

## CHAPTER 1: INTRODUCTION

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### 1.01 Title, Purpose, and Intent

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- A. **Title.** This Zoning Ordinance and the official zoning map are known and may be cited and referred together as the Loudoun County Zoning Ordinance ~~(Zoning Ordinance)~~.
1. All references within this text to “Zoning Ordinance” refer to the Loudoun County Zoning Ordinance as currently in effect at any given time, unless the reference specifies prior version of the Zoning Ordinance.
- B. **Purpose and Intent.** ~~This~~The Zoning Ordinance is enacted ~~in order~~ to promote the health, safety, and welfare of the residents of Loudoun County ~~and to implement the Loudoun County Comprehensive Plan, which consists of the General Plan and the Countywide Transportation Plan.~~ To these ends, the Zoning Ordinance is designed to:
1. Guide and regulate the orderly growth, development, and redevelopment of Loudoun County in accordance with ~~a well-considered plan and with long-term objectives, principles, and standards deemed beneficial to the interest and welfare of the people~~the Loudoun County Comprehensive Plan, in particular its components, the General Plan and the Countywide Transportation Plan.
  2. Protect the established character and the social and economic ~~well-being~~wellbeing of both private and public property.
  3. Promote, in the public interest, the best utilization of land.
  4. Provide for adequate light, air, convenient access, and safety from fire, flood, and other dangers.
  5. Reduce or prevent congestion ~~in the~~on public streets.
  6. Facilitate the creation of a convenient, attractive, and harmonious community.
  7. Provide adequate police and fire protection, safety from crime, disaster evacuation, civil defense, transportation, water, sewerage, flood protection, schools, parks, forests, playgrounds, recreational facilities, airports, and other public ~~requirements~~services.
  8. Protect against destruction of or encroachment upon historic areas.
  9. Protect against ~~one or more of~~ the following: overcrowding of land, undue population density in relation to existing or available community facilities, obstruction of light and air, danger and congestion in travel and transportation, or loss of life, health, or property from fire, flood, panic, or other dangers.
  10. Encourage economic development activities that provide desirable employment and enlarge the tax base.
  11. Promote the public necessity, health, safety, convenience, and general welfare by equitably apportioning the cost of providing the additional public facilities necessitated or required by development.
  12. Provide for the preservation of agricultural and forestal land and other lands for the protection of the natural environment.
  13. Protect approach slopes and other safety areas of licensed airports.
  14. Provide for and promote ~~affordable~~attainable housing for Loudoun County residents.

## 1.02 Application of the Zoning Ordinance

A. **Territorial Application.** The regulations and restrictions in this Zoning Ordinance apply to all ~~buildings~~, structures, land, water, and uses within the unincorporated area of Loudoun County, Virginia, except those areas determined by law to be under the sovereign control of the United States of America or the Commonwealth of Virginia.

**B. General Application.**

1. ~~Unless otherwise provided, the Zoning Ordinance applies to:~~

~~a. All buildings and structures erected hereafter, all;~~

~~b. All uses of land, water, or buildings structures established hereafter, all;~~

~~c. All structural alterations or relocations of existing buildings structures occurring hereafter, and all~~

~~d. All enlargements of, additions to, changes in, and relocations of existing uses occurring hereafter are subject to all regulations of this Zoning Ordinance that are applicable to the zoning districts in which such buildings, structures, uses or land are located.~~

2. Existing ~~buildings~~, structures and uses that comply with the regulations of this Zoning Ordinance are likewise subject to all regulations of this Zoning Ordinance.

3. Existing ~~buildings~~, structures, and uses that do not comply with the regulations of this Zoning Ordinance are allowed to continue subject to the provisions of Chapter 910 related to nonconformities.

**B.C. General Prohibition.** No building or structure; no use of any building, structure or land; and no lot of record now or hereafter existing ~~can~~ hereafter be established, altered, moved, diminished, divided, eliminated, or maintained in any manner except in conformity with the provisions of this Zoning Ordinance.

**C.D. Private Agreements.** This Zoning Ordinance is not intended to abrogate, annul, or otherwise interfere with any easement, covenant, or other private agreement or legal relationship; provided, however, that where the regulations of this Zoning Ordinance are more restrictive or impose higher standards or requirements than such easements, covenants ~~or other private agreements or legal relationships~~, the regulations of this Zoning Ordinance govern.

**D.E. Existing Special Exceptions and Variances.**

1. ~~Any special exception lawfully issued prior to June 16, 1993, or any amendment thereof, is deemed to be and continue to be valid, provided that the special exception use is established by June 16, 2003. The period of validity in Section 6-1312 of this Zoning Ordinance does not apply to special exceptions approved prior to June 16, 1993; provided, however, requests for extensions may be submitted in accordance with that section. Any variance previously issued prior to the effective date of this Zoning Ordinance, or any amendment thereof, is deemed to be and continue to be valid after such effective date.~~ Development in accordance with an approved ~~special exception~~ Special Exception or ~~variance~~ Variance must meet the requirements of this Zoning Ordinance, ~~provided, that in~~ In the event of ~~any inconsistency a conflict~~ between an approved ~~special exception~~ Special Exception or ~~variance~~ Variance and the ~~lot~~ requirements of this Zoning Ordinance, development in accordance with the ~~lot~~ requirements of the ~~special exception or variance plat~~ Special Exception or Variance are permitted, ~~provided such approval remains valid~~.

2. Any lawfully existing use ~~that becomes a~~ special exception Special Exception or Minor Special Exception use in the ~~district~~ Zoning District in which it is located ~~is~~ deemed to have ~~special exception approval~~ Special Exception or Minor Special Exception approval, as applicable. Expansion of such use requires a new ~~special exception approval~~ Special Exception or Minor Special Exception approval, as applicable.

**E.F. Zoning Permits Issued Prior to Effective Date.**

1. **Right to Complete Construction Pursuant to Approved Plans.** Nothing in this Zoning Ordinance requires any change in the plans, construction, or designated use of any structure in the event that:
  - a. A zoning permit for such structure was lawfully issued or a final site plan or subdivision plat was lawfully approved prior to the effective date of this Zoning Ordinance, or any amendment thereof; and
  - b. Such permit or approval had not by its own terms expired prior to such effective date; and
  - c. Construction pursuant to such permit or approval is commenced prior to the expiration of such permit or approval.
2. **Right to Occupy as Nonconformity.** Upon completion pursuant to Subsection ~~(F.1) hereof~~, such structure may be occupied by, and a certificate of occupancy must be issued for, the use designated on such permit, subject thereafter to the provisions of Chapter 9-10 relating to nonconformities.

**F.G. Applicability to Pending Applications.** Any amendment to this Zoning Ordinance applies to all applications pending as of the effective date of the amendment, except as otherwise provided herein or by the Code of Virginia. ~~The vested rights provisions of subsection 1.02.0 may apply to a particular application.~~ The Board of Supervisors may establish grandfathering provisions in a resolution adopting an amendment.

**G.H. Provisions Declared Invalid.** The several provisions of this Zoning Ordinance must be separable in accordance with the following rules:

1. If any court of competent jurisdiction adjudges any provision of this Zoning Ordinance to be invalid, such judgment ~~does not affect any other provisions of this Zoning Ordinance.~~
2. If any court of competent jurisdiction adjudges invalid the application of any provision of this Zoning Ordinance to a particular property, building, or structure, such judgment does not affect the application of said provision to any other property, building, or structure.

**H.I. Conflicting Provisions.** In interpreting and applying the provisions of this Zoning Ordinance, such provisions are the minimum requirements for the promotion of the public safety, health, convenience, comfort, prosperity, or general welfare. Whenever any provision of this Zoning Ordinance imposes a greater requirement or a higher standard than is required in any ~~Virginia Commonwealth or Federal Statute or other County ordinance or regulation~~, the provision of this Zoning Ordinance governs. Whenever any provision of any Virginia Commonwealth or Federal statute or other County ordinance or regulation imposes a greater requirement or a higher standard than is required by this Zoning Ordinance, the provision of such Virginia Commonwealth or Federal statute or other County ordinance or regulation governs.

**H.J. Proffered Conditions.** The text of this Zoning Ordinance applies to any parcel covered by a previous grant of zoning with proffered conditions (i.e., proffers or proffer statement) pursuant to ~~Section 15.2-2303 of the~~ Code of Virginia § 15.2-2303, except where the imposition of the requirements of this Zoning Ordinance would be in conflict with a specific proffered condition, in which case, the proffered condition supersedes the requirements of this Zoning Ordinance.

~~J. Existing PD H Zonings. Notwithstanding the designation shown on the zoning map adopted in conjunction with the adoption of this Ordinance, any proffered PDH zoning existing June 16, 1993 continues to have all applications for Zoning Ordinance Modifications, Proffer Amendments, Concept Plan Amendments, Preliminary Subdivisions, and Record Subdivisions processed in accord with the approved rezoning and the Loudoun County Zoning Ordinance in effect immediately prior to the effective date of this Ordinance, until June 16, 2008, unless the owner(s) of all the property within such proffered PDH zoning district elected to waive the protection of this section. Upon the expiration of the above time period, this Ordinance supersedes the prior ordinance with respect to such PDH rezonings, unless such time is extended by resolution of the Board of Supervisors, upon written request of the owner(s) of all property within such PDH zoning district. Elections to waive the protection of this section must have been filed with the Zoning Administrator by June 16, 2004, with an affidavit indicating that all affected owners signed the notice. Such election requires the property to be developed pursuant to the approved conditions of the rezoning for such development and under the provisions of this Ordinance for the new zoning~~

district as shown on the zoning map; is permanent; and does not relieve the owner(s) of any obligations under the previously accepted proffers.

~~K. **Route 28 Taxing District.** As required by state law and the legislation establishing the Route 28 Transportation Improvement District, (i) the Loudoun County Zoning Ordinance, promulgated in 1972, as it existed on the date such District was established or, (y) in regards to any particular parcel, the most recent change in zoning of such parcel, whichever occurred latest in time, remains in full force and effect with respect to all commercially and industrially zoned properties situated in such District that are subject to the 1972 Loudoun County Zoning Ordinance and (ii) as to any commercially and industrially zoned parcels in the District that are subject to the 1993 Loudoun County Zoning Ordinance as of January 7, 2003 such ordinance as it existed on June 16, 1993 or (y) in regards to any particular parcel, the most recent change in zoning of such parcel, whichever occurred later in time shall remain in full force and effect with respect to such parcels:~~

- ~~1. Any for commercially or industrially zoned property administered under the 1972 Loudoun County Zoning Ordinance continues to have all applications for Zoning Ordinance Modifications, Proffer Amendments, Concept Plan Amendments, Preliminary Subdivisions, and Record Subdivisions processed in accord with the approved rezoning and the Loudoun County Zoning Ordinance in effect immediately prior to June 16, 1993. For any commercially or industrially zoned property administered under the 1993 Loudoun County Zoning Ordinance, all applications for zoning ordinance modifications, proffer amendments, concept plan amendments and special exceptions shall be processed in accordance with the provisions of Article VI in effect at the time any such application is submitted and considered.~~
- ~~2. Notwithstanding this provision, the owner(s) of all the property within a proffered commercial or industrial zoning district within the Route 28 Tax District, or the owner(s) of any other commercially or industrially zoned property within the Route 28 Tax District, may elect to waive the protection of this section by filing a written notice of such election, accompanied by an affidavit indicating that all owners have signed the notice, with the Zoning Administrator by January 7, 2004. Such election is permanent, and does not relieve the owner(s) of any obligations under previously accepted proffers. If presently subject to the 1972 Loudoun County Zoning Ordinance, such election requires the property to be developed pursuant to the conditions of the approved rezoning for such development, if applicable, and under the provisions of this Zoning Ordinance for the new zoning district as indicated below:~~

Zoning District 1972 Ordinance	Zoning District 1993 Ordinance
PD-IP	PD-IP
PD-OP	PD-OP
PD-RDP	PD-RDP
PD-GI	PD-GI
I-1	MR-HI
C-1	PD-CC (CC)
PD-CH	PD-CC (RC)
PD-SC	PD-CC (RC)

- ~~1. If presently subject to this Zoning Ordinance, such election requires the property to be developed pursuant to the conditions of the approved rezoning for such development, if applicable, and under the provisions of this Zoning Ordinance for the same zoning district to which such property is presently subject.~~

~~**Note: The County is exploring the feasibility of consolidating to one Zoning Ordinance, while maintaining protections for commercial and industrially zoned properties in the Route 28 Taxing District. That effort could result in revisions to the above sub-section in future versions of the draft Zoning Ordinance.**~~

~~A. **Vested Rights Not Impaired.** In conjunction with the request for approval of a site plan, subdivision, or building permit, the Zoning Administrator may make findings of facts, and, with concurrence of the County Attorney, conclusions of law regarding determinations of vested rights accruing under Code of Virginia § 15.2-2307.~~

**K. Route 28 Transportation Improvement District.**

1. **Protections.** Any commercially or industrially zoned property within the Route 28 Transportation Improvement District (“Route 28 Tax District”) that, as of the effective date of this Zoning Ordinance, is administered under the Loudoun County Zoning Ordinance as it existed on the date the Route 28 Tax District was established (commonly referred to as the “1972 Zoning Ordinance”) will continue to be administered under the 1972 Zoning Ordinance pursuant to its current zoning district classification, including any previously approved concept development plan and proffer statement and/or special exception, unless and until the owner of such property waives the Route 28 Tax District enabling legislation protections in accordance with subsection 1.02.K.2. Applications for Zoning Modification, Zoning Concept Plan amendment, Proffer Amendment, Special Exception, or Variance for any property administered under the 1972 Zoning Ordinance will continue to be processed under the procedures of the 1972 Zoning Ordinance, subject to any applicable requirements of the Code of Virginia.

2. **Waiver of Protections.** The owner of any commercially or industrially zoned property within the Route 28 Tax District that is administered under the 1972 Zoning Ordinance may elect to waive the protections of the Route 28 Tax District enabling legislation by pursuing and obtaining approval of a Zoning Map Amendment (ZMAP) or Zoning Conversion Route 28 Tax District (ZRTD) application. All ZMAP and ZRTD applications will be processed in accordance with the procedures and other regulations of this Zoning Ordinance.

3. **Prior Waivers and Legislative Approvals.** Any commercially or industrially zoned property within the Route 28 Tax District that is no longer administered under the 1972 Zoning Ordinance because it has been the subject of either:

a. An approved ZMAP or ZRTD application; or

b. A prior election to waive the protections of Route 28 Tax District enabling legislation made in accordance with former Sections 1-103(N)(2) or 4-2902 of the Zoning Ordinance, may be developed in accordance with any applicable vested rights accruing to such property in accordance with Code of Virginia Sections 15.2-2307 or 15.2-2303.B, and otherwise will be administered under this Zoning Ordinance.

L. **Vested Rights Not Impaired.** Code of Virginia § 15.2-2307. Nothing in this Zoning Ordinance is intended to impair nor shall be interpreted or construed as impairing:

1. Any applicable vested rights to develop property in accordance with a prior land development approval or written determination, as prescribed in Code of Virginia Sections 15.2-2307 or 15.2-2303.B; or

2. Legal rights of a Route 28 Tax District property owner under Code of Virginia Section 15.2-4603.C. Determinations of such rights (“Vesting Determination”) may be requested from the Zoning Administrator, in accordance with the procedures prescribed in Section 11.02 of this Zoning Ordinance.

~~L.M.~~ **Approved Subdivisions and Site Plans.** Nothing in this Zoning Ordinance interferes with the terms of validity of any subdivisions or site plans, as provided by the Code of Virginia.

N. **Condominium Development.** Notwithstanding Section 3.01.F.1, single-family detached dwelling or single-family attached dwelling condominium development is subject to the District Dimensional Standards specified for the Zoning District in which the condominium development is located as if lot lines existed or as if the condominium ownership units were located on their own lots, and subject to the same Transportation (Section 7.07) regulations as dwelling units located on individual lots, in the same manner as such standards and regulations apply to a physically identical project or development under a different form of ownership.

~~M.O.~~ **Effective Date.** This Zoning Ordinance becomes effective upon its adoption. Any ~~amendments to this~~ Zoning Ordinance ~~become~~ Amendment becomes effective upon ~~their~~its adoption.

## **CHAPTER 13: DEFINITIONS AND RULES OF INTERPRETATION**

### **1.03 Interpretation of Zoning Ordinance.**

**B.A. Provisions are Minimum Requirements.** In their interpretation and application, the provisions of this Zoning Ordinance ~~shall be held to bear~~ the minimum requirements for the promotion of the public safety, health, safety, convenience, comfort, morals and prosperity, or general welfare, as set forth in the provisions hereof establishing the intent and purpose of this Zoning Ordinance in general and its various sections in particular.

**C.B. Interpretation of Terms.** For the purpose of this Zoning Ordinance, certain words and terms are to be interpreted as follows:

1. Words used in the present tense include the future; words used in the masculine gender include the feminine and neuter; words in the singular number include the plural; and words in the plural include the singular, unless the obvious construction of the wording indicates otherwise.
2. The word "~~shall~~must" is mandatory.
3. Unless otherwise specified, all distances shall~~must~~ be measured horizontally and at right angles or radially to the line in relation to which the distance is specified.
4. Unless otherwise specified, the term "day" ~~shall mean working~~means a business day.
5. The word "lot" includes the word plot; the word "used" ~~shall be deemed also to include~~includes designed, intended, or arranged to be used; the term "erected" ~~shall be deemed also to include~~includes constructed, reconstructed, altered, placed, relocated, or removed.
6. The terms "land use" and "use of land" ~~shall be deemed also to~~ include building use and use of building.

~~A. Unspecified Uses. Subject to the Zoning Administrator's interpretive powers as provided for herein, no uses are permitted unless included in a district use list or accessory use list.~~

~~7. Adding Unspecified Uses to the District Regulations. Uses other than those allowed in the applicable district may be added to a district upon adoption. The phrase "such as" means "including, but not limited to."~~

~~B. 1.04 Interpretation of a text amendment approved by the Board of Supervisors.~~

### **Zoning Map and District Boundaries.**

#### **B.A. Zoning Map.**

1. The County is hereby divided into the ~~zoning districts~~Zoning Districts listed in ~~Articles II, III & IV Chapter 2~~ of this Zoning Ordinance and as shown on the map entitled "Zoning Map, Loudoun County, Virginia", which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be part of this ~~Ordinance~~Zoning Ordinance. The represented locations and boundaries derive from the authoritative data source as maintained by the Office of Mapping and Geographic Information.
2. For Zoning Districts, Overlay Districts, and other mapped features subject to this Zoning Ordinance, the official Zoning Map is the County mapping data in digital form as displayed on WebLogis and publicly available County GIS data. The Zoning Map ~~shall be located in the office of the Zoning Administrator and shall be~~ the final authority as to the current zoning status of land and water areas, buildings, and other structures in the County save for subsequent amendments enacted by the Board of Supervisors and not yet officially recorded on said map.

3. No changes of any nature ~~shall~~may be made on said Zoning Map or any matter shown thereon except in conformity with the procedures and requirements of this Zoning Ordinance. It ~~shall be~~is unlawful for any person to make unauthorized changes ~~on to~~ the Zoning Map.

C.B. Zoning District Boundaries. Where uncertainty exists as to the boundaries of ~~zoning districts~~Zoning Districts as shown on the Zoning Map, the following rules ~~shall~~ apply:

1. Boundaries indicated as approximately following the center lines of streets, highways, or alleys ~~shall~~must be construed to follow center lines of rights-of-way or prescriptive easements. In case of closure of a street or alley, or vacation of an easement, the boundary ~~shall~~must be construed as remaining at its prior location unless ownership of the closure or vacated area is divided other than at the center, in which case the boundary ~~shall~~must be construed as moving to correspond with the ownership, but not beyond any previous right ~~of~~way or easement line.
2. Boundaries indicated as approximately following platted lot lines ~~shall~~must be ~~construed~~ as following lot lines.
3. Boundaries indicated as following County limit lines ~~shall~~must be construed as following such County limits.
4. Boundaries indicated as following railroad lines ~~shall~~must be construed to be midway in the right-of-way for such railroad lines.
5. Boundaries indicated as following ~~scarlines~~bankfulls of bodies of water ~~shall~~must be ~~construed~~ to follow such ~~scarlines~~bankfulls. Boundaries indicated as approximately following the center lines of creeks, streams, rivers, canals, or other predominately linear bodies of water ~~shall~~must be construed to follow such center lines.
6. Boundaries indicated as parallel to or concentric with, or extensions of features indicated in Paragraphs ~~(1) through (5)~~ above ~~shall~~must be so construed. ~~Distances and dimensions not specifically indicated on the Zoning Map shall be determined from the Zoning Map by the Zoning Administrator and as so noted on the map.~~
7. Where areas appear to be unclassified on the Zoning Map, and classification cannot be established by the above rules, such areas ~~shall~~must be considered to be classified AR-1 until action is taken to amend the Zoning Map.
8. Where territory is added to the jurisdictional area, ~~it shall be considered to be such territory is~~ classified as AR-1 until action is taken to amend the Zoning Map.

9. Distances and dimensions not specifically indicated on the Zoning Map must be interpreted from the Zoning Map by the Zoning Administrator and as so noted on the map.

9.10. Where natural or man-made features actually existing on the ground are at variance with those shown on the Zoning Map, the Zoning Administrator ~~shall~~must interpret the district boundaries as so noted on the ~~map~~Zoning Map.

10.11. Where uncertainties continue to exist and/or further interpretation is required beyond that presented in the above paragraphs, the ~~question shall be presented to the~~ Zoning Administrator for interpretation and as so noted is authorized to interpret the exact location of the boundaries or map features, at the request of an applicant or on the ~~map~~Zoning Administrator's own initiative.

### C. Environmental Overlay District Boundaries and Steep Slope Areas Maps.

1. The Environmental Overlay District boundaries and Steep Slope Areas Maps intend to show the location of environmental resources in the County, including the following:
  - a. Mountainside Overlay District (MOD) Map, described in Section 5.04;
  - b. Floodplain Overlay District (FOD); described in Section 5.03; and
  - c. Steep Slope Areas Map, described in Section 6.02.
  - d. Limestone Overlay District (LOD); described in Section 5.05.
  - e. River and Stream Corridor Resources (RSCR); described in Section 6.01

2. Where uncertainty exists as to Environmental Overlay District Boundaries and Steep Slope Areas, the Zoning Administrator, in consultation with the Department of Building and Development, is charged with making necessary cartographic interpretations at the request of an applicant or on the Zoning Administrator's own initiative.

a. The Zoning Administrator is authorized to interpret the exact location of the Environmental Overlay District Boundaries or Steep Slope Areas if there appears to be a conflict between a mapped resource boundary, elevations, and actual physical conditions.

b. The Zoning Administrator may require information from the applicant, including, but not limited to a topographic survey and/or engineering studies in conformance with the provisions of the Facilities Standards Manual.

D. **Appeals.** The applicant may appeal the Zoning Administrator's interpretation of a Zoning District Boundary, Environmental Overlay District boundary, or Steep Slope Areas Map to the Board of Zoning Appeals in accordance with the appeals provisions in Chapter 11 of the Zoning Ordinance.

Draft 10/23