

Section 4-1600

MDOD - Mountainside Development Overlay District

4-1601

Purpose and Intent. These provisions are created to regulate land use and development on the mountainsides of the County, in such a manner as to provide for low density residential development in remote areas and to: (1) assure mountainside development will not result in substantial damage to significant natural resource areas, wildlife habitats or native vegetation areas; (2) assure that mountainside development is compatible with the slope of the land; (3) assure proper design is utilized in grading and in the development of structures, roadways and drainage improvements; (4) assure mountainside conditions are properly identified and incorporated into the planning process for subdivision and site development; (5) prevent erosion and minimize clearing and grading; (6) ensure that all development is compatible with the existing topography and soils conditions; and (7) implement the intent of the Comprehensive Plan.

4-1602

Mountainside Development Overlay District Established.

- A The Mountainside Development Overlay District is hereby established as an overlay district, meaning that this district is overlaid upon other districts and the land so encumbered may be used in a manner permitted in the underlying district only if and to the extent such use is also permitted in the overlay district.
- B Mountainsides will be defined by the presence of certain natural features such as elevation, forests, steep slopes, unstable soils, and groundwater recharge areas that are commonly associated with these areas.
- C The limits of this district shall be shown on the Loudoun County Mountainside Protection Area Map, which is adopted as a part of this Ordinance. The Zoning Administrator is charged with making necessary cartographic interpretations of that map with recommendation and referral from the County Soil Scientist.
- D The following categories of mountainside area are established within the Mountainside Development Overlay District as shown on the Mountainside Protection Area Map:
 - 1) **Somewhat Sensitive Areas.** Areas with potentially slight or limited environmental and/or public safety impacts from development.
 - 2) **Sensitive Areas.** Areas with moderate environmental and/or public safety impacts from development.
 - 3) **Highly Sensitive Areas.** Areas with potentially severe environmental and/or public safety impacts from development.

4-1603

Uses in the Mountainside Development Overlay District.

- A) **Permitted Uses.** All uses and structures permitted by right in the underlying zoning district are permitted subject to the performance standards listed in Section 4-1604, except that permitted uses involving

land disturbing activity in highly sensitive areas shall meet the criteria of Section 4-1605 and shall require special exception approval granted in accordance Section 6-1300 of this ordinance prior to issuance of a zoning permit.

- B) **Special Exception Uses.** All uses and structures permitted by special exception in the underlying zoning district may be permitted subject to the performance standards listed in Section 4-1604, except that special exception uses involving land disturbing activity in highly sensitive areas shall meet the criteria set forth in Section 4-1605 and shall require special exception approval granted in accordance with Section 6-1300 of this ordinance prior to issuance of a zoning permit.
- C) **Exemptions.** Agricultural, horticultural, forestry, or silvicultural uses are exempt from the application of the performance standards in Sections 4-1604 and 4-1605 except that, (1) agricultural operations shall be conducted only in conformance with a Farm Management Plan approved by the Loudoun County Soil and Water Conservation District, and 2) timber harvesting shall be conducted only in conformance with a plan approved by the Virginia Division of Forestry. Furthermore, any addition to a single family detached dwelling which existed within a highly sensitive area prior to October 4, 1995 shall be permitted by right, subject to the criteria in Sections 4-1604 and 4-1605, and provided that such addition does not increase the total floor area of the dwelling, as existed on October 4, 1995, by more than fifty percent (50%).
- D) The uses described in and subject to Article I Section 1-404 B 2) are exempted from the special exception requirements, subject to obtaining an approved "Location Clearance Permit" from the Zoning Administrator or his/her designee, accompanied by as much information as the Zoning Administrator deems pertinent and such additional information as the Zoning Administrator may require to approve such "Location Clearance Permit."

4-1604

Performance Standards in Somewhat Sensitive and Sensitive Areas. All uses and structures permitted by right or special exception in Somewhat Sensitive and Sensitive Areas of the Mountainside Development Overlay District, shall comply with the following standards:

- A) In somewhat sensitive areas, land disturbing activities exclusive of house, driveway, drainfield and wells shall be permitted subject to the following:
- 1) Selective clearing, to the extent necessary to locate the use, of up to fifty percent (50%) of forestal areas on existing slopes less than fifteen percent (15%).
 - 2) Selective clearing, to the extent necessary to locate the use, of up to 25 percent of forestal areas on existing slopes of fifteen (15) to 25 percent.

- (3) No clearing of existing slopes greater than 25 percent except the minimum necessary to locate the use.
 - 4 The limits of land disturbing activities shall be reduced by fifty percent (50%) in the following soil conditions associated with major groundwater recharge areas: soil mapping units 27, 48, 50, 52, 54, 55 and 89.
- B On lots in sensitive areas containing ten (10) acres or less, no more than one (1) acre of land disturbing activity shall be permitted, exclusive of house, driveway, drainfield and well. On lots containing more than ten (10) acres, land disturbing activities shall not exceed ten percent (10%) of the lot exclusive of house, driveway, drainfield and well. In addition to the above area constraints, in areas where the existing slope is over fifteen percent (15%), land disturbing activity limits shall be reduced by fifty percent (50%) and shall be permitted only after the applicant has demonstrated that no suitable alternative locations exist on areas with existing slopes less than fifteen percent (15%). In all such cases, a grading plan shall be submitted to demonstrate methods of minimizing the extent of erosion.
- C No land disturbing activity shall be permitted on soil mapping units 59 or 88 except for access roads and drives when no alternatives exist.
- D Prior to any land disturbing activity on existing slopes of 25 percent or more, or in soil mapping units 27, 59, 88 or 89, the applicant shall provide a Type I Preliminary Soils Review concurrent with zoning permit application. The review shall follow the procedures found in The Loudoun County Facilities Standards Manual.
- E) No land disturbing activities shall be permitted within 100 feet of springs.
- F Prior to any land disturbing activity, the applicant shall provide a sketch plan which shows how the disturbed area will be restored; including existing and proposed slope contour and ground cover.

4-1605

Performance Standards in Highly Sensitive Areas. Land disturbing activity in Highly Sensitive Areas of the Mountainside Development Overlay District shall comply with the following criteria in addition to the standards set forth in Section 4-1604. Where there is a conflict between these sections, the more restrictive standard shall apply.

- A Roads, drives, and dwellings shall not be placed on existing slopes greater than 25% or placed in Soil Mapping Unit 59 without a geotechnical study approved by the Department of Building and Development.
- B The centerline grade of private roads and drives shall not exceed 16%. Under drainage and culvert design shall conform to the requirements of the Loudoun County Facilities Standards Manual.

- C Land disturbing activities, exclusive of utility easements, such as clearing and grading shall be minimized, but shall be allowed as necessary for building sites and related improvements, not to exceed one 1 acre, exclusive of house, driveway, drainfield and well, and existing cleared areas and shall require a grading permit. Special exception conditions limiting clearing may include, but are not limited to:
 - 1) Selective clearing up to a maximum 50% of existing forest areas on existing 0-15% slopes.
 - 2) Selective clearing up to a maximum 25% of existing forest areas on existing 15-25% slopes; and
 - 3) Minimal clearing for roads and drives on existing slopes of greater than 25%.
- D Standards and criteria set out in Sections 4-1605(A), B), and (C) may be modified by Special Exception procedures set forth in Section 6-1300 provided that the application satisfies the public purpose of those standards and criteria to an equivalent degree.
- E Where a site is to be served by groundwater, a proven supply approved by the County Health Department shall be provided as follows:
 - 1) **Existing lots.** Prior to issuance of a zoning permit.
 - 2) **Lots created after the effective date of this Ordinance.** Prior to approval of a record plat.
- F Such other standards which are relevant, including Section 6-1310 Issues for Consideration and Section 1-102, Purposes of Zoning.

4-1606 Procedures.

- A) **Permitted Uses.** Application for approval of a location clearance permit shall be made to the Department of Environmental Resources prior to or concurrent with the initial submission for approval of a zoning permit, subdivision, or site plan application.
 - 1) **Single Family Dwellings on Existing Lots.** Application for approval of a location clearance permit shall be made concurrent with the initial submission for approval of a Zoning Permit. No Zoning Permit shall be issued unless the location clearance permit has been approved.
 - 2) **Additions to Existing Single Family Dwellings.** Application for approval of additions to single family dwellings, existing as of October 4, 1995 within highly sensitive areas, shall apply for approval of a location clearance permit concurrent with the initial submission for approval of a Zoning Permit. No Zoning Permit shall be issued unless a locational clearance, confirming

compliance with the standards in Section 4-1604 and 4-1605, has been approved.

3) **Preliminary Subdivision Plans and Preliminary Site Plans.** An application for preliminary subdivision or preliminary site plan within the MDOD shall clearly identify the portion of the site within the MDOD and the location of springs, steep slopes, moderately steep slopes, somewhat sensitive, sensitive and highly sensitive areas, soil mapping units 27, 59, & 88, forest cover, along with the existing and proposed building sites, roads, driveways, drainfields, wells, and limits of clearing and grading. A note should be placed on that plan that also identifies the acreage of land proposed to be disturbed by clearing and grading on each proposed lot. The preliminary subdivision or site plan shall be approved only if the County determines that the preliminary plan is in compliance with the performance standards listed in Section 4-1604 of this ordinance.

B) **Special Exceptions.** Application for special exceptions shall be submitted prior to or concurrently with the initial submission for approval of a subdivision or site plan proposing land disturbing activity in a Highly Sensitive Area. If the proposed use or structure does not require the subdivision of land or the approval of a site plan, but involves land disturbing activity in a Highly Sensitive Area, a special exception must be applied for separately. Applicable permits shall not be issued until approval of a special exception application. Special exception applications shall be made and processed in accordance with the provisions of Section 6-1300 of this ordinance.

In addition to the requirements for a special exception application established in Section 6-1300 of this ordinance, the following information must be submitted:

- 1 Existing conditions map, prepared at a scale of 1 inch = 200 feet and including planimetric detail with 5 foot contour intervals. This map shall include the location of existing wells, drainfields, and springs within 100 feet of the property boundary to the extent available from existing records.
- 2 Concept plan of proposed development including proposed roads, lot lines, buildings, wells, drainfield location, and limits of clearing, grading or other land disturbing activity.
- 3) Soil map approved by the Department of Environmental Resources.
- 4) Removed pursuant to ZOAM 1993-0002.