

Article-5 Overlay Zoning Districts

Division 5-1 Establishment and Purpose

Section 5-1-1 General

- A. This Article establishes overlay districts, which apply additional standards to the development and design requirements of land in the County. These district standards exist as overlays to the primary zoning districts, and, as such, do not replace, but will supplement the underlying primary district provisions.
- B. If there is any conflict between the provisions or requirements of an overlay district and those of any underlying primary district, the provisions or requirements of the overlay district shall apply.
- C. Nelson County hereby establishes and designates the following overlay zoning districts:

Table 5-1: Overlay Zoning Districts

Overlay Districts	
FP	General Floodplain District
VO	Village Overlay District ¹
CO29	Route 29 Corridor Overlay District ²

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

- A. **FP, General Floodplain District Intent.** The purpose of these provisions is to prevent the loss of life and property, the creation of health and safety hazards, the disruption of commerce and governmental services, the extraordinary and necessary expenditure of public funds for flood protection and relief, and the impairment of the tax base by:
 - (1) Regulating uses, activities, and development which, alone or in combination with other existing or future uses, activities, and development, will cause unacceptable increases in flood heights, velocities, and frequencies;

¹ Editor’s Note: The Village Overlay District is a new overlay district proposed in this text.

² Editor’s Note: The Route 29 Corridor Overlay District is a new overlay district proposed in this text.

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- (2) Restricting or prohibiting certain uses, activities, and development from locating within districts subject to flooding;
 - (3) Requiring all those uses, activities, and developments that do occur in flood-prone districts to be protected and/or flood-proofed against flooding and flood damage; and
 - (4) Protecting individuals from buying land and structures which are unsuited for intended purposes because of flood hazards.
- B. **VO, Village Overlay District Intent.** The Village Overlay District is established to preserve and enhance traditional village character in historic communities by promoting walkable, mixed-use development that integrates residential, office, commercial, and public uses. This district provides flexibility for small-scale businesses, housing, and essential services and supports the rehabilitation of older structures, infill development of vacant lots, and infrastructure improvements to reinforce the village as a rural community hub. This district is intended to promote the land use policies for rural villages throughout the County as established in the Comprehensive Plan.
- C. **CO29, Route 29 Corridor Overlay District Intent.** The Route 29 Corridor Overlay District is intended to promote high-quality commercial development along Nelson County's key thoroughfare and gateway. This district allows for a broader range of tourism-friendly businesses and services while emphasizing cohesive design and development standards that enhance the corridor's visual character and functionality. Additional design standards, including those related to landscaping, signage, and site aesthetics, are encouraged to support the preservation and promotion of the County's natural beauty and promote a gateway corridor that reflect the values of the County.

Division 5-2 FP – General Floodplain District³

Section 5-2-1 Authority

This Division is adopted pursuant to the authority granted to localities by the Code of Virginia §§ 15.2-2200, 15.2-2280, and 15.2-2283, as amended, and may be referred to as the Nelson County General Floodplain Overlay District, floodplain management overlay district, floodplain district, or flood hazard overlay district.

Section 5-2-2 Applicability

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

Section 5-2-3 Compliance and liability.

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

³ Editor's Note: The floodplain district has been slightly modified from its current version to promote better organization, improve clarity, and better match FEMA's model floodplain ordinance. Standards from the current floodplain ordinance have primarily been maintained.

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Section 5-2-4 Abrogation and Greater Restrictions.

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

Section 5-2-5 Penalties.

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

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

- A. The Zoning Administrator (or their designee) (hereby referred to as the Administrator) shall serve as the Floodplain Administrator. The Administrator may:
 - (1) Administer the duties and responsibilities herein.
 - (2) Delegate duties and responsibilities set forth in these regulations to qualified technical personnel, plan examiners, inspectors, and other employees.

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- (3) Enter into a written agreement or written contract with another community or private sector entity to administer specific provisions of this Division. Administration of any part of this Division by another entity will not relieve the County of its responsibilities pursuant to the participation requirements of the National Flood Insurance Program (NFIP) as set forth in the Code of Federal Regulations at 44 CFR Section 59.22.

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

- A. The duties and responsibilities of the Administrator shall include but are not limited to:
 - (a) Review applications for permits to determine whether proposed activities will be located in the Special Flood Hazard Area (SFHA).
 - (b) Interpret floodplain boundaries and provide available BFEs (BFEs) and flood hazard information.
 - (c) Review applications to determine whether proposed activities will be reasonably safe from flooding and require new construction and substantial improvements to meet the requirements of these regulations.
 - (d) Review applications to determine whether all necessary permits have been obtained from the Federal, State, or local agencies from which prior or concurrent approval is required; in particular, permits from state agencies for any construction, reconstruction, repair, or alteration of a dam, reservoir, or waterway obstruction (including bridges, culverts, structures), any alteration of a watercourse, or any change of the course, current, or cross section of a stream or body of water, including any change to the 100-year frequency floodplain of free-flowing non-tidal waters of the State.
 - (e) Verify that applicants proposing an alteration of a watercourse have notified adjacent communities, the Virginia Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management), and other appropriate agencies (such as Virginia Department of Environmental quality and U.S. Army Corps of Engineers), and have submitted copies of such notifications to FEMA.
 - (f) Approve applications and issue permits to develop in SFHAs if the provisions of these regulations have been met, or disapprove applications if the provisions of these regulations have not been met.

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- (g) Inspect or cause to be inspected, buildings, structures, and other development for which permits have been issued to determine compliance with these regulations or to determine if non-compliance has occurred or violations have been committed.
- (h) Review Elevation Certificates prepared in accordance with FEMA standards and require incomplete or deficient certificates to be corrected.
- (i) Submit to FEMA, or require applicants to submit to FEMA, data and information necessary to maintain FIRMs, including hydrologic and hydraulic engineering analyses prepared by or for Nelson County, within six (6) months after such data and information becomes available if the analyses indicate changes in BFEs.
- (j) Maintain and permanently keep records that are necessary for the administration of these regulations, including:
 - i. Copies of Flood Insurance Studies, FIRMs (including historic studies and maps and current effective studies and maps) and Letters of Map Change; and
 - ii. Documentation supporting issuance and denial of permits, Elevation Certificates, documentation of the elevation (in relation to the datum on the FIRM) to which structures have been flood-proofed, inspection records, other required design certifications, variances, and records of enforcement actions taken to correct violations of these regulations.
- (k) Enforce the provisions of these regulations, investigate violations, issue notices of violations, and require permit holders to take corrective action.
- (l) Advise the Board of Zoning Appeals regarding the intent of these regulations and, for each application for a variance, prepare a staff report and recommendation.
- (m) Administer the requirements related to proposed work on existing buildings:
 - i. Make determinations as to whether buildings and structures that are located in SFHAs and that are damaged by any cause have been substantially damaged.
 - ii. Make reasonable efforts to notify owners of substantially damaged structures of the need to obtain a permit to repair, rehabilitate, or reconstruct the structure.

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- iii. Prohibit the non-compliant repair of substantially damaged buildings except for temporary emergency protective measures necessary to secure a property or stabilize a building or structure to prevent additional damage.
- (n) Undertake, as determined appropriate by the Administrator due to the circumstances, other actions which may include but are not limited to:
- i. Issuing press releases, public service announcements, and other public information materials related to permit requests and repair of damaged structures;
 - ii. Coordinating with other Federal, State, and local agencies to assist with substantial damage determinations;
 - iii. Providing owners of damaged structures information related to the proper repair of damaged structures in SFHAs; and
 - iv. Assisting property owners with documentation necessary to file claims for Increased Cost of Compliance coverage under NFIP flood insurance policies.
- (o) Notify FEMA when the corporate boundaries of Nelson County have been modified and:
- i. Provide a map that clearly delineates the new corporate boundaries or the new area for which the authority to regulate pursuant to these regulations has either been assumed or relinquished through annexation; and
 - ii. If the FIRM for any annexed area includes SFHAs that have flood zones that have regulatory requirements that are not set forth in these regulations:
 - a. Prepare amendments to these regulations to adopt the FIRM and appropriate requirements;
 - b. Submit the amendments to the governing body for adoption; and
 - c. Such adoption shall take place at the same time as or prior to the date of annexation and a copy of the amended regulations shall be provided to the Virginia Department of Conservation and Recreation and FEMA.

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- (p) Upon the request of FEMA, complete and submit a report concerning participation in the NFIP which may request information regarding the number of buildings in the SFHA, number of permits issued for development in the SFHA, and number of variances issued for development in the SFHA.
- (q) Take into account flood, mudslide and flood-related erosion hazards, to the extent that they are known, in all official actions relating to land management and use throughout the entire jurisdictional area of the County, whether or not those hazards have been specifically delineated geographically (e.g. via mapping or surveying).

Section 5-2-8 Records

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

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

- A. The Administrator shall make interpretations, where needed, as to the exact location of SFHAs, floodplain boundaries, and floodway boundaries. The following shall apply to the use and interpretation of FIRMs and data:
 - (a) Where field surveyed topography indicates that adjacent ground elevations:
 - i. Are below the base flood elevation, even in areas not delineated as a Special Flood Hazard Area on a FIRM, the area shall be considered as Special Flood Hazard Area and subject to the requirements of these regulations; or
 - ii. Are above the Base Flood Elevation, the area shall be regulated as a Special Flood Hazard Area unless the applicant obtains a Letter of Map Change that removes the area from the SFHA.
 - (b) In FEMA-identified SFHAs where Base Flood Elevation and floodway data have not been identified and in areas where FEMA has not identified SFHAs, any other flood hazard data available from a federal, state, or other source shall be reviewed and reasonably used.
 - (c) BFEs and designated floodway boundaries on FIRMs and in FISs shall take precedence over BFEs and floodway boundaries by any other sources if such sources show reduced floodway widths and/or lower BFEs.
 - (d) Other sources of data shall be reasonably used if such sources show increased BFEs and/or larger floodway areas than are shown on FIRMs and in FISs.

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- (e) If a Preliminary FIRM and/or a Preliminary FIS has been provided by FEMA:
 - i. Upon the issuance of a Letter of Final Determination by FEMA, the preliminary flood hazard data shall be used and shall replace the flood hazard data previously provided from FEMA for the purposes of administering these regulations.
 - ii. Prior to the issuance of a Letter of Final Determination by FEMA, the use of preliminary flood hazard data shall be deemed the best available data pursuant to **Section 5-2-14** and used where no BFEs and/or floodway areas are provided on the effective FIRM.
 - iii. Prior to issuance of a Letter of Final Determination by FEMA, the use of preliminary flood hazard data is permitted where the preliminary BFEs or floodway areas exceed the BFEs and/or designated floodway widths in existing flood hazard data provided by FEMA. Such preliminary data may be subject to change and/or appeal to FEMA.

Section 5-2-10 Jurisdictional Boundary Changes.

- A. The Nelson County General Floodplain Overlay District in effect on the date of annexation shall remain in effect and shall be enforced by the municipality for all annexed areas until the municipality adopts and enforces an ordinance which meets the requirements for participation in the National Flood Insurance Program. Nelson County shall pass a resolution acknowledging and accepting responsibility for enforcing floodplain ordinance standards prior to annexation of any area containing identified flood hazards.
 - (1) If the FIRM for any annexed area includes SFHAs that have flood zones that have regulatory requirements that are not set forth in these regulations, prepare amendments to these regulations to adopt the FIRM and appropriate requirements, and submit the amendments to the governing body for adoption; such adoption shall take place at the same time as or prior to the date of annexation and a copy of the amended regulations shall be provided to DCR Division of Dam Safety and Floodplain Management and FEMA.
- B. In accordance with the Code of Federal Regulations, Title 44 Subpart (B) Section 59.22 (a) (9) (v) all NFIP participating communities must notify the Federal Insurance Administration and optionally the State Coordinating Office in writing whenever the boundaries of the community have been modified by annexation or the community has otherwise assumed or no longer has authority to adopt and enforce floodplain management regulations for a particular area.

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

Section 5-2-11 District Boundary Changes.

The delineation of the general boundaries of the General Floodplain District may be revised by Nelson County where natural or man-made changes have occurred and/or where more detailed studies have been conducted or undertaken by the U.S. Army Corps of Engineers or other qualified agency, or an individual documents the need for such change. However, prior to any such change, approval must be obtained from the Federal Emergency Management Agency. A completed Letter of Map Revision (LOMR) is a record of this change.

Section 5-2-12 Interpretation of District Boundaries.

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

Section 5-2-13 Letters of Map Revision (LOMR).

- A. The County's BFEs may increase or decrease resulting from physical changes affecting flooding conditions. As soon as practicable, but not later than six (6) months after the date such information becomes available, the County shall notify the Federal Emergency Management Agency of the changes by submitting technical or scientific data. The County may submit data via a LOMR. Such a submission is necessary so that upon confirmation of those physical changes affecting flooding conditions, risk premium rates and floodplain management requirements will be based upon current data.
- B. When development in the floodplain will cause or causes a change in the Base Flood Elevation, the applicant, including state agencies, must notify FEMA by applying for a Conditional Letter of Map Revision (CLOMR) and then a LOMR. Examples include:
 - (a) Any development that causes a rise in the BFEs within the floodway.

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- (b) Any development occurring in Zones A1-30 and AE without a designated floodway, which will cause a rise of more than one (1) foot in the BFE.
- (c) Alteration or relocation of a stream (including but not limited to installing culverts and bridges) 44 Code of Federal Regulations §65.3 and §65.6(a)(12).

Section 5-2-14 Establishment of Flood Hazard Zones.

- A. **Basis of Flood Hazard Zones.** The various floodplain districts shall include special flood hazard areas (SFHAs). The basis for the delineation of these districts shall be the FIS and the FIRMs for Nelson County, prepared by FEMA.
 - (1) The County may identify and regulate local flood hazard or ponding areas that are not delineated on the FIRM. These areas may be delineated on a "Local Flood Hazard Map" using best available topographic data and locally derived information such as flood of record, historic high water marks, or approximate study methodologies.
 - (2) The boundaries of the special flood hazard area and floodplain districts are established as shown on the FIRM which is declared to be a part of this ordinance and which shall be kept on file at the Nelson County Planning and Zoning Office.
- B. **Description of Flood Hazard Zones.** The flood hazard zones described below constitute the General Floodplain Overlay District. The General Floodplain Overlay District is an overlay to the existing underlying zoning districts as shown on the official zoning ordinance map, and as such, the provisions for the Floodplain Overlay District will serve as a supplement to the underlying district provisions.⁴
 - (1) **AE Zone.** Those areas for which one percent (1%) annual chance flood elevations have been provided and the floodway has been delineated on the FIRM.
 - (2) **Floodway Zones.** Those areas in a AE Zone(s) and delineated, for purposes of this Division, using the criterion that certain areas within the floodplain must be capable of carrying the water of the one percent (1%) annual chance flood without increasing the water surface elevation of that flood more than one foot at any point.

⁴ Editor's Note: This newly proposed text has been updated to better describe flood zone areas as they appear on FEMA's FIRM maps.

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- (3) **A Zone.** Those areas for which no detailed flood profiles or elevations are provided, but the one percent (1%) annual chance floodplain boundary has been approximated.
 - (4) **X Zone.** If shaded on the FIRM, these are areas of the County where the annual flood risk is considered moderate at between one percent (1%) and 0.2 percent (0.2%). If unshaded, these are areas where the annual flood risk is considered low at below 0.2 percent (0.2%). There are no specific development requirements in the X Zone pursuant to this Division.
- C. Where the specific base flood elevation cannot be determined for an area using other sources of data, such as the U.S. Army Corps of Engineers Flood Plain Information Reports, U.S. Geological Survey Flood-prone Quadrangles, etc., then the applicant for the proposed use, development and/or activity must determine this elevation in accordance with hydrologic and hydraulic engineering techniques. Hydrologic and hydraulic analyses must be undertaken only by professional engineers or others of demonstrated qualifications, who must certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computations, etc., must be submitted in sufficient detail to allow a thorough review by Nelson County.

Section 5-2-15 Permits and Applications.

- A. All uses, activities, and development occurring within any floodplain district shall be undertaken only upon the issuance of a zoning permit. Such development shall be undertaken only in strict compliance with the provisions of this Ordinance, the Virginia USBC, and all other applicable codes and ordinances.
 - (1) Prior to the issuance of any such permit, the Administrator shall require all applications to include compliance with all applicable state and federal laws, and shall review all sites to assure they are reasonably safe from flooding. Under no circumstances shall any use, activity, and/or development adversely affect the capacity of the channels or floodways of any watercourse, drainage ditch, or any other drainage facility or system.
- B. Prior to any proposed alteration or relocation of any channel or of any watercourse within this jurisdiction, a permit shall be obtained from the U. S. Army Corps of Engineers, the Virginia Department of Environmental Quality, and the Virginia Marine Resources Commission (a joint permit application is available from any one of these organizations).

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- (1) In riverine areas, notification of the proposal shall be given to all adjacent jurisdictions, the Department of Conversation and Recreation (Division of Dam Safety and Floodplain Management) other required agencies, and FEMA. A completed CLOMR is required from FEMA prior to commencement of work, and a completed LOMR is required pursuant to Section 5-2-11 upon completion of work.
- C. All applications for development within any floodplain district and all building permits issued for the floodplain shall incorporate the following information, to be provided by a licensed professional, in addition to applicable requirements of **Article 3, Permits and Applications**, of this Ordinance:
- (1) The elevation of the Base Flood at the site.
 - (2) For structures to be elevated, the elevation of the lowest floor (including basement).
 - (3) For non-residential structures to be floodproofed, the elevation to which the structure will be floodproofed.
 - (4) Topographic information showing existing and proposed ground elevations.
- D. **Standards for Subdivision Proposals.**
- (1) All subdivision proposals shall be consistent with the need to minimize flood damage;
 - (2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;
 - (3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards; and
 - (4) Base Flood Elevation data shall be provided for subdivision proposals and other development proposals (including manufactured home parks and subdivisions) that exceed eleven lots or five acres, whichever is the lesser.
 - (5) **Sanitary sewer facilities.** All new or replacement sanitary sewer facilities and private package sewage treatment plants (including all pumping stations and collector systems) shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into the flood waters. In addition, they should be located and constructed to minimize or eliminate flood damage and impairment.

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- (6) **Water facilities.** All new or replacement water facilities shall be designed to minimize or eliminate infiltration of flood waters into the system and be located and constructed to minimize or eliminate flood damages.
- (7) **Drainage facilities.** All storm facilities shall be designed to convey the flow of surface waters without damage to persons or property. The systems shall ensure drainage away from buildings and on site waste disposal sites. The Board of Supervisors may require a primarily underground system to accommodate frequent floods and a secondary surface system to accommodate large, less frequent floods. Drainage plans shall be consistent with local and regional drainage plans. The facilities shall be designed to prevent the discharge of excess runoff onto adjacent properties.
- (8) **Utilities.** All utilities, such as gas lines, electrical and telephone systems being placed in flood prone areas should be located, elevated (where possible), and constructed to minimize the chance of impairment during a flooding occurrence.
- (9) **Streets and sidewalks.** Streets and sidewalks should be designed to minimize their potential for increasing and aggravating the levels of flood flow. Drainage openings shall be required to sufficiently discharge flood flows without unduly increasing flood heights.

Section 5-2-16 Permitted Uses in the Floodway District.

- A. The following non-structural uses and activities are permitted in any floodplain district and the Floodplain Administrator may waive the requirements for an application for a zoning permit, provided the uses are in compliance with the zoning provisions of the underlying area and are not prohibited by any other ordinance and further provided that they do not require structures, fill, or storage of materials or equipment:
 - (1) Agricultural uses, such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming, and wild crop harvesting.
 - (2) Public and private recreational uses and activities, such as parks, day camps, picnic grounds, golf courses, boat launching and swimming area, horseback riding and hiking trails, wildlife and nature preserves, game farms, fish hatcheries, trap and skeet game ranges, and hunting and fishing areas, but excluding golf courses and other recreational uses that cause change in land contours.

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- (3) Accessory residential uses, such as yard areas, gardens, play areas, and pervious loading areas.
 - (4) Flood warning aids and water measurement devices.
- B. Higher Standards and Critical Facilities.** For some activities and uses, even a slight chance of flooding poses too great a threat to public health, safety, and welfare. Critical facilities, as defined in this Ordinance, are examples of such activities and uses which require special regulation. Therefore, critical facilities are prohibited from being constructed or operated within a SFHA unless a variance is granted pursuant to **Section 5-2-21**. The following list of critical facilities provides examples of uses or improvements which are prohibited in a SFHA:
- (1) Structures or facilities that produce, use, store, or transport highly volatile, flammable, explosive, toxic, and/or water-reactive materials.
 - (2) Hospitals, nursing homes, or other housing likely to have occupants who may not be sufficiently capable of avoiding injury or death during a flood.
 - (3) Police stations, fire departments, rescue squads, and/or emergency operations centers and equipment storage facilities which are needed for flood response activities before, during, and after a flood.
 - (4) Public and private utility facilities that are vital to maintaining or restoring normal services to flooded areas before, during, and after a flood.
- C. Higher Standards and Hazardous Materials.** Some items and products are extremely hazardous and vulnerable to flood conditions, and would pose an unacceptable risk to public health, safety, and welfare during flooding. Therefore, the following hazardous materials are prohibited as follows, unless a variance is granted pursuant to **Section 5-2-21**:
- (1) The storage of Acetone, Ammonia, Benzene, Calcium carbide, Carbon disulfide, Celluloid, Chlorine, Hydrochloric acid, Magnesium, Nitric acid, Oxides of nitrogen, Phosphorus, Potassium, Prussic acid, Sodium, and/or Sulfur is prohibited in a SFHA.
 - (2) The storage of Acetylene gas containers, Storage tanks, Lumber/buoyant items, Gasoline, Charcoal/coal dust, Petroleum products, and/or Natural gas for any time period longer than thirty (30) days is prohibited in a SFHA.

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Section 5-2-17 Elevation and Construction Standards

- A. In all identified flood hazard areas where BFEs have been provided in the FIS or generated by a certified professional in accordance with **Section 5-2-11**, above, the following provisions shall apply:
- (1) New construction and substantial improvements shall be according to the VA USBC, and anchored to prevent flotation, collapse or lateral movement of the structure.
 - (2) Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable State anchoring requirements for resisting wind forces.
 - (3) New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
 - (4) New construction or substantial improvements shall be constructed by methods and practices that minimize flood damage.
 - (5) The flood carrying capacity within an altered or relocated portion of any watercourse shall be maintained.
 - (6) New construction and replacement of any utilities and facilities shall follow the provisions of **Section 5-2-16** of this Article.
 - (7) Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities, including duct work, shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
 - (8) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.
 - (9) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
 - (10) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.

B. Development in Floodway District.

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- (1) Within any designated Floodway Areas, no encroachments, including fill, new construction, substantial improvements, or other development shall be permitted unless it has been demonstrated through hydrologic and hydraulic analysis performed in accordance with standard engineering practice that the proposed encroachment will not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
 - (a) Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough review by the Administrator.
 - (b) If (1), above, is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of **Section 5-2-16**, above.
- (2) Development activities which increase the water surface elevation of the base flood may be allowed, provided that the applicant first applies for a Conditional Letter of Map Revision (CLOMR) and receives the approval of FEMA.

C. Development in AE Zones.

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

D. Development in A Zones.

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- (1) Until a regulatory floodway is designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within A zones, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within Nelson County.
 - (2) Development activities which increase the water surface elevation of the base flood by more than one (1) foot may be allowed, provided that the applicant first applies – with Nelson County’s endorsement – for a Conditional Letter of Map Revision (CLOMR) and receives the approval of FEMA.
 - (3) For these areas, the base flood elevations and floodway information from Federal, State, and other acceptable sources shall be used, when available [44 CFR 60.3(b)].
 - (4) Where the specific one percent (1%) annual chance flood elevation cannot be determined for this area using other sources of data, such as the U. S. Army Corps of Engineers Floodplain Information Reports, U. S. Geological Survey Flood-Prone Quadrangles, etc., then the applicant for the proposed use, development and/or activity shall determine this base flood elevation, in the following manner:
 - (a) The elevation shall be determined by using the elevation of a point on the boundary of the identified floodplain area which is nearest the construction site.
 - (b) Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough review by the Administrator.
 - (c) The Administrator reserves the right to require a hydrologic and hydraulic analysis for any development in this zone.
 - (d) When such base flood elevation data is utilized, the freeboard shall be 24 inches. Permits and Applications.
- E. In addition, in all SFHAs (SFHA), these additional provisions shall apply:
- (1) Fences shall be installed parallel to a waterway. When a fence crosses a waterway, it shall be designed as a drop-down fence or a suspended cable fence.

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- (2) No zoning permit shall be administratively issued by the Administrator for any proposed critical facilities as defined by this Ordinance within any SFHA.
 - (3) No zoning permit shall be administratively issued by the Administrator for the storage of hazardous materials for any time period longer than 30 days within any SFHA. ⁵
 - (4) No zoning permit shall be administratively issued by the Administrator for the placement of any non-native fill materials (such as fly ash or other waste by-products) within any SFHA. Only locally-borrowed mineral materials may be used as fill within a SFHA, and all such uses must first obtain the necessary permit approval(s) as required by this Ordinance.
- F. In all SFHAs where BFEs have been provided in the FIS or generated according to **Section 5-2-11**, the following provisions shall apply:
- (1) **Residential construction.** New construction or substantial improvement of any residential structure (including manufactured homes) shall have the lowest floor, including basement, elevated 18 inches or more above the Base Flood Elevation.
 - (2) **Nonresidential construction.** New construction or substantial improvement of any commercial, industrial, or non-residential building (or manufactured/mobile home) shall have the lowest floor, including basement, elevated 18 inches or more above the Base Flood Elevation.
 - (a) Buildings located in all A1-30, AE, and AH zones may be flood-proofed in lieu of being elevated provided that all areas of the building components below the elevation corresponding to the BFE plus one (1) foot are water tight with walls substantially impermeable to the passage of water, and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy.
 - (b) A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification, including the specific elevation (in relation to mean sea level) to which such structures are flood-proofed, shall be maintained by the Floodplain Administrator.

⁵ Editor's Note: The County should review this provision for hazardous materials in floodways and decide if it is still something they wish to include.

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- (3) **Elevated Buildings - Space Below the Lowest Floor.** Fully enclosed areas of new construction or substantially improved structures, which are below the regulatory flood protection elevation shall:
- (a) Not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator);
 - (b) Be constructed entirely of flood resistant materials below the regulatory flood protection elevation; and
 - (c) Include, in Zones A, AO, AE, and A1-30, measures to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet the following minimum design criteria:
 - i. Provide a minimum of two (2) openings on different sides of each enclosed area subject to flooding.
 - ii. The total net area of all openings must be at least one (1) square inch for each square foot of enclosed area subject to flooding.
 - iii. If a building has more than one (1) enclosed area, each area must have openings to allow floodwaters to automatically enter and exit.
 - iv. The bottom of all required openings shall be no higher than one (1) foot above the adjacent grade.
 - v. Openings may be equipped with screens, louvers, or other opening coverings or devices, provided they permit the automatic flow of floodwaters in both directions.
 - vi. Foundation enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires openings as outlined above.
- (4) **Standards for Manufactured Homes and Recreational Vehicles.**

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- (a) All manufactured homes placed, or substantially improved, on individual lots or parcels, in expansions to existing manufactured home parks or subdivisions, in a new manufactured home park or subdivision or in an existing manufactured home park or subdivision on which a manufactured home has incurred substantial damage as the result of a flood, must conform to either of the following:
 - i. Meet all the requirements for new construction, including the elevation and anchoring requirements of **Section 5-2-17**; or
 - ii. Be on the site for fewer than 180 consecutive days, be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions).
- (5) Accessory structures in the Special Flood Hazard Area shall comply with the elevation requirements and other requirements of this Section or, if not elevated or dry flood-proofed shall:
 - (a) Not be used for human habitation;
 - (b) Be limited to no more than 600 square feet in total floor area;
 - (c) Be usable only for parking of vehicles or limited storage;
 - (d) Be constructed with flood damage-resistant materials below the base flood elevation;
 - (e) Be constructed and placed to offer the minimum resistance to the flow of floodwaters;
 - (f) Be anchored to prevent flotation;
 - (g) Have electrical service and mechanical equipment elevated to or above the base flood elevation; and
 - (h) Shall be provided with flood openings which shall meet the following criteria:
 - i. There shall be a minimum of two (2) flood openings on different sides of each enclosed area; if a building has more than one (1) enclosure below the lowest floor, each such enclosure shall have flood openings on exterior walls.

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- ii. The total net area of all flood openings shall be at least one (1) square inch for each square foot of enclosed area (non-engineered flood openings), or the flood openings shall be engineered flood openings that are designed and certified by a licensed professional engineer to automatically allow entry and exit of floodwaters; the certification requirement may be satisfied by an individual certification or an Evaluation Report issued by the ICC Evaluation Service, Inc.
 - iii. The bottom of each flood opening shall be one (1) foot or less above the higher of the interior floor or grade, or the exterior grade, immediately below the opening.
 - iv. Any louvers, screens, or other covers for the flood openings shall allow the automatic flow of floodwaters into and out of the enclosed area.
- (i) A signed Declaration of Land Restriction (Non-Conversion Agreement) shall be recorded on the property deed.

Section 5-2-18 Existing Structures in Floodplain Districts

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

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Section 5-2-19 Variances⁶

A. General.

- (1) A request for a variance to the requirements of the Floodplain Overlay District may be made in accordance with **Article 3, Permits and Applications**, of this Ordinance.
- (2) The BZA has the authority to grant variances to the provisions of the Floodplain Overlay District only in strict compliance with this Section.
- (3) The BZA may refer any application and accompanying documentation pertaining to any request for a variance to any engineer or other qualified person or agency for technical assistance in evaluating the proposed project in relation to flood heights and velocities, and the adequacy of the plans for flood protection and other related matters.

B. In reviewing Variances, the BZA shall satisfy all relevant factors and procedures specified in other sections of this Ordinance, in addition to considering the following additional factors:

- (1) A showing of good and sufficient cause;
- (2) The BZA's determination that failure to grant the variance would result in exceptional hardship to the applicant;
- (3) The BZA's determination that the variance will be the minimum required to provide relief; and
- (4) The BZA's determination that the granting of such variance will not result in:
 - (a) Unacceptable or prohibited increases in flood heights;
 - (b) Additional threats to public safety;
 - (c) Extraordinary public expense; and
 - (d) The authorization of such variance will not:
 - i. Create nuisances;
 - ii. Cause fraud or victimization of the public; or

⁶ Editor's Note: Text from Sec. 10-21 has been included in this new Section but modified to better address requirements for variances within the floodplain district. These variance standards are higher than those imposed in Article 3.

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iii. Conflict with local laws or ordinances.

C. The BZA will also give due consideration and weight to the following additional factors before granting a variance:

- (1) The danger to life and property due to increased flood heights or velocities caused by encroachments;
 - (a) No variance will be granted for any proposed use, development, or activity within any floodway zone that will cause any increase in the one percent (1%) chance flood elevation.
- (2) The danger of materials being swept on to other lands or downstream to the injury of others;
- (3) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions;
- (4) The susceptibility of the proposed facility and its contents to flood damage, and the effect of the damage on the individual owners;
- (5) The importance of the services provided by the proposed facility to the community;
- (6) The requirements of the facility for a waterfront location;
- (7) The availability of alternative locations for the proposed use which are not subject to flooding;
- (8) The compatibility of the proposed use with existing and anticipated development;
- (9) The relationship of the proposed use to the Comprehensive Plan and floodplain management program for the area;
- (10) The safety of access by ordinary and emergency vehicles to the property in time of flood;
- (11) The expected heights, velocity, duration, rate of rise, and sediment transport of flood waters expected at the site;

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- (12) The historic nature of a structure. Variances for repair or rehabilitation of historic structures may be granted upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure; and
- (13) Such other factors which are relevant to the purposes of this Ordinance.
- D. The BZA shall notify the applicant for a variance, in writing, that the issuance of a variance to construct a structure below the 100-year flood elevation:
 - (1) Increases the risks to life and property; and
 - (2) Will result in increased premium rates for flood insurance.
- E. A record shall be maintained of the above notification as well as all variance actions, including justification for the issuance of the variances. Any variances that are issued shall be noted in the annual or biennial report submitted to FEMA.

Division 5-3 VO – Village Overlay District

Section 5-3-1 Applicability

- A. The Village Overlay District shall apply to all lands designated as such and shown on the official Zoning Map.
- B. Any new development within the VO District must conform with the regulations within this Division.
- C. Development within the VO shall adhere to the requirements of this Ordinance and the underlying zoning district.
- D. If a conflict exists between the standards of the VO found within this Division and the rest of this Ordinance, regulations in this Division shall govern.

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Section 5-3-2 Applications and Process

Prior to issuance of a building or zoning permit for any development in the VO District, a minor site plan must be approved for the proposed development in accordance with **Article 3, Permits and Applications**, of this Ordinance.

Section 5-3-3 Permitted Uses

In addition to those uses allowed by-right and by Special Use Permit in the underlying zoning districts, the VO District shall have the uses as established in **Article 6, Use Matrix**, of this Ordinance.⁷

Section 5-3-4 Development Standards

- A. The VO District shall have the following district standards:

Table 5-1: Village Overlay District Regulations

⁷ Editor's Note: This provision will allow all uses of any underlying zoning district within the VO district in addition to any uses specifically included for the VO district in the use matrix. Nelson County should consider if they want to restrict this to only allowing uses specifically outline for the VO district and not those in the underlying zoning district.

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VO Village Overlay	
Minimum Area Requirements	
Minimum Lot Size	20,000 acres
Minimum Lot Size with Public Water and Sewer	10,000 sq. ft.
Minimum Required Setbacks	
Front	10 ft.
Side	-
Rear	20 ft.
Corner Lot Side	10 ft.
Accessory Structure, Rear	15 ft. *
Accessory Structure, Side	10 ft. *
Minimum Lot Width	
Road Frontage	100 ft.
Maximum Structure Height	
Building Height	35 ft. **

* Accessory uses shall not be located within the front or corner lot side setback.

** Building height may be increased up to a maximum of 45 ft. with additional setbacks of 1 ft. for every foot of height above 35 ft.

B. In addition to the development standards specified in this Ordinance for underlying primary zoning districts, the following standards will apply in the VO, unless otherwise noted:

- (1) Approval from the Virginia Department of Health is required for any development utilizing a private sewer system. Minimum area requirements may be altered by the Administrator to accommodate these systems.
- (2) Commercial uses shall not exceed 12,000 square feet of gross floor area per story.
- (3) All commercial uses within the VO District must conform with the VO District Landscape Design Standards and screening requirements of **Article 8, Community Design Standards**.⁸
- (4) All off-street parking requirements of **Article 8, Community Design Standards**, shall be located in the side or rear yards of any commercial use.

⁸ Editor’s Note: The intent of this provision is to require additional landscaping standards, notably within the developments road frontage area and parking areas, that will be detailed in Article 8. These additional standards are intended to promote aesthetically improved development along the County’s main thoroughfare.

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(5) **Roads.**

- (a) All new roads must conform to VDOT standards and be adopted for public use within six (6) months of the completion of new development.⁹
- (b) Any building along a public or private road shall architecturally front and have main entrances that face that road. For corner lots, the building shall front the more highly trafficked street or provide an angled corner entrance.
- (c) Roads and parking areas shall be arranged to serve and connect to adjacent development and provide an interconnected pattern of walkable blocks unless deemed infeasible by the Administrator.
- (d) Unless otherwise approved at the time of site plan review, direct and convenient onsite vehicular circulation and access between properties shall be provided. The intent is to provide shared access drives located to the rear of buildings fronting public roadways and to minimize the need of separate individual vehicular entrances along public roads.
- (e) New roads within the VO District that connect to two or more existing public roadways, shall include one of the following:¹⁰
 - i. Pedestrian accommodations, such as sidewalks and bicycle lanes, shall be provided along both sides of the entire length of the roadway whenever such road connects to an existing road where existing pedestrian accommodations exist; or
 - ii. Dedication of a public easement consisting of a five-foot-wide strip of land along both sides of the roadway, extending the full length of the road, to allow for the future installation of pedestrian accommodations, such as sidewalks and bicycle lanes.

Section 5-3-5 Waivers and Modifications

- A. The requirements of this Division may be modified by the Board of Supervisors in connection with the approval of an SUP or Zoning Map Amendment, in accordance with **Article 3, Permits and Applications**, of this Ordinance.

⁹ Editor's Note: This provision would restrict private roads for new developments within the VO district.

¹⁰ Editor's Note: This provision would require new roads to include pedestrian infrastructure if they connect to roads that already have such infrastructure, otherwise they must dedicate an easement for public access that can be developed with pedestrian infrastructure in the future.

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- B. The requirements of this Division may be waived or modified by the Administrator in accordance with modification criteria and procedures for a design requirement provided in **Article 8, Community Design Standards**, of this Ordinance.
 - (1) If modification criteria and procedures for a design requirement are not provided in **Article 8, Community Design Standards**, of this Ordinance, then administrative modification shall not be granted in the VO.
 - (2) The Administrator may attach conditions to any waiver or modification as deemed reasonably necessary.

Division 5-4 CO29 – Route 29 Corridor Overlay District

Section 5-4-1 Applicability

- A. CO29 District boundaries shall be as follows:
 - (1) 500 feet on either side of U.S. Route 29, measured from the edge of the road right-of-way.¹¹
- B. Any new commercial or industrial development within the CO29 District must conform with the regulations within this Division.¹²
- C. Development within the CO29 shall adhere to the requirements of this Ordinance and the underlying zoning district(s).
- D. If a conflict exists between the standards of the CO29 found within this Division and the rest of the Ordinance, regulations in this Division shall govern.

Section 5-4-2 Applications and Process

- A. In addition to all applicable requirements of **Article 3, Permits and Applications**, and **Article 8, Community Design Standards**, of this Ordinance, the following is required to be submitted for all development within the CO29 as part of a Site Plan or, in the case of a subdivision, as part of the plat submission:
 - (1) An access plan, drawn to scale, including dimensions and distances, and clearly detailing:

¹¹ Editor's Note: This provision would apply the overlay district to all of Route 29 within the County. The BOS and PC should review and decide if they wish to restrict the overlay district to only certain sections of Route 29 or keep the recommended provision.

¹² Editor's Note: The recommend text will require the provisions of this district to only apply to commercial and industrial districts and not residential subdivisions. This text can be modified to only apply to developments of a certain size or all uses.

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- (a) All nearby entrances and access points on both sides of the corridor highway within 400 ft. of the property line(s), and any entrances, including inter-parcel and secondary street access, for all adjacent properties; and
 - (b) The traffic circulation system and the pedestrian circulation system as coordinated with adjacent properties, including the location and width of all streets, driveways, access aisles, entrance to parking areas, walkways, and paths.
- (2) A traffic impact analysis detailing:
- (a) The anticipated additional Annual Daily Traffic (ADT) generated by the development; and
- (3) Any proposed improvements to mitigate potential negative impacts to the traffic circulation system.
- (4) A landscape plan showing compliance with the requirements of the CO29 Landscape Design Standards of **Article 8, Community Design Standards**.¹³

Section 5-4-3 Permitted Uses

In addition to those uses allowed by-right and by Special Use Permit in the underlying zoning districts, the CO29 District shall have the uses as established in **Article 6, Use Matrix**, of this Ordinance.

Section 5-4-4 Development Standards¹⁴

- A. The CO29 District shall have the following district standards:

Table 5-2: Route 29 Corridor District Regulations

CO29 Route 29 Corridor Overlay	
Minimum Area Requirements	
Minimum Lot Size	2 acres
Minimum Required Setbacks	
Front	50 ft.

¹³ Editor’s Note: The intent of this provision is to require additional landscaping standards, notably within the developments road frontage area and parking areas, that will be detailed in Article 8. These additional standards are intended to promote aesthetically improved development along the County’s main thoroughfare.

¹⁴ Editor’s Note: In addition to the uses and design standards that will be drafted for this district in future Articles, the provisions in this section shall also apply. The BOS and PC should review these standards and give direction for any changes.

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Side	20 ft.
Rear	50 ft.
Corner Lot Side	30 ft.
Accessory Structure	15 ft.
Minimum Lot Width	
Road Frontage	125 ft.
Maximum Structure Height	
Building Height	35 ft.

- B. In addition to the development standards specified in this Ordinance for underlying primary zoning districts, the following standards will apply in the CO29, unless otherwise noted:¹⁵
- (1) The design of new construction, exterior renovations, and nonexempt additions must be complementary to the character and materiality of the principal structure and adjacent properties.
 - (2) A structure nonconforming to height, area, yard, setback or bulk requirements of the CO29 may be only altered or expanded in accordance with **Article 9, Nonconformities**, of this Ordinance.
 - (3) All fencing, lighting, landscaping, and screening installed in the CO29 must comply with all applicable standards of **Article 8, Community Design Standards**, of this Ordinance.
 - (4) **Signs.** All signs erected in the CO29 must comply with the standards of **Article 8, Community Design Standards**, of this Ordinance, in addition to the following standards:
 - (a) Pole mounted signage is prohibited.
 - (b) Sign materials and colors must complement the overall design of the building.
 - (c) The base of signs placed at the primary access to the parcel must be landscaped in accordance with **Article 8, Community Design Standards**, of this Ordinance.

¹⁵ Editor’s Note: The development standards included in this section are some baseline recommendations for the County to consider. In addition to these standards, the County may wish to consider regulating building materials, colors, or facades, alternate parking and loading requirements, or open space requirements.

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- i. Plantings at the base of signage must not grow to a height that partially or fully obstructs sign copy, as visible from the Route 29 ROW.
- (5) All new roads must conform to VDOT standards and be adopted for public use within six (6) months of the completion of new developments.¹⁶
- (6) **Vehicular Access and Circulation.** ¹⁷
 - (a) Any parcel or assembly of parcels having frontage along a CO29 roadway will be allowed only one direct access to that CO29 roadway, unless an access plan is submitted to, and approved by the Planning Commission for more than one access point. However, additional access points, associated with subdivision, commercial, or industrial development, must also provide access to adjacent parcel for existing or future development.
 - i. The Administrator may approve additional direct access points to CO29 roadways if it is demonstrated that the proposed design accomplishes the purpose of the CO29. Access design must conform to or exceed the minimum guidelines contained in the Site Handbook, Lynchburg District Office of VDOT.
 - (b) There will be no direct access onto the CO29 roadway from out-parcels which are part of a larger, coordinated development site or shopping center. Access via the following means will be approved:
 - i. By provision of shared entrances, inter-parcel connections and travel routes, or on-site service drives connecting adjacent properties;
 - ii. By access from a secondary public street rather than a primary street; or
 - iii. By the internal streets of a commercial, office, or an institutional complex.

¹⁶ Editor’s Note: This provision would restrict private roads for new developments within the CO29 district.

¹⁷ Editor’s Note: The provisions in this subsection are designed to promote inter connectivity between developments and restrict access points along Route 29.

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- (c) All primary travel lanes and private streets designed to allow vehicular access between properties must be established in recorded ingress/egress easements, which are reciprocal in nature and address the shared cost of construction and ongoing maintenance.
 - i. Such easements or dedicated public rights-of-way must be extended to the property line where inter-parcel access or dedicated public rights-of-way are required.
 - ii. Existing parcels of land will not be denied access to a public highway if no reasonable shared or cooperative access is possible, at the time of development.

Section 5-4-5 Waivers and Modifications

- A. The requirements of this Division may be modified by the Board of Supervisors in connection with the approval of an SUP or Zoning Map Amendment, in accordance with **Article 3, Permits and Applications**, of this Ordinance.
- B. The requirements of this Division may be waived or modified by the Administrator in accordance with modification criteria and procedures for a design requirement provided in **Article 8, Community Design Standards**, of this Ordinance.
 - (1) If modification criteria and procedures for a design requirement are not provided in **Article 8, Community Design Standards**, of this Ordinance, then administrative modification shall not be granted in the CO29.
 - (2) The Administrator may attach conditions to any waiver or modification as deemed reasonably necessary.