



TOWN COUNCIL
& PLANNING COMMISSION JOINT WORKSESSION
AGENDA

August 20, 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 has updated, modernized, and restructured the Zoning and Subdivision Ordinances into one seamless regulatory document. The revised Zoning and Subdivision Ordinance:

- Provides streamlined and user-friendly regulations;
- incorporates best planning practices and current state code requirements;
- addresses the goals and strategies identified in the Comprehensive Plan; and,
- considers citizen needs and issues identified through the public engagement process.

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

Agenda

The August 20th meeting will focus on reviewing the draft Zoning and Subdivision Ordinance.

The following agenda is provided as an outline for discussion:

1. **Schedule & Progress to Date** – 5 minutes
2. **Public Engagement Review** - 10 minutes
3. **Final Draft Zoning & Subdivision Ordinance review** – 45 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 Worksessions – six meetings held bi-monthly July 2023 – March 2024. Presentations and facilitated group discussions of Articles 1 – 11 in increments of one or more articles at a time.

- Joint Town Council and Planning Commission Worksession in May 2024. Presentation and facilitated group discussion of the compiled draft ordinance.
- Community Engagement offered opportunities to collect community feedback via a Public Open House held July 16, 2024; the draft Ordinance being posted online beginning July 1; and a corresponding online survey that was available from July 9 to July 23, 2024.

Draft Zoning & Subdivision Ordinance Review

Ordinance Review Tips:

- Use the Summary of Changes Memo
- Use the Editor's Notes at the bottom of the draft ordinance pages
- Remember the articles work together as a whole
- Note any items that need to be discussed

Attachment B: Draft ordinance for review

*Notes: Editor's **footnotes in red text** are provided to explain inclusions, omissions, and modifications made as a result of discussion and decisions made during the first six drafting worksessions by Town staff, Planning Commissioners, and Town Council members. Editor's footnotes in black text explain inclusions, omissions, and modifications between the existing Ordinance and the proposed draft Ordinance. Items highlighted in yellow include dates that will be filled in after adoption of the Ordinance.*

Attachment C: Summary of Changes Memo

This summary highlights the major changes to the Draft Rocky Mount Zoning and Subdivision Ordinance proposed to date.

Attachment D: Public Engagement Summary

This summary includes all feedback received during the Public Engagement activities held throughout July 2024.

During this worksession, Berkley Group will review the proposed ordinance and highlight one change that has been made since the May worksession. Discussion will focus on reviewing public input received and any remaining items for consensus. **Planning Commission and Town Council members should review the draft ordinance and bring any items that need further discussion prior to the public hearings.**

Next Steps

- Berkley Group will incorporate edits as directed during the August worksession.
- Planning Commission public hearing — October 1, 2024 for recommendation of the Draft Rocky Mount Zoning and Subdivision Ordinance.
- Town Council public hearing — October 21, 2024 for adoption of the Draft Rocky Mount Zoning and Subdivision Ordinance.

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



Zoning & Subdivision Ordinance

Town Council and Planning Commission Review Draft

August 20, 2024



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ARTICLE 1. – In General.

Division 1. Enactment and Authority.¹

Section 1-1-1. Title.

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

Section 1-1-2. Authority²

- (A) Pursuant to the code of Virginia, § 15.2-2280 et seq., as amended, the Town of Rocky Mount, Virginia, is given the authority to classify and regulate land development under its jurisdiction.
- (B) Pursuant to the Code of Virginia, § 15.2-2240, et seq., as amended, the Town of Rocky Mount, Virginia, is authorized to adopt regulations to ensure the orderly subdivision of land and its development.

Section 1-1-3. Purpose³

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

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

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

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

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

Section 1-1-4. Applicability⁵

- (A) Pursuant to the Code of Virginia, § 15.2-2281, as amended, the provisions of this Ordinance shall apply to all property within the incorporated territory of the Town of Rocky Mount, Virginia, with the exception that any property held in fee simple ownership and used by the United States of America, the Commonwealth of Virginia, or the government of the Town of Rocky Mount shall not be subject to the provisions contained herein. Upon transfer of ownership or control of any portion

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

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

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

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

Section 1-1-5. Conformity with Ordinance Required

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

Section 1-1-6. Severability⁷

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

Division 2. Ordinance Conflicts and Interpretations⁸

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

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

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

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

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

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

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

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

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

- (A) Where figures are contained in this Ordinance, they are provided for demonstrative purposes only and are not a substantive part of this Ordinance.
- (B) If any section of this Ordinance incorporates by reference any state statute or regulation, then the Ordinance incorporates future amendments of the state statute or regulation.

Division 3. Zoning Districts Map¹²

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

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

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

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

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

Section 1-3-2. Incorporated by Reference

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

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

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

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

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

¹⁵ Editor's Note: Proposed new item.

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

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

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

- (8) In case any territory is not definitely and clearly included within any one (1) district, such territory shall be deemed to be in the R1 district until otherwise classified by amendment in accordance with Article III, Permits and Applications, of this Ordinance.
- (9) In any case in which there is uncertainty, contradiction, or conflict as to the location of any zoning district boundary – due to scale, illegibility, lack of detail, physical or natural features vary from those on the Zoning Map, or any other circumstances not covered by this section –

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

the Administrator will have the authority to interpret the district boundaries in accordance with Article 2, Section 2-1-1 of this Ordinance.

(10) The Zoning Administrator's interpretations may be appealed to the BZA in accordance with Article 3 of this Ordinance. The BZA will not have the power to change substantially the locations of district boundaries.

Section 1-3-4. Unauthorized Changes.

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

Division 4. Transition of Regulations After Adoption¹⁷

Section 1-4-1. Effective Date of Ordinance¹⁸

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

Section 1-4-2. Violations Continue.

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

Section 1-4-3. Nonconformities.¹⁹

If any use, structure, lot, sign, or site feature legally existed immediately prior to ____ (effective date of revised Ordinance) but does not fully comply with the standards of this Ordinance or any amendment thereto, the use, structure, lot, sign, or site feature is considered nonconforming under this Ordinance and must comply with the requirements in Article 9, Nonconformities, of this Ordinance.

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

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

- (1) Zoning Text and Map Amendments (rezoning);
- (2) Conditional Zoning;
- (3) Conditional Use Permits;

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

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

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

- (4) Variances; and
- (5) Subdivision Plats;
- (B) Applications and/or plats accepted as complete prior to ____ (effective date of revised Ordinance), or deemed by the Administrator to be complete, prior to ____ (effective date of revised Ordinance), but still pending final action as of that date, will be processed in accordance with the regulations in effect when the submittal was accepted.
- (C) An applicant with a pending application and/or plat accepted prior to ____ (effective date of revised Ordinance), may opt to have the proposed development reviewed and decided under the standards of this Ordinance by withdrawing the pending submittal and submitting a new application and/or plat in accordance with the procedures and standards of this Ordinance.
- (D) To the extent such a complete application and/or plat is approved and proposes development that does not comply with this Ordinance, the subsequent development, although permitted, will be nonconforming and subject to the requirements of Article 9, Nonconformities, of this Ordinance.

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

- (A) This Section pertains to applications for the following:
 - (1) Site Plans;
 - (2) Zoning Permits; and
 - (3) All other permit and development approvals not provided for in Section 1-4-4, above.
- (B) Any other permits or development approvals granted prior to ____ (effective date of revised Ordinance), will remain valid until their expiration date.
 - (1) Developments with valid permits or development approvals granted prior to ____ (effective date of revised Ordinance), may be carried out in accordance with the terms and conditions of their approval and the development standards in effect at the time of approval, provided the permit or development approval is valid and has not expired.²⁰
 - (2) If the prior approval expires or is revoked, any subsequent development or use of the site will be subject to the requirements of this Ordinance.
- (C) To the extent that a prior-approved permit or development approval does not comply with this Ordinance, the subsequent development or use, although permitted, will be nonconforming and subject to the requirements of Article 9, Nonconformities, of this Ordinance.

Section 1-4-6. Vested Rights.

- (A) The provisions of this Ordinance shall not impair a vested right of a property owner. The Administrator shall be authorized to make determinations on whether a property owner's rights

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

are deemed vested in a land use. The Subdivision Agent shall be authorized to make determinations on whether a property owner's rights are deemed vested in a division. Vested rights determinations shall be made in accordance with the Code of Virginia § 15.2-2307, as amended.

- (B) Nothing contained herein shall require any change in the plans or construction of any building or structure for which a building permit was granted prior to ____ (effective date of revised Ordinance).

ARTICLE 2. – Administration.

Division 1. Zoning Administrator and Subdivision Agent.¹

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

- (A) This Ordinance (with the exception of the Subdivision Article) and the Zoning Map shall be administered, interpreted, and enforced by the Zoning Administrator (Administrator), who shall be appointed by the Town Manager.² The Administrator shall exercise their authority at the pleasure of the Town Council and may designate someone to act in their stead.³
- (B) The Administrator may also hold another office in the Town.
- (C) The Administrator shall have such duties as are conferred by this Ordinance and the Code of Virginia § 15.2-2286 (4), including:
 - (1) Administer and enforce this Ordinance;
 - (2) Interpret zoning district boundaries;
 - (3) Where appropriate, issue zoning permits and certificates;
 - (4) Administer and enforce conditions attached to a rezoning or amendment to the Zoning Map;
 - (5) Make necessary inspections; and,
 - (6) When necessary, call for opinions or decisions, either verbal or written, from other departments, boards, or state agencies.
 - (7) In addition to the regulations contained herein, the Administrator may, from time to time, establish any reasonable additional administrative procedures deemed necessary for the proper administration of this Ordinance.
- (D) The Administrator shall submit an annual report no later than March 1 of each year to the Department of Housing and Community Development (the Department) containing the total fee revenue collected by the locality over the preceding calendar year in connection with the processing, reviewing, and permitting of applications for residential land development and construction activities, pursuant to Code of Virginia § 15.2-2209.3, as amended.⁴

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

² Editor's Note: Changed from Town Council to Town Manager as directed at the July 24, 2023 worksession.

³ Editor's Note: Allowing the Administrator to appoint a designee is best practice that ensures prompt service and eases administrative burdens.

⁴ Editor's Note: Item added after the March 19, 2024 worksession.

- (E) A Subdivision Agent (Agent) shall be appointed by the Town Manager⁵ to administer and enforce the Subdivision Article (Article 10) and shall serve at the pleasure of the Town Council. The Zoning Administrator may also serve as the Subdivision Agent⁶.
- (F) The Agent shall have such duties as are conferred by this Ordinance, including but not limited to:⁷
 - (1) Administer and enforce the Subdivision regulations of this Ordinance;
 - (2) Accept and process applications, including reviewing and certifying plats, for conformance with this Ordinance;
 - (3) Forward plats for review, comment, and approval to the appropriate departments, boards, and state agencies;
 - (4) Keep records of all applications; appeals; and submissions and subsequent actions; and
 - (5) Conduct inspections of subdivision improvements for compliance with the approved subdivision and construction plans.

Division 2. Planning Commission.

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

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

Section 2-2-2. Powers and Duties.

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

Section 2-2-3. Meetings and Procedures.⁸

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

⁵ Editor's Note: Changed from governing body to Town Manager as directed at the July 24, 2023 worksession.

⁶ Editor's Note: This is a change from the existing Subdivision Ordinance Section 2-1, which states, "The Planning Commission is appointed to be the Town Council's agent...the Planning Commission may delegate this authority to the subdivision agent." Suggested change is considered best practice to simplify administration and streamline review processes.

⁷ Editor's Note: This section includes content from existing Subdivision Ordinance Section 2-1, reorganized with additional language for compliance with Code of Virginia.

⁸ Editor's Note: Proposed new section as provided for by Code of Virginia § 15.2-2214. Revised per Town comments received 8-1-2023.

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

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

Division 3. Board of Zoning Appeals.⁹

Section 2-3-1. Appointment¹⁰; Terms; Membership; Compensation; Removal.

The Board of Zoning Appeals (BZA) shall be created and organized pursuant to the Code of Virginia, § 15.2-2308, et seq., as amended.

Section 2-3-2. Powers and Duties.¹¹

- (A) Pursuant to the Code of Virginia § 15.2-2309, as amended, the BZA shall have the following powers and duties after required notice and hearing as provided in the Code of Virginia § 15.2-2204, as amended:
- (1) Appeals. To hear and decide appeals from any order, requirement, decision, or determination made by an administrative officer in the administration or enforcement of this Ordinance as outlined in Article 3, Division 9.
 - (2) Variance.¹² To authorize upon appeal or original application a variance, as defined in the Code of Virginia § 15.2-2201, as amended, from the terms of this Ordinance when the strict application of the Ordinance would unreasonably restrict the utilization of the property, and such need for a variance would not be shared generally by other properties, and if the applicant proves through a preponderance of evidence that a literal enforcement of the provisions of this Ordinance will result in unnecessary hardship; provided that the spirit of this Ordinance shall be observed and substantial justice done. Standards and procedures for determining variances are outlined in Article 3, Division 5, of this Ordinance.
 - (3) Boundary Interpretations. To hear and decide applications for interpretation of the district map where there is any uncertainty as to the location of a district boundary, only if:
 - (i) The Administrator is unable to interpret boundaries, as provided in Article 1, Division 3, of this Ordinance, and Division 1 of this Article; or
 - (ii) If an applicant appeals the Administrator's interpretation.
 - (iii) After notice to the owners of the property affected by any such question, and after public hearing with notice as required by the Code of Virginia § 15.2-2204, as amended, the BZA

⁹ Editor's Note: This Division incorporates the text found in Article 11, Sections 11-1, 11-2, and 11-3 of the existing Zoning Ordinance. Sections 11-4 through 11-6 of the existing Ordinance will be provided in Article III, Permits and Applications, of the draft Zoning Ordinance.

¹⁰ Editor's Note: Text for BZA appointment could incorporate Code of Virginia § 15.2-2308 by reference, rather than expounding, if desired. **Revised per Town comments received 8-1-2023.**

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

¹² Editor's Note: The variance requirements and procedures provided in Article 11 of the existing Ordinance will be provided in Article III, Division 5: Variances.

may interpret the map in such way as to carry out the intent and purpose of this Ordinance for the particular section or district in question.

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

Section 2-3-3. Meetings and Procedures.¹³

- (A) The BZA shall adopt such rules and regulations as it may consider necessary.
- (B) Meetings of the BZA shall be held at the call of its Chairperson or at such time as a quorum of the BZA may determine.
- (C) A quorum shall be at least (3) members. A favorable vote of three (3) members of the BZA shall be necessary to reverse any order, requirement, decision, or determination of any administrative official or to decide in favor of the applicant on any matter on which the BZA is required to pass.
- (D) The BZA shall choose annually its own chairperson and vice-chairperson. The vice-chairperson shall act in the absence of the chairperson and may administer oaths and compel the attendance of witnesses.
- (E) The BZA shall appoint a secretary whose duty it shall be to keep the minutes and other records of the actions and deliberations of the BZA and perform such other ministerial duties as the BZA shall direct. The secretary may be a salaried Town employee and shall perform the duties of secretary of the BZA in addition to their other regular duties.
- (F) The BZA shall keep minutes of its proceedings, showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact. It shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the BZA and shall be public record.
- (G) All meetings of the BZA shall be open to the public.
- (H) Town staff who are not part of the Town's legal counsel, applicant, landowner, or landowner's agent/attorney may have communications with a member of the BZA prior to a hearing but may not discuss the facts or law relative to a particular case. However, all communications must comply with the requirements of the Code of Virginia § 15.2-2308.1, as amended.

Division 4. Enforcement¹⁴.

Section 2-4-1. Authority.

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

¹³ Editor's Note: This section contains text from the existing Ordinance, Article 11.

¹⁴ Editor's Note: This Division is mostly new content to ensure clear enforcement procedures and create full compliance with the Code of Virginia, incorporating up-to-date references where necessary. This Division also

- (B) As authorized by the Code of Virginia § 15.2-2286(A)(4), as amended, the Administrator or designee shall be responsible for enforcing the provisions of this Ordinance.
- (C) Any person who knowingly makes any false statements, representations or certifications in any record, report, or other document, either filed or requested pursuant to this Ordinance, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required or used by the Administrator under this Ordinance in monitoring discharges, shall be guilty or liable of this Ordinance.

Section 2-4-2. Complaints and Inspection.¹⁵

- (A) Any person who alleges that violation of the Ordinance has occurred may file a complaint with the Administrator or designee. Such complaint shall stipulate the cause and basis thereof and the location of the alleged violation. The Administrator or designee shall properly record the complaint, investigate the facts thereof, and take action thereon as provided by the Ordinance.
- (B) The Administrator may enter upon or inspect any land or structure to ensure compliance with the provisions of this Ordinance, after requesting and receiving approval of the landowner to enter upon land for these purposes. If consent is not given by the landowner, the Administrator may enter upon land with an inspection warrant in accordance with the Code of Virginia § 15-2.2286(A)16, as amended.

Section 2-4-3. Notice of Violation¹⁶.

- (A) Upon completion of investigation and becoming aware of any violation of the provisions of this Ordinance, the Administrator shall issue written notice of such violation to the person committing or permitting the violations.
- (B) Notice of violation shall be mailed by registered or certified mail or hand delivered.
- (C) The notice of violation shall state:
 - (1) The nature of the violation;
 - (2) Date that the violation was observed;
 - (3) The remedy or remedies necessary to correct the violation;
 - (4) A reasonable time period for the correction of the violation;
 - (5) A statement informing the recipient that they may have a right to appeal the notice of zoning violation or written order within 30 days in accordance with the Code of Virginia § 15.2-2311, as amended;

organizes enforcement, which is found in Articles 11 and 12 of the existing Zoning Ordinance, into one section of the draft Ordinance and clarifies the process for each type of penalty.

¹⁵ Editor's Note: Item (B) of this section is new content that includes a provision for entering land or structures that are suspect of violation, per the Code of Virginia.

¹⁶ Editor's Note: Proposed as a new Section; contains content from Article 12 of the existing Zoning Ordinance.

- (6) The applicable appeal fee and a reference to where additional information may be obtained regarding the filing of an appeal; and,
- (7) That the decision shall be final and unappealable if not appealed within 30 days.
- (D) Appeals of notice of violation shall be heard by the Board of Zoning Appeals in accordance with the procedures set forth in Article 3, Division 9, of this Ordinance.

Section 2-4-4. Remedies and Penalties for Violation¹⁷.

- (A) Upon becoming aware of any violation and determining validity of any of the provisions of this Ordinance, the Administrator may institute appropriate action or proceedings, as permitted by law, including injunction, abatement to restrain, correction, or abatement.
- (B) The remedies provided in the penalties sections below are cumulative and not exclusive except to the extent expressly provided therein.
 - (1) Criminal Penalties.
 - (i) With the exception of Article 10, Subdivisions, of this Ordinance, any violation of the requirements of this Ordinance resulting in injury to a person or persons or where such civil penalties exceed \$5,000, shall be a misdemeanor, and upon conviction thereof, shall be punishable by a fine of not less than ten dollars (\$10) and not more than \$1,000.
 - (ii) If the violation is uncorrected at the time of conviction, the court shall order the violator to abate or remedy the violation in compliance with this Ordinance, within a time period established by the court. Failure to remove or abate such violation within the time period established by the court shall constitute a separate misdemeanor offense punishable by a fine of not less than ten dollars (\$10) nor more than \$1,000, and any such failure during any succeeding ten (10)-day period shall constitute a separate misdemeanor offense for each ten (10)-day period, punishable by a fine of not less than \$100 nor more than \$1,500.
 - (2) Civil Penalties. Any violation other than as provided in Section 2-4-4 (B) (1), above, for criminal penalties, shall be subject to the following civil penalties, as provided in Code of Virginia § 15.2-2209, as amended, and subject to the following:
 - (i) Procedure. Proceedings seeking civil penalties for violations of this Ordinance shall commence either by filing a civil summons in the general district court or by the Administrator or Agent issuing a ticket.
 - (ii) Civil summons or ticket. A civil summons or ticket shall contain, at a minimum, the following information:
 - 1. Name and address of the person charged;
 - 2. Nature of the violation and the Ordinance provisions being allegedly violated;

¹⁷ Editor's Note: This Section expands upon language from the existing Ordinance, Article 12, by reorganizing and adding clarity for the processes pursuant to the Code of Virginia § 15.2-2209.

3. Location, date and time violation occurred or was observed;
 4. Amount of the civil penalty for the violation; and
 5. Right of the recipient to elect to either pay the penalty or stand trial for the violation and the date of such trial. The summons shall state that if the person elects to pay the penalty, the person must do so by making an appearance in person or in writing by mail to the Town Treasurer at least 72 hours prior to the time and date fixed for trial and, by such appearance, enters a waiver of trial and admits liability for the offence charged. The summons shall provide that a signature is an admission of liability that shall have the same force and effect as a judgement of the court. However, such admission shall not be deemed a criminal conviction for any purpose.
- (iii) Failure to Enter Waiver. If a person charged with a violation does not elect to enter a waiver of trial and admit liability, the violation shall be tried in the general district court in the same manner and with the same right of appeal as provided by law or equity and it shall be the Town's burden to provide the violator's liability by a preponderance of the evidence. A finding of liability shall not be deemed a criminal conviction for any purpose.
- (iv) Fines.
1. Amount of Civil Penalty¹⁸. A civil violation shall be subject to a civil penalty of \$200 for the initial summons, and a civil penalty of \$500 for each additional summons arising from the same set of operative facts.
 2. Daily Offense. Each day in which a violation exists is considered a separate violation. However, penalties from the same set of operative facts may only be charged once in any ten (10)-day period.
 3. Maximum Aggregate Penalty. The total civil penalties from a series of violations arising from the same set of operative facts shall not exceed \$5,000¹⁹. If the violations exceed the \$5,000 limit, the violation may be prosecuted as a criminal misdemeanor as outlined above.

¹⁸ Editor's Note: The existing Ordinance's civil penalty amounts are lower than what is provided in the Code of Virginia. Propose increasing these fines, as shown here, to align with Code.

¹⁹ Editor's Note: The existing Ordinance's maximum aggregate penalty amount is lower than what is provided in the Code of Virginia. Propose increasing these fines, and shown here, to align with Code.

Division 5. Fees.²⁰

Section 2-5-1. Fees and Charges.²¹

- (A) The Town Council shall establish, by Ordinance, a schedule of fees, charges and expenses, and collection procedures for Zoning Permits, Conditional Use Permits, variances, appeals, amendments, site plan reviews, and other matters pertaining to this Ordinance.
- (B) The schedule of fees shall be available for inspection in the office of the Administrator and may be altered or amended by the Town Council by Ordinance amendment, as directed in Code of Virginia § 15.2-107, as amended.
- (C) In situations where the Administrator anticipates expenses for professional services related to review of an application that will exceed the amount recouped by the imposition of standard fees, the Town shall require the applicant to pay the cost of the professional review service. Examples of projects for which a deposit may be warranted include (but are not limited to) subdivision plats, rezoning requests, and planned development districts. The payment shall solely be applied to payment of professional services by engineers, attorneys, surveyors, architects, landscape architects, etc., that are specifically engaged by the Town to consult directly on the applicant's proposed project. Payment is an express condition of the Town's determination upon the application. Payment does not guarantee approval of the application. Nor does payment create a client relationship between the applicant and the professional services provider.²²

Division 6. Taxes and Expenses Paid²³.

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

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

²⁰ Editor's Note: This Division includes content from the existing Zoning Ordinance, Article 5-7.

²¹ Editor's Note: Suggest that all fees associated with the Ordinance are adopted by an Ordinance outside of the Zoning and Subdivision Ordinance, as outlined here. This will ease the burden of completing Zoning Ordinance amendments each time a fee is changed.

²² Editor's Note: New item requested by staff for subdivisions to clarify payment when professional services are necessary for review. It is located in Article 2 to cover all circumstances, including subdivisions.

²³ Editor's Note: This is proposed as a new section of the Ordinance. Code of Virginia § 15.2-2286 (B) is an optional provision that allows the Town to require a property owner to provide satisfactory evidence that any delinquent charges or fees have been paid in full. It is recommended that the Town of Rocky Mount incorporate this optional provision as a best practice.

- (2) If an applicant is the renter of a subject property and said property has associated unpaid taxes and fees owed to the Town, the property owner(s) shall be responsible for paying those balances in full.

ARTICLE 3. – Permits and Applications.

Division 1. In General.¹

Section 3-1-1. Preapplication Meeting².

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

Section 3-1-2. Minimum Submission Standards.

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

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

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

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

(C) Additional information may be required as deemed reasonably necessary by the Administrator.

Section 3-1-3. Forms.

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

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

(A) An applicant must disclose all equitable ownership of the real estate included in an application. In the case of corporate ownership, the name of stockholders, officers and directors shall be

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

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

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

- (B) Pursuant to the Code of Virginia § 15.2-2287³, as amended, petitions brought by property owners, contract purchasers, or their agents, shall be sworn to under oath stating whether or not any member of the local Planning Commission or governing body has any interest in such property:
- (1) Either individually;
 - (2) By ownership of stock in a corporation owning such land, partnership;
 - (3) As the beneficiary of a trust; or
 - (4) As the settlor of a revocable trust; or
 - (5) Whether a member of the immediate household or any member of the Planning Commission or governing body has any such interest.

Section 3-1-5. Oath Required.

Applications for Variances or Special Exception Permits or applications for amendments to the Zoning Ordinance and/or Official Zoning Map shall be sworn to under oath before a notary public, or other official before whom oaths may be taken.⁴

Division 2. Zoning Text and Map Amendments.⁵

Section 3-2-1. In General.

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

Section 3-2-2. Standards and Procedures.

- (B) Initiation of change. Pursuant to the Code of Virginia § 15.2-2286 (7), as amended, any amendment to this Ordinance or the Zoning Map may be initiated by:
- (1) Resolution of the Town Council;
 - (2) Resolution of the Planning Commission; or
 - (3) Application of the owner, contract purchaser with the owner's written consent, or the owner's agent therefor, of the property which is the subject of the proposed Zoning Map Amendment

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

⁴ Editor's Note: This Section was clarified following the May 21, 2024 worksession under staff direction.

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

(rezoning), addressed to the Town Council or Town of Rocky Mount Planning Commission, who shall forward such application to the Town Council.

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

(1) The Concept Plan may be general and schematic and shall show:⁶

- (i) A certified plat of the subject property showing metes and bounds of all property lines, existing streets, and subdivisions – with reference to a recorded subdivision plat or the Town’s tax map.
- (ii) The names and addresses, as shown on the current real estate tax assessment books, of property owners abutting the property or owners located across the road/street.
- (iii) Proposed land uses to be developed.
- (iv) The general layout, orientation, and information describing buildings and improvements, including but not limited to parking, landscaping, fencing, signs, and trash enclosures, height, setbacks, and restriction lines.
- (v) If any, the approximate total number, density, type, and price range of dwelling units and the range of lot sizes for the various dwelling types.
- (vi) If any, the general location of proposed open space and recreational areas.
- (vii) If any, the general location and type of commercial uses to be developed.
- (viii) The general location and character of the proposed roads, pedestrian circulation, trails, public utility, and storm drainage systems.
- (ix) A statement on the proposed development schedule.
- (x) A written analysis of the public facilities, roadway improvements, and public utilities that will be required to serve the development.
- (xi) A written description of the nature and extent of the amendment desired and an explanation of the reasons for seeking a change.
- (xii) Any additional information as deemed reasonably necessary by the Administrator.
- (xiii) Any rezoning request for a Residential Planned Unit Development District (RPUD), or Mixed-Use Development District (MUD)⁷ shall include:⁸

1. A Site Plan, in accordance with Division 6, Site Plans, of this Article.

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

⁷ Editor’s Note: If a mixed-use district is adopted with this Ordinance the final approved name for the district will be corrected here.

⁸ Editor’s Note: These items require additional information for an RPUD or MUD application.

2. A general statement of planning objectives to be achieved by the RPUD or MUD, including a description of the character of the proposed development, the existing and proposed ownership of the site, the market for which the development is oriented, and intentions with regards to any specific human-made and natural characteristics located on the site.
 3. General information on the trip generation, ownership, maintenance, and construction standards for proposed streets should be included.
 4. A traffic impact analysis that shall be prepared in accordance with the applicable Virginia Department of Transportation (VDOT) standards.
 5. Fiscal impact analysis information as specified by the Town.
 6. Proposed deed covenants, restrictions, or other constraints to be imposed upon the purchasers of such properties.
- (D) Zoning Text Amendments. Zoning Text Amendments may be initiated by resolution of Town Council.⁹
- (E) Standards for Review.
- (1) Once the application is submitted in accordance with Division 1 of this Article and has been determined to be complete, the Town shall evaluate the application and may request that the applicant make revisions, as necessary.
 - (2) The application for a rezoning or Zoning Text Amendment shall be referred to the Planning Commission for public hearing and recommendation. The Planning Commission shall present their recommendation on the proposed ordinance or amendment, including the Zoning Map, to the Town Council for public hearing and action. No recommendation or action shall be rendered until public notifications and hearings have been conducted in accordance with Division 10 of this Article and the Code of Virginia.
 - (3) The Planning Commission shall advise the Town Council of their recommendation within 100 days¹⁰ from its first meeting following the referral of the application. If after 100 days no recommendation has been made, the governing body shall assume that the Planning Commission concurs with the applicant and supports the amendment. The Town Council shall thereafter take any action it deems appropriate, unless the applicant requests an extension¹¹ for a defined period not to exceed a total of 90 calendar days from the date of the public hearing.
 - (4) All motions, resolutions, or applications for amendment to the Zoning Ordinance and/or Zoning Map shall be acted upon, and a decision made within such reasonable time as may be

⁹ Editor's Note: As per discussion with staff, this item codifies the current process that Rocky Mount employs.

¹⁰ Editor's Note: Proposed addition of the Code of Virginia timeframe for automatic approval if the Planning Commission does not reach a decision within 100 days.

¹¹ Editor's Note: This provision is a recommended best practice to allow more time if a complex case would benefit from additional time.

necessary which shall not exceed 12 months¹² unless the applicant requests or consents to action beyond such period or unless the applicant withdraws their motion, resolution, or application for amendment to the Zoning Ordinance or Map, or both; otherwise, the amendment shall be deemed approved. In the event of and upon a withdrawal by the applicant, processing of the motion, resolution, or petition shall cease without further action as otherwise would be required.

- (F) The Administrator shall cause the Zoning Map to be updated as frequently as necessary to ensure that zoning data shown thereon are both accurate and current. Accordingly, all changes affecting the Zoning Map that are approved by the Town Council shall be entered onto the official Zoning Map within 60 days¹³ following the approval of such changes. After updating sections of the Zoning Map, working prints of any updated section thereof upon which modifications have been made shall be inserted into all sets of the Zoning Maps that are used for public viewing and administration.

Section 3-2-3. Reconsiderations.

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

Division 3. Conditional Zoning and Proffers.¹⁴

Section 3-3-1. Purpose and Intent.

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

¹² Editor's Note: Proposed addition of the Code of Virginia timeframe for reaching a decision on a proposed Zoning Amendment.

¹³ Editor's Note: This timeframe is a recommended best practice.

¹⁴ Editor's Note: This Division includes text from Article 5-1-10 of the existing Ordinance; that text has been combined into this Division, along with Code of Virginia language.

Section 3-3-2. Standards and Procedures.

(A) Proffer of conditions; standards of consideration.

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

¹⁵ Editor's Note: This list is modified from the existing Ordinance, Article 5-1-10 1, to match Code of Virginia § 15.2-2297. Item 5-1-10 1(i) of the existing Ordinance was eliminated pursuant to § 15.2-2297, which requires voluntary proffering by the owner; a locality cannot require certain proffers.

- (3) At the time each proffer is submitted to the Town, it shall be accompanied by a statement signed by the applicant and the owner or their agents which states: ¹⁶
 - (i) “Each proffer made in connection with this application for rezoning was made voluntarily and complies with applicable law. No agent of the Town has suggested or demanded a proffer that is unreasonable under applicable law.”
 - (ii) “I hereby proffer that the development of the subject property of this application shall be in strict accordance with the conditions set forth in this submission.”
- (4) Each application for rezoning which proposes proffered conditions to be applied to the property shall be accompanied by the following items beyond those required by conventional rezoning requests:
 - (i) An impact analysis demonstrating justification of proposed proffers.
 - (ii) A statement describing the nature of the proposed development and explaining the relationship of the development to the Comprehensive Plan.
 - (iii) A statement setting forth a maximum number of dwelling units or lots proposed, including density and open space calculations where applicable to any residential development, or a statement describing the types of uses proposed and the approximate square footage for each nonresidential development.
 - (iv) A statement detailing any special amenities that are proposed.
 - (v) A statement of the public improvements both on and off site that are proposed for dedication and/or construction and an estimate of the date for providing such improvements.
 - (vi) A Concept Plan, as detailed in Section 3-2-2 (B), listing and detailing the nature and location of any proffered conditions and those proposed circumstances which prompted the proffering of such conditions.
 - (vii) A statement setting forth the proposed approximate development schedule.

Section 3-3-3. Amendments and Variations Prior to Final Decision.¹⁷

- (A) The Town Council may accept amended proffers if they:
 - (1) Do not materially affect the overall proposal and are made voluntarily, and in writing, prior to the deadline for preparation of the advertisement of the public hearing by the Town Council on the rezoning request.
 - (2) If the Town Council determines that the amendment materially affects the overall proposal, the application with the amended proffers shall be remanded back to the Planning Commission for a public hearing and recommendation.

¹⁶ Editor’s Note: Signed statements are included as a best practice.

¹⁷ Editor’s Note: This Section expands upon and clarifies existing Ordinance Article 5-1-10.5 regarding amendments to proffers.

Section 3-3-4. Effect of Condition; Period of Validity.

- (A) All such conditions shall be in addition to the regulations provided for in the Zoning District to which the land is rezoned.
- (B) Upon the approval of any such rezoning, all conditions proffered and accepted by the Town Council shall remain in full force and effect until amended or varied by the Town Council.
 - (1) If the Town Council rezones the land as part of a new or substantially revised Zoning Ordinance, such conditions shall continue in full force and effect automatically *without* notice or filing.

Section 3-3-5. Record of Conditional Zoning.

Pursuant to the Code of Virginia § 15.2-2300, as amended, each conditional rezoning shall be designated on the Zoning Map by an appropriate symbol designed by the Administrator. In addition, the Administrator shall keep and maintain a Conditional Zoning index which shall provide ready access to the ordinance creating such conditions, in addition to the regulations provided for in the particular Zoning District and which shall be available for public inspection. The Administrator shall update the Index annually and no later than November 30 of each year.

Section 3-3-6. Reconsiderations.

- (A) Applications requesting an amendment or change to the Zoning Map that include proffered conditions:¹⁸
 - (1) If denied by the Town Council, then such application, or one substantially similar, shall not be reconsidered sooner than 12 months after the denial.
- (B) The limits on reconsideration shall not impair the right of either the Planning Commission or the Town Council to propose any amendment to this Ordinance on their motion at any time.

Division 4. Special Exceptions.¹⁹

Section 3-4-1. Purpose and Intent.

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

¹⁸ Editor's Note: This section is streamlined from the existing Ordinance, Article 13-1-4. Rocky Mount should consider whether to include the exception for changed conditions as provided for in 13-1-4.

¹⁹ Editor's Note: This Division includes text from Article 5-4 of the existing Ordinance; that text has been combined into this Division, along with Code of Virginia language.

Section 3-4-2. Applicability.²⁰

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

Section 3-4-3. Standards and Procedures²¹.

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

- (1) Demonstrate that the proposed use, when complemented with additional measures, if any, will be in harmony with this Ordinance and with the purposes of the specific Zoning District in which it will be placed;
- (2) Demonstrate that there will be no undue adverse impact on the surrounding neighborhood in terms of public health, safety, or general welfare and show measures to be taken to achieve such goals;
- (3) Demonstrate that the use will not tend to create congestion in streets, roads, alleys, and other areas; and
- (4) Show that the proposal meets the applicable specific and general standards required by this Ordinance.

(B) Concept Plan.²² Applications for Special Exceptions shall be accompanied by two (2) paper copies and one (1) digital copy of a Concept Plan. The Concept Plan may be general and schematic and shall show:

- (1) A certified plat of the subject property showing metes and bounds of all property lines, existing streets, and subdivisions.
- (2) Proposed land uses to be developed.
- (3) The general layout, orientation, and information describing buildings and improvements, including but not limited to parking, landscaping, fencing, signs, and trash enclosures, height, setbacks, and restriction lines.
- (4) If any, the approximate total number, density, type, and price range of dwelling units and the range of lot sizes for the various dwelling types.
- (5) If any, the general location of proposed open space and recreational areas.
- (6) If any, the general location and type of commercial uses to be developed.

²⁰ Editor's Note: Proposed as new text.

²¹ Editor's Note: This section has been drafted in such a way to streamline the content found in Article 5 of the existing Ordinance.

²² Editor's Note: Proposed change to require a Concept Plan in lieu of a Site Plan, to reduce the cost burden and timeline for applicants to help encourage business development. Additionally, the desire for simplified processes was heard in public engagement. The Town should state the required number of copies.

- (7) The general location and character of the proposed roads, pedestrian circulation, trails, public utility, and storm drainage systems.
 - (8) A statement on the proposed development schedule.
 - (9) A written analysis of the public facilities, roadway improvements, and public utilities that will be required to serve the development.
 - (10) Any additional information as deemed reasonably necessary by the Administrator, such as a Traffic Impact Analysis.
- (C) Standards for Review.
- (1) The Administrator shall review any Special Exception Permit application for its compliance with this Ordinance and to determine if it is complete.
 - (i) If the application is not complete, then the Administrator shall notify the applicant in writing of the materials that must be submitted to complete the application.
 - (2) When determined to be complete, the Administrator shall provide the application to the Planning Commission, along with a staff report that analyzes and makes a recommendation on the application.
 - (i) The Planning Commission shall hold a public hearing after notice in accordance with Division 10 of this Article and make a recommendation on the application, within 30 days after a public hearing is held, to Town Council, including recommendations of such changes and conditions as it might deem appropriate.²³
 - (3) The Town Council shall hold a public hearing after notice in accordance with Division 10 of this Article, and make a final decision on the application, including making appropriate changes to the application and imposition of conditions in accordance with Code of Virginia § 15.2-2286.
 - (4) If an applicant seeks both an amendment to the Zoning Ordinance and a Special Exception Permit for the same property, both applications may be made jointly and processed at the same time if the proposed amendment does not add a conditional use not previously permitted by the terms of this Ordinance.

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

- (A) A Special Exception Permit authorizes only the particular use(s) and associated development that is approved and shall not ensure approval for any other permit or development approval.
- (B) A Special Exception Permit, including any approved plans and conditions, shall run with the land and shall not be affected by a change in ownership, but shall expire as provided in (D) below.

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

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

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

Section 3-4-5. Revocations.

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

Section 3-4-6. Reconsiderations.

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

Division 5. Variances.

Section 3-5-1. Purpose and Intent.²⁵

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

Section 3-5-2. Standards and Procedures.

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

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

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

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

(B) Standards for Review.²⁶

- (1) After application is made as required in Division 1 of this Article, the Administrator shall review the application for compliance with this Ordinance.
- (2) When it has been determined that the application is complete, the Administrator shall submit the application to the BZA for a public hearing. No recommendation or action shall be rendered until public notice is given in accordance with Division 10 of this Article. The Administrator shall also transmit a copy of the application to the local Planning Commission, which may send a recommendation to the BZA or appear as a party at the hearing.
- (3) Pursuant to the Code of Virginia § 15.2-2309 (2), as amended, a variance shall be granted if the evidence shows that the strict application of the terms of the Ordinance would unreasonably restrict the utilization of the property or that the granting of the variance would alleviate a hardship due to a physical condition relating to the property or its improvements at the time of the effective date of the Ordinance, and:
 - (i) The property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant for the variance;
 - (ii) The granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area;
 - (iii) That such hardship is not shared generally by other properties and could be resolved with an amendment to this Ordinance;
 - (iv) The granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property; and
 - (v) The relief or remedy sought by the variance application is not available through the process for a Special Exception process that is authorized in the Ordinance pursuant to Code of Virginia § 15.2-2309(6), as amended, at the time of the filing of the variance application.
- (4) Any variance granted to provide a reasonable modification to a property or its improvements requested by, or on behalf of, a person with a disability may expire when the person benefited by it is no longer in need of the modification to such property or improvements provided by

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

the variance, subject to the provisions of State and Federal fair housing laws, or the Americans with Disabilities Act of 1990 (42 U.S.C. § 12131 et seq.), as applicable.

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

Section 3-5-3. Effect of Decision; Period of Validity.²⁷

- (A) Issuance of a variance shall authorize only the particular variance that is approved. A variance, including any conditions, shall run with the land, and not be affected by a change in ownership, except for variances provided in Section 3-5-2 (B)(4), above.
- (B) Use or development authorized by the variance shall not be carried out until the applicant has secured all other permits required by this Ordinance or any other applicable Ordinances and regulations of the Town. A variance, in itself, shall not ensure that the development approved through said permit shall receive subsequent approval for any other necessary applications for permit or development approval.
- (C) After the BZA has granted a variance, it shall become void after 12 months if no substantial construction or change of use has taken place in accordance with the plans for which such variance was granted, or if the BZA does not specify some longer period than one (1) year for good cause shown.

Section 3-5-4. Reconsiderations.

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

Division 6. Site Plans.²⁹

Section 3-6-1. Definition.

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

Section 3-6-2. Purpose and Intent.

- (A) The purpose of this section is to promote the orderly development of certain activities in the Town and to ensure that such activities are developed in compliance with this Ordinance and other applicable regulations and in a manner harmonious with surrounding properties and in the interest

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

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

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

of the general public health, safety, and welfare. More specifically, the Site Plan shall be used to review:

- (1) The project's compatibility with its environment and with other land uses and buildings existing in the area;
 - (2) The ability of the project's traffic circulation system to provide for the convenient and safe internal and external movement of vehicles and pedestrians;
 - (3) The quantity, quality, utility, and type of the project's required community facilities; and
 - (4) The location and adequacy of the project's landscape improvements and provision for drainage and utilities.
- (B) The Administrator may waive any of the requirements for a Site Plan upon a determination that the information or format is not necessary to evaluate the merits of the application, compliance with this Ordinance, and is in keeping with the intent of this Division and Ordinance.

Section 3-6-3. Applicability³⁰.

(A) General.

- (1) Pursuant to Code of Virginia, § 15.2-2286. A.8, as amended, any development in the Town may require approval of a Site Plan in accordance with the procedures and standards in this Division prior to the issuance of a Zoning Permit, Building Permit, or Certificate of Occupancy, or any land disturbance permits. In any circumstance, the following uses require approval of a Site Plan:
 - (i) Multi-family developments.
 - (ii) Commercial uses.
 - (iii) Industrial uses.
 - (iv) Uses approved by Special Exceptions.
 - (v) Previously approved Concept Plans.
 - (vi) Projects with a total land disturbance greater than 2,500 sq. ft.
 - (vii) Changes in use that require additional off-street parking or changes to exterior elements of a previously approved Site Plan.
- (2) Waiver. The Administrator may waive the requirement for a Site Plan, or allow a hand drawn sketch for certain uses, upon a determination that the information is not necessary to evaluate the merits of the application and compliance with this Ordinance, including but not limited to:³¹

³⁰ Editor's Note: This section includes provisions from existing Ordinance Articles 9 and 10 and the introduction of major and minor site plans which are currently done in practice but not codified in the existing ordinance. **This Section was revised per comments received from the Town on 8/1/2023.**

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

- (i) Roadside farm stands.
 - (ii) Signs.
 - (iii) Accessibility/ADA improvements totaling less than 2,500 sq. ft.
- (3) Exemptions. The following uses are exempt from Site Plan approval:³²
 - (i) Single-family homes on conforming lots.
 - (ii) Temporary uses.
 - (iii) Non-residential change of use or internal construction that does not increase gross floor area, building height, the density or intensity of use, or affect parking requirements.
- (B) Type of Site Plan Required.³³ Site Plans are either a Minor Site Plan or a Major Site Plan, as specified below.
- (C) Minor Site Plans.³⁴ The Minor Site Plan review process was developed as an incentive to encourage small business development and reinvestment in commercial properties. By easing the time and cost of the typical Site Plan review, owners are encouraged to make improvements to their properties, which will facilitate their business goals and improve the vitality of the Town.
 - (1) Parcels that meet the following six (6) minimum eligibility requirements may be eligible for the Minor Site Plan review, otherwise, a Major Site Plan will be required:³⁵
 - (i) No water/sewer mainline extensions are required;
 - (ii) Improvements do not require significant access changes, road improvements, or internal circulation changes;
 - (iii) The site has existing site improvements;
 - (iv) Site improvements require no buffer modifications;
 - (v) Drainage improvements that do not require dedication of easements to the Town; and
 - (vi) Any project which results in a total land disturbance or building addition less than 2,500 sq. ft. .
- (D) Major Site Plans.
 - (1) A Major Site Plan is required for any non-exempt development that does not meet the requirements for a Minor Site Plan:
 - (i) Multi-family developments;

³² Editor's Note: This list was excerpted from the list of uses requiring an Administrative Site Plan provided by staff.
3-6-3 (A) (3) Exemptions, was added per comments received from the Town on 8/1/2023.

³³ Editor's Note: As a result of staff discussion this language now clarifies that Site Plans are categorized as either Minor or Major, and when each is required.

³⁴ Editor's Note: Minor Site Plan intent added and requirements revised per staff comments 8/1/2023.

³⁵ Editor's Note: This list includes the list of uses requiring an Administrative Site Plan provided by Staff, except uses included in 3-6-3 (A) (2) above. This list was revised per staff comments 8/1/2023.

- (ii) Industrial uses;
- (iii) Commercial uses;
- (iv) A project with a total land disturbance greater than 2,500 sq. ft.;
- (v) Uses approved by Special Exceptions; and
- (vi) Previously approved Concept Plans.

Section 3-6-4. Site Plan Specifications, Generally.

- (A) Site Plans, or any portion thereof, involving engineering, architecture, landscape architecture or land surveying, shall be prepared by persons professionally certified in the Commonwealth of Virginia to do such work.
- (B) Site Plans shall be prepared to the scale of one (1)-inch equals 50 ft. or larger; no sheet shall exceed 42 inches in any dimensions.
- (C) Site Plans may be prepared on one or more sheets to clearly show the information required by this section and to facilitate the review and approval of the plan. If prepared on more than one sheet, match lines shall clearly indicate where the several sheets join.
- (D) When more than one sheet is required to cover the entire project, a cover sheet, general in nature, shall be provided to identify all individual sheets of an application in proper relationship to each other.
- (E) Profiles must be submitted on plan sheets. Special studies as required may be submitted on standard cross section paper and shall be an appropriate scale.
- (F) All horizontal dimensions shown on Site Plans shall be in feet and decimals of a foot to be closest to 1/100 of a foot; and all bearings in degrees, minutes, and seconds to the nearest ten seconds.
- (G) When the development is to be constructed in stages or units, a final development schedule shall be included with the Site Plan that shows the order of construction of such stages, an approximate completion date for the construction of each stage, and a final cost estimate of all improvements within each stage.
- (H) A Site Plan for a particular development stage or unit other than the first, shall not be approved until the Site Plan has been approved for the immediately preceding stage or unit.
- (I) Seven (7) paper and one (1) digital copy of the Site Plan shall be provided to the Administrator.

Section 3-6-5. Minor Site Plan Contents.³⁶

- (A) The following elements must be shown on a Minor Site Plan, as applicable to the project:
 - (1) Project name and property owner(s) name(s) and address(es);
 - (2) A description of the use and development along with the zoning classification;

³⁶ **Editor's Note:** This section is new text and includes the checklist for an Administrative Site Plan provided by Staff.

- (3) Property lines;
- (4) Tax parcel number;
- (5) Acreage of the lot, scale, and north arrow;
- (6) The location, dimensions, height, and proposed setbacks from property lines and from bodies of water for all existing and proposed buildings and structures;
- (7) Existing and proposed driveways, vehicle access, and parking areas;
- (8) The location of streams and bodies of water;
- (9) Modifications to existing drainageways;
- (10) Installation or modification of a stormwater best management practice (BMP);
- (11) Compliance with any proffers, variances, and/or Town-imposed conditions; and
- (12) All public and private rights-of-way, including easements, their names, and widths.
- (13) All information to show compliance with applicable community design requirements as required in Article 8, Community Design Standards, of this Ordinance.

Section 3-6-6. Major Site Plan Contents.³⁷

(A) A Major Site Plan shall include the following, unless the Administrator determines that some of the following information is unnecessary due to the scope and nature of the development proposed:

- (1) All elements required for a Minor Site Plan, as stated in Section 3-6-5, above.
- (2) A title page, in addition to the Minor Site Plan requirements shall contain the following:
 - (i) The name, mailing and emailing address³⁸, phone number, signature, seal, and registration number of the plan preparer, and the preparation date of the plan;
 - (ii) A four (4)-inch x four (4)-inch blank space to serve as the signature panel for the approving authority;
 - (iii) The north point, scale, and vicinity map;
 - (iv) A table (with computations) estimating the lot coverage ratio and impervious surface ratio; and
 - (v) A table (with computations) stating the total number of dwelling, commercial, or industrial units of various types in the project and the overall project density in dwelling, commercial, or industrial units per gross acre.
 - (vi) A table (with computations) stating the total number of acres in the project and the percentage and acreage thereof proposed to be allocated to the several dwelling types,

³⁷ Editor's Note: This section modifies the existing site plan checklist with best practice and State code requirements.

³⁸ Editor's Note: Text has been added to also require email addresses for Site Plan applicants.

any nonresidential uses, off-street parking, green areas, streets, parks, schools, and other reservations.

- (3) Plan sheets containing the following, in addition to elements required for a Minor Site Plan:
- (i) A legend for all symbols shown on the plan.
 - (ii) Existing zoning and Zoning District boundaries, including overlay districts, on the property to be developed and on immediately adjacent properties.
 - (iii) Proposed building use type, major excavations, and the total square footage of the floor area by proposed use.
 - (iv) Topography of the project area with contour intervals of 2 ft. or less. Where the existing slope is less than 2%, either one-foot contours and/or spot elevations where necessary but not more than 50 feet (horizontally) apart in any direction.
 - (v) The proposed traffic circulation pattern including the location and width of all access points, roads, streets, alleys, driveways, pedestrian paths, cycling or bridle path systems and the relationship of internal traffic to external roads;
 - (vi) The estimated daily vehicular trips generated by the proposed development on each road segment shown on the plan;
 - (vii) Typical roadway pavement and design section for all proposed streets, roads, and driveways including curbs and gutters, and all curb cuts;
 - (viii) The proposed and required off-street parking and loading areas, including parking and access for the handicapped as specified in the Virginia Uniform Statewide Building Code, as amended;
 - (ix) Points of connection to public water and sewer;
 - (x) The location of proposed method of supply of adequate electric power; police, fire and rescue protection;
 - (xi) The location and size of sanitary and storm sewers, water mains, sewer lines, fire hydrants, gas, telephone, electric and other utility lines, culverts, and other underground structures in or affecting the project, including existing and proposed facilities and easements for these facilities. In the case of Town- or County-owned utilities, such information shall be provided to the applicant by the applicable department.
 - (xii) A table estimating the daily public water usage and sewage flow attributable to the proposed development in gallons per day, including the timing of any necessary connections;
 - (xiii) Location and general design of outdoor lighting;
 - (xiv) A landscape plan showing the location, dimensions, and material descriptions of all existing and proposed screens, buffer/transitional yards, or landscaping. The plan shall

- include the location, height, type, and material of all fences, walls, screen planting, and landscape details of all buildings and grounds;
- (xv) The location of all trees existing on the site prior to construction with a caliper of eight (8) inches or greater. The Site Plan shall show wooded areas which shall be designated by symbols coincident with the area of trees and an indication of which trees are to be retained and which are to be removed;
 - (xvi) The proposed nature and manner of grading the site, including proposed treatment of slopes more than ten percent (10%) to prevent soil erosion and excessive runoff. In cases where an erosion and sedimentation control permit is required, the necessary plans and data shall be submitted as required by Franklin County. In all other cases, soil erosion control measures shall be shown on the Site Plan;
 - (xvii) The location and screening materials for dumpsters or other outdoor trash receptacles;
 - (xviii) The location and dimensions of proposed recreation areas, open spaces, recreation facilities, and other amenities and improvements, including a statement of whether such open areas are to be dedicated to the public;
 - (xix) The location of any grave, object, or structure marking a place of burial;
 - (xx) The location of any known historic building or feature;
 - (xxi) The approximate limit of any floodplain limits, any drainage district, or mapped dam break inundation zone;
 - (xxii) A plan or report indicating the extent, timing, and estimated cost of all off-site improvements, such as roads, sewer, and drainage facilities deemed necessary to construct the proposed development, and the extent, timing, and estimated cost of all facilities deemed necessary to serve the development such as schools, libraries, and police substations. This plan or report shall relate to the sequence of the development schedule if the development is to be constructed in stages or units;
 - (xxiii) Documentation of all existing permits and applications relevant to the parcel, including, but not limited to: all existing Zoning Permits and zoning applications; applications for rezoning, Special Exception Permits, and zoning variances;
 - (xxiv) A copy of all covenants, restrictions, and conditions pertaining to the use, maintenance, and operation of all open space areas, and bylaws of a Homeowner's Association if applicable; and
 - (xxv) Any additional information as required by the Administrator necessary to evaluate the character and impact of the proposed project.

Section 3-6-7. Standards and Improvements³⁹.

- (A) Improvements Required. All improvements required by this Ordinance shall be installed at the cost of the developer and in accordance with design and construction standards of the Town of Rocky Mount.
- (B) Specifications. In cases where specifications have been established by the Rocky Mount Town Council, this Ordinance, VDOT, or other State or Federal agency, for related facilities and utilities, including but not limited to, streets, sidewalks, streetlights, drainage, and landscaping, such specifications shall be followed. The most restrictive specifications will prevail.
- (C) Performance Bond. After a Site Plan has been approved, and before any construction or land disturbance can occur, the developer shall furnish to the Town an irrevocable letter of credit, cash escrow, or bonds (collectively referred to as “performance bond”) from a certified Virginia Lending Institution by corporate surety in a form and amount sufficient to guarantee the completion of all required improvements.
 - (1) The cost of required improvements shall be determined by a bona fide estimate of construction cost prepared by a duly licensed engineer and such estimate shall be provided at the expense of the developer.
 - (2) The amount of the performance bond or other guarantee shall be 110% of the estimated construction cost.
 - (3) In the event the Administrator has rejected any such agreement or bond, the owners or developer shall have the right to have such determination made by the Town Council.
 - (4) If such performance bond contains an expiration date, provisions shall be made for the extension thereof if all improvements have not been completed 30 days prior to the expiration date.
 - (5) The performance bond or other appropriate security shall not be released until construction has been inspected and accepted by the Administrator and by other departments or agencies, where appropriate.
- (D) Security for construction of public improvements.⁴⁰
 - (1) Time of performance. The period within which improvements or installations shall be completed and inspected for acceptance shall be specified in the public improvements agreement. Unless otherwise provided by the agent, the period shall not exceed one (1) year from the date of final Site Plan approval. In approving the time of performance of the public improvements agreement, the Administrator shall require a report containing the following information from the developer:

³⁹ Editor’s Note: Proposed as a new Section to detail the standards and processes for required improvements, if part of a Site Plan. Includes items from existing Ordinance Article 10-2.

⁴⁰ Editor’s Notes: The content in (D) is from the existing Ordinance, Article 10, and from the existing Subdivision Ordinance, Section 6.

- (i) Percent of public improvements already completed, and
 - (ii) Rate of construction activity including the estimated completion date for each major feature (roads, sewer, water, lights, etc.) remaining to be completed.
 - (iii) The Administrator shall not approve a public improvements agreement that the improvements or installations covered by the agreement cannot reasonably be expected to be completed by the deadline established therein.
- (2) Form of security.
 - (i) The following guarantee options are available to the developer to provide to the Town for acceptance by the Agent or Town Attorney:
 - 1. Performance Bond. A performance bond shall be executed by a surety company licensed to do business in the Commonwealth of Virginia.
 - 2. Letter of Credit. A letter of credit shall be executed by a bank licensed to do business in the Commonwealth of Virginia.
 - 3. Cash Escrow. The applicant shall provide to Rocky Mount cash or cashier's check.
- (3) As outlined in the Code of Virginia § 15.2-2245, as amended, the subdivider may apply for the periodic partial and final, complete release of any bond required under this Article.
- (4) Periodic Partial Release. Upon the completion of at least 30% of the improvements covered by a performance guarantee, the applicant may file a written request with the Agent for a partial release of such guarantee.
 - (i) The Agent may inspect the facilities for conformance with the terms and conditions of the approved plan and specifications for the facilities for which the guarantee is applicable.
 - (ii) The Agent shall not refuse to make a periodic partial or final release of guarantee for any reason not directly related to the specified defects or deficiencies in construction of the facilities covered by such bond, escrow, letter of credit or other guarantee.
 - (iii) The Agent shall act upon the written request for a partial release within 30 days of receipt.
 - (iv) If no action is taken by the Agent within the 30-day time period, the request for partial release shall be approved, and a partial release shall be granted to the developer.
 - (v) Up to 90% of the original amount of the performance guarantee may be released through periodic partial releases, based upon the percentage of public facilities completed and approved by the Town or other agency having jurisdiction.
- (5) Final Release. Upon final completion of the facilities, the developer may file a written request for final release of the guarantee.
 - (i) The Agent may inspect the facilities for conformance with the terms and conditions of the approved plan and specifications for the facilities for which the guarantee is applicable.

- (ii) The Agent shall either accept the facilities and release the remaining guarantee or notify the applicant that the facilities are not accepted and that there are specific defects or deficiencies in construction.
 - (iii) If the Agent fails to act within the 30-day time period, then the applicant may make an additional request in writing for final release, sent by certified mail to the Town Administrator.
 - (a) The Town Administrator shall act within ten (10) working days of the request.
 - (b) If no action is taken, the request shall be deemed approved and final release granted to the applicant.
- (6) For the purposes of this Section and as defined in the Code of Virginia § 15.2-2245, as amended, the term "acceptance" means: when the public facility is accepted by and taken over for operation and maintenance by the State agency, local government department or agency, or other public authority which is responsible for maintaining and operating such public facility upon acceptance.
- (7) As-Built Plans shall be required prior to the release of any guarantee and the Developer shall certify that all agreed upon standards have been met.
 - (i) If a periodic release is requested, the As-Built Plans and certification for that phase of the development shall be provided prior to release of that portion of the guarantee.
- (E) Supervision and Inspections. Inspections shall be made during the installation of on-site improvements by the Administrator or his designated representative to ensure compliance with the approved Site Plan. It shall be the responsibility of the developer to provide adequate supervision on the site during the installation of all required improvements, and to have a responsible supervisor together with one (1) set of approved plans, profiles, and specifications at the site at all times when work is being performed.
- (F) Acceptance of Improvements. The approval of the Site Plan or the installation of the improvements as required in this Ordinance shall in no case serve to bind the Town to accept such improvements for maintenance, repair, or operation thereof. Such acceptance of each type of improvements shall be subject to the Town, County, and/or State regulations.

Section 3-6-8. Review.

- (A) Administrative Review.⁴¹ Site Plans required under Section 3-6-3 are subject to administrative approval by the Administrator.
 - (1) The Administrator is responsible for the review, processing, and the requesting of additional agency and consultant reports relative to a Site Plan which has been submitted.

⁴¹ Editor's Note: As an economic development friendly practice, all site plans are proposed to be administratively approved. The TC will review concept plans for rezonings and special exception permits and the subsequent site plan must conform to the approved concept plan.

- (2) Developers are encouraged to discuss the proposals contained in the Site Plan as submitted with the Administrator prior to official request for approval of that plan.
- (B) Site Plan Review Process. Unless otherwise provided in another Article of this Ordinance, every Site Plan required by this Article shall be submitted to the Administrator who shall take the following actions:
 - (1) Review the Site Plan for completeness. If deemed incomplete or having insufficient information for review, the application will be refused and returned to the applicant with a written list of deficiencies.
 - (2) Review the Site Plans for conformity with applicable development regulations and approved Concept Plans. Site Plans will be provided to all relevant Town or County departments and reviewing agencies for written comment.
 - (3) The Administrator shall notify the applicant of the action taken with respect to the Site Plan, which may include approval or disapproval.
- (C) Time Period for Approval.
 - (1) Pursuant to Code of Virginia, § 15.2-2259, as amended, Site Plans shall be approved or disapproved within 60 days⁴² after it has been officially submitted and accepted for review for, if State agency review is required, within 35 days of receipt of approvals from all reviewing agencies. If disapproved, the reasons for disapproval shall be identified by reference to specific duly adopted Ordinances, regulations, or policies and shall identify, to the greatest extent practicable, modifications or corrections that will permit approval of the plan.
 - (2) Pursuant to Code of Virginia, § 15.2-2259, as amended, a Site Plan that has previously been disapproved but has been modified, corrected, and resubmitted shall be acted on within 45 days⁴³ of resubmission.

Section 3-6-9. Amendment of Site Plans⁴⁴.

- (A) Site Plan for Previously Approved Concept Plan.
 - (1) If it becomes necessary for an approved Site Plan, which was a previously approved Concept Plan for a Special Exception Permit or Rezoning, to be changed, the Administrator may, at the applicant's request, administratively approve a minor amendment to the Site Plan if the change or amendment does not:
 - (i) Alter a recorded plat;
 - (ii) Conflict with specific requirements of this Ordinance or proffered conditions;
 - (iii) Change the general character or content of an approved Concept Plan or use;

⁴² Editor's Note: This timeframe has been increased to comply with the Code of Virginia requirements; the existing Ordinance provides 30 days.

⁴³ Editor's Note: Provision included to comply with Code of Virginia requirements.

⁴⁴ Editor's Note: Rewritten from the existing Ordinance (Article 9-4-5), with additional text for timeframes.

- (iv) Have an appreciable effect on adjoining or surrounding property;
 - (v) Result in any substantial change of external access points;
 - (vi) Increase the approved number of dwelling units or other buildings or height of buildings.
 - (vii) Decrease the minimum specified yard and open spaces or minimum and maximum specified parking and loading spaces required by Ordinance; and
 - (viii) Substantially change architectural or site design features.
- (2) Amendments not in accordance with i) through (viii) of this Section shall be considered as a new Site Plan that does not match the Concept Plan, and shall be submitted under Section 3-6-3 and go to the Planning Commission for review and approval or denial.
- (B) Site Plan Not Associated with an Approved Concept Plan. If it becomes necessary for an approved Site Plan to be changed, the Administrator may, at the applicant's request, administratively approve amendment(s) to the Site Plan if the change or amendment is in compliance with this Ordinance.
- (C) The Administrator shall review the plans for compliance with applicable development regulations and approved Concept Plans and issue final approval or denial within 45 days. The Administrator shall provide a set of all submittals to relevant agencies or departments for their review and written comments.
- (D) If the Administrator fails to act on a request for a minor amendment to the Site Plan within 45⁴⁵ calendar days, it shall be considered approved.
- (E) Upon final approval of the revised site development plan by the Administrator, the Administrator shall transmit an approved set of plans to the authorized project agent and retain one copy of any correspondence and plans for the Town records.

Section 3-6-10. Compliance with Approved Site Plan Required⁴⁶.

- (A) It shall be unlawful for any person to construct, erect, or substantially alter any building or structure, or develop, change, or improve land for which a Site Plan is required, except in accordance with an approved Site Plan. Deviation from an approved Site Plan without the written approval of the Administrator shall void the Site Plan and require submission of a new Site Plan for approval.
- (B) No permit shall be issued for any structure in any area covered by the Site Plan that is required under the provisions of this Article except in conformity with such Site Plan which has been duly approved.

⁴⁵ Editor's Note: This timeframe is proposed to follow the procedure for corrected Site Plans, as outlined in Code of Virginia, § 15.2-2259.

⁴⁶ Editor's Note: This section includes text from various sections of the existing Ordinance, including Article 9-6, as well as proposed text to further ensure compliance.

- (C) Inspections shall be made during the installation of on-site improvements by the Building Official, Public Works Director, Administrator, or a designated representative to ensure compliance with the approved Site Plan.
- (D) The owner or developer shall provide adequate supervision at the site during installation of improvements required by the site development plan and shall make one set of approved plans available at the site at all times that work is being performed. Such plans shall be available for inspection by authorized regulatory officials.
- (E) Upon the satisfactory completion of the installation of all required improvements shown on the approved Site Plan, the developer shall submit to the Town agent two (2) copies of the completed As-Built Plans. Such shall be submitted at least one (1) week prior to the anticipated receipt of the Certificate of Occupancy for the review and approval by the Town agent for conformity with the approved Site Plan and the ordinances and regulations of the Town and State agencies.⁴⁷
- (F) Prior to the issuance of a Certificate of Occupancy from the Franklin County Building Inspection office, the Administrator shall give written notice to the Building Official that the Site Plan final inspection has been completed and approved.⁴⁸.
- (G) Where structures are completed and ready for occupancy prior to the completion of all improvements required by the Site Plan, the owner may provide bond with surety adequate to guarantee the completion of Site Plan, as outlined in Section 3-6-5, above, and upon providing of such bond with surety as agreed upon by the Administrator, a permit may be issued for the occupancy of those structures already completed.

Section 3-6-11. Period of Validity.

- (A) In accordance with Code of Virginia, § 15.2-2261, as amended, approval of a Site Plan submitted under the provisions of this Article shall expire five (5) years⁴⁹ after the date of such approval unless building permits have been obtained for construction in accordance therewith.
- (B) The application for and approval of minor modifications to an approved Site Plan shall not extend the period of validity of such plan and the original approval date shall remain the controlling date for purposes of determining validity.

⁴⁷ Editor's Note: As per staff discussion and as a recommended best practice, the requirement for As-Built Plans has been added.

⁴⁸ Editor's Note: This item was rewritten per staff comment 8/1/2023.

⁴⁹ Editor's Note: This time frame has been increased to comply with the Code of Virginia; the existing Ordinance states that a Site Plan expires within one year, while Code of Virginia allows five (5) years.

Division 7. Zoning Permits.⁵⁰

Section 3-7-1. Applicability.⁵¹

- (A) No building or other structure shall be erected, moved, expanded, structurally altered, nor shall any building, structure, or land be established or changed in use without the owner or owners first obtaining a permit issued by the Administrator verifying that the building, structure, or use complies with the requirements of this Ordinance.
- (B) No such permit shall be issued for a building, structure, or use unless it complies with the provisions of this Ordinance, or a Special Exception Permit authorizing an exception, variance, or written order from an appeal has been approved as provided by this Ordinance.
- (4) The issuance of such Zoning Permit, however, shall not afford protection to any owner who is found to be violating this or any other applicable law, ordinance, or regulation.
- (C) **Exception.** A Zoning Permit is not required for reconstruction of conforming buildings or structures which do not involve a change in structure size and use.
- (D) **Nonconforming structures and uses.** No nonconforming structure or use shall be renewed, changed, or extended until a zoning permit, pursuant to Article 9, Nonconformities, of this Ordinance, has been issued by the Administrator.

Section 3-7-2. Standards and Procedures.

- (A) Zoning Permit applications shall be reviewed using the procedures and minimum submission requirements established by the Administrator.
- (B) The following shall be submitted to the Administrator for review:
 - (1) Site Plans shall be submitted as required in Division 6 of this Article.
 - (2) When Site Plans are not required, each Zoning Permit application shall be accompanied by two (2) copies of a scale drawing or plan on a plat that shows, with dimensions:⁵²
 - (i) Lot lines;
 - (ii) Location of buildings on the lot, including setback measurements from each property boundary;
 - (iii) Suitable notations indicating the proposed use of all land and buildings;

⁵⁰ Editor's Note: This Division includes content from the existing Ordinance, Article 5. Text has been streamlined and reworded for clarity.

⁵¹ Editor's Note: This section includes items (A and E) from the existing Ordinance, Article 5-2. Temporary certificates are removed because there is no need to distinguish them from a zoning permit. Administration and violations of permits are covered in Article 2 of the proposed ordinance.

⁵² Editor's Notes: This section lists more specific requirements for the zoning permit application than the existing Ordinance, Article 5-1-4.

- (iv) Points of connection to public water and sewer;
 - (v) Delineation of all floodplain limits;
 - (vi) Such other information as may be necessary to provide for the enforcement of these regulations; and
 - (vii) If determined necessary by the Administrator in a specific case, a boundary survey, and a staking of the lot by a competent surveyor, and complete construction plans shall be required.
 - (viii) A statement from the water and sewer superintendent that applicable regulations and requirements have been complied with.
 - (ix) A grading permit, as required by the Franklin County Erosion and Sediment Control Program.
 - (x) If a dwelling, the number of families or housekeeping units.
 - (xi) Number, size, location and lighting of signs, if any.
 - (xii) Off-street parking and other facilities.
- (C) If the proposed building or use is in conformity with the provisions of this Ordinance, a permit shall be issued to the applicant by the Administrator.
- (1) One (1) copy of the drawing shall be returned to the applicant with the permit. One (1) copy shall be kept in the offices of the Administrator as record of the decision.
- (D) A Zoning Permit, in itself, shall not ensure that the development approved through said permit shall receive subsequent approval for any other necessary permits or development approvals as otherwise required.

Section 3-7-3. Period of Validity.⁵³

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

⁵³ Editor's Note: Period of Validity is proposed as per staff discussion and as a recommended best practice.

Division 8. Zoning Determinations.⁵⁴

Section 3-8-1. Applicability.

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

Section 3-8-2. Standards and Procedures.

- (A) The Administrator's response shall be provided within 90 days of the date of the request unless the requestor agrees to a longer period of time.
- (B) When the requestor is not the owner or the owner's agent of the property subject to the request, the Administrator in accordance with the Code of Virginia § 15.2-2204 (H), as amended, shall provide written notice within ten (10) days of receipt of the request to the owner of the property at the owner's last known address as shown on the County's real estate assessment records.
- (C) The Administrator's written decision or determination shall include a statement informing the recipient of the right to appeal the decision as provided in Division 9 of this Article.

Division 9. Appeals.

Section 3-9-1. Appeals of Zoning Administrator Determinations and Decisions.⁵⁵

- (A) Pursuant to the Code of Virginia § 15.2-2311, as amended, an appeal to the BZA may be taken by any person aggrieved or by any officer, department, board, or bureau of the Town affected by any decision of the Administrator or from any order, requirement, decision, or determination made by any other administrative officer in the administration or enforcement of this Ordinance.
- (B) Such appeal shall be taken within thirty (30) days after the decision appealed from by filing with the Administrator, and with the BZA, a notice of appeal specifying the grounds thereof. The Administrator shall forthwith transmit to the BZA all the papers constituting the record upon which the action appealed from was taken.
- (C) A decision or interpretation of the Administrator shall be presumed correct and may not be reversed or modified unless there is evidence in the record that the decision is not correct, based on the relevant procedures and review standards of this Ordinance.

Section 3-9-2. Appeals to Board of Zoning Appeals (BZA) Procedure⁵⁶.

- (A) Pursuant to the Code of Virginia § 15.2-2312, as amended, procedures for submitting an appeal shall be as follows:

⁵⁴ Editor's Note: This Division proposes all new text. This proposed language conforms with the Code of Virginia.

⁵⁵ Editor's Note: The existing Ordinance includes much of the text from Code of Virginia § 15.2-2311 (Article 11-4). This Ordinance includes a reference to the Code in lieu of including the full language.

⁵⁶ Editor's Note: This section reorganizes the content in Article 11-5 of the existing Ordinance.

- (1) Mailing Procedure. Appeals shall be mailed from the applicant seeking appeal to the BZA in care of the Administrator, and a copy of the appeal shall be mailed to the Planning Commission. A third copy should be mailed to the individual, official, department, or agency concerned, if any.
- (2) Hearing. The BZA shall fix a reasonable time for the hearing of an appeal, give public notice as outlined in Division 10 of this Article as well as due notice to the parties in interest, and decide the same within 90 days of the filing of the appeal.
- (3) Decisions. In exercising its powers, the BZA may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from. The concurring vote of four (4) members shall be necessary to reverse any order, requirement, decision, or determination of an administrative officer or to decide in favor of the applicant on any matter upon which is being heard. In any appeal, if a BZA's attempt to reach a decision results in a tie vote, the matter may be carried over until the next scheduled meeting at the request of the person filing the appeal.

Section 3-9-3. Appeals of BZA, Planning Commission, or Town Council⁵⁷.

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

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

- (A) Pursuant to the Code of Virginia § 15.2-2313, as amended, construction of a building with a valid building permit deemed in violation of this Ordinance may be prevented, restrained, corrected, or abated by suit filed within 15 days after the start of construction by a person who had no actual notice of the issuance of the permit.
- (B) The court may hear and determine the issues raised in the litigation even though no appeal was taken from the decision of the Administrator to the BZA.

Section 3-9-5. Stay of Proceedings.

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

⁵⁷ Editor's Note: This section includes minimal language and a reference to Code of Virginia § 15.2-2314, and §15.2-2285 in lieu of including the full text from Code of Virginia as it was in the existing Ordinance (Article 11-6).

Division 10. Public Hearings and Notifications⁵⁸.

Section 3-10-1. Public Hearing Required.

- (A) In accordance with the Code of Virginia § 15.2-2204, as amended, the Planning Commission shall not recommend, nor shall the Town Council adopt or approve any plan, ordinance, amendment, or Special Exception Permit, nor shall the BZA approve any variance, until it has held a duly advertised public hearing. Advertising and notice procedures shall be conducted according to the procedures under the Code of Virginia § 15.2-2204, as amended, as outlined in this Division.
- (B) The Planning Commission and Town Council may hold a joint public hearing after public notice as set forth herein, and if such joint hearing is held, public notice as set forth below need be given only by the Town Council.
- (C) No land may be zoned to a more intensive use classification than was contained in the public notice without an additional public hearing after notice pursuant to the Code of Virginia § 15.2-2204, as amended.

Section 3-10-2. Advertisements and Mailings⁵⁹.

- (A) In accordance with Code of Virginia § 15.2-2204, as amended, the notice for each proposal shall provide:
 - (1) The street address or tax map parcel number of the parcel(s);
 - (i) In cases where the intended action affects more than 25 parcels, the notice must include the approximate acreage subject to the intended action;
 - (ii) For more than 100 parcels, the advertisement may instead include a description of the boundaries of the area subject to the changes and a link to a map of the subject area;
 - (2) Where copies of the proposal may be examined; and
 - (3) The time and place of any hearing at which persons affected may appear and present their views.
 - (4) Notice of public hearings shall also be published twice in some newspaper published or having general circulation in the Town.⁶⁰
 - (i) The first notice shall appear no more than 28 days before and the second notice shall appear no less than seven (7) days before the date of the meeting referenced in the notice.

⁵⁸ Editor's Note: Proposed as a new Division to outline all matters related to public hearings and notices.

⁵⁹ Editor's Note: Items (A) (1) (vi) and (vii) are optional provisions permitted in the Code of Virginia and are considered a best practice.

⁶⁰ Editor's Note: (4) was updated April 16, 2024 to reflect amendments by the General Assembly's 2024 session.

- (5) Property owner notification shall be sent by the Administrator⁶¹ a minimum of five (5) days prior to any public hearing, except where a longer timing is required.
- (i) Notifications shall be mailed to:
1. The owner, owners, or their agent of the subject property;
 2. Persons owning any adjacent property, including property across any road, railroad right-of-way or body of water;
 3. A locality's chief administrative officer or their designee when the subject property is located within 0.5 mile of the boundary of the adjoining locality at least ten (10) days prior to the hearing;
 4. The commander of the applicable military operation when the subject property is located within 3,000 feet of the boundary of a military base, installation or airport, excluding armories operation by the Virginia National Guard, at least 30 days prior to the hearing;
 5. The owner of a public use airport when the subject property is located within 3,000 feet of such airport at least 30 days prior to the hearing;
 6. For rezonings, the incorporated property owners' association within a planned development where the subject property is located within the planned development and the association's members also own property in the planned development that is located within 2,000 feet of any portion of the subject property; and
 7. In lieu of each individual unit owner, the unit owners' association or proprietary lessee's association when the property adjacent to the subject property is a condominium or cooperative, respectively.⁶²
- (B) The following exceptions shall apply to property owner notification requirements, as outlined in this Section:
- (1) When a proposed amendment to the Zoning Ordinance involves a tract of land not less than 500 acres owned by the Commonwealth of Virginia or by the federal government, and when the proposed change affects only a portion of the larger tract, notice need be given only to the owners of those properties that are adjacent to the affected area of the larger tract.
 - (2) For Zoning Map amendments impacting more than 25 parcels or Ordinance amendments that decrease residential density:
 - (i) Adjacent property owner notification is not required.
 - (ii) Owner notification is not required for lots less than 11,500 square feet and shown on approved and recorded subdivision plat.

⁶¹ Editor's Note: § 15.2-2206 of the Code of Virginia allows a locality to require the applicant provide notice; this can be included, rather than by Administrator, if desired.

⁶² Editor's Note: This optional provision allows the Town to mail one notice to the unit owners' or lessees' association in lieu of each individual unit owner.

- (C) Notice, as required above, shall be sent by registered or certified mail to the last known address of such property owner(s) as shown on the current real estate tax assessment records. Notice may be sent by first class mail; however, a representative of the Town shall sign an affidavit that such mailings have been made and file such affidavit with the papers in the case.
- (D) The cost of all notice requirements shall be paid by the developer/applicant in addition to any other fees involved in the application. The Town shall bill the applicant for such costs.

Section 3-10-3. Posting Notice on Property⁶³.

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

Section 3-10-4. Waiver of Notice.

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

⁶³ Editor's Note: This is a new requirement added for additional notice to the public. This is optional under the Code of Virginia and does not have to be included if not appropriate for Rocky Mount.

ARTICLE 4. – Primary Zoning Districts

Division 1. Establishment and Purpose.

Section 4-1-1. General.¹

- (A) Zoning districts established. Land within the Town, as it exists at the time of this Ordinance being enacted, is hereby divided into classes of primary zoning districts to:
- (1) Regulate and restrict the location and use of buildings and land for trade, industry, residence, and other purposes in accordance with the objectives of the Comprehensive Plan;
 - (2) Regulate and restrict the location, height, and size of buildings hereafter erected or structurally altered; and
 - (3) Ensure adequate setbacks, open spaces, and public facilities to support the Town’s population.
- (B) Primary Zoning Districts.² To carry out the purpose stated in Article I, In General, of this Ordinance, and (A), above, the Town of Rocky Mount is hereby divided into the following primary zoning districts:³

Table 4-1. Primary Zoning Districts

RESIDENTIAL DISTRICTS	
RA	Residential Agricultural
R1	Residential – Low Density
R2	Residential – Medium Density
R3	Residential – High Density
PLANNED AND RESIDENTIAL BUSINESS DISTRICT(S)	
RPUD	Residential Planned Unit Development
RB	Residential Business
COMMERCIAL DISTRICTS	
C1	Commercial Office Limited
C2	Commercial Office General
GB	General Business
CBD	Central Business
INDUSTRIAL DISTRICTS	
M1	Industrial Limited
M2	Industrial General
SPECIAL DISTRICTS	
POS	Public/Open Space

¹ Editor’s Note: This section contains new text that provides the overall purpose for primary zoning districts.

² Editor’s Note: Propose to include *only* Primary Districts in Article 4; Overlay Districts, including Floodplain, Arts & Culture, and Mixed-Use will be provided in Article 5.

³ Editor’s Note: The district names in Table 4-1 match the names in the Town’s Official Zoning Map (11/11/2022).

(C) Overlay Districts are established in Article 5, Overlay Zoning Districts, of this Ordinance.

Section 4-1-2. References to District Names⁴.

For the purpose of reference throughout this Ordinance, unless specifically provided to the contrary, the term “residential district” shall include RA, R1, R2, and R3 districts; “planned and residential business district” shall include the RPUD and RB districts; “special district” shall include the POS district; “commercial district” shall include C1, C2, CBD, and GB districts; and “industrial district” shall include M1 and M2 districts.

Section 4-1-3. Purpose and Intent of Primary Zoning Districts.⁵

(A) Residential.⁶

- (1) RA, Residential Agricultural. This District is comprised of very low-density, single-unit homes and agricultural uses. The regulations of this District are designed to stabilize and protect the basic characteristics of the District, and to prohibit all intensive commercial activities. Development and permitted uses are limited to dwellings providing homes for residents and agricultural uses on larger tracts of land. Certain additional uses such as schools, churches, parks, playgrounds, agricultural businesses, veterinary clinics, kennels, tree nurseries, tree farms, and certain public utilities are likely to be present to serve residents of this District.
- (2) R1, Residential – Low Density. This District is comprised of low-density, single-unit dwelling neighborhoods. The regulations for this District are designed to stabilize and protect the essential characteristics of the District, and to prohibit all intensive commercial activities. Development and permitted uses are limited to residential dwellings plus certain additional uses such as schools, parks, churches, and certain public facilities that serve the residents of the District.
- (3) R2, Residential – Medium Density. This District is comprised of medium density, single- and two-unit dwelling, and townhouse neighborhood development.⁷ The regulations for this District are designed to stabilize and protect the essential characteristics of the District, and to protect against encroachment of general commercial or industrial uses. Development and permitted uses include residential dwellings plus additional uses such as schools, parks, churches, and certain public facilities.

⁴ Editor’s Note: New Section to provide a disclaimer that references to various districts could include all those districts within the category.

⁵ Editor’s Note: The proposed Ordinance addresses *all* district intents in this section, rather than individually. This is streamlined text and clear standards are provided in chart form. (*See following sections for each district.*)

⁶ Editor’s Note: Intents for the Residential Districts are taken from the existing Ordinance and modified for modernity, readability, and relevance.

⁷ Editor’s Note: Townhouse has been added for the Town’s consideration to allow more housing options.

- (4) R3, Residential⁸ - High Density. This district is comprised of medium to high density, single- and two-unit dwellings, multiple-unit dwellings, and townhouses located between or adjacent to other residential and commercial uses. Regulations for this district are designed to stabilize and protect the essential characteristics of the district and to provide a suitable environment for persons desiring the amenities of apartment living with the convenience of retail, employment centers, and other community facilities and amenities. This residential district allows for the most variation of dwelling types. Other permitted uses include those compatible with residential neighborhoods, such as public, civic, and recreational uses and limited commercial development unlikely to generate high traffic and crowds of customers. This district is predominantly residential in character and, as such, commercial uses should be developed sensitively.

(B) Planned and Mixed.⁹

- (1) RPUD, Residential Planned Unit Development. The purpose of this District is to provide for the development of planned residential communities that incorporate a variety of housing options and innovative development practices. The intent of the District is to allow greater flexibility than is generally possible under conventional zoning district regulations by encouraging low-impact development, energy-efficient building practices, and imaginative and high-quality design to create a well-planned living environment.¹⁰ Development in the RPUD District should provide dedicated open space to maintain natural and cultural resources, use higher densities and innovative development practices, provide community amenities, and create safety for residents. The RPUD District is particularly appropriate for parcels that contain several constraints to conventional development. Additionally, the RPUD District creates an opportunity to reflect changes in technology of land development, provide new approaches to home ownership, and provide for an efficient use of land which can result in reduced development costs.
- (2) RB, Residential Business District. The purpose of this District is to allow certain types of neighborhood-scale commercial uses in an area that is primarily residential in character in order to stabilize neighborhood aesthetics and promote harmony between residential and compatible commercial uses. No outdoor sales, service or storage is permitted, and direct on-site retail sales are prohibited. Infill development of small lots for light-intensity commercial uses is encouraged in this District to add value and flexibility of use. Traffic and parking congestion is held to a minimum to protect and preserve property values in the surrounding residential area.

⁸ Editor's Note: The R3 intent has been revised for modernity and readability, as well as to promote light commercial development that would be complementary to existing R3 development.

⁹ Editor's Note: Intents for the Planned and Residential Business Districts are taken from the existing Ordinance and modified for modernity, readability, and relevance.

¹⁰ Editor's Note: The terms "low-impact development" and "energy-efficient building practices" were added to encourage less impactful construction.

(C) Commercial.¹¹

- (1) C1, Commercial Office, Limited. The intent of this district is to encourage the orderly development of land for professional office development. The uses may include professional and business services, and other such uses for which existing structures may be adapted. This district includes numerous retail, civic, and professional activities serving the needs of the community sited and designed in a manner that protects the surrounding areas from heavy traffic and congestion. The intent of this district is to encourage business and office development in appropriate locations where it will not produce adverse impacts on residential uses.
- (2) C2, Commercial Office, General. This district is intended to encourage the orderly development of land for commercial development at higher intensities, including civic, office, research and development, and light industrial uses. Adaptive reuse of existing structures may be pursued to support such uses. This district requires direct public access, but is protected from heavy traffic which is found in General Business zones. Development in the district should also incorporate open space and natural features to protect surrounding property and scenic viewsheds. Examples of uses permitted in the C2 district include, but are not limited to, medical offices and clinics, libraries, schools, and financial institutions.
- (3) GB, General Business. The intent of this district is to accommodate a wide range of retail, wholesale, service, and office uses that cater to the traveling public and serve the Town and the surrounding region. The District is designed to provide highly attractive and accessible shopping along principal highways, while avoiding the routing of traffic onto minor streets or through residential areas
- (4) CBD, Central Business District¹². The purpose of this District is to promote the harmonious use and development of the historic uptown, downtown, and surrounding area, which is the traditional commercial, governmental, residential, and cultural center of the Town of Rocky Mount. The regulations of this District are intended to preserve historic architecture and development patterns through facilitating infill development that fits the scale, design, and character of the area while encouraging upper-story residential lofts and expanding arts and cultural activities. Development in the Central Business District should complement existing historic development patterns with commercial buildings adjacent to the sidewalk and street to minimize traffic congestion, encourage a pedestrian friendly environment, and enhance the economic viability of the District. Permitted land uses include a mix of commercial uses and upper-story residential uses to enhance the activity and vitality of the area.

¹¹ Editor's Note: Intents for the Commercial Districts are taken from the existing ordinance and modified for modernity, readability, and relevance.

¹² Editor's Note: Intent revised to include the Comprehensive Plan goals and state that a mix of uses, particularly upper-story residential, should be promoted to encourage vitality in these areas.

(D) Industrial.¹³

- (1) M1, Industrial, Limited. The intent of this District is to provide sufficient space in appropriate locations for less intense industrial uses, such as research facilities, wholesale, warehousing, light industrial, and heavy commercial uses. Uses should occur mostly in enclosed buildings or be screened from view, and activities should not create a danger to health and safety in surrounding areas nor create off-site noise, vibration, smoke, dust, lint, odor, heat, or glare.
- (2) M2, Industrial, General. The intent of this District is to encourage and provide for larger-scale industrial, manufacturing, processing, and warehousing operations in appropriate areas separated from daily services and residences. The uses in this District may require public utilities, access to transportation infrastructure, or outside storage, or generate noise, smoke, or odor, which shall be mitigated with industry best practices for the compatibility of the surrounding area and the preservation of the environment.

(E) Special Districts.¹⁴

Public/Open Space. The intent of this District is to preserve specific areas from private development due to natural conditions of soil, slope, susceptibility to flooding or erosion, geological condition, vegetation, or a combination of these conditions which makes such lands unsuitable for development. This district also includes lands which are publicly owned and therefore would not support private development. To enhance outdoor recreation, increase trail connectivity, and protect the natural environment, permitted uses in these sensitive areas are limited to public recreation-oriented activities and other low-impact public facilities.

¹³ Editor's Note: Intents for the Industrial Districts are taken from the existing ordinance and modified for modernity, readability, and relevance.

¹⁴ Editor's Note: Introduced as a new section, as proposed in the draft ordinance structure, and discussed at the worksession on May 18, 2023. This structure provides clarity and consistency for the Public/Open Space District with the other districts and the Future Land Use Map. Language from the Comprehensive Plan goals is included in the intent.

Division 2. General District Standards.

Section 4-2-1. General.

- (A) The requirements specified in this Article shall be considered the minimum required to promote public health, safety, and general welfare.
- (B) Regulations shall apply uniformly to each use, structure, and lot within the zoning district.
- (C) Except as provided in Article 9, Nonconformities, of this Ordinance, every structure hereafter constructed shall be located on a lot meeting the minimum requirements for the district in which it is located.
- (D) Photographs, graphics, and/or diagrams in this Article are included for illustrative purposes only. If there is any inconsistency between them and the text of this Ordinance, including tables, the text will govern¹⁵.

Section 4-2-2. Additional Standards¹⁶.

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

- (A) Use Performance Standards. Article 7, Use Performance Standards, of this Ordinance establishes additional standards pertaining to specific uses.
- (B) Community Design Standards. Article 8, Community Design Standards, of this Ordinance establishes additional standards for:
 - (1) Landscaping and screening;
 - (2) Walls and fences;
 - (3) Parking and loading;
 - (4) Lighting;
 - (5) Signs; and
 - (6) Open space.¹⁷
- (C) Drainage. Provisions shall be made for proper stormwater drainage from streets, parking, and loading areas, in accordance with Franklin County stormwater regulations. Water shall not be permitted to drain from such areas onto adjacent property except into a natural watercourse or a drainage easement. Provisions shall be made for protection against erosion and sedimentation in accordance with Franklin County stormwater regulations.
- (D) Streets and Sidewalks. Provisions shall be made for the construction and maintenance of streets and sidewalks, in accordance with Chapter 54 Streets and Sidewalks of the Town Code.

¹⁵ Editor's Note: Proposed as new text.

¹⁶ Editor's Note: Proposed as a new Section.

¹⁷ Editor's Note: Open space requirements from existing Ordinance, except RPUD standards, moved to Article 8.

Division 3. Residential Districts Dimensional Standards.

Section 4-3-1. Residential District Regulations.

Table 4-2. Residential Agricultural and R1 District Regulations

Standard	Districts	
	RA	R1
MINIMUM LOT SIZE		
Lots with NO Public water or sewer	Minimum shall be approved by Health Official	Not permitted
With public water AND sewer	1 acre	10,890 sq. ft. ¹⁸
FRONTAGE		
Minimum public road frontage	25 ft.	
MAXIMUM LOT COVERAGE ¹⁹		
Building coverage (total sq. ft. of building footprint areas)	25% of total lot area	35% of total lot area
Accessory structures	7% of total lot area	
Lot coverage (total sq. ft. of impervious surfaces plus building & structure coverage)	50% of total lot area	
MAXIMUM HEIGHT ²⁰		
Primary structures	35 ft.	
Accessory structures ²¹	12 ft.	
SETBACKS ²²		
Front		
Primary structures	35 ft.	30 ft.
Accessory structures	Behind the front building line	
Side		
Primary structures	15 ft.	10 ft.
Accessory structures	5 ft.	
Rear		
Primary structures	35 ft.	
Accessory structures	5 ft.	
Corner lots		
Side with road frontage - Primary and Accessory Structures	35 ft.	30 ft.

¹⁸ Editor's Note: Minimum lot size reduced from 15,000 sq. ft. to be equivalent to 4 houses per acre.

¹⁹ Editor's Note: Max lot coverage added as a best practice to limit intensity of uses and impervious surfaces.

²⁰ Editor's Note: Bulk regulations were removed; not needed with setbacks and height regulations. The different height limit for semipublic/institutional buildings was removed.

²¹ Editor's Note: Accessory building height has been added for clarity and consistency.

²² Editor's Note: Setback measurements simplified and clarified. "Yard dimensions" term was removed.

Table 4-3. R2 and R3 Residential District Regulations

Standard	Districts			
	R2	R3		
MINIMUM LOT SIZE ²³				
	Single-unit & duplex	Single-unit & duplex	Multi-unit	Townhouses
With public water AND sewer	7,260 sq. ft.	5,445 sq. ft.	1 bedroom: 1,200 2 bedroom: 1,400 3 bedroom: 1,800 4+ bedroom: 2,000 Plus 10,000 sq. ft. for the first dwelling unit in the development	5,445 sq. ft.
FRONTAGE				
Minimum public road frontage	25 ft.			
MAXIMUM LOT COVERAGE ²⁴				
Building coverage (total sq. ft. of building footprint areas)	35% of total lot area			
Accessory structures	7% of total lot area			
Lot coverage (total sq. ft. of impervious surfaces plus building coverage)	50% of total lot area		60% of total lot area	
MAXIMUM HEIGHT ²⁵				
Primary structures	35 ft.		60 ft. ²⁶	35 ft.
Accessory structures ²⁷	12 ft.			15 ft.
SETBACKS ²⁸				
Front – measured from front property line				
Primary structures	30 ft.			25 ft.
Accessory structures	Behind the front building line			
Side – measured from side property line				

²³ Editor's Note: Residential lot sizes have been simplified and reduced to facilitate the Comprehensive Plan goals to encourage residential development in the Town. Proposed sizes align with benchmark localities.

²⁴ Editor's Note: Max lot coverage was added to limit intensity of uses and impervious surfaces.

²⁵ Editor's Note: Bulk regulations removed; not needed with setbacks and height regulations.

²⁶ Editor's Note: Height for multi-unit buildings proposed to be increased from 38 to 60 ft. to allow more housing without enlarging lot coverage (building up instead of out).

²⁷ Editor's Note: Accessory building height applied to R1 and R2 as it is for other Residential Districts in the existing ordinance. Height was changed from one (1) story to 12 ft., except for townhouses which currently allow 15 ft.

²⁸ Editor's Note: Setback measurements have been simplified and clarified and front setback has been reduced per staff request. "Yard dimensions" term was removed; not needed with setbacks.

Standard	Districts		
	R2	R3	
Primary structures	10 ft.	25 ft. plus 1 ft. for each ft. of height over 25 ft.	25 ft. ²⁹
Accessory structures	5 ft.		25 ft.
Rear – measured from rear property line			
Primary structures		25 ft.	
Accessory structures		5 ft.	
Corner lots			
Side with road frontage - Primary and Accessory Structures	30 ft.		25 ft.
SEPARATION REQUIREMENTS			
Interior lot building separation for groups of townhouses and multi-units	Five or more units shall be separated by 40 ft. between facing living areas and 20 ft. between exterior walls or corners of buildings placed at right angles to one another. Buildings of four or less units shall be separated by at least 20 ft. from other buildings of four or less units.³⁰ All interior setbacks shall be increased 1 ft. for each additional foot of height over 35 ft.		

Division 4. Planned and Residential Business Dimensional Standards.³¹

Section 4-4-1. Planned and Residential Business District Regulations.³²

The purpose of Planned and Residential Business Districts is to encourage innovative and efficient land use planning and physical design on large, unified sites in the RPUD District, and to allow neighborhood-scale commercial activities that enhance the value of the mixed residential character in the RB District.

Section 4-4-2. RPUD Residential Planned Unit Development District³³

(A) Application. Residential Planned Unit Development Districts.

- (1) Residential Planned Unit Development Districts shall be established by amendment to the Zoning Map, in accordance with Article 3, Permits and Applications, of this Ordinance.
- (2) No development within a Residential Planned Unit Development District, including but not limited to clearing, grading, excavating, road building, site preparation or structural

²⁹ Editor's Note: This setback is taken from the existing ordinance to be the setback from the property line. Setbacks that are internal to the development will be included in Article 8, Design Standards.

³⁰ Editor's Note: Separation requirements were rewritten by combining the current standards for R3 multi-unit and townhouses. The result reduces building separation in R3 for multi-unit from 60 ft. to 40 ft. between facing living areas and from 30 ft. to 20 ft. for exterior walls or corners.

³¹ Editor's Note: New Division, as discussed at the worksession on May 18, 2023.

³² Editor's Note: New section written using language in the existing Ordinance to organize the RPUD and RB into the Planned and Residential Business Districts category.

³³ Editor's Note: New section recommended as a best practice for the RPUD.

improvements, may be permitted prior to Site Plan approval by the Town Council in accordance with Article 3, Permits and Applications of this Ordinance.

- (3) No transfer, sale, or conveyance of any individual lot or interest shall be permitted prior to Final Subdivision Plat approval, in accordance with Article 10, Subdivisions, of this Ordinance.
- (4) All development and subsequent operation within a Residential Planned Unit Development District shall be undertaken in accordance with the approved application and provisions of the approved Site Plan.
 - (i) Modifications. The applicant may request modifications to the RPUD Site Plan; the Administrator will determine if the change is in keeping with the concept of the approved RPUD Site Plan or is not in keeping with the approved RPUD Site Plan and shall require an amendment to the RPUD Site Plan in accordance with Article 3, Permits and Applications, of this Ordinance.
 - (ii) The Concept Plan application shall consist of the following, in addition to requirements in Article 3, Permits and Applications:³⁴
 - 1. The location and floor area size of all existing buildings, proposed building envelopes, structures, and other improvements, including maximum heights and types of dwelling units. Such drawings should be sufficient to relay the basic architectural intent of the proposed improvements but should not be encumbered with final detail at this stage.
 - 2. Enough information about land areas adjacent to the proposed RPUD to indicate the relationship between the proposed development and existing and proposed adjacent areas, including land uses, zoning classifications, densities, circulation systems, public facilities, and unique natural features of the landscape.
 - 3. Written documents, including the following:
 - i. A development schedule and/or precedence order indicating when construction of the RPUD or stages of the RPUD can be expected to begin and be completed.
 - ii. Quantitative data for the following:
 - a. Total number and type of dwellings units;
 - b. parcel size;
 - c. proposed lot coverage of buildings and structures;
 - d. total amount of open space (including a separate figure for usable open space); and
 - e. other studies as required by the review authority.
- (5) A proposed development may vary from the guidelines outlined in this Division, except for uses subject to approval of a rezoning or Special Exception Permit in accordance with Article

³⁴ Editor's Note: Concept plan application content (ii) was added from the existing Ordinance, Article 23-11, after the drafting worksession for this Article on Sept. 18, 2023.

3, Permits and Applications, of this Ordinance or approval. Any waiver from the standards and guidelines shall be specifically acknowledged by means of a proffer or conditions. A request for waiver must:

- (i) Clearly outline the requested waiver(s) and
 - (ii) Justify the need or benefit to the public and community should the waiver be granted.
- (B) Character of Development. Residential Planned Unit Development Districts should encourage unified, high-quality development combining a variety of lot sizes and housing types and recreation, in a compact, walkable neighborhood setting. Residential Planned Unit Development Districts typically include the following:
- (1) Pedestrian orientation;
 - (2) Neighborhood friendly streets and paths;
 - (3) Interconnected streets and transportation networks;
 - (4) Parks and open space amenities;
 - (5) Appropriately scaled buildings and spaces;
 - (6) Mixture of housing types and affordability; and
 - (7) Environmentally sensitive design.
- (C) Development Requirements and Standards³⁵. In addition to the standards provided in Table 4 - 4 of this Article, the following standards apply:
- (1) General.
 - (i) Minimum setback ranges for residential dwellings and non-residential uses shall be specifically established during the review and approval of the Concept Plan, as part of the Rezoning process, in accordance with Article 3, Permits and Applications, of this Ordinance.
 - (ii) Areas between buildings used as service yards, storage of trash, or other utility purposes should be designed to be compatible with adjoining buildings;
 - (iii) Setbacks shall not interfere with public safety considerations such as intersection sight distance or utilities, including other public infrastructure such as sidewalks, open space, etc.
 - (iv) All new utility lines, electric, telephone, cable television lines, etc., shall be placed underground.
 - (2) Open Space.
 - (i) Open space shall be provided in a logical relationship to the site with the least disturbance of natural features.

³⁵ Editor's Note: All of (B) is new for the Town's consideration.

- (ii) The construction of all usable open spaces which are shown on the final development plan must proceed at the same rate as the construction of dwelling units.
 - 1. The Administrator shall not issue a Zoning Permit for any building or structure shown on the final development plan unless the usable open space has been adequately assured to the Administrator in a manner satisfactory to the Planning Commission through a bond, corporate surety, or other acceptable financial guarantee, including escrow agreements.
- (iii) Open space shall be developed in accordance with Article 8, Community Design Standards, of this Ordinance.
- (3) Utilities.

Within a planned unit development, all newly installed utilities, including television cable, and electrical systems, shall be installed underground. Appurtenances to these, and systems which require above-ground installations shall be effectively screened as required in Article 8, Community Design Standards, of this Ordinance.

Table 4-4. Residential Planned Unit Development District Regulations

Standard	District
	RPUD
MINIMUM LOT SIZE	
With public water AND sewer	To be determined by the development plan.
OPEN SPACE	
Minimum common open space/recreational areas	Not less than 25% of gross area of the RPUD District.
Water surfaces or wetlands	No more than 25% of required open space.
FRONTAGE	
Minimum public road frontage	25 ft.
MAXIMUM LOT COVERAGE	
Building coverage (total sq. ft. of building footprint areas)	To be determined by development plan.
Accessory buildings	
Lot coverage (total sq. ft. of impervious surfaces plus building coverage)	
MAXIMUM HEIGHT	
Primary structures	35 ft.
Semipublic/Institutional buildings	
Accessory building	12 ft.
SETBACKS	
Front – measured from front property line	
Primary structures	To be determined by development plan.
Accessory buildings	
Side – measured from side property line	
Primary structures	To be determined by development plan, except where adjoining RA or R1 Districts, setback shall be 15 ft.
Accessory buildings	
Rear – measured from rear property line	
Primary structures	To be determined by development plan, except where adjoining RA or R1, setback shall be 20 ft.
Accessory buildings	
Corner lots	
Side with road frontage - Primary and Accessory Structures	To be determined by development plan.

Section 4-4-3. RB Residential Business.

Table 4-5. Residential Business District Regulations

Standard	District		
	RB		
MINIMUM LOT SIZE ³⁶			
	Single-unit	Two-unit	Business Activities
With public water AND sewer ³⁷	10,890 sq. ft.		
FRONTAGE			
Minimum public road frontage	25 ft.		
MAXIMUM LOT COVERAGE ³⁸			
Building coverage (total sq. ft. of building footprint areas)	35% of total lot area		
Accessory buildings	7% of total lot area		
Lot coverage (total sq. ft. of impervious surfaces plus building coverage)	50% of total lot area		
MAXIMUM HEIGHT ³⁹			
Primary structures	35 ft.		
Accessory building	12 ft.		
SETBACKS ⁴⁰			
Front – measured from front property line			
Primary structures	30 ft.		
Accessory buildings	Behind the front building line		
Side – measured from side property line			
Primary structures	10 ft.		
Accessory buildings	5 ft.		
Rear – measured from rear property line			
Primary structures	35 ft.		
Accessory buildings	5 ft.		
Corner lots			
Side with road frontage - Primary and Accessory Structures	30 ft.		

³⁶ Editor's Note: Minimum lot size was changed to match the R1 District per staff request.

³⁷ Editor's Note: Removed the option to develop without public water and sewer.

³⁸ Editor's Note: Maximum lot coverage was added to limit intensity of uses and impervious surfaces; and to match R1 District per staff request.

³⁹ Editor's Note: Bulk regulations for residential were removed; not needed with setbacks and height regulations. The different height limit for semipublic/institutional buildings was removed.

⁴⁰ Editor's Note: Setbacks were changed to match the R1 District per staff request.

Division 5. Commercial Districts Dimensional Standards.

Section 4-5-1. Commercial District Regulations.

Table 4-6. Commercial District Regulations

Standard	Districts			
	C1	C2	GB	CBD
MINIMUM LOT SIZE				
With public water AND sewer ⁴¹	15,000 sq. ft.		No minimum	
FRONTAGE				
Minimum public road frontage	30 ft.		No minimum	
MAXIMUM LOT COVERAGE ⁴²				
Lot coverage (total sq. ft. of impervious surfaces plus building coverage)	50%	60%	70%	100% of total area
MAXIMUM HEIGHT ⁴³				
Primary structures	35 ft.		60 ft.	45 ft. ⁴⁴
Accessory structure*	Not permitted		12 ft.	
SETBACKS				
Front – measured from front property line				
Primary structures	30 ft.		30 ft.**	0.0 ft.***
Accessory structures*	Not permitted		Behind the front building line	
Side – measured from side property line				
Primary structures	10 ft. except when adjoining R1 & R2 50 ft. and R3 District 30 ft.		25 ft. except when adjoining R1 & R2 50 ft. and R3 District 30 ft.	No minimum
Accessory structures*	Not permitted			5 ft.
Rear – measured from rear property line				
Primary structures	35 ft.			No minimum
Accessory structures	Not permitted			5 ft.
Notes:				

⁴¹ Editor's Note: New development requires public water and sewer.

⁴² Editor's Note: Maximum lot coverage was added to limit intensity of uses and impervious surfaces.

⁴³ Editor's Note: Bulk regulations for residential were removed. The different height limit for semipublic/institutional buildings was removed.

⁴⁴ Editor's Note: Existing Ordinance limits businesses to two (2) stories and a max. 45 ft. Removed the two-story limit.

Standard	Districts			
	C1	C2	GB	CBD
* Allowed only with single-unit use.⁴⁶ **Except on an infill lot with adjacent buildings the setback shall be the average of setbacks presently observed by adjacent lots within 50 ft. of the proposed structure's side lot line. *** Buildings shall be located at the front lot line. Buildings requiring access to rear or side parking areas will be allowed a one travel lane width at a maximum width of 18 ft.				

Division 6. Industrial Districts Dimensional Standards.

Section 4-6-1. Industrial District Regulations.

Table 4-7. Industrial District Regulations

Standard	Districts	
	M1	M2
MINIMUM LOT SIZE		
With public water AND sewer ⁴⁷	No minimum	
FRONTAGE ⁴⁸		
Minimum public road frontage	75 ft.	
MAXIMUM LOT COVERAGE ⁴⁹		
Buildings and structures	80% of total lot area	
MAXIMUM HEIGHT		
All structures	60 ft.	
SETBACKS		
Front – measured from front property line		
All structures	25 ft.	
Side – measured from side property line		
All structures	15 ft. when adjoining M1 and M2 Districts, 60 ft. when adjoining RA, R1, R2, R3, RPUD Districts, 30 ft. when adjoining C1, C2, GB, CBD Districts	
Rear – measured from rear property line		
All structures	15 ft. when adjoining M1 and M2 Districts, 60 ft. when adjoining RA, R1, R2, R3, RPUD Districts, 30 ft. when adjoining C1, C2, GB, CBD Districts	
Corner lots		
Front and Side with road frontage - all structures	25 ft. ⁵⁰	

⁴⁶ Editor's Note: Accessory structures currently are not allowed in the CBD for residential uses. They have been added here per discussion with staff.

⁴⁷ Editor's Note: Changed to allow development in the M1 and M2 Districts only with public water and sewer per staff request.

⁴⁸ Editor's Note: Standard set per discussion with staff. The existing Ordinance does not state frontage for M1, M2.

⁴⁹ Editor's Note: Increased max. lot coverage from 70% to 80% to facilitate industrial uses.

⁵⁰ Editor's Note: Increased corner lot setbacks from 20 ft. to 25 ft.

Division 7. Special Districts Dimensional Standards.⁵¹

Section 4-7-1. Purpose⁵².

- (A) The purpose of Special Districts is to provide for zoning districts that differ significantly from other districts in intent, development standards, and purpose. Special Districts are intended to:
- (1) Preserve the Town's publicly owned property; and
 - (2) Provide requirements and standards for properties that do not follow development patterns or land uses of other districts.

Section 4-7-2. POS Public/Open Space District.⁵³

- (A) Character of Development. The Public/Open Space District typically includes any combination of the following:
- (1) Parks and recreational amenities such as playgrounds, swimming pools, bicycle and pedestrian paths and trails;
 - (2) Environmentally sensitive design;
 - (3) Protection of environmentally sensitive areas;
 - (4) Useable open space;
 - (5) Public land uses that complement a property's natural and man-made features, such as rivers, lakes, wetlands, floodplains, trees, and historic and cultural resources;
 - (6) Public parking facilities;
 - (7) Public utilities and/or other facilities necessary for the provision and maintenance of public utilities; and
 - (8) Public infrastructure such as water storage and detention ponds.

⁵¹ Editor's Note: New Division as proposed and discussed at the worksession on May 18, 2023.

⁵² Editor's Note: Proposed as a new Section to provide clarity for Special Districts.

⁵³ Editor's Note: These provisions are new items to establish the character of the POS.

Table 4-8. Special District Regulations

Standard	District	
	POS	
MINIMUM LOT SIZE		
With public sewer	The Administrator shall approve any proposed area requirements for any proposed use.	
NO Public water or sewer		
With public water AND sewer		
MAXIMUM LOT COVERAGE ⁵⁴		
Percentage of total lot area	20%	
MAXIMUM HEIGHT		
Primary structures	35 ft.	
Accessory structures		
SETBACKS ⁵⁵		
Front	30 ft.	
Side	5 ft.	
Rear	25 ft.	
Accessory structures	Behind the primary structure, not closer than 10 ft. to the primary structure. ⁵⁶	

Division 8. Measurement Standards, Encroachments, and Exemptions

Section 4-8-1. Lot and Setback Determination and Measurement.⁵⁷

(A) Lot Standards.

- (1) Lot area shall be the total horizontal area included within the lot lines of a lot.
- (2) Lot width shall be the horizontal distance between the side lot lines of a lot, measured at the front setback.
- (3) Pipe Stem Lots.⁵⁸ Creation of new pipe stem, or stem, lots is prohibited. *See (C) (3) front setback and Figure 4 – 2 below.*
 - (i) No building or structure shall be permitted in the stem portion of existing pipe stem lot.
- (4) Determination of Lot Front.
 - (i) Interior Lots. The front shall be construed to be the portion adjacent to the street.

⁵⁴ Editor's Note: The existing ordinance states "The Administrator and health official shall approve any proposed area requirements for any proposed use." Propose a consistent, low maximum lot coverage to preserve green/recreational areas and reduce ambiguity.

⁵⁵ Editor's Note: The existing Ordinance does not provide front and rear setbacks for this District. Setbacks that match the R2 & R3 Districts are proposed.

⁵⁶ Editor's Note: From the existing Ordinance.

⁵⁷ Editor's Note: Setback measurements have been simplified as requested by the Town.

⁵⁸ Editor's Note: Prohibition of new irregular lots was removed per staff request to allow more housing development in the Town.

- (ii) **Corner Lots.** The front shall be construed to be the shortest boundary fronting a street. If the lot has equal frontage on two (2) or more streets, the front shall be construed in accordance with the prevailing building pattern, or the prevailing lotting pattern if a building pattern is not established.
- (B) **Required Setbacks.**⁵⁹ See Figures 4 – 1 and 4 - 2.
 - (1) Interior Lots, Corner Lots, and Stem Lots shall have the following setbacks:
 - (i) One (1) front, two (2) side, and one (1) rear.
 - (2) Double Frontage Lots shall have the following setbacks:
 - (i) Two (2) fronts and two (2) sides.
- (C) **Measurement Methods.** See Figure 4 - 3. The following methods shall be used for measuring setbacks:

Figure 4- 1. Lot Standard Terms and Required Setbacks



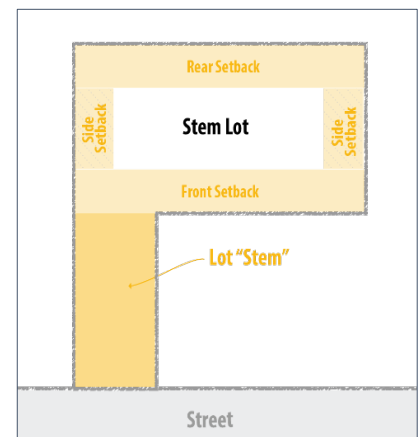
- (1) **All Setback Types.** Setbacks shall be measured in such a manner that the lot line and the setback line are parallel to one another.
- (2) **Street Frontage Required.** Except as otherwise provided in this Article, every lot shall front a public street.⁶⁰
- (3) **Front Setback.** Front setbacks are determined as follows:
 - (i) A front setback shall be included for the full width of the lot frontage, measured between the side lot lines.

⁵⁹ Editor's Note: Setback measurements have been simplified and illustrated as requested by the Town.

⁶⁰ Editor's Note: This requirement is the same in the existing Ordinance.

- (ii) Depth of the front setback shall be measured from the front lot line at the edge of the public right-of-way, inward towards the lot, until the distance required in the district standards is met.
- (iii) Interior Lots shall have one (1) front setback that is the portion along the street.
- (iv) Double Frontage Lots shall have two (2) front setbacks, one (1) along each street.
- (v) Corner Lots shall have one (1) front setback that is the shortest of the two (2) street frontages.
- (vi) Stem Lots shall have one (1) front setback that is measured from the boundary delineating the end of the “stem” and then in towards the lot until the distance required in the district standards is met. *See Figure 4 - 2.*
- (vii) Irregular Lots shall have one (1) front setback that shall be determined by the nearest existing buildings on each side of the lot. However, if the existing buildings are more than 125 ft. away from the proposed structure, the Administrator will determine the setback⁶¹.
- (viii) The front setback required for nonconforming lots may be the average of the front setbacks within 125 ft. on either side of the lot, except that no front setback shall be required to be greater than the minimum required for the underlying zoning district.

Figure 4- 2. Stem Lot Front Setback



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

(4) Side Setback.

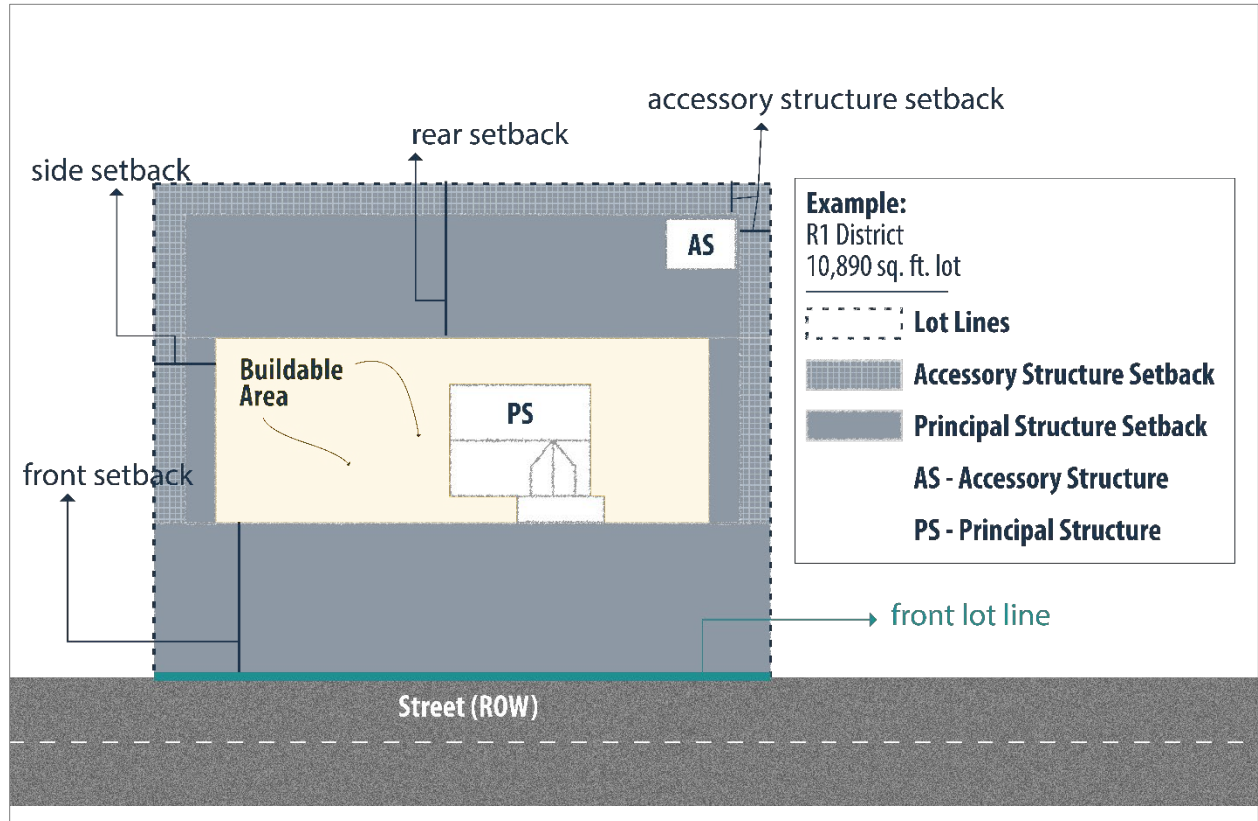
- (i) Side setbacks shall be measured from the front setback to the rear setback.
- (ii) Depth of a side setback shall be measured from the lot line in towards the lot until the distance required in the district standards is met.
- (iii) Corner Lots in residential districts shall have two (2) side setbacks, however, the side that is along the road requires additional setback as provided in the district standards.

(5) Rear Setback.

- (i) A rear setback shall be included for the full width of the rear of the lot, measured between the side lot lines.
- (ii) Depth of a rear setback shall be measured from the rear lot line in towards the lot until the distance required in the district standards is met.

⁶¹ Editor's Note: Suggested provision for Irregular Lots.

Figure 4- 3. Setback Example



(D) Exemptions and Encroachments. The following uses and structures are permitted in required setbacks, subject to the limitations provided:

- (1) Plantings, fences, or shrubbery.
 - (i) On a Corner Lot, fences, walls, shrubbery, or other plantings, that will materially obstruct vision within the visibility triangle shall be prohibited by the Administrator.⁶²
- (2) Unenclosed porches, steps, and decks, not exceeding 24 sq. ft. in size, may project into any required setback, but shall not be closer than five (5) ft. to any lot line.⁶³
- (3) Architectural features, chimney, eaves, windowsills, and other like building features may project into any required setback but shall not be closer than three (3) ft. to any lot line.⁶⁴
- (4) Accessory structures are subject to the requirements and regulations of Article 7, Use Performance Standards, of this Ordinance.

⁶² Editor's Note: Revised text from yard regulations in various sections of the existing Ordinance.

⁶³ Editor's Note: Proposed new provision.

⁶⁴ Editor's Note: Proposed new provision.

Section 4-8-2. Height.

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

(B) Measuring Height.⁶⁵

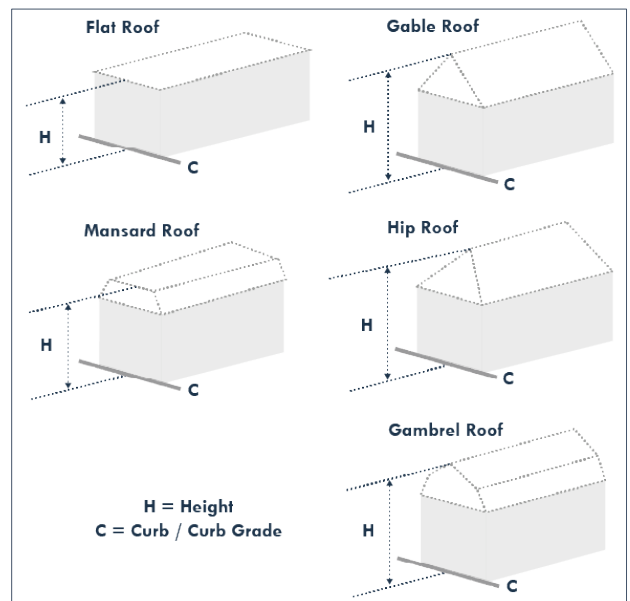
(1) Building height is measured, in feet, as the vertical distance from the established curb grade to the roofline. *See Figure 4 - 4.*

(C) Floodplain Height. For structures that are in AE and A Flood Zones, as identified in Article 5, Overlay Zoning Districts, of this Ordinance, the following applies:

(1) Height is measured from the required number of inches above the base flood elevation (freeboard) to the ridge of the roof as required in this Section, item (B) for the building site. *See Figure 4 - 5.*

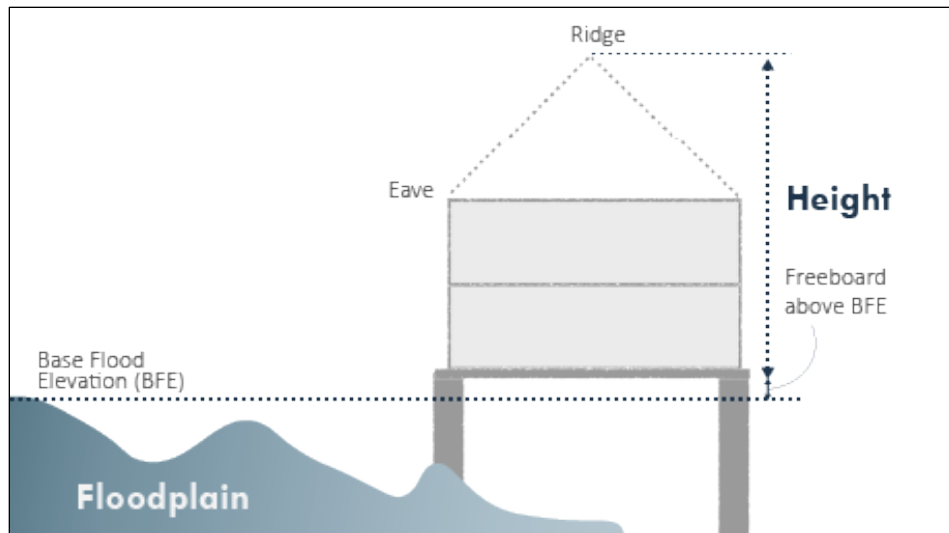
(2) In cases where there is a ground floor enclosure below the base flood elevation, height shall be measured as provided in (B), above. *See Figure 4 - 5.*

Figure 4- 4. Height Measurement in Primary Districts



⁶⁵ Editor's Note: New item to address how height is measured; this is currently provided in the definitions (building height) of the existing Ordinance.

Figure 4- 5. Height Measurement of Raised Structures in Floodplain Areas



Section 4-8-3. Exemptions.

(A) Exemptions.⁶⁶ The height limitations of this Ordinance shall not apply to:

- (1) Belfries;
- (2) Broadcasting or communication towers; and
- (3) Chimneys, flues, and smokestacks;
- (4) Cooling towers;
- (5) Cupolas;
- (6) Domes;
- (7) Flagpoles less than 40 ft. in height in commercial or industrial districts;⁶⁷
 - (i) Flagpoles greater than 40 ft. in height in commercial or industrial districts may be approved through a Special Exception as provided in Article 3, Permits and Applications, of this Ordinance.
- (8) Public memorials or monuments;
- (9) Parapet walls;
- (10) Radio aerials;
- (11) Roof-top mechanical equipment screened by parapet walls;
- (12) Silos;

⁶⁶ Editor's Note: Exemptions are compiled from the district standards for all districts in the existing Ordinance.

⁶⁷ Editor's Note: Height maximum was added for flagpoles.

- (13) Solar collectors (active)
- (14) Spires;
- (15) Television antennas;
- (16) Utility service, major;⁶⁸
- (17) Water tanks or towers;
- (18) Wind generators.

⁶⁸ Editor's Note: This is a proposed use that will be introduced at next round of drafting; typically includes electric generating plants, substations, and wastewater plants.

ARTICLE 5. – Overlay Zoning Districts.

Division 1. Establishment and Purpose.

Section 5-1-1. General¹

(A) Overlay Zoning Districts Establishment and Purpose. This Article establishes overlay districts, which apply additional standards to the development and design requirements of land in the Town. These district standards exist as overlays to the existing underlying zoning districts, and, as such, the provisions for the overlay districts do not replace, but shall serve to supplement the underlying district provisions.

(B) The Town of Rocky Mount has the following Overlay Zoning District(s):

Table 5-1. Overlay Zoning Districts

FP	Floodplain ² Overlay District
AC	Arts and Culture Overlay District ³
MUD	Mixed-Use Development Overlay District ⁴

Section 5-1-2. Purpose and Intent of Overlay Districts.⁵

(A) Floodplain Overlay District (FP).

(1) Purpose. The purpose of the Floodplain Overlay District provisions are to prevent:

- (i) The loss of life and property;
- (ii) The creation of health and safety hazards;
- (iii) The disruption of commerce and governmental services;
- (iv) The extraordinary and unnecessary expenditure of public funds for flood protection and relief; and
- (v) The impairment of the tax base by:
 1. Requiring all those uses, activities, and developments that occur in flood-prone areas to be protected and/or flood-proofed against flooding and flood damage;

¹ Editor's Note: This Section contains new text and text from the existing Zoning Ordinance that provides the overall purpose for [the] overlay zoning district(s).

² Editor's Note: The existing Ordinance refers to floodplain regulations as "Flood Districts," Article 38 of existing Ordinance. Propose calling this overlay the "Floodplain Overlay District."

³ Editor's Note: Propose the Arts and Culture as an overlay district, as agreed upon at the Joint Worksession on May 18, 2023.

⁴ Editor's Note: Mixed-Use Development Overlay District proposed as a new district as agreed upon at the Joint Worksession on May 18, 2023.

⁵ Editor's Note: This Section reorganizes the content from the existing Ordinance, Article 38-1 for readability.

2. Regulating uses, activities, and development which, alone or in combination with other existing or future uses, activities, and development, will cause unacceptable increases in flood heights, velocities, and frequencies;
3. Restricting or prohibiting certain uses, activities, and development from locating within areas subject to flooding; and
4. Protecting individuals from buying land and structures, which are unsuited for intended purposes because of flood hazards.

(B) Arts and Culture Overlay District (AC).⁶

(1) Purpose. The purpose of the Arts and Culture Overlay District provisions are to:

- (i) Facilitate expanded arts and cultural activities and facilities as set forth in the Town's Comprehensive Plan;
- (ii) Increase awareness and support for the arts and culture in the Town;
- (iii) Enable arts and culture organizations to build synergy resulting in more effective promotion, cooperation, and collaboration;
- (iv) Encourage the growth of arts and culture organizations and complementary businesses, which will stimulate economic activity, visitor attraction, and overall commercial growth; and
- (v) Enhance the quality of life and wellbeing of the citizens of the Town.

(C) Mixed-Use Development Overlay District (MUD).⁷

- (1) Purpose. The purpose of the Mixed-use Development Overlay District is to allow a multi-purpose building or set of buildings, incorporating some combination of residential, commercial, office, institutional, civic, or other land uses as part of the overall built environment. Mixed-Use development provides diverse housing options in areas targeted for growth, that provide infrastructure for public health and quality of life, as set forth in the Town's Comprehensive Plan.
- (2) The intent of the Mixed-Use Overlay District is to promote economical and efficient land use through unified development patterns that create harmonious physical development and creative design. These regulations are designed to achieve the following objectives:
 - (i) Allow market-driven growth in places that are most conducive to accommodating additional activity;

⁶ Editor's Note: The purpose is reorganized and edited from the existing Ordinance, Article 42, and the Town's Comprehensive Plan.

⁷ Editor's Note: New section for a Mixed-Use Overlay District as agreed upon at the Joint Worksession on May 18, 2023. This language is modeled after ordinances in similar localities in Virginia, and can be further revised to suit Rocky Mount, if desired.

- (ii) Encourage economic development through the creation of a mix of land uses adjacent to existing commercial centers;
- (iii) Provide diverse housing development for households with a range of incomes and lifestyles;
- (iv) Promote a walkable community with pedestrian-oriented buildings and open space that connects to nearby destinations;
- (v) Create and support lively, human-scaled activity areas and gathering places for the community by encouraging civic uses, plazas, and a mix of uses;
- (vi) Ensure that new development is consistent with and enhances the nearby streetscapes;
- (vii) Promote development that accommodates the automobile but also emphasizes alternative travel means such as biking and walking;
- (viii) Promote the adaptive reuse of existing buildings that have been identified as having architectural, cultural, and/or historic significance to the community;
- (ix) Encourage redevelopment of underutilized or obsolete industrial, commercial or institutional property;
- (x) Create opportunities to use new technologies in managing the quality and quantity of stormwater; and
- (xi) Encourage the preservation of steep slopes, floodplains, historic structures and areas, and unique, natural, or geological formations.

Division 2. Floodplain Overlay District (FP).⁸

Section 5-2-1. Authority.⁹

This Division is adopted pursuant to the authority granted to localities by the Code of Virginia §15.2-2280, as amended, and may be referred to as the Town of Rocky Mount Floodplain Overlay District, flood district(s), flood hazard overlay, floodplain overlay, or floodplain regulations.

Section 5-2-2. Applicability.

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

⁸ Editor's Note: This Division has been updated and reorganized; changes have been noted throughout the draft's footnotes. Changes are primarily to align with the most recent (2017) State Model Floodplain Ordinance, and for overall reorganization and readability.

⁹ Editor's Note: Proposed as a new Section to align with the most recent (2017) State Model Floodplain Ordinance.

Section 5-2-3. Compliance and Liability.

- (A) No land shall hereafter be developed, and no structure shall be located, relocated, constructed, reconstructed, enlarged, or structurally altered except in full compliance with the terms and provisions of this Division, and any other applicable ordinances and regulations which apply to uses within the jurisdiction of this Division.
- (B) The degree of flood protection sought by the provisions of this Division is considered reasonable for regulatory purposes and is based on acceptable engineering methods of study. Larger floods may occur on rare occasions. Flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This Division does not imply that areas outside the floodplain area or that land uses permitted within such area will be free from flooding or flood damages.
- (C) This Division shall not create liability on the part of the Town of Rocky Mount or any officer or employee thereof for any flood damages that result from reliance on this Division, or any administrative decision lawfully made there under.

Section 5-2-4. Abrogation and Greater Restrictions.¹⁰

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

Section 5-2-5. Penalty for Violations.¹¹

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

¹⁰ Editor's Note: Added (B) to align with the most recent (2017) State Model Floodplain Ordinance.

¹¹ Editor's Note: This Section is proposed to address violations of Floodplain regulations.

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

Section 5-2-6. Designation of the Administrator.¹²

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

Section 5-2-7. Duties and Responsibilities of the Administrator.¹³

- (A) The duties and responsibilities of the Administrator shall include but are not limited to:
- (1) Review applications for permits to determine whether proposed activities will be located in a SFHA.
 - (2) Interpret floodplain boundaries and provide available base flood elevation and flood hazard information.
 - (3) Review applications to determine whether proposed activities will be reasonably safe from flooding and require new construction and substantial improvements to meet the requirements of these regulations.
 - (4) Review applications to determine whether all necessary permits have been obtained from the federal, state, or local agencies from which prior or concurrent approval is required; in particular, permits from state agencies for any construction, reconstruction, repair, or alteration of a dam, reservoir, or waterway obstruction (including bridges, culverts, structures), any alteration of a watercourse, or any change of the course, current, or cross section of a stream or body of water, including any change to the 100-year frequency floodplain of free flowing non-tidal waters of the state.
 - (5) Verify that an applicant proposing to alter a watercourse has notified adjacent local governments, the Department of Conservation and Recreation Division of Dam Safety and Floodplain Management (DCR), the Virginia Department of Environmental Quality (DEQ) and the US Army Corp of Engineers (USACE) and has submitted copies of such notifications to FEMA.

¹² Editor's Note: Proposed as a new Section to align with the most recent (2017) State Model Floodplain Ordinance.

¹³ Editor's Note: Proposed as a new Section, contains text from Sec. 38-3 of the existing Ordinance.

- (6) Approve applications and issue permits to develop in SFHA if the provisions of this Division have been met or disapprove applications if the provisions of this Division have not been met.
- (7) Inspect, or cause to be inspected, prospective buildings, structures, and other prospective development for which permits have been issued to determine compliance with this Division or to determine if noncompliance has occurred or violations have been committed.
- (8) Review elevation certificates and require incomplete or deficient certificates to be corrected.
- (9) Submit to FEMA, or require to be submitted to FEMA, at the applicant's expense, data, and information necessary to maintain FIRMs, including hydrologic and hydraulic engineering analyses prepared by or for the Town of Rocky Mount, within six (6) months after such data and information becomes available if the analysis indicates changes in base flood elevations.
- (10) Maintain and permanently keep records that are necessary for the administration of these regulations, including:
 - (i) Copies of FISs, FIRMS (including historic studies and maps and current effective studies and maps), and Letters of Map Change (LOMC); and
 - (ii) Documentation supporting issuance and denial of permits, elevation certificates, documentation of the elevation (in relation to the datum on the FIRM) to which structures have been floodproofed, other required design certifications, variances, and records of enforcement actions taken to correct violations of these regulations.
- (11) Enforce the provisions of these regulations, investigate violations, issue Notices of Violation, and require permit holders to take corrective action.
- (12) Advise the Board of Zoning Appeals regarding the intent of these regulations and, for each application for a variance, prepare a staff report and recommendation.
- (13) Administer the requirements related to proposed work on existing buildings:
 - (i) Make determinations as to whether buildings and structures that are in SFHA that are damaged by any cause have been substantially damaged.
 - (ii) Make reasonable efforts to notify owners of substantially damaged structures of the need to obtain a permit to repair, rehabilitate, or reconstruct the structure. Prohibit the repair of a substantially damaged building without a permit, except for temporary emergency protective measures necessary to secure a property or to stabilize a building or structure to prevent additional damage.
- (14) Undertake, as determined appropriate by the Administrator due to the circumstances, other actions, which may include but are not limited to: issuing press releases, public service announcements, and other public information materials related to permit requests and repair of damaged structures; coordinating with other federal, state, and local agencies to assist with substantial damage determinations; providing owners of damaged structures information related to the proper repair of damaged structures in SFHAs and assisting property owners with documentation necessary to file claims for increased cost of compliance coverage under National Flood Insurance Program (NFIP) flood insurance policies.

- (15) Notify FEMA when the corporate boundaries of the Town of Rocky Mount have been modified and:
- (i) Provide a map that clearly delineates the new corporate boundaries or the new area for which the authority to regulate pursuant to these regulations has either been assumed or relinquished through annexation; and
 - (ii) If the FIRM for any annexed area includes special flood hazard areas that have flood zones that have regulatory requirements that are not set forth in these regulations, prepare amendments to these regulations to adopt the FIRM and appropriate requirements, and submit the amendments to the governing body for adoption; such adoption shall take place at the same time as or prior to the date of annexation and a copy of the amended regulations shall be provided to the Virginia Department of Conservation and Recreation (DCR) and FEMA.
- (16) Upon the request of FEMA, complete and submit a report concerning participation in the NFIP, which may request information regarding the number of buildings in the SFHA, number of permits issued for development in the SFHA, and number of variances issued for development in the SFHA.
- (17) It is the duty of the Administrator to consider flood, mudslide, and flood-related erosion hazards, to the extent that they are known, in all official actions relating to land management and use throughout the entire jurisdictional area of the Town, whether or not those hazards have been specifically delineated geographically (e.g., via mapping or surveying).

Section 5-2-8. Records.¹⁴

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

Section 5-2-9. Use and Interpretation of FIRMs.¹⁵

- (A) The Administrator shall make interpretations, where needed, as to the exact location of SFHA, floodplain boundaries, and floodway boundaries. The following shall apply to the use and interpretation of FIRMs and data:
- (1) Where field surveyed topography indicates that adjacent ground elevations:
 - (i) Are below the base flood elevation in riverine SFHAs, even in areas not delineated as a SFHA on a FIRM, the area shall be considered as a SFHA and subject to the requirements of these regulations; or
 - (ii) Are above the base flood elevation, the area shall be regulated as a SFHA unless the applicant obtains a LOMC that removes the area from the SFHA.

¹⁴ Editor's Note: Proposed a new Section to align with the most recent (2017) State Model Floodplain Ordinance.

¹⁵ Editor's Note: Proposed a new Section to align with the most recent (2017) State Model Floodplain Ordinance.

- (2) In FEMA-identified SFHAs where base flood elevation and floodway data have not been identified and in areas where FEMA has not identified SFHAs, any other flood hazard data available from a federal, state, or other source shall be reviewed and reasonably used.
- (3) Base flood elevations and designated floodway boundaries on FIRMs and in FISs shall take precedence over base flood elevations and floodway boundaries by any other sources if such sources show reduced floodway widths and/or lower base flood elevations.
- (4) Other sources of data shall be reasonably used if such sources show increased base flood elevations and/or larger floodway areas than are shown on FIRMs and in FISs.
- (5) If a preliminary FIRM and/or a preliminary FIS has been provided by FEMA:
 - (i) Upon the issuance of a Letter of Final Determination (LOFD) by FEMA, the preliminary flood hazard data shall be used and shall replace the flood hazard data previously provided from FEMA for the purposes of administering these regulations.
 - (ii) Prior to the issuance of a LOFD by FEMA, the use of preliminary flood hazard data shall be deemed the best available data pursuant to Section 5-2-15 as defined by this Division and used where no base flood elevations and/or floodway areas are provided on the effective FIRM.
 - (iii) Prior to issuance of a LOFD by FEMA, the use of preliminary flood hazard data is permitted where the preliminary base flood elevations or floodway areas exceed the base flood elevations and/or designated floodway widths in existing flood hazard data provided by FEMA. Such preliminary data may be subject to change and/or appeal to FEMA.

Section 5-2-10. Jurisdictional Boundary Changes.¹⁶

- (A) The Franklin County flood hazard overlay in effect on the date of annexation shall remain in effect and shall be enforced by the municipality for all annexed areas until the municipality adopts and enforces an ordinance which meets the requirements for participation in the NFIP. The Town shall pass a resolution acknowledging and accepting responsibility for enforcing floodplain ordinance standards prior to annexation of any area containing identified flood hazards. If the FIRM for any annexed area includes SFHAs with flood zones that have regulatory requirements that are not set forth in these regulations, the governing body shall prepare amendments to these regulations to adopt the FIRM and appropriate requirements, and submit the amendments to the governing body for adoption; such adoption shall take place at the same time as or prior to the date of annexation and a copy of the amended regulations shall be provided to DCR Division of Dam Safety and Floodplain Management and FEMA.
- (B) In accordance with the Code of Federal Regulations, Title 44 Subpart (B) Section 59.22(a)(9)(v), all NFIP participating communities must notify the Federal Insurance Administration and optionally the state coordinating office in writing whenever the boundaries of the community have been

¹⁶ Editor's Note: Proposed as new Section to align with the most recent (2017) State Model Floodplain Ordinance.

modified by annexation or the community has otherwise assumed or no longer has authority to adopt and enforce floodplain management regulations for a particular area.

- (C) To ensure that all FIRMs accurately represent the community's boundaries, a copy of a map of the community suitable for reproduction, clearly delineating the new corporate limits or new area for which the community has assumed, or relinquished floodplain management regulatory authority must be included with the notification.

Section 5-2-11. District Boundary Changes.¹⁷

The delineation of the Floodplain Overlay District may be revised by the Town Council of Rocky Mount where natural or man-made changes have occurred and/or where more detailed studies have been conducted or undertaken by the U.S. Army Corps of Engineers or other qualified agency or an individual documents the need for such change. However, prior to any such change, approval must be obtained from FEMA. An approved Letter of Map Revision (LOMR) serves as record of this change.

Section 5-2-12. Interpretation of District Boundaries.¹⁸

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

Section 5-2-13. Submitting Technical Data.¹⁹

A community's base flood elevations may increase or decrease resulting from physical changes affecting flooding conditions. As soon as practicable, but not later than six (6) months after the date such information becomes available, the Town of Rocky Mount shall notify the Federal Insurance Administrator of the changes by submitting technical or scientific data. Such a submission is necessary so that upon confirmation of those physical changes affecting flooding conditions, risk premium rates, and floodplain management requirements will be based upon current data.

Section 5-2-14. Letters of Map Revision.²⁰

- (A) When development in the floodplain will cause or causes a change in the base flood elevation, the applicant, including state agencies, must notify FEMA by applying for a Conditional Letter of Map Revision (CLOMR) or a LOMR. Examples include:

- (1) Any development that causes a rise in the base flood elevations within the floodway.

¹⁷ Editor's Note: This Section is from the existing Ordinance.

¹⁸ Editor's Note: This Section is from the existing Ordinance.

¹⁹ Editor's Note: Proposed new Section to align with the most recent (2017) State Model Floodplain Ordinance.

²⁰ Editor's Note: This Section has been updated and clarified.

- (2) Any development occurring in zone AE without a designated floodway, which will cause a rise of more than one (1) foot in the base flood elevation.
- (3) Alteration or relocation of a stream (including but not limited to installing culverts and bridges) 44 CFR 65.3 and 65.6(a)(12).

Section 5-2-15. Establishment of Flood Hazard Zones.²¹

(A) Basis of Flood Hazard Zones.

- (1) The various flood hazard zones shall include special flood hazard areas (SFHA). The basis for the delineation of these zones shall be the FIS and the FIRM for the Town of Rocky Mount, Virginia, and incorporated areas prepared by FEMA, Federal Insurance Administration, dated December 16, 2008, and January 6, 2010, and any subsequent revisions or amendments thereto.
- (2) The Town of Rocky Mount may identify and regulate local flood hazard or ponding areas that are not delineated on the FIRM. These areas may be delineated on a “Local Flood Hazard Map” using best available topographic data and locally derived information such as flood of record, historic high-water marks, or approximated study methodologies.
- (3) The boundaries of the SFHA and flood hazard zones are established as shown on the FIRM, which is declared to be a part of this Division and shall be kept on file at the Town of Rocky Mount Planning and Zoning Department.

(B) Description of Flood Hazard Zones. The flood hazard zones described below shall constitute the Floodplain Overlay District. It shall be an overlay to the existing underlying zoning districts as shown on the official zoning ordinance map, and as such, the provisions for the Floodplain Overlay District shall serve as a supplement to the underlying district provisions.

- (1) Floodway Areas. Those areas in an AE Zone(s) and delineated, for purposes of this Division, using the criterion that certain areas within the floodplain must be capable of carrying the water of the one percent (1%) annual chance flood without increasing the water surface elevation of that flood more than one (1) foot at any point. These areas included in this Floodplain Overlay District are specifically defined in Table two (2) of the Town of Rocky Mount FIS and shown on the accompanying FIRM.
- (2) AE Zone. A flood hazard zone with two (2) categories:
 - (i) Category one (1) areas shall be those areas for which one percent (1%) annual chance flood elevations have been provided and the floodway has been delineated.
 - (ii) Category two (2) areas on the FIRM accompanying the FIS shall be those areas for which one percent (1%) annual chance flood elevations have been provided and the floodway has not been delineated.

²¹ Editor’s Note: This Section is the existing Ordinance’s Article 38, but has been restructured, and revised based on the State model ordinance, and changes for readability.

- (3) A Zone. Those areas for which no detailed flood profiles or elevations are provided, but the one percent (1%) annual chance floodplain boundary has been *approximated*.
- (4) X Zone. Other flood districts shall be those areas identified as Zone X on the FIRM. This zone includes areas of two tenths percent (0.2%) annual chance flood or areas of one percent (1%) annual chance flood with average depths of less than one (1) foot or with drainage areas less than one (1) square mile.

Section 5-2-16. Permitted Uses in Flood Hazard Zones.

Permitted uses. In the Floodplain Overlay District, the following uses and activities are permitted, provided that they are in compliance with the provisions of the underlying district and are not prohibited by any other ordinance and provided they do not require structures, fill, or storage of materials and equipment:

Table 5-1. Permitted Uses in Flood Hazard Zones

Use	Zone		
	AE	A	X
Agricultural uses, such as general farming, pasture, grazing, outdoor-plant nurseries, horticulture, truck farming, forestry, sod farming and wild crop harvesting.	P	P	P
Public and private recreational uses and activities, such as parks, day camps, picnic grounds, golf courses, boat launching and swimming area, horseback riding and hiking trails, wildlife and nature preserves and hunting and fishing areas.	P	P	P
Accessory residential uses, such as yard areas, gardens, play areas, and parking areas.	P	P	P
Accessory industrial and commercial uses, such as yard areas, previous parking and loading areas, etc.	P	P	P
Uses consisting of development of a structure, where the effect of such development on flood heights is fully offset by accompanying improvements which have been approved by all appropriate local and/or state authorities, as required in this Division.	SE	SE	SE
Utilities and public facilities and improvements such as railroads, streets, bridges, transmission lines, pipelines, water and sewage treatment plants, and other similar or related uses.	SE	SE	SE
Extraction of sand, gravel, and other materials where no increase in level of flooding or velocity is caused thereby.	SE	SE	SE
Temporary uses such as circuses, carnivals, and similar activities.	SE	SE	SE
Storage of materials and equipment provided they are not buoyant, flammable or explosive, and are not subject to major damage by flooding, or provided such material and equipment is firmly anchored to prevent flotation or movement, and/or can be readily removed from the area within the time available after flood warning.	SE	SE	SE
Other similar uses and activities provided they cause no increase in flood heights and/or velocities. All uses, activities, and structural development shall be undertaken in strict compliance with the flood-proofing provisions contained in all other applicable codes and ordinances.	SE	SE	SE
<i>SE = allowed by Special Exception P = permitted Blank = not permitted</i>			

Section 5-2-17. Development in Flood Hazard Zones.

(A) Development in Floodway Areas.²²

- (1) Within any designated Floodway Areas, no encroachments, including fill, new construction, substantial improvements, or other development shall be permitted unless it has been demonstrated through hydrologic and hydraulic analysis performed in accordance with standard engineering practice that the proposed encroachment will not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
 - (i) Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough review by the Administrator.
 - (ii) If (1), above, is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Section 5-2-18 and Section 5-2-19.
- (2) Development activities which increase the water surface elevation of the base flood may be allowed, provided that the applicant first applies – with the Town of Rocky Mount’s endorsement – for a Conditional Letter of Map Revision (CLOMR) and receives the approval of FEMA.

(B) Development in AE Zones.²³

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

(C) Development in A Zones.²⁴

- (1) Until a regulatory floodway is designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within A zones, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other

²² Editor’s Note: This item (A) (from existing Article 38-4-6) is added to and reworded to align with the most recent (2017) State Model Floodplain Ordinance.

²³ Editor’s Note: Proposed new item to align with the most recent (2017) State Model Floodplain Ordinance.

²⁴ Editor’s Note: Proposed new item to align with the most recent (2017) State Model Floodplain Ordinance.

existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the Town of Rocky Mount.

- (2) Development activities which increase the water surface elevation of the base flood by more than one (1) foot may be allowed, provided that the applicant first applies – with the Town of Rocky Mount’s endorsement – for a Conditional Letter of Map Revision (CLOMR) and receives the approval of FEMA.
- (3) For these areas, the base flood elevations and floodway information from Federal, State, and other acceptable sources shall be used, when available [44 CFR 60.3(b)].
- (4) Where the specific one percent (1%) annual chance flood elevation cannot be determined for this area using other sources of data, such as the U. S. Army Corps of Engineers Floodplain Information Reports, U. S. Geological Survey Flood-Prone Quadrangles, etc., then the applicant for the proposed use, development and/or activity shall determine this base flood elevation, in the following manner:
 - (i) The elevation shall be determined by using the elevation of a point on the boundary of the identified floodplain area which is nearest the construction site.
 - (ii) Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough review by the Administrator.
 - (iii) The Administrator reserves the right to require a hydrologic and hydraulic analysis for any development in this zone.
 - (iv) When such base flood elevation data is utilized, the freeboard shall be 24 inches.²⁵ Permits and Applications.²⁶

(D) Permit Requirement.

- (1) All uses, activities, and development occurring within the Floodplain Overlay District shall be undertaken only upon the issuance of a permit.
 - (i) Prior to the issuance of any such permit, the Administrator shall require all applications to include compliance with all applicable state and federal laws and shall review all sites to assure they are reasonably safe from flooding.
 - (ii) Such development shall be undertaken only in strict compliance with the provisions of this Division and with all other applicable codes and ordinances, as amended, such as the VA USBC and the Town of Rocky Mount Zoning and Subdivision Ordinance.

²⁵ Editor’s Note: The term “freeboard” is being introduced, as it is the preferred terminology in the State model ordinance. The existing Ordinance requires 36 inches (3 ft.) of freeboard (Sec. 38-4-3). The State model ordinance recommends a requirement of 18 inches, and this can be lowered to match that, if desired. **Per discussion at the Sept. 18 worksession freeboard has been changed to 24 inches.**

²⁶ Editor’s Note: Includes items from Sec. 38-4-1 of the existing Ordinance.

- (2) Under no circumstances shall any use, activity, and/or development adversely affect the capacity of the channels or floodways or any watercourse, drainage ditch or any other drainage facility or system.
 - (i) Prior to any proposed alteration or relocation of any channels or of any watercourse, stream, etc., within the Town of Rocky Mount, a permit shall be obtained from the U.S. Army Corps of Engineers, the Virginia Marine Resources Commission, and the Virginia State Water Control Board.
 - (ii) Further notification of the proposal shall be given to Franklin County, the Division of Dam Safety and Flood Plain Management at DCR, and FEMA.
- (E) Site Plans and Permit Applications.²⁷
 - (1) All applications for development in the Floodplain Overlay District and all building permits issued for the Floodplain Overlay District shall incorporate the following information:
 - (i) The elevation of the Base Flood at the site;
 - (ii) For structures to be elevated, the elevation of the lowest floor, including basement.
 - (iii) For structures to be floodproofed (non-residential only), the elevation to which the structure will be floodproofed.
 - (iv) Topographic information showing existing and proposed ground elevations.
- (F) Standards for Subdivision Proposals²⁸.
 - (1) Any subdivision proposal or other proposed development (including proposals for manufactured home parks and subdivisions) that exceed 50 lots or five (5) acres, whichever is less, in an area where BFE data is not available, or the SFHA has not been delineated, shall include data using detailed methodologies, including a hydraulic and hydrologic analysis, comparable to those contained in a FIS. Once identified, those areas shall be subject to the requirements of this Division.
 - (2) All subdivision proposals shall:
 - (i) Have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage; and
 - (ii) Have adequate drainage provided to reduce exposure to flood hazards.

²⁷ Editor's Note: Contains items from Section 38-4-3 of the existing Ordinance.

²⁸ Editor's Note: Section 38-6 of the existing Ordinance includes these requirements for existing structures in floodplains, this Section provides similar requirements for new development in flood hazard zones.

Section 5-2-18. Elevation and Construction Standards.²⁹

- (A) In all identified flood hazard areas where base flood elevations have been provided in the FIS or generated by a certified professional in accordance with Section 5-2-17, above, the following provisions shall apply:
- (B) General Standards. The following shall apply to all permits:
- (1) New construction and substantial improvements shall be built according to this Ordinance and the VA USBC, and anchored to prevent flotation, collapse, or lateral movement of the structure.
 - (2) Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable State requirements for anchoring to resist wind forces.
 - (3) New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
 - (4) New construction or substantial improvements shall be constructed by methods and practices that minimize flood damage.
 - (5) The flood carrying capacity within an altered or relocated portion of any watercourse shall be maintained.
 - (6) New construction and replacement of any utilities and facilities shall follow the provisions of Section 5-2-17 of this Article.
 - (7) Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities, including duct work, shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
 - (8) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.
 - (9) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
- (C) Residential Construction.
- (1) New construction or substantial improvement of any residential structure (including manufactured homes) in Zones AE and A, shall have 24 inches³⁰ of freeboard.
- (D) Nonresidential Construction.

²⁹ Editor's Note: Proposed as a new Section; contains content from existing Ordinance.

³⁰ Editor's Note: The existing Ordinance requires 36 inches (3 ft.) of freeboard (Sec. 38-4-3 a). The State model ordinance recommends a requirement of 18 inches, and this can be lowered to match that, if desired. **Per discussion at the Sept. 18, 2023 worksession freeboard has been changed to 24 inches.**

- (1) New construction or substantial improvement of any commercial, industrial, or nonresidential building shall have 24 inches³¹ of freeboard.
 - (2) Non-residential buildings located in all A and AE zones may be floodproofed in lieu of being elevated, provided that:
 - (i) All areas of the building components below the elevation corresponding to the base flood elevation plus 24 inches³² are watertight with walls substantially impermeable to the passage of water and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy.
 - (ii) A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification, including the specific elevation to which such structures are floodproofed, shall be maintained by the Administrator.
- (E) Space Below the Lowest Floor.
- (1) In zones A and AE, fully enclosed areas of new construction or substantially improved structures, which are below the regulatory flood protection elevation shall:
 - (i) Not be designed or used for human habitation, but shall be used solely for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator);
 - (ii) Be constructed entirely of flood resistant materials below the regulatory flood protection elevation; and
 - (iii) Include measures to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet the following minimum design criteria:
 - 1. Provide a minimum of two (2) openings on different sides of each enclosed area subject to flooding.
 - 2. The total net area of all openings must be at least one (1) square inch for each square foot of enclosed area subject to flooding.
 - 3. If a building has more than one (1) enclosed area, each area must have openings to allow floodwaters to automatically enter and exit.

³¹ Editor's Note: The existing Ordinance requires 36 inches (3 ft.) of freeboard (Sec. 38-4-3 b). The State model ordinance recommends a requirement of 18 inches, and this can be lowered to match that, if desired. **Per discussion at the Sept. 18 worksession freeboard has been changed to 24 inches.**

³² Editor's Note: The existing Ordinance requires this to be one (1) foot of additional elevation. The State model ordinance recommends at least two (2) feet of freeboard in this situation. Propose increasing, as shown here. The existing requirement of one (1) foot can be retained, if desired.

4. The bottom of all required openings shall be no higher than one (1) foot above the adjacent grade.
5. Openings may be equipped with screens, louvers, or other opening coverings or devices, provided they permit the automatic flow of floodwaters in both directions.
6. Foundation enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires openings as outlined above.

(F) Accessory Structures.³³

- (1) Accessory structures in the SFHA shall comply with the elevation requirements and other requirements of this Section or, if not elevated or dry floodproofed, shall:
 - (i) Not be used for human habitation;
 - (ii) Be limited to no more than 600 square feet³⁴ in total floor area;
 - (iii) Be useable only for parking of vehicles or limited storage;
 - (iv) Be constructed with flood damage-resistant materials below the base flood elevation;
 - (v) Be constructed and placed to offer the minimum resistance to the flow of floodwater;
 - (vi) Be anchored to prevent floatation;
 - (vii) Have electrical service and mechanical equipment elevated to or above the base flood elevation; and
 - (viii) Shall be provided with flood openings which shall meet the following criteria:
 1. There shall be a minimum of two (2) flood openings on different sides of each enclosed area; if a building has more than one (1) enclosure below the lowest floor, each such enclosure shall have flood openings on exterior walls.
 2. The total net area of all flood openings shall be at least one (1) square inch for each square foot of enclosed area (non-engineered flood openings), or the flood openings shall be engineered flood openings that are designed and certified by a licensed professional engineer to automatically allow entry and exit of floodwaters; the certification requirement may be satisfied by an individual certification, or an Evaluation Report issued by the ICC Evaluation Service, Inc.
 3. The bottom of each flood opening shall be one (1) foot or less above the higher of the interior floor or grade, or the exterior grade, immediately below the opening.
 4. Any louvers, screens, or other covers for the flood openings shall allow the automatic flow of floodwaters into and out of the enclosed area.

³³ Editor's Note: Added as provided in the State model ordinance; this is not in the existing Ordinance.

³⁴ Editor's Note: The FEMA Region III size restriction is 600 sq. ft. The size restriction can be reduced if desired.

- (ix) A signed Declaration of Land Restriction (Non-Conversion Agreement) shall be recorded on the property deed³⁵.
- (G) Recreation Vehicles³⁶.
 - (1) All recreational vehicles placed on sites must either:
 - (i) Be on the site for fewer than 180 consecutive days and be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions); or
 - (ii) Meet all the requirements of Section 5-2-19 (A).

Section 5-2-19. Existing Structures in Floodplain Areas.³⁷

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

Section 5-2-20. Variances.³⁸

- (A) General.

³⁵ Editor's Note: Added provision, as provided in the State model ordinance, which strongly recommends a non-conversion agreement, especially if a variance is being issued for an accessory structure. However, the non-conversion agreement is *not* a requirement.

³⁶ Editor's Note: Contains text from Sec. 38-4-3 d. of the existing Ordinance. Recommend treating manufactured homes separately, and rather treat those as new construction (residential).

³⁷ Editor's Note: This Section has been revised to match the latest model ordinance more closely, rather than the provisions required in Sec. 38-6 of the existing Ordinance.

³⁸ Editor's Note: This Section contains a majority of the text found in Sec. 38-5 of the existing Ordinance, but has been reorganized for readability, and also includes some additional text from the State model ordinance.

- (1) A request for a variance to the requirements of this Floodplain Overlay District may be made in accordance with Article 3, Permits and Applications, of this Ordinance.
 - (2) The BZA may refer any application and accompanying documentation pertaining to any request for a variance to any engineer or other qualified person or agency for technical assistance in evaluating the proposed project in relation to flood heights and velocities, and the adequacy of the plans for flood protection and other related matters.
- (B) Limitations.
- (1) While the granting of variances generally is limited to a lot size less than one-half acre, deviations from that limitation may occur. However, as the lot size increases beyond one-half acre, the technical justification required for issuing a variance increases.
 - (2) No variance shall be granted for an accessory structure exceeding 200 sq. ft.
- (C) Basis for Variances. Variances shall be issued only:
- (1) Upon a showing of good and sufficient cause;
 - (2) After the BZA has determined that failure to grant the variance would result in exceptional hardship to the applicant, and
 - (3) After the BZA has determined that the granting of such variance will not result in a(n):
 - (i) Unacceptable or prohibited increase(es) in flood heights;
 - (ii) Additional threats to public safety;
 - (iii) Extraordinary public expense;
 - (iv) Creation of nuisances;
 - (v) Cause for fraud or victimization of the public; and/or
 - (vi) A conflict with local laws or ordinances.
- (D) Additional Factors. In passing upon applications for variances, the BZA shall satisfy all relevant factors and procedures specified in Article 3, Permits and Applications, of this Ordinance, and consider the following additional factors:
- (1) The danger to life and property due to increased flood heights or velocities caused by encroachments. No variance shall be granted for any proposed use, development, or activity within any Floodway District that will cause any increase in the one percent (1%) chance flood elevation;
 - (2) The danger that materials may be swept on to other lands or downstream to the injury of others;
 - (3) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions;
 - (4) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners;

- (5) The importance of the services provided by the proposed facility to the community;
- (6) The requirements of the facility for a waterfront location;
- (7) The availability of alternative locations not subject to flooding for the proposed use;
- (8) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future;
- (9) The relationship of the proposed use to the Comprehensive Plan and this Division;
- (10) The safety of access by ordinary and emergency vehicles to the property in time of flood;
- (11) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site; and
- (12) The historic nature of a structure.
 - (i) Variances for repair or rehabilitation of historic structures may be granted upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure; and
 - (ii) Such other factors which are relevant to the purposes of this Ordinance.

(E) Notification and Record.

- (1) The BZA shall notify the applicant for a variance, in writing, that the issuance of a variance to construct a structure below the base flood elevation will:
 - (i) Increase the risks of life and property; and
 - (ii) Will result in increased premium rates for flood insurance.
- (2) A record shall be maintained of the above notification as well as all variance actions, including justification for the issuance of the variances. Any variances which are issued shall be noted in the annual or biennial report submitted to FEMA.

Division 3. Arts and Culture Overlay District.³⁹

Section 5-3-1. Authority.

This Division is adopted pursuant to the authority granted to localities by the Code of Virginia § 15.2-943.1, as amended, and may be referred to as the Town of Rocky Mount Arts and Culture Overlay District, arts district(s), arts and culture overlay(s), arts and culture district(s), AC District, AC Overlay, or arts and culture regulations.

³⁹ Editor's Note: The Arts and Culture District is reorganized as an Overlay District, as agreed upon in the worksession on May 18, 2023. This will allow greater use and flexibility for the District.

Section 5-3-2. Administration.

The administrator of the Arts and Culture District will be the Town Manager or designee. The Administrator, in consultation with the Town Council and Finance Director, will determine and publish the procedures for obtaining any benefits created by this District and for the administration of this District.⁴⁰

Section 5-3-3. Applicability.

These provisions shall be available to applicants, upon approval by the Administrator, within the boundaries identified on the adopted Arts and Culture District Boundaries Map.

Section 5-3-4. Benefits.⁴¹

(A) The Arts and Culture Overlay District will provide the following benefits:

- (1) An annual rebate to qualified arts and culture organizations of a percentage of all gross receipts taxes, including business, professional and occupational license taxes, meals taxes, and any other tax which is based on the gross receipts of the organization, paid to the Town by the organization for up to five consecutive calendar years.
 - (i) Year one (1) is the calendar year in which the organization becomes qualified.
 - (ii) In year one, the rebate is 50%. In year two, the rebate is 40%. In year three (3), the rebate is 30%. In year four (4), the rebate is 20%. In year five (5), the rebate is ten percent (10%).
 - (iii) The organization shall establish its qualifications for the benefits on an annual basis.
 - (iv) If an organization ceases to be a qualified organization during a year in which rebates apply, they shall be prorated for the months the organization was qualified.
- (2) The full rebate shall be provided to qualified arts and culture organizations if the real property on which the organization is located is owned by the organization.
 - (i) If the organization does not own the real property, the organization shall be entitled to four-fifths (4/5) of the rebate and the real property owner shall be entitled to one-fifth of the rebate, at least half of which must be used for real property improvements to the property from which the funds were generated, paid on a reimbursement basis after improvements are complete and with proof of expenditures.
- (3) An owner of real property shall be entitled to an annual rebate of real property taxes imposed on real property on which the qualified organization is located for up to five (5) consecutive calendar years.
 - (i) Year one (1) is the calendar year in which the organization becomes qualified.

⁴⁰ Editor's Note: This Section is from the proposed amendment to Article 42 dated 5-13-2019.

⁴¹ Editor's Note: Benefits are from the proposed amendment to Article 42 dated 5-13-2019.

- (ii) If the real property ceases to house a qualified organization during a year in which rebates apply, the rebate shall be prorated for the months the organization was located on the property.
- (4) The Administrator may waive fees for zoning actions or utility connections for a qualified organization.
- (5) The Administrator may authorize live performance incentive grants to a qualified organization, provided funds are appropriated by Town Council for this purpose.
- (B) The procedures shall be determined by the Administrator and approved by the Finance Director. No benefit application shall be approved until the Finance Director makes a determination that no other unpaid taxes are due and outstanding.
- (C) Failure of the organization or owner to pay in full by the due date any taxes imposed by the Town shall result in the loss of a rebate for the current year.
- (D) The Town reserves the right to withdraw qualified organization status for any organization that fails to comply with any Town ordinance, regulation, or other legal requirement.

Division 4. Mixed-Use Development Overlay District (MUD).⁴²

Section 5-4-1. Authority.

This Division is adopted pursuant to the authority granted to localities by the Code of Virginia § 15.2-2280, as amended, and may be referred to as the Town of Rocky Mount Mixed-Use Development Overlay District, mixed-use district(s), mixed-use overlay(s), or mixed-use regulations

Section 5-4-2. Applicability.

- (A) The following provisions shall apply generally to the establishment and regulation of all Mixed-Use Development Overlay Districts. The regulations of this Article are intended to permit Mixed-Use Development Districts in areas with public water and sewer infrastructure and targeted for growth and new development that meets the community needs for diverse housing types and pedestrian infrastructure as set forth in the Town's Comprehensive Plan.
- (B) Character of Development. Mixed-Use Development Overlay Districts should encourage development form and character that is aesthetically pleasing and typically includes the following:
 - (1) Public spaces;
 - (2) Pedestrian orientation and infrastructure;
 - (3) Neighborhood friendly streets and paths;
 - (4) Interconnected streets and transportation networks;

⁴² Editor's Note: This Division is completely new and includes provisions from similar localities in Virginia. The Division should be tailored, as necessary, to meet the needs and vision for mixed-use in Rocky Mount.

- (5) Parks and open space amenities;
- (6) Close proximity to neighborhood centers;
- (7) Close proximity to shopping and services;
- (8) Appropriately scaled buildings and spaces;
- (9) Relegated parking;
- (10) Mixture of uses and use types;
- (11) Mixture of housing types and affordability; and
- (12) Environmentally sensitive design.

(C) Application.

- (1) Mixed-Use Development Overlay Districts shall be established by amendment to the Zoning Map, in accordance with Article 3, Permits and Applications, of this Ordinance.
- (2) No development within a Mixed-Use Development Overlay District, including but not limited to clearing, grading, excavating, road building, site preparation or structural improvements, may be permitted prior to Site Plan approval by the Town Council in accordance with Article 3, Permits and Applications, of this Ordinance.

Section 5-4-3. Mixed-Use Development Overlay District Standards.

- (A) Development Requirements and Standards. In addition to the standards provided in Table 5-3 of this Article, the following standards apply:
 - (1) Generally:
 - (i) A diverse variety of architectural styles should be used;
 - (ii) Minimum setback ranges for multi-family dwellings and non-residential uses shall be specifically established during the review and approval of the Concept Plan.
 - (iii) Areas between buildings used as service yards, storage of trash, or other utility purposes should be designed to be compatible with adjoining buildings;
 - (iv) Setbacks shall not interfere with public safety issues such as intersection sight distance or utilities, including other public infrastructure such as sidewalks, open space, etc.;
 - (v) All new utility lines, electric, telephone, cable television lines, etc., shall be placed underground; and
 - (vi) Mixed-Use developments shall be served by public water and sewer utilities attached to the Town of Rocky Mount system.
 - (2) Residential:
 - (i) Residential units should vary by dwelling type in a logical and attractive manner to best fit the site.

- (3) Non-Residential:
- (i) The gross and net residential densities shall be shown on the approved Concept Plan by area and for the development as a whole. Non-residential uses shall comprise a minimum of 30% of mixed-use structures.
- (4) Open Space:
- (i) Open space shall be provided in accordance with Article 8, Community Design Standards, of this Ordinance; and
 - (ii) Improvements shall be configured to accommodate any permitted, accessory, and special exception uses in an orderly relationship with one another, with the greatest amount of open area and with the least disturbance to natural features.

Table 5-2. Mixed-Use Development Overlay District Regulations⁴³

Districts			
MUD			
	Horizontal Mixed-Use		Vertical Mixed-Use
Standard	<i>Residential</i>	<i>Non-Residential</i>	<i>Mixed-Use building with Residential and Non-Residential</i>
MINIMUM LOT SIZE			
With public water AND sewer	To be determined by the development plan.		
MINIMUM COMMERCIAL FLOOR AREA			
Commercial	30% for the development		30%
MAXIMUM LOT COVERAGE			
Total percentage of parcel square footage covered by impervious surfaces and buildings	70%		
MAXIMUM HEIGHT			
Primary structures	45 ft.		60 ft.
Accessory structures	12 ft.		

- (B) Architectural Design Requirements. All development within the Mixed-Use Development Overlay District shall conform to the following architectural standards:

- (1) Form and massing:
- (i) Structures shall generally be designed with a rectangular form and necessary building floor area shall be accommodated through a primary structural block and subordinate wings, rather than a single massive block of space and building elevation.

⁴³ Editor's Note: MUD regulations are suggested based on examples but should be scrutinized for compatibility with the Town's vision for Mixed-Use Development patterns.

- (ii) The main entrance façade of buildings shall be oriented towards a public right-of-way.
- (2) Façade design. Façade design shall not be overly complicated or overly monotonous and shall align with the architectural style of the Town. The following criteria shall be considered when developing appropriate façade designs in a Mixed-Use Development Overlay District:
 - (i) Façade arrangement. Façades shall be balanced and symmetrical. Primary entrances to buildings shall be clearly identified. Primary entrances shall be oriented towards the sidewalks and primary pedestrian paths.
 - (ii) Variation. Large or multiple building projects shall use variation of detail, form, and siting to provide visual interest and to prevent monotonous design and appearance. When the prominent facades of a new commercial building are longer than 30 ft., they shall be modulated with breaks in the façade.
 - (iii) Windows. Most windows on the principal façade shall be uniform in size and regularly spaced. Window designs shall be appropriate to the overall design of the building.
 - (iv) Window Transparency. A minimum of 20% of the front façade should be comprised of clear windows. For non-residential and mixed-use structures, a minimum of 60% of the first-floor front façade should be comprised of clear windows.
- (3) Roof design and materials:
 - (i) Varying rooflines. Rooflines shall be varied to add architectural interest and avoid the appearance of long, monotonous roofline expanses.
 - (ii) Roof shapes. Hipped or side gabled roofs are highly encouraged for freestanding structures.
 - 1. For large commercial structures (approximately 15,000 square feet or more) flat roofs may be permitted provided adequate detail and visual interest is incorporated in the parapet or roof design.
 - (iii) Roof materials and colors. Roof materials and colors shall be appropriate to the architectural style of the building. Regardless of the material, shiny and bright roof colors are not permitted.
 - 1. Metal or asphalt/fiberglass shingles are the preferred roof materials. Slate, composite, or other roofing materials may be considered on a case-by-case basis.
- (4) Building materials.
 - (i) Brick or stone-faced foundations shall be used for all buildings.
 - (ii) Major commercial buildings (two-story or higher, shopping centers, and buildings more than 10,000 square feet) shall be constructed primarily of brick. All other buildings shall be constructed of brick and either horizontal wood or horizontal cementitious siding. Other primary buildings materials may be submitted to the Administrator or designee for approval, provided they are consistent with the overall design of the Mixed-Use Development Overlay District.

- (iii) Aluminum siding, vinyl siding, and sheeted siding shall not be permitted.
 - (iv) Prefabricated metal buildings are not permitted in the Mixed-Use Development Overlay District.
 - (v) Colors for brick shall be red or muted earth tones. All brick shall have a buff or gray mortar. White mortar is discouraged.
 - (i) Siding and trim shall be limited to three (3) colors on any building. Additional colors may be approved by the Administrator, provided they are consistent with the overall style of the development.
- (5) Signs and Lighting.
 - (i) In addition to the general requirements of Article 8, Community Design Standards, of this Ordinance, all lighting and signs in a Mixed-Use Development Overlay District shall be aesthetically consistent with the overall style of the development.

ARTICLE 6. Use Matrix

Division 1. Uses Provided.

Section 6-1-1. Organization

- (A) The Use Matrix organizes permitted uses by zoning district classifications and use types. The Use Matrix, Article 7, Use Standards, and Article 11, Definitions, of this Ordinance, together provide a systematic basis for identifying and organizing uses and distinguishing whether a particular use is allowable in a particular zoning district.
- (1) Use classifications. Use classifications by zoning districts identify broad general classifications of land use and include agricultural uses; residential uses; public, civic, and recreational uses; commercial uses; industrial uses; and miscellaneous uses.
- (2) Use types. The specific use types identify the specific principal uses that fall within each use classification.
- (B) If a use's definition states that the particular use is permitted as ancillary or accessory to another use, a second Zoning Permit is not required for that ancillary or accessory use.

Section 6-1-2. Abbreviations in Use Matrix.

- (A) Permitted uses. "B" in a Use Matrix cell indicates that the use type in that row is allowed by-right in the zoning district at the head of that column, subject to any Use Standards of Article 7, of this Ordinance.
- (B) Special Exception uses. "SE" in a Use Matrix cell indicates that the use type in that row is allowed in the zoning district at the head of that column only upon approval of a Special Exception Permit, in accordance with Article 3, Permits and Applications, and subject to any Use Standards in Article 7 of this Ordinance.
- (C) Prohibited uses. A blank cell in the Use Matrix indicates that the use type in that row is prohibited in the zoning district at the head of that column.

Division 2. Use Not Provided.

Section 6-2-1. Use Not Provided.¹

- (A) Any use that is not specifically listed as a permitted use or a Special Exception is prohibited.
- (B) The Administrator will determine whether an unlisted use is part of an existing use classification or use type as defined in Article 11, Definitions, of this Ordinance. Upon determining the most similar use type, the Administrator will treat the proposed use the same as the most similar one.

¹ Editor's Note: This Section has been reorganized and reworded from the existing Ordinance, Article 5-3.

- (C) If the Administrator determines that the proposed use is not similar to any listed use type, that use is prohibited.

Division 3. Use Matrix.

Districts														
Use	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	Use Standards
	B = By-Right SE = Special Exception Blank = Not Permitted													
AGRICULTURAL														
Agriculture, Residential	B													7-2-1
Agriculture/ Silviculture	B													7-2-2
Agritourism	B													7-2-3
Roadside Farm Stand	B													7-2-4
Stable, Private	B													7-2-5
RESIDENTIAL														
Adult Day Care Center	B	B	B	B	B	B	B	B		SE				
Bed and Breakfast		SE				B				B				7-3-1
Dwelling, Accessory	SE	SE	B	B	SE	SE				B				7-3-2
Dwelling, Manufactured Home	B													7-3-3
Dwelling, Multi-Unit				B										7-3-4
Dwelling, Single-Unit	B	B	B	B	B	B								
Dwelling, Townhouse			B	B	B									7-3-5
Dwelling, Two-Unit			B	B	B	B								
Family Day Home (1-4 Children)														
Family Day Home (5-12 Children)	B	B	SE	SE	SE	B				SE				
Family Health Care Structure, Temporary	B	B	B	B	B	B				B				7-3-6
Group home	B	B	B	B	B	B								
Home Occupation	B	B	B	B	B	B								7-3-7
Life Care Facility				SE	B		B	B						
Manufactured Home Park				SE										7-3-8
Shelter, Residential			SE	SE	SE	SE			SE					

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Districts														
Use	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	Use Standards
	B = By-Right SE = Special Exception Blank = Not Permitted													
Short-Term Rental	B		B	B						B				7-3-9
PUBLIC, CIVIC, AND RECREATIONAL														
Cemetery, Public									B				B	
Club					B		B	B	B	SE				
Communications Services							B	B	SE	SE	B	B		
Community/Cultural Center					B		B	B		B				
Educational Facility, College, University, Business or Trade							B	B	B	SE				
Education Facility, Primary or Secondary	B	B	B	B	B	B	B	B					B	
Emergency Management Services Facility							SE	B	B		B		SE	
Public Parks and Recreation	B	B	B	B	B	B	B	B					B	
Public Use							B	B	B	B			SE	
Recreation Facility, Neighborhood			B	B	B									
Recreation Facility, Noncommercial	B	B	B	B	B	B	B	B	B	B	B	B	B	
Religious Assembly	B	B	B	B	B		B	B	B	SE				
Shelter, Animal	B						SE	SE	SE		B	B		7-4-1
Telecommunications Facility	SE						SE	SE	SE		B	B		7-4-2
Telecommunications Facility, Small Cell	B	B	B	B	B	B	B	B	B	B	B	B	B	7-4-3
Utility Service, Major											SE	SE		
Utility Service, Minor	B	B	B	B	B	B	B	B	B	B	B	B	B	7-4-4
Recreation Facility,	B						SE	SE	SE		B	B		7-4-1

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Draft Article 6 – Use Matrix



Districts														
Use	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	Use Standards
	B = By-Right SE = Special Exception Blank = Not Permitted													
Noncommercial														
COMMERCIAL														
Adult Use									B					7-5-1
Auction House							SE	SE	SE		SE			
Automobile Sales and Rental								SE	B					7-5-2
Automobile Service, Major									B		B	B		
Automobile Service, Minor									B					
Brewery, Distillery, or Winery								B	B	B	B			
Brewery, Distillery, or Winery, Micro-								B	B	B				
Business Support Services							B	B	B	SE				
Car Wash									B					7-5-3
Catering Facility						B			B	SE				
Commercial Laundry									B		B	B		
Construction Material Sales								SE	B		B	B		7-5-4
Consumer Repair Services						B		B	B	B				
Day Care Center				SE	SE	B	B	B	B	B				
Drive-Through Window							B	B	B	B				7-5-5
Equipment Sales, Service, and Repair (Heavy)											B	B		
Event Venue	B							B	B	B				7-5-6
Farmers Market									B	B				
Financial Institution							B	B	B	B				
Funeral Home				B				SE	B	B				
Garden Center								SE	B	B				

Town of Rocky Mount Zoning & Subdivision Ordinance Update
August 20, 2024
Draft Article 6 – Use Matrix



Districts														
Use	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	Use Standards
	B = By-Right SE = Special Exception Blank = Not Permitted													
Gas Station									B	SE				7-5-7
Hospital							SE	SE	B	SE				
Hotel							SE	SE	B	B				
Itinerant Vendor							B	B	B	B				7-5-8
Kennel, Commercial	B						SE	SE	B		B	B		7-5-9
Medical Treatment Facility							SE	B	SE					
Mobile Food Vendor							B	B	B	B	B	B		7-5-10
Office, General						B	B	B	B	B				7-5-11
Office, Medical/Clinic							SE	B	B	B				
Outdoor Sales, Seasonal/Temporary								B	B	B				7-5-12
Parking Lot, Commercial									B	B				7-5-13
Personal Improvement Services						B	B	B	B	B				7-5-14 ²
Personal Services						B	B	B	B	B				7-5-15 ³
Recreation/Entertainment, Commercial Indoor							B	B	B	B				
Recreation/Entertainment, Commercial Outdoor					SE				B					
Restaurant, General							SE	B	B	B				
Smoke Shop/Vape Shop ⁴									SE					7-5-16
Store, Large									B					
Store, Small							SE	B	B	B				

² Editor's Note: New use standard added following the worksession on March 19, 2024.

³ Editor's Note: New use standard added following the worksession on March 19, 2024.

⁴ Editor's Note: Proposed new use added at staff direction as a result of House Bill 947 being signed by the Governor on April 5, 2024.

Town of Rocky Mount Zoning & Subdivision Ordinance Update
August 20, 2024
Draft Article 6 – Use Matrix



Districts														
Use	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	Use Standards
	<i>B = By-Right SE = Special Exception Blank = Not Permitted</i>													
Tradesperson Service								B	B		B	B		
Veterinary Hospital/Clinic							B	B	B		B	B		7-5-17
INDUSTRIAL														
Construction Yard											B	B		
Factory outlet store								B			B	B		
Hazardous Materials, Storage, and Distribution												B		
Junkyard/Salvage Yard												SE		7-6-1
Laboratory, Research, and Development								B			B	B		
Manufacturing, Heavy												B		
Manufacturing, Light								SE			B	B		
Manufacturing, Small-Scale								B	B	SE	B	B		
Self-Storage Facility								B	B		B			7-6-2
Truck/Freight Terminal												B		
Warehousing and Distribution									B		B	B		
MISCELLANEOUS														
Accessory Structure	B	B	B	B	B	B							B	7-7-1
Construction Temporary Uses			B	B	B		B	B	B	B	B	B		7-7-2
Mixed-Use Structure				B		B			B	B				7-7-3
Outdoor Storage							B	B	B		B	B		7-7-4
Solar Energy, Medium-Scale							B	B	B	B	B	B		7-7-5
Solar Energy, Small-Scale	B	B	B	B	B	B	B	B	B	B	B	B	B	7-7-6
Transportation Services								SE	SE	SE	SE	SE		
Temporary Structure	B	B	B	B	B	B							B	7-7-7

Town of Rocky Mount Zoning & Subdivision Ordinance Update
August 20, 2024
Draft Article 6 – Use Matrix



Districts														
Use	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	Use Standards
	<i>B = By-Right SE = Special Exception Blank = Not Permitted</i>													
	Wind Energy Generating Facility, Accessory	SE						SE	SE	SE		SE	SE	
Yard or Garage Sales	B	B	B	B	B	B	B							7-7-9

ARTICLE 7. – Use Standards.

Division 1. General.

Section 7-1-1. Purpose and Intent.

- (A) The following additional regulations apply to specific uses as set forth below. These regulations are intended to serve as the minimum standards for these uses and are not intended to exclude other provisions of this Ordinance that may apply.
- (B) The standards set forth in this Article for a specific use apply to the particular individual use, regardless of the review procedure by which it is approved, unless otherwise specified in this Ordinance or approved through conditions of a Special Exception Permit.

Section 7-1-2. Must Meet Other Regulations.

- (A) Each use provided in this Article may also require permits and approvals, including:
 - (1) Zoning Permit;
 - (2) Special Exception Permit;
 - (3) Site Plan Approval; and/or
 - (4) Other Town of Rocky Mount required permits, such as a business license or Erosion and Sediment Control Permit.
- (B) Applicants should consult with the Town of Rocky Mount staff during the application process to ensure all permits and requirements are met.

Division 2. Agricultural Use Standards

Section 7-2-1. Agriculture/Residential.¹

- (A) Chickens.
 - (1) Lot Area. Minimum lot area of 25,000 sq. ft.
 - (2) Maximum Units. Maximum of six (6) chickens.
 - (3) Setbacks.
 - (i) All enclosures, runs, and coops shall be located at least ten (10) ft. from any property line and at least 35 ft. from any dwelling not owned by the applicant.
 - (4) General Standards.
 - (i) The keeping of chickens shall comply with all relevant state and federal laws.
 - (ii) The keeping of roosters shall be prohibited.

¹ Editor's Note: Proposed new use and standards.

- (iii) Chickens shall be used only for non-commercial domestic purposes. The selling of eggs and the harvesting of chickens for commercial purposes is prohibited.
 - (iv) No enclosures, runs, or coops shall be located in a front setback or within the front “yard” of a lot.
 - (a) The Zoning Administrator may grant an exception to this requirement in cases where due to unusual lot configuration, topography, or proximity of neighbors, another area of the yard is more suitable for such an activity.
 - (v) Chickens shall always be in a covered enclosure or within a fenced area.
 - (vi) All coops shall provide at least three (3) sq. ft. of area per chicken and all runs shall provide at least ten (10) sq. ft. per chicken.
- (B) Bees.
- (1) Lot Area.
 - (i) Two (2) hives permitted with a minimum 15,000 sq. ft. of lot area.
 - (ii) Three (3) hives permitted with a minimum 20,000 sq. ft. of lot area.
 - (iii) Four (4) hives permitted with a minimum 25,000 sq. ft. of lot area.
 - (2) Hive Maximum. Maximum of four (4) hives.
 - (3) Setbacks.
 - (i) Located a minimum of ten (10) ft. to any property line and at least 35 ft. from any dwelling not owned by the applicant.
 - (4) General Standards.
 - (i) Bees shall only include European Honeybees, otherwise known by the species name *Apis Mellifera*.
 - (ii) No hives shall be located in a front setback or within the front “yard” of a lot.
 - (iii) A constant supply of fresh water shall be provided on the lot within 20 ft. of all hives.
 - (iv) A fly away barrier of at least six (6) ft. in height shall shield any part of a property line that is within 25 ft. of a hive. Fly away barriers shall consist of dense vegetation, a wall, or solid fence. Any wall or fence shall comply with Article 8, Community Design Standards, of this Ordinance.
 - (v) Any sale of bees on combs or hives, used beekeeping equipment or appliances shall have a certificate of health as required by the Code of Virginia § 3.2-4407, as amended.
 - (vi) A minor sign, in accordance with Article 8, Community Design Standards, shall be provided for reasonable warning of the presence of beehives.
 - (vii) Beekeepers shall abide by the Beekeeping Best Management Practices provided by Virginia Department of Agriculture

Section 7-2-2. Agriculture/Silviculture.²

- (A) Minimum Lot Size shall be five (5) acres.
- (B) No farm buildings intended to shelter animals shall be located closer than 200 ft. to the property line of an adjoining property.

Section 7-2-3. Agritourism.³

- (A) Applicability. This section applies only to events and activities and does not apply to the agricultural operation itself.
 - (1) Any agriculture operation event may be held only if the bona fide agricultural operation to which it is subordinate has:
 - (i) A minimum of ten (10) acres of land in active agricultural production on-site, or on any abutting lot under the same ownership. For lots smaller than ten (10) acres, applicants may seek a Special Exception, in accordance with Article 3, Permits and Applications, of this Ordinance.
 - (ii) At least one (1) growing season each calendar year.
- (B) Trip Generation. The event or activity shall generate no more than 200 visitor vehicle trips per day and each event or activity shall have 150 or fewer attendees at any single time.
 - (1) Events or activities that generate more than 200 visitor vehicle trips per day shall require a Special Exception.
- (C) Noise. All noise shall comply with the Noise Ordinance, Chapter 42, Article III. Noise Control, of the Rocky Mount, Virginia Code of Ordinances.
 - (1) There shall be no amplified music between 10:00 p.m. and 8:00 a.m., seven (7) days per week.
- (D) Structures. Any structure intended for occupancy by members of the public shall provide emergency vehicle access and fire and safety measures to the extent permissible under the VA Administrative Code 13VAC5-63-20 and VA Administrative Code 13VAC5-63-200.
- (E) Sanitary facilities. Sanitary facilities used in conjunction with an agritourism event shall be provided in accordance with Virginia Department of Health standards set forth in the Virginia Administrative Code 12VAC5-610-980, as amended.
- (F) Food items. All food items available for sale shall be prepared in accordance with applicable federal, state, and local regulations.
- (G) Parking.
 - (1) Adequate parking shall be provided that prevents dust and mud from leaving the site. No parking shall be allowed on highway rights-of-way.

² Editor's Note: Standards are from the existing Ordinance, Article 19. Setback has been reduced from 300 to 200 ft.

³ Editor's Note: Suggested addition as it is becoming a popular use across the State as a bolster to economic development. The definition aligns with the Code of Virginia and states that the activity must be on a "farm winery, farm brewery, farm distillery, farm, ranch, or other agricultural operation." This is to prevent barns and other farm-related structures from being built on land that is not used for bonafide agricultural operations.

- (2) Grass parking areas shall be maintained to grass height of no more than six (6) in. from grade.
- (3) Grass parking areas shall be maintained in good condition with uniform grass coverage and free from rill or gully erosion.
- (H) Access. All agritourism operations shall have a minimum of one (1) access point to a public road, with buffers in accordance with Article 8, Community Design Standards, of this Ordinance.

Section 7-2-4. Roadside Farm Stand.⁴

- (A) Roadside Farm Stand shall be an accessory use to an Agriculture/Silviculture use.
- (B) Merchandise for retail sale may include items such as fruits, vegetables, flowers, herbs, plants, jams, jellies, sauces, baked goods, or homemade handicrafts. Merchandise shall not include warehouse items for resale, such as clothing and housewares.

Section 7-2-5. Stable, Private.⁵

- (A) Private Stable shall be an accessory use to a primary residential use.
- (B) Minimum Lot Area.
 - (1) Minimum of two (2) acres for each horse.
 - (2) Horses shall be kept for the private use of the owners or their guests, but in no event for hire or compensation.
- (C) Location.
 - (1) Any buildings, barns, pens, and areas for the keeping of animals or animal waste storage shall be located at least 200 ft. from any lot line.
 - (2) Any buildings for the keeping of animals shall be located at least 100 ft. from any highway or other right-of-way for passage.
- (D) General Standards.
 - (1) Riding surfaces shall be covered and maintained with a substance to minimize dust and erosion.
 - (2) Fencing and other means of animal confinement shall be maintained at all times.
 - (3) Pens, stalls, and grazing areas shall be maintained in a sanitary manner.
 - (4) Manure or animal wastes shall not be stored, stockpiled, or permitted to accumulate within a designated flood zone.

Division 3. Residential Use Standards

Section 7-3-1. Bed and Breakfast.⁶

- (A) Owner/Operator Occupied. Bed and breakfasts shall be occupied by the owner/operator wherein the owner or manager provides full-time management during operation.

⁴ Editor's Note: Editor's Note: Proposed new use and standards.

⁵ Editor's Note: (A) and (B) are from the existing Ordinance, (C) and (D) are new.

⁶ Editor's Note: (B) and (C) are new proposed standards, as are (E) – (1), (2), (3), and (4).

- (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 (10) 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 Standards, 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 (1) 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 one (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 800 square ft..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 (1) dwelling, nor shall any accessory building, excluding decks or similar structures, be attached to a manufactured

⁸ Editor's Note: Changed from 1,500 to 800 sq. ft. per Town Council decision at the March 19, 2024 joint worksession.

home dwelling. This does not prohibit manufactured home dwellings designed and manufactured as multi-section homes.

Section 7-3-4. Dwelling, Multi-Unit.⁹

- (A) **Property Line Setbacks.** Groups of multi-unit dwellings located on the same property shall be considered as one (1) building for the purpose of determining front, side, and rear setback requirements. The entire group as a unit shall require one (1) front, two (2) side, and one (1) rear setback as specified in the appropriate district, as provided in Article 4, Primary District Standards, of this Ordinance.
- (B) **Spacing Between Buildings.** Spacing between buildings must meet the requirements in Article 4, Table 4-3, R2 and R3 Residential District Regulations.
- (C) **Pedestrian Access.** Pedestrian access shall be provided with a sidewalk or other paved surface to all common area elements, including mail kiosks, parking lots, refuse collection areas, recreational amenities, and to adjoining properties and along public roadways.
- (D) **Roads and Private Pavement.** All roads and private pavement shall have concrete curb and gutter.
- (E) **Parking Areas.** A landscaped area of at least six (6) ft. in width shall be maintained at all times between parking areas and any street right-of-way line or any lot zoned for residential district R1 or R2.
- (F) **Screening of Mechanical Equipment and Refuse Collection.** Whether ground-level or rooftop, any refuse collection or mechanical equipment visible from adjacent property or roads shall either be integrated into the architectural treatment of the building or screened from view in accordance with Article 8, Community Design Standards, of this Ordinance.
- (G) **General Design and Building Layout.** The development shall be designed with special attention to compatibility of adjacent land uses, topography, existing vegetation, building height, and orientation. The development shall incorporate building layout and design that relates to and enhances the existing neighborhoods, natural vegetation, and terrain or incorporates natural design features, such as preservation of scenic vistas or other unique elements of the site.
- (H) **Landscaping and Buffer.** Landscaping and/or transitional buffers shall be installed as required in Article 8, Community Design Standards, of this Ordinance.
- (I) **Architecture Standards.**
 - (1) Buildings shall be designed to impart harmonious proportions and avoid monotonous facades and large masses.
 - (2) Buildings shall maintain architectural variety, while at the same time maintain an overall cohesive residential character.
 - (i) Residential character shall be achieved through the creative use of design elements such as, but not limited to, balconies, terraces, articulation of doors and windows, sculptural or textural relief of facades, architectural ornamentation, or varied roof lines.

⁹ Editor's Note: The majority of this Section is new.

Section 7-3-5. Dwelling, Townhouse.¹⁰

(B) Placement.

- (1) No more than eight (8) adjoining townhouses may be constructed in a single row.
- (2) Spacing between buildings must meet the requirements in Article 4, Table 4-3, R2 and R3 Residential District Regulations.

(C) Architectural treatment. The facades of each unit of a townhouse structure shall be varied by changing front yard setbacks and utilizing variations in materials or design, so that no more than two (2) abutting townhouse units have the same front yard setback depth or the same architectural treatment of facades or rooflines. Front yard setbacks of adjoining staggered units shall vary a minimum of two (2) ft with a maximum of six (6) ft.

(D) Maintenance.

- (1) Maintenance to townhouse exteriors, yards, special lighting, drainage, utilities, common parking areas, common walkways, and any other area intended for the common use of townhouse occupants shall be the sole responsibility of the developer/owner of the townhouse development until such time as the developer/owner creates an association whose members shall be all of the individual owners of the townhouses in the townhouse development.
- (2) The developer/owner may provide, among other things, that any costs of maintenance may be assessed to the individual townhouse owners and constitute a lien on the individual townhouse lots on a pro rata basis.
- (3) The maintenance shall be provided in a manner so as to discharge any responsibility to the Town of Rocky Mount.

(E) Utilities. All townhouse units shall have individual utility connections. Maintenance easements as required by the Town of Rocky Mount for service lines shall be included by the developer for each townhouse unit. If main utility lines cross property not owned by the Town, the developer shall grant the Town an easement of 20 ft. in width for these lines.

(F) Vehicular Access. Each townhouse unit shall have unencumbered access from a dedicated public street.

(G) Pedestrian Access. Pedestrian access shall be provided with a sidewalk, or similar paved surface if approved by the Administrator, to all common area elements, including mail kiosks, parking lots, refuse collection areas, recreational amenities and to adjoining properties and along public roadways.

(H) Roads and Private Pavement. All roads and private pavement shall have concrete curb and gutter.

(I) Landscaping and Buffer. Landscaping and/or transitional buffers shall be installed as required in Article 8, Community Design Standards, of this Ordinance.

(J) Screening of Mechanical Equipment and Refuse Collection. Whether ground-level or rooftop, any refuse collection or mechanical equipment visible from adjacent property or roads shall either be

¹⁰ Editor's Note: This Section is from the existing Ordinance Article 6-3-2, except for items E, F, G, H, and I, which are proposed new standards.

integrated into the architectural treatment of the building or screened from view in accordance with Article 8, Community Design Standards, of this Ordinance.

Section 7-3-6. Family Health Care Structure, Temporary.¹¹

(A) In all residential districts, and in nonconforming single-unit uses in the CBD, temporary family health care structures shall be allowed to be placed on a lot, provided that:

- (1) The primary use of the property is a single-unit dwelling;
- (2) The occupant of the temporary family health care structure meets the qualifications of a mentally or physically impaired person as defined in Code of Virginia §63.2-2200, and a letter of certification, written by a physician licensed in Virginia, has been provided to the zoning administrator;
- (3) The property is occupied by the caregiver as their residence;
- (4) The temporary family health care structure shall comply with all setback requirements that apply to the primary structure, and with any maximum floor area ratio limitations that may apply to the primary structure;
- (5) Only one (1) temporary family health care structure shall be allowed on a lot or parcel of land; and
- (6) The proper permits shall be obtained before a temporary family health care structure may be placed on a lot or parcel of land. Required permits may include, but are not limited to, a zoning permit, building permit, electrical permit, mechanical permit, and plumbing permit.
- (7) Any temporary family health care structure installed according to this section may be required to connect to any water, sewer, and electric utilities that are serving the primary residence on the property and shall comply with all applicable codes and requirements, including permits, for such connection.
- (8) Any temporary family health care structure installed according to this section shall be removed within 30 days in which the mentally or physically impaired person is no longer receiving or is no longer in need of the assistance provided for in this section.
- (9) A letter of certification, written by a physician licensed by the Commonwealth of Virginia, shall be provided to the zoning administrator on an annual basis to ensure continued compliance with this section. The zoning administrator may inspect the temporary family health care structure at reasonable times convenient to the caregiver, not limited to any annual compliance inspection.
- (10) No signage advertising or otherwise promoting the existence of the temporary family health care structure shall be permitted, either on the exterior of the structure or elsewhere on the property.

¹¹ Editor's Note: This Section is from the existing Ordinance Article 6-3-3. This use is required by the Code of Virginia.

Section 7-3-7. Home Occupation.¹²

(A) In all residential districts, and in nonconforming single-unit dwellings in the CBD and GB, home occupations shall be allowed as a secondary use, provided that:

- (1) Employees and Customers.
 - (i) No person other than those residing on the premises shall be engaged in occupations.
 - (ii) No more than five (5) customers daily and two (2) customer vehicles at a time.¹³
- (2) Size of Use. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than 25% of the floor area of the dwelling unit shall be used in the conduct of the home occupation.
- (3) General Standards.
 - (i) There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation.
 - (ii) Signs are not permitted in the conduct of a home occupation.
 - (iii) No home occupation shall be conducted in any accessory building.
 - (iv) No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood.
 - (v) Sufficient parking shall be provided for the allowed number of customers, and in accordance with Article 8, Community Design Standards, of this Ordinance.
 1. Any need for parking generated by the conduct of such home occupation shall be met off the street and other than in a required front yard.
 - (vi) No storage or display of goods shall be visible from outside the dwelling unit. In addition, no direct sales of products off display shelves or racks shall be permitted. However, orders made by telephone or at a sales party may be filled on premises.
 - (vii) No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the premises. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises or causes fluctuation in line voltage off the premises.

Section 7-3-8. Manufactured Home Park.¹⁴

(A) No manufactured home within a manufactured home park shall be located within 50 ft. of an existing residence.

¹² Editor's Note: Taken from the Town's Amendment to the existing Ordinance, Definitions dated Nov. 8, 2021.

¹³ Editor's Note: New proposed standard.

¹⁴ Editor's Note: This Section is from the existing Ordinance Article 6-3-1.

- (B) A manufactured home park shall contain at least two (2) acres and contain ten (10) or more manufactured homes for residential occupancy.¹⁵
- (C) An application shall be submitted according to Article 3, Applications and Permits, of this Ordinance. In addition, it shall contain:
 - (1) Location and size of any proposed service building.
- (D) Landscaping must comply with Buffer Type C as provided in Article 8, Community Design Standards, of this Ordinance.
- (E) Location and size of the manufactured home lots.
 - (1) Each manufactured home lot shall meet the following minimum requirements:
 - (i) Minimum lot area: 5,000 square ft..
 - 1. Maximum of one (1) manufactured home per lot.¹⁶
 - (ii) Setbacks. Setbacks for individual lots shall be a minimum of:
 - 1. Front setback: 25 ft. from the right-of-way of public streets.
 - 2. Side and rear setbacks: ten (10) ft.
- (F) Streets. The design and construction of the interior street system shall be sufficient to adequately serve the size and density of the development.
 - (1) All interior streets shall conform and be constructed to the specification of the Virginia Department of Transportation.
 - (2) The internal street improvements shall extend continuously from the existing improved street system to provide suitable access to manufactured homes, to provide adequate connections to the existing or future streets at the boundaries of the property, and to provide convenient circulation of vehicles with origins or destinations on the property.

Section 7-3-9. Short-Term Rental.¹⁷

- (A) Definitions. The following shall apply as used in this section:
 - (1) *Booking transaction*. Any transaction in which there is a charge to a transient by a host for the occupancy of any dwelling, sleeping, or lodging accommodations.
 - (2) *Guest or transient*. A person who occupies a short-term rental unit.
 - (3) *Owner (or host)*. The owner and operator of the short-term rental unit. In determining compliance with these regulations.
 - (4) *Residential dwelling unit*. A residence where one (1) or more persons maintain a household.

¹⁵ Editor's Note: The existing Ordinance requires ten (10) acres and 25 homes. Proposed change to encourage more housing options while adhering to use standards for quality.

¹⁶ Editor's Note: Proposed new standard.

¹⁷ Editor's Note: Proposed new use and standards to replace "rooming and boarding" and "tourist homes" uses in the existing Ordinance. This Section borrows from several localities, including Franklin County, and content is tailored for Rocky Mount.

(B) Registration and Other Requirements.¹⁸

- (1) No host shall operate a short-term rental without having registered with the Administrator as required by Virginia Code § 15.2-983, as amended.
- (2) The Administrator will report all registrations to the Rocky Mount Director of Finance for the collection of all appropriate tax, including transient lodging tax, and any required business licensure fees.
- (3) The registration form shall include the following information:
 - (i) The name, telephone number, address, and email address of the host.
 - (ii) A reminder about the importance of having appropriate levels of insurance that covers the short-term rental, the host, and the guests.
- (4) The registration shall be valid January 1st (or from whatever date the registration first occurs) through December 31st of the calendar year and shall be renewed annually.

(C) Use regulations.

- (1) The unit shall meet all applicable building codes.
- (2) No signage shall be allowed in conjunction with this use.
- (3) A fire extinguisher and smoke detector(s) shall be installed in every dwelling.
- (4) The owner of a dwelling unit used for short-term rental shall give the Town written consent to inspect any dwelling used for short-term rental to ascertain compliance with all applicable use standards.
- (5) No recreational vehicles, buses, or trailers shall be used in conjunction with the short-term rental use to increase the occupancy of the rental unit.
- (6) The host shall not permit occupancy of a short-term rental unit for a period of less than overnight, or more than 92 consecutive days, including all extensions and renewals to the same person or a person affiliated with the lessee, in accordance with Code of Virginia § 58.1-3510.4.

(D) Parking.

- (1) The physical and aesthetic impact of required off-street parking shall not be detrimental to the existing character of the house and lot or to the surrounding neighborhood.
- (2) All vehicles shall be parked in driveways or parking areas designed and built to be parking areas.

(E) Registration Revocation.

- (1) A registration may be revoked, suspended, or cancelled for the following reasons:
 - (i) Failure to collect and/or remit the transient occupancy tax or other business taxes required by the Town of Rocky Mount.
 - (ii) Three (3) or more substantiated complaints (including, but not limited to, noise, excess trash, and use violations) within a rolling 12-month period.

¹⁸ Editor's Note: The requirement that short-term rentals be owner occupied was removed per Town Council direction during Drafting Worksession #3 on Nov. 21, 2023.

- (2) A formal complaint shall be filed with the Administrator to be considered received.
 - (i) If violations occur, as supplied in (C)(1), above, the Administrator may revoke, suspend, or cancel the registration.
 - (3) Before any suspension or cancellation can be effective, the Administrator shall give written notice to the short-term rental host.
 - (i) The notice of revocation, suspension, or cancellation issued under the provisions of this Ordinance shall contain:
 - 1. A description of the violation(s) constituting the basis of the suspension or cancellation; and
 - 2. If applicable, a statement of acts necessary to correct the violation.
 - (4) In accordance with Article 3, Permits and Applications, of this Ordinance, an applicant may appeal the Administrator's decision for revocation, suspension, or cancellation of the registration.
- (F) Penalty.
- (1) Any short-term rental business in violation of zoning regulations, including operation without registering, is subject to all relevant penalties as set forth by the Town of Rocky Mount.
 - (2) It shall be unlawful to operate a short-term rental:
 - (i) Without obtaining license and registration as required by this Article;
 - (ii) After a registration has been suspended or cancelled; or
 - (3) In violation of any other requirement of this Article.

Division 4. Public/Civic/Recreational Uses.

Section 7-4-1. Shelter, Animal.¹⁹

- (A) Location. Except where animals are confined in soundproofed buildings, no portion of the use, excluding required screening and landscape buffers, shall be located within:
 - (1) 100 ft. from the property lines of adjoining residential zoned or planned development property; and
 - (2) 200 ft. from any dwelling not on the associated parcel.
- (B) General Standards.
 - (1) All exterior runs, play areas, or arenas shall be designed with a minimum 6-foot-high opaque screen from adjacent lot lines and street rights-of-way.
 - (2) Animal shelters shall be kept free of waste on a regular basis to minimize impacts of odor and reduce propagation of pests.
 - (3) Waste disposal shall be in accordance with Virginia Department of Health standards.

¹⁹ Editor's Note: New use and standards for the Town's consideration.

- (C) All animals shall be kept within a totally enclosed part of the structure(s) between the hours of 10:00 p.m. and 7:00 a.m. This does not include leashed walking of animals.

Section 7-4-2. Telecommunications Facility.²⁰

(A) Uses.

- (1) Principal or Accessory Use. For the purposes of determining compliance with the standards of this Ordinance, telecommunication facilities may be considered either principal or accessory uses.
 - (i) An existing use or an existing structure on the same lot shall not preclude the installation of a telecommunication facility on such lot.
 - (ii) For purposes of determining whether the installation of a telecommunication facility complies with district regulations, the dimensions of the entire lot shall control, even though the facility may be located on leased area within such lots.
- (2) Nonconforming Uses. Telecommunication facilities that are constructed, and antennas that are installed, in accordance with the provisions of this Section shall not be deemed to constitute the expansion of a nonconforming use or structure.
- (3) Excluded Uses. The following uses are not subject to the requirements of this Section for telecommunications facilities:
 - (i) Amateur radio operations as regulated by § 15.2-2293.1 of the Code of Virginia, as amended.
 - (ii) Television reception antennas that are less than 35 ft. above ground level (AGL) and used exclusively for non-commercial purposes.
 - (iii) Ground-mounted satellite earth station antennas that are less than or equal to ten (10) ft. AGL, less than or equal to six (6) ft. in diameter and used exclusively for non-commercial purposes.
 - (iv) Micro-wireless facilities, provided that they are less than or equal to eighty 80 ft. AGL. Co-location of additional antennae should be sought. The Town reserves the right to require "stealth technology" to hide or camouflage wireless facilities for micro-wireless facilities.
 - (v) Satellite earth station antennas. Ground-mounted satellite earth station antennas that are less than or equal to ten (10) ft. AGL, less than or equal to six (6) ft. in diameter, and used exclusively for non-commercial purposes.
 - (vi) Town owned or operated wireless telecommunication facilities are exempt from the requirements of this Article but are expected to adhere, to the extent reasonably possible, to the standards described herein.
 - (vii) Any wireless communication antenna that meets the definition of a "Administrative review-eligible project" as defined in the Code of Virginia § 15.2-2316.6, as amended, is

²⁰ Editor's Note: Telecommunications Facility, and Telecommunications Facility, Small Cell, update and replace language in the existing Ordinance for "wireless telecommunication facilities."

considered a “Utility Service, Minor” by this Article and is not subject to the provisions of this Section.

- (B) Local Government Access. Owners of all new telecommunication facilities shall provide, at no cost to the Town, colocation opportunities as a community benefit to improve radio communication for Town departments and emergency services (including both tower space and sheltered equipment space on the ground). All proposals for a telecommunication facility shall acknowledge the critical role of the Town’s radio system for emergency services including fire, rescue, and law enforcement personnel and shall warrant that no interference with the Town’s radio system shall result from such installation.
- (C) Location Preference. The following sites shall be considered by applicants as the preferred order of location of proposed telecommunications facilities, (1) being the most preferred, and (3) being the least preferred:
 - (1) Existing telecommunication facilities (towers).
 - (2) Public structures, such as water towers, utility structures, fire stations, bridges, steeples, and other public buildings not utilized primarily for residential uses.
 - (3) Property zoned industrial.
- (D) Colocation Requirements.
 - (1) Existing towers may be extended to allow for additional users provided that the overall height of the tower is not increased by more than 15 ft. for each new user, nor more than a total of 30 ft., and that the overall height of the structure does not exceed the zoning district height limit for towers.
 - (2) No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Town that no existing tower or structure can accommodate the applicant’s proposed antenna. Evidence submitted to demonstrate that no existing tower or structure can accommodate the applicant’s proposed antenna shall consist of the following minimum information:
 - (i) No existing towers or structures are located within the geographic area required to meet applicant’s engineering requirements;
 - (ii) Existing towers or structures are not of sufficient height to meet applicant’s engineering requirements;
 - (iii) Existing towers or structures do not have sufficient structural strength to support applicant’s proposed antenna and related equipment;
 - (iv) The applicant’s proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant’s proposed antenna;
 - (v) The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable; and
 - (vi) The applicant demonstrates that there are other limiting factors that render the existing towers and structures unsuitable.

(E) Design Standards.

- (1) Broadcasting or communication towers shall be of a monopole design unless the Town Council determines that an alternative design would blend better into the surrounding environment.
- (2) Towers shall be designed to collapse fully within the lot lines of the subject property in case of structural failure.
- (3) Unless using camouflaging designs, towers shall either maintain a galvanized steel finish or, subject to any applicable standards of the Federal Aviation Administration (FAA), be painted a neutral color, to reduce visual obtrusiveness.
- (4) Dish antennas will be of a neutral, non-reflective color with no logos. Towers that are painted shall be repainted if the original color has significantly degraded as the result of the fading, peeling, flaking, or rust.
- (5) At a facility site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend the tower facilities to the natural setting and surrounding structures.
- (6) If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment shall be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure to make the antenna and related equipment as visually unobtrusive as possible.
- (7) Towers shall be illuminated as required by the Federal Communications Commission, (FCC) but no lighting shall be incorporated if not required by the FCC, other than essential security lighting. Site lighting shall be full cut-off and directed downward. When incorporated into the approved design of the tower, light fixtures used to illuminate ball fields, parking lots, or similar areas may be attached to the tower.
- (8) No advertising of any type shall be placed on the tower or accompanying facility.
- (9) All towers shall meet or exceed current standards and regulations of the FAA and the FCC, and any other agency of the federal government with the authority to regulate towers and antennas. Towers that are painted, as required by the FAA, shall be repainted as necessary to maintain minimum visibility requirements as set forth by the FAA.
- (10) To ensure structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable federal, state, and local building codes and regulations.
- (11) The area immediately surrounding the tower and access road shall be kept free of trash and debris.
- (12) All electrical devices, fixtures, and wires, to include electric generators and fuel tanks, shall be maintained in compliance with the requirements of the National Electrical Safety Code.
- (13) Tower owners shall maintain towers, telecommunication facilities and antenna support structures in safe condition so that the same shall not menace or endanger the life or property of any person.

(F) Setbacks. The following setback distances for towers shall be required and shall replace the setbacks otherwise required in the zoning district in which the facility is located.

- (1) The tower shall be set back from any off-site residential structure at least 200 ft.
- (2) Towers, guys, and accessory facilities shall be set back:
 - (i) 100 ft. from any property line which abuts a residential or planned development district; and
 - (ii) 50 ft. from any property line which abuts a commercial or industrial district.
- (3) No habitable structures or places where people gather shall be located within any “fall zone” as certified by a registered professional engineer licensed in Virginia.
- (4) A tower's setback may be reduced or its location in relation to a public street varied, at the sole discretion of the Town Council, to allow the integration of a tower into an existing or proposed structure such as a church steeple, light pole, utility pole, water tower, public facility, or similar structure.

(G) Height Restrictions.

- (1) Telecommunications facilities attached to structures are exempt provided they are not taller than the structure to which they are attached.
- (2) Towers used to achieve the necessary elevation for telecommunication facilities shall be designed not to exceed an overall height as shown in Table 7-1, except as otherwise approved in the conditions of a Special Exception Permit.

Table 7-1. Telecommunications Facility Height

ZONING DISTRICT	MAXIMUM HEIGHT
RA	65 ft.
C1	120 ft.
C2	
GB	
M1	199 ft.
M2	

- (H) Security fencing. Ground-mounted towers and equipment shall be enclosed by security fencing to protect against unauthorized access. Unless otherwise specified, a minimum six (6) ft. high chain link fence, incorporating an anti-climb device and locked access gate, shall be provided.
- (I) Landscaping. Tower facilities shall be landscaped with a buffer of plant materials that effectively screen the view of the support buildings from adjacent property. The standard buffer shall consist of a landscaped strip at least four (4) ft. wide outside the perimeter of the facilities. All plantings must follow the tree and plant standards provided in Article 8, Community Design Standards.
 - (1) Natural vegetation sufficient to serve as buffer may be used in lieu of planting a landscaped buffer.

- (2) Existing mature tree growth and natural landforms on the site shall be preserved to the maximum extent possible.
- (3) All plant material used as landscaping and/or buffering shall be tended and maintained in a healthy growing condition. Dead plant material shall be replaced in kind.
- (J) Signage. Signage on site shall be limited to no trespassing, safety, or FCC required signs to be positioned on the fence surrounding the facility. The use of any portion of a tower for signs other than warning or equipment information signs is prohibited.
 - (1) The appropriate signage as required by FCC guidelines governing Electromagnetic Energy Fields (EMEF) shall be clearly posted.
 - (2) 24-hour emergency contact information shall be posted at the site by the owner and each co-locator.
 - (3) FCC tower registration shall be clearly posted.
- (K) Required Application Information.
 - (1) Actual photographs of the site that include a simulated photographic image of the proposed tower. The photograph with the simulated image shall include foreground, the midground, and the background of the site.
 - (i) The Town staff reserves the right to select the locations for the photographic images and require additional images. As photo simulations may be dependent upon a balloon test first being conducted, the applicant is not required to submit photo simulations with their initial application but shall provide them prior to the public hearing with the Planning Commission.
 - (2) An engineering report, certifying that the proposed tower is structurally suitable and of adequate height for co-location with a minimum of three (3) users including the primary user.
 - (3) Copies of the co-location policy. The applicant shall provide copies of propagation maps demonstrating that antennas and sites for possible co-locator antennas are no higher in elevation than necessary.
 - (4) A copy of the FAA airspace study shall be provided prior to the issuance of a building permit for the construction tower. The FAA airspace study shall provide confirmation that the tower will not pose any hazard to air navigation.
 - (5) A commitment from a service provider to locate on the proposed tower.
 - (6) An agreement allowing the Town to collocate on the tower for the purpose of emergency service communications.
 - (7) A proposed construction schedule.
 - (8) Site Plans for telecommunications facilities shall include:
 - (i) Radio frequency coverage and tower height requirements.
 - (ii) All designated “fall zones” as certified by a registered professional engineer licensed in Virginia.
 - (9) Any other information to assess compliance, deemed necessary by the Administrator.

(L) Application Process.

- (1) Balloon Test. For towers requiring a Special Exception Permit, a balloon test shall be required for new towers prior to the public hearing with the Planning Commission.
 - (i) The applicant shall arrange to raise a colored balloon (no less than three (3) ft. in diameter) at the maximum height of the proposed tower and within 50 horizontal ft. of the center of the proposed tower.
 - (ii) The applicant shall inform the Administrator and adjacent property owners in writing of the date and times of the test at least seven (7), but no more than 14 days in advance. The notice will direct readers to a new date if the test is postponed due to inclement weather. The applicant shall request in writing permission from the adjacent property owners to access their property during the balloon test to take pictures of the balloon and to evaluate the visual impact of the proposed tower on their property.
 - (iii) The date, time, and location of the balloon test shall be advertised in the Town's newspaper of record by the applicant at least seven (7) but no more than 14 days in advance of the test date. The advertisement will direct readers to a new date if the test is postponed due to inclement weather.
 - (iv) The balloon shall be flown for at least four (4) consecutive hours during daylight hours on the date chosen.
 - (v) Signage shall be posted on the property to identify the property where the balloon is to be launched. The signage will direct readers to a new date if the test is postponed due to inclement weather. This signage shall be posted a minimum of 72 hours prior to the balloon test. If inclement weather postpones the test, then cancellation of the test for that day shall be clearly noted on the signage.
 - (vi) If the wind during the balloon test does not allow the balloon to sustain its maximum height or there is significant fog or precipitation which obscures the balloon's visibility, then the test shall be postponed and moved to the alternate inclement weather date provided in the advertisement. Town staff reserves the right to declare weather inclement for purposes of the balloon test.
- (2) Community Meeting. For towers requiring a Special Exception Permit, a community meeting shall be held by the applicant prior to the public hearing with the Planning Commission.
 - (i) The applicant shall inform the Administrator and adjacent property owners in writing of the date, time, and location of the meeting at least seven (7) but no more than 14 days in advance.
 - (ii) The date, time, and location of the meeting shall be advertised in the Town's newspaper of record by the applicant at least seven (7) but no more than 14 days in advance of the meeting date.
 - (iii) The meeting shall be held within the Town, at a location open to the public with adequate parking and seating facilities which shall accommodate persons with disabilities.
 - (iv) The meeting shall give members of the public the opportunity to review application materials, ask questions of the applicant and provide feedback.

- (v) The applicant shall provide to the Administrator a summary of any input received from members of the public at the meeting.
- (3) Approval Process and Time Restrictions.
 - (i) For all tower applications, the following applies:
 - 1. Unless some other timeframe is mutually agreed upon, an application for a tower shall be reviewed by the Town and a written decision shall be issued within 150 days of a completed submission.
 - 2. Unless some other timeframe is mutually agreed upon, an application for collocation shall be reviewed by the Town and a written decision shall be issued within 90 days of a completed submission.
 - 3. A complete application for a project shall be deemed approved if the Town fails to approve or disapprove the application within the applicable period specified or mutually agreed upon.
 - (ii) For towers requiring a Special Exception Permit, the following applies:
 - 1. The approving bodies, in exercise of the Town's zoning regulatory authority, may disapprove an application on the grounds that the tower's aesthetic effects are unacceptable, or may condition approval on changes in tower height, design, style, buffers, or other features of the tower or its surrounding area. Such changes need not result in performance identical to that of the original application.
 - i. Factors relevant to aesthetic effects are: the protection of the view in sensitive or particularly scenic areas, and areas containing unique natural features, scenic roadways or historic areas; the concentration of towers in the proposed area; and, whether the height, design, placement or other characteristics of the proposed tower could be modified to have a less intrusive visual impact.
 - 2. The approving bodies, in accord with Code of Virginia § 15.2-2316.4:2, as amended, may disapprove an application based on the availability of existing wireless support structures within a reasonable distance that could be used for co-location at reasonable terms and conditions without imposing technical limitations on the applicant.
 - 3. If the Town disapproves an application, it shall provide the applicant with a written statement of the reasons for disapproval. If the locality is aware of any modifications to the project as described in the application that if made would permit the locality to approve the proposed project, the locality shall identify them in the written statement provided. The written statement shall contain substantial record evidence and be publicly released within 30 days of the decision.
- (M) Structural Certification and Inspections. All proposed towers shall be certified by a licensed professional engineer to be structurally sound and in conformance with the requirements Structural Standards for Steel Antenna Towers and Antenna Supporting Structures (ANSI/TIA/EIA-222-F), International Statewide Building Code and all applicable Town, state, and federal laws.

- (1) For new structures, or the extension of existing structures, such certification shall be submitted prior to issuance of the building permit. For existing towers being utilized for co-location, certification shall be provided to verify its capability to support additional loading.
- (2) Over the life of the tower, the Town may require the tower owner to inspect and certify the structural integrity of the tower should there be a reason to believe that the tower has degraded to the point where it is believed to pose a legitimate threat to life and/or property. Structural analysis shall be performed within 30 days, upon formal written request of the Town.
- (3) The Town reserves the right to perform inspections upon reasonable notice to the tower owner. The Town and its agent retain authority to enter onto the property for the purpose of assessing compliance with the statewide building code and all other construction standards provided by the Town Code and federal and state law. If defects had been identified on previous inspections, the Town may, at its discretion, require the tower owner to bear the cost of the inspection.
- (4) The tower or telecommunication facilities owner shall certify to the Town on an annual basis that it is in compliance with all of the requirements set forth above.
- (N) Review Fee. Any out-of-pocket costs incurred by the Town for the review of any of the above required information shall be reimbursed by the tower owner.
- (O) Bond. To secure the removal of abandoned structures, the Town shall require the tower owner to post a bond, or provide some other reasonable assurance, in an amount to be determined by the Town based upon the anticipated removal cost of the tower.
- (P) Abandoned Towers. Any antenna or tower that is not operational for a continuous period of 24 months shall be considered abandoned, and the owner of each such antenna or tower shall remove the tower.
 - (1) Removal includes the removal of the tower, all tower and fence footers, underground cables, and support buildings. The buildings may remain with the owner's approval.
 - (2) If there are two (2) or more users of a single tower, then this provision shall become effective when all users cease using the tower.
 - (3) The Town may dismantle and remove the tower and recover the cost of the same from the owner.
- (Q) In the event that the Bond amount is insufficient to cover the cost of removal, the Town reserves the right to seek the remaining balance from the owner.

Section 7-4-3. Telecommunications Facility, Small Cell.

- (A) In accordance with Code of Virginia § 15.2-2316.4, as amended, small cell telecommunications facilities shall be permitted by-right in all zoning districts subject to the following general performance standards.
- (B) Installation.
 - (1) The small cell telecommunications facility shall be installed by a wireless services provider or wireless infrastructure provider on an existing structure.

- (2) The wireless services provider or wireless infrastructure provider has obtained permission from the owner of the existing structure to collocate the small cell telecommunications facility on the existing structure and to collocate the associated transmission equipment on or proximate to the existing structure.
- (3) Each antenna is located inside an enclosure of, or the antenna and all its exposed elements could fit within an imaginary enclosure of, no more than six (6) cubic ft.; and
- (4) Excluding electric meter, concealment, telecommunications demarcation boxes, backup power systems, grounding equipment, power transfer switches, cut-off switches, and vertical cable runs for the connection of power and other services, all other equipment associated with the facility does not exceed 28 cubic ft., or such higher limit as may be established by the Federal Communications Commission.

(C) Application and Review.

- (1) A wireless services provider or wireless infrastructure provider may submit up to 35 permit requests for small cell telecommunications facilities on a single application. Permit application fees shall be in accordance with Code of Virginia § 15.2-2316.4, Paragraph B (2) of the Code of Virginia, as amended.
- (2) Permit applications for small cell telecommunications facilities shall be reviewed and approved as follows:
 - (i) Permit applications for the installation of small cell telecommunications facilities shall be approved or disapproved within 60 days of receipt of the complete application. The 60-day period may be extended by staff upon written notification to the applicant, for a period not to exceed an additional 30 days.
 - (ii) Within ten (10) days of receipt of an application submission and a valid electronic mail address for the applicant, the applicant shall receive an electronic mail notification if the application is incomplete. If the application is determined to be incomplete, the notification shall specify the missing information which needs to be included in a resubmission in order to be determined complete.
 - (iii) Any disapproval of the application shall be in writing and accompanied by an explanation for the disapproval. The disapproval may be based only on any of the following reasons:
 1. Material potential interference with other pre-existing communications facilities or with future communications facilities that have already been designed and planned for a specific location or that have been reserved for future public safety communications facilities;
 2. Public safety or other critical public service needs; and/or
 3. In instances where the installation is to be located on or in publicly owned or publicly controlled property (excluding privately owned structures where the applicant has an agreement for attachment to the structure), aesthetic impact or the absence of all required approvals from all departments, authorities, and agencies with jurisdiction over such property.
 - (iv) A permit application approval shall not be unreasonably conditioned, withheld, or delayed.

- (v) An applicant may voluntarily submit, and staff may accept, any conditions that address potential visual or aesthetic effects resulting from the placement of small cell facilities.
- (vi) The submission of a permit application shall represent a wireless services provider's or wireless infrastructure provider's notification to the Town as required by Code of Virginia § 15.2-2316.4(A), as amended.

Section 7-4-4. Utility Service, Minor.²¹

- (A) For utility uses requiring a structure, not including public water and sewer lines and appurtenances, service lines to consumers, water towers, and above and below ground cables, wires, or pipes where such uses are located in easements:
 - (1) If visible from adjacent residential or planned development districts and/or properties that are occupied by a residential dwelling, the use shall be located within an enclosed structure having a style and character compatible with the surrounding residential structures or shall be screened from view in accordance with Article 8, Community Design Standards, of this Ordinance.
 - (2) A minor utility shall not include facilities for construction, repair, service, or storage of vehicles or off-site utility equipment.

Division 5. Commercial Uses.

Section 7-5-1. Adult Use.²²

- (A) Purpose. It is a purpose of this Section to regulate adult uses in order to promote the health, safety, and general welfare of the citizens of the Town and to establish reasonable and uniform regulations to prevent the deleterious secondary effects of adult uses within the Town. The requirements of this Section have neither the purpose nor effect of imposing a limitation or restriction on the content or reasonable access to any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of this Section to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this Ordinance to condone or legitimize the distribution of obscene material.
- (B) Findings. Based on evidence of the adverse secondary effects of adult uses, and on findings, interpretations, and narrowing constructions incorporated in numerous legal cases, it is recognized that:
 - (1) Adult uses, as a category of commercial uses, are associated with a wide variety of adverse secondary effects including, but not limited to, personal and property crimes, prostitution, potential spread of disease, lewdness, public indecency, obscenity, illicit drug use and drug trafficking, negative impacts on surrounding properties, declining property value, urban blight, litter, and sexual assault and exploitation.

²¹ Editor's Note: This is a new use with new standards to replace "public utilities" in the existing Ordinance.

²² Editor's Note: Proposed new use and standards.

- (2) Adult uses should be separated from sensitive land uses, including schools, churches, parks, libraries, public recreation areas, and residential areas, to minimize the impact of their secondary effects upon such uses and should be separated from other sexually oriented businesses to minimize the secondary effects associated with such uses and to prevent an unnecessary concentration of sexually oriented businesses in one (1) area.
 - (3) Each of the foregoing negative secondary effects constitutes a harm, which the Town has a substantial government interest in preventing and/or abating. This substantial government interest in preventing secondary effects exists independent of any comparative analysis between adult uses and non-adult uses. Additionally, the interest in regulating adult uses is to prevent future secondary effects of either current or future adult uses that may locate in the Town. The Town finds that the cases and documentation relied on in this Ordinance are reasonably believed to be relevant to said secondary effects.
- (C) Establishment. The establishment of an adult use as referred to herein shall include the opening of such use as a new use, the relocation of such use, the enlargement of such use in either scope or area, or the conversion, in whole or part, of an existing business into an adult use.
- (D) Measurements of distance. All distances specified in this Section shall be measured from the property line of one (1) use to another. The distance between an adult use and a residentially or planned development zoned district shall be measured from the property line of the use to the nearest point of the boundary line of the residentially or planned development zoned district.
- (1) No adult use shall be established within 1,000 ft. of any other adult use in any zoning district.
 - (2) No adult use shall be established within 1,000 ft. of a residential zoned district, planned development district, designated historic district, educational facility, religious assembly, public park and recreation area, public use, life care facility, medical treatment facility, adult day care center, family day home, group home, or day care centers as defined in this Ordinance.²³
- (E) Hours of Operation.²⁴
- (1) No adult use shall be open:
 - (i) More than 72 hours in any week (a week being consecutive days from Sunday to Saturday);
 - (ii) More than 12 hours within any 24-hour period; or
 - (iii) Prior to 9 a.m. or later than 11 p.m.
- (F) Design Standards.
- (1) Any signs and exterior lighting shall be in accordance with the regulations of Article 8, Community Design Standards, of this Ordinance.
 - (i) Signs shall not include graphic or pictorial depiction of material available on the premises.

²³ Editor's Note: At the Nov. 21, 2023 worksession Town Council requested an analysis to determine whether the 1,000 ft. requirement could be increased. Upon analysis BG determined that the distance cannot be increased, and that hotel use should be eliminated from 7-5-1 (D) (2).

²⁴ Editor's Note: Proposed setting hours of operation, as provided.

- (2) No adult use shall display adult media, depictions of specified sexual activities or specified anatomical areas in its window, or in a manner visible from the street, highway, or public sidewalk, or the property of others.
- (4) Window areas shall remain transparent.

Section 7-5-2. Automobile Sales and Rental; Automobile Service, Major/Minor.²⁵

(A) Development Standards.

- (1) All principal and accessory structures shall comply with the district standards for which they are located.
- (2) The use shall be located and designed so that vehicular circulation does not conflict with traffic movements and pedestrian access within adjacent streets, service drives, and/or parking areas.
- (3) No portion of the use, excluding required screening and landscape buffers, shall be located within 50 ft. of a residential or planned development district or structure containing a dwelling unit.

(B) Parking Standards.

- (1) All parking shall comply with Article 8, Community Design Standards of this Ordinance.
- (2) All parking, excluding display of vehicles for sale or rental, shall be located to the side or rear of the establishment.

(C) General Standards.

- (1) All repairs and maintenance of vehicles, including parts installation, shall be performed within a completely enclosed building.
- (2) No vehicle or equipment displays shall be located within a required setback, fire lane, travel way, sidewalk, or landscaped area.
- (3) The temporary on-site storage of vehicles awaiting repair, service, or removal shall be on the side or rear of the principal structure and screened from view from any adjacent right-of-way by a building, or by an opaque fence or wall, in accordance with Article 8, Community Design Standards, of this Ordinance.
 - (i) Temporary on-site storage of vehicles is 30 days or less.
- (4) An appropriately sized and designed in-ground grease and oil separator device shall be installed on-site and properly maintained to prevent grease and oil entry into the wastewater system.
- (5) No outdoor storage of inoperable vehicles, parts, or equipment shall be permitted.
- (6) Nothing, including vehicles and vehicle equipment, shall be displayed on the top of a building.

(D) Sales and Rental Standards.

²⁵ Editor's Note: Proposed updated standards for these uses.

- (1) All vehicles for sale or rent shall be parked in a parking space or a vehicle display pad, as shown on an approved Site Plan.
- (2) One (1) vehicle display pad may be elevated up to two (2) ft. above grade level.
- (E) Hazardous Materials Standards.
 - (1) The discharge of fuel, oil, solvents, anti-freeze, and/or other pollutants, hazardous materials, or flammable substances into any public sewer, storm drainage, or other surface waters is prohibited.
 - (2) The owner/operator shall prepare an emergency spill notification Contingency Plan to be approved by the Town and posted on the premises before the issuance of any occupancy permits. The owner/operator/tenant shall be responsible for notifying all Town departments identified in the Contingency Plan immediately in the event of a spill or any petroleum product, chemical waste, or other hazardous substance on the property. The owner/operator shall assume full responsibility for all public and private expenses incurred in the clean-up of such spills.

Section 7-5-3. Car Wash.²⁶

- (A) Location.
 - (1) Car washes shall be located and designed so that vehicular circulation does not conflict with traffic movements and pedestrian access within adjacent streets, service drives, and/or parking areas.
 - (2) Buildings, structures, and vacuuming facilities shall be a minimum of 100 ft. from any residential district or use.
- (B) Prohibited. No sales, repair, or outside storage of motor vehicles shall be conducted on the site.
- (C) Design Standards.
 - (1) The site must be designed to minimize the potential for turning movement conflicts and to facilitate safe and efficient on-site circulation.
 - (2) An appropriately sized and designed in-ground grease and oil separator device shall be installed on-site and properly maintained to prevent grease and oil entry into the wastewater system.
 - (3) An automatic water reclamation system shall be used to recover a minimum of 70% of the car wash rinse water for reuse.
- (D) Hazardous Materials Standards.
 - (1) The discharge of fuel, oil, solvents, anti-freeze, and/or other pollutants, hazardous materials, or flammable substances into any public sewer, storm drainage, or other surface waters is prohibited.
 - (2) The owner/operator shall prepare an emergency spill notification Contingency Plan to be approved by the Town and posted on the premises before the issuance of any occupancy permits. The owner/operator/tenant shall be responsible for notifying all Town departments

²⁶ Editor's Note: Proposed new standards for an existing use.

identified in the Contingency Plan immediately in the event of a spill or any petroleum product, chemical waste, or other hazardous substance on the property. The owner/operator shall assume full responsibility for all public and private expenses incurred in the clean-up of such spills.

Section 7-5-4. Construction Material Sales.

Outdoor storage as an accessory use to a Construction Materials Sales operation shall conform with the standards of Outdoor Storage, as provided in Section 7-7-4 of this Article.

Section 7-5-5. Drive-Through Window.²⁷

(A) Access.

- (1) Access to public streets or other public ways shall be provided from at least two (2) points at all times. Access points shall be kept clear at all times.
 - (i) The Administrator may modify the number of required accesses.
- (2) All drive-through window facilities shall be located and designed so that vehicular circulation does not conflict with traffic movements in adjacent streets, service drives, and/or parking areas.

(B) General Standards. Drive-through window openings shall be located at least 20 ft. from any property line.

(C) Lighting. The parking area of any drive-through facility shall be adequately illuminated. Such illumination shall be in conformance with the regulations of Article 8, Community Design Standards, of this Ordinance.

(D) Stacking Spaces.

- (1) A minimum of four (4) stacking spaces shall be located behind the order speaker and four (4) stacking spaces shall be located between the order speaker and the pickup window.
 - (i) A minimum of eight (8) stacking spaces shall be provided when there is only a pickup window.
 - (ii) Stacking spaces shall not interfere with the travel way traffic or designated parking spaces

Section 7-5-6. Event Venue.²⁸

(A) Noise. All noise shall comply with the Noise Ordinance, Chapter 42, Article III. Noise Control, of the Rocky Mount, Virginia Code of Ordinances.

- (1) There shall be no amplified music between 10:00 p.m. and 8:00 a.m., seven (7) days per week.

(B) Occupancy Limitations. For all indoor and outdoor areas, occupancy limits shall comply with all local and state laws.

- (1) Any structure or building utilized for an event, or as an event venue, shall meet the International Building Code requirements for public occupancy.

²⁷ Editor's Note: Proposed new use and standards.

²⁸ Editor's Note: Proposed new use and standards.

- (C) Parking. Parking for 50 or more vehicles shall require a Special Exception Permit.
- (D) Health Standards. Event Venues shall have approval from the Virginia Health Department (as applicable) stating that the venue meets all applicable standards prior to operation.

Section 7-5-7. Gas Station.²⁹

(A) Location and Dimensional Requirements.

- (1) Entrances to the gas station shall be minimized and located in a manner promoting safe and efficient traffic circulating while minimizing the impact on the surrounding neighborhood.
- (2) All fuel pump islands, compressed air connections, and similar equipment shall be a minimum of 15 ft. from any property line.
- (3) On all corner lots, all driveways, access points, and curb openings shall be set back a minimum of 25 ft. from the corner property lines.

(B) Screening.

- (1) A six (6) ft. solid fence, wall, or landscaping shall be provided along property lines adjoining any residentially zoned district or lot containing a dwelling unit. Buffers and fences shall be in compliance with Article 8, Community Design Standards, of this Ordinance.
- (2) Dumpsters or other refuse shall be screened in accordance with Article 8, Community Design Standards, of this Ordinance.

(C) Design Standards.

- (1) In cases where there is no existing curb, gutter, or sidewalk along the street or streets from which the gas station shall take access, the developer shall, at his own expense, construct the necessary curb, gutter, and sidewalk according to the specifications of the Town.
- (2) Gas canopy shall be compatible with the principal use with regard to design, material, and architectural style.
- (3) Outdoor speakers shall not be audible beyond the property lines.
- (4) Under-canopy lighting shall consist of recessed, flat lens fixtures.
- (5) An appropriately sized and designed in-ground grease and oil separator device shall be installed on-site and properly maintained to prevent grease and oil entry into the wastewater system.

(D) General Standards.

- (1) There shall be no storage of automobiles, trailers, recreational vehicles, boats, or similar equipment.
- (2) Sales of limited fuel oil or bottled gas is permitted as an accessory use.
- (3) Fuel dispensers, pump islands, overhead canopy, and air and water dispensers shall be removed upon cessation of the use for a period of more than one (1) year.

²⁹ Editor's Note: Proposed new use and standards.

- (4) The Administrator may require a traffic analysis to be provided by the applicant. Such analysis may include, but not be limited to, the proposed traffic flows, sight visibility for emerging vehicles, and other public safety factors.
- (E) Hazardous Materials Standards.
 - (1) All hazardous materials shall be handled, recycled, or disposed of according to federal, state, and local laws.
 - (2) The owner/operator shall prepare an emergency spill notification Contingency Plan to be approved by the Town and posted on the premises before the issuance of any occupancy permits. The owner/operator/tenant shall be responsible for notifying all Town departments identified in the Contingency Plan immediately in the event of a spill or any petroleum product, chemical waste, or other hazardous substance on the property. The owner/operator shall assume full responsibility for all public and private expenses incurred in the clean-up of such spills.

Section 7-5-8. Itinerant vendor.³⁰

- (A) General Standards:
 - (1) Shall obtain a Town business license (or a statement from the Finance Department that no Town business license is required).
 - (2) Shall obtain written permission from the owner(s) of the private properties upon which they will operate.
 - (3) No signage shall be permitted except temporary signs.
 - (4) Shall occupy any location for a maximum of seven (7) consecutive days at one (1) time for no more than four (4) times per calendar year.
 - (5) Shall not be allowed to locate within 100 ft. of a Residential Zoning District.
 - (6) Shall be positioned on improved, designated parking spaces and shall not block:
 - (i) The main entry drive aisle or impact circulation overall;
 - (ii) other access to loading areas; or
 - (iii) emergency access and fire lanes.
 - (7) Shall be positioned at least 15 ft. away from any fire hydrant, fire department connection (FDC), driveway entrance, alley, and handicapped parking space.
- (B) Exemptions.
 - (1) Farmers market vendors who sell on official market days and exclusively sell goods that they have grown or produced are exempt from these requirements.

³⁰ Editor's Note: Itinerant vendor standards are from the Amendment to the existing Article 6 Supplementary District Regulations, 6-6 Temporary uses, dated 9-12-2022.

Section 7-5-9. Kennel, Commercial.³¹

- (A) Location. Except where animals are confined in soundproofed buildings, no portion of the use, excluding required screening and landscape buffers, shall be located within:
 - (1) 100 ft. from the property lines of adjoining residential zoned or planned development property; and
 - (2) 200 ft. from any dwelling not on the associated parcel.
- (B) General Standards.
 - (1) All exterior runs, play areas, or arenas shall be designed with a minimum 6-foot-high opaque screen from adjacent lot lines and street rights-of-way.
 - (2) Animals shall be in an enclosure or structure from which they cannot escape.
 - (3) Animal shelters shall be kept free of waste on a regular basis to minimize impacts of odor and reduce propagation of pests.
 - (4) Waste disposal shall be in accordance with Virginia Department of Health standards.
 - (5) All animals shall be kept within a totally enclosed part of the structure(s) between the hours of 10:00 p.m. and 7:00 a.m. This does not include leashed walking of animals.

Section 7-5-10. Mobile Food Vendor.³²

- (A) Exceptions. The requirements of this section shall not apply to:
 - (1) Mobile food vendors at catered events (events where the food is not sold through individual sales but provided to a group under a catering contract with a single payer).
 - (2) Mobile food vendors at public or private events as follows:³³
 - (i) At events approved by the Town of Rocky Mount;
 - (ii) At events conducted by the Town of Rocky Mount; and
 - (iii) At events conducted by Franklin County public schools on school property.
- (B) Licensure and Permits:
 - (1) Mobile food vendors shall have a Town business license (or a statement from the Finance Department that no Town business license is required). All food sales are subject to meals tax and must be paid monthly at current rates;
 - (2) Mobile food vendors shall have approval from the Virginia Health Department (as applicable) stating that the mobile food vendor meets all applicable standards prior to operation.
 - (3) Mobile food vendors shall have written permission from the owners of private properties upon which the mobile food vendor will operate;

³¹ Editor's Note: Proposed new standards for an existing use.

³² Editor's Note: Mobile food vendor language is from the Amendment to the existing Article 6 Supplementary District Regulations, 6-6 Temporary uses, dated 9-12-2022.

³³ Editor's Note: (A) (2) was moved from General Standards to Exemptions per staff comments 11-30-2023.

- (C) Operation Hours. For the purpose of this section, a calendar week shall start on a Sunday and end on a Saturday.
 - (1) Shall be allowed to operate between the hours of 6:00 a.m. and 10 p.m.
 - (2) All materials associated with the business shall be removed from the lot or parcel by 10:30 p.m. each day.
- (D) Location:³⁴
 - (1) Shall locate a maximum of three (3) days per calendar week at any one (1) lot or parcel within the Town;
 - (2) Shall not be located in the public right of way or obstruct a public sidewalk;
 - (3) Shall not be allowed to locate within 100 ft. of a Residential Zoning District;
 - (4) Shall be positioned at least 15 ft. away from any fire hydrant, fire department connection (FDC), driveway entrance, alley, and handicapped parking space; and
 - (5) Shall be positioned on improved, designated parking spaces and shall not block:
 - (i) The main entry drive aisle or impact circulation overall;
 - (ii) Other access to loading areas; or
 - (iii) Emergency access and fire lanes.
- (E) Noise and lighting.
 - (1) Amplified music shall not be audible outside of the vehicle.
 - (2) Operation of the vehicle or a generator shall not be loud enough to be plainly audible at a distance of 100 ft.. Excessive complaints about vehicle generator noise will be grounds for the Administrator to require that the mobile food vendor change locations on the site or move to another property.
 - (3) Portable or temporary lighting shall meet Town lighting requirements and may remain on until 10:30 p.m. to allow for the safety of the patrons and employees and to allow for the site to be cleaned properly.
- (F) Dining Areas. One (1) ten ft. by ten ft. (10' x 10') area is allowed next to the mobile food vendor. All activities must be wholly contained within this area, which may be covered or uncovered, with tables and chairs for dining or for a table with condiments for patrons.
 - (1) Number of mobile food vendors permitted.
 - (2) No more than three (3) Mobile Food Vendors may operate from the same lot or parcel at the same time, except that the Zoning Administrator may approve more than three (3) vendors on the same lot or parcel for a one-time event.
 - (3) Use of the lot or parcel must at all times be in accordance with all other Town regulations.

³⁴ Editor's Note: The requirement for mobile food vendors to locate 150 ft. from brick and mortar restaurants was removed per worksession discussion on 11-21-2023.

- (4) Signage. All signage shall be temporary and limited to the mobile food vendor itself. Only the food products for sale, the name of the business and a price list shall be listed. Alternative signage not affixed to the mobile food vendor is allowed when related to daily menu information only. This signage shall be located within five (5) ft. of the mobile food vendor and not exceed eight (8) square ft. in size.
- (5) Waste.
- (6) A mobile food vendor shall provide trash and recycling receptacles and workers shall properly recycle containers and dispose of all trash, refuse, and compost that is generated by the patrons.
- (7) No liquid wastes shall be discharged from the mobile food vendor.
- (8) General Standards.
- (9) The sale of anything other than food and non-alcoholic beverages (and items incidental to the product and its consumption) is prohibited.

Section 7-5-11. Office, General.³⁵

Within the Central Business District general office use shall be prohibited on the ground floor of properties or buildings that have an address on Franklin Street or have a property boundary adjacent to Franklin Street.

Section 7-5-12. Outdoor Sales, Seasonal/Temporary.³⁶

- (A) Permits. Each stand for the retail sale of seasonal/temporary goods, including Christmas trees or fireworks, shall obtain a Seasonal/Temporary Outdoor Sales Permit by the Administrator prior to setup and sales.
 - (1) No more than six (6) permits shall be issued for the same lot during a calendar year.
 - (2) No permit shall be issued to an applicant, unless or until:
 - (i) A minimum of 30 consecutive days after a permit issued to that applicant for the same or an adjacent lot or parcel has expired.
- (B) Time Limits.
 - (1) Seasonal sales (fireworks, Christmas trees, etc.) shall be permitted for a period not to exceed 60 consecutive days.
 - (2) Temporary sales (rummage sales, yard sales, sidewalk sales, etc.) shall be permitted for a period not to exceed three (3) consecutive days.
- (C) Setbacks. The outdoor sales stand or display shall be setback at least 15 ft. from any public right-of-way and outside any required landscape buffer.
- (D) Parking. Parking shall be supplied on the site of the primary use and not along the public right-of-way.

³⁵ Editor's Note: Standard added per staff discussion to increase the vitality of the downtown area.

³⁶ Editor's Note: Proposed new standards for an existing use.

- (E) Signs. Signs for the use shall be in accordance with Article 8, Community Design Standards, of this Ordinance.

Section 7-5-13. Parking Lot, Commercial.³⁷

(A) Activity.

- (1) Parking shall be the principal use of all parking facilities. Spaces may be rented for parking, but no other business of any kind shall be conducted in the structure or lot except for Town-sanctioned outdoor markets or permitted mobile food vendors.
- (2) No motor vehicle work shall be permitted in association with a parking facility except under emergency service work.
- (3) No outdoor storage of inoperable vehicles or equipment shall be permitted.

(B) Design.

- (1) To retain all cars completely within the parking lot, a rail, fence, wall, landscape hedge, or other continuous barricade of no less than three (3) ft. tall shall be provided except at exit or access driveways.
- (2) In the Central Business District (CBD) all parking lots shall be located behind buildings or screened from the road.

(C) Screening. Screening shall be provided on each side of the parking lot which:

- (1) Abuts upon any residential district or use or planned development; or
 - (2) Faces across a street, alley, or place from any lot in a residential district or use or planned development.
- (1) Screening shall be in conformance with the regulations of Article 8, Community Design Standards, of this Ordinance.

Section 7-5-14. Personal Improvement Services.³⁸

Within the Central Business District personal improvement services uses shall be prohibited on the ground floor of properties or buildings that have an address on Franklin Street or have a property boundary adjacent to Franklin Street.

Section 7-5-15. Personal Services.³⁹

Within the Central Business District personal services uses shall be prohibited on the ground floor of properties or buildings that have an address on Franklin Street or have a property boundary adjacent to Franklin Street.

³⁷ Editor's Note: Proposed new standards for an existing use.

³⁸ Editor's Note: New use standard added following the worksession on March 19, 2024.

³⁹ Editor's Note: New use standard added following the worksession on March 19, 2024.

Section 7-5-16. Smoke Shop/Vape Shop.⁴⁰

- (A) Establishment. Smoke Shop/Vape Shop includes retail sale locations of tobacco products, nicotine vapor products, alternative nicotine products, as defined in this ordinance, or hemp products intended for smoking, as defined in this Ordinance, and in accordance with Code of Virginia § 15.2-912.4, as amended.
- (B) Smoke Shop/Vape Shop uses (both Off-Site and On-Site) shall be subject to the following requirements:⁴¹
 - (1) Measurements of distance. All distances specified in this Section shall be measured from the property line of one (1) use to another.
 - (i) No Smoke Shop/Vape Shop use shall be established within 1,000 feet of any existing Smoke Shop/Vape Shop.⁴²
 - (ii) No Smoke Shop/Vape Shop use shall be established within 1,000 feet of a child day center or a public, private, or parochial school as defined in Code of Virginia § 22.1-289.02 and § 4.1-206.3.
 - (2) Design Standards.
 - (i) Any signs and exterior lighting shall be in accordance with the regulations of Article 8, Community Design Standards, of this Ordinance.
 - (ii) Window areas shall remain transparent.

Section 7-5-17. Veterinary Hospital/Clinic.⁴³

- (A) Location. Except where animals are confined in soundproofed buildings, no portion of the use, excluding required screening and landscape buffers, shall be located within:
 - (1) 100 ft. from the property lines of adjoining residential zoned or planned development property; and
 - (2) 200 ft. from any dwelling not on the associated parcel.
- (B) General Standards.
 - (1) All exterior runs, play areas, or arenas shall be designed with a minimum 6-foot-high opaque screen from adjacent lot lines and street rights-of-way.
 - (2) Animal shelters shall be kept free of waste on a regular basis to minimize impacts of odor and reduce propagation of pests.
 - (3) Waste disposal shall be in accordance with Virginia Department of Health standards.

⁴⁰ Editor's Note: Proposed new use standard added at staff direction as a result of House Bill 947 being signed by the governor on April 5, 2024.

⁴¹ Editor's Note: Hours of operation were removed at Town Council direction at the May 21, 2024 worksession.

⁴² Editor's Note: Proposed new use standard based on comparison locality, not specifically from Code of VA, should be reviewed by Town Attorney for inclusion.

⁴³ Editor's Note: Proposed new standards for an existing use.

- (4) All animals shall be kept within a totally enclosed part of the structure(s) between the hours of 10:00 p.m. and 7:00 a.m. This does not include leashed walking of animals.

Division 6. Industrial Uses.

Section 7-6-1. Junkyard/Salvage Yard.⁴⁴

(A) General Standards. In accordance with Code of Virginia § 33.2-804, as amended, junkyards are permitted with the following standards.

(1) Shall be:

- (i) Setback at least 500 ft. from any street, road, or other right-of-way.
- (ii) Completely screened by a solid wall or fence, including solid entrance and exit gates, not less than six (6) ft. in height, so as not to be visible from any right-of-way.
 - 1. All walls and fences shall have a uniform and durable character and shall be properly maintained. All screening shall be in accordance with Article 8, Community Design Standards, of this Ordinance.
 - 2. No wall or fence screening shall encroach into a sight distance triangle.
 - 3. Vehicles, parts, materials, and equipment stored shall not be stacked higher than the screening wall or fence.
 - 4. When walls and fences are adjacent to commercial or residential districts, a landscaped buffer shall be provided to break visibility of the fence in accordance with Article 8, Community Design Standards, of this Ordinance.
- (iii) Operated and maintained in such a manner as not to allow the breeding of rats, flies, mosquitoes or other disease-carrying animals and insects.
- (iv) Operated in compliance with all federal and state record keeping and reporting requirements, to include, but not limited to:
 - 1. Reporting to Department of Motor Vehicles to confirm proper ownership;
 - 2. Research through National Motor Vehicle Title Information Systems to confirm clean title history; and
 - 3. Reporting to leadsonline.com for the Town of Rocky Mount Police Department to access the vehicle history.

(2) Shall not:

- (i) Involve collection or storage of any material containing, or contaminated with, dangerous explosives, chemicals, gases, or radioactive substances.

⁴⁴ Editor's Note: Proposed new standards for an existing use.

Section 7-6-2. Self-Storage Facility.⁴⁵

- (A) Activity. No portion of the facility shall be used to manufacture, fabricate, or process goods; to service or repair vehicles, small engines, or electrical equipment, or conduct similar repair activities; to conduct sales or retail sales of any kind, or to conduct any other commercial or industrial activity on the site.
- (1) The owner/operator shall be allowed to sell moving and packaging materials and related items and to hold auctions on site for the disposal of goods stored on the premises.
- (B) Prohibited.
- (1) No storage of hazardous, toxic, or explosive materials shall occur in the facility. Signs shall be posted within the facility describing such limitations. No storage of combustible or flammable liquids, combustible fibers, or explosive materials, or toxic materials, shall be permitted on the premises.
- (2) Self-storage facilities shall not include portable storage containers, shipping containers and/or tractor trailers.
- (3) Incidental parking or storage of motor vehicles, including trucks or moving vans is not allowed, except for purposes of loading and unloading, or if approved as a part of an automobile sales and rental establishment.
- (C) General Standards.
- (1) Except as otherwise authorized in this Section, all personal property shall be stored within enclosed buildings.
- (2) Access to all self-service storage rental spaces must be from the interior of the site. No individual storage bay doors, storage items, or lighted hallways along the lengths of the building façades may be visible from the public right-of-way.
- (3) Fire hydrants and/or fire suppression devices shall be provided, installed, and maintained in compliance with applicable codes and regulations.
- (4) No more than one (1) security or caretaker quarters may be developed on the site, and any such quarters shall be integrated into the facility's design.
- (5) All access ways on the site shall be paved with asphalt, concrete, or comparable paving materials.
- (6) Loading and unloading areas must be located, screened, or fully enclosed to minimize the potential for adverse impacts on adjacent property.
- (7) All areas with street frontage not occupied by a building or structure shall include a wall/fence or screening in accordance with Article 8, Community Design Standards, of this Ordinance.

⁴⁵ Editor's Note: Proposed new standards for an existing use.

Division 7. Miscellaneous Uses.

Section 7-7-1. Accessory Structure.⁴⁶

- (A) Exemptions. Residential accessory structures including, but not limited to, basketball hoops, clotheslines, arbors, swings, structures less than six (6) sq. ft., or residential yard ornaments shall be exempt from the minimum setback, lot area, and certification requirements as specified in this Section.
- (B) Location. Accessory structures are allowed in the General Business District (GB) and Central Business District (CBD) with nonconforming residential uses only.⁴⁷
- (C) Development Standards.
 - (1) Accessory structures shall meet the standards of the underlying zoning district, including setbacks and height regulations provided in Article 4, Primary Zoning Districts, of this Ordinance.
 - (2) Accessory structures are not permitted in front setbacks.
- (D) Permanent Portable Storage Containers.⁴⁸
 - (1) A Zoning Permit is required for any portable storage container used as permanent storage.
 - (2) Portable storage containers used as permanent storage located outside of a fully enclosed building or structure is only permitted in the C2, M1, and M2 zoning districts.
 - (3) When visible from adjacent properties or streets, the storage containers shall be screened in compliance with Article 8, Community Design Standards, of this Ordinance, and kept in good condition.
 - (4) The portable storage container shall meet all accessory structure setback requirements for the district in which it is located.
 - (5) Other than the required Zoning Permit, no sign shall be attached to a portable storage container except to provide the contact information of the container provider.
 - (6) Portable storage containers shall not be used as a principal use or main building or structure.
 - (7) The vertical stacking of portable storage containers and the stacking of any other materials or merchandise on top of any storage container shall be prohibited.
- (E) Temporary Portable Storage Containers.
 - (1) A Zoning Permit is required for any portable storage container used temporarily and located on a lot for more than one (1) calendar days.
 - (2) No permit shall be granted for more than 60 calendar days.
 - (3) The portable storage container shall be placed a minimum of five (5) ft. from the property line, or on the driveway of the lot.

⁴⁶ Editor's Note: Taken from the existing Ordinance, Article 19.

⁴⁷ Editor's Note: New standard as per discussion with staff.

⁴⁸ Editor's Note: Permanent and Temporary Portable Storage Container standards are proposed new standards.

- (4) When it can be demonstrated that space is not available on the lot, one (1) portable storage container may be placed in a legal parking space on the street for a period no longer than 15 days, with the approval of the Town.
- (5) Other than the required Zoning Permit, no sign shall be attached to a portable storage container except to provide the contact information of the container provider.
- (6) The vertical stacking of portable storage containers and the stacking of any other materials or merchandise on top of any storage container shall be prohibited.

Section 7-7-2. Construction Temporary Uses.⁴⁹

- (A) Intent. Construction temporary uses are intended for administration offices, storage facilities, and/or portable toilet facilities used during construction on a site.
- (B) General Standards.
 - (1) Construction temporary uses shall have the name of the construction company printed on a maximum of four ft. by eight ft. (4 ft. x 8 ft.) sign permanently affixed on the outside of the building.
 - (2) Construction temporary uses shall meet all requirements of the Building Code, including tie down requirements for mobile structures.
 - (3) Structures containing toilet facilities shall:
 - (i) Have a contract for sewage pump-out or exchange;
 - (ii) Shall be strapped down; and
 - (iii) Shall have means of pollution prevention, in accordance with Town stormwater regulations.
 - (4) Any construction temporary use shall be removed within 30 days of the date on which the permanent structure's construction is complete and a final approval or Certificate of Occupancy is issued, or an associated bond is released.
- (C) Setbacks. Construction temporary uses, excluding portable toilet facilities, may be located within required setbacks, provided that the location does not constitute a safety hazard to the public or a nuisance to surrounding properties.

Section 7-7-3. Mixed-Use Structure.⁵⁰

- (A) General Design and Building Layout.
 - (1) Exterior modifications to existing structures shall maintain the architectural character of the existing structure.
 - (2) Architectural design of new structures shall conform to Article 5, Division 4, Section 5-4-3 (B), Architectural Design Requirements, as applicable.

⁴⁹ Editor's Note: Proposed new use and standards.

⁵⁰ Editor's Note: Proposed new use and standards.

- (3) Parking, amenities, and structures shall provide special attention to compatibility of adjacent land uses, topography, existing vegetation, and orientation.
- (4) When the structure is located in a commercial or business district a minimum of 50% of the ground floor shall be used for commercial uses.
 - (i) These areas shall be along pedestrian walkways/sidewalks and/or facing the right-of-way.
 - (i) All portions of the ground-floor that are adjacent to a pedestrian walkway shall remain transparent to blend in with the commercial character of the district.
- (B) Central Business District. In addition to the above standards, the following standards shall apply to all mixed-use structures within the CBD district.
 - (1) Dwelling units located within the ground floor shall be located to the rear of the building.

Section 7-7-4. Outdoor Storage.⁵¹

- (A) Intent. The following standards are intended to mitigate impacts of outdoor storage as a principal use, or as an accessory use to commercial and industrial businesses. Examples include construction materials, such as stacks of lumber or stone; equipment; surplus goods; among other items.
- (B) Location. No outdoor storage shall be located within 50 ft. of a residential or planned development district.
- (C) Screening, Buffering, and Landscaping.
 - (1) Outdoor storage areas shall be screened by a solid wall or fence, including solid entrance and exit gates, not less than six (6) ft. nor more than ten (10) ft. in height. All walls and fences shall have a uniform and durable character and shall be properly maintained. All screening shall be in accordance with Article 8, Community Design Standards, of this Ordinance.
 - (2) When walls and fences are adjacent to commercial, residential, or planned development districts, a landscaped buffer shall be provided to break visibility of the fence in accordance with Article 8, Community Design Standards, of this Ordinance.
 - (3) Outdoor storage shall be located on the side or rear of the main structure and screened from view from any adjacent roadway.
 - (4) Parts, materials, and equipment stored in a storage area shall not be stacked and/or piled higher than the screening wall or fence.

Section 7-7-5. Solar Energy, Medium-Scale.⁵²

- (A) Intent.
 - (1) The intent of this Section is to allow medium-scale solar energy facilities in a manner that promotes the development of renewable energy sources, while limiting and mitigating impacts on natural resources and existing residential, commercial, industrial, historical,

⁵¹ Editor's Note: Proposed new use and standards.

⁵² Editor's Note: Proposed new use and standards per discussion with staff.

cultural, and recreational uses of property, or the future development of such uses of property within the Town.

- (2) The purpose of this Section is to outline the process and requirements for the construction, installation, operation, and decommissioning of medium-scale solar energy facilities that ensures the protection of health, safety, and welfare, while also avoiding adverse impacts on Town resources .
- (3) This Section is not intended to abridge safety, health, environmental, or land use requirements contained in other applicable laws, codes, regulations, standards, or ordinances. This Section does not supersede or nullify any provision of local, State, or Federal law that applies to solar energy facilities.

(B) Compliance.

- (1) All medium-scale solar energy facilities shall fully comply with all applicable local regulations, as well as all applicable state and federal regulations, including but not limited to, the U.S. Environmental Protection Agency (EPA), Federal Aviation Administration (FAA), State Corporation Commission (SCC) or equivalent, any state departments related to environmental quality, parks, and wildlife protection, as well as all the applicable regulations of any other agencies that were in force at the time of the permit approval.
- (2) The design and installation of all medium-scale solar energy facilities shall conform to applicable industry standards, including those of the American National Standards Institute (ANSI), Underwriters Laboratories (UL), the American Society for Testing and Materials (ASTM), or other similar certifying organizations and shall comply with all fire and safety requirements.

(C) Megawattage.

- (1) Minimum generation of greater than 500 kilowatts (500 KW).
- (2) Maximum generation of less than five (5) megawatts (5 MW).

(D) Consumption. Generated electricity may be used for on-site consumption, provided to electric cooperative member-customers (non-retail, from behind the meter), or distributed for commercial consumption.

(E) Land Disturbance.

- (1) The clearing, grading, and overall site disturbance is limited to only that which is necessary; superfluous clearing and grading is not permitted, in order to retain existing trees and other groundcover.
- (2) Any medium-scale solar facility that has 2,500 sq. ft. or more of land disturbance for ground mounted panels shall require a Special Exception.

(F) Grid Tied System. No grid-tied system shall be installed until evidence has been given as part of the application that the owner has been approved by the utility company to install the system.

(G) Height Limits.

- (1) If the medium-scale solar energy facility is ground-mounted or not flush-mounted on a principal or accessory building, the facility's height shall not exceed 15 ft. at the tallest point.

- (2) If the medium-solar energy facility is roof-mounted or otherwise integrated into a principal or accessory building, the facility's height shall not exceed the maximum height limit of the district in which it is located.
- (H) Setbacks. The solar energy facility shall comply with all setback requirements of the district in which it is located.
 - (1) Regardless of whether a medium-scale solar facility is accessory to another use on the lot, all medium-scale solar facilities shall comply with the district's principal structure setbacks.
- (I) Landscaping and Screening. Landscaping and screening shall be provided for ground mounted solar to block visibility of the panel(s) and ancillary equipment from adjacent properties. All landscaping and screening shall be in accordance with Article 8, Community Design Standards, of this Ordinance.
- (J) Design Standards.
 - (1) The lowest surface of any panel shall be a maximum of four (4) ft. above the finished grade on which the panel is located.
 - (2) All wiring not on the solar arrays shall be underground except where necessary to connect to the public utility.
- (K) Liability Insurance. The owner shall provide proof of adequate liability insurance for a medium-solar facility prior to beginning construction and before the issuance of any permits.
- (L) Inspection.
 - (1) The owner will allow designated Town staff access to the facility for inspection purposes. The Town staff will provide the owner with 24-hour notice prior to such inspection when practicable.
 - (2) The owner shall reimburse the Town its costs in obtaining an independent third-party to conduct inspections required by local and state laws and regulations.
- (M) Decommissioning and Reclamation.
 - (1) All applications for a medium-scale solar energy facility shall require a Decommission and Reclamation plan, as provided in Section 7-7-5 (N), below.
 - (2) Medium-scale solar energy facilities which have reached the end of their useful life, have been abandoned, or have not been in active and continuous service for a period of 12 months shall be removed at the owner's or operator's expense, except if the project is being repowered or a force majeure event has or is occurring requiring longer repairs; however, the Town may require evidentiary support that a longer repair period is necessary.
 - (3) The owner or operator shall notify the Administrator by certified mail of the proposed date of discontinued operations and plans for removal.
 - (4) If a facility is abandoned and the owner receives a notice of abandonment from the Administrator, the owner shall either complete all decommissioning activities and remove the solar energy facility in accordance with the Decommission and Reclamation Plan or resume regular operation within 30 days.

- (5) If the owner of the solar facility fails to remove the installation in accordance with the requirements of the Decommission and Reclamation Plan, or within the proposed date of decommissioning, the Town may collect the surety and the Town or hired third party may enter the property to physically remove the installation.

(N) Decommission and Reclamation Plan.

- (1) All Decommissioning and Reclamation Plans shall be certified by an engineer or contractor with demonstrated expertise in solar facility removal, and shall include the following:
 - (i) The anticipated life of the project.
 - (ii) An estimated deconstruction schedule.
 - (iii) The estimated decommissioning cost in current dollars.
 - (iv) The estimated cost of decommissioning shall be guaranteed by bond, letter of credit, or other security approved by the Town.
 - 1. The owner shall deposit the required amount into the approved escrow account before any building permit is issued to allow construction of the medium-scale solar facility.
 - 2. The escrow account agreement shall prohibit the release of the bond without the written consent of the Town. The Town shall consent to the release of the bond upon the owner's compliance with the approved Decommission and Reclamation Plan. The Town may approve the partial release of the bond as portions of the approved Decommission and Reclamation Plan are performed.
 - 3. The dollar amount of the bond shall be the full amount of the estimated decommissioning cost without regard to the possibility of salvage value.
 - 4. The owner or occupant shall recalculate the estimated cost of decommissioning every five (5) years. If the recalculated estimated cost of decommissioning exceeds the original estimated cost of decommissioning by ten percent (10%), then the owner or occupant shall deposit additional funds into the bond to meet the new cost estimate. If the recalculated estimated cost of decommissioning is less than 90% of the original estimated cost of decommissioning, then the Town may approve reducing the amount of the bond to the recalculated estimate of decommissioning cost.
- (2) Decommissioning shall include removal of all solar electric systems, buildings, cabling, electrical components, security barriers, roads, foundations, pilings, and any other associated facilities.
- (3) The site shall be graded and re-seeded or replanted within 12 months of removal of solar facilities to restore it to as natural a pre-development condition as possible.
 - (i) Any exception to site restoration, such as leaving driveways, entrances, or landscaping in place, or substituting plantings, shall be requested by the landowner in writing, and this request shall be approved by the Town Council.
- (4) Hazardous material from the property shall be disposed of in accordance with federal and state law.

Section 7-7-6. Solar Energy, Small-Scale.⁵³

(A) Intent.

- (1) The intent of this Section is to allow small-scale solar energy facilities in a manner that promotes the development of renewable energy sources, while limiting and mitigating impacts on natural resources and existing residential, commercial, industrial, historical, cultural, and recreational uses of property, or the future development of such uses of property within the Town.
- (2) The purpose of this Section is to outline the process and requirements for the construction, installation, operation, and decommissioning of small-scale solar energy facilities that ensures the protection of health, safety, and welfare of the Town.
- (3) This Section is not intended to abridge safety, health, environmental, or land use requirements contained in other applicable laws, codes, regulations, standards, or ordinances. This Section does not supersede or nullify any provision of local, State, or Federal law that applies to solar energy facilities.

(B) Compliance.

- (1) All small-scale solar energy facilities shall fully comply with all applicable local regulations, as well as all applicable state and federal regulations, including but not limited to, the U.S. Environmental Protection Agency (EPA), Federal Aviation Administration (FAA), State Corporation Commission (SCC) or equivalent, any state departments related to environmental quality, parks, and wildlife protection, as well as all the applicable regulations of any other agencies that were in force at the time of the permit approval.
- (2) The design and installation of all small-scale solar energy facilities shall conform to applicable industry standards, including those of the American National Standards Institute (ANSI), Underwriters Laboratories (UL), the American Society for Testing and Materials (ASTM), or other similar certifying organizations and shall comply with all fire and safety requirements.
- (3) Site Plans shall be required for all small-scale solar energy facilities, in accordance with Article 3, Permits and Applications, of this Ordinance.

(C) Megawattage. Maximum generation of 500 kilowatts (500 KW).

(D) Consumption. Generated electricity may be used for on-site consumption or provided to electric cooperative member-customers (non-retail, from behind the meter).

(E) Land Disturbance. The clearing, grading, and overall site disturbance is limited to only that which is necessary; superfluous clearing and grading is not permitted, in order to retain existing trees and other groundcover.

(F) Height Limits. If the small-scale solar energy facility is ground-mounted or not flush-mounted on a principal or accessory building, the facility's height shall not exceed 15 ft. at the tallest point.

(G) Setbacks. The solar energy facility shall comply with all setback requirements of the district in which it is located.

⁵³ Editor's Note: Proposed new use and standards per discussion with staff.

- (1) Regardless of whether a small-scale solar facility is accessory to another use on the lot, all small-scale solar facilities shall comply with the district's principal structure setbacks.
- (H) Landscaping and Screening. Landscaping and screening shall be provided for ground mounted solar to block visibility of the panel(s) and ancillary equipment from adjacent properties. All landscaping and screening shall be in accordance with Article 8, Community Design Standards, of this Ordinance.
- (I) Design Standards.
 - (1) If the small-scale solar energy facility is ground-mounted or not flush-mounted on a principal or accessory building, then:
 - (i) The lowest surface of any panel shall be a maximum of four (4) ft. above the finished grade on which the panel is located.
 - (ii) All wiring not on the solar arrays shall be underground except where necessary to connect to the public utility.
- (J) Inspection.
 - (1) The owner will allow designated Town staff access to the facility for inspection purposes. The Town staff will provide the owner with 24-hour notice prior to such inspection when practicable.
 - (2) The owner shall reimburse the Town its costs in obtaining an independent third-party to conduct inspections required by local and state laws and regulations.
- (K) Decommissioning.
 - (1) Small-scale solar energy facilities which have reached the end of their useful life, have been abandoned, or have not been in active and continuous service for a period of 12 months shall be removed at the owner's or operator's expense, except if the facility is being repowered or a force majeure event has or is occurring requiring longer repairs; however, the Town may require evidentiary support that a longer repair period is necessary.
 - (2) The owner or operator shall notify the Administrator by certified mail of the proposed date of discontinued operations and plans for removal.
 - (3) If a facility is abandoned and the owner receives a notice of abandonment from the Administrator, the owner shall either remove the solar energy facility or resume regular operation within 30 days.
 - (4) If the owner of the solar facility fails to remove the installation within the proposed date of decommissioning, a hired third party may enter the property to physically remove the installation.
 - (5) Decommissioning shall include removal of all solar electric systems, buildings, cabling, electrical components, security barriers, roads, foundations, pilings, and any other associated facilities.
 - (6) Hazardous material from the property shall be disposed of in accordance with federal and state law.

Section 7-7-7. Temporary Structure.⁵⁴

- (A) In case of catastrophe deemed sufficient in the judgment of the Town Manager or designee involving instances wherein the replacement, reconstruction, or major repair of improvements, which have been substantially damaged or destroyed and rendered unusable, is required, the use of a temporary structure or mobile unit, as a temporary substitute for any structure or use permitted by this Ordinance, upon being satisfied that the intended use is only temporary and will alleviate a hardship during periods required for reconstruction, replacement or repair. Such structure shall be permitted for a period not exceeding 90 calendar days and which may be renewed or extended for an additional period of 90 calendar days by the Town Manager or designee for good cause shown, but not thereafter.
- (1) Any such temporary structure or unit approved by the Town shall be required to meet the setback requirements for accessory buildings as defined in this Ordinance and as applicable to the District in which such temporary structure is to be located.
 - (2) One (1) such structure shall be permitted on any one (1) lot.
 - (3) Nothing herein contained shall be construed to modify any provisions related to nonconforming uses, nor shall any temporary structure or unit be used to continue any nonconforming use or activity.
 - (4) Nothing herein contained shall be deemed to prohibit the tool sheds and usual temporary structures normally and necessarily associated with the construction, reconstruction, replacement, or repair of improvements.
 - (5) The Town Manager or designee may permit sewer and water utilities to the temporary structure. Application for the cost of temporary utilities shall be under the standard procedures and at the standard rate for sewer and water connections and service. Such utilities shall be permanently abandoned once the temporary use expires, and sewer connections shall be sealed off permanently in accordance with the instructions of the Town of Rocky Mount and the water connection shall be cut at the main.
 - (6) Upon the expiration of the period for which any such special temporary use is permitted, or lawful extension thereof, or within 15 days after occupancy of the primary structure, the unit shall forthwith be removed from the property upon which it is located, by the applicant (or other person then in possession of the property if not the applicant), and failure to do so shall constitute a misdemeanor under this Ordinance and shall be punishable as herein provided.

Section 7-7-8. Wind Energy Facility, Accessory.⁵⁵

- (A) The following dimensional requirements shall apply to the installation of wind turbines and/or wind energy facilities:
- (1) Maximum height from curb grade: 100 ft.
 - (2) Setbacks:

⁵⁴ Editor's Note: Temporary structure is from Article 5-6 of the existing Ordinance..

⁵⁵ Editor's Note: This Section is revised from the existing Ordinance: provisions for large and utility-scale wind energy facilities have been removed per direction from staff; the name has been changed from "small system" to "accessory;" and the definition and use standards revised accordingly.

- (i) Setbacks shall be measured from the center of the wind turbine base to the property line.
 - (ii) Minimum setback from property lines: 100 ft.
- (B) Design/construction requirements:
 - (1) Maximum rated capacity: 100KW
 - (2) The installation and design of the wind energy facility shall conform to applicable industry standards, including those of the American National Standards Institute (ANSI).
 - (3) All electrical and mechanical components of the wind energy facility shall conform to relevant and applicable local, state, and national codes.
 - (4) Any on-site electrical lines shall, to the maximum extent possible, be placed underground.
 - (5) The visual appearance of wind energy facilities shall at a minimum:
 - (i) Maintain a galvanized or matte finish and be non-obtrusive color such as white, off-white, or gray; and
 - (ii) Not display advertising (including flags, streamers, or decorative items), except for identification of the turbine manufacturer, facility owner and operator.
- (C) Application submission requirements:
 - (1) The application shall demonstrate that the proposed wind energy facility will comply with this Ordinance and shall at a minimum contain the following:
 - (i) A narrative describing the proposed wind energy facility, including an overview of the project;
 - (ii) The representative type, and height of the wind turbine to be constructed, including the generating capacity, dimension and respective manufacturer, and a description of ancillary facilities;
 - (iii) Identification and location of the property on which the proposed wind energy facility will be located;
 - (iv) A site plan showing the planned location of the wind turbine, property lines, setback lines, electrical lines, ancillary equipment, buildings, and structures;
 - (v) Other relevant studies, reports, certifications, and approvals as may be reasonable requested by the Town of Rocky Mount to ensure compliance with this Ordinance; and
 - (vi) Signature of the property owner(s) and the facility owner/operator of the wind energy facility.
- (D) Factors to be considered prior to approval.⁵⁶
 - (1) The governing authority shall consider the following factors in determining whether to issue a Special Exception, although the governing authority may waive or reduce the burden on the applicant of one (1) or more of these criteria if the governing authority concludes that the goals of this Ordinance are better served thereby:

⁵⁶ Editor's Note: The Town should consider if it wants to allow this use by-right.

- (i) Height of the wind energy facility;
 - (ii) Proximity of the wind energy facility to residential structures;
 - (iii) Impact(s) on the uses on adjacent and nearby properties, including:
 - 1. Noise; and
 - 2. Shadow flicker.
 - (iv) Impact(s) on surrounding viewsheds, tree coverage, and foliage;
 - (v) Design of the wind energy facility, with particular reference to design characteristics that have effect of reducing or eliminating visual obtrusiveness; and
 - (vi) Consistency with the Comprehensive Plan and the purposes to be served by zoning.
- (E) Decommissioning or abandonment.
- (1) The wind energy facility property owner shall have three (3) months to complete decommissioning of the facility if no electricity is generated for a continuous period of 18 months.
 - (2) Decommissioning shall include removal of wind turbines, electrical lines, electrical components, and other associated equipment.

Section 7-7-9. Yard or garage sales.⁵⁷

- (A) A public sale at a dwelling shall be permitted in any District on a Friday, Saturday, Sunday, and federal holidays only during daylight hours, provided that:
- (1) Items purchased elsewhere expressly for resale at a yard or garage sale shall be prohibited; and
 - (2) Items intended for sale shall not be stored or displayed in the front or side yards of a dwelling except on the day of sale.

⁵⁷ Editor's Note: Yard sale language is from the Amendment to the existing Article 6 Supplementary District Regulations, 6-6 Temporary uses, dated 9-12-2022.

ARTICLE 8. – Community Design Standards.¹

Division 1. General.

Section 8-1-1. Purpose.

- (A) Community Design Standards guide community growth and quality land development to protect and provide for the public health, safety, and general welfare of the Town; to complement the unique character of Rocky Mount; to preserve community assets; and help to implement the vision of the Comprehensive Plan and other adopted policy documents of the Town by accomplishing the following objectives:
- (1) Provide for the orderly extension of water and sewer, other utilities, streets, sidewalks and bikeways, stormwater facilities, and other public facility services in a safe, adequate, and efficient manner.
 - (2) Secure adequate and attractive provision of street lighting, landscaping and screening, parking and loading, signs, and walls and fences.
 - (3) Coordinate proposed public facilities and streets in new subdivisions with existing public services in a manner that minimizes adverse effects on adjacent or nearby neighborhoods.
 - (4) Reduce and prevent air, soil, noise, water pollution, and flooding, and to ensure appropriate development with regard to natural resources and features, and open space which will contribute to the beauty of the community and value of the land.
- (B) Community Design Standards apply to uses in more than one (1) District.
- (C) The standards in this Article are in addition to regulations in Article 7, Use Standards and other applicable regulations of the Code of Rocky Mount, Virginia.

Division 2. Lighting.²

Section 8-2-1. Purpose and Intent.

- (A) The purpose of this Division is to:
- (1) To preserve the health, safety, and well-being of the community;³
 - (2) Permit the use of exterior lighting at the minimum level necessary for nighttime safety, utility, security, productivity, enjoyment, and commerce;
 - (3) Ensure exterior lighting does not adversely impact land uses on adjacent land by minimizing light trespass, obtrusive light, and glare;

¹ Editor's Note: This Article is new and compiles and organizes information from the existing Ordinance into one Article and includes new standards.

² Editor's Note: New Division to address lighting throughout the Town.

³ Editor's Note: (1) added per Jan. 23, 2024 decision.

- (4) Curtail light pollution, reduce sky glow, and preserve the nighttime environment for astronomy, wildlife, and enjoyment of residents and visitors; and
- (1) Ensure security for persons and property.

Section 8-2-2. Applicability.

(A) General. Unless exempted by (B), below, the standards of this Division shall apply to:

- (1) The provisions of this division shall apply to all new development in the Town unless exempted in accordance with (B), below.
- (2) To the maximum extent practicable, redevelopment of an existing structure, building, parking lot, or use when it is expanded, enlarged, or otherwise increased in intensity equivalent to or beyond 50% of its existing state.

(B) Exemptions. The following are exempted from the exterior lighting standards of this Article:

- (1) Lighting for single- and two-unit residential development.
- (2) Lighting exempt under State or Federal law;
- (3) Lighting for public monuments and statuary;
- (4) Lighting that is required under the Uniform Statewide Building Code;
- (5) Lighting owned by the electrical utility in the public right-of-way;⁴
- (6) Construction lighting, provided the lighting is temporary and discontinued upon completion of the construction activity each day;
- (7) Emergency, or holiday decorative or festive lighting, provided such lighting does not create unsafe glare on street rights-of-way;
- (8) Temporary lighting for circuses, fairs, carnivals, theatrical, and other performance areas, provided such lighting is turned off not more than one (1) hour after the last performance/event of the day and discontinued upon completion of the final performance/event;
- (9) Security lighting,⁵ provided it is in accordance with Section 8-2-3 (C) Shielding, and is controlled and activated by motion sensor devices for a duration of 15 minutes or less, unless it can be demonstrated otherwise that there is a need for constant security lighting;
- (10) Lighting for flags of the United States of America or the Commonwealth of Virginia, or any department, division, agency or instrumentality thereof, and other noncommercial flags expressing constitutionally protected speech, in accordance with Section 8-2-3 (D) Color Temperature and (F) Maximum Illumination Levels;⁶

⁴ Editor's Note: (5) was added per Jan. 23, 2025 worksession decision.

⁵ Editor's Note: "...in accordance with Section 8-2-3 (c) Shielding" was added per Jan. 23, 2025 worksession decision.

⁶ Editor's Note: "in accordance with Section 8-2-3 (D) Color Temperature and (F) Maximum Illumination Levels" was added for clarification per Jan. 23, 2024 worksession decision.

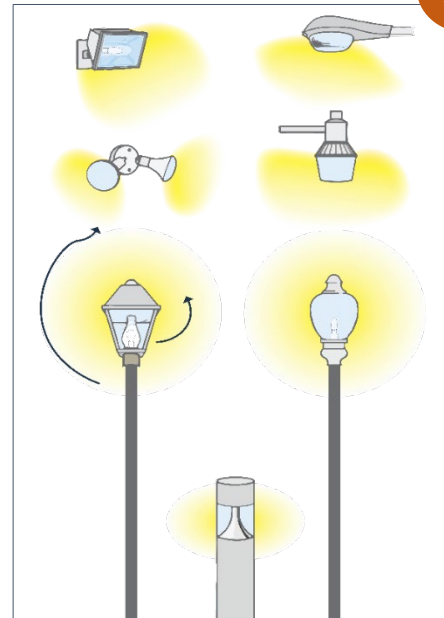
- (11) Architectural lighting of 450 Lumens, 40 watts incandescent, or four (4) watts light emitting diode (LED), or less;
 - (12) Field lighting for an outdoor athletic facility, provided such lighting is directed and falls within the primary playing area and is turned off at the end of the sports or other event;
 - (13) FAA-mandated lighting associated with a utility tower or airport; and,
 - (14) The replacement of a failed or damaged luminaire that is one (1) of a matching group serving a common purpose installed prior to the adoption of this Division.
- (C) Conformance with all Applicable Codes. All outdoor lighting shall be installed in accordance with the provisions of this Ordinance, applicable Electrical and Energy Codes, and applicable sections of the Building Code.
- (D) Time of Review. Review for compliance with the standards of this Division shall occur as part of the review of an application for a Site Plan, Planned Development, Zoning Permit, Special Exception Permit, or Variance.
- (E) Signs. Lighting for signage shall be governed by the standards set forth in Division 8, Signs, of this Article.

Section 8-2-3. Standards.

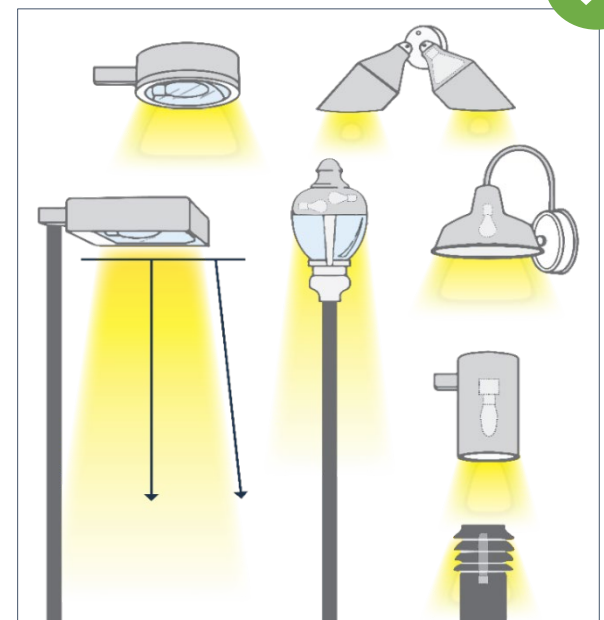
- (A) Hours of Illumination. Public/civic/recreational uses, commercial uses, and industrial uses (as identified in Article 6, Use Matrix) that are adjacent to existing residential development or residential zoning districts shall extinguish all exterior lighting, except lighting necessary for security or emergency purposes, within one (1) hour after closing and shall not turn on such lights until within one (1) hour of opening.
- (1) For the purposes of this subsection, lighting necessary for security or emergency purposes shall be construed to mean the minimum amount of exterior lighting necessary to illuminate possible points of entry or exit into a structure, to illuminate exterior walkways and parking areas, or to illuminate outdoor storage areas. Lighting activated by motion sensor devices is encouraged for these purposes.

- (B) Uniformity. Outdoor luminaires shall be of uniform style for each project site and conform to the design of the project.
- (C) Shielding. Each outdoor luminaire subject to these outdoor lighting requirements shall be dark sky compliant with a full cutoff luminaire and aimed and controlled such that directed light is directed inward to the property and confined to the object intended to be illuminated. Directional control shields shall be used when necessary to limit stray light and prevent glare to adjacent properties and vehicular public rights-of-way. See *Figure 8 - 1*.
- (D) Color Temperature. All exterior lights shall be 3,000 Kelvin light color temperature or less.
- (E) Type. Low-pressure sodium vapor (LPS), high-pressure sodium vapor (HPS), or light emitting diode (LED) lights shall be the preferred type of exterior site lighting.
- (F) Maximum Illumination Levels.
- (1) The maximum permitted average maintained illumination measured vertically and horizontally shall not exceed:
 - (i) 2.0 footcandles in all⁷ residential and RPUD districts; and
 - (ii) 5.0 footcandles in all commercial and industrial districts.
 - (2) All lighting visible from outside, except for street lighting and pedestrian area lighting, must be designed and located so that the maximum illumination at any lot line abutting a residential district, dwelling, or any public right-of-way, does not exceed 0.5 footcandles.
- (G) Canopy Lighting. Light fixtures under any automobile service canopy or other structural canopy shall be recessed into the canopy ceiling with a flat lens to prevent glare.

Figure 8- 1. Examples of Lighting



Shielded/Full Cut-off



⁷ Editor's Note: "all" was added to (i) and (ii) to clarify that the standards apply to single-unit residential uses, as inquired about and requested at the Jan. 23, 2024 worksession.

(H) Window and Decorative Lighting.⁸

(1) Window and decorative lighting as defined in Article 11, Definitions, of this Ordinance:

- (i) Shall not exceed the Kelvin light color temperature provided in (D), above.
- (ii) Shall not flash, strobe, blink, or change color.

(I) Height. Any pole-mounted exterior lighting shall not exceed a height of 30 feet in Industrial districts and 20 feet in all other districts.

Division 3. Landscaping and Screening.⁹

Section 8-3-1. Purpose and Intent.¹⁰

(A) The purpose of this Division is to establish standards for landscape architecture, site design, site buffering, and landscape screening. With the intent of preserving and promoting the health, safety, and general welfare of the Town, this Division is intended to:

- (1) Prevent the overcrowding of land;
- (2) Limit the view and reduce the noise between incompatible abutting uses to ease the transition from one(1) zone to another;
- (3) Preserve and enhance the aesthetic character and visual harmony of the Town;
- (4) Protect the quality of the Town 's natural rivers, streams, and wetlands;
- (5) Enhance erosion control;
- (6) Improve the relationship between adjacent properties through screening, buffering, and proper placement and design of landscaping and screening;
- (7) Promote economic development in the Town 's commercial districts and main thoroughfares, and;
- (8) Ensure the safety, security, and privacy of properties.

Section 8-3-2. Applicability.

(A) General. The requirements of this Division shall apply to new construction, developments, or redevelopments in all zoning districts requiring an approved Site Plan, Special Exception Permit, or Zoning Permit specified by this Ordinance.

(B) Exemptions. The following are exempted from the landscaping and screening standards of this Division, except Section 8-3-3 Visibility Clearance:

- (1) Single- and two-unit development on individual lots (not part of a Major Subdivision or Residential Planned Unit Development).

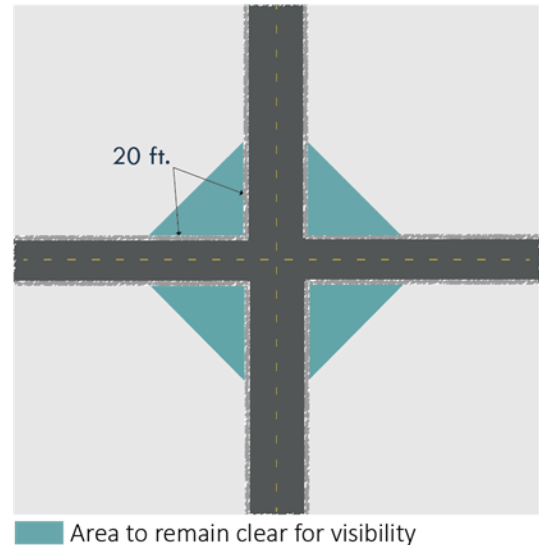
⁸ Editor's Note: Added per discussion with staff to address lit signage clutter.

⁹ Editor's Note: This Division includes content from the existing Zoning Ordinance, Article 6-4.

¹⁰ Editor's Note: Compiled from various sections of the existing Zoning Ordinance, including Articles 6 and 29.

- (C) Timing of Review. Review for compliance with the standards of this Division shall occur as part of the review of an application for a Site Plan, Residential Planned Unit Development, Zoning Permit, Special Exception Permit, or Variance.

Figure 8- 2. Visibility Clearance



Section 8-3-3. Visibility Clearance.

- (A) For protection against traffic hazards, no planting, sign, structure, fence, or other obstruction to visibility greater than three (3) feet in height shall be erected, placed, allowed to grow, or maintained within a visibility triangle on any corner lot.¹¹
- (B) The apex of the triangle shall be at the intersection of the Department of Transportation, Town, or other designated right-of-way lines (extended in the case of rounded corners), the sides being 20 feet in length along the right-of-way lines, and the base of the triangle running through the lot. *See Figure 8 – 2.*

Section 8-3-4. Landscape Plan Requirements.¹²

- (A) Landscape Plan Required. A Landscaping Plan shall be required for all new construction, developments, or redevelopments in all zoning districts requiring an approved Site Plan or Special Exception Permit specified by the Ordinance.¹³ The Landscaping Plan shall:
- (1) Be submitted with the required Site Plan.
 - (2) Be prepared and/or certified by a certified professional or firm qualified to create such a plan.
 - (3) Cover the entire project area included in the overall Site Plan or development plan for which approval is sought.
- (B) Landscape Plan Contents. The landscape plan shall include:
- (1) Location, species, size, height, and number of proposed plantings;
 - (2) Planting specifications or installation details with consideration of the appropriateness of plants and locations for the specific characteristics of the site and the purpose for installation;
 - (3) Information about the general location, composition, and extent of existing vegetation (plants, trees, shrubs, etc.) to be retained during construction, as well as protection measures to be implemented during construction;

¹¹ Editor's Note: Visibility Clearance has been reorganized, with the addition of a graphic for understanding.

¹² Editor's Note: The majority of this Section is new and expands upon existing Article 29-12.

¹³ Editor's Note: This requirement has been expanded; the existing Ordinance requires a landscape plan in the CBD only.

- (i) The information shall include the successional stage of the vegetation, a list of the primary tree species, a list of the prominent non-native invasive species, and a statement regarding the general age, health, and condition of the vegetation.
- (4) Location, size, and other related design details for all hardscape improvements, ground-mounted signage, recreational improvements, and open space areas, fences, walls, barriers, and other related elements;
- (5) Designation of required setbacks, yards, and screening areas;
- (6) Location of other man-made site features, parking lots, overhead structures, and underground utilities to ensure that landscape materials will not be in conflict with the placement and operation of these improvements; and
- (7) A preference to design and plant materials which are native and with reduced water needs.
- (C) The cost of required landscaping shall be determined by a bona fide estimate of cost prepared by a duly licensed landscape architect, engineer, or other licensed professional, and such estimate shall be provided at the expense of the developer.

Section 8-3-5. General Standards.

- (A) Existing trees and vegetation. Existing trees and vegetation shall be preserved to the greatest extent possible.
 - (1) Existing, healthy trees and shrubs shall be credited toward any minimum landscaping required by this Division, provided they meet minimum size standards of (B), below, and are protected before and during construction and maintained thereafter in a healthy growing condition.
 - (2) Where existing vegetation is not adequate to achieve the required landscaping or screening, additional plants shall be installed as necessary to meet the objective, and in accordance with the standards of this Division.
- (B) Tree and Plant Installation and Maintenance.
 - (1) Any required landscaping and screening shall be installed prior to the issuance of a Certificate of Occupancy.
 - (i) When the planting of required landscaping conflicts with the planting season, a Certificate of Occupancy may be issued subject to approval by the Administrator that a sufficient surety is in place.
 - (ii) The owner or developer shall provide a development agreement which sets a deadline by which the plantings will be installed to be approved by the Administrator.
 - (2) The owner of the property upon which the required landscaping or buffering is installed shall be responsible for maintenance and replacement.
 - (3) All plantings shall be maintained in perpetuity in such a way to ensure that the requirements of this Ordinance continue to be met.

- (i) Any dead or dying plants shall be removed within 30 days of notification by the Administrator. If notified during winter, such plants may be replaced by the property owner during the next viable planting season.
 - (4) Landscaping materials should generally be sustainable, biologically diverse, and tolerant of the urban environment with emphasis on trees and plants native to Virginia and the region.
 - (5) Plants shall be nursery grown and materials shall conform to the requirements described in the latest edition of American Standard for Nursery Stock, as published by the American Association of Nurserymen, as amended.
 - (6) Landscaping should be on a scale commensurate with the dimensions of the property and buildings of the principal property as well as buildings on the adjacent parcels.
 - (7) Plant materials shall be installed via dig, ball, burlap, and transplant. Bare-root planting is not permitted for any tree.
- (C) Tree Measurement Standards.
- (1) Diameter. Tree calipers shall be used to measure tree diameter six (6) inches above grade. If the diameter is larger than four (4) inches then a second caliper measurement shall be taken 12 inches above grade.¹⁴
 - (2) All required landscaping materials shall conform to the following minimum size or height standards provided in Table 8 - 1, Minimum Plant Measurements.

¹⁴ Editor's Note: Caliper measurement has been clarified as a result of the Jan. 23, 2024 worksession. A definition for caliper has been added to Article 11.

Table 8-1. Minimum Plant Measurements

PLANT TYPE	MINIMUM AT PLANTING	MINIMUM AT MATURITY
Deciduous trees	2-inch diameter; no height minimum	50 feet in height
Evergreen trees	6 feet in height	
Ornamental and understory trees	4 feet in height	20 feet in height
Shrubs	18-inch spread or height	3 feet spread or height

Section 8-3-6. Transitional Buffers.¹⁵

- (A) Intent. Transitional buffers limit the view and reduce the noise between incompatible abutting uses to ease the transition from one (1) district to another.
- (B) Applicability. The standards of this Section apply to:
- (1) A transitional buffer shall be provided, in accordance with this Section, when zoning districts of different intensities abut.
 - (2) All new development, except as provided in (C), below;
 - (3) Major Subdivisions; and
 - (4) A change of use of an existing structure is proposed that requires a Zoning Map Amendment (rezoning).
- (C) Exceptions. A transitional buffer is not required:
- (1) For any single- or two-unit dwelling not part of a larger development;
 - (2) Between uses, buildings, or lots developed under a common plan or operated under common management, except as required in Section 8-3-8 Frontage and Building Landscaping; or
 - (3) As exempt in Table 8 - 2, Transitional Buffer Standards.
- (D) Buffering Alternative.¹⁶ The applicant may propose, and the Administrator may approve, a buffering alternative where a building, structure, or planting has been specifically designed to minimize adverse effects through a combination of natural land characteristics, architectural and landscaping techniques, and the Administrator determines the building, structure, or planting is consistent with the buffering and screening purposes of this Section. See Table 8 - 4, Buffering Alternatives.
- (E) Transitional Buffer Types Required.¹⁷ Table 8 - 2, Transitional Buffer Standards, identifies the type of transitional buffer, if any, required between a district of proposed development and abutting

¹⁵ Editor's Note: This Section is reorganized from the existing Ordinance Article 6-4. The use of "transitional yard" has been changed to "transitional buffer."

¹⁶ Editor's Note: Reworded and expanded from 30-1-25 a., and other places in the existing Zoning Ordinance.

¹⁷ Editor's Note: New provisions.

districts. Table 8 - 3, Transitional Buffer Type Minimum Plantings, provides the minimum width and planting standards for each transitional buffer type.

- (1) "Abutting" includes land closer to the proposed use than the required buffer width, even if they are separated by a narrow strip of land with different zoning districts.
- (2) Transitional buffers for planned developments will be determined as part of the rezoning process.

(F) Location and Design.¹⁸

- (1) Transitional buffers must be located along the boundaries of the adjacent district, as provided below, except where driveways or other openings are permitted.
 - (i) This includes any lot lines abutting the adjacent districts, including those separated by any public road.
- (2) Transitional buffers may be located within the required minimum front, side, or rear setbacks.
- (3) Type A and B buffers may be dispersed along the setback instead of planted in straight rows, to create a natural setting. However, the purpose and intent of this Division shall be met.
- (4) Development within a transitional buffer is limited to the following:
 - (i) Fences and walls, including retaining walls, in accordance with Division 3 of this Article;
 - (ii) sidewalks, trails, and other pedestrian/bicycle paths that intersect the transitional buffer yard at or near a 90-degree angle;
 - (iii) areas of ingress and egress, fire hydrants, utilities, and other public infrastructure; and
 - (iv) flag poles and permitted signs.
 - (v) Development within a transitional buffer must not reduce required Parking Lot Landscaping.

(G) Specific Standards.

- (1) Screening shall be continuous and in place at the time of occupancy. If vehicular or pedestrian access through the screen is necessary, the screening function shall be preserved.
- (2) Architectural screening (fences, manmade barriers, berms, etc.) may be supplemented with plantings and shall be at least six (6) feet in height and shall be subject to the provisions of Section 8-3-3, Visibility Clearance.
- (3) Screening design and development shall meet the requirements shown in Table 8 – 3 Transitional Buffer Type Minimum Plantings.
- (4) Vegetative material shall be maintained consistently to be alive and in good health.
- (5) Vegetation shall be planted according to Table 8 – 1 Minimum Plant Measurements.

¹⁸ Editor's Note: New provisions.

(6) Vegetative material shall be maintained in good condition and allowed to grow at least six (6) feet in height.

(H) Transitional Buffer Standards. A transitional buffer shall be required in any Zoning District when that district abuts or adjoins a Zoning District of lower intensity.

(1) The transitional buffer shall be measured from the District line to produce a transitional buffer type and minimum depth in accordance with Table 8 – 2 Transitional Buffer Standards¹⁹ and Table 8 – 3 Transitional Buffer Type Minimum Plantings.²⁰

(2) The transitional buffer shall be provided on the higher intensity property.

Table 8-2. Transitional Buffer Standards

District of Proposed Development	Abutting District				
	RA, R1	R2, RPUD	R3, RB	C1, C2, GB, CBD	M1, M2
RA, R1	n/a				
R2, RPUD	Type A	n/a			
R3, RB	Type B	Type A	n/a		
C1, C2, GB, CBD	Type C		Type B	n/a	
M1, M2	Type C				n/a
n/a = transitional buffer not required					

Table 8-3. Transitional Buffer Type Minimum Plantings

Transitional Buffer Type	Minimum Transitional Buffer Width (in feet)	Number of Required Large Deciduous or Evergreen Trees ²¹ (per 100 linear feet) ¹	Number of Required Ornamental or Understory Trees (per 100 linear feet) ¹	Required Shrubs (per 100 linear feet) ¹
A	10	3	1	6
B	15	3	3	8
C	30	4	6	10
¹ Where fractional numbers result, the required number of plantings shall be rounded up to the nearest whole number.				

¹⁹ Editor's Note: Width of transitional buffers have been reduced to align with setback requirements and ensure optimum use of land.

²⁰ Editor's Note: Minimum plantings have been specified to remove ambiguity and ease enforcement and understanding.

²¹ Editor's Note: Matches requirement for street trees.

Table 8-4. Buffering Alternatives

Buffering Alternative	Minimum Height of Buffering Alternative (in feet)	Reduction ² in Minimum Transitional Buffer Width (in feet)	Reduction in Required Plantings
Solid wall/fence ¹	6	10	25%
Evergreen plantings in an unbroken strip (at maturity)	6 (planted) 50 (maturity)		50%
Berm ³	6, with a maximum slope of 2:1	No decrease	25%
¹ Walls and fences must comply with the standards in Division 4, Walls and Fences of this Article. ² The minimum width of a transitional buffer must not be reduced below 10 feet. ³ Required plantings shall be located on the berm.			

Section 8-3-7. Screening and Enclosures.

- (A) Except on lots where the principal use is a single- or two-unit dwelling or manufactured home, the following objects and areas shall be located to the side or rear of the principal structure, and shall be screened from public view at ground level, both on and off the premises, in accordance with this Section:
- (1) Large waste receptacles (dumpsters) and refuse and recycling collection points (including containers);
 - (2) Loading and service areas;
 - (3) Outdoor storage areas;
 - (4) Utility and mechanical equipment, such as, generators, HVAC units, utility meters, junction and accessory boxes, and transformers; and
 - (5) Stormwater management facilities;
 - (6) All other uses or elements where screening is required as identified in Article 7, Use Standards, of this Ordinance.
- (B) Screening/enclosures shall be comprised singularly, or of a combination of:
- (1) A solid masonry wall or opaque fence, in accordance with Division 4 of this Article.
 - (2) A double, unbroken row of evergreens that, at maturity, blocks visibility of the object being screened.
 - (3) A planted berm.
- (C) Access to all grease containers, recycling and trash containers, and other outside storage shall be through gates capable of closure when not in use. All gates shall be closed and secured when not in use.

Section 8-3-8. Frontage and Building Landscaping.²²

- (A) Intent. Frontage and building landscaping contribute to an aesthetically appealing town.
- (B) Applicability. The standards of this Section apply to:
 - (1) All new development, except as provided in (C), below;
 - (2) Major Subdivisions; and
 - (3) A change of use of an existing structure that requires a Zoning Map Amendment (rezoning).
- (C) Exceptions.
 - (1) When the frontage is adjacent to a more intense zoning district the standards of Section 8-3-6, Transitional Buffers shall apply.
 - (2) For any single- or two-unit dwelling not part of a larger development.
- (D) Frontage Landscaping Location and Design.
 - (1) All Districts.
 - (i) Street Trees.²³ The developer shall provide street trees every 25 feet fronting public right-of-way beginning no further than 15 feet from the side property lines. These trees will be located outside of Town right-of-way and be maintained by the property owner.
 - 1. Street Trees shall be large deciduous or evergreen trees, or a mix of both.
 - (2) Commercial Office Districts C1 and C2.
 - (i) A perimeter Transitional Buffer Type A, as supplied in Table 8-3 Transitional Buffer Type Minimum Plantings, shall be provided adjoining the side and rear property lines.
 - (3) Central Business District.²⁴ Buildings in a traditional commercial district are set back an equal distance from the street creating a contiguous wall. Where this pattern is lost, vegetation shall²⁵ be used to restore the traditional building pattern.
 - (i) In areas where parking lots border the street edge, a vegetative border shall²⁶ be established to create a constant wall along the street.
- (E) Building Landscaping Location and Design.
 - (1) Commercial Office Districts C1 and C2.
 - (i) A landscaped open space strip a minimum of ten (10) feet wide shall be provided adjacent to buildings.
 - (ii) The landscaped open space strip shall meet the requirements for Transitional Buffer Type A, in accordance with Section 8-3-6 of this Division, *except that* large deciduous and evergreen trees *shall not* be required.

²² Editor's Note: New Section to include frontage regulations from the existing Ordinance, Articles 27 and 28.

²³ Editor's Note: Street tree spacing was reduced from 30 feet to 25 feet to match Table 8-3.

²⁴ Editor's Note: (D) is from the existing Ordinance Article 29-15.

²⁵ Editor's Note: Changed from "can" to "shall."

²⁶ Editor's Note: Changed from "should" to "shall."

- (iii) Up to one-half of the square footage of this open space may be transferred to the perimeter landscaped strip in order to provide increased screening or buffering for adjacent streets or properties.
- (2) Central Business District.
 - (i) Vegetation shall²⁷ be established at edges of empty lots where alternative solutions are not proposed.
 - (ii) Trees shall²⁸ be sited appropriately in front of stores so that blockage of display windows, doors, and signage is minimized.

Section 8-3-9. Parking Lot Landscaping.

(A) General.

- (1) To provide shade, screen views, and mitigate stormwater runoff, all vehicle parking areas shall include landscaping as required in this Section.
- (2) Parking lot landscaping for all developed, vacant, and abandoned commercial, industrial, or planned development shall be continuously maintained by the owner according to the requirements contained in this Article.
 - (i) Grass and groundcover (not including shrubs, bushes, etc.) shall be maintained to grass height of no more than six (6) in. from grade.
 - (ii) Grass areas shall be maintained in good condition with uniform grass coverage and free from rill or gully erosion.
 - (iii) Any dead or dying plants shall be removed within 30 days of notification by the Administrator. If notified during winter, such plants may be replaced by the property owner during the next viable planting season.

(B) Exemptions.

- (1) The landscape provisions of this Division shall not apply to off-street parking for individual single- or two-unit residential dwellings or for parking garages or similar multi-level parking structures.
- (2) In the case of redevelopment proposals, parking lot landscape requirements do not apply to those proposals that are not required to add parking spaces over those that are currently provided.

(C) Parking Lot Landscape Buffers.²⁹

²⁷ Editor's Note: Changed from "should" to "shall."

²⁸ Editor's Note: Changed from "should" to "shall."

²⁹ Editor's Note: Existing Article 7-2-5 requires a solid wall, fence, tree, or shrubs at least 6 ft in height next to residential. This change allows for a little more variety while still blocking visibility.

- (1) Where a parking lot (or a private driveway providing access to a parking lot or building entry) abuts a residential district or a public right-of-way, a landscaping strip of at least ten (10) feet in width shall be located between the parking lot and the abutting property line.
 - (i) A minimum of one (1) deciduous shade tree for each 25 feet of contiguous property line shall be planted in the landscape strip.³⁰
 - (ii) A minimum of five (5) shrubs for each 50 feet of contiguous property line shall be planted in the landscape strip.
 - (iii) The landscape strip may include a sidewalk, trail, fence, or wall. The remainder of the landscape strip must contain groundcover, turf, trees, or shrubs, or be mulched.
 - (iv) The landscape strip shall maintain a visibility clearance of at least three (3) feet at all ingresses and egresses for vehicular traffic.
- (D) Parking Lot Landscape Islands.³¹ *See Figure 8 - 3.*
 - (1) Landscaped planting islands shall be provided in the interior of the following types of parking lots:
 - (i) The total size of the parking lot exceeds 30 total parking spaces; or³²
 - (ii) Parking lot layout incorporates three (3) or more double-loaded or single-loaded parking bays which are contiguous and parallel to each other.
 - (2) Landscaped planting islands minimum standards:
 - (i) Landscape planting islands shall be at least 10% of the parking lot area.
 - (ii) A minimum of one (1) tree shall be provided for each five (5) spaces of required parking. The remaining area of the island(s) shall be landscaped with shrubs, ground cover, lawn, or additional trees.
 - (iii) Planting islands shall have a minimum width of eight (8) feet to allow for bumper overhang and shall otherwise provide adequate width for the growth and maintenance of the intended landscape materials to be planted therein.
 - (iv) Planting islands shall maintain a visibility clearance of at least three (3) feet at both ends of the island to ensure vehicular traffic and pedestrian safety.

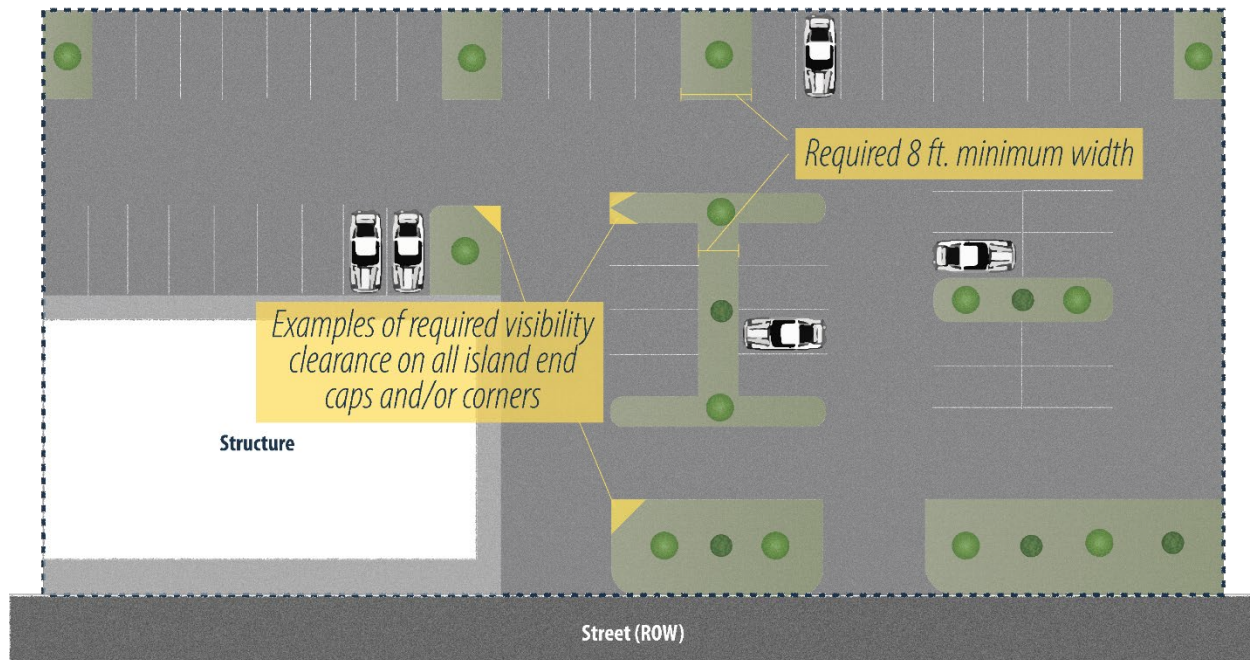
³⁰ Editor's Note: Spacing was changed from 30 feet to 25 feet for consistency throughout the Ordinance.

³¹ Editor's Note: Parking lot landscape islands are new requirements to provide for stormwater uptake, heat reduction, and beautification.

³² Editor's Note: The trigger to incorporate islands in parking lots is proposed at 30 spaces, but can be adjusted, as desired, by the Town.

- (v) The landscaped planting islands shall be dispersed throughout the parking lot, with interior dimensions of any planting area (i.e., interior parking median or island) sufficient to protect and maintain all landscaping materials planted therein.

Figure 8- 3. Landscaped Planting Island Standards



Section 8-3-10. Modifications.

- (A) Modifications to the layout and design standards contained herein may be approved through a waiver by the Administrator upon a determination that the following conditions exist:
- (1) The proposed layout and design provide landscaping which will have the same or increased screening impact, intensity, or variation throughout the year when viewed from adjacent properties or rights-of-way as that which would be required by strict interpretation of the standards contained in this Division.
 - (2) The proposed layout and design fully integrate and complement the existing trees to be preserved on the site.
 - (3) Any trees or shrubs installed or preserved on the site which exceed the minimum numerical requirements of this Division shall not be subject to the species mixture, locational, maintenance, or replacement requirements contained herein.

Division 4. Walls and Fences.³³

Section 8-4-1. Purpose and Intent.

The purpose of this Division is to provide standards to ensure that walls and/or fences used to provide buffering, privacy, separation, security, or for aesthetic reasons, will not create an unsightly or unsafe condition on or off the public or private property on which the fence or wall is proposed.

Section 8-4-2. Applicability.

- (A) The provisions of this Division shall apply to all construction, reconstruction, or replacement of walls and/or fences except:
- (1) Walls and/or fences required for the physical support of a principal or accessory structure;
 - (2) Walls and/or fences erected temporarily for construction sites or a similar purpose, provided that they comply with all relevant requirements of the Uniform Statewide Building Code and do not block sight distance;
 - (3) Landscaping berms without fences;
 - (4) Walls and/or fences necessary for soil erosion control;
 - (5) Walls and/or fences at government facilities;
 - (6) Customary fencing provided as part of a permitted tennis court, athletic field, and similar recreational facility will be exempt from the height standards; and
 - (7) Fences for tree protection (temporary and permanent).

Section 8-4-3. Location.

- (A) Walls and/or fences shall not:
- (1) Be located within the public right-of-way;
 - (2) Be installed in a manner, or in a location, so as to block or divert a natural drainage flow on to or off of any other land, unless the fence or wall has specifically been approved as part of an approved stormwater management plan;
 - (3) Be constructed in a manner or in a location that impairs safety or sight lines for pedestrians and vehicles traveling on public rights of way; or
 - (4) Prevent immediate view of, or access to, fire hydrants or other fire-fighting water supply devices.
- (B) Walls and/or fences may be located within any required setback or yard.
- (C) Walls and/or fences located within an easement shall receive written authorization from the easement holder or the Town (as appropriate).

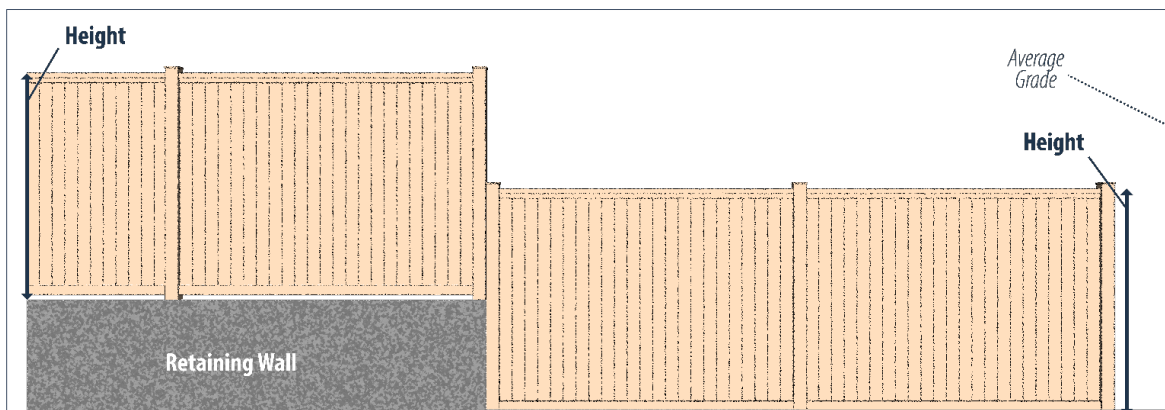
³³ Editor's Note: This Division introduces new content that is not in the existing Ordinance.

- (1) The Town shall not be responsible for damage to, or the repair or replacement of, fences that must be removed to access such easements or facilities.
- (D) Walls and/or fences within required transitional buffers shall be installed so as not to disturb or damage existing vegetation or installed plant material.

Section 8-4-4. Height.

- (A) Maximum Height. Walls and/or fences shall be permitted in accordance with the following standards:
 - (1) No wall and/or fence between a street and a front building line shall be more than four (4) feet in height.
 - (2) A front yard on a corner lot with a fence shall comply with Section 8-3-3, Visibility Clearance of this Article.
 - (3) And not forgoing 8-4-4 (A) (1), above:
 - (i) Walls and/or fences in any residential or planned development district shall not exceed six (6) feet in height;
 - (ii) Walls and/or fences in any commercial zoning district shall not exceed six (6) feet in height above the existing grade; and
 - (iii) Walls and/or fences in any industrial zoning district shall not exceed eight (8) feet in height above the existing grade.
- (B) Measuring Height. Wall and/or fence height will be measured parallel along the side of the fence from the highest point above grade to where the grade is lowest but excluding the height of any retaining wall directly beneath the fence or wall. *See figure 8 - 4.*

Figure 8- 4. Measuring Fence Height



Section 8-4-5. Materials.

- (A) Permitted Materials. All wall and/or fence segments located along a single lot side shall be composed of a uniform style, material, and color compatible with other parts of the wall and/or fence. Walls and/or fences shall be constructed of any combination of:

- (1) Treated or rot-resistant wood or similar composite wood material;
- (2) wrought iron
- (3) vinyl (PVC);
- (4) decorative metal materials; or
- (5) brick, stone, masonry materials, or products designed to resemble these materials.
- (6) Materials not expressly permitted are prohibited.³⁴
- (7) Where wood, masonry, or other opaque materials are specified for particular types of screening or buffering fences or walls, all other fence materials are prohibited.

(B) Prohibited Materials.

- (1) Walls and/or fences made of debris, junk, rolled plastic, sheet metal, plywood, barbed wire, razor wire, or waste materials are prohibited in all zoning districts unless such materials have been recycled and reprocessed into new building materials that resemble the customary materials listed in (A), above.
- (2) Chain link fencing is prohibited in the Central Business District (CBD).

(C) Chain Link Fencing. Chain link fencing shall be allowed, subject to the following requirements:

- (1) Permitted in C1, C2, and GB commercial districts and M1 and M2 industrial districts, and along the side and rear yards of residential districts.

(D) Finished Side to Outside. Wherever walls and/or fences are installed the more “finished” side of the fence shall face the perimeter of the lot, rather than the interior of the lot.

Section 8-4-6. Maintenance.

- (A) All walls and/or fences shall be maintained in good repair and in a safe and attractive condition.
- (B) The owner of the property on which wall and/or fences are located shall be responsible for maintenance, including but not limited to, the replacement of missing, decayed, or broken structural and decorative elements.

Division 5. Parking and Loading.³⁵

Section 8-5-1. Purpose and Intent.³⁶

- (A) The purpose of this Division is to ensure efficient traffic flow and to reduce hazards to public safety by establishing standards for off-street parking and off-street loading areas. This Division is intended to:

³⁴ Editor’s Note: (6) was added per staff discussion.

³⁵ Editor’s Note: Reductions to parking requirements have been made where feasible as per discussion with staff.

³⁶ Editor’s Note: New Section to address the purpose of parking standards.

- (1) Ensure adequate parking is designed and constructed during the erection of all new structures and the modifications to existing structures;
- (2) Provide safe and convenient traffic flow and add to the beautification of the Town;
- (3) Provide for adequate but not excessive off-street parking and loading while accommodating alternative parking solutions for permanent, temporary, and seasonal demands;
- (4) Minimize the environmental impact of vehicular parking by avoiding excessive paved surface areas, applying appropriate minimum parking requirements, and encouraging the use of pervious parking surfacing; and
- (5) Support walking and bicycling in appropriate locations through the provision of bicycle parking.

Section 8-5-2. General.

- (A) Off-street parking and loading shall be provided in accordance with the requirements of this Division. For purposes of this Division, off-street parking shall mean an improved surface not in a street or alley.
- (1) Off-street parking shall not be required for non-residential uses in the CBD, with the exception of hotels, motels, event venues, and bed and breakfast establishments.³⁷
 - (2) Any residential use in the CBD may be exempted or granted reduced parking requirements by the Administrator in conjunction with Site Plan approval. The applicant shall demonstrate sufficient public parking availability during peak hours of operation.
 - (i) The total number of required off-street parking spaces as set forth in the schedule of parking requirements in Section 8-5-8 may be reduced by one (1) space for every 20 feet of lot frontage on a street to the extent that on-street parking is permitted along the same frontage. The Administrator shall determine if on-street parking is permitted along the said frontage used for this reduction.
- (B) Parking and loading spaces shall be provided at the time of the erection of any building or structure, not less than the amount of parking and/or loading space(s) given in Section 8-5-8 and Section 8-5-12.
- (C) Parking space(s) shall be maintained and shall not be encroached upon unless in conformance with Section 8-5-4 and Section 8-5-5, below.
- (D) Loading space(s), as required in Section 8-5-11 and Section 8-5-12, below, shall not be construed as supplying off-street parking.
- (E) Commercial trucks, utility trailers, and construction machinery or equipment.³⁸ No commercial truck or any utility trailer that exceeds 20 feet in length or seven (7) feet in height, as defined in Article 11, Definitions, shall be parked or stored outside of a completely enclosed building in an R1, R2, R3, or RPUD residential district, except while being used to perform a service on the premises. No construction machinery or equipment shall be parked or stored in a R1 or R2 residential district

³⁷ Editor's Note: "event venue" was added per staff discussion.

³⁸ Editor's Note: Provision from the Ordinance amendment dated June 13, 2022.

unless such machinery or equipment is incidental to construction activity occurring on the premises. Any permitted utility trailer must be parked or stored behind the building line of the primary structure.

- (F) Inoperative vehicles. The parking of more than five (5) inoperative vehicles must follow the requirements for junkyard in Article 7 of this Ordinance. The parking of less than five (5) inoperative vehicles must follow the requirements Chapter 62, Article III of the Code of the Town of Rocky Mount, Virginia.

Section 8-5-3. Obligations of Owner.³⁹

- (A) The requirements for off-street parking space(s) and off-street loading space(s) shall be a continuing obligation of the owner of the real estate for any structure or use located on the property, as long as such structure or use exists and is in operation.
- (B) It shall be unlawful for the owner of any structure or use affected by this Division to discontinue, change, dispense with, or cause the discontinuance or change of the required off-street parking or loading space, apart from the use of joint/shared or reduced off-street parking or loading space which meets the requirements of, and complies with, this Division.
- (C) It shall be unlawful for any firm or corporation to use such structure without acquiring such land or other suitable land for off-street parking or loading space(s) which meets the requirements of, and complies with, this Division.

Section 8-5-4. Location to Use.⁴⁰

- (A) All parking spaces required herein shall be located on the same lot with the building or principal use served;⁴¹ except that:
 - (1) A remote parking lot may be approved by the Administrator and shall:
 - (i) Be located and maintained within 500 feet of the principal building or use it serves;⁴² and
 - (ii) be established by a recorded covenant or agreement as parking space(s) to be used in conjunction with the principal building or use and shall be reserved as such through an encumbrance on the title of the property.
 - (iii) Have an existing sidewalk or improved pathway and permanent access easement.
 - 1. If none exists, the developer shall establish a sidewalk or improved pathway and permanent access easement that connects the parking to the use.

³⁹ Editor's Note: New Section.

⁴⁰ Editor's Note: This draft changes the provision in Article 7-2-2 of the existing Zoning Ordinance requiring parking in residential districts to be located on the same plot.

⁴¹ Editor's Note: This Section does not include the requirement in the existing Ordinance to measure along a public access.

⁴² Editor's Note: From Article 7-2 of the existing Ordinance.

Section 8-5-5. Joint/Shared Parking.⁴³

- (A) Required parking spaces can be used jointly by two (2) or more buildings, uses, or establishments, as provided below:
 - (1) The shared parking space(s) may be used to meet no more than 75% of the off-street parking requirement.
 - (2) The shared parking space(s) must be for those uses that the normal periods of peak use are different from the shared use.
 - (3) The use(s) for which parking is being shared shall be within 500 feet to be measured along sidewalks or improved permanent access easements.
- (B) In the case of mixed or joint uses of a building or premises having different peak parking demands, the parking spaces required may be reduced up to 50% if approved by the Administrator, in conjunction with Site Plan approval.
 - (1) In such instances, the applicants shall demonstrate that the periods of peak use are separated sufficiently, and shared parking spaces are available to all uses sharing them, to not cause a parking demand problem.
- (C) In the case of joint use of a building or premises by more than one (1) use having the same peak parking demand, the parking spaces required shall equal the sum of the requirements of the various uses computed separately.

Section 8-5-6. Reduction or Increase in Parking.

- (A) Reduction in Required Spaces. Off-street parking space(s) required under this Division may be reduced at a time when the capacity or use of a building is changed in such a manner that the new use or capacity would require less space than before the change.
- (B) Increase in Required Parking. Whenever a building or use is changed or enlarged in floor area, number of employees, number of dwelling units, seating capacity or otherwise, to create a need under the requirements of this Division for an increase in parking spaces of 10% or more, such additional spaces shall be provided on a basis of the change or enlargement.
 - (1) Parking increases shall not be circumvented by a series of changes that together would meet, or exceed, the 10% requirement.

Section 8-5-7. Parking Design Standards.⁴⁴

- (A) Surfacing.

⁴³ Editor's Note: Sections 8-5-5 and 8-5-6 are new, and intended to promote shared parking, which ultimately reduces empty and unused parking spaces.

⁴⁴ Editor's Note: This Section replaces Article 7 of the existing Ordinance. The information has been updated and rearranged with tables and new standards including pervious and semi-pervious materials, marking requirements, location, dimensions, handicap parking, landscaping, and fleet vehicles.

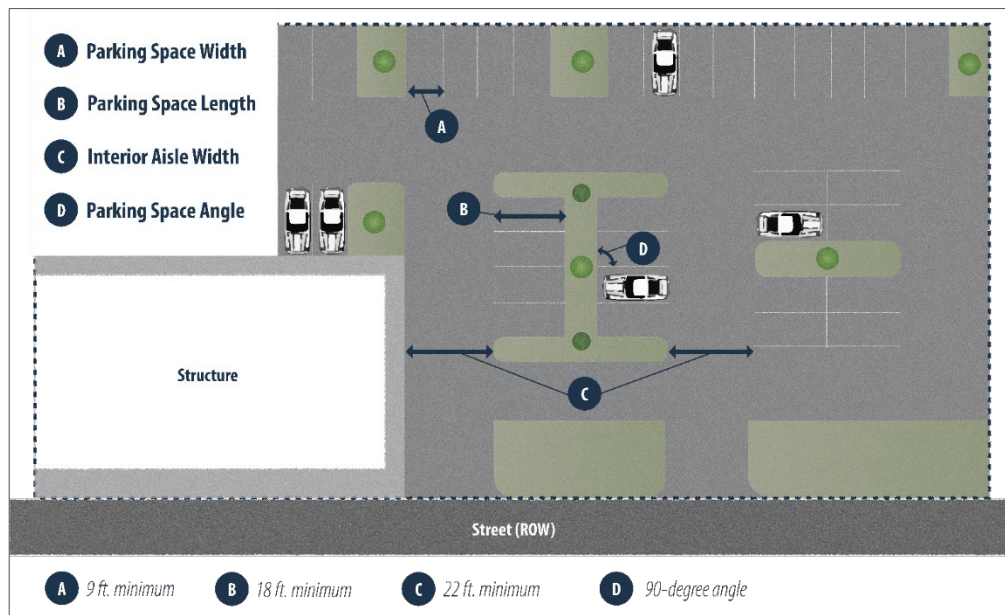
- (1) All parking areas shall have an improved surface to prevent soil erosion, abate dust, and provide an adequate driving surface.
 - (i) Improved surface shall mean concrete, asphalt, bituminous pavement, brick or stone pavers, or other hard, all-weather, dustless, permeable pavement system.
- (B) Pervious and Semi-Pervious Materials.
 - (1) The use of pervious or semi-pervious parking lot surfacing materials – including, but not limited to pervious asphalt and concrete, open joint pavers, and reinforced grass grids – may be approved for off-street parking and loading areas except on industrial and other sites where there is reasonable expectation that petroleum and other chemical products will be spilled, and provided such surfacing is subject to an on-going maintenance program (e.g., maintenance of upland and adjacent grassy areas, annual vacuuming).
 - (2) Any pervious or semi-pervious surfacing used for aisles within or driveways to parking and loading areas shall be certified by a design professional as capable of accommodating anticipated traffic loading stresses and maintenance impacts.
 - (3) Reinforced grass grid parking permitted under certain circumstances:
 - (i) Reinforced grass grid parking areas are permitted for the following:
 - 1. Uses that require ten (10) or fewer parking spaces.
 - (ii) All reinforced grass grid parking areas shall:
 - 1. Grass shall be maintained to height of no more than six (6) in. from grade.
 - 2. Grass shall be maintained in good condition with uniform grass coverage and free from rill or gully erosion.
 - 3. Travel ways shall be appropriately marked to maintain egress.
 - (iii) All reinforced grass grid parking areas:
 - 1. Cannot be permitted for any parking area that includes drive-through windows.
 - 2. Cannot be located in an existing or proposed landscaped area, stormwater management area, easement, or required yard.
 - (4) Gravel parking is permitted for parking lots of four (4) or fewer parking spaces.
- (C) Marking. For all paved parking areas, each parking space shall be marked by painted lines or curbs or other means to indicate individual spaces. Signs or markers shall be maintained to ensure efficient traffic operation on the lot.
 - (1) For reinforced grass grid, and gravel parking, spaces shall be marked by signage and wheel stops. Signage and wheel stops must be maintained.
- (D) Location. Off-street parking areas shall be located in such a way to reduce visual impact from the street or pedestrian view. The preferred location for off-street parking areas is to the rear of the structure it is associated with, or the side of the structure as an alternative; if it can be

demonstrated that the lot could not accommodate parking area(s) to the side or rear of the lot, the Administrator may waive this provision.

(E) Dimensions.⁴⁵

- (1) Parking Space Dimensions.⁴⁶ *See Figure 8 - 5.* Off-street parking spaces shall be a minimum width of nine (9) feet and a minimum length of 18 ft; or in the case of parking spaces for trucks, buses, or special equipment, parking spaces of a minimum size to be determined by the Administrator based on the nature of the parked vehicles.
 - (i) Where more than ten (10) spaces are required by this Ordinance, a maximum of 20% of the required spaces may be reduced to a minimum width of eight (8) feet and a minimum length of 16 feet, provided that such spaces are designated by appropriate signs as reserved for compact cars only.
- (2) Interior Aisles. *See Figure 8 - 5.* All aisles within parking areas shall have the following minimum widths:
 - (i) Parking spaces at a 90-degree angle: 22 feet.
 - (ii) Parking spaces at a 60-degree angle: 18 feet.
 - (iii) Parallel parking spaces: 15 feet.

Figure 8- 5. Parking Area Dimensions



Note: Figure 8-5 depicts 90-degree angled spaces only

⁴⁵ Editor's Note: Dimensions replaces Article 7-1-4 in the existing Ordinance.

⁴⁶ Editor's Note: Required size of parking spaces has been decreased slightly from the requirements in existing Article 7-1 per discussion with staff.

- (F) Handicap Accessible Parking. Every land use shall include the number of handicap accessible off-street parking spaces in accordance with the requirements of the Virginia Uniform Statewide Building Code. These parking spaces shall be included within the required amount of parking spaces, as provided in Table 8 – 5, Minimum Off-Street Parking Requirements.
- (G) Entrances and Exits.⁴⁷ The location and design of entrances and exits shall meet the VDOT traffic safety and design standards. In general, there shall not be more than one (1) entrance and one (1) exit or one (1) combined entrance and exit along any one (1) street.
- (H) Curb and gutter. Parking areas shall be constructed with VDOT standard CG-6 or CG-7 curb and gutter.
- (I) Separation from Walkways and Streets.
 - (1) Off-street parking spaces shall be separated from walkways, sidewalks, streets, or alleys by the required landscape buffer, a wall or fence, or curbing, as provided in Division 3, Landscaping and Screening, of this Article.
- (J) Drainage and Maintenance. Off-street parking areas shall be drained to eliminate standing water and prevent damage to abutting property and/or public streets and alleys. Off-street parking areas shall be maintained in a clean, orderly, and dust-free condition at the expense of the owner or lessee.
- (K) Lighting. Adequate lighting shall be provided in accordance with Division 2, Lighting, of this Article.
- (L) Landscaping. Whenever a parking area is located in or adjacent to a residential district, it shall be effectively landscaped in accordance with Division 3, Landscaping and Screening, of this Article. However, areas requiring natural air circulation, unobstructed view, or other technical considerations necessary for proper operation, may submit an alternative screening plan to be approved by the Administrator.
- (M) Fleet Vehicles.⁴⁸
 - (1) Whenever daily or overnight storage of fleet vehicles is proposed, these vehicles shall be screened or parked to block visibility from streets or adjacent properties; screening shall be in accordance with the requirements of Division 3, Landscaping and Screening, of this Article. These off-street parking spaces shall be identified on any approved Site Plan.
 - (2) Fleet vehicle parking shall be in accordance with Section 8-5-2 (E) of this Division.

Section 8-5-8. Schedule of Required Parking Spaces.

- (A) Except as otherwise provided in this Ordinance, when any building or structure is hereafter erected or structurally altered, or any building or structure hereafter erected is converted to another use, off-street parking space(s) shall be provided according to the requirements for individual uses in Table 8-5 Minimum Off-Street Parking Requirements.

⁴⁷ Editor's Note: Reworded from Article 10-2-3 of the existing Zoning Ordinance.

⁴⁸ Editor's Note: New item to help address staff comments about truck parking.

- (B) Where fractional spaces result, the parking spaces required shall be increased to be the next highest whole number.
- (C) Exemptions to off-street parking requirements are contained in Section 8-5-5 and Section 8-5-6, above.
- (D) The parking requirements in this Division are in addition to any other parking requirements contained in the district or use standards of this Ordinance.
- (E) The parking requirements in this Division do not limit additional requirements that may be imposed for approval of a Special Exception.
- (F) For residential uses, the total number of off-street parking spaces provided inside a private garage shall be calculated based on the intended design of the garage.
- (G) Except as otherwise provided, the number of employees shall be compiled based on the maximum number of persons employed on the premises at one (1) time, on an average day or average night, whichever is greater. Seasonal variations in employment may be recognized in determining an average day.
- (H) The parking space requirements for a use not specifically listed in the chart shall be the same as for a listed use of similar characteristics of parking demand generation, as determined by the Administrator.
- (I) In order to minimize the adverse impacts caused by improving large areas with impervious surfaces, including increased storm water run-off, urban heat island effects, and nonpoint source pollution, the total number of parking spaces serving a use may not exceed the minimum parking standards in Table 8.5 Minimum Off-Street Parking Requirements by more than 20%, unless one of the following apply:⁴⁹
 - (1) Any spaces in excess of 20% of the minimum number required are located in a structured parking facility; or
 - (2) A Landscape Plan that provides additional pervious landscape surfaces and increases stormwater filtration has been reviewed and approved by the Administrator; or
 - (3) The applicant for the project shall apply and receive approval through a Special Exception.

⁴⁹ Editor's Note: New provision of maximum parking limits to reduce amount of land used for parking.

Table 8-5. Minimum Off-Street Parking Requirements

Use(s)		Minimum Number of Required Spaces
Residential Uses		
Bed and Breakfast		1 per bedroom
Dwelling	Manufactured; Single-Unit; Town house; Two-Unit	2 per dwelling unit ⁵⁰
Dwelling Multi-Unit	0 – 1 bedroom	1 per unit, plus 1 visitor space per 5 units
	2 bedrooms	1.5 per unit, plus 1 visitor space per 5 units
	3+ bedrooms	2.0 per unit, plus 1 visitor space per 5 units
Family Day Home (1-4 children)		1, plus residential requirement
Adult Day Care Center; Family Day Home (5-12 children)		3, plus residential requirement
Group Home (Large and Small); Life Care Facility		1 per 4 residents, plus 1 per 2 employees
Manufactured Home Park		2 per dwelling unit
Shelter, Residential		1 per 500 sq. ft.
Public, Civic, and Recreational		
Club		1 space per 10 persons based on maximum occupancy ⁵¹
Community/Cultural Center		1 per 500 sq. ft. of floor area, plus 1 per employee on largest shift ⁵²
Education Facility, College, University, Business, or Trade		1 per employee on largest shift, plus 1 per 10 full-time students ⁵³
Education Facility, Primary or Secondary		1 per each employee on largest shift, plus 1 for each 10 seats in the largest assembly room ⁵⁴
Public Parks and Recreation; Recreational Facility, Noncommercial		1 per 4 visitors at peak service
Recreation Facility, Neighborhood		1 per 5 members, based on the design capacity of the facility
Religious Assembly		1 per 10 fixed seats in main assembly area, <i>or</i> 10 per 500 sq. ft. of assembly floor space without fixed seating ⁵⁵
Commercial Uses		
Adult Use; Construction Material Sales;		1 per 400 sq. ft. of floor area ⁵⁶

⁵⁰ Editor's Note: Changed from one to two spaces per Jan. 23, 2025 worksession decision.

⁵¹ Editor's Note: Changed from administrative decision to specific requirements.

⁵² Editor's Note: Changed from administrative decision to specific requirements.

⁵³ Editor's Note: Changed from administrative decision to specific requirements.

⁵⁴ Editor's Note: Changed from administrative decision to specific requirements.

⁵⁵ Editor's Note: Changed from 1 per 5 seats to 1 per 10 for fixed; added without fixed.

⁵⁶ Editor's Note: New requirements and grouping.

Use(s)	Minimum Number of Required Spaces
Garden Center; Store, Large and Small;	
Animal Shelter; Kennel, Commercial; Veterinary Hospital/Clinic	1 per 400 sq. ft. of floor area ⁵⁷
Automobile Sales and Rental	2 spaces per 1,000 sq. ft. of sales area. ⁵⁸
Automobile Service, Major and Minor; Car Wash; Gas Station	3 per bay, stall, rack, or pit, plus 1 per gasoline pump; minimum 5 spaces ⁵⁹
Brewery, Distillery, or Winery; Micro- Brewery, Distillery, or Winery	1 per 150 sq. ft. of food beverage preparation and consumption area, plus 1 per 800 sq. ft. of operations
Business Support Services; Consumer Repair Services; Personal Improvement Services; Personal Services	1 per 500 sq. ft. of floor area
Commercial Laundry; Construction Material Sales;	1 per 500 sq. ft.
Day Care Center	1 per employee on largest shift, plus 1 per 10 children; plus an unobstructed pick-up space with a stacking area for 8 vehicles
Equipment Sales, Service, and Repair (Heavy)	1 per 1,500 sq. ft. of display area, plus 3 per bay/stall
Event Venue	10 per 1,000 sq. ft. of floor
Farmer's Market; Outdoor Sales, Seasonal/Temporary	6, plus 1 per 250 sq. ft.
Financial Institution	1 per 500 sq. ft. of floor area ⁶⁰
Funeral Home	1 per 100 sq. ft. of main assembly area; 30 spaces minimum ⁶¹
Hospital	1 per 3 patient beds ⁶²
Hotel	1 per guest room or unit, plus required parking for any additional uses on site (restaurant, event venue, etc.) ⁶³

⁵⁷ Editor's Note: Changed from administrative decision to specific requirements.

⁵⁸ Editor's Note: Reduced from 4 to 2.

⁵⁹ Editor's Note: Changed from administrative decision to specific requirements.

⁶⁰ Editor's Note: Changed from 200 to 500 sq. ft.

⁶¹ Editor's Note: Reduced minimum from 40 to 30; changed additional parking to be based on square footage instead of administrative decision.

⁶² Editor's Note: Reduced from 1 per 2 beds.

⁶³ Editor's Note: Added parking for additional uses.

Use(s)	Minimum Number of Required Spaces
Medical Treatment Facility; Office, General; Office, Medical/Clinic;	1 per 400 sq. ft. of floor area; 10 spaces minimum for a clinic ⁶⁴
Recreation/Entertainment, Commercial Indoor	1 per 3 persons based on maximum occupancy, plus 1 per employee on largest shift ⁶⁵
Recreation/Entertainment, Commercial Outdoor	<i>A facility with fixed seating:</i> 1 per 3 seats, plus 1 per employee on maximum working shift ⁶⁶ <i>A facility without fixed seating:</i> 1 space per 300 sq. ft. of floor area of enclosed buildings, plus 1 space for every 3 persons that the outdoor facilities are designed to accommodate when used to the maximum capacity
Restaurant, General	1 per 150 sq. ft. of floor space, including outside seating ⁶⁷
Self-Storage Facility	1 per 5 rental units, plus 1 for each employee, plus 1 for manager/operator
Tradesperson Service	2, plus 1 per employee on maximum working shift
Industrial Uses	
Construction Yard; Laboratory, Research, and Development; Manufacturing, Heavy; Manufacturing, Light; Manufacturing, Small Scale	1 per employee on maximum working shift
Laboratory, Research, and Development; Manufacturing, Heavy; Truck/Freight Terminal; Warehousing and Distribution	1 per 1,000 sq. ft. <i>or</i> 1 per employee on maximum working shift
Miscellaneous Uses	
Mixed use structure	1 per 250 sq. ft. of commercial floor area, plus 1 space per dwelling unit

Section 8-5-9. Bicycle Parking.⁶⁸

(A) When Required. Bicycle parking shall be required for the following:

⁶⁴ Editor's Note: Changed from based on number of practitioners to square footage.

⁶⁵ Editor's Note: Changed from administrative decision to specific requirements.

⁶⁶ Editor's Note: Increased to include employee parking.

⁶⁷ Editor's Note: Changed form 1 per 100 to 1 per 150.

⁶⁸ Editor's Note: New provision to require bicycle parking.

- (1) All commercial developments in the CBD, C1, C2, and GB districts requiring 25 or more vehicle parking spaces;⁶⁹ and
 - (2) All multi-unit developments.
- (B) Required Spaces.
- (1) Bicycle parking shall include four (4) spaces for the first 25 required off-street parking spaces, as shown in Table 8 – 5, Minimum Off-Street Parking Requirements, above. Each additional 50 parking spaces shall require one (1) additional bicycle space.
 - (2) The minimum number of bicycle parking spaces provided at each site shall be four (4) and the maximum shall be 20.
- (C) Standards.
- (1) A bicycle parking rack shall be installed to secure bicycles within the bicycle parking area.
 - (2) Each rack must:
 - (i) Allow for the securing of the frame and at least one (1) wheel of a bicycle in a bicycle parking space to the rack with an industry-standard U-shaped bike lock;
 - (ii) Provide each bicycle parking space with support for a bicycle in a stable position with direct support to the bicycle frame;
 - (iii) Be securely anchored to the ground or to a structural element of a building or structure; and
 - (iv) Be constructed of materials designed to withstand cutting, severe weather, and permanent exposure to the elements, such as powder-coated steel or stainless steel.
 - (3) Bicycle parking must be visible from the main entrance of the building it serves, unless the Administrator determines that another location provides better security for users.
 - (4) The location of the bicycle parking area, when fully occupied, shall not obstruct any pedestrian way and a five (5) feet wide pedestrian path shall be maintained at all times.
 - (5) A bicycle parking area may not be located in any minimum front, side, or rear setbacks, or required landscaping or transitional buffer.

Section 8-5-10. Joint/Shared Off-Street Loading.⁷⁰

Where a building is used for more than one (1) use, and where the floor area used for each use for which loading space is required is below the minimum for required loading spaces, but the aggregate floor area used is greater than such minimum, then off-street loading space shall be provided as if the entire building were used for the use in the building for which the most spaces are required. In such cases, the Administrator may make reasonable requirements for the location of required loading.

⁶⁹ Editor's Note: "Vehicle" was added for clarification as a result of the Jan. 23, 2024 worksession.

⁷⁰ Editor's Note: New provision to provide off-street loading.

Section 8-5-11. Off-Street Loading Design Standards.⁷¹

- (A) Minimum Size. For the purpose of the regulations of this Division, a loading space is a space within the main building or on the same lot providing for the standing, loading, or unloading of trucks, and having a minimum width of ten (10) feet, a minimum length of 25 feet, and a vertical clearance of at least 15 feet.
- (B) Location. All required off-street loading areas shall be located on the same lot as the use served and shall not obstruct required off-street parking spaces, any public street, or any fire lane or emergency access route during the loading or unloading of vehicles. All loading spaces shall be located only within side or rear yards, or shall be screened from view of the public right of way.
- (C) Surfacing. All loading areas shall have an improved surface to prevent soil erosion, abate dust, and provide an adequate driving surface.
- (D) Screening. Whenever an off-street loading area is located in or adjacent to a residential district, it shall be effectively screened in accordance with Division 3, Landscaping and Screening, of this Article. However, areas requiring natural air circulation, unobstructed view, or other technical considerations necessary for proper operation, may submit a screening plan to be approved by the Administrator.
- (E) Entrances and Exits. Location and design of entrances and exits shall be in accordance with VDOT traffic safety and design standards.
 - (1) Where the entrance or exit of a building is designed for truck loading and unloading, such entrance or exit shall be designed to provide at least one (1) off-street loading space.
 - (2) Where an off-street loading space is to be approached directly from a major thoroughfare, necessary maneuvering space shall be provided on the lot without impeding the public-right-of-way or any parking space or parking lot aisle.

Section 8-5-12. Schedule of Required Off-Street Loading Spaces.⁷²

- (A) Except as otherwise provided in this Ordinance, when any building or structure is hereafter erected, enlarged, or increased in capacity to the extent of increasing the floor area by 50% or more, or any building is hereafter converted, for the uses and floor areas listed below, accessory off-street loading spaces shall be provided as required in Table 8 – 6, Minimum Off-Street Loading Requirements, below.
- (B) Space allocated to any off-street loading use shall not be used to satisfy the space requirements for any off-street parking area or portion thereof.
- (C) The loading space requirements in this Division do not limit other loading requirements contained in the district or use standards of this Ordinance.
- (D) The loading space requirements in this Division do not limit additional requirements that may be imposed in connection with uses permitted by approval of a Special Exception.

⁷¹ Editor's Note: New provision to provide off-street loading design standards.

⁷² Editor's Note: New provision for off-street loading spaces.

Table 8-6. Minimum Off-Street Loading Requirements

Use(s)	Floor Area (in sq. ft.)	Loading Space(s) Required
All Commercial and Industrial; Dwelling, Multi-Unit	0 - 1,500	0
	1,501 - 15,000	1
	15,001 – 100,000	1 space, plus 1 space for each 15,000 sq. ft.
	100,000 – 200,000	3 spaces, plus 1 space for each 40,000 sq. ft. in excess of 100,000 sq. ft.

Division 6. Public Streets, Bikeways, and Sidewalks.⁷³

Section 8-6-1. Purpose and Intent.

The purpose of this Division is to ensure adequate and safe pedestrian and vehicular improvements and connectivity for subdivisions and development. It will provide uniform standards for development whether submitting a site plan or plat.

Section 8-6-2. Applicability.

Required improvements shall apply to all subdivisions and developments requiring submittal of site plans, unless granted a waiver if necessary to meet stormwater quality requirements on sites greater than one (1) acre.⁷⁴

Section 8-6-3. General.

(A) Subject to all other applicable provisions of this section, the following street improvements shall be installed and provided by the developer and shall be dedicated to the Town:

- (1) Cross drains and catch basins.
- (2) Curbs and gutters.
- (3) Street paving.
- (4) Street name signs.
- (5) Traffic signalization.

Section 8-6-4. Standards.

(A) Alleys in subdivisions. When new alleys are proposed for a subdivision, or when the improvement of existing alleys is proposed, the following standards shall apply:

- (1) Frontage on an alley shall not be construed to satisfy any lot frontage requirements.
- (2) Alleys shall be maintained and perpetuated by a duly constituted property owners' association and notations to this effect shall be clearly indicated on the face of the record plat.

⁷³ Editor's Note: The provisions in this Division are from the existing Zoning and Subdivision Ordinances, unless otherwise noted.

⁷⁴ Editor's Note: From existing Ordinance 10-2-1, text has been reorganized into Applicability and General sections.

- (3) Alleys shall be designed to minimize⁷⁵ the potential for through traffic.
 - (4) Alleys shall have a minimum paved or sealed surface width of ten (10) feet. New alleys shall have a minimum right-of-way width of 15 feet.⁷⁶
 - (5) Alleys to serve single-unit residential uses shall have chip and seal surface. Alleys to serve developments of greater intensity than single-unit residential uses shall have an asphalt surface constructed in accordance with Section 8-6-4 (F) below.
 - (6) Sight distances that comply with VDOT standards shall be provided at intersections with public streets. Alleys shall be built with a minimum pavement edge radius of 25 feet at their intersections with public streets.
 - (7) Alleys shall not dead end. Alleys shall end in an intersection with a public street, or in a cul-de-sac constructed to comply with the standards of Section 8-6-4 (G) (12) below.
 - (8) Alley length shall not exceed 1,000 feet without an intersecting street.
- (B) Bicycle infrastructure.
- (1) Bicycle lanes.⁷⁷ All proposed collector and arterial streets within a subdivision shall be constructed with bicycle lanes, except where an off-road bikeway, shared use path, multiuse trail, or sidewalk⁷⁸ is provided as an alternative and dedicated to the Town as provided in E (1) below. The bike lane width and intersection configuration shall meet current VDOT standards.
 - (2) Bikeways, shared use paths, or multiuse trails.⁷⁹
 - (i) Where a proposed subdivision fronts on a street or includes an area which is designated as a potential bikeway in the Comprehensive Plan, the developer may construct a bikeway to Town standards and dedicate the bikeway right-of-way to the Town for use as a public right-of-way.
 - (ii) Location of bikeways. The location of the bikeway route shall be determined by the Agent in consultation with the developer and appropriate departments of the Town. The bikeway route shall be placed so as to take into consideration the topography of the route, visibility, safe grades and curves for recreational use.
 - (iii) Access to future bikeway rights-of-way. The Agent or Planning Commission may require the reservation and development of rights-of-way for additional bikeways in new subdivisions where such routes are necessary for access to routes shown in the Comprehensive Plan or bikeways plan.
 - (iv) Bikeways construction and design standards.⁸⁰

⁷⁵ Editor's Note: Removed "or eliminate."

⁷⁶ Editor's Note: Reduce width from 20 feet to 15 feet to facilitate residential development.

⁷⁷ Editor's Note: Changed "may be constructed" to "shall be constructed," and added "except where an off-road bikeway is provided as an alternative and dedicated to the Town as in E (1) below."

⁷⁸ Editor's Note: "...off-road bikeway, shared use path, multiuse trail, or sidewalk..." was added per Jan. 23, 2024 worksession decision.

⁷⁹ Editor's Note: "Multiuse Trail" has been added per state code and VDOT standards language.

⁸⁰ Editor's Note: This item from the existing Ordinance Appendix B Section 8-5 was researched and is based on a comparison locality ordinance.

1. Bikeways shall be constructed of a minimum pavement section of 4" 21B aggregate and 1 ½" SM2A asphalt.
2. Bikeways shall be designed to minimize segments of trail where the slope exceeds eight percent (8%), to allow for handicap access. Where the slope exceeds eight percent (8%), pull-offs are required every 100 feet and a profile of the bikeway shall be submitted.
3. Culvert crossings shall be provided where the bikeway crosses an existing or proposed drainageway so as to eliminate flow across the trail. The Agent may waive this requirement where the flow across the trail is deemed insignificant, for example, less than one (1) cubic foot per second.
4. Minimum pavement width for bikeways is eight (8) feet with one(1) -foot clear shoulder on each side, provided that for any bikeway that is designated as an "arterial," the minimum paved width shall be ten (10) feet.
5. Landings at road crossings shall be not more than two percent (2%) grade for a distance of 15 feet measured from the edge of the street pavement.
6. Where the bikeway meets the curb, a handicap ramp shall be provided and approved by VDOT.
7. A minimum four-foot grass strip separation shall be maintained between the back of the curb and the asphalt bikeway. Where there is no curb between the asphalt walkway and the street, the bikeway shall be placed beyond the road shoulder and roadside ditch. Minimum separation in this case shall be as approved by the Agent or Planning Commission.

(C) Driveways.

- (1) A maximum of two (2) driveway entrances per lot is permitted for single-unit dwellings and two-unit dwellings. The curb cut shall be a minimum of 12 feet in width and a maximum of 20 feet in width at the right-of-way line. Curb cuts on the same lot shall be separated by a minimum of 40 feet, measured from centerline to centerline.
- (2) All commercial entrances constructed from a new or existing street or road shall be in accordance with the "Minimum Standards of Entrances to State Highways" of the VDOT, as amended, incorporated by reference except as these may be varied by this section.
- (3) On local and collector streets, driveways shall be no closer than 40 feet to an intersection with a public street.

(D) On arterial streets, driveways shall be no closer than 75 feet to an intersection with a public street. This dimension may be reduced by the Agent or Planning Commission for lots without access to collector or local streets and whereby reason of topography, sight distance or other similar considerations the 75-foot dimension is not feasible.

(E) Sidewalks and walkways. When sidewalks are required the following standards shall apply.⁸¹

⁸¹ Editor's Note: "When sidewalks are required the following standards shall apply:" was added for clarity as a result of the Jan. 23, 2024 worksession discussion.

- (1) Dedication of sidewalks. If the planned sidewalk is not currently within the Town right-of-way, the owner shall dedicate fee simple title of the area from the sidewalk to the right-of-way to the Town.
 - (2) Sidewalks shall be provided by the developer on all boundaries adjacent to the public right-of-way.
 - (3) Sidewalks shall be placed so as to provide for eventual continuation with future sidewalks in the vicinity of the site.
 - (4) Sidewalks shall be constructed of concrete and shall be a minimum of five (5) feet in width. A minimum two-foot planting strip is required between the curb and sidewalk for pedestrian/vehicle separation and to provide for mailbox and utility service placement.
 - (5) Sidewalk materials and specifications shall meet current VDOT standards.
- (F) Street design. For design standards not explicitly set forth herein, VDOT standards shall apply.
- (1) Private streets. Private streets shall not be allowed, nor shall there be private reserve strips controlling access to the street. This section shall not preclude the approval of parking lots and access drives for parking lots serving Town house, attached housing, or multi-unit dwellings.
 - (2) Dedication of streets. The developer shall make provision for the dedication to the Town of proposed street extensions as set forth in the Comprehensive Plan or in other formal documents approved by the Planning Commission and Town Council and for the dedication to the Town of the fee simple title to land for other proposed streets in the subdivision.
 - (3) Street grades may not exceed ten percent (10%),⁸² nor be less than half percent (0.5%) except as expressly approved by the Administrator.
 - (4) Street intersections shall provide landings of not more than five percent (5%) grade for a distance of 100 feet.⁸³
 - (5) All streets shall be constructed with VDOT standard CG-6 or CG-7 curb and gutter and be a minimum of 30 feet in width, as measured from face of curb to face of curb, or greater based upon projected traffic generation by the development.
 - (6) Street intersections and entrances shall be designed to provide a minimum VDOT stopping sight distance.⁸⁴
 - (7) Street pavement sections shall meet VDOT pavement design guidelines based upon a California Bearing Ratio (CBR) of ten. During construction, prior to subgrade approval by the Town, CBR test results must be provided to the Town, one (1) per 400 feet of proposed roadway, or a

⁸² Editor's Note: The existing Zoning Ordinance states that street grades may not exceed 12%, while the Subdivision Ordinance states 10%. Recommend 10% based on a comparison of similar localities.

⁸³ Editor's Note: The existing Zoning Ordinance states that street intersection landings may not exceed 2% for a distance of 50 ft., while the Subdivision Ordinance states 5% and 100 feet Recommend using the Subdivision standard based on a comparison of similar localities.

⁸⁴ Editor's Note: Wording matches the existing Zoning Ordinance. The following from the Subdivision Ordinance was not included: "Street intersections shall be designed so as to provide a minimum stopping sight distance of ten (10) times the posted speed limit of the street."

- minimum of three (3) CBRs per subdivision. Pavement design based upon the actual CBRs shall be provided by a professional engineer.
- (8) All entrances and curb cuts to the development shall be provided by the developer in accordance with the standards of the "Minimum Standards of Entrances to State Highways," latest edition, published by VDOT.
- (9) The developer shall provide curb cut ramps for handicap access at each intersection or entrance regardless of whether a sidewalk is installed at that location.
- (10) Widening of highways and streets. Whenever plans for the widening of any street or highway, approved by either the Virginia Department of Transportation or Town Council, additional front yard setbacks may be required for any new construction, addition, or relocation of structures adjacent to the future planned right-of-way in order to preserve and protect the right-of-way for such proposed street or highway widening or planned improvement.
- (11) Access to and from adjoining property.
- (i) Where it is necessary for the orderly extension of the Town's transportation system to provide for street access to adjoining property, proposed streets shall be extended by dedication to the boundary line of such property. Half streets along the boundary of land proposed for subdivision are not permitted.
 - (ii) The developer enjoys the right to tie into and access adjoining, existing streets under the guidelines and conditions of this Division.
- (12) Approach angle. All streets shall approach the major or collector streets at an angle of not less than 80 degrees unless the Agent or Planning Commission, by variance shall approve a lesser angle of approach for reasons of contour, terrain, or matching existing patterns.
- (13) Coordination of streets with existing streets.
- (i) The arrangement of streets in any new subdivision shall make provision for the continuation of existing streets in adjoining areas where streets already exist. Major, collector, and local streets shall be respectively extended as such. The street arrangement must be such as to cause no unnecessary hardship to owners of adjoining property when the developers plat their land and seek to provide for convenient vehicle access to it.
 - (ii) Access points to and from the subdivision and the arrangement of streets within the proposed subdivision and their relationship to adjoining, existing streets shall be such as to minimize the effects of traffic, noise, light, and danger to pedestrians and children caused by vehicular traffic to and from the proposed subdivision.
- (14) Cul-de-sacs. Cul-de-sacs are permitted only in residential subdivisions.
- (i) A permanent cul-de-sac shall not be longer than 900 feet, including the turnaround. The paved area of the bulb turnaround at the end of the cul-de-sac shall be a minimum of 90 feet in diameter. In lieu of a bulb cul-de-sac, the Agent or Planning Commission may permit a "T" or a "Y" cul-de-sac.
 - (ii) Pavement on "T" turnarounds shall be at least 40 feet long and 20 feet wide, which does not include the 30 feet of roadway width at the "T."

- (iii) Pavement at a "Y" turnaround shall be at least 20 feet wide and each leg shall be 40 feet long, and the radius and angle shall be adequate to permit vehicles to turn around on the paved surface.
- (15) Rights-of-way at turnarounds and cul-de-sacs shall be at least five (5) feet beyond the edge of the pavement or the back of the curve.
- (16) Minimum right-of-way widths.
 - (i) The minimum right-of-way width of proposed streets shall be 50 feet.
 - (ii) If the existing streets within a subdivision are not 50 feet in width, the developer shall dedicate by subdivision plat so that such streets will meet the standards of this section.
 - (iii) If the existing streets abutting a subdivision are not 50 feet in width, and if the need for additional right-of-way width is generated, in whole or in part, by the proposed subdivision, the developer shall dedicate by subdivision plat additional right-of-way so that such streets will have a width of 25 feet from the center line where the street abuts the subdivided parcel.
 - (iv) The Agent may require additional right-of-way width where VDOT standards for the traffic generated by a subdivision require additional width.
- (17) Traffic control devices. The developer shall install traffic control devices within a subdivision and where subdivision streets connect with existing streets in accordance with Manual of Uniform Traffic Control Devices standards.
- (18) Turn lanes. Turn lanes shall be provided on all streets adjacent to and within a subdivision where warranted by the standards of the "Minimum Standards of Entrances to State Highways," latest edition, published by VDOT.
- (G) Streetlights.
 - (1) Streetlights shall be provided on all dedicated streets except "local" streets as defined by VDOT. The street light layout shall be per Illumination Engineering Society Standards.
 - (i) Streetlights shall be provided on all collector and arterial streets.
 - (2) The Town will submit the lighting plan to the electric utility company for cost estimate for installation. The cost provided the Town will be per current contracts between the Town and the electric service provider. The installation cost shall be paid 50% by the developer and 50% by the Town. The cost of providing streetlights on local streets will not be shared by the Town.
 - (i) Subdivisions. Payment is required or a security for payment provided to the Town, prior to subdivision plat approval.
 - (ii) Other development. Payment required or a security for payment provided to the Town, upon site plan approval.
- (H) Street names and signs.
 - (1) Street names shall be indicated on the preliminary and final plats and shall be approved by the Administrator. Proposed streets that are in alignment with other streets already existing and named shall bear the name of the existing street. In no case shall the name of the proposed streets duplicate or be similar, literally or phonetically, to existing street names, regardless of

the use of the terms street, avenue, boulevard, driveway, place, lane, or court. Names of existing streets shall not be changed except by the approval of Town Council.

- (2) Required street name signs shall be provided by and installed by the developer. Once the streets have been accepted for maintenance by the Town, the Town will maintain all standard signs.
- (I) Street trees. Street trees shall be provided along all collector and arterial streets within or adjacent to a proposed subdivision or development in accordance with Section 8-3-8 of this Article.
- (J) Traffic signalization. The developer shall provide traffic signalization if the development causes the need for new traffic control devices and these devices shall be installed in accordance with the Manual of Uniform Traffic Control Devices Standards.

Section 8-6-5. Inspections

- (A) Street inspections. The developer is responsible for contacting the Agent 48 hours prior to required inspections. Base stone shall not be installed until the subgrade has been approved by the Agent. No asphalt pavement shall be installed until the base stone has been inspected and approved by the Agent. The Agent may require compaction tests in areas suspected of inadequate compaction and may require undercutting and additional tests in areas that appear deficient during proof-rolling.
- (B) Monuments visible for inspection. Upon completion of subdivision streets, sewers, and other improvements, the developer shall install at their expense all monuments required by the Agent or Planning Commission. Such monuments shall be clearly visible and shall be inspected and approved by the Agent before any improvements are accepted by the governing body.

Division 7. Utilities⁸⁵

Section 8-7-1. Purpose and Intent.⁸⁶

- (A) The purpose of this Division is to protect the public health, safety, and welfare of the Town and the environment through:
 - (1) Ensuring that the location and design of private wells and on-site sewage disposal systems are built to sustain and protect natural resources and are in compliance with all other local and State regulations.
 - (2) Providing for the orderly extension of water and sewer, stormwater facilities, and other utility services in a safe, adequate, and efficient manner.

Section 8-7-2. Applicability.⁸⁷

- (A) The requirements of this Division shall apply to all new water and sewer systems, stormwater management, and other utilities and any voluntary upgrades, enhancements, or physical additions/expansions to existing systems.

⁸⁵ Editor's Note: This Division consolidates provisions from both the existing Zoning Ordinance and Subdivision Ordinance.

⁸⁶ Editor's Note: New Section.

⁸⁷ Editor's Note: New Section.

- (B) Connection required. Connection to public sewer and water shall be in accordance with Part II, Chapter 58, Article II Disposal of wastewater generally, and Article X Water systems generally, of the Code of the Town of Rocky Mount.
- (C) Exemptions.
 - (1) Properties in the Residential Agriculture (RA) district that, with approval by the Health Official, use a private well and on-site sewage disposal system.
 - (2) The repair of a previously permitted on-site sewage disposal system or the replacement of an existing private well shall be in accordance with Part II, Chapter 58, Article II Disposal of wastewater generally, and Article X Water systems generally, of the Code of the Town of Rocky Mount.⁸⁸
 - (3) Additions to buildings or uses which do not result in an increase of greater than ten percent (10%) of the floor area of a building and where the number of required parking spaces is increased no more than six (6) spaces are exempt from Section 8-7-6 Stormwater requirements.

Section 8-7-3. Easements.

Sewer, water, and drainage easements at least 20 feet in width shall be noted on site plans and plats, and dedicated to the Town for necessary improvements. Such easements, other utility easements, and stormwater management easements shall follow the requirements of Article 10, Subdivisions.

Section 8-7-4. Water Standards.

- (A) Public water required. The developer shall install the public water distribution system within the development, including water mains, service lateral through the curb line for each user, and fire hydrants, and upon its completion, shall dedicate and convey title to the water distribution system to the Town.
 - (1) Subdivisions.⁸⁹ If public water facilities are reasonably available to serve the proposed subdivision, but inadequate capacity as determined by the Agent exists, the developer shall at his expense upgrade the public water mains or facilities to provide the additional capacity. Adequate capacity shall be determined as enabling 1,000 gallons per minute fire flow to be attained at the critical hydrant as determined by the Agent, without dropping residual pressures elsewhere within the public water system to or below 20 pounds per square inch.
- (B) Construction and design standards.
 - (1) Public water system design and construction shall be in accordance with Part II, Chapter 58, Article X, Water system generally, of the Code of the Town of Rocky Mount.
 - (2) Water mains shall be looped within or through the development or terminated with a fire hydrant or blow-off.

⁸⁸ Editor's Note: Connection requirement was changed to rely on Town Code. The Town may need to add a provision for repairs to previously permitted systems and well replacements, or require connection instead of repairs and replacements.

⁸⁹ Editor's Note: Recommend removing Section 8-7-4 (A) (1) Subdivisions. from the Zoning Ordinance and placing the provision in Part II, Chapter 58, Article X.

- (3) Each user or tenant shall be required to have a separate water meter.
 - (i) Subdivisions. Water meters shall be located on a lot corner remote from the electric service.
- (4) Placement of water laterals.⁹⁰ Public water shall be designed and constructed to be available to each lot, such that individual laterals shall not extend across lots to the served lot.

Section 8-7-5. Sewer Standards.

(A) Sanitary sewer required.

- (1) The developer shall install the sanitary sewer system within the development, in accordance with the standards of this Division, and upon its completion, shall dedicate and convey ownership of the sanitary sewer system to the Town.
- (2) Sanitary sewerage facilities shall connect with public sanitary sewerage systems.
 - (i) Subdivisions. If public sanitary sewerage facilities are reasonably available to serve the proposed subdivision but inadequate capacity, as determined by the Agent, if such facilities exist, the developer shall at his expense upgrade the sanitary sewerage lines or facilities to provide the additional capacity. The Agent shall evaluate the downstream sewer system to the point where the flow contributed by the subdivision is less than one percent (1%) of the flow in the system.
- (3) The sanitary sewerage plan shall include calculations of the amount of sanitary flow to be discharged from the subdivision or development upon complete occupancy of the site.

(B) Construction and design of sanitary sewer.

- (1) The sanitary sewer shall be designed and constructed to serve by gravity the lowest floor elevation of proposed structures on all lots.
- (2) Private grinder pumps or pump stations shall not be permitted unless expressly approved by the Administrator. Considerations to be used in this variance evaluation shall be the engineering feasibility of providing gravity sewer to the structure, and the cause of the request.
- (3) Basements without interior access, which are not intended for habitation may be constructed without sewer service. However, in no case shall private grinder pumps be permitted to provide sewer service to such basements.
- (4) Public sewer shall be designed and constructed to be available to each lot, such that individual laterals shall not extend across lots to the served lot.
- (5) Sewer design and construction shall be in accordance with town sanitary sewer specifications, incorporated herein.

Section 8-7-6. Stormwater Standards.

(A) Stormwater management required.

- (1) The developer shall design and construct stormwater management facilities for the development. The design shall include, but not be limited to, an analysis of:

⁹⁰ Editor's Note: This provision from the Subdivision Ordinance is proposed to be standard for all development.

- (i) Proposed stormwater drainage facilities;
 - (ii) Pre- or post-development stormwater runoff calculations;
 - (iii) Impacts on downstream properties;
 - (iv) Impacts upon downstream stormwater management facilities; and
 - (v) Existing and potential runoff from upstream drainage areas.
- (2) All designs for stormwater management shall be in accordance with professionally accepted hydraulic engineering practices, the Virginia Erosion and Sediment Control Handbook or any later, comparable source, the Town of Rocky Mount Erosion and Sediment Control Ordinance, and formal stormwater policies of the Town.
- (3) The developer shall install the stormwater management system, including detention facilities. Where a proposed development includes more than one (1) lot, a common stormwater management system, serving all of the lots in the development, shall be provided, unless otherwise approved by the Town.
- (4) Each phase of a phased subdivision shall demonstrate compliance with these stormwater management regulations.
- (B) Capacity standards for stormwater management facilities.
 - (1) All erosion and sediment control and stormwater control measures must be in accordance with County and State regulations.⁹¹
- (C) Regional stormwater management plans and facilities. When a subdivision is located partially or wholly within an area for which a regional stormwater management plan has been adopted by Town Council, the developer shall share in the cost of downstream regional facilities, per the terms of Article 10, Section 10-8, Vacation of plats.
- (D) Use of watercourses and low-lying lands except as needed and approved for access and entrance.
 - (1) Watercourses that drain 100 acres or more shall be preserved in their natural state as drainage ways.
 - (2) Low-lying lands along such watercourses, subject to flooding during a 100-year storm or more frequently, shall be preserved in their natural state as drainage ways.
 - (3) The developer shall retain natural drainage patterns and routes. The transfer of stormwater from one (1) natural basin to another shall not be permitted.
- (E) Maintenance of stormwater management facilities.
 - (1) Stormwater management facilities serving a development shall be maintained by the owner or equivalent body for that development unless town maintenance or another arrangement is approved by Town Council.
 - (i) Subdivisions. Stormwater management facilities serving a subdivision shall be maintained by the homeowner's association or equivalent body for that subdivision unless town

⁹¹ Editor's Note: (B) (1), (i), (ii), (iii) and (iv), (B) (2) and (3), (3) (i), were replaced by this statement per staff direction after the Jan. 23, 2024 worksession.

maintenance or another arrangement is approved by the Agent. A maintenance plan for the facilities shall be provided as part of the engineering plan for the subdivision.

- (2) Maintenance responsibility shall be designated on the site plan and plat recording dedicated easements. The developer shall provide a maintenance easement to the party responsible for maintaining the facilities.

(F) Storm drainage design and construction.

- (1) The developer shall design and construct a storm drainage system for the development. Design and construction of the storm drainage system for streets, parking areas, and aisles within the development including inlets, pipes, culverts, and appurtenances shall be in accordance with VDOT standards unless granted a waiver if necessary to meet stormwater quality requirements on sites greater than one (1) acre.

Section 8-7-7. Other Utilities.

(A) Subdivisions.

- (1) Underground utility wiring. All new or extended transmission, distribution and customer service utility facilities installed within the boundaries of a new subdivision or within 200 feet of the boundaries of new subdivisions for the purpose of serving the subdivision shall be underground, except:
 - (i) Equipment normally installed above ground in accordance with accepted utility practices for underground distribution.
 - (ii) Temporary overhead facilities required for construction.
 - (iii) Where provided, streetlights shall be installed with underground service.

Division 8. Signs.⁹²

Section 8-8-1. Purpose and Intent.⁹³

- (A) The purpose of these sign regulations is to define, permit, and control the size, material, location, and condition of signs in a manner that, as a first priority, protects the health, safety, and welfare of the public; and to regulate signage through a system of reasonable, effective, consistent, content-neutral, and nondiscriminatory sign standards and design requirements. These sign regulations are intended to achieve the following community goals and objectives:
- (1) Protect the health, safety, and welfare of the public;
 - (2) Promote the use of signs which are aesthetically pleasing, of appropriate scale, and integrated with the surrounding buildings and landscape;
 - (3) Balance public and private objectives by allowing adequate signage for business identification;

⁹² Editor's Note: This Division is all new, unless otherwise noted, to address staff comments regarding needed updates to bring sign regulations into compliance with state code, clarify sign regulations for all users, and to ease enforcement.

⁹³ Editor's Note: This Section closely matches existing Zoning Ordinance Article 8-1.

- (4) Prevent property damage and personal injury from signs which are improperly constructed or poorly maintained;
- (5) Safeguard the public use and nature of the streets and sidewalks;
- (6) Protect and enhance the visual environment of the Town;
- (7) Discourage the diminishing of property values in the Town;
- (8) Minimize visual distractions to motorists using the public streets;
- (9) Promote the economic growth of the Town by creating a community image that is conducive to attracting new business and development;
- (10) Permit reasonable effectiveness of signs and to prevent their over-concentration, improper placement, and excessive height, bulk, density, and area;
- (11) Promote the safety of persons and property by requiring that signs not create a hazard due to improper construction, poor maintenance, collapse, fire, decay, or abandonment;
- (12) Ensure that signs do not obstruct fire-fighting efforts or create traffic hazards by confusing or distracting motorists or by impairing drivers' ability to see pedestrians, obstacles, other vehicles, or traffic signs; and
- (13) Promote commerce and trade, with recognition of the effects of signage on the character of the community.

Section 8-8-2. Administration.

(A) Interpretation.⁹⁴

- (1) The regulations of this Division shall apply to all new signs, replacement signs, and their modification(s) established after the effective date of this Ordinance.
- (2) Signs not expressly permitted are prohibited.
- (3) Signs containing noncommercial speech are permitted anywhere that advertising or commercial signs are permitted, subject to the same regulations of such signs.
- (4) This Division shall be interpreted in a manner consistent with the First Amendment guarantee of free speech.

(B) Application and Permit.⁹⁵

- (1) Sign Permit Required.
 - (i) No sign visible from the public right-of-way shall be erected, installed, altered, modified, refaced, re-hung, or replaced, without obtaining a permit pursuant to this Division, except as otherwise provided in this Division.

⁹⁴ Editor's Note: Interpretation removes the subjective interpretation of the Administrator for signs not covered by this Division.

⁹⁵ Editor's Note: Contains text and similar content from Article 8-6 of the existing Zoning Ordinance.

- (ii) No permit shall be issued by the Administrator except upon a determination that a proposed sign is in conformity with the requirements of this Division and, where applicable, in conformity with the requirements of an approved Site Plan for the property upon which the sign is to be placed.
 - (iii) More than one (1) sign on one (1) building or group of buildings located on the same parcel of land may be included on one (1) application provided that all such signs are applied for at one (1) time.
 - (iv) After the issuance of an approved sign permit, the applicant may install and display the approved sign(s). Once installed, the Administrator may inspect the sign(s) for conformance with the approved sign permit and this Ordinance.
- (2) Application. An application for a sign permit shall:
- (i) Include the name, address, and contact information of the applicant, and property owner (if different);
 - (ii) Include the name of person, firm, or business erecting the sign and/or any related electric work;
 - (iii) Specify the type of sign to be constructed and the zoning district in which this sign is to be located;
 - (iv) Be accompanied with plans including a survey of the property, including measurements of the lot frontage;
 - (v) Indicate the square footage and location of all existing signs visible from the public right-of-way, on the property;
 - (vi) The area, size, structure, design, location, lighting, and materials for the sign; and
 - (vii) Contain written consent of the owner or lessee of the land or building upon which the sign is to be erected, if not owned by the applicant.
- (3) Duration and Revocation of Permit.
- (i) Any sign permit shall be null and void if any sign for which the permit was issued is not installed in accordance with the permit within six (6) months of the date of approval.
 - (ii) A sign permit shall become null and void if the use to which it pertains is not commenced within six (6) months after the date the sign permit is issued.
 - 1. Upon written request and for good cause shown, the Administrator may grant one (1) six-month extension.
 - (iii) Whenever the use of a building or land is discontinued by the specific business, the sign permit shall expire and all signs pertaining to that business shall be removed by the

property owner within 30 calendar days of the discontinuance, unless the following provisions are applicable:⁹⁶

1. An owner with a new tenant or a new owner has six (6) months after such vacation to use or remove all signs, sign supports, and attendant hardware.
 2. Each subsequent occupant of the lot or building shall obtain a new sign permit prior to erecting or changing the structure of any sign.
 3. If a vacated sign is nonconforming, within six (6) months after vacation the owner shall remove all signs, sign supports and attendant hardware from the premises, unless a new tenant or owner uses the signs within that six-month period.
 4. Abandoned signs shall be removed in accordance with Section 8-8-10 of this Division.
- (iv) The Administrator shall revoke a sign permit if the sign does not comply with applicable regulations of this Division, building code, or other applicable law, regulation, or ordinance.
- (4) Variances. Requests for variances shall follow the procedures in Article 3, Division 5 of this Ordinance.

Section 8-8-3. Prohibited.⁹⁷

(A) The following types of signs are prohibited in all zoning districts, unless otherwise specifically permitted in this Ordinance:

- (1) Any sign affixed to, hung, placed, or painted on any cliff, rock, tree, or other natural feature; public utility pole or structure supporting wire, cable, or pipe; or radio, television, or similar tower;
 - (i) This prohibition shall not affect official traffic, parking, or informational signs placed on utility poles by the Town.
- (2) Any sign or banner within or across a public right-of-way, unless specifically approved by the Virginia Department of Transportation (VDOT) and the Town Council;
- (3) Any sign that, due to its size, illumination, location, or height, obstructs the vision of motorists or pedestrians at any intersection, or similarly obstructs the vision of motorists entering a public right-of-way from private property or obscures traffic or safety signs;
- (4) Signs simulating, or which are likely to be confused with, a traffic control sign or any other sign displayed by a public authority. Any such sign is subject to immediate removal and disposal by an authorized Town official as a nuisance;
- (5) Flashing or revolving lights or beacons intended to direct attention to a location, building, or service, or any device that imitates by its design or use emergency services vehicle or equipment;

⁹⁶ Editor's Note: (iii) is reworded from existing Article 8-6 (H). Hooding of signs has been changed to removal.

⁹⁷ Editor's Note: This Section contains some text from, and is similar to, Article 8-5 of the existing Ordinance.

- (6) Any flashing sign or signs with intermittent lights or lights of changing degrees of intensity or color, or with non-shielded illumination within 200 feet of a residential district, except those officially erected for safety purposes;
- (7) A sign or illumination that causes any glare into or upon any building or land other than the building and land to which the sign is accessory;
- (8) Signs which obstruct any window or door opening used as a means of egress, prevents free passage from one (1) part of a roof to any other part thereof, or interferes with an opening required for ventilation;
- (9) Any electrical sign that does not display the required UL, ETL, CSA, or ULC label.
- (10) Signs or sign structures that are erected on, or extend over, property without the expressed written permission of the property owner or the owner's Agent;
- (11) Permanent floating or stationary balloons;
- (12) Portable mounted trailer signs;
- (13) Signs attached, painted, or mounted to unlicensed, inoperative, or generally stationary vehicles and/or trailers. Vehicles and/or trailers shall not be used primarily as static displays, advertising a business, product, or service;
- (14) Signs extending above the roofline of a structure, building, or parapet wall;
- (15) Signs that emit sound, smoke, flame, scent, mist, aerosol, liquid, or gas;
- (16) Any sign representing or depicting illegal activity, or specified sexual activities and/or specified anatomical areas or sexually oriented goods;
- (17) Any sign containing information which states or implies that a property may be used for any purpose not permitted under the provisions of this Ordinance;
- (18) Off-site signs, unless specifically permitted by this Division; and
- (19) Any signs greater in size, quantity, or window coverage other than as provided for in the Sections below.

Section 8-8-4. Exemptions.

- (A) The following signs are exempt from the provisions of this Division and may be displayed or constructed without a permit but shall be in accordance with all other provisions of this Ordinance and the structural and safety requirements of the Virginia Uniform Statewide Building Code. An electrical permit shall be required for any sign requiring or incorporating electrical service.
 - (1) Changeable Sign Content.⁹⁸ The changing of message content, including message content on a changeable sign if permitted in the district.

⁹⁸ Editor's Note: New - this applies only to the content on the sign.

- (2) Governmental Body or Required by Law.⁹⁹ Signs erected by a governmental body or required by law, including official traffic signs or sign structures and provisional warning signs or sign structures, and temporary signs indicating danger.
- (3) Flags, as defined, and in accordance with Article 4, Section 4-8-3.
 - (i) Flags shall not exceed 40 sq. ft.
- (4) Feather Signs.¹⁰⁰ Feather signs are subject to the following:
 - (i) Residential, planned development, and CBD districts: Limit of two (2) per parcel at a maximum of 45 sq. ft. in size, and a maximum of 15 feet in height for each sign.
 - (ii) C1, C2, GB, and industrial districts: Limit of three (3) per parcel at a maximum of 45 sq. ft. in size, and a maximum of 15 feet in height for each sign.
 - (iii) The minimum setback for a pole is the longest dimension of the pole, in order to prevent the feather or pole falling into the property of another or into a public street, trail, or sidewalk.
 - (iv) Feather signs shall not be located within any right-of-way.
- (5) Interior signs. Signs on the inside of establishments, except window signs as specified in Section 8-8-6.
- (6) Memorial Plaques and Building Cornerstones. Memorial plaques and building cornerstones displayed by a public or quasi-public agency and cut or carved into a masonry surface or other noncombustible material and made an integral part of the building or structure.
 - (i) Memorial plaques and building cornerstones displayed by a non-public agency not exceeding six (6) sq. ft. in area.
- (7) Murals and Decorations.¹⁰¹ Art, holiday or seasonal decorations, and murals as defined by this Ordinance. Term does not include *wall sign*, as defined by this Ordinance.
- (8) Recreation/Sports Facility Fence Signs. Signs affixed to the interior of a permanent fence of a recreational or sports facility.
- (9) Signs not visible from a public right-of-way.
- (10) Small signs.¹⁰²

⁹⁹ Editor's Note: Provision(s) carried over from 8-4 of the existing Zoning Ordinance.

¹⁰⁰ Editor's Note: This is a change - the existing Ordinance prohibits "any sign or portion thereof that rotates, or otherwise moves through the use of electrical or wind power."

¹⁰¹ Editor's Note: Note the difference between *Mural* and *Wall Sign* in the Definitions.

¹⁰² Editor's Note: Consideration should be given to Chapter 54, Section 54-11 of the Town code which requires an application to the Town Manager for "displays of wares of merchandise and sidewalk signs," which contradicts this provision.

- (i) Portable Signs.¹⁰³ One (1) portable sign per street frontage/business, each portable sign not to exceed 12 sq. ft. in area.
 - 1. Portable signs shall in no way obstruct vehicular travel, public parking, and/or pedestrian movement along sidewalks and are removed when the establishment is closed for business.
- (ii) Minor Signs.¹⁰⁴ Two (2) minor signs per street frontage, each minor sign not to exceed three (3) sq. ft. in area.
 - 1. A minor sign is any wall or freestanding sign not exceeding three (3) sq. ft. in area, not exceeding four (4) feet in height, and not illuminated. Examples include no trespassing signs, displays of building address, security warning signs, parking signs, entrance/exit signs, and on-site directional signs.

(11) Temporary Signs.

- (i) Temporary signs for events/non-recurring activities. No more than two (2) signs shall be displayed simultaneously and total square footage at one (1) time shall not exceed 60 sq. ft. in area and erected for not more than 30 consecutive days.
- (ii) On a property for sale or for rent. Temporary signs shall not exceed 16 sq. ft. for single- and two-unit residential properties or 40 sq. ft. for all other residential, nonresidential, or mixed-use properties.¹⁰⁵
- (iii) On-premises signs on active construction or renovation sites.¹⁰⁶
 - 1. One (1) sign identifying a construction site or project, located on the identified project site may be erected no more than five (5) days prior to the beginning of construction.
 - 2. No sign shall exceed 54¹⁰⁷ sq. ft. in area in commercial or industrial zoning districts, or 36 sq. ft. in agricultural or residential zoning districts.
 - 3. A setback of 15 feet from any public right-of-way shall be required.
 - 4. All signs must be removed from a project site prior to issuance of a certificate of zoning compliance for the project.

Section 8-8-5. Measurement and General Sign Standards.

(A) Sign Area Calculation – One Sided.

- (1) The sign area permitted under this Division is determined by measuring the entire face of the sign, including any background incidental to its decoration, but excluding support elements for the sole purpose of supporting the sign.

¹⁰³ Editor's Note: New; this is intended for a-frames used by retail and restaurant establishments.

¹⁰⁴ Editor's Note: Increased from 2 sq. ft. to 3.

¹⁰⁵ Editor's Note: Areas reduced and simplified from those of Article 8-8 (B) of the existing Ordinance.

¹⁰⁶ Editor's Note: From the existing Ordinance, Article 8-8 (C).

¹⁰⁷ Editor's Note: Size was reduced from 96 to 54 sq. ft.

- (2) The sign area shall be calculated using the smallest rectangle, circle, or triangle that can enclose the sign face.
 - (i) Rectangle formula: sign area = length (L) x width (W)
 - (ii) Circle formula: sign area = πr^2
 - (iii) Triangle formula: sign area = $\frac{1}{2} \times \text{base (B)} \times \text{height (H)}$
 - (3) The surface area of any sign made up only of individual letters or figures shall include the space between such letters or figures.
- (B) Sign Area Calculation – Multi-Sided.
- (1) Whenever one (1) sign contains information on both sides (back-to-back and not more than 42 in. apart), sign area shall be calculated based on the largest sign face. Faces are not totaled.
 - (2) Whenever one (1) sign is multi-faceted (3-dimensional objects, greater than 42 in. apart, etc.), sign area shall be calculated by adding together the area of all sign faces visible from any one (1) point.
- (C) Sign Height.
- (1) The maximum height for signs shall be as provided in Tables 8 – 7, 8 - 8, 8 – 9 and 8 - 10, provided in Section 8-8-7, below.
 - (2) The height of a sign shall be computed as the distance from the base of the sign at average grade to the top of the highest attached component of the sign.
- (D) Sign Setbacks.
- (1) The minimum setback from the property line is half (1/2) the height of the sign, or 15 feet, whichever is greater, except in the Central Business District (CBD).
 - (i) Any freestanding sign in the CBD must have a minimum setback of five (5) feet from any front property line.¹⁰⁸
 - (2) No freestanding sign shall be located within 15 feet of any other freestanding sign on an adjacent or adjoining lot.¹⁰⁹
 - (3) Freestanding signs must be a minimum of 15 feet apart.¹¹⁰
- (E) Illumination.
- (1) All permitted signs may be internally or externally lit, except that no sign shall be illuminated in a residential district.
 - (2) No sign shall be illuminated in such a way that light may shine into on-coming traffic, affect highway safety, or shine directly into a residential dwelling.

¹⁰⁸ Editor's Note: From existing Article 8-14 CBD regulations.

¹⁰⁹ Editor's Note: Provision from existing Article 8-14 (B).

¹¹⁰ Editor's Note: Provision from existing Article 8-14 (B).

- (3) Any electrical sign shall display the required UL, ETL, CSA, or ULC label.
- (4) Light emitting diode illumination shall be no greater than 700¹¹¹ nits from sunrise to sunset, or 500 nits from sunset to sunrise and be equipped with automatic brightness control which can dim the display brightness when ambient conditions exist.
- (5) Electronic service lines shall be underground.

Section 8-8-6. Special Sign Standards.

(A) Awnings.¹¹²

- (1) Awnings are to be treated as signs for permitting and maintenance and repair purposes.
- (2) Awnings are permitted to be placed on the front or side exterior of buildings.
- (3) Awnings may not project past the sidewalk or be placed on a building in such a manner as to constitute an obstruction or hazard to pedestrian or vehicular traffic.
- (4) Awnings may not obstruct lighting within the pedestrian way.
- (5) Awnings must be located above transom windows allowing a minimum of eight (8) feet clearance above the grade or the sidewalk.
- (6) Awnings must be constructed of high quality, weather resistant materials, and form and colors should complement the building architecture and that of adjacent buildings.
- (7) Lettering or images painted on or attached as part of an awning cover must be attached flat against the surface of the awning. It may not extend beyond the valance or be attached to the underside.
- (8) The Administrator may refer awning designs to the Town of Rocky Mount Planning Commission for review.

(B) Changeable Signs. Changeable signs include components to change the message either electronically or manually.

- (1) Manually changeable signs. Uses categorized as Public, Civic, and Recreational within Article 6, Division 3, Use Matrix and properties within the C1, C2, GB or industrial district shall be permitted to erect and maintain up to two (2) manually changeable signs not to exceed 30 sq. ft. for each sign.
- (2) Electronically changeable signs. Within any commercial or industrial district, one (1) changeable sign per lot shall be permitted, subject to the following requirements:
 - (i) The changeable sign may be an existing or proposed freestanding, wall, or projected sign.
 - (ii) The message shall not be changed more than once every ten (10) seconds, move, flash, or display animation, as prohibited in this Article.

¹¹¹ Editor's Note: The United States Sign Council's *Best Practice Recommendations & Standards for On-Premise Sign Lighting* provides that for LED lighting, recommends that standards provide a maximum of 700 nits prior to sunset.

¹¹² Editor's Note: Awnings section is from the existing Zoning Ordinance, Article 8-15.

- (iii) Any changeable message sign that malfunctions, fails, or ceases to operate in its usual or normal programmed manner, thereby causing motion, movement, flashing or any other similar effects, shall be repaired, covered, or disconnected by the owner or operator of such sign within 24 hours of Notice of Violation.
- (C) Landmark signs. The Administrator may grant exceptions to landmark signs, as defined, that are preserved and maintained, even if they no longer pertain to the present use of the premises.¹¹³
- (D) Projecting Signs.
 - (1) Signs projecting over public walkways, including doors and entryways, shall be a minimum height of eight (8) feet¹¹⁴ from average grade to the bottom of the sign.
 - (2) Projecting signs shall not extend more than four (4) feet beyond the face of the building or greater than two (2) feet from the curb line towards the building the sign is attached to.¹¹⁵
 - (3) Signs, architectural projections, or sign structures projecting over vehicular access areas shall have a minimum vertical clearance of 14 feet.
- (E) Temporary Signs.
 - (1) Each temporary sign shall be maintained in good, safe condition, securely affixed to a building or the ground.
 - (2) Any temporary sign pertaining to an event must be removed within ten (10) days after the event.
 - (3) No temporary sign shall be illuminated.
- (G) Window Signs.¹¹⁶
 - (1) Window signs, as defined by this Ordinance, shall be permitted at a maximum of 20% of the window area, and in accordance with Section 8-2-3 of this Article.
 - (i) No more than two (2) illuminated or lit window signs shall be allowed per establishment.

Section 8-8-7. Permitted Signs by District.

- (A) The following standards, shown in Table 8 - 7, Maximum Sign Dimensions – Residential Districts, Table 8 - 8 Maximum Sign Dimensions – C1 and C2, Table 8 - 9, Maximum Sign Dimensions – CBD, and Table 8 – 10, Maximum Sign Dimensions - GB and Industrial Districts show the maximum sign dimensions, per type of sign, permitted in each district for all by-right and conditional uses, subject to all other requirements of this Ordinance.

¹¹³ Editor's Note: From Article 8-15 of the existing Zoning Ordinance. The requirement for a Special Use Permit has been removed to allow administrative exception for landmark signs.

¹¹⁴ Editor's Note: Reduced from 10 feet to match awning signs and enhance historic character.

¹¹⁵ Editor's Note: Changed from *six (6) feet from the structure* (Article 8-11) to provide flexibility and enhance historic character.

¹¹⁶ Editor's Note: New provision per discussion with staff to reduce sign clutter and intensity.

- (1) Signs requiring a sign permit within planned developments will be determined as part of the rezoning process.
- (2) Other permitted signs are allowed in these districts as provided in Sections 8-8-4 and 8-8-6.
- (B) Sign area square footage limits are provided per sign, unless a district total is provided.
 - (1) Total area is calculated as an aggregate of all signs.
- (C) See Article 11, Definitions, of this Ordinance, for the definitions of the sign types provided in the Tables of this Division.
- (D) For the purposes of Table 8 - 7, the Residential Uses shall be those under the Residential category in Article 6, Division 3, Use Matrix, and Non-Residential Uses shall be those under the Public/Civic/Recreation, Commercial, Industrial, and Miscellaneous categories of Article 6, Division 3, Use Matrix.

Table 8-7. Maximum Sign Dimensions – Residential Districts¹¹⁷

Sign Type	Residential Uses			Non-Residential Uses ²		
	Number	Area (square feet)	Height (feet)	Number	Area ³ (square feet) <i>LF=Linear Foot</i>	Height (feet)
Freestanding	1 per street frontage; 2 permitted if for subdivision entrance	12 ¹	5	2 per street frontage	20	5
Projecting	Not permitted			1 per street frontage	10	Equal to the eave line, or the bottom of a second story windowsill, whichever is lower
Wall	1 per street frontage	12	n/a	1 per street frontage	2 sq. ft. for every 1 LF of building face	n/a

¹Subdivision monument signs may be a maximum of 20 sq. ft.

²Hospital and emergency signs may be a maximum of 50 sq. ft. and 12 feet in height.

³Cannot exceed a total of 45 sq. ft. of sign area.

¹¹⁷ Editor's Note: To provide equity and streamline standards, BG no longer coordinates sign size with length of street frontage.

Table 8-8. Maximum Sign Dimensions – C1 and C2 Districts

Sign Type	Number	Area (square feet) <i>LF=Linear Foot</i>	Height (in feet)
Freestanding (1 business)	1 per street frontage	50 ¹¹⁸	15
Freestanding ¹ (2 businesses)	1 per business, per street frontage	50	15
Freestanding (3 or more businesses with coordinated access points)	1 sign listing the tenants	125	15
Projecting	1 per establishment	15	Equal to the eave line, or the bottom of a second story windowsill, whichever is lower
Wall	Unlimited	2 sq. ft. for every 1 LF of building face occupied by the tenant	n/a
Canopy ²	1 per street frontage	1 sq. ft. per LF of canopy fascia on which the sign is mounted	Shall not extend above, or be suspended below, the horizontal plane of the canopy fascia
¹ Provided that any 2 signs on the same public street are at least 75 feet apart. ² Canopy does not include awning, as defined in this Ordinance.			

¹¹⁸ Editor's Note: Maximum area was reduced from 60 to 50, and the frontage requirement of 100 feet was removed.

Table 8-9. Maximum Sign Dimensions – CBD District¹¹⁹

Sign Type ¹	Number	Area ¹²⁰ (square feet) ² <i>LF=Linear Foot</i>	Height (in feet)
Freestanding (1 business)	1	20	6
Freestanding (2+ businesses on lot or lots under single ownership)	1 sign listing the tenants	40	8
Projecting	1 per establishment	10	Equal to the eave line, or the bottom of a second story windowsill, whichever is lower
Wall ¹²¹	Unlimited	2 sq. ft. for every 1 LF of building face occupied by the tenant	n/a
Canopy ³	1 per street frontage	1 sq. ft. per LF of canopy fascia on which the sign is mounted	Shall not extend above, or be suspended below, the horizontal plane of the canopy fascia
¹ Electronically changeable signs are prohibited in the CBD. ¹²² ² A maximum total of 60 sq. ft. of signage per parcel is permitted in the CBD. ³ Canopy does not include awning, as defined in this Ordinance.			

¹¹⁹ Editor's Note: Standards designed to allow flexibility while limiting sign clutter in the CBD.

¹²⁰ Editor's Note: Maximum areas were reduced and the frontage requirement of 50 feet was removed.

¹²¹ Editor's Note: Wall sign regulations changed to match GB District per staff discussion after the Jan. 23, 2024 worksession.

¹²² Editor's Note: The existing Ordinance prohibits electronic signs in the CBD.

Table 8-10. Maximum Sign Dimensions - GB and Industrial Districts

Sign Type	Number	Area (square feet) <i>LF=Linear Foot</i>	Height (in feet)
Freestanding (1 business)	1 per street frontage	100	25
Freestanding ¹ (2 businesses with coordinated access points)	1 per business, per street frontage	100	25
Freestanding (3 or more businesses with coordinated access points)	1 sign listing the tenants per street frontage ¹²³	300	25
Projecting	1 per establishment	15	Equal to the eave line, or the bottom of a second story windowsill, whichever is lower; in compliance with Section 8-8-6
Wall	Unlimited	2 sq. ft. for every 1 <i>LF</i> of building face occupied by the tenant	n/a
Canopy	1 per street frontage	1 sq. ft. per <i>LF</i> of canopy fascia on which the sign is mounted	Shall not extend above, or be suspended below, the horizontal plane of the canopy fascia

¹ Provided that any 2 signs on the same public street are at least 250 feet apart.

Section 8-8-8. Nonconforming Signs.¹²⁴

(A) Nonconforming Signs.

- (1) Any sign legally existing at the time of the effective date of this Ordinance that does not conform in use, location, height, or size with the regulations of the district in which such sign is located, shall be considered legally nonconforming and shall be permitted to continue in such status until such time as it is either abandoned or removed by its owner, subject to the following limitations:
 - (ii) A nonconforming sign shall not be enlarged, nor shall any feature of a nonconforming sign such as, illumination, be increased.
 - (iii) A nonconforming sign shall not be moved for any distance on the same lot or to any other lot unless:

¹²³ Editor's Note: Changed from 1 total, to allow 1 per street frontage. Removed 100-foot frontage requirement.

¹²⁴ Editor's Note: Contains some text from Article 8-12 of the existing Zoning Ordinance.

1. Such change in location will make the sign meet all current requirements of this Division; or
 2. Such change in location is to conform to required setbacks of this Ordinance.
- (iv) A nonconforming sign that is destroyed or damaged by any casualty to an extent not exceeding 50% of its sign area, may be restored within two (2) years¹²⁵ after such destruction or damage but shall not be enlarged in any manner.
- (2) If such a sign is destroyed or damaged to an extent exceeding 50%, it shall not be reconstructed but may be replaced with a sign that meets all current requirements of this Division.
- (3) Notwithstanding any contrary provision in this Ordinance, no nonconforming sign is required to be removed solely by the passage of time.

Section 8-8-9. Maintenance and Enforcement.

(A) Maintenance, Repair, and Removal.¹²⁶

- (1) Every sign permitted by this Division shall be kept in good condition and repair. All signs shall be maintained, including the replacement of defective parts, painting, repainting, cleaning, and other acts required for the maintenance of such signs.
- (2) If a sign is in violation of the provisions of this Ordinance, the owner shall correct such violations and make the sign conform with the provisions of this Division, within ten (10) days of a Notice of Violation from the Administrator. Signs in violation may include:
 - (i) Any that becomes insecure, in danger of falling, or is otherwise deemed unsafe by the Administrator; or
 - (ii) Any sign that is unlawfully installed, erected, or maintained in violation of any of the provisions of this Ordinance.
- (3) If within ten (10) days the Notice of Violation is not complied with, the Administrator shall be permitted to remove or cause such sign to be removed at the expense of the owner of the sign.
- (4) If a sign presents an imminent and immediate threat to life or property, then the Administrator may abate, raze, or remove it, and may bring an action against the responsible party to recover the necessary costs incurred for abating, razing, or removing the sign.¹²⁷

Section 8-8-10. Removal of Abandoned Signs.¹²⁸

- (A) Except as otherwise provided in this Division, any sign that is located on a property which becomes vacant and is unoccupied for a period of three (3) months or more, or any sign which pertains to a time, event, or purpose which no longer applies, shall be deemed to have been abandoned.

¹²⁵ Editor's Note: Extended from 90 days to match state code.

¹²⁶ Editor's Note: Contains similar text to that found in Article 8-13 of the existing Zoning Ordinance.

¹²⁷ Editor's Note: (3) and (4) clarify content from existing Article 8-13 (A).

¹²⁸ Editor's Note: The existing Ordinance does not address abandoned signs.

- (1) Business signs applicable to a business temporarily suspended because of a change of ownership or management shall not be deemed abandoned unless the property remains vacant for a period of 12 months or more.
- (B) If the owner or lessee fails to remove such sign, the Administrator shall give the owner 30 days' written notice to remove it.
- (C) Upon failure to comply with this notice, the Administrator may remove the sign at cost to the property owner.

Division 9. Open Space.¹²⁹

Section 8-9-1. Purpose and Intent.

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

Section 8-9-2. Applicability.

- (A) General. Unless exempted in accordance with 8-9-2 (B), below, the requirements of this Division shall apply to all new construction, developments, or redevelopments in all zoning districts requiring an approved Site Plan, Special Exception Permit, or Zoning Permit specified by this Ordinance.
- (B) Exemptions. The following development is exempted from the standards in this Division:
 - (1) Single- and two-unit residential development on individual lots (not part of a Major Subdivision or Planned Development);
 - (2) Minor subdivisions;
 - (3) Utility uses;
 - (4) Development within the Central Business District (CBD); and

¹²⁹ Editor's Note: The existing Ordinance requires open space for the RPUD; however, this Division includes additional districts and additional detail for clarity and enforcement purposes.

- (5) Development within industrial districts.
- (C) Timing of Review. Review for compliance with the standards of this Division will occur during review of an application for a planned development, Zoning Permit, Special Exception, Building Permit, Certificate of Occupancy, Site Plan, or Subdivision Plat, as appropriate.
- (D) Open Space Plan Required. All development applications subject to review for compliance with the standards of this Division must include an Open Space Plan, which shall designate all open space areas, including the amount of each type of open space provided, and the relation of each open space area to the constructed areas of the site, including all buildings and circulation systems.

Section 8-9-3. Amount of Open Space Required.

Development subject to these standards must provide required open space in an amount that meets or exceeds the minimum provided in Table 8 - 11, Minimum Open Space Required, based on the district where the development is proposed.

Table 8-11. Minimum Open Space Required

District	Minimum Open Space Required	Stipulation
RA, R1, R2	15%	Of the required percentage, a minimum of 10% shall be for active or passive recreation
R3	20%	
RPUD	25% ¹³⁰	Of the required percentage, a minimum of 20% shall be for active or passive recreation
C1, C2, GB	10%	n/a
CBD, M1, M2	n/a	

Section 8-9-4. Areas Counted as Open Space.

- (A) The features and areas identified below shall count toward open space as required by this Division.
 - (1) Natural Features.
 - (i) Description. Native mixed forests, existing and healthy wooded areas, and natural vegetation.
 - (ii) Limitation.
 - 1. A maximum of 50% of the required open space shall be comprised of natural features.
 - 2. These areas shall not include streams, rivers, ponds, lakes, wetlands, steep slopes, drainageways, or flood hazard areas.

¹³⁰ Editor's Note: 25% open space is the requirement in the existing Ordinance for RPUD.

(2) Passive Recreation Areas.

- (i) Description. Planned and regularly maintained open areas that provide passive recreation opportunities, including arranged plantings, gardens, community gardens, picnic shelters, gazebos, and similar structures.
- (ii) Design Requirements. Passive recreation areas must have at least one (1) direct access to a building or to a street or walkway accessible to the development's residents and users.

(3) Active Recreation Areas.

- (i) Description. Land occupied by areas and facilities used for active recreational purposes, such as ballfields, playgrounds, tennis courts, pools, jogging trails, and community buildings and clubhouses.
- (ii) Design Requirements. Land must be compact and contiguous unless used to link or continue an existing or planned open space resource. Areas must have at least one (1) direct access to a building or to a street or walkway accessible to the public or the development's residents and users.

(4) Required Landscaping and Buffers.

- (i) Description. All areas occupied by required landscape areas and transitional buffers, except for parking lot landscaping.
- (ii) Design Requirements. As provided in Division 3, Landscaping and Buffering, of this Article.

(5) Stormwater Management Areas/Facilities Treated as Site Amenities.

- (i) Description. Stormwater management features that are incorporated into a site amenity (e.g., with low fencing, vegetative landscaping, gentle slopes, fountain or other visible water circulation device, and pedestrian access or seating).
- (ii) Limitation. A maximum of 75% of the land area occupied by stormwater management facilities (including retention and detention ponds and other bioretention devices) may be included as open space.
- (iii) Design Requirements. To qualify, stormwater management facilities must support passive recreation uses by providing access, pedestrian elements such as paths and benches, gentle slopes, and vegetative landscaping.

(6) Public Access Easements.

- (i) Description. Public access easements that include paths or trails that are available for activities such as walking, hiking, running, and/or biking.
- (ii) Design Requirements. Such access easements must include at least one (1) improved access from a public street, sidewalk, or trail that includes signage designating the access point.

(7) Squares and Plazas.

- (i) Description. Flat, open areas immediately in front of a building/group of buildings or framed by buildings or streets that provide gathering places, opportunities for outdoor dining, and other similar activities.
- (ii) Design Requirements. A square or plaza must be at least 200 sq. ft., but no more than one (1) acre, in area. It must have at least one (1) direct access to a principal building, or to a street or walkway accessible to the public or the development's residents and users. Surrounding principal buildings must be oriented toward the square or plaza where possible.

Section 8-9-5. Areas Not Counted as Open Space.

- (A) The following features and areas will not be counted as required open space for purposes of this Division:
- (1) More than 50% of open space comprised of natural features, as provided in 8-9-4 (A) (1), above.
 - (2) Yards on lots containing a single- or two-unit dwelling, or manufactured homes;
 - (3) Street rights-of-way, private access easements, or utility easements, including sidewalks located within those rights-of-way or easements;
 - (4) Parking areas and driveways, including parking lot landscaping and walkways;
 - (5) Land covered by structures, unless designed for active or passive recreational uses;
 - (6) Designated outdoor storage areas and mechanical yards; and
 - (7) Stormwater management facilities not located and designed as a site amenity, as described in 8-9-4 (A) (5), above.

Section 8-9-6. Design and Development Standards.

- (A) Location.
- (1) Required open space must be readily accessible by residents and users of the development to the maximum extent practicable.
 - (2) To the extent practicable, a portion of the open space should provide focal points for the development through prominent placement or direct visibility from streets.
- (B) Access to open space.
- (1) Where common open space or public parkland is provided in a development, the developer shall provide pedestrian access to the site.
 - (2) Access to public parkland shall be dedicated to the Town. The access shall consist of a sidewalk that meets the requirements of Section 8-6-4 (E) above, or a bikeway, which meets the standards of Section 8-6-4 (B) above.
 - (3) Access to private common open space may be by a private access way. The access shall be paved with gravel, limestone dust, or asphalt. No minimum width is required by this Division.

(C) Configuration.

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

Section 8-9-7. Ownership and Maintenance.

- (A) All required open space must include deed restrictions, covenants, or other legal instruments that ensure continued use of the land for its intended open space purposes and provide for the continued and effective management, operation, and maintenance of the land and facilities.
 - (1) Stormwater management facilities treated as site amenities must be maintained to provide for the effective management of stormwater and as passive recreation.
 - (2) Adequate liability insurance shall be secured for the intended purposes of the land.
- (B) Required open space must be maintained by the developer or owner of the project or by a property owners' association comprising owners of the property in the project.
 - (1) If property is conveyed to the property owners' association:
 - (i) Deed restrictions and covenants, in a form satisfactory to the Town Attorney, must provide that any assessments, charges, or costs of maintenance of required open space constitute a pro rata lien upon the individual properties inferior in lien and dignity only to taxes and bona fide duly recorded first deeds of trust on each property or lot.
 - (ii) The association must be organized prior to the sale of any lots.
 - (iii) Membership in the organization shall be mandatory for all property owners, present or future, and such organization shall not discriminate in its members or shareholders.
- (C) Required open space may be dedicated to the Town for public use only in a manner and form approved by the Town.
- (D) Maintenance of natural features is limited to the minimum removal and avoidance of hazards, nuisances, and unhealthy conditions, and the clearing of debris from trails.

ARTICLE 9. – Nonconformities.¹

Division 1. General.

Section 9-1-1. Intent.

With the adoption of this Ordinance or subsequent amendments, there exist lots, structures, and uses of land and structures in combination which were lawful before this Ordinance was adopted or amended, but which would be prohibited, regulated, or restricted under the terms of this Ordinance or future amendments. It is the intent of this Ordinance to permit these nonconformities to continue as established prior to Ordinance adoption and in accordance with the Code of Virginia § 15.2-2307, as amended.

Section 9-1-2. General.

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

Division 2. Nonconformities.

Section 9-2-1. Nonconforming Uses.

- (A) A legal nonconforming use may continue as it existed when it became nonconforming. A nonconforming use shall not be reconstructed, relocated, altered, or expanded in any manner, including the addition of new accessory uses, except as provided for in this Section.
 - (1) A nonconforming use may change to a conforming use.
 - (2) The nonconforming use may be extended throughout those parts of a building which are lawfully and manifestly arranged or designed for such use at the time of enactment of this Ordinance provided there are no structural alterations, expansion, or enlargement except those required by law or lawful order.
 - (3) No nonconforming use shall be moved in part to any portion of the land or parcel other than that occupied by such use at the effective date of adoption or amendment of this Ordinance unless said move results in decreasing the degree of nonconformity or results in conformity with the requirements for the Zoning District.

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

- (4) A nonconforming use may be changed to another nonconforming use of the same or of a more restricted classification. Whenever a nonconforming use of land or buildings has been changed to a more restricted use or to a conforming use, such use shall not thereafter be changed to a less restricted use.²
- (5) No additional uses which would be prohibited generally in the Zoning District involved shall be permitted.
- (6) The land area or building footprint dedicated to a nonconforming use may be reduced in size. Whenever a nonconforming use's footprint has been reduced, such use shall not thereafter be changed to a greater footprint.
- (7) A nonconforming dwelling unit may have a home occupation subject to the requirements of Article 6, Use Matrix, and Article 7, Use Performance Standards, of this Ordinance³.
- (B) A nonconforming use shall lose its nonconforming status, and any further use shall conform to the requirements of this Ordinance when:
 - (1) The nonconforming use is discontinued for a period of two (2) years, regardless of whether or not equipment or fixtures are removed, and shall be deemed abandoned.
 - (2) The nonconforming use is intentionally abandoned, regardless of the length of time that has passed.
 - (3) The structure in which a nonconforming use is carried out is removed; removal of the structure shall eliminate the nonconforming status of the land, and the nonconforming use may not continue in a new structure.
- (C) The casual, intermittent, seasonal, temporary, or illegal use of land or buildings shall not be sufficient to establish the existence of a nonconforming use, and the existence of a nonconforming use on a part of a lot shall not be construed to establish a nonconforming use on the entire lot.
- (D) When evidence available to the Administrator is deemed to be inconclusive, whether a nonconforming use exists shall be a question of fact and shall be decided by the Board of Zoning Appeals (BZA) after public notice and hearing in accordance with Article 3, Permits and Applications, Division 10, Public Hearings, of this Ordinance, and in accordance with the rules of the BZA as provided in Article 2, Administration, Division 3, Board of Zoning Appeals, of this Ordinance⁴.

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

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

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

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

- (A) If a lot of record existing on or before _____ (effective date of revised Ordinance) does not meet the minimum area, length, or width standards for the Zoning District it is in, it may be used without appeal, if:⁵
- (1) An accessory structure may be built or expanded provided all setbacks, side, and rear yard requirements are met.
 - (2) A lot of record may be used provided that the side and rear setbacks can be met, and the front setback requirement shall be no greater than the average of the adjoining lots' existing structure setbacks fronting on the same street.
 - (3) A lot of record without road frontage shall meet setback requirements and there shall be a legally recorded access easement.⁶
 - (4) If the lot *cannot* meet setback and other requirements, a variance shall be obtained through the variance processes outlined in Article 3, Permits and Applications, of this Ordinance⁷.
- (B) A developed nonconforming lot may continue in existence but may not be altered except in accordance with this Article.
- (C) Any lot which is reduced in size and becomes less in area or width than the minimum required by the Zoning District, as the result of voluntary or required dedication of right-of-way shall be considered a nonconforming lot of record.
- (D) A nonconforming lot may become a conforming lot by meeting the current minimum lot size, lot width, and lot frontage requirements of the Zoning District in which the lot is located through the following actions:⁸
- (1) A consolidation of the nonconforming lot with an adjacent lot;
 - (2) A boundary adjustment between two (2) contiguous lots, one (1) being nonconforming and the other being conforming, provided such adjustment does not make the conforming lot nonconforming, does not create an additional lot, and does not increase the nonconforming lot's nonconformity;
 - (3) Merging two (2) contiguous nonconforming lots to create one (1) conforming lot; or
 - (4) Rezoning to a different Zoning District to meet the lot size, lot width, and lot frontage requirements of that District.

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

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

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

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

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

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

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

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

- (A) On any nonconforming structure or portion of a structure containing a nonconforming use, work may be done in any period of 12 consecutive months if:
- (1) Such repair constitutes routine maintenance necessary to keep the structure or improvement in the same general condition it was in when it originally became nonconforming; or
 - (2) Such repairs constitute minor alterations, cosmetic modifications, interior renovations, and similar changes.¹¹
 - (3) The cubic content of the structure, as it existed at the time of passage or amendment of this Ordinance, shall not be increased.
- (B) Nothing in this Ordinance shall permit a complete rebuild of a nonconforming structure, nor serve to circumvent the requirements of this Article, except for necessary rebuilds in accordance with Section 9-2-4 (D), below.
- (C) Nothing in this Ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any structure or part thereof declared to be unsafe by any official charged with protecting the public safety, on order of such official.
- (D) If 50% or more of a nonconforming building or structure or a conforming building with a nonconforming use is damaged or destroyed by fire, natural disaster or other Act of God, such building or structure may be repaired, rebuilt, or replaced provided that:¹²
- (1) The nonconforming features are eliminated or reduced to the extent possible, without the need to obtain a variance;
 - (2) The owner shall apply for a building permit and any work done to repair, rebuild, or replace such building shall be in compliance with the provisions of the Uniform Statewide Building Code;
 - (3) The requirements of the Floodplain District of this Ordinance are met, if applicable; and
 - (4) The work is done within two (2) years unless the building is in an area under a federal disaster declaration and was damaged or destroyed as a direct result of the disaster, in which case the time period shall be extended to four (4) years.
- (E) Owners of property damaged by an accidental fire have the same rights to rebuild such property as if it were damaged by an Act of God. Nothing herein shall be construed to enable the property owner to commit an arson and obtain vested rights under this Section.

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

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

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

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

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.⁸

Section 10-2-1. Major Subdivisions.⁹

- (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.¹⁰
 - (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.¹¹

- (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.

Division 3. Design Requirements.¹²

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.

⁸ Editor's Note: Family subdivisions were removed per Town Council direction at the March 19, 2024 worksession.

⁹ Editor's Note: Major subdivisions content from the exiting Subdivision Ordinance 3-4 has been updated for compliance with State Code.

¹⁰ Editor's Note: Changed from 6 to 50 as required by State Code.

¹¹ Editor's Note: Minor subdivisions content from the existing Ordinance 3-3 has been updated for compliance with State Code.

¹² Editor's Note: Content from the existing Subdivision Ordinance Section 8.

- (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 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 one (1) environmental site assessment.¹³ Pursuant to Code of Virginia, § 15.2-2242, as amended, a Phase one (1) environmental site assessment shall be required for subdivisions located on former industrial properties.
- (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.¹⁴
- (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.

¹³ Editor's Note: New item recommended as a best practice.

¹⁴ Editor's Note: Changed from pipestem to stem or flag to match language and definitions related to Articles 4, 5, and 10.

- (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.

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-foot¹⁵ 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.¹⁶

Section 10-3-6. Monuments.¹⁷

- (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

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

¹⁶ Editor's Note: New reference to State Code.

¹⁷ Editor's Note: This is a new section pursuant to State Code that expands upon existing 5-2 (4) and 3-2 (j).

- (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.
- (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.¹⁸
- (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.¹⁹
- (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.²⁰
- (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.²¹
 - (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.

¹⁸ Editor's Note: This item has been reworded from existing Ordinance 8-1 (c)(1) for clarity.

¹⁹ Editor's Note: This item has been reworded from existing Ordinance 8-1 (c) (2 & 3).

²⁰ Editor's Note: This item has been reworded from existing Ordinance 8-1 (c) (4).

²¹ Editor's Note: This item has been reformatted from existing Ordinance 8-1 (c) (5).

- (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 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.²²
- (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.²³
 - (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).²⁴

- (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.

²² Editor's Note: New text added to ensure proper installation.

²³ Editor's Note: New text added to ensure proper installation and inspection.

²⁴ Editor's Note: New Section as provided by State Code § 15.2-2256.

- (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.
- (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.²⁵

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.

²⁵ 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.

- (3) Cash Escrow. The applicant shall provide to the Town of Rocky Mount a cash or cashier's check.

Section 10-4-2. Required to be Guaranteed.²⁶

- (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.²⁷

- (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.

²⁶ Editor's Note: Section expanded and clarified from existing Ordinance Section 6-1.

²⁷ Editor's Note: Section expanded and clarified from existing Ordinance Section 6-4.

Section 10-4-4. Release.²⁸

- (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.

²⁸ 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 (2) 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.²⁹

- (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.³⁰

- (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:

²⁹ Editor's Note: Section reworded from existing Ordinance Section 6-3.

³⁰ Editor's Note: Section expanded and clarified from existing Ordinance Section 6-8.

- (1) Draw or make demand on the owner or developer's security;
- (2) Contract for the completion of the work, following the rules for public procurement; and
- (3) Bring an action at law against the owner, developer, financial institution, or surety.

Division 5. Platting Requirements, Generally.

Section 10-5-1. Platting Required.³¹

- (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.³²
- (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.³³

- (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

³¹ Editor's Note: Text from existing Subdivision Ordinance 3-1.

³² Editor's Note: Added for compliance with State Code.

³³ Editor's Note: This provision is retained from existing Subdivision Ordinance 4-2 and expanded to explain potential actions and results of the conference.

- developments and easements, and existing natural and manmade features, such as soil types, vegetation, contours, and utilities in the neighboring area.
- (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.³⁴

- (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.³⁵

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.

³⁴ Editor's Note: New Section.

³⁵ Editor's Note: New Section.

Section 10-5-5. Separate Ownership.³⁶

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 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.³⁷

(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.³⁸

Section 10-6-1. Applicability.³⁹

(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.

³⁶ Editor's Note: New Section.

³⁷ Editor's Note: From existing Ordinance 4-9.

³⁸ Editor's Note: From existing Ordinance Section 4.

³⁹ Editor's Note: Applicability is updated in accordance with State Code and content from existing Ordinance 3-1 is reorganized.

- (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.⁴⁰
- (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.⁴¹ 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.⁴² The Preliminary Plat shall include the following information pursuant to Code of Virginia, § 15.2-2258, as amended:
 - (1) General information.⁴³
 - (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.

⁴⁰ Editor's Note: The specific number of paper copies has been removed and digital submission added to allow changes over time.

⁴¹ 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.

⁴² Editor's Note: Content has been rearranged, with added content per State Code and best practices.

⁴³ Editor's Note: This information from existing Ordinance 4-4 has been reorganized.

- (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.⁴⁴
- (3) Zoning district of the tract and adjoining properties and a description of proposed zoning changes, if any.
- (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 (7) 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.⁴⁵
- (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.

⁴⁴ Editor's Note: New item recommended as a best practice.

⁴⁵ Editor's Note: New item pursuant to State Code § 15.2-2258.

- (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.
 - (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:⁴⁶
 - (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.⁴⁷

- (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,⁴⁸ 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.

⁴⁶ Editor's Note: New content for the Town to consider.

⁴⁷ Editor's Note: This Section has been reworded and restructured for compliance with State Code.

⁴⁸ Editor's Note: Reference to the Town Engineer was removed per the March 19, 2024 joint worksession meeting summary minutes.

1. 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.
- (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.⁴⁹

- (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.

⁴⁹ Editor's Note: This Section from existing Ordinance 4-11 has been updated for compliance with State Code.

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 (1) or more sheets 17 by 22 inches in size.⁵⁰ If more than one (1) sheet is needed, each sheet shall be numbered and the relation of one (1) sheet to another clearly shown.⁵¹
- (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.

⁵⁰ 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.

⁵¹ Editor's Note: Added details for the quality of the plat.

- (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.
 - (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.⁵²
- (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.⁵³
 - (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.⁵⁴
 - (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:

⁵² Editor's Note: New item added as a best practice.

⁵³ Editor's Note: New item pursuant to State Code § 15.2-2258.

⁵⁴ Editor's Note: New item added as best practice.

1. The proposed subdivision is consistent with the need to minimize flood damage within the floodplain districts.
 2. All public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage.
 3. Adequate drainage is provided to reduce exposure to flood hazards.
 4. New water supply systems are designed to minimize or eliminate the infiltration of floodwaters into the systems.
 5. New sanitary sewer systems are designed to minimize or eliminate the infiltration of floodwaters into the system and discharge from the systems into floodwaters.
 6. 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 (1) 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.
 - 1. 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.
 - 1. When one (1) 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 (7) 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 their name and address with a certificate signed by them 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."

1. 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.
 1. A statement signed by an engineer giving estimates of the projected water and sewer needs of the entire development in gallons per day.
 2. 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:
 1. 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).
 2. 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.
 3. 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.⁵⁵
- (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.
1. The Agent shall also review based on the Planning Commission Preliminary Plat approval.
2. 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.
1. 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,⁵⁶ 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.⁵⁷

- (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.

⁵⁵ Editor's Note: New reference to State Code.

⁵⁶ Editor's Note: Reference to the Town Engineer was removed per the March 19, 2024 joint worksession.

⁵⁷ Editor's Note: Content from existing Ordinance 5-4 has been reorganized for clarity.

- (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 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.⁵⁸
 - (i) The Agent shall confirm that Final Plats for unrecorded phases of multi-phase subdivisions shall meet the approved Preliminary Plat.
 1. 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.⁵⁹
 - (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.⁶⁰

⁵⁸ Editor's Note: Language from existing Ordinance 4-7, reorganized for clarity.

⁵⁹ Editor's Note: Reworded from existing Ordinance 5-3.

⁶⁰ Editor's Note: New item added as a best practice and in conformance with State Code.

- (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.
- (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.⁶¹
 - (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.⁶²
 - (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

⁶¹ Editor's Note: New item to reference State Code.

⁶² Editor's Note: Reworded for compliance with State Code.

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.

- (C) ⁶³To 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.⁶⁴
- (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

⁶³ Editor's Note: The following items in this Section are new provisions in accordance with State Code.

⁶⁴ Editor's Note: Reference to State Code added.

instrument of record, or streets, alleys, or easements for public passage shall not be affected thereby.

Division 8. Vacation of Plats.

Section 10-8-1. Vacation.⁶⁵

- (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.

⁶⁵ Editor's Note: This Section has been updated in accordance with Code of Virginia. The Section replaces Section 7 of existing Subdivision Ordinance.

- (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.

- (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.⁶⁶

Section 10-9-1. Enforcement.⁶⁷

(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.⁶⁸

(A) Violations of this Article shall be in accordance with Article 2, Administration, of this Ordinance.

⁶⁶ Editor's Note: From existing Ordinance 2-4 and 2-5.

⁶⁷ Editor's Note: This Section has been updated pursuant to State Code.

⁶⁸ Editor's Note: This Section is updated to reflect the structure of the draft 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.

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.

ARTICLE 11. – Definitions.

Division 1. Word Usage.

Section 11-1-1. General

(A) For the purposes of this Ordinance, certain words or terms shall be defined as follows:

- (1) Words used in the present tense include the future. Words in the singular include the plural, and the plural includes the singular.
- (2) The word "shall" or "must" is always mandatory; the word "may" is permissive.
- (3) The words "used for" include "designed for," "arranged for" or "occupied for."
- (4) The word "building" includes "structures" and shall be construed as if followed by the phrase "or part thereof."
- (5) The word "person" includes "individual," "partnership," "company," "profit or nonprofit corporation," "organization" or other similar entities.
- (6) The word "erected" shall be deemed also to include "constructed, reconstructed, altered, placed, or moved".
- (7) The word 'State' means the Commonwealth of Virginia. The word 'County' means Franklin County, Virginia.
- (8) The word 'Town' means the Town of Rocky Mount.
- (9) The terms "land use" and "use of land" shall be deemed also to include "building use" and "use of building."
- (10) Unless otherwise specified, the term 'day' means a calendar day.
- (11) Unless otherwise specified, all distance shall be measured horizontally and at right angles to the line in relation to which the distance is tied.
- (12) The terms "architect," "engineer," "landscape architect," and "surveyor," or other profession listed, refer to those professionals who are registered with the Virginia Department of Professional and Occupational Regulation to practice those professions.
- (13) The words, terms, and phrases, when used in this Ordinance, shall have the meanings ascribed to them in this Article, except where the context clearly indicates a different meaning.

(B) See Article 11, Division 3 for definitions that specifically pertain to the Floodplain Overlay District.

Section 11-1-2. List of Abbreviations.

Abbreviations used in this Ordinance are listed below with the term they abbreviate.

A1: Agricultural District

AC: Arts and Culture Overlay District

AGL: Above Ground Level

ANSI: American National Standards Institute
ASTM: American Society for Testing and Materials
B1: Business, Limited District
B2: Business, General District
BFE: Base Flood Elevation
BZA: Board of Zoning Appeals
C1: Commercial Office Limited District
C2: Commercial Office General District
CBD: Central Business District
CLOMR: Conditional Letter of Map Revision
DCR: Virginia Department of Conservation and Recreation
DEQ: Department of Environmental Quality
DFIRM: Digital Flood Insurance Rate Map
DU: Dwelling Unit
du/acre: Dwelling Unit Per Acre
EPA: Environment Protection Agency
FAA: Federal Aviation Administration
FCC: Federal Communications Commission
FEMA: Federal Emergency Management Agency
FIRM: Flood Insurance Rate Map
FIS: Flood Insurance Study
FP: Floodplain Overlay District
FT: Feet
GB: General Business District
HOA: Homeowners Association
HUD: United States Department of Housing and Urban Development
LF: Linear Foot
LOFD: Letter of Final Determination
LOMA: Letter of Map Amendment
LOMC: Letters of Map Change
LOMR: Letter of Map Revision
M1: Industrial Limited District

M2: Industrial General District
MUD: Mix-Use Development Overlay District
N/A: Not Applicable
NFIP: National Flood Insurance Program
PC: Planning Commission
POS: Public/Open Space District
PV: Photovoltaic
RA: Residential Agricultural District
RB: Residential Business District
R1: Residential District
R2: Residential District
R3: Residential District
RB: Residential Business District
ROW: Right-of-Way
RPUD: Residential Planned Unit Development District
SCC: State Corporation Commission
SE: Special Exception
Sq. Ft.: Square Feet
SFHA: Special Flood Hazard Area
UL: Underwriters Laboratories
USGS: United States Geological Survey
VDH: Virginia Department of Health
VDOT: Virginia Department of Transportation
USBC: Uniform Statewide Building Code
USACE: US Army Corp of Engineers
ZA: Zoning Administrator

Division 2. General Terms

Section 11-2-1. General.

Accessory structure. A building or structure subordinate to and located on the same lot with a main building, the use of which is clearly incidental to that of the main building or to the use of the land, and which is not attached by any part of a common wall or roof to the main building. The term "accessory structure" also includes, but is not limited to, portable storage containers, gazebos, carports, private greenhouses, and

sheds which may be modular in nature and are delivered to the site and which may or may not have a foundation. Accessory building or structure does not include motorhomes, travel trailers, or other recreational vehicles.

Act of God. Any natural disaster or phenomena including, but not limited to, a hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, earthquake, or fire caused by lightning or wildfire.

Adaptive reuse residential. The redevelopment and adaptive reuse of existing structures to a multi-unit dwelling. In the case of adaptive reuse, the existing structure was originally designed for fully commercial uses, or ground-level commercial use with upper-floor residential uses.

Adaptive reuse. The renovation and reuse of existing structures for new purposes.

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

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.

Adult day care center. As defined in § 63.1-194.1 of the Code of Virginia an adult day care center is a facility which provides supplementary care and protection during part of the day only to four or more aged, infirm, or disabled adults who reside elsewhere, except (i) a facility or portion of a facility licensed by the State Board of Health or the Department of Mental Health, Mental Retardation and Substance Abuse Services, and (ii) the home or residence of an individual who cares only for persons related to them by blood or marriage.

Adult use. Any premise from which minors are excluded and in which features the viewing, retail sale, and/or rental of books, magazines, newspapers, digital media, movie films, devices, or other photographic or written productions. Additionally, any premise from which minors are excluded and operates as a nightclub, bar, restaurant, or similar establishment that regularly features live performances that have a dominant theme or purpose intended to provide sexual stimulation or sexual gratification to such customers, and which is distinguished by or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities, or specified anatomical areas.

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.

Agriculture, Residential. The personal and recreational practice of maintaining, raising, and/or breeding of bee colonies within apiaries, hives, or similar container and the keeping and raising of chickens on land incidental to a principal dwelling.

Agriculture/Silviculture. Any operation devoted to the bona fide production of crops, or animals, or fowl; the growing, harvesting, and production of fruits and vegetables of all kinds; the production and harvest of products from silvicultural activity; and farm wineries, farm breweries, and farm distilleries as defined by the Code of Virginia.

Agritourism. Pursuant to the Code of Virginia §15.2-2288.6, any activity carried out at a farm winery, farm brewery, farm distillery, farm, ranch, or other agricultural operation, that allows members of the general public, for recreational, entertainment, or educational purposes, to view or enjoy rural activities, including

farming, wineries, ranching, historical, cultural, harvest-your-own activities, or natural activities and attractions, regardless of whether or not the participant paid to participate in the activity. These rural activities also include, but are not limited to, farm tours, tours of an individual agricultural operation, hayrides, heirloom plant/animal exhibits, crop mazes, and educational programs, workshops, or demonstrations related to agriculture or silviculture. This use does not include weddings and other non-agricultural events as provided by the use Event Venue, as defined by this Ordinance.

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

Alternative nicotine product.¹ Any noncombustible product containing nicotine that is intended for human consumption, whether chewed, absorbed, dissolved, or ingested by any other means. "Alternative nicotine product" does not include any nicotine vapor product, tobacco product, or product regulated as a drug or device by the U.S. Food and Drug Administration (FDA) under Chapter V (21 U.S.C. § 351 et seq.) of the Federal Food, Drug, and Cosmetic Act.

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

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

Architectural lighting. Lighting of building surfaces, landscape features, statues, and similar items for the purpose of decoration, ornamentation, creation of visual hierarchy, sense of liveliness, or other purpose unrelated to safety, business operation, or essential lighting function.

Area, buildable. The portion of a lot or site, exclusive of required setbacks, landscaping, or open space within which a structure may be built.

Area, gross. The total area within a lot before dedication for roads, open spaces, or other public uses – but not including rights-of-way, easements owned by others, or floodplains/wetlands within a development.

Auction house. An enclosed place or establishment conducted or operated for compensation or profit as a private or public market where items are offered for sale through competitive bidding. The term "auction house" shall not include on-premises estate, foreclosure, real estate or personal property sales conducted upon the estate, foreclosed or for sale property. The term "auction house" shall not include flea markets, yard sales or livestock markets defined or regulated elsewhere or sheriff's or bank repossession sales.

Automobile graveyard. Any lot or place that is exposed to the weather and upon which more than five motor vehicles of any kind that are incapable of being operated and which it would not be economically practical to make operative are placed, located, or found.

Automobile sales and rental. A lot arranged, designed, or used for the storage and display for sale, lease, or rent of any new or used automobile capable of independent operation or any type of boat, travel trailer, and recreation vehicle, provided the travel trailer and recreation vehicle is unoccupied, and where warranty repair work and other major and minor repair service is done wholly within an enclosed building as an accessory use.

¹ Editor's Note: Definition from Code of Virginia, added at staff direction as a result of House Bill 947 being signed by the Governor on April 5, 2024.

Automobile service, major. A facility for major body, engine, and transmission repairs of automobiles, commercial vehicles, or trucks, and trailers, but does not include a junkyard as defined by this Ordinance. Typical uses include, but are not limited to, automobile and truck repair garages, transmission shops, radiator shops, body and fender shops, painting, or other similar uses where installation or repair activities are conducted.

Automobile service, minor. A facility for minor automobile repairs and maintenance including, but not limited to, oil change, inspections, car detailing, tire repair and replacement, and may also include electric vehicle charging facilities, fuel pumps, and underground or aboveground storage tanks, that provides fuels and oil by individual sale for motor vehicles and equipment. All repair work shall be conducted within a completely enclosed building.

Bare-root planting. Planting of perennial plants whose roots are not wrapped via baling and burlap, and whose roots are exposed when planted.

Basement. Any area of the building having its floor sub-grade (below ground level) on any side.

Bed and Breakfast. A single-unit dwelling, that is occupied by the owner or agent who resides on premises, that provides temporary lodging. Food service shall be at least one meal per day, for each person to whom overnight lodging is provided.

Bicycle parking rack. A stationary fixture to which a bicycle can be supported upright, provide two points of contact, and be securely attached (typically using a bicycle lock) to prevent theft.

Bikeway. Any facility that provides for bicycle travel and may be one of the three following types:

Bike lane. A restricted right-of-way integrated with a vehicular roadway and designed for the exclusive use of bicycles. Through travel by motor vehicles is not permitted, but cross flows may be allowed.

Multiuse trail.² A facility designed and constructed for the purpose of providing bicycle and pedestrian transportation, located within a dedicated public way and is anticipated to be maintained by an entity other than the VDOT.

Shared use path. means a facility that is designed and constructed according to the Road Design Manual, 2011 (VDOT), for the purpose of providing bicycle and pedestrian transportation.

Board of Zoning Appeals (BZA). A quasi-judicial board appointed to review appeals and requests for variances made by individuals with regard to decisions of the Zoning Administrator in the interpretation of this Ordinance and to authorize, upon appeal, variances from the terms of this Ordinance when justified by special conditions.

Boundary. A line, which may or may not follow a visible feature, that defines the limits of a geographic entity such as a zoning district, block, census tract, city, county, or place.

Boundary line adjustment.³ A plat that adjusts the property lines of existing parcels to change the configuration of the lots or to consolidate existing lots.

Brewery, distillery, or winery. An establishment primarily engaged in brewing ale, beer, malt liquors, and nonalcoholic beer, with a capacity of more than 1,000 barrels per year; or primarily engaged in distilling

² Editor's Note: Multiuse trail and shared use path are new definitions from state code 24VAC30-92-10.

³ Editor's Note: New definition.

and blending potable liquors, including mixing them with other ingredients, with a capacity of more than 5,000 gallons of finished product per year; or primarily engaged in the crushing, fermentation, bulk aging/storage, and bottling of grapes that are primarily brought in and not grown on-site, at a capacity of more than 5,000 gallons per year. The development may include other accessory uses such as a standard restaurant, tasting room, or live entertainment.

Brewery, distillery, or winery, Micro-. An establishment primarily engaged in brewing ale, beer, malt liquors, and nonalcoholic beer, with a capacity of not more than 1,000 barrels per year; or primarily engaged in distilling and blending potable liquors, including mixing them with other ingredients, with a capacity of not more than 5,000 gallons of finished product per year; or primarily engaged in the crushing, fermentation, bulk aging/storage, and bottling of grapes that are primarily brought in and not grown on-site, at a capacity of less than 5,000 gallons per year. The development may include other accessory uses such as a standard restaurant, tasting room, or live entertainment.

Buffer, transitional. A strip of land, with plantings, designed to set apart and protect one space or activity from an adjacent space or activity.

Building. Any structure having a roof supported by columns, walls, or other means. If separated by dividing walls from the ground up without openings, each portion of a building shall be deemed a separate building.

Building height. The vertical distance in feet from the established curb grade to the roofline, as shown in Figure 4 - 5 of Article 4.

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

Building setback. See Setback.

Business support services. The use of land for the sale, rental, or repair of office equipment and supplies or the provision of services used by office and service establishments. Typical uses include, but are not limited to, office equipment and supply firms, small business machine repair shops, convenience printing and copying establishments, or information technology support services.

Caliper.⁴ A measuring instrument having two usually adjustable arms, legs, or jaws used especially to measure diameter or thickness.

Canopy (attached). An architectural projection or shelter projecting from and supported by the exterior wall of a building and composed of a covering of rigid or non-rigid materials and/or fabric on a supporting framework that may be either permanent or retractable. The term does not include *awning*, as defined in this Ordinance.

Canopy (freestanding). A freestanding structure composed of a covering of rigid or non-rigid materials and/or fabric on a supporting framework that may be either permanent or retractable. The term does not include *awning*, as defined in this Ordinance.

Car wash. A structure or portion thereof, standalone or accessory to gas station, containing facilities for washing and/or waxing motor vehicles, typically using production-line automated or semiautomated methods for washing, whether or not employing a chain conveyor, blower, steam cleaning or similar mechanical devices operated either by the patron or others. Car washes are a separate use and not treated as accessory to gasoline stations, automobile service, or other similar uses.

⁴ Editor's Note: Caliper definition was clarified per Jan. 23, 2024 worksession decision.

Catering facility. An establishment in which food and meals are prepared on premises, and where such food and meals are delivered to another location for consumption for a fee.

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.

Certificate of Occupancy⁵. The permit issued by the Building Official that is required under the Uniform Statewide Building Code prior to the use or occupancy of certain buildings and structures.

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

Club. A use providing educational, meeting, or social facilities for civic or social clubs, fraternal/sororal organization, and similar organizations and associations, primarily for use by members and guests. Recreational facilities, unless otherwise specifically cited in this section, may be provided for members and guests as an accessory use. A Club does not include a building in which members reside.

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

Commercial laundry. Establishments primarily engaged in the provision of laundering, cleaning, or dyeing services other than those classified as Personal Services. Typical uses include bulk laundry and cleaning plants, diaper services, or linen supply services.

Commercial truck.⁶ Any vehicle that exceeds an empty weight of 5,000 pounds or is equipped with or designed to have more than two rear wheels, and is designed or regularly used for carrying freight, merchandise, or more than ten passengers, including buses. Empty weight shall be that which is identified as such for vehicle title or registration purposes by the Virginia Department of Motor Vehicles. These provisions do not apply to pick-up body type trucks, panel trucks, or vans.

Commission. See Planning Commission.

Communications services. An establishment primarily engaged in the provision of broadcasting and other information relay services accomplished using electronic and telephonic mechanisms. Excluded from this use type are facilities classified as utility services, major or broadcasting or communication towers. Typical uses include television studios, telecommunication service centers, telegraph service offices or film and sound recording facilities.

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.

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.

⁵ Editor's Note: Definition simplified to state that the COO is a permit issued by the Building Official.

⁶ Editor's Note: Definition from Ordinance amendment dated Nov. 3, 2021.

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

Conditional Zoning. A method for rezoning that permits the reasonable and orderly development and use of land with special restrictions in those situations in which unique, specific circumstances indicate that the existing zoning district regulations are not adequate.

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.

County. Franklin County, Virginia.

Cul-de-sac.⁷ A street with only one outlet and having an appropriate turnaround for a safe and convenient reverse traffic movement.

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.

Decorative lighting. Ambient or accent lighting intended to enhance the appearance of a use or structure. The term does not include emergency or holiday decorative lighting.

Density. The number of dwelling units that are allowed on a given unit of land, which shall be permitted to include dedicated streets contained within the development. Density is determined by dividing the total number of residential units or lots to be located on the parcel by the area of the base parcel.

Development. Any man-made change to improved or unimproved real estate, including but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavating, or drilling operations or storage of equipment or materials.

Developer.⁸ An individual, corporation, local government, or registered partnership engaged in the subdivision, improvement, or renovation of land.

District. See Zoning District.

⁷ Editor's Note: Definition updated per state code 24VAC30-92-10.

⁸ Editor's Note: New definition from state code 24VAC30-92-10.

District, Commercial. A zoning district intended primarily for commercial activity, which allows specified commercial, recreational, and public uses; includes C1, C2, CBD, and GB districts.

District, Industrial. A zoning district intended primary for industrial activity, which allows specified industrial and other uses; includes M1 and M2 districts.

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

District, Planned Development. A zoning district that is designated for and contains a Planned Development, as defined by this Ordinance.

District, Primary Zoning. A district which includes a specifically delineated area in the Town, within which regulations and requirements uniformly govern the use, placement, spacing, size, and other requirements of land and structures.

District, Residential. A zoning district intended primary for residential activity, which allows specified residential, recreational, and public uses; includes RA, R1, R2, R3, and RPUD districts.

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.

Duplex. A residential building of not more than two dwelling units, arranged one above the other or side by side, designed for occupancy by not more than two households. See also Two-Unit Dwelling.

Dwelling, accessory.⁹ 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 principal 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 incorporated therein by reference. For purposes of this chapter, a Manufactured Home must bear a data plate declaring that it meets HUD standards.

Dwelling, Multi-Unit. A building arranged or designed to be occupied by three or more dwelling units for permanent occupancy, regardless of the method of ownership. Included in the use type but not limited to

⁹ Editor's Note: New definition for new use proposed after the Nov. 21, 2023 worksession.

would be garden apartments, low-and high-rise apartments, apartments for elderly housing, and condominiums.

Dwelling, Single-Unit. A site built or modular building designed for and used exclusively as one dwelling unit for permanent occupancy, which is surrounded by open space or yards on all sides, is located on its own individual lot, and which is not attached to any other dwelling by any means.

Dwelling, Townhouse. A row of three or more dwelling units, each separated from one another by a continuous vertical wall without opening from basement floor to roof between units, which is commonly known as a firewall, and each on a separate parcel.

Dwelling, Two-Unit. Also referred to as a duplex; a building arranged or designed to have only two dwelling units.

Dwelling Unit. A building, structure, or portion thereof, providing complete and independent living facilities for one or more persons, including permanent provisions for living, sleeping, cooking and sanitation.

Easement.¹⁰ A grant of a right to use property of an owner for specific or limited purpose.

Education facility, college, university, business, or trade. An educational institution authorized by the Commonwealth of Virginia toward certificate, license, associate, baccalaureate or higher degrees, and facilities associated with it. This term includes academic buildings, administrative facilities, dormitories, special housing, parking areas, dining halls, and other physical plants associated with the college, university, business, or trade school use.

Educational facility, primary or secondary. A public, private, or parochial school offering instruction at the primary, elementary, junior, and/or senior high school levels in the branches of learning and study required to be taught in the public schools of the Commonwealth of Virginia.

Emergency management services facility. A building or facility operated by a public or private entity or through a public private partnership for the provision of emergency operations and may include storage of emergency vehicles and equipment and ancillary operations. Such uses include but are not limited to fire stations, police stations, and ambulance services. This use does not include Office, Medical/Clinic, as defined by this Ordinance.

Energy-efficient building.¹¹ Energy-efficient building means any building that exceeds the energy efficiency standards prescribed in the Virginia Uniform Statewide Building Code by 30% or any building that (i) meets or exceeds performance standards of the Green Globes Green Building Rating System of the Green Building Initiative, (ii) meets or exceeds performance standards of the Leadership in Energy and Environmental Design (LEED) Green Building Rating System of the U.S. Green Building Council, (iii) meets or exceeds performance standards or guidelines under the EarthCraft House Program, or (iv) is an Energy Star qualified home, the energy efficiency of which meets or exceeds performance guidelines for energy efficiency under the Energy Star program developed by the United States Environmental Protection Agency.

Engineer, Highway. The resident engineer employed by the Virginia Department of Transportation.

Engineer. A professional who is qualified to practice engineering by reason of his special knowledge and use of mathematical, physical, and engineering sciences and the principles and methods of engineering

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

¹¹ Editor's Note: Recommended definition is from a benchmark locality.

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.

Equipment sales, service, and repair (heavy). Establishments primarily engaged in the sale, rental, or repair of tools, tractors, construction equipment, commercial equipment, and similar industrial equipment. Included in this use type is the incidental storage, maintenance, and servicing of such equipment.

Event venue. A business where the primary use is to host events such as, but not limited to, weddings, wedding receptions, bridal receptions, rehearsal luncheons and dinners, anniversary celebrations, galas, birthday parties, family reunions, ordinations, funeral receptions, fundraisers, retirement parties, corporate meetings, conferences, trade shows, speaker luncheon series, auctions, museum exhibits and similar events. An event venue may be indoors or outdoors. Event venues may also be accessory or ancillary uses to other uses, such as, hotels or restaurants. Event venues shall not include government and military services.

Factory outlet store. A retail activity offering for sale goods or products which are produced on the same premises, but do not exceed 25% of the total floor area of the manufacturing facility.

Family day home (1-4 children). A child day program, as defined under Code of Virginia § 22.1-289.02, for children offered in the residence of the provider for up to four children at any one time, exclusive of the provider's own children and any children who reside in the home, when at least one child receives care for compensation.

Family day home (5-12 children).¹² A child day program, as defined under Code of Virginia § 22.1-289.02, for children offered in the residence of the provider for five through twelve children at any one time, exclusive of the provider's own children and any children who reside in the home, when at least one child receives care for compensation.

Family health care structure, temporary. As required by and pursuant to all conditions set forth in the Code of Virginia §15.2-2292.1, a transportable residential structure, providing an environment facilitating a caregiver's provision of care for a mentally or physically impaired person, that (i) is primarily assembled at a location other than its site of installation; (ii) is limited to one occupant who shall be the mentally or physically impaired person, or in the case of a married couple, two occupants, one of whom is a mentally or physically impaired person and the other requires assistance with one or more activities of daily living as defined in Code of Virginia §63.2-2200, as certified in writing by a physician licensed in the Commonwealth; (iii) has no more than 300 gross square feet; and (iv) complies with applicable provisions of the Industrialized Building Safety Law (§36-70 et seq.).

Family, immediate. Any person who is a natural or legally defined offspring, stepchild, spouse, sibling, grandchild, grandparent, or parent of the owner.¹³

Farmers Market. Farmers market means retail sale of fresh fruits and vegetables, crafts, and other food and related items, excluding livestock, at a facility with spaces occupied by several different temporary tenants on a short-term or daily basis; indoor or outdoor.

Fence. A barrier of man-made construction preventing movement across a boundary, including walls that do not support a roof, but not retaining walls.

¹² Editor's Note: This definition matched the definition for Family day home (1-4 children) and was corrected July 24, 2024.

¹³ Editor's Note: Definition from Code of Virginia.

Financial institution. An establishment whose principal purpose is the provision of financial services, including but not limited to, an insured depository institution, a credit union, a Federal home loan bank, a small business investment company, a depository institution holding company, a mortgage lending business, or other institutions as defined by Federal code.

Flag. A display, usually made of fabric and attached to a pole or rope, showing only the national symbol of any nation, state, local government area, culture, or people.

Fleet vehicle. A vehicle that is owned or leased by a business, government agency, or other organization rather than by an individual.

Footcandle. A measure of light falling on a surface. One footcandle equals the amount of light generated by one candle shining on one square foot surface located one (1) foot away. Footcandle measurements must be made with a photometric light meter.

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

Funeral home. A building used for and engaged in undertaking services such as preparing the dead for burial, cremation, and arranging and managing funerals.

Garden center. Establishments or places of business primarily engaged in retail or wholesale (bulk) sale from the premises, of trees, shrubs, seeds, fertilizers, pesticides, plants and plant materials primarily for agricultural, residential, and commercial consumers. Such establishments typically sell products purchased from others but may sell some material which they grow themselves. Typical uses include plant nurseries, plant stores, and lawn and garden centers.

Gas station. Any place of business with fuel pumps and underground or aboveground storage tanks that provides fuels and oil by individual sale for motor vehicles and equipment and may include electric vehicle charging facilities. A store associated with automobile fuel sales shall be considered a gas station.

Glare. The sensation produced by a bright light source within the visual field that is sufficiently brighter than the level to which the eyes are adapted, which causes annoyance, discomfort, or loss in visual performance.

Governing body. The Town Council of Rocky Mount, but may also mean the local governing body of a county, if appropriate, in the application of these requirements.

Grade, established curb.¹⁴ The elevation of the recognized edge of the street, or centerline of the street, in front of a building or structure.

Group home. As provided by Code of Virginia § 15.2-2291, a licensed residential facility in which no more than eight mentally ill, intellectually disabled, or developmentally disabled persons or no more than eight aged, infirmed, or disabled persons reside, with one or more resident counselors or other resident or nonresident staff persons, shall be considered a residential occupancy by a single family. Mental illness and developmental disability shall not include current illegal use of or addiction to a controlled substance as defined in the Code of Virginia §54.1-3401. Such facility shall be licensed by the Virginia Department of Behavioral Health and Developmental Services (Code of Virginia §15.2-2291).

¹⁴ Editor's Note: Definition was clarified March 27, 2024.

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."

Hazardous materials, storage, and distribution. The storage and/or distribution of any substance that, because of its quantity, concentration, or physical or chemical characteristics, poses a significant present or potential hazard to human health and safety of the environment.

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

Hemp product.¹⁵ A product, including any raw materials from industrial hemp that are used for or added to a food or beverage, that (i) contains industrial hemp and has completed all stages of processing needed for the product and (ii) when offered for retail sale (a) contains a total tetrahydrocannabinol concentration of no greater than three tenths percent (0.3%) and (b) contains either no more than two (2) milligrams of total tetrahydrocannabinol per package or an amount of cannabidiol that is no less than 25 times greater than the amount of total tetrahydrocannabinol per package.

Hemp product intended for smoking.¹⁶ Any hemp product intended to be consumed by inhalation.

High-pressure sodium vapor. A High Intensity Discharge light source in which the arc tube's primary internal element is Sodium Vapor. High-pressure sodium vapor lamps emit a broader spectrum of light than low-pressure lamps.

Highway engineer. The resident engineer employed by the Virginia Department of Transportation with transportation and highways responsibilities for Franklin County, Virginia.

Home occupation. Any occupation or activity which is clearly incidental and secondary to use of the premises as a dwelling and which is carried on wholly or in part within the main building by a resident of the home.

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.

Hospital. Pursuant to § 32.1-123 of the Code of Virginia, any facility licensed in which the primary function is the provision of diagnosis, of treatment, and of medical and nursing services, surgical or nonsurgical, for two or more nonrelated individuals, including hospitals known by varying nomenclature or designation such as children's hospitals, sanatoriums, sanitariums and general, acute, rehabilitation, chronic disease, short-term, long-term, outpatient surgical, and inpatient or outpatient maternity hospitals.

¹⁵ Editor's Note: Definition from Code of Virginia, added at staff direction as a result of House Bill 947 being signed by the Governor on April 5, 2024.

¹⁶ Editor's Note: Definition from Code of Virginia, added at staff direction as a result of House Bill 947 being signed by the Governor on April 5, 2024.

Hotel. The use of land for transitory lodging or sleeping accommodations offered to transients for compensation, typically by the day or week. Typical uses include hotels, motels, travel lodges, or hostels, but not including a Bed and Breakfast or Short-term Rental.

Improved surface. A surface made of asphalt, concrete, brick, stone pavers, or an equivalent hard, dustless, and bonded material.

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.

Interior aisle. A portion of a parking area which abuts, on one or more sides, parking spaces to which it provides access, and which is not used for the parking of vehicles.

Itinerant vendor. Any person who engages in, does, or transacts a temporary or transient business in the Town.

Junkyard/salvage yard. An establishment or place of business which is maintained, operated, or used for storing, keeping, buying, or selling scrap metal, or for the maintenance or operation of an automobile graveyard. The definition does not include litter, trash, and other debris scattered along or upon roadways, or temporary operations and outdoor storage of limited duration. (Reference Code of Virginia § 33.2-804, as amended).

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

Kelvin light color temperature. A light bulb color temperature's unit of absolute temperature, noted by the symbol K. The higher the Kelvin rating, the whiter the light will be. The Kelvin scale is generally as follows: 2700K (warm incandescent), 3000K (warm white halogen) and 3500K (household fluorescent).

Kennel, Commercial. Any location where raising, grooming, caring for, dog day care services, or boarding of three or more dogs, cats, or other small animals over four months of age, in an enclosure or structure from which they cannot escape, for commercial purposes is conducted.

Laboratory, research and development. Laboratory, research and development means an establishment whose principal purpose is the research, compounding and/or packaging of scientific products, or research and development of innovative ideas in technology-intensive fields. Examples include research and development of communication systems, transportation, geographic information systems, multi-media and video technology. Development and construction of prototypes and light manufacturing may be associated with this use.

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.

Landscaping. The finishing and adornment of unpaved yard areas. Materials and treatment include naturally growing elements such as grass, trees, shrubs, and flowers. This treatment shall be permitted also to include the use of logs, rocks, fountains, water features, and contouring of the earth.

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

Life care facility. A residential facility primarily for the continuing care of the elderly, providing for transitional housing progressing from independent living in various dwelling units, with or without kitchen facilities, which may culminate in nursing home type care where all related uses are located on one parcel, or contiguous parcels.¹⁷ Such facility may include other services integral to the personal and therapeutic care of the residents.

Light emitting diode. A semiconductor light source that emits light when current flows through it. Also referred to as an LED.

Loading space. A space within the main structure or on the same lot therewith, providing for the standing, loading, or unloading of trucks and other vehicles, and which has access to a street, alley, or other appropriate means of ingress and egress.

Lot. An occupied or vacant parcel of land that is intended to be separately owned, developed, or otherwise used as a unit, established by plat, subdivisions, or as otherwise permitted by law.

Lot, corner. A lot abutting on two or more streets at their intersection.

Lot, double frontage. An interior lot that has frontage on two streets; sometimes referred to as a through lot.

Lot, interior. Any lot other than a corner lot.

Lot, irregular. A lot whose location, shape, or orientation is such that the application of general measurements cannot be reasonably applied; an irregular lot typically has opposing property lines that generally are not parallel.

Lot, regular. A lot that is located, shaped, and oriented to adjacent lots in such a way that the application of general measurements can be reasonably applied, and the location of front, side, and rear setbacks is logically determined by, and related to, adjacent streets and setback patterns.

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.

Lot area. The total horizontal area included within the lot lines of a lot.

Lot coverage. The percentage of a lot, when viewed from above, that would be covered by a structure or structures (or any part thereof), including driveways, decks, stairs, eaves, and other improvements.

Lot depth. The distance between the front lot line and rear lot line of a lot, measured along a straight line.

Lot frontage. The horizontal distance between the side lot lines of a lot, measured at the street or road right-of-way.

Lot line, front. A lot line connecting the foremost points of the side lot lines and delineating the lot from the abutting street or road.

Lot line, rear. A lot line which is opposite and most distant from the front lot line and connecting the rearmost points of the side lot lines.

¹⁷ Editor's Note: This sentence was revised under staff direction following the May 21, 2024 worksession.

Lot line, side. Any lot line not considered a front or rear lot line.

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

Lot width. The horizontal distance between the side lot lines of a lot, measured at the front setback.

Low-impact development. Systems and practices that use or mimic natural processes that result in the infiltration, evapotranspiration, or use of stormwater in order to protect water quality and associated aquatic habitat. Often utilizing green infrastructure to preserve, restore, and create green space using soils, vegetation, and rainwater harvest techniques that work with nature to manage stormwater as close to its source as possible.

Low-pressure sodium vapor. A High Intensity Discharge light source in which the arc tube's primary internal element is Sodium Vapor. Low-pressure sodium vapor lamps only give monochromatic yellow light and so inhibit color vision at night.

Luminaire. A complete electric light unit.

Luminaire, full cut-off. An outdoor light fixture shielded in such a manner that all light emitted by the fixture, either directly from the lamp or indirectly from the fixture, is projected down below the fixture.

Luminaire, directionally shielded. An outdoor light fixture that contains visors, louvers, and other types of shields or lenses designed to direct light onto a targeted area and to minimize stray light.

Luminaire, outdoor. A luminaire which is permanently installed outdoors including, but not limited to, devices used to illuminate any site, structure, or sign, except that it does not include an internally illuminated sign.

Manufactured home park. An area designed, constructed, equipped, operated, and maintained for the purpose of providing spaces for manufactured homes intended for use as occupied dwelling units and meeting or exceeding all applicable requirements for manufactured home parks as stipulated by this Ordinance and the Commonwealth of Virginia.

Manufacturing, heavy. The processing and/or converting of raw, unfinished material and/or products into articles or substances of a different character or for use for a different purpose. Uses may have significant external effects, or which pose significant risks due to the involvement of explosives, radioactive materials, poisons, pesticides, herbicides, or other hazardous materials in manufacturing or other processes. Uses may include, but are not limited to, asphalt plants, concrete plants, lumber mills, and planing mills.

Manufacturing, light. Establishments primarily engaged in the on-site production of goods by hand manufacturing, assembly, packaging or fabrication of materials and products within enclosed structures without significant external effects such as smoke, noise, soot, vibration, odor, and the like. Uses may include, but are not limited to, a machine shop, bottling, electronic equipment, business machines, furniture, medical appliances, tools or hardware, any other product of a similar nature. Retail sales may be incidental to the manufacturing use.

Manufacturing, small-scale. An establishment where shared or individual tools, equipment, or machinery are used to make products on a small scale, including the design, production, processing, printing, assembly, treatment, testing, repair, and packaging, as well as any incidental storage, retail or wholesale

sales and distribution of such products. Typical small-scale production establishments include, but are not limited to the making of electronics, prints, leather products, jewelry and clothing/apparel, metal work, glass, ceramic or paper, together with accessory uses such as training or educational programs.

Maximum lot coverage. The maximum area of a lot that is permitted to be covered by impervious surfaces in accordance with the applicable zoning district requirements, including but not limited to, building coverage, eaves, driveways, concrete patios, and similar features.

Medical treatment facility. A facility other than a hospital or medical or dental office where medical services are provided to individuals on an outpatient basis. Examples of medical treatment facilities include urgent care centers, dialysis centers, drug or alcohol treatment facilities, blood or tissue collection facilities, and diagnostic and laboratory services.

Mentally or physically impaired person. A person who is a resident of Virginia and who requires assistance with two or more activities of daily living, as defined in Code of Virginia, § 63.2-2200, as amended, as certified in a writing provided by a physician licensed by the Commonwealth of Virginia.

Military installation. A base, camp, post, station, yard, center, homeport facility for any ship, or other activity under jurisdiction of the U.S. Department of Defense, including any leased facility, or any land or interest in land owned by the Commonwealth and administered by the Adjutant General of Virginia or the Virginia Department of Military Affairs. "Military installation" does not include any facility used primarily for civil works, rivers and harbors projects, or flood control projects.

Mixed-Use Development. Property that incorporates two or more different uses, and may include a variety of housing types, within a single development.¹⁸

Horizontal Mixed-Use Development. Property that incorporates two or more different uses in separate, single-use or mixed-use buildings. All dwelling units shall be above the ground floor of the structure(s).

Vertical Mixed-Use Development. Property that incorporates one or more mixed-use structures. All dwelling units shall be above the first floor of the structure(s). *See Structure, mixed-use.*

Mobile food vendor. A readily movable wheeled cart, trailer, or vehicle designed and equipped for the preparing, service, and/or selling of food and operated at temporary locations. This definition shall include food trucks, food trailers, and food carts.

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.

Mural: A permanent work of art, which is not commercial in nature, applied to or painted directly onto a building surface.¹⁹

Nicotine vapor product.²⁰ Any noncombustible product containing nicotine that employs a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of shape or size, that can be used to produce vapor from nicotine in a solution or other form. "Nicotine vapor

¹⁸ Editor's Note: Mixed-Use Development definition provided by Code of Virginia.

¹⁹ Editor's Note: Definition was edited to remove the word "mural" after the March 19, 2024 worksession.

²⁰ Editor's Note: Definition from Code of Virginia, added at staff direction as a result of House Bill 947 being signed by the Governor on April 5, 2024.

product" includes any electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device and any cartridge or other container of nicotine in a solution or other form that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device. "Nicotine vapor product" does not include any product regulated by the FDA under Chapter V (21 U.S.C. § 351 et seq.) of the Federal Food, Drug, and Cosmetic Act.

Nit. A measurement of candelas per square meter (cd/m²) and used frequently to describe sign luminance and to measure sign brightness.

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

Nonconforming structure. An otherwise legal building or structure that does not conform with the lot area, yard, height, lot coverage, or other area regulations of this Ordinance, or is designed or intended for use that does not conform to the use regulations for this Ordinance, for the district in which it is located – either at the effective date of this Ordinance or as a result of subsequent amendments to the Ordinance.

Nonconforming use. The otherwise legal use of a building, structure, or a tract of land that does not conform to the use regulations of this Ordinance for the district in which it is located – either at the effective date of this Ordinance or as a result of subsequent amendments to the Ordinance. Any use that was unlawful on the Date of Adoption of this Ordinance shall remain unlawful and shall not be a nonconforming use.

Off-street parking. Space provided for vehicular parking outside the dedicated street right-of-way.

Office, general. The use of land wherein the primary use is the conduct of a business or profession such as, but not limited to accounting, tax-preparation, lenders and securities brokers, architecture, computer software, or information systems research and development, engineering, insurance, law, management, organization and association offices, psychology, theology, real estate, and travel. Retail Sales do not comprise more than an Accessory Use of the primary activity of a General Office. This definition does not include Medical/Clinic Office as defined by this Ordinance.

Office, medical/clinic. The use of a site for facilities which provide diagnoses, minor surgical care, and outpatient care on a routine basis, but which does not provide overnight care or serve as a base for an ambulance service. Medical offices are operated by doctors, dentists, or similar practitioners licensed by the Commonwealth of Virginia.

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

Open space. Land area not covered by buildings, roads, driveway and parking areas, or outdoor storage areas, including, but not limited to, landscape areas, gardens, woodlands, walkways, courtyards or lawns, outdoor recreation areas, and those elements provided in Article 8 of this Ordinance.

Outdoor sales, seasonal/temporary. Any business or use (primary or accessory) that is conducted on a temporary basis primarily out of doors, which may include but not be limited to: retail sales of fruits, vegetables, plants, flowers, Christmas trees, fireworks; or retail sales of used goods, such as rummage sales.

Outdoor storage. The keeping, in other than a building, of any goods, materials, or merchandise on the same parcel for more than twenty-four consecutive hours.

Overlay zoning district. A district which addresses special land use circumstances or environmental safeguards by superimposing additional standards and regulations over the underlying Primary Zoning

District. Permitted uses in the underlying Primary Zoning District shall continue subject to compliance with the regulations of the Overlay Zoning District.

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.

Parcel. See “Lot.”

Parking lot. An off-street, ground level area that is used to provide for the required parking spaces, and associated aisles, as provided in Article 8 of this Ordinance.

Parking lot, commercial. A site for surface parking use which is fee-based and provides one or more parking spaces together with driveways, aisles, turning and maneuvering areas, incorporated landscaped areas, and similar features meeting the requirements established by this Ordinance. This use type shall not include parking facilities accessory to a permitted principal use.

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

Personal improvement services. Establishments primarily engaged in the provision of informational, instructional, personal improvements, and similar services. Typical uses include driving schools, health or physical fitness studios, dance studios, handicraft, and hobby instruction.

Personal services. Establishments or places of business engaged in the provision of frequently or recurrently needed services of a personal nature. Typical uses include beauty and barber shops; tattoo shops; grooming of pets; seamstresses, tailors, or shoe repairs; florists; photographic studios; and laundromats and dry cleaning stations serving individuals and households.

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

Planned residential community. See Planned Unit Development.

Planned Unit Development. A form of development, on a contiguous land area, that is characterized by unified site design, intended to allow for a variety of housing types and densities, clustering of buildings, common open space, and/or a mix of building types and land uses, in which project planning and density calculations are performed for the entire development rather than on an individual lot basis. Including but not limited to, developments within and meeting the requirements of the RPUD District of this Ordinance.

Planning Commission. A board of the local government consisting of such appointed members whose functions include advisory or nontechnical aspects of planning and may also include such other powers and duties as may be assigned to it by the Town Council.

Planting strip.²¹ A section of land between the curb face and the pedestrian accommodation or multiuse path.

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.

²¹ Editor’s Note: New definition from state code 24VAC30-92-10.

Plat, easement.²² 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.

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

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

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

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

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

Public parks and recreation. Publicly owned and operated parks, picnic areas, playgrounds, indoor/outdoor athletic or recreation facilities, indoor/outdoor shelters, amphitheaters, open spaces, and other similar uses. This use shall not include Public Use as defined in this Ordinance.

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 includes emergency services such as fire stations, police stations, and ambulance services, and shall not include Educational Facilities, Public Parks and Recreation, or Utility Service (major or minor) as defined in this Ordinance.

Purchaser.²³ An actual or prospective buyer or lessee of any lot in a subdivision.

Qualified Arts Organization. A business or not-for-profit organization which, by the determination of the Administrator, positively contributes to the spectrum of arts and cultural activities and venues available to the public. Examples may include, but are not limited to, theatres, art galleries, museum, live music venues, dance studios, etc. Museums or historic sites, the primary mission of which is education, historic preservation, or artistic expression, also qualify as arts and culture organizations.²⁴

²² Editor's Note: New definition.

²³ Editor's Note: New definition.

²⁴ Editor's Note: Definition from the proposed amendment to Article 42, dated May 13, 2019.

Recreation facility, neighborhood. An indoor or outdoor recreation facility that is managed and operated by an HOA or developer, and that is to be used specifically by the residents and guests of a particular residential development, planned development, or residential neighborhood.

Recreation facility, noncommercial. Privately owned, not for profit park and recreation facilities that are open to the public. These uses may charge a fee but not for commercial gain. This use includes parks, picnic areas, playgrounds, active or passive recreation facilities, outdoor shelters, amphitheaters, open spaces, and other similar uses. This use does not include Recreation/Entertainment, Commercial Indoor or Outdoor; Recreation Facility, Neighborhood; Public Parks and Recreation, or Public Use, as defined by this Ordinance.

Recreation, active. Recreation which requires physical alteration to the area in which they are performed. This generally includes recreation or recreation areas such as playgrounds, ball courts, golf courses, and swimming pools.

Recreation, passive. Recreation that involves existing natural resources and/or minimal development and has a minimal impact. This generally includes walking, hiking, picnicking, birdwatching, and enjoyment of open areas such as parks.

Recreation/entertainment, commercial outdoor. Participant or spectator uses conducted in open or partially enclosed or screened facilities for commercial purposes. Typical uses include driving ranges, miniature golf, swimming pools, paintball facilities, sports arenas, and outdoor movie theaters or drive ins.

Religious assembly. A use located in a permanent building or in outdoor spaces and providing regularly organized religious worship and related incidental activities. This use may include a cemetery as an incidental, subordinate use and shall not include Educational facility, primary/secondary schools, and Day care facilities.

Restaurant, general. An establishment in which, for compensation, food or beverages are dispensed for consumption on and/or off the premises, including, among other establishments, bars, cafes, tearooms, confectionery shops, eat-in delis, and fast-food restaurants. Excluded from this definition is Mobile Food Vendor, and Micro Brewery or Distillery.

Retaining wall. A manmade barrier constructed for the purpose of stabilizing soil, retarding erosion, or terracing a slope.

Right-of-Way (ROW). A legally established area or strip on which an irrevocable public right of passage has been recorded, and which is occupied or intended to be occupied by a street, utility service, water main, sanitary or storm sewer main, or other similar use.

Roadside Farm Stand. An establishment for the seasonal retail sale of agricultural or forestal goods and merchandise incidental to an agricultural operation.

Roadway.²⁵ The portion of the road or street within the limits of construction and all structures, ditches, channels, etc., necessary for the correct drainage thereof.

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

²⁵ Editor's Note: New definition from state code 24VAC30-92-10.

Self-storage facility. A building or groups of buildings divided into separate compartments designed to provide rental storage space. Each storage space shall be enclosed by walls and ceiling and may have a separate entrance for the loading and unloading of stored goods, and shall not be pre-fabricated structures arranged on a lot. The conduct of sales, business, or any other activity within the individual storage units, other than storage, shall be prohibited.

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

Setback, front. The minimum distance from the edge of the right-of-way to the nearest point of the allowable structure(s), measured perpendicular to the front lot line. For Stem Lots, the front setback is the minimum distance from the edge of the right of way or “end” of the stem portion.

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

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

Shelter, animal. A facility used to house or contain stray, homeless, abandoned, or unwanted animals and that is owned, operated, or maintained by a public body, an established humane society, animal welfare society, society for the prevention of cruelty to animals, or other nonprofit organization devoted to the welfare, protection, and humane treatment of animals.

Shelter, residential. A facility providing temporary housing and feeding for one or more individuals who are otherwise temporarily or permanently homeless; and victims of abuse, those experiencing teenage pregnancy, orphaned, and/or similar situations. Ancillary community support services may be provided including, but not limited to, childcare, counseling, food distribution, or vocational training.

Short-term rental. The use of a residential dwelling unit or a portion thereof by a host to provide room or space that is intended for short term, transient rental purposes in exchange for a charge for the occupancy. This use type does not include bed-and-breakfast establishments and does not apply to month-to-month extensions following completion of a year’s lease.

Booking transaction. Any transaction in which there is a charge to a transient by a host for the occupancy of any dwelling, sleeping, or lodging accommodations.

Guest or transient. A person who occupies a short-term rental unit.

Owner (or host). The owner of the short-term rental unit who occupies the property as his or her principal place of residence and domicile. In determining compliance with these regulations, the host has the burden of demonstrating that the dwelling unit is his or her primary residence.

Residential dwelling unit. A residence where one or more persons maintain a household.

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

Sign.²⁶ Any object, device, display, structure, fixture, painting, emblem, or visual that uses words, figures, designs, graphics, fixtures, logos, colors, illumination, symbols, numbers, letters, or projected images for the purpose of communicating a message on the part of an institution, organization, business, product, service, event, or location.

Sign area. A square, rectangle, triangle, circle, or other geometric configuration, encompassing the entire advertising area, excluding architectural trim and structural supports.

Sign face. The particular area of the sign structure upon which a message, copy, or advertisement is displayed for viewing.

Sign height. The vertical distance measured from grade to the highest portions of the sign or sign structure.

Sign maintenance. To prevent through preservation, repair, or restoration, the development of any rust, corrosion, rot, chipping, peeling, or other deterioration in either the physical appearance or the safety of every sign.

Sign setback. The minimum distance required between any property line and any portion of a sign or sign structure.

Sign structure. Any structure supporting a sign.

Sign, A-frame or easel. Any upright sign with a rigid supporting frame either in the form of an inverted "V" or in the form of an easel. These signs are typically used to display a temporary message and are not permanently affixed to the ground.

Sign, abandoned. A sign structure that has ceased to be used, and the owner intends no longer to have used, for the display of sign copy, or as otherwise defined by State law.

Sign, attached. Any sign that is affixed directly to a wall, roof, canopy, awning, marquee, mansard wall, parapet wall, or porch of a building, and whose face is parallel to the building element to which it is attached. Attached signs have only one face visible from a public right-of-way.

Sign, awning. A type of attached sign painted on, printed on, or otherwise affixed to the surface of an awning. The term does not include *canopy*, as defined in this Ordinance.

Sign, banner. A sign utilizing a banner or flexible substrate as its display surface for copy or graphics. Banners are temporary in nature and do not include flags or pennants.

Sign, business. A sign which directs attention to a profession or business conducted, or to a commodity, service authority or entertainment sold or offered, upon the premises where the sign is located or in the building to which the sign is affixed.

Sign, canopy. A sign displayed on or attached flat against the surface or surfaces of a canopy. Illuminated canopies, if translucent, are considered part of the total canopy sign area. The term does not include *awning sign*, as defined in this Ordinance.

Sign, changeable animated display.²⁷ A sign that uses movement or the appearance of movement through the use of patterns of lights, changes in color or intensity, computerized special effects, video

²⁶ Editor's Note: Sign definitions are largely from the existing Ordinance and updated as needed, and new sign definitions have been added.

²⁷ Editor's Note: Definition added for clarity after the Jan. 23, 204 worksession.

displays, or through other methods. This definition does not include Changeable Sign as defined by this ordinance and which may include the scrolling of static messages.

Sign, changeable. A sign that includes any changing of the message either electronically or manually in which the message is stationary and does not fluctuate in size or brightness.

Sign, commercial. A sign informing or advertising products or activities for sale or profit.

Sign, construction. A temporary sign identifying an architect, developer, builder, general contractor, subcontractor, material supplier, and/or financing entity participating in construction on the property on which the sign is located.

Sign, directional. Any sign displayed for the direction and convenience of the public, including signs which identify rest rooms, location of public telephones, public entrances, freight entrances or the like.

Sign, exterior. Any sign placed outside a building.

Sign, feather. A double-faced sign that is made of cloth or lightweight non-rigid material that is attached to a pole or rope and displays information, promotional, or advertising content. The term does not include *flag*, as defined in this Ordinance.

Sign, flashing. An illuminated sign with artificial light which is flashing or intermittent when in use. Illuminated signs which indicate public service information such as time, date, temperature, weather, or similar information should not be considered "flashing" signs.

Sign, freestanding. A sign which is supported by structures or supports in or upon the ground and is independent of any support from any building. This does not include portable or trailer type signs.

Sign, illuminated: A sign characterized by the use of artificial light, either projecting through its surface(s) (internally illuminated); or reflecting off its surface(s) (externally illuminated).

Sign, interior. Any sign placed within a building, but not including "*signs, window*" as defined by this Ordinance.

Sign, landmark.²⁸ A sign having cultural or historical value to the community such that it contributes to the character and aesthetics of the Town.

Sign, minor. A wall or freestanding sign not exceeding three (3) square feet in area, not exceeding four (4) feet in height, and not illuminated. Examples include no trespassing signs, displays of building address, security warning signs, parking signs, entrance/exit signs, and on-site directional signs.

Sign, monument. A freestanding sign directly affixed to a solid, rectangular, or cylindrical base built on-grade.

Sign, nonconforming. A sign lawfully existing as of the effective date of this Ordinance, and which does not conform to the provisions of this Ordinance.

Sign, off-site (off-premises). A sign which directs attention to a business, commodity, service, activity, or entertainment conducted, sold, or offered on a parcel of land other than the one on which the sign is located.

²⁸ Editor's Note: New term and definition.

Sign, on-site (on-premises). Any sign which directs attention to a message, business, commodity, activity, service, or product conducted, sold, or offered upon the premises where the sign is located.

Sign, portable. A freestanding temporary sign that is designed to be moved easily and is not permanently affixed to the ground.

Sign, projecting. A sign that is affixed directly to a wall, roof, canopy, awning, marquee, mansard wall, parapet wall, or porch of a building, and whose face is roughly perpendicular to the building element to which it is attached.

Sign, roof. A sign which is located above, or projects above, the lowest point of the eaves or the top of the parapet wall of any building, or which is painted or fastened to a roof.

Sign, temporary. A sign designed or intended, based on materials and structural components, to be displayed for a specified or limited period of time, regardless of type or style of sign. Examples include real estate signs, yard sale signs, construction signs, and special or one-time event signs.

Sign, vehicle. Any sign that is painted, mounted, adhered, magnetically attached, or otherwise permanently affixed to or incorporated into a vehicle or trailer, except those unlicensed, inoperative, or generally stationary vehicles and/or trailers. This does not include the use of incidental business logos, identification, or advertising on vehicles primarily and actively used for business purposes and/or personal transportation.

Sign, wall. A sign that is in any manner affixed to, or painted directly onto, any exterior wall of a building or structure. Wall sign excludes mural, as defined in this ordinance.²⁹

Sign, window. A sign applied or attached to, or suspended from, the interior of a window, or displayed through a window, with its message intended to be visible to and readable from the public way or from adjacent property. Signs affixed to the exterior of the surface of a window are considered wall signs. Signs painted on windows or doors shall be considered window signs.

Site Plan. The proposal for a development or a subdivision including all covenants, grants or easements and other conditions relating to use, location and bulk of buildings, density of development, common open space, public facilities and such other information as required by the Subdivision Ordinance to which the proposed development or subdivision is subject.³⁰

Smoke Shop/Vape Shop, Off-Site Use.³¹ Any establishment, facility, or location whose business operation involves (i) retail sale of tobacco products, nicotine vapor products, alternative nicotine products, as defined in this Ordinance, or hemp products intended for smoking, as defined in this Ordinance, and (ii) includes tobacco products, nicotine vapor products, alternative nicotine products, or hemp products intended for smoking as 25% or more of its total inventory or 15% or more of its total display shelf area.

Smoke Shop/Vape Shop, On-Site Use.³² Any establishment, facility, or location whose business operation allows the on-site use of tobacco products, nicotine vapor products, alternative nicotine products, as defined in this Ordinance, or hemp products intended for smoking, as defined in this Ordinance.

²⁹ Editor's Note: Second sentence added to this definition after the March 19, 2024 worksession.

³⁰ Editor's Note: This definition is from Code of Virginia.

³¹ Editor's Note: Definition added after the March 19, 2024 worksession.

³² Editor's Note: Definition added after the March 19, 2024 worksession.

Solar energy generating facility (solar facility). Solar energy generating devices, inverters, a substation, ancillary equipment, buildings, security fencing, access roads, setbacks, and screening on the site. Solar energy generating devices utilize sunlight as an energy source to heat or cool buildings, heat or cool water, or produce mechanical power by means of any combination of collecting, transferring, or converting solar generated energy. The term applies to, but is not limited to, solar photovoltaic systems, solar thermal systems, and solar hot water systems. The following words, terms and phrases pertaining to solar energy generating facilities, when used in the Town of Rocky Mount Zoning Ordinance or in the administration thereof, shall have the following meanings ascribed to them:

Operator. The company or individual responsible for the overall operation and management of the solar facility.

Owner. The company or person who owns all or a portion of a solar facility.

Participating landowner. A person who owns real property under lease or other property agreement with the owner or operator of a solar facility.

Photovoltaic (PV). Materials and devices that absorb sunlight and convert it directly into electricity.

Rated capacity. The maximum capacity of a solar facility based on the sum total of each photovoltaic system's nameplate capacity.

Solar energy, medium-scale. A solar facility that is attached to a structure or incorporated into building materials for structures, such as shingles or roofs, or as ground mounted equipment. It shall be an accessory use and generate electricity from sunlight on an area adequate to support a rated capacity of greater than 500 kilowatts (500 KW) and less than five megawatts (5 MW) alternating current. Generated electricity may be used for on-site consumption, provided to electric cooperative member-customers (non-retail, from behind the meter), or distributed for commercial consumption.

Solar energy, small-scale. A solar facility that is attached to a structure or incorporated into building materials for structures, such as shingles or roofs, or as ground mounted equipment. It shall be an accessory use and generate electricity from sunlight on an area adequate to support a rated capacity of 500 kilowatts (500 KW) alternating current or less. Generated electricity may be used for on-site consumption and/or provided to electric cooperative member-customers (non-retail, from behind the meter).

Viewshed. The view of an area from a specific vantage point. It includes all surrounding points that are in line of sight with that location.

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

Stable, private. A building, or group of buildings, which are accessory to a single-unit dwelling where horses are kept for the private use of the owners or their guests.

Store, large. An establishment that is 3,000 square feet or more in total floor area and serves for the display and sale of merchandise at retail.

Store, small. A small-scale retail use less than 3,000 square feet in total floor area and serves for the display and sale of merchandise. Small Stores shall not include fuel pumps or the selling of fuel for vehicles.

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

Story. That portion of a building, other than the basement, included between the surface of any floor and the surface of the floor next above it; and, if there is no floor above it, the space between the floor and the ceiling next above it.

Street. A public thoroughfare providing the principal means of access to adjacent property. The term "street" includes all property dedicated or intended for public or private use for access to abutting lands or subject to public easements therefore, and whether designated as a street, highway, thoroughfare, parkway, throughway, expressway, road, drive, court, avenue, boulevard, lane, place, circle, or however otherwise designated.

Street or alley, public use of. The unrestricted use of a specified area or right-of-way for ingress and egress to two or more properties. Unless otherwise provided or regulated, a public street or alley may be used for the convenient transport of utility services.

Street, arterial, major. A thoroughfare which carries the major portion of traffic entering and leaving the urban, suburban, and rural areas such as between the commercial districts and outlying residential areas, between major inner town communities or between major suburban centers.

Street, arterial, minor. A thoroughfare that connects with and augments the major arterial street system and provides service for traffic of moderate trip length at a somewhat lower level of service.

Street, collector, major. A street, or system of streets, that distributes traffic from the arterial through the area to the ultimate destination that may be a local or minor collector street. The major collector street also collects traffic from local and minor collector streets in the neighborhood and channels such traffic into the arterial systems.

Street, collector, minor. The principal entrance streets of a residential development and the principal circulating streets within a development.

Street, local. The functional classification for highways that comprise all facilities that are not collectors or arterials. Local streets serve primarily to provide direct access to abutting land and to other streets.

Street, public. A street dedicated to public use and available to the public's unrestricted use without regard to the jurisdictional authority responsible for its operation and maintenance.

Street, service drive. A public right-of-way generally parallel and contiguous to a major highway, primarily designed to promote safety by eliminating promiscuous ingress and egress to the right-of-way by providing safe and orderly points of access to the highway.

Street, width. The total width of the strip of land dedicated or reserved for public travel, including roadway, curbs, gutters, sidewalks, and planting strips. That area for travel between opposite lots.

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

Structure. Anything constructed or erected, which requires location on the ground, or attached to something having location on the ground.

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

Structure, mixed-use. A building containing residential uses in addition to non-residential uses permitted in the zoning district. Mixed-use structure should not be confused with a mix of uses each in separate structures in a single development.

Structure, non-residential. A building or structure, or part of a building or structure, not occupied in whole or in part for the purpose of human habitation. Examples include warehouse and industrial buildings, commercial buildings, buildings for public entertainment, hotels, restaurants, educational buildings, health buildings, etc.

Structure, principal. A building in which is conducted the primary use of the lot on which it is situated, or where a lot contains residential uses, the principal structure on the lot shall mean the largest building that contains any dwelling unit.

Structure, residential. A building containing a complete set of living accommodations suitable for occupancy by one or more persons, consisting of sleeping, bathroom, and complete kitchen facilities for the exclusive use of such occupants.

Subdivide.³³ 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.

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.

³³ Editor's Note: New definition.

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.

Substance abuse centers, outpatient. An establishment which provides outpatient services primarily related to the diagnosis and treatment of alcohol or other drug or substance abuse disorders. Services include the dispensing and administering of controlled substances and pharmaceutical products by professional medical practitioners licensed by the Commonwealth of Virginia.

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

Telecommunications facility. Any unstaffed facility for the transmission and/or reception of radio, television, radar, cellular telephone, personal paging device, specialized mobile radio (SMR), and similar services. A broadcasting or communication tower usually consists of an equipment shelter or cabinet, a support tower or other structure used to achieve the necessary elevation, and the transmission or reception devices or antenna. Excluded are amateur radio antennas, which are defined separately. Also excluded are wireless communication antennas which fit the definition of Small cell facility and "Administrative review-eligible project" as defined in the Code of Virginia §15.2-2316.6 and supplied as Utility service, minor by this ordinance.

Telecommunications facility, small cell. A wireless facility that meets both of the following qualifications: (1) each antenna is located inside an enclosure of no more than six (6) cubic feet in volume, or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an imaginary enclosure of no more than six (6) cubic feet and (2) all other wireless equipment associated with the facility has a cumulative volume of no more than 28 cubic feet, or such higher limit as is established by the Federal Communications Commission. The following types of associated equipment are not included in the calculation of equipment volume: electric meter, concealment, telecommunications demarcation boxes, back-up power systems, grounding equipment, power transfer switches, cut-off switches, and vertical cable runs for the connection of power and other services (Code of Virginia §15.2-2316.4).

Temporary structure or mobile unit. A temporary structure or mobile unit used only as a temporary substitute for any structure or use permitted in the district, to alleviate a hardship during periods required for reconstruction, replacement, or repair due to catastrophe substantially damaged or destroyed and rendered unusable.

Tobacco product.³⁴ Any product made of tobacco and includes cigarettes, cigars, smokeless tobacco, pipe tobacco, bidis, and wrappings. "Tobacco product" does not include any nicotine vapor product, alternative nicotine product, or product that is regulated by the FDA under Chapter V (21 U.S.C. § 351 et seq.) of the Federal Food, Drug, and Cosmetic Act.

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

³⁴ Editor's Note: Definition from Code of Virginia, added at staff direction as a result of House Bill 947 being signed by the Governor on April 5, 2024.

Townhouse. Single-household dwelling units separated by common party walls designed to meet the fire protection requirements as set forth in the Virginia Uniform Statewide Building code, as amended, in a series including three or more units. Each unit shall be served by an individual exterior entrance door and shall be designed to be individually owned along with the parcel of land which it occupies.

Tradesperson service. Tradesperson service means an establishment or place of business primarily engaged in providing a specific trade service to individuals. Typical uses include plumbing, electricians, blacksmith, welding, and taxidermy. This definition does not include Vehicle Sales/Service, Construction Material Sales, or Home Occupations as otherwise defined in this Ordinance.

Transportation services. Individual modal or multimodal conveyances and terminals; facilities may be of local, regional, or statewide importance. Examples of facilities are highways, airports, rail transit lines, and transit stations. Uses may also include vehicle services such as limousine, taxi service, or bus transportation.

Tree, deciduous. A tree that loses its leaves at the end of its growing season and becomes dormant during the winter.

Tree, evergreen. A tree that does not shed its leaves in the winter but stays green all year.

Tree, ornamental. A tree that is typically a deciduous tree possessing qualities such as flowers or fruit, attractive foliage, bark, or shape.

Tree, protected. Any healthy tree to be preserved on site shall be protected before, during, and after the development process utilizing accepted practices; see Article 8, Community Design Standards for the preference for which trees are to be protected on a given site.

Tree, understory. A tree that that is small enough, and sufficiently shade tolerant, to thrive under the canopies of other, taller trees.

Truck/freight terminal. An area of land used for the switching, storing, assembling, distributing, consolidating, moving, repairing, weighing, or transferring of freight.

Use. The activity occurring on a lot or parcel for which land or a building is arranged, designed, or intended, or for which land or a building is or may be occupied.

Use, accessory. Uses of land and buildings that are found on the same parcel as the principal use but are subordinate and incidental, including parking.

Use, principal. A use that fulfills a primary function of a household, establishment, institution, or other entity.

Utility service, major. Service of a regional nature which normally entails the construction of new buildings or structures such as electric generating plants and sources; electrical switching facilities and stations or substations; community wastewater treatment plants; water towers; sanitary landfills; waste recycling and collection centers; and similar facilities. All overhead transmission lines are included in this definition.

Utility service, minor. A service that is necessary to support development within the immediate vicinity and involves only minor structures. Included in this use type are small facilities such as “Administrative review-eligible project” as defined in the Code of Virginia §15.2-2316.3, transformers, and relay and booster devices.

Utility trailer. Wheeled trailers used for the transport of livestock, work tools and equipment, hobby equipment, landscaping supplies, or other non-recreational equipment.

Variance. A reasonable deviation from those provisions regulating the shape, size, or area of a lot or parcel of land or the size, height, area, bulk, or location of a building or structure when the strict application of the ordinance would unreasonably restrict the utilization of the property, and such need for a variance would not be shared generally by other properties, and provided such variance is not contrary to the purpose of the ordinance. It shall not include a change in use, which change shall be accomplished by a rezoning or by a conditional zoning.

Vested right. Any written order, requirement, decision, or determination regarding the permissibility of a specific use, structure, or density of a landowner's property that constitutes a significant affirmative governmental act pursuant to Code of Virginia, §15.2-2307 and is issued in strict accordance with the requirements of this Ordinance.

Veterinary hospital/clinic. An establishment rendering surgical and medical treatment of animals. This use includes the incidental keeping of animals. Commercial Kennels are considered a separate use as defined by this Ordinance.

Visibility triangle. A triangular area that is included between the lines of an intersecting public street or private driveway, extended to the point where the lines intersect, and, at points on each line 20 ft. distant from that point, a straight line connecting them.

Warehousing and distribution. Uses including storage, warehousing, and dispatching of goods within enclosed structures. Typical uses include wholesale distributors, storage warehouses, and moving/storage firm.

Watercourse.³⁵ A defined channel with bed and banks within which water flows, either continuously or periodically.

Wind energy generating facility, accessory.³⁶ A single system designed to supplement other electricity sources as an accessory use to existing buildings or facilities, wherein the power generated is used primarily for onsite consumption or net metered. A small wind energy conversion system consisting of a single wind turbine, a tower, and associated control or conversion electronics, that has a wind turbine height less than 100 feet and a rated capacity less than 100 KW.

The following words, terms and phrases pertaining to wind energy generating facilities, when used in the Town of Rocky Mount Zoning Ordinance or in the administration thereof, shall have the following meanings ascribed to them:

Anemometer. Measures the wind speed and transmits wind speed data.

Operator. The company or individual responsible for the overall operation and management of the wind energy system.

Owner. The company or person who owns all or a portion of a wind energy system.

Participating landowner. A person who owns real property under lease or other property agreement with the owner or operator of a wind energy system.

³⁵ Editor's Note: New definition from state code 24VAC30-92-10.

³⁶ Editor's Note: New definition.

Rated capacity. The maximum capacity of a wind facility based on the sum total of each turbine's nameplate capacity, which is typically specified by the manufacturer with a label on the turbine equipment.

Shadow flicker. The visible effect that occurs when rotating turbine blades cast shadows on the ground and nearby structures causing the repeating pattern of light and shadow.

Temporary meteorological tower (MET) or wind monitoring tower. A free-standing tower equipped with instrumentation, such as anemometers, designed to provide real-time data pertaining to wind speed and direction, and used to assess the wind resources at a particular site.

Tower. Towers include vertical structures that support the electrical generator, rotor blades, or meteorological equipment. This includes a structure on which a wind turbine is mounted, or on which anemometers and other instrumentation are mounted in the case of MET towers.

Wind power. Power generated in the form of electricity by converting the rotation of turbine blades into electrical current by means of an electrical generator.

Wind pump. A type of windmill used for pumping water from a well or draining land.

Wind turbine. A device that converts wind energy into electricity through the use of a wind turbine generator, and may include a nacelle, rotor, tower, blades, controller, and associated mechanical and electrical conversion components.

Wind turbine height. The vertical height of a wind turbine as measured from the existing grade to the highest vertical point of turbine rotor or tip of the turbine blade when it reaches its highest elevation.

Windmill. A machine designed to convert the energy of the wind into more useful forms using rotating blades to turn mechanical machinery to do physical work, such as crushing grain or pumping water.

Window lighting.³⁷ Any style of lighting generally placed around the perimeter of the window, door openings, or signs, or displayed through windows or doors.

Yard or garage sale. A use, accessory to a dwelling, that includes display and noncommercial sales for the disposal of personal property accumulated by the residents of a residential dwelling unit.

Zoning Administrator. See Administrator.

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

Zoning district. A specifically delineated section of the Town in which the regulations are uniform and so designated on the Zoning Map.

Zoning permit. A permit issued by the Zoning Administrator on an appropriate form or certificate which certifies that a building or use of property complies with the regulations of the Zoning District in which the building or use is located.

³⁷ Editor's Note: New definition to address sign clutter.

Zoning map. A legally adopted map depicting the location of each zoning district of the Town and all amendments thereto.

Division 3. Floodplain Overlay District

Section 11-3-1. Flood Overlay District

100-Year Flood. The flood having a one percent (1%) chance of being equaled or exceeded in any given year. It does not imply that no greater flood is likely to occur, nor that such a flood will not happen more often than once every 100 years.

Base flood. For the purposes of this Division, the 100-year flood. The flood having a one percent (1%) chance of being equaled or exceeded in any given year.

Base flood elevation. The Federal Emergency Management Agency (FEMA) designated 100-year water surface elevation. The water surface elevation of the base flood in relation to the datum specified on the community's flood insurance rate map. For the purposes of this Division, the 100-year flood or one percent (1%) annual chance flood.

Elevated building. A non-basement building built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, or columns (posts and piers).

Encroachment. For the purposes of this Division, the advance or infringement of uses, plant growth, fill, excavation, buildings, permanent structures, or development into a floodplain, which may impede or alter the flow capacity of a floodplain.

Existing construction. Structures for which the start of construction commenced before the effective date of the FIRM. "Existing construction" may also be referred to as "existing structures" and "pre-FIRM."

Existing manufactured home park. A manufactured home park for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of this ordinance.

Existing structure. See Existing Construction.

Expansion to an existing manufactured home park. The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

Federal Emergency Management Agency (FEMA). An independent agency of the United States government that provides a single point of accountability for all federal emergency preparedness and mitigation and response activities.

Fill. The placing of any material which results in increasing the natural ground surface elevation.

Flood or flooding.

- (A) A general and temporary condition of partial or complete inundation of normally dry land areas from:
 - (1) The overflow of inland or tidal waters;

- (2) The unusual and rapid accumulation or runoff of surface waters from any source; or
- (3) Mudflows which are proximately caused by flooding as defined above and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.

(B) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in above.

Flood Hazard District. The land located within the base flood area which includes the floodway and the approximated floodplain district.

Flood Insurance Rate Map (FIRM). An official map of a community, on which FEMA has delineated both the areas of special flood hazard and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).

Flood Insurance Study (FIS). An examination, evaluation, and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation, and determination of mudflow and/or flood-related erosion hazards.

Floodplain or flood-prone area. Any land area susceptible to being inundated by water from any source.

Floodproofing. A combination of design modifications that results in a building or structure that is subject to flooding, including the attendant utility and sanitary facilities, being watertight with walls substantially impermeable to the passage of water.

Floodway³⁸ The channel of a river or other watercourse and the adjacent land areas that must be reserved to discharge the base flood without cumulatively increasing the water surface elevation more than one foot at any point within the community.

Floodway Fringe. The floodway fringe encompasses the portion of the floodplain that could be completely obstructed without increasing the base flood elevation by more than one (1) foot at any point.

Freeboard. A factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization in the watershed.

Highest Adjacent Grade. The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic Structure. Any structure that is:

- (A) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

³⁸ Editor's Note: Updated to match the State model ordinance.

- (B) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (C) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or,
- (D) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - (1) By an approved state program as defined by the Secretary of the Interior; or,
 - (2) Directly by the Secretary of the Interior in states without approved programs.

Hydrological and Hydraulic Engineering Analysis. Analyses performed by a licensed professional engineer, in accordance with standard engineering practices that are accepted by the Virginia Department of Conservation and Recreation (DCR) and FEMA, used to determine the base flood, other frequency floods, flood elevations, floodway information and boundaries, and flood profiles.

Letters of Map Change (LOMC). An official FEMA determination, by letter, that amends or revises an effective FIRM or FIS. Letters of map change include:

- (A) ***Letter of Map Amendment (LOMA).*** An amendment based on technical data showing that a property was incorrectly included in a designated special flood hazard area. A LOMA amends the current effective FIRM and establishes that a land as defined by metes and bounds, or structure is not located in a special flood hazard area.
- (B) ***Letter of Map Revision (LOMR).*** A revision based on technical data that may show changes to flood zones, flood elevations, floodplain and floodway delineations, and planimetric features. A letter of map revision based on fill (LOMR-F) is a determination that a structure or parcel of land has been elevated by fill above the base flood elevation and is, therefore, no longer exposed to flooding associated with the base flood. To qualify for this determination, the fill must have been permitted and placed in accordance with the community's floodplain management regulations.
- (C) ***Conditional Letter of Map Revision (CLOMR).*** A formal review and comment as to whether a proposed flood protection project or other project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective FIRM or FIS.

Lowest Adjacent Grade. The lowest natural elevation of the ground surface next to the walls of a structure.

Lowest floor. The lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of Federal Code 44 CFR § 60.3.

Manufactured Home. A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term “manufactured home” also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days.

Manufactured Home Park or Subdivision. A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

New construction. For the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after February 2, 1989, and includes any subsequent improvements to such structures. For floodplain management or development purposes, new construction means structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by the Town of Rocky Mount and includes any subsequent improvements to such structures.

New manufactured home park. A manufactured home park for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

Post-FIRM Structures. A structure for which construction or substantial improvement occurred on or after February 2, 1989.

Pre-FIRM Structures. A structure for which construction or substantial improvement occurred on or before February 2, 1989.

Recreational Vehicle. A vehicle which is:

- (A) Built on a single chassis;
- (B) 400 square feet or less when measured at the largest horizontal projection;
- (C) Designed to be self-propelled or towable; and
- (D) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational camping, travel, or seasonal use.

Repetitive Loss Structure. A building covered by a contract for flood insurance that has incurred flood-related damages on two occasions in a ten (10)-year period³⁹, in which the cost of the repair, on the average, equaled or exceeded 25% of the market value of the structure at the time of each such flood event; and at the time of the second incidence of flood-related damage, the contract for flood insurance contains increased cost of compliance coverage.

Severe Repetitive Loss Structure. A structure that: (a) Is covered under a contract for flood insurance made available under the NFIP; and (b) Has incurred flood related damage - (i) For which four (4) or more separate claims payments have been made under flood insurance coverage with the amount of each such claim exceeding \$5,000, and with the cumulative amount of such claims payments exceeding \$20,000; or (ii) For which at least two (2) separate claims payments have been made under such coverage, with the cumulative amount of such claims exceeding the market value of the insured structure.

Shallow flooding area. A special flood hazard area with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

³⁹ Editor's Note: Updated to match the State model ordinance.

Special Flood Hazard Area (SFHA). The land in the floodplain subject to a one percent (1%) or greater chance of being flooded in any given year as determined in Section 5-2-15 of Article 5.

Start of Construction. The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, substantial improvement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms. For a substantial improvement, the actual start of the construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure. For floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

Substantial Damage. Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.

Substantial Improvement. Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage regardless of the actual repair work performed. The term does not, however, include either:

- (A) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or
- (B) Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

Violation. The failure of a structure or other development to be fully compliant with the Town of Rocky Mount's floodplain management regulations in this Division. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in §60.3(d)(3) of the National Flood Insurance Program regulations, is presumed to be in violation until such time as that documentation is provided.

Watercourse. A lake, river, creek, stream, wash, channel, or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

Zone, A.⁴⁰ Those areas for which no detailed flood profiles or elevations are provided, but the one percent (1%) annual chance floodplain boundary has been approximated.

Zone, AE. A flood hazard zone with two categories defined below as:

⁴⁰ Editor's Note: Definitions added for all Zones; A, AE, and X.

- (A) Category One (1) areas shall be those areas for which one percent (1%) annual chance flood elevations have been provided and the floodway has been delineated.
- (B) Category Two (2) areas on the FIRM accompanying the FIS shall be those areas for which one percent (1%) annual chance flood elevations have been provided and the floodway has not been delineated.

Zone, X. Those areas of two-tenths percent (0.2%) annual chance flood or areas of one percent (1%) annual chance flood with average depths of less than one foot or with drainage areas less than one square mile.

ATTACHMENT C

Draft Zoning & Subdivision Ordinance Changes

The following summary highlights major changes to the Draft Rocky Mount Zoning and Subdivision Ordinance proposed to date. This list is not exhaustive; it excludes editorial changes and constitutes the most substantive changes.

General Re-Organization

- The existing Ordinance was analyzed for cohesive flow; clarity; compliance with Code of Virginia; planning best practices; and input from Town Council, Planning Commission, Town of Rocky Mount Staff, and community engagement. This analysis and input resulted in the rearrangement (combining of articles and sections to provide like-material in one place), revision (changing of content/text for clarity, streamlining, and Code of Virginia compliance), and addition and/or removal of items (for Code compliance and appropriateness for the Town's needs).
- The existing Ordinance was reorganized to provide a more user-friendly structure. The Draft Ordinance is organized as follows:
 - Article 1: In General
 - Article 2: Administration
 - Article 3: Permits and Applications
 - Article 4: Primary Zoning Districts
 - Article 5: Overlay Zoning Districts
 - Article 6: Use Matrix
 - Article 7: Use Standards
 - Article 8: Community Design Standards
 - Article 9: Nonconformities
 - Article 10: Subdivisions
 - Article 11: Definitions

Article 1: In General

Article 1, In General, provides information on the authority, purpose, and applicability of the Zoning and Subdivision Ordinance, among other regulations. Major changes include:

- Established one ordinance for Zoning and Subdivisions.
- Code of Virginia references updated.
- Code of Virginia requirements updated.
- Simplified and clarified the process that temporarily designates zoning districts for new properties currently in Franklin County that are coming into the jurisdiction of the Town of Rocky Mount by annexation or boundary adjustment. The number of receiving districts was reduced from 19 to 7.
 - New Table 1.1 Temporary Zoning District Classification of Newly Incorporated Areas shows the sending and receiving districts (how properties were zoned in Franklin County, and the new temporary zoning classification in Rocky Mount).

Article 2: Administration

Article 2, Administration, outlines powers, duties, and procedures for the Zoning Administrator, Subdivision Agent, Planning Commission, and Board of Zoning Appeals. It also addresses enforcement procedures for violations of the Ordinance. Major changes include:

- Established that the Town Manager is responsible for appointing the Administrator.
- Allowing the Administrator to appoint a designee to help with administration and the flow of office demands during Administrator absences.
- Clarified enforcement procedures in compliance with Code of Virginia, including the ability to enter property with an inspection warrant.
- Aligned penalty amounts with Code of Virginia limits.
- Established that a fee schedule be adopted by an Ordinance outside of the Zoning and Subdivision Ordinance.
- Added a requirement that any applicable delinquent taxes and charges be paid prior to submission of an application.

Article 3: Permits and Applications

Article 3 outlines the following application requirements and processes:

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

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

- Established required preapplication meetings prior to the submittal of some applications.
- Concept Plans –
 - Changed the current use of a Preliminary Site Plan process to a Concept Plan process as part of the Zoning Map Amendment (Section 3-2-2) and Special Exception Permit (Section 3-4-3) processes. Requiring a Concept Plan allows developers to proceed with discretionary review and public hearings without undertaking a fully engineered Site Plan.
- Special Exceptions –
 - Established period of validity for Special Exception permits.
- Site Plans –

- As an economic development friendly practice, all site plans are administratively approved. The Town Council will review concept plans for rezonings and special exception permits and the subsequent site plan must conform to the approved concept plan.
- Minor & Major Site Plans – Division 6 introduces major and minor site plans to the Zoning Ordinance based on development intensity.
- Timeframe for Approval – Included a timeframe for approval for Site Plans, to align with the Code of Virginia requirements.
- Period of Validity – Increased the period of validity for approved Site Plans, to align with the Code of Virginia requirements.
- Zoning Permits – Clarified the requirements for obtaining a Zoning Permit.
- Zoning Determination – Added this process based on the Code of Virginia.
- Public Hearings and Notifications – Outlined the processes and standards for public notices and public hearings as dictated by the Code of Virginia, including amendments made by the General Assembly in the 2024 Session.

Article 4: Primary Zoning Districts

Article 4, Primary Zoning Districts, provides the purpose and standards for development in the primary zoning districts in the Town of Rocky Mount. Major changes include:

- District standards are now in table format with similar districts grouped together (i.e, RA and R1, R2 and R3, etc.).
- Division 7 was added as a new category, Special Districts, it details the Public/Open Space District (POS).
- Division 8, Measurement Standards, Encroachments, and Exemptions provides more user-friendly language and graphics to tell the reader how to determine height and setbacks for different types of buildings and lots.
- Added setbacks and height maximums for accessory structures in all districts.
- Added maximum lot coverages to residential and commercial districts to limit the intensity of use and the amount of impervious surfaces on a parcel.
- The option to develop new construction without public water and sewer was removed in every district except RA.
- Bulk regulations were removed to allow greater creativity and variety of buildings based on market needs.
- Residential Districts:
 - Residential lot sizes have been simplified and reduced to facilitate the Comprehensive Plan goals to encourage residential development in the Town.
 - Maximum lot coverage was added to limit intensity of uses and impervious surfaces.
 - Height for multi-unit buildings in R3 was increased from 38 to 60 feet to allow building up instead of out, therefore reducing lot coverage and providing opportunity for more housing.
 - RB regulations have been changed to align with R1 standards.

- Accessory building height has been applied to R1 and R2 as it is for other Residential Districts in the existing ordinance.
- Setback measurements have been simplified and clarified and front setback has been reduced. “Yard dimensions” term was removed; it is not needed with setbacks.
- Requirements for interior lot building separation for groups of townhouses and multi-units were rewritten by combining the current standards for R3 multi-unit and townhouses. The result reduces building separation in R3 for multi-unit from 60 ft. to 40 ft. between facing living areas and from 30 ft. to 20 ft. for exterior walls or corners.
- Commercial Districts:
 - Reduced required road frontage from 50 to 30 feet to allow more flexibility.
 - The two-story limit in the CBD was removed to allow more flexibility.
- Industrial Districts:
 - Maximum lot coverage was increased from 70% to 80% to facilitate industrial uses and reduce the need for additional industrial parcels.
 - Development allowed only with public water and sewer.
- POS District standards are largely new to establish the character of the District.
- Measurement Standards, Encroachments and Exemptions
 - Setback measurements have been simplified and illustrated for better understanding.
 - Prohibition of new irregular lots was removed to allow more housing development.
 - Certain architectural features and may project into the setback, subject to requirements of Division 8.

Article 5: Overlay Zoning Districts

Overlay Zoning Districts is a new Article to house all overlay districts. These districts differ from the Primary Zoning Districts because they “overlay” the primary districts and any requirements are in addition to the underlying primary district standards. Overlay Districts include the Floodplain (FP), Arts and Culture (AC), and Mixed-Use Development (MUD) Overlay Districts. Major changes include:

- The FP District has been updated and reorganized. Changes are primarily to align the FP District with the most recent (2017) State Model Floodplain Ordinance, and for overall ease of use.
- The MUD Overlay District is completely new; it is intended to permit Mixed-Use Development Districts in areas with public water and sewer infrastructure and targeted for growth and new development that meets the community needs for diverse housing types and pedestrian infrastructure as set forth in the Town’s Comprehensive Plan.
- The AC District is codified and reorganized in the Zoning Ordinance.

Article 6: Use Matrix

Article 6, Use Matrix, establishes a streamlined Use Matrix that clearly identifies land uses allowed in Rocky Mount, and which zoning districts they are allowed in. This organization eases use of the Ordinance for the public and for Town staff by providing all the information in one table, thereby eliminating the need to read through every zoning district to see where uses are allowed. Major changes include:

- Existing uses have been combined into one category where possible. Some examples include:
 - Short-term Rental is a new use to replace “rooming and boarding” and “tourist homes.”
 - Club is a new use to replace “clubs,” “lodges,” and “service, philanthropic, and social clubs.”
 - Public use is a new use to replace “libraries,” “municipal/county/state/federal buildings,” “off-street parking,” “post offices,” and “public parking facilities.”
- Changes are proposed to which zoning districts specific uses are allowed in, and whether by-right or by Special Exception. Some examples include:
 - New construction of single-unit residential prohibited in the CBD District
 - Short-term rentals permitted by-right in RA, R2, R3, and CBD
 - Yard or Garage Sales prohibited in commercial, business, and industrial districts
- Some new use types have been added. Some examples include:
 - Accessory Dwelling Unit
 - Adult Use
 - Brewery, Distillery, or Winery
 - Smoke Shop/Vape Shop

Article 7: Use Standards

Article 7, Use Standards, provides additional requirements for specific uses related to location, design, and intensity of the use. These standards help mitigate the impacts of the use on nearby properties and the surrounding district. Incorporating use standards is a business-friendly way to allow more uses by-right while also addressing potential impacts. These pertain to the use, whether it is permitted by-right or by Special Exception. Major changes include:

- Several existing uses have new or revised use standards:

○ Accessory Structure	○ Office, General
○ Agriculture/Silviculture	○ Outdoor Sales,
○ Agritourism	Seasonal/Temporary
○ Automobile Sales and Rental	○ Parking Lot, Commercial
○ Automobile Service, Major/Minor	○ Personal Improvement Services
○ Bed and Breakfast	○ Personal Services
○ Car Wash	○ Private Stable
○ Commercial Kennel	○ Self-Storage Facility
○ Dwelling, Multi-Unit	○ Short-term Rentals
○ Dwelling, Townhouse	○ Telecommunications Facilities
○ Home Occupation	○ Utility Service, Minor
○ Junkyard/Salvage Yard	○ Veterinary Hospital/Clinic
○ Manufactured Home Park	○ Wind Energy Facility
○ Mobile Food Vendor	
- The following are new uses with completely new use standards:

- Adult Use
- Agriculture, Residential
- Agritourism
- Animal Shelter
- Construction Temporary Uses
- Drive-through Window
- Dwelling, Accessory
- Event Venue
- Gas Station
- Mixed-Use Structure
- Outdoor Storage
- Roadside Farm Stand
- Solar energy facilities
- Smoke Shop/Vape Shop

Article 8: Community Design Standards

Article 8, Community Design Standards, provides provisions and regulations for those elements that pertain to the character of development within the community. These standards promote consistent community aesthetics, safety, and enforceability. Major changes include:

- Landscaping standards have been expanded and applied to more uses, such as parking lots.
- A Landscaping Plan is required for all new construction, developments, or redevelopments in all zoning districts requiring an approved Site Plan or Special Exception Permit.
- Walls and Fences is a new Division to provide standards to avoid unsightly or unsafe conditions.
- Lighting is a new Division to set standards for lighting throughout the Town with the purpose of reducing light pollution but ensuring safety. Standards include shielding, maximum illumination levels, and more.
- Amount of parking required has been reduced where feasible.
- Parking design standards have been updated and rearranged with new standards. Some examples include:
 - Pervious and semi-pervious materials
 - Fleet vehicle parking
 - Parking space dimensions
- Shared parking, bicycle parking, shared off-street loading, off-street loading design standards, and required off-street loading spaces are new sections.
- Bicycle lanes or off-road multiuse trails are required in new subdivisions or planned development. Construction and design standards have not changed.
- A new Utilities Division consolidates provisions from the existing Zoning and Subdivision Ordinances and includes easements, and water, sewer, stormwater, and other utility standards.
- Sign standards have been reorganized and updated to bring the Town's sign regulations into compliance with the federal court case *Reed v Town of Gilbert*, tables are included to clarify regulations for all users, and to ease enforcement. Signage measurements have been simplified where possible and adjusted to reduce sign clutter.
- Open Space design standards have been expanded from just the RPUD to all new construction, developments, or redevelopments in all zoning districts requiring an approved Site Plan, Special Exception Permit, or Zoning Permit, with the exception of: single- and two-unit residential

development on individual lots, minor subdivisions, utility uses, and development within the CBD and industrial districts.

Article 9: Nonconformities

Article 9, Nonconformities, provides procedures and regulations for properties and land uses that do not conform to Zoning Ordinance requirements. Major changes include:

- Removed requirement for a special exception permit to change a nonconforming use to a different, less nonconforming use.
- Removed the 80% road frontage requirement to give more flexibility for developing nonconforming lots while maintaining the patterns in historic districts and neighborhoods.
- Expanded and clarified provisions for nonconforming structures.
- Added Code of Virginia required content related to replacement of manufactured homes.
- Removed the requirement to limit repairs and maintenance to 50% of replacement value.

Article 10: Subdivisions

Article 10, Subdivisions, provides procedures and regulations for the division and development of land. This Article establishes Subdivisions as an article of the Zoning Ordinance, creating one land use ordinance for the Town. Major changes include:

- 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 have been removed due to redundancy with Minor Subdivisions.
- 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.
- Reference to professional services costs was added to Review of Final Plats.

Article 11: Definitions

Article 11, Definitions, provides the full set of definitions pertaining to the Ordinance. Major changes include:

- Consolidated all definitions into one article rather than supplying in various Articles.
- Supplied new definitions and updated existing as needed. Some examples include:
 - Multiuse trail and shared use path
 - Immediate family
 - Mixed-use Development
- Updated with Code of Virginia definitions and references.
- Provided a definition for each permitted use.

ATTACHMENT D

Overview

Public engagement for the compiled draft Rocky Mount Zoning & Subdivision Ordinance update included posting of the draft on the Town’s website, an exit survey, and a public open house. These input opportunities were advertised via a promotional flyer, the Town’s facebook page, and the Town website. Additionally, those who attended public engagement events in April 2023 were sent email notifications. The draft Ordinance was posted online beginning July 1 with a corresponding online survey that was available from July 9 to July 23; paper copies of the survey were also available at the Municipal Building. No responses to the survey were received.

The Town hosted a public open house for the draft Zoning & Subdivision Ordinance on Tuesday, July 16, 2024. After a welcome and introductions by Town staff, Berkley Group staff presented an overview of zoning and subdivisions, the reason for the update, the update process to date and the process going forward, highlighted the differences between the existing Ordinance and the updated Ordinance, and explained the open house format and methods for public input. After the presentation attendees viewed the displays and “voted” for their preference by placing dot stickers on the display boards. Attendees also asked questions, held discussions with staff, collected handouts, and looked up items in the draft ordinance. Seven members of the community attended the open house. Many of the attendees had participated in public engagement in April 2023 and were generally pleased with the updates to the Ordinance.

Public Input

Results of the open house are compiled below.

Open House		
Display Board Feedback	Results	Discussion
Display board: Use Matrix & Use Standards Short-Term Rentals The owner/host is responsible to pay all applicable taxes, including transient lodging tax, and any required business licensure fees.	Agree — 4 Disagree — 0 No Opinion — 0	
Display board: Use Matrix & Use Standards Short-Term Rentals No recreational vehicles, buses, or trailers shall be used as, or in conjunction with, a short-term rental.	Agree — 3 Disagree — 0 No Opinion — 1	
Display board: Use Matrix & Use Standards Accessory Dwelling Units An ADU is only allowed to be used as a Short-Term Rental in the R2, Residential Medium Density, R3, Residential High Density, and CBD, Central Business districts.	Agree — 3 Disagree — 1 No Opinion — 0	
Display board: Use Matrix & Use Standards Accessory Dwelling Units One parking space shall be required in addition to the required parking for the principal house and no separate driveway shall be permitted.	Agree — 3 Disagree — 2 No Opinion — 0	

Town of Rocky Mount Zoning & Subdivision Ordinance Update
Public Engagement Summary
July 24, 2024



Open House		
Display board: Community Design Standards Landscaping & Screening Transitional buffers are required when zoning districts of different intensities abut, such as a commercial use next to a neighborhood.	Agree — 5 Disagree — 0 No Opinion — 0	
Display board: Community Design Standards Landscaping & Screening Transitional buffers are required for any new developments & major subdivisions.	Agree — 5 Disagree — 0 No Opinion — 0	
Display board: Community Design Standards Landscaping & Screening Wall/fence height: 4 feet between building & street. Back - residential & commercial 6 feet, industrial 8 feet.	Agree — 1 Disagree — 4 No Opinion — 1	Based on discussion, "Disagree" votes may be attributable to some attendees erroneously assuming that this provision requires every property to have a fence. At least one attendee did not understand the height allowances.
Display board: Community Design Standards Landscaping & Screening Chain link (fencing) prohibited in Central Business District.	Agree — 2 Disagree — 2 No Opinion — 0	Based on discussion, "Disagree" votes may be attributable to some attendees erroneously assuming that this provision prohibits all fencing in the CBD. Only chain link fencing is prohibited in the CBD.
Display board: Community Design Standards Lighting Color temperature, type, illumination levels, shielding, to prevent glare and night blindness.	Agree — 4 Disagree — 0 No Opinion — 0	
Display board: Community Design Standards Lighting Height — 30 feet in industrial districts, 20 feet all other districts.	Agree — 4 Disagree — 0 No Opinion — 0	
Display board: Community Design Standards Bikeways & Sidewalks Bicycle lanes in subdivisions — on collector & arterial streets.	Agree — 2 Disagree — 3 No Opinion — 1	Based on discussion, "Disagree" votes are likely attributable to developers who attended and stated that these requirements are an extra cost to developers.
Display board: Community Design Standards Bikeways & Sidewalks Sidewalks adjacent to public rights-of-way.	Agree — 2 Disagree — 3 No Opinion — 0	
Display board: Community Design Standards Parking & Loading Off-street parking areas can be shared by 2 or more buildings or establishments if peak usage is proven to allow sufficient available parking.	Agree — 5 Disagree — 1 No Opinion — 0	
Display board: Community Design Standards Parking & Loading Minimum off-street parking requirements have been reduced where possible.	Agree — 4 Disagree — 0 No Opinion — 0	
Display board: Community Design Standards Parking Lot Landscaping Landscaped planting islands shall be provided when parking lot exceeds 30 total spaces.	Agree — 3 Disagree — 1 No Opinion — 1	

Town of Rocky Mount Zoning & Subdivision Ordinance Update
Public Engagement Summary
July 24, 2024



Open House	
Display board: Low Density Residential Districts Discussion and question and answer.	This board did not have questions to vote on, but two attendees were pleased that the ordinance provisions are protective of low-density neighborhoods. One attendee was particularly pleased with the Town's direction to prioritize the residential character and uses in the RB District; and was pleased with the home occupations standards.
Questions/Discussion	Summary
An attendee asked if the zoning was changing on certain streets in her neighborhood.	BG staff explained that the official zoning map and district boundaries are not changing with this ordinance update.
An attendee asked specific questions about the updated ordinance related to his properties and asked about changes to food truck standards.	This attendee is interested in developing properties he owns in the CBD. He asked specific questions and staff used the updated document to look up answers together and discuss the possibilities for his development plans. He also questioned removal of the 150-foot distance requirement between restaurants and food trucks.



GUIDE TO PUBLIC HEARING SUCCESS

GUIDE TO PUBLIC HEARING SUCCESS

What is a public hearing?

Public hearings are official meetings of public bodies (e.g., Boards of Supervisors, City Councils, Town Councils, Planning Commissions) with an objective to hear public input on a specific topic. After months of hard work updating a Comprehensive Plan or Ordinance the public hearing process is a vital last step that must go smoothly and comply with Code of Virginia § 15.2-2204.

1 Preliminary Tasks

- ☐ Complete document draft
- ☐ Distribute document draft
 - ☐ Post on web
 - ☐ Provide to staff and County Attorney
 - ☐ Provide to government body hearing the case (e.g., PC, Board/Council)
 - ☐ Available at office and other public locations (e.g., library)
- ☐ Set public hearing (date, time, location)
 - ☐ Confirm joint or individual hearings by public bodies
 - ☐ Confirm quorum for meeting
 - ☐ Verify meeting location is available (not double booked), has adequate space and presentation abilities (projector/screen for presentation, sound equipment available)
 - ☐ If hearing broadcasted (televised, on Web), confirm location has capability to broadcast

TIP



After the hearing date is set, place reminders on your calendar for notification deadlines and other tasks.

2 Get the Word Out

- ☐ Meeting notice (Legal Ad) to local newspaper
 - ☐ Contains correct date, time, location of hearing
 - ☐ Contains thorough description of Plan or Ordinance (not advertised in full) and information on where documents can be viewed by public
 - ☐ Notice printed in paper (See Table 1)
 - ☐ Copies of printed Ad saved for proof of proper advertisement
- ☐ Required written notifications (See Table 2)
 - ☐ Mail to individual property owners and adjacent property owners (for zoning map amendments)
 - ☐ Mail to adjacent localities, military bases, and airports, when required
 - ☐ Keep 1 copy of notification and list of those to whom notifications were sent

TIP



Send out notifications to interested stakeholders and community engagement participants.

3 Prepare for the Meeting

- ☐ Write agenda item for meeting
- ☐ Prepare draft resolutions and/or motions
- ☐ Ensure that the Chairperson understands the potential motions and procedures for addressing certain changes
- ☐ Request and provide advance comments to Berkley Group for consideration
- ☐ Confirm quorum within 1 week AND 24 hours before the meeting

TIP



Large projects like a Zoning Ordinance or Comprehensive Plan are best as the first or ONLY item on the agenda to ensure sufficient time for public input and consideration.

4 Public Hearing

- ☐ Give draft resolutions and/or motions to the clerk
- ☐ Ensure presentation/PowerPoint ready for projection
- ☐ Introduce agenda item and Berkley Group presenter
- ☐ Follow established public hearing procedures
- ☐ Allow Berkley Group to answer questions and facilitate potential amendments that address public hearing comments

TIP



Encouraging comments from staff, Commissions, and Boards/Councils, in advance helps facilitate a smooth adoption. The Berkley Group will use the comments to provide a suggested amendments list that can be attached to the adopting resolution/ Ordinance.



GUIDE TO PUBLIC HEARING SUCCESS

When do I send advertisements and notification letters?

Table 1. Timing of Newspaper Advertisements

Comprehensive Plans

Zoning Ordinance Adoption or Text Amendments

Zoning Map Adoption or Zoning Classification Amendments

- Ad published 2 consecutive weeks (min 6 days between)
- No less than 5 or more than 21 days prior to hearing
- For joint hearings of Commission and Council/Board – advertise jointly, separate notice for each body not required
- May be advertised by reference vs. full document. Must contain detailed descriptive summary & reference to locations where draft documents may be examined

In addition to newspaper advertisements, written notification letters to property owners are required as outlined below. It is important to remember ... **when in doubt, send the notice out.**

The Code of Virginia allows the locality to send notices by first class mail instead of certified mail, if a locality's representative makes an affidavit certifying proper notification and files the affidavit with the papers for the case. Some Zoning Ordinances require the notifications to be sent by certified mail, so double check the Ordinance requirement.

Table 2. Timing of Written Notifications/Letters*

	Comprehensive Plans	Zoning Ordinance Adoption or Text Amendments	Zoning Map Adoption or Zoning Map Classification Amendments
Involves 25 or fewer parcels	N/A	N/A	• Minimum of 5 days prior to hearing • Send to owners of properties involved • Send to owners of adjacent properties (even if lie in different localities)
Involves more than 25 parcels	N/A	N/A	• Minimum of 5 days prior to hearing • Send to owners of properties involved
Reduction in allowable dwelling unit density for any parcel of land	N/A	• Minimum of 5 days prior to hearing • Send to owners of properties involved except not required for owners of lots within a recorded subdivision where lots area is less than 11,500 square feet in area	N/A
Involves property within one-half mile of adjoining locality	• Minimum of 10 days prior to hearing • Send to chief administrative officer, or designee	N/A	• Minimum of 10 days prior to hearing • Send to chief administrative officer, or designee
Involves property within 3,000 feet of boundary of military base, installation, or airport (excluding armories operated by VA National Guard)	• Minimum of 30 days prior to hearing • Send to commander of base, installation, or airport	N/A	• Minimum of 30 days prior to hearing • Send to commander of base, installation, or airport
Involves property within 3,000 feet of a public-use airport	• Minimum of 30 days prior to hearing • Send to airport owner	N/A	• Minimum of 30 days prior to hearing • Send to airport owner

*Refer to Code of Virginia §15.2-2204 for written notifications to owners within a planned unit development, condominium, or cooperative; for changes involving publicly owned lands 500 acres or greater; for special exceptions for use changes or to increase bulk or height of buildings by greater than 50%; and, designation or alteration of electric transmission line corridors.

