



TOWN COUNCIL
& PLANNING COMMISSION JOINT WORKSESSION
AGENDA

March 19, 2024
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 March 19th meeting will focus on reviewing the proposed article:

- **Article 10, Subdivisions**

The following agenda is provided as an outline for discussion:

1. **Schedule & Progress to Date** – 5 minutes
2. **Proposed Accessory Dwelling Units (ADU) use** – 20 minutes
 - a. Articles 6 & 7 (ADU revisions only)
3. **Proposed Article Review** –
 - a. Article 10 – 45 minutes
 - b. Related definitions – 5 minutes
4. **Next Steps** – 5 minutes

Schedule & Progress to Date

Attachment A: 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.
- Joint Town Council and Planning Commission Worksession – Held on July 24, 2023. During this meeting the Berkley Group gave a presentation and facilitated group discussion on Articles 1, 2, 3, and 9, and related definitions, of the draft ordinance.
- Joint Town Council and Planning Commission Worksession – Held on Sept. 18, 2023. During this meeting the Berkley Group gave a presentation and facilitated group discussion on Articles 4 and 5, and related definitions, of the draft ordinance.
- Joint Town Council and Planning Commission Worksession – Held on Nov. 21, 2023. During this meeting the Berkley Group gave a presentation and facilitated group discussion on Articles 6 and 7, and related definitions, of the draft ordinance.
- Joint Town Council and Planning Commission Worksession – Held on Jan. 23, 2024. During this meeting the Berkley Group gave a presentation and facilitated group discussion on Article 8, and related definitions, of the draft ordinance.

Proposed Accessory Dwellings (ADUs)

See Attachment B for proposed ADU use permissions in Article 6, and draft use standards for ADUs in Article 7. Rocky Mount staff requested ADUs be included as a permitted use with use standards. The proposed text is based from benchmark localities and has been reviewed by town staff.

Proposed Article Review

See Attachment C for the proposed Article 10, Subdivisions for review.

Attachment D includes Definitions from Article 10 for review.

Notes: *Editor's footnotes are provided to aid review. The footnotes explain inclusions, omissions, and modifications between the existing Ordinance and the proposed draft Ordinance.*

Items highlighted in yellow include dates and references to various articles, sections, graphics, etc. We will use these after all revisions are made to fill in correct dates and references.

Attachment B: Articles 6 & 7 – Accessory Dwelling Use

Proposed Accessory Dwelling (ADU) changes to note:

- Article 6, Use Matrix: ADUs are proposed as follows:
 - By-right in R2, R3, and CBD; and
 - by Special Exception in RA, R1, RPUD, and RB.
- Article 7, Use Standards, includes proposed use standards for ADUs.
 - Allowed only as accessory to a single-unit detached dwelling.
 - May be within (e.g., a downstairs or upstairs apartment) or attached to the principle dwelling, or as a detached building (e.g., an apartment above a detached garage or in a guesthouse).

- ADUs are allowed by-right in the R2, R3, and CBD districts.
- ADUs are allowed by Special Exception in the R1, RA, RB, and RPUD districts.
- Short-term rental use is allowed in an ADU *only* in the R2, R3, and CBD districts.
- A recreational vehicle, travel trailer, camper, or similar vehicle shall not be used as an accessory dwelling.
- Maximum of one kitchen per accessory dwelling.
- Maximum of 1 accessory dwelling per lot.

Attachment C: Article 10 — Subdivisions

This Article establishes Subdivisions as an article of the Zoning Ordinance, creating one land use ordinance for the Town. Much of this article is from the existing subdivision ordinance, however, it has been updated pursuant to Code of Virginia, reformatted for ease of use, and best practices have been incorporated.

Changes to note are outlined below:

- The existing ordinance requires Major Subdivisions of 6 or more divisions to submit a preliminary plat — this was changed to divisions of more than 50, pursuant to Code of Virginia. Preliminary plats are optional for divisions of 50 or less.
- Family subdivisions are not required in Towns. The Town can consider removing this provision, if desired.
 - If it is retained the number of years the property must be owned can be increased from the current three years, if desired.
 - A new requirement for the grantee to hold the property for a three-year period before selling the property has been added. This can also be increased, if desired.
- Provisions for Homeowners Associations have been added to the ordinance.
- Fees have been removed from this ordinance and replaced with references to the Town's schedule of fees. The schedule of fees should be updated as needed.

Attachment D: Article 10 — Definitions

- Several new definitions have been added, such as boundary line adjustment, developer, and immediate family.
- Existing definitions have been reviewed and updated.
- Code of Virginia references have been updated.

Next Steps

The Berkley Group will review any recommendations and comments for incorporation and compile the draft articles into the full ordinance. Topics to be discussed at the May 21, 2024 meeting include:

- Compiled Zoning & Subdivision Ordinance
- July Public Open House

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

Exerpt - Article 6, Use Matrix

Use Types	Definitions	Districts												
		RA, Residential Agriculture	R1, Residential Low Density	R2, Residential Medium Density	R3, Residential High Density	RPUD, Residential Planned Unit Development	RB, Residential Business	C1, Commercial Office Limited	C2, Commercial Office General	GB, General Business	CBD, Central Business	M1, Industrial Limited	M2, Industrial General	POS, Public/Open Space
Light Yellow =proposed new use/definition/consolidation White =existing to be removed * includes Use Standards		B = By-Right SE = Special Exception Blank = Not Permitted (Black=existing; Red = proposed)												
Tourist homes	A dwelling where only lodging is provided for compensation for up to 14 persons (in contradistinction to hotels and boarding houses) and open to transients.				B									
Suggested Residential Additions														
Dwelling, Accessory*	An ancillary or secondary dwelling unit that exists on the same lot as the principal dwelling as a standalone structure, in an accessory structure, or attached to or in a primary structure. Attached accessory dwelling. A structure connected by common walls and/or roof that contains one or more rooms arranged, designed, used, or intended for use as a residence containing living space, kitchen, and bathroom facilities. Detached accessory dwelling. A standalone structure that does not have any common walls or roof with another structure but contains one or more rooms arranged, designed, used, or intended for use as a residence containing living space, kitchen, and bathroom facilities.	SE	SE	B	B	SE	SE				B			
Public, Civic, and Recreational														
Cemetery, Public	Any land or structure used or intended to be used for the interment of human remains. Additionally, a cemetery includes mausoleums, columbaria, chapels, administrative offices, and maintenance and storage areas (Code of Virginia § 15.2-2288.5). The sprinkling of ashes or their burial in a biodegradable container on church grounds or their placement in a columbarium on church property shall not constitute the creation of a cemetery.									B				B
Cemeteries	no definition									B	B			B

- (B) Licensure. The owner/operator shall hold a valid business license from the Town and, where applicable, a permit from the Department of Health.
- (C) Registration.
 - (1) The owner/operator of a bed and breakfast shall maintain a log of all patrons, including their name, address, license plate number and state, and their length of stay. The log shall be available to Town staff upon request.
 - (2) Guest(s) may stay no longer than 30 consecutive days.
- (D) Guest room Limit. A maximum of ten guest rooms is permitted unless otherwise approved through a Special Exception Permit.
- (E) General Standards.
 - (1) If within a residential district, changes made to the exterior of the building occupied by the bed and breakfast shall maintain the residential character of the building.
 - (2) Signage and parking shall comply with the regulations of Article 8, Community Design Standards, of this Ordinance.
 - (3) Every room occupied for sleeping purposes shall comply with Uniform Statewide Building Code.
 - (4) Guest rooms shall not have cooking facilities.
 - (5) Food services in connection with the use shall be limited to meals provided to guests taking lodging at the facility. Restaurant service open to the general public is a separate use, permitted according to the district regulations.
 - (6) Additional activities, including indoor/outdoor events such as weddings, receptions, and similar activities on site are allowed subject to other applicable restrictions such as those in Article 8, Community Design, of this Ordinance, and Chapter 42, Article III, Noise Control, of the Code of the Town of Rocky Mount.

Section 7-3-2. Dwelling, Accessory.⁷

(A) General Limitations.

- (1) An accessory dwelling is allowed only as accessory to a single-unit detached dwelling.
- (2) An accessory dwelling may be within (e.g., a downstairs or upstairs apartment), or attached to the principal dwelling or exist as a detached building (e.g., an apartment above a detached garage or in a guesthouse).
 - (i) If detached from the principal structure, the accessory dwelling shall be separated from the principal structure by a distance of at least 15 ft.
- (3) The accessory dwelling shall not be subdivided or otherwise segregated in ownership from the principal dwelling.

(B) General Standards.

⁷ Editor's Note: New use and use standards proposed after the Nov. 21, 2024 worksession.

(1) **Short-term rentals.**

- (i) An accessory dwelling shall be allowed to be used as a Short-Term Rental in the R2, Residential Medium Density, R3, Residential High Density, and CBD, Central Business districts only.
- (2) An accessory dwelling shall obtain all proper permits and comply with all applicable requirements of the Virginia Department of Health and the Virginia Uniform Statewide Building Code.
- (3) A recreational vehicle, travel trailer, camper, or similar vehicle shall not be used as an accessory dwelling.
- (4) Maximum of one kitchen per accessory dwelling.

(C) **Development Standards.**

- (1) All accessory dwellings shall comply with the district's primary structure setbacks, and must comply with all other district standards, including height.
- (2) **Limit.** Maximum of 1 accessory dwelling per lot.
- (3) **Maximum size.**
 - (i) The floor area of a detached or attached accessory dwelling shall not exceed 60% of the finished area of the first floor of the primary dwelling, and in no case shall the accessory dwelling exceed one thousand five hundred (1,500) square feet.⁸
 - (ii) An accessory dwelling that is contained within a single-unit dwelling, such as a basement or attic, shall not exceed the existing finished square footage of the primary dwelling's first floor footprint.

(D) **Design Standards.**

- (1) Exterior entrances to an accessory dwelling in a principal structure shall be located so as to appear as a single-unit dwelling.
- (2) One (1) parking space shall be required in addition to the required parking for the principal dwelling and no separate driveway shall be permitted.
- (3) Accessory dwellings should be architecturally compatible to the principal dwelling.

Section 7-3-3. Dwelling, Manufactured Home.

- (A) The manufactured home dwelling shall comply with the Virginia Manufactured Housing Construction and Safety Standards Law.
- (B) The manufactured home dwelling shall be placed on a permanent foundation and shall comply with the requirements of the Virginia Uniform Statewide Building code, including skirting requirements.
- (C) Manufactured home dwellings shall not be joined or connected together as one dwelling, nor shall any accessory building, excluding decks or similar structures, be attached to a manufactured home

⁸ Editor's Note: Comparison localities vary from 800 to 1,500 sq. ft. The Town should consider the size that makes sense based on average size of existing dwellings.

Community/Cultural center. A place, structure, or other facility used for the public display, performance, or enjoyment of heritage, history, or the arts. This use includes but is not limited to: museums, arts performance venues, recreational programs, cultural centers, or interpretive sites, but does not include commercially-operated theatres and event venues.

Construction material sales. Establishment or place of business primarily engaged in retail or wholesale sale or equipment rental, from the premises, of materials used in the construction of buildings or other structures, but this use shall not include automobile or equipment supplies otherwise classified herein. Typical uses include building material stores and home supply establishments.

Construction temporary uses. A manufactured home or other similar structure used as a temporary office to meet a short-term need in conjunction with a construction project.

Construction yard. Establishment or place of business primarily engaged in construction activities, including outside storage of materials and equipment. Typical uses are building contractor's yards.

Consumer repair services. An establishment or place of business primarily engaged in the provision of repair services to individuals, rather than businesses, but this use shall not include automotive and heavy equipment repair use types. Typical uses include repair of electronics, shoes, watches, jewelry, or musical instruments, vacuum cleaners, power tools, electric razors, and refrigerators.

Day care center. Any facility operated for the purpose of providing care, protection, and guidance during only part of a 24 hour day. This term includes nursery schools, preschools, day care centers for individuals, including adults, and other similar uses. Excluded are public and private educational facilities, family day home, or any facility offering care to individuals for a full 24 hour period.

Drive-through window. An accessory facility designed to provide access to commercial products and/or services for customers remaining in their motor vehicle, provided that this term does not include providing services to customers remaining in their motor vehicle while it is parked in a parking space.

Dwelling, accessory.² An ancillary or secondary dwelling unit that exists on the same lot as the principal dwelling as a standalone structure, in an accessory structure, or attached to or in a primary structure.

Attached accessory dwelling. A structure connected by common walls and/or roof that contains one or more rooms arranged, designed, used, or intended for use as a residence containing living space, kitchen, and bathroom facilities.

Detached accessory dwelling. A standalone structure that does not have any common walls or roof with another structure but contains one or more rooms arranged, designed, used, or intended for use as a residence containing living space, kitchen, and bathroom facilities.

Dwelling, Manufactured Home. A "single-wide," "double-wide," or "triple-wide" structure that is transportable in one (1) or more sections, is eight (8) feet or more in width and forty (40) feet or more in length in the traveling mode, is built on a permanent chassis and is designed for use as a dwelling unit with or without a permanent foundation when connected to the required utilities. For purposes of this Ordinance, a Manufactured Home must meet the standards promulgated by the United States Department of Housing and Urban Development (HUD), published at 24 CFR Part 3280, including the ANSI standards

² Editor's Note: New definition for new use proposed after the Nov. 21, 2023 worksession.

ATTACHMENT C

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ARTICLE 10. Subdivisions.

Division 1. General.

Section 10-1-1. Title.

This Article is a portion of the Zoning and Subdivision Ordinance of the Town of Rocky Mount, Virginia. It shall be permitted, for convenience, to be referred to as the “Subdivision Ordinance of the Town of Rocky Mount, Virginia” or “Ordinance.”

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

In accord with the Code of Virginia § 15.2-2252, as amended, a certified copy of the adopted Ordinance of the Town of Rocky Mount, Virginia and any and all amendments thereto shall be filed in the office of the Town Clerk, and in the Clerk's Office of the Circuit Court of Franklin County, Virginia.

Section 10-1-3. Amendments.²

- (A) Per the Code of Virginia, § 15.2-2251 and § 15.2-2253, as amended, this Article may be amended in whole or in part by the Town Council; provided, that any such amendment shall either originate with or be submitted to the Planning Commission for recommendation; further provided, that no such amendment shall be adopted without a public hearing having been held by the Town Council in accordance with the Code of Virginia § 15.2-2204, as amended.
- (B) In no instance shall an amendment be adopted by the Town Council without first seeking the recommendation of the Planning Commission. If no recommendation is made by the Planning Commission, the Town Council may take action 60 days from their inquiry.

Section 10-1-4. Applicability.³

- (A) This Article shall apply to the subdivision of all lots, tracts, or parcels of land within the Town of Rocky Mount, unless specifically exempt, as provided in **Section 10-1-6**, below.
- (B) No person shall subdivide any tract of land, or complete a Boundary Line Adjustment, consolidation, or easement, that is located within the Town of Rocky Mount except in conformity with the provisions of this Article, the Zoning and Subdivision Ordinance, and the provisions of Virginia law relating to land subdivision and development.
- (C) Plats of Boundary Line Adjustments, consolidations, or easements shall follow the Final Plat requirements of **Division 7** of this Article and may be administratively approved.

¹ Editor's Note: From existing Ordinance 1-6.

² Editor's Note: From existing Ordinance 1-6 but updated with State Code references and for compliance with State Code.

³ Editor's Note: Section added to clarify applicability of the Ordinance.

- (D) This Article bears no relation to any private easement, covenant, agreement, or restriction, nor is the responsibility of enforcing a private easement, covenant, agreement, or restriction implied herein to the Town of Rocky Mount.

Section 10-1-5. Circumvention.⁴

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

Section 10-1-6. Exemptions.⁵

- (A) The following are exempt from this Article, but this does not mean the parcels are exempt from the other Articles of the Zoning and Subdivision Ordinance:
 - (1) Existing Parcels. The sale or exchange of existing parcels of land between owners and the creation of boundary surveys which do not change or alter any boundary lines of a parcel.
 - (2) Utility Rights-of-Way; Public, Private Rights-of-Way. A bona fide division of a tract of land in order that one (1) or more of the resulting parcels may be used as part of a public or private right-of-way. If a parcel resulting from such division is ever to be used as a building site for other than a hereinabove described right-of-way, then before a Building Permit may be issued for such other use, the minimum requirements of this Article shall be met.
 - (3) Wills, Court Action. The partition of lands by will, by partition deed of intestate land, by the descendants of the deceased former owner or through action of a court of competent jurisdiction.

Section 10-1-7. Appeals and Variances.

- (A) **Appeals.**⁶ Appeals to any decisions made by the Agent, regarding the requirements of this Article, shall be taken to the Planning Commission for recommendation and final decision by the Town Council in accordance with Article 3, Permits and Applications, Division 9, Appeals, of this Ordinance.
- (B) **Variances.**⁷ Variances to any provision of this Article shall be taken to the Board of Zoning Appeals in accordance with Article 3, Permits and Applications, Division 5, Variances, of this Ordinance.

⁴ Editor's Note: Replaces language from existing Ordinance 3-3 to prevent circumvention of standards contained in the Ordinance.

⁵ Editor's Note: Added to clarify exemptions from the Ordinance.

⁶ Editor's Note: New item to address appeals.

⁷ Editor's Note: New language to replace 2-7 (a) waivers authorized, in the existing Ordinance. The waiver process is changed from hardship cases that were approved by Town Council to hardships approved by the BZA for consistency with Article 3.

Division 2. Types of Subdivisions.

Section 10-2-1. Major Subdivisions.⁸

- (A) Major Subdivisions are subdivisions of six (6) or more lots or division of property that involves the creation of new street(s) or the extension of street(s), and therefore will have greater impact on the environment, highways, and surrounding communities than will Minor Subdivisions.
- (B) Major subdivisions shall be subject to the following:
 - (1) Major subdivisions of more than 50 lots, due to the potential impacts, and as allowed by Code of Virginia, § 15.2-2260, as amended, are required to submit a Preliminary Plat in accordance with the provisions of **Division 6** of this Article, to be reviewed and approved by the Planning Commission.⁹
 - (2) The applicant shall submit a Final Plat to the Agent. The Agent will review for conformance with **Division 7** of this Article, and forward it to the Planning Commission. The Planning Commission shall approve or disapprove a Final Major Subdivision Plat in accordance with the provisions of this Article, and **Article 3, Permits and Applications** Article of this Ordinance.

Section 10-2-2. Minor Subdivisions.¹⁰

- (A) Minor Subdivisions are subdivisions of not more than five (5) lots, do not include the creation or extension of street(s) and have reduced impact on the environment, highways, and surrounding communities than Major Subdivisions. Minor Subdivisions are administratively reviewed and approved.
- (B) Minor Subdivisions shall be subject to the following:
 - (1) Applicants for Minor Subdivision approval may submit a Preliminary Plat for review.
 - (2) Applicants shall submit a Final Plat conforming to the requirements set forth in **Division 7** of this Article to the Agent for review and approval or disapproval.

Section 10-2-3. Family Subdivisions.¹¹

- (A) Family Subdivisions are subdivisions of land for simultaneous conveyance to a member of the immediate family of the property owner, approved or disapproved by the Agent, subject only to the express requirements contained in the Code of Virginia, §§ 15.2-2244 and 2244.1, as amended, and the following provisions:

⁸ Editor's Note: Major subdivisions content from the exiting Subdivision Ordinance 3-4 has been updated for compliance with State Code.

⁹ Editor's Note: Changed from 6 to 50 as required by State Code.

¹⁰ Editor's Note: Minor subdivisions content from the existing Ordinance 3-3 has been updated for compliance with State Code.

¹¹ Editor's Note: Family subdivisions is from the existing Ordinance 3-2. However, towns are not required to provide for family subdivisions. This Section could be removed under direction from the Town.

- (1) The grantee is a natural or legally defined offspring, stepchild, spouse, sibling, grandchild, grandparent, or parent of the owner.
 - (i) If the property to be subdivided is owned in joint tenancy, the necessary relationship to the grantee may exist with any one or more of the joint tenants.
 - (2) The grantee is at least 18 years of age and able to hold real estate under the laws of Virginia.
 - (3) No previous transfer under this provision has been granted to the grantee within the Town.
 - (4) The grantor and grantee shall sign an affidavit duly acknowledged before an officer authorized to certify compliance with subsections (1) through (3) above.
- (B) Standards.¹²** Per the Code of Virginia, § 15.2-2244, 2244.1, and 2244.2, as amended, all Family Subdivisions shall be subject to the following provisions and conditions in lieu of the other subdivision regulations imposed by this Article.
- (1) Applicants for a family subdivision approval may submit a Preliminary Plat for review and shall submit to the Agent a copy of a Final Plat conforming to the requirements of this Ordinance.
 - (2) Circumvention.
 - (i) No Family Subdivision shall be made for the purpose of circumventing the requirements of this Article.
 - (ii) The Agent shall reject any proposed Family Subdivision if, after investigation of the facts and circumstances involved in the proposed subdivision, the Agent believes that the proposed subdivision is for the purpose of circumventing the requirements of this Article and is not in accordance with the purpose and intent of this Ordinance.
 - (a) The burden of proving compliance with the purpose, intent, and conditions of this Article shall be on the property owner.
 - (b) Nothing in this Article shall be deemed to exempt Family Subdivisions from the requirements of other provisions of the Rocky Mount Town Code which are deemed to be applicable by the Agent.
 - (iii) In the event that Town Council determines circumvention has occurred, the family subdivision approval shall be considered void and the Town may take appropriate action to require compliance with all other applicable subdivision and zoning requirements or may initiate action to vacate said lot.
 - (3) Only one such division shall be allowed within the Town of Rocky Mount for each immediate family member.¹³

¹² Editor's Note: Includes new and existing information that has been reorganized for clarity and updated per State Code.

¹³ Editor's Note: New item from State Code.

- (4) The property to be subdivided has been owned for at least three (3) consecutive years by the current owner or member of the immediate family.¹⁴
- (5) The grantee agrees to place a restrictive covenant on the subdivided property that would prohibit the transfer of the property to a nonmember of the immediate family for a period of three (3) years.¹⁵ All lots or parcels, including the parent tract, created under this Article shall remain titled in the name(s) of the grantor for the three-year period, from the date of recordation of the deed of conveyance, unless:
 - (i) The parcel to be transferred out of the immediate family is the subject of an involuntary transfer such as foreclosure, divorce, death, judicial sale, condemnation, or bankruptcy, in which case, upon application to the Agent, any remaining required holding period shall be waived;
 - (ii) The transferred property is later transferred to a subsequent grantee who qualifies as an immediate family member of the original grantor as set forth in this Article, in which case only the remainder of the initial required holding period shall apply to the subsequent grantee; or
 - (iii) An exception to these provisions is made by the Planning Commission, upon a determination of an injustice or hardship as permitted under the provisions of this Article.
- (6) When the residue can no longer be divided under this provision or otherwise, a note to that effect shall be contained on the plat or in the deed.
- (7) As required by Code of Virginia, § 15.2-2244, as amended, all lots of less than five (5) acres have reasonable right-of-way of not less than ten (10) feet or more than 20 feet providing ingress and egress to a dedicated recorded public street or thoroughfare.¹⁶
 - (i) Private rights-of-way must be platted and noted, as provided in **Section 10-7-3**, Final Plat Form and Content.

Division 3. Design Requirements.¹⁷

Section 10-3-1. Conformity to Plans and Regulations.

- (A) Comprehensive Plan and Code. Proposed subdivision plats shall conform to the Town of Rocky Mount Comprehensive Plan and all applicable articles and chapters of the Town Code.
- (B) Zoning. Proposed subdivisions shall conform to the town Zoning and Subdivision Ordinance. All improvements including, but not limited to, lighting, parking, streets, sidewalks, open space, and

¹⁴ Editor's Note: The 3-year period is from the existing Ordinance 3-2(h). This number can be increased to a maximum of 15 years, per State Code, if the Town so desires.

¹⁵ Editor's Note: New proposed 3-year period requiring the property to be held at least 3 years before being sold to a non-family member. This number can be increased to a maximum of 15 years, per State Code, if the Town so desires.

¹⁶ Editor's Note: New provision required by State Code.

¹⁷ Editor's Note: Content from the existing Subdivision Ordinance Section 8.

utilities shall be in accordance with **Article 8**, Community Design Standards, and **Article 3**, Permits and Applications, of this Ordinance, and Code of Virginia, § 15.2-2241, as amended.

- (C) Agencies and Departments. Proposed subdivisions shall conform to the rules and regulations of the Franklin County Health Department, the Virginia Department of Transportation, and any other applicable federal, state, or local regulations.

Section 10-3-2. Land Must be Suitable.

- (A) Each lot shall be suitable for a building site. Land not suitable within a proposed subdivision shall be platted only for uses not endangered by periodic or occasional inundation and only where it will not produce conditions contrary to the public well-being. Otherwise, land not suitable for building shall be combined with other lots.
- (1) In investigating the suitability of land for subdivision, the Agent may require the subdivider to furnish topographic maps, soil reports, established 100-year flood plain studies, wetlands delineation, and other information relevant to such determination.
- (B) If the Agent finds that land proposed to be subdivided is unsuitable for subdivision development due to flooding, bad drainage, topography, inadequate utilities, soil, light, air, and other such conditions which may endanger health, life or property; and, if from investigations conducted by the public agencies concerned, it is determined that in the best interest of the public, the land should not be developed for the purpose proposed, the Agent shall not approve the land for subdivision unless adequate methods are advanced by the subdivider for solving the problems that will be created by the development of the land.
- (1) **Flooding.** Land in the floodplain overlay district of this Ordinance and land deemed to be topographically unsuitable because of flooding shall not be platted for residential occupancy or for such other uses that may increase danger to health, life, or property, or cause erosion or flood hazards.
- (i) Such land within the subdivision shall be set aside on the plat for such uses as shall not be endangered by periodic or occasional flooding or shall not produce conditions contrary to public welfare.
- (ii) The arrangement, character, extent, width, grade, construction, and location of all building sites, lots, streets, drainage, sewer, water lines, and other facilities, public or private, shall conform to any floodplain regulations, laws, or ordinances established by local, state, or federal authorities and their subsequent amendments.

Section 10-3-3. Environmental Obligations.

- (A) Phase 1 environmental site assessment.¹⁸ Pursuant to Code of Virginia, § 15.2-2242, as amended, a Phase 1 environmental site assessment shall be required for subdivisions located on former industrial properties.

¹⁸ Editor's Note: New item recommended as a best practice.

- (1) Disclosure and remediation of contamination or other adverse environmental conditions of a property are required prior to approval of subdivision and development plans.

Section 10-3-4. Lot Characteristics.

(A) **Lot shape.**

- (1) The lot arrangement, design, and shape shall be such that lots will provide appropriate sites for buildings and be properly related to topography so that each lot has an acceptable building site with direct access to a public street.
- (2) Lots shall not contain peculiarly shaped elongations solely to provide necessary square footage of area that would be otherwise unusable.
- (3) Stem or flag lots are prohibited.¹⁹

(B) **Lot dimensions.** Lot dimensions shall comply with the minimum standards of **Article 4**, Primary Zoning Districts, of this Ordinance.

- (1) Where lots are more than double the minimum required area for the zoning district, the Planning Commission or Agent may require that those lots be arranged so as to allow further subdivision and the opening of future streets where they would be necessary to serve potential lots, all in compliance with this Ordinance.
- (2) In general, side lot lines shall be at right angles to street lines (or radial to curving street lines) unless a variation from this rule will give a better street or lot plan.
- (3) Depth and width of properties reserved or laid out for business, commercial, or industrial purposes shall be adequate to provide for the off-street parking and loading facilities required for the type of use and development contemplated, as established in this Ordinance.

(C) **Lot orientation.**

- (1) Each lot shall be served by and abut on a public street dedicated by the subdivision plat or on an existing public street.
- (2) Lots shall be arranged so that each lot may access a local street, unless the parent parcel fronts only on an arterial or collector street and the parcel depth is insufficient to accommodate the construction of a new local street.

(D) **Lots dedicated to public use, common areas.** Lots dedicated to the Town for public use and lots set aside as common area or open space are not required to meet the standards of this Ordinance.

(E) **Remnants.** All land below minimum lot size left over after subdividing a tract shall be added to adjacent lots or designated if appropriate as common area or parkland.

¹⁹ Editor's Note: Changed from pipestem to stem or flag to match language and definitions related to Articles 4, 5, and 10.

Section 10-3-5. Utilities.

- (A) **Water and sewer.** All subdivisions are required to have public water and sewer as provided in Article 8, Division 7 of this Ordinance.
- (B) **Drainage easements.**
- (1) The subdivider shall dedicate drainage easements to the Town consistent with the stormwater management plan for the subdivision and in compliance with Article 8, Division 7 of this Ordinance.
- (C) **Public utility easements.**
- (1) The subdivider shall convey a 20-foot²⁰ wide common or shared public utility easement centered on all interior lot lines and interior to all perimeter lot lines, to franchised operators furnishing cable television and/or internet and public service corporations furnishing cable television, gas, telephone, internet, and electric service to the subdivision.
- (2) Such easements may be conveyed by reference on the Final Plat to a declaration of the terms and conditions of such common easements and recorded in the Franklin County land records.
- (3) The Agent may require a wider easement where necessary to provide adequate separation between water, sewer, and/or stormwater management facilities.
- (D) In accordance with Code of Virginia, § 15.2-2269, as amended, if the owners of any such subdivision desire to construct in, on, under, or adjacent to any streets or alleys located in such subdivision any gas, water, sewer, or electric light or power works, pipes, wires, fixtures, or systems, they shall present plans or specifications therefor to the Town Council authorized Agent, for approval.²¹

Section 10-3-6. Monuments.²²

- (A) **Property Monuments.** In accordance with the Code of Virginia § 15.2-2241, as amended, permanent reference monuments shall be provided at all street corners, points where street lines intersect exterior boundaries, and at angle points and points of curvature and tangency in each street.
- (1) Monuments shall be:
- (i) Made of a permanent material, such as stone or concrete;
- (ii) 24 inches in length and six (6) inches square with a brass bolt or plate at the top; and
- (iii) Set not less than three (3) nor more than nine (9) inches below the finished grade and anchored or embedded to prevent movement.
- (2) Any person, developer, builder, firm, or corporation shall take the necessary precautions to protect all monuments and metal markers during construction.

²⁰ Editor's Note: Changed from 15 to 20 feet to match drainage easements.

²¹ Editor's Note: New reference to State Code.

²² Editor's Note: This is a new section pursuant to State Code that expands upon existing 5-2 (4) and 3-2 (j).

- (3) The replacement of any monuments removed or destroyed during the development of the subdivision shall be the responsibility of the developer.
- (4) Upon completion of subdivision street, sewer, and other improvements, the developer shall make certain that all monuments required by this Ordinance are clearly visible for inspection and use. Such monuments shall be inspected and approved by the Agent before any improvements are accepted by the Town Council.

Section 10-3-7. Obligation of Improvements.

(A) Off-site improvements.

- (1) All improvements and facilities required by this Article shall be installed by the developer at their cost and is not the responsibility of the locality, as outlined in the Code of Virginia § 15.2-2268, as amended, unless the Town agrees to cost-sharing or other means of participation, and this agreement is formally entered into before Final Plat approval.²³
- (2) As allowed by the Code of Virginia, § 15.2-2243, as amended, the Town of Rocky Mount may require a subdivider or developer of land to pay the pro rata share of the cost of providing reasonable and necessary road improvements, sewerage, water, and drainage facilities, located outside the property limits of the land owned or controlled by them but necessitated or required, at least in part, by the construction or improvement of the subdivision or development as per Town of Rocky Mount water and sewer regulations and Comprehensive Plan.²⁴
- (3) Such regulations or ordinance shall set forth and establish reasonable standards to determine the proportionate share of total estimated cost of ultimate sewerage, water, and drainage facilities required to adequately serve a related and common area, when and if fully developed in accord with the Comprehensive Plan, that shall be borne by each subdivider or developer within the area. Code of Virginia, § 15.2-2243, as amended.²⁵
- (4) Each such payment received shall be expended only for the necessary engineering and related studies and the construction of those facilities for which the payment was required and, until so expended, shall be held in an interest-bearing account for the benefit of the subdivider.²⁶
 - (i) In lieu of such payment, the Agent may accept a letter of credit satisfactory to the Agent conditioned upon the payment at the commencement of construction.
 - (ii) The payments received shall be kept in a separate account for each of the individual improvement programs until such time as they are expended for the improvement program.
 - (iii) All payments shall be released and used, with any interest earned, as a tax credit on the real estate taxes on the property if construction of the facilities identified in the established

²³ Editor's Note: This item has been reworded from existing Ordinance 8-1 (c)(1) for clarity.

²⁴ Editor's Note: This item has been reworded from existing Ordinance 8-1 (c) (2 & 3).

²⁵ Editor's Note: This item has been reworded from existing Ordinance 8-1 (c) (4).

²⁶ Editor's Note: This item has been reformatted from existing Ordinance 8-1 (c) (5).

water, sewer, and drainage programs is not commenced within 12 years from the date of the posting of the payment.

- (5) Any improvements, which are installed and constructed as part of a subdivision or development, which are not required but will come under control of the Town of Rocky Mount, shall be installed and constructed in accordance with good engineering practices and approved by the Agent.²⁷
- (6) Inspection during and after installation of improvements will be made by representatives of the Town of Rocky Mount and approving agencies to ensure conformity with approved plans and specifications.²⁸
 - (i) The subdivider shall notify the Town in writing at least three (3) days before commencing construction or installation on any item of improvement and of each phase of street construction.
 - (ii) The subdivider shall also notify the Town upon completion of each improvement item or phase of street construction.
 - (iii) The subdivider shall provide adequate competent supervision on the project site during construction of the required improvements.
 - (iv) The subdivider shall keep one (1) set of approved plans, profiles, and specifications on the project site at all times when work is being performed.

Section 10-3-8. Homeowners Associations (HOAs).²⁹

- (A) Common areas – such as private streets, open space, utilities, or stormwater management facilities – provided by the subdivider or developer within any Major or Minor Subdivision, if not dedicated to the Town, shall be conveyed to a homeowners' association created for the subdivision.
 - (1) Private driveways, shared driveways, and access easements with road maintenance agreements are not required to be conveyed to the homeowners' association.
- (B) The developer shall file a declaration of covenants and restrictions that will govern the HOA. Such covenants and restrictions shall include, but not necessarily be limited to, the following:
 - (1) The HOA including by-laws, covenants and restrictions, and articles of the association or corporation must be set up and legally constituted prior to the sale of any lot, dwelling unit, or other structure located within the subdivision.
 - (2) Such HOA must be effectual prior to the sale of 25% of said lots or dwelling units, on whichever assessments are based. The entire cost for maintenance of the open spaces, private streets, or other communally owned facilities shall be borne by the developer until such time as the HOA becomes effectual.

²⁷ Editor's Note: New text added to ensure proper installation.

²⁸ Editor's Note: New text added to ensure proper installation and inspection.

²⁹ Editor's Note: New Section as provided by State Code § 15.2-2256.

- (3) All covenants and restrictions must be for a substantial period of time with a minimum of 25 years, run with the land, and must apply to all lots and dwelling units located within the subdivision.
- (4) The HOA must be responsible for liability insurance, local property taxes, and the maintenance of any private streets, land, communally owned facilities, and swim facilities;
- (5) Homeowners must pay their pro-rata share of the cost of the above through assessment levied by the HOA, which must become a lien on each homeowner's property. Every lot or landowner shall have the right to petition a court of competent jurisdiction to ensure adequate maintenance and upkeep of the HOA's responsibilities.
- (6) The HOA must be able to adjust assessments to meet changing needs;
- (7) The HOA must be organized as a nonprofit unincorporated association or nonprofit corporation, managed by either a trained professional or a Board of Directors elected by the voting members of the HOA. In accordance with the Code of Virginia § 15.2-2256, as amended, the Board of Directors or other managing professional charged with collection of fees and the maintenance of common improvements shall provide an annual report to the lot owners of all fees collected and disposition of all funds.
- (8) Lots or dwelling units assessed by the HOA shall only be those indicated on the approved Final Plat.
- (9) It shall be mandatory for every lot or landowner to have membership in the HOA.
- (C) The Town of Rocky Mount shall bear no responsibility for enforcement, administration, or otherwise of any established HOA.

Division 4. Guarantees.³⁰

Section 10-4-1. Types of Guarantees.

- (A) The developer shall provide a guarantee to the Town for acceptance by the Agent or Town Attorney, such guarantee may be a:
 - (1) Performance Bond. A performance bond shall be executed by a surety company licensed to do business in the state of Virginia.
 - (2) Letter of Credit. A letter of credit shall be executed by a bank licensed to do business in the state of Virginia.
 - (3) Cash Escrow. The applicant shall provide to the Town of Rocky Mount a cash or cashier's check.

³⁰ Editor's Note: This Division reorganizes and updates language from existing Ordinance Section 6, adds State Code references, and brings it into compliance with State Code.

Section 10-4-2. Required to be Guaranteed.³¹

- (A) Pursuant to the Code of Virginia § 15.2-2245 and as provided in this Ordinance, prior to approval of the Final Plat, all improvements required in this Article shall be constructed prior to the granting of the Final Plat approval by the Agent; or the subdivider shall furnish the Agent with a surety or certified check for the amount of the estimated construction cost for the ultimate installation and initial maintenance of the improvements.
- (1) The bond shall be payable to, and held by, the Town Council.
 - (2) In accordance with Code of Virginia § 15.2-2241 (B), as amended, any certified check, cash escrow, bond, letter of credit or other performance guarantee furnished pursuant to this Article shall only apply to, or include the cost of, any facility or improvement shown or described on the approved Final Plat or plan of the project for which such guarantee is being furnished. The guarantee shall remain in full force and effect until released, in accordance with the provisions of this Ordinance.
- (B) Guarantees for Dedicated Public Uses. In accordance with Code of Virginia § 15.2-2241.1, as amended, provided the developer and the Town Council have agreed on the delineation of sections within a proposed development, the developer shall be required to furnish a bond for construction of public facilities only when construction plans are submitted for the section in which such facilities are to be located.
- (C) Guarantees for Other Improvements. Other improvements requiring a guarantee include, but are not limited to:
- (1) Structures necessary to ensure stability of critical slopes, and for stormwater management facilities;
 - (2) Erosion and sediment control measures required as a condition to grading, building, or other permits;
 - (3) Any privately-owned site-related improvements, including but not limited to fencing, landscaping, buffering, internal sidewalks, lighting, paving, and private recreational facilities required by this Ordinance but not completed prior to issuance of a Certificate of Occupancy.

Section 10-4-3. Amount.³²

- (A) The guarantee shall be provided in the following amount:
- (1) Total estimated cost of construction based on unit prices, approved by the Agent;
 - (2) Plus, an additional 10% of the total estimated cost of construction to cover administrative costs, inflation, and potential damage to existing roads or facilities, as permitted by the Code of Virginia § 15.2-2241, as amended.

³¹ Editor's Note: Section expanded and clarified from existing Ordinance Section 6-1.

³² Editor's Note: Section expanded and clarified from existing Ordinance Section 6-4.

Section 10-4-4. Release.³³

- (A) 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.
- (B) Periodic Partial Release. Upon the completion of at least 30% of the improvements covered by a performance guarantee, the applicant may file a written request with the Agent for a partial release of such guarantee.
 - (1) 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.
 - (2) 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.
 - (3) The Agent shall act upon the written request for a partial release within 30 days of receipt.
 - (4) 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.
 - (5) Up to 90% of the original amount of the performance guarantee may be released through periodic partial releases, based upon the percentage of public facilities completed and approved by the Town or other agency having jurisdiction.
- (C) Final Release. Upon final completion of the facilities, the developer may file a written request for final release of the guarantee.
 - (1) The 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.
 - (2) The Agent shall either accept the facilities, request and receive the defect bond, and release the remaining guarantee or notify the applicant that the facilities are not accepted and that there are specific defects or deficiencies in construction.
 - (3) If the 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 Manager.
 - (i) The Town Manager shall act within ten (10) working days of the request.
 - (ii) If no action is taken, the request shall be deemed approved and final release granted to the applicant.
- (D) For the purposes of this Section and as defined in the Code of Virginia § 15.2-2245, 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.

³³ Editor's Note: Section expanded and clarified from existing Ordinance Section 6-5 and 6-6.

- (E) As-built Plans. These plans shall be required prior to the release of any guarantee and the Developer shall certify that all agreed-upon standards have been met.
 - (1) If a periodic release is requested, the As-builts Plans and certification for that phase of the development shall be provided prior to release of that portion of the guarantee.
- (F) Defect bonds. A defect bond or other surety shall be provided at the time any improvement is proposed to be accepted for dedication, maintenance, or operation by the Town.
 - (1) The amount of the bond shall be five percent (5%) of the total construction cost of the improvement or a bond with surety satisfactory to the Town Attorney in an amount sufficient for coverage costs of remedy of defects appearing in such improvements within two (2) years.
 - (2) The defect bond shall be released at the end of two (2) years from the date of Town acceptance of responsibility.
 - (i) Such release shall be in full if no defects have been found to exist, or if defects found to exist have been corrected by the owner or developer.
 - (ii) If defects found to exist have been corrected by action of the Town, the costs of such action shall be deducted from the defect bond.
 - (iii) If defects found to exist within the two-year period have not been corrected after proper notice by the end of such period, the Agent shall make an estimate of cost of correction and such cost shall be deducted from the defect bond, and any balance remaining as a result of lesser actual than estimated cost shall be paid to the owner or developer.

Section 10-4-5. Extensions for Completion.³⁴

- (A) The maximum period for the developer to complete guaranteed improvements shall be 24 months, unless extended in accordance with (B) of this Section.
- (B) If guaranteed improvements are not completed in a timely manner acceptable to the Town, the Agent may proceed via the provisions for default or allow an extension of time for the completion of facilities, not to exceed one (1) year, provided that:
 - (1) All surety consents have been acquired and approved by the Town;
 - (2) The owner has submitted an acceptable revised schedule for completion; and
 - (3) Inspection of existing physical improvements is found to be satisfactory.

Section 10-4-6. Default.³⁵

- (A) In the event of default in the construction of guaranteed facilities, the Agent is authorized to take such action as may be required to protect the Town of Rocky Mount including, but not limited to:
 - (1) Draw or make demand on the owner or developer's security;

³⁴ Editor's Note: Section reworded from existing Ordinance Section 6-3.

³⁵ Editor's Note: Section expanded and clarified from existing Ordinance Section 6-8.

- (2) Contract for the completion of the work, following the rules for public procurement; and
- (3) Bring an action at law against the owner, developer, financial institution, or surety.

Division 5. Platting Requirements, Generally.

Section 10-5-1. Platting Required.³⁶

- (A) In accordance with the Code of Virginia, § 15.2-2262, as amended, every subdivision plat shall be prepared by a certified professional engineer or land surveyor.³⁷
- (B) Any owner or developer of any tract of land situated within the Town or environs who subdivides the same shall cause a plat of such subdivision, in accordance with Code of Virginia § 15.2- 2241, as amended, with reference to specific types of monuments, to be made and recorded in the clerk's office of the Circuit Court of Franklin County.
- (C) No such plat of subdivision shall be recorded unless and until it shall have been submitted, approved, and certified by the Agent in accordance with the regulations set forth in this section. No lot shall be sold in any such subdivision before the plat shall have been recorded.

Section 10-5-2. Preapplication Conference.³⁸

- (A) Preapplication conference. Before filing an application for approval of a subdivision plat, the subdivider may schedule a conference with the Agent to review a concept sketch for a proposed Major Subdivision.
 - (1) Such action shall not require formal application, fees, or filing of a plat, and is not to be construed as application for approval of a plat in computing time limitations of approval.
 - (2) The Agent's comments on the sketch shall be informal and shall not constitute an official approval or disapproval of the Subdivision Plat.
- (B) The purpose of this meeting is to discuss early and informally the purpose and effect of this Ordinance and the criteria and standards contained therein; and to familiarize the developer with the standards set forth in the Town of Rocky Mount Erosion and Sediment Control Ordinance, the Comprehensive Plan, the open space requirements, and the flood control, drainage, sewer, and water systems for the Town. The subdivider shall, at the preapplication meeting, submit a sketch plan, legibly drawn at a suitable scale, containing the following information in accordance with the Code of Virginia:
 - (1) The proposed subdivision in relation to existing community facilities, thoroughfares, and other transportation modes, shopping centers, manufacturing establishments, residential developments and easements, and existing natural and manmade features, such as soil types, vegetation, contours, and utilities in the neighboring area.

³⁶ Editor's Note: Text from existing Subdivision Ordinance 3-1.

³⁷ Editor's Note: Added for compliance with State Code.

³⁸ Editor's Note: This provision is retained from existing Subdivision Ordinance 4-2 and expanded to explain potential actions and results of the conference.

- (2) The layout and acreage of streets, lots, and any nonresidential sites such as commercial, manufacturing, school, or recreational uses within the proposed subdivision.
 - (3) The location of utilities in the proposed subdivision, if available, or the locations of the nearest sources for water and public facilities for the disposal of sewage and stormwater.
 - (4) The scale and title of the subdivision, a north arrow, and the date.
 - (5) The 100-year flood elevation data.
 - (6) Name, address, and phone number of the owners and the developer.
- (C) The Agent, at the preapplication meeting, may:
- (1) Determine the proposed subdivision plat to be a Minor Subdivision. Such a determination shall exempt the subdivider from the requirements of filing a Preliminary Plat or the preliminary supplementary information as provided in Division 6 of this Article;
 - (2) Determine the proposed subdivision plat to be a Major Subdivision. Such a determination shall require a Preliminary Plat for those that are more than 50 lots and all Major Subdivisions require review and approval by the Planning Commission;
 - (3) Advise the developer of existing Town plans which might affect the proposed subdivision;
 - (4) Check the existing zoning of the tract and make recommendations if a zoning change is necessary or desirable; and
 - (5) Inspect the site or otherwise determine its relationship to existing and proposed streets, utility systems and adjacent land uses and determine any known problems.

Section 10-5-3. Approval Before Sale.³⁹

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

Section 10-5-4. Subdivision Name.⁴⁰

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

Section 10-5-5. Separate Ownership.⁴¹

Where the land covered by a subdivision includes two (2) or more parcels in separate ownership, and lot arrangement is such that a property ownership line divides one (1) or more lots, the land

³⁹ Editor's Note: New Section.

⁴⁰ Editor's Note: New Section.

⁴¹ Editor's Note: New Section.

in each lot so divided shall be transferred by deed to single ownership, simultaneous with the recording of the plat. Said deed is to be deposited with the Agent and held with the plat until the subdivider is ready to record same, and they both shall then be recorded together.

Section 10-5-6. Changes to Plats.⁴²

(A) Revisions to approved plats. No change, erasure, or revision shall be made on any Preliminary or Final Plat of a subdivision, nor on accompanying plans, after approval by the Planning Commission or Agent, unless authorization for such change has been granted in writing by the Agent.

(1) In no case shall the Agent approve a revision of a previously approved plat unless the date of the revision and the fact that it is a revised plat is clearly stated thereon.

Division 6. Preliminary Plats.⁴³

Section 10-6-1. Applicability.⁴⁴

(A) In accordance with the Code of Virginia, § 15.2-2260, as amended, all proposed subdivisions involving more than 50 lots must submit a Preliminary Plat for approval.

(B) Preliminary Plats are not required for:

- (1) Boundary line adjustments;
- (2) Easement plats;
- (3) Agricultural subdivisions;
- (4) Family Subdivisions;
- (5) Minor Subdivisions; and
- (6) Major Subdivisions which are less than 51 lots.

(C) For any of those instances in (B), above, the developer may have a preliminary conference and voluntarily provide a Sketch Plat, as outlined in **Section 10-5-2 (A)**, prior to submission of a Final Plat.

Section 10-6-2. Application for Approval.

(A) Filing.

(1) Prior to Town review, a subdivider shall file with the Agent a completed application with proper filing fee, as provided by the Rocky Mount Fee Schedule, accompanied by copies of the Preliminary Plat by digital and paper submissions as requested by the Agent.⁴⁵

⁴² Editor's Note: From existing Ordinance 4-9.

⁴³ Editor's Note: From existing Ordinance Section 4.

⁴⁴ Editor's Note: Applicability is updated in accordance with State Code and content from existing Ordinance 3-1 is reorganized.

⁴⁵ Editor's Note: The specific number of paper copies has been removed and digital submission added to allow changes over time.

- (2) The Preliminary Plat shall be considered officially filed on the day it is received in the office of the Agent and shall be so dated.
- (3) The Agent shall notify the subdivider within ten (10) working days if the Preliminary Plat is incomplete or does not comply with the submission requirements of this Article.
- (4) Resubmittals shall reactivate the review period.

Section 10-6-3. Preliminary Plat Form and Content.

- (A) The Preliminary Plat shall be prepared in accordance with the Code of Virginia, § 15.2-2262, as amended. The plat shall be drawn on numbered sheets at a scale of not less than 100 feet to the inch and shall be one (1) or more sheets not exceeding 17 inches by 22 inches in size.⁴⁶ If Preliminary Plats require more than one (1) sheet, match lines shall clearly indicate where the several sheets join and shall be accompanied by a key plat showing the entire development at a reasonable scale.
- (B) **Content.**⁴⁷ The Preliminary Plat shall include the following information pursuant to Code of Virginia, § 15.2-2258, as amended:
 - (1) **General information.**⁴⁸
 - (i) Title block denoting type of application, tax map number(s), including the deed book and page number or instrument number of the last instrument in the chain of title, total number of sheets, and a signature line for the approving authority.
 - (ii) Proposed name of subdivision.
 - (iii) Names, addresses, and phone numbers of the owner, subdivider, and registered engineer and surveyor who prepared the plat, and appropriate registration numbers and seals.
 - (iv) Names, addresses, and phone numbers of the owner of any easements affecting the property.
 - (v) Date of the drawing, including revision dates.
 - (vi) Scale of the plat and north arrow, oriented to the top of each sheet where practical.
 - (vii) The sources of data used in preparing the plat.
 - (2) In accordance with Code of Virginia § 15.2-2246, as amended, plats for subdivisions shall clearly state compliance with the Town of Rocky Mount Zoning Ordinance.⁴⁹
 - (3) Zoning district of the tract and adjoining properties and a description of proposed zoning changes, if any.

⁴⁶ Editor's Note: Sheet sizes to match Final Plat were added to this item. Staff should consider whether they want to keep this size or allow an increase size to 24 by 36 inches, or another size.

⁴⁷ Editor's Note: Content has been rearranged, with added content per State Code and best practices.

⁴⁸ Editor's Note: This information from existing Ordinance 4-4 has been reorganized.

⁴⁹ Editor's Note: New item recommended as a best practice.

- (4) Existing sewers, water lines, culverts, and other underground structures, and power transmission poles and lines, within and adjacent to the tract.
- (5) Proposed method of water supply and sewage disposal, location and dimensions of all proposed utility and sewer lines, showing their connections with the existing system.
- (6) Locations, widths, and names of all existing platted or proposed streets, railroad rights-of-way, easements, parks, permanent buildings, and corporation lines; location of wooded areas and other significant topographic and natural features within and adjacent to the plat for a minimum distance of 200 feet.
- (7) **Vicinity sketch map.** A vicinity sketch map showing the location of the proposed subdivision with respect to adjoining property including the area within one (1) mile of the proposed subdivision. The vicinity map shall be shown on an insert on the first sheet.
- (8) Boundaries of the subdivision and its acreage.
- (9) The location of all monuments and their type of materials.
- (10) **Topographic map.** A topographic map showing the area covered by the subdivision properly related to United States Geological Survey (USGS) seven and one-half-minute quadrangle data and showing the boundary lines of the tract to be subdivided with designated floodplain districts and floodway limits delineated.
- (11) **Natural and cultural features.** All pertinent natural, cultural, and historical features and landmarks including watercourses, marshes, lakes, impoundments, areas of significant vegetation, existing buildings in the subdivision, the location and description of all existing markers, and the identification of any grave, object, or structure marking a place of burial located on the tract or parcel of land to be subdivided.
- (12) Drainage districts. Any part of the land that lies in a drainage district.⁵⁰
- (13) Streets, easements, rights-of-way, lots, and lot lines.
 - (i) Existing. The names, locations, and dimensions of the following: all streets (existing and platted), public water and sewer facilities, easements, rights-of-way, and lot lines.
 - (ii) Proposed. Names, locations, and dimensions of proposed streets and lots including a boundary survey or existing survey of record.
 - (iii) Sections. Boundaries and section numbers for subdivisions that are to be developed in phases.
 - (iv) Lots. Number and approximate area of all lots. Lots shall be numbered consecutively (beginning with "1, 2, 3...") throughout the subdivision so that there is no duplication of lot numbers.
- (14) **Land for public or common use.**

⁵⁰ Editor's Note: New item pursuant to State Code § 15.2-2258.

- (i) Proposed by the subdivider. All parcels of land intended to be dedicated or reserved for public use or to be reserved in the deed for the common use of property owners in the subdivision with proposed covenants and restrictions.
 - (ii) Comprehensive Plan. Areas shown in the Comprehensive Plan as proposed sites for schools, parks, roads, or other public uses.
- (15)**Public water and sewer required documentation.**
- (i) A statement signed by an engineer giving estimates of the projected water and sewer needs of the entire development in gallons per day.
 - (ii) A signed statement from the Director of Public Works stating the adequacy of the utility system to handle the increased flows.
- (16)**Subdivision of land from more than one source of title.** When the subdivision consists of land acquired from more than one (1) source of title, the outlines of the various tracts indicated by dashed lines, and identification of the respective tracts shall be shown and identified on the index map.
- (17)**Floodplains.** Floodplains shall be determined by the Federal Emergency Management Agency's (FEMA) flood insurance rate map for the Town. Minimum building elevations for each proposed lot totally or partially within the 100-year floodplain shall be designated on the Preliminary Plat. If the proposed subdivision is in a floodplain district, the Preliminary Plat shall be reviewed to assure that:
- (i) The proposed subdivision is consistent with the need to minimize flood damage within the floodplain districts.
 - (ii) All public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage.
 - (iii) Adequate drainage is provided to reduce exposure to flood hazards.
 - (iv) New water supply systems are designed to minimize or eliminate the infiltration of floodwaters into the systems.
 - (v) New sanitary sewer systems are designed to minimize or eliminate the infiltration of floodwaters into the system and discharge from the systems into floodwaters.
 - (vi) On-site waste disposal systems are located so as to avoid impairment to them or contamination from them during flooding.
- (18)**Stormwater management.** Descriptions and general locations of structures and facilities required for stormwater management according to the Town's erosion and sediment control ordinance.
- (19)**Joint control.** When the land involved lies wholly or partly within an area subject to the joint control of more than one locality, the plat shall be submitted to both localities.

(20)**Additional regulations.** The Agent and the Planning Commission may request additional information as they see fit.

(C) The following information shall be supplied unless waived by the Agent as insignificant to the application:⁵¹

- (1) Statement of proposed use of lots, giving type and number of dwelling units and type of business or industry.
- (2) Profile of each street with tentative grades.
- (3) Location and approximate dimension of all existing buildings.
- (4) Building setback lines with dimensions.
- (5) For commercial and industrial development, the location, dimensions, and approximate grade of proposed parking and loading areas, alleys, pedestrian walks, streets, and the points of vehicular ingress and egress to the development.
- (6) Description of proposed covenants and restrictions.

Section 10-6-4. Review and Approval of Preliminary Plat.⁵²

(A) In addition to (B) through (D) below, the Agent and the Planning Commission will act accordingly with regard to timeframes of resubmittals and other agency reviews, as outlined in the Code of Virginia, § 15.2-2259, as amended.

(B) Review By Agent.

- (1) Upon receipt of all necessary data, recommendations, and applications, a Preliminary Plat shall be reviewed by the Agent to determine its conformity to this Ordinance, the Comprehensive Plan, and all other ordinances and regulations in force which affect subdivisions.
 - (i) The Rocky Mount Planning and Zoning Office shall transmit copies of the Preliminary Plat, or appropriate portions thereof, to the Town Manager, Town Engineer, appropriate utility companies, VDOT, the State Air Pollution Control Board, Soil Conservation Agent, and other pertinent Town, County, and State Officials and agencies as deemed necessary by the Agent for recommendations.
 - (a) These recommendations shall be submitted to the Agent no later than 15 days before the Planning Commission meeting at which the Preliminary Plat will be reviewed.
 - (ii) Upon receipt of such reports, the Agent shall record the date of submission, incorporate all comments together with the results of the staff review, and determine that all Preliminary Plat requirements have been met, and schedule the Plat for review by the Planning Commission at a meeting to be held within 60 days of submission.

(C) Planning Commission Approval.

⁵¹ Editor's Note: New content for the Town to consider.

⁵² Editor's Note: This Section has been reworded and restructured for compliance with State Code.

- (1) The Planning Commission shall review and approve or disapprove all Preliminary Plats for subdivisions of more than 50 lots, and if determined that Planning Commission approval is needed, all other Preliminary Plats referred to it by the Agent.
 - (i) If recommended for disapproval, the Planning Commission or Agent shall set forth in writing the reasons for such denial, with reference to the specific Section(s) of the Zoning and Subdivision Ordinance with which it does not comply and shall state what corrections or modifications will permit approval.

(D) Effect and Validity.

- (1) Approval of a Preliminary Plat shall not constitute approval of the Final Plat. It shall be deemed as an expression of approval of the layout submitted on the Preliminary Plat as a guide to the preparation of the Final Plat.
 - (2) When the Planning Commission approves the Preliminary Plat of a multi-phase subdivision, it may grant an extension for the recordation of the Final Plats of the subdivision for such time as it may deem to be reasonable, taking into consideration the size and phasing of the proposed subdivision.
 - (i) The Final Plats for all phases must be recorded within five (5) years of the first recordation of a Final Plat for any phase, unless this period is extended.
 - (3) As dictated by Code of Virginia, § 15.2-2260, as amended, an approved Preliminary Plat shall be valid for a period of five (5) years, provided the developer:
 - (i) Submits a Final Plat for all or a portion of the property within one (1) year of such approval; and
 - (ii) Thereafter diligently pursues approval of the Final Plat. “Diligent pursuit of approval” means that the developer has incurred extensive obligations or substantial expenses relating to the submitted Final Plat or modifications thereto.
 - (iii) If, as determined by the Agent, approval of the Final Plat is not diligently pursued after a period of three (3) years, the Agent shall provide the subdivider with 90 days written notice by certified mail that because approval has not been diligently pursued, the approval of the Preliminary Plat has been revoked.
 - (4) Once an approved Final Plat for all or a portion of the property is recorded, the underlying Preliminary Plat shall remain valid for a period of five (5) years from the date of the latest recorded Final Plat of subdivision for the property.
- (E) Limits of Approval.** The approval of the Preliminary Plat does not guarantee or constitute approval or acceptance of the subdivision or authorization to proceed with construction or improvements within the subdivision.

Section 10-6-5. Appeals.⁵³

- (A) Appeal of failure to act on Preliminary Plat. If the Planning Commission fails to approve or disapprove the Preliminary Plat pursuant to Code of Virginia, § 15.2-2259, as amended, the subdivider, after 10-days' written notice to the commission, or Agent, may petition the circuit court of Franklin County.
- (B) Appeal of disapproval of Preliminary Plat. If the Planning Commission disapproves a plat and the subdivider contends that the disapproval was not properly based on the ordinance applicable thereto, or was arbitrary or capricious, they may appeal to the circuit court of Franklin County and the court shall hear and determine the case as soon as may be, pursuant to Code of Virginia, § 15.2-2259, as amended.

Division 7. Final Plats.

Section 10-7-1. Applicability.

- (A) When Required. Final Plats are required for all subdivisions.
 - (1) If a subdivision requires a Preliminary Plat, as provided in **Division 6 of this Article**, Final Plat submission shall be after the Preliminary Plat is approved.

Section 10-7-2. Application.

- (A) Filing.
 - (1) A subdivider shall file with the Agent a completed application with proper filing fee, as provided by the Rocky Mount Fee Schedule, accompanied by seven (7) copies of the Preliminary Plat by digital and paper submissions as requested by the Agent.
 - (2) The subdivider shall file with the Agent the Final Plat meeting the standards of this section for all or one (1) or more phases of the subdivision within six (6) months of the Planning Commission's approval of the Preliminary Plat.
 - (3) The subdivision Agent shall notify the subdivider in writing within ten (10) working days if the Final Plat is incomplete and does not comply with submission requirements of this section. Resubmittals shall reactivate the review period.

Section 10-7-3. Final Plat Form and Content.

- (A) Plat details shall meet the standard for plats as adopted under the Virginia Public Records Act, Code of Virginia § 42.1-76 et seq.
- (B) The Final Plat shall be legibly drawn in waterproof black ink on tracing cloth or other material of equal permanence. It shall be drawn at a scale not less than 100 feet to the inch, and shall be one

⁵³ Editor's Note: This Section from existing Ordinance 4-11 has been updated for compliance with State Code.

- (1) or more sheets 17 by 22 inches in size.⁵⁴ If more than one sheet is needed, each sheet shall be numbered and the relation of one sheet to another clearly shown.⁵⁵
- (1) If Final Plats require more than one (1) sheet, match lines shall clearly indicate where the several sheets join and shall be accompanied by a key plat showing the entire development at a reasonable scale.
- (2) The north arrow shall be shown with annotation in accordance with the meridian to which the plat bearings are referenced, and, where practical, oriented to the top of the sheet.
- (C) **Content.** In addition to the Preliminary Plat requirements specified in **Section 10-6-3 of this Article**, the final plat shall contain the following:
- (1) A vicinity map at a scale of not less than 2,000 feet to the inch shall be shown on, or accompany, the final plat. This map shall show all existing subdivisions, roads, and tract lines and the nearest existing thoroughfare.
- (2) The boundary lines of the area being subdivided shall be determined by an accurate field survey with bearings shown in degrees, minutes, and seconds to the nearest ten (10) seconds and dimensions to be shown in feet to the nearest hundredth of a foot to the accuracy of not less than one (1) in 10,000.
- (3) All curves on a Final Plat shall be defined by radii, central angles, arc lengths, tangent lengths, chord lengths, and chord bearings. Such curve data shall be expressed by a curve table lettered on the face of the plat, each curve being tabulated and numbered to correspond with the respective numbered curve shown throughout the plat.
- (4) When the subdivision consists of land acquired from more than one (1) source of title, the outlines of the various tracts indicated by dashed lines, and identification of the respective tracts shall be shown and identified on the index map.
- (D) In addition, the Final Plat shall include the following:
- (1) General information.**
- (i) Title block denoting type of application, tax map number(s), including the deed book and page number or instrument number of the last instrument in the chain of title, total number of sheets, and a signature line for the approving authority.
- (ii) The subdivision name.
- (iii) Location of subdivision identification sign(s).
- (iv) Names, addresses, and phone numbers of the owner, subdivider, and registered engineer and surveyor who prepared the plat, and appropriate registration numbers and seals.

⁵⁴ Editor's Note: Staff should consider whether they want to keep this size or allow an increase size to 24 by 36 inches, or another size.

⁵⁵ Editor's Note: Added details for the quality of the plat.

- (v) Names, addresses, and phone numbers of the owner of any easements affecting the property.
 - (vi) Names of adjoining property owners.
 - (vii) Date of drawing including revision dates.
 - (viii) Graphic scale.
 - (ix) Zoning district of the tract and adjoining properties and a description of proposed zoning changes, if any.
 - (x) Total acres in each proposed use.
 - (xi) The sources of data used in preparing the plat.
 - (xii) In accordance with Code of Virginia § 15.2-2246, as amended, plats for subdivisions shall clearly state compliance with the Town of Rocky Mount Zoning Ordinance.⁵⁶
- (2) **Additional regulations.** The Agent or Planning Commission may request additional information as they see fit.
- (3) **Dedications.** Notations of dedications and to whom dedicated.
- (4) **Easements.** Exact location of all easements, their width, use and ownership, and a note that all easements provided for roadway purposes are to be maintained by the Town only to the extent necessary to serve roadway purposes.
- (5) **Drainage districts.** Any part of the land that lies in a drainage district.⁵⁷
- (6) **Environmental site conditions.** As provided by Code of Virginia, § 15.2-2242, as amended, disclosure of any contamination and other adverse environmental conditions on former industrial properties.⁵⁸
- (7) **Floodplains.** Location and boundary to the 100-year floodplain. Minimum building elevations for lots located partially or wholly within the floodplain.
- (i) Floodplains shall be determined by the Federal Emergency Management Agency's (FEMA) flood insurance rate map for the Town. Minimum building elevations for each proposed lot totally or partially within the 100-year floodplain shall be designated on the Final Plat. If the proposed subdivision is in a floodplain district, the Final Plat shall be reviewed to assure that:
 - (a) The proposed subdivision is consistent with the need to minimize flood damage within the floodplain districts.
 - (b) All public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage.

⁵⁶ Editor's Note: New item added as a best practice.

⁵⁷ Editor's Note: New item pursuant to State Code § 15.2-2258.

⁵⁸ Editor's Note: New item added as best practice.

- (c) Adequate drainage is provided to reduce exposure to flood hazards.
 - (d) New water supply systems are designed to minimize or eliminate the infiltration of floodwaters into the systems.
 - (e) New sanitary sewer systems are designed to minimize or eliminate the infiltration of floodwaters into the system and discharge from the systems into floodwaters.
 - (f) On-site waste disposal systems are located so as to avoid impairment to them or contamination from them during flooding.
- (8) **Joint control.** When the land involved lies wholly or partly within an area subject to the joint control of more than one locality, the plat shall be submitted to both localities.
- (9) **Land for public or common use.**
- (i) **Proposed by the subdivider.** All parcels of land intended to be dedicated or reserved for public use or to be reserved in the deed for the common use of property owners in the subdivision with proposed covenants and restrictions.
 - (ii) **Comprehensive Plan.** Areas shown in the Comprehensive Plan as proposed sites for schools, parks, roads, or other public uses.
 - (iii) **Recreational areas.** Recreational areas shall be clearly labeled on the plat.
- (10) **Lots.** Number and approximate area of all lots. Lots shall be numbered consecutively (beginning with "1, 2, 3...") throughout the subdivision so that there is no duplication of lot numbers. The accurate location and dimensions of all lot lines, area of each lot, and the name or number of the section, if part of a larger subdivision.
- (11) **Monuments.** The location of all monuments and their type of materials.
- (12) **Natural and cultural features.** All pertinent natural, cultural, and historical features and landmarks including watercourses, marshes, lakes, impoundments, areas of significant vegetation, existing buildings in the subdivision, the location and description of all existing markers, and the identification of any grave, object, or structure marking a place of burial located on the tract or parcel of land to be subdivided.
- (13) **Restrictions.** Private or public restrictions and their period of existence. If the restrictions are of such length as to make their lettering on the plat impractical, reference shall be made on the plat to a separate instrument.
- (14) **Sections.** Boundaries and section numbers for subdivisions that are to be developed in phases.
- (15) **Stormwater management.** Descriptions and general locations of structures and facilities required for stormwater management according to the Town's erosion and sediment control ordinance.
- (16) **Streets.**
- (i) Locations, widths, and names of all existing platted or proposed streets, railroad rights-of-way, easements, parks, permanent buildings, and corporation lines; location of wooded

areas and other significant topographic and natural features within and adjacent to the plat for a minimum distance of 200 feet.

- (a) Streets shall be named and shall not duplicate existing or platted street names, unless the new street is a continuation of existing or platted streets, in which case it shall bear the name of the existing or platted street.
- (ii) Temporary cul-de-sacs where needed.
 - (a) When one or more temporary turnarounds are shown, the following statement shall be included on the plat: "The area on this plat designated as temporary turnaround shall be constructed and used until (street name) is/are extended, at which time the excess land in the temporary turnaround area shall be abandoned for street purposes and shall revert to adjoining landowners in accordance with specific provisions in their respective deeds."

(17)Topographic map. A topographic map showing the area covered by the subdivision properly related to United States Geological Survey (USGS) seven and one-half-minute quadrangle data and showing the boundary lines of the tract to be subdivided with designated floodplain districts and floodway limits delineated.

(18)Utilities.

- (i) Existing sewers, water lines, culverts, and other underground structures, and power transmission poles and lines, within and adjacent to the tract.
- (ii) Proposed method of water supply and sewage disposal, location and dimensions of all proposed utility and sewer lines, showing their connections with the existing system.

(19)Required forms, statements, and signatures.

- (i) **Certificate of title.** The surveyor or engineer shall affix upon each plat his name and address with a certificate signed by him stating the source of the title of the owner of the land subdivided and the place of record of the last instrument in the chain of title.
- (ii) **Surveyor's or engineer's certificate.** The surveyor or engineer shall affix upon each plat and sign the following certificate: "I hereby certify, to the best of my knowledge and belief, that all of the requirements of Town Council and ordinances of the Town of Rocky Mount, Virginia, regarding the platting of subdivisions with the Town have been met."
 - (a) A certificate signed by the surveyor setting forth the markers shown and described on the plat are in place, or will be installed upon final utility and road installation, as shown.
- (iii) Owners consent and dedication statement. The following statement shall be affixed by the surveyor or engineer on the plat: "The platting or dedication of the following described land" (insert a correct description of the land subdivided) "is with the free consent and in accordance with the desires of the undersigned owners, proprietors, and trustees, if any. The roads shown hereon are hereby dedicated to public use." The statement shall be

signed by such persons and duly acknowledged before an officer authorized to take acknowledgement of deeds.

- (iv) Space for a statement by the Agent indicating that the Town does not approve or enforce restrictive covenants, and space for the signature of the Agent certifying the statement.
- (v) **Public water and sewer required documentation.**
 - (a) A statement signed by an engineer giving estimates of the projected water and sewer needs of the entire development in gallons per day.
 - (b) A signed statement from the Director of Public Works stating the adequacy of the utility system to handle the increased flows.
- (vi) The following statement shall be included on the plat: "Prior to the improvement of any lot in the Town the Planning and Zoning Department shall be contacted concerning, but not limited to, the current zoning, building setback requirements, water or sewer systems, health department requirements, erosion and sediment control requirement, and private streets."
- (vii) For Family Subdivisions with easement of right-of-way, prior to the issuance of a building permit on a subdivision lot not having frontage on a state road, the property owner shall sign and record in the land records an agreement, which shall be reflected in the chain of title for that lot, stating that the property owner understands that:
 - (a) The easement of right-of-way serving the lot is private and the road or drive within it shall be maintained by the benefited property owner(s).
 - (b) The road or drive is ineligible for admission into the state secondary road system for maintenance unless it is brought into conformance with the requirements of this subdivision ordinance at no cost to the Town or Commonwealth of Virginia.
 - (c) Until the road is accepted into the secondary road system, state maintenance will not be provided, and mail service and school bus service may not be available to the property.
- (viii) Certificate of approval. The following signature panel shall be provided in the upper right-hand corner for the Agent, highway engineer, and health official, as applicable: "The subdivision known as _____ subdivision (section _____, if applicable) is approved by the undersigned in accordance with existing subdivision regulations and may be admitted to record." (Insert signature lines for highway engineer, health official and subdivision Agent of the Town of Rocky Mount).

Section 10-7-4. Review of Final Plats.

- (A) The Agent will act accordingly with regard to timeframes of resubmittals and other agency reviews, as outlined in the Code of Virginia, § 15.2-2259, as amended.⁵⁹

⁵⁹ Editor's Note: New reference to State Code.

- (1) The Agent has authority to review and approve or deny all final plats, except the Agent may only approve or deny Major Subdivision plats as directed by the Planning Commission.
 - (i) The Agent may deem any plat to have such a complex nature to require Planning Commission review.
- (2) Upon receipt of all necessary data, recommendations, and applications, a Final Plat shall be reviewed by the Agent to determine its conformity to this Ordinance, the Comprehensive Plan, and all other ordinances and regulations in force which affect subdivisions. In addition, based on the type of plat the following apply:
 - (i) Major Subdivisions of more than 50 lots.
 - (a) The Agent shall also review based on the Planning Commission Preliminary Plat approval.
 - (b) A final plat may constitute only a portion of the area contained in the approved Preliminary Plat provided that the public improvements constructed in the area covered by the plat are sufficient by and of themselves to accomplish a proper development and to provide adequately for the health, safety, and convenience of the proposed residents therein and for adequate access to contiguous areas.
 - (ii) Major Subdivisions of less than 51 lots.
 - (a) The Agent shall provide the plat for recommendation to the Planning Commission.
- (3) The developer shall transmit copies of the Final Plat, or appropriate portions thereof, to the Town Manager, Town Engineer, appropriate utility companies, the State Air Pollution Control Board, Soil Conservation Agent, and other pertinent Town, County, and State Officials and agencies as deemed necessary by the Agent for recommendations.
 - (i) These recommendations shall be submitted to the Agent within ten (10) days.

Section 10-7-5. Approval and Disapproval.⁶⁰

- (A) The Agent will act accordingly with regard to approval and disapproval as outlined in the Code of Virginia, § 15.2-2259, as amended.
- (B) General requirements prior to decision.
 - (1) The Agent shall confirm that provisions for required guarantees, as provided in **Division 4** of this Article, are met, and approved by the Town Attorney. The Agent shall receive any payment not covered in the guarantee and due for the fabrication and installation of street and any payment due for a fee in lieu of parkland prior to the approval of the Final Plat.
 - (2) The Agent shall confirm any necessary deed of dedication has been submitted and approved by the Town Attorney. A deed of dedication is required to convey parkland, pump station sites, and other property to the Town. One is not necessary to convey streets, alleys, any easement

⁶⁰ Editor's Note: Content from existing Ordinance 5-4 has been reorganized for clarity.

- for public passage, or an easement for the conveyance of stormwater, domestic water, or sewerage.
- (3) Where appropriate, the Agent shall confirm any required deeds of easement to a homeowner's association are submitted and approved by the Town Attorney.
 - (4) The Agent shall personally inspect the proposed subdivision on the ground.
 - (5) **Multi-phase Subdivisions.**⁶¹
 - (i) The Agent shall confirm that Final Plats for unrecorded phases of multi-phase subdivisions shall meet the approved Preliminary Plat.
 - (a) Any content not shown on the Preliminary Plat shall meet Ordinance requirements at the time that each remaining phase is recorded.
- (C) **Approval.** The Final Plat shall be approved in writing by the Agent, if found to be in conformity with the requirements of law and of this Ordinance, within 60 days after it has been officially submitted for approval.⁶²
- (1) After approval of a final Subdivision Plat, the original drawing and one (1) print thereof shall be returned to the owner or proprietor of the subdivision for recordation in the precise form as approved.
 - (2) Approval of any plat is contingent upon the plat being recorded within six (6) months after the plat is signed by the Agent or their designee.
 - (3) The Agent shall act on any proposed plat that it has previously disapproved of within 45 days after the plat has been modified, corrected, and resubmitted for approval.
- (D) **Disapproval.** If the plat is disapproved, the disapproval shall be in writing, either on the plat itself or in a separate document, and specific reasons shall be given which shall relate in general terms such modifications or corrections as will permit approval of the plat.
- (1) If the subdivision is disapproved, the Agent shall furnish the applicant with a written statement of the reasons for disapproval.
 - (2) **Resubmittal.**⁶³
 - (i) In the review of a resubmitted plat that has been previously disapproved, the Planning Commission or Agent shall consider only deficiencies it had identified in its review of the initial submission of the plat that have not been corrected in such resubmission and any deficiencies that arise as a result of the corrections made to address deficiencies identified in the initial submission.

⁶¹ Editor's Note: Language from existing Ordinance 4-7, reorganized for clarity.

⁶² Editor's Note: Reworded from existing Ordinance 5-3.

⁶³ Editor's Note: New item added as a best practice and in conformance with State Code.

- (ii) Planning Commission or Agent shall act on any plat that it has previously disapproved within 45 days after the plat or plan has been modified, corrected, and resubmitted for approval.
- (iii) The failure of the Planning Commission or Agent to approve or disapprove a resubmitted plat within the time periods required by this Article shall cause the plat deemed approved.
- (3) If the plat is disapproved by the Agent, the subdivider shall have the right to appeal the decision to the Circuit Court of Franklin County in accordance with the procedure set forth in the Code of Virginia, § 15.2-2259, as amended.
- (E) If a plat is not approved or disapproved within 60 days after it has been officially submitted for approval, the subdivider may petition the Circuit Court of Franklin County to decide whether the plat should or should not be approved, in accordance with the procedure set forth in the Code of Virginia, § 15.2-2259, as amended.

Section 10-7-6. Revisions to Approved Plats.

No change, erasure, or revision shall be made on any Preliminary or Final Plat of a subdivision, nor on accompanying plans, after approval by the Planning Commission or Agent, unless authorization for such change has been granted in writing by the Agent. In no case shall the Agent approve a revision of a previously approved plat unless the date of the revision and the fact that it is a revised plat is clearly stated thereon.

Section 10-7-7. Recordation of Final Plat.

- (A) As required by the Code of Virginia, §15.2-2254, as amended, any owner or developer of any tract of land situated within the Town of Rocky Mount who subdivides the same shall cause a plat of subdivision to be made and recorded in the Office of the Clerk of Circuit Court of Franklin County.⁶⁴
 - (1) However, no Final Plat of subdivision shall be recorded unless and until it shall have been submitted, approved, and certified by the Agent in accordance with the regulations of this Article.
- (B) As directed by the Code of Virginia, § 15.2-2241, as amended, after the Agent has approved the Final Plat, the subdivider shall file such plat for recordation in the Clerk's Office of the Circuit Court within six (6) months after approval thereof; otherwise, such approval shall become null and void.⁶⁵
 - (1) However, in any case where construction of facilities to be dedicated for public use has commenced pursuant to an approved plan or permit with surety approved by the Agent, or where the developer has furnished a guarantee to the Town by certified check, cash escrow, bond, or letter of credit in the amount of the estimated cost of construction of such facilities, the time for plat recordation shall be extended to one (1) year after final approval. No clerk of a court shall file or record a plat of a subdivision until such plat has been approved by the Planning Commission.

⁶⁴ Editor's Note: New item to reference State Code.

⁶⁵ Editor's Note: Reworded for compliance with State Code.

- (C) ⁶⁶To entitle a Final Plat to be entered in the proper books in the Office of the Clerk of Circuit Court of Franklin County, the certificate of consent as outlined in the Code of Virginia, § 15.2-2264, as amended, together with the certificates of approval of the Agent, shall accompany it.
- (1) These certificates shall be lettered or printed legibly on the face of the Final Plat. After the Final Plat shall have been approved by the Agent, the Clerk of Circuit Court shall sign the plat and cause a certified copy of the resolution approving such plat to be attached to the plat and returned to the subdivider.
- (D) A recorded plat shall be valid for a period of not less than five (5) years from the date of approval of said plat, as required by the Code of Virginia, § 15.2-2261, as amended. If a recorded subdivision plat dedicates real property to the Town of Rocky Mount, then the approved final subdivision plats shall remain valid indefinitely.
- (E) Recordation of plats shall act as transfer of streets, termination of easements and rights-of-way to the Town of Rocky Mount as outlined in the Code of Virginia, § 15.2-2265, as amended. However, nothing shall obligate the Town of Rocky Mount to install or maintain such facilities unless otherwise agreed to by the Town.⁶⁷
- (F) If the provisions of a recorded plat, which was specifically determined by the Town Council and not its Agent, to be in accordance with the zoning conditions previously approved pursuant to the Code of Virginia, § 15.2-2296 through § 15.2-2303, as amended, conflict with any underlying zoning conditions of such previous rezoning approval, the provisions of the recorded plat shall control, and the zoning amendment notice requirements of the Code of Virginia, § 15.2-2204, as amended, shall be deemed to have been satisfied.

Section 10-7-8. Effect of Recordation of Approved Plat.

- (A) The recordation of an approved plat shall operate to transfer, in fee simple, to the Town, the portion of the premises set apart for streets, alleys, bikeways, sidewalks, or other public use, and to convey facilities and easements for the conveyance of stormwater, public water and sewerage.
- (B) When the Agent approves in accordance with this Article a plat or replat of land, then upon the recording of the plat or replat in the clerk's office of the Circuit Court of Franklin County, all rights-of-way, easements, or other interest of the Town in the land included on the plat or replat, except as shown thereon, shall be terminated and extinguished. However, an interest acquired by the Town by condemnation, by purchase for valuable consideration and evidenced by a separate instrument of record, or streets, alleys, or easements for public passage subject to the provisions of **article VII of this section** shall not be affected thereby.⁶⁸

⁶⁶ Editor's Note: The following items in this Section are new provisions in accordance with State Code.

⁶⁷ Editor's Note: Reference to State Code added.

⁶⁸ Editor's Note: This item is from existing Ordinance 5-6. The reference to "article VII of this section" could not be found. BG needs staff to clarify the correct reference.

Division 8. Vacation of Plats.

Section 10-8-1. Vacation.⁶⁹

- (A) Any Final Plat recorded in any clerk's office, may be vacated as outlined in this Section, in accordance with Code of Virginia, § 15.2-2270 et seq, as amended, § 15.2-2274, as amended, and § 15.2-2278, as amended.
- (B) **Boundary lines.** As allowed by the Code of Virginia, § 15.2-2275, as amended, the Agent may approve the boundary lines of any lot or parcel of land may be vacated, relocated, or otherwise altered as a part of an otherwise valid and properly recorded plat of subdivision or re-subdivision:
 - (1) Approved in accordance with this Article; or
 - (2) Properly recorded prior to the applicability of a Subdivision Ordinance and executed by the owner or owners of the land.
 - (3) The action shall not involve the relocation or alteration of streets, alleys, easements for public passage, or other public areas. No easements or utility rights-of-way shall be relocated or altered without the express consent of all persons holding any interest therein.
- (C) **Interest to the Town.** Any interest in streets, alleys, easements for public rights of passage, easements for drainage, and easements for a public utility granted to the Town as a condition of the approval of a Site Plan may be vacated by the Town Council according to the two (2) methods listed in the Code of Virginia, § 15.2-2270, as amended.
- (D) **Before and After Sale of Lot.**
 - (1) **Single Lot, Family, or Minor Subdivision.**
 - (i) An approved and recorded plat of subdivision, or part thereof, may be vacated prior to, or after the sale of any lot therein by the Agent using the procedures set forth in the Code of Virginia, § 15.2-2271 or § 15.2-2272, as amended, respectively.
 - (2) **Major Subdivision.**
 - (i) An approved and recorded plat of subdivision, or part thereof, may be vacated prior to, or after the sale of any lot therein by the Town Council using the procedures set forth in the Code of Virginia, § 15.2-2271 or § 15.2-2272, as amended, respectively.
- (E) **Fees.**
 - (1) As allowed by the Code of Virginia, § 15.2-2273, as amended, the Town shall establish a fee for processing an application for vacation of plat. The filing fee shall be paid in accordance with the fee schedule established by the Town Council, as amended.
- (F) **Duties of the Clerk.**

⁶⁹ Editor's Note: This Section has been updated in accordance with Code of Virginia. The Section replaces Section 7 of existing Subdivision Ordinance.

- (1) According to the Code of Virginia, § 15.2-2276, as amended, the clerk in whose office any plat so vacated has been recorded shall write in plain legible letters across such plat, or the part thereof so vacated, the word "vacated," and make a reference on the plat to the volume and page in which the instrument of vacation is recorded.

Division 9. Enforcement, Violations, and Fees.⁷⁰

Section 10-9-1. Enforcement.⁷¹

(A) As provided in the Code of Virginia § 15.2-2254, as amended, the following applies:

- (1) No person shall subdivide any tract of land that is located within the jurisdiction of the Town of Rocky Mount except in conformity with the provisions of this Ordinance and any other applicable Town ordinance.
- (2) No Final Plat of any subdivision shall be recorded unless and until it has been submitted to and approved by the Agent or Planning Commission in accordance with the provisions of this Article.
- (3) No person shall sell or transfer any land of a subdivision, before a Final Plat has been duly approved and recorded as provided by this Article, unless the subdivision was lawfully created prior to the adoption of a subdivision ordinance. However, nothing contained in this Ordinance shall be construed as preventing the recordation of the instrument by which such land is transferred or the passage of title as between the parties to the instrument.
- (4) As of the effective date of this Ordinance, the clerk of the Circuit Court shall not file or record a Final Plat of a subdivision until such plat has been approved as required by this Article. Penalties provided by Code of Virginia § 17.1-223, as amended, shall apply to any failure to comply with the provisions of this Section.
- (5) On lands where a Final Plat is required to be approved and recorded as provided in this Article, until compliance with this Article and other applicable provisions of this Ordinance are met:
 - (i) No Building Permit shall be issued, nor shall construction be authorized by the Town; and
 - (ii) No Certificate of Occupancy shall be issued regarding the use of any structure or land.

Section 10-9-2. Violation and Penalty.⁷²

- (A) Violations of this Article shall be in accordance with Article 2, Administration, of this Ordinance.
- (B) The description of such lot or parcel by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from such penalties or from the remedies herein provided.

⁷⁰ Editor's Note: From existing Ordinance 2-4 and 2-5.

⁷¹ Editor's Note: This Section has been updated pursuant to State Code.

⁷² Editor's Note: This Section is updated to reflect the structure of the draft Ordinance.

Section 10-9-3. Fees.

- (A) Pursuant to the Code of Virginia § 15.2-2273, there shall be a charge to compensate the Town for the costs incurred during the examination and approval or disapproval of every subdivision plat or lot required to be reviewed by the Agent or the Planning Commission. The applicant should refer to the Town of Rocky Mount Schedule of Fees to determine the charge.
- (B) The Town of Rocky Mount retains authority to charge a fee for the plat vacation process, pursuant to the Code of Virginia, § 15.2-2273.
- (C) All fees shall be payable to the Treasurer of the Town of Rocky Mount, in such amount as set by Town Council.

ATTACHMENT D

*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 10.¹

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, also referred to as the Subdivision Agent or Administrator.

Boundary line adjustment.² A plat that adjusts the property lines of existing parcels to change the configuration of the lots or to consolidate existing lots.

Certificate of occupancy. A permit issued by the building code official that is required under the Uniform Statewide Building Code prior to the use or occupancy of certain buildings and structures.

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.

Cul-de-sac.³ A street with only one outlet and having an appropriate turnaround for a safe and convenient reverse traffic movement.

Developer.⁴ 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. Any manmade change to improved or unimproved real estate including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations.

Easement.⁵ A grant of a right to use property of an owner for specific or limited purpose.

Engineer. A professional who is qualified to practice engineering by reason of their 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.

¹ Editor's Note: Definitions are from existing Subdivision Ordinance unless otherwise noted.

² Editor's Note: New definition.

³ Editor's Note: Definition updated per state code 24VAC30-92-10.

⁴ Editor's Note: New definition.

⁵ Editor's Note: New definition from state code 24VAC30-92-10.

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.

Family, immediate. Any person who is a natural or legally defined offspring, stepchild, spouse, sibling, grandchild, grandparent, or parent of the owner.⁶

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."

Homeowner's Association. A non-profit organization (also known as an HOA or property owner's association) operating under recorded land agreements through which:

1. Each lot and/or homeowner in a clustered or planned development is automatically a member;
2. Each lot is automatically subject to a charge for a proportionate share of the expenses for the organization's activities, such as maintaining a common property; and
3. The charge, if unpaid, becomes a lien against the property.

Improved surface. Concrete, asphalt, bituminous pavement, brick or stone pavers, or other hard, all-weather, dustless, permeable pavement system.

Improvement, public. 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 Rocky Mount, Virginia.

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

Land surveyor. A person who, by reason of their knowledge of the several sciences and of the principles of land surveying, and of the planning and design of land developments acquired by practical experience and formal education, is qualified to engage in the practice of land surveying, and whose competence has been attested through licensure as a land surveyor to do business in the Commonwealth of Virginia.

Lot, stem. A lot which does not abut a public street other than by its driveway, which affords access to the lot. Sometimes referred to as a flag lot.

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.

⁶ Editor's Note: Definition from Code of Virginia.

Owner. Any individual, firm, association, syndicate, partnership, corporation, trust, or any other legal entity having sufficient proprietary interest in the land sought to be subdivided to commence and maintain proceedings to subdivide the same under this Article.

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, easement.⁷ A plat that grants an interest to an adjacent landowner, the public, or a specific entity or person for a specific purpose.

Plat, Final. The map of a subdivision submitted to and approved by the 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.

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

Public use. Facilities or the use of land, exclusively for public purposes, by any department or branch of the federal government, Commonwealth or any political subdivision, public authority, or any combination thereof. This use shall not include Educational Facilities, Public Parks and Recreation, or Utility Service (major or minor) as defined in this Ordinance.

Purchaser.⁸ An actual or prospective buyer or lessee of any lot in a subdivision.

Subdivide.⁹ The process of dealing with land so as to establish a subdivision as defined herein.

Subdivider. Any individual, developer, firm, association, syndicate, partnership, corporation, trust, or any other legal entity commencing or requiring by law to engage in the subdivision, improvement, or renovation of land.

Subdivision. The division of a parcel of land into two (2) or more lots or parcels of land for the purpose of transfer of ownership or building development, including any parcel previously separated by the owner or prior owner of such land for such purpose. The sale or exchange of parcels between adjoining lot owners, where such sale or exchange does not create additional lots, shall be exempt from the provisions of this Ordinance, and provided further, that divisions of lands by court order or decree shall not be deemed a subdivision as otherwise herein defined.

Subdivision, agricultural. Agricultural zoned land where divisions of parcels are at least 20 acres in size and have direct access to a public road.

⁷ Editor's Note: New definition.

⁸ Editor's Note: New definition.

⁹ Editor's Note: New definition.

Subdivision, family. A single division of a lot or parcel for the purpose of sale or gift to a member of the immediate family of the property owner with only one such division allowed per family member.

Subdivision, major. All subdivisions not classified as minor subdivisions, including but not limited to subdivisions, cumulative or individually, with six (6) or more lots or involving the creation of one (1) or more new streets to access the lots or the extension of any public water or public sewer.

Subdivision, minor. A subdivision containing, individually or cumulatively, not more than five (5) lots nor involving the creation of one (1) or more streets to access the lots nor involving the extension of any public water, public sewer, or existing streets to serve new lots.

Subdivision, single lot. One division of a single tract, creating one new lot and a remainder or residual lot.

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