

ATTACHMENT D

ARTICLE III. – Permits and Applications

Division 1. In General.¹

Section 3-1-1. Preapplication Meeting.

Prior to the submittal of an application for a Special Exception Permit, Zoning Text and/or Map amendment (rezoning), Conditional Zoning, or a Site Plan, a preapplication meeting must be held between the applicant and the Administrator, unless otherwise waived by the Administrator. During this meeting the applicant may submit Concept Plans for preliminary review, comment, and recommendation by the Administrator.

Section 3-1-2. Minimum Submission Standards.

- (A) The Administrator shall establish minimum standards for submission requirements of all applications associated with the Zoning and Subdivision Ordinance. Applications shall contain all information required to meet the minimum standards.
- (B) Upon written request by an applicant, the Administrator may waive or modify a submission requirement or requirements upon a determination that the information is not necessary to evaluate the merits of the application.
- (C) Additional information may be required as deemed reasonably necessary by the Administrator.

Section 3-1-3. Forms.

Petitions or applications for amendments (to the Ordinance or Official Zoning Map), site plans, variances, special exceptions, or zoning permits, and any other request requiring action shall be made on forms provided by the County.

Section 3-1-4. Ownership Disclosure.

An applicant must disclose all equitable ownership of the real estate included in an application. In the case of corporate ownership, the name of stockholders, officers and directors shall be provided, and in any case the names and addresses of all of the real parties of interest in accordance with the Code of Virginia § 15.2-2289, as amended.

Section 3-1-5. Oath Required.

Petitions or applications for amendments (to the Zoning Ordinance or Official Zoning Map), variances, or special exceptions, shall be sworn to under oath before a notary public, or other official before whom oaths may be taken.

¹ Editor's Note: Subsequent divisions to provide specific requirements for all applications.

Division 2. Zoning Text and Map Amendments.²

Section 3-2-1. In General.

Pursuant to the Code of Virginia § 15.2-2286 (7), as amended, whenever public necessity, convenience, general welfare, or good zoning practice requires, the Board of Supervisors may, from time to time, amend, supplement or change, by Ordinance, the boundaries of the districts or the regulations established in this Ordinance.

Section 3-2-2. Standards and Procedures.

(A) Initiation of change.

- (1) Pursuant to the Code of Virginia § 15.2-2286 (7), as amended, any amendment to this Ordinance or the Zoning Map may be initiated by:
 - (i) Resolution of the Board of Supervisors;
 - (ii) Resolution of the Planning Commission; or
 - (iii) Petition of the owner, contract purchaser with the owner's written consent, or the owner's agent therefor, of the property which is the subject of the proposed Zoning Map amendment (rezoning), addressed to the Board of Supervisors or the King George County Planning Commission, who shall forward such petition to the Board of Supervisors.
- (2) **Zoning Map Amendments.** Applications for Zoning Map amendments, including Conditional Zoning requests, shall be accompanied by 15 copies of a Concept Plan³. The Concept Plan may be general and schematic and shall show:
 - (i) A certified plat of the subject property showing metes and bounds of all property lines, existing streets, and subdivisions – with reference to a recorded subdivision plat or the County's tax map.
 - (ii) The names and addresses, as shown on the current real estate tax assessment books, of property owners abutting the property or owners located across the road/street.
 - (iii) Topography as shown by contour lines with a contour interval not more than five feet.
 - (iv) Proposed land uses to be developed.
 - (v) The general layout, orientation, and information describing buildings and improvements, including but not limited to parking, landscaping, fencing, signs, and trash enclosures, height, setbacks, and restriction lines.
 - (vi) If any, the approximate total number, density, type, and price range of dwelling units and the range of lot sizes for the various dwelling types.

² Editor's Note: This Division incorporates text found within the existing Ordinance, as well as Code of Virginia language.

³ Editor's Note: This is proposed as a new section to complement item (A) (3) below, which provides text from existing Ordinance Section 5.3.5. This item is specifically about Zoning Map amendments and requires a Concept Plan.

- (vii) If any, the general location of proposed open space and recreational areas.
- (viii) If any, the general location and type of commercial uses to be developed.
- (ix) The general location and character of the proposed roads, pedestrian circulation, trails, public utility, and storm drainage systems.
- (x) A statement on the proposed development schedule.
- (xi) A written analysis of the public facilities, roadway improvements, and public utilities that will be required to serve the development.
- (xii) A written description of the nature and extent of the amendment desired together with an explanation of the reasons for seeking a change.
- (xiii) Any additional information as deemed reasonably necessary by the Administrator.
- (xiv) Any rezoning request for a Planned Development, including either a Resort Community District (RC) or a Mixed-Use Development District (M-U) shall include:
 - 1. A general statement of planning objectives to be achieved by the Planned Development district, including a description of the character of the proposed development, the existing and proposed ownership of the site, the market for which the development is oriented, and intentions with regards to any specific human-made and natural characteristics located on the site.
 - 2. General information on the trip generation, ownership, maintenance, and construction standards for proposed streets should be included. The Zoning Administrator or the County Engineer may require a traffic impact analysis.
 - 3. Proposed deed covenants, restrictions, or other constraints to be imposed upon the purchasers of such properties.
- (3) **Zoning Text Amendments**⁴. The application for a text amendment to the Zoning Ordinance shall be filed with the Zoning Administrator. If the application proposes a change in a zoning classification or map boundaries, there shall be attached to the application:
 - (i) Items required in Section 3-2-2 (A)(2), as shown above.
 - (ii) A written description of the nature and extent of the amendment desired together with an explanation of the reasons for seeking a change.

(B) **Standards for Review**⁵.

- (1) Once the application is submitted in accordance with Division 1 of this Article and has been determined to be complete, the County shall evaluate the application and may request that the applicant make revisions, as necessary.

⁴ Editor's Note: Section 5.3.5 of the existing Ordinance included a requirement that any outstanding debts be paid, which has been moved to Article II.

⁵ Editor's Note: Section 5.3.4 of the existing Ordinance has been simplified to items (2) and (3).

- (2) The application for a rezoning or zoning text amendment shall be referred to the Planning Commission for public hearing and recommendation. The Planning Commission shall present their recommendation on the proposed ordinance or amendment, including the district maps, to the Board of Supervisors for public hearing and action. No recommendation or action shall be rendered until public notifications and hearings have been conducted in accordance with this Division 10 of this Article and the Code of Virginia.
- (3) The Planning Commission shall advise the Board of Supervisors of their recommendation within 100 days. If after 100 days no recommendation has been made, the governing body shall assume that the Planning Commission concurs with the applicant and supports the amendment. The Board of Supervisors shall thereafter take any action it deems appropriate, unless the applicant requests an extension and the Planning Commission votes to grant such an extension⁶ for a defined period not to exceed a total of 180 calendar days from the date of the public hearing.
- (4) All motions, resolutions, or petitions for amendment to the Zoning Ordinance and/or Zoning Map shall be acted upon, and a decision made within such reasonable time as may be necessary which shall not exceed 12 months unless the applicant requests or consents to action beyond such period or unless the applicant withdraws his motion, resolution, or petition for amendment to the Zoning Ordinance or map, or both; otherwise, the amendment shall be deemed approved.
- (5) In determining what, if any, amendments to this Ordinance or the Zoning Map are to be adopted, the governing body shall:
 - (i) Consider the proper relationship of such amendment to the entire zoning plan.
 - (ii) Consider the integrity and validity of the zoning districts described in this Ordinance.
 - (iii) Avoid isolated, unplanned spot-zoning changes in the Zoning Map.
 - (iv) Recognize that a certain element of stability is desirable in land use controls, but conditions and standards will change.
 - (v) Consider the right of all citizens to be treated reasonably.
 - (vi) Evaluate all changes based on the Comprehensive Plan and a comprehensive analysis of community conditions.
- (C) The Administrator shall cause the Zoning Map to be updated as frequently as necessary to ensure that zoning data shown thereon are both accurate and current. Accordingly, all changes affecting the Zoning Map that are approved by the Board of Supervisors shall be entered onto the official Zoning Map within 60 days⁷ following the approval of such changes. After updating sections of the Zoning Map, working prints of any updated section thereof upon which modifications have been

⁶ Editor's Note: This provision is a recommended best practice to allow more time if a complex case would benefit from additional time.

⁷ Editor's Note: This timeframe is a recommended best practice.

made shall be inserted into all sets of the Zoning Maps that are used for public viewing and administration.

Section 3-2-3. Reconsiderations.

- (A) Petitions requesting an amendment, supplement, or change to the Zoning Ordinance or Zoning Map:
 - (1) If denied by the Board of Supervisors, then such petition, or one substantially similar, shall not be reconsidered sooner than 12 months from the date of the previous denial.
 - (2) If withdrawn by the applicant, such petition, or one substantially the same, shall not be reconsidered within 6 months from the date the original application has been withdrawn.
- (B) The limits on reconsideration shall not impair the right of either the Planning Commission or the Board of Supervisors to propose any amendment to this Ordinance on their motion at any time.

Division 3. Conditional Zoning and Proffers.⁸

Section 3-3-1. Purpose and Intent.

Conditional zoning provides a method for permitting the reasonable and orderly development of land with reasonable conditions governing the use and development of such property. As authorized under the Code of Virginia §§ 15.2-2296 through 15.2-2303, as amended, reasonable conditions may be voluntarily proffered for the protection of the community when combined with existing Zoning Ordinance district regulations. The exercise of authority shall not be construed to limit or restrict powers otherwise granted nor to affect the validity of any Ordinance adopted by the locality which would be valid without regard to this division. In addition, the provisions of this Article shall not be used for the purpose of discrimination in housing.

Section 3-3-2. Standards and Procedures.

- (A) Proffer of conditions; standards of consideration.
 - (1) Any owner of property or their agent making an application for a change in zoning or an amendment to the Zoning Map may, as part of the application, voluntarily proffer in writing reasonable conditions which shall apply to the subject property in addition to the regulations provided by the zoning district sought in the rezoning application. Any such proffered conditions must:
 - (i) Be made prior to any public hearing before the Board of Supervisors (including joint public hearings with the Planning Commission);
 - (ii) Be in accordance with the procedures and standards contained in the Code of Virginia § 15.2-2297, as amended.

⁸ Editor's Note: This Division includes text from section 5.3.7 of the existing Ordinance; that text has been simplified in this Division, along with Code of Virginia language. Proposed sections with entirely new text are: 3-3-3, 3-3-4, 3-3-5, and 3-3-6.

- (2) Proffered conditions shall be subject to the following limitations:
 - (i) The rezoning itself must give rise to the need for the conditions;
 - (ii) The conditions shall have a reasonable relation to the rezoning;
 - (iii) The conditions shall be in accordance with the King George County Comprehensive Plan;
 - (iv) The conditions shall not include a requirement that the applicant create a property owners' association under the Property Owners' Association Act (§ 55.1-1800 et seq.) that includes an express further condition that members of a property owners' association pay an assessment for the maintenance of public facilities owned in fee by a public entity, including open space, parks, schools, fire departments and other public facilities not otherwise provided for in the Code of Virginia § 15.2-2241; however, such facilities shall not include sidewalks, special street signs or markers, or special street lighting in public rights-of-way not maintained by the Department of Transportation;
 - (v) The conditions must not include payment for, or construction of, off-site improvements except those provided for in the Code of Virginia § 15.2-2241 and § 15.2-2303.4;
 - (vi) No condition shall be proffered that is not related to the physical development or physical operation of the property;
 - (vii) In the event that a proffer includes the dedication of real property or the payment of cash, such property shall not transfer, and such cash payment shall not be made until the facilities for which such property is dedicated, or cash is tendered are included in the capital improvements program of the County, provided that nothing herein shall prohibit the County from accepting proffered conditions which are not normally included in the capital improvements program; and
 - (viii) If proffered conditions include the dedication of real property or the payment of cash, the proffered conditions shall include provisions for the disposition of the property or cash in the event the property or cash is not used for the purpose for which it was proffered. Such provisions may include the return of the property or cash to the owner, or such other disposition as is agreed to by the County and the owner at the time the proffer is made.
- (3) At the time each proffer is submitted to the County, it shall be accompanied by a statement signed by the applicant and the owner or their agents which states:
 - (i) "Each proffer made in connection with this application for rezoning was made voluntarily and complies with applicable law. No agent of the County has suggested or demanded a proffer that is unreasonable under applicable law."
 - (ii) "I hereby proffer that the development of the subject property of this application shall be in strict accordance with the conditions set forth in this submission."
- (4) Each application for rezoning which proposes proffered conditions to be applied to the property shall be accompanied by the following items beyond those required by conventional rezoning requests:

- (i) An impact analysis demonstrating justification of proposed proffers.
- (ii) A statement describing the nature of the proposed development and explaining the relationship of the development to the Comprehensive Plan.
- (iii) A statement setting forth a maximum number of dwelling units or lots proposed, including density and open space calculations where applicable to any residential development, or a statement describing the types of uses proposed and the approximate square footage for each nonresidential development.
- (iv) A statement detailing any special amenities that are proposed.
- (v) A statement of the public improvements both on and off site that are proposed for dedication and/or construction and an estimate of the date for providing such improvements.
- (vi) A Concept Plan, as detailed in Section 3-2-2 (A)(2), listing and detailing the nature and location of any proffered conditions and those proposed circumstances which prompted the proffering of such conditions.
- (vii) A statement setting forth the proposed approximate development schedule.

Section 3-3-3. Amendments and Variations Prior to Final Decision.

- (A) The Board of Supervisors may accept amended proffers if they:
 - (1) Do not materially affect the overall proposal and are made voluntarily, and in writing, prior to the deadline for preparation of the advertisement of the public hearing by the Board of Supervisors on the rezoning request.
 - (i) If the Board of Supervisors determines that the amendment materially affects the overall proposal, the application with the amended proffers shall be remanded back to the Planning Commission for a public hearing and recommendation.

Section 3-3-4. Effect of Condition; Period of Validity.

- (A) All such conditions shall be in addition to the regulations provided for in the zoning district to which the land is rezoned.
- (B) Upon the approval of any such rezoning, all conditions proffered and accepted by the governing body shall remain in full force and effect until amended or varied by the Board of Supervisors.
 - (1) If the Board of Supervisors rezones the land as part of a new or substantially revised Zoning Ordinance, such conditions shall continue in full force and effect automatically *without* notice or filing.

Section 3-3-5. Record of Conditional Zoning.⁹

Each conditional rezoning shall be designated on the Zoning Map by an appropriate symbol designed by the Administrator. In addition, the Administrator shall keep and maintain a conditional zoning index which shall provide ready access to the ordinance creating such conditions in addition to the regulations provided for in the particular zoning district and which shall be available for public inspection. The Administrator shall update the Index annually and no later than November 30 of each year.

Section 3-3-6. Reconsiderations.

- (A) Petitions requesting an amendment or change to the Zoning Map that includes proffered conditions:
- (1) If denied by the Board of Supervisors, then such petition, or one substantially similar, shall not be reconsidered sooner than 12 months after the previous denial.
 - (2) If withdrawn by the applicant, such petition, or one substantially the same, shall not be reconsidered within 6 months from the date the original application has been withdrawn .
- (B) The limits on reconsideration shall not impair the right of either the Planning Commission or the Board of Supervisors to propose any amendment to this Ordinance on their motion at any time.

Division 4. Special Exception Permits.

Section 3-4-1. Purpose and Intent¹⁰.

- (A) A use requiring a Special Exception Permit is a use that may be appropriate in a zoning district, but because of its nature, extent, or external effects, requires special consideration of its location, design, and methods of operation before it can be deemed appropriate in the district and compatible with its surroundings. The purpose of this division is to establish procedures and standards for review and approval of Special Exception Permits that provide for such special consideration.
- (B) The following will be met either by the proposal made in the application or by the proposal as modified and amended and made part of the Special Exception Permit:
- (1) **Conformity with Comprehensive Plan and policies.** The proposal as submitted or as modified shall conform to the Comprehensive Plan of the County or to specific elements of such plan and to official policies adopted in relation thereto, including the purposes of this Ordinance.
 - (2) **Impact on neighborhood.** The proposal as submitted or as modified shall not have undue adverse impact on the surrounding neighborhood. Among matters to be considered in this connection are traffic congestion, noise, lights, dust, odor, fumes, and vibration with due regard for timing of operation, screening or other matters which might be regulated to mitigate adverse impact.

⁹ Editor's Note: This new section is proposed to provide language from § 15.2-2300 of the Code of Virginia.

¹⁰ Editor's Note: This Section is proposed to explain the purpose of the Division's regulations.

Section 3-4-2. Applicability. ¹¹

In accordance with Code of Virginia § 15.2-2286, as amended, a Special Exception Permit is required for the development of any use designated in Article VI, Zoning Use Matrix, as a use requiring a Special Exception Permit in accordance with this section.

Section 3-4-3. Standards and Procedures¹².

- (A) In addition to the general application requirements supplied in Division 1 of this Article, the applicant must provide information and data to:
- (1) Demonstrate that the proposed use, when complemented with additional measures, if any, will be in harmony with the purposes of the specific district in which it will be placed;
 - (2) Demonstrate that there will be no undue adverse impact on the surrounding neighborhood in terms of public health, safety, or general welfare and show measures to be taken to achieve such goals;
 - (3) Demonstrate that the use will not tend to create congestion in streets, roads, alleys, and other areas; and
 - (4) Show that the proposal meets the applicable specific and general standards required by this Ordinance.
- (B) **Concept Plan.**¹³ Applications for Special Exception Permits shall be accompanied by 15 copies of a Concept Plan. The Concept Plan may be general and schematic and shall show:
- (1) A certified plat of the subject property showing metes and bounds of all property lines, existing streets, and subdivisions.
 - (2) Topography as shown by contour lines with a contour interval not more than five feet.
 - (3) Proposed land uses to be developed.
 - (4) The general layout, orientation, and information describing buildings and improvements, including but not limited to parking, landscaping, fencing, signs, and trash enclosures, height, setbacks, and restriction lines.
 - (5) If any, the approximate total number, density, type, and price range of dwelling units and the range of lot sizes for the various dwelling types.
 - (6) If any, the general location of proposed open space and recreational areas.
 - (7) If any, the general location, and type of commercial uses to be developed.

¹¹ Editor's Note: This section is similar to existing Ordinance (5.4.3) except with a new text reference for the proposed Use Matrix.

¹² Editor's Note: This section has been drafted in such a way to streamline the content found in section 5.4.1 and 5.4.2 of the existing Ordinance.

¹³ Editor's Note: Proposed change to require a Concept Plan in lieu of a Site Plan, to reduce the cost burden and timeline for applicants to help encourage business development. Additionally, the desire for simplified processes was heard in public engagement.

- (8) The general location and character of the proposed roads, pedestrian circulation, trails, public utility, and storm drainage systems.
- (9) A statement on the proposed development schedule.
- (10) A written analysis of the public facilities, roadway improvements, and public utilities that will be required to serve the development.
- (11) Any additional information as deemed reasonably necessary by the Administrator.

(C) **Standards for Review¹⁴.**

- (1) The Zoning Administrator shall review any application requesting a Special Exception Permit for its compliance with the provisions of this Ordinance.
- (2) When it has been determined that the application is in proper form, the Zoning Administrator shall submit the application to the Board of Supervisors for final determination.
 - (i) The Zoning Administrator shall also transmit a copy of the application to the local Planning Commission which may send a recommendation to the Board of Supervisors or appear as a party at the hearing.
- (3) The Board of Supervisors may grant an applicant a Special Exception Permit after notice is given as provided in Division 10 of this Article and in accordance with the Code of Virginia § 15.2-2204, as amended. Additionally, the Board of Supervisors may attach such conditions to its approval as it deems necessary to bring the plan of development and operation into conformance with the purposes and standards of this Ordinance.
- (4) If an applicant seeks both an amendment to the Zoning Ordinance and a Special Exception Permit for the same property, both applications may be made jointly and processed at the same time if the proposed amendment does not add a Special Exception not previously permitted by the terms of this Ordinance.

Section 3-4-4. Effect of Decision; Period of Validity¹⁵.

- (A) A Special Exception Permit authorizes only the particular use(s) and associated development that is approved and shall not ensure that the development approved through said permit shall receive subsequent approval for any other necessary applications for permit or development approval.
- (B) A Special Exception Permit, including any approved plans and conditions, shall run with the land, and shall not be affected by a change in ownership.

¹⁴ Editor's Note: The existing Ordinance currently provides that after the ZA ensures a proper application, the BOS reviews the application, and "prior to conducting a public hearing, the Governing Body may at its discretion refer the matter to the Planning Commission for a recommendation." This process has been edited to follow Code of Virginia.

¹⁵ Editor's Note: Proposed as a new section to address several effects of the permit approval. New text includes (D) and (E), which include timeframes for expiration. These timeframes can be adjusted, or overall omitted, if desired.

- (C) Unless otherwise specified in this Ordinance or specified as a condition of approval, the height limits, yard spaces, lot area, sign requirements, and other specified standards shall be the same as for other uses in the district in which the special exception is located.
- (D) In accordance with the Code of Virginia § 15.2-2209.1 (B), as amended, Special Exception Permit shall expire upon the first to occur of the following:
 - (1) If the applicant does not obtain Site Plan approval or commence the use granted by the Special Exception Permit within two years (or such longer time as the governing body may approve) from the date of the approval;
 - (2) If an activity operating under an approved Special Exception Permit ceases for a period greater than two years; or
 - (3) Upon expiration of a Site Plan for the use granted by the Special Exception Permit.

Section 3-4-5. Revocations¹⁶.

A previously granted Special Exception Permit may be revoked if the Board of Supervisors determines there has not been compliance with the conditions of the permit. No permit shall be revoked except after notice and hearing as provided in this Article.

Section 3-4-6. Reconsiderations¹⁷.

- (A) Petitions requesting a Special Exception:
 - (1) If denied by the Board of Supervisors, then such petition, or one substantially similar, shall not be reconsidered sooner than 12 months after the previous denial.
 - (2) If withdrawn by the applicant, such petition, or one substantially the same, shall not be reconsidered within 6 months from the date the original application has been withdrawn.

Division 5. Variances.¹⁸

Section 3-5-1. Purpose and Intent.

Pursuant to the Code of Virginia § 15.2-2309, as amended, the purpose of a variance is to allow for a reasonable deviation from the provisions of this Ordinance regulating the shape, size, or area of a lot or parcel of land or the size, height, area, bulk, or location of a building or structure when the strict application of the Ordinance would unreasonably restrict the utilization of the property, other relief or remedy is not available, such need for a variance would not be shared generally by other properties, and provided such variance is not contrary to the purpose of the Ordinance.

¹⁶ Editor's Note: Proposed as a new section.

¹⁷ Editor's Note: Introducing text that provides a timeframe for withdrawal of a Special Exception Permit; the existing Ordinance provides for no similar petitions within a 12-month period. The timeframes provided are consistent with those for other applications.

¹⁸ Editor's Note: This section provides streamlined and reorganized provisions that are found throughout section 5.6 of the existing Ordinance.

Section 3-5-2. Standards and Procedures.

(A) Authority.

- (1) Pursuant to the Code of Virginia § 15.2-2309 (2) and (6), as amended, the Board of Zoning Appeals (BZA) is authorized to review petitions for a variance, if the applicant proves the burden and provides evidence that the application meets the standard for a variance and the criteria set out in this Ordinance.
- (2) The BZA may approve, approve with conditions deemed necessary in the public interest, including limiting the duration of a permit and requiring a guarantee or bond to ensure the conditions will be complied with, or deny an application for a variance in accordance with the procedures and standards of this Article.

(B) Standards for Review.¹⁹

- (1) After application is made as required in Division 1 of this Article, the Zoning Administrator shall review the application for compliance with this Ordinance.
- (2) When it has been determined that the application is in proper form, the Zoning Administrator shall submit the application to the Board of Zoning Appeals. The Administrator shall also transmit a copy of the application to the local Planning Commission, which may send a recommendation to the BZA or appear as a party at the hearing.
- (3) Pursuant to the Code of Virginia §15.2-2309 (2), as amended, a variance shall be granted if the evidence shows that the strict application of the terms of the Ordinance would unreasonably restrict the utilization of the property or that the granting of the variance would alleviate a hardship due to a physical condition relating to the property or its improvements at the time of the effective date of the Ordinance, and:
 - (i) The property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant for the variance;
 - (ii) The granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area;
 - (iii) That such hardship is not shared generally by other properties and could be resolved with an amendment to this Ordinance;
 - (iv) The granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property; and
 - (v) The relief or remedy sought by the variance application is not available through the process for a special exception process that is authorized in the ordinance pursuant to subdivision 6 of the Code of Virginia § 15.2-2309, as amended, at the time of the filing of the variance application.

¹⁹ Editor's Note: Items (2) and (3) have been added to reflect Code of Virginia requirements regarding variances that pertain to individuals with a disability.

- (4) Any variance granted to provide a reasonable modification to a property or its improvements requested by, or on behalf of, a person with a disability may expire when the person benefited by it is no longer in need of the modification to such property or improvements provided by the variance, subject to the provisions of state and federal fair housing laws, or the Americans with Disabilities Act of 1990 (42 U.S.C. § 12131 et seq.), as applicable.
- (5) If a request for a reasonable modification is made to a locality and is appropriate under the provisions of state and federal fair housing laws, or the Americans with Disabilities Act of 1990 (42 U.S.C. § 12131 et seq.), as applicable, such request shall be granted by the locality unless a variance from the BZA under this section is required in order for such request to be granted.

Section 3-5-3. Effect of Decision; Period of Validity.

- (A) Issuance of a variance shall authorize only the particular variance that is approved. A variance, including any conditions, shall run with the land, and not be affected by a change in ownership.
- (B) Use or development authorized by the variance shall not be carried out until the applicant has secured all other permits required by this Ordinance or any other applicable Ordinances and regulations of the County. A variance, in itself, shall not ensure that the development approved through said permit shall receive subsequent approval for any other necessary applications for permit or development approval.
- (C) After the BZA has granted a variance, it shall become void after 12 months if no substantial construction or change of use has taken place in accordance with the plans for which such variance was granted, or if the BZA does not specify some longer period than one year for good cause shown.

Section 3-5-4. Reconsiderations.

- (A) Petitions for a variance:
 - (1) If denied by the BZA, then such petition, or one substantially similar, shall not be reconsidered sooner than 12 months after the previous denial.
 - (2) If withdrawn by the applicant, such petition, or one substantially the same, shall not be reconsidered within 6 months from the date the original application has been withdrawn.

Division 6. Site Plans.²⁰

Section 3-6-1. Purpose and Intent²¹.

- (A) The purpose of this section is to promote the orderly development of certain activities in the County and to ensure that such activities are developed in compliance with this Ordinance and

²⁰Editor's Note: The existing Ordinance's various provisions for Site Plans have been incorporated in this Division to reduce redundancy. Additional text is added and the process for review of site plans has been streamlined with administrative approval as a best practice.

²¹ Editor's Note: This proposed Section is drafted to include streamlined language from the existing Ordinance's sections 5.5 and 7.0.

other applicable regulations and in a manner harmonious with surrounding properties and in the interest of the general public welfare. More specifically, the Site Plan shall be used to review:

- (1) The project's compatibility with its environment and with other land uses and buildings existing in the area;
- (2) The ability of the project's traffic circulation system to provide for the convenient and safe internal and external movement of vehicles and pedestrians;
- (3) The quantity, quality, utility, and type of the project's required community facilities; and
- (4) The location and adequacy of the project's landscape improvements and provision for drainage and utilities.

Section 3-6-2. Applicability.^{22,23}

- (A) Pursuant to Code of Virginia, § 15.2-2286. A.8, as amended, all development in the County requires approval of a Site Plan in accordance with the procedure and standards in this Division prior to the issuance of a Building Permit or an occupancy certificate, or any land disturbance, with the following exceptions:
 - (1) Individually developed single-family detached dwellings²⁴;
 - (2) Two-family dwellings on an individual lot;
 - (3) Accessory structures or improvements less than 256 square feet in area;
 - (4) Bona fide agricultural operations and the customary accessory uses and/or structures associated with bona fide agricultural operations; and
 - (5) Repairs of a general nature to existing buildings.
- (B) All development within the R-C district, or any development located within a floodplain in any district, shall require a Site Plan.
- (C) All previously approved Concept Plans must also submit a Site Plan for administrative approval prior to any site development.
- (D) When a change is proposed that requires additional off-street parking or changes to exterior elements of a previously approved Site Plan, a Site Plan shall be submitted for review to ensure

²² Editor's Note: To align with the proposed uses (not yet drafted for review), exemptions to Site Plans now include Two-Family Dwelling rather than "one duplex on a single lot" and individual single-family dwellings rather than "single family residential subdivisions" and "single family residences on an individual lot." Additionally, Site Plans are proposed to be exempt for Accessory structures or improvements less than 256 sq. ft in area.

²³ Editor's Note: This section provides streamlined text from section 7.1 of the existing Ordinance; rather than supply when a Site Plan is required, it reads that a Site Plan is always required – and lists what is exempt. This reduces overall text. The existing Ordinance currently states that a Site Plan is required for all construction in I-1, I, and R-C districts, however, many of the exemptions to a Site Plan would not occur in the Industrial districts but would in the R-C districts. To that end, and to further simplify this section, item (B) states that any development in the R-C district will require a Site Plan.

²⁴ Editor's Note: The existing Ordinance exempts "single family subdivisions." This exemption has been removed, but can remain in the revised Ordinance, if desired.

that the change of use can be accomplished within the regulations of this Ordinance, except when such requirement is waived as provided in Section 3-6-2 (F) below.

- (E) The requirement to submit a Site Plan may be waived by the Zoning Administrator for structures which do not exceed 2,500 square feet of gross floor area where, in the opinion of the Zoning Administrator, there is sufficient information provided with the building permit application to ensure that all ordinance requirements are being met.
- (F) The Zoning Administrator may waive any requirements for the Site Plan review for additions to existing buildings, structures or uses, if, in their opinion, such addition does not substantially affect the requirements of this Ordinance.

Section 3-6-3. Site Plan Specifications, Generally.

- (A) Site Plans, or any portion thereof, involving engineering, architecture, landscape architecture or land surveying, shall be prepared by persons professionally certified to do such work.
- (B) Site Plans shall be prepared to the scale of one inch equals 50 feet or larger; no sheet shall exceed 42 inches in any dimensions.
- (C) Site Plans shall include the title of the project; names of the engineer, architect, landscape architect, or surveyor; the name of the developer; and a 4-inch x 4-inch blank space to serve as the signature panel for the approving authority.
- (D) Site Plans may be prepared on one or more sheets to clearly show the information required by this section and to facilitate the review and approval of the plan. If prepared on more than one sheet, match lines shall clearly indicate where the several sheets join.
- (E) When more than one sheet is required to cover the entire project, a cover sheet, general in nature, shall be provided to identify all individual sheets of an application in proper relationship to each other.
- (F) Profiles must be submitted on standard plan profile sheets. Special studies as required may be submitted on standard cross section paper and shall be an appropriate scale.
- (G) Floodplain limit studies required by this Ordinance shall be shown on all profile sheets with reference to properties affected and centerline of stream.
- (H) All horizontal dimensions shown on Site Plans shall be in feet and decimals of a foot to be closest to one tenth of a foot; and all bearings in degrees, minutes, and seconds to the nearest ten seconds, minimum accuracy.
- (I) Separate Site Plans shall be submitted for each development stage or unit as set forth in any approved Concept Plan.
- (J) A Site Plan for a particular development stage or unit other than the first, shall not be approved until the Site Plan has been approved for the immediately preceding stage or unit.
- (K) Six copies of the Site Plan shall be provided to the Administrator.

Section 3-6-4. Site Plans Contents²⁵.

- (A) The Site Plan shall show the following, unless the Administrator may determine that some of the following information is unnecessary due to the scope and nature of the development proposed:
- (1) The north point, scale, date, and vicinity map.
 - (2) Existing zoning and zoning district boundaries on the property to be developed and on immediately adjacent properties.
 - (3) The boundaries of the property or properties involved, all existing property lines, setback lines, existing streets, buildings, watercourses, waterways or lakes, and other existing physical features in or adjoining the project. If on an adjoining property, physical features such as watercourses, waterways or lakes need only be shown in approximate scale and proportion.
 - (4) Topography of the project area with contour intervals of two feet or less.
 - (5) The location and size of sanitary and storm sewers, water, gas, telephone, electric and other utility lines, culverts, and other underground structures in or affecting the project, including existing and proposed facilities and easements for these facilities. In the case of County-owned utilities, such information shall be provided to the applicant by the County Engineer.
 - (6) The location, dimensions, and character of construction of proposed streets, alleys, parking and loading areas (including space tabulations), outdoor lighting systems, storm drainage and sanitary facilities, sidewalks, curbs and gutters, and all curb cuts. Where necessary to meet the purposes and intent of this Article, such information shall be provided for the site itself and for an area within 50 feet of any property line of the site, except that additional area may be required to be shown to indicate connections or proposed connections to major utilities.
 - (7) The location of all proposed buildings and structures, accessory and main, showing the number of stories and height, use type, major excavations, and the total square footage of the floor area by proposed use.
 - (8) The location, height, type, and material of all fences, walls, screen planting, and landscape details of all buildings and grounds.
 - (9) The location of all trees existing on the site prior to construction with a caliper of eight inches or greater. The Site Plan shall show wooded areas which shall be designated by symbols coincident with the area of trees and an indication of which trees are to be retained and which are to be removed.
 - (10) The proposed nature and manner of grading the site, including proposed treatment of slopes in excess of ten percent to prevent soil erosion and excessive runoff. In cases where an erosion and sedimentation control permit is required, the necessary plans and data shall be submitted

²⁵ Editor's Note: This section proposes that rather than requiring Preliminary and Final Site Plans, that applicant are only required a Site Plan – as noted in previous sections, SEP and Rezonings require a Concept Plan. This change is to streamline the process, which was a noted desire heard during public engagement.

as required in the King George County Erosion and Settlement Control Ordinance. In all other cases, soil erosion control measures shall be shown on the Site Plan.

- (11) The location and screening materials for dumpsters or other outdoor trash receptacles.
 - (12) The location and dimensions of proposed recreation areas, open spaces, and other required amenities and improvements.
 - (13) A tabulation of the total number of acres in the project and the percentage and acreage thereof proposed to be allocated to the several dwelling types, any nonresidential uses, off-street parking, green areas, streets, parks, schools, and other reservations.
 - (14) A tabulation of the total number of dwelling, commercial, or industrial units of various types in the project and the overall project density in dwelling, commercial, or industrial units per gross acre.
 - (15) The proposed and required off-street parking and loading areas, including parking and access for the handicapped as specified in the Virginia Uniform Statewide Building Code, as amended.
 - (16) The location of any grave, object, or structure marking a place of burial.
 - (17) The approximate limit of the 100-year floodplain, any drainage district, or mapped dam break inundation zone.
 - (18) A plan or report indicating the extent, timing, and estimated cost of all off-site improvements, such as roads, sewer, and drainage facilities deemed necessary to construct the proposed development, and the extent, timing, and estimated cost of all facilities deemed necessary to serve the development such as schools, libraries, and police substations. This plan or report shall relate to the sequence of the development schedule if the development is to be constructed in stages or units.
 - (19) Documentation of all existing permits and applications relevant to the parcel, including, but not limited to: Health Department permits for all wells and septic drain fields; all existing Zoning Permits and zoning applications; applications for rezoning, Special Exception Permits, and zoning variances and evidence of all Wetlands Permits required by Federal, State, and local laws and regulations applicable to the site, lot, or parcel.
 - (20) When the development is to be constructed in stages or units, a final sequence of development schedule showing the order of construction of such stages or units, an approximate completion date for the construction of each stage or unit, and a final cost estimate of all improvements within each stage or unit.
 - (21) A copy of all covenants, restrictions, and conditions pertaining to the use, maintenance, and operation of all open space areas.
 - (22) Any additional information as required by the Zoning Administrator necessary to evaluate the character and impact of the proposed project.
- (B) In addition, a Site Plan for any Planned Development, including either a Resort Community District (RC) or a Mixed-Use Development District (M-U) shall include:

- (1) A plat as required for Preliminary Plat approval by Article 10, Subdivisions.

Section 3-6-5. Standards and Improvements.

- (A) **Improvements Required.** All improvements required by this Ordinance shall be installed at the cost of the developer and in accordance with design and construction standards of King George County.
- (B) **Specifications.** In cases where specifications have been established either by the Board of Supervisors of King George County, the Virginia Department of Transportation for construction of streets, etc., or this Ordinance for related facilities and utilities, such specifications shall be followed. The most restrictive specifications will prevail.
- (C) **Performance Bond²⁶.** After a Site Plan has been approved, and before any construction or land disturbance can occur, the developer shall furnish to the County an irrevocable letter of credit, cash escrow, or bonds (collectively referred to as “performance bond”) from a certified Virginia Lending Institution by corporate surety in a form and amount sufficient to guarantee the completion of all required improvements.
 - (1) The cost of required improvements shall be determined by a bona fide estimate of construction cost prepared by a duly licensed engineer and such estimate shall be provided at the expense of the developer.
 - (2) The amount of the performance bond or other guarantee shall be 110% of the estimated construction cost.
 - (3) In the event the Administrator has rejected any such agreement or bond, the owners or developer shall have the right to have such determination made by the Board of Supervisors.
 - (4) If such performance bond contains an expiration date, provisions shall be made for the extension thereof if all improvements have not been completed 30 days prior to the expiration date.
 - (5) The performance bond or other appropriate security shall not be released until construction has been inspected and accepted by the Zoning Administrator and by the Virginia Department of Transportation, where appropriate.
- (D) **Standards and Improvements.** In addition to those improvements and standards specified in other sections of this Ordinance, the following minimum standards and improvements shall also be required for all Site Plans:
 - (1) When a Site Plan is located on public roads of less than 50 feet in total width, additional right-of-way shall be dedicated to achieve a minimum 50-foot wide right-of-way. All building setbacks shall be measured from the additional dedicated right-of-way.
 - (2) No alley on a Site Plan shall have a right-of-way of less than 20 feet.

²⁶ Editor’s Note: The existing Ordinance required bond at the time of filing a Site Plan. This has been changed to require bond after the approval of a Site Plan to reflect approved Site Plan contents.

- (3) All street and highway construction standards and geometric design standards shall be in accordance with Article 10, Subdivision.
 - (4) Private vehicular travel lanes or driveways designed to permit vehicular travel on the site and to and from adjacent property and parking areas shall be constructed not less than 20 feet in width, except within parking areas where it shall be not less than 22 feet.
 - (5) Cul-de-sacs are to be designed in accordance with the standards specified in Article 10, Subdivision.
 - (6) Interior travel lanes, driveways, and parking bays are to be congruous with the public street to which the travel lanes, driveways and parking bays are connected. At a minimum, all surfaces shall be Class "A" prime and double seal. Every parking bay shall be so constructed that no vehicle when parked will overhang property lines or moving travel lanes.
 - (7) Adequate easements shall be provided for drainage and all utilities. Where easements do not follow the established lot lines, the nearest edge of any easement shall be a minimum of five (5) feet from any building.
 - (8) The developer shall provide for all utilities and services required, to include both on-site and off-site improvements. The determination of the exact improvements required, i.e., size of lines and capacities, is to be established by the developer in conference with the County agent acting on the advice of appropriate officials, authorities, departments, and/or consultants having expertise on the subject.
 - (i) Tests and/or other methods of soil evaluation deemed necessary by the Virginia Department of Health wherever required shall be the responsibility of the developer.
 - (ii) Utilities shall include but not be limited to electric, gas, water, sewer, storm drainage, telephones and/or cable television.
 - (9) Adequate fire hydrants, with assurance of adequate water supply and distribution systems will be provided by the developer. Fire hydrants will be provided in the total area to be planned and in such locations as are approved by the Planning Commission or its designated agent.
 - (10) All landscaping must be designed in compliance with Article VIII of this Ordinance²⁷.
- (E) **Supervision and Inspections.** It shall be the responsibility of the developer to provide adequate supervision and inspections on the site during the installation of all required improvements, and to have a responsible supervisor together with one set of approved plans, profiles, and specifications at the site at all times when work is being performed.
- (F) **Acceptance of Improvements.** The approval of the Site Plan or the installation of the improvements as required in this Ordinance shall in no case serve to bind the County to accept such improvements for maintenance, repair, or operation thereof. Such acceptance of each type of improvements shall be subject to the County and/or State regulations.

²⁷ Editor's Note: This item reduces the text in the existing Ordinance that provides detailed landscaping requirements. All landscaping requirements are proposed to be in Article VIII of the revised Ordinance.

Section 3-6-6. Review.

- (A) **Administrative Review.** Site Plans required under Section 3-6-2 are subject to administrative approval by the Administrator.
- (1) The Zoning Administrator is responsible for the review, processing, and the requesting of additional agency and consultant reports relative to a Site Plan which has been submitted.
 - (2) Developers are encouraged to discuss the proposals contained in the Site Plan as submitted with the staff officials of King George County prior to official request for approval of that plan.
- (B) **Site Plan Review Process.** Unless otherwise provided in another Article of this Ordinance, every Site Plan required by this Article shall be submitted to the Administrator who shall take the following actions:
- (1) Review the Site Plans for conformity with applicable development regulations and approved Concept Plans.
 - (2) Site Plans will be provided to the County Engineer and other relevant County departments and reviewing agencies for written comment.
 - (3) The Administrator shall notify the applicant of the action taken with respect to the Site Plan, which may include approval or disapproval.
- (C) **Time Period for Approval.**
- (1) Pursuant to Code of Virginia, § 15.2-2259, as amended, Site Plans shall be approved or disapproved within 60 days²⁸ after it has been officially submitted for approval or, if state agency review is required, within 35 days of receipt of approvals from all reviewing agencies. If disapproved, the reasons for disapproval shall be identified by reference to specific duly adopted Ordinances, regulations, or policies and shall identify, to the greatest extent practicable, modifications or corrections that will permit approval of the plan.
 - (2) Pursuant to Code of Virginia, § 15.2-2259, as amended, a Site Plan that has previously been disapproved but has been modified, corrected, and resubmitted shall be acted on within 45 days²⁹ of resubmission.

Section 3-6-7. Amendment of Site Plans³⁰.

- (A) If it becomes necessary for an approved Site Plan to be changed, the Administrator may, at the applicant's request, administratively approve a minor amendment to the Site Plan if the change or amendment does not:
- (1) Alter a recorded plat;
 - (2) Conflict with specific requirements of this Ordinance;

²⁸ Editor's Note: This timeframe has been added to comply with the Code of Virginia requirements.

²⁹ Editor's Note: Provision included to comply with Code of Virginia requirements.

³⁰ Editor's Note: Proposed as a new section. The existing Ordinance states that minor changes may be authorized; this section provides details and clear parameters.

- (3) Change the general character or content of an approved Concept Plan or use;
 - (4) Have an appreciable effect on adjoining or surrounding property;
 - (5) Result in any substantial change of external access points;
 - (6) Decrease the minimum specified yard and open spaces; and
 - (7) Substantially change architectural or site design features.
- (B) Amendments such as but not limited to, the elimination of any use shown or the addition of any use not shown on the Concept Plan, or any increase or decrease in the density of the development from the approved Concept Plan, shall require approval of a Concept Plan amendment through the applicable rezoning or Special Exception process.
- (C) If amendments to a Site Plan do not comply with administrative approval, then the amendment request and a new Site Plan must be drawn and submitted for review and action in accordance with this Division.
- (D) If the Administrator fails to act on a request for a minor amendment to the Site Plan within 45³¹ calendar days, it shall be considered approved.

Section 3-6-8. Compliance with Approved Site Plan Required.

- (A) It shall be unlawful for any person to construct, erect, or substantially alter any building or structure, or develop, change, or improve land for which a Site Plan is required, except in accordance with an approved Site Plan. Deviation from an approved Site Plan without the written approval of the Administrator shall void the Site Plan and require submission of a new Site Plan for approval.
- (B) No permit shall be issued for any structure in any area covered by the Site Plan that is required under the provisions of this Article except in conformity with such Site Plan which has been duly approved.
- (C) The Building Official shall be responsible for enforcing the requirements as set forth in the final approved Site Plan, before issuance of a certificate of occupancy, and shall give written notice to the Administrator that the Site Plan has been completed before issuing the certificate of occupancy.
- (D) Upon the satisfactory completion of the installation of all required improvements shown on the approved Site Plan, the developer shall submit to the County agent two copies of the completed As-Built Plans. Such shall be submitted at least one week prior to the anticipated occupancy of any building for the review and approval by the County agent for conformity with the approved site plan and the ordinances and regulations of the County and State agencies.
- (E) Where structures are completed and ready for occupancy prior to the completion of all improvements required by the Site Plan, the owner may provide bond with surety adequate to

³¹ Editor's Note: This timeframe is proposed to follow the procedure for corrected Site Plans, as outlined in Code of Virginia, § 15.2-2259.

guarantee the completion of Site Plan, as outlined in Section 3-6-6 above, and upon providing of such bond with surety as agreed upon by the Zoning Administrator, a permit may be issued for the occupancy of those structures already completed.

Section 3-6-9. Period of Validity.

- (A) In accordance with Code of Virginia, § 15.2-2261, as amended, approval of a Site Plan submitted under the provisions of this Article shall expire five years after the date of such approval unless building permits have been obtained for construction in accordance therewith.
- (B) The application for and approval of minor modifications to an approved Site Plan shall not extend the period of validity of such plan and the original approval date shall remain the controlling date for purposes of determining validity.

Division 7. Zoning Permits.³²

Section 3-7-1. Applicability.

- (A) No building or other structure shall be erected, moved, expanded, structurally altered, nor shall any building, structure, or land be established or changed in use without the owner or owners first obtaining a permit issued by the Administrator verifying that the building, structure, or use complies with the requirements of this Ordinance.
- (B) No such permit shall be issued for a building, structure, or use unless such complies with the provisions of this Ordinance, or a Special Exception authorizing an exception, variance, or written order from an appeal has been approved as provided by this Ordinance.

Section 3-7-2. Standards and Procedures.

- (A) Zoning Permit applications shall be reviewed using the procedures and minimum submission requirements established by the Administrator.
 - (1) Site Plans shall be submitted as required in Division 6 of this Article.
 - (2) When Site Plans are not required, each Zoning Permit application shall be accompanied by two (2) copies of a scale drawing or plan, with dimensions, that show:
 - (i) Lot lines;
 - (ii) Location of buildings on the lot including setback measurements from each property boundary;
 - (iii) Suitable notations indicating the proposed use of all land and buildings; and
 - (iv) Such other information as may be necessary to provide for the enforcement of these regulations.

³² Editor's Note: This Division proposes all new text; the existing ordinance mentions 'zoning permits' are required for certain uses but does not provide procedures or standards.

- (v) If determined necessary by the Administrator in a specific case, a boundary survey and a staking of the lot by a competent surveyor and complete construction plans shall be required.
- (B) If the proposed building or use is in conformity with the provisions of this Ordinance, a permit shall be issued to the applicant by the Administrator. One (1) copy of the drawing shall be returned to the applicant with the permit. One (1) copy shall be kept in the offices of the Administrator as record of the decision.
- (C) A zoning permit, in itself, shall not ensure that the development approved through said permit shall receive subsequent approval for any other necessary permits or development approvals as otherwise required.

Section 3-7-3. Period of Validity³³.

- (A) **Expiration of Zoning Permit.** An approved zoning permit shall become null and void if the work described in the zoning permit has not begun within 12 months from the date of issuance thereof. Written notice of the revocation shall be provided by the Administrator to the permit applicant. If the work described in any zoning permit has not been substantially completed within two years of the date of issuance thereof, said permit shall expire and be revoked by the Administrator. Written notice of the permit expiration shall be given to the permit applicant, together with notice that further work as described in the expired permit shall not proceed unless and until a new zoning permit has been obtained or extension granted, as provided in section 3-7-3 (B) below.
- (B) **Extension.** Prior to expiration of an approved zoning permit, if the applicant requests extension, the Administrator may grant extensions for additional periods as determined to be reasonable, taking into consideration, although not exclusively, the size and nature of the development, due diligence of the applicant to proceed, and other applicable laws in effect at the time of the extension request.

Division 8. Written Determinations.³⁴

Section 3-8-1. Purpose and Intent.

In administering, interpreting, and enforcing this Ordinance, the Administrator shall provide a written response to persons who have filed a specific request in writing for a decision or determination on zoning matters within the scope of the Administrator's authority.

Section 3-8-2. Standards and Procedures.

- (A) The Administrator's response shall be provided within 90 days of the date of the request unless the requestor agrees to a longer period of time.

³³ Editor's Note: These timeframes for validity and potential expiration are new. If they pose a challenge to administration, they can be omitted or adjusted.

³⁴ Editor's Note: This Division proposes all new text; the existing ordinance mentions various determinations but does not provide procedures or general standards. This proposed language conforms with state code.

- (B) When the requestor is not the owner or the owner’s agent of the property subject to the request, the Administrator in accordance with the Code of Virginia § 15.2-2204 (H), as amended, shall provide written notice within 10 days of receipt of the request to the owner of the property at the owner’s last known address as shown on the County’s real estate assessment records.
- (C) The Administrator’s written decision or determination shall include a statement informing the recipient of the right to appeal the decision as provided in Division 9 of this Article.

Division 9. Appeals³⁵.

Section 3-9-1. Appeals of Zoning Administrator Determinations and Decisions.

- (A) Pursuant to the Code of Virginia § 15.2-2311, as amended, an appeal to the BZA may be taken by any person aggrieved or by any officer, department, board, or bureau of the County affected by any decision of the Administrator or from any order, requirement, decision, or determination made by any other administrative officer in the administration or enforcement of this Ordinance.
- (B) Such appeal shall be taken within 30 days after the decision appealed from by filing with the Administrator, and with the BZA, a notice of appeal specifying the grounds thereof. The Administrator shall forthwith transmit to the BZA all the papers constituting the record upon which the action appealed from was taken.
- (C) A decision or interpretation of the Administrator shall be presumed correct and may not be reversed or modified unless there is evidence in the record that the decision is not correct, based on the relevant procedures and review standards of this Ordinance.

Section 3-9-2. Appeals to Board of Zoning Appeals (BZA) Procedures³⁶.

- (A) Pursuant to the Code of Virginia § 15.2-2312, as amended, procedures for submitting an appeal shall be as follows:
 - (1) **Mailing Procedure.** Appeals shall be mailed from the applicant seeking appeal to the BZA in care of the Administrator, and a copy of the appeal shall be mailed to the secretary of the Planning Commission. A third copy should be mailed to the individual, official, department, or agency concerned, if any.
 - (2) **Hearing.** The BZA shall fix a reasonable time for the hearing of an appeal, give public notice thereof as well as due notice to the parties in interest, and decide the same within 90 days of the filing of the appeal.
 - (3) **Decisions.** In exercising its powers, the BZA may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from. In any appeal, if a

³⁵ Editor’s Note: The existing Ordinance provides for appeals and variances together. This proposed Section focuses solely on appeals – including their processes and procedures.

³⁶ Editor’s Note: The existing Ordinance provides that the BZA has 60 days to reach its decision; the Code of Virginia allows for 90 days, and the text has been updated to reflect that timeframe.

BZA's attempt to reach a decision results in a tie vote, the matter may be carried over until the next scheduled meeting at the request of the person filing the appeal.

Section 3-9-3. Appeals of BZA, Planning Commission, or Board of Supervisors.

- (A) Pursuant to the Code of Virginia § 15.2-2314, and §15.2-2285, as amended, any person jointly or severally aggrieved by any decision of the BZA, Planning Commission, or Board of Supervisors or any taxpayer or any officer, department, board, or bureau of the County may appeal the decision to the circuit court of King George County.
- (B) A petition specifying the grounds on which the applicant is aggrieved must be submitted 30 days after the filing of the decision in the office of the BZA.

Section 3-9-4. Construction in Violation of Ordinance Without Appeal to BZA.

- (A) Pursuant to the Code of Virginia § 15.2-2313, as amended, construction of a building with a valid building permit deemed in violation of this Ordinance may be prevented, restrained, corrected, or abated by suit filed within 15 days after the start of construction by a person who had no actual notice of the issuance of the permit.
- (B) The court may hear and determine the issues raised in the litigation even though no appeal was taken from the decision of the Administrator to the BZA.

Section 3-9-5. Stay of Proceedings.

An appeal shall stay all proceedings in furtherance of the action appealed from unless the Administrator certifies to the BZA that by reason of facts stated in the certificate a stay would, in their opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order granted by the BZA or by a court of record, on application and on notice to the Administrator and for good cause shown.

Division 10. Public Hearings and Notifications.

Section 3-10-1. Public Hearing Required.

- (A) In accordance with the Code of Virginia § 15.2-2204, as amended, the Planning Commission shall not recommend, nor shall the Board of Supervisors adopt or approve any plan, ordinance, amendment, or Special Exception, nor shall the BZA approve any variance, until it has held a duly advertised public hearing. Advertising and notice procedures shall be conducted according to the procedures under the Code of Virginia § 15.2-2204, as amended, as outlined in the sections for this Division.
- (B) The Planning Commission and Board of Supervisors may hold a joint public hearing after public notice as set forth herein, and if such joint hearing is held, public notice as set forth below need be given only by the Board of Supervisors.
- (C) No land may be zoned to a more intensive use classification than was contained in the public notice without an additional public hearing after notice pursuant to the Code of Virginia § 15.2-2204, as amended.

Section 3-10-2. Advertisements and Mailings³⁷.

- (A) The notice for each proposal shall provide:
- (1) A descriptive summary of the application;
 - (i) In the case of a proposed amendment to the Zoning Map (rezoning), the public notice shall state the general usage and density range of the proposed amendment and the general usage and density range, if any, set forth in the applicable part of the Comprehensive Plan.
 - (2) The location of the property, if applicable;
 - (3) Where copies of the proposal may be examined; and
 - (4) The time and place of any hearing at which persons affected may appear and present their views.
- (B) Notice of public hearings shall also be published once a week for two successive weeks in some newspaper published or having general circulation in the County.
- (1) The term "two successive weeks," as used in this subsection, shall mean that such notice shall be published at least twice in such newspaper, with not less than six days elapsing between the first and second publications.
 - (2) The hearing shall be held not less than five days nor more than 21 days after the second advertisement shall appear in such newspaper.
- (C) In accordance with Code of Virginia § 15.2-2206, as amended, property owner notification shall be sent by the developer/applicant.
- (1) The developer/applicant shall provide an affidavit to the Department of Community Development certifying that notifications were mailed to adjoining property owners a minimum of five (5) days prior to the hearing, except as noted below.
 - (2) Notifications must be mailed to:
 - (i) The owner, owners, or their agent of the subject property;
 - (ii) Persons owning any adjacent property, including property across any road, railroad right-of-way or body of water;
 - (iii) A locality's chief administrative officer or their designee when the subject property is located within 0.5 mile of the boundary of the adjoining locality at least 10 days prior to the hearing;
 - (iv) The commander of the applicable military operation when the subject property is located within 3,000 feet of the boundary of a military base, installation or airport, excluding armories operation by the Virginia National Guard, at least 30 days prior to the hearing;

³⁷ Editor's Note: Items (C) (6) and (7) are optional provisions permitted in the Code of Virginia and are considered a best practice.

- (v) The owner of a public use airport when the subject property is located within 3,000 feet of such airport at least 30 days prior to the hearing;
 - (vi) The incorporated property owners' association within a planned development where the subject property is located within the planned development and the association's members also own property in the planned development that is located within 2,000 feet of any portion of the subject property; and
 - (vii) In lieu of each individual unit owner, the unit owners' association or proprietary lessee's association when the property adjacent to the subject property is a condominium or cooperative, respectively.
- (D) The following exceptions shall apply to adjacent property owner notification requirements, as outlined in this section:
- (1) When a proposed amendment to the zoning ordinance involves a tract of land not less than 500 acres owned by the Commonwealth or by the federal government, and when the proposed change affects only a portion of the larger tract, notice need be given only to the owners of those properties that are adjacent to the affected area of the larger tract.
 - (2) Adjacent property owner notification is not required when a proposed amendment of the zoning ordinance involves zoning approval for twenty-six (26) or more lots or a change to the applicable zoning ordinance text regulations that decreases the allowed dwelling unit density of any parcel of land; written notice shall be required to the owner, owners, or agent of any impacted lot that is 11,500 square feet or larger.
- (E) Notice, as required above, shall be sent by registered or certified mail to the last known address of such property owner(s) as shown on the current real estate tax assessment records. Notice may be sent by first class mail; however, a representative of the County shall sign an affidavit that such mailings have been made and file such affidavit with the papers in the case.
- (F) The cost of all notice requirements shall be paid by the developer/applicant in addition to any other fees involved in the application. The County shall bill the applicant for such costs.

Section 3-10-3. Posting Notice on Property³⁸.

- (A) The applicant shall also be required to place a sign(s) provided by the County³⁹ on the subject property which indicates that Zoning action is pending.
- (1) The notice must be posted on the subject property no less than 15 days prior to the public hearing.

³⁸ Editor's Note: This section contains streamlined and reduced text of section 5.9 of the existing Ordinance. Changes were made to lessen the burden to the developer, easing development requirements. Removed requirements include typography and material of notice.

³⁹ Editor's Note: This proposed change requires the County provide the property notice to ensure consistency and quality. The cost of the sign can be included/built-in to the application fee.

- (2) An affidavit shall be submitted to Department of Community Development certifying the posting no more than 3 days after posting of the notice(s).
- (3) The notice must be posted before the public hearing. Notice shall be removed no later than 7 days after the public hearing.
- (4) The notice shall specify the date, time, and location of the public hearing.
- (5) If the application addresses more than one property, signage shall be placed on each parcel.
- (6) Properties with more than 200 feet of street frontage shall be posted with one sign for each 200 feet of frontage.
- (7) If a property has no road frontage, the number and location of signs to be posted shall be at the discretion of the Zoning Administrator.
- (8) The notice shall be posted at reasonable intervals along roads abutting the subject property, or if there is no abutting road, at the proposed road or entrance into the property, in locations reasonably visible from existing roads.
- (9) The holding of a public hearing or the validity of action on an application shall not be affected by the unauthorized removal of a notice which has been posted in accordance with this section.

Section 3-10-4. Developer/Applicant Responsibility.

It shall be the responsibility of the applicant to meet the requirements of Section 3-10-2 and Section 3-10-3 of this Article. Improper posting or mailings not in accordance with those Sections shall defer the public hearing. If deferred, the property will require re-posting and new mailings to be sent, and any additional costs associated with the deferment.

Section 3-10-5. Waiver of Notice⁴⁰.

Actual notice of, or active participation in, a public meeting for which written notice is required shall waive the right of that party to challenge the validity of the proceedings based on failure of notice.

⁴⁰ Editor's Note: Proposed new text.