

## **SECTION 36. ADMINISTRATION AND PROCEDURES**

### **A. Enforcement.**

1. This ordinance shall be enforced by the Zoning Administrator. No building or other structure shall be erected, reconstructed, enlarged, moved or structurally altered without an appropriate permit therefore, and no structure shall be used, and the use of any land or building shall not be changed, without a certificate of occupancy therefore approved or issued by the Zoning Administrator. The Zoning Administrator shall in no case approve or grant a permit or certificate of occupancy for the construction, alteration, use or change of use of any building or land if the building or land as proposed to be constructed, altered or used would be in violation of this ordinance.
2. If the Zoning Administrator finds that any of the provisions of this ordinance are being violated, he shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. He shall take any other action authorized by law to ensure compliance with, or to prevent violation of, its provisions.

### **B. Interpretation and General Administration.**

Other uses of the same general character as those listed in a particular classification may be permitted in the mapped districts of that classification by the Zoning Administrator. Any use so determined shall be regarded as a listed use and a log of all said determinations shall be maintained as a part of the public records of the Zoning Administrator. In no instance, however, shall a use be permitted in a district when said use is first permitted in a classification which, in this zoning text, follows that for said district.

The Zoning Administrator may provide a written statement of the current classification of a property, the uses permitted in said classification, and verification of compliance with the Zoning Ordinance. (Ord. No. 89-10, 5-13-89; Ord. No. 92-13, 4-25-92; Ord. No. 95-9, § 4-29-95; Ord. No. 98-11, 7-1-98; Ord. No. 01-8, 4-21-01; 4-24-04; 10-1-07; Ord. No. 08-02, 04-19-08; Ord. No. 09-03, 4-28-09)

### **C. Permits.**

1. No excavation shall be commenced; no wall, structure, premises or land shall be used; no wall, building or structure or part thereof shall be built, constructed or altered; nor shall any building be moved; nor shall any regulated sign be erected, repaired or repainted until application has been made and the proper approval or permit has been obtained from the Zoning Administrator.
2. All applications for building permits shall be accompanied by accurate plot plans in triplicate drawn to scale, showing the actual shape and dimensions of the lot to be built upon, the exact sizes and locations on the lot of the structures and accessory structures then existing, and the lines within which the proposed building or structure shall be erected or altered, the existing and intended use of such structure or part thereof, the number of dwelling or housing units the building is designed to accommodate, and such other information with regard to the lot and neighboring lots as may be necessary to determine and provide for the enforcement of this ordinance.
3. In order to determine whether or not a permit should be issued under this section, the Zoning Administrator in appropriate cases, may require that the application for a building permit be accompanied by a topographic survey of the lot showing existing and proposed grades. (10-1-07; Ord. No. 08-02, 04-19-08; Ord. No. 09-03, 4-28-09)

### **D. Certificates of Occupancy.**

Every certificate of occupancy shall state that the building or the proposed use of a building or land complies with all provisions of law and of County ordinances and regulations. No occupancy, or change of occupancy, use or change of use of any land or building shall take place until a certificate of occupancy shall have been issued by the Zoning Administrator. This provision shall include a new building, an existing building which has been altered, a change in ownership of buildings other than one- or two-family dwellings, a conversion to condominiums or cooperatives, the use of vacant land, a change in the use of land or of a building, or change in a nonconforming use. Said certificate shall be issued within ten (10) days after a written request for the same has been

made to the Zoning Administrator, provided it has been determined that such occupancy, use, erection or alteration of such building or land or part thereof has been completed in conformity with the provisions of this ordinance.

*Type I. Flat Fees:* Swimming pools; parking lots; motor vehicle dealerships: new, used and rentals; accessory dwellings; uses not elsewhere specified.

*Type II. Residential, Commercial, Office, Hotel and Industrial Buildings:*

1. Master Certificate of Occupancy. A master certificate of occupancy (M.C.O.) shall be required for the entire building and site work. Except for certificates for shell and core and partial occupancy, as defined in paragraphs 2. and 3. below, no other certificate of occupancy is required if the M.C.O. can be approved and issued prior to any occupancy of the building. A request for a certificate for partial occupancy of a building may be made after the filing of the applications for the M.C.O. and the certificates of occupancy described in paragraph 2. below have been issued, if applicable.
2. Shell and Core Certificate for Elevator Buildings. Prior to any approval of a request for a certificate for partial occupancy of any new elevator building or a multiple-family dwelling with elevator(s) converting to condominiums or a cooperative, the owner shall have filed a request for a master certificate of occupancy and shall have been issued a certificate of occupancy for the shell and core of the building. No shell and core certificate of occupancy shall be issued until the building support systems such as the fire alarm system, elevators, restrooms, ventilating system and exit-ways have been inspected and approved.
3. Certificate for Partial Occupancy. A request for a certificate for partial occupancy of a multiple-family dwelling or hotel and tenant space for an office, commercial or industrial building may be made; however, no certificate for partial occupancy shall be issued unless the space is approved for occupancy and the master certificate of occupancy or the shell and core certificates of occupancy for the building have been issued.

*Type III. Parking Structures* (not associated with other uses).

*Type IV. County Owned, Operated and/or Sponsored Facilities and Activities and Short-term Activities of Nonprofit Organizations.*

*Type V. Family Day Care Homes for One (1) to Nine (9) Children.*

(7-1-73; 2-21-76; Ord. No. 83-17, 7-1-83; Ord. No. 84-4, 2-4-84; Ord. No. 84-16, 6-2-84; Ord. No. 90-7, 7-1-90; Ord. No. 93-15, 7-27-93; Ord. No. 94-12, 4-23-94; Ord. No. 97-5, 4-12-97; Ord. No. 00-10, 4-13-00; Ord. No. 01-13, 6-9-01; 10-1-07; Ord. No. 08-02, 04-19-08; Ord. No. 09-03, 4-28-09)

## **E. Board of Zoning Appeals; Variances and Appeals.**

1. There shall be a Board of Zoning Appeals as provided for and having the powers, functions and responsibilities as described in the Code of the Commonwealth of Virginia.
2. Every appeal from a determination of the Zoning Administrator and every application for a variance shall be filed in writing with the Zoning Administrator. The time of the public hearing is determined by the Board of Zoning Appeals.
3. In addition to the above, the board shall have authority to grant, upon such conditions and safeguards as it may determine, such variances from the ordinance as may be in harmony with its general purpose and intent, so that the spirit of this ordinance shall be observed, public safety and welfare secured, and substantial justice done, as follows:
  - a. Permit the continuance of a nonconforming use in a conforming building for periods of three (3) years beyond the three-year limitation contained in Section 35, subsection B.2, if the board finds that: (a) said nonconforming use is not detrimental to, and does not affect adversely, adjacent property by reason of the nature of the use, generation of traffic, parking, lighting, noise and similar factors; (b) no commercial display, lighting, advertising and wholesale or retail merchandising is carried on in connection with the conduct of said nonconforming use; (c) such discontinuance shall work practical difficulty and undue hardship upon the owner of said building.
4. If any variance or use permit granted by the Board of Zoning Appeals is not acted upon and put into effect within one (1) year after the date of such grant, then the variance shall be null and void and of no force and effect.

5. Every applicant for a variance or use permit shall file with his application a complete disclosure of the equitable ownership of the real estate to be affected including in the case of corporate ownership, the names of stockholders, officers and directors and in any case the names and addresses of all of the parties in interest; provided that the requirement of listing names of stockholders, officers and directors shall not apply to a corporation whose stock is traded on a national or local stock exchange and having more than five hundred (500) stockholders.
6. The Board of Zoning Appeals may approve use permits that allow modifications of placement requirement for structures on lots in "R-20," "R-10," "R-8," "R-6," "R-5," and "R2-7" districts where there is no option in the Zoning Ordinance to allow modification of requirements by the County Board, such as special exception use permits described in Section 36.G. or site plans described in Section 36.H. The Board of Zoning Appeals may impose conditions on the use permit that it deems necessary in the public interest, including limiting duration of the use permit. The BZA shall not approve a use permit unless it finds:
  - a. That the proposal will not affect adversely the health or safety of persons residing in the neighborhood.
  - b. That the proposal will not be detrimental to the public welfare or injurious to property or improvements in the neighborhood.
  - c. that the proposal will not be in conflict with the purposes of the master plans and land use and zoning related policies of the County.

In determining whether the proposal will be detrimental to the public welfare, injurious to property or improvements in the neighborhood or will adversely affect the health or safety of persons residing in the neighborhood, the BZA shall consider whether the modification will promote compatibility of development with the surrounding neighborhood because the structure's overall footprint size and placement are similar to the structures on the properties surrounding the lot in question; and whether the modification will help preserve natural land form, historical features and/or significant trees and foliage.

(5-1-71; 6-30-71; 10-3-74; 2-21-76; Ord. No. 89-10, 5-13-89; Ord. No. 92-13, 4-25-92; Ord. No. 95-9, § 4-29-95; Ord. No. 98-11, 7-1-98; Ord. No. 01-8, 4-21-01; 12-9-06; 10-1-07; Ord. No. 08-02, 04-19-08; Ord. No. 09-03, 4-28-09)

#### **F. Amendments.**

1. The County Board may, from time to time on its own motion or on petition of the owner or owners of property, after public notice and hearing, amend the requirements and districts herein established. All changes and amendments shall be referred to the County Planning Commission.
2. Every application by a property owner or contract owner for an amendment shall be filed in writing with the Zoning Administrator one hundred twenty (120) days before the public hearings; however, the County Board may, on its own motion, schedule hearings for a date which is less than one hundred twenty (120) days from the date of filing of the application. When a completed zoning amendment application is filed concurrently with a completed site plan or major site plan amendment application, the Zoning Administrator shall notify, as required in Administrative Regulation 4.1, the applicant that the public hearing for the amendments will be concurrent with the hearing on the associated site plan or site plan amendment. The date of filing of a complete application shall be determined as set forth in Administrative Regulation 4.1, based on whether the requirements of Administrative Regulation 4.1 have been met. Public hearings for changes and amendments which are proposed by the County Board on its own motion for any property within the County may be held by the County Board at any meeting of the Board. Applications for rezoning of County property shall be filed immediately after the board authorizes advertising of the action unless the County Manager has caused an application to be filed prior to such time. (2-7-04)
3. No application for any change of zoning of the same lot shall be considered by the County Board within a period of three hundred sixty (360) days from its last consideration by the County Board. This provision, however, shall not impair the right of the County Board to propose a change of zoning on its own motion.

4. Any amendment or amendments adopted by the County Board may be modified from the form in which they were advertised within the limits necessary to relate properly such amendment or amendments to the comprehensive zoning plan and ordinance.
5. Every applicant for an amendment, including a petitioner whose request was authorized on the County Board's own motion, shall file with his application a complete disclosure of the equitable ownership of the real estate to be affected including, in the case of corporate ownership, the names of stockholders, officers and directors, and in any case the names and addresses of all of the parties in interest, provided that the requirement of listing names of stockholders, officers and directors shall not apply to a corporation whose stock is traded on a national or local stock exchange and having more than five hundred (500) shareholders.

(5-1-71; 6-30-71; 2-5-72; 6-5-79; 6-9-79; Ord. No. 89-10, 5-13-89; Ord. No. 91-19, 5-14-91; Ord. No. 92-13, 4-25-92; Ord. No. 95-9, § 4-29-95; Ord. No. 98-11, 7-1-98; Ord. No. 00-13, 5-20-00; Ord. No. 01-7, 4-21-01; Ord. No. 01-8, 4-21-01; 10-1-07; Ord. No. 08-02, 04-19-08; Ord. No. 09-03, 4-28-09)

### **G. Use Permits.**

1. Use permits may be issued for any of the special exceptions or conditional uses for which a use permit is required by the provisions of this ordinance; provided, that the County Board shall find that after a duly advertised hearing, the use will not: (1) affect adversely the health or safety of persons residing or working in the neighborhood of the proposed use; (2) be detrimental to the public welfare or injurious to property or improvements in the neighborhood; (3) be in conflict with the purposes of the master plans of the County. In granting any use permit the County Board shall designate such conditions in connection therewith as will, in its opinion, assure that the use will conform to the foregoing requirements and that such use will continue to do so.
2. Construction or operation shall be commenced within one (1) year of date of issuance or the use permit becomes void; provided, however, that in granting a use permit the County Board may extend this period to up to three (3) years upon its determination that additional time may be needed to commence construction or operation. If after a use permit has been used and the use for which the use permit was obtained is discontinued for more than one (1) year, the use permit becomes void.
3. No application for a use permit for the same lot shall be considered by the County Board within a period of three hundred sixty (360) days from its last consideration. This provision, however, shall not impair the right of the County Board to propose a use permit on its own motion.
4. Written application for a use permit shall be filed with the Zoning Administrator. An application for Unified Residential Development approval shall comply with applicable portion of Administrative Regulation 4.11, Unified Residential Development Use Permit Approval Procedure, as amended. Use Permits shall be heard at the first regular meeting of each month, except the County Board may establish, on its own motion, another time for the use permit hearing, which hearing may be at any County Board meeting. The time of the hearing shall be the first regular meeting of each month, except the County Board may establish, on its own motion, another time for the use permit hearing, which hearing may be at any County Board meeting.
5. Every applicant for a use permit which would allow the construction of a new structures shall file with his application information as defined in Section 36, paragraph J. (2-7-04)
6. Every applicant for a use permit which would allow the construction of: (1) a new structure; or (2) a parking area for more than ten (10) automobiles, shall file with his application information as defined in Section 36, paragraph J.
7. Administrative change: The Zoning Administrator may approve minor modifications to approved use permits which comply with the spirit of this Code, the intent of the County Board in its approval of the use permit and the general purpose of the comprehensive plan for the development of the area.
8. Every applicant for a use permit or use permit amendment, including a petitioner whose request was authorized on the County Board's own motion, shall file with his application a complete disclosure of the equitable ownership of the real estate to be affected including, in the case of corporate ownership, the names of stockholders, officers, and directors and, in any case, the names and addresses of all of the parties in interest, provided that the requirement of listing names of

stockholders, officers, and directors shall not apply to a corporation whose stock is traded on a national or local stock exchange and has more than five hundred (500) stockholders.

9. Applications for publicly-owned and for publicly-operated buildings, facilities and uses subject to use permit approval shall include a transportation demand management plan. (Ord. No. 13-01, 2-23-2013)

(10-3-74; 11-23-74; 2-21-76; Ord. No. 87-5, 2-28-87; Ord. No. 89-10, 5-13-89; Ord. No. 92-13, 4-25-92; Ord. No. 92-23, 6-13-92; Ord. No. 94-12, 4-23-94; Ord. No. 95-9, § 4-29-95; Ord. No. 96-2, 1-20-96; Ord. No. 97-15, 7-19-97; Ord. No. 98-11, 7-1-98; Ord. No. 00-14, 5-20-00; Ord. No. 01-8, 4-21-01; 10-1-07; Ord. No. 08-02, 04-19-08; Ord. No. 09-03, 4-28-09)

#### **H. Site Plan Approval.**

1. *Site Plan--General:* A use requiring site plan approval is a special exception use subject to the regulations in this paragraph H. Every applicant for site plan approval shall file with his application a proposed site plan in compliance with Administrative Regulation 4.1, Site Plan Approval Procedure, as amended.
2. *Site Plan Application Process:* Every application for a site plan approval or a major site plan amendment shall be filed in writing with the Zoning Administrator a minimum of one hundred twenty (120) days before the public hearing; however, the County Board may, on its own motion, schedule hearings for a date which is less than one hundred twenty (120) days from the date of filing the application. When a completed site plan or major site plan amendment is filed, the Zoning Administrator shall notify, as required in Administrative Regulation 4.1, the applicant of the scheduled date of the public hearing for the site plan or major site plan amendment, which date will be up to one hundred and eighty (180) days after filing. The date of filing of a complete application shall be determined as set forth in Administrative Regulation 4.1, based on whether the requirements of Administrative Regulation 4.1 have been met. Public hearings for site plans and major site plan amendments shall be the first regularly scheduled County Board meeting of each month, except the County Board may establish, on its own motion, another board meeting for the hearing. Public hearings for minor site plan amendments shall be as required for use permits under Subsection 36.G.4. Major site plan amendments, minor site plan amendments, and administrative changes shall be defined as follows: (2-7-04)
  - a. *Major amendment:* Any modification of the approved site plan which meets one (1) or more of the following criteria:
    - (1) Principal use of the building would change in more than five (5) percent of the total floor area of the building.
    - (2) Density would change by more than five [5] percent of the total floor area of the building.
    - (3) Building height would change by more than twelve (12) feet.
    - (4) Gross floor area of the first floor would change in more than twenty [20] percent of the area of the first floor.
    - (5) Change in the site area which is used to calculate density.
    - (6) Any change which the Zoning Administrator determines is similar in significance to the above stated changes.
  - b. *Minor amendment:* Any modification of the approved plan which is not considered a major amendment and which cannot be approved administratively is a minor amendment. The subdivision of land involved in an approved site plan is a minor amendment, except, that if the following criteria are met, such subdivision may be approved as an administrative change by the Zoning Administrator:
    - (1) Density allocation is consistent with the zoning and approved site plan.
    - (2) Parking is consistent with the zoning and the approved site plan.
    - (3) Public improvements are consistent with the zoning and approved site plan.
    - (4) Clear evidence exists that all conditions of the approved site plan have been met or are bonded in a manner acceptable to the County Manager.
  - c. *Administrative change:* Any minor modification of the approved site plan which complies with the spirit of this Code, the intent of the County Board in its approval of the site plan,

and the general purpose of the comprehensive plan for the development of the area.  
Administrative changes may be approved by the Zoning Administrator.

3. *County Board Approval:* The County Board shall approve and accept a site plan if the board shall find that the improvement and development proposed by the site plan:
  - a. Substantially complies with the character of master plans, officially approved neighborhood or area development plans, and with the uses permitted and use regulations of the district as set forth in this ordinance or as the same may be modified by the County Board as provided herein;
  - b. Functionally relates to other structures permitted in the district and will not be injurious or detrimental to the property or improvements in the neighborhood; and
  - c. Is so designed and located that the public health, safety and welfare will be promoted and protected.
4. *Site Plan Conditions:* In approving and accepting a site plan, the County Board may designate such conditions in connection therewith as will, in its opinion, assure that the improvement and development will conform to the foregoing requirements or modifications thereof, including but not limited to provisions for protection of adjacent property, the expiration of said site plan approval after a specified period of time, access and design for off-street parking and loading, and provisions of space for community facilities; e.g., recreation and open space, library and fire facilities, utilities, etc.
5. *Uses and Regulations Modified:* The County Board may, in appropriate cases, modify the uses permitted and use regulations in harmony with the general purpose and intent of the district taking into consideration the following:
  - (1) Provisions made for open space and other environmental amenities;
  - (2) Grade, direction and intensity of traffic on adjacent streets;
  - (3) Relationship to adjacent existing or permitted uses and buildings;
  - (4) Particular dimensions, grade and orientation of the site;
  - (5) Particular construction problems and techniques; and
  - (6) The other provisions of Section 36, subsection H.
  - b. *Transfer of Development Rights:* In approving and accepting a site plan, the County Board may, subject to such conditions as the Board may approve, permit the dedication of density or other rights to develop, as determined by the Board, from one or more parcels that are not the subject of a particular site plan application to one or more parcels of property that are the subject of that same site plan application for purposes of, among others, open space, historic preservation, affordable housing, community recreation, and/or community facilities. In considering the approval of such dedication, the County Board shall consider the appropriateness of the dedicated density or other development rights at the proposed location, and whether the dedication is consistent with the Zoning ordinance, approved land use policies and plans, and the public health, safety and welfare generally.
6. *Affordable Dwelling Units for Increased Density Within General Land Use Plan.*
  - a. In exchange for approval by the County Board of a site plan containing density equal to or greater than 1.0 FAR, affordable dwelling units (ADUs), or optional contributions to support ADUs in lieu thereof, shall be required in accordance with the following provisions of this subsection.
    - i. Site plans containing less than 1.0 FAR shall be exempt from the ADU requirements hereof.
  - b. Once a site plan has been approved, the site plan applicant must select one of the following options for meeting the ADU requirements:
    - i. *On-Site Units.* Unless a different option is selected by the applicant, ADUs shall be provided on-site as part of the site plan project, the total gross square footage of which shall be 5% of the GFA above 1.0 FAR; or
    - ii. *Off-Site Nearby.* ADUs shall be provided off-site near the site plan project, the total gross square footage of which ADUs shall be 7.5% of the GFA of the site plan project above 1.0 FAR. For purposes of this subsection, near the site shall mean as follows: if the site plan project is in a Metro Station Area, the off-site

- units shall be within 0.5 miles from any Metro Station; if the site plan project is not in a Metro Station Area, the off-site units shall be within 0.5 miles of the project; or
- iii. Off-Site Elsewhere. ADUs shall be provided in locations in the County other than those provided for in i. and ii., the total gross square footage of which ADUs shall be 10% of the GFA of the site plan project above 1.0 FAR; or
  - iv. Cash Contribution. The applicant shall make a cash contribution to the Affordable Housing Investment Fund calculated as follows for each of the described tiers;
    - 1. \$1.50 per square foot of GFA for first 1.0 FAR.
    - 2. \$4.00 per square foot of GFA from 1.0 FAR to 3.0 FAR for residential projects and \$4.00 per square foot of all GFA above 1.0 FAR in commercial projects (including hotel and retail).
    - 3. \$8.00 per square foot of GFA above 3.0 FAR for residential projects.
    - 4. For mixed-use projects, cash contributions shall be calculated by applying the proportionate amount of commercial and residential GFA to each tier.
    - 5. The cash contribution will be indexed to Consumer Price Index for Housing in the Washington-Baltimore MSA as published by the Bureau of Labor Statistics and adjusted annually, beginning January 2007. Revised amounts apply only to site plans filed after the adjustment date. Amounts for the calculation of the cash option are established at the time the site plan application is filed.
  - c. The applicant's plan for meeting the ADU requirements on-site or off-site must be confirmed or approved by the County Manager or his designee, and all necessary documents executed, prior to the issuance of the first Certificate of Occupancy. The County Manager or his designee will act on approval request within 30 days.
  - d. An applicant may submit a proposal for off-site ADUs that deviates from the requirements above. Such proposals shall be reviewed by the Housing Commission which, after a public hearing on the proposal, shall make a report of its review to the County Manager. After the Housing Commission's consideration of the alternative plan, the County Manager, or his designee, may approve or reject it administratively. In the event that the plan is rejected, the applicant may request that the County Board consider the alternative as a site plan amendment.
  - e. On sites where the County Board has determined that there are other competing public priorities identified in County plans, studies, policies, or other documents that are addressed by the site plan application, the Board may, at the time of site plan approval, approve the total or partial substitution of the ADUs required hereunder.
  - f. ADUs shall be committed for a 30-year term, affordable at 60% of the area median income. ADUs must meet minimum habitability standards established by the County.
  - g. The foregoing provisions apply to site plan applications that are consistent with the General Land Use Plan (GLUP). The provisions also apply to site plan applications that include a rezoning application resulting in a use that was not permitted by-right under the prior zoning category provided that the newly permitted use is included within the existing GLUP designation for the site.
  - h. Site plan amendment applications that result in the demolition and rebuilding of a site plan project shall be subject to the requirements hereof at the time of redevelopment. The applicable requirements shall apply only to density that is replaced or rebuilt and any increased density. They shall not apply to rehabilitation or renovation of site plan projects.
  - i. Site plan applications that include an application to change the GLUP designation of the site may be subject to an affordable housing requirement in addition to the above ADU requirement. Such affordable housing requirements shall be addressed separately in the process of the County Board's consideration of the approval of the site plan.

- j. Site plan applications that result in the elimination of existing affordable housing will address replacement of the housing in the process of the County Board’s consideration of the approval of the site plan.
  - k. In the event of conflict between the provisions of this subsection H and any other provisions of this subsection shall control. (01-21-06)
7. Affordable Dwelling Units for Height and Density Above General Land Use Plan.
- a. In considering the approval of a site plan including apartments, the County Board may permit additional height and density as set forth below, providing the County Board determines that a variety of housing units and design would result thereby. Consideration of such design may include, but not be limited to, the provision of family housing units, housing for the elderly, housing for households of low or moderate income and such variety of design as provided by town house or terraced construction in association with the high-rise development. The County Board may approve additional height and/or residential density for low or moderate income housing only where a proposed site plan project is in compliance with all of the requirements specified below. The provisions of this section 36.H.7 shall not apply in either the "C-O Rosslyn" or the "C-O Crystal City" districts. (Ord. No. 11-03, 12-10-2011)
    - (1) The application includes a low or moderate income housing plan that includes the following information and any other items that are determined by the County Board to be pertinent for that particular site plan:
      - (a) Number of total housing units provided under the site plan.
      - (b) Number of total housing units in the additional housing density.
      - (c) Number of low or moderate income housing units provided under the proposed site plan.
      - (d) Income levels of targeted families for low or moderate income housing units.
      - (e) The proposed rents and guarantee of limits on future rent increases or sales prices and the proposed affordability thereof for low or moderate income housing units.
      - (f) Marketing plan for the low or moderate income housing units.
      - (g) Location of low or moderate income housing units.
      - (h) Sizes of low or moderate income housing units.
      - (i) Bedroom counts of low or moderate income housing units.
      - (j) Amenities provided for low or moderate income households.
      - (k) Statement of consistency with County Board adopted housing policy, goals, principles and relevant staff guidelines for the use of additional housing density.
    - (2) Modification of Building Height:
      - (a) In “RA” Districts (but not “RA-H”, “RA4.8”, “RA-H-3.2” Districts), building heights shall not be modified under this Subsection 36.H.7.a.(2)., except that where a project provides low or moderate income housing, the County Board may approve a greater height, in order to achieve tapering, where the proposed project is adjacent to a property for which the Zoning Ordinance district regulations or the General land Use Plan designation allow, by site plan, a height greater than the proposed height.
      - (b) In “C-2”, “C-3”, and “C-R” Districts, building heights shall not be modified under this Subsection 36.H.7.a.(2).
      - (c) Additional building heights approved under this Subsection 36.H.7.a.(2) shall not exceed six (6) stories or sixty feet, whichever is smaller, above the height permitted in the district regulations.
    - (3) That adequate guarantees exist as to the continued availability of such units to households of low or moderate income for a minimum of thirty (30) years, or for such other time period as may be approved by the County Board.



- (4) New low or moderate income housing units may be constructed either on-site or at appropriate off-site locations approved by the County Board or may be provided by means of in-lieu tax relief/rent supplement payments at levels approved by the County Board. Such low or moderate income housing, which may be either new or existing construction, may also be provided on abutting sites or on sites which abut except for the existence of a public street.
  - b. In considering the approval of an office, motel, or apartment site plan, the County Board may permit additional height, not to exceed three (3) stories, and /or additional density, not to exceed .25 floor area ratio (FAR) in an office structure, or ten (10) percent in a motel or apartment structure, providing the County Board judges that a contribution to required community facilities has been provided. Consideration of such facilities may include, but not be limited to, the provision of space for a library, fire station, public school facility, public transit facility, or a community recreation or health center. Such community facilities may be provided at appropriate off-site locations.
  - c. In considering the approval of a site plan, the County Board may permit additional office density above the amount allowed by site plan in the district regulations, not to exceed .25 FAR on the site, providing the County Board judges that low or moderate-income housing being provided under the site plan is sufficient to justify the amount of the additional density allowed. Under no circumstances shall this bonus exceed ten (10) percent of the total gross floor area permitted without bonus under the site plan, nor shall additional height be allowed.
  - d. Under no circumstances shall any combination of the incentives provided in subparagraphs 36.H.7.a through 36.H.7.c above be interpreted to allow additional height in excess of a maximum of six (6) stories, or additional residential density in excess of twenty-five percent, or additional .25 FAR of office density above that permitted by the applicable zoning district.
8. When a proposal located in the “Clarendon Revitalization District” as designated on the General Land Use Plan preserves a structure identified for preservation in adopted policies for Clarendon, and the County Board finds that the structure is preserved in accordance with such adopted policies, then the County Board may approve an increase above the otherwise allowable density as follows:
- a. Prior to County Board approval, the County Manager will send the project for review and comment by the Historical Affairs and Landmark Review Board at least 45 days in advance of a public hearing by the County Board, and the HALRB’s recommendation will be considered by the County Board. The County Board shall determine whether the project is consistent with the historic preservation objectives of the adopted policies.
  - b. When an entire building is preserved, the project’s gross floor area may, by site plan approval, be increased by an amount of up to 500% of the first 10,000 square feet of gross floor area preserved and up to 300% of any square feet of gross floor area preserved beyond 10,000 square feet.
  - c. When a building frontage or façade is preserved, the project’s gross floor area may be increased by an amount of up to 500% of the square feet of gross floor area preserved. The square feet of gross floor area preserved shall be calculated by multiplying the linear feet of building façade or frontage preserved by the depth of preservation.
  - d. Unless the County Board finds, in a particular case, that a lesser step-back or no step-back is more appropriate to ensure a contextually appropriate definition between a structure identified for preservation in the Clarendon Sector Plan and new buildings, the preservation of building frontages or facades shall provide a step-back of at least 20’ for frontages and 10’ for facades, immediately above the preserved portion of the project. (6-10-06; Ord. No. 09-04, 4-25-2009)
9. *Modification of Approved Site Plan:* After a site plan has been approved and accepted by the County Board, amendments to the site plan which are consistent with the general purpose and intent of the district may be considered. Deviation from an approved site plan, site plan amendment or administrative change without the written approval of the Zoning Administrator or specific action by the County Board shall, at the discretion of the County Board, void the plan and

the County Board may require the applicant to resubmit a new site plan for consideration by the County Board.

10. *[Disclosure of Ownership:]* Every applicant for a site plan approval or amendment, including a petitioner whose request was authorized on the County Board's own motion, shall file with his application a complete disclosure of the equitable ownership of the real estate to be affected including, in the case of corporate ownership, the names of stockholders, officers, and directors and, in any case, the names and addresses of all of the parties in interest, provided that the requirement of listing names of stockholders, officers, and directors shall not apply to a corporation whose stock is traded on a national or local stock exchange and has more than five hundred (500) stockholders.
11. *[Information Required:]* Every applicant for a site plan approval shall file with his application information as defined in Section 36, paragraph J.

(4-14-73; 10-3-74; 11-23-74; 12-10-75; 6-5-79; 5-26-81; Ord. No. 84-23, 8-18-84; Ord. No. 89-10, 5-13-89; Ord. No. 90-21, 7-11-90; Ord. No. 91-5, 3-16-91; Ord. No. 92-13, 4-25-92; Ord. No. 92-23, 6-13-92; Ord. No. 95-9, 4-29-95; Ord. No. 98-11, 7-1-98; Ord. No. 00-13, 5-20-00; Ord. No. 01-7, 4-21-01; Ord. No. 01-8, 4-21-01; Ord. No. 01-20, 10-13-01; Ord. No. 01-19, 12-8-01; 10-1-07; 11-13-07; Ord. No. 08-02, 04-19-08; Ord. No. 09-03, 4-28-09)

### **I. Advertising.**

1. All required advertising will be done in accordance with applicable law.
2. Notice of any application for zoning amendment, variance and use permit or site plan, shall be given by posting one (1) placard on the property for which said application has been filed and posting the surrounding area with no less than four (4) placards showing the designation of the property together with the time and place of hearing.

(9-25-73; Ord. No. 88-14, 7-9-88; Ord. No. 97-15, 7-19-97)

### **J. Use Permit and Site Plan Information.**

1. Every applicant who files an application for a site plan approval or a use permit, as defined in Section 36, paragraphs G.5. and H.8., shall provide a completed LEED Scorecard or other comparable reporting mechanism that is acceptable to the County Manager as part of the site plan or use permit application. The applicant shall analyze the LEED credits for various components of sustainable design and describe how and/or why each credit can or cannot be achieved. (02-07-04)
2. The applicant shall also submit the following information with the application:
  - a. Plot and location map at a scale of one (1) inch equals twenty-five (25) feet.
  - b. Topographic map at a scale of one (1) inch equals twenty-five (25) feet with, at a minimum, two-foot contour intervals, showing existing and proposed grades.
  - c. Amount impervious area on site:
    - (1) Existing;
    - (2) Proposed.
  - d. Location and description of major trees six (6) inches or greater caliper measured four (4) feet above grade.
  - e. A description of the project and potential activities within the project.
  - f. Potential methods of minimizing adverse impacts, including their feasibility.

### **K. Subdivision Plat Review.**

Every subdivision plat submitted for review for compliance with the Zoning Ordinance or site plan conditions shall be accompanied by a fee in accordance with the schedule adopted by the County Board.

(Ord. No. 94-12, 4-23-94; Ord. No. 97-5, 4-12-97; Ord. No. 00-10, 4-13-00; Ord. No. 08-02, 04-19-08; Ord. No. 09-03, 4-28-09)

### **L. [Density Credit.]**

When a parcel or portion thereof is needed by the County for a public purpose, including but not limited to public street right-of-way, and there are no encumbrances, title restrictions, or survey exceptions, to such parcel or portion thereof, which the County Board determines would restrict, adversely affect, or interfere with the use of the lot for public purposes, density credit may be granted by the County Board in conjunction with one of the following:

1. County Board approval of a rezoning or special exception and a dedication or conveyance of a parcel or portion thereof for public purposes is part of such approval; or
2. County Board approval of a density credit, upon recommendation of the County Manager, when the County Board finds that the dedication or conveyance of a parcel or portion thereof for public purposes will contribute to the implementation of County Board approved plans, including by way of illustration and not limitation Section Plans, Revitalization Plans, Business and Community Conservation Projects, Transportation Plans and Neighborhood Conservation Plans.

Density Credit shall be based upon the following:

3. The parcel or portion thereof to be dedicated or conveyed for public purposes is found by the County Board to be suitable in location, size, shape, condition and topography for such public purposes and the County Board finds that there are no encumbrances, title restrictions, or survey exceptions which would interfere with its use for such purpose or any other; and
4. The parcel or portion thereof to be dedicated or conveyed is in accordance with the County's Comprehensive Plan. Where such proposed public use requires approval under Section 15.2-2232 of the Code of Virginia, such approval shall be obtained prior to the granting of credit under this section; and
5. The parcel or portion thereof for which density credit is granted will be dedicated or conveyed to the County Board without monetary or other compensation except the granting of density credit.

Prior to a dedication or conveyance for public purposes, a plat showing the parcel or portion thereof to be dedicated or conveyed to the County Board for public purposes, the lot or site to which the density credit is to be granted and the appropriate appurtenant density allocation shall be submitted to and approved by the County Manager, or his designee. Such plat, and a deed or other legally enforceable instrument acceptable to the County Manager and accomplishing an irrevocable dedication or conveyance to the County for public purposes, shall be provided before any density credit may come into existence. Thereafter, any reallocation of such density credit shall require the submission to and approval by the County Manager, or his designee, of a plat showing the elements listed above. In the event of such reallocation density credit shall be reallocated in a manner proportional to the original allocation of density.

All costs of implementation of the approved density credit, including any necessary subdivision, recording fees, or other costs, shall be borne by the owner of the lot or site to which the density credit is appurtenant. Any property owner asserting that a density credit applies to his property shall be responsible for establishing that such a density credit was approved by the County Board.

(Ord. No. 00-16, 6-10-00)

#### **M. Fees**

The County Board shall adopt a schedule of fees to be paid upon the filing of each application, permit and inspection required by this Ordinance.