



TOWN COUNCIL
& PLANNING COMMISSION JOINT WORK SESSION
AGENDA

July 24, 2023
5:30 PM

The Franklin Center
50 Claiborne Avenue, Rocky Mount, Virginia

1. Roll Call
2. Approval of Agenda
3. Berkley Group Presentation-Zoning & Subdivision Ordinance Update
 - 3.1. Berkley Agenda & Meeting Materials
4. Adjournment

Overview

The Town of Rocky Mount is updating, modernizing, and restructuring the Zoning and Subdivision Ordinances into one seamless regulatory document. The revised Zoning and Subdivision Ordinance will:

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

This process will be guided by Town staff, the Planning Commission, and the Town Council with opportunities for input from stakeholders and citizens.

Agenda

The July 24th meeting will focus on reviewing the proposed articles:

- Article 1, In General
- Article 2, Administration
- Article 3, Permits and Applications
- Article 9, Nonconformities

The following agenda is provided as an outline for discussion:

1. **Schedule & Progress to Date** – 5 minutes
2. **Proposed Article Review** – 50+ minutes
 - a. Article 1 – 5 minutes
 - b. Article 2 – 15 minutes
 - c. Article 3 – 20 minutes
 - d. Article 9 – 10 minutes
3. **Next Steps** – 5 minutes

Schedule & Progress to Date

See Attachment A for the project schedule. Progress to date includes:

- Staff Kickoff – Held on February 6, 2023. The Berkley Group conducted a kickoff meeting with Rocky Mount staff to review the scope of work and deliverable items. This meeting gave Berkley Group’s team insight into current issues and areas of focus.
- Joint Town Council and Planning Commission Kickoff – Held on March 20, 2023. During this meeting Berkley Group gave a presentation and facilitated group discussion on the scope of work, schedule, ordinance purpose and content, and community engagement.

- Community Engagement – Public engagement offered opportunities to collect community feedback on priorities for the ordinance update. An online public survey was conducted from April 1-30; focus group interviews and a public workshop were held on April 12.
- Joint Town Council and Planning Commission Worksession – Held on May 18, 2023. During this meeting the Berkley Group gave a presentation and facilitated group discussion on the Public Engagement Summary, the Land Use Report, and the proposed structure of the Zoning & Subdivision Ordinance.

Proposed Article Review

See Attachments B, C, D, and E for the proposed articles for review. Attachment F includes Definitions from these Articles for review. Please note the editor's footnotes which are provided to aid review. The footnotes explain inclusions, omissions, and modifications between the existing Ordinance and the proposed draft Ordinance.

Attachment B: Article 1 – In General

This Article contains divisions pertaining to the general purpose, applicability, and interpretation of the Ordinance. Additional divisions include language that requires conformity with the Ordinance, effective date, and previously approved applications and vested rights. This Article is largely built from requirements of the Code of Virginia; references to the applicable Code sections are included. Changes to note are outlined below:

- Table 1.1 Temporary Zoning District Classification of Newly Incorporate Areas. This table simplifies the process of temporarily designating zoning districts for new properties currently in Franklin County that are coming into the jurisdiction of the Town of Rocky Mount by annexation or boundary adjustment.

Attachment C: Article 2 – Administration

References to the pertinent sections of the Code of Virginia are included throughout the Article, for informational purposes and to streamline the Article text.

This Article covers the administration of the Ordinance. The powers and duties of the Zoning Administrator, Subdivision Agent, Board of Zoning Appeals (BZA), and Planning Commission (PC) are discussed. Changes to note, pertaining to powers, are outlined below:

- Addition of a section (2-2-3) for PC meetings and procedures provided for by Code of Virginia.
- A section (2-3-1) for BZA appointments that could be replaced with a reference to Code of Virginia.

Enforcement and penalties are addressed in this Article. As authorized by the Code of Virginia, the penalties for violations utilize both criminal and civil penalty options.

- Division 4 is mostly new content that provides clear enforcement procedures in compliance with Code of Virginia. This Division reorganizes enforcement into one section of the draft Ordinance and clarifies processes.

Fees are addressed in this Article by reference to a separate fee schedule. As noted in the Draft, a change is proposed to adopt fees as a separate Ordinance outside of the Zoning and Subdivision Ordinance. The requirement to pay all applicable delinquent taxes and charges prior to submission of an application is also included in the Article, as allowed by the Code of Virginia.

Attachment D: Article 3 – Permits and Applications

This Article outlines the following application requirements and processes:

- Zoning Text and Map Amendments
- Conditional Zoning and Proffers
- Special Exceptions
- Variances
- Site Plans
- Zoning Permits
- Zoning Determinations
- Appeals
- Public Hearings & Notifications

This Article outlines processes and procedures for development approvals. Much of the content is based on requirements and timeframes set out in the Code of Virginia. Important policy changes/considerations of note include:

- Concept Plans –
 - The draft Ordinance proposes changing the current use of a Preliminary Site Plan process to a Concept Plan process as part of the Zoning Map Amendment (Section 3-2-2) and Special Exception Permit (Section 3-4-3) processes. Requiring a Concept Plan allows developers to proceed with discretionary review and public hearings without undertaking a fully engineered Site Plan.
- Special Exceptions –
 - The addition of Section 3-4-4 establishes period of validity for Special Exception permits. Proposed timeframes can be adjusted or omitted, as desired.
- Site Plans –
 - Minor & Major Site Plans – Division 6 introduces major and minor site plans to the Zoning Ordinance. Rocky Mount is currently administering minor and major site plans, but it is not codified in the existing Ordinance. This provision was added after discussion with staff.
 - Timeframe for Approval – The draft Ordinance includes a timeframe for approval for Site Plans, to align with the Code of Virginia requirements.

- Period of Validity – The draft Ordinance includes an increased period of validity for approved Site Plans, to align with the Code of Virginia requirements.
- Zoning Permits – Clarifies the requirements for obtaining a Zoning Permit.
- Public Hearings and Notifications – This new Division outlines the processes and standards for public notices and public hearings.

Note: See Attachment G, *Development Review Guide*, *Concept Plans* and *Site Plans* for a general overview on these types of plans.

Attachment E: Article 9 – Nonconformities

This Article is dictated by the Code of Virginia and addresses those instances where an existing lot, use, or structure does not meet the standards outlined in the Ordinance. Much of this Article’s content is carried over from the existing Ordinance, with reorganized and streamlined content. Changes to note are outlined below:

- **Nonconforming Uses** – Section 9-2-1 clarifies the procedure to allow a nonconforming use to change to a different, less nonconforming use.
- **Nonconforming Structures** – Section 9-2-3 expands upon, and clarifies, the provisions for nonconforming structures. The Town can amend or add to these regulations, if desired.
- **Repairs and Maintenance** – Section 9-2-4 has new text added from the Code of Virginia related to the replacement of manufactured homes, particularly for replacement of newer models that meet HUD standards.

Note: See Attachment H, *Guide to Nonconformities* for general information on nonconformities.

Attachment F: Definitions – Articles 1,2,3,9

These definitions are included for review as they pertain to the Articles being reviewed during this worksession. They will be placed in Article 11, Definitions, following review.

Next Steps

The Berkley Group will review any recommendations and comments for incorporation and continue drafting ordinance articles. Topics to be discussed at the next meeting include:

- Article 4, Primary Zoning Districts
- Article 5, Overlay Zoning Districts
- Related Definitions

ATTACHMENT A

Project Schedule

Phase	Task	Task Description	2023												2024											
			February	March	April	May	June	July	August	September	October	November	December	January	February	March	April	May	June	July	August	September	October	November		
A	A1	Project Management / Staff Input																								
	A2	Project Kickoff with Staff (Virtual)	V																							
	A3	Document Review / Diagnostic																								
	A4	Joint Public Officials Meeting (up to 2)		X		X																				
	A5	Public Outreach Survey (Online & Paper)																								
	A6	Stakeholder Listening Sessions (up to 4)			X																					
	A7	Public Workshop (up to 1)			X																					
B	B1	Joint Work Sessions (up to 6)					X		X		X		X		X		X									
	B2-12	Drafting																								
	B13	Changes Summary																								
	B14	Compiled Draft Ordinance Review																								
C	C1	Open House (Public Draft Review)																	X							
	C2	Pre-Adoption Work Session																		X						
	C3	Incorporate Final Revisions																								
	C4	Public Adoption																				X				
	C5	Post-Adoption Materials																								
X = Anticipated In-person Attendance; V = Virtual Attendance																										

X = Anticipated In-person Attendance; V = Virtual Attendance

ATTACHMENT B

ARTICLE 1. – In General.

Division 1. Enactment and Authority.¹

Section 1-1-1. Title.

This chapter shall be known and cited as the "Town of Rocky Mount, Virginia, Zoning and Subdivision Ordinance" shall be permitted, for convenience, to be referred to as the "Zoning and Subdivision Ordinance" or "Ordinance."

Section 1-1-2. Authority²

- (A) Pursuant to the code of Virginia, § 15.2-2280 et seq., as amended, the Town of Rocky Mount, 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., as amended, the Town of Rocky Mount, Virginia, is authorized to adopt regulations to ensure the orderly subdivision of land and its development.

Section 1-1-3. Purpose³

- (A) The purpose of this Ordinance, together with the accompanying official Zoning Map, is to implement the Town of Rocky Mount Comprehensive Plan; promote the health, safety, or general welfare of the public; and of further accomplishing the objectives of § 15.2-2200 and § 15.2-2283, as amended, of the Code of Virginia. This Ordinance is designed to give reasonable considerations to each of the following purposes, where applicable:
 - (1) Provide for adequate light, air, convenience of access and safety from fire, flood, impounding structure failure, crime, and other dangers;
 - (2) Reduce or prevent congestion in the public streets;
 - (3) Facilitate the creation of a convenient, attractive, and harmonious community;
 - (4) Facilitate the provision of adequate police and fire protection, disaster evacuation, civil defense, transportation, water, sewerage, flood protection, schools, parks, forests, playgrounds, recreational facilities, airports and other public requirements;
 - (5) Protect against destruction of or encroachment upon historic areas;
 - (6) Protect against 1 or more of the following: overcrowding of land, undue density of population in relation to the community facilities existing or available, obstruction of light and air, danger

¹ Editor's Note: This Division includes content from the existing Subdivision Ordinance Sections 1-1 through 1-9, and Zoning Ordinance Articles 1 and 14.

² Editor's Note: This section restates the Authority in the existing Ordinance (Zoning Ordinance Article 1-2, Subdivision Section 1-3) for Code Of Virginia compliance.

³ Editor's Note: Purpose expanded to include all items supplied in the Code of Virginia for the purpose of Zoning Ordinances and Subdivision Ordinances.

- and congestion in travel and transportation, or loss of life, health, or property from fire, flood, impounding structure failure, panic or other dangers;
- (7) Encourage economic development activities that provide desirable employment and enlarge the tax base;
 - (8) Provide for the preservation of agricultural and forestal lands and other lands of significance for the protection of the natural environment;
 - (9) Promote the creation and preservation of affordable housing suitable for meeting the current and future needs of the Town as well as a reasonable proportion of the current and future needs of the planning district within which the Town is situated;
 - (10) Provide reasonable protection against encroachment upon military bases, military installations, and military airports and their adjacent safety areas, excluding armories operated by the Virginia National Guard;
 - (11) Provide reasonable modifications in accordance with the Americans with Disabilities Act of 1990 or state and federal fair housing laws, as applicable;
 - (12) Protect surface water and ground water as defined in the Code of Virginia § 62.1-255, as amended;
 - (13) Establish standards and procedures for the orderly division, subdivision and resubdivision of lots, tracts, and parcels of land for residential and commercial purposes pursuant to the Code of Virginia § 15.2-2240 et. seq., as amended;⁴
 - (14) Ensure proper legal description and proper monumenting of subdivided land;
 - (15) Ensure the purchasers of lots, tracks, and parcels of land purchase a commodity that is suitable for the intended use; and,
 - (16) Provide standards for development, ensuring appropriate ingress, egress, public facilities, services, and utilities, including the orderly extension of water and sewer, streets, sidewalks and bikeways, stormwater facilities, and other public facility services in a safe, adequate, and efficient manner.

Section 1-1-4. Applicability⁵

- (A) Pursuant to the Code of Virginia, § 15.2-2281, as amended, the provisions of this Ordinance shall apply to all property within the incorporated territory of the Town of Rocky Mount, 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 the Town of Rocky Mount shall not be subject to the provisions contained herein. Upon transfer of ownership or control of any portion

⁴ Editor's Note: This section replaces the relationship to Zoning Ordinance in section 1-8 of existing Subdivision Ordinance.

⁵ Editor's Note: Proposed as a new section to address the general purpose and applicability.

of government lands to private interests, the regulations of the district in which the land is located shall automatically apply.

- (B) Pursuant to the Code of Virginia, § 15.2-2284, as amended, the zoning regulations and districts as herein set forth have been drawn and shall be applied with reasonable consideration for the existing use and character of property, the comprehensive plan, the suitability of properties for various uses, the trends of growth or change, the current and future requirements of the community as to land for various purposes as determined by population and economic studies and other studies, the transportation requirements of the community, and the requirements for airports, housing, schools, parks, playgrounds, recreation areas, and other public services; and the conservation of natural resources, the preservation of flood plains, the protection of life and property from impounding structure failures, the preservation of agriculture and forestal land, the conservation of properties and their values, and the encouragement of the most appropriate use of land throughout Rocky Mount.

Section 1-1-5. Conformity with Ordinance Required

- (A) Except as otherwise provided in this Ordinance, all land, buildings, structures, and/or premises within the Town shall only be used, occupied, erected, constructed, moved, enlarged, and/or altered in conformance with this Ordinance's regulations.
- (B) Land shall only be subdivided in conformance with this Ordinance's **(Article 10) regulations**.⁶

Section 1-1-6. Severability⁷

Should any Section or any provision 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 2. Ordinance Conflicts and Interpretations⁸

Section 1-2-1. Interpretation^{9 10}

- (A) The Administrator shall interpret this Ordinance based upon the following criteria:
- (1) Provisions shall be considered the minimum required to promote the public health, safety, convenience and general welfare;
 - (2) Unless otherwise specified, the standards of this Ordinance are the minimum required;

⁶ Editor's Note: This section replaces Section 1-9 of existing Subdivision Ordinance.

⁷ Editor's Note: This section contains reworded content from the existing Subdivision Ordinance Section 1-7 (b).

⁸ Editor's Note: This Division contains content from the existing Zoning Ordinance, Article 15.

⁹ Editor's Note: The date of the revised Ordinance adoption will be inserted after formal adoption.

¹⁰ Editor's Note: This section includes text from Article 15 of the existing Zoning Ordinance and Section 1-7 of the Subdivision Ordinance, with content added and reorganized.

- (3) When regulations of this Ordinance conflict with each other, other Town Ordinances, or state or federal law, the more restrictive regulation shall govern;
- (4) This Ordinance does not abolish easements, covenants or other private agreements, however, pursuant to the Code of Virginia, § 15.2-2315, as amended, where this Ordinance's requirements vary with the requirements of any other lawfully adopted statute, regulation, or ordinance, the most restrictive, or the higher standard, shall control to the extent necessary to resolve the conflict;
- (5) The Town is not responsible for the enforcement of private provisions, restrictions, or covenants;
- (6) A building, structure, or use which was not legally existing on _____ (effective date of revised Ordinance) shall not be made lawful solely by adoption of this Ordinance;
- (7) Where this Ordinance's requirements are vague or unclear, the Administrator shall be responsible for their interpretation; and,
- (8) Conditions imposed or accepted as part of a zoning approval prior to _____ (effective date of revised Ordinance) shall remain in effect. However as stated in the Code of Virginia § 15.2-2261.1, as amended, if there is a conflict between conditions imposed through those land use decisions and this Ordinance, the conditions shall apply. If there is no condition that addresses a specific use or development standard of this Ordinance, this Ordinance's requirements shall govern.

Section 1-2-2. Figures and References in Ordinance¹¹

- (A) Where figures are contained in this Ordinance, they are provided for demonstrative purposes only and are not a substantive part of this Ordinance.
- (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 or regulation.

Division 3. Zoning Districts Map¹²

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

- (A) The official location and boundaries of the primary, special, and overlay zoning district(s) are hereby established as shown on the official "Town of Rocky Mount, Virginia, Zoning Map" hereafter referred to as the "Zoning Map".
- (B) A certified copy of the Zoning Map shall be filed in the office of the Clerk of Circuit Court of Franklin County, Virginia.

¹¹ Editor's Note: Proposed as a new section.

¹² Editor's Note: The list of district names will now be found in Article 4 (Primary Zoning Districts), Division 1; This Division includes content from the existing Zoning Ordinance, Articles 3-2, 3-3, and 5-9.

- (C) The Zoning Map shall be available for examination and inspection by the public at all reasonable times.
- (D) The original of the Zoning Map shall be filed in the Administrator's office and such original shall be updated as the result of the following Town Council actions:
 - (1) Amendments to the Ordinance;
 - (2) Approval of a Rezoning (see Article 3, Section 2); or
 - (3) Approval of Conditional Zoning (see Article 3, Section 3).

Section 1-3-2. Incorporated by Reference

The Zoning Map, as amended, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this Ordinance.

Section 1-3-3. Interpretation of Zoning District Boundaries.^{13, 14}

- (A) The Zoning Map associated with this text and showing the division of the territory into districts shall be interpreted with the following rules when uncertainty exists with respect to the boundaries of any of the districts:
 - (1) Where district boundaries are fixed by dimensions or otherwise shown or described, there shall be no uncertainty.
 - (2) 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, shall be construed to be such boundaries.
 - (3) Where a district boundary is indicated to follow a river, creek, or branch or other body of water, said boundary shall 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 shall be construed as moving with the actual shoreline.
 - (4) If distances or other dimensions are not specifically indicated on the Zoning Map, they will be determined by the scale of the map.
 - (5) If the specific location of a boundary cannot be determined from notations on the Zoning Map or application of the above standards, it will be determined by using the map scale to determine the boundary's distance from other features shown on the map.
 - (6) Any lot that has been annexed from Franklin County shall be considered a lot of record if no alteration has taken place since annexation¹⁵.

¹³ Editor's Note: Proposed as a new section to expand on the text provided in the existing Ordinance (Sections 3-2 & 5-9) that details how boundaries are determined.

¹⁴ Editor's Note: Items (A) (6) and (7) propose a change that provides the Zoning Administrator authority in interpreting zoning district boundaries. In the case of conflict or appeal, the BZA would interpret.

¹⁵ Editor's Note: Proposed new item.

- (7) For the purpose of this Ordinance, newly incorporate areas shall be temporarily classified into zoning districts, pending the orderly amendment of the Zoning Ordinance as provided in Code of Virginia, § 15.2-2286(A)(2), as amended, according to the following:¹⁶

Table 1-1. Temporary Zoning District Classification of Newly Incorporate Areas

Table 1-1. Temporary Zoning District Classification of Newly Incorporate Areas:	
Franklin County Zone	Town of Rocky Mount Zone
A1, Agricultural RE, Residential Estates R1, Residential Suburban Subdivision, lot size >40,000 square feet in area RC1, Residential Combined Subdivision, lot size >40,000 square feet in area	RA, Residential Agricultural
R1, Residential Suburban Subdivision, lot size <40,000 square feet in area R2, Residential Suburban Subdivision RC1, Residential Combined Subdivision, lot size <40,000 square feet in area No Zone	R1, Residential
RMF, Residential Multifamily	R3, Residential
RPD, Residential Planned Unit Development	RPUD, Residential Planned Unit Development
PCD, Planned Commercial Development B1, Business, Limited B2, Business, General	GB, General Business
M1, Industrial, Light	M1, Industrial
M2, Industrial, Heavy	M2, Industrial

- (8) In case any territory is not definitely and clearly included within any 1 district, such territory shall be deemed to be in the R-1 district until otherwise classified by amendment in accordance with Article III, Permits and Applications, of this Ordinance.

¹⁶ Editor's Note: This provision simplifies the provisions in Article 3-3 of the existing Ordinance by grouping County zones into fewer Town zones.

- (9) In any case in which there is uncertainty, contradiction, or conflict as to the location of any zoning district boundary – due to scale, illegibility, lack of detail, physical or natural features vary from those on the Zoning Map, or any other circumstances not covered by this section – the Administrator will have the authority to interpret the district boundaries in accordance with Article 2, Section 2-1-1 of this Ordinance.
- (10) The Zoning Administrator’s interpretations may be appealed to the BZA in accordance with **Article 3** of this Ordinance. The BZA will not have the power to change substantially the locations of district boundaries.

Section 1-3-4. Unauthorized Changes.

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

Division 4. Transition of Regulations After Adoption¹⁷

Section 1-4-1. Effective Date of Ordinance¹⁸

This Ordinance was adopted on ____ (**date of adoption of revised Ordinance**). This Ordinance will become effective on ____ (**effective date of revised Ordinance**) and repeals and replaces any prior Zoning and Subdivision Ordinances adopted in the Town of Rocky Mount. Its provisions shall be in force until repealed or amended.

Section 1-4-2. Violations Continue.

Any development or activity in violation of the previous Zoning and Subdivision Ordinances 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.¹⁹

If any use, structure, lot, sign, or site feature legally existed immediately prior to ____ (**effective date of revised 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 must comply with the requirements in **Article 9**, Nonconformities, of this Ordinance.

Section 1-4-4. Complete Applications and/or Plats.

(A) This Section pertains to applications for the following:

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

¹⁷ Editor’s Note: Proposed as a new Division to address the transition of regulations after the new ordinance is adopted. All sections in this Division are new, but the Division includes content from the existing Zoning Ordinance Articles 2 and 5-10

¹⁸ Editor’s Note: Date of adoption will be inserted after formal adoption.

¹⁹ Editor’s Note: This section is proposed to acknowledge and cross-reference nonconformities.

- (2) Conditional Zoning;
 - (3) Conditional Use Permits;
 - (4) Variances; and
 - (5) Subdivision Plats;
- (B) Applications and/or plats accepted as complete prior to ____ (effective date of revised Ordinance), or deemed by the Administrator to be complete, prior to ____ (effective date of revised 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 revised 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, Nonconformities, of this Ordinance.

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 not provided for in Section 1-4-4, above.
- (B) Any other permits or development approvals granted prior to ____ (effective date of revised Ordinance), will remain valid until their expiration date.
- (1) Developments with valid permits or development approvals granted prior to ____ (effective date of revised 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.²⁰
 - (2) If the prior approval expires or is revoked, any subsequent development or use of the site will be subject to the requirements of this Ordinance.
- (C) To the extent that a prior-approved permit or development approval does not comply with this Ordinance, the subsequent development or use, although permitted, will be nonconforming and subject to the requirements of Article 9, Nonconformities, of this Ordinance.

²⁰ Editor's Note: Article 5-10 of the existing Ordinance regulating the commencement and discontinuation of construction is not carried over because subdivision plats are valid for 5 years, and discontinued construction is regulated by building permitting.

Section 1-4-6. Vested Rights.

- (A) The provisions of this Ordinance shall not impair a vested right of a property owner. The Administrator shall be authorized to make determinations on whether a property owner's rights are deemed vested in a land use. The Subdivision Agent shall be authorized to make determinations on whether a property owner's rights are deemed vested in a division. Vested rights determinations shall be made in accordance with the Code of Virginia § 15.2-2307, as amended.
- (B) Nothing contained herein shall require any change in the plans or construction of any building or structure for which a building permit was granted prior to ____ (effective date of revised Ordinance).

ATTACHMENT C

ARTICLE 2. – Administration.

Division 1. Zoning Administrator and Subdivision Agent.¹

Section 2-1-1. Appointment; Powers; and Duties.

- (A) This Ordinance (with the exception of the Subdivision Article) and the Zoning Map shall be administered, interpreted, and enforced by the Zoning Administrator (Administrator), who shall be appointed by the Town Council. The Administrator shall exercise their authority at the pleasure of the Town Council and may designate someone to act in their stead.²
- (B) The Administrator may also hold another office in the Town.
- (C) The Administrator shall have such duties as are conferred by this Ordinance and the Code of Virginia § 15.2-2286 (4), as amended, including:
 - (1) Administer and enforce this Ordinance;
 - (2) Interpret zoning district boundaries;
 - (3) Where appropriate, issue zoning permits and certificates;
 - (4) Administer and enforce conditions attached to a rezoning or amendment to the Zoning Map;
 - (5) Make necessary inspections; and,
 - (6) When necessary, call for opinions or decisions, either verbal or written, from other departments, boards, or state agencies.
 - (7) In addition to the regulations contained herein, the Administrator may, from time to time, establish any reasonable additional administrative procedures deemed necessary for the proper administration of this Ordinance.
- (D) A Subdivision Agent (Agent) shall be appointed by the governing body to administer and enforce the Subdivision Article (Article 10) and shall serve at the pleasure of the Town Council. The Zoning Administrator may also serve as the Subdivision Agent³.
- (E) The Agent shall have such duties as are conferred by this Ordinance, including but not limited to:⁴

¹ Editor's Note: Proposed new Division that details the appointment, powers, and duties of the Zoning Administrator and Subdivision Agent. This Division includes content from the existing Zoning Ordinance, Article 4-2 and Subdivision Ordinance, Sections 2-1, 2-2, and 2-3.

² Editor's Note: Allowing the Administrator to appoint a designee is best practice that ensures prompt service and eases administrative burdens.

³ Editor's Note: This is a change from the existing Subdivision Ordinance Section 2-1, which states, "The Planning Commission is appointed to be the Town Council's agent...the Planning Commission may delegate this authority to the subdivision agent." Suggested change is considered best practice to simplify administration and streamline review processes.

⁴ Editor's Note: This section includes content from existing Subdivision Ordinance Section 2-1, reorganized with additional language for compliance with Code of Virginia.

- (1) Administer and enforce the Subdivision regulations of this Ordinance;
- (2) Accept and process applications, including reviewing and certifying plats, for conformance with this Ordinance;
- (3) Forward plats for review, comment, and approval to the appropriate departments, boards, and state agencies;
- (4) Keep records of all applications; appeals; and submissions and subsequent actions; and
- (5) Conduct inspections of subdivision improvements for compliance with the approved subdivision and construction plans.

Division 2. Planning Commission.

Section 2-2-1. Appointment; Terms; Membership; Compensation; Removal.

A Planning Commission shall be created and organized pursuant to the Code of Virginia, § 15.2-2203 and § 15.2-2210 - 2213, et seq., as amended, and Code of the Town of Rocky Mount, **Article 3 – Planning and Zoning Commission**.

Section 2-2-2. Powers and Duties.

General Powers and Duties.: The Planning Commission shall have the functions, powers, and duties pursuant to the Code of Virginia, § 15.2-2221 and § 15.2-2230, et seq, § 15.2-2285, and § 15.2-2223 et seq., as amended.

Section 2-2-3. Meetings and Procedures.⁵

- (A) The Planning Commission shall conduct meetings and public hearings pursuant to the Code of Virginia § 15.2-2214-2217, as amended.
- (B) The Planning Commission shall fix the time for holding regular meetings and shall meet at least once per year.
- (C) The Planning Commission, by resolution adopted at a regular meeting, may also fix the day or days to which any meeting shall be continued if the chairperson, or vice-chairperson if the chairperson is unable to act, finds and declares that weather or other conditions are such that it is hazardous for members to attend the meeting.
 - (1) Such finding shall be communicated to the members and the press as promptly as possible.
 - (2) All hearings and other matters previously advertised for such meeting shall be conducted at the continued meeting and no further advertisement is required.
 - (3) A copy of such resolution shall be provided in a newspaper having general circulation in the Town of Rocky Mount, at least 7 days prior to the first meeting held pursuant to the adopted schedule.

⁵ Editor's Note: Proposed new section as provided for by Code of Virginia § 15.2-2214.

- (D) Special meetings of the Planning Commission may be called by the chairperson or by 2 members upon written request to the secretary. The secretary shall mail to all members, at least 5 days in advance of a special meeting, a written notice fixing the time and place of the meeting and the purpose thereof.
 - (1) Written notice of a special meeting is not required if the time of the special meeting has been fixed at a regular meeting, or if all members are present at the special meeting or file a written waiver of notice.
- (E) A majority of the members shall constitute a quorum and no action of the Planning Commission shall be valid unless authorized by a majority vote of those present and voting.
- (F) The Town Council may provide the Planning Commission with facilities for the holding of meetings and the preservation of plans, maps, documents and accounts, and may appropriate funds needed to defray the expenses of the Planning Commission.
- (G) The Planning Commission shall choose annually its own chairperson and vice-chairperson.
- (H) If authorized by the Town Council, the Planning Commission may:
 - (1) Create and fill such other offices as it deems necessary;
 - (2) Appoint such employees and staff as it deems necessary for its work; and
 - (3) Contract with consultants for such services as it requires.
- (I) The Planning Commission shall adopt rules for the transaction of business and shall keep a record of its transactions which shall be a public record.
- (J) Upon request of the Planning Commission, the Town Council or other public officials may, from time to time, for the purpose of special surveys under the direction of the Planning Commission, assign or detail to it any members of the staffs of Town administrative departments, or such Town Council or other public official may direct any such department employee to make for the Planning Commission special surveys or studies requested by the Planning Commission.

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

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

Division 3. Board of Zoning Appeals.⁶

Section 2-3-1. Appointment⁷; Terms; Membership; Compensation; Removal.

- (A) Pursuant to the Code of Virginia, § 15.2-2308, et seq., as amended, a Board of Zoning Appeals (BZA) shall be created and organized as follows:
- (1) A BZA consisting of 5 members shall be appointed by the circuit court.
 - (2) The term of office shall be for 5 years. Appointments for vacancies occurring otherwise than by expiration of term shall in all cases be for the unexpired term.
 - (3) The secretary of the BZA shall notify the court at least 30 days in advance of the expiration or a term of office, or promptly if a vacancy occurs. A member whose term expires shall continue to serve until the successor is appointed and qualifies.
 - (4) Members of the BZA may be reappointed to succeed themselves but may hold no other public office in the Town of Rocky Mount; except that 1 member may be a member of the Planning Commission and any member may be appointed to serve as an officer of election as defined in Code of Virginia § 24.2-101, as amended.
 - (5) Within the limits of funds appropriated by the Town Council, the BZA may employ or contract for secretaries, clerks, legal counsel, consultants, and other technical and clerical services.
 - (6) 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' notice⁸.

Section 2-3-2. Powers and Duties.⁹

- (A) Pursuant to the Code of Virginia § 15.2-2309, as amended, the BZA shall have the following powers and duties after required notice and hearing as provided in the Code of Virginia § 15.2-2204, as amended:
- (1) **Appeals.** 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 9**.
 - (2) **Variance¹⁰.** To authorize upon appeal or original application a variance, as defined in the Code of Virginia § 15.2-2201, as amended, from the terms of this Ordinance when the strict

⁶ Editor's Note: This Division incorporates the text found in Article 11, Sections 11-1, 11-2, and 11-3 of the existing Zoning Ordinance. Sections 11-4 through 11-6 of the existing Ordinance will be provided in Article III, Permits and Applications, of the draft Zoning Ordinance.

⁷ Editor's Note: Text for BZA appointment could incorporate Code of Virginia § 15.2-2308 by reference, rather than expounding, if desired.

⁸ Editor's Note: Addition of timeframe provided by Code of Virginia.

⁹ Editor's Note: This Section contains revised and streamlined text from Article 11 of the existing Ordinance.

¹⁰ Editor's Note: The variance requirements and procedures provided in Article 11 of the existing Ordinance will be provided in Article III, Division 5: Variances.

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 if the applicant proves through a preponderance of evidence that a literal enforcement of the provisions of this Ordinance will result in unnecessary hardship; provided that the spirit of this Ordinance shall be observed and substantial justice done. Standards and procedures for determining variances are outlined in **Article 3, Division 5**, of this Ordinance.

- (3) **Boundary Interpretations.** To hear and decide applications for interpretation of the district map where there is any uncertainty as to the location of a district boundary, only if:
- (i) The Administrator is unable to interpret boundaries, as provided in **Article 1, Division 3**, of this Ordinance; or
 - (ii) If an applicant appeals the Administrator's interpretation.
 - (iii) After notice to the owners of the property affected by any such question, and after public hearing with notice as required by the Code of Virginia § 15.2-2204, as amended, the BZA may interpret the map in such way as to carry out the intent and purpose of this Ordinance for the particular section or district in question.
- (B) The provisions of this section shall not be construed as granting the BZA the power to rezone property, substantially 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 2-3-3. Meetings and Procedures.¹¹

- (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 Chairperson or at such time as a quorum of the BZA may determine.
- (C) A quorum shall be at least 3 members. A favorable vote of 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 chairperson and vice-chairperson. The vice-chairperson shall act in the absence of the chairperson and may administer oaths and compel the attendance of witnesses.
- (E) 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 ministerial duties as the BZA shall direct. The secretary may be a salaried Town employee and shall perform the duties of secretary of the BZA in addition to their other regular duties.
- (F) 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

¹¹ Editor's Note: This section contains text from the existing Ordinance, Article 11.

examinations and other official actions, all of which shall be immediately filed in the office of the BZA and shall be public record.

- (G) All meetings of the BZA shall be open to the public.
- (H) A non-legal staff member of the Town, applicant, landowner, or landowner's agent/attorney may have ex parte 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 ex parte communications must comply with the requirements of the Code of Virginia § 15.2-2308.1, as amended.

Division 4. Enforcement¹².

Section 2-4-1. Authority.

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

Section 2-4-2. Complaints and Inspection.¹³

- (A) Any person who alleges that violation of the Ordinance has occurred may file a complaint with the Administrator or designee. Such complaint shall stipulate the cause and basis thereof and the location of the alleged violation. The Administrator or designee shall properly record the complaint, investigate the facts thereof, and take action thereon as provided by the Ordinance.
- (B) The Administrator 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 Administrator may enter upon land with an inspection warrant in accordance with the Code of Virginia § 15-2.2286(A)16, as amended.

¹² Editor's Note: This Division is mostly new content to ensure clear enforcement procedures and create full compliance with the Code of Virginia, incorporating up-to-date references where necessary. This Division also organizes enforcement, which is found in Articles 11 and 12 of the existing Zoning Ordinance, into one section of the draft Ordinance and clarifies the process for each type of penalty.

¹³ Editor's Note: Item (B) of this section is new content that includes a provision for entering land or structures that are suspect of violation, per the Code of Virginia.

Section 2-4-3. Notice of Violation¹⁴.

- (A) Upon completion of investigation and becoming aware of any violation of the provisions of this Ordinance, the Administrator 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:
 - (1) The nature of the violation;
 - (2) Date that the violation was observed;
 - (3) The remedy or remedies necessary to correct the violation;
 - (4) A reasonable time period for the correction of the violation;
 - (5) A statement informing the recipient that they may have a right to appeal the notice of zoning violation or written order within 30 days in accordance with the Code of Virginia § 15.2-2311, as amended;
 - (6) The applicable appeal fee and a reference to where additional information may be obtained regarding the filing of an appeal; and,
 - (7) That the decision shall be final and unappealable if not appealed within 30 days.
- (D) Appeals of notice of violation shall be heard by the Board of Zoning Appeals in accordance with the procedures set forth in **Article 3, Division 10**, of this Ordinance.

Section 2-4-4. Remedies and Penalties for Violation¹⁵.

- (A) Upon becoming aware of any violation and determining validity of any of the provisions of this Ordinance, the Administrator may institute appropriate action or proceedings, as permitted by law, including injunction, abatement to restrain, correction, or abatement.
- (B) The remedies provided in the penalties sections below are cumulative and not exclusive except to the extent expressly provided therein.
 - (1) **Criminal Penalties.**
 - (i) With the exception of Article 10, Subdivisions, of this Ordinance, any violation of the requirements of this Ordinance resulting in injury to a person or persons or where such civil penalties exceed \$5,000, shall be a misdemeanor, and upon conviction thereof, shall be punishable by a fine of not less than \$10 and not more than \$1,000.
 - (ii) If the violation is uncorrected at the time of conviction, the court shall order the violator to abate or remedy the violation in compliance with this Ordinance, within a time period established by the court. Failure to remove or abate such violation within the time period

¹⁴ Editor's Note: Proposed as a new Section; contains content from Article 12 of the existing Zoning Ordinance.

¹⁵ Editor's Note: This Section expands upon language from the existing Ordinance, Article 12, by reorganizing and adding clarity for the processes pursuant to the Code of Virginia § 15.2-2209.

established by the court shall constitute a separate misdemeanor offense punishable by a fine of not less than \$10 nor more than \$1,000, and any such failure during any succeeding 10-day period shall constitute a separate misdemeanor offense for each 10-day period, punishable by a fine of not less than \$100 nor more than \$1,500.

- (2) **Civil Penalties.** Any violation other than as provided in **Section 2-4-4 (B) (1)**, above, for criminal penalties, shall be subject to the following civil penalties, as provided in Code of Virginia § 15.2-2209, as amended, and subject to the following:
- (i) **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 Administrator or Agent issuing a ticket.
 - (ii) **Civil summons or ticket.** A civil summons or ticket shall contain, at a minimum, the following information:
 - (a) Name and address of the person charged;
 - (b) Nature of the violation and the Ordinance provisions being allegedly violated;
 - (c) Location, date and time violation occurred or was observed;
 - (d) Amount of the civil penalty for the violation; and
 - (e) Right of the recipient to elect to either pay the penalty or stand trial for the violation and the date of such trial. The summons shall state that if the person elects to pay the penalty, the person must do so by making an appearance in person or in writing by mail to the Town Treasurer at least 72 hours prior to the time and date fixed for trial and, by such appearance, enters a waiver of trial and admits liability for the offence charged. The summons shall provide that a signature is an admission of liability that shall have the same force and effect as a judgement of the court. However, such admission shall not be deemed a criminal conviction for any purpose.
 - (iii) **Failure to Enter Waiver.** If a person charged with a violation does not elect to enter a waiver of trial and admit liability, the violation shall be tried in the general district court in the same manner and with the same right of appeal as provided by law or equity and it shall be the Town's burden to provide the violator's liability by a preponderance of the evidence. A finding of liability shall not be deemed a criminal conviction for any purpose.
 - (iv) **Fines.**
 - (a) **Amount of Civil Penalty**¹⁶. A civil violation shall be subject to a civil penalty of \$200 for the initial summons, and a civil penalty of \$500 for each additional summons arising from the same set of operative facts.

¹⁶ Editor's Note: The existing Ordinance's civil penalty amounts are lower than what is provided in the Code of Virginia. Propose increasing these fines, as shown here, to align with Code.

- (b) **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 10-day period.
- (c) **Maximum Aggregate Penalty.** The total civil penalties from a series of violations arising from the same set of operative facts shall not exceed \$5,000¹⁷. If the violations exceed the \$5,000 limit, the violation may be prosecuted as a criminal misdemeanor as outlined above.

Division 5. Fees.¹⁸

Section 2-5-1. Fees and Charges.¹⁹

- (A) The Town Council shall establish, by Ordinance, a schedule of fees, charges and expenses, and collection procedures for Zoning Permits, Conditional Use Permits, variances, appeals, amendments, site plan reviews, and other matters pertaining to this Ordinance.
- (B) The schedule of fees shall be available for inspection in the office of the Administrator and may be altered or amended by the Town Council by Ordinance amendment, as directed in Code of Virginia § 15.2-107, as amended.

Division 6. Taxes and Expenses Paid²⁰.

Section 2-6-1. Delinquent Taxes and Charges.

- (A) Pursuant to the Code of Virginia § 15.2-2286 (B), as amended, prior to the initiation of an application or appeal, the applicant shall produce satisfactory evidence that any delinquent real estate taxes, nuisance charges, stormwater management utility fees, and any other charges that constitute a lien on the subject property that are owed to the Town, have been paid in full, unless otherwise authorized by the Town Treasurer.
 - (1) The above provision applies only to the property or properties for which the application is attached.
 - (2) If an applicant is the renter of a subject property and said property has associated unpaid taxes and fees owed to the Town, the property owner(s) shall be responsible for paying those balances in full.

¹⁷ Editor's Note: The existing Ordinance's maximum aggregate penalty amount is lower than what is provided in the Code of Virginia. Propose increasing these fines, and shown here, to align with Code.

¹⁸ Editor's Note: This Division includes content from the existing Zoning Ordinance, Article 5-7.

¹⁹ Editor's Note: Suggest that all fees associated with the Ordinance are adopted by an Ordinance outside of the Zoning and Subdivision Ordinance, as outlined here. This will ease the burden of completing Zoning Ordinance amendments each time a fee is changed.

²⁰ Editor's Note: This is proposed as a new section of the Ordinance. Code of Virginia § 15.2-2286 (B) is an optional provision that allows the Town to require a property owner to provide satisfactory evidence that any delinquent charges or fees have been paid in full. It is recommended that the Town of Rocky Mount incorporate this optional provision as a best practice.

ATTACHMENT D

ARTICLE 3. – Permits and Applications.

Division 1. In General.¹

Section 3-1-1. Preapplication Meeting².

Prior to the submittal of an application for a Special Exception, Zoning Text and/or Map Amendment (rezoning), Conditional Zoning, or a Site Plan, a preapplication meeting must be held between the applicant and the Administrator, unless otherwise waived by the Administrator. During this meeting the applicant may submit a Concept Plan for preliminary review, comment, and recommendation by the Administrator.

Section 3-1-2. Minimum Submission Standards.

(A) The Administrator shall establish minimum standards for submission requirements of all applications associated with the Zoning and Subdivision Ordinance.

(1) Applications shall contain all information required to prove compliance with the minimum standards of the Ordinance, including, but not limited to:

- (i) Written description of request and grounds for requesting; and
- (ii) Applicable district, use, and community design standards.

(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.

Section 3-1-3. Forms.

Applications or applications for Amendments (to the Ordinance or Official Zoning Map), Site Plans, Variances, Special Exception Permits, or Zoning Permits, and any other request requiring action shall be made on forms provided by the Town.

Section 3-1-4. Ownership and Interests Disclosures.

An applicant must 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

¹ Editor's Note: This Division consolidates several sections from Article 5 of the existing Ordinance for better organization of items that are required with all permits. Additionally, Code of Virginia references and best practice items have been added.

² Editor's Note: Proposed new section that would require a preapplication meeting for all Special Exceptions, text or map amendments (rezonings), conditional zonings, and site plans.

any case the names and addresses of all of the real parties of interest in accordance with the Code of Virginia § 15.2-2289, as amended.

(A) Pursuant to the Code of Virginia § 15.2-2287³, as amended, petitions brought by property owners, contract purchasers, or their agents, 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:

- (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.

Section 3-1-5. Oath Required.

Applications or applications for amendments to the Zoning Ordinance, Official Zoning Map, Variances, or Special Exception Permits, shall be sworn to under oath before a notary public, or other official before whom oaths may be taken.

Division 2. Zoning Text and Map Amendments.⁴

Section 3-2-1. In General.

Pursuant to the Code of Virginia § 15.2-2286 (7), as amended, whenever public necessity, convenience, general welfare, or good zoning practice requires, the Town Council 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) **Initiation of change.** Pursuant to the Code of Virginia § 15.2-2286 (7), as amended, any amendment to this Ordinance or the Zoning Map may be initiated by:

- (1) Resolution of the Town Council;
- (2) Resolution of the Planning Commission; or
- (3) Application of the owner, contract purchaser with the owner's written consent, or the owner's agent therefor, of the property which is the subject of the proposed Zoning Map Amendment (rezoning), addressed to the Town Council or Town of Rocky Mount Planning Commission, who shall forward such application to the Town Council.

³ Editor's Note: This item expands upon existing Zoning Ordinance, Article 11-1-4. This provision is optional in the Code of Virginia and is being included here as a best practice for transparency in application review.

⁴ Editor's Note: This Division incorporates text found within Articles 5 and 13 of the existing Ordinance, as well as Code of Virginia language.

(B) **Zoning Map Amendments.** An application for a Zoning Map Amendment shall be made to the Zoning Administrator on forms provided by the Town. Applications for Zoning Map Amendments, including Conditional Zoning requests, shall be accompanied by a Concept Plan.

(1) The Concept Plan may be general and schematic and shall show:⁵

- (i) A certified plat of the subject property showing metes and bounds of all property lines, existing streets, and subdivisions – with reference to a recorded subdivision plat or the Town’s tax map.
- (ii) The names and addresses, as shown on the current real estate tax assessment books, of property owners abutting the property or owners located across the road/street.
- (iii) Proposed land uses to be developed.
- (iv) 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.
- (v) 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.
- (vi) If any, the general location of proposed open space and recreational areas.
- (vii) If any, the general location and type of commercial uses to be developed.
- (viii) The general location and character of the proposed roads, pedestrian circulation, trails, public utility, and storm drainage systems.
- (ix) A statement on the proposed development schedule.
- (x) A written analysis of the public facilities, roadway improvements, and public utilities that will be required to serve the development.
- (xi) A written description of the nature and extent of the amendment desired and an explanation of the reasons for seeking a change.
- (xii) Any additional information as deemed reasonably necessary by the Administrator.
- (xiii) Any rezoning request for a Residential Planned Unit Development District (RPUD), or Mixed-Use Development District (MUD)⁶ shall include:⁷
 1. A Site Plan, in accordance with Division 6, Site Plans, of this Article.
 2. A general statement of planning objectives to be achieved by the RPUD or MUD, including a description of the character of the proposed development, the existing and

⁵ Editor’s Note: Propose changing the current use of “Preliminary Site Plan” to “Concept Plan.” The existing Ordinance uses the term Preliminary Site Plan for what is typically referred to as a Concept Plan. Preliminary Site Plans will be voluntary and addressed in Division 6.

⁶ Editor’s Note: If a mixed-use district is adopted with this Ordinance the final approved name for the district will be corrected here.

⁷ Editor’s Note: These items require additional information for an RPUD or MUD application.

proposed ownership of the site, the market for which the development is oriented, and intentions with regards to any specific human-made and natural characteristics located on the site.

3. General information on the trip generation, ownership, maintenance, and construction standards for proposed streets should be included.
4. A traffic impact analysis that shall be prepared in accordance with the applicable Virginia Department of Transportation (VDOT) standards.
5. Fiscal impact analysis information as specified by the Town.
6. Proposed deed covenants, restrictions, or other constraints to be imposed upon the purchasers of such properties.

(C) **Zoning Text Amendments.** Zoning Text Amendments may be initiated by resolution of Town Council.⁸ Any Town resident may request the Council to initiate a Zoning Text Amendment.

(D) **Standards for Review.**

- (1) Once the application is submitted in accordance with Division 1 of this Article and has been determined to be complete, the Town 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 Zoning Map, to the Town Council for public hearing and action. No recommendation or action shall be rendered until public notifications and hearings have been conducted in accordance with Division 10 of this Article and the Code of Virginia.
- (3) The Planning Commission shall advise the Town Council of their recommendation within 100 days⁹ from its first meeting following the referral of the application. 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 Town Council shall thereafter take any action it deems appropriate, unless the applicant requests an extension¹⁰ 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 months¹¹ unless the applicant requests or consents to

⁸ Editor's Note: As per discussion with staff, this item codifies the current process that Rocky Mount employs.

⁹ Editor's Note: Proposed addition of the Code of Virginia timeframe for automatic approval if the Planning Commission does not reach a decision within 100 days.

¹⁰ Editor's Note: This provision is a recommended best practice to allow more time if a complex case would benefit from additional time.

¹¹ Editor's Note: Proposed addition of the Code of Virginia timeframe for reaching a decision on a proposed Zoning Amendment.

action beyond such period or unless the applicant withdraws their motion, resolution, or application for amendment to the Zoning Ordinance or Map, or both; otherwise, the amendment shall be deemed approved. 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) The Administrator shall cause the Zoning Map to be updated as frequently as necessary to ensure that zoning data shown thereon are both accurate and current. Accordingly, all changes affecting the Zoning Map that are approved by the Town Council shall be entered onto the official Zoning Map within 60 days¹² following the approval of such changes. After updating sections of the Zoning Map, working prints of any updated section thereof upon which modifications have been made shall be inserted into all sets of the Zoning Maps that are used for public viewing and administration.

Section 3-2-3. Reconsiderations.

- (A) Applications requesting an amendment, supplement, or change to the Zoning Ordinance or Zoning Map:
- (1) If denied by the Town Council, 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 Town Council to propose any amendment to this Ordinance on their motion at any time.

Division 3. Conditional Zoning and Proffers.¹³

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, as amended, reasonable conditions may be voluntarily proffered for the protection of the community when combined with existing Zoning Ordinance district regulations. The exercise of authority shall not be construed to limit or restrict powers otherwise granted nor to affect the validity of any Ordinance adopted by the locality which would be valid without regard to this Division. In addition, the provisions of this Division shall not be used for the purpose of discrimination in housing.

Section 3-3-2. Standards and Procedures.

- (A) **Proffer of conditions; standards of consideration.**
- (1) Any owner of property or their agent making an application for a change in zoning or Zoning Map Amendment may, as part of the application (outlined in **Division 3 of this Article**),

¹² Editor's Note: This timeframe is a recommended best practice.

¹³ Editor's Note: This Division includes text from Article 5-1-10 of the existing Ordinance; that text has been combined into this Division, along with Code of Virginia language.

voluntarily proffer in writing reasonable conditions which shall apply to the subject property in addition to the regulations provided by the Zoning District sought in the rezoning application. Any such proffered conditions must:

- (i) Be made in writing as directed by the Town Attorney prior to any public hearing before the Town Council (including joint public hearings with the Planning Commission);
 - (ii) Be in accordance with the procedures and standards contained in the Code of Virginia § 15.2-2297, as amended.
- (2) Proffered conditions shall be subject to the following limitations:¹⁴
- (i) The rezoning itself must give rise to the need for the conditions.
 - (ii) The conditions shall have a reasonable relation to the rezoning.
 - (iii) The conditions shall not include a cash contribution to the Town.
 - (iv) The conditions shall not include mandatory dedication of real or personal property for open space, parks, schools, fire departments, or other public facilities not otherwise provided for in the Zoning Ordinance of the Town of Rocky Mount.
 - (v) The conditions shall not include a requirement that the applicant create a property owners' association under the Property Owners' Association Act (§ 55.1-1800 et seq.) that includes an express further condition that members of a property owners' association pay an assessment for the maintenance of public facilities owned in fee by a public entity, including open space, parks, schools, fire departments, and other public facilities not otherwise provided for in the Code of Virginia § 15.2-2241; however, such facilities shall not include sidewalks, special street signs or markers, or special street lighting in public rights-of-way not maintained by the Virginia Department of Transportation.
 - (vi) The conditions must not include payment for, or construction of, off-site improvements except those provided for in the Code of Virginia § 15.2-2241 and § 15.2-2303.4.
 - (vii) No condition shall be proffered that is not related to the physical development or physical operation of the property.
 - (viii) The conditions shall be in accordance with the Town of Rocky Mount Comprehensive Plan.
- (3) At the time each proffer is submitted to the Town, it shall be accompanied by a statement signed by the applicant and the owner or their agents which states: ¹⁵

¹⁴ Editor's Note: This list is modified from the existing Ordinance, Article 5-1-10 1, to match Code of Virginia § 15.2-2297. Item 5-1-10 1(i) of the existing Ordinance was eliminated pursuant to § 15.2-2297, which requires voluntary proffering by the owner; a locality cannot require certain proffers.

¹⁵ Editor's Note: Signed statements are included as a best practice.

- (i) “Each proffer made in connection with this application for rezoning was made voluntarily and complies with applicable law. No agent of the Town has suggested or demanded a proffer that is unreasonable under applicable law.”
- (ii) “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.”
- (4) Each application for rezoning which proposes proffered conditions to be applied to the property shall be accompanied by the following items beyond those required by conventional rezoning requests:
 - (i) An impact analysis demonstrating justification of proposed proffers.
 - (ii) A statement describing the nature of the proposed development and explaining the relationship of the development to the Comprehensive Plan.
 - (iii) 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.
 - (iv) A statement detailing any special amenities that are proposed.
 - (v) 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.
 - (vi) A Concept Plan, as detailed in Section 3-2-2 (B), listing and detailing the nature and location of any proffered conditions and those proposed circumstances which prompted the proffering of such conditions.
 - (vii) A statement setting forth the proposed approximate development schedule.

Section 3-3-3. Amendments and Variations Prior to Final Decision.¹⁶

(A) The Town Council may accept amended proffers 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 Town Council on the rezoning request.
- (2) If the Town Council 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.

¹⁶ Editor’s Note: This Section expands upon and clarifies existing Ordinance Article 5-1-10 5 regarding amendments to proffers.

Section 3-3-4. Effect of Condition; 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 Town Council shall remain in full force and effect until amended or varied by the Town Council.
 - (1) If the Town Council 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.

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

Section 3-3-6. Reconsiderations.

- (A) Applications requesting an amendment or change to the Zoning Map that include proffered conditions:¹⁷
 - (1) If denied by the Town Council, then such application, or one substantially similar, shall not be reconsidered sooner than 12 months after the denial.
- (B) The limits on reconsideration shall not impair the right of either the Planning Commission or the Town Council to propose any amendment to this Ordinance on their motion at any time.

Division 4. Special Exceptions.¹⁸

Section 3-4-1. Purpose and Intent.

A use requiring a Special Exception Permit is a conditional 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 Exception Permits that provide for such special consideration.

¹⁷ Editor's Note: This section is streamlined from the existing Ordinance, Article 13-1-4. Rocky Mount should consider whether to include the exception for changed conditions as provided for in 13-1-4.

¹⁸ Editor's Note: This Division includes text from Article 5-4 of the existing Ordinance; that text has been combined into this Division, along with Code of Virginia language.

Section 3-4-2. Applicability.¹⁹

In accordance with Code of Virginia § 15.2-2286, as amended, a Special Exception Permit is required for the development of any use designated in **Article 6, Use Matrix**, as a use requiring a Special Exception Permit in accordance with this Section.

Section 3-4-3. Standards and Procedures²⁰.

(A) In addition to the general application requirements supplied in **Division 1 of this Article**, the applicant must provide information and data to:

- (1) Demonstrate that the proposed use, when complemented with additional measures, if any, will be in harmony with this Ordinance and with the purposes of the specific Zoning 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 tend to create congestion in streets, roads, alleys, and other areas; and
- (4) Show that the proposal meets the applicable specific and general standards required by this Ordinance.

(B) **Concept Plan.**²¹ Applications for Special Exceptions shall be accompanied by **X²²** paper copies and 1 digital copy of a Concept Plan. 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.
- (2) Proposed land uses to be developed.
- (3) 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.
- (4) 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.
- (5) If any, the general location of proposed open space and recreational areas.
- (6) If any, the general location and type of commercial uses to be developed.

¹⁹ Editor's Note: Proposed as new text.

²⁰ Editor's Note: This section has been drafted in such a way to streamline the content found in Article 5 of the existing Ordinance.

²¹ Editor's Note: Proposed change to require a Concept Plan in lieu of a Site Plan, to reduce the cost burden and timeline for applicants to help encourage business development. Additionally, the desire for simplified processes was heard in public engagement. The Town should state the required number of copies.

²² Editor's Note: Rocky Mount should state how many copies they want to require.

- (7) The general location and character of the proposed roads, pedestrian circulation, trails, public utility, and storm drainage systems.
- (8) A statement on the proposed development schedule.
- (9) A written analysis of the public facilities, roadway improvements, and public utilities that will be required to serve the development.
- (10) Any additional information as deemed reasonably necessary by the Administrator, such as a Traffic Impact Analysis.

(C) Standards for Review.

- (1) The Administrator shall review any Special Exception Permit application for its compliance with this Ordinance and to determine if it is complete.
 - (i) If the application is not complete, then the Administrator shall notify the applicant in writing of the materials that must be submitted to complete the application.
- (2) When determined to be complete, the Administrator shall provide the application to the Planning Commission, along with a staff report that analyzes and makes a recommendation on the application.
 - (i) The Planning Commission shall hold a public hearing after notice in accordance with **Division 11 of this Article** and make a recommendation on the application, within 30 days after a public hearing is held, to Town Council, including recommendations of such changes and conditions as it might deem appropriate.²³
- (3) The Town Council shall hold a public hearing after notice in accordance with **Division 11 of this Article**, and make a final decision on the application, including making appropriate changes to the application and imposition of conditions in accordance with Code of Virginia § 15.2-2286.
- (4) If an applicant seeks both an amendment to the Zoning Ordinance and a Special Exception 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 conditional use not previously permitted by the terms of this Ordinance.

Section 3-4-4. Effect of Decision; Period of Validity²⁴.

- (A) A Special Exception 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) A Special Exception Permit, including any approved plans and conditions, shall run with the land and shall not be affected by a change in ownership, but shall expire as provided in (D) below.

²³ Editor's Note: The 30-day requirement is from the existing Ordinance, Article 5-4-2 (4).

²⁴ Editor's Note: Proposed as a new section to address several effects of the permit approval. These timeframes can be adjusted, or overall omitted, if desired.

- (C) Unless otherwise specified in this Ordinance or specified as a condition of approval, the height limits, setbacks, lot area, sign requirements, and other specified standards shall be the same as for other uses in the Zoning District in which the Special Exception is located.
- (D) A Special Exception Permit shall expire upon the first to occur of the following:
 - (1) If the applicant does not obtain Site Plan approval or commence the use granted by the Special Exception Permit within 1 year (or such longer time as the governing body may approve) from the date of the approval;
 - (2) If an activity operating under an approved Special Exception Permit ceases for a period greater than 2 years; or
 - (3) Upon expiration of a Site Plan for the use granted by the Special Exception Permit.

Section 3-4-5. Revocations.

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

Section 3-4-6. Reconsiderations.

- (A) If a request for a Special Exception Permit is denied by the Town Council, then such application, or one substantially similar, shall not be reconsidered sooner than 12 months after the previous denial.
- (B) The limits on reconsideration shall not impair the right of either the Planning Commission or the Town Council to propose any amendment to this Ordinance on their motion at any time.

Division 5. Variances.

Section 3-5-1. Purpose and Intent.²⁵

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

Section 3-5-2. Standards and Procedures.

(A) Authority.

- (1) Pursuant to the Code of Virginia § 15.2-2309 (2) and (6), as amended, the BZA is authorized to review applications for a variance, if the applicant proves the burden and provides evidence

²⁵ Editor's Note: New Section for the purpose of variances.

that the application meets the standard for a variance and the criteria set out in this Ordinance.

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

(B) Standards for Review.²⁶

- (1) After application is made as required in **Division 1 of this Article**, the Administrator shall review the application for compliance with this Ordinance.
- (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), as amended, 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:
 - (i) 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;
 - (ii) The granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area;
 - (iii) That such hardship is not shared generally by other properties and could be resolved with an amendment to this Ordinance;
 - (iv) 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
 - (v) The relief or remedy sought by the variance application is not available through the process for a Special Exception process that is authorized in the Ordinance pursuant to Code of Virginia § 15.2-2309(6), as amended, at the time of the filing of the variance application.
- (4) 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

²⁶ Editor's Note: Items (4) and (5) have been added to reflect Code of Virginia requirements regarding variances that pertain to individuals with a disability.

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.

- (5) 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 modification 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.²⁷

- (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 (B)(4), 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 Town. 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 1 year for good cause shown.

Section 3-5-4. Reconsiderations.

If denied by the BZA, then such application, or one substantially similar, shall not be reconsidered sooner than 12 months after the previous denial.²⁸

Division 6. Site Plans.²⁹

Section 3-6-1. Definition.

The use of the term "Site Plan" may mean "Major Site Plan" or "Minor Site Plan," as applied in Section 3-6-3, below, and defined within this Ordinance.

Section 3-6-2. Purpose and Intent.

- (A) The purpose of this section is to promote the orderly development of certain activities in the Town 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

²⁷ Editor's Note: Proposed as a new section.

²⁸ Editor's Note: This item streamlines provisions from the existing Ordinance Article 11-2-2.

²⁹ Editor's Note: The existing Ordinance's Article 9 provisions for Site Plans have been incorporated in this Division. Additional text is added and the process for review of Site Plans has been streamlined.

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.
- (B) The Administrator may waive any of the requirements for a Site Plan upon a determination that the information or format is not necessary to evaluate the merits of the application, compliance with this Ordinance, and is in keeping with the intent of this Division and Ordinance.

Section 3-6-3. Applicability³⁰.

(A) **General.**

- (1) Pursuant to Code of Virginia, § 15.2-2286. A.8, as amended, the following development in the Town requires approval of a Site Plan in accordance with the procedures and standards in this Division prior to the issuance of a Zoning Permit, Building Permit, or Certificate of Occupancy, or any land disturbance permits:
 - (i) Multi-family developments.
 - (ii) Commercial uses.
 - (iii) Industrial uses.
 - (iv) Uses approved by Special Exceptions.
 - (v) Previously approved Concept Plans.
 - (vi) Changes in use that require additional off-street parking or changes to exterior elements of a previously approved Site Plan.
- (2) The Administrator may waive the requirement for a Site Plan, or allow a hand drawn sketch for certain uses, upon a determination that the information is not necessary to evaluate the merits of the application and compliance with this Ordinance, including but not limited to:³¹
 - (i) Wayside stands.
 - (ii) Temporary uses.
 - (iii) Signs.

³⁰ Editor's Note: This section includes provisions from existing Ordinance Articles 9 and 10 and the introduction of major and minor site plans which are currently done in practice but not codified in the existing ordinance.

³¹ Editor's Note: This list was excerpted from the list of uses requiring an Administrative Site Plan provided by staff.

- (iv) Accessibility/ADA improvements totaling less than 2,500 sq. ft.
 - (v) Any nonresidential change of use within an existing structure that results in no land disturbance or additional site improvements.
- (B) **Type of Site Plan Required.**³² Site Plans are either a Minor Site Plan or a Major Site Plan, as specified below.
 - (1) **Minor Site Plans.**
 - (i) A Minor Site Plan is required for:³³
 - 1. Single-family dwellings;
 - 2. Two-family dwellings;
 - 3. Manufactured homes;
 - 4. Any accessory use to the above principal uses;
 - 5. Accessibility/ADA improvements which total 2,500 sq. ft. or more; and
 - 6. Any project which results in a total land disturbance of 2,500 sq. ft. or less.
 - (2) **Major Site Plans.**
 - (i) A Major Site Plan is required for:
 - 1. Multi-family developments;
 - 2. Industrial uses;
 - 3. Commercial uses;
 - 4. A project with a total land disturbance greater than 2,500 sq. ft.;
 - 5. Uses approved by Special Exceptions; and
 - 6. Previously approved Concept Plans.

Section 3-6-4. Site Plan Specifications, 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 1-inch equals 50 ft. or larger; no sheet shall exceed 42 inches in any dimensions.

³² Editor's Note: As a result of staff discussion this language now clarifies that Site Plans are categorized as either Minor or Major, and when each is required.

³³ Editor's Note: This list includes the list of uses requiring an Administrative Site Plan provided by Staff, except uses included in 3-6-3 (A) (2) above.

- (C) Site Plans may be prepared on one 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 sheet, match lines shall clearly indicate where the several sheets join.
- (D) When more than one 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) Profiles must be submitted on plan sheets. Special studies as required may be submitted on standard cross section paper and shall be an appropriate scale.
- (F) 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.
- (G) 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.
- (H) 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.
- (I) 6 paper and 1 digital copy of the Site Plan shall be provided to the Administrator.

Section 3-6-5. Minor Site Plan Contents.³⁴

- (A) The following elements must be shown on a Minor Site Plan, as applicable to the project:
 - (1) Project name and property owner(s) name(s) and address(es);
 - (2) A description of the use and development along with the zoning classification;
 - (3) Property lines;
 - (4) Tax parcel number;
 - (5) Acreage of the lot, scale, and north arrow;
 - (6) The location, dimensions, height, and proposed setbacks from property lines and from bodies of water for all existing and proposed buildings and structures;
 - (7) Existing and proposed driveways, vehicle access, and parking areas;
 - (8) The location of streams and bodies of water;
 - (9) Modifications to existing drainageways;
 - (10) Installation or modification of a stormwater best management practice (BMP);
 - (11) Compliance with any proffers, variances, and/or Town-imposed conditions; and
 - (12) All public and private rights-of-way, including easements, their names, and widths.

³⁴ **Editor's Note:** This section is new text and includes the checklist for an Administrative Site Plan provided by Staff.

- (13) All information to show compliance with applicable community design requirements as required in **Article 8, Community Design Standards**, of this Ordinance.

Section 3-6-6. Major Site Plan Contents.³⁵

- (A) A Major Site Plan shall include the following, unless the Administrator determines that some of the following information is unnecessary due to the scope and nature of the development proposed:
- (1) All elements required for a Minor Site Plan, as stated in **Section 3-6-5**, above.
 - (2) A title page, in addition to the Minor Site Plan requirements shall contain the following:
 - (i) The name, mailing and emailing address³⁶, phone number, signature, seal, and registration number of the plan preparer, and the preparation date of the plan;
 - (ii) A 4-inch x 4-inch blank space to serve as the signature panel for the approving authority;
 - (iii) The north point, scale, and vicinity map;
 - (iv) A table (with computations) estimating the lot coverage ratio and impervious surface ratio; and
 - (v) A table (with computations) stating the total number of dwelling, commercial, or industrial units of various types in the project and the overall project density in dwelling, commercial, or industrial units per gross acre.
 - (vi) A table (with computations) stating the total number of acres in the project and the percentage and acreage thereof proposed to be allocated to the several dwelling types, any nonresidential uses, off-street parking, green areas, streets, parks, schools, and other reservations.
 - (3) Plan sheets containing the following, in addition to elements required for a Minor Site Plan:
 - (i) A legend for all symbols shown on the plan.
 - (ii) Existing zoning and Zoning District boundaries, including overlay districts, on the property to be developed and on immediately adjacent properties.
 - (iii) Proposed building use type, major excavations, and the total square footage of the floor area by proposed use.
 - (iv) Topography of the project area with contour intervals of 2 ft. or less. Where the existing slope is less than 2%, either one-foot contours and/or spot elevations where necessary but not more than 50 feet (horizontally) apart in any direction.
 - (v) The proposed traffic circulation pattern including the location and width of all access points, roads, streets, alleys, driveways, pedestrian paths, cycling or bridle path systems and the relationship of internal traffic to external roads;

³⁵ Editor's Note: This section modifies the existing site plan checklist with best practice and State code requirements.

³⁶ Editor's Note: *As a result of staff comments and/or PC 1/25 worksession: text has been added to also require email addresses for Site Plan applicants.*

- (vi) The estimated daily vehicular trips generated by the proposed development on each road segment shown on the plan;
- (vii) Typical roadway pavement and design section for all proposed streets, roads, and driveways including curbs and gutters, and all curb cuts;
- (viii) The proposed and required off-street parking and loading areas, including parking and access for the handicapped as specified in the Virginia Uniform Statewide Building Code, as amended;
- (ix) Points of connection to public water and sewer;
- (x) The location of proposed method of supply of adequate electric power; police, fire and rescue protection;
- (xi) The location and size of sanitary and storm sewers, water mains, sewer lines, fire hydrants, gas, telephone, electric and other utility lines, culverts, and other underground structures in or affecting the project, including existing and proposed facilities and easements for these facilities. In the case of Town- or County-owned utilities, such information shall be provided to the applicant by the applicable department.
- (xii) A table estimating the daily public water usage and sewage flow attributable to the proposed development in gallons per day, including the timing of any necessary connections;
- (xiii) Location and general design of outdoor lighting;
- (xiv) A landscape plan showing the location, dimensions, and material descriptions of all existing and proposed screens, buffer yards, or landscaping. The plan shall include the location, height, type, and material of all fences, walls, screen planting, and landscape details of all buildings and grounds;
- (xv) The location of all trees existing on the site prior to construction with a caliper of 8 inches or greater. The Site Plan shall show wooded areas which shall be designated by symbols coincident with the area of trees and an indication of which trees are to be retained and which are to be removed;
- (xvi) The proposed nature and manner of grading the site, including proposed treatment of slopes more than 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 by Franklin County. In all other cases, soil erosion control measures shall be shown on the Site Plan;
- (xvii) The location and screening materials for dumpsters or other outdoor trash receptacles;
- (xviii) The location and dimensions of proposed recreation areas, open spaces, recreation facilities, and other amenities and improvements, including a statement of whether such open areas are to be dedicated to the public;
- (xix) The location of any grave, object, or structure marking a place of burial;

- (xx) The location of any known historic building or feature;
- (xxi) The approximate limit of any floodplain limits, any drainage district, or mapped dam break inundation zone;
- (xxii) A plan or report indicating the extent, timing, and estimated cost of all off-site improvements, such as roads, sewer, and drainage facilities deemed necessary to construct the proposed development, and the extent, timing, and estimated cost of all facilities deemed necessary to serve the development such as schools, libraries, and police substations. This plan or report shall relate to the sequence of the development schedule if the development is to be constructed in stages or units;
- (xxiii) Documentation of all existing permits and applications relevant to the parcel, including, but not limited to: all existing Zoning Permits and zoning applications; applications for rezoning, Special Exception Permits, and zoning variances;
- (xxiv) A copy of all covenants, restrictions, and conditions pertaining to the use, maintenance, and operation of all open space areas, and bylaws of a Homeowner's Association if applicable; and
- (xxv) Any additional information as required by the Administrator necessary to evaluate the character and impact of the proposed project.

Section 3-6-7. Standards and Improvements³⁷.

- (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 Town of Rocky Mount.
- (B) **Specifications.** In cases where specifications have been established by the Rocky Mount Town Council, this Ordinance, VDOT, or other State or Federal agency, for related facilities and utilities, including but not limited to, streets, sidewalks, streetlights, drainage, and landscaping, such specifications shall be followed. The most restrictive specifications will prevail.
- (C) **Performance Bond.** After a Site Plan has been approved, and before any construction or land disturbance can occur, the developer shall furnish to the Town 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.

³⁷ Editor's Note: Proposed as a new Section to detail the standards and processes for required improvements, if part of a Site Plan. Includes items from existing Ordinance Article 10-2.

- (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 Town Council.
- (4) If such performance bond contains an expiration date, provisions shall be made for the extension thereof if all improvements have not been completed 30 days prior to the expiration date.
- (5) The performance bond or other appropriate security shall not be released until construction has been inspected and accepted by the Administrator and by other departments or agencies, where appropriate.

(D) **Security for construction of public improvements.**³⁸

- (1) **Time of performance.** The period within which improvements or installations shall be completed and inspected for acceptance shall be specified in the public improvements agreement. Unless otherwise provided by the agent, the period shall not exceed 1 year from the date of final Site Plan approval. In approving the time of performance of the public improvements agreement, the Administrator shall require a report containing the following information from the developer:
 - (i) Percent of public improvements already completed, and
 - (ii) Rate of construction activity including the estimated completion date for each major feature (roads, sewer, water, lights, etc.) remaining to be completed.
 - (iii) The Administrator shall not approve a public improvements agreement that the improvements or installations covered by the agreement cannot reasonably be expected to be completed by the deadline established therein.
- (2) **Form of security.**
 - (i) The following guarantee options are available to the developer to provide to the Town for acceptance by the Agent or Town Attorney:
 - 1. **Performance Bond.** A performance bond shall be executed by a surety company licensed to do business in the Commonwealth of Virginia.
 - 2. **Letter of Credit.** A letter of credit shall be executed by a bank licensed to do business in the Commonwealth of Virginia.
 - 3. **Cash Escrow.** The applicant shall provide to Rocky Mount cash or cashier's check.
- (3) As outlined in the Code of Virginia § 15.2-2245, as amended, the subdivider may apply for the periodic partial and final, complete release of any bond required under this Article.
- (4) **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 Agent for a partial release of such guarantee.

³⁸ Editor's Notes: The content in (D) is from the existing Ordinance, Article 10, and from the existing Subdivision Ordinance, Section 6.

- (i) The Agent 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.
 - (ii) The Agent 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.
 - (iii) The Agent shall act upon the written request for a partial release within 30 days of receipt.
 - (iv) If no action is taken by the Agent within the 30-day time period, the request for partial release shall be approved, and a partial release shall be granted to the developer.
 - (v) 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 Town or other agency having jurisdiction.
- (5) **Final Release.** Upon final completion of the facilities, the developer may file a written request for final release of the guarantee.
 - (i) The Agent 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.
 - (ii) The Agent 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.
 - (iii) If the Agent 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 Town Administrator.
 - (a) The Town Administrator shall act within 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.
- (6) For the purposes of this Section and as defined in the Code of Virginia § 15.2-2245, as amended, 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.
- (7) 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.
 - (i) If a periodic release is requested, the As-Built Plans and certification for that phase of the development shall be provided prior to release of that portion of the guarantee.
- (E) **Supervision and Inspections.** Inspections shall be made during the installation of on-site improvements by the Administrator or his designated representative to ensure compliance with the approved Site Plan. It shall be the responsibility of the developer to provide adequate supervision on the site during the installation of all required improvements, and to have a

responsible supervisor together with 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 Town to accept such improvements for maintenance, repair, or operation thereof. Such acceptance of each type of improvements shall be subject to the Town, County, and/or State regulations.

Section 3-6-8. Review.

- (A) **Administrative Review.**³⁹ Site Plans required under **Section 3-6-3** are subject to administrative approval by the Administrator.
- (1) The Administrator is responsible for the review, processing, and the requesting of additional agency and consultant reports relative to a Site Plan which has been submitted.
 - (2) Developers are encouraged to discuss the proposals contained in the Site Plan as submitted with the Administrator prior to official request for approval of that plan.
- (B) **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 all relevant Town or 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.
- (C) **Time Period for Approval.**
- (1) Pursuant to Code of Virginia, § 15.2-2259, as amended, Site Plans shall be approved or disapproved within 60 days⁴⁰ after it has been officially submitted and accepted for review for, if State agency review is required, within 35 days of receipt of approvals from all reviewing agencies. If disapproved, the reasons for disapproval shall be identified by reference to specific duly adopted Ordinances, regulations, or policies and shall identify, to the greatest extent practicable, modifications or corrections that will permit approval of the plan.

³⁹ Editor's Note: As an economic development friendly practice, all site plans are proposed to be administratively approved. The TC will review concept plans for rezonings and special exception permits and the subsequent site plan must conform to the approved concept plan.

⁴⁰ Editor's Note: This timeframe has been increased to comply with the Code of Virginia requirements; the existing Ordinance provides 30 days.

- (2) Pursuant to Code of Virginia, § 15.2-2259, as amended, a Site Plan that has previously been disapproved but has been modified, corrected, and resubmitted shall be acted on within 45 days⁴¹ of resubmission.

Section 3-6-9. Amendment of Site Plans⁴².

(A) Site Plan for Previously Approved Concept Plan.

- (1) If it becomes necessary for an approved Site Plan, which was a previously approved Concept Plan for a Special Exception Permit or Rezoning, 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:
- (i) Alter a recorded plat;
 - (ii) Conflict with specific requirements of this Ordinance or proffered conditions;
 - (iii) Change the general character or content of an approved Concept Plan or use;
 - (iv) Have an appreciable effect on adjoining or surrounding property;
 - (v) Result in any substantial change of external access points;
 - (vi) Increase the approved number of dwelling units or other buildings or height of buildings.
 - (vii) Decrease the minimum specified yard and open spaces or minimum and maximum specified parking and loading spaces required by Ordinance; and
 - (viii) Substantially change architectural or site design features.
- (2) Amendments not in accordance with i) through (viii) of this Section shall be considered as new Site Plans and submitted under Section 3-6-3 of this Article.

- (B) **Site Plan Not Associated with an Approved Concept Plan.** If it becomes necessary for an approved Site Plan to be changed, the Administrator may, at the applicant's request, administratively approve amendment(s) to the Site Plan if the change or amendment is in compliance with this Ordinance.

- (C) The Administrator shall review the plans for compliance with applicable development regulations and approved Concept Plans and issue final approval or denial within 45 days. The Administrator shall provide a set of all submittals to relevant agencies or departments for their review and written comments.

- (D) If the Administrator fails to act on a request for a minor amendment to the Site Plan within 45⁴³ calendar days, it shall be considered approved.

⁴¹ Editor's Note: Provision included to comply with Code of Virginia requirements.

⁴² Editor's Note: Rewritten from the existing Ordinance (Article 9-4-5), with additional text for timeframes.

⁴³ Editor's Note: This timeframe is proposed to follow the procedure for corrected Site Plans, as outlined in Code of Virginia, § 15.2-2259.

- (E) Upon final approval of the revised site development plan by the Administrator, the Administrator shall transmit an approved set of plans to the authorized project agent and retain one copy of any correspondence and plans for the Town records.

Section 3-6-10. Compliance with Approved Site Plan Required⁴⁴.

- (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) Inspections shall be made during the installation of on-site improvements by the Building Official, Public Works Director, Administrator, or a designated representative to ensure compliance with the approved Site Plan.
- (D) The owner or developer shall provide adequate supervision at the site during installation of improvements required by the site development plan and shall make one set of approved plans available at the site at all times that work is being performed. Such plans shall be available for inspection by authorized regulatory officials.
- (E) Upon the satisfactory completion of the installation of all required improvements shown on the approved Site Plan, the developer shall submit to the Town agent 2 copies of the completed As-Built Plans. Such shall be submitted at least 1 week prior to the anticipated receipt of the Certificate of Occupancy for the review and approval by the Town agent for conformity with the approved Site Plan and the ordinances and regulations of the Town and State agencies.⁴⁵
- (F) The Building Official before issuance of a Certificate of Occupancy, shall give written notice to the Administrator that the Site Plan has been completed before issuing the Certificate of Occupancy.
- (G) 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 3-6-5, above**, and upon providing of such bond with surety as agreed upon by the Administrator, a permit may be issued for the occupancy of those structures already completed.

⁴⁴ Editor's Note: This section includes text from various sections of the existing Ordinance, including Article 9-6, as well as proposed text to further ensure compliance.

⁴⁵ Editor's Note: As per staff discussion and as a recommended best practice, the requirement for As-Built Plans has been added.

Section 3-6-11. Period of Validity.

- (A) In accordance with Code of Virginia, § 15.2-2261, as amended, approval of a Site Plan submitted under the provisions of this Article shall expire 5 years⁴⁶ 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 7. Zoning Permits.⁴⁷

Section 3-7-1. Applicability.⁴⁸

- (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 Exception Permit authorizing an exception, variance, or written order from an appeal has been approved as provided by this Ordinance.
- (4) The issuance of such Zoning Permit, however, shall not afford protection to any owner who is found to be violating this or any other applicable law, ordinance, or regulation.
- (C) **Exception.** A Zoning Permit is not required for reconstruction of conforming buildings or structures which do not involve a change in structure size and use.
- (D) **Nonconforming structures and uses.** No nonconforming structure or use shall be renewed, changed, or extended until a zoning permit, pursuant to **Article 9**, Nonconformities, of this Ordinance, has been issued by the Administrator.

Section 3-7-2. Standards and Procedures.

- (A) Zoning Permit applications shall be reviewed using the procedures and minimum submission requirements established by the Administrator.
- (B) The following shall be submitted to the Administrator for review:
 - (1) Site Plans shall be submitted as required in **Division 6** of this Article.

⁴⁶ Editor's Note: This time frame has been increased to comply with the Code of Virginia; the existing Ordinance states that a Site Plan expires within one year, while Code of Virginia allows 5 years.

⁴⁷ Editor's Note: This Division includes content from the existing Ordinance, Article 5. Text has been streamlined and reworded for clarity.

⁴⁸ Editor's Note: This section includes items (A and E) from the existing Ordinance, Article 5-2. Temporary certificates are removed because there is no need to distinguish them from a zoning permit. Administration and violations of permits are covered in **Article 2** of the proposed ordinance.

- (2) When Site Plans are not required, each Zoning Permit application shall be accompanied by 2 copies of a scale drawing or plan on a plat that shows, with dimensions:⁴⁹
 - (i) Lot lines;
 - (ii) Location of buildings on the lot, including setback measurements from each property boundary;
 - (iii) Suitable notations indicating the proposed use of all land and buildings;
 - (iv) Points of connection to public water and sewer;
 - (v) Delineation of all floodplain limits;
 - (vi) Such other information as may be necessary to provide for the enforcement of these regulations; and
 - (vii) If determined necessary by the Administrator in a specific case, a boundary survey, and a staking of the lot by a competent surveyor, and complete construction plans shall be required.
 - (viii) A statement from the water and sewer superintendent that applicable regulations and requirements have been complied with.
 - (ix) A grading permit, as required by the Franklin County Erosion and Sediment Control Program.
 - (x) If a dwelling, the number of families or housekeeping units.
 - (xi) Number, size, location and lighting of signs, if any.
 - (xii) Off-street parking and other facilities.
- (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.
 - (1) 1 copy of the drawing shall be returned to the applicant with the permit. 1 copy shall be kept in the offices of the Administrator as record of the decision.
- (D) 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.

Section 3-7-3. Period of Validity.⁵⁰

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

⁴⁹ Editor's Notes: This section lists more specific requirements for the zoning permit application than the existing Ordinance, Article 5-1-4.

⁵⁰ Editor's Note: Period of Validity is proposed as per staff discussion and as a recommended best practice.

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

Division 8. Zoning Determinations.⁵¹

Section 3-8-1. Applicability.

In administering, interpreting, and enforcing this Ordinance, the 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 3-8-2. Standards and Procedures.

- (A) 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.
- (B) When the requestor is not the owner or the owner's agent of the property subject to the request, the Administrator in accordance with the Code of Virginia § 15.2-2204 (H), as amended, shall provide written notice within 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.
- (C) 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 10** of this Article.

Division 9. Appeals.

Section 3-9-1. Appeals of Zoning Administrator Determinations and Decisions.⁵²

- (A) Pursuant to the Code of Virginia § 15.2-2311, as amended, an appeal to the BZA may be taken by any person aggrieved or by any officer, department, board, or bureau of the Town affected by any decision of the 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 thirty (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.

⁵¹ Editor's Note: This Division proposes all new text. This proposed language conforms with the Code of Virginia.

⁵² Editor's Note: The existing Ordinance includes much of the text from Code of Virginia § 15.2-2311 (Article 11-4). This Ordinance includes a reference to the Code in lieu of including the full language.

- (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 3-9-2. Appeals to Board of Zoning Appeals (BZA) Procedure⁵³.

- (A) Pursuant to the Code of Virginia § 15.2-2312, as amended, procedures for submitting an appeal shall be as follows:
- (1) **Mailing Procedure.** Appeals shall be mailed from the applicant seeking appeal to the BZA in care of the Administrator, and a copy of the appeal shall be mailed to the Planning Commission. A third copy should be mailed to the individual, official, department, or agency concerned, if any.
 - (2) **Hearing.** The BZA shall fix a reasonable time for the hearing of an appeal, give public notice as outlined in **Division 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. The concurring vote of 4 members shall be necessary to reverse any order, requirement, decision, or determination of an administrative officer or to decide in favor of the applicant on any matter upon which is being heard. In any appeal, 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 3-9-3. Appeals of BZA, Planning Commission, or Town Council⁵⁴.

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

Section 3-9-4. Construction in Violation of Ordinance Without Appeal to BZA.

- (A) Pursuant to the Code of Virginia § 15.2-2313, as amended, 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.

⁵³ Editor's Note: This section reorganizes the content in Article 11-5 of the existing Ordinance.

⁵⁴ Editor's Note: This section includes minimal language and a reference to Code of Virginia § 15.2-2314, and §15.2-2285 in lieu of including the full text from Code of Virginia as it was in the existing Ordinance (Article 11-6).

- (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 3-9-5. Stay of Proceedings.

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

Division 10. Public Hearings and Notifications⁵⁵.

Section 3-10-1. Public Hearing Required.

- (A) In accordance with the Code of Virginia § 15.2-2204, as amended, the Planning Commission shall not recommend, nor shall the Town Council adopt or approve any plan, ordinance, amendment, or Special Exception 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 amended, as outlined in this Division.
- (B) The Planning Commission and Town Council 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 Town Council.
- (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, as amended.

Section 3-10-2. Advertisements and Mailings⁵⁶.

- (A) In accordance with Code of Virginia § 15.2-2204, as amended, the notice for each proposal shall provide:
- (1) The street address or tax map parcel number of the parcel(s);
 - (i) In cases where the intended action affects more than 25 parcels, the notice must include the approximate acreage subject to the intended action;
 - (ii) For more than 100 parcels, the advertisement may instead include a description of the boundaries of the area subject to the changes and a link to a map of the subject area;
 - (2) Where copies of the proposal may be examined; and

⁵⁵ Editor's Note: Proposed as a new Division to outline all matters related to public hearings and notices.

⁵⁶ Editor's Note: Items (C) (1) (vi) and (vii) are optional provisions permitted in the Code of Virginia and are considered a best practice.

- (3) The time and place of any hearing at which persons affected may appear and present their views.
- (3) Notice of public hearings shall also be published once a week for 2 successive weeks in some newspaper published or having general circulation in the Town.
 - (i) The term "2 successive weeks," as used in this subsection, shall mean that such notice shall be published at least twice in such newspaper, with not less than 6 days elapsing between the first and second publications.
 - (ii) The hearing shall be held not less than 5 days nor more than 21 days after the second advertisement shall appear in such newspaper.
- (4) Property owner notification shall be sent by the Administrator⁵⁷ a minimum of 5 days prior to any public hearing, except where a longer timing is required.
 - (i) Notifications shall be mailed to:
 - 1. The owner, owners, or their agent of the subject property;
 - 2. Persons owning any adjacent property, including property across any road, railroad right-of-way or body of water;
 - 3. 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 10 days prior to the hearing;
 - 4. 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;
 - 5. 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;
 - 6. 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
 - 7. 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.⁵⁸
- (B) The following exceptions shall apply to property owner notification requirements, as outlined in this Section:

⁵⁷ Editor's Note: § 15.2-2206 of the Code of Virginia allows a locality to require the applicant provide notice; this can be included, rather than by Administrator, if desired.

⁵⁸ Editor's Note: This optional provision allows the Town to mail one notice to the unit owners' or lessees' association in lieu of each individual unit owner.

- (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.
- (C) 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 Town shall sign an affidavit that such mailings have been made and file such affidavit with the papers in the case.
- (D) The cost of all notice requirements shall be paid by the developer/applicant in addition to any other fees involved in the application. The Town shall bill the applicant for such costs.

Section 3-10-3. Posting Notice on Property⁵⁹.

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

Section 3-10-4. 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.

⁵⁹ Editor's Note: This is a new requirement added for additional notice to the public. This is optional under the Code of Virginia and does not have to be included if not appropriate for Rocky Mount.

ATTACHMENT E

ARTICLE 9. – Nonconformities.¹

Division 1. General.

Section 9-1-1. Intent.

With the adoption of this Ordinance or subsequent amendments, there exist lots, structures, and uses 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, as amended.

Section 9-1-2. General.

- (A) Except as otherwise provided in this Ordinance, any lawful use, building, or structure existing at the time of an amendment to this Ordinance may be continued even though such use, building, or structure may not conform to this Ordinance’s provisions and shall be deemed nonconforming.
- (B) A change in occupancy or ownership shall not affect the right for the nonconforming use to continue or the nonconforming building or structure to remain.
- (C) Whenever the boundaries of a Zoning District are changed, any uses or buildings which become nonconforming as a result of such change shall become subject to the provisions of this Article.

Division 2. Nonconformities.

Section 9-2-1. Nonconforming Uses.

- (A) A legal nonconforming use may continue as it existed when it became nonconforming. A nonconforming use shall not be reconstructed, relocated, altered, or expanded in any manner, including the addition of new accessory uses, except as provided for in this Section.
 - (1) A nonconforming use may change to a conforming use.
 - (2) 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.
 - (3) No nonconforming use shall be moved in part to any portion of the land or parcel other than that occupied by such use at the effective date of adoption or amendment of this Ordinance unless said move results in decreasing the degree of nonconformity or results in conformity with the requirements for the Zoning District.

¹ Editor’s Note: Unless otherwise noted, this Article predominately retains the text from the existing Ordinance (Article 39), but the text has been streamlined and reorganized for clarity and conformance with Code of Virginia.

- (4) 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.²
- (5) No additional uses which would be prohibited generally in the Zoning District involved shall be permitted.
- (6) The land area or building footprint dedicated to a nonconforming use may be reduced in size. Whenever a nonconforming use's footprint has been reduced, such use shall not thereafter be changed to a greater footprint.
- (7) A nonconforming dwelling unit may have a home occupation subject to the requirements of Article 6, Use Matrix, and Article 7, Use Performance Standards, of this Ordinance³.
- (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 2 years, regardless of whether or not equipment or fixtures are removed, and shall be deemed abandoned.
 - (2) The nonconforming use is intentionally abandoned, regardless of the length of time that has passed.
 - (3) The structure in which a nonconforming use is carried out is removed; removal of the structure shall eliminate the nonconforming status of the land, and the nonconforming use may not continue in a new structure.
- (C) 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.
- (D) When evidence available to the Administrator is deemed to be inconclusive, whether a nonconforming use exists shall be a question of fact and shall be decided by the Board of Zoning Appeals (BZA) after public notice and hearing in accordance with Article 3, Permits and Applications, Division 11, Public Hearings, of this Ordinance, and in accordance with the rules of the BZA as provided in Article 2, Administration, Division 3, Board of Zoning Appeals, of this Ordinance⁴.

² Editor's Note: As per staff discussion and best practices, this item has been changed and clarified to allow a nonconforming use to change to a less nonconforming use only, through an administrative process rather than a Special Exception.

³ Editor's Note: Article 6, Use Matrix, will show where and how various uses are permitted. Article 7, Use Standards, will provide use standards for Home Occupations.

⁴ Editor's Note: Provision added that provides the BZA authority in determining a nonconformity if the Zoning Administrator is unable to.

Section 9-2-2. Nonconforming Lots of Record.

- (A) If a lot of record existing on or before _____ (effective date of revised Ordinance) does not meet the minimum area, length, or width standards for the Zoning District it is in, it may be used without appeal, if:⁵
- (1) An accessory structure may be built or expanded provided all setbacks, side, and rear yard requirements are met.
 - (2) A lot of record may be used provided that the side and rear setbacks can be met, and the front setback requirement shall be no greater than the average of the adjoining lots' existing structure setbacks fronting on the same street.
 - (3) A lot of record without road frontage shall meet setback requirements and there shall be a legally recorded access easement.⁶
 - (4) If the lot *cannot* meet setback and other requirements, a variance shall be obtained through the variance processes outlined in Article 3, Permits and Applications, of this Ordinance⁷.
- (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:⁸
- (1) A consolidation of the nonconforming lot with an adjacent lot;
 - (2) A boundary adjustment between 2 contiguous lots, 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;
 - (3) Merging 2 contiguous nonconforming lots to create 1 conforming lot; or
 - (4) Rezoning to a different Zoning District to meet the lot size, lot width, and lot frontage requirements of that District.

⁵ Editor's Note: Includes the language from Article 39-7 of the existing Ordinance.

⁶ Editor's Note: The requirement to meet 80% of the frontage and area (existing Ordinance 39-7) was removed to give greater flexibility for developing nonconforming lots while maintaining development patterns in historic districts and other neighborhoods.

⁷ Editor's Note: This item clarifies the process for this situation.

⁸ Editor's Note: Includes the language from Article 39-7 of the existing Ordinance.

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

- (A) The construction of a nonconforming building for which a permit was issued legally prior to the adoption of this Ordinance may proceed in accordance with Article 1, General, Division 4, Transition of Regulations After Adoption, of this Ordinance.
- (B) A nonconforming structure or nonconforming improvement may continue as it existed when it became nonconforming. A nonconforming structure or nonconforming improvement shall not be reconstructed, altered, or expanded in any manner, except as provided for in this Section.
- (C) A nonconforming building or structure shall include those circumstances where the Town 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 Town issued a certificate of occupancy; or
 - (2) The owner of the building or structure has paid real estate taxes to the Town for such building or structure for a period of more than the 15 years.
 - (3) In no instances shall the nonconforming circumstance of the structure relate, or provide nonconforming status to, a use. Nonconforming uses are established as outlined in Section 9-2-1, Nonconforming Uses, above.
- (D) No additional structure not conforming to the requirements of this Ordinance shall be erected in connection with such nonconforming uses of land.
- (E) A nonconforming structure may be changed to make it a conforming structure.
- (F) Any extension, alteration, or enlargement of a nonconforming structure shall conform with the provisions of this Ordinance, provided such extension, alteration, or enlargement does not increase the degree of nonconformity in any respect.
- (G) Any nonconforming building or structure may be brought into compliance with the Uniform Statewide Building Code without affecting the nonconforming status of the building or structure.
- (H) If a nonconforming structure is demolished or removed, no nonconforming structure shall be reestablished, except as provided under Section 9-2-4, Repairs and Maintenance, below.
- (I) No nonconforming structure shall be moved in part to any portion of the land or parcel other than that occupied by such structure at the effective date of adoption or amendment of this Ordinance unless said move results in decreasing the degree of nonconformity or results in conformity with the requirements for the Zoning District.

⁹ Editor's Note: This Section contains text from the existing Ordinance (Article 39) and has been expanded with additional text to provide more clarity and provisions for nonconforming structures, and to clearly differentiate between nonconforming structures vs. uses. These regulations can be amended, or new regulations added, if desired by the Town.

Section 9-2-4. Repairs and Maintenance.¹⁰

- (A) On any nonconforming structure or portion of a structure containing a nonconforming use, work may be done in any period of 12 consecutive months if:
- (1) Such repair constitutes routine maintenance necessary to keep the structure or improvement in the same general condition it was in when it originally became nonconforming; or
 - (2) Such repairs constitute minor alterations, cosmetic modifications, interior renovations, and similar changes.¹¹
 - (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:¹²
- (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 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 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.

¹⁰ Editor's Note: This Section consists of old text from the existing Ordinance (fire, Act of God, etc.) and new text from Code of Virginia requirements, such as requirements related to replacement of mobile homes.

¹¹ Editor's Note: The requirement to limit repairs and maintenance to 50% of replacement value in the existing Ordinance (Article 39-4) has been removed as a best practice to encourage the maintenance and reuse of historic buildings.

¹² Editor's Note: Percentage reduced to 50% from 75% to comply with Code of Virginia § 15.2-2307.

- (F) If a nonconforming manufactured home is removed other than by natural disaster, an Act of God, or public action, it may not be replaced except as provided for below unless it complies with regulations within the Ordinance. Any such replacement home shall retain the valid nonconforming status of the prior home.
 - (1) Nothing in this Section shall be construed to prevent the landowner or homeowner from removing a valid nonconforming manufactured home from a mobile or manufactured home park and replacing that home with another comparable manufactured home that meets the current HUD manufactured housing code. In such mobile or manufactured home park, a single-section home may replace a single-section home and a multi-section home may replace a multi-section home.
 - (2) The owner of a valid nonconforming mobile or manufactured home not located in a mobile or manufactured home park may replace that home with a newer manufactured home, either single- or multi-section, that meets the current HUD manufactured housing code.

ATTACHMENT F

*Editor's Note: These definitions are included for review, and to aid in understanding the concepts of the articles being reviewed during this Worksession. They will be placed in Article 11, Definitions, following review by Town Council and Planning Commission.

Draft Definitions for Article 1, 2, 3, and 9.

Act of God. 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.

Adjacent. To be separated by common property lines, lot lines, streets, or roads; also known as: abutting, adjoining, contiguous, or touching.¹

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

Agent: The representative of the Town Council of the Town of Rocky Mount approved and appointed to serve as the agent of the Council in reviewing and approving subdivision plats. The Town Planning Commission or its duly authorized representative who has been appointed to serve as the agent of the Planning Commission in approving subdivision plats.

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

Amendment. A change in the text or in the official Zoning Map which is a part of this Ordinance.

Application. A request completed on a form or forms with all accompanying documents, exhibits, and fees required, indicating a desire to be granted a permit, amendment, or other action under the provisions of this Ordinance.

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, city, county, or place.

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

Building height. The vertical distance from the average grade to the highest point of the roof surface.

Building official. An appointed official of the Town of Rocky Mount who is responsible for certifying building inspections, and who administers and enforces the provisions of the Town of Rocky Mount Building Code.

Building setback. See Setback.

Certificate of Occupancy². The permit issued by the Building Official that is required under the Uniform Statewide Building Code prior to the use or occupancy of certain buildings and structures.

¹ Editor's Note: Definition for adjoining was not included because it is included in the definition for *adjacent*.

² Editor's Note: Definition simplified to state that the COO is a permit issued by the Building Official.

Circuit Court: The Circuit Court of Franklin County, Virginia.

Code of Virginia. The laws which govern the territory and political subdivisions of the Commonwealth of Virginia.

Commission. See Planning Commission.

Comprehensive Plan. The document as required by the Code of Virginia § 15.2-2223 et seq. and as approved and adopted by the Town Council.

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

Conditional Zoning. As part of classifying land within a locality into areas and districts by legislative action, the allowing of reasonable conditions governing the use of such property, such conditions being in addition to, or modification of the regulations provided for a particular zoning district or zone by the overall Zoning Ordinance.

County. Franklin County, Virginia.

Developer. Any person, group or persons, corporation, or other legal entity who, having an interest in land directly or indirectly sells, leases or develops or offers to sell, lease or develop, or advertises for sale, lease or development any lot, tract, parcel, site, unit or interest for residential, commercial or industrial development.

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" shall not be construed to include any tract of land which will be principally devoted to agricultural production.

District. See Zoning District.

Easement. A right expressed in a recorded writing, given by the owner of land to another party for specific limited use of that land.

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, Town. An employee of the Town of Rocky Mount who reviews subdivision plans and site plans for new developments or upgrades to existing developments, as well as reviews all infrastructure plans of the Town to ensure that such plans are in compliance with Town ordinances and other applicable regulations.

Frontage, building. The length of an exterior building wall or structure of a single premise oriented to the public way or other properties that it faces.

Governing Body (also referred to as Legislative Body). The Town Council of Rocky Mount, Virginia.

Guarantee. A surety bond, cash deposit, or letter of credit approved by the Town Attorney and made out to Town of Rocky Mount 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 Town Engineer. Guarantee may also be referenced as "Performance Guarantee," "bond," "surety," or "performance bond."

Health official. The health director or sanitarian of Franklin County, Virginia.

Home Occupation. An occupation carried on by the occupant of a dwelling unit as a secondary use, provided that:

- (a) No person other than members of the family residing on the premises shall be engaged in occupations.
- (b) The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than twenty-five percent (25%) of the floor area of the dwelling unit shall be used in the conduct of the home occupation.
- (c) There will be no change in the outside appearance of the dwelling unit or premises or other visible evidence of the conduct of such home occupation. Signs are not permitted in the conduct of home occupation.
- (d) No home occupation shall be conducted in any accessory building.
- (e) No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street and other than in a required front yard.
- (f) No storage or display of goods shall be visible from outside the dwelling unit. In addition, no direct sales of products off display shelves or racks shall be permitted. However, orders made by telephone or at a sales party may be filled on the premises.
- (g) No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises or cause fluctuation in line voltage off the premises.

Jurisdiction. The area or territory subject to the legislative control of the Governing Body.

Lot. An occupied or vacant 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 of record. A lot shown on a plat or other legal description of which has been recorded in Circuit Court Clerk's Office of Franklin County, Virginia, prior to the effective date of this Ordinance.

Military installation. A base, camp, post, station, yard, center, homeport facility for any ship, or other activity under jurisdiction of the U.S. Department of Defense, including any leased facility, or any land or interest in land owned by the Commonwealth and administered by the Adjutant General of Virginia or the

Virginia Department of Military Affairs. "Military installation" does not include any facility used primarily for civil works, rivers and harbors projects, or flood control projects.

Mixed use development. Property that incorporates two or more different uses, and may include a variety of housing types, within a single development.

Monument. Any object, whether natural or man-made, that has been or is designated by deed, will, plat or any official document for the purpose of defining a land boundary, either at a point of direction change, or at any intermediate point along a line, either straight or circular, between points of direction change.

Nonconforming lot. An otherwise legally platted lot that does not conform to the minimum area, width, or lot frontage 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 use that does not conform to the use regulations for this Ordinance, for the district in which it is located – either at the effective date of this Ordinance or as a result of subsequent amendments to the Ordinance.

Nonconforming use. The otherwise legal use of a building, structure, or 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. Any use that was unlawful on the Date of Adoption of this Ordinance shall remain unlawful and shall not be a nonconforming use.

Official map. A map of legally established and proposed public streets, waterways, and public areas adopted by a locality in accordance with the provisions of Virginia State Code Article 4 (§ [15.2-2233](#) et seq.).

Overlay zoning district. A district which addresses special land use circumstances or environmental safeguards by superimposing additional standards and regulations over the underlying Primary Zoning District. Permitted uses in the underlying Primary Zoning District shall continue subject to compliance with the regulations of the Overlay Zoning District.

Parcel. See "Lot."

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 VIII of this Ordinance.

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

Physical improvements. Any structure such as drainage structures, central water system, central sewage disposal systems, bridges, etc., and such other improvements as the Agent may designate.

Planned unit development. A form of development characterized by unified site design for a variety of housing types and densities, clustering of buildings, common open space, and a mix of building types and land uses in which project planning and density calculation are performed for the entire development rather than on an individual lot basis.

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 Town Council.

Plat or plat of subdivision. 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, Final. The map of a subdivision submitted and approved by the Town of Rocky Mount, and subsequently recorded in the Office of the Clerk of the Circuit Court of Franklin County, Virginia.

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

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

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

Property. Any tract, lot, parcel, or several of the same collected together for the purpose of subdividing.

Public access easement. A nonpossessory right to use and/or enter onto the real property of another. Property owners of public access easements allow members of the public to access a defined area of their land.

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

Public improvement. An improvement that has been or will be dedicated for public use or that is designed to provide adequate transportation, water, sewerage, storm drainage, flood protection, or recreational facilities or to serve other public requirements in accordance with Ordinances of Town of Rocky Mount, Virginia.

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

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

Setback, front. The minimum distance from the edge of the right-of-way to the nearest point of the allowable structure(s), measured perpendicular to the front lot line. 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 to the nearest point of the allowable structure(s), measured perpendicular to the rear lot line.

Setback, side. The minimum distance from the side lot line(s) to the nearest point of the allowable structure(s), measured perpendicular to the side lot line(s).

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

Site Plan. The proposal for a development or a subdivision including all covenants, grants or easements and other conditions relating to use, location and bulk of buildings, density of development, common open space, public facilities and such other information as required by the Subdivision Ordinance to which the proposed development or subdivision is subject.³

Special exception. A Special Exception is a use that would not be appropriate generally or without restriction throughout the zoning division or district but which, if controlled as to number, area, location, or relation to the neighborhood would promote the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity, or general welfare. Such uses may be permitted in such zoning division or district as Special Exceptions if specific provision for such Special Exception is made in this Zoning Ordinance.

Stormwater management facility. A control measure that controls stormwater runoff and changes the characteristics of that runoff including the quantity and quality, the period of release or the velocity of flow.

Street. 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.

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

Structure. Anything constructed or erected, the use of which requires a permanent location on the ground, or attachment to something having a permanent location on the ground. This includes, among other things, dwellings, buildings, signs, etc.

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

Surveyor. A person licensed by the Commonwealth of Virginia as a Certified Land Surveyor.

Temporary structure or use.

Temporary structure or mobile unit to alleviate a hardship during periods required for reconstruction, replacement or repair due to catastrophe substantially damaged or destroyed and rendered unusable.⁴

³ Editor's Note: This definition is from Code of Virginia.

⁴ Editor's Note: This definition is from the existing Ordinance Article 5-6, Temporary Use Permits.

Temporary structures normally and necessarily associated with construction, reconstruction, replacement, or repair of improvements.⁵

Town Council. The Town's governing body. Town Council members are elected by popular vote and are responsible for enacting ordinances, imposing taxes, making appropriations, and establishing Town policy. The Town Council adopts the comprehensive plan, zoning, and subdivision regulations.

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.

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.

VDOT. The Virginia Department of Transportation.

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 Code of Virginia, §15.2-2307 and is issued in strict accordance with the requirements of this Ordinance.

Wayside stand, roadside stand, wayside market. Any structure or land used for the sale of agricultural or horticultural produce, livestock, or merchandise produced by the owner or his family on their farm.

Zoning Administrator. See Administrator.

Zoning approval. Includes special exception permit, conditional use, conditional zoning, variance, administrative modifications, substantial accord, rezoning, and zoning permit approvals.

Zoning District. A specifically delineated section of the Town in which the regulations are uniform and so designated on the 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 Map. A legally adopted map depicting the location of each zoning district of the Town and all amendments thereto.

⁵ Editor's Note: Temporary structure is taken from Rocky Mount Temporary Use Permit.

ATTACHMENT G



DEVELOPMENT REVIEW GUIDE

Concept Plans



What is a Concept Plan?

A concept plan is a generalized plan indicating the boundaries of proposed development and presenting the general arrangement of proposed buildings, uses, structures, and improvements. Concept plans are also sometimes referred to as general plans or generalized development plans.

Concept Plan Typical Requirements:

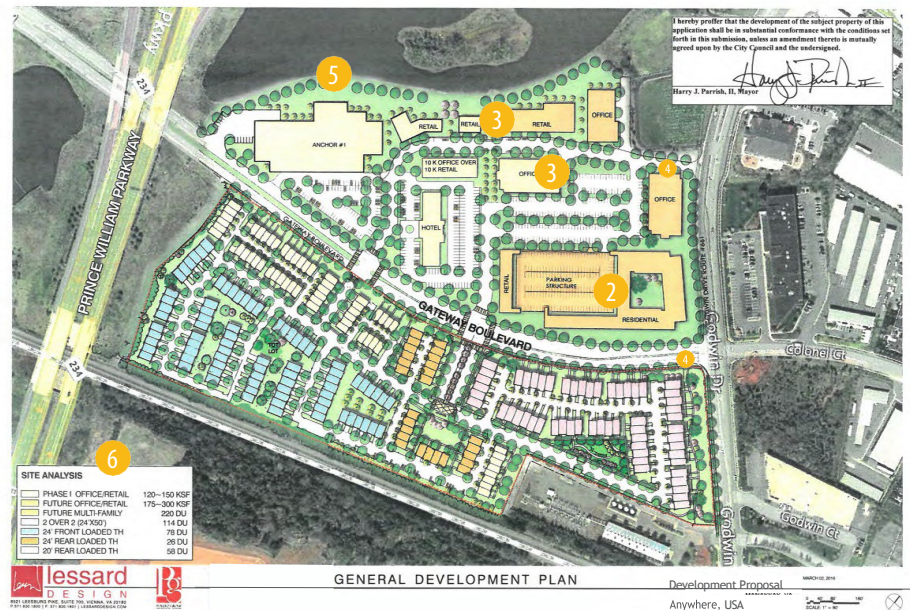
Mapped Plan:

- 1 A plan of the property showing all property lines, existing streets, and subdivisions
- 2 General location and type of proposed uses
- 3 Layout, character, and orientation of proposed buildings and improvements
- 4 General location and information on proposed roads, parking, pedestrian and bike amenities, public utilities, and storm drainage systems
- 5 General location of natural areas, steep slopes, proposed open space, recreation amenities, and landscaping

Accompanying Narrative:

- 6 Relationship of the proposal to the Comprehensive Plan and nearby areas
- 7 Total number, density, lot size, and type of proposed dwelling units
- 8 Proposed amenities serving the development
- 9 Proposed development schedule
- 10 Written analysis of public facilities and infrastructure required to serve the proposed development
- 11 Any other narrative specified in the application requirements or by the Zoning Administrator

Concept Plan Example:



Purpose of Concept Plans

Concept plans are typically required during the rezoning and/or conditional use permit process. Because they are general in nature, concept plans represent a lower level of investment than engineered site plans. This reduces the property owner's risk associated with land use applications that require legislative action, thereby lowering a potential barrier to development.

Concept plans:

- Allow flexibility in final development and use types
- Are adaptable to changes in market conditions
- Encourage comprehensive planned development
- Allow site plan costs to be incurred by individual developers/users within a planned development
- Are not subject to approval time frames required by site plans
- If proffered during rezoning, becomes part of the zoning regulations in perpetuity, unless altered through another rezoning process



DEVELOPMENT REVIEW GUIDE

Site Plans



What is a Site Plan?

A site plan is a plan prepared by a professional engineer or land surveyor showing all proposed construction and improvements to a site. A site plan should show compliance with local ordinances and include all covenants, grants, or easements and other conditions relating to use, location, density, and bulk of buildings, open space, public facilities, or other information required by the locality. Preliminary and final site plans are subject to approval and validity time periods as set by state code. (Virginia Code §§ 15.2-2241 through 15.2-2246)

Site Plan Typical Requirements:

A locality can require preliminary and final site plans. Preliminary site plans give the locality the opportunity to review development proposals to offer feedback to the applicant and clarify terms and conditions of final approval. A preliminary site plan should include:

- 1 Proposed project title, owner, engineer name, designer or architect and developer
- 2 North arrow, scale and date
- 3 Subdivision name, tax map parcel number and route number
- 4 The boundaries of the project, property lines and features
- 5 Number of dwelling units, floors and estimated height per structure
- 6 Total number of dwelling units by type and dwelling units per acre
- 7 Small map of the project location (north arrow, scale and location features such as water or landmarks)
- 8 Land use of project site, adjacent sites and proposed use changes
- 9 Location of all setbacks, easements and rights-of-way
- 10 Location of existing and proposed structures
- 11 Location of road, driveway and parking infrastructure
- 12 Location of easements of planned above and underground utilities
- 13 Location and size of existing and planned above and underground utilities
- 14 Measured distance between proposed structures, and between structures and lot lines
- 15 Location, height and materials of fences, walls and landscaping
- 16 Location of proposed recreation, open space and school sites
- 17 Topography of the project and neighboring areas
- 18 100-year floodplain and drainage districts
- 19 Location of existing wooded areas and proposed cleared areas
- 20 An environmental assessment or limit of resource protection areas and applicable buffers.
- 21 Percentage of the site covered by open space and impervious surface after development

Types of Site Plans

Many communities require a **preliminary site plan** review prior to submission of the final site plan. This review process helps to identify and resolve issues early in the planning and design process, which saves developers/owners costly changes later on. It promotes more effective oversight and improved compliance with local policies and regulations. It is common that the locality stipulate the size or type of project that requires preliminary approval. A preliminary site plan is more schematic in nature, while **final site plans** may require additional engineering calculations for grading, utilities, stormwater, roads, etc.

Depending on the size of the project, localities can require **minor or major site plans**. Minor site plans are less detailed and are typically required when the project does not require consideration for stormwater management (typically projects less than 2500 square feet).

Site Plans

See the Legend above for a list of included elements.
View the numbered elements for callout examples.

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ATTACHMENT H



GUIDE TO NONCONFORMITIES



What Are Legally Nonconforming Lots, Structures, and Uses?

Legally nonconforming lots, structures, and uses are those which were **legally established** according to applicable zoning laws at the time that the structure, lot, or use began, but which **do not meet current zoning regulations**. Often, these situations are referred to as “grandfathered” lots, structures, or uses.

State Code Section § 15.2-2307 allows localities to permit nonconforming lots, structures, and uses to continue, provided they are not enlarged, extended, reconstructed, or structurally altered unless such changes comply with current zoning regulations. State Code provides for special considerations where a locality has issued permits and/or all local taxes have been paid for the previous fifteen years.



How Do Lots, Structures, or Uses Become Nonconforming?

When a locality amends its zoning ordinance and the new zoning regulations are **more restrictive**, some existing lots, structures, or uses may not be in conformance with the new regulations.

Examples of more-restrictive regulations:

- Increase minimum lot area
- Increase minimum lot frontage
- Decrease maximum height
- Increase minimum setbacks
- Change of district uses

Lots

Some communities require a variance to develop a vacant nonconforming lot. Others may allow development without a variance if setback or other requirements are met.

Reconstruction, alteration, or expansion of an existing building on a nonconforming lot should not increase the nonconformity.

Example of a nonconforming lot:

If a lot was legally divided and recorded at 2 acres, but due to zoning amendments, the minimum lot size is increased to 3 acres, the lot becomes a nonconforming lot. The lot is allowed to be used and built on if other regulations are met.

Structures

State Code requires that if a nonconforming structure is damaged or destroyed by fire, natural disaster or other act of God, such structure may be repaired, rebuilt or replaced in a manner which would eliminate or reduce nonconforming features without the need for a variance.

If the damage is greater than 50 percent, a structure may be repaired, rebuilt or replaced even if the reconstruction is to its original nonconforming condition without the need for a variance. Any reconstruction must be in compliance with building and floodplain regulations.

See page 2 for an example of a nonconforming structure.

Uses

State Code requires for a locality to permit the continuation of a nonconforming use if the use is not discontinued for longer than two years and structures are maintained. When a nonconforming use is discontinued for more than two years, its nonconforming status is lost and the use can not then be resumed.

Example of a nonconforming use:

If a store is located in a district that once allowed commercial uses, but due to zoning amendments, commercial uses are no longer permitted, the store will become a nonconforming use. The store is allowed to remain operable, so long as the store is not closed for business for longer than a two year period.

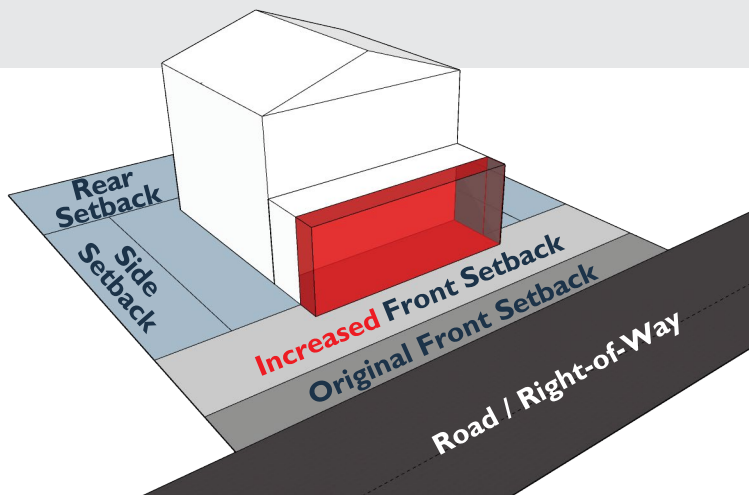


GUIDE TO NONCONFORMITIES

How Does a Structure Become Nonconforming?

In this example, a citizen owns property in a residential district. When the home was built, it complied with the existing setbacks. When the zoning ordinance was amended, some setback regulations became **more restrictive**. The **front setback was increased** an additional fifteen feet, resulting in a more restrictive setback.

As a result, the house no longer meets the setback and becomes a nonconforming structure.



Original Front Setback:

30' Minimum

Side Setback:

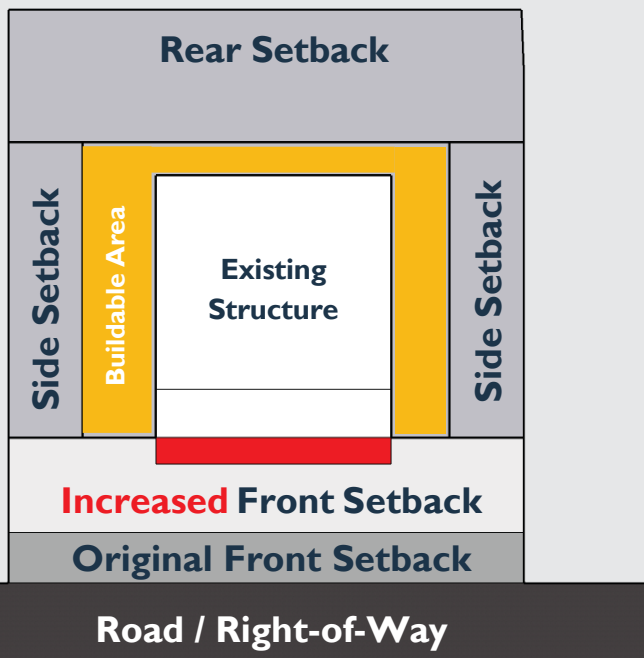
15' Minimum

Rear Setback:

15' Minimum

Increased Front Setback:

45' Minimum



How Do I Expand My Nonconforming Structure?

Where there is interest in expanding a nonconforming structure, a lot may be enlarged to provide more space. Otherwise, additions would need to fit outside of the remaining setback boundaries.

In this diagram, the portion of the structure shown in red extends into the increased front setback. Areas where an expansion is permitted are identified in yellow.

Note:

This is a generalized example. Specific requirements vary from community to community. Requirements may include square footage caps on expansions or the need for a variance.