

## **Division 5 | Required Installation of Public Improvements**

### **Sec. 5.01 General**

- (a) Required specifications for design and construction of public improvements shall be included in the Leesburg Design and Construction Standards Manual, latest edition and shall be available for reference in the office of the Director of Plan Review.
- (b) Installation of public improvements required by this Division shall be carried out under Town inspection. The applicant shall submit necessary construction details, shop drawings, and cut and fill construction sheets for approval to the Director of Public Works and secure all required permits in advance of construction. Inspection costs shall be paid by the applicant as provided in Section 1.04 of these Subdivision and Land Development Regulations. The installation of public improvements may not proceed until the Director of Public Works has been notified of the applicant's intention to proceed. The applicant, however, shall notify the Director of Public Works at least 24 hours in advance of carrying out the required public improvement. Failure of the applicant to do so may be interpreted by the Town as a lack of readiness on the part of the applicant. The applicant shall notify the Director of Public Works of the time and date he will be available for inspection, and failure to keep such an appointment or failure to have work for which inspection was requested completed, shall make the applicant liable for a re-inspection fee. The applicant shall be notified in writing by the Director of Public Works or his agent no later than 72 hours after each inspection of the results of that inspection; however, such notice does not constitute final approval for acceptance of public improvements.

### **Sec. 5.02 Floodplain Utility Installations – General Policies**

- (a) All utilities such as gas lines, electrical, telephone, and cable TV systems being placed in flood-prone areas should be installed to minimize the chance of impairment of both facilities and the flood zone during a flooding occurrence.
- (b) All water and sewer facilities (public and private) are to be designed and constructed to prevent infiltration of floodwaters and exfiltration of potable water and sewage.
- (c) All storm drainage facilities shall be designed to convey the flow of surface waters without damage to person or property. The system shall provide drainage away from buildings and on-site waste disposal sites. The Town may require a primarily underground system to accommodate frequent floods and a secondary surface system to accommodate larger, less frequent floods. The facilities shall be designed to prevent the discharge of excess runoff onto adjacent properties.
- (d) Streets and sidewalks should be designed to minimize their potential for increasing and aggravating the levels of flood flow. Drainage structures shall be required to sufficiently discharge flood flows without unduly increasing flood heights.

**Sec. 5.03 Streets, Street Curb and Gutter**

- (a) Streets shall be built for the full width as prescribed by the required specifications, including the standards of the Leesburg Design and Construction Standards Manual, latest edition. Curb and gutter is required along all public streets. Street name signs shall be provided at all street intersections. When a subdivision abuts one side of any public street the applicant shall be required to construct street improvements, storm drainage facilities, pavement, curb and gutter, and sidewalk on the applicant's portion of existing streets.
- (b) Streets and street curb and gutter shall be completed in accordance with the plans and profiles prepared for the subdivision or development by a registered professional engineer or a licensed 3(b) land surveyor and approved by the Director as meeting the required specifications for streets and street curb and gutter.

**Sec. 5.04 Sidewalk**

- (a) Sidewalks shall be required in accordance with the Leesburg Design and Construction Standards Manual, latest edition.
- (b) Sidewalks shall be completed in accordance with the plans and profiles prepared for the subdivision or development by a registered professional engineer or a licensed 3(b) land surveyor and approved by the Director as meeting the required specifications for sidewalks.

**Sec. 5.05 Water Supply**

- (a) The applicant shall install a water system for the subdivision or development in conformance with the Leesburg Design and Construction Standards Manual, latest edition. A complete water main system shall be connected to a water supply, which is approved by the Director of Utilities and as necessary by the Virginia Department of Health.
- (b) The water system and all service lines and appurtenances except the water meter shall be completed in accordance with the plans and profiles prepared for the subdivision or development by a registered professional engineer or licensed 3(b) land surveyor and approved by the Director of Utilities as meeting the required specifications for water systems; provided, however, a licensed 3(b) land surveyor may not design pressure hydraulic systems.

**Sec. 5.06 Sanitary Sewers**

- (a) Sanitary sewers shall be installed to serve all lots, including lateral connections between the trunk sewer and property lines. All new buildings on lots within the Town shall be connected to the Town's sanitary sewer system.

- (b) Sanitary sewers shall be designed and completed in accordance with the Leesburg Design and Construction Standards Manual, latest edition and the plans and profiles prepared for the applicant by a registered professional engineer or a licensed 3(b) land surveyor and approved by the Director of Utilities as meeting the required specifications for sanitary sewer improvements. However, a licensed 3(b) land surveyor may not design pressure hydraulic systems.

**Sec. 5.07 Storm Drainage; Erosion and Sedimentation Control; Flood Zone Management and Control**

- (a) Provision for disposition of storm, subsurface, and surface water with on-site and off-site underground facilities to carry such waters to the nearest overland stream approved by the Director shall be made as follows:
  - (1) On-site and off-site improvements shall be made so that downstream properties are not harmed by pollution, flooding, erosion or sedimentation resulting from the subdivision or development.
  - (2) Culverts and bridges shall be required where overland streams intersect any street right-of-way.
  - (3) Existing watercourses entering the subdivision or development shall be received and discharged as nearly as possible in the manner as existed prior to the subdivision or development. Means for the retention of storm waters within subdivisions and developments and the controlled release of stormwaters there from shall be completed in instances where downstream floodwaters increased by the subdivision or development cannot be accommodated without damage to downstream properties.
  - (4) The design and construction of drainage facilities shall be such that all water courses traversing the subdivision or development and water emanating from outside or within the subdivision or development will be carried through and off the subdivision or development without creating an adverse drainage condition to roadway or residential sites within the tract and without injury to roadways, residential sites, or other lands abutting or in the vicinity of the tract.
- (b) Provision for temporary and permanent control of erosion and sedimentation during all phases of clearing, grading and construction shall be made.
- (c) Buildings within subdivisions and developments shall not be located within flood zones except as provided for in the Zoning Regulations.
- (d) Storm drainage and erosion and sedimentation controls shall be completed in accordance with plans and profiles prepared for the applicant by a registered professional engineer or a licensed 3(b) land surveyor and approved by the Director. However, a licensed 3(b) land surveyor may not design pressure hydraulic systems.

**Sec. 5.08 Underground Utilities Required**

New electric, telephone, communication, and cable television service utility facilities shall be installed in accordance with the provisions of Article V, Chapter 30 of the Town Code.

### **Sec. 5.09 Reimbursements Policy**

The improvements required by Sections 5.05 through 5.07 of these Subdivision and Land Development Regulations shall be designed and completed in accordance with required specifications including the standards of the Leesburg Design and Construction Standards Manual, latest edition and to such sizes and capacities as prescribed by master plans for waterworks, sewer works and storm drainage. Whenever public improvements required herein are installed to such size which is required for the benefit of property owners in addition to the applicant, the Town shall enter into agreements with the applicant to require reimbursement of the extra costs thereof to the applicant by the benefited property owners when such improvements are utilized by such property owners. Such agreements shall meet the requirements of the Leesburg Design and Construction Standards Manual, latest edition, in a form approved by the Town Attorney.

### **Sec. 5.10 Off-Site Improvements**

#### **(a) Pro Rata Share for Necessary Waterline, Sewerage and Drainage Facilities**

An applicant shall pay a pro rata share of the cost of providing reasonable and necessary waterline, sewerage, and drainage facilities, located outside the property limits of the land owned or controlled by him, but necessitated or required, at least in part, by the construction or improvement of this subdivision or development. Determination of the appropriate pro rata share shall be made in accordance with the Leesburg Design and Construction Standards manual, latest edition. Unless specified within the State Code or other approved State legislative action, all Pro Rata Share contributions shall be paid at the time specified within the Town Council Resolution that created the specific Pro Rata Share District. If no time period is specified by the State or by Council Resolution as to when the Pro Rata Share payment is to be made, it shall be paid in full prior to issuance of the first zoning permit associated with the property assigned a specific Pro Rata Share amount.

#### **(b) Pro Rata Road Reimbursement Districts**

An applicant may be required to pay a proportionate, fair share of the cost of construction of certain reasonable and necessary public road improvements located outside the property limits of the land owned by him, which improvements have been constructed by an initial applicant and which serve an area having related traffic needs to which his subdivision or development will contribute. Such pro rata reimbursement payments shall be made as provided herein to an initial applicant by each subsequent applicant within an area having related traffic needs if such area has been designated by the Town Council as a Pro Rata Road Reimbursement District.

##### **A. Applicability.**

Pro rata road reimbursement payments imposed pursuant to Pro Rata Road Reimbursement Districts adopted in accordance with the provisions of this Article shall be required of every applicant within the boundaries of such Districts unless otherwise exempt under subsection B.

B. Exemptions.

- (a) Pro rata road reimbursement payments shall not be assessed or imposed upon the following:
- (1) Land subject to proffered conditions approved and accepted by the Town Council pursuant to VA Code § 15.2-2303 which include proffered offsite road improvements.
  - (2) Land subject to an impact fee assessed or imposed pursuant to VA Code § 15.2-2319, et seq. of Chapter 22, Title 15.2 of the Code of Virginia.
  - (3) Land for which final site plan approval, or final subdivision plat approval has been obtained prior to the effective date of adoption of a Pro Rata Road Reimbursement District which includes such land. In order to retain the exemption from having to pay the pro rata road reimbursement payment, the development approved on the final site plan must be constructed within the period of validity of such approval and the approved final subdivision plat either must have been validly recorded prior to the effective date of adoption of a District or must be recorded within six (6) months of final subdivision plat approval.
  - (4) Land within an approved Pro Rata Road Reimbursement District which is owned at the time of District approval by the initial applicant therein who has constructed the public road improvements which form the basis for the pro rata road reimbursement payments, provided such land has been identified by Loudoun County Real Property Identification Map Number as part of the Town Council's action approving the District.
  - (5) Public uses as defined in the Zoning Ordinance.
- (b) Land which is exempt from having to pay a pro rata road reimbursement payment as a result of the provisions of paragraph (a) above may be included within the boundaries of a Pro Rata Road Reimbursement District. If such land should subsequently lose its exemption, the pro rata road reimbursement payment required by the approved District shall be calculated in accordance with the provisions of subsection J(c) below.

C. Definitions.

For the purposes of this Section, the following words and phrases shall have the following meanings:

- (a) *Initial Applicant* shall mean the person or entity who has constructed public road improvements within an approved Pro Rata Road Reimbursement District and who is entitled to receive pro rata road reimbursement payments from certain subsequent applicants within the District. The initial applicant shall be the record title owner of the parcel designated at the time of adoption of a District pursuant to subsection H. There may be only one (1) initial applicant per District.

- (b) *Applicant* shall mean the record title owner of property, the development of which is subject to the Zoning Ordinance, and the record title owner of property upon which a single-family detached dwelling is constructed on a lot within a recorded subdivision plat approved after the effective date of adoption of a Pro Rata Road Reimbursement District.
- (c) *Petitioner* shall mean an applicant who has constructed public road improvements and who has submitted a petition requesting adoption of a Pro Rata Road Reimbursement District by the Town Council whereby he would be entitled to receive pro rata reimbursement payments from other applicants within the District.
- (d) *Public road improvements* shall mean the construction of new or the widening of existing minor arterial streets and major arterial streets as such streets are defined in the Town Plan, including construction of related drainage improvements and utility relocations required as a result of such construction. The term "public road improvements" shall also include installation of traffic lights and highway signs required by the Virginia Department of Transportation (VDOT) or the Town. Such term shall not include the construction of improvements required under subdivisions or site plans which improvements are necessary to serve a particular development.

D. Initiation of Pro Rata Road Reimbursement Districts.

A Pro Rata Road Reimbursement District may be initiated pursuant to this Section either by motion of the Town Council or by the filing of a petition with the Director of Public Works and a copy with the Director of Plan Review and the Director of Planning and Zoning by an applicant who has constructed substantial public road improvements under permits issued after January 1, 2006, which serve an area having related traffic needs. If initiated by motion of the Town Council, the initial applicant who would receive the pro rata road reimbursement payments should a district be adopted shall provide staff with the Submission Requirements contained in subsection F. (Amended 08/12/08)

E. Identification of an area having related traffic needs.

The designation of an area having related traffic needs is the basis upon which the boundaries are established for an adopted Pro Rata Road Reimbursement District. Such designation is dependent upon many factors which may be unique to any given area of Leesburg. Adoption of boundaries of an area having related traffic needs necessarily involves judgment and discretion on the part of the Town Council. The following criteria may be considered in the designation of an area having related traffic needs:

- (a) Town Plan land use and transportation recommendations for the area.
- (b) Land to which the constructed public road improvements provide a primary source of access either directly or via a collector street or local street which intersects such public road improvements.
- (c) Land in an area to which the constructed public road improvements provide improved access.

- (d) The type of road and distance over which the public road improvements have been provided.
- (e) The number and character of streets intersecting the public road improvements, the area to which such streets provide access, and the extent to which such area has alternative access via other public streets.
- (f) In general, the boundaries of an area having related traffic needs should not cross Interstate or Primary highways, except in highly unusual circumstances.
- (g) Such other criteria as may be considered by the Town Council.

F. Submission requirements.

Every petition requesting the establishment of a Pro Rata Road Reimbursement District shall include the following, which shall be subject to verification by staff:

- (a) A map clearly delineating the boundaries of the proposed Pro Rata Road Reimbursement District drawn on a copy of the applicable section sheets of the current Leesburg Official Zoning Map.
- (b) A statement of justification setting forth in detail the factors which form the basis for petitioner's contention that the mapped area constitutes an area having related traffic needs.
- (c) A list, by Loudoun County Real Property Identification Map Numbers, of all parcels within the proposed District of which the petitioner is the record title owner.
- (d) Copies of all approved Leesburg public improvement bonds and agreements executed by petitioner as Applicant, including related itemized Surety Value Estimates of quantity take-offs for each constructed public road improvement for which pro rata reimbursement is sought. If the cost of installed traffic signals or highway signs required by VDOT or the Town was not included in the amount of the public improvement bond, evidence of payment acceptable to staff which documents that petitioner paid for such improvements shall also be submitted.
- (e) A copy of the relevant sheets of the subdivision plat, site plan or construction plan, as the case may be, approved in conjunction with the bonds and agreements submitted pursuant to subparagraph (d) above, upon which sheets is delineated the extent of the public road improvements for which reimbursement is sought.
- (f) A pro rata road reimbursement analysis and resulting recommended pro rata reimbursement rate for each vehicle trip per day, which reimbursement rate will be multiplied by the number of vehicle trips per day generated by types of uses as set forth in the Institute of Transportation Engineers (ITE) Trip Generation Manual in order to calculate individual pro rata road reimbursement payments required pursuant to an adopted District. The analysis shall be prepared pursuant to subsection G and shall include the vehicle trip generation calculations performed in accordance with paragraph (d) therein.

- (g) A statement by the petitioner which clearly delineates whether the petitioner wishes to have the pro rata road reimbursement payments directed to the owner of one (1) parcel within the proposed District for the entire duration of the District (Option #1), or, in the alternative, whether the petitioner wishes to have such payments directed to the petitioner or his designated agent at a specified address (Option #2).

If Option #1 is chosen by the petitioner, then the petitioner shall submit the following:

The designation by Loudoun County Real Property Identification Map Number and by street address of one (1) parcel within the proposed District currently owned by petitioner, the record title owner of which, including petitioner's successors in title, shall be the person or entity entitled to receive pro rata road reimbursement payments at the time such payments are made. Only one (1) such parcel shall be so designated within a District.

If Option #2 is chosen by the petitioner then the petitioner shall submit the following:

Petitioner's name and mailing address to which pro rata road reimbursement payments will be sent. As an alternative, petitioner may submit the name and mailing addresses of petitioner's agent for the purposes of receiving pro rata road reimbursement payments and signing notarized certifications pursuant to paragraph (b) of subsection J.

- (h) Such additional information as may be requested by Town staff in order that staff may fully evaluate the petition.

G. Calculation of pro rata road reimbursement payments.

- (a) The amount of required pro rata road reimbursement payments shall be based upon a pro rata reimbursement rate (dollar amount) established upon adoption of a Pro Rata Road Reimbursement District by the Town Council. Such rate shall represent the proportionate share of reimbursable costs as determined by the Council, attributable to each vehicle trip per day utilizing the road segments for which reimbursement is sought and approved.

- (b) The following formula shall be used to determine the pro rata reimbursement rate per vehicle trip per day:

[Cost of public road improvements within proposed District constructed at petitioner's expense (exclusive of improvements required pursuant to the subdivision and site plan ordinances)] divided by [Total estimated number of vehicle trips per day (vpd) on the road segments for which reimbursement is sought] = \$ amount per vpd.

- (c) Trip generation estimates for specific uses shall be based upon the Institute of Transportation Engineers (ITE) Trip Generation Manual.



- (d) The total estimated number of vehicle trips per day on the road segments for which reimbursement is sought shall be determined by adding the following numbers:
  - (1) Current estimated number of vehicle trips per day on such road segments as shown on traffic counts conducted by VDOT or other entity acceptable to the Town within two (2) years prior to the filing of a petition to establish a Pro Rata Road Reimbursement District. If such traffic counts are not available, petitioner shall conduct a traffic count utilizing standard methodology acceptable to the Town.
  - (2) Number of future vehicle trips per day estimated to be generated from the eventual development or redevelopment, use and occupancy of all land within the proposed District which, as of the date of the traffic counts utilized in preceding paragraph (d)(1), either is vacant; is underdeveloped with respect to its current zoning; is zoned to a district which allows a lesser density or intensity than the applicable Town Plan recommendation; or is under construction with a residential or nonresidential use permit yet to be issued.
  
- (e) For purposes of calculating the vehicle trip generation figures required under this Section only, the following assumptions shall apply:
  - (1) Land subject to an approved proffered rezoning shall be developed to the maximum densities, intensities and uses approved.
  - (2) Land zoned to a district, not subject to proffers, which permits densities or intensities equal to or greater than as recommended in the Town Plan shall develop to the maximum extent permitted under the current zoning district.
  - (3) Land zoned to a district which permits densities or intensities less than the applicable Town Plan recommendation shall develop to the maximum extent recommended in the Plan.
  
- (f) All land within the boundaries of a proposed Pro Rata Road Reimbursement District shall be included in the vehicle trip generation estimates, even though such land may be exempt under subsection B.
  
- (g) Accessory structures in residential developments such as swimming pool bath houses and community centers shall not be included in the estimated number of vehicle trips per day calculated pursuant to paragraphs (d)(2) and (d)(3) above and shall not be subject to a pro rata road reimbursement payment.
  
- (h) Cost of Construction of Public Road Improvements.
  - (1) The cost of construction of public road improvements for which pro rata reimbursement may be required shall mean the cost of construction of such improvements as such costs were represented by the petitioner to the Director of Public Works at the time petitioner sought approval of the public improvement bonds and agreements required prior to the

construction of such public road improvements. The sum total of such costs as reflected on the submitted Surety Value Estimates shall be increased by a factor of fifteen percent (15%) in order to cover related costs, including, but not limited to, a proportionate cost of engineering expenses. Costs of construction shall also include petitioner's cost of acquiring real property interests from others, which real property interests are necessary in order to construct the public road improvements and the dedication of which does not result in the grant of advanced density credit to the petitioner. The foregoing costs shall be adjusted annually from the date of approval of the public improvement bonds and agreements to incorporate the lesser of the following amounts:

- (A) Changes in the Virginia Highway Construction Bid Index since the approval of such bonds and agreements; or
- (B) The legal rate of interest set forth in Code of Virginia, Section 6.1-330.53, as amended.

(i) After the adoption of a Pro Rata Road Reimbursement District, including the establishment of a pro rata reimbursement rate (\$ amount per vpd, as calculated above) for the District, the amount of pro rata road reimbursement payments required of applicants subject to such payments shall be determined at the time of final subdivision plat approval for a residential subdivision or final site plan approval, as the case may be. The amount of required pro rata road reimbursement payments shall be shown on such final subdivision plat or final site plan and shall be calculated as follows:

- (1) The Council-adopted pro rata reimbursement rate shall be adjusted annually from the effective date of the District to incorporate the lesser of the following amounts:
  - (A) Changes in the Virginia Highway Construction Bid Index since the effective date of the District; or
  - (B) The legal rate of interest set forth in Code of Virginia, Section 6.1-330.53, as amended.

(2) The required pro rata road reimbursement payments for all uses within the District shall be the sum of the adopted pro rata reimbursement rate, as adjusted above, multiplied by the number of vehicle trips per day estimated to be generated for each use based upon the ITE Trip Generation Manual, provided, however, that trip generation estimates which are lower than those set forth in the ITE Trip Generation Manual may be used if the Director of Plan Review concludes that such lower trip generation rates more accurately reflect the traffic expected to be generated by a particular use. Any such request shall be submitted by the owner of the property which is the subject of a proposed subdivision or site plan at the time the subdivision plat/site plan is filed with the Department of Plan Review, with the original of the request being submitted to the Director of the Department of Plan

Review, and a copy being submitted to the Department of Planning and Zoning with the subdivision plat/site plan. Any such request shall also include evidence that such owner has provided the initial applicant with a copy of the request, and has informed the initial applicant that responses to the request must be filed with the Director of the Department of Plan Review and the Department of Planning and Zoning within thirty (30) days of the filing of the request.

H. Adoption of Pro Rata Road Reimbursement Districts.

- (a) Upon receipt of a petition requesting the establishment of a Pro Rata Road Reimbursement District including all submission requirements, staff of the Department Plan Review will evaluate the request, assisted by staff of the Department of Planning and Zoning and such other staff as may be necessary.
- (b) Staff will prepare a recommendation for forwarding to the Planning Commission and Town Council.
- (c) A public hearing on the requested Pro Rata Road Reimbursement District shall be held before the Planning Commission and before the Town Council. Such public hearings shall be advertised in accordance with the requirements of the Code of Virginia, Sections 15.2-107 and 2204. The Department of Planning and Zoning shall oversee advertising and notice requirements. Petitioner shall submit proof that he has sent by certified mail, return receipt requested, written notice of the public hearings to the owner of each parcel within the proposed District at the last known address of such owner as shown in the current real estate tax assessment records. Such notice shall include the maximum pro rata road reimbursement payment proposed for each dwelling unit within the proposed District and the maximum proposed pro rata reimbursement rate to be assessed for each vehicle trip per day estimated to be generated by all uses within the proposed District other than dwelling units. Such notice shall include the location where the petition may be reviewed in its entirety.
- (d) In adopting a Pro Rata Reimbursement District, the Town Council may modify the district boundaries as requested by the petitioner to include a lesser land area and may adopt pro rata road reimbursement payments for dwelling units and a pro rata road reimbursement rate per vehicle trip per day for all other uses less than were advertised. The Town Council may also approve in whole or in part the extent of the public road improvements which the petitioner has asked to be the basis for the prorata road\_reimbursements.
- (e) A Pro Rata Road Reimbursement District may be adopted after the public road improvements have been constructed to the point where they are being used by the public, but prior to the acceptance of such public road improvements by the governmental units which are to have ultimate responsibility for their maintenance, subject to the following conditions:
  - (1) The public road improvements for which pro rata reimbursement has been approved are accepted by the governmental units which are to have

ultimate responsibility for their maintenance within one (1) year after the effective date of the District; and

- (2) Required pro rata road reimbursement payments which have been deposited with the Town prior to acceptance of such public road improvements by the governmental units which are to have ultimate responsibility for their maintenance shall not be forwarded to the initial applicant until such acceptance may occur.
- (f) Any Pro Rata Road Reimbursement District approved by the Town Council shall include the following:
- (1) A map which clearly delineates the boundaries of the District, drawn on the current Loudoun County Real Property Identification Map.
  - (2) One of the following as chosen by the petitioner under the provisions of subsection F(g):
    - (A) The name and current mailing and street addresses of the initial applicant entitled to receive the pro rata road reimbursement payments, as well as the Loudoun County Real Property Identification Map Number and street address of the parcel, the record title owner of which will be entitled to receive pro rata road reimbursement payments at such time as they may be made; or
    - (B) The name and current mailing and street addresses of the initial applicant entitled to receive the pro rata road reimbursement payments, or, if the petitioner (initial applicant) has designated an agent for the purposes of receiving pro rata road reimbursement payments and signing notarized certifications pursuant to the paragraph (b) of subsection J, the name and mailing and street addresses of such agent.
  - (3) A listing, by Loudoun County Real Property Identification Map Number, of all properties within the District owned by the initial applicant.
  - (4) The amount of the pro rata road reimbursement payment required for each dwelling unit and the pro rata reimbursement rate (dollar amount per vpd) to be assessed for each vehicle trip per day estimated to be generated for all uses other than dwelling units.
  - (5) The total amount of reimbursable costs approved by the Town Council.
  - (6) The effective date of the District.
- (g) All of the information required under preceding paragraph (f), including a map of the adopted Pro Rata Road Reimbursement District, shall be kept in a file located in the Department of Plan Review titled "Pro Rata Districts".

- (h) Upon adoption of a Pro Rata Road Reimbursement District, the District shall remain valid for a period of twenty-five (25) years from the date of the District, or for such lesser period or longer period as the Town Council may initially or subsequently specify by ordinance, provided, however, that if the initial applicant should be reimbursed the total amount of reimbursable costs approved by the Town Council, as adjusted to incorporate the lesser of either changes in the Virginia Highway Construction Bid Index since the effective date of the District or the legal rate of interest set forth in Code of Virginia, Section 6.1-330.53, as amended prior to the expiration of the period of District validity, no further pro rata road reimbursement payments shall be required within the District.
- (i) Boundaries of adopted Pro Rata Road Reimbursement Districts may not overlap.

I. Amendment of Adopted Pro Rata Road Reimbursement Districts.

Amendments to an adopted Pro Rata Road Reimbursement District, other than amendments which would modify the duration of the period of validity of the District, may be processed and adopted in the same manner that the District was originally established. Amendments which propose to modify the duration of the period of validity of an adopted District may be approved following notice and public hearings provided in accordance with subsection H(c); provided, however, that such notice need not include information about adopted pro rata road reimbursement payments or rates. A statement of justification which sets forth the grounds for modification of the duration of the District shall be submitted with any such amendment request.

J. Payment of pro rata road reimbursements.

- (a) Required pro rata road reimbursement payments shall be made prior to the issuance of any residential or nonresidential zoning permit required pursuant to the Zoning Ordinance.
- (b) In the event parcels within an adopted Pro Rata Road Reimbursement District should re-subdivide, redevelop or be occupied by uses for which the estimated vehicle trip generation rates are greater than the rates attributable to such parcels at the time required pro rata reimbursement payments were previously paid, then an additional pro rata reimbursement payment shall be required which shall be calculated based upon the difference between the estimated number of vehicle trips.
- (c) In the event parcels within an adopted Pro Rata Road Reimbursement District which were exempt from pro rata reimbursement payments pursuant to the provisions of subsection B should re-subdivide, redevelop or be occupied by uses in such a manner so as to no longer be entitled to any exemption, and in the event the new use of such parcels has a higher estimated vehicle trip generation rate than the previously exempt use, then pro rata reimbursement payments for such parcels shall be calculated based on the difference between the estimated vehicle trip generation rate for the new use and the estimated vehicle trip generation rate for the previously exempt use.
- (d) Anyone who has applied for a residential or nonresidential use permit and who is required to make a pro rata road reimbursement payment shall submit a notarized

certification signed by the initial applicant or his agent identifying the property and use for which the residential or nonresidential use permit has been requested and that the required pro rata reimbursement payment has been received, or shall submit such other evidence of payment as may be required by the Director of Plan Review.

- (e) As an alternative to providing the notarized certification or other evidence of payment as may be required as referenced in the preceding subparagraph, an applicant for a residential or non-residential use permit may deposit the required pro rata road reimbursement payment by certified or other secured funds determined to be acceptable by the Director of Finance. In such event, the Town shall forward payment to the initial applicant and shall not be required to place such reimbursement payments in an interest bearing account during the interim.
- (f) As an alternative to the procedures set forth in preceding paragraphs (b) and (c), an applicant for a residential or nonresidential use permit may submit a notarized, fully executed agreement between him and the initial applicant setting forth an agreed method of payment of the required pro rata reimbursement payments which agreement shall also state that the Town may proceed to issue the requested residential or nonresidential use permits.
- (g) In order to be entitled to continue to receive pro rata road reimbursement payments, the initial applicant must give written notice by certified mail to the Directors of the Department of Public Works and the Department of Planning and Zoning of any change in his mailing or street addresses from the date of adoption of the District. If the initial applicant has designated an agent for the purposes of receiving pro rata road reimbursement payments and signing notarized certifications pursuant to paragraph (b) above, then either the agent or the initial applicant must give such written notice of any change in the mailing or street addresses of the agent from the date of adoption of the District. Failure to give the written notice as required herein within thirty (30) days of such change may cause the initial applicant to forfeit pro rata road reimbursement payments collected or due after such change. (Amended 08/12/08)

K. Voluntary Funding of Off-Site Road Improvements.

If an applicant makes an advance of payments for or construction of reasonable and necessary road improvements located outside the property limits of the land owned or controlled by him or her, the need for which is substantially generated and reasonably required by the construction or improvement of the subdivision or development, and such advance is accepted by the Town Council, the Town Council may agree to reimburse the applicant from such funds as the Town Council may make available for such purpose from time to time for the cost of such advance together with interest, which shall be excludable from gross income for federal income tax purposes, at a rate equal to the rate of interest on bonds most recently issued by the Town Council on the following terms and conditions:

- (1) The Town Council shall determine or confirm that the road improvements were substantially generated and reasonably required by the construction or improvement of the subdivision or development and shall determine or confirm

the cost thereof, on the basis of a study or studies conducted by qualified traffic engineers and approved and accepted by the applicant.

- (2) The Town Council shall prepare, or cause to be prepared, a report accepted and approved by the applicant, indicating the governmental services required to be furnished to the subdivision or development and an estimate of the annual cost thereof for the period during which the reimbursement is to be made to the applicant.
- (3) The Town Council may make annual reimbursements to the applicant from funds made available for such purpose from time to time, including, but not limited to, real estate taxes assessed and collected against the land and improvements on the property included in the subdivision or developments in amounts equal to the amount by which such real estate taxes exceed the annual cost of providing reasonable and necessary governmental services to such subdivision or development.

### **Sec. 5.11 Landscaping and Tree Cover**

- (a) Existing tree cover within the area depicted on the proposed plat shall be retained to the greatest extent possible and taken fully into account in the design of the subdivision lots, street layout and developments. Plans shall indicate how existing trees are to be protected and how soil aeration, drainage and moisture are to be preserved.
- (b) Street trees and other plant materials may be planted within public ways and places in accordance with plans approved by the Director to meet required specifications for landscaping in the Leesburg Design and Construction Standards manual, latest edition and the Leesburg Zoning Ordinance. Required specifications for landscaping, street trees and street tree plantings shall designate the number, location, size, variety and condition of trees and other plant materials to be planted and planting methods. The specifications shall take into account the relative hardiness, shape, root growth pattern, beauty and undesirable features of plant materials and shall provide restrictions on plantings in locations likely to damage underground or aerial utility facilities; restrict motorists or pedestrians sight distances; conflict with driveways, sidewalks, bikeways or streets; or damage street, sidewalk, storm sewer, sanitary sewers, curb and gutter or other public facility structures.  
(Amended 08/12/08)
- (c) All cut and fill slopes shall be landscaped, either seeded and stabilized, or sodded with grass or plants suitable for such slopes as provided in the Leesburg Design and Construction Standards Manual, latest edition.

### **Sec. 5.12 Monuments**

- (a) As a requisite for completion of the work product, each land boundary survey of a tract or parcel of land shall be monumented with objects made of permanent material at all corners and changes of direction on the land boundary with the exceptions of meanders, such as meanders of streams, lakes, swamps and prescriptive road right-of-way; and each such monument, other than a natural monument, shall, when feasible, be identified by a temporary witness stake (which may be wooden). Where it is not feasible to set actual corners, appropriate reference monuments shall be set, preferably on line, and the location shall be shown on the plat of the land boundary.

Permanent monuments shall be placed in all subdivisions in accordance with the requirements of the Leesburg Design and Construction Standards Manual, latest edition.

**Sec. 5.13 Street Lights**

- (a) Street lights shall be installed to light streets and other public ways.
- (b) Street lights shall be completed in accordance with plans prepared for the applicant and approved by the Director and meeting the standards for street lighting contained within the Leesburg Design and Construction Standards Manual, latest edition and the Leesburg Zoning Ordinance.



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