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1.0 INTRODUCTION

The purpose of this Request for Proposal (RFP) by the Town of Abingdon, Virginia ("Town") is to solicitsealed proposals from interested planning and zoning consultants, multi-disciplinary firms, or teams (Offeror) for a comprehensive update to the Town's Zoning Ordinance and Subdivision Ordinance to include review, analysis, and rewrite of the ordinances.

2.0 BACKGROUND

The Town of Abingdon is an independent town located in the ridge and valley region of Southwest Virginia. It is the county seat of Washington County and encompasses 8.3 square miles, serving a population of approximately 8,000. Abingdon is located along Interstate 81 and is part of the Bristol-Kingsport-Johnson Town metropolitan statistical area, commonly known as the Tri-Cities region. Abingdon is home to the iconic Barter Theatre, as well as numerous businesses, outdoor attractions, non-profit organizations, and a vivacious historic district.

The existing Zoning and Subdivision Ordinances were last thoroughly evaluated and comprehensively re-written in 1993, respectively. In the ensuing time, many changes, both major and minor, have been made to the text of the ordinances, including the addition of districts and overlays to the Zoning Ordinance. Additionally, new ways of thinking about planning and zoning combined with new techniques and principles for implementing adopted plans offer ways to improve the efficiency and effectiveness of Town planning and zoning. The adoption of the new Comprehensive Plan in October of 2020 also affords the opportunity for taking a holistic approach to developing a new Zoning Ordinance and Subdivision Ordinance.

In early 2020, the Town hired a consultant to conduct a land use policy evaluation of the Zoning and Subdivision Ordinances to assess how each of the land use ordinances comply with the requirements of the Code ofVirginia. In addition to reviewing these regulations for compliance, a diagnostic matrix was created for each ordinance to analyze and critique their structure, content and focus. This document is provided as Attachment H.

Additional Resources:

- Comprehensive Plan:
  https://abingdon-va.gov/wp-content/uploads/2020/09/AbingdonCompPlan_draft_8.28.2020.pdf

- Code of Ordinances:
  https://library.municode.com/va/abingdon/codes/code_of_ordinances

3.0 SCOPE OF WORK

With assistance from Town Staff, the selected Offeror will develop new Zoning and Subdivision Ordinances for the Town of Abingdon. The scope of work shall consist of, but is not limited to, the following:

- Restructuring/re-writing the Zoning and Subdivision Ordinances into streamlined, clear, and user-friendly documents that are easy to navigate and translate by the public, and simple to enforce by the Town.
- Updating the ordinances to fully comply with all the Zoning and Subdivision provisions required by the Code of Virginia.
- Updating/re-writing definitions in both the Zoning and Subdivision Ordinances to enhance clarity and reduce the need for interpretation. Illustrations and color coordination should be considered, where appropriate, to add clarification.

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- Reviewing the Comprehensive Plan to ensure the new Zoning and Subdivision Ordinances are updated/re-written to reinforce the vision, goals, and objectives of the plan. For example, among other things, the Zoning Ordinance should be updated to:
    - Encourage areas with a mix of uses (residential and nonresidential) and allow different housing types and lot sizes.
    - Promote the development of more single-family detached and duplex housing units.
    - Promote the development of lower cost and affordable housing (both for rental and homeownership).
    - Expand opportunities for infill development, and the reuse and redevelopment of existing and underutilized structures and properties.
    - Promote walkable neighborhoods.
    - Provide off-street parking to adequately meet demand and provide access to key destinations, businesses, and services, without creating oversupply.
    - Adapt to new trends and demands while ensuring that new development and redevelopment of residential, commercial, and industrial properties will be compatible with existing land uses and with planned land uses of surrounding properties.
- Conducting evaluation and analysis of alternatives and recommendations as to the best regulatory methods by which various components of zoning could be addressed including, for example, the following:
    - Whether a system of civil penalties for certain violations is best practice.
    - What impact proposed ordinance provisions have on the form and character of development.
    - The effectiveness of master planned zones and overlay zones have in achieving desired results.
    - Whether the Town should initiate a comprehensive rezoning of all property within the Town to reflect long-term goals of the Comprehensive Plan.
    - What other concepts, suggestions, or ideas that may arise from public outreach.
- Developing a public outreach strategy in consultation with Town staff. The strategy might include, but is not limited to, reaching out to the general public and various stakeholder groups such as Town Council, Planning Commission, town staff, residents, business owners, the development community, and other community groups.
- Preparing drafts of the Zoning Ordinance, including illustrations, for review by staff and the Planning Commission, culminating in a final version to be reviewed by the Planning Commission for recommendation to the Town Council for final action.
- The ordinances need to function online with Municode.

The Town acknowledges that other Town regulations and requirements, such as the Building Code, also influence development. This work should include recommendations for amending other Town regulations and requirements to support updates to the Zoning and Subdivision Ordinances. However, updating other Town regulations and requirements is anticipated to be outside the scope of this work.

The Town's new Sign Ordinance was recently adopted on September 8, 2020. Offerors will not be required to provide significant work to these section; however, some amendments may be necessary to support updates to other sections of the Zoning Ordinance and for best practice.

Throughout the entire process, interaction is expected with the Town, including extensive interaction with the Director of Community Development, the Town Planner, the Director of Public Works, the Town Engineer, the Economic Development Director and the Town Attorney. It is anticipated that members of the Town's Planning Commission will play a role in the process.

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4.0 PRE-PROPOSAL MEETING

No pre-proposal meeting will be held for this solicitation.

5.0 PROPOSAL REQUIREMENTS

The proposal shall provide information necessary for the Town to evaluate the qualifications, experience, and expertise of the proposing firm to provide for a comprehensive update to the Town's Zoning and Subdivision Ordinances.

The Offeror is to make a written proposal, which presents an understanding of the work to be performed. The proposal should demonstrate and provide evidence that the Offeror has the capabilities, professional expertise, and experience to provide the necessary services as described in this RFP. The Offeror shall ensure that all information required herein is submitted with the proposal. All information provided should be verifiable by documentation requested by the Town of Abingdon. Proposals shall be signed by an authorized representative of the Offeror.

In order to enhance the evaluation process and provide each firm an equal opportunity for consideration, adherence to a standardized technical proposal format is required. Responses should be as thorough and detailed as possible so that the Town may properly evaluate the firm's capabilities to provide the required services. Unnecessarily elaborate brochures of other presentations beyond that sufficient to present a complete and effective proposal is not desired. Elaborate artwork, expensive paper, bindings, visual and other presentation aids are not required.

The format of each proposal must contain the following elements organized into separate chapters and sections in the order shown below:

TAB 1	• Cover Sheet (first page of this RFP), completed; • Table of Contents – all pages are to be numbered; • Cover Letter/Executive Summary on company letterhead signed by a person with the corporate authority to enter into any contract which results from the RFP.
TAB 2	**QUALIFICATIONS & EXPERIENCE** • Business Organization and Credentials – Describe the length of time in business, experience, strengths in the industry and business philosophy as well as organization charts and principals of business. • Project Team Members - List the members of the project team, their roles in the project, who will be in charge of the project, who will be the principal liaison with the Town, and who will make public presentations, as well as, current workload and availability of team members. Provide resumes of key staff, highlighting their qualifications and experience. • List of subcontractors/subconsultants, if applicable. • Previous Projects – Provide a brief description of at least four (4) similar projects previously conducted. • References - Provide at least four (4) current or recent client references for whom your company has provided similar goods and services. Include contact name, agency name, phone number, e-mail address, brief description of the project, and project start and end dates.
TAB 3	**STATEMENT OF WORK** • Overview - Summarize how your organization will meet the needs set forth in this RFP. Offerors should ensure they have addressed all items requested in the Scope of Work (Section 3.0).

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	• Project Management Approach/Methodology – Provide a detailed description of the approach and methodology to be used to accomplish the scope of work of this RFP. • Schedule – Provide detailed information on your proposed schedule for completing the project.
TAB 4	**REQUIRED FORMS** • Attachment B. Proprietary/Confidential Information Identification Form • Attachment C. State Corporation Commission (SCC) Form • Attachment D. Non-Collusion Affidavit • Attachment F. Insurance Requirements Form • Attachment G. Notice of Exceptions
TAB 5	**ADDENDA**, signed *(if any)*
TAB 7	**MISCELLANEOUS** The Offeror may also provide additional information that may be useful, including information on other services that may not be specified in this RFP.

6.0 GENERAL TERMS & CONDITIONS FOR THE TOWN OF ABINGDON, VA

Offerors shall review and take into consideration all aspects of the Town's General Terms and Conditions listed in Attachment A.

7.0 INSURANCE REQUIREMENTS

Offerors shall complete and return with their proposal Attachment F. Insurance Requirements Form.

8.0 INSTRUCTIONS TO OFFERORS

All proposals must be in an opaque, sealed envelope or box and clearly marked: "**Sealed Proposal: Zoning and Subdivision Ordinance Updates RFP".** Proposals shall clearly indicate the legal name, address and telephone number of the Offeror (company, firm, partnership, or individual). All expenses for making the proposal to the Town shall be borne by the Offeror.

Offerors shall provide five (5) identical paper copies and one (1) identical electronic PDF copy (on CD or thumb drive) of the proposal documents. If proprietary/confidential information is identified (Attachment B), Offeror is required to submit a redacted copy of their proposal in addition to the required number of proposals requested. Redacted copy should be provided in electronic PDF format on CD or thumb drive. All electronic copies shall be exact PDF scanned copies of the original, signed, completed documentation.

Proposal documents shall be mailed or hand-delivered to the **Community Development Department located at 133 West Main Street, First Floor, Abingdon, VA 24210**. Office hours are Monday through Friday, 8:30am to 5:00pm, except Town holidays (https://abingdon-va.gov/wp-content/uploads/2019/10/2020-Holiday-Payday-

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Calendar.pdf). Faxed or emailed proposals will not be accepted. Proposals shall be received by the Purchasing Office no later than **December 4, 2020 at 3:00pm local time.** Any proposals received after this date and time will not be accepted. The Town of Abingdon is not responsible for delays in the delivery of the mail by the U.S. Postal Service, private couriers, or the inter-office mail system. The Offeror has the sole responsibility to have the proposal received by the Abingdon Community Development Department at the above address and by the above stated time and date. Proposals will not be publicly opened.

All documents contained within the proposal submission shall be completed in their entirety and signed and dated where required.

9.0 QUESTIONS

Questions related to the RFP or requests for clarification shall be directed to Mr. Jason Boswell, Director of Community Development for the Town of Abingdon, by email (jboswell@abingdon-va.gov) or by fax (276-628-9986). Oral questions will not be permitted. All responses to inquiries will be in writing and will be posted as addenda on eVA at www.eva.virginia.gov. All questions must be received no later than **November 23, 2020 at 12:00pm (noon) local time.** It is the responsibility of all Offerors to ensure that they have received all addenda and to include signed copies of any and all addenda with their proposal submission.

10.0 PROPOSAL EVALUATION CRITERIA

Selection of the successful proposal will be based upon submission of proposals meeting the selection criteria. Proposal evaluations will be based on a points scale, using the following minimum selection criteria.

1. **Qualifications, Experience, and Past Performance:** The specific professional competence, and qualifications of the proposing firm and personnel. Current and past experience of firm and professional staff to be assigned in providing similar services. References and previous client evaluations to include documented experience in performing and completing similar tasks/services in a professional, efficient, and timely manner.

2. **Project Understanding & Approach:** A clearly demonstrated understanding of the work to be performed and completeness and reasonableness of the proposing firm's plan for accomplishing the Scope of Work.

3. **Responsiveness:** The Offeror's ability to deliver the required services in a timely manner and in accordance with the Scope of Work, including the reasonableness of the schedule proposed by the Offeror.

4. **Cost:** Cost will not be the sole deciding factor in the selection process but will be considered in the case of this RFP.

5. **Ability to Follow Directions:** The Offerors' ability to follow the proposal preparation instructions set forth in this solicitation including the failure to return required pages, missing signatures, missing documents, etc. and will also be considered to be an indicator of the Offerors' ability to follow instructions should they receive an award as a result of this solicitation.

As part of the evaluation process, the Town may ask questions of a clarifying nature from Offerors as required. Proposal pricing must be firm and allow the Town's acceptance for sixty (60) days from proposal acceptance date to allow the Town to negotiate a contract. The Town may also request an oral presentation to explain the proposal and answer questions.

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If, in the Town's opinion, Offeror presentations or demonstrations of the proposal are warranted, the Town will notify the selected Offerors. Such presentation or demonstration will be at a Town site at a date and time mutually agreed to between the Town and Offeror and travel will be at the Offeror's expense.

The Town reserves the right to cancel this RFP at any time or reject any or all proposals received as a result of this RFP if it is in the best interest of the Town. The Town reserves the right to waive any informality in any proposal.

11.0 AWARD OF CONTRACT

Selection shall be made of two (2) or more Offerors deemed to be fully qualified and best suited among those submitting proposals, on the basis of the factors involved in the request for proposals, including price if so stated in the Request for Proposal. Negotiations shall then be conducted with each of the Offerors so selected. Price shall be considered but need not be the sole determining factor. After negotiations have been conducted with each Offeror so selected, the Town shall select the Offeror which, in its opinion, has made the best proposal, and shall award the contract to that Offeror. Should the Town determine in writing and in its sole discretion that only one (1) Offeror is fully qualified, or that one (1) Offeror is clearly more highly qualified than the others under consideration, a contract may be negotiated and awarded to that Offeror. The Town is not required to furnish a statement of the reason(s) why a proposal was not deemed to be the most advantageous. Once the selection has been made as to which Offeror will be awarded the contract, the Director of Community Development will post a Notice of Award on eVA at www.eva.virginia.gov.

The Town, in its sole discretion, may add subsequent tasks to the scope of work, each of which will be separately negotiated before award.

The award documentation will subsequently be followed by a contract incorporating by reference all the requirements, terms and conditions of the solicitation, and the Offeror's proposal as negotiated.

Successful Offeror shall contact the Commissioner of Revenue's Office to obtain proper business licensing for the Town of Abingdon, if it does not already possess (540-432-7707).

The Town reserves the right to award a contract(s) to as many Offeror(s) as deemed necessary to fulfill the anticipated requirements of the Town of Abingdon.

12.0 CONTRACT TERM

The subsequent contract will be a firm-fixed price contract anticipated for an 18- to 24-month term with the anticipated contract start date of January 1, 2021.

The contract term shall commence upon contract signature and will continue through the project completion or as otherwise negotiated.

13.0 PAYMENT TERMS

The Town will issue payments based on progress of the work and percentage completed. Offerors should provide their recommended payment schedule with their proposal submission.

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ATTACHMENT A. GENERAL TERMS & CONDITIONS FOR THE TOWN OF ABINGDON, VA (REV. 08-06-19)

These General Terms & Conditions shall apply to all purchases and be a part of every contract awarded by the Town of Abingdon unless otherwise specified in writing. Bidders/Offerors are expected to inform themselves fully as to the conditions, requirements and specifications before submitting bids/proposals. Procurement by the Town is subject to the Virginia Public Procurement Act (VPPA) Title 2.2, Chapter 43 of the Code of Virginia and the provisions of The Purchasing and Contracting Policy Manual for the Town of Abingdon and any revisions thereto. If an inconsistency exists, the VPPA Virginia Code sections take precedence.

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DEFINITIONS

ADDENDUM/ADDENDA: Addition(s) or supplement(s) to a solicitation to clarify, modify or support information which becomes part of the contract.

BID: The offer of a prospective vendor/supplier to an Invitation To Bid to provide specific goods or services at specified prices and/or other conditions specified in the solicitation.

BIDDER/OFFEROR: Any individual, company, firm, corporation, partnership or other organization who submits a response to an Invitation to Bid or a Request for Proposal and offering to enter into a contract with the Town.

COLLUSION: A secret agreement or cooperation between two or more parties to accomplish a fraudulent, deceitful, or unlawful purpose.

CONFLICT OF INTEREST: An actual or potential situation in which the personal interests of a vendor, employee or public official are, or appear to be, in conflict with the best interests of the Town.

CONTRACTOR: The entity that has a direct contract with the Town to furnish goods, services or construction for a certain price.

TOWN or OWNER: Town of Abingdon, Virginia.

DAY(S): Defined as calendar days unless otherwise specified as business days.

INFORMALITY: A minor defect or variation of a bid or proposal from the exact requirements of the Invitation to Bid or Request for Proposal which does not affect the price, quality, quantity or delivery schedule for the goods, services or construction being procured.

INVITATION TO BID (ITB): A formal request which is made to prospective suppliers (bidders) for their quotation on goods, services, or construction desired by the Town. The issuance of an ITB will contain or incorporate by reference the specifications and contractual terms and conditions applicable to the procurement.

PROFESSIONAL SERVICES: Any type of professional service performed by an independent contractor within the practice of accounting, actuarial services, architecture, dentistry, land surveying, landscape architecture, law, medicine, optometry, pharmacy, or professional engineering (which shall be procured as set forth in the Code of Virginia). **2.2-4301**

PROPOSAL: The document submitted by the offeror in response to the RFP to be used as the basis for negotiations for entering into a contract.

PURCHASING AGENT: The individual employed and given authority by the Abingdon Town Council by adoption of the Town of Abingdon Purchasing and Contracting Policy Manual. Purchasing Agent may also be referred to as Director of Community Development.

REQUEST FOR PROPOSAL (RFP): A formal request for a proposal from prospective offerors which will indicate the general terms which are sought to be procured from the offeror and where negotiations are conducted to come to a final contract. The RFP will specify the evaluation criteria to be used and will contain or incorporate by reference other contractual terms and conditions applicable to the procurement.

RESPONSIBLE BIDDER/OFFEROR: An individual, company, firm, corporation, partnership or other organization having the capability in all respects to perform fully the contract requirements, and also having the moral and business integrity and reliability which will assure good faith performance.

RESPONSIVE BIDDER/OFFEROR: An individual, company, firm, corporation, partnership or other organization having submitted a bid/proposal which conforms in all material respects to the ITB or RFP.

SOLICITATION: A formal document issued by the Town with the intent to purchase goods, services or construction. Can be either an Invitation To Bid or a Request For Proposal.

SWAM: Small, Women, and Minority-owned businesses.

SUBCONTRACTOR: A business entity that has a contract to supply labor or materials to the prime contractor to whom the contract was awarded or to any subcontractor in the performance of the work provided for in such contract.

CONDITIONS OF BIDDING

BID PRICE CURRENCY: Unless stated otherwise in the solicitation, bidders/offerors shall state bid/proposal prices in US dollars.

BID/PROPOSAL ACCEPTANCE PERIOD: Unless otherwise specified, all bids/proposals submitted shall be binding and may not be withdrawn for sixty (60) days following the bid/proposal opening date and time, unless extended by mutual consent of all parties. If the bid/proposal is not withdrawn at that time it remains in effect until an award is made or the solicitation is cancelled.

CANCELLATION OF SOLICITATIONS: 2.2-4319 An ITB, RFP or any other solicitation may be cancelled or rejected, but shall not be cancelled or rejected solely to avoid awarding a contract to a particular responsive and responsible bidder/offeror. The reasons for cancellation shall be made part of the contract file.

TOWN HALL CLOSURE: If Town Hall is closed for business at the time scheduled for the bid opening, for whatever reasons, sealed bid/proposal will be accepted and opened on the next business day of the Town, at the original scheduled hour.

CLARIFICATION of TERMS: 2.2-4316 If any prospective bidder/offeror has questions about the specifications or other solicitation documents, the prospective bidder/offeror should contact the person identified in the solicitation no later than five (5) business days before the due date. Any revisions to the solicitation will be made only by addendum issued by the Town.

CONFLICT OF INTEREST/COLLUSION: Contractor certifies by signing their bid/proposal submission to the Town, that no conflict of interest or collusion exists between the Contractor and Town that interferes with fair competition and no conflict of interest or collusion exists between Contractor and any other person or organization that constitutes a conflict of interest with respect to the contract with the Town.

DEBARMENT STATUS: By signing their bid/proposal, the bidders/offerors certify that they are not currently debarred from submitting bids/proposals on contracts from any agency, public entity/locality or authority of the Commonwealth of Virginia.

DISCRIMINATION PROHIBITED: **2.2-4310** In the solicitation or awarding of a contract the Town shall not discriminate against a bidder/offeror because of race, religion, color, sex, national origin, age, disability, status as a service disabled veteran, or any other basis prohibited by state law relating to discrimination in employment. The Town encourages the participation of SWAM and Veteran-Owned businesses (as defined in 2.2-4310(F) in public procurement activities. Towards that end, the Town encourages

contractors to provide for the participation of SWAM/Veteran-Owned businesses through partnerships, joint ventures, subcontracts, and other contractual opportunities.

ERRORS IN BIDS/PROPOSALS: When an error is made in extending total prices, the unit price will govern. Bidders/Offerors are cautioned to recheck their bids/proposals for possible errors prior to submission.

ETHICS IN PUBLIC CONTRACTING: 2.2-4371 By submitting their bids/proposals, the bidders/offerors certify that their bids/proposals are made without collusion or fraud and that they have not offered or received any kickbacks or inducements from any other bidder/offeror, supplier, manufacturer or subcontractor in connection with their bid/proposal, and that they have not conferred on any public employee having official responsibility for this procurement transaction any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal or minimal value, present or promised, unless consideration of substantially equal or greater value was exchanged.

EXCUSABLE DELAY: The Town shall not be in default of any failure in performance of this agreement in accordance with its terms if such failure arises out of causes beyond its reasonable control and without the fault of or negligence of the Town. Such causes may include, but are not restricted to acts of God or the public enemy, fires, flood, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather, but in every case the failure to perform must be beyond the reasonable control and without the fault or negligence of the Town.

LICENSES, PERMITS and FEES: All proposals submitted shall have included in price the cost of any business or professional licenses, permits or fees required by the Town of Abingdon or the Commonwealth of Virginia. At or prior to delivery of the signed contract, the bidder/offeror to whom the contract is awarded shall deliver to the Town a copy of their Town Business License (if applicable). The bidder/offeror shall ensure that the Business License indicates a basis amount equal to or greater than the awarded Contract value. For information on Town Business Licenses contact the Abingdon Commissioner of the Revenue's office at 540-432-7704. The bidder/offeror must have all necessary licenses to perform the services in the Commonwealth of Virginia and, if practicing as other than an individual, be authorized to do business in the Commonwealth of Virginia.

MANDATORY USE of TOWN FORMS AND TERMS and CONDITIONS for ITBs AND RFPs: Failure to submit a bid/proposal on the official Town form(s) provided or in the format identified, for that purpose shall be a cause for rejection of the bid/proposal. Unauthorized modification of or additions to any portion of the ITB or RFP may be cause for rejection of the bid/proposal. The Town reserves the right to decide, on a case by case basis, in it's sole discretion, whether to reject any bid/ proposal which has been modified. As a precondition to its acceptance of an ITB response, the Town may, in its sole discretion, request that the bidder withdraw or modify nonresponsive portions of a bid which do not affect quality, quantity, price, or delivery. No modification to the provisions of the contract shall be effective unless the modification is incorporated into the contract document.

MODIFICATION & WITHDRAWAL OF BIDS/PROPOSALS: 2.2-4330

1. A bidder for a public construction contract, other than a contract for construction or maintenance of public highways, may withdraw his bid from consideration if the price bid was substantially lower than the other bids due solely to a mistake in the bid, provided the bid was submitted in good faith, and the mistake was a clerical mistake as opposed to a judgment mistake, and was actually due to an unintentional arithmetic error or an unintentional omission of a quantity of work, labor or material made directly in the compilation of a bid, which unintentional arithmetic error or unintentional omission can be clearly shown by objective evidence drawn from inspection of original work papers, documents and materials used in the preparation of the bid sought to be withdrawn.

   If a bid contains both clerical and judgment mistakes, a bidder may withdraw his bid from consideration if the price bid would have been substantially lower than the other bids due solely to the clerical mistake, that was an unintentional arithmetic error or an unintentional omission of a quantity of work, labor or material made directly in the compilation of a bid that shall be clearly shown by objective evidence drawn from inspection of original work papers, documents and materials used in the preparation of the bid sought to be withdrawn.
2. The bidder shall give notice in writing of his claim of right to withdraw his bid within two business days after the conclusion of the bid opening procedure and shall submit original work papers with such notice.
3. No bid shall be withdrawn under this section when the result would be the awarding of the contract on another bid of the same bidder or of another bidder in which the ownership of the withdrawing bidder is more than five percent.
4. If a bid is withdrawn in accordance with this section, the lowest remaining bid shall be deemed to be the low bid.
5. No bidder who is permitted to withdraw a bid shall, for compensation, supply any material or labor to or perform any subcontract or other work agreement for the person or firm to whom the contract is awarded or otherwise benefit, directly or indirectly, from the performance of the project for which the withdrawn bid was submitted.
6. The public body shall notify the bidder in writing within five business days of its decision regarding the bidder's request to withdraw its bid. If the public body denies the withdrawal of a bid under the provisions of this section, it shall state in such

notice the reasons for its decision and award the contract to such bidder at the bid price, provided such bidder is a responsible and responsive bidder. At the same time that the notice is provided, the public body shall return all work papers and copies thereof that have been submitted by the bidder.

7. These procedures also apply for the withdrawal of bids for other than construction contracts.
8. A bidder/offeror may modify or withdraw his bid/proposal, either personally or by written request to the Purchasing office at any time prior to the scheduled time for opening of bids/proposals.

PUBLIC INSPECTION OF CERTAIN RECORDS: 2.2-4342 Public inspection of all records is strictly governed by Code of Virginia 2.2-4342 and in accordance with the Virginia Freedom of Information Act (VA Code 2.2-3700 et seq). Any inspection of procurement transactions shall be subject to reasonable restrictions to ensure the security and integrity of the records. Cost estimates relating to a proposed procurement transaction prepared by or for a public body shall not be open to public inspection.

REVISIONS to the OFFICIAL ITB/RFP: No bidder/offeror shall modify, revise, edit or make any unauthorized change(s) to the original official ITB/RFP. The official solicitation document and the Addenda(um) are the documents posted on the eVA website (www.eva.virginia.gov). Any such violation as stated above may result in rejection of the ITB/RFP response. In addition, violations may result in the debarment of the bidder/offeror by the Town of Abingdon.

TAXES: Sales to the Town of Abingdon are normally exempt from State sales tax. Virginia Sales and Use Tax Certificate of Exemption, Form ST-12, will be issued upon request. The Town may also be exempt from other taxes and fees.

AWARD

CONTRACT AWARD

For ITB: The award(s) made in response to an ITB will be made to the lowest responsive and responsible bidder(s) for each item, or group of items indicated in the bid. The Town reserves the right to make the sole determination of whether the product and/or options offered meet the minimum specifications and is acceptable in accordance with the specifications. The Town's decision shall be final. The Town reserves the right to make a separate award for each item, a group of items or all items, and to make awards either in whole or in part, whichever is deemed by the Town to be in its best interest. Delivery time lines may be a factor in making an award.

For RFP: The award(s) made in response to an RFP will be made to the highest qualified offeror whose proposal is determined to be the most advantageous to the Town, taking into consideration the evaluation criteria set forth in the RFP. After negotiations, the offeror who has made the best proposal and provides the best value shall be awarded the contract.

Professional services shall be procured and awarded by competitive negotiation as set forth in 2.2-4302.2 A 4.

The Town reserves the right to cancel a solicitation at any time and to reject any or all bids/proposals, in whole or in part, to waive any informality and to delete items prior to making the award(s), whenever it is deemed in the sole opinion of the Town to be in its best interest.

NEGOTIATION WITH THE LOWEST BIDDER: 2.2-4318 Unless all bids are canceled or rejected, the Town reserves the right to negotiate with the lowest responsive and responsible bidder to obtain a contract price within the funds available to the Town whenever such low bid exceeds the Town's available funds for the project. The Town shall initiate such negotiations by written notice to the lowest responsive, responsible bidder that its bid exceeds the available funds and the Town wishes to negotiate a lower contract price. The times, places and manner of negotiating shall be agreed to by the Town and the lowest responsive, responsible bidder.

PRECEDENCE of TERMS: General Terms and Conditions shall apply in all instances with the exceptions for projects funded by the Federal Highway Administration (FHWA) and by the Federal Transportation Administration (FTA). In the event there is a conflict between the General Terms and Conditions and any Federal, Special, Standard, or Supplementary Terms and Conditions in this solicitation, the Federal, Special, Standard, or Supplementary Terms and Conditions shall apply.

QUALIFICATIONS of BIDDERS/OFFERORS: The Town may make such reasonable investigations as deemed proper and necessary to determine the responsibility and ability of the bidder/offeror to perform the services/furnish the goods and the bidder/offeror shall furnish to the Town all such information and data for this purpose as may be requested. The Town reserves the right to inspect bidder's/offeror's physical facilities prior to award to satisfy questions regarding the bidder's/offeror's capabilities. The Town further reserves the right to reject any bid/proposal if the evidence submitted by, or investigations of, such bidder/offeror fails to satisfy the Town that such bidder/offeror is properly qualified to carry out the obligations of the contract and to provide the services and/or furnish the goods contemplated therein.

SELECTION PROCESS/NOTICE OF AWARD: Upon the award or the announcement of the decision to award a contract as a result of this solicitation, the Purchasing office will publicly post such notice and/or will notify all responsive bidders/offerors. The Town posts all Notice of Awards on **eVA at www.eva.virginia.gov.**

CONTRACT PROVISIONS

ANTI-DISCRIMINATION: By submitting their (bids/proposals), (bidders/offerors) certify to The Town of Abingdon that they will conform to the provisions of the Federal Civil Rights Act of 1964, as amended, as well as the Virginia Fair Employment Contracting Act of 1975, as amended, where applicable, the Virginians With Disabilities Act, the Americans With Disabilities Act and § 2.2-4311 of the Virginia Public Procurement Act (VPPA).If the award is made to a faith-based organization, the organization shall not discriminate against any recipient of goods, services, or disbursements made pursuant to the contract on the basis of the recipient's religion, religious belief, refusal to participate in a religious Contractor, or on the basis of race, age, color, gender or national origin and shall be subject to the same rules as other organizations that contract with public bodies to account for the use of the funds provided; however, if the faith-based organization segregates public funds into separate accounts, only the accounts and programs funded with public funds shall be subject to audit by the public body. (Code of Virginia, § 2.2-4343.1E).

In every contract over $10,000 the provisions in 1and 2 below apply:

1. During the performance of this contract, the contractor agrees as follows:

   a. The contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the contractor. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
   b. The contractor, in all solicitations or advertisements for employees placed by or on behalf of the contractor, will state that such contractor is an equal opportunity employer.
   c. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting these requirements.

2. The contractor will include the provisions of 1above in every subcontract or purchase order over $10,000, so that the provisions will be binding upon each subcontractor or vendor.

ANTITRUST: By entering into a contract, the contractor conveys, sells, assigns, and transfers to the Town all rights, title and interest in and to all causes of action it may now have or hereafter acquire under the antitrust laws of the United States and the Commonwealth of Virginia, relating to the particular goods or services purchased or acquired by the Town under said contract.

APPLICABLE LAWS and COURTS: This solicitation and any resulting contract shall be governed in all respects by the laws of the Commonwealth of Virginia, excluding its conflict of laws provisions, and venue for litigation with any respect thereto shall be proper only in the Circuit Court of Washington County, Virginia. The contractor shall comply with all applicable federal, state and local laws, rules and regulations.

ASSIGNMENT of CONTRACT: A contract shall not be assignable by the contractor in whole or in part without the written consent of the Town.

CHANGES to the CONTRACT: Changes can be made to the contract in any of the following ways:

1. The parties by mutual agreement in writing, to modify the terms, conditions or scope of the contract subject to item 2. below. Any additional goods or services to be provided shall be of a sort that is ancillary to the contract goods or services, or within the same broad product or service categories as were included in the contract award. Any increase or decrease in the price of the contract resulting from such modification shall be agreed to by the parties as a part of their written agreement to modify the scope of the contract.
2. A public contract may include provisions for modification of the contract during performance, but no fixed-price contract may be increased by more than twenty-five percent (25%) of the amount of the contract or $50,000, whichever is greater, without the advance written approval of the Abingdon Town Council. In no event may the amount of any contract, without adequate consideration, be increased for any purpose, including, but not limited to, relief of a bidder/offeror from the consequences of an error in its (bid/offer). **2.2-4309**
3. The Director of Community Development (or Town delegated agent) may order changes within the general scope of the contract at any time by written notice to the contractor. Changes within the scope of the contract include, but are not limited to, things such as services to be performed, the method of packing or shipment, and the place of delivery or installation. The contractor shall comply with the notice upon receipt unless the contractor intends to claim an adjustment to compensation, schedule, or other contractual impact that would be caused by complying with such notice, in which case the contractor shall, in writing, promptly notify the Town of the adjustment to be sought, and before proceeding to comply with the notice, shall await the Town's written

decision affirming, modifying, or revoking the prior written notice. If the Town decides to issue a notice that requires an adjustment to compensation, the contractor shall be compensated for any additional costs incurred as the result of such order and shall give the Town a credit for any savings. Said compensation shall be determined by one of the following methods:

a. By mutual agreement between the parties in writing; or
b. By agreeing upon a unit price or using a unit price set forth in the contract, if the work to be done can be expressed in units, and the contractor accounts for the number of units of work performed, subject to the Town's right to audit the contractor's records and/or to determine the correct number of units independently; or
c. By ordering the contractor to proceed with the work and keep a record of all costs incurred and savings realized. A markup for overhead and profit may be allowed if provided by the contract. The same markup shall be used for determining a decrease in price as the result of savings realized. The contractor shall present the Town with all vouchers and records of expenses incurred and savings realized. The Town shall have the right to audit the records of the contractor as it deems necessary to determine costs or savings. Any claim for an adjustment in price under this provision must be asserted by written notice to the Town within thirty (30) days from the date of receipt of the written order from the Town. If the parties fail to agree on an amount of adjustment, the question of an increase or decrease in the contract price or time for performance shall be resolved in accordance with the procedures for resolving disputes provided by the Disputes Clause of this contract or, if there is none, in accordance with the disputes provisions of the Town of Abingdon Purchasing and Contracting Policy Manual. Neither the existence of a claim nor a dispute resolution process, litigation or any other provision of this contract shall excuse the contractor from promptly complying with the changes ordered by the Town or with the performance of the contract generally.

CONTRACT EXECUTION: Per Town Code (Sec 3-1-2, 3-1-1), the Town Manager and the Assitant Town Manager shall have authority to execute all contracts and agreements on behalf of the Town except as otherwise directed by the Abingdon Town Council in specific instances.

CONTRACTUAL DISPUTES: Contractual claim procedures shall be as per Code of VA **2.2-4363**.

COOPERATIVE PROCUREMENT: 2.2-4304 Except as prohibited by the current Code of Virginia 2.2-4304, all resultant contracts will be extended, with the authorization of the contractor, to other public bodies to permit their ordering of supplies and/or services at the prices and terms of the resulting contract. If any other public body decides to use the final contract, the Contractor must deal directly with that public body concerning the placement or orders, issuance of the purchase order, contractual disputes, invoicing and payment. The Town acts only as the "Contracting Officer" for these public bodies. Any resulting contract with other public bodies shall be governed by the laws of that specific entity. It is the Contractor's responsibility to notify the public bodies of the availability of the contract. The Town shall not be held liable for any costs or damage incurred by another public body as a result of any award extended to that public body by the Contractor.

DEFAULT: In case of failure to deliver goods or services in accordance with the contract terms and conditions, the Town, after due oral or written notice, may procure items of a comparable quality from other sources and hold the contractor responsible for any resulting additional costs above the contract price when purchases are made in the open market. This remedy shall be in addition to any other remedies, which the Town may have.

DRUG-FREE WORKPLACE: 2.2-4312 During the performance of this contract, the contractor agrees to: (i) provide a drug-free workplace for the contractor's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the contractor that the contractor maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract or purchase order of over $10,000, so that the provisions will be binding upon each subcontractor or vendor.

IMMIGRATION REFORM and CONTROL ACT OF 1986: 2.2-4311.1 By submitting their bids/proposals, bidders/offerors certify that they do not and will not during the performance of this contract employ illegal alien workers or otherwise violate the provisions of the federal Immigration Reform and Control Act of 1986.

INDEMNIFICATION: Contractor agrees to indemnify, defend and hold harmless the Town, its officers, agents, volunteers, and employees against any and all liability, losses, damages, claims, causes of action, suits of any nature, cost, and expenses, including attorney's fees, resulting from or arising out of Contractor's or it's agent's and subcontractor's negligent activities or omissions, or from which the Contractor would have legal liability outside of contract.

INSURANCE: By signing and submitting a bid/proposal under this solicitation, the bidder/offeror certifies that if awarded the contract, it will have insurance coverages per the solicitation document at the time of contract execution. For construction contracts, if any subcontractors are involved, the subcontractor will have workers' compensation insurance in accordance with **2.2-4332** and

65.2-800 et seq. of the Code of Virginia. The bidder/offeror further certifies that the contractor and any subcontractors will maintain these insurance coverages during the entire term of the contract and that all insurance coverages will be provided by insurance companies authorized to sell insurance in Virginia by the Virginia State Corporation Commission.

LIABILITY AND LITIGATION: The Town shall not indemnify or hold harmless any contractor or other third party. The Town does not waive any right or release any party from liability, whether on its own behalf or on behalf of any boards, employees or agents. The Town does not waive the right to trial by jury for any cause of action arising from the contract and shall not submit any contract claim to binding arbitration or mediation. The Town shall not be liable to contractor for any special, punitive or exemplary damages arising from the performance of the contract, including, but not limited to, incidental damages, and lost profit and lost wages, even if such special damages are reasonably foreseeable. Any provision(s) in the contract contrary to these statements is/are hereby deleted and rendered void.

NONDISCRIMINATION OF CONTRACTORS: 2.2-4343.1H A bidder, offeror, or contractor shall not be discriminated against in the solicitation or award of this contract because of race, religion, color, sex, national origin, age, disability, faith-based organizational status, any other basis prohibited by state law relating to discrimination in employment or because the bidder or offeror employs ex-offenders unless the state agency, department or institution has made a written determination that employing ex-offenders on the specific contract is not in its best interest. If the award of this contract is made to a faith-based organization and an individual, who applies for or receives goods, services, or disbursements provided pursuant to this contract objects to the religious character of the faith-based organization from which the individual receives or would receive the goods, services, or disbursements, the public body shall offer the individual, within a reasonable period of time after the date of his objection, access to equivalent goods, services, or disbursements from an alternative provider.

PAYMENT: 2.2-4352 – 2.2-4354

1. To Prime Contractor:
   Invoices for items ordered, delivered and accepted shall be submitted by the contractor directly to the payment address shown on the purchase order/contract. Any payment terms requiring payment in less than 45 days will be regarded as requiring payment 45 days after invoice or delivery, whichever occurs last. This shall not affect offers of discounts for payment in less than 45 days, however. All goods or services provided under this contract or purchase order, that are to be paid for with public funds, shall be billed by the contractor at the contract price.

   The following shall be deemed to be the date of payment: the date of postmark in all cases where payment is made by mail, or the date of offset when offset proceedings have been instituted as authorized under the Virginia Debt Collection Act. Individual contractors shall provide their social security numbers, and proprietors, partnerships, and corporations shall provide the Town with a federal employer identification number, prior to receiving any payment from the Town. The Town requires an updated IRS Form W-9 be filed with the Purchasing Office at or before the contract is signed.

   Unreasonable Charges: Under certain emergency procurements and for most time and material purchases, final job costs cannot be accurately determined at the time orders are placed. In such cases, contractors should be put on notice that final payment in full is contingent on a determination of reasonableness with respect to all invoiced charges. Charges which appear to be unreasonable will be researched and challenged, and that portion of the invoice held in abeyance until a settlement can be reached. Upon determining that invoiced charges are not reasonable, the Town shall promptly notify the contractor, in writing, as to those charges which it considers unreasonable and the basis for the determination. A contractor may not institute legal action unless a settlement cannot be reached within thirty (30) days of notification.

   The provisions of this section do not relieve the Town of its prompt payment obligations with respect to those charges which are not in dispute **(2.2.4363).**

2. To Subcontractors:
   A contractor awarded a contract under this solicitation is hereby obligated to pay the subcontractor(s) within seven (7) days of the contractor's receipt of payment from the Town for the proportionate share of the payment received for work performed by the subcontractor(s) under the contract; or;

   Notify the Town and the subcontractor(s), in writing, of the contractor's intention to withhold payment and the reason.
   The contractor is obligated to pay the subcontractor(s) interest at the rate of one percent per month (unless otherwise provided under the terms of the contract) on all amounts owed by the contractor that remain unpaid seven (7) days following receipt of payment from the Town, except for amounts withheld as stated in (2) above. The date of mailing of any payment by U. S. Mail is deemed to be payment to the addressee. These provisions apply to each sub-tier contractor performing under the primary contract. A contractor's obligation to pay an interest charge to a subcontractor may not be construed to be an obligation of the Town. Any such contract awarded shall further require the contractor to include in each of its subcontracts a provision requiring each subcontractor to include or otherwise be subject to the same payment and interest requirements with respect to each lower-

tier subcontractor. A contractor's obligation to pay an interest charge to a subcontractor may not be construed to be an obligation of the Town.

SAFETY and OSHA STANDARDS: All parties performing services for the Town shall comply with all Occupational Safety and Health Administration (OSHA), State Occupational Health Standards, and any other applicable rules and regulations. All parties shall be held responsible for the training, supervision, and safety of their employees. Any unsafe acts or hazardous conditions that may cause injury or damage to any persons or property within and around the work site areas under this contract shall be remedied per the regulatory agency's guidelines.

TERMINATION: Subject to the provisions below, the contract may be terminated by the Town upon thirty (30) days advance written notice to the other party. Any contract cancellation notice shall not relieve the contractor of the obligation to deliver and perform on all outstanding orders issued prior to the effective date of cancellation.

1. Termination for Convenience: In the event that the contract is terminated upon request and for the convenience of the Town, without the required thirty (30) days advance notice, then the Town shall be responsible for payment of services up to the termination date.
2. Termination for Cause: Termination by the Town for cause, default or negligence on the part of the contractor shall be excluded from the foregoing provision; termination costs, if any shall not apply. However, the Town may hold the contractor responsible for any resulting additional purchase and administrative costs. The thirty (30) day advance notice requirement is waived in the event of Termination for Cause.
3. Termination Due to Unavailability of Funds: Agreements are made subject to the appropriation of funds (including grant funds, gifts or donations) by the Abingdon Town Council and are null and void in the event of non-appropriation by the Town Council. Non-appropriation of funds shall not be deemed a cancellation and shall terminate this agreement without recourse and with no liability on the part of the Town.

SPECIFICATIONS

CONDITION OF ITEMS: Unless otherwise specified in the solicitation, all items shall be new, latest edition/model in first class condition.

FORMAL SPECIFICATIONS: When a solicitation contains a specification which states no substitutes, no deviation therefrom will be permitted and the bidder will be required to furnish articles in conformity with that specification.

USE OF BRAND NAMES: 2.2-4315 Unless otherwise provided in this solicitation, the name of a certain brand, make or manufacturer does not restrict bidders/offerors to the specific brand, make or manufacturer named, but conveys the general style, type, character, and quality of the article desired. Any article which the public body, in its sole discretion, determines to be the equal of that specified, considering quality, workmanship, economy of operation, and suitability for the purpose intended, shall be accepted. The bidder/offeror is responsible to clearly and specifically identify the product being offered and to provide sufficient descriptive literature, catalog cuts and technical detail to enable the Town to determine if the product offered meets the requirements of the solicitation. This is required even if offering the exact brand, make or manufacturer specified. Normally in competitive sealed bidding only the information furnished with the bid will be considered in the evaluation. Failure to furnish adequate data for evaluation purposes may result in declaring a bid nonresponsive. Unless the bidder/offeror clearly indicates in its bid/proposal that the product offered is an "equal" product, such bid/proposal will be considered to offer the brand name product referenced in the solicitation. The Town reserves the right to determine the suitability of substituted items for those specified and to accept in whole or in part any and all bids/proposals received.

DELIVERY

DEFECTS OR IMPROPRIETIES: In instances where there is a defect or impropriety in an invoice or in the goods or services received, the Town shall notify the supplier of the defect or impropriety, if the defect or impropriety would prevent payment by the payment date. The notice shall be sent within (30) thirty days after receipt of the invoice or the goods or services.

TESTING AND INSPECTION: 2.2-4302.1 The Town reserves the right to conduct any test/inspection it may deem advisable to assure goods and services conform to the specifications. Materials or components that have been rejected by the Town, in accordance with the terms of the contract, shall be replaced by the Contractor at no cost to the Town.

TRANSPORTATION AND PACKAGING: All materials shipped to the Town must be shipped Free On Board (FOB) Destination unless otherwise stated in the contract. By submitting their bids/proposals, all bidders/offerors certify and warrant that the price offered for FOB destination includes only the actual freight rate costs at the lowest and best rate and is based upon the actual weight of the goods to be shipped. Except as otherwise specified herein, standard commercial packaging, packing and shipping containers shall be used. All shipping containers shall be legibly marked or labeled on the outside with purchase order number, commodity description, and quantity.

ATTACHMENT B. PROPRIETARY/CONFIDENTIAL INFORMATION IDENTIFICATION FORM

Code of Virginia 2.2-4342F *(updated 07/01/18)*: "Trade secrets or proprietary information submitted by a bidder, offeror, or contractor in connection with a procurement transaction or prequalification application submitted pursuant to subsection B of § 2.2-4317 shall not be subject to the Virginia Freedom of Information Act (§ 2.2-3700 et seq.); however, the bidder, offeror, or contractor shall (i) invoke the protections of this section prior to or upon submission of the data or other materials, (ii) identify the data or other materials to be protected, and (iii) state the reasons why protection is necessary. A bidder, offeror, or contractor shall not designate as trade secrets or proprietary information (a) an entire bid, proposal, or prequalification application; (b) any portion of a bid, proposal, or prequalification application that does not contain trade secrets or proprietary information; or (c) line item prices or total bid, proposal, or prequalification application prices."

Trade secrets or proprietary information shall be identified in writing on this form, either before or at the time the data or other material is submitted. Note: If proprietary/confidential information is identified, Bidder/Offeror must submit a redacted copy (in electronic PDF format) of their bid/proposal in addition to the required number of copies requested. The proprietary or trade secret material must be clearly identified in the redacted bid/proposal copy by a distinct method such as highlighting or underlining and must indicate only the specific words, figures, or paragraphs that constitute a trade secret or proprietary information. The designation of an entire proposal document, line item prices, and/or total proposal prices as proprietary or trade secrets is not acceptable. If, after being given reasonable time, the offeror refuses to withdraw such a classification designation, the proposal will be rejected.

Name of Bidder/Offeror:_____

SECTION/TITLE	PAGE NUMBER(S)	REASON(S) FOR WITHHOLDING FROM DISCLOSURE

**Bidder/Offeror may attach additional sheets if necessary*

ϒ **Check this box if there are none.**

ATTACHMENT C. STATE CORPORATION COMMISSION (SCC) FORM

STATE CORPORATION COMMISSION IDENTIFICATION NUMBER: Pursuant to Code of Virginia 2.2-4311.2 subsection B, a bidder/offeror organized or authorized to transact business in the Commonwealth pursuant to Title 13.1 or Title 50 is required to include in its bid/proposal the identification number issued to it by the State Corporation Commission (SCC) and shall not allow the identification number to lapse, be revoked or cancelled at any time during the term of the contract. Any bidder/offeror that is not required to be authorized to transact business in the Commonwealth as a foreign business entity under Title 13.1 or Title 50 or as otherwise required by law is required to include in its bid/proposal a statement describing why the bidder/offeror is not required to be so authorized. A link to the SCC site is at http://www.scc.virginia.gov.

Select one of the following boxes. **The undersigned Offeror :**

☐ is a corporation or other business entity with the following SCC identification number:_____.

☐ is not a corporation, limited liability company, limited partnership, registered limited liability partnership, or business trust.

☐ is an out-of-state business entity that does not regularly and continuously maintain as part of its ordinary and customary business any employees, agents, offices, facilities, or inventories in Virginia (not counting any employees or agents in Virginia who merely solicit orders that require acceptance outside Virginia before they become contracts, and not counting any incidental presence of the Offeror in Virginia that is needed in order to assemble, maintain, and repair goods in accordance with the contracts by which such goods were sold and shipped into Virginia from bidder's out-of-state location).

☐ is an out-of-state business entity that is including with this bid an opinion of legal counsel which accurately and completely discloses the undersigned Offeror's current contacts with Virginia and describes why those contacts do not constitute the transaction of business in Virginia within the meaning of § 13.1-757 or other similar provisions in Titles 13.1 or 50 of the Code of Virginia. ***Attach opinion of legal counsel to this form.***

☐ has not completed any of the foregoing options but currently has pending before the SCC an application for authority to transact business in the Commonwealth of Virginia and wishes to be considered for a waiver to allow them to submit the SCC identification number after the due date for bids/proposals. The Town reserves the right to determine in its sole discretion whether to allow such waiver.

Signature:_____ **Date:** _____

Name: _____ **Title:** _
(Print)

Name of Firm: _____

ATTACHMENT D. NON-COLLUSION AFFIDAVIT

Under oath, I hereby affirm under penalty of perjury:

(1) That I am the offeror or a partner of the offeror, or an officer or employee of the offeror's corporation with authority to sign on its behalf;

(2) That the attached proposal or proposals have been arrived at by the offeror and have been arrived at and submitted without collusion or any design to limit bidding or competition;

(3) That the contents of the proposal or proposals have not been communicated to any person not an employee or agent of the offeror on any bid furnished with the proposal or proposals, and will not be communicated to any such person prior to the official opening of the proposal or proposals; and

(4) That I have fully informed myself regarding the accuracy of the statements made in this affidavit.

Signature:_____ **Date:** _____

Name: _____ **Title:** _____
(Print)

Name of Firm: _____

TOWN OF_____,

STATE OF_____, to wit:

I,_____, a Notary Public, do certify

that_____whose name is signed to

the foregoing has this date acknowledged the same before me in my Town foresaid.

Given under my hand this_____day of_____, 20___.

My Commission expires_____.

_____
Notary Public

ATTACHMENT E. TOWN OF ABINGDON SAMPLE STANDARD CONTRACT

STANDARD CONTRACT

CONTRACT #: _____

This Contract entered into [Date], by _____ hereinafter called the "Contractor" and the Town of Abingdon, VA, called the "Owner".

WITNESSETH that the Contractor and the Owner, in consideration of the mutual covenants, promises and agreements herein contained, agree as follows:

SCOPE OF CONTRACT: The Contractor shall provide [goods/services] to the Owner as set forth in the Contract Documents.

PERIOD OF PERFORMANCE: From _____ through_____ with _____ renewal options.

The contract documents shall consist of:

(1) This signed form;

(2) The entire Town of Abingdon's Official solicitation (no revisions by the Contractor) dated: _____. If applicable, any Official Town Addenda: #1, dated:_____;

(3) The Contractor's Bid/Proposal response dated _____and the following negotiated modifications to the Bid/Proposal (if applicable), all of which are incorporated herein.

IN WITNESS WHEREOF, the parties have caused this Contract to be duly executed intending to be bound thereby.

CONTRACTOR:	TOWN OF ABINGDON (OWNER):
By: _____	By: _____
(Signature)	(Signature)
_____	_____
(Printed Name)	(Printed Name)
Title:_____	Title: _____

Note: This form is just for reference and is NOT required to be submitted with your proposal submission.

ATTACHMENT F. INSURANCE REQUIREMENTS FORM

By signing and submitting a bid or proposal the vendor certifies that if awarded the contract, they will have the following insurance coverages at the time the contract is awarded. If any subcontractors are involved, the subcontractor will have the same insurance. The contractor further certifies that they or any subcontractor will maintain these coverages during the entire term of the contract.

1.) The contractor will maintain a general liability policy with $1,000,000 combined single limits with a $2,000,000 aggregate. Coverage is to be on an occurrence basis with an insurer licensed to conduct business in the Commonwealth of Virginia. The insurer must have an A. M. Best rating of A- or better. **The insurer must list the Town of Abingdon as an additional insured. The endorsement must be issued by the insurance company. A notation on the certificate of insurance is not sufficient.**

2.) The contractor will maintain automobile liability insurance with limits of at least $1,000,000. The coverage is to be written with a symbol "1". The insurer must be licensed to conduct business in the Commonwealth of Virginia. The insurer must have an A. M. Best rating of A- or better.

3.) The contractor will maintain workers' compensation coverage in compliance with the laws of the Commonwealth of Virginia. The coverage must have statutory limits and be with an insurer licensed to conduct business in the Commonwealth of Virginia. The insurer must have an A. M. Best rating of A- or better. As an alternative, it is acceptable for the contractor to be insured by a group self insurance association that is licensed by the Virginia Bureau of Insurance. The contractor will also carry employers liability insurance with a limit of at least $100,000 bodily injury by accident/$500,000 bodily injury by disease policy limit/$100,000 bodily injury by disease each employee.

Please provide the Town with two (2) documents upon request:

1.) Certificate of Insurance (COI) for the Town of Abingdon, 133 West Main Street, Abingdon, VA 24210. COI must show the Additional Insured status.

2.) Additional Insured Endorsement issued by the insurance company to show the Additional Insured addition was made to the policy.

BIDDER/OFFEROR STATEMENT

We understand the Insurance Requirements of these specifications and will comply in full if awarded this contract.

Signature:_____ **Date:** _____

Name: _____ **Title:** _____
(Print)

Name of Firm: _____

****This document shall be completed & returned with proposal submission.***

ATTACHMENT G. NOTICE OF EXCEPTIONS

Name of Bidder/Offeror:_____

List exceptions to any portions of ITB/RFP (i.e. General Terms & Conditions, Federal Terms & Conditions, Special Terms & Conditions):

_____
_____
_____
_____
_____
_____
_____
_____
_____
_____
_____
_____
_____
_____

ϒ Check this box if there are none.

NOTE: THIS FORM IS NOT REQUIRED OR REQUESTED TO BE COMPLETED IN THE FOLLOWING INSTANCES. IF YOU FEEL THIS FORM DOES NOT APPLY TO YOUR SOLICITATION, PLEASE SELECT ONE OF THE FOLLOWING BOXES AND RETURN THIS FORM WITH YOUR BID/PROPOSAL SUBMISSION.

ϒ Per Virginia Code § 2.2-4302.2 (3): "In the case of a **proposal for information technology**, as defined in § 2.2-2006, a public body shall not require an offeror to state in a proposal any exception to any liability provisions contained in the Request for Proposal. Negotiations shall then be conducted with each of the offerors so selected. The offeror shall state any exception to any liability provisions contained in the Request for Proposal in writing at the beginning of negotiations, and such exceptions shall be considered during negotiation."

ϒ Per Virginia Code § 2.2-4302.2 (4): "**For architectural or engineering services**, the public body shall not request or require offerors to list any exceptions to proposed contractual terms and conditions, unless such terms and conditions are required by statute, regulation, ordinance, or standards developed pursuant to § 2.2-1132, until after the qualified offerors are ranked for negotiations."

This document shall be completed & returned with proposal submission.

ATTACHMENT H. TOWN OF ABINGDON, LAND USE POLICY EVALUATION

Town of Abingdon

Land Use Policy Evaluation | 3.30.20

BERKLEY GROUP

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This diagnostic report recommends actions that will improve the ability of all stakeholders to more easily understand, administer, and use Abingdon's land use tools.

Purpose and Scope

The Zoning and Subdivision Ordinances are the key tools used by localities to regulate the use, development, and subdivision of land. To better position the Town of Abingdon for a future ordinance update, the Town commissioned a study to examine its primary land use ordinances for compliance with the *Code of Virginia* and other best practices.

The Berkley Group, a Virginia-based local government consulting firm, was retained by the Town and given the following tasks:

I. Analyze the zoning and subdivision regulations found in the Town of Abingdon, Virginia, including the Town Charter.

II. Provide best practice recommendations, along with recommendations for alignment with applicable Town policy documents, including the Comprehensive Plan and any other policies as directed by Town staff.

III. Incorporate known ordinance strengths and weaknesses as provided by Town staff knowledgeable with the zoning and subdivision regulations.

IV. Develop draft ordinance language for a content-neutral sign ordinance. This draft sign ordinance language has been provided to the Town as a separate deliverable from this evaluation.

Process

The project began with a kick-off meeting with Town staff to discuss broad community goals and specific issues with the Town's ordinances. This meeting was followed by a comprehensive review of Abingdon's Zoning and Subdivision Ordinances to assess how each of these land use ordinances comply with the requirements of the *Code of Virginia*. A diagnostic matrix was created for each ordinance to address compliance with each pertinent state code and to analyze and critique each ordinance's structure, content, and focus. These diagnostic matrices are located in the appendices of this report for easy reference and examination.

This report identifies actions the Town of Abingdon should take that will strengthen the capacity of the respective ordinances to comply with the *Code of Virginia* requirements. Specific actions are also recommended to improve the consistency, clarity, and completeness of the Zoning and Subdivision Ordinances. These recommended changes will improve the ability of public officials, citizens, and other stakeholders to more easily understand, administer, and use these land use ordinances.

Zoning Ordinance

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Diagnostic Matrix

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Subdivision Ordinance

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Diagnostic Matrix

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Town Input

FINAL REPORT & ANALYSIS

The Town's land use ordinances should be revised to reflect current best practices in zoning and land use; to strengthen and enhance the ordinances' ability to implement the vision, goals, and objectives of the Town's Comprehensive Plan; and to improve clarity and ease of use by taking the following actions:

Zoning & Subdivision Ordinance

I. The Zoning Ordinance and the Subdivision Ordinance should be restructured into streamlined, clear, and user-friendly documents. Combining both ordinances into a single consistent ordinance would help to achieve these objectives.

II. Both ordinances should be updated to comply with the *Code of Virginia* requirements identified in the Zoning and Subdivision Diagnostic Matrix recommendations.

III. Definitions for both ordinances should be updated to enhance clarity, reduce the need for interpretation, and ensure that all terms and uses are fully defined.

IV. Both ordinances should be reviewed and updated annually with the Planning Commission and Town Council. This best practice technique will ensure that the ordinance maintains compliance with the *Code of Virginia* and will keep the town's land use tools relevant and responsive to the needs of the community.

Zoning Ordinance

I. The OH, Old and Historic District, subareas should be evaluated for potential consolidation to ease administration, ensure consistent and equitable treatment, and promote economic development.

II. Uses should be modernized and streamlined to incorporate broader terms that can be applied to multiple uses. This is a business-friendly best practice that allows greater variety of uses without the need for zoning text amendments.

III. If desired by the Town, the ordinance could incorporate additional and/or clarified provisions, such as landscaping, tree canopy, site design, and additional performance standards for specific uses. These requirements can help support Comprehensive Plan goals and enhance community appearance and increase property value, among other benefits.

IV. Site plan requirements should be updated to align with the *Code of Virginia* and incorporate best practices, such as allowing administrative approval of minor site plans.

V. The proposed changes to the sign provisions should be adopted to remove reference to content-based signage in compliance with the ruling in Reed v. Town of Gilbert. The proposed changes also reorganize the sign requirements into tables by district, for simplicity and ease of use.

VI. Sections regulating zoning enforcement and non-conforming lots, uses, and structures should be reviewed and updated.

VII. Optional provisions in the *Code of Virginia* should be considered and adopted, as applicable to Abingdon. For example, conditional zoning provisions could help to ensure that future rezonings align with the goals of the Town's Comprehensive Plan.

Subdivision Ordinance

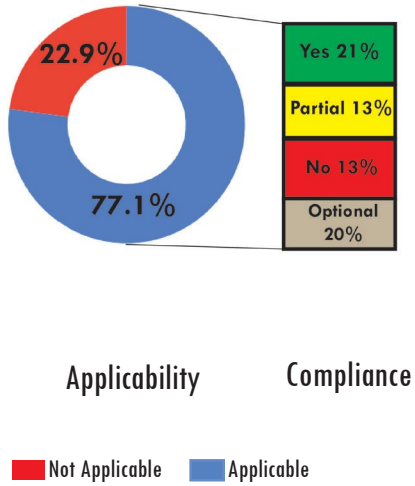
I. The Subdivision Ordinance could incorporate requirements for minor and major subdivisions. As a best practice, minor subdivisions should be approved administratively.

II. The ordinance should be reorganized such that all plat requirements, timelines, and administration elements are grouped into sections for ease of use.

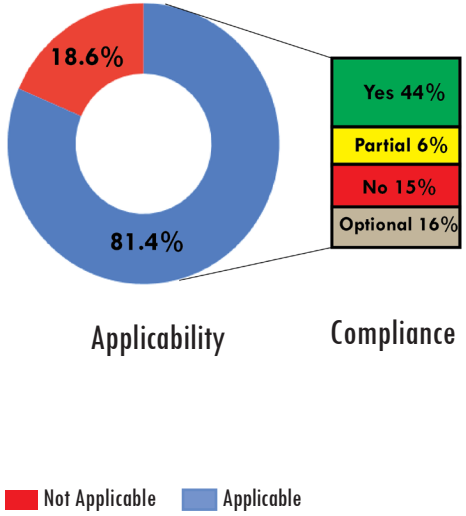
III. Optional provisions in the *Code of Virginia* should be considered and adopted, as applicable to Abingdon. For example, the Town should consider adopting the optional ordinance provisions found in the *Code of Virginia* §15.2-2242 including, but not limited to, voluntary funding of off-site road improvements and Phase 1 Environmental Assessment provisions.

State Code Compliance Analysis

Zoning Ordinance



Subdivision Ordinance



The Zoning Ordinance is the local code that provides regulations and requirements for the use and development of land. It is the primary instrument used by localities to implement the long-range vision found in the Comprehensive Plan. Abingdon's Zoning Ordinance can be updated and improved to better manage land development activities, enhance clarity, and ensure compliance with the *Code of Virginia*.

Administration

Abingdon's Zoning Ordinance does not have a specific article dedicated to administration of the ordinance. Administrative requirements are scattered throughout various articles and sections. These requirements should be consolidated and reorganized to the extent possible. This article should also incorporate the optional administrative provisions as recommended in the diagnostic matrix (Appendix A), such as requiring that the owner of the subject property in any land use permit application show that they do not have any outstanding debts, fees, or taxes owed to the Town.

Definitions

The definitions section of the ordinance should be reviewed and updated to ensure consistency, clarity, and ease of interpretation. The Town should ensure that every land use permitted in the ordinance has an accompanying definition. Additionally, the Town should enhance the clarity of definitions to avoid interpretation issues. Certain land use definitions should be reviewed for opportunities to consolidate uses under more general categories for easier administration, interpretation, and flexibility. For example, the current ordinance includes more than 20 different store and shop uses, some of which could be consolidated. Additionally, uses should be modernized to align with the current economy and provide flexibility to adapt to new uses.

These changes will enable the public to more easily answer common questions about land uses and reduce the need for determinations and interpretations from the Zoning Administrator and staff.

Zoning Districts

Abingdon's Zoning Ordinance does not clearly define the intent of each zoning district. The Town should consider and clearly articulate the intent and applicability of each zoning district, particularly as each district relates to the implementation of the Town's Comprehensive Plan. Abingdon should also consider the purpose and need to differentiate between various OH, Old and Historic District, subareas and consider consolidating the various areas to ease administration, ensure consistent and equitable treatment, and promote economic development. Zoning district regulations could also be streamlined with a chart that provides each district's required setbacks and general site dimensions.

Permitted and Special Uses

Abingdon's Zoning Ordinance contains a table of permitted uses by district (Appendix 3), which is a recommended best practice for zoning ordinances. This table should be evaluated to consider the applicability of uses to each zoning district to allow flexibility and ensure consistency with the *Code of Virginia* and the goals of the Town's Comprehensive Plan. For example, the Town may

consider revising the ordinance such that certain uses in lower intensity commercial and industrial districts are also allowed in higher intensity commercial and industrial districts. In addition, a greater variety of uses should be considered in the B2, General Business District, and along the Main Street Corridor as economic drivers. Uses within the OH, Old and Historic District, should be reviewed, and consolidation of subareas considered to ensure consistent and equitable treatment throughout the district. To ensure that the ordinance is legally defensible, uses with similar impacts should be regulated uniformly within each district.

The table should also be reviewed to maximize economic development and tourism opportunities. For example, uses such as small-scale manufacturing, breweries, distilleries, tasting rooms, and short-term rentals (e.g., AirBNB) can be permitted by-right or special use in appropriate commercial and industrial zoning districts to promote tourism. Home occupations, currently prohibited in the R-1, Residential District, should be reviewed and adapted to accommodate telecommuting, virtual employment, and the "gig" economy.

Use and Design Standards

Abingdon's Zoning Ordinance contains limited standards for uses and site design. In the current ordinance, use and design standards are scattered throughout Article 17 (General Standards) and Article 18 (Site Plan Review). Use standards should be consolidated under a single article, and similarly, site design standards should be consolidated under a single article. Standards for specific uses should be evaluated and additional standards added, as appropriate. For example, use standards for small cell telecommunications facilities should be incorporated to streamline the administrative approval process required for such uses by the *Code of Virginia*. Site design standards for landscaping, screening, buffers, and other requirements should also be reviewed, added, and/or further defined to ensure consistency of application and support implementation of Comprehensive Plan goals. In some cases, such as townhouses and manufactured homes, the need for special use permit requirements may be eliminated and compliance with the *Code of Virginia* achieved by incorporating use and design standards into the Zoning Ordinance.

Off-Street Parking Requirements

The Town should evaluate off-street minimum parking requirements for potential reductions to encourage the use of public transportation and active transportation methods, reduce development costs, and increase the efficient and productive use of land.

Site Plans

The Zoning Ordinance is currently lacking some required elements of site plans per the *Code of Virginia*. To fully comply with the *Code of Virginia*,

the Zoning Ordinance should include guidelines for the extension of approved site plans as well as for the appeal process if site plans extensions are denied. Additionally, it is recommended that the purpose, intent, submittal requirements, and review process is provided in one article without disbursing requirements and criteria in various zoning districts. This will prevent conflicting language and create a smoother application process.

The Town should also consider the potential of differentiating site plan requirements for minor and major site plans, as appropriate. Minor site plans typically have less stringent requirements and may be approved administratively, thereby easing the regulatory burden for small projects.

Signs

The Town's current sign ordinance has many provisions that would not withstand scrutiny following the recent Reed v. Town of Gilbert (2015) Supreme Court decision, which limited a locality's ability to enforce content-based regulations in the sign ordinance. The Berkley Group has provided a draft sign ordinance that should be adopted, following Planning Commission and Town Council review, to ensure that the Town's regulations are legally defensible in light of this ruling. The draft sign ordinance includes new content-neutral definitions and reorganizes the sign code for ease of administration and interpretation. The draft language also corrects administrative issues identified by staff, such as the method for calculating sign area.

Enforcement

The Town should review its enforcement procedures for compliance with the *Code of Virginia* and best practices. Specifically, the ability to obtain an inspection warrant to investigate a possible violation is not implemented in the existing ordinance. In order to better regulate land use and ensure compliance, the Town should adopt this permitted provision as a requirement.

In addition, the *Code of Virginia* §15.2-2286(A)(5) establishes penalties upon conviction of any violation of the Zoning Ordinance. The Town's current ordinance penalties are harsher than those allowed in the *Code of Virginia* and should be altered to mirror the specific ordinance language.

Nonconforming Uses, Lots, and Structures

As a result of annexations, Abingdon has many nonconforming lots and uses that are non-conforming (for example, land locked parcels). The requirements for nonconforming uses, lots, and structures should be reviewed and updated to provide clear standards for the development and use of nonconforming properties.

Conditional Zoning

The Town of Abingdon's Zoning Ordinance misses opportunities to implement conditional zoning that would allow the town to use more "flexible and adaptable zoning methods." These conditional zoning methods would help to ensure that new development promotes the goals of the Town and conforms with the Comprehensive Plan. The Town should consider adopting this optional development tool by mirroring the language found in the *Code of Virginia* §15.2-2296 and the relevant subsequent sections through §15.2-2303.

Federal and State Compliance

Any Zoning Ordinance update should incorporate current *Code of Virginia* references and address recent amendments to the *Code of Virginia*. Of note are federal telecommunications law and the aforementioned Supreme Court decision regarding sign regulations. The diagnostic matrix (Appendix A) itemizes each *Code of Virginia* section that must be addressed.

These specific, priority zoning recommendations should be considered by the Town of Abingdon to update its zoning ordinance and implement the Town's land development goals.

The Subdivision Ordinance is intended to establish the procedures and regulations for the subdivision of land within the Town of Abingdon. The ordinance accomplishes a number of objectives including the equitable and orderly division of land and to serve as a guide for future growth and development. The Subdivision Ordinance, as written, does not maximize the Town's ability to effectively guide and manage land development activities and, in several sections, is not in compliance with the *Code of Virginia*.

Recordation of Approved Plat, Transportation Implications

The ordinance does not address the termination of easements and rights-of-way. The Town should amend the current ordinances to include the *Code of Virginia* §15.2-2265.

Requirements of Bonding Process

The Town should mirror the language found in the *Code of Virginia* §15.2-2241.1 which sets the bonding requirements for the acceptance of dedication for public use of certain facilities and include a reference to the section.

Plat Proposal Factors

Many of the items listed as plat proposal factors in the *Code of Virginia* §15.2-2258 are not found in the Town's Subdivision Ordinance. The Town should adopt the missing items which include dam break zones, graves/burials, and joint locality control, and include a reference to the *Code of Virginia*.

Five Year Validity of Final Plats

The *Code of Virginia* requires final site plans be valid for five years or more. The current ordinance allows preliminary plats to be valid for five years, but Section 4.13 allows final plats to be valid for six months. The Town should update this section to comply with the *Code of Virginia* and include a reference to the *Code of Virginia* §15.2-2261.

Conflicting Zoning Conditions

The *Code of Virginia* provides precedence for site plans that are approved but in conflict with zoning conditions from previous rezoning approvals. The Town should adopt language mirroring §15.2-2261.1 of the *Code of Virginia* and reference it in the Subdivision Ordinances.

Minor Subdivisions

To ease administrative burden and to simplify the subdividing procedures, the Town should adopt provisions for minor subdivisions that allow staff to make approvals for these types of subdivisions.

Landlocked Parcels

Town staff called attention to land Abingdon annexed from the County. Under the current ordinances, there are no procedures to subdivide these parcels that do not have access to a public street. This issue should be reviewed and addressed in the ordinance update.

Optional Provisions

The *Code of Virginia* provides several optional provisions that the Town should consider during a revision of the Subdivision Ordinance. Specifically, the town should consider funding of off-site road improvements and the ability to require Phase I Environmental Assessments. A full listing of the optional provisions are provided in the Subdivision Ordinance Diagnostic Matrix (Appendix B).

Town Charter Analysis

The Town of Abingdon's Charter was reviewed as it pertains to the Town's ability to regulate land. The Charter contains statements of the general grants of power and adoption of certain sections of the *Code of Virginia*; however, it does not specifically modify or offer any additional powers beyond that permitted by the *Code of Virginia*. It is recommended that the Town update the references to the *Code of Virginia*.

The Town of Abingdon's Charter defines the boundaries of the Town, the form of government adopted by the Town, and the Town's specific powers. Although land use related powers are not the focus of the Charter, some of these powers can still be found in document.

1. **Schedule Town Council and Planning Commission Presentations.**
2. **Prioritize "Next Steps."**
3. **Set aside adequate funding to update land use tools as necessary.**
4. **Develop a realistic schedule and budget for updating land use tools. This can be done concurrently or one at a time.**

Abingdon's Town Council and Planning Commission should consider scheduling a work session to discuss these recommendations. A logical outcome of that work session would be an agreed upon prioritization of "Next Tasks". These tasks could include activities such as:

I. Adopting the draft amendments to the Town's sign ordinance.

II. Amending the Zoning and Subdivision Ordinances to ensure compliance with the *Code of Virginia* requirements.

III. Amending and consolidating the Zoning and Subdivision Ordinance, in accordance with the recommendations of this report to enhance clarity, consistency, and to reflect best practices included in this evaluation.

Developing a realistic schedule and budget to accomplish these tasks is strongly recommended. Adequate funding should be set aside to revise the existing land use ordinances to align the policy and regulatory land use tools. The tasks can be done incrementally (one at a time) or be completed concurrently. The Town 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.

Conclusions

The Town of Abingdon's desire to ensure an effective, efficient, and State-compliant Zoning and Subdivision Ordinance should be commended. As noted in this report, the Town's Zoning and Subdivision Ordinances require revision and restructuring for conformity with the *Code of Virginia* requirements, as well as best planning and zoning practices. The Town's sign code will also need to be updated to ensure compliance with the Reed v. Town of Gilbert Supreme Court decision.

The recommendations outlined in this report constitute a detailed analysis of the Town's Zoning and Subdivision Ordinances. Revising the Town's Zoning and Subdivision regulations according to these recommendations will ensure that the ordinances are legally defensible, ease administrative burden for staff, promote economic development, and support the Town's vision and goals. Keeping these land use tools up-to-date and in compliance with the *Code of Virginia* should be a commitment the Town upholds on an ongoing basis, including periodic reviews and amendments.

Zoning Ordinance Diagnostic Matrix 18

Subdivision Ordinance Diagnostic Matrix 27

Appendix A: Zoning Ordinance Diagnostic Matrix

Town of Abingdon Zoning Ordinance Diagnostic Matrix

	VA Code Section 15.2-	Intent	Compliance	Existing ZO Section	Consultant Comments/Recommendations
1	2204	Advertisement of plans, ordinances, etc.	Partial	No Reference	Recommend updating State Code reference and providing additional detail on requirements.
2	2209	Civil penalties for violations of zoning ordinance	Optional, Partial	Section 24-2(d)	Recommend the language regarding civil penalties more closely mirror the code. Recommend adopting and referencing a uniform schedule of penalties, as well as including the penalty limitations and violation options as described in State Code § 15.2-2209.
3	2209.1	Extension of approvals to address housing crisis	No	No reference	State Code § 15.2-2209.1 extends approvals 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. Locality should be aware of required extension.
4	2246	Site plans submitted in accordance with zoning ordinance	No	No reference	When site plans are required prior to issuance of a building permit to ensure zoning compliance, State Code § 15.2-2246 requires that site plans must be submitted in accordance with the requirements of State Code § 15.2-2241 through § 15.2-2245. Recommend acknowledgement of the applicable provisions specified in State Code § 15.2-2241 through § 15.2-2245 and include a reference to State Code § 15.2-2246.
5	2258	Site plan requirements for submission for approval	No	No reference	None of the items listed in State Code § 15.2-2258 (drainage district, dam break zone, graves/burial, joint locality control) are listed as a requirement for Site Plans in Section 18-4 of the Zoning Ordinance. Recommend including these provisions.
6	2259	Local planning commission or other agent to act on site plan	Partial	Section 18-7-3(b)(2)	State Code § 15.2-2259 establishes a required timeline for the review and approval or denial of site plans. The Zoning Ordinance currently establishes a requirement for the planning commission to approve, disapprove, or approve subject to specific conditions within 60 days of the date of the submission of the final site plan. Recommend amending to include a reference to Code § 15.2-2259 and update to include provisions for state agency review also found in Code § 15.2-2259(a).

	VA Code Section 15.2-	Intent	Compliance	Existing ZO Section	Consultant Comments/Recommendations
7	2261	Recorded plats or final site plans to be valid for not less than five years	No	Section 18-7-4	State code requires final site plans be valid for five years or more. The current ordinance allows one year to obtain a building permit with a possible extension of one year or the approved plan shall expire. Recommend updating this section to comply with and reference State Code § 15.2-2261.
8	2261.1	Recorded plat or final site plans; conflicting zoning conditions	No	No reference	The Zoning Ordinance does not contain a reference or state the requirements of this State Code section. Recommend including a reference and the State Code language in a section dedicated to rezoning.
9	2270	Vacation of interests granted to a locality as a condition of site plan approval	Partial	Subdivision Ordinance Article XI, Section 11	Section is addressed under the Subdivision Ordinance and should also be incorporated under Zoning Ordinance Article 18, Site Plan Review.
10	2280	Zoning general description	Yes	Article 1.	The purpose of the Zoning Ordinance is set forth. Recommend referencing State Code § 15.2-2280 to establish the legal authority to enact a zoning ordinance. Currently § 15.1-486 et seq is referenced.
11	2281	Zoning jurisdiction of Town and incorporation	Yes	Article 1	Recommend referencing State Code § 15.2-2281 to establish the legal jurisdiction for the zoning ordinance.
12	2282	Uniformity of regulations	No	No Reference	The Zoning Ordinance does not contain a reference or explicitly state the requirements of this State Code section. Recommend amending to state that the requirements of each zoning district should be applied uniformly to each class or kind of buildings and uses throughout each district.
13	2283	Purpose of zoning, mandatory provisions:	Partial	Article 1	The purpose of the Zoning Ordinance does not contain all requirements of State Code § 15.2-2283. Recommend amending to better align with language of State Code § 15.2-2283, as provided below, or supplying by reference only.
14		i. Light, air, convenience of access, fire, flood, impounding structure failure, crime	Partial	Article 1	Does not include crime or impounding (dam) structure failure.
15		ii. Reduction of streetcongestion	Yes	Article 1(2)	In compliance.
16		iii. Convenient, attractive, harmonious community	Yes	Article 1(3)	In compliance.

	VA Code Section 15.2-	Intent	Compliance	Existing ZO Section	Consultant Comments/Recommendations
17		iv. Adequate police and fire protection, evacuation, defense, transportation, water, sewage, flood protection, schools, parks, forests, playgrounds, recreation facilities, airports	Yes	Article 1(4)	In compliance.
18		v. Protection of historic areas and working waterfront development areas	Yes	Article 1(5)	In compliance, subsection 5 references protection of historic areas; working waterfront development areas is not applicable.
19		vi. Protect against: overcrowding, undue density, light and air obstruction, danger in transportation, public safety	Yes	Article 1(6)	In compliance.
20		vii. Economic development, employment, tax base	No	No reference	Recommend amending to include these provisions.
21		viii. Ag/Forestal and natural environment protection	No	No reference	Recommend amending to include these provisions.
22		ix. Protect airports, U.S. government and military facilities	N/A	N/A	Does not apply to Abingdon.
23		x. Create and preserveaffordable housing	No	No reference	Recommend amending to include these provisions.
24		xi. Provide against encroachment on military bases	N/A	No reference	Does not apply to Abingdon.
25		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	In 2018, this provision was added and requires the town to give consideration to the need for reasonable modifications in accordance with the Americans with Disabilities Act or state and federal fair housing laws when preparing a zoning ordinance. Recommend amending to include this provision.

	VA Code Section 15.2-	Intent	Compliance	Existing ZO Section	Consultant Comments/Recommendations
26	2283.1	Sexual offender rehab center residential prohibition	Yes	No reference	There is nothing in Zoning Ordinance that references this use; therefore, it is not permitted and is in compliance.
27	2284	Considerations in drawing zoning ordinance and districts	Partial	Various	Various zoning districts and sections of the ordinance refer to some of the elements of this State Code section. However, the Zoning Ordinance does not explicitly state the intent of this section, which is to establish the considerations that must be made for specific elements during the development and application of the Zoning Ordinance and zoning districts. Recommend including text in the introduction or purpose section that explicitly establishes the intention of this section, along with a reference to this code section. The purpose and intent of each zoning district should be expressly stated in the Zoning Ordinance.
28	2285	Ordinance and map development, adoption process	No	Section 25-1	State Code § 15.2-2285 allows up to 100 days for Planning Commission action, while Abingdon enables only 30 days for Planning Commission action. Recommend the town consider whether this expedited review time is desired.
29	2286	A. Permitted provisions in zoning ordinances.	Yes	Various	This State Code section provides optional provisions. The town should consider the provisions listed below for inclusion in the updated ordinance.
30		1. Variances and special exceptions	Yes	Various	Variances are referenced in several locations including: Section 22-2, Powers of the board of zoning appeals, Section 23-8, Permits and variances, and Section 15-10, Procedures for considering variances in the flood hazard districts. Recommend consolidating requirements.
31		2. Annexation or boundary adjustment provision	N/A	No reference	The town may consider annexation provisions and reference to State Code.
32		3. Governing body special exception permits; Special exception provisions for residential uses and affordable housing	Partial	Section 17-3; Section 5-2	Under Section 17-3, approval of special use permits is under the authority of Town Council, and Section 5.2 requires a special use permit for townhouses in the R-2 district subject to performance standards. State Code §15.2-2286 requires that conditions imposed on residential special use permits consider impacts to the affordability of the housing. Recommend amending Section 17.3 to clarify that Town Council may impose reasonable conditions on special use permits to mitigate the impacts of the proposed use, as permitted by applicable law.

	VA Code Section 15.2-	Intent	Compliance	Existing ZO Section	Consultant Comments/Recommendations
33		4. Zoning administrator authorities, provisions, processes	Partial	Section 25-3	Section 25-3 establishes the authority of the Zoning Administrator to enforce the provisions of the Zoning Ordinance with additional responsibilities identified throughout the ordinance. Recommend referencing this State Code section and mirror the language found in the State Code.
34		5. Imposition of penalties - misdemeanor fines	No	Section 24-2	Section 24-2 includes the penalty of confinement in jail, which State Code does not allow. Additionally, Section 24-2 allows for a fine of up to $2,500 per violation, per day. State Code allows for only a single $1,000 penalty per use. If the violation is not remedied within a time period established by the court, additional penalties may be added. Recommend mirroring the State Code and referencing this State Code section.
35		6. Collection of fees	Yes	Various	Appendix 2 includes a fee structure and the ordinance references the fee schedule for filing and processing applications as established by the Town Council. In addition, there are other references to fees. Maintaining a fee schedule outside of the Zoning Ordinance and consistent reference is a recommended best practice.
36		7. Zoning ordinance amendment timelines and process	Partial	Section 25-1	The ordinance includes basic language for amendments to the Zoning Ordinance and Zoning Map. Recommend including specific language for procedure and referencing the State Code.
37		8. Plan of development submission and approval	Yes	Article 18	Article 18 establishes that a site plan review is required before building permits can be issued.
38		9. Mixed use or PUD developments	Yes	Article 20	Article 20 includes provisions for a "Planned Unit Development" zoning district.
39		10. Incentive zoning administration	Yes	Articles 8A, 14, & 20	Incentive zoning is proposed in the Arts and Cultural District, the Planned Technology Development District, and the Planned Unit Development District. The town should thoroughly review and consider the applicability and effectiveness of current incentive requirements.
40		11. Downzoning tax credit	Optional, Not in Use	No reference	Downzoning tax credit not implemented in existing ordinance.
41		12. Environmental site assessments and review	Optional, Not in Use	No reference	Environmental site assessments not implemented in existing ordinance. Recommend considering adding environmental assessments as a tool for development review of applications when converting industrial land to residential use, if applicable in the town.
42		13. Environmental disclosure and remediation	Optional, Not in Use	No reference	Disclosure/remediation not implemented in existing ordinance. This requirement is typically applicable for industrial redevelopment projects.

	VA Code Section 15.2-	Intent	Compliance	Existing ZO Section	Consultant Comments/Recommendations
43		14. Single-family residential occupancy regulations	Yes	Section 26-159	Section 26-159 defines what constitutes a "family". The definition is common and can be utilized in specific design standards if the town has problems with over-occupancy and needs enforcement measures.
44		15. Zoning inspection warrants	Optional, Not in Use	No reference	The ability to receive an inspection warrant to investigate a possible zoning ordinance violation is not implemented in the existing ordinance. Recommend enabling this State Code and providing a reference.
45		B. Payment of outstanding debt, taxes, fees	Optional, Not in Use	No reference	The Zoning Ordinance does not include a requirement that any delinquent real estate taxes or debts be paid before approval of any applications. Recommend adopting this permitted provision as a requirement.
46	2286.1	Open space provision, cluster dwellings	N/A	N/A	This section only applies to localities with growth rates of 10%, but not to localities with population densities greater than 2,000 per square mile.
47	2288	Localities may not require special exception permits for certain agriculture activities	Yes	By-Right Use Table Section 3.1	The section of State Code states that localities are not permitted to require special exception permits for certain agricultural activities within an agricultural zoning district. The ordinance does not require special exceptions for agricultural activities in the agricultural, forestal, and open space district.
48	2288.01	Localities may not require special exception permits for small biomass conversion	No	No reference	The Zoning Ordinance does not mention biomass therefore small biomass conversion is not currently permitted. The use should be defined and permitted in the AFOS, Agricultural, Forestal, and Open Space District with potential additional incorporation of design standards.
49	2288.1	Localities may not require special exception permits for permitted residential use	No	Special Use Tables Sections 4-2 5-2, 6-2, 7-2 and Appendix 3	Special use permits are required for townhouses, manufactured home subdivisions, and mobile home parks within residential districts. Recommend establishing density and design requirements for these uses and providing by-right or prohibiting from districts that do not meet the intent and density.

	VA Code Section 15.2-	Intent	Compliance	Existing ZO Section	Consultant Comments/Recommendations
50	2288.2	Localities may not require special exception permits for certain temporary structures (tents)	N/A	No Reference	The Zoning Ordinance makes no mention of tents or temporary structures intended for private family events or events of three days or less. The ordinance does address temporary construction trailers. Recommend clarifying permitting and performance standards for temporary structures.
51	2288.3	Localities may not unduly regulate wineries	N/A	N/A	This section is only applicable to farm wineries and is intended to limit local government regulations on farm wineries as a booster to Virginia's agricultural industries. However, winery tasting rooms are becoming a common occurring throughout commercial areas in the Commonwealth. To accommodate winery tasting rooms and encourage their presence as an economic development and tourism opportunity, recommend consideration of tasting rooms as a by-right or special use in select zoning districts.
52	2288.3:1	Limited brewery license; local regulation of certain activities.	Yes	Special Use Table Section 8.2(b) By-Right Use Table Section 10.1	Microbreweries are included as special use and by-right uses in OH Old and Historic District and in all Business districts, respectively. Brewery is also defined. Recommend adding brewery to the list of permitted uses, as appropriate, and changing the definition of brewery to denote size requirements.
53	2288.3:2	Limited distiller's license; local regulation of certain activities.	N/A	N/A	Recommend including provisions for distilleries and a definition of a distillery that aligns with State Code.
54	2288.5	Definition and uses of cemetery	Yes	Section 26-79	Definition meets the State Code. Recommend adding specific standards for further compliance.
55	2288.6	Agricultural operations; local regulation of certain activities.	Partial	Section 3-1	Local regulation of agricultural uses partially aligns with what is permitted per State Code. Recommend defining and including agritourism as a permitted use.
56	2288.7	Solar facilities; local regulation	No	No reference	This section provides that a property owner may install a facility on the roof of a dwelling or other building for the electrical or thermal needs of that dwelling or building. The facility must comply with requirements of (i) height and setback in the zoning district where the property is located, and (ii) local historic or architectural preservation districts. Unless prohibited by ordinance, the same provisions apply to a ground-mounted solar energy generation facility. Such solar energy generation facilities existing as of January 1, 2018 shall be deemed as legal nonconforming use with certain exceptions. The bill also provides that localities can provide by-right

	VA Code Section 15.2-	Intent	Compliance	Existing ZO Section	Consultant Comments/Recommendations
					authority for the installation of solar facilities in any zoning classification. Recommend defining solar facilities and include a provision for small-scale and medium-scale facilities that are either allowed as by-right or as a special use.
57	2287	Optional requirement regarding property interest of local officials	Optional, In Use	Section7.5, Town Charter	This option is included in the Town Charter.
58	2289	Optional requirement of disclosure of real parties in interest for special exception permits	Optional, Not in Use	No reference	The town does not require a disclosure of interest or equity for use permits, rezonings or variances. The town may wish to consider adding this provision into the zoning ordinance.
59	2290	Manufactured housing uniformity (by-right in Ag areas)	No	Section 3-1	Recommend including manufactured housing as a by-right use in the use table in Section 3-1.
60	2291	Assisted living (group homes) of 8 or fewer residents	No	No reference	Definitions should be updated to align with state code. Assisted living and group homes of eight or fewer residents should be established as a by-right use in each zoning district that allows single family residences.
61	2292	Zoning provision/definition of family day home	Yes	Section 26-160	This code allows an administrative process for a family day home accommodating 5-12 children. If no written objections are received the ZA must issue the permit. If objections are received, the ZA may issue or deny or send it to the governing body. The current ordinance defines the use and requires licensing for family day homes of 5-12 children but does not supply it in the use tables. Recommend clarifying definitions and including family day home in the Use Table, if the administrative process is to be utilized.
62	2292.1	Provision for temporary family health care structure	N/A	N/A	The Zoning Ordinance does not currently establish temporary health care as a permitted use. Recommend defining temporary health care and temporary health care structure to mirror the requirements of this State Code section and regulate the use of these facilities in accordance with State Code requirements.
63	2293	Airspace subject to zoning ordinance	Yes	Section 23-1	The ordinance includes an Airport safety overlay zone.

	VA Code Section 15.2-	Intent	Compliance	Existing ZO Section	Consultant Comments/Recommendations
64	2293.1	Amateur radio antenna placement	No	N/A	No zoning district listed in the town code exempts amateur radio antennas specifically from height requirements. Recommend defining amateur radio antenna and including amateur radio antennas as an exemption to height requirements.
65	2293.2	Regulation of helicopter use	Optional, Not in Use	No reference	The Zoning Ordinance does not currently address helicopter air travel. This section allows special use permits for the regulation of repetitive helicopter landings and departures. The town may include this section if applicable.
66	2294	Airport safety restrictions	Yes	Section 23-6	Recommend including a reference to State Code.
67	2295	Optional aircraft noise attenuation ordinances	Optional, Not in Use	No reference	The town does not have any aircraft noise attenuation provisions. Such an ordinance can be considered if there are areas within the locality affected by above average noise levels from aircraft due to their proximity to flight operations at nearby airports.
68	2295.1	Optional mountain ridge construction ordinances	Optional, Not in Use	No reference	This section allows for the creation of overlay zones to regulate areas within protected mountain ridge zones. Per State Code, "Protected mountain ridge" means a ridge with (i) an elevation of 2,000 feet or more and (ii) an elevation of 500 feet or more above the elevation of an adjacent valley floor.
69	2295.2	Optional authority to create zoning modification in dam break inundation zones	N/A	No reference	The locality does not reference dam break inundation zones in its ordinance. If there are potential dam break inundation zones, it is recommended to exercise this provision.
70	2296	Conditional zoning - legislative policy	Optional, Not in Use	No reference	Recommend including conditional zoning and the process of applying for a rezoning with conditions, along with a State Code reference.
71	2297	Conditional zoning - rezoning/map amendments	Optional, Not in Use	No reference	Recommend utilizing this code and mirror the State Code language for requirements for proffered conditions (the rezoning itself must give rise for the need of the conditions, the conditions shall have reasonable relation to the rezoning, etc.).
72	2298	Conditional zoning - high-growth amendments	N/A	N/A	The locality did not have a growth rate from 2000 to 2010 that meets the State Code definition for a high-growth locality.
73	2299	Conditional zoning - enforcement	Optional, Not in Use	No reference	Recommend referencing State Code and enabling this section if other conditional zoning sections are enabled.

	VA Code Section 15.2-	Intent	Compliance	Existing ZO Section	Consultant Comments/Recommendations
74	2300	Conditional zoning - records	Optional, Not in Use	No Reference	If conditional zoning is enabled by the locality, the town's Zoning Map should incorporate this provision for conditional rezonings. Accepted proffers are to be indexed, recorded, and maintained in the office of the Zoning Administrator.
75	2301	Conditional zoning - petitions for review of decision	Partial	Various	Recommend referencing State Code and enabling this section if other conditional zoning sections are enabled.
76	2302	Conditional zoning - amendments and variations	Optional, Not in Use	No Reference	Current ordinance does not include a process for conditional proffers or an amendment process for proffered rezonings. Recommend including a proffer amendment process, in compliance with State Code § 15.2-2302.
77	2303	Conditional zoning - certain localities	N/A	N/A	This section applies to certain localities where urban county executive form is in effect, or localities within or contiguous to such localities, and in the counties east of the Chesapeake Bay.
78	2303.1	Binding development agreements – certain localities	N/A	N/A	This section only applies to New Kent.
79	2303.1:1	Cash proffer option - process	Optional, Not in Use	No reference	If the town enables conditional zoning, cash proffers on a per-dwelling unit basis must conform to § 15.2-2303.1:1.
80	2303.2	Proffer cash payments and expenditures - process	Optional, Not in Use	No reference	If the town enables conditional zoning, the expenditure, tracking, and monitoring of cash proffers must conform to State Code § 15.2-2303.2.
81	2303.3	Cash proffer requested or accepted conditions - process	Optional, Not in Use	No reference	If the town enables conditional zoning, the parameters for collecting cash proffers, calculating annual increases for inflation, and accepting proffers with waivers of future legal rights must conform to State Code § 2303.03.
82	2303.4	Provisions applicable to certain proffers	Optional, Not in Use	No reference	This is the 2016 proffer bill associated with unreasonable proffers for residential projects. As of 2019, it states that no locality can require an unreasonable proffer but allows onsite and offsite proffers that the applicant deems reasonable. There is nothing to prohibit the applicant and locality from discussing potential impacts of the development. The restrictions and allowances should be acknowledged through reference in the ordinance to this code section. If the town enables conditional zoning, this section of State Code should be incorporated.
83	2304	Affordable dwelling ordinances – certain localities	N/A	N/A	Only applicable to Counties of Albemarle and Loudoun, and the Cities of Alexandria and Fairfax.

	VA Code Section 15.2-	Intent	Compliance	Existing ZO Section	Consultant Comments/Recommendations
84	2305	Affordable dwelling ordinances	Optional, Not in Use	No reference	No reference or mention of affordable housing. This State Code section is an optional provision that may be considered.
85	2306	Optional historical site preservation	Yes	Article 8, Section 8-1	Recommend referencing State Code.
86	2306.1	Establishment of working waterfront development areas	N/A	N/A	Not applicable. Working waterfront applies to areas associated with navigable waterways.
87	2307	Protection of vested rights for non-conforming uses	Yes	Section 8-2(a) and Article 16	State Code § 15.2-2307 establishes the legitimacy of non-conforming uses and buildings. Currently, vested rights are mentioned in relation to the Old and Historic District and supplied as an Article in the ordinance. Recommend including a statement on protection of vested rights in conformance with State Code § 15.2-2307. Provisions for determination are not required to be in a local zoning ordinance, but process for making a vested rights determination can be incorporated into a Planning Department internal policy manual. The vested rights statement must specify that vested rights do not exempt a property from National Flood Insurance Program standards and requirements.
88	2307.1	Commercial fishing	N/A	N/A	This section requires commercial fishermen to register locally. Due to the lack of a fishing industry in the locality, this State Code section does not apply.
89	2308	Zoning appeal board	Yes	Section 22-1	The Zoning Ordinance establishes the Board of Zoning Appeals in compliance with State Code regulations. Recommend including a State Code reference.
90	2308.1	Boards of zoning appeals, ex parte communications, proceedings.	No	Section 22-3-7	No mention of ex parte communication in current code. Recommend adopting language in line with §15.2-2308.1(a) and referencing the same section. No mention of case materials being without cost to the applicant, nor any mention of timeliness to present materials to appellant or other aggrieved individual. Recommend establishing guidelines in line with §15.2-2308(b). Recommend defining "non-legal staff of the governing body" as found in §15.2-2308(c)

	VA Code Section 15.2-	Intent	Compliance	Existing ZO Section	Consultant Comments/Recommendations
91	2309	Zoning appeal board powersand duties	Partial	Section 22-2	Recommend aligning Town code to meet all board powers and duties as defined in State Code. Recommend referencing State Code. In 2018, this section of State Code was amended to require a locality to approve a variance if such approval will alleviate a hardship by granting a reasonable modification to a property as requested by a person with a disability. Recommend updating powers and duties to reflect this amendment.
92	2310	Application for special exceptions and variance	Partial	Article 22	State Code § 15.2-2310 establishes the process and procedures for applications for special exceptions and variances. § 15.2-2310 also sets forth the process for applications for variances. Recommend mirroring the language found in State Code and updating the State Code reference.
93	2311	Optional appeals to Board of Zoning Appeals - process	No	No reference	As of 2019, Zoning administrator's written appeal order may be sent by certified mail. Text should also include language for binding of decision by the BZA, stay of civil penalties and code enforcement proceedings, and 60-day window for change/modifications/reversal except for clerical error. Recommend including these elements and a reference in an appeals section of the ordinance.
94	2312	Appeals to Board procedure - process	Yes	Section 22-5-6	The ordinance provides a 90-day review period, requirements to give notice, determination, and record keeping.
95	2313	Prevention of construction not in accordance with ordinance - process	No	No reference	Revise ordinance to include State Code language predicated upon court's ability to hear and determine the suit despite the lack of a formal appeal to the zoning administrator.
96	2314	Writ of Certiorari to review Board's decision	Partial	Section 22-7	Recommend revising this section to include a reference to State Code and to mirror the State Code language.
97	2315	Conflict of state and local ordinance	No	No reference	Recommend including the provisions of this State Code section, with a reference, into the Zoning Ordinance.
98	2316	Validation of ordinances prior to 1971	N/A	No reference	The town 's ordinance was adopted after 1971.
99	2316.1	Definitions regarding transfer of development rights (TDRs)	Optional, Not in Use	No reference	The town does not appear to have a TDR program.

	VA Code Section 15.2-	Intent	Compliance	Existing ZO Section	Consultant Comments/Recommendations
100	2316.2	Optional provisions for transfer of development rights	Optional, Not in Use	No reference	Locality may designate receiving areas/properties that shall receive development rights only from certain sending areas/properties. Locality may also provide for areas defined similarly to urban development areas.
101	2316.3	Definitions regarding small cell facilities	No	No reference	State Code § 15.2-2316.3 establishes the definitions for telecommunications facilities. New definitions were added to State Code in 2017. The applicable telecommunications definitions and standards should be updated to consistently comply with this State Code section.
102	2316.4	Permitting and review of small cell facilities	No	No reference	New provision from 2017; the telecommunications regulations should be updated to comply with this legislation adopted by the General Assembly
103	2316.4:1	Zoning; Other wireless facilities	No	No reference	State Code § 15.2-2316.4:1 requires that localities cannot require a special use permit, special exception, or a variance for "administrative-review eligible projects". The Zoning Ordinance does not define "administrative review eligible projects". Recommend updating the Zoning Ordinance's definitions section to align with State Code § 15.2-2316.3 and to amend the Article to establish administrative review eligible projects as a by-right use.
104	2316.4:2	Application reviews for small cell facilities	No	No reference	State Code § 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. Recommend including a design section specific to telecommunications that explicitly states that the review process and decision guidelines within this State Code section.
105	2316.4:3	Additional provisions for zoning applications of telecommunications facilities	No	No reference	State Code § 15.2-2316.4:3 establishes that localities cannot require zoning approval for routine maintenance or for the replacement of existing wireless facilities. Recommend amending the ordinance to include the provisions of this State Code section along with a reference.
106	2316.5	Moratorium on zoning applications from wireless service providers prohibited	Yes	No reference	The Zoning Ordinance does not have a moratorium on accepting zoning applications from wireless services providers.
107	2317	Applicable to 20k persons+5% growth, or 15% growth	N/A	N/A	The town does not have a population of 20,000 or more nor a growth rate of 15% or higher, therefore this does not apply.

	VA Code Section 15.2-	Intent	Compliance	Existing ZO Section	Consultant Comments/Recommendations
108	2319	Impact fee authority	Optional, Not in Use	No reference	The town does not currently have a system of impact fees adopted in the Zoning Ordinance. The town may consider enabling an ordinance to assess and impose impact fees pursuant to this section. Additional plans and studies may be required to support the development and maintenance of impact fees.
109	2320	Impact fee service area establishment	N/A	No reference	"
110	2321	Adoption of road improvement program (must be done prior to impact fee adoption)	N/A	No reference	"
111	2322	Adoption of impact fee, schedule	N/A	No reference	"
112	2323	Applicability of fees	N/A	No reference	"
113	2324	Credit against fees	N/A	No reference	"
114	2325	Updating plan of impact fee	N/A	No reference	"
115	2326	Proceeds use	N/A	No reference	"
116	2327	Refund of impact fee	N/A	No reference	"
117	2328	Applicability of article	N/A	No reference	The town does not have an established urban transportation service district.
118	2329	Imposition of impact fees	N/A	No reference	"

Town of Abingdon Zoning Ordinance Diagnostic Matrix

	Additional Comments	Consultant Recommendations
1	General Update	Abingdon should consider updating current references of the State Code to reflect the current State Code numbering. Most references refer to 15.1 and the land use regulations are now under title 15.2.
2	Definitions	Consider updating the definitions section to modernize and consolidate definitions to ease administration and reduce the need for interpretation, eliminate definitions that define multiple terms, and remove definitions of terms that are not used in the Zoning Ordinance. Consider streamlining the definitions to broader terms that can be applied to multiple uses. For example, billiard parlors and bowling alleys can be streamlined into indoor recreation and amusement. This allows greater variety of uses without the need for zoning text amendments.
3	Permitted and Special Uses	Consider applicability of uses to each zoning district to allow flexibility for economic development and ensure consistency with the goals of the town's comprehensive plan. For example, the town may consider revising the ordinance such that uses in lower density commercial and industrial districts are also allowed in higher density commercial and industrial districts. Particular emphasis is needed on providing a greater variety of uses in the B2 district and along the Main Street Corridor as economic drivers. Uses within the Old and Historic District should be reviewed and consolidation of subareas considered to ensure consistent and equitable treatment within the zoning district.
4	Site Plans	The Zoning Ordinance is currently lacking some required elements of site plans per State Code. To fully comply with State Code, recommend amending the Zoning Ordinance to include guidelines for the extension of approved site plans as well as for the appeal process if site plans extensions are denied. Additionally, recommend including site plan purpose, intent, submittal requirements, and review process in one article without disbursing requirements and criteria in various zoning districts. This will prevent conflicting language and create a smoother application process. The town may also consider the potential of differentiating site plan requirements for minor and major site plans, as appropriate. Minor site plans typically have less stringent requirements and may be approved administratively, thereby easing the regulatory burden for small projects.
6	Outstanding Debt, Taxes, Fees	Consider requiring that the owner of the subject property in any land use permit application show that they do not have any outstanding debts, fees, or taxes owed to the town.
7	Breweries	To encourage breweries as a tool for economic development and tourism, establish breweries as a by-right or special use in appropriate commercial and industrial zoning districts.
8	Telecommunications	Definitions are supplied for telecommunications, but little reference is made to the State Code and the allowances made for small cell facilities and administrative approvals. Recommend adding to the use list and providing a design section that details these standards.
9	Zoning Districts	Consider the intent and applicability of each zoning district, particularly as each district relates to the implementation of the town's comprehensive plan. Abingdon should consider the purpose and need to differentiate between various Old and Historic District subareas and consider consolidating the various areas to ease administration, ensure consistent and equitable treatment, and promote economic development.

	Additional Comments	Consultant Recommendations
10	Off-Street Parking Requirements	The town should consider reevaluating off-street parking requirements. Reducing off-street parking requirements can encourage the use of public transportation and active transportation methods, reduce development costs, and increase the efficient and productive use of space.
11	Home Occupations	Recommend evaluating and modernizing what is defined as a "home occupation" and where it is allowed. As the economy continues to shift towards telecommuting and virtual employment, the Zoning Ordinance must remain up to date to allow for these modern employment opportunities.
12	Accessory Use	For enhanced clarity, consider establishing an "Accessory Uses" section within each zoning district. This section would clearly establish which accessory uses are permitted in each zoning district, reducing the likelihood of conflicting interpretations that could occur under the current system.
13	Setbacks and Site Dimensions Chart	Recommend creating a "Setback and Site Dimensions Chart" that shows required setbacks and general site dimension requirements for all zoning districts.
14	Landscaping	Consider incorporating landscaping and tree canopy requirements into the zoning ordinance. Tree canopy requirements support community goals to enhance community appearance, increase property values, and manage stormwater.
15	Zoning Map	Continuously amend the Zoning Map to reflect the recommendations of the Comprehensive Plan and the Future Land Use Map.
16	Conflicting Language	Work with staff to identify and remove conflicting language within and between land use tools.
17	Ordinance Review	Institute an annual Zoning/Subdivision Ordinance review process with the Planning Commission and Town Council. This maintenance technique is a best practice to keep the town's land use tools relevant and responsive to the needs of the community.

Appendix B: Subdivision Ordinance Diagnostic Matrix

Town of Abingdon Subdivision Ordinance Diagnostic Matrix

	VA Code Section 15.2-	Intent	Compliance	Subdivision Reference	Consultant Recommendation
1	2209.1	Extension of approvals to address housing crisis	No	No reference	State Code § 15.2-2209.1 extends approvals 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. Locality should be aware of required extension.
2	2240	Authority to develop subdivision ordinances	Yes	Section 1.2(2)	In compliance
3	2241	A. Mandatory provisions of a subdivision ordinance:			
4		1. Plat standards under Virginia Public Records Act	Partial	Section 3.2	In compliance. Recommend including a reference to the Virginia Public Records Act and this code section.
5		2. Street coordination regulations	Yes	Article V	In compliance. Recommend including reference to State Code.
6		3. Drainage, flood control, impounding structures, dam break inundation zones, light and air, soil characteristics	Yes	Section 4.4 Section 5.3 Section 8.3	In compliance. Recommend including reference to State Code.
7		4. Street grading and improvement, water/storm/sewer	Yes	Section 9.1	In compliance. Recommend including reference to State Code.
8		5. Acceptance of public use of ROW and other site-related improvements that require financing	Yes	Section 4.6 Section 6.14	In compliance.
9		6. Conveyance to utility, cable, etc. companies	Partial	Section 5.21(5)	Ordinance should include 30-day timeframe for developers after a written request has been submitted by cable television operator to grant an easement. Recommend including State Code reference.
10		7. Monument regulations	Yes	Section 5.22	In compliance. Recommend including reference to State Code.
11		8. Plat recordation period	Yes	Section 4.6 Section 4.13	In compliance. Recommend including reference to State Code.

Town of Abingdon Subdivision Ordinance Diagnostic Matrix

	VA Code Section 15.2-	Intent	Compliance	Subdivision Reference	Consultant Recommendation
12		9. Administration and enforcement of ordinance (fees) - process	Yes	Section 4.3 Section 13.2(a)	In compliance. Recommend referencing State Code and including language for a fee schedule. May consider reevaluating administrative fee and penalties to ensure administrative costs are met.
13		10. Sale of parcel to family member (2244) - process	N/A	No reference	The town is not required to allow family subdivisions.
14		11. Release of performance guarantee (2245) - process	Yes	Section 6.15(a)-(b)	In compliance.
15		B. Security Requirements	Yes	Section 2.2 Section 4.9	Although not explicitly referenced, the intent of this section of the Code is implied. Recommend including State Code reference and language consistent with Code.
16	2241.1	Bonding requirements - process	No	Section 6.14	Recommend including State Code reference and language that closely mirrors this State Code.
17	2242	Subdivision ordinance optional provisions:			
18		1. Subdivision exceptions	Optional, In Use	Section 10.1	In compliance.
19		2. Public health official opinion or public system connection	Optional, In Use	Section 6.9 Section 7.2(9)	Recommend including State Code reference.
20		3. Maintenance disclaimer for private streets (non-VDOT)	Optional, In Use	Section 5.18	The existing code prohibits private streets altogether, therefore, this State Code section does not apply.
21		4. Voluntary funding of off-site road improvements	Optional, Not in Use	No reference	The town can consider the addition of this optional provision.
22		5. Pro-rata reimbursement for roads	N/A	N/A	Not applicable to the Town of Abingdon.
23		6. Solar energy provision	Optional, Not in Use	No reference	The town can consider the addition of this optional use.
24		7. Escrowed funds pursuant to provision 5 of Section 15.2-2241	N/A	N/A	Not applicable to the Town of Abingdon.
25		8. Clustering of single-family dwellings and preservation of open space developments	N/A	N/A	Applicable to cities and counties with over 10% growth.

Town of Abingdon Subdivision Ordinance Diagnostic Matrix

	VA Code Section 15.2-	Intent	Compliance	Subdivision Reference	Consultant Recommendation
26		9. Sidewalk provision	Optional, In Use	Section 6.7	In compliance. Recommend including State Code Reference and mirror the State Code language.
27		10. Phase I Environmental Assessment provision	Optional, Not in Use	No reference	Recommend including provision for requiring Phase I environmental site assessments and including State Code Reference.
28		11. Disclosure and remediate provision	Optional, Not in Use	No reference	Recommend including provision for requiring the disclosure of contamination and other adverse environmental conditions and including State Code Reference.
29		12. Dedication of land for sidewalk, c/g	N/A	N/A	This section of Code is only applicable to towns located in the Northern VA Transportation District.
30	2243	Pro-rata optional payments	Optional, Not in Use	No reference	Recommend including provision for pro-rata payments and including State Code Reference.
31	2243.1	Dam break inundation zone payment	No	No reference	Recommend including provision for Dam break inundation zones payments and including State Code if Abingdon has inundation zones within its town limits.
32	2244	Subdivision must provide for family conveyance	N/A	No reference	Applies only to counties and certain cities and towns.
33	2244.1	Additional family conveyance option	Optional, Not in Use	No reference	The Town may consider inclusion of this optional provision.
34	2244.2	Conveyance to family trust beneficiaries option	Optional, Not in Use	No reference	The Town may consider inclusion of this optional provision.
35	2245	Subdivision performance guarantees – periodic partial and final release	Yes	Section 6.14	In compliance.
36	2245.1	Cannot require removal of trees for stormwater pond	Yes	Section 6.10	In compliance.

	VA Code Section 15.2-	Intent	Compliance	Subdivision Reference	Consultant Recommendation
37	2246	Site plans in accordance with zoning ordinance	No	No reference	When site plans are required prior to issuance of a building permit to ensure zoning compliance, State Code §15.2-2246 requires that site plans must be submitted in accordance with the requirements of State Code §15.2-2241 through §15.2-2245. Recommend acknowledge the applicable provisions specified in State Code §15.2-2241 through §15.2-2245 and include a reference to State Code §15.2-2246.
38	2247	Applicability of subdivision ordinance to manufactured homes	Yes	Section 17-10	In compliance. The Zoning Ordinance provides for this State Code. However, as a stand-alone ordinance, the language and a reference should also be included in the Subdivision Ordinance.
39	2248	Application of subdivision beyond municipal limits (certain counties)	N/A	N/A	Only applies to municipalities within the counties of Giles, Clarke, Culpeper, Loudoun, or Mecklenburg.
40	2249	Application of subdivision within municipal limits (certain counties)	N/A	N/A	Only applies to the counties of Giles, Clarke, Culpeper, Loudoun, or Mecklenburg.
41	2250	County municipality relations (certain counties)	N/A	N/A	Only applies to the counties of Giles, Clarke, Culpeper, Loudoun, or Mecklenburg.
42	2251	Subdivision ordinance requirement	Yes	Section 12.1-12.2	In compliance.
43	2252	Filing of subdivision ordinance	Yes	Section 12.3	In compliance.
44	2253	Subdivision ordinance amendment process	Yes	Section 12.1-12.2	In compliance.
45	2254	Statutory provisions of adopted ordinance	Yes	Article IV Article V, Section 5.20(g) Article XIII	In compliance.
46	2255	Authority to administer/enforce ordinance	Yes	Article III Article XIII	In compliance.
47	2256	Procedure to account for fees for common improvements	No	No reference	Recommend including a provision to account for fees for common improvements within subdivisions.

	VA Code Section 15.2-	Intent	Compliance	Subdivision Reference	Consultant Recommendation
48	2258	Plat proposal factors to be submitted	No	No reference	Some of the items listed in State Code §15.2-2258 (dam break zone, graves/burial, joint locality control) are not listed as a requirement for Article VIII - Final Plat Requirements or Article IX – Improvement Plans. Recommend including this language.
49	2259	Timely action on proposals - review process	Partial	Section 4.8 Section 9.2	State Code §15.2-2259 establishes a required timeline for the review and approval or denial of a proposed plat. The ordinance supplies the timeline for initial review but does not detail a resubmittal and other elements of the process. Recommend amending to include the additional requirements and code reference.
50	2260	Provision for preliminary plat submission - process	Partial	Section 4.1- Section 4.6	The ordinance outlines preliminary plat requirements, considerations and terms but does not specify timelines. Recommend including timelines and a reference to State Code.
51	2261	Recorded plats or final site plans to be valid for not less than five years	No	Section 4.6 Section 4.13	State Code requires final site plans be valid for five years or more. The current ordinance allows preliminary plats to be valid for five years, but Section 4.13 allows final plats to be valid for six months. Recommend updating this section to comply with and include a reference to State Code §15.2-2261.
52	2261.1	Recorded plat or final site plans; conflicting zoning conditions	No	No reference	The State Code provides precedence for site plans that are approved but in conflict with zoning conditions from previous rezoning approvals. Recommend including this State code and a reference in the ordinance.
53	2262	Requirements of plat	Yes	Section 8.1	In compliance.
54	2263	Expedited review (certain counties) - process	N/A	N/A	Applies only to the counties of Hanover, Loudoun, Montgomery, Prince William, and Roanoke, and the Town of Leesburg.

	VA Code Section 15.2-	Intent	Compliance	Subdivision Reference	Consultant Recommendation
55	2264	Statement of subdivision consent - process	Yes	Section 8.2	In compliance.
56	2265	Recordation of approved plat - transportation implications	No	No reference	The ordinance does not address the termination of easements and rights-of-way. Recommend amending to include this State Code section.
57	2266	Validation of plats prior to 1975	No	No reference	The Town may wish to include this citation for plats recorded before 1975.
58	2267	Petition to restrict access to certain public streets	N/A	No reference	This provision is not cited in the subdivision ordinance and does not need to be included because Abingdon does not allow this street type.
59	2268	Localities not obligated to pay for grading, paving, etc.	Yes	Section 6.1	This section states that all improvements shall be installed by the subdivider at his cost. Although this section does not specifically note that the locality is not obligated to pay for grading, paving, etc. the intent of this section of the State Code is addressed.
60	2269	Plans and specifications for utility fixtures and systems to be submitted for approval	Yes	Section 9.1	In compliance.
61	2270	Vacation of plat interest - process	Yes	Article XI	This article of the ordinance refers to §15.2-2271 through §15.2-2278 but does not provide the vacation methods. Recommend including the specific language and a reference to §15.2-2270.
62	2271	Vacation of plat before sale - process	Yes	Article XI	§15.2-2271 through §15.2-2278 are covered under this section of code, but it is recommended to include specific language of the State Code along with the existing references.
63	2272	Vacation of plat after sale - process	Yes	Article XI	§15.2-2271 through §15.2-2278 are covered under this section of code, but it is recommended to include specific language of the State Code along with the existing references.
64	2273	Authority to charge fee for plat vacation - process	Yes	Article XI	§15.2-2271 through §15.2-2278 are covered under this section of code, but it is recommended to include specific language of the State Code along with the existing references.

	VA Code Section 15.2-	Intent	Compliance	Subdivision Reference	Consultant Recommendation
65	2274	Effect of plat vacation	Yes	Article XI	§15.2-2271 through §15.2-2278 are covered under this section of code, but it is recommended to include specific language of the State Code along with the existing references.
66	2275	Authority to relocate boundary lines - optional	Yes	Article XI	§15.2-2271 through §15.2-2278 are covered under this section of code, but it is recommended to include specific language of the State Code along with the existing references.
67	2276	Clerk duty for vacated plat - process	Yes	Article XI	§15.2-2271 through §15.2-2278 are covered under this section of code, but it is recommended to include specific language of the State Code along with the existing references.
68	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 only applies to Franklin County.
69	2278	Vacating plat subdivision	Yes	Article XI	§15.2-2271 through §15.2-2278 are covered under this section of code, but it is recommended to include specific language of the State Code along with the existing references.
70	2279	Authority to set homebuilding, setback lines	N/A	N/A	This section of State Code is for localities that do not have zoning ordinances.
	General Comments				
1	Approvals	Currently the ordinance requires all subdivisions to be approved by town council.	Suggest implementing minor and major subdivisions and allowing minor subdivisions to be administratively approved. Administrative approval of boundary line adjustments, vacations, and minor subdivisions are common practices that ease the development process.		
2	Organization	Currently the ordinance disperses administration elements and preliminary plat requirements in several Articles.	Suggest reorganizing the ordinance with all plat requirements, timelines, and administration elements grouped into sections for ease of use.		
	Source: Code of Virginia; http://leg1.State.va.us/cgi-bin/legp504.exe?000+cod+TOC150200000022000000000000				