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10 SPECIAL REGULATIONS

10-A CLUSTER SUBDIVISION

10-A-1 The purpose of the cluster method of subdivision is to permit an alternative to standard subdivision design that will promote flexibility of layout and variety of type in residential dwellings, without sacrificing existing per acre dwelling densities or changing the character of the neighborhood, and at the same time preserving open spaces of scenic and use value for common enjoyment.

10-A-2 The use of this optional method of subdivision, and the procedure for plat filing and review, shall be the same as for standard subdivisions, with the following exceptions:

10-A-2-a The use of the cluster method of subdivision shall be subject to the appropriate regulations of the Clarke County Zoning Ordinance pertaining to cluster development in the respective zoning classification.

10-A-2-b A detailed proposal setting forth the post-development utilization of open space areas, including covenants, agreements or other specific documents, showing the ownership of and method of maintenance and utilization of those areas within the subdivision which are declared to be open spaces for common use, must be submitted and approved before Record Plat approval. The proposed method of ownership and maintenance in perpetuity of all common spaces must be acceptable to and approved by the Commission, and must be set forth in the deed of dedication recorded at the time of recordation of the Record Plat.

10-B SEPTIC TANKS

10-B-1 No subdivision shall be approved by the Commission where individual water and septic tank systems are to be used until written approval has been secured from the Health Official and the primary and reserve drain field areas for each septic system have been shown on the Record Plat. The Health Official or his designee shall determine the suitability of soil for the use of septic tank systems with sub-surface disposal and shall advise the Planning Commission of its findings. The Health Official or his designee may require percolation tests or other methods of soil evaluation in determining the suitability of the soil for sub-surface disposal. Percolation tests and/or other soil evaluation shall be the responsibility of the developer, with supervision by the Health Official.

10-B-2 Not withstanding the provisions of Section 10-B-1 above, unless the subdivider has shown that the soil is suitable for individual water and/or septic tank systems and that such systems will not have an adverse effect on existing or proposed water supply and/or sewage disposal systems in adjacent areas, the Commission shall disapprove the subdivision application, or, in the alternative, shall require the proposed subdivision to be served by either, or both a central water and/or central sewer system.

10-C FLOOD PLAINS

10-C-1 The Planning Commission, for the health, safety, and general welfare of the present and future inhabitants of Clarke County, shall control the subdivision for development of any property that lies within a flood plain, in accordance with the following provisions:

10-C-2 Floodplain Easement

10-C-2-a In a proposed subdivision which includes property within a floodplain along a stream or other watercourse which is to be left in its natural state, the floodplain shall be shown on the plat of the subdivision as a flood plain easement across the lots located in such floodplain.

10-C-2-b No use will be permitted in a floodplain easement area which will obstruct the flow of water or alter flood heights in other areas. The floodplain area may be used for utility lines, storm drainage facilities, and such other facilities as are authorized by the Zoning Ordinance, so long as such uses do not obstruct the flow of water or alter flood heights in other areas.

10-C-2-c Land within the floodplain easement area may be designated and used as a public park or recreation area, provided it is maintained by a responsible public authority or maintained by a means acceptable to the Planning Commission.

10-C-2-d In determining whether a lot which contains a floodplain easement satisfies the requirements of the Zoning Ordinance with respect to lot size or open space, the area within the floodplain easement may be included if the lot includes a suitable site for a flood-free building (a building in which the lowest floor, including basement, is above the level of a 100 year flood).

10-C-3 Floodplain Study

If an area in a proposed subdivision along a river, stream, or other watercourse that is subject to periodic flooding has not had a flood plain specifically delineated by the United States Corps of Engineers or the United States Geological Survey, the subdivider shall be required to show the flood plain on the plat of the property to be subdivided. The limits of such flood plain shall be located by a flood plain study prepared by an engineer, or by such other qualified person or method as approved by the Commission.

10-D BOUNDARY LINE ADJUSTMENTS

(9/17/96)
(4/21/98)
(6/16/98)

The intent of this section is to provide for adjustments of property lines that do not conflict with the intent of this Ordinance and Section 15.2-2275 of the Code of Virginia (1950), as amended. Boundary line adjustments that would conflict with this intent are subject to subdivision review under provisions of this Ordinance.

10-D-1 In the Agricultural-Open Space-Conservation Zoning District, the relocation or altering of property lines is permitted in the following cases:

10-D-1-a (3/17/92) (5/18/93) (4/21/98) (11/18/03) Adjustments where a residential lot is increased in size and an agricultural lot is decreased.

1. Boundary Line Adjustments are permitted where a residential lot is increased in size:
   a. up to three acres; or
   b. so that it becomes an agricultural lot, if the residential lot qualifies for the Land Preservation Special Assessment (land use taxation) and the agricultural lot involved in the adjustment remains an agricultural lot.
2. Upon application, the Commission may permit boundary line adjustments exceeding the area limitations of Section 10-D-1-a-1-a, above. Such boundary line adjustments shall be approved when it is determined by the Commission that the parent tract is of sufficiently low quality to justify a boundary line adjustment exceeding the area limitations, according to Section 3-A-1-b-(1)-(b) of the Clarke County Zoning Ordinance.

10-D-1-b (3/17/92) Adjustments of boundary lines where a residential lot is decreased in size and an adjoining agricultural lot is increased;

10-D-1-c Adjustments of boundary lines between agricultural lots, provided that no resulting lot is less than 20 acres.

10-D-1-d (5/18/93) Adjustments of boundary lines between adjoining residential lots where the total acreage in the subject lots is not increased;

10-D-1-e (5/18/93) For the purposes of this Section, a residential lot is a tract of under 20 acres with at least one dwelling unit right or existing dwelling; and an agricultural lot is a tract of 20 or more acres.

10-D-2 In all other zoning districts, boundary line adjustments are permitted provided such adjustments meet the conditions of Section 15.2-2275 of the Code of Virginia (1950), as amended.

10-D-2-a (2/10/08) In the Forestal-Open Space-Conservation Zoning District, no required residual parcel, established in accord with Zoning Ordinance Section 3-A-2-b, shall be reduced in area below the requirements established in Zoning Ordinance Section 3-A-2-b.

10-D-3 Boundary line adjustments are not permitted under this provision where the boundary line adjustment would alter a property line that is coincident with a zoning district boundary.

10-D-4 (6/21/05) See Zoning Ordinance Section 3-D-9, which addresses the reallocating of dwelling unit rights with a boundary line adjustment.

10-D-5 (1/19/10) Any existing structure (or structures) and existing or proposed well(s) and on-site sewage disposal system(s) shall be shown on a Boundary Line Adjustment survey plat. Structures shall be identified as to their use and show the physical address of each structure where applicable. All wells and on-site sewage disposal systems shall be verified by the Clarke County Health Department as to location, capacity, type and use and be noted accordingly on such survey plat.

10-D-6 (10/21/ 14) Any boundary line adjustment shall require approval by the Zoning Administrator.

10-D-7 (10/21/ 14) If a lot with an area equal to or greater than forty (40) acres is reduced in size below (40) acres by boundary line adjustment, the resultant lot shall comply with the water and sewage disposal system requirements set forth in §7-C-3-d.

10-E MERGER

10-E-1 (11/20/12) Any merger of parcels shall require approval by the Zoning Administrator.

10-E-2 (11/20/12) A final plat of a merger shall be submitted to the Zoning Administrator depicting the boundary lines that are proposed to be eliminated. A preliminary plat shall not be required for a merger.

10-E-3 (11/20/12) The merger plat for property in the AOC or FOC zoning districts shall show thereon the Dwelling Unit Rights on the merger parcel, which shall comply with the provisions of Section 3-D-8 of the Zoning Ordinance.

10-E-4 (11/20/12) The Zoning Administrator shall review the plat for compliance with County ordinances, and shall approve, disapprove, or approve with modifications.

10-E-5 (11/20/12) An approved final plat shall be recorded within six (6) months of approval, and a copy of the recorded plat shall be returned to the Zoning Administrator.

10-F CERTAIN MERGERS, BOUNDARY LINE ADJUSTMENTS, AND ADMINISTRATIVE LAND DIVISIONS

10-F-1 (10/21/14) Any plat depicting a merger or boundary line adjustment involving a residual lot that was the subject of an administrative land division within the previous two (2) year period shall require approval by the Planning Commission.

10-F-2 (10/21/14) Any plat depicting an administrative land division involving a residual lot that was the subject of a merger or boundary line adjustment within the previous two (2) year period shall require approval by the Planning Commission.

10-F-3 (10/21/14) A final plat showing the merger, boundary line adjustment, or administrative land division shall be filed with the Zoning Administrator and submitted to the Planning Commission for review. The Commission shall act on the plat within sixty (60) days of the filing date.

10-F-4 (10/21/14) The final plat depicting a merger shall meet the requirements of §10-E; the final plat depicting a boundary line adjustment shall meet the requirements of §10-D; and the final plat depicting an administrative land division or divisions shall meet the requirement of §4-M except as otherwise provided herein.