

## CHAPTER 10: PROCEDURES

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### 10.01 General Process Administration

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**Purpose.** The purpose of Chapter 10 is to establish the procedures used to administer and enforce the Zoning Ordinance. Section 10.01 provides the requirements that are generally applicable to the procedures prescribed in Chapter 10.

#### A. General.

1. Chapter 10 establishes the procedures to process applications and appeals that are filed under the Zoning Ordinance, including but not limited to applications to amend the Zoning Map, and to permit development or land use.
2. No permit may be issued for any structure or land use unless it conforms to all applicable provisions of the Zoning Ordinance.
3. Approvals obtained pursuant to the Zoning Ordinance do not relieve any person from the requirements to obtain any other necessary approvals under federal, state, or local law.

#### B. Fees. Appendix B sets forth:

1. Fees to be paid upon the submission of each application specified in the Zoning Ordinance; and
2. Fees for traffic data collection and warrant studies associated with:
  - a. Legislative land development applications requiring Board of Supervisors approval; and
  - b. Public school land development applications subject to Section 4.05.18; and
3. **Exempt Applications.** The following applications are hereby exempted from the imposition of fees:
  - a. Applications for a Zoning Map Amendment to or from any Historic Overlay District;
  - b. Applications for a Zoning Map Amendment from any district to the AR-2 District;

- c. Applications for Special Exception to establish Telecommunications Facility use in the A-3, A-10, AR-1, AR-2, CR-1, CR-2, CR-3, or RC Zoning Districts;
- d. Applications for a Zoning Map Amendment or a Special Exception to resolve a nonconformity from holders of a County issued business license for a use that is nonconforming in the ~~Zoning District~~zoning district in which it is located if the holder of such business license has operated such use continuously in the same location for at least 15 years and has paid all local taxes related to such use;
- e. Applications for Special Exception for Adaptive Reuse of a structure to a use not permitted in the underlying ~~Zoning District~~zoning district and listed in Table 4.09-1; and
- f. Applications for Commission Permit, Zoning Map Amendment, Zoning Concept Plan Amendment, Special Exception, or Minor Special Exception sought by the following governmental agencies:
  1. Loudoun County School Board;
  2. Loudoun Water;
  3. Fire and rescue companies serving Loudoun County;
  4. Any person, agency, board or division acting in the name of the Board of Supervisors of Loudoun County; and
  5. Town Councils.

**C. ~~Preapplication~~Premeeting.**

1. For all applications for which a ~~Preapplication~~Premeeting is required by Chapter 10, the applicant must meet with the Zoning Administrator and appropriate staff to:
  - a. Discuss the applicant's purpose for the application; and
  - b. Discuss information regarding application procedures and substantive requirements of the Zoning Ordinance.
2. At the Zoning Administrator's discretion, the ~~Preapplication~~Premeeting may be waived in cases where the Zoning Administrator finds that such waiver is not anticipated to affect the submission or review of the proposal, including but not limited to:
  - a. The applicant can demonstrate that they have met with appropriate staff of affected departments and agencies; or
  - b. An application, substantially similar in scope and location, has had a ~~Preapplication~~Premeeting within the last 5 years.
3. A request for ~~Preapplication~~Premeeting, or to waive the ~~Preapplication~~Premeeting, must be made in writing to the Zoning Administrator and include:
  - a. Illustrative map(s) of the site illustrating the location of proposed uses;
  - b. Description of the proposed project or use; and
  - c. Questions and issues to be discussed at ~~Preapplication~~Premeeting or the applicant's justification for a requested waiver.
4. The Zoning Administrator will respond to each written request for ~~Preapplication~~Premeeting or waiver within 5 business days.
5. The County will provide the applicant with a written summary of the discussion and information provided at the meeting.
6. No matters discussed or information provided during ~~Preapplication~~Premeeting are binding on either the applicant or the County.

**D. Completeness Check.**

1. Only complete applications will be accepted for review upon payment of all applicable fees.

2. The Zoning Administrator determines whether applications are complete.
3. Applications are determined to be complete when they include all minimum submission materials and other requirements identified in, and otherwise established pursuant to Sections 10.01.E. and F. below.
4. The Zoning Administrator may grant a waiver of certain submittal requirements in cases where the Zoning Administrator finds that submission of such material is not likely to affect the review of the application. An approved waiver will not prohibit the County from later requesting that previously waived material be submitted, if such material is determined by staff to be necessary for appropriate processing of the application.
5. Within 15 days of receipt of submission materials, including any waiver request, the Zoning Administrator will finish the Completeness Check and either:
  - a. Accept the application, if it is complete, and send notice to the applicant of acceptance; or
  - b. Notify the applicant that the application is incomplete, specifying the submission materials, studies, corrections, or documents required for the application to be complete.
6. Upon addressing the deficiencies identified during the Completeness Check, the applicant may resubmit a previously determined incomplete application for another Completeness Check.
7. If neither a notice of acceptance nor notice of incompleteness is sent within 15 days, as specified in Section 10.01.D.5. above, the application is deemed accepted provided the applicable fee has been paid.
8. The County will maintain a current log of all pending applications.

**E. General Submission Requirements.**

1. The applicant must provide the following:
  - a. The list of materials established by the Zoning Administrator that constitute the minimum submission requirements for each application required by the Zoning Ordinance;
  - b. A letter signed by the applicant and by the owner of the property granting the right of entry upon the property to the Zoning Administrator, law enforcement agents, and County inspectors for the purpose of inspecting, and bringing law enforcement to the property, during the term of any permit which may be issued;
  - c. In the case of an application for Zoning Map Amendment, Zoning Concept Plan Amendment, Special Exception, Minor Special Exception, Sign Development Plan, Special Exception for Errors in Location, or Variance, a completed Disclosure of Real Parties in Interest Form. Refer to Code of Virginia § 15.2-2287.1; and
  - d. Payment of applicable fees.
2. The Zoning Administrator may establish digital submission standards as an option to any requirement for physical media.

**F. Submission Requirements for Applications within Overlay Districts or Sensitive Areas.**

**1. Limestone Overlay District (LOD).**

- a. **Administrative Activities:** Applications for Covered Activities in the Limestone Overlay District (LOD) under Section 5.05.B., but not subject to Section 10.01.F.1.b.:
  1. A scaled plat, plan, or exhibit is required as determined by the Department of Building and Development, depicting the limits of disturbing activities, and the plat, plan, or exhibit must show proposed roads, lot lines, buildings, building sites, paved areas, wells, drainfield locations, and limits of clearing and grading; and
  2. A locational clearance must be obtained from the Department of Building and Development. No Zoning Permit will be issued unless the locational clearance has been approved.

- b. **Legislative Applications.** Applications in the LOD for Variance, Commission Permit, Zoning Map Amendment, Zoning Concept Plan Amendment, Special Exception, Minor Special Exception, or Special Exception for Errors in Location must include the following materials produced at the same size and scale as the associated application:
  1. Existing conditions map:
    - a. Prepared at a scale of 1 inch = 200 feet;
    - b. With planimetric detail at 5-foot contour intervals;
    - c. Including the location of existing wells, drainfields, fill sites, faults (as shown on United States Geologic Survey Maps), and Karst/Sensitive Environmental Features within 100 feet of the property boundary; and
    - d. For purposes of identifying fill sites on the Existing Conditions Map, the applicant must include areas of fill identified on the County's G.I.S. database, identified in the Preliminary Soils Report, and/or identified in a Geophysical or Geotechnical Study;
  2. Plan of proposed development including proposed:
    - a. Roads;
    - b. Lot lines;
    - c. Buildings;
    - d. Wells;
    - e. Drainfield locations;
    - f. Karst/Sensitive Environmental Features;
    - g. Karst/Sensitive Environmental Feature Setbacks; and
    - h. Other areas of non-disturbance
  3. For applications proposing land disturbing activities, a Preliminary Soils Review is required in accordance with FSM Chapter 6.
2. **Mountainside Overlay District (MOD).**
  - a. Any submitted plan, plat, or exhibit must identify the acreage of land proposed to be disturbed by clearing and grading on each proposed lot.
  - b. **Administrative Activities.** Applications for Covered Activities within the MOD but not subject to Section 10.01.F.2.e. must, on a scaled plat, plan, or exhibit (produced at the same size and scale as the associated application) clearly identify the portion of the proposed site within the MOD and the location of any of the following features located on the property:
    1. Spring;
    2. Streams;
    3. Steep Slopes;
    4. Moderately Steep Slopes;
    5. Somewhat Sensitive, Sensitive, and Highly Sensitive Areas;
    6. Soil mapping units 27, 59, and 88;
    7. Forest cover;
    8. Existing and proposed building sites, paved areas, drainfields, wells, and other uses and structures;
    9. Limits and acreage on each lot of clearing and grading or any other Land Disturbing Activity within the MOD; and
    10. Any required Mountainside Feature Protections identified under Section 5.04.C.

- c. **Locational Clearance.** A locational clearance from the Department of Building and Development prior to the approval of any Zoning Permits and building permits submitted within the MOD.
  - d. **Legislative Applications.** Applications in the MOD for Variance, Commission Permit, Zoning Map Amendment, Zoning Concept Plan Amendment, Special Exception, Minor Special Exception, or Special Exception for Errors in Location must include the following materials produced at the same size and scale of any associated application:
    - 1. Soil map approved by the United States Department of Agriculture;
    - 2. Existing Conditions Map:
      - a. Prepared at a scale of 1 inch = 200 feet;
      - b. With planimetric detail at 5-foot contour intervals; and
      - c. The location of existing wells, drainfields, and springs within 100 feet of the property boundary to the extent available from existing records; and
    - 3. Concept plan of proposed development including proposed:
      - a. Roads;
      - b. Lot lines;
      - c. Building sites;
      - d. Wells;
      - e. Drainfields; and
      - f. Limits of clearing, grading or other land disturbing activity.
3. **Natural and Environmental Resources pursuant to Chapter 6.**
- a. Applications must provide sufficient information to demonstrate compliance with standards in Chapter 6.
  - b. The Zoning Administrator, in order to determine whether or not the applicant will meet such standards, may require the applicant to submit the following information showing existing conditions and proposed Uses, Land Disturbances, or Land Disturbing Activity:
    - 1. Prepared at a scale of 1 inch = 200 feet;
    - 2. Planimetric detail at 5-foot contour intervals; and
    - 3. The location of any steep slope areas, rivers, streams, forests, tree cover, and approximate location of any on-site floodplain as determined from the County map relative to the location of any existing and proposed:
      - a. Structures, including their dimensions;
      - b. Width of entrances and adjacent right-of-way, adjoining properties, and easements, including conservation easements;
      - c. Number, size, and type of dwelling units;
      - d. Dimensions of any parking areas;
      - e. Size and type of open space;
      - f. Number, size, and lighting of signs, if any;
      - g. Wells and septic systems;
      - h. Outdoor storage, and screening buffering; and
      - i. Location and size of any other Uses, Land Disturbances or Land-Disturbing Activity.

**G. Public Hearings.**

1. **Notice Requirements.** Each public hearing required by the Zoning Ordinance before the Planning Commission, the Board of Supervisors, or the Board of Zoning Appeals (BZA), requires notice.
  - a. **Statutory Notice.**
    1. Notice must conform in all respects with the applicable requirements of the Code of Virginia [Chapter 22](#) of Title 15.2.
    2. Zoning Map Amendment of any parcel, or any Zoning Ordinance Amendment that decreases the allowed dwelling unit density of any parcel, have specific written notice requirements under Code of Virginia [§§ 15.2-2204](#) and [15.2-2285](#).
  - b. **Placard Notice.**
    1. Each application for Variance, Commission Permit, Zoning Map Amendment, Zoning Concept Plan Amendment, Special Exception, Minor Special Exception, Sign Development Plan, Special Exception for Errors in Location, Special Exception for Parking, or Appeal must be posted and maintained by the applicant in accordance with Section [10.01.G.1.b](#).
    2. In cases of applications or appeals initiated by or on the behalf of the Board of Supervisors, or otherwise at the direction of the Zoning Administrator, the placard must be posted and maintained by the County in accordance with Section [10.01.G.1.b](#).
  3. **Form.**
    - a. The form and content of placard must be approved by the Zoning Administrator.
    - b. Placards must be weatherproof.
  4. **Certification.**
    - a. Certification of posting must be provided to the Zoning Administrator.
    - b. Upon request by the Zoning Administrator, the applicant must provide evidence of posting or correction of deficiencies, as required by Section [10.01.G.1.b.6](#). below.
  5. **Placement.**
    - a. Placards must be affixed to a pole, post, fence, or other structure to be clearly identifiable and legible, without obstruction from vegetation or other items, from each public road abutting the property subject to the application.
    - b. Contiguous parcels of the same property do not require separate placards. Properties that are not contiguous, including separation by public roads, must each be identified by placards.
    - c. If no public road abuts the property, then the placard must be posted to be clearly visible from at least 2 abutting properties and at the access points to said property, or as accepted by the Zoning Administrator where not possible.
    - d. In the event the placard is removed or destroyed, the applicant must promptly restore or replace the placard on the site. Failure to comply upon receiving notice is a willful violation of Section [10.01.G.1.b.5](#).
  6. **Timing.**
    - a. The placard must be posted at least 21 days prior to each public hearing through the date of the public hearing.
    - b. The applicant must maintain all placards for the entire posting period.
    - c. If the applicant becomes aware that a placard has been moved, removed or destroyed, is not clearly visible, or otherwise fails to satisfy the requirements of Section [10.01.G.1.b.](#), the applicant must:

- A. Promptly correct such deficiencies; and
  - B. Identify such corrective action in the certification provided pursuant to Section [10.01.G.1.b.4.](#) above.
- d. All placards must be removed no later than 15 days after the public hearing has been closed.
- 7. **Penalties.**
  - a. It is unlawful for any person to destroy, deface, or remove such placard notice.
  - b. Any person taking such action will be subject to the penalties set forth in Section [10.13.](#)
  - c. In the absence of a willful or intentional violation of Section [10.01.G.1.b.](#) by the applicant or property owner, the posting of placard notice will not affect the validity of notice or require a delay in the scheduled public hearing.
- c. **Additional Requirements.**
  - 1. **Landowner Initiated Cases.** When an application is initiated at the request of a landowner, the landowner is responsible for sending any written notice required by Section [10.01.G.1.a.](#)
  - 2. **Notice by County.** Regardless of any other provisions of Section [10.01.G.1.](#), whenever any written notice required under Section [10.01.G.1.](#) is sent on behalf of an agency, department, or division of the County, such written notice will be sent by the Zoning Administrator and may be sent by first class mail. The Zoning Administrator will make affidavit that such mailings have been made and file such affidavit with the papers in the case.
  - 3. **Certification.** The applicant must file the following affidavits with the Zoning Administrator certifying compliance with noticing requirements:
    - a. At least 5 days prior to the public hearing, including the list of names of those to whom written notice was sent; and
    - b. At the beginning of the public hearing on the application for which such notice was provided.
  - 4. **Failure to Receive Notice.** Failure to receive any notice of a hearing required by Section [10.01.G.1.](#), in and of itself, will not invalidate any action taken at or after the hearing.
  - 5. **Condominium Ownership.** In the case of a condominium or a cooperative, written notice may be mailed to the unit owner's association or proprietary lessee's association, respectively, in lieu of each individual unit owner.
  - 6. **Cost of Notice.** The cost of all notice required by Section [10.01.G.1.](#) will be paid by the applicant.
  - 7. **Deferral.** If an item is not heard at the time for which it was noticed but is deferred at that time to another date, all notice required by Section [10.01.G.1.](#) will be given of the deferred public hearing.
  - 8. **Recessed Public Hearings.** If a public hearing is started but the agenda not completed, thereby requiring the meeting to be recessed, no additional notice is required provided the date(s) for completion of the public hearing agenda was announced at the hearing which has been recessed.
  - 9. **Licensed Public Use Airports Within 3,000 Feet.** Written notice must be given by the County or its designated representative at least 30 days in advance of a hearing to the owner of a public-use airport, advising the owner of such public-use airport of the opportunity to submit comments or recommendations, when the following applications involve any parcel of land located within 3,000 feet of the boundary of a licensed public-use airport:
    - a. Comprehensive Plan Amendment;
    - b. Zoning Map Amendment; or
    - c. Special Exception or Minor Special Exception for a change in use.



**2. Speakers.**

- a. At the discretion of the Board of Supervisors or Planning Commission all witnesses and speakers presenting facts and evidence at any public hearing must provide for the record their name, affiliation (if any), and legislative district in which they reside, work, or own or operate a business in Loudoun County.
- b. At the discretion of the person presiding over a BZA, ~~HDRCH~~ Historic District Review Committee, or appeal hearing, witnesses or speakers may be required to give oath or affirmation regarding the truth of their statements.

**H. Withdrawal.** Applications will be withdrawn in the following manner:

1. The applicant submits a written notice of withdrawal to the Zoning Administrator, which will be immediately effective;
2. The applicant verbally notifies the Board of Supervisors, Planning Commission, or BZA at a public hearing or other public meeting where the application is being considered; or
3. The application is administratively withdrawn as provided in Section [10.01.I.4.](#) below.

**I. Inactive Applications.**

1. **Deemed Inactive.** Any Variance, Zoning Map Amendment, Zoning Concept Plan Amendment, Special Exception, or Minor Special Exception application officially accepted by the County for processing will be deemed inactive if either:
  - a. The applicant submits a written request to suspend processing for a period not to exceed 3 months, prior to published notice for public hearing; or
  - b. The applicant refuses or neglects to diligently pursue such application by failing to submit to the Zoning Administrator within 6 months:
    1. Any response to County staff, Planning Commission, or Board of Supervisors review comments;
    2. Any reports or other materials in support of the application; or
    3. Required materials or notices for public hearings.
2. **Reactivation.** The applicant may reactivate an inactive application by notifying the Zoning Administrator in writing and paying a reactivation fee prior to the end of the maximum inactive period provided below.
  - a. Applications can only be reactivated once. ~~See~~ Section [10.01.I.4.b.](#)
  - b. All application processing timelines restart at application reactivation.
3. **Maximum Inactive Period.** An application remains inactive once for 1 month after the Zoning Administrator sends a notice of intention to dismiss the application. The notice must:
  - a. Be sent by certified mail, return receipt requested, to the applicant at the address listed on the application form;
  - b. Describe the reactivation process; and
  - c. Explain the result of not reactivating that failure to reactivate the application in accordance with the notice will result in the application being deemed withdrawn in accordance with Section 10.01.I.4.
4. **Administrative Withdrawal.** Applications subject to Section [10.01.I.](#) will be deemed withdrawn if either:
  - a. An inactive application exceeds the maximum inactive period. ~~See, Section 10.01.I.3.;~~ or
  - b. A reactivated application is again deemed inactive. ~~See, Section 10.01.I.1.~~

## 10.02 Determination

**Purpose.** To clarify the meaning of the provisions of the Zoning Ordinance.



- A. **Applicability.** The Zoning Administrator has the authority to issue Determinations on matters concerning administration and enforcement of the Zoning Ordinance.
- B. **Initiation.** An applicant may request a written Determination by submitting such request in writing to the Zoning Administrator and paying the applicable fee.
- C. **Review and Decisions.**
  - 1. The Zoning Administrator will provide a written response based upon the specific facts presented in the request for Determination. If, based upon the facts and circumstances presented, the Zoning Administrator concludes that he is unable to issue a binding Determination of specific rights, the Zoning Administrator may issue an advisory opinion. Advisory opinions are not appealable.
  - 2. In administering the Zoning Ordinance and rendering Determinations as to the uses permitted or allowed by Special Exception or Minor Special Exception in the various ~~Zoning Districts~~ zoning districts, the Zoning Administrator has the power and authority to render decisions as to whether a specific proposed use, although not listed as permitted or allowed by Special Exception or Minor Special Exception, is so substantially similar in substance and effect to a permitted use or a use allowed by Special Exception or Minor Special Exception, that it is to be allowed as if expressly permitted or allowed by Special Exception or Minor Special Exception.
- D. **Appeals.** ~~See (Section 10.14.)~~
  - 1. Proffer Determinations are appealed to the Board of Supervisors.
  - 2. All other Determinations are appealed to the ~~BZA~~ Board of Zoning Appeals.

### 10.03 Administrative Modifications

**Purpose.** *To allow for nominal deviations from strict application of the Zoning Ordinance by the Zoning Administrator.*

- A. **Applicability.**
  - 1. The Zoning Administrator is authorized to grant modifications to:
    - a. ~~Physical requirements on a lot or parcel contained in the Zoning Ordinance~~ Lot to minimum depth, length, and width requirements as expressly authorized in Chapter 2 and Chapter 7 of up to 20% that do not conflict with an existing Condition of Approval, adopted Concept Development Plan, or proffers; and
    - b. Buffer, setback, and yard requirements due to errors in structure location. ~~See Section 7.01.04.B.5.~~
  - 2. ~~Exception. Errors in structure location not eligible for Zoning Administrator approval~~ Administrative Modifications are limited to 20% of the base requirement.
  - 3. Administrative Modifications cannot conflict with an existing Condition of Approval, adopted Concept Development Plan, or proffer.
  - 2-4. ~~Modifications pursuant to Section 10.03.D. are subject~~ A.1.a. proposed in conjunction with Commission Permit, Zoning Map Amendment, Zoning Concept Plan Amendment, Special Exception, or Minor Special Exception applications will instead be processed pursuant to Section 10.1110.04.C.
- B. **Initiation.**
  - 1. Applications must be filed by:
    - a. The property owner; or
    - b. The property owner's authorized agent or representative. An affidavit from the property owner permitting the agent or representative to sign on their behalf is required to be filed with the application.
  - 2. Applicable fees must be paid at the time of application and are non-refundable.

3. Applications must be filed with the Zoning Administrator.
4. Applications must include scaled drawings illustrating:
  - a. Plot plan showing location of all structures;
  - b. Building elevations of the subject structure; and
  - c. Additional material as determined by the Zoning Administrator to render a decision in conformance with Section 10.03.D. below.
- ~~5. Documentation to substantiate:~~
  - ~~a. Reasonable accommodations in accordance with ADA or state and federal fair housing laws; or~~
  - ~~b. The burden on religious exercise in accordance with the Religious Land Use and Institutionalized Persons Act (RLUIPA). Refer to 42 US Code § 2000cc et seq.~~
- 6.5. Proof of written notice in accordance with Code of Virginia ~~§~~ § 15.2-2286(A)(4):
  - a. To all adjoining property owners; and
  - b. Provide opportunity to respond within 21 days of the notice.
- C. **Review and Decision.** After the 21-day response period provided in Section 10.03.B.6.b. above has passed, the Zoning Administrator will:
  1. Make a decision on the application, including the imposition of any conditions necessary to:
    - a. Comply with the intent of the Zoning Ordinance pursuant to Section 1.01.B.; or
    - b. Avoid or minimize any potentially adverse or injurious effect of the proposal upon other property in the neighborhood;
  2. Issue a written decision to the applicant with findings consistent with Section 10.03.D. below; and
  3. Provide copies of the written decision to any adjoining landowner who responded in writing to the public notice.
- D. **Criteria for Approval.**
  1. **General.** Required for all Administrative Waivers and Modifications:
    - a. The strict application of the Zoning Ordinance would produce undue hardship;
    - b. Such hardship is not shared generally by other properties in the same ~~Zoning District~~ zoning district and the same vicinity;
    - c. The authorization of the modification will not be of substantial detriment to adjacent property;
    - d. The character of the ~~Zoning District~~ zoning district will not be changed by the granting of the modification; and
    - e. The Administrative Modification does not conflict with approved proffers or Concept Development Plan.
  2. **Errors in Structure Location.** In addition to the criteria of Section 10.03.D.1. above:
    - a. The noncompliance was done in good faith, or through no fault of the property owner, or was the result of an error in location of the structure subsequent to the issuance of a building permit, if such was required; and
    - b. Such encroachment will not create an unsafe condition with respect to other property owners and public roads.
- E. **Limitation after Denial or Withdrawal.** There is no limit on subsequent applications after denial or withdrawal.
- F. **Appeal.** The decision of the Zoning Administrator may be appealed to the Board of Zoning Appeals ~~(BZA)~~. See, Section 10.14.
- G. **Scope of Approval.**

1. Upon approval, the property characteristic subject to the waiver or modification is deemed to comply with the Zoning Ordinance.
2. Failure to comply with any conditions and restrictions constitutes a violation of the Zoning Ordinance.

## 10.04 Zoning Permit

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**Purpose.** *The purpose of the Zoning Permit is to ensure that development and uses comply with the Zoning Ordinance.*

**A. Applicability.** Zoning Permits are required prior to:

1. Issuance of building permit or Certificate of Occupancy;
2. Construction or occupancy of any structure. **Exception.** Zoning Permits are not required for accessory structures under 30 inches in height and less than 20 square feet in area, fences, and stormwater management improvements, unless located within the Floodplain Overlay District (FOD), Mountainside Overlay District (MOD), Limestone Overlay District (LOD), Historic Overlay District (HOD), River and Stream Corridor Resource (RSCR), or Steep Slopes Areas;
3. Commencement of any use or change in use or non-residential tenancy. **Exception.** Zoning Permits are not required for agriculture uses, unless access by the public is a part of such use or if such use is located within FOD, MOD, LOD, RSCR, or Steep Slopes Areas;
4. Commencement of excavation or grading relating to any action identified in Section 10.04.A. unless a Zoning Permit therefore has been issued by the Zoning Administrator and is still valid. **Exception.** A conditional grading permit may be obtained prior to construction plans and profiles or Site Plan approval in accord with the Facilities Standards Manual (FSM);
5. Development, as such term is defined in Section 5.03, located within the FOD (Major Floodplain); or
6. Commencement of a temporary use or special event pursuant to Section 3.04.

**B. Initiation.**

1. Zoning Permit applications must be filed by:
  - a. The property owner; or
  - b. The property owner's authorized agent or representative with the filing of an affidavit from the property owner permitting the agent or representative to sign on their behalf.
2. Applicable fees must be paid at the time of application and are non-refundable.
3. Applications must be filed with the Zoning Administrator.
4. Separate Zoning Permits are required for each use or structure on the property.
5. As determined by the Zoning Administrator, applications must include:
  - a. Approved Site Plan or plot plan pursuant to FSM requirements, or equivalent exhibit, signed by the applicant and drawn to scale showing:
    1. Location and dimensions of road access, adjoining properties, and easements, including conservation easements;
    2. Number, size, and type of dwelling units;
    3. Size and dimensions of areas within existing structures to be occupied with the proposed use;
    4. Number, size, location, and dimensions of off-street parking lots or spaces;
    5. Size, location, and type of open space;
    6. Number, size, location and lighting of signs, if any;
    7. Location of wells and septic systems;
    8. Size, location, and dimensions of outdoor storage yards, landscaping, buffering, and screening; and

9. Other significant features on or within 200 feet of the proposed site, not including public rights-of-way or easements.
  - b. A description of the activity to be conducted regarding waste products, external effects, or other conditions which are regulated herein. The applicant is not required to reveal any trade secrets or sufficient detail with regard to a process which would cause any secret process or manufacturing procedure for a closely guarded proprietary compound or product to become public knowledge and be available to competitors.
  - c. The type and location of abatement devices to control, or recording instruments to measure, conformance with required standards, not including devices and instruments which are inherent in the manufacturing process.
  - d. Certificate from the Health Official that the proposed location complies with Chapters 1066 and 1040 of the Codified Ordinances of Loudoun County, and applicable state laws regarding sewage disposal and water supply.
  - e. Where public water or sewer system approved by a health official is involved, a statement from the system permittee that all applicable regulations and requirements have been complied with.
  - f. A grading permit, if required by State law or County ordinance; to be issued by the Director of Building and Development.
  - g. A locational clearance for property located in a Natural and Environmental Resources (NER) of Chapter 6, LOD, or MOD.
  - h. Information necessary to illustrate conformance with the ~~Use Specific Standards~~ use-specific standards of Chapter 4.
  - i. Such other data and certification as may reasonably be required by the Zoning Administrator to determine compliance with the Zoning Ordinance.
6. Except for a Temporary Fire and/or Rescue Station, all temporary Zoning Permits must be applied for at least 30 days in advance of the event or function.
  7. Unless the temporary special event is addressed and covered through a previously approved Special Exception or Minor Special Exception pursuant to Section 10.11.08, a separate temporary Zoning Permit must be obtained for each temporary use or special event.
  8. The County may allow concurrent review and approval of applications for multiple temporary uses or events on the same property if it finds that concurrent review is feasible within the time frames established by Section 10.04.

**C. Review and Decision.**

1. The Zoning Administrator reviews and decides all Zoning Permit applications.
2. The Zoning Administrator may impose conditions necessary to comply with the intent of the Zoning Ordinance.
3. **Temporary Uses.**
  - a. The Zoning Administrator may refer the application for comments to any town, county, or state departments or agencies, as appropriate, for full and adequate review of the merits of the application. Each reviewing agency or department will submit its comments in writing to the Zoning Administrator within 10 business days from receipt of the Zoning Administrator's request.
  - b. The Zoning Administrator may impose reasonable conditions necessary to:
    1. Assure compliance with the standards of Section 3.04;
    2. Ensure that operation and maintenance of the temporary special event mitigate potential adverse impacts on existing uses on adjoining properties and in the surrounding area; and

3. Protect the public health, safety, and general welfare.
- c. Conditions may address, but are not limited to:
  1. Provisions for adequate parking, storage, lighting, and signage;
  2. Provisions for security, traffic safety, fire, and life safety;
  3. Limiting hours of operation;
  4. The volume of amplified music and other limits on sound;
  5. Provisions for adequate trash and sewage disposal; and
  6. Any other health and safety concerns the Zoning Administrator may deem necessary to comply with the approval criteria.
- d. The Zoning Administrator may require the posting of a bond to ensure timely:
  1. Removal of structures and materials; and
  2. Restoration of the area.

**D. Approval Criteria.**

1. No Zoning Permit may be issued where the structure to be constructed or the use contemplated would:
  - a. Violate the provisions of the Zoning Ordinance or any other applicable Federal, State, or County law, ordinance or regulation;
  - b. Violate the terms of approval of a Zoning Map Amendment, Subdivision, Special Exception, Proffer, Variance, or other approval; or
  - c. Afford protection to any owner who is found to be violating this or any other applicable law, ordinance, or regulation.
2. Temporary special events must meet all of the following:
  - a. The proposed special event is located, operated, and maintained in a manner consistent with the provisions of Section 3.04.D.;
  - b. The particular location requested can reasonably accommodate the proposed temporary special event, given the proposed use's nature, size, and duration;
  - c. The proposed special event does not create significant adverse impacts on properties or improvements in the surrounding area. These impacts include, but are not limited to:
    1. Traffic;
    2. Environmental;
    3. Visual, glare;
    4. Noise; or
    5. Odors;
  - d. The proposed special event does not create an unreasonable risk of:
    1. Significant damage to public or private property, beyond normal wear and tear;
    2. Injury to persons;
    3. Public or private disturbances or nuisances;
    4. Unsafe impediments or distractions to, or congestion of, vehicular or pedestrian travel; or
    5. Additional police, fire, trash removal, maintenance, or other public services demands, unless substantially mitigated by the applicant or operator;
  - e. The proposed special event does not violate any applicable conditions of approval that apply to the principal use on the site; and

- f. The time and location requested for the proposed special event is not already permitted or reserved for other activities.
- E. **Limitation after Denial or Withdrawal.** There is no limit on subsequent applications after a Zoning Permit has been denied or withdrawn.
- F. **Appeals.** The decision of the Zoning Administrator may be appealed to the Board of Zoning Appeals (BZA). See, Section 10.14.
- G. **Scope of Approval.**
  1. Issued Zoning Permits become invalid if the authorized work:
    - a. Is not commenced within 1 year of the date of issuance; or
    - b. Is suspended or abandoned for a continuous period of 1 year.
  2. The Zoning Administrator may extend a Zoning Permit for up to an additional 1 year.
    - a. The applicant must submit a written request at least 30 days before expiration.
    - b. The applicant must show good cause for the extension.
    - c. An extension fee may be required.
  3. All information and evidence submitted with the application constitute an agreement on the part of the applicant that the proposed use will conform to such standards at all times.
  4. **Temporary Special Events.**
    - a. Temporary special events are limited to a maximum duration of 14 consecutive days, unless otherwise specifically authorized or extended by the Zoning Administrator.
    - b. At the conclusion of the temporary special event, all related structures and materials must be removed and the site restored to its pre-event condition.
    - c. Permanent alterations to the site are prohibited unless the Zoning Administrator specifically approves the alteration so that the permit applicant can comply with Section 3.04.D.
    - d. Permanent signs are prohibited. All temporary signs must obtain a Sign Permit. Signs associated with the temporary special event use must be reviewed and approved pursuant to Section 8.10 and are only for the duration of the temporary special event.
    - e. The applicant or operator of the special event must comply with any other required permits, such as health department permits, or other federal, state, or county regulations.
    - f. A permittee may request an extension of the approval term in writing before the expiration of the original approval term and the Zoning Administrator may approve an extension upon a finding that:
      1. The temporary special event has substantially complied with all conditions of the original approval; and
      2. The extension will not create substantial adverse impacts on adjacent properties.

## 10.05 Sign Permit

**Purpose.** To ensure that signs comply with Chapter 8.

- A. **Applicability.** If Chapter 8 requires a Zoning Sign Permit for a Sign.
- B. **Initiation.**
  1. Sign Permit applications must be filed by:
    - a. The property owner; or
    - b. The property owner's authorized agent or representative. An affidavit from the property owner permitting the agent or representative to sign on their behalf will be required.

2. Applicable fees must be paid at the time of application and are non-refundable.
  3. Applications must be filed with the Zoning Administrator.
  4. As determined by the Zoning Administrator, applications must include scaled drawings illustrating:
    - a. Plot plan showing location of all signs;
    - b. Building elevations showing location of sign(s);
    - c. Sign sizes and area; and
    - d. Structural, electrical, and other characteristic details of the proposed sign(s).
- C. **Review and Decision.**
1. The Zoning Administrator reviews and decides all Sign Permit applications.
  2. The Zoning Administrator may impose conditions necessary for compliance with the Sign Regulations.
- D. **Approval Criteria.** No sign will be approved unless it complies with the Sign Regulations.
- E. **Limitations after Denial or Withdrawal.** There is no limit on subsequent applications after a Sign Permit has been denied or withdrawn.
- F. **Appeals.** The decision of the Zoning Administrator may be appealed to the Board of Zoning Appeals. ~~See~~ [Section 10.14](#).
- G. **Scope of Approval.**
1. Issued Sign Permits become invalid if the authorized work:
    - a. Is not commenced within 12 months of the date of issuance; or
    - b. Is suspended or abandoned for a continuous period of 12 months.
  2. The Zoning Administrator may extend a Sign Permit for up to an additional 12 months.
    - a. The applicant must submit a written request at least 30 days before expiration.
    - b. The applicant must show good cause for the extension.
    - c. An extension fee may be required.

## 10.06 Site Plan

**Purpose.** To verify that the physical aspects of development and use comply with the Zoning Ordinance and other ordinance requirements.

- A. **Applicability.**
1. **Required.** Site Plan approval is required prior to a Zoning Permit or any physical changes to the site.
  2. **Exempt.** The following do not require a Site Plan and are exempt from the requirements of [Section 10.06](#), but do require a Zoning Permit in accordance with 10.04:
    - a. Agriculture uses identified in [Section 3.02](#) that do not involve access by the public as a part of such use;
    - b. Animal Care Business;
    - c. Bed and Breakfast Homestay (with less than 5,000 sq. ft. of disturbance);
    - d. Bed and Breakfast Inn (with less than 5,000 sq. ft. of disturbance);
    - e. Child Day Home;
    - f. Dwelling, Single-Family Attached and associated accessory structures and uses;
    - g. Dwelling, Single-Family Detached and associated accessory structures and uses;
    - h. Extractive Industries (with no structures);
    - i. Small Business, Agricultural and Rural;



- j. Solid Waste Facility (with no structures);
  - k. Stable, Private;
  - l. Stable, Livery;
  - m. Temporary Uses; and
  - n. Electric Vehicle charging infrastructure.
- B. **Procedures.** Regulations regarding the submission, review, and approval of Site Plan applications are provided in the Land Subdivision and Development Ordinance (LSDO) and the Facilities Standards Manual (FSM).

## 10.07 Subdivision

**Purpose.** *The purpose of subdivision applications is to ensure that the division of land complies with the Zoning Ordinance and other ordinances.*

- A. **Subdivision Approval.** Subdivision approval is required in the circumstances specified in the Land Subdivision and Development Ordinance (LSDO).
- B. **Condominium Development.** Pursuant to the Code of Virginia § 55.1-1905, the applicable regulations of the Zoning Ordinance and the LSDO and the associated review of plans and plats, apply to any condominium development, both vertical and horizontal land, in the same manner as such ordinances apply to a physically identical project or development under a different form of ownership.
- C. **Conversion Condominium.** Pursuant to the Code of Virginia § 55.1-1905.E, a proposed conversion condominium that does not conform to the zoning, land use, and Site Plan regulations must receive Special Exception approval prior to such property becoming a conversion condominium.

## 10.08 Variance

**Purpose.** *To allow for deviation from the strict application of the Zoning Ordinance to avoid unreasonable restrictions upon the utilization of property beyond the intent of the Zoning Ordinance.*

- A. **Applicability.**
  - 1. **Authorized Variances.** Reasonable deviations from the regulations and restrictions contained in the Zoning Ordinance may be requested only in the following instances and in no others:
    - a. A Variance from those provisions regulating the shape, size, or area of a lot or parcel of land; or
    - b. A Variance from those provisions regulating the size, height, area, bulk, or location of a structure when the strict application of the Zoning Ordinance would unreasonably restrict the utilization of the property.
  - 2. **Unauthorized Variance.** No Variance can be approved that would:
    - a. Rezone property;
    - b. Change the use or density of land or structures; or
    - c. Result in any increase in the base flood elevation of any use or activity within the Floodplain Overlay District (FOD) (Major Floodplain).
- B. **Initiation.**
  - 1. Variance applications must be filed with the Zoning Administrator by a person owning the property or having a possessory or contract interest in such property and the consent of the owner.
  - 2. The application must contain the following information and such additional information as the Board of Zoning Appeals (BZA) may, by rule, require or as may be required by Sections 10.01.E. and F.:

- a. The particular provisions or requirements of the Zoning Ordinance that prevent the proposed construction on, or use of, the property;
- b. The existing zoning of the property, including any previously approved modifications, conditions, or proffers;
- c. The special conditions, circumstances, or characteristics of the land or structure that prevent the use of the land in compliance with the requirements of the Zoning Ordinance;
- d. The extent to which it would be necessary to vary the requirements of the Zoning Ordinance in order to permit the proposed construction on, or use of, the property;
- e. An explanation of how the requested Variance conforms to each of the approval criteria;
- f. Evidence that the strict application of the terms of the Zoning Ordinance would unreasonably restrict the utilization of the property or that the granting of the Variance would alleviate a hardship due to a physical condition relating to the property or improvements thereon at the time of the effective date of the Zoning Ordinance; and
- g. A plat of the property that has been prepared by a Commonwealth Licensed Professional Engineer (P.E.) or Surveyor.
  1. For properties containing one acre or more, the applicant may petition the Zoning Administrator to request that this requirement be reduced to a survey of the portion of the property for which the Variance is sought.
  2. Such plat or survey must clearly depict:
    - a. The requested Variance;
    - b. The current Zoning Ordinance requirements; and
    - c. The section of the Zoning Ordinance requesting to be varied.

**C. Review and Decision.**

**1. Zoning Administrator.**

- a. County staff, as determined by the Zoning Administrator, will review the application and provide written comments to the applicant and BZA.
- b. The Zoning Administrator will provide staff comment, analysis, and recommendation to the BZA for their use at the public hearing.

**2. Planning Commission.** The Zoning Administrator will transmit a copy of the application to the Planning Commission which may send a recommendation to the BZA or appear as a party at the hearing.

**3. Board of Zoning Appeals (BZA).**

- a. The BZA exercises the jurisdiction and authority to grant a Variance from the literal terms of the Zoning Ordinance in accordance with the procedures, standards, and limitations contained in Section [10.08](#).
- b. Within 90 days of receiving a complete application, the BZA will hold a public hearing and decide upon the requested Variance.
- c. After the public hearing, the BZA must approve, deny, or approve with conditions the application for a Variance.
- d. The BZA may impose such conditions and restrictions upon the location, character, and other features of the proposed structure or use as it may deem necessary in the public interest and may require a guarantee or bond to ensure that the conditions imposed are being and will continue to be complied with.
- e. The applicant for a Variance bears the burden of providing evidence to prove by a preponderance of the evidence that the Variance application meets the approval criteria.

**D. Approval Criteria.** Variance approval will be granted if the evidence shows:

1. The property interest for which the Variance is being requested was acquired in good faith and any hardship was not created by the applicant for the Variance;
2. The granting of such Variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area;
3. The condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the Zoning Ordinance;
4. The granting of the Variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property;
5. The relief or remedy sought by the Variance application is not available through a Special Exception, Minor Special Exception, or Zoning Modification at the time of filing of the Variance application; and
6. Such Variance is not contrary to the purpose of the Zoning Ordinance pursuant to Section 1.01.B.

**E. Limitations after Denial or Withdrawal.** If a Variance is denied by the BZA on the merits, or withdrawn, no application requesting the same relief with respect to all or part of the same property will be considered by the BZA within 12 months after the date of such denial or withdrawal.

**F. Appeals.** Appeals of the BZA's final decision are to the Loudoun Circuit Court in accordance with the Code of Virginia.

**G. Scope of Approval.**

1. Notwithstanding any other general or special provision of law, the property characteristic upon which a property owner has been granted a Variance will be treated as conforming for all purposes under state law and the Zoning Ordinance.
2. The structure permitted by the Variance may not be expanded unless the expansion is within an area of the site or part of the structure for which no Variance is required under the Zoning Ordinance.
3. Where the expansion is proposed within an area of the site or part of the structure for which a Variance is required, the approval of an additional Variance will be required.
4. Failure to comply with any such conditions and restrictions constitutes a violation of the Zoning Ordinance.

## 10.09 Commission Permit

**Purpose.** To verify, whether publicly or privately owned, all public areas, public buildings, public structures, public utility facilities, and public service corporation facilities are consistent with the Comprehensive Plan.

**A. Applicability.**

1. **Required.** Pursuant to Code of Virginia § 15.2-2232, a Commission Permit is required (unless specifically exempted below) for the following features:
  - a. Street or connection to an existing street;
  - b. Park or other public area;
  - c. Public building or public structure;
  - d. Public utility facility or public service corporation facility;
  - e. Widening, narrowing, extension, enlargement, vacation or change of use of streets or public areas;
  - f. Telecommunications monopoles, towers, or facilities, including privately constructed wireless facilities in VDOT rights-of-way;
  - g. Sanitary landfills; and

~~h. School sites; and~~

~~i.h. Electric transmission lines of at least 138 kilovolts.~~

2. **Exempt.** The following features do not require a Commission Permit and are exempt from the requirements of Section 10.09:

- a. The feature is shown on the Comprehensive Plan, inclusive of the General Plan, Countywide Transportation Plan, strategic plans, and area management plans Plan;
- b. The feature is identified within, but not the entire subject of, an approved Subdivision, Site Plan, or Concept Development Plan;
- c. Railroads;
- d. Underground natural gas or electric distribution facilities of a public utility as defined in Code of Virginia § 56-265.1.(b);
- e. Paving, repair, reconstruction, improvement, drainage or similar work, and normal service extensions of public utilities or public service corporations that do not involve a change in location or extent of a street or public area;
- f. Electric transmission lines of 138 or more kilovolts that have received a certificate of convenience and necessity from the State Corporation Commission pursuant to Code of Virginia § 56-265.2.; or
- g. Proposed telecommunications monopole, tower, or facility constructed by an entity organized pursuant to Code of Virginia §§ 56-231.15., et seq. located in a ~~Zoning District~~zoning district that allows such telecommunications monopole, tower, or facility as a permitted use.

**B. Initiation.**

1. Applications must be submitted to the Zoning Administrator after completion of ~~Preapplication~~, see Premeeting, Section 10.01.C.
2. Only complete applications will be accepted for review, see Section 10.01.D.

**C. Review and Decision.**

**1. Zoning Administrator.**

- a. County staff, as determined by the Zoning Administrator, will review the applications and provide written comments.
- b. The comments will be provided to the applicant.
- c. The Zoning Administrator will provide staff comment, analysis, and recommendation to the Planning Commission and the Board of Supervisors for their use.

**2. Planning Commission.**

- a. The Planning Commission will decide the proposed Commission Permit upon receiving a complete application as follows:
  1. Within 60 days unless time has been extended by the Board of Supervisors; or
  2. Within 90 days for telecommunications facilities unless the time has been extended by:
    - a. The Board of Supervisors for not more than an additional 60 days; or
    - b. The applicant.
- b. The Planning Commission will either approve or deny the Commission Permit.
- c. Commission permits are approved if the Planning fails to act within the specified times.

**3. Board of Supervisors.**

- a. Within 60 days after the Planning Commission has acted or failed to act, the Board of Supervisors will review the decision.

- b. The Board of Supervisors may overrule the action of the Planning Commission by a vote of a majority of its membership.
- c. If the Board of Supervisors fails to overrule the Planning Commission within the specified time, the decision of the Planning Commission is final.
- D. **Approval Criteria.** Commission permits will be approved if the general location or approximate location, character, and extent is substantially in accord with the Comprehensive Plan or part thereof.
- E. **Limitations after Denial or Withdrawal.** There is no limit on subsequent applications after a Commission Permit has been decided or withdrawn.
- F. **Appeals.** See (Section 10.14.)
- G. **Scope of Approval.** Commission Permit approval allows for the construction, establishment, or authorization of the specified facility provided all other development approvals required by the Zoning Ordinance are obtained.

## 10.10 Zoning Amendments

### Contents:

- 10.10.01 Zoning Map Amendment (Rezoning)
- 10.10.02 Zoning Ordinance Amendment
- 10.10.03 Conditional Zoning (Proffers)
- 10.10.04 Concept Development Plan
- 10.10.05 Zoning Concept Plan Amendment
- 10.10.06 Urban Zoning Districts - Additional Requirements
- 10.10.07 Suburban Zoning Districts - Additional Requirements
- 10.10.08 Historic Overlay Districts - Additional Requirements
- 10.10.09 Planned Unit Development - Additional Requirements
- 10.10.10 Zoning Conversion in the Route 28 Tax District

### 10.10.01 Zoning Map Amendment (Rezoning)

**Purpose.** To change ~~Zoning District~~ zoning district boundaries or classifications of property.

- A. **Applicability.** The Board of Supervisors may, by ordinance, amend the official Zoning Map by modifying ~~Zoning District~~ zoning district boundaries or changing the ~~Zoning District~~ zoning district classification of property.
- B. **Initiation.**
  - 1. A Zoning Map Amendment may be initiated by any of the following actions:
    - a. The Board of Supervisors adopts a resolution;
    - b. The Planning Commission adopts a motion; or
    - c. The owner or, with the owner's consent, the owner's written agent or contract purchaser of the property that is the subject of the proposed Zoning Map Amendment, files an application with the Zoning Administrator after completion of ~~Preapplication. See~~ Premeeting, Section 10.01.C.
  - 2. For applications initiated pursuant to Section 10.10.01.B.1.c., written consent of all owners of the property under consideration must be provided with the application.
  - 3. Only complete applications will be accepted for review. ~~See~~ Section 10.01.D.
- C. **Review and Decision.**
  - 1. **Zoning Administrator.**

- a. The Zoning Administrator will request County, Commonwealth, Town, or other agencies, as determined in the Zoning Administrator's discretion, to review the application and provide written comments to the Zoning Administrator within 25 business days (or as necessary for state agency review) of receiving the application materials for review. Subsequent reviews pursuant to Section 10.10.01.C.1.c. will be completed within 20 business days.
- b. Upon completion of the review required by Section 10.10.01.C.1.a., the Zoning Administrator will forward any comments received to the applicant.
- c. The applicant can revise the application materials to address staff and review agency comments and submit the revised materials for further review.
- d. The Zoning Administrator will repeat this review process for each resubmittal until either the applicant requests or the Zoning Administrator forwards the application to the Planning Commission for public hearing. Unless the Zoning Administrator and the applicant agree otherwise, the applicant may request that the application be forwarded to the Planning Commission for public hearing at any time following the applicant's receipt of the third round of review agency comments (i.e., upon the fourth submission by the applicant).
- e. The Zoning Administrator will provide staff comment, analysis, and recommendation to the Planning Commission and the Board of Supervisors for their use at public hearings.

**2. Planning Commission.**

- a. The Planning Commission will hold a public hearing to consider the proposed Zoning Map Amendment.
  1. The public hearing date will be set by the Zoning Administrator in consultation with the Chair of the Planning Commission.
  2. A public hearing will not be allowed to proceed if the applicant fails to satisfy any notice or disclosure required in Chapter 10 or the Code of Virginia.
- b. The Planning Commission may refer the application to a work session for further consideration.
  1. The work session will be scheduled within 100 days following the public hearing, or such longer time as agreed by the applicant.
  2. The applicant may revise the application materials in response to comments from the public, staff, and/or the Planning Commission.
    - a. A work session will be scheduled upon receipt of the applicant's resubmission, allowing reasonable time for staff review of the revised materials and preparation and publication of the staff report.
    - b. For the purposes of Section 10.10.01.C.2.b.2.a., a reasonable time will be a minimum of 30 days unless an alternate time is agreed to by staff and the applicant.
  3. Additional work sessions may be scheduled only with the concurrence of the applicant.
- c. After the public hearing and any applicable work session, the Planning Commission will forward the proposed Zoning Map Amendment to the Board of Supervisors with either a recommendation of approval or denial and, at the Planning Commission's option, recommendations for further amendments to the applicant's proposal.

**3. Board of Supervisors.**

- a. The Board of Supervisors will hold a public hearing to consider the proposed Zoning Map Amendment.
- b. The Board may, at its discretion, remand the application to the Planning Commission for consideration of specific items, or if it determines that the application has materially changed since Planning Commission review.

**D. Factors for Consideration.**

1. In considering a Zoning Map Amendment application, the following factors will be given reasonable consideration:
  - a. Consistency with the General Plan;
  - b. Land use compatibility, including impacts to the surrounding area;
  - c. Impacts to natural, environmental, and heritage resources;
  - d. Impacts to housing;
  - e. Economic Development;
  - f. Impacts to public services, utilities, and infrastructure;
  - g. Consistency with the Countywide Transportation Plan; and
  - h. Mitigation of impacts of the proposed development.
2. For modifications shown on a Concept Development Plan pursuant to Section 10.10.04.C., in addition to the Factors for Consideration of Section 10.10.01.D. above, the following factors will be given reasonable consideration:
  - a. Whether the modification achieves the Purpose of the Chapter or Section from which the modification is sought; ~~and~~
  - b. Whether the modifications to Chapter 9 meet the applicable attainable housing requirements of Section 9.01.H., Section 9.02.H., or Section ~~9.02.H.03.D.~~; and
  - c. Whether proffered conditions mitigate the impacts of the proposed modification.
- E. **Limitations after Denial or Withdrawal.** No new application concerning any or all the same property, which is substantially the same as any denied or withdrawn Zoning Map Amendment application, will be accepted for review within 12 months of the date of such denial or withdrawal.
- F. **Appeals.** Appeals of the Board of Supervisors' final decision are to the Loudoun Circuit Court in accordance with the Code of Virginia.
- G. **Scope of Approval.** Zoning Map Amendment approval does not grant other development approvals required by the Zoning Ordinance.

### **10.10.02 Zoning Ordinance Amendment**

**Purpose.** *To change the text of the Zoning Ordinance as may be necessary or desirable as determined by the Board of Supervisors.*

- A. **Applicability.** The Board of Supervisors may by ordinance amend, supplement, change, or repeal the text of the Zoning Ordinance.
- B. **Initiation.** A Zoning Ordinance Amendment may be initiated by any of the following actions:
  1. The Board of Supervisors adopts a resolution;
  2. The Planning Commission adopts a motion; or
  3. A landowner files a petition for a resolution of intent to amend the text of the Zoning Ordinance, to be acted upon by the Board of Supervisors. The Board will either adopt such resolution, initiating the requested Zoning Ordinance Amendment, or deny such petition.
- C. **Review and Decision.**
  1. **Zoning Administrator.**
    - a. The Zoning Administrator will request County, Commonwealth, Town, or other agencies, as determined in the Zoning Administrator's discretion, to review the application and provide written comments to the Zoning Administrator.



- b. This process may be repeated as determined by the Zoning Administrator.
- c. The Zoning Administrator will provide staff comment, analysis, and recommendation to the Planning Commission and the Board of Supervisors for their use at public hearings.

**2. Planning Commission.**

- a. The Planning Commission will hold a public hearing to consider the proposed Zoning Ordinance Amendment.
- b. The Planning Commission may refer the application to a work session for further consideration.
- c. After the public hearing and any applicable work session, the Planning Commission will forward the proposed Zoning Ordinance Amendment to the Board of Supervisors with either a recommendation of approval or denial and, at the Planning Commission's option, recommendations for further amendments to the applicant's proposal.

**3. Board of Supervisors.**

- a. The Board of Supervisors will hold a public hearing to consider the proposed Zoning Ordinance Amendment.
- b. The Board may, at its discretion, remand the application to the Planning Commission for consideration of specific items, or if it determines that the application has materially changed since Planning Commission review.

**D. Factors for Consideration.** In considering a Zoning Ordinance Amendment, the following factors will be given reasonable consideration, where applicable:

- 1. Consistency with the Comprehensive Plan;
- 2. To provide for adequate light, air, convenience of access, and safety from fire, flood, impounding structure failure, crime and other dangers;
- 3. To reduce or prevent congestion in the public streets;
- 4. To facilitate the creation of a convenient, attractive and harmonious community;
- 5. To facilitate the provision of adequate police and fire protection, disaster evacuation, civil defense, transportation, water, sewerage, flood protection, schools, parks, forests, playgrounds, recreational facilities, airports, and other public requirements;
- 6. To protect against destruction of or encroachment upon historic areas and working waterfront development areas;
- 7. To protect against one or more of the following: overcrowding of land, undue density of population in relation to the community facilities existing or available, obstruction of light and air, danger and congestion in travel and transportation, or loss of life, health, or property from fire, flood, impounding structure failure, panic or other dangers;
- 8. To encourage economic development activities that provide desirable employment and enlarge the tax base;
- 9. To provide for the preservation of agricultural and forestal lands and other lands of significance for the protection of the natural environment;
- 10. To protect approach slopes and other safety areas of licensed airports, including United States government and military air facilities;
- 11. To promote the creation and preservation of affordable housing suitable for meeting the current and future needs of the locality as well as a reasonable proportion of the current and future needs of the planning district within which the locality is situated;
- 12. To provide reasonable protection against encroachment upon military bases, military installations, and military airports and their adjacent safety areas, excluding armories operated by the Virginia National Guard;

13. To provide reasonable modifications in accordance with the Americans with Disabilities Act of 1990 (42 United States Code § 12131, et seq.) or state and federal fair housing laws, as applicable; and
14. To protect surface water and ground water as defined in Code of Virginia § 62.1-255.
- E. **Limitations after Denial or Withdrawal.** There is no limitation after denial or withdrawal of a Zoning Ordinance Amendment.
- F. **Appeals.** Appeals of the Board of Supervisors' final decision are to the Loudoun Circuit Court in accordance with the Code of Virginia.
- G. **Scope of Approval.** Approval of a Zoning Ordinance Amendment amends the text of the Zoning Ordinance. It does not grant any development approvals.

### 10.10.03 Conditional Zoning (Proffers)

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- A. **Conditional Zoning.** As part of a Zoning Map Amendment or Zoning Concept Plan Amendment, the County may accept reasonable conditions governing the use of such property as provided by Code of Virginia § 15.2-2303.
  1. When proffered by the landowner in conformance with Section 10.10.03, such conditions must be in addition to the Zoning Ordinance regulations.
  2. For Zoning Map Amendment and Zoning Concept Plan Amendment applications subject to the provisions of Code of Virginia § 15.2-2303.4, the County will accept only such reasonable conditions as defined by and in accordance with Code of Virginia § 15.2-2297 that may not be deemed unreasonable as defined in Code of Virginia § 15.2-2303.4.
- B. **Proffered Conditions.** Proffered conditions in accordance with Section 10.10.03 may include written statements, development plans, profiles, elevations, or other demonstrative materials and are subject to the procedures set out in, or established by resolution pursuant to, Section 10.10.02 and the following:
  1. **Contents and Timing of Proffers.** Proffered conditions must be signed by all persons having an ownership interest in the property and must be notarized and submitted to the Zoning Administrator prior to a public hearing before the Board of Supervisors:
    - a. The Board of Supervisors may accept amended proffers after the public hearing has begun if the amended proffers:
      1. Impose a more restrictive standard on the proposal; and
      2. Do not materially affect the overall proposal; and
    - b. Proffered conditions must contain a statement that the owners voluntarily enter into the conditions contained therein; and
  2. **Filing and Notice of Accepted Proffers.** When a Zoning Map Amendment or a Zoning Concept Plan Amendment is approved subject to proffered conditions, the Zoning Administrator will:
    - a. Annotate the subject property on the Official Zoning Map; and
    - b. Maintain an official copy of the approved proffers; and
  3. **Proffers Govern Development.** Proffered conditions become a part of the zoning regulations and other County development regulations applicable to the property unless such proffers are subsequently changed by a Zoning Map Amendment or Zoning Concept Plan Amendment, which is not part of a comprehensive implementation of a new or substantially revised zoning ordinance; and
  4. **Substantial Conformance Required.** Upon approval of a Zoning Map Amendment or Zoning Concept Plan Amendment with proffers, all other applications for development thereafter must be in substantial conformance with all proffered conditions. No development may be approved by any County official in the absence of said substantial conformance.

- C. **Enforcement of Proffers.** The Zoning Administrator is vested with all necessary authority on behalf of the Board of Supervisors to administer and enforce proffered conditions.
1. **Remedy Noncompliance.** To order, in writing, the remedy of any noncompliance with a proffered condition and the ability to bring legal action to ensure compliance including injunction, abatement, or other appropriate action or proceedings, as provided for in Section 10.13.
  2. **Guarantee Construction of Improvements.** The Zoning Administrator may require a guarantee, ~~satisfactory to the Board of Supervisors~~, in an amount sufficient for and conditioned upon the construction, installation, provision, or performance of any public improvements, site improvements, facilities, or obligations required by the proffered conditions.
    - a. ~~The Board~~ This guarantee will be required prior to the approval of Supervisorsthe applicable construction plans and profiles, site plan, or the subdivision application.
    - a-b. ~~The Zoning Administrator will must~~ reduce or release this guarantee upon satisfactory evidence that the construction, installation, provision, or performance of such improvements, facilities, or obligations has been completed in whole or substantially in part as determined by the Zoning Administrator.
    - b. ~~Said guarantee will be required prior to the approval of the applicable construction profile and plan, Site Plan or subdivision application.~~
  3. **Require Compliance.**
    - a. Any Site Plan, Subdivision, grading permit, Zoning Permit, building permit, or certificate of occupancy that fails to meet or comply with any proffered condition must be denied.
    - b. In addition to the other penalties appropriate for violations of the Zoning Ordinance, the Zoning Administrator may deny issuance of any development approval, plan, or permit relating to the land area, which was the subject of the conditional zoning, for failure to meet or comply with any proffered condition.
    - c. With each application for a development approval or permit, the applicant must include an affidavit certifying that all applicable proffers have been or will be complied with as agreed upon at the time of Zoning Map Amendment or Zoning Concept Plan Amendment approval.
    - d. The applicant bears the burden of verifying that the proposed development complies with any and all proffered conditions.
- D. **Appeal of Proffer Decision.** Any person aggrieved by a decision of the Zoning Administrator regarding any proffered condition may appeal such decision to the Board of Supervisors as provided in Section 10.14.
- E. **Proffer Amendment.**
1. A Zoning Concept Plan Amendment is required to amend proffered conditions that have been approved and accepted by the Board of Supervisors, except as provided under Section 10.10.04.E.
  2. Proffer Amendments follow the same process and procedures that apply to the review and approval of Zoning Concept Plan Amendments as provided in Section 10.10.05, except that the Zoning Administrator may modify the applicable schedule for agency comments (referrals) based on the complexity, scope, or nature of the requested proffer amendment.
  3. Notwithstanding Section 10.10.03.E.1., above, the Board of Supervisors may waive the requirements for public hearing before either or both the Planning Commission and Board of Supervisors, when an amendment to such proffered conditions is requested that does not affect conditions of use or density.
    - a. Upon granting such waiver request, the requested amendment will be referred to the Planning Commission for review.
    - b. Staff and Planning Commission recommendations will be provided to the Board of Supervisors within such period of time as specified by the Board of Supervisors at the time it grants the waiver.

- c. In granting the waiver, the Board of Supervisors will require written notice of such application be provided in the manner and to the persons as set forth in Code of Virginia §§ 15.2-2204 and 15.2-2302 and Section 10.01.G.1. of the Zoning Ordinance, except as provided in Section 10.10.03.E.3.d. and may:
    1. Establish a modified schedule for staff and Planning Commission review; and
    2. Approve a reduced fee reflecting the modified schedule.
  - d. Notwithstanding noticing requirements of the Zoning Ordinance, the Board of Supervisors may waive the written notice requirement of Code of Virginia § 15.2-2302(A) in order to reduce, suspend, or eliminate outstanding cash proffer payments for residential construction calculated on a per-dwelling unit or per-home basis that have been agreed to, but unpaid, by any landowner.
4. Notwithstanding any other provision of law, no claim of any right derived from any proffered condition accepted by the Board of Supervisors impairs the right of any landowner subject to such proffered condition to secure amendments to such proffered condition.

#### 10.10.04 Concept Development Plan

**Purpose.** To provide a graphic depiction of the proposed development approved with a Zoning Map Amendment or Zoning Concept Plan Amendment.

**A. Required.**

1. An application for a Zoning Map Amendment or a Zoning Concept Plan Amendment must include a Concept Development Plan and such additional information necessary to provide a detailed understanding of the proposed development.
2. The Concept Development Plan must be sufficiently detailed to be evaluated with respect to the criteria of Section 10.10.01.D.

**B. Contents.** The Concept Development Plan must contain the following information, which will apply to the project as a whole and to each land bay within the project:

**1. Nonresidential Uses:**

- a. Floor area ratio;
- b. Maximum gross floor area for each nonresidential use type;
- c. A notation or depiction of the setbacks, height, and bulk restrictions; and
- d. Any standards or requirements that are imposed and restrictions regarding the location and nature of nonresidential activities; and

**2. Residential Uses:**

- a. Maximum number of dwelling units and maximum number of each dwelling unit type;
- b. Maximum gross floor area for multifamily attached dwelling units;
- c. A notation or depiction of lot and building restrictions;
- d. Maximum residential densities; and
- e. Any standards or requirements that are imposed and restrictions regarding the location and nature of residential activities; and

**3. Civic Uses:**

- a. Floor area ratio for each civic use type;
- b. Maximum gross floor area; and
- c. Location of civic facilities provided, if not otherwise provided in the proffers; and

**4. Public Uses:**

- a. The floor area ratio or ratios;
- b. The maximum gross area for the project as a whole and for land bays within the project; and
- c. The location of public land and facilities provided, if not otherwise provided in the proffers; ~~and~~

5. **Transportation/Access:**

- a. The approved location and general design of transportation improvements;
- b. Ingress and egress to the project; and
- c. Access restrictions; ~~and~~

6. **Open Space Plan.** Demonstrate consistency or the ability to comply with the requirements of Section 7.02 and include the following:

- a. Natural, environmental, and heritage resources;
- b. Prime soils and agricultural open space for properties within Transition and Rural Zoning Districts;
- c. ~~Wildlife habitat, forests, tree cover, and native plants~~ Known resources that could qualify for open space types identified with a factor of 150% (see Table 7.02-2) on the subject site and ~~adjacent~~ abutting properties;
- d. ~~Active recreation, recreational trails, and passive recreation areas;~~
- d. Calculations and locations of open space types identified in Section 7.02.C.;
- e. Community open space;
- f. ~~Adjacent open space;~~
- g.f. Perimeter landscape buffers and screening intended ~~Connections to mitigate impacts on adjacent properties;~~ open space pursuant to Section 7.02.D.; and
- h.g. Other areas to remain as open space; and

7. **Transitions.** Location and design of transitions between uses up to 200 feet of the project area, to include:

- a. Building heights and orientation;
- b. Use restrictions; and
- c. Additional buffers and setbacks; ~~and~~

8. **Proffered Commitments.** Additional information to clearly illustrate the extent, measures of successful performance, and location of land-based commitments included in the proffers; and

9. **Modifications.** If modifications pursuant to Section 10.10.04.C. are requested, the applicant must provide:

- a. A list that identifies each proposed modification;
- ~~a.b.~~ The location and visual depiction of each proposed modification; and
- b.c. At the request of ~~Except as waived by~~ the Zoning Administrator, an exhibit ~~of demonstrating that the same or greater density could be achieved without the proposed modification—sufficient to demonstrate no resulting increase in density.~~

C. **Modification.** As part of a Concept Development Plan, the Board of Supervisors may approve modifications to the regulations of Chapters 2, 7, and 9 consistent with Section 10.10.04.C., except in Rural Zoning Districts.

1. A regulation may be modified only if such modification is expressly authorized by the applicable section.
2. No such modification will be approved unless the Board of Supervisors find that such modification to the regulation will better achieve the policies of the Comprehensive Plan.

~~2.3.~~ Use permissions provided in Chapter 3 and standards provided in Chapter 4 cannot be modified through this process.

- ~~3.4. Density is not increased, neither~~ Neither density limits nor standards that directly affect the maximum achievable density on a site may be increased except in accordance with a special exception expressly authorized by an applicable provision of this Zoning Ordinance.
- ~~4.5. Modifications to Chapter 9 requirements are pursuant to~~ permitted only as specified in Section 9.01.H., Section 9.02.H., Section 9.03.C.3., or Section 9.02.H.03.D., as applicable.
6. Unless otherwise specified, modifications to use specific standards provided in Chapter 4 may be approved by Minor Special Exception in accordance with Section 4.01.A and Section 10.11.02, which may be processed concurrently with a Zoning Map Amendment or Zoning Concept Plan Amendment application.
7. Modifications to sign regulations in Chapter 8 may be approved by Sign Development Plan in accordance with Section 10.11.03, which may be processed concurrently with a Zoning Map Amendment or Zoning Concept Plan Amendment application.
8. Notwithstanding the provisions of Section 10.10.04.C.1., when an application for Zoning Concept Plan Amendment is filed for a property that has an existing Concept Development Plan approved prior to December 13, 2023, the applicant may request modification of any provision in Chapters 2 (excluding density or FAR), 7 or 9 that is not otherwise modifiable only if the applicant demonstrates (i) that existing elements of its approved Concept Development Plan make it not feasible for the proposed Concept Development Plan Amendment to comply with the requirements of this Zoning Ordinance without such modification; and (ii) the proposed Concept Development Plan Amendment is otherwise consistent with the requirements of this Zoning Ordinance. Nothing in this section is intended to, nor shall be interpreted as, authorizing an application to modify any procedural requirement or process prescribed in this Zoning Ordinance.

**D. Substantial Conformance.**

1. All Site Plan, Subdivision plat, building permit, or Certificate of Occupancy applications submitted for the development or use of the property in accordance with the Concept Development Plan must be in substantial conformance with the approved Concept Development Plan.
2. No development or use may be approved by any County official in the absence of such substantial conformance.

**E. Changes after Approval.**

**1. Administrative Change.**

- a. Any of the following changes to an approved Concept Development Plan is an administrative change that may be permitted by the Zoning Administrator:
  1. Decrease by 5% or less of the area designated as open space;
  2. Relocate or modify approved circulation elements as a result of more detailed engineering or changes requested by county staff or the Virginia Department of Transportation;
  3. Alter the orientation or relocate approved uses within the same land bay unless such change would decrease the ability of such elements to function efficiently, adversely affect their relation to surrounding lands and uses, or is otherwise prohibited or limited in the proffers;
  4. Update setbacks, height, and building restrictions to conform to current ~~Zoning District~~ zoning district regulations, unless such change would conflict with a specific proffer or impact another feature shown on the Concept Development Plan; or
  5. Allow accessory structures on lots for single-family detached dwellings to encroach on to setbacks or buffers between residential developments no longer required by the Zoning Ordinance.
- b. **Standard of Review.** To approve an administrative change listed in Section ~~10.10.04.D.1.a7.~~ 10.10.04.D.1.a7., the Zoning Administrator must find that the proposed change is consistent with the purpose and intent of the project approved by the Board of Supervisors.



- c. **Appeal.** Decisions of the Zoning Administrator of an administrative change to an approved Concept Development Plan are appealable to the Board of Zoning Appeals pursuant to Section 10.14.
2. **Zoning Concept Plan Amendment.**
  - a. Other than those amendments authorized by Section 10.10.04.E.1., any other change to an approved Concept Development Plan will be reviewed as a Zoning Concept Plan Amendment pursuant to the procedures established in Section 10.10.05.
  - b. Minimum submission requirements for such changes to an approved Concept Development Plan are the same as for a new Concept Development Plan.
  - c. Such proposed changes may be shown only for those areas affected and need not show the entire area of the original Concept Development Plan.

### 10.10.05 Zoning Concept Plan Amendment

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**Purpose.** To make changes to accepted proffers or an approved Concept Development Plan.

- A. **Applicability.** The Board of Supervisors may, by ordinance, approve amendments to proffers or a Concept Development Plan associated with a previously approved Zoning Map Amendment.
- B. **Initiation.**
  1. A Zoning Concept Plan Amendment may be initiated by the owner or, with the owner's written consent, the owner's agent or a contract purchaser of the property that is the subject of the proposed Zoning Concept Plan Amendment.
  2. Written consent of all owners of the property under consideration must be provided with the application.
  3. Applications must be filed with the Zoning Administrator after completion of ~~Preapplication. See~~ Premeeting, Section 10.01.C.
  4. The Board of Supervisors may:
    - a. Waive the requirements for public hearing before either or both the Planning Commission and Board of Supervisors, when an amendment to such proffered conditions is requested that does not affect conditions of use or density. In granting the waiver, the Board of Supervisors will require written notice of such application be provided in the manner and to the persons as set forth in Code of Virginia §§ 15.2-2204 and 15.2-2302 and Section 11.01.G.1.;
    - b. Establish a modified schedule for staff and Planning Commission review; and
    - c. Approve a reduced fee reflecting the modified schedule.
  5. Only complete applications will be accepted for review. ~~See~~ Section 11.01.D.
  6. Where proposed changes are for only a portion of the original approval, proposed changes may be shown only for those areas affected and need not show the entire Concept Development Plan.
- C. **Review and Decision.**
  1. **Zoning Administrator.**
    - a. The Zoning Administrator will request County, Commonwealth, Town, or other agencies, as determined in the Zoning Administrator's discretion, to review the application and provide written comments to the Zoning Administrator within 25 business days (or as necessary for state agency review) of receiving the application materials for review. Subsequent reviews pursuant to Section 10.10.05.C.1.c. will be completed within 20 business days.
    - b. Upon completion of the review required by Section 10.10.05.C.1.a., the Zoning Administrator will forward any comments received to the applicant.



- c. The applicant can revise the application materials to address staff and review agency comments and submit the revised materials for further review.
- d. The Zoning Administrator will repeat this review process for each resubmittal until either the applicant requests or the Zoning Administrator forwards the application to the Planning Commission for public hearing. Unless the Zoning Administrator and the applicant agree otherwise, the applicant may request that the application be forwarded to the Planning Commission for public hearing at any time following the applicant's receipt of the third round of review agency comments (i.e., upon the fourth submission by the applicant).
- e. The Zoning Administrator will provide staff comment, analysis, and recommendation to the Planning Commission and the Board of Supervisors for their use at public hearings.

**2. Planning Commission.**

- a. The Planning Commission will hold a public hearing to consider the proposed Zoning Concept Plan Amendment.
  - 1. The public hearing date will be set by the Zoning Administrator in consultation with the Chair of the Planning Commission.
  - 2. A public hearing will not be allowed to proceed if the applicant fails to satisfy any notice or disclosure required in Chapter 10 or the Code of Virginia.
- b. The Planning Commission may refer the application to a work session(s) for further consideration.
  - 1. The work session will be scheduled within 100 days following the public hearing, or such longer time as agreed by the applicant.
  - 2. The applicant may revise the application materials in response to comments from the public, staff, and/or the Planning Commission. A work session will be scheduled upon receipt of the applicant's resubmission, allowing reasonable time for staff review of the revised materials and preparation and publication of the staff report.
  - 3. Additional work sessions may be scheduled only with the concurrence of the applicant.
- c. After the public hearing and any applicable work session, the Planning Commission will forward the proposed Zoning Concept Plan Amendment to the Board of Supervisors with either a recommendation of approval or denial and, at the Planning Commission's option, recommendations for further amendments to the applicant's proposal.

**3. Board of Supervisors.**

- a. The Board of Supervisors will hold a public hearing to consider the proposed Zoning Concept Plan Amendment.
- b. The Board may, at its discretion, remand the application to the Planning Commission for consideration of specific items, or if it determines that the application has materially changed since Planning Commission review.

**D. Factors for Consideration.** In considering a Zoning Concept Plan Amendment application, the same factors for Zoning Map Amendment will be given reasonable consideration. ~~See~~ Section 10.10.01.D.

**E. Limitations after Denial or Withdrawal.** No new application concerning any or all of the same property, which is substantially the same as the one denied or withdrawn, will be accepted for review within 12 months of the date of such denial or withdrawal.

~~**E. Appeals.** Appeals of the Board of Supervisors' final decision are to the Loudoun **Limitations after Denial or Withdrawal.** No new application concerning any or all of the same property, which is substantially the same as the one denied or withdrawn, will be accepted for review within 12 months of the date of such denial or withdrawal.~~

- F. ~~Appeals.~~ Appeals of the Board of Supervisors' final decision are to the Loudoun Circuit Court in accordance with the Code of Virginia.
- G. **Scope of Approval.** Zoning Concept Plan Amendment approval does not grant other development approvals required by the Zoning Ordinance.

#### 10.10.06 Urban Zoning Districts - Additional Requirements

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**Purpose.** *To provide additional requirements for Zoning Map Amendments and Zoning Concept Plan Amendments in Urban Policy Area Zoning Districts.*

- A. **Applicability.** Zoning Map Amendments and Zoning Concept Plan Amendments to Urban Policy Area Zoning Districts will be processed subject to the requirements of Section 10.10.06 in addition to the requirements of Sections 10.10.01 or 10.10.05. Where there is a conflict, the provisions of Section 10.10.06 apply.
- B. **Transit Related Center (TRC) Zoning District.** Concept Development Plans for applications in the TRC Zoning District must be prepared according to Section 10.10.04 and include the following:
  - 1. Delineation of required Inner Core Subarea, Outer Core Subarea, Transit-Designed Supportive Area, and proposed land bays;
  - 2. Location of proposed uses by structure and use category for each subarea and land bay;
  - 3. A table that provides:
    - a. Total gross floor area;
    - b. Minimum and maximum gross floor area and Floor Area Ratio (FAR) for each use category by subarea and land bay;
    - c. The minimum and maximum height, in feet and stories, of all structures for each subarea and land bay;
    - d. Total area of open space and on-site amenities for each subarea and land bay; and
    - e. Total number of dwelling units by type and density for each subarea and land bay; and
  - 4. Location of open space and on-site amenities;
  - 5. Comprehensive pedestrian, bicycle, and vehicle network that shows:
    - a. Pedestrian, bicycle, and vehicle facilities;
    - b. Existing and future bus stops;
    - c. Metrorail stations; and
    - d. Off-street parking and loading spaces, including structured parking; and
  - 6. Site and building design to include:
    - a. Typical streetscape design, including cross-sections that show pedestrian facilities;
    - b. Location and design of focal points within each subdistrict;
    - c. Architectural sketches of typical proposed structures, including lighting fixtures and signs; and
    - d. Cross sections of proposed building; and
  - 7. When the development is to be constructed in phases, a development schedule showing the anticipated order of construction of such phases.
- C. **Urban Employment (UE) Zoning District.** Concept Development Plans for applications in the UE Zoning District must be prepared according to Section 10.10.04 and include the following:
  - 1. Location of proposed uses by structure and use category for each land bay;
  - 2. A table that provides:
    - a. Total gross floor area and land area;

- b. Minimum and maximum gross floor area for each use category by land bay;
  - c. Minimum and maximum height, in feet and stories, of all structures for each land bay; and
  - d. Total area of open space and on-site amenities for each land bay; and
3. Location of open space and on-site amenities;
4. Comprehensive pedestrian, bicycle, and vehicle network that shows:
  - a. Pedestrian, bicycle, and vehicle facilities;
  - b. Existing and future bus stops;
  - c. Metrorail stations; and
  - d. Off-street parking and loading spaces, including structured parking; and
5. Site and building designs to include:
  - a. Typical streetscape design, including cross-sections that show pedestrian facilities;
  - b. Architectural sketches of typical proposed structures, including lighting fixtures and signs; and
  - c. Cross-sections of proposed buildings; and
6. When the development is to be constructed in phases, a development schedule showing the anticipated order of construction of such phases.

#### **10.10.07 Suburban Zoning Districts - Additional Requirements**

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**Purpose.** *To provide additional requirements for Zoning Concept Plan Amendments in Suburban Zoning Districts.*

- A. **Applicability.** Zoning Concept Plan Amendments to Suburban Zoning Districts will be processed subject to the requirements of Section 10.10.07 as they may supplement those of Sections 10.10.01 or 10.10.05. Where there is a conflict, the provisions of Section 10.10.07 apply.
- B. **Town Center (TC) Zoning District.** Concept Development Plans for applications in the TC Zoning District must be prepared according to Section 10.10.04 and include the following:
  1. Delineation of Town Center Core subarea, Town Center Fringe subarea (if required or proposed), and proposed land bays;
  2. Location of proposed uses by structure and use category for each subarea and land bay;
  3. A table that provide:
    - a. Total gross floor area;
    - b. Minimum and maximum gross floor area for each use category by subarea and land bay;
    - c. The minimum and maximum height, in feet and stories, of all structures for each subarea and land bay;
    - d. Total area of open space and on-site amenities for each subarea and land bay; and
    - e. Total number of dwelling units by type and density for each subarea and land bay; and
  4. Location of open space, outdoor gathering space, and on-site amenities;
  5. Comprehensive pedestrian, bicycle, and vehicle network that shows:
    - a. Pedestrian, bicycle, and vehicle facilities; and
    - b. Existing and future bus stops; and
  6. When the development is to be constructed in phases, a development schedule showing the anticipated order of construction of such phases.
- C. **Planned Development- - Mixed Use Business (PD-MUB) Zoning District.** In addition to addressing the standards in Section 10.10.04, Concept Development Plans in the PD-MUB Zoning District must include:

- ~~7.1.~~ Include a development program chart that depicts the proposed mix of uses to be provided upon full development, to include:
  - a. Total gross floor area;
  - b. Minimum and maximum gross floor area for each use category and each land bay or block;
  - c. Minimum and maximum heights of structures in stories and feet for each land bay or block; and
  - d. Total area of open space for each land bay or block; and
2. Exhibit a compact pattern of development that efficiently facilitates interconnection between the uses to unify the entire project.

~~C.D.~~ **Design Guidelines.** Design guidelines for PD-MUB Zoning District development must be provided for complete Zoning Concept Plan Amendment applications. The design guidelines must include:

1. General structure location, articulation, and façade standards that accommodate pedestrians as the primary user, ensure a high-quality appearance, and ensure compatibility between uses;
2. General streetscaping and dimensional standards for the street network and block structure that efficiently utilize the land and interconnect multiple modes of transportation;
3. Standards in regard to the general size, location, purpose, and use of parks and open space that establish such uses as prominent features within the development; and
4. Standards establishing the general location and architectural treatment of parking structures within the development.

#### **10.10.08 Historic Overlay Districts - Additional Requirements**

**Purpose.** *The purpose of establishing Historic Overlay Districts (~~HOD~~) is to:*

- *Effect and accomplish the protection, enhancement, perpetuation, and use of improvements and areas of special character or special historic interest or value which represent or reflect elements of the County's cultural, social, economic, political, architectural, and archaeological history;*
- *Foster civic pride and preserve an appreciation for the historic values on which the County and the Nation were founded;*
- *Maintain and improve property values;*
- *Protect and enhance the County's attraction to tourists and visitors;*
- *Provide for the education and general welfare of the people of the County;*
- *Protect against destruction of or encroachment upon historic areas; and*
- *Otherwise accomplish the general purposes of the Zoning Ordinance, the General Plan, and the provisions of Code of Virginia, Title 15.2, [Chapter 22](#).*

**A. Applicability.**

1. The Board of Supervisors may establish Historic Overlay Districts (HODs) or remove HODs pursuant to Code of Virginia §§ 15.2-2306 and 15.2-2283, and by Zoning Map Amendment as provided in Section 10.10.01 and Section 10.10.08. Where there is a conflict, the provisions of Section 10.10.08 apply.
2. The term "Historic Overlay District" includes, without limitation, the following:
  - a. Historic Site (~~HS~~) Districts;
  - b. Historic and Cultural Conservation (~~HCC~~) Districts;
  - c. Historic Roadway (~~HR~~) Districts;
  - d. Historic Access Corridor (~~HAC~~) Districts; and

e. Such other Historic Districts as the Board of Supervisors has the power to establish.

**B. Establishment of New and Additions to Existing Historic Overlay Districts.**

1. The establishment of a new HOD, or the addition of a parcel (or parcels) to an existing HOD, is a Zoning Map Amendment subject to Section [10.10.01](#) and a recommendation by the Historic District Review Committee (HDRC).
2. HODs are established as overlay ~~Zoning Districts~~zoning districts and are in addition to existing zoning designations and the regulations appropriate thereto.

**C. Application.** In addition to the submission requirements of ~~Section~~Sections [10.01.E.](#) and [F.](#), the following information must be submitted with an application for the establishment of a new HOD or an addition to an existing HOD, and must be considered by the Planning Commission, HDRC, and Board of Supervisors.

1. The type of new HOD or existing HOD addition to be designated pursuant to Sections [10.10.08.A.](#) and [D.](#)
2. A written statement demonstrating how the proposed new HOD or proposed addition to an existing HOD meets the Criteria for Establishment for the applicable HOD enumerated in Section [10.10.08.D.](#)
3. Documentation of the particular historical attributes of the area to be located within the proposed new HOD or addition to an existing HOD.
4. An inventory that lists each historic landmark, site, or structure located within the proposed new HOD or proposed addition to an existing HOD, which itself has historic merit or is a contributing resource to the overall historic character of said HOD.
5. A graphic representation of the proposed new Historic District or proposed addition to an existing HOD that includes:
  - a. The proposed boundaries determined pursuant to Section [10.10.08.E.](#); and
  - b. The location of all land-marks, sites, or other structures of particular historic value located within the specified HOD.

**D. Criteria for Establishment of ~~Historic Overlay Districts~~HOD.** Proposed new HODs or additions to existing HODs must meet the criteria for establishment listed below:

1. **Historic Site Districts.** The Board of Supervisors may establish ~~HS~~historic site districts provided such districts meet the following:
  - a. One or more of the purposes set forth in the Purpose of Section [10.10.08](#); and
  - b. One or more of the following criteria:
    1. Such district contains a historic landmark or structure listed in the National Register of Historic Places, the Virginia Landmark Register, or the County Heritage Register; or
    2. Such district meets 1 or more of the following criteria:
      - a. Is closely associated with 1 or more persons, communities, events, activities, or institutions that have made a significant contribution to local, regional, or national history;
      - b. Contains structures, landscapes, or archaeological resources whose exterior design or features exemplify the distinctive characteristics of an historic type, period, settlement pattern, or method of construction, or that represent the work of an acknowledged master;
      - c. Have yielded, or are likely to yield, information important to local, regional, or national history or prehistory; or
      - d. Possesses an identifiable character representative of the architectural, archaeological, and cultural heritage of Loudoun County; and
2. **Historic and Cultural Conservation Districts.** The Board of Super-visors may establish ~~HCC~~historic and cultural conservation districts provided such districts meet the following:

- a. The definition of “historic area” in Code of Virginia § 15.2-2201;
  - b. One or more of the purposes set forth in the Purpose of Section 10.10.08; and
  - c. One or more of the following criteria:
    1. ~~Such district has been deemed eligible for listing or is listed in the National Register of Historic Places or the Virginia Landmarks Register; or~~ Such district has been deemed eligible for listing or is listed in the National Register of Historic Places or the Virginia Landmarks Register; or
    2. Such district meets 1 or more of the following criteria:
      - a. Is closely associated with 1 or more persons, communities, events, activities, or institutions that have made a significant contribution to local, regional, or national history;
      - b. Contains structures, or landscapes whose exterior design or features exemplify the distinctive characteristics of one or more historic types, periods, or methods of construction, or that represent the work of an acknowledged master or masters;
      - c. Have yielded or are likely to yield information important to local, regional, or national history or prehistory; or
      - d. Possesses an identifiable character representative of the architectural, archaeological, and cultural heritage of Loudoun County; and
3. **Historic Roadway Districts.** The Board of Supervisors may create ~~HR~~historic roadway districts provided such districts meet the following:
- a. ~~The definition of “historic area” in Code of Virginia § 15.2-2201;~~ The definition of “historic area” in Code of Virginia § 15.2-2201;
  - b. One or more of the purposes set forth in the Purpose of Section 10.10.08; and
  - c. One or more of the following criteria:
    1. ~~Such district has been deemed eligible for listing or is listed in the National Register of Historic Places or the Virginia Landmarks Register; or~~ Such district has been deemed eligible for listing or is listed in the National Register of Historic Places or the Virginia Landmarks Register; or
    2. Such district meets 1 or more of the following criteria:
      - a. Is closely associated with 1 or more persons, communities, events, activities, or institutions that have made a significant contribution to local, regional, or national history;
      - b. Contains structures, or landscapes whose exterior design or features exemplify the distinctive characteristics of one or more historic types, periods, or methods of construction, or which represent the work of an acknowledged master or masters;
      - c. Have yielded or are likely to yield information important to local, regional, or national history or prehistory; or
      - d. Possesses an identifiable character representative of the architectural, archaeological, and cultural heritage of Loudoun County; and
4. **Historic Access Corridor Districts.** The Board of Supervisors may create ~~HAC~~historic access corridor districts provided such districts meet the following:
- a. Standards of Code of Virginia § 15.2-2306;
  - b. One or more of the purposes set forth in the Purpose of Section 10.10.08; and
  - c. One or more of the following criteria:
    1. Encompasses parcels of land, or portions thereof, that are located adjacent to an arterial street or highway (as designated pursuant to Code of Virginia, Title 33.12) that is closely associated with 1



or more persons, events, activities, or institutions that have made a significant contribution to local, regional, or national history;

2. Encompasses parcels of land, or portions thereof, contiguous to an arterial street or highway which together possess an identifiable historic character representative of the architectural, archaeological, and cultural heritage of Loudoun County; or
3. Encompasses parcels of land, or portions thereof, adjacent to an arterial street or highway which is a significant historic route of tourist access of the County or municipality.

E. **Boundaries of ~~Historic Overlay Districts, HODs.~~** The following criteria must be used when determining the boundaries of certain HODs:

1. **Historic Site Districts.** The boundaries of ~~HS Districts~~ historic site districts must be drawn to include those lands that are adjacent to the landmarks or structures for which the ~~HS District~~ historic district was established and that is necessary to achieve the Purpose of Section 10.10.08 and the criteria of Section 10.10.08.D.1.;
2. **Historic and Cultural Conservation Districts.** The boundaries of ~~HCC Districts~~ historic and cultural conservation districts must be drawn to include all land therein that is necessary to achieve the Purpose of Section 10.10.08 and the criteria of Section 10.10.08.D.2.; and
3. **Historic Roadway and Historic Access Corridor Districts.** The boundaries of ~~HR and HAC Districts~~ historic roadway and historic access corridor districts must be drawn to include the roadway or access corridor that is the focus of the district and run roughly parallel to each side the roadway or access corridor for such depth and distance necessary to achieve the Purpose Section 10.10.08 and the criteria of Sections 10.10.08.D.3. or D.4. respectively.

F. **Removal from Existing ~~Historic Overlay Districts~~ HODs.**

1. The removal of a parcel from an existing HOD is a Zoning Map Amendment subject to Section 10.10.01 and a recommendation by the HDRC.
2. The HDRC must make a recommendation to approve the removal only if all of the following criteria are met:
  - a. The parcel no longer meets the Purpose of Section 10.10.08 or the criteria of Section 10.10.08.D. above;
  - b. No contributing historic landmark, site, or structure is located on the parcel;
  - c. Removal of the parcel would not have a negative impact on the surrounding streetscape within the HOD because the parcel is surrounded by other non-contributing structures; and
  - d. The parcel is located on the edge of the HOD such the removal of the parcel would not cause a void within the HOD.

### 10.10.09 Planned Unit Development - Additional Requirements

**Purpose.** The requirements of Section 10.10.09 establish special pro-cedures for approving a Planned Unit Development (PUD) Zoning District.

- A. **Applicability.** Zoning Map Amendments and Zoning Concept Plan Amendments to the PUD Zoning District will be processed subject to the requirements of Section 10.10.09 in addition to the requirements of Section 10.10.01 or 10.10.05. Where there is a conflict, the provisions of Section 10.10.09 apply.
- B. **Application Requirements.** Any request for PUD Zoning District approval must include the following elements in addition to the elements required for a Zoning Map Amendment application in Section 10.10.01:
  1. **Statement of Justification.** A Statement of Justification that specifically addresses the following:
    - a. How the PUD Zoning District conforms with the applicable Policy Area Design Guidelines listed in Appendix A of the General Plan;
    - b. How the PUD Zoning District conforms with the Place Type designated for the site;



- c. How the PUD Zoning District conforms with other applicable policies of the General Plan, including but not limited to:
    1. Natural, Environmental, and Heritage Resources;
    2. Housing;
    3. Economic Development; and
    4. Fiscal Management and Public Infrastructure; and
  - d. How the PUD Zoning District conforms with the Purpose of the PUD District in Section 2.07;
  - e. How the PUD Zoning District conforms with the 10 General Place Type Considerations listed in Appendix A of the General Plan; and
  - f. A summary of benefits that will be achieved with the proposed PUD that would not be otherwise achievable with the non-PUD Zoning District; and
2. **PUD Master Plan Document.** A PUD Master Plan document must include the following required elements:
- a. **Development Standards.** Development standards including the following:
    1. **Residential Density.** Minimum and maximum number of dwelling units by dwelling unit type permitted within the PUD;
    2. **Floor Area Ratio (FAR).** Minimum and maximum total nonresidential and multifamily square footage permitted within the PUD;
    3. **Dimensional Standards.** Minimums and maximums for the following dimensional standards:
      - a. Lot size, width, and depth;
      - b. Front, side, and rear yard;
      - c. Lot coverage; and
      - d. Building height; and
    4. **Uses.** The uses permitted within the PUD. Each use must be listed in the PUD Master Plan and designated as permitted, Minor Special Exception, or Special Exception. Uses not listed are not permitted in the PUD;
    5. **Mix of Uses.** The mix of land uses by percentage:
      - a. Residential uses in total number of dwelling units by unit type; and
      - b. Nonresidential uses in gross floor area by use type; and
    6. **Transitions.** Transition standards for uses within the PUD Zoning District when located within 200 feet or more of another ~~Zoning District; zoning district;~~
    7. **Open Space.** Minimum area of open space consistent with the Place Type;
    8. **Transportation.** Transportation and access standards for vehicles, transit riders, bicycles, and pedestrians;
    9. **Signs.** Identify the applicable sign group(s) ~~See~~ Section 8.01.E.;
    10. **Building Design.** Building design standards; and
    11. **On-Site Amenities.** The scale and timing of on-site amenities to be provided; and
  - b. **Concept Development Plan.** A Concept Development Plan (CDP) meeting the requirements of Section 10.10.04 and containing:
    1. A land use plan for each land bay or subarea detailing the location of the mix of uses are to be developed on site and within each structure;
    2. A Phasing Plan, if more than 1 phase is contemplated;
    3. A Road and Block Plan; and

4. A Pedestrian and Bicycle Network Plan pursuant to Section 7.07.03 and PUD development standards; and
- c. **Private Roads.** When a PUD Zoning District application includes a request to use private roads, the applicant must demonstrate how permission to use private roads will accomplish the purpose of the PUD Zoning District and produce development that is consistent with the Countywide Transportation Plan and applicable General Plan Place Types.
- C. **Factors for Consideration.** In addition to the Factors for Consideration provided in Section 10.10.01.D., the following will also be given reasonable consideration:
  1. Conformance with the 10 General Place Type Considerations listed in Appendix A of the General Plan;
  2. Conformance with the applicable Policy Area Design Guidelines listed in Appendix A of the General Plan; and
  3. Provides a greater overall benefit than could be accomplished through the strict application of a non-PUD Zoning District.
- D. **PUD Master Plan Amendments.** Any amendment to an approved PUD Master Plan approved pursuant to Sections 2.07, 10.10.01, and 10.10.09 must follow the procedures below:
  1. **Administrative Amendments.** In addition to the administrative changes to a Concept Development Plan permitted by Section 10.10.04.E., the Zoning Administrator may administratively approve PUD Master Plan amendments that propose any of the following alterations:
    - a. An exchange of open space areas, provided the exchanged properties are of like value and that no Tree Conservation Area, open space easement, or other protected open space area has been recorded with the land records of Loudoun County, Virginia, for the requested exchanged properties;
    - b. An adjustment to the location of transit facilities, provided the adjustment:
      1. Is acceptable to the Department of Transportation and Capital Infrastructure (DTCI); and
      2. Occurs prior to the recordation of any associated easements necessary for the transit facility; and
    - c. A transfer of nonresidential floor area, residential floor area, or residential dwelling units, from one land bay or area to another, not to exceed 5% of the total amount on the approved Master Plan for each standard. An increase in residential floor area is not permitted to result in an increase in the number of dwelling units permitted; or
    - d. Minor adjustments in location of building, parking, or open space areas:
      1. For the purpose of Section 10.10.09.D.1.f~~g~~d, a minor adjustment is defined as a modification in orientation or distance to property line;
      2. The minor adjustment must not exceed 100 feet in distance from the approved location and must not be located any closer than 50 feet to the boundary of the PUD Zoning District; and
      3. If the subject building, parking, or open space is already located within 50 feet of a property line, then the minor adjustment is not permitted to locate any closer to the property line than as shown on the approved Master Plan; and
  2. **Updated PUD Master Plan.** Any requirement associated with a permitted change listed in Section 10.10.09.D.1. must be shown on an updated PUD Master Plan; and
  3. **Non-Administrative Amendments.** Other than those amendments authorized by Section 10.10.09.D.1., any other amendment is subject to the Zoning Concept Plan Amendment process specified in Section 10.10.05.

### 10.10.10 Zoning Conversion in the Route 28 Tax District

**Purpose.** To establish procedures for approving requests from owners of property located within the Route 28 Tax District and administered under the 1972 Zoning Ordinance to waive the protections of the Route 28 Tax District enabling legislation and remap their property to the equivalent ~~Zoning District~~ zoning district pursuant to this Zoning Ordinance.

**A. Applicability.**

1. Zoning Conversion in the Route 28 Tax District applications will be processed subject to the requirements of Section 10.10.10 in addition to the requirements of Section 10.10.01.
2. Where there is a conflict, the provisions of Section 10.10.10 apply.
3. No application is necessary if the subject site is concurrently the subject of a Zoning Map Amendment application.

**B. Initiation.** Only the owner or, with the owner's written consent, the owner's agent, or a contract purchaser of the property that is the subject of the application may initiate a Zoning Conversion in the Route 28 Tax District.

**C. Application Requirements.** Applications must include the following elements:

1. **Statement of Justification.** The Statement of Justification must specifically address the following:
  - a. Current uses and structures;
  - b. Anticipated uses and structures; and
  - c. Rationale for proposed change; and
2. **Concept Development Plan.** At a minimum the Concept Development Plan must include the following elements:
  - a. The boundary of the property included in the application; and
  - b. Applicable ~~Zoning District~~ zoning district.

**D. Factors for Consideration.** In considering a Zoning Conversion in the Route 28 Tax District, the following will be given reasonable consideration:

1. Consistency with the General Plan;
2. Consistency with the Countywide Transportation Plan; and
3. If a specific development proposal is included as part of the application, potential impacts of the proposal.

**E. Equivalent Zoning District.** The equivalent zoning district that will be applied upon approval of an application for Zoning Conversion in the Route 28 Tax District is provided in Table 10.10.10-1.

Table 10.10.10-1. Equivalent Zoning Districts	
<u>1972 Zoning Ordinance Zoning District</u>	<u>Equivalent Zoning District</u>
<u>C-1</u>	<u>Commercial Center–Community Center</u>
<u>PD-CH</u>	<u>Planned Development–Commercial Center (Regional Center) (Legacy District)</u>
<u>PD-GI</u>	<u>General Industry</u>
<u>PD-IP</u>	<u>Industrial Park</u>
<u>PD-OP</u>	<u>Office Park</u>
<u>PD-RDP</u>	<u>Planned Development–Research and Development Park (Legacy District)</u>
<u>PD-SC</u>	<u>Planned Development–Commercial Center (Regional Center) (Legacy District)</u>

## 10.11 Special Exception Review

### Contents:

#### 10.11.01 Special Exception

#### 10.11.02 Minor Special Exception

#### 10.11.03 Sign Development Plan

#### 10.11.04 Special Exception for Errors in Location

#### 10.11.05 ~~Special Exception for Parking Adjustment~~ – Additional Requirements

#### 10.11.06 Stone Quarrying – Additional Requirements

#### 10.11.07 Very Steep Slope Areas – Additional Requirements

#### 10.11.08 Temporary Special Events – Additional Requirements

#### 10.11.09 Light and Glare – Additional Requirements

#### 10.11.10 Nonconforming Conversion Condominium – Additional Requirements

### 10.11.01 Special Exception

**Purpose.** To provide the Board of Supervisors with an opportunity for discretionary review of requests to establish or construct uses or structures that have the potential for a deleterious impact upon the health, safety, and welfare of the public, or to modify certain development standards prescribed in the Zoning Ordinance; and, in the event such uses, structures, or modifications are approved, the authority to impose conditions to avoid, minimize, or mitigate potentially adverse effects upon the community or other properties in the vicinity of the proposed use or structure.

#### A. Applicability.

##### 1. Specified Special Exceptions. A Special Exceptions may be requested only for:

- Those ~~Uses~~uses that are designated as Special Exception uses in a particular ~~Zoning District~~zoning district in Section 3.02; or
- Any modification, adjustment, or use condition (e.g. resolution of nonconforming status) expressly identified as a Special Exception elsewhere in the Zoning Ordinance.

##### 2. Existing Uses. No existing use may be changed to another use that is designated as a Special exception use in such district, and no approved Special ~~exception~~Exception use may be enlarged or expanded unless approval of a new Special exception has been granted by the Board of Supervisors.

##### 3. Modifications. Except for properties within Rural Zoning Districts, where no Concept Development Plan exists, the Board of Supervisors may approve modifications ~~pursuant to~~authorized by Section 10.10.04.C. by Special Exception. Notwithstanding the foregoing, Special Exceptions are not available for such requests that are subject to a Variance pursuant to Section 10.08.

#### B. Initiation.

##### 1. For any property under consideration for a Special Exception, the following may file an application:

- The owner;
- Contract purchaser with the owner's written consent; or
- The owner's duly authorized representative.

##### 2. Written consent of all owners of the property under consideration must be provided with the application.

##### 3. Applications must be filed with the Zoning Administrator after completion of ~~Preapplication. See~~Premeeting, Section 10.01.C.

##### 4. Only complete applications will be accepted for review. ~~See~~ Section 10.01.D.

**C. Review and Decision.**

**1. Zoning Administrator.**

- a. The Zoning Administrator will request County, Commonwealth, Town, or other agencies, as determined in the Zoning Administrator's discretion, to review the application and provide written comments to the Zoning Administrator within 25 business days (or as necessary for state agency review) of receiving the application materials for review. Subsequent reviews pursuant to Section [10.11.01.C.1.c.](#) will be completed within 20 business days.
- b. Upon completion of the review required by Section [10.11.01.C.1.a.](#), the Zoning Administrator will forward any comments received to the applicant.
- c. The applicant can revise the application materials to address staff and review agency comments and submit the revised materials for further review.
- d. The Zoning Administrator will repeat this review process for each resubmittal until either the applicant requests or the Zoning Administrator forwards the application to the Planning Commission for public hearing. Unless the Zoning Administrator and the applicant agree otherwise, the applicant may request that the application be forwarded to the Planning Commission for public hearing at any time following the applicant's receipt of the third round of review agency comments (i.e., upon the fourth submission by the applicant).
- e. The Zoning Administrator will provide staff comment, analysis, and recommendation to the Planning Commission and the Board of Supervisors for their use at public hearings.

**2. Planning Commission.**

- a. The Planning Commission will hold a public hearing to consider the proposed Special Exception.
  1. The public hearing date will be set by the Zoning Administrator in consultation with the Chair of the Planning Commission.
  2. A public hearing will not be allowed to proceed if the applicant fails to satisfy any notice or disclosure required in Chapter [10](#) or the Code of Virginia.
- b. The Planning Commission may refer the application to a work session for further consideration.
  1. The work session will be scheduled within 100 days following the public hearing, or such longer time as agreed by the applicant.
  2. The applicant may revise the application materials in response to comments from the public, staff, and/or the Planning Commission. A work session will be scheduled upon receipt of the applicant's resubmission, allowing reasonable time for staff review of the revised materials and preparation and publication of the staff report.
  3. Additional work sessions may be scheduled only with the concurrence of the applicant.
- c. After the public hearing and any applicable work session, the Planning Commission will forward the proposed Special Exception to the Board of Supervisors with either a recommendation of approval or denial and, at the Planning Commission's option, recommendations for further amendments to the applicant's proposal.

**3. Board of Supervisors.**

- a. The Board of Supervisors will hold a public hearing to consider the proposed Special Exception.
- b. The Board may, at its discretion, remand the application to the Planning Commission for consideration of specific items, or if it determines that the application has materially changed since Planning Commission review.
- c. The Board of Supervisors may impose conditions necessary to comply with the intent of the Zoning Ordinance and implement the Comprehensive Plan.

**D. Factors for Consideration.**

1. In considering a Special Exception application, the following factors will be given reasonable consideration, in addition to any other factors provided by the Zoning Ordinance:
  - a. Consistency with the General Plan;
  - b. Land use compatibility, including impacts to the surrounding area;
  - c. Impacts to natural, environmental, and heritage resources;
  - d. Impacts to public services, utilities, and infrastructure;
  - e. Consistency with the Countywide Transportation Plan; and
  - f. Mitigation of impacts.
2. For modifications pursuant to Section 10.11.01.A.3., ~~Use Specific Standards~~ use-specific standards pursuant to Section 4.01.A. (by Minor Special Exception), or other sections, in addition to the factors in Section 10.11.01.D.1., the following factors will be given reasonable consideration:
  - a. Whether the modification achieves the Purpose of the chapter or section from which the modification is sought; and
  - b. Modifications to Chapter 9 meet the applicable requirements of Section 9.01.H., Section 9.02.H., or Section 9.02.H03.D.

~~H.A. **Limitations after Denial or Withdrawal.** No new application concerning any or all of the same property, which is substantially the same as the one denied or withdrawn, will be accepted for review within 12 months of the date of such denial or withdrawal.~~

~~E. **Appeals.** Appeals of the Board of Supervisors' final decision are to the Loudoun~~ **Limitations after Denial or Withdrawal.** No new application concerning any or all of the same property, which is substantially the same as the one denied or withdrawn, will be accepted for review within 12 months of the date of such denial or withdrawal.

~~E.F. **Appeals.** Appeals of the Board of Supervisors' final decision are to the Loudoun~~ **Appeals.** Appeals of the Board of Supervisors' final decision are to the Loudoun Circuit Court in accordance with the Code of Virginia.

~~F.G. **Scope of Approval.** Special Exception approval allows for the establishment of the specified use or modification within the period of validity provided below; it does not grant other development approvals required by the Zoning Ordinance.~~

1. **Conformance with Conditions of Approval.** Any Special Exception approval granted by the Board of Supervisors may only be implemented in strict accordance with the conditions of approval for the Special Exception imposed by the Board of Supervisors.
2. **Related Applications.**
  - a. All Site Plan, subdivision plat, building permit, or Certificate of Occupancy applications submitted for the development or use of the property in accordance with the Special Exception must be in substantial conformance with the approved Special Exception.
  - b. No development or use may be approved by any County official in the absence of such conformance.
3. **Guarantee Construction of Improvements.** The Zoning Administrator may require a guarantee, ~~satisfactory to the Board of Supervisors,~~ in an amount sufficient for and conditioned upon the construction, installation, provision, or performance of any public improvements, site improvements, facilities, or obligations required by the ~~proffered conditions-~~ of approval for the Special Exception.
  - a. ~~The~~ This guarantee will be required prior to the approval of the applicable construction plans and profiles, site plan, or subdivision application.
  - a.b. ~~The Zoning Administrator must~~ Board of Supervisors or its agent may reduce or release this guarantee upon satisfactory evidence that the construction, installation, provision, or performance of such



improvements, facilities, or obligations has been completed in whole or substantially in part as determined by the Zoning Administrator.

~~b. Said guarantee will be required prior to the approval of the applicable construction profile and plan, Site Plan or Subdivision application.~~

4. **Establishment of Use-Special Exception.** To establish the Special Exception use, the zoning and/or building permits must be issued and work commenced and diligently pursued, or a Certificate of Occupancy is issued. If no building or zoning permit is required, then a Site Plan or Subdivision application, must be received and diligently pursued to approval.

5. **Period of Validity.**

- a. Special Exceptions are valid for a period of up to 5 years from the date of approval unless the approval specifies an alternate period of validity or is required pursuant to Virginia Code.
- b. Unless the Special Exception use has been established pursuant to Section 10.11.01.G.4., the Special Exception will expire, without notice, on the expiration date.

6. **Extension of the Period of Validity.** The period of validity may be extended, provided:

- a. A written request explaining the reason additional time is needed and payment of fees is submitted to the Zoning Administrator at least 30 days before the expiration date;
- b. Extensions will not be processed and cannot be approved without full compliance with the conditions of approval as determined by the Zoning Administrator;
- c. The Zoning Administrator may require public notice and review at a public hearing;
- d. The Board of Supervisors will either approve or deny the request based on the Special Exception and extension materials submitted; and
- e. The Special Exception remains valid while the extension request is being processed;

**G.H. Minor Changes after Approval.**

1. **Accessibility Improvements.** Any changes necessary to provide accessibility improvements required by the Americans with Disability Act or the Commonwealth of Virginia are permitted as part of a valid Special Exception.
2. **Minor Changes.** The Zoning Administrator may permit minor changes to an approved Special Exception when such are reasonably necessary to address issues related to topography, drainage, underground utilities, structural safety, final engineering, vehicular circulation, or requirements of government agencies.
  - a. Such changes may also permit:
    1. Addition of accessory structures that are clearly subordinate to the approved Special Exception use;
    2. Realignment of principal buildings and parking areas within an approved building envelope; or
    3. Minor additions to principal buildings and corresponding additions to parking areas, provided the cumulative total of all building additions neither:
      - a. Exceed 5% of the existing gross floor area; nor
      - b. Exceed maximum permitted FAR floor area ratio for the ~~Zoning District~~ zoning district.
  - b. **Notice Requirements.**
    1. Minor changes to an approved Special Exception, other than accessibility improvements, require written notice:
      - a. Be sent to the last known address of the owners (as shown in the Loudoun County real estate assessment records) of all property abutting and across the street from the site, or portion thereof, which is the subject of the request;

- b. Be sent to the Owners Association (at the address on file with the State Corporation Commission) if the property is included within an incorporated Owners Association;
  - c. Be delivered by hand or sent by certified mail; and
  - d. Include the letter of request with all attachments as submitted to the Zoning Administrator, a statement that the request has been submitted, and whom to call at the County for additional information.
2. Prior to action by the Zoning Administrator, the applicant must provide an affidavit to the Zoning Administrator that the required notice as set forth in Section [10.11.01.H.2.b.1.](#) has been sent.

Draft 1/12/23

#### 10.11.02 Minor Special Exception

**Purpose.** *To provide the Board of Supervisors with an opportunity for simplified discretionary review of requests to establish, construct, or modify uses or structures that have less potential for a deleterious impact upon the health, safety, and welfare of the public than typical Special Exception uses and structures; and, in the event such uses or structures are approved, the authority to impose conditions necessary to avoid, minimize, or mitigate potentially adverse effects upon the community or other properties in the vicinity of the proposed use or structure.*

A. Minor Special Exception applications are subject to the same requirements for Special Exception applications provided in Section 10.11.01, ~~except that the~~.

A-B. **Exception.** The Planning Commission does not review the proposed use unless the application is concurrently processed with other related ~~application~~ applications.

#### 10.11.03 Sign Development Plan

**Purpose.** *To provide flexibility for signs ~~that have unusual design or artistic features.~~*

A. **Applicability.** An applicant may request a Sign Development Plan, which is considered a Special Exception, for:

1. Alternative sign regulations; or
2. Revisions to an approved Sign Development Plan.

B. **Initiation.**

1. For any property under consideration, the following may file an application:
  - a. The owner;
  - b. Contract purchaser with the owner's written consent; or
  - c. The owner's duly authorized representative.
2. Written consent of all owners of the property under consideration must be provided with the application.
3. Applications must be filed with the Zoning Administrator after completion of ~~Preapplication. See~~ Premeeting, Section 10.01.C.
4. Only complete applications will be reviewed in accordance with Section 10.11.03, except that application submittal materials must also include the following:
  - a. A statement of justification that addresses the approval criteria listed below;
  - b. A comparison chart of the proposed sign regulations in relation to Chapter 8 requirements, using the table format specified under the applicable sign requirements;
  - c. A sign map, depicting the location of each of the various proposed sign types;
  - d. Details for each of the proposed sign types to be used to achieve a complementary system of signs and graphics:
    1. Design;
    2. Materials;
    3. Colors; and
    4. Illumination; and
  - e. The boundaries of any ~~Zoning Districts~~ zoning districts and property lines on and adjacent to the subject property.

C. **Review and Decision.**

1. **Zoning Administrator.**

- a. County, Commonwealth, Town, or other agencies, as determined by the Zoning Administrator, will review the application and provide written comments within 20 business days.
  - b. The Zoning Administrator will provide staff comment, analysis, and recommendation to the BZA for their use at public hearings.
2. **Board of Zoning Appeals (BZA).**
  - a. The BZA will hold a public hearing to decide the proposal.
  - b. The BZA will review the request based on the applicable approval criteria listed below.
  - c. The BZA will act upon the proposal within 90 days of receiving a complete application.
  - d. The BZA may prescribe conditions to assure compliance with the intent of the Zoning Ordinance.
  - e. The BZA has no power to waive or modify the standards necessary for approval.
3. **Planning Commission.** The Zoning Administrator will transmit a copy of the application to the Planning Commission which may send a recommendation to the BZA or appear as a party at the hearing.
4. **Board of Supervisors Approval.** A Sign Development Plan that is filed concurrently with an application for Zoning Map Amendment, Zoning Concept Plan Amendment, Special Exception, or Minor Special Exception will be decided by the Board of Supervisors in accordance with the processing of such application.
- D. **Approval Criteria.** The Sign Development Plan may be approved if the BZA or the Board of Supervisors (as part of a legislative approval) finds that the request:
  1. Has unusual design or artistic features that require an alternative to the dimensional or design regulations of Chapter 8 while providing the same approximate scale of allowable signage;
  2. Complies with the General Plan;
  3. Avoids traffic safety hazards by minimizing unnecessary distractions for motorists, bicyclists, and/or pedestrians;
  4. Demonstrates compatibility with, and is subordinate to, the structures and land uses on the same site as the sign(s);
  5. Addresses impacts to the night sky;
  6. Incorporates energy efficient measures, where possible; and
  7. Avoids unnecessary redundancy or competing demands for visual attention.
- E. **Limitations after Denial or Withdrawal.** No new Sign Development Plan application concerning any or all of the same property, which is substantially the same as the one denied or withdrawn, will be accepted for review within 12 months of the date of such denial or withdrawal.
- F. **Appeals.** Appeals of the BZA's final decision must be made within 30 days to the Circuit Court. An appeal of a legislative approval is as provided in Section ~~10.10.01~~10.11.01.
- G. **Scope of Approval.**
  1. Sign Development Plan approval allows for alternate design requirements for permitted signs; it does not grant construction approval required for installation.
  2. Approved Sign Development Plans are subject to the provisions of Section 10.11.01.G.
- H. **Minor Changes after Approval.**
  1. **Accessibility Improvements.** Any change necessary to facilitate accessibility required by the Americans with Disability Act or the Commonwealth of Virginia are permitted as part of a valid Sign Development Plan.
  2. **Minor Change.**
    - a. **Applicability.** The Zoning Administrator may permit the following minor changes to an approved Sign Development Plan:

1. Sign size, height, number, or other quantitative measurement is increased by less than 10%;
  2. A sign category is added that was not addressed in the approved Sign Development Plan; or
  3. Revision to a sign category that was addressed in the approved Sign Development Plan.
- b. **Initiation.** Requests for approval of minor revisions must be made in accordance with Section [10.11.03.B](#).
- c. **Notice Requirements.** Minor changes to an approved Sign Development Plan, other than accessibility improvements, require written notice be sent to the last known address of the owners (as shown in the Loudoun County real estate assessment records) of all property abutting and across the street from the site, or portion thereof, which is the subject of the request.
- d. **Approval Criteria.** Such Minor revisions are reviewed for consistency with the approved Sign Development Plan and Section [10.11.03.D](#).
- e. **Appeal.** See (Section [10.14](#).) The Zoning Administrator's decision may be appealed to the ~~BZA~~ Board of Zoning Appeals.

#### **10.11.04 Special Exception for Errors in Location**

**Purpose.** To provide for deviations from strict Zoning Ordinance requirements due to errors in the location of structures.

- A. **Applicability.** ~~Structure~~ Structures constructed in error that are not eligible for approval under Section [10.03](#), are subject to Board of Zoning Appeals (BZA) approval as provided in Section [10.11.04](#).
1. **Special Exception for Errors in Structure Location.** The BZA may hear and approve Special Exceptions for Errors in Structure Location in the case of any structure existing or partially constructed which does not comply with the following:
    - a. Minimum yard requirements;
    - b. Setbacks; or
    - c. Other requirements of the Zoning Ordinance regulating structure location.
  2. **Special Exception for Errors in Very Steep Slopes.** The BZA may hear and approve Special Exceptions for Errors in Very Steep Slopes, when:
    - a. The encroachment does not exceed 2,000 square feet of land-disturbing activity within the Very Steep Slope Area;
    - b. The subject structure or use listed in Table [3.03-1](#) is attached to a principal residential structure; and
    - c. No portion of the principal structure is located within the Very Steep Slope Area.
- B. **Initiation.**
1. For any property under consideration, the following may file an application:
    - a. The owner;
    - b. Contract purchaser with the owner's written consent; or
    - c. The owner's duly authorized representative.
  2. Written consent of all owners of the property under consideration must be provided with the application.
  3. Applications must be filed with the Zoning Administrator after completion of ~~Preapplication. See~~ Premeeting, Section [10.01.C](#).
  4. Only complete applications pursuant to Section [10.01.D](#). will be reviewed in accordance with Section [10.11.04](#).
  5. **Special Exception for Errors in Very Steep Slopes.** The Zoning Administrator may request additional information, reports, or studies, such as, but not limited to:

- a. Geotechnical study;
- b. Geophysical study;
- c. Preliminary soils review;
- d. Site Plan;
- e. Grading plan;
- f. Structural analysis;
- g. U.S. Army Corps of Engineers approved wetland delineation;
- h. Tree cover inventory;
- i. Phase 1 archeological study;
- j. Rare, threatened, and endangered species survey; and
- k. Mitigation plan.

**C. Review and Decision.**

**1. Zoning Administrator.**

- a. At the request of the Zoning Administrator, County staff will review accepted applications for adherence to the Zoning Ordinance and compliance with the Comprehensive Plan.
- b. The Zoning Administrator will provide staff comment and analysis to the BZA for their use at the public hearing.

**2. Board of Zoning Appeals.**

- a. The BZA will:
  1. Hold a public hearing to decide the proposal;
  2. Review the request based on the applicable approval criteria pursuant to Section 10.11.04.D.; and
  3. Act upon the proposal within 90 days of receiving a complete application.
- b. The BZA may:
  1. Allow a reduction only as necessary to provide reasonable relief; and
  2. Prescribe conditions to assure compliance with the intent of the Zoning Ordinance.

3. **Planning Commission.** The Zoning Administrator will transmit a copy of the application to the Planning Commission which may send a recommendation to the BZA or appear as a party at the hearing.

**D. Approval Criteria.**

1. **Special Exception for Errors in Structure Location.** The Special Exception for Errors in Structure Location may be approved if the BZA finds that:
  - a. The noncompliance was done in good faith, or through no fault of the property owner, or was the result of an error in location of the structure subsequent to the issuance of a building permit, if such was required;
  - b. Such reduction will not impair the purpose and intent of the Zoning Ordinance;
  - c. It will not be detrimental to the use and enjoyment of the other property in the immediate vicinity;
  - d. It will not create an unsafe condition with respect to both other property and public streets;
  - e. To force compliance with the minimum yard requirements would cause unreasonable hardship upon the owner; and
  - f. The reduction will not result in an increase in density or floor area ratio from that permitted by the applicable ~~Zoning District~~ zoning district regulations.



2. **Special Exception for Errors in Very Steep Slopes.** The Special Exception for Errors in Very Steep Slopes may be approved if the BZA finds that:

- a. Activities associated with the removal of the attached structure or use would result in a net negative environmental impact, as demonstrated by applicable information, reports, or studies;
- b. The noncompliance was done in good faith, through no fault of the property owner, or was the result of a good faith error in location subsequent to the issuance of a building permit;
- c. The noncomplying structure was constructed in a manner that will protect life and property from hazards due to slope, unstable and erodible soils, earth movement, and other geologic and hydrologic hazards;
- d. The noncomplying structure was constructed in a manner that does not increase the potential for adverse impacts on water quality due to increased erosion, sedimentation, and surface runoff;
- e. The noncomplying structure was constructed in a manner that preserves the visual quality of steep slope areas; and
- f. The noncomplying structure will not be detrimental to the use and enjoyment of other property in the immediate vicinity.

E. **Limitations after Denial or Withdrawal.** After denial or withdrawal of a Special Exception for Errors in Location application, no new application concerning any or all of the same property, which is substantially the same as the one denied or withdrawn, will be accepted for review within 12 months of the date of such denial or withdrawal.

F. **Appeals.** Appeals of the BZA's final decision are to the Loudoun Circuit Court in accordance with the Code of Virginia.

G. **Scope of Approval.** Upon approval of a Special Exception for Errors in Location, the structure or use subject to the application is deemed to comply with the Zoning Ordinance.

#### **10.11.05 Special Exception for Parking Adjustment – Additional Requirements**

**Purpose.** *To provide additional Special Exception requirements to reduce required residential parking and required nonresidential parking in excess of 35% 25% as provided in Section 7.06.08.*

~~A. **Applicability.** As provided in Section 7.06.08.A., When a Special Exception is necessary to request required for a reduction of the required total parking by more than 35%.~~

~~B. **Initiation.**~~

~~1. For any property under consideration, the following may file an application:~~

- ~~a. The owner;~~
- ~~b. Contract purchaser with the owner's written consent; or~~
- ~~c. The owner's duly authorized representative.~~

~~2. Written consent of all owners of the property under consideration must be provided with the application.~~

~~3. Applications must be filed with the adjustment Zoning Administrator after completion of Preapplication. See Section 10.01.C.~~

~~A. Only complete applications will be reviewed in accordance with Section 7.06.08.A., the requirements of Section 10.11.05, except that application supplement the requirements of Section 10.11.01. Where there is a conflict, the provisions of Section 10.11.05 apply.~~

~~C.B. **Submittal Requirements.** In addition to the submittal materials must also requirements of Section 10.01.E., all applications for Special Exception for parking adjustment must include the following items:~~

- ~~1. A statement of justification that addresses the approval criteria listed below;~~

2. Any pertinent information applicable to the specific parking adjustment request. This includes, but is not limited to, the following information below:
  - a. Parking location;
  - b. Type of parking (on-street, structured parking, off-street, etc.);
  - c. Percentage of parking to be provided in a parking structure, on-street, off-street, by shared parking, or by any other means; and
  - d. Any applicable supplemental data, graphics, or best practices as agreed upon in the signed parking scoping document; and
3. A plan showing how the parking spaces will be provided on the site; and
4. A parking study that:
  - a. Is based upon a parking scoping meeting held between the Applicant and Staff to specify the parking information required in the Applicant's parking study;
  - b. Is completed by a qualified professional with demonstrated experience in transportation planning, traffic engineering, or comparable field;
  - c. Is signed and dated as agreed upon with Zoning Administration; and
  - d. Substantiates the need for an adjusted number of parking spaces.

~~D. **Review and Decision.** Except as provided~~**Additional Factors for Consideration.** In considering applications for Special Exception, in addition to the Factors for Consideration under Section 10.11.05.C.4. below, 01.D., the Board of Zoning Appeals (BZA) ~~Supervisors~~ will decide Special Exception for Parking Adjustment applications.

~~1. **Zoning Administrator.**~~

- ~~a. County, Commonwealth, Town, or other agencies, as determined by the Zoning Administrator, will review the application and provide written comments within 20 business days of receiving a complete application.~~
- ~~b. The Zoning Administrator will provide comment, analysis, and recommendation to the BZA for their use at public hearings.~~

~~2. **Board of Zoning Appeals.**~~

- ~~a. The BZA will:~~

~~E.C. Hold a public hearing to decide~~also consider whether the proposal;

- ~~1. Review the request based on the applicable Criteria for Approval pursuant to Section 10.11.05.D.; and~~
- ~~2. Act upon the proposal within 90 days of receiving a complete application; and~~
- ~~b. The BZA may prescribe conditions to assure compliance with the intent of the Zoning Ordinance.~~

~~2. **Planning Commission.** The Zoning Administrator will transmit a copy of the application to the Planning Commission which may send a recommendation to the BZA or appear as a party at the hearing.~~

~~3. **Board of Supervisors Approval.** A Special Exception for Parking Adjustment that is filed concurrently with an application for Zoning Map Amendment, Zoning Concept Plan Amendment, Special Exception, or Minor Special Exception will be decided by the Board of Supervisors in accordance with the processing of such application.~~

~~F. **Criteria for Approval.** The BZA determines that the reduced parking:~~

1. Maintains the safety and functionality of parking areas;
2. Provides sufficient parking for the subject use based on common usage rather than peak demand;
3. Minimizes the negative environmental and urban design impacts that can result from excessive parking; and

4. Supports mass transit and alternate modes of transportation or provides transportation demand management (TDM) strategies to reduce traffic.

~~G. **Limitation after Denial or Withdrawal.** No new application concerning any or all of the same property, which is substantially the same as a denied or withdrawn Special Exception for Parking Adjustment, will be accepted for review within 12 months of the date of such denial or withdrawal.~~

~~H. **Appeals.** Appeals of the BZA's final decision must be made within 30 days to the Circuit Court. See Section 10.14.~~

~~I. **Scope of Approval.** Upon approval of such parking adjustment, the new parking ratio will be applicable to the subject proposal.~~

### **10.11.06 Stone Quarrying – Additional Requirements**

**Purpose.** To provide additional Special Exception requirements for the establishment or expansion of stone quarrying operations.

**A. Applicability.**

1. A Special Exception is required to establish or expand stone quarrying operations.
2. The requirements in Section 10.11.06 supplement the requirements of Section 10.11.01. Where there is a conflict, the provisions of Section 10.11.06 apply.

**B. Submittal Requirements.** In addition to the submission requirements of Section 10.01.E., all applications for stone quarrying uses must include the following items:

1. Five copies of a plat prepared by an engineer or surveyor licensed by the State, drawn to a scale of 1" = 200'. Such plat must show:
  - a. The boundary of the entire tract by metes and bounds;
  - b. Development limits and topography in contour intervals of 5 feet or less, including locations of water courses, of the part of the tract that is proposed to be used for the operations set forth in the application, and of the contiguous area within 500 feet of such proposed limits or such greater distance as may be specified by the Zoning Administrator; and
  - c. Means of vehicular and emergency access to the proposed use indicating the proposed type of surface treatment; and
2. One aerial photograph, at a scale of 1" = 200' and certified as flown not earlier than 6 months prior to the date on which the application is submitted, which includes:
  - a. All land included in the application and within 2,000 feet of the area covered by the application; and
  - b. All contiguous land which is now, is planned to be, or has been used by the applicant for such use or a related use; and
3. A depiction, based on the official zoning records of Loudoun County, of the zoning of all parcels within the same area covered by the aerial photograph required in Section 10.11.06.B.2.;
4. A conceptual description of the proposed operation describing the anticipated location, process, equipment, and scale of the proposed operation including all Special Exception and accessory uses;
5. A transparent overlay, at the same scale and covering the same area as the aerial photograph required in Section 10.11.06.B.2. depicting the location, limits, and approximate square footage of the following items:
  - a. Area of any known previous, currently active, and proposed excavation;
  - b. Area of active and proposed settling ponds and washing facilities;
  - c. Areas of existing and proposed crushing or treatment facilities;
  - d. Areas of existing and proposed storage of extracted material;
  - e. Areas of existing and proposed production facilities or resource related uses;

- f. Location and type of any existing and proposed erosion control and stormwater management improvements;
    - g. Location and type of structures, fencing, and security measures or other appropriate safeguards to prevent access by unauthorized persons; and
    - h. Location and type of buffering of adjacent land uses to be provided pursuant to Section 7.04; and
  - 6. A plan for operation demonstrating the feasibility of the operation proposed without hazards or damage to other properties by reason of:
    - a. Increased flooding or undesirable rise or reduction in ground water levels;
    - b. Erosion caused by increased rate of flow or redirection of flow in flood channels;
    - c. Deposits of debris from flood or erosion;
    - d. Excessive slopes remaining at cuts or fills; or
    - e. Undermining or creation of settlement in adjoining areas; and
  - 7. A plan for restoration of the site, prepared by an engineer or surveyor licensed by the State.
    - a. The plan for restoration must conceptually demonstrate the method by which the property, in its entirety, will be returned to a state suitable for re-use for purposes permissible in the district.
    - b. The plan must include:
      - 1. Vehicular circulation patterns in and around the site;
      - 2. Treatment of exposed soils or subsoil in order to make the property suitable for the proposed re-use; and
      - 3. Treatment of slopes to prevent erosion and delineation of floodways and floodplains (if any) to be maintained in open usage; and
    - c. In such plans for re-use, where conditions are suitable, permanent lakes, water impoundment or recreational facilities may be permitted.
    - d. The format and level of detail required by the Virginia Department of Mines and Minerals for a restoration plan is acceptable as an initial submission.
    - e. The County must have the right to request such additional information as it deems necessary; and
  - 8. A letter signed by the applicant and by the owner of the property granting the right of entry upon the property to the Zoning Administrator, law enforcement agents, and County inspectors for the purpose of inspecting and bringing law enforcement to the property during the term of any permit which may be issued;
  - 9. A hydrogeological report and a Type II detailed geotechnical report including an assessment of the depth of overburden and the effects of the proposed resource extraction on the water table and local wells; and
  - 10. An environmental report describing existing environmental conditions, assessing the environmental impacts of the proposed use on the site and properties within 2,000 feet of the proposed uses, and depicting proposed mitigation measures.
- C. **Condition of Approval.** The Board of Supervisors may condition the Special Exception to post a bond with the County. The condition will include:
- 1. The bond amount set by the Board of Supervisors;
  - 2. Surety to the satisfaction of the Board of Supervisors;
  - 3. Purpose of the bond is full restoration in accordance with the approved restoration plan within 360 days following the expiration of the Special Exception; and
  - 4. Require a written instrument granting to the County or its officers, agents, and employees, a right to enter the property which is the subject of the Special Exception for the purpose to inspect of any required restoration.

### 10.11.07 Very Steep Slope Areas – Additional Requirements

**Purpose.** To provide additional requirements for the establishment or expansion of Special Exception or Minor Special Exception uses in Very Steep Slope Areas to ensure conformance with the purpose of Section 6.02.

- A. **Applicability.** When a proposed Special Exception or Minor Special Exception are located within a Very Steep Slope Area, the requirements in Section 10.11.07 supplement the requirements of Section 10.11.01. Where there is a conflict, the provisions of Section 10.11.07 apply.
- B. **Additional Factors for Consideration.** When considering applications for Special Exception or Minor Special Exception in Very Steep Slope Areas, in addition to the factors for consideration under Section 10.11.01.D., the Board of Supervisors must make findings that all of the following standards have been met:
  - 1. Land disturbance within very steep slope areas with slopes greater than 50% is not permitted unless the use, exclusive of any structure, is dependent on such very steep slope area (the use uniquely requires a site within an area of very steep slopes greater than 50% and is not compatible with a site that lacks very steep slope or moderately steep slope areas);
  - 2. Land disturbance within very steep slope areas with slopes greater than 50% is not permitted for any structure;
  - 3. Clearing of vegetation within very steep slope areas is limited to the minimum necessary to locate the proposed use;
  - 4. Land disturbance within very steep slope areas is limited to the minimum necessary to locate the proposed use, and any disturbed areas that are not covered by paving, stone, or other solid materials must be revegetated;
  - 5. The proposed use, structure, or use and structure must be located and designed to limit its susceptibility to slippage or slope failure, and there are no alternative locations where the proposed use and/or structure may be located that would not be subject to slippage or slope failure; and
  - 6. The proposed use must not increase the danger to life and property due to increased destabilization of steep slope areas.

### 10.11.08 Temporary Special Events – Additional Requirements

**Purpose.** To allow the Board of Supervisors to permit temporary special events with a Special Exception or Minor Special Exception application.

- A. **Applicability.**
  - 1. An applicant for a Special Exception use or Minor Special Exception use may include in the application a request for authorization of temporary special events that the applicant expects to regularly occur during the life of the Special Exception use or Minor Special Exception use.
  - 2. The requirements of Section 10.11.08 supplement the requirements of Section 10.11.01. Where there is a conflict, the provisions of Section 10.11.08 apply.
- B. **Initiation.** The applicant must be specific about the expected:
  - 1. Types of special events;
  - 2. Number of events per calendar year;
  - 3. Duration of such special events;
  - 4. Number of attendees per event; and
  - 5. Pertinent information necessary to show compliance with the standards and criteria set forth in Section 3.04.E. (Temporary Special Events).
- C. **Review and Decision.**

1. Review of the requested temporary special events will occur concurrently with the review of the Special Exception or Minor Special Exception use.
  2. All requested temporary special events that are submitted as part of a Special Exception or Minor Special Exception application will be reviewed for compliance with the standards and criteria set forth in both Section 10.11.01 and Section 3.04.E.
- D. **Scope of Approval.** Temporary special events approved as part of a Special Exception or Minor Special Exception application are exempt from the procedural requirements for a Zoning Permit stated in Section 10.04, but are subject to standards in Section 3.04.E. including without limitation:
1. Minimum standards and criteria in Section 3.04.E.4.;
  2. Limits on the duration of special events; and
  3. Maximum number of special events allowed in 1 calendar year.

#### 10.11.09 Light and Glare – Additional Requirements

**Purpose.** To provide additional Special Exception requirements for the lighting that does not comply with the standards of Section 7.05.02.

- A. **Applicability.**
1. As provided in Section 7.05.02.E., a Special Exception is required when development does not conform to light and glare standards.
  2. The requirements in Section 10.11.09 supplement the requirements of Section 10.11.01. Where there is a conflict, the provisions of Section 10.11.09 apply.
- B. **Submittal Requirements.** In addition to the submission requirements of Section 10.01.B., all applications for Special Exception to exceed light and glare standards of Section 7.05.02 must include:
1. A Photometrics Plan; and
  2. Mitigation measures and supporting calculations to adequately reduce the effects of the proposal on the environment and surrounding properties.
- C. **Additional Factors for Consideration.** In considering applications for a Special Exception, in addition to the factors for consideration under Section 10.11.01.D., the Board of Supervisors must also consider whether:
1. The proposal includes reasonable efforts to mitigate the effects of light on the environment and surrounding properties;
  2. Lighting controls are used to appropriately reduce lighting at specific time periods; and
  3. The proposed lighting will not create unwarranted glare, sky glow, or light trespass.

#### 10.11.10 Nonconforming Conversion Condominium – Additional Requirements

**Purpose.** To allow for the approval of conversion condominiums that do not conform to zoning, land use, or Site Plan regulations.

- A. **Applicability.**
1. As provided in Section 1.03.02.EF., a Special Exception is required for conversion condominiums that do not conform to zoning, land use, or Site Plan regulations.
  2. The requirements in Section 10.11.10 supplement the requirements of Section 10.11.01. Where there is a conflict, the provisions of Section 10.11.10 apply.
- B. **Factors for Consideration.** The Board of Supervisors must grant approval if the applicant can demonstrate to the reasonable satisfaction of the Board of Supervisors that the nonconformities are not likely to be adversely affected by the proposed conversion.



## 10.12 Historic Overlay District Reviews

**Purpose.** To implement Historic Overlay District ~~(HOD)~~ protections of Section 5.08.

**A. Applicability.**

1. **Certificate of Appropriateness—Administrative.** Certificate of Appropriateness—Administrative approval is required for any action listed in Section 5.08.C. prior to approval for any Zoning Permit for any parcel within an Historic Overlay District (HOD).
2. **Certificate of Appropriateness.** Certificate of Appropriateness approval is required for any action listed in Section 5.08.D. prior to approval for any Zoning Permit for any parcel within an HOD.

**B. Initiation.**

1. All applications are filed with the Zoning Administrator.
2. Only complete applications pursuant to Section 10.01.D. will be accepted for review.

**C. Review and Decision.**

1. **Zoning Administrator.**

- a. As determined by the Zoning Administrator, County staff will review the application and provide written comments.
- b. The Zoning Administrator makes all Certificate of Appropriateness—Administrative decisions.
- c. For Certificate of Appropriateness applications, the Zoning Administrator will provide comment and analysis to the Historic District Review Committee (HDRC) for their use at the public meeting.

2. **Historic District Review Committee.**

- a. The Historic District Review Committee (HDRC) reviews Certificate of Appropriateness applications for conformance with the Historic District Guidelines.
- b. The HDRC must hold at least 1 public meeting at which time any interested party, including the applicant or the applicant's representative, must be heard.
- c. The HDRC must approve or deny the application within 90 business days of the Zoning Administrator receiving a complete application, unless extended by the Board of Supervisors, or the application will be deemed approved.
  1. **Approvals.** All approvals by the HDRC must include findings stating those aspects of the application that are in conformance with the Historic District Guidelines.
  2. **Denials.** All denials by the HDRC must include:
    - a. Findings stating those aspects of the application that are not in conformance with the Historic District Guidelines; and
    - b. Recommendations whereby the application could be brought into conformance with the Historic District Guidelines.
- d. The HDRC may not:
  1. Consider interior arrangements; or
  2. Vary from the requirements of the Zoning Ordinance, FSM, or Codified Ordinances of Loudoun County.

**D. Approval Criteria.**

1. The Zoning Administrator approves Certificate of Appropriateness—Administrative applications if they are in conformance with the Historic District Guidelines.

2. The HDRC must base its decision to approve or deny on whether the proposals therein are architecturally compatible with the other structures, sites, or landmarks located within the subject HOD. In applying such standard, the HDRC will consider the following:
  - a. Exterior architectural features, including all signs;
  - b. General design, scale, and arrangement;
  - c. Texture and material;
  - d. The relationship of Sections 10.12.D.2.a., D.2.b., and D.2.c., above, to other structures and features of the subject HOD;
  - e. The purposes for which the subject HOD was created;
  - f. The relationship of the size, design, and siting of any erected, reconstructed, altered, moved, or restored structure to the landscape of the subject HOD;
  - g. The extent to which the denial of the Certificate of Appropriateness would constitute a deprivation to the owner of a reasonable use of his property; and
  - h. The extent to which the proposal adheres to the Historic District Guidelines for the subject HOD.
- E. **Limitation after Denial.** No reapplication for essentially the same purpose will be accepted for review within 1 year of denial of any applications hereunder except in cases where the application has been brought into compliance with the Historic District Guidelines pursuant to the recommendations set forth in an earlier denial of said application.
- F. **Appeals.** See ~~(Section 10.14.)~~
1. Certificate of Appropriateness—Administrative decisions are appealed to the HDRC.
2. HDRC decisions are appealed to the Board of Supervisors.
- G. **Scope of Approval.**
1. Certificate of Appropriateness—Administrative and Certificate of Appropriateness approvals do not authorize development or demolition. Any action that occurs after approval may require additional approvals including Zoning Permits and demolition or building permits.
2. **Period of Validity.**
- a. Approved applications become invalid if the authorized work is not commenced within 5 years of the date of approval.
- b. For the purposes of Section 5.08.C. and Section 10.12, commencement of the authorized work is defined as the placing of construction materials in a permanent position and fastened in a permanent manner and work carried on diligently, or, where excavation for, or demolition or removal of, an existing structure has been substantially begun prior to building or rebuilding, such excavation or demolition or removal is deemed to be actual commencement of the work, provided that work is carried on diligently.

## 10.13 Enforcement

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**Purpose.** *To ensure compliance with the provisions of the Zoning Ordinance.*

- A. **Zoning Administrator.** The Zoning Administrator has all necessary authority to ensure that all structures and the use of all land comply with the provisions of the Zoning Ordinance.
- B. **General Provisions.**
  - 1. Any structure erected contrary to any of the provisions of the Zoning Ordinance and any use of any structure or land which is conducted, operated, or maintained contrary to any of the provisions of the Zoning Ordinance or the provisions of any approval granted by the County under the Zoning Ordinance is a violation of the Zoning Ordinance and the same is hereby declared to be unlawful.
  - 2. Any person, whether owner, lessee, principal, agent, employee, or otherwise, who violates any of the provisions of the Zoning Ordinance, or permits any such violation, or fails to comply with any of the requirements hereof, or who erects any structure or uses any structure, or land in violation of the provisions of the Zoning Ordinance or the provisions of any approval granted by the County under the Zoning Ordinance is subject to the enforcement provisions of Section 10.13.
  - 3. In addition to the remedies provided in Section 10.13, the Zoning Administrator, or the Zoning Administrator's agent, may initiate injunction, abatement, or any other appropriate action to prevent, enjoin, abate, or remove any violation or attempted violation of the Zoning Ordinance pursuant to Code of Virginia § 15.2-2208.
    - a. At any time after the filing of an injunction or other appropriate proceeding to restrain, correct, or abate a zoning violation and where the owner of the real property is a party to such proceeding, the Zoning Administrator or governing body may record a memorandum of lis pendens. Refer to Code of Virginia § 8.01-268.
    - b. Any memorandum of lis pendens admitted to record in an action to enforce the Zoning Ordinance expires after 180 days.
    - c. If an enforcement proceeding is initiated against the owner of the real property and such owner subsequently transfers the ownership of the real property to an entity in which the owner holds an ownership interest greater than 50%, the pending enforcement proceeding will continue to be enforced against the owner.
  - 4. Whenever a violation occurs, or is alleged to have occurred, any person may file a written complaint with the Zoning Administrator.
    - a. Such complaint must fully state the cause and basis of the complaint.
    - b. The Zoning Administrator, or the Zoning Administrator's agent, will record such complaint, investigate the complaint, and may take action as provided by the Zoning Ordinance.
  - 5. The Zoning Administrator, or the Zoning Administrator's agent, may present sworn testimony to a magistrate or court of competent jurisdiction in order to obtain an inspection warrant.
    - a. The magistrate or court may grant the Zoning Administrator an inspection warrant to enable the Zoning Administrator to enter the subject dwelling for the purposes of determining whether violations of the Zoning Ordinance exist.
    - b. The Zoning Administrator, or the Zoning Administrator's agent, must make a reasonable effort to obtain consent from the owner or tenant of the subject dwelling prior to seeking the issuance of an inspection warrant.
- C. **Enforcement Procedures.**

1. **Issuing Notice.** Upon becoming aware of any violation, the Zoning Administrator, or the Zoning Administrator's agent, may serve notice of such violation on the person committing, or permitting the same, and the landowner.
  - a. The Zoning Administrator will specify a reasonable time for the violation to cease.
  - b. If such violation has not ceased within such reasonable time, the Zoning Administrator may institute such action as may be necessary to terminate or remedy the violation.
2. **Failure to Comply with Notice.** After such notice is sent, if the violation has not been abated within the specified timeframe, the Zoning Administrator may proceed to remedy the violation as provided in Section [10.13](#), unless an appeal has been timely filed.
3. **Right to Appeal.** The person responsible for the alleged violation may appeal the decision of the Zoning Administrator pursuant to the provisions of Section [10.14](#).

**D. Criminal Violations and Penalties.**

1. Any violation of the provisions of the Zoning Ordinance that results in physical harm or injury to any person is deemed a criminal misdemeanor and, upon conviction thereof, punishable by fines. Refer to Code of Virginia [§ 15.2-2286](#).
  - a. Each day during which the violation is found to have existed constitutes a separate misdemeanor offense.
  - b. If the violation is uncorrected at the time of conviction, the court will order the violator to abate or remedy the violation in compliance with the Zoning Ordinance, within a time period established by the court.
  - c. Failure to remove or abate a zoning violation within the specified time period constitutes a separate misdemeanor offense punishable by fines. Refer to Code of Virginia [§ 15.2-2286\(A\)\(5\)](#).
2. Owners and tenants of affordable dwelling units (ADU) pursuant to Chapter 9 who falsely swear or who execute an affidavit or certification required by Chapter 9 knowing the statements contained therein to be false are guilty of a Class II misdemeanor and subject to fines totaling up to \$1,000.00. Such fines levied against owners will become liens upon the real property and will accumulate interest at the judgment rate of interest, as provided in the Codified Ordinances of Loudoun County.
3. The designation of a particular violation of the Zoning Ordinance as a civil violation precludes criminal prosecution or sanctions provided, however, that after civil penalties for violations rising from the same set of operative facts total \$5,000.00:
  - a. The violation may be prosecuted as a criminal misdemeanor punishable by fines. Refer to Code of Virginia [§ 15.2-2286](#);
  - b. Each day during which the violation is found to have existed constitutes a separate misdemeanor offense;
  - c. If the violation is uncorrected at the time of conviction, the court will order the violator to abate or remedy the violation in compliance with the Zoning Ordinance, within a time period established by the court; and
  - d. Failure to remove or abate a zoning violation within the specified time period constitutes a separate misdemeanor offense punishable by fines. Refer to Code of Virginia [§ 15.2-2286](#).

**E. Civil Violations and Penalties.**

1. Any violation of the Zoning Ordinance other than those set forth in Section [10.13.D](#) is deemed a civil violation and, upon an admission of liability or finding of liability, is punishable in accordance with the following schedule of civil penalties:

- a. Owners of ADU who fail to submit executed affidavits or certifications, as required by Chapter 9, will be assessed a civil penalty in the amount of \$100.00 per day per ADU unit, until such affidavit or certificate is filed, but only after written notice to the ADU owner at the ADU address and a 10-day compliance period is provided;
  - b. All other violations of the Zoning Ordinance, other than those set forth in Section 10.13.D. are subject to a civil penalty in the amount of \$200.00 for the first charge and \$500.00 for each additional charge:
    1. Each day during which the violation is found to have existed constitutes a separate offense;
    2. In no event will specified violations arising from the same operative set of facts be charged more frequently than once in any 10-day period;
    3. In no event may a series of specified civil violations rising from the same operative set of facts result in civil penalties which exceed a total of \$5,000.00;
    4. After such civil penalties total \$5,000.00, violations rising from the same operative set of facts may be prosecuted as a criminal misdemeanor under Section 10.13.D; and
    5. The Zoning Administrator is particularly authorized to initiate civil injunction procedures in cases of repeat or continuing offenses; and
  - c. Such civil penalties levied will become liens upon the real property pursuant to Code of Virginia § 15.2-104 and will accumulate interest at the judgment rate of interest, as provided in the Codified Ordinances of Loudoun County.
2. The Zoning Administrator, or the Zoning Administrator's agent, will issue a summons and/or ticket personally upon such person or posted in a conspicuous location at the site of the violation upon the following:
  - a. The Zoning Administrator, or the Zoning Administrator's agent, has issued a notice of violation on any person committing or permitting a violation of Zoning Ordinance provisions of Section 10.13.E.1.; and
  - b. The violation has not ceased within the reasonable time provided in the notice.
3. The summons must include:
  - a. At least 72 hours prior to the time and date fixed for trial, the person summoned for a violation:
    1. Appears in person or in writing by mail to the County Treasurer's office;
    2. Enters a waiver of trial;
    3. Admits liability; and
    4. Pays the civil penalty established for the offense charged; and
  - b. A right to stand trial;
  - c. A signature to an admission of liability will have the same force and effect as a judgment of court; and
  - d. An admission will not be deemed a criminal conviction for any purpose.
4. If a person charged with a violation does not enter a waiver of trial, admit liability, and pay the civil penalty, the violation will be tried in the General District Court in the same manner and with the same right of appeal as provided by law. A finding of liability will not be deemed a criminal conviction for any purpose.
5. Whenever the Zoning Administrator has reasonable cause to believe that any person has engaged in, or is engaging in, any violation of the Zoning Ordinance that limits occupancy in a residential dwelling unit, which violation is subject to a civil penalty that may be imposed in accordance with the provisions of Section 10.13.E., and the Zoning Administrator, after a good faith effort to obtain the data or information necessary to determine whether a violation has occurred, has been unable to obtain such information, the Zoning Administrator may request that the County Attorney petition the judge of the General District Court for a subpoena duces tecum against any such person refusing to produce such data or information.

6. The remedies provided for in Section 10.13 are cumulative and not exclusive and may be in addition to any other remedies provided by law.

## 10.14 Appeals

**Purpose.** To review whether an order, requirement, decision, or determination was performed correctly when there is a disagreement with the result.

### A. Applicability.

1. Appeals are decided based on the actions provided in Table 10.14-1.
2. Comments and opinions that do not result in an order, requirement, decision, or determination are not appealable.
3. The Code of Virginia may also limit who, when, and how appeals can be filed.

Table 10.14-1. Appeals	
Action of	Appealed to
<del>Zoning Administrator</del> Board of Supervisors	<u>Loudoun Circuit Court</u>
<del>— Administration and enforcement of proffers, including the Concept Development Plan</del> Board of Zoning Appeals	<u>Loudoun Circuit Court</u> <del>Board of Supervisors</del>
<del>— Administration and enforcement of Historic Overlay Districts</del> District Review Committee	<del>Historic District Review Committee (HDRC)</del> Board of Supervisors
<del>— All other actions<sup>1,2</sup></del> Planning Commission	Board of <u>Zoning Appeals (BZA)</u> Supervisors
<del>Planning Commission</del> Zoning Administrator	<del>Board of Supervisors</del>
<del>Board of Zoning Appeals (BZA)</del> Administration and enforcement of proffers, including the Concept Development Plan	<u>Board of Supervisors</u> <del>Loudoun Circuit Court</del>
<del>Administration and enforcement of Historic District Review Committee (HDRC)</del> Overlay Districts	<del>Board of Supervisors</del> <u>Historic District Review Committee (HDRC)</u>
<del>Board of Supervisors</del> All other actions <sup>1,2</sup>	<u>Board of Zoning Appeals (BZA)</u> <del>Loudoun Circuit Court</del>
<b>TABLE NOTES:</b> <sup>1</sup> Appeals may be taken by any person aggrieved or by any officer, department, board, or agency of the County affected by any decision of the Zoning Administrator or from any order, requirement, decision, or determination made by any other administrative officer in the administration or enforcement of the Zoning Ordinance. <sup>2</sup> Where a building permit has been issued and the construction of the structure for which such permit was issued is subsequently sought to be pre-vented, restrained, corrected, or abated as a violation of the Zoning Ordinance, by suit filed within 15 days after the start of construction by a person who had no actual notice of the issuance of the permit, the court may hear and determine the issues raised in the litigation even though no appeal was taken from the decision of the Zoning Administrator to the BZA.	

### B. Initiation. Complete Appeals must be filed within 30 days from the date of the decision.

1. **Exceptions.** Appeals must be taken within 10 days after:
  - a. Issuance of a Notice of Violation for any violation of the Zoning Ordinance involving temporary or seasonal commercial uses, parking or commercial trucks in residential ~~Zoning Districts~~ zoning districts, maximum occupancy limitations of a residential dwelling unit, or similar short-term, recurring violations; or
  - b. Commission Permit decision by the Planning Commission.
2. Appeals must be filed with the Zoning Administrator.
3. Appeals must include the following materials within the 30-day filing time frame before the Appeal is considered filed:
  - a. Two copies of a completed application form signed by the appellant or appellant's representative;



- b. A copy of the order, requirement, decision, determination, or notice of violation that is the subject of the appeal;
- c. The date upon which the decision being appealed was made;
- d. The grounds for the appeal;
- e. Specification as to how the appellant is an aggrieved person:
  - 1. The owner of property affected by the determination;
  - 2. An adjacent owner affected by the determination; or
  - 3. Other, be specific; and
- f. Any additional supportive data, such as:
  - 1. Plats;
  - 2. Plans;
  - 3. Drawings;
  - 4. Charts; or
  - 5. Other related material desired to be included in the record; and
- g. The applicable appeal fee prescribed by the Zoning Ordinance.

**C. Review and Decision.** Appeals are decided by the body specified in Table 10.14-1.

**1. Zoning Administrator.**

- a. The Zoning Administrator must transmit all the papers constituting the record of the action appealed to the appellant body specified in Table 10.14-1. For appeals to the Board of Supervisors, the Zoning Administrator must forward the materials to the Clerk of the Board.
- b. The Zoning Administrator must serve a copy of the decision on the appellant and upon each other person who was a party of record at the hearing.

**2. Board of Zoning Appeals.** The requirements of Section 10.14.C.2. apply for Appeals to the BZA.

- a. Within 90 days after the Appeal has been filed, the BZA must:
  - 1. Hold a public hearing in accordance with Section 10.01.G.;
  - 2. Decide the appeal; and
  - 3. File its findings of fact and conclusions with respect to the Appeal with the Zoning Administrator.
- b. The BZA may reverse or affirm, wholly or partly, or may modify the decision appealed.
- c. The concurring vote of a majority of BZA members is necessary for the BZA to decide. If no decision is made, the Appeal is denied.
- d. If the BZA's attempt to reach a decision results in a tie vote:
  - 1. The matter may be carried over until the next scheduled meeting at the request of the person filing the appeal; and
  - 2. No further advertisement is required.
- e. In this capacity the BZA exercises appellate jurisdiction as a quasi-judicial body:
  - 1. The BZA's task is to determine what the Zoning Ordinance means and how it applies to a particular fact situation; and
  - 2. The BZA must accept that:
    - a. The determination of the Zoning Administrator is presumed to be correct; and
    - b. The appellant has the burden of proof to rebut such presumption of correctness by a preponderance of the evidence.

3. **Historic District Review Committee.** The requirements of Section 10.14.C.3. apply for Appeals to the HDRC.
  - a. In considering an appeal of a decision of the Zoning Administrator, the HDRC must review the decision as if the decision had come before it in the first instance.
  - b. The HDRC may consider any information or opinions relevant to the application, including, without limitation, those provided by the Zoning Administrator.
  - c. The HDRC must hold a public hearing in accordance with Section 10.01.G.
  - d. After the public hearing the HDRC may reverse or affirm, wholly or partly, or may modify the decision appealed.
  - e. The concurring vote of a majority of its members is necessary for the HDRC to decide. If no decision is made, the Appeal is denied.
4. **Board of Supervisors.** The requirements of Section 10.14.C.4. apply for Appeals to the Board of Supervisors.
  - a. Within 90 days after the Appeal has been filed, the Board must, except as provided in Section 10.14.C.4.b. below:
    1. Hold a public hearing in accordance with Section 10.01.G.; and
    2. Decide the Appeal.
  - b. **Exception.** Commission Permit appeals must be decided within 60 days and do not require a public hearing.
  - c. The Board of Supervisors may reverse or affirm, wholly or partly, or may modify the decision appealed.
  - d. The concurring vote of a majority of Supervisors is necessary for the Board of Supervisors to decide. If no decision is made, the Appeal is denied.
5. **Loudoun Circuit Court.** Appeals of the decisions of the Board of Supervisors or the BZA are as provided in the Code of Virginia.
- D. **Approval Criteria.** The appellant bodies must consider the Zoning Ordinance requirements used in the original order, requirement, decision, or determination.
- E. **Stay of Action.**
  1. A notice of appeal properly filed as herein provided stays all proceedings in furtherance of the action appealed from.
  2. The appellant is prohibited from taking any action for which approval is sought pending the outcome of the appeal.
  3. **Exception.** Where the Zoning Administrator certifies to the BZA or Board of Supervisors as the applicable appellate body that by reason of facts stated in the certificate a stay would cause imminent peril to life or property.

## 10.15 Density Credit for Public Uses

**Purpose.** To provide for density credits to a development when portions of the land are dedicated for public uses and facilities.

- A. **Applicability.**
  1. Section 10.15 applies to determining density credit for public uses and certain public road dedications in any ~~Zoning District~~ zoning district.
  2. For the purposes of Section 10.15, the terms "property" and "property area" includes all adjacent parcels owned in common.
- B. **Review and Decision.** Prior to recordation of the dedication or conveyance, density credit may be approved by:

1. **Board of Supervisors.** The Board of Supervisors in approving Zoning Map Amendment, Zoning Concept Plan Amendment, or Special Exception applications, when included as part of such applications.
2. **Zoning Administrator.**
  - a. The Zoning Administrator upon approval by the Director of Building and Development of a Site Plan or Subdivision Plat, when included as part of such applications.
  - b. The Zoning Administrator when such dedication or conveyance is not proposed as part of Site Plan, Subdivision Plat, Zoning Map Amendment, Zoning Concept Plan Amendment, or Special Exception applications.
- C. **Criteria for Approval.** Density credit may be approved when:
  1. The property has not already been conveyed for public use;
  2. The conveyance is not made in exchange for monetary compensation;
  3. The area to be conveyed is suitable in location, size, shape, condition and topography for such needed public use and there are no encumbrances to the title that would interfere with such use;
  4. The area to be conveyed is necessary for the installation or improvement of the public use, including roads shown on the adopted Countywide Transportation Plan, and is in accordance with the adopted Comprehensive Plan; and
  5. A proposed deed, in a form acceptable to the County, conveying the property to the Board of Supervisors or another public entity has been submitted to be recorded in the land records of Loudoun County, Virginia. The density credit becomes effective upon the recordation of the deed.
- D. **Appeals.** See (Section 10.14.)
  1. Density credit decisions by the Zoning Administrator may be appealed to the Board of Zoning Appeals ~~(BZA)~~.
  2. Decisions by the Board of Supervisors may be appealed as part of the corresponding application.
- E. **Scope of Approval.** Density computations for property from which land has been severed for the purpose of constructing or improving any public use or portion thereof, including roads shown on the adopted Countywide Transportation Plan, will be based upon the property area including the land severed for such purpose.

## 10.16 Administrative Parking Adjustments

**Purpose.** To permit the Zoning Administrator to adjust the parking requirements of Section 7.06.08.

- A. **Applicability.** As provided in Section 7.06.08, the Zoning Administrator may:
  1. Reduce the minimum required parking spaces for nonresidential uses by no more than ~~35%~~ 10%;
  2. Increase the maximum amount of parking spaces allowed; and
  3. Determine the required parking ratios for uses that do not have specified parking ratios listed in Table 7.06.02-1.
- B. **Initiation.**
  1. Requests for a parking adjustment must include the following:
    - a. Payment of the applicable application fee;
    - b. A parking scoping meeting held between the Applicant and Staff to specify the parking information required in the Applicant's parking study;
    - c. Any pertinent information applicable to the specific parking adjustment request. This includes, but is not limited to the following information below:
      1. Parking location;
      2. Type of parking (on-street, structured parking, off-street, etc.);

3. Percentage of parking to be provided in a parking structure, on-street, off-street, by shared parking, or by any other means; and
      4. Any applicable supplemental data, graphics, or best practices as agreed upon in the signed parking scoping document; and
    - d. A plan showing how the parking spaces will be provided on the site; and
    - e. A parking study:
      1. Completed by a qualified professional with demonstrated experience in transportation planning, traffic engineering, or comparable field;
      2. Signed and dated as agreed upon with Zoning Administration; and
      3. To substantiate the need for an adjusted number of parking spaces.
  2. **Exception.** Parking adjustment requests for 10 spaces or less do not require a parking study.
- C. **Review and Decision.**
1. Upon receipt of all necessary materials, the Zoning Administrator will:
    - a. Review the application materials; and
    - b. Make a decision on the request.
  2. The Zoning Administrator may impose any conditions necessary to comply with the criteria listed in Section 10.16.D.
- D. **Criteria for Approval.** In order for the parking adjustment to be approved, the Zoning Administrator must find that the information provided by the applicant demonstrates that the amount of proposed parking will be adequate.
- E. **Limitation after Denial or Withdrawal.** There are no limitations on subsequent applications after an Administrative Parking Adjustment has been denied or withdrawn.
- F. **Appeals.** The Applicant may appeal the Decision of the Zoning Administrator to the Board of Zoning Appeals (BZA). See Section 10.14.
- G. **Scope of Approval.** Upon approval of such parking adjustment, the new parking ratio will be applicable to the subject proposal.