

## **ZONING ORDINANCE COMMITTEE**

February 2, 2022  
ELECTRONIC MEETING  
9:00 AM TO 11:00 AM

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**NOTICE OF ELECTRONIC MEETING:** Due to the ongoing COVID-19 pandemic, this [Zoning Ordinance Committee](#) 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 19, 2022
5. Status Updates on Other Zoning Ordinance Amendments<sup>i</sup> (ZOAM)

Staff contact: Ryan Reed

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

Outreach sessions have begun; 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: Ethan Strickler

- b) ZOAM-2020-0002: Prime Agricultural Soils and Cluster Subdivision Regulations

Draft text for referral was distributed on January 3 to inter-agencies and the committee; staff anticipates providing an update to the committee on February 16.

Staff contacts: Jacob Hambrick

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

Staff working on revised draft text; a comprehensive plan amendment and zoning map amendment will be included in the referral for inter-agencies and the committee; staff anticipates providing an update to the committee on March 2.

Staff contacts: Josh Peters

6. ZOAM-2021-0003: Traffic Data Collection and Warrant Study Fees

a) Staff Presentation by Department of Transportation and Capital Infrastructure Project Manager Jaspreet Sethi.

Staff contacts: Jaspreet Sethi and Brian Wegener

7. ZOAM-2020-0001: Zoning Ordinance Rewrite

a) Chapter 8, Attainable Housing

Staff contact: Kate McConnell

8. Upcoming Meetings

a) Electronic meeting. Wednesday, February 16, 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 19, 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/6863?view\\_id=78&redirect=true](https://loudoun.granicus.com/player/clip/6863?view_id=78&redirect=true)

CALL TO ORDER/REVIEW AGENDA (ADDITIONS/DELETIONS)

Chair Kevin Ruedisueli moved that the Zoning Ordinance Committee convene the January 19, 2022, meeting as an electronic meeting pursuant to the Virginia Freedom of Information Act in response to the COVID-19 Pandemic. (12 members participating remotely at time of motion.)

PUBLIC INPUT

None.

DISCLOSURES

Committee Member Bridge Littleton disclosed he had a meeting with Norman Myers and Mike Pummell on December 27, 2021.

APPROVAL OF ACTION REPORT FOR JANUARY 5, 2022

Committee Member Maura Walsh-Copeland asked staff to correct the name for ZOAM-2020-0002: Prime Agricultural Soils and Cluster Subdivision Regulations.

Committee Member Jeff Browning moved that the Zoning Ordinance Committee approve the Action Report for January 5, 2022. (Seconded by Maura Walsh-Copeland as amended. The motion passed via roll call vote 11-0-5-1: Gem Bingol, Packie Crown, Charlie Houston, Ross Stevens, and Tia Walbridge absent for the vote; Eric Zicht abstained.)

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

Staff contacts: Mark Stultz and Ethan Strickler

Outreach sessions would begin tonight with Visit Loudoun; several different times and days were available for the various groups; organizations and members that would like to participate should contact Ethan Strickler directly.

Committee Member Bridge Littleton asked staff to distribute the meeting information for Visit Loudoun's outreach session.

- b) ZOAM-2020-0002: Prime Agricultural Soils and Cluster Subdivision Regulations

Staff contacts: Mark Stultz and Jacob Hambrick

Draft text was distributed on January 3 to inter-agencies and the committee; staff anticipates providing an update at the February 16 committee meeting.

Committee Member Matt Lawrence asked about the long-term schedule for the ZOAM. Deputy Zoning Administrator Reed stated no dates had been scheduled past February 16.

Committee Member Littleton stated a goal had not yet been articulated. He put forth a benchmark of achieving 100% protection of prime agricultural soils. Chair Ruedisueli stated that was a reasonable goal.

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

Staff contacts: Mark Stultz and Josh Peters

Staff continues to revise draft text; a comprehensive plan amendment and zoning map amendment would be included in the referral for inter-agencies and the committee; staff anticipates providing an update at the March 2 committee meeting.

- d) ZOAM-2021-0003: Traffic Data Collection and Warrant Study Fees

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

Draft text to be distributed to the committee on January 26 for the February 2 meeting, at which time staff would also present and receive comments.

- e) ZOAM-2021-0001: Zoning Ordinance Rewrite Scheduling (new topic)

Staff contacts: Mark Stultz, Judi Birkitt, Ryan Reed

Committee Member Walsh-Copeland stated the staff report for tonight's [Transportation and Land Use Committee](#) meeting did not reference the draft text to be released in April. She asked if that was still the goal. Interim Assistant Director Judi Birkitt confirmed staff are still targeting April.

Committee Member Gem Bingol asked if Attainable Housing was still scheduled for February 2. Deputy Zoning Administrator Reed stated that was still the goal.

Committee Member Walsh-Copeland asked about Procedures, when and how they would be handled. Interim Assistant Director Birkitt explained staff had not yet fully formed the recommendation due to departmental changes. She added the section would be fully vetted and that staff were speaking with the County Attorney's Office regarding potential revisions.

Link to full discussion:

[https://loudoun.granicus.com/player/clip/6863?meta\\_id=204719](https://loudoun.granicus.com/player/clip/6863?meta_id=204719)

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

- a) Development Standards Draft Sections continued from 01/05/2022:  
§5.06 Tree Planting, Replacement, and Preservation  
§5.07 Landscaping, Buffer Yards, Screening, and Landscape Plans

Staff contact: Principal Planner Kate McConnell

Committee questions and topics generally involved the following: incentives to promote ecological integrity, minimum type of diversity for tree types and natives, buffers providing corridors for wildlife, limiting invasives, parking landscapes (green infrastructure, depressed islands as best management practice, diversity of materials), tree plantings being too close together, meeting with landscapers for guidance, legacy districts and how new regulations relate, visual transition from JLMA's to towns, creating nonconformities when JLMA's become annexed, street trees and required locations, clarifying conflicts in the landscape regulations, expanding the table to include all roads and alleys, losing farmland to housing in a very visual way – lack of plantings and appearance of pastures, purposeful tree plantings in open space areas, revise the list of invasive species to include commonly used invasives like Bradford Pear, consistency across plans (comprehensive, facilities standards, and land subdivision and development), concern about duplication across plans, developing a waiver process for canopy requirements, concern on overemphasis on native species, removing invasives on entire acreage, not being able to capture every scenario and deferring to the Board.

- b) Development Standards Draft Sections:  
§5.01 Application of Site Development Terms  
§5.10 Homeowner's Association Standards  
§5.11 Visibility at Intersections  
§5.12 Road Access Standards for Specific Uses

Staff Contact: Senior Planner Stephen Goodrich

Committee questions and topics generally involved the following: intensity of multiple uses on sites, lot standards heights, pipestem lots, road access standards – what triggers it and enforcement, what triggers when a special exception review is required, private street standards (Virginia Department of Transportation versus Loudoun County), enforcing the maintenance of roads, telecommunications facilities (5G, small cell) and federal rules, increasing and enforcing visibility at intersections (Williams Gap and Woodgrove Rd), site triangles, use of the word “districts” and being more specific, use of the word “landowner” (residential owner or developer), consistency in language for terms “lot, homeowner, residential property owner”, how that would work with the ZOAM Prime Agricultural Soils and Cluster Subdivision Regulations, “prime farmland lot” and “rural economy lot”, the meaning of irregular lots, how to measure pipestem and cul-de-sac lots, frontage, etc., rural septic systems intent, putting regulations in the appropriate document and not duplicating them.

Regarding Homeowner Associations (HOA) – management of open space, proffer items in HOA documents, attainable housing cautionary agreements, concern about the exclusion of affordable units from membership, keeping the county informed of updates and the timeline to do so, the kind of regulatory authority the county wants to have and why they would want to do so, condo associations differing, intersections and site distance, restricting farm activities and explicitly stating “can’t limit in *right to farm* state”, and moving the section to the Land and Subdivision Ordinance.

#### §5.02 Utility Standards

Staff Contact: Senior Planner Mark Holland

Topics involved possible conflicts in the exemptions, intent, or application in the language for utilities, and what was the meaning of the utility standard “following the contour and being environmentally sensitive”.

#### §5.14 Rural Hamlets

Staff Contact: Principal Planner Kate McConnell

Topics involved encouraging more attractive types of development and the 85% open space on lots.

#### §5.04 Open Space Standards

Staff Contact: Senior Planner Stephen Goodrich

Committee questions and topics generally involved the following: fully addressing noncontiguous open space, dedicating heritage or natural resources to the county as opposed to making the HOA responsible, being cautious with changing the definition of open space (the word “functional”), the need for flexibility, rethink and relook at river and stream corridor not

being open space, consistency with the ZOAM Prime Agricultural Soils and Cluster Subdivision Regulations, and equestrian trail requirements.

#### §5.08 Performance Standards

Staff Contact: Senior Planners Stephen Goodrich and Chris Blough

Committee questions and topics generally involved the following: lighting affecting wildlife and migrating birds (both rural and city lights), the noise exclusion for power equipment and testing periods – challenges with data centers and outdoor music, lack of specificity with lighting for security, how managed and directed away from homes, strict dark sky compliance ordinances in the towns and different standards for the county (light goes beyond borders), inconsistency with rural businesses and lack of enforcement, tightening language for light and sound to protect surrounding community, and use-specific standards leaving a major loophole.

#### §5.09 Adaptive Reuse Standards

Staff Contact: Principal Planner Kate McConnell

Topics involved taking the towns and borders into consideration, Table 5.09.01 commercial use, mandatory/voluntary, clarify to encourage and broaden the uses available for adaptive reuse, relation to village small area plans and implementation, the impacts of permitted uses (villages), and not reiterating parking and lighting standards.

Link to full discussion:

[https://loudoun.granicus.com/player/clip/6863?meta\\_id=204721](https://loudoun.granicus.com/player/clip/6863?meta_id=204721)

In general, committee members stated they would make additional comments in enCode.

Committee Member Walsh-Copeland stated there should be a mechanism to show carryover language. She added this would be important for the Planning Commission and general public as well.

*ZOC Action:* By consensus, committee members agreed to allow for an extra hour at their next meeting on February 2.

#### NEW BUSINESS

None.

#### UPCOMING MEETINGS

Electronic meeting. Wednesday, February 2, 2022, at 9:00 AM.

MEETING ADJOURNED

Chair Ruedisueli adjourned the January 19, 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

Colleen Gillis, Loudoun County Chamber of Commerce

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:

Packie Crown, Citizen-At-Large

Charles Houston, Citizen-At-Large

Ross Stevens, Commercial Real Estate Development Association

VACANT:

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

*\*Russ Forno confirmed on Tuesday, January 18. Confirmation letters are sent following publication of the Board Action Report. Mr. Forno will attend our meeting on February 2.*



## MEMORANDUM

To: Zoning Ordinance Committee (ZOC)

From: Brian Wegener, Planning and Zoning

Date: 1/25/2022

Re: Zoning Ordinance Amendment (ZOAM)-2021-0003, Amend the Revised 1993 Loudoun County Zoning Ordinance to establish new fees for certain traffic data collection and traffic warrant studies, and to incorporate the existing land development application fee schedule as a new Zoning Ordinance Appendix.

**Comment Due Date:** February 2, 2022. Please provide verbal referral comments in the context of the February 2, 2022 ZOC meeting to Brian Wegener and Jaspreet Sethi.

**Background:** The amendments to the Revised 1993 Loudoun County Zoning Ordinance (Ordinance) proposed in ZOAM-2021-0003 (Attachment 1) were prepared pursuant to a Board Member Initiative (BMI) creating a program for the County to conduct traffic studies. At the January 17, 2019 Board of Supervisors (Board) Business Meeting, the Board approved a Traffic Program under which the County will be responsible for traffic data collection and preparation of traffic warrant studies using consulting contracts.

At the Board's Transportation Summit on June 29, 2021, DTCl staff presented an Information Item detailing the next steps, including the County's process, regulatory document amendments, and fee changes needed to implement the Traffic Program. Staff informed the Board that the County's operational costs for the Traffic Program, including staff time, will be fully recovered through new fees paid by the Applicant.

In consultation with the County Attorney's Office (CAO), staff determined that full recovery of the cost of data collection and preparation of warrant studies through new fees should be implemented by an amendment to Zoning Ordinance Section 6-402 (Fees).

At the December 7, 2021 Board Business Meeting, the Board adopted (8-0-1: Buffington absent) a Resolution of Intent to Amend (ROIA) the Ordinance to initiate an amendment to Section 6-402 (Fees) (Attachment 2). This amendment will: 1) establish new fees that reflect cost recovery for a County managed traffic data collection and warrant study program using consulting contracts for legislative land development and public-school land development applications subject to Section 5-666 of the Zoning Ordinance and, 2) incorporate the existing land development

application fee schedule into the Zoning Ordinance as a new appendix. This new appendix will include the new fees related to traffic data collection and warrant study, as well as other existing land development application fees that are administered by the Zoning Ordinance. The existing fees are not changing; they are being added to the Zoning Ordinance for the first time.

Attachment 1: ZOAM-2021-0003 Draft Text

Attachment 2: Copy Teste and Resolution of Intent to Amend

1  
2 **6-402**

3 ~~Fees. The County Administrator shall recommend and the Board of~~  
4 ~~Supervisors shall adopt a schedule of fees to be paid upon the filing of each~~  
5 ~~application specified in this Ordinance. Fees to be paid upon the filing of each~~  
6 ~~application specified in this Ordinance and for traffic data collection and~~  
7 ~~warrant studies associated with legislative land development applications~~  
8 ~~requiring Board of Supervisors approval and public-school land development~~  
9 ~~applications subject to Section 5-666 are set forth in Appendix A to this~~  
10 ~~Ordinance.~~ The following applications are hereby exempted from the  
11 imposition of fees:

- 12 (A) Applications for a requested amendment from any district to an  
13 Historic Overlay district.
- 14 (B) Applications for requested amendment from any district to an AR-2  
15 district.
- 16 (C) Applications for amendment, special exception, or commission permit  
17 sought by the following governmental agencies:
- 18 (1) Loudoun County School Board, except for fees associated  
19 with traffic data collection and warrant studies.
- 20 (2) Loudoun County Sanitation Authority.
- 21 (3) Fire and rescue companies serving Loudoun County.
- 22 (4) Any agency, board or division acting in the name of the Board  
23 of Supervisors of Loudoun County.
- 24 (D) Applications for special exception to establish a Monopole or  
25 Transmission Tower use in the A-3, A-10, AR-1, AR-2, CR-1,  
26 CR-2, CR-3 or RC zoning districts.
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All fees related to Traffic Data Collection and Traffic Warrant Study are proposed new fees. All other fees are existing - a separate ZOAM will be needed to change these existing fee amounts (this language is not part of the ZOAM)

**Appendix A - Land Development Application Fees**

<u>Traffic Data Collection</u>			<u>Fee Schedule</u>					
<u>Item No.</u>	<u>Description</u>	<u>Unit of Measurement</u>	<u>Base Year</u>	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>	<u>Year 4</u>	<u>Year 5</u>
			<u>April 1, 2021 - March 31, 2022</u>	<u>April 1, 2022 - March 31, 2023</u>	<u>April 1, 2023 - March 31, 2024</u>	<u>April 1, 2024 - March 31, 2025</u>	<u>April 1, 2025 - March 31, 2026</u>	<u>April 1, 2026 - March 31, 2027</u>
<u>Intersection Turning Movement Counts (including U-turns, pedestrians, bicycles and trucks) – Using Video</u>								
1	Counts less than 12-hours duration	Hour	\$45	\$53	\$55	\$57	\$59	\$62
2	Counts of 12 hours or more duration	Hour	\$40	\$47	\$49	\$51	\$53	\$55
<u>Roundabout Turning Movement Counts (including U-turns, pedestrians, bicycles and trucks) – Using Video</u>								
3	Counts less than 12-hours duration	Hour	\$50	\$59	\$61	\$64	\$66	\$69
4	Counts of 12 hours or more duration	Hour	\$45	\$53	\$55	\$57	\$59	\$62
<u>Pedestrian and Bicycle Data (signalized intersection, all marked and unmarked crosswalks)</u>								
5	Counts less than 12-hours duration	Hour	\$40	\$47	\$49	\$51	\$53	\$55
6	Counts of 12 hours or more duration	Hour	\$35	\$41	\$43	\$44	\$46	\$48
<u>Pedestrian and Bicycle Data (mid-block/pathway/un-signalized intersection/unmarked crosswalk) per Location</u>								
7	Counts less than 12-hours duration	Hour	\$38	\$45	\$46	\$48	\$50	\$52
8	Counts of 12 hours or more duration	Hour	\$35	\$41	\$43	\$44	\$46	\$48
<u>Traffic volumes, Speed &amp; Vehicle Classification Data (bi-directional, 2- lane roadway) – Using Tubes</u>								
9	First full day (24-hour count)	Day	\$133	\$156	\$163	\$169	\$176	\$183
10	Two full days (48-hour count)	EA	\$190	\$223	\$232	\$242	\$251	\$261
11	Additional days (up to 5 additional days)	Day	\$58	\$68	\$71	\$74	\$77	\$80
12	Complete seven-day count	Week	\$478	\$562	\$584	\$608	\$632	\$657
<u>Traffic volumes, Speed &amp; Vehicle Classification Data (bi-directional, 2- lane roadway) – Using Sensors</u>								
13	First full day (24-hour count)	Day	\$228	\$268	\$279	\$290	\$301	\$313
14	Two full days (48-hour count)	EA	\$328	\$385	\$401	\$417	\$434	\$451
15	Additional days (up to 5 additional days)	Day	\$100	\$118	\$122	\$127	\$132	\$137
16	Complete seven-day count	Week	\$838	\$985	\$1024	\$1065	\$1108	\$1152
<u>Traffic volumes, Speed &amp; Vehicle Classification Data (bi-directional, multi-lane &gt;2-lane roadway) – Using Sensors</u>								
17	First full day (24-hour count)	Day	\$350	\$411	\$428	\$445	\$463	\$481
18	Two full days (48-hour count)	EA	\$480	\$564	\$587	\$610	\$635	\$660
19	Additional days (up to 5 additional days)	Day	\$168	\$197	\$205	\$214	\$222	\$231
20	Complete seven-day count	Week	\$1,130	\$1328	\$1381	\$1436	\$1494	\$1554
<u>Traffic Volumes Data (bi-directional) - Using Sensors</u>								
21	First full day (24-hour count)	Day	\$188	\$221	\$230	\$239	\$249	\$258
22	Two full days (48-hour count)	EA	\$288	\$338	\$352	\$366	\$381	\$396
23	Additional days (up to 5 additional days)	Day	\$100	\$118	\$122	\$127	\$132	\$137
24	Complete seven-day count	Week	\$788	\$926	\$963	\$1002	\$1042	\$1083

<u>Traffic Data Collection</u>			<u>Fee Schedule</u>					
<u>Item No.</u>	<u>Description</u>	<u>Unit of Measurement</u>	<u>Base Year</u>	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>	<u>Year 4</u>	<u>Year 5</u>
			<u>April 1, 2021 - March 31, 2022</u>	<u>April 1, 2022 - March 31, 2023</u>	<u>April 1, 2023 - March 31, 2024</u>	<u>April 1, 2024 - March 31, 2025</u>	<u>April 1, 2025 - March 31, 2026</u>	<u>April 1, 2026 - March 31, 2027</u>
<b><u>Speed Data (bi-directional) - Using Sensors</u></b>								
25	First full day (24-hour count)	Day	\$275	\$323	\$336	\$350	\$364	\$378
26	Two full days (48-hour count)	EA	\$375	\$441	\$458	\$477	\$496	\$516
27	Additional days (up to 5 additional days)	Day	\$100	\$118	\$122	\$127	\$132	\$137
28	Complete seven-day count	Week	\$875	\$1028	\$1069	\$1112	\$1157	\$1203
<b><u>Driveway Counts Data (bi-directional)</u></b>								
29	Counts less than 12-hours duration	Hour	\$33	\$38	\$40	\$41	\$43	\$45
30	Counts of 12 hours or more duration	Hour	\$25	\$29	\$31	\$32	\$33	\$34
31	Complete seven-day count	Week	\$2,930	\$3443	\$3581	\$3724	\$3873	\$4028
<b><u>Spot Speed Distribution Data</u></b>								
32	Bi-directional count	Hour	\$68	\$79	\$82	\$86	\$89	\$93
33	Speed count by direction	Hour	\$68	\$79	\$82	\$86	\$89	\$93
34	Speed count by lane	Hour	\$68	\$79	\$82	\$86	\$89	\$93
<b><u>Travel Time Data (bi-directional)</u></b>								
35	Travel time per run	Mile	\$24	\$28	\$29	\$31	\$32	\$33
<b><u>Origin-Destination Data per Direction</u></b>								
36	Field observation	Hour	\$115	\$135	\$141	\$146	\$152	\$158
37	Equipment	Hour	\$20	\$24	\$24	\$25	\$26	\$27
<b><u>Queue Data per Approach</u></b>								
38	Field observation	Hour	\$90	\$106	\$110	\$114	\$119	\$124
39	Aerial (Drones, etc.)	Hour	\$300	\$353	\$367	\$381	\$397	\$412
<b><u>Parking Occupancy Data</u></b>								
40	Field observation	Hour	\$40	\$47	\$49	\$51	\$53	\$55
<b><u>Delay Data per Approach</u></b>								
41	Field observation	Hour	\$90	\$106	\$110	\$114	\$119	\$124
42	Equipment	Hour	\$83	\$98	\$101	\$106	\$110	\$114
<b><u>Gap Data per Approach</u></b>								
42a	Field observation	Hour	\$50	\$59	\$61	\$64	\$66	\$69
43	Equipment	Hour	\$43	\$51	\$53	\$55	\$57	\$59
<b><u>Saturation Flow Rate Data per Approach</u></b>								
44	Field observation	Hour	\$50	\$59	\$61	\$64	\$66	\$69
45	Equipment	Hour	\$43	\$51	\$53	\$55	\$57	\$59
<b><u>Video Data per Intersection/Location</u></b>								
46	Counts less than 12-hours duration	Hour	\$16	\$19	\$20	\$20	\$21	\$22
47	Counts of 12 hours or more duration	Hour	\$14	\$16	\$17	\$18	\$19	\$19

<u>Traffic Warrant Study</u>	<u>Fee Schedule</u>				
	<u>Base Year</u>	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>	<u>Year 4</u>
<u>Traffic Warrant Study Type</u>	<u>May 1, 2021 - April 30, 2022</u>	<u>May 1, 2022 - April 30, 2023</u>	<u>May 1, 2023 - April 30, 2024</u>	<u>May 1, 2024 - April 30, 2025</u>	<u>May 1, 2025 - April 30, 2026</u>
<u>Traffic Signal Warrant Study (Signal Justification Rep</u>	<u>\$27,253</u>	<u>\$32,027</u>	<u>\$33,308</u>	<u>\$34,641</u>	<u>\$36,026</u>
<u>Multi-Way Stop Control Warrant Study</u>	<u>\$19,277</u>	<u>\$22,654</u>	<u>\$23,560</u>	<u>\$24,503</u>	<u>\$25,483</u>
<u>Crosswalk Warrant Study</u>	<u>\$21,496</u>	<u>\$25,262</u>	<u>\$26,273</u>	<u>\$27,323</u>	<u>\$28,416</u>

<u>APPLICATION TYPE</u>	<u>FEE SCHEDULE</u>	<u>NOTES</u>
<u>Appeal (APPL)</u>	<u>\$350.00</u>	
<u>Certificate of Appropriateness (CAPP)</u>	<u>\$60.00</u>	
<u>Certificate of Appropriateness – Administrative (CAPA)</u>	<u>\$60.00</u>	
<u>Commission Permit (CMPT)</u>	<u>\$6,990.00</u>	
<u>Comprehensive Plan Amendment (CPAM)</u>	<u>\$1,600.00 for the first 200 acres + \$7.50 per acre for each acre over 200</u>	<u>Calculated to the nearest one-hundredth</u>
<u>Rezoning (ZMAP or ZRES*)</u> <u>Residential</u>  <u>Non-Residential</u>  <u>Rezoning to Planned Development – Rural Village (PDRV) Zoning District</u>  <u>Additional submission, fourth and each subsequent</u>	<u>\$35,605.00 for the first 200 acres + \$180.00 per acre for each acre over 200</u>  <u>\$27,720.00 for the first 200 acres + \$140.00 per acre for each acre over 200</u>  <u>\$35,605.00 for the first 200 acres + \$180.00 per acre for each acre over 200 contained in the village center (total acreage minus the acreage contained in conservancy lots)</u>  <u>\$1,560.00</u>	<u>Calculated to the nearest one-hundredth acre (e.g., 100.15).</u>  <u>See “Rezoning Submissions: Classification of Zoning Districts for Fee Purposes” for guidance on whether an application is residential or non-residential.</u>  <u>*ZRES – Rezoning (residential component) subject to Code of Virginia § 15.2-2303.4 effective July 1, 2016</u>
<u>Rezoning (ZRTD)</u>	<u>\$2,380.00</u>	<u>Zoning Conversion (to the current Zoning Ordinance) within Rt. 28 tax district</u>
<u>Special Exceptions for Error in Location (SPEL)</u>	<u>\$460.00</u>	
<u>Final Development Plan (FIDP)</u>	<u>\$12,010.00</u>	
<u>Sign Permits</u>	<u>Temporary or Residential, \$10.00</u> <u>Commercial, \$235.00</u>	
<u>Zoning Permits</u>	<u>Residential, \$165.00</u> <u>Child Care Home, \$200.00</u> <u>Commercial, \$210.00</u>	
<u>Zoning Inspections</u>	<u>\$80.00</u>	

<b><u>APPLICATION TYPE</u></b>	<b><u>FEE SCHEDULE</u></b>	<b><u>NOTES</u></b>
<p><u>Special Exceptions (SPEX)</u></p> <p><u>Approval of use with land disturbance exceeding 10,000 SF or including sensitive environmental areas</u></p> <p><u>Approval of use with land disturbance 1 – 10,000 SF, no sensitive environmental areas</u></p> <p><u>Approval of use with no land disturbance</u></p> <p><u>Zoning Ordinance modifications specified to be processed as Special Exceptions other than modifications under 6-1216(B) and 6-1217</u></p> <p><u>Additional submissions, third and each subsequent</u></p> <p><u>Special Exceptions pursuant to the 1972 Zoning Ordinance that are considered only by the Board of Supervisors (no Planning Commission recommendation required).</u></p> <p><u>Approval of use with land disturbance exceeding 10,000 SF or including sensitive environmental areas</u></p> <p><u>Approval of use with land disturbance 1 – 10,000 SF, no sensitive environmental areas</u></p> <p><u>Approval of use with no land disturbance</u></p>	<p><u>\$15,750.00</u></p> <p><u>\$6,570.00</u></p> <p><u>\$5,955.00</u></p> <p><u>\$10,805.00</u></p> <p><u>\$2,560.00</u></p> <p><u>\$8,215.00</u></p> <p><u>\$3,425.00</u></p> <p><u>\$3,105.00</u></p>	<p><u>For the purpose of this fee schedule, a site is considered to include a sensitive environmental area if any of the following features fall anywhere on the parcel(s) as shown in the County’s on-line geographic database WEBLOGIS: Floodplain; Mountainside OD 1993; Steep Slope; Limestone OD; and Wetlands Model.</u></p> <p><u>See ZMOD or ZCPA for modifications pursuant to §§ 6-1216 and 6-1217.</u></p>
<p><u>Special Exceptions, Sign Development Plan (SIDP)</u></p>	<p><u>\$5,120.00</u></p>	
<p><u>Special Exceptions, Minor (SPMI)</u></p> <p><u>Approval of use with land disturbance exceeding 10,000 SF or including sensitive environmental areas</u></p> <p><u>Approval of use with land disturbance 1 – 10,000 SF, no sensitive environmental areas</u></p> <p><u>Approval of use with no land disturbance</u></p> <p><u>Approval of Child Care Home use</u></p> <p><u>Modification of additional use regulations in Section 5-600, minor revisions to approved Sign Development Plan in Section 5-1200, and setbacks from roads in Section 5-900</u></p> <p><u>Modification of additional use regulations in Section 5-609 Child Care Facilities</u></p>	<p><u>\$8,215.00</u></p> <p><u>\$3,425.00</u></p> <p><u>\$3,105.00</u></p> <p><u>\$350.00</u></p> <p><u>\$1,870.00</u></p> <p><u>\$350.00</u></p>	<p><u>For the purpose of this fee schedule, a site is considered to include a sensitive environmental area if any of the following features fall anywhere on the parcel(s) as shown in the County’s on-line geographic database WEBLOGIS: Floodplain; Mountainside OD 1993; Steep Slope; Limestone OD; and Wetlands Model.</u></p>



<u>APPLICATION TYPE</u>	<u>FEE SCHEDULE</u>	<u>NOTES</u>
<u>Zoning Concept Plan Amendment or Proffer Amendment (ZCPA or ZRAM*)</u> <u>Residential</u> <u>Non-Residential</u> <u>Residential deck into yard or buffer</u>	<u>\$26,230.00</u> <u>\$20,575.00</u> <u>\$350.00</u>	<u>Fee (residential vs. nonresidential) based on the proposed use. The residential fee would apply to any ZCPA that proposes a change to a residential component.</u> <u>* ZRAM – Proffer amendment (residential component) subject to Code of Virginia § 15.2-2303.4 effective July 1, 2016</u>
<u>Zoning Ordinance Modification (ZMOD or ZRMD*)</u> <u>Residential</u> <u>Non-Residential</u> <u>Residential deck into yard or buffer</u> <u>Adoption of a Comprehensive Sign Package or other modification of sign regulations under the 1972 Zoning Ordinance</u> <u>Amendment of an approved Comprehensive Sign Package under the 1972 Zoning Ordinance</u>	<u>\$13,315.00</u> <u>\$12,610.00</u> <u>\$350.00</u> <u>\$5,120.00</u> <u>\$2,285.00</u>	<u>Pursuant to §§ 6-1216(B)(4) or 6-1217</u> <u>Fee (residential vs. non-residential) based on the proposed modification. The residential fee would apply to any modification in a residential zoning district.</u> <u>Pursuant to §523 of the 1972 Zoning Ordinance.</u> <u>Pursuant to §523 of the 1972 Zoning Ordinance.</u> <u>*ZRMD – Zoning modification (residential component) subject to Code of Virginia § 15.2-2303.4 effective July 1, 2016</u>
<u>Zoning Correspondence (ZCOR)</u> <u>Proffer Determination</u> <u>Zoning Verification</u> <u>Vesting Determination</u> <u>Buffer Yard Waivers and Modifications (WAIZ)</u>	<u>\$690.00</u> <u>\$485.00</u> <u>\$1,035.00</u> <u>\$1,190.00</u>	
<u>Zoning Variance (VARI)</u>	<u>\$805.00</u>	



## Loudoun County, Virginia

www.loudoun.gov

Office of the County Administrator

1 Harrison Street, S.E., 5th Floor, P.O. Box 7000, Leesburg, VA 20177-7000

Telephone (703) 777-0200 • Fax (703) 777-0325

At a business meeting of the Board of Supervisors of Loudoun County, Virginia, held in the County Government Center, Board of Supervisors' Meeting Room, 1 Harrison St., S.E., Leesburg, Virginia, on Tuesday, December 7, 2021, at 5:00 p.m.

IN RE: Resolution of Intent to Amend the Revised 1993 Loudoun County Zoning Ordinance to Establish New Fees for Certain Traffic Data Collection and Traffic Warrant Studies, and Incorporate the Existing Land Development Application Fee Schedule as a New Zoning Ordinance Appendix (Countywide)

Supervisor Briskman moved that the Board of Supervisors adopt the Resolution of Intent to Amend the Revised 1993 Loudoun County Zoning Ordinance provided as Attachment 1 to the December 7, 2021, Board of Supervisors Business Meeting Action Item.

Supervisor Briskman further moved that the Board of Supervisors direct staff to structure the fees to recover the costs of data collection, warrant studies, and staff time.

Seconded by Supervisor Glass.

Voting on the Motion: Supervisors Briskman, Glass, Kershner, Letourneau, Randall, Saines, Turner, and Umstadd – Yes; None – No; Supervisor Buffington – Absent for the vote.

COPY TESTE:

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DEPUTY CLERK TO THE LOUDOUN COUNTY  
BOARD OF SUPERVISORS

**BOARD OF SUPERVISORS  
BUSINESS MEETING  
ACTION ITEM**

**SUBJECT:** **Resolution of Intent to Amend the Revised 1993 Loudoun County Zoning Ordinance to Establish New Fees for Certain Traffic Data Collection and Traffic Warrant Studies, and Incorporate the Existing Land Development Application Fee Schedule as a New Zoning Ordinance Appendix**

**ELECTION DISTRICT:** Countywide

**CRITICAL ACTION DATE:** At the pleasure of the Board

**STAFF CONTACTS:** Judi Birkitt, Planning and Zoning  
James David, Planning and Zoning  
Jaspreet Sethi, Transportation and Capital Infrastructure  
Joe Kroboth, III, Transportation and Capital Infrastructure

**PURPOSE:** The purpose of this Resolution of Intent to Amend (ROIA) is for the Board of Supervisors (Board) to initiate amendments to the Revised 1993 Loudoun County Zoning Ordinance (Zoning Ordinance) to establish new fees that reflect cost recovery for a County managed traffic data collection and warrant study program (Traffic Program) using consulting contracts for legislative land development and public school land development applications subject to Section 5-666 of the Zoning Ordinance, and incorporate the existing land development application fee schedule into the Zoning Ordinance as a new appendix.

A separate ROIA is being presented to initiate a Development Ordinance Amendment (DOAM-2021-0003) to amend the Loudoun County Facilities Standards Manual to implement a County traffic data collection program. Staff anticipates a Planning Commission public hearing on the draft ZOAM and DOAM text in the first quarter of 2022, followed by a Board public hearing in the second quarter of 2022.

**RECOMMENDATION:** **Staff** recommends that the Board adopt the Resolution of Intent to Amend the Revised 1993 Loudoun County Zoning Ordinance (Attachment 1).

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**BACKGROUND:** At the Board Business Meeting on October 3, 2017, the Board approved (9-0) a [Board Member Initiative \(BMI\)](#), brought forward by Supervisors Buffington and Letourneau, directing the Department of Transportation and Capital Infrastructure (DTCI) staff to research and report back to the Board regarding a process change and any associated implications that would

result in the County taking over responsibility for development and completion of traffic studies for legislative land development applications and public school land development applications subject to Section 5-666 of the Zoning Ordinance.

At the [Board Business Meeting on June 5, 2018](#), DTCI staff and County Administration presented an item to the Board summarizing four options to implement a County process to scope, prepare, and present the results of traffic impact studies (TIS) associated with private land development applications. The Board requested additional information and asked staff to report back to a Finance/Government Operations and Economic Development Committee (FGOEDC) for further discussion.

At the FGOEDC Meeting on January 8, 2019, the FGOEDC recommended (5-0) that the Board select an option under which the County will be responsible for traffic data collection and preparation of traffic warrant studies using consulting contracts and direct staff to return to the Board later with a list of consulting contracts necessary to implement the program, potential fee structure changes, budgetary implications, and identify a County process and regulatory document revisions. The details of the proposed County managed Traffic Program are provided below.

County Managed Traffic Program for Legislative Land Development Applications and Public Schools Land Development Applications subject to Section 5-666 of the Zoning Ordinance

1. Traffic data collection needed to prepare the TIS by the Applicant will be collected by the County using consulting contracts.
2. Traffic analysis studies including traffic signal warrants/signal justification report, multi-way stop control warrant, and crosswalk warrant for developer funded improvements will be prepared and managed by the County using consulting contracts.
3. County hires a Senior Traffic Engineer/Program Manager to manage the traffic data collection program, traffic study analysis program, and County consulting contracts.

At the [Board Business Meeting on January 17, 2019](#), the Board approved (8-0-1: Randall absent) the recommendations of the FGOEDC outlined above. The Board also, with the same vote, authorized the addition of a full-time traffic engineer position within DTCI to manage and oversee this Traffic Program.

At the Board's Transportation Summit on June 29, 2021, DTCI staff presented an [Information Item](#) detailing the next steps, including the County's process, regulatory document amendments, and fee changes needed to implement the Traffic Program. Staff informed the Board that the County's operational costs for the Traffic Program, including staff time, will be fully recovered through new fees paid by the Applicant. Note that Loudoun County Public Schools (LCPS) currently pays a consultant to complete traffic studies for by-right public schools, and under this Traffic Program, LCPS will shift those consultant fees related to traffic data collection to the

County's consultant. Therefore, while the Traffic Program will result in new fees for LCPS, they do not represent an added cost.

Pursuant to Virginia Code § [15.2-107](#), any fees imposed or amended under the County's zoning authority shall be adopted by ordinance after Public Hearing and advertisement in accordance with Virginia Code § [15.2-2204](#). In consultation with the County Attorney's Office (CAO), staff determined that full recovery of the cost of data collection and preparation of warrant studies through new fees should be implemented by an amendment to the Zoning Ordinance. Staff recommends a Zoning Ordinance amendment (ZOAM) to amend Section 6-402 (Fees) of the Zoning Ordinance to establish the new fee(s) associated with the Traffic Program. In consultation with the CAO, staff further recommends incorporating the existing land development application fee schedule into the Zoning Ordinance, as a new appendix. This new appendix will include the new data collection and warrant study fees, as well as other existing land development application fees that are administered by the Zoning Ordinance.

This item is tracking ahead of the Zoning Ordinance Rewrite to allow implementation as early as July 1, 2022.

**ISSUES:** There are currently no outstanding issues associated with the proposed amendments.

**FISCAL IMPACT:** Under the proposed County managed Traffic Program, outlined above, the County will collect traffic data and manage the preparation of traffic warrant studies using consulting contracts. The new fees are intended to recover the cost of data collection and warrant studies, including staff time.

**ALTERNATIVES:**

1. The Board may adopt the Resolution of Intent to Amend the Zoning Ordinance, provided as Attachment 1 to the December 7, 2021, Board of Supervisors Business Meeting Action Item, to establish new fees for traffic data collection and traffic warrant studies conducted by the County for legislative land development and public school land development applications subject to Section 5-666 of the Zoning Ordinance, and incorporate the existing land development application fee schedule into the Zoning Ordinance as a new appendix.
2. The Board may adopt the Resolution of Intent to Amend the Zoning Ordinance as amended.
3. The Board may choose to not adopt the Resolution of Intent to Amend the Zoning Ordinance and direct staff on how to proceed.

**DRAFT MOTIONS:**

1. I move that the Board of Supervisors adopt the Resolution of Intent to Amend the Revised 1993 Loudoun County Zoning Ordinance provided as Attachment 1 to the December 7, 2021, Board of Supervisors Business Meeting Action Item.

I further move that the Board of Supervisors direct staff to structure the fees to recover the costs of data collection, warrant studies, and staff time.

OR

2. I move an alternate motion.

**ATTACHMENT:**

1. Resolution of Intent to Amend the Revised 1993 Loudoun County Zoning Ordinance

**BOARD OF SUPERVISORS OF LOUDOUN COUNTY**

**RESOLUTION OF INTENT TO AMEND THE REVISED 1993 LOUDOUN COUNTY ZONING ORDINANCE TO ESTABLISH NEW FEES FOR CERTAIN TRAFFIC DATA COLLECTION AND TRAFFIC WARRANT STUDIES, AND INCORPORATE THE EXISTING LAND DEVELOPMENT APPLICATION FEE SCHEDULE AS A NEW APPENDIX**

WHEREAS, the Board of Supervisors approved (8-0-1: Randall absent) the recommendations of the Finance/Government Operations and Economic Development Committee (FGOEDC) to implement a County managed Traffic Program; and

WHEREAS, the Board of Supervisors seeks to implement the recommendations (next steps) outlined in the June 29, 2021, Transportation Summit Data Collection and Signal Warrant Analysis for Land Development Application Information Item; and

WHEREAS, pursuant to the aforesaid recommendations and Information Item, the Board of Supervisors wishes to initiate amendments to the Revised 1993 Loudoun County Zoning Ordinance (“Zoning Ordinance”) to establish new fees that reflect cost recovery for a County managed traffic data collection and warrant study program (“Traffic Program”) for legislative land development applications and public school land development applications subject to Section 5-666 of the Zoning Ordinance throughout the County, and incorporate the existing land development application fee schedule into the Zoning Ordinance as a new appendix; and

WHEREAS, the Code of Virginia Section [15.2-2286\(6\)](#) authorizes localities to offset the costs of data collection and preparation of traffic warrant studies, and other costs associated with the review of land development applications, by collecting fees; and

WHEREAS, amendments to the Zoning Ordinance are required to establish such new fees and to incorporate the existing land development fee schedule into the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors states its intention to amend the Revised 1993 Loudoun County Zoning Ordinance as follows:

1. Amend Section 6-402, *Fees*, to establish new fees for traffic data collection and preparation of traffic warrant studies.
2. Incorporate the existing land development application fee schedule into the Zoning Ordinance as a new appendix.
3. Amend such other Articles, Sections, Subsections, and provisions of the Zoning Ordinance as necessary to fully implement and maintain consistency with the foregoing amendments, to incorporate input received during the public hearing process, or as otherwise necessary to correct typographical errors, section and subsection numbering, and formatting within, update cross-references to, and

further clarify the requirements of, the above-mentioned Articles, Sections, Subsections, and provisions of the Zoning Ordinance.

BE IT FURTHER RESOLVED that (1) these amendments are in furtherance of the public necessity, convenience, general welfare, and good zoning practice; (2) these amendments will provide consistency, clarity, and increased accuracy for traffic data collection and traffic warrant studies; (3) staff is directed to prepare draft amendments for consideration; and (4) the proposed amendments on these matters be brought forward for notice, hearing, Planning Commission recommendation and Board of Supervisors action.



## MEMORANDUM

To: Zoning Ordinance Committee

From: Kate McConnell, AICP, CZA, Principal Planner  
Ryan Reed, LPSS, MAOSE, Deputy Zoning Administrator  
Judi Birkitt, AICP, CZA, Interim Assistant Director

Date: 1/26/2022

Re: February 2, 2022 ZOC Meeting  
**Review Chapter 8, Attainable Housing**

The Zoning Ordinance Committee (ZOC) is reviewing Zoning Ordinance Rewrite (ZO Rewrite) Chapter 8, Attainable Housing. 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 hopefully next year. 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.

## What is included in Chapter 8, Attainable Housing?

The County's attainable housing zoning tools consist of 2 parts:

- Affordable Dwelling Unit (ADU) Program – addresses housing attainable for households with incomes between 30% and 70% of the average median income (AMI).
- Unmet Housing Needs Unit (UHNU) Program – addresses housing attainable for households with incomes between 0% and 30% AMI (rental only) and between 70% and 100% AMI (for sale only).

Together, the ADU and UHNU programs intend to provide attainable housing for the full spectrum of incomes.

In general, draft revisions to the attainable housing zoning regulations align the ADU and UHNU Programs with the adopted [Loudoun County 2019 General Plan \(2019 GP\)](#) and the [Unmet Housing Needs Strategic Plan \(UHNSP\)](#). Planning and Zoning staff worked closely with Office of Housing staff to draft revisions that align with these two plans. The draft text for Chapter 8 is in **Attachment 1**, which includes a clean version and a comparison version. The comparison version is the closest to a redline version that is available. An outline of the applicable 2019 GP policies is found in **Attachment 2**.

### Summary of Revisions to Section 8.01, Affordable Dwelling Unit (ADU) Program

The ADU Program regulations included in Section 8.01 update Section 7-100 of the *Revised 1993 Loudoun County Zoning Ordinance*. The following are the basic parameters detailing what has changed in the draft ADU Program zoning ordinance text.

1. Revised current Section 7-100 (now Section 8.01) to simplify language and structure of the ADU Program ordinance to make it easier to use and understand as follows:
  - a. Made long paragraphs into lists;
  - b. Included tables when logical;
  - c. Grouped regulations that addressed the same topic, concept, or requirement in the same section or group of sections;
  - d. Attempted to define terms consistently used in the regulations to aid in application of the ADU Program requirements; and
  - e. Deleted repetitive requirements.

2. Removed ADU Development Zoning District Regulations (Sections 7-200 through Section 7-1100) because these development standards are now included as the base district standards where applicable. Including the ADU development standards as the base development standards will lend to more affordability in general, not just for ADU Developments.
3. Aligned ADU Program regulations with the 2019 GP Housing Policies, including, but not limited to:

- a. Removed the density requirement of greater than 1 dwelling unit per 40,000 square feet/acre consistent with 2019 GP Housing Policy 3.1.H. This will result in an ADU requirement for new residential development meeting the applicability requirements (24 dwelling units served by public water and sewer) in the following zoning districts: Single Family Residential (R-1); Transition Large Lot Neighborhood (TLN-1), which was formerly Transitional Residential (TR-1); Village Residential (VR-1), which was formerly Countryside Residential (CR-1); and Joint Land Management Area (JLMA-1).

In the current program, these districts are exempt from the ADU Program, but can voluntarily provide ADUs in exchange for a density increase. Required ADUs in this case are only calculated using the units generated by the density increase, not the total number of units in a development. The change will result in the opportunity for new development to pay a fee or dedicate land in lieu of providing ADUs if required in these developments since only single-family detached (SFD) dwelling units are permitted in these districts. It will also result in the generation of more ADUs in the County.

- b. Grouped multifamily (MF) stacked dwelling units with the single-family ADU requirement rather than a MF attached product consistent with 2019 GP Housing Policy 3.1.G. since MF stacked dwelling units function more like a single-family attached unit. This will result in the same percentage requirement for MF Stacked ADUs as single-family units.
- c. Increased ADU percentage requirements for SFD, SFA, and MF Stacked dwelling units from 12.5% to 15% consistent with 2019 GP Housing Policy 3.1.G. and UHNSP Strategy 5.3.A. With this increase, a project with 24 dwelling units would be required to provide 4 ADUs, an increase of 1 ADU from the current requirement; or a 100 dwelling unit project would be required to provide 15 ADUs, an increase of 2 ADUs from the current requirement.

- d. Increased the ADU percentage requirements for **nonexempt** MF Attached dwelling units from 6.25% to 10% consistent with GP Housing Policy 3.1.G. and UHNSP Strategy 5.3.A. With this increase, a project with 24 dwelling units would be required to provide 3 ADUs, an increase of 1 ADU from the current requirement; or a 100 dwelling unit project would be required to provide 10 ADUs, an increase of 3 ADUs from the current requirement.
4. Revised optional density bonus to 20% for all unit types considering an increase in nonexempt MF Attached ADU requirement, for ease of density bonus calculation when a mix of unit types is provided and for consistency with 2019 GP Housing Policy 1.2.A. and UHNSP Strategy 5.4.A.
5. Included a table showing optional density increases by district since this information was included in the ADU Development Zoning District Regulations.
6. Included regulations to memorialize established ADU Program application practices:
  - a. Added specific regulations for how to calculate ADUs.
  - b. Added example calculations.
  - c. Added compatibility and interspersions with market rate unit requirements.
7. Added specific regulations for distributing ADUs by dwelling unit type and by MF attached dwelling unit size to diversify and ensure a range of unit types are provided as ADUs and to address longstanding inability to require ADUs by dwelling unit type consistent with Housing Policy 1.
  - a. Provided example calculations.
8. Included the option to provide land in lieu of ADUs for SFD only developments, consistent with UHNSP Strategy 2.5.D.

Work To Be Addressed

1. Revise and/or delete the MF attached exemption after receipt of MF Feasibility Analysis and report to Board of Supervisors, who requested the analysis.
2. Consider additional revisions to or removal of the ADU Program Exemptions listed in Section 8.01.A.4.b-e since they largely address applications filed prior to 1993, when this ordinance was initially adopted.

## **Summary of Revisions to Section 8.02, Unmet Housing Needs Program (UHNU)**

The UHNU Program regulations in Section 8.02 update and consolidate UHNU requirements from the current PD-MUB (Section 4-1357) and Route 28 Corridor Overlay (Section 4-2410) regulations. The following are the basic parameters detailing what has changed in the draft zoning ordinance text pertaining to the UHNU regulations.

1. Consolidated all UHNU regulations in one location. The UHNU Program will be used to:
  - a. Implement the adjusted FAR in the Urban Mixed Use (UM) and Suburban Mixed Use (SM) zoning districts;
  - b. To meet the Alternative Location Criteria for locating the SCN district in the Suburban Neighborhood or Suburban Mixed Use Place Types of the 2019 GP;
  - c. Regulate UHNUs if provided as an adaptive reuse project; and
  - d. Regulate UHNUs provided if the PD-MUB density exceeds 20 dwelling units per acre.
2. Developed affordability requirements based on 2019 GP Housing Policies, UHNSP Policies, and in consultation with the Office of Housing. The UHNU affordability requirements address the provision of affordable housing not addressed by the ADU Program and include housing attainable for households with incomes between 0% and 30% AMI (rental only) and between 70% and 100% AMI (for sale only).
3. Retained UHNU requirements for the PD-MUB zoning district as applicable and edited for clarity and ease of implementation. PD-MUB will be retained as a legacy district; therefore, the UHNU requirements specific to this district are being retained to administer any UHNUs currently required or potentially required if an existing PD-MUB district amends their concept plan to increase the density to greater than 20 dwelling units per acre.

### Work To Be Addressed

1. Update PD-MUB section references once determined.

### **Additional Revisions Associated with Chapter 8., Attainable Housing**

1. Added a definition for area median income (AMI) in Chapter 11, Definitions. This definition replaces the use of "median income for the Washington Metropolitan Statistical Area (MSA)" and "Area Median Income (AMI)" and aligns with methodology used by HUD.

2. Added a definition of UHNU in Chapter 11.
3. Revised the affordable housing unit (AHU) definition to allow for additional programs to be used to provide AHUs.

**Next Steps after the February 2<sup>nd</sup> ZOC Meeting**

An abbreviated version of the remaining ZOC Work Plan is shown below. The January 25, 2022 meeting is the first and only scheduled pre-referral ZOC meeting regarding Chapter 8. If further time is needed, attainable housing could be added to the next meeting on February 16, 2022. Please be advised that the Work Plan schedule is tentative and subject to change.

**Tentative Zoning Ordinance Committee Pre-Referral Work Plan**

Topic	Meeting Date	Packet Distribution
Attainable Housing	2/2/2022	1/26/2022
Standalone ZOAM: Traffic Data Collection and Warrant Study Fees	2/2/2022	1/26/2022
Historic Overlay District	2/16/2022	2/9/2022
Standalone ZOAM: Prime Ag Soils and Cluster Subdivision Regulations - revisit	2/16/2022	2/9/2022
Neighborhood Transition Standards	3/2/2022	2/23/2022
Subcommittee Expectations and Outcomes	3/2/2022	2/23/2022
Nonconformities & Procedures	TBD	TBD
NOTES: 1. EnCode changes are planned to be released to the public beginning in April 2022. 2. Draft chapters to be reviewed as part of April 2022 referral package: Ch. 1 Introduction, Ch. 10 Officials, Boards and Commissions, and Ch. 11 Rules of Interpretation. 3. ZOC Work Plan is subject to change.		

**Attachments:**

1. Draft Chapter 8 – Attainable Housing clean and comparison versions
2. 2019 General Plan Policies Supporting Chapter 8 – Attainable Housing

## CHAPTER 8: ATTAINABLE HOUSING

### 8.01 Affordable Dwelling Unit Program

**Purpose.** *The purpose of the Affordable Dwelling Unit (ADU) Program is to:*

- *Administer and regulate an Affordable Dwelling Unit (ADU) Program enabled pursuant to § 15.2-2304 of the Code of Virginia.*
- *Assist in the provision of housing to persons of moderate income.*
- *Promote the development of a full range of housing choices.*
- *Require the construction and continued existence of moderately priced dwelling units.*
- *Provide for optional increases in density to reduce land costs for such moderately priced dwelling units.*
- *Encourage the provision of affordable housing meeting the needs of households with incomes between 30% and 70% of the area median income (AMI) in areas currently served by or planned for mass transit and proximate to major employment centers.*
- *Implement the Housing Policies of the General Plan.*

A. **Applicability.** The requirements of the ADU Program apply as follows:

1. To any site, or portion thereof, at one location that is:
  - a. Served by public water and sewer, and
  - b. The subject of a development application for rezoning, special exception, site plan, subdivision, or preliminary subdivision that yields, as submitted by the applicant, 24 or more dwelling units.
  - c. For the purposes of these ADU Program requirements, an application meeting criteria 8.01.A.1.a. and 8.01.A.1.b. above is a “development application” or a “development.”
2. "Site, or portion thereof, at one location" includes all adjacent undeveloped land of the property owner and/or applicant, under common ownership and/or control of the owner and/or applicant, including, but not limited to land owned and/or controlled by separate partnerships, land trusts, trusts, or corporations and other such forms of business entities in which the owner and/or applicant is an owner of 1% or more of the stock, partnership, membership, or is the trustee or beneficiary.
  - a. "Owner and/or applicant" includes members of the owner's and/or applicant's immediate family.
  - b. "Immediate family members" include the owner's and/or applicant's spouse, children, parents, and siblings.
  - c. *Exception.* Adjacent parcels of undeveloped land owned by separate members of the same family are exempt from the provisions of this section when the separate ownership has existed for a period of 5 or more years.
  - d. The acquisition of a fee interest by a lending institution, such as pension fund, bank, savings and loan, insurance company, or similar entity due to foreclosure or project participation is considered as ownership in determining applicability.
  - e. The acquisition of an equity interest by a lending institution, such as a pension fund, bank, savings and loan, insurance company, or similar entity solely by virtue of its agreement to provide financing does not constitute ownership and is not considered in determining applicability.
  - f. An owner and/or applicant will not be exempt from the requirements of this Ordinance by submitting phased development applications for a site, or portion thereof, at one location for rezoning, special

exception, site plan, subdivision, or preliminary subdivision for less than 24 dwelling units at any one time.

1. *Exception.* An owner and/or applicant may apply for a rezoning, special exception, site plan, or preliminary subdivision of a site, or portion thereof, at one location for less than 24 dwelling units if the owner and/or applicant agrees, in writing, that any following development application for the site, or portion thereof, at one location must meet the requirements of the ADU Program when the total number of dwelling units in the development application and/or site, or portion thereof, at one location meets or exceeds 24 dwelling units.
2. The agreement referenced in Section 8.01.A.2.d.1. must be:
  - a. Included on the approved CDP, rezoning plat, special exception, site plan, or preliminary subdivision plat for the development; and
  - b. Recorded among the Loudoun County Land Records and must be indexed in the names of all owners of the site, or portion thereof, at one location as such terms are defined above.
3. Any request for an amendment to an approved Concept Development Plan (CDP) that results in an increase in the total dwelling units to 24 or more. In this case, the application of the ADU Program will be limited to the increase in the total number of dwelling units.
4. *Exemptions.* The requirements of the ADU Program do not apply to the following:
  - a. Any multistory structure of which a minimum of 4 stories are composed entirely of multifamily dwellings and/or facilities (excluding parking) restricted for the exclusive use and enjoyment of the residents of such multifamily dwellings, and has an elevator(s) that serves 2 or more dwelling units in the structure.
  - b. Special exception, site plan, subdivision, or preliminary subdivision applications filed in accordance with an approved rezoning that has proffered the provision of ADUs or other contributions toward the provision of ADUs prior to June 16, 1993.
  - c. Applications to revise or amend approved proffers, CDPs, site plans, special exceptions, preliminary subdivisions, and/or subdivisions applications filed after June 16, 1993, that do not increase the number of dwelling units to 24 or more.
  - d. Properties subject to proffers accepted prior to June 16, 1993, by the Board of Supervisors, pursuant to § 15.2-2303 of the Code of Virginia.
  - e. Any amendment to an approved CDP, including rezoning land for residential uses in an approved planned development district, and/or a rezoning amendment approved prior to June 16, 1993 or already subject to the ADU Program that requests to redistribute previously approved dwelling units to the newly zoned property within the same development, but that does not result in an increase in the total number of dwelling units.
5. At the applicant's discretion, the provisions of the ADU Program may be applied to developments that are exempt from these provisions as stated in Section 8.01.A.4. If an applicant proposes to provide ADUs in a development that is otherwise exempt, the County will:
  - a. Waive any application fee associated with a CDP amendment proposing to revise the CDP only to provide ADUs; and
  - b. Provide review of CDP amendment applications not to exceed 180 days if the following criteria are met:
    1. The CDP amendment only includes committing to the provision of ADUs and/or an increase in the number of dwelling units proposed based on the optional density increase permitted pursuant to Section 8.01.D.8.



2. The CDP amendment does not include revisions to the approved site design, such as but not limited to the relocation of roads, buildings, building envelopes, or site entrances to accommodate the requirements of or optional density increase allowed by the ADU Program.
  - c. The calculation of the review period includes only that time the CDP amendment is under County review and will not include time that may be necessary for revisions by the applicant.
  6. An applicant may provide affordable housing units (AHU) in lieu of the ADUs required by this Ordinance in accordance with Section 8.01.J.
- B. Administration, Enforcement, and Regulation.** The administration, enforcement, and regulation of the ADU Program is as follows:
1. The Zoning Administrator administers and enforces the provisions of the ADU Program.
  2. In addition to the provisions of this Ordinance, all ADUs must comply with Chapter 1450 of the Codified Ordinance of Loudoun County (Codified Ordinances).
  3. The administration and regulation, establishment of unit prices, price controls, eligibility requirements, and the structure and operation of the Affordable Dwelling Unit Advisory Board (ADUAB) are governed by the Codified Ordinances.
- C. Affordability Requirements.** The ADU Program must provide ADUs that are affordable as follows:
1. For purchase by households whose income is greater than 30% and less than 70% of the area median income (AMI); and
  2. For rental by households whose income is greater than 30% and less than 50% of the AMI.
  3. AMI is determined at the time the occupancy permits are issued for the ADUs.
- D. ADU Requirements and Optional Increases in Density.** The ADU requirements and optional increases in density apply as follows:
1. To active rezoning applications that have not complied with Section 7.08.F as of the adoption date of this Ordinance.
  2. To rezoning, special exception, site plan, subdivision, and preliminary subdivision applications officially accepted by the County after the adoption date of this Ordinance.
  3. When the development applications in Section 8.01.A.1 above request approval of single-family detached dwelling units (SFD), single-family attached dwelling units (SFA), and/or multifamily (MF) stacked dwelling units, a minimum of 15% of the total number of dwelling units approved for the development application must be ADUs.
  4. When the development applications in Section 8.01.A.1 above request approval of MF attached dwelling units, a minimum of 10% of the total number of dwelling units approved for the development application must be ADUs.
  5. When 15% of the total number of SFD, SFA, and/or MF stacked dwelling units and/or 10% of the MF attached dwelling units approved for the development application are provided as ADUs, the development is permitted an optional 20% maximum density increase as provided in Table 8.01.D-1.
  6. *Voluntary Provision of ADUs for an Exempt Site or Application.* In the case where ADUs are provided pursuant to Section 8.01.A.5 above, the following provisions apply:
    - a. The ADU to density increase ratio required by Sections 8.01.D.3 and 4 does not apply. The density increase ratio is as follows:
      1. The density of a development application subject to voluntary provision of ADUs which is otherwise exempt may be increased between 10% to 20%.
      2. Of any units approved pursuant to the 10% to 20% density increase, not less than a percentage equal to the density increase percentage must be ADUs.

- b. The applicant is not permitted to request cash in lieu of SFD ADUs pursuant to Section 8.01.I.
- 7. If the optional density increase exceeds the maximum residential density set forth in the General Plan, then the maximum residential density set forth in the General Plan applicable to the development application and/or development will be increased up to 20% pursuant to Table 8.01.D-1 for the purposes of calculating the potential density that may be approved by the Board of Supervisors.

**Table 8.01.D-1. Maximum Optional Density Increase by Zoning District**

Zoning District	Permitted Density <sup>1</sup>	Maximum Permitted Density <sup>1</sup> 20% Density Increase with 15% SFD, SFA, and/or MF Stacked ADUs	Maximum Permitted Density <sup>1</sup> 20% Density Increase with 10% MF Attached ADUs
UT/UM	UT: No Maximum UM: 1.5 FAR	UT: No Maximum UM: 1.8 FAR	UT: No Maximum UM: 1.8 FAR
SN-4	4	4.8	N/A
SN-6	6	7.2	N/A
SCN-8	8	9.6	N/A
SCN-16	16	19.2	19.2
SCN-24	24	28.8	28.8
SM	1.0 FAR	1.2 FAR	1.2 FAR
TLN-1	1	1.2	N/A
TSN	4	4.8	N/A
TCN	5	6	N/A
VR-1	1	1.2	N/A
VR-2	2	2.4	N/A
VR-3	3	3.6	N/A
VR-4	4	4.8	N/A
JLMA-1	1	1.2	N/A
JLMA-LN	4	4.8	N/A

<sup>1</sup>Density is in dwelling units per acre unless otherwise noted.

- E. Standards for ADU Calculations.** Each development application subject to the ADU Program must calculate required ADUs and optional density increase, as well as demonstrate the calculations, as follows:
1. Determine the maximum number of dwelling units proposed, including any dwelling units permitted by the optional density increase.
  2. Calculate the ADUs required pursuant to Section 8.01.D.3 and/or 8.01.D.4, whichever is applicable, using the total number of dwelling units proposed.
    - a. When the calculation of required ADUs results in a requirement of a fractional ADU, any fraction is interpreted as 1 whole ADU.
    - b. The required number of ADUs may be modified pursuant to the provisions of Section 8.01.I.
    - c. The applicant may provide land or cash in lieu of providing required SFD ADUs pursuant to Section 8.01.I.6.c.
  3. Demonstrate the optional density increase, total number of dwelling units proposed, and total number of ADUs required on each rezoning, special exception, site plan, subdivision, and/or preliminary subdivision application.

**Sample ADU Calculation for 22.5-Acre Parcel in the SN District.**

<i>Permitted Density:</i>	<i>4 Dwelling Units per Acre</i>
<i>Dwelling Units Permitted:</i>	<i>22.5 x 4 = 90 SFD, SFA, and/or MF Stacked Dwelling Units</i>
<i>ADUs Required:</i>	<i>15% of Total Dwelling Units</i>
<i>No Optional 20% Density Increase:</i>	<i>90 x 15% = 14 ADUs Required (Rounded Up from 13.5)</i>
<i>Optional 20% Density Increase:</i>	<i>90 x 20% = 108 Total Dwelling Units</i>
<i>Permitted Density:</i>	<i>108/22.5 = 4.8 Dwelling Units per Acre</i>
<i>Total ADUs Required:</i>	<i>108 x 15% = 17 ADUs Required (Rounded Up from 16.2)</i>

**F. Calculating Required ADUs by Unit Type.** Each development application subject to the ADU Program must provide required ADUs by dwelling unit type, as well as demonstrate the calculations, as follows:

1. When a development application includes a mix of dwelling unit types, the required ADUs must be provided proportionately to the types of market rate dwelling units proposed in the development application or project.
2. When a development application for a MF stacked building or a MF attached building includes a mix of unit sizes, the required ADUs must be provided proportionately to the sizes of market rate dwelling units proposed in the development application or project. The unit size will be determined by bedroom count.
  - a. "Dwelling unit type" as used in this section also includes "unit size."
3. ADUs are not permitted to be provided in a dwelling unit type that is not also provided as a market rate unit in the development application or project.
4. When the calculation of ADUs by dwelling unit type results in a requirement of a fractional ADU, any fraction up to and including  $\frac{1}{2}$  will be disregarded, and fraction over  $\frac{1}{2}$  will be interpreted as 1 whole ADU.
  - a. If the total of the ADUs by dwelling unit type is less than the total number of required ADUs, then the applicant must increase the number of ADUs by dwelling unit type to equal the total number of required ADUs.
    1. The applicant may elect which dwelling unit type will be increased to provide the remaining required ADUs.
  - b. If the total of the ADUs by dwelling unit type exceeds the total number of required ADUs, then the applicant may decrease the number of ADUs by dwelling unit type to equal the total number of required ADUs.
    1. The applicant may elect which dwelling unit type will be decreased to achieve the required ADUs.
  - c. Demonstrate the required ADUs by dwelling unit type on each rezoning, special exception, site plan, subdivision, and/or preliminary subdivision application.

**Sample Calculation of ADUs Provided Proportionately to Dwelling Unit Types Proposed: SFD, SFA, and MF Stacked Dwelling Units.**

<i>Total Dwelling Units Proposed:</i>	<i>110</i>
<i>Total ADUs Required:</i>	<i>17 (Rounded up from 16.5)</i>
<i>Dwelling Units by Unit Type:</i>	<i>10 SFD, 65 SFA, 35 MF Stacked</i>
<i>Dwelling Unit Type Percent of Total:</i>	<i>9% SFD, 59% SFA, 32% MF Stacked</i>
<i>ADUs Required by Type:</i>	<i>17 x 9% = 2 SFD (Rounded up from 1.53)</i>

$17 \times 59\% = 10 \text{ SFA}$  (Rounded down from 10.03)

$17 \times 32\% = 5 \text{ MF Stacked}$  (Rounded down from 5.44)

Total ADUs: 17 ADUs

**Sample Calculation of ADUs Provided Proportionately to Unit Sizes Proposed: MF Attached Dwelling Units.**

Total Dwelling Units Proposed: 300

Total ADUs Required: 30

Dwelling Units by Unit Size: 30 Studio, 110 1-Bedroom (BR), 120 2-BR, 40 3-BR

Dwelling Unit Size Percent of Total: 10% Studio, 37% 1- BR, 40% 2-BR, 13% 3-BR

ADUs Required by Unit Size:  $30 \times 10\% = 3 \text{ Studio}$

$30 \times 37\% = 11 \text{ 1-BR}$  (Rounded down from 11.1)

$30 \times 40\% = 12 \text{ 2-BR}$

$30 \times 13\% = 4 \text{ 3-BR}$  (Rounded up from 3.9)

Total ADUs: 30 ADUs

**G. Designation of ADUs on Site Plans or Plats.** ADUs must be designated on site plans or subdivision plats as follows:

1. Approved site plans and/or record subdivision plats must identify the specific number and/or percentage of for-sale dwelling units and for-rent dwelling units that are to be regulated as ADUs pursuant to the ADU Program.
  - a. All site plans and subdivision plats for a development containing for-sale ADUs must identify the specific dwelling units that will be provided as ADUs.
  - b. All site plans and subdivisions for a development containing for-rent ADUs must include a tabulation that demonstrates the percentage of dwelling units and the number of each type of dwelling unit, by bedroom count, that will be maintained as ADUs.

**H. Approved site plans and subdivision plats must demonstrate the following:**

1. Specifications indicating that dwelling unit dimensions and the number of bedrooms in all ADUs meet the requirements established by the ADUAB pursuant to the Codified Ordinance.
2. ADUs are of a building type and an architectural style compatible with market rate dwelling units within the development. To be considered compatible, ADUs must:
  - a. Be similar in mass, scale, width, height, depth, design, construction, and exterior features to market rate dwelling units in the development.
  - b. Smaller ADUs may be provided if the same number of market rate dwelling units are provided that are the same size as the smaller ADUs.
  - c. ADUs without certain exterior features, such as decks or one-car garages, may be provided if the same number of market rate units are provided without these exterior features.
3. The interspersation of ADUs among market rate dwelling units in the development. To be considered interspersed, ADUs must not be:
  - a. In the same section or row of SFA or MF stacked dwelling units.

- b. Adjacent to, directly across from, or diagonal from another ADU.
  - c. *Exception.* Deviations of the interspersion requirement may be permitted on a case-by-case basis when the development is reviewed as a whole, and where creative design and alternative dwelling unit types could be determined to meet the intent of the ADU Program by the Zoning Administrator.
4. Dwelling dimensions and the number of bedrooms in a MF stacked and MF attached ADUs are the same dimensions and number of bedrooms in equivalent market rate dwelling units in the development.

***Provide example of creative design:*** 2 ADU townhouses in a row are designed to look like 1 larger townhouse in a row of SFA units.

***Provide example of creative design:*** Condominiums provided in a building designed to appear as one SFD unit. This would only be permitted where this unit type is allowed in the district.

- I. **Timing of Construction/Availability of ADUs.** In a development that contains SFD, SFA, or MF dwelling units, the timing of construction and availability of ADUs must be as follows:
  1. Occupancy permits for 50% of the ADUs must be issued prior to issuance of more than 50% of the market rate dwelling units occupancy permits for the development.
  2. Occupancy permits for 75% of the ADUs must be issued prior to issuance of more than 75% of the market rate dwelling units occupancy permits for the development.
  3. Occupancy permits for 100% of the ADUs must be issued prior to issuance of more than 90% of the market rate dwelling units occupancy permits for the development.
  4. The following information must be submitted with each occupancy permit application for a market rate dwelling unit within the development:
    - a. The total number of dwelling units, market rate dwelling units, and ADUs proposed for the development;
    - b. The number of occupancy permits issued for market rate dwelling units within the development;
    - c. The number of occupancy permits issued for ADUs within the development; and
    - d. The lot number or unit number of each ADU for which an occupancy permit has been issued.
- J. **Modifications.** Modifications to the ADU Program requirements are permitted as follows:
  1. Only modifications to the requirements of Sections 8.01.D and 8.01.H of the ADU Program are allowed.
  2. Requests for modifications, as applied to a given development application or project, must be submitted in conjunction with the application for rezoning, CDP amendment, proffer amendment, special exception, site plan, or preliminary subdivision, as applicable.
  3. The ADUAB will review requests for modifications and make its recommendation to the Planning Commission within 60 days of receipt of a complete application.
  4. The Board of Supervisors must find, upon recommendation of the Planning Commission, that the proposed alternative will achieve the objective of providing a broad range of housing opportunities throughout Loudoun County.
  5. The time limits set forth in § 15.2-2259 and § 15.2-2260 of the Virginia Code will be suspended during the pendency of an application filed pursuant to Section 8.01.I.
  6. If a modification to Section 8.01.D is requested:

- a. The ratio of ADUs proposed to the optional density increase approved must be no less than 15%:20% for SFD, SFA, and MF stacked dwelling unit development applications, and 10%:20% for MF attached dwelling unit development applications; and
- b. The total ADUs proposed must be no less than 5% of the total number of dwelling units within the development application.
- c. Notwithstanding Sections 8.01.1.6.a and b. above, any request for rezoning, special exception, site plan, subdivision, or preliminary subdivision that contains only SDF dwelling units, a modification may be requested to provide developable land within the development or cash in lieu of the ADUs. If an applicant requests a modification to make such cash payment or land dedication, the following criteria applies:
  1. Cash provided in lieu of SFD ADUs pursuant to Section 8.01.D.3 must be a per unit cash contribution of 100% of the construction cost of a prototypical SFD ADU.
  2. The minimum value of land dedicated in lieu of SFD ADUs pursuant to Section 8.01.1.6.c must be based on the value of per unit cash contribution of 100% of the construction cost of a prototypical SFD ADU.
  3. The construction cost of a prototypical SFD ADU must be the “vertical cost” of an ADU as established on a semiannual basis by the ADUAB.
    - a. The minimum number of bedrooms of the prototypical SFD ADU used to determine the cash contribution must be equal to the number of bedrooms provided within the predominant market rate SFD dwelling unit in the development as determined by the Zoning Administrator.
  4. Notwithstanding Section 8.01.1.6.c.2, documentation demonstrating that the required number of ADUs can be built on the and dedicated in lieu must be provided with the request to dedicate land in lieu of providing ADUs.
  5. The decision to dedicate land or provide cash in lieu of ADUs must be made at the time of approval of rezoning, special exception, subdivision, or preliminary subdivision, as applicable.
  6. In conjunction with a request to modify Section 8.01.D, the Board of Supervisors may permit an applicant to request a modification that would allow them to provide any combination of ADUs, dedicate land, or provide cash to Loudoun County of equivalent value in lieu of providing the required number of ADUs.
  7. All cash provided or land dedicated in lieu of SFD ADUs made pursuant to Sections 8.01.1.6.c must be:
    - a. Of a value calculated in current dollars, adjusted by the CPI, at the time the actual contribution is officially transferred to the County;
    - b. Paid or dedicated prior to the issuance of the first zoning permit for the development unless another time is approved by the Board of Supervisors at the time the modification is approved.
    - c. Deposited in the Loudoun County Housing Trust Fund for cash in lieu and dedicated to the County Economic Development Authority for land until such time as a County land bank is established.
  8. The applicant must provide a justification that addresses Section 8.01.1.9.
  9. The ADUAB, Planning Commission, and Board of Supervisors must consider the following criteria in reviewing a request for modification to Section 8.01.D:
    - a. Public facilities and services already developed for the overall development capacity to accommodate the maximum density increase permitted for provision of ADUs.

- b. Existing unique or unusual site constraints, including but not limited to potential adverse impacts on environmental resources and features on the subject parcel and adjacent parcels, and difficult soil conditions.
      - c. Unusual costs associated with development of the subject property.
      - d. Overriding public needs, health issues, public safety issues, or public welfare issues that are better served by not providing the maximum number of ADUs otherwise required.
      - e. In the case of a request for a CDP Amendment, consideration must also be given to whether the amendment would result in a reduction in the previously approved rezoning's impact on public facilities and whether the existing proffer commitments for the previously approved rezoning exceed current adopted capital facility guidelines established in the General Plan.
7. If a request to modify Section 8.01.H is requested:
  - a. The development application must demonstrate the modified timing of construction and availability of ADUs compared to market rate dwelling units.
  - b. The applicant must provide a justification that addresses the criteria listed under Section 8.01.I.7.c..
  - c. The ADUAB, Planning Commission, and Board of Supervisors must consider the following criteria in reviewing a request for modification to Section 8.01.H:
    1. The modified timing of construction and availability of ADUs compared to market rate dwelling units.
    2. Existing unique or unusual site constraints, including but not limited to the availability of utilities or infrastructure that require a modified development schedule.
    3. Unusual costs associated with development of the subject property due to the development schedule required by Section 8.01.H.
- K. **Affordable Housing Unit (AHU) Programs.** The Applicant may provide AHUs in place of ADUs in accordance with the following requirements:
  1. A development that provides the same number or more AHUs as the number of ADUs required under Section 8.01.D.3 and 4 above will satisfy the ADU Program requirements.
  2. A development that provides AHUs to satisfy the ADU Program requirements is permitted an optional density increase in accordance with Sections 8.01.D.5, 6, or 7, as applicable.
  3. A development that provides a fewer number of AHUs than the number of ADUs required under Section 8.01.D.3 and 4 above must provide additional ADUs necessary to augment the shortage and achieve the total required ADUs.
  4. The rents and sales prices for AHUs provided must be in accordance with the rules and regulations governing the AHU funding programs and AHUs must be marketed in accordance with the AHU funding program rules and regulations.
  5. The following requirements apply to any development that provides AHUs pursuant to this Section:
    - a. Approved site plans and/or record subdivision plats must:
      1. Identify the specific number and location of buildings that are to contain AHUs; and
      2. Include a tabulation demonstrating the number of AHUs and ADUs provided satisfies the number of ADUs required by Section 8.01.D.3 and 4 above.
    - b. In a development that contains SFD, SFA or MF dwelling units, the timing of construction and availability of AHUs must be as follows:
      1. Occupancy permits for 50% of the AHUs must be issued prior to issuance of more than 50% of the market rate dwelling units occupancy permits for the development.

2. Occupancy permits for 75% of the AHUs must be issued prior to issuance of more than 75% of the market rate dwelling units occupancy permits for the development.
  3. Occupancy permits for 100% of the AHUs must be issued prior to issuance of more than 90% of the market rate dwelling units occupancy permits for the development.
  4. The following information must be submitted with each occupancy permit application for a market rate dwelling unit within the development:
    - a. The total number of dwelling units, market rate dwelling units, and AHUs proposed for the development;
    - b. The number of occupancy permits issued for market rate dwelling units within the development;
    - c. The number of occupancy permits issued for AHUs within the development; and
    - d. The lot number or unit number of each AHU for which an occupancy permit has been issued.
  - c. The applicant must provide written verification to the Zoning Administrator from the applicable affordable housing program of the approval of funding to provide AHUs. Until such written verification is provided by the applicant, only ADUs are permitted to be provided to meet the requirements of the ADU Program.
  - d. Buildings containing AHUs must utilize exterior building materials similar to and be of an architectural style compatible with the market rate dwelling units within the development in which they are located.
    1. Written documentation and/or plans demonstrating that the AHUs are in conformance with this requirement must be provided to the Zoning Administrator prior to approval of the first site plan, construction plans and profiles, and/or subdivision plan for the AHUs.
- L. **Violations and Penalties.** In addition to enforcement under Section 10.01 et seq., the following apply whenever any person, whether owner, lessee, principal, agent, employee, or otherwise, violates any provision of the ADU Program, or permits any such violation, or fails to comply with any of the requirements hereof:
1. Tenants of ADUs who fail to submit executed affidavits or certifications, as required by the ADU Program, are subject to lease termination and eviction procedures, as provided in the Codified Ordinances.
  2. Tenants of ADUs who falsely swear or who execute an affidavit or certification required by the ADU Program knowing the statements contained therein to be false are subject to lease termination and eviction procedures, as provided in the Codified Ordinances.
  3. Owners of individual ADUs who falsely swear that they continue to occupy their respective ADU as their primary domicile will be subject to injunction or other suit, action, or proceeding to require such owner to either sell the ADU to someone who meets the eligibility requirements established pursuant to the ADU Program or to occupy such ADU as a domicile.
- M. **Court Appeals.**
1. Notwithstanding the provisions of § 15.2-2311 of the Virginia Code, any person aggrieved by a decision of the Zoning Administrator or by the Affordable Dwelling Unit Advisory Board (ADUAB), in the case of a decision made by the latter regarding an appeal of ADU for-sale or rental prices, or by any decision made by an administrative officer in the administration or enforcement of the ADU Program, may appeal such decision to the Loudoun County Board of Zoning Appeals by filing a petition of appeal which specifies the grounds upon which aggrieved within 30 days from the date of the decision.
  2. Any petition of appeal properly filed pursuant to Paragraph M.1. above will not constitute a de novo proceeding and will be considered by the Circuit Court in a manner similar to petitions filed pursuant to § 15.2-2314 of the Virginia Code.



**8.02 Unmet Housing Needs Unit Program**

**Purpose.** The purpose of the Unmet Housing Needs Unit (UHNU) Program is to:

- Complement the Affordable Dwelling Unit (ADU) Program by addressing housing affordable to families with incomes not addressed by the ADU Program to include 0% to 30% of area median income (AMI), which is the area of greatest need, and 70% to 100% of AMI.
- Implement the Housing Policies of the General Plan.
- Establish regulations for UHNUs provided:
  - As an incentive for an adjusted floor area ratio (FAR) in the UM Subarea of the UT/UM District and SM District.
  - To meet the Suburban Compact Neighborhood (SCN) Alternative Location Criteria.
  - When a building is adaptively reused.
  - To implement the PD-MUB requirement for UHNUs.

A. **Applicability.** This section applies to UHNUs provided:

1. To achieve an adjusted floor area ratio (FAR) in the UM Subarea of the UT/UM District pursuant to Section 2.01.01.E.
2. To achieve an adjusted FAR in the SM District pursuant to and Section 2.02.03.F.
3. To meet the Alternative Location Criteria for locating the SCN District in the Suburban Neighborhood or Suburban Mixed Use Place Types of the General Plan pursuant to Section 2.02.02.K.1.
4. As a permitted adaptive reuse of a building or structure pursuant to Section 5.09.C.
5. As a requirement in the PD-MUB Zoning District pursuant to Section 2.07.x.x.

B. **UHNU Income Requirements.** The UHNUs must be provided based on the AMI and type of unit in Table 8.02-2.

TABLE 8.02-2. UNMET HOUSING NEEDS UNITS INCOME REQUIREMENTS	
Area Median Income (AMI) Tier	Type of Unit
0% up to 30%	For Rent
Above 70% up to 100%	For Purchase

C. **UHNU Requirements.** All UHNUs must be provided in accordance with the following requirements:

1. Unless otherwise provided for in Section 8.02, UHNUs must be administered pursuant to the ADU Program requirements of Section 8.01 of the Zoning Ordinance.
2. Unless otherwise provided for in Section 8.02, UHNUs must be provided in accordance with the provisions of Chapter 1450 of the Codified Ordinances of Loudoun County.
3. UHNUs must be controlled by covenant that is recorded among the land records of Loudoun County, Virginia, runs with the land, in a form approved by the County and in favor of the County or its designee, and controls affordability for the following periods of time:
  - a. Rents for rental UHNUs must be controlled for a period of at least 30 years from the date of the issuance of the occupancy permit for each rental UHNU.
  - b. Sales prices for UHNUs for purchase must be controlled for a period of at least 20 years from the initial sale transaction for the respective UHNU.
4. At the time of rezoning, the Board of Supervisors may adjust the following:
  - a. The percentage of UHNUs required by Sections 2.01.0.E, 2.02.03.F, or 2.02.02.K.1 when a higher proportion of UHNUs in the lowest AMI tier are provided; and/or

b. The AMI tiers in Table 8.02-1 when higher percentage of UHNUs than required are provided are provided as accessible units.

**D. Unmet Housing Needs Units (UHNUs) in the PD-MUB Zoning District.** UHNUs required pursuant to Section 2.07 in the PD-MUB district must be provided as follows:

1. Notwithstanding Table 8.02-1, the UHNUs in a PD-MUB district must be affordable in accordance with Table 8.02-2.

TABLE 8.02-2. PD=MUB UNMET HOUSING NEEDS UNITS INCOME REQUIREMENTS	
Area Median Income (AMI)	Type of Unit
0% up to 60%	For Rent
Above 30% up to 100%	For Purchase

2. If for rent UHNUs are provided, a minimum of 1/3 of the rental UHNUs must be affordable to households earning 30% or less of the AMI.
3. If for purchase UHNUs are provided, a minimum of 1/3 of the for purchase UHNUs must be affordable to each of the following:
  - a. Households earning greater than 30% but less than 70% of the AMI; and
  - b. Households earning 70% or greater but no more than 100% of the AMI.

TABLE 8.02-3. PD-MUB UNMET HOUSING NEEDS UNITS (UHNU) REQUIREMENTS			
Column A	Column B	Column C	Column D
Dwelling Unit Type	Density Bonus	Required Percentage of Dwelling Units to be Provided as UHNUs	Additional Regulatory Adjustment
Multifamily Attached Dwellings	20%	6.25%	Increase maximum FAR permitted by 0.2
Multifamily Stacked Dwellings	10%	6.25%	Increase maximum FAR permitted by 0.1
Single-Family Attached Dwellings and Single-Family Detached Dwellings	10%	6.25%	Increase maximum land area permitted for Single-Family Attached Dwellings and Single-Family Detached Dwellings under Section 2.07.x.x by 2% of total district size

5. **Density Bonus/Additional Regulatory Adjustment.** When UHNUs required pursuant to Section 2.07.x.x. are provided, the development is permitted a density bonus pursuant to Table 8.02-3, Column B and Additional Regulatory Adjustment pursuant to Table 8.02-3, Column D.
  - a. The rezoning or zoning concept plan amendment materials submitted in association with the application for the density bonus must designate which dwelling unit type(s) will receive the density bonus and Additional Regulatory Adjustment.
6. **Calculation of Density Bonus.** Multiply the number of each type of dwelling unit (Column A of Table 8.02-3) proposed for the PD-MUB district prior to compliance with Section 8.01 times the corresponding Density Bonus (Column B of Table 8.02-3) for that dwelling unit type. The resulting number is the total number of bonus dwelling units permitted for that dwelling unit type.
  - a. Bonus dwelling units are only permitted to be provided as the dwelling unit type for which the density bonus percentage was calculated.

- b. In no event are the bonus dwelling units permitted to cause the residential density to exceed 54 dwelling units per acre (including any density bonuses that may be provided pursuant to Section 2.07.x and/or Section 8.01).
7. **Calculation of Required UHNUs.** Multiply the number of each type of dwelling unit (Column A of Table 8.02-3) proposed for the PD-MUB district prior to compliance with Section 8.01 times the Required Percentage of Dwelling Units to be Provided as UHNUs (Column C of Table 8.02-3). The resulting number is the number of dwelling units that must be provided as UHNUs for that dwelling unit type.
8. In the event that bonus dwelling units cause an application to exceed the upper density limit set forth in the General Plan, then the upper density limit set forth in the General Plan applicable to the area subject to the rezoning application will be increased by the total number of bonus dwelling units calculated pursuant to Section 8.02.D.5.
9. Nothing in this Section will be construed to prohibit an applicant's voluntary participation with Section 8.01, to include providing additional units and receiving density increases, or to prohibit an application from providing more than the required number of units addressing the income ranges specified in this section provided the application is in conformance with Section 2.07.x (PD-MUB regs) and Section 8.01, and the maximum density of the district does not exceed 54 dwelling units per acre.
10. **Use of Affordable Housing Units (AHUs) to Meet UHNU Requirements.** In the PD-MUB district, AHUs provided pursuant to Section 8.01.K may be provided in lieu of required UHNUs provided that the UHNUs meet the affordability requirement of Section 8.02.D. above.

Draft 1/26/22

## Section 7-100 Affordable Dwelling Unit Developments.

### 7-101 CHAPTER 8: ATTAINABLE HOUSING

#### 8.01 Purpose

#### The Affordable Dwelling Unit Program

Purpose. *The purpose of the Affordable Dwelling Unit (ADU) Program is established to assist:*

- Administer and regulate an Affordable Dwelling Unit (ADU) Program enabled pursuant to § 15.2-2304 of the Code of Virginia.
- Assist in the provision of housing to persons of moderate income by (a) promoting,
- Promote the development of a full range of housing choices, and (b) requiring,
- Require the construction and continued existence of moderately priced dwelling units which are,
- Provide for optional increases in density to reduce land costs for such moderately priced dwelling units.
- Encourage the provision of affordable for purchase by housing meeting the needs of households whose income is greater than thirty percent (with incomes between 30%) and less than seventy percent (70%) and affordable for rental by households whose income is greater than thirty percent (30%) and less than fifty percent (50%) of the % of the area median income (AMI) in areas currently served by or planned for the Washington Primary Metropolitan Statistical Area (PMSA). All affordable dwelling units shall comply with the following provisions and the urban residential district regulations for Affordable Dwelling Unit Developments contained in Sections 7-200 through 7-1100 of this Ordinance and Chapter 1450 of the Loudoun County Codified Ordinance mass transit and proximate to major employment centers.
- 7-102 Implement the Housing Policies of the General Plan.

#### Applicability.

A. The requirements of the Affordable Dwelling Unit ADU Program shall apply to as follows:

1. To any site, or portion thereof, at one location which that is (a) served:

a. Served by public water and sewer, and (b) the

A.b. The subject of a development application for rezoning, special exception, site plan, subdivision, or preliminary subdivision which that yields, as submitted by the applicant, twenty-four (24) or more dwelling units at an equivalent density greater than one unit per forty thousand (40,000) square feet.

c. For the purposes of this Ordinance, "site these ADU Program requirements, an application meeting criteria 8.01.A.1.a. and 8.01.A.1.b. above is a "development application" or a "development."

1-2. "Site, or portion thereof, at one location" shall include includes all adjacent undeveloped land of the property owner and/or applicant, under common ownership and/or control of the owner and/or applicant, including, but not limited to, land owned and/or controlled by separate partnerships, land trusts, trusts, or corporations and other such forms of business entities in which the owner and/or applicant (to include members of the owner's and/or applicant's immediate family) is an owner of one (1) percent% or more of the stock, and other such forms of business entities. Adjacent parcels of undeveloped land owned by separate members of the same family shall be exempt from the provisions of this section when such separate ownership has existed for a period of no less than five (5) years partnership, membership, or is the trustee or beneficiary.

- a. "Owner and/or applicant" includes members of the owner's and/or applicant's immediate family.
- ~~2-b.~~ "Immediate family members shall" include the owner's and/or applicant's spouse, children, parents, and siblings.
- c. In instances where ~~Exception~~. Adjacent parcels of undeveloped land owned by separate members of the same family are exempt from the provisions of this section when the separate ownership has existed for a period of 5 or more years.
- d. The acquisition of a fee interest by a lending institution, such as pension fund, bank, savings and loan, insurance company, or similar entity ~~has acquired, or acquires, an equity interest solely by virtue of its agreement to provide financing, such equity interest shall not constitute ownership and shall not be considered in making determinations of applicability. However, the acquisition of a fee interest by such lending institution due to foreclosure or project participation shall be is~~ considered as ownership in making determinations of determining applicability.
- ~~3-e.~~ The acquisition of an equity interest by a lending institution, such as a pension fund, bank, savings and loan, insurance company, or similar entity solely by virtue of its agreement to provide financing does not constitute ownership and is not considered in determining applicability.
- Any request for a Concept Development Plan (CDP) Amendment involving the rezoning of land within a mixed use planned development district, or zoning amendment which requires a rezoning plat, that results in an increase in the total number of residential units shall be subject to this Ordinance. However, application of the provisions of this Article shall be limited to the increase in the total number of residential units, provided that the overall density of the project results in twenty four (24) or more units at a density of greater than one (1) unit per acre.
- f. An owner and/or applicant shall will not be exempt from the requirements of this Ordinance by submitting phased development applications for a site, or portion thereof, at one location for rezoning, special exception, site plan or preliminary, subdivision for less than twenty four (24) dwelling units at any one time. An owner and/or applicant may submit an application for rezoning, special exception, or preliminary subdivision for less than twenty four (24) dwelling units at any one time.
  - 1. Exception. An owner and/or applicant may apply for a rezoning, special exception, site plan, or preliminary subdivision of a site, or portion thereof, at one location for less than 24 dwelling units if the owner and/or applicant agrees, in writing, that the next any following development application or submission for the subject site, or portion thereof, shall at one location must meet the requirements of this Ordinance the ADU Program when the total number of dwelling units in the subject development has reached twenty four (application and/or site, or portion thereof, at one location meets or exceeds 24) dwelling units or more. This statement shall.
  - 2. The agreement referenced in Section 8.01.A.2.d.1. must be included:
    - a. Included on the approved concept development plan CDP, rezoning plat, special exception, site plan, or preliminary subdivision plat. Such statement shall be recorded for the development; and
    - ~~X-b.~~ Recorded among the Loudoun County land records Land Records and shall must be indexed in the names of all owners of the site, or portion thereof, at one location as such terms are defined above.
  - 3. Any request for an amendment to an approved Concept Development Plan (CDP) that results in an increase in the total dwelling units to 24 or more. In this case, the application of the ADU Program will be limited to the increase in the total number of dwelling units.
- ~~A-4.~~ Exemptions.- The requirements of this Article shall the ADU Program do not apply to the following:
  - ~~1-a.~~ Any multistory structure of which a minimum of four (4) stories are composed entirely of multi-family multifamily dwellings and/or facilities (excluding parking) restricted for the exclusive use and

enjoyment of the residents of such ~~multi-family~~multifamily dwellings, and has an elevator(s) that serves ~~two~~2 or more dwelling units in the structure.

~~Special exception, site plan, subdivision, or preliminary subdivision applications filed in accordance with an approved Rezoning which rezoning that has proffered the provision of affordable dwelling units ADUs or other contributions toward the provision of affordable dwelling units prior to the effective date of this Ordinance.~~

~~Proffer amendment, concept development plan amendment, preliminary subdivision amendment, site plan amendment and special exception amendment applications filed after the effective date of this Ordinance which deal exclusively with issues of building relocation, site access, stormwater drainage, or other engineering or public facility issues, or the preservation of historic structures, wetlands, child care facilities, or changes in the size of units, a reduction in the number of units, or which request the addition of a non-residential special exception use.~~

~~4.b. Properties subject to proffers accepted by the Board of Supervisors, pursuant to Section 15.2-2303 of the Code of Virginia, ADUs prior to June 16, 1993.~~

~~c. Any request for a Concept Development Plan (CDP) Amendment Applications to revise or zoning amend approved proffers, CDPs, site plans, special exceptions, preliminary subdivisions, and/or subdivisions applications filed after June 16, 1993, that do not increase the number of dwelling units to 24 or more.~~

~~d. Properties subject to proffers accepted prior to June 16, 1993, by the Board of Supervisors, pursuant to § 15.2-2303 of the Code of Virginia.~~

~~Any amendment which involves the to an approved CDP, including rezoning of land within a mixed use for residential uses in an approved planned development district in order, and/or a rezoning amendment approved prior to June 16, 1993 or already subject to the ADU Program that requests to redistribute existing previously approved dwelling units to the newly zoned property within the same development, but which does not result in an increase in the total number of residential units.~~

~~6.e. Any request for a rezoning plat amendment or zoning amendment which involves the rezoning of land within a non-planned development district in order to redistribute existing units to the newly zoned property within the same development, but which that does not result in an increase in the total number of residential dwelling units.~~

~~Land zoned R-1, CR-1, TR-1, and JLM-A-1.~~

~~5. At the applicant's discretion, the provisions of this Article and individual district regulations for affordable dwelling unit developments the ADU Program may be applied to developments which that are exempt from these provisions, as stated in Section 7-102(D). In the event that 8.01.A.4. If an applicant proposes to provide affordable dwelling units ADUs in a development which that is otherwise exempt, the County shall waive will:~~

~~a. Waive any application fee associated with a Concept Development Plan Amendment CDP amendment proposing to change revise the Concept Development Plan CDP only in order to provide affordable dwelling units. County ADUs; and~~

~~E.b. Provide review of such CDP amendment applications shall not to exceed 180 days. if the following criteria are met:~~

~~• An applicant may provide affordable housing units The CDP amendment only includes committing to the provision of ADUs and/or an increase in lieu the number of the affordable dwelling units required by this Ordinance in accordance with Section 7-109.~~

## ~~7-103 Affordable Dwelling Unit Density Adjustments.~~

### ~~A. Single Family Detached and Single Family Attached Units.~~

~~1. For active rezoning applications that have not yet complied with Section 6-1204(D)(1) of this Ordinance as of December 16, 2003, and for rezoning, special exception, site plan and preliminary~~

~~subdivision applications officially accepted after December 16, 2003 which request approval of single family detached dwelling units or single family attached dwelling units, the proposed based on the optional density shall reflect an increase of twenty percent (20%), including the required number of affordable dwelling units, unless such figure is modified pursuant to the provisions of Section 7-108 or the applicant provides cash in lieu of providing the single family detached dwelling units increase permitted pursuant to Section 7-108(B)(3). In the event such increase exceeds the upper density limit set forth in the Comprehensive Plan, then the upper density limit set forth in the Comprehensive Plan applicable to the subject property shall be increased up to twenty percent (20%) for the purposes of calculating the potential density which may be approved by the Board of Supervisors 8.01.D.8.~~

~~2. In the event that a twenty percent (20%) density increase is approved pursuant to Section 7-103(A)(1) above, not less than twelve and one half percent (12.5%) of the total number of dwelling units approved for the subject development shall be affordable dwelling units, for which the rental and/or sales price will be controlled pursuant to this Article.~~

## **~~B. Multi-Family Units.~~**

~~1. For rezoning, special exception, site plan and preliminary subdivision applications officially accepted after June 16, 1993, which request approval of non-elevator, multi-family dwelling unit structures, the proposed density shall reflect an increase of ten percent (10%), including the required number of affordable units, unless such figure is modified pursuant to the provisions of Section 7-108. In the event such increase exceeds the upper density limit set forth in the Comprehensive Plan, then the upper density limit set forth in the Comprehensive Plan applicable to the subject property shall be increased up to ten percent (10%) for the purposes of calculating the potential density which may be approved by the Board of Supervisors.~~

~~2. In the event that a ten percent (10%) density increase is approved pursuant to Section 7-103(B)(1) above, not less than six and one quarter percent (6.25%) of the total number of dwelling units approved for the subject development shall be affordable dwelling units, for which the rental and/or sales price will be controlled pursuant to this Article.~~

~~3. An applicant may, at his discretion, request approval from the Board of Supervisors, or its designee, of a twenty percent (20%) increase in the density on a subject parcel, provided that at least twelve and one half percent (12.5%) of the total number of units approved are affordable dwelling units, for which the rental and/or sales price is controlled pursuant to the provisions of this Article.~~

~~C. In the case where affordable dwelling units are provided pursuant to Section 7-102(E) above, the affordable dwelling unit to density increase ratio required by Sections 7-103(A) and (B) shall not apply. The density of a development subject to voluntary provision of affordable dwelling units which is otherwise exempt, may be increased between ten percent (10%) to twenty percent (20%). Of any units approved pursuant to such a density increase, not less than a percentage equal to the density increase percentage shall be affordable dwelling units, for which the rental and/or sales price shall be controlled pursuant to this Article.~~

## **~~7-104 Designation of Affordable Units on Plats.~~**

~~● Approved site plans and/or record subdivision plats shall identify the specific number of for sale units and/or percentage of units for rent which are to be regulated as affordable units pursuant to this Article.~~

~~○ All plans or plats for developments containing affordable dwelling units shall identify specific units which are for sale or the percentage of units for rent under the affordable guidelines in this Article.~~

~~○ All site plans for developments containing affordable dwelling rental units shall include information concerning the number of each type of unit, by bedroom count, which shall be maintained as affordable.~~

~~● Specifications regarding dwelling dimensions and the number of bedrooms in all affordable units shall meet the requirements established by the Affordable Dwelling Unit Advisory Board pursuant to the Codified Ordinance. In~~

general, dwelling dimensions and the number of bedrooms in an affordable multi-family unit shall be comparable to equivalent market rate units on the subject parcel.

- Affordable dwelling units shall be of a building type and of an architectural style compatible with residential units permitted within the zoning district in which they are located and interspersed among market rate units in the proposed development.

### **7-105 Review of site or subdivision plans within 90 days.**

2. The County shall process final site plans, preliminary subdivisions or record subdivision plats proposing the development or construction of affordable dwelling units within ninety (90) days from the receipt thereof, provided that such plans and plats substantially comply with all ordinance requirements when submitted. CDP amendment does not include revisions to the approved site design, such as but not limited to the relocation of roads, buildings, building envelopes, or site entrances to accommodate the requirements of or optional density increase allowed by the ADU Program.
- c. The calculation of the review period shall include includes only that time the plans or plats are CDP amendment is under County review and shall will not include such time as that may be required necessary for revisions or modifications in order to comply with ordinance requirements by the applicant.

### **7-106 Timing of Construction/Availability of Affordable Units.**

In a development which contains single family detached, single family attached, or multi-family lots or units, occupancy permits for no more than fifty percent (50%) of the market rate dwelling units shall be issued prior to the issuance of occupancy permits for fifty percent (50%) of the affordable dwelling units. Occupancy permits for no more than seventy-five percent (75%) of the market rate dwelling units shall be issued until occupancy permits have been issued for seventy-five percent (75%) of the affordable dwelling units for the development. Occupancy permits for no more than ninety percent (90%) of the market rate dwelling units shall be issued until occupancy permits have been issued for one hundred percent (100%) of the affordable dwelling units for the development. The following information shall be submitted with each occupancy permit application for a market rate dwelling unit within the development; the total number of dwelling units, market rate dwelling units, and affordable dwelling units proposed for the development; the number of occupancy permits issued for market rate dwelling units within the development; the number of occupancy permits issued for affordable dwelling units within the development; and the lot number or unit number of each affordable dwelling unit for which an occupancy permit has been issued.

6. 7-107 An applicant may provide affordable housing units (AHU) in lieu of the ADUs required by this Ordinance in accordance with Section 8.01.J.

**B. Administration, Enforcement, and Regulation.** The administration, enforcement, and regulation of the ADU Program is as follows:

1. The Zoning Administrator administers and enforces the provisions of the ADU Program.
2. In addition to the provisions of this Ordinance, all ADUs must comply with Chapter 1450 of the Codified Ordinance of Loudoun County (Codified Ordinances).
3. The administration and regulation, establishment of unit prices, price controls, eligibility requirements, and the structure and operation of the Affordable Dwelling Unit Advisory Board (ADUAB) are governed by the Codified Ordinance of Loudoun County Ordinances.

**C. 7-108 Affordability Requirements.** The ADU Program must provide ADUs that are affordable as follows:

1. For purchase by households whose income is greater than 30% and less than 70% of the area median income (AMI); and



2. For rental by households whose income is greater than 30% and less than 50% of the AMI.
3. AMI is determined at the time the occupancy permits are issued for the ADUs.

**ADU Requirements and Optional Increases in Density. The ADU ~~Modifications~~**

D. Modifications to the requirements of Sections 7-103 and 7-106 of the Affordable Dwelling Unit Program shall be allowed concurrently with and optional increases in density apply as follows:

1. To active rezoning applications for that have not complied with Section 7.08.F as of the adoption date of this Ordinance.
2. To rezoning, special exception, site plan or, subdivision, and preliminary subdivision, upon applications officially accepted by the County after the adoption date of this Ordinance.
3. When the development applications in Section 8.01.A.1 above request approval of single-family detached dwelling units (SFD), single-family attached dwelling units (SFA), and/or multifamily (MF) stacked dwelling units, a minimum of 15% of the total number of dwelling units approved for the development application must be ADUs.
4. When the development applications in Section 8.01.A.1 above request approval of MF attached dwelling units, a finding minimum of 10% of the total number of dwelling units approved for the development application must be ADUs.
5. When 15% of the total number of SFD, SFA, and/or MF stacked dwelling units and/or 10% of the MF attached dwelling units approved for the development application are provided as ADUs, the development is permitted an optional 20% maximum density increase as provided in Table 8.01.D-1.
6. Voluntary Provision of ADUs for an Exempt Site or Application. In the case where ADUs are provided pursuant to Section 8.01.A.5 above, the following provisions apply:
  - a. The ADU to density increase ratio required by Sections 8.01.D.3 and 4 does not apply. The density increase ratio is as follows:
    1. The density of a development application subject to voluntary provision of ADUs which is otherwise exempt may be increased between 10% to 20%.
    2. Of any units approved pursuant to the 10% to 20% density increase, not less than a percentage equal to the density increase percentage must be ADUs.
  - b. The applicant is not permitted to request cash in lieu of SFD ADUs pursuant to Section 8.01.I.
7. If the optional density increase exceeds the maximum residential density set forth in the General Plan, then the maximum residential density set forth in the General Plan applicable to the development application and/or development will be increased up to 20% pursuant to Table 8.01.D-1 for the purposes of calculating the potential density that may be approved by the Board of Supervisors.

**Table 8.01.D-1. Maximum Optional Density Increase by Zoning District**

Zoning District	Permitted Density <sup>1</sup>	Maximum Permitted Density <sup>1</sup>	
		20% Density Increase with 15% SFD, SFA, and/or MF Stacked ADUs	20% Density Increase with 10% MF Attached ADUs
UT/UM	UT: No Maximum UM: 1.5 FAR	UT: No Maximum UM: 1.8 FAR	UT: No Maximum UM: 1.8 FAR
SN-4	4	4.8	N/A
SN-6	6	7.2	N/A
SCN-8	8	9.6	N/A
SCN-16	16	19.2	19.2
SCN-24	24	28.8	28.8

**Table 8.01.D-1. Maximum Optional Density Increase by Zoning District**

Zoning District	Permitted Density <sup>1</sup>	Maximum Permitted Density <sup>1</sup> 20% Density Increase with 15% SFD, SFA, and/or MF Stacked ADUs	Maximum Permitted Density <sup>1</sup> 20% Density Increase with 10% MF Attached ADUs
SM	1.0 FAR	1.2 FAR	1.2 FAR
TLN-1	1	1.2	N/A
TSN	4	4.8	N/A
TCN	5	6	N/A
VR-1	1	1.2	N/A
VR-2	2	2.4	N/A
VR-3	3	3.6	N/A
VR-4	4	4.8	N/A
JLMA-1	1	1.2	N/A
JLMA-LN	4	4.8	N/A

<sup>1</sup>Density is in dwelling units per acre unless otherwise noted.

**E. Standards for ADU Calculations.** Each development application subject to the ADU Program must calculate required ADUs and optional density increase, as well as demonstrate the calculations, as follows:

1. Determine the maximum number of dwelling units proposed, including any dwelling units permitted by the optional density increase.
2. Calculate the ADUs required pursuant to Section 8.01.D.3 and/or 8.01.D.4, whichever is applicable, using the total number of dwelling units proposed.
  - a. When the calculation of required ADUs results in a requirement of a fractional ADU, any fraction is interpreted as 1 whole ADU.
  - b. The required number of ADUs may be modified pursuant to the provisions of Section 8.01.I.
  - c. The applicant may provide land or cash in lieu of providing required SFD ADUs pursuant to Section 8.01.I.6.c.
3. Demonstrate the optional density increase, total number of dwelling units proposed, and total number of ADUs required on each rezoning, special exception, site plan, subdivision, and/or preliminary subdivision application.

**Sample ADU Calculation for 22.5-Acre Parcel in the SN District.**

Permitted Density: 4 Dwelling Units per Acre

Dwelling Units Permitted:  $22.5 \times 4 = 90$  SFD, SFA, and/or MF Stacked Dwelling Units

ADUs Required: 15% of Total Dwelling Units

No Optional 20% Density Increase:  $90 \times 15\% = 14$  ADUs Required (Rounded Up from 13.5)

Optional 20% Density Increase:  $90 \times 20\% = 108$  Total Dwelling Units

Permitted Density:  $108 / 22.5 = 4.8$  Dwelling Units per Acre

Total ADUs Required:  $108 \times 15\% = 17$  ADUs Required (Rounded Up from 16.2)

**F. Calculating Required ADUs by Unit Type.** Each development application subject to the ADU Program must provide required ADUs by dwelling unit type, as well as demonstrate the calculations, as follows:

1. When a development application includes a mix of dwelling unit types, the required ADUs must be provided proportionately to the types of market rate dwelling units proposed in the development application or project.
2. When a development application for a MF stacked building or a MF attached building includes a mix of unit sizes, the required ADUs must be provided proportionately to the sizes of market rate dwelling units proposed in the development application or project. The unit size will be determined by bedroom count.
  - a. "Dwelling unit type" as used in this section also includes "unit size."
3. ADUs are not permitted to be provided in a dwelling unit type that is not also provided as a market rate unit in the development application or project.
4. When the calculation of ADUs by dwelling unit type results in a requirement of a fractional ADU, any fraction up to and including ½ will be disregarded, and fraction over ½ will be interpreted as 1 whole ADU.
  - a. If the total of the ADUs by dwelling unit type is less than the total number of required ADUs, then the applicant must increase the number of ADUs by dwelling unit type to equal the total number of required ADUs.
    1. The applicant may elect which dwelling unit type will be increased to provide the remaining required ADUs.
  - b. If the total of the ADUs by dwelling unit type exceeds the total number of required ADUs, then the applicant may decrease the number of ADUs by dwelling unit type to equal the total number of required ADUs.
    1. The applicant may elect which dwelling unit type will be decreased to achieve the required ADUs.
  - c. Demonstrate the required ADUs by dwelling unit type on each rezoning, special exception, site plan, subdivision, and/or preliminary subdivision application.

**Sample Calculation of ADUs Provided Proportionately to Dwelling Unit Types Proposed: SFD, SFA, and MF Stacked Dwelling Units.**

<u>Total Dwelling Units Proposed:</u>	<u>110</u>
<u>Total ADUs Required:</u>	<u>17 (Rounded up from 16.5)</u>
<u>Dwelling Units by Unit Type:</u>	<u>10 SFD, 65 SFA, 35 MF Stacked</u>
<u>Dwelling Unit Type Percent of Total:</u>	<u>9% SFD, 59% SFA, 32% MF Stacked</u>
<u>ADUs Required by Type:</u>	<u>17 x 9% = 2 SFD (Rounded up from 1.53)</u>
	<u>17 x 59% = 10 SFA (Rounded down from 10.03)</u>
	<u>17 x 32% = 5 MF Stacked (Rounded down from 5.44)</u>
<u>Total ADUs:</u>	<u>17 ADUs</u>

**Sample Calculation of ADUs Provided Proportionately to Unit Sizes Proposed: MF Attached Dwelling Units.**

<u>Total Dwelling Units Proposed:</u>	<u>300</u>
<u>Total ADUs Required:</u>	<u>30</u>
<u>Dwelling Units by Unit Size:</u>	<u>30 Studio, 110 1-Bedroom (BR), 120 2-BR, 40 3-BR</u>

<u>Dwelling Unit Size Percent of Total:</u>	<u>10% Studio, 37% 1- BR, 40% 2-BR, 13% 3-BR</u>
<u>ADUs Required by Unit Size:</u>	<u>30 x 10% = 3 Studio</u>
	<u>30 x 37% = 11 1-BR (Rounded down from 11.1)</u>
	<u>30 x 40% = 12 2-BR</u>
	<u>30 x 13% = 4 3-BR (Rounded up from 3.9)</u>
<u>Total ADUs:</u>	<u>30 ADUs</u>

**G. Designation of ADUs on Site Plans or Plats.** ADUs must be designated on site plans or subdivision plats as follows:

1. Approved site plans and/or record subdivision plats must identify the specific number and/or percentage of for-sale dwelling units and for-rent dwelling units that are to be regulated as ADUs pursuant to the ADU Program.
  - a. All site plans and subdivision plats for a development containing for-sale ADUs must identify the specific dwelling units that will be provided as ADUs.
  - b. All site plans and subdivisions for a development containing for-rent ADUs must include a tabulation that demonstrates the percentage of dwelling units and the number of each type of dwelling unit, by bedroom count, that will be maintained as ADUs.

**H. Approved site plans and subdivision plats must demonstrate the following:**

1. Specifications indicating that dwelling unit dimensions and the number of bedrooms in all ADUs meet the requirements established by the ADUAB pursuant to the Codified Ordinance.
2. ADUs are of a building type and an architectural style compatible with market rate dwelling units within the development. To be considered compatible, ADUs must:
  - a. Be similar in mass, scale, width, height, depth, design, construction, and exterior features to market rate dwelling units in the development.
  - b. Smaller ADUs may be provided if the same number of market rate dwelling units are provided that are the same size as the smaller ADUs.
  - c. ADUs without certain exterior features, such as decks or one-car garages, may be provided if the same number of market rate units are provided without these exterior features.
3. The interspersions of ADUs among market rate dwelling units in the development. To be considered interspersed, ADUs must not be:
  - a. In the same section or row of SFA or MF stacked dwelling units.
  - b. Adjacent to, directly across from, or diagonal from another ADU.
  - c. Exception. Deviations of the interspersions requirement may be permitted on a case-by-case basis when the development is reviewed as a whole, and where creative design and alternative dwelling unit types could be determined to meet the intent of the ADU Program by the Zoning Administrator.
4. Dwelling dimensions and the number of bedrooms in a MF stacked and MF attached ADUs are the same dimensions and number of bedrooms in equivalent market rate dwelling units in the development.

**Provide example of creative design:** 2 ADU townhouses in a row are designed to look like 1 larger townhouse in a row of SFA units.

**Provide example of creative design:** Condominiums provided in a building designed to appear as one SFD unit. This would only be permitted where this unit type is allowed in the district.

I. **Timing of Construction/Availability of ADUs.** In a development that contains SFD, SFA, or MF dwelling units, the timing of construction and availability of ADUs must be as follows:

1. Occupancy permits for 50% of the ADUs must be issued prior to issuance of more than 50% of the market rate dwelling units occupancy permits for the development.
2. Occupancy permits for 75% of the ADUs must be issued prior to issuance of more than 75% of the market rate dwelling units occupancy permits for the development.
3. Occupancy permits for 100% of the ADUs must be issued prior to issuance of more than 90% of the market rate dwelling units occupancy permits for the development.
4. The following information must be submitted with each occupancy permit application for a market rate dwelling unit within the development:
  - a. The total number of dwelling units, market rate dwelling units, and ADUs proposed for the development;
  - b. The number of occupancy permits issued for market rate dwelling units within the development;
  - c. The number of occupancy permits issued for ADUs within the development; and
  - d. The lot number or unit number of each ADU for which an occupancy permit has been issued.

J. **Modifications.** Modifications to the ADU Program requirements are permitted as follows:

1. Only modifications to the requirements of Sections 8.01.D and 8.01.H of the ADU Program are allowed.
2. Requests for modifications, as applied to a given development application or project, must be submitted in conjunction with the application for rezoning, CDP amendment, proffer amendment, special exception, site plan, or preliminary subdivision, as applicable.
3. The ADUAB will review requests for modifications and make its recommendation to the Planning Commission within 60 days of receipt of a complete application.

A-4. The Board of Supervisors must find, upon recommendation of the Planning Commission, that the proposed alternative will achieve the objective of providing a broad range of housing opportunities throughout Loudoun County.

5. In the event that The time limits set forth in § 15.2-2259 and § 15.2-2260 of the Virginia Code will be suspended during the pendency of an application filed pursuant to Section 8.01.I.

B-6. If a modification to Section 7-1038.01.D is requested:

- 1-a. The ratio of affordable units ADUs proposed to the total optional density increase approved shall must be no less than 12.5:15:20% for single family detached and single family attached developments SFD, SFA, and 6.25:10% for multi family MF stacked dwelling unit developments; development applications, and 10%:20% for MF attached dwelling unit development applications; and
- 2-b. The total affordable units ADUs proposed shall must be no less than five percent (5%) 5% of the total number of residential dwelling units within the project development application.
- 3-c. Notwithstanding paragraphs (1) Sections 8.01.I.6.a and (2) b. above, any request for rezoning, special exception, site plan, subdivision, or preliminary subdivision (by right) which contain that contains only single family detached SFD dwelling units, a modification may be requested to provide developable land within the development or cash in lieu of the units. Such cash must be paid prior to the first zoning permit. In the event that ADUs. If an applicant requests a modification to make such cash payment or land dedication, the following criteria shall apply applies:

\* The amount of the cash payment shall be in accordance with Section 7-108(G).

1. The decision to pay Cash provided in lieu of SFD ADUs pursuant to Section 8.01.D.3 must be a per unit cash contribution of 100% of the construction cost of a prototypical SFD ADU.

2. The minimum value of land dedicated in lieu of SFD ADUs pursuant to Section 8.01.I.6.c must be based on the value of per unit cash contribution of 100% of the construction cost of a prototypical SFD ADU.
3. The construction cost of a prototypical SFD ADU must be the “vertical cost” of an ADU as established on a semiannual basis by the ADUAB.
  - a. The minimum number of bedrooms of the prototypical SFD ADU used to determine the cash contribution must be equal to the number of bedrooms provided within the predominant market rate SFD dwelling unit in the development as determined by the Zoning Administrator.
4. Notwithstanding Section 8.01.I.6.c.2, documentation demonstrating that the required number of ADUs can be built on the and dedicated in lieu must be provided with the request to dedicate land in lieu of providing ~~the units has to~~ADUs.
5. The decision to dedicate land or provide cash in lieu of ADUs must be made at the time of approval of rezoning, special exception, subdivision, or preliminary subdivision ~~(by right)~~, as applicable.
6. ~~In~~ conjunction with a request to modify Section 8.01.D, the Board of Supervisors may permit an applicant to request a modification that would allow them to provide any combination of ADUs, dedicate land, or provide cash to Loudoun County of equivalent value in lieu of providing the required number of ADUs.
7. All cash provided or land dedicated in lieu of SFD ADUs made pursuant to Sections 8.01.I.6.c must be:
  - a. Of a value calculated in current dollars, adjusted by the CPI, at the time the actual contribution is officially transferred to the County;
  - b. Paid or dedicated prior to the issuance of the first zoning permit for the development unless another time is approved by the Board of Supervisors at the time the modification is approved.
  - c. Deposited in the Loudoun County Housing Trust Fund for cash in lieu and dedicated to the County Economic Development Authority for land until such time as a County land bank is established.
8. The applicant must provide a justification that addresses Section 8.01.I.9.
9. The ADUAB, Planning Commission, and Board of Supervisors must consider the following criteria in reviewing a request for modification to Section ~~7-103~~, consideration shall be given to the following 8.01.D:
  - 1-a. Public facilities and services already developed for the overall development capacity to accommodate the maximum density increase permitted for provision of ~~affordable dwelling units~~ADUs.
  - 2-b. Existing unique, or unusual site constraints, including, but not limited to, potential adverse impacts on environmental resources and features on the subject parcel and adjacent parcels, and difficult soil conditions.
  - 3-c. Unusual costs associated with development of the subject property.
  - 4-d. Overriding public needs, health issues, public safety issues, or public welfare issues ~~which that~~ are better served by not providing the maximum number of ~~affordable units~~ADUs otherwise required.
  - 5-e. In the case of a request for a ~~Concept Development Plan~~CDP Amendment, consideration ~~shall~~must also be given to whether the amendment would result in a reduction in the previously approved rezoning's impact on public facilities and whether the existing proffer

commitments for the previously approved rezoning exceed current adopted capital facility guidelines established in the ~~County's comprehensive plan~~ General Plan.

~~A-7. In reviewing~~ if a request for modification to modify Section 7-106, consideration shall be given to the following 8.01.H is requested:

- a. The development application must demonstrate the modified timing of construction and availability of affordable ADUs compared to market rate dwelling units.
- b. The applicant must provide a justification that addresses the criteria listed under Section 8.01.I.7.c..
- c. The ADUAB, Planning Commission, and Board of Supervisors must consider the following criteria in reviewing a request for modification to Section 8.01.H:
  1. The modified timing of construction and availability of ADUs compared to market rate dwelling units.
  2. Existing unique, or unusual site constraints, including but not limited to the availability of utilities or infrastructure that require a modified development schedule.
  3. Unusual costs associated with development of the subject property due to the development schedule required by Section ~~7-106~~ 8.01.H.

~~• In conjunction with Section 7-108(B) above requesting such modifications, the Board of Supervisors may permit an applicant to request a modification to this ordinance so as to allow them to provide any combination of affordable dwelling units, land or contributions to Loudoun County equivalent to providing the required number of affordable dwelling units.~~

~~• Requests for modifications to the requirements of the Affordable Dwelling Unit Program, as applied to a given development, shall be submitted in conjunction with the application for rezoning, concept development plan amendment, proffer amendment, special exception, site plan, or preliminary subdivision, as applicable. For a request to modify Section 7-103 the applicant shall provide a justification that addresses Section 7-108(C). For a request to modify Section 7-106 the applicant shall provide a justification that addresses Section 7-108(D). The Affordable Dwelling Unit Advisory Board shall review requests for modifications and make its recommendation within sixty (60) days of receipt of a complete application.~~

~~• Cash provided in lieu of single family detached dwelling units pursuant to Section 7-108(E) and 7-103(A) shall be a per unit cash contribution of one hundred percent (100%) of the construction cost of a prototypical single family detached affordable dwelling unit. The construction cost of a prototypical single family detached affordable dwelling unit shall be the "vertical cost" of an affordable dwelling unit as established on a semiannual basis by the Affordable Dwelling Unit Advisory Board. The minimum number of bedrooms of the prototypical single family detached affordable dwelling unit used to determine the cash contribution shall be equal to the number of bedrooms provided within the predominant market rate single family detached dwelling unit in the development as determined by the Zoning Administrator.~~

~~• All cash provided in lieu of single family detached dwelling units or the value of land contributions made pursuant to Sections 7-103(A) and 7-108(E) shall be calculated in terms of current dollars, adjusted by the CPI, at the time the actual contribution is officially transferred to the County, and paid prior to the issuance of the first zoning permit unless another time is approved by the Board of Supervisors at the time the modification is approved. Funds collected shall be placed in the Loudoun County Housing Trust Fund.~~

~~• The time limits set forth in Section 15.2-2259 and 15.2-2260 of the Virginia Code shall be suspended during the pendency of an application filed pursuant to Section 7-108.~~

## **7-109 Affordable Housing Programs.**

K. Affordable Housing Unit (AHU) Programs. The Applicant may provide AHUs in place of ADUs in accordance with the following requirements:

- ~~A.1.~~ A development that provides the same number or more ~~affordable housing units~~AHUs as the number of ~~affordable dwelling units~~ADUs required under Section ~~7-103(A)8.01.D.3~~ and ~~(B)4~~ above ~~shall will~~ satisfy the ADU Program requirements ~~of the Affordable Dwelling Unit Program~~.
- ~~2.~~ A development ~~which that~~ provides AHUs to satisfy the ADU Program requirements is permitted an optional density increase in accordance with Sections 8.01.D.5, 6, or 7, as applicable.
- ~~B.3.~~ A development that provides a fewer number of ~~affordable housing units~~AHUs than the number of ~~affordable dwelling units~~ADUs required under Section ~~7-103(A)8.01.D.3~~ and ~~(B)4~~ above ~~shall must~~ provide ~~the~~ additional number of ~~affordable dwelling units~~ADUs necessary to make up ~~augment~~ the shortage and achieve the total required ADUs.
- ~~C.4.~~ The rents and sales prices for ~~affordable housing units~~AHUs provided ~~shall must~~ be in accordance with the rules and regulations governing ~~such the AHU funding~~ programs and ~~these units shall~~AHUs must be marketed in accordance with ~~such the AHU funding program~~ rules and regulations.
- ~~D.5.~~ The following requirements ~~shall~~ apply to any development that provides ~~affordable housing units~~AHUs pursuant to this Section:
  - ~~a.~~ Approved site plans and/or record subdivision plats ~~shall identify must~~:
    - ~~1.~~ Identify the specific number and location of buildings ~~which that~~ are to contain ~~affordable housing units and include~~AHUs; and
    - ~~1-2.~~ Include a tabulation ~~that demonstrates that demonstrating~~ the number of ~~affordable housing units~~AHUs and ~~affordable dwelling units~~ADUs provided satisfies the number of ~~affordable dwelling units~~ADUs required by Section ~~7-103(A) 8.01.D.3~~ and ~~(B)4~~ above.
  - ~~b.~~ In a development ~~which that~~ contains ~~single family detached, single family attached, SFD, SFA or multi-family lots or MF dwelling units, occupancy, the timing of construction and availability of AHUs must be as follows~~:
    - ~~1.~~ Occupancy permits for ~~no 50% of the AHUs must be issued prior to issuance of more than fifty percent (50%)~~ of the market rate dwelling units ~~shall be issued prior to the issuance of occupancy permits for fifty percent (50%) of the affordable housing units. the development~~.
    - ~~2.~~ Occupancy permits for ~~no 75% of the AHUs must be issued prior to issuance of more than seventy-five percent (75%) of the market rate dwelling units shall be issued until occupancy permits have been issued for seventy-five percent (75%)~~ of the affordable housing market rate dwelling units occupancy permits for the development.
    - ~~3.~~ Occupancy permits for ~~no 100% of the AHUs must be issued prior to issuance of more than ninety percent (90%)~~ of the market rate dwelling units ~~shall be issued until occupancy permits have been issued for one hundred percent (100%) of the affordable housing units for the development~~.
    - ~~4.~~ The following information ~~shall must~~ be submitted with each occupancy permit application for a market rate dwelling unit within the development; ~~the~~:
      - ~~a.~~ The total number of dwelling units, market rate dwelling units, and ~~affordable housing units~~AHUs proposed for the development; ~~the~~
      - ~~b.~~ The number of occupancy permits issued for market rate dwelling units within the development;
      - ~~c.~~ The number of occupancy permits issued for AHUs within the development; the number of occupancy permits issued for affordable housing units within the development; and the and
      - ~~2-d.~~ The lot number or unit number of each ~~affordable housing unit~~AHU for which an occupancy permit has been issued.
  - ~~3-c.~~ The applicant ~~shall must~~ provide written verification to the Zoning Administrator from the applicable affordable housing program of the approval of funding to provide ~~affordable housing units. AHUs~~. Until



such written verification is provided by the applicant, only ~~affordable dwelling units shall~~ADUs are permitted to be provided to meet the requirements of ~~this Ordinance~~the ADU Program.

4.d. Buildings containing ~~affordable housing units shall~~AHUs must utilize exterior building materials similar to and be of an architectural style compatible with the market rate dwelling units within the development in which they are located. ~~Written documentation and/or plans demonstrating that the affordable housing units are in conformance with this requirement shall be provided to the Zoning Administrator prior to approval of the first Site Plan, Construction Plans and Profiles, and/or Subdivision Plan for the affordable housing units.~~

1. ~~7-110~~Written documentation and/or plans demonstrating that the AHUs are in conformance with this requirement must be provided to the Zoning Administrator prior to approval of the first site plan, construction plans and profiles, and/or subdivision plan for the AHUs.

Violations and Penalties.

L. In addition to ~~the provisions set forth in enforcement under~~ Section 6-500-10.01 et seq., the following shall apply whenever any person, whether owner, lessee, principal, agent, employee, or otherwise, violates any provision of ~~this Article~~the ADU Program, or permits any such violation, or fails to comply with any of the requirements hereof:

A.1. Tenants of ~~affordable dwelling units who shall~~ADUs who fail to submit executed affidavits or certifications, as required by ~~this Article, shall be~~the ADU Program, are subject to lease termination and eviction procedures, as provided in the Codified Ordinances.

B.2. Tenants of ~~affordable dwelling units~~ADUs who shall falsely swear or who shall execute an affidavit or certification required by ~~this Article~~the ADU Program knowing the statements contained therein to be false shall also be subject to lease termination and eviction procedures, as provided in the Codified Ordinances.

C.3. Owners of individual ~~affordable dwelling units who shall~~ADUs who falsely swear that they continue to occupy their respective ~~affordable dwelling unit~~ADU as their primary domicile shall will be subject to injunction or other suit, action, or proceeding to require such owner to either sell the ~~unit~~ADU to someone who meets the eligibility requirements established pursuant to ~~this Article~~the ADU Program or to occupy such ~~affordable dwelling unit~~ADU as a domicile.

M. 7-111 Enforcement and Court Appeals.

1. ~~The Zoning Administrator shall administer and enforce the provisions of the Affordable Dwelling Unit Program.~~

B.1. Notwithstanding the provisions of Section § 15.2-2311 of the Virginia Code, any person aggrieved by a decision of the Zoning Administrator or by the Affordable Dwelling Unit Advisory Board, (ADUAB), in the case of a decision made by the latter regarding an appeal of ~~affordable dwelling unit~~ADU for-sale or rental prices, or by any decision made by an administrative officer in the administration or enforcement of the ~~Affordable Dwelling Unit~~ADU Program, may appeal such decision to the Loudoun County Board of Zoning Appeals by filing a petition of appeal which specifies the grounds upon which aggrieved within ~~thirty (30)~~ days from the date of the decision.

3. Any petition of appeal properly filed pursuant to Paragraph B.M.1. above shall will not constitute a de novo proceeding and shall will be considered by the Circuit Court in a manner similar to petitions filed pursuant to Section §

Section 7-100  
Revision Date: June 2, 2020

15.2-2314 of the Virginia Code.

2.

## 8.02 Unmet Housing Needs Unit Program

- ~~**Purpose.** This section implements the Housing policies *The purpose of the Route 28 Corridor Plan.*~~
- ~~**Applicability.** This section applies only to the Alternative Method of development.~~
- ~~**Definitions.** The following definitions apply to this section:~~

~~1. **Unmet Housing Needs Unit.** A dwelling unit that (*UHNU*) *Program* is affordable for purchase or rent at one of the Unmet Housing Needs categories listed below, based on the area median income for the Washington Primary Metropolitan Statistical Area (PMSA), to:~~

- ~~*Complement the Affordable Dwelling Unit (ADU) Program by addressing housing affordable to families with incomes not addressed by the ADU Program to include 0% to 30% of area median income (AMI), which is the area of greatest need, and 70% to 100% of AMI.*~~
- ~~*Implement the Housing Policies of the General Plan.*~~
- ~~*Establish regulations for UHNUs provided:*~~
  - ~~*As an incentive for an adjusted floor area ratio (FAR) in the UM Subarea of the UT/UM District and SM District.*~~
  - ~~*To meet the Suburban Compact Neighborhood (SCN) Alternative Location Criteria.*~~
  - ~~*When a building is adaptively reused.*~~
  - ~~*To implement the PD-MUB requirement for UHNUs.*~~
- ~~**Applicability. Income Tiers.** The income category of Unmet Housing Needs Units, as set out below:~~

~~A. This section applies to UHNUs provided:~~

- ~~1. To achieve an adjusted floor area ratio (FAR) in the UM Subarea of the UT/UM District pursuant to Section 2.01.01.E.~~
- ~~2. To achieve an adjusted FAR in the SM District pursuant to and Section 2.02.03.F.~~
- ~~3. To meet the Alternative Location Criteria for locating the SCN District in the Suburban Neighborhood or Suburban Mixed Use Place Types of the General Plan pursuant to Section 2.02.02.K.1.~~
- ~~4. As a permitted adaptive reuse of a building or structure pursuant to Section 5.09.C.~~
- ~~5. As a requirement in the PD-MUB Zoning District pursuant to Section 2.07.x.x.~~

~~B. **UHNU Income Requirements.** The UHNUs must be provided based on the AMI and type of unit in Table 8.02-2.~~

TABLE 8.02-2. UNMET HOUSING NEEDS UNITS INCOME REQUIREMENTS		
Area Median Income (AMI) Tier	%Type of Total Units/Unit	
<del>0 up to 30%</del>	<del>2</del>	<del>2</del>
<del>Above 30% up to 60%</del>	<del>5 For Rent</del>	
<del>Above 60% up to 80%</del>	<del>3 (For Sale-Only) Purchase</del>	
<del>Above 80-100%</del>	<del>2 (For Sale-Only)</del>	<del>-</del>

- ~~**Required Unmet Housing Needs Units.**~~

~~○ All proposals for an Office Center Alternative Method shall provide at least 12% of the proposal's total dwelling units on site to address unmet housing needs. If the percentage calculation results in a fraction, the figure shall be rounded up to the next whole number. The income categories shall be distributed in accordance with the definition of Income Tiers, above.~~

~~○ The Board of Supervisors may adjust the percentages within the income categories at the time of rezoning when a higher proportion of units in the lowest income tier and/or a higher portion of accessible units are provided. A covenant securing affordability, in accordance with County housing policies shall be attached to each unit that addresses unmet housing needs.~~

## ~~4-1357 Unmet Housing Needs Units (UHNUs)~~

~~C. Applications for a rezoning to the PD-MUB district proposing a maximum density greater than 20 dwelling units per acre (possible only after establishment of bus services) shall provide dwelling units affordable for rental to households earning 60% or less and affordable for purchase to households earning greater than 30% but no more than 100% of the median income for the Washington Metropolitan Statistical Area (MSA), herein referenced as the Washington Area Median Income (AMI), in accordance with Table 4-1357(A). This requirement shall not apply if the maximum proposed density exceeds 20 dwelling units per acre solely due to the application's compliance with ARTICLE 7. All UHNUs, unless provided pursuant to Section 4-1357(F), shall be administered by the County under the County's UHNU Rental and Purchase Program. Under the County's UHNU Rental and Purchase Programs, UHNUs shall be administered pursuant to the applicable Affordable Dwelling Unit Provisions of ARTICLE 7 of the Zoning Ordinance and in accordance with the applicable provisions of Chapter 1450 of the Codified Ordinances of Loudoun County. Rents for UHNUs shall **UHNU Requirements**. All UHNUs must be provided in accordance with the following requirements:~~

- ~~1. Unless otherwise provided for in Section 8.02, UHNUs must be administered pursuant to the ADU Program requirements of Section 8.01 of the Zoning Ordinance.~~
- ~~2. Unless otherwise provided for in Section 8.02, UHNUs must be provided in accordance with the provisions of Chapter 1450 of the Codified Ordinances of Loudoun County.~~
- ~~3. UHNUs must be controlled by covenant that is recorded among the land records of Loudoun County, Virginia, runs with the land, in a form approved by the County and in favor of the County or its designee, and controls affordability for the following periods of time:~~
  - ~~a. Rents for rental UHNUs must be controlled for a period of at least 30 years from the date of the issuance of the occupancy permit for each rental UHNU and sales.~~
  - ~~b. Sales prices for UHNUs shall for purchase must be controlled for a period of at least 20 years from the initial sale transaction for the respective UHNU.~~

~~● UHNUs shall be of the same dwelling unit type and occupancy type (rental or purchase) as the market rate dwelling units receiving the density bonus. The architectural style of UHNUs shall be compatible with the market rate dwelling units within the proposed development. In general, an UHNU's dimensions and number of bedrooms shall be comparable to equivalent market rate dwelling units within the proposed development.~~

~~○ If an application proposing for rent dwelling units is required to provide rental UHNUs pursuant to this section, a minimum of one-third of such rental UHNUs shall be affordable for rental to households earning 30% or less of the AMI.~~

~~○ If an application proposing for purchase dwelling units is required to provide for purchase UHNUs pursuant to this section a minimum of one-third of such for purchase UHNUs shall be affordable for purchase to households earning greater than 30% but less than 70% of the AMI, and a minimum of one-third of such for purchase UHNUs shall be affordable for purchase to households earning 70% or greater but no more than 100% of the AMI.~~

- ~~4. At the time of rezoning, the Board of Supervisors may adjust the following:~~
  - ~~a. The percentage of UHNUs required by Sections 2.01.0.E, 2.02.03.F, or 2.02.02.K.1 when a higher proportion of UHNUs in the lowest AMI tier are provided; and/or~~

b. The AMI tiers in Table 8.02-1 when higher percentage of UHNUs than required are provided as accessible units.

**D. Unmet Housing Needs Units (UHNUs) in the PD-MUB Zoning District.** UHNUs required pursuant to Section 2.07 in the PD-MUB district must be provided as follows:

1. Notwithstanding Table 8.02-1, the UHNUs in a PD-MUB district must be affordable in accordance with Table 8.02-2.

**TABLE 4-1357(A):  
8.02-2. PD-MUB PLANNED DEVELOPMENT MIXED-USE BUSINESS  
UNMET HOUSING NEEDS UNITS TABLE INCOME REQUIREMENTS**

Area Median Income (AMI)	Type of Unit
0% up to 60%	For Rent
Above 30% up to 100%	For Purchase

2. If for rent UHNUs are provided, a minimum of 1/3 of the rental UHNUs must be affordable to households earning 30% or less of the AMI.

3. If for purchase UHNUs are provided, a minimum of 1/3 of the for purchase UHNUs must be affordable to each of the following:

- a. Households earning greater than 30% but less than 70% of the AMI; and
- b. Households earning 70% or greater but no more than 100% of the AMI.

**TABLE 8.02-3. PD-MUB UNMET HOUSING NEEDS UNITS (UHNU) REQUIREMENTS**

Column A	Column B	Column C	Column D
Dwelling Unit Type	Density Bonus	Required Percentage of Dwelling Units to be Provided as <u>Unmet Housing Needs Units UHNUs</u>	Additional Regulatory Adjustment
<u>Multifamily Attached Multi-Family Dwellings</u>	20%	6.25%	Increase maximum FAR permitted by 0.2
<u>Multifamily Stacked Multi-Family Dwellings</u>	10%	6.25%	Increase maximum FAR permitted by 0.1
Single-Family Attached Dwellings and Single-Family Detached Dwellings	10%	6.25%	Increase maximum land area permitted for Single-Family Attached Dwellings and Single-Family Detached Dwellings under Section <del>4-1358(A)2.07.x.x</del> by 2% of total district size

5. **Density Bonus/Additional Regulatory Adjustment.** When UHNUs required pursuant to Section 2.07.x.x. are provided, the development is permitted a density bonus pursuant to Table 8.02-3, Column B and Additional Regulatory Adjustment pursuant to Table 8.02-3, Column D.

a. The rezoning or zoning concept plan amendment materials submitted in association with the application for the density bonus must designate which dwelling unit type(s) will receive the density bonus and Additional Regulatory Adjustment.

~~Φ-6.~~ **Calculation of Density Bonus.** Multiply the number of each type of dwelling unit (Column A of Table ~~4-1357(A)8.02-3~~) proposed for the PD-MUB district prior to compliance with ~~ARTICLE 7Section 8.01~~ times the corresponding Density Bonus (Column B of Table ~~4-1357(A) 8.02-3~~) for that dwelling unit type. The resulting number is the total number of bonus dwelling units ~~that shall be~~ permitted for that dwelling unit type.

~~1-a.~~ Although the bonus Bonus dwelling units will increase the maximum number of dwelling units per acre permitted by the PD-MUB district, such bonus dwelling units shall be provided are only permitted to be provided as the dwelling unit type for which the density bonus percentage was calculated.

~~2-b.~~ In no event shall are the bonus dwelling units permitted to cause the maximum number of dwelling units per acre permitted by the PD-MUB district to residential density to exceed 54 dwelling units per acre (including any density bonuses that may be provided pursuant to Section 4-1357.07.x and/or ARTICLE 7Section 8.01).

~~F-7.~~ **Calculation of Required Percentage of Dwelling Units to be Provided as Unmet Housing Needs Units (UHNUs).** Multiply the number of each type of dwelling unit (Column A of Table 4-1357(A))8.02-3) proposed for the PD-MUB district prior to compliance with ARTICLE 7Section 8.01 times the Required Percentage of Dwelling Units to be Provided as Unmet Housing Needs Units-UHNUs (Column C of Table 4-1357(A))8.02-3). The resulting number is the number of dwelling units that shall must be provided as UHNUs for that dwelling unit type.

~~H-8.~~ In the event that bonus dwelling units cause an application to exceed the upper density limit set forth in the Comprehensive-General Plan, then the upper density limit set forth in the Comprehensive-General Plan applicable to the area subject to the rezoning application shall will be increased by the total number of bonus dwelling units calculated pursuant to Section 4-1357(B)-8.02.D.5.

~~I-9.~~ Nothing in this Section shall will be construed to prohibit an applicant's voluntary participation with ARTICLE 7Section 8.01, to include providing additional units and receiving density increases, or to prohibit an application from providing more than the required number of units addressing the income ranges specified in this section so long as provided the application is in conformance with Section 4-1357-2.07.x (PD-MUB regs) and ARTICLE 7Section 8.01, and the maximum density of the district does not exceed 54 dwelling units per acre (including any density bonuses that may be provided pursuant to Section 4-1357 and/or ARTICLE 7).

● **Compliance with State/Federal/Local Laws.**

~~○~~ A development that provides a total number Use of rental UHNUs, pursuant Affordable Housing Units (AHUs) to Federal, State, or other local programs that meet the terms and restrictions of Section 4-1357, and ADUs, pursuant to ARTICLE 7 if applicable, that equals the same number or more UHNUs as required under Section 4-1357 shall satisfy the requirements of Section 4-1357.

~~○~~ A development that provides a total number of rental UHNUs, pursuant to Federal, State, or other local programs that meet the terms and restrictions of Section 4-1357, and ADUs, pursuant to ARTICLE 7 if applicable, that equals a fewer number of UHNUs as required under Section 4-1357 shall provide the additional number of UHNUs necessary to make up the shortage pursuant to the County's Meet UHNU Rental and Purchase Programs.

~~5-10.~~ **Rentals Requirements.** In the PD-MUB district, AHUs provided pursuant to Federal, State, or other local programs shall Section 8.01.K may be in accordance with the rules and regulations governing such programs and these dwelling units shall be marketed in accordance with such rules and regulations, provided that rents shall not exceed those set pursuant to this section and shall be controlled by covenant for a period of at least 30 years for subsequent re-rentals after the initial rental transaction for the respective rental UHNU. Such covenant shall be recorded among the land records of Loudoun County, Virginia, shall run with the land, shall be in a form approved by the applicable Federal or State program administrator and shall be in favor of such Federal or State program or its designee, or, if such UHNU's are not in lieu of required UHNUs provided pursuant to a Federal or State Program, in a form approved by the County and in favor of the County or its designee and shall provide the rent control described by this section for 30 years from the date of the issuance the occupancy permit for each rental UHNU. that the UHNUs meet the affordability requirement of Section 8.02.D. above.