

ATTACHMENT B

Article-I General Provisions

Division I-I Enactment and Authority

Section I-I-1 Title

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

Section I-I-2 Authority

- A. Pursuant to the code of Virginia, § 15.2-2280 et seq., Nelson County, Virginia, is given the authority to classify and regulate land development under its jurisdiction.
- B. Pursuant to the Code of Virginia, § 15.2-2240, et seq., Nelson County, Virginia, is authorized to adopt regulations to ensure the orderly subdivision of land and its development.

Section I-I-3 Purpose¹

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

Section I-I-4 Applicability

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

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

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Section 1-1-5 Conformity Required

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

Section 1-1-6 Severability

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

Division 1-2 Ordinance Conflicts and Interpretation

Section 1-2-1 Interpretation²

- A. The Zoning Administrator, or their designee, is responsible for definitive interpretation of this Ordinance based upon the following criteria:
- (1) Provisions shall be considered the minimum required unless otherwise specified, to promote the public safety, health, convenience and general welfare;
 - (2) When regulations of this Ordinance conflict with each other, other County Ordinances, or state or federal law, the more restrictive regulation will govern, pursuant to the Code of Virginia § 15.2-2315;
 - (3) It is not the intent of the regulations of this Ordinance to interfere with, repeal, or annul any easements, covenants or other private agreements;
 - (4) The County is not responsible for the enforcement of private provisions, restrictions, or covenants;
 - (5) A building, structure, or use which was not legally existing on _____ (effective date of updated ordinance) shall not be made lawful solely by adoption of this Ordinance; and

² Editor's Note: This Section includes provisions from Section 1-3 and 17-6 that have been streamlined and amended for clarity.

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

Section 1-2-2 Figures and References

- A. Where figures are contained in this Ordinance, they are provided for demonstrative purposes only, and in the event of a conflict between the text or tables of this Ordinance and any figures, the text and tables will control.
- B. If any section of this Ordinance incorporates by reference any state statute or regulation, then the Ordinance incorporates future amendments of the state statute regulation.

Division 1-3 Zoning Districts Map³

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

- A. The unincorporated areas of Nelson County, Virginia, are hereby divided into zoning districts, as shown on the official “Zoning Map of Nelson County, Virginia.” The Zoning Map of Nelson County, Virginia will be, for convenience, referred to as the “Zoning Map.”
- B. The Zoning Map shall be available for examination and inspection by the public at all reasonable times.
- C. The original of the Zoning Map shall be filed in the Zoning Administrator’s office and such original Zoning Map be updated from time to time as the result of the following actions:
 - (1) Amendments to the Ordinance (See Article 3, Division 2, of this Ordinance);
 - (2) Approval of a Rezoning (See Article 3, Division 2, of this Ordinance);

³ Editor’s Note: This section has been created to establish the procedures governing the official zoning map as a physical paper copy located within the Planning and Zoning offices. If so desired, this section can be modified so that the online GIS version of the zoning layer can be used for the official zoning map.

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(3) Approval of Conditional Zoning and Proffers (See **Article 3, Division 3**, of this Ordinance).

Section 1-3-2 Incorporated by Reference

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

Section 1-3-3 Interpretation of Boundaries⁴

- A. In any case in which there is uncertainty, contradiction, or conflict as to the location of any zoning district boundary – due to scale, illegibility, lack of detail, physical or natural features vary from those on the Zoning Map, or any other circumstances not covered by this Section – the Zoning Administrator or designee will have the authority to interpret the district boundaries as stated in this Section.
- (1) The Zoning Administrator’s interpretations may be appealed to the Board of Zoning Appeals in accordance with **Article 3, Division 12**, of this Ordinance. The Board of Zoning Appeals will only determine to the boundary lines of the parcel or parcels as included in the appeal, and shall act in keeping with the intent of this Ordinance as stated herein.
- B. The Zoning Map associated with this text and showing the division of the territory into districts will be interpreted with the following rules when uncertainty exists with respect to the boundaries of any of the districts:
- (1) Where district boundaries are indicated as approximately following or being at right angles to the centerlines of streets, highways, alleys or railroad tracks, such centerline, or lines at right angles to such centerlines, will be construed to be such boundaries.
- (2) Where district boundaries appear to approximately coincide with a property line or municipal border, the property line or municipal border will be considered the district boundary, unless otherwise expressly indicated on the map.
- (3) Where district boundaries are fixed by dimensions or otherwise shown or described, there will be no uncertainty.

⁴ Editor’s Note: This section includes text from Section 17-3 that has been amended for clarity including naming the Administrator as the interpreter and the BZA for appeals.

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- (4) Where a district boundary is indicated to follow a river, creek, or branch or other body of water, said boundary will be construed to follow the centerline at low water or at the limit of the jurisdiction, and in the event of change in shoreline, such boundary will be construed as moving with the actual shoreline.
- (5) Where the map shows a district boundary dividing a lot, each part of the lot shall be used in conformity with the standards established by this chapter for the zoning district in which that part is located.
- (6) If distances, boundaries, or other dimensions are not specifically indicated, or cannot be determined, on the Zoning Map, they will be determined by using the scale of the map and other shown features.

Section 1-3-4 Unauthorized Changes

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

Division 1-4 Transition of Regulations After Adoption

Section 1-4-1 Effective Date⁵

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

Section 1-4-2 Violations Continue

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

⁵ Editor's Note: The text contained in this section is proposed to replace the text of section 17-4 for increased clarity.

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Section 1-4-3 Nonconformities

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

Section 1-4-4 Complete Applications/Plats⁶

- A. This Section is applicable to the following:
- (1) Zoning Text and Map Amendments (rezoning);
 - (2) Conditional Zoning;
 - (3) Special Use Permits;
 - (4) Variances; and
 - (5) Subdivision Plats.
- B. Applications and/or plats accepted as complete prior to _____ (effective date of updated ordinance), or deemed by the Administrator to be complete, prior to _____ (effective date of updated ordinance), but still pending final action as of that date, will be processed in accordance with the regulations in effect when the submittal was accepted.
- C. An applicant with a pending application and/or plat accepted prior to _____ (effective date of updated ordinance), may opt to have the proposed development reviewed and decided under the standards of this Ordinance by withdrawing the pending submittal and submitting a new application and/or plat in accordance with the procedures and standards of this Ordinance.
- D. To the extent such a complete application and/or plat is approved and proposes development that does not comply with this Ordinance, the subsequent development, although permitted, will be nonconforming and subject to the requirements of Article 9, Nonconforming Uses, Lots, & Structures, of this Ordinance.

⁶ Editor's Note: This section, and the following section, have been added to help ease the process of transition from the old existing ordinance to this new ordinance.

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

- A. This Section pertains to applications for the following:
- (1) Site Plans;
 - (2) Zoning Permits; and
 - (3) All other permit and development approvals identified in **Article 3, Permits and Applications**, of this Ordinance, but not provided for in **Section 1-4-4, Complete Applications**, above.
- B. Any other permits or development approvals granted prior to _____ (effective date of updated Ordinance), will remain valid until their expiration date.⁷
- (1) Developments with valid permits or development approvals granted prior to _____ (effective date of updated Ordinance), may be carried out in accordance with the terms and conditions of their approval and the development standards in effect at the time of approval, provided the permit or development approval is valid and has not expired.
 - (2) If the prior approval expires or is revoked, any subsequent development or use of the site will be subject to the procedures and standards of this Ordinance.
 - (3) To the extent a prior-approved permit or development approval that does not comply with this Ordinance, the subsequent building, development, or use, although permitted, will be nonconforming and subject to the requirements of **Article 9, Nonconforming Uses, Lots, & Structures**, of this Ordinance.

Section 1-4-6 Vested Right⁸

- A. The provisions of this Ordinance will not impair a vested right of a property owner. Vested rights determinations will be made in accordance with the Code of Virginia § 15.2-2307.
- B. The Subdivision Agent will be authorized to make determinations on whether a property owner's right is deemed vested in a land use or division.

⁷ Editor's Note: This provision has been revised to align with State Code requirements. The current ordinance requires that construction commences 30 days after the ordinance becomes effective.

⁸ Editor's Note: This section contains regulations found in section 17-2 that have been amended and clarified for ease of use.