



PLANNING COMMISSION
REGULAR MEETING
AGENDA

September 2, 2025
6:00 PM

Council Chambers, Rocky Mount Municipal Building
345 Donald Avenue, Rocky Mount, Virginia

When speaking before Planning Commission, please come to the podium and give your name and address for the record. Please address the Planning Commission and not the audience. If you provide Planning Commission with any documentation, please also give a copy to the clerk prior to speaking.

1. Roll Call
2. Election of Officers
3. Hearing of Citizens
4. Approval of Agenda
5. Approval of Draft Minutes
 - 5.1. August 5, 2025 - Regular Meeting Minutes
6. Public Hearing
 - 6.1. Amendments to the Town's Zoning and Subdivision Ordinance are being considered. The Town will be considering multiple amendments relating to the use matrix, use standards, waivers and modifications.
 - Staff Report
 - Public Comment
7. Report of the Planning & Zoning Administrator
8. Committee Reports (None)
9. Old Business (None)
10. New Business (None)
11. Adjournment

**TOWN OF ROCKY MOUNT
PLANNING COMMISSION
REGULAR MEETING MINUTES
August 5, 2025
6:00 P.M.**

The Planning Commission of the Town of Rocky Mount, Virginia met in the Council Chambers of the Rocky Mount Municipal Building, located at 345 Donald Avenue, Rocky Mount, Virginia, at 6:00 p.m. on August 5, 2025, for its regular monthly meeting with Chair Janet Stockton presiding.

Commission Members Present:

- Chair Janet Stockton
- Vice Chair Bud Blanchard
- Bill Ball
- Will Waller
- John Tiggle
- Ina Clements
- Bobby Thompson

Commission Members Absent:

- None

Staff Members Present:

- Planning & Zoning Administrator Jessica Angle
- Planning Commission Secretary Cherie Compton
- Town Attorney John Boitnott

HEARING OF CITIZENS

None at this time

APPROVAL OF AGENDA

Additions or Corrections: To strike section 5.1 from agenda

Motion: To approve the agenda with changes noted

Motion By: Member Bobby Thompson

Second: Vice Chair Bud Blanchard

Action: Approved by a unanimous vote of members present

REVIEW AND CONSIDERATION OF MINUTES

Let the record show that prior to the meeting, the Planning Commission received the following draft minutes for review and consideration of approval:

March 4, 2025 - Regular Meeting Minutes

Additions or Corrections: None

Motion: To approve minutes as presented

Motion By: Member Will Waller

Second: Member Ina Clements

Action: Approved by unanimous vote of members present

PUBLIC HEARINGS

Franklin County requests a rezoning of approximately 21 acres located at 260 Weaver Street, Rocky Mount, Virginia, Franklin County Tax Map and Parcel Numbers 2040038403 & a portion of 2040038400, from Industrial (M1) to Commercial Office General (C2). Planning & Zoning Administrator Jessica Angle presented the staff report. Franklin County Administrator Chris Whitlow, Spectrum Design Engineer Michael Rakes, Superintendent of School Kevin Siers, and County Legal Counsel Jim Guynn presented an overview of the proposal and answered questions from the members. County staff also presented members with proffers before the meeting began. An open discussion ensued.

Eric Sichau, CEO Roanoke Regional Chamber of Commerce, spoke in favor of the request.

Hearing no further discussion, Chair Stockton asked for a motion.

Motion: To recommend Council deny the rezone request for Franklin County Tax Map and Parcel Numbers 2040038403 & a portion of 2040038400, from Industrial (M1) to Commercial Office General (C2) and instead consider a text amendment adding the proposed uses as special exception in M1 district

Motion By: Vice Chair Bud Blanchard

Second: Member Bill Ball

Chair Janet Stockton asked for a Roll Call Vote

Ayes: (3): Chair Janet Stockton, Vice Chair Bud Blanchard, and Member Bill Ball

Nays: (4): Member Will Waller, Member John Tiggler, Member Ina Clements, and Member Bobby Thompson

Action: Motion failed 3-4. Chair Janet Stockton asked if there were any other motions

Motion: To recommend Council approve rezone request for Franklin County Tax Map and Parcel Numbers 2040038403 & a portion of 2040038400, from Industrial (M1) to Commercial Office General (C2) with proffers as presented.

Motion By: Member Will Waller

Second: Member John Tiggle

Chair Janet Stockton asked for a Roll Call Vote

Ayes: (5): Vice Chair Bud Blanchard, Member Will Waller, Member John Tiggle, Member Ina Clements, Member Bobby Thompson

Nays: (2): Chair Janet Stockton, Member Bill Ball

Action: Motion passed with a vote 5-2

REPORT OF COMMITTEES

None at this time

OLD BUSINESS

None at this time

NEW BUSINESS

None at this time

Hearing no further comments, Chair Stockton asked for a motion to adjourn.

ADJOURNMENT

Motion to Adjourn By: Member Ina Clements

Second: Member Bobby Clements

Action: Approved by a unanimous vote of members present

Time of Adjournment: 7:15 p.m.

Janet Stockton, Chair

ATTEST:

Cherie Compton, Secretary

Draft



TO: Planning Commission
FROM: Jessica Angle, Zoning Administrator
DATE: August 25, 2025

SUBJECT: Text Amendments to the Zoning Ordinance – Modifications, Waivers, Uses and Use Regulations

Please find the attached proposed text amendments to the Town of Rocky Mount Zoning & Subdivision Ordinance for your review and consideration. These amendments address the following key areas:

- **Modifications by the Zoning Administrator:** Language has been added to allow to the Zoning Administrator to grant minor modifications under specific conditions in accordance with state law.
- **Waivers by Town Council:** Language has been added to allow Town Council to consider and approve certain waivers of the subdivision ordinance when justified by unique circumstances.
- **Amendments to the Use Matrix and Use Standards:** Revisions have been made to the use matrix and to the use standards in Article 7.

All proposed changes are marked in **red text** throughout the document for ease of review.

Zoning and Subdivision Text Amendment Summary September 2025

Article 3

- Adds provision for Council to grant waivers relative to the subdivision ordinance in certain unique circumstances. This was an ordinance in our old subdivision ordinance however, it was left out of the newly adopted ordinance.
- Adds a provision for zoning administrator to make modifications to design standards where other options for relief are not available as provided by Code of Virginia 15.2-2286.

Article 6

- Adds the following uses as special exception in M1 Manufacturing District:
 - Education Facility, Primary or Secondary
 - Education Facility, College, University, Business or Trade
 - Public use
- Updates links in the Use Standards column references Office, Medical Clinic and Day Care Center use standards.

Article 7

- Use standards were added for Office, Medical Clinic and Day Care Center. This was discussed during work-sessions but these standards were left out in error.
 - Adds the use standards for Day Care Center
 - Adds the use standards of Office, Medical/Clinic

Article 10

- Removes Variance language in Article 10-1-7 and adds Waivers referencing the waiver language in Article 3.
- All other changes are related to State Code updates adopted this year.

ARTICLE 3. Permits and Applications.

Division 1. In General.

Section 3-1-1. Preapplication Meeting.

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 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 § 15.2-2287, 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;

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- (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.

Division 2. Zoning Text and Map Amendments.

Section 3-2-1. In General.

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

Section 3-2-2. Standards and Procedures.

- (A) Initiation of change. Pursuant to the Code of Virginia § 15.2-2286 (7), as amended, any amendment to this Ordinance or the Zoning Map may be initiated by:
- (1) Resolution of the Town Council;
 - (2) Resolution of the Planning Commission; or
 - (3) Application of the owner, contract purchaser with the owner's written consent, or the owner's agent therefor, of the property which is the subject of the proposed Zoning Map Amendment (rezoning), addressed to the Town Council or Town of Rocky Mount Planning Commission, who shall forward such application to the Town Council.
- (B) Zoning Map Amendments. An application for a Zoning Map Amendment shall be made to the Zoning Administrator on forms provided by the Town. Applications for Zoning Map Amendments, including Conditional Zoning requests, shall be accompanied by a Concept Plan.
- (1) The Concept Plan may be general and schematic and shall show:
 - (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.

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- (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) shall include:
 - 1. A Site Plan, in accordance with Division 6, Site Plans, of this Article.
 - 2. A general statement of planning objectives to be achieved by the RPUD or MUD, including a description of the character of the proposed development, the existing and proposed ownership of the site, the market for which the development is oriented, and intentions with regards to any specific human-made and natural characteristics located on the site.
 - 3. General information on the trip generation, ownership, maintenance, and construction standards for proposed streets should be included.
 - 4. A traffic impact analysis that shall be prepared in accordance with the applicable Virginia Department of Transportation (VDOT) standards.
 - 5. Fiscal impact analysis information as specified by the Town.
 - 6. Proposed deed covenants, restrictions, or other constraints to be imposed upon the purchasers of such properties.
- (C) Zoning Text Amendments. Zoning Text Amendments may be initiated by resolution of Town Council.
- (D) Standards for Review.
- (1) Once the application is submitted in accordance with Division 1 of this Article and has been determined to be complete, the Town shall evaluate the application and may request that the applicant make revisions, as necessary.

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- (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 days 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 extension for a defined period not to exceed a total of 90 calendar days from the date of the public hearing.
- (4) All motions, resolutions, or applications for amendment to the Zoning Ordinance and/or Zoning Map shall be acted upon, and a decision made within such reasonable time as may be necessary which shall not exceed 12 months unless the applicant requests or consents to action beyond such period or unless the applicant withdraws their motion, resolution, or application for amendment to the Zoning Ordinance or Map, or both; otherwise, the amendment shall be deemed approved. In the event of and upon a withdrawal by the applicant, processing of the motion, resolution, or petition shall cease without further action as otherwise would be required.
- (E) The Administrator shall cause the Zoning Map to be updated as frequently as necessary to ensure that zoning data shown thereon are both accurate and current. Accordingly, all changes affecting the Zoning Map that are approved by the Town Council shall be entered onto the official Zoning Map within 60 days 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.

Section 3-3-1. Purpose and Intent.

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

Section 3-3-2. Standards and Procedures.

(A) Proffer of conditions; standards of consideration.

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

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- (vi) The conditions must not include payment for, or construction of, off-site improvements except those provided for in the Code of Virginia § 15.2-2241 and § 15.2-2303.4.
 - (vii) No condition shall be proffered that is not related to the physical development or physical operation of the property.
 - (viii) The conditions shall be in accordance with the Town of Rocky Mount Comprehensive Plan.
- (3) At the time each proffer is submitted to the Town, it shall be accompanied by a statement signed by the applicant and the owner or their agents which states:
- (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.

(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.

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- (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.

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:
 - (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.

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.

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Section 3-4-2. Applicability.

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 Procedures.

(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. 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.
- (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.

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(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.

(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 Validity.

(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.

(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.

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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.

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 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.
 - (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.

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- (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 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.

- (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

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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.

Division 6. Site Plans.

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 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. Applicability.

(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.

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- (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:
- (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:
- (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. Site Plans are either a Minor Site Plan or a Major Site Plan, as specified below.
- (C) Minor Site Plans. 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:
- (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.

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- (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;
 - (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.

- (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;

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- (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.

- (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 address, 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, 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.

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- (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;

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- (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 Improvements.

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

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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.

- (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:
 - (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.

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- (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.

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- (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. Site Plans required under Section 3-6-3 are subject to administrative approval by the Administrator.
 - (1) The Administrator is responsible for the review, processing, and the requesting of additional agency and consultant reports relative to a Site Plan which has been submitted.
 - (2) Developers are encouraged to discuss the proposals contained in the Site Plan as submitted with the Administrator prior to official request for approval of that plan.
- (B) Site Plan Review Process. Unless otherwise provided in another Article of this Ordinance, every Site Plan required by this Article shall be submitted to the Administrator who shall take the following actions:
 - (1) Review the Site Plan for completeness. If deemed incomplete or having insufficient information for review, the application will be refused and returned to the applicant with a written list of deficiencies.
 - (2) Review the Site Plans for conformity with applicable development regulations and approved Concept Plans. Site Plans will be provided to all relevant Town or County departments and reviewing agencies for written comment.
 - (3) The Administrator shall notify the applicant of the action taken with respect to the Site Plan, which may include approval or disapproval.
- (C) Time Period for Approval.
 - (1) Pursuant to Code of Virginia, § 15.2-2259, as amended, Site Plans shall be approved or disapproved within 60 days 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 days of resubmission.

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

- (A) Site Plan for Previously Approved Concept Plan.
- (1) If it becomes necessary for an approved Site Plan, which was a previously approved Concept Plan for a Special Exception Permit or Rezoning, to be changed, the Administrator may, at the applicant's request, administratively approve a minor amendment to the Site Plan if the change or amendment does not:
 - (i) Alter a recorded plat;
 - (ii) Conflict with specific requirements of this Ordinance or proffered conditions;
 - (iii) Change the general character or content of an approved Concept Plan or use;
 - (iv) Have an appreciable effect on adjoining or surrounding property;
 - (v) Result in any substantial change of external access points;
 - (vi) Increase the approved number of dwelling units or other buildings or height of buildings.
 - (vii) Decrease the minimum specified yard and open spaces or minimum and maximum specified parking and loading spaces required by Ordinance; and
 - (viii) Substantially change architectural or site design features.
 - (2) Amendments not in accordance with i) through (viii) of this Section shall be considered as 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 45 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 Required.

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

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- (B) No permit shall be issued for any structure in any area covered by the Site Plan that is required under the provisions of this Article except in conformity with such Site Plan which has been duly approved.
- (C) Inspections shall be made during the installation of on-site improvements by the Building Official, Public Works Director, Administrator, or a designated representative to ensure compliance with the approved Site Plan.
- (D) The owner or developer shall provide adequate supervision at the site during installation of improvements required by the site development plan and shall make one set of approved plans available at the site at all times that work is being performed. Such plans shall be available for inspection by authorized regulatory officials.
- (E) Upon the satisfactory completion of the installation of all required improvements shown on the approved Site Plan, the developer shall submit to the Town agent 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.
- (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.
- (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) years after the date of such approval unless building permits have been obtained for construction in accordance therewith.
- (B) The application for and approval of minor modifications to an approved Site Plan shall not extend the period of validity of such plan and the original approval date shall remain the controlling date for purposes of determining validity.

Division 7. Zoning Permits.

Section 3-7-1. Applicability.

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

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- (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:
 - (i) Lot lines;
 - (ii) Location of buildings on the lot, including setback measurements from each property boundary;
 - (iii) Suitable notations indicating the proposed use of all land and buildings;
 - (iv) Points of connection to public water and sewer;
 - (v) Delineation of all floodplain limits;
 - (vi) Such other information as may be necessary to provide for the enforcement of these regulations; and
 - (vii) If determined necessary by the Administrator in a specific case, a boundary survey, and a staking of the lot by a competent surveyor, and complete construction plans shall be required.
 - (viii) A statement from the water and sewer superintendent that applicable regulations and requirements have been complied with.
 - (ix) A grading permit, as required by the Franklin County Erosion and Sediment Control Program.
 - (x) If a dwelling, the number of families or housekeeping units.
 - (xi) Number, size, location and lighting of signs, if any.
 - (xii) Off-street parking and other facilities.

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- (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.

- (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.

Division 8. Zoning Determinations.

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.

- (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

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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) Procedure.

- (A) Pursuant to the Code of Virginia § 15.2-2312, as amended, procedures for submitting an appeal shall be as follows:
 - (1) Mailing Procedure. Appeals shall be mailed from the applicant seeking appeal to the BZA in care of the Administrator, and a copy of the appeal shall be mailed to the Planning Commission. A third copy should be mailed to the individual, official, department, or agency concerned, if any.
 - (2) Hearing. The BZA shall fix a reasonable time for the hearing of an appeal, give public notice as outlined in Division 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 Council.

- (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.

Town of Rocky Mount Zoning & Subdivision Ordinance

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

Section 3-9-5. Stay of Proceedings.

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

Division 10. Public Hearings and Notifications.

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 Mailings.

- (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.

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

Town of Rocky Mount Zoning & Subdivision Ordinance

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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 Property.

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.

Division 11. Waivers by Town Council.

Section 3-11-1. Purpose and Intent.

The purpose of a waiver is to allow for a reasonable deviation from the subdivision design provisions of this Ordinance when the strict application of the design standard is unreasonable or counterproductive to the overall intent of the Ordinance. Other relief or remedy shall not be available, and such waiver shall not be contrary to the purpose of the Ordinance.

Section 3-11-2. Applicability.

- (A) A Waiver may be granted where the Town Council finds that strict adherence to the general regulation would result in substantial injustice or hardship.

Section 3-11-3. Application.

- (A) Each request for a waiver, in accordance with Section 3-11-2 (A), shall include:
- (1) A written narrative with the following components:
 - (i) The specific standard of Article 10, Division 3 that is subject to the waiver request and how the standard is proposed to be modified;
 - (ii) A justification for the request; and
 - (iii) A description of the site conditions that necessitate the waiver request;
 - (2) Any plats, renderings, and engineering documents required by the Zoning Administrator to understand and review the waiver request.
 - (i) Additional site elevations, plan views, perspectives, and/or renderings may be further required by the Planning Commission or Town Council, as part of their review.

Section 3-11-4. Standards and Procedure.

- (A) A waiver shall not have the effect of nullifying the intent and purposes of this Ordinance.

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Article 3 – Permits and Applications

- (B) The Town Council shall not grant a waiver unless the evidence presented finds that:
- (1) The waiver will further the intent of this Ordinance and the Comprehensive Plan and other adopted policies;
 - (2) The waiver will not be detrimental to the public safety, health, or welfare or injurious to other property or improvements in the surrounding area;
 - (3) The conditions upon which the request for a waiver are based are unique to the property for which the waiver is sought and are not generally applicable to other property;
 - (4) The waiver is not sought solely to avoid minor inconvenience or preference, but addresses a practical difficulty or site-specific condition;
 - (5) The purpose of the waiver is not based primarily upon financial consideration;
 - (6) Granting the waiver will result in development that is compatible with the existing and expected development of the surrounding area; and
 - (7) The remaining provisions of this Ordinance are satisfied.
- (C) Standards for Review.
- (1) The Administrator shall review any waiver application for its compliance with this Ordinance and 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.
 - (ii) 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.
 - (3) 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.
 - (4) 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.
 - (5) If an applicant is also seeking an amendment to the Zoning Ordinance and/or a Special Exception Permit for the same property, all applications may be made jointly and processed at the same time.

Section 3-11-5. Reconsiderations.

- (A) If a request for a waiver 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 12. Modifications by Zoning Administrator.

Section 3-12-1. Purpose and Intent.

The purpose of a modification is to allow for a reasonable deviation from the provisions of this Ordinance when the strict application of the design standard is unreasonable or counterproductive to the overall intent of the Ordinance. Other relief or remedy shall not be available, and such modification shall not be contrary to the purpose of the Ordinance.

Section 3-12-2. Applicability.

- (A) Pursuant to Pursuant to the Code of Virginia § 15.2-2286, a modification may be granted where the Zoning Administrator finds that practical difficulties may result from strict compliance with:
- (1) Any provision contained in this Ordinance with respect to physical requirements on a lot or parcel of land, including but not limited to size, height, location or features of or related to any building, structure, or improvements.
- (B) Modifications/Waivers to Article 10, Subdivision, of this Ordinance shall be in accordance with Division 11 of this Article.

Section 3-12-3. Application.

- (A) Each request for a modification, in accordance with Section 3-12-2 (A), shall include:
- (1) A written narrative with the following components:
 - (i) The specific standard of this Ordinance that is subject to the modification request and how the standard is proposed to be modified;
 - (ii) A justification for the request; and
 - (iii) A description of the site conditions that necessitate the modification request;
 - (2) Any plats, renderings, and engineering documents required by the Administrator to understand and review the modification request.
 - (i) Additional site elevations, plan views, perspectives, and/or renderings may be further required as part of their review.

Section 3-12-4. Standards and Procedure.

- (A) A modification shall not have the effect of nullifying the intent and purposes of this Ordinance.
- (B) The Administrator shall not grant a modification unless the evidence presented finds that:
- (1) The strict application of the ordinance would produce undue hardship;
 - (2) Such hardship is not shared generally by other properties in the same zoning district and the same vicinity; and
 - (3) The authorization of the modification will not be of substantial detriment to adjacent property and the character of the zoning district will not be changed by the granting of the modification.
- (C) Standards for Review.

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Article 3 – Permits and Applications

- (1) The Administrator shall review any modification application for its compliance with this Ordinance and determine if it is complete.
 - (ii) 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.
- (3) Prior to the granting of a modification, the Administrator shall give, or require the applicant to give, all adjoining property owners written notice of the request for modification, and an opportunity to respond to the request within 21 days of the date of the notice.
- (4) The Administrator shall make a decision on the application for modification and issue a written decision with a copy provided to the applicant and any adjoining landowner who responded in writing to the notice sent.
 - (i) The Administrator shall respond within 90 days of an application for a modification, unless the applicant has agreed to a longer period.
 - (ii) If the modification granted by the Administrator could impair the ability of an adjacent property owner to satisfy the minimum storage capacity and yield requirements for a residential drinking well pursuant to Code of Virginia § 32.1-176.4 or any regulation adopted thereunder, the Administrator shall provide a copy of such decision or determination to such adjacent property owner so affected.
- (5) The decision of the Administrator shall constitute a decision within the purview of Code of Virginia § 15.2-2311 and may be appealed to the BZA in accordance with Division 9 of this Article. Decisions of the BZA may be appealed to the Circuit Court, in accordance with Division 9 of this Article.
- (6) If an applicant is also seeking an amendment to the Zoning Ordinance and/or a Special Exception Permit for the same property, all applications may be made jointly and processed at the same time.

Section 3-12-5. Reconsiderations.

If a request for a modification is denied by the Administrator, then such application, or one substantially similar, shall not be reconsidered sooner than 12 months after the previous denial.

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.

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

Town of Rocky Mount Zoning & Subdivision Ordinance
 Article 6 – Use Matrix

Division 3. Use Matrix.

Use	Districts													Use Standards
	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	
<i>B = By-Right SE = Special Exception Blank = Not Permitted</i>														
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					
Short-Term Rental	B		B	B						B				7-3-9

Town of Rocky Mount Zoning & Subdivision Ordinance
Article 6 – Use Matrix

Use	Districts													Use Standards
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	<i>B = By-Right SE = Special Exception Blank = Not Permitted</i>													
PUBLIC, CIVIC, AND RECREATIONAL														
Cemetery, Public	SE												SE	
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	SE			
Education Facility, Primary or Secondary	B	B	B	B	B	B	B	B			SE		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		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

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Use	Districts													Use Standards
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	<i>B = By-Right SE = Special Exception Blank = Not Permitted</i>													
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				7-5-5
Drive-Through Window							B	B	B	B				7-5-6
Equipment Sales, Service, and Repair (Heavy)											B	B		
Event Venue	B								B	B	B			7-5-7
Farmers Market									B	B				
Financial Institution							B	B	B	B				
Funeral Home				B				SE	B	B				
Garden Center								SE	B	B				
Gas Station									B	SE				7-5-8
Hospital							SE	SE	B	SE				
Hotel							SE	SE	B	B				

Town of Rocky Mount Zoning & Subdivision Ordinance
Article 6 – Use Matrix

Use	Districts													Use Standards
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<i>B = By-Right SE = Special Exception Blank = Not Permitted</i>														
Itinerant Vendor							B	B	B	B				7-5-9
Kennel, Commercial	B						SE	SE	B		B	B		7-5-10
Medical Treatment Facility							SE	B	SE					
Mobile Food Vendor							B	B	B	B	B	B		7-5-11
Office, General						B	B	B	B	B				7-5-12
Office, Medical/Clinic							SE	B	B	B				7-5-13
Outdoor Sales, Seasonal/Temporary								B	B	B				7-5-14
Parking Lot, Commercial									B	B				7-5-15
Personal Improvement Services						B	B	B	B	B				7-5-16
Personal Services						B	B	B	B	B				7-5-17
Recreation/Entertainment, Commercial Indoor							B	B	B	B				
Recreation/Entertainment, Commercial Outdoor					SE				B					
Restaurant, General							SE	B	B	B				
Smoke Shop/Vape Shop									SE					7-5-18
Store, Large									B					
Store, Small							SE	B	B	B				
Tradesperson Service								B	B		B	B		
Veterinary Hospital/Clinic							B	B	B		B	B		7-5-19
INDUSTRIAL														
Construction Yard											B	B		
Factory outlet store								B			B	B		
Hazardous Materials, Storage, and Distribution												B		
Junkyard/Salvage Yard												SE		7-6-1

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Use	Districts													Use Standards
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	<i>B = By-Right SE = Special Exception Blank = Not Permitted</i>													
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
Wind Energy Generating Facility, Accessory	SE						SE	SE	SE		SE	SE		7-7-8
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.

- (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.
 - (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.

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Article 7 – Use Standards

- (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.

- (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.

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Section 7-2-3. Agritourism.

- (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) 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.

- (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.

- (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.

- (A) Owner/Operator Occupied. Bed and breakfasts shall be occupied by the owner/operator wherein the owner or manager provides full-time management during operation.
- (B) Licensure. The owner/operator shall hold a valid business license from the 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.

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- (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.

(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.

- (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.

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- (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.
 - (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) One (1) parking space shall be required in addition to the required parking for the principal dwelling and no separate driveway shall be permitted.
 - (2) 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 home dwelling. This does not prohibit manufactured home dwellings designed and manufactured as multi-section homes.

Section 7-3-4. Dwelling, Multi-Unit.

- (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.

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- (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.

Section 7-3-5. Dwelling, Townhouse.

- (B) Placement.
 - (1) No more than eight (8) adjoined 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.

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- (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 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.

- (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

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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.

Section 7-3-7. Home Occupation.

(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.
- (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.

- (A) No manufactured home within a manufactured home park shall be located within 50 ft. of an existing residence.
- (B) A manufactured home park shall contain at least two (2) acres and contain ten (10) or more manufactured homes for residential occupancy.

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- (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.
 - (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.

- (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, the host has the burden of demonstrating that the dwelling unit is his or her primary residence.
 - (4) *Residential dwelling unit.* A residence where one (1) or more persons maintain a household.
- (B) Registration and Other Requirements.
 - (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.

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- (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.
 - (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.

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(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.

(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.

(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.

(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.

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- (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 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.

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- (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.

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- (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.

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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

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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

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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

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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.

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- (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

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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.

- (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.

- (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

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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.
 - (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.
- (E) Hours of Operation.
- (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

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(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.
- (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.

(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.

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(D) Sales and Rental Standards.

- (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.

(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 identified in the Contingency Plan immediately in the event of a spill or any petroleum product,

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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. Day Care Center.

Within the Central Business District day care center use shall be prohibited on properties or in buildings that have an address on Franklin Street or have a property boundary adjacent to Franklin Street.

Section 7-5-6. Drive-Through Window.

(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 7-5-7. Event Venue.

(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.

(C) Parking. Parking for 50 or more vehicles shall require a Special Exception Permit.

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- (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 7-5-8. Gas Station.

(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.
- (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.

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- (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 7-5-9. Itinerant vendor.

(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.

Section 7-5-10. Kennel, Commercial.

(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.

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- (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 7-5-11. Mobile Food Vendor.

- (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:
 - (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;
- (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:
- (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

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- (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.
 - (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 7-5-12. Office, General.

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 7-5-13. Office, Medical/Clinic.

Within the Central Business District medical/clinic 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 7-5-14. Outdoor Sales, Seasonal/Temporary.

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

Section 7-5-15. Parking Lot, Commercial.

- (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.

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- (1) Screening shall be in conformance with the regulations of Article 8, Community Design Standards, of this Ordinance.

Section 7-5-16. Personal Improvement Services.

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 7-5-17. Personal Services.

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.

Section 7-5-18. Smoke Shop/Vape Shop.

- (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:
 - (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.
 - (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 7-5-19. Veterinary Hospital/Clinic.

- (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.

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- (2) Animal shelters shall be kept free of waste on a regular basis to minimize impacts of odor and reduce propagation of pests.
- (3) Waste disposal shall be in accordance with Virginia Department of Health standards.
- (4) All animals shall be kept within a totally enclosed part of the structure(s) between the hours of 10:00 p.m. and 7:00 a.m. This does not include leashed walking of animals.

Division 6. Industrial Uses.

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

(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.

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

- (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.

Division 7. Miscellaneous Uses.

Section 7-7-1. Accessory Structure.

- (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.

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- (B) Location. Accessory structures are allowed in the General Business District (GB) and Central Business District (CBD) with nonconforming residential uses only.
- (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.
 - (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.
 - (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.

- (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.

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- (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.

- (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.
 - (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.

- (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.

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- (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.

- (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, 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.

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- (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.

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- (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

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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.

(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.

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- (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.
 - (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.

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- (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.

- (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.

- (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:
 - (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.

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- (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:
 - (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.

- (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.

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.

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.

- (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.

- (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.
- (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.

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

Section 10-1-6. Exemptions.

- (A) The following are exempt from this Article, but 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, and Waivers.~~

- (A) Appeals. 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. 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.~~
- (B) Waivers. Any design standard contained herein may be waived by the Town Council, in accordance with Article 3, Division 11, of this Ordinance.

Division 2. Types of Subdivisions.

Section 10-2-1. Major Subdivisions.

- (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:

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- (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.
- (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.

- (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.

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

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

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- (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. 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.
- (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.

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- (2) In general, side lot lines shall be at right angles to street lines (or radial to curving street lines) unless a variation from this rule will give a better street or lot plan.
 - (3) Depth and width of properties reserved or laid out for business, commercial, or industrial purposes shall be adequate to provide for the off-street parking and loading facilities required for the type of use and development contemplated, as established in this Ordinance.
- (C) Lot orientation.
- (1) Each lot shall be served by and abut on a public street dedicated by the subdivision plat or on an existing public street.
 - (2) Lots shall be arranged so that each lot may access a local street, unless the parent parcel fronts only on an arterial or collector street and the parcel depth is insufficient to accommodate the construction of a new local street.
- (D) Lots dedicated to public use, common areas. Lots dedicated to the Town for public use and lots set aside as common area or open space are not required to meet the standards of this Ordinance.
- (E) Remnants. All land below minimum lot size left over after subdividing a tract shall be added to adjacent lots or designated if appropriate as common area or parkland.

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-foot 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.

Section 10-3-6. Monuments.

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

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- (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.
 - (i) In lieu of such payment, the Agent may accept a letter of credit satisfactory to the Agent conditioned upon the payment at the commencement of construction.
 - (ii) The payments received shall be kept in a separate account for each of the individual improvement programs until such time as they are expended for the improvement program.
 - (iii) All payments shall be released and used, with any interest earned, as a tax credit on the real estate taxes on the property if construction of the facilities identified in the established 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.
- (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.
 - (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).

- (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:

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- (1) The HOA including by-laws, covenants and restrictions, and articles of the association or corporation must be set up and legally constituted prior to the sale of any lot, dwelling unit, or other structure located within the subdivision.
 - (2) Such HOA must be effectual prior to the sale of 25% of said lots or dwelling units, on whichever assessments are based. The entire cost for maintenance of the open spaces, private streets, or other communally owned facilities shall be borne by the developer until such time as the HOA becomes effectual.
 - (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.

Section 10-4-1. Types of Guarantees.

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

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

- (A) Pursuant to the Code of Virginia § 15.2-2245, as amended, 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.

- (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.

Section 10-4-4. Release.

- (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.

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- (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.
- (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.

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- (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.

- (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.

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

- (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.

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- (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.

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

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- (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.

- (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.

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

Section 10-5-5. Separate Ownership.

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.

- (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.

Section 10-6-1. Applicability.

- (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:

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- (1) Boundary line adjustments;
 - (2) Easement plats;
 - (3) Agricultural subdivisions;
 - (4) Family Subdivisions;
 - (5) Minor Subdivisions; and
 - (6) Major Subdivisions which are less than 51 lots.
- (C) For any of those instances in (B), above, the developer may have a preliminary conference and voluntarily provide a Sketch Plat, as outlined in Section 10-5-2 (A), prior to submission of a Final Plat.

Section 10-6-2. Application for Approval.

- (A) Filing.
- (1) Prior to Town review, a subdivider shall file with the Agent a completed application with proper filing fee, as provided by the Rocky Mount Fee Schedule, accompanied by copies of the Preliminary Plat by digital and paper submissions as requested by the Agent.
 - (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. 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. The Preliminary Plat shall include the following information pursuant to Code of Virginia, § 15.2-2258, as amended:
- (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) 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.

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- (iv) Names, addresses, and phone numbers of the owner of any easements affecting the property.
 - (v) Date of the drawing, including revision dates.
 - (vi) Scale of the plat and north arrow, oriented to the top of each sheet where practical.
 - (vii) The sources of data used in preparing the plat.
- (2) In accordance with Code of Virginia § 15.2-2246, as amended, plats for subdivisions shall clearly state compliance with the Town of Rocky Mount Zoning Ordinance.
 - (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.
 - (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.

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- (iii) Sections. Boundaries and section numbers for subdivisions that are to be developed in phases.
 - (iv) Lots. Number and approximate area of all lots. Lots shall be numbered consecutively (beginning with "1, 2, 3...") throughout the subdivision so that there is no duplication of lot numbers.
- (14) Land for public or common use.
- (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.

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- (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:
- (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.

- (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. The Agent and the Planning Commission shall act according to the regulations of Code of Virginia §§ 15.2-2222.1, 15.2-2254, 15.2-2259, 15.2-2260, 15.2-2269 with regards to the timeframes of resubmittals and other agency review.~~
- (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, 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.
 - 1. These recommendations shall be submitted to the Agent no later than ~~15-30~~ days ~~before the Planning Commission meeting at which~~ from receipt of the Preliminary Plat ~~will be reviewed.~~

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- (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 all 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.

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- (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.

- (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, § 15.2-2260, as amended, the subdivider, after 10-days' written notice to the commission, or Agent, may petition the circuit court of Franklin County.
- (B) Appeal of disapproval of Preliminary Plat. If the Planning Commission disapproves a plat and the subdivider contends that the disapproval was not properly based on the ordinance applicable thereto, or was arbitrary or capricious, they may appeal to the circuit court of Franklin County and the court shall hear and determine the case as soon as may be, pursuant to Code of Virginia, § 15.2-2259, as amended.

Division 7. Final Plats.

Section 10-7-1. Applicability.

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

Section 10-7-2. Application.

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

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

- (A) Plat details shall meet the standard for plats as adopted under the Virginia Public Records Act, Code of Virginia § 42.1-76 et seq., as amended.
- (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. If more than one (1) sheet is needed, each sheet shall be numbered and the relation of one (1) sheet to another clearly shown.

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

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- (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.
- (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.
- (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.
- (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:
 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.

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- (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."

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- (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,

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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. The Agent shall act according to the regulations of Code of Virginia §§ 15.2-2222.1, 15.2-2254, 15.2-2259, 15.2-2260, 15.2-2269 with regards to the timeframes of resubmittals and other agency review.~~

(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

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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~~ Agent shall transmit copies of the Final Plat, or appropriate portions thereof, within five (5) business days, to the Town Manager, 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.

(A) The Agent will act accordingly with regard to approval and disapproval as outlined in the Code of Virginia, § 15.2-2259, as amended.

(B) General requirements prior to decision.

(1) The Agent shall confirm that provisions for required guarantees, as provided in Division 4 of this Article, are met, and approved by the Town Attorney. The Agent shall receive any payment not covered in the guarantee and due for the fabrication and installation of street and any payment due for a fee in lieu of parkland prior to the approval of the Final Plat.

(2) The Agent shall confirm any necessary deed of dedication has been submitted and approved by the Town Attorney. A deed of dedication is required to convey parkland, pump station sites, and other property to the Town. One is not necessary to convey streets, alleys, any easement 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.

(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~~ 40 days after it has been officially submitted for approval.

(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.

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- (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 identify all deficiencies that caused the disapproval by referencing specific ordinance, regulations, or policies 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.
- (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~~ 30 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 Code of Virginia, § 15.2-2259, as amended ~~this Article~~ shall cause the plat to be 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~~ 40 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.
 - (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.
 - (1) However, in any case where construction of facilities to be dedicated for public use has commenced pursuant to an approved plan or permit with surety approved by the Agent, or where the developer has furnished a guarantee to the Town by certified check, cash escrow, bond, or letter of credit in the amount of the estimated cost of construction of such facilities, the time for plat recordation shall be extended to one (1) year after final approval. No clerk of a court shall file or record a plat of a subdivision until such plat has been approved by the Planning Commission.
- (C) To 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.
- (F) If the provisions of a recorded plat, which was specifically determined by the Town Council and not its Agent, to be in accordance with the zoning conditions previously approved pursuant to the Code of Virginia, § 15.2-2296 through § 15.2-2303, as amended, conflict with any underlying zoning conditions of such previous rezoning approval, the provisions of the recorded plat shall control, and the zoning amendment notice requirements of the Code of Virginia, § 15.2-2204, as amended, shall be deemed to have been satisfied.

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

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

Division 8. Vacation of Plats.

Section 10-8-1. Vacation.

- (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.

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- (i) An approved and recorded plat of subdivision, or part thereof, may be vacated prior to, or after the sale of any lot therein by the Town Council using the procedures set forth in the Code of Virginia, § 15.2-2271 or § 15.2-2272, as amended, respectively.

(E) Fees.

- (1) As allowed by the Code of Virginia, § 15.2-2273, as amended, the Town shall establish a fee for processing an application for vacation of plat. The filing fee shall be paid in accordance with the fee schedule established by the Town Council, as amended.

(F) Duties of the Clerk.

- (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.

Section 10-9-1. Enforcement.

(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.

(A) Violations of this Article shall be in accordance with Article 2, Administration, of this Ordinance.

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- (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, as amended, 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, as amended.
- (C) All fees shall be payable to the Treasurer of the Town of Rocky Mount, in such amount as set by Town Council.