

**ARTICLE 1
GENERAL REGULATIONS**

Section 1-100 Title, Purpose and Intent and Application of Ordinance.

1-101 Title. This Ordinance and the official zoning map made a part hereof shall be known and may be cited and referred to as the Loudoun County Zoning Ordinance.

1-102 Goals, Purpose and Intent. This 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. To these ends, the Ordinance is designed to:

- (A) 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.
- (B) Protect the established character and the social and economic well-being of both private and public property.
- (C) Promote, in the public interest, the best utilization of land.
- (D) Provide for adequate light, air, convenience of access, and safety from fire, flood and other dangers.
- (E) Reduce or prevent congestion in the public streets.
- (F) Facilitate the creation of a convenient, attractive and harmonious community.
- (G) Expedite the provision of 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.
- (H) Protect against destruction of, or encroachment upon, historic areas.
- (I) 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, panic or other dangers.

- (J) Encourage economic development activities that provide desirable employment and enlarge the tax base.
- (K) 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.
- (L) Provide for the preservation of agricultural and forestal land and other lands for the protection of the natural environment.
- (M) Protect approach slopes and other safety areas of licensed airports.
- (N) Provide for and promote affordable housing for County residents.

1-103

Application of Ordinance.

- (A) **Territorial Application.** The regulations and restrictions in this Ordinance shall apply to all buildings, structures, land, water and uses within the unincorporated area of Loudoun County, Virginia, excepting 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.** All buildings and structures erected hereafter, all uses of land, water or buildings established hereafter, all structural alterations or relocations of existing buildings occurring hereafter, and all enlargements of, additions to, changes in and relocations of existing uses occurring hereafter shall be subject to all regulations of this Ordinance which are applicable to the zoning districts in which such buildings, structures, uses or land are located. Existing buildings, structures and uses which comply with the regulations of this Ordinance shall likewise be subject to all regulations of this Ordinance. Existing buildings, structures and uses which do not comply with the regulations of this Ordinance shall be allowed to continue subject to the provisions of Section 1-400 of this Article relating to nonconformities.
- (C) **General Prohibition.** No building or structure; no use of any building, structure or land; and no lot of record now or hereafter existing shall hereafter be established, altered, moved, diminished, divided, eliminated or maintained in any manner except in conformity with the provisions of this Ordinance.
- (D) **Exemptions.** The following uses are exempt from the application of this Ordinance.

- (1) Pursuant to Section 56-46.1 of the Code of Virginia, electrical transmission lines of 150 kV or more, approved by the State Corporation Commission, shall be deemed to have satisfied the requirements of this ordinance. In addition, the following utility uses are exempt from the provisions of this article: poles, wires, cables, conduits, vaults, laterals, pipes, mains, valves or any other similar equipment when used for the purpose of distributing service to individual customers, but not including substations, transmission lines, or trunk lines located on or above the surface of the ground, for the distribution to consumers of telephone, cable television or other communications, electricity, gas or water, or for the collection of sewage or surface water.
 - (2) The zoning district building height limitations of this Ordinance shall not apply to towers, gables, penthouses, scenery lofts, cupolas, barns, silos, farm buildings, residential chimneys, spires, flag poles, monuments or transmission towers and cables, telecommunications or data transfer antennas or other similar structures and necessary mechanical appurtenances; nor to any smokestack, water tank, radio or television antenna or tower not exceeding in height the distance therefrom to the nearest lot line; provided that this height limitation shall not apply to any of the above enumerated structures now or hereafter located on existing public utility easements.
 - (3) Stream Restoration and Wetland Mitigation shall be exempt from the zoning district requirements in Articles 2, 3 and 4 except for the following environmental overlay districts: FOD - Floodplain Overlay District, Section 4-1500; MDOD - Mountainside Development Overlay District, Section 4-1600; LOD - Limestone Overlay District, Section 4-1900.
- (E) **Private Agreements.** This 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 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 Ordinance shall govern.
- (F) **Existing Special Exceptions and Variances.**
- (1) Any special exception lawfully issued prior to June 16, 1993, or any amendment thereof, shall be 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 Ordinance shall 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 Ordinance, or any amendment thereof, shall be deemed to be and continue to be valid after such effective date. Development in accordance with an approved special exception or variance shall meet the requirements of this Ordinance, provided, that in the event of any inconsistency between an approved special exception or variance plat and the lot requirements of this Ordinance, development in accordance with the lot requirements of the special exception or variance plat shall be permitted.

- (2) Any lawfully existing use which shall become a special exception use in the district in which it is located shall be deemed to have special exception approval. Expansion of such use shall require a new special exception approval.

(G) **Zoning Permits Issued Prior to Effective Date.**

- (1) **Right to Complete Construction Pursuant to Approved Plans.** Nothing in this Ordinance shall be deemed to require 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 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 (1) hereof, such structure may be occupied by, and a certificate of occupancy shall be issued for, the use designated on such permit, subject thereafter to the provisions of Section 1 400 relating to nonconformities.

- (H) **Pending Applications - Applicability.** Any amendment to this Ordinance shall apply to all applications pending as of the date of the amendment, except as otherwise provided herein or by State law. The vested rights provisions of subsection 1-103(O) may apply to a particular application. Grandfathering provisions, if any, may be established by the Board of Supervisors in a resolution adopting an amendment.
- (I) **Repeal of Prior Provisions.** Except as provided herein, the Loudoun County Zoning Ordinance, as adopted on June 21, 1972 and as amended from time to time thereafter, be and it is hereby repealed. Except as expressly provided in this Ordinance, such repeal shall not affect or impair any act done, offense committed or right accruing, accrued or acquired, or liability, penalty, forfeiture or punishment incurred prior to the time such repeal takes effect, but the same may be enjoyed, asserted, enforced, prosecuted or inflicted, as fully and to the same extent as if such repeal had not been effected.
- (J) **Provisions Declared Invalid.** The several provisions of this Ordinance shall be separable in accordance with the following rules:
- (1) If any court of competent jurisdiction shall adjudge any provision of this Ordinance to be invalid, such judgment shall not affect any other provisions of this Ordinance.
 - (2) If any court of competent jurisdiction shall adjudge invalid the application of any provision of this Ordinance to a particular property, building or structure, such judgment shall not affect the application of said provision to any other property, building or structure.
- (K) **Conflicting Provisions.** In interpreting and applying the provisions of this Ordinance, they shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, comfort, prosperity, or general welfare. Whenever any provision of this Ordinance imposes a greater requirement or a higher standard than is required in any State or Federal Statute or other County ordinance or regulation, the provision of this Ordinance shall govern. Whenever any provision of any State or Federal statute or other County ordinance or regulation imposes a greater requirement or a higher standard than is required by this Ordinance, the provision of such State or Federal statute or other County ordinance or regulation shall govern.

- (L) **Proffered Conditions.** The text of this Zoning Ordinance shall apply to any parcel covered by a previous grant of zoning with proffered conditions pursuant to Section 15.2-2303 of Va. Code Ann. except where the imposition of the requirements of this Ordinance would be in conflict with a specific proffered condition, in which case, the proffered condition would supersede the requirements of this Ordinance.
- (M) **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 shall continue 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 shall supersede 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 shall require 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; shall be permanent; and shall not relieve the owner(s) of any obligations under the previously accepted proffers.
- (N) **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 (x) 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, shall remain 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 (x) 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 shall continue 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 shall be permanent, and shall not relieve the owner(s) of any obligations under previously accepted proffers. If presently subject to the 1972 Loudoun County Zoning Ordinance, such election shall require the property to be developed pursuant to the conditions of the approved rezoning for such development, if applicable, and under the provisions of this Ordinance for the new zoning district as indicated below:

Zoning District
1972 Ordinance

PD-IP
PD-OP
PD-RDP
PD-GI
I-1
C-1
PD-CH
PD-SC

Zoning District
1993 Ordinance

PD-IP
PD-OP
PD-RDP
PD-GI
MR-HI
PD-CC (CC)
PD-CC (RC)
PD-CC (RC)

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

(O) Vested Rights Not Impaired.

A landowner's rights shall be deemed vested in a land use and shall not be affected by an amendment to this Ordinance when the landowner (i) obtains or is the beneficiary of a significant affirmative governmental act which remains in effect allowing development of a specific project; (ii) relies in good faith on the significant affirmative governmental act; and (iii) incurs extensive obligations or substantial expenses in diligent pursuit of the specific project in reliance on the significant affirmative governmental act.

For purposes of this section, the following are deemed to be significant affirmative governmental acts allowing development of a specific project; (i) the governing body has accepted proffers or proffered conditions which specify use related to a zoning amendment; (ii) the governing body has approved an application for a rezoning for a specific use or density; (iii) the governing body or board of zoning appeals has granted a special exception or use permit with conditions; (iv) the board of zoning appeals has approved a variance; (v) the governing body or its designated agent has approved a preliminary subdivision plat, site plan or plan of development for the landowner's property and the applicant diligently pursues approval of the final plat or plan within a reasonable period of time under the circumstances; or (vi) the governing body or its designated agent has approved a final subdivision plat, site plan or plan of development for the landowner's property.

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 Va. Code § 2307.

(P) Approved Subdivisions and Site Plans.

Nothing in this Ordinance shall interfere with the terms of validity of any subdivisions or site plans, as provided by State law.

(Q) Effective Date.

This ordinance shall become effective upon its adoption. Any amendments to this Ordinance shall be effective upon their adoption.

Section 1-200

Interpretation of Ordinance.

1-201 Provisions are Minimum Requirements. In their interpretation and application, the provisions of this Ordinance shall be held to be the minimum requirements for the promotion of the public health, safety, comfort, morals and general welfare, as set forth in the provisions hereof establishing the intent and purpose of this Ordinance in general and its various sections in particular.

1-202 Interpretation of Terms. For the purpose of this Ordinance, certain words and terms are to be interpreted as follows:

(A) 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.

(B) The word "shall" is mandatory.

(C) Unless otherwise specified, all distances shall be measured horizontally and at right angles or radially to the line in relation to which the distance is specified.

(D) Unless otherwise specified, the term "day" shall mean working day.

(E) The word "lot" includes the word plot; the word "used" shall be deemed also to include designed, intended, or arranged to be used; the term "erected" shall be deemed also to include constructed, reconstructed, altered, placed, relocated or removed.

(F) The terms "land use" and "use of land" shall be deemed also to include building use and use of building.

1-203 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.

1-204 Adding Unspecified Uses to the District Regulations. Uses other than those allowed in the applicable district may be added to a district upon adoption of a text amendment approved by the Board of Supervisors.

1-205 Limitations and Methods for Measurements of Lots, Yards and Related Terms. Notwithstanding this section of the Ordinance, required buffer yards are a separate regulation in the Ordinance which may require a different width than a required yard, setback or building restriction line.

- (A) **Lot Access Requirements.** No structure requiring a building permit shall be erected upon any lot which does not have frontage on a Class I, Class II, Class III road, or private access easement as specified in the individual district regulations, except as specifically provided for herein and the Land Subdivision and Development Ordinance (LSDO).
- (1) New access points (private or public) to arterial or major collector roads shall be limited to locations at existing median breaks, planned median breaks or other locations approved by Loudoun County or VDOT.
- (B) **Regular Lots, Width Measurements.** The width of a regular lot shall be determined by measurement across the rear of the required front yard. The distance between side lot lines at the points where they intersect with a street line shall not be less than eighty percent (80%) of the required width, measured along the street line. However, in cases where lots front on curved or circular (cul-de-sac) streets, the radii of which do not exceed ninety (90) feet, the distances between side lot lines where they intersect with the street line may be reduced to sixty percent (60%) of the required width, measured along the street line. Yards and street lines shall be measured along the arc of the curve for curvilinear yards and street lines. Lot width shall be measured only along continuous frontage facing one street. The minimum width of a lot on a private access easement shall be determined by measurement along the front yard around the private access easement extended into the lot.
- (C) **Regular Lots, Determination of Front Yard.**
- (1) On regular interior lots, the front shall be construed to be the portion nearest the street.
- (2) On regular corner lots, except as provided for in subparagraph (3) below, the front shall be construed to be the shorter boundary fronting on a street. If the lot has equal frontage on two or more streets, the front of the lot shall be determined and shown on the subdivision plat or site plan by the prevailing building pattern, or the prevailing lot pattern if a building pattern has not been established.
- (3) In an agricultural zoning district (A-3, A-10, AR-1 and AR-2), the front of the lot shall be determined and shown on the subdivision plat or site plan by the prevailing building pattern, or prevailing lot pattern if a building pattern has not

been established, provided that the shortest boundary fronting on a street in an agricultural zoning district is eighty percent (80%) or more of the required lot width.

- (4) On regular through corner lots, the front shall be construed to be the shorter boundary fronting the street, provided that if the shortest boundary fronting on a street is eighty percent (80%) or more of the length of the longest boundary fronting on a street, the applicant may select either frontage if lot width requirements are met.
- (5) On regular through lots, unless otherwise determined by the Zoning Administrator due to the prevailing building pattern, the front shall be construed to be the shorter boundary fronting on a street. If the lot has equal frontage on two streets, the front of the lot shall be determined and shown on the preliminary and final subdivision plats and site plans by the prevailing building pattern, or the prevailing lot pattern if a building pattern has not been established.

(D) Regular Lots, Yards Adjacent to Street.

- (1) Front yards of at least the depth required in the district shall be provided across the entire frontage of a regular lot.
- (2) Other yards adjacent to streets shall be provided across or along the entire portion of the lot adjacent to the street.
- (3) Street line for measurement of required yards adjacent to streets. Where the lot line adjacent to a street is straight, required yards shall be measured from such line, extended in the case of rounded corners. On convex or concave lots, front, side and rear yards, as applicable, shall be parallel to or concentric with, the street line. Depth of required yards adjacent to streets shall be measured perpendicular or radially to such straight street lines.

- (E) Rear Yards on Interior Regular Lots.** Rear yards on interior regular lots shall be provided of at least the depth required for the district, and shall run across the full width of the lot at the rear. Depth of a required rear yard shall be measured in such a manner that the yard is a strip of land with minimum depth required by district regulations with its inner edge parallel to or concentric with its outer edge.

- (F) **Yards on Corner Lots.** Corner lots shall be deemed to have no rear yards, only two (2) front yards which are adjacent to the streets and two (2) side yards, provided that if two (2) different side yards are required in a district, the larger available yard shall be used. Notwithstanding anything to the contrary contained in this Ordinance, setbacks on corner lots shall be sufficiently large to comply with VDOT sight distance requirements or Section 5-300 whichever is greater.
- (G) **Side Yards on Regular Lots.** Side yards on regular lots are defined as running from the required front yard line to the required rear yard line. On regular through lots the required side yard shall run from the required front yard line to the second required front yard line. On corner lots the required side yards shall run from the point where side yard lines intersect, to the required front yard lines.
- (H) **Irregular Lots, Dimensional Requirements.** An irregular lot shall be considered to meet the dimensional requirements of the district in which located, provided:
- (1) Lot area shall meet district requirements for the proposed use. Lot width need not meet district requirements if requirements set forth below are met.
 - (2) Open space in required yards and elsewhere on the lot shall be not less than as required for the use in the district on a regular rectangular lot of required minimum width and area.
 - (3) Building area remaining after required yards have been provided shall have dimensions and locations appropriate for all buildings proposed.
- (I) **Irregular Lots, Yard Requirements.** In general, all yards shall provide at least the same separation from all lot lines as required for minimum side yards in the district, provided, however, that where district regulations permit building to the lot line of a regular lot under specified circumstances, the same regulations shall apply on an irregular lot, except as provided with relation to accessory buildings and structures in Section 5-200. Additionally, if an irregular lot abuts a street at any point, a distance equal to the required yard on a regular lot adjacent to a street in the district shall be provided.
- (J) **Setback Measurement From Streets.** All setbacks from public streets shall be measured from the wider of (a) the existing dedicated

right-of-way, or (b) the right-of-way proposed in the Comprehensive Plan or (c) the minimum dedicated right-of-way permitted for VDOT acceptance of the right-of-way for maintenance. If no dedicated right-of-way exists, or if no construction plans are approved for the road or if less than the minimum right-of-way exists, the right-of-way shall be assumed to be centered on the existing travelway.

(K) **Length to Width Ratio Measurement.** The width of a regular lot shall be determined by measurement across the rear of the required front yard. If the lot is of regular dimensions, the lot length is the horizontal distance between the front lot line and the rear lot line. If the lot is of irregular dimensions, the lot length is defined by determining the average of a representative number of distances between the front lot line and the rear lot line as measured in a straight line.

(L) **Reduction in Minimum Yard, Setback, and Buffer Requirements Based on Error in Building Location.** Notwithstanding any other provision of this Ordinance, the Zoning Administrator shall have the authority, as qualified below, to approve a reduction in the minimum yard, setback, and buffer requirements in the case of any building existing or partially constructed which does not comply with such requirements applicable at the time such building was erected. Such a reduction may be approved in accordance with the following provisions:

- (1) The Zoning Administrator determines that:
 - (a) The error does not exceed ten (10) percent of the applicable minimum yard, setback or buffer, and
 - (b) The noncompliance was done in good faith, or through no fault of the property owner, or was the result of an error in location of the building subsequent to the issuance of a Building Permit, if such was required, and
 - (c) It will not be detrimental to the use and enjoyment of the other property in the immediate vicinity, and
 - (d) It will not create an unsafe condition with respect to both other property and public streets, and

- (e) To force compliance with the minimum yard requirements would cause unreasonable hardship upon the owner, and
 - (f) The reduction will not result in an increase in density or floor area ratio from that permitted by the applicable zoning district regulations.
- (2) In approving such a reduction under the provision of this Section, the Zoning Administrator shall allow only a reduction necessary to provide reasonable relief and, as deemed advisable, may prescribe such conditions, to include landscaping and screening measures to assure compliance with the intent of this Ordinance.
 - (3) Upon the approval of a reduction for a particular building in accordance with the provision of this Section, the same shall be deemed to be a lawful building.
 - (4) The Zoning Administrator shall have no power to waive or modify the standards necessary for approval as specified in this Section.
 - (5) If there is an error greater than ten (10) percent of the measurement that is involved, a reduction may be granted by the BZA in accordance with the provisions of Section 6-1600.

1-206

Calculations of Density. Calculations of density in individual zoning districts shall be subject to the following:

- (A) Calculations of gross and net densities, gross and net residential area, lot area, floor area ratios, and similar measures shall be made in accordance with the formulas provided within the definitions of these terms in Article VIII of this Ordinance.
- (B) **Highway Transportation Improvement District.** This section is applicable solely for determining density credit for certain public road dedications within highway transportation improvement districts established in accord with Section 15.2-4600 et seq. of the Code of Virginia.
 - (1) In those zoning districts, including planned development districts, where density or intensity of land use is controlled by number of dwelling units or floor area ratio, or other similar measure, such computations with respect to a lot

from which land has been severed for the purpose of constructing or improving any primary highway interchange or portion thereof, shall be based upon the lot area including the area severed for such purpose when:

- (a) The lot lies within or adjacent to an established highway transportation improvement district; and
 - (b) The area dedicated or conveyed is necessary for the installation or improvement of the primary highway interchange improvement and is in accordance with the adopted comprehensive plan; and
 - (c) The Board has specifically approved by resolution computation of density or intensity for the lot based upon the lot area existing prior to dedication or conveyance; and
 - (d) An effective irrevocable dedication in fee simple to public use or conveyance to Loudoun County or to another public instrumentality having the power to construct or maintain the highway use has occurred and evidence of such dedication or conveyance is of record among the land records of the County.
- (2) Calculations of allowable floor area shall be based on the floor area ratio as established by the zoning district in effect at the time a site plan is officially accepted for the lot.
- (3) For the purposes of this section, the terms "lot" and "lot area" may include all adjacent parcels owned in common and which are the subject of an approved unified concept development plan specifying the allocation of density calculated pursuant to this section; the term "interchange" shall mean a grade separated limited access intersection with one or more turning roadways for travel between portions of such intersection, and shall include all related improvements such as access or service roads necessitated by the interchange; and the term "area dedicated" shall include all property in excess of the right-of-way for a normal width typical highway section.
- (4) In no case shall conveyances or dedications to a public body made in exchange for monetary compensation be eligible for density computation under this section.

(5) Further, conveyances or dedications made or committed to by the landowners or predecessors in interest as part of an approved condition of a subdivision application, special exception application, or a zoning map amendment petition shall not be considered eligible for density computation under this section provided that an effective irrevocable dedication or conveyance made during the pendency of an application shall not decrease the lot area for purposes of density or intensity computation.

(C) **Public Uses.** This section is applicable solely for determining density credit for public uses in any zoning district.

(1) In those zoning districts, including planned development districts, where density or intensity of land use is controlled by number of dwelling units per acre or floor area ratio, or other similar measure, such computations with respect to a lot from which land has been severed for the purpose of constructing or improving any public use or portion thereof, including roads shown on the adopted Comprehensive Plan, shall be based upon the lot area including the area severed for such purpose when:

(a) The area dedicated or conveyed is necessary for the installation or improvement of the public use, including roads shown on the adopted Comprehensive Plan, and is in accordance with the adopted comprehensive plan; and

(b) The area dedicated or conveyed is suitable in location, size, shape, condition and topography for such needed public use and there are no encumbrances to the title which would interfere with such use; and

(c) The Board has specifically approved, by resolution, the computation of density or intensity for the lot based upon the lot area existing prior to dedication or conveyance; and

(d) An effective irrevocable dedication in fee simple to public use or conveyance to Loudoun County or to another public instrumentality has occurred and evidence of such dedication or conveyance is of record among the land records of Loudoun County.

- (2) Calculations of allowable density shall be based on the following:
 - (a) For development which requires a site plan, allowable density shall be calculated in accord with the zoning district in effect at the time a site plan is officially accepted for the lot; or
 - (b) For development which does not require a site plan, allowable density shall be calculated in accord with the zoning district regulations in effect at the time a record plat of subdivision is officially accepted for the lot.
- (3) For the purposes of this section, the terms "lot" and "lot area" may include all adjacent parcels owned in common and which are the subject of an approved unified concept development plan specifying the allocation of density calculated pursuant to this section.
- (4) In no case shall conveyances or dedications made to a public body in exchange for monetary compensation be eligible for density computation under this section.
- (5) Further, conveyances or dedications made or committed to by the landowners or predecessors in interest as part of an approved condition of a subdivision application, special exception application, or a zoning map amendment petition shall not be considered eligible for density computation under this section provided that an effective irrevocable dedication or conveyance made during the pendency of an application shall not decrease the lot area for purposes of density or intensity computation.

1-207 **Applicability of Floor Area Ratio.** Wherever a Floor Area Ratio requirement is specified in this Ordinance, such requirement shall not apply to residential uses unless such requirement specifically states that it shall apply to residential uses.

1-208 **Applicability of Additional Regulations for Specific Uses in Section 5-600.** All of the uses that are included in Section 5-600, Additional Regulations for Specific Uses, shall be subject to those additional regulations, regardless of whether the use lists in the zoning districts specifically reference the applicable regulations in Section 5-600, except in

the case where the regulations in Section 5-600 specifically limits applicability to particular zoning districts.

Section 1-300

Zoning Map and District Boundaries.

(A) Zoning Map.

- (1) The County is hereby divided into the zoning districts listed in Articles II, III & IV of this 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.
- (2) 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 be made on said Zoning Map or any matter shown thereon 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.

(B) Zoning District Boundaries. Where uncertainty exists as to the boundaries of 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 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 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 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 be construed as following lot lines.
- (3) Boundaries indicated as following County limit lines shall be construed as following such County limits.

- (4) Boundaries indicated as following railroad lines shall be construed to be midway in the right-of-way.
- (5) Boundaries indicated as following scarlines of bodies of water shall be construed to follow such scarlines. Boundaries indicated as approximately following the center lines of creeks, streams, rivers, canals, or other predominately linear bodies of water shall 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 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 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 classified as AR-1 until action is taken to amend the Zoning Map.
- (9) 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 interpret the district boundaries as so noted on the map.
- (10) 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 on the map.

Section 1-400

Nonconformities.

1-401

Purpose and Scope. The purpose of this subsection is to regulate and limit the development and continued existence of uses, structures, and lots established prior to the effective date of this Ordinance which do not conform to the requirements of this Ordinance. Many nonconformities may continue, but the provisions of this subsection are designed to curtail substantial investment in nonconformities and to bring about their eventual improvement to a conforming status or elimination in order to preserve the integrity of this Ordinance and the desired character of the County. Any nonconforming use, structure, or lot which lawfully existed as of the effective date of this Ordinance and which remains nonconforming, and any use, structure, or lot which has become nonconforming as a result of the adoption of this Ordinance or any subsequent reclassification of zoning districts or other amendment to this Ordinance, may be continued or maintained only in accordance with the terms of this subsection. The limitations of this subsection shall not apply to structures or lots whose nonconforming features are the subject of a variance that has been granted by the Board of Zoning Appeals or a modification or condition that was approved by the Board of Supervisors.

1-402

Nonconforming Uses.

- (A) **Expansion of Nonconforming Use.** Except in those cases approved pursuant to Section 6-1805 of this Ordinance, a nonconforming use shall not be expanded or extended beyond the floor area or portion of the lot area that it occupied on the effective date of this Ordinance. Notwithstanding the foregoing, a legal, nonconforming residential use on land which, on or after the effective date of this Ordinance, was classified to a non-residential zone shall not be considered to have been expanded or extended within the meaning of this subsection if the addition to an existing structure is less than 50% of the existing square footage on the effective date of this Ordinance and the yard requirements of the zoning classification which applied to the construction of such residences prior to the effective date of this Ordinance are maintained.
- (B) **Discontinuation of Nonconforming Use.** If a nonconforming use is discontinued or abandoned for a continuous period of more than two (2) years, including any period of discontinuation before the effective date of this Ordinance, then that use shall not be renewed or re-established and any subsequent use of the lot or structure shall conform to the regulations of this Ordinance.
- (C) **Change of Nonconforming Use.**

- (1) If no structural alterations are made, a nonconforming use may by special exception be changed to another nonconforming use provided that the Board of Supervisors, upon Planning Commission recommendation, either by general rule or by making findings in the specific case, finds that the proposed use is equally appropriate or more appropriate to the zoning district than the existing nonconforming use. The Board of Supervisors may impose appropriate conditions in accord with the provisions of this Ordinance.
- (2) When any nonconforming use is superseded by a permitted use, the use shall thereafter conform to the regulations for the district, and no nonconforming use shall thereafter be resumed.

1-403 Nonconforming Structures.

- (A) **Repair or Reconstruction of Nonconforming Structure.** Repairs, restoration and maintenance, including structural repairs, may be made to a nonconforming structure. Except as provided for in Section 4-1500, if a nonconforming structure is damaged or destroyed by a casualty or event beyond the owner's reasonable control, the owner may repair or replace such structure provided the degree of non-conformity is not increased.
- (B) **Alteration or Enlargement of Nonconforming Structure.** A nonconforming structure shall not be enlarged, increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Ordinance unless such improvements do not increase the degree of nonconformity. Notwithstanding the foregoing, a legal, non-conforming residential structure shall not be considered to have been enlarged, increased or extended within the meaning of this subsection if the addition to an existing structure is less than 50% of the existing square footage on the effective date of this Ordinance, and the yard requirements of the zoning classification which applied to the construction of such residences prior to the effective date of this Ordinance are maintained.
- (C) **Moving of Nonconforming Structure.** A nonconforming structure shall not be moved in whole or in part to any other location unless every portion of such structure and the use thereof is made to conform with all requirements of this Ordinance and other applicable County Ordinances.

- (D) **Pre-existing Structures in Subsequently Created Setback areas.** Residences, accessory structures, and accessory uses built before June 16, 1993 may increase their footprint existing on that date up to 50% and are exempt from the setbacks of Section 5-900 but must maintain the setback created by the front of the residence even if the setback so created is less than what is required by this Ordinance.

1-404

Nonconforming Lots.

- (A) **Use of Nonconforming Lots.** If a lot was recorded prior to the effective date of this Zoning Ordinance, or is hereafter created in conformity with Section 1-103(H), and such lot met the requirements of the Zoning Ordinance in effect at the time of recordation, or complies with Section 1-103(H), then such lot may be used for any use permitted in the Zoning District in which it is located even though it does not meet the lot requirements of the district, provided all the other regulations of this Ordinance can be satisfied. Notwithstanding anything to the contrary contained herein, hamlet lots shall be governed by the Rural Hamlet Option as contained in Section 5-702.
- (B) **Establishment of Nonconforming Lot Prohibited.** A lot may only be established after the effective date of this Ordinance, if such lot conforms with all requirements of this Ordinance except as follows:
 - (1) A lot not meeting lot area requirements of the zoning district is created by the subdivision of a previously existing split zoned lot along the existing zoning district line, and the lot meets all other ordinance requirements;
 - (2) A lot is created for use by LCSA, VDOT, municipal utilities, public utilities as defined in Section 56-232 of the Virginia State Code, or public service corporations as defined in Section 56-1 of the Virginia State Code and meets the requirements of Section 5-621; or
 - (3) An "outlot" is designated on a subdivision plat as open space. No habitable structures shall be built upon an "outlot".
- (C) **Boundary Line Adjustments.** Notwithstanding the provisions of paragraph (B) above, boundary line adjustments shall be permitted between nonconforming lots, or between a conforming and a nonconforming lot, provided the Zoning Administrator finds that the degree of nonconformity for any lot resulting from such boundary line adjustment is not increased due to such adjustment. In addition, the Zoning Administrator shall find that a boundary line adjustment does not increase nonconformity and is permitted where the

boundary line adjustment satisfies one of the following conditions: (1) it makes it possible to rectify a septic system or well failure by providing space for a replacement septic system or well that meets all applicable standards; (2) it incorporates acreage into a lot that is subject to a permanent conservation easement, with the new acreage added to the protected easement area; (3) it allows any existing nonconforming lot to meet the twenty acre minimum lot size in the AR-1 zoning district or the forty acre minimum lot size in the AR-2 zoning district; (4) it allows for boundary line agreements to correct survey inconsistencies; or (5) in the AR-1 and AR-2 zoning districts, no lot shall be decreased to less than 80,000 square feet.

- (D) **Highway Realignment or Condemnation.** Any lot, which by reason of realignment of a Federal or State highway or by reason of condemnation proceedings, has been reduced in size to an area less than that required by law, shall be considered a nonconforming lot of record subject to the provisions set forth in Section 1-404(A); and any lawful use or structure existing at the time of such highway realignment or condemnation proceedings which would thereafter no longer be permitted under the terms of this Ordinance shall be considered a nonconforming use or structure as that term is used in this Ordinance.

1-405 Procedure for Removal of Nonconforming Status.

- (A) **Availability of procedure.** Notwithstanding any terms of this Section prohibiting the continuation, reconstruction, or expansion of nonconforming uses and structures, a nonconforming use or structure may be deemed to be in conformity with the requirements of this Section, and may be allowed to continue and to expand as a lawfully existing use or structure, through the issuance of special exception approval in accordance with the following procedures and standards.
- (B) **Application.** To establish a nonconforming use or structure as a lawfully existing use or structure, the owner of the property or his or her authorized agent shall apply for special exception use approval in accordance with the procedures set forth in Section 6 1300.
- (C) **Review by Board of Supervisors.** The Planning Commission shall review and recommend and the Board of Supervisors shall review and act upon the application for termination of nonconforming status in accordance with the procedures and standards set forth in Section 6 1300 of this Ordinance. In reviewing and acting upon an application, the Planning Commission and Board shall also consider

whether the nonconforming use or structure can be improved as follows:

- (1) A landscaped buffer could be provided between the nonconforming use or structure and any abutting lot in order to provide the maximum buffering effect for potentially adverse impacts of the use or structure on any abutting properties.
 - (2) Off-street parking areas located on the lot could be improved by landscaping sufficient to mitigate adverse impacts on any abutting properties.
 - (3) Nonconforming signs, outdoor lighting, off-street parking areas, and other nonconforming accessory structures located on the lot could be removed or brought into conformity with the applicable requirements of this Ordinance.
 - (4) A nonconforming structure would not be expanded or enlarged so as to increase the degree of nonconformity.
 - (5) Any expansion or enlargement of the use or structure could be limited to no greater than fifty percent (50%) of the floor area or lot area that it occupied on the effective date of this Ordinance or any amendment to this Ordinance which rendered the use or structure nonconforming.
- (D) **Effect of Approval.** Upon approval of the application for termination of nonconforming status by the Board, the use or structure shall no longer be treated as nonconforming and shall be allowed to continue as a lawfully existing use or structure unless it is abandoned or discontinued for a continuous period of one (1) year. This status as a lawfully existing use shall apply only to the use or structure for which the special exception approval is issued and not to any other use or structure that may be located on the lot.