

October 28, 2026		Amendment Considerations			
Public Comment Excerpts		Berkley Group Responses			Action Taken & Date Completed
Section 4-2-3(D)(1) requires that all streets, roads, and driveways within a mapped steep slope or critical area follow natural contour lines to the maximum extent feasible and not exceed a 10 percent grade. The steep slope and critical area definitions should state an actual percentage in the ordinance text As written, the operative definitions do not give a reader a number to work from. "Steep slope" is defined in Article 11 by pointing to "the most recent edition of the Virginia Uniform Statewide Building Code," and "critical areas" is defined by pointing to a state mining reclamation regulation, 4VAC25-31-10. Neither of those sources was written for county zoning purposes, and neither supplies a percentage. The 20 percent and 35 percent thresholds that actually do the work in Section 4-2-3(C)(1) only appear in an editor's footnote explaining legislative intent, not in the definitions themselves. I would ask Nelson County to take the same approach: state the steep slope and critical area thresholds as specific percentages directly in Article 11, using the 20 percent and 35 percent figures the drafters already appear to have in mind. I would also note that this draft newly defines a Major Subdivision as one of 12 or more lots, at Section 10-2-1, specifically because subdivisions of that size are recognized as having greater impact on the environment, highways, and surrounding communities. The dry hydrant requirement, however, is still keyed to the older 15 lot threshold, three lots higher than the point at which the draft itself now says a subdivision's impact becomes significant...I am asking the county to lower the lot count that triggers it, from fifteen lots down to twelve... so that every subdivision the draft itself defines as Major is guaranteed the fire protection that size of development needs.		The comments are relevant, well-taken, and point out inconsistencies to be corrected. References to "steep slope" will be clarified and corrected.			Section 7-7-1 D. (2)(b). Grading related to utility-scale solar facilities, the word "steep" was removed for clarity and to prevent confusion with Section 4-2-3. Section 8-5-4. J.(4)(a). Private gravel road grades were revised from allowing grades of 15% & 20% to match the 10% provided in Section 4-2-3 steep slope requirements (in response to public comment) 10-8-2026. Section 10-3-11. B.(2). Number of lots requiring a dry hydrant changed from 15 to 12 to align with major subdivision size. Discrepancy was pointed out by public comment, and was edited 10/7/2026. Article 11. Revisions to definitions for <i>critical areas</i> and <i>steep slopes</i> were made, including adding percentage of grade, in response to public comment 10-8-2026.
We recommend explicitly grandfathering STRs that were lawfully operating prior to this ordinance. Clarify that STRs are permitted by-right if meet the thresholds, such as, "Short-term rentals that comply with Article 7 performance standards shall be considered a permitted residential use in applicable residential districts and shall not require a Special Use Permit." Predictable by-right permitting encourages compliance and reduces administrative burden on County staff. Designate compliant STRs as by-right in residential districts. Focus on local operational accountability instead of where an owner lives. Suggest "A shortterm rental shall designate a Nelson County resident responsible agent available 24 hours per day to respond to complaints and emergencies within a reasonable response time." We recommend clarifying how short-term rental standards apply within the RPC (Residential Planned Community) District to ensure consistency with the County's long-standing resort and tourism framework. Wintergreen and other planned resort communities function differently from typical residential neighborhoods and should be regulated in a manner consistent with their established tourism purpose. We recommend tying unit limits to infrastructure capacity rather than fixed numeric caps. Suggested language: "The number of permitted short-term rental units shall be determined by demonstrated parking availability and building safety compliance rather than fixed numeric limits." This ensures public health and safety while allowing flexibility based on site conditions.		"Grandfathering" is covered in Article 9, Nonconforming Uses, Lots, and Structures. Short-term rentals are considered a use and will fall under the regulations in Article 9 if they "were lawful before this Ordinance was adopted or amended." See Section 9-1-1. NO ACTION NEEDED	The zoning district permissions (by-right and SUP) for short-term rentals are shown in Article 6, Use Matrix. Restating information can lead to inconsistencies in the ordinance. The current draft provides that Unhosted Stay STRs require a SUP. NO ACTION AT THIS TIME. The County can consider changing SUP to B in the Use Matrix.	The current ordinance draft addresses the comments concerning where the owner of an STR lives, and the management of the STR. The Unhosted Stay allows a local operator to manage the STR. The County does not regulate STRs differently from district to district. The homeowners association at Wintergreen has their own registration requirements and regulations in addition to regulations required by the zoning ordinance. Text was identified in Article 4, District Standards for RPC that could lead to confusion. Changed to require STR business license and registration for all STRs, including those in RPC (Wintergreen).	Article 4. 4-7-2 E. (3)(c). Changed from "vacation home" to "short-term rental" and changed to require licensure for business license, and requirement to register STRs with the Administrator 10/20/2026. Previously it only required registration through the HOA.
The language in the various sections regarding short term lodging is confusing and inconsistent. For example in one area it says a STR can be in an accessory structure but in the definitions it refers to rentals being in a dwelling unit....so are STRs required to be in a "dwelling unit" with provisions for cooking? Or Could someone build essentially guest "cottages" that are more or less just a bed and bath? the restriction on number of short term rental units is also confusing....is the restriction on the number of structures or number of bedrooms or waht exactly?		Definitions should be clarified for understanding, & all definitions should be reviewed by the County Attorney for enforceability.			Article 7. 7-3-10 A. (2)(C) and A. (3)(b) deleted "unit" for clarity. Article 11. Short-term rental definitions have been revised to clarify it as "living" space and not "dwelling" space and to clarify that each use type (homestay, hosted, and unhosted) may be a room, space, or dwelling, in response to public feedback. October 2026. Operator definition revised to include hired manager.
I previously submitted a complete written review of the August 2026 proposed Zoning & Subdivision Ordinance directly to the Board of Supervisors, Planning Commission, County Administration, and Planning staff. That review documents 122 distinct problem areas across all 11 articles, including 106 confirmed defects and 16 additional issues that I believe require independent legal review... Please confirm that my complete written submission will be included in the ordinance-review record and provided to Berkley Group, the Planning Commission, and the Board of Supervisors.		The submission was received and reviewed. The submission appears to come from an unknown (to us) AI product. Due to the way zoning ordinances are written many of the defects that are called out are not applicable, incorrectly applied, or make the wrong conclusion. Many are about references throughout the draft ordinance being wrong. These were all highlighted in yellow when drafted because they inevitably become wrong throughout the drafting phase as revisions are made. The reason for the highlights is to easily find, check, and fix them before the public hearings. All references have been corrected at this time, but will continue to be checked throughout this process. Berkley Group read the submitted review and followed up on the following items: #10 on page 2, #12 on page 6, #14, 16, 18, 21 & 25 on page 7, #2,6,&7 on pg.8. Review and comparison will continue and any errors will be corrected. Note: VA State Code section numbers change over time due to amendments. If the state code section number changes the Zoning Code still applies automatically to the applicable code language, regardless of the section number cited in the Ordinance.			Article 1. 1-1-3. Corrected "incorporated" to "unincorporated." Article 2. 2-3-2.D. Corrected unfinished sentence. Article 3. 3-2-2 D.(4) Deleted automatic approval due to inaction by Board of Supervisors. Article 4. Table 4-11. N. deleted "market-rate." The definition for affordable housing is in Article 11. Article 5. 5-3-3 B. - changed CO151 to VO. Article 5. 5-2-17 F.(4). Format change to prevent RV rules being applied to manufactured housing. Article 6. Corrected page numbers. Article 7. 7-8-5. A.(1). State code reference corrected. 7-9-3.B.(6). State code reference corrected. 7-2-2.B.(2) State code reference corrected. Pg.75 corrected footnote. Article 8. 8-6-14.E. HCOD language corrected.
Data Centers (DC) - DC are a proposed new use. Performance standards are not sufficient to protect the county from the negative impacts of Data Centers. The ordinances should not include centers as a specific permitted use. - I would like to see Nelson County not allow them (DC) at all! - DC - My issue is that recent studies have shown conclusively that 50 dBA of constant noise is really unacceptable to neighbors, schools, open space. What Makes Data Center Noise Problematic? 24/7 Continuity: Unlike traffic or construction, the low-frequency hum never stops. - Article 7, pg 53-58 The ordinances should remain unchanged from the current policy that does not include Data Centers as a permitted use. Crucially, performance standards are not sufficient to protect the county from the negative impacts of data centers.		Most of the public comments did not want to allow data centers and some wanted to tighten restrictions/standards. The County could revise the Ordinance to define two types of DC, hyperscale and enterprise. The County could consider not allowing hyperscale data centers. If chosen, language should be added to the Comp Plan.	Another option would be to revise the use standards to be more restrictive for noise, buffer zones, etc. The County should also be aware that potential state mandates and limits may be coming.	BG does not recommend excluding data centers from the ordinance because it leaves the County vulnerable to application for text amendments, approvals, and potential legal action.	Draft language will be presented for the County's consideration.
I think short term rental, unhosted stay should be removed from the ordinance. If kept, it should specify only properties that fit the adaptive reuse category, as a SUP.		The County can consider amending as suggested.			No action needed at this time.
Division 4-8 Cluster Housing Development Standard 1. Restrict to primary residence use only, no short term rentals. Could create essentially a hotel or resort if use is not limited. 2. 4-8-2 I.: Auxiliary housing units are by right. Needs stronger language regarding any additional development of a lot in the cluster - no farm wineries, breweries, distilleries, cideries — all of the by right development opportunities should be suspended in cluster developments. No mention in the standards of water and sewer requirements for cluster developments. Given potential density with point system, individual wells could have an impact on the water table in the area, affecting existing residents and agricultural use. Point system should be capped based on some industry standard water availability metric, and septic testing/requirements.		As currently drafted, uses allowed in the zoning district would be allowed in the cluster development. The County can consider prohibiting uses or requiring an SUP in cluster developments but must remain in compliance with state code (e.g. agriculture must be by-right in A-1).	4-8-2 I. states that each lot shall serve only 1 dwelling unit. State Code 15.2-2292.4 becomes effective July 1, 2027 and requires that ADUs be allowed in all single family zoning districts. Revise for compliance with State Code.	As drafted, Table 4-10 requires 1 acre lots when no public or centralized systems are utilized. This size matches the lot size for family divisions. Smaller lots are allowed based on public or central systems being provided. NO ACTION NEEDED	Article 4. 4-8-2.I. provided an exception to the 1 dwelling unit limit based on Code of Virginia 15.2-2292.4
ADU section of Article 7: "Exterior entrances to an attached accessory dwelling must be located so that the primary dwelling appears as a single unit dwelling." Can you explain what this means? Does this mean that the ADU has to be quite near the primary dwelling? That doesn't seem necessary in A1.		This requirement was removed from the draft ordinance in accordance with new state mandates. NO ACTION NEEDED			No action needed at this time.
Home Occupations needs to include artists and craftspeople, therapists, consultants, etc. And tradespeople with commercial vehicles.		These uses if in compliance with the limit of number of employees and other standards in Article 7 (sections 7-3-6 & 7-3-7) would be permitted. NO ACTION NEEDED			No action needed at this time.
Roadside Farm Stands requirements to be approved by VDOT while also meeting setback requirements is overkill and is an unreasonable amount of bureaucracy for folks who want to share good food with our community.		This requirement comes from the existing County Zoning Ordinance. They are provided to prevent congestion or unsafe pedestrian and travel conditions. NO ACTION NEEDED			No action needed at this time.