County of Nelson, Virginia

Zoning and Subdivision Ordinance

DRAFT

JOINT WORKSESSION

October 28, 2026

Prepared By

BERKLEY GROUP

Notes about this draft:

Yellow highlights: These items will be corrected or filled in (such as the adoption date) before or after adoption of the ordinance, depending on the content. The highlights are simply there as a reminder.

Red footnotes:

Footnotes in the draft ordinance were inserted in black text during the original draft.

After the joint worksessions revisions were made to the document according to guidance given by the Planning Commission, Board of Supervisors, and staff. These revisions are footnoted in red text.

Red text within the body of the Articles indicates recent changes necessitated by new Code of Virginia requirements, and according to guidance given by the Planning Commission, Board of Supervisors, and staff during the most recent worksessions (in 2026). Also, changes that were made in response to public feedback (community open house, online survey, and online comment form) and changes requested by the County in October 2026 are in red text and footnoted in red text.

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Article-1 General Provisions

Division 1-1 Enactment and Authority

Section 1-1-1 Title

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

Section 1-1-1 Authority

A. Pursuant to the code of Virginia, § 15.2-2280 et seq., Nelson County, Virginia, is given the authority to classify and regulate land development under its jurisdiction.

B. Pursuant to the Code of Virginia, § 15.2-2240, et seq., Nelson County, Virginia, is authorized to adopt regulations to ensure the orderly subdivision of land and its development.

Section 1-1-2 Purpose[1]

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

Section 1-1-3 Applicability

Pursuant to the Code of Virginia, §§ 15.2-2281, 15.2-2284, and 15.2-2293, the provisions of this Ordinance shall apply to all property within the unincorporated[2] territory of Nelson County, Virginia, with the exception that any property held in fee simple ownership and used by the United States of America, the Commonwealth of Virginia, or the government of Nelson County shall not be subject to the provisions contained herein. Upon transfer of ownership or control of any portion of government lands to private interests, the regulations of the district in which the land is located shall automatically apply.

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

[2] Editor's Note: Corrected "incorporated" to "unincorporated" in response to public comment 10/21/2026.

Section 1-1-4 Conformity Required

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

Section 1-1-5 Severability

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

Division 1-2 Ordinance Conflicts and Interpretation

Section 1-2-1 Interpretation[3]

A. The Zoning Administrator, or their designee, is responsible for definitive interpretation of this Ordinance based upon the following criteria:

(1) Provisions shall be considered the minimum required unless otherwise specified, to promote the public safety, health, convenience and general welfare;

(2) When regulations of this Ordinance conflict with each other, other County Ordinances, or state or federal law, the more restrictive regulation will govern, pursuant to the Code of Virginia § 15.2-2315;

(3) It is not the intent of the regulations of this Ordinance to interfere with, repeal, or annul any easements, covenants or other private agreements;

(4) The County is not responsible for the enforcement of private provisions, restrictions, or covenants;

(5) A building, structure, or use which was not legally existing on _____ (effective date of updated ordinance) shall not be made lawful solely by adoption of this Ordinance; and

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

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

Section 1-2-2 Figures and References

A. Where figures are contained in this Ordinance, they are provided for demonstrative purposes only, and in the event of a conflict between the text or tables of this Ordinance and any figures, the text and tables will control.

B. If any section of this Ordinance incorporates by reference any state statute or regulation, then the Ordinance incorporates future amendments of the state statute regulation.

Division 1-3 Zoning Districts Map[4]

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

A. The unincorporated areas of Nelson County, Virginia, are hereby divided into zoning districts, as shown on the official "Zoning Map of Nelson County, Virginia." The Zoning Map of Nelson County, Virginia will be, for convenience, referred to as the "Zoning Map."

B. The Zoning Map shall be available for examination and inspection by the public at all reasonable times.

C. The original of the Zoning Map shall be filed in the Zoning Administrator's office and such original Zoning Map be updated from time to time as the result of the following actions:

(1) Amendments to the Ordinance (See Article 3, Division 3-2);

(2) Approval of a Rezoning (See Article 3, Division 3-2);

(3) Approval of Conditional Zoning and Proffers (See Article 3, Division 3-3).

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

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Section 1-3-2 Incorporated by Reference

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

Section 1-3-3 Interpretation of Boundaries[5]

A. In any case in which there is uncertainly, contradiction, or conflict as to the location of any zoning district boundary – due to scale, illegibility, lack of detail, physical or natural features vary from those on the Zoning Map, or any other circumstances not covered by this Section – the Zoning Administrator or designee will have the authority to interpret the district boundaries as stated in this Section.

   (1) The Zoning Administrator's interpretations may be appealed to the Board of Zoning Appeals in accordance with Article 3, Division 3-10. The Board of Zoning Appeals will only determine the boundary lines of the parcel or parcels as included in the appeal, and shall act in keeping with the intent of this Ordinance as stated herein.

B. The Zoning Map associated with this text and showing the division of the territory into districts will be interpreted with the following rules when uncertainty exists with respect to the boundaries of any of the districts:

   (1) Where district boundaries are indicated as approximately following or being at right angles to the centerlines of streets, highways, alleys or railroad tracks, such centerline, or lines at right angles to such centerlines, will be construed to be such boundaries.

   (2) Where district boundaries appear to approximately coincide with a property line or municipal border, the property line or municipal border will be considered the district boundary, unless otherwise expressly indicated on the map.

   (3) Where district boundaries are fixed by dimensions or otherwise shown or described, there will be no uncertainty.

   (4) Where a district boundary is indicated to follow a river, creek, or branch or other body of water, said boundary will be construed to follow the centerline at low water or at the limit of the jurisdiction, and in the event of change in shoreline, such boundary will be construed as moving with the actual shoreline.

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

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(5) Where the map shows a district boundary dividing a lot, each part of the lot shall be used in conformity with the standards established by this chapter for the zoning district in which that part is located.

(6) If distances, boundaries, or other dimensions are not specifically indicated, or can not be determined, on the Zoning Map, they will be determined by using the scale of the map and other shown features.

Section 1-3-4 Unauthorized Changes

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

Division 1-4 Transition of Regulations After Adoption

Section 1-4-1 Effective Date[6]

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

Section 1-4-2 Violations Continue

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

Section 1-4-3 Nonconformities

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

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

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Section 1-4-4 Complete Applications/Plats[7]

A. This Section is applicable to the following:

(1) Zoning Text and Map Amendments (rezoning);

(2) Conditional Zoning;

(3) Special Use Permits;

(4) Variances; and

(5) Subdivision Plats.

B. Applications and/or plats accepted as complete prior to _____ (effective date of updated ordinance), or deemed by the Administrator to be complete, prior to _____ (effective date of updated ordinance), but still pending final action as of that date, will be processed in accordance with the regulations in effect when the submittal was accepted.

C. An applicant with a pending application and/or plat accepted prior to _____ (effective date of updated ordinance), may opt to have the proposed development reviewed and decided under the standards of this Ordinance by withdrawing the pending submittal and submitting a new application and/or plat in accordance with the procedures and standards of this Ordinance.

D. To the extent such a complete application and/or plat is approved and proposes development that does not comply with this Ordinance, the subsequent development, although permitted, will be nonconforming and subject to the requirements of Article 9, Nonconforming Uses, Lots, & Structures.

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

A. This Section pertains to applications for the following:

(1) Site Plans;

(2) Zoning Permits; and

(3) All other permit and development approvals identified in Article 3, Permits and Applications, but not provided for in Section 1-4-4, Complete Applications/Plats, above.

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

B. Any other permits or development approvals granted prior to _____ (effective date of updated Ordinance), will remain valid until their expiration date.[8]

(1) Developments with valid permits or development approvals granted prior to _____ (effective date of updated Ordinance), may be carried out in accordance with the terms and conditions of their approval and the development standards in effect at the time of approval, provided the permit or development approval is valid and has not expired.

(2) If the prior approval expires or is revoked, any subsequent development or use of the site will be subject to the procedures and standards of this Ordinance.

(3) To the extent a prior-approved permit or development approval that does not comply with this Ordinance, the subsequent building, development, or use, although permitted, will be nonconforming and subject to the requirements of Article 9, Nonconforming Uses, Lots, & Structures.

Section 1-4-6 Vested Right[9]

A. The provisions of this Ordinance will not impair a vested right of a property owner. Vested rights determinations will be made in accordance with the Code of Virginia § 15.2-2307.

B. The Subdivision Agent will be authorized to make determinations on whether a property owner's right is deemed vested in a land use or division.

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

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

Article-2 Administration

Division 2-1 Zoning Administrator and Subdivision Agent

Section 2-1-1 Appointment, Powers, and Duties[1]

A. This Ordinance and the Zoning Map shall be administered, interpreted, and enforced by the Zoning Administrator (Administrator), who shall be appointed by the Board of Supervisors. The Administrator shall exercise their authority at the pleasure of the Board of Supervisors and may designate someone to act in their stead.

B. The Administrator shall have such duties as are conferred by this Ordinance and the Code of Virginia § 15.2-2286(4), including:

(1) Enforce and administer this Ordinance;

(2) Interpret and determine zoning district boundaries and provisions of this Ordinance;

(3) Review and approve all related planning and zoning permits and applications as required per Article 3, Permits and Applications;

(4) Accept, review, certify, and forward all plats for conformance with this Ordinance;

(5) Establish any other procedures not expressly listed in this Ordinance to help facilitate the administration and enforcement of the Ordinance;

(6) Exercise such additional powers and perform such additional duties as may be set forth in this Ordinance, or as requested by the County Administrator or Board of Supervisors;

(7) Maintain records as required by this Ordinance, the Board of Supervisors, or any other chapter of the County Code; and

(8) Submit an annual report no later than March 1 of each year to the Commonwealth of Virginia's Department of Housing and Community Development containing the total fee revenue collected by the locality over the preceding calendar year in connection with the processing, reviewing, and permitting of applications for residential land development and construction activities, pursuant to Code of Virginia § 15.2-2209.3.

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

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C. The Agent shall act as both Zoning Administrator and Subdivision Agent or may designate any qualified individual as such.

D. The Agent may hold another office in the County.

E. The Agent, or their designee, shall act as staff to the Planning Commission.

Division 2-2 Planning Commission

Section 2-2-1 Appointment, Terms, and Membership[2]

A. In order to promote the orderly development of the County, a County Planning Commission shall be created and organized pursuant to the Code of Virginia, §§ 15.2-2203 and 15.2-2210.

B. The Planning Commission shall consist of six (6) members, five (5) voting members consisting of one (1) member from each election district, appointed by the Board of Supervisors, and one (1) non-voting Board of Supervisors representative, elected by the Board of Supervisors to sit on the Planning Commission meetings and act as a liaison between the two bodies.[3]

C. Each member shall be appointed for a four-year (4) term and members may be re-appointed without limitation.

D. All members of the Planning Commission on the effective date of this Ordinance may continue as members until completion of their current terms, in accordance with the Code of Virginia § 15.2-2203.

E. Members appointed to fill a vacancy shall serve the unexpired term of the member being replaced.

F. The Board of Supervisors may request members to serve beyond the expiration of their term until such a time a successor can be appointed.

Section 2-2-2 Powers and Duties

A. The Planning Commission shall perform the duties as provided in this Ordinance and pursuant to the Code of Virginia, §§ 15.2-2221, 15.2-2230 and 15.2-2285.

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

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

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B. In addition to the duties detailed in Section 2-2-2(A), the Planning Commission shall also have the following duties:

(1) To review for approval or denial:[4]

(a) All major site plans; and

(b) Any subdivision of 51 lots or greater.

Section 2-2-3 Meetings and Procedures

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

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

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

Division 2-3 Board of Zoning Appeals

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

A. Pursuant to the Code of Virginia, § 15.2-2308, et seq., a Board of Zoning Appeals (BZA) shall be created and organized as follows:

(1) A BZA consisting of five (5) members and one alternate, who are residents of Nelson County, shall be appointed by the circuit court.

(2) The term of office shall be for five (5) years, except that of the first five (5) members appointed, one shall serve for five (5) years, one for four (4) years, one for three (3) years, one for two (2) years, and one for one (1) year. One of the five (5) appointed members shall be an active member of the Planning Commission.

(3) The secretary of the BZA shall notify the court at least 30 days in advance of the expiration or a term of office, or promptly if a vacancy occurs. A member whose term expires shall continue to serve until the successor is appointed and qualifies.

(a) Appointments for vacancies occurring by means other than expiration of term shall be appointed for the unexpired term.

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

(4) Any BZA member or alternate may be removed for malfeasance, misfeasance, or nonfeasance in office, or for other just cause, by the court which appointed them, after a hearing held after at least 15 days' notice.

(5) Members of the BZA may receive such compensation or reimbursement as authorized by the Board of Supervisors. Within the limits of funds appropriated by the Board of Supervisors, the BZA may employ or contract for secretaries, clerks, legal counsel, consultants, and other technical and clerical services. Powers and Duties[5]

B. Pursuant to the Code of Virginia § 15.2-2309, the BZA shall have the following powers and duties after required notice and hearing as provided in the Code of Virginia § 15.2-2204:

(1) To hear and decide appeals from any order, requirement, decision, or determination made by an administrative officer in the administration or enforcement of this Ordinance as outlined in Article 3, Division 3-10.

(2) To authorize upon appeal or original application a variance, as defined in the Code of Virginia § 15.2-2201 from the terms of this Ordinance. Standards and procedures for determining variances are outlined in Article 3, Division 3-5.

(3) To hear and decide applications for interpretation of the district map where there is any uncertainty as to the location of a district boundary, in accordance with the Code of Virginia § 15.2-2309.

(4) The provisions of this section shall not be construed as granting the BZA the power to rezone property, change the locations of district boundaries as established by this Ordinance, or to base decisions on the merits of the purpose and intent of local ordinances duly adopted by the governing body.

Section 2-3-2 Meetings and Procedures

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

B. Meetings of the BZA shall be held at the call of its Chair or at such times as a quorum of the BZA may determine.

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

C. A quorum shall be at least three (3) members. A favorable vote of three (3) members of the BZA shall be necessary to reverse any order, requirement, decision or determination of any administrative official or to decide in favor of the applicant on any matter on which the BZA is required to pass.

D. The BZA shall choose annually its own Chair and Vice Chair. The Vice Chair shall act in the absence of the Chair.[6]

E. The Chair, or in their absence, the acting Chair, may administer oaths and compel the attendance of witnesses.

F. The BZA shall appoint a secretary whose duty it shall be to keep the minutes and other records of the actions and deliberations of the BZA and perform such other duties as the BZA shall direct. The secretary may be a salaried County employee and shall perform the duties of secretary of the BZA in addition to their other regular duties.

G. The BZA shall keep minutes of its proceedings, showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact. It shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the BZA and shall be public record.

H. All meetings of the BZA shall be open to the public.

I. County staff who are not part of the County's legal counsel, applicant, landowner, or landowner's agent/attorney may have communications with a member of the BZA prior to a hearing but may not discuss the facts or law relative to a particular case. However, all communications shall comply with the requirements of the Code of Virginia § 15.2-2308.1.

Division 2-4 Enforcement

Section 2-4-1 Authority

A. As provided in Article 1, General Provisions, conformity with the Ordinance is required. Failure to comply with the requirements of the Ordinance constitutes a violation thereof and is declared to be unlawful.

B. As authorized by the Code of Virginia § 15.2-2286(A)(4) the Administrator or designee shall be responsible for enforcing the provisions of this Ordinance.

[6] Editor's Note: "chair" added in response to public comment 10-14-2026.

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

Section 2-4-2 Complaints and Inspection

A. Any person who alleges that violation of the Ordinance has occurred may file a complaint with the Agent or designee. Such complaint shall stipulate the cause and basis thereof and the location of the alleged violation. The Agent or designee shall properly record the complaint, investigate the facts thereof, and take action thereon as provided by the Ordinance.

B. The Agent may enter upon or inspect any land or structure to ensure compliance with the provisions of this Ordinance, after requesting and receiving approval of the landowner to enter upon land for these purposes. If consent is not given by the landowner, the Agent may enter upon land with an inspection warrant in accordance with the Code of Virginia § 15-2.2286(A)16.

Section 2-4-3 Notice of Violation

A. Upon completion of investigation and becoming aware of any violation of the provisions of this Ordinance, the Agent shall issue written notice of such violation to the person committing or permitting the violations.

B. Notice of violation shall be mailed by registered or certified mail or hand delivered.

C. The notice of violation shall state the violation, remedy, and right to appeal, pursuant to the Code of Virginia § 15.2-2311.

D. Appeals of notice of violation shall be heard by the Board of Zoning Appeals in accordance with the procedures set forth in Article 3, Division 3-10.

Section 2-4-4 Remedies and Penalties for Violation[7]

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

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

B. The remedies provided in the penalties sections below are cumulative and not exclusive except to the extent expressly provided therein.

(1) **Criminal Penalties.** Any violations of the requirements of this Ordinance that result in a criminal penalty pursuant to the Code of Virginia § 15.2-2286(A)(5) shall be treated as provided by the Code of Virginia § 15.2-2286(A)(5).

(2) **Civil Penalties.**[8] Any violation other than as provided in Section 2-4-4 B. (1) for criminal penalties, shall be subject to the following civil penalties, as provided in the Code of Virginia § 15.2-2209 and subject to the following:

(a) **Procedure.** Proceedings seeking civil penalties for violations of this Ordinance shall commence either by filing a civil summons in the general district court or by the Agent issuing a ticket.

(b) **Civil summons or ticket.** A civil summons or ticket shall contain the name and address of the person charged, the violation, and methods of resolution.

(c) **Failure to Enter Waiver.** If a person accused of a violation does not elect to waive trial and admit liability, the case will be tried in general district court in the same manner and with the same appeal rights as allowed by law. The County shall prove the person's liability based on a preponderance of the evidence. A finding of liability will not count as a criminal conviction.

(d) **Fines.**

i. **Amount of Civil Penalty.** A civil violation shall be subject to a civil penalty pursuant to the Code of Virginia § 15.2-2209.

ii. **Daily Offense**. Each day during which a violation exists shall constitute a separate violation. However, in no event shall a violation arising from the same set of operative facts be charged more frequently than once in any ten-day period.

iii. **Maximum Aggregate Penalty**. The total civil penalties from a series of violations arising from the same set of operative facts shall not exceed the limit pursuant to the Code of Virginia § 15.2-2209. If the violations exceed the limit, the violation may be prosecuted as a criminal misdemeanor as outlined above.

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

Division 2-5 Fees[9]

Section 2-5-1 Fees and Charges

A. The Board of Supervisors shall establish, by ordinance, a schedule of fees, charges and expenses, and collection procedures for Zoning Permits, Special Use Permits, Variances, appeals, amendments, site plan reviews, and any other matters pertaining to this Ordinance.

B. The schedule of fees shall be available for inspection in the office of the Agent and may be altered or amended by the Board of Supervisors by ordinance amendment, pursuant to the Code of Virginia § 15.2-107.

C. In situations where the Administrator anticipates expenses for professional services related to review of an application that will exceed the amount recouped by the imposition of standard fees, the County shall require the applicant to pay the cost of the professional review service. [10]

(1) Examples of projects for which a deposit may be warranted include (but are not limited to) rezoning requests, planned development districts, and Special Use Permits that require professional review.

(2) The payment shall solely be applied to payment of professional services by engineers, attorneys, surveyors, architects, landscape architects, etc., that are specifically engaged by the County to consult directly on the applicant's proposed project.

(3) Payment is an express condition of the County's determination upon the application. Payment does not guarantee approval of the application. Nor does payment create a client relationship between the applicant and the professional services provider.

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

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

Article-3 Permits and Applications

Division 3-1 In General

Section 3-1-1 Preapplication Meeting[1]

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

Section 3-1-2 Community Meeting

A. Where any application for permits contained within this Article would benefit from additional outreach with the community, any applicant may choose to hold a community meeting for public invitation intended to:

(1) Better inform community members of the proposed application;

(2) Receive feedback from the community regarding the application prior to any required public hearing; and

(3) Address any concerns or opportunities posed by the community prior within the application.

B. Community meetings shall be conducted by the applicant, at the applicant's expense, but the Administrator and other relevant Nelson County staff may participate or assist at their discretion.

Section 3-1-3 Minimum Submission Standards[2]

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

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

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

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B. Upon written request by an applicant, the Administrator may waive or modify a submission requirement(s) upon a determination that the information is not necessary to evaluate the merits of the application, such waivers or modifications are for application requirements only and do not include variances or modifications from zoning district or use standards.

C. Additional information may be required as deemed reasonably necessary by the Administrator, Planning Commission, Board of Supervisors, or any other County, State, or Federal official.

Section 3-1-4 Application Fee

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

Section 3-1-5 Forms

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

Section 3-1-6 Ownership and Interests Disclosure

A. An applicant shall disclose all equitable ownership of the real estate included in an application. In the case of corporate ownership, the name of stockholders, officers and directors shall be provided, and in any case the names and addresses of all the real parties of interest in accordance with the Code of Virginia § 15.2-2289.

B. Pursuant to the Code of Virginia § 15.2-2287 petitions brought by property owners, contract purchasers, or their Administrators, shall be sworn to under oath stating whether or not any member of the local Planning Commission or governing body has any interest in such property:[3]

(1) Either individually;

(2) By ownership of stock in a corporation owning such land, partnership;

(3) As the beneficiary of a trust; or

(4) As the settlor of a revocable trust; or

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

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

Section 3-1-7 Delinquent Taxes and Charges; Outstanding Violations

A. Pursuant to the Code of Virginia § 15.2-2286 (B), applicants shall produce satisfactory evidence that any taxes or other charges constituting a lien on the subject property are paid at the time the application is submitted or prior to issuance of the permit. The Administrator may waive this requirement for reasons of health, safety, or public welfare, provided that the applicant or owner has entered into a plan with the County Treasurer to pay all delinquent taxes, fees and charges as set forth in this Ordinance.

B. No application or permit shall be approved or issued if a zoning violation exists on a parcel of land included on such application or permit.[4]

Section 3-1-8 Reconsiderations

A. If an application request for a Zoning Text or Map Amendment, Special Use Permit, or Variance has been denied, then such application, or one substantially similar, shall not be reconsidered sooner than 12 months from the date of the previous denial.

B. The limits on reconsideration shall not impair the right of either the Planning Commission or the Board of Supervisors to propose any amendment to this Ordinance on their motion at any time.

Division 3-2 Zoning Text and Map Amendments

Section 3-2-1 In General

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

Section 3-2-2 Standards and Procedures

A. Pursuant to the Code of Virginia § 15.2-2286 (7) any amendment to this Ordinance text or the Zoning Map may be initiated by:

(1) Resolution of the Board of Supervisors;

(2) Resolution of the Planning Commission; or

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

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(3) For Zoning Map amendments only, application of the owner, contract purchaser with the owner's written consent, or the owner's Administrator therefor, of the property which is the subject of the proposed Zoning Map Amendment (rezoning), addressed to the Board of Supervisors or Nelson County Planning Commission, who shall forward such application to the Board of Supervisors.

B. **Zoning Map Amendments**. Applications for Zoning Map amendments, including Conditional Zoning requests, shall be accompanied by a Concept Plan[5] in accordance with Section 3-6-3, of this Article.

C. **Zoning Text Amendments.** The application for a text amendment to the Zoning Ordinance shall be filed with the Administrator. If the application proposes a change in a zoning classification or map boundaries, there shall be attached to the application:

(1) Items required in Section 3-2-2 B.

(2) A written description of the nature and extent of the amendment desired together with an explanation of the reasons for seeking a change.

D. **Standards for Review.**

(1) Once the application is submitted in accordance with Division 3-1 of this Article and has been determined to be complete, the County shall evaluate the application and may request that the applicant make revisions, as necessary.

(2) The application for a rezoning or zoning text amendment shall be referred to the Planning Commission for public hearing and recommendation. The Planning Commission shall present their recommendation on the proposed ordinance or amendment, including the district maps, to the Board of Supervisors for public hearing and action. No recommendation or action shall be rendered until public notifications and hearings have been conducted in accordance with Division 3-11 of this Article and the Code of Virginia.

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

(3) The Planning Commission shall advise the Board of Supervisors of their recommendation within 100 days. If after 100 days no recommendation has been made, the governing body shall assume that the Planning Commission concurs with the applicant and supports the amendment. The Board of Supervisors shall thereafter take any action it deems appropriate, unless the applicant requests an extension for a defined period not to exceed a total of 90 calendar days from the date of the public hearing.

(4) All motions, resolutions, or applications for amendment to the Zoning Ordinance and/or Zoning Map shall be acted upon, and a decision made within such reasonable time as may be necessary which shall not exceed 12 months unless the applicant requests or consents to action beyond such period or unless the applicant withdraws his motion, resolution, or application for amendment to the Zoning Ordinance or map, or both. [6]

(a) In the event of and upon a withdrawal by the applicant, processing of the motion, resolution, or petition shall cease without further action as otherwise would be required.

E. All changes affecting the Zoning Map that are approved by the Board of Supervisors shall be entered onto the official Zoning Map within 60 days following the approval of such changes.

Division 3-3 Conditional Zoning and Proffers

Section 3-3-1 Purpose and Intent

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

[6] Editor's Note: "otherwise, the amendment shall be deemed approved" was deleted in response to public comment because it was confirmed to be misplaced. The statement is correct in 3-2-2 D.(3) regarding the planning commission, but was incorrect in (4) regarding the Board of Supervisors. 10/20/2026.

Section 3-3-2 Standards and Procedures

A. **Initiation.** Only an owner of the subject parcel or their agent may apply for a Conditional Zoning Map Amendment.

B. **Application requirements.** Conditional Zoning applications shall comply with all requirements for a Zoning Map Amendment pursuant to Division 3-2, of this Article; and include the following:

(1) An impact analysis demonstrating justification of proposed proffers;

(2) A statement describing the nature of the proposed development and explaining the relationship of the development to the Comprehensive Plan;

(3) A statement setting forth a maximum number of dwelling units or lots proposed, including density and open space calculations where applicable to any residential development, or a statement describing the types of uses proposed and the approximate square footage for each nonresidential development;

(4) A statement detailing any special amenities that are proposed;

(5) A statement of the public improvements both on- and off-site that are proposed for dedication and/or construction and an estimate of the date for providing such improvements;

(6) A Concept Plan, as detailed in Section 3-6-3, listing and detailing the nature and location of any proffered conditions and those proposed circumstances which prompted the proffering of such conditions; and

(7) A statement setting forth the proposed approximate development schedule.

C. **Proffer Statement.** All proposed proffers shall be:

(1) In writing;

(2) On a form approved by the Administrator;

(3) In accordance with the Code of Virginia §§ 15.2-2297 and 15.2-2303;

(4) Accompanied by a statement signed by the applicant and the owner or their Administrators which states:

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(a) "Each proffer made in connection with this application for rezoning was made voluntarily and complies with applicable law. No Administrator of the County has suggested or demanded a proffer that is unreasonable under applicable law. I hereby proffer that the development of the subject property of this application shall be in strict accordance with the conditions set forth in this submission"

D. **Time to Submit.** All proposed proffered conditions shall be submitted by the following deadlines:

(1) **Before the Planning Commission's Public Hearing.** Proposed proffers, regardless of whether they are signed by the owners of all parcels subject to the zoning map amendment, shall be submitted to Planning at least 14 calendar days before the Commission's public hearing on the zoning map amendment.

(2) **Before the Board of Supervisors' Public Hearing.** Proposed proffers, signed by the owners of all parcels subject to the zoning map amendment, shall be submitted to Planning no later than nine calendar days before the Board's advertised public hearing on the zoning map amendment.

(a) The Administrator may establish written guidelines that require signed proffers to be submitted at a reasonable time prior to the public hearing to allow for review by County officers and employees and by the public.

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

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

(1) Do not materially affect the overall proposal and are made voluntarily, and in writing, prior to the deadline for preparation of the advertisement of the public hearing by the Board of Supervisors on the rezoning request.

(a) If the Board of Supervisors determines that the amendment materially affects the overall proposal, the application with the amended proffers shall be remanded back to the Planning Commission for a public hearing and recommendation.

B. Once the Board of Supervisors has approved proffered conditions, no material amendment or variation of such adopted conditions will be made until public hearings, in accordance with Division 3-11 of this Article and with Code of Virginia § 15.2-2302, have been held before the Board of Supervisors and the Planning Commission.

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(1) If the proposed amendment or variation of conditions does not affect conditions of use or density, the Board of Supervisors may waive the requirement for a public hearing in accordance with the Code of Virginia § 15.2-2302, and under Division 3-11 of this Article.

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

A. All such conditions shall be in addition to the regulations provided for in the zoning district to which the land is rezoned.

B. Upon the approval of any such rezoning, all conditions proffered and accepted by the governing body shall remain in full force and effect until amended or varied by the Board of Supervisors.

(1) If the Board of Supervisors rezones the land as part of a new or substantially revised Zoning Ordinance, such conditions shall continue in full force and effect automatically without notice or filing.

Section 3-3-5 Record of Conditional Zoning

A. Pursuant to the Code of Virginia § 15.2-2300, each conditional rezoning shall be designated on the Zoning Map by an appropriate symbol designed by the Administrator.

B. In addition, the Administrator shall keep and maintain a conditional zoning index which shall provide ready access to the ordinance creating such conditions in addition to the regulations provided for in the particular zoning district and which shall be available for public inspection. The Administrator shall update the Index annually and no later than November 30 of each year.

Division 3-4 Special Use Permits

Section 3-4-1 Intent

A. A use requiring a Special Use Permit is a use that may be appropriate in a zoning district, but because of its nature, extent, or external effects, requires special consideration of its location, design, and methods of operation before it can be deemed appropriate in the district and compatible with its surroundings. The purpose of this division is to establish procedures and standards for review and approval of Special Use Permits that provide for such special consideration.

B. The following will be met either by the proposal made in the application or by the proposal as modified and amended and made part of the Special Use Permit:

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(1) **Conformity with Comprehensive Plan and policies.** The proposal as submitted or as modified shall conform to the Comprehensive Plan of the County or to specific elements of such plan and to official policies adopted in relation thereto, including the purposes of this Ordinance.

(2) **Impact on neighborhood or abutting properties**.[7] The proposal as submitted or as modified must not have undue adverse impact on abutting properties or the surrounding community. Among matters to be considered in this connection are utility capacities, water and sewer capacity, traffic congestion, noise, lights, dust, odor, fumes, and vibration with due regard for timing of operation, screening, or other matters that may be regulated to mitigate adverse impact and prevent power outages or limited water or other utility capacity.

Section 3-4-2 Applicability

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

Section 3-4-3 Standards and Procedures

A. An application for a Special Use Permit shall be made by all property owners, a contract purchaser with the owners' written consent, or the owners' Administrator.

B. In addition to the general application requirements supplied in Division 3-1 of this Article, the applicant shall provide information and data to:[8]

(1) Demonstrate that the proposed use, when complemented with additional measures, if any, will be in harmony with the purposes of the specific district in which it will be placed;

(2) Demonstrate that there will be no undue adverse impact on the surrounding neighborhood in terms of public health, safety, or general welfare and show measures to be taken to achieve such goals;

(3) Demonstrate that the use will not have a negative impact on the public water and sewer system and capacity needs, even in times of drought;

[7] Editor's Note: 3-4-1 B (2) was expanded to include utilities, water, and sewer capacity because of new uses such as data centers.
[8] Editor's Note: 3-4-3 B (3) and (4) were added because of new uses such as data centers.

(4) Demonstrate that the use will not have an impact on the availability of electricity or other power supplies;

(5) Is appropriately located with respect to County infrastructure including but not limited to transportation facilities, water supply, wastewater treatment, fire and police protection, and waste disposal;

(6) Demonstrate that the use will not tend to create congestion in streets, roads, alleys, and other areas; and

(7) Show that the proposal meets the applicable specific and general standards required by this Ordinance.

C. **Concept Plan.**[9] Applications for a Special Use Permit shall be accompanied by a Concept Plan in accordance with Section 3-6-3, of this Article.

D. **Standards for Review**.

(1) **Administrator Review**. The Administrator shall review any application requesting a Special Use Permit for its compliance with the provisions of this Ordinance and the Comprehensive Plan.

(a) If the application is not complete, then the Administrator shall notify the applicant of the deficiencies of the application and of the actions to be taken to remedy such deficiencies to complete the application.

(b) The Administrator shall supply the applicant with a reasonable amount of time to remedy any deficiencies associated with an incomplete application. The time allowed shall be based on the deficiencies. If the applicant fails to remedy the deficiencies before the end of the supplied timeline, the application shall be deemed incomplete and will need to be resubmitted pursuant to the provisions of this Article.

(2) **Planning Commission Review**. When it has been determined that the application is complete, the Administrator shall submit the application to the Planning Commission which shall make a recommendation to the Board of Supervisors following a public hearing in accordance with Division 3-11 of this Article.

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

(a) Failure of the Commission to act within 100 calendar days of the first meeting of the Commission after official submission of the proposal shall be deemed approval, unless the proposed Special Use Permit has been withdrawn by the applicant prior to the expiration of such time period or the time period has been extended by mutual agreement by the County and the applicant.

(3) **Board of Supervisors Review**. The Board of Supervisors shall hold a public hearing after notice in accordance with Division 3-11 of this Article, and pursuant to the Code of Virginia § 15.2-2286, the Board of Supervisors will make a decision within such reasonable time as may be necessary, which shall not exceed 12 months from the date that the application is determined complete unless the applicant requests or consents to action beyond such period or unless the applicant withdraws their application, or as otherwise specified by the Code of Virginia.

(a) Pursuant to Code of Virginia § 15.2-2309, the Board of Supervisors may require a guarantee or bond to ensure that the conditions imposed are being and will continue to be followed.

(4) If an applicant seeks both an amendment to the Zoning Ordinance and a Special Use Permit for the same property, both applications may be made jointly and processed at the same time if the proposed amendment does not add a Special Use not previously permitted by the terms of this Ordinance.

E. **Criteria**. All applications for Special Use Permits shall be reviewed using the following criteria:

(1) The use shall not tend to change the character and established pattern of development of the area or community in which it proposes to locate;

(2) The use shall be in harmony with the uses permitted by right in the zoning district and shall not adversely affect the use of neighboring property;

(3) The proposed use shall be adequately served by essential public or private services such as streets, drainage facilities, fire protection and public or private water and sewer facilities; and

(4) The proposed use shall not result in the destruction, loss or damage of any feature determined to be of significant ecological, scenic or historic importance.

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

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

A. A Special Use Permit authorizes only the particular use(s) and associated development that is approved and shall not ensure approval for any other permit or development approval.

B. Unless otherwise specified in this Ordinance or specified as a condition of approval, the height limits, yard spaces, lot area, sign requirements, and other specified standards shall be the same as for other uses in the district in which the Special Use is located.

C. Unless a time limit has been included as a condition, a Special Use Permit, including any approved plans and conditions, shall run with the land, and shall not be affected by a change in ownership, but shall expire as provided in Section 3-4-4 (D) below. [10]

D. A Special Use Permit shall expire upon the first to occur of the following:

(1) If a time limit has been included as a condition the Special Use Permit shall expire on the predetermined date, unless renewed as provided in Section 3-4-4 (E) below.

(2) If the applicant does not obtain Site Plan approval or commence the use granted by the Special Use Permit within two (2) years (or such longer time as the governing body may approve) from the date of the approval;

(3) If an activity operating under an approved Special Use Permit ceases for a period greater than two (2) years; or

(4) Upon expiration of a Site Plan for the use granted by the Special Use Permit.

E. Renewal of a Special Use Permit with a conditioned time limit:

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

(1) A renewal shall be for the purpose of allowing a new period of time for the operation of a currently valid Special Use Permit, provided, however, that the Board of Supervisors shall not approve a renewal application for a use which is no longer allowed as a Special Use Permit in the zoning district in which the Special Use Permit is located.

(2) The procedure for the renewal of a Special Use Permit shall be the same as specified herein for the approval of the original permit, except that the Administrator may waive any submission requirement if such requirement is deemed not necessary for an adequate review of the application.

(3) Any Special Use Permit that is not renewed prior to the established time shall expire.

Section 3-4-5 Revocation

A Special Use Permit previously granted pursuant to this Ordinance may be revoked by the Board of Supervisors, after notice and hearing as provided in Division 3-11 of this Article and in accordance with the Code of Virginia § 15.2-2204, if it is determined there has not been compliance with the conditions of the Permit.

Division 3-5 Variances

Section 3-5-1 Intent

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

Section 3-5-2 Standards and Procedures

A. **Authority.**

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

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

B. **Standards for Review.**

(1) After application is made as required in Division 3-1 of this Article, the Administrator shall review the application for compliance with this Ordinance.

(a) Each application for a variance shall include a Concept Plan, which may be general and schematic and shall show required details established in Section 3-6-3 of this Article, unless the Administrator waives or modifies requirements due to the scope and nature of the proposed use.

(2) When it has been determined that the application is complete, the Administrator shall submit the application to the BZA for a public hearing. No recommendation or action shall be rendered until public notice is given in accordance with Division 11 of this Article. The Administrator shall also transmit a copy of the application to the local Planning Commission, which may send a recommendation to the BZA or appear as a party at the hearing.

(3) Pursuant to the Code of Virginia §15.2-2309 (2) a variance shall be granted if the evidence shows that the strict application of the terms of the Ordinance would unreasonably restrict the utilization of the property or that the granting of the variance would alleviate a hardship due to a physical condition relating to the property or its improvements at the time of the effective date of the Ordinance, and:

(a) The property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant for the variance;

(b) The granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area;

(c) That such condition or situation of the property concerned is not of so general or recurring a nature that it could be resolved with an amendment to this Ordinance;

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(d) The granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property; and

(e) The relief or remedy sought by the variance application is not available through a special exception process that is authorized in the ordinance pursuant the Code of Virginia § 15.2-2309 (6) or the process for modification of this zoning ordinance pursuant to the Code of Virginia § 15.2-2286 (A) (4) at the time of the filing of the variance application.

C. Any variance granted to provide a reasonable modification to a property or its improvements requested by, or on behalf of, a person with a disability may expire when the person benefited by it is no longer in need of the modification to such property or improvements provided by the variance, subject to the provisions of state and federal fair housing laws, or the Americans with Disabilities Act of 1990 (42 U.S.C. § 12131 et seq.), as applicable.

D. If a request for a reasonable modification is made to a locality and is appropriate under the provisions of state and federal fair housing laws, or the Americans with Disabilities Act of 1990 (42 U.S.C. § 12131 et seq.), as applicable, such request shall be granted by the locality unless a variance from the BZA under this section is required in order for such request to be granted.

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

A. Issuance of a variance shall authorize only the particular variance that is approved. A variance, including any conditions, shall run with the land, and not be affected by a change in ownership except for variances provided in Section 3-5-2, C, above.

B. Use or development authorized by the variance shall not be carried out until the applicant has secured all other permits required by this Ordinance or any other applicable Ordinances and regulations of the County. A variance, in itself, shall not ensure that the development approved through said permit shall receive subsequent approval for any other necessary applications for permit or development approval.

C. After the BZA has granted a variance, it shall become void after 12 months if no substantial construction or change of use has taken place in accordance with the plans for which such variance was granted, or if the BZA does not specify some longer period than one (1) year for good cause shown.

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Division 3-6 Concept Plans & Site Plans

Section 3-6-1 Purpose and Intent

A. The purpose of this section is to promote the orderly development of certain activities in the County and to ensure that such activities are developed in compliance with this Ordinance and other applicable regulations and in a manner harmonious with surrounding properties and in the interest of the general public health, safety, and welfare. More specifically, the Site Plan shall be used to review:

(1) The project's compatibility with its environment and with other land uses and buildings existing in the area;

(2) The ability of the project's traffic circulation system to provide for the convenient and safe internal and external movement of vehicles and pedestrians;

(3) The quantity, quality, utility, and type of the project's required community facilities; and

(4) The location and adequacy of the project's landscape improvements and provision for drainage and utilities.

Section 3-6-2 Applicability

A. This Division provides the requirements and applicability of the following:

(1) Concept Plans.

(2) Minor Site Plans.

(3) Major Site Plans.

B. A Concept Plan shall be required for:

(1) Applications for a Zoning Map Amendment (Rezoning);

(2) Applications for Conditional Zoning;

(3) Applications for a Special Use Permit; and

(4) Applications for a Variance.

C. A Minor Site Plan shall be required for:

(1) Development of any building, structure, or improvement; or

(2) A change or intensification in use that results in:

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(a) An increase of required number of on-site parking spaces;

(b) Grading, erosion, land disturbance, or the removal of vegetation or landscaping;

(c) A change to the traffic patterns of the development site; or

(d) Any other change determined by the Administrator to have a significant impact to the public health, safety, and welfare of the County.

D. A Major Site Plan shall be required for:

(1) Projects with a total land disturbance greater than (1) acre of land-disturbed area;

(2) Commercial uses;

(3) Industrial uses;

(4) Three (3) or more dwelling units on one lot; or

(5) The erection of a structure or structures exceeding a total of 5,000 square feet.

E. A Site Plan shall not be required in any of the following circumstances:

(1) Development of up to two (2) dwelling units on one (1) lot or parcel;

(2) Development of any structure accessory to a dwelling unit;

(3) Agricultural activities; or

(4) Temporary uses with an approved Concept Plan.

F. Site Plans for Residential Planned Communities shall be governed by the provisions of Article 4, Division 4-7, of this Ordinance.

Section 3-6-3 Concept Plan Specification and Contents

A. The purpose of the Concept Plan is to graphically depict the concept or reasons for the requested action relative to the Zoning Ordinance and its provisions.

B. A Concept Plan shall be submitted to the Administrator accompanying applications.

C. The Concept Plan may be general and schematic and shall show:

(1) A certified plat of the subject property showing metes and bounds of all property lines, existing streets, and subdivisions – with reference to a record subdivision plat or the County's tax map.

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(a) The Administrator may approve including a sketch instead of a certified plat when exact metes and bounds of property lines and other infrastructure are not necessary for the review of the application.[11]

(2) The names and addresses, as shown on the current real estate tax assessment books, or property owners abutting the property or owners located across the road/street.

(3) Topography as shown by contour lines with a contour interval of not more than 20 feet.[12]

(4) Proposed land uses to be developed.

(5) The general layout, orientation, and information describing buildings and improvements, including but not limited to parking, landscaping, fencing, signs, and trash enclosures, height, setbacks, and restriction lines.

(6) If any, the approximate total number, density, type, and price range of dwelling units and the range of lot sizes for the various dwelling types.

(7) If any, the general location of proposed open space and recreational areas.

(8) If any, the general location and type of commercial uses to be developed.

(9) The general location and character of the proposed roads, pedestrian circulation, trails, public utility, and storm drainage systems.

(10) A statement on the proposed development schedule.

(11) A written analysis of the public facilities, roadway improvements, and private or public utilities that will be required to serve the development.[13]

(12) Any additional information as deemed reasonably necessary by the Zoning Administrator.

(13) Concept Plans shall be drawn to scale and include a scale bar.

(14) Concept Plans shall include an approval block located along the right side of all sheets included.

[11] Editor's Note: Exception language added in response to staff comments 11-4-25.
[12] Editor's Note: Changed from 5 to 20 feet to match what is shown on the County's GIS topo mapping, in response to staff comments 11-4-25.
[13] Editor's Note: Added "private or" per staff comments 11-4-25.

(15) The Administrator may require a full Major Site Plan in lieu of a Concept Plan if the project is deemed complex and requiring additional detail for review.

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

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

B. Site Plans shall be prepared to the scale of one (1)-inch equals 50 ft. or larger; no sheet shall exceed 42 inches in any dimensions.

C. Site Plans may be prepared on one (1) or more sheets to clearly show the information required by this section and to facilitate the review and approval of the plan. If prepared on more than one (1) sheet, match lines shall clearly indicate where the several sheets join.

D. When more than one (1) sheet is required to cover the entire project, a cover sheet, general in nature, shall be provided to identify all individual sheets of an application in proper relationship to each other.

E. Site Plans shall include a signature panel to indicate approvals from the following:

(1) Planning and Zoning Director.

(2) Virginia Department of Transportation.

(3) Virginia Department of Health.

(4) Erosion and Sediment Control Administrator.[14]

(5) Nelson County Service Authority.

F. Profiles shall be submitted on plan sheets. Special studies as required may be submitted on standard cross-section paper and shall be an appropriate scale.

G. All horizontal dimensions shown on Site Plans shall be in feet and decimals of a foot to be closest to 1/100 of a foot; and all bearings in degrees, minutes, and seconds to the nearest ten seconds.

[14] Editor's Note: Changed from Thomas Jefferson Soil & Water Conservation District per staff comments 11-4-25.

H. When the development is to be constructed in stages or units, a final development schedule shall be included with the Site Plan that shows the order of construction of such stages, an approximate completion date for the construction of each stage, and a final cost estimate of all improvements within each stage.

I. A Site Plan for a particular development stage or unit other than the first, shall not be approved until the Site Plan has been approved for the immediately preceding stage or unit.

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

A. A Minor Site Plan shall consist of the following:

(1) Project name and property owner(s) name(s) and address(es);

(2) A description of the current and proposed use(s) and development along with the zoning classification;[15]

(3) Property lines;

(4) Adjacent property tax map numbers and owner names;

(5) Tax parcel number;

(6) Acreage of the lot, scale, and north arrow;

(7) The location, dimensions, height, and proposed setbacks from property lines and from bodies of water for all existing and proposed buildings and structures;

(8) Existing and proposed driveways, vehicle access, and parking areas;

(9) The location of streams and bodies of water;

(10) The approximate limit of any floodplain limits, any drainage district, wetlands, or mapped dam break inundation zone.

(11) For the purposes of protecting life and property from impounding structure failure consistent with requirements in Code of Virginia §§ 10.1-602, 10.1-606.3, and 15.2-2284, as amended, delineation of any dam break inundation zones shall be designated.

[15] Editor's Note: Added "current and proposed" per staff comments 11-4-25.

(a) This requirement does not apply to any development that is proposed to be downstream of a dam for which a dam break inundation zone map is not on file with the County at the time of submission of the Site Plan.

(b) All dam break inundation zones shall be identified and labeled with the name of the impoundment and the date of the study that established the dam break inundation zone.

i. When a state-regulated impounding structure is proposed to be constructed or altered, an approximate delineation of the future dam break inundation zone shall be provided with the submission of the Site Plan.

ii. Site Plans proposing developing within a dam break inundation zone will be submitted to the Department of Conservation and Recreation (DCR) for review and adjacent property owners will be notified.

(c) If DCR determines it would change any spillway design flood standards for an impounding structure, the developer shall submit an engineering study meeting state standards to the state department of conservation and recreation prior to final approval of the proposed development.

i. Following the completion of the engineering study, and prior to any development within the dam break inundation zone, the developer shall change the proposed development so that it does not alter any spillway design flood standards for the impounding structure or shall pay fifty (50) percent of the contract-ready costs for necessary upgrades to any impounding structure attributable to the development, together with administrative fees required by state law.

ii. The payment shall be made to the Virginia Dam Safety, Flood Prevention and Protection Assistance Fund as provided by state law.

(12) Modifications to existing drainageways;

(13) Installation or modification of a stormwater best management practice (BMP);

(14) Compliance with any proffers, variances, and/or County-imposed conditions; and

(15) All public and private rights-of-way, including easements, their names, and widths.

(16) All information to show compliance with applicable community design requirements as required in Article 8, Community Design Standards.

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Section 3-6-6 Major Site Plan Specifications and Contents[16]

A. A Major Site Plan shall include all of the required content and provisions of Section 3-6-5, above.

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

(1) The Administrator shall keep a list of all required Major Site Plan elements in the Nelson County Planning and Zoning Office and make it readily available and easily accessible to all.

(2) The Administrator shall update the list of required Major Site Plan elements from time to time, as needed.

(3) The Administrator may waive or add to the list of required Major Site Plan elements at their discretion.

Section 3-6-7 Waiver of Requirements

A. The Administrator may waive the requirement for a Minor Site Plan, or any required element specified within it, upon consideration of the factors outlined below, provided that no such waiver shall be deemed to be a waiver of any other ordinance provision or requirement.

B. The Planning Commission may waive the requirements for a Major Site Plan or any required element specified within it upon consideration of the following factors:

(1) Where it can be clearly established by the applicant that the use will not require the improvements subject to review in this Ordinance.

(2) Where it can be clearly demonstrated that a waiver will be in keeping with the intent of this Ordinance.

(3) Where it can be clearly shown that the application for a Site Plan and building permit involves building and safety regulations which are not critical to the purpose and intent of this Ordinance.

(4) Where it can be clearly established by the applicant that such waiver will not have an adverse effect on:

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

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(a) The public health, safety, welfare, and convenience;

(b) The planning for and provision of adequate public facilities, utilities, drainage, environmental controls, and transportation facilities;

(c) Preservation of agricultural, forestry and conservation lands; and

(d) Other relevant considerations related to the Comprehensive Plan.

C. An applicant may seek a waiver from a requirement for a Site Plan and shall, upon request, provide written documentation to the Administrator addressing the applicable conditions for waiver.

D. For Major Site Plan waivers, the Administrator shall refer the request and applicant's supporting documentation to the Planning Commission for action at its next regularly scheduled meeting. The applicant shall be notified in writing of the outcome of such action by the Administrator within ten (10) days upon action by the Planning Commission.

E. Notwithstanding any grant of waiver, the applicant is not relieved by such grant of having to obtain all necessary permits and approvals, including but not limited to a building permit, erosion and sediment control plan approval, stormwater management permit coverage, and, upon completion of improvements, a certificate of occupancy.

Section 3-6-8 Standards and Improvements

A. **Improvements Required.** All improvements required by this Ordinance shall be installed at the cost of the developer and in accordance with design and construction standards of the County.

B. **Specifications.** In cases where specifications have been established either by the Board of Supervisors, the Virginia Department of Transportation for construction of streets, etc., or this Ordinance for related facilities and utilities, such specifications shall be followed. The most restrictive specifications will prevail.

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C. **Standards and Improvements[17].** In addition to those improvements and standards specified in other sections of this Ordinance, the following minimum standards and improvements shall also be required for all Site Plans:

(1) All streets in the proposed development shall be designed and constructed by the developer at no cost to the locality.

(2) The arrangement of streets in developments shall make provision for the continuation of existing streets in adjoining areas and proposed streets on adjacent approved Site Plans. The street arrangement shall be such as to cause no unnecessary hardship to owners of adjoining property when they plat their land and seek to provide for convenient access to it. Where, in the opinion of the Commission, it is desirable to provide for street access to adjoining property, proposed streets shall be extended by dedication to the boundary line of such property. Half streets along the boundary of land proposed for development will not be permitted. Wherever possible, streets should intersect at right angles. In all hillside areas streets running with contours shall be required to intersect at angles of not less than sixty (60) degrees, unless approved by the Administrator upon recommendation of the highway engineer.

(3) Whenever a proposed development contains or is adjacent to a limited-access highway or expressway, provision shall be made for a service drive or marginal street approximately parallel to such right-of-way at a distance suitable for an appropriate use of the land between such highway and the proposed development. Such distances shall be determined with due consideration of the minimum distance required for ingress and egress to the main thoroughfare. The right-of-way of any major highway or street projected across any railroad, limited-access highway or expressway shall be of adequate width to provide for the cuts or fills required for any future separation of grades.

(4) Major streets shall approach major or minor streets at an angle of not less than eighty (80) degrees, unless the Planning and Zoning Director, upon recommendation of the highway engineer, shall approve a lesser angle of approach for reasons of contour, terrain, or matching of existing patterns.

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

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(5) The minimum width of proposed streets, measured from lot line to lot line, shall be as shown on the major street plan, or if not shown on such plan shall be as specified by the Virginia Department of Highways for acceptance into the State Secondary System.

(6) All public streets shall be constructed to requirements as specified by the Virginia Department of Highways for acceptance into the State Secondary System.

(7) Private streets will be so constructed as to alignment and grade, that the minimum grade is no greater than the Virginia Department of Highways Standards for the particular terrain. Road metal or base shall be of a material and width acceptable to the Virginia Department of Highways. Proper drainage shall be installed and maintained.

(8) Proposed streets which are obviously in alignment with other already existing and named streets, shall bear the names of the existing streets. In no case shall the names of proposed streets duplicate existing street names irrespective of the use of the suffix street, avenue, boulevard, driveway, place, lane, or court. Street names shall be indicated on the preliminary and final plats and shall be approved by the Administrator. Names of existing streets shall not be changed except by approval of the governing body.

(9) The developer shall provide all necessary information needed to determine what improvements are necessary to properly develop the subject property, including contour intervals, drainage plans and flood control devices. The developer shall also provide plans for all such improvements together with a properly qualified engineer's or surveyor's statement that such improvements when properly installed, will be adequate for proper development. The highway engineer shall then approve or disapprove the plans. The developer shall also provide any other information required by the highway engineer. The developer shall install and maintain the approved storm drainage facilities and other stormwater management facilities in accordance with applicable Virginia Stormwater Management Program regulations.

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(10) Where public water is available, the developer shall install fire hydrants in locations that meet Insurance Services Office (ISO) standards. Hydrant locations and fire flow requirements shall be subject to approval by the Department of Fire and Rescue or the Service Authority, whichever has the more stringent requirements.[18]

(a) Where public water is not reasonably available, the developer shall provide alternative fire protection measures as determined necessary by the Department of Fire and Rescue to ensure adequate fire protection.

(11) When a Site Plan is located on public roads of less than 50 feet in total width, additional right-of-way shall be dedicated to achieve a minimum 50-foot-wide right-of-way where appropriate as determined by the Administrator in consultation with the County Attorney. All building setbacks shall be measured from the additional dedicated right-of-way.

(12) No alley on a Site Plan shall have a right-of-way of less than 20 feet.

(13) All street and highway construction standards and geometric design standards shall be in accordance with Article 10, Subdivisions.

(14) Private vehicular travel lanes or driveways designed to permit vehicular travel on the site and to and from adjacent property and parking areas shall be constructed not less than 20 feet in width, except within parking areas where it shall be not less than 22 feet.

(15) Cul-de-sacs are to be designed in accordance with the standards specified in Article 10, Subdivisions.

(16) Interior travel lanes, driveways, and parking bays are to be congruous with the public street to which the travel lanes, driveways and parking bays are connected. At a minimum, all surfaces shall be Class "A" prime and double seal. Every parking bay shall be so constructed that no vehicle when parked will overhang property lines or moving travel lanes.

(17) Adequate easements shall be provided for drainage and all utilities. Where easements do not follow the established lot lines, the nearest edge of any easement shall be a minimum of 5 feet from any building.

[18] Editor's Note: 3-6-8 C.(10) was updated due to the drafted language being obsolete 10/20/2026.

(18) The developer shall provide for all utilities and services required, to include both on-site and off-site improvements. The determination of the exact improvements required, i.e., size of lines and capacities, is to be established by the developer in conference with the County Administrator acting on the advice of appropriate officials, authorities, departments, and/or consultants having expertise on the subject.

(a) Tests and/or other methods of soil evaluation deemed necessary by the Virginia Department of Health wherever required shall be the responsibility of the developer.

(b) Utilities shall include but not be limited to electricity, gas, water, sewer, storm drainage, telephones and/or cable television.

(19) Adequate fire hydrants, with assurance of adequate water supply and distribution systems will be provided by the developer. Fire hydrants will be provided in the total area to be planned and in such locations as are approved by the Planning Commission or its designated Administrator.

(20) All landscaping shall be designed in compliance with Article 8, Community Design Standards.

D. **Performance Bond.** After a Major Site Plan has been approved, and before any construction or land disturbance can occur, the developer shall furnish to the County an irrevocable letter of credit, cash escrow, or bonds (collectively referred to as "performance bond") from a certified Virginia Lending Institution by corporate surety in a form and amount sufficient to guarantee the completion of all required improvements.

(1) The cost of required improvements shall be determined by a bona fide estimate of construction cost prepared by a duly licensed engineer and such estimate shall be provided at the expense of the developer.

(2) The amount of the performance bond or other guarantee shall be 110% of the estimated construction cost.

(3) In the event the Administrator has rejected any such agreement or bond, the owners or developer shall have the right to have such determination made by the Board of Supervisors.

(4) If such performance bond contains an expiration date and all improvements have not been completed, then 30 days prior to expiration provisions shall be made for extension of the bond.

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(5) The performance bond or other appropriate security shall not be released until construction has been inspected and accepted by the Zoning Administrator and by the Virginia Department of Transportation, where appropriate, except for an allowable periodic partial release in accordance with the Code of Virginia § 15.2-2245.

E. **Supervision and Inspections**. It shall be the responsibility of the developer to provide adequate supervision and inspections on the site during the installation of all required improvements, and to have a responsible supervisor together with one (1) set of approved plans, profiles, and specifications at the site at all times when work is being performed.

F. **Acceptance of Improvements**. The approval of the Site Plan or the installation of the improvements as required in this Ordinance shall in no case serve to bind the County to accept such improvements for maintenance, repair, or operation thereof. Such acceptance of each type of improvement shall be subject to the County and/or State regulations.

Section 3-6-9 Review

A. **Site Plan Review Process**. Unless otherwise provided in another Article of this Ordinance, every Site Plan required by this Article shall be submitted to the Administrator who shall take the following actions:

(1) Review the Site Plan for completeness. If deemed incomplete or having insufficient information for review, the application will be refused and returned to the applicant with a written list of deficiencies.

(2) Review the Site Plans for conformity with applicable development regulations and approved Concept Plans. Site Plans will be provided to the Site Plan Review Committee[19] and all relevant County departments and reviewing agencies for written comment.

(3) The Administrator shall notify the applicant of the action taken with respect to the Site Plan, which may include approval or disapproval.

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

B. **Administrative Review.**[20] Minor Site Plans required under Section 3-6-5 are subject to administrative approval by the Administrator.

(1) The Administrator is responsible for the review, processing, and the requesting of additional agency and consultant reports relative to a Site Plan which has been submitted.

(2) Developers are encouraged to discuss the proposals contained in the Site Plan as submitted with the Administrator prior to official request for approval of that plan.

C. **Planning Commission Review**. Major Site Plans required under Section 3-6-6 are subject to approval by the Planning Commission.

(1) Once determined complete, the Administrator shall forward the Major Site Plan to the Planning Commission for their review.

(2) The Administrator shall notify the applicant of the action taken with respect to the Major Site Plan, which may include approval or disapproval.

D. **Time Period for Approval.** Site Plans shall be approved or disapproved pursuant to Code of Virginia § 15.2-2259.[21]

Section 3-6-10 Amendment of Site Plans

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

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

(1) If it becomes necessary for an approved Major Site Plan to be changed, the Administrator may, at the applicant's request, administratively approve a minor amendment to the Site Plan if the change or amendment does not:

(a) Add or remove the development from an Agricultural/Forestal District (AFD);

(b) Alter a recorded plat;

[20] Editor's Note: This section lays out provisions to allow for administrative approval of any minor site plan and approval of major site plans by the Planning Commission. This can be modified to be administrative approval of all site plans if desired.
[21] Editor's Note: Changed to provide the state code reference to time periods rather than repeating the state code provisions here 10/20/2026.

(c) Conflict with specific requirements of this Ordinance or proffered conditions;

(d) Change the general character or content of an approved Concept Plan or use;

(e) Have an appreciable effect on adjoining or surrounding property;

(f) Result in any substantial change of external access points;

(g) Increase the approved number of dwelling units or other buildings or height of buildings.

(h) Decrease the minimum specified yard and open spaces; and

(i) Substantially change architectural or site design features.

(2) Amendments not in accordance with a) through (h) of this Section shall be considered as a new Site Plan and shall be subject to the provisions of Division 3-6 of this Article.

C. If the Administrator fails to act on a request for an amendment to a Site Plan within 45 calendar days, it shall be considered approved.

D. Upon final approval of the revised Site Plan by the Administrator, the Administrator shall transmit an approved set of plans to the authorized project Administrator and retain one copy of any correspondence and plans for the County records.

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

A. It shall be unlawful for any person to construct, erect, or substantially alter any building or structure, or develop, change, or improve land for which a Site Plan is required, except in accordance with an approved Site Plan. Deviation from an approved Site Plan without the written approval of the Administrator shall void the Site Plan and require submission of a new Site Plan for approval.

B. No permit shall be issued for any structure in any area covered by the Site Plan that is required under the provisions of this Article except in conformity with such Site Plan which has been duly approved.

C. The Building Official shall be responsible for enforcing the requirements as set forth in the final approved Site Plan, before issuance of a certificate of occupancy, and shall give written notice to the Administrator that the Site Plan has been completed before issuing the certificate of occupancy.

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D. Upon the satisfactory completion of the installation of all required improvements shown on the approved Site Plan, the developer shall submit completed As-Built Plans to the Utilities and Environmental Codes Departments, in accordance with all applicable regulations of the Nelson County Code. Such shall be submitted at least one week prior to the anticipated occupancy of any building for the review and approval by the County agent for conformity with the approved site plan and the ordinances and regulations of the County and State agencies.

E. Where structures are completed and ready for occupancy prior to the completion of all improvements required by the Site Plan, the owner may provide bond with surety adequate to guarantee the completion of Site Plan, as outlined in Section 3-6-8, above, and upon providing of such bond with surety as agreed upon by the Zoning Administrator, a permit may be issued for the occupancy of those structures already completed.

Section 3-6-12 Period of Validity

A. In accordance with Code of Virginia, § 15.2-2261 approval of a Site Plan submitted under the provisions of this Article shall expire five (5) years after the date of such approval unless building permits have been obtained for construction in accordance therewith.

B. The application for and approval of minor modifications to an approved Site Plan shall not extend the period of validity of such plan and the original approval date shall remain the controlling date for purposes of determining validity.

Division 3-7 Zoning Permits

Section 3-7-1 Applicability

A. No building or other structure shall be erected, moved, expanded, structurally altered, nor shall any building, structure, or land be established or changed in use without the owner or owners first obtaining a permit issued by the Administrator verifying that the building, structure, or use complies with the requirements of this Ordinance.

B. No such permit shall be issued for a building, structure, or use unless it complies with the provisions of this Ordinance, or a Special Use Permit authorizing a use, variance, or written order from an appeal has been approved as provided by this Ordinance.

Section 3-7-2 Standards and Procedures

A. Zoning Permit applications shall be reviewed using the procedures and minimum submission requirements established by the Administrator.

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B. The following shall be submitted to the Administrator for review:

(1) Site Plans shall be submitted as required in Division 3-6, Site Plans, of this Article.

(2) When Site Plans are not required, each Zoning Permit application shall be accompanied by a scale drawing or plan on a plat, or aerial GIS map when the property has not ever been surveyed, with dimensions, that shows:

(a) Lot lines;

(b) Location of buildings on the lot including setback measurements from each property boundary;

(c) Suitable notations indicating the proposed use of all land and buildings;

(d) Points of connection to public water and sewer and/or location of wells and septic systems and reserve drainfields;

(e) The proposed nature and manner of grading the site, including proposed treatment of slopes more than ten percent (10%) to prevent soil erosion and excessive runoff. In cases where an erosion and sedimentation control permit is required, the necessary plans and data shall be submitted as required in the Nelson County Erosion and Settlement Control Ordinance.

(f) Delineation of all floodplain limits;

(g) Any additional information requested by the Administrator.

C. If the proposed building or use is in conformity with the provisions of this Ordinance, a permit shall be issued to the applicant by the Administrator.

D. The Administrator shall act on any application received within 30 days after receiving the application. Failure on the part of the Administrator to act on the application within the established time limit shall be deemed to constitute approval of the application.

E. A Zoning Permit, in itself, shall not ensure that the development approved through said permit shall receive subsequent approval for any other necessary permits or development approvals as otherwise required.

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F. Where an individual septic system is to be used, the owner/Administrator shall submit either a bare application (an application for an individual lot submitted to the Virginia Department of Health for which a representative of this Department will do the required site evaluation to issue a sewage disposal system construction permit) or an AOSE (Authorized Onsite Soil Evaluator) application for each lot to the Virginia Department of Health. The soils work for either application shall show the primary drainfield area together with a reserve area equal to:

(1) For Class 1 and 2 soils, a minimum of 50% of the capacity of the primary area; and

(2) For all other soil classes, a minimum of 100 percent capacity of the primary area.

(3) Where an alternative waste treatment system is to be used, the developer/property owner shall provide to the Building Official and Planning Director documented proof that the soils and parent materials are satisfactory to the Virginia Department of Health and shall obtain approval of the alternative waste treatment system from the appropriate state agencies, including the Virginia Department of Environmental Quality and the Virginia Department of Health. Such documented proof and approval shall be filed at the time a building permit and zoning permit are applied for.

(4) In all zoning districts, the reserve area for an alternative waste treatment system shall be sufficient to accommodate a minimum of 100% of the capacity of the primary area.

Section 3-7-3 Period of Validity

A. An approved Zoning Permit shall become null and void if the use described in the Zoning Permit has not begun within one (1) year from the date of issuance unless the applicant requests renewal.

(1) If the work described in any Zoning Permit has not been substantially completed within two (2) years of the date of issuance, the permit shall expire and be revoked by the Administrator.

B. Prior to expiration of an approved Zoning Permit, if the applicant requests extension, the Administrator may grant extensions for additional periods as determined to be reasonable, taking into consideration, although not exclusively, the size and nature of the development, due diligence of the applicant to proceed, and other applicable laws in effect at the time of the extension request.

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Division 3-8 Temporary Use Permit

Section 3-8-1 Applicability

Any temporary use, event, or structure as identified in Article 6, Use Matrix, will not be conducted or erected without a temporary use permit, in conformance with Article 7, Use Performance Standards, and issued by the Administrator, or a structure permit issued by the Building Official in accordance with the requirements in this Division.

Section 3-8-2 Standards and Procedures

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

B. The Administrator shall evaluate Temporary Use Permit applications to determine if any substantial impacts to public health, safety, or welfare may occur due to the proposed use's operational details, which may include, but not be limited to, location, size, number of attendees, frequency of events, or hours of conduct.

C. No Temporary Use Permit will be issued unless it is demonstrated by the applicant that the following requirements are met:

(1) Adjacent uses shall be suitably protected from any adverse effects of the use;

(2) The use shall not create hazardous conditions for vehicle or pedestrian traffic, or result in traffic in excess of the capacity of the streets serving the use;

(3) Adequate refuse management, security, emergency services, and similar necessary facilities and services shall be available for the temporary use or structure, and all necessary sanitary facilities will be approved by the County Health Department;

(4) The site is suitable for the proposed use, considering flood hazard, drainage, soils, and other conditions which may constitute a danger to life, health, or property;

(5) The use shall not have a substantial adverse impact on the natural environment, including trees, ground cover, and vegetation; and

(6) The use shall not have a substantial adverse impact on public safety.

D. The Zoning Administrator may impose reasonable conditions on the proposed use to ensure compliance with these standards, or other applicable provisions of the law.

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Section 3-8-3 Period of Validity

A. **Duration.** A Temporary Use Permit will be valid for 12 months or less, as determined by the Zoning Administrator.

B. **Extension.** A request for an extension of such permit shall be made to the Zoning Administrator at least 30 days before the expiration of the original time limit, who will make an administrative decision for approval or denial.

(1) An extension shall be applied for annually if the temporary use is to continue.

C. **Termination.** At the end of such permitted time period, including extensions as approved by the Administrator, the use shall be discontinued and all temporary structures and signs shall be removed within 48 hours.

D. **Revocations.**

(1) Any Temporary Use Permit previously issued pursuant to this Ordinance may be revoked by the Zoning Administrator if it is determined there has not been compliance with the conditions of the Permit.

(2) Such revocation will be delivered to the owner or operator of the use, by hand-delivery or certified mail, setting forth the following:

(a) Reason(s) for the revocation;

(b) Date and time upon which the revocation is effective; and

(c) The appeals procedure, in accordance with Division 3-10 of this Article.

Division 3-9 Zoning Determinations

Section 3-9-1 Applicability

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

Section 3-9-2 Standards and Procedures

A. Persons requesting a determination by the Administrator shall do so in writing on forms provided by the County. The Administrator shall sign and date the form upon receipt.

B. The Administrator's response shall be provided within 90 days of the date of the request unless the requestor agrees to a longer period of time.

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C. When the requestor is not the owner or the owner's Administrator of the property subject to the request, the Administrator in accordance with the Code of Virginia § 15.2-2204 (H), shall provide written notice within ten (10) days of receipt of the request to the owner of the property at the owner's last known address as shown on the County's real estate assessment records.

D. The Administrator's written decision or determination shall include a statement informing the recipient of the right to appeal the decision as provided in Division 3-10, Appeals, of this Article.

Division 3-10 Appeals

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

A. Pursuant to the Code of Virginia § 15.2-2311, an appeal to the BZA may be taken by any person aggrieved or by any officer, department, board, or bureau of the County affected by any decision of the Zoning Administrator or from any order, requirement, decision, or determination made by any other administrative officer in the administration or enforcement of this Ordinance.

B. Such appeal shall be taken within 30 days after the decision appealed from by filing with the Administrator, and with the BZA, a notice of appeal specifying the grounds thereof. The Administrator shall forthwith transmit to the BZA all the papers constituting the record upon which the action appealed from was taken.

C. A decision or interpretation of the Administrator shall be presumed correct and may not be reversed or modified unless there is evidence in the record that the decision is not correct, based on the relevant procedures and review standards of this Ordinance.

Section 3-10-2 Appeals to BZA Procedure

A. Pursuant to the Code of Virginia § 15.2-2312, procedures for submitting an appeal or application shall be as follows:

(1) **Mailing Procedure.** Appeals and applications shall be mailed from the applicant seeking appeal to the BZA in care of the Administrator, and a copy of the appeal or application shall be mailed to the secretary of the Planning Commission. A third copy should be mailed to the individual, official, department, or agency concerned, if any.

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(2) **Hearing.** The BZA shall fix a reasonable time for the hearing of an appeal, give public notice as outlined in Division 3-11 of this Article as well as due notice to the parties in interest, and decide the same within 90 days of the filing of the appeal.

(3) **Decisions.** In exercising its powers, the BZA may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from. In any hearing, if a BZA's attempt to reach a decision, results in a tie vote, the matter may be carried over until the next scheduled meeting at the request of the person filing the appeal.

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

A. Pursuant to the Code of Virginia §§ 15.2-2314, and 15.2-2285, any person jointly or severally aggrieved by any decision of the BZA, Planning Commission, or Board of Supervisors or any taxpayer or any officer, department, board, or bureau of the County may appeal the decision to the circuit court of Nelson County.

B. An application specifying the grounds on which the applicant is aggrieved shall be submitted 30 days after the filing of the decision in the office of the BZA.

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

A. Pursuant to the Code of Virginia § 15.2-2313, construction of a building with a valid building permit deemed in violation of this Ordinance may be prevented, restrained, corrected, or abated by suit filed within 15 days after the start of construction by a person who had no actual notice of the issuance of the permit.

B. The court may hear and determine the issues raised in the litigation even though no appeal was taken from the decision of the Administrator to the BZA.

Section 3-10-5 Stay of Proceedings

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

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Division 3-11 Public Hearings and Notifications[22]

Section 3-11-1 Public Hearing Required

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

B. The Planning Commission and Board of Supervisors may hold a joint public hearing after public notice as set forth herein, and if such joint hearing is held, public notice as set forth below need be given only by the Board of Supervisors.

C. No land may be zoned to a more intensive use classification than was contained in the public notice without an additional public hearing after notice pursuant to the Code of Virginia § 15.2-2204.

Section 3-11-2 Advertisement and Mailings

A. In accordance with Code of Virginia § 15.2-2204, the notice for each proposal shall provide:

(1) Where copies of the proposal may be examined; and

(2) The time and place of any hearing at which persons affected may appear and present their views.

B. Notice of public hearings shall also be published twice in some newspaper published or having general circulation in the County.

(1) The first notice appearing no more than 28 days before and the second notice appearing no less than five (5) days before the date of the meeting referenced in the notice.[23]

C. Property owner notification shall be sent by the Administrator a minimum of five (5) days prior to any public hearing, except where a longer timing is required.

(1) Notifications shall be mailed to:

[22] Editor's Note: This section is new and includes language from the Code of Virginia § 15.2-2204 related to required public hearings and their notices.
[23] Editor's Note: B. (1) was edited from seven to five days to reflect a recent change in state code § 15.2-2204.

(a) The owner, owners, or their Administrator of the subject property;

(b) Persons owning any adjacent property, including property across any road, railroad right-of-way or body of water;

(c) A locality's chief administrative officer or their designee when the subject property is located within 0.5 mile of the boundary of the adjoining locality at least ten (10) days prior to the hearing;

(d) The commander of the applicable military operation when the subject property is located within 3,000 feet of the boundary of a military base, installation or airport, excluding armories operation by the Virginia National Guard, at least 30 days prior to the hearing;

(e) The owner of a public use airport when the subject property is located within 3,000 feet of such airport at least 30 days prior to the hearing;

(f) For rezonings, the incorporated property owners' association within a planned development where the subject property is located within the planned development and the association's members also own property in the planned development that is located within 2,000 feet of any portion of the subject property; and

(g) In lieu of each individual unit owner, the unit owners' association or proprietary lessee's association when the property adjacent to the subject property is a condominium or cooperative, respectively.

D. The following exceptions shall apply to property owner notification requirements, as outlined in this Section:

(1) When a proposed amendment to the Zoning Ordinance involves a tract of land not less than 500 acres owned by the Commonwealth of Virginia or by the federal government, and when the proposed change affects only a portion of the larger tract, notice need be given only to the owners of those properties that are adjacent to the affected area of the larger tract.

(2) For Zoning Map amendments impacting more than 25 parcels or Ordinance amendments that decrease residential density:

(a) Adjacent property owner notification is not required.

(b) Owner notification is not required for lots less than 11,500 square feet and shown on approved and recorded subdivision plat.

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E. Notice, as required above, shall be sent by registered or certified mail to the last known address of such property owner(s) as shown on the current real estate tax assessment records. Notice may be sent by first class mail; however, a representative of the County shall sign an affidavit that such mailings have been made and file such affidavit with the papers in the case.

F. The cost of all notice requirements shall be paid by the developer/applicant in addition to any other fees involved in the application. The County shall bill the applicant for such costs.

Section 3-11-3 Posting Notice on Property[24]

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

(1) The sign shall be posted on the subject property at least 15 days prior to the public hearing on the proposed SUP, rezoning, or variance.

(2) The sign shall specify the date, time, and location of the public hearing.

(3) The sign shall be placed to be clearly visible from the frontage road of the subject property.

(4) The holding of a public hearing or the validity of action on an application will not be affected by the unauthorized removal of a notice which has been posted in accordance with this section.

(5) It will be unlawful for any person, except the Administrator, to remove or tamper with any sign furnished during the period it is required to be maintained under this Section.

Section 3-11-4 Waiver of Notice

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

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

Article-4 Primary Zoning Districts

Division 4-1 Establishment and Purpose

Section 4-1-1 General[1]

A. **Zoning districts established**. Land within the County, as it exists at the time of this Ordinance being enacted, is hereby divided into classes of primary zoning districts to:

(1) Regulate and restrict the location and use of buildings and land for trade, industry, residence, and other purposes in accordance with the objectives of the comprehensive plan;

(2) Regulate and restrict the location, height, and size of buildings hereafter erected or structurally altered; and

(3) Ensure adequate setbacks, open spaces, and public facilities to support the County's population.

B. Enumeration of Primary Zoning Districts. To carry out the purpose stated in Article 1, In General, and (A) above, Nelson County is hereby divided into the following primary zoning districts:

Table 4-1: Primary Zoning Districts

Rural Districts	
C-1	Conservation District
A-1	Agricultural District
Residential Districts	
R-1	Low-Density Residential District[2]
R-2	Mid-Density Residential District[3]
R-3	High-Density Residential District[4]
Commercial Districts	
B-1	Primary Business District
B-2	Neighborhood Business District
SE-1	Service Enterprise District

[1] Editor's Note: This is a new section of text that provides an overall purpose for primary zoning districts.
[2] Editor's Note: R-1 Residential District renamed to "Low-Density Residential District" to establish unique district names that clearly state district purpose.
[3] Editor's Note: R-2 Residential District renamed to "Mid-Density Residential District" to establish unique district names that clearly state district purpose.
[4] Editor's Note: R-3 Residential District renamed to "High-Density Residential District" to establish unique district names that clearly state district purpose.

Industrial Districts	
M-1	Light Industrial District
M-2	Heavy Industrial District
Planned Development Districts	
RPC	Residential Planned Community District

Section 4-1-2 References to District Names[5]

A. For reference throughout this Ordinance, unless specifically provided to the contrary, the following terms shall be used to refer to primary zoning districts:

(1) "Rural district" shall include C-1 and A-1 districts;

(2) "Residential district" shall include R-1, R-2, and R-3 districts;

(3) "Commercial district" shall include B-1, B-2, and SE-1 districts;

(4) "Industrial district" shall include M-1 and M-2 districts; and

(5) "Planned development district" shall include the RPC district.

Section 4-1-3 Purpose and Intent of Primary Zoning Districts[6]

A. **Rural Districts.**

(1) **C-1, Conservation.** This district encompasses areas of the County characterized by natural open spaces, including steep slopes, forests, parks, wetlands, rivers, marshlands, lakes, and stream valleys. The district is established to protect and conserve critical natural resources and aims to minimize soil erosion, safeguard watersheds, mitigate flood and fire risks, and preserve the ecological integrity of these sensitive landscapes. Land uses should be limited to those that directly support these conservation objectives, including agricultural activities and single-family dwellings that adhere to best conservation practices.[7]

[5] Editor's Note: This is a new section of text that provides a disclaimer that references to various districts could include all those districts within that category.
[6] Editor's Note: Intent statements have been moved from their respective zoning district Articles and placed into this section. They have been edited for clarity and with proposed uses and terminology.
[7] Editor's Note: The C-1 intent statement has been streamlined and modified to serve as a protection to natural resources. The existing inclusion of farmlands has been omitted in this district and is instead moved to the Agricultural District intent statement.

(2) **A-1, Agricultural District.** This district is established to support and protect agricultural and forestry uses while allowing limited residential development. It is intended to preserve farmland, maintain the viability of working landscapes, and sustain the rural character of the County. While some rural areas may experience residential growth, this district seeks to prevent the scattered encroachment of residential, commercial, or industrial development that could compromise agricultural operations and open space preservation.[8]

B. **Residential Districts.**

(1) **R-1, Low-Density Residential.** This district is intended to accommodate low-density residential development, primarily consisting of single-family homes. The district is designed to protect residential identity, support a high quality of life for residents, and ensure compatibility with the surrounding rural or suburban landscape. While residential use is the primary focus, certain complementary uses, such as schools, parks, and places of worship, may be permitted to serve the needs of the community. Commercial and high-intensity development are not permitted to maintain the district's low-density character.[9]

(2) **R-2, Mid-Density Residential.** This district is intended to accommodate medium-density residential development in areas served by public water and wastewater infrastructure. It supports a mix of single-family, duplexes, townhomes, and similar multi-family housing while maintaining residential character, providing a suitable environment for households, and limiting commercial uses that could disrupt neighborhoods. Certain public facilities, such as schools, parks, and places of worship, may be permitted to serve residents and enhance community character.[10]

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[8] Editor's Note: The Agricultural District intent statement has been revised to provide a greater emphasis on the preservation of existing farmlands.
[9] Editor's Note: The R-1 intent statement has been modified to better fit the districts new title and purpose as a low-density neighborhood district.
[10] Editor's Note: The R-2 intent statement has been modified to better fit the districts new title and purpose as a medium-density suburban district.

(3) **R-3, High-Density Residential.** This district is intended to accommodate high-density residential and mixed-use development, primarily consisting of multi-family housing, in areas that are served by adequate infrastructure, such as public water or wastewater services and major transportation routes. This district promotes well-planned, sustainable residential growth while maintaining compatibility with surrounding land uses. Limited non-residential uses, such as community-oriented services, parks, and facilities, may be permitted to support residents and enhance the district's livability.[11]

C. **Commercial Districts.**

(1) **B-1, Primary Business District.** This district is intended to support general commercial activities that require direct and frequent public access. It accommodates a broad range of retail, service, and office uses designed to serve both the traveling public and the surrounding community. The district promotes attractive, accessible development along principal roadways while discouraging traffic diversion onto local streets or through residential neighborhoods. Uses involving heavy trucking are not supported, except for routine stocking and delivery of retail goods. Activities should not generate nuisance impacts beyond the typical light and noise associated with customer traffic and passenger vehicles.[12]

(2) **B-2 Neighborhood Business District.** This district is intended to provide small-scale commercial development with uses designed for the service of daily needs of nearby residents, while maintaining the character of the surrounding neighborhood. Traffic and noise are held to a minimum to protect surrounding property.

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[11] Editor's Note: This is a new proposed district selected by the Board and Planning Commission (PC) for inclusion. The Board and PC should review and consider if the intent of the new district aligns with their vision.

[12] Editor's Note: The B-1 and B-2 intent statements have been slightly altered to further expand upon their current intents and create commercial districts suitable for the principal traffic routes in the County and another for smaller neighborhood scale commercial activity.

(3) **SE-1, Service Enterprise District.** This district is designed to balance the area's need for service-oriented commercial uses adjoining residential and agricultural districts. The district allows limited service-oriented commercial uses that are compatible with the low-density, quiet, rural atmosphere characterized and promoted within agricultural and residential districts. This district is characterized by significant setbacks and limited signage. The district supports a mix of agricultural, residential, and small-scale commercial enterprises, such as farm-based businesses, agritourism, and artisan services, that promote economic vitality while preserving the area's scenic qualities and rural way of life.[13]

D. **Industrial Districts.**

(1) **M-1, Light Industrial District.** The intent of this District is to foster the local economy in appropriate locations for less intense industrial uses, such as research facilities, wholesale, warehousing, light industrial, offices, and heavy commercial uses. Uses should occur in enclosed buildings, and activities should not create a danger to health and safety in surrounding areas nor create off-site noise, vibration, smoke, dust, lint, odor, heat, or glare.[14]

(2) **M-2, Heavy Industrial District.** The intent of this District is to encourage and provide for larger-scale industrial, manufacturing, processing, and warehousing operations in appropriate areas separated from daily services and residences. The uses in this District may require outside storage, or generate noise, smoke, or odor, which shall be mitigated with industry best practices for the compatibility of the surrounding area and the preservation of the environment.

E. **Planned Development Districts.**[15] The purpose of Planned Development Districts is to encourage innovative and efficient land use planning and physical design on large, unified sites. Planned Development Districts are intended to:

Achieve a high quality of development while protecting environmentally sensitive areas;
Provide a well-integrated mix of non-residential and recreational uses with various residential dwelling types to achieve a walkable, connected neighborhood;

[13] Editor's Note: The SE-1 District's intent statement has been adjusted to further add strength and clarity to the district's purpose without changing the substance or the intent.
[14] Editor's Note: The M-1 and M-2 District's intent statements have been slightly modified to improve clarity and language to better fit expected uses and standards throughout the Ordinance.
[15] Editor's Note: The purpose & intent of planned dev. districts was moved from Div. 4-7 on 11/24/25.

Allow more efficient use of land through coordinated networks of streets, utilities, and pedestrian connections, both within the development and to adjacent development;
Encourage the provision of accessible and useable open space and recreational amenities within the development;
Promote development forms and patterns that respect the character of established surrounding neighborhoods and other land uses; and
Promote development patterns that complement a site's natural and unnatural features, such as rivers, lakes, wetlands, floodplains, trees, and historic and cultural resources.

(1) **RPC, Residential Planned Community District.** This district is intended to permit development in accordance with a master plan therefor of cluster-type communities containing not less than 3,000 contiguous acres under one (1) ownership or control, in a manner that will protect and preserve the natural resources, trees, watershed, contours and topographic features of the land, protect and enhance the natural scenic beauty and permit the greatest amount of recreational facilities by leaving as permanent open area not less than 25 percent of the total acreage. Within such communities, the location of all improvement shall be controlled in such manner as to permit a variety of housing accommodations in an orderly relationship to one another, with the greatest amount of open area and the least disturbance to natural features. "Open area" shall include parks, lakes, roads, roadways, walkways, trails, playground and recreation facilities, golf, skiing and other sports facilities, non-residential clubhouse grounds and rights-of-way and surface easements for drainage and other utilities over areas not within the lines of any residential lot. (A planned residential district may include a variety of residential accommodations with light commercial facilities and light craft manufacturing facilities in Village Centers to an extent necessary to serve the needs of the particular residential planned community and its visitors.) Further, it is the intention of Nelson County that no additional land within the County be rezoned or changed to the RPC Zoning District.[16]

Division 4-2 General District Standards

Section 4-2-1 Application of Standards[17]

A. The requirements specified in this Article shall be considered the minimum required to promote public health, safety, and general welfare.

[16] Editor's Note: The purpose was changed to reflect the direction given at the 4/23/2025 worksession to limit this district to Wintergreen, and not to extend it to future developments.
[17] Editor's Note: This section has been added to provide clarity on how the regulations of this Article shall be enforced. G. (2) was reordered to match Article 8 on 11/24/25.

B. Regulations shall apply uniformly to each use, structure, and lot within the zoning district.

C. Except as provided in Article 9, Nonconformities, every structure hereafter constructed shall be located on a lot meeting the minimum requirements for the district in which it is located.

D. Photographs, graphics, and/or diagrams in this Article are included for illustrative purposes only. If there is any inconsistency between them and the text of this Ordinance, including tables, the text will govern.

E. It is the intent of the height regulations of this Ordinance to secure safety, to provide light and air, and to protect the character of districts and the interests of the public. No building shall be erected, constructed, or altered to exceed the height limitations specified in the district regulations set in this Ordinance.

F. Required minimum setbacks may be altered by the Board of Supervisors, with recommendation from the Planning Commission, when any right-of-way is proposed to be widened, in order to preserve and protect the widening of such right-of-way.

G. In addition to the provided standards for each district, additional standards may apply, including but not limited to:

(1) Use Performance Standards. Article 7, Use Performance Standards, establishes additional standards pertaining to specific uses.

(2) Community Design Standards. Article 8, Community Design Standards, establishes additional standards for:

(a) Lighting;

(b) Landscaping and screening;

(c) Walls and fences;

(d) Streets, Bikeways, and Sidewalks;

(e) Parking and loading;

(f) Signs; and

(g) Open space.

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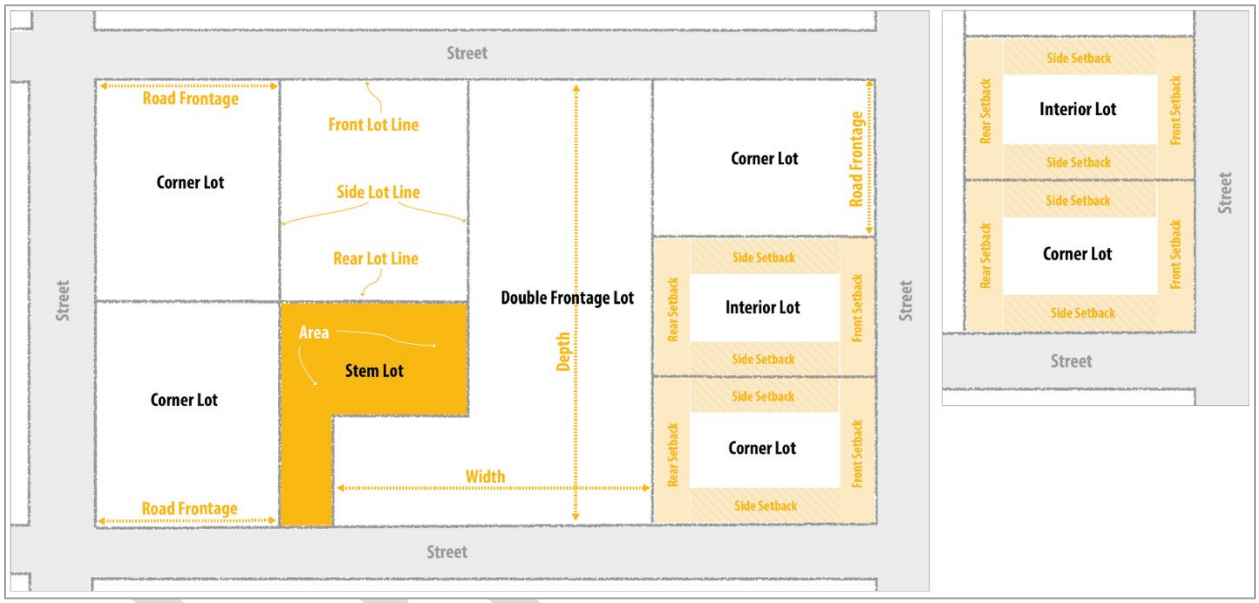
(3) Drainage. Provisions shall be made for proper stormwater drainage from streets, parking, and loading areas, in accordance with Nelson County stormwater regulations. Water shall not be permitted to drain from such areas onto adjacent property except into a natural watercourse or a drainage easement. Provisions shall be made for protection against erosion and sedimentation in accordance with Nelson County stormwater regulations.

(4) Streets and Sidewalks. Provisions shall be made for the construction and maintenance of streets and sidewalks, in accordance with Article 8, Community Design Standards.

Section 4-2-2 Determination and Measurement[18]

Figure 4-1: Lot Standard Terms and Required Setbacks



A. **Lot Standards.**

(1) **Determination of Lot Front.**

(a) **Interior Lots.** The front shall be construed to be the portion adjacent to the street.

(b) **Corner Lots.** The front shall be construed to be the shortest boundary fronting a street. If the lot has equal frontage on two (2) or more streets, the front shall be construed in accordance with the prevailing building pattern, or the prevailing lotting pattern if a building pattern is not established.

[18] Editor's Note: This new section has been added to give guidance on how to measure lot lines, setbacks, and building heights.

B. **Measurement Methods.** *(See figures in this Section)***.** The following methods shall be used for measuring setbacks:

(1) **All Setback Types.** Setbacks shall be measured in such a manner that the lot line and the setback line are parallel to one another *(See figure 4-1)*.

(a) Where lots are convex or concave, required setbacks shall be measured radially from the edge of the right-of-way (ROW). *(See figure 4-4)*

(b) In accordance with Article 2, Administration, the Administrator shall determine the boundary line(s) from which the setback(s) shall be measured for irregular lots.

(2) **Street Frontage Required.** Except as otherwise provided in this Ordinance, every lot shall front a public street *(See Figure 4-1)*.

(3) Lot area shall be the total horizontal area included within the property lines of a lot.

(a) The Administrator may require a larger minimum lot size than prescribed in this Article if it is considered necessary by the Virginia Department of Health to facilitate private water or sewer systems.

(4) Lot width shall be the horizontal distance between the side property lines of a lot, measured at the front setback.

(5) Creation of new pipe stem, or stem, lots is prohibited *(See Figure 4-2)*.

(a) No building or structure shall be permitted in the stem portion of existing pipe stem lot.

(6) **Front Setback.** Front setbacks are determined as follows:

(a) A front setback shall be included for the full width of the lot frontage, measured between the side lot lines.

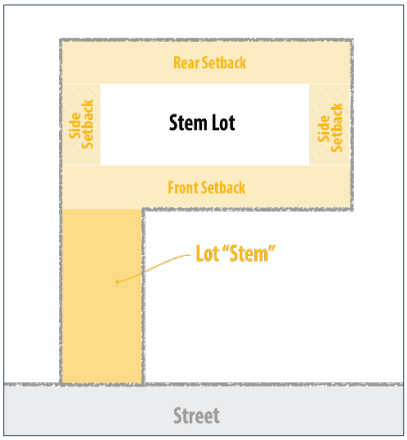
(b) Depth of the front setback shall be measured from the front lot line at the edge of the public right-of-way, inward towards the lot, until the distance required in the district standards is met.

(c) Interior Lots, Corner Lots, and Stem Lots shall have the following setbacks (*See Figures 4 – 1 and 4 - 2):*

i. One (1) front, two (2) side, and one (1) rear.

(d) Double Frontage Lots shall have the following setbacks (*See Figures 4 – 1):*

Figure 4 – 2: Stem Lot Front Setback



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i. Two (2) fronts and two (2) sides.

(e) The front setback required for nonconforming lots may be the average of the front setbacks within 125 ft. on either side of the lot, except that no front setback shall be required to be greater than the minimum required for the underlying zoning district.

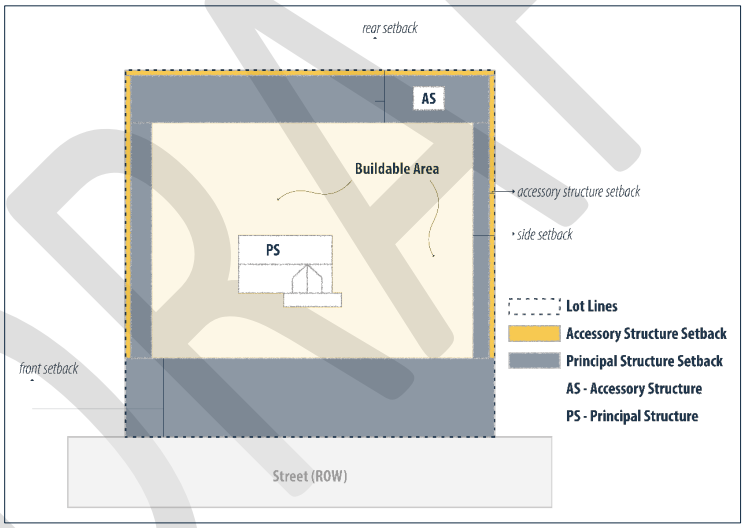
i. To maintain the pattern of the neighborhood, if the adjacent lots are vacant, the average(s) of the nearest developed lot(s) on the same side of the street shall be used.

(7) **Side Setback.**

(a) Side setbacks shall be measured from the front setback to the rear setback.

(b) Depth of a side setback shall be measured from the lot line in towards the lot until the distance required in the district standards is met.

Figure 4-3: Setback Example



(8) **Rear Setback.**

(a) A rear setback shall be included for the full width of the rear of the lot, measured between the side lot lines.

(b) Depth of a rear setback shall be measured from the rear lot line in towards the lot until the distance required in the district standards is met.

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Figure 4-4: Concave or Convex Setback Example

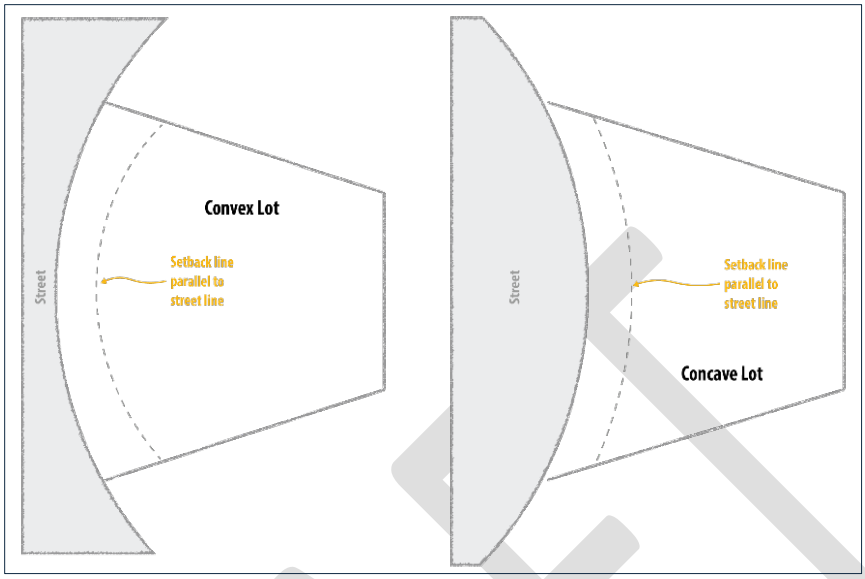
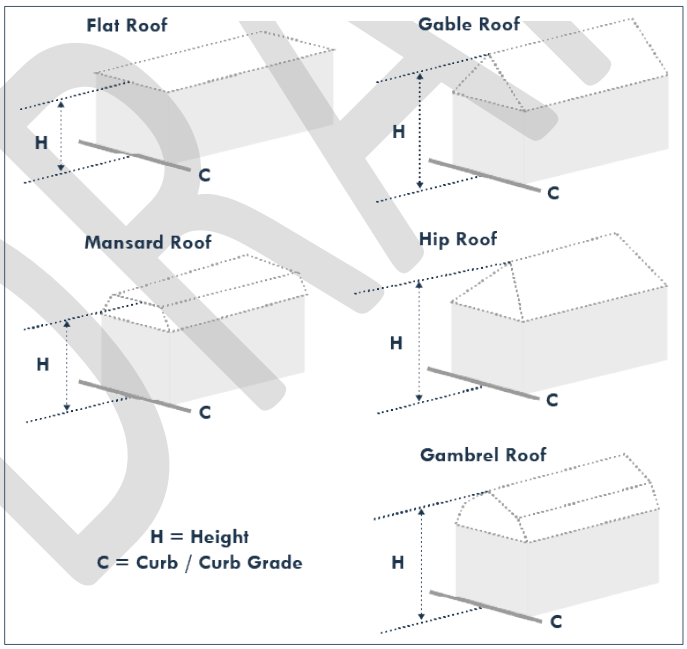


Figure 4-5: Height Measurement in Primary Districts



(9) **Measuring Height.** Building height is measured in feet as the vertical distance from the established curb grade to the roofline (*See Figure 4-5*). [19]

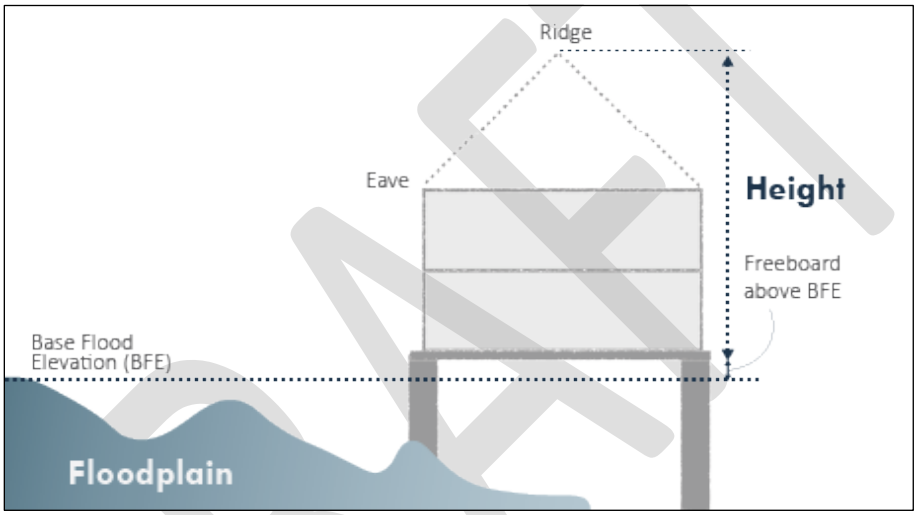
[19] Editor's Note: This subsection modifies the current definition for 'Building, height of' which was: "The vertical distance measured from grade to the highest roof beams of a flat roof, or to the mean level of the highest gable or slope of a gable, hip, or other roof."

(10) **Measuring Floodplain Height.** For structures that are in AE and A Flood Zones, as identified in Article 5, Overlay Zoning Districts, the following applies:

(a) Height is measured from the required number of inches above the base flood elevation (freeboard) to the ridge of the roof as required in this Section, item (1) for the building site (*See figure 4-6*).

(b) In cases where there is a ground floor enclosure below the base flood elevation, height shall be measured as provided in B. (9), above (*See figure 4-6).*

Figure 4-6: Height Measurement of Raised Structures in Floodplain Areas



Section 4-2-3 Steep Slopes and Critical Areas[20]

A. **Purpose.**[21] The purpose of this section is to protect the health, safety, and well-being of residents and visitors of the County and protect natural resources by addressing development on land with natural steep slopes or critical areas, as defined in Article 11, Definitions. The disturbance of these areas is subject to additional consideration to:

(1) Protect downstream lands and waterways from the adverse effects of the unregulated disturbance of steep slopes;

[20] Editor's Note: This new section of text has been included to add regulations for steep and critical areas throughout the County. "Critical slopes" language has been changed to "critical areas" to match Code of Virginia and the VA Uniform Statewide Building Code.
[21] Editor's Note: Purpose has been expanded to encompass the protection of humans and the environment in response to information provided by the County stating that slopes greater than 10% cannot be accessed by emergency vehicles.

(2) Protect land from excessive stormwater runoff;

(3) Avoid the degradation of surface water;

(4) Promote a safe means of ingress and egress for vehicular and pedestrian traffic in sloped areas;

(5) Promote safe access to built areas for fire and emergency management services and vehicles;[22]

(6) Preserve the visual quality of steep and critical slope areas, which are a valuable natural resource; and

(7) Encourage innovative and imaginative building techniques to create structures and site plans that are suited to sloped terrain.

B. **Methods of Measurement.** The source of delineation of steep and critical areas within the County shall be a field-prepared or aerial topographic survey, certified by a licensed surveyor or engineer. The Administrator, based upon the available information, shall determine the slope of any land in question.

C. **Requirements.**[23] Prior to the issuance of land disturbance, Zoning, or Building Permit(s) for any use, structure, or activity, the following must be satisfied:[24]

(1) **Steep slopes**. For any use, structure, or activity on any parcel of land which includes steep slopes within its boundaries:[25]

(a) The developer shall submit a map, plan, or plat showing the location and extent of steep slopes within the area to be disturbed, as well as the location and extent of land disturbing activities and mitigation measures, including the proposed building sites, paved areas, drainfields, well locations, and other uses, and;

i. Demonstration that D. design limitations below will be achieved.

(b) The developer shall obtain a Land Disturbance Permit and incorporate stormwater management facilities and erosion and sediment control measures, in accordance with the Code of the County of Nelson.

[22] Editor's Note: Added per comments received 11/5/25.
[23] Editor's Note: Added "land disturbance" per comments received 11/5/25.
[24] Editor's Note: This text proposes that any slope of 20-34% in grade can be administratively approved through a normal building/zoning permit process provided the proper mitigations are documented. Any development upon slopes with a gradient of 35% or higher will require an approved SUP through the normal SUP method.
[25] Editor's Note: (1) (a) i. was added per comments received 11/5/25.

i. Any development occurring on steep slopes shall submit an Erosion and Sediment Control Plan and is not eligible to submit an Agreement in Lieu of a Plan, as provided in the Nelson County Erosion and Sediment Control Ordinance in Chapter 9 of the Code of the County of Nelson.

(2) **Critical Areas**. For any use, structure, or activity on any parcel of land which includes critical areas within its boundaries:[26]

(a) In addition to the requirements of Section 4-2-3 (C) (1), above, if any portion of a development is intended to disturb areas within critical areas, the developer must obtain a Special Use Permit in accordance with Article 3, Permits and Applications.

i. The Special Use Permit may have conditions that limit the disturbance area and limit the percentage of impervious surface.

ii. Exception. The Administrator can waive the Special Use Permit requirement if the applicant demonstrates that due to lot size the percentage of the parcel which includes critical areas can be avoided.

D. Design Limitations.

(1) **Access.**[27] All streets/roads and driveways shall:

(a) Follow natural contour lines to the maximum extent feasible; and

(b) Not exceed a greater than ten percent (10%) grade.

(2) **Utilities**. Minor utilities, individual water systems, or septic lines serving an individual sewage disposal system shall not disturb areas with slopes greater than 15%.

(a) However, a run of no more than 200 ft. or 10% of the entire length of the minor utility, water line, and/or septic line, whichever is greater, shall be allowed to disturb areas with slopes greater than 15%, based on a geotechnical study or findings from a geotechnical professional that:

i. Such minor utility, water lines, and/or septic lines will not have significant adverse visual, environmental, or safety impacts; or appropriate engineering or other measures will be taken by the developer to substantially mitigate any such adverse impact; and

[26] Editor's Note: (2) (a) i. and ii. were added per comments received 11/5/25.

[27] Editor's Note: Access was rewritten to include the 10% grade limit for roads and driveways per comments and information received 11/5/25. Berkley Group recommends the review of the County Attorney to confirm this language meets the best interests of the County, especially with respect to emergency vehicle access.

ii. No alternative location for such minor utility, water line, and/or septic line is feasible or available.

Section 4-2-4 Family Division Dimensional Standards

A. The provisions of this Division are subject to the provisions of Article 10, Subdivisions.

B. All family divisions are subject to all the applicable standards of this Ordinance, and all other requirements of Nelson County, unless specifically modified or excepted by the provisions of this Article.

(1) Family divisions are exempted from sliding scale division rights.[28]

C. Family divisions as allowed by the provisions of this Division are permitted only in the following districts:

(1) C-1, Conservation District

(2) A-1, Agricultural District

(3) R-1, Low-Density Residential District

D. Family divisions are not required to front a public street as required by Section 4-2-2.

E. The dimensional requirements set forth in Table 4-2 shall supersede those stipulated in this Ordinance for other development types. If a dimensional requirement is not listed in Table 4-2, then the dimensional requirement of the primary or overlay zoning district shall apply.

Table 4-2: Family Division Dimensional Regulations

	C-1 Conservation District	A-1 Agricultural District	R-1 Low-Density Residential District
Minimum Lot Size			
All lots	1 acre	1 acre	1 acre
Minimum Required Setbacks			
Front	50 ft.	50 ft.	50 ft.
Side	25 ft.	25 ft.	25 ft.
Rear	25 ft.	25 ft.	25 ft.

[28] Editor's Note: Added B (1) per direction given at the 6/3/26 joint worksession.

Section 4-2-5 Exemptions[29]

A. The following uses and structures are permitted in required setbacks, subject to the limitations provided:

(1) Plantings, fences, or shrubbery.

(a) On a Corner Lot, fences, walls, shrubbery, or other plantings, that will materially obstruct vision within the visibility triangle shall be prohibited by the Administrator.

(2) Unenclosed porches, steps, and decks, not exceeding 24 sq. ft. in size, may project into any required setback, but shall not be closer than five (5) ft. to any lot line.

(3) Architectural features, chimney, eaves, windowsills, and other like building features may project into any required setback but shall not be closer than three (3) ft. to any lot line.

B. The height limitations of this Ordinance shall not apply to:

(1) Agricultural Buildings;

(2) Belfries;

(3) Broadcasting or communication towers;

(4) Chimneys, flues, and smokestacks;

(5) Cooling towers;

(6) Church Spires;

(7) Cupolas;

(8) Domes;

(9) Flagpoles;[30]

(10) Public memorials or monuments;

(11) Parapet walls;

(12) Radio aerials;

[29] Editor's Note: This new section has been added to include any exemptions to the regulations contained within this article.
[30] Editor's Note: Current height regulations provide a blanket exemption for flagpoles but the PC and Board may wish to consider only exempting flagpoles under a certain height and require additional approvals to be pursued for taller flagpoles.

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(13) Roof-top mechanical equipment screened by parapet walls;

(14) Silos;

(15) Solar collectors;

(16) Spires;

(17) Television antennas;

(18) Utility service, major; and

(19) Water storage tanks.

Division 4-3 Rural Districts Dimensional Standards

Section 4-3-1 Rural Districts Regulations

Table 4-3: Rural Districts Dimensional Regulations

	C-1 Conservation District	A-1 Agricultural District
Minimum Area Requirements		
Minimum Lot Size	20 acres	2 acres (See Table 4-4 for division rights)[31,32]
Minimum Required Setbacks		
Front	300 ft.	50 ft.
Side	300 ft.	20 ft.[33]
Rear	300 ft.	50 ft.
Corner Lot Side	35 ft.	30 ft.
Accessory Structure	15 ft.	15 ft.
Minimum Lot Width[34]		

[31] Editor's Note: Minimum lot size for the A-1 district is proposed to be increased to 10 acres from the current 2 acres. This is based on guidance from the comprehensive plan and community engagement to better protect rural parts of the County. Division rights have also been removed in favor of a larger minimum lot size approach. Changed from 10 to 6 acres per staff comments 11-5-25 ("This aligns with land use taxation program which requires 5 acres for land use +1 acre for home site").

[32] Editor's Note: Single and two family detached dwellings are currently allowed a smaller minimum lot size in A-1. This standard is proposed to be removed but can be incorporated back into use standards for these uses if the Board or PC desires. Replaced 6 acres 2 acres and table reference per direction given at the 6/3/26 joint worksession.

[33] Editor's Note: Rear and side setbacks from Section 4-3 have been modified to no longer be different for lots less than 5 acres and lots larger than 5 acres. Proposed setbacks are 20 feet for all side setbacks other than family subdivisions. In addition, the larger yard requirements have been removed in favor of a simpler flat side setback.

[34] Editor's Note: Minimum required road frontage has been increased from 125 ft. to 200 ft.

	C-1 Conservation District	A-1 Agricultural District
Road Frontage	200 ft.	150 ft.[35]
Maximum Structure Height[36]		
Building Height	35 ft.	35 ft.

Table 4-4: A-1 District Sliding Scale Division Rights

A-1 Agricultural District	
Number of Acres[37]	**Number of Lots Allowed**
> means greater than	
0 - 5	2
>5 - 15	3
>15 - 25	4
>25 - 35	5
>35 - 45	6
>45 - 55	7
>55 - 65	8
>65 - 75	9
>75 A parcel of land larger than 75 acres has additional allowable lots, provided each additional lot created is 20 acres or more in size.	

A. A-1 Lots Allowed and Area Regulations.[38]

(1) A parcel of record in the Clerk's Office of the Circuit Court of Nelson County on the effective date of June 1, 2007, may be divided into no more lots than are provided in Table 4-4.

(a) At the time of division, the owner of the parcel so divided shall designate the number of lots into which each parcel so divided may be further divided pursuant to this Section. No such division or adjustment of boundary lines or any other reconfiguration of a parcel shall increase the number of lots which may be created.

[35] Editor's Note: Changed from 200 to 150 per staff comments 11-5-25.
[36] Editor's Note: The provision allowing structures to be higher than 35 feet in height, provided they receive a Special Use Permit, has been removed.
[37] Editor's Note: Table 4-4 added per direction given at 6/3/26 joint worksession. All tables after this one have been renumbered.
[38] Editor's Note: A. and its contents were taken from the existing ordinance per direction given at the 6/3/26 joint worksession.

(b) Each plat of survey reflecting a division or adjustment of boundary line or any other reconfiguration of a parcel shall provide therein:

i. The original number of lots allowed for the parcel together with appropriate instrument number references;

ii. The number of lots created in this division;

iii. The number of lots remaining; and

iv. The allocation of remaining lot rights among the newly created lots.

Division 4-4 Residential Districts Dimensional Standards

Section 4-4-1 Residential District Regulations

Table 4-5: Residential Districts Dimensional Regulations

	R-1 Low-Density Residential District	R-2 Mid-Density Residential District	R-3 High-Density Residential District
Minimum Area Requirements			
Minimum Lot Size without Public Water and Sewer	1 acre[39]	1 acre[40]	-[41]
Minimum Lot Size with Public Water or Sewer for R-3 only: or Private, Centralized System[42]		20,000 sq. ft.[43]	10,000 sq. ft. + 5,000 sq. ft. per additional dwelling
Minimum Required Setbacks			

[39] Editor's Note: Removed the 30,000 sq. ft. minimum lot size for lots served by public sewer to better match zoning district density expectations. Changed from 2 to 1 acre per staff comments 11-5-25.

[40] Editor's Note: Development in R-2 currently requires lots be served by public water services. The proposed text is recommending that developments be allowed in the R-2 district with a minimum of 1 acre lots.

[41] Editor's Note: Development of lots in the R-3 district will require lots be served by public water and sewer.

[42] Editor's Note: Added the ability to use private, centralized water/sewer for R-3 in response to County direction given 10-13-2026.

[43] Editor's Note: The proposed text removes increases in the minimum lot size required for lots, removes the allowance for lots with only public sewer, and removes the additional lot size requirements for multiple dwelling structures to better accommodate the new R-3 district. Multi-family dwellings are intended to be only allowed by SUP in R-2 where additional lot size requirements can be set.

	R-1 Low-Density Residential District	R-2 Mid-Density Residential District	R-3 High-Density Residential District
Front	35 ft.	35 ft.[44]	20 ft.
Side	10 ft.[45]	10 ft.[46]	5 ft.
Rear	25 ft.	25 ft.	10 ft.
Corner Lot Side	20 ft.	20 ft.	10 ft.
Accessory Structure	10 ft.	5 ft.[47]	5 ft.
Minimum Lot Width			
Road Frontage	100 ft.	75 ft.[48]	50 ft.
Maximum Structure Height			
Building Height	35 ft.	35 ft.	45 ft.[49]

Division 4-5 Commercial Districts Dimensional Standards

Section 4-5-1 Commercial District Regulations

Table 4-6: Commercial Districts Dimensional Regulations

	B-1 Primary Business District	B-2 Neighborhood Business District	SE-1 Service Enterprise District
Minimum Area Requirements			
Minimum Lot Size		20,000 sq. ft.[50]	40,000 sq. ft.
Minimum Required Setbacks			

[44] Editor's Note: Current front setbacks scale based on the width of the fronting street. R-1 front setback changed from 50 to 35 ft. per staff comments 11-5-25.
[45] Editor's Note: Removed required combined side yard width of 25 ft.
[46] Editor's Note: Removed required combined side yard width of 25 ft.
[47] Editor's Note: Changed from 10 to 5 ft. per staff comments 11-5-25.
[48] Editor's Note: Changed R-1 from 125 to 100 & R-2 from 100 to 75 ft. & R-3 from 75 to 50 per staff comments 11-5-25.
[49] Editor's Note: A 45 ft. height limitation is recommended to allow for up to four story multi-unit buildings. The County should consider if their emergency response units are able to accommodate such heights.
[50] Editor's Note: A minimum lot size for the B-2 district has been added to better capture the intent of the district.

Front		50 ft.[51]	50 ft.[52]
Adjoining Rural or Residential District		75 ft.	
Side		10 ft.	25 ft.
Adjoining Rural or Residential District	10 ft.	20 ft.	
Corner Lot Side		25 ft.	75 ft.
Adjoining Rural or Residential District	10ft.	50 ft.	
Rear		10 ft.	25 ft.
Adjoining Rural or Residential District	10 ft.	25 ft.	
Accessory Structure		10 ft.	15 ft.
Adjoining Rural or Residential District	10 ft.	15 ft.	
Minimum Lot Width[53]			
Road Frontage	75 ft.	125 ft.	125 ft.
Maximum Structure Height			
Building Height	45 ft.[54]	35 ft.	35 ft.

Division 4-6 Industrial Districts Dimensional Standards

Section 4-6-1 Industrial District Regulations

Table 4-7: Industrial Districts Dimensional Regulations

	M-1 Light Industrial District	M-2 Heavy Industrial District[55]
Minimum Area Requirements		
Minimum Lot Size	20,000 sq. ft.	40,000 sq. ft.
Minimum Required Setbacks		
Front	20 ft.	40 ft.

[51] Editor's Note: Setbacks for the B-2 district have been added and modified to better capture the intent of the district.
[52] Editor's Note: Current setbacks for this district differ based on whether the use is commercial or residential. Instead, the proposed text removes this distinction and uses similar setbacks to the B-2, R-1, and A-1 Districts but it is recommended that the Board and PC review these setbacks and recommend any changes they wish to see.
[53] Editor's Note: Road frontage requirements have been added for the B-1 and B-2 districts that complement the district's intent statements.
[54] Editor's Note: The height limitation for the B-1 District has been increased to match the district's purpose for more intensive commercial uses.
[55] Editor's Note: The M-2 District currently has very limited district standards. The proposed text includes all new district standards that complement the new M-1 District. These modified district standards are intended to complement each district's intent statements and provide reasonable protections to the surrounding lands.

Adjoining Rural or Residential District	50 ft.	100 ft.
Side	10 ft.	30 ft.
Adjoining Rural or Residential District	20 ft.	100 ft.
Rear	10 ft.	30 ft.
Adjoining Rural or Residential District	20 ft.	100 ft.
Corner Lot Side	20 ft.	40 ft.
Adjoining Rural or Residential District	40 ft.	100 ft.
Accessory Structure	10 ft.	30 ft.[56]
Adjoining Rural or Residential District	20 ft.	100 ft.
Minimum Lot Width		
Road Frontage	100 ft.	100 ft.
Maximum Structure Height		
Building Height	35 ft.	60 ft.

Division 4-7 Planned Development Districts Dimensional Standards

Section 4-7-1 General[57]

A. The following standards apply to all planned development districts:

(1) Character of Development.

(a) Development within planned development districts should encourage development form and character that is aesthetically pleasing and different from conventional suburban development through inclusion of the following elements:

i. Neighborhood friendly streets and paths;

ii. Interconnected streets and transportation networks;

iii. Open space amenities;

iv. Appropriately scaled buildings and spaces;

[56] Editor's Note: Proposed text includes a new setback for accessory structures in the M-2 District.

[57] Editor's Note: General standards for all planned developments have been included in this Section to prepare the Ordinance for more planned development districts if the County wishes to adopt them in the future.

v. Mixture of housing types and affordability; and

vi. Environmentally sensitive design.

(b) The planned development must:

i. Substantially conform to the adopted Comprehensive Plan with respect to type, character, intensity of use, density, and public facilities;

ii. Result in a development achieving the stated purposes of the planned development district;

iii. Efficiently utilize the available land, and protect and preserve to the extent possible all scenic assets and natural features such as trees, streams, and topographic features; and

iv. Prevent substantial injury to the use and value of existing and surrounding properties and uses in accordance with the adopted Comprehensive Plan.

(2) **Application and Procedures.** All planned development districts must be established in accordance with the standards of Article 3, Permits and Applications.

(3) **Consistency with Site Plan.** All development and subsequent operations within planned development districts must be undertaken in accordance with the provisions of the approved application and Site Plan.

(4) **Major Modifications**. Major modifications to a planned development district site plan – including changes to housing types, densities, permitted uses, architectural elevations, or general location of any elements, or other aspects of a planned development district site plan – where the change is not in keeping with the concept of the approved a planned development district site plan will require an amendment to the a planned development district site plan in accordance with Article 3, Permits and Applications, of this Ordinance.

(5) **Minor Modifications**. Minor modifications to a planned development district site plan, which clearly are in substantial conformity with the approved a planned development district site plan, may be approved by the Administrator without applying for an amendment to the site plan.

(a) Substantial conformity means that conformity which leaves a reasonable margin for adjustment due to final engineering data, but conforms to the general nature of the development, the specific uses, the general layout depicted by the plans, profiles, elevations, and other demonstrative materials presented by the applicant.

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(6) **Waivers.** A proposed development may vary from the guidelines outlined in this Division, except for uses subject to approval of a rezoning or Special Use Permit in accordance with Article 3, Permits and Applications. Any waiver from the standards and guidelines must be specifically acknowledged by means of a proffer or conditions. A request for waiver must:

(a) Clearly outline the requested waiver(s), and

(b) Justify the need or benefit to the public and community should the waiver be granted.

Section 4-7-2 RPC Residential Planned Community District[58]

A. Establishment.

(1) **Request and Master Plan.** Request for establishment of a residential planned community shall be made initially to the Planning Commission and subsequently to the Board of Supervisors accompanied by a Master Plan for the proposed community of not less than 3,000 contiguous acres under one (1) ownership or control.

B. Application.

(1) The applicant shall furnish with the application for establishment of a Residential Planned Community ten (10) copies of a Master Plan prepared by a surveyor, engineer, or architect, duly authorized by the state to practice as such, upon which shall be shown the approximate location of the open areas which shall comprise not less than 25% of the whole and the general location of the various types of land uses, including the general location of any Village Centers and the residential density classifications of each residential area.

(2) The applicant shall further submit with the application ten (10) copies of a set of schematic preliminary plans which shall indicate a method by which the Master Plan may be implemented and show the general location of all public and private roads, the location and particular use of all open areas, the location and type of such proposed improvements and buildings as are required to be shown on the Final Plan, and a general sewer, storm drainage and water supply plan.

[58] Editor's Note: Standards and regulations for the RPC district remain unchanged from the current Ordinance to ensure no conflicts arise between the County Zoning Ordinance and Wintergreen Resort. Minor edits have been incorporated to ensure proper organization and grammatical consistency. Much of the provisions in this section may be better suited in different areas of the Ordinance, some of the terminology differs from those found throughout the rest of the Ordinance, and potential conflicts between this section and other provisions of the Ordinance may arise. The BOS, PC, and County staff should review and give direction for any potential modifications for this section of the Article.

(3) Upon approval by the Board of Supervisors of the Master Plan, the Residential Planned Community shall be deemed established. After approval, the Master Plan may not be altered without approval of the Board of Supervisors, but the preliminary plans shall be superseded by the Final Plans hereinafter provided for.

C. Final Plan.

(1) Following the establishment of a Residential Planned Community by approval of the Board of Supervisors of a Master Plan therefor, the applicant shall furnish to the planning commission ten (10) copies of a Final Plan of any part or section of the community comprising not less than five (5) acres of land shown on the Master Plan and from time to time thereafter shall submit additional Final Plans comprising the whole area of the Master Plan. The final plan shall be prepared or certified by a surveyor, engineer or architect. The final plans shall be consistent with the Master Plan as approved but may vary from the preliminary plans to any degree which the Planning Commission believes does not vary the basic concept or character of the development.

(2) The final plans shall show by metes and bounds the layout of all major and local roads, public and private, the location of all buildings and improvements, other than single-family dwellings (as to these buildings the general location for improvements within the lines of each lot shall be shown) and other than school buildings or other buildings to be built by public authority (as to which the site or lot shall be shown), all parking areas, pedestrian ways, utility easements, lot lines, and shall show the different types of open areas and other public or community amenities, the proposed use of all buildings and of all areas dedicated for public or private common use.

(3) The applicant shall furnish with a Final Plan a proposed deed of easement including restrictions safeguarding the permanent use of open areas and preventing encroachment thereupon.

(4) When the Final Plan and deed of dedication shall have been approved by the Planning Commission as being in conformity with this ordinance and the Master Plan as approved by the Board of Supervisors, and Final Plan submitted as provided for in the original Final Plan.

D. Additional Land.

(1) Additional land area may be added to an existing Residential Planned Community if it is adjacent (except for public roads) and forms a logical addition to the existing Residential Planned Community and if it is under the same ownership or control.

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(2) The procedure for an addition shall be the same as if an original application were filed, and all requirements of this Ordinance shall apply except the minimum acreage requirement of 3,000 acres.

E. Use Regulations.

(1) All uses permitted by right or by special permit in the Conservation District C-1, Residential Districts R-1 and R-2, and Business District B-1 of this Ordinance shall be permitted in the Residential Planned Community District, subject to the limitations hereinafter provided. In addition, the following land use categories (sectors) shall apply to Residential Planned Community Districts. All land use sectors shall be clearly indicated on the Master Plan and subsequent Final Plans, including the area of each sector in acres, maximum floor areas used for commercial or light craft manufacturing purposes, total numbers of dwelling units, and average gross densities in dwelling units per acre.

(2) **Multiple Use Sector, MU.** In Multiple Use Sectors, the following uses are permitted:

(a) Commercial, public, civic, and light craft manufacturing and sales uses as permitted in Business Districts B-1 and provided that the total floor areas used for commercial or light craft manufacturing purposes shall not exceed those shown on the Master Plan unless by special permit.

(b) Residential, recreation, public, semipublic, community, and professional office uses as permitted in Residential Districts R-1 and R-2, and Multiple-Family Residential Sectors as provided hereinafter in Section 4-7-2(E)(4), provided that the total number of dwelling units shall not exceed that shown on the Master Plan unless by special permit. The maximum allowable gross density shall not exceed twenty (20) dwelling units per acre, including roads, streets, parking, and open spaces and recreational areas.

(c) Ancillary recreation and public and private uses not specifically provided for in the zoning ordinance shall be permitted, including:

i. Golf courses and country clubs.

ii. Riding stables, horse show areas.

iii. Indoor and outdoor recreation facilities.

iv. Ski areas and facilities.

(3) **Single-Family Residential Sector, SR.** In Single-Family Residential Sectors, the following uses will be permitted:

(a) Single-family detached dwellings.

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(b) Single-family attached dwellings.

(c) Other uses as permitted in Residential Districts R-1 and in Section 4-7-2(E)(2); except that Short-Term Rentals shall be a permissible under the Homeowners Association rules of operation of the RPC District and shall be subject to Article 7, Section 7-3-10 C. Licensure and D. (2) Registration.[59]

(d) The total number of dwelling units shall not exceed that shown on the Master Plan unless by special permit. The maximum allowable gross density shall not exceed ten (10) dwelling units per acre, including roads, streets, parking, open spaces and recreational areas.

(4) **Multiple-Family Residential Sector – MR.**

(a) In Multiple-Family Residential Sectors, the uses permitted in Residential Districts R-1 and R-2 and in Section 4-7-2(E)(2) will be permitted. The total number of dwelling units shall not exceed that shown on the Master Plan unless by special permit. The maximum allowable gross density shall not exceed 15 dwelling units per acre, including roads, streets, parking, open spaces and recreational areas.

F. Building Location Requirements.

(1) The location of all structures shall be as shown on the Final Plan as required in Section 4-7-2(C) other than single-family dwellings as to which building restriction lines or construction area limit shall be shown with respect to each lot. The proposed location and arrangement of structures shall not be detrimental to the existing or prospective adjacent dwellings or to the existing or prospective development of the neighborhood.

(2) Open spaces between structures shall be protected where necessary by adequate covenants running with the land, conveyances or dedications. There shall be no minimum lot size, no minimum setback lines, no maximum percentage of lot coverage, no minimum yard or side yard width and no frontage requirement on a public or private street in a Residential Planned Community except as shown on the approved Final Plan.

G. Utilities.

[59] Editor's Note: In response to public comment, 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.

(1) Prior to approval of the Final Plan, the applicant must submit plans and specifications of a public or private sewer and a public or private water supply system adequate to serve the area covered by the Final Plan in conformity with standards of the Virginia State Water Control Board and the Virginia State Health Department.

(2) Approval may be granted to a Final Plan subject to the condition that no lot may be sold or conveyed until assurances satisfactory to the Planning Commission have been given by the applicant with respect to the timely extension of water and sewer to the particular lot.

H. Street Improvements.

(1) All dedicated public streets shown on the Final Plan shall meet all requirements of the Virginia Department of Highways Subdivision Standards. Before approval of any Final Plan the Resident Engineer shall so certify. Such public streets shall be coordinated with the Major Transportation Network shown in the County Comprehensive Plan.

(2) Private streets shown on the Final Plan shall be similarly coordinated with existing or planned streets of both the Master Plan and the County Comprehensive Plan. Private streets shown on the Final Plan need not meet the requirements of the Virginia Department of Highways but shall meet all other requirements of Article 10, Subdivisions, as these may be waived or modified by the Planning Commission as set forth hereafter.

(3) The following provisions of the Article 10, Subdivisions, as applicable to Residential Planned Communities are modified as follows, subject to approval of the Final Plans by the Planning Commission:

(a) There shall be no predetermined requirements for intersection or approach angles for private streets.

(b) There shall be no predetermined maximum number of lots or units served by a cul-de-sac. Cul-de-sac turnarounds will not be required if serving less than twenty (20) lots, and if required, shall not be less than sixty (60) feet in diameter.

(4) To the extent streets are private rather than public, the applicant must also submit assurances satisfactory to the Planning Commission that a property owners' community association or similar organization has been legally established under which the lots within the area of the Final Plan will be assessed for the cost of maintaining private streets, and that such assessments shall constitute a pro-rate [pro rata] lien upon the individual lots shown on the Final Plan.

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(5) Approval may be granted to a Final Plan subject to the condition that no lot may be sold or conveyed until assurances satisfactory to the Planning Commission have been given by the applicant with respect to the timely extension of public or private roads to the particular lot.

(6) The uniqueness of each proposal for a Residential Planned Community requires that the specifications for the width, surfacing, construction and geometric design of streets, alleys, ways for public utilities, and the specifications for curbs, gutters, sidewalks, streetlights, and stormwater drainage shall be subject to modification from the specified, waive or modify the specifications otherwise applicable for a particular facility where the Planning Commission finds that such specifications are not required in the interests of the residents of the Residential Planned Community and that the modifications of such specifications are not inconsistent with the interests of the entire county, and conform to all other applicable ordinances and laws.

(7) It shall be the responsibility of the applicant to demonstrate to the satisfaction of the Planning Commission with respect to any requested waiver or modification:

(a) That the waiver or modification will result in design and construction that is in accordance with accepted engineering standards;

(b) That the waiver or modification is reasonable because of the uniqueness of the Residential Planned Community or because of the large area of the Residential Planned Community within which the nature and excellence of design and construction will be coordinated, preplanned, and controlled;

(c) That any waiver or modification as to streets is reasonable, with respect to the generation of vehicular traffic that is estimated will occur within the area of the Master Plan;

(d) That traffic lanes of streets are sufficiently wide to carry the anticipated volume and speed of traffic; and

(e) That waivers or modifications as to base and surface construction of streets and as to the construction of ditches or drainage way be based upon soil tests for CBR value and erosion characteristics of the particular subgrade soils in the area.

I. **Average Daily Traffic Estimates.** The basis for determining average daily traffic estimates from the Final Plans are shown in Table 4 - 8.

Table 4-8: Average Daily Traffic

Use	Peak Occupancy	Average Daily Trips	No. of Dwelling Units	Average Daily Traffic
Hotel	95% X	.75 X	=	

Multifamily Residential	80% A	1.00 X	=	
Dwelling, Two-unit	80% X	1.25 X	=	
Single-Family Residential	80% X	1.50 X	=	

J. **Road Widths.** The basis for determining road widths from the Final Plans are shown on Table 4 – 9.

Table 4-9: Road Widths

Average Daily Traffic	Traffic Lanes Number	Traffic Lanes Width
0 – 100	2	8′
100 – 500	2	9′
500 – 1000	2	10′
1000 – 3000	2	11′
3000 – 7500	2	12′
Over 7500	4	12′

K. Special Provisions.

(1) The provisions hereof shall not be limited by any provisions of any other part of the Nelson County Zoning or Subdivision regulations herewith.

(2) Temporary Events conducted wholly within the Residential Planned Community District (RPC) shall not require an approved Temporary Use Permit per Article 3, Permits & Applications.

(3) If following the establishment of a Residential Planned Community, a Final Plan shall be submitted to the Planning Commission as hereinbefore provided, such Final Plan shall be deemed approved by the Planning Commission if no action has been taken by the Planning Commission within sixty (60) days after such submission.

Division 4-8 Cluster Housing Development Standards[60]

Section 4-8-1 Purpose and Intent[61]

A. The purposes of cluster housing developments are to:

(1) Preserve rural character;

[60] Editor's Note: This Division includes updated regulations for cluster housing development within the County. The standards for required open space areas for these developments will be found in Article 8, Community Design Standards.

[61] Editor's Note: The purpose and intent of cluster developments has been modified to be more streamlined and simplified.

(2) Encourage the protection and preservation of open space and agricultural lands in the County;

(3) Encourage development in a manner which reduces the cost of infrastructure;

(4) Provide incentives for clustering residential development in the most appropriate locations;

(5) Encourage more efficient and aesthetic use of open space;

(6) Encourage the preservation of open space for agricultural, scenic, and recreational uses;

(7) Create and encourage the use of a variety of development choices to satisfy the changing needs of the County; and

(8) Offer flexibility to the developer in their approach and solution to land development problems.

Section 4-8-2 Development Standards

A. The provisions of this Article will allow residential dwellings to be developed in clusters, subject to the provisions of Article 10, Subdivisions.

B. A cluster development shall be subject to all the applicable standards of this Ordinance, and all other requirements of Nelson County, unless specifically modified or excepted by the provisions of this Article.

C. Cluster development as allowed by the provisions of this Article shall be permitted only in the following districts:

(1) C-1, Conservation District;

(2) A-1, Agricultural District; and

(3) R-1, Residential District.

D. All cluster developments shall provide open space in accordance with Table 4-10, and the open space shall be designed and used in accordance with the standards for open space provided in Article 8, Community Design Standards.

E. The permitted uses for cluster developments shall conform to the permitted uses for the zoning district in which the development is located, per Article 6, Use Matrix.

F. The development standards set forth in Table 4-10 shall supersede those stipulated for other development types, except that:

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(1) The allocated densities for each zoning district shall not be exceeded, as described in Table 4-10. The maximum net density and net buildable area for a cluster development shall be calculated as follows:

(a) Net buildable area is equal to the gross area of the property divided by minimum lot size based on the zoning district in which the project is located, as described in Table 4-10, below.

G. Each lot within a cluster housing development must front a public or private road built to the Virginia Department of Transportation Standards for Residential Streets.[62]

H. All residential lots, buildings, and structures must be interior and setback 100 ft. from the development property line. Minimum setbacks included in Table 4-10 apply to interior lots adjoining other lots within the cluster development.[63]

I. Each lot within a cluster housing development shall serve no more than one (1) dwelling unit, except as provided by the Code of Virginia § 15.2-2292.4.[64]

Table 4-10: Cluster Development Standards

	C-1	A-1	R-1
Minimum Area Requirements[65]			
Minimum Open Space Required	40%	40%	40%
Maximum Density[66]	1 dwelling/10 acres	1 dwelling/5 acres	1 dwelling/1 acre
Minimum Development Area[67]	50 acres	30 acres	10 acres

[62] Editor's Note: Current cluster housing standards allow privately maintained streets to have standards defined within the Ordinance. Instead, the proposed text allows private roads but requires them to be built to VDOT standards to ensure that any future incorporation of these streets into the VDOT system will be possible.
[63] Editor's Note: This subsection proposes a minimum 100-foot setback from any property line for any dwelling within the cluster development. This requires cluster subdivisions to be set back away from principal roads or other properties but still allows for smaller more clustered development of dwellings with reduced interior setbacks.
[64] Editor's Note: Exception added to comply with ADU requirements of Senate Bill 531.
[65] Editor's Note: Cluster development standards have been modified to allow for more incentives and encourage them throughout the County. Notably, the minimum required road frontage has been removed to encourage more organic and creative clustering from developers.
[66] Editor's Note: The maximum density requirements for cluster housing developments have been changed to further encourage these types of developments.
[67] Editor's Note: Minimum lot sizes for cluster developments have been reduced to further encourage these types of developments.

Minimum Lot Size	1 acre
Minimum Lot Size with ONLY Public Sewer	30,000 sq. ft.
Minimum Lot Size with Public Water AND Sewer or Private, Centralized Water or Sewer Systems [68]	10,000 sq. ft.
Minimum Required Setbacks	
Front	20 ft.
Side[69]	10 ft.
Rear	10 ft.
Accessory	10 ft.

J. **Density Bonus**. [70]

(1) Cluster developments may exceed the base maximum density specified in Table 4-10, above, only in accordance with a density bonus by providing a development feature as detailed in Table 4-11, below. The following density bonus point system will apply:

Table 4-11: Cluster Development Density Bonus

DEVELOPMENT FEATURE		BONUS POINTS
A	Use native plant species for at least 75% of the landscaping in the development.	2.5
B	Provide community garden space (at least 5% of the required open space acreage).	
C	Install rainwater harvesting systems or greywater recycling for at least 50% of the development's units.	
D	Provide electric vehicle charging stations for at least 10% of the residential units.	
E	Preserve wetlands, steep slopes, or floodplains within open space.	
F	Provide an additional 5% open space above the minimum requirement.	5

[68] Editor's Note: The proposed text removes the maximum allowed lot size for developments with public sewer and/or water.
[69] Editor's Note: The proposed text removes the requirement for a larger total yard than the required setbacks.
[70] Editor's Note: This subsection contains newly proposed density bonus text for cluster subdivisions. This text would allow developers to incorporate development features that satisfy the requirements of the table and in exchange receive points that can be allocated towards additional densities within the cluster subdivision. It is recommended that the Nelson County BOS and PC review these development bonus features and ensure that they would be desirable and worthwhile for additional density bonuses.

G	Provide additional active recreation areas such as playgrounds, sports fields, or community centers.	
H	Use permeable paving, rain gardens, bioswales, or other LID techniques in at least 50% of the paved areas.	
I	Preserve at least 70% of the existing mature tree canopy.	
J	Install renewable energy systems (e.g., solar panels) on at least 50% of units.	
K	Provide an additional 10% open space above the minimum requirement.	
L	Provide pedestrian and bicycle accommodations that exceed standard requirements and provide connectivity to existing networks, where possible.	
M	Achieve LEED or equivalent certification for all residential units.	
N	Dedicate at least 10% of units to affordable housing.[71]	
O	In Rural Districts, dedicate conservation or agricultural easement for land preservation or continued farm use.	

(2) The density bonus is calculated as the total sum of points awarded for public benefits provided.

(a) 5 Points: Allows an increase of 10% in the number of dwelling units above the base density.

(b) 10 Points: Allows an increase of 15% in the number of dwelling units.

(c) 15 Points: Allows an increase of 20% in the number of dwelling units.

(d) 20 Points: Allows an increase of 25% in the number of dwelling units.

(e) 25 Points: Allows an increase of 30% in the number of dwelling units.

(3) With any approved density bonus, the minimum lot area, lot width, frontage, and/or setbacks as shown in Table 4-10 may be reduced up to 50%.

(4) The total density bonus may not exceed 30% of the base density, regardless of the total points earned.

Section 4-8-3 Review

A. A landowner who intends to develop a cluster subdivision must submit the required number of development plans and subdivision plats to the Administrator for review and approval. In the performance of his/her duties, the Administrator may request opinions or decisions in writing from various departments or agencies of the Commonwealth of Virginia, other departments of the Nelson County government, and utility companies.

[71] Editor's Note: Revised from "market-rate affordable housing" to "affordable housing" in response to public comment 10-14-2026.

B. The Administrator shall act on the final development plan and subdivision plat within sixty 60 days after it has officially submitted for approval by either approving or disapproving the plans. The 60-day time period for action shall not apply to cluster development plans and plats under the following circumstances:

(1) If the subdivision plat and/or development has a feature(s) requiring approval by a state agency, the Administrator shall approve or disapprove the plans within 35 days of receipt of the approvals from all Federal, State, and local agencies.

(2) Nothing contained in Section 4-7-2 shall require approval of the final subdivision plat and development plan for a cluster housing development in less than 60 days.

Division 4-9 Affordable Housing on Certain Tax-Exempt Properties.[72]

Section 4-9-1 Applicability

A. This Section shall apply to the development or construction of a mixed-use or residential project by a property tax-exempt religious organization or a 501(c)(3) property tax-exempt nonprofit organization in accordance with Code of Virginia § 15.2-2288.9.

B. Such mixed-use or residential project shall be permitted by right. However, this by-right provision shall not apply to properties zoned for, or adjacent to, land zoned industrial. Notwithstanding the foregoing, all development shall comply with the applicable requirements of this Section, the underlying zoning district, and Article 8, Community Development Standards.

Section 4-9-2 Development Standards

A. **General Standards**.

(1) The subject property must have been owned continuously for at least 5 (five) years prior to the application by a property tax-exempt religious organization or a 501(c)(3) property tax-exempt nonprofit organization.

(2) At least 60% of the total housing units shall be for affordable housing at:

(a) 80% or less of the Area Median Income (AMI) for rental units.

(b) Up to 120% of the AMI for for-sale units.

(3) Such affordability shall be recorded and preserved for a minimum of 30 years by deed restrictions or other legally binding requirements.

[72] Editor's Note: This section has been added in accordance with HB1279/SB388. All provisions in this Division are derived directly from the new state code requirements.

(4) All housing shall be subject to the Virginia Fair Housing Law (§ 36-96.1 et seq.).

(5) There shall be no minimum lot size.

B. **Utilities**. The property shall be served by or within an area planned for public water and sewer.

C. **Height**. Maximum height shall be 45 ft., or the height of the tallest existing building within 500 ft., whichever is greater.

(1) For properties located within a designated historic district established as of January 1, 2026, the maximum permitted building height shall be 60 ft. if an existing building of 60 feet or greater in height is located within 500 ft. of the property line.

D. **Density**. The maximum density shall be 20 units per acre.

E. **Setbacks**. Setbacks shall be 10 (ten) ft. on all sides, or the smallest setback allowed for any existing property within 500 ft., whichever is less.

F. **Residential Uses**. Permitted residential uses in developments approved under this Section shall include:

(1) Dwelling, Tow-unit;

(2) Dwelling, Attached

(3) Dwelling, Manufactured Attached;

(4) Dwelling, Multi-Family;

(5) Dwelling, Single-Family;

(6) Dwelling, Townhouse; and

(7) Dwelling, Triplex or Quadplex.

G. **Mix of Uses**. In mixed-use developments, residential uses must comprise at least 70% of the gross floor area. The remaining uses, not to exceed 30% of the gross floor area, may include publicly accessible ground-floor nonresidential uses as established in the underlying zoning district.

(1) If not already permitted in the underlying zoning district, the following nonresidential uses shall be permitted by-right:

(a) Religious Assembly;

(b) Day Care Center in accordance with Code of Virginia § 22.1-289.02;

(c) Office, Medical/Clinic;

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(d) Restaurant, General, provided the principal activity is the sale and service of coffee, tea, baked goods, and similar light refreshments; and

(e) Other uses that are ancillary to the operation or mission of the religious or non-profit organization.

H. **Parking**.

(1) **Residential**. No more than one (1) parking space per unit shall be provided off-street.

(a) However, for any parcel located within one-half (1/2) mile of the entrance to a mass transit or public transportation station or facility (defined as a designated area in Article 11, Definitions), off-street parking requirements shall not exceed the maximum limitations established in Code of Virginia § 15.2-2209.4 and Article 8, Division 8-6 of this Ordinance.

(2) **Nonresidential**. Off-street parking for the nonresidential uses specified in (G)(1), above, shall not exceed one (1) space per 300 square feet of gross floor area or the minimum required in Article 8, Division 8-6, whichever is less.

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Article-5 Overlay Zoning Districts

Division 5-1 Establishment and Purpose

Section 5-1-1 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 5-1: 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 5-1-2 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;

(2) Restricting or prohibiting certain uses, activities, and development from locating within districts subject to flooding;

[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.

(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.

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

Division 5-2 FP – General Floodplain District[5]

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.

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 damage.

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.

[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.

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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, 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:

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(1) Review applications for permits to determine whether proposed activities will be located in the Special Flood Hazard Area (SFHA).

(2) Interpret floodplain boundaries and provide available BFEs (BFEs) and flood hazard information.

(3) Review applications to determine whether proposed activities will be reasonably safe from flooding and require new construction and substantial improvements to meet the requirements of these regulations.

(4) Review applications to determine whether all necessary permits have been obtained from the Federal, State, or local agencies from which prior or concurrent approval is required; in particular, permits from state agencies for any construction, reconstruction, repair, or alteration of a dam, reservoir, or waterway obstruction (including bridges, culverts, structures), any alteration of a watercourse, or any change of the course, current, or cross section of a stream or body of water, including any change to the 100-year frequency floodplain of free-flowing non-tidal waters of the State.

(5) Verify that applicants proposing an alteration of a watercourse have notified adjacent communities, the 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.

(6) 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.

(7) 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.

(8) Review Elevation Certificates prepared in accordance with FEMA standards and require incomplete or deficient certificates to be corrected.

(9) 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.

(10) Maintain and permanently keep records that are necessary for the administration of these regulations, including:

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(a) Copies of Flood Insurance Studies, FIRMs (including historic studies and maps and current effective studies and maps) and Letters of Map Change; and

(b) Documentation supporting issuance and denial of permits, Elevation Certificates, documentation of the elevation (in relation to the datum on the FIRM) to which structures have been flood-proofed, inspection records, other required design certifications, variances, and records of enforcement actions taken to correct violations of these regulations.

(11) Enforce the provisions of these regulations, investigate violations, issue notices of violations, and require permit holders to take corrective action.

(12) 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.

(13) Administer the requirements related to proposed work on existing buildings:

(a) Make determinations as to whether buildings and structures that are located in SFHAs and that are damaged by any cause have been substantially damaged.

(b) Make reasonable efforts to notify owners of substantially damaged structures of the need to obtain a permit to repair, rehabilitate, or reconstruct the structure.

(c) 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.

(14) Undertake, as determined appropriate by the Administrator due to the circumstances, other actions which may include but are not limited to:

(a) Issuing press releases, public service announcements, and other public information materials related to permit requests and repair of damaged structures;

(b) Coordinating with other Federal, State, and local agencies to assist with substantial damage determinations;

(c) Providing owners of damaged structures information related to the proper repair of damaged structures in SFHAs; and

(d) Assisting property owners with documentation necessary to file claims for Increased Cost of Compliance coverage under NFIP flood insurance policies.

(15) Notify FEMA when the corporate boundaries of Nelson County have been modified and:

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(a) Provide a map that clearly delineates the new corporate boundaries or the new area for which the authority to regulate pursuant to these regulations has either been assumed or relinquished through annexation; and

(b) If the FIRM for any annexed area includes SFHAs that have flood zones that have regulatory requirements that are not set forth in these regulations:

i. Prepare amendments to these regulations to adopt the FIRM and appropriate requirements;

ii. Submit the amendments to the governing body for adoption; and

iii. 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.

(16) 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.

(17) 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:

(1) Where field surveyed topography indicates that adjacent ground elevations:

(a) Are below the base flood elevation, even in areas not delineated as a Special Flood Hazard Area on a FIRM, the area shall be considered as Special Flood Hazard Area and subject to the requirements of these regulations; or

(b) 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 (LOMC) that removes the area from the SFHA.

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(2) 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.

(3) 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.

(4) 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.

(5) If a Preliminary FIRM and/or a Preliminary FIS has been provided by FEMA:

(a) Upon the issuance of a Letter of Final Determination by FEMA, the preliminary flood hazard data shall be used and shall replace the flood hazard data previously provided by FEMA for the purposes of administering these regulations.

(b) Prior to the issuance of a Letter of Final Determination by FEMA, the use of preliminary flood hazard data shall be deemed the best available data pursuant to Section 5-2-14 of this Article and used where no BFEs and/or floodway areas are provided on the effective FIRM.

(c) Prior to issuance of a Letter of Final Determination by FEMA, the use of preliminary flood hazard data is permitted where the preliminary 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.

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(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.

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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. 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:

   (1) Any development that causes a rise in the BFEs within the floodway.

   (2) 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.

   (3) 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.

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(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.

(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.

[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.

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 of this Article 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:

(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 damage.

(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.

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(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 5-2-19. 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.

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(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 5-2-19 of this Article:

(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 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 this Division, 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.

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(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 5-2-17.

(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.

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(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.

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(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 5-2-14 C., 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 watertight 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);

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(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.**[7]

(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

[7] Editor's Note: A slight formatting change was done to correct meaning in response to public comment 10/21/2026.

(b) All recreational vehicles shall 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.

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(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 Variances[8]

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.

(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.

[8] 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.

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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

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;

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(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 DVO – Village Overlay District

Section 5-3-1 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.

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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.

Section 5-3-3 Permitted Uses[9]

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, except as provided below.

B. **Prohibited uses**. Notwithstanding Section 5-3-3 A, the following uses shall be prohibited within the Village[10] 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) Cemetery, public;[11]

(11) Self-storage facility;

(12) Short-term rental, homestay;[12]

(13) Smoke/vape shop;

[9] Editor's Note: This section was revised after the original worksession for this article to better articulate permitted and prohibited uses in the overlay.
[10] Editor's Note: Changed from "CO151" to "Village" in response to public comment 10-14-2026.
[11] Editor's Note: Added per staff comments 11/5/25.
[12] Editor's Note: Added STR & smoke/vape shop per staff comments 11/5/25.

(14) Solar energy, medium scale;

(15) Solar energy, utility-scale;

(16) Utility service, major; and

(17) Any use within the Industrial category of Article 6, Use Matrix except:

(a) Makerspace allowed by SUP;

(b) Manufacturing, small scale allowed by SUP;

C. **Uses by Special Use Permit**.[13] Notwithstanding Section 5-3-3 A and B, the following uses shall be permitted by Special Use Permit within the Village[14] Overlay District:

(1) Dwelling, multi-family;

(2) Fuel center;

(3) Garden center/commercial greenhouse;

(4) Hotel;

(5) Office, medical;

(6) Recreation/entertainment, commercial indoor;

(7) Store, large;

(8) Vehicle service or repair; and

(9) Veterinary hospital or clinic.

Section 5-3-4 Development Standards

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

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[13] Editor's Note: Added multi-family dwelling, fuel center, hotel, recreation/entertainment, commercial indoor, garden center, medical office, & vehicle service repair per staff comments 11/5/25.

[14] Editor's Note: Name of the overlay was corrected after the 12/17/25 worksession.

Table 5-2: Village Overlay District Standards

VO VILLAGE OVERLAY	
Minimum Area Requirements	
Minimum Lot Size	20,000 sq. ft.
Minimum Lot Size with Public Water & 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. *
** Accessory uses shall not be located within the front or corner lot side setback.*	
Minimum Lot Width	
Road Frontage	100 ft.
Maximum Structure Height	
Building Height	35 ft. **
*** 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.[15]

(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.**

[15] 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.

(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.[16]

(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:[17]

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.

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.

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

[17] 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.

(1) If modification criteria and procedures for a design requirement are not provided in Article 8, Community Design Standards, 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), except:[18]

(a) The parcels east of U.S. Route 29 from the centerline of Northside Lane to the centerline of Front Street in Lovingston.

(2) The length of the CO29 shall be from the Albemarle County boundary line to the Amherst County boundary line.

B. Any new commercial or industrial development within the CO29 District must conform with the regulations within this Division.[19]

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, 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:

[18] 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. Items (1) (a) and (2) were added per staff comments 11/5/25.

[19] Editor's Note: The recommended 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.

(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 CO29 Landscape Design Standards of Article 8, Community Design Standards.[20]

Section 5-4-3 Permitted Uses[21]

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, except as provided below.

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;

[20] 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.

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

(6) Dwelling, single-family;

(7) Dwelling, single-unit, attached;

(8) Firing range, outdoor;

(9) Migrant labor camp;

(10) Parking lot, recreational vehicle;

(11) Racetrack;

(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.

C. **Uses by Special Use Permit**.[22] 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) Educational facility, college, university, business, or trade;

(3) Firing range, indoor;

(4) Hotel;

(5) Makerspace;

(6) Office, general;

(7) Office, medical;

(8) Parking lot, recreational vehicle;

(9) Stable, commercial;

(10) Store, large;

(11) Transportation services; and

(12) Utility service, major.

[22] Editor's Note: Added commercial stable, educational facility, general office, hotel, large store, medical office, RV parking, makerspace, and transportation services per staff comments 11/5/25.

Section 5-4-4 Development Standards[23]

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

Table 5-3: Route 29 Corridor District Standards

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:[24]

(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.

(3) All fencing, lighting, landscaping, and screening must be installed in accordance with Article 8, Community Design Standards.

[23] 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.

[24] 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.

(4) **Signs.** All signs erected in the CO29 shall be in accordance with Article 8, Community Design Standards, 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.

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.[25]

(6) **Vehicular Access and Circulation.** [26]

(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.

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

[26] Editor's Note: The provisions in this subsection are designed to promote interconnectivity between developments and restrict access points along Route 29.

(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.

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.

(1) If modification criteria and procedures for a design requirement are not provided in Article 8, Community Design Standards, 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 District[27]

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.[28]

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

[28] 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.

B. The length of the CO151 shall be from the Albemarle County boundary line to the intersection of Route 151 with Rhue Hollow Road.[29]

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.

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, 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.

(5) Documentation ensuring 100% secondary or backup septic drainfield space to prevent septic failures.[30]

[29] Editor's Note: Road name corrected per staff comments 11/5/25.
[30] Editor's Note: Requirement was added per staff comments on 10/13/26.

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, except as provided below.

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) Racetrack;

(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**.[31] 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) Fuel center;

[31] Editor's Note: Makerspace added and EV charging station deleted per staff comments 11/5/25.

(3) Makerspace;

(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.

(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;

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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) Development regulations shall be as specified in the underlying zoning district, except as shown in Table 5-4 and the following:

i. Overall Residential Development Density Calculation:

a. Total Development Acreage x Density = number of units allowed (refer to Table 5-4)

i. Number of units allowed are built on a maximum of 40% of the total property.

ii. Overall Commercial Development Density Calculation:

a. Total Development Area – Minimum Open Space = Buildable Area

(b) 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 5-4 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 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.

Table 5-4: 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

CO151 CLUSTER DEVELOPMENT						
Standard	**Residential**			**Commercial**		
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[32]			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.
Maximum Structure Height						
Principal structure	35 ft.			30 ft.		
Accessory structures	No taller than principal structure					

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

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.

(3) Walls and fences, lighting, and landscaping and screening must be installed in accordance with Article 8, Community Design Standards.

(4) **Signs.** All signs erected shall be in accordance with Article 8, Community Design Standards, 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.

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.[33]

(6) **Vehicular Access and Circulation**. [34]

(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.

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

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

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.

(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.

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.

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.

(1) If modification criteria and procedures for a design requirement are not provided in Article 8, Community Design Standards 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.

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Article-6 Use Matrix[1]

Division 6-1 Uses Provided

Section 6-1-1 Organization

A. **Primary Zoning District Use Permissions**. The Use Matrix in this Article organizes permitted uses by primary zoning districts and use types. Together, this Use Matrix, Article 7, Use Performance Standards, and Article 11, Definitions, provide a systematic basis for identifying and organizing uses and distinguishing whether a particular use is allowable in a particular zoning district.

(1) **Use Classifications.** Use classifications by zoning districts identify broad general classifications of land use and include rural uses; residential uses; public, civic, and recreational uses; commercial uses; industrial uses; miscellaneous uses; and accessory uses.

(2) **Use Types.** The specific use types identify the specific principal uses that fall within each classification.

(3) **Primary and Accessory Uses.** If a use is identified as accessory in the Use Matrix, within the definition of the primary use, or is otherwise determined by the Administrator to be incidental and customarily associated with the primary use, a separate zoning permit is not required for the accessory use.

(4) **Use Standards.** References to the use standards in Article 7 are provided in the last column of the Matrix.

B. Overlay District Use Permissions.[2]

Uses which are permitted by-right and by Special Use Permit in the underlying primary districts shall be permitted similarly in the Overlay Districts unless otherwise regulated by each Overlay District in Article 5.

Section 6-1-2 Abbreviations in Use Matrix

A. **Permitted Uses.** "B" in a Use Matrix cell indicates that the use type in that row is permitted by-right in the zoning district at the top of that column, subject to any standards required by Article 7, Use Performance Standards.

[1] Editor's Note: The red text in the use matrix shows changes that were made per staff comments 11/5/25.
[2] Editor's Note: B was added per request at the June 3, 2026 joint worksession.

B. **Special Uses.** "SUP" in a Use Matrix cell indicates that the use type in that row is allowed in the zoning district at the top of that column only upon approval of a Special Use Permit, in accordance with Article 3, Permits and Applications, and subject to any standards in Article 7, Use Performance Standards.

C. **Prohibited Uses.** A blank cell in the Use Matrix indicates that the use type in that row is prohibited in the zoning district at the top of that column.

Division 6-2 Uses Not Provided

Section 6-2-1 Uses Not Provided

A. The Administrator shall determine whether an unlisted use is part of an existing use classification or use type as defined in Article 11, Definitions. Upon determining the most similar use type, the Administrator shall treat the proposed use the same as the most similar one.

(1) If the Administrator determines that the proposed use is not similar to any listed use type, that use is prohibited.

Division 6-3 Use Matrix

Table 6-1. Use Matrix

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Use Types	C-1 Conservation	A-1 Agricultural	R-1 Low-Density Residential	R-2 Medium-Density Residential	R-3 High-Density Residential	RPC Residential Planned Community	B-1 Highway Business	B-2 Neighborhood Business	SE-1 Service Enterprise	M-1 Light Industrial	M-2 Heavy Industrial	Use Standards Reference
	B = By-Right SUP = Special Use Permit Blank = Not Permitted *See Section 6-1-1 B. and Article 5 for Overlay District Use Permissions*											
Rural												
Agriculture/Silviculture	B	B				B						
Agritourism		B										7-2-1
Biosolid Application		B										
Biosolid Storage		SUP										7-2-2
Confined Animal Feeding Operation		B										7-2-3
Conservation and preservation	B	B										
Meat Processing Facility		SUP										7-2-4
Stable, Commercial		B										7-2-5
Stable, Private		B	B			B						7-2-6
Residential												
Adaptive Reuse Project		SUP	SUP	B	B	B	B	B	B			7-3-1
Bed and Breakfast		B	B	B		B						7-3-2
Dwelling, Attached, Zero Lot Line				B	B	B			B			
Dwelling, Caretakers[5]	B	B	B	B			B	B	B	B		
Dwelling, Manufactured Attached[1]		B	B	B	B	B			B			
Dwelling, Manufactured Detached[2]	B	B	B	B		B			B			
Dwelling, Multi-Family				SUP*	B	SUP*			SUP*			7-3-3 *See 7-3-1 for Dwelling, Multi-family permissions when part of an Adaptive Reuse Project
Dwelling, Single-Family	B	B	B	B		B			B			7-3-4
Dwelling, Townhouse				B	B	B			SUP			7-3-5
Dwelling, Triplex or Quadplex				B	B				SUP			
Dwelling, Two-unit		B	B	B		B			B			
Family Day Home (1-4 Children)	B	B	B	B		B			B			
Family Day Home (5-12 Children)		SUP	SUP	B								
Group Home[3]	B	B	B	B		B			B			
Home Occupation Class A	B	B	B	B		B			B			7-3-6
Home Occupation Class B		B							B			7-3-7
Life Care Facility		SUP	SUP	SUP				B	SUP			
Manufactured Home Community		SUP										7-3-8
Migrant Labor Camp		B										7-3-9
Shelter, Residential			SUP	SUP			B					
Short-Term Rental, Homestay	B	B	B	B	B	B			B			7-3-10

Use Types	C-1 Conservation	A-1 Agricultural	R-1 Low-Density Residential	R-2 Medium-Density Residential	R-3 High-Density Residential	RPC Residential Planned Community	B-1 Highway Business	B-2 Neighborhood Business	SE-1 Service Enterprise	M-1 Light Industrial	M-2 Heavy Industrial	Use Standards Reference
	B = By-Right SUP = Special Use Permit Blank = Not Permitted *See Section 6-1-1 B. and Article 5 for Overlay District Use Permissions*											
Short-Term Rental, Hosted Stay		B	B						B			7-3-10
Short-Term Rental, Unhosted Stay		SUP	SUP						SUP			7-3-10
Construction Residence/Office, Temporary [4]	B	B										7-3-11
1. Editor's Note: Due to state code changes as of 4/14/26 by-right status was added to R-2, and RPC,. 2. Editor's Note: Due to state code changes as of 4/14/26 by-right status was added to C-1, R-2, and RPC. 3. Editor's Note: Added to SE-1; state code requires the use be allowed by-right wherever single-family homes are allowed. 4. Use added per County request 2-9-26. 5. By-right permission added to B-1, B-2, SE-1, & M-1 in response to County direction given 10-13-2026.												
Public, Civic, and Recreational												
Animal Shelter		SUP					B	B	B			7-4-1
Cemetery, Public	B	B				B			B			
Club	SUP	SUP					B	B	SUP			
Community/Cultural Center		B	B	B		SUP	B	B	B			
Educational Facility, College, University, Business or Trade		SUP					B			B		
Education Facility, Primary or Secondary	B	B	B	B		B	B	B	B			
Public Use	B	B	B	B	B	B	B	B	B			
Recreation Facility, Neighborhood			B	B	B	B						
Recreation Facility, Noncommercial	B	B	B	B	B	B		B	B			
Religious Assembly	B	B	B	B	B	B	B	B	B			
Telecommunications Facility	B	B	B			B	B	B	B	B	B	7-4-2
Telecommunications Facility, Small Cell	B	B	B	B	B	B	B	B	B	B	B	7-4-3
Utility Service, Major[1]	SUP	SUP					B	SUP		B	B	7-4-4
Utility Service, Minor	B	B	B	B	B	B	B	B	B	B	B	
1. Changed from B to SUP in A-1 per 6/3/26 joint worksession.												
Commercial												
Adult use							B					7-5-1
Agricultural Sales and Services		B				B	B	B				
Alcohol Production or Sales		SUP				SUP	SUP	SUP	SUP	B		
Automobile Sales and Rental							SUP					7-5-2
Business Support Services						B	B	B				
Camp	B	SUP							B			
Campground	SUP	SUP										7-5-3
Campground, Primitive	B	B										7-5-4
Cannabis Retail Store[1]							B					7-5-5

Use Types	C-1 Conservation	A-1 Agricultural	R-1 Low-Density Residential	R-2 Medium-Density Residential	R-3 High-Density Residential	RPC Residential Planned Community	B-1 Highway Business	B-2 Neighborhood Business	SE-1 Service Enterprise	M-1 Light Industrial	M-2 Heavy Industrial	Use Standards Reference
	B = By-Right SUP = Special Use Permit Blank = Not Permitted *See Section 6-1-1 B. and Article 5 for Overlay District Use Permissions*											
Car wash							B					7-5-6
Day Care Center	B	B	B	B		B		B	B			
Event Venue		SUP				SUP	SUP	SUP	SUP			7-5-7
Farmers Market		SUP				B	B	B	B			
Financial Institution						B	B	B	B			
Fuel center						B	B	SUP	SUP		SUP	7-5-8
Funeral Home						B	B	B	B			
Garden Center/Commercial Greenhouse		B					B	SUP	B			
Hospital							B	B		B		
Hotel		SUP				B	B	SUP	SUP		SUP	
Kennel, Commercial		SUP				B	B	B	B			7-5-9
Marina		SUP				B	B					7-5-10
Office, General						B	B	B	B			
Office, Medical							B	B	B			
Parking Lot, Recreational Vehicle							B	B				7-5-11
Personal Service						B	B	B	B			
Recreation/Entertainment, Commercial Indoor						B	B	B	B			
Recreation/Entertainment, Commercial Outdoor		SUP				B	B		B			7-5-12
Resort		SUP					B					7-5-13
Restaurant, General		SUP				B	B	B	B			
Retreat Center		SUP										7-5-14
Self-Storage Facility										B	B	
Smoke/Vape Shop							SUP					7-5-15
Store, Large						SUP	B	SUP				
Store, Small		SUP				B	B	B	B			
Vehicle Service or Repair							B	B				7-5-16
Veterinary Hospital or Clinic[2]		SUP				B	B	B	B			7-5-17
1. Use added per new state legislation. Permissions should be considered by the County 10/21/2026. 2. Added SUP in A-1 to match commercial kennel & animal shelter 7/15/2206.												
Industrial												
Battery Energy Storage Facility (BESF)[1]										B	B	7-6-1
Cannabis Cultivation Facility[4]											SUP	7-6-2
Cannabis Delivery Operator											SUP	7-6-3
Cannabis Processing Facility											SUP	7-6-4

Use Types	C-1 Conservation	A-1 Agricultural	R-1 Low-Density Residential	R-2 Medium-Density Residential	R-3 High-Density Residential	RPC Residential Planned Community	B-1 Highway Business	B-2 Neighborhood Business	SE-1 Service Enterprise	M-1 Light Industrial	M-2 Heavy Industrial	Use Standards Reference
	B = By-Right SUP = Special Use Permit Blank = Not Permitted *See Section 6-1-1 B. and Article 5 for Overlay District Use Permissions*											
Cannabis Testing Facility											SUP	7-6-5
Composting, Commercial		SUP									B	
Construction Yard		SUP								B	B	
Data center,[2] enterprise							SUP			SUP	SUP	7-6-6
Data center, hyperscale[2]											SUP	
Factory outlet store										B		
Hazardous Materials, Storage, and Distribution											B	
Junkyard/Salvage Yard		SUP									SUP	7-6-7
Laboratory, Research, and Development										B	B	
Landfill, Construction Debris											B	
Landfill, Sanitary		SUP									SUP	
Livestock market		SUP									B	
Makerspace							B	B	B	B	B	
Manufacturing, Heavy											B	
Manufacturing, Light										B	B	
Manufacturing, Small-Scale									B	B	B	
Power station[3]											SUP	7-6-8
Resource extraction		SUP									SUP	7-6-9
Truck/Freight Terminal											B	
Warehousing and Distribution										B	B	

1. New use and permissions added in accordance with HB891.
2. Data Center was replaced with two uses, enterprise and hyperscale, for the County's consideration in response to public input 10-14-2026.
3. Use added to include new technology and uses that are increasing along with data center uses.
4. Cannabis uses added per state legislation. The County should consider permissions 10/21/2026.

Miscellaneous												
Cannabis Microbusiness[2]											SUP	7-7-1
Cannabis Transporter							SUP					7-7-2
Firing Range, Indoor							SUP	SUP		B	B	
Firing Range, Outdoor		SUP										
Private airstrip	SUP	SUP										
Solar Energy Facility, Utility-Scale[1]		SUP					B	B		B	B	7-7-3
Solar Energy, Accessory	B	B	B	B	B	B	B	B	B	B	B	7-7-4
Structure, Mixed-Use					B		B	B				
Transportation Services							SUP			B	B	
Yard or Garage Sales	B	B	B	B	B	B						

Use Types	C-1 Conservation	A-1 Agricultural	R-1 Low-Density Residential	R-2 Medium-Density Residential	R-3 High-Density Residential	RPC Residential Planned Community	B-1 Highway Business	B-2 Neighborhood Business	SE-1 Service Enterprise	M-1 Light Industrial	M-2 Heavy Industrial	Use Standards Reference
	B = By-Right SUP = Special Use Permit Blank = Not Permitted *See Section 6-1-1 B. and Article 5 for Overlay District Use Permissions*											
1. Solar energy facilities have been reduced from 3 to 2 - those that produce just for the property they're on (accessory) and those that distribute energy off-site, per HB711. 2. Cannabis uses added per state legislation. The County should consider permissions 10/21/2026.												
Accessory												
Accessory Structure	B	B	B	B	B	B	B	B	B	B	B	7-8-1
Agriculture, Accessory[1]			B	B								7-8-2
Crematory[3]						B	B	B	B			7-8-3
Dwelling, Accessory Unit[2]	B	B	B	B		B			B			7-8-5
Electric Vehicle (EV) Charging Station	B	B	B	B	B	B	B	B	B	B	B	
Outdoor Storage							B	B	B	B	B	7-8-6
Restaurant, Mobile[4]	B	B					B	B		B	B	7-8-7
Roadside Farm Stand[5]	B	B				B	B	B	B			7-8-8
Wind Energy Generating Facility, Accessory	B	B	B	B		B	B	B	B	B	B	7-8-9
1. Name changed from "residential" to "accessory" per direction given at the 6/3/26 joint worksession. Also moved from rural to accessory use category. 2. ADU is now required to be permitted in districts that permit single-unit dwellings, in accordance with SB531. 3. Crematory was left out as an oversight and was added to matrix 6/17/26. 4. Mobile Restaurant was left out as an oversight and was added to matrix 6/17/26. 5. Added permission in C-1 due to large parcels and ag. uses 6/17/26.												
Temporary												
Dwelling, Temporary	B	B	B	B					B			7-9-1
Family Health Care Structure, Temporary	B	B	B	B	B	B						7-9-2
Temporary Event		B					B	B	B			7-9-3
Temporary Sawmill	B	B										7-9-4
Temporary Support Structure[1]	B	B	B	B	B	B	B	B	B	B	B	7-9-5
1. Use added in accordance with HB876.												

Article-7 Use Performance Standards

Division 7-1 General

Section 7-1-1 Purpose and Intent

The following additional regulations apply to specific uses as set forth below. These regulations are intended to serve as the minimum standards for these uses and are not intended to exclude other provisions of this Ordinance that may apply. The standards set forth in this Article for a specific use apply to the individual use, regardless of the review procedure by which it is approved, unless otherwise specified in this Ordinance.

Section 7-1-2 Compliance with Additional Regulations.

A. Each use provided in this Article may also require permits and approvals, including but not limited to:

(1) Zoning Permit;

(2) Special Use Permit;

(3) Site Plan Approval; and/or

(4) Other permits as required by Nelson County, such as a business license.

B. The applicant should consult with Nelson County staff to ensure that all permits and requirements are met.

Division 7-2 Rural Use Standards

Section 7-2-1 Agritourism[1]

A. **Applicability**. This section applies only to events and activities and does not apply to the agricultural operation itself.

B. **Trip Generation**. The event or activity must meet the standards of Temporary Event, Category 2 in Section 7-9-3 of this Article.[2]

(1) An agritourism operation anticipating higher trip generation may be considered through a Special Use Permit in accordance with Article 3, Permits and Applications.

[1] Editor's Note: This section includes new standards for events held at agritourism venues.
[2] Editor's Note: Nelson County should consider this level of activity with their existing agritourism uses to ensure that it is appropriate for the community. B. was reworded to match category 2 temporary events per direction given at the 6/3/26 joint worksession.

C. **Noise.** All noises emitting from an agritourism use must comply with Chapter 8, Article II, Noise Control, of the Nelson County Code.

D. **Structures.** Any structure intended for occupancy by members of the public must provide emergency vehicle access and fire and safety measures to the extent permissible under the Virginia Administrative Code 13VAC5-63-20 and Virginia Administrative Code 13VAC5-63-200.

E. **Sanitary Facilities.** Sanitary facilities used in conjunction with an agritourism event must be provided in accordance with VDH standards set forth in the Virginia Administrative Code 12VAC5-610-980.

F. **Parking.**

(1) Adequate parking must be provided on the same parcel as the agritourism operation. Parking on highway rights-of-way is prohibited.

(2) Grass parking areas shall be maintained in good condition with uniform grass coverage and free from rill or gully erosion, as defined in this Ordinance.

G. **Access**. All agritourism operations must have a minimum of one access point to a state-maintained road which must be approved and in accordance with VDOT standards for commercial entrances.

H. **Temporary Events; Event Venues.** An agritourism use may have a temporary event and/or an event venue as an accessory use, subject to the above regulations and those provided in Section 7-9-3 and Section 7-5-6 of this Article.

Section 7-2-2 Biosolid Storage[3]

A. All biosolid storage shall be subject to the requirements of Chapter 10, Article II, Biosolids, of the Nelson County Code.

B. For the storage of biosolids for a length of time greater than 45 days:

(1) A special use permit shall be required, in accordance with Article 3, Permits & Applications.

(2) Biosolid storage shall be in accordance with the Virginia Administrative Code 9VAC25-32-550.[4]

(3) Only Class A or B Biosolids, as defined by the Virginia Administrative Code 9VAC25-32-675, shall be placed into storage facilities.

[3] Editor's Note: These new standards, in conjunction with existing regulations in Chapter 10 of the County Code, regulate the storage of biosolids for longer than 45 days.
[4] Editor's Note: Code reference corrected in response to public comment 10-14-2026.

(4) Biosolid storage shall be setback at least 100 ft. from any property line or water body.

Section 7-2-3 Confined Animal Feeding Operation[5]

A. Livestock confinement systems must comply with all requirements of the Code of Virginia §62.1-44.17:1.

B. The minimum lot size required for livestock confinement systems shall be 15 acres for the first system, with an additional five (5) acres for each additional livestock confinement system.

C. A minor site plan must be submitted and approved in accordance with Article 3, Permits & Applications.

D. All livestock confinement structures, buildings, and facilities shall have the following setbacks:

(1) 300 ft. from any property line.

(2) 600 ft. from any existing dwelling not located on the associated lot.

(3) 1,000 ft. from any residential or commercial districts.

(4) 600 ft. from any body of water.

E. No livestock confinement facility shall be located within the General Floodplain Overlay District, the Route 29 Corridor Overlay District, or the Route 151 Corridor Overlay District.

Section 7-2-4 Meat Processing Facility[6]

A. In accordance with Code of Federal Regulations 9 CFR § 303.1, the slaughtering and processing of animals for personal use by the owner, and raised and/or kept on the associated parcel is exempt from these provisions.

B. The minimum lot area required for meat processing facilities shall be ten (10) acres.

C. Meat processing facilities and any related operations shall have the following setbacks:

(1) 250 ft. from any property line or street.

(2) 150 ft. from any property line or street if screened by fencing and/or vegetation in accordance with Article 8, Community Design Standards.

(3) 500 ft. from any dwelling not located on the associated lot.

[5] Editor's Note: This section includes all new standards for confined animal feeding operations.

[6] Editor's Note: This section includes all new standards for meat processing facilities (formerly agriculture processing facilities).

D. All meat processing facilities shall conduct their operations between the hours of 7:00 a.m. and 8:00 p.m., seven days a week.

E. No noise, lighting, dust, odors, or other nuisances may be perceptible beyond the associated lot.

F. All operations of meat processing facility, including the handling and disposal of waste, must operate in compliance with all applicable state, federal, and local regulations, including the Nelson County Code, Virginia Department of Health (VDH) regulations, U.S. Department of Agriculture regulations, and Virginia Department of Agriculture and Consumer Services regulations, as applicable.

G. General Standards.

(1) All activity associated with the meat processing facility must be performed within a completely enclosed building;

(2) Entrances must be approved and in accordance with Virginia Department of Transportation (VDOT) standards for commercial entrances;

(3) Exterior storage of meat processing related equipment, trailers, materials, or otherwise must be screened from view using plantings, fences, walls, or other appropriate means so as not to be visible from any right-of-way; and

(4) One sign shall be permitted, in accordance with Article 8, Community Design Standards.

Section 7-2-5 Stable, Commercial[7]

A. **Trip Generation.** The event or activity must generate no more than 250 visitor vehicle trips per day and each event or activity must have 500 or fewer attendees at any single time.

B. **Location.** Any buildings, barns, pens, and areas for the keeping of animals or animal waste storage must be located at least 100 ft. from any property line.

C. **Hours of Operation.** 6:00 a.m. – 10:00 p.m.; six days a week.

D. **Structures.** Any structure intended for occupancy by members of the public must provide emergency vehicle access and fire and safety measures to the extent permissible under the Virginia Administrative Code 13VAC5-63-20 and Virginia Administrative Code 13VAC5-63-200.

[7] Editor's Note: Minimum lot area per horse was removed per staff comment 11/5/25.

E. **Sanitary Facilities.** Sanitary facilities used in conjunction with a commercial equestrian facility must be provided in accordance with VDH standards set forth in the Virginia Administrative Code 12VAC5-610-980.

F. **Access.** All commercial equestrian facilities must have a minimum of one access point to a state-maintained road which must be approved and in accordance with VDOT standards for commercial entrances.

G. **General Standards.**

(1) Riding surfaces must be covered and maintained with a substance to minimize dust and erosion.

(2) Fencing and other means of animal confinement must be maintained at all times.

(3) Pens, stalls, and grazing areas must be maintained in a sanitary manner.

Section 7-2-6 Stable, Private[8]

A. Private Stable shall be an accessory use to a primary residential use.

B. Horses shall be kept for the private use of the owners or their guests, but in no event for hire or compensation.

C. **Location.**

(1) Any buildings, barns, pens, and areas for the keeping of animals or animal waste storage shall be located at least 200 ft. from any lot line.

(2) Any buildings for the keeping of animals shall be located at least 100 ft. from any highway or other right-of-way for passage.

D. **General Standards.**

(1) Riding surfaces shall be covered and maintained with a substance to minimize dust and erosion.

(2) Fencing and other means of animal confinement shall be maintained at all times.

(3) Pens, stalls, and grazing areas shall be maintained in a sanitary manner.

(4) Manure or animal wastes shall not be stored, stockpiled, or permitted to accumulate within a designated flood zone.

[8] Editor's Note: Minimum lot area per horse was removed per staff comments 11-5-25.

Division 7-3 Residential Use Standards

Section 7-3-1 Adaptive Reuse Project[9]

A. **Purpose**. This section establishes standards for the conversion and/or redevelopment of existing building(s) that are vacant or at risk of becoming vacant, or at risk of becoming under-utilized or demolished into residential or mixed residential and commercial uses to: conserve energy and resources; preserve the aesthetic and historical value and character of buildings and neighborhoods; and to innovatively provide residential units and stimulate the economy.

B. **Eligibility**.[10] To qualify as an adaptive reuse project the structure must be at least 70 years old.

C. **Standards**. Adaptive reuse projects shall, at a minimum, comply with the following standards:

(1) All conditions of the approved site plan have been met or are bonded in a manner acceptable to the Administrator;

(2) The original structure shall be retained and substantially reused rather than demolished and replaced by new construction;

(3) The original character of the building shall be preserved;

(4) The building may be used for residential uses or as a mixed-use structure as permitted by Article 6, Use Matrix and defined by Article 11, Definitions;

(5) At least 50% percent of the gross floor area within the building shall be residential uses, any remainder shall be a use(s) allowed in the district;

(6) Additions to the original structure shall be limited to 40% of the original structure's floor area; and

(7) New Buildings. Accessory building(s) may be constructed as part of an adaptive reuse project if the Administrator determines that the number, type, scale, and uses within such new building(s) will be compatible with the existing building(s) included in the project and the use thereof.

[9] Editor's Note: This section was added per comments from staff 11/5/25 for the County's consideration. Once reviewed and accepted during a joint worksession the use will be moved to the top of this Division for alphabetical consistency and all section numbers updated. Regular monitoring to track the success and use of the incentives and density bonuses, and the subsequent consideration of future amendments to this section is recommended. Moved into alphabetical order after the 12/17/25 worksession.

[10] Editor's Note: Eligibility age added in response to County direction 10-15-2026.

(a) New buildings shall not exceed 40% of the original structure's floor area.

D. Incentives. [11]

(1) Notwithstanding Article 6, Use Matrix the following uses shall be permitted by-right with an Adaptive Reuse Project, regardless of the district in which they exist:

(a) Short-Term Rental, Homestay, Hosted stay, and Unhosted stay.

(2) The height of the structure, if it exceeds the maximum height of the zoning district, may remain and shall be considered legally nonconforming.

(a) Any rooftop construction needed for building circulation, drainage, ventilation, utilities, or passive recreation shall be included within the height exemption.

(3) A new loading zone shall not be required if the existing building does not have an existing loading zone.

(4) New parking spaces shall not be required for any converted use within the existing footprint of the building, but expansions to floor area shall comply with required parking according to Article 8, Community Design Standards.

(5) Adaptive Reuse Projects that include multi-family dwelling units shall be permitted by right in every district that allows multi-family dwellings either by right or by Special Use Permit.

(6) **Density Bonuses in Rural and Central Villages**. Adaptive Reuse Projects in those areas designated as Rural Village, Central Village, or Service Center in the Nelson County Comprehensive Plan and have adequate water and sewer services provided by the Nelson County Service Authority shall be permitted 60% additional building footprint or floor area to the existing building footprint or floor area as follows:

(a) To provide affordable housing. Adaptive Reuse Projects that include five (5) or more residential dwelling units and at least 10% of the units, and in no case, less than one unit, are restricted as affordable in perpetuity, which is defined as:

i. A year-round rental unit or an ownership unit that serves households earning at or below 80% of the area median income and shall remain affordable for at least 50 years as evidenced by deed restrictions consistent with the requirements of the U.S. Department of Housing and Urban Development (HUD).

[11] Editor's Note: The County can consider if it wants to add fee waivers or exemptions as an incentive. BG did not include expedited permitting because of the potential burden on staff.

ii. When the 10% calculation results in a fractional number of affordable dwelling units, the number shall be rounded up to the next whole number of units.

iii. Affordable units may be developed "off site," provided that they are in the same Rural Village, Central Village, or Service Center as the Adaptive Reuse Project.

(b) To meet green building and low impact development standards by being certified by the U.S Green Building Council certification program for existing buildings, ENERGY STAR, Green Globes, Energy and Environmental Building Alliance (EEBA), or a similar bona fide green certification.

Section 7-3-2 Bed and Breakfast

A. **Owner/Operator Occupied.** Bed and breakfasts shall be occupied by the owner/operator wherein the owner or manager provides full-time management during operation.

B. **Licensure.** The owner/operator shall hold a valid business license from the County and, where applicable, a permit from the Department of Health.

C. **Registration.**

(1) The owner/operator of a bed and breakfast shall maintain a log of all patrons, including their name, address, license plate number and state, and their length of stay. The log shall be available to County staff upon request.

(2) Guest(s) may stay no longer than 30 consecutive days.

D. **Guest room Limit.** No more than ten (10) guest rooms shall be permitted.

E. **General Standards.**

(1) Signage and parking shall comply with the regulations of Article 8, Community Design Standards.

(2) Every room occupied for sleeping purposes shall comply with the Uniform Statewide Building Code.

(3) Guest rooms shall not have cooking facilities.

(4) Food services in connection with the use shall be limited to meals provided to guests taking lodging at the facility. Restaurant service open to the general public is a separate use, permitted according to the district regulations.

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(5) Additional activities, including indoor/outdoor events such as weddings, receptions, and similar activities on site are allowed subject to other applicable restrictions such as those in Article 8, Community Design Standards and Chapter 8, Article II, Noise Control, of the Code of the County of Nelson.

Section 7-3-3 Dwelling, Multi-Family[12]

A. Applicants seeking site plan approval for a multi-family dwelling must demonstrate the following:

(1) Adequate water and sewer services can be provided to the development by the Nelson County Service Authority;

(2) The impact to public roads accessing the development;

(3) Parking is provided in accordance with Article 8, Community Design Standards; and

(4) The development is properly landscaped and screened in accordance with Article 8, Community Design Standards.

Section 7-3-4 Dwelling, Single-Family

A. Up to three (3) single-family dwellings may be permitted on a single lot, provided they are arranged and constructed in a manner that allows the lot to be subdivided in the future, with each resulting lot and structures meeting all minimum district standards.

Section 7-3-5 Dwelling, Townhouse

A. **Placement and Setbacks.**

(1) No more than eight (8) adjoined townhouses will be constructed in a single row.

(a) The total length of any one (1) group of units must not exceed 180 feet.

(2) No more than two (2) abutting units in a row will have the same front and rear setbacks, with the minimum setback offset being three (3) feet.

(3) Connecting structures and outdoor living spaces may be designed to provide access between front and rear yards.

B. **Vehicular Access.** Each townhouse unit must have unencumbered access from a dedicated public street that is built to VDOT standards.

[12] Editor's Note: The provisions for multi-family dwellings have been carried over from the existing ordinance and should be considered the minimum requirements for such a use. Nelson County should consider if they wish to add more standards for multi-family developments such as street, pedestrian access, connectivity, amenities, or maintenance requirements.

(1) Vehicular access from alleyways is permitted in accordance with Article 10, Subdivisions.[13]

C. **Landscaping and Buffers.** Landscaping must be installed in accordance with Article 8, Community Design Standards.

D. **Screening.** Whether ground-level or rooftop, refuse collection and mechanical equipment must be screened from adjacent property and rights-of-way in accordance with Article 8, Community Design Standards.

E. **Maintenance.** A maintenance plan must be submitted to ensure proper maintenance of all improvements, infrastructure, amenities, and open space accompanying the development.

Section 7-3-6 Home Occupation, Class A[14]

A. **Size of Use.** The maximum area permitted in conjunction with a Home Occupation, Class A will be as follows:

(1) No more than 500 sq. ft. or 30% of the floor area of the dwelling, whichever is greater; or

(2) Up to 100% of the floor area of an accessory structure.

B. **General Standards.**

(1) No more than one (1) employee, in addition to persons residing on the premises, shall be employed. [15]

(2) Hours of operation shall be limited to 8:00 a.m. to 8:00 p.m.

(3) No customers will be allowed on-site.

(4) There will be no change in the exterior of the structure and/or property to indicate the home occupation use.

(5) One minor sign, up to two (2) sq. ft. in size, will be permitted, in accordance with Article 8, Community Design Standards. [16]

[13] Editor's Note: Provisions and requirements for alleyways will be added during the drafting of the Subdivision Article.
[14] Editor's Note: Unless otherwise noted, the provisions contained in this section are all new for home occupations.
[15] Editor's Note: This provision is carried over from the current definition of Class A Home Occupations.
[16] Editor's Note: This provision is carried over from the allowable sign size for home occupations.

(6) No equipment or process will be used which creates noise, vibrations, glare, fumes, odors, or electrical interference detectable off the property.

(7) Exterior storage of business-related equipment, trailers, materials, or merchandise is prohibited.

Section 7-3-7 Home Occupation, Class B[17]

A. **Size of Use.** The maximum area permitted in conjunction with a Home Occupation, Class B will be as follows:

(1) No more than 500 sq. ft. or 40% of the floor area of the dwelling, whichever is greater; or

(2) Up to 100% of the floor area of an accessory structure.

B. **General Standards.**

(1) No more than four (4) employees, in addition to persons residing on the premises, shall be employed.[18]

(2) Hours of operation will be limited to 8:00 a.m. to 8:00 p.m.

(3) No more than five (5) customers may be on the property at any one time.

(a) Customers may come to the site by appointment only.

(4) One minor sign, up to 12 sq. ft. in size, will be permitted, in accordance with Article 8, Community Design Standards. [19]

(5) There will be no change in the exterior of the structure and/or property to indicate the home occupation use.

(6) No equipment or process will be used which creates noise, vibrations, glare, fumes, odors, or electrical interference detectable off the property.

(7) Sufficient off-street parking must be provided for the allowed number of customers, and in accordance with Article 8, Community Design Standards.

(a) Parking area(s) must be provided on the lot that the home occupation is associated with and in the side or rear yard of the property.

[17] Editor's Note: Unless otherwise noted, the provisions contained in this section are all new for home occupations.
[18] Editor's Note: This provision is carried over from the current definition for Class B Home Occupations.
[19] Editor's Note: This provision modifies the current allowable sign size for home occupations to allow for larger signs for Class B Home Occupations.

(8) Exterior storage of business-related equipment, trailers, materials, or merchandise shall not be located in any required setback.

(9) The type of traffic generated by the home occupation must be consistent with the type of traffic of other dwellings in the area.

Section 7-3-8 Manufactured Home Community[20]

A. **Dimensional Standards.** A manufactured home park must comply with district standards and requirements in accordance with Article 4, Primary Zoning Districts.[21]

(1) Each individual manufactured home shall be provided with at least 4,000 sq. ft. of land.

(2) Distance between each manufactured home shall be at least 25 ft.

B. **Screening.** Every manufactured home park must be enclosed with an approved fence or landscaped buffer in accordance with Article 8, Community Design Standards.

C. **Open Space.** Each manufactured home park must provide a minimum of one (1) recreation area or playground at least 4,000 sq. ft. in area. Such area must be used exclusively for recreational purposes.

(1) An additional 200 sq. ft. of open space must be provided for every unit over 20 units.

D. **Streets.** The design and construction of the interior street system must be sufficient to adequately serve the size and density of the development.

(1) All interior streets must conform and be constructed to VDOT specifications for a rural rustic street.

(2) The internal street improvements must extend continuously from the existing improved street system to provide suitable access to manufactured homes, to provide adequate connections to the existing or future streets at the boundaries of the property, and to provide convenient circulation of vehicles with origins or destinations on the property.

E. **Utilities.** All utilities, including, but not limited to, telephone, television, internet, and electrical systems and infrastructure, shall be installed underground.

(1) Appurtenances to these systems which require above-ground installations shall be screened in accordance with Article 8, Community Design Standards.

[20] Editor's Note: Unless otherwise noted, the provisions contained in this section are all new for manufactured home parks. Changed "Park" to "Community" per staff comments 11/5/25.
[21] Editor's Note: The provisions of Sec. 7-3-9(A) are carried over from section 4-8.

(2) **Water and Sewer.** All manufactured home parks, greater than 20 units, must be served by public or centralized water and sewer systems to accommodate all lots.

(a) Each unit within a manufactured home park shall be connected to such system.

(b) Private or centralized water and sewer systems must be approved by VDH.

(3) Gasoline, liquified petroleum, gas or oil storage tanks shall comply with all applicable County, state, and national fire prevention code regulations.

(a) Where oil heating of a manufactured home is provided, a minimum of a 250-gallon fuel storage facility shall be provided on each manufactured home lot in an inconspicuous location or manner.

(4) **Refuse.** Except when curbside garbage and recycling services are available and in use, receptacles of a size and type approved by the County shall be placed in every manufactured home park in such a manner that no dwelling is further than 200 ft. from any receptacle.

(a) Each dwelling lot shall be provided at least one (1) garbage container.

(b) The receptacles shall be emptied by the owner/operator as frequently as may be necessary but not less than weekly to ensure that they shall not overflow.

F. **Maintenance.**

(1) Internal streets must be maintained by the manufactured home park owner, or accepted into the VDOT maintenance system, to ensure that such streets remain unobstructed and in safe, reliable condition for the passage of tenants, visitors, and public safety vehicles.

(2) Recreation and open areas designed for common use must be maintained by the manufactured home park owner to ensure that such areas are clean and safe and do not offer refuge for rodents and other pests.

Section 7-3-9 Migrant Labor Camp[22]

A. All farm labor dwellings must be in compliance with Code of Virginia §§ 32.1-203 – 32.1-211 et seq and 12VAC5-501.

[22] Editor's Note: The provided section of state code allows for localities to regulate location and area of such dwellings if Nelson County so desires.

Section 7-3-10 Short-Term Rental, Homestay, Hosted Stay, and Unhosted Stay[23]

A. **Operation and Owner Occupancy**.[24],[25]

(1) **Short-Term Rental, Homestay** shall be the owner's primary residence, and they shall be present on the premises during all rental periods.

(a) Only one (1) short-term rental may be operated on the premises.

(2) **Short-Term Rental, Hosted Stay** shall be managed and operated as follows:

(a) By the primary resident or a designated resident operator who is present on the premises during all rental periods; or

(b) By the primary resident owner of an adjacent parcel who is present on the premises of the adjacent parcel during all rental periods.

(c) A maximum of two (2) short-term rentals may be allowed per lot.[26]

(3) **Short-Term Rental, Unhosted Stay**[27] shall be managed and operated as follows:

(a) By a designated owner or operator who is not present on the premises during rental periods; and

(b) A maximum of two (2) short-term rentals may be allowed per lot.[28]

B. **Tenant Occupancy**.

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[23] Editor's Note: This Section will be completed when the County makes decisions for this use. Short-term rentals have been drafted per County comments received 11/5/25. Accessory dwellings are not included here as they are addressed in other sections of this Ordinance.

[24] Editor's Note: Occupancy has been drafted as requested by the County. However, Berkley Group **strongly recommends** that the County Attorney carefully review, especially A.(1), for the legal best interests of the County.

[25] Editor's Note: The requirement for owners of short-term rentals to live in Nelson County was removed per recommendation of County Attorney at the 12/17/25 worksession.

[26] Editor's Note: This number is based on the Accessory Dwelling use standard (7-8-5 (B)(1)) limit of one accessory dwelling per lot. This limit may result in quantities greater than two units if an applicant is utilizing adjacent parcels for STRs. The word "unit" was deleted for clarity in response to public comment 10/21/26.

[27] Editor's Note: The requirement for owners of unhosted stay short-term rentals to live in Nelson County was removed per recommendation of County Attorney at the 12/17/25 worksession.

[28] Editor's Note: This number is based on the Accessory Dwelling use standard (7-8-5 (B)(1)) limit of one accessory dwelling per lot. This limit may result in quantities greater than two units if an applicant is utilizing adjacent parcels for STRs. The word "unit" was deleted for clarity in response to public comment 10/21/26.

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(1) The maximum occupancy of the short-term rental shall be based on the occupancy standards specified in the Virginia Uniform Statewide Building Code.

(2) The number of rental bedrooms shall be in accordance with all Virginia Department of Health permits which specify the number of bedrooms the septic system was designed to support.

C. **Licensure.** The owner/operator shall hold a valid business license from the County and, where applicable, a permit from the Virginia Department of Health.

D. **Registration**.[29]

(1) Short-term rentals shall be registered with the Administrator prior to beginning operation as provided by Code of Virginia § 15.2-983.

(2) The registration shall be renewed annually; due on or before July 1st of each year. The operator shall complete an application through electronic means or on form(s) provided by Nelson County that contain the following:

(a) Name and contact information of the operator;

(b) Property owner's name and contact information;

(c) Physical address(es) of the property being rented;

(d) Annual registration fee due on or before July 1st of each year.

(3) **Management Plan**. A property management plan shall be provided to the Administrator, reviewed annually, and shall demonstrate how the short-term rental will be managed. At a minimum the plan shall include:

(a) Local points of contact available to respond to complaints;

(b) Number of permitted guests;

(c) Parking information;

(d) Location of safety equipment, such as fire extinguishers, smoke detectors, and carbon monoxide detectors;

(e) Methods of trash management; and

(f) If the short-term rental is not serviced by public sewer, the operator shall provide proof as part of the annual registration renewal that septic maintenance has occurred at least once within the three (3) previous calendar years.

[29] Editor's Note: Verification of owner's residency removed per worksession direction 12/18/25.

E. **Inspection**. The operator shall give the County written consent to inspect the dwelling to ascertain compliance with this Ordinance and all applicable state building code and safety regulations as requested, or upon reported possible violation of the County Code.

F. **General**.

(1) The structure used as a short-term rental shall comply with all applicable state building code and safety regulations.

(2) There shall be no change in the outside appearance of the structures or premises, or other visible evidence of the conduct of such short-term rentals.[30]

(a) Except one (1) small sign, as defined in Article 8, Section 8-7-4 Exemptions, is allowed.[31]

(3) At least one fire extinguisher and safety detectors shall be provided in accordance with the management plan.

(4) No multi-family rental units,[32] recreational vehicles, buses, travel trailers, or non-permanent structures shall be used in conjunction with the short-term rental.

(5) All trash shall be stored in closed containers and properly disposed of upon the conclusion of each rental period.

(6) The rental period for each occupant shall be a period of fewer than 30 consecutive days.

(7) The operator shall provide notice in the listing that special events and temporary uses as defined by Article 11, Definitions, are prohibited without a valid SUP in accordance with Article 3, Permits and Applications.

(8) All noise must comply with Chapter 8, Article II, Noise Control, of the Nelson County Code.

G. **Parking**.

[30] Editor's Note: "Dwelling" changed to "structure" in (1) & (2) for clarity in response to public comment 10/21/2026.
[31] Editor's Note: Sign prohibition revised to allow one small sign in response to County direction 10-15-2026.
[32] Editor's Note: Multi-family rental units added in response to County direction 10-15-2026.

(1) The physical and aesthetic impact of required off-street parking shall not be detrimental to the existing character of the property house and lot or to the surrounding neighborhood.[33]

(2) All vehicles of tenants shall be parked in driveways or parking areas designed and built to be parking areas.[34]

(3) Parking shall be in accordance with Article 8, Community Design Standards.

H. **Registration Revocation, Suspension, or Cancellation**.

(1) Any owner or operator of a short-term rental may have their registration revoked, suspended, or cancelled for the following:

(a) Failure to pay transient occupancy or business taxes, or short-term rental registry fee; or

(b) Three (3) violations within a 12-month period.

i. Violations include failure to correct or abate substantiated complaints of the short-term rental and failure to comply with applicable state and local laws, ordinances, and regulations, as they relate to the short-term rental.

(2) Notice of violation shall be provided in accordance with Article 2, Administration.

(3) Before any revocation, suspension, or cancellation can be effective, the Administrator shall give written notice to the owner and operator.

(a) The notice of revocation, suspension, or cancellation shall comply with applicable requirements of Article 2, Administration.

(b) A SUP for a short-term rental may be revoked, suspended, or cancelled in accordance with Article 3, Permits and Applications.

(4) Once revoked, suspended, or cancelled the operator shall be prohibited from registering and offering that property for a period of two (2) years.

(5) In accordance with the Code of Virginia and Article 3, Permits and Applications, an applicant may appeal the decision for revocation, suspension, or cancellation of the registration.

I. **Penalty**.

[33] Editor's Note: Changed "house and lot" to "property" for clarity in response to public comment 10/21/2026.
[34] Editor's Note: Multi-family language removed in response to County direction 10-15-2026.

(1) Any short-term rental in violation of this Ordinance, including operation without registering, is subject to all relevant penalties as set forth by Nelson County.

(2) It shall be unlawful to operate a short-term rental:

(a) Without obtaining registration as required by this Article;

(b) After a registration has been suspended or cancelled; or,

(c) In violation of any other requirement of this Ordinance.

Section 7-3-11 Temporary Construction Residence/Office.[35]

A. No recreational vehicle, as defined by this Ordinance, shall be used, occupied, or permitted use or occupancy as a permanent or temporary dwelling unit on any lot or parcel within the County.

B. When a property owner is constructing their primary home and the property owner and contractor or builder are one and the same:

(1) A recreational vehicle is permitted to be used on the property, subject to the issuance of a zoning permit pursuant to Article 3, Permits and Applications, and in accordance with Article 6, Use Matrix, as a Temporary Construction Residence/Office, as defined by this Ordinance, as follows:

(a) The recreational vehicle shall be temporarily connected to utilities such as electricity, water, and sewer/septic for the duration of the Construction Temporary Use; and

(b) The use shall be removed, and utilities shall be disconnected from the recreational vehicle, within 30 days from the date of the approval of the Certificate of Occupancy of the building or within 12 months of the beginning of construction at the site, whichever occurs first, regardless of building completion.

i. The Administrator may permit up to one (1) extension of no longer than six (6) months, as warranted for building completion.

Division 7-4 Public/Civic/Recreation Use Standards

Section 7-4-1 Animal Shelter

A. **Location**. Except where animals are confined in soundproofed buildings, no portion of the use, excluding required screening and landscape buffers, shall be located within:

(1) 100 ft. from the property lines of adjoining rural or residential zoned property; and

[35] Editor's Note: Section added per staff request 2-9-26.

(2) 200 ft. from any dwelling not on the associated parcel.

B. General Standards.

(1) All exterior runs, play areas, or arenas shall be designed with a minimum six (6)-foot-high opaque screen from adjacent lot lines and street rights-of-way.

(2) Animal shelters shall be kept free of waste on a regular basis to minimize impacts of odor and reduce propagation of pests.

(3) Waste disposal shall be in accordance with Virginia Department of Health standards.

(4) All animals shall be kept within a totally enclosed part of the structure(s) between the hours of 10:00 p.m. and 8:00 a.m. This does not include leashed walking of animals.

Section 7-4-2 Telecommunications Facility[36]

A. **Uses.**

(1) **Primary or Accessory Use.** For the purposes of determining compliance with the standards of this Ordinance, telecommunications facilities may be considered either primary or accessory uses.

(a) An existing use or an existing structure on the same lot will not preclude the installation of a telecommunications facility on such lot.

(b) For purposes of determining whether the installation of a telecommunications facility complies with district regulations, the dimensions of the entire lot will control, even though the facility may be located on leased area within such lots.

(2) **Nonconforming Uses.** Telecommunications facilities and antennas installed in compliance with this Section are not considered an expansion of a nonconforming use or structure.

(3) **Excluded Uses.** The following uses are not subject to the requirements of this Section for telecommunications facilities:

(a) Amateur radio operations as regulated by Code of Virginia § 15.2-2293.1.

(b) Television reception antennas that are less than 35 ft. above ground level (AGL) and used exclusively for non-commercial purposes.

[36] Editor's Note: The following section consists of completely new provisions proposed to replace those of Article 20 in the current Ordinance to better reflect federal requirements and those of Code of Virginia §§ 15.2-2316.3 - 15.2-2316.5.

(c) Ground-mounted satellite earth station antennas that are less than or equal to ten (10) ft. AGL, less than or equal to six (6) ft. in diameter, and used exclusively for non-commercial purposes.

(d) Micro-wireless facilities, provided that they are less than or equal to 80 ft. AGL. Co-location of additional antennae should be sought. The County reserves the right to require "stealth technology" to hide or camouflage wireless facilities for micro-wireless facilities.

(e) Satellite earth station antennas. Ground-mounted satellite earth station antennas that are less than or equal to ten (10) ft. AGL, less than or equal to six (6) ft. in diameter, and used exclusively for non-commercial purposes.

(f) County owned or operated wireless telecommunication facilities are exempt from the requirements of this Article, but are expected to adhere, to the extent reasonably possible, to the goals described herein.

B. **Local Government Access.** Owners of all new telecommunication facilities must provide, at no cost to the County, colocation opportunities as a community benefit to improve radio communication for County departments and emergency services (including both tower space and sheltered equipment space on the ground). All proposals for a telecommunication facility must acknowledge the critical role of the County's radio system for emergency services including fire, rescue, and law enforcement personnel and must warrant that no interference with the County's radio system will result from such installation.

C. **Location Preference.** The following sites must be considered by applicants as the preferred order of location of proposed telecommunications facilities, (1) being the most preferred, and (5) being the least preferred:

(1) Existing telecommunication facilities (towers).

(2) Co-locating on or camouflaged within structures, such as water towers, utility structures, fire stations, bridges, steeples, and other buildings not utilized primarily for residential uses.

(3) Property zoned commercial or industrial.

(4) Property zoned rural.

(5) Within the viewshed of the Blue Ridge Parkway or the Appalachian National Scenic Trail.

D. **Co-Location Requirements.**

(1) Existing towers may be extended to allow for additional users, provided that the overall height of the tower is not increased by more than 15 ft. for each new user and that the overall height of the structure does not exceed 199 ft.

(2) No new tower will be permitted unless the applicant demonstrates, to the reasonable satisfaction of Administrator, that no existing tower or structure can accommodate the applicant's proposed antenna. Evidence submitted to demonstrate that no existing tower or structure can accommodate the applicant's proposed antenna must consist of a minimum of the following information:

(a) No existing towers or structures are located within the geographic area required to meet applicant's engineering requirements;

(b) Existing towers or structures are not of sufficient height to meet applicant's engineering requirements;

(c) Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment;

(d) The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna;

(e) The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt to an existing tower or structure for sharing are unreasonable; and

(f) The applicant demonstrates that there are other limiting factors that render the existing towers and structures unsuitable.

E. **Design Standards.**

(1) Wireless facilities must be designed, installed, and operated so as not to interfere with the County's public safety/service radio system or public safety/service radio systems operated in other jurisdictions. Any entity operating wireless facilities determined to interfere with the County's or another jurisdiction's public safety radio system must take corrective action immediately upon discovery.

(2) Broadcasting or communication towers must be of a monopole design unless the Board of Supervisors determines that an alternative design would better blend into the surrounding environment.

(3) Towers must be designed to collapse fully within the lot lines of the subject property in case of structural failure.

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(4) Unless designed to be camouflaged, towers must either maintain a galvanized steel finish, or, subject to any applicable standards of the Federal Aviation Administration (FAA), be painted a neutral color, to reduce visual obtrusiveness.

(5) Dish antennas will be of a neutral, non-reflective color with no logos. Towers that are painted must be repainted if the original color has significantly degraded as the result of fading, peeling, flaking, or rust.

(6) At a facility site, the design of the buildings and related structures must, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend the tower facilities to the natural setting and surrounding structures.

(7) If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure to make the antenna and related equipment as visually unobtrusive as possible.

(8) Towers must be illuminated as required by the Federal Communications Commission (FCC), but no lighting will be incorporated if not required by the FCC, other than essential security lighting. Site lighting must be fully cut-off and directed downward.

(a) When incorporated into the approved design of the tower, light fixtures to be used to illuminate ball fields, parking lots, or other similar areas may be attached to the tower.

(9) No advertising of any type will be placed on the tower or accompanying facility.

(10) All towers must meet or exceed current standards and regulations of the FAA and the FCC, and any other agency of the federal government with the authority to regulate towers and antennas. Towers that are painted, as required by the FAA, must be repainted as necessary to maintain minimum visibility requirements as set forth by the FAA.

(11) To ensure structural integrity of towers, the owner of a tower must ensure that it is maintained in compliance with standards contained in applicable federal, state, and local building codes and regulations.

(12) The area immediately surrounding the tower and access road must be kept free of trash and debris.

(13) All electrical devices, fixtures, and wires, to include electric generators and fuel tanks, must be maintained in compliance with the requirements of the National Electrical Safety Code.

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(14) Tower owners must maintain towers, telecommunication facilities, and antenna support structures in safe condition so that the same will not menace or endanger the life or property of any person.

F. **Setbacks.** The following setback distances for towers will be required and will replace the setbacks otherwise required in the zoning district in which the facility is located.

(1) The tower must be set back from any off-site residential structure at least 400 ft.

(2) Towers, guys, and accessory facilities must be set back:

(a) 100 ft. from any property line which abuts a residential or rural district; and

(b) 50 ft. from any property line which abuts a commercial or industrial district.

(3) No habitable structures or places where people gather will be located within any "fall zone" as certified by a registered professional engineer licensed in Virginia.

(4) A tower's setback may be reduced or its location in relation to a public street varied, at the sole discretion of the Board of Supervisors, to allow the integration of a tower into an existing or proposed structure such as a church steeple, light pole, utility pole, water tower, public facility, or similar structure.

(5) No communication tower shall be located within 120 feet of any Virginia Scenic Byway. [37]

(6) No communication tower shall be located within 1,320 feet of the nearest boundary of the Blue Ridge Parkway or the Appalachian National Scenic Trail. [38]

G. **Height Restrictions.** Telecommunication facilities must be designed not to exceed an overall height of 199 ft. except as otherwise approved in the conditions of the Special Use Permit.

H. **Landscaping.** Tower facilities must be landscaped with a buffer of plant materials that effectively screens the view of the support buildings from adjacent property.

(1) The buffer must consist of a landscaped strip at least 15 ft. wide outside the perimeter of the fencing.

(a) This buffer must consist of native trees and shrubs.

(2) Existing natural vegetation sufficient to serve as a buffer may be used in lieu of planting a landscaped buffer.

[37] Editor's Note: Retained from 20-9(B).
[38] Editor's Note: Retained from 20-9(B).

(3) Existing mature tree growth and natural landforms on the site must be preserved at a minimum radius depth of 100 ft. from the base of the facility to the maximum extent possible, except as necessary to accommodate the proposed facility and vehicular access.

(4) All plant material, used as landscaping and/or buffering, must be tended and maintained in a healthy growing condition. Dead plant material must be replaced in-kind.

I. **Signage.** Signage on site will be limited to no trespassing, safety, or FCC required signs to be positioned on the fence surrounding the facility. The use of any portion of a tower for signs other than warning or equipment information signs is prohibited.

(1) The following must be clearly posted at the site:

(a) The appropriate signage as required by FCC guidelines governing Electromagnetic Energy Fields (EMEF)

(2) 24-hour emergency contact information for the owner and each co-locator; and

(3) FCC tower registration.

J. Required Application Information.

(1) Actual photographs of the site from a minimum of four (4) points surrounding the site, including simulated photographic images to scale of the proposed tower. The photograph with the simulated image must include the foreground, the midground, and the background of the site.

(a) County staff reserves the right to select the locations for the photographic images and require additional images. As photo simulations may be dependent upon a balloon test first being conducted, the applicant is not required to submit photo simulations with their initial application but must provide them prior to the Planning Commission public hearing .

(2) An engineering report certifying that the proposed tower is structurally suitable and of adequate height for co-location with a minimum of three (3) users including the primary user.

(3) The applicant must provide copies of propagation maps demonstrating that antennas and sites for possible co-locator antennas are no higher in elevation than necessary.

(4) A copy of the FAA airspace study must be provided prior to the issuance of a building permit for the construction of the tower. The FAA airspace study must provide confirmation that the tower will not pose any hazard to air navigation.

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(5) A commitment from a service provider to locate the proposed tower.

(6) A radio frequency engineer's Letter of Non-interference which attests that the wireless facility will not interfere with the public safety radio system.

(7) An agreement allowing the County to collocate on the tower for the purpose of emergency service communications.

(8) A proposed construction schedule.

(9) Documentation showing other structures evaluated as support structures within a three (3) mile radius of the proposed site.

(10) Letter(s) containing Federal approval and/or findings related to impacts on environmental and historic resources and including any conditions of approval.

(11) If the proposed tower is located within the viewshed of the Blue Ridge Parkway (BRP) or the Appalachian National Scenic Trail (AT) the applicant shall notify the Virginia Department of Historic Resources (DHR), the BRP Superintendent, and/or the AT Superintendent in writing to receive comments related to the project for inclusion in their application. In the event DHR and/or the Superintendent(s) do not provide written comments within 60 days of receiving the applicant's notification, a communication tower permit application for review and comment may be submitted with evidence that the notice was sent. The notification to the BRP Superintendent, and/or the AT Superintendent, must include the following:[39]

(a) Be sent by certified mail, return receipt requested;

(b) Provide the location of the proposed communication tower;

(c) Describe the proposed communication tower, proposed antennas, and proposed ground equipment, including a copy of the engineered drawings detailing the proposed tower project; and

(d) Request the Superintendent(s) comment on the proposed communications tower in writing.

(12) The attendance sheets, notes, and materials from any community meeting held.

(13) Site Plans for telecommunications facilities must include:

(a) Radio frequency coverage and tower height requirements.

(b) All designated "fall zones" as certified by a registered professional engineer licensed in Virginia.

[39] Editor's Note: Retained from Section 20-9.

K. **Balloon Test.** If determined to be necessary by the Administrator, a balloon test may be required for new towers prior to the public hearings. If required, the balloon test must comply with the following:

(1) The applicant must arrange to raise a highly visible colored balloon (no less than five (5) ft. in diameter) at the maximum height of the proposed tower and within 50 horizontal ft. of the center of the proposed tower.

(2) The balloon and foreground must be photographed from a minimum of four (4) different perspectives and varying distances in preparation for photographic simulation of the wireless facility, including from neighboring homes, parks, historic areas, and rights-of-way.

(3) The applicant must inform the Administrator and adjacent property owners in writing of the date and times of the test at least seven (7), but no more than 14 days in advance.

(a) The applicant must request permission in writing from the adjacent property owners to access their property during the balloon test to take pictures of the balloon and to evaluate the visual impact of the proposed tower on their property.

(4) If the wind during the balloon test does not allow the balloon to sustain its maximum height or there is significant fog or precipitation which obscures the balloon's visibility, then the test must be postponed and moved to the alternate inclement weather date provided in the advertisement. The Administrator reserves the right to declare weather inclement for purposes of the balloon test.

(5) The applicant is responsible for securing any FAA approvals required prior to this demonstration.

L. **Community Meeting.** A community meeting is encouraged to be held by the applicant prior to the Planning Commission public hearing .

M. **Approval Process and Time Restrictions.**

(1) The approving bodies, in exercise of the County's zoning regulatory authority, may disapprove an application on the grounds that the tower's aesthetic effects are unacceptable, or may condition approval on changes in tower height, design, style, buffers, or other features of the tower or its surrounding area. Such changes need not result in performance identical to that of the original application.

(a) In accordance with Code of Virginia § 15.2-2316.4:2, reasonable factors relevant to aesthetic effects are:

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i. The protection of the view in sensitive or particularly scenic areas, and areas containing unique natural features, scenic roadways or historic areas;

ii. The concentration of towers in the proposed area; and

iii. Whether the height, design, placement, or other characteristics of the proposed tower could be modified to have a less intrusive visual impact.

(2) The approving bodies, in accord with Code of Virginia § 15.2-2316.4:2, may disapprove an application based on the availability of existing wireless support structures within a reasonable distance that could be used for co-location at reasonable terms and conditions without imposing technical limitations on the applicant.

(3) Unless a different timeframe is mutually agreed upon, an application for a tower will be reviewed by the County and a written decision must be issued within 150 days of submission.

(4) Unless a different timeframe is mutually agreed upon, an application for collocation will be reviewed by the County and a written decision must be issued within 90 days of submission.

(5) A complete application for a project will be deemed approved if the locality fails to approve or disapprove the application within the specified or mutually agreed upon period.

(6) If the County disapproves an application, it must provide the applicant with a written statement of the reasons for disapproval. If the locality is aware of any modifications to the project as described in the application that if made would permit the locality to approve the proposed project, the locality must identify them in the written statement provided.

(a) The written statement must contain substantial record evidence and be publicly released within 30 days of the decision.

N. **Structural Certification and Inspections.** All proposed towers must be certified by a licensed professional engineer to be structurally sound and in conformance with the requirements Structural Standards for Steel Antenna Towers and Antenna Supporting Structures (ANSI/TIA/EIA-222-F), International Statewide Building Code and all applicable, county, state, and federal laws.

(1) For new structures, or the extension of existing structures, such certification must be submitted prior to issuance of the building permit. For existing towers being used for co-location, certification must be provided to verify their capability to support additional loading.

(2) Over the life of the tower, the County may require the tower owner to inspect and certify the structural integrity of the tower should there be evidence that the tower has degraded such that it may pose a legitimate threat to life and/or property. Structural analysis must be performed within 30 days, upon formal written request of the County.

(3) The County reserves the right to perform inspections upon notice to the tower owner, within one (1) week of notice. The County retains authority to enter onto the property for the purpose of assessing compliance with the statewide building code and all other construction standards provided by the County Code and federal and state law. If defects had been identified on previous inspections, the County may, at its discretion, require the tower owner to bear the cost of the inspection.

(4) The tower or telecommunication facilities owner must certify to the County on an annual basis that it is in compliance with all of the requirements set forth above.

O. **Review Fee.** Any out-of-pocket costs incurred by the County for the review of any of the above required information must be reimbursed by the applicant.

P. **Bond.** To secure the removal of abandoned structures, the County will require the tower owner to post a bond, or provide some other reasonable assurance, in an amount to be determined by the County based upon the anticipated removal cost of the tower.

Q. **Abandoned Towers.** Any antenna or tower that is not operational for a continuous period of 24 months will be considered abandoned, and the owner of each such antenna or tower must remove the tower.

(1) Removal includes the removal of the tower, all tower and fence footers, underground cables, and support buildings. The buildings may remain with the property owner's approval.

(2) If there are two (2) or more users of a single tower, then this provision will not become effective until all users cease using the tower.

(3) The County may dismantle and remove the tower and recover the cost of the same from the owner.

(4) In the event that the Bond amount is insufficient to cover the cost of removal, the County reserves the right to seek the remaining balance from the owner.

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Section 7-4-3 Telecommunications Facility, Small-Cell[40]

A. In accordance with Code of Virginia § 15.2-2316.4, small-cell telecommunications facilities must be permitted by-right in all zoning districts subject to the performance standards in this Section.

B. **Installation.**

(1) The small-cell telecommunications facility must be installed by a wireless services provider or wireless infrastructure provider on an existing structure.

(2) The wireless services provider or wireless infrastructure provider has obtained permission from the owner of the existing structure to collocate the small-cell telecommunications facility on the existing structure and to collocate the associated transmission equipment on or proximate to the existing structure.

(3) Each antenna is located inside an enclosure of, or the antenna and all its exposed elements could fit within an imaginary enclosure of, no more than 6 cubic ft.; and

(4) Excluding electric meter, concealment, telecommunications demarcation boxes, backup power systems, grounding equipment, power transfer switches, cut-off switches, and vertical cable runs for the connection of power and other services, all other equipment associated with the facility does not exceed 28 cubic ft., or such higher limit as may be established by the Federal Communications Commission.

C. **Application and Review.**

(1) A wireless services provider or wireless infrastructure provider may submit up to 35 permit requests for small-cell telecommunications facilities on a single application. Permit application fees must be in accordance with Code of Virginia § 15.2-2316.4, Paragraph B (2).

(2) Permit applications for small-cell telecommunications facilities must be reviewed and approved as follows:

(a) Permit applications for the installation of small-cell telecommunications facilities must be approved or disapproved within 60 days of receipt of the complete application. The 60-day period may be extended by staff upon written notification to the applicant, for a period not to exceed an additional 30 days. The application will be deemed approved if the locality fails to act within the initial 60 days or an extended 30-day period.

[40] Editor's Note: Proposed new use standards for the new small-cell telecommunications facility use based on the Code of Virginia.

(b) Within ten (10) days of receipt of an application submission and a valid electronic mail address for the applicant, the applicant will receive an electronic mail notification if the application is incomplete. If the application is determined to be incomplete, the notification will specify the missing information which needs to be included in a resubmission in order to be determined complete.

(c) Any disapproval of the application must be in writing and accompanied by an explanation for the disapproval. The disapproval may be based only on any of the following reasons:

i. Material potential interference with other pre-existing communications facilities or with future communications facilities that have already been designed and planned for a specific location or that have been reserved for future public safety communications facilities;

ii. Public safety or other critical public service needs; and/or

iii. In instances where the installation is to be located on or in publicly owned or publicly controlled property (excluding privately owned structures where the applicant has an agreement for attachment to the structure), aesthetic impact or the absence of all required approvals from all departments, authorities, and agencies with jurisdiction over such property.

(d) A permit application approval must not be unreasonably conditioned, withheld, or delayed.

(e) An applicant may voluntarily submit, and staff may accept, any conditions that address potential visual or aesthetic effects resulting from the placement of small cell facilities.

(f) The submission of a permit application will represent a wireless services provider's or wireless infrastructure provider's notification of the County as required by Code of Virginia § 15.2-2316.4(A).

Section 7-4-4 Utility Service, Major

A. No major utility service shall be located within 250 ft. of an existing dwelling unit.

B. Buildings and facilities must be designed and constructed to be compatible with the surrounding area.

(1) All buildings and facilities in residential primary zoning districts or the VO, Village Overlay District, as established by Article 4, Primary Zoning Districts and Article 5, Overlay Zoning Districts, must be screened from view from any adjacent right-of-way by a building by an opaque fence or wall in accordance with Article 8, Community Design Standards.

C. All sewer and water utility services must be publicly owned and operated by a government agency unless otherwise recommended by the Nelson County Service Authority and approved by the Board of Supervisors.

D. Sewer and water utility services shall be designed with a service area and capacity consistent with the purposes of the respective zoning district and the recommendations of the Nelson County Comprehensive Plan.

E. Any utility infrastructure, including but not limited to towers, transformers, and transmission lines, which are abandoned, damaged, in a state of disrepair, or otherwise in a state threatening the general public health, safety, and welfare, will be required, by the Administrator, to be removed within a reasonable time period.

Division 7-5 Commercial Use Standards

Section 7-5-1 Adult Use[41]

A. **Purpose.** It is a purpose of this Ordinance to regulate adult uses in order to promote the health, safety, and general welfare of the citizens of the County and to establish reasonable and uniform regulations to prevent the deleterious secondary effects of adult uses within the County. The requirements of this Ordinance have neither the purpose nor effect of imposing a limitation or restriction on the content or reasonable access to any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of this Ordinance to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this Ordinance to condone or legitimize the distribution of obscene materials.

B. **Findings.** Based on evidence of the adverse secondary effects of adult uses, and on findings, interpretations, and narrowing constructions incorporated in numerous legal cases, it is recognized that:

(1) Adult uses, as a category of commercial uses, are associated with a wide variety of adverse secondary effects including, but not limited to, personal and property crimes, prostitution, potential spread of disease, lewdness, public indecency, obscenity, illicit drug use and drug trafficking, negative impacts on surrounding properties, declining property value, urban blight, litter, and sexual assault and exploitation.

[41] Editor's Note: The standards in this section are new and provided for the appropriate allowance of adult uses in the County.

(2) Adult uses should be separated from sensitive land uses, including schools, churches, parks, libraries, public recreation areas, and residential areas, to minimize the impact of their secondary effects upon such uses and should be separated from other sexually oriented businesses to minimize the secondary effects associated with such uses and to prevent an unnecessary concentration of sexually oriented businesses in one area.

(3) Each of the foregoing negative secondary effects constitutes a harm, which the County has a substantial government interest in preventing and/or abating. This substantial government interest in preventing secondary effects exists independent of any comparative analysis between adult uses and non-adult uses. Additionally, the interest in regulating adult uses to prevent future secondary effects of either current or future adult uses that may locate in the County. The County finds that the cases and documentation relied on in this Ordinance are reasonably believed to be relevant to said secondary effects.

C. **Establishment.** The establishment of an adult use as referred to herein will include the opening of such use as a new use, the relocation of such use, the enlargement of such use in either scope or area, or the conversion, in whole or part, of an existing business into an adult use.

D. **Measurements of Distance.** All distances specified in this Section must be measured from the property line of one use to another. The distance between an adult use and a residential district or use must be measured from the property line of the use to the nearest point of the boundary line of the residential district or use.

(1) No adult use will be established within three (3) miles of any other adult use in any zoning district.

(2) No adult use will be established within 1,000 ft. of any existing residential use; religious assembly; educational facility; parks; recreational facility; day care centers; or community centers as defined in Article 11 Definitions.

E. **Hours of Operation.**

(1) No adult use will be open:

(a) More than 72 hours in any week (a week being consecutive days from Sunday to Saturday);

(b) More than 12 hours within any 24-hour period; or

(c) Prior to 9 a.m. or later than 11 p.m.

F. **Signs.**

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(1) Any sign must be in accordance with Article 8, Community Design Standards. Furthermore:

(a) No adult use will display adult media, depictions of specified sexual activities, or specified anatomical areas in its window, or in a manner visible from the street, highway, or public sidewalk, or the property of others.

(b) All window areas must remain fully transparent.

i. Window signs are prohibited.

(c) Signs must not include graphic or pictorial depiction of material available on the premises.

G. **Additional Standards.**

(1) All owners, managers, and employees must be at least 18 years of age.

(2) All adult merchandise must be located in a separate room or area inaccessible to persons under 18 years of age.

(3) The owner or operator must provide adequate lighting, which is sufficient for clear visual surveillance, for all entrances, exits, and parking areas serving the business, and all areas of the establishment where business is conducted.

Section 7-5-2 Automobile Sales and Rental[42]

A. Minimum Lot Area. A minimum lot area of three (3) acres is required for all Automobile Sales and Rental developments..

B. **Setbacks.** Automobile Sales and Rental must be setback at least 100 ft. from all property lines adjoining properties in residential or rural districts.

(1) All vehicle storage and/or display areas must be setback at least 20 ft. from all property lines.

C. **Parking.**

(1) All parking must comply with Article 8, Community Design Standards.

(2) All customer and employee parking must be located to the side or rear of the establishment.

D. **General Standards.**

[42] Editor's Note: This section includes all new standards for automobile sales and rental uses.

(1) No vehicle or equipment displays will be located within a required setback, fire lane, travel way, sidewalk, or landscaped area.

(2) All vehicles for sale must be parked in a clearly striped parking space.

(3) Elevated displays of vehicles are prohibited.

(4) All vehicles must be operable and able to pass state inspection requirements.

(5) Automobile Sales and Rental sites must include a designated area for unloading new inventory, which must not impede vehicular movement external to the site or block access to any required parking spaces located on the site.

(6) Any areas where vehicles are awaiting body repair, auction, painting, or wholesale sales must be screened from view from the public right-of-way and adjacent properties zoned rural or residential in accordance with Article 8, Community Design Standards.

(7) Automobile Sales and Rental must not operate a junkyard/salvage yard, as defined in Article 11, Definitions.

(8) All Automobile Sales and Rental must be licensed and must adhere to all requirements of the Motor Vehicle Dealer Board as required in the Code of Virginia § 46.2-1508 and § 46.2-1510.

E. **Repairs.** Minor repair and service of vehicles are permitted as an accessory use to automobile sales provided they are conducted inside a completely enclosed building.

(1) Overhead or garage doors of such service must not face a public right-of-way or a residential district or use.

Section 7-5-3 Campground[43]

A. A campground operator, as defined in Article 11, shall be responsible for management of the campground at all times.[44]

B. **Applications.** Prior to approval of a zoning permit, the owner/operator of a campground must submit a Concept Plan to the Administrator in accordance with Article 3, Permits and Applications.

(1) The application shall include the name and contact information of the campground operator, as defined in Article 11.

C. **Minimum Lot Area.** The minimum area for a campground shall be ten (10) acres.

[43] Editor's Note: Proposed as all new text.
[44] Editor's Note. Items A. and B.(1) added in response to County direction 10/15/2026.

D. **Permanent Residences**. No more than one (1) permanent residence will be allowed in a campground, which must only be occupied by the owner or operator.

E. **Service Buildings.** The campground's service buildings, including restrooms and other facilities, must be provided in accordance with Virginia Department of Health requirements.

F. **Water Supply.** An adequate supply of water must be furnished in accordance with Virginia Department of Health standards.

G. **Noise.** All noise must comply with Chapter 8, Article II, Noise Control, of the Nelson County Code.

(1) There will be no amplified music between 10:00 p.m. and 7:00 a.m., seven (7) days a week.

H. **Refuse.**

(1) All bulk solid waste receptables must be maintained in a clean condition. Such receptacles must be enclosed on all four sides by a fence, wall, or other acceptable enclosure in accordance with Article 8, Community Design Standards.

(2) The storage, collection, and disposal of garbage in the campground must not create health hazards, rodent harborage, insect breeding areas, accident or fire hazards, or air pollution.

(3) All garbage must be collected at least once weekly and transported from the campground.

I. **Open Space.** A minimum of 10% of the total acreage must be reserved as common open space and recreation facilities, provided in accordance with Article 8, Community Design Standards.

(1) Open space will not include setback areas, pedestrian ways, parking areas, or streets.

J. **General Standards.**

(1) Interior campground roads and access to individual campsites[45] must be comprised at a minimum of an all-weather gravel surface.

(2) A campsite may accommodate individual tents, campers, or recreational vehicles.[46]

[45] Editor's Note: Changed from "sites" to "campsites." 2-9-26
[46] Editor's Note: Campsite accommodation was added per staff request 2-9-26.

(3) Campgrounds must have a permanent sign at their entrance designating the name of the campground. Signage must be designed in accordance with Article 8, Community Design Standards.

(4) The overall design must evidence a reasonable effort to preserve the natural amenities of the site.

(5) Each campsite[47] must have one (1) parking space, with minimum dimensions of ten (10) ft. by 20 ft.

(6) Retail sales for the convenience of the campground tenants are permitted. Items are limited to branded souvenirs, food, concessions, recreational supplies, personal care items, and other items clearly supportive of campground tenants' needs.

(7) Accessory structures or recreation facilities, washrooms, swimming pools, game courts, and the like must not be located closer than 100 ft. to any campground boundary or closer than 200 ft. to any lot in a residential district.

(8) The sale, long-term storage, and/or permanent parking of recreational vehicles is strictly prohibited; nothing herein prohibits an applicant from seeking the permits for a Recreational Vehicle Parking Lot as provided in Article 6, Use Matrix.

Section 7-5-4 Campground, Primitive[48]

A. **General Standards.**

(1) **Minimum Lot Area.** The minimum area for a primitive campground shall be five (5) acres.[49]

(2) Permanent occupancy shall be prohibited.

(3) No camping unit shall be used as a permanent place of abode, dwelling, or business or for indefinite periods of time.

(a) For purposes of this Section, the term "unit" shall refer to a campsite, whether for individual tents, campers, or recreational vehicles.[50]

(4) No permanent structure shall be allowed that is intended for overnight guest occupancy.

[47] Editor's Note: Changed from "camping site" to "campsite" 2-9-26.
[48] Editor's Note: This is a recommended new use with accompanying use standards that would apply to smaller non-vehicular campgrounds deemed primitive by state code 12VAC-450-183. Nelson County should review these provisions and ensure that they are adequate for such a use.
[49] Editor's Note: Minimum lot area added per staff comments 11/5/25.
[50] Editor's Note: Added for clarification in response to staff request 2-9-26.

(5) Primitive campground users may stay no longer than ten (10) nights in any 60-day period or 45 nights in any one calendar year.

B. **Occupancy.**

(1) Maximum of two (2) sites with no more than six (6) individuals per site.

C. **Refuse.** All waste and garbage shall be kept in sealed containers or bags and properly disposed of at a trash collection site upon conclusion of the visit. On-site dumping shall be prohibited.

Section 7-5-5 Cannabis Retail Store[51]

A. **Applicability**. This section applies to cannabis retail stores licensed by the Virginia Cannabis Control Authority (VCCA) pursuant to Code of Virginia § 4.1-802.

B. **State License Required**.

(1) A valid license issued by the VCCA must be obtained and maintained at all times. Evidence of the final state license must be provided to the Administrator within ten (10) calendar days after issuance by the VCCA.

(2) If the required VCCA license is suspended, expires, revoked, or otherwise becomes invalid, operation of the cannabis establishment must immediately cease until a valid state license is reinstated or reissued.

(3) If the required VCCA license is revoked or otherwise permanently terminated, zoning approval for the cannabis establishment will become void.

C. **Hours of Operation**. Hours of operation will be limited to 10:00 a.m. to 8:00 p.m.[52]

D. Distance Between Uses.

(1) **Measurement of Distance.** All distances specified in this Section will be measured from the property line of the subject parcel to the nearest property line of the use specified in (D)(2), below.

(2) **Minimum Distance to Sensitive Uses**. No cannabis retail store may be located within 1,000 ft. of:

(a) Hospitals;

(b) Public, private, or parochial schools;

[51] Editor's Note: New cannabis sections added because by February 1, 2027 the state will begin accepting license applications, and localities need to have their zoning regulations in place.
[52] Editor's Note: These hours are an example – the County can change.

(c) Institutions of higher education; and

(d) Child day programs.

(3) **Minimum Distance to Other Cannabis Retail Stores and Microbusinesses**. Cannabis retail stores and microbusinesses must comply with the minimum separation distance between such uses established by regulations of the VCCA.

E. General Standards.

(1) All cannabis retail store operations must be located within a fully enclosed building.

(2) Outdoor display or storage of cannabis, cannabis-related products, or cannabis-related materials is prohibited.

(3) On-site consumption of cannabis products is prohibited.

(4) Cannabis retail store operations must not emit dust, fumes, vapors, smoke, glare, vibration, or odors that are detectable from adjacent properties.

(5) Blackout windows are prohibited on any façade. Window signage, decals, or coverings must comply with Article 8, Division 8-7 on any façade facing a public street.

(6) Refuse containing cannabis-related waste must be disposed of in enclosed containers.

(7) Cannabis and cannabis-related products may not be sold or dispensed through a drive-through window.

(8) Delivery of cannabis and cannabis products must be in accordance with regulations adopted by the VCCA.

Section 7-5-6 Carwash[53]

A. **Location.**

(1) Car washes must be located and designed so that vehicular circulation does not conflict with traffic movements in adjacent streets, service drives, and/or parking areas.

(2) Buildings, structures, and vacuuming facilities must be a minimum of 100 ft. from any residential district or use.

[53] Editor's Note: This section contains recommended new provisions for the operation of car washes in the County.

B. **Prohibited.** No sales, repair, or outside storage of motor vehicles will be conducted on the site.

C. **Design Standards.**

(1) All lighting and screening must be in accordance with the regulations of Article 8, Community Design Standards.

(2) All car washing activity must occur within an enclosed structure.

(3) An appropriately sized and designed in-ground grease and oil separator device must be installed on-site and properly maintained to prevent grease and oil entry into the wastewater system.

(4) An automatic water reclamation system must be used to recover a minimum of 70% of the car wash rinse for reuse.

D. **Hazardous Materials Standards.**

(1) The discharge of fuel, oil, solvents, anti-freeze, and/or other pollutants, hazardous materials, or flammable substances into any public sewer, storm drainage, or other surface waters is prohibited.

(2) The owner/operator must prepare an emergency spill notification Contingency Plan to be approved by the County and posted on the premises prior to the issuance of any occupancy permits. The owner/operator/tenant will be responsible for notifying all County departments identified in the Contingency Plan immediately in the event of a spill or any petroleum product, chemical waste, or other hazardous substance on the property. The owner/operator must assume full responsibility for all public and private expenses incurred in the clean-up of such spills.

Section 7-5-7 Event Venue[54]

A. **General Design Standards.** All landscaping and screening, signage, lighting, and parking must be designed in accordance with applicable standards of Article 8, Community Design Standards.

B. **Temporary Elements.** Temporary tents, fencing, seating, catering arrangements, or other elements of an event may be used during the event only and must be removed within 24 hours after the event concludes, and the building or premises must be returned to its normal condition.

[54] Editor's Note: This section contains all new recommended provisions for permanent event venues.

(1) Building Permits, as applicable,[55] must be obtained for tents, amusement devices, and other similar temporary structures, as required by Chapter 4, Buildings, of the Nelson County Code.

C. **Minimum Lot Area.**

(1) Rural Districts: ten (10) acres

(2) Commercial Districts: no minimum[56]

D. **Access and Parking.**

(1) Off-street parking requirements must be in accordance with Article 8, Community Design Standards, as well as the following:

(a) Parking must be setback a minimum of 50 ft. from any public road.

(b) Grass parking areas will be allowed in rural districts where no more than 24 events are permitted in a calendar year.

(c) Grass parking areas must be maintained in good condition with uniform grass coverage and free from rill or gully erosion.

(2) Travel lanes must be sufficient width to accommodate emergency services vehicles.

(3) Entrance into the property must be designed, approved, and constructed to meet VDOT entrance standards.

E. **Noise.** All noise must comply with Chapter 8, Article II, Noise Control, of the Nelson County Code.

F. **Hours of Operation.** Hours of operation are limited to 7:00 am to 12:00 midnight Friday and Saturdays and 7:00 am to 10:00 pm Sunday through Thursday.

G. **Sanitary Facilities.** Sanitary facilities must be provided in accordance with standards set forth in the Virginia Administrative Code 12VAC5-610-980.

H. **Occupancy Limitations.** For all indoor and outdoor areas, occupancy limits must comply with all local and state laws.

(1) Any structure or building utilized for an event, or as an event venue, must meet the International Building Code requirements for public occupancy.

[55] Editor's Note: "as applicable" added per staff request 11/5/25.
[56] Editor's Note: changed from one acre to no minimum as directed by the county at the June 3, 2026 worksession.

Section 7-5-8 Fuel Center [57]

A. **Location and Dimensional Requirements.**

(1) Entrances to the gas station shall be minimized and located in a manner promoting safe and efficient traffic circulation while minimizing the impact on the surrounding neighborhood.

(2) All gas station driveways and access points shall be a minimum of 200 ft. from any residentially zoned district or residence.

(3) All fuel pump islands, compressed air connections, and similar equipment shall be 20 ft. from any property line.

B. **Screening.**

(1) A 6 ft. solid fence, wall, or landscaping shall be provided along all property lines separating the site from any residentially zoned district or lot containing any residential dwelling unit.

(2) Dumpsters or other refuse shall be screened in accordance with Article 8, Community Design Standards.

C. **Design Standards.**

(1) Applicants shall demonstrate that the gas station will be compatible with the neighborhood with regards to traffic circulation, parking, and appearance and size of structures.

(2) Gas canopy shall be designed and built to be compatible with the primary use.

(3) Outdoor speakers shall not be audible beyond the property lines.

(4) Under-canopy lighting shall consist of recessed, flat lens fixtures.

(5) All stormwater runoff from refueling areas shall pass through an in-ground grease and oil separator.

(6) An appropriately sized and designed in-ground grease and oil separator device shall be installed on-site and properly maintained to prevent grease and oil entry into the wastewater system.

D. **General Standards.**

[57] Editor's Note: This section contains new recommended standards for gas stations and other businesses with fuel centers.

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(1) There shall be no storage of automobiles, trailers, recreational vehicles, boats, or similar equipment.

(2) Sales of limited fuel oil or bottled gas is permitted as an accessory use.

(3) Fuel dispensers, pump islands, overhead canopy, and air and water dispensers shall be removed upon cessation of the use for a period of more than one (1) year.

(4) The Administrator may require a traffic analysis to be provided by the applicant. Such analysis may include, but not be limited to, the proposed traffic flows, sight visibility for emerging vehicles, and other public safety factors.

E. **Hazardous Materials Standards.**

(1) All hazardous materials shall be handled, recycled, or disposed of according to federal, state, and local laws.

(2) The owner/operator shall prepare an emergency spill notification Contingency Plan to be approved by the County and posted on the premises before the issuance of any occupancy permits. The owner/operator/tenant shall be responsible for notifying all County departments identified in the Contingency Plan immediately in the event of a spill or any petroleum product, chemical waste, or other hazardous substance on the property. The owner/operator shall assume full responsibility for all public and private expenses incurred in the clean-up of such spills.

Section 7-5-9 Kennel, Commercial[58]

A. **Minimum Lot Area.**

(1) Minimum lot area of five (5) acres.

B. **Location.** Except where animals are confined in soundproofed buildings, no portion of the use, excluding required screening and landscape buffers, shall be located within:

(1) 100 ft. from the property lines of adjoining rural or residential zoned property;

(2) 200 ft. from any dwelling not on the associated parcel.

C. **General Standards.**

(1) All exterior runs, play areas, or arenas shall be designed with a minimum 6-foot-high opaque screen from adjacent lot lines and street rights-of-way.

[58] Editor's Note: This section contains all new recommended provisions for commercial kennels operated as a business.

(2) Kennels shall be kept free of waste on a regular basis to minimize impacts of odor and reduce propagation of pests.

(3) Waste disposal shall be in accordance with Virginia Department of Health standards.

(4) All boarded animals shall be kept within a totally enclosed part of the structures between the hours of 10:00 p.m. and 8:00 a.m.

Section 7-5-10 Marina

A. **Minimum Lot Area.**

(1) Minimum lot area of one (1) acre.

B. **General Standards.**

(1) Any storage, drydocking, or stacking of boats must be conducted in an enclosed structure or must be completely screened from adjacent property lines in accordance with screening requirements of Article 8, Community Desing Standards.

Section 7-5-11 Parking Lot, Recreational Vehicle[59]

A. Recreational Vehicle Storage Parking Lots are intended for recreational vehicles and watercraft only.

B. Spaces may be rented for parking and/or storing recreational vehicles, but no other business of any kind must be conducted.

C. No service or repair work will be permitted in association with the parking facility except under emergency service work.

D. No outdoor storage of inoperable recreational vehicles or equipment.

E. To retain all recreational vehicles and watercraft completely within the parking lot, a rail, fence, wall, or other continuous barricade at least 6 ft. tall must be provided except at exit or access driveways.

F. Screening must be provided on each side of the parking lot which:

(1) Abuts upon any residential district or use; or

(2) Faces across a street, alley, or place from any lot in a residential district or use.

G. Screening must be in accordance with the regulations of Article 8, Community Design Standards.

[59] Editor's Note: This section contains all new provisions for the new recreational vehicle parking lot use.

Section 7-5-12 Recreation/Entertainment, Commercial Outdoor[60]

A. **Lot Area.**

(1) Minimum lot area of five (5) acres.

B. **Setbacks.**

(1) For recreation/entertainment, commercial outdoor establishments adjacent to rural or residential districts:

(a) All buildings, structures, outdoor areas for the commercial recreation/entertainment use, and parking areas shall be set back at least 200 ft. from any property line.

(2) For recreation/entertainment, commercial outdoor establishments adjacent to commercial, industrial, or planned development districts:

(a) All buildings, structures, and parking areas shall be set back at least 75 ft. from any property line.

C. **Access and Parking.** In addition to the parking standards provided in Article 8, Community Design Standards, the following shall apply:

(1) All recreation/entertainment, commercial outdoor establishments shall have direct access to a public road.

(2) If deemed necessary by the Administrator, a Traffic Impact Analysis may be required as part of the Site Plan process.

(3) All parking areas shall be to the side or rear of the primary use or structure, and comply with Article 8, Community Design Standards.

(4) If roads and parking areas are not paved, they shall be treated to prevent dust.

(5) Grass parking areas shall be maintained in good condition with uniform grass coverage and free from rill or gully erosion.

D. **General Standards.**

(1) Any retail sales conducted on the property shall be accessory and incidental to the permitted recreation/entertainment, commercial outdoor establishment and conducted for the participants of the site.

[60] Editor's Note: This section contains new recommended provisions for outdoor commercial recreation venues.

(2) For uses such as paintball facilities, ball fields, driving ranges, outdoor batting cages, and other facilities that have objects that travel through the air in unpredictable directions:

(a) A minimum 20 ft. high nylon mesh screen, backstop, or similar barricade, shall be installed to contain projectiles within the boundaries of the use.

i. Where a Special Use permit is required, the height of the screen may be lowered by the Board of Supervisors upon a determination that the lower screen, in combination with other elements of the site design, provides adequate protection from projectiles.

(b) Supplemental barriers shall be provided as needed to contain all projectiles within the boundaries of the range.

(3) All mechanical or motorized rides shall be located a minimum of 200 ft. from any adjoining residential district or use unless the applicant demonstrates to the Board's satisfaction that the existing topography of the site or the provision of noise attenuation measures will adequately mitigate any sound and visual impacts created.

E. **Liability Insurance.** The owner shall provide proof of adequate liability insurance for all recreation facilities prior to beginning construction and before the issuance of any permits.

Section 7-5-13 Resort[61]

A. Licensure. The owner/operator shall hold a valid business license from the County and, where applicable, a permit from the Department of Health.

B. **Registration**.

(1) The owner/operator shall maintain a log of all patrons, including their name, address, license plate number and state, and their length of stay. The log shall be available to County staff upon request.

(2) Guest(s) may stay no longer than 30 consecutive days.

C. **Minimum Lot Area.** The minimum lot area for a resort shall be 20 acres.

D. **Access.** Access to the property shall be acceptable to the Nelson County Chief of Fire and Emergency Services.

E. **General Standards.** The following standards apply to Resorts:

[61] Editor's Note: Resort and Retreat Center were added per staff comments 11/5/25. Once accepted at a joint worksession these will be put in alphabetical order in the Division. Moved into alphabetical order after the 12/17/25 worksession.

(1) Shall have on site management, 24 hours per day, seven (7) days per week;

(2) Shall include overnight lodging;

(3) May include prepared meals or a restaurant;

(4) May include recreational infrastructure and activities such as camping, trails, swimming pools or lakes, climbing apparatus, and horseback riding;

(5) All new development, buildings, and active recreational areas shall:

(a) Be set back a minimum of 200 feet from adjacent properties.

(b) Comply with the regulations of Article 8, Community Design Standards;

(c) Be subject to Chapter 8, Article II, Noise Control, of the Code of the County of Nelson.

Section 7-5-14 Retreat Center

A. **Licensure**. The owner/operator shall hold a valid business license from the County and, where applicable, a permit from the Department of Health.

B. **General Standards**.

(1) The property must be permanently occupied by an owner resident or resident manager.

(2) Activities may be indoor or outdoor.

(3) May include up to 30 guestrooms in sleeping quarters such as lodging, dormitories, or cabins.

(a) **Registration**. The owner/operator shall maintain a log of all patrons, including their name, address, license plate number and state, and their length of stay. The log shall be available to County staff upon request.

i. Guest(s) may stay no longer than 30 consecutive days.

(4) Every room occupied for sleeping purposes shall comply with the Uniform Statewide Building Code.

(5) A Retreat Center may be an accessory or ancillary use to other uses, such as a resort.

(6) The use shall not include government and military services.

(7) All new development, buildings, and active recreational areas shall:

(a) Be set back a minimum of 100 feet from adjacent properties.

(b) Comply with the regulations of Article 8, Community Design Standards;

(c) Be subject to Chapter 8, Article II, Noise Control, of the Code of the County of Nelson.

Section 7-5-15 Smoke/Vape Shop[62]

A. **Establishment.** Smoke Shop/Vape Shop includes retail sale locations of tobacco products, nicotine vapor products, alternative nicotine products, or hemp products intended for smoking, in accordance with Code of Virginia § 15.2-912.4.

B. **Location and Distance.**

(1) No Smoke/Vape Shop use will be established within three (3) miles of any existing Smoke/Vape Shop use in any zoning district.

(2) Any new or relocated Smoke/Vape Shop shall be located at least 1,000 linear ft. from the closest property line of parcels containing the following uses:

(a) Day Care Center; or

(b) Educational Facility, Primary or Secondary.

(3) No Smoke/Vape Shop will be established within 1,000 ft. of any existing residential use; religious assembly; educational facility; parks; recreational facility; day care centers; or community centers as defined in Article 11 Definitions.

C. **Design Standards.**

(1) Any signs and exterior lighting must be in accordance with the regulations of Article 8, Community Design Standards.

(2) All window areas must remain transparent.

Section 7-5-16 Vehicle Service or Repair

A. **General Standards.**

(1) No portion of the use, excluding required screening and landscape buffers, will be located within 200 ft. of a residential district or structure containing a dwelling unit.

(2) There will be no storage or display of vehicles within ten (10) ft. of a property line.

(3) All repairs and maintenance of vehicles, including parts installation, must be performed within a completely enclosed building.

(4) No vehicle or equipment displays must be located within a required setback, fire lane, travel way, sidewalk, or landscaped area.

[62] Editor's Note: This section contains all new recommended provisions.

(5) The temporary on-site storage of vehicles awaiting repair, service, or removal must be on the side or rear of the principal structure and screened from view from any adjacent right-of-way by a building, or by an opaque fence or wall, in accordance with Article 8, Community Design Standards.

(6) Temporary on-site storage of vehicles is 30 days or less.

(7) Nothing, including vehicles and vehicle equipment, will be displayed on the top of a building.

(8) An appropriately sized and designed in-ground grease and oil separator device must be installed on-site and properly maintained to prevent grease and oil entry into the wastewater system.

(9) No outdoor storage of inoperable vehicles or equipment.

(10) Vehicle Repair uses must not operate a junkyard/salvage yard, as defined in Article 11, Definitions.

B. **Hazardous Materials Standards.**

(1) The discharge of fuel, oil, solvents, anti-freeze, and/or other pollutants, hazardous materials, or flammable substances into any public sewer, storm drainage, or other surface waters is prohibited.

(2) The owner/operator must prepare an emergency spill notification Contingency Plan to be approved by the County and posted on the premises before the issuance of any occupancy permits. The owner/operator/tenant will be responsible for notifying all County departments identified in the Contingency Plan immediately in the event of a spill or any petroleum product, chemical waste, or other hazardous substance on the property. The owner/operator must assume full responsibility for all public and private expenses incurred in the clean-up of such spills.

C. **Tire and Outdoor Storage Standards.**

D. Location. No tire and/or outdoor storage will be located within 50 ft. of a residential district.

(1) Tire and outdoor storage as an accessory use must not exceed 30% of the total site area and will be subject to the use standards of Section 7-8-6, Outdoor Storage, of this Article.

(2) No more than ten (10) tires will be included in outdoor displays.

(3) All tire and/or outdoor storage must meet any requirements of the Nelson County Fire Marshal.

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(4) All tire and/or outdoor storage must be screened by a solid wall or fence not less than six (6) ft. in height. All screening must be in accordance with Article 8, Community Design Standards.

(5) Tire and/or outdoor storage must be located on the side or rear of the main structure and screened from view from any adjacent roadway.

Section 7-5-17 Veterinary Hospital or Clinic[63]

A. **Location.** Except where animals are confined in soundproofed buildings, no portion of the use, excluding required screening and landscape buffers, shall be located within:

(1) 100 ft. from the property lines of adjoining rural or residentially zoned property; or

(2) 200 ft. from any dwelling not on the associated parcel.

B. **General Standards.**

(1) All exterior runs, play areas, or arenas shall be designed with a minimum 6-foot-high opaque screen from adjacent lot lines and street rights-of-way, and shall be in accordance with Article 8, Community Design Standards.

(2) Veterinary hospitals/clinics shall be kept free of waste on a regular basis to minimize impacts of odor and reduce propagation of pests.

(3) Waste disposal shall be in accordance with Virginia Department of Health standards.

(4) All boarded animals shall be kept within a totally enclosed part of the structures between the hours of 10:00 p.m. and 8:00 a.m.

Division 7-6 Industrial Use Standards

A. **General Standards**.

(1) The Administrator may require industrial uses to be conducted wholly within a completely enclosed building or within an area enclosed on all sides by a solid masonry wall, a uniformly painted solid board fence, or an evergreen hedge between six (6) and ten (10) feet in height.

(a) Public utilities requiring natural air circulation or other technical consideration necessary for proper operation may be exempt from this provision. This exception does not include storage of any materials.

(2) Screening and landscaping shall be in accordance with Article 8, Community Design Standards.

[63] Editor's Note: All new recommended provisions.

(a) Where standards are provided in this Article they shall prevail over those in Article 8.[64]

Section 7-6-1 Battery Energy Storage Facility (BESF)[65]

A. **Intent**. This Section is not intended to abridge safety, health, environmental, or land use requirements contained in other applicable laws, codes, regulations, standards, or ordinances. This Section does not supersede or nullify any provision of local, State, or Federal law that applies to Battery Energy Storage Facilities (BESF).

B. **Applicability**.

(1) The requirements of this Section apply to all BESFs.

(2) In accordance with Code of Virginia § 15.2-2316.10, where BESF is accessory to a Solar Energy Facility, a BESF project shall be deemed as a permitted accessory use on any parcel of land that is subject to an approved SUP for a solar facility, provided the BESF project is located within the boundaries of the parcel covered by the existing SUP.

C. **Configuration.** All Battery Energy Storage Facilities shall be configured so that battery cells shall be placed in a Battery Energy Storage System (BESS) with a Battery Management System (BMS). The BESS shall provide a secondary layer of physical containment to the batteries and be equipped with cooling, ventilation, and fire suppression systems.

D. **Operation**. BESFs shall be constructed, maintained, and operated in accordance with applicable codes and standards, including but not limited to applicable fire, electrical, and building codes adopted by the County; National Fire Protection Association (NFPA) 855, Standard for the Installation of Stationary Energy Storage Systems, 2020 Edition and subsequent additions; Underwriters Laboratories (UL) 9540A Ed. 4-2019, Standard for Test Method for Evaluating Thermal Runway Fire Propagation in Battery Energy Storage Systems and subsequent editions.

E. **Utilities**. Public water, or an existing commercial well and fire hydrants shall be available to the property.

(1) All on-site utility lines shall be placed underground to the extent feasible and as permitted by the serving utility, except for the main service connection at the utility company right-of-way and any new interconnection equipment, including without limitation any poles, with new easements and ROWs.

[64] Editor's Note: Added for clarification 10-20-2026.

[65] Editor's Note: New use added as a principal use in response to HB891, which requires this as an accessory use. The County can also regulate the use as a principal use.

F. **Screening**. Sufficient screening and/or landscaping shall be necessary to ensure that facilities are not visible from the public ROW. Facilities shall be fully screened on all sides from view, except from an adjacent parcel on the same side of the road with an electric substation or a parcel that is zoned industrial.

(1) All screening and landscaping shall be in accordance with Article 8, Community Design Standards.

(2) RPAs shall not be counted toward buffer requirements.

(3) Areas within 20 ft. on each side of a BESF shall be cleared of combustible vegetation and other combustible growth. Single specimens of trees, shrubbery, or cultivated ground cover such as green grass, succulents, or similar plants used as ground covers shall be permitted to be exempt provided that they do not form a means of readily transmitting fire. Removal of trees should be minimized to the extent possible.

G. **Location and Setbacks**. Due to their potentially combustible nature, the siting of BESFs and related equipment shall:

(1) Be located at least 200 ft. from any residential district, planned development district, or dwelling;

(2) Be located at least 100 ft. from agricultural, commercial, or industrial districts, except for an adjacent parcel with an electric substation to which the BESF will connect;

(3) Take advantage of existing topography, structures, and vegetation to provide extra screening; and

(4) Prevent encroachment and runoff into wetlands, floodplains, and any other sensitive environmental areas.

H. **Emergency Access**.

(1) Access to the property for the local and regional Fire, Rescue, and Emergency Services shall be provided in a manner acceptable to the a designated fire official.

(2) The owner or operator shall coordinate with the designated fire official to provide materials, education, and/or training on how to safely respond to on-site emergencies. Emergency personnel shall be given a key or code to access the facility 24 hours a day, seven days a week.

I. **Safety Operation Standards**.

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(1) Each BESF shall install and maintain a built in, automatic fire alarm/detection system, fire suppression system, and other extinguishing technology based on specific hazards, as approved by the designated fire official, under the direction of NFPA 855 standards, as amended, and the Virginia Statewide Fire Prevention Code.

(2) The Battery Management System shall include 24 hours a day, seven days a week monitoring for individual battery module voltages and temperatures, container temperature and humidity, off-gassing of combustible gas, fire, ground fault and DC surge, and door access.

(3) The Battery Management System shall be capable of shutting down the system before thermal runaway takes place.

J. **Warning Signage**. NFPA 704 placards shall be placed on building entrances along with emergency contact information.

K. **Security Fencing**. The facilities shall be enclosed by security fencing.

(1) All security fencing shall be a minimum of eight (8) ft. in height and shall incorporate anti-climb featured designed to limit unauthorized access.

(2) All security fencing shall be placed behind the buffer and screened from view.

(3) A performance bond reflecting the costs of anticipated security fence maintenance shall be posted and maintained.

(4) Failure to maintain the security fencing shall result in revocation of the Zoning Permit following notice of violation and enforcement as provided in Article 2, Administration.

L. **Decommissioning Plan**. Applications for BESFs shall include a Decommissioning Plan to be implemented upon abandonment and/or in conjunction with removal of the facility. All Decommissioning Plans shall be certified by an engineer or contractor with demonstrated expertise in solar facility removal, and shall include the following:

(1) The anticipated life of the project;

(2) A narrative description of the activities to be accomplished, including who will perform that activity and at what point in time, for complete physical removal of all components of the BESF;

(3) An estimated deconstruction schedule;

(4) A description of mediation procedures for the release of hazardous materials or other emergency events during the decommissioning process.

(5) The estimated decommissioning cost in current dollars; and

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(6) The estimated cost of decommissioning shall be guaranteed by bond, letter of credit, or other security approved by the County.

(a) The owner shall deposit the required amount into the approved escrow account before any building permit is issued to allow construction of the BESF.

(b) The escrow account agreement shall prohibit the release of the bond without the written consent of the County. The County shall consent to the release of the bond upon on the owner's compliance with the approved Decommission Plan. The County may approve the partial release of the bond as portions of the approved Decommission Plan are performed.

(c) The dollar amount of the bond shall be the full amount of the estimated decommissioning cost without regard to the possibility of salvage value.

(d) The owner or occupant shall recalculate the estimated cost of decommissioning every five (5) years. If the recalculated estimated cost of decommissioning exceeds the original estimated cost of decommissioning by 10%, then the owner or occupant shall deposit additional funds into the bond to meet the new cost estimate. If the recalculated estimated cost of decommissioning is less than 90% of the original estimated cost of decommissioning, then the County may approve reducing the amount of the bond to the recalculated estimate of decommissioning cost.

(7) Decommission shall include removal of all battery energy storage system components, structures, equipment, security barriers, and transmission lines from the site so that any agricultural ground upon which the facility and/or system was located is again tillable and suitable for agricultural uses.

M. **Emergency Plan**. Applications for BESFs shall include an Emergency Plan that, at minimum, contains the following:

(1) Procedures for safe shutdown, de-energizing, or isolation of equipment and systems under emergency conditions to reduce the risk of fire, electric shock, release of hazardous materials, and personal injuries, and for safe start-up following cessation of emergency conditions.

(2) Procedures for inspection and testing of associated alarms, interlocks, and controls.

(3) Procedures to be followed in response to notifications from the Battery Energy Storage Management System, when provided, that could signify potentially dangerous conditions, including shutting down equipment, summoning service, and repair personnel, and providing agreed upon notification to fire department personnel for potentially hazardous conditions in the event of a system failure.

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(4) Emergency procedures to be followed in case of fire, explosion, release of liquids or vapors, damage to critical moving parts, or other potentially dangerous conditions. Procedures can include sounding the alarm, notifying the fire department, evacuating personnel, de-energizing equipment, and controlling and extinguishing the fire.

(5) Procedures and schedules for conducting drills of these procedures and for training local first responders on the contents of the plan and appropriate response procedures.

Section 7-6-2 Cannabis Cultivation Facility.[66]

A. **Applicability**. This section applies to cannabis cultivation facilities licensed by the Virginia Cannabis Control Authority (VCCA) pursuant to Code of Virginia § 4.1-800.

B. **State License Required**.

(1) A valid license issued by the VCCA must be obtained and maintained at all times. Evidence of the final state license must be provided to the Administrator within ten (10) calendar days after issuance by the VCCA.

(2) If the required VCCA license is suspended, expires, revoked, or otherwise becomes invalid, operation of the cannabis establishment must immediately cease until a valid state license is reinstated or reissued.

(3) If the required VCCA license is revoked or otherwise permanently terminated, zoning approval for the cannabis establishment will become void.

C. **Site Plan.** In addition to the requirements of Article 3, Division 3-6 Concept Plans and Site Plans, the site plan must delineate:

(1) All outdoor cultivation areas and indoor cultivation facilities.

(2) Any proposed phased expansion(s) of outdoor cultivation areas and indoor cultivation facilities.

D. **General Standards**.

(1) Outdoor display or storage of cannabis or cannabis products is prohibited.

(2) Outdoor storage of materials and equipment must comply with Section 7-8-6 Outdoor Storage.

(3) On-site consumption of cannabis products is prohibited.

[66] Editor's Note: New cannabis sections added because by February 1, 2027 the state will begin accepting license applications, and localities need to have their zoning regulations in place.

(4) Operations must not emit dust, fumes, vapors, smoke, glare, vibration, or odors beyond the parcel boundaries.

(5) The total cultivation canopy area must not exceed the limits authorized under the applicable state-issued license.

(6) Drying, curing, trimming, grading, packaging, and labeling of harvested cannabis must occur within enclosed buildings.

(7) Harvested cannabis and cannabis products must be stored in an enclosed building in accordance with the applicable security and storage requirements established by the VCCA.

(8) Retail sales or customer pickup of cannabis products at the licensed premises is prohibited.

E. Setbacks.

(1) Cultivation buildings and outdoor cultivation areas must be at least:

(a) 500 ft. from the property line of any parcel that is residentially zoned, designated residential in the Comprehensive Plan, or contains an existing dwelling.

(b) 1,000 ft. from the property line of the following uses:

i. Hospitals;

ii. Public, private, or parochial schools;

iii. Institutions of higher education; and

iv. Child day programs.

(c) 100 ft. from the property line of any parcel not described in subsection (E)(1)(a) or (b), above.

(2) Required setbacks will be measured from the nearest point of an indoor cultivation building or outdoor cultivation area to the nearest property line of the applicable parcel or use.

F. Buffers.

(1) A vegetative buffer at least 75 ft. in width is required when the abutting parcel is residentially zoned, designated residential in the Comprehensive Plan, or contains an existing dwelling.

(2) A vegetative buffer at least 50 ft. in width is required along public rights-of-way and along any lot line of an abutting parcel not described in subsection (F)(1), above.

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Section 7-6-3 Cannabis Delivery Operator

A. **Applicability**. This section applies to cannabis delivery operators licensed by the Virginia Cannabis Control Authority (VCCA) pursuant to Code of Virginia § 4.1-805.

B. **State License Required**.

(1) A valid license issued by the VCCA must be obtained and maintained at all times. Evidence of the final state license must be provided to the Administrator within ten (10) calendar days after issuance by the VCCA.

(2) If the required VCCA license is suspended, expires, revoked, or otherwise becomes invalid, operation of the cannabis establishment must immediately cease until a valid state license is reinstated or reissued.

(3) If the required VCCA license is revoked or otherwise permanently terminated, zoning approval for the cannabis establishment will become void.

C. **General Standards**.

(1) Outdoor display or storage of cannabis or cannabis products is prohibited.

(2) Outdoor storage of materials and equipment must comply Section 7-8-6 Outdoor Storage.

(3) On-site consumption of cannabis products is prohibited.

(4) Operations must not emit dust, fumes, vapors, smoke, glare, vibration, or odors beyond the parcel boundaries.

(5) Cannabis and cannabis products must be stored in an enclosed building in accordance with the applicable security and storage requirements established by the VCCA.

(6) Retail sales or customer pickup of cannabis products at the licensed premises is prohibited.

Section 7-6-4 Cannabis Processing Facility

A. **Applicability.** This section applies to cannabis processing facilities licensed by the Virginia Cannabis Control Authority (VCCA) pursuant to Code of Virginia § 4.1-801.

B. State License Required.

(1) A valid license issued by VCCA must be obtained and maintained at all times. Evidence of the final state license must be provided to the Administrator within ten (10) calendar days after issuance by the VCCA.

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(2) If the required VCCA license is suspended, expires, revoked, or otherwise becomes invalid, operation of the cannabis establishment must immediately cease until a valid state license is reinstated or reissued.

(3) If the required VCCA license is revoked or otherwise permanently terminated, zoning approval for the cannabis establishment will become void.

C. **General Standards**.

(1) All operations must occur indoors.

(2) Outdoor display or storage of cannabis or cannabis products is prohibited.

(3) Outdoor storage of materials and equipment must comply with Section 7-8-6 Outdoor Storage.

(4) On-site consumption of cannabis products is prohibited.

(5) Operations must not emit dust, fumes, vapors, smoke, glare, vibration, or odors beyond the parcel boundaries.

(6) Cannabis and cannabis products must be stored in an enclosed building in accordance with the applicable security and storage requirements established by the VCCA.

(7) Retail sales or customer pickup of cannabis products at the licensed premises is prohibited.

Section 7-6-5 Cannabis Testing Facility

A. **Applicability**. This section applies to cannabis testing facilities licensed by the Virginia Cannabis Control Authority (VCCA) pursuant to Code of Virginia § 4.1-806.

B. **State License Required**.

(1) A valid license issued by the (VCCA must be obtained and maintained at all times. Evidence of the final state license must be provided to the Administrator within ten (10) calendar days after issuance by the VCCA.

(2) If the required VCCA license is suspended, expires, revoked, or otherwise becomes invalid, operation of the cannabis establishment must immediately cease until a valid state license is reinstated or reissued.

(3) If the required VCCA license is revoked or otherwise permanently terminated, zoning approval for the cannabis establishment will become void.

C. **General Standards**.

(1) All operations must occur indoors.

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(2) Outdoor display or storage of cannabis or cannabis products is prohibited.

(3) Outdoor storage of materials and equipment must comply with Section 7-8-6 Outdoor Storage.

(4) On-site consumption of cannabis products is prohibited.

(5) Operations must not emit dust, fumes, vapors, smoke, glare, vibration, or odors beyond the parcel boundaries.

(6) Cannabis and cannabis products must be stored in an enclosed building in accordance with the applicable security and storage requirements established by the VCCA.

(7) Retail sales or customer pickup of cannabis products at the licensed premises is prohibited.

Section 7-6-6 Data Center[67,68]

A. **Applicability.** This section shall apply to all Data Centers, as defined in this Ordinance, including high energy use facilities (HEUF), as provided by Code of Virginia § 15.2-2209.5.

B. **Site Assessments and Studies**.

(1) At the time of application for a new Data Center or where an applicant is seeking an expansion or modification of an already existing or approved facility and such expansion exceeds an additional 100 megawatts or more of electrical power, the applicant for a Data Center shall perform and submit a site assessment to examine, to the extent known and practicable and within the timeline provided by the Code of Virginia § 15.2-2286.A.7:

(a) The sound profile of the Data Center on residential units and schools located within 500 feet of the Data Center property boundary;

(b) Any new or existing substations that will be used to serve the Data Center;

(c) The anticipated transmission voltage required to serve the Data Center; and

[67] Editor's Note: This is a proposed new use being recommended as a use by special use permit only in the M-2 district. Due to its nature, recommended standards have been provided to set expectations for any application, however Nelson County will have the authority to include additional conditions as part of the SUP process. The County should consider if they wish to include this use and whether these minimum standards are appropriate for the community.

[68] Editor's Note: Data Center standards were updated in accordance with HB153 in red text.

(d) The anticipated impact of the proposed facility on ground and surface water resources, agricultural resources, parks, registered historic sites, and forestland on the subject parcel or on immediately contiguous land.

(2) Additional Noise Assessment Standards.

(a) In addition to the required sound profile outlined in Section 7-6-2 B, above, for sites that abut property used or zoned for residential purposes or a public park, the following noise studies must be prepared by a Commonwealth Licensed Professional Engineer (PE) verifying the maximum sound levels for the development:

i. A pre-construction study shall be submitted at the time of application evaluating the existing noise conditions prior to the development and model-predicted noise conditions resulting from the development.

ii. A post-construction study of noise conditions at the time of operations shall be submitted at least one (1) month but no more than 12 months after the issuance of the first Certificate of Occupancy for the development.

iii. Notwithstanding any provision to the contrary, if either the pre-construction or post-construction noise study demonstrates the development exceeds the maximum sound levels specified in Chapter 8, Article II of the County Code as measured at the boundary abutting a property used or zoned for residential purposes or a public park, noise mitigation measures shall be required to secure conformance.

(b) Each study shall be accompanied by an affidavit or certificate signed by the PE stating whether noise mitigation measures are required by the noise study. If mitigation measures are required, they shall be designed in compliance with the noise study and shown on the site plan. The Administrator has the authority to interpret and enforce the Pre- and Post-Construction Study and any necessary noise mitigation measures.

(c) All mechanical equipment, both on ground- and roof-mounted equipment, shall be attenuated through sound mitigation measures including, but not limited to, sound muffling materials.

C. In addition to applicable requirements of Article 3, Permits and Applications, the following shall be submitted as part of the initial application for a Data Center:

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(1) **Site Assessment.**[69] Site assessments shall be used by the County to assess:

(a) Consistency with the policies of the Nelson County Comprehensive Plan;

(b) Compliance with the County's noise ordinances;

(c) Compliance with all provisions of this Ordinance; and

(d) Other applicable laws and regulations, if any.

(2) **Viewshed Analysis.** The purpose of a viewshed analysis is to evaluate and mitigate potential visual impacts of proposed Data Center development on designated scenic, historic, residential, or environmentally sensitive areas.

(a) A viewshed analysis is required at the time of application for any proposed Data Center within 1,500 ft. of:[70]

i. Conservation Districts;

ii. Agricultural Districts;

iii. Residentially zoned or developed properties;

iv. Any local, state, or federal park;

v. Any lot zoned B-1, B-2, or SE-1; or

vi. Any lot within the VO, CO29, or CO151 overlay district.

(b) The viewshed analysis shall provide a three-dimensional (3D) visual simulation from at least one vantage point along all property lines.

(3) **Cooling System Information.**[71] An air-based cooling system is required.

(a) The applicant shall demonstrate compliance with Chapter 12 of the Nelson County Code, in addition to the following:

i. Data centers shall provide evidence that an air-based cooling system sufficient to meet the needs of the data center will be established.

[69] Editor's Note: Section 7-6-1 C.(1) BESF and its contents were added in accordance with HB153.
[70] Editor's Note: Recommended change from 1,000 to 1,500 ft.
[71] Editor's Note: This section was revised according to new empirical information 11/11/25. The requirement to use air-based cooling systems was added; and the ability to use water-based cooling systems and all related information was deleted per worksession direction 12/17/25.

ii. Air-based cooling systems shall be designed to include sound mitigation measures such as anti-vibration mounts, sound-absorbing barriers, and/or acoustic insulation in addition to the requirements of Section 7-6-2, E. (2), Landscaping, Buffering, and Screening and I. Noise.

(4) Water usage.

(a) Data centers shall not establish wells for any operations.

(b) The applicant shall submit an assessment of estimated water usage as part of the application.

i. The applicant shall present evidence that the data center will not have a negative impact on the public water and sewer system and capacity or service needs, even during times of drought.

D. No Data Center shall be constructed until evidence has been given as part of the application that the owner and/or facility operator has been approved by the utility company.

E. **Development Standards**.

(1) **Setbacks**.

(a) All primary structures shall be set back at least 200 ft.[72] from any property line abutting non-commercial or non-industrial zoned properties, or a public park.

(b) All accessory structures, including ground-mounted mechanical equipment, shall be setback at least 75 ft. from the property line of:

i. Adjacent properties with existing residential development;

ii. Approved plats showing residential development; or

iii. Zoning districts permitting residential dwellings.

(2) **Landscaping, Buffering, and Screening**.

(a) All landscaping, buffering, and screening shall comply with Article 8, Community Design Standards, as well as the following:

i. A vegetated buffer 50 ft. wide shall be required along any property line abutting or across a road from residential, commercial, mixed-use, and special districts or uses.

[72] Editor's Note: Suggested change from 100 to 200 ft.

a. For sites in which 70% or more of the existing open space or vegetated area is cleared for development, the buffer shall be at least 100 ft. wide.

b. Plantings shall include a combination of the following:

i. Large and understory deciduous trees;

ii. Large and small evergreen trees; and

iii. Ornamental trees and shrubs at a rate of 120 plants per 100 linear feet.

ii. At least 40% of the plantings shall consist of large evergreen trees, spaced at a minimum of 20 ft. apart (on center).

iii. No more than 20% of the plantings shall be shrubs.

(b) Power generators, cooling systems, storage facilities, and any other mechanical infrastructure necessary for Data Center operations shall be within an enclosed structure and screened from view from any adjacent street, use, or building.

i. Ground mounted mechanical equipment is prohibited in front yards.

ii. Solid screening walls shall be constructed with a design, materials, details, and treatment compatible to those used on the nearest primary façade of a building but may include perforated surfaces as needed for ventilation of mechanical equipment.

F. **Fencing**. Fencing used along all street frontages shall not consist of chain-link fencing, with or without slatted inserts.

(a) Barbed wire shall be permitted, provided that fencing within 35 ft. of a public street does not include barbed wire or other similar visible intrusion deterrence devices.

G. **Utilities**.[73] Data centers shall be located on property with a power station or an existing transmission line or immediately adjacent to a property or easement with a power station or an existing transmission line.

(1) No new off-site transmission lines shall be constructed for the purpose of serving the data center.

(2) No data center shall be built until evidence has been given as part of the application that the owner has been approved by the utility company.

[73] Editor's Note: E. Utilities was added 11/11/25.

H. **Emergency Access**. The owner or operator shall coordinate with the Nelson County Fire Marshall to provide materials, education, and/or training on how to safely respond to on-site emergencies. Emergency personnel shall be given a key or code to access the property.

I. **Noise**.

(1) Generator testing shall be limited to weekdays between 8:00 a.m. and 5:00 p.m.

(2) All mechanical equipment, both on ground and roof mounted equipment, shall be attenuated through sound mitigation measures including, but not limited to, sound muffling materials and anti-vibration mounts.

(3) For sites abutting non-commercial or non-industrial zoned properties, the following noise studies shall be prepared by a Commonwealth Licensed Professional Engineer (PE) verifying the maximum sound levels for the development.

(a) A pre-construction study shall be submitted at the time of Site Plan review evaluating the existing noise conditions prior to the development and model-predicted noise conditions resulting from the development.

(b) A post-construction study of noise conditions at the time of operations shall be submitted at least one (1) month but no more than 12 months after the issuance of the first Certificate of Occupancy for the development.

(c) Notwithstanding any provision to the contrary, if either the pre-construction or post-construction noise study demonstrates the development exceeds the maximum sound levels specified in Chapter 8, Article II, of the County Code, as measured at the property line abutting non-commercial and non-industrial uses and districts, noise mitigation measures shall be required to secure conformance.

(d) Each study shall be accompanied by an affidavit or certificate signed by the PE stating whether noise mitigation measures are required by the noise study. If mitigation measures are required, they shall be designed in compliance with the noise study and shown on the Site Plan.

(e) The Administrator shall have the authority to interpret and enforce the Pre- and Post-Construction Study and any necessary noise mitigation measures.

(4) **Annual Testing**.[74] Noise testing as required in this Section shall be conducted annually and submitted to the Administrator no later than the first day of July of each calendar year for the life of the use.

[74] Editor's Note: Annual testing was added 11/11/25.

(a) If the sound test finds that noise levels exceed 60 dBA as measured at the property line or 50 dBA as measured at the nearest neighboring dwelling or any additional standards and conditions associated with the use, the applicant will have 48 hours to mitigate the violation or operations will be suspended and the applicant shall cease the use until such time that the applicant can demonstrate the noise levels are in compliance with this Section.

Section 7-6-7 Junkyard/Salvage Yard[75]

A. **General Standards.** In accordance with Code of Virginia § 33.2-804, junkyards are permitted as a Special Use, with the following standards:

(1) **Setback.** Minimum setback of 500 ft. from any street, road, or other right-of-way.

(2) **Screening.** All junkyards must be completely screened by a solid wall or fence, including solid entrance and exit gates, not less than eight (8) ft. in height, so as not to be visible from any right-of-way.

(a) All walls and fences must have a uniform and durable character and must be properly maintained. All screening must be in accordance with Article 8, Community Design Standards.

(b) Vehicles, parts, materials, and equipment stored must not be stacked higher than the screening wall or fence.

(c) When walls and fences are adjacent to commercial or residential districts, a landscaped buffer must be provided to break visibility of the fence in accordance with Article 8, Community Design Standards.

(3) **Maintenance.** All junkyards must be operated and maintained in such a manner as not to allow the breeding of rats, flies, mosquitoes or other disease-carrying animals and insects.

(4) **Compliance Required.** All junkyards must be operated in compliance with all federal and state record keeping and reporting requirements, to include, but not limited to:

(a) Reporting to Department of Motor Vehicles to confirm proper ownership;

(b) Research through National Motor Vehicle Title Information Systems to confirm clean title history; and

[75] Editor's Note: This section contains new standards for junkyards in the County based on provisions from state code.

(c) Reporting of every purchase, exchange or acquisition of any salvage or scrap vehicle on a daily basis or such other frequency as requested by the sheriff, in accordance with the Code of Virginia § 46.2-1608.1.

(5) **Prohibited.** The collection or storage of any material containing, or contaminated with, dangerous explosives, chemicals, gases, or radioactive substances is prohibited.

Section 7-6-8 Power Station[76]

A. Purpose and Intent.

(1) The purpose of this Section is to outline the process and requirements for the construction, installation, and operation of power stations that ensure the protection of the public health, safety, and welfare, while avoiding adverse impacts on County resources.

(2) The intent of this Section is to allow power stations in a manner that promotes the generation of electric power for offsite consumption while limiting and mitigating impacts on natural resources and existing residential, commercial, historical, cultural, and recreational uses of property, or the future development of such uses of property within Nelson County.

(3) This Section is not intended to abridge safety, health, environmental, or land use requirements contained in other applicable laws, codes, regulations, standards, or ordinances. This Section does not supersede or nullify any provision of local, State, or Federal law that applies to power stations.

B. **Compliance**. All power stations shall fully comply with all applicable local, state, and federal regulations.

C. **Land Disturbance**. The clearing, grading, and overall site disturbance is limited to only that which is necessary; superfluous clearing and grading is not permitted, in order to retain existing trees, plants, habitats, and other groundcovers.

D. **Height Limits**. The maximum height for the facility, including combustion turbine stacks, shall be up to 170 feet, as measured from grade.

(1) The Board of Zoning Appeals may approve a greater height based upon the demonstration of a significant need where the impacts of increased height are mitigated.

E. **Base Setbacks**.

[76] Editor's Note: Use added to include new technology and uses that are increasing along with data center and other uses. 10/21/2026.

(1) All fences and ancillary equipment or buildings, including storage tanks, shall be at least 250 ft. from any property line.

(2) All principal structures shall be at least 500 ft. from any property line.

(a) No principal structure shall be located within 1,000 ft. of any existing residential structure.

(3) Power stations that are located on contiguous lots, shall not have minimum setbacks for interior, or abutting, lot lines.

F. Location Standards.

(1) Wetlands, waterways, and floodplains shall be avoided.

(2) Power station facilities shall not be located on non-contiguous lots.

G. Buffer.

(1) A buffer shall be located within the setbacks required under this Section and shall run the entirety of property lines that are:

(a) Adjacent to a public road; and

(b) Adjacent to any parcels not industrially zoned.

(2) Existing forest resources shall be preserved by maintaining natural buffers whenever possible.

(3) Power station buffers shall be in accordance with Article 8, Community Design Standards, and must comply with Buffer Type C in Table 8-3, except that the minimum buffer width shall be 100 feet wide.

(a) The first 50 feet adjacent to the property line shall be planted as described in Section 8-3-5 for Type C.

H. Coordination of Local Public Safety Services.

(1) The owner or operator shall coordinate with the Nelson County Fire Marshal to provide materials, education, and/or training on how to safely respond to on-site emergencies. Emergency personnel will be given a key or code to access.

(a) All access roads shall be wide enough to accommodate safe ingress and egress of emergency vehicles.

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(2) At time of Site Development Plan submission, applicant shall provide a security plan to the Nelson County Sheriff's Office that details any measures utilized in the security of the facility, such as security personnel staffing, vehicular site access controls, building access controls and security alarms, video surveillance system specifications, fencing details, and/or a photometric plan.

I. **Maintenance.** The owner or operator shall maintain the power station in good condition. Such maintenance shall include, but not be limited to, painting, structural integrity of the equipment and structures, as applicable, maintenance of the buffer areas, and landscaping. Site access shall be maintained to a level acceptable to the County. The owner or operator shall be responsible for the cost of maintaining the power station and access roads, and the cost of repairing damage to private roads occurring as a result of construction and operation.

J. **Noise**. During operation, a power station shall not produce a noise level that exceeds 55 dBA as measured from the exterior of the nearest existing school, hospital, or residential dwelling unit.

K. **Lighting.** All lighting used for the facility, including security lighting, shall comply with Article 8, Community Design Standards.

L. Security Fencing.

(1) The facilities shall be enclosed by security fencing.

(2) All security fencing shall be a minimum of 6 ft. in height and topped with razor/barbed wire, as appropriate.

(3) All security fencing shall be placed behind the buffer and must be screened from view.

(4) All security fencing shall be constructed so as to substantially lessen the likelihood of entry by unauthorized individuals.

(5) A performance bond reflecting the costs of anticipated security fence maintenance shall be posted and maintained.

(6) The location of security fencing shall be shown on the Site Development Plan submitted.

M. Additional Standards.

(1) **Signage.** No signage of any type may be placed on the facility other than notices, warnings, and identification information required by law.

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(a) Signage shall not exceed 40 sq. ft. displaying the facility name, address, and emergency contact information, unless additional signage is required by state or federal law.

(b) Warning signage shall be placed to the extent appropriate or legally required.

(c) Signage on the property shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the power station.

(2) **Transmission Lines**. Any new electrical transmission lines may be located either above or below ground in a manner to be least intrusive and mitigate their impact to surrounding properties.

(3) **Design**. The design of support buildings and related structures shall use materials, colors, textures, screening, and landscaping that will blend the facilities to the natural setting and surrounding structures.

(4) **Siting.** Due to the high-water demand, power stations shall be connected to public water if a water-based cooling system is utilized.

N. Inspection.

(1) Power generated by the power station shall not be sold until a final inspection has been conducted to determine compliance with the requirements of this Ordinance and the Special Use Permit.

(2) The owner shall allow designated County staff access to the facility for inspection purposes.

(a) The owner shall provide the name and contact information of a person with authority over the facility who can provide access for any requested inspections.

(b) County staff shall provide the owner with a three-day notice prior to such inspection when practicable.

(3) The owner shall reimburse the County its costs in obtaining an independent third-party inspector to conduct inspections required by local and state laws and regulations, including the Uniform Statewide Building Code.

O. **Application Requirements**. In addition to all applicable requirements of Article 3, Permits and Applications, applications for power stations shall include the following:

(1) **Pre-Application Meeting**. A pre-application meeting shall be held with the Administrator to discuss the location, scale, and nature of the proposed use and what will be expected during the construction and initial operation processes.

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(2) **Neighborhood Meeting**. A public meeting shall be held to give the community an opportunity to hear from the applicant and ask questions regarding the proposed project. The meeting shall adhere to the following:

(a) The applicant shall inform the Administrator and adjacent property owners in writing of the date, time, and location of the meeting, at least 14 but no more than 21 days, in advance of the meeting date.

(b) The date, time, and location of the meeting shall be advertised in a newspaper of record in the County by the applicant, at least 14 but no more than 21 days, in advance of the meeting date.

(c) The meeting shall be held within the County, at a location open to the public with adequate parking and seating facilities that will accommodate persons with disabilities.

(d) The meeting shall give members of the public the opportunity to review application materials, ask questions of the applicant, and provide feedback.

(e) The applicant shall provide the Administrator a summary of any input received from members of the public at the meeting and copies of any written submissions from the public.

(3) **Project Narrative**. A detailed narrative that:

(a) Identifies the applicant, facility owner, site owner, and operator;

(b) Describes the proposed facility, including:

i. An overview of the project and its location;

ii. The size of the site and the total project area;

iii. The current use of the site;

iv. The estimated time for construction and proposed date for commencement of operations;

v. The planned maximum rated capacity of the facility; and

vi. How and where the electricity will be transmitted, including the location of the proposed electrical grid interconnection.

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(4) **Site Development Plan**. In addition to the Site Development Plan requirements of Article 3, Permits and Applications, all Site Development Plans for power stations may also require additional information as determined by the Administrator, such as a scaled elevation view and other supporting drawings, photographs of the proposed site, photo or other realistic simulations or modeling of the proposed power station from potentially sensitive locations as deemed necessary by the Administrator to assess the visual impact of the project, landscaping and screening plan, coverage map, and additional information that may be necessary for a technical review of the proposal.

(5) **Construction Schedule**. An estimated construction schedule.

(6) **Community Impact Assessment.** An assessment of the impact on the immediate vicinity of the proposed power station as well as the greater Nelson County community.

(a) The report shall be prepared by a professional acting within his or her competency, shall be presented in written form and shall analyze in specific terms the probable impact of the project on the vicinity and community over time.

(b) Specific attention, as may be appropriate to the individual proposal, should be given but not limited to the following elements:

i. Anticipated direct revenues to the County from real estate and personal property taxes;

ii. An assessment of employment opportunities to be created by the proposed development;

iii. An assessment of the short- and long-term economic impact of the proposed development;

iv. If the development is replacing an existing enterprise, including agriculture and forestry, an assessment of the impact the current enterprise has on the local economy and how the local economy will be impacted by the loss of the existing enterprise; and

v. Fire, rescue, and law enforcement requirements as compared to existing capacities and facilities.

(c) The Administrator may waive certain elements of the Community Impact Assessment, where the nature of the proposed facility makes such elements inapplicable.

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(d) The community impact assessment shall be in addition to any analyses or reports required by state or federal law.

(7) **Environmental Impact Assessment.** A statement regarding any site and viewshed impacts, including direct and indirect impacts to national or state forests and grasslands, national or state parks, County parks, wildlife management areas, conservation easements, or recreational areas, on or within three (3) miles of the proposed facility.

(a) Wetlands, rivers and streams, and floodplains shall be inventoried, delineated, and mapped to provide baseline data for the evaluation of the current proposal and to determine satisfactory decommissioning as required in this Section.

(b) The inventory and mapping of floodplain shall not be construed to allow development within regulatory flood plain areas.

(8) Traffic Study.

(a) Information about the proposed facility's traffic impacts, modeling both the construction and operations processes, to include:

i. The time of day that transport will occur;

ii. Characteristics of the loaded vehicles, including:

iii. Length, height, width, curb weight;

iv. Maximum load capacity;

v. Number of axles, including trailers; and

vi. Distance between axles.

vii. The number of vehicles transporting goods;

viii. The frequency of vehicle arrival at the site; and

ix. The number of drivers the project will employ.

x. The haul route(s) shall be provided and approved for construction impacts.

(b) After review of the application's traffic impact information, the County may require a full traffic study to be accepted by an engineer approved by the County.

(9) **Grading Plan**. A Grading Plan that limits grading to the greatest extent practicable by avoiding steep slopes and laying out arrays parallel to landforms. The Grading Plan shall include:

(a) Existing and proposed contours;

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(b) Locations and amount of topsoil to be stripped and stockpiled onsite (if any);

(c) Percent of the site to be graded;

(d) An earthwork balance achieved on-site with no import or export of soil; and

(e) Indication of natural flow patterns in drainage design and amount of impervious surface.

(10) **Landscaping Plan**.

(a) The Landscape Plan shall be prepared by a certified landscape architect or other qualified, licensed person.

(b) The Landscaping Plan shall indicate:

i. All ground cover, screening and buffering materials, landscaping, and elevations.

ii. All landscaping, screening, and buffering shall be in accordance with Article 8, Community Design Standards, and Section 7-6-8(G), above.

iii. Ground cover shall be native vegetation compatible with site conditions.

iv. Maintenance requirements.

P. Decommissioning.

(1) All applications and Site Development Plans for a power station shall require a decommissioning plan, as provided in (Q), Decommissioning Plan, below.

(2) Power stations which have reached the end of their useful life, have been abandoned, or have not been in active and continuous service for a period of 12 months shall be removed at the owner's or operator's expense, except if the project is being repowered or a force majeure event has or is occurring requiring longer repairs; however, the Board of Zoning Appeals may require evidentiary support that a longer repair period is necessary.

(3) The owner or operator shall notify the Administrator by certified mail of the proposed date of discontinued operations and plans for removal.

(4) If the owner of the power station fails to decommission the facility in accordance with the requirements of the decommissioning plan, or within the proposed date of decommissioning, the County may collect the surety and the County or hired third party may enter the property to physically decommission the facility.

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(5) If a facility is abandoned and the owner receives a notice of abandonment from the Administrator, the owner shall either complete all decommissioning activities and remove the power station in accordance with the decommissioning plan or resume regular operation within 30 days.

Q. Decommissioning Plan.

(1) All decommissioning plans shall be certified by an engineer or contractor with demonstrated expertise in power station decommissioning, and shall include the following:

(a) The anticipated life of the facility;

(b) An estimated decommissioning schedule;

(c) The manner in which the project will be decommissioned; and

(d) The estimated decommissioning cost in current dollars, provided in an itemized format by a Virginia Licensed Professional Engineer (PE).

(e) The estimated cost of decommissioning shall be guaranteed by bond, letter of credit, or other security approved by the County.

(f) The owner shall deposit the required amount into the approved escrow account before any building permit is issued to allow construction of the power station.

(g) The escrow account agreement shall prohibit the release of the bond without the written consent of the County. The County shall consent to the release of the bond upon the owner's compliance with the approved decommissioning plan. The County may approve the partial release of the bond as portions of the approved decommissioning plan are performed.

(h) The dollar amount of the bond shall be the full amount of the estimated decommissioning cost without regard to the possibility of salvage value.

(i) The owner or occupant shall recalculate the estimated cost of decommissioning every five (5) years. If the recalculated estimated cost of decommissioning exceeds the original estimated cost of decommissioning by 10%, then the owner or occupant shall deposit additional funds into the bond to meet the new cost estimate. If the recalculated estimated cost of decommissioning is less than 90% of the original estimated cost of decommissioning, then the County may approve reducing the amount of the bond to the recalculated estimate of decommissioning cost.

(2) Hazardous material from the property shall be disposed of in accordance with federal and state law.

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Section 7-6-9 Resource Extraction[77]

A. **Environmental Management Plan.** Any resource extraction conducted in the County must submit an Environmental Management Plan as part of an application for a Special Use Permit. Such plan shall contain the following:

(1) The type, length, slope, and maintenance plans for any access roads or trails which will be constructed in connection with the activity.

(2) The amount of land which will be disturbed as a result of the proposed activity and in particular any changes in the topography which would alter natural drainage patterns.

(3) The location of existing water wells and other existing or potential sources of water supply in the area to be established along with satisfactory proof that the proposed activity will not disturb the quality or production of water sources. Data describing area water quality and quantity shall be provided by the applicant.

(4) A plan for post drilling and post closure reclamation work.

B. **Bonding.** Applicants for resource extraction shall submit a bond or surety to the County in an amount sufficient to complete all requisite preparation, drilling, and reclamation projects as well as potential significant environmental damage.

C. **Drilling Permit.** Prior to commencing any activity involving drilling for oil or gas, the operator of the activity shall obtain a drilling permit from the Administrator. Such permit shall be granted only after a state drilling permit has been issued to the applicant. The County drilling permit shall be valid for a period of two (2) years. Renewal of the permit shall require a reapplication.

Division 7-7 Miscellaneous Use Standards

Section 7-7-1 Cannabis Microbusiness[78]

A. **Applicability.** This section applies to cannabis microbusinesses licensed by the Virginia Cannabis Control Authority (VCCA) pursuant to Code of Virginia § 4.1-803.

B. **State License Required.**

[77] Editor's Note: This section contains revised text from Section 4-9.

[78] Editor's Note: New cannabis sections added because by February 1, 2027 the state will begin accepting license applications, and localities need to have their zoning regulations in place.

(1) A valid license issued by the VCCA must be obtained and maintained at all times. Evidence of the final state license must be provided to the Administrator within ten (10) calendar days after issuance by the VCCA.

(2) If the required VCCA license is suspended, expires, revoked, or otherwise becomes invalid, operation of the cannabis establishment must immediately cease until a valid state license is reinstated or reissued.

(3) If the required VCCA license is revoked or otherwise permanently terminated, zoning approval for the cannabis establishment will become void.

C. **Site Plan**. In addition to the requirements of Article 3, Division 3-6 Concept Plans and Site Plans, the site plan must delineate:

(1) All outdoor cultivation areas and indoor cultivation facilities.

(2) Buildings or portions of buildings dedicated to processing.

(3) Buildings or portions of buildings dedicated to retail sales.

(4) Any proposed phased expansion(s) of cultivation, processing, or retail sales areas or buildings.

D. General Standards.

(1) Minimum Distance to Other Cannabis Retail Stores and Microbusinesses. Cannabis retail stores and microbusinesses must comply with the minimum separation distance between such uses established by regulations of the VCCA.

(2) Retail sales operations must be in accordance with Section 7-5-5 Cannabis Retail Store.

(3) Cultivation operations must be in accordance with Section 7-6-2 Cannabis Cultivation Facility.

(4) Processing operations must be in accordance with Section 7-6-4 Cannabis Processing Facility.

Section 7-7-2 Cannabis Transporter

A. **Applicability**. This section applies to cannabis transporters licensed by the Virginia Cannabis Control Authority (VCCA) pursuant to Code of Virginia § 4.1-804.

B. State License Required.

(1) A valid license issued by the VCCA must be obtained and maintained at all times. Evidence of the final state license must be provided to the Administrator within ten (10) calendar days after issuance by the VCCA.

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(2) If the required VCCA license is suspended, expires, revoked, or otherwise becomes invalid, operation of the cannabis establishment must immediately cease until a valid state license is reinstated or reissued.

(3) If the required VCCA license is revoked or otherwise permanently terminated, zoning approval for the cannabis establishment will become void.

C. General Standards.

(1) Retail sales or customer pickup of cannabis or cannabis products at the licensed premises may not occur.

(2) Consumption of cannabis or cannabis products on the licensed premises is prohibited.

(3) Outdoor storage or display of cannabis or cannabis products is prohibited.

(4) All cannabis and cannabis products stored on the licensed premises must be stored within an enclosed building and in accordance with applicable sanitary and security requirements established by the VCCA.

(5) Cannabis transporters may not operate as a home occupation.

Section 7-7-3 Solar Energy Facility, Utility-Scale[79] [80]

A. **Applicability.** The requirements set forth in this Section shall govern the location, siting, development, construction, installation, operation, and decommissioning of solar energy facilities in the County in accordance with Code of Virginia §§ 15.2-2241.2, 15.2-2288.7, and 15.2-2288.8.

B. **Application Process.** In addition to application materials and procedural requirements as outlined in this Section, Utility-Scale Solar Energy Facilities shall be subject to the following procedural requirements:

[79] Editor's Note: This section includes standards for large scale solar facilities from Article 22A of the existing ordinance with minor changes to adapt to medium and utility scale solar facilities. Any recommended new provision or major modification is indicated with an additional footnote.

[80] Editor's Note: Additional footnote (6/15/26). Solar energy facility standards have been wholly revised in accordance with HB711. This use applies to any facility distributing energy off-site.

(1) **Third-party review**. The County is authorized to hire an independent third-party consultant, and may choose to do so at their discretion, to review any application and all associated documents for completeness and compliance with this Ordinance and any other state and federal codes, as well as review, comment, and make recommendations with respect to a SUP application. Any costs associated with the review shall be paid by the applicant. Any payment of such fees would in no way be a substitute of payment for any other application review fees otherwise required by the County.

(2) **Neighborhood meeting**. Following application submission and at least 14 days prior to the Comprehensive Plan review conducted pursuant to Section 7-7-1 B. (3), a public neighborhood meeting shall be held to give the community an opportunity to hear from the applicant and to ask questions regarding the proposed application. The meeting shall adhere to the following requirements:

(a) The applicant shall inform the Administrator and adjacent property owners in writing of the date, time, and location of the meeting, at least 14 but no more than 21 days, in advance of the meeting date;

(b) The date, time, and location of the meeting shall be advertised sufficiently in prevalent news media sources to County residents by the applicant, at least 14 but no more than 21 days, in advance of the meeting date;

(c) The meeting shall be held within the County, at a location open to the public with adequate parking and seating facilities that will accommodate persons with disabilities;

(d) The meeting shall give members of the public the opportunity to review application materials, ask questions of the applicant, and provide feedback; and

(e) The applicant shall provide the Administrator with a summary of any input received from members of the public at the meeting and copies of any written submissions from the public.

(3) **Comprehensive Plan Review**.

(a) **Planning Commission Review**. Pursuant to Code of Virginia §15.2-2232, the Planning Commission shall consider whether the general or approximate location, character, and extent of the proposed solar energy facility is substantially in accordance with the Comprehensive Plan or part thereof.

i. The Planning Commission shall communicate its findings to the Board of Supervisors, indicating its approval or disapproval with written reasons therefor.

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ii. Failure of the Planning Commission to act within 60 days of a submission, unless the time is extended by the Board of Supervisors shall be deemed approval.

iii. The Planning Commission may perform this review at a meeting separate from and preceding any public hearing on a SUP application.

iv. The Planning Commission may hold a public hearing as part of this review, and shall hold a public hearing if directed to do so by the Board of Supervisors.

(b) **Appeal.** The owner(s) or their agents may appeal the decision of the Planning Commission to the Board of Supervisors within ten (10) days after the decision of the Planning Commission. The appeal shall be by written petition to the Board of Supervisors setting forth the reasons for the appeal. The appeal shall be heard and determined within 60 days of its filing.

i. A majority vote of the Board of Supervisors shall overrule the Planning Commission.

(4) **Siting Agreement**. Applicants shall enter into a siting agreement with the County, pursuant to and as authorized by Code of Virginia §§ 15.2-2316.6 through 15.2-2316.9, unless this requirement is waived by the Board of Supervisors.

C. **Report Findings to State Corporation Commission (SCC**). Not more than 60 days following the decision on a SUP, the Board of Supervisors shall furnish the Virginia SCC with a record of the decision. Such record shall include:

(a) The reason for any adverse decision;

(b) Any finding of nonconformity with the Comprehensive Plan; and

(c) The date of the last revision to the Comprehensive Plan.

D. **Application Requirements**. In addition to application materials required pursuant to Article 3, Permits and Applications, all applications shall include the following materials and information:

(1) **Concept Plan**. A concept plan in accordance with Article 3, Division 3-6.

(a) **Project Narrative**. In addition to the requirements described in Article 3, Section 3-6-3, a detailed narrative shall be submitted that identifies:

i. The applicant, facility owner, site owner, and operator, if known at the time of application;

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ii. A description of the proposed energy facility, including an overview of the project and its location;

iii. The current use of the site;

iv. The project area and the area to be fenced;

v. The estimated time for construction, any phasing schedule, location of staging areas or off-site storage facilities, and proposed date for commencement of operations;

vi. The planned maximum rated capacity of the facility;

vii. The approximate number, representative types, and expected footprint of equipment to be constructed, including the maximum number of photovoltaic panels;

viii. Specifications for proposed equipment, including the manufacturer and model, materials, color and finish, and racking type for solar facilities;

ix. Ancillary facilities; and

x. The manner and location of electrical transmission, including the location of the proposed electrical distribution or grid interconnection, substations, and switchyards.

(2) **Grading and Stormwater Management Report.** A grading plan and stormwater management report that identifies:

(a) Existing and proposed contours;

(b) Existing and proposed slopes of 15% or greater;[81]

(c) Locations and amount of topsoil to be stripped and stockpiled onsite;

(d) Percentage of the site to be graded;

(e) Any import or export of soil;

(f) Natural flow patterns in drainage design and amount of impervious surface; and

(g) Project compliance with Chapter 9, Article III, of the Nelson County Code.

(3) **Landscape Plan**. A landscape plan shall be submitted that identifies:

(a) Compliance with Article 8, Division 8-3;

[81] Editor's Note: Removed "steep" to avoid misunderstanding with "steep slopes."

(b) The location of existing vegetation and the limits of proposed clearing;

(c) All proposed ground cover, screening and buffering materials, landscaping, and elevations;

(d) Locations of wildlife corridors; and

(e) Landscape maintenance requirements.

(4) **Viewshed Analysis**. A viewshed analysis sufficiently demonstrating that visual impacts minimized through solar panel placement, height, landscaping, and screening shall be submitted. Such analysis shall account for existing vegetation and planned visual buffers, and shall specifically identify any visual impacts on:

(a) Public parks, scenic rivers, and byways; and

(b) Historic structures or sites listed on or eligible for the National Register of Historic Places, the Virginia Landmarks Register, a local Historic Building Designation, or a local Historic Overlay District.

(5) **Community Impact Assessment**. An assessment of the impact of the proposed facility on the immediate vicinity as well as the greater County shall be submitted. The assessment shall be prepared by one (1) or more individuals or firms acting within their professional capacity, shall be presented in written form, and shall analyze in specific terms the probable impact of the facility on the vicinity and community over time. Specific attention, as may be appropriate to the individual proposal, should be given but not be limited to the following elements:

(a) Consistency of the proposed facility with applicable policies contained in the Comprehensive Plan;

(b) Anticipated direct revenues to the County from real estate and personal property taxes;

(c) An assessment of employment opportunities to be created by the proposed development;

(d) An assessment of the short- and long-term economic impact of the proposed development;

(e) If the development is replacing an existing enterprise, including agriculture and forestry, an assessment of the impact the current enterprise has on the local economy and how the local economy will be impacted by the loss of the existing enterprise;

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(f) Fire, rescue, and law enforcement requirements as compared to existing capacities and facilities;

(g) Sewer and stormwater management needs as compared to existing capacities and facilities to address:

i. Adequacy of existing utilities, water, sewer, public services, and public facilities in the vicinity of the development;

ii. Public and private improvements both offsite and onsite that are proposed for construction and a cost estimate for providing these improvements; and

iii. Other public and quasi-public facility and service impacts including refuse collection and disposal systems intended to serve the development;

(h) Socioeconomic changes and impacts to result from the proposed development;

(i) The costs in both capital and operating funds of providing services to the proposed development; and

(j) What efforts, if any, are proposed to mitigate the service demands or costs to the County.

(k) The Administrator may waive certain elements of the impact assessment where the nature of the proposed facility makes such elements inapplicable.

(6) **Environmental Impact Assessment**. An assessment of the impact of the proposed facility to include the following:

(a) An inventory of wetlands, rivers, streams, and floodplains, to be delineated and mapped, in order to provide baseline data for the evaluation of the current proposal and evaluation of the satisfactory decommissioning as required. The inventory and mapping of floodplain shall not be construed to allow development within regulatory flood plain areas without a flood plain development permit.

(7) **Traffic and Transportation Assessment**. An assessment of the impact of the proposed facility, including construction traffic and processes, on traffic and transportation infrastructure.

E. **Decommissioning and Reclamation Plan.** A decommissioning and reclamation plan is required for any utility-scale solar energy facility.

(1) A decommissioning and reclamation plan certified by an engineer with a professional engineering license in the Commonwealth of Virginia, to include the following and demonstrating compliance with the requirements of (I), below:

(a) The anticipated life of the project, along with the basis for determining the anticipated life of the project;

(b) The estimated decommissioning cost in current dollars;

(c) How said estimate was determined;

(d) The method of ensuring that funds will be available for decommissioning and restoration;

(e) The method that the decommissioning cost will be kept current;

(f) The manner in which the facility will be decommissioned and the site restored; and

(g) Anticipated plans for the disposal and/or recycling of project equipment and components, including the identification of disposal and/or recycling sites located in the County.

(h) An up-to-date decommissioning plan shall be provided to the County any time there is project ownership outside of the current developer.

(i) Notice shall be provided to the local government within 30 days of the sale or transfer of the lease or property, and a new financial guarantee shall be provided by the new leaseholder or property owner.

(2) **Battery Energy Storage Facilities Accessory to Solar Energy Facilities**.[82] In accordance with Code of Virginia § 15.2-2316.10, Special Use Permits for Solar Energy Facilities approved after [effective date of Ordinance] shall anticipate the future addition of BESF facilities and accordingly shall impose the standards of Section 7-6-1 as conditions.

F. **Minimum Development Standards for Solar Energy Facilities**.

(1) Solar energy facilities may be located on parcels with other active agricultural, commercial, industrial, or institutional uses.

(2) **Setbacks.** Minimum setback distances shall be measured from the nearest edge of the equipment as follows:

(a) 200 feet[83] from the nearest point on the outer wall of existing occupied community buildings and dwellings on non-participating properties.

[82] Editor's Note: BESF added as an accessory use in accordance with HB891.
[83] Editor's Note: The County can choose a number between 150 and 200 feet per state code.

(b) 100 feet from the outside edge of the roadbed of any road abutting the property.[84]

(c) For projects not greater than 25 megawatts, 50 feet from the edge, and for projects greater than 25 megawatts, 100 feet from the edge, of nontidal wetlands, as defined in 9VAC25-830, or from the top of bank of perennial streams, as defined in Code of Virginia § 62.1-44.122. The term "equipment" as it applies to this setback is limited to solar panels, racking equipment, and inverters.

(d) 75 feet[85] measured from the nearest shared property line for nonparticipating properties, except that the owner of a nonparticipating property may waive this setback requirement by written agreement.

(e) Setbacks shall not be required for internal boundaries between adjacent project participating parcels.

(f) Access, erosion and stormwater structures, and interconnection to the electrical grid may be made through setback areas provided that such are generally perpendicular to the property line.

(3) **Height.**

(a) The height of solar energy facilities shall not exceed 25 ft. above ground when the arrays are at full tilt, except to allow for agrivoltaics activity below or in proximity to the panels.

(4) **Buffers and Screening**.

(a) Facilities shall provide a visual buffer/screening 50 feet in width.[86]

(b) Preexisting natural or manmade visual barriers may satisfy screening requirements.

(c) Trees and shrubs planted for screening must be no less than three (3) feet in height at the time of planting.

(d) All trees and shrubs at the time of planting shall accommodate adequate screening or buffering by five (5) years from planting.

(e) Vegetation used to establish a visual screen shall not be trimmed to stunt upward and outward growth or to otherwise limit the effectiveness of the visual screen.

[84] Editor's Note: The County can choose a number between 50 and 100 feet per state code.
[85] Editor's Note: The County can choose a number between 50 and 75 feet per state code.
[86] Editor's Note: The County can choose a number between 25 and 50 feet per state code.

(f) Required screening may be accomplished on any property with the written consent of the property owner.

(g) Vegetation used to establish a visual screen shall allow for consideration of preexisting natural or manmade visual barriers.

(5) **Fencing**. Fencing for the facility shall comply with Code of Virginia § 55.1-2804, the latest version of the National Electrical Safety Code or any applicable successor standard regarding requirements for limiting access to facilities, and the Uniform Statewide Building Code (§ 36-97 et seq.).

(6) **Wildlife Corridors**. Facilities shall provide for wildlife passage where needed by limiting fencing to the areas in reasonable proximity to arrays and interconnection equipment to the extent practicable and consistent with safety and security requirements. The facility shall prioritize open wildlife access to riparian areas, wetlands, streams, and other areas not in proximity to panels. Proposed wildlife corridor(s) shall be shown on the SUP Concept Plan and land disturbance/site plan.

(7) **Lighting**. All exterior lighting shall comply with Article 8, Community Design Standards.

G. Stormwater Management & Land Disturbance.

(1) Facilities shall comply with all DEQ stormwater regulations as established in Virginia Administrative Code 9VAC25-880.

(2) Facilities shall minimize new impervious surfaces on sites and under solar panels.

(3) Land disturbance, including site grading, construction, and landscaping, shall be conducted in compliance with a stormwater pollution prevention plan.

(4) Any topsoil disturbed or moved during grading, construction, or panel installation shall be stockpiled on the project site. Topsoil shall be returned to disturbed areas from stockpiles as quickly as site conditions allow, unless returning soil would cause adverse impacts to topsoil integrity or is otherwise not practicable for construction activities.

(5) Site stabilization shall occur as the site is developed, following appropriate stabilization timelines as identified in the General Permit for Discharges of Stormwater from Construction Activities, and shall not be delayed until site construction is completed.

(6) Soils shall be decompacted as necessary and feasible for re-vegetation after construction has concluded.

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(7) When all land-disturbing activities at the construction site have been completed, the facility shall initiate permanent stabilization to provide vegetative ground cover that provides a minimum level of coverage over the project site. No less than 75% vegetative cover shall be provided with no significant bare areas, with vegetative cover mature enough to survive and will inhibit erosion.

H. **Vegetation & Planting**.

(1) The use of native and naturalized plants is encouraged and invasive plants as established pursuant to Code of Virginia § 10.1-104.6:2 shall be prohibited.

(2) For projects or portions of projects not used for animal grazing, co-located crop production, native and naturalized pollinator plant species, or native and naturalized meadow species shall be planted, except for the area directly beneath panels, and maintained throughout the solar project's life.

(3) Seed mixes shall include a diversity of species with varied bloom times.

(4) Mowing shall be limited and performed on a schedule that promotes the establishment of the native plantings, controls invasive species, and minimizes impacts to wildlife.

I. **Decommissioning and Reclamation**.

(1) Solar and battery energy facilities which have reached the end of their useful life or have not been in active and continuous service for a period of six (6) months shall be removed at the owner's or operator's expense, except if the project is being repowered or a force majeure event has or is occurring requiring longer repairs; however, the County may require evidentiary support that a longer repair period is necessary.

(2) The owner or operator shall notify the Administrator by certified mail of the proposed date of discontinued operations and plans for removal.

(3) Decommissioning shall be performed in compliance with an approved Decommissioning Plan as required in Section 7-7-1 E. of this Article. The Board of Supervisors may approve any amendments to or modifications of the approved Decommissioning Plan.

(4) Decommissioning shall include removal of all electric systems, buildings, cabling, electrical components, security barriers, roads, foundations, pilings, and any other associated facilities, so that any agricultural ground upon which the facility and/or system was located is again tillable and suitable for agricultural uses.

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(5) The site shall be regraded and revegetated within 12 months to restore the property to a condition as close as practicable to its pre-development or natural state. Re-grading and re-seeding shall be initiated within a six-month period of removal of equipment.

(6) Any exception to site restoration, such as leaving driveways, entrances, or landscaping in place, or substituting plantings, shall be requested by the landowner in writing to the Administrator for approval.

(7) Hazardous material from the property shall be disposed of in accordance with federal and state law.

(8) The estimated cost of decommissioning shall be guaranteed by the deposit of funds in an amount equal to the estimated cost in an escrow account at a federally insured financial institution approved by the County.

(a) The applicant shall deposit the required amount into the approved escrow account before any building permit is issued to allow construction of the solar energy facility.

(b) The escrow account agreement shall prohibit the release of the escrow funds without the written consent of the County. The County shall consent to the release of the escrow funds upon the owner's or occupant's compliance with the approved decommissioning plan. The County may approve the partial release of escrow funds as portions of the approved decommissioning plan are performed.

(c) The amount of funds required to be deposited in the escrow account shall be the full amount of the estimated decommissioning cost without regard to the possibility of salvage value, plus 10%.

(d) The owner, lessee, or operator shall hire a professional engineer licensed in the Commonwealth to recalculate the estimated cost of decommissioning and corresponding approved financial instrument every five (5) years after the approval of the initial decommissioning plan to adjust for inflation; account for advancements in technologies and processes for decommissioning, salvaging, or re-powering of renewable energy facilities; and make any other necessary changes.

i. If the recalculated estimated cost of decommissioning exceeds the original estimated cost of decommissioning by more than 10%, then the owner or occupant shall deposit additional funds into the escrow account to meet the new cost estimate.

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ii. If the recalculated estimated cost of decommissioning is less than 90% of the original estimated cost of decommissioning, then the County may approve reducing the amount of the escrow account to the recalculated estimate of decommissioning cost.

(e) The County may approve alternative methods to secure the availability of funds to pay for the decommissioning of a solar facility, such as a performance bond, letter of credit, or other security approved by the County.

(f) If the owner or operator of the solar facility fails to remove the installation in accordance with the requirements of this permit or within the proposed date of decommissioning, the County may collect the surety and the County or hired third party may enter the property to physically remove the installation.

(9) The Solar Energy Facility shall continue compliance with all stormwater provisions in state law after the decommissioning process is complete.

Section 7-7-4 Solar Energy Facility, Accessory[87] [88]

A. Ground-mounted Accessory Solar Energy Facility shall not be permitted in the following Zoning Districts:

(1) R-3, High-Density Residential; and

(2) VO, Village Overlay District.

B. **General Provisions.**

(1) The buildings and structures associated with or part of the solar energy project shall comply with applicable sections of the Virginia Uniform Statewide Building Code (USBC) (13VAC5-63). This requirement includes all electrical components of the solar energy project.

(2) **Construction and installation.** All electrical wires associated with the solar energy facility shall be installed underground unless the applicant can demonstrate the necessity for aboveground installations as determined by the Board of Supervisors.

[87] Editor's Note: This section includes standards for small scale solar facilities from Article 22A of the existing ordinance with very minor changes to wording for clarification. Any recommended new provision or major modification is indicated with an additional footnote.
[88] Editor's Note: Name changed from small-scale to accessory. Standards have been revised in accordance with HB711.

C. **Setbacks and Height.** Accessory solar energy facilities shall be in compliance with the height and setback requirements in the zoning district where such property is located.

D. **Design Standards.** Accessory solar energy facilities shall be in compliance with any provisions pertaining to any local historic, architectural preservation, or corridor protection district adopted pursuant to Code of Virginia § 15.2-2306 where such property is located.

Division 7-8 Accessory Use Standards[89]

Section 7-8-1 Accessory Structure

A. **Exemptions.** Residential accessory structures including, but not limited to, flag poles, basketball hoops, clotheslines, arbors, swings, structures less than six (6) sq. ft., or residential yard ornaments shall be exempt from the minimum setback, lot area, and certification requirements as specified in this Section.

B. **Development Standards.**

(1) Accessory structures shall meet the standards of the underlying zoning district, including setbacks and height regulations.

(2) Accessory structures are not permitted in front setbacks, except in rural districts.

(3) Accessory structures shall not exceed 40% of the gross floor area of the main structure, except in rural districts.

(4) Accessory structures shall be setback at least 15 ft. from the primary structure.

Section 7-8-2 Agriculture, Accessory[90]

A. All instances of keeping livestock animals as a residential agriculture use accompanying a primary dwelling must comply with the regulations of this Section. If a livestock animal is not included in this Section it shall not be allowed in a residential agriculture use.

(1) For this Section poultry are defined as chickens, ducks, quail, and pheasants.[91]

B. **Poultry.**

[89] Editor's Note: Permanent and Temporary Storage Containers were removed per staff comments 11/5/25.

[90] Editor's Note: The standards in this section are new and are provided to allow for the keeping of minimally intrusive livestock in residential zoning districts. C. Bees. Was deleted per staff comments 11/5/25.

[91] Editor's Note: Added for clarity.

(1) Ten (10) poultry birds are allowed per dwelling.[92]

(2) All enclosures, runs, and coops must be located at least ten (10) ft. from any property line and at least 30 ft. from any dwelling not located on the same lot.

(3) **General Standards.**

(a) The keeping of poultry birds must comply with all relevant state and federal laws.

(b) The keeping of roosters shall be prohibited for all residential agriculture uses.

(c) Poultry birds must be used for non-commercial domestic purposes. The harvesting of chickens for commercial purposes is prohibited.

(d) No enclosures, runs, or coops will be located in a front setback or within the front yard of a lot.

i. The Administrator may grant an exception to this requirement in cases where due to unusual lot configuration, steep slopes, or proximity of neighbors, another area of the yard is more suitable for such an activity.

(e) All feed for the keeping of domestic laying hens must be kept in a secure container or location in order to prevent the attraction of rodents and other animals.

(f) All coops and runs must provide adequate space in accordance with recommendations from the Virginia Cooperative Extension Small-Scale Poultry Housing.

Section 7-8-3 Crematory[93]

A. **Use.** A crematory is allowed as accessory to the following uses:

(1) Funeral Home; or

(2) Veterinary Hospital or Clinic.

B. **Setbacks**. Any Crematorium shall be located at least:

(1) 250 ft. from all property lines; and

(2) 500 ft. from the nearest property line of the following uses:

(a) Day Care Center;

[92] Editor's Note: Number of birds changed to 10 and square footage requirements removed per direction given at the 6/3/26 joint worksession.
[93] Editor's Note: Proposed as all new text.

(b) Educational Facility, Primary or Secondary; or

(c) Parks.

C. **General.**

(1) All Crematorium operations shall be pursuant to Code of Virginia 18VAC65-20-10 et seq. and § 54.1-2800 et seq.

(2) **Landscaping, Screening, and Buffering.** All landscaping, screening, and buffering must be in accordance with Article 8, Community Design Standards.

(3) **Activity.** All cremation and associated activities must occur in a fully enclosed structure.

Section 7-8-4 Drive-Thru Window[94]

A. **Applicability.** Drive-Thru Window's shall be a permitted accessory use in all zoning districts.

B. **Location.**

(1) All drive-thru windows must be located to the rear or side of the primary structure.

(2) Stacking lanes for drive-thru facilities must not be located between the primary structure and the street.

(3) Drive-thru windows and associated components, such as menu boards, screens, and speakers, must be located a minimum of 300 ft. from a residential district or use.

C. **General Standards.**

(1) Drive-thru windows and menu boards must be designed to minimize glare on adjacent residential districts or uses by the installation of:

(a) Dense vegetative screening;

(b) A masonry wall no less than 4 ft. in height; or

(c) A combination or both.

D. **Lanes.** Lanes designed to provide vehicular access to drive-thru windows must meet the following requirements:

(1) An escape/bypass lane from the service lanes that is at least 12 ft. in width must be included.

[94] Editor's Note: Proposed all new text for drive-thru establishments.

(2) Stacking space must be included in accordance with Article 8, Community Design Standards.

Section 7-8-5 Dwelling, Accessory Unit (ADU)[95]

A. **General Standards.**[96]

(1) Dwelling, Accessory Unit is permitted in accordance with Code of Virginia § 15.2-2292.4.[97]

(2) Accessory dwelling units (ADU) shall only be allowed as accessory to a single-family detached dwelling, as defined in Article 11, Definitions.

(3) An accessory dwelling may be within (e.g., a basement or upstairs apartment), attached to, or be detached from (e.g., a guesthouse) the primary dwelling.

(a) A detached accessory dwelling must be separated from the primary dwelling by at least 15 ft.

(b) Attached accessory dwellings may be connected by a common wall or a breezeway no longer than 15 ft.

(4) The ADU shall not be subdivided or otherwise segregated in ownership from the principal dwelling.[98]

(5) Accessory dwellings must comply with:[99]

(a) Building codes, including the requirements of the Uniform Statewide Building Code (§ 36-97 et seq.), for an accessory dwelling unit if the ADU is attached or for a dwelling unit if the ADU is detached;

(b) Water, sewer, septic, emergency access, flood zone, and stormwater requirements;

(c) Historic and architectural districts and corridor protection restrictions; and

(d) Air Installations Compatible Use Zone restrictions.

[95] Editor's Note: This section contains all new provisions related to accessory dwellings. Name changed in accordance with SB531 .
[96] Editor's Note: Removed the requirement for architectural compatibility with the primary structure, the requirement for exterior entrances to appear as a SFH, and the prohibition of using a recreational vehicle as an ADU in accordance with SB531.
[97] Editor's Note: A. (1) added to reference state code § 15.2-2292.3. State code section corrected in response to public comment 10-14-2026.
[98] Editor's Note: A. (4) added in accordance with SB531.
[99] Editor's Note: Building code requirement reworded in accordance with SB531 .

B. **Development Standards.** [100]

(1) **Density.**[101] The number of ADUs permitted per lot shall be determined by Article 4, Section 4-3-1, Table 4-4: A-1 District Sliding Scale Division Rights.

(2) **Parking.** One off-street parking space must be provided for the accessory dwelling in addition to any requirements in Article 8, Community Design Standards.

(3) **Square Footage.**[102] The floor area of an ADU must not exceed the finished area of the first floor of the primary dwelling, except that the minimum required floor area shall not be less than 500 square feet. [103]

(4) Accessory dwellings must adhere to the dimensional requirements for a single-family dwelling in the applicable zoning district as provided for in Article 4, Primary Zoning Districts.[104]

(5) No accessory dwelling will be permitted to exceed the height of the primary dwelling.

C. Nothing in this section shall apply to any existing permits for an ADU approved by the County prior to July 1, 2027.[105]

Section 7-8-6 Outdoor Storage

A. **Intent.**[106] The following standards are intended to mitigate impacts of outdoor storage yards as a primary use, or as an accessory use to commercial and industrial businesses. Examples include construction materials, such as stacks of lumber or stone; equipment; surplus goods; temporarily stored towed vehicles; among other items.

B. **Location.**

(1) No outdoor storage yard will be located within 50 ft. of a residential district or use.

(2) Outdoor storage yards are prohibited in any front yard.

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[100] Editor's Note: Minimum lot area was removed per staff comments 11-5-25.
[101] Editor's Note: Revised in response to County direction 10/15/2026.
[102] Editor's Note: Removed requirement that floor area not exceed 50% of primary dwelling floor area in response to County direction 10/15/2026.
[103] Editor's Note: The size allowance for ADUs has been incorporated from peer localities, Nelson County should consider whether or not it is appropriate for the community or if they wish to increase or decrease the maximum size allowed. Sq. ft. requirement changed in accordance with SB531.
[104] Editor's Note: Added "for a single-family dwelling" in accordance with SB531 .
[105] Editor's Note: Added C. in accordance with SB531 .
[106] Editor's Note: Temporarily stored towed vehicles were added to this use in response to County direction given 10-13-2026.

C. **Screening, Buffering, and Landscaping.**

(1) Outdoor storage yards must be screened from view of all adjacent properties and public streets by a solid wall or fence, including solid entrance and exit gates, not less than 6 ft. nor more than ten (10) ft. in height.

(2) All screening must be in accordance with Article 8, Community Design Standards.

(3) When walls or fences are adjacent to commercial or residential districts, a landscaped buffer must be provided to break visibility of the fence in accordance with Article 8, Community Design Standards.

(4) Outdoor storage yards must be located within the side or rear yards.

(5) No wall or fence screening a storage area will encroach into a sight triangle.

(6) Parts, materials, and equipment stored in a storage area must not be stacked and/or piled higher than the screening wall or fence.

Section 7-8-7 Restaurant, Mobile[107]

A. Mobile restaurants, also known as food trucks, shall be a permitted accessory use to the following:

(1) Any commercial or industrial use;

(2) Agritourism;

(3) Alcohol production or sales;

(4) Farmers market;

(5) Special event venues or temporary events; or

(6) Any other use which customarily involves the sale of food or beverages.

[107] Editor's Note: The provisions of this section will allow mobile restaurants (food trucks) to operate as an accessory use accompanying any commercial or industrial use, as well as the additional included uses. Subsection (6) was included to allow additional flexibility for any use that may be appropriate but not listed. Nelson County should consider these new regulations for food trucks and determine if they are appropriate for the community.

Section 7-8-8 Roadside Farm Stand[108]

A. A roadside farm stand must obtain a zoning permit from the Administrator in accordance with Article 3, Permits and Applications.

(1) An application for a zoning permit for a roadside farm stand shall include the following:

(a) A signed affidavit declaring that the majority of products offered for sale at the roadside stand are cultivated, produced, processed, or created on an agricultural operation owned or controlled by the operator or operator's family; and

(b) A sketch plan showing:

i. The location and type of proposed Roadside Stand equipment or facility;

ii. Property boundaries and right-of-way;

iii. Proposed signage;

iv. Proposed layout and provisions for safe vehicular access and parking; and

v. Lighting for any roadside farm stand request involving any proposed operation(s) after daylight hours.

(2) All roadside stand structures or facilities must be located outside of VDOT right-of-way.

(3) All permanent roadside stand structures must comply with the required front yard setback areas of the applicable zoning district.

(4) A maximum of one (1) temporary sign is allowed in accordance with Article 8, Community Design Standards.

(5) All roadside farm stand applications must be submitted to VDOT for review and comment and any recommendation by VDOT must be submitted with the application for a zoning permit.

(6) Roadside farm stands shall not be located within 300 ft. of any intersection of two or more roads.

[108] Editor's Note: The standards contained in this section include the standards for a Class A Roadside Stand found in Section 4-11-2, along with the definition distinction for Class B Roadside Stands to effectively create one single class of roadside stands. The provision that a roadside farm stand permit must be renewed annually has been removed to comply with state code requirements.

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Section 7-8-9 Wind Energy Generating Facility, Accessory[109]

A. One accessory wind energy system shall be allowed per lot.

(1) Any additional system may be allowed with an approved Special Use Permit in accordance with Article 3, Permits & Applications.

B. **Height.** The maximum height of a small wind energy system shall be:

(1) Lots one (1) to two (2) acres in size: Maximum tower height 45 feet.

(2) Lots greater than two (2) acres and less than five (5) acres in size: Maximum tower height 60 feet.

(3) Parcels five (5) acres or greater in size: Maximum tower height 100 feet.

(4) Building-mounted small wind energy system: Maximum height 15 feet above point of attachment to the building or above the roof deck where the system is placed.

C. **Setback.** A small wind energy system shall be set back a minimum distance equal to 110% of the extended tower height or the building-mounted extended height from property lines, public and private roads, and overhead utility lines.

D. **Utilities.** All electrical interconnection, distribution lines, and conduits shall be underground and comply with all applicable codes and public utility requirements.

E. **Interference.** No small wind energy system shall cause interference with television or other communication signals.

F. **Siting.** Small wind energy systems shall be sited in a manner that does not result in significant shadowing or flicker impact on adjoining properties.

G. **Signs.** All signs, both temporary and permanent, are prohibited on the small wind energy system, except as follows:

(1) Manufacturer's or installer's identification on the wind turbine.

(2) Appropriate warning signs and placards.

H. **Visual Impact.** Small wind energy systems must be placed in a way to minimize visual impacts to surrounding lots including, but not limited to, turbine design or appearance, buffering, and screening of ground-mounted electrical and control equipment.

(1) The color of the small wind energy system shall be a nonreflective, unobtrusive color that blends in with the surrounding environment.

[109] Editor's Note: This section includes provisions from Article 22, reworded and edited for clarity. Any new recommended provision is denoted with an additional footnote.

(2) A small wind energy system shall not be artificially lit unless such lighting is required by the Federal Aviation Administration (FAA). If lighting is required, the applicant shall provide a copy of the FAA determination to establish the required markings and/or lights for the small wind energy system.

I. **Access.**

(1) All ground-mounted electrical and control equipment shall be labeled and secured to prevent unauthorized access.

(2) The tower shall be designed and installed so as not to provide step bolts or a ladder readily accessible to the public for a minimum height of 12 feet above the ground.

J. **Insurance.** The applicant shall provide proof of adequate liability insurance for a small wind energy system. Whether or not the applicant is participating in the net metering program, the applicant will be required to meet the insurance coverage requirements set forth in 20 VAC 5-315-60 (Virginia Administrative Code).

K. **Permit Requirements.**

(1) No zoning permit for an accessory wind energy generating facility shall be approved unless the applicant submits the following with their application:[110]

(a) A narrative describing the proposed wind energy facility, including an overview of the project;

(b) The representative type, and height of the wind turbine to be constructed, including the generating capacity, dimension and respective manufacturer, and a description of ancillary facilities;

(c) Identification and location of the property on which the proposed wind energy facility will be located;

(d) A concept plan, in accordance with Article 3, Permits and Applications, showing the planned location of the wind turbine, property lines, setback lines, electrical lines, ancillary equipment, buildings, and structures;

(e) An engineering analysis of the tower and a structural analysis for a building-mounted system showing compliance with the Virginia Uniform Statewide Building Code and certified by a licensed professional engineer

(f) Other relevant studies, reports, certifications, and approvals as may be reasonable requested by the County to ensure compliance with this Ordinance; and

[110] Editor's Note: New provision.

(g) Signature of the property owner(s) and the facility owner/operator of the wind energy facility.

(2) A building permit is required for all small wind energy systems. Building permit applications for a small wind energy system shall be accompanied by standard drawings of the wind turbine structure, including the tower, base, and footings.

Division 7-9 Temporary Use Standards

Section 7-9-1 Dwelling, Temporary[111]

A. A temporary dwelling shall be permitted only during the period of validity of an active building permit.

B. The temporary dwelling permit shall terminate after issuance of the Certificate of Occupancy and shall be removed from the premises within 30 days if not otherwise permitted.

C. Adequate water and sewer services must be provided and approved by VDH if private water and sewer is used.

Section 7-9-2 Family Health Care Structure, Temporary[112]

A. Temporary family health care structures shall be permitted in all residential districts, provided that:

(1) The primary use of the property is a single-family dwelling;

(2) The occupant meets the qualifications of a mentally or physically impaired person as defined in Code of Virginia §63.2-2200, and a letter of certification, written by a physician licensed in Virginia, has been provided to the Zoning Administrator; and

(3) The property is occupied by the caregiver as their residence.

B. Temporary family health care structures shall comply with all district standards applicable to the primary structure for the zoning district in which they are located.

C. Temporary family health care structures shall comply with all provisions of the Code of Virginia § 15.2-2292.1.

D. **Development Standards.**

(1) Only one (1) family health care structure shall be allowed on a lot or parcel of land.

[111] Editor's Note: A. was changed from 3 years to coincide with the building permit and B. was added per staff comments 11/5/25.

[112] Editor's Note: This section includes provisions from Article 23 that have been reworded and edited.

(2) The proper permits shall be obtained before a temporary family health care structure may be placed on a lot or parcel of land. Required permits may include, but are not limited to, a zoning permit, building permit, electrical permit, mechanical permit, and plumbing permit.

(3) The structure shall be no larger than 300 sq. ft. and must comply with all applicable provisions of the Industrialized Building Safety Law (§ 36-70 et seq.) and the USBC (§ 36-97 et seq.).[113]

(4) Placement of temporary family health care structures on a permanent foundation shall not be permitted.

Section 7-9-3 Temporary Event

A. **Permit Required.** Any temporary event conducted within the County is required to receive a Temporary Use Permit pursuant to Article 3, Permits & Applications.

B. **Exemptions.**[114] The following temporary events are exempt from the requirements of this Section:

(1) Private non-commercial functions conducted on the property of the host.

(2) Non-Profit Temporary Events having or projecting no more than 500 attendees at any time during the event.

(3) Athletic and sporting events conducted on sites approved for such events.

(4) Political gatherings.

(5) Religious gatherings.

(6) Any agricultural operations governed by the Code of Virginia §. 15.2-2288.6.[115]

(7) Temporary Events which are conducted entirely within the Residential Planned Community District (RPC).

C. **Category 1 Temporary Events.**

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

[113] Editor's Note: Added new provision to limit the size of family health care structures.
[114] Editor's Note: 3 exemption items (Social Temporary Events, Historical Property Temporary Events, Out-of-Door Accessory Uses) removed per direction given at the 6/3/26 joint worksession.
[115] Editor's Note: Revisions made to include "agricultural operations" and corrected code section in response to public comment 10-14-2026.

(a) Which admission is charged or at which goods and services are sold, having or projecting no more than 500 attendees at any time during the event;

(b) Non-Profit Temporary Events having or projecting more than 500 attendees and less than 1,000 attendees at any time during the event; or

(c) Agritourism activities which, by virtue of the number of attendees, size and location of property, or hours of conduct, cause any substantial impact(s) on the health, safety, or general welfare of the public, and having or projecting less than 1,000 attendees at any time during the event.

(2) **General Standards.**[116]

(a) Category 1 Temporary Events may not exceed a maximum duration of four (4) consecutive days open to the attending public, inclusive of an arrival day and a departure day.

(b) All noise, including amplified sound, must comply with Chapter 8, Article II, Noise Control, of the Nelson County Code.[117]

D. **Category 2 Temporary Events.**[118]

(1) A Category 2 Temporary Event is any event which is neither an otherwise permitted use nor exempt and:

(a) Where admission is charged or goods and services are sold, and where attendance is planned to be more than 500 attendees and less than 10,000 attendees;

(b) Non-Profit Temporary Events having or projecting more than 1,000 attendees but less than 10,000 attendees at any time during the event;

(c) Agritourism activities which by virtue of the number of attendees, size, and location of property, or hours of conduct may cause substantial impact(s) on the health, safety, or general welfare of the public, and where attendance is planned to be more than 1,000 attendees and less than 10,000 attendees at any time during the event.

(2) **General Standards.**

[116] Editor's Note: The County should consider changing (b) to: Amplified sound shall be regulated by the County Code Chapter 8, Article II. Noise Control. This would shift noise enforcement from the Zoning Administrator to law enforcement.
[117] Editor's Note: Changed to be regulated by the county noise ordinance per worksession direction 12/17/25.
[118] Editor's Note: Category 2 was reworded for clarity per staff comments 11/5/25.

(a) Category 2 Temporary Events may not exceed a maximum duration of six (6) consecutive days open to the attending public, inclusive of an arrival day and a departure day.

(b) All noise, including amplified sound, must comply with Chapter 8, Article II, Noise Control, of the Nelson County Code.[119]

E. Category 3 Temporary Events.[120]

(1) A Category 3 Temporary Event is any event having or projecting more than 10,000 attendees and requires a Temporary Event Permit and a Special Use Permit pursuant to Article 3, Permits and Applications.

(2) The Special Use Permit shall be automatically reviewed at a public hearing conducted by the Board of Supervisors every five (5) years after the initial issuance, after which the Board may revoke or modify the terms and conditions of the Special Use Permit in accordance with Article 3, Permits and Applications.

(3) General Standards.

(a) The erection of non-temporary structures and/or permanent infrastructure used in connection with Category 3 Temporary Events is permissible in connection with a Special Use Permit, and subject to all other required zoning permit approvals and building permit approvals.

(b) A Category 3 Temporary Event may not exceed a maximum duration of six (6) consecutive days open to the attending public, inclusive of an arrival day and a departure day.

(c) Amplified sound shall be regulated by the SUP conditions.[121]

F. **Structures for Temporary Events.**

(1) The installation of temporary structures and facilities, such as tents and lavatories, is permissible in connection with approved Temporary Event Permits, subject to all applicable laws and regulations. All such temporary structures and facilities shall be lawfully removed within ten (10) days of the approved end date.

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[119] Editor's Note: The County should consider changing (b) to: Amplified sound shall be regulated by the County Code Chapter 8, Article II. Noise Control. This would shift noise enforcement from the Zoning Administrator to law enforcement. Changed to be regulated by the county noise ordinance per worksession direction 12/17/25.

[120] Editor's Note: Category 3 added per staff comments 11/5/25. Language is from the existing Ordinance and reworded for clarity and brevity.

[121] Editor's Note: Changed to regulation of SUP conditions per worksession direction 12/17/25.

(2) No new non-temporary structure(s) used for either Category 1 or 2 Temporary Event(s) shall be installed or constructed unless all required zoning permit approvals and building permit approvals are obtained, as applicable.

(3) Existing non-temporary structures proposed for use for either Category 1 or 2 Temporary Event(s) shall:

(a) Have been in existence on the date of adoption of this Article, provided that this requirement shall not apply to accessory structures less than 150 square feet in size; and

(b) Be a lawfully conforming, permitted structure, and shall support or have supported a lawful use of the property.

Section 7-9-4 Temporary Sawmill

A. No structure and no storage of lumber, logs, chips, or timber shall be located closer than 100 feet to any lot line. Trees and vegetation within the 100-foot setback shall be maintained as a buffer to abutting properties and uses, provided that during the last three months of operation the trees may be removed.

B. No saw, planer, chipper, conveyor, chute, or other similar machinery shall be located closer than 600 feet from any dwelling on any lot other than the lot on which the sawmill, planning mill, or wood yard is located.

C. All timbering and milling operations, including reforestation/restoration and the disposal of snags, sawdust, and other debris, shall be conducted in accordance with the regulations of the Virginia Department of Forestry.

Section 7-9-5 Temporary Support Structure[122]

A. **Purpose.** The purpose of this Section is to allow the use of Temporary Support Structures in accordance with Code of Virginia § 15.2-2316.4:4.

B. **Building Permit Required**. A building permit shall be required for a Temporary Support Structure that is:

(1) Over 80 feet in height;

(2) Erected for 30 days or more; or

(3) Not on wheels.

[122] Editor's Note: Section 7-4-4, temporary support structure, was added as a new use in accordance with HB876.

C. **Application Standards**. An application for a Temporary Support Structure shall demonstrate that it is necessary for the following reasons:

(1) Administering limited frequency and modulation testing to evaluate system performance and the need for additional wireless facility sites;

(2) Supplementing communications coverage when a previously permitted wireless facility has become involuntarily non-operational through an accident or natural disaster;

(3) A substantial increase in the communications needs of the locality due to an emergency declared by the County of Nelson, Commonwealth, or federal government;

(4) A substantial increase in the communications needs of the businesses, residents, or visitors of the locality for a limited period of time due to a special event held within the County; or

(5) Any other reason deemed necessary and appropriate by the Administrator.

D. **Application Review and Decision**. An application for a Temporary Support Structure may request approval for up to 180 days.

(1) The Administrator may approve extensions beyond the initial approval period if the:

(a) Requests are made in writing prior to the expiration of the initial approval period or current extended approval period;

(b) Extensions are reasonably necessary to resolve or accommodate the reasons for the initial approval; and

(c) Total time approved for extensions, including the initial 180-day period, does not exceed 2 (two) years.

E. **Removal**. A Temporary Support Structure shall be removed at the cost of the owner and the site restored to its previous condition within 48 hours of the end of the approval period.

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Article-8 Community Design Standards[1]

Division 8-1 General

Section 8-1-1 Purpose[2]

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 8-1-2 Visibility Clearance[3]

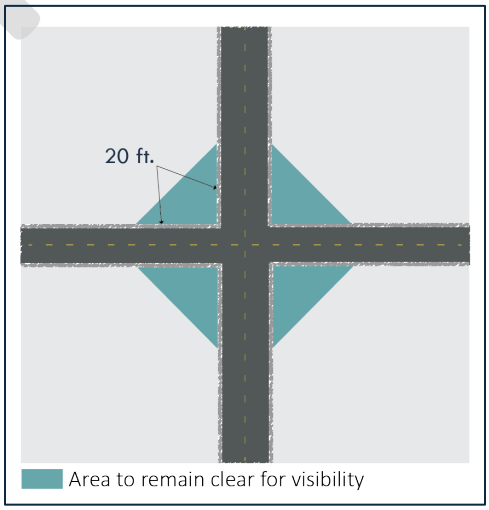
A. To prevent traffic hazards all signage, plantings, structures, or objects over three (3) ft. in height are prohibited within a sight triangle on any corner lot.

(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.

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

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.

Division 8-2 Lighting[4]

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.

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.

[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.

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)*.

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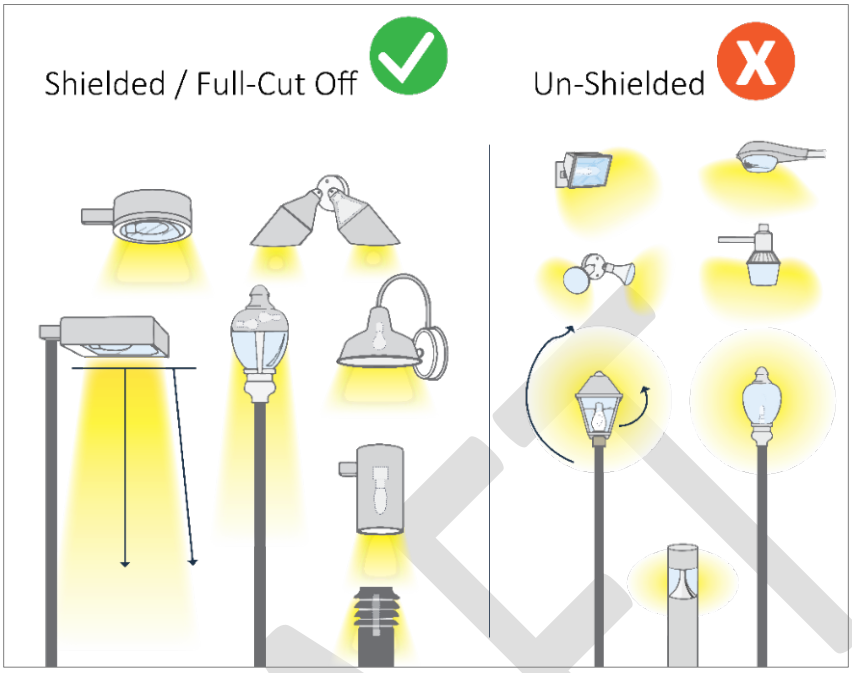
Figure 8-2: Shielded Lighting Examples



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.

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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:

(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.

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;

(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.

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

(1) Location, species, size, height, and number of proposed plantings;

(2) Planting specifications or installation details with consideration of the appropriateness of plants and locations for the specific characteristics of the site and the purpose for installation;

(3) Existing vegetation. Information about the general location, composition, and extent of existing vegetation (plants, trees, shrubs, etc.) to be retained during construction, as well as protection measures to be implemented during construction;

(a) The information shall include the successional stage of the vegetation, a list of the primary tree species, and a statement regarding the general age, health, and condition of the vegetation.

(4) Location, size, and other related design details for all hardscape improvements, ground mounted signage, recreational improvements, and open space areas, fences, walls, barriers, and other related elements;

(5) Designation of required setbacks, yards, and screening areas;

(6) Location of other nonnatural site features, parking lots, overhead structures, and underground utilities to ensure that landscape materials will not be in conflict with the placement and operation of these improvements; and

(7) A preference to design and plant materials which are[6] 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.

[6] Editor's Note: The County should consider if it wants to change this from a preference to a requirement.

(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.

(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.**

[7] Editor's Note: The County should consider if it wants to change this from "should" to "shall."

(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

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.

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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.

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(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

<table>
<tr><th rowspan="2">DISTRICT OF PROPOSED DEVELOPMENT</th><th colspan="5">ABUTTING DISTRICT</th></tr>
<tr><th>C1, A-1</th><th>R-1, VO, CO151</th><th>R-2, R-3, CO29</th><th>B-1, B-2, SE-1</th><th>M-1, M2</th></tr>
<tr><td>C1, A-1</td><td colspan="5">n/a</td></tr>
<tr><td>R-1, VO, CO151</td><td>Type A</td><td colspan="4">n/a</td></tr>
<tr><td>R-2, R-3, CO29</td><td>Type B</td><td>Type A</td><td colspan="3">n/a</td></tr>
<tr><td>B-1, B-2, SE-1</td><td colspan="2">Type B</td><td>Type B</td><td colspan="2">n/a</td></tr>
<tr><td>M-1, M2</td><td colspan="3">Type C</td><td>Type B</td><td>n/a</td></tr>
<tr><td colspan="6">n/a = transitional buffer not required</td></tr>
</table>

Table 8-3: Transitional Buffer Types

TRANSITIONAL BUFFER TYPE		MINIMUM PLANTINGS		
	Minimum Buffer Width (in feet)	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 30[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. Changed from 10 to 30 per the 8/27/25 worksession.

(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, Visibility Clearance.

D. **Parking Lot Landscape Islands.**

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

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(a) The total size of the parking lot exceeds 30[9] 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, Visibility Clearance.

(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.

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

[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.

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; 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

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(6) All other uses or elements where screening is required as identified in Article 7, Use Performance Standards.

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, Walls and Fences;

(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:

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(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:

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(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.

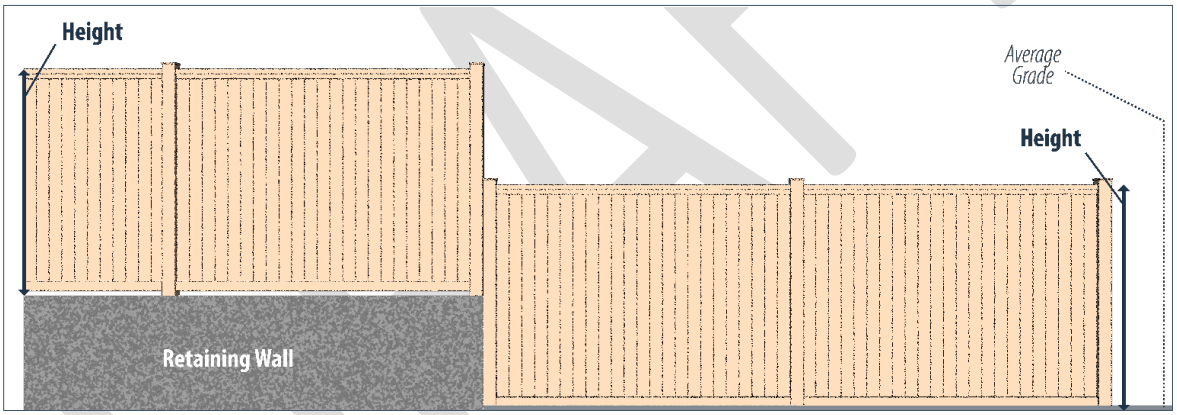
(3) And not forgoing Section 8-4-4 A. (1), above:

(a) Walls and/or fences in any residential, commercial, or planned development district shall not exceed six (6) feet in height; and

(b) Walls and/or fences in any rural or industrial zoning district shall not exceed eight (8) feet in height above the existing grade.

B. **Measuring Height.** Wall and/or fence height will be measured parallel along the side of the fence from the highest point above grade to where the grade is lowest but excluding the height of any retaining wall directly beneath the fence or wall *(See Figure 8 – 3)*.

Figure 8-3: Measuring Fence Height



Section 8-4-5 Materials and Maintenance

A. All wall and/or fence segments located along a single lot side must be composed of a uniform style, material, and color compatible with other parts of the wall and/or fence.

B. Walls and/or fences made of debris, junk, rolled plastic, sheet metal, plywood, or waste materials are prohibited in all zoning districts, unless such materials have been recycled and reprocessed into new building materials that resemble the customary materials, such as wood, iron, brick, and masonry.

C. The use of razor wire is prohibited except in the instance of a correctional facility or similar type of use.

D. All walls and/or fences shall be maintained in good repair and in safe, attractive condition.

E. The owner of the property on which walls and/or fences are located shall be responsible for maintenance including, but not limited to, the replacement of missing, decayed, or broken structural and decorative elements.

Division 8-5 Streets, Bikeways, and Sidewalks[13]

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.

[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.

Section 8-5-4 Street Standards

A. **Easements**.

(1) The Administrator shall require utility easements of 20 feet minimum width on each side of the centerline of new streets, unless specifically exempted by the Administrator.

(a) Utility easements shall be laid out to ensure continuity for utilities from block to block and to adjacent properties.

(b) Utility easements shall be kept free of permanent structures and whenever possible shall be located adjacent to property lines.

(c) Nothing in this section is intended to prohibit the placement of public utilities within dedicated ROW.

(2) The Administrator may require that easements for drainage through adjoining property be provided by the developer.

B. **Street Alignment**. Where practical, proposed streets shall align with platted or existing streets.

C. **Street Angle**. The angle of intersection between streets shall be as close to a right angle (90 degrees) as possible, and in no case be less than 75 degrees, unless approved by the Administrator for specific reasons of contour, terrain, or matching of existing patterns.

D. **Street Layout**. Streets in predominantly residential subdivisions shall be designed to discourage through traffic. Offset or jog streets shall not be permitted, unless approved by the Administrator for specific reasons of topography.

E. **Reserved Strips**. Reserved or spite strips restricting access to streets or alleys shall not be permitted, and nothing herein shall prohibit areas of landscaping where adequate access is otherwise available.

F. **Service Drives**. Whenever a proposed subdivision contains or is adjacent to a minor or principal arterial or a major collector road, provisions shall be made for a service drive approximately to serve the lots adjacent thereto. The area between the service drive and the arterial or collector road ROW shall be sufficient to provide for landscaping and screenings except where impractical by reason of topography.

G. **Public Street Design.** For design standards not explicitly set forth herein, VDOT standards shall apply.

(1) Street grades shall not exceed ten percent (10%), nor be less than half percent (0.5%) except as expressly approved by the Administrator.

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(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.

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(1) **Maintenance**.[14] All private streets remain under the ownership and maintenance responsibility of the developer, property or homeowners' association, or other responsible party, unless and until accepted into the state highway system by VDOT.
   (a) A maintenance agreement shall be submitted to the Administrator by the responsible party for the general upkeep and maintenance of the private improvements.

(2) Any lot fronting on a private street shall access said private street and shall have no immediate access to any public street.

(3) 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.

(4) **Construction Standards for Private Streets**.[15]

   (a) Private streets shall have a ROW width of 50 feet.

      i. The grade of gravel roads shall not exceed 10%.[16]

      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.

[14] Editor's Note: Maintenance added per the 8/27/25 worksession.
[15] 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.
[16] Editor's Note: Grades were revised to match 4-2-3 steep slope requirements (in response to public comment) 10-8-2026.

(b) **Class 1 Private Streets**. Private streets serving three (3) to 20 lots shall have a minimum width of 16 feet of surfaced roadway with shoulders constructed to VDOT standards. The road surface shall consist of a minimum of six (6) inches of compacted crushed aggregate.

i. Where lot size is greater than five (5) acres, road specifications shall conform to Class 1.

(c) **Class 2 Private Streets**.[17] Class 2 private streets in major subdivisions of 12 or more lots shall be built to VDOT standards.

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.

[17] Editor's Note: Class 2 was revised per direction given at the 8/27/25 worksession.

(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 shall construct a bikeway to County standards and dedicate the bikeway ROW to the County for use as a public ROW.[18]

[18] 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. Changed "may" to "shall" per 8/27/25 worksession.

(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:

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(1) Dedication of sidewalks. If the planned sidewalk is not currently within the County ROW, the owner shall dedicate fee simple title to the County for the area from the sidewalk to the ROW.

(2) Sidewalks shall be provided by the developer on all boundaries adjacent to the public ROW.

(3) Sidewalks shall be placed for eventual connectivity with future sidewalks in the vicinity of the site.

(4) Sidewalks shall be constructed of concrete and shall be a minimum of five (5) feet in width. A minimum two-foot planting strip is required between the curb and sidewalk for pedestrian/vehicle separation and to provide for mailbox and utility service placement.

(5) Sidewalk materials and specifications shall meet current VDOT standards.

Division 8-6 Parking and Loading[19]

Section 8-6-1 Purpose and Intent

A. The purpose of this Division is to ensure efficient traffic flow and to reduce hazards to public safety by establishing standards for off-street parking and off-street loading areas. This Division is intended to:

(1) Ensure adequate parking is designed and constructed during the erection of all new structures and the modifications to existing structures;

(2) Provide safe and convenient traffic flow and add to the beautification of the County;

(3) Provide for adequate but not excessive off-street parking and loading while accommodating alternative parking solutions for permanent, temporary, and seasonal demands;

(4) Minimize the environmental impact of parking by avoiding excessive paved surface areas, applying appropriate minimum parking requirements, and encouraging the use of pervious parking surfacing; and

(5) Support walking and bicycling in appropriate locations through the provision of bicycle parking.

Section 8-6-2 Applicability

A. The following are subject to the requirements of this Division:

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

(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 Exemptions[20]

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 Lovingston);

(b) A point approximately 675 feet north of the intersection of Thomas Nelson Highway and Northside Lane (north Lovingston); and

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

(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.

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 provided it is:

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(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.**[21]

(1) The Administrator may approve a reduction in off-street parking space(s) required under this Division 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.

(2) The Administrator may approve, at an applicant's request, a reduction of minimum off-street parking requirements of not less than 20% for residential, multi-family, or mixed-use development located within a Designated Area, as defined by this Ordinance.

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.**[22] 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; and

(2) Be maintained in good condition at all times.

[21] Editor's Note: A.(2) added in accordance with HB888.

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

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.**[23] Parking spaces must be marked by painted lines, curbs, individual bumper block, railroad tie, timber or other means to indicate individual spaces. Signs or markers must be used to ensure efficient traffic operation on the lot.

D. **Parking Space Dimensions.**[24] 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.**[25] 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.

[23] Editor's Note: This section includes modified text from existing Section 12-7-8E.
[24] 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.
[25] Editor's Note: This section, and the table below, are proposed to replace the existing Section 12-7-8H.

F. **Handicap Accessible Parking.**[26]

(1) Parking spaces shall be provided and designated for use by the handicapped in accordance with the parking space accessibility requirements referenced in Virginia Administrative Code 13VAC5-63-250.

(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, below.

G. **Entrances and Exits.** The location and design of entrances and exits must meet the VDOT traffic safety and design requirements.

H. **Drainage and Maintenance.** Parking lot and loading space drainage shall be designed to adequately drain parking spaces to eliminate standing water and prevent damage to abutting properties and/or public streets and alleys and comply with the requirements of the Nelson County Erosion and Sedimentation Control Ordinance.

I. **Lighting**[27]. 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 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.**[28] Parking areas must meet the required setbacks for accessory uses in accordance with Article 4, District Standards. In addition:

(1) No parking area shall be located closer than five (5) feet to any property line.

[26] Editor's Note: This section includes modified text from Section 12-7-8B.
[27] Editor's Note: Includes modified text from existing Section 12-7-8K.
[28] Editor's Note: This section includes retained and modified text from section 12-7-8G.

L. **Emergency Access.**[29] 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 100 feet of the dwelling unit.

Section 8-6-10 Schedule of Required Spaces[30]

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.

(1) When located within one-half (1/2) mile of the entrance to a mass transit or public transportation station or facility as defined in Code of Virginia § 15.2-2209.4, off-street parking space(s) must be provided according to Table 8-7.[31]

B. 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.

C. The parking requirements in this Division:[32]

(1) Are in addition to any other parking requirements contained in the district or use performance standards of this Ordinance; and

D. **Uses Not Provided For**. 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:[33]

(1) Any spaces in excess of 20% of the minimum number required are located in a structured parking facility; or

[29] Editor's Note: This section has been modified and retained from Section 12-7-9.
[30] Editor's Note: The rounding up of fractional spaces was removed in accordance with HB888.
[31] Editor's Note: A.(1) added in accordance with HB888.
[32] Editor's Note: 2 items that allowed the County to add increased minimums were removed in accordance with HB888.
[33] 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.

(2) A Landscape Plan that provides additional pervious landscape surfaces and increases stormwater filtration has been reviewed and approved by the Administrator; or

(3) The applicant for the project must apply and receive approval through a SUP.

Table 8-6: Minimum Off-Street Parking Requirements

USE(S)	MINIMUM NUMBER OF REQUIRED SPACES
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 1 per 200 sq. ft. of assembly floor space without fixed seating

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USE(S)	MINIMUM NUMBER OF REQUIRED SPACES
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, even 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
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

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F. **Designated Areas.**[34] Notwithstanding any provision of this Division to the contrary, for any residential, multifamily, or mixed-use development located within a Designated Area, minimum off-street parking requirements shall not exceed the requirements established in Code of Virginia § 15.2-2209.4 and Table 8-7.

(1) In no instance shall additional off-street parking be required within Designated Areas through any zoning approval, including but not limited to a special use permit or rezoning, in excess of these limitations.

Table 8-7: Minimum Off-Street Parking Requirements Within Designated Areas

GENERAL USE DESCRIPTION	USE(S) PER ARTICLE 6		MINIMUM NUMBER OF REQUIRED SPACES
Residential Uses			
Dwellings	Dwelling	Attached, Zero-Lot Line	1 per dwelling unit
		Manufactured	
		Single-Family	
		Townhouse	
		Two-Unit	
		Accessory	1 per accessory dwelling unit
	Dwelling Multi-Unit	0 – 1 bedroom	½ of 1 parking space per dwelling unit
		2 bedrooms	
		3+ bedrooms	

Section 8-6-11 Bicycle Parking[35]

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.**

[34] Editor's Note: F. and Table 8-7 added in accordance with HB888. Tables beyond this one were renumbered.

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

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

(2) The maximum number of bicycle parking spaces required shall be ten (10).

C. Standards.

(1) A bicycle rack, bicycle loops, or other device must be installed to secure bicycles within the bicycle parking area.

(2) Each rack must:

(a) Allow for the securing of the frame and at least one wheel of a bicycle in a bicycle parking space to the rack with an industry-standard U-shaped bike lock;

(b) Provide each bicycle parking space with support for a bicycle in a stable position with direct support to the bicycle frame;

(c) Be securely anchored to the ground or to a structural element of a building or structure; and

(d) Be constructed of materials designed to withstand cutting, severe weather, and permanent exposure to the elements, such as powder-coated steel or stainless steel.

(3) Bicycle parking must be as close as practicable from the main entrance of the building it serves, unless the Administrator determines that another location is appropriate.

(4) Lighting must be provided for bicycle parking spaces that are accessible after dark.

(5) The location of the bicycle parking area, when fully occupied, must not obstruct any pedestrian way and a five (5) ft. wide pedestrian path must be maintained at all times.

(6) A bicycle parking area may not be located in any minimum setbacks or within a required landscaping or transitional buffer.

(7) Bicycle parking areas must be maintained free of inoperable bicycles (such as bicycles with flat tires or missing parts) and debris. Bicycle racks must be maintained in good repair and free of rust.

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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.

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E. **Screening.** Whenever an off-street loading area is located in or adjacent to a residential district, the CO151, or CO29 overlay districts[36] it must be effectively screened in accordance with Division 8-3 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 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 – 8, 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 performance 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 8-8: Minimum Off-Street Loading Requirements

USE(S)	FLOOR AREA (SQ. FT.)	LOADING SPACE(S) REQUIRED
Commercial and Industrial	0 – 4,999	0
	5,000 +	1 space, plus 1 space for each additional 20,000 sq. ft.

[36] Editor's Note: Revised from HCOD to CO151 & CO29 in response to public comment 10-14-2026.

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.

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Section 8-7-3 Prohibited[37]

A. The following types of signs are prohibited in all zoning districts, unless otherwise specifically permitted by this Ordinance:

(1) Within 660 feet of nearest edge of the ROW of the Blue Ridge Parkway;

(2) Within 660 feet of any public cemetery, public park, public playground, national forest, and state forest;

(3) Signs on a roof surface or extending above the roofline of a structure, building, or parapet wall;

(4) Signs attached, painted, or mounted to unlicensed, inoperative, or generally stationary vehicles and/or trailers. Vehicles and/or trailers shall not be used primarily as static displays, advertising a business, product, or service;

(5) Any sign affixed to, hung, placed, or painted on any cliff, rock, tree, or other natural feature; public utility pole or structure supporting wire, cable, or pipe; or radio, television, or similar tower;

(a) This prohibition shall not affect official traffic, parking, or informational signs placed on utility poles by the County.

(6) Any sign or banner within or across a public ROW, unless specifically approved by the VDOT;

(7) Any sign that, due to its size, illumination, location, or height, obstructs the vision of motorists or pedestrians at any intersection, or similarly obstructs the vision of motorists entering a public right-of-way from private property or obscures traffic or safety signs;

(8) Signs simulating, or which are likely to be confused with, a traffic control sign or any other sign displayed by a public authority. Any such sign is subject to immediate removal and disposal by an authorized County official as a nuisance;

(9) Flashing or revolving lights or beacons intended to direct attention to a location, building, or service, or any device that imitates by its design or use emergency services vehicle or equipment;

(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;

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

(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) Feather signs, as defined in this Ordinance.[38]

(17) Signs that emit sound, smoke, flame, scent, mist, aerosol, liquid, or gas;

(18) Any sign representing or depicting illegal activity, or specified sexual activities and/or specified anatomical areas or sexually oriented goods;

(19) 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;

(20) Off-site signs, unless specifically permitted by this Division; and

(21) Any signs greater in size, quantity, or window coverage other than as provided for in the Sections below.

Section 8-7-4 Exemptions[39]

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.

[38] Editor's Note: Feather sign added per the 8/27/25 worksession.

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

(3) The changing of message content, including message content on a changeable sign if permitted in the district.
(4) Signs affixed to the interior of a permanent fence of a recreational or sports facility.
(5) Signs not visible from a public right-of-way.
(6) Small signs.
  (a) Two (2) minor signs per street frontage, each minor sign not to exceed three (3) sq. ft. in area.
  (b) A minor sign is any wall or freestanding sign not exceeding three (3) sq. ft. in area, not exceeding four (4) ft. in height, and not illuminated. Examples include no trespassing signs, displays of building address, security warning signs, parking signs, entrance/exit signs, and on-site directional signs.

(7) The repair of an existing permitted sign, provided that repairs of nonconforming signs comply with Section 8-7-9, below.

(8) Temporary signs equal to or less than 32 sq. ft. in area, as follows:

  (a) There will be no more than one (1) temporary sign per lot.

  (b) Temporary signs must not be illuminated.

  (c) Temporary signs shall be erected a maximum of 30 consecutive days, unless otherwise approved by the Administrator.

(9) Pavement Markings, including any sign applied directly and entirely to and flush with an asphalt, concrete, or similar paved surface.

(10) Permanent window signs, provided that the aggregate area of all window signs on each window or door does not exceed more than ten percent (10%) of the total area of the window or door.

(11) Memorial plaques and building cornerstones not exceeding six (6) sq. ft. in area and cut or carved into a masonry surface or other noncombustible material and made an integral part of the building or structure.

(12) Nameplates not exceeding two (2) sq. ft. in area to identify the owner or occupant of a dwelling or building, provided that:

  (a) The nameplate is non-illuminated; and

  (b) The nameplate must be securely attached to the building.

(13) A maximum of two (2) banner signs per lot, provided such signs do not exceed 60 sq. ft. in combined sign area.

(14) Legally required motor vehicle fuel price signs.

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(15) Historical signs for historical attractions, provided a SUP is first obtained in accordance with Article 3, Permits and Applications.

(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 × base (B) × 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.

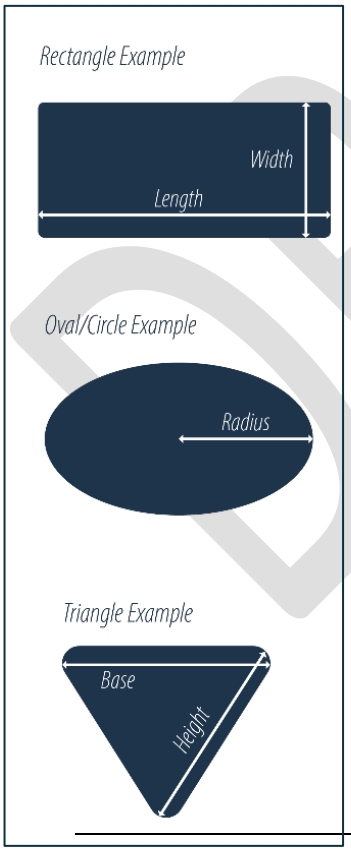
(2) Whenever one sign contains information on both sides, sign area will be calculated based on the largest sign face. Faces are not totaled.

(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.

Figure 8-4: Sign Area Formulas



C. **Sign Height.**

(1) The maximum height for signs will be as provided in Tables 8-9, 8-10, 8-11, and 8-12 provided in Section 8-7-6, 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

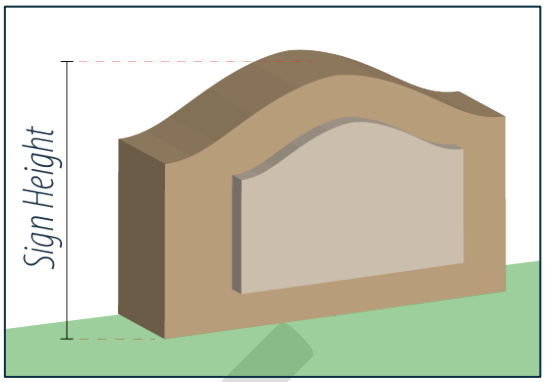
D. Sign Setbacks.[40]

(1) All signs shall be set back a minimum of 15 ft. from the front property line.

(2) Two (2) Freestanding signs shall be a minimum of 15 ft. apart.

[40] Editor's Note: Sign setbacks were added per staff comment 11/5/25. Further, they have been simplified to 15 ft. The existing ordinance (Table 4) requires either 25 ft. or 5 ft. depending on sign type.

Section 8-7-6 Permitted Signs by District[41]



A. The following standards, shown below in Tables 8-9, 8-10, 8-11, and 8-12, 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 type examples provided in the tables of this Section are shown in Figure 8-6 and further defined in Article 11, Definitions.

D. For the purposes of Tables 8-9, 8-10, 8-11, and 8-12, the Residential Uses are listed in the Residential category in Article 6, Use Matrix, Table 6-1, and Non-Residential Uses shall be those listed in all other categories of Table 6-1.

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[41] 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

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Table 8-9: 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 8-10: 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

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Table 8-11: 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 8-12: 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

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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 in 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.

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(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.

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(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.

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Division 8-8 Open Space[42]

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 4-10 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.

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

(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 of this Article.

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

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(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:

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(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.

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(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.

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(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.

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Article-9 Nonconforming Uses, Lots, and Structures

Division 9-1 General

Section 9-1-1 Intent

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

Section 9-1-2 General

A. A change in occupancy or ownership will not affect the right for the nonconforming use to continue or the nonconforming building or structure to remain.

B. If a building, structure, lot, or use does not conform to the zoning prescribed for the district in which such is situated, the owner, lessee, or contract purchaser of such building, structure, or use may apply for a rezoning or a Special Use Permit without charge by the County or any agency thereof for fees associated with such filing, provided that:[1]

(1) A business license was issued by the County for such building, structure, lot, or use;

(2) The holder of such business license has operated continuously in the same location for at least 15 years; and

(3) All relevant local, state, and federal taxes or delinquent charges related to such building, structure, or use have been paid.

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

Division 9-2 Nonconformities[2]

Section 9-2-1 Nonconforming Uses

A. A legal nonconforming use may continue as it existed when it became nonconforming. A nonconforming use will not be reconstructed, relocated, altered, or expanded in any manner, including the addition of new accessory uses, except as provided for in this Section.[3]

(1) A nonconforming use may change to a conforming use.

(2) A nonconforming use may be changed to another nonconforming use of the same or of a more restricted classification. Whenever a nonconforming use of land or buildings has been changed to a more restricted use or to a conforming use, such use shall not thereafter be changed to a less restricted use.

(3) No additional uses which would be prohibited generally in the Zoning District involved shall be permitted.

(4) The nonconforming use may be extended throughout those parts of a building which are lawfully and manifestly arranged or designed for such use at the time of enactment of this Ordinance provided there are no structural alterations, expansion, or enlargement except those required by law or lawful order.

(5) A nonconforming dwelling unit may have a home occupation subject to the requirements of Article 6, Use Matrix, and Article 7, Use Performance Standards.

B. A nonconforming use shall lose its nonconforming status, and any further use shall conform to the requirements of this Ordinance when:

(1) The nonconforming use is discontinued for a period of two (2) years, regardless of whether or not equipment or fixtures are removed, and shall be deemed abandoned.

(a) A property owner or appointed agent may apply for an extension of time to allow a nonconforming use to remain discontinued beyond the two (2) year period stated in 9-2-1(B)(1), above.

i. Such extension shall be filed with the Administrator, who shall approve or disapprove the extension based on the suitability of the nonconforming use.

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

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

ii. Any approved extension of time for a discontinued nonconforming use beyond two (2) years shall not be longer than one (1) year in length.

iii. Further extensions of time for a discontinued nonconforming use beyond two (2) years may be sought through the process in (i) and (ii), above.

(2) The nonconforming use is intentionally abandoned, regardless of the length of time that has passed.

(3) The removal of a structure in which a nonconforming use is carried out inside; removal of the structure shall eliminate the nonconforming status of the land, and the nonconforming use may not continue in a new structure.

C. All nonconforming uses shall obtain a certificate of occupancy. Such permits shall be issued promptly upon the written request of the owner or operator of a nonconforming use.

D. The casual, intermittent, seasonal, temporary, or illegal use of land or buildings shall not be sufficient to establish the existence of a nonconforming use, and the existence of a nonconforming use on a part of a lot shall not be construed to establish a nonconforming use on the entire lot.

E. When evidence available to the Agent is deemed to be inconclusive, whether a nonconforming use exists shall be a question of fact and shall be decided by the Board of Zoning Appeals (BZA) after public notice and hearing in accordance with Article 3, Permits and Applications, Division 3-11, and in accordance with the rules of the BZA as provided in Article 2, Administration, Division 2-3.

Section 9-2-2 Nonconforming Lots of Record

A. Any lot of record at the time of the adoption or amendment of this Ordinance does not meet the minimum area, length, or width required for the Zoning District it is in, it may be used or built upon without variance, provided that setbacks and other district requirements can be met.

(1) The front setback requirement shall be no greater than the average of the adjoining lots' existing structure setbacks fronting on the same street.[4]

(2) A lot of record without road frontage shall have a legally recorded access easement.

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

(3) If the lot cannot meet setback and other requirements, a variance shall be obtained through the variance processes outlined in Article 3, Permits and Applications.

B. A developed nonconforming lot may continue in existence but may not be altered except in accordance with this Article.

C. Any lot which is reduced in size and becomes less in area or width than the minimum required by the Zoning District, as the result of voluntary or required dedication of right-of-way shall be considered a nonconforming lot of record.

D. A nonconforming lot may become a conforming lot by meeting the current minimum lot size, lot width, and lot frontage requirements of the Zoning District in which the lot is located through the following actions:

(1) A consolidation of the nonconforming lot with an adjacent lot;

(2) A boundary adjustment between two (2) contiguous lots, one (1) being nonconforming and the other being conforming, provided such adjustment does not make the conforming lot nonconforming, does not create an additional lot, and does not increase the nonconforming lot's nonconformity; or

(3) Rezoning to a different Zoning District to meet the lot size, lot width, and lot frontage requirements of that District.

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

A. The construction of a nonconforming building for which a permit was issued legally prior to the adoption of this Ordinance may proceed in accordance with Article 1, General, Division 4.

B. A nonconforming structure or nonconforming improvement may continue as it existed when it became nonconforming. A nonconforming structure or nonconforming improvement shall not be reconstructed, altered, or expanded in any manner, except as provided for in this Section.

C. A nonconforming building or structure shall include those circumstances where Nelson County has:

(1) Issued a building permit or other permit authorizing construction and the building or structure was constructed in accordance with the building permit, and upon completion, the County issued a certificate of occupancy; or

(2) The owner of the building or structure has paid real estate taxes to the County for such building or structure for a period of more than 15 years.

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(3) In no instances shall the nonconforming circumstance of the structure relate, or provide nonconforming status to, a use. Nonconforming uses are established as outlined in Section 9-2-1 above.

(4) Additionally, a nonconforming building or structure will include those circumstances where:

(a) A permit was not required, an authorized governmental official informed the property owner that the structure would comply with the Zoning Ordinance, and the improvements were then constructed accordingly.

(b) However, in any proceeding when the authorized County official is deceased or unavailable to testify, uncorroborated testimony of the oral statement of such official will not be sufficient evidence to prove that the authorized County official made such statement.

D. No additional structure not conforming to the requirements of this Ordinance shall be erected in connection with such nonconforming uses of land.

E. A nonconforming structure may be changed to make it a conforming structure.

F. Any extension, alteration, or enlargement of a nonconforming structure shall conform with the provisions of this Ordinance, provided such extension, alteration, or enlargement does not increase the degree of nonconformity in any respect.

G. Any nonconforming building or structure may be brought into compliance with the Uniform Statewide Building Code without affecting the nonconforming status of the building or structure.

H. If a nonconforming structure is demolished or removed, no nonconforming structure shall be reestablished, except as provided under Section 9-2-4 below.

I. If a nonconforming structure is moved for any reason to another parcel of land, regardless of distance, every portion of the structure and its principal use must then conform with the requirements for the Zoning District in which it is located.

J. Nothing in this Article shall be construed to restrict an owner from seeking a variance in order to bring a nonconforming structure or building into compliance in accordance with Article 3, Permits and Applications.

Section 9-2-4 Repairs and Maintenance

A. On any nonconforming structure or portion of a structure containing a nonconforming use, work may be done in any period of 12 consecutive months if:

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(1) Such repair constitutes routine maintenance necessary to keep the structure or improvement in the same general condition it was in when it originally became nonconforming; or

(2) Such repairs constitute minor exterior repairs, cosmetic modifications, interior renovations, and similar changes.

(3) The cubic content of the structure, as it existed at the time of passage or amendment of this Ordinance, shall not be increased.

B. Nothing in this Ordinance shall permit a complete rebuild of a nonconforming structure, nor serve to circumvent the requirements of this Article, except for necessary rebuilds in accordance with Section 9-2-4 (D), below.

C. Nothing in this Ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any structure or part thereof declared to be unsafe by any official charged with protecting the public safety, on order of such official.

D. If 50% or more of a nonconforming building or structure or a conforming building with a nonconforming use is damaged or destroyed by fire, natural disaster, or other Act of God, such building or structure may be repaired, rebuilt, or replaced provided that:

(1) The nonconforming features are eliminated or reduced to the extent possible, without the need to obtain a variance;

(2) The owner shall apply for a building permit and any work done to repair, rebuild, or replace such building shall be in compliance with the provisions of the Uniform Statewide Building Code;

(3) The requirements of the Floodplain District of this Ordinance are met, if applicable; and

(4) The work is done within two (2) years unless the building is in an area under a federal disaster declaration and was damaged or destroyed as a direct result of the disaster, in which case the time period shall be extended to four (4) years.

E. Owners of property damaged by an accidental fire have the same rights to rebuild such property as if it were damaged by an Act of God. Nothing herein shall be construed to enable the property owner to commit an arson and obtain vested rights under this Section.

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F. An owner of real property shall be permitted to replace an existing on-site sewage system for any existing building in the same general location on the property even if a new on-site sewage system would not otherwise be permitted in that location, unless access to a public sanitary sewer is available to the property. If access to a sanitary sewer system is available, then the connection to such system shall be required. Any new on-site system shall be installed in compliance with applicable regulations of the Department of Health in effect at the time of the installation.

G. Pursuant to the Code of Virginia § 15.2-2307(H), if a nonconforming manufactured home is removed other than by natural disaster, an Act of God, or public action, it may not be replaced except as provided for below unless it complies with regulations within the Ordinance. Any such replacement home shall retain the valid nonconforming status of the prior home.

   (1) Nothing in this Section shall be construed to prevent the landowner or homeowner from removing a valid nonconforming manufactured home from a mobile or manufactured home park and replacing that home with another comparable manufactured home that meets the current HUD manufactured housing code. In such mobile or manufactured home park, a single-section home may replace a single-section home and a multi-section home may replace a multi-section home.

   (2) The owner of a valid nonconforming mobile or manufactured home not located in a mobile or manufactured home park may replace that home with a newer manufactured home, either single- or multi-section, that meets the current HUD manufactured housing code.

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Article-10 Subdivisions

Division 10-1 General[1]

Section 10-1-1 Title & Purpose[2]

A. This Article is a portion of the Zoning and Subdivision Ordinance of Nelson County, Virginia. It shall be permitted, for convenience, to be referred to as the "Subdivision Ordinance of Nelson County, Virginia," "Subdivision Ordinance," "Zoning & Subdivision Ordinance," or "Ordinance."

B. The terms "developer" and "subdivider" are used synonymously in this Article and shall have the same meaning, as defined in this Ordinance.

C. The purpose of this Ordinance is to establish standards and procedures for land subdivision and development in Nelson County, Virginia, in order to promote the orderly growth, public health, safety, convenience, comfort, prosperity, and general welfare of the community.

Section 10-1-2 Recording of Ordinance

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

Section 10-1-3 Amendments[3]

A. Per the Code of Virginia, § 15.2-2251 and § 15.2-2253, this Article may be amended in whole or in part by the Board of Supervisors; provided:

(1) That any amendment shall either originate with, or be submitted to, the Planning Commission for recommendation;

(2) No such amendment shall be adopted without a public hearing having been held by the Board of Supervisors in accordance with the Code of Virginia § 15.2-2204; and

[1] Editor's Note: Unless otherwise stated, this Division includes new text and sections to establish the general procedures of subdivision in the County.
[2] Editor's Note: Includes sections 1-1 and 1-2, reworded and modified for brevity and clarity.
[3] Editor's Note: Includes section 9-1 with additional text for clarity.

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

Section 10-1-4 Repeal[4]

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

Section 10-1-5 Circumvention

A. Development of multiple adjoining Minor or Single Lot Subdivisions, over any amount of time, for the purpose of circumventing subdivision requirements, shall not be permitted.

B. Development of multiple adjoining Major Subdivisions for the purpose of circumventing preliminary plat requirements, shall not be permitted.

C. Creative lot layout, for the purpose of circumventing design requirements, shall not be permitted.

Section 10-1-6 Exemptions

A. The following are exempt from this Article, but shall not be exempt from the other Articles of the Zoning and Subdivision Ordinance:

(1) **Existing Parcels.** The sale or exchange of existing parcels of land between owners and the creation of boundary surveys which do not change or alter any boundary lines of a parcel.

(2) **Utility Rights-of-Way; Public, Private Rights-of-Way.** When a parcel of land is subdivided in order that one (1) or more of the resulting parcels may be used as part of a public or private right-of-way (ROW):

(a) If a parcel resulting from such division is to be used as a building site for other than a ROW described above the minimum requirements of this Article shall be met before a Building Permit may be issued for such other use.

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

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

Section 10-1-7 Exceptions[5]

A. If the subdivider can show that a provision of this Article would cause unnecessary hardship if strictly enforced, the Administrator may authorize an exception if an exception may be made without destroying the intent of such provision.

(1) Any exception so authorized shall be set forth in a written statement by the Administrator detailing the reason for the exception and filed as an addendum with the final plat.

Division 10-2 Types of Subdivisions[6]

Section 10-2-1 Major Subdivisions

A. Major Subdivisions are subdivisions of 12[7] or more lots, and therefore have greater impact on the environment, highways, and surrounding communities than smaller subdivisions.

(1) Parcels in excess of 40 acres will not count toward a Major Subdivision but will be counted for street construction and platting requirements as provided in Division 10-3 and Divisions 10-5, Division 10-6, Division 10-7, and 10-8 of this Article, respectively.

Section 10-2-2 Minor Subdivisions

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

Section 10-2-3 Single Subdivisions

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

Section 10-2-4 Family Subdivisions

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

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

[5] Editor's Note: Includes existing text from section 7-1. Changed from planning commission to Administrator per 8/27/25 worksession and new Code of VA requirements.
[6] Editor's Note: This division includes all new text to establish, define, and explain the four different types of subdivisions in the County.
[7] Editor's Note: This text identifies subdivision of 12 or greater lots be considered major, based on current permitting standards for plats from section 3-2.

(a) Encourage and promote the ability of family members to live near one another as housing needs change;

(b) Provide opportunities for mutual support and care of family members; and

(c) Allow for the preservation of family land holdings which might otherwise be fragmented for economic reasons.

(2) **Applicability.**

(a) For the purposes of this Article, a "member of the immediate family" is defined as any person who is the natural or legally defined offspring, stepchild, spouse, sibling, grandchild, grandparent, parent, niece, or nephew of the owner, who is 18 years or older.

(b) If the property to be subdivided is owned in joint tenancy, the necessary relationship to the grantee may exist with any one or more of the joint tenants.

(c) Family Subdivisions may also be for immediate family of beneficiaries of a trust, of land held in trust. In addition to the requirements of (3) Standards, below, for Family Subdivisions of land held in trusts, all trust beneficiaries must:

i. Be immediate family members as defined in this Section (2) (a), above;

ii. Agree that the property should be subdivided, and

iii. Agree to place a restrictive covenant on the subdivided property that would prohibit the transfer of the property to a nonmember of the immediate family for a period of five (5) years.[8]

(3) **Standards.** Per the Code of Virginia, § 15.2-2244, 2244.1, and 2244.2, all Family Subdivisions shall be subject to the following provisions and conditions in lieu of the other subdivision regulations imposed by this Article.

(a) Only one such division shall be allowed within Nelson County for each immediate family member.

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

(b) The property to be subdivided has been owned for at least five (5) consecutive years by the current owner or member of the immediate family.[9]

(c) The grantee agrees to place a restrictive covenant on the subdivided property that would prohibit the transfer of the property to a nonmember of the immediate family for a period of five (5)[10] years. The lot or parcel created under this Section shall remain titled in the name(s) of the grantee for the 5-year period, from the date of recordation of the deed of conveyance, unless:

i. The parcel to be transferred out of the immediate family is the subject of an involuntary transfer such as foreclosure, divorce, death, judicial sale, condemnation, or bankruptcy, in which case, upon application to the Administrator, any remaining required holding period shall be waived;

ii. The owner(s) of the tract dies in which case, upon application to the Administrator, any remaining holding period shall be waived for the tract;

iii. The transferred property is later transferred to a subsequent grantee who qualifies as an immediate family member of the original grantor as set forth in this Article, in which case only the remainder of the initial required holding period shall apply to the subsequent grantee; or

iv. An exception to these provisions is made by the Administrator[11], upon the determination of an injustice or hardship as permitted under the provisions of this Article.

(d) The minimum width, yard, and area requirements of all lots or parcels, including the remaining property from which the lot or parcel is subdivided, shall be in accordance with the applicable provisions of this Ordinance.

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

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

[11] Editor's Note: Changed from planning commission to Administrator per 8/27/25 worksession and new state code requirements.

(e) Each lot or parcel shall front on a public road or a private driveway or road that is in a permanent easement.

(4) **Final Plat.** In addition to the requirements of Division 10-7 of this Article, Family Subdivisions shall comply with the following:

(a) Along with the final plat, an affidavit, under oath, shall be submitted in the form prescribed by the Administrator, describing the purposes of the subdivision, and identifying the member of the immediate family receiving the lot created.

(b) The proposed deed of conveyance shall be submitted to the Administrator and once approved for compliance with this Article, recorded along with the approved final plat.

(c) Both the deed and the final plat shall contain the following statement set forth prominently:

i. "This lot is created as a Family Subdivision for an immediate family member, pursuant to the provisions of the Nelson County Zoning and Subdivision Ordinance. The use and transfer of this property is restricted by the terms of this Ordinance. The property to be subdivided has been owned for at least five (5) consecutive years by the current owner or member of the immediate family and the grantee agrees to place a restrictive covenant on the subdivided property that prohibits the transfer of the property to a nonmember of the immediate family for a period of five (5) years."

(5) **Circumvention.**

(a) No Family Subdivision shall be made for the purpose of circumventing the requirements of this Article.

(b) The Administrator shall reject any proposed Family Subdivision if, after investigation of the facts and circumstances involved in the proposed subdivision, the Administrator believes that the proposed subdivision is for the purpose of circumventing the requirements of this Article and is not in accordance with the purpose and intent of this Ordinance.

i. The burden of proving compliance with the purpose, intent, and conditions of this Article shall be on the property owner.

ii. Nothing in this Article shall be deemed to exempt Family Subdivisions from the requirements of other provisions of the Nelson County Code which are deemed to be applicable by the Administrator.

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(c) In the event that the Board of Supervisors determines a circumvention to have occurred, the Family Subdivision approval shall be considered void, and Nelson County may take appropriate action to require compliance with all other applicable requirements of this Ordinance or may initiate action to vacate said lot.

Division 10-3 Design Requirements[12]

Section 10-3-1 Suitability of Land

A. The Administrator shall not approve the subdivision of land if, from adequate investigation conducted by all public agencies concerned, it is determined that in the best public interest the site is not suitable for platting and development of the kind proposed.

B. In investigating the suitability of land for subdivision, the Administrator may require the subdivider to furnish topographic maps, soil reports, established 100-year flood plain studies, wetlands delineation, and other information relevant to such determination.

C. Sensitive lands, as provided below in Section 10-3-1 (C) (1) through (5) below, shall not be platted for residential occupancy, nor for such other uses as may increase danger of health, life, or property, or may aggravate erosion or flood hazard.

(1) Land subject to flooding, except in accordance with Section 10-3-2, below;

(2) Land deemed to be topographically unsuitable;

(3) Land having unsuitable soils; and

(4) Land having inadequate light and air.

(5) Such land within the subdivision shall be set aside on the plat for such uses as shall not be endangered by periodic or occasional inundation or shall not produce conditions contrary to public welfare.

Section 10-3-2 Land Subject to Flooding[13]

A. When any stream is located within the boundaries of a property being subdivided, the developer/subdivider shall reserve a minimum 50-ft.-wide buffer zone (measured from the bank of the stream) on each side of the stream.

[12] Editor's Note: Unless otherwise noted, this Division includes new proposed text that establishes standards of design for newly created lots in Nelson County.
[13] Editor's Note: Includes existing text from section 4-3.

B. If a stream lies outside the subdivision boundary and the property being subdivided is located less than 50 feet from the bank of the stream, the developer shall reserve as a buffer zone whatever portion of the subdivided property lies within 50 feet of the stream measured from the stream bank.

(1) No residential structure or associated outbuilding shall be permitted within the buffer zone and such buffer zone shall not be considered part of any required street width.

C. Adequate easements, a minimum of ten (10) feet wide, shall be reserved over each manmade drainage course for drainage purposes.

D. If any subdivision requires land disturbing activity for which an erosion and sedimentation control plan must be filed pursuant to the Nelson County Erosion and Sediment Control Ordinance, then the developer must submit such plan and receive approval from the plan approving authority.

E. If any subdivision requires land disturbing activity for which a stormwater management plan must be filed pursuant to the Virginia Stormwater Management Program (VSMP) regulations, then the developer must submit such plan, receive approval from the Virginia Department of Environmental Quality, and provide documentation of VSMP permit coverage as an addendum to the final plat.

Section 10-3-3 Residential Density

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

Section 10-3-4 Lots[14]

(1) **Lot Size.** Minimum lot sizes for subdivided lots shall be in accordance with Article 4, Primary Zoning Districts, or Article 5, Overlay Districts, as applicable.

A. **Lot Shape.**

(1) The lot arrangement, design, and shape shall be such that lots will provide satisfactory and desirable sites for buildings, and be properly related to topography, and conform to the requirements of this Ordinance.

[14] Editor's Note: Includes existing text from section 4-7 that has been modified for additional detail, brevity, and clarity.

(2) No more than 15% of the total number of lots within a subdivision shall have irregular extensions of land (such as narrow strips, stems, or tails) for the purpose of meeting the minimum lot area required by the Nelson County Zoning Ordinance, or for the purpose of providing individual lot access to a street.

B. **Frontage.** Every subdivided lot shall front on a street.

C. **Corner Lots.** Corner lots shall meet the required building setbacks on both streets in accordance with Article 4, Primary Zoning Districts, or Article 5, Overlay Districts, as applicable, of this Ordinance.

Section 10-3-5 Stem Lots[15]

A. **Applicability.**

(1) The use of Stem Lots is prohibited except within Cluster Developments, in accordance with Article 4, Primary Zoning Districts, and where safety or environmental factors prevent normal lot design, and the use of stem lots improves the quality of the design of the subdivision and provides for a better use of land.

(2) The financial cost of road construction, or the loss of lots, shall not by themselves constitute sufficient reasons to use Stem Lots.

(3) For purposes of determining the maximum number of allowable Stem Lots, all subdivisions of the original parcel shall be deemed to be included as part of the same subdivision, regardless of when subdivided.

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

B. **Standards.**

(1) Each lot "stem," or driveway, shall serve no more than two (2) lots.

(2) A lot shall only be served by, or connected to, one "stem."

(3) No subdivision shall have more than two (2) contiguous Stem Lots, to avoid traffic hazards and confusion.

(4) Stem Lots shall comprise no more than 15% of the total lots in the subdivision (percentages will be rounded to nearest whole number).

[15] Editor's Note: This section contains new language to limit the use of stem (or flag) lots within Nelson County.

(5) The required lot area shall be exclusive of the "stem" portion of the lot.

(6) The stem that accesses the street or road shall be a minimum of 20 ft. in width at any point. The length of such stems shall be a maximum of 350 ft.

(7) The final plat shall note each Stem Lot driveway as privately owned and maintained by the lot owners served.

(8) Each house served by a stem driveway shall be numbered in accordance with the requirements of the Nelson County addressing system and have a sign showing the address and an arrow indicating the direction of the house to which the address applies.

(9) The stem portion of a lot shall be a fee-simple part of the lot with cross easements for access in the case of a shared or common driveway.

Section 10-3-6 Remnants[16]

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

Section 10-3-7 Access

Lot access shall be in accordance with Article 8, Division 8-5.

Section 10-3-8 Blocks[17]

A. **Width.** Blocks shall be wide enough to allow two (2) tiers of lots of minimum depth fronting on streets unless prevented by topographical conditions or size of the property in which case the Administrator may approve a single tier of lots of minimum depth.

(1) Double frontage or reversed frontage lots shall not be permitted except where essential to provide separation of residential development from streets or to overcome disadvantage of topography.

B. **Orientation.** Where a proposed subdivision will adjoin a minor or principal arterial or a major collector road, blocks shall be oriented to minimize the number of access points to the road.

[16] Editor's Note: Includes text from section 4-7 about remnants of lots, maintaining the allowance of lot remnants to be used as open space.
[17] Editor's Note: Includes existing text from section 4-8.

Section 10-3-9 Streets[18]

Minimum street standards for subdivided lots shall be in accordance with Article 8, Division 8-5.

Section 10-3-10 Bikeways and Sidewalks.

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

Section 10-3-11 Public and Semi-Public Facilities[19]

A. **Water and Sewer.**

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

(2) If any part of a subdivision falls within an area in which the Nelson County Service Authority operates a water and/or sewage system, the developer shall be subject to the regulations of the Service Authority for public water or sewer connections, including the extension of public water or sewer lines to lots within the subdivision.

(a) The regulations adopted by the Nelson County Service Authority shall govern the construction, easement specifications, and requirements for dedication of the same.

(3) Central water and sewer systems shall meet all the requirements of Code of Virginia and the regulations promulgated by the Virginia Department of Environmental Quality and the Virginia Department of Health (VDH).

(a) When a subdivision contains any lot less than one (1) acre in size and the land does not have access to public water and sewer, then the developer shall construct both a central water system and a central sewer system.

(b) When a subdivision contains any lot at least one (1) acre, but less than two (2) acres in size, the developer shall construct either a central water system or a central sewer system.

[18] Editor's Note: Includes existing text from section 4-6.
[19] Editor's Note: Includes existing sections 4-4 and 4-5.

(4) In subdivisions having lots two (2) acres or greater in size, individual wells may be used provided that the developer states on the face of the plat that approval of the subdivision plat by the County of Nelson does not certify or guarantee the purchaser the presence of adequate subterranean water to support the purposes of the subdivision (whether residential, commercial or industrial) as no demonstration has been made by the developer of the same.

(5) No subdivision shall be approved where individual septic systems are to be used until written approval has been secured from VDH. In order to grant approval, an AOSE (Authorized On-Site Soil Evaluator) shall submit a soil report to the Administrator to be forwarded to VDH, requesting review and approval. The soil report shall address the suitability for an onsite sewage disposal system for each lot.

(a) Each system approved after November 18, 2008, shall have an additional on-site septic system reserved for use in the event of failure of the initial on-site wastewater system.

(b) In all zones, the reserve on-site wastewater system area shall be sufficient to accommodate:

i. For Class 1 and 2 soils, a minimum of 50% of the capacity of the initial on-site wastewater system; and

ii. For all other soil classes, a minimum of 100% of the capacity of the initial on-site wastewater system.

(c) Exceptions to provisions (5) (a) and (b)above:

i. The residue (the remaining portion) of the original lot is 20 acres or larger. The following statement shall be clearly noted on the plat for this lot: "The approval of this residue lot by the County of Nelson does not certify or guarantee the owner or purchaser the presence of adequate soils to support an on-site wastewater treatment system for any development as no demonstration has been made by the developer/subdivider of the same."

ii. A lot with an existing on-site septic system.

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(6) Where an alternative waste treatment system is to be used, the developer shall provide to the Administrator documented proof that the soils and parent materials are satisfactory to VDH, and shall obtain approval of the alternative waste treatment system from the appropriate state agency, including the Virginia Department of Environmental Quality and VDH. Such documented proof and approval shall be filed as an addendum with the final subdivision plat.

(7) In all zoning districts, the reserve area for an alternative waste treatment system shall be sufficient to accommodate a minimum of 100% of the capacity of the primary area.

B. **Fire Protection.**

(1) Where public water is available, the developer shall install fire hydrants. The location and number of fire hydrants shall comply with the regulations of the Nelson County Service Authority.

(2) Where public water is not available and the subdivision contains 12[20] or more lots, any one of which is five (5) acres or less in area, the developer shall provide a dry hydrant with a natural or manmade water source meeting the specifications contained in the Virginia Statewide Fire Prevention Code[21] for the subdivision density and an all-weather access road to the same. A Maintenance agreement shall be submitted detailing how the dry hydrants will be maintained by the property owners and/or developer.

Section 10-3-12 Homeowners Associations (HOA)[22]

A. Common areas such as private streets, open space, utilities, or stormwater management facilities provided by the developer within any Major or Minor Subdivision, if not dedicated to the County, shall be conveyed to a homeowners' association created for the subdivision.

B. The developer shall file a declaration of covenants and restrictions that will govern the HOA. Such covenants and restrictions shall include, but not necessarily be limited to, the following:

[20] Editor's Note: Number changed from 15 to 12 to align with major subdivision size. Discrepancy was pointed out by public comment, and was edited 10/7/2026.
[21] Editor's Note: Replaced an obsolete reference with this code reference.
[22] Editor's Note: This section is proposed as new to govern HOAs within a subdivision.

(1) The HOA including by-laws, covenants and restrictions, and articles of the association or corporation must be legally constituted prior to the sale of any lot, dwelling unit, or other structure located within the subdivision.

(2) Such HOA must be effectual prior to the sale of 25% of the lots or dwelling units, on whichever assessments are based. The entire cost for maintenance of the open spaces, private streets, or other communally owned facilities shall be borne by the developer until such time as the HOA becomes effectual.

(3) All covenants and restrictions must:

(a) Be for a substantial period of time with a minimum of 25 years;

(b) Run with the land; and

(c) Apply to all lots and dwelling units located within the subdivision.

(4) The HOA must be responsible for liability insurance, local property taxes, and the maintenance of any private streets, land, communally owned facilities, and recreational facilities.

(5) Homeowners must pay their pro-rata share of the cost of the above through assessment levied by the HOA, which must become a lien on each homeowner's property. Every lot or landowner shall have the right to petition a court of competent jurisdiction to ensure adequate maintenance and upkeep of the HOA's responsibilities.

(6) The HOA must be able to adjust assessments to meet changing needs.

(7) The HOA must be organized as a nonprofit unincorporated association or nonprofit corporation, managed by either a trained professional or a Board of Directors elected by the voting members of the HOA. In accordance with the Code of Virginia § 15.2-2256, the Board of Directors or other managing professional charged with collection of fees and the maintenance of common improvements shall provide an annual report to the lot owners of all fees collected and disposition of all funds.

(8) Lots or dwelling units assessed by the HOA shall only be those indicated on the approved final plat.

(9) It shall be mandatory for every lot or landowner to have membership in the HOA.

(10) Nelson County shall bear no responsibility for enforcement, administration, or otherwise of any established HOA.

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Section 10-3-13 Obligation of Improvements[23]

A. All improvements and facilities required by this Article shall be installed by the developer at their cost and are not the responsibility of the locality, as outlined in the Code of Virginia § 15.2-2268. However, the Board of Supervisors may commit the County to share the cost of the improvements with the developer. Any cost sharing or reimbursement arrangements between the developer and Nelson County shall be by written agreement executed prior to final plat approval.

B. No bond or other surety posted by the developer shall be released until construction has been completed, inspected, and approved, or VDOT road acceptance has occurred. Periodic partial release is allowed as outlined in the Code of Virginia § 15.2-2245 and Section 10-4-4 of this Article.

Section 10-3-14 Monuments

A. **Permanent Monuments.** Permanent monuments shall be placed by the developer in the ground at all corners, angle points and curvatures in the ROW lines of all streets; and at all lot corners within the subdivision prior to approval of the final plat by the Administrator.[24]

(1) If placement of monuments at the above-mentioned points is impossible because of the topography, reference monuments may be set where appropriate.

(2) Monuments shall be constructed of stable material not less than four (4) inches square or four (4) inches in diameter and at 30 inches long; or monuments may be iron or steel pipe a minimum of one-half (½) inch and maximum of one (1) inch in diameter and a minimum of 24 inches long.

(3) When rock is encountered a hole may be drilled four (4) inches deep in the rock into which shall be cemented a steel rod one-half (½) inch in diameter, the top of which shall be flush with the finished grade line; or a reference monument may be set at an appropriate point.

[23] Editor's Note: Includes existing text from section 4-2.

[24] Editor's Note: Changed from planning commission to Administrator per 8/27/25 worksession and new Code of VA requirements.

Division 10-4 Guarantees[25]

Section 10-4-1 Required to be Guaranteed

A. **Guarantees for Improvements Shown on Plat.** Before any final plat will be approved, the developer shall, in lieu of construction, furnish a guarantee in an amount approved by the Administrator to guarantee completion of the public and other site-related improvements in accordance with the specifications and construction schedules of this Division.

(1) The bond shall be payable to, and held by, the Board of Supervisors.

(2) In accordance with Code of Virginia § 15.2-2241 (B), any certified check, cash escrow, bond, letter of credit or other performance guarantee furnished pursuant to this Article shall only apply to, or include the cost of, any facility or improvement shown or described on the approved final plat or plan of the project for which such guarantee is being furnished. The guarantee shall remain in full force and effect until released, in accordance with the provisions of this Ordinance.

B. **Guarantees for Dedicated Public Uses.** In accordance with Code of Virginia § 15.2-2241.1, provided the developer and the Board of Supervisors have agreed on the delineation of sections within a proposed development, the developer shall be required to furnish a bond for construction of public facilities only when construction plans are submitted for the section in which such facilities are to be located.

C. **Guarantees for Street Maintenance.** In the event a street is not accepted into the State Highway System, the developer shall furnish Nelson County with a maintenance and indemnifying bond, with surety satisfactory to the Nelson County Board of Supervisors in an amount set by the Board sufficient for, and conditional upon, the maintenance of such street or road until such time as it is accepted into the State Highway System.

D. **Guarantees for Other Improvements.** Other improvements requiring a guarantee include, but are not limited to:

(1) Structures necessary to ensure stability of critical slopes, and for stormwater management facilities;

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

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(2) Erosion and sediment control measures required as a condition to grading, building, or other permits;

(3) Any private streets to be constructed in a subdivision or other development; and

(4) Any privately-owned site-related improvements, including but not limited to fencing, landscaping, buffering, internal sidewalks, lighting, paving, private recreational facilities, and pavement marking, required by this Ordinance but not completed prior to issuance of a Certificate of Occupancy.

Section 10-4-2 Types of Guarantees

A. The following guarantee options are available to the developer to provide to the County for acceptance by the Administrator or County Attorney:

(1) **Performance Bond.** A performance bond shall be executed by a surety company licensed to do business in the state of Virginia.

(2) **Letter of Credit.** A letter of credit shall be executed by a bank licensed to do business in the state of Virginia.

(3) **Cash Escrow.** The applicant shall provide to Nelson County cash or a cashier's check.

Section 10-4-3 Amount

A. The guarantee shall be provided in the following amount:

(1) Total estimated cost of construction based on unit prices, approved by the Administrator or designee; and

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

Section 10-4-4 Release

A. As outlined in the Code of Virginia § 15.2-2245, the developer may apply for the periodic partial and final, complete release of any bond required under this Article.

B. **Periodic Partial Release.** Upon the completion of at least 30% of the improvements covered by a performance guarantee, the applicant may file a written request with the Administrator for a partial release of such guarantee.

(1) The Administrator may inspect the facilities for conformance with the terms and conditions of the approved plan and specifications for the facilities for which the guarantee is applicable.

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(2) The Administrator shall not refuse to make a periodic partial or final release of guarantee for any reason not directly related to the specified defects or deficiencies in construction of the facilities covered by such bond, escrow, letter of credit or other guarantee.

(3) The Administrator shall act upon the written request for a partial release within 30 days of receipt.

(4) If no action is taken by the Administrator within the 30-day time period, the request for partial release shall be approved, and a partial release shall be granted to the developer.

(5) Up to 90% of the original amount of the performance guarantee may be released through periodic partial releases, based upon the percentage of public facilities completed and approved by the County or other agency having jurisdiction.

C. **Final Release.** Upon final completion of the facilities, the developer may file a written request for final release of the guarantee.

(1) The Administrator may inspect the facilities for conformance with the terms and conditions of the approved plan and specifications for the facilities for which the guarantee is applicable.

(2) The Administrator shall either accept the facilities and release the remaining guarantee or notify the applicant that the facilities are not accepted and that there are specific defects or deficiencies in construction.

(3) If the Administrator fails to act within the 30-day time period, then the applicant may make an additional request in writing for final release, sent by certified mail to the County Administrator.

(a) The County Administrator shall act within ten (10) working days of the request.

(b) If no action is taken, the request shall be deemed approved and final release granted to the applicant.

D. For the purposes of this Section and as defined in the Code of Virginia § 15.2-2245, the term "acceptance" means: when the public facility is accepted by and taken over for operation and maintenance by the State agency, local government department or agency, or other public authority which is responsible for maintaining and operating such public facility upon acceptance.

E. As-built Plans shall be required prior to the release of any guarantee and the Developer shall certify that all agreed upon standards have been met.

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(1) If a periodic release is requested, the As-builts Plans and certification for that phase of the development shall be provided prior to release of that portion of the guarantee.

Section 10-4-5 Extension for Completion

A. If guaranteed improvements are not completed in a timely manner acceptable to the County, the Administrator may proceed via the provisions for default or allow an extension of time for the completion of facilities provided that:

(1) All surety consents have been acquired and approved by the County;

(2) The owner has submitted an acceptable revised schedule for completion; and

(3) Inspection of existing physical improvements is found to be satisfactory.

Section 10-4-6 Default

A. In the event of default in the construction of guaranteed facilities, the Administrator is authorized to take such action as may be required to protect Nelson County including, but not limited to:

(1) Draw or make demand on the owner or developer's security;

(2) Contract for the completion of the work, following the rules for public procurement; and

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

Division 10-5 Platting Requirements

Section 10-5-1 Approval Required Before Sale[26]

A. No person shall sell, convey, or record a deed to land subdividing off a parcel without making and recording a final plat of such subdivision and without fully complying with the provisions of this Article.

B. No final plat shall be approved unless all lots shown thereon comply with all applicable requirements of this Ordinance.

Section 10-5-2 Subdivision Name

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

[26] Editor's Note: Includes text from Section 5-1.

Section 10-5-3 Changes to Plats

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

Section 10-5-4 Separate Ownership

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

Division 10-6 Preliminary Plats

Section 10-6-1 Applicability

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

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

Section 10-6-2 Preliminary Plat Requirements

A. **General.**

(1) All preliminary plats shall be prepared by a qualified professional engineer or land surveyor trained and experienced in the layout of subdivisions and licensed to do so within the Commonwealth of Virginia.

(2) All preliminary plats shall be blueline or blackline prints on sheets a minimum of 24" x 36" in size, or a maximum of 30" x 42" in size, and at a scale of not more than 100 ft. to the inch.

(3) The Designated Administrator may permit a different scale size, if it can be determined that all pertinent information can be clearly shown with a different scale.

(4) North arrows and graphic scales shall be provided on each sheet, as applicable.

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

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(1) A topographic map with a contour interval of not greater than 20 feet (or as approved by the Administrator) showing the area covered by the proposed subdivision property related to Coast and Geodetic Survey data with the boundary lines of the tract to be subdivided and the 100-year flood plain limits delineated where applicable.

(2) The approximate total acreage of the proposed subdivision, proposed location of lots, lot numbers in numerical order, approximate dimensions and area of each lot, and block identification.

(3) The approximate location, width, and names of all existing or proposed streets within or adjacent to the proposed subdivision; the approximate locations of all railroads, watercourses, and existing buildings shown on Coast and Geodetic Survey maps or other topographic data and located within the boundaries of the proposed subdivision.

(4) The approximate location of all parcels of land intended to be dedicated, or reserved for public use, or to be reserved in the deed for the common use of property owners in the subdivision.

(5) The title under which the subdivision is proposed to be recorded, the names and addresses of the record owner and developer, the name of the individual who prepared the plat, the date of drawing, number of sheets, the North point, and the scale.

(6) A vicinity sketch map of the area within a two-mile radius of the proposed subdivision showing the relationship of the proposed subdivision to the adjoining property; and showing all adjoining roads, their names and numbers, and other landmarks.

(7) Proposed provisions for all utilities including, but not limited to, electric, telephone, water, sewage, and stormwater management facilities.

Section 10-6-3 Preliminary Plat Submission

A. Preliminary plat submission shall include a written application by the developer or their representative, on forms provided by the County, and the preliminary plat.

B. Four (4) physical copies and one (1) digital PDF copy of the preliminary plat shall be submitted to the Administrator.[27]

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

C. The preliminary plat, accompanied by the proper filing fee, shall be considered officially filed on the day it is received in the office of the Administrator and shall be so dated.

Section 10-6-4 Preliminary Plat Review

A. The Administrator shall act according to the Code of Virginia §§ 15.2-2222.1, 15.2-2259, 15.2-2260, and 15.2-2269 regarding preliminary plat review procedures and timeframes of review, resubmittals, and other agency reviews. [28]

B. The Administrator may review, approve or disapprove all preliminary plats for subdivisions.

C. Pursuant to the Code of Virginia § 15.2-2260, an approved preliminary plat shall be valid for a period of five (5) years, provided the developer:

(1) Submits a final plat for all or a portion of the property within one year of such approval; and

(2) Thereafter diligently pursues approval of the final plat, meaning that the developer has incurred extensive obligations or substantial expenses relating to the submitted final plat or modifications thereto.

(3) If, as determined by the Administrator, approval of the final plat is not diligently pursued within three (3) years following such preliminary plat approval, the Administrator shall provide the subdivider with 90 days written notice by certified mail that because approval has not been diligently pursued, the approval of the preliminary plat has been revoked.

(a) "Diligent pursuit of approval" means that the subdivider has incurred extensive obligations or substantial expenses relating to the submitted final subdivision plat or modifications thereto.

(4) Pursuant to the Code of Virginia § 15.2-2260, once an approved final plat for all or a portion of the property is recorded, the underlying preliminary plat shall remain valid for a period of five (5) years from the date of the latest recorded final plat of subdivision for the property.

Section 10-6-5 Changes to Preliminary Plats

A. **Technical Changes.**

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

(1) If it becomes necessary for an approved preliminary plat, or accompanying data sheets, to be changed, the Administrator may, at the applicant's request, approve technical changes to such plat. The nature of technical changes are those that:

(a) Do not alter the basic design or layout of the subdivision;

(b) Do not alter the functional interrelationship of the individual features of the subdivision to each other and surrounding properties; and

(c) Comply with the provisions of this Article or other applicable Articles of this Ordinance, in effect at the time of preliminary plat approval:

(2) Technical changes include:

(a) Changes to correct demonstrated errors;

(b) Changes to name of the subdivision or the name of a street;

(c) Adjustment of the location of lot lines;

(d) Relocation or addition of utility easements;

(e) Changes in response to amendments to County ordinances; or

(f) Other changes which are clearly of a similar technical nature.

(3) A request for approval of a technical change shall be made in writing to the Administrator on an application provided by the County. The request shall fully describe the change and provide reasonable justification for the granting of the change.

(4) The Administrator shall either approve or disapprove the change within 30 days of the request.

B. **Major Changes.** Any change to an approved preliminary plat or accompanying data sheets, beyond those technical changes provided in A. of this Section shall require review of the plat under the procedures of Section 10-6-4 A. for original review and approval.

Division 10-7 Final Plats

Section 10-7-1 Applicability

A. Final plats shall be required for all subdivisions, boundary line adjustments, consolidations, and easements.

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(1) If a subdivision requires a preliminary plat, as provided in Section 10-5-1 of this Article, final plat submission shall be after the preliminary plat is approved.

(2) Plat details shall meet the standard for plats as adopted under the Virginia Public Records Act, Code of Virginia § 42.1-76 et seq.

(3) All surveys shall meet current surveying practices as administered by the State and provided in Virginia Administrative Code 18VAC10-20-370.

Section 10-7-2 Final Plat Requirements

A. All final plats shall conform to the requirements established in this Section.

B. **General.**

(1) All final plats shall be prepared by a qualified professional engineer or land surveyor trained in the layout of subdivisions and licensed to do so within the Commonwealth of Virginia.

(2) All final plats shall be blueline or blackline prints on sheets a minimum of 24" x 36" in size, or a maximum of 30" x 42" in size, and at a scale of not more than 100 ft. to the inch.

(a) The Administrator may permit a different scale size, if it can be determined that all pertinent information can be clearly shown with a different scale.

(3) North arrows and graphic scales shall be provided on each sheet.

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

(1) The signature and seal of the certified professional engineer or Virginia licensed land surveyor.

(2) A statement that: "The subdivision of the land described herein is with the free consent and in accordance with the desire of the undersigned owners, proprietors, and trustees." This statement shall be signed by such persons and duly acknowledged before an officer authorized to take acknowledgements of deeds.

(3) The boundary lines of the area being subdivided which have been determined by a current and accurate field survey, with bearings shown in degrees, minutes, and seconds to the nearest ten (10) seconds; and with dimensions shown in feet to the nearest hundredth of a foot, total area in each proposed use shown in acres to the nearest hundredth of an acre; and with the 100-year flood plain delineated.

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(4) Identification on the plat of any part of the proposed subdivision land which lies in a drainage district.

(5) Identification on the plat of any visible grave, object, or structure which marks a place of burial located on the proposed subdivision land.

(6) Location of minimum building setback lines specified in this Ordinance.

(7) Location and description of all permanent monuments and/or reference monuments pursuant to the requirements set forth in Section 10-3-13, above. Monuments found or installed prior to plat recordation may be referred to if permanent and undisturbed.

(8) A definite bearing and distance tie shown between two (2) or more permanent monuments on the exterior boundaries of the subdivision, and further tie to existing street intersections or to a point(s) approved by the Administrator.

(9) The accurate location and dimensions by bearings and distances (with all curve data) of all lots and street lines and center lines of streets; boundaries of all proposed or existing easements, parks and school sites; all streets with their names, numbers and widths; existing utilities, watercourses and their names; names of owners and their property lines, with deed book reference and tax parcel number, both within the boundaries of the subdivision and adjoining said boundaries.

(10) Location of proposed dry hydrants and their water sources, fire ponds, or other water sources appropriate for fire control along with delineation of vehicular access easement to such water sources.

(11) Signature spaces for "Approved" by the Administrator.

(12) **Certificates.** The following certificates, in addition to that required in Section 10-7-2 C. above, shall appear on the final plat, where appropriate:

(a) Certifications by subdivider. In the event that streets in a subdivision will not be constructed to meet the standards for inclusion in the secondary system of state highways:

i. "The streets in this subdivision do not meet VDOT standards and will not be maintained by VDOT or the County of Nelson."

(b) In subdivisions in which individual wells are to be utilized:

i. "Approval of this subdivision plat by the County of Nelson does not certify or guarantee the purchaser of the presence of adequate subterranean water to support the purposes of this subdivision."

(c) Certification by VDOT:

i. "The streets in this subdivision are not intended for inclusion in the system of State highways and will not be maintained by the Department of Transportation or the County and are not eligible for rural addition funds or any other funds appropriated by the General Assembly and allocated by the Commonwealth Transportation Board."

(d) Certification by the Nelson County Health Department:

i. "This subdivision is approved for individual onsite sewage systems in accordance with the provisions of the Code of Virginia, and the Sewage Handling and Disposal Regulations (12 VAC 5-610-10 et seq., the "Regulations"), and local ordinances if the locality has authorized the local health department to accept private evaluations for compliance with local ordinances.

ii. "This subdivision was submitted to the Health Department for review pursuant to Section 32.1-163.5 of the Code of Virginia which requires the Health Department to accept private soil evaluations and designs from an Authorized Onsite Soil Evaluator (AOSE) or a Professional Engineer working in consultation with an AOSE for residential development. The Department is not required to perform a field check of such evaluations. This subdivision was certified as being in compliance with the Board of Health's regulations by: (_____). This subdivision approval is issued in reliance upon that certification.

iii. "Pursuant to Section 360 of the Regulations, this approval is not an assurance that Sewage Disposal System Construction Permits will be issued for any lot in the subdivision unless that lot is specifically identified as having an approved site for an onsite sewage disposal system, and unless all conditions and circumstances are present at the time of application for a permit as are present at the time of this approval. This subdivision may contain lots that do not have approved sites for onsite sewage systems.

iv. "This subdivision approval is issued in reliance upon the certification that approved lots are suitable for 'traditional systems;' however, actual system designs may be different at the time construction permits are issued."

v. If the approved onsite sewage system and well sites are not shown on the final plat of record, then a statement must be printed on the plat:

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a. "The approved onsite sewage system and well sites are not shown on this plat. Those sites are shown on a separate plat on file in the Nelson County Health Department."

vi. "Approved by the Nelson County Health Department."

D. **Addenda with Final Plat.**

(1) A profile showing the proposed grades for the streets and drainage facilities, including elevations of existing and proposed ground surfaces at all street intersections and at points of major grade change along the center line of streets, together with the proposed connecting grade lines.

(2) Cross-section drawings showing the proposed street construction of all streets which are required by this Ordinance to be built to VDOT standards or to standards specified in this Ordinance for private streets.

(3) Certification from VDOT that specifications for streets which may be taken into its secondary road system and specifications for entrances onto such streets and onto public streets meet the standards of VDOT.

(4) An erosion and sedimentation control plan if required by the Nelson County Code.

(5) A soil report if required under Section 10-3-11.

(6) Specifications for any gas, water, sewer, electric light or power works, pipes, wires, fixtures, or systems to be constructed in, on, or under any streets or alleys in a subdivision.

(7) A report filed by the Administrator listing all authorized exceptions to the enforcement of the provisions of this Ordinance, with detailed reason(s) for each exception.

(8) All necessary easements to the boundary of the subdivision for utilities.

(9) An approved stormwater management plan and/or documentation of permit coverage under the Virginia Stormwater Management Program, as applicable under the Code of Virginia.

Section 10-7-3 Final Plat Submission

A. Final plat submission shall include a written application by the developer or their representative, on forms provided by the County, and the final plat.

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B. Three (3) physical copies and one (1) digital PDF copy of the final plat shall be submitted to the Administrator.[29]

Section 10-7-4 Final Plat Review

A. The Administrator shall act according to the regulations of Code of Virginia §§ 15.2-2222.1, 15.2-2254, 15.2-2259, 15.2-2260, and 15.2-2269 with regard to the timeframes of resubmittals and other agency reviews, approvals, and disapprovals.

(1) The Administrator shall confirm that provisions for required guarantees, as established in Division 10-4, Guarantees, of this Article are met.

(2) If the Administrator does not act in accordance with the time constraints or disapproves a plat and the subdivider contends that the disapproval was not properly based, then the subdivider may seek approval as provided in the Code of Virginia § 15.2-2259.

B. The Administrator's signature on the final plat shall constitute final approval of the platting of the area shown, but the owner or developer shall cause such plat to be recorded in accordance with Section 10-7-5 below.

C. Approval of the final plat shall not be deemed the acceptance of any public or semipublic improvement or space.

Section 10-7-5 Recording

A. **Recording of final plat**. Approval of the final plat shall be void unless the approved plat is presented or recorded in the clerk's office of the Circuit Court of Nelson County within six (6) months after approval. No subdivision plat shall be recorded by the clerk of the Circuit Court of Nelson County until it has been submitted to and approved by the Administrator.[30]

Division 10-8 Vacation of Plats

Section 10-8-1 Vacation

A. **Prior to Sale of Lot.** A plat, or part thereof, may be vacated by either of the following methods, where no lot has been sold:

[29] Editor Note: Added one digital copy to the existing requirement. This may help ease paper storage and reduce physical copies in the future.

[30] Editor's Note: Planning commission deleted per 8/27/25 worksession and new Code of VA requirements.

(1) By written instrument signed by the owners, proprietors, or trustees and approved by the governing body, or its authorized Administrator, which signatures shall be duly acknowledged or proved for recordation in the clerk's office. The written instrument shall declare the plat or portion thereof as vacated pursuant to the provisions of Section 15.1-481(1) of the Virginia Code; or

(2) If no facilities for which bonding is required under this Ordinance have been constructed on the subdivision land and no such improvements have been constructed on any related section of property located in the subdivision within five (5) years of the date on which the plat was first recorded the governing body may adopt an ordinance vacating the plat or portion thereof. Prior to adoption of the ordinance notice shall be given as required by Section 15.1-431 of the Virginia Code. The notice shall state the time and place of the meeting at which the adoption of the ordinance will be voted upon and clearly describe the plat or portion thereof to be vacated. 30 days from the date of adoption of the ordinance, a certified copy may be recorded in the clerk's office provided no appeal has been filed pursuant to the provisions of Section 15.1-481 of the Virginia Code.

B. **After Sale of Lot.** The recorded plat, or part thereof, may be vacated by either of the following methods, after the sale of any lot:

(1) By written instrument signed by all owners of lots shown on said plat and also signed on behalf of the governing body for the purpose of showing the approval of such vacation by the governing body.

(a) For purposes of this section the word "owners" shall not include lien creditors except those whose debts are secured by a recorded deed of trust or mortgage and shall not include any consort of an owner. Any instruments of vacation shall be fully executed and acknowledged in the manner of a deed and filed for record in the clerk's office.

(2) By ordinance adopted by the governing body at the request of a member of the governing body or on application of any interested person. Prior to the adoption of an ordinance, notice shall be given which is required by Section 15.1-431 of the Virginia Code. Said notice shall state the time and place of the meeting at which the adoption of the ordinance will be voted upon and shall clearly describe the plat or portion thereof to be vacated. 30 days from the date of adoption of the ordinance, a certified copy may be recorded in the clerk's office provided no appeal has been filed pursuant to the provisions of Section 15.1-481 of the Virginia Code.

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C. **Vacation of Boundary Lines.** For any subdivision or resubdivision plat which has been approved as provided in this Ordinance or under any prior subdivision ordinance of this County:

(1) The owners of the land, including lien creditors whose debts are secured by a recorded deed of trust or mortgage, may relocate or otherwise alter the boundary lines of any lot or parcel by:

(a) Executing a written document in the manner approved for recordation in the clerk's office, to which document shall be attached a plat evidencing the new boundary lines, provided that:

i. This procedure may not be used if it involves a relocation or alteration of streets, alleys, easements for public passage, or other public areas; and

ii. If the boundary line relocation or alteration affects an easement for utility ROWs then all persons holding an interest therein shall execute the written document described herein.

Division 10-9 Enforcement, Violations, and Fees

Section 10-9-1 Enforcement

A. Enforcement of Maintenance of Private Streets, Easements, Facilities, or Other Improvements.

(1) No responsibility of enforcing a covenant or agreement for maintenance, upkeep, or repair of any private street, easement, or other facility or improvement is implied herein to any public official or agency.

(2) When this Ordinance calls for more restrictive standards than are required by private contract, the provisions of this Ordinance shall control.

Section 10-9-2 Violation and Penalty

A. Violations of this Article shall be in accordance with Article 2, Administration. Additionally:

(1) For each lot or parcel of land subdivided, transferred, or sold in violation of this Article, as allowed by the Code of Virginia, § 15.2-2254, any person violating any provision of this Article shall be subject to a maximum fine of $500.

(2) The description of such lot or parcel by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from such penalties or from the remedies herein provided.

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Section 10-9-3 Fee

A. There shall be a charge to compensate the County for the costs incurred during the examination and approval or disapproval of every subdivision plat or lot required to be reviewed by the Administrator or Board of Supervisors.

B. This fee shall be payable to the Nelson County Treasurer, in such amount as set by adopted ordinance of the Nelson County Board of Supervisors.

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Article-11 Definitions

Division 11-1 Abbreviations

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

AC: Alternating Current

ANSI: American National Standards Institute

BFE: base flood elevation

BOS: Board of Supervisors

BMP: Best Management Practice

BZA: Board of Zoning Appeals

CBR: California Bearing Ratio

CO: Corridor Overlay

DC: Direct Current

DEQ: Department of Environmental Quality

DU or du: dwelling unit

DU or du/acre: dwelling unit per acre

ft: feet

GFA: Gross floor area

HCOD: Highway Corridor Overlay District

LF: linear foot

N/A or n/a: not applicable

PC: Planning Commission

ROW: Right-of-way(s)

RPA: Resource Protection Area

sq. ft.: square feet

SUP: Special Use Permit

VDH: Virginia Department of Health

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VDOT: Virginia Department of Transportation

USBC: Uniform Statewide Building Code

ZA: Zoning Administrator

Division 11-2 Word Usage

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

(1) Words used in the present tense include the future. Words in the singular include the plural, and the plural includes the singular.

(2) The word "shall" or "must" is always mandatory; the word "may" is permissive.

(3) The words “may not” indicate a prohibition.

(4) The words "used for" include "designed for," "arranged for," or "occupied for."

(5) The word "building" includes "structures" and shall be construed as if followed by the phrase "or part thereof."

(6) The word "person" includes "individual," "partnership," "company," "profit or nonprofit corporation," "organization" or other similar entities.

(7) The word "erected" shall be deemed also to include "constructed, reconstructed, altered, placed, or moved."

(8) The word “State” means the Commonwealth of Virginia.

(9) The word “County” means Nelson County, Virginia.

(10) The terms "land use" and "use of land" shall be deemed also to include "building use" and "use of building."

(11) Unless otherwise specified, the term ‘day’ means a calendar day.

(12) Unless otherwise specified, all distance shall be measured horizontally and at right angles to the line in relation to which the distance is tied.

(13) The terms “architect,” “engineer,” “landscape architect,” and “surveyor,” or other profession listed, refer to those professionals who are registered with the Virginia Department of Professional and Occupational Regulation to practice those professions.

(14) The words, terms, and phrases, when used in this Ordinance, shall have the meanings ascribed to them in this Article, except where the context clearly indicates a different meaning.

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B. When a term or phrase is not specifically defined within this Article, the common definition of such term or phrase shall be applied per the Merriam-Webster Dictionary.

C. See Division 11-4 for definitions that specifically pertain to the Floodplain Management Overlay District.

Division 11-3 General and Use Definitions

501(c)(3) property tax-exempt nonprofit organization.[1] Any organization exempt from taxation pursuant to § 501(c)(3) of the Internal Revenue Code of 1954 and whose real property taxes are exempt pursuant to § 58.1-3609.

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

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

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

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

Adaptive reuse project. The conversion of an existing building(s), regardless of its original use, into one or more residential dwelling units. This definition applies only when the original structure is retained and substantially reused, rather than being demolished and replaced. May include redevelopment as a fully residential structure or mixed-use structure with commercial and residential units, and may include existing accessory structures that are located on the same lot.

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

Adjoining. Touching and/or contiguous to.

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

[1] Editor's Note: Definition added in accordance with HB1279.

Adult use. Any premise from which minors are excluded and in which features the viewing, retail sale, and/or rental of books, magazines, newspapers, digital media, movie films, devices, or other photographic or written productions. Additionally, any premise from which minors are excluded and operates as a nightclub, bar, restaurant, or similar establishment that regularly features live performances that have a dominant theme or purpose intended to provide sexual stimulation or sexual gratification to such customers, and which is distinguished by or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities, or specified anatomical areas.

Affordable housing.[2] Housing that is affordable to households with incomes at or below the area median income, provided that the occupant pays no more than 30% of their gross income for gross housing costs, including utilities.

Agent. See Administrator.

Agricultural lighting: Lighting that is essential to agricultural practices.

Agricultural sales and services. The retail sale of agricultural products, farming equipment, or agricultural supplies and the service thereof.

Agriculture, accessory.[3] The personal and recreational practice of maintaining, raising, and/or breeding of limited agricultural livestock only in residential districts and incidental to a principal dwelling.

Agriculture/Silviculture. Any operation devoted to the bona fide production of crops, or animals, or fowl; the growing, harvesting, and production of plants, fruits and vegetables of all kinds; the production and harvest of products from silvicultural activity; and farm wineries, farm breweries, and farm distilleries as defined by the Code of Virginia.

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[2] Editor's Note: Definition added in accordance with HB1279.
[3] Editor's Note: Name changed from "residential" to "accessory" and definition reworded to clarify that the use is in residential districts (not agricultural), per direction given at the 6/3/26 joint worksession.

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

Alcohol production or sales. An establishment that is primarily involved in the production of alcoholic beverages and produces no more than 15,000 barrels of alcoholic beverages per year, and may include sales, a lounge, restaurant, taproom, or tavern as an accessory use in accordance with Code of Virginia § 4.1-206.1.

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

Amendment. A change in the text of this Ordinance.

Animal shelter. A facility used to house or contain stray, homeless, abandoned, or unwanted animals and that is owned, operated, or maintained by a public body, an established humane society, animal welfare society, society for the prevention of cruelty to animals, or other nonprofit organization devoted to the welfare, protection, and humane treatment of animals.

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

Approve. To judge and find acceptable.

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

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

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

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

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

Area Median Income (AMI). The median income for households in a defined geographic area, as published annually by the U.S. Department of Housing and Urban Development (HUD), with adjustments for household size, and used to establish income eligibility thresholds for housing programs.

Automobile sales and rental. A lot arranged, designed or used for the storage and display for sale, lease, or rent of any new or used automobile capable of independent operation or any type of boat, travel trailer, and recreation vehicle, provided the travel trailer and recreation vehicle is unoccupied, and where warranty repair work and other major and minor repair service is done wholly within an enclosed building as an accessory use.

Battery Energy Storage Facility (BESF).[4] A facility comprised of equipment and technology that is capable of absorbing energy, storing such energy for a period of time, and redelivering such energy after it has been stored. Such facilities may include, but are not limited to, battery cells, modules, racks, inverters, power conversion systems, battery management systems, thermal management systems, fire detection and suppression systems, and associated control and safety equipment. A battery energy storage facility may be a principal use, an accessory use, or a component of another energy facility, including a solar energy facility. The following words, terms and phrases pertaining to battery energy storage facilities, when used in this Ordinance or in the administration thereof, shall have the following meanings ascribed to them:

> ***Accessory Battery Energy Storage Facility.*** A battery energy storage facility that is accessory to the principal use of a property and is designed and intended to store energy for use on-site, including for load management, backup power, or integration with on-site energy generation systems. Such facilities may be located within a building or as a separate structure or container on the same lot. Supporting equipment commonly includes battery cells, inverters, power conditioning systems, monitoring systems, and safety equipment.

[4] Editor's Note: Battery energy definitions (3) added in accordance with HB891/SB443.

Utility-Scale Battery Energy Storage Facility. A battery energy storage facility, other than an accessory battery energy storage facility, that is designed and intended to store, dispatch, or otherwise manage energy for delivery to the electrical grid or distribution network, or to serve the energy needs of off-site users. Such facilities may be stand-alone or co-located with other energy generation facilities and commonly include battery storage units or containers, power conversion systems, transformers, substations, switchgear, access roads, and associated equipment necessary to connect to the electrical grid or distribution network, as well as fencing, screening, and buffering.

Bed and breakfast.[5] A single-unit dwelling, that is occupied by the owner or agent who resides on premises, that provides temporary lodging for a period of fewer than 30 consecutive days.

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

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

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

Biosolid application. The spreading, placement, or distribution of biosolids upon, or insertion into, the land.

Biosolid storage. The permanent storage of biosolid materials for a period greater than 45 days in length. This definition shall not include the temporary (less than 45 days) storage of biosolid material for agricultural purposes.

Block: An area enclosed by adjacent and intersecting streets.

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

[5] Editor's Note: "For a period of fewer than 30 consecutive days" was added per worksession direction 12/17/25.

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

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

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

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

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

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

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

Business support services. The use of land for the sale, rental, or repair of office equipment and supplies or the provision of services used by office and service establishments. Typical uses include, but are not limited to, office equipment and supply firms, small business machine repair shops, convenience printing and copying establishments, caterers, or information technology support services. Retail sales to the general public are a common accessory use.

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

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

Camp. A lot, tract or parcel of land operated as a commercial or noncommercial enterprise in which seasonal facilities are provided for all or any of the following: camping, picnicking, boating, fishing, swimming, outdoor games, and sports, and activities incidental and relating to the foregoing, including tents or similar rustic structures (excluding recreational vehicles and mobile homes) for recreational or educational purposes.

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Campground. An area that provides recreational opportunities on a daily or overnight basis, upon which are located sites for one or more travel trailers, camping trailers, pickup truck campers, motor homes, tents, or other recreational vehicle for seasonal or temporary recreational occupancy. This term includes short-term rental of outdoor campsites.

> ***Campground Operator***.[6] The managing proprietor of a campground, whether in the capacity of owner, lessee, sublessee, mortgagee in possession, licensee, or any other possessory capacity, or hired employee responsible for managing the property/use, who lives on the same parcel, or an adjoining parcel, as the campground.

Campground, primitive. An area that provides recreational opportunities on a daily or overnight basis, upon which are located sites for one or more tents, hammocks, or other non-vehicular, temporary camping apparatus, for seasonal or temporary recreational occupancy.

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

Car wash. A structure or portion thereof, standalone or accessory to gas station, containing facilities for washing and/or waxing motor vehicles, typically using production-line automated or semiautomated methods for washing, whether or not employing a chain conveyor, blower, steam cleaning or similar mechanical devices operated either by the patron or others. Car washes are a separate use and not considered an accessory use to gasoline stations, automobile service, or other similar uses.

Cemetery, public. Any land or structure used, or intended to be used, for the permanent interment of human remains, consisting of multiple burial plots or sites available to the public. Typically used by the general community, a neighborhood, or a church. Accessory uses may include mausoleums, columbaria, chapels, administrative offices, and maintenance and storage areas (Code of Virginia § 15.2-2288.5). This use does not include family cemetery or private burying ground.

Central sewer system: A sewer system that serves two or more lots.

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

[6] Editor's Note: Definition added in response to County direction 10-15-2026.

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

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

Club. A use providing educational, meeting, or social facilities for civic or social clubs, fraternal/sororal organization, and similar organizations and associations, primarily for use by members and guests. Recreational facilities, unless otherwise specifically cited in this section, may be provided for members and guests as an accessory use. A club does not include a building in which members reside.

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

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

Commission: The Planning Commission of Nelson County.

Community/cultural center. A place, structure, or other facility used for the public display, performance, or enjoyment of heritage, history, or the arts. This use includes but is not limited to: museums, arts performance venues, recreational programs, cultural centers, and interpretive sites, but does not include commercially operated theatres and event venues.

Composting, commercial. The large-scale processing of organic waste into compost, soil, woodchips, mulch, firewood, and other products.

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

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

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

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

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Confined animal feeding operation. A lot or facility, including any associated treatment systems, where animals are or will be confined and fed or maintained for a total of 45 days or more within any 12-month period. During the time of operation, no crops, vegetation, forage growth, or post-harvest residues are sustained in the confined area.

Conservation and preservation. Areas designated for the protection, management, and maintenance of natural lands in their existing or restored condition. This category includes land set aside for environmental protection, such as wildlife sanctuaries, game preserves, wetlands, conservation easements, and open space areas intended to remain largely undeveloped. These lands may support limited public access, educational activities, and passive recreation, while prioritizing long-term ecological protection and land stewardship.

Construction residence/office, temporary. A recreational vehicle primarily designed as temporary living quarters for recreational, camping, or seasonal use that is being used at the construction site of a residential structure as a temporary residence and/or office. This may include, but not be limited to, travel trailers and motorhomes.[7]

Construction yard. An establishment or place of business primarily engaged in construction activities, including outside storage of materials and equipment. Typical uses are building contractor's yards.

County. Nelson County, Virginia.

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

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

Crematory. A commercial establishment that specializes in the cremation of corpses, including pets. The use must be accessory to a Funeral Home or Veterinary Hospital/Clinic as defined by this Ordinance.

Critical areas.[8] Areas with steep slopes of 35% or more, having easily erodible material, hostile growing conditions, concentration of drainage, or other situations where revegetation or stabilization will be potentially difficult.

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

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

[7] Editor's Note: Added per staff request 2-9-26.
[8] Editor's Note: Definition revised for clarity and in response to public comment 10-8-2026.

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

Data center.[9] An enclosed facility, or part thereof, that houses information technology (IT) infrastructure for building, running, and delivering applications and services, and for storing and managing the data associated with those applications and services. This use includes, but is not limited to, housing virtualized IT infrastructure for the shared use of multiple companies and customers. This use may include redundant or backup power supplies and/or generators, redundant data communications connections, specialized environmental controls, and various security devices.

Day care center. Any facility operated for the purpose of providing care, protection, and guidance during only part of a 24-hour day. This term includes nursery schools, preschools, day care centers for individuals, including adults, and other similar uses. Excluded are public and private educational facilities, family day home, or any facility offering care to individuals for a full 24-hour period.

Decommission.[10] The removal and proper disposal of solar energy equipment, facilities, or devices on real property that has been determined by the County to be subject to Code of Virginia § 15.2-2232. "Decommission" includes the reasonable restoration of the real property upon which such solar equipment, facilities, or devices are located, including (i) soil stabilization and (ii) revegetation of the ground cover of the real property disturbed by the installation of such equipment, facilities, or devices.

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

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

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

[9] Editor's Note: Added generators to definition for clarity 10-14-2026.
[10] Editor's Note: Definition added in accordance with HB711.

District. See "Zoning District."

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

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

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

Dustless surface. See *improved surface*.

Dwelling.[11] A single residential unit, providing complete and independent living facilities for one or more persons, including permanent provisions for living, sleeping, cooking, and sanitation; also referred to as dwelling unit.

Dwelling, accessory unit (ADU).[12] An attached or detached dwelling on a residential dwelling lot that:

1. Provides complete independent living facilities for one or more individuals;
2. Is located on the same lot as a proposed or existing primary residence; and
3. Includes facilities for living, sleeping, eating, cooking, and sanitation.

Dwelling, attached, zero lot line. Two dwelling units, each separated from one another by a continuous vertical wall without opening from basement floor to roof between units, which is commonly known as a firewall, and each unit on a separate parcel.

Dwelling, caretakers. A dwelling occupied by a supervisor or person in care of a building, plant, equipment, or grounds associated with an industry, business, office, or recreation area carried on or existing on the same site.

[11] Editor's Note: Definition for "dwelling" added for clarification per staff comments 11/5/25.
[12] Editor's Note: Definition revised for clarification per staff comments 11/5/25. Definition revised again in accordance with SB531.

Dwelling, manufactured.[13] A "single-wide," "double-wide," or "triple-wide" structure that is transportable in one or more sections, is eight (8) feet or more in width and 40 feet or more in length in the traveling mode, is built on a permanent chassis and is designed for use as a dwelling unit with or without a permanent foundation when connected to the required utilities. All manufactured home dwellings must meet the standards promulgated by the United States Department of Housing and Urban Development (HUD), published at 24 CFR Part 3280, including the ANSI standards incorporated therein by reference, and must bear a data plate declaring that it meets HUD standards. For the purposes of this Ordinance, and in accordance with Code of Virginia § 15.2-2290, Manufactured Home Dwellings do not include units that meet the following criteria:

(1) Taxed as real property;

(2) Constructed so that the certificate of occupancy is issued within five (5) years following the date of manufacture listed on the home's data plate; and

(3) Placed on an individual lot.

Dwelling, manufactured attached. A manufactured dwelling designed for use as two (2) or more dwelling units with or without a permanent foundation when connected to the required utilities.

Dwelling, manufactured detached. A manufactured dwelling designed for use as one (1) dwelling unit with or without a permanent foundation when connected to the required utilities.

Dwelling, multi-family. A building arranged or designed to be occupied by five or more dwelling units for permanent occupancy, regardless of the method of ownership. Included in the use type, but not limited to, would be garden apartments, low-and high-rise apartments, apartments for elderly housing, and condominiums.

[13] Editor's Note: Manufactured dwelling definitions revised in accordance with Code of Virginia HB655/SB346.

Dwelling, single-family.[14] A site built or modular building designed for and used exclusively as one dwelling unit for permanent occupancy, which is surrounded by open space or yards on all sides, is located on its own individual lot, and which is not attached to any other dwelling by any means. For the purposes of this Ordinance, and in accordance with Code of Virginia § 15.2-2290, Single Family Dwellings include Manufactured Home Dwellings that meet the following criteria:

(1) Taxed as real property;

(2) Constructed so that the certificate of occupancy is issued within five (5) years following the date of manufacture listed on the home's data plate; and

(3) Placed on an individual lot.

Dwelling, temporary. An impermanent structure or mobile unit used only as a substitute for any structure or use permitted in the district, to alleviate a hardship during periods required for reconstruction, replacement, or repair of the primary structure.

Dwelling, townhouse. A row of three or more dwelling units, each separated from one another by a continuous vertical wall without opening from basement floor to roof between units, which is commonly known as a firewall, and each on a separate parcel.

Dwelling, triplex or quadplex. A single building arranged or designed to have three or four dwelling units.

Dwelling, two-unit. Also referred to as a duplex; site built, manufactured, or modular building arranged or designed to have only two dwelling units on the same parcel.

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

Educational facility, college, university, business, or trade. An educational institution authorized by the Commonwealth of Virginia toward certificate, license, associate, baccalaureate or higher degrees, and facilities associated with it. This term includes academic buildings, administrative facilities, dormitories, special housing, parking areas, dining halls and other physical plants associated with the college, university, business or trade school use.

[14] Editor's Note: Definition revised in accordance with Code of Virginia HB655/SB346.

Educational facility, primary or secondary. A public, private, or parochial school offering instruction at the primary, elementary, junior, and/or senior high school levels in the branches of learning and study required to be taught in the public schools of the Commonwealth of Virginia.

Electric Vehicle (EV) Charging Station. A public or private parking space that is served by electric vehicle supply equipment (EVSE) and is designed for the purpose of transferring electric energy to a battery or other energy storage device in an electric vehicle. This use is accessory to any primary use, may be public or private, and may include associated equipment, signage, and infrastructure necessary to facilitate safe and efficient charging operations.

Energy storage project.[15] Equipment and technology that is capable of absorbing energy, storing such energy for a period of time, and redelivering such energy after it has been stored.

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

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

Event venue. A business where the primary use is to host temporary events such as weddings, receptions, luncheons and dinners, various celebrations, corporate meetings, conferences, trade shows, auctions, music festivals, carnivals and fairs, and similar events. An event venue may be indoor and/or outdoor. Event venue may also be accessory or ancillary uses to other uses, such as hotels or restaurants.[16]

Factory outlet store. A retail activity offering sale goods or products which are produced on the same premises, but do not exceed 25% of the total floor area of the manufacturing facility.

Family day home (1-4 children). A child day program, as defined under Code of Virginia § 22.1-289.02, for children offered in the residence of the provider for up to four children at any one time, exclusive of the provider's own children and any children who reside in the home, when at least one child receives care for compensation.

[15] Editor's Note: Definition added in accordance with HB711.
[16] Editor's Note: The sentence prohibiting government or military events was deleted per direction from the County at the June 3, 2026 worksession.

Family day home (5-12 children). A child day program, as defined under Code of Virginia § 22.1-289.02, for children offered in the residence of the provider for between five and twelve children at any one time, exclusive of the provider's own children and any children who reside in the home, when at least one child receives care for compensation.

Family healthcare structure, temporary. As required by and pursuant to all conditions set forth in the Code of Virginia §15.2-2292.1, a transportable residential structure, providing an environment facilitating a caregiver's provision of care for a mentally or physically impaired person, or, in the case of a couple, two occupants, one of whom is a mentally or physically impaired person, and the other requires assistance with one or more activities of daily living as defined in §63.2-2200, as amended.

Farmers Market. Any structure, assembly of structures, or land used by multiple vendors for the sale or resale of agricultural and/or horticultural products, goods, and services, including value-added agricultural or horticultural products. Farmers markets may include the sale or resale of accessory products, including arts, crafts, and/or farm-related merchandise, as long as the majority of products being offered for sale are, in the aggregate, comprised of agricultural or horticultural products.

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

Financial institution. An establishment whose principal purpose is the provision of financial services, including but not limited to, an insured depository institution, a credit union, a federal home loan bank, a small business investment company, a depository institution holding company, a mortgage lending business, or other institutions as defined by Federal code.

Fire Official.[17] The individual designated by the County to review matters relating to fire protection, emergency access, and fire and life safety. The Fire Official may include the Fire Chief of the volunteer fire department having jurisdiction, a Fire Marshal, if one has been appointed, or another individual certified or otherwise qualified by the County to perform such reviews.

Firing range, indoor. An enclosed facility that is designed to offer a completely controlled shooting environment that includes impenetrable walls, floor, and ceiling; and adequate ventilation, lighting systems, and acoustical treatment for sound attenuation suitable for the range's approved use.

[17] Editor's Note: Definition for fire official added 7-13-26 in response to new state code affecting battery energy storage facilities.

Firing range, outdoor. A permanently located and improved area that is designed and operated for the use of rifles, shotguns, pistols, silhouettes, skeet, trap, black powder, or any other similar sport or practice shooting in an outdoor environment. Outdoor firing range does not include any area that is used for shooting on a private lot or parcel of land that is not open to the public on a commercial or membership basis.

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

Fuel center. Any place of business with fuel pumps and underground or aboveground storage tanks that provides fuels by individual sale for motor vehicles and equipment, and may include electric vehicle charging facilities or equipment. A store associated with automobile fuel sales shall be considered a fuel center**.**

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

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

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

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

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

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

Funeral home. A building used for and engaged in undertaking services such as preparing the dead for burial, cremation, and arranging and managing funerals.

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Garden center/commercial greenhouse.[18] An establishment or place of business engaged in retail sales and/or landscaping services, on and/or off premises. Merchandise includes trees, shrubs, seeds, fertilizers, pesticides, plants, and plant materials primarily for agricultural, residential, and commercial consumers. Such an establishment may include a structure used for the cultivation and exhibition of plants under controlled conditions in which plants are offered for sale to the public, either at wholesale or at retail.

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

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

Group home. As provided by Code of Virginia § 15.2-2291, a licensed residential facility in which no more than eight mentally ill, intellectually disabled, or developmentally disabled persons or no more than eight aged, infirmed or disabled persons reside, with one or more resident counselors or other resident or nonresident staff persons, shall be considered a residential occupancy by a single family. Mental illness and developmental disability shall not include current illegal use of or addiction to a controlled substance as defined in the Code of Virginia §54.1-3401. Such facility shall be licensed by the Virginia Department of Behavioral Health and Developmental Services (Code of Virginia §15.2-2291).

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

Guarantee. A surety bond, cash deposit, or letter of credit approved by the County Attorney and made out to the County of Nelson in an amount equal to the full cost of the improvements required by these regulations, plus administration and inflation costs; said cost being estimated by the developer's engineer and approved by the Administrator. Guarantee may also be referenced as "Performance Guarantee," "bond," "surety," or "performance bond."

Hazardous materials, storage, and distribution. The storage and/or distribution of any substance that, because of its quantity, concentration, or physical or chemical characteristics, poses a significant present or potential hazard to human health and safety of the environment.

[18] Editor's Note: Landscaping services added to definition per direction given at the 6-3-26 joint worksession.

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

High energy use facility (HEUF).[19] A facility that an applicant reasonably anticipates at the time of filing a rezoning application, special exception application, or special use permit application will require 100 megawatts or more of electrical power from an electric utility providing retail service to the facility.

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

Home occupation, class A. An accessory use of a dwelling unit for gainful employment involving the provision of goods and/or services in which no more than one (1) person, in addition to the persons residing on the premises is engaged in such occupation.[20]

Home occupation, class B. An accessory use of a dwelling unit for gainful employment involving the provision of goods and/or services in which not more than four (4) employees other than persons residing on the premises are engaged in the occupation.

Hospital. Pursuant to § 32.1-123 of the Code of Virginia, any facility licensed in which the primary function is the provision of diagnosis, of treatment, and of medical and nursing services, surgical or nonsurgical, for two or more nonrelated individuals, including hospitals known by varying nomenclature or designation such as children's hospitals, sanatoriums, sanitariums and general, acute, rehabilitation, chronic disease, short-term, long-term, outpatient surgical, and inpatient or outpatient maternity hospitals.

Hotel. The use of land for transitory lodging or sleeping accommodations offered to transients for compensation, typically by the day or week. Typical uses include hotels, motels, travel lodges, or hostels, but not including a bed and breakfast or short-term rental.

Immediate family.[21] Any person who is a natural or legally defined offspring, stepchild, spouse, sibling, grandchild, grandparent, parent, niece, or nephew of the owner as it pertains to Code of Virginia § 15.2-2244.

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

[19] Editor's Note: Definition added in accordance with HB153.
[20] Editor's Note: The definitions for home occupations were streamlined to remove standards that are now in Article 7, Use Performance Standards.
[21] Editor's Note: Nieces and nephews added per County direction given 10-13-2026.

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

Junkyard/salvage yard. An establishment or place of business which is maintained, operated or used for storing, keeping, buying, or selling scrap metal, or any lot or place upon which more than five motor vehicles of any kind, incapable of being operated, exposed to the weather, are placed. The definition does not include litter, trash, and other debris scattered along or upon roadways, or temporary operations and outdoor storage of limited duration. (Reference Code of Virginia § 33.2-804).

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

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

Kennel, commercial. Any location where raising, grooming, caring for, day care services, or boarding of five or more dogs, cats, or other small animals over four months of age for commercial purposes, including but not limited to breeding, training, or boarding, is conducted.

Laboratory, research, and development. An establishment whose principal purpose is the research, compounding and/or packaging of scientific products, or research and development of innovative ideas in technology-intensive fields. Examples include research and development of communication systems, transportation, geographic information systems, multi-media and video technology. Development and construction of prototypes and light manufacturing may be associated with this use.

Landfill, construction debris. A method of disposing of inert solid waste that is produced or generated during construction, remodeling, or repair of pavements, houses, commercial buildings, and other structures on land without creating nuisances or hazards to public health or safety. Construction wastes include lumber, wire, sheetrock, broken brick, shingles, glass, pipes, concrete, paving materials, and metal and plastics if the metal or plastics are a part of the materials of construction or empty containers for such materials. Paints, coatings, solvents, asbestos-containing material, any liquid, compressed gases, or semi-liquids and garbage are not construction wastes.

Landfill, sanitary. A method of disposing of refuse, trash, or waste on land without creating nuisances or hazards to public health or safety, by confining the refuse to the smallest practical area, to reduce it to the smallest practical volume, and to cover it with a layer of earth at the conclusion of each day's operation, or at such more frequent intervals as may be necessary.

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

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

Lighting, decorative.[22] Illuminated decorations for holidays or other purposes, which is temporary, and discontinued after the purpose for which it was used.

Lighting, window. Illumination emitted from or attached to a building's windows.

Life care facility. A residential facility primarily for the continuing care of adults; providing for transitional housing which may progress from independent living in various dwelling units, with or without kitchen facilities, and culminating in nursing home type care where all related uses are located on the same lot. Such facility may include other services integral to the personal and therapeutic care of the residents.

Livestock market. A site where farm animals kept for use and profit are assembled and sold at public auction or on a commission basis during regularly scheduled or seasonal sales. The term "livestock market" shall not include private farms or ranches or sales made at shows, fairs, exhibitions, or special breed association sales. This use may be in conjunction with feedlot, commercial, as defined by this Ordinance.

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

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

> ***Lot, corner.*** A lot abutting on two or more streets at their intersection, where the interior angle of the intersection does not exceed 135 degrees.
>
> ***Lot, interior.*** Any lot other than a corner lot.
>
> ***Lot, regular.*** A lot that has direct access to a public or approved private road. They are located, shaped, and oriented to adjacent lots in such a way that the application of general measurements can be reasonably applied, and the location of front, side, and rear setbacks is logically determined by, and related to, adjacent streets and setback patterns.

[22] Editor's Note: Definitions for decorative and window lighting added 1/19/2026.

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

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

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

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

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

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

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

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

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

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

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

Lumen. A standard unit of measurement of luminous flux.

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

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

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

Makerspace. A specific type of co-working space that supports the creation of physical goods by providing technology, manufacturing equipment, 3D printers, tools, and other equipment and educational opportunities most often in exchange for membership fees.

Manufactured home community.[23] An area designed, constructed, equipped, operated, and maintained for the purpose of providing spaces for manufactured homes intended for use as occupied dwelling units and meeting or exceeding all applicable requirements for manufactured home communities as stipulated by this Ordinance and the Commonwealth of Virginia.

Manufacturing, heavy. The processing and/or converting of raw, unfinished material and/or products into articles or substances of a different character or for use for a different purpose. Uses may have significant external effects, or pose significant risks due to the involvement of explosives, radioactive materials, poisons, pesticides, herbicides, or other hazardous materials in manufacturing or other processes. Uses may include, but are not limited to, asphalt plants, concrete plants, lumber mills, and planning mills.

Manufacturing, light. Establishments primarily engaged in the on-site production of goods by hand manufacturing, assembly, packaging or fabrication of materials and products within enclosed structures without significant external effects such as smoke, noise, soot, vibration, odor, and the like. Uses may include, but are not limited to, a machine shop, bottling, electronic equipment, business machines, furniture, medical appliances, tools or hardware, any other product of a similar nature. Retail sales may be incidental to the manufacturing use.

Manufacturing, small-scale. An establishment where shared or individual tools, equipment, or machinery are used to make products on a small scale, including the design, production, processing, printing, assembly, treatment, testing, repair, and packaging, as well as any incidental storage, retail or wholesale sales, and distribution of such products. Typical small-scale production establishments include, but are not limited to the making of electronics, prints, leather products, jewelry and clothing/apparel, metal work, glass, ceramic or paper, together with accessory uses such as training or educational programs.

[23] Editor's Note: Name changed from "park" to "community" per staff comments 11/5/25.

Marina. Waterfront establishments designed and intended to be used for mooring and launching boats; the servicing, repair, or storage of same watercraft; packaged food sales; travel lift services; slip rental; fuel; and sanitary pump out service. Restaurants may be an accessory/incidental use.

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

Mass Transit or Public Transportation Facility.[24] Pursuant to Code of Virginia § 15.2-2209.4, a facility providing passenger transportation on a fixed route by rubber-tired, rail, or other surface conveyance providing shared-ride service to the general public on a regular and continuing basis, including bus rapid transit or other high-capacity transit service as identified by the Virginia Department of Rail and Public Transportation. "Mass transit or public transportation" does not include school buses, microtransit, charter or sight-seeing services, a vehicular ferry service that serves as a link in the highway network, or a human service agency or other client-restricted transportation.

Meat processing facility. A small-scale commercial use for the for-profit slaughtering and processing of animals where at least 20% of the animals are transported to the facility; includes the processing and storage of animal products/waste that result from the process.

Migrant labor camp. One or more structures, buildings, tents, barracks, trailers, vehicles, converted buildings, and unconventional enclosures of living space, reasonably contiguous, together with the land appertaining thereto, established, operated or used as living quarters for one or more persons, one or more of whom is a migrant worker engaged in agricultural or fishing activities, including related food processing.

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

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

[24] Editor's Note: The definition for "mass transit or public transportation facility" has been added for consistency with HB888.

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

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

Office, general. The use of land wherein the primary use is the conduct of a business or profession such as, but not limited to accounting, tax-preparation, brokers, architecture, computer software, or information systems research and development, engineering, insurance, law, management, psychology, real estate, and travel. Retail sales do not comprise more than an accessory use of the primary activity of a general office. This definition does not include medical/clinic office as defined by this Ordinance.

Office, medical. The use of a site for facilities which provide diagnoses, minor surgical care and outpatient care on a routine basis, but which does not provide overnight care or serve as a base for an ambulance service. Medical offices are operated by doctors, dentists, or similar practitioners licensed by the Commonwealth of Virginia. This definition does not include hospital as defined herein.

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

Outdoor storage.[25] The keeping, in other than a building, of any goods, materials, or merchandise, such as construction materials, such as stacks of lumber or stone; equipment; surplus goods; temporarily stored towed vehicles, among other things, on the same parcel for more than 24 consecutive hours.

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

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

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

Parking lot, recreational vehicle. An area used for a fee for the storage of recreational vehicles and boats that are not currently being used.

[25] Editor's Note: Definition revised to include temporarily stored towed vehicles in response to County direction given 10-13-2026.

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

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

Personal service. Establishments or places of business engaged in the provision of frequently or recurrently needed services of a personal nature. Typical uses include beauty and barber shops; grooming of pets; seamstresses, tailors, or shoe repairs; and florists serving individuals and households.

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

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

Plat or plat of subdivision.[26] The schematic representation of land divided or to be divided and information in accordance with the provisions of Virginia State Code §§ 15.2-2241, 15.2-2242, 15.2-2258, 15.2-2262, and 15.2-2264, and other applicable statutes.

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

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

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

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

[26] Editor's Note: All plat definitions are new, and updated per Code of VA.

Power Station.[27] An industrial facility whose primary purpose is the generation of electric power for offsite consumption, fueled by natural gas or another form of nonrenewable energy. Power stations may be owned and operated by a public utility, but for purposes of this Ordinance, are not considered a "Major Utility" as defined herein.

Private airstrip. A runway for the landing and takeoff of small aircraft on a noncommercial basis, which shall be approved by the Federal Aviation Administrator and the Virginia Division of Aeronautics.

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

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

Public authority. Any agency or body, any official, or any representative of local, State, or Federal government.

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

Public use. Public use means facilities or the use of land, exclusively for public purposes, by any department or branch of the federal government, Commonwealth or any political subdivision, public authority, or any combination thereof. This use shall not include educational facilities, public parks and recreation, or utility service (major or minor) as defined in this Ordinance.

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

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

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

Recreation/entertainment, commercial indoor. An establishment which provides an enclosed building for indoor sports and spectator uses, and may include multiple coin operated amusement or entertainment devices or machines as an incidental use of the premises. Typical uses include bowling alleys, skating rinks, indoor racquetball, swimming, billiard halls, game rooms, video arcades, movie theaters, fitness centers, and concert or music halls.

[27] Editor's Note: Use added to include new technology and uses that are increasing along with data center uses.

Recreation/entertainment, commercial outdoor. Participant or spectator uses conducted in open or partially enclosed or screened facilities for commercial purposes. Typical uses include driving ranges, miniature golf, swimming pools, paintball facilities, sports arenas, and outdoor movie theaters.

Recreation facility, neighborhood. An indoor or outdoor recreation facility that is managed and operated by an HOA or developer, and that is to be used specifically by the residents and guests of a particular residential development, planned development, or residential neighborhood.

Recreational facility, noncommercial. Privately owned, not for profit park and recreation facilities that are open to the public. These uses may charge a fee but not for commercial gain. This use includes parks, picnic areas, playgrounds, active or passive recreation facilities, outdoor shelters, amphitheaters, open spaces, and other similar uses. This use does not include recreation/entertainment, commercial indoor or outdoor; recreation facility, neighborhood; public parks and recreation, or public use, as defined by this Ordinance.

Recreational vehicle storage facility. An area used for a fee for the storage of recreational vehicles and boats; may be incidental to a Marina use.

Recreational vehicle.[28] A vehicle which is:

- Built on a single chassis;
- Licensed and operable for highway use;
- 400 square feet or less when measured at the largest horizontal projection;
- Designed to be self-propelled or towable; and
- Designed for use as temporary living quarters for recreational camping, travel, or seasonal use.

Religious assembly. A use located in a permanent building or in outdoor spaces and providing regular organized religious worship and related incidental activities. This use may include a cemetery as an incidental, subordinate use and shall not include educational facility, primary/secondary schools and day care facilities.

Religious organization.[29] Any church, religious association or religious denomination operated exclusively on a nonprofit basis for charitable, religious or educational purposes. Notwithstanding Code of Virginia § 58.1-3609, only property of such association or denomination used exclusively for charitable, religious or educational purposes shall be so exempt from taxation.

[28] Editor's Note: Recreational vehicle added per staff request 2-9-26.
[29] Editor's Note: Definition added in accordance with HB1279.

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

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

Resort.[30] A business located in a building or series of buildings under common ownership which includes lodging and other services that provide inter-related visitor and vacation hospitality services intended to serve the community and the needs of people traveling.

Resource extraction. A use involving on-site excavation of surface or subsurface mineral products or natural resources. Typical uses are quarries, borrow pits, sand and gravel operation, mining, soil mining, and other major excavations. Specifically excluded from this use type shall be grading and removal of dirt associated with an approved site plan or subdivision, or excavations associated with, and for the improvement of, a bona fide agricultural use.

Restaurant, general. An establishment in which, for compensation, food or beverages are dispensed for consumption on the premises, including, among other establishments, cafes, tearooms, confectionery shops, eat-in delis, and refreshment stands. May contain an accessory drive-through window as defined in this Ordinance.

Restaurant, mobile. A readily movable wheeled cart, trailer, or vehicle designed and equipped for the preparing, service, and/or selling of food and operated at temporary locations. This definition shall include food trucks, food trailers, and food carts.

Retreat center.[31] A facility where the primary use is to host groups of people to congregate temporarily for purposes such as education, wellness, and passive recreation typically located in a quiet, sparsely populated, natural environment.

Rezoning. See "Zoning Map Amendment."

Rill or gully erosion. The removal of soil by concentrated water flow.

[30] Editor's Note: Resort added per staff comments 11/5/25.
[31] Editor's Note: Retreat center added per staff comments 11/5/25.

Right-of-Way (ROW), public.[32] A legally established area or strip on which an irrevocable public right of passage has been recorded, and which is occupied or intended to be occupied by a street, utility service, water main, sanitary or storm sewer main, or other similar use.

Right-of-way width. The total horizontal measurement taken at right angles to the length of the strip of land dedicated or reserved for public travel within which roadway, curbs, gutters, sidewalks, planting strips, and undeveloped land may be located.

Roadside farm stand. An establishment for the seasonal retail sale of goods and merchandise accessory to an agricultural operation.

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

Sawmill, temporary. A portable machine located on a private property for the processing of timber cut only from that property or from property immediately contiguous and adjacent thereto.

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

Self-storage facility. A building or groups of buildings divided into separate compartments designed to provide rental storage space. Each storage space shall be enclosed by walls and ceiling and may have a separate entrance for the loading and unloading of stored goods, and shall not be pre-fabricated structures arranged on a lot. The conduct of sales, business or any other activity within the individual storage units, other than storage, shall be prohibited.

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

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

[32] Editor's Note: This definition has been updated.

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

Shelter, residential. A facility providing temporary housing and feeding for one or more individuals who are otherwise temporarily or permanently homeless; and victims of abuse, those experiencing teenage pregnancy, orphaned, and/or similar situations. Ancillary community support services may be provided including, but not limited to, child care, counseling, food distribution, or vocational training.

Short-term rental.[33] The provision of a room, space, dwelling, or portion thereof that is suitable or intended for transient occupancy for living,[34] sleeping, or lodging purposes, for a period fewer than 30 consecutive days, in exchange for compensation.

Operator.[35] The managing proprietor of any short-term rental, whether in the capacity of owner, lessee, sublessee, mortgagee in possession, licensee, any other possessory capacity, or as a hired employee tasked with managing the rental(s).

Short-term rental, ***homestay.***[36] The provision of a room, space, dwelling, or portion of a dwelling as a short-term rental by an owner-operator only who resides in the dwelling as their primary residence and is present on the premises during all rental periods. This use does not include *bed and breakfast*, *short-term rental, hosted stay,* or *short-term rental, unhosted stay* uses as defined in this Ordinance.

Short-term rental, hosted stay.[37] The provision of a room, space, dwelling, or a portion of a dwelling as a short-term rental operated by one of the following:

(a) An owner who occupies, as their primary residence, a dwelling on the same parcel and is present during all rental periods;

(b) An owner who occupies, as their primary residence, a dwelling on an adjacent parcel and is present during all rental periods; or

(c) A designated resident operator who resides in a dwelling on the same parcel and is present during all rental periods.

[33] Editor's Note: Short-term rental definitions have been revised, as footnoted, in response to public feedback. October 2026.
[34] Editor's Note: Changed from "dwelling" to "living" for clarity. 10-5-2026.
[35] Editor's Note: Definition edited to add "managing" and "hired" manager for clarity and alignment with the use standards. 10-5-2026.
[36] Editor's Note: Definition edited for clarity 10-5-2026.
[37] Editor's Note: Definition edited for clarity 10-5-2026.

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This use does not include *bed and breakfast*, *short-term rental, homestay*, or *short-term rental, unhosted stay* uses as defined in this Ordinance.

Short-term rental, unhosted stay.[38] The provision of a room, space, dwelling, or a portion of a dwelling as a short-term rental in which no owner, primary resident, or resident operator resides on the premises or an adjacent parcel during rental periods. This use does not include *bed and breakfast, short-term rental, homestay,* or *short-term rental, hosted stay* uses as defined in this Ordinance.

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

Sign.[39] Any device (writing, letter work or numeral, pictorial presentation, illustration or decoration, emblem, device, symbol or trademark, flag, banner or pennant or any other device, figure or character) visible to and designed to communicate information to persons in a public area. However, the term "sign" does not include public art, holiday displays, or architectural features, except those that identify products or services or advertise a business use. The term "sign" also does not include the display of merchandise for sale on the site of the display.

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

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

Canopy sign. A sign attached to a canopy.

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

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

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

[38] Editor's Note: Definition edited for clarity 10-5-2026.
[39] Editor's Note: Sign definitions are materially the same as those provided in the existing ordinance, however, they have been updated, deleted, or replaced for compliance with *Reed v. Gilbert* and Code of VA.

Feather sign.[40] A double-faced, portable sign mounted along one edge on a single, vertical, flexible pole or rope and displays information, promotional, or advertising content. The term does not include flag, as defined in this Ordinance.

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

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

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

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

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

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

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

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

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

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

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

[40] Editor's Note: Definition added per the 8/27/25 worksession.

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

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

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

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

Sign structure. Any structure bearing a sign face.

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

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

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

Smoke/Vape shop. Any establishment, facility, or location whose business operation involves (i) retail sale of tobacco products, nicotine vapor products, alternative nicotine products, as defined in this Ordinance, or hemp products intended for smoking, as defined in this Ordinance, and (ii) includes tobacco products, nicotine vapor products, alternative nicotine products, or hemp products intended for smoking as 25% or more of its total inventory or 15% or more of its total display shelf area.

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Solar energy equipment, facilities, or devices.[41] Any personal property designed and used primarily for the purpose of collecting, generating, or transferring electric energy from sunlight.

Solar Energy Facility.[42] A facility comprised of energy generating devices utilizing sunlight as an energy source to heat or cool buildings, heat or cool water, or produce mechanical power by means of any combination of collecting, transferring, or converting solar generated energy. The term applies to, but is not limited to, solar photovoltaic systems, solar thermal systems, and solar hot water systems. The following words, terms and phrases pertaining to solar energy facilities, when used in the Zoning Ordinance or in the administration thereof, shall have the following meanings ascribed to them:

> ***Agrivoltaics.*** The practice of using the same land for both agriculture and solar energy production.
>
> ***Photovoltaic (PV).*** Materials and devices that absorb sunlight and convert it directly into electricity.
>
> ***Solar Energy Facility, Accessory.*** A solar energy facility comprised of photovoltaics attached to and/or incorporated into building components and/or materials for structures, such as roofs or shingles, or ground-mounted, along with supporting equipment, the facility being an accessory use to the principal use of the property and designed and intended to serve the electricity or thermal needs of the property. Supporting equipment commonly includes photovoltaic panels, racking systems, inverters, performance monitoring, and energy storage systems.
>
> ***Solar Energy Facility, Utility-Scale.*** A solar energy facility, other than an accessory solar facility, comprised of ground mounted photovoltaics generating electricity for distribution to the power grid or distribution network, designed to serve, or serves, the electricity or thermal needs of any property other than the property where such facilities are located. Supporting equipment and facilities commonly include photovoltaic panels, racking systems, inverters, access roads, associated equipment necessary to tie into the grid or distribution network, substations, switchyards, fencing, screening and buffering.

[41] Editor's Note: Definition added per Code of Virginia §§ 15.2-2241.2, 15.2-2288.7, and 15.2-2288.8 and HB711, as approved on April 22, 2026.
[42] Editor's Note: Solar energy definitions revised in accordance with HB711.

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

Stable, commercial. A lot, building, or group of buildings, where compensation, whether monetary or goods, is provided for the boarding of equine; training of students; or fields or arenas used for scheduled, public, or club events.

Stable, private. A building, or group of buildings, where horses are kept for the private use of the owners or their guests, but in no event for hire or compensation.

Steep slope(s).[43] The portion of a lot with a grade of more than 20%, grade being the vertical elevation of land area divided by the horizontal distance. See definition for critical areas.

Store, large. An establishment that is 4,000 square feet or more in total floor area and serves for the display and sale of merchandise at retail.

Store, small.[44] An establishment that is less than 4,000 square feet in total floor area and serves for the display and sale of merchandise at retail. This use may include fuel pumps or the selling of fuel for motor vehicles.

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

Street.[45] A public thoroughfare providing the principal means of access to adjacent property. The term "street" includes all property dedicated or intended for public or private use for access to abutting lands or subject to public easements therefore, and whether designated as a street, highway, thoroughfare, parkway, throughway, expressway, road, drive, court, avenue, boulevard, lane, place, circle, or however otherwise designated. See *functional classification* for types of roads and streets.

> ***Street or alley, public use of***. The unrestricted use of a specified area or right-of-way for ingress and egress to two or more properties. Unless otherwise provided or regulated, a public street or alley may be used for the convenient transport of utility services.
>
> ***Street, public***. A street dedicated to public use and available to the public's unrestricted use without regard to the jurisdictional authority responsible for its operation and maintenance.

[43] Editor's Note: Definition revised for clarity and in response to public comment 10-8-2026.
[44] Editor's Note: Changed to allow fuel pumps per 6/25/25 worksession.
[45] Editor's Note: All street definitions have been updated per Code of VA.

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

Street, width. The total horizontal measurement taken at right angles to the length of the strip of land dedicated or reserved for public travel, including roadway, curbs, gutters, sidewalks, and planting strips. That area for travel between opposite lots.

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

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

Structure, accessory.[46] A building or structure subordinate to and located on the same lot with a main building, the use of which is clearly incidental to that of the main building or to the use of the land, and which is not attached by any part of a common wall or roof to the main building. The term "accessory structure" also includes, but is not limited to, portable storage containers, gazebos, carports, private greenhouses, and sheds which may be modular in nature and are delivered to the site and which may or may not have a foundation. Accessory building or structure does not include motorhomes, travel trailers, or other recreational vehicles; and is not an accessory dwelling, as defined by this Ordinance.

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

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

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

[46] Editor's Note: Added …"and is not an accessory dwelling, as defined by this Ordinance." Per staff comments 11/5/25.

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

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

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

Subdivision. The division of a parcel of land into two or more lots or parcels of land for the purpose of transfer of ownership or building development, including any parcel previously separated by the owner or prior owner of such land for such purpose. The term "subdivision" includes family division, resubdivision, and, when appropriate to the context, shall relate to the process of subdividing or to the land subdivided.

Family Division.[47] A division of a lot or parcel for the purpose of sale or gift to a member of the immediate family of the property owner. See immediate family.

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

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

Telecommunications facility. Any unstaffed facility for the transmission and/or reception of radio, television, radar, cellular telephone, personal paging device, specialized mobile radio (SMR), and similar services. A broadcasting or communication tower usually consists of an equipment shelter or cabinet, a support tower or other structure used to achieve the necessary elevation, and the transmission or reception devices or antenna. Excluded are amateur radio antennas, which are defined separately. Also excluded are wireless communication antennas which fit the definition of small cell facility and "Administrative review-eligible project" as defined in the Code of Virginia §15.2-2316.6 and supplied as utility service, minor by this Ordinance.

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[47] Editor's Note: Definition added for clarity 10-13-2026.

Telecommunications facility, small cell. A wireless facility that meets both of the following qualifications: (i) each antenna is located inside an enclosure of no more than six cubic feet in volume, or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an imaginary enclosure of no more than six cubic feet and (ii) all other wireless equipment associated with the facility has a cumulative volume of no more than 28 cubic feet, or such higher limit as is established by the Federal Communications Commission. The following types of associated equipment are not included in the calculation of equipment volume: electric meter, concealment, telecommunications demarcation boxes, back-up power systems, grounding equipment, power transfer switches, cut-off switches, and vertical cable runs for the connection of power and other services (Code of Virginia §15.2-2316.4).

Temporary event. A gathering or activity that occurs outside the normal operations of a property and is intended to attract the public or a group of invitees. May include festivals, fairs, concerts, weddings, markets, or similar functions.

Temporary Sawmill. The temporary use of a portable sawmill, chipping mill, or planing mill located on private property for the processing of timber.

Temporary support structure.[48] A monopole or portable wireless communications facility used to provide wireless voice, data, or image transmission within a designated area. A temporary support structure does not have a permanent location on the ground, including the pouring of a concrete footing or the laying of a permanent foundation.

[49]***Transportation services***. Individual modal or multimodal conveyances and terminals; facilities may be of local, regional, or statewide importance. Examples of facilities are highways, airports, rail transit lines, and transit stations. Uses may also include vehicle services such as limousine, taxi service, or bus transportation.

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

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

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

[48] Editor's Note: Definition for temporary support structure was added in accordance with HB277. Definition as provided by § 15.2-2316.3 Code of Virginia.
[49] Editor's Note: Tradesperson service was removed per comments received 11/5/25.

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

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

Truck/freight terminal. An area of land used for the switching, storing, assembling, distributing, consolidating, moving, repairing, weighing, or transferring of freight.

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

> ***Use, accessory.*** Uses of land and buildings that are found on the same parcel as the principal use but are subordinate and incidental, including parking.
>
> ***Use, principal.*** A use that fulfills a primary function of a household, establishment, institution, or other entity.
>
> ***Use, secondary.*** A use that is intended to provide for the needs and conveniences of residents or property owners within a district and is only permitted in a development which contains one or more approved principal uses.

Utility service, major. Service of a regional nature which normally entails the construction of new buildings or structures such as electric generating plants and sources; electrical switching facilities and stations or substations; community wastewater treatment plants; water towers; sanitary landfills; waste recycling and collection centers; and similar facilities. All overhead transmission lines are included in this definition. This use does not include data centers, battery energy storage facilities, or any wind and solar energy generation uses, as defined in this Ordinance.

Utility service, minor. A service that is necessary to support development within the immediate vicinity and involves only minor structures. Included in this use type are small facilities such as "Administrative review-eligible project" as defined in the Code of Virginia §15.2-2316.3, transformers, and relay and booster devices. This use does not include data centers, battery energy storage facilities, or any wind and solar energy generation uses, as defined in this Ordinance.

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

Vehicle service or repair. The repair and/or maintenance of automobiles, noncommercial trucks, motorcycles, motor homes, recreational vehicles, or boats, including the sale, installation, and servicing of equipment and parts. Typical uses include tire sales and installation, wheel and brake shops, oil and lubrication services, and similar repair and service activities where minor repairs and routine maintenance are conducted.

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

Veterinary hospital or clinic. An establishment rendering surgical and medical treatment of animals. Boarding of domestic animals shall only be conducted indoors, on a short-term basis, and shall only be incidental to such hospital/clinic use, unless also authorized and approved as a commercial kennel, as defined by this Ordinance.

Warehousing and distribution. The storage, loading, and dispatching of goods within enclosed structures. Typical uses include wholesale distributor and moving/storage firm.

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

Wind energy generating facility, accessory. A single system designed to supplement other electricity sources as an accessory use to existing buildings or facilities, wherein the power generated is used primarily for onsite consumption. A small wind energy conversion system consisting of a single wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of not more than 25 kW.

Yard or garage sales. A use, accessory to a dwelling, that includes display and noncommercial sales of personal property accumulated by the residents of a residential dwelling unit.

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

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

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

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

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

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

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

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

Division 11-4 General Floodplain Overlay District Definitions

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

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

Base flood. The flood having a one percent chance of being equaled or exceeded in any given year.

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

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

Development. Pursuant to the Code of Virginia § 15.2-2201, a tract of land developed or to be developed as a unit under single ownership or unified control which is to be used for any business or industrial purpose or is to contain three or more residential dwelling units. The term "development" will not be construed to include any tract of land which will be principally devoted to agricultural production.

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

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

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

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

Existing manufactured home community or subdivision.[50] A manufactured home community or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community. (See "existing construction" above).

[50] Editor's Note: Name changed from "park" to "community" per staff comments 11/5/25.

Expansion to an existing manufactured home community or subdivision.[51] The preparation of additional sites, as permitted by the Zoning Ordinance, by the construction of facilities for servicing the lots on which the manufacturing homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

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

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

Flood or flooding.

(1) A general and temporary condition of partial or complete inundation of normally dry land areas from:

(a) The overflow of inland or tidal waters.

(b) The unusual and rapid accumulation or runoff of surface waters from any source.

(c) Mudflows which are proximately caused by flooding as defined in this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.

(2) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in subsection (1) of this definition.

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

[51] Editor's Note: Name changed from "park" to "community" per staff comments 11/5/25.

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

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

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

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

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

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

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

(1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

(3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or,

(4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

(a) By an approved state program as defined by the Secretary of the Interior; or,

(b) Directly by the Secretary of the Interior in states without approved programs.

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

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

(1) ***Letter of Map Amendment (LOMA):*** An amendment based on technical data showing that a property was incorrectly included in a designated special flood hazard area, and which amends the current effective FIRM and establishes that a land as defined by meets and bounds or structure is not located in a special flood hazard area.

(2) ***Letter of Map Revision (LOMR):*** A revision based on technical data that may show changes to flood zones, flood elevations, floodplain and floodway delineations, and planimetric features.

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

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

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

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

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

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New construction. For the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after *date of general floodplain district adoption*[52], and includes any subsequent improvements to such structures. For floodplain management or development purposes, new construction means structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by Nelson County and includes any subsequent improvements to such structures.

Post-FIRM structure. A structure for which construction or substantial improvement occurred on or after *date of general floodplain district adoption*[53].

Pre-FIRM structure. A structure for which construction or substantial improvement occurred before *date of general floodplain district adoption*[54].

Recreational vehicle. Any vehicle which is:

(1) Built on a chassis;

(2) Four hundred (400) square feet or less when measured at the largest horizontal projection;

(3) Designed to be self-propelled or permanently towable by a light duty truck; and

(4) Designed primarily as temporary living quarters for recreational camping, travel, or seasonal use. May also be referred to as travel trailer, camper, or similar vehicle.

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

Severe Repetitive Loss Structure. A structure that:

(1) Is covered under a contract for flood insurance made available under the NFIP; and

[52] Editor's Note: The date when the general floodplain district was originally adopted by the County will need to be verified with and included here.
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(2) Has incurred flood-related damage for which:

(a) Four (4) or more separate claims payments have been made under flood insurance coverage with the amount of each such claim exceeding $5,000, and with the cumulative amount of such claims payments exceeding $20,000; or

(b) At least two separate claims payments have been made under such coverage, with the cumulative amount of such claims exceeding the market value of the insured structure.

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

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

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

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

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

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

(1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the building official and which are the minimum necessary to assure safe living conditions, or

(2) Any alteration of a "historic structure", provided that the alteration will not preclude the structures continued designation as a "historic structure".

(3) Historic structures undergoing repair or rehabilitation that would constitute a substantial improvement as defined above must comply with all ordinance requirements that do not preclude the structure's continued designation as a historic structure. Documentation that a specific ordinance requirement will cause removal of the structure from the National Register of Historic Places or the State Historic Places must be obtained from the Secretary of the Interior or the State Historic Preservation Officer. Any exemption from ordinance requirements will be the minimum necessary to preserve the historic character and design of the structure.

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

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

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

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

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

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