

ALBEMARLE COUNTY CODE

CHAPTER 18

ZONING

SECTION 32

SITE PLAN

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32.1 GENERAL PROVISIONS

32.1.1 PURPOSES

The purposes of section 32 are to:

- a. Improve the public health, safety, convenience and welfare of the citizens of the county by assuring the orderly development of land;
- b. Provide residential areas with healthy surroundings for family life by assuring that land being developed for residential uses is developed in a manner that is harmonious with its surrounding lands;
- c. Implement the policies of the comprehensive plan through the standards and procedures established herein;
- d. Assure that the development of the county is consonant with the efficient and economical use of public funds;
- e. Assure that all required improvements are designed, constructed and maintained so as not to become an undue burden on the community; and
- f. Establish standards for development that are specific to, and most appropriate for, the lands within the county.

(§ 32.1.1, Ord. 12-18(6), 10-3-12, effective 1-1-13 (§ 32.1(part), 12-10-80; §§ 32.2.4, 32.5.24, 12-10-80) (§ 32.7.1, 5-1-87))

State law reference – Va. Code §§ 15.2-2200, 15.2-2240 *et seq.*, § 15.2-2283.

32.1.2 RELATION OF SECTION 32 TO OTHER LAWS AND PRIVATE CONTRACTS

The requirements of section 32 are:

- a. Separate from, but supplementary to, all other applicable requirements of the Code. Compliance with the requirements of section 32 shall not be deemed to be compliance with other applicable ordinances or regulations.
- b. Separate from, but supplementary to, all other applicable requirements of state or federal law. If the requirements of section 32 are in direct conflict with mandatory state or federal requirements, then the state or federal requirements shall apply.
- c. Separate from the requirements, terms or conditions of any private easement, covenant, agreement or restriction, and nothing in this chapter authorizes the county or any of its officers, employees or agents to enforce a private easement, covenant, agreement or restriction.

(§ 32.1.2, Ord. 12-18(6), 10-3-12, effective 1-1-13 (§ 32.1(part), 12-10-80; §§ 32.2.4, 32.5.24, 12-10-80) (§ 32.7.1.1; § 32.2.3, 12-10-80, 1-1-83))

State law reference – Va. Code § 15.2-2241(9).

32.1.3 RULES OF CONSTRUCTION

Section 32 protects paramount public interests and shall be liberally construed to effectuate its several purposes. In addition to the rules of construction set forth in section 1-101 of the Code, the following rules of construction apply to the construction of section 32, unless the application would be contrary to the purposes of this chapter or the context clearly indicates otherwise:

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- a. All references to any statute, regulation, guideline, manual or standard are to that statute, regulation, guideline, manual or standard as it exists on the date of adoption of this chapter, and includes any amendment thereafter or reissue in a subsequent edition.
- b. The word “days” means calendar days, unless otherwise expressly provided.
- c. All distances and areas shall be measured in a horizontal plane unless otherwise expressly provided.
- d. The word “current” means the point in time at which a matter is under consideration and shall not mean the date of adoption of the most recent amendment to section 32.
- e. All provisions requiring that improvements be designed or constructed to prescribed standards, or otherwise comply with delineated standards, refer to the minimum standard and nothing in section 32 shall prohibit an improvement from exceeding the standard.

(§ 32.1.2, Ord. 12-18(6), 10-3-12, effective 1-1-13)

State law reference – Va. Code § 15.2-2241(9).

32.2 APPLICABILITY

Any construction, use, change in use or other development is permitted in any zoning district only with an approved site plan complying with the requirements of section 32, other applicable requirements of this chapter, and all other applicable laws; provided that no site plan shall be required for the following:

- a. The construction or location of any single-family detached dwelling on a lot on which not more than two (2) dwellings are located or proposed to be located if the lot has public street frontage, or the construction or location of one (1) dwelling unit on a lot that does not have public street frontage.
- b. The construction or location of a two-family dwelling on any lot not occupied by any other dwellings.
- c. Any structure that is accessory to a single-family detached or two-family dwelling.
- d. Any agricultural activity except as otherwise provided in section 5.
- e. Any change in or expansion of a use unless: (i) the change or expansion requires additional parking under section 4.12; (ii) additional ingress/egress or alteration of existing ingress/egress is required by the Virginia Department of Transportation based on the intensification of the use; or (iii) additional ingress/egress or the alteration of existing ingress/egress is proposed by the developer.

(§ 32.2.1, Ord. 12-18(6), 10-3-12, effective 1-1-13 (§ 32.2, 12-10-80; § 32.2.1, 12-10-80))

State law reference – Va. Code §§ 15.2-2241(9), 15.2-2258, 15.2-2286(A)(8).

32.3 ADMINISTRATION

32.3.1 DESIGNATION OF AGENT; POWERS AND DUTIES

The director of community development is hereby designated the agent of the board of supervisors for the purpose of administering section 32 except as otherwise expressly provided. The agent shall have the powers and duties to:

- a. Receive, process and act on site plan applications as provided in section 32.
- b. Establish reasonable administrative procedures as deemed necessary for the proper and efficient administration of section 32.
- c. Make all determinations and findings and impose all applicable requirements in reviewing a site plan.

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d. Consider and act on requests to vary or except the regulations of section 32 as provided in section 32.3.5.

(§ 32.3.1, Ord. 12-18(6), 10-3-12, effective 1-1-13 (§ 32.3.1, 12-10-80) (§ 32.3.2, 12-10-80; §§ 32.6.2, 32.6.7, 12-10-80))

State law reference – Va. Code §§ 15.2-2241(9), 15.2-2255.

32.3.2 ESTABLISHMENT OF SITE REVIEW COMMITTEE; POWERS AND DUTIES

A site review committee is hereby established and it shall be composed of representatives of the department of community development, including a planner to evaluate the issues relevant to a certificate of appropriateness that will be considered by the architectural review board for those site plans for sites within an entrance corridor overlay district, the department of fire rescue, the Albemarle County Service Authority, the Virginia Department of Health, the Virginia Department of Transportation, the United States Department of Agriculture, and the Natural Resource Conservation Service. Each member of the site review committee shall identify the requirements and may make recommendations on those matters within the authority of the bodies and entities that they represent. The site review committee shall have the powers and duties to:

- a. Meet from time to time to review site plans as provided in section 32, including requests for variations or exceptions.
- b. Transmit to the agent the requirements and recommendations it has identified regarding each site plan, and information and recommendations on each request for a variation or exception.
- c. Transmit recommended conditions to the agent and the program authority regarding any grading permit that may be sought in conjunction with an approved initial site plan.
- d. Propose rules for the conduct of its business to the agent, which shall be established and approved as administrative procedures under section 32.3.1(b).

(§ 32.3.2, Ord. 12-18(6), 10-3-12, effective 1-1-13 (§ 32.3.3; § 32.7.2, 12-10-80, 1-1-84; § 32.3.1, 5-1-87))

State law reference – Va. Code §§ 15.2-2241(9), 15.2-2255.

32.3.3 AMENDMENTS TO A SITE PLAN

Changes, revisions or erasures (collectively, “amendments”) to a site plan, including amendments to a landscape plan, may be made as follows:

- a. *Prior to approval.* Before a site plan is approved by the agent, the developer may amend a site plan or accompanying data sheet that has been submitted to the county if the agent authorizes the amendment in writing or if the site review committee requires the amendment in its review of the site plan. The procedures and requirements for initial and final site plans apply to amendments to a site plan.
- b. *After approval.* After a site plan is approved by the agent, the developer may amend the site plan if the amended site plan is submitted, reviewed and approved as provided in section 32.4; provided that the agent may approve amendments to an approved final site plan without proceeding under section 32.4 as follows:
 - 1. *Minor amendments.* The agent may approve the amendment as a minor amendment if he determines that the site plan, as amended: (i) complies with all requirements of this chapter and all other applicable laws; (ii) is substantially the same as the approved site plan; and (iii) will have no additional adverse impact on adjacent land or public facilities; or
 - 2. *Letters of revision.* The agent may approve the amendment by a letter of revision if he determines that the site plan, as amended, complies with subsections (b)(1)(i), (ii) and (iii) and that the proposed amendment is de minimis and requires only limited review.

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(§ 32.3.3, Ord. 12-18(6), 10-3-12, effective 1-1-13 (§ 32.3.8, 5-1-87; § 32.6.5, 12-10-80))

State law reference – Va. Code §§ 15.2-2241(9), 15.2-2255.

32.3.4 FEES

The developer shall pay the applicable fees as provided in section 35.1.

(§ 32.3.4, Ord. 12-18(6), 10-3-12, effective 1-1-13 (§ 32.3.9, 5-5-82; § 32.6.6, 12-10-80))

State law reference – Va. Code § 15.2-2241(9).

32.3.5 VARIATIONS AND EXCEPTIONS

The requirements of section 32 may be varied or excepted as follows:

- a. *Exception from requirement to provide certain details in site plan.* The agent may except certain details of a site plan and any amendment to a site plan otherwise required by sections 32.5 and 32.6 as provided herein:
 - 1. *Request for exception.* A developer requesting an exception shall submit to the agent a written request stating the reasons for the request and addressing the applicable finding in subsection (a)(2).
 - 2. *Finding.* An exception may be approved if the agent finds that unusual situations exist or that strict adherence to requiring the details in sections 32.5 or 32.6 would result in substantial injustice or hardship. This finding shall be supported by information from the site review committee that all of the details required by sections 32.5 and 32.6 are not necessary for its review of the proposed development, and from the zoning administrator, in consultation with the county engineer, that the details waived are not necessary to determine that the site is developed in compliance with this chapter and all other applicable laws.
 - 3. *Action by the agent on a request.* The agent may approve or deny the request. In approving an exception, the agent shall identify the details otherwise required by sections 32.5 and 32.6 that are excepted.
- b. *Variation or exception from any requirement of section 32.7.* Any requirement of section 32.7, including any requirement incorporated by reference in section 32.7 except for those requirements applicable to signs under section 32.7.8(A), may be varied or excepted in an individual case as provided herein:
 - 1. *Request for a variation or exception.* A developer requesting a variation or exception shall submit to the agent a written request stating the reasons for the request and addressing the applicable findings in subsections (b)(2) and (b)(3). When a variation is requested, the developer also shall describe the proposed substituted technique, design or materials composing the substituted improvement. The request should be submitted before the site review committee considers the initial site plan. The agent may request that the site review committee provide information and a recommendation on any request for a variation or exception.
 - 2. *Findings required for a variation.* The agent may approve a request for a variation to substitute a required improvement upon finding that because of an unusual situation, the developer's substitution of a technique, design or materials of comparable quality from that required by section 32.7 results in an improvement that substantially satisfies the overall purposes of this chapter in a manner equal to or exceeding the desired effects of the requirement in section 32.7.
 - 3. *Findings required for an exception.* The agent may approve a request for an exception from any requirement of section 32.7 upon finding that: (i) because of an unusual situation, including but

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not limited to the unusual size, topography, shape of the site or the location of the site; or (ii) when strict adherence to the requirements would result in substantial injustice or hardship by, including but not limited to, resulting in the significant degradation of the site or to adjacent properties, causing a detriment to the public health, safety or welfare, or by inhibiting the orderly development of the area or the application of sound engineering practices.

4. *Findings required for a variation or exception of any requirement of section 32.7.5.2.* If the developer requests a variation or exception of any requirement of section 32.7.5.2, the agent shall consider whether the requirement would unreasonably impact the existing above-ground electrical network so that extensive off-site improvements are necessary. In approving a variation or exception, the agent shall find, in addition to the required findings under subsection (b)(2) or (3), that requiring undergrounding would not forward the purposes of this chapter or otherwise serve the public interest and that granting the variation or exception would not be detrimental to the public health, safety or welfare, to the orderly development of the area, and to the land adjacent thereto.

5. *Action by the agent on a request; conditions.* The agent may approve, approve with conditions, or deny the request. If a request is approved, the agent shall prepare a written statement regarding the findings made. If a request is denied, the agent shall inform the developer in writing within five (5) days after the denial, and include a statement explaining why the request was denied. In approving a request, the agent may impose reasonable conditions deemed necessary to protect the public health, safety or welfare.

c. *Appeals.* The decision of the agent may be appealed as provided in section 32.3.6.

(§ 32.3.5, Ord. 12-18(6), 10-3-12, effective 1-1-13 (§ 32.2 (part), 5-1-87; § 32.2.2, 12-10-80) (§ 32.3.5; § 32.5.1, 12-10-80) (§ 32.3.10, Ord. 01-18(4), 5-9-01; § 32.3.11.4, 5-1-87) (§ 32.7.9.3, 5-1-87); Ord. 15-18(5), 7-8-15)

State law reference – Va. Code §§ 15.2-2241(9), 15.2-2242(1).

32.3.6 APPEALS OF DECISIONS PERTAINING TO VARIATIONS AND EXCEPTIONS

A denial of a request for a variation or an exception or the approval of a variation or exception with conditions objectionable to the developer may be appealed by the developer as follows:

a. *To the planning commission.* A developer may appeal the decision of the agent to the planning commission by submitting a written request for appeal to the agent within ten (10) days after the date of the agent's decision. In acting on an appeal, the commission shall consider the recommendation of the agent and all other relevant evidence, and apply the applicable findings provided in section 32.3.5. The commission may approve or deny the request. In approving a request on an appeal from a decision under section 32.3.5(b), the commission may impose reasonable conditions deemed necessary to protect the public health, safety or welfare.

b. *To the board of supervisors.* A developer may appeal the decision of the planning commission to the board of supervisors by submitting a written request for appeal to the clerk of the board of supervisors within ten (10) days after the date of the commission decision. In acting on an appeal, the board shall consider the recommendation of the agent and all other relevant evidence, and apply the applicable findings provided in section 32.3.5. The board may approve or deny the request. In approving a request on an appeal from a decision under section 32.3.5(b), the board may impose reasonable conditions deemed necessary to protect the public health, safety or welfare.

c. *Effect of filing appeal.* An appeal shall suspend the running of the time by which the agent must act on a site plan under sections 32.4.2.5 and 32.4.3.6 from the date the appeal is submitted until the date the planning commission or the board of supervisors acts on the appeal, whichever takes the last action.

(§ 32.3.6, Ord. 12-18(6), 10-3-12, effective 1-1-13(§ 32.3.10, Ord. 01-18(4), 5-9-01; § 32.3.11.4, 5-1-87)(§ 32.7.9.3, 5-1-87))

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State law reference – Va. Code § 15.2-2242(1).

32.4 PROCEDURES FOR SUBMITTAL, REVIEW AND ACTION ON SITE PLANS

32.4.1 PROCEDURE FOR REVIEW OF PREAPPLICATION PLANS

32.4.1.1 SUBMITTAL OF PREAPPLICATION PLAN AND OTHER INFORMATION

A developer may request a preapplication review by submitting the following to the department of community development in accordance with the submittal schedule established by the agent:

- a. *Preapplication plan.* A preapplication plan meeting the requirements of sections 32.4.1.2 and 32.4.1.3.
- b. *Other information.* A letter stating which provisions of this chapter the developer believes will require a variation or exception under section 32.3.5 or a special exception. The letter need not include a justification or any supporting information.

(§ 32.4.1.1, Ord. 12-18(6), 10-3-12, effective 1-1-13 (§ 32.4.1, 5-1-87; § 32.3.1, 12-10-80))

State law reference – Va. Code §§ 15.2-2241(9), 15.2-2255, 15.2-2258, 15.2-2286(A)(8).

32.4.1.2 FORM AND STYLE OF PREAPPLICATION PLAN

Each preapplication plan submitted shall comply with the following:

- a. *Number of copies.* Three (3) clearly legible copies in blue or black ink of the plan shall be submitted.
- b. *Scale and size.* The plan shall be prepared to the scale of one (1) inch equals twenty (20) feet or to another scale approved by the agent in a particular case. No sheet shall exceed forty-two (42) inches by thirty-six (36) inches in size. The plan may be prepared on one (1) or more sheets. If prepared on more than one (1) sheet, match lines shall clearly indicate where the several sheets join. The top of the sheet shall be approximately either north or east.
- c. *Dimensions.* The plan shall be dimensioned to at least the following standards for accuracy:
 - 1. *Boundary, setback and zoning lines:* One foot in one thousand (1:1,000) feet.
 - 2. *Existing contours:* One-half (1/2) of the contour interval required in section 32.5.2(d).
 - 3. *Proposed contours:* Within five (5) feet horizontally and vertically.
 - 4. *Existing structures, utilities and other topographic features:* Within five (5) feet.
 - 5. *Proposed structures, roads, parking lots and other improvements:* Within five (5) feet.

(§ 32.4.1.2, Ord. 12-18(6), 10-3-12, effective 1-1-13 (§ 32.4.1.1, 5-1-87; § 32.3.1, 12-10-80))

State law reference – Va. Code §§ 15.2-2241(9), 15.2-2255, 15.2-2258, 15.2-2286(A)(8).

32.4.1.3 CONTENTS OF PREAPPLICATION PLAN

Each preapplication plan shall contain the following information:

- a. *General information.* The name of the development; names of the owner, developer and individual who prepared the plan; tax map and parcel number; boundary dimensions; zoning district; descriptions of all proffers, special use permits and conditions thereof, special exceptions and conditions thereof, variances

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and conditions thereof, application plans, codes of development and bonus factors applicable to the site; magisterial district; county and state; north point; scale; one datum reference for elevation (if the site includes land subject to section 30.3, flood hazard overlay district, United States Geological Survey vertical datum shall be shown and/or correlated to plan topography); the source of the topography; departing lot lines; minimum setback lines, yard and building separation requirements; the source of the survey; sheet number and total number of sheets; and the names of the owners, zoning district, tax map and parcel numbers and present uses of abutting parcels.

- b. *Information regarding the proposed use.* Written schedules or data as necessary to demonstrate that the site can accommodate the proposed uses, including proposed uses and maximum acreage occupied by each use; maximum number of dwelling units by type including the number of bedrooms for multi-family dwellings; gross residential density; square footage of recreational areas, percentage and acreage of open space; maximum square footage for commercial and industrial uses; maximum floor area ratio and lot coverage for industrial uses; maximum height of all structures; schedule of parking including the maximum amount required and the amount provided; the maximum amount of impervious cover on the site; and whether a landscape plan is required under section 32.7.9.
- c. *Phase lines.* If phasing is planned, phase lines.
- d. *Topography and proposed grading.* Existing topography (up to twenty [20] percent slope, maximum five [5] foot contours, over twenty [20] percent slope, maximum ten [10] foot contours) for the entire site with sufficient offsite topography to describe prominent and pertinent offsite features and physical characteristics, but in no case less than fifty (50) feet outside of the site unless otherwise approved by the agent; proposed grading (maximum five [5] foot contours) supplemented where necessary by spot elevations; areas of the site where existing slopes are steep slopes.
- e. *Landscape features.* The existing landscape features as described in section 32.7.9.4(c).
- f. *Watercourses and other bodies of water.* The name and location of all watercourses and other bodies of water adjacent to or on the site; indicate whether the site is located within the watershed of a public water supply reservoir.
- g. *Onsite sewage system setback lines.* The location of onsite sewage system setback lines from watercourses including intermittent streams and other bodies of water.
- h. *Flood plain.* The one hundred (100) year flood plain limits as shown on the official flood insurance maps for Albemarle County.
- i. *Streets, easements and travelways.* The existing and proposed streets, access easements, alley easements and rights-of-way, and travelways, together with street names, state route numbers, right-of-way lines and widths, and pavement widths.
- j. *Existing sewer and drainage facilities.* The location and size of existing water and sewer facilities and easements, the storm drainage system, and drainage easements.
- k. *Proposed sewer and drainage facilities.* The proposed conceptual layout for water and sewer facilities and the storm drainage system, indicating the direction of flow in all pipes and watercourses with arrows.
- l. *Existing and proposed utilities.* The location of other existing and proposed utilities and utility easements, including existing telephone, cable, electric and gas easements.
- m. *Ingress and egress.* The location of existing and proposed ingress to and egress from the site, showing the distance to the centerline of the nearest existing street intersection.
- n. *Existing and proposed improvements.* The location and dimensions of all existing and proposed improvements including buildings (maximum footprint and height) and other structures; walkways; fences;

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walls; trash containers; outdoor lighting; landscaped areas and open space; recreational areas and facilities; parking lots and other paved areas; and loading and service areas.

- o. *Areas to be dedicated or reserved.* All areas intended to be dedicated or reserved for public use.
- p. *Symbols and abbreviations.* A legend showing all symbols and abbreviations used on the plan.
- q. *Dam break inundation zones.* The limits of a dam break inundation zone.

(§ 32.3.1, 12-10-80; § 32.4.1.1, 5-1-87; § 32.4.1.3, Ord. 12-18(6), 10-3-12, effective 1-1-13; Ord. 13-18(7), 12-4-13, effective 1-1-14; Ord. 14-18(2), 3-5-14)

State law reference – Va. Code §§ 15.2-2241(9), 15.2-2255, 15.2-2258, 15.2-2286(A)(8).

32.4.1.4 REVIEW OF PREAPPLICATION PLAN

Each preapplication plan meeting the requirements of sections 32.4.1.2 and 32.4.1.3 and each letter provided by section 32.4.1.1(b) shall be reviewed by the agent. Within ten (10) days after the submittal, the agent shall send written comments to the developer addressing the following:

- a. *Compliance with zoning.* Whether the proposed use and density complies with this chapter and all applicable proffers, special use permits and conditions thereof, special exceptions and conditions thereof, variances and conditions thereof, application plans and codes of development.
- b. *Variations, exceptions and special exceptions.* Identify all variations and exceptions that will be required under section 32 and all special exceptions that will be required, including references to the sections in this chapter under which the variation, exception or special exception will be sought, the sections authorizing the variation, exception or special exception, and the sections identifying the information the developer must submit in order for the variation, exception or special exception to be considered.
- c. *Fees.* The amount of the fees required for reviewing the site plan and any request for a variation or exception.
- d. *Required changes.* Identify any features on the plan required to be changed in order to comply with this chapter or any applicable requirement of a proffer, special use permit, special exception, variance, application plan or code of development.
- e. *Recommended changes.* Identify any features on the plan recommended to be changed to address components of the comprehensive plan or sound planning, zoning or engineering practices.
- f. *Additional information.* The agent may require additional information to be shown on the initial site plan as deemed necessary in order to provide sufficient information for the agent to adequately review the plan including, but not limited to, information from a traffic study, landscaping, historic resources and groundwater.

(§ 32.4.1.4, Ord. 12-18(6), 10-3-12, effective 1-1-13)

State law reference – Va. Code §§ 15.2-2241(9), 15.2-2255, 15.2-2258, 15.2-2283, 15.2-2286(A)(8).

32.4.2 PROCEDURE FOR REVIEW AND ACTION ON INITIAL SITE PLAN

32.4.2.1 SUBMITTAL OF INITIAL SITE PLAN; DETERMINATION OF COMPLETENESS

Each initial site plan shall be submitted to the agent and processed as follows:

- a. *Date of official submittal.* An initial site plan shall be deemed to be officially submitted on the date of the next application deadline established by the agent after the submittal of the plan and the agent's determination that the plan is complete.

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- b. *Timing of review to determine completeness.* The agent's review to determine whether an initial site plan is complete shall be made within ten (10) days after the application submittal deadline.
- c. *Determination that plan is incomplete; notice.* An initial site plan omitting any information required by section 32.5 shall be deemed to be incomplete and shall not be accepted for official submittal by the agent. The agent shall inform the developer in writing of the reasons for the disapproval, with citation to the applicable section of this chapter or other law, and what corrections or modifications will permit acceptance of the plan. The agent shall notify the developer or his or her agent of the disapproval in writing by first class mail, personal delivery, or, if consented to by the developer in writing, by fax or email.
- d. *Resubmittal.* Within fifteen (15) days after the date the notice of disapproval was mailed or delivered by the agent, the developer may resubmit the initial site plan. The date of the next application deadline after the resubmittal of the plan shall be deemed to be the date upon which the plan was officially submitted. In the event the developer fails to resubmit the plan within the fifteen (15) day period, the plan shall be deemed to be disapproved and a new application and fee shall be required for submittal of the plan.
- e. *Transmittal to site review committee, architectural review board, and state agency.* An initial site plan deemed officially submitted shall be transmitted to the site review committee and, for plans for sites within an entrance corridor overlay district, the architectural review board as provided in section 32.4.2.2. If state agency approval of an initial site plan is required, the agent shall forward to the state agency all documents necessary to allow it to conduct its review within ten (10) days after the initial site plan is deemed officially submitted.
- f. *Notice; recipients.* When the agent determines that an initial site plan is officially submitted, he shall send notice that the plan has been submitted to the owner of each lot abutting the site and to each member of the board of supervisors and the planning commission. The notice shall describe the type of use proposed; the specific location of the development; the appropriate county office where the plan may be viewed; and the dates the site review committee and, if applicable and if known, the architectural review board will review the plan.
- g. *Notice; how provided.* The notice required by subsection (f) shall be mailed or hand delivered at least ten (10) days prior to the site review committee meeting and, if applicable, the architectural review board meeting at which the initial site plan will be reviewed. Mailed notice shall be sent by first class mail. Notice mailed to the owner of each lot abutting the site shall be mailed to the last known address of the owner, and mailing the notice to the address shown on the current real estate tax assessment records of the county shall be deemed to be compliance with this requirement. If a lot abutting the site is owned by the developer, the notice shall be given to the owner of the next abutting lot not owned by the developer.
- h. *Notice; defect does not affect validity of site plan.* The failure of any person to receive the notice required by subsection (f), or any error in the notice, shall not affect the validity of an approved site plan, and shall not be the basis for an appeal.

(§ 32.4.2.1, Ord. 12-18(6), 10-3-12, effective 1-1-13 (§ 32.4.2.1, 12-10-80) (§ 32.4.2.2 (part), 12-10-80) (§ 32.4.2.5, 12-10-80))

State law reference – Va. Code §§ 15.2-2241(9), 15.2-2255, 15.2-2258, 15.2-2260.

32.4.2.2 REVIEW OF INITIAL SITE PLAN BY SITE REVIEW COMMITTEE AND ARCHITECTURAL REVIEW BOARD

Upon receipt of an initial site plan from the agent, the site review committee and the architectural review board shall review the plan as follows:

- a. *Site review committee review.* The site review committee shall review each plan for compliance with the technical requirements of this chapter and other applicable laws. Upon completion of its review, the site review committee shall transmit to the agent its requirements and recommendations. The site review

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committee also may recommend to the agent conditions of initial site plan approval, including conditions required to be satisfied before a grading permit may be issued under chapter 17. Any recommended conditions shall pertain to any requirements of this chapter and other applicable laws.

- b. *Architectural review board review.* The architectural review board shall review each plan for sites within an entrance corridor overlay district proposing development that is not exempt from review under section 30.6.5 as follows:
 - 1. *Purpose and scope of review.* The architectural review board shall review the plan for consistency with the design guidelines. The scope of review by the board shall be to consider: (i) those elements delineated in section 30.6.4(c)(2) that may be evaluated under the initial site plan and which may include, but not be limited to, the location and configuration of structures; (ii) the location and configuration of parking areas and the location of landscaped areas under section 30.6.4(c)(3); and (iii) to identify existing trees, wooded areas and natural features that should be preserved under section 30.6.4(c)(5). The specific types of landscaping and screening to be provided on the site under section 30.6.4(c)(4) shall not be considered by the board for consistency with the design guidelines during its review of the plan.
 - 2. *Submittal requirements.* The architectural review board’s review shall be based on the initial site plan and the information provided with the initial site plan under sections 32.5.2, 32.5.3, 32.5.4 and 32.5.5. The developer shall not be required to submit any other information.
 - 3. *Transmittal of requirements and recommendations.* Upon completing its review, the architectural review board shall transmit to the agent: (i) its requirements resulting from its review of the elements of sections 30.6.4(c)(2), (3) and (5) delineated in subsection (b)(1) in order to satisfy the design guidelines; (ii) any recommendations including, but not limited to, recommendations pertaining to those elements of sections 30.6.4(c)(2), (3) and (5) for which requirements were not identified under subsection (b)(3)(i); and (iii) any recommended conditions of initial site plan approval, including conditions required to be satisfied before a grading permit may be issued under chapter 17. Any recommended conditions shall pertain to ensuring compliance with the design guidelines under the elements of sections 30.6.4(c)(2), (3) and (5) delineated in subsection (b)(1).
 - 4. *Appeal.* The architectural review board’s identified requirements under subsection (b)(3) is a decision that may be appealed as provided in section 30.6.8.
- c. *Consistency; reconciliation of conflicts.* Any requirement of the architectural review board shall be consistent with the requirements of this chapter. If there is a conflict between any requirement of any applicable law and any requirement identified by the architectural review board, the requirement of the applicable law shall control. If there is a conflict between a requirement and a recommendation, the requirement shall control.

(§ 32.4.2.2, Ord. 12-18(6), 10-3-12, effective 1-1-13 (§ 32.4.2.2 (part), 12-10-80))

State law reference – Va. Code §§ 15.2-2241(9), 15.2-2255, 15.2-2258, 15.2-2260, 15.2-2286(A)(4), 15.2-2306.

32.4.2.3 REVISIONS TO ADDRESS REQUIRED CHANGES

Each initial site plan for which changes are required shall be revised as follows:

- a. *Requirements identified; letter to the developer.* If the site review committee or the architectural review board require or recommend revisions to the initial site plan, the agent shall promptly issue a letter to the developer stating the required changes that must be made and the recommended changes that may, in the developer’s discretion, be made. The letter shall be sent by first class mail, be personally delivered or, if consented to by the developer in writing, by fax or email.

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- b. *Plan revised to address required changes.* The developer shall revise the plan to address all of the required changes before approval of the initial site plan by the agent. The developer is not required to revise the plan to address any recommendations of the site review committee or the architectural review board.

(§ 32.4.2.3, Ord. 12-18(6), 10-3-12, effective 1-1-13 (§ 32.4.2.3, 12-10-80))

State law reference – Va. Code §§ 15.2-2241(9), 15.2-2255, 15.2-2258, 15.2-2260.

32.4.2.4 DEFERRAL OF REVIEW; WHEN APPLICATION DEEMED WITHDRAWN

The review of, and action on, an initial site plan may be deferred, and an application for an initial site plan may be deemed withdrawn, as follows:

- a. *Request to defer by developer.* A developer may request that review or action on its application for an initial site plan be deferred for a specified period up to six (6) months. If during the deferral period the developer does not request the agent to take action on the initial site plan as provided in section 32.4.2.5 within six (6) months after the date the deferral was requested, the application shall be deemed to have been voluntarily withdrawn.
- b. *Failure to submit revised plan.* If a developer fails to submit a revised initial site plan to address all of the requirements within six (6) months after the date of the letter from the agent as provided in section 32.4.2.3, the application shall be deemed to have been voluntarily withdrawn by the developer.
- c. *Extension of deferral period or period to submit revised plan.* Before the deferral period in subsection (a) expires, the developer may request that the agent extend the period before the application is deemed to have been voluntarily withdrawn. The request must be received by the agent before the deferral period expires. The agent may grant one extension 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 extension request is made.

(§ 32.4.2.4, Ord. 12-18(6), 10-3-12, effective 1-1-13 (§ 32.4.2.8, Ord. 01-18(6), 10-3-01))

State law reference – Va. Code §§ 15.2-2241(9), 15.2-2255.

32.4.2.5 REVIEW AND ACTION ON INITIAL SITE PLAN BY AGENT

The agent shall review and act on an initial site plan as follows:

- a. *Review.* The agent shall review the initial site plan for compliance with all requirements, and shall make a good faith effort to identify all deficiencies, if any, during review of the plan. The agent shall consider the recommendation of the site review committee as to whether the plan complies with all applicable requirements and any statement by the developer. The agent also may consider any other evidence pertaining to the plan’s compliance with the requirements of this chapter as deemed necessary for a proper review of the plan.
- b. *Time for action.* The agent shall act on the initial site plan within sixty (60) days after the date the plan was officially submitted, provided:
 - 1. *Alternative time for action if state agency approval is required.* If approval of a feature on the plan by a state agency is required, the agent shall approve or disapprove the plan within thirty-five (35) days after receipt of approvals from all state agencies, and not more than ninety (90) days after the date the plan was officially submitted.
 - 2. *Suspension of running of time for action.* The running of the time by which the agent must act on a plan shall be suspended: (i) from the date the appeal of a decision on a request for a variation or exception is submitted under section 32.3.6 until the date the planning commission or the board of

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supervisors, as the case may be, acts on the appeal, whichever takes the final action; (ii) from the date of the letter to the developer until the date the revised initial site plan addressing the required changes is submitted under section 32.4.2.3(b); (iii) from the date of the developer's request for a deferral under section 32.4.2.4(a); and (iv) during any extension granted under section 32.4.2.4(c).

- c. *Action to approve and notice of approval.* If the agent determines that the initial site plan complies with all applicable requirements, he shall approve the plan and promptly issue a letter to the developer informing the developer of the approval and stating the requirements that must be included with submittal of the final site plan and those conditions which must be satisfied prior to approval of the final site plan and, where applicable, those conditions which must be satisfied prior to issuance of a grading permit under section 17-204(E). The agent shall mail the letter by first class mail, personally deliver it to the developer, or, if consented to by the developer in writing, deliver it by fax or email.
- d. *Action to disapprove and notice of disapproval.* If the agent determines that the plan does not comply with all applicable requirements, he shall disapprove the plan and promptly issue a letter to the developer stating the reasons for disapproval by identifying the plan's deficiencies and citing the applicable sections of this chapter or other applicable laws, and what corrections or modifications will permit approval of the plan. The agent shall mail the letter by first class mail, personally deliver it to the developer, or, if consented to by the developer in writing, deliver it by fax or email.
- e. *Action to disapprove because of failure to make required revisions; notice of disapproval; opportunity to resubmit.* If the developer submits a revised plan under section 32.4.2.3 that fails to address all of the required changes, the plan shall be disapproved. Within fifteen (15) days after the date the notice of disapproval required by subsection (d) is mailed or delivered by the agent, the developer may resubmit the initial site plan. The date of the next application deadline after the resubmittal of the plan shall be deemed to be the date upon which the plan was officially submitted. In the event the developer fails to resubmit the plan within the fifteen (15) day period, the plan shall be deemed to be disapproved and a new application and fee shall be required for submittal of the plan.

(§ 32.4.2.5, Ord. 12-18(6), 10-3-12, effective 1-1-13 (§ 32.4.2.4, 12-10-80) (§ 32.4.2.6, 12-10-80))

State law reference – Va. Code §§ 15.2-2241(9), 15.2-2255, 15.2-2258, 15.2-2260.

32.4.2.6 APPEAL AND JUDICIAL REVIEW

The disapproval of an initial site plan may be appealed as follows:

- a. *Appeal to commission and board of supervisors.* If an initial site plan is disapproved by the agent, or is approved with conditions that the developer objects to, the developer at its sole option may appeal the decision of the agent to the commission and, if the commission disapproves the initial site plan or affirms the objectionable conditions, to the board of supervisors. The appeal shall be in writing and be filed with the agent within ten (10) days after the date of the decision by the agent or by the commission, as the case may be. The action by the commission and the board shall comply with subsections 32.4.2.5(c), (d) and (e), as applicable.
- b. *Judicial review.* If an initial site plan is disapproved by the agent, the commission or the board of supervisors, the developer may appeal the disapproval to the circuit court as provided in Virginia Code § 15.2-2260(E). No developer is required to appeal the disapproval of the plan under subsection (a) before appealing it to the circuit court.

(§ 32.4.2.6, Ord. 12-18(6), 10-3-12, effective 1-1-13 (§ 32.4.2.7, 12-10-80; Ord. 01-18(6), 10-3-01))

State law reference – Va. Code §§ 15.2-2241(9), 15.2-2255, 15.2-2258, 15.2-2260.

32.4.2.7 PERIOD OF VALIDITY OF APPROVED INITIAL SITE PLAN

An approved initial site plan is valid as follows:

- a. *Valid for five years; prerequisites.* An initial site plan shall be valid for: (i) a period of five (5) years from the date it is approved pursuant to this chapter, provided that the developer submits a final site plan for all or a portion of the site within one (1) year after the approval as provided in section 32.4.3.1, and thereafter diligently pursues approval of the final site plan; and (ii) any additional period as may be provided by state law.
- b. *Revocation of approval after three years.* After three (3) years following initial site plan approval, the agent may, after ninety (90) days' written notice provided by certified mail to the developer, revoke the approval of the initial site plan upon a specific finding of fact that the developer failed to diligently pursue approval of the final site plan.
- c. *Approval null and void if final site plan not submitted within one year.* The failure of a developer to officially submit a final site plan as provided in section 32.4.3.1 within one (1) year after approval of the initial site plan shall render the approval of the initial site plan null and void. For purposes of this section, the date the initial site plan is approved shall be the date that the letter of approval required by section 32.4.2.5(c) is mailed or otherwise delivered as provided therein.

(§ 32.4.2.7, Ord. 12-18(6), 10-3-12, effective 1-1-13 (§ 32.4.3.1(part), 5-1-87(§ 32.4.21, 5-1-87) (§ 32.4.3.2, 5-1-87; § 32.7.1, 12-10-80) (§ 32.4.3.3, 12-10-80)) (§ 32.4.3.8, 12-10-80))

State law reference – Va. Code §§ 15.2-2209.1, 15.2-2261

32.4.2.8 EFFECT AN APPROVED INITIAL SITE PLAN HAS ON CERTIFICATES OF APPROPRIATENESS AND EARLY OR MASS GRADING

An approved initial site plan affects the following pending and future approvals:

- a. *Issues pertaining to a certificate of appropriateness.* An approved initial site plan that has complied with the architectural review board's requirements identified under section 32.4.2.2(b) shall be deemed to be consistent with the applicable design guidelines pertaining to the elements of sections 30.6.4(c)(2), (3) and (5) delineated in section 32.4.2.2(b)(1).
- b. *Early or mass grading.* On any site within a conventional or planned development district, regardless of whether the site is also within an entrance corridor overlay district, early or mass grading may be approved under chapter 17, subject to the following: (i) no grading permit, building permit, or other permit shall be issued and no land disturbing activity may begin until the developer satisfies the requirements of sections 17-414 through 17-717; provided that land disturbing activity may occur prior to approval of a stormwater management plan if the activity was previously covered under the general permit, as that term is defined in chapter 17, issued by the Commonwealth on July 1, 2009; (ii) the developer has satisfied the conditions of approval identified by the agent in the letter required by section 32.4.2.5(d); and (iii) any site within a dam break inundation zone is subject to section 32.8.7.

(§ 32.4.2.8, Ord. 12-18(6), 10-3-12, effective 1-1-13; Ord. 13-18(7), 12-4-13, effective 1-1-14; Ord. 15-18(5), 7-8-15)

State law reference – Va. Code §§ 10.1-563, 15.2-2241, 15.2-2286(A)(4), 15.2-2306.

32.4.2.9 APPROVAL OF EARLY OR MASS GRADING PRIOR TO INITIAL SITE PLAN APPROVAL

On any site within a planned development district, regardless of whether the site is also within an entrance corridor overlay district, early or mass grading may be approved under chapter 17 prior to initial site plan approval, subject to the following:

- a. The erosion and sediment control plan measures, disturbed area, and grading are in conformity with the conceptual grading plan and measures shown on the application plan as determined by the county engineer, after consultation with the director of planning; provided that if, after consultation with the director of

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planning, the county engineer finds that there is not enough detail on the application plan to ensure that the proposed grading and other measures are consistent with the application plan, the early or mass grading shall not be approved until the final site plan is approved

- b. No grading permit, building permit, or other permit shall be issued and no land disturbing activity may begin until the developer satisfies the requirements of sections 17-414 through 17-717; provided that land disturbing activity may occur prior to approval of a stormwater management plan if the activity was previously covered under the general permit, as that term is defined in chapter 17, issued by the Commonwealth on July 1, 2009; and (iii) any site within a dam break inundation zone is subject to section 32.8.7.

(Ord. 15-18(5), 7-8-15)

State law reference – Va. Code §§ 15.2-2241, 15.2-2286(A)(4), 15.2-2306, 62.1-44.15:55.

32.4.3 PROCEDURE FOR REVIEW AND ACTION ON FINAL SITE PLAN

32.4.3.1 SUBMITTAL OF FINAL SITE PLAN; DETERMINATION OF COMPLETENESS

Each final site plan shall be submitted to the agent and processed as follows:

- a. *Prerequisites to submittal.* A final site plan shall not be submitted unless: (i) an initial site plan was approved for the development and it remains valid; (ii) the final site plan satisfies all of the requirements of section 32.6; and (iii) the final site plan satisfies all of the conditions delineated in the letter provided under section 32.4.2.5(c) required to be satisfied prior to submitting the final site plan.
- b. *Date of official submittal.* A final site plan shall be submitted for approval within one (1) year after the date of approval of the initial site plan was mailed or delivered as provided in section 32.4.2.5(c). A final site plan submitted ten (10) days or less before the one (1) year period expires shall be deemed to be officially submitted on the date it is submitted provided that it is complete by satisfying the requirements of subsection (a). A final site plan submitted more than ten (10) days before the one (1) year period expires shall be deemed to be officially submitted on the date of the next application deadline established by the agent after the submittal of the plan and the agent’s determination that the plan is complete.
- c. *Timing of review to determine completeness.* The agent’s review to determine whether a final site plan is complete shall be made within ten (10) days after it was submitted.
- d. *Determination that plan is incomplete; notice.* A final site plan not satisfying the requirements of subsection (a) shall be deemed to be incomplete and shall not be accepted for official submittal by the agent. The agent shall inform the developer in writing of the reasons for the disapproval, with citation to the applicable section of this chapter or other law, and what corrections or modifications will permit acceptance of the plan. The agent shall notify the developer or his or her agent of the disapproval in writing by first class mail, personal delivery, or, if consented to by the developer in writing, by fax or email.
- e. *Resubmittal.* Within fifteen (15) days after the date the notice of disapproval was mailed or delivered by the agent, the developer may resubmit the final site plan together with payment of the fee for the reinstatement of review. The date of the next application deadline after the resubmittal of the plan shall be deemed to be the date upon which the plan was officially submitted. In the event the developer fails to resubmit the plan within the fifteen (15) day period, the plan shall be deemed to be disapproved and a new application and fee shall be required for submittal of the plan.
- f. *Transmittal.* A final site plan deemed officially submitted shall be transmitted to the site review committee. If state agency approval of a final site plan is required, the agent shall forward to the state agency all documents necessary to allow it to conduct its review within ten (10) days after the final site plan is deemed officially submitted.

(§ 32.4.3.1, Ord. 12-18(6), 10-3-12, effective 1-1-13 (§ 32.4.3.1, § 32.4.3.1(part), 5-1-87 (§ 32.4.21, 5-1-87) (§ 32.4.3.2, 5-1-87; § 32.7.1, 12-10-80)) (§ 32.4.3.2, 12-10-80); § 32.4.3.3, 12-10-80))

State law reference – Va. Code §§ 15.2-2241(9), 15.2-2255, 15.2-2258, 15.2-2259, 15.2-2286(A)(8).

32.4.3.2 REVIEW OF FINAL SITE PLAN BY SITE REVIEW COMMITTEE

Upon receipt of a final site plan from the agent, the site review committee shall review the plan and make its recommendations as follows:

- a. *Review for compliance with section 32.* The plan shall be reviewed to determine that it complies with the requirements of section 32 in effect when the initial site plan was approved.
- b. *Review for compliance with chapter 18 and other laws.* The plan shall be reviewed to determine whether it complies with the requirements of chapter 18 and other applicable laws in effect at the time of final site plan review, including but not limited to sections 17-403 and 17-404; provided that the developer may establish that its rights have vested to have the final site plan reviewed under prior versions of chapter 18 or other applicable laws.
- c. *Review for compliance with conditions of initial site plan approval.* The plan shall be reviewed to confirm that it satisfies all of the conditions required to be satisfied prior to submitting the final site plan, and all of the conditions required to be satisfied prior to final site plan approval, delineated in the letter provided under section 32.4.2.5(c).
- d. *Recommendation.* Upon completion of its review, the site review committee shall transmit to the agent its recommendation for approval if it determines that the plan satisfies the requirements of subsections (a), (b) and (c), or its recommendation for required changes if it determines the plan does not satisfy the requirements of subsections (a), (b) or (c).

(§ 32.4.3.2, Ord. 12-18(6), 10-3-12, effective 1-1-13 (§ 32.4.3.4, 12-10-80) (§ 32.5.7, Ord. 04-18(4), 12-8-04, effective 2-8-05))

State law reference – Va. Code §§ 15.2-2121, 15.2-2241(9), 15.2-2255, 15.2-2258, 15.2-2259, 15.2-2286(A)(8).

32.4.3.3 REVIEW OF FINAL SITE PLAN BY ARCHITECTURAL REVIEW BOARD; CERTIFICATE OF APPROPRIATENESS

Prior to approval by the agent of any final site plan for a development within an entrance corridor overlay district, the developer shall obtain a certificate of appropriateness for the development from the architectural review board as follows:

- a. *Submittal requirements.* The developer shall submit an application for review under sections 30.6.6 and 30.6.7.
- b. *Scope of review.* The scope of review by the architectural review board shall be as provided in section 30.6.4, subject to the following:
 1. *Effect of initial site plan approval.* If the final site plan satisfies the requirements of the architectural review board identified during its review under section 32.4.2.2(b), it shall be deemed to be consistent with the applicable design guidelines pertaining to the elements of sections 30.6.4(c)(2), (3) and (5) delineated in section 32.4.2.2(b)(1) and they shall not be reconsidered by the board during its review of the application for a certificate of appropriateness.
 2. *If final site plan varies from approved initial site plan.* A final site plan may vary from the approved initial site plan and not satisfy the requirements of the architectural review board identified during its review under section 32.4.2.2(b). In such a case, the board shall consider all of the issues under section 30.6.4 during its review of the application for a certificate of appropriateness.
- c. *Failure to incorporate recommendations.* The architectural review board shall not deny a certificate of appropriateness on the sole ground that the final site plan failed to incorporate any recommendation of the board during its review of the initial site plan under section 32.4.2.2(b).
- d. *Reconciliation of conflicts.* Conflicts among the requirements of this chapter and other applicable laws and recommendations shall be reconciled as provided in section 32.4.2.2(c).

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(§ 32.4.3.3, Ord. 12-18(6), 10-3-12, effective 1-1-13)

State law reference – Va. Code §§ 15.2-2241(9), 15.2-2286(A)(4), 15.2-2306.

32.4.3.4 REVISIONS TO ADDRESS REQUIRED CHANGES

A final site plan for which changes are required shall be revised as follows:

- a. *Requirements identified; letter to the developer.* If the site review committee identifies required changes to the final site plan, the committee shall promptly issue a letter to the developer stating the changes required to be made. The letter shall be sent by first class mail, be personally delivered or, if consented to by the developer in writing, by fax or email.
- b. *Response to address requirements.* The developer shall revise the plan to address all of the required changes before approval of the final site plan by the agent.

(§ 32.4.3.4, Ord. 12-18(6), 10-3-12, effective 1-1-13 (§ 32.4.3.3, 12-10-80))

State law reference – Va. Code §§ 15.2-2241(9), 15.2-2255, 15.2-2258, 15.2-2259.

32.4.3.5 DEFERRAL OF REVIEW; WHEN APPLICATION DEEMED WITHDRAWN

The review of, and action on, a final site plan may be deferred, and an application for a final site plan may be deemed withdrawn, as follows:

- a. *Request to defer by developer.* A developer may request that review or action on its application for a final site plan be deferred for a specified period up to six (6) months. If during the deferral period the developer does not request the agent to take action on the final site plan as provided in section 32.4.3.6 within six (6) months after the date the deferral was requested, the application shall be deemed to have been voluntarily withdrawn.
- b. *Failure to submit revised plan.* If a developer fails to submit a revised final site plan to address all of the requirements within six (6) months after the date of the letter from the agent as provided in section 32.4.3.4, the application shall be deemed to have been voluntarily withdrawn by the developer.
- c. *Extension of deferral period or period to submit revised plan.* Before the deferral period in subsection (a) expires, the developer may request that the agent extend the period before the application is deemed to have been voluntarily withdrawn. The request must be received by the agent before the deferral period expires. The agent may grant one extension 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 extension request is made.

(§ 32.4.3.5, Ord. 12-18(6), 10-3-12, effective 1-1-13 (§ 32.4.3.10, Ord. 01-18(6), 10-3-01))

State law reference – Va. Code §§ 15.2-2241(9), 15.2-2255.

32.4.3.6 REVIEW AND ACTION ON FINAL SITE PLAN BY AGENT

The agent shall review and act on a final site plan as follows:

- a. *Review.* The agent shall review the final site plan for compliance with all requirements, and shall make a good faith effort to identify all deficiencies, if any, during review of the plan. The agent shall consider the recommendation of the site review committee as to whether the plan complies with all applicable requirements and any statement by the developer. The agent also may consider any other evidence pertaining to the plan’s compliance with the requirements of this chapter as deemed necessary for a proper review of the plan.

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- b. *Time for action.* The agent shall act on the final site plan within sixty (60) days after the date the plan was officially submitted, provided:
1. *Alternative time for action if state agency approval is required.* If approval of a feature on the plan by a state agency is required, the agent shall approve or disapprove the plan within thirty-five (35) days after receipt of approvals from all state agencies, and not more than ninety (90) days after the date the plan was officially submitted.
 2. *Alternative time for action if certificate of appropriateness required.* For sites within an entrance corridor overlay district for which a certificate of appropriateness is required for the development under section 30.6 *et seq.*, the agent shall approve or disapprove the plan within seven (7) days after the certificate is issued or sixty (60) days after the date the plan was officially submitted, whichever is later.
 3. *Suspension of running of time for action.* The running of the time by which the agent must act on a plan shall be suspended: (i) from the date the appeal of a decision on a request for a variation or exception is submitted under section 32.3.6 until the date the planning commission or the board of supervisors, as the case may be, acts on the appeal, whichever takes the final action; (ii) from the date of the letter to the developer until the date the revised initial site plan addressing the required changes is submitted under section 32.4.3.4(b); (iii) from the date of the developer's request for a deferral under section 32.4.3.5(a); and (iv) during any extension granted under section 32.4.3.5(c).
- c. *Action to approve and notice of approval.* If the agent determines that the final site plan complies with all applicable requirements, he shall approve and sign the plan, and may issue a letter to the developer informing the developer of the approval. The agent shall mail the letter by first class mail, personally deliver it to the developer, or, if consented to by the developer in writing, deliver it by fax or email.
- d. *Action to disapprove and notice of disapproval.* If the agent determines that the plan does not comply with all applicable requirements, he shall disapprove the plan and promptly issue a letter to the developer stating the reasons for disapproval by identifying the initial site plan's deficiencies and citing the applicable sections of this chapter or other law, and what corrections or modifications will permit approval of the plan. The agent shall mail the letter by first class mail, personally deliver it to the developer, or, if consented to by the developer in writing, deliver it by fax or email.
- e. *Submittal of corrected or modified plan.* Any developer who has received a notice of disapproval under subsection (d) may submit a corrected or modified final site plan addressing the deficiencies identified in the notice of disapproval, as follows:
1. *Deadline for submittal.* The developer shall submit the corrected or modified plan within sixty (60) days after the date of the notice of disapproval.
 2. *Time for action.* The agent shall act on the corrected or modified plan within forty-five (45) days after it was submitted.
 3. *Action to approve or disapprove.* The agent shall approve or disapprove the corrected or modified plan and provide notice of the action to the developer as provided under subsections (c) and (d).

(§ 32.4.3.6, Ord. 12-18(6), 10-3-12, effective 1-1-13 (§ 32.4.3.7, 12-10-80))

State law reference – Va. Code §§ 15.2-2241(9), 15.2-2255, 15.2-2258, 15.2-2259.

32.4.3.7 APPEAL AND JUDICIAL REVIEW

The disapproval of a final site plan maybe appealed as follows:

- a. *Appeal to planning commission and board of supervisors.* If a final site plan is disapproved by the agent, the developer at its sole option may appeal the disapproval to the planning commission and, if the commission disapproves the plan, to the board of supervisors. The appeal shall be in writing and be filed with the agent within ten (10) days after the date of the disapproval by the agent or by the commission, as

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the case may be. The action by the commission and the board shall comply with sections 32.4.3.6(c) and (d).

- b. *Judicial review.* If a final site plan is disapproved by the agent, the planning commission or the board of supervisors, the developer may appeal the disapproval to the circuit court as provided in Virginia Code § 15.2-2259(D). No developer is required to appeal the disapproval of the plan under subsection (a) before appealing it to the circuit court.

(§ 32.4.3.7, Ord. 12-18(6), 10-3-12, effective 1-1-13 (§ 32.4.3.9, 12-10-80))

State law reference – Va. Code §§ 15.2-2241(9), 15.2-2255, 15.2-2258, 15.2-2260.

32.4.3.8 PERIOD OF VALIDITY OF APPROVED FINAL SITE PLAN

An approved final site plan is valid as follows:

- a. *Valid for five years or longer.* An approved final site plan shall be valid for: (i) a period of not less than five (5) years after the date of its approval or for a longer period as the agent may, at the time of approval, determine to be reasonable, taking into consideration the size and phasing of the proposed development; and (ii) any additional period as may be provided by state law. A plan shall be deemed to be approved once it has been signed by the agent and if the only requirement remaining to be satisfied in order to obtain a building permit is the posting of any bonds and escrows.
- b. *Request for extension.* Upon application by the developer submitted prior to expiration of the final site plan, the agent may grant one or more extensions of the approval for additional periods as the agent 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. If the agent denies the request, he shall promptly issue a letter to the developer stating the reasons for the denial. The agent shall mail the letter by first class mail, personally deliver it to the developer, or, if consented to by the developer in writing, deliver it by fax or email.
- c. *Judicial review if request for extension denied.* If the agent denies an extension requested under subsection (b) and the developer contends that the denial was not properly based on the regulation applicable thereto, the considerations for granting an extension delineated in subsection (b), or was arbitrary or capricious, the developer may appeal the denial to the circuit court as provided in Virginia Code § 15.2-2261.
- d. *Rights attached to valid approved final site plan.* For so long as the final site plan remains valid in accord with the provisions of this section, no change or amendment to any county ordinance, map, resolution, rule, regulation, policy or plan adopted after the date the plan was approved shall adversely affect the right of the developer or its successor in interest to commence and complete an approved development in accordance with the lawful terms of the approved plan unless the change or amendment is required to comply with state law or there has been a mistake, fraud or a change in circumstances substantially affecting the public health, safety or welfare.
- e. *Effect of minor amendments.* The developer's application for a minor amendment to the approved final site plan during its period of validity shall not constitute a waiver of the provisions of this section. The agent's approval of a minor amendment shall not extend the period of validity of the final site plan.

(§ 32.4.3.8, Ord. 12-18(6), 10-3-12, effective 1-1-13 (§ 32.4.3.8, 12-10-80))

State law reference – Va. Code §§ 15.2-2209.1, 15.2-2261.

32.4.3.9 DUTY TO COMPLY

Each site, if it is developed, shall be developed and maintained in compliance with the approved final site plan.

(Ord. 15-18(5), 7-8-15)

State law reference – Va. Code §§ 15.2-2240, 15.2-2246, 15.2-2286(A)(8).

32.5 INITIAL SITE PLAN; FORM AND CONTENT

32.5.1 FORM AND STYLE OF AN INITIAL SITE PLAN

Each initial site plan shall comply with the following:

- a. *Number of copies.* Sixteen (16) clearly legible copies in blue or black ink of the plan shall be submitted.
- b. *Scale and size.* The plan shall be prepared to the scale of one (1) inch equals twenty (20) feet or to another scale approved by the agent in a particular case. No sheet shall exceed forty-two (42) inches by thirty-six (36) inches in size. The plan may be prepared on one (1) or more sheets. If prepared on more than one (1) sheet, match lines shall clearly indicate where the several sheets join. The top of the sheet shall be approximately either north or east.
- c. *Dimensions.* The plan shall be dimensioned to at least the following standards for accuracy:
 - 1. *Boundary, setback and zoning lines:* One foot in one thousand (1:1,000) feet.
 - 2. *Existing contours:* One-half (½) of the contour interval required in section 32.5.2(d).
 - 3. *Proposed contours:* Within five (5) feet horizontally and vertically.
 - 4. *Existing structures, utilities and other topographic features:* Within five (5) feet.
 - 5. *Proposed structures, roads, parking lots and other improvements:* Within five (5) feet.

(§ 32.5.1, Ord. 12-18(6), 10-3-12, effective 1-1-13 (§ 32.5.1, 5-1-87 (§ 32.3.5, 12-10-80)) (§ 32.5.4, 5-1-87) (§ 32.5.5, 5-1-87) (§ 32.5.6 (part), 5-1-87))

State law reference – Va. Code §§ 15.2-2241(1), 15.2-2258, 15.2-2286(A)(8).

32.5.2 CONTENTS OF AN INITIAL SITE PLAN

Each initial site plan shall contain the following information:

- a. *General information.* The name of the development; names of the owner, developer and individual who prepared the plan; tax map and parcel number; boundary dimensions; zoning district; descriptions of all proffers, special use permits and conditions thereof, special exceptions and conditions thereof, variances and conditions thereof, application plans, codes of development and bonus factors applicable to the site; magisterial district; county and state; north point; scale; one datum reference for elevation (if section 30.3, flood hazard overlay district, applies to any portion of the site, United States Geological Survey vertical datum shall be shown and/or correlated to plan topography and show existing and proposed ground elevations); the source of the topography; departing lot lines; minimum setback lines, yard and building separation requirements; the source of the survey; sheet number and total number of sheets; and the names of the owners, zoning district, tax map and parcel numbers and present uses of abutting parcels.
- b. *Information regarding the proposed use.* Written schedules or data as necessary to demonstrate that the site can accommodate the proposed uses, including proposed uses and maximum acreage occupied by each use; maximum number of dwelling units by type including the number of bedrooms for multi-family dwellings; gross residential density; square footage of recreational areas; the percentage and acreage of open space; maximum square footage for commercial and industrial uses; maximum floor area ratio and lot coverage for industrial use; maximum height of all structures; schedule of parking including the maximum amount required and the amount provided; the maximum amount of impervious cover on the site; and if a landscape plan is required, the maximum amount of paved parking and other vehicular circulation areas.
- c. *Phase lines.* If phasing is planned, phase lines and the proposed timing of development.
- d. *Topography and proposed grading.* Existing topography (up to twenty [20] percent slope, maximum five [5] foot contours, over twenty [20] percent slope, maximum ten [10] foot contours) for the entire site with sufficient offsite topography to describe prominent and pertinent offsite features and physical characteristics, but in no case less than fifty (50) feet outside of the site unless otherwise approved by the

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- agent; proposed grading (maximum five [5] foot contours) supplemented where necessary by spot elevations; areas of the site where existing slopes are steep slopes.
- e. *Landscape features.* The existing landscape features as described in section 32.7.9.4(c).
 - f. *Watercourses and other bodies of water.* The name and location of all watercourses and other bodies of water adjacent to or on the site; indicate whether the site is located within the watershed of a public water supply reservoir.
 - g. *Onsite sewage system setback lines.* The location of onsite sewage system setback lines from watercourses including intermittent streams and other bodies of water.
 - h. *Floodplain and related information.* The boundaries of the flood hazard overlay district, the base flood elevation on the site, the elevation of the lowest floor, including any basement, and for any structures to be flood-proofed as required by section 30.3, the elevation to which the structures will be flood-proofed.
 - i. *Streets, easements and travelways.* The existing and proposed streets, including proposed bike lanes, access easements, alley easements and rights-of-way, and travelways, together with street names, state route numbers, right-of-way lines and widths, centerline radii and pavement widths.
 - j. *Existing sewer and drainage facilities.* The location and size of existing water and sewer facilities and easements, the storm drainage system, drainage channels, and drainage easements.
 - k. *Proposed sewer and drainage facilities.* The proposed conceptual layout for water and sewer facilities and the storm drainage system, indicating the direction of flow in all pipes and watercourses with arrows.
 - l. *Existing and proposed utilities.* The location of other existing and proposed utilities and utility easements, including existing telephone, cable, electric and gas easements.
 - m. *Ingress and egress.* The location of existing and proposed ingress to and egress from the property, showing the distance to the centerline of the nearest existing street intersection.
 - n. *Existing and proposed improvements.* The location and dimensions of all existing and proposed improvements including buildings (maximum footprint and height) and other structures; walkways; fences; walls; trash containers; outdoor lighting; landscaped areas and open space; recreational areas and facilities; parking lots and other paved areas; loading and service areas; signs; and the proposed paving material types for all walks, parking lots and driveways.
 - o. *Areas to be dedicated or reserved.* All areas intended to be dedicated or reserved for public use under sections 32.7.1.1, 32.7.1.2 and 32.7.1.3, and shall include a note on the plan stating that the land is to be dedicated or reserved for public use.
 - p. *Landscape plan.* A landscape plan that complies with section 32.7.9, if it is required to be submitted with the initial site plan.
 - q. *Traffic generation figures.* If deemed appropriate by the agent due to the intensity of the development, estimated traffic generation figures for the site based on current Virginia Department of Transportation rates; indicate the estimated number of vehicles per day and the direction of travel for all connections from the site to a public street.
 - r. *Symbols and abbreviations.* A legend showing all symbols and abbreviations used on the plan.
 - s. *Additional information.* The agent may require additional information to be shown on the initial site plan as deemed necessary to provide sufficient information for the agent and the site review committee to adequately review the plan.
 - t. *Dam break inundation zones.* The limits of a dam break inundation zone.
 - u. *Additional information for site plans within the neighborhood model district.* Each site plan for a planned development within the neighborhood model district shall contain the following additional information: (i)

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the site plan pertains to at least one block; (ii) a phasing plan; and (iii) building elevations for all new or modified structures.

((§ 32.5.6, 5-1-87, 2-6-02) (§ 32.4.5, 12-10-80); § 32.5.2, Ord. 12-18(6), 10-3-12, effective 1-1-13; Ord. 13-18(7), 12-4-13, effective 1-1-14; Ord. 14-18(1), 3-5-14; Ord. 14-18(2), 3-5-14; Ord. 15-18(5), 7-8-15)

State law reference – Va. Code §§ 15.2-2241(1), 15.2-2258, 15.2-2286(A)(8).

Federal law reference – 44 CFR § 60.3(b)(3)

32.5.3 RESPONSE TO INFORMATION DURING PREAPPLICATION PROCESS

The application for an initial site plan shall include a response to all information for which a response was requested under section 32.4.1.4.

(§ 32.5.3, Ord. 12-18(6), 10-3-12, effective 1-1-13)

State law reference – Va. Code §§ 15.2-2241(1), 15.2-2258, 15.2-2286(A)(8).

32.5.4 GROUNDWATER ASSESSMENT INFORMATION

The application for an initial site plan shall include draft groundwater management plans and aquifer testing workplans required by sections 17-1003 and 17-1004, if applicable. The requirements of sections 17-1003 and 17-1004 shall be satisfied prior to final site plan approval.

(§ 32.5.4, Ord. 12-18(6), 10-3-12, effective 1-1-13 (§ 32.5.7, Ord. 04-18(4), 12-8-04, effective 2-8-05); Ord. 15-18(5), 7-8-15;)

State law reference – Va. Code § 15.2-2121.

32.5.5 PARKING STRUCTURE INFORMATION

The application for an initial site plan shall include architectural elevations, drawings, photographs or other visual materials showing any parking structure proposed on the site and surrounding structures and land uses.

(§ 32.5.5, Ord. 12-18(6), 10-3-12, effective 1-1-13 (§ 32.7.2A (part), Ord. 03-18(1), 2-5-03))

State law reference – Va. Code §§ 15.2-2241(1), 15.2-2258, 15.2-2286(A)(8).

32.5.6 DAM BREAK INUNDATION ZONES

If the proposed development is located wholly or partially within a dam break inundation zone, the site review committee shall review the initial site plan as follows: (i) it shall review the dam break inundation zone map on file with the county for the affected impounding structure; (ii) notify the dam owner about the proposed development; and (iii) within ten (10) days after the application is deemed complete, send a written request to the Virginia Department of Conservation and Recreation to make a determination of the potential impacts of the proposed development on the spillway design flood standards required for the dam as provided in Virginia Code § 10.1-606.3.

(Ord. 13-18(7), 12-4-13, effective 1-1-14)

State law reference--Va. Code §§ 10.1-606.3, 15.2-2243.1.

32.5.7 FLOOD HAZARD OVERLAY DISTRICT

If the proposed development is located wholly or partially within the flood hazard overlay district, the site review committee shall review the initial site plan to determine that the site will be reasonably safe from flooding and, if the development is in a flood-prone area: (i) that it is designed to minimize flood damage within a flood-prone area; (ii) all public utilities and facilities, such as sewer, gas, electrical, and water systems will be located and constructed to minimize or eliminate flood damage; and (iii) adequate drainage will be provided to reduce exposure to flood hazards.

(§ 32.5.7, Ord. 14-18(1), 3-5-14)

State law reference – Va. Code § 15.2-2241(3), 15.2-2280.

Federal law reference – 44 CFR § 60.3(a)(4).

32.6 FINAL SITE PLAN; FORM AND CONTENT

32.6.1 FORM AND STYLE OF A FINAL SITE PLAN

Each final site plan shall comply with the following:

- a. *Authorized preparer.* The plan, and any amendments to a plan, shall be prepared and sealed, signed and dated by an architect, professional engineer, land surveyor, or certified landscape architect, each of whom shall be licensed to practice in the Commonwealth of Virginia.
- b. *Number of copies when first submitted.* Two (2) clearly legible copies in blue or black ink of the plan, in the scale and size required by subsection (d), and one (1) reduced copy of the plan no larger than eleven (11) by seventeen (17) inches in size shall be submitted.
- c. *Number of copies when submitted for final signature approval.* When submitting the final site plan for final signature approval, four (4) print copies of the plan shall be submitted.
- d. *Scale and size.* The plan shall be prepared to the scale of one (1) inch equals twenty (20) feet or larger, or to another scale approved by the agent in a particular case. No sheet shall exceed forty-two (42) inches by thirty-six (36) inches in size. The plan may be prepared on one (1) or more sheets. If prepared on more than one (1) sheet, match lines shall clearly indicate where the several sheets join. The top of each sheet shall be approximately either north or east.
- e. *Dimensions.* The plan shall be dimensioned to at least the following standards for accuracy:
 - 1. *Boundary, setback and zoning lines:* Within one one-hundredth (0.01) of a foot.
 - 2. *Existing contours:* Within one-half (½) of the contour interval required in section 32.6.2(c).
 - 3. *Proposed contours:* Within one (1) foot horizontally and vertically.
 - 4. *Spot elevations:* Within one-tenth (0.10) of a foot.
 - 5. *Existing critical structures including utilities and other topographic features:* Within two (2) feet, provided that for critical structures, which include, but are not limited to, gas lines, other utilities, pipes, conduits, walls and buildings to be preserved, within one-tenth (0.10) of a foot.
 - 6. *Proposed structures, roads, parking lots and other improvements:* Within one one-hundredth (0.01) of a foot.

(§ 32.6.1, Ord. 12-186), 10-3-12, effective 1-1-13 (§ 32.6.2, 12-10-80) (§§ 32.6.1, 32.6.3, 32.6.4, 32.6.5, 32.6.6 (part), 5-1-87))

State law reference – Va. Code §§ 15.2-2241(1), 15.2-2258, 15.2-2286(A)(8).

32.6.2 CONTENTS OF A FINAL SITE PLAN

Each final site plan shall contain the following information:

- a. *Information required.* All of the information required to be on an initial site plan, as provided in section 32.5.
- b. *Demonstrate compliance with chapter.* Specific written schedules or notes as necessary to demonstrate that the requirements of this chapter are satisfied.
- c. *Proposed grading.* Proposed grading (up to twenty [20] percent slope, maximum two [2] foot contours; over twenty [20] percent slope, maximum five [5] foot contours).
- d. *Water and sewer facilities.* Detailed plans for proposed water and sewer facilities, including all pipe sizes, types and grades; proposed connections to existing or proposed central water supplies and central sewage

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systems; location and dimensions of proposed easements and whether they are to be publicly or privately maintained; profiles and cross sections of all water and sewer lines including clearance where lines cross; all water main locations and sizes; valves and fire hydrant locations; all sewer appurtenances by type and number; the station on the plan to conform to the station shown on the profile and indicate the top and invert elevation of each structure.

e. *Drainage and grading plans.* Detailed construction drainage and grading plans:

1. Profiles of all ditches and channels whether proposed or existing, showing existing and proposed grades, and invert of ditches, cross pipes or utilities; typical channel cross sections for new construction; and actual cross sections for existing channels intended to remain;
2. Profiles of all storm sewer systems showing existing and proposed grades;
3. Plan view of all drainage systems with all structures, pipes and channels numbered or lettered on the plan and profile views. Show sufficient dimensions and bench marks to allow field stake out of all proposed work from the boundary lines;
4. A drainage summary table for culverts, storm sewer and channels as described in the following example:

Structure Number	Description	Length	Invert In	Invert Out	Slope	Remarks
1	42" RCP Class III	50'	424.50	424.00	100.00%	Provide 2, EW
2	DI-3B	L=8	426.00	432.00	-	IS-1 Top
3	PG-2A	400'	420.00	400.00	5.00%	D=12"
4	Grade Swale	200'	420.00	415.00	2.50%	D=18"

5. A legend showing all symbols and abbreviations used on the plan;
 6. General notes, typical sections, and details of all items not covered by Virginia Department of Transportation standard drawings; and
 7. Flood plain limits for the one hundred (100) year storm for all watercourses with an upstream drainage area of fifty (50) acres or more provided that the county engineer may waive this requirement for drainage areas of less than one hundred (100) acres upon determining that the information is unnecessary for review of the proposed development.
- f. *Street sections.* Typical street sections together with specific street sections where street cut or fill is five (5) feet or greater; centerline curve data; radius of curb returns or edge of pavement; location, type and size of proposed ingress to and egress from the site together with culvert size; symmetrical transition of pavement at intersection with existing street; the edge of street surface or face of curb for full length of proposed street; when proposed streets intersect with or adjoin existing streets or travelways, both edges of existing pavement or travelway together with curb and gutter indicated for a minimum of one hundred (100) feet or the length of connection, whichever is the greater distance.
- g. *Public facilities and utilities.* All public facilities, utility and drainage easements outside the right-of-way of public streets, provided that new easements may be generally shown and accurately dedicated by separate plat. All water and sewer facilities to be dedicated to public use and the easements for those facilities and shall be identified by a statement that the facilities are to be dedicated to the Albemarle County Service Authority.
- h. *Signature panel.* Signature panel for signature by each member of the site review committee.

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- i. *Parking and loading areas.* For all parking and loading areas, indicate the size, angle of stalls, width of aisles and specific number of spaces required and provided, and method of computation. Indicate type of surfacing for all paved or gravel areas.
- j. *Landscape plan.* A landscape plan that complies with section 32.7.9
- k. *Outdoor lighting.* Outdoor lighting information including a photometric plan and location, description, and photograph or diagram of each type of outdoor luminaire.
- l. *Recreational facilities.* Specifications for recreational facilities.

(§ 32.6.2, Ord. 12-18(6), 10-3-12, effective 1-1-13 (§ 32.6.6, 12-10-80, 5-1-87, Ord. 98-18(1), 8-12-98))

State law reference – Va. Code §§ 15.2-2241(1), 15.2-2258, 15.2-2286(A)(8).

32.6.3 PARKING STRUCTURE INFORMATION

If the site will have a parking structure, the application for a final site plan shall include any revised architectural elevations, drawings, photographs or other visual materials submitted with the initial site plan under section 32.5.5. The elevations shall be part of the approved final site plan.

(§ 32.6.3, Ord. 12-18(6), 10-3-12, effective 1-1-13 (§ 32.7.2A(a), Ord. 03-18(1), 2-5-03))

State law reference – Va. Code §§ 15.2-2241(1), 15.2-2258, 15.2-2286(A)(8).

32.6.4 DAM BREAK INUNDATION ZONES; ENGINEERING STUDY AND MAPPING INFORMATION

If the proposed development is located wholly or partially within a dam break inundation zone, the developer shall submit with the final site plan the following:

- a. *Engineering study.* If the Virginia Department of Conservation and Recreation determines that a plan of development proposed by a developer would change the spillway design flood standards of an impounding structure pursuant to Virginia Code § 10.1-606.3, the developer shall submit an engineering study in conformance with the Virginia Soil and Water Conservation Board’s standards under the Virginia Dam Safety Act in Virginia Code § 10.1-604 *et seq.* and the Virginia Impounding Structure regulations in 4VAC50-20-10 *et seq.* The engineering study shall be reviewed and acted upon by the Virginia Department of Conservation and Recreation as provided in Virginia Code § 15.2-2243.1.
- b. *Mapping information.* The developer shall provide the dam owner, the county, and any other affected localities with information necessary for the dam owner to update the dam break inundation zone map to reflect any new development within the dam break inundation zone following completion of the development.

(Ord. 13-18(7), 12-4-13, effective 1-1-14; Ord. 15-18(5), 7-8-15)

State law reference--Va. Code §§ 10.1-606.3, 15.2-2243.1.

32.7 MINIMUM STANDARDS FOR IMPROVEMENTS

32.7.1 DEDICATIONS AND RESERVATIONS

32.7.1.1 DEDICATION OF LAND FOR VEHICULAR ACCESS, PARKS, SCHOOLS AND OPEN SPACE

Each developer shall dedicate to the county a part of the site abutting an existing street determined to be required for vehicular access from that street and may dedicate to the county a part of the property for parks, schools, and open space, as follows:

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- a. *No compensation if dedication required.* The board of supervisors shall not be required to compensate the developer for the land dedicated if the dedication: (i) is required in conjunction with an improvement required by the Virginia Department of Transportation or by this chapter; (ii) is a gift; or (iii) is required by a proffer as part of a conditional rezoning, or a condition imposed in conjunction with the approval of a special use permit, special exception, variance, or other approval.
- b. *How accomplished.* The dedication of land shall be accomplished by a subdivision plat satisfying the requirements of chapter 14 and may be accompanied by a deed of dedication in a form and having the substance approved by the county attorney.

(§ 32.7.1.1, Ord. 12-18(6), 10-3-12, effective 1-1-13 (§ 32.7.1.2(part), 5-1-87; § 32.5.17, 12-10-80) (§ 32.7.3.3(part), 5-1-87; § 32.5.9, 12-10-80))

State law reference – Va. Code § 15.2-2241(5).

32.7.1.2 RESERVATION FOR FUTURE DEDICATION OF LAND FOR PUBLIC USE

Any developer may reserve for future dedication to the county a part of the site suitable for parks, schools, and open space, as follows:

- a. *No compensation if dedication required.* The board of supervisors shall not be required to compensate the developer for the reservation of land if the future dedication: (i) is a gift; or (ii) is required by a proffer as part of a conditional rezoning, or a condition imposed in conjunction with the approval of a special use permit, special exception, variance, or other approval.
- b. *Land need not be identified in comprehensive plan.* Land may be reserved for public use even though it is not identified in the comprehensive plan for a future public use, provided the land is acceptable to the county for reservation.
- c. *Reserved in a usable manner.* The agent shall not require that land be reserved in a manner that would render it unusable to the developer if it will not be used for the intended public purpose.
- d. *Release of reservation.* The developer may petition the board of supervisors to release a reservation if the land will not be used for a public purpose.

(§ 32.7.1.2, Ord. 12-18(6), 10-3-12, effective 1-1-13 (§ 32.7.1.2(part), 5-1-87; § 32.5.17, 12-10-80))

State law reference – Va. Code § 15.2-2241(5).

32.7.1.3 RESERVATION OF LAND FOR STREETS, ALLEYS, WALKWAYS, WATERWAYS OR PUBLIC AREAS SHOWN ON OFFICIAL MAP

The agent may request a developer to reserve for future dedication to the county a part of the site suitable for streets, alleys, walkways, waterways or public areas if they are shown on an official map adopted under Virginia Code § 15.2-2233, as follows:

- a. *Shown on site plan.* Land reserved for future dedication under this section shall be set apart on the final site plan and be identified by a note on the plan stating that the land is reserved for future dedication for public use. The land reserved shall not be developed except as provided in this section.
- b. *Procedure when site plan submitted to develop reserved lands.* When a site plan to allow the reserved land to be developed is submitted to the county, the plan shall be reviewed and acted on as provided in section 32. If the plan is disapproved for the sole reason that the county wants the land to be dedicated to public use, the county shall have sixty (60) days to request that the land be dedicated to public use and the dedication shall be completed within one hundred twenty (120) days after the date of disapproval. If the county has not acted within the one hundred twenty (120) day period, the plan shall be approved provided that all other requirements of law have been satisfied.

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- c. *Release of reservation.* The developer may petition the board of supervisors to release the reservation if the official map is amended to remove the street, alley, walkway, waterway or public area from the lands reserved on the approved final site plan.

(§ 32.7.1.3, Ord. 12-18(6), 10-3-12, effective 1-1-13 (§ 32.7.1.3, 5-1-87; § 32.5.17, 12-10-80))

State law reference – Va. Code §§ 15.2233, 15.2-2241.

32.7.2 VEHICULAR ACCESS TO SITE; STREETS, SIDEWALKS AND OTHER PEDESTRIAN WAYS

32.7.2.1 VEHICULAR ACCESS TO SITE

Any vehicular access to and from a site shall comply with the following:

- a. *General.* The agent may specify the number, type, location and, subject to subsections (b) and (c), the design of all streets or travelways providing vehicular ingress to and egress from a site for the purpose of reducing or preventing congestion on offsite streets, minimizing conflicts and friction with vehicular traffic on offsite and onsite streets or travelways, minimizing conflicts with pedestrians, and providing continuous and unobstructed access for emergency services such as police, fire and rescue vehicles.
- b. *Design.* Each entrance onto any public street shall be designed and constructed as required by the standards of the Virginia Department of Transportation. Each entrance onto a public street shall be subject to approval by the Virginia Department of Transportation. Each entrance onto a private street shall be subject to approval by the county engineer.
- c. *Principal means of access to residential development; design to avoid obstruction during flooding.* If discharge water of a twenty-five (25) year storm could be reasonably anticipated to inundate, block, destroy or otherwise obstruct a principal means of access to a residential development, the following also shall apply:
 - 1. The principal means of access shall be designed and constructed so as to provide unobstructed access at the time of flooding; and/or
 - 2. An alternative means of access which is not subject to inundation, blockage, destruction or obstruction, and which is accessible from each dwelling unit within the development shall be constructed.

(§ 32.7.2.1, Ord. 12-18(6), 10-3-12, effective 1-1-13 (§ 32.7.2, 5-1-87) (§ 32.7.2.1, § 32.5.8.01, 7-15-81) (§ 32.7.2.3, 5-1-87) (§ 32.7.3, 5-1-87))

State law reference – Va. Code §§ 15.2-2241(2), 15.2-2241(4).

32.7.2.2 STREETS AND TRAVELWAYS COMPOSING THE INTERNAL ROAD NETWORK

Streets and travelways within a development shall be subject to the following:

- a. *Minimum design.* Each public street and travelway within a development shall be designed and constructed to the standards of the Virginia Department of Transportation. Each private street and travelway within a development shall be designed and constructed to the standards for private streets in chapter 14.
- b. *Geometric design.* The agent may vary street geometric design standards as provided under section 32.3.5 for public local, collector and minor loop streets, provided that:
 - 1. Approval of the proposed variation is obtained from the Virginia Department of Transportation where applicable;
 - 2. Off-street parking spaces are provided to compensate for the loss of on-street parking due to varying the geometric design standards; and

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3. The developer shall be responsible for placing “no parking” signs on all travel lanes, driveways or streets to prohibit parking on the streets. Where turnarounds are used, if the right-of-way radius is fifty (50) feet and the paved radius is forty (40) feet, the developer shall install “no parking” signs for the complete circle where those signs are required by the agent. If the right-of-way radius is increased to sixty (60) feet and the paved radius is increased to fifty (50) feet, parking on the turnaround may be permitted.
- c. *Turnarounds.* All turnarounds shall have a turning radius required by the standards of the Virginia Department of Transportation. In the case of any private street, the agent may require that at least one sign of a type approved by the county engineer be posted giving notice that the street is not a through street.
- d. *Coordination.* All streets within a development shall be coordinated as to location, width, grades and drainage with other streets, as follows: (i) by coordinating with existing or planned streets within the general area of the development, including but not limited to existing or future adjacent subdivisions or developments, or subdivisions or developments contiguous to adjacent subdivisions or developments; and (ii) by continuing the streets to planned, existing, or platted streets into adjoining areas by dedication or reservation of right of way adequate to accommodate continuation of the streets.
- e. *Extension.* All streets within a development shall be extended and constructed to the abutting property lines to provide vehicular and pedestrian interconnections to future development on adjoining lands, terminating within the development with a temporary turnaround. The arrangement of the streets shall provide adequate access to adjoining lands within the development where necessary to provide for the orderly development of the county including, but not limited to, reserving temporary construction easements of sufficient area to accommodate the future completion of the street when the adjoining lands are developed.
- f. *Interconnectivity of bicycle ways.* The agent may require that any bicycle way connect to existing bicycle ways on abutting parcels.

(§ 32.7.2.2, Ord. 12-18(6), 10-3-12, effective 1-1-13 (§ 32.7.2.4, 5-1-87) (§ 32.7.2.5, 5-1-87; § 32.5.7, 12-10-80) (§ 32.7.3.1, 5-1-87; § 32.5.6, 12-10-80) (§ 32.7.3.2, 5-1-87; § 32.5.9, 12-10-80))

State law reference – Va. Code §§ 15.2-2241(2), 15.2-2241(4), 15.2-2242(3).

32.7.2.3 SIDEWALKS AND OTHER PEDESTRIAN WAYS

Sidewalks and pedestrian ways within a development shall be provided as follows:

- a. *Sidewalks along streets.* The agent may require sidewalks on one or both sides of streets in residential developments having a proposed density of two (2) or more dwelling units per acre and in commercial, industrial and mixed-use developments whenever he determines that sidewalks are reasonably necessary to protect the public health, safety and welfare. All sidewalks along streets, including all ramps for persons with mobility impairments, shall be designed and constructed to the standards of the Virginia Department of Transportation.
- b. *Other sidewalks and pedestrian walkways.* The agent may require sidewalks and pedestrian walkways which will enable pedestrians to walk safely and conveniently between buildings on the site and from the site to adjacent property and, where appropriate, to onsite private areas of recreation and open space and offsite public areas of recreation and open space such as schools, parks, gardens and similar areas. All sidewalks and pedestrian walkways that may be required by this subsection shall be designed and constructed to the standards established in the design standards manual, provided that all ramps for persons with mobility impairments shall be designed and constructed to the standards of the Virginia Department of Transportation.
- c. *Interconnectivity of sidewalks or pedestrian ways.* The agent may require that any sidewalk or other pedestrian way connect to existing sidewalks or pedestrian ways on abutting parcels.

(§ 32.7.2.3, Ord. 12-18(6), 10-3-12, effective 1-1-13 (§ 32.7.2.8, 5-1-87; § 32.5.19, 12-10-80))

State law reference – Va. Code §§ 15.2-2201, 2241(4), 15.2-2242(3), 15.2-2280.

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32.7.3 PARKING

Onsite parking shall be subject to the following:

- a. *Design and construction.* Onsite parking and internal circulation shall be designed and constructed as provided in section 4.12.
- b. *Parking structures.* In addition to all other applicable requirements, each parking structure shall be subject to the following:
 - 1. Mechanical equipment or other utility hardware on the roof, ground, or building shall be screened from public view to the reasonable satisfaction of the agent with materials harmonious with the building or they shall be located so as not to be visible from public view.
 - 2. Air handlers shall be located so that emissions are directed away from any adjoining residential development.
 - 3. The structure shall be designed so that the light from all vehicle headlights and all lighting fixtures will not routinely shine directly outside the structure.

(§ 32.7.3.4, Ord. 12-18(6), 10-3-12, effective 1-1-13 (§ 32.7.2.7, 5-1-87) (§32.7.2A, Ord. 03-18(1), 2-5-03))

State law reference – Va. Code §§ 15.2- 2241(3), 15.2-2241(4), 15.2-2280.

32.7.4 WATER AND SOIL PROTECTION

32.7.4.1 STORMWATER MANAGEMENT; WATER POLLUTION; SOIL CHARACTERISTICS

Each site plan shall comply with the following:

- a. *Stormwater management.* Each site plan shall comply with all applicable requirements of chapter 17.
- b. *Water pollution.* In addition to the provisions of section 4.14 and other applicable laws, each site plan shall provide for minimizing the pollution of downstream watercourses and groundwater where on-site measures are deemed warranted by the county engineer. In determining whether and what measures, if any, are warranted, the county engineer shall consider the character of the proposed use including, but not limited to, whether petroleum products, pesticides, poisons, synthetic organic compounds or other substances would be stored or used on the site which, if improperly stored or inadvertently discharged, may reasonably be anticipated to pollute surface water or groundwater.
- c. *Soil characteristics.* In reviewing site plans, the site review committee shall refer to the U. S. Department of Natural Resource Conservation Service, Soil Survey of Albemarle County, Virginia, August, 1985 in commenting on soil suitability for the intended development and, in particular, Table 10 Building Site Development, Table 12 Construction Materials, and Table 16 Soil and Water Features. If soils are rated as “poor” or “severely limited” for a proposed use, or where high seasonal water table and/or hydrologic group D soils are encountered, the site review committee shall notify the agent of these conditions and provide recommendations for special design measures.

(§ 32.7.4.1, Ord. 12-18(6), 10-3-12, effective 1-1-13 (§ 32.7.4, 5-1-87; § 32.5.13, 12-10-80) (§ 32.7.4.1, 5-1-87; § 32.5.13, 12-10-80) (§ 32.7.4.2, 5-1-87) (§ 32.7.4.3; § 32.5.14, 12-10-80) (§ 32.7.4.4, 5-1-87); Ord. 15-18(5), 7-8-15)

State law reference – Va. Code §§ 10.1-2108, 15.2-2241(3), 15.2-2283, 62.1-44.15:24 *et seq.*

32.7.4.2 EASEMENTS FOR FACILITIES FOR STORMWATER MANAGEMENT AND DRAINAGE CONTROL

The agent shall require each developer to dedicate easements to the county for facilities for stormwater management and drainage control as follows:

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- a. *Easements required.* The following easements shall be required:
1. An easement for all stormwater management facilities and drainage control improvements located on the site shall be established whenever the improvement is designed, constructed, or both, beyond a street right-of-way or access easement, and shall extend from all drainage outfalls to an adequate channel as defined in 9VAC25-840-10 that satisfies the minimum standards in 9VAC25-840-40(19) to the boundary of the site.
 2. An easement along any natural stream or man-made waterway located on the site that will be used for drainage purposes.
- b. *Area of easement.* The area of each easement shall be sufficient, as determined by the county engineer, to: (i) accommodate the facilities and the drainage characteristics from each drainage outfall from a drainage control facility; and (ii) allow access to a natural stream or man-made waterway to allow widening, deepening, relocating, improving, or protecting the natural stream or man-made waterway for drainage purposes.
- c. *Right of ingress and egress.* Each easement shall include the right of ingress and egress for installation, maintenance, operation, repair and reconstruction of any improvement within the easement. The agent also may require that an easement be provided through abutting land under the same ownership as the site.
- d. *Compensation not required.* The board of supervisors shall not be required to compensate the developer for any easement or any improvements thereon.
- e. *Not considered part of street width.* No easement shall be considered part of any required street width.

(§ 32.7.4.2, Ord. 12-18(6), 10-3-12, effective 1-1-13; Ord. 15-18(5), 7-8-15)

State law reference – Va. Code § 15.2-2241(3).

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32.7.5 WATER, SEWER AND OTHER UTILITIES

32.7.5.1 WATER SUPPLY AND SEWAGE SYSTEM

The water supply and sewage system serving a development shall comply with the following:

- a. *Whether a public or private water supply and sewage system required.* Whether the developer shall install or construct a public or private water supply and sewage system shall be determined under section 4.1.
- b. *Public water supply and sewage system.* All public water and sewer facilities required to be constructed to serve the development shall be designed and constructed to the standards of the Albemarle County Service Authority. The water supply also shall satisfy the requirements of section 32.7.6(a) to provide fire protection. To ensure that public water and sewer service is available to abutting parcels that would rely on those systems, the agent may require the developer to construct the water and sewer facilities to the boundary lines of the development with abutting lands. Sewer facilities constructed to the boundary lines of the site shall be constructed at a depth and location that allows gravity sewers to provide service to the developable land draining towards the sewer.
- c. *Private water supply and sewage system.* All private water and sewer facilities shall be designed and constructed to the standards of the Virginia Department of Health and be approved by the Health Director. The water supply also shall satisfy the requirements of section 32.7.6(b) to provide fire protection.
- d. *Dedication of public water and sewer facilities.* The developer shall dedicate any public water and sewer facilities as provided in section 32.7.5.3.

(§ 32.7.5.1, Ord. 12-18(6), 10-3-12, effective 1-1-13 (§ 32.7.5, 5-1-87; § 32.5.15, 12-10-80) (§ 32.7.5.1, 12-10-80, 5-1-87, 1-3-96) (§ 32.7.5.3, 5-1-87))

State law reference – Va. Code § 15.2-2241(3), 15.2-2241(4).

32.7.5.2 LOCATION OF UTILITIES ABOVE AND BELOW GROUND

All utilities, including but not limited to wires, cables, pipes, conduits and appurtenant equipment for electricity, gas, water, sewer, telephone or similar service, shall be located within a site as follows:

- a. *Conforming to natural topography.* Each utility shall be located, to the extent practicable, in a manner that conforms to the natural topography, minimizes the disturbance of steep slopes and natural drainage areas, and allows vehicular and pedestrian interconnections within the site and existing or future development on adjoining lands.
- b. *Undergrounding.* All new utilities shall be located underground except the following, which may be located above ground: (i) electric transmission lines and facilities; (ii) equipment, including electric distribution transformers, switch gear, meter pedestals, telephone pedestals, outdoor lighting poles or standards, radio antennae and associated equipment, which is, under accepted utility practices, normally installed aboveground; (iii) meters, service connections, and similar equipment normally attached to the outside wall of a utility customer's premises; and (iv) satellite dishes.
- c. *Within public street right-of-way.* If it is necessary to locate a new or existing public utility within the right-of-way of a public street, the developer shall first obtain a permit from the Virginia Department of Transportation.
- d. *Allowing street trees and landscaping.* Installation of utilities in or adjacent to the right-of-way shall not preclude the installation of street trees or required landscaping.

(§ 32.7.5.2, Ord. 12-18(6), 10-3-12, effective 1-1-13; Ord. 14-18(2), 3-5-14)

State law reference – Va. Code § 15.2-2241(4).

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32.7.5.3 DEDICATION OF PUBLIC WATER AND SEWER FACILITIES

The agent shall require each developer to dedicate to the Albemarle County Service Authority for public use all water and sewer facilities required by this chapter that are designed, constructed and approved to be dedicated as public water supply and public sewage systems, and to establish an easement on the land appurtenant thereto and extending to any abutting property identified by the agent. The board of supervisors and the service authority shall not be required to compensate the developer for the dedicated facilities or the establishment of the easement.

(§ 32.7.5.3, Ord. 12-18(6), 10-3-12, effective 1-1-13)

State law reference – Va. Code § 15.2-2241(5).

32.7.5.4 EASEMENTS FOR CABLE TELEVISION AND PUBLIC SERVICE CORPORATIONS

The agent may require a developer to convey, where appropriate, common or shared easements to franchised cable television operators furnishing cable television and public service corporations furnishing cable television, gas, telephone and electric service to the site, as follows:

- a. The location of each easement shall be adequate for use by the franchised cable television operators and public service corporations which may be expected to occupy them.
- b. Each easement shall include the right of ingress and egress for installation, maintenance, operation, repair and reconstruction of any improvement within the easement. The agent also may require that an easement be provided through abutting land under the same ownership as the site.

(§ 32.7.5.3, Ord. 12-18(6), 10-3-12, effective 1-1-13)

State law reference – Va. Code § 15.2-2241(6).

32.7.6 FIRE PROTECTION

Fire protection shall be provided as follows:

- a. *Public water reasonably available.* Where public water is reasonably available as determined under section 4.1(a):
 - 1. *Verification of capability.* Prior to final site plan approval, the Albemarle County Service Authority and the division of fire rescue shall verify that adequate capability exists to provide adequate fire protection to serve the site, including required fire flows, together with all other developments to be served by the system.
 - 2. *Required improvements.* Fire hydrants and distribution systems shall be installed and constructed by the developer. Hydrant locations and fire flow requirements shall be as prescribed by Insurance Service Offices (ISO) standards and shall be subject to approval by the division of fire rescue, provided that if the standards of the Albemarle County Service Authority are greater than the ISO standards, then the standards of the Albemarle County Service Authority shall apply.
- b. *Public water not reasonably available.* Where public water is not reasonably available as determined under section 4.1(a), the division of fire rescue may require the improvements and alternative provisions it deems reasonably necessary to provide adequate fire protection to serve the site.

(§ 32.7.6, Ord. 12-18(6), 10-3-12, effective 1-1-13 (§ 32.7.6.1; § 32.5.18, 12-10-1980))

State law reference – Va. Code § 15.2-2241(3).

32.7.7 RECREATION

Recreational areas shall be provided as required by section 4.16.

(§ 32.7.7, Ord. 12-18(6), 10-3-12, effective 1-1-13 (§ 32.7.7.1, 5-1-87))

State law reference – Va. Code § 15.2-2241(3).

32.7.8 SIGNS AND OUTDOOR LIGHTING

Signs and outdoor lighting shall be provided as follows:

- a. *Signs.* All signs shall comply with the requirements of, and shall be subject to approval as provided in, section 4.15.
- b. *Outdoor lighting.* All outdoor lighting shall comply with the requirements of section 4.17.

(§ 32.7.8, Ord. 12-18(6), 10-3-12, effective 1-1-13 (§§ 32.7.8.1, 32.7.8.2, 5-1-87))

State law reference – Va. Code § 15.2-2241(3).

32.7.9 LANDSCAPING AND SCREENING

32.7.9.1 PURPOSES

The purposes for requiring landscaping and screening as part of a development are to:

- a. Ensure orderly development that is consistent with the policies and goals of the comprehensive plan related to natural resources and with the plan’s environmental and land use policies and goals, as implemented in this chapter;
- b. Promote the public health, safety and welfare;
- c. Conserve energy by providing shade and wind breaks;
- d. Provide pervious area which helps to reduce the quantity of stormwater and to recharge groundwater;
- e. Improve air quality;
- f. Minimize noise, dust and glare;
- g. Promote traffic safety by controlling views and defining circulation patterns;
- h. Protect and preserve the appearance, character and value of the site’s neighboring lands; and
- i. Protect the unique features of the site which could otherwise be irretrievably lost due to careless site design, but to implement these regulations so as not to prohibit development of the site.

(§ 32.7.9.1, Ord. 12-18(6), 10-3-12, effective 1-1-13 (§ 32.7.9, 12-10-80; § 32.8.1, 7-10-85) (§ 32.7.9.4 (last ¶), 5-1-87; § 32.8.2.4, 7-10-85))

State law reference – Va. Code §§ 15.2-2200, 15.2-2241(3), 15.2-2280, 15.2-2283, 15.2-2286(A)(6).

32.7.9.2 SUBMITTAL OF LANDSCAPE PLAN, TIMING

A landscape plan shall be submitted as follows:

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- a. *Prior to final site plan approval.* A landscape plan shall be submitted to the agent prior to final site plan approval, unless it is required to be submitted prior to initial site plan approval as provided in subsections (b) or (c).
- b. *Prior to initial site plan approval; impervious area exceeds 80% or site within entrance corridor overlay district.* A landscape plan shall be submitted to the agent prior to initial site plan approval if the impervious coverage of the site exceeds eighty (80%) of the gross area of the site or if the site is within an entrance corridor overlay district.
- c. *Prior to initial site plan approval; special site conditions.* A landscape plan shall be submitted to the agent prior to initial site plan approval if the agent determines that review of the plan at that time is warranted because of unusual circumstances, conditions of the site, or the character of the proposed use.

(§ 32.7.9.2, Ord. 12-18(6), 10-3-12, effective 1-1-13 (§ 32.7.9.1, 5-1-87))

State law reference – Va. Code §§ 15.2-2241(3), 15.2-2280, 15.2-2286(A)(6).

32.7.9.3 REVIEW AND ACTION ON LANDSCAPE PLAN BY AGENT

The agent shall review and act on a landscape plan as follows:

- a. *Review.* The agent shall review the landscape plan for compliance with the requirements of section 32.7.9, and shall make a good faith effort to identify all deficiencies, if any, during review of the plan. The agent shall consider the comments from other agencies before approving the plan, including the Virginia Department of Transportation and the Albemarle County Service Authority.
- b. *Revisions to address required changes.* The agent may require the developer to revise the landscape plan as provided in section 32.4.3.4.
- c. *Time for action.* The agent shall act on the landscape plan prior to final site plan approval.
- d. *Action.* If the agent determines that the landscape plan complies with all requirements of section 32.7.9, he shall approve the plan and promptly issue a letter to the developer stating so. If the agent determines that the plan does not comply with all requirements of section 32.7.9, he shall disapprove the plan and promptly inform the developer of the disapproval. A notice of disapproval shall state the reasons for disapproval by identifying the landscape plan's deficiencies and citing the applicable sections of section 32.7.9 and what corrections or modifications will permit approval of the plan. The agent shall notify the developer or his or her agent of the disapproval in writing by first class mail, personal delivery, or, if consented to by the developer in writing, by fax or email.
- e. *Authority of agent in approving a landscape plan.* In approving a landscape plan, the agent may require the following:
 - 1. *Agreement with surety.* The agent may require that installation of the landscaping be subject to an agreement with surety as provided in section 32.8.2.
 - 2. *Preservation of features.* The agent may require that any or all features shown on a landscape plan be preserved upon determining after a site inspection that the features contribute significantly to the character of the Albemarle County landscape and that the preservation of those features is necessary to satisfy the purpose and intent of this chapter.
- f. *Submittal of corrected or modified landscape plan.* Any developer who has received a notice of disapproval under subsection (d) may submit a corrected or modified landscape plan addressing the deficiencies identified in the notice of disapproval.

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- g. *Appeal.* The developer may appeal the disapproval of a landscape plan as part of its appeal of the disapproval of a final site plan as provided in section 32.4.3.7.

(§ 32.7.9.3, Ord. 12-18(6), 10-3-12, effective 1-1-13 (§ 32.7.9.2, 7-10-85 (§§ 32.8.2.5, 32.8.2.6, 32.8.2.7, 7-10-85); 5-1-87) (§ 32.7.9.4 (penultimate ¶), 12-10-80))

State law reference – Va. Code §§ 15.2-2241(3), 15.2-2280, 15.2-2286(A)(6).

32.7.9.4 CONTENTS OF A LANDSCAPE PLAN

Each landscape plan shall contain the following information:

- a. *Proposed plant materials.* The landscape plan shall show the location, size and type of all proposed plant materials. The types of plant materials may be identified by using generic terms such as “large shade tree,” “medium shade tree,” “screening tree,” “screening shrub,” or “street shrub.” The required plant materials shall be chosen from a recommended species list approved by the agent.
- b. *Existing trees; preservation in lieu of new plant materials.* Existing trees may be preserved in lieu of planting new plant materials in order to satisfy the landscaping and screening requirements of section 32.7.9, subject to the agent’s approval. In such a case:
1. *Areas and other features shown on landscape plan.* The landscape plan shall show the trees to be preserved, the limits of clearing, the location and type of protective fencing, grade changes requiring tree wells or walls, and trenching or tunneling proposed beyond the limits of clearing.
 2. *Conservation checklist.* The applicant shall sign a conservation checklist approved by the agent to ensure that the specified trees will be protected during construction. Except as otherwise expressly approved by the agent in a particular case, the checklist shall conform to the specifications in the Virginia Erosion and Sediment Control Handbook, pages III-393 through III-413, and as hereafter amended.
- c. *Existing landscape features.* The landscape plan shall show the existing landscape features on the site, which shall include:
1. *Wooded areas.* All wooded areas, identifying whether they are composed of evergreen, deciduous, or a mix of type, and showing the location of the tree line;
 2. *Small groups of trees and individual trees.* Small groups of trees and individual trees of six (6) inch caliper or greater, or ornamental trees of any size, identified by common name and approximate caliper and showing their location;
 3. *Natural features.* Natural features which distinguish the site, such as prominent ridge lines, rock outcroppings or water features;
 4. *Man-made features.* Man-made features of local, historic or scenic importance; and
 5. *Scenic vistas.* Scenic vistas across the site from a public street.
- d. *Verification of compliance.* The landscape plan shall verify that it satisfies the minimum landscaping and screening requirements of section 32.

(§ 32.7.9.4, Ord. 12-18(6), 10-3-12, effective 1-1-13 (§ 32.7.9.4, 12-10-80; 7-10-85 (§§ 32.8.2.2, 32.8.2.3, 32.8.2.4, 7-10-85); 5-1-87); Ord. 01-18(6), 10-3-01))

State law reference – Va. Code §§ 15.2-2241(3), 15.2-2280, 15.2-2286(A)(6).

32.7.9.5 LANDSCAPING ALONG STREETS

The minimum landscaping standards along streets are as follows:

- a. *When street trees required.* Street trees shall be required along existing or proposed streets in any development subject to section 32.
- b. *Street tree species.* Street trees shall be selected from a current list of recommended large shade trees approved by the agent, provided that medium shade trees may be planted instead when the agent determines that site conditions warrant smaller trees. All street trees to be planted shall meet the specifications of the American Association of Nurserymen.
- c. *Minimum caliper of street trees.* Large street trees shall be one and one-half (1 ½) inches to one and three-quarters (1 ¾) inches minimum caliper (measured six [6] inches above ground level) when planted. Medium street trees shall be one (1) inch to one and one-quarter (1 ¼) inches minimum caliper when planted.
- d. *Location and spacing of street trees.* Street trees shall be planted with even spacing in a row within the public street right-of-way or adjacent to the public street right-of-way if not permitted therein by the Virginia Department of Transportation, and within the private street right-of-way. One (1) large street tree shall be required for every fifty (50) feet of street frontage, or portion thereof, if twenty-five (25) feet or more. Where permitted, one (1) medium shade tree shall be required for every forty (40) feet of road frontage, or portion thereof, if twenty (20) feet or more. If required street trees cannot be planted within the parking setback or within ten (10) feet of the street right-of-way due to sight distance, utility easements or other conflicting requirements, then the planting strip shall be enlarged to accommodate the trees. If this requirement creates a hardship by causing the relocation of required parking spaces, then the additional planting area may be counted toward the interior landscaping requirement.
- e. *Shrubs along public streets.* When a parking area is located so that the parked cars will be visible from an off-site street, the agent may require additional planting of low street shrubs between the street and the parking area, subject to the following:
 - 1. *Minimum size of shrubs.* Shrubs shall be a minimum of twelve (12) inches in height when planted.
 - 2. *Spacing of shrubs.* Shrubs shall be in a single row planted five (5) feet on center.
 - 3. *Alternatives.* The agent may authorize different landscaping designed to minimize the visual impact of the parking area.

(§ 32.7.9.5, Ord. 12-18(6), 10-3-12, effective 1-1-13 (§ 32.7.9.5, 12-10-80; 7-10-85 (§§ 32.8.3.1, 32.8.3.2, 7-10-85); 6-20-90) (§ 32.7.9.6, 7-10-85 (§§ 32.8.4.1, 32.8.4.2, 32.8.4.3, 32.8.4.4, 7-10-85); 5-1-87) (§ 32.7.9.7, 7-10-85 (§§ 32.8.5.1, 32.8.5.1.a, 32.8.5.1.b, 32.8.5.1.c, 7-10-85); 5-1-87))

State law reference – Va. Code §§ 15.2-2241(3), 15.2-2280, 15.2-2286(A)(6).

32.7.9.6 LANDSCAPING WITHIN A PARKING AREA

The minimum landscaping standards for each parking area having five (5) or more parking spaces are as follows:

- a. *Minimum area.* An area of at least five (5) percent of the paved parking and vehicular circulation area shall be landscaped with trees or shrubs. Neither the areas of street trees and shrubs required by sections 32.7.9.5(d) and (e) nor shrubs planted between a parking area and a building on the site shall be counted toward the minimum area landscaped area for a parking area.
- b. *Types of plant materials.* The plant materials may be a mixture of shade trees and shrubs and shall include one (1) large or medium shade tree per ten (10) parking spaces or portion thereof, if five (5) spaces or

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more. The shade trees shall be selected from a current list of recommended large shade trees approved by the agent or other species approved by the agent and the agent may allow trees smaller than medium shade trees to be planted when site conditions warrant smaller trees. All shade trees to be planted shall meet the specifications of the American Association of Nurserymen.

- c. *Minimum caliper of street trees.* Large street trees shall be one and one-half (1 ½) inches to one and three-quarters (1 ¾) inches minimum caliper (measured six [6] inches above ground level) when planted. Medium street trees shall be one (1) inch to one and one-quarter (1 ¼) inches minimum caliper when planted.
- d. *Spacing.* The plant materials shall be located in reasonably dispersed planting islands within the parking area or abutting areas.

(§ 32.7.9.6, Ord. 12-18(6), 10-3-12, effective 1-1-13 (§ 32.7.9.7, 7-10-85 (§§ 32.8.5.1, 32.8.5.1.a, 32.8.5.1.b, 32.8.5.1.c, 7-10-85); 5-1-87))

State law reference – Va. Code §§ 15.2-2241(3), 15.2-2280, 15.2-2286(A)(6).

32.7.9.7 SCREENING

The minimum landscaping standards for required screening are as follows:

- a. *When required.* Screening shall be required in the following circumstances:
 - 1. *Commercial and industrial uses.* Commercial and industrial uses shall be screened from the adjacent rural areas zoning district. Commercial and industrial uses shall be screened from residential uses when deemed necessary by the agent upon considering the proximity of the commercial or industrial use to the residential use, the nature of the commercial or industrial use, whether the uses are in single-use or mixed use developments, and other considerations he determines to be relevant under sound zoning principles.
 - 2. *Parking areas.* Parking areas consisting of four (4) spaces or more shall be screened from adjacent residential and rural areas districts.
 - 3. *Features that may have negative visual impacts.* Features that may have negative visual impacts including, but not limited to, the following shall be screened from adjacent residential and rural areas districts and public streets: (i) loading areas; (ii) refuse areas; (iii) storage yards; (iv) detention ponds; and (v) recreational facilities determined to be of objectionable character by the agent, other than children's play areas where visibility is necessary or passive recreation areas where visibility is desirable.
 - 4. *Double frontage residential lots.* Double frontage residential lots shall be screened between the rear of the residences and the public right-of-way when deemed necessary by the agent.
 - 5. *Uses that may have negative visual impacts on historic properties.* The agent may require screening of any use, or portion thereof, upon determining that the use would otherwise have a negative visual impact on a property listed on the Virginia Historic Landmarks Register.
- b. *Types of screening permitted.* Screening shall consist of a planting strip, existing vegetation, a slightly opaque wall or fence, or a combination thereof, to the reasonable satisfaction of the agent.
- c. *Minimum sizes of plant materials.* Evergreen trees shall be a minimum four (4) feet in height when planted. Shrubs shall be a minimum eighteen (18) inches in height when planted. All trees to be planted shall meet the specifications of the American Association of Nurserymen.

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- d. *Minimum depth and spacing requirements for a planting strip or existing vegetation.* If only a planting strip or existing vegetation is provided as screening, the planting strip or the existing vegetation shall not be less than twenty (20) feet in depth. If a planting strip is provided, the plant materials shall consist of a double staggered row of evergreen trees planted fifteen (15) feet on center, or a double staggered row of evergreen shrubs planted ten (10) feet on center, or an alternative vegetative screening approved by the agent.
- e. *Minimum height of fence or wall; supplemental plant materials.* Each fence or wall provided as screening shall be a minimum of six (6) feet in height and the agent may require plantings at intervals along the fence or wall.

(§ 32.7.9.7, Ord. 12-18(6), 10-3-12, effective 1-1-13 (§ 32.7.9.5, 12-10-80; 7-10-85 (§§ 32.8.3.1, 32.8.3.2, 7-10-85); 6-20-90) (§ 32.7.9.7, 7-10-85 (§§ 32.8.5.1, 32.8.5.1.a, 32.8.5.1.b, 32.8.5.1.c, 7-10-85); 5-1-87) (§ 32.7.9.8, 7-10-85 (§§ 32.8.6.1, 32.8.6.2, 32.8.6.3.a, 32.8.6.3.b, 32.8.6.3.c.5, 32.8.6.3.d, 32.8.6.3.f, 7-10-85); 5-1-87))

State law reference – Va. Code §§ 15.2-2241(3), 15.2-2280, 15.2-2286(A)(6).

32.7.9.8 TREE CANOPY

The tree canopy required to be established and maintained is subject to the following:

- a. *Minimum tree canopy.* Each site shall have a tree canopy covering the minimum percentage of the site as follows:
 - 1. *Commercial or industrial uses.* If the site is to be developed for commercial or industrial uses, the minimum tree canopy is ten (10) percent.
 - 2. *Residential uses, density of 20 dwelling units per acre or more.* If the site is to be developed for residential uses at a gross density of twenty (20) dwelling units per acre or more, the minimum tree canopy is ten (10) percent.
 - 3. *Residential uses, density of between 10 and 20 dwelling units per acre.* If the site is to be developed for residential uses at a gross density of more than ten (10) but less than twenty (20) dwelling units per acre or more, the minimum tree canopy is fifteen (15) percent.
 - 4. *Residential uses, density of 10 dwelling units per acre or less.* If the site is to be developed for residential uses at a gross density of ten (10) dwelling units per acre or less, the minimum tree canopy is twenty (20) percent.
- b. *Composition of tree canopy.* The tree canopy required by subsection (a) shall be composed of all areas of the site that would be covered by trees and other plant materials exceeding five (5) feet in height at a maturity of ten (10) years after planting. The trees and plant materials composing the tree canopy are those required to be planted under sections 32.7.9.5, 32.7.9.6 and 32.7.9.7, the existing trees preserved under section 32.7.9.4(b), and all additional trees selected from a recommended species list approved by the agent that are planted in order to satisfy the minimum tree canopy coverage required by subsection (a).
- c. *Calculating the area of the site.* For the purposes of calculating the area of the site to determine the minimum tree canopy coverage under subsection (a), the area of the site shall be its gross acreage less, at the option of the developer, one or more of the following on the site:
 - 1. Farm land or other areas devoid of wooded areas on June 20, 1990.
 - 2. Recreation areas required under section 4.16.
 - 3. Open space areas required under section 4.7.
 - 4. Land dedicated to public use.

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5. Playing fields and recreation areas provided at schools, day care centers, and other similar uses.
 6. Ponds or lakes determined by the agent to be a desirable open space amenity.
 7. Areas required to preserve wetlands, flood plain or other areas required to be maintained in a natural state by this chapter or other applicable law.
 8. Other areas approved by the agent under section 32.3.5.
- d. *Deductions cumulative.* The deductions allowed by subsection (c) are cumulative but shall not be duplicative.
- e. *Canopy bonus.* Where existing trees are maintained, the agent shall grant a canopy bonus as follows:
1. The area of canopy coverage shall be calculated at a maturity of twenty (20) years after planting; and
 2. The area calculated in subsection (e)(1) shall be multiplied by a factor of 1.25.

(§ 32.7.9.8, Ord. 12-18(6), 10-3-12, effective 1-1-13 (§ 32.7.9.5, 12-10-80; 7-10-85 (§§ 32.8.3.1, 32.8.3.2, 7-10-85); 6-20-90) (§ 32.7.9.9, 6-20-90))

State law reference – Va. Code §§ 15.2-2241(3), 15.2-2280, 15.2-2286(A)(6).

32.7.9.9 INSTALLATION AND MAINTENANCE OF REQUIRED LANDSCAPING AND SCREENING

All landscaping and screening required by section 32.7.9 shall be installed and maintained as follows:

- a. *Timing of installation.* All landscaping shall be installed by the first planting season following the issuance of the first certificate of occupancy within the development, or a phase thereof.
- b. *Method of installation.* All trees shall be planted in accordance with either the standardized landscape specifications jointly adopted by the Virginia Nurserymen’s Association, the Virginia Society of Landscape Designers and the Virginia Chapter of the American Society of Landscape Architects, or the road and bridge specifications of the Virginia Department of Transportation. Planting islands shall contain a minimum of fifty (50) square feet per tree, with a minimum dimension of five (5) feet in order to protect the landscaping and allow for proper growth. Wheel stops, curbing or other barriers shall be provided to prevent damage to landscaping by vehicles. Where necessary, trees shall be welled or otherwise protected against change of grade. All pervious areas of the site shall be permanently protected from soil erosion with grass or other ground cover or mulch material.
- c. *Maintaining and replacing landscaping and screening.* All landscaping and screening shall be maintained in a healthy condition by the current owner or a property owners’ association, and replaced when necessary. Replacement material shall comply with the approved landscape plan.
- d. *Maintaining trees if site not under single ownership.* In the case of development with units for sale, the trees shall be maintained by a property owner’s association. Prior to final site plan approval, the developer shall submit to the agent an instrument assuring the perpetual maintenance of the trees. The instrument shall be subject to review and approval by the county attorney and shall be in a form and style so that it may be recorded in the office of the clerk of the circuit court of the county. The agent may require that the instrument be on a form prepared by the county attorney.
- e. *Maintaining street trees planted within a public street right-of-way.* If street trees are planted within the public street right-of-way, the trees shall be maintained in accordance with the requirements of the Virginia Department of Transportation.

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(§ 32.7.9.9, Ord. 12-18(6), 10-3-12, effective 1-1-13 (§ 32.7.9.2, 7-10-85 (§§ 32.8.2.5, 32.8.2.6, 32.8.2.7, 7-10-85); 5-1-87) (§ 32.7.9.5, 12-10-80; 7-10-85 (§§ 32.8.3.1, 32.8.3.2, 7-10-85); 6-20-90) (§ 32.7.9.6, 7-10-85 (§§ 32.8.4.1, 32.8.4.2, 32.8.4.3, 32.8.4.4, 7-10-85); 5-1-87))

State law reference – Va. Code §§ 15.2-2241(3), 15.2-2280, 15.2-2286(A)(6).

32.8 COMPLETION OF ON-SITE IMPROVEMENTS AND SURETY

32.8.1 COMPLETION OF ON-SITE IMPROVEMENTS REQUIRED PRIOR TO ISSUANCE OF A CERTIFICATE OF OCCUPANCY

Except as provided in section 32.8.2, all on-site improvements required by section 32.7 shall be completed prior to issuance of a certificate of occupancy. Prior to issuance of the certificate of occupancy:

- a. *Certification regarding all completed improvements.* The developer shall submit to the agent a certificate of completion of all of the improvements prepared by a professional engineer or a land surveyor, to the limits of his license; and
- b. *Certification of payment.* The developer shall certify to the agent that all of the construction costs for the improvements, including those for materials and labor, have been paid to the person constructing the improvements.

(§ 32.8.1, Ord. 12-18(6), 10-3-12, effective 1-1-13; Ord. 13-18(7), 12-4-13, effective 1-1-14)

State law reference – Va. Code §§ 15.2-2241(5), 15.2-2241(9), 15.2-2255.

32.8.2 AGREEMENT AND SURETY

Any developer who does not complete all required improvements as provided in section 32.8.1 shall, prior to approval of a final site plan, enter into an agreement with the county to complete the construction and installation of all improvements required by section 32.7 within a period of time agreed to by the parties, and shall provide a surety to guarantee the completion of the improvements, as follows:

- a. *Form of the agreement.* The agreement accompanying the surety shall be on a form prepared by the county attorney and any proposed amendment to the agreement shall be subject to review and approval by the county attorney.
- b. *Type of surety permitted and amount.* The developer shall furnish to the agent a certified check, official check, bond with surety, letter of credit, or collaterally assign funds in a manner satisfactory to the county attorney (collectively, the “surety instrument”), in an amount sufficient for and conditioned upon the completion of the construction and installation of the improvements, as determined under subsection (b). Any proposed surety instrument shall be subject to being acceptable to the county engineer, shall be in a form and have the substance approved by the county attorney, and shall be subject to review and approval by the county attorney.
- c. *Estimate.* The developer shall submit a request for an estimate of the surety amount to the county engineer. The county engineer shall prepare a cost estimate of all improvements, based upon unit prices for new public or private sector construction in the county, and a reasonable allowance for estimated administrative costs, including inspection fees required by section 35.1, inflation, and potential damage to existing streets or utilities, which shall not exceed ten (10) percent of the estimated construction costs.
- d. *Use of surety.* The county may make use of monies guaranteed by the surety instrument if either: (i) the developer fails to timely renew the bond with surety, letter of credit, or the collaterally assigned funds; or (ii) the county engineer, in his discretion, determines that any of the improvements have not been completed in a timely manner and the completion of the improvements is deemed necessary to protect the public health, safety or general welfare. The county’s use of the monies guaranteed by the surety instrument shall not terminate the agreement accompanying the surety instrument.

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(§ 32.8.2, Ord. 12-18(6), 10-3-12, effective 1-1-13 (§ 32.3.7, 5-1-87; § 32.5.2, 12-10-80))

State law reference – Va. Code §§ 15.2-2241(5), 15.2-2241(9), 15.2-2255.

32.8.3 RELEASE OF SURETY

Any surety provided under section 32.8.2 shall be released as follows:

- a. *Partial releases, generally.* Upon written request by the developer, the agent shall make periodic partial releases of the surety as provided in Virginia Code § 15.2-2245.
- b. *Request for partial or final release; response.* Within thirty (30) days after receipt of a written notice by the developer of completion of part or all of any improvements required to be constructed by this chapter, the agent shall respond in writing to the developer in one of the following ways: (i) grant the partial or final release, if the applicable state agency, county department, or any applicable authority or other entity has accepted the improvements; or (ii) inform the developer that the improvement has not been accepted by the applicable state agency, county department, authority or other entity and/or identify any specified defects or deficiencies in construction and suggested corrective measures.
- c. *Failure to respond to request.* If the agent fails to take action within the thirty (30) day period provided in subsection (b), the request of the developer shall be deemed approved and a partial release shall be granted to the developer. No final release shall be granted until after expiration of the thirty (30) day period and there is an additional request in writing sent by certified mail by the developer to the county executive. The agent shall act within ten (10) working days after receipt of the request by the county executive. If he fails to timely act, the request shall be deemed approved and final release shall be granted to the developer.
- d. *Final release.* Upon final completion and acceptance or approval of the improvements and upon receipt from the developer of a certification of final completion from a professional engineer, land surveyor, or the county engineer, the agent shall release any remaining surety to the developer. A public improvement shall be deemed to be accepted when it is accepted by and taken over for operation and maintenance by the county, an authority, or a state agency or department responsible for maintaining and operating the improvement. A private improvement shall be deemed to be approved when the agent determines that the improvements are completed.

(§ 32.8.4, Ord. 12-18(6), 10-3-12, effective 1-1-13)

State law reference – Va. Code §§ 15.2-2241(9), 15.2-2245, 15.2-2255.

32.8.4 EFFECT OF ACCEPTANCE OR APPROVAL OF IMPROVEMENTS

Nothing in this chapter, including the approval of a final site plan, shall obligate the county, any authority, any state agency or department, or any other public body to accept and take over for operation and maintenance any improvements completed by a developer required by this chapter. Acceptance or approval of an improvement shall be made only if the improvement satisfies all applicable statutes, regulations, ordinances, guidelines and design and construction standards for acceptance or approval of the improvement, upon completion of inspections as provided in section 32.8.5.

(§ 32.8.5, Ord. 12-18(6), 10-3-12, effective 1-1-13 (§ 32.3.6, 5-1-87; § 32.5.23, 12-10-80))

State law reference – Va. Code § 15.2-2255.

32.8.5 INSPECTIONS; RIGHT OF ENTRY

Improvements required by section 32.7 shall be inspected as follows:

- a. *Application deemed consent.* The submittal of an initial site plan by a developer shall constitute consent given by the developer to all officers and employees of the county, the Albemarle County Service Authority, the Virginia Department of Transportation, the Virginia Department of Health, and any other

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authority, and any state department or agency, responsible for permitting, approving and/or accepting any improvement required by section 32.7, to enter upon the site at all reasonable times for the purpose of making periodic inspections related to the review of the initial or final site plan for compliance with this chapter and to the completion of all improvements required by section 32.7. The deemed consent shall expire when all improvements required by section 32.7 are completed, permitted, approved, or accepted as the case may be, and all surety is finally released as provided in section 32.8.3(d).

- b. *Notice prior to request for inspection.* Each developer shall notify the zoning administrator when each stage of the development is ready for inspection.
- c. *Scope of inspections.* Any inspection of improvements required by section 32.7 shall be conducted solely to determine compliance with the requirements and specifications provided by law and the approved design plan.

(§ 32.8.6, Ord. 12-18(6), 10-3-12, effective 1-1-13 (§ 32.3.4, 5-1-87; § 32.6.4, 12-10-80))

State law reference – Va. Code § 15.2-2255.

32.8.6 IMPROVEMENTS COMPLETED AT EXPENSE OF DEVELOPER; EXCEPTION

All improvements required by section 32.7 shall be completed at the expense of the developer, except where the developer and the county, or any authority, state agency or department, or any other public body, enter into a cost-sharing or reimbursement agreement prior to final site plan approval.

(§ 32.8.7, Ord. 12-18(6), 10-3-12, effective 1-1-13 (§ 32.3.5, 5-1-87; § 32.5.1, 12-10-80))

State law reference – Va. Code § 15.2-2255.

32.8.6 DAM BREAK INUNDATION ZONES; PREREQUISITE TO DEVELOPMENT

Following the completion of the engineering studies in accordance with Virginia Code § 15.2-2243.1(A) and the determination by the Virginia Department of Conservation and Recreation that the developer’s plan of development would change the spillway design flood standards of the impounding structure, before any development within a dam break inundation zone:

- a. *Payment for portion of necessary upgrades.* The developer shall pay fifty (50) percent of the contract-ready costs for necessary upgrades to an impounding structure attributable to the development, together with an administrative fee not to exceed one (1) percent of the total amount of payment required or one thousand dollars (\$1,000.00), whichever is less. Any payments shall be made to the Dam Safety, Flood Prevention and Protection Assistance Fund held by the Virginia Resources Authority pursuant to Virginia Code § 10.1-603.19:1. “Necessary upgrades” do not include costs associated with routine operation, maintenance, and repair, nor do they include repairs or upgrades to the impounding structure not made necessary by the proposed development; or
- b. *Redesign the development.* The developer shall amend the site plan so that it does not alter the spillway design flood standards required of the impounding structure.

(Ord. 13-18(7), 12-4-13, effective 1-1-14)

State law reference--Va. Code §§ 10.1-606.3, 15.2-2243.1.