



Land Use Policy Evaluation

Nelson County, Virginia

August 28, 2024

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Overview

The recommendations included in this diagnostic report provide a framework for updating Nelson County's Zoning Ordinance and Subdivision Ordinance in a manner that will improve the ability of County officials, community members, and stakeholders to build their envisioned community.

Purpose and Scope

The Zoning and Subdivision Ordinances are the key tools localities use to oversee the use and development of the land in their jurisdiction. Nelson County, Virginia commissioned a diagnostic study to examine the Zoning and Subdivision Ordinances for compliance with the Code of Virginia and other land use and planning best practices. The information included in this report will provide Nelson County with a strong foundation for future updates to their land use tools.

The Berkley Group, a Virginia-based local government consulting firm, completed this assessment, which included the following tasks:

- Analyze the strategies of the Nelson 2042 Comprehensive Plan with the Zoning and Subdivision Ordinance to identify specific actions needed to address those strategies (Appendix A).
- Analyze the Zoning Ordinance (Appendix B) and the Subdivision Ordinance (Appendix C), for compliance with the Code of Virginia.
- Provide best practice recommendations for the Ordinances, along with recommendations for alignment with the Code of Virginia.
- Incorporate known strengths and weaknesses as provided by County staff, Planning Commission, and Board of Supervisors.

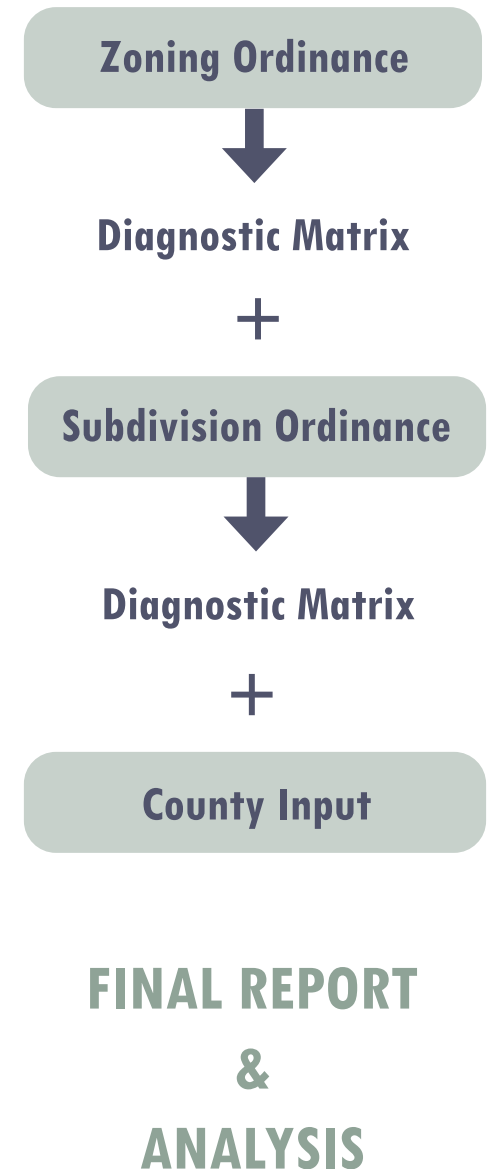
Diagnostic Process

The diagnostic process began immediately following the completion of the Nelson 2042 Comprehensive Plan update, adopted in April 2024.

The Zoning and Subdivision ordinances were reviewed for compliance with Code of Virginia Chapter 22: Planning, Subdivision of Land and Zoning. Each ordinance was assessed for compliance with each pertinent Code of Virginia section and analyzed for potential improvements to structure and content.

Additionally, Berkley Group reviewed the strategies found in the newly adopted Nelson 2042 Comprehensive Plan to identify opportunities to implement policies and principles through a Zoning and Subdivision ordinance update. These diagnostic matrices are included in the appendices of this report for easy reference and examination.

- Appendix A: Zoning Ordinance Diagnostic
- Appendix B: Subdivision Ordinance Diagnostic
- Appendix C: Comprehensive Plan Diagnostic: Implementation Strategies.



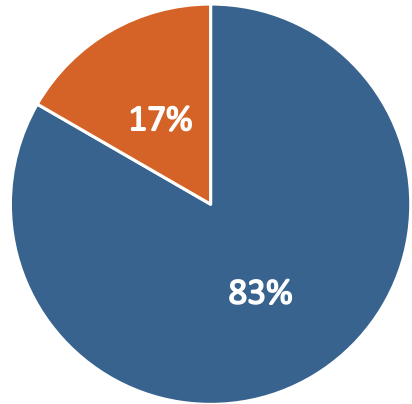
Zoning and Subdivision Ordinances

Key Findings

Nelson County's Zoning and Subdivision Ordinances should be revised to reflect current best practices in zoning and land use; to strengthen the ability to implement the strategies and priority items of the current Comprehensive Plan; and to improve clarity and ease of use with the following actions:

- The Zoning Ordinance and the Subdivision Ordinance should be restructured into a streamlined, clear, and user-friendly document. Combining both Ordinances into a single document would help achieve these objectives.
- The Zoning and Subdivision Ordinances should be updated to meet the strategies of the Nelson 2042 Comprehensive Plan, including adding low impact design and landscaping standards, allowing for increased density and alternative residential uses, implementing greater conservation regulations in sensitive areas, and others.
- Both Ordinances should be updated to achieve full compliance with the Code of Virginia, as detailed in the recommendations of the Zoning and Subdivision Diagnostic Matrices (Appendices A and B). Optional provisions of the Code should be incorporated as desired by the County.
- The Zoning Ordinance would greatly benefit from graphical representations of the information contained to increase ease of use for the document. This should include tables and charts to convey information, such as a use permissions matrix, district standards table, and design standard illustrations, among others.
- Uses and definitions within the Zoning Ordinance should be updated to include modern uses, while omitting outdated uses and definitions that may no longer comply with the Code of Virginia. Additionally, consideration can be given to organizing permitted uses for all zoning districts into a single matrix for clarity. All uses and use standards should be reviewed thoroughly and updated as needed to comply with the Code of Virginia and modern planning and zoning best practices.
- The Zoning and Subdivision Ordinances should be reviewed and updated annually with the Planning Commission and Board of Supervisors. This is a best practice technique which ensures that the Ordinances remain both compliant with the Code of Virginia and relevant and responsive to community needs.

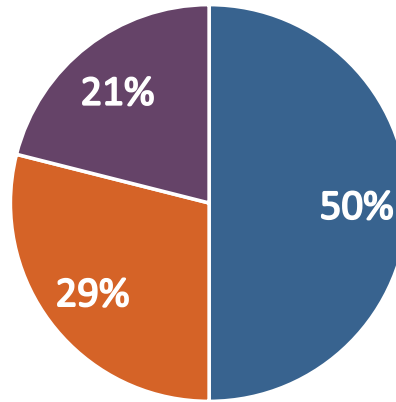
Chart 1
Applicability of
Code of Virginia Sections



Applicable
 (110 Sections) **Not Applicable**
 (22 Sections)

Chart 2
Compliance with Mandatory* Sections

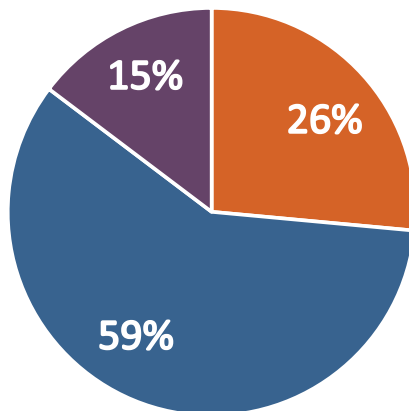
** Chart does not include Optional or Non-Applicable percentages*



Included **Not Included** **Partially Included**
 (38 Sections) (22 Sections) (16 Sections)

Chart 3
Optional* Provisions Usage

** Total Optional Provisions: 26% of all provisions*



Included **Not Included** **Partially Included**
 (9 Sections) (20 Sections) (5 Sections)

This set of diagrams showcases the Zoning Ordinance's overall applicability and compliance with the Code of Virginia's zoning regulations. A detailed analysis of each Code section is provided in Appendix A; these charts offer a broad look at Nelson County's standing.

Chart 1 highlights the percentages of the Code of Virginia regulations that are and are not applicable to the Zoning Ordinance. The applicable percentage includes both mandatory and optional provisions.

Chart 2 highlights the collective percentage of the Zoning Ordinance that fully complies, does not comply, or partially complies with the mandatory provisions of the Code of Virginia. These figures do not include optional or non-applicable provision percentages.

Chart 3 highlights the percentage of optional provisions that are included, not included, or partially included in the Zoning Ordinance.

The Zoning Ordinance is the local code that provides regulations and requirements for the use and development of land. Zoning divides a locality into specific districts and establishes regulations concerning the use, placement, spacing, and size of land and buildings within the respective districts. Nelson County's Zoning Ordinance can be updated and improved to set clear and organized standards for desired types of land uses and development, incorporate business-friendly language and procedures, and ensure compliance with the Code of Virginia (Appendix A).

Zoning Ordinance Analysis

State Regulations

Any Zoning Ordinance update should incorporate current Code of Virginia references and address recent amendments to the Code of Virginia. The current Zoning Ordinance provides multiple references to outdated sections of the Code of Virginia; careful attention should be given to updating all references with the most up-to-date section numbers. Additionally, the text may simplify Code of Virginia requirements for readability and administration but should comply with the overall intent. A state code compliance analysis is included that shows the breakdown of how the Zoning Ordinance is fully, partially, or not in compliance with the Code of Virginia. Appendix A itemizes each Code of Virginia section that must be addressed.

Administration

The Zoning Ordinance should clearly articulate administration, application, and notice procedures and responsibilities in a logical structure. Restructuring the Zoning Ordinance to streamline content would ease administration and enhance readability. All general and administrative provisions (e.g., authority, effective date, severability, conflict)

should be placed together at the beginning of the Ordinance. Another article should detail all application processes and procedures, including those for text amendments, map amendments (i.e., rezonings), special use permits, variances, site plans, and appeals. This should be followed by articles for district dimensional standards, uses, community design, and subdivision.

Processes and Procedures

The Zoning Ordinance would benefit from reformatting the current processes and procedures of zoning actions, including permits, rezonings, special use permits, and site plans. Currently, this information is found within Article 12-General Provisions but should be contained within a separate Article that explicitly details the requirements for all zoning actions and clearly lays out the procedure, from start to finish, of how to accept, review, and approve or deny those actions.

The County may also consider eliminating the legislative role of the Board of Zoning Appeals (BZA) in favor of a single permitting process for special use permits, as is more common across Virginia. The Code of Virginia allows special permitting approved by the BZA, which Nelson

County has used to alleviate the burden on the Board of Supervisors. However, reducing the amount of special uses throughout the County may be a better option for alleviating this burden, and instead allow those commonly approved special uses to be allowed by right, with appropriate use standards.

Civil Penalties

Nelson County currently does not provide procedures for civil penalties for zoning violations. Misdemeanor penalties for violations of the Zoning Ordinance are utilized; however, as a best practice, the County should introduce civil penalties and use such penalties as a first line of defense, moving to misdemeanors as appropriate. Utilizing this more gradual approach will ease the burden of enforcement, saving the County time and money and allowing the most effort to be put towards repeat or serious violations. A uniform schedule and summons procedure should be applied for civil penalties as detailed in the Code of Virginia.

District Standards

The Zoning Ordinance provides district standards that address height, area, setbacks, and lot coverage. These district standards should be evaluated to ensure consistency and that the standards are promoting the desired

type of development and match the goals and objectives of the Comprehensive Plan.

Currently, district standards are listed in each zoning district's respective article. It is recommended to display district standards in a chart or matrix that clearly shows the minimum and maximum regulations (see page 8). A new matrix can streamline and simplify district standards; easily show minimum and maximum regulations; and include new standards while still being readable and easy to interpret and implement. Grouping these district requirements together will make it easy to evaluate and apply standards.

In addition, illustrations of district regulations should be added to the ordinance to allow for easier interpretation of regulations, especially from community members and users not familiar with zoning.

A general increase in density for residential zoning districts would help increase housing availability for Nelson County. This can be achieved through a reduction in minimum lot sizes in the existing districts or by creating a new residential zoning district with more dwelling units per acre than the existing ones.

Recommended Ordinance Structure:

- 1. General Provisions***
- 2. Administration***
- 3. Permits and Applications***
- 4. Primary Districts***
- 5. Overlay Districts***
- 6. Use Matrix***
- 7. Use Performance Standards***
- 8. Community Design Standards***
- 9. Nonconformities***
- 10. Subdivision***
- 11. Definitions***

Definitions and Uses

Definitions

The definitions section of the Zoning Ordinance should be reviewed and updated to ensure consistency, clarity, and ease of interpretation. The County should ensure that every land use permitted in the Ordinance has an accompanying definition. Additionally, the County should enhance the clarity of definitions to avoid interpretation issues.

The current Zoning Ordinance contains several outdated terms and definitions, which should be updated to reflect recent revisions to the Code of Virginia as well as general modern best practices. Further, the Zoning Ordinance lacks several key terms, such as: “by right use”, “plat”, “site plan”, and “special use permit”; these should be added to comply with the Code of Virginia, along with several other terms that are required by the Code of Virginia but not currently incorporated in the Zoning Ordinance.

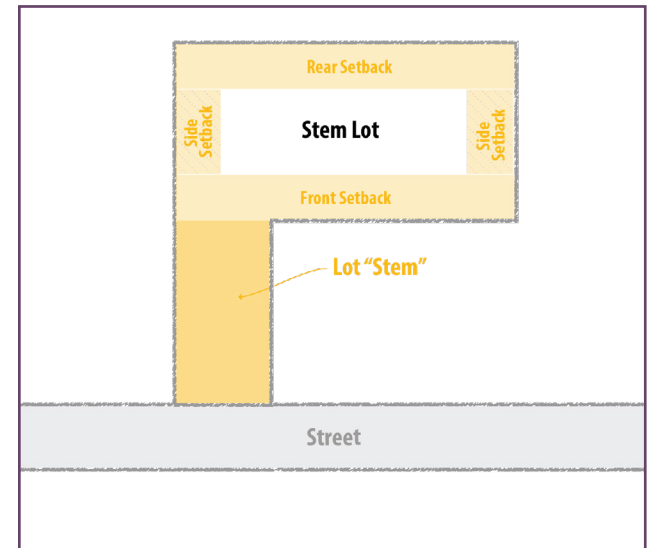
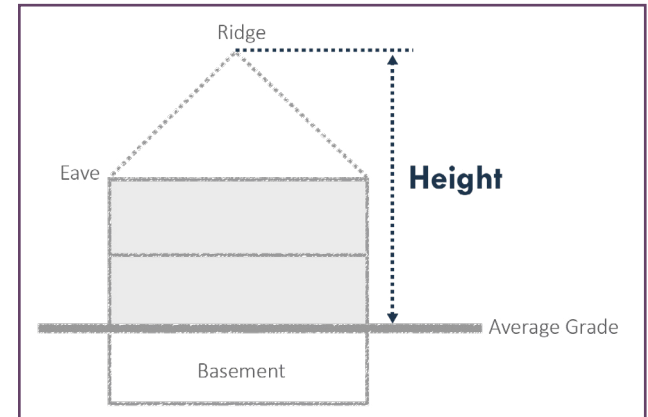
Uses

Each zoning district contains an expansive and highly specific use list that is inflexible and overly complex. It is recommended to closely review permitted uses to identify

opportunities to consolidate similar uses under more general categories for easier administration, interpretation, and flexibility. Where appropriate, uses should be streamlined to combine specific terms into broad categories. This creates a more organized and flexible use list, reducing the amount of future text amendments for new uses.

Additionally, uses should be modernized to align with today’s economy and provide flexibility to adapt to new uses. This eases administration and development while also reducing requests for zoning text amendments. It also communicates Nelson County’s readiness to welcome in modern land uses that can be economically beneficial for the community. Examples of outdated or overly specific uses that could be removed or combined and generalized are “banquet hall”, “blacksmith shop”, and “labor camp facilities”, while examples of modern uses seen in many localities that should be introduced include “mobile restaurant” and “co-working space”.

There are a number of uses absent from the Zoning Ordinance that are required by the Code of Virginia and should be defined and added as allowable uses in appropriate zoning districts. These include “agritourism”, “small cell wireless facilities”, and “family day homes.”



Dimensional standards can be easily communicated through the use of graphics.

Top Image: Height

Bottom Image: Stem Lots

The example below, from the City of Emporia, Virginia's draft Zoning Ordinance, demonstrates how district standards for commercial districts are easily organized in a table format, serving to ease the burden of staff administration and providing clear direction to the community.

	DT	C-1	C-2
Minimum Lot Area:			
All lots	No minimum; if structures/uses on the lot utilize private well and/or septic system(s), the minimum area shall be determined by the Health Official.		
Minimum Lot Width:			
All lots	No minimum		
Maximum Lot Coverage:			
All Lots, all structures	No maximum; entire lot may be covered, provided that all other district standards of this Article are met		
Minimum Required Setbacks:³⁵			
Front			
Principal Structures	0 ft.; Buildings shall be in line with surrounding existing buildings. If there are no immediately adjacent buildings, a maximum setback of 5 ft.	25 ft.	25ft.
Accessory Structures	Not permitted in front yard		
Side			
Principal Structures	None except when abutting a residential district; When abutting a residential district: 25 ft.		
Accessory Structures	5 ft.		
Rear			
Principal Structures	None except when abutting a residential district; When abutting a residential district: 25 ft.		
Accessory Structures	5 ft.		
Maximum Structure Height:^{36,37}			
Principal Structures	45 ft.	45 ft. ¹	45 ft. ¹
Accessory Structures	No taller than principal structure		

Use Permissions

Currently, use regulations are provided in district-by-district articles of the Zoning Ordinance. Many localities utilize a composite use matrix that shows all districts, uses, and how those uses are regulated. The Berkley Group recommends adding a use matrix to the Ordinance as a fundamental improvement. Nelson County should decide if a use matrix is something that they would like to include in the Zoning Ordinance, and whether the matrix will be in addition to, or in lieu of, listing the uses in each district article. If a use matrix is incorporated, it allows a user to easily identify where a use is permitted, either “by-right” or “by special use permit” without looking in more than one section of the Zoning Ordinance. This is particularly useful for potential businesses considering locating or relocating in the County. Utilizing a use matrix also makes it easy for the County to ensure uses are appropriately permitted and to avoid conflicts or repetition. Uses should also be reviewed to make sure they are being permitted in appropriate zoning districts; for example, low-impact uses such as a photography studio can be permitted in all business districts, and could also be included as a home occupation in residential districts.

Use Performance Standards

During a review and reorganization of uses, use performance standards should be established for any use deemed appropriate by the County. Use performance standards are additional regulations above and beyond what is required by the underlying zoning district to enhance the quality and character of development and to limit adverse impacts on potentially incompatible uses. Uses that are largely permitted by-right but that may have more significant impacts – for example, a gas station or an industrial site – should be given appropriate use standards to help ensure a business-friendly process while simultaneously addressing potential conflicts between uses.

Occasionally, use performance standards can be used in lieu of Special Use Permit (SUP) requirements. This means that a use requested frequently for a SUP can be changed to a by-right use, and customary conditions of the permits would be inserted as regulations within the use performance standards article.

There are some existing use standards in the Zoning Ordinance currently, though these are spread out through several different Articles and can be difficult to find. Use standards should be consolidated to one Article with the express purpose of listing those standards by their specific use.

Use Recommendations

Addition for Compliance with the Code of Virginia:

- Agritourism
- Small cell wireless facility
- Family day home

Recommended Added Uses for

Consolidation:

- Store, small/large
- Office, general
- Farm Brewery, distillery, or winery
- Light/heavy manufacturing

Recommended Modern Uses for

Introduction

- Mobile Restaurant
- Mixed-Use Development
- Medical treatment facility
- Recreation, active/passive/commercial
- Short-term rental
- Solar facility, accessory

Short-term Rentals

Short-term rental regulations are currently split between two uses, bed and breakfasts and vacation homes. These regulations should be evaluated and modified to provide for short-term rentals as either by right or special use permissions with appropriate use standards throughout the County. This can help provide the community with a desired use, while also ensuring that short-term rentals are not overly taxing on the housing supply, and that existing patterns of residential development are protected. A short-term rental registry is permitted by the Code of Virginia and should be implemented by the County to track and monitor the number of short-term rentals.

Use	Districts												Use Performance Standards	
	A-1	A-2	A-3	R-1	R-2	R-3	C-1	C-2	I-1	I	R-C	M-U		
	<i>B = By-Right</i>			<i>SE = Special Exception</i>			<i>Blank = Not Permitted</i>							
Agricultural Uses														
Agriculture / Silviculture	B	B	B											7-2-1
Agriculture, Intensive	B	B												7-2-2
Agriculture, Residential				B	B									7-2-3
Agritourism	B	B	B											7-2-4
Biosolid Application	B	B												7-2-5
Farm Winery	B	B												
Meat Processing Facility	SE	SE												7-2-6
Stable, Commercial	B	B	SE								B			7-2-7
Stable, Private	B	B	B											7-2-8
Roadside Farm Stand	B	B	B											

This example from King George County's Zoning Ordinance demonstrates how a use matrix can be a simple tool to clearly communicate use permissions and identify if use performance standards apply.

Accessory Dwelling Units

Accessory Dwelling Units (ADUs) are a type of accessory use that allow homeowners to build or utilize smaller accessory structures, both attached or detached, as long term dwelling units. This can help expand the availability of housing in the County and should be considered as an added use in residential zoning districts, with appropriate use standards that can restrict the size and placement of such structures.

Green Infrastructure

Accessory uses such as small-scale or rooftop solar and wind facilities and electric vehicle (EV) chargers can be added to the Zoning Ordinance to provide the community with alternative energy sources and help Nelson County move towards a greener and more climate resilient community.

Telecommunications

Various telecommunications regulations have been added to the Code of Virginia over the last fifteen years. Telecommunications regulations should be reviewed annually to ensure that new state-required provisions are considered. The Zoning Ordinance should be updated to comply with all applicable Code of Virginia

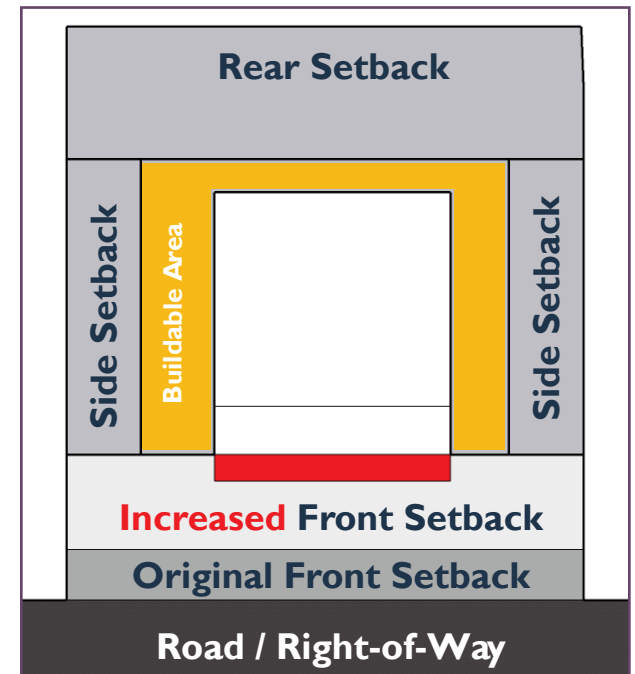
requirements. Recommended revisions to the standards include adding necessary terms that are not defined, such as “small cell facility” and “administrative review only projects” and placing Code-compliant telecommunications standards within the article for use performance standards.

Community Design Standards

Community Design Standards guide community development to ensure that it complements Nelson County’s unique character and implements the vision of the Comprehensive Plan. Typical standards include regulations for landscaping, parking, and signs – all of which are addressed in the current Ordinance to some extent. Reviewing and amending requirements in the Ordinance for landscaping, parking, and signs will improve understanding and enforcement of these items.

Landscaping

Landscaping requirements are one of the tools Virginia localities have available to them to enhance community character, protect environmental resources, and reduce the impact of potentially incompatible uses. The Zoning Ordinance’s landscaping standards should be reviewed for any necessary changes and additions.



In this diagram, the portion of the structure shown in red extends into the increased front setback. Areas where an expansion is permitted are identified in yellow.

Signs

Nelson County's current sign regulations are not content-neutral as required under the findings of U.S. Supreme Court case *Reed v. Town of Gilbert*. Any future sign regulations should pay respect only to the physical characteristics – for example, height, materiality, or square footage – and not supplied content or messaging to comply with the aforementioned court case. There are many community benefits of regulating the physical qualities of signs, including reducing clutter, minimizing distractions to drivers, and enhancing community aesthetics.

Sign regulations should be applied consistently across districts as appropriate. Clearly identifying and defining sign types in the Ordinance would help eliminate confusion and inconsistency. The use of tables and illustrations to depict sign requirements would also be beneficial in ensuring that regulations are applied consistently and are easy to understand.

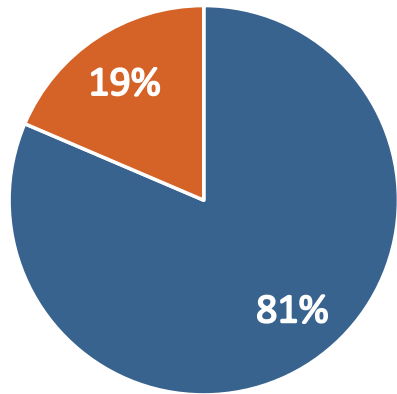
Lighting

The International Dark Sky Association (IDSA) has created a standard for lighting to ensure the preservation of authentic night sky without undue light pollution. Adopting design standards into the Nelson County Zoning Ordinance to reflect these IDSA standards can help preserve the rural setting of the County and restrict unnecessary light pollution.



Subdivision Ordinance Analysis

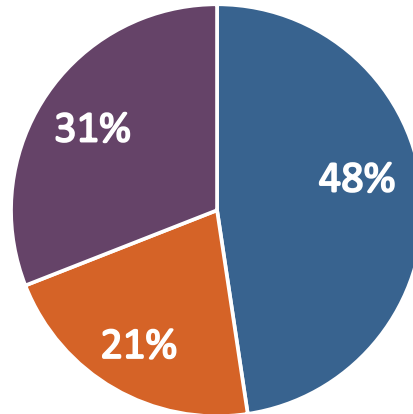
Chart 1
Applicability of
Code of Virginia Sections



Applicable
(57 Sections) **Not Applicable**
(13 Sections)

Chart 2
Compliance with Mandatory* Sections

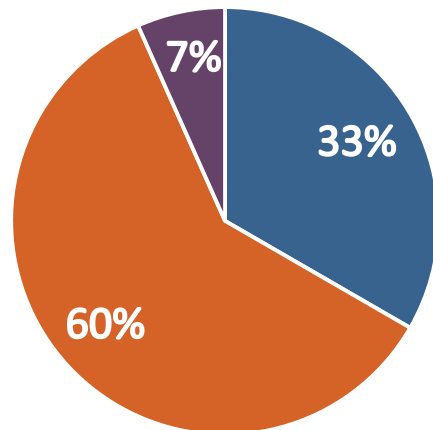
* Chart does not include Optional or Non-Applicable percentages



Included
(20 Sections) **Not Included**
(9 Sections) **Partially Included**
(13 Sections)

Chart 3
Optional* Provisions Usage

* Total Optional Provisions: 21% of all provisions



Included
(9 Sections) **Not Included**
(20 Sections) **Partially Included**
(5 Sections)

This set of diagrams showcases the Subdivision Ordinance's overall compliance with applicable Code of Virginia regulations. A detailed analysis is provided in Appendix B; these charts offer a broad look at Nelson County's standing.

Chart 1 highlights the percentages of the Code of Virginia regulations that are and are not applicable to Nelson County's Subdivision Ordinance. The applicable percentage includes both mandatory and optional provisions.

Chart 2 highlights the collective percentage of the Zoning Ordinance that fully complies, does not comply, or partially complies with the mandatory provisions of the Code of Virginia. These figures do not include optional or non-applicable provision percentages.

Chart 3 highlights the percentage of optional Code provisions that are included or not included in the Subdivision Ordinance.

Recommended Article Structure for Subdivision:

1. *General*
2. *Types of Subdivisions*
3. *Design Requirements*
4. *Guarantees*
5. *Platting Requirements*
6. *Preliminary Plats*
7. *Final Plats*
8. *Vacation of Plats*
9. *Enforcement, Violations, and Fees*

Organization and Structure

Reorganizing both the Zoning and Subdivision Ordinances into one single Ordinance, with subdivision regulations operating as a standalone Article, would help ease administration, clarity, synchronization, and updates. Further organization should occur through careful and logical rearrangement of relevant information. Examples of reorganization include providing for plat requirements in one division or section; providing a section on process and recordation of plats; and providing a section on plat vacation.



Definitions

The current Subdivision Ordinance includes an article dedicated to definitions relating to subdivisions. These definitions should be combined with the Zoning Ordinance definitions for consolidation into one Article. This would help to improve conflict with the Zoning Ordinance, as many terms are used throughout both Ordinances. The consolidation of definitions would happen in conjunction with combining the Zoning and Subdivision Ordinances into one document.

Code of Virginia References

A comprehensive review of the current references in the Ordinance should be conducted. Currently there are a number of Code of Virginia references that refer to Chapter 15.1 of the Code of Virginia which have all since been changed. Chapter 15.2 is now the Code of Virginia chapter which regulates the subdivision of land in a locality.

Preliminary Plats

The Code of Virginia § 15.2-2260 permits localities to require a preliminary plat for subdivisions of more than 50 lots. However, smaller subdivisions may not require a preliminary plat. Currently, the Subdivision Ordinance requires preliminary plat approval for subdivisions of all sizes. Preliminary plat requirements need to be softened for compliance with the Code of Virginia. This is often done by stating that preliminary plats may be submitted for review as part of a pre-application meeting. This allows the applicant to voluntarily submit a preliminary plat, provides the County with a ‘first glance’ if submitted, but does not reach beyond the limits of state code.

Vacation of Plats

Provisions for the vacation of plats are required by the Code of Virginia and are not fully included in the Subdivision Ordinance. Code of Virginia § 15.2-2270 through 15.2-2275 provides language that includes the process before and after the sale of lots and appropriate fees for processing vacation applications. These provisions need to be included in the Subdivision Ordinance for compliance with the Code of Virginia and to facilitate the administration of these actions.

Plat Recordation and Validation

The Code of Virginia requires final site plans be valid for five years or more, and new legislation states that if a recorded subdivision plat dedicates real property to a locality, then the approved final subdivision plats shall remain valid indefinitely. The Subdivision Ordinance does not currently include this language and should be amended for compliance with the Code of Virginia.

Performance Bond

Nelson County currently allows for a periodic partial release of a performance bond for up to 80% of the bond. The Code of Virginia requires that these partial releases be no less than 90% of the bond. Nelson County should modify this section of the Subdivision Ordinance to become compliant with Section § 15.2-2245 of the Code of Virginia.

Environmental Assessments

The Code of Virginia includes optional provisions to include in a Subdivision Ordinance, two of these are requirements for Phase 1 Environmental Assessments and a remediation disclaimer for all previously industrial uses or land. Nelson County should consider if there are relevant areas that would benefit from this provision and incorporate as needed.

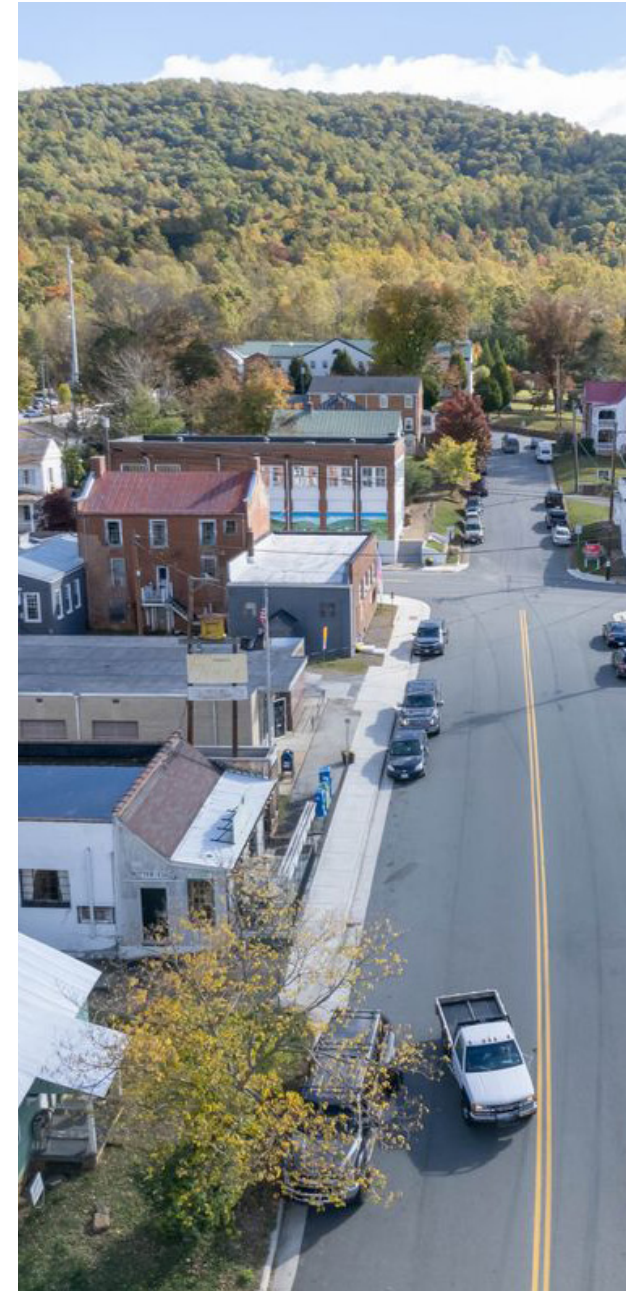


Comprehensive Plan Analysis

The Nelson 2042 Comprehensive Plan includes goals, objectives, and strategies for land use, transportation, housing, the natural environment, the economy, and community services throughout Nelson County. The Zoning Ordinance is one of the primary land use tools to implement these goals, objectives, and strategies of the Comprehensive Plan. Best practice is to amend the Zoning Ordinance to align with and implement the Comprehensive Plan.

A comprehensive list of the strategies found in Nelson 2042 is included in Appendix C of this report, which details specific actions to be taken in the Zoning and Subdivision Ordinances to address these strategies. Some of the key changes that should be taken in a Zoning and Subdivision Ordinance update are as follows:

- Amending the community design standards to better protect rural landscapes and implement green infrastructure principles. This includes additional buffering and landscaping requirements, lighting and noise regulations, and alternative energy solutions.
- Increase residential densities and allow for alternative housing options, such as multi-family and accessory dwelling units, to increase the housing stock and reduce housing cost burdens on the community.
- Strengthen the requirements for connectivity and recreation in new development to better connect the developed community to the rural landscape through shared use trails and recreation amenities.
- Create overlay zoning districts to protect sensitive areas of the County and encourage development in the areas that it is desired. This could include conservation districts such as a mountain ridge district, to protect mountain ridges from overdevelopment, and a tourism development district to allow for easier development of the tourism industry in logical growth areas.



Next Steps

The Planning Commission and Board of Supervisors will meet with County staff to review the findings of this report and should relay any questions or comments back to the BG for additional consultation. Reviewing and discussing this report will help build a strong foundation for future updates to the County's Zoning and Subdivision Ordinances.

The priority items for Nelson County should be as follows:

- Amending the Zoning Ordinance comprehensively to ensure compliance with the Code of Virginia requirements, enhance clarity and usability, and reflect best practices included in this evaluation.
- Amending the Subdivision Ordinance comprehensively to comply with Code of Virginia requirements, organize for ease of administration, and incorporate other recommended best practices.
- Amending specific sections of the Zoning Ordinance to address key issues identified by Planning Commission and the Board of Supervisors.
- Updating the County's Zoning Map to align with the Comprehensive Plan's future land use plans.

Developing a realistic schedule and budget to accomplish these tasks is strongly recommended.

The County should consider how best to manage this process, such as retaining outside parties to assist staff in moving forward with the chosen direction or accomplish the chosen tasks in-house. Performing this work in-house and managing day-to-day operations may result in a lengthier product delivery.

Conclusion

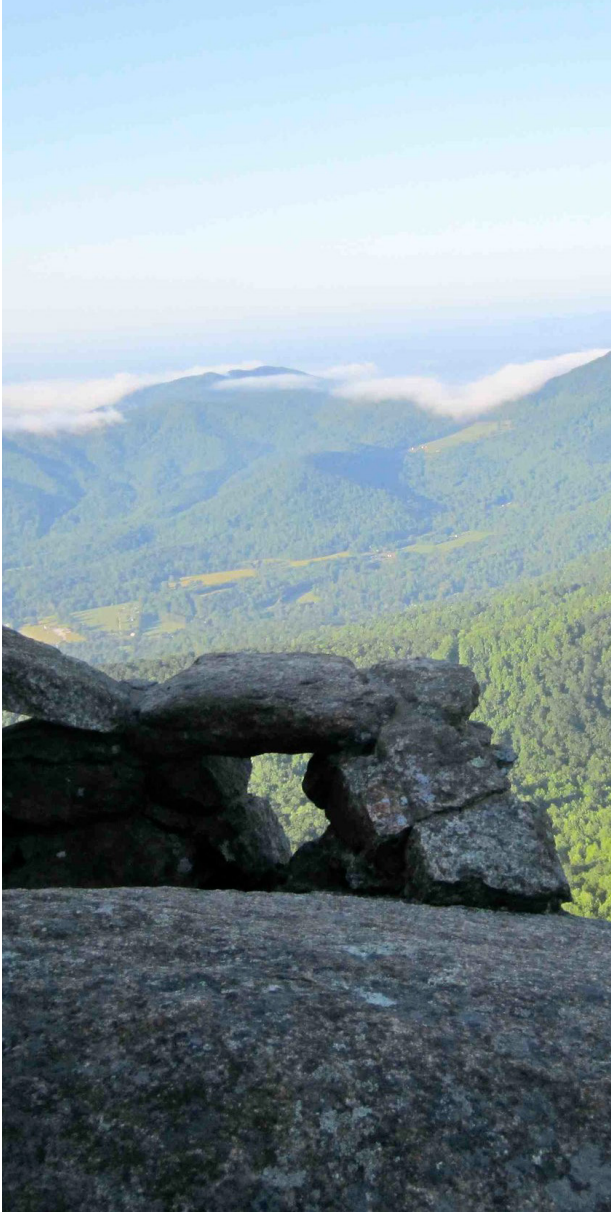
Nelson County's desire to ensure effective, efficient, and code-compliant Zoning and Subdivision Ordinances should be commended. As noted in this report, the County's Zoning and Subdivision Ordinances are mostly compliant with and inclusive of Code of Virginia Requirements. However, the ordinance(s) can be greatly strengthened with a modern revision and restructuring for full conformity to Code of Virginia requirements, as well as best planning and zoning practices, to better protect the unique assets and character of the County while continuing to serve the community.

The recommendations outlined in this report constitute a detailed analysis of the Nelson County Zoning and Subdivision Ordinances. Revising the County's Zoning and Subdivision regulations according to these recommendations will ensure that the ordinances are legally defensible, ease administrative burden for staff, and promote economic development. An updated Zoning Ordinance will also ensure modernity with new uses and aid in realizing the future envisioned in Nelson County's Comprehensive Plan. Keeping these land use tools up-to-date and in compliance with the Code of Virginia should be a commitment the County continues to uphold on an ongoing basis, including periodic reviews and amendments.

The Berkley Group looks forward to continuing their support of Nelson County's long-range planning, land use, and development goals.



Appendix



Appendix A: Zoning Ordinance Code of Virginia Diagnostic Matrix.....	33
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Appendix A

Zoning Ordinance Code of Virginia Diagnostic Matrix

	VA Code Section 15.2-	Intent	Compliance	Existing ZO Section	Consultant Comments/Recommendations
1.	2200	Declaration of legislative intent	Yes	1-1 1-2	<p>This section of the Code of Virginia provides the purpose of Chapter 22 of the Code of Virginia, which is subsequently the purpose for each of the tools discussed therein (Comprehensive Plan and Ordinances).</p> <p>Article 1 declares the legislative authority of Nelson County to regulate zoning pursuant to this section of the Code of Virginia.</p>
2.	2201	Definitions	Partial	Article 2	<p>This section of the Code of Virginia provides foundational definitions for terms used throughout the Chapter 22 regulations of the Code of Virginia. Article 2 of the Ordinance includes a section of relevant definitions for the Ordinance.</p> <p>Recommend including definitions found in this section of the Code of Virginia, as well as the Comprehensive Plan glossary, that are currently missing from the Ordinance. These include; “conditional zoning”, “development”, “incentive zoning”, “mixed use development”, “official zoning map”, “planning commission”, “planned unit development”, “plat”, “preliminary plat”, “site plan”, “special use permit”, and “zoning.”</p>
3.	2202	Duties of state agencies; electric utilities	N/A	N/A	<p>This section of the Code of Virginia states that any department, board, bureau, commission, or other agency of the Commonwealth that proposes a project in any locality shall, upon the request of the local planning commission, furnish reasonable information requested by the local planning commission relative to the proposed plans.</p> <p>This section of the Code of Virginia is not and does not need to be included in the Zoning Ordinance, but the Zoning Administrator and Planning Commission should be aware of this code section.</p>

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4.	2203	Existing planning commissions and boards of zoning appeals; validation of plans previously adopted	Partial	17-4	<p>This section of the Code of Virginia states that upon adoption of Chapter 22 of the Code of Virginia, already established planning commissions and boards of zoning appeals would continue to operate as if they were created under the terms of Chapter 22.</p> <p>The effective date of the Ordinance is established in Article 17. The creation of the Nelson County Planning Commission is established in Chapter 9 of the County Code. While this section of the Code of Virginia does not need to be incorporated into the Ordinance, it is recommended that the establishment, authority, composition, and duties of the Planning Commission be incorporated into the Zoning Ordinance or at minimum reference Chapter 9 of the County Code to create connection and awareness.</p>
5.	2204	Advertisement of plans, Ordinances, etc.	Yes	12-3 14-5 16-2	<p>This section of the Code of Virginia requires that localities advertise notice of any plans or Ordinances, or amendments thereof, in the local newspaper. The Ordinance requires that public hearings be conducted and advertised pursuant to this section of the Code of Virginia for all rezonings and zoning amendments, as well as appeals to the Board of Zoning Appeals. The Ordinance also requires a public hearing for any special use permit in accordance with state law.</p> <p>Recommend strengthening Sections 12-3-5 and 12-3-6 by including a reference to this section of the Code of Virginia.</p>
6.	2205	Additional notice of planning or zoning matters	Optional, Not Included	No Reference	<p>This section of the Code of Virginia allows a locality, in addition to specific notice required by law, to provide notice by any method on any planning or zoning matter that it deems appropriate for notice.</p> <p>Nelson County should consider requiring a posted sign on all properties undergoing zoning permit review by the Planning Commission or Board of Supervisors to help inform the community. If already conducted in practice, it should become a codified portion of the ordinance for the purpose of transparency and consistency.</p>

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7.	2206	When locality may require applicant to give notice; how given	Optional, Not Included	No Reference	<p>This section of the Code of Virginia allows for a locality to require the applicant of any application to the local governing body, local planning commission or Board of Zoning Appeals be responsible for all required notices.</p> <p>Nelson County should clearly state in the Ordinance who is required to provide public notice for any public hearing pursuant to §15.2-2204 of the Code of Virginia. As a best practice, this responsibility should be the duty of the Zoning Administrator or their agent rather than the applicant.</p>
8.	2207	Public notice of juvenile residential care facilities in certain localities	N/A	N/A	<p>This section of the Code of Virginia allows a locality (which does not have an applicable zoning ordinance) to require public notice and hearing for any applicant who wishes to establish a public or private detention home, group home, or other residential care facility for children in need of services, or for delinquent youth.</p> <p>This section of the Code of Virginia only applies to those localities that do not utilize a zoning ordinance and, as such, is not applicable to Nelson County.</p>
9.	2208	Restraining violations of the chapter [Chapter 22 of the Code of Virginia]	Optional, Partially Included	15-2 20-1	<p>This section of the Code of Virginia allows that any violation or attempted violation of this chapter [Zoning Ordinance] may be restrained, corrected, or abated by injunction or other appropriate proceeding. Article 15 of the Ordinance details violations and enforcement of provisions in the Ordinance and mentions abatement, but does not give the authority to enforce this directly to the Administrator. Article 20 includes more precise language relating to this section to the Code of Virginia, related to communications towers.</p> <p>Recommend strengthening Article 15 of the Ordinance with language from, and a reference to, this section of the Code of Virginia and including one single section relating to enforcement of the Ordinance.</p>
10.	2208.1	Damages for unconstitutional grant or denial by locality of certain permits and approvals	No	No reference	<p>The Code of Virginia § 15.2-2208.1 states that any applicant aggrieved by a grant or denial of any zoning-related approval or permit – when such grant or denial was unconstitutional pursuant to either federal or state law – shall be entitled to compensatory damages.</p> <p>The Zoning Ordinance does not include language addressing damages for an unconstitutional grant or denial; however, these determinations are likely occurring in practice. Nelson County should be aware of this section of the Code of Virginia and may add a direct reference to this section of the Code of Virginia.</p>

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11.	2208.2	Damages for an enforcement action undertaken by a locality with willful disregard for applicable law	No	No Reference	<p>The Code of Virginia § 15.2-2208.2 states that any persons subject to an enforcement action, when the enforcement action was based upon a willful disregard for the applicable law, shall be entitled to compensatory damages.</p> <p>The Zoning Ordinance does not include language addressing damages for an enforcement action taken with willful disregard. Nelson County should be aware of this section of the Code of Virginia and may add a direct reference to this section of the Code of Virginia.</p>
12.	2209	Civil penalties for violations of zoning Ordinance	No	15-2	<p>Code of Virginia § 15.2-2209 states that this schedule of civil penalties shall be uniform for each type of specified violation, and the penalty for any one violation shall be a civil penalty of not more than \$200 for the initial summons and not more than \$500 for each additional summons. Each day during which the violation is found to have existed shall constitute a separate offense. However, specified violations arising from the same operative set of facts shall not be charged more frequently than once in any 10-day period, and a series of specified violations arising from the same operative set of facts shall not result in civil penalties which exceed a total of \$5,000.</p> <p>Recommend Nelson County modify penalties to violations of the Zoning Ordinance to include civil penalties as a first offense before enforcing misdemeanor violations to better match the provisions found within this section of the Code of Virginia. In addition, the Ordinance should set a specific fine for misdemeanor charges, rather than the range that is provided now, with a reoccurring fine for repeat offenses, not to exceed the amounts found in this section of the Code of Virginia.</p>
13.	2209.1	Extension of approvals to address housing crisis	N/A	N/A	<p>Code of Virginia § 15.2-2209.1 extends the approval of final site plans, special exceptions, special use permits, and rezoning to assist in addressing the housing crisis to July 1, 2020, and allows further extension of approval by locality.</p> <p>Extension period has passed; no change required.</p>
14.	2209.1:1	Extension of approvals to address COVID-19 pandemic	Yes	No reference	<p>Code of Virginia § 15.2-2209.1:1 extends the approval of final site plans, special exceptions, special use permits, and rezoning to July 1, 2025, and allows further extension of approval by locality.</p> <p>A text amendment is not necessary to comply with this section of the Code of Virginia, but Nelson County should be implementing this in practice.</p>

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15.	2209.1:2	Extension of land use approvals for solar photovoltaic projects.	Yes	No reference	Code of Virginia § 15.2-2209.1:1 extends the approval of any valid special exception, special use permit, or conditional use permit for a photovoltaic project to July 1, 2026, and allows further extension of approval by locality. A text amendment is not necessary to comply with this section of the Code of Virginia, but Nelson County should be implementing this in practice.
16.	2209.2	Public infrastructure maintenance bonds	N/A	N/A	This section of the Code of Virginia applies only to the City of Charlottesville.
17.	2209.3	Residential land development and construction fee transparency; annual report	No	No Reference	This section of the Code of Virginia requires any locality, with a population over 3,500, to submit a report annually of their total fee revenue pertaining to all residential development. This new provision of the Code of Virginia is one that Nelson County should be fulfilling in practice, as its population is 14,790 people. The Ordinance can be enhanced by including language about this report requirement and the responsible party required to submit the report.
18.	2210 – 2222.1	Local Planning Commissions	Yes	Chapter 9, Article II	Code of Virginia § 15.2-2210 et. seq. regulates the required establishment, authority, and purpose of local planning commissions. Chapter 9, Article II, of the County Code, details the creation and composition of the Planning Commission, with one member from each of the five election districts and one Board of Supervisors member. Recommend that Nelson County revise the Planning Commission structure to ensure an odd number of voting members. This may be happening in practice already with the Board of Supervisors representative not voting, though if this is the case it should be detailed in this section of the Ordinance.
19.	2223 – 2232	The Comprehensive Plan	N/A	N/A	Code of Virginia § 15.2-2223 et. seq. regulates the requirements and provisions for comprehensive plans only. These Code of Virginia sections are not relevant to this diagnostic but are included here for transparency – and to highlight a full list of sections provided in Chapter 22 of the Code of Virginia. The Nelson County Comprehensive Plan has recently been updated to comply with the Code of Virginia.

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20.	2233 – 2238	The Official Map	N/A	N/A	Code of Virginia § 15.2-2233 et. seq. regulates the requirements for a locality’s Official Map. These sections grant planning commissions the authority to request a map be made that shows streets, waterways, and public spaces. These sections apply to localities that do not have a Zoning Ordinance, thus no zoning maps. Recommend Nelson County include a section in the Zoning Ordinance detailing the creation of an official Zoning Map, including who is responsible for its upkeep and where it is located.
21.	2239	Capital Improvement Plan	N/A	N/A	Code of Virginia § 15.2-2239 authorizes a planning commission to prepare a CIP based on a locality’s Comprehensive Plan. This Code of Virginia section is not relevant to this diagnostic but is included here for transparency – and to highlight a full list of sections provided in Chapter 22 of the Code of Virginia.
22.	2240 – 2279	Land Subdivision and Development	Yes	N/A	Code of Virginia § 15.2-2240 et. seq. regulates the orderly subdivision of land. Every locality must have a subdivision ordinance and ensure the orderly subdivision of land. Several of these Code of Virginia sections are also relevant to the Zoning Ordinance and are assessed below. All other Code Sections of the Land Subdivision and Development section of the Code of Virginia are related to the County’s Subdivision Ordinance, which is a standalone Ordinance outside of the Zoning Ordinance. Nelson County’s Subdivision Ordinance diagnostic is included separately.
23.	2246	Site plans submitted in accordance with zoning Ordinance	Partial	13-1	The Code of Virginia requires that site plans submitted for compliance with the Zoning Ordinance must also comply with the Code of Virginia bonding and performance release requirements. Recommend including language related to bonding for site plans in Article 13. This should include what types of bonds are accepted and the process for partial release of said bond.
24.	2258	Site plan requirements for submission for approval	No	13-4	The Code of Virginia § 15.2-2258 requires that a site plan include the locations of drainage districts, dam break zones, graves/burial sites, and areas of joint locality control. Article 13 provides for what must be included on major and minor site plans. Recommend that this section be enhanced to include the details required by this section of the Code of Virginia.

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25.	2259	Local planning commission or other agent to act on site plan	Yes	13-6	<p>The Code of Virginia § 15.2-2259 establishes a required timeline – 60 days – for the review and approval or disapproval of site plans.</p> <p>Article 13 requires that approvals of final site plans be conducted in accordance with this section of the Code of Virginia.</p>
26.	2261	Recorded plats or final site plans to be valid for not less than five years	Yes	13-5	<p>The Code of Virginia requires final site plans be valid for five or more years and allows for planning commissions or other agents to grant extensions for approval periods.</p> <p>Article 13 details the validity of site plans pursuant to this section of the Code of Virginia.</p>
27.	2261.1	Recorded plat or final site plans; conflicting zoning conditions	No	No Reference	<p>This section of the Code of Virginia provides that if the governing body approves a plan that is not in accordance with the rezoning, the final site plan/plat governs. Thus, it is imperative that localities review the final site plan/plat for compliance with the rezoning in addition to the zoning Ordinance.</p> <p>Recommend including language from this Section of the Code of Virginia in Article 13 of the Ordinance to clearly state than an approved plan or plat is valid regardless of the underlying Zoning District.</p>
28.	2270	Vacation of interests granted to a locality as a condition of site plan approval	No	No reference	<p>This section of the Code of Virginia provides two methods that allow a locality to vacate any interest in streets, alleys, easements for public rights of passage, easements for drainage, and easements for a public utility that were granted as a condition of the approval of a site plan.</p> <p>As a best practice, recommend including a State Code reference in the Zoning Ordinance for this vacation process.</p>
29.	2280	Zoning general description	Partial	1-1 1-2	<p>This section of the Code of Virginia allows for localities to regulate items such as the use of structures, buildings, and land; size, height, area, etc. of buildings; the area of land, water, and air space; and the excavation or mining of soil or other natural resources.</p> <p>Article 1 provides the legislative authority and intent for zoning in Nelson County but can be enhanced with language from, and a reference to, this section of the Code of Virginia.</p>

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30.	2281	Zoning jurisdiction of county and incorporation	Yes	1-4	<p>This section of the Code of Virginia states that a county shall have jurisdiction over unincorporated areas and a municipality shall have jurisdiction over its incorporated area.</p> <p>Article 1 adequately provides the enumeration of Zoning Districts to all unincorporated areas of Nelson County.</p>
31.	2282	Uniformity of regulations	Yes	N/A	<p>This section of the Code of Virginia states that regulations within a district must be uniform for each class or kind of building and use, but that district regulations may differ from one another.</p> <p>While the Zoning Ordinance does not contain a reference or explicitly state the requirements of this State Code section, it is inherently achieved. The district regulations are uniform for each class or kind of building within a district.</p> <p>Ensure compliance with this section of the Code of Virginia throughout any future Ordinance updates.</p>
32.	2283	Purpose of zoning, mandatory provisions: <i>(Line items 32 – 43)</i>	– <i>(See below)</i>		<p>Article I provides the intent of the Zoning Ordinance with some language from this section of the Code of Virginia.</p> <p>Section 1-2 should be enhanced by providing additional language from this section of the Code of Virginia.</p>
33.	i.	Light, air, convenience of access, fire, flood, impounding structure failure, crime	Partial	1-2	Recommend updating Section 1-2(2) to match this subsection of the Code of Virginia.
34.	ii.	Reduction of street congestion	Yes	1-2	Section 1-2(5) adequately provides for this subsection of the Code of Virginia.
35.	iii.	Convenient, attractive, harmonious community	No	No Reference	Recommend including this subsection of the Code of Virginia in section 1-2 of the Ordinance.

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36.	iv.	Adequate police & fire protection, evacuation, defense, transportation, water, sewage, flood protection, schools, parks, forests, playgrounds, recreation facilities, airports	Partial	1-2	Recommend updating Sections 1-2(2) and 1-2(6) to match this subsection of the code of Virginia.
37.	v.	Protection of historic areas and working waterfront development areas	No	No Reference	Recommend including this subsection of the Code of Virginia in section 1-2 of the Ordinance.
38.	vi.	Protect against overcrowding, undue density, light and air obstruction, danger in transportation, public safety	Partial	1-2	Recommend updating Sections 1-2(2) and 1-2(3) to match this subsection of the code of Virginia.
39.	vii.	Economic development, employment, tax base	No	No Reference	Recommend including this subsection of the Code of Virginia in section 1-2 of the Ordinance.
40.	viii.	Ag/Forestal and natural environment protection	Partial	Chapter 9, Article V	Chapter 9, Article V, of the County Code includes provisions for the creation of Agricultural and Forestal Districts. These provisions are better suited within the County's Zoning Ordinance as it is best suited to keep all items of the Code of Virginia § 15.2 – 2283 together. Recommend including this subsection of the Code of Virginia in section 1-2 of the Ordinance.
41.	ix.	Protect airports, U.S. government and military facilities	No	No Reference	Recommend including this subsection of the Code of Virginia in section 1-2 of the Ordinance.
42.	x.	Create and preserve affordable housing	No	No Reference	Recommend including this subsection of the Code of Virginia in section 1-2 of the Ordinance.
43.	xi.	Provide against encroachment on military bases	No	No Reference	Recommend including this subsection of the Code of Virginia in section 1-2 of the Ordinance.

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44.	xii.	Reasonable modifications in accordance with the Americans with Disabilities Act of 1990 (42 U.S.C. § 12131 et seq.) or state and federal fair housing laws, as applicable	No	No Reference	Recommend including this subsection of the Code of Virginia in section 1-2 of the Ordinance.
45.	2283.1	Sexual offender treatment services prohibition in residential area	Yes	No Reference	There is nothing in the Zoning Ordinance that references this use, therefore it is not permitted and complies with this section of the Code of Virginia.
46.	2284	Drawing up zoning Ordinance matters- process	No	No Reference	This section of the Code of Virginia states the basis for how district boundaries should be determined. Each district in the Ordinance includes an intent statement for the purpose of the district but does not include considerations of establishing districts. Recommend adding language from this section of the Code of Virginia to Article 1 of the Ordinance.
47.	2285	Ordinance and map development, adoption-process	Partial	16-1 through 16-4	This section of the Code of Virginia provides the general process for the creation of, and amendments to, zoning ordinances and zoning maps. Article 16 details the process for amendments to the Zoning Ordinance and Zoning Map, however the Ordinance does not provide for the process for the creation of the Zoning Ordinance and Zoning Map. Recommend including additional provisions from this section of the Code of Virginia in the Zoning Ordinance, including: the creation of an official zoning map, the authority of the Planning Commission to create the Zoning Ordinance, and that the Planning Commission must make a recommendation to the governing body within 100 days rather than the currently stated 30 days.
48.	2286 (A)	Permitted provisions in zoning Ordinances. <i>(Line items 48 – 63)</i>	– <i>(See below)</i>		This section of the Code of Virginia provides optional provisions. The County should consider the provisions listed below for inclusion in the updated Ordinance, if not already.

	VA Code Section 15.2-	Intent	Compliance	Existing ZO Section	Consultant Comments/Recommendations
49.	1.	Variances and special exceptions	Optional, Partially Included	12-3 14-2-4	<p>Article 12 outlines the provisions for Special Use Permits in Nelson County, including application and approval requirements. Variances are detailed as a power authorized to the Board of Zoning Appeals in Article 14. The definition of a variance is included in Article 2, but no definition is included for a Special Use Permit.</p> <p>Recommend including a definition of Special Use Permit in Article 2. Recommend including a section for the application of a variance outside of Article 14. Nelson County should create a specific article that includes all possible zoning permits, including SUPs and variances, that details application requirements, approval requirements, and validity.</p>
50.	2.	Annexation or boundary adjustment provision	Optional, Not Included	No Reference	<p>This item allows a locality to temporarily apply the Zoning Ordinance to any property coming into the jurisdiction by annexation or otherwise.</p> <p>Nelson County may wish to consider including this optional provision of the Code of Virginia in the Zoning Ordinance.</p>
51.	3.	Governing body special exception permits- Affordable housing special exception provisions	Optional, Included	12-3-3	<p>This item allows a locality to impose conditions with special exception permits and requires conditions associated with residential special exceptions that include affordable housing to be in keeping with the objective of providing affordable housing.</p> <p>Article 12 includes the authority for the Board of Supervisors to impose necessary conditions for Special Use Permits. The Ordinance does not need to include the language from this Section of the Code of Virginia, but Nelson County should be aware of it.</p>
52.	4.	Zoning administrator authorities, provisions, processes	Optional, Partially Included	17-1	<p>This item provides for the administration and enforcement of the Ordinance including the appointment or designation of a zoning administrator.</p> <p>Article 17 gives authority to the Administrator to enforce the Ordinance. This section of the Ordinance can be enhanced by including specific duties of the Administrator related to this section of the Code of Virginia.</p>

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53.	5.	Imposition of penalties-misdemeanor fines	Optional, Included	15-2	<p>This section of the Code of Virginia allows localities to impose penalties, in the form of a misdemeanor punishable by a fine of no more than \$1,000, for violations of the zoning Ordinance.</p> <p>Article 15 includes regulations regarding violations of the Ordinance to be considered misdemeanors with a penalty between \$10 and \$1,000.</p> <p>Recommend establishing a set penalty for violation of the Ordinance rather than the included range, no greater than \$1,000 for the initial and second unabated violation fine, no more than \$1,500 for the third unabated violation fine, and no more than \$2,000 for the fourth unabated violation, pursuant to this section of the Code of Virginia.</p>
54.	6.	Collection of fees	Optional, Partially Included	12-1 12-3 13-9 16-1	<p>Fees for various actions and permits are included in the Ordinance, though often not specifically. Rather, the Ordinance includes provisions that an applicant must submit the required fee.</p> <p>Recommend Nelson County create a fee schedule for all applicable land use fees (including zoning and subdivision) and adopt it by Ordinance as a separate Chapter of the County Code. Where applicable, Nelson County should reference this fee schedule in the Ordinance.</p>
55.	7.	Zoning Ordinance amendment timelines and process	Optional, Included	16-1 through 16-4	<p>Article 16 details the provisions for amendments to the Zoning Ordinance and Zoning Map.</p>
56.	8.	Plan of development submission and approval	Optional, Included	13-1 through 13-10	<p>Article 13 details the provisions for site plans, including when they are required, what is required on them, who shall approve them, and the timeline associated with the process.</p>
57.	9.	Mixed-use or PUD developments	Optional, Included	7-1 through 7-10	<p>Article 7 details provisions for the Residential Planned Community District (RPC).</p> <p>Nelson County should consider allowing mixed-use development as a use in certain districts or as an overlay district. This may be happening in practice, but the Ordinance should clearly state that it is allowed and where it is allowed.</p>

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58.	10.	Incentive zoning administration	Optional, Included	21-1 through 21-7	<p>Incentives may be used, as appropriate, to accomplish development goals. An example would be increased project density or other benefit in return for the developer providing specific site design, environmentally sustainable and energy-efficient building design, affordable housing creation and preservation, or historical preservation.</p> <p>Article 21 details the provisions for cluster housing development, allowing a developer additional residential density in the C-1, A-1, or R-1 Zoning Districts in exchange for the preservation of open space.</p> <p>Recommend reevaluating the existing cluster housing development ordinance to ensure it's compliance with the updated Comprehensive Plan, and incorporating required design standards, as needed.</p>
59.	11.	Downzoning tax credit	Optional, Not Included	No Reference	<p>This provision allows for the downzoning of a landowner's undeveloped or underdeveloped property in exchange for tax credits. This can be used to defer development.</p> <p>Nelson County should consider using this as a land conservation tool.</p>
60.	12.	Environmental site assessments and review	Optional, Not Included	No Reference	<p>This provision of the Code of Virginia allows localities to require Phase I or II environmental site assessments based on the anticipated use of the property.</p> <p>Nelson County should consider requiring environmental impact assessments for large developments or uses that may adversely impact the natural environment.</p>
61.	13.	Safety standards for solar panels and battery technologies	Optional, Included	22A-4	<p>Article 22A provides for solar energy installations and includes requirements for a decommissioning plan to be submitted that addresses the proper disposal of all solid or hazardous materials and wastes.</p> <p>Recommend reevaluating the Ordinance's provisions for solar energy facilities to ensure that they are in conformance with the County's Comprehensive Plan and include adequate provisions for environmental safety standards.</p>
62.	14.	Environmental disclosure and remediation	Optional, Not included	No Reference	<p>This requirement is typically applicable to industrial redevelopment projects. Provisions for requiring disclosure and remediation of contamination and other adverse environmental conditions of the property prior to approval of subdivision and development plans.</p> <p>Recommend adding this section of Code of Virginia for possible redevelopment of industrial areas.</p>

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63.	15.	Single-family residential occupancy regulations	Optional, Not Included	Article 2	<p>This section of the Code of Virginia allows for the enforcement of provisions of the zoning ordinance that regulate the number of persons permitted to occupy a single-family residential dwelling unit, provided that such enforcement is in compliance with applicable local, state, and federal fair housing laws.</p> <p>Article 2 of the Ordinance defines family as “One (1) or more persons occupying a premises and living in a single dwelling unit, as distinguished from an unrelated group occupying a boardinghouse, hotel, or motel. “</p> <p>Recommend reevaluating this definition to ensure that it complies with the County’s standard for how many people shall be allowed to live within a single dwelling unit. This can be derived from statewide building code occupancy requirements.</p>
64.	16.	Zoning inspection warrants	Optional, Not included	No Reference	<p>It is a best practice to include this provision, as it allows for a locality to acquire a warrant if there is a suspected zoning Ordinance violation.</p> <p>Nelson County should consider including this optional provision of the Code of Virginia for transparency.</p>
65.	2286 (B)	Payment of outstanding debt, taxes, fees	Optional, Not Included	No Reference	<p>The Zoning Ordinance does not include a requirement that any delinquent real estate taxes or debts be paid before approval of any applications.</p> <p>Recommend adopting this optional provision as a requirement.</p>
66.	2286.1	Open space provision, cluster dwellings	N/A	21-1 through 21-7	<p>This section of the Code of Virginia only applies to localities with a population growth of 10% or higher. While this provision of the Code of Virginia is not a requirement for Nelson County, the Ordinance does include provisions for cluster housing developments.</p> <p><i>For recommendation, see line item 58, above.</i></p>
67.	2287	Optional requirement regarding property interest of local officials	Optional, Not included	No Reference	<p>This section of the Code of Virginia allows localities to require that applicants disclose any members of the Planning Commission or governing body that have a vested interest in property being considered for zoning action.</p> <p>Nelson County should include this provision of the Code of Virginia in the Ordinance to increase transparency in the application and review process.</p>
68.	2287.1	Disclosures in land use proceedings	N/A	N/A	<p>This section of the Code of Virginia only applies to Loudoun County.</p>

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69.	2288	Localities may not require special exception permits for certain agriculture activities	Yes	4-1 4-1-a	<p>This section of the Code of Virginia applies to localities that have production, agriculture, or silviculture activity in an area that is zoned as an agricultural district or classification and specifies that localities may not require special use permits for such uses.</p> <p>Articles 4 provides for by right uses and uses by special use permit in agriculturally zoned areas as allowed by this section of the Code of Virginia.</p>
70.	2288.01	Localities may not require special exception permits for small biomass conversion	Yes	No Reference	<p>This section of the Code of Virginia restricts localities from requiring a special exception or a special use permit for small-scale conversion of biomass to alternative fuel.</p> <p>The Ordinance does not currently allow for small biomass converters as a use and therefore the County does not require a special exception or special use permit for their use.</p>
71.	2288.1	Localities may not require a special use permit for certain residential uses	Yes	Article 3 - Article 7	<p>This section of the Code of Virginia says that no local Ordinance shall require a special exception or special use permit for development and construction of residential dwellings at the use, height, and density permitted by right under the local zoning Ordinance.</p> <p>The Ordinance does not require a special use permit for dwellings at the use, height, and density permitted by right. This section of the Code of Virginia does not need to be referenced expressly in the Ordinance, but Nelson County should be aware of these provisions.</p>
72.	2288.2	Localities may not require special exception permits for certain temporary structures (tents)	Yes	24-2	<p>This section of the Code of Virginia restricts localities from requiring a special exception or special use permit for a temporary (less than three days) tent to be constructed on private property that will be primarily used for private or family-related events.</p> <p>Article 24 of the Ordinance details the requirements for temporary events and lists a number of events exempt from acquiring a temporary event permit, which adequately fulfills this provision of the Code of Virginia.</p>

	VA Code Section 15.2-	Intent	Compliance	Existing ZO Section	Consultant Comments/Recommendations
73.	2288.3	Localities may not unduly regulate farm wineries	Yes	2-1 4-1	<p>Usual and customary activities and events at farm wineries licensed in accordance with Title 4.1 shall be permitted without local regulation unless there is a substantial impact on the health, safety, or welfare of the public.</p> <p>Farm wineries are listed as a by right use in the Agricultural District, A-1. A definition of farm winery is included in Article 2 with some standards of use and reference to the Code of Virginia.</p> <p>Recommend including a section of use standards for farm wineries in the Ordinance that detail what activities are permitted on farm wineries, moving much of the standards found in the definition to this new section.</p>
74.	2288.3:1	Limited brewery license; local regulation of certain activities.	Yes	2-1 4-1	<p>Limited farm breweries are listed as a by right use in the Agricultural District, A-1. A definition of a limited farm brewery is included in Article 2 with some standards of use and reference to the Code of Virginia.</p> <p>Recommend including a section of use standards for limited farm breweries in the Ordinance that detail what activities are permitted on limited breweries, moving much of the standards found in the definition to this new section.</p>
75.	2288.3:2	Limited distiller's license; local regulation of certain activities.	No	No Reference	<p>The Ordinance provides for distilleries as a use by special use permit in the Agricultural District, A-1, with a relevant definition in Article 2. The Ordinance does not provide for limited or farm distilleries, however.</p> <p>Recommend Nelson County include limited farm distilleries in the Ordinance as a by right use in the Agricultural District, A-1, with a relevant definition and use standards. This type of use should be very similar to farm breweries and wineries.</p>
76.	2288.4	Extension of expiration dates for special use permits	N/A	N/A	<p>This section of the Code of Virginia expired in 2011 and no longer applies but is included in this diagnostic for transparency.</p>
77.	2288.5	Definition and uses of cemetery	Partial	2-1 3-1 4-1 8B-1	<p>A cemetery is defined in Article 2 of the Ordinance and provided for as a use by special exception in the A-1 and C-1 Zoning Districts and as a by right use in the Service Enterprise District, SE-1.</p> <p>Recommend Nelson County modify the definition of a cemetery to match the definition found in §54.1-2310 of the Code of Virginia.</p>

	VA Code Section 15.2-	Intent	Compliance	Existing ZO Section	Consultant Comments/Recommendations
78.	2288.6	Agricultural operations; local regulation of certain activities.	Yes	4-1 24-1	<p>This section of the Code of Virginia provides for agritourism and related agricultural activities. The Zoning Ordinance allows for agritourism as a by right use in the A-1 Zoning District and defines agritourism in Article 24.</p> <p>Recommend including the definition of agritourism in Article 2, Definitions, rather than Article 24, Temporary Events.</p>
79.	2288.7	Solar facilities; local regulation	No	No Reference	<p>This section states that a locality must allow for roof mounted or ground mounted accessory solar energy facilities in most zoning districts, as long as they can meet the zoning standards such as height, setbacks, etc.</p> <p>Recommend Nelson County include standards for roof top and ground mounted accessory solar facilities in Article 22A and allow them by right in all agricultural, residential, commercial, and industrial zoning districts.</p>
80.	2288.8	Special exceptions for solar photovoltaic projects	Optional, Included	22A-1 - 22A-6	<p>Small- and large-scale solar facilities are uses allowed by special use permit in the A-1 Zoning District. Article 22A details the standards and requirements for all small- and large-scale solar facilities in the County.</p>
81.	2289	Optional requirement of disclosure of real parties in interest for special exception permits, special use permits, amendments to the zoning Ordinance, or variances	Optional, Not Included	No Reference	<p>This section of the Code of Virginia allows a locality to require any application for a special exception permit, special use permit, zoning text or map amendment, or variance to disclose the equitable ownership of the land to be included in the application and all parties of interest.</p> <p>Nelson County may wish to include this provision of the Code of Virginia in the Ordinance.</p>
82.	2290	Manufactured housing uniformity (by-right in Ag areas)	Yes	4-1	<p>This section of the Code of Virginia requires that manufactured homes be permitted by right in all agricultural zoning districts and treated as a single-family dwelling in those districts.</p> <p>Manufactured homes are allowed by right in the A-1 Zoning District.</p>

	VA Code Section 15.2-	Intent	Compliance	Existing ZO Section	Consultant Comments/Recommendations
83.	2291	Assisted living and group homes of 8 or fewer residents	No	8-1-7a	<p>This section of the Code of Virginia requires that zoning ordinances include provisions for allowing assisted living facilities and group homes for up to eight individuals with mental illness, intellectual disability, or developmental disabilities. The Ordinance allows for group homes as a permitted use by special use permit only in the B-1 Zoning District. This use is not, however, defined in Article 2.</p> <p>Recommend defining assisted living facilities or group homes and including them as a by right use in all residential zoning districts in conformance with this section of the Code of Virginia.</p>
84.	2292	Zoning provision/definition family day home	No	No Reference	<p>Family day homes with less than 5 children must be allowed in residential districts the same way single-family homes are allowed.</p> <p>Recommend defining family day homes and including them as a by right use in all residential zoning districts in conformance with this section of the Code of Virginia.</p>
85.	2292.1	Provision for temporary family health care structure	Yes	23-1 - 23-9	<p>This section of the Code of Virginia requires that temporary health care structures be allowed on lots containing or zoned for single family dwelling units and provides for standards of those structures.</p> <p>Article 23 adequately details the provisions and requirements for temporary family health care structures pursuant to this section of the Code of Virginia.</p>
86.	2293	Airspace subject to zoning Ordinances	No	No Reference	<p>Although it may occur in practice, the Zoning Ordinance does not include any language subjecting the airspace to the regulations of the Ordinance.</p> <p>Recommend including the provisions of this section of the Code of Virginia under authority of the Ordinance.</p>
87.	2293.1	Amateur radio antenna placement	Yes	20-4	<p>The Ordinance exempts amateur radio antennas from the height requirements of communications as provided in Article 20.</p>
88.	2293.2	Regulation of helicopter use	Yes	No Reference	<p>This section of the Code of Virginia bars localities from banning regular use of non-commercial helicopters. The Ordinance does not currently provide provisions or standards for non-commercial helicopter use and does not ban them.</p> <p>Nelson County should consider including use standards for non-commercial helicopters.</p>

	VA Code Section 15.2-	Intent	Compliance	Existing ZO Section	Consultant Comments/Recommendations
89.	2294	Airport safety zoning	N/A	N/A	<p>This section of the Code of Virginia only applies to localities where a licensed airport or military air facility is located.</p> <p>While Nelson County does not currently have any licensed airports, they should be aware of this provision of the Code of Virginia and consider including additional standards and regulations to development near any air facility that may be constructed in the future.</p>
90.	2295	Optional aircraft noise attenuation Ordinances	N/A	N/A	<p>This section of the Code of Virginia allows localities to require additional noise attenuation for developments near airports or military facilities and allows localities to create a noise overlay zone for these areas on the Zoning Map.</p> <p>While Nelson County does not currently have any licensed airports, they should be aware of this provision of the Code of Virginia and consider including additional standards and regulations to development near any air facility that may be constructed in the future.</p>
91.	2295.1	Optional mountain ridge construction Ordinances	Optional, Not Included	No Reference	<p>This section of the Code of Virginia allows a locality with a protected mountain ridge to impose additional restrictions as part of an overlay zoning district to those mountain ridges in order to regulate the height and location of new development.</p> <p>Nelson County should consider the creation of a mountain ridge overlay zoning district to protect the natural mountain ridges of the County and the viewshed they provide. In addition, the County should consider defining and regulating steep slopes to better protect mountainous areas of the County.</p>
92.	2295.2	Optional authority to create zoning modification in dam break inundation zones	Optional, Not Included	No Reference	<p>This section of the Code of Virginia allows a locality to, by Ordinance, require modification of an application for zoning modification, conditional zoning, or a special use permit for the area of a development that is proposed within a mapped dam break inundation zone.</p> <p>If not already in practice, Nelson County should require all applications for development to indicate if they are within a dam break inundation zone.</p>
93.	2296	Conditional zoning – legislative policy	Yes	16-4-1	Article 16 allows for voluntary proffer of conditions associated with a rezoning.
94.	2297	Conditional zoning- rezoning/ map amendments	Yes	16-4-2	Article 16 allows for voluntary proffer of conditions associated with a rezoning, including language found in this section of the Code of Virginia.

	VA Code Section 15.2-	Intent	Compliance	Existing ZO Section	Consultant Comments/Recommendations
95.	2298	Conditional zoning- high-growth amendments	Optional, Included	16-4	<p>This section of the Code of Virginia states that any locality which has had population growth of 5% or more from the next-to-latest to latest decennial census year, based on population reported by the United States Bureau of the Census; any city adjoining such city or county; any towns located within such county; and any county contiguous with at least three such counties, and any town located in that county may provide for the voluntary proffering of reasonable conditions as outlined by the Code of Virginia.</p> <p>Article 16 includes provisions for conditional zoning and proffers. Nelson County should consider allowing for cash proffers per this section of the Code of Virginia.</p>
96.	2299	Conditional zoning- enforcement	Yes	16-4-6	Article 16 includes the provisions and language found in this section of the Code of Virginia.
97.	2300	Conditional zoning- records	Yes	16-4-5	Article 16 includes the provisions and language found in this section of the Code of Virginia.
98.	2301	Conditional zoning – petitions for review of decision	Yes	16-4-7	Article 16 includes the provisions and language found in this section of the Code of Virginia.
99.	2302	Conditional zoning- amendments and variations	Yes	16-4-3	Article 16 includes the provisions and language found in this section of the Code of Virginia.
100.	2303	Conditional zoning- certain localities	N/A	N/A	This section of the Code of Virginia only applies to counties with the urban county executive form of government or those adjacent to such county.
101.	2303.1	Binding development agreements- certain localities	N/A	N/A	This section of the Code of Virginia only applies to the County of New Kent.
102.	2303.1:1	Cash proffer option- process	N/A	N/A	<p>This section of the Code of Virginia provides that cash proffers cannot be accepted until after final inspection and prior to certificate of occupancy. The Zoning Ordinance does not provide for the voluntary proffer of cash contributions to offset costs of development associated with a rezoning application.</p> <p>If Nelson County decides to allow for cash proffers, they should incorporate this provision of the Code of Virginia into the Zoning Ordinance.</p>
103.	2303.2	Proffer cash payments and expenditures- process	N/A	N/A	<p>This section of the Code of Virginia states that localities shall use received cash proffers within 12 years of receipt. The Zoning Ordinance does not provide for the voluntary proffer of cash contributions to offset costs of development associated with a rezoning application.</p> <p>If Nelson County decides to allow for cash proffers, they should incorporate this provision of the Code of Virginia into the Zoning Ordinance.</p>

	VA Code Section 15.2-	Intent	Compliance	Existing ZO Section	Consultant Comments/Recommendations
104.	2303.3	Cash proffer requested or accepted conditions- process	N/A	N/A	<p>This section of the Code of Virginia dictates the timing of when a cash proffer can be collected by a locality. The Zoning Ordinance does not provide for the voluntary proffer of cash contributions to offset costs of development associated with a rezoning application.</p> <p>If Nelson County decides to allow for cash proffers, they should incorporate this provision of the Code of Virginia into the Zoning Ordinance.</p>
105.	2303.4	Provisions applicable to certain proffers	Partial	16-4-2	<p>This section of the Code of Virginia provides that no locality can require an unreasonable proffer for residential development or uses but allows onsite and offsite proffers that the applicant deems reasonable.</p> <p>Article 16 states that proffers must be reasonable conditions, but this section of the Ordinance can be enhanced by articulating what is allowed in accordance with this section of the Code of Virginia.</p>
106.	2304	Affordable dwelling Ordinances- certain localities	N/A	N/A	<p>This section of the Code of Virginia only applies to the Counties of Albemarle and Loudoun, and the Cities of Alexandria and Fairfax.</p>
107.	2305	Affordable dwelling Ordinances	Optional, Not included	No reference	<p>This section of the Code of Virginia applies only to localities that do not qualify under § 15.2-2304 of the Code of Virginia.</p> <p>The Zoning Ordinance does not currently reference or mention affordable housing.</p> <p>Nelson County should consider incorporating this optional provision of the Code of Virginia.</p>
108.	2305.1	Affordable housing dwelling unit Ordinances	Optional, Not included	No Reference	<p>This section of the Code of Virginia applies only to localities that do not qualify under § 15.2-2304 of the Code of Virginia. This section of the Code of Virginia allows localities to create an affordable housing dwelling unit program in the Zoning Ordinance to include reasonable regulations and provisions for the construction of affordable housing.</p> <p>Nelson County should consider incorporating this optional provision of the Code of Virginia.</p>

	VA Code Section 15.2-	Intent	Compliance	Existing ZO Section	Consultant Comments/Recommendations
109.	2306	Optional historical site preservation	Optional, Not included	No Reference	<p>This section of the Code of Virginia allows localities to designate historic preservation districts and sets standards for the development and redevelopment of buildings in those districts. The Ordinance defines historical area in Article 2 and allows it as a permitted use in the C-1 Zoning District, though if there are several historic areas in close proximity to one another these areas would likely be better suited for a historic preservation district.</p> <p>The Ordinance does not delineate a historic overlay district, but Nelson County may wish to implement this optional provision of the Code of Virginia.</p>
110.	2306.1	Establishment of working waterfront development areas	N/A	N/A	<p>This section of the Code of Virginia allows localities to designate working waterfront development areas which afford incentives to development in the area. Nelson County does not have any waterfront area to warrant a working waterfront development area.</p>
111.	2307	Protection of vested rights for non-conforming uses	Yes	11-1 through 11-7	<p>Article 11 adequately regulates nonconforming uses in Nelson County.</p> <p>Recommend reorganizing, reevaluating, and updating Article 11 for clarity of use and separating uses, lots, and structures as separate nonconformities.</p>
112.	2307.1	Commercial fishing	N/A	N/A	<p>This section of the Code of Virginia is for the protection of registered commercial fishermen and seafood buyers who operate their businesses from their waterfront residences and have been in operation for at least 20 years. Nelson County does not have any waterfront areas.</p>
113.	2308	Zoning appeal board	Yes	14-1	<p>Article 14 details the regulations governing the Board of Zoning Appeals, including its creation and composition.</p>
114.	2308.1	Boards of zoning appeals, ex parte communications, proceedings.	No	No reference	<p>The Zoning Ordinance does not mention ex parte communications.</p> <p>Recommend including a section regarding ex parte communications with the Board of Zoning Appeals members and a reference to this section of the Code of Virginia.</p>
115.	2309	Zoning appeal board powers and duties	Yes	14-2	<p>Article 14 includes the general powers and duties of the Board of Zoning Appeals with language from this section of the Code of Virginia.</p> <p>Nelson County should reevaluate these powers and duties and may wish to consider removing the authority to grant special use permits from the Board of Zoning Appeals as a best practice.</p>
116.	2310	Application for special exceptions and variance	Yes	12-3-4 14-2-4	<p>Article 12 details the requirements for applications of special use permits and Article 14 details the requirements for variances in Nelson County.</p>

	VA Code Section 15.2-	Intent	Compliance	Existing ZO Section	Consultant Comments/Recommendations
117.	2311	Optional appeals to Board of Zoning Appeals- process	Yes	14-4	Article 14 adequately includes provisions for appeals to the Board of Zoning Appeals and contains language from this section of the Code of Virginia.
118.	2312	Appeals to Board procedure - process	Yes	14-5	Article 14 adequately includes provisions for the procedure of appeals to the Board of Zoning Appeals and contains language from this section of the Code of Virginia.
119.	2313	Prevention of construction not in accordance with Ordinance- process	No	No reference	This section of the Code of Virginia allows the court to hear issues regarding building construction that may be in violation of the Zoning Ordinance without going to the Board of Zoning Appeals. Nelson County should be aware of this provision of the Code of Virginia and may wish to include it as a reference in the Ordinance for transparency.
120.	2314	Writ of Certiorari to review Board's decision	Yes	14-6	Article 14 adequately includes provisions for appeals of the Board of Zoning Appeals decisions to the circuit court with language from this section of the Code of Virginia.
121.	2315	Conflict of state and local Ordinance	Yes	17-6	Article 17 addresses conflicts between other regulations with language from this section of the Code of Virginia.
122.	2316	Validation of Ordinances prior to 1971	N/A	N/A	This section of the Code of Virginia validates Zoning Ordinances created prior to 1971, provided that they are in conformance with Chapter 22, Article 7, of the Code of Virginia. The Ordinance was adopted in 1977 and, as such, is not subject to this Section of the Code of Virginia.
123.	2316.1	Definitions regarding transfer of development rights (TDRs)	Optional, Not included	No Reference	This section of the Code of Virginia provides definitions for Transfer of Development Rights programs. Nelson County does not have a transfer of development rights program. Nelson County should consider implementing this optional provision of the Code of Virginia if they wish to allow the transfer of development rights in certain areas of the County.
124.	2316.2	Optional provisions for transfer of development rights	Optional, Not included	No Reference	This section of the Code of Virginia allows localities the option to establish TDR programs, in which a locality may designate receiving areas/properties that shall receive development rights <u>only</u> from certain sending areas/properties. This is typically used by counties as a rural area preservation tool. Nelson County should consider implementing this optional provision of the Code of Virginia if they wish to allow the transfer of development rights in certain areas of the County.

	VA Code Section 15.2-	Intent	Compliance	Existing ZO Section	Consultant Comments/Recommendations
125.	2316.3	Definitions regarding small cell facilities	Partial	20-4	<p>This section of the Code of Virginia establishes the definitions for wireless communications facilities and structures.</p> <p>Recommend moving the definitions for communications tower from Article 20 to Article 2, Definitions and including all definitions found in this section of the Code of Virginia. This should include “micro-wireless facility” and “small cell facility.”</p>
126.	2316.4	Permitting and review of small cell facilities	Partial	20-6	<p>Article 20 includes small cell facilities as Class A personal wireless service facilities that are permitted by right in the County.</p> <p>Recommend updating Article 20 of the Ordinance to more closely align with this section of the Code of Virginia, including provisions for the number of permits and review times for permits. The County should also confirm that they are compliant with the allowed review fees per this section of the Code of Virginia.</p>
127.	2316.4:1	Zoning; Other wireless facilities	Partial	20-6	<p>Article 20 provides regulations for wireless facilities in Nelson County. These regulations should be modified to better match the regulations of this section, and the other subsections of §15.2-2316.4, of the Code of Virginia.</p>
128.	2316.4:2	Application reviews for small cell facilities	Partial	No Reference	<p>The Code of Virginia § 15.2-2316.4:2 establishes the guidelines for review applications for small cell facilities. It explicitly prevents applications from being denied for various reasons and states the type of requirements that localities cannot require in their applications.</p> <p>Recommend updating Article 20 of the Ordinance to more closely align with this section of the Code of Virginia, including provisions for the number of permits and review times for permits. The County should also confirm that they are compliant with the allowed review fees per this section of the Code of Virginia.</p>
129.	2316.4:3	Additional provisions for zoning applications of telecommunications facilities	Partial	20-6 20-17	<p>Article 20 provides regulations for wireless facilities in Nelson County and 20-17 addresses administratively approved replacement. These regulations should be modified to include routine maintenance and support structures to better align the regulations of this section, and the other subsections of Code of Virginia § 15.2-2316.4.</p>
130.	2316.5	Moratorium on zoning applications from wireless service providers prohibited	Yes	No Reference	<p>Nelson County does not have a moratorium on zoning applications from wireless service providers.</p>

	VA Code Section 15.2-	Intent	Compliance	Existing ZO Section	Consultant Comments/Recommendations
131.	2316.6	Siting of solar projects and energy storage projects – definitions	Optional, Partially Included	22A-3	<p>This section of the Code of Virginia provides definitions that pertain to § 15.2-2316.6 et. seq. of the Code of Virginia, siting of solar projects.</p> <p>Nelson County should include these definitions in Article 22A of the Zoning Ordinance.</p>
132.	2316.7	Negotiations; siting agreement	Optional, Not Included	No Reference	<p>This section of the Code of Virginia requires that any applicant for a solar project or an energy storage project give written notice to the locality and request a meeting, for the applicant and locality to discuss and negotiate a siting agreement. This section of the Code of Virginia also provides language for siting agreements contents.</p> <p>Nelson County may wish to require a formal siting agreement for solar energy facilities.</p>
133.	2316.8	Powers of host localities	Optional, Not Included	No Reference	<p>This section of the Code of Virginia states the powers of localities regarding the siting of solar facilities. Powers include: i.) hiring consultants, ii.) discussing a siting agreement with an applicant, iii.) entering into a binding siting agreement; and iv.) presenting the agreement at a public hearing.</p> <p>Nelson County should be aware of this section of the Code of Virginia and may wish to include a reference in the Ordinance.</p>
134.	2316.9	Effect of executed siting agreement; land use approval	Optional, Not Included	No Reference	<p>This section of the Code of Virginia states that all land use approvals shall be necessary for a solar facility; a siting agreement shall deem the project in accordance with a Comprehensive Plan, but other land use approvals will be required; and that a governing body cannot deny approval solely based on the absence of a siting agreement.</p> <p>Nelson County should be aware of this section of the Code of Virginia and may wish to include a reference in the Ordinance.</p>
135.	2317	Article 8 – Road Impact Fees - Applicable to 20k persons +5% growth, or 15% growth	N/A	N/A	<p>This section of the Code of Virginia speaks to road impact fees but is only applicable to localities with a population of 20,000 with at least a 5% growth rate, or localities with over 15% growth rate.</p> <p>Nelson County does not qualify for this optional provision of the Code of Virginia.</p>

	VA Code Section 15.2-	Intent	Compliance	Existing ZO Section	Consultant Comments/Recommendations
136.	2318	Definitions	<i>Required_ if Road Impact Fees Ordinance Adopted</i>	N/A	This section of the Code of Virginia includes definitions for terms relating to road impact fees.
137.	2319	Impact fee authority		N/A	This section of the Code of Virginia allows applicable localities to impose road impact fees on new developments to pay all or part of the cost of reasonable road improvements that benefit new development.
138.	2320	Impact fee service area establishment		N/A	This section of the Code of Virginia states that applicable localities shall delineate one or more impact fee service areas within its comprehensive plan.
139.	2321	Adoption of road improvement program (must be done prior to impact fee adoption)		N/A	This section of the Code of Virginia requires that prior to adopting any system of impact fees, road improvements needs must be assessed – and adopt a road improvements plan after a public hearing.
140.	2322	Adoption of impact fee, schedule		N/A	This section of the Code of Virginia requires that an adopted Ordinance or regulation for impact fees contain a schedule of fees.
141.	2323	Applicability of fees		N/A	This section of the Code of Virginia requires that an adopted Ordinance or regulation for impact fees contain a schedule of fees.
142.	2324	Credit against fees		N/A	This section of the Code of Virginia requires that the value of any dedication, contribution, or construction from the developer for off-site road or other transportation improvements benefiting the impact fee service area shall be treated as a credit against the impact fees project.
143.	2325	Updating plan of impact fee		N/A	This section of the Code of Virginia requires that the road improvement plan that is the basis of the impact fees, be updated every two years, with amendments to impact fee schedule, as appropriate.
144.	2326	Proceeds use		N/A	This section of the Code of Virginia requires that a road improvement account be established for the impact fee service area and all funds collected through impact fees shall be deposited in an interest-bearing account. Interest earned on deposits becomes funds of the account. The use of the funds shall be for road improvements benefiting the impact fee service area.
145.	2327	Refund of impact fee		N/A	This section of the Code of Virginia requires that a locality refund any impact fee for which construction of a project is not completed within a reasonable period of time, not to exceed fifteen years.

	VA Code Section 15.2-	Intent	Compliance	Existing ZO Section	Consultant Comments/Recommendations
146.	2328	Applicability of Impact Fees	<i>Required_ if Road Impact Fees Ordinance Adopted</i>	N/A	This Article of the Code of Virginia applies to “urban counties” – which is a county with a population of greater than 90,000, according to the United States Census of 2000.
147.	2329	Imposition of impact fees		N/A	This Article of the Code of Virginia applies to “urban counties” – which is a county with a population of greater than 90,000, according to the United States Census of 2000.

	Additional Comments	Consultant Recommendations
1.	General	<p>A comprehensive review of the current references in the Ordinance should be conducted. Currently there are a number of Code of Virginia references that refer to Chapter 15.1 of the Code of Virginia which have all since been changed. Chapter 15.2 is now the Code of Virginia chapter which regulates the zoning of land in a locality.</p> <p>In general, the Zoning Ordinance should be reviewed on an annual basis as a best practice to ensure that it is remaining up to date with new and modified provisions of the Code of Virginia.</p>
2.	Organization	<p>The Zoning Ordinance would greatly benefit from a reorganization to improve readability and ease administrative burdens. Improvements include:</p> <ul style="list-style-type: none"> • Combine all use standards into one article. Currently some use standards are found in a standalone article and others are listed under general provisions. • Combine all Zoning District Standards into one easy to read matrix or table. • Create an Article containing all responsible bodies with their compositions, powers, and duties. • Include the Subdivision Ordinance as a standalone Article in the Zoning Ordinance. Moving all land use related regulations to one document helps create a single location and eases administration and transparency with the community. This could also extend to the regulations found in Chapter 9, Planning and Development, of the County Code. • Create a table of contents for easy reference. <p>The following is an example organization: General Ordinance provisions (effective date, severability, applicability, jurisdiction, conflict, etc.); Permits & Applications; Districts (including dimensional standards); District Use Matrix; Use Performance Standards; Community Design Standards; Nonconformities; Subdivision; and Definitions. This may be modified with consideration to the specific administration needs identified by County staff.</p>

	Additional Comments	Consultant Recommendations
3.	Uses	<p>Many uses and corresponding definitions required by the Code of Virginia are missing from the Zoning Ordinance. These include agritourism, small cell wireless facilities, biomass energy converters, administrative review only project, group homes, and family day homes.</p> <p>There are several unnecessary, overly specific, or outdated uses and definitions in the Zoning Ordinance that can be consolidated and converted to more modern land uses. Such uses include; banquet hall, blacksmith shop, day camp, summer camp, and campground, labor camp facilities, and a number of different assorted manufacturers.</p> <p>In addition, not all uses have a corresponding definition in Article 2 of the Ordinance. Recommend defining all land uses within the Ordinance to aid in administration and interpretation.</p>
4.	Use Matrix	<p>An article dedicated to a use matrix that clearly shows all uses, which districts they are allowed in, and whether by-right or by special use permit would greatly improve the process of referencing, reading, and administering the Ordinance. With this structure the uses would not be listed in each zoning district as they are now.</p>
5.	Use Standards	<p>Currently, there is no common location for use standards within the Ordinance. This makes finding standards for a specific use difficult. Nelson County should create an Article specifically for use standards that includes sections for all uses that they wish to have additional standards for.</p> <p>Additionally, Nelson County should evaluate their current use permissions to try and identify uses that currently require a special permit but are often approved with similar conditions. These uses should instead be considered for by-right use and have their common conditions adopted as use standards incorporated in the Ordinance. This can help ease administrative burden on both staff and the governing body.</p>
6.	Community Design Standards	<p>Nelson County should consider including an Article of community design standards that can apply to certain types of uses or development countywide. Currently, the Zoning Ordinance includes standards for parking and signs, but these design standards can be expanded to include landscaping and buffer requirements, lighting, noise regulation, and others.</p> <p>In addition, the existing design standards relating to signs in the County are not currently in compliance with recent Supreme Court precedents, which limits regulations of signs to not pertain to the content of the sign and instead only to the size, type, or color. Nelson County should modify their provisions for sign regulation to ensure they are compliant.</p>
7.	Enforcement & Violations	<p>Nelson County currently enforces a violation of the Zoning Ordinance as a misdemeanor offense. The Code of Virginia allows localities to first enforce a light civil penalties as a first offense for violations before progressing to a misdemeanor charge for a repeat violation. Nelson County should consider adding civil penalties to the Zoning Ordinance as a first step of enforcement.</p>
8.	Accessory Solar Facilities	<p>Nelson County's regulations regarding small- and large-scale solar facilities are adequate for compliance with the Code of Virginia, but the Ordinance does need to be updated to reflect accessory ground mounted and roof mounted solar facilities, rather than just solar facilities as a primary land use. These types of accessory uses should be permitted by-right with additional standards as long as they can meet the required zoning district standards.</p>

	Additional Comments	Consultant Recommendations
9.	Mountain Ridge Overlay District	The Code of Virginia allows for localities to create a Mountain Ridge Overlay Zoning District and Nelson County should be taking advantage of this optional provision to help protect their most environmentally sensitive parts of the County. This district could impose additional restrictions on development along mountain ridges to restrict building size and height. This can help ensure that mountain ridges maintain their natural shapes and preserve natural view sheds throughout the mountainous regions of the County.
10.	Wireless Facilities	While Nelson County has a robust article containing wireless facility standards and regulations, these standards are regularly being changed and updated at the state and federal levels and, as such, this article should be reevaluated to ensure that it is still in compliance with required regulations and maintaining industry best practices. Notably, the Zoning Ordinance does not allow for small cell wireless facilities as a by right use, which is required by the Code of Virginia. In addition, the Code of Virginia requires that all wireless facilities less than 50 feet in height be subject only to an administrative review and not require a special use permit or special use permit for construction.

Appendix B

**Subdivision Ordinance
Code of Virginia
Diagnostic Matrix**

	VA Code Section 15.2-	Intent	Compliance	Existing SO Section	Consultant Comments/Recommendation
1.	2209.1.1	Extension of approvals to address the COVID-19 pandemic.	N/A	No reference	Due to the Covid-19 pandemic, this section of The Code of Virginia extends approvals of plats, final site plans, special exceptions, special use permits, and rezoning to July 1, 2025 – and allows further extension of approval by locality. A text amendment is not necessary to comply with this section of The Code of Virginia, but Nelson County should be implementing this in practice.
2.	2240	Authority to develop subdivision ordinances	Yes	1-1	Section 1 establishes the purpose and title of the Nelson County Subdivision Ordinance.
3.	2241 (A)	Mandatory provisions of a subdivision ordinance:	– <i>(See below)</i>		See line items #4- #14
4.	(1)	Plat standards under Virginia Public Records Act	Yes	5-1 through 5-5	Section 5 of the Ordinance includes the required details for recording final plats and the keeping of public records in accordance with the Virginia Public Records Act is likely being done in practice. While likely being done in practice, the Ordinance could also include some of the standards and procedures of the Virginia Public Records Act or a reference to this section of the Code of Virginia.
5.	(2)	Street coordination regulations	Yes	4-6 5-4 B.(3)	Section 4 includes the required design standards for all streets constructed in Nelson County. These design standards are split across three different classifications dependent upon the size and number of lots they serve and include standards for both private and public streets. Section 5 requires the name, width, and location of all existing and proposed streets to be identified on preliminary plats. Recommend moving the standards for street naming from Chapter 9 of the County Code to Section 4 of the Subdivision Ordinance for easy reference and transparency.

	VA Code Section 15.2-	Intent	Compliance	Existing SO Section	Consultant Comments/Recommendation
6.	(3)	Drainage, flood control, impounding structures, dam break inundation zones, light and air, soil characteristics	Partial	4-3	Section 4 includes design standard requirements for stream buffers, drainage, erosion and sediment control, and stormwater management for all new subdivisions in the County. Nelson County should include provisions related to Dam Break Inundation Zones in required standards for plats and site plans of all new subdivisions.
7.	(4)	Street grading and improvement, water/storm/ sewer	Yes	4-4 4-6	Section 4 includes design standard requirements for the grading of streets as well as public and private water and sewer requirements and stormwater management.
8.	(5)	Acceptance of public use of ROW and other site-related improvements that require financing	Partial	4-2 4-6	This section of the Code of Virginia details the acceptance of rights of way or improvement for public use. It includes provisions to allow for required bonding and cost sharing agreements with the locality. Section 4 of the Ordinance details when a public right of way is required and the standards for dedicating a street for public use. In addition, Section 4 includes bonding requirements necessary for any subdivision improvement. Recommend modifying Section 4 to be more closely aligned with this section of the Code of Virginia, including limiting allowable costs for inflation and administrative fees to be no more than 10 percent of the estimated construction cost
9.	(6)	Conveyance to utility, cable, etc. companies	Partial	4-1	Section 4 requires subdivisions include a 20-foot easement for the use of public and private utilities. Recommend including a timeline provision for the granting of such easements within 30 days of the request, per this section of the Code of Virginia.
10.	(7)	Monument regulations	Yes	4-6	Section 4 requires permanent monuments be placed by the developer of any subdivision, signifying property and street lines.

	VA Code Section 15.2-	Intent	Compliance	Existing SO Section	Consultant Comments/Recommendation
11.	(8)	Plat recordation period	Partial	5-5	<p>Section 5 requires that an approved plat be recorded within 6 months of approval or it shall be void, pursuant to this section of the Code of Virginia.</p> <p>Recommend Nelson County include in this section of the Ordinance that this 6-month timeframe can be extended if an improvement is to be dedicated for public use or a required bond is filed with the County prior to the final plat being recorded.</p>
12.	(9)	Administration and enforcement of ordinance (fees)- process	Yes	3-6 7-2	<p>Sections 3 and 7 adequately detail the administration and enforcement of the subdivision ordinance. Fees for the review of subdivision plats are included in Section 3-6.</p> <p>Recommend expanding the sections of fees to differentiate between large and small subdivisions that account for more or less administration time, as well as including fees for boundary line adjustments, family subdivisions, inspections, and any other fees related to the administration and enforcement of the Ordinance. If its not already, this information should be incorporated into a County wide fee schedule to include all relevant land use fees. Modify the language of these Sections of the Subdivision Ordinance to refer to the County fee schedule.</p>
13.	(10)	Sale of parcel to family member (2244)- process	Yes	3-2	<p>Section 3 allows for the single division of a parcel for gift or sale to an immediate family member pursuant to this section of the Code of Virginia. <i>See Line Items #34 - #38 for additional details on family subdivisions.</i></p>
14.	(11)	Release of performance guarantee (2245)- process	Yes	4-2	<p>Section 4 details the periodic partial release and final complete release of bonds required by the Ordinance.</p>
15.	2241 (B)	Security Requirement must be related to project	Partial	4-2	<p>This section of the Code of Virginia states that bonds can only be required for those improvements that are on the approved plat or plan. Section 4 states that all private streets and public improvements require a bond. Section 5 requires that both of these things be shown on preliminary and final plats.</p> <p>The Ordinance can be enhanced by included language and a reference from this section of the Code of Virginia.</p>

	VA Code Section 15.2-	Intent	Compliance	Existing SO Section	Consultant Comments/Recommendation
16.	2241.1	Bonding requirements – guarantees not required prior to construction plans	No	No reference	This section of the Code of Virginia provides that bonds for delineated sections need not be provided for the public use facilities until construction plans are provided. The Ordinance does not address bonding for projects that have agreed upon sections/stages. Recommend adding a reference to this section of the Code of Virginia and including language that closely mirrors it.
17.	2241.2	Bonding requirements – decommissioning of solar energy equipment, facilities, or devices	Yes	Appendix A, Article 22A	Bonding requirements for solar energy facilities and their decommissioning are found within the County’s Zoning Ordinance.
18.	2242	Subdivision ordinance optional provisions:	– (See below)		This section of The Code of Virginia provides optional provisions. See line items #19 – #30.
19.	(1)	Subdivision exceptions	Optional, Included	7-1	Section 7 allows for the Planning Commission to make an exception to any provision of the Ordinance if the subdivider can show that adherence to the provision would cause unnecessary hardship.
20.	(2)	Public health official opinion or public system connection	Optional, Included	4-4	Section 4 requires that private sewer systems must get Virginia Department of Health approval prior to approval of the subdivision.
21.	(3)	Maintenance disclaimer for private streets (non-VDOT)	Optional, Partially Included	3-2 5-5	This section of the Code of Virginia allows localities to accept plats for the construction of private streets that do not meet the street standards set in the Ordinance for private streets so long as the plat includes a statement to that effect. The Ordinance includes this requirement for any road serving a parcel of a family subdivision and requires a disclaimer on plats that include any street that does not meet VDOT standards.
22.	(4)	Voluntary funding of off-site road improvements	Optional, Not Included	No Reference	The subdivision ordinance does not provide for voluntary funding of off-site road improvements. Nelson County should consider providing for this section of the Code of Virginia, if desired.
23.	(5)	Pro-rata reimbursement for roads	N/A	N/A	This section of the Code of Virginia does not apply to Nelson County.

	VA Code Section 15.2-	Intent	Compliance	Existing SO Section	Consultant Comments/Recommendation
24.	(6)	Solar energy provision	Optional, Not Included	No Reference	<p>This section of the Code of Virginia allows localities to detail provisions for the establishment and maintenance of accessways to solar heating and cooling devices in new subdivisions, when requested by the subdivider.</p> <p>Nelson County should consider providing for this section of the Code of Virginia, if desired.</p>
25.	(7)	Escrowed funds pursuant to provision 5 of Section 15.2-2241	N/A	N/A	<p>This section of the Code of Virginia allows towns with a population between 14,500 and 15,000 to use bonds as delineated in Code of Virginia § 15.2-2241(5) for other purposes than those of which they were bonded.</p> <p>This section of the Code of Virginia does not apply to Nelson County.</p>
26.	(8)	Clustering of single-family dwellings and preservation of open space developments	Optional, Not Included	3-2 Appendix A, Article 21	<p>This section of the Code of Virginia allows localities to permit cluster subdivisions which allow for more density and smaller lots for the developer at the cost of dedicating a percentage of open space for preservation.</p> <p>The Subdivision Ordinance allows for the Planning and Zoning Director to approve or disprove cluster subdivisions. All other cluster subdivision requirements are detailed in the County's Zoning Ordinance.</p> <p>Recommend that Nelson County move cluster subdivision requirements to the Subdivision Ordinance for ease of use.</p>
27. u	(9)	Sidewalk provision	Optional, Not Included	No Reference	<p>The Subdivision Ordinance does not include a requirement for subdividers to construct sidewalks, only that any sidewalk is required to be built to VDOT standards.</p> <p>Nelson County should consider requiring sidewalks be built along newly constructed streets as part of a subdivision based on guidance from the Comprehensive Plan.</p>
28.	(10)	Phase I Environmental Assessment provision	Optional, Not Included	No Reference	<p>The subdivision ordinance does not require Phase I environmental site assessments.</p> <p>Nelson County should consider requiring Phase I environmental site assessments for certain subdivisions based on their location or proposed use, per guidance from the Comprehensive Plan.</p>

	VA Code Section 15.2-	Intent	Compliance	Existing SO Section	Consultant Comments/Recommendation
29.	(11)	Disclosure and remediate provision	Optional, Not Included	No Reference	This section of the Code of Virginia provides for disclosure and remediation of contamination and other adverse environmental conditions of a property prior to approval of subdivision and development plans. Nelson County should consider requiring disclosure and remediation measures for existing adverse environmental conditions of a proposed subdivision property.
30.	(12)	Dedication of land for sidewalk in the Northern Virginia Transportation District	N/A	N/A	This section of the Code of Virginia is only applicable to towns located in the Northern Virginia Transportation District.
31.	2243	Pro-rata optional payments	Optional, Not Included	No Reference	This section of the Code of Virginia allows a locality to provide for payments by a developer for the pro-rata share of utilities (water, sewer, and drainage) if located on land outside of the development. Nelson County should consider providing for this section of the Code of Virginia, if desired.
32.	2243.1	Dam break inundation zone payment	No	No Reference	This section of the Code of Virginia requires developers submit an engineering plan if the proposed subdivision lies within a dam break inundation zone and that the developer pay 50% of the costs of upgrading impounding structures within the subdivision. Nelson County should consider providing for this section of the Code of Virginia, if desired.
33.	2244	Provisions for family subdivision	– <i>(See below)</i>		See line items # 34-36
34.	(A.)	Subdivision must provide for family conveyance in county	Yes	3-2	This section of the Code of Virginia mandates that any county must provide for the reasonable division of land for conveyance to an immediate family member of the property owner. Section 3 provides for family subdivisions in Nelson County, pursuant to this Section of the Code of Virginia.
35.	(B.)	Subdivision must provide for family conveyance in urban county executive form of government	N/A	N/A	This section of the Code of Virginia only applies to counties with the urban county executive form of government.

	VA Code Section 15.2-	Intent	Compliance	Existing SO Section	Consultant Comments/Recommendation
36.	(C.)	Subdivision may include family conveyance in high growth county or city	Optional, Included	3-2	This section of the Code of Virginia allows any city or county with 10 percent or more population growth, or any neighboring town, city, or town, to provide for the reasonable division of land for conveyance to an immediate family member of the property owner. Section 3 provides for family subdivisions in Nelson County, pursuant to this Section of the Code of Virginia.
37.	2244.1	Additional family conveyance option	Optional, Partially Included	3-2	<p>This section of Virginia Code allows a locality to include provisions permitting a single division of a lot or parcel for the purpose of sale or gift to a member of the immediate family, if i) the property has been owned for at least 15 consecutive years by the current owner or member of the immediate family, and ii) the property owner agrees to place a restrictive covenant on the subdivided property that would prohibit the transfer of the property to a nonmember of the immediate family for a period of 15 years.</p> <p>Section 3 mandates that no family subdivision may be sold to a non-family member until at least five years has passed since the division. This section of the Code of Virginia allows localities to restrict sales of such family subdivision property for up to fifteen years and require a restrictive covenant be placed on the property for that time. Nelson County should reevaluate their current family subdivision provisions for compliance with the Comprehensive Plan and consider increasing the required timeline before sale, as well as adding the requirement for a restrictive covenant.</p>
38.	2244.2	Conveyance to family trust beneficiaries' option	Optional, Included	3-2	<p>The Subdivision Ordinance does not provide for division of a lot of property held in trust for a family member, though this is likely being done in practice.</p> <p>Section 3 of the Ordinance allows family subdivisions to be put into a trust with the intention of selling or gifting that division to an immediate family member as beneficiary of the trust.</p>

	VA Code Section 15.2-	Intent	Compliance	Existing SO Section	Consultant Comments/Recommendation
39.	2245	Subdivision performance guarantees – periodic partial and final release	Partial	4-2	Section 4 provides for periodic partial and final release of surety in accordance with this section of the Code of Virginia. Recommend modifying the percentage amount of partial bond release to be 90%, rather than the current 80%, per this section of the Code of Virginia.
40.	2245.1	Cannot require removal of trees for stormwater pond	Yes	No Reference	This Subdivision Ordinance does not mention the removal of trees for stormwater management ponds; thus, it is in compliance with this section of the Code of Virginia.
41.	2246	Site plans in accordance with zoning ordinance	Partial	Appendix A, Article 13	This section of the Code of Virginia states that any site plans required by the Zoning Ordinance shall be subject to the required provisions of the Subdivision Ordinance. Regulations for site development plans are located in the County's Zoning Ordinance. Recommend including language that site plans are subject to the Subdivision Ordinance in Article 13 of the Zoning Ordinance.
42.	2247	Applicability of subdivision ordinance to manufactured homes	N/A	N/A	Manufactured homes are provided for in the County's Zoning Ordinance, therefore it is not necessary to provide for them in the Subdivision Ordinance.
43.	2248	Application of subdivision <u>beyond</u> municipal limits (certain counties)	N/A	N/A	This section of the Code of Virginia only applies to municipalities within the counties of Giles, Clarke, Culpeper, Loudoun, or Mecklenburg.
44.	2249	Application of subdivision <u>within</u> municipal limits (certain counties)	N/A	N/A	This section of the Code of Virginia only applies to municipalities within the counties of Giles, Clarke, Culpeper, Loudoun, or Mecklenburg.
45.	2250	County municipality relations (certain counties)	N/A	N/A	This section of the Code of Virginia only applies to municipalities within the counties of Giles, Clarke, Culpeper, Loudoun, or Mecklenburg.

	VA Code Section 15.2-	Intent	Compliance	Existing SO Section	Consultant Comments/Recommendation
46.	2251	Subdivision ordinance requirement	No	1-1 9	Section 1 states the purpose and title of the Subdivision Ordinance. Section 9 establishes the process for amendment of the Ordinance. Recommend including the authority of Nelson County to allow the Board of Supervisors to regulate the subdivision of land in the Ordinance, with reference to adoption, amendment, and this section of the Code of Virginia.
47.	2252	Filing of subdivision ordinance	Yes	10	Section 10 provides for the filing of the adopted or amended ordinance in the office of the County Administrator and Clerk of the Circuit Court. This section of the Ordinance can be enhanced by including language that any amendment to this Ordinance shall be filed in the office of the County Administrator and Clerk of the Circuit Court.
48.	2253	Subdivision ordinance amendment process	Yes	9	Section 9 adequately provides for the amendment of the ordinance. Recommend updating the reference in Section 9 to refer to this section of the Code of Virginia.
49.	2254	Statutory provisions of adopted ordinance	Partial	5-5 7-3	Section 7 includes the enforcement of the ordinance including penalties pursuant to this section of the Code of Virginia. Recommend including subsections (1) and (3) in the Ordinance, or a reference to this section of the Code of Virginia.
50.	2255	Authority to administer/enforce ordinance	Yes	3-1	Section 3 adequately states that the Planning and Zoning Director has the authority to enforce and administer the ordinance.

	VA Code Section 15.2-	Intent	Compliance	Existing SO Section	Consultant Comments/Recommendation
51.	2256	Procedure to account for fees for common improvements	No	No Reference	<p>This section of the Code of Virginia is for subdivisions that have an HOA, Board of Directors, or similar governing body. It states that the Board shall prepare an annual report of all fees collected and payments made for improvements.</p> <p>The subdivision ordinance does not provide for a HOA Board or similar governing body or procedure to account for fees for common improvements.</p> <p>Recommend including this Code of Virginia provision in the Subdivision Ordinance to help direct how an HOA or equivalent body will function.</p>
52.	2257	Procedures to modify covenants	N/A	N/A	This section of the Code of Virginia only applies to Shenandoah County.
53.	2258	Plat proposal factors to be submitted	Partial	5-1	<p>Section 5 details the requirements for submittal of preliminary and final plats and includes requirements for final plats to show drainage and burial sites in conformance with this section of the Code of Virginia. The ordinance does not include a requirement that the plat be submitted to another locality in a case where the land involved lies wholly or partly within an area subject to the joint control of that locality or to show when subdivided land lies within a dam break inundation zone.</p> <p>Recommend including requirements that a plat be submitted to any locality that has joint control of the land being platted and show all lands contained within a dam break inundation zone.</p>
54.	2259	Timely action on proposals- review process	Partial	3-7	<p>Section 7 includes a 60-day provision for the time associated with approving or disapproving a complete preliminary and final plat.</p> <p>Recommend including that if a plat requires state or federal agency approvals, that plat shall be forwarded to that agency within 10 business days of submittal. Nelson County should also include in the Ordinance that failure to make a decision on a plat within the required 60 days constitutes an approval.</p>

	VA Code Section 15.2-	Intent	Compliance	Existing SO Section	Consultant Comments/Recommendation
55.	2260	Provision for preliminary plat submission- process	Partial	5-1 through 5-4	Section 5 includes the requirements for preliminary plats, while Section 3 includes required time associated for approvals of said plats. The Ordinance currently requires that all subdividers submit a preliminary plat for approval. However, this section of the Code of Virginia only allows localities to require a preliminary plat submission for subdivisions of 51 tracts of land or more. Localities can offer approvals of a preliminary plat for subdivisions of less than 51 tracts of land as an option to the subdivider. Nelson County should update their requirements to comply this Section of the Code of Virginia and only require a preliminary plat submittal for subdivisions of 51 tracts of land or greater.
56.	2261	Recorded plats or final site plans to be valid for not less than five years, real property to a locality shall remain valid indefinitely	No	No Reference	This section of the Code of Virginia states that approved recorded plats or final site plans shall remain valid for a term of five years. In addition, this section of the Code of Virginia provides that a recorded subdivision plat dedicating real property to a locality shall remain valid indefinitely. Nelson County should incorporate some or all of this section of the Code of Virginia or include its reference.
57.	2261.1	Recorded plat or final site plans; conflicting zoning conditions	No	No Reference	This section of the Code of Virginia provides precedence for site plans that are approved but in conflict with zoning conditions from previous rezoning approvals. Nelson County should consider including reference to this section of the Code of Virginia or maintain this in practice.
58.	2262	Requirements of plat	Yes	5-5	This section of The Code of Virginia requires plats to be prepared by a certified professional. Section 5 requires the signature and seal of the certified professional engineer or Virginia licensed land surveyor on all final plats.
59.	2263	Expedited review (certain counties) – process	N/A	N/A	This section of the Code of Virginia only applies to the counties of Hanover, Loudoun, Montgomery, Prince William, and Roanoke, and the Town of Leesburg.
60.	2264	Statement of subdivision consent – process	Yes	5-5	Section 5 requires an owner’s consent and dedication statement on a final plat.

	VA Code Section 15.2-	Intent	Compliance	Existing SO Section	Consultant Comments/Recommendation
61.	2265	Recordation of approved plat – transportation implications	Partial	5-5	Section 5 details the requirements for preliminary plats to show all areas to be dedicated to public use and final plats to include all streets. Recommend requiring final plats to detail all public improvements, streets, infrastructure, and rights of way intended to be dedicated for public use, pursuant to this section of the Code of Virginia.
62.	2266	Validation of plats prior to 1975	No	No Reference	This section of the Code of Virginia validates any plat recorded prior to January 1, 1975. Nelson County should be aware of this provision of the Code of Virginia.
63.	2267	Petition to restrict access to certain public streets	Optional, Not Included	No Reference	This section of the Code of Virginia allows a subdivider to restrict access to private streets in a subdivision, with certain conditions. Nelson County should evaluate this provision of the Code of Virginia with its Comprehensive Plan and consider including it in the ordinance.
64.	2268	Localities not obligated to pay for grading, paving, etc.	Yes	4-2	Section 4 states that all improvements shall be installed at the expense of the developer or subdivider unless otherwise agreed upon with Nelson County.
65.	2269	Plans and specifications for utility fixtures and systems to be submitted for approval	Partial	5-4	Section 5 states that all preliminary plats must show proposed provisions for all utilities, including but not limited to electric, telephone, water, sewage, and stormwater management facilities. Nelson County should include requirements for engineering plans, including when one is required and what must be included in those plans. Include a 45 day review of these plans.
66.	2270	Vacation of plat interest – process	No	No Reference	This section of the Code of Virginia details the process for how a publicly dedicated improvement or easement may be vacated. Nelson County should include reference or specific language from this section of the Code of Virginia in the Ordinance to facilitate the vacation of public interests.
67.	2271	Vacation of plat before sale – process	Yes	6-1	Section 6 adequately details the requirements for vacation of a plat prior to the sale of a lot.
68.	2272	Vacation of plat after sale – process	Yes	6-2	Section 6 adequately details the requirements for vacation of a plat following the sale of a lot.
69.	2273	Authority to charge fee for plat vacation – process	Optional, Not Included	No Reference	Nelson County should consider including a fee for processing the vacation of a plat, if it is not already included in the County schedule of fees.

	VA Code Section 15.2-	Intent	Compliance	Existing SO Section	Consultant Comments/Recommendation
70.	2274	Effect of plat vacation	No	No Reference	Nelson County should include this section of the Code of Virginia in Section 6 of the Ordinance to detail the effect of the vacation of a plat or public improvement.
71.	2275	Authority to relocate boundary lines	Optional, Included	3-2 6-3	Section 3 authorizes the Planning and Zoning Director to approve boundary line adjustments. Section 6 allows for the vacation of approved subdivision boundary lines.
72.	2276	Clerk duty for vacated plat-process	N/A	N/A	This section of the Code of Virginia applies to Clerks of the Circuit Court in which a boundary line adjustment is recorded.
73.	2277	Franklin County may require that notice be given to deed grantees of certain disclaimers regarding responsibility for roads; county eligible to have certain streets taken into secondary system	N/A	N/A	This section of the Code of Virginia only applies to Franklin County.
74.	2278	Vacating plat subdivision	Yes	Section 6	Section 6 adequately provides for the vacation of plat subdivisions.
75.	2279	Authority to set homebuilding, setback lines, etc.	N/A	N/A	This section of the Code of Virginia allows localities to regulate many provisions that would normally be found in a Zoning Ordinance and which are currently regulated through the Nelson County Zoning Ordinance.

	Additional Comments	Consultant Recommendations
1.	General Structure and Contents	<p>Rather than acting as a standalone document, it is recommended that Nelson County move the Subdivision Ordinance into the Zoning Ordinance as a standalone Article. This can help create a single document containing all applicable land use regulations and ease administration, synchronization, and updates. In addition, the standards for street naming (Chapter 9, Article IV of the County Code) should be moved into the Subdivision Article to further collocate land use regulations.</p> <p>A comprehensive review of the current references in the Ordinance should be conducted. Currently there are a number of Code of Virginia references that refer to Chapter 15.1 of the Code of Virginia which have all since been changed. Chapter 15.2 is now the Code of Virginia chapter which regulates the subdivision of land in a locality.</p>

2.	Preliminary Plats	Rather than require a preliminary plat for all subdivisions, the Code of Virginia only permits localities to require a preliminary plat for subdivisions of more than 50 lots. This does not prevent Nelson County from allowing and encouraging developers to submit a preliminary plat prior to final plat approval, but this process can not be a requirement for plats of subdivisions with less than 51 lots.
3.	Final Plats	Per Section § 15.2-2261 of the Code of Virginia, approved final plats and site plans are considered valid for a term of five years after their approval. Nelson County should be aware of this provision and provide this information for reference within the Subdivision Ordinance.
4.	Performance Bond	Nelson County currently allows for a periodic partial release of a performance bond for up to 80% of the bond. The Code of Virginia requires that these partial releases be no less than 90% of the bond. Nelson County should modify this section of the Subdivision Ordinance to become compliant with Section § 15.2-2245 of the Code of Virginia.
5.	Fees	Required fees in the Subdivision Ordinance are currently limited to preliminary and final plats but there are likely a number of other applicable fees that are necessary for the proper administration of the Ordinance. Simpler procedures like boundary line adjustments or family subdivisions may warrant a lower fee than a plat of a major subdivision, which would take more administrative time and effort. Nelson County should reevaluate their current fee structure for Subdivisions and incorporate them all into a County fee schedule that can be adopted and amended on a yearly basis as needed. If Nelson County is already utilizing an existing County fee schedule, than the Subdivision Ordinance should be updated to refer to such a schedule for all applicable Subdivision fees that may be required.
6.	Dam Break Inundation Zones	Dam Break Inundation Zones should be required to be shown on all preliminary and final plats and site plans in Nelson County, as a best practice. In addition, if a developer is proposing development within these zones, they should be required to explain how they are going to mitigate risk factors and show what infrastructure improvements will be made to do so.
7.	Phase 1 Assessments and Remediation Disclosure	The Code of Virginia includes optional provisions to include in a Subdivision Ordinance, two of these are requirements for Phase 1 Environmental Assessments and a remediation disclaimer for all previously industrial uses or land. Nelson County should consider if there are relevant areas that would benefit from this provision and incorporate as needed.

Appendix C

Comprehensive Plan

Diagnostic:

Implementation

Strategies

A Comprehensive Plan is the policy tool that lays the groundwork for how a community would like to grow over time. Specific to Zoning and Subdivision Ordinances, the strategies of a Comprehensive Plan can set the stage for the provisions that a locality includes in their ordinances – the provisions of an ordinance can be the means to accomplish the Comprehensive Plan strategies and goals.

The following chart is an overview of the strategies for implementation in the Nelson 2042 Comprehensive Plan as they relate to zoning and subdivision regulations. The following is a comprehensive look at all strategies provided within the Comprehensive Plan. Goals and objectives are not included as they are meant as broad targets applicable to all elements of the Plan. Included in this chart is a summarization of how the strategies can be implemented in the Zoning and Subdivision Ordinances.

Strategy Number:	Strategy Text:	Action to be Taken in ZO + SO Update:
Chapter 3 Shaping Community Character		
3.1	Review and update alternative energy standards to ensure the adopted standards protect rural character and the interests of the community.	<ul style="list-style-type: none"> • Allow for accessory solar and wind energy facilities to primary land uses to include both rooftop mounted and ground mounted solar, up to an appropriate size to both serve the community and protect rural landscapes.
3.2	Consider the use of alternative energy on private development through special programs, such as the Code of Virginia permitted solar tax exemption for residential and commercial small-scale solar installations.	<ul style="list-style-type: none"> • No land use regulation action required.
3.3	Reduce or exempt permit fees for residential solar installations.	<ul style="list-style-type: none"> • Adopt a fee schedule ordinance with reduced fees for solar energy permits.
3.4	Encourage the use of energy-efficient lighting and investigate outdoor light standards to reduce the impacts of over-lighting, glare, and light pollution.	<ul style="list-style-type: none"> • Create lighting design standards that apply to new developments in each Zoning District.
3.5	Explore changes to zoning and development provisions to update parking requirements and encourage permeable paving and other materials that promote infiltration of stormwater.	<ul style="list-style-type: none"> • Consider a reducing the number of required parking spaces, found in Section 12-7-6 of the Zoning Ordinance, and allowing pervious and semi-pervious materials such as open joint pavers, reinforced grass grids, within Section 12-7-8D. Establish a minimum number of parking spaces to trigger improved surface lots (i.e. lots of 8 spaces or more require an improved surface).
3.6	Revise landscaping regulations to require the placement of shade trees in parking lots and use of native plants in all commercial and institutional landscaping.	<ul style="list-style-type: none"> • Modify the regulations of Section 12-7-8L to apply to any parking lots that meet a minimum size threshold. Include provisions that require the planting of native trees and shrubbery, as approved by the Administrator. • Create landscaping design standards that apply to all industrial and commercial properties. Buffer landscaping should be required in setback areas and should identify how much space must be landscaped. Ensure that all landscape includes only native trees and shrubbery. Modify existing landscaping requirements to refer to this new landscaping design standard section.

Strategy Number:	Strategy Text:	Action to be Taken in ZO + SO Update:
3.7	Identify opportunities to connect neighborhoods and development through sidewalks, shared use paths, and trails and require such connections in new development or redevelopment proposals.	<ul style="list-style-type: none"> ● Modify design standards of the Subdivision Ordinance to require a minimum of two street connection points for any major subdivision, encouraging through connection with street entrances to multiple streets from the subdivision. ● Require sidewalks, trails, and shared use paths for major subdivisions, encouraging through connection. ● Specify in open space requirements, percentages of active and passive recreation including trails and shared use paths.
3.8	Encourage revitalization, repurposing, and rehabilitation of existing structures by promoting available resources, such as grants and tax credits, and pursuing funding to support such efforts.	<ul style="list-style-type: none"> ● No land use regulation action required.
3.9	Encourage Low Impact Development practices and alternative wastewater systems in environmentally sensitive areas to ensure the preservation of water quality in the County.	<ul style="list-style-type: none"> ● Consider allowing pervious and semi-pervious materials for required parking, utilizing existing landscaping to satisfy necessary landscape requirements, requiring additional landscape buffer widths, and requiring more open spaces for new developments.
3.10	Continue to encourage and administer cluster subdivision regulations and incentivize their use in rural areas of the County to preserve open space and reduce the impact of development. Regularly evaluate and modify cluster subdivision regulations as needed to ensure they are effective and meet County standards.	<ul style="list-style-type: none"> ● Reevaluate current cluster subdivision regulations with a specific emphasis on bonuses provided to developers. Potential bonuses could include allowing for a density of 1 dwelling per 5 acres in the A-1 District and a density of 1 dwelling per acre in the R-1 District in exchange for a dedication of 60% of open space.
3.11	Conduct a regular review of zoning and land development codes and to ensure compatibility with the goals, objectives, and recommendations of this Plan.	<ul style="list-style-type: none"> ● No land use regulation action required. ● Recommend Nelson County review these strategies on an annual basis.
3.12	Evaluate land use applications for rezonings and special use permits against the criteria contained within this Plan.	<ul style="list-style-type: none"> ● No land use regulation action required. ● Recommend Nelson County conduct a review for all potential rezonings, special use permits, subdivision, and site plan to ensure their compliance with the Comprehensive Plan.
3.13	Update land use regulations to provide clear and simplified requirements that promote economic development, enable creative housing choices, and protect sensitive resources.	<ul style="list-style-type: none"> ● Nelson County should conduct a comprehensive review of their Zoning and Subdivision Ordinances and modify permitted commercial and industrial uses to include broader terminology to increase development opportunity and amend housing definitions and permissions to aid variety.
3.14	Review the zoning ordinance, and amend it as necessary, to allow for a wider mix of use types, including accessory dwellings and mixed-use buildings.	<ul style="list-style-type: none"> ● Conduct a review of existing uses for all Zoning Districts. Add and consolidate uses where possible to create more generalized and modernized use types. ● Add Accessory Dwelling Units (ADUs) and mixed-use buildings as by right uses or uses by special use permit as desired in agricultural, residential, and commercial Zoning Districts.

Strategy Number:	Strategy Text:	Action to be Taken in ZO + SO Update:
3.15	Ensure that new development complements and enhances its surroundings through proper land use, design, landscaping, and transitional buffers.	<ul style="list-style-type: none"> • Nelson County should ensure that this strategy is being practiced in their review of new development throughout the County. • See recommendations of strategy 3.6 for landscaping and buffering recommendations.
3.16	Ensure that a natural transition is maintained between the Land Use Elements through careful development review.	<ul style="list-style-type: none"> • Evaluate existing height, area, and setback requirements for all Zoning Districts to ensure that they are appropriate to provide for a natural transition between districts.
3.17	Discourage the use of large-scale development in Montebello through zoning actions.	<ul style="list-style-type: none"> • Reevaluate land use permissions and standards in the A-1 Zoning District and modify them to ensure that large-scale developments would be restricted, or only allowed through the special use permit process, in areas of high conservation value.
Chapter 4 Connecting People & Places		
4.1	Continue to work with VDOT to develop, design, and implement transportation projects, including, but not limited to, SMART SCALE, Highway Safety, Bike Pedestrian Safety, and Transportation Alternatives projects.	<ul style="list-style-type: none"> • No land use regulation action required.
4.2	Conduct traffic safety and speed studies throughout the County, as necessary, based on an analysis of existing traffic volume and crash statistics. Work with VDOT to address priority traffic safety issues, such as a reduction of speed limits.	<ul style="list-style-type: none"> • No land use regulation action required.
4.3	Work with VDOT to address priority traffic safety issues such as reduction of speed limits, safety improvements at high crash intersections, adequate turn lanes and reduced tractor-trailer “cut through” traffic.	<ul style="list-style-type: none"> • No land use regulation action required.
4.4	Partner with VDOT and the TJPDC to prioritize improvements to bridges and culverts with poor ratings.	<ul style="list-style-type: none"> • No land use regulation action required.
4.5	Continue to work with VDOT and other regional partners to provide essential maintenance and expansion of vital transportation systems throughout the County.	<ul style="list-style-type: none"> • No land use regulation action required.
4.6	Coordinate with neighboring jurisdictions, state, and regional agencies in planning and achieving an efficient and cost-effective transportation network.	<ul style="list-style-type: none"> • Include requirements for joint jurisdictional cooperation for any subdivision containing new streets or pathways located near (less than five miles) neighboring Counties. This should include sharing the proposed plat and/or site plan with the neighboring locality and giving them an opportunity to review and provide comments on said plat and/or plan.

Strategy Number:	Strategy Text:	Action to be Taken in ZO + SO Update:
4.7	Identify areas to construct or expand natural trails and sidewalks for pedestrian traffic.	<ul style="list-style-type: none"> ● Consider requiring developer constructed sidewalks for all new major subdivisions in residential districts and shared use or trail paths for all new major subdivisions in agricultural districts. ● Specify in open space requirements, percentages of active and passive recreation including trails and shared use paths.
4.8	Explore opportunities to widen County roadways and introduce bicycle lanes to facilitate safe bicycle travel.	<ul style="list-style-type: none"> ● No land use regulation action required.
4.9	Support regional partners in their efforts to link the Blue Ridge Tunnel Trail to regional destinations through pedestrian and bicycle infrastructure.	<ul style="list-style-type: none"> ● Require new sidewalks, trails, or shared use paths for subdivisions to be connected to any existing nearby trail network, if possible.
4.10	Support an expanded greenway trail network and ensure that the trail network connects to key public destinations such as parks, libraries, schools, and community centers, as well as to private developments and other trail systems, including regional trail networks.	<ul style="list-style-type: none"> ● Require new sidewalks, trails, or shared use paths for subdivisions to be connected to any existing nearby trail network, if possible.
4.11	Install EV charging stations at County-owned properties such as administrative offices, schools, and libraries.	<ul style="list-style-type: none"> ● Allow EV charging stations as an allowable accessory for all government or public uses.

Strategy Number:	Strategy Text:	Action to be Taken in ZO + SO Update:
4.12	Evaluate the feasibility of installing solar panels above County-owned parking lots to provide both covered parking and clean energy infrastructure.	<ul style="list-style-type: none"> No land use regulation action required.
4.13	Work with community organizations to help facilitate the installation of EV charging stations in the County.	<ul style="list-style-type: none"> List EV charging stations as an allowable accessory use throughout Nelson County. Include use standards for EV chargers as necessary.
Chapter 5 Creating Livable Communities		
5.1	Update the definition of short-term rentals. Maintain an inventory of all short-term rentals in order to track and better understand costs and benefits. Create regulations for short-term rentals as necessary through the Zoning Ordinance and other tools that maintain a significant stock of single-family homes and long-term rentals.	<ul style="list-style-type: none"> The current use definitions related to short-term rentals are “bed and breakfast class A & B”, “transient lodging”, and “vacation house”. Recommend that these uses be changed to “bed & breakfast”, “short-term rental, homestay”, and “short-term rental, whole house.” This would essentially create three classes of short-term residential rentals in the County, one where rooms are rented and meals are provided, one where rooms are rented in an owner occupied dwelling, and one where an unoccupied dwelling is rented. New legislation from the General Assembly has protected owner occupied short-term rentals of rooms as a by-right use in all zoning districts. This use should be listed as such in the Zoning Ordinance but can also include any number of reasonable use standards that the County sees fit. The other two uses, “bed and breakfast” and “short-term rental, whole house”, may be listed as a use by special use permit where desired by the County. Recommend that these uses be listed as by-right in appropriate Zoning Districts, such as residential, with a number of use standards and requiring a special use permit for them in agricultural zoning districts where housing stock is less prevalent. A business license should be required for all short-term rental properties which will allow the Treasurers office to track existing and new short-term rentals by way of a registry.
5.2	Consider allowing accessory dwelling units by right through zoning changes that can allow affordable rental options that benefit renters and homeowners.	<ul style="list-style-type: none"> Define and add accessory dwelling units (ADU) as a by-right accessory use in residential and agricultural zoning districts. Create use standards for this use, as required, which should include setbacks, size restrictions, attached or detached requirements, and certificate of occupancy requirements.
5.3	Promote grant programs, provide incentives and partner with Nelson County Community Development Foundation, Habitat for Humanity, and other local organizations and businesses that facilitate investments in maintenance and rehabilitation of existing housing—as well as TJPDC septic and SERCAP—and create a vehicle for enforcement of the zoning ordinance.	<ul style="list-style-type: none"> No land use regulation action required.

Strategy Number:	Strategy Text:	Action to be Taken in ZO + SO Update:
5.4	Create ordinances that offer a mixture of housing types and sizes integrated within the development area, including affordable and senior housing.	<ul style="list-style-type: none"> ● Add group homes and assisted living facilities, and their definitions, as uses in the A-1, R-1, and R-2 Zoning Districts. ● Consider creating an affordable housing incentives which would allow a developer additional densities or other bonuses in exchange for a percent of units sold only at affordable levels for the median income of the County.
5.5	Expand the types of allowable housing in appropriate areas to accommodate multi-family housing unit, such as townhouses, condominiums, and duplexes.	<ul style="list-style-type: none"> ● Consider the creation of an R-3 Zoning District that would allow for more density of residential housing units. ● Reduce the minimum size requirements of the RPC Zoning District. ● Add townhomes, condominiums, and duplexes as allowable uses by-right, with appropriate use standards, in the R-1 and R-2 Zoning Districts and as a use by special use permit in the A-1 Zoning District.
5.6	Evaluate current zoning district densities and adjust them to allow for additional housing in appropriate areas.	<ul style="list-style-type: none"> ● Consider a reduction in minimum lot sizes for R-1, and R-2 Zoning Districts or consider adding a new R-3 zoning district to allow for denser housing, at three or four units per acre, in appropriate areas.
5.7	Work with developers, non-profit agencies, and community groups to preserve and increase the supply of obtainable housing.	<ul style="list-style-type: none"> ● No land use regulation action required.
5.8	Explore county investment in a community land trust that can create more affordable housing options.	<ul style="list-style-type: none"> ● No land use regulation action required.
5.9	Review related strategies offered in the regional housing study “Planning for Affordability: A Regional Approach” by the Thomas Jefferson Planning District Commission.	<ul style="list-style-type: none"> ● No land use regulation action required.
5.10	Pursue a housing study of Nelson County to identify current housing trends and potential strategies specific for Nelson County.	<ul style="list-style-type: none"> ● No land use regulation action required.
5.11	Target housing near the County’s existing growth areas where public utilities are available with a range of housing types and densities.	<ul style="list-style-type: none"> ● Require developers to create connections to existing utilities, such as water and sewer, when possible, for major subdivisions. ● Evaluate the existing Zoning Districts and amend their densities and permitted uses to better match the County’s growth areas, as appropriate.
5.12	Consider development impacts on public water and sewer systems when reviewing residential rezoning and special use permits.	<ul style="list-style-type: none"> ● No land use regulation action required.

Strategy Number:	Strategy Text:	Action to be Taken in ZO + SO Update:
5.13	In partnership with the Nelson County Service Authority, create a water Master Plan for the County that includes current maximum build out and considers possible expansion of public water and sewer systems to support housing goals and objectives.	<ul style="list-style-type: none"> No land use regulation action required.
5.14	Consider adding density bonuses and incentives to encourage affordable and senior housing options in denser developments.	<ul style="list-style-type: none"> Consider creating an affordable housing incentives which would allow a developer additional densities or other bonuses in exchange for requiring a number of units be sold only at affordable levels for the median income of the County.
5.15	Explore opportunities to implement cluster subdivision provisions within the Subdivision Ordinance.	<ul style="list-style-type: none"> See strategy 3.10 for recommendations of cluster subdivision provisions.
5.16	Protect and connect to the surrounding environment by encouraging cluster developments and green infrastructure principles for new developments.	<ul style="list-style-type: none"> Consider allowing additional densities for cluster subdivisions in exchange for more dedicated open space. Consider allowing pervious and semi-pervious materials for required parking, utilizing existing landscaping to satisfy necessary landscape requirements, requiring additional landscape buffer widths, and requiring more open spaces for new developments.
5.17	Consider conducting a neighborhood study for the village of Lovington to identify community-based preservation, revitalization, and neighborhood improvement strategies. Pursue grant funding, as appropriate, to implement study recommendations.	<ul style="list-style-type: none"> No land use regulation action required.
5.18	Ensure that any new housing development is strategically placed to complement the rural landscape and avoid burden to the existing public services.	<ul style="list-style-type: none"> No land use regulation action required.
Chapter 6 Protecting Natural & Cultural Resources		
6.1	Define and guide development on steep slopes to maintain balance between slope, soils, geology, and vegetation. Where disturbance is unavoidable, enforce erosion and sediment control measures to prevent unnecessary degradation.	<ul style="list-style-type: none"> Add use regulations for steep slopes to the Zoning Ordinance to include defining different levels of steep slopes, restricting development of the steepest levels, and requiring additional protections and controls for minor steep slopes.
6.2	Direct development and infrastructure away from ecological cores, migration corridors, forest conservation areas, and environmentally sensitive areas.	<ul style="list-style-type: none"> Require environmental impact analysis for major subdivisions of a certain size (i.e., greater than 50 lots) in the County. Assess and amend the Zoning Map in relation to these sensitive areas.
6.3	Implement green infrastructure principles to preserve and connect natural habitats to support native species and wildlife.	<ul style="list-style-type: none"> Create a list of landscaping and buffering requirements for new developments in the County that ensure new developments connect to the existing natural areas with native species.

Strategy Number:	Strategy Text:	Action to be Taken in ZO + SO Update:
6.4	Support the use of low impact development and stormwater best management practices to reduce nonpoint source pollution in local waterways.	<ul style="list-style-type: none"> Consider allowing pervious and semi-pervious materials for required parking, utilizing existing landscaping to satisfy necessary landscape requirements, requiring additional landscape buffer widths, and requiring more open spaces for new developments.
6.5	Encourage landowners to work with local organizations, such as TJSWCD, for cost-share opportunities to install LID and BMPs catered to agricultural, residential, and commercial sites.	<ul style="list-style-type: none"> No land use regulation action required.
6.6	Continue to work with state and regional partners (such as DEQ, TJPDC, and TJSWCD) to implement TMDL plans for impaired waterways.	<ul style="list-style-type: none"> No land use regulation action required.
6.7	Continue to work with regional partners on updates to the Regional Water Supply Plan and implement solutions and sustain the future water supply.	<ul style="list-style-type: none"> No land use regulation action required.
6.8	Encourage water conservation measures as outlined in the Regional Water Supply Plan.	<ul style="list-style-type: none"> No land use regulation action required.
6.9	Consider efforts to identify and cap or remove abandoned wells and septic tanks to prevent contamination of the groundwater supply, and continue providing information on VDH's Septic and Well Assistance Program.	<ul style="list-style-type: none"> No land use regulation action required.
6.10	Condition approval of operations utilizing underground storage tanks (USTs) on assurances guaranteeing proper closure or removal of unused USTs and remediation of impacted soils.	<ul style="list-style-type: none"> Create and add use standards for vehicle refueling stations, and similar uses, that address decommissioning standards and remediation.
6.11	Support scenic river and blueway designations for local waterways.	<ul style="list-style-type: none"> No land use regulation action required.
6.12	Explore opportunities for an incentive program to utilize existing recycling and compost facilities. Focus on education and outreach. Continue to support and make better use of the Reuse shed.	<ul style="list-style-type: none"> No land use regulation action required.
6.13	Invest in partnerships with community organizations to ensure continued support and possible expansion of the Re-use sheds.	<ul style="list-style-type: none"> No land use regulation action required.
6.14	Carefully consider noise-intensive uses near residential or rural properties, and require noise mitigation such as perimeter buffers and sound barriers.	<ul style="list-style-type: none"> Create design standards, as applicable, for new uses in all zoning districts that restrict the amount of ambient noise perceivable beyond the property. Reevaluate and modify existing buffer standards to ensure that they are adequate with a specific emphasis on noise buffering, especially between different zoning districts.

Strategy Number:	Strategy Text:	Action to be Taken in ZO + SO Update:
6.15	Adopt an outdoor lighting ordinance with design and performance standards that increase safety and protect dark skies, consistent with International Dark Sky Association recommendations.	<ul style="list-style-type: none"> ● Create lighting design standards for new uses in all zoning districts that regulate location, brightness, angles, and allowable lighting times. Use the guidelines provided by the International Dark Skies Association to ensure Dark Skies compliance where it is desired, especially in the A-1 Zoning District.
6.16	Direct development away from prime agricultural soils and suitable agricultural lands identified on the Virginia Agricultural Model.	<ul style="list-style-type: none"> ● Require confirmation through the site plan process that new development is not being placed on prime agricultural land.
6.17	Protect agricultural and forested landscapes from development through tools such as conservation easements, agricultural and forestal districts, use-value assessments, and purchase of development rights program.	<ul style="list-style-type: none"> ● Reevaluate the standards of the Agricultural and Forestal Districts to ensure that it is meeting the County’s needs and adequately protecting valuable natural lands. ● Reevaluate and modify the existing purchase of development rights program to ensure that it is meeting the County’s needs and adequately protecting valuable natural lands.
6.18	Maintain use-value taxation criteria and qualifications in the best interest of the County and landowners to ensure long-term viability of agricultural, horticultural, and forestal operations.	<ul style="list-style-type: none"> ● No land use regulation action required.
6.19	Continue to utilize the Virginia Department of Forestry’s Forest Sustainability Fund to offset reduced tax revenue due to forestland use taxation.	<ul style="list-style-type: none"> ● No land use regulation action required.
6.20	Discourage ridgeline development to protect scenic viewsheds.	<ul style="list-style-type: none"> ● Consider creating a Mountain Ridge Overlay Zoning District that restricts development along the County’s mountain tops. This district can be as severe as outright restricting all development or simply reduce existing standards such as densities and height regulations.
6.21	Encourage assessment of unlisted historic sites for inclusion on the Virginia Landmarks Register and/or National Register of Historic Places.	<ul style="list-style-type: none"> ● No land use regulation action required.
6.22	Work with local partners such as the Nelson County Historical Society to identify, protect, and celebrate historic and culturally significant properties.	<ul style="list-style-type: none"> ● Consider creating a Historic Areas Overlay Zoning District that identifies areas of historical importance in the County and employs a historic oversight committee to oversee development in these areas, ensuring that they are protecting and maintaining these historic features.
6.23	Pursue identification, recognition, and protection of historic areas representing Nelson County’s diverse culture, including Native American and African American sites.	<ul style="list-style-type: none"> ● No land use regulation action required.
6.24	Encourage architectural compatibility of new development, including infill development, where significant historic resources exist.	<ul style="list-style-type: none"> ● If adopted, consider creating a criteria of architectural design standards for new development in the Historic Areas Overlay District.

Strategy Number:	Strategy Text:	Action to be Taken in ZO + SO Update:
6.25	Work with local and regional partners to create an online repository to support landowners in the preservation of natural resources.	<ul style="list-style-type: none"> No land use regulation action required.
6.26	Continue to work with regional partners to update and implement the Regional Hazard Mitigation Plan.	<ul style="list-style-type: none"> Ensure that all new development adequately mitigates hazard potentials by requiring necessary mitigation plans for development in susceptible areas of the County.
6.27	Continue improving flood resiliency by updating the Floodplain District Ordinance as needed to reflect new flood maps and best practices, and participating in FEMA’s Community Rating System.	<ul style="list-style-type: none"> Reevaluate and modify Article 10 of the Zoning Ordinance to ensure it is up to date with current FEMA regulations and best practices.
6.28	Continue working toward the stated goal of becoming a SolSmart-designated community.	<ul style="list-style-type: none"> Reevaluate and modify Article 22A of the Zoning Ordinance to ensure it adequately allows for the development of small- and large-scale solar energy facilities. Define and allow for accessory roof- and ground-mounted solar energy facilities for residential, public, and commercial uses. Include additional use standards as needed.
6.29	Encourage and incentivize green building certifications, energy efficiency, and renewable energy sources for new developments and existing development retrofits.	<ul style="list-style-type: none"> No land use regulation action required.
6.30	Consider amendments to existing ordinances to encourage installation of solar panels on existing impervious surfaces, such as rooftops and parking lots.	<ul style="list-style-type: none"> Define and allow for accessory roof- and ground-mounted solar energy facilities for residential, public, and commercial uses. Include additional use standards as needed.
6.31	Strengthen performance standards for ground- mounted solar energy systems to protect existing landscapes, such as limiting clear-cutting on undeveloped parcels, specifying minimum vegetation requirements, and increasing perimeter buffer widths.	<ul style="list-style-type: none"> Reevaluate and modify Article 22A of the Zoning Ordinance to ensure it adequately allows for the development of small- and large-scale solar energy facilities.
6.32	Assess County-owned buildings to identify opportunities for improving energy efficiency using the EPA’s resources for Energy Efficiency in Government Operations and Facilities, or a similar program.	<ul style="list-style-type: none"> No land use regulation action required.
Chapter 7 Creating a Resilient Economy		
7.1	Prepare for the needs of the next generation of workers by supporting both traditional higher education and vocational education opportunities.	<ul style="list-style-type: none"> No land use regulation action required.
7.2	Support Nelson County Public Schools and regional partners in coordinating and enhancing workforce training programs, sponsorships, incentives, and financial support opportunities to promote students’ enrollments in such programs.	<ul style="list-style-type: none"> No land use regulation action required.

Strategy Number:	Strategy Text:	Action to be Taken in ZO + SO Update:
7.3	Support dual enrollment programs for high school students that contribute to college- or vocational-level programs.	<ul style="list-style-type: none"> No land use regulation action required.
7.4	Work with the Virginia Community College system to consider and advocate for a local branch in Nelson County, including collaboration between one or more existing colleges for a satellite branch.	<ul style="list-style-type: none"> No land use regulation action required.
7.5	Support private and public investments in the County’s service economy to provide long-term economic and community growth and stability.	<ul style="list-style-type: none"> Reevaluate and modify existing allowable uses in the A-1, B-1, and B-2 Zoning Districts to ensure they are welcoming to service industry development. A specific focus should be on creating a list of generalized and modern uses to reduce restrictions. Reevaluate and modify service industry use standards to ensure that they are not overly restrictive.
7.6	Promote and support community centers as hubs for education and economic development.	<ul style="list-style-type: none"> Allow community centers as a by-right use, with appropriate use standards, in all zoning districts. Include appropriate accessory uses to help facilitate recreational and educational opportunities.
7.7	Continue to support the tourism industry while being mindful of over-tourism; diversify tourism assets across the County to distribute traffic and prevent negative impacts to local quality of life.	<ul style="list-style-type: none"> Consider the creation of a tourism corridor overlay district which can relax regulations for tourism-centric businesses. A board can also be created for this district that oversees design regulations for new development in the district to ensure that they are in keeping with the County’s desired aesthetic.
7.8	Review the DRIVE 2.0 initiative and consider pursuing DRIVE Outdoor grant funding to implement recommendations of the related DRIVE 2.0 strategic and regional plans to increase tourism.	<ul style="list-style-type: none"> No land use regulation action required.
7.9	Support expansion and diversification in the agricultural and forestry industries while maintaining and encouraging environmentally friendly and sustainable practices.	<ul style="list-style-type: none"> Reevaluate and modify agricultural and forestal uses in the A-1 Zoning District to ensure that they are generalized and allow for all types of agricultural and forestry uses.
7.10	Expand water access, trails, and bike infrastructure to promote outdoor recreation to encourage connection with the outdoors, encourage healthy recreation activities and enhance transportation options.	<ul style="list-style-type: none"> Consider requiring sidewalks, shared paths, and recreation areas for all new major subdivisions in the County, with a specific emphasis on connecting to existing paths and recreation areas that may be adjacent.
7.11	Support organizations and initiatives that provide agricultural assistance, community education, marketing strategies, information on agricultural support businesses, and information about alternative agricultural uses.	<ul style="list-style-type: none"> No land use regulation action required.
7.12	Assess local permitting, licensing, and fees for agricultural producers and streamline processes where practical to remove unnecessary procedural barriers.	<ul style="list-style-type: none"> Examine existing fee structure for farm use, zoning exempt, structures and reduce if necessary.

Strategy Number:	Strategy Text:	Action to be Taken in ZO + SO Update:
7.13	Support multiple revenue streams for farmers by reviewing and amending ordinances to better allow farmers to host complementary agritourism uses on agricultural properties.	<ul style="list-style-type: none"> Define and allow for agritourism in the A-1 Zoning District as a primary, accessory, or temporary use. Include applicable use standards as desired that aren't too restrictive.
7.14	Explore opportunities to establish a Tourism Improvement District, ABC-designated Outdoor Refreshment Areas, a Tax-Incremented Finance District, and/or Technology Zones to increase business investment in targeted areas.	<ul style="list-style-type: none"> No land use regulation action required.
7.15	Continue to extend high-speed internet and cellular service throughout the County with bandwidth capable of serving businesses and maintaining viability during technological advances.	<ul style="list-style-type: none"> No land use regulation action required.
7.16	Review and modify the Zoning Ordinance, as necessary, for regulations regarding special event venues and temporary events in the County.	<ul style="list-style-type: none"> Define and allow for special event venues in the A-1, B-1, and B-2 Zoning Districts. Include use standards that ensure they are not disrupting local communities and environments. Reevaluate and modify Article 24 of the Zoning Districts to ensure the regulations for temporary events are sufficient for the County.
7.17	Continue to support placemaking and wayfinding in the village areas, grant opportunities for village branding and identity, and establish village mixed use to incentivize infill and development.	<ul style="list-style-type: none"> No land use regulation action required.
7.18	Update and enforce the temporary event ordinance to protect Nelson's rural character.	<ul style="list-style-type: none"> Reevaluate and modify Article 24 of the Zoning Districts to ensure the regulations for temporary events are sufficient for the County.
7.19	Support regional economic development partners that provide local business support services.	<ul style="list-style-type: none"> No land use regulation action required.
7.20	Work with TJPDC to implement recommendations from the regional Comprehensive Economic Development Strategy	<ul style="list-style-type: none"> No land use regulation action required.
Chapter 8 Serving the Community		
8.1	Expand and improve external government communications to increase transparency and public participation across all demographics through the use resources such as Nelson County websites and social media.	<ul style="list-style-type: none"> No land use regulation action required.
8.2	Enhance interdepartmental communication across County government as well as between the various public boards.	<ul style="list-style-type: none"> No land use regulation action required.
8.3	Create and maintain a comprehensive facility inventory, maintenance schedule, and level of service standards to protect existing investments and ensure sound planning and budgeting for facility improvements.	<ul style="list-style-type: none"> No land use regulation action required.

Strategy Number:	Strategy Text:	Action to be Taken in ZO + SO Update:
8.4	Ensure that the County is using up-to-date information technology and cybersecurity practices, including technological aptitude and data storage.	<ul style="list-style-type: none"> • No land use regulation action required.
8.5	Construct a new, centrally located facility to house additional administrative offices.	<ul style="list-style-type: none"> • No land use regulation action required.
8.6	Construct additional Sheriff facilities to allow for additional training and storage spaces.	<ul style="list-style-type: none"> • No land use regulation action required.
8.7	Renovate and modernize current Sheriff facilities to meet security standards.	<ul style="list-style-type: none"> • No land use regulation action required.
8.8	Identify possible mental health emergency service providers to support the community and reduce these burdens from the Sheriff's office. Consider that drug use is a facet of public safety, and pursue greater public education on this matter.	<ul style="list-style-type: none"> • No land use regulation action required.
8.9	Create a County-wide fire and emergency medical services (EMS) strategic plan that can be regularly updated and maintained to address response time, facility, and staffing needs.	<ul style="list-style-type: none"> • No land use regulation action required.
8.10	Expand fire and EMS facilities to include additional living spaces such as bunks, kitchenettes, and recreation areas.	<ul style="list-style-type: none"> • No land use regulation action required.
8.11	Ensure that the Emergency 911 operations center is fully supported, with paid staff and most up-to-date technological capabilities, to continue to respond to community needs as quickly as possible in the face of an aging population.	<ul style="list-style-type: none"> • No land use regulation action required.
8.12	Continually monitor public safety staffing needs, expanding as needed to maintain public safety as the County experiences additional residential and commercial growth.	<ul style="list-style-type: none"> • No land use regulation action required.
8.13	Pursue stronger community outreach and training on disaster readiness and resilience.	<ul style="list-style-type: none"> • No land use regulation action required.
8.14	Seek out stronger partnerships with community-based organizations to educate the public and collect more data on substance abuse in the population.	<ul style="list-style-type: none"> • No land use regulation action required.

Strategy Number:	Strategy Text:	Action to be Taken in ZO + SO Update:
8.15	Where possible, provide County information, services, and programs in both Spanish and English languages.	<ul style="list-style-type: none"> • No land use regulation action required.
8.16	Continue to work with regional partners to upgrade and develop necessary infrastructure to meet the County’s long- term water supply demand.	<ul style="list-style-type: none"> • No land use regulation action required.
8.17	Utilize results of the updated CVPDC water supply plan.	<ul style="list-style-type: none"> • Require a water and sewer impact analysis to accompany site plans and plats for any development that will utilize public water and sewer infrastructure.
8.18	Continue to work with the service authority to create a water and sewer master plan to identify current system needs and target long-term strategies to maintain and expand service areas.	<ul style="list-style-type: none"> • No land use regulation action required.
8.19	Promote water conservation practices to reduce water use and conserve the water supply.	<ul style="list-style-type: none"> • No land use regulation action required.
8.20	Work with regional partners to evaluate the needs of the County’s solid waste and recycling disposal as the regional landfill nears capacity.	<ul style="list-style-type: none"> • No land use regulation action required.
8.21	Support waste management and recycling planning through rational, cost effective, and environmentally-safe approaches.	<ul style="list-style-type: none"> • No land use regulation action required.
8.22	Assist in educating the community on recycling and waste reduction efforts.	<ul style="list-style-type: none"> • No land use regulation action required.
8.23	Continue the County’s partnership with Firefly Fiber Broadband to expand broadband services to all areas of the County.	<ul style="list-style-type: none"> • No land use regulation action required.
8.24	Promote the broadband expansion project with additional public outreach so that residents remain up to date on deployment and availability of services.	<ul style="list-style-type: none"> • No land use regulation action required.
8.25	Support expansion of cellular service quality and availability through cooperation with cellular providers. Evaluate the need for planning and zoning changes to improve service.	<ul style="list-style-type: none"> • Reevaluate and modify Article 20 of the Zoning Ordinance to ensure that the County’s telecommunication regulations are up to date with state and federal regulations and allow the wireless industry to supply adequate service to the community.
8.26	Support the creation of an up-to-date Nelson County Public School’s Master Plan that identifies and plans for critical needs of school facilities.	<ul style="list-style-type: none"> • No land use regulation action required.

Strategy Number:	Strategy Text:	Action to be Taken in ZO + SO Update:
8.27	Continue to monitor student enrollment to ascertain short-term and long-term needs of students	<ul style="list-style-type: none"> • No land use regulation action required.
8.28	Support educational programs through County schools, community centers, community organizations, and regional community colleges to help prepare the community workforce for employment.	<ul style="list-style-type: none"> • No land use regulation action required.
8.29	Develop a strategy for greater investment in personnel, facilities, and/or public-private partnership as needed to expand access to childcare programs.	<ul style="list-style-type: none"> • Define and allow for family day homes as a use in all residential and agricultural zoning districts pursuant to the Code of Virginia §15.2-2292.
8.30	Create a Parks and Recreation Master Plan that identifies gaps in equitable services and opportunities to expand recreation across the community.	<ul style="list-style-type: none"> • No land use regulation action required.
8.31	Investigate and pursue options to create a centralized County-owned recreational facility to offer athletic fields, aquatic recreation, and exercise opportunities to the community.	<ul style="list-style-type: none"> • No land use regulation action required.
8.32	Continue partnerships with local organizations, such as community centers, to provide recreation opportunities across the community.	<ul style="list-style-type: none"> • Consider creating use standards for community centers to ensure that accessory uses, such as outdoor recreation and education, are allowed.
8.33	Create additional family- friendly parks and amenities throughout the County to provide alternative recreational areas for residents.	<ul style="list-style-type: none"> • Consider including parks and other similar recreational amenities as a permitted use in appropriate Zoning Districts.
8.34	Partner with local and regional organizations, as well as private landowners, to increase access to natural areas and riverways.	<ul style="list-style-type: none"> • No land use regulation action required.
8.35	Create a joint public- private partnership with Nelson County’s community centers to facilitate coordination between different organizations, increase programming, and connect residents with their services.	<ul style="list-style-type: none"> • No land use regulation action required.
8.36	Promote the use of school buildings, community centers, long-term care facilities, and multi- use facilities for citizens year-round.	<ul style="list-style-type: none"> • No land use regulation action required.
8.37	Continue to work with the County library to ensure that it meets the needs of the community.	<ul style="list-style-type: none"> • No land use regulation action required.
8.38	Encourage emergency, long-term care, and urgent medical care in appropriate areas of the County.	<ul style="list-style-type: none"> • Consider adding emergency, long-term care, and urgent medical care facilities as a permitted use or use by special use permit in appropriate Zoning Districts.

Strategy Number:	Strategy Text:	Action to be Taken in ZO + SO Update:
8.39	Work with Virginia Department of Health, and other regional partners, to identify community health needs and increase the availability of healthcare services.	<ul style="list-style-type: none"> • No land use regulation action required.
8.40	Continue to work with Jaunt and other regional transportation providers to expand transportation access to better connect residents to medical care.	<ul style="list-style-type: none"> • No land use regulation action required.
8.41	Pursue public-private partnerships to expand access to and capacity for social service networks.	<ul style="list-style-type: none"> • No land use regulation action required.

Prepared By:

