

ATTACHMENT B

ARTICLE I. – In General.

Division 1. Enactment and Authority.

Section 1-1-1. Title.

This chapter, the full title of which is "King George County, Virginia Zoning and Subdivision Ordinance," shall be permitted, for convenience, to be referred to as the "Zoning and Subdivision Ordinance" or "Ordinance."

Section 1-1-2. Authority.

- (A) Pursuant to the Code of Virginia, § 15.2-2280 et seq., as amended, King George County, Virginia is given the authority to classify and regulate land development under its jurisdiction.
- (B) Pursuant to the Code of Virginia, § 15.2-2240, et seq., as amended, King George County, Virginia is authorized to adopt regulations to assure the orderly subdivision of land and its development.

Section 1-1-3. Purpose.¹

- (A) The purpose of this Ordinance is to implement the King George County Comprehensive Plan; promote the health, safety, and general welfare of the public and of further accomplishing the objectives of § 15.2-2200, as amended, of the Code of Virginia. This Ordinance is designed to give reasonable considerations to:
 - (1) Provide for adequate light, air, convenience of access and safety from fire, flood, impounding structure failure, crime, and other dangers;
 - (2) Reduce or prevent congestion in the public streets;
 - (3) Facilitate the creation of a convenient, attractive and harmonious community;
 - (4) Facilitate the provision of adequate police and fire protection, disaster evacuation, civil defense, transportation, water, sewerage, flood protection, schools, parks, forests, playgrounds, recreational facilities, airports and other public requirements;
 - (5) Protect against destruction of or encroachment upon historic areas and working waterfront development areas;
 - (6) Protect against one or more of the following: overcrowding of land, undue density of population in relation to the community facilities existing or available, obstruction of light and air, danger and congestion in travel and transportation, or loss of life, health or property from fire, flood, impounding structure failure, panic or other dangers;
 - (7) Encourage economic development activities that provide desirable employment and enlarge the tax base;

¹Editor's Note: Purpose expanded to include all items supplied in the Code of Virginia for the purpose of Zoning Ordinances and the purpose of Subdivision Ordinances.

- (8) Provide for the preservation of agricultural and forestal lands and other lands of significance for the protection of the natural environment;
- (9) Protect the approach slopes and other safety areas of licensed airports, including United State government and military air facilities;
- (10) Promote the creation and preservation of affordable housing suitable for meeting the current and future needs of the County as well as reasonable proportion of the current and future needs of the planning district within which the County is located;
- (11) Provide reasonable protection against encroachment upon military bases, military installations, and military airports and their adjacent safety areas, excluding armories operated by the Virginia National Guard;
- (12) Provide reasonable modifications in accordance with the Americans with Disabilities Act of 1990 or state and federal fair housing laws, as applicable;
- (13) Protect surface water and ground water as defined in the Code of Virginia § 62.1-255, as amended;
- (14) Establish standards and procedures for the orderly division, subdivision and resubdivision of lots, tracts and parcels of land for residential and commercial purposes pursuant to the Code of Virginia § 15.2-2240 et. seq., as amended;
- (15) Ensure proper legal description and proper monumenting of subdivided land;
- (16) Ensure the purchasers of lots, tracks and parcels of land purchase a commodity that is suitable for the intended use; and,
- (17) Provide standards for development, ensuring appropriate ingress, egress, public facilities, services, and utilities.

Section 1-1-4. Applicability.²

- (A) Pursuant to the Code of Virginia, § 15.2-2281, as amended, the provisions of this Ordinance shall apply to all property within the unincorporated territory of King George County, Virginia, with the exception that any property held in fee simple ownership by the United States of America, the Commonwealth of Virginia, or the government of King George County shall not be subject to the provisions contained herein. Upon transfer of ownership or control of any portion of government lands to private interests, the regulations of the district in which the land is located shall automatically apply.
- (B) Pursuant to the Code of Virginia, § 15.2-2284, as amended, the zoning regulations and districts as herein set forth have been drawn with reasonable consideration for the existing use and character

² Editor's Note: Proposed as a new section to replace Section 1.7 of the existing Ordinance to simplify language and to address general purpose and applicability. Existing Section 1.7 provided detail to various district standards, parking standards, and permitting requirements; this will be addressed in Articles 3 (Permits and Applications), 4 (Primary Zoning Districts), 5 (Overlay Zoning Districts), and 8 (Community Design Standards); a simple statement is all that is required here.

of property, the comprehensive plan, the suitability of properties for various uses, the trends of growth or change, the current and future requirements of the community as to land for various purposes as determined by population and economic studies and other studies, the transportation requirements of the community, and the requirements for airports, housing, schools, parks, playgrounds, recreation areas, and other public services; and the conservation of natural resources, the preservation of flood plains, the protection of life and property from impounding structure failures, the preservation of agriculture and forestal land, the conservation of properties and their values, and the encouragement of the most appropriate use of land throughout the County.

Section 1-1-5. Conformity with Ordinance Required.

- (A) Except as otherwise provided in this Ordinance or as modified through a zoning approval, all land, buildings, structures, and/or premises within the County shall only be used, occupied, erected, constructed, moved, enlarged, and/or altered in conformance with this Ordinance’s regulations,
- (B) Land shall only be subdivided in conformance with this Ordinance’s (Article X) regulations.

Section 1-1-6. Severability.

Should any Section or any provision of this Ordinance be decided by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole, or any part thereof, other than the part so held to be unconstitutional or invalid.

Division 2. Ordinance Conflicts and Interpretations.

Section 1-2-1. Interpretation.^{3,4}

- (A) The Zoning Administrator shall interpret this Ordinance based upon the following criteria:
 - (1) Provisions shall be considered the minimum required to promote the public health, safety, convenience and general welfare;
 - (2) Unless otherwise specified, the standards of this Ordinance are the minimum required;
 - (3) When regulations of this Ordinance conflict with each other, other County Ordinances, or state or federal law, the more restrictive regulation shall govern;
 - (4) This Ordinance does not abolish easements, covenants or other private agreements, however, pursuant to the Code of Virginia, § 15.2-2315, as amended, where this Ordinance’s requirements vary with the requirements of any other lawfully adopted statute, regulation, or ordinance, the most restrictive, or the higher standard, shall control to the extent necessary to resolve the conflict;

³ Editor’s Note: The date of the revised ordinance adoption will be inserted after formal adoption.

⁴ Editor’s Note: Much of this Section, particularly items (2), (3), and (4), replaces Section 1.8 of the existing ordinance but simplifies language.

- (5) A building, structure, or use which was not legally existing on _____ (effective date of revised ordinance) shall not be made lawful solely by adoption of this Ordinance;
- (6) Where this Ordinance's requirements are vague or unclear, the Zoning Administrator shall be responsible for their interpretation; and,
- (7) Conditions imposed or accepted as part of a zoning approval prior to _____ (effective date of revised ordinance) shall remain in effect. However as stated in the Code of Virginia § 15.2-2261.1, as amended, if there is a conflict between conditions imposed through those land use decisions and this Ordinance, the conditions shall apply. If there is no condition that addresses a specific use or development standard of this Ordinance, this Ordinance's requirements shall govern.

Section 1-2-2. Figures and References in Ordinance.⁵

- (A) Where figures are contained in this Ordinance, they are provided for demonstrative purposes only and are not a substantive part of this Ordinance.
- (B) If any section of this Ordinance incorporates by reference any state statute or regulation, then the Ordinance incorporates future amendments of the state statute or regulation.

Division 3. Zoning Districts⁶ Map.

Section 1-3-1. Establishment, Maintenance, and Amendment.^{7,8}

- (A) The official location and boundaries of the various primary zoning districts and overlay districts are hereby established as shown on the official "Zoning Map of King George County, Virginia" for convenience, to be referred to as the "Zoning Map".
- (B) A certified copy of the Zoning Map shall be filed in the office of the Clerk of Circuit Court of King George County.
- (C) The Zoning Map shall be available for examination and inspection by the public at all reasonable times.
- (D) The original of the Zoning Map shall be filed in the Zoning Administrator's office and such original shall be updated from time to time as the result of the following Board of Supervisors action:
 - (1) Amendments to the Ordinance;
 - (2) Approval of a Rezoning (see Article 3, Section 2); or

⁵ Editor's Note: Proposed as a new section.

⁶ Editor's Note: The list of district names will now be found in Article 4 (Primary Zoning Districts), Division 1.

⁷ Editor's Note: Much of this Section's language has been taken from the existing Ordinance and been restructured and simplified.

⁸ Editor's Note: Existing Ordinance Section 1.6.1 states that changes to the Zoning Map shall have the ZA signature and the date of official action and nature of the change. In practice, this is happening in the GIS department, thus has been omitted from the Ordinance.

- (3) Approval of Conditional Zoning (see Article 3, Section 3).

Section 1-3-2. Incorporated by Reference.

The Zoning Map, as amended, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this Ordinance.

Section 1-3-3. Interpretation of Zoning District Boundaries.^{9,10}

- (A) The Zoning Map associated with this text and showing the division of the territory into districts shall be interpreted with the following rules when uncertainty exists with respect to the boundaries of any of the districts:
- (1) Where district boundaries are fixed by dimensions or otherwise shown or described, there shall be no uncertainty.
 - (2) Where district boundaries are indicated as approximately following or being at right angles to the centerlines of streets, highways, alleys or railroad tracks, such centerline, or lines at right angles to such centerlines, shall be construed to be such boundaries.
 - (3) Where a district boundary is indicated to follow a river, creek, or branch or other body of water, said boundary shall be construed to follow the centerline at low water or at the limit of the jurisdiction, and in the event of change in shoreline, such boundary shall be construed as moving with the actual shoreline.
 - (4) If distances or other dimensions are not specifically indicated on the Zoning Map, they will be determined by the scale of the map.
 - (5) If the specific location of a boundary cannot be determined from notations on the Zoning Map or application of the above standards, it will be determined by using the map scale to determine the boundary's distance from other features shown on the map.
 - (6) In any case in which there is uncertainty, contradiction, or conflict as to the location of any zoning district boundary – due to scale, illegibility, lack of detail, physical or natural features varying from those on the Zoning Map, or any other circumstances not covered by this section – the Zoning Administrator will have the authority to interpret the district boundaries in accordance with Section 2-1-1 of this Ordinance.
 - (7) The Zoning Administrator's interpretations may be appealed to the BZA in accordance with Division 3 of this Ordinance. The BZA will not have the power to change substantially the locations of district boundaries.

⁹ Editor's Note: Proposed as a new section to explain how boundaries are to be determined, if ever in question.

¹⁰ Editor's Note: Items (A) (6) and (7) propose a change that provides the Zoning Administrator authority in interpreting zoning district boundaries. In the case of conflict or appeal, the BZA would interpret.

Section 1-3-4. Unauthorized Changes.

No changes of any nature shall be made on the Zoning Map except in conformity with the procedures and requirements of this Ordinance. It shall be unlawful for any person to make unauthorized changes on the Zoning Map.

Division 4. Transition of Regulations after Adoption.

Section 1-4-1. Effective Date of Ordinance.^{11,12,13}

This Ordinance was adopted on ____ (date of adoption of revised ordinance). Ordinance shall be This Ordinance will become effective on ____ (effective date of revised ordinance) and repeals and replaces any prior Zoning Ordinance adopted in King George County. Its provisions shall be in force until repealed or amended.

Section 1-4-2. Violations Continue.¹⁴

Any development or activity in violation of the previous Zoning Ordinance will continue to be a violation under this Ordinance unless the development or activity complies with the express terms of this Ordinance.

Section 1-4-3. Nonconformities.¹⁵

If any use, structure, lot, sign, or site feature legally existed immediately prior to ____ (effective date of revised ordinance) but does not fully comply with the standards of this Ordinance or any amendment thereto, the use, structure, lot, sign, or site feature is considered nonconforming under this Ordinance and must comply with the requirements in Article IX – Nonconforming Uses, Lots, and Structures.

Section 1-4-4. Complete Applications and/or Plats.¹⁶

(A) Applications and/or plats accepted as complete prior to ____ (effective date of revised ordinance), but still pending final action as of that date, will be processed in accordance with the regulations in effect when the submittal was accepted. To the extent such a submittal is approved and proposes development that does not comply with this Ordinance, the subsequent development, although permitted, will be nonconforming and subject to the requirements of Article IX – Nonconforming Uses, Lots, and Structures.

¹¹ Editor's Note: Date of adoption will be inserted after formal adoption.

¹² Editor's Note: Section 1.12 of the existing Ordinance includes a statement that all prior ordinances are repealed. This statement of repeal is now combined with the Effective Date.

¹³ Editor's Note: The existing Ordinance contains language that all prior ordinances are repealed, except for the Wetlands Ordinance. It appears the Wetlands Ordinance is currently included as an Article in the existing Ordinance. This is an outdated reference and has not been included.

¹⁴ Editor's Note: Proposed as a new section.

¹⁵ Editor's Note: This section is proposed to acknowledge and cross-reference nonconformities; nonconformities article is referenced.

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

- (B) An applicant with a pending application and/or plat accepted prior to ____ (effective date of revised ordinance), may opt to have the proposed development reviewed and decided under the standards of this Ordinance by withdrawing the pending submittal and submitting a new application and/or plat in accordance with the procedures and standards of this Ordinance.
- (C) Applications and/or plats accepted as complete will be processed in accordance with any time frames for review, approval, and completion established in the regulations in effect at the time the submittal was accepted as complete. If the submittal fails to comply with the required time frames, it will expire, and future development will be subject to the requirements of this Ordinance.

Section 1-4-5. Other Approved Permits and Development Approvals.¹⁷

Any other permits or development approvals granted prior to ____ (effective date of revised ordinance), will remain valid until their expiration date. Developments with valid permits or development approvals may be carried out in accordance with the terms and conditions of their approval and the development standards in effect at the time of approval, provided the permit or development approval is valid and has not expired. If the prior approval expires or is revoked, any subsequent development or use of the site will be subject to the procedures and standards of this Ordinance. To the extent a prior-approved application proposes development or use that does not comply with this Ordinance, the subsequent development or use, although permitted, will be nonconforming and subject to the requirements of Article IX – Nonconforming Uses, Lots, and Structures.

Section 1-4-6. Vested Rights.

- (A) The provisions of this Ordinance shall not impair a vested right of a property owner. The Zoning Administrator shall be authorized to make determinations on whether a property owner's rights are deemed vested in a land use. The Subdivision Agent shall be authorized to make determinations on whether a property owner's rights are deemed vested in a division. Vested rights determinations shall be made in accordance with the Code of Virginia § 15.2-2307, as amended.
- (B) Nothing contained herein shall require any change in the plans or construction of any building or structure for which a building permit was granted prior to ____ (effective date of revised ordinance); however, any permit issued shall become invalid if the authorized work is not commenced within six (6) months after issuance of the permit, or if the authorized work is suspended or abandoned for a period of six (6) months after the time of commencing the work.

¹⁷ Editor's Note: Proposed as a new section.