

MADISON COUNTY ORDINANCE  
NO. 2011-1

**AN ORDINANCE TO AMEND AND REENACT THE ZONING ORDINANCE OF MADISON COUNTY TO INCORPORATE SITE PLAN REGULATIONS AS AN APPENDIX TO THE MADISON COUNTY ZONING ORDINANCE**

WHEREAS, the Virginia Code authorizes a locality to include within a zoning ordinance, among other things, regulations and provisions requiring the submission and approval of a plan of development prior to the issuance of building permits, to assure compliance with regulations contained in such zoning ordinance<sup>1</sup>; and

WHEREAS, the Madison County Board of Supervisors first adopted a site development plan ordinance on February 12, 1975 and such ordinance has been amended from time to time thereafter; and

WHEREAS, the County has determined that it would be in the best interests of the public welfare and convenience to update, amend and re-enact its site development plan regulations;

NOW, THEREFORE the Madison County Board of Supervisors does hereby amend and re-enact the Madison County Zoning Ordinance, to incorporate provisions for site development plans as an appendix thereto:

**APPENDIX A TO THE MADISON COUNTY ZONING ORDINANCE**

**A. DEVELOPMENT PLANS**

**A.1. STATEMENT OF INTENT**

There is a mutual responsibility between Madison County and the developer to ensure that land is developed in an orderly fashion. The intent of these site development regulations is to promote the public health, safety, convenience and welfare of County citizens and to ensure that transportation systems will be carefully planned; that the community be developed with adequate public facilities; that the needs of agriculture, industry and business be recognized in growth; that residential areas be provided with healthy surroundings for family life; that agricultural and forestall land be preserved; and that the growth of the community be consonant with the efficient and economical use of public funds.<sup>2</sup>

**A.2. APPLICABILITY OF REGULATIONS**

A.2.1. A site plan approved in accordance with this ordinance shall be required for every development, as that term is defined herein.

A.2.2. A zoning permit approved in accordance with this ordinance shall be required for any construction or change in use which is not subject to the requirement of a site plan, including, but not necessarily limited to, the following:

A.2.2.1. Establishment of one single-family detached dwelling, manufactured/mobile home or duplex dwelling, and related principal and accessory uses and structures;

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<sup>1</sup> 15.2-2286(A)(8)

<sup>2</sup> 15.2-2200

- A.2.2.2. Additions to single family dwellings, detached or attached, manufactured/mobile home or duplex dwellings, and relate accessory uses and structures;
- A.2.2.3. Accessory buildings and structures, such as storage buildings and structures; swimming pools; gazebos; picnic shelters; temporary family health care structures; etc.
- A.2.2.4. Installation of new manufactured/mobile home dwellings on existing pads within an existing manufactured home park;
- A.2.2.5. Home occupations which require a special use permit;
- A.2.2.6. Signs;
- A.2.2.7. Temporary uses and structures, except that non-permanent structures less than 150 square feet will not require a zoning permit;
- A.2.2.8. Additions and alterations to provide an improvement in handicapped accessibility.
  
- A.2.2.9. A site plan showing improvements/development on a parcel or portion thereof which is less than 40,000 square feet in total land area may be administratively approved by the Zoning Administrator provided all requirements of this ordinance are met. (Amended March 2020)
  
- A.2.3. Upon receipt of an application for a building permit, the Building Official shall notify the Zoning Administrator and shall circulate the application to the Zoning Administrator for review.
  - A.2.3.1. If the proposed work is the subject of a previously approved site plan, the Zoning Administrator shall verify that the proposed work is in compliance with applicable zoning and site plan requirements and shall sign the building permit application as evidence of this verification. No fee shall be charged for this review.
  - A.2.3.2. If there is no approved site plan applicable to the proposed work, and no requirement for a site plan, then a zoning permit shall be required and the applicant shall pay a fee for this zoning review, as set forth on the most recent fee schedule adopted by the Board of Supervisors. It shall be the responsibility of the applicant to provide the Zoning Administrator with information sufficient to verify that the proposed work meets applicable zoning ordinance requirements.
  
- A.2.4. No building permit shall be issued until a site plan or zoning permit, when required, as may be applicable, has been approved in accordance with this ordinance.
  
- A.2.5. No land shall be used or developed except in accordance with an approved site plan or zoning permit, as may be applicable.

**A.3. DEFINITIONS**

A.3.1. “*Development*” means any lot(s), parcel(s) or tract(s) of land (“site”) to be developed as a unit under single ownership or unified control, which is to be used for any business, educational, institutional, public, governmental or industrial purpose, or which is to contain three (3) or more residential dwelling units. The term "development" shall not be construed to include any property which will be principally devoted to agricultural production. For the purpose of this definition, the phrase “to be developed” shall refer to (a) any proposed construction (*including (i) reconstruction, and (ii) additions or alterations of an existing building or structure that exceed 500 square feet*), with the exception of accessory buildings and structures, and (b) to any change in residential or agricultural use to a non-residential, non-agricultural use, whether or not any construction is involved.

A.3.2. “*Site development plan*” or “*site plan*” refers to details of the proposal for a development, including all covenants, grants or easements and other conditions, calculations, and measurements relating to use, location and bulk of buildings, density of development, common open space, public facilities and such other information as may be required by the Madison County Zoning Ordinance provisions to which the proposed development is subject.

**A.4. ADMINISTRATION**

A.4.1. Final Approving Authorities

A.4.1.1. The Board of Supervisors, Zoning Administrator, or County Administrator shall be the approving authority for site plans and any amendments or modifications thereto. The Board of Supervisors shall, by resolution, designate a person to serve as its administrative agent for purposes of administering and enforcing the requirements of this ordinance. (Amended March 2020)

A.4.1.2. The Zoning Administrator shall be the approving authority for zoning permits and any amendments or modifications thereto.

**A.5. PROCEDURES**

A.5.1. The Board of Supervisors, Zoning Administrator, or County Administrator shall act on any proposed site plan within 60 days after the site plan has been officially submitted for approval, by either approving or disapproving the site plan in writing, and giving with any disapproval specific reasons therefor.<sup>3</sup> Specific reasons for disapproval shall be given either in a separate document or noted on the plan itself. The reasons for disapproval shall identify deficiencies in the site plan that cause the disapproval by reference to specific ordinances or regulations and shall further identify modifications or corrections as will permit approval of the site plan. The Board of Supervisors shall act on any proposed site plan that it has previously disapproved within 45 days after the site plan has been modified, corrected and resubmitted for approval. (Amended March 2020)

A.5.1.1. The Board of Supervisors and County staff shall thoroughly review the plat and shall make a good faith effort to identify all deficiencies, if any, with the initial submission.

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<sup>3</sup> 15.2-2258; 15.2-2259

A.5.1.2. Upon receipt of a site plan that has been officially submitted for approval, the site plan shall automatically be sent by the Zoning Administrator to the Planning Commission for review and comment. The phrase “officially submitted for approval” means that a completed application for approval of a site plan, along with the required fee and a proposed site plan containing all of the information required by Sections A.6 and A.7 set forth herein below, have been received by the County.

A.5.1.2.1. The Planning Commission’s review and recommendation shall be scheduled so as to allow the Board of Supervisors to meet its deadline for action on the plan.

A.5.1.2.2. Any public area, facility or use as set forth in paragraph (a) of Section 15.2-2232 of the Virginia Code which is within, but not the entire subject of an application for site plan approval shall be reviewed by the Planning Commission as to whether or not the same is substantially in accord with the Comprehensive Plan, as well as for compliance with the zoning ordinance and the standards and requirements hereof. The Planning Commission shall communicate its findings in writing to the Board of Supervisors prior to the Board’s action on the proposed site plan. Failure of the commission to act within 60 days of a site plan submission, unless the time is extended by the Board of Supervisors, shall be deemed approval. The owner(s) of the subject property, or their agent(s), may appeal the Commission’s decision to the Board of Supervisors within 10 days after the Planning Commission’s decision has been rendered. The appeal shall be by written petition to the Board of Supervisors, setting forth the reasons for the appeal. The Board of Supervisors, of its own motion, or upon receipt of an appeal petition, may overrule the action of the Planning Commission by a majority vote of its membership.

A.5.1.3. If a proposed development substantially affects transportation on state-controlled highways, as defined by regulations promulgated by VDOT, then within 10 business days of receipt of a site plan that has been officially submitted for approval, the site plan shall automatically be submitted by the County to the Virginia Department of Transportation in accordance with Section 15.2-2260 of the Code of Virginia.<sup>4</sup>

A.5.1.3.1. Submission of the application to VDOT pursuant to Section 15.2-2260 of the Code of Virginia shall toll all times for local review, until the County has received VDOT’s final comments. If VDOT fails to return its final comments prior to the 60-day deadline referenced in A.5.1, above, then the County shall act on the site plan within 35 days of its receipt of VDOT’s final comments.<sup>5</sup>

A.5.1.3.2. If the County has not received final written comments from VDOT within 90 days after VDOT received the site plan, the Board of Supervisors shall proceed on the assumption that VDOT has no comments on the plan.<sup>6</sup>

A.5.1.4. If the applicant requests that further processing or formal action on the application for a final site plan be indefinitely deferred, the application shall be deemed to have been voluntarily withdrawn by the applicant if the board of supervisors does not take action on the application within six (6) months after the date the deferral was

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<sup>4</sup> 15.2-2222.1(C)

<sup>5</sup> 15.2-2260(B)

<sup>6</sup> 15.2-2222.1(D)

requested. Upon written request received by the County before the application is deemed to be withdrawn, the Board of Supervisors may grant one extension of the deferral period for a period determined to be reasonable, taking into consideration the size or nature of the proposed development, the complexity of the review, and the laws in effect at the time the request for extension is made.

A.5.2. If the Board of Supervisors fails to approve or disapprove a site plan within 60 days after it has been officially submitted for approval, or within 45 days after it has been officially resubmitted following a prior disapproval, then the developer, after 10 days' written notice to the Board, may petition the Madison County Circuit Court to decide whether the plan should or should not be approved.

A.5.3. If the Board of Supervisors disapproves a site plan and the developer contends that the disapproval was not properly based on the applicable ordinance, or was arbitrary or capricious, he may appeal to the Madison County Circuit Court within 60 days of the written disapproval by the Board of Supervisors.

A.5.4. A site plan shall be deemed final once it has been approved by the Board of Supervisors, if the only requirement remaining to be satisfied in order to obtain a building permit is the posting of any bonds and escrows. A final site plan shall be signed by the Chairman of the Board of Supervisors, who shall be deemed the County's agent for signature of the final plan.

A.5.5. Prior to signature a final site plan shall be revised to reflect any conditions of approval specified by the Board of Supervisors. When the site plan is ready for signature, a revised master drawing and a transparency copy of the revised master drawing shall be submitted for the County's signature. Once the County has signed the master drawing, the master drawing shall be returned to the developer and the developer shall provide the County with two (2) print copies of the signed master drawing.

A.5.6. The Zoning Administrator shall act on any proposed zoning permit within 30 days after the sketch plan has been officially submitted for approval, by either approving or disapproving the sketch plan in writing and giving with any disapproval specific reasons therefor.

## **A.6. SITE PLAN DETAILS**

A.6.1. A site plan shall be prepared, signed and sealed by a professional architect, engineer, land surveyor or certified landscape architect licensed to practice in the Commonwealth of Virginia.

A.6.2. A site plan shall conform to details that meet the standard for plats adopted under Section 42.1-82 of the Virginia Public Records Act (Section 42.1-76 et seq.), including, but not necessarily limited to the following:

A.6.2.1. Each sheet of the site plan shall be between 8 ½ X 11 and 24x36 inches, and the scale shall be appropriate to the size of the paper. Original plats shall be inscribed on either translucent or opaque paper, polyester or linen.<sup>7</sup>

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<sup>7</sup> 15.2-2246; 15.2-2241(1); 17VAC15-60-20

- A.6.2.2. Color of original inscription shall be black or blue and be solid, uniform, dense, sharp, and unglazed. Signatures shall be in dark blue or black ink. Lettering shall be no less than 1/10 inch or 2.54 mm in height. Lettering and line weight shall be no less than .013 inches or .3302 mm. Letter and line spacing for control pencil drawings shall be no less than .050 inches and for ink drawings no less than .040 inches. The drawing substance must be either wet ink or control pencil but not a combination thereof. Good drafting practices shall be followed when eliminating ghost lines and when doing erasures, and all shading and screening shall be eliminated over written data.
- A.6.2.3. Margins shall be at least ¼ inch on all sides, and inscriptions are to be made on only one side of the paper. All drawings shall have centering marks on each side, adjacent and outside the margins. Match lines or grid tics delineating 8 ½ X 11 inch sections shall be inscribed on all plats larger than 8 ½ X 11 inches, to create the least number of grid blocks possible and be located adjacent and inside the margins. Continuation sheets of multi-sheet drawings shall be the same size as the first sheet.
- A.6.3. Each page of a site plan shall be marked with a sheet number and total number of sheets; date of the drawing and the date and description of any revision of such sheet.
- A.6.4. A final site plan shall include the following:
- A.6.4.1. Project title
  - A.6.4.2. Names of the developer and all property owners, with title sources; signatures of the developer and all property owners, indicating the property owners' consent to the proposed site plan
  - A.6.4.3. Identification of all applicable variances and zoning conditions applicable to the subject property
  - A.6.4.4. North point
  - A.6.4.5. Scale
  - A.6.4.6. Vicinity sketch drawn to a reasonable scale, with landmarks sufficient to identify the location of the property
  - A.6.4.7. Development site boundaries
  - A.6.4.8. Zoning of site and all adjacent properties
  - A.6.4.9. Tax map and parcel numbers of the subject property
  - A.6.4.10. Tax map, parcel number and present use of each adjacent property
  - A.6.4.11. Total area of the proposed development, with calculation of the percentages used for building, parking and open space
  - A.6.4.12. Minimum building setback lines
  - A.6.4.13. Existing physical features or improvements to be retained (streets, roads, driveways, buildings, etc.)
  - A.6.4.14. At least one datum reference for elevation (where a flood hazard district is involved, USGS vertical datum shall be shown and correlated to plan topography)
  - A.6.4.15. Existing topography (up to 20% slope: maximum 5-foot contours; over 20% slope: maximum 10% contours)
  - A.6.4.16. Proposed grading (minimum 5-foot contours)
  - A.6.4.17. Identification of areas of the development site where slopes are 25% or greater
  - A.6.4.18. Name and location of watercourses and other bodies of water on or adjacent to the development site
  - A.6.4.19. Limits of 100-year floodplain
  - A.6.4.20. Location and size of existing water and sanitary sewer facilities and easements; storm sewer facilities; and drainage easements

- A.6.4.21. Provisions for the adequate disposition of natural and stormwater on and off-site, including a stormwater management plan where required by the Madison County Water Protection Ordinance. Where any part of the subject property lies in a drainage district, such fact shall be set forth on the site plan
- A.6.4.22. Provisions for adequate control of erosion and sedimentation, indicating the proposed temporary and permanent control practices and measures which will be implemented during all phases of clearing, grading and construction, including an erosion and sediment control plan where required by the Madison County Erosion and Sediment Control Ordinance
- A.6.4.23. Detailed plans for proposed water and sanitary sewer facilities meeting state and local requirements, including: pipe sizes, types and grades; connections to central systems; location and dimensions of proposed easements and whether they are to be publicly or privately maintained; water main locations and sizes; valves and fire hydrant locations; location of septic setback lines from watercourses. Written confirmation of the Health Department's approval of the location and type of proposed well, septic or other proposed water and sanitary sewer facilities shall be required as part of the original site plan submission.
  - A.6.4.23.1. Where a development is to be served by any central water or sewage disposal system other than one owned by the Rapidan Service Authority, if such central system is allowed by the County's zoning or subdivision regulations, the site plan shall include verification that the requirements of Sections 15.2-2149 through 15.2-2156 have been satisfied.
- A.6.4.24. Location of other existing and proposed utilities and utility easements
- A.6.4.25. Proposed streets and right-of-way easements; state route numbers; right-of-way lines and widths; centerline radii; and pavement widths; certification that any street, road or highway to be dedicated to public use has been designed and will be constructed to VDOT standards
- A.6.4.26. Location of existing and proposed ingress/egress to and from the development site, showing distance to the centerline of the nearest existing street intersection
- A.6.4.27. Off-street parking areas, loading areas and internal circulation aisles. For all parking and loading areas, indicate: size, angle of stalls, width of aisles, and specific number of spaces required and provided along with method of computation; indicate type of surfacing for all paved and graveled areas
- A.6.4.28. Number of floors, floor area, height and location of each building or structure, and proposed general use for each building and structure. For a multi-family residential dwelling or townhouse development, the number, size, and type of dwelling units shall be identified
- A.6.4.29. Proposed density
- A.6.4.30. If phasing is planned, phase lines and proposed timing of development
- A.6.4.31. Existing trees and tree cover
- A.6.4.32. Proposed clearing areas
- A.6.4.33. Existing and proposed tree canopy, and information and calculations showing compliance with applicable tree canopy requirements
- A.6.4.34. Landscape plan
- A.6.4.35. Location, type, size and height of all fencing, screening and retaining walls
- A.6.4.36. Percent and acreage of open space
- A.6.4.37. Outdoor lighting plan
- A.6.4.38. Location, design and size of proposed signs
- A.6.4.39. Location of outdoor rental and sales areas and outdoor display areas

- A.6.4.40. Recreation and open space amenities
  - A.6.4.41. Location of any grave, object or structure marking a place of burial
  - A.6.4.42. Identification of areas proposed to be dedicated for public use
  - A.6.4.43. A traffic impact statement, including estimated traffic generation figures for the site based on current VDOT rates: indicate estimated vehicles per day and direction of travel for all connections to a public road. Trip generation calculations shall be based upon the rates or equations published in the Institute of Transportation Engineers Trip Generation (see 24VAC30-155-100) and shall not be reduced through internal capture rates.<sup>8</sup>
    - A.6.4.43.1. Upon request by the County, the applicant shall provide additional information or supplemental traffic analysis, as defined in the Virginia Administrative Code 24VAC30-155-50, as may be necessary in order for the County to either determine whether the proposed development “*substantially affects transportation on state-controlled highways,*” as defined by current VDOT regulations, or to comply with the requirements of Virginia Code §15.2-2222.1<sup>9</sup>
    - A.6.4.43.2. For the purposes of determining whether a proposal must be submitted to VDOT, the traffic carried on the state-controlled highway shall be assumed to be the most recently published amount measured in the last traffic count conducted by VDOT or the locality on that highway. In cases where the site has access to multiple highways, each receiving highway shall be evaluated individually for the purposes of this determination.
  - A.6.4.44. Written agreement of the developer to construct all physical improvements required by the County’s Zoning or Subdivision ordinances which are to be dedicated to public use
  - A.6.4.45. Signature panel for County official
- A.6.5 Concurrent with a developer’s site plan application a request for waivers and/or substitution of applicable requirements enumerated in A.6.1 through A.6.44 of this ordinance shall be submitted in writing to the Zoning Administrator for review,. This waiver shall be forwarded to the County Attorney for review, and approval and/or denial of the said request shall be communicated in writing to the applicant in a timely fashion by the Zoning Administrator. (Amended March 2020)

**A.7. SUBMISSION REQUIREMENTS**

- A.7.1. Developers of projects subject to the requirement of an approved site plan are encouraged to request a pre-filing conference, in order to discuss with County staff the requirements of various County ordinances and procedures, their development proposals, and other pertinent information, prior to the date of official submission of a site plan for approval.
- A.7.2. An applicant shall submit a completed application and a sufficient number of copies of a proposed site plan to the Zoning Administrator, along with a fee in the amount established by

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<sup>8</sup> 24VAC30-155-50(A)

<sup>9</sup> The specific requirements added are pulled from VDOT’s Traffic Impact Analysis Regulations, published in the Virginia Administrative Code at 24VAC30-155. (1) For a residential development, “substantially affects” means the development would generate more than 100 vehicle trips per peak hour at its connection to a state-controlled road, or would generate more than 200 daily vehicle trips on a state road and the proposal’s vehicle trips on such road exceeds the daily traffic volume the highway presently carries ; (2) for other types of development: the development generates more than 250 vehicle trips per peak hour of the generator or 2,500 vehicle trips per day at the site’s connection to a state-controlled highway.

the most recent fee schedule adopted by the Board of Supervisors. The applicant shall provide twelve (12) sets of copies of the proposed site plan, and one (1) additional set of reduced-size (11"x17") sheets.

A.7.2.1. The Zoning Administrator shall refer the proposed site plan to VDOT and to the Planning Commission for review.

A.7.2.2. Upon receipt of a site plan application the Zoning Administrator shall notify the adjacent property owners in writing. The list of adjacent property owners shall be created from the most current records of the Office of the Commissioner of Revenue.

A.7.3. An applicant for a zoning permit shall submit a completed application and copies of any drawings or plans deemed necessary by the zoning administrator in order to allow a determination that a proposed use or construction will be in compliance with requirements of the zoning ordinance.

## **A.8. MINIMUM STANDARDS AND REQUIREMENTS**

A.8.1. The minimum standards and required improvements set forth in this section shall be in addition to any other applicable standards and requirements of the Madison County Zoning Ordinance.

A.8.2. The approval of a site plan shall not be construed as creating any obligation upon Madison County to pay for grading or paving, or for any sidewalk, sewer, curb and gutter improvements or any other construction. All improvements shall be installed at the cost of the developer, except where cost-sharing or reimbursement agreements between the County and a developer are appropriate and have been recognized and formally approved by both parties prior to site plan approval.

A.8.3. The approval of a site plan shall not obligate the County to accept any improvements for maintenance, repair or operation.

A.8.4. Streets and roads

A.8.4.1. Streets and roads within and contiguous to a development shall be coordinated with other existing or planned streets and roads within the general area of the development, as to location, widths, grades and drainage.

A.8.4.1.1. Streets and roads shall be designed and constructed as to provide adequate drainage and drainage facilities.

A.8.4.1.2. Proposed streets and roads shall be properly related to the road and highway plans of the State and County. Streets shall be designed to provide adequate vehicular access to the development site, with regard for topographic conditions, projected volumes of traffic and other development possibilities in the area. The design and configuration of streets and entrances shall be such that traffic to and from the development will not have an adverse effect on public safety.

A.8.4.1.3. Each development shall be provided with safe and convenient ingress from and egress to at least one public road.

- A.8.4.2. All public streets and roads shall be designed and constructed to meet the state standards necessary for inclusion in the secondary system of state highways, and the local standards set forth in Articles 5 and 6 of the Madison County Subdivision Ordinance. In the event of a conflict between state and local design criteria then the current VDOT standards shall govern.
- A.8.4.3. In the event that the streets and roads within a development will not be constructed to state standards (i.e., private streets and roads), the streets and roads shall be designed and constructed to meet the local standards set forth in Articles 5 and 6 of the Madison County Subdivision Ordinance and the site plan shall include a statement that the streets do not meet VDOT standards and will not be maintained by VDOT or Madison County.
- A.8.4.4. Monuments shall be installed to establish street and property lines within a development.
- A.8.4.5. Cul-de-sacs are to be designed and constructed as a street and shall not be designed or constructed as or for parking.
- A.8.5. Water; sewerage disposal systems
- A.8.5.1. Within the service areas of the Rapidan Service Authority, where public water or public sewer service is reasonably accessible such service shall be extended by the developer. All such facilities shall be dedicated to the Rapidan Service Authority and shall be constructed to the Service Authority's standards and specifications. All costs of such extension shall be borne by the developer.
- A.8.5.2. When a development is to be served by a central water or sewerage disposal system other than the Rapidan Service Authority, if such system is allowed by the County's zoning or subdivision regulations, then the developer shall comply with the requirements of Section 15.2-2149 through 15.2-2156 of the Virginia Code.
- A.8.5.3. Where public water service is available fire hydrants and distribution systems shall be provided by the developer. In areas where public water service is not reasonably available, the County may require such alternative provisions as may be reasonably necessary to provide adequate fire protection.
- A.8.6. Utility easements
- A.8.6.1. Common or shared easements<sup>10</sup> shall be provided for franchised cable television operators furnishing cable television and public service corporations furnishing cable television, gas, telephone and electric service to a proposed development. Such easements, the location of which shall be adequate for use by public service corporations and franchised cable television operators which may be expected to occupy them, may be conveyed by reference to a declaration of the terms and conditions of such common easements which may have been recorded in the land records of Madison County.
- A.8.6.2. In the event that a developer believes that the common or shared easements referenced in the preceding paragraph are not appropriate under the circumstances, the developer shall submit a written narrative statement of the efforts made to arrange for

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<sup>10</sup> 15.2-2241(6)

common or shared easements and the reasons why he believes they are not appropriate for the proposed development

A.8.7. Drainage

A.8.7.1. Provisions shall be made for the disposition of surface water runoff from the development site, including such on- and off-site facilities and easements as the County may deem adequate. A stormwater management plan approved in accordance with the Madison County Water Protection Ordinance shall satisfy the requirements of this paragraph.

A.8.8. Dedications for Public Use<sup>11</sup>

A.8.8.1. For (i) any right-of-way located within a development that is constructed or proposed to be constructed as a street, curb, gutter, sidewalk, bicycle trail, drainage or sewerage system, water line as part of a public system or other improvement dedicated for public use, and is to be maintained by the Commonwealth of Virginia, the County or other public agency, and (ii) any site-related improvements required by County ordinance for vehicular ingress and egress, including traffic signalization and control, for public access streets, for structures necessary to ensure stability of critical slopes, and for storm water management facilities, financed or to be financed in whole or in part by private funds:

A.8.8.1.1. The County will not accept a dedication for public use other than by official action of the Board of Supervisors; and

A.8.8.1.2. The Board of Supervisors will not take official action to accept a dedication for public use in any case, unless the owner or developer:

A.8.8.1.2.1. Certifies to the Board that the construction costs have been paid to the person constructing such facilities, or at the option of the Board, presents evidence satisfactory to the Board that the time for recordation of any mechanics lien has expired or evidence that any debt for said construction that may be due and owing is contested and further provides indemnity with adequate surety in an amount deemed sufficient by the Board or its designated administrative agent;

A.8.8.1.2.2. Furnishes to the Board a certified check or cash escrow in the amount of the estimated costs of construction or a personal, corporate or property bond, with surety satisfactory to the Board or its designated administrative agent, in an amount sufficient for and conditioned upon the construction of such facilities, or a contract for the construction of such facilities and the contractor's bond, with like surety, in like amount and so conditioned; or

A.8.8.1.2.3. On certain designated funds satisfactory to the Board or its designated administrative agent as to the bank or savings institution, the amount and the form.

A.8.8.1.2.4. The amount of such certified check, cash escrow, bond or letter of credit shall not exceed the total of the estimated cost of construction based on unit prices for new public or private sector construction in the locality and a

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<sup>11</sup> 15.2-2241(5)

reasonable allowance for estimated administrative costs, inflation and potential damage to existing roads or utilities, which shall not exceed 10 percent of the estimated construction costs.

A.8.8.1.2.5. The County will periodically provide partial and final release of a bond, escrow, letter of credit or other performance guarantee, in accordance with Section 15.2-2245 of the Virginia Code.

A.8.8.1.3. In the event that the Board of Supervisors has accepted the dedication of a road for public use and such road, due to factors other than its quality of construction, is not acceptable into the secondary system of state highways, then the Board may require the developer to furnish the County with a maintenance and indemnifying bond, with surety satisfactory to the Board or its designated administrative agent, in an amount sufficient for and conditioned upon the maintenance of such road until such time as it is accepted into the secondary system of state highways.

A.8.8.1.3.1. In lieu of such bond, the Board or its agent may accept a bank or savings institution's letter of credit on certain designated funds satisfactory to the Board or its agent as to the bank or savings institution, the amount and the form, or it may accept payment of a negotiated sum of money sufficient for and conditioned upon the maintenance of such road until such time as it is accepted into the secondary system of state highways and assume the developer's liability for maintenance of such road.

A.8.8.1.3.2. As used herein, the phrase "maintenance of such road" means maintenance of the streets, curb, gutter, drainage facilities, utilities or other street improvements, including the correction of defects or damages and the removal of snow, water or debris, so as to keep such road reasonably open for public usage.

## **A.9. VALIDITY**

A.9.1. An approved final site plan shall be valid for a period of not less than five (5) years from the date of approval thereof, or for such longer period as the Board of Supervisors may, at the time of approval, determine to be reasonable, taking into consideration the size and phasing of the proposed development.

A.9.1.1. Notwithstanding the foregoing, an approved final site plan shall remain valid for any period(s) of time required by Section 15.2-2209.1(A), if any performance bonds and agreements or other financial guarantees of completion of public improvements in or associated with the proposed development are continued in force.

A.9.1.2. Upon application of a developer filed prior to expiration of a final site plan the Board of Supervisors may grant one or more extensions of such approval for additional periods as it may, at the time the extension is granted, determine to be reasonable, taking into consideration the size and phasing of the proposed development and the laws, ordinances and regulations in effect at the time of the request for an extension.

A.9.1.3. If the Board of Supervisors denies an extension requested and the developer contends that the denial was not properly based on the applicable ordinance, or the

foregoing considerations for granting an extension, or was arbitrary or capricious, the developer may appeal to the Madison County Circuit Court, provided that such appeal is filed with the Circuit court within 60 days of the written denial by the Board of Supervisors.

A.9.2. Applications for modifications to an approved site plan shall be submitted and reviewed in the same manner as provided by this ordinance for all site plans. Application for minor modifications to final site plans made during the periods of validity of such site plans shall not constitute a waiver of the provisions hereof, or of the provisions of Section 15.2-2261 of the Virginia Code, nor shall the approval of minor modifications extend the period of validity of any site plan.

#### **A.10. ADMINISTRATION; ENFORCEMENT**

A.10.1. The requirements of this ordinance shall be administered and enforced as provisions of and as a part of the Madison County Zoning Ordinance.

A.10.2. Any requirement of this ordinance may be waived by the Board of Supervisors upon a determination that such requirement is overly restrictive or unreasonable, after providing the Planning Commission an opportunity to review and make recommendations with respect to the proposed waiver. No waiver shall be granted if the result would be contrary to the purpose and intent of the County's Zoning Ordinance, including the standards and requirements set forth in this appendix.

A.10.3. The County may impose reasonable fees and charges for the review of a site plan, and for the inspection of facilities required by this site plan ordinance to be installed; such fees and charges shall be as set forth in the most recent fee schedule approved by the Board of Supervisors.