.

Section 5-5-2 Applications and Process

- A. In addition to all applicable requirements of **Article 3, Permits and Applications**, and **Article 8, Community Design Standards**, of this Ordinance, the following is required to be submitted for all development within the CO151 as part of a Site Plan or, in the case of a subdivision, as part of the plat submission:
- (1) An access plan, drawn to scale, including dimensions and distances, and clearly detailing:
 - (a) All nearby entrances and access points on both sides of the corridor highway within 400 ft. of the property line(s), and any entrances, including inter-parcel and secondary street access, for all adjacent properties; and
 - (b) The traffic circulation system and the pedestrian circulation system as coordinated with adjacent properties, including the location and width of all streets, driveways, access aisles, entrance to parking areas, walkways, and paths.
 - (2) A traffic impact analysis detailing:
 - (a) The anticipated additional Annual Daily Traffic (ADT) generated by the development; and
 - (3) Any proposed improvements to mitigate potential negative impacts to the traffic circulation system.
 - (4) A landscape plan showing compliance with the requirements of the CO151 Landscape Design Standards of **Article 8, Community Design Standards**.

Section 5-5-3 Permitted Uses

- A. Uses which are permitted by-right and by Special Use Permit in the underlying primary districts shall be permitted in the CO151; see **Article 6**, Use Matrix.
- B. **Prohibited uses.** Regardless of **Section 5-5-3 A** and the allowances in the Use Matrix, the following uses shall be prohibited within the CO151:
- (1) Adult use;
 - (2) Automobile sales and rental;
 - (3) Car wash;
 - (4) Confined animal feeding operation;
 - (5) Drive-through window;

- (6) Firing range, outdoor;
 - (7) Manufactured home park;
 - (8) Meat processing facility;
 - (9) Migrant labor camp;
 - (10) Parking lot, recreational vehicle;
 - (11) Race track;
 - (12) Self storage facility;
 - (13) Smoke/Vape shop;
 - (14) Solar energy, utility-scale;
 - (15) Utility service, major; and
 - (16) Any use within the Industrial category of **Article 6**, Use Matrix.
- C. **Uses by Special Use Permit.** Regardless of **Section 5-5-3 A and B**, the following uses shall be permitted by Special Use Permit within the CO151:
- (1) Animal Shelter;
 - (2) EV charging station;
 - (3) Fuel center;
 - (4) Recreation/Entertainment, commercial, indoor;
 - (5) Recreation/Entertainment, commercial, outdoor;
 - (6) Solar energy, medium-scale;
 - (7) Stable, commercial;
 - (8) Store, large;
 - (9) Telecommunications facility; and
 - (10) Utility service, major.

Section 5-5-4 Development Standards

- A. In addition to the development standards specified in this Ordinance for underlying primary zoning districts, the following standards shall apply in the CO151:

- (1) **Open space requirements.** All new development in the CO151 shall provide open space in accordance with this Division and the open space shall be designed and used in accordance with the standards for open space provided in **Article 8**, Community Design Standards, of this Ordinance.
 - (a) Open space, as defined in this Ordinance, requirements shall apply to all new construction, developments, or redevelopments that require an approved Site Plan, Special Use Permit, or Zoning Permit in accordance with this Ordinance.
 - (b) All development is required to preserve a minimum of 50% of the total acreage as open space, unless developed in accordance with the cluster development standards of this section.
 - (c) Open Space Plan Required. All development applications subject to review for compliance with the standards of this Division must include an Open Space Plan, which must designate all open-space areas, including the amount of each type of open space provided, and the relation of each open space area to the constructed areas of the site, including all buildings and circulation systems.

(2) CO151 Cluster Development Purpose.

- (a) The purpose of CO151 Cluster Development provisions is to:
- i. Provide cluster development standards and options that differ from cluster housing development provisions in **Article 4**, Primary Zoning Districts;
 - ii. Encourage the protection and preservation of open space and agricultural lands in the CO151;
 - iii. Encourage development in a manner which reduces the cost of infrastructure;
 - iv. Provide incentives for clustering development in the CO151;
 - v. Create and encourage the use of a variety of development choices to satisfy the changing needs of the County; and
 - vi. Offer flexibility to the developer in their approach and solution to land development problems.

(3) CO 151 Cluster Development Standards.

- (a) The dimensional requirements set forth in this Section shall supersede those stipulated for other development types, except that:
- i. All residential lots, buildings, and structures must be interior and setback 50 ft. from the development property line. Minimum setbacks included in **Table 5-3** apply to interior lots adjoining other lots within the cluster development.
 - ii. The requirements for corner visibility, as set forth in **Article 8**, Community Design Standards, of this Ordinance are not waived.
 - iii. The setback requirement for any building on a cluster lot which abuts a lot located outside the cluster development, shall be no less than the greater of the required setbacks for either lot.
 - iv. All cluster developments shall adhere to the requirements of **Article 10**, Subdivisions, of this Ordinance.
- (b) Development regulations shall be as specified in the underlying zoning district, except as shown in **Table 5-3** and the following:
- i. Overall Residential Development Density Calculation:
 - a. $\text{Total Development Acreage} \times \text{Density} = \text{number of units allowed}$ (refer to **Table 5-3**)
 - i. Number of units allowed are built on a maximum of 40% of the total property.
 - ii. Overall Commercial Development Density Calculation:
 - a. $\text{Total Development Area} - \text{Minimum Open Space} = \text{Buildable Area}$

Table 5-3: Route 151 Cluster Development Standards

CO151 CLUSTER DEVELOPMENT		
Standard	Residential	Commercial
MINIMUM DEVELOPMENT AREA		
With public water AND sewer; OR private, centralized system	2 Acres	0.5 acre
With private well and/or septic	5 Acres	1 acre
MAXIMUM DENSITY ¹		
With public water AND sewer; OR private, centralized system	4 du/acre ²²	100% lot coverage of the buildable area
With private well and/or septic	2 du/acre	
¹ Calculated as provided in Section 5-5-4 A (3) (b)		
MINIMUM OPEN SPACE		
Percent of development area	60%	0.5 acre to 1.5 acre = 30% More than 1.5 acre = 40%
DIMENSIONAL STANDARDS		
MINIMUM LOT SIZE		
With public water AND sewer; OR private, centralized system	2,178 sq. ft.	0.5 acre
With private well and/or septic	0.5 acre	1 acre
MINIMUM FRONTAGE		

²² Editor's Note: The County should consider if this density suits the purpose of the overlay.

CO151 CLUSTER DEVELOPMENT						
Standard	Residential			Commercial		
	25 ft.			In accordance with underlying district standards		
MINIMUM SETBACKS						
	Front	Side	Rear	Front	Side	Rear
All structures- Measured from the structure’s property line	15 ft.	5 ft.	10 ft.	No minimum	5 ft.	10 ft.
MAXIMUM STRUCTURE HEIGHT						
Principal structure	35 ft.			30 ft.		
Accessory structures	No taller than principal structure					

B. **Design Standards.** The following standards will apply in the CO151, unless otherwise noted:

- (1) The design of new construction, exterior renovations, and additions must be complementary to the character and materiality of the principal structure and adjacent properties.
- (2) Any alteration or expansion of a structure that is nonconforming to height, area, yard, setback, or bulk requirements of the CO151 shall be in accordance with **Article 9, Nonconformities**, of this Ordinance.
- (3) Walls and fences, lighting, and landscaping and screening, must be installed in accordance with **Article 8, Community Design Standards**, of this Ordinance.
- (4) **Signs.** All signs erected shall be in accordance with **Article 8, Community Design Standards**, of this Ordinance, in addition to the following standards:
 - (a) Pole mounted signage is prohibited.
 - (b) Sign materials and colors must complement the overall design of the building.

- (c) The base of signs placed at the primary access to the parcel must be landscaped in accordance with Article 8, Community Design Standards, of this Ordinance.
 - i. Plantings at the base of signage must not grow to a height that partially or fully obstructs sign copy, as visible from the Route 151 ROW.
- (5) All new roads must conform to VDOT standards and be adopted for public use within six (6) months of the completion of new developments.²³
- (6) **Vehicular Access and Circulation.** ²⁴
 - (a) Any parcel, subdivision, or cluster development having frontage along Route 151 or a roadway within CO151 will be allowed only one direct access to that roadway, unless an access plan is submitted to, and approved by the Administrator for more than one access point.
 - i. Additional access points, associated with subdivision or commercial development, must also provide access to adjacent parcels for existing or future development.
 - ii. The Administrator may approve additional direct access points to roadways if it is demonstrated that the proposed design accomplishes the purpose of the CO151. Access design must conform to VDOT standards.
 - (b) There will be no direct access onto Route 151 or a roadway within CO151 from out-parcels which are part of a larger, coordinated development site or shopping center. Access via the following means will be approved:
 - i. By provision of shared entrances, inter-parcel connections and travel routes, or on-site service drives connecting adjacent properties;
 - ii. By access from a secondary public street rather than a primary street; or
 - iii. By the internal streets of a commercial, office, or institutional complex.

²³ Editor's Note: This provision would restrict private roads for new developments within the CO151 district.

²⁴ Editor's Note: The provisions in this subsection are designed to promote inter-connectivity between developments and restrict access points along Route 151.

- (c) All primary travel lanes and streets designed to allow vehicular access between properties must be established in recorded ingress/egress easements, which are reciprocal in nature and address the shared cost of construction and ongoing maintenance.
 - i. Such easements or dedicated public ROWs must be extended to the property line where inter-parcel access or dedicated public ROWs are required.

(7) Parking.

- (a) Parking shall be behind the front building line; and
 - (b) Shall be landscaped in accordance with **Article 8**, Community Design Standards, of this Ordinance.
- C. Existing parcels of land will not be denied access to a public highway if no reasonable shared or cooperative access is possible, at the time of development.

Section 5-5-5 Waivers and Modifications

- A. The requirements of this Division may be modified by the Board of Supervisors in connection with the approval of an SUP or Zoning Map Amendment, in accordance with **Article 3, Permits and Applications**, of this Ordinance.
- B. The requirements of this Division may be waived or modified by the Administrator in accordance with modification criteria and procedures for a design requirement provided in **Article 8, Community Design Standards**, of this Ordinance.
 - (1) If modification criteria and procedures for a design requirement are not provided in **Article 8, Community Design Standards**, of this Ordinance, then administrative modification shall not be granted in the CO151.
 - (2) The Administrator may attach conditions to any waiver or modification as deemed reasonably necessary.

Article-8 Community Design Standards¹

Division 8-I General

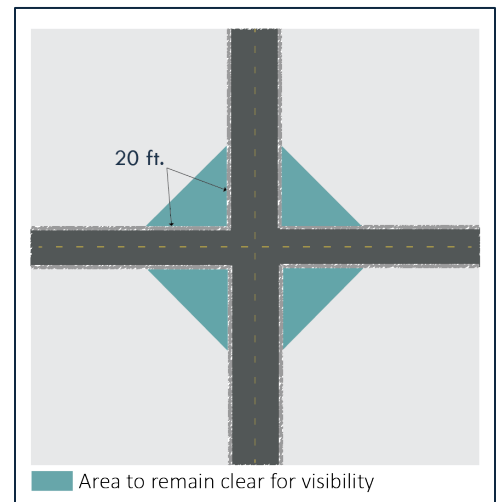
Section 8-I-1 Purpose²

- 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 Clearance³

- 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



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

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

³ 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 Lighting⁴

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;

⁴ 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.⁵
 - (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.

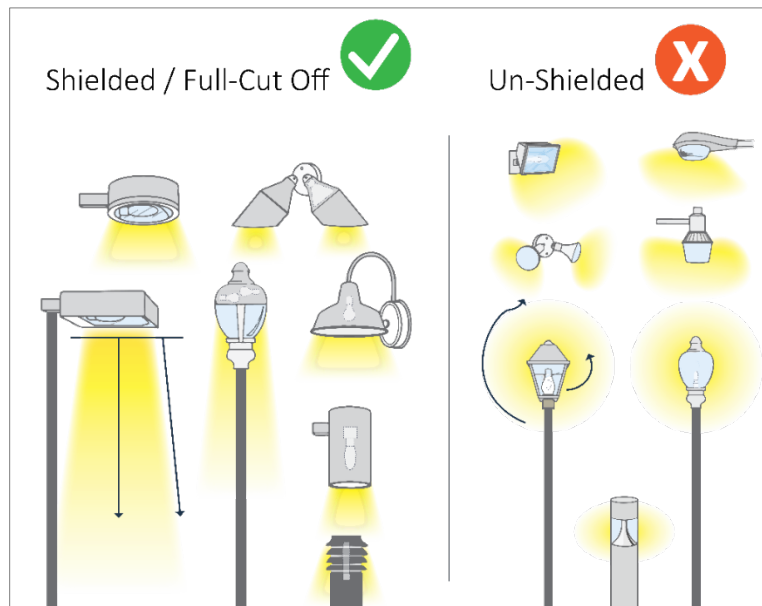
⁵ Editor's Note: Nelson County should consider if they wish to include a timeframe for taking down these types of lights or if they just wish to provide a blanket exemption.

- 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 are⁶ 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.

⁶ 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.⁷
- (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

⁷ 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**, except that Major Subdivisions shall provide Type A buffers even when the abutting district is the same intensity.
- (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)*
A	10	3	1	6
B	20	3	3	8
C	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 ² in Minimum Buffer Width (feet)	Reduction in Required Plantings (percentage)
Solid wall/fence ¹	6	10	25
Evergreen plantings in an unbroken strip (at maturity)	6 (planted) 50 (maturity)		50
Berm ³	6 ft., with a maximum slope of 2:1	No decrease	25
¹ Walls and fences must comply with the standards in Division 8-4, Walls and Fences of this Article. ² The minimum width of a transitional buffer cannot be reduced below 10 feet. ³ 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)⁸ parking spaces, shall include landscaping as required in this Section.

⁸ 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 30⁹ 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%)¹⁰ 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.¹¹
 - (c) Landscape islands shall be at least 100 square feet in area with sides measuring at least five (5) feet in length.¹²
 - (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.

⁹ 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.

¹⁰ 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.

¹¹ 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.

¹² 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 deciduous or evergreen trees native to Virginia and the region, 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 deciduous or evergreen trees, native to Virginia and the region, per 100 linear feet;
 - i. Each tree shall be a minimum of six (6) feet in height at planting;
 - (b) Six (6) shrubs, native to Virginia and the region, 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

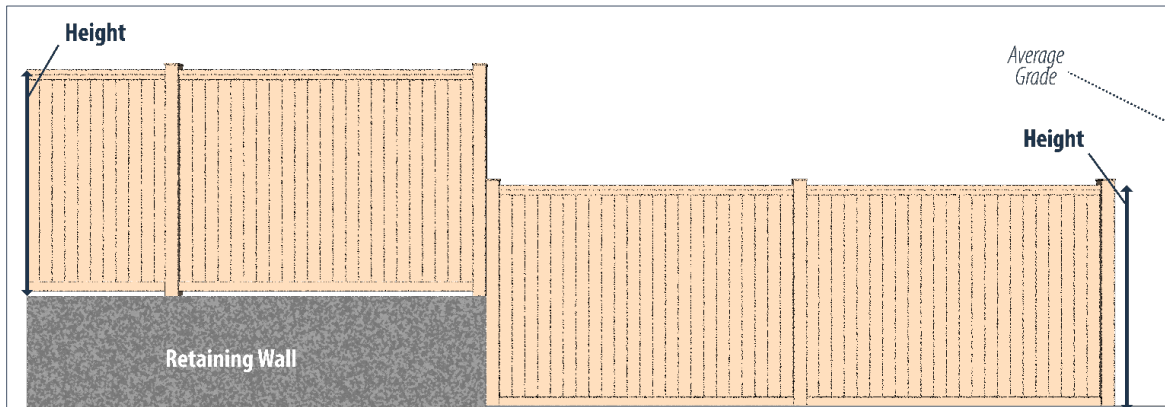
- A. Walls and/or fences shall not:
- (1) Be located within the public ROW;
 - (2) Be installed in a manner, or in a location, that blocks or diverts a natural drainage flow on to or off of any other property, unless the fence or wall is part of an approved stormwater management plan;
 - (3) Be constructed 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 Sidewalks¹³

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:
 - (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.

¹³ 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) 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.**¹⁴
 - (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.

¹⁴ 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.

- 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.¹⁵

¹⁵ 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.

- (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.
 - (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 Loading¹⁶

Section 8-6-I 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;

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

- (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.

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 Exemptions¹⁷

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.

- (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.

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

- 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.**¹⁸ 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:
 - (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.**¹⁹ 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.

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

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

- D. **Parking Space Dimensions.**²⁰ 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.**²¹ 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.**²²
- (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.

²⁰ 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.

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

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

- 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**²³. 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.**²⁴ 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.
- L. **Emergency Access.**²⁵ 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.

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

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

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

- 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:²⁶
 - (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

²⁶ 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.

Use(s)	Minimum Number of Required Spaces
Agricultural Uses	
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
Residential Uses	
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
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, or

Use(s)	Minimum Number of Required Spaces
	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
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	With fixed seating: 1 per 4 seats, plus 1 per employee on largest shift Without fixed seating: 1 per 300 sq. ft. GFA of enclosed buildings, plus 1 per 4 persons at maximum capacity
Restaurant, General	1 per 150 sq. ft. GFA, including outside seating
Store, All Types	1 per 400 sq. ft. GFA

Use(s)	Minimum Number of Required Spaces
Industrial Uses	
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 Parking²⁷

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.**

- (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;

²⁷ 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.

- (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 Prohibited²⁸

- 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;

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

- (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;
- (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 Exemptions²⁹

- 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.
 - (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.

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

- (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 = πr^2

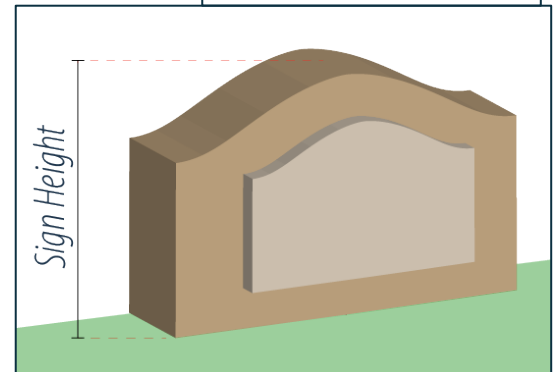
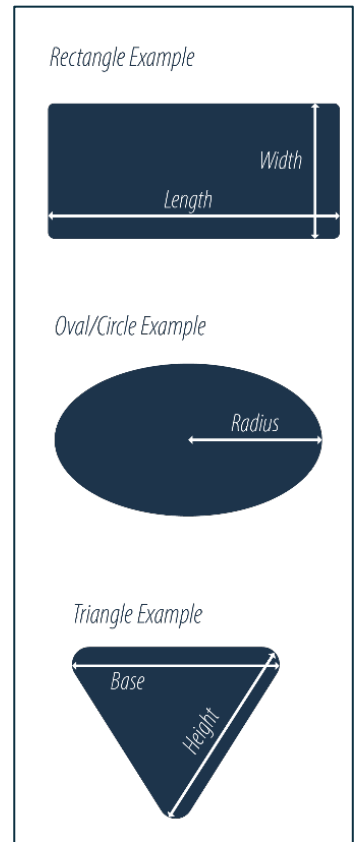
- (c) Triangle formula: sign area = $1/2 \times \text{base (B)} \times \text{height (H)}$
- (d) The surface area of any sign made up only of individual letters or figures shall include the space between such letters or figures.
- (2) Whenever one sign contains information on both sides, sign area will 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

Figure 8-4: Sign Area Formulas



Section 8-7-6 Permitted Signs by District³⁰

- 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**.

³⁰ 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 ¹	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	
¹ 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.

Division 8-8 Open Space³¹

Section 8-8-1 Intent

- A. The standards in this Division are intended to ensure that a minimum amount of required open space is provided in new development for the use and enjoyment of the development's residents, employees, and users in a manner that:
 - (1) Preserves the County's natural, environmental, and historic resources;
 - (2) Provides open areas for use as active and passive recreation;
 - (3) Reduces the heat island effect of developed areas;
 - (4) Provides civic and meeting spaces for use by the public;
 - (5) Preserves trees and stands of older growth;
 - (6) Enhances stormwater management;
 - (7) Provides other public health benefits; and
 - (8) Provides open space and amenities in proximity to users, which promotes compact development patterns and reduces the consumption of resources and capital costs.

³¹ Editor's Note: New Division for all open space requirements. Sections of this Division further specify what does and does not count toward required open space.

Section 8-8-2 Applicability

A. General.

(1) This Division applies to all open space required by this Ordinance.

B. Open Space Plan Required. All development applications subject to review for compliance with the standards of this Division must include an Open Space Plan, which must designate all open space areas, including the amount of each type of open space provided, and the relation of each open space area to the constructed areas of the site, including all buildings and circulation systems.

Section 8-8-3 Amount of Open Space Required

A. Development subject to these standards must provide the required open space in an amount that meets or exceeds the minimum standard provided in Article 4, Primary Zoning Districts, Division 4-8, Table 4-9 and Article 5, Overlay Zoning Districts, Division 5-5, Section 5-5-4, and Article 7, Use Performance Standards, based on the district where the development is proposed.

(1) The minimum required open space will be calculated as a percentage of the gross development area.

Section 8-8-4 Areas Counted as Open Space

A. Natural Features.

(1) Description. Naturally sensitive areas, such as floodplains, wetlands, steep slopes, native mixed forests, streams, ponds, rivers, existing and healthy wooded areas, and natural vegetation.

(2) Limitation.

(a) Up to 50% of the required open space may be comprised of natural features.

(b) Notwithstanding (a), above, streams, rivers, ponds, lakes, wetlands, steep slopes, drainageways, riparian buffers, other riparian areas, or flood hazard areas may not be included as part of the required open space unless approved through a rezoning or located within a Cluster Subdivision, in accordance with Code of Virginia § 15.2-2286.1.

B. Passive Recreation Areas.

- (1) Description. Planned and regularly maintained open areas that provide passive recreation opportunities, including bicycle or pedestrian trails, landscaping, gardens, community gardens, picnic shelters, gazebos, and similar structures.
- (2) Design Requirements. The cumulative gross floor area of picnic shelters, gazebos, and similar structures shall not exceed 50% of the total square footage of all passive recreation areas.

C. Active Recreation Areas.

- (1) Description. Land occupied by areas and facilities used for active recreational purposes, including, but not limited to ballfields, playgrounds, and tennis courts.
- (2) Design Requirements. Land shall be compact and contiguous unless used to link or continue an existing or planned open space resource.

D. Required Landscaping and Buffers.

- (1) Description. All areas occupied by required landscape areas and transitional buffers, except for parking lot landscaping, designed in accordance with **Division 8-3**, Landscaping and Screening, of this Article.

E. Stormwater Management Areas/Facilities Treated as Site Amenities.

- (1) Description. Stormwater management and/or Best Management Practice (BMP) features that are incorporated into a site amenity (e.g., with low fencing, vegetative landscaping, gentle slopes, fountain or other visible water circulation device, and pedestrian access or seating) and meet the criteria below:
 - (a) Support passive recreation uses by incorporating pedestrian elements such as paths and benches;
 - (b) Exhibit gentle slopes, with a ratio of less than 3:1, and
 - (c) Incorporate vegetative landscaping.
- (2) Limitation. A maximum of 50% of the land area occupied by stormwater management facilities (including retention and detention ponds and other bioretention devices) may be included as open space.

- (a) Pursuant to Code of Virginia § 15.2-2286.1, stormwater management facilities (whether they are or are not located and designed as a site amenity) may be used in, and count towards, open space within cluster developments with no limitation.

F. Public Access Easements.

- (1) Description. Public access easements that include bicycle or pedestrian paths or trails.

G. Squares and Plazas.

- (1) Description. Flat, open areas immediately in front of a building/group of buildings or framed by buildings or streets that provide gathering places, opportunities for outdoor dining, and other similar activities.
- (2) Design Requirements.
 - (a) A square or plaza shall be at least 250 sq. ft., but no more than one (1) acre, in area.
 - (b) A square or plaza shall have at least one (1) direct improved access to a principal building, or to a street or walkway accessible to the public or the development's residents and users.
 - (c) The surrounding principal buildings shall be oriented toward the square or plaza where possible.

Section 8-8-5 Areas Not Counted as Open Space

- A. The following features and areas shall not be counted as required open space for purposes of this Division:
 - (1) If Cluster Development setbacks are used towards open space, the portion of the setback used as open space shall be adjacent to the remaining required open space.
 - (2) Yards on lots containing a single- or two-unit dwelling, townhouse, or manufactured home;
 - (3) Street rights-of-way, private access easements, or utility easements;
 - (4) Parking areas and driveways, including parking lot landscaping and walkways;
 - (5) Designated outdoor storage areas and mechanical yards; and

- (6) Stormwater management facilities not located and designed as a site amenity or located within a cluster development, as described in Section 8-8-4 (E), above.
- (7) Stormwater management areas enclosed by a wall or fence.

Section 8-8-6 Design and Development Standards

A. Location.

- (1) Required open space shall be readily accessible by residents and users of the development to the maximum extent practicable.
- (2) To the extent practicable, a portion of the open space should provide focal points for the development through prominent placement or direct visibility from streets.

B. Access to open space. Where common open space or public parkland is provided in a development, the developer shall provide pedestrian access to the site.

C. Configuration.

- (1) Required open space shall be compact with a minimum of 40% of the required open space contiguous, unless:
 - (a) A linear configuration is needed to continue an existing trail or accommodate preservation of natural features; or
 - (b) It can be sufficiently demonstrated that a different configuration provides better access for intended users of the open space.
- (2) If the development site is adjacent to existing or planned public trails, parks, or other public open space area, the required open space shall, to the maximum extent practicable, be located to adjoin, extend, and enlarge the trail, park, or other public open space area.

D. Phasing of Open Space.

- (1) When a development shown on a Concept or Site Plan is to be constructed in phases, the timing of the provision of required open space shall be specifically addressed in the development schedule.
- (2) Unless an alternate timing is specified by approved proffers, required open space shall be constructed and available for use at an equivalent or greater rate than the construction of adjacent lots and uses.

E. Limitations.

- (1) Development within any required open space shall be appropriate to the purposes of the type of required open space.
- (2) All structures within any required open space shall comply with setback and other dimensional requirements of the district for which the development is located.

Section 8-8-7 Ownership and Maintenance

- A. All required open space shall include deed restrictions, covenants, or other legal instruments that ensure continued use of the land for its intended open space purposes and provide for the continued and effective management, operation, and maintenance of the land and facilities.
 - (1) Stormwater management and/or BMP facilities treated as site amenities shall be maintained to provide for the effective management of stormwater and as passive recreation.
 - (2) Unless otherwise open to the public, amenity space shall be permanently set aside for the sole benefit, use, and enjoyment of present and future occupants and visitors of the development through covenant, deed restriction, or similar legal instrument.
 - (3) Adequate liability insurance shall be secured for the intended purposes of the land.
- B. Required open space shall be maintained by the developer or owner of the project or by a property owners' association comprising owners of the property in the project.
 - (1) If property is conveyed to the property owners' association:
 - (a) Deed restrictions and covenants, in form satisfactory to the County Attorney, shall provide that any assessments, charges, or costs of maintenance of required open space constitute a pro rata lien upon the individual properties inferior in lien and dignity only to taxes and bona fide duly recorded first deeds of trust on each property or lot.
 - (b) The association shall be organized prior to the sale of any lots.

- (c) Membership in the organization shall be mandatory for all property owners, present or future, and such organization shall not discriminate in its members or shareholders.
- C. Required open space may be dedicated to the County for public use only in a manner and form approved by the County.
- D. Maintenance of natural features is limited to the minimum removal and avoidance of hazards, nuisances, and unhealthy conditions, and the clearing of debris from trails.