

## **ZONING ORDINANCE COMMITTEE**

January 19, 2022  
ELECTRONIC MEETING  
9:00 AM TO 12:00 PM

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**NOTICE OF ELECTRONIC MEETING:** Due to the ongoing COVID-19 pandemic, this [Zoning Ordinance Committee](http://www.loudoun.gov/remoteparticipation) meeting will be conducted as an Electronic Meeting pursuant to the adopted Continuity Ordinance adopted by the Board of Supervisors on March 16, 2021. Members of the public are strongly encouraged to view and participate in the meeting by electronic or other means, in furtherance of the Governor's Executive Orders and social distancing directives. This meeting will be conducted in the WebEx Events platform. Login/call-in information will be posted to [www.loudoun.gov/remoteparticipation](http://www.loudoun.gov/remoteparticipation) prior to the meeting.

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1. Call to Order/Review Agenda
2. Public Input
3. Disclosures
4. Approval of Action Report for January 5, 2022
5. Status Updates on Other Zoning Ordinance Amendments<sup>i</sup> (ZOAM)
  - a) ZOAM-2018-0001: Short-term Residential Rentals  
Draft text was finalized for the public outreach sessions; documents were sent to the committee January 5; organizations that would like to participate should contact Ethan Strickler directly, committee members can confirm those they know of with him as well; staff anticipates a general public outreach session in February.
  - b) ZOAM-2020-0002: Cluster Subdivision Regulations  
Draft text for referral was distributed on January 3 to inter-agencies and the committee; staff anticipates coming back before the committee in February with the comment deadline being extended accordingly.
  - c) ZOAM-2021-0002: Airport Impact Overlay District  
Public outreach information session held on December 13, 2021; staff working on revised draft text; a comprehensive plan amendment and zoning map amendment would be included in the referral for inter-agencies and the committee; Resolution of Intent

to Amend to follow the 45-day referral process at which point the Board may choose to refine their guidance to staff.

- d) ZOAM-2021-0003: Traffic Data Collection and Warrant Study Fees Resolution of Intent to Amend was presented and adopted by the Board of Supervisors on December 7, 2021; staff will distribute the draft to the committee on February 9 for the February 16 meeting, staff would also present and take comments.

6. ZOAM-2020-0001: Zoning Ordinance Rewrite

- a) Development Standards Draft Sections [from 01/05/22]:
  - § 5.06 Tree Planting, Replacement, and Preservation
  - § 5.07 Landscaping, Buffer Yards, Screening, and Landscape Plans
- b) Development Standards Draft Sections:
  - § 5.01 Application of Site Development Terms
  - § 5.02 Utility Standards
  - § 5.04 Open Space Standards
  - § 5.08 Performance Standards
  - § 5.09 Adaptive Reuse Standards
  - § 5.10 Homeowner's Association Standards
  - § 5.11 Visibility at Intersections
  - § 5.12 Road Access Standards for Specific Uses
  - § 5.14 Rural Hamlets

7. New Business

8. Upcoming Meetings

- a) Electronic meeting. Wednesday, February 2, 2022, 9:00 AM.

9. Adjourn

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<sup>i</sup> View project documents at [www.loudoun.gov/lola](http://www.loudoun.gov/lola).

**ACTION REPORT**  
**ZONING ORDINANCE COMMITTEE**  
January 5, 2022

The content of any statements, updates, or discussions associated with the items and actions noted below can be obtained by listening to the meeting via the following link: [https://loudoun.granicus.com/player/clip/6854?view\\_id=78&redirect=true](https://loudoun.granicus.com/player/clip/6854?view_id=78&redirect=true)

**CALL TO ORDER/REVIEW AGENDA (ADDITIONS/DELETIONS)**

Chair Kevin Ruedisueli moved that the Zoning Ordinance Committee convene the January 5, 2022, meeting as an electronic meeting pursuant to the Virginia Freedom of Information Act in response to the COVID-19 Pandemic. (13 members participating remotely at time of motion.)

**APPROVAL OF ACTION REPORTS FOR DECEMBER 1 AND DECEMBER 15, 2021**

Committee Member John Merrithew moved that the Zoning Ordinance Committee approve the Action Report for December 1, 2021. (Seconded by Jeff Browning. The motion passed via roll call vote 12-0-3-2: Colleen Gillis, Ross Stevens, and Tia Walbridge absent for the vote; Packie Crown and Eric Zicht abstained.)

Committee Member Gem Bingol moved that the Zoning Ordinance Committee approve the Action Report for December 15, 2021. (Seconded by Maura Walsh-Copeland. The motion passed via roll call vote 11-0-3-3: Colleen Gillis, Ross Stevens, and Tia Walbridge absent for the vote; Packie Crown, Ben Keethler, and Eric Zicht abstained.)

Chair Ruedisueli announced that Committee Member Sam Chapman had resigned.

**PUBLIC INPUT**

None.

**DISCLOSURES**

None.

**STATUS UPDATES ON OTHER ZONING ORDINANCE AMENDMENTS (ZOAM)**

Deputy Zoning Administrator Ryan Reed provided the following status updates:

a) ZOAM-2018-0001: Short Term Residential Rentals

Draft text was finalized for the public outreach sessions; the documents were sent to the committee this morning via email; organizations that would like to participate should contact Ethan Strickler directly, committee members can confirm those they know of with him as well; staff anticipates a general public outreach session in February.

Staff contacts: Mark Stultz and Ethan Strickler

b) ZOAM-2020-0002: Cluster Subdivision Regulations

Draft text for referral was distributed on January 3 to inter-agencies and the committee; staff anticipates coming back before the committee in February with the comment deadline being extended accordingly.

Staff contacts: Mark Stultz and Jacob Hambrick

Committee members asked for clarification on the deadline to receive comments and if they could provide questions before February's meeting. Deputy Zoning Administrator Reed stated he would review the timeline with staff before announcing the extended date. He added to send questions to Project Manager Jacob Hambrick and Planning Assistant Christina Torrible for distribution to the committee.

c) ZOAM-2021-0002: Airport Impact Overlay District

Public outreach information session held on December 13, 2021; staff working on revised draft text; a comprehensive plan amendment and zoning map amendment would be included in the referral for inter-agencies and the committee; Resolution of Intent to Amend to follow the 45-day referral process at which point the Board may choose to refine their guidance to staff.

Staff contacts: Mark Stultz and Josh Peters

d) ZOAM-2021-0003: Traffic Study Fees

Resolution of Intent to Amend was presented and adopted by the Board of Supervisors on December 7, 2021; draft text to be distributed to the committee on February 9 for the February 16 meeting, at which time staff would also present and take comments.

Staff contacts: Mark Stultz, Brian Wegener, and Jaspreet Sethi

Deputy Zoning Administrator Reed clarified that the purpose of stating a comment had been "noted" was to acknowledge it. It meant staff would have an internal discussion with a follow-up plan to more fully respond, revise the text, or elaborate

on staff response. He emphasized it did not mean the comment was gone and forgotten.

Chair Ruedisueli moved the topic of Subcommittees ahead of Zoning Ordinance Rewrite at the request of Vice-Chair Michael Capretti.

#### ZONING ORDINANCE REWRITE SUBCOMMITTEES

Chair Ruedisueli and Interim Assistant Director/Project Manager Judi Birkitt agreed to an alternate for each subcommittee. The Chair asked committee members to contact him directly if interested.

Committee members had no objections to the proposed subcommittee assignments. Project Manager Birkitt stated the subcommittees would be hearing from their assigned staff person in the next few days to schedule meetings in April. Staff would also bring forward protocols and expectations no later than March.

Committee questions and discussion generally involved the following: whether subcommittees would be voting, documenting and reviewing majority and minority positions, posting of meetings, brainstorming session to share personal visions, clarification on what zoning districts would be addressing, where overlay districts and parking would be discussed, clarifying what trying to achieve via goals and objectives, measuring success, quantitative information, focusing on implementing the plan, and providing a consistent product.

Link to full discussion:

[https://loudoun.granicus.com/player/clip/6854?meta\\_id=203539](https://loudoun.granicus.com/player/clip/6854?meta_id=203539)

#### ZOAM-2020-0001: Zoning Ordinance Rewrite

Senior Planner Chris Blough reviewed draft language and facilitated discussion on Section 5.03 Natural and Environmental Resource Standards.

Questions and topics generally included: requesting redline to view what was new or existing language, reviewing exemptions with the County Attorney's Office for the River and Stream Corridor Overlay District, what would happen to approved preliminary plans, 100-acre drainage area guidelines, permitting and enforcement, addressing items in Procedures, steep slopes, septic systems, simplifying the table, staff response to comments in enCode, a timeline for syncing up with the Facilities Standards Manual, incorporating the Linear Parks and Trails Plan, impaired streams from runoff, prohibitive language, the meaning of fully permeable, reviewing the need for modifications, number of properties impacted, defining waterways, overall a dense section, limits our ability to afford attainable housing, nonconforming uses, quality of mapping, confusing language leading to different interpretations, and impervious surface.

Committee Member Charles Houston asked for clarification regarding open meetings. Specifically, the meeting between Zoning Ordinance Committee and Planning Commission leadership. Chair Ruedisueli and Committee Member Merrithew stated two members could meet and this would not constitute a public meeting. Committee Member Houston asked Chair Ruedisueli to provide details on the presentation and comments.

Committee Member Maura Walsh-Copeland asked staff to work with the enCode vendor to change permissions. She stated she would like the committee to have the ability to view sections currently under review by the Planning Commission.

Principal Planner Kate McConnell provided a brief overview for Section 5.06 Tree Planting, Replacement, and Preservation. Due to time constraints, the Chair deferred discussion until the January 19 meeting.

Link to full discussion:

[https://loudoun.granicus.com/player/clip/6854?meta\\_id=203539](https://loudoun.granicus.com/player/clip/6854?meta_id=203539)

*ZOC Action:* By consensus, the meeting on January 19 was extended one hour.

#### NEW BUSINESS

None.

#### UPCOMING MEETINGS

Electronic meeting. Wednesday, January 19, 2022, at 9:00 AM.

#### MEETING ADJOURNED

Chair Ruedisueli adjourned the January 5, 2022, Zoning Ordinance Committee meeting.

#### MEETING ATTENDANCE

##### PLANNING COMMISSIONER PRESENT:

John Merrithew, Sterling District

##### ZOC MEMBERS PRESENT:

Kevin Ruedisueli, Subject Matter Expert - Architect, **Chair**

Michael Capretti, Citizen-At-Large, **Vice-Chair**

Gem Bingol, Environmental Organization

Rich Brittingham, Dulles Area Association of Realtors

Jeff Browning, Rural Economic Development Council

Packie Crown, Citizen-At-Large

Colleen Gillis, Loudoun County Chamber of Commerce

Charles Houston, Citizen-At-Large  
Ben Keethler, Loudoun Coalition of Homeowners and Condominium Associations  
Matt Lawrence, Northern Virginia Building Industry Association  
Bridge Littleton, Coalition of Loudoun Towns  
Joe Paciulli, Economic Development Advisory Commission  
Tia Walbridge, Farm Bureau  
Maura Walsh-Copeland, Preservation/Conservation Organization  
Eric Zicht, Citizen-At-Large

ZOC MEMBERS ABSENT:

Ross Stevens, Commercial Real Estate Development Association

VACANT:

Subject Matter Expert – Urban Land Use Planner (formerly Jean Ault)

RESIGNED:

Sam Chapman, Citizen-At-Large (carryover)\*\*

\*\*From 10/1/2020 until 9/30/2022, if any at-large carryover seats are vacated prior to the end of the new ZOC term, they shall be removed permanently from the membership roster until such time as a total of 16 voting ZOC seats remain. ([BOS 10-06-2020](#))

## MEMORANDUM

To: Zoning Ordinance Committee  
From: Chris Blough, Senior Planner  
Steve Goodrich, Senior Planner  
Kate McConnell, Principal Planner  
Ryan Reed, Deputy Zoning Administrator  
Judi Birkitt, Interim Assistant Director  
Date: 1/12/2022  
Re: January 19, 2022 ZOC Meeting

**Review Chapter 5, Development Standards, Sections:**

- **5.01 Application of Site Development Terms**
- **5.02 Utility Standards**
- **5.04 Open Space Standards**
- **5.06 Tree Planting, Replacement, and Preservation**
- **5.07 Landscaping, Buffer Yards, Screening, and Landscape Plans**
- **5.08 Performance Standards**
- **5.09 Adaptive Reuse Standards**
- **5.10 Homeowner's Association Standards**
- **5.11 Visibility at Intersections**
- **5.12 Road Access Standards for Specific Uses**
- **5.14 Rural Hamlets**

The Zoning Ordinance Committee (ZOC) is reviewing Zoning Ordinance Rewrite (ZO Rewrite) Chapter 5, Development Standards. This is consistent with the ZOC bylaws that state, "at the discretion of the Planning Commission, County staff, or Board of Supervisors (Board), ZOC may be asked to provide input on proposed amendments prior to the initiation of the referral process." The following excerpt from the ZOC bylaws provides guidance on how to review draft Zoning Ordinance (ZO) text.

Recommendations may include, but are not limited to:

- a. Correcting errors and inconsistencies;
- b. Clarifying regulations;
- c. Simplifying the Zoning Ordinance to make it more user friendly;
- d. Keeping the Zoning Ordinance current to reflect changes in the state code, the market, economic, fiscal and land use conditions and the emergence of new uses;
- e. Addressing a specific issue;
- f. Identifying when proposed Zoning Ordinance amendments are inconsistent with the Comprehensive Plan and may require a Comprehensive Plan amendment (Board of Supervisors, October 6, 2020).



Please keep in mind that the ZO Rewrite team is at the beginning stages of socializing draft concepts and text in a public forum, and the ZOC is the first stop of many as we progress towards Board review and adoption. ZOC review of these draft documents will not only provide essential input regarding proposed revisions but will also help to capture unintentional errors and omissions in these draft documents.

### **Pre-Referral Review of Chapter 5, Development Standards**

Below are the remaining draft development standards needing ZOC pre-referral review during the January 19, 2022 ZOC meeting:

- Section 5.01 Application of Site Development Terms
- Section 5.02 Utility Standards
- Section 5.04 Open Space Standards
- Section 5.06 Tree Planting, Replacement, and Preservation
- Section 5.07 Landscaping, Buffer Yards, Screening, and Landscape Plans
- Section 5.08 Performance Standards
- Section 5.09 Adaptive Reuse Standards
- Section 5.10 Homeowner's Association Standards
- Section 5.11 Visibility at Intersections
- Section 5.12 Road Access Standards for Specific Uses
- Section 5.14 Rural Hamlets

A summary of revisions for each section is provided below. Several of the sections merely update existing sections of the zoning ordinance to the enCode format, whereas others are new (i.e., Adaptive Reuse Standards) or have been consolidated from multiple sections of the existing ordinance such as the Exterior Lighting and Noise Standards for Specific Uses, which have now been consolidated into subsections within 5.08 – Performance Standards.

A clean version of draft text is included in this referral memo as ***Attachment 1***. Where available, tracked changes versions are provided as ***Attachment 2***. In cases where the draft text represents significant revisions, consolidation from multiple chapters, and reorganization, changes are so substantial that providing a tracked changes version is impracticable.

### **Summary of Changes by Section:**

#### ***5.01 Application of Site Development Terms***

- Carried over and consolidated certain sections of the R93 ZO regarding road frontage and lot access requirements, lot and yard measurements, calculations of density and minimum lot size requirements for Use Specific Standards.
- No changes to meanings, methods, or numerical standards.

#### **5.02. Utility Standards**

- Consolidated standards into a single section that can be easily referenced throughout the ordinance.
- Eliminated repetitive language and included additional standards where necessary.
- Included purpose and applicability statements.
- Updated zoning district and code references.

#### **5.04 Open Space Standards**

- Combined General Plan open space types, existing standards if available, research from other County zoning ordinances, and additional standards determined necessary to ensure the provision and protection of open space.
- Included open space “types” from the 2019 General Plan (2019 GP) as the basis for standards and further defined as common, private, or public.
- Included the concept of priorities and bonus credit for protecting priorities as open space.
- Included standards for pedestrian/bicycle network and linkage to LPAT Plan.
- Other sections have basis in existing ordinance, including numerical standards for outdoor gathering spaces.

#### **5.06. Tree Planting, Replacement, and Preservation**

- In general, revisions are limited because the regulations must conform to §15.2-961 of the Code of Virginia.
- Updated regulations to be in conformance with recent revisions to the state code, which primarily included changing some regulatory references and adding a canopy requirement for new cemeteries.
- Received and incorporated early input from the County Urban Forester on additional insertions of regulations based on state code.
- Included policy statement consistent with 2019 GP Policy, Chapter 3: Forest, Trees and Vegetation, Text, page 3-7 and FTV Action 4.1.B.
- Updated zoning district references.

#### **Work To Be Addressed:**

- Follow 2022 Legislative Session to determine if tree preservation amendments being studied during 2021 are adopted. Amend as needed to align with state code.

#### **5.07. Landscaping, Buffer Yards, Screening, and Landscape Plans**

- Reorganized some text so that related sections are grouped and identified, including creating an “Exceptions” heading, for clarity and order.
- Identified locations for additional figures.
- Moved Pollinator Habitat requirement to the General Landscape Provisions so that it applies to all new landscaping rather than only the Route 7 Corridor

Gateway Buffer. The provision of native plants/pollinator habitat is supported by 2019 GP Policy 6.2.D. "Encourage the preservation and plantings of native vegetation to protect pollinators, migrant birds, and other wildlife."

- Included an exemption of Roadway Corridor Setbacks for roads in the UPA (except arterial roads).
- Reduced certain Road Corridor Setbacks for zoning districts with a more compact development pattern, primarily in the Suburban Policy Area.
- Aligned various street tree requirements included throughout the ordinance and included 1 requirement in the Road Corridor Setbacks and Buffers section.
- Added criteria for legislative modification requests to reduce Roadway Corridor Setbacks.
- Referenced administrative buffer modification and waiver criteria for legislative buffer modification requests.

Work To Be Addressed:

Determine if Roadway Corridor Setback modification should be permitted as a standalone modification or only as part of PD District proposal. Move criteria to PD District regulations if the latter.

- Ensure district references are updated upon finalization of Legacy districts.
- Update section references when those sections are complete.
- Evaluate and update uses in Use Buffer Yard Matrix once uses are finalized.

### **5.08 Performance Standards**

- Reorganized performance standards into a "Purpose, Applicability, Exceptions, and Administration" section for all general performance standard regulations, and divided individual performance standards into the following new subsections for ease of administration and use:
  - "Earthborn Vibration"
  - "Stone Quarrying, Extraction, and Mining"
  - "Noise"
  - "Light and Glare"
- 5.08.01 Purpose, Applicability, Exceptions, and Administration  
Replaces the "Division E, Performance Standards", Section 5-1500 of the R93 ZO, excluding "Steep Slopes", Section 5-1508.
- 5.08.02 Earthborn Vibration  
Replaces 5-1505 of R93 ZO without further revision.
- 5.08.03 Stone Quarrying, Extraction, and Mining  
Replaces 5-1506 of R93 ZO without further revision.

- 5.08.04 Noise

Relocated and combined Section 5-652 under the R93 ZO to a subsection of the general noise performance standards previously administered under Section 5-1507 of the R93 ZO.

- 5.08.05 Light and Glare

Relocated and combined Section 5-652 under the R93 ZO to a subsection of the general light and glare performance standards previously administered under Section 5-1504 of the R93 ZO.

### **5.09 Adaptive Reuse Standards**

These development standards represent a new set of standards in the Zoning Ordinance Rewrite and support the protection of heritage resources, redevelopment, and the opportunity to reinforce community character by retaining and using underutilized buildings. Supporting standards in the 2019 General Plan and the Heritage Preservation Plan are found in **Attachment 3**. Changes include:

- Drafted new Adaptive Reuse Standards section based on 2019 GP and Heritage Preservation Plan policies
- Incorporated adaptive reuse standards that address the reuse of historic buildings and structures, as well as non-historic buildings or structures that may be suitable for redevelopment.
- Identified and included uses appropriate for adaptive reuse.
- Identified and included incentives for adaptive reuse.

#### Work To Be Addressed:

- Tie redevelopment to the adaptive reuse standards. Redevelopment regulations will be developed by a consultant; therefore, associating the regulations will remain outstanding until the redevelopment standards are complete.
- Further refine incentives.
- Further refine review and approval process.

### **5.10 Homeowner's Association Standards**

- Consolidated multiple sections from current ordinance that include HOA requirements.
- Retained basics of creating HOA's and responsibilities.
- Added new language for the purpose statement and compliance with Code of VA and federal ADA requirements

### **5.11 Visibility at Intersections**

- Added Applicability to clarify County/VDOT jurisdiction.
- Clarified existing text indicate intention to include illustrations.

- No new standards are proposed.

#### ***5.12 Road Access Standards for Specific Uses***

- Carried over and consolidation of requirements from multiple current sections
- No new standards are proposed
- Inclusion of Use Specific Road Access Standards
- Included clarification of requirement for public road access unless private allowed or approved through SPEX.
- Suggested additional revisions to definitions.

#### ***5.14 Rural Hamlet Standards***

This section is retained to regulate existing rural hamlets, as well as those permitted in the Legacy A-10 and A-3 zoning districts. Changes include:

- Revisions are limited since this section is largely retained only to regulate existing rural hamlets.
- Reformatted consistent with EnCode Plus formatting and rewrite goals to break up long paragraphs, include list, and tables as appropriate.
- Updated section references.

#### **Work To Be Addressed:**

- Update some Use and associated Use Specific Standards references.

## Next Steps after the January 19<sup>th</sup> ZOC Meeting

An abbreviated version of the remaining ZOC Work Plan is shown below. Please be advised that the Work Plan schedule is tentative and subject to change.

Zoning Ordinance Committee - Pre-Referral Work Plan		
Topic	Meeting Date	Packet Distribution
Standalone ZOAM: Short Term Residential Rentals	10/20/2021	10/13/2021
Zoning Districts (and VCOD)	11/3/2021	10/27/2021
Zoning Districts (and VCOD)	11/17/2021	11/10/2021
Standalone ZOAM: Cluster Subdivision Regulations	12/1/2021	11/24/2021
Signs	12/15/2021	12/8/2021
Development Standards (5.03, 5.06, 5.07)	1/5/2022	12/29/2021
Subcommittees Assignments and Schedules	1/5/2022	12/29/2021
Development Standards (remaining sections)	1/19/2022	1/12/2022
Attainable Housing	2/2/2022	1/26/2022
Standalone ZOAM: Traffic Data Collection and Warrant Study Fees	2/16/2022	2/9/2022
Historic Overlay District	2/16/2022	2/9/2022
Nonconformities	2/16/2022	2/9/2022
Subcommittee Expectations and Outcomes	3/2/2022	2/23/2022
<b>NOTE: EnCode changes to be released to public beginning in April 2022</b>		
<b>NOTE2: Draft chapters to be reviewed as part of April 2022 referral package: Ch. 1 Introduction, Ch. 10 Officials, Boards and Commissions, Ch. 11 Rules of Interpretation, Procedures</b>		
<b>NOTE3: ZOC Work Plan subject to change</b>		

## Attachments:

1. Draft Chapter 5 Development Standards for Sections 5.01, 5.02, 5.04, 5.06, 5.07, 5.08, 5.10, 5.11, 5.12, and 5.14 (clean)
2. Draft Chapter 5 Development Standards for Sections 5.01, 5.10, 5.12, and 5.14 (tracked)
3. Adaptive Reuse – Supporting Standards

## 5.01 Application of Site Development Terms

**Purpose.** *The purpose of this section is to:*

- *Aid in the intended and desired interpretation of the requirements of this ordinance.*
  - *Provide clarity and consistency in the application of site development terms.*
  - *Ensure desired interpretation produces general plan place type.*
- A. **Applicability.** The requirements of this section apply to all applications and all land areas subject to the requirements of this ordinance unless exempted in paragraph B Exemptions below.
- B. **Exemptions.** The zoning district building height limitations of this Ordinance do not apply to towers, gables, penthouses, scenery lofts, cupolas, barns, silos, farm buildings, residential chimneys, spires, flag poles, monuments or transmission towers and cables, telecommunications or data transfer antennas or other similar structures and necessary mechanical appurtenances; nor to any smokestack, water tank, radio, or television antenna or tower not exceeding in height the distance therefrom to the nearest lot line; provided that this height limitation does not apply to any of the above enumerated structures now or hereafter located on existing public utility easements.
- C. **Buffers.** Notwithstanding this section of the Ordinance, required buffer yards as described in Chapter 5 are a separate regulation in the Ordinance that may require a different width than a required yard, setback, or building restriction line.
- D. **Lot Access Requirements (formerly 1-205(A)).** No structure requiring a building permit is to be erected upon any lot that does not have frontage on a Class I, Class II, Class III road, or private access easement as specified in the individual district regulations, except as specifically provided for herein and the Land Subdivision and Development Ordinance (LSDO).
1. New access points (private or public) to arterial or major collector roads must be limited to locations at existing median breaks, planned median breaks, or other locations approved by Loudoun County or VDOT.
- E. **Limitations and Methods for Measurements of Lots, Yards, and Related Terms.**
1. **Lots**
    - a. **Minimum Lot Size Requirements.** Each principal permitted use must meet the minimum acreage requirement for that use specified in the district requirements or the minimum acreage requirement specified in the "Use Specific Standards" in Section 3.06, for that use, whichever is greater. Where two or more principal uses are located on one parcel, the required parcel size must be the larger of the two or more uses requirements, and not the sum of all the minimum lot sizes.
    - b. **Limitation on the Number of Dwelling Units on a Lot.**
      1. A maximum of one dwelling unit on any one lot is permitted.
      2. A dwelling unit may not be located on the same lot with any other principal building. This provision does not preclude:
        - a. Multifamily dwellings and stacked townhouse units as permitted by this Ordinance;
        - b. Accessory uses or associated service uses as permitted by this Ordinance;
        - c. Accessory living units in accordance with XXX;
        - d. Single-family attached dwellings in a rental development;
        - e. Condominium development; or
        - f. Wireless facilities and associated support structures in accordance with subsection 4102.4.Y.

- c. **Regular Lots, Width Measurements.** The width of a regular lot must be determined by measurement across the rear of the required front yard. The distance between side lot lines at the points where they intersect with a street line must not be less than eighty percent (80%) of the required width, measured along the street line. However, in cases where lots front on curved or circular (cul-de-sac) streets, the radii of which do not exceed ninety (90) feet, the distances between side lot lines where they intersect with the street line may be reduced to sixty percent (60%) of the required width, measured along the street line. Yards and street lines must be measured along the arc of the curve for curvilinear yards and street lines. Lot width must be measured only along continuous frontage facing one street. The minimum width of a lot on a private access easement must be determined by measurement along the front yard around the private access easement extended into the lot.
- d. **Regular Lots, Determination of Front Yard.**
  1. On regular interior lots, the front must be construed to be the portion nearest the street.
  2. On regular corner lots, except as provided for in subparagraph (3) below, the front must be construed to be the shorter boundary fronting on a street. If the lot has equal frontage on two or more streets, the front of the lot must be determined and shown on the subdivision plat or site plan by the prevailing building pattern, or the prevailing lot pattern if a building pattern has not been established.
  3. In an agricultural zoning district (A-3, A-10, AR-1, and AR-2), the front of the lot must be determined and shown on the subdivision plat or site plan by the prevailing building pattern, or prevailing lot pattern if a building pattern has not been established, provided that the shortest boundary fronting on a street in an agricultural zoning district is eighty percent (80%) or more of the required lot width.
  4. On regular through corner lots, the front must be construed to be the shorter boundary fronting the street, provided that if the shortest boundary fronting on a street is eighty percent (80%) or more of the length of the longest boundary fronting on a street, the applicant may select either frontage if lot width requirements are met.
  5. On regular through lots, unless otherwise determined by the Zoning Administrator due to the prevailing building pattern, the front must be construed to be the shorter boundary fronting on a street. If the lot has equal frontage on two streets, the front of the lot must be determined and shown on the preliminary and final subdivision plats and site plans by the prevailing building pattern, or the prevailing lot pattern if a building pattern has not been established.
- e. **Regular Lots, Yards Adjacent to Street.**
  1. Front yards of at least the depth required in the district must be provided across the entire frontage of a regular lot.
  2. Other yards adjacent to streets must be provided across or along the entire portion of the lot adjacent to the street.
  3. Street line for measurement of required yards adjacent to streets. Where the lot line adjacent to a street is straight, required yards must be measured from such line, extended in the case of rounded corners. On convex or concave lots, front, side and rear yards, as applicable, must be parallel to or concentric with, the street line. Depth of required yards adjacent to streets must be measured perpendicularly or radially to such straight street lines.

## 2. Yards.

- a. **Rear Yards on Interior Regular Lots.** Rear yards on interior regular lots must be provided of at least the depth required for the district, and must run across the full width of the lot at the rear. Depth of a required rear yard must be measured in such a manner that the yard is a strip of land with minimum depth required by district regulations with its inner edge parallel to or concentric with its outer edge.



- b. **Yards on Corner Lots.** Corner lots must be deemed to have no rear yards, only two (2) front yards which are adjacent to the streets and two (2) side yards, provided that if two (2) different side yards are required in a district, the larger available yard must be used. Notwithstanding anything to the contrary contained in this Ordinance, setbacks on corner lots must be sufficiently large to comply with VDOT sight distance requirements or Section 5-300 whichever is greater.
  - c. **Side Yards on Regular Lots.** Side yards on regular lots are defined as running from the required front yard line to the required rear yard line. On regular through lots the required side yard must run from the required front yard line to the second required front yard line. On corner lots the required side yards must run from the point where side yard lines intersect, to the required front yard lines.
3. **Irregular Lots.**
- a. **Irregular Lots, Dimensional Requirements.** An irregular lot shall be considered to meet the dimensional requirements of the district in which located, provided:
    - 1. Lot area must meet district requirements for the proposed use. Lot width need not meet district requirements if requirements set forth below are met.
    - 2. Open space in required yards and elsewhere on the lot must be not less than as required for the use in the district on a regular rectangular lot of required minimum width and area.
    - 3. Building area remaining after required yards have been provided must have dimensions and locations appropriate for all buildings proposed.
  - b. **Irregular Lots, Yard Requirements.** In general, all yards must provide at least the same separation from all lot lines as required for minimum side yards in the district, provided, however, that where district regulations permit building to the lot line of a regular lot under specified circumstances, the same regulations must apply on an irregular lot, except as provided with relation to accessory buildings and structures in Section 5-200. Additionally, if an irregular lot abuts a street at any point, a distance equal to the required yard on a regular lot adjacent to a street in the district must be provided.
4. **Road Corridor Buffer and Setback and Other Setback Measurement From Streets.**
- a. All Road Corridor Buffers and Setbacks and other setbacks from public streets must be measured from the wider of:
    - 1. The existing dedicated right-of-way, or
    - 2. the right-of-way proposed in the Comprehensive Plan, or
    - 3. The minimum dedicated right-of-way permitted for VDOT acceptance of the right-of-way for maintenance.
  - b. For public streets, if no dedicated right-of-way exists, or if no construction plans are approved for the road, or if less than the minimum right-of-way exists, the right-of-way must be assumed to be centered on the existing travelway.
  - c. All Road Corridor Buffers and Setbacks and other setbacks from private roads must be measured from the outer edge of the associated easement.
5. **Length to Width Ratio Measurement.** The width of a regular lot must be determined by measurement across the rear of the required front yard. If the lot is of regular dimensions, the lot length is the horizontal distance between the front lot line and the rear lot line. If the lot is of irregular dimensions, the lot length is defined by determining the average of a representative number of distances between the front lot line and the rear lot line as measured in a straight line.
6. **Reduction in Minimum Yard, Setback, and Buffer Requirements Based on Error in Building Location.** Notwithstanding any other provision of this Ordinance, the Zoning Administrator shall have the authority, as qualified below, to approve a reduction in the minimum yard, setback, and buffer requirements in the case

of any building existing or partially constructed which does not comply with such requirements applicable at the time such building was erected. Such a reduction may be approved in accordance with the following provisions:

- a. The reduction will not result in an increase in density or floor area ratio from that permitted by the applicable zoning district regulations.
- b. To force compliance with the minimum yard requirements would cause unreasonable hardship upon the owner, and
- c. It will not be detrimental to the use and enjoyment of the other property in the immediate vicinity, and The error does not exceed ten (10) percent of the applicable minimum yard, setback or buffer, and
- d. Upon the approval of a reduction for a particular building in accordance with the provision of this Section, the same shall be deemed to be a lawful building.
- e. The Zoning Administrator shall have no power to waive or modify the standards necessary for approval as specified in this Section.
- f. If there is an error greater than ten (10) percent of the measurement that is involved, a reduction may be granted by the BZA in accordance with the provisions of Section 6-1600.

F. **Calculations of Density.** Calculations of gross and net densities, gross and net residential area, lot area, floor area ratios, and similar measures must be made in accordance with the formulas provided within the definitions of these terms in Article VIII of this Ordinance. Calculations of density in individual zoning districts are also subject to the following:

1. **Highway Transportation Improvement District.** This section is applicable solely for determining density credit for certain public road dedications within highway transportation improvement districts established in accord with Section 15.2-4600 et seq. of the Code of Virginia.
  - a. In those zoning districts, including planned development districts, where density or intensity of land use is controlled by number of dwelling units or floor area ratio, or other similar measure, such computations with respect to a lot from which land has been severed for the purpose of constructing or improving any primary highway interchange or portion thereof, must be based upon the lot area including the area severed for such purpose when:
    1. The lot lies within or adjacent to an established highway transportation improvement district; and
    2. The area dedicated or conveyed is necessary for the installation or improvement of the primary highway interchange improvement and is in accordance with the adopted comprehensive plan; and
    3. The Board of Supervisors has specifically approved by resolution computation of density or intensity for the lot based upon the lot area existing prior to dedication or conveyance; and
    4. An effective irrevocable dedication in fee simple to public use or conveyance to Loudoun County or to another public instrumentality having the power to construct or maintain the highway use has occurred and evidence of such dedication or conveyance is of record among the land records of the County.
2. **Floor Area.** Calculations of allowable floor area must be based on the floor area ratio as established by the zoning district in effect at the time a site plan is officially accepted for the lot.
  - a. For the purposes of this section, the terms "lot" and "lot area" may include all adjacent parcels owned in common and which are the subject of an approved unified concept development plan specifying the allocation of density calculated pursuant to this section; the term "interchange" shall mean a grade separated limited access intersection with one or more turning roadways for travel

between portions of such intersection, and must include all related improvements such as access or service roads necessitated by the interchange; and the term "area dedicated" must include all property in excess of the right-of-way for a normal width typical highway section.

- b. In no case must conveyances or dedications to a public body made in exchange for monetary compensation be eligible for density computation under this section.
- c. Conveyances or dedications made or committed to by the landowners or predecessors in interest as part of an approved condition of a subdivision application, special exception application, or a zoning map amendment petition must not be considered eligible for density computation under this section provided that an effective irrevocable dedication or conveyance made during the pendency of an application must not decrease the lot area for purposes of density or intensity computation.

**3. Public Uses.** This section applies solely to determining density credit for public uses in any zoning district.

- a. In those zoning districts, including planned development districts, where density or intensity of land use is controlled by number of dwelling units per acre or floor area ratio, or other similar measure, such computations with respect to a lot 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 Comprehensive Plan, must be based upon the lot area including the area severed for such purpose when:
  - 1. The area dedicated or conveyed is necessary for the installation or improvement of the public use, including roads shown on the adopted Comprehensive Plan, and is in accordance with the adopted comprehensive plan; and
  - 2. The area dedicated or conveyed is suitable in location, size, shape, condition and topography for such needed public use and there are no encumbrances to the title which would interfere with such use; and
  - 3. The Board of Supervisors has specifically approved, by resolution, the computation of density or intensity for the lot based upon the lot area existing prior to dedication or conveyance; and
  - 4. An effective irrevocable dedication in fee simple to public use or conveyance to Loudoun County or to another public instrumentality has occurred and evidence of such dedication or conveyance is of record among the land records of Loudoun County.
- b. Calculations of allowable density must be based on the following:
  - 1. For development that requires a site plan, allowable density must be calculated in accord with the zoning district in effect at the time a site plan is officially accepted for the lot; or
  - 2. For development that does not require a site plan, allowable density must be calculated in accord with the zoning district regulations in effect at the time a record plat of subdivision is officially accepted for the lot.
  - 3. For the purposes of this section, the terms "lot" and "lot area" may include all adjacent parcels owned in common and that are the subject of an approved unified concept development plan specifying the allocation of density calculated pursuant to this section.
  - 4. In no case must conveyances or dedications made to a public body in exchange for monetary compensation be eligible for density computation under this section.
  - 5. Conveyances or dedications made or committed to by the landowners or predecessors in interest as part of an approved condition of a subdivision application, special exception application, or a zoning map amendment petition must not be considered eligible for density computation under this section provided that an effective irrevocable dedication or conveyance made during the pendency of an application must not decrease the lot area for purposes of density or intensity computation.

- G. **Applicability of Floor Area Ratio.** Wherever a Floor Area Ratio requirement is specified in this Ordinance, such requirement must not apply to residential uses unless such requirement specifically states that it applies to residential uses.
- H. **Permitted Structures in Required Yards and Setbacks.** The following must be allowed in a required yard or setback, provided applicable sight distance and fire safety requirements are met and maintained:
1. **In all yards or setbacks, including a front yard:**
    - a. Fences, provided that no fence in a required residential front yard exceeds 3 1/2 feet in height.
    - b. Ground level terraces, patios or decks not over 30 inches high.
    - c. Awnings or canopies provided they do not project more than 4 feet from the existing building face.
    - d. Bay windows and overhanging floors, eaves and gutters projecting 30 inches or less into the yard.
    - e. Architectural features, chimneys or the like projecting a maximum of 24 inches into a side or rear yard or 3 feet into a front yard provided that such projection does not extend closer than 3 feet to a lot line.
    - f. Porches, enclosed or unenclosed, may project a maximum of 3 feet provided that such projection does not extend closer than 3 feet to a lot line, except as otherwise permitted under Section 5-200(C).
    - g. Arbors and trellises.
    - h. Flag poles.
    - i. Recreational equipment.
    - j. Signs, pursuant to Section 5-1200.
    - k. Bus Shelters
    - l. Entry stairs or handicap ramps including rails.
  2. **In any yard or setback, except the front yard or setback.**
    - a. Clotheslines.
    - b. Fences shall not exceed 8 feet in height in residential areas.
    - c. Balconies may project a maximum of 4 feet provided such projection does not extend closer than 3 feet to a lot line.
    - d. Air conditioner condensers rated at 5 tons or less that are not within 4 feet of any property line and air conditioner condensers rated at over 5 tons that are not within 12 feet of any property line.
    - e. In conjunction with a single family dwelling only, any non-habitable, one-story accessory structure that is not within 5 feet of a rear or side property line or a common wall in portions of required yards that are located as follows:
      1. On regular lots, at least 60 feet from street rights-of-way or private access easement lines at the front of the lot, and at least 25 feet from any street rights-of-way or private access easement lines at the side of the lot.
      2. On irregular lots, at least 40 feet behind the front line of any building adjacent to the lot line, and at least 25 feet from any access easement.
      3. In conjunction with a single family detached dwelling only, an attached garage that is not within 5 feet of a rear or side property line, subject to the following standards:
        - a. In no case can the distance between the attached garage and structures, excluding detached, non-habitable structures, on the adjacent property be less than 16 feet.
        - b. No windows or doors must be permitted on the side of the attached garage that is located within the required yard.

- c. No portion of the principal structure other than the attached garage is permitted within the required yard.
  - d. The attached garage must not be converted into habitable space.
  - e. No second story addition over the attached garage is permitted that extends into the minimum required yard for the district, except as provided herein.
  - f. A detached garage located at the rear of a lot that has been developed following lot requirements for the Traditional Design Option and is attached to a similar garage on a contiguous lot may be located within the side yard setback and within 2 feet of the rear property line. No rear yard is required on such lots for garages that are accessed from the front of the lot.
4. In conjunction with Section 5-500(A), temporary buildings for the storage of construction materials, subject to the following standards:
- a. The height of a temporary building must not exceed 9 feet from average finished grade to the peak of the roof.
  - b. The temporary building must be setback from any property line a minimum distance equal to its height.
  - c. Except for the temporary building, no outdoor storage of construction related materials may be located anywhere within a minimum required yard.
  - d. With the issuance of the Zoning Permit, the Zoning Administrator may impose conditions to mitigate any adverse impact on abutting properties to include fencing and screening requirements.
5. For single family detached dwellings, decks exceeding 30 inches in height may extend no closer than 5 feet to:
- a. A rear or side lot line;
  - b. The interior side lot line; or
  - c. Any other lot line.
3. **Rear Yard or Setback.** For single family detached dwellings, unenclosed porches may extend no closer than 10 feet to a rear lot line. If a rear lot line abuts land that is commonly owned open space or land that is subject to a permanent open space easement, which is at least 10 feet in width, an unenclosed porch may extend no closer than 5 feet to such rear lot line.

## 5.04 Open Space Standards

**Purpose.** Chapter 2, Zoning Districts, of this Ordinance establishes the minimum amount and type of open space requirements by zoning district. The purpose of the open space standards is to:

- Promote the public health, safety, and welfare.
- Provide consistent open space standards.
- Implement the General Plan's open space goals by Policy Area and Place Type.
- Ensure and provide the open space desired and appropriate to the district requirements in Chapter 2.
- Ensure light, air, and space in all new development.
- Preserve the County's natural, environmental, and historic resources.
- Ensure the availability of open space for active and passive recreation.
- Provide open space and amenities in proximity to users, which promotes compact development patterns and reduces the consumption of resources and capital costs.
- Maintain property values.

**A. Applicability.**

1. The amount and type of required open space is indicated in the Dimensional Standards tables of the zoning districts listed in Chapter 2, Zoning Districts.
  - a. The open space to be provided must meet the requirements of this section in addition to the open space requirements of the district contained in Chapter 2.
  - b. Districts that do not require open space contain the notation N/A in the Dimensional Standards tables
2. The requirement to provide open space according to the standards in the Dimensional Standards tables in Chapter 2, Zoning Districts applies to the following applications initiated after the effective date of this ordinance:
  - a. All zoning map amendments, including incremental additions.
  - b. All site plans for residential, commercial, industrial, or institutional land uses.
  - c. All residential subdivisions with 5 or more lots.
3. When applicable, the open space represented on the site plan must be provided in accordance with the approved zoning map amendment and/or Concept Development Plan (CDP) where the site that is the subject of the site plan is located.
4. In the absence of a previously approved zoning map amendment and/or CDP that includes the subject site, open space must be provided in the amount and type as specified in the Dimensional Standards table contained in the applicable district in Chapter 2, Zoning Districts or as modified by a Special Exception described in Section 7.09.
5. Development applications for up to and including 4 new single-family detached, single-family attached, duplex, triplex, and/or quadruplex dwelling units are exempt from providing open space according to the requirements contained in Chapter 2, Zoning Districts unless the affected land area was included in an approved zoning map amendment or CDP with open space requirements.
  - a. Piecemeal applications that result in the approval of more than 4 dwelling units without the required open space when it would have otherwise been required if the applications had not been submitted separately, will be required to provide the required amount of open space on any future development application.



6. All development applications subsequent to an approved zoning map amendment or CDP must include a Comprehensive Open Space Plan (COSP) as described in 5.04.F below. The COSP must show the location of the area subject to the development application and its relationship to all of the open space approved for the development. If the open space requirement is located within the parcel(s) under current review, all information to ensure the provision of the required amount, type, and location and reference to the provisions to insure the long term protection of the open space must be provided.

## B. Calculation of Open Space.

1. Open Space is calculated by multiplying the required percentage as provided in the district requirements specified in Chapter 2, Zoning Districts by the gross acreage of the subject parcel or combined parcels.
2. The following areas are excluded from the gross acreage used in the calculation of required open space:
  - a. Any portion of the parcel that may be included in an easement that would prevent use as part of the development or open space.
  - b. Any part of the parcel or parcels that are known to be removed or separated from the gross land area before Zoning Ordinance Amendment, site plan, or preliminary subdivision approval.
3. When specified by district requirements, the amount of open space to be provided must be determined at the earliest plan review opportunity and maintained throughout the development review process until the development is completed unless modified according to Section 5.04x.
4. Areas within easements or rights-of-way may be used to meet open space requirements except when the recorded right-of-way or easement language prohibits use contrary to the purpose or intended use of the open space as identified on the CDP or an approved site plan.
5. The easement or right of-way holder or beneficiary must acknowledge and approve the designation of open space in the subject area. No more than 30% of the total required open space may be located within an easement or right-of-way. Open space must not include dedicated or reserved right-of-way.

## C. Open Space Types and Purposes.

1. **Recreation.** Areas for leisure activities to enhance physical and mental health.
  - a. **Active.** Areas for leisure activities usually of an organized or formal nature and often requiring fields, courts, and/or equipment designed specifically for the activity. Examples include team sports, swimming, playgrounds, golf courses, and dog parks.
  - b. **Passive.** Areas for less organized or less vigorous activities that may only require the space to perform the activity or minor accommodations. Examples include hiking, biking, picnicking, or fishing.
2. **Community.** Areas to allow and encourage public gathering for socialization and community support activities. Examples include outdoor gathering space, plazas, greens, squares, and parks.
3. **Natural, Environmental, or Heritage.** Areas that contain naturally occurring phenomenon or characteristics that are subject to potentially negative effects from man-made alterations. Examples may include surface or groundwater features, floodplain, prime agricultural or erodible soils, contiguous forest, and threatened or endangered species habitat.
  - a. Heritage open spaces may contain natural or man-made structures or landscapes that have gained importance or are unique to represent, interpret, or understand the community's past and are in need of protection from or sensitive incorporation into the new development.
4. **Agricultural.** Areas of land in use for the production of food or fiber for human or animal consumption, including the support of livestock and tree or timber production, and the provision of same as an essential contribution to the local economy. Agricultural open space may also include areas of land underlain with prime agricultural soils that are not currently in use for agricultural purposes.

- D. **Open Space Categories.** In addition to the 4 types of open space listed above, open space must be designated as common, public, or private.

1. **Common.** Common open space is intended to be available only to residents and invited guests of residents of the development that provided the open space. Ownership must be by an HOA meeting the requirements of 5.10. Common open space includes areas where facilities provided in support of the development such as water and sewer facilities, recreation space and equipment, and land area not included in individual lots to meet density requirements are located.
2. **Public.** Public open space is intended to be available for use by and accessible to the general public without the requirement for residency in the development where it is located. Ownership and management of public open space must be by an HOA or a comparable entity meeting the requirements of XXX and created specifically for the purpose of owning and managing the open space for the residents of the development. A fee may be charged for access to the open space.
3. **Private.** Private open space is provided to meet the open space requirements of Chapter 2, Zoning Districts. The use and access to the space is determined solely by the owner who may limit or prohibit access. Ownership may be by individuals, corporations, HOA, or dedicated to the County. Use of Private open spaces must be in compliance with Section XX.

**E. Priorities for Inclusion in Open Space and Bonus Credit.**

1. The following are priorities for inclusion in open space and will receive 1:1 credit towards meeting the minimum open space amounts required by Chapter 2 Zoning Districts and the calculations of land area determined in 5.04B above.
  - a. Historic and Archeological Resources and Cultural Landscapes (as defined in XXX).
  - b. Major or minor floodplain subject to the limits of 5.04.1k.
  - c. Stream banks, shoreline, or other water features.
  - d. Steep slopes.
  - e. Prime agricultural or erodible soils or land area currently producing food or fiber for human or animal consumption or in the support of livestock.
  - f. Mature forest greater than 1 acre.
  - g. Verified threatened or endangered species habitat.
  - h. Other areas not specifically referenced above.
2. The following are priorities for inclusion in open space and will receive the noted credit towards meeting the minimum open space amounts required by Chapter Zoning Districts and the calculations of land area determined in 5.04B above:
  - a. Historic resources determined NR eligible in any district (1.25 x the area).
  - b. Prime agricultural soils not currently in production of food or fiber or in support of livestock and not currently protected by a conservation easement in any Transition Policy Area or Rural Policy Area zoning district (1.50 x the area).
  - c. Mature forest greater than 10 acres in any district (1.25 x the area).
  - d. Mature forest greater than 10 acres contiguous to mature forest greater than 10 acres on adjacent parcel in any district (1.25 x the area).
  - e. Pedestrian and bicycle trails that meet the goals or prioritization proposals in the LPAT ( 1.25 x the area).
  - f. Others TBD

**F. Open Space Standards.** General Open Space Design Standards:

1. Open space intended or provided as a community amenity requiring public access must:
  - a. Be accessible by pedestrians and bicycle by way of multi-use path, and



- b. Contain amenities typical for public use and consistent with the intended use, such as benches, trash cans, fountains or water features, play equipment, landscaping for enjoyment and shade.
2. When open space is provided in an incremental addition to an existing zoning district, the additional open space must be contiguous to at least 1 existing open space parcel or area of approved open space unless it is at least 1 acre. The additional open space must be similar in characteristics to the existing open space to which it will be added.
  - a. When adjacent properties contain existing or approved planned open space intended for active or passive recreation open space, every effort must be made to provide pedestrian connections from the proposed development to the existing open space.
3. Open Space provided as Public Parks must be bordered on at least 1 side by a public street or a private street under a public access easement.
4. When open space is required by a Use Specific Standard in 3.06, that required amount of open space supersedes the minimum open space requirement specified in the district where the use is located. However, the land area of the open space to be provided for the specific use may be included to determine compliance with the development's overall open space requirement.
5. Open space that results from compliance with another Zoning Ordinance requirement, such as River and Stream Corridor Resource Management Areas, may be included in the total minimum open space requirement.
6. The open space lots or parcels must meet the lot dimension requirements of 5.01.
7. Uses in open space areas must conform to the guidelines and limitations in Section 5.03.02 Steep Slopes, including the permission or prohibition to establish uses.
8. Separate parcels or areas of less than 1,000 square feet may be included in the total open space provided but may not count toward meeting the minimum requirement.
9. Areas located, or of such size, to have no aesthetic, recreational, or functional value are not permitted to be included in required open space totals. However, they may be included in the total open space provided.
10. Open space areas must be appropriately sized for the intended use.
11. There is no minimum or maximum size of a required open space area except the minimum amount required in Chapter 2, Zoning Districts and subsequently determined by the calculation specified in 5.04.B above.
12. All open space areas and facilities except those in private ownership must be accessible to all individuals, regardless of mobility capabilities or limitations.
13. Any Open Space standard or requirement provided in the Chapter 2, Zoning District supersedes requirements presented in this section.

#### **G. Limitations.**

1. Slope must not limit the intended use of the open space. (maybe limit average slope to x% over longest dimension of parcel)
2. Any parking area landscaped island that is less than 130 square feet in area is not permitted to be counted toward the minimum required amount of open space or landscaped open space. However, they may be included in the total open space provided.
  - a. Parking lot landscaped open space may not exceed 25% (Fairfax Co.) of the total of required open space provided.
  - b. No more than 25% of the total open space required may be established in the major or minor floodplain.
  - c. Areas containing 50% or more prime agricultural soil must be avoided when designating open space for recreation or community use.

**H. Type-Specific Open Space Design Standards.**

1. **Residential Active Recreation.** When open space is required by the district standards to be Residential Active recreation open space it must conform to the following:
  - a. Provided at the rate specified in the district standards.
  - b. The residential active recreation open space must be identified, labeled, and protected for that specific purpose on the COSP required in XX.
  - c. The recreational activities intended to be provided on the designated area should be indicated at the earliest stage of the development review, such as on the CDP. The activity must be identified and confirmed upon any site plan that includes the designated space.
  - d. The designated area must be centrally located and adjacent to a pedestrian and bicycle network. The network must be accessible and useable to all patrons regardless of mobility limitations.
  - e. The designated area must be within a ¼ mile radius of each lot in a residential subdivision and each lot must be contiguous to a pedestrian or bicycle path to access said open space. If the development is of such size that the residential active open space cannot be located within ¼ mile of all lots then the open space must be provided in multiple locations in order to meet the proximity requirement.
  - f. Must not be steeply sloped to prevent the intended use.
  - g. Must be well-drained.
2. **Commercial or Employment Districts.** When open space is provided in commercial or employment districts it should conform to the following guidelines:
  - a. The space should be centrally located and within a reasonable walking distance, but no further than ¼ mile.
  - b. If 1 centrally located area within a ¼ mile radius cannot be accomplished then multiple spaces should be provided.
  - c. The space should provide a respite from work activities and allow for passive leisure activities.
  - d. The space should provide amenities for eating, benches, trash receptacles, and shade.
  - e. Access to the area may be limited to the same hours of operation as the employment or commercial areas that the space is intended to serve.
3. **Passive Recreation Space.** When open space is provided to be passive recreation space it should designed using the following guidelines:
  - a. Centrally located and accessible by a pedestrian and bicycle network.
  - b. should contain a variety of natural features such as water bodies, forest, open space
  - c. should not have limiting factors such as excessive amounts of steep slopes, wetlands that would prevent or discourage its use. (limit overall slope over its longest dimension not to exceed XX%)
  - d. Should not be located adjacent to any road other than a local road.
4. **Outdoor Gathering Space.** When open space is required or provided as outdoor gathering space the following guidelines apply:
  - a. When larger minimums are specified in the district requirements where the gathering space is located they override the minimums stated herein.
  - b. There is a hierarchy of outdoor gathering space which may include greens, parks, squares and plazas, distinguished by size and purpose.
    1. **Green.** needs a definition to include its purpose as a place for formal, casual, passive or impromptu social gathering.

2. **Mini or Pocket Park.** An area intended for active or passive recreation which would contain a predominance of natural features or recreation equipment for children or adults and amenities for spectators or passive users, to include benches, shade trees, refuse receptacles and water fountains. A mini- or pocket park must have a minimum area of 5000 square feet.
3. **Square.** An area that serves as a focal point and place for social gathering that is improved with a combination of lawn, landscaping and seating areas, and is accessible to the public or a specific project's tenants or customers. A Square is bounded by streets on at least one side and pedestrian walkways on at least 2 sides, or not bounded by streets, but accessible to the public. A Square requires a minimum depth and width of 30 feet and a minimum total area of 1,000 square feet.
4. **Plaza.** May also be referred to as a courtyard. An open space which may be improved and landscaped and is usually surrounded or adjacent to streets or buildings. A plaza usually serves as a visual cue to and adjacent building entrance. A plaza contains an open area with seating, planting areas and other amenities. A plaza requires a minimum depth and width of 10 feet and a minimum area of 300 square feet. The majority of the land area may contain an impervious surface to support pedestrian activity but it is not required.
5. **Public Outdoor Gathering Space.** When open space is required by the district to be a publicly accessible outdoor gathering space, plaza, green, square, or mini-park, hereafter referred to as public outdoor gathering space, the design should first employ the guidelines for same contained in the district. Absent guidelines in the district, the following guidelines must be applied.
  - a. The grade or slope of any constructed surface in the public gathering space must be appropriate for the intended use and must be ADA compliant. The remainder of the natural land area must not exceed a slope of x%.(limit overall slope over its longest dimension not to exceed XX%)
  - b. Amenities or accessories must be provided as appropriate for the intended use of the space and should include such items as benches, play equipment, bicycle racks, shade trees, waste receptacles, drinking fountains, gazebos, lighting, wayfinding signage, restrooms, and landscaping.
  - c. The public gathering space must be accessible by and adjacent to a pedestrian/bicycle path.
  - d. The public gathering space must be adjacent to a public or private street on at least 1 side.
  - e. The public gathering space must be connected to adjacent buildings by sidewalks.
  - f. Where conditions allow, outdoor gathering spaces should be located where adjacent buildings or natural land features can provide a sense of enclosure on at least 2 sides while not restricting the penetration of light and air movement.
  - g. These design guidelines may be modified pursuant to the guidelines contained in Section 5.04.K.
5. **Pedestrian and Bicycle Network.** A Pedestrian and Bicycle Network is required in all new development in all zoning districts except Rural Policy Area zoning districts. A pedestrian and bicycle network may also be referred to or include sidewalks, shared use paths or trails, pedestrian walkways, on-street bicycle facilities, and/or Non-motorized User Circulation Systems (aka NUCS in the FSM). Such pedestrian and Bicycle Networks must be designed to the following standards:
  - a. All pedestrian and bicycle networks must be designed in conformance with the Facilities Standards Manual requirements for Non-motorized User Circulation System (NUCS).
  - b. All pedestrian and bicycle networks developed within areas that will be dedicated to the County for ownership must be designed in accordance with the Loudoun County Parks, Recreation and

Community Services Trail Guidelines and Classifications contained in Appendix A of the Linear Parks and Trails System-A Countywide Plan (LPAT Plan).

- c. All pedestrian and bicycle networks intended for recreational purposes, but not dedicated to the County, should be designed in conformance with the Design Guidelines contained in Chapter 9 of the adopted LPAT Plan as appropriate.
- d. The Pedestrian and Bicycle Network must be provided as follows: (copied from districts)
  - 1. Sidewalks (minimum width - 5 feet) or shared use paths (minimum width - 10 feet) on both sides of each street and road within or forming the perimeter of the district;
  - 2. To establish direct and convenient access to the nonresidential uses, civic uses or spaces, and open space within the district;
  - 3. To establish a trail network within the open space; and
  - 4. To link adjacent communities by connecting with existing or planned sidewalks, shared use paths, or trails at the property boundaries of the project.
  - 5. If connections are planned, then all sidewalks, shared use paths, and trails must continue to the project boundary and be stubbed. All development plans must provide for future sidewalk and/or trail connections to adjacent developable parcels.
  - 6. The network must provide connection between residential, commercial, and employment uses and any public open space including public schools within or adjacent to the proposed development.
  - 7. The path must provide access to public transit stops when transit stops are located on site or immediately adjacent.
- 6. **Trails.** Trails designed for hikers (pedestrians), bikers, or equestrians for recreational purposes as described in the LPAT Plan and as distinguished from pedestrian networks intended as an alternative to motorized vehicles access and for movement within a development such as the pedestrian and bicycle network must be designed to the following standards:
  - a. The network must avoid connections that encourage or allow public access to areas or pedestrian facilities that are intended to be only for the use of residents of the development or indicated as private.
  - b. Public and Private networks must be accessible to and usable by all potential patrons and utilize a surface treatment that allows use by all patrons regardless of mobility limitations. Sections of the network that require steps or include grades that exceed the maximum grade stipulated in #x must provide an alternate route around the obstruction that requires the steps or excess grade.
  - c. The path must be provided in an easement that ensures its availability and use to all patrons at all times if it is not included within the boundary of a parcel owned and managed by an HOA, an individual, or dedicated to the County for public use.
  - d. The ownership/maintenance arrangements must provide mechanisms for repairs, surface maintenance, and replacement of amenities as needed.
  - e. The path must provide amenities at reasonable specified distances along its length such as benches, bike racks, trees for shade, and waste receptacles. Said amenities must be included in the ownership/maintenance arrangements required above.
  - f. Access and use may be subject to reasonable limitations for use such as limited hours for public safety reasons.
  - g. Configuration may be adjusted as needed during development plan approval to accommodate the natural environment and engineering requirements as long as it can be determined that the intent and purpose of the trail will be achieved.

- I. **Uses in Open Space.** Notwithstanding the uses listed as permitted or as special exceptions in the zoning district where the open space parcel is located, only the following uses intended to support or facilitate the purpose of the designated type of open space are permitted in the open space.
  1. Incidental or accessory uses provided for utilization of the open space, such as agricultural buildings not intended for public assembly, park furniture, or recreation or playground equipment, and requirements for protection of sensitive environments, if included in open space, such as fencing, required buffers, etc., are excluded from this limitation.
  2. Uses on individual open space parcels must maintain the minimum lot area specified in Chapter 2, Zoning Districts for the use.
  3. Uses permitted on open space under private ownership:
    - a. Must be protected by easement.
    - b. Uses on private open space must not result in land disturbance or impervious area of more than 10% of the total parcel area. The growing of agricultural products, timber production and the pasturing of livestock are exempt from this limitation.
    - c. Uses permitted in the Agriculture, Horticulture, and Animal Husbandry Use Categories.
    - d. Direct Market Business for sale of products produced on-site including but not limited to PYO (pick-your-own), pursuant to Section 5-627.
    - e. Farm co-ops, pursuant to Section 5-627.
    - f. Farm Market, on-site production, pursuant to Section 5-603.
    - g. Pet Farm, pursuant to Section 5-627.
    - h. Stable, Private, pursuant to Section 5-627.
    - i. Stable, Livery, with frontage on a state maintained road, pursuant to Section 5-627.
    - j. Wayside Stand, pursuant to Section 5-604.
    - k. Tenant Dwelling, accessory to agriculture, horticulture or animal husbandry uses, pursuant to Section 5-602.
    - l. Uses permitted in the Agricultural Support and Services Directly Related to On-going Agriculture, Horticulture and Animal Husbandry Activity.
  4. Uses permitted on common open space under HOA ownership and management:
    - a. Active and passive recreational uses allowed in open space, as defined in Article 8.
    - b. Easements and improvements for drainage, communal sewer systems and septic systems, communal water supply systems, wells and other water supply systems.
    - c. Tenant Dwelling, accessory to agriculture, horticulture or animal husbandry uses, pursuant to Section 5-602.
    - d. Uses permitted in the Agricultural Support and Services Directly Related to On-going Agriculture, Horticulture and Animal Husbandry Activity, On-Site, Use Category, as follows:
      1. Direct Market Business for sale of products produced on-site including but not limited to PYO (pick-your-own), pursuant to Section 5-627.
      2. Farm co-ops, pursuant to Section 5-627.
      3. Farm Market, on-site production, pursuant to Section 5-603.
      4. Pet Farm, pursuant to Section 5-627.
      5. Stable, Private, pursuant to Section 5-627.
      6. Stable, Livery, with frontage on a state maintained road, pursuant to Section 5-627.
      7. Wayside Stand, pursuant to Section 5-604.

8. Arboretum, pursuant to Section 5-636.
9. Botanical garden or Nature study area, pursuant to Section 5-636.(iii) Nursery, Production, with frontage of a state maintained road, pursuant to Section 5-605.
10. Uses permitted in the Agriculture, Horticulture, and Animal Husbandry Use Categories.
- e. Common Open Space Special Exception Uses. The following uses may be approved in common open space owned by a Homeowners' Association by the Board of Supervisors, and if approved, may be subject to certain conditions pursuant to Section 6-1300.
  1. Uses allowed in the Agricultural Support and Services Directly Related to On-going Agriculture, Horticulture and Animal Husbandry Activity, On-Site, Use Category, as follows:
  2. Stable, Livery, without frontage on a state maintained road, pursuant to Section 5-627.
  3. Agricultural Processing, pursuant to Section 5-627.
  4. Nursery, Production, without frontage of a state maintained road, pursuant to Section 5-605.
  5. Uses permitted on public open space:
    - a. Active and passive recreational uses allowed in open space, as defined in Chapter 11.
    - b. Easements and improvements for drainage, communal sewer systems and septic systems, communal water supply systems, wells and other water supply systems.
    - c. Agriculture.
- J. **Comprehensive Open Space Plan.** Following approval of a Zoning Map Amendment and/or CDP that includes requirements for the provision of open space, all of the approved open space must be depicted in 1 drawing to be labeled as the Comprehensive Open Space Plan (COSP) and included in the final plan set.
  1. The COSP must show all of the approved open space areas, parcels, trails, bicycle and pedestrian access network and the relationship of each to the approved development.
  2. The type and size of each parcel or area of open space must be provided with a clear depiction of its boundaries with metes and bounds.
  3. With each submission for approval of a new development plan for a portion of the approved development, an updated COSP must be included and demonstrate the following:
    - a. The location, area, and method of protection for open space approved on earlier development plans, and
    - b. The location, area, and method of protection for open space remaining and to be provided in the future.
    - c. The COSP must show and describe all modifications to the originally approved open space including the method used to approve the modification and the date that it was approved.
- K. **Maintenance and Management of Open Space.**
  1. The Owner of the parcels where open space is provided is responsible for management and maintenance unless other arrangements are approved and documented.
  2. Loudoun County is not responsible for the maintenance or replacement of any open space or improvements unless the open space area is dedicated and accepted through the appropriate process.
  3. Routine maintenance is permitted according to an approved maintenance agreement. Open space must be maintained as appropriate for its designated use as specified in the approved rezoning CDP, proffers, or special exception conditions and the following:
    - a. Routine maintenance of common open space is limited to the removal of dead, diseased dying, invasive, or noxious plant material.
    - b. Removal and replacement of dead landscaping and/or screening or buffering materials.



- c. Installation of supplemental or additional plant materials consistent with the intent of the open space.
  - d. Lawn care and maintenance.
  - e. Repair or replacement of equipment.
- L. **Ownership, Operation, and Management of Common Open Space and Common Facilities.** All common open space and common facilities must be preserved for their intended purpose as expressed in the Concept Development Plan. The developer must choose prior to approval of the first record plat or final site plan, 1 or a combination of the following methods of preserving, protecting and administering common open space:
- 1. Establishment of a nonprofit association, corporation, trust, or foundation of all owners of residential property within the planned development. Such organization must conform to the following requirements:
    - a. The organization must be established prior to approval of the first record plat or final site plan in the proposed development. The documents establishing such organization must be reviewed and approved by the County.
    - b. Membership in the organization must be mandatory for all residential property owners, present or future, within the planned community and said organization must not discriminate in its members or shareholders.
    - c. The organization must manage, maintain, administer and operate all common facilities, open space and improvements and other land not publicly or privately owned, and must secure adequate liability insurance on the land and such improvements.
    - d. Sales brochures or other literature and documents provided by the seller of all lots with a membership interest in the managing organization must include information regarding membership requirements and responsibilities of such organizations.
    - e. Deed covenants insuring property access and monetary contributions.
    - f. Retention of ownership, control, and maintenance of common open space and improvements by the developer.
    - g. Dedication and acceptance by Loudoun County.
  - 2. All common open space must be subject to restrictive covenants running with the land restricting its use to that specified in the approved Development Plan. Such restrictions must be for the benefit of, and enforceable by, all present or future residential property owners and the Board of Supervisors of Loudoun County.
  - 3. All common open space, as well as public recreational facilities, must be specifically included in the development schedule and be constructed and fully improved by the developer at an equivalent or greater rate than the construction of residential structures.
  - 4. Dedication to the County subject to consistency with OS plan and acceptance by BOS.
  - 5. Provisions for establishment of a management organization must include provisions to ensure the continued preservation, management and maintenance of the open space in the event the organization can no longer fulfill its obligations.
- M. **Enforcement.** Enforcement of these provisions must follow procedures and guidelines contained in 10.01.
- N. **Waivers and Modifications.**
- 1. **Waivers.** Only the Board of Supervisors may waive the requirement for open space or modify the minimum amount of open space required as part of the zoning process in conjunction with the approval of appropriate proffered conditions or as a special exception and only if the following are satisfied:
    - a. The waiver request will specify an adequate substitute provision to accomplish the goals of providing open space for the development.

- b. A waiver will further the intent of this ordinance and the General Plan and it is not prohibited by any other ordinance.
- c. The resulting development without the waived or altered open space will remain compatible with adjacent existing developments.
- d. The benefits of the waiver are specifically stated in the approval action.

**2. Modifications.**

- a. Following final approval of the amount, type and location of open space, modifications to the location, configuration and type of open space may be approved through the approval of a site plan or site plan amendment as long as the Zoning Administrator determines that the proposed modification will maintain the original purpose and intent of the specific type of open space and it is consistent with the original approval.
- b. The location of the open space may be adjusted to accommodate topographic and natural environmental features or due to engineering requirements. Locational adjustments must be documented on the subject plan.
- c. If the amount of open space originally approved through legislative action exceeds the minimum required by the district, the amount of open space may be reduced by a maximum of 5% through site plan or site plan amendment. The amount of open space may not be reduced below the minimum required by the district except by the Board of Supervisors.
- d. All other modifications of open space, except uses, that do not conform to the modifications allowed in a or b above must be approved through Special Exception.
- e. Permission to locate uses in open space must be governed by the zoning district within which the site, parcel or development is located and USES PERMITTED IN OPEN SPACE in SECTION XX above. Special exception procedures provided in Chapter XX of this ordinance are applicable to SE uses and the permission to locate them in Open space.
- f. In the administration of these provisions the Zoning Administrator must have the authority to determine that areas proposed as open space are inconsistent with the intent and purpose of these guidelines and are not appropriate for inclusion in the total open space provided to meet the minimum requirements contained in Chapter 2. Said areas may be included in the totals of open space provided.
- g. Alternate open space provisions and designs may be considered for approval upon request by the applicant and approval using the Special Exception procedures specified in XXXX.



## 5.06 Tree Planting, Replacement, and Preservation

**Purpose.** *The purpose of the Tree Planting, Replacement, and Preservation section is to:*

- *Promulgate regulations for the planting and replacement of trees destroyed or damaged during the development or redevelopment process, pursuant to § 15.2-961 of the Code of Virginia, and*
- *Encourage the preservation of existing trees to meet canopy requirements.*

A. **General Standards.** The following general standards apply to the Tree Planting, Replacement, and Preservation requirement:

1. All trees to be planted must meet the specifications of the AmericanHort.
2. The planting of trees must be done in accordance with either the standardized landscape specifications jointly adopted by the Virginia Nursery and Landscape Association, the Virginia Society of Landscape Designers and the Virginia Chapter of the American Society of Landscape Architects, or the road and bridge specifications of the Virginia Department of Transportation. The County must maintain current copies of these specifications available to the public.
3. Minimum plant sizes must be provided in accordance with Section 5.07.08.D.
4. All existing and new vegetative material required to meet the tree canopy requirements must meet the criteria of the Facilities Standards Manual (FSM).

B. **Canopy Requirements.** Tree canopy requirements apply as follows:

1. A Site Plan, or Construction Plans and Profiles for single-family attached units in those districts where applicable, required under Section 7.03, must include the planting and replacement of trees on site to the extent that, at maturity of 20 years, minimum tree canopy must be provided as follows:
  - a. 10% tree canopy for sites zoned business, commercial, or industrial in the UT/UM, UE, SE, SM, SC, SI, SME, TCC, TI, TLI, JLMA-LE, JLMA-LME, RC, VC, PD-TC, PD-MUB, PD-CC(SC), and PD-CC(RC) districts; and business or commercial sites in the SN and SCN districts.
  - b. 10% tree canopy for residential sites zoned SCN with densities of 20 or more units per acre.
  - c. 15% tree canopy for residential sites zoned SCN for multifamily and single-family attached units with densities of 11 to 19 units per acre.
  - d. 20% tree canopy for residential sites zoned SCN, SN, and R-3 for multifamily and single-family attached units with densities of 3 to 10 units per acre.
  - e. 10% tree canopy is required for a cemetery as defined in Virginia Code § 54.1-2310, regardless of the zoning district in which it is located.
2. When a plan of subdivision is required under the Land Subdivision and Development Ordinance and the property is not zoned ARN, ARS, A-3, and A-10, i.e., a plan of subdivision for single-family and/or duplex dwelling units, a landscape plan must be included at Record Plat or construction drawings, whichever occurs first, that provides for the planting or replacement of trees on the site to the extent that, at maturity of 20 years, minimum tree canopies will be provided as follows:
  - a. If the site has a tree canopy coverage of 20% or more, the plan must provide for the preservation, or planting and replacement of trees on site resulting in a tree canopy of at least 20%, calculated at 20 years maturity.
  - b. If the site has a tree canopy coverage of less than 20% prior to recordation of the subdivision, the plan must provide for the preservation or planting and replacement of an equivalent percentage of tree canopy coverage as existed prior to development, calculated at 20 years maturity.

- c. Every platted lot must have a minimum tree canopy coverage of 2.5%, or 3,000 square feet, whichever is less, calculated at 20 years maturity, exempting lots for which no permits for new structures will be sought and the designated parent tract.
  - 1. Such trees are counted toward the minimum tree canopy requirements in (a) and (b) above.
- d. Street trees must be provided in accordance with Section 5.07.02.E.
  - 1. Street trees are counted toward the minimum tree canopy requirements in (a), (b) and (c) above.
- 3. To determine tree canopy coverage requirements, the following areas are excluded from calculating the area of a site:
  - a. Properties reserved or dedicated for future street construction or other public improvements;
  - b. Ponds and unwooded wetlands;
  - c. Properties reserved or dedicated for school sites, playing fields and other non-wooded recreation areas, and other facilities and areas of a similar nature; and
  - d. Portions of a site which contain existing structures that are not the subject of a pending application.
- 4. Existing trees which are to be preserved may be included to meet all or part of the canopy requirements, and may include wooded preserves, if the site plan or record plat, or construction plans and profiles, identifies such trees and the trees meet standards of desirability and life-year expectancy established by the Zoning Administrator.
- 5. Tree cover credit in consideration of the preservation of existing tree cover or for preservation of trees of outstanding age, size, or physical characteristics will be permitted in conformance with FSM process for determining existing cover or trees for preservation and tree cover credit.
- C. **Variations.** Reasonable exceptions to or deviations from the requirements in this Section to allow for the reasonable development of farmland or other areas devoid of healthy or suitable woody materials, for the preservation of wetlands, or otherwise when the strict application of the requirements would result in unnecessary or otherwise unreasonable hardship to the developer, will be considered by the Zoning Administrator upon application by the owner.
- D. **Enforcement.** Penalties for violations of the requirements of this Section are the same as those applicable to violations of other provisions of this Ordinance.

## 5.07 Landscaping, Buffer Yards, Screening, and Landscape Plans

### 5.07.01 Purpose, Applicability, and Exceptions

**Purpose.** *The purpose of the Landscaping, Buffer Yards, Screening, and Landscape Plans section is to:*

- *Foster attractive and harmonious development through the use of landscaping;*
  - *Minimize the harmful impacts of noise, dust, and other debris;*
  - *Minimize motor vehicle headlight glare and other artificial light intrusion;*
  - *Protect property values by reducing visual impacts and land use conflicts;*
  - *Provide shade;*
  - *Enhance natural drainage systems;*
  - *Contribute to ecosystem benefits;*
  - *Preserve and promote the health, safety, and general welfare of the public; and*
  - *Establish a minimum setback for certain roads within Loudoun County due to their function, location, and capacity.*
- A. **Applicability.** The provisions of this Section apply to all land development requiring a site plan, construction plans and profiles, subdivision, and/or a zoning permit application.
- B. **Exceptions.** Notwithstanding Section 5.07.01.A., certain exceptions apply as follows:
1. Road Corridor Buffers required by Section 5.07.02 and Buffer Yards required by Section 5.07.04 are not required as follows:
    - a. For zoning permit applications for single family detached dwellings and residential accessory uses and structures;
    - b. At the time of subdivision application in the ARN, ARS, A-3, A-10, JLMA-3, TLN-10, and TLN-3 Zoning Districts;
    - c. At the time of boundary line adjustment, family subdivision, single lot subdivision waiver, low density development waiver, or dedication plat application; and
    - d. To any use subject to Section 5.07.04.A.6.
  2. Road Corridor Buffers required by Section 5.07.02 will:
    - a. Apply along roads adjacent to the boundary of the UT/UM, UE, SM, SC, TCC, PD-MUB, PD-TC, and PD-RV Zoning Districts. All other roads within these Zoning Districts are subject to the street tree requirement in Section 5.07.02.E.
    - b. Not apply to roads that abut Agriculture, Horticulture, or Animal Husbandry uses, or to Category B and Category C roadways as provided by the Facilities Standards Manual.
  3. Buffer Yards required by Section 5.07.04 do not apply within the UT/UM, UE, SM, SC, TCC, PD-CC, PD-MUB, and PD-TC Zoning Districts. Buffer Yards within these Zoning Districts must be provided in accordance with the regulations for such Zoning Districts.
  4. The exceptions in Sections 5.07.01.B.1 through 5.07.01.B.3 do not apply to the building and parking setbacks of Section 5.07.02 and the Cemetery, Burial Ground, and Grave Buffer of Section 5.07.05.
- C. The provisions of this Section are intended to complement the regulations of Section 5.06 of this Ordinance. Trees planted to fulfill the canopy requirements of Section 5.06 also may fulfill the requirements of this Section.
- D. Existing vegetation which is suitable for use in compliance with the requirements of this Section, may be used as required planting when supplemented by new vegetation, if needed, so as to provide buffering and screening in

accordance with the purpose and intent of this Section. Such existing vegetation must be shown on a Tree Conservation Plan prepared in accordance with the Facilities Standards Manual.

- E. Where any provision of this Section imposes restrictions or standards different from those of Section 5.06 or any other County ordinance or regulation or other provision of law, whichever provisions are more restrictive or impose higher standards will control, unless the intent is clearly otherwise.

### 5.07.02 Road Corridor Buffers and Setbacks

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A. **General Provisions.** The following general provisions apply to the Road Corridor Buffers and Setbacks:

1. Road Corridor Buffers and Setbacks must be provided in accordance with:
  - a. Table 5.07.02-1, Road Corridor Buffer and Setbacks Matrix;
  - b. The road classifications determined by the Countywide Transportation Plan;
  - c. Section 5.01, and extend across the length of the proposed development site; and
  - d. Section 5.06.B.2. for local roads in a development requiring a subdivision application but not a site plan application.
    1. The Road Corridor Buffer and Setbacks of Table 5.07.02-1 applies to arterial and collector roads or ramps at grade separated interchanges traveling through or forming the edge of the developments requiring a subdivision application but not a site plan application.
2. The required width of the Road Corridor Buffer may vary by up to 50% from the minimum width required at any point along the required length, provided:
  - a. The width is not reduced to less than 10 feet; and
  - b. The total area for the length of Road Corridor Buffer with varied width is not reduced below the minimum area that would have been required.
3. When determining the length of the Road Corridor Buffer, vehicle entrances may be excluded from length of right-of-way or easement frontage. The buffer length is measured from where the buffer yard intersects the entrance travelway.
4. Road Corridor Buffers may be set back from the right-of-way line where easements, covenants, or natural features would prevent the required Road Corridor Buffer from abutting the public street or private road, in which case the required Road Corridor Buffer must be provided in addition to such easements, covenants, or natural features.
5. For subdivisions that require open space, Road Corridor Buffers are not permitted to be located on individual residential lots of 20,000 square feet or less.
6. When a Road Corridor Buffer is located on an individual residential lot the Road Corridor Buffer must be located within an easement dedicated to the County of Loudoun.
7. The Road Corridor Setback applies to certain roads within Loudoun County because of their function, location and capacity, which require that uses be set back a certain minimum distance from them.
  - a. *Exemptions.* All other provisions of this Ordinance notwithstanding, the following are exempt from the Road Corridor Setbacks in Table 5.07.02-1 or the setback provided in an approved corridor study whichever setback is greater:
    1. Agricultural structures, buildings, and structures along all roads, except arterial roads, located within the Village Conservation Overlay District (Section 4.06) and the Joint Land Management Area Districts (Section 2.05),
    2. All structures, buildings, and parking along all roads, except arterial roads, in the the Urban Districts (Section 2.01 and 2.02); and

3. Residences, accessory structures, and accessory uses built before June 16, 1993, pursuant to Section 9.01.
8. For lots as they existed on June 16, 1993, the building setback from a road in Table 5.07.02-1 may be reduced on shallow lots to allow a building area of up to 85 feet in depth, measured forward from any required rear Buffer Yard, yard, or setback, whichever is more restrictive. In addition,
  - a. In no case will the modified building setback from the road be less than the yard or setback required by the underlying zoning district,
  - b. Parking setbacks must be coterminous with building setbacks, and
  - c. No lot may be altered or reconfigured to increase the degree of its shallowness.

[FIGURE depicting how a shallow lot setback reduction would apply]

**Table 5.07.02.-1. Road Corridor Buffer and Setbacks Matrix<sup>1</sup>**

Route Number or Road Type	Structure/Building Setback	Parking Setback	Buffer Type
<b>Arterial Roads</b>			
Route 7: Fairfax County line west to Broad Run	50 ft.	50 ft.	3
Route 7: Broad Run west to east corporate limit of Leesburg	200 ft.	125 ft.	Gateway
Route 7: Bypass from the west corporate limit of Leesburg west to Clarke County line	200 ft.	100 ft.	3
Route 267	150 ft.	100 ft.	3
Route 50: Fairfax County line east to Northstar Boulevard	100 ft. <sup>2</sup>	100 ft. <sup>2</sup>	Gateway
Route 50: Northstar Boulevard west to Fauquier County line	100 ft. for all districts, except TCC TCC: 50 ft.	75 ft. for all districts, except TCC TCC: 50 ft.	3
Route 15	100 ft.	75 ft.	3
Route 28	100 ft.	75 ft.	3
Route 9	100 ft.	75 ft.	3
Route 606	100 ft.	75 ft.	3
Other Arterial Roads	100 ft. for all districts, except SM, SCN, SC SM, SCN, SC, SE: 50 ft.	75 ft. for all districts, except SM, SCN, SC, SE SM, SCN, SC, SE: 50 ft.	3
<b>Collector Roads</b>			
Route 287	100 ft.	75 ft.	3
Other Major Collector Roads	75 ft., except SM, SCN, SC, SE SM, SCN, SC, SE: 35 ft.	35 ft.	2
Minor Collector Roads	See applicable district regulations	See applicable district regulations	2
<b>Other</b>			
All other roads in Nonresidential Districts	See applicable district regulations	25 ft. <sup>3</sup>	1
All other roads in A-3, A-10, ARN, ARS, VAR, Transition, JLMA, PD-AAAR, and R (including PD-H administered as R) Districts	See applicable district regulations	See applicable district regulations	1
Ramps at grade separated interchanges associated with the roads listed above	75 ft.	35 ft.	3
W&OD Trail	25 ft.	See applicable district regulations	2

**Table 5.07.02.-1. Road Corridor Buffer and Setbacks Matrix<sup>1</sup>**

Route Number or Road Type	Structure/Building Setback	Parking Setback	Buffer Type
<sup>1</sup> Unless exempt pursuant to Section 5.07.02.A.7.a. <sup>2</sup> May be reduced in accordance with Section 5.07.02.D.4.C. <sup>3</sup> Unless otherwise specified in applicable district regulations.			

**B. Road Corridor Buffer Types.** The intent of the Road Corridor Buffer Types referenced in Table 5.07.02.B are described below. All vegetative material within these Buffer Yard Types must meet the specifications included in the Facilities Standards Manual (FSM).

1. Road Corridor Buffer Type 1. This buffer is intended to function as an intermittent visual obstruction.
2. Road Corridor Buffer Type 2. This buffer is intended to function as a semi-opaque screen.
3. Road Corridor Buffer Type 3. This buffer is intended to provide a strong impression of total separation between the road and the parcel.
4. Gateway Corridor Buffer. This buffer is intended to provide a boulevard environment creating a sense of enclosure and transition to mark County gateways.

**C. Road Corridor Buffer Width and Plant Requirements.** Road Corridor Buffer widths and plant units must be provided in accordance with Table 5.07.02-2.

**Table 5.07.02-2. Road Corridor Buffer Width and Plant Requirements**

Road Corridor Buffer Type	Width (feet)	Number of Plant Units <sup>1</sup> Per 100 feet of Right-of-Way or Easement
1	10	20
2	15	60
3	20	95
Gateway	100	*

<sup>1</sup> See Table 5.07.07-1 for Plant Unit equivalents.

\*The Gateway Corridor Buffer is subject to the requirements specified in Section 5.07.02.E.

**D. Specific Requirements for Gateway Corridor Buffer.** The Gateway Corridor Buffer must be provided in accordance with Table 5.07.02-3 and as follows:

**Table 5.07.02-3. Gateway Corridor Buffer Plant Requirements**

Plant Material	Minimum Size(at time of planting)	Number of Plants per 100 feet of R/W or Easement Line
Large Deciduous Trees	2-inch caliper	4
Small Deciduous Trees	2-inch caliper	2
Evergreen Trees	8-foot height	2
Shrubs	24-inch height	50

1. To support a pollinator habitat, plant material within the required Gateway Corridor Buffer Yard must be provided in accordance with Section 5.07.07.B.8.
2. The Route 50 Gateway Corridor Buffer must provide the following Design Elements:
  - a. Plant Location: The plants required in Table 5.07.02-3 must be installed on the parcel as follows:
    1. The plants must be located within the first 50 feet of the required 100 foot Buffer Yard immediately adjacent to the right-of-way of Route 50.

2. Each 100 foot segment of frontage must contain the plants required per 100 linear feet.
3. The plants must be located in front of the linear element required in Section 5.07.02.D.1.b.
4. The plants and the linear element must be configured to align with the plants and the linear element on adjacent parcels, where feasible, to create a uniformly landscaped frontage along the right-of-way.
- b. Linear Element: A linear element must be provided within the Gateway Corridor Buffer for at least 40% of a parcel's frontage adjacent to Route 50 and shall consist of a stone-faced feature. The linear element may also include a fence and/or hedgerow.
  1. The stone-faced feature (i.e. wall, pillar, sign, and the like) must be:
    - a. Faced with materials having characteristics similar to native stone.
    - b. A minimum of 3 feet in height notwithstanding the Section 5.01 height limitation for fences in front yards, and
    - c. Have a minimum length equal to 10% of a parcel's frontage if combined with a fence or hedgerow.
  2. If a fence is provided, it must be:
    - a. A maximum height of 4.5 feet notwithstanding the height limitation of Section 5.01 for fences in front yards, as measured from the ground to its highest point, to include posts or other supporting structures.
    - b. Constructed of wood or a wood-like polymer in a rail, paddock, or horizontal board design, and
    - c. Have a minimum opacity of 50%.
  3. If a hedgerow is provided, it must consist of a minimum of 10 shrubs planted in a continuous row that must:
    - a. Be planted at 36 inches on center.
    - b. Have a minimum height of 24 inches, and
    - c. Not count towards fulfilling the required plants in Table 5.07.02-3.
  4. The linear element is not required to be a continuous element. However, if any portions of the linear elements overlap, then for the length of the overlapping elements only one element can be counted towards satisfying the required length.
  5. Areas of existing vegetation used to meet the Gateway Corridor Buffer plant requirements are excluded for the purposes of calculating the frontage length for determining the required minimum length of the linear element.
  6. The linear element does not have to be located parallel to the road.
  7. The linear element can be used towards fulfilling the Peripheral Parking Lot Landscaping requirements in Section 5.07.06.B.
3. The Route 7 Gateway Corridor Buffer must provide the following Design Elements:
  - a. Plant Location: The plants required in Table 5.07.02-3 must be installed on the parcel as follows:
    1. The plants may be located within the full 100-foot width of the required Buffer Yard immediately adjacent to the right of way of Route 7.
    2. The total plants required for each 100-foot segment of frontage must contain the plants required per 100 linear feet, except that plants may be relocated within the Buffer Yard where existing environmental constraints or public utility easements prevent planting within a particular segment.



4. Use of Gateway Corridor Buffer: In addition to the uses specified in Section 5.07.07, the following uses are permitted in the Gateway Corridor Buffer:
  - a. Storm water management and BMP facilities. Such facilities may not be located within the first 50 feet adjacent to the right-of-way, unless the facility is designed as a water feature in accordance with Section 5.07.02.D.4.b. below.
  - b. A water feature, defined as a permanent aqueous element to include a fountain, stream, waterfall, and/or cascade; a wet pond that includes a fountain, waterfall, and/or cascade; or a bioretention facility and/or wetland. In the case where a water feature is incorporated in the design of the Gateway Corridor Buffer and located within the first 50 feet immediately adjacent to the right-of-way, the following variations are permitted:
    1. The number of shrubs required by Section 5.07.02-3 may be reduced by 50% for the total amount of linear feet of frontage that is occupied by the water feature; and
    2. Notwithstanding Section 5.07.02.D.4.a. and 5.07.02.D.4.a., regarding required plant locations, for the frontage occupied by the water feature, the required large deciduous trees are to be located between the right-of-way and the water feature and the required small deciduous trees, evergreen trees, and shrubs may be located around and behind the water feature.
  - c. *Reduction*: The required width of the Gateway Corridor Buffer may be reduced to 50 feet subject to the Modification and Waiver provisions of Section 5.07.08.
  - d. Other Landscaping and Screening: Where the Ordinance requires the screening of parking, service and loading areas, and utility equipment from roads, such screening as may be necessary must be in addition to the Gateway Corridor Buffer plantings and must be provided within the Gateway Corridor Buffer, but outside of the first 50 feet of the required 100-foot-wide Buffer Yard as measured from the right-of-way.
- E. **Specific Requirements for Street Trees.** When street trees are required, they must be provided as follows:
  1. Planted at a rate of 20 plant units per 100 feet along both sides of all areas dedicated for use for vehicular access.
    - a. *Exception.* Street trees are not required in alleys or private streets functioning as an alley and commercial loading areas.
  2. Street trees must be regularly spaced.
  3. All vegetative material must meet the specifications included in the FSM.

## 5.07.03 Buffer Yards

- A. **General Provisions.** Buffer Yards must be provided in accordance with the following general provisions:
  1. Side and Rear Buffer Yards must be provided on the developing parcel in accordance with Table 5.07.03-1, the Use Buffer Yard Matrix, and in accordance with the provisions of Section 5.07.
  2. Side and Rear Buffer Yard Types must be determined based on the proposed use group of the developing parcel and the existing use group of the adjacent parcel, in accordance with Table 5.07.03.
  3. In those instances where a proposed use and/or an existing use on a parcel is not identifiable under the use groups in Table 5.07.03-1, the Zoning Administrator, using Table 5.07.03-1 as a guide, will determine the appropriate Buffer Yard Type for the developing parcel.
  4. Where a structure is proposed to contain more than one use group under Table 5.07.03-1 the more stringent requirements of Table 5.07.03-1 will apply.
  5. Where a developing parcel and/or an adjacent parcel or parcels contain multiple use groups, the Buffer Yard Type required by Table 5.07.03-1 may vary on the developing parcel to correspond to the location of each use group on the adjacent parcel.



- a. When the adjacent parcel is used for a wayside stand or temporary use, the adjacent parcel will be considered vacant when determining the Buffer Yard Type.
6. Specific Uses in Section 3.06 that reference this section for Landscaping, Buffering, and Screening requirements must provide the following between the Specific Use and any existing adjacent parcel 4 acres or less in size or any existing adjacent parcel that contains a dwelling unit within 300 feet of the parcel containing the Specific Use:
  - a. A minimum 50-foot setback measured from the property line;
  - b. A Road Corridor Buffer Type 2 for front yards;
  - c. A 6-foot high fence, wall, or berm providing a minimum opacity of 95%, or equivalent natural topography, and/or a Buffer Yard Type B for side and rear yards.
    1. The required fence, wall, or berm for side or rear yards may be configured to surround the Specific Use.
    2. The Buffer Yard Type B for side or rear yards may be configured to surround the Specific Use provided the intent of the Buffer Yard Type B is met as described in Section 5.07.03.B.
7. Existing vegetation, and trees may be used to meet the requirements of this section in accordance with Section 5.07.01.D.
8. When a required Buffer Yard is a different width than a required yard, setback, or building restriction line, both the required Buffer Yard width and the required yard, setback, or building restriction line width must be accommodated.
9. All vegetative material within the Buffer Yard Types A, B, and C must meet the specifications of the Facilities Standards Manual.

Table 5.07.03-1. Use Buffer Yard Matrix<sup>1</sup>

		Adjacent Use												
		Single Family Detached	Single Family Attached	Multi-family	Group Living	Agriculture/Horticulture/Animal Husbandry and Passive Uses	Community and Active Recreation Uses <sup>2</sup>	Institutional/Civic	Office and Conference/Training Centers	Commercial/Retail	Flex-Industrial Uses and Utilities	Heavy Industrial and Aviation	Vacant Land in a Residential District or Land Bay Approved for Residential Use	Vacant Land in all Other Districts or Land Bays
Proposed Use	Use Group	1	2	3	4	5	6	7	8	9	10	11	12	13
Single- Family Detached	1	N/A	A	A	A	A	A	A	A	A	B	B	N/A	A
Single- Family Attached	2	B	N/A	A	A	B	A	A	A	A	B	B	A	A
Multifamily	3	B	A	N/A	A	B	A	A	A	A	B	B	B	A
Group Living	4	B	A	A	N/A	B	A	A	A	A	B	B	B	A
Agriculture/Horticulture/Animal Husbandry and Passive Uses	5	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Community and Active Recreation Uses <sup>2</sup>	6	B	A	A	A	N/A	N/A	A	A	A	B	B	B	A
Institutional/Civic	7	B	B	B	A	N/A	B	N/A	A	A	B	B	B	A
Office and Conference/Training Centers	8	B	B	B	B	N/A	B	B	N/A	A	A	B	B	A
Commercial/Retail	9	B	B	B	B	N/A	B	A	A	N/A	A	B	B	A
Light Industrial and Flex-Industrial Uses and Utilities	10	C	C	C	C	N/A	C	C	B	B	N/A	B	C	C
Heavy Industrial and Aviation	11	C	C	C	C	N/A	C	C	C	C	C	N/A	C	C

**Table 5.07.03-1. Use Buffer Yard Matrix<sup>1</sup>**

Proposed Use	Use Group	Adjacent Use												
		Single Family Detached	Single Family Attached	Multi-family	Group Living	Agriculture/Horticulture/Animal Husbandry and Passive Uses	Community and Active Recreation Uses <sup>2</sup>	Institutional/Civic	Office and Conference/Training Centers	Commercial/Retail	Flex-Industrial Uses and Utilities	Heavy Industrial and Aviation	Vacant Land in a Residential District or Land Bay Approved for Residential Use	Vacant Land in all Other Districts or Land Bays
Proposed Use	Use Group	1	2	3	4	5	6	7	8	9	10	11	12	13
Vacant Land <sup>3</sup> in a Residential District or Land Bay Approved for Residential Use	12	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Vacant Land <sup>3</sup> in all Other Districts or Land Bays	13	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A

<sup>1</sup>Buffer yards A, B, and C are described in greater detail in Section 5.07.03.B.

<sup>2</sup>Buffer yards are not be required between playgrounds or passive uses when located internal to a residential neighborhood.

<sup>3</sup>Includes land designated as Open Space, but no use is specified.

**B. Buffer Yard Types.** The intent of Buffer Yard Types A, B, and C listed in Table 5.07.03-2 are as follows:

1. Buffer Yard Type A: Aesthetic. This Buffer Yard Type is intended to function as an intermittent visual obstruction, and create the impression of spatial separation without eliminating visual contact between uses.
2. Buffer Yard Type B: Semi-opaque. This Buffer Yard Type is intended to function as a semi-opaque screen between uses.
3. Buffer Yard Type C: Opaque. This Buffer Yard Type is intended to provide the greatest degree of screening feasible and minimize visual contact between uses, creating a strong impression of total separation.

**C. Buffer Yard Widths and Plant Requirements.** Buffer Yard Types A, B, and C must be provided in accordance with Table 5.07.03-2.

**Table 5.07.03-2. Buffer Yard Width and Plant Requirements**

Buffer Yard Type	Width (feet)	Number of Plant Units <sup>1</sup> per 100 Linear feet of Required Buffer Yard
A	10	30
B	20	80
C	25	120*

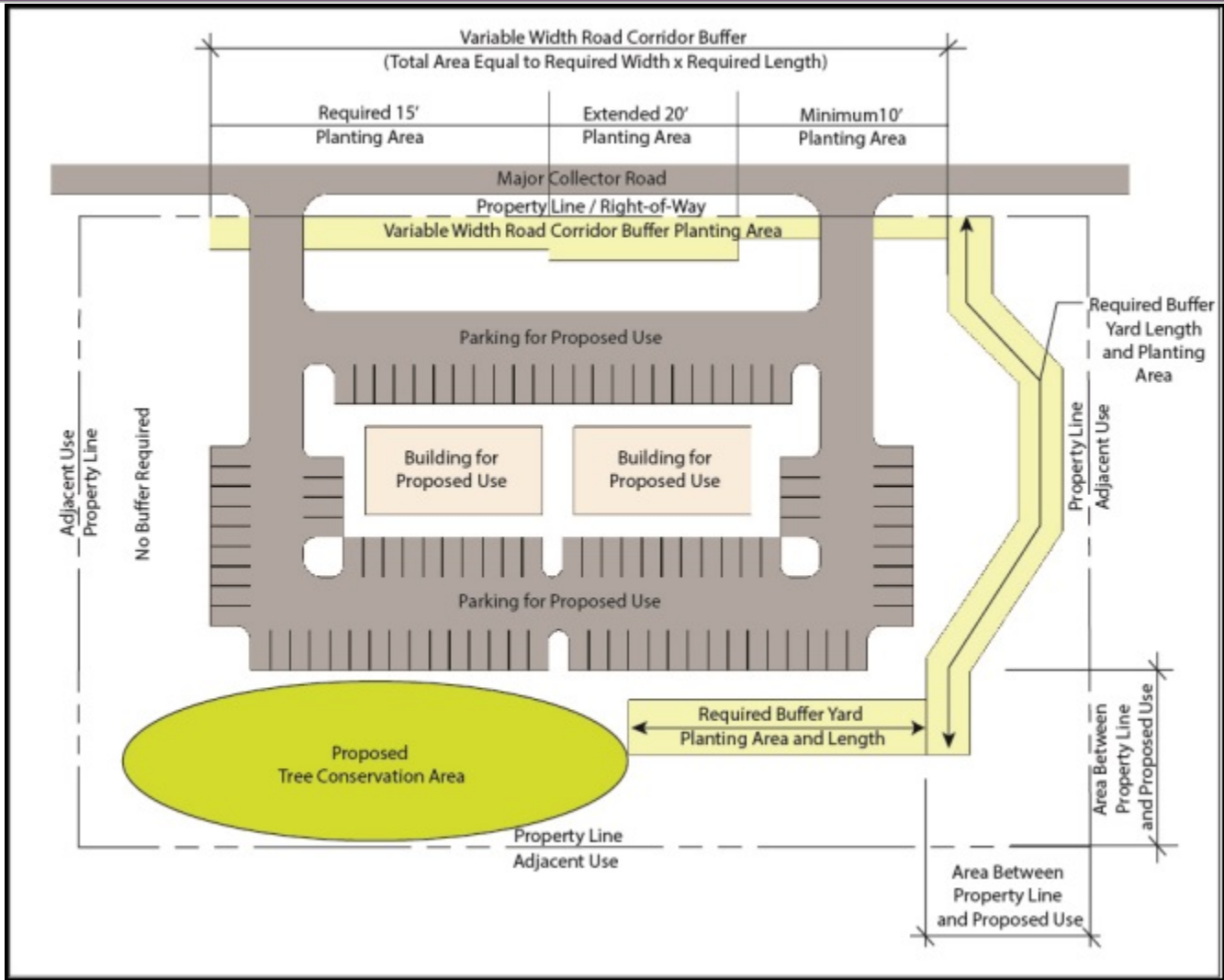
<sup>1</sup>See Table 5.07.06-1. for Plant Unit equivalents.

\*A 6-foot high fence, wall, and/or berm, providing a minimum opacity of 95% is required to run the length of the required Buffer Yard between the proposed use and the required plant units. Required plant units may be planted on a berm.

**D. Buffer Yard Location.** The following provisions apply to the location of buffer yards:

1. Required buffer yards must be provided between the lot line and the proposed use, and may be configured to surround the proposed use provided the intent of the required Buffer Yard Type is met as described in Section 5.07.03.B.
2. The location of required buffer yards may vary between the lot line and the proposed use provided the required plant units are planted within the required width throughout the full length of the buffer yard.

**Buffer Yard Location Example**

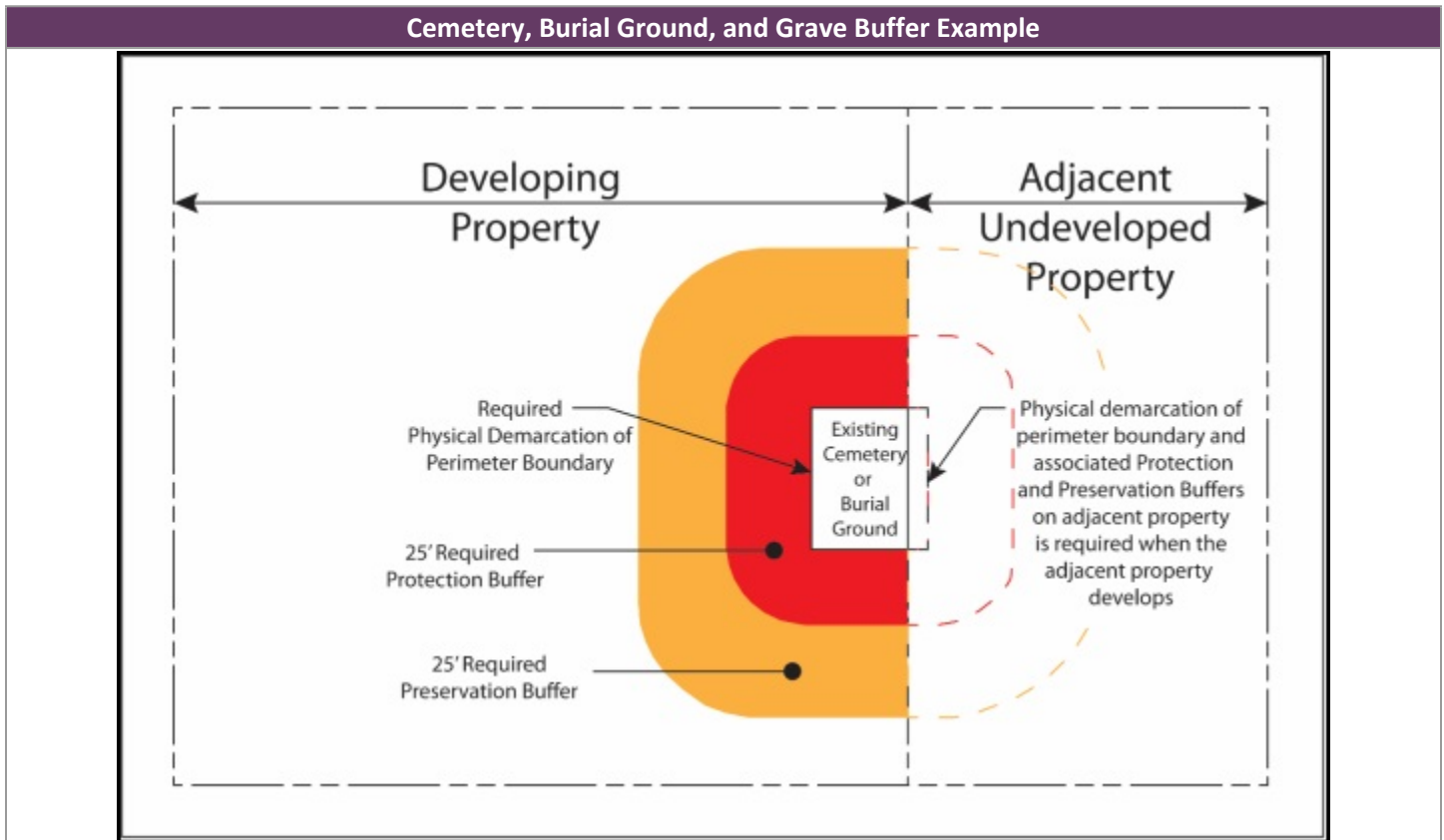


**5.07.04 Cemetery, Burial Ground, and Grave Buffer**

- A. **General Provisions.** The following general provisions apply to all cemeteries, burial grounds, and graves:
1. A Cemetery, Burial Ground, or Grave Buffer must be provided for all existing cemeteries, burial grounds, and graves except for the following:
    - a. A cemetery, or an existing cemetery's expansion, legally established after January 7, 2003.
    - b. A cemetery, burial ground, or grave for animal remains.
    - c. A cemetery, burial ground, or grave accessory to a religious assembly use.
    - d. A cemetery, burial ground, or grave from which all human remains have been removed in accordance with the Code of Virginia.
  2. The Cemetery, Burial Ground, and Grave Buffer comprises 3 components: a perimeter boundary, a protection buffer, and a preservation buffer.
- B. **Perimeter Boundary.** The following requirements apply to the perimeter boundary of each cemetery, burial ground, or grave:

1. The delineated perimeter boundary must be physically demarcated with a fence between a minimum of 3 feet and a maximum of 4 feet in height, or other perimeter demarcation as approved by the Zoning Administrator.
  2. No land disturbing activity is permitted within the delineated perimeter boundary of the cemetery, burial ground, or grave except for the following:
    - a. Construction of the perimeter demarcation.
    - b. Clearing of invasive vegetation on the surface, excluding any species that were planted in association with burials.
    - c. Land disturbing activity associated with the excavation and filling of grave shafts for new burials.
    - d. Removal and reinternment of burials in accordance with the Code of Virginia.
- C. **Protection Buffer.** To protect the physical integrity of existing burials and to preserve the natural and cultural features associated with the cultural landscape, the following requirements apply to the protection buffer of each cemetery, burial ground, or grave:
1. For a cemetery, burial ground, or grave on the developing property, a 25-foot protection buffer must be established outside of and abutting the delineated perimeter boundary.
  2. For developing property adjoining an off-site cemetery, burial ground, or grave, the protection buffer must be provided in accordance with Section 5.07.04.E.
  3. No land disturbing activity is permitted within the protection buffer except for the following:
    - a. Land disturbing activity associated with construction of the perimeter demarcation required by Section 5.07.04.B.
    - b. Construction associated with pedestrian access.
    - c. Clearing of invasive vegetation on the surface, excluding any species that were planted in association with burials.
  4. The protection buffer may be modified only by Minor Special Exception in accordance with the provisions of Section 7.09.
- D. **Preservation Buffer.** To create separation from adjacent land uses to preserve the historic context of the existing cemetery, burial ground, or grave, the following requirements apply to the preservation buffer of each cemetery, burial ground, or grave:
1. For a cemetery, burial ground, or grave on the developing property, a 25-foot preservation buffer must be established outside of and abutting the protection buffer required under Section 5.07.04.C.
  2. For developing property adjoining an off-site cemetery, burial ground, or grave, the preservation buffer must be provided in accordance with Section 5.07.04.E.
  3. Historic context includes physical characteristics such as, without limitation, vegetation, topography, water courses, monuments, enclosures, and other cultural features associated with the cemetery, burial ground, or grave.
  4. No land disturbing activity is permitted within the preservation buffer except for the following:
    - a. Land disturbing activity associated with construction of the perimeter demarcation required by Section 5.07.04.B.
    - b. Construction associated with pedestrian access.
    - c. Clearing of invasive vegetation on the surface.
    - d. The Zoning Administrator may approve a waiver or modification of the preservation buffer in accordance with the requirements of Section 5.07.08.

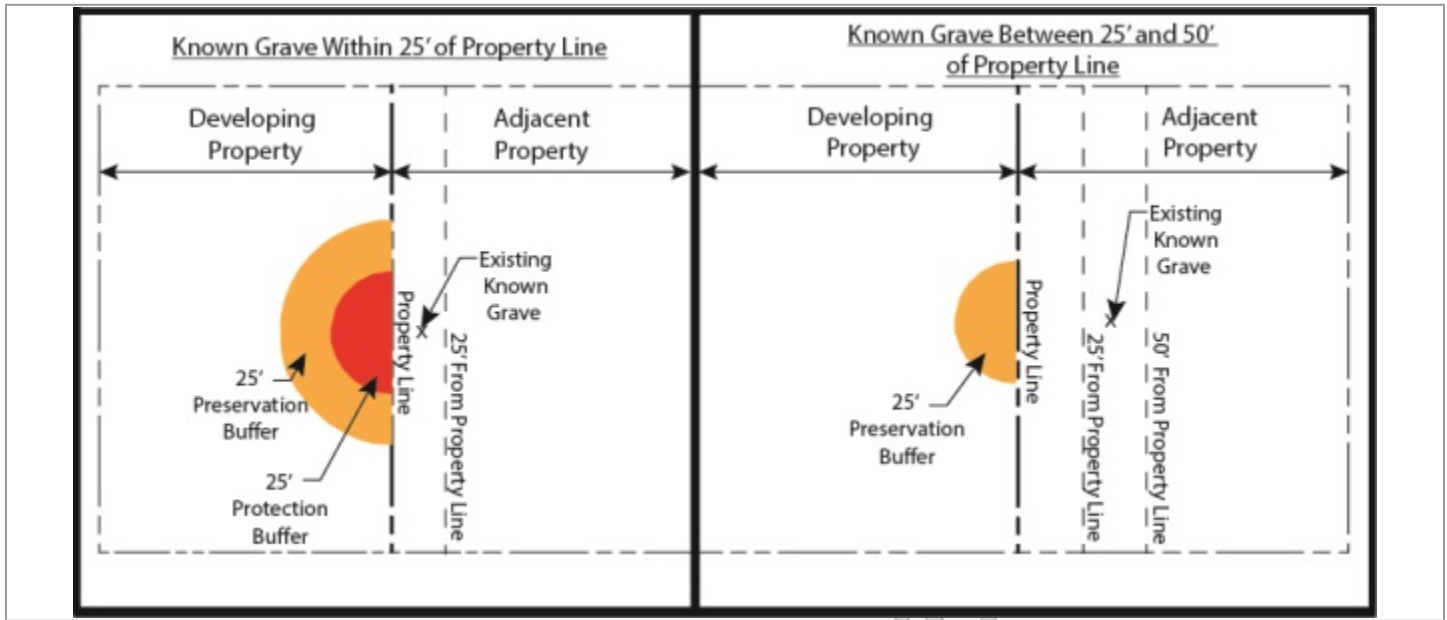
A. A



- E. **Off-site Cemetery, Burial Ground, or Grave Buffer.** When a developing parcel is located adjacent to a parcel containing an existing cemetery, burial ground, or grave for which the perimeter boundary has not been delineated, the location of the protection buffer and preservation buffer must be determined as follows:
1. If a known grave on the adjacent parcel is located less than 50 feet but no closer than 25 feet from the parcel line, and no evidence of a grave is found on the developing parcel, then the developing parcel must provide a Preservation Buffer measured from the parcel line that is equal in length to the extent of any known graves.
  2. If a known grave on the adjacent parcel is located less than 25 feet from the parcel line, and no evidence of a grave is found on the developing parcel, then the developing parcel must provide a Protection Buffer measured from the parcel line that is equal in length to the extent of any known graves, and a Preservation Buffer.
  3. If the closest known grave on the adjacent parcel is located 50 feet or greater from the parcel line, and no evidence of a grave is found on the developing parcel, then no Cemetery, Burial Ground, or Grave Buffer is required on the developing parcel.

**Off-site Cemetery, Burial Ground, and Grave Buffer Example**

Single Grave Scenarios



## 5.07.05 Screening of Certain On-site Functions

- A. On-site functions, to include loading areas, dumpsters and areas for collection of refuse, outdoor storage areas, maintenance areas, ground- or building- mounted mechanical equipment, and utility equipment, must be screened from view from all public streets and adjoining parcels using at least one of the following screening options:
1. An opaque fence or wall that is a minimum of 6 feet in height, the height of the fence or wall is not permitted to be lower than the function/items being screened. An aesthetically compatible gate must be provided, if applicable.
  2. A berm that is a minimum of 3 feet in height with evergreen plantings that are a minimum of 6 feet in height at time of planting.
  3. For mechanical and similar equipment, any architectural element compatible with the building that screens the view of the equipment.
    - a. All building-mounted mechanical equipment must incorporate this Option 3 into the required screening.
    - b. In cases where parapets are used to screen rooftop equipment, the maximum height of the parapet must be equal to the top of the highest mechanical unit but must not exceed the maximum height allowed in the district by more than 3 feet.

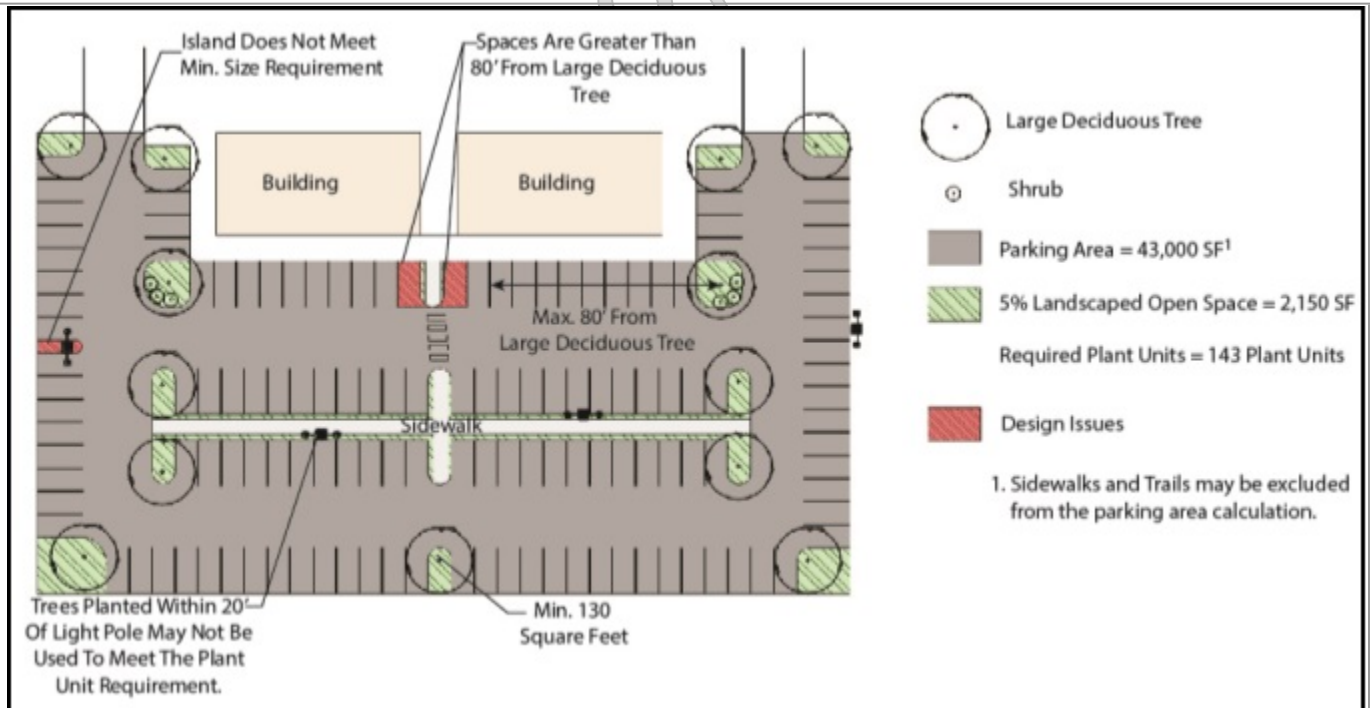
## 5.07.06 Parking Area Landscaping and Screening Requirements

- A. **Interior Parking Area Landscaping:** Any property, use, or parking area that contains 20 or more parking spaces, except areas used for accessory storage of vehicles, must include interior parking area landscaping provided as landscaped open space, as follows:
1. At least 5% of the gross area of the parking area must be landscaped open space.
    - a. The gross area of the parking area must:
      1. Include all parking spaces, vehicular travelways, and designated crosswalks within the parking area.
      2. Not include pedestrian facilities other than designated crosswalks within the parking area.
    - b. Landscaped open space must be:



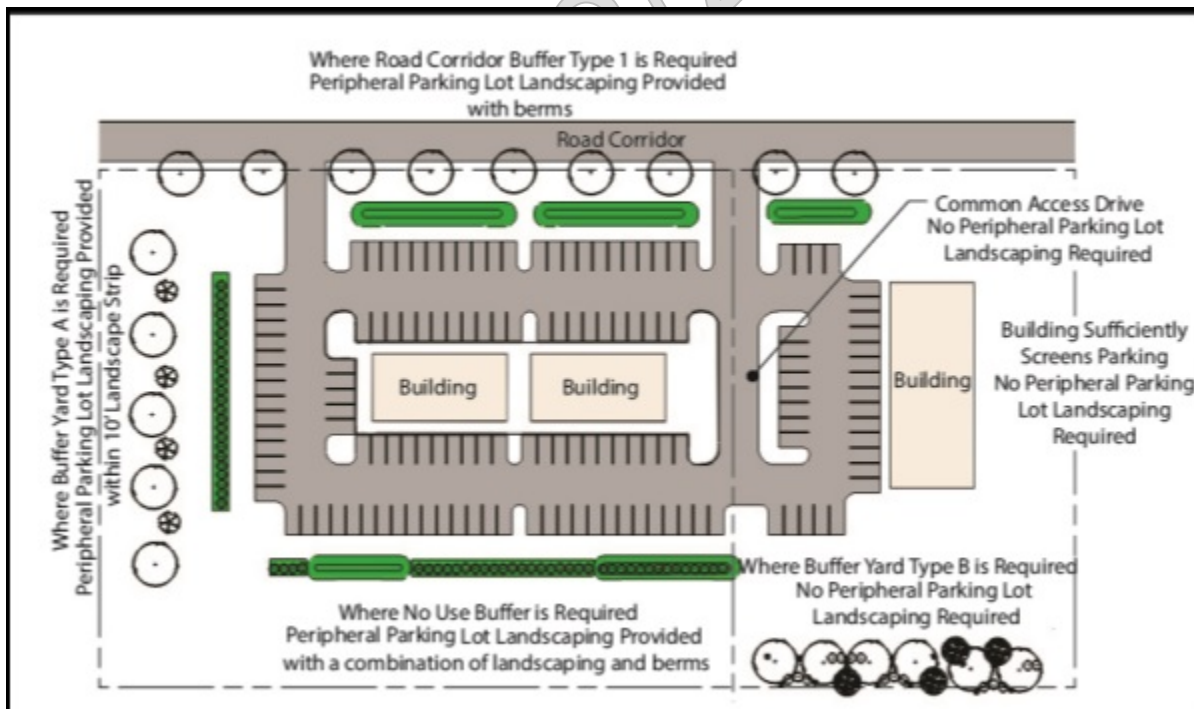
1. No less than 130 square feet in size for any individual area,
2. At each end of every row of parking spaces, and equal in length to the adjoining parking space,
  - a. Where fewer than 8 parking spaces are proposed in a single row, landscaped open space is required at only one end of the row;
3. Planted with a minimum of 10 plant units per 150 square feet; and
4. Designed in such a way that no parking space is more than 80 feet from a large deciduous tree.
- c. A minimum of 75% of the total plant units required for landscaped open space must consist of large deciduous trees.
  1. Perennials are allowed only where taller vegetation would conflict with County and VDOT sight distance standards.
2. Evergreen trees are not permitted to be used to meet the minimum interior parking area landscaping plant unit requirement.
3. Trees or shrubs are not permitted to be planted closer than 3 feet to any curb or paved area unless planted within an approved bio-retention structure.
4. Light poles may be placed within landscape islands.
  - a. Large or small deciduous trees planted within 20 feet of a light pole are not permitted to be used to meet the minimum interior parking area landscaping plant unit requirement.

#### Interior Parking Area Landscaping Example



- B. Peripheral Parking Area Landscaping:** Except where a parking area adjoins a Buffer Yard Type B or C, a Road Corridor Buffer Type 2 or 3, or a Gateway Corridor Buffer, any property, use, or parking area that contains 20 or more parking spaces must include peripheral parking area landscaping as follows:
1. Parking areas and parking area travelways that are not screened by buildings or other structures must be screened with either berms or landscaping, or a combination of both.
  2. Such berms and/or landscaping must:
    - a. Have a minimum height of 30 inches.
    - b. Be located between the parking area and the lot line or right-of-way.
      1. Where the boundary between abutting lots is located within a parking area travelway, no screening is required.
    - c. Where a berm is proposed, the grade is not permitted to be steeper than 2:1.
    - d. Where landscaping is proposed, it must consist of:
      1. A minimum of 50 plant units per 100 linear feet within a continuous 10-foot-wide landscape strip.
      2. A minimum of 75% of the total plant units required must be evergreen shrubs.
  3. Trees or shrubs are not permitted to be planted closer than 3 feet to any curb or paved area unless planted within an approved bio-retention structure.

#### Peripheral Parking Area Landscaping Example



#### 5.07.07 General Landscape Provisions

- A. Landscape Plan.** A landscape plan in accordance with the Facilities Standards Manual must be submitted as part of every site plan required by Section 7.03, and construction plans and profiles if applicable.



1. All landscaping and screening required by this Section must be depicted on such landscape plan, which must be designed by a licensed landscape architect or other licensed or certified professional in accordance with the Facilities Standards Manual.
  2. All landscaping and screening depicted on such landscape plan must be installed or bonded in accordance with current County requirements prior to issuance of any Certificate of Occupancy.
- B. Plant Unit Requirements.** The following requirements apply to the plant types used to meet the Plant Unit requirements for each Buffer Yard or Road Corridor Buffer:
1. The number of Plant Units that a plant type is considered to be equivalent to is determined in accordance with Table 5.07.07-1, Plant Unit Equivalents.

Table 5.07.07-1. Plant Unit Equivalents	
Plant Type	Plant Units per 1 Plant Type
Large Deciduous Tree	10
Evergreen Tree	6
Small Deciduous Tree	5
Shrub	2
Ornamental Grass	1
Perennial	0.25

- B. Maximum percentages apply solely in determining the quantity of a given plant type that can be counted towards meeting a Plant Unit requirement, and do not preclude the installation of additional plant material from that plant type, if desired.**
2. A maximum of 50% of the required plant units may be large deciduous trees.
    - a. Exception. The Road Corridor Buffer Type 1 may be planted with 100% large deciduous trees.
  3. A maximum of 50% of the required plant units may be evergreen trees.
    - a. A minimum of 10% of the required plant units for a Type C Buffer must be evergreen trees.
  4. A maximum of 60% of the required plant units may be small deciduous trees.
  5. A maximum of 30% of the required plant units may be shrubs.
    - a. When shrubs are used, a minimum of 30% must be evergreen.
  6. The use of ornamental grasses and/or perennials is encouraged and may constitute a maximum of 25% of the required plant units.
  7. To support a pollinator habitat, plant units must be provided as follows:
    - a. A minimum of 50% must consist of native species as specified in the Facilities Standards Manual.
    - b. A minimum of 75% of the small deciduous trees and shrubs provided must produce conspicuous flowers at some point during their growing season.
  8. Walls, fences, and/or berms are not counted toward required plant units.
- C. Use of Buffers.** The following uses are permitted in Buffer Yards and Road Corridor Buffers:
1. Passive recreation and pedestrian, bicycle, or equestrian trails provided that Plant Unit requirements are met.
  2. Utility easements provided that Plant Unit requirements are met with plant types that are compatible with the utility easement.
  3. Driveway entrances and entrances connecting adjacent parking lots or developments traversing the buffer generally perpendicular to the direction the length of the Buffer Yard or Road Corridor Buffer is measured.
  4. Signs, pursuant to Chapter 6.

5. Storm water management features such as bioretention areas and rain gardens provided that Plant Unit requirements are met.
- D. **Landscape Installation.** The installation of all required plant material must be in accordance with the Facilities Standards Manual.
  1. At the time of planting, all trees and shrubs must meet the requirements of the American National Standards Institute, American Standard for Nursery Stock, ANSI Z60.1-2014.
  2. The minimum sizes required for each plant type are as follows:
    - a. All deciduous trees must have a minimum caliper of 1 inch.
    - b. Evergreen trees must be a minimum of 6 feet in height.
    - c. Shrubs must have a minimum height of 18 inches.
    - d. No minimum height is required for ornamental grasses or perennials.
  3. Ornamental grasses and perennials must be located within a defined planting bed.
- E. **Maintenance.** The owner, or his agent, is responsible for the maintenance, repair and replacement of all plant material required by this Section.
  1. All plant material must be tended and maintained in a healthy growing condition, replaced when necessary, and kept free of refuse and debris.
  2. Fences and walls must be maintained in good repair.
  3. Openings within fences and walls may be required by the Zoning Administrator for accessibility to an area for necessary maintenance.

## 5.07.08 Waivers and Modifications

- A. **Zoning Administrator Buffer Yard Waivers and Modifications.** Unless otherwise specified, the Zoning Administrator may approve waivers or modifications to the buffer yard requirements of this section as part of the site plan, subdivision, and/or zoning permit process upon finding that site conditions make a specific requirement either impracticable or ineffective relative to accomplishing the impact mitigation and site design objectives of this Section.
  1. **Justification.** Site conditions that may justify a buffer yard waiver or modification include, but are not limited to, the following:
    - a. Topography, soil, vegetation, or other existing environmental features are such that full compliance is impossible or impracticable.
    - b. Improved environmental quality would result from implementation of modified requirements.
    - c. Space limitations, unusually shaped lots, and/or existing utility easements.
    - d. Change of use on a developed site increases the required Buffer Yard to more than what is feasible to provide.
    - e. Safety or security conditions make modified requirements necessary.
    - f. A modified buffer would be consistent with the applicable Place Type of the General Plan based on the surrounding property's existing development pattern and design characteristics.
    - g. The site is developing consistent with the applicable nonresidential Place Type of the General Plan and the adjoining vacant lot or land bay is designated as the same Place Type or, in the Suburban Mixed Use Place Type, the same zoning district.
  2. **Conditions.** The Zoning Administrator may impose conditions upon any buffer yard waiver or modification to ensure the purpose and intent of this Section continue to be met.
  3. **Application.** Each request for a buffer yard waiver or modification must include the following components:

- a. **Written Narrative.** The written narrative must include:
  1. A justification for the request based on Section 5.07.08.A.1.
  2. A statement of requirement of this Section subject to the modification or waiver request and how the Section is proposed to be modified,
  3. A description of the site conditions that necessitate the modification and waiver request, and
  4. An explanation of how the approval of the waiver or modification will provide equal or enhanced mitigation of impacts between uses and/or site design than what otherwise would have been required by this Section.
  5. For a Cemetery, Burial Ground, and Grave Treatment Plan, the written narrative must also:
    - a. Describe how the modified buffer will achieve the purpose and intent of the required preservation buffer, and
    - b. Address how the historic context of the cemetery, burial ground, or grave will be preserved through the proposed alternative mitigation techniques.
- b. **Design Exhibit.** The design exhibit must clearly depict and tabulate the quantity, type, location, and size of all proposed plant units and any other proposed design elements.
  1. Additional site elevations, plan views, perspectives, and/or pictures may be required by the Zoning Administrator.
  2. For the reduction of a Gateway Corridor Buffer width is requested pursuant to Section 5.07.02.D.4., the design elements specified by Section 5.07.02.D.1. or Section 5.07.02.D.2., as applicable, also must be depicted.
  3. When a waiver or modification is requested to modify the cemetery, burial ground, and grave preservation buffer required by Section 5.07.04.D.4., a Cemetery, Burial Ground, and Grave Treatment Plan is also required in accordance with the Facilities Standards Manual. The Cemetery, Burial Ground, and Grave Treatment Plan must:
    - a. Depict how the modified buffer will achieve the purpose and intent of the required preservation buffer, and
    - b. Depict how the historic context of the cemetery, burial ground, or grave is being preserved through alternative mitigation techniques.

**B. Legislative Modifications**

1. **Buffer Yards.** The Board of Supervisors or the Board of Zoning Appeals may modify the buffer yard requirements of this Section as part of an approval action of a special exception, variance, or as part of proffered conditions. Such request to modify buffer yard requirements must address Section 5.07.08.A.1 and 5.07.08.A.3 in the application. In such event, the requirements of such approval will govern.
2. **Road Corridor Setback Modifications.** The Board of Supervisors may modify the Road Corridor Parking and/or Building Setbacks of Table 5.07.02.B as follows:
  - a. The Road Corridor Parking and/or Building Setbacks may be modified by Minor Special Exception approval in accordance with Section 7.09 upon a finding that such modification is necessary to maintain consistency with the streetscape established by existing development on adjacent properties within 100 feet of and on the same side of the road as the property subject to the request.
    1. The application must include the materials demonstrating:
      - a. The location of buildings used to justify the proposed setback will maintain consistency with the streetscape established by existing development.
      - b. The proposed Road Corridor Parking and/or Building Setback.

- b. If the modification request does not meet the criteria of Section 5.07.08.B.2.a and the Applicant is not proposing a Planned Development District pursuant to Section 2.06, then the Road Corridor Parking and/or Building Setbacks may be modified subject to the following provisions:
1. **Criteria.** Any request must demonstrate conformance with the following criteria:
    - a. Setbacks along arterial roadways are not permitted to be reduced;
    - b. The setback reduction allows the site to achieve an innovative design that is in conformance with the General Plan;
    - c. The setback reduction is not to achieve the maximum density on the site;
    - d. The entire road section at full build out as specified in the Countywide Transportation Plan can be accommodated;
    - e. All pedestrian facilities provided in conformance with the Countywide Transportation Plan and in accordance with VDOT standards without necessitating waivers for reductions can be accommodated;
    - f. The width and plantings of the required Road Corridor Buffer can be accommodated;
    - g. The reduced setback is not less than the yard or setback required by the underlying zoning district;
    - h. Noise attenuation for noise sensitive uses is adequately addressed;
    - i. Buildings to be provided in reduced structure setbacks have a pedestrian oriented design and must achieve the following standards:
      - A. First floor window/glass and entry requirements in building elevations along roadways or sidewalks;
      - B. Quality and variety of building materials; and
      - C. Four-sided architecture that incorporates articulated building facades.
    - j. Parking is not permitted between the building and roadway; and
    - k. The modification achieves conformance with the General Plan.
  2. **Conditions.** The Zoning Administrator may impose conditions upon any road corridor setback modification to ensure the purpose and intent of this Section continue to be met.
  3. **Written Narrative.** The written narrative must include:
    - a. A justification for the request based on the criteria in Section 5.07.08.B.2.b.1;
    - b. A statement of requirement of this Section subject to the modification request and how the Section is proposed to be modified; and
    - c. An explanation of how the approval of the modification will provide equal or enhanced mitigation of impacts and/or site design than what otherwise would have been required by the road corridor setback.
  4. **Design Exhibit.** The design exhibit must be binding and include the following information related to the reduction of the required setback:
    - a. Depiction of the design of the project using the reduced setback showing the reduced building and/or parking setback, the arrangement of buildings, parking, buffers, road section at full build out, trails, and any other features, elements, structures, etc. related to the design of the site;
      - A. Additional site elevations, plan views, perspectives, and/or pictures may be required by the Zoning Administrator.
    - b. A statement of the setback reduction in tabular, list, and/or sentence form.

## 5.08 Performance Standards

### 5.08.01 Purpose, Applicability, Exceptions, and Administration

**Purpose:** *The purpose of these performance standards is to ensure land and buildings will be occupied by uses that comply with reasonable standards that protect the community from dangerous, injurious, or noxious activity or conditions such as:*

- *Fire, explosion, radioactivity or other hazardous condition.*
- *Noise or vibration.*
- *Smoke, dust, odor or other form of air pollution.*
- *Electrical or other atmospheric disturbance.*
- *Glare or heat.*
- *Liquid or solid refuse or waste conditions or other dangerous or objectionable elements or conditions in a manner or amount as to adversely affect the surrounding area or be excessively detrimental to mental and physical health and peaceful enjoyment of property.*

**A. Applicability.**

1. All permitted and special exception uses, whether such uses are permitted as a principle use or an accessory use, must operate in conformance with the performance standards set forth in this Chapter.
2. Any use that is a lawful nonconforming use, and that on the effective date of this Ordinance complies with the applicable performance standards of this Chapter, must continue to so comply. If, at such time, the operations of such lawful nonconforming use violate the standards specified herein, such operations must not be varied or changed in such a way as to increase the degree of such violation.
3. Any application for an expansion of a lawful nonconforming use that exceeds XX% of the existing disturbed land area or a change of use will require the subsequent expansion or change to comply with the requirements herein.

**B. Existing Uses.** All uses must comply with the performance standards set forth in this Ordinance. However, any use that did not comply with these standards when enacted may be permitted to continue so long as the degree of nonconformity is not increased.

**C. Agricultural Uses.** The standards contained in this Chapter do not apply to any lawful agricultural operation.

**D. Administration of Performance Standards.**

1. **Zoning Permit Procedure.** Before the Zoning Administrator issues a zoning permit, the applicant must furnish sufficient information to enable the Zoning Administrator to ensure that all performance standards and site development standards set forth in this ordinance can and will be complied with. 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:
  - a. A plot plan signed by the applicant and drawn to scale showing the location of all existing and proposed structures, drives, parking lots, waste disposal areas, bulk storage areas, streets, streams, or other significant features on or within two hundred (200) feet of the proposed site, not including public right-of ways or easements.
  - b. A description of the activity to be conducted regarding waste products, external effects or other conditions which are regulated herein; provided however, that 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. Such other data and certification as may reasonably be required, in addition to the informational requirements of Section 7.06, by the Zoning Administrator to reach a determination.
2. All information and evidence submitted in applications to indicate conformity to performance standards must constitute a certification and an agreement on the part of the applicant that the proposed use can and will conform to such standards at all times.

**E. Enforcement of Performance Standards.**

1. **Intent Concerning Determinations Involved in Administration and Enforcement of Performance Standards.** Determinations necessary for administration and enforcement of performance standards set forth in this article range from those which can be made by a reasonable person using normal senses and without the need for any equipment to those requiring great technical competence and complex equipment for precise measurement. It is the intent of this ordinance that:
  - a. Where determinations can be made by the Zoning Administrator or other County employees using equipment normally available to the County or obtainable without extraordinary expense, such determinations will be so made before notice of violation is issued.
  - b. Where technical complexity or extraordinary expense makes it unreasonable for the County to maintain the personnel or equipment necessary for making difficult or unusual determinations, procedures will be available for protecting individuals from arbitrary and capricious administration and enforcement of performance standard regulations and for protecting the general public from unnecessary costs for administration and enforcement.
2. **Simple Determinations.** If the Zoning Administrator finds that determinations of the nature indicated in Section 5.08(l)(1)(a) are adequate to demonstrate violations of performance standards in particular cases and if such violations exist, the Zoning Administrator must take, or cause to be taken, such lawful action as is appropriate to cause correction of such violations. Failure to obey lawful orders concerning correction of such violations is punishable as provided generally for violations herein and in other laws or regulations affecting the case.
3. **Complex Determinations.** If the Zoning Administrator finds that determinations of the nature indicated in Section 5.08(l)(1)(b) are required to make precise measurements regarding potential violations of performance standards set forth herein and, if after considered judgment, the Zoning Administrator believes there is violation of such performance standards, the following procedures must be followed:
  - a. **Notice and Answer.** The Zoning Administrator must give notice by registered mail or other means insuring a signed receipt for such notice to the person or persons responsible for the alleged violation. The notice must describe the particulars of the alleged violation and the reasons why the Zoning Administrator believes there is a violation and must require an answer or correction of the alleged violation to the satisfaction of the Zoning Administrator within a time limit set by him, but not to exceed 60 days. The notice must state, and it is hereby declared, that failure to reply or to correct the alleged violation to the satisfaction of the Zoning Administrator within the time limit set constitutes cause for the Zoning Administrator to proceed with enforcement, as provided in Section 10.01. The notice must further state that, upon request of those to whom it is directed, technical determinations, as described in this ordinance, will be made and that if violations, as alleged, are found, costs of such determinations will be charged against those responsible for the violation, in addition to such other penalties as may be appropriate. However, if it is determined that no violation exists, the cost of the determination will be paid by the County.



- b. **Correction of Violation.** If there is no reply within the time limit set, but the alleged violation is corrected to the satisfaction of the Zoning Administrator, "violation corrected" will be noted on the County's copy of the notice and it must be retained among the County's official records. A copy will be sent to the alleged violator, in addition to taking such other action as may be warranted.
- c. **Action - Continuation of Violation.** If there is no reply within the time set (thus establishing admission of violation, as provided in Section 10.01.XX and the alleged violation is not corrected to the satisfaction of the Zoning Administrator within the time limit set, The Zoning Administrator must proceed to take, or cause to be taken, such action as is warranted by continuation of a violation after notice to cease.
- d. **Time Extension.** If a reply is received within the time limit set indicating that the alleged violation will be corrected to the satisfaction of the Zoning Administrator but requesting additional time, the Zoning Administrator may grant an extension if it is determined to be warranted in the circumstances of the case and if the extension is determined to not cause imminent peril to life, health, or property. If the extension is not granted, the Zoning Administrator will proceed to bring legal action, as provided in Section 10.01 of this Ordinance.
- e. **Costs of Determinations - Responsibility.** If a reply is received within the time limit set requesting technical determination, as provided in this Ordinance, and if the alleged violations continue, the Zoning Administrator may call in properly qualified experts to make the determinations. If expert findings indicate violation of the performance standards, the costs of the determinations will be assessed against the properties or persons responsible for the violation, in addition to such other penalties as may be appropriate under the terms of Section 10.01. If no violation is found, the costs of the determinations will be paid by the County without assessment against the properties or persons involved.

## 5.08.02 Earthborn Vibration

- A. **Required Performance Level.** Any use, operation or activity must not cause or create earthborn vibrations in excess of the peak particle velocities prescribed below.
- B. **Method of Measurement.**
  - 1. Measurements must be made at or beyond the adjacent lot line, the nearest residential district boundary line, or the nearest district boundary line as indicated below. Ground transmitted vibration must be measured with a seismograph or complement of instruments capable of recording vibration displacement and frequency, particle velocity, or acceleration simultaneously in 3 mutually perpendicular directions.
  - 2. The maximum particle velocity must be the maximum vector sum of 3 mutually perpendicular components recorded simultaneously. Particle velocity may also be expressed as 6.28 times the displacement in inches multiplied by the frequency in cycles per second.
  - 3. For the purpose of this Ordinance, steady state vibrations are vibrations that are continuous or vibrations in discrete impulses more frequent than 60 per minute. Discrete impulses that do not exceed 60 per minute must be considered impact vibrations.
- C. **Heavy Intensity Land Uses.**
  - 1. Heavy intensity land use standards apply to the and SI, SME, TI, TME, JLMA-LME district(s).
  - 2. Uses subject to these standards must not cause steady state vibrations to exceed the maximum permitted particle velocities described in the table below. Where more than one set of vibration levels apply, the most restrictive governs. Readings must be made at points of maximum vibration intensity.
  - 3. Maximum Permitted Steady State Vibration Levels:



**Table 5-1505(C)(3) Area of Measurement**

Type of vibration	At residential district boundaries	At other lot lines within district
Continuous	.003	.015
Impulsive (100 per minute or fewer)	.006	.030
Fewer than 8 pulses per 24 hours	.015	.075

**A. Light Intensity Land Uses.**

1. Light intensity land use standards apply to all residential districts, all industrial districts, except the and the SI, SME, TI, TME, JLMA-LME districts, which are subject to Heavy Intensity Land Uses standards in Section 5.08.02.A.3.
2. Uses subject to these standards must not cause steady state vibrations to exceed the maximum permitted particle velocities described below. Where more than one set of vibration levels apply, the most restrictive governs. Readings must be made at points of maximum vibration intensity.
3. Maximum Permitted Steady State Vibration Levels:

**Table 5-1505(C)(3) Area of Measurement**

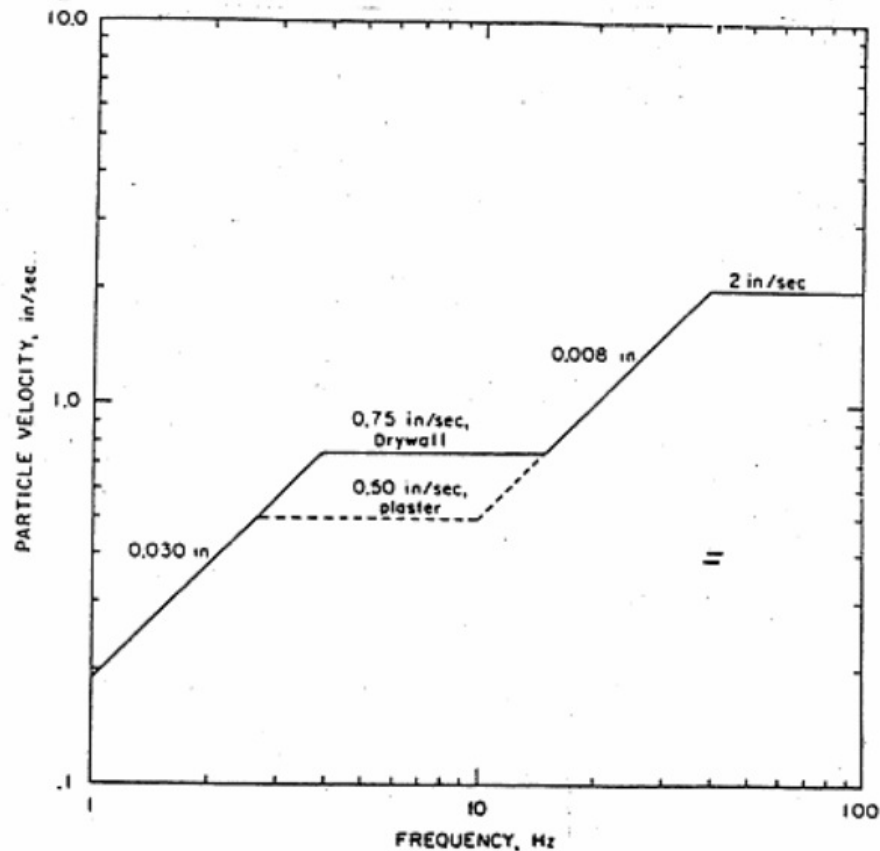
Type of vibration	At residential district boundaries	At other lot lines within district
Continuous	.003	.030
Impulsive (100 per minute or fewer)	.006	.060
Fewer than 8 pulses per 24 hours	.005	.15

4. Between the hours of 8 p.m. and 7 a.m., all of the permissible vibration levels indicated above at residential district boundaries must be reduced to one-half (+) the indicated values.

**5.08.03 Stone Quarrying, Extraction, and Mining**

- A. Stone Quarrying, Extraction, and Mining.** In addition to the performance standards set forth in this Section 5.08, all stone quarrying extraction and mining uses, whether in an industrial or mineral extraction zoning district such as the SI, SME, TI, TME, JLMA-LME districts or otherwise, must satisfy the following additional performance standards:
1. In addition, the Board of Supervisors, as a condition of a special exception, may further limit vibration and noise levels where, in the Board's opinion, the existing and proposed surrounding land use or proximity of population in the area warrants additional protection.
  2. Notwithstanding the provisions of Sections 5.08.02 and 5.08.04 of this Division, all extraction and mining special exception operations are subject only to the following performance standards as they relate to noise and earthborn vibrations:

- a. Blasting vibration is limited to peak particle velocity\* for a corresponding frequency level, as shown in the chart below:



\*Peak particle velocities shall be recorded in three mutually perpendicular directions. The maximum peak particle velocity shall be the largest of any of the three measurements.

- b. Earth vibration produced from sources other than blasting must not exceed a maximum resultant peak particle velocity of 0.03 inches per second.
- c. The peak over pressure (noise) from any blast is limited to 129 dB, as measured at 5 or 6 Hz high pass system.
- d. Airborne noise produced from extractive operations other than blasting must not exceed the following limit, as measured at the lot line of the extractive industry: 80 dBA maximum, continuous noise.
- e. For noise and vibrations induced by blasting, measurement must be taken at the nearest off-site occupied building, measured in a straight line distance from the point of the blast.
- f. For noise and vibrations induced by sources other than blasting, measurement must be taken at the property line of the extractive industry.
3. Landscaping and Screening Requirements.
- a. All areas within 100 feet of an adjacent public road or a zoning district on land bay allowing or planned to allow residential uses must meet the standards of Section 5.07 and must be landscaped, bermed, screened, and maintained with natural vegetation to buffer and screen such areas.

- b. In addition to Section 5.07 existing trees and ground cover along all other boundary lines must be preserved, maintained and supplemented by selective cutting, transplanting, and addition of new trees, shrubs and other ground cover for the depth of the setback.
  - c. The type, time of planting, design, and spacing of planting screen must comply with Section 5.07. Approval of maintenance of landscape areas by the Zoning Administrator is required for zoning permit extension and zoning permit renewal.
4. All vehicles used to transport excavated material are required to be loaded in such manner that the material is not unintentionally discharged from the vehicle. Trucks must be cleaned of all material not in the load-bed prior to entering the public streets.
5. All blasting is limited to the hours of 7 a.m. to 6 p.m. or such lesser time as may be established by special exception.
6. No permit for an extraction and mining use will be issued for any tract of land containing less than 50 acres. This requirement, however, does not preclude the approval of a permit to enlarge or extend an existing extraction and mining use onto contiguous parcels.

## 5.08.04 Noise

**Purpose.** The purpose of these standards is to protect citizens from excessive sound (noise) that is detrimental to the health and peaceful enjoyment of property. No use is permitted to be operated or permitted to be operated in such a manner as to create a sound that exceeds the maximum A-weighted sound levels set forth in Table 5.08.04.-1. Examples of sounds regulated by this Ordinance include, but are not limited to amplified music or voice, or barking dogs at kennels.

- A. **Applicability.** The maximum A-weighted sound levels of Section 5.08.04.D applies unless a different decibel level applies under Section 5.08.04.F.
  1. These standards do not apply to extraction and mining special exception operations otherwise regulated herein or between multiple uses located within the same building or on the same lot, unless the receiving property is Mixed-Use residential.
- B. **Definitions.** For the purposes of this section only, the definitions in Section 5.08.04.01 apply:
- C. **Methods of Measurement.**
  1. A-weighted sound levels must be measured with an integrating SLM that meets or exceeds American National Standard Institute S1.43-1997 for Type 1 SLMs. The response of such SLM must be set to FAST, and a time period of 15 seconds must be used. The operator may select another time period between a minimum of 10 seconds and maximum of 1 minute if a 15-second time period cannot adequately capture the A-weighted sound level.
  2. Samples must be taken only when the subject sound can be clearly heard and identified by the operator without any extraneous sounds such as passing traffic or bird songs.
  3. The operator must take a minimum of 3 samples that demonstrate the repeatability and consistency of the subject sound. When possible, the operator should also take at least 1 sample when the subject sound is not heard for the purpose of comparison.
  4. The arithmetic average of all samples that demonstrate the repeatability and consistency of the subject sound must comply with the maximum A-weighted sound levels in Table 5.08.04-1.
  5. For residential, rural economy, commercial, civic, institutional, and industrial uses, samples of the subject sound must be taken from the point on the receiving property line that is located the closest to the source of the subject sound. The microphone of the SLM must be aimed toward the source of the subject sound, and a standard microphone height of 5 feet above grade must be used.

6. For mixed-use residential, samples of the subject sound must be taken from the receiving property at an open window, door, or other aperture that faces in the direction of the source of the subject sound. The window, door, or other aperture that is the closest to the source of the subject sound must be used. The microphone of the SLM must use a windscreen, must be located at the center, and must extend approximately 0.5 inches beyond the outer plane of said open window, door, or other aperture, and must be aimed towards the source of the subject sound.

D. **Maximum A-Weighted Sound Levels (decibels).** The maximum A-weighted sound level is provided in Table 5.08.04.-1 and applies any time of day or night.

Table 5.08.04.-1				
Receiving Development	Mixed - Use Residential	Residential and Rural Economy Uses	Commercial, Civic, and Institutional Uses	Industrial Uses
Maximum A-Weighted Sound Level (decibels)	60	55	65	70

E. **Maximum A-Weighted Sound Levels Exemptions.** The maximum A-weighted sound levels in Table 5.08.04-1 do not apply to the following:

1. All aircraft sounds.
2. Sounds produced by activities listed in Chapter 654.02(e) of the Codified Ordinances of Loudoun County. However, sounds produced by outdoor public address systems at public schools are subject to Section 5.08.04.F, and sounds produced by commercial indoor firearm ranges are subject to the maximum A-weighted sound levels in Table 5.08.04-1.
3. Sounds created by the operation of power equipment, such as power lawn mowers, chain saws, and similar equipment, and construction, demolition, and/or maintenance activities.
4. Sounds created by generators and accessory equipment operating during an emergency or at the request of a utility and the testing of said generators and associated equipment.
5. Sounds created by air conditioner condensers for single-family attached dwellings and single-family detached dwellings.
6. Sounds created by utilities and public uses, including, but not limited to utility substations, utility transmission lines, sanitary landfills, public sewer, and public water.

F. **Noise Standards for Specific Uses.** The following noise standards apply to specific uses in this section when they are expressly referenced in the standards for the specific use in [Chapter 3](#).

1. **Location in Relation to Residential Use.** No loading/unloading activities or other noise-producing activities are permitted within 250 feet of an existing single family residential use.
2. **Maximum dB(A).** The maximum allowable dB(A) level of impulsive sound emitted from the use, as measured at the property line of any adjacent residential lot where the lot is designed for a single family dwelling unit as a principal use, is not permitted to exceed 55 dB(A).
3. **Outdoor Music.** Outdoor music is not permitted after 11:00 PM.

**A-Weighted Sound Level** is the sound pressure level in decibels as measured on a sound level meter (SLM) using the A-weighting network.

**Emergency** is any occurrence or set of circumstances involving actual or imminent physical trauma, property damage, or loss of electric or phone services that require immediate action.

**Mixed-Use Residential** is any dwelling unit located in any of the following zoning districts listed in [Chapter 2](#): UT/UM, SM, PD.

**Residential** is any dwelling unit located in a zoning district listed in ARTICLE 2 or ARTICLE 3, or the PD-H zoning district, and any other dwelling unit that does not meet the definition of mixed-use residential.

**Receiving property** is the lot or parcel, or for mixed-use residential, the affected dwelling unit, that is the recipient of the subject sound.

**Sound** is an oscillation in pressure, particle displacement, particle velocity, or other physical parameter, in a medium with internal forces that causes compression and rarefaction of that medium.

#### 5.08.05 Light and Glare

- A. **General Requirements.** All sources of glare (direct or reflected artificial light) from any source (other than in connection with operating motor vehicles, lighting at publicly owned facilities utilized for athletic competition, and/or street lighting) must not cause illumination in excess of 0.25 foot candles above background light levels measured at the boundary of any commercial or industrial use abutting any residential use or at the lot line with any residential district, or, in residential or agricultural districts, at the lot line of any adjacent lot.
1. In addition, in the ARN, ARS, VR, and VAR, districts, lights must be shielded so that the direct glare of the bulb is not visible beyond the property line of the parcel.
  2. Publicly owned facilities utilized for athletic competition, as exempted above, other than at public schools (elementary, middle or high), must use cut-off and fully shielded lighting fixtures that are 1) aimed downward and inward toward the athletic field or interior of the property, and 2) shielded in directions away from the athletic field to minimize glare and light trespass onto adjacent properties.
  3. Publicly owned athletic competition facilities must not cause illumination in excess of 10 foot candles above background light levels measured at the boundary of any residential district, or, in residential or agricultural districts, at the lot line of any adjacent lot.
  4. Lighting for recreational and athletic fields and facilities at public schools (elementary, middle or high) must adhere to the Light and Glare Standards for Specific Uses in Section 5.08.05.D.
- B. **Method of Measurement.** Illumination levels must be measured with a photoelectric photometer having a spectral response similar to that of the human eye, following the standard spectral luminous efficiency curve adopted by the Internal Commission on Illumination.
- C. **Special Exception Review for Lighting that does not Comply with Standards.** Lighting that does not meet the standards of Section 5.08.05.A may be permitted by special exception, pursuant to Section 7.09, upon a finding that the proposed alternative lighting is appropriate.
- D. **Light and Glare Standards for Specific Uses.** The following Light and glare standards apply to specific uses in this section when they are expressly referenced in the standards for the specific use in Chapter 3:
1. **No Illuminated Signage.** Signage related to the use is not permitted to be illuminated.
  2. **Hours of Operation.** All exterior lighting must be extinguished from 10:00 p.m. to 6:00 a.m., except for exterior lighting that is determined by the Zoning Administrator to be necessary for security purposes.
  3. **Shielded Lighting/Light Element.** Fully permanently shielded lighting fixtures must be used in all areas. The light element (lamp or globe) of a fixture is not permitted to extend below the cutoff shield.
  4. **Pole-Mounted Exterior Lighting.** The maximum height of pole-mounted exterior lighting is 25 feet.

## 5.09 Adaptive Reuse Standards

**Purpose:** *The purpose of the Adaptive Reuse Standards is to foster the appropriate and compatible adaptive reuse of existing obsolete, underutilized, or historically significant buildings or structures to:*

- *Support the historic preservation goals of the Heritage Preservation Plan.*
  - *Preserve the historic character, buildings, structures, and sites of the Rural Historic Villages and Legacy Village Cores as identified in the General Plan or village small area plan.*
  - *Protect iconic or prominent buildings that exemplify community character to establish or reinforce a community's identity and sense of place.*
  - *Create opportunities for community gathering places and spaces for cultural activities.*
  - *Facilitate redevelopment in the priority areas identified on the Priority Commercial Redevelopment Areas Map and other qualifying projects pursuant to Section 5.0x Redevelopment Standards.*
  - *Generate activity within vacant buildings and underutilized areas.*
  - *Increase and improve the variety and affordability of housing stock in locations consistent with the General Plan and where permitted.*
  - *Encourage preservation of historic structures and buildings through appropriate renovation.*
  - *Ensure the adaptive reuse of a building is compatible with and does not adversely impact the character of the surrounding landscape and development.*
  - *Prolong building lifespans, encourage reuse of existing resources, and facilitate market alternatives rather than demolition of existing, structurally sound buildings or structures.*
  - *Maintain compatibility of the adaptively reused building or structure with a surrounding neighborhood, community, Place Type, village, or historic district.*
  - *Provide flexibility for adaptive reuse projects without compromising the health, safety, or welfare of users.*
- A. **Applicability.** To be eligible for adaptive reuse, a building or structure must be constructed in accordance with the building codes and zoning ordinance in effect at the time of construction or deemed nonconforming pursuant to Chapter 9 and satisfy the criteria listed in 1, 2, 3, or 4 below.
1. The building or structure is:
    - a. Designated as a National Historic Landmark;
    - b. Listed or eligible for listing in the National Register of Historic Places or a contributing resource in a historic district listed or eligible for listing in the National Register of Historic Places;
    - c. Listed or eligible for listing in the Virginia Landmarks Register or a contributing resource in a historic district listed or eligible for listing in the Virginia Landmarks Register; or
    - d. Listed or eligible for listing as a heritage resource in the Loudoun County Historic Register; or
    - e. Designated as a Loudoun County Historic Site or is a contributing resource in a Loudoun County Historic and Cultural Conservation District pursuant to Section 4.07.
  2. The building or structure is located in a Village Conservation Overlay District (VCOD) pursuant to Section 4.06, is located in a Rural Historic Village or Legacy Village Core as designated by the General Plan, or is subject to a village small area plan.
  3. The building or structure is greater than 50 years old, and the prior use or uses in the building or structure are obsolete or economically nonviable.

- a. In making a finding that the prior use or uses are obsolete or economically nonviable, the Zoning Administrator must consider the structure's or building's:
    1. Past and current vacancy rate;
    2. Existing and previous uses;
    3. Structural condition;
    4. Flexibility for retrofitting the new use; and
    5. Real estate market information.
  - b. The Zoning Administrator must also determine whether the property is eligible for listing as a national, state, or local historic resource pursuant to Sections 5.09.A.1.b., c, or d.
    1. If the property is eligible for listing as a national, state, or local historic resource, then Section 5.09.B.1. applies.
  - c. The applicant may be required to submit independently verified documentation completed by one or all of the following professionals:
    1. To demonstrate a prior use or uses in a building are obsolete or economically nonviable, documentation must be completed by a market research firm, real estate development firm, or other entity qualified to conduct and research market analysis, demographic trends, competitive analysis, and/or real estate feasibility studies.
    2. To demonstrate structural condition and/or flexibility for retrofitting new uses, documentation must be completed by an architect and/or engineer.
      - a. If the building or structure is eligible for adaptive reuse pursuant to Section 5.09.A.1. the documentation must be provided by a person meeting the Secretary of Interior Standards minimum professional qualifications in historic architecture, architecture, or architectural history.
    3. To demonstrate eligibility for listing as a national, state, or local historic resource, documentation must be completed by person meeting the Secretary of Interior Standards minimum professional qualifications in architectural history, history, or archeology.
  4. The building or structure is located in a Priority Commercial Redevelopment Area or qualifies as a redevelopment project pursuant to Section 5.0x.
- B. Standards.** Adaptive reuse projects must comply with the requirements of this Zoning Ordinance, except as set forth in Sections 5.09.C. and D below, and must comply with the following:
1. If the building or structure meets the applicability requirement of Section 5.09.A.1., then the historic landscape associated with the building or structure must be protected to preserve the historic context of the resource by:
    - a. Locating any new parking to the side or rear of the building or structure;
    - b. Not constructing any building or structure additions on the primary façade or front elevation of the building;
    - c. Retaining existing features that contribute to the historic character of the property, such as native or specimen trees, historic plantings or gardens, walkways, walls, or other features, to the extent feasible. Repair of such features is permitted.
  2. Any additional parking, lighting, or signage requirements necessitated by the reuse of a historic building or structure must be scaled in a manner that is subordinate to the existing building or structure, and must be compatible with and not adversely impact the character of the surrounding landscape and development pattern.
    - a. Parking must also be screened pursuant to Section [5.07.06](#).



- b. Lighting must also be shielded pursuant to Section 5.08.05.
3. Expansions to the floor area of an eligible building or structure must comply with the standards of the zoning district where it is located.
- C. **Permitted Uses.** Uses are permitted in accordance with Table 5.09-1 in any building or structure eligible for adaptive reuse pursuant to section 5.09.A., except that no new uses that emit noxious odors or excessive noise will be permitted, unless the applicant demonstrates that the use will not negatively impact nearby dwellings.

**Table 5.09-1. Uses Permitted as Adaptive Reuse**

Current District	Permitted as Adaptive Reuse
District permitting residential uses, except districts that permit only single-family detached (SFD) dwelling unit types	100% affordable housing regardless of the dwelling unit classification permitted in the district provided the dwelling units meet the ADU or UHNU affordability requirements of Chapter 8
District permitting SFD, single-family attached (SFA), and/or multifamily (MF) stacked dwelling units	SFD dwelling unit converted to up to 4 dwelling units or 4 live/work dwellings
Any district	Public, Civic, Institutional Uses, except for the following uses: Hospital; Pet Farm; Recreation, Indoor; Recreation, Outdoor or Major; and Shooting Range
Any district	Lodging Uses
Any district	Commercial Uses, except for the following uses: Kennel; Kennel, Indoor; Dry Cleaning Plant; Convenience Store with Gasoline Sales; and all Automotive uses
Underlying Zoning District located in an HPO, VCOD, or designated by the General Plan as a Rural Historic Village or Legacy Village Core or subject to a village small area plan	A use permitted by special exception in the district will be permitted by right, except for the Public, Civic, Institutional Uses, Lodging Uses, and Commercial Uses identified as not permitted above.

**D. Adaptive Reuse Incentives.** In addition to nonconforming lot or structure allowances pursuant to Chapter 9, projects that are eligible for adaptive reuse under 5.09.A are entitled to the incentives set forth in Table 5.09-2. Incentives with a plus mark (+) in the Existing Floor Area column apply to the existing floor area of the building or structure. Incentives with a plus mark (+) in New Floor Area column apply to the floor area that is added to a building or structure.

**Table 5.09-2. Adaptive Reuse Incentives**

Incentive	Existing Floor Area	New Floor Area
<b>Rear Yards.</b> Additions may encroach into a required rear yard by up to 25% or to within 15 feet of the rear property line, whichever is greater. This encroachment is permitted to occur 1 time after the adoption date of this ordinance or upon adaptive reuse of the building or structure, whichever is first.		+
<b>Density.</b> Single-family detached, single-family attached, and multifamily stacked dwelling units and live/work units are not subject to the maximum dwelling unit per acre density requirements of the zoning district or proffered rezoning.	+	
<b>Floor Area Ratio (FAR).</b> Regardless of whether an adaptive reuse is for residential or nonresidential purposes, floor area may exceed the permitted FAR by up to 33%. Mezzanines are not included in the calculation of floor area for the purpose of determining compliance this with the standard, provided use of a mezzanine does not add a new dwelling unit. FAR only applies when the building to be adaptively reused was or would have been previously subject to the FAR requirement.	+	+
<b>Open Space.</b> Existing lots that do not conform to the open space requirements of the applicable zoning district are permitted.	+	+
<b>Off-Street Parking.</b> The required number of parking spaces must be the lesser of the number of spaces that existed on the site as of the adoption date of this ordinance, or the minimum number of spaces required by Section 5.06. Once established, the number of spaces must be maintained and not reduced. Adaptive Reuse projects are otherwise exempt from the parking standards of Section 5.06, except that parking reductions pursuant to Section 5.05.09 are encouraged to reduce parking below the minimum requirement.	+	

Table 5.09-2. Adaptive Reuse Incentives		
Incentive	Existing Floor Area	New Floor Area
<b>Loading Space.</b> If no loading spaces exist, then a loading space is not required in conjunction with the development of an Adaptive Reuse project. Where an existing loading space is provided, the requirements of Section 5.05.10 (Loading Standards) apply.	+	
<b>Site Plan Review.</b> The application fee for site plan review of Adaptive Reuse projects of less than 3,000 square feet of gross floor area and located in a VCOD, Rural Historic Village, or Legacy Village will be waived.	+	

Draft 1/12/22

## 5.10 Homeowner's Association Standards

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**Purpose.** *The purpose of Homeowner's Association Standards is to:*

- *Promote the public health, safety, and welfare.*
- *Provide consistent standards for the creation, operations, and management of a homeowner's association.*
- *Ensure that Loudoun County is able to identify and contact a responsible homeowner's association.*
- *Ensure the continued protection and availability of open space within a development when it is required to be provided and managed by a homeowner's association.*
- *Ensure a homeowner's association can effectively administer common open space or common elements in a development.*

**A. Homeowner's Association Requirements.**

1. Any homeowners association (HOA) must be compliant in its creation and operations with all applicable sections of the Code of Virginia. (provide applicable reference)
2. Any HOA must be compliant in its creation and operations with any applicable federal laws or regulations such as, but not limited to, the Fair Housing Act and the Americans with Disabilities Act.
3. An HOA must remain in compliance with any changes to state or federal laws or regulations affecting its operation and/or rights or responsibilities, through a process ensuring members and other affected parties' participation.
4. Any time an HOA amends its regulations or bylaws, it must notify all members and provide sufficient opportunity for members participation in the amendment process.
5. Any time an HOA amends its regulations or by laws, it must notify Loudoun County of its intentions prior to amendment and provide a copy of the approved amendments within xx days of approval. The amendments must allow the HOA to remain in compliance with all applicable sections of the Code of Virginia and all applicable federal laws and regulations. When amendments are approved all members must be provided information about the specific changes as well as where the documents are located and can be reviewed.
6. An HOA must be provided the mechanism and authority to enforce development requirements.
7. An HOA may also be known as a property owners association or a common interest community association.
8. Up to date contact information for the HOA must be provided to the County with any application for addition, approval or modification affecting any land area subject to the HOA jurisdiction. Up to date contact information must be provided to the County whenever it changes.

**B. Rights and Responsibilities.**

1. The HOA must have the right and responsibility stated in its incorporation documents and bylaws to maintain the following areas or improvements:
  - a. Common open space areas within the development that are not part of an individual lot;
  - b. Lot(s) owned by the HOA;
  - c. Private roads, if any, within or serving the development, unless the private roads are maintained pursuant to a private road maintenance agreement.
  - d. Communal water and/or sewage disposal systems, unless the communal water and/or sewage disposal system is maintained by LCSA or a public water or sewer utility as defined in Chapter 10.1 or 10.2 of Title 56 of the Code of Virginia.
  - e. Any stormwater management facilities or areas;
  - f. Fire protection pond(s), dry mains, or other improvements;

- g. Such other common facilities or improvements as may be designated in the HOA bylaws;
- h. Any other common facility or area not included in the list above that is available to all members of the HOA; and
- i. The HOA may have other responsibilities or activities not required or regulated by the zoning ordinance as long as they do not conflict with its required responsibilities or this ordinance

## C. Applicability.

1. An HOA is required for any new development or subdivision with common elements or common open space as described in the district standards or defined in Chapter 11.
2. All common open must be preserved and protected by the HOA for its intended purpose as expressed in the Concept Development Plan.
3. The developer must finally determine and make known the choice of an HOA to administer common open space or common elements prior to approval of the first record plat or final site plan.
4. If an HOA is to be established, the landowner must submit documents for the creation of the HOA to the County for review and approval, including:
  - a. Bylaws;
  - b. All documents governing ownership, maintenance, and use restrictions for common areas;
  - c. A legal description of such areas; and
  - d. A description of restrictions placed upon the use and enjoyment of the land.

## D. Establishment.

1. The HOA must be formally established prior to approval of the first record plat or final site plan in the proposed development. The documents establishing such organization must be reviewed and approved by the County.
2. The HOA must be a non-profit association, corporation, trust, or foundation of all owners of residential property within the planned development.
3. The HOA must conform to the following requirements:
  - a. Membership in the HOA must be mandatory for all residential property owners, present or future, within the planned community and said HOA must not discriminate in its members or shareholders.
  - b. The organization must manage, maintain, administer, and operate all open space and improvements and other land not publicly or privately owned and must secure adequate liability insurance on the land and such improvements.
  - c. Sales brochures or other literature and documents provided by the seller of all lots within the development must include information regarding membership requirements and HOA responsibilities.
  - d. HOA documents must provide for adequate initial funding and assessments to fund the maintenance of common property and improvements.

*Definition to be moved to Chapter 11, Definitions:*

**Homeowners' Association:** A nonprofit organization operating under recorded land agreements through which: (a) each lot and/or homeowner in a clustered or planned development is automatically a member, and (b) each lot is automatically subject to a charge for a proportionate share of the expenses for the organization's activities, such as maintaining a common property, and (c) the charge if unpaid becomes alien against the property.

## 5.11 Visibility at Intersections

**Purpose:** The purpose of the Visibility at Intersections Standards is to:

- Protect all users of the transportation network from traffic hazards by preventing or removing impediments to visibility.
- A. **Applicability.** Public road intersections under the design, construction, or maintenance jurisdiction of VDOT are subject to VDOT standards regarding sight distance at intersections regardless of consistency with the requirements stated here.
- B. **Standards.** For the protection against traffic hazards of all users of the transportation network, including pedestrians and cyclists, and when VDOT does not exercise jurisdiction, no impediment to visibility is to be placed, allowed to grow, erected, or maintained within the area described below, which is known as the *Visibility Triangle*:
1. **At Street Intersections.** There will be 2 Visibility Triangles at the intersection, 1 to the left and 1 to the right. The apex of each Visibility Triangle is the point where the street rights-of-way intersect. The sides of each Visibility Triangle are the portions of the right-of-way lines extending from the apex along each right-of-way and are each 25 feet in length. The base of the Visibility Triangle runs through the lot and connects the ends of each side line. Material impediment to visibility within the Visibility Triangle must not exceed 3 1/2 feet in height. See the illustration below. (Insert illustration titled Visibility Triangle for Street Intersections here)
  2. **At Driveway or Alley Intersections With Streets.** There will be 2 Visibility Triangles at the intersection, 1 to the left and 1 to the right. The apex of each Visibility Triangle is the point at the intersection of the street right-of-way line with the edge of the driving surface of the driveway or alley (nearest to the approaching traffic lane, delete?) The side of the Visibility Triangle coterminous with the street right-of-way line is 25 feet in length, the side of the triangle coterminous with said edge of the driveway or alley is 20 feet in length. The base of the Visibility Triangle runs through the lot and connects the ends of each side. Material impediments to visibility must not exceed 2 feet in height. See the illustration below. (Insert illustration titled Visibility Triangle for Driveway or Alley with Streets here)
  3. **At Pedestrian/Bicycle Network Intersections With Streets.** Where a pedestrian/bicycle network trail provides access to a public or private street, visibility triangles as described above must be established. Material impediments to visibility must not exceed 2 1/2 feet in height above the level of the center of the street.
  4. **Exceptions.** Where terrain features present substantial obstacles to provision and maintenance of such Visibility Triangles, the Zoning Administrator may permit the provision and maintenance of lesser visibility clearance, but such clearance must be the maximum that is reasonably practicable to provide and maintain. The provisions of (A), (B) or (C) above do not apply in County designated historic districts if the Historic District Review Committee (HDRC) finds that a waiver of said provisions is necessary to maintain the integrity of the historic district, and vehicular and pedestrian safety is maintained.

## 5.12 Road Access Standards

**Purpose.** *The purpose of the Road Access Standards are to:*

- *Provide consistent road access standards that are appropriate for the type and location of development.*
  - *Provide consistent road access standards that are appropriate for the place type to implement the General Plan.*
  - *Ensure that all new development will be accessible to and from public and private roads that are safe and serve their intended purpose.*
- A. **Applicability.** All new development proposed, submitted, or approved after the effective date of this ordinance must comply with the standards regarding frontage and access contained in 5.01.x. -5.01.x requires that all structures that require building permits to have frontage and access to a public road regardless of whether that ordinance section is specifically referenced in the district or not.
- B. Roads serving any uses other than single family attached (SFA) townhouse or multifamily (MF) stacked or attached dwelling units or roads within the UT/UM, UE, and SM zoning districts must be designed and constructed to Virginia Department of Transportation (VDOT) standards for inclusion in the state highway system.
- C. **Private Streets.** Roads serving SFA townhouse and MF stacked or attached dwelling units only, or roads within the UT/UM, UE, or SM zoning districts may be private provided the following conditions are met:
1. The roads are designed and constructed to private streets standards set forth in the Facilities Standards Manual (FSM).
  2. All lots served by the private road must be subject to a recorded covenant expressly requiring private maintenance of such road in perpetuity and the establishment, commencing with the initial record plat, of a reserve fund for repairs to such road.
  3. The record plat and protective covenants for such development must expressly state that the County and VDOT have no, and will have no, responsibility for the maintenance, repair, or replacement of private roads.
  4. The protective covenants must identify the mechanism and entity that will have responsibility to monitor and administer the maintenance and repair if the affected private roads or access easements.
  5. Sales brochures or other literature and documents, provided by the seller of lots served by such private roads, must include information regarding responsibility for maintenance, repair, replacement, and covenants pertaining to such lots, including a statement that the County has no and will have no responsibility for the maintenance, repair, or replacement of private roads.
  6. When the use of private roads or private access easements is not allowed by right or owner choice and must receive approval for access to new lots or uses as an exception to 5.01, that approval must be in conjunction with approval of the Board of Supervisors of a PD District pursuant to Section 2.06, ZMAP.
    - a. In those applications, the applicant must demonstrate how permission to use private streets will accomplish the purpose of the district and produce development that is consistent with General Plan place types.
    - b. The use of private streets approved by the BOS as part of a ZOAM or SPEX approval must meet the same requirements as if permitted by this ordinance pursuant to the requirements of (B) above and any additional conditions or standards accompanying the approval.
- D. **Lot Access Requirements.** All structures requiring a building permit must be erected upon a lot that has frontage and access onto a Class I, Class II or Class III road as defined herein and collectively referred to as public roads or onto a private road or private access easement as specified in the individual district regulations, except as specifically provided for herein and the Land Subdivision and Development Ordinance (LSDO).

1. New access points (private or public) to arterial or major collector roads shall be limited to locations at existing median breaks, planned median breaks or other locations approved by Loudoun County or VDOT.
- E. **Access Limitation for Route 50.** Direct access to Route 50 in any zoning district will only be permitted as follows:
1. Only if the property owner can demonstrate that the subject property does not have legal access to any public road other than Route 50 and does have legal access to the location of a planned Route 50 Parallel Road, as shown on the Countywide Transportation Plan (CTP), as amended, and
  2. Provided that such access, if permitted, is limited to right-turn-in and right-turn-out entrances to and from Route 50 only as approved by VDOT, and
  3. Prior to approval of a site plan for these uses, property owners must execute and record an instrument, in a form as reviewed and approved by the County, which obligates such owner and successors to relinquish all such direct access rights and close off all direct access to Route 50, at no cost to the County or VDOT, or permit the County or VDOT to close off all direct access without compensation, when alternative access to the site becomes available via a public or private street adjacent to the owner's parcel or via other means, such as an available private access easement that provides access to any such public or private street.
- F. **Use Specific Road Access Standards.** When a Use Specific Standard is applicable as indicated in 3.06 and that use specific standard expressly references road access standards, the following road access standards apply. All FSM provisions regarding waivers apply.

**TABLE 5.12: ROAD ACCESS STANDARDS**

Maximum Vehicle Trips Per Day (VTD) <sup>(1)</sup>	Onsite Private Road Construction Standards	Public Road Access	
		Public Paved Road Standards <sup>(2)</sup>	Public Unpaved Road Standards <sup>(2)</sup>
1 - 20 VTD	FSM Chapter 4, Table 3, Type C1 Roadway	Permitted	Permitted
21 - 70 VTD	FSM Chapter 4, Table 3, Type C2 Roadway	Permitted	Permitted
71 - 250 VTD	FSM Chapter 4, Table 3, Type C3 Roadway	Permitted	Permitted
251 - 600 VTD	FSM Chapter 4, Table 1, Type A1 Roadway	Permitted	Special Exception Review required ( <a href="#">Section 6-1300</a> )
More than 600 VTD	FSM Chapter 4, Table 1, Type A1 Roadway	Special Exception Review required ( <a href="#">Section 6-1300</a> )	Special Exception Review required ( <a href="#">Section 6-1300</a> )

<sup>(1)</sup> VTD as determined by traffic study if required or as estimated based on proposed use and most current edition of ITE [Trip Generation Rates](#) or an approved substitute

<sup>(2)</sup> Characteristics of the first public road accessed by project's private access road



## 5.14 Rural Hamlet

**Purpose.** *The primary purpose of the Rural Hamlet Option is to provide an alternative to conventional A-3 and A-10 district subdivision in rural areas. Such clustered development is intended to better harmonize rural development with surrounding agricultural activities recognizing that it is the County's primary goal to preserve and enhance farming and farmland in rural Loudoun by the most feasible, effective, and equitable methods available. This option is intended to conserve agricultural, forestal and open space land, historic and natural features at the time that such land realizes the development potential currently allowed in the agricultural zoning district. Such clustered development is intended to permit the compact grouping of homes located so as to blend with the existing landscape, such as the rise and fall of the topography, hedgerows and wooded areas, and to preserve to a greater extent the agricultural, forestal and visual character of the landscape.*

- A. **Rural Hamlet Permitted.** Rural hamlets are permitted in the A-3 and A-10 districts. The A-3 and A-10 district regulations apply to the extent not in conflict with the regulations contained herein.
- B. **Rural Hamlet Defined.** A rural hamlet is characterized by the configuration of all or a portion of the density permitted on a tract of land under the district regulations, into a grouping of small residential lots on a portion of the tract. More than one rural hamlet may be located on a tract. A rural hamlet may consist of the following categories of land:
  - 1. **Hamlet Lots.** Smaller residential lots located in a contiguous group, with adjacent and fronting lots oriented towards each other as on a street, a green or a paved square. No fewer than 5 and no more than 25 hamlet lots may be grouped together as a rural hamlet. Hamlet lots must have a designated building area. All land not designated as building area, private access easements, and road rights-of-way must be placed in a permanent open space easement.
  - 2. **Open Space.** Residual land, excluding the building area of hamlet lots and conservancy lots, contiguous to a rural hamlet, which is subject to a permanent open space easement.
  - 3. **Hamlet Green/Square.** Land located in the interior of a rural hamlet, owned in common by hamlet lot owners and which is in a permanent open space easement.
  - 4. **Conservancy Lots.** A lot, excluding the hamlet lots, open space and/or hamlet green/square, which will remain as large parcel(s), the bulk of which is in permanent open space easement and a portion of which is designated a building area.
- C. **Uses.** The following uses are permitted within the various categories of rural hamlet land. These uses supersede the permitted, minor special exception, and special exception uses that would otherwise apply in the underlying zoning district regulations.
  - 1. **Building Area of Hamlet Lots and Conservancy Lots.**
    - a. **Permitted Uses.** The following uses are permitted in the Building Area of Hamlet Lots and Conservancy Lots:
      - 1. Dwelling, single family detached.
      - 2. Bed and breakfast homestay, pursuant to [3.06.03.01](#).
      - 3. Guest house.
      - 4. Child Day Home, pursuant to Section [3.06.04.08](#).
      - 5. Water supply systems.
      - 6. Wastewater disposal systems.
      - 7. Accessory uses and structures, pursuant to Section [3.04](#).
      - 8. Accessory dwelling (accessory to single family detached dwelling), pursuant to Section [3.06.02.01](#).

9. Telecommunications antenna, pursuant to Section [3.06.07.07.B](#).
2. **Open Space.** All areas of the tract of land devoted to the Rural Hamlet Option other than the building area of hamlet lots and conservancy lots and road rights-of-way, are subjected to a permanent open space easement. Such open space may be used for the following uses:
  - a. **Open Space Permitted Uses.** The following uses are permitted in open space:
    1. Agriculture, horticulture, forestry, and fishery uses including barns, stables, and other structures accessory or incidental to such uses.
    2. Conservation of open land in its natural state, i.e., woodland, fallow fields, grasslands, wetlands, floodplains, and the like.
    3. Passive open space or passive recreation, including but not limited to trails, picnic areas, and community gardens.
    4. Active recreation space, including golf courses.
    5. Equestrian uses of any kind.
    6. Easements and improvements for drainage, access, sewer or water lines, or other public purposes.
    7. Stormwater management facilities for the proposed development or for a larger area in compliance with a watershed stormwater management plan.
    8. Water supply systems.
    9. Accessory uses, such as swimming pools, tennis courts, and other accessory uses and structures pursuant to Section [3.04](#).
    10. Sewage disposal systems.
    11. Telecommunications antenna, pursuant to Section [3.06.07.07.B](#).
  - b. **Common Open Space Permitted Uses.** The following uses are permitted in common open space owned by a Homeowners' Association (HOA):
    1. All Open Space Permitted Uses as provided in Section 5.15.C.2.a.
    2. Nursery, Production, with frontage on a state maintained road, pursuant to Section 5-605.
    3. Pet Farm, pursuant to Section 5-627.
    4. Stable, Private, pursuant to Section 5-627.
    5. Stable, Livery, with frontage on a state maintained road, pursuant to Section 5-627.
    6. Tenant Dwelling, pursuant to Section [3.06.02.09](#), accessory to agriculture, horticulture or animal husbandry uses.
    7. Wayside Stand, pursuant to Section [3.06.08.05](#), accessory to agriculture, horticulture or animal husbandry uses.
  - c. **Open Space Special Exception Uses.** The following use may be approved in open space by the Board of Supervisors, and if approved, may be subject to certain conditions pursuant to Section [7.09](#).
    1. Telecommunications monopole, pursuant to Section [3.06.07.07.C.2](#).
  - d. **Common Open Space Special Exception Uses.** The following uses may be approved in common open space owned by a HOA by the Board of Supervisors, and if approved, may be subject to certain conditions pursuant to Section [7.09](#).
    1. Agricultural Processing, pursuant to Section 5-627, accessory to agriculture, horticulture or animal husbandry uses.
    2. Arboretum, pursuant to Section [3.06.05.05](#), accessory to agriculture, horticulture or animal husbandry uses.

3. Child Day Care, pursuant to Section 3.06.04.08.C, restricted for the use of homeowner association members.
4. Farm Market, on-site production, pursuant to Section 5-603.
5. Nursery, Production, without frontage on a state maintained road, pursuant to Section 5-605.
6. Stable, Livery, without frontage on a state maintained road, pursuant to Section 5-627.
7. Telecommunications monopole, pursuant to Section 3.06.07.07.C.2.

D. **Minimum Tract Size.** A rural hamlet must be located on a tract, or portion thereof, at least 40 acres in size.

E. **Lot Requirements.**

1. **Hamlet Lot.**

- a. **Lot Size.** 10,000 sq. ft. minimum. 3 acres maximum.
- b. **Building Area.** 5,000 sq. ft. minimum. 15,000 sq. ft. maximum.
- c. **Lot Width.** 64 feet minimum. 150 feet maximum.
- d. **Length/Width Ratio.** 6.0:1 maximum.
- e. **Front Yard.** 6 feet minimum. 40 feet maximum, provided that all principal buildings must be located so that the maximum deviation for adjacent front facades must not exceed 15 feet, and provided further that this maximum Front Yard requirement does not apply to lots located within subdivisions approved under the zoning ordinance in effect prior to June 16, 1993, and subject to the provisions of Section 5.01.E.1 of this Ordinance.
- f. **Rear Yard.** 20 feet minimum.
- g. **Side Yard.** 8 feet minimum.
- h. **Building Height.** 35 feet maximum.
- i. **Building side yard restriction line.** Dwellings, guest houses, garages, and other such structures must not trespass into minimum side yards. However, detached garages located at the rear of a lot (i.e., behind the rear building line) and attached to a similar garage on a contiguous lot may be located within the side yard setback.

2. **Hamlet Green/Square.** Maximum distance between building areas of cluster lots facing across a hamlet green/square: 350 feet.

3. **Conservancy Lots.** Conservancy lots must meet the dimensional standards of Table 5.15.E.3-1.

**Table 5.15.E.3-1. Dimensional Standards for Conservancy Lots.**

		<b>A-3 District</b>	<b>A-10</b>
1	<b>Lot Size.</b>	10 Acres min.	30 Acre min.
2	<b>Lot Width.</b>	300 ft. min.	500 ft. min.
3	<b>Length/Width Ratio.</b>	5:1 max.	5:1 max.
4	<b>Building Area.</b>	7,500 sq. ft. min.	15,000 sq. ft. min.
5	<b>Front and Side Yard</b>	25 feet min.	
6	<b>Rear Yard.</b>	20 feet min.	
7	<b>Building Height.</b>	35 feet max.	

F. **Determination of Density.** The potential number of hamlet and conservancy dwelling units must be based on either of the following, at the option of the landowner:

1. In the A-3 District, 1 dwelling unit per 5 net acres. In the A-10 District, 1 dwelling unit per 10 acres.

2. The number of dwelling units permitted at a minimum lot size of 3 or 10 acres in the A-3 or A-10 zoning districts respectively is based on topography, floodplain, and availability of septic drainfields.
  - a. Drainfields must be submitted to the Loudoun County Health Department for approval in accord with the Land Subdivision and Development Ordinance (LSDO).
3. For each conservancy lot of 50 acres or greater in size, 1 additional dwelling unit must be included in the determination of density.

## G. Open Space Requirements.

1. **Minimum Open Space.** The minimum amount of land in a Rural Hamlet devoted to open space and subject to permanent open space easements must be greater than 85% of the total land area in the Rural Hamlet.
  - a. All land not designated as building areas, private access easements, and rights-of-way for roads must be permanent open space.
2. **Minimum Open Space Widths Surrounding the Hamlet.** A minimum width of land in open space surrounding a hamlet must be provided as follows:
  - a. 200 feet width of land between the outside boundary of hamlet lot building areas and the tract boundary.
  - b. 800 feet between the hamlet lot building area boundaries of 2 hamlets on the same tract.
  - c. Reduction of these dimensions may be permitted by the Board of Supervisors (see 5.15.K), upon recommendation of the Planning Commission, based upon a finding that due to the topography, forestation, or presence of prime agricultural soils or environmentally sensitive areas, such reduction will preserve rural vistas, preserve farmland, screen dwellings from existing roads or adjacent properties, or preserve environmentally sensitive areas.
3. **Maximum Hamlet Building Area Depth.** The outside boundaries of the building areas of hamlet lots facing one another across a street must not exceed 300 feet. The outside boundaries of the building areas of hamlet lots facing one another across a hamlet green/square must not exceed 550 feet.

## H. Utilities and Public Facilities Requirements.

1. **Water.** Hamlet lots must be served either by:
  - a. Individual wells on or off each lot, or
  - b. A communal water system constructed by the developer, or
  - c. A municipal water system if located within an area designated for such connection in the Comprehensive Plan, or
  - d. Connection with an existing rural village, rural hamlet or other public water system.
  - e. All water systems must comply with applicable town, County, State, and/or LCSA standards and requirements, including a commission permit if required by applicable law. As for (a) and (b) above, the Health Department approval of both a safe and adequate water supply system and designated backup well sites based on hydrogeological studies, must be a precondition to recordation of a record plat establishing a rural hamlet.
2. **Wastewater.** Hamlet lots must be served either by:
  - a. Individual septic tank drainfields located on or off the lot, or
  - b. A communal wastewater treatment system constructed by the developer, or
  - c. A municipal wastewater system, if located within an area designated for such connection in the Comprehensive Plan; or
  - d. Connection with an existing rural village, rural hamlet or other public wastewater treatment system.
  - e. All wastewater systems must comply with applicable town, County, State, and LCSA standards and requirements, including a commission permit if required by applicable law.

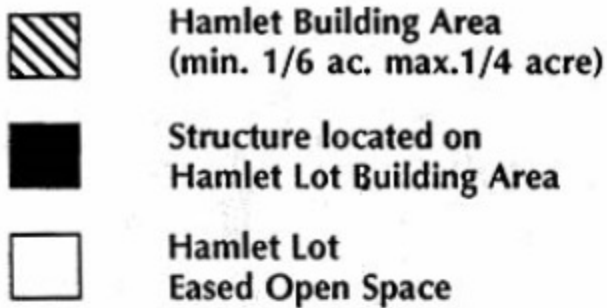
3. **Fire Protection.** Every hamlet must satisfy the fire protection standards set forth in the Facilities Standards Manual, or if no such standards are in effect, shall have all weather access road for a pump truck to an adequate pond with a water withdrawal main or to a water tank of sufficient capacity for fire protection.
  4. **Roads.** Access to hamlet lots must be provided as follows:
    - a. 7 rural hamlet lots or less may be served by a private access easement.
    - b. 25 rural hamlet lots or less may be served by a VDOT fixed generation, tertiary Class II road.
    - c. All other roads must be VDOT Class II roads.
    - d. All other Rural Hamlet roads must be built to VDOT secondary road standards.
    - e. Roads serving 2 or more hamlets, with a combined traffic loading exceeding 250 vehicles per day, must generally have 2 access points to the existing rural road network.
      1. The Planning Commission may waive the 2 access requirement upon finding special topographic or other circumstances which preclude implementation, but may in this eventuality require alternative configurations of road design, such as a divided median.
      2. Further, the Planning Commission may waive the public road standards, thereby allowing up to 25 rural hamlet lots to be served by private access easements, should the Planning Commission find that the waiver provisions contained in this section are met.
        - a. This alternative roadway design option must be requested as part of the subdivision application, and is not permitted to be granted for the sole purpose of circumventing the previously referenced public roadway design criteria.
        - b. In reviewing any proposed waiver, the Planning Commission must consider the following:
          - A. Whether granting of the proposed waiver will adequately provide for access by public safety service (police, fire and rescue services).
          - B. Whether granting of the proposed waiver will protect to the greatest extent possible topographic or physical, natural, scenic, archaeological or historical features of significant importance.
          - C. Whether the granting of the proposed waiver will be in the public's best interest, specifically with regard to future road maintenance considerations.
          - D. Whether the granting of the proposed waiver will meet engineering standards with regard to steep slopes, storm water control, drainage, soil erosion control; mitigate floodplain impacts; assure adequate dust control measures; and will minimize, to the greatest extent possible, the impact on water and air quality on adjoining properties.
          - E. Whether the granting of the proposed waiver will facilitate orderly and safe road development.
          - F. Whether the granting of the proposed waiver will minimize the impact of traffic on the existing roadway network.
          - G. Waiver requests must be considered by the Planning Commission at a public meeting held within 60 days of receipt of such request.
  5. **Parking.** Every hamlet lot must include sufficient parking (which may or may not be paved) to accommodate 4 cars.
- I. **Homeowners' Association.**
1. Each rural hamlet or group of rural hamlets comprising a common development must have an incorporated HOA, which must have the right and responsibility to maintain the following areas and improvements:
    - a. Common open space.

- b. Private roads, if any, within or serving the rural hamlet.
    - c. Any stormwater management ponds or areas,
    - d. Fire protection pond, dry mains, or other improvements; and
    - e. Such other common facilities or improvements as may be designated in the HOA Bylaws.
  2. Easements for septic drainfields and wells located off of the lot must be established at the time of the record plat for such lot, and shall run to the benefit of the lot served. The responsibility for maintaining or replacing such septic fields or wells shall be borne by the lot owner served by such easement.
  3. The permanent open space easement required in the rural hamlet must be enforced by the County. Such easement must be in a form approved by the County, and shall provide that, notwithstanding such easement, the eased portion of conservancy lots or hamlet lots shall be maintained by the owners of such lots, and that the County should bear no responsibility or liability for such maintenance. However, nothing contained herein shall prevent such landowners from leasing such open space for agricultural or other purposes as allowed in Section 5.15.C.2.a and c.
  4. The HOA documents must be submitted as part of the initial record plat application and must provide for adequate initial funding and assessments to fund the maintenance of common property and improvements.
  - J. **Plat and Deed Notations.** Record plats and deeds for rural hamlet subdivisions must include a statement that agricultural operations enjoy the protection of the Right to Farm Act, Va. Code § 3.2-300 et seq.
  - K. **Modification of Regulations.**
    1. Where there are conflicts between the rural hamlet provisions herein and the general zoning, subdivision, or other regulations and requirements, the rural hamlet regulations apply.
    2. In addition, the Board of Supervisors may allow reasonable modifications to other applicable regulations as follows:
      3. These other regulations serve public purposes to a lesser degree than the rural hamlet, or
      4. The designs or solutions proposed by the applicant, although not literally in accord with these other regulations, satisfy public purposes to a greater degree, or
      5. The strict implementation of these other regulations would prevent well designed rural hamlet development.
- Such modifications may be granted by the Board of Supervisors by special exception pursuant to Section 7.09. Such modifications may be sought prior to filing a preliminary plan of subdivision. The landowner must include a sketch plan of the proposed hamlet as part of the application for modification and must demonstrate the reasons for the request.
- L. **Advisory Rural Hamlet Siting and Design Guidelines.** Loudoun County recognizes that every rural hamlet design will be a custom response to the unique assets and constraints of each tract. As a consequence, the County has only incorporated in the Rural Hamlet Ordinance those siting and design rules required to preserve open space and to allow the clustering of dwellings. However, the County does wish to encourage design consistent with Loudoun's past in rural Loudoun and appends the following general design guidelines as a suggestion to rural hamlet designers.
  1. **Siting.** Rural hamlets should be sited so as to nestle, or blend in a subordinate way, into the existing landscape. Rural hamlets should not be placed on the crest of a ridge but rather should be located in a dip or depression or on the side of a hill.
  2. **Landscaping.** Rural hamlet designs should incorporate a mix of evergreen trees, generally located to the north and west for winter wind protection, and deciduous trees, located to the west and south, for summer shade. Given the time required for trees to attain maturity, existing stands of trees and hedgerows should be incorporated in the new hamlets whenever possible.



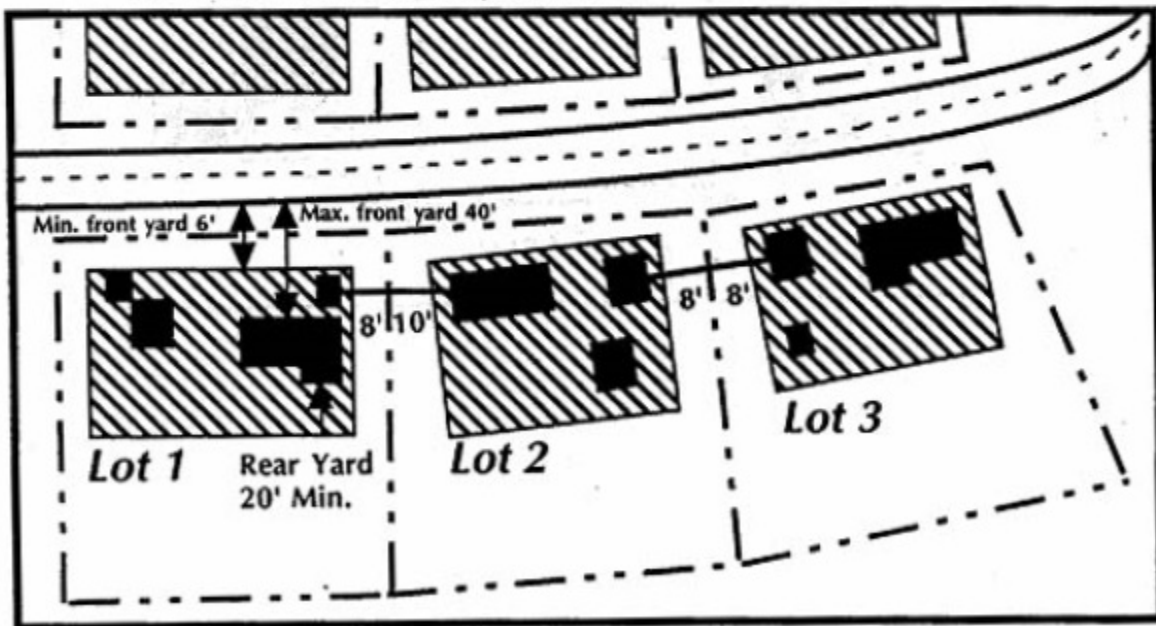
- a. New plantings of evergreen and deciduous trees should be native to the northern Piedmont, such as yellow poplar, northern red and white oak, hickory, white ash, black gum, hemlock, spruce, and eastern red cedar among others.
3. **Ground Modeling and Screening.** In those circumstances where natural contours, subsurface conditions and tract boundaries prevent discreet hamlet placement, hamlet designers should seek to reduce the development's apparent presence by locating earth berms near adjacent roadways and/or planting screens of trees adjacent to existing roads and tract boundaries.
4. **Grouping of Structures.** Dwellings in rural hamlets should be placed in proximity to one another and to common wells or facilities.

## Illustration of Hamlet Lot and Building Area



**NOTE:** For Illustrative Purposes only-

Refer to Ordinance Text for Requirements



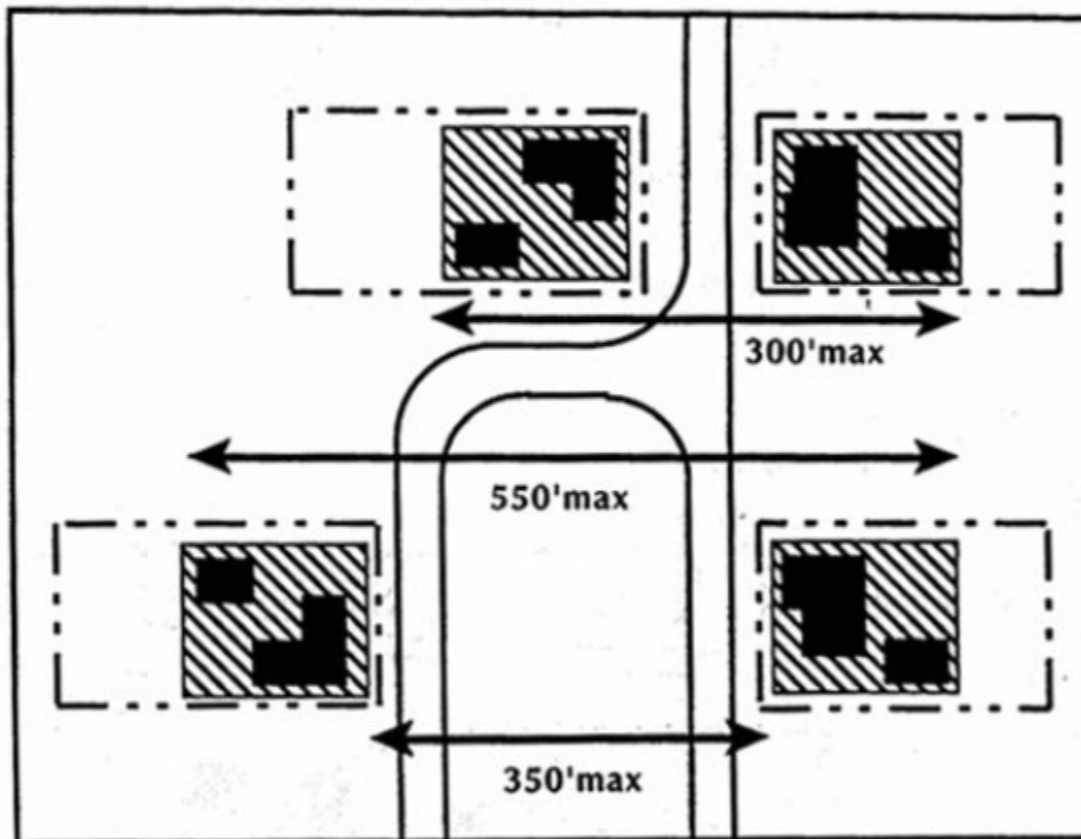
Minimum lot size 10,000 sq. ft.



**Example of Maximum Widths in Rural Hamlets**

*NOTE: For Illustrative Purposes only-*

*Refer to Ordinance Text for Requirements*



**Example of Hamlet Calculations and Ratios**

Figure 1. Hamlet Example Summary

88 ac. / 20 Hamlet and 2 Conservancy lots

90.34% All eased land

*NOTE: For Illustrative Purposes only-*

*Refer to Ordinance Text for Requirements*

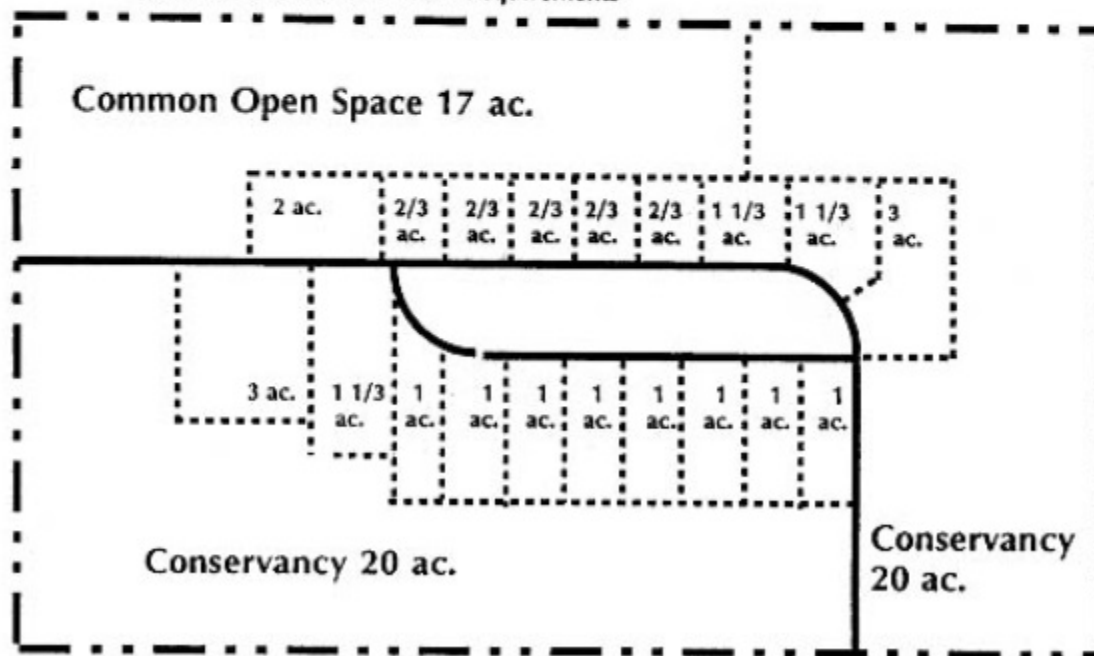


Figure 2. Illustrations of Eased Land and Building Areas in Hamlet



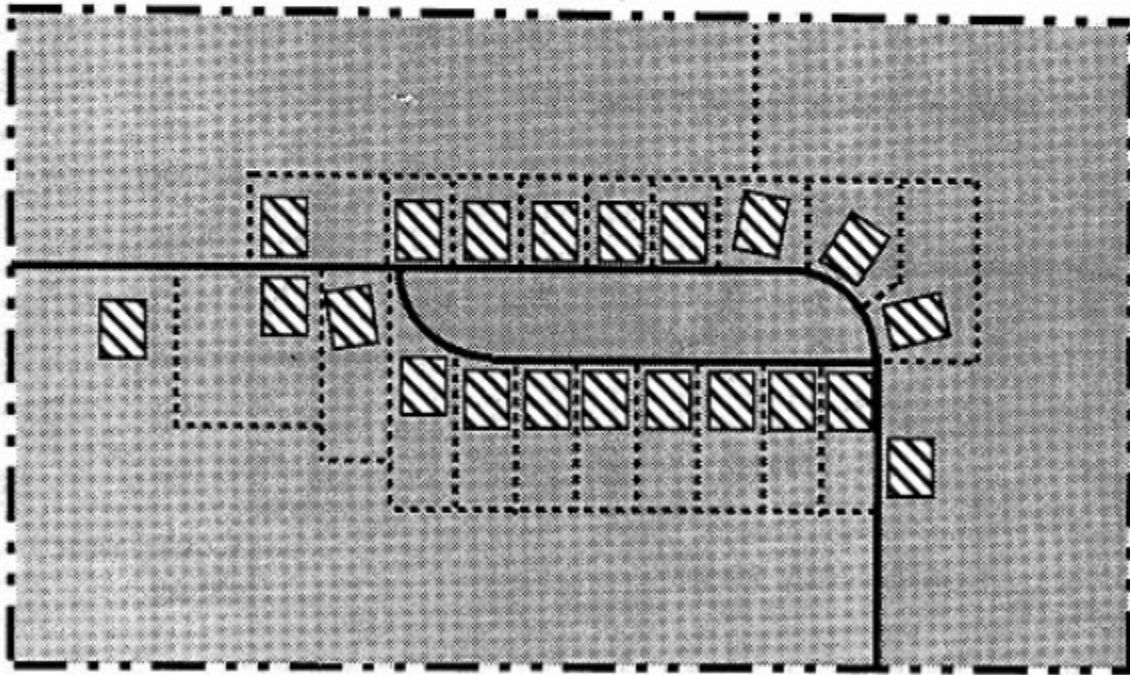
**Eased area of Conservancy  
and Hamlet Lots and Common Open Space**



**Designated Building Areas**

**NOTE: For Illustrative Purposes only-**

**Refer to Ordinance Text for Requirements**



## Application of Site Development Terms

~~1-103(D)(2), 1-205, 1-206, 1-207, 5-200, 2-102(F), 2-202(F)~~

~~(F)-~~ **Purpose.** *The purpose of this section is to:*

- ~~•~~ *Aid in the intended and desired interpretation of the requirements of this ordinance.*

~~Provide clarity and consistency in~~ **Minimum Lot Size Requirements.** ~~Each principal permitted use shall meet the minimum acreage requirement, where specified in the "Additional Regulations for Specific Uses" in Section 5-600 Use Specific Standards (Section 3.06), for that use. Where two or more principal uses are located on one parcel, the required parcel size is the larger of the two or more uses requirements, and not the sum of all the minimum lot sizes.~~

- ~~•~~ **Exemptions.** ~~The following uses are exempt from the application of this Ordinance~~ *site development terms.*
- ~~•~~ *2.-Ensure desired interpretation produces general plan place type.*

**A. Applicability.** ~~The requirements of this section apply to all applications and all land areas subject to the requirements of this ordinance unless exempted in paragraph B Exemptions below.~~

**B. Exemptions.** ~~The zoning district building height limitations of this Ordinance~~ **shall do** ~~not~~ apply to towers, gables, penthouses, scenery lofts, cupolas, barns, silos, farm buildings, residential chimneys, spires, flag poles, monuments or transmission towers and cables, telecommunications or data transfer antennas or other similar structures and necessary mechanical appurtenances; nor to any smokestack, water tank, radio, or television antenna or tower not exceeding in height the distance therefrom to the nearest lot line; provided that this height limitation ~~shall does~~ **shall** not apply to any of the above enumerated structures now or hereafter located on existing public utility easements.

### ~~1-205 Limitations and Methods for Measurements of Lots, Yards and Related Terms.~~

**C. Buffers.** ~~Notwithstanding this section of the Ordinance, required buffer yards~~ **as described in Chapter 5** ~~are a separate regulation in the Ordinance~~ **which that** ~~may require a different width than a required yard, setback, or building restriction line.~~

**A-D. Lot Access Requirements- (formerly 1-205(A)).** ~~No structure requiring a building permit~~ **shall is to** ~~be erected upon any lot~~ **which that** ~~does not have frontage on a Class I, Class II, Class III road, or private access easement as specified in the individual district regulations, except as specifically provided for herein and the Land Subdivision and Development Ordinance (LSDO).~~

- ~~1. New access points (private or public) to arterial or major collector roads~~ **shall must** ~~be limited to locations at existing median breaks, planned median breaks, or other locations approved by Loudoun County or VDOT.~~

### **E. Limitations and Methods for Measurements of Lots, Yards, and Related Terms.**

#### **1. Lots**

**a. Minimum Lot Size Requirements.** ~~Each principal permitted use must meet the minimum acreage requirement for that use specified in the district requirements or the minimum acreage requirement specified in the "Use Specific Standards" in Section 3.06, for that use, whichever is greater. Where two or more principal uses are located on one parcel, the required parcel size must be is the larger of the two or more uses requirements, and not the sum of all the minimum lot sizes.~~

#### **b. Limitation on the Number of Dwelling Units on a Lot.**

- ~~1. A maximum of one dwelling unit on any one lot is permitted.~~
- ~~2. A dwelling unit may not be located on the same lot with any other principal building. This provision does not preclude:~~
  - ~~a. Multifamily dwellings and stacked townhouse units as permitted by this Ordinance;~~

- b. Accessory uses or associated service uses as permitted by this Ordinance;
- c. Accessory living units in accordance with XXX;
- d. Single-family attached dwellings in a rental development;
- e. Condominium development; or
- f. Wireless facilities and associated support structures in accordance with subsection 4102.4.Y.

**B.c. Regular Lots, Width Measurements.** The width of a regular lot ~~shall~~must be determined by measurement across the rear of the required front yard. The distance between side lot lines at the points where they intersect with a street line ~~shall~~must not be less than eighty percent (80%) of the required width, measured along the street line. However, in cases where lots front on curved or circular (cul-de-sac) streets, the radii of which do not exceed ninety (90) feet, the distances between side lot lines where they intersect with the street line may be reduced to sixty percent (60%) of the required width, measured along the street line. Yards and street lines ~~shall~~must be measured along the arc of the curve for curvilinear yards and street lines. Lot width ~~shall~~must be measured only along continuous frontage facing one street. The minimum width of a lot on a private access easement ~~shall~~must be determined by measurement along the front yard around the private access easement extended into the lot.

**C.d. Regular Lots, Determination of Front Yard.**

1. On regular interior lots, the front ~~shall~~must be construed to be the portion nearest the street.
2. On regular corner lots, except as provided for in subparagraph (3) below, the front ~~shall~~must be construed to be the shorter boundary fronting on a street. If the lot has equal frontage on two or more streets, the front of the lot ~~shall~~must be determined and shown on the subdivision plat or site plan by the prevailing building pattern, or the prevailing lot pattern if a building pattern has not been established.
3. In an agricultural zoning district (A-3, A-10, AR-1, and AR-2), the front of the lot ~~shall~~must be determined and shown on the subdivision plat or site plan by the prevailing building pattern, or prevailing lot pattern if a building pattern has not been established, provided that the shortest boundary fronting on a street in an agricultural zoning district is eighty percent (80%) or more of the required lot width.
4. On regular through corner lots, the front ~~shall~~must be construed to be the shorter boundary fronting the street, provided that if the shortest boundary fronting on a street is eighty percent (80%) or more of the length of the longest boundary fronting on a street, the applicant may select either frontage if lot width requirements are met.
5. On regular through lots, unless otherwise determined by the Zoning Administrator due to the prevailing building pattern, the front ~~shall~~must be construed to be the shorter boundary fronting on a street. If the lot has equal frontage on two streets, the front of the lot ~~shall~~must be determined and shown on the preliminary and final subdivision plats and site plans by the prevailing building pattern, or the prevailing lot pattern if a building pattern has not been established.

**D.e. Regular Lots, Yards Adjacent to Street.**

1. Front yards of at least the depth required in the district ~~shall~~must be provided across the entire frontage of a regular lot.
2. Other yards adjacent to streets ~~shall~~must be provided across or along the entire portion of the lot adjacent to the street.



3. Street line for measurement of required yards adjacent to streets. Where the lot line adjacent to a street is straight, required yards ~~shall~~must be measured from such line, extended in the case of rounded corners. On convex or concave lots, front, side and rear yards, as applicable, ~~shall~~must be parallel to or concentric with, the street line. Depth of required yards adjacent to streets ~~shall~~must be measured ~~perpendicular~~perpendicularly or radially to such straight street lines.

## 2. Yards.

**E.a. Rear Yards on Interior Regular Lots.** Rear yards on interior regular lots ~~shall~~must be provided of at least the depth required for the district, and ~~shall~~must run across the full width of the lot at the rear. Depth of a required rear yard ~~shall~~must be measured in such a manner that the yard is a strip of land with minimum depth required by district regulations with its inner edge parallel to or concentric with its outer edge.

**F.b. Yards on Corner Lots.** Corner lots ~~shall~~must be deemed to have no rear yards, only two (2) front yards which are adjacent to the streets and two (2) side yards, provided that if two (2) different side yards are required in a district, the larger available yard ~~shall~~must be used. Notwithstanding anything to the contrary contained in this Ordinance, setbacks on corner lots ~~shall~~must be sufficiently large to comply with VDOT sight distance requirements or Section 5-300 whichever is greater.

**G.c. Side Yards on Regular Lots.** Side yards on regular lots are defined as running from the required front yard line to the required rear yard line. On regular through lots the required side yard ~~shall~~must run from the required front yard line to the second required front yard line. On corner lots the required side yards ~~shall~~must run from the point where side yard lines intersect, to the required front yard lines.

## 3. Irregular Lots.

**H.a. Irregular Lots, Dimensional Requirements.** An irregular lot shall be considered to meet the dimensional requirements of the district in which located, provided:

1. Lot area ~~shall~~must meet district requirements for the proposed use. Lot width need not meet district requirements if requirements set forth below are met.
2. Open space in required yards and elsewhere on the lot ~~shall~~must be not less than as required for the use in the district on a regular rectangular lot of required minimum width and area.
3. Building area remaining after required yards have been provided ~~shall~~must have dimensions and locations appropriate for all buildings proposed.

**I.b. Irregular Lots, Yard Requirements.** In general, all yards ~~shall~~must provide at least the same separation from all lot lines as required for minimum side yards in the district, provided, however, that where district regulations permit building to the lot line of a regular lot under specified circumstances, the same regulations ~~shall~~must apply on an irregular lot, except as provided with relation to accessory buildings and structures in Section 5-200. Additionally, if an irregular lot abuts a street at any point, a distance equal to the required yard on a regular lot adjacent to a street in the district ~~shall~~must be provided.

## 4. Road Corridor Buffer and Setback and Other Setback Measurement From Streets.

**a.** All Road Corridor Buffers and Setbacks and other setbacks from public streets ~~shall~~must be measured from the wider of ~~(a) the:~~

1. The existing dedicated right-of-way, or ~~(b)~~
2. the right-of-way proposed in the Comprehensive Plan, or ~~(c) the~~
3. The minimum dedicated right-of-way permitted for VDOT acceptance of the right-of-way for maintenance.

~~b.~~ For public streets, if no dedicated right-of-way exists, or if no construction plans are approved for the road, or if less than the minimum right-of-way exists, the right-of-way ~~shall~~ must be assumed to be centered on the existing travelway.

~~J.c.~~ All Road Corridor Buffers and Setbacks and other setbacks from private roads ~~shall~~ must be measured from the outer edge of the associated easement.

~~K.5.~~ **Length to Width Ratio Measurement.** The width of a regular lot ~~shall~~ must be determined by measurement across the rear of the required front yard. If the lot is of regular dimensions, the lot length is the horizontal distance between the front lot line and the rear lot line. If the lot is of irregular dimensions, the lot length is defined by determining the average of a representative number of distances between the front lot line and the rear lot line as measured in a straight line.

~~L.6.~~ **Reduction in Minimum Yard, Setback, and Buffer Requirements Based on Error in Building Location.** Notwithstanding any other provision of this Ordinance, the Zoning Administrator shall have the authority, as qualified below, to approve a reduction in the minimum yard, setback, and buffer requirements in the case of any building existing or partially constructed which does not comply with such requirements applicable at the time such building was erected. Such a reduction may be approved in accordance with the following provisions:

~~1. The Zoning Administrator determines that:~~

- ~~a. The error does not exceed ten (10) percent of the applicable minimum yard, setback or buffer, and~~
- ~~b. 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 building subsequent to the issuance of a Building Permit, if such was required, and~~
- ~~c. It will not be detrimental to the use and enjoyment of the other property in the immediate vicinity, and~~
- ~~d. It will not create an unsafe condition with respect to both other property and public streets, and~~
- ~~e. To force compliance with the minimum yard requirements would cause unreasonable hardship upon the owner, and~~

~~f.a.~~ The reduction will not result in an increase in density or floor area ratio from that permitted by the applicable zoning district regulations.

~~2. In approving such a reduction under the provision of this Section, the Zoning Administrator shall allow only a reduction necessary to provide reasonable relief and, as deemed advisable, may prescribe such conditions, to include landscaping and screening measures to assure compliance with the intent of this Ordinance.~~

~~b. To force compliance with the minimum yard requirements would cause unreasonable hardship upon the owner, and~~

~~c. It will not be detrimental to the use and enjoyment of the other property in the immediate vicinity, and The error does not exceed ten (10) percent of the applicable minimum yard, setback or buffer, and~~

~~3.d.~~ Upon the approval of a reduction for a particular building in accordance with the provision of this Section, the same shall be deemed to be a lawful building.

~~4.e.~~ The Zoning Administrator shall have no power to waive or modify the standards necessary for approval as specified in this Section.

~~5.f.~~ If there is an error greater than ten (10) percent of the measurement that is involved, a reduction may be granted by the BZA in accordance with the provisions of Section 6-1600.

## **~~1-206~~ Calculations of Density.**

~~Calculations of density in individual zoning districts shall be subject to the following:~~



**A.F.** Calculations of gross and net densities, gross and net residential area, lot area, floor area ratios, and similar measures ~~shall~~must be made in accordance with the formulas provided within the definitions of these terms in Article VIII of this Ordinance. Calculations of density in individual zoning districts are also subject to the following:

**B.1. Highway Transportation Improvement District.** This section is applicable solely for determining density credit for certain public road dedications within highway transportation improvement districts established in accord with Section 15.2-4600 et seq. of the Code of Virginia.

**1.a.** In those zoning districts, including planned development districts, where density or intensity of land use is controlled by number of dwelling units or floor area ratio, or other similar measure, such computations with respect to a lot from which land has been severed for the purpose of constructing or improving any primary highway interchange or portion thereof, ~~shall~~must be based upon the lot area including the area severed for such purpose when:

**a.1.** The lot lies within or adjacent to an established highway transportation improvement district; and

**b.2.** The area dedicated or conveyed is necessary for the installation or improvement of the primary highway interchange improvement and is in accordance with the adopted comprehensive plan; and

**c.3.** The Board of Supervisors has specifically approved by resolution computation of density or intensity for the lot based upon the lot area existing prior to dedication or conveyance; and

**d.4.** An effective irrevocable dedication in fee simple to public use or conveyance to Loudoun County or to another public instrumentality having the power to construct or maintain the highway use has occurred and evidence of such dedication or conveyance is of record among the land records of the County.

**2. Floor Area.** Calculations of allowable floor area ~~shall~~must be based on the floor area ratio as established by the zoning district in effect at the time a site plan is officially accepted for the lot.

**3.a.** For the purposes of this section, the terms "lot" and "lot area" may include all adjacent parcels owned in common and which are the subject of an approved unified concept development plan specifying the allocation of density calculated pursuant to this section; the term "interchange" shall mean a grade separated limited access intersection with one or more turning roadways for travel between portions of such intersection, and ~~shall~~must include all related improvements such as access or service roads necessitated by the interchange; and the term "area dedicated" ~~shall~~must include all property in excess of the right-of-way for a normal width typical highway section.

**4.b.** In no case ~~shall~~must conveyances or dedications to a public body made in exchange for monetary compensation be eligible for density computation under this section.

**5.c.** ~~Further, conveyances~~Conveyances or dedications made or committed to by the landowners or predecessors in interest as part of an approved condition of a subdivision application, special exception application, or a zoning map amendment petition ~~shall~~must not be considered eligible for density computation under this section provided that an effective irrevocable dedication or conveyance made during the pendency of an application ~~shall~~must not decrease the lot area for purposes of density or intensity computation.

**C.3. Public Uses.** This section ~~is applicable~~applies solely ~~for~~to determining density credit for public uses in any zoning district.

**1.a.** In those zoning districts, including planned development districts, where density or intensity of land use is controlled by number of dwelling units per acre or floor area ratio, or other similar measure, such computations with respect to a lot 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 Comprehensive Plan, ~~shall~~must be based upon the lot area including the area severed for such purpose when:

- ~~a-1.~~ The area dedicated or conveyed is necessary for the installation or improvement of the public use, including roads shown on the adopted Comprehensive Plan, and is in accordance with the adopted comprehensive plan; and
- ~~b-2.~~ The area dedicated or conveyed is suitable in location, size, shape, condition and topography for such needed public use and there are no encumbrances to the title which would interfere with such use; and
- ~~e-3.~~ The Board of Supervisors has specifically approved, by resolution, the computation of density or intensity for the lot based upon the lot area existing prior to dedication or conveyance; and
- ~~d-4.~~ An effective irrevocable dedication in fee simple to public use or conveyance to Loudoun County or to another public instrumentality has occurred and evidence of such dedication or conveyance is of record among the land records of Loudoun County.

~~2-b.~~ Calculations of allowable density ~~shall~~must be based on the following:

- ~~a-1.~~ For development ~~which that~~ requires a site plan, allowable density ~~shall~~must be calculated in accord with the zoning district in effect at the time a site plan is officially accepted for the lot; or
- ~~b-2.~~ For development ~~which that~~ does not require a site plan, allowable density ~~shall~~must be calculated in accord with the zoning district regulations in effect at the time a record plat of subdivision is officially accepted for the lot.
- 3. For the purposes of this section, the terms "lot" and "lot area" may include all adjacent parcels owned in common and ~~which that~~ are the subject of an approved unified concept development plan specifying the allocation of density calculated pursuant to this section.
- 4. In no case ~~shall~~must conveyances or dedications made to a public body in exchange for monetary compensation be eligible for density computation under this section.
- 5. ~~Further, conveyances~~Conveyances or dedications made or committed to by the landowners or predecessors in interest as part of an approved condition of a subdivision application, special exception application, or a zoning map amendment petition ~~shall~~must not be considered eligible for density computation under this section provided that an effective irrevocable dedication or conveyance made during the pendency of an application ~~shall~~must not decrease the lot area for purposes of density or intensity computation.

~~D. 1-207~~ **Applicability of Floor Area Ratio.**

- ~~G.~~ Wherever a Floor Area Ratio requirement is specified in this Ordinance, such requirement ~~shall~~must not apply to residential uses unless such requirement specifically states that it ~~shall apply~~applies to residential uses.

~~Section 5-200~~ **Permitted Structures in Required Yards and Setbacks.**

- ~~H. Permitted Structures in Required Yards and Setbacks.~~ The following ~~shall~~must be allowed in a required yard or setback, provided applicable sight distance and fire safety requirements are met and maintained:

~~1.~~ **In all yards or setbacks, including a front yard:**

- ~~1-a.~~ Fences, provided that no fence in a required residential front yard ~~shall exceed~~exceeds 3 1/2 feet in height.
- ~~2-b.~~ Ground level terraces, patios or decks not over ~~thirty (30)~~ inches high.
- ~~3-c.~~ Awnings or canopies provided they do not project more than ~~four (4)~~ feet from the existing building face.
- ~~4-d.~~ Bay windows and overhanging floors, eaves and gutters projecting 30 inches or less into the yard.
- ~~5-e.~~ Architectural features, chimneys or the like projecting a maximum of 24 inches into a side or rear yard or ~~three (3)~~ feet into a front yard provided that such projection does not extend closer than ~~three (3)~~ feet to a lot line.

~~6-f.~~ Porches, enclosed or unenclosed, may project a maximum of ~~three (3)~~ feet provided that such projection does not extend closer than ~~three (3)~~ feet to a lot line, except as otherwise permitted under Section 5-200(C).

~~7-g.~~ Arbors and trellises.

~~8-h.~~ Flag poles.

~~9-i.~~ Recreational equipment.

~~10-j.~~ Signs, pursuant to Section 5-1200.

~~11-k.~~ Bus Shelters

~~12-l.~~ Entry stairs or handicap ramps including rails.

## **2. In any yard or setback, except the front yard or setback.**

~~1-a.~~ Clotheslines.

~~2-b.~~ Fences shall not exceed ~~eight (8)~~ feet in height in residential areas.

~~3-c.~~ Balconies may project a maximum of ~~four (4)~~ feet provided such projection does not extend closer than ~~three (3)~~ feet to a lot line.

~~4-d.~~ Air conditioner condensers rated at 5 tons or less ~~which that~~ are not within ~~four (4)~~ feet of any property line and air conditioner condensers rated at over 5 tons ~~which that~~ are not within ~~twelve (12)~~ feet of any property line.

~~5-e.~~ In conjunction with a single family dwelling only, any non-habitable, one-story accessory structure ~~which that~~ is not within ~~five (5)~~ feet of a rear or side property line or a common wall in portions of required yards ~~which that~~ are located as follows:

~~a-1.~~ On regular lots, at least ~~sixty (60)~~ feet from street rights-of-way or private access easement lines at the front of the lot, and at least ~~twenty five (25)~~ feet from any street rights-of-way or private access easement lines at the side of the lot.

~~b-2.~~ On irregular lots, at least ~~forty (40)~~ feet behind the front line of any building adjacent to the lot line, and at least ~~twenty five (25)~~ feet from any access easement.

~~6-3.~~ In conjunction with a single family detached dwelling only, an attached garage that is not within ~~five (5)~~ feet of a rear or side property line, subject to the following standards:

a. In no case ~~shall can~~ the distance between the attached garage and structures, excluding detached, non-habitable structures, on the adjacent property be less than 16 feet.

b. No windows or doors ~~shall must~~ be permitted on the side of the attached garage that is located within the required yard.

c. No portion of the principal structure other than the attached garage ~~shall be is~~ permitted within the required yard.

d. The attached garage ~~shall must~~ not be converted into habitable space.

e. No second story addition over the attached garage ~~shall be is~~ permitted ~~which that~~ extends into the minimum required yard for the district, except as provided herein.

~~7-f.~~ ~~Detached~~ detached garage located at the rear of a lot ~~which that~~ has been developed following lot requirements for the Traditional Design Option ~~which and~~ is attached to a similar garage on a contiguous lot may be located within the side yard setback and within ~~two (2)~~ feet of the rear property line. No rear yard ~~shall be is~~ required on such lots for garages ~~which that~~ are accessed from the front of the lot.

~~8-4.~~ In conjunction with Section 5-500(A), temporary buildings for the storage of construction materials, subject to the following standards:

- a. The height of a temporary building ~~shall~~ must not exceed ~~nine (9)~~ feet from average finished grade to the peak of the roof.
- b. The temporary building ~~shall~~ must be setback from any property line a minimum distance equal to its height.
- c. Except for the temporary building, no outdoor storage of construction related materials may be located anywhere within a minimum required yard.
- d. With the issuance of the Zoning Permit, the Zoning Administrator may impose conditions to mitigate any adverse impact on abutting properties to include fencing and screening requirements.

~~9-5.~~ For single family detached dwellings, decks exceeding ~~thirty (30)~~ inches in height may extend no closer than ~~five (5)~~ feet to ~~a rear or side lot line;~~

~~a. For single family attached dwellings, decks exceeding thirty (30) inches in height may extend to the~~ A rear or side lot line;

~~b. The~~ interior side lot line ~~and no closer than five (5) feet to any; or~~

~~10-c.~~ Any other lot line.

~~In a rear yard~~ Rear Yard or setback.

~~1.~~ **Setback.** For single family detached dwellings, unenclosed porches may extend no closer than ~~ten (10)~~ feet to a rear lot line. If a rear lot line abuts land that is commonly owned open space or land that is subject to a permanent open space easement, which is at least ~~ten (10)~~ feet in width, an unenclosed porch may extend no closer than ~~five (5)~~ feet to such rear lot line.

~~2. For single family attached dwellings, unenclosed porches may extend no closer than ten (10) feet to a rear lot line.~~

~~f.~~

## 5.10 Homeowner's Association Standards

### **Purpose. The purpose of Homeowner's Association Standards is to:**

- Promote the public health, safety, and welfare.
- Provide consistent standards for the creation, operations, and management of a homeowner's association.
- Ensure that Loudoun County is able to identify and contact a responsible homeowner's association.
- Ensure the continued protection and availability of open space within a development when it is required to be provided and managed by a homeowner's association.
- Ensure a homeowner's association can effectively administer common open space or common elements in a development.

### **A. Homeowner's Association Requirements.**

1. Any homeowners association (HOA) must be compliant in its creation and operations with all applicable sections 2-104, 2-204, 4-111, 4-1022, 4-1124, 4-1217, 4-1314, 4-1360, 5-701(E), 5-702(J) of the Code of Virginia. (provide applicable reference)

#### **Section 2-100 AR-1 Agricultural Rural-1 District**

2. 2-104 Homeowners' Association Any HOA must be compliant in its creation and operations with any applicable federal laws or regulations such as, but not limited to, the Fair Housing Act and the Americans with Disabilities Act.
3. An HOA must remain in compliance with any changes to state or federal laws or regulations affecting its operation and/or rights or responsibilities, through a process ensuring members and other affected parties' participation.
4. Any time an HOA amends its regulations or bylaws, it must notify all members and provide sufficient opportunity for members participation in the amendment process.
5. Any time an HOA amends its regulations or by laws, it must notify Loudoun County of its intentions prior to amendment and provide a copy of the approved amendments within xx days of approval. The amendments must allow the HOA to remain in compliance with all applicable sections of the Code of Virginia and all applicable federal laws and regulations. When amendments are approved all members must be provided information about the specific changes as well as where the documents are located and can be reviewed.
6. An HOA must be provided the mechanism and authority to enforce development requirements.
7. An HOA may also be known as a property owners association or a common interest community association.
8. Up to date contact information for the HOA must be provided to the County with any application for addition, approval or modification affecting any land area subject to the HOA jurisdiction. Up to date contact information must be provided to the County whenever it changes.

### **B. Rights and Responsibilities.**

1. (A) If the subdivision contains any of the common areas or improvements listed below, the development shall have an incorporated Homeowners' Association ("HOA"). The HOA shall have the right and responsibility stated in its incorporation documents and bylaws to maintain the following areas or improvements:
  - a. (1) Common open space areas within the development that are not part of an individual lot;
  - b. (2) Lot(s), if owned by the HOA;
  - c. (3) Private roads, if any, within or serving the development, except as provided in Section 2-104(C); unless the private roads are maintained pursuant to a private road maintenance agreement.

- ~~d. (4) Communal water and/or sewage disposal systems, except as provided in Section 2-104(D); unless the communal water and/or sewage disposal system is maintained by LCSA or a public water or sewer utility as defined in Chapter 10.1 or 10.2 of Title 56 of the Code of Virginia.~~
- ~~e. (5) Any stormwater management facilities or areas;~~
- ~~f. (6) Fire protection pond(s), dry mains, or other improvements;~~
- ~~g. (7) Such other common facilities or improvements as may be designated in the HOA bylaws of the HOA;~~

~~(B) Membership in the HOA shall be required for all purchasers of lots in the subdivision and their successors in title.~~

~~(C) Notwithstanding the requirements of Section 2-104(A) above, if the only common element is the private roads or easements, then such private roads or easements shall either be maintained by an HOA or pursuant to a private road maintenance agreement. If such roads are to be maintained pursuant to a private road maintenance agreement, then the terms thereof shall be included on each record plat of subdivision for the development.~~

~~(D) Notwithstanding the requirements of Section 2-104(A) above, communal water or sewage disposal systems may be maintained by LCSA or a public water or sewer (wastewater) utility as defined in Chapter 10.1 or 10.2 of Title 56 of the Code of Virginia.~~

~~(E) Prior to approval of a record plat of subdivision for the cluster:~~

- ~~h. (1) Any other common facility or area not included in the list above that is available to all members of the HOA; and~~
- ~~i. The HOA may have other responsibilities or activities not required or regulated by the zoning ordinance as long as they do not conflict with its required responsibilities or this ordinance~~

#### **C. Applicability.**

- ~~1. An HOA is required for any new development or subdivision with common elements or common open space as described in the district standards or defined in Chapter 11.~~
- ~~2. All common open must be preserved and protected by the HOA for its intended purpose as expressed in the Concept Development Plan.~~
- ~~3. The developer must finally determine and make known the choice of an HOA to administer common open space or common elements prior to approval of the first record plat or final site plan.~~
- ~~4. If an HOA is to be established, the landowner shall must submit documents for the creation of the HOA to the County for review and approval, including its bylaws, and all:
  - ~~a. Bylaws;~~
  - ~~b. All documents governing ownership, maintenance, and use restrictions for common areas, including a;~~
  - ~~c. A legal description of such areas; and a~~
  - ~~d. A description of restrictions placed upon the use and enjoyment of the land;~~~~

~~(2) If a communal water and/or sewage disposal system is to be maintained by a third party, a minimum two-year maintenance contract is to be submitted for review by the County.~~

~~(3) If the subdivision is served by private roads and there is no HOA for the subdivision, the developer shall submit a private road maintenance agreement to the County for review and approval.~~

#### **Section 2-200 AR-2 Agricultural Rural-2 District**

##### **2-204 Homeowners' Association and Responsibilities.**

~~2-204 is an exact duplicate of 2-104 except 2-104(C) states "...then such private roads or easements shall..." and 2-204 states "...then they shall...". 2-104(E)(1) abbreviates HOA where 2-204 spells out Homeowner's Association.~~



~~Section 4-100 PD-H Planned Development-Housing~~

~~4-111 Open Space~~

~~4-111(B) Ownership, Operation and Management of Common Open Space and Common Facilities.~~

~~(1) All common open space shall be preserved for its intended purpose as expressed in the Concept Development Plan. The developer shall choose prior to approval of the first record plat or final site plan, one (1) or a combination of the following methods of administering common open space:~~

~~(a) Public dedication to the County of the common open space, subject to acceptance by the Board of Supervisors.~~

~~(b) Establishment of a non-profit association, corporation, trust, or foundation of all owners of residential property within the planned development. Such organization shall conform to the following requirements:~~

~~D. (i) The organization Establishment.~~

~~1. The HOA must be formally established prior to approval of the first record plat or final site plan in the proposed development. The documents establishing such organization shall must be reviewed and approved by the County.~~

~~2. (ii) The HOA must be a non-profit association, corporation, trust, or foundation of all owners of residential property within the planned development.~~

~~3. The HOA must conform to the following requirements:~~

~~a. Membership in the organization shall HOA must be mandatory for all residential property owners, present or future, within the planned community and said organization shall HOA must not discriminate in its members or shareholders.~~

~~b. (iii) The organization shall must manage, maintain, administer, and operate all open space and improvements and other land not publicly or privately owned, and shall must secure adequate liability insurance on the land and such improvements.~~

~~c. (iv) Sales brochures or other literature and documents provided by the seller of all lots within a PD-H district shall the development must include information regarding membership requirements and HOA responsibilities of such organizations.~~

~~(c) Retention of ownership, control, and maintenance of common open space and improvements by the developer.~~

~~(2) All common open space not dedicated to the County shall be subject to restrictive covenants running with the land restricting its use to that specified in the approved Development Plan. Such restrictions shall be for the benefit of, and enforceable by, all present or future residential property owners and the Board of Supervisors of Loudoun County.~~

~~(3) All common open space, as well as public recreational facilities, shall be specifically included in the development schedule and be constructed and fully improved by the developer at an equivalent or greater rate than the construction of residential structures.~~

~~Section 4-1000 PD-TREC Planned Development Transit Related Employment Center~~

~~4-1022 is a duplicate of 4-111(B) with minor exceptions due to the difference between a residential district (4-111) and an employment center (4-1000).~~

~~only minor differences between 4-111(B) and 4-1022~~

~~4-111(B)(1)(b) and 4-1022(A)(2)~~

~~4-111(B)(1)(b i-iv) and 4-1022(A)(2 a-c)~~

~~Section 4-1100 PD-TRC Planned Development Transit Related Center~~

~~4-1124 is an exact duplicate of 4-111~~



~~Section 4-1200 PD-RV Planned Development—Rural Village.~~

~~4-1217 Village Governance. Every rural village shall have an established home owners association with documents reviewed and approved by the County prior to first Record Plat approval. The Rural Village Homeowner Association documents shall provide for maintenance of street trees, and other community landscaping such as in village greens, parks and squares, private streets, stormwater management systems, water and sewer facilities. In addition, all roads, streets and alleys, and infrastructure improvements shall be provided by the applicant and maintained in a manner approved by the County either by the applicant or the Village Homeowner Association unless accepted for maintenance by a public entity.~~

~~Section 4-1300 PD-AAAR Planned Development—Active Adult/Age Restricted~~

~~4-1314 is an exact duplicate of 4-111(B) except 4-1314(A)(1)(a iii) includes "...all common facilities..." and 4-1314(A)(2) does not include "...not dedicated to the County..."~~

~~Section 4-1350 PD-MUB Planned Development Mixed Use Business~~

~~4-1360 is a duplicate of 4-111(B) except that 4-1360 includes the phrase "...whichever is first in time..." in 4-1360(A) and in 4-1360(A)(2)(a). 4-1360(B) refers to an approved "Concept Development Plan" rather than the "Development Plan" referred to in 4-111(B).~~

~~Section 5-700 Regulations for Optional Development Types.~~

~~5-701 Transition (TR) Districts Lot Standards.~~

~~5-701(E) Homeowners' Association and Responsibilities. (Optional development type permitted in TR districts similar to clustering)~~

~~Generally the same requirements as 2-104 and 2-204 with minor modifications. 5-701(E) does not include communal water and sewer facilities in the list of features that the HOA has the right and responsibility to maintain. 2-104 requires terms of private road agreement to be on plat and allows maintenance of communal water and sewer by LCSA, neither mentioned in 5-701(E).~~

~~5-702 Rural Hamlet Option~~

~~5-702(J) Homeowners' Association (as applicable to Rural Hamlet an optional development type in A-3 and A-10 districts similar to clustering)~~

~~(J) Homeowners' Association.~~

~~(1) Each rural hamlet or group of rural hamlets comprising a common development shall have an incorporated Homeowners' Association ("HOA") which shall have the right and responsibility to maintain the following areas and improvements:~~

~~(a) Common open space.~~

~~(b) Private roads, if any, within or serving the rural hamlet.~~

~~(c) Any stormwater management ponds or areas,~~

~~(d) Fire protection pond, dry mains, or other improvements; and~~

~~(e) Such other common facilities or improvements as may be designated in the HOA Bylaws.~~

~~(2) Easements for septic drainfields and wells located off of the lot shall be established at the time of the record plat for such lot, and shall run to the benefit of the lot served. The responsibility for maintaining or replacing such septic fields or wells shall be borne by the lot owner served by such easement.~~

~~(3) The permanent open space easement required in the rural hamlet shall be enforced by the County. Such easement shall be in a form approved by the County, and shall provide that, notwithstanding such easement, the eased portion of conservancy lots or hamlet lots shall be maintained by the owners of such lots, and that the County should bear no responsibility or liability for such maintenance. However, nothing contained herein shall prevent such landowners from leasing such open space for agricultural or other purposes as allowed in Section 5-702(D)(2)(a) and (c).~~

~~d. (4) The Homeowners' Association documents shall be submitted as part of the initial record plat application and shall~~HOA documents must provide for adequate initial funding and assessments to fund the maintenance of common property and improvements.

~~Article 8, Revised 1993 LCZO~~Definition to be moved to Chapter 11, Definitions:

**Homeowners' Association:** A ~~non-profit~~nonprofit organization operating under recorded land agreements through which: (a) each lot and/or homeowner in a clustered or planned development is automatically a member, and (b) each lot is automatically subject to a charge for a proportionate share of the expenses for the organization's activities, such as maintaining a common property, and (c) the charge if unpaid becomes alien against the property.

Draft 1/12/22

**Road Access Standards (This tracked version provides a general idea of revisions but does not represent an exact tracked version due to consolidation from various sections.)**

1-205(A), 2-511, 2-612, 2-712, 2-812, 2-910, 3-111, 3-212, 3-313, 3-412, 3-511, 3-610, 3-710, 3-805, 3-907(F), 3-1005(A)(6), 3-1005(B)(6), 4-107(I), 4-110(B), 4-206(E), 4-507(G), 4-607(F), 4-707(D), 4-808(D), 4-913, 4-1019, 4-1121, 4-1311.

~~In designing residential development, the lot access requirements of Section 1-205(A) and the building and parking setback requirements of Section 5-1403(B) shall be observed.~~

**Purpose. The purpose of the Road Access Standards is to:**

- Provide consistent road access standards that are appropriate for the type and location of development.
- Provide consistent road access standards that are appropriate for the place type to implement the General Plan.
- Ensure that all new development will be accessible to and from public and private roads that are safe and serve their intended purpose.

**A. Applicability.** All new development proposed, submitted, or approved after the effective date of this ordinance must comply with the standards regarding frontage and access contained in 5.01.x. -5.01.x requires that all structures that require building permits to have frontage and access to a public road regardless of whether that ordinance section is specifically referenced in the district or not.

**B. Roads**~~Private Streets~~~~Roads~~, serving any uses other than single family attached (SFA) townhouse and/or multifamily (MF) stacked or attached dwelling units or roads within the UT/UM, UE, and SM zoning districts must be designed and constructed to Virginia Department of Transportation (VDOT) standards for inclusion in the state highway system.

**C. Private Streets.** ~~uses Roads serving SFA townhouse and MF stacked or attached dwelling units only, may bear roads within the UT/UM, UE, or SM zoning districts may be private provided the following conditions are met:~~

~~1. The roads are designed and constructed to private streets standards set forth in the Facilities Standards Manual, provided the following conditions are met: Facilities Standards Manual (FSM).~~

~~1-2.~~ All residences~~lots~~ served by the ~~private road shall~~private road must be subject to a recorded covenant expressly requiring private maintenance of such road in perpetuity and the establishment, commencing with the initial ~~record plat, record plat,~~ of a reserve fund for repairs to such road.

~~2-3.~~ The record plat and protective covenants for such development ~~shall~~must expressly state that the ~~County~~County and ~~VDOT~~VDOT have no, and will have no, responsibility for the maintenance, repair, or replacement of private roads.

~~4. The protective covenants must identify the mechanism and entity that will have responsibility to monitor and administer the maintenance and repair if the affected private roads or access easements.~~

~~3-5.~~ Sales brochures or other literature and documents, provided by the seller of lots served by such private roads, ~~shall~~must include information regarding responsibility for maintenance, repair, replacement, and covenants pertaining to such lots, including a statement that the County has no and will have no responsibility for the maintenance, repair, or replacement of private roads.

~~4. Roads serving other uses shall be designed and constructed to VDOT standards for inclusion in the state highway system.~~

6. When the use of private roads or private access easements is not allowed by right or owner choice and must receive approval for access to new lots or uses as an exception to 5.01, that approval must be in conjunction with approval of the Board of Supervisors of a PD District pursuant to Section 2.06, ZMAP.

a. In those applications, the applicant must demonstrate how permission to use private streets will accomplish the purpose of the district and produce development that is consistent with General Plan place types.

b. The use of private streets approved by the BOS as part of a ZOAM or SPEX approval must meet the same requirements as if permitted by this ordinance pursuant to the requirements of (B) above and any additional conditions or standards accompanying the approval.

**D. Lot Access Requirements.** ~~No structure~~All structures requiring a building permit ~~shall~~must be erected upon ~~any~~a lot ~~which does not have~~that has frontage ~~on and access onto~~on a Class I, Class II, or Class III road, ~~as defined herein and collectively referred to as public roads or onto a private road~~ or private access easement as specified in the individual district regulations, except as specifically provided for herein and the Land Subdivision and Development Ordinance (LSDO).

1. New access points (private or public) to arterial or major collector roads shall be limited to locations at existing median breaks, planned median breaks or other locations approved by Loudoun County or VDOT.

~~3-907(F).~~

**E. Access Limitation for ~~Certain Uses.~~** ~~For all uses listed in Section 3-903 unless otherwise stated, and all uses listed in Section 3-904, such uses shall be permitted to have direct~~Route 50. Direct access to Route 50 ~~(i) in any zoning district will only be permitted as follows:~~

1. Only if the property owner can demonstrate that the subject property does not have legal access to any public road other than Route 50 and does have legal access to the location of a planned Route ~~50~~Parallel Road, as shown on the Countywide Transportation Plan (CTP), as amended, and ~~(ii) provided~~

2. Provided that such access, if permitted, ~~shall be~~is limited to right-turn-in and right-turn-out entrances to and from Route 50 only as approved by VDOT, ~~and~~

3. Prior to approval of a site plan for these uses, property owners must execute and record an instrument, in a form as reviewed and approved by the County, which obligates such owner and successors to relinquish all such direct access rights and close off all direct access to Route 50, at no cost to the County or VDOT, or permit the County or VDOT to close off all direct access without compensation, when alternative access to the site becomes available via a public or private street adjacent to the owner's parcel or via other means, such as an available private access easement that provides access to any such public or private street.

**F. Use Specific Road Access Standards.** When a Use Specific Standard is applicable as indicated in 3.06 and that use specific standard expressly references road access standards, the following road access standards apply. All FSM provisions regarding waivers apply.

~~5-654 Road Access Standards for Specific Uses. The following road access standards shall apply to specific uses in this section when they are expressly referenced in the standards for specific use. All Facilities Standards Manual provisions regarding waivers apply.~~  
**TABLE 5-654: ROAD ACCESS STANDARDS**

Maximum <del>Vehicles</del> <u>Vehicle Trips</u> Per Day ( <u>and VTD</u> ) <sup>(1)</sup>	Onsite Private Road Construction Standards	Public Road Access	
		Public Paved Road Standards <sup>(2)</sup>	Public Unpaved Road Standards <sup>(2)</sup>
1 - 20 VTD	FSM Chapter 4, Table 3, Type C1 Roadway	Permitted	Permitted
21 - 70 VTD	FSM Chapter 4, Table 3, Type C2 Roadway	Permitted	Permitted

~~5-654 Road Access Standards for Specific Uses. The following road access standards shall apply to specific uses in this section when they are expressly referenced in the standards for specific use. All Facilities Standards Manual provisions regarding waivers apply.~~ **TABLE 5-654: ROAD ACCESS STANDARDS**

Maximum <del>Vehicles</del> Vehicle Trips Per Day ( <del>VPD</del> VTD) <sup>(1)</sup>	Onsite Private Road Construction Standards	Public Road Access	
		Public Paved Road Standards <sup>(2)</sup>	Public Unpaved Road Standards <sup>(2)</sup>
71 - 250 VTD	FSM Chapter 4, Table 3, Type C3 Roadway	Permitted	Permitted
251 - 600 VTD	FSM Chapter 4, Table 1, Type A1 Roadway	Permitted	Special Exception Review required ( <a href="#">Section 6-1300</a> )
More than 600 VTD	FSM Chapter 4, Table 1, Type A1 Roadway	Special Exception Review required ( <a href="#">Section 6-1300</a> )	Special Exception Review required ( <a href="#">Section 6-1300</a> )

<sup>(1)</sup> ~~VPD is to be calculated~~ VTD as determined by traffic study if required or as estimated based on proposed use and most current edition of ITE *Trip Generation Rates* or an estimated two trips (one in, one out) per individual vehicle ~~approved substitute~~

<sup>(2)</sup> Characteristics of the first public road accessed by project's private access road.

Draft 1/12/22

## **5-702.14 Rural Hamlet Option.**

**A. Purpose and Intent.** *The primary purpose of the Rural Hamlet Option is to provide an alternative to conventional A-3 and A-10 district subdivision in rural areas. Such clustered development is intended to better harmonize rural development with surrounding agricultural activities recognizing that it is the County's primary goal to preserve and enhance farming and farmland in rural Loudoun by the most feasible, effective, and equitable methods available. This option is intended to conserve agricultural, forestal and open space land, historic and natural features at the time that such land realizes the development potential currently allowed in the agricultural zoning district. Such clustered development is intended to permit the compact grouping of homes located so as to blend with the existing landscape, such as the rise and fall of the topography, hedgerows and wooded areas, and to preserve to a greater extent the agricultural, forestal and visual character of the landscape.*

**B.A. Rural Hamlet Permitted.** Rural hamlets are permitted in the A-3 and A-10 districts. The A-3 and A-10 district regulations ~~shall~~ apply to the extent not in conflict with the regulations contained herein.

**C.B. Rural Hamlet Defined.** A rural hamlet is characterized by the configuration of all or a portion of the density permitted on a tract of land under the district regulations, into a grouping of small residential lots on a portion of the tract. More than one rural hamlet may be located on a tract. A rural hamlet may consist of the following categories of land:

1. **Hamlet Lots.** Smaller residential lots located in a contiguous group, with adjacent and fronting lots oriented towards each other as on a street, a green or a paved square. No fewer than ~~five (5)~~ and no more than ~~twenty five (25)~~ hamlet lots may be grouped together as a rural hamlet. Hamlet lots ~~shall~~must have a designated building area. All land not designated as building area, private access easements, and road rights-of-way ~~shall~~must be placed in a permanent open space easement.
2. **Open Space.** Residual land, excluding the building area of hamlet lots and conservancy lots, contiguous to a rural hamlet, which is subject to a permanent open space easement.
3. **Hamlet Green/Square.** Land located in the interior of a rural hamlet, owned in common by hamlet lot owners and which is in a permanent open space easement.
4. **Conservancy Lots.** A lot, excluding the hamlet lots, open space and/or hamlet green/square, which will remain as large parcel(s), the bulk of which is in permanent open space easement and a portion of which is designated a building area.

**D.C. Uses.** The following ~~shall be the~~ uses for are permitted within the various categories of rural hamlet land. These uses ~~shall~~ supersede the permitted, minor special exception, and special exception uses that would otherwise apply in the underlying zoning district regulations.

1. **Building Area of Hamlet Lots and Conservancy Lots.**

- a. **Permitted Uses.** The following uses ~~shall be~~are permitted in the Building Area of Hamlet Lots and Conservancy Lots:

- ~~i-1.~~ Dwelling, single family detached.
- ~~ii-2.~~ Bed and breakfast homestay, pursuant to 3.06.03.01.
- ~~iii-3.~~ Guest house.
- ~~iv-4.~~ Child CareDay Home, pursuant to Section 5-6093.06.04.08.
- ~~v-5.~~ Water supply systems.
- ~~vi-6.~~ Wastewater disposal systems.
- ~~vii-7.~~ Accessory uses and structures, pursuant to Section 5-1013.04.
- ~~viii-8.~~ Accessory dwelling (accessory to single family detached dwelling), pursuant to Section 5-6133.06.02.01.

- ~~ix-9.~~ Telecommunications antenna, pursuant to Section ~~5-618(A)~~3.06.07.07.B.
2. **Open Space.** All areas of the tract of land devoted to the Rural Hamlet Option other than the building area of hamlet lots and conservancy lots and road rights-of-way, ~~shall beare~~ subjected to a permanent open space easement. Such open space may be used for the following uses:
- a. **Open Space Permitted Uses.** The following uses ~~shall beare~~ permitted in open space:
- ~~i-1.~~ Agriculture, horticulture, forestry, and fishery uses including barns, stables, and other structures accessory or incidental to such uses.
  - ~~ii-2.~~ Conservation of open land in its natural state, i.e., woodland, fallow fields, grasslands, wetlands, floodplains, and the like.
  - ~~iii-3.~~ Passive open space or passive recreation, including but not limited to trails, picnic areas, and community gardens.
  - ~~iv-4.~~ Active recreation space, including golf courses.
  - ~~v-5.~~ Equestrian uses of any kind.
  - ~~vi-6.~~ Easements and improvements for drainage, access, sewer or water lines, or other public purposes.
  - ~~vii-7.~~ Stormwater management facilities for the proposed development or for a larger area in compliance with a watershed stormwater management plan.
  - ~~viii-8.~~ Water supply systems.
  - ~~ix-9.~~ Accessory uses, such as swimming pools, tennis courts, and other accessory uses and structures pursuant to Section ~~5-1013.04~~.
  - ~~x-10.~~ Sewage disposal systems.
  - ~~xi-11.~~ Telecommunications antenna, pursuant to Section ~~5-618(A)~~3.06.07.07.B.
- b. **Common Open Space Permitted Uses.** The following uses ~~shall beare~~ permitted in common open space owned by a Homeowners' Association: (HOA):
- ~~i-1.~~ All Open Space Permitted Uses as provided in Section ~~5-702(D)~~15.C.2)(a).
  - ~~ii-2.~~ Nursery, Production, with frontage on a state maintained road, pursuant to Section 5-605.
  - ~~iii-3.~~ Pet Farm, pursuant to Section 5-627.
  - ~~iv-4.~~ Stable, Private, pursuant to Section 5-627.
  - ~~v-5.~~ Stable, Livery, with frontage on a state maintained road, pursuant to Section 5-627.
  - ~~vi-6.~~ Tenant Dwelling, pursuant to Section ~~5-6023.06.02.09~~, accessory to agriculture, horticulture or animal husbandry uses.
  - ~~vii-7.~~ Wayside Stand, pursuant to Section ~~5-6043.06.08.05~~, accessory to agriculture, horticulture or animal husbandry uses.
- c. **Open Space Special Exception Uses.** The following ~~uses~~use may be approved in open space by the Board of Supervisors, and if approved, may be subject to certain conditions pursuant to Section ~~6-13007.09~~.
- ~~i-1.~~ Telecommunications monopole, pursuant to Section ~~5-618(B)~~3.06.07.07.C.2).
- d. **Common Open Space Special Exception Uses.** The following uses may be approved in common open space owned by a Homeowners' Association HOA by the Board of Supervisors, and if approved, may be subject to certain conditions pursuant to Section ~~6-13007.09~~.
- ~~i-1.~~ Agricultural Processing, pursuant to Section 5-627, accessory to agriculture, horticulture or animal husbandry uses.
  - ~~ii-2.~~ Arboretum, pursuant to Section ~~5-6363.06.05.05~~, accessory to agriculture, horticulture or animal husbandry uses.



~~iii-3.~~ Child Day Care Center, pursuant to Section ~~5-6093.06.04.08.C~~, restricted for the use of homeowner association members.

~~iv-4.~~ Farm Market, on-site production, pursuant to Section 5-603.

~~v-5.~~ Nursery, Production, without frontage on a state maintained road, pursuant to Section 5-605.

~~vi-6.~~ Stable, Livery, without frontage on a state maintained road, pursuant to Section 5-627.

~~vii-7.~~ Telecommunications monopole, pursuant to Section ~~5-618(B)(2)-3.06.07.07.C.2.~~

**E.D. Minimum Tract Size.** A rural hamlet shall must be located on a tract, or portion thereof, at least ~~forty (40)~~ acres in size.

**F.E. Lot Requirements.**

**1. Hamlet Lot.**

a. **Lot Size.** 10,000 sq. ft. minimum. 3 acres maximum.

b. **Building Area.** 5,000 sq. ft. minimum. 15,000 sq. ft. maximum.

c. **Lot Width.** 64 feet minimum. 150 feet maximum.

d. **Length/Width Ratio.** 6.0:1 maximum.

e. **Front Yard.** ~~(as defined in Article VIII)~~ 6 feet minimum. 40 feet maximum, provided that all principal buildings shall must be located so that the maximum deviation for adjacent front facades shall must not exceed 15 feet, and provided further that this maximum Front Yard requirement shall does not apply to lots located within subdivisions approved under the zoning ordinance in effect prior to June 16, 1993, and subject to the provisions of Section ~~5.01.E.1-103(H)~~ of this Ordinance.

f. **Rear Yard.** 20 feet minimum.

g. **Side Yard.** 8 feet minimum.

h. **Building Height.** 35 ~~ft.-feet~~ maximum.

i. **Building side yard restriction line.** Dwellings, guest houses, garages, and other such structures shall must not trespass into minimum side yards. However, detached garages located at the rear of a lot (i.e., behind the rear building line) and attached to a similar garage on a contiguous lot may be located within the side yard setback.

**2. Hamlet Green/Square.** Maximum distance between building areas of cluster lots facing across a hamlet green/square: 350 feet.

**3. Conservancy Lots.** Conservancy lots must meet the dimensional standards of Table 5.15.E.3-1.

**Table 5.15.E.3-1. Dimensional Standards for Conservancy Lots.**

		<b>A-3 District</b>	<b>A-10</b>
<del>(a)1</del>	<b>Lot Size.</b>	10 Acres min.	30 Acre min.
<del>(b)2</del>	<b>Lot Width.</b>	300 ft. min.	500 ft. min.
<del>(c)3</del>	<b>Length/Width Ratio.</b>	5:1 max.	5:1 max.
<del>(d)4</del>	<b>Building Area.</b>	7,500 sq. ft. min.	15,000 sq. ft. min.
<del>(e)5</del>	<b>Front and Side Yard</b>	25 feet min.	
<del>(f)6</del>	<b>Rear Yard.</b>	20 feet min.	
<del>(g)7</del>	<b>Building Height.</b>	35 feet max.	

**G.F. Determination of Density.** The potential number of ~~hamlet~~ and conservancy dwelling units shall must be based on either of the following, at the option of the landowner:

1. In the A-3 District, ~~one (1)~~ dwelling unit per ~~five (5)~~ net acres. In the A-10 District, ~~one~~1 dwelling unit per ~~ten (10)~~ acres.
2. The number of dwelling units permitted at a minimum lot size of ~~three (3)~~ or ~~ten (10)~~ acres in the A-3 or A-10 zoning districts respectively is based on topography, floodplain, and availability of septic drainfields.
  - 2-a. Drainfields ~~shall~~must be submitted to the Loudoun County Health Department for approval in accord with the Land Subdivision and Development Ordinance (LSDO).
3. For each conservancy lot of ~~fifty (50)~~ acres or greater in size, ~~one (1)~~ additional dwelling unit ~~shall~~must be included in the determination of density.

## H.G. Open Space Requirements.

1. **Minimum Open Space.** The minimum amount of land in a Rural Hamlet devoted to open space and subject to permanent open space easements ~~shall~~must be ~~no less~~greater than ~~eight five percent (85%)~~% of the total land area in the Rural Hamlet. ~~All land not designated as building areas, private access easements, and rights-of-way for roads shall be permanent open space.~~
  - a. ~~All land not designated as building areas, private access easements, and rights-of-way for roads must be permanent open space.~~
2. **Minimum Open Space Widths Surrounding the Hamlet.** ~~There shall be a~~A minimum ~~of width of land in open space surrounding a hamlet must be provided as follows:~~
  - a. 200 feet width of land ~~in open space~~ between the outside boundary of hamlet lot building areas and the tract boundary. ~~There shall be a minimum of~~
  - b. 800 feet between the hamlet lot building area boundaries of ~~two~~2 hamlets on the same tract.
  - 2-c. Reduction of these dimensions may be permitted by the Board of Supervisors (see ~~5-702(L)~~.15.K), upon recommendation of the Planning Commission, based upon a finding that due to the topography, forestation, or presence of prime agricultural soils or environmentally sensitive areas, such reduction will preserve rural vistas, preserve farmland, screen dwellings from existing roads or adjacent properties, or preserve environmentally sensitive areas.
3. **Maximum Hamlet Building Area Depth.** The outside boundaries of the building areas of hamlet lots facing one another across a street ~~shall~~must not exceed 300 feet. The outside boundaries of the building areas of hamlet lots facing one another across a hamlet green/square ~~shall~~must not exceed 550 feet.

## I.H. Utilities and Public Facilities Requirements.

1. **Water.** Hamlet lots ~~shall~~must be served either by:
  - a. Individual wells on or off each lot, or
  - b. A communal water system constructed by the developer, or
  - c. A municipal water system if located within an area designated for such connection in the Comprehensive Plan, or
  - d. Connection with an existing rural village, rural hamlet or other public water system.
  - e. All water systems ~~shall~~must comply with applicable town, County, State, and/or LCSA standards and requirements, including a commission permit if required by applicable law. As for (a) and (b) above, the Health Department approval of both a safe and adequate water supply system and designated backup well sites based on hydrogeological studies, ~~shall~~must be a precondition to recordation of a record plat establishing a rural hamlet.
2. **Wastewater.** Hamlet lots ~~shall~~must be served either by:
  - a. Individual septic tank drainfields located on or off the lot, or
  - b. A communal wastewater treatment system constructed by the developer, or

- c. A municipal wastewater system, if located within an area designated for such connection in the Comprehensive Plan; or
  - d. Connection with an existing rural village, rural hamlet or other public wastewater treatment system.
  - e. All wastewater systems ~~shall~~**must** comply with applicable town, County, State, and LCSA standards and requirements, including a commission permit if required by applicable law.
3. **Fire Protection.** Every hamlet ~~shall~~**must** satisfy the fire protection standards set forth in the Facilities Standards Manual, or if no such standards are in effect, shall have all weather access road for a pump truck to an adequate pond with a water withdrawal main or to a water tank of sufficient capacity for fire protection.
4. **Roads.** ~~Seven (7) Access to hamlet lots must be provided as follows:~~
- a. ~~7) rural hamlet lots or less may be served by a private access easement. Twenty-five (25)~~
  - b. ~~25) rural hamlet lots or less may be served by a VDOT fixed generation, tertiary Class II road.~~
  - c. All other roads ~~shall~~**must** be VDOT Class II roads.
  - d. All other Rural Hamlet roads ~~shall~~**must** be built to VDOT secondary road standards.
- 4.e. Roads serving ~~two (2)~~ or more hamlets, with a combined traffic loading exceeding 250 vehicles per day, ~~shall~~**must** generally have ~~two (2)~~ access points to the existing rural road network.
- a.1. The Planning Commission may waive the ~~two (2)~~ access requirement upon finding special topographic or other circumstances which preclude implementation, but may in this eventuality require alternative configurations of road design, such as a divided median.
  - 2. Further, the Planning Commission may waive the public road standards, thereby allowing up to ~~twenty-five (25)~~ rural hamlet lots to be served by private access easements, should the Planning Commission find that the waiver provisions contained in this section are met.
    - b.a. This alternative roadway design option must be requested as part of the subdivision application, and ~~shall~~**is** not ~~permitted to~~ be granted for the sole purpose of circumventing the previously referenced public roadway design criteria. ~~In reviewing any proposed waiver, the Planning Commission shall consider the following:~~
    - b. In reviewing any proposed waiver, the Planning Commission must consider the following:
      - i.A. Whether granting of the proposed waiver will adequately provide for access by public safety service (police, fire and rescue services).
      - ii.B. Whether granting of the proposed waiver will protect to the greatest extent possible topographic or physical, natural, scenic, archaeological or historical features of significant importance.
      - iii.C. Whether the granting of the proposed waiver will be in the public's best interest, specifically with regard to future road maintenance considerations.
      - iv.D. Whether the granting of the proposed waiver will meet engineering standards with regard to steep slopes, storm water control, drainage, soil erosion control; mitigate floodplain impacts; assure adequate dust control measures; and will minimize, to the greatest extent possible, the impact on water and air quality on adjoining properties.
      - v.E. Whether the granting of the proposed waiver will facilitate orderly and safe road development.
      - vi.F. Whether the granting of the proposed waiver will minimize the impact of traffic on the existing roadway network.
      - vii.G. Waiver requests ~~shall~~**must** be considered by the Planning Commission at a public meeting held within ~~sixty (60)~~ days of receipt of such request.

5. **Parking.** Every hamlet lot ~~shall~~must include sufficient parking (which may or may not be paved) to accommodate ~~four (4)~~ cars.

## J.I. **Homeowners' Association.**

1. Each rural hamlet or group of rural hamlets comprising a common development ~~shall~~must have an incorporated ~~Homeowners' Association ("HOA")~~, which ~~shall~~must have the right and responsibility to maintain the following areas and improvements:
  - a. Common open space.
  - b. Private roads, if any, within or serving the rural hamlet.
  - c. Any stormwater management ponds or areas,
  - d. Fire protection pond, dry mains, or other improvements; and
  - e. Such other common facilities or improvements as may be designated in the HOA Bylaws.
2. Easements for septic drainfields and wells located off of the lot ~~shall~~must be established at the time of the record plat for such lot, and shall run to the benefit of the lot served. The responsibility for maintaining or replacing such septic fields or wells shall be borne by the lot owner served by such easement.
3. The permanent open space easement required in the rural hamlet ~~shall~~must be enforced by the County. Such easement ~~shall~~must be in a form approved by the County, and shall provide that, notwithstanding such easement, the eased portion of conservancy lots or hamlet lots shall be maintained by the owners of such lots, and that the County should bear no responsibility or liability for such maintenance. However, nothing contained herein shall prevent such landowners from leasing such open space for agricultural or other purposes as allowed in Section 5-702(D)(15.C.2)(a) and (c).
4. The ~~Homeowners' Association~~HOA documents ~~shall~~must be submitted as part of the initial record plat application and ~~shall~~must provide for adequate initial funding and assessments to fund the maintenance of common property and improvements.

K.J. **Plat and Deed Notations.** Record plats and deeds for rural hamlet subdivisions ~~shall~~must include a statement that agricultural operations enjoy the protection of the Right to Farm Act, Va. Code ~~Section~~§ 3.2-300 et seq.

## L.K. **Modification of Regulations.**

1. Where there are conflicts between the rural hamlet provisions herein and the general zoning, subdivision, or other regulations and requirements, the rural hamlet regulations ~~shall~~ apply.
2. In addition, the Board of Supervisors may allow reasonable modifications to other applicable regulations as follows:

~~a.3.~~ These other regulations serve public purposes to a lesser degree than the rural hamlet, or

~~b.4.~~ The designs or solutions proposed by the applicant, although not literally in accord with these other regulations, satisfy public purposes to a greater degree, or

~~c.5.~~ The strict implementation of these other regulations would prevent well designed rural hamlet development.

Such modifications may be granted by the Board of Supervisors by special exception ~~pursuant to Section 7.09~~. Such modifications may be sought prior to filing a preliminary plan of subdivision. The landowner ~~shall~~must include a sketch plan of the proposed hamlet as part of the application for modification and ~~shall~~must demonstrate the reasons for the request.

3.6. **Advisory Rural Hamlet Siting and Design Guidelines.** Loudoun County recognizes that every rural hamlet design will be a custom response to the unique assets and constraints of each tract. As a consequence, the County has only incorporated in the Rural Hamlet Ordinance those siting and design rules required to preserve open space and to allow the clustering of dwellings. However, the County does wish to encourage design consistent with Loudoun's past in rural Loudoun and appends the following general design guidelines as a suggestion to rural hamlet designers.




**Siting.** Rural hamlets should be sited so as to nestle, or blend in a subordinate way, into the existing landscape. Rural hamlets should not be placed on the crest of a ridge but rather should be located in a dip or depression or on the side of a hill.

**7. Landscaping.** Rural hamlet designs should incorporate a mix of evergreen trees, generally located to the north and west for winter wind protection, and deciduous trees, located to the west and south, for summer shade. Given the time required for trees to attain maturity, existing stands of trees and hedgerows should be incorporated in the new hamlets whenever possible.

**2-a.** New plantings of evergreen and deciduous trees should be native to the northern Piedmont, such as yellow poplar, northern red and white oak, hickory, white ash, black gum, hemlock, spruce, and eastern red cedar among others.

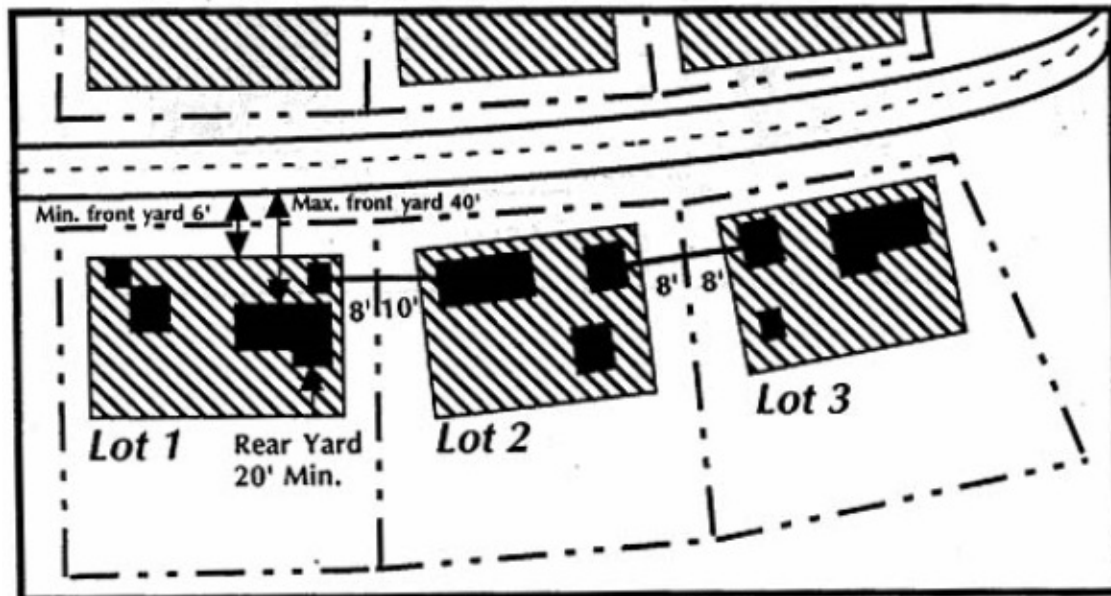
**5-8. Ground Modeling and Screening.** In those circumstances where natural contours, subsurface conditions and tract boundaries prevent discreet hamlet placement, hamlet designers should seek to reduce the development's apparent presence by locating earth berms near adjacent roadways and/or planting screens of trees adjacent to existing roads and tract boundaries.

Draft 1/12/22

-  **Hamlet Building Area**  
(min. 1/6 ac. max. 1/4 acre)
-  **Structure located on Hamlet Lot Building Area**
-  **Hamlet Lot Eased Open Space**

*NOTE: For Illustrative Purposes only-*

*Refer to Ordinance Text for Requirements*



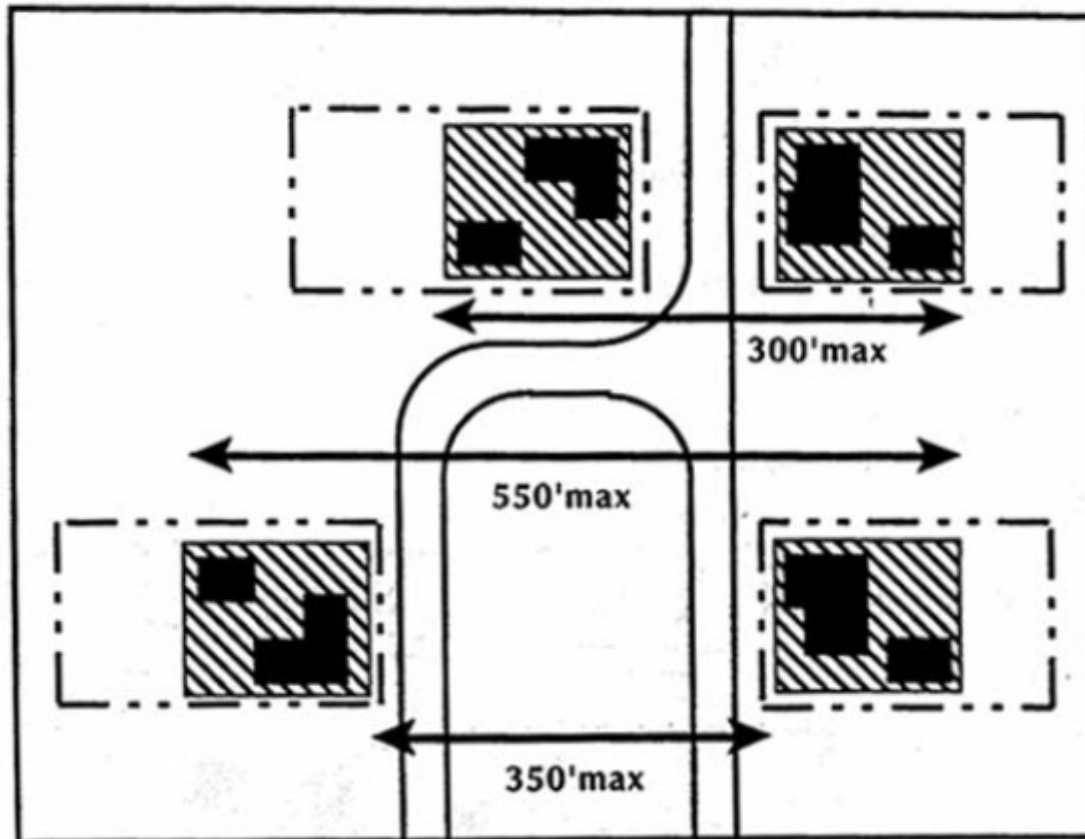
Minimum lot size 10,000 sq. ft.



### Example of Maximum Widths in Rural Hamlets

*NOTE: For Illustrative Purposes only-*

*Refer to Ordinance Text for Requirements*



### Example of Hamlet Calculations and Ratios

Figure 1. Hamlet Example Summary

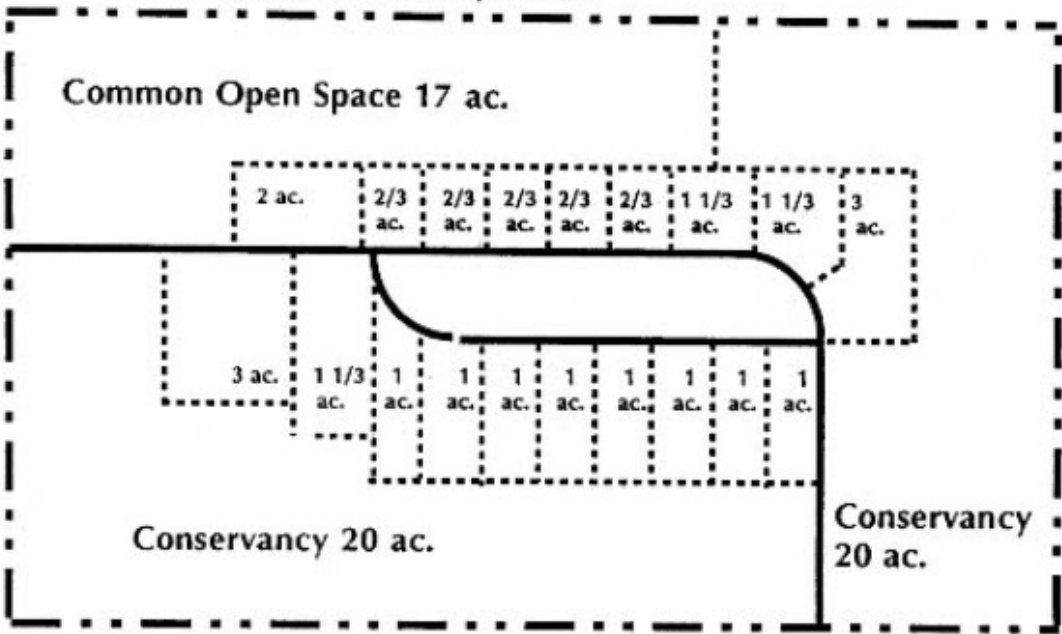


88 ac. / 20 Hamlet and 2 Conservancy lots

90.34% All eased land

NOTE: For Illustrative Purposes only-

Refer to Ordinance Text for Requirements



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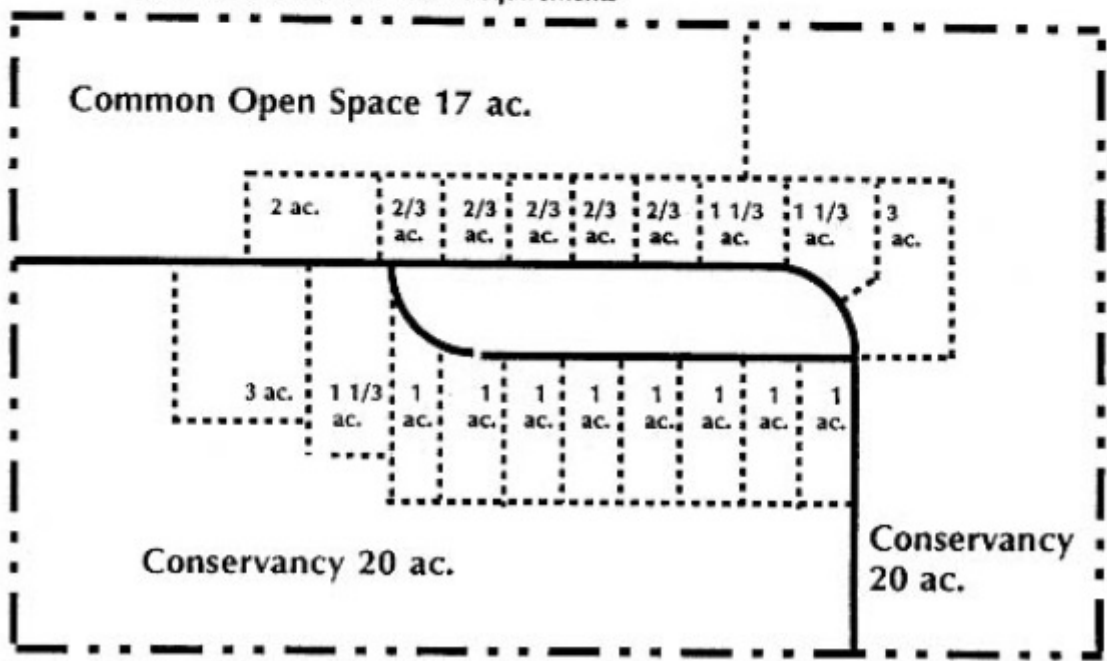


Figure 2. Illustrations of Eased Land and Building Areas in Hamlet



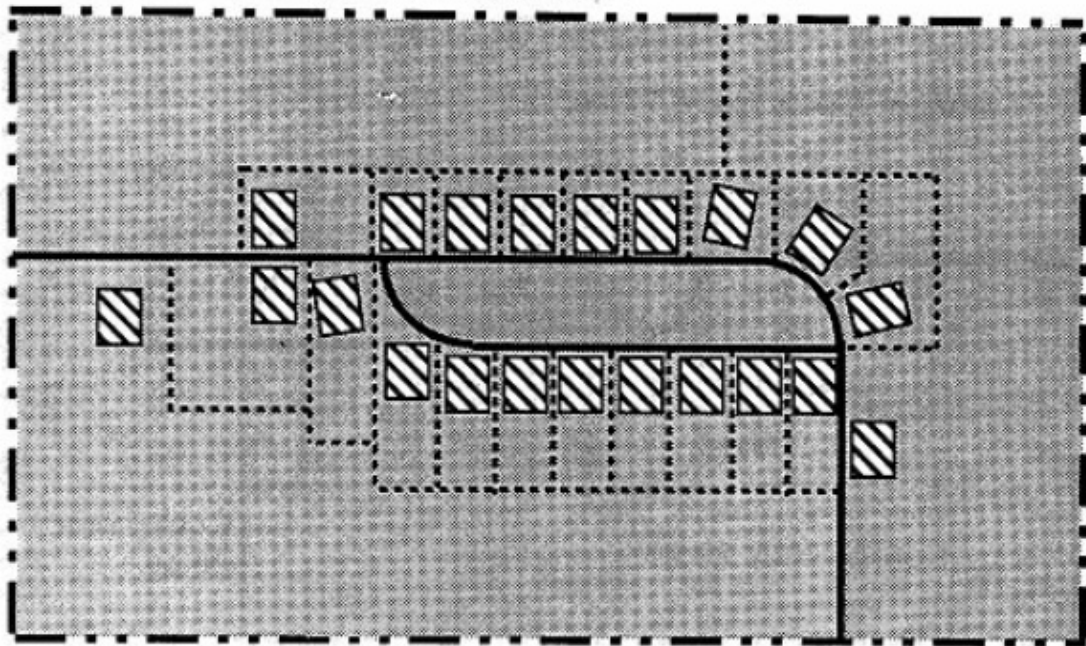
**Eased area of Conservancy  
and Hamlet Lots and Common Open Space**



**Designated Building Areas**

**NOTE: For Illustrative Purposes only-**

**Refer to Ordinance Text for Requirements**



Draft



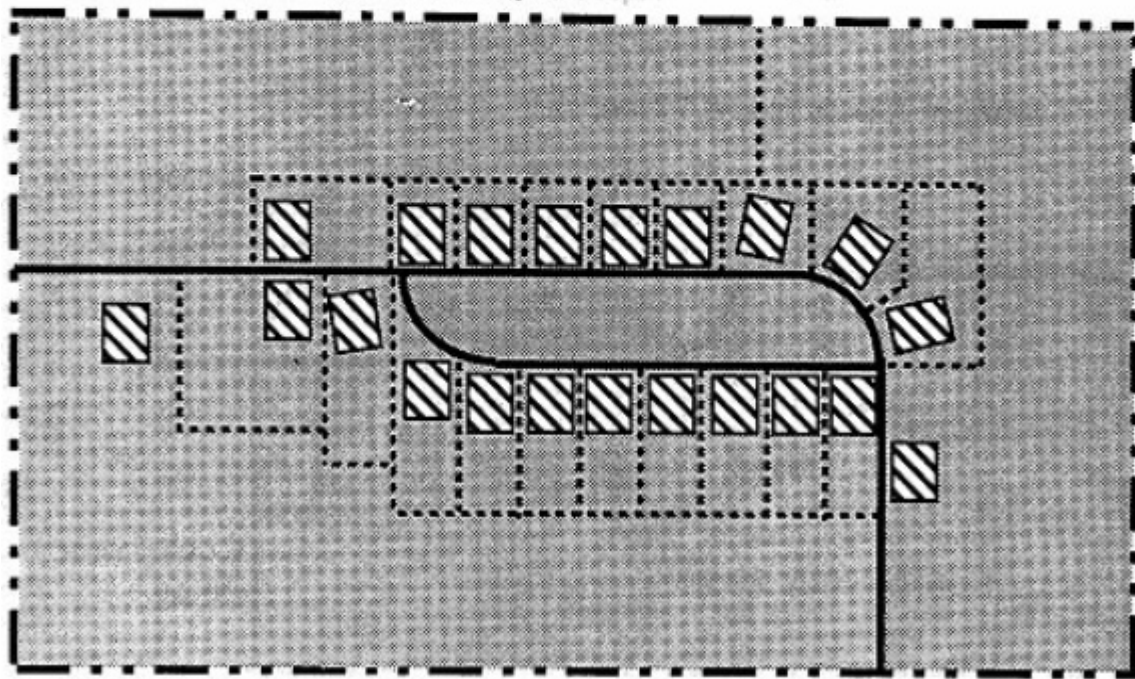
**Eased area of Conservancy  
and Hamlet Lots and Common Open Space**



**Designated Building Areas**

**NOTE: For Illustrative Purposes only-**

**Refer to Ordinance Text for Requirements**





## MEMORANDUM

To: Ryan Reed, Deputy Zoning Administrator

From: Kate McConnell, Principal Planner

Date: 1/5/2022

Re: **ZOAM-2020-0001, Zoning Ordinance Rewrite**  
**ZOC Review for Development Standards**  
**5.09 Adaptive Reuse Standards – Supporting Standards**

### **2019 General Plan Policies Supporting Adaptive Reuse Standards**

*Infill & Redevelopment (IR) Policy 1:* Ensure reinvestment initiatives and redevelopment, infill development, and adaptive reuse projects will enhance quality of life and neighborhood character, fulfill community needs, and improve economic opportunities.

*Action C.* Address redevelopment, infill development, adaptive reuse, and reinvestment as part of community plans. Pay particular attention to a community's historic assets and function in areas with under recognized historic resources or limited historic resources protections, such as the legacy village cores of Ashburn, Arcola, and Old Sterling (see Legacy Village Cores Map).

*Strategy 1.4.* Facilitate redevelopment, infill development, and adaptive reuse projects through technical assistance, an improved regulatory framework, and streamlined review processes.

*Action C.* Develop flexible zoning regulations and design standards that account for existing conditions, allow for creative design and emerging development types, and provide certainty and clear direction for developers.

*Action D.* Develop creative incentive programs for projects located within the priority areas for redevelopment identified on the Priority Commercial Redevelopment Areas Map and other qualifying projects, such as increases in permitted density where infrastructure is available, reduced fees, or expedited review processes.

*IR Policy 2:* Recognize adaptive reuse of existing unused or underutilized buildings as an opportunity to establish or reinforce a community's identity and sense of place.

*Strategy 2.1.* Support adaptive reuse projects that provide cultural activities and community gathering places.

*Action A.* Use the Heritage Preservation Plan to guide the adaptive reuse of historic resources.

*Action B.* Establish collaborative programs and partnerships for adaptive reuse projects to foster entrepreneurship and encourage innovative ways to reuse buildings and sites.

*Strategy 2.2.* Prioritize adaptive reuse of existing buildings with historic significance or importance to a community over demolition.

*Action A.* Consult with communities to ensure all unused or underutilized buildings representing their history and character are identified, protected, and adaptively reused.

*Strategy 2.3.* Revise County regulations to accommodate creative adaptive reuse designs.

*Action A.* Review zoning regulations, design standards, and building code regulations to identify regulatory encumbrances to adaptive reuse projects.

*Action B.* Develop zoning regulations and design standards that provide ample flexibility for adaptive reuse projects without compromising the health, safety, or welfare of users.

*Suburban Policy Area (SPA) Policy 2:* Create environments where individuals can work, live, learn, and have convenient access to services, shops, and recreation.

*Strategy 2.1.* Allow a mix of uses or uses that complement and complete existing communities.

*Action A.* Provide incentives for redevelopment, infill development, and adaptive reuse projects that will enhance quality of life and neighborhood character, fulfill community needs, and improve economic opportunities (see Infill and Redevelopment section).

*Rural Historic Villages Strategy 1.2.* Preserve the character of the villages and their historic structures and sites through the rehabilitation and adaptive reuse of existing buildings.

#### *Historic, Archaeologic, and Scenic Resources*

*Action 5.1.C.* Require an archaeological and historic resources survey for all development applications. This survey must include a plan for recordation of identified resources and measures for preservation, mitigation, and adaptive reuse. The County will maintain a repository for artifacts recovered from required surveys; such artifacts will be used for research and public education purposes.

*Action 5.1.M.* Prioritize the adaptive reuse of historic structures that are of local, regional, or national significance as the primary method of preserving the County's diverse collection of historic architecture within the framework of sustainable development.

*Action 5.1.N.* Amend zoning regulations and development standards to ensure the viability of adaptive reuse, particularly in the County's villages where the ability to reuse historic structures is vital to the historic character and vitality of these communities.

### **Heritage Preservation Plan Policies Supporting Adaptive Reuse Standards**

Chapter 10, Strategy 2. Adaptive Reuse (pg. 56-57)

- a. While it may not always be possible to preserve or promote the original use for which a historic structure was constructed, the County recognizes the value of the building itself as a historic resource and calls for its preservation through adaptive re-use.
- b. The proposed re-use should be consistent with and implement the land use policies for the area as defined in the County's Comprehensive Plan.
- c. The historic landscape associated with the structure should be protected to preserve the resource in its context.
- d. The proposed use should generally be compatible with the surrounding landscape and development patterns. For instance, any additional parking, lighting or signage requirements necessitated by the re-use of the historic structure should be appropriately sized and/or shielded to minimize any adverse impacts on the character of the surrounding area. The County will amend its regulatory documents to ensure that the minimum parking, signage, lighting and other design requirements do not adversely impact the historic character of an area.