

## **ARTICLE 1 – GENERAL PROVISIONS**

### **1-1 Introductory Provisions**

#### **1-1.1 Title**

This ordinance and the Official Zoning Map shall be officially known and cited as the "Zoning Ordinance of Westmoreland County, Virginia." It is hereinafter referred to as the "Zoning Ordinance" or "this Ordinance." The regulations included in this Zoning Ordinance shall constitute Chapter 70 of the Code of the County of Westmoreland, Virginia.

#### **1-1.2 Authority**

This Zoning Ordinance is adopted pursuant to the powers granted and limitations imposed by §15.2-2280 et seq., of the Code of Virginia, 1950, as amended.

#### **1-1.3 Purpose and Intent**

This Zoning Ordinance is intended to protect the health, safety, and welfare of the citizens of Westmoreland County; to advance the objectives set out in §15.2-2200 and 15.2-2283 of the Code of Virginia, 1950, as amended; and to implement the Westmoreland County Comprehensive Plan.

#### **1-1.4 Objectives**

This Ordinance has been designed to assure retention and protection of present property uses, as well as to guide the future use of property by giving reasonable consideration to the following objectives, where applicable:

- 1-1.4.1 to provide for adequate light, air, convenience of access, and safety from fire, flood, crime and other dangers;
- 1-1.4.2 to reduce or prevent congestion in the public streets;
- 1-1.4.3 to facilitate the creation of a convenient, attractive and harmonious community;
- 1-1.4.4 to 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;
- 1-1.4.5 to protect against destruction of or encroachment upon historic areas;
- 1-1.4.6 to 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;
- 1-1.4.7 to encourage economic development activities that provide desirable employment and enlarge the tax base;

- 1-1.4.8 to provide for the preservation of agricultural and forestal lands and other lands of significance for the protection of the natural environment;
- 1-1.4.9 to protect approach slopes and other safety areas of licensed airports, including United States government and military air facilities;
- 1-1.4.10 to promote the creation and preservation of affordable housing suitable for meeting the current and future needs of the County as well as a reasonable proportion of the current and future needs of the planning district within which the County is situated;
- 1-1.4.11 to 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; and
- 1-1.4.12 to protect surface water and ground water as defined in § 62.1-255, of the Code of Virginia, provided such provisions are not inconsistent with applicable state water quality standards.

#### **1-1.5 Effective Date**

This Zoning Ordinance is an amendment to the current Zoning Ordinance and shall be effective at 12:01 a.m. April 12, 2006, at which time the Zoning Ordinance of Westmoreland County with an effective date of July 1, 1971, is amended. Unless otherwise noted herein, the term "effective date," when used in this Ordinance is April 12, 2006, or the effective date of an applicable amendment.

#### **1-1.6 Conflicting Provisions**

##### **1-1.6.1 Conflict with State or Federal Regulations**

If any provision of this Zoning Ordinance is inconsistent with Virginia or federal law, the more restrictive provision shall control, to the extent permitted by law.

##### **1-1.6.2 Conflict with Other County Regulations**

If the provisions of this Zoning Ordinance are inconsistent with one another, or if they conflict with provisions found in other adopted ordinances or regulations of the County, the more restrictive provision will control. No text amendment, zoning variance or condition of approval attached to any form of development approval under this Zoning Ordinance shall have the effect of nullifying, abrogating or diminishing the provisions of any other County ordinance.

##### **1-1.6.3 Conflict with Private Easements, Agreements or Covenants; Enforcement**

This Zoning Ordinance is not intended to abrogate, annul, or otherwise interfere with any private easement, agreement, covenant, restriction or other private legal relationship. However, where the regulations of this Zoning Ordinance are in conflict with, or more restrictive or impose higher standards than such easements, agreements, covenants or other private legal relationships, the regulations of this Zoning Ordinance shall govern. The

County is responsible for enforcing this Zoning Ordinance; it does not enforce private agreements, easements, covenants or restrictions.

**1-1.7 Severability**

If any article, section, clause, or provision of this Zoning Ordinance is declared to be invalid or unconstitutional by any Virginia or Federal court, such decision shall not affect the validity of this Zoning Ordinance as a whole, or any part thereof other than the part which is declared to be unconstitutional or invalid.

**1-1.8 Certified Copy on File**

A certified copy of the Zoning Ordinance and Zoning Map of Westmoreland County, Virginia, shall be filed in the office of the zoning administrator and in the office of the Clerk of the Circuit Court of Westmoreland County, Virginia.

**1-2 Application of Regulations**

**1-2.1 Jurisdiction**

The provisions of the Zoning Ordinance shall apply to all property, structures, and body of water within the unincorporated territory of the County of Westmoreland, Virginia, except those areas and structures determined by law to be under the sovereign control of the Commonwealth of Virginia, the State of Maryland or the United States of America or specifically exempted from local regulation by the Code of Virginia and/or Federal Statute.

**1-2.2 General Application**

No structure shall be erected and no existing structure shall be moved, altered or enlarged, nor shall any land, body of water, or structure be used for any purpose other than those included in the uses listed in the zoning district in which the structure, land or body of water is located.

**1-2.3 General Prohibition**

No building or structure; no use of any building, structure, land, or body of water; 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.

**1-2.4 Exemptions**

The following are exempt from this Ordinance:

- 1-2.4.1 Electrical transmission lines of 150 kV or more, approved by the State Corporation Commission.
- 1-2.4.2 Poles, wires, cables, conduits, vaults, laterals, pipes, valves, meters or any other similar equipment when used for the purpose of distributing service to individual customers within an approved or established service area, but not including telecommunications towers, plants or substations.

- 1-2.4.3 The height limitations of this Ordinance shall not apply to cupolas, barns, silos, farm buildings, chimneys, flag poles, water tanks, and monuments and necessary mechanical appurtenances not exceeding in height the distance therefrom to the nearest lot line.

### **1-2.5 Violations Continue**

Any violation of the previous County zoning regulations shall continue to be a violation under this Zoning Ordinance and shall be subject to enforcement and penalties under Article 11, unless the use, development, construction or other activity complies with the express terms of this Zoning Ordinance.

### **1-2.6 Application to Existing and Approved Variances**

Any variance lawfully approved prior to (effective date), shall continue to be valid after such date. Development in accordance with an approved variance shall meet the requirements of this Zoning Ordinance, provided that in the event of any inconsistency between an approved variance and the requirements of this Zoning Ordinance, development in accordance with the approved variance shall be permitted.

### **1-2.7 Application to Existing and Approved Special Exception Uses**

#### **1-2.7.1 Existing Use**

Any use in legal existence prior to the effective date of these Ordinance amendments, and still in legal existence on that date and is classified as a special exception use under this Zoning Ordinance shall be deemed to have special exception approval. Any expansion of such use shall require a new special exception approval in compliance with the procedures set out in Article 10 for Special Exceptions.

#### **1-2.7.2 Approved Special Exception**

Any special exception lawfully approved prior to the effective date of these Ordinance amendments, or any amendment thereof, shall continue to be valid after that date, subject to the period of validity provided for as part of the special exception approval or subject to Article 10. Development in accordance with an approved special exception shall meet the requirements of this Zoning Ordinance, provided that if there is any inconsistency between an approved special exception plat and the requirements of this Zoning Ordinance, development in accordance with the special exception plat shall be permitted.

### **1-2.8 Application to 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 §15.2 -2296 through 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.

### **1-3 Interpretation of Regulations and Language**

#### **1-3.1 Provisions are Minimum Requirements**

In interpreting and applying the provisions of this Ordinance, they 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.

#### **1-3.2 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.

#### **1-3.3 Adding Unspecified Uses to the District Regulations**

Uses other than those allowed in the applicable district may be added to district upon adoption of a text amendment approved by the Board of Supervisors, in accordance with Article 10 Administration and Procedures.

#### **1-3.4 Interpretation of Terms**

For the purpose of this Ordinance, certain words and terms are to be interpreted as follows:

- 1-3.4.1 The words "shall," "will," and "must" are mandatory. The words "may" and "should" are advisory and discretionary terms, except for the phrase "may not" which is mandatory.
- 1-3.4.2 Unless the wording and context clearly indicate otherwise, words used in one tense (past, present, or future) include all other tenses; the singular includes the plural, and the plural includes the singular; and words used in the masculine gender include the feminine and neuter.
- 1-3.4.3 The word "lot" includes the word plot; the word "used" includes designed, intended, or arranged to be used; the term "erected" includes constructed, reconstructed, altered, placed, relocated or removed.
- 1-3.4.4 The terms "land use" and "use of land" shall be deemed also to include building use and use of building.
- 1-3.4.5 Unless otherwise specifically indicated, lists of items or examples that use terms such as "including," "such as," or similar language are intended to provide examples and not to be exhaustive lists of all possibilities.
- 1-3.4.6 Unless the context clearly suggests the contrary, conjunctions shall be interpreted as follows: the word "and" indicates that all connected items, conditions, provisions, or events apply; and the word "or" indicates that one or more of the connected items, conditions, provisions, or events may apply.

- 1-3.4.7 Unless otherwise expressly stated, the word "day" shall mean a calendar day. The term "business day" shall mean a day that the County agency administering this Ordinance is open for business and shall exclude Saturday, Sunday and any holiday observed by the County.
- 1-3.4.8 Words and phrases shall be construed according to the common and approved usage of the language, but technical words and phrases that have acquired a particular and appropriate meaning in law, or that are specifically defined in this Ordinance, shall be construed and understood according to such meaning.

**1-3.5 References to Other Regulations and Publications**

Whenever reference is made to a resolution, ordinance, statute, regulation, or document, that reference shall be construed as referring to the most recent edition of such regulation (as amended), resolution, ordinance, statute, or document or to the relevant successor document, unless otherwise expressly stated.

**1-3.6 Delegation of Authority**

Whenever a provision appears to require the head of a department or another officer or employee of the County to perform an act or duty, that provision shall be construed as authorizing the department head or officer to delegate that responsibility to others over whom the department head or officer has authority.

**1-3.7 Public Officials and Agencies**

All public officials, bodies, and agencies referenced in this Ordinance are those of the County of Westmoreland unless otherwise expressly stated. Whenever reference is made to a public official's title or the name of a public agency, that reference shall be construed as referring to the most up-to-date title or agency name, or to the relevant successor official or agency.

**1-3.8 Interpretation by Zoning Administrator**

In case of any dispute over the meaning of a word, phrase or sentence, whether defined herein or not, the Zoning Administrator is hereby authorized to make a definitive determination thereof, being guided in such determination by the purposes and intent of this ordinance as set forth in Section 1.1; provided however, that an appeal may be taken from any such determination as provided in Article 10.

## 1-4 Zoning Districts and Boundaries

### 1-4.1 Zoning Districts, General

The following zoning districts, presented and fully defined in Articles 2 and 3 of this Ordinance, are hereby established:

#### 1-4.1.1 Existing Base Zoning Districts

The following Base Zoning Districts currently exist in the County. These districts are not intended to be applied to any additional land that is not zoned as such at the time of adoption of this amended Ordinance. All new zoning map changes must be to one of the New Base Zoning Districts set forth in 1-4.1.2.

- 1-4.1.1 (A) A-1, Agricultural District
- 1-4.1.1 (B) C-1, Conservation District
- 1-4.1.1 (C) C-2, Campground, Mobile Home Parks and Travel Trailer District
- 1-4.1.1 (D) R-1, General Uses Residential District
- 1-4.1.1 (E) R-2, Limited Uses Residential District
- 1-4.1.1 (F) R-3, Planned Development Residential District
- 1-4.1.1 (G) R-4, Townhouse, Condominium, Apartment District
- 1-4.1.1 (H) B-1, General Business District
- 1-4.1.1 (I) B-2, Restricted Business District
- 1-4.1.1 (J) I-PUD, Industrial Planned Unit Development District
- 1-4.1.1 (K) M-1, Industrial District
- 1-4.1.1 (L) S-1, Seafood District

#### 1-4.1.2 New Base Zoning Districts

The following Base Zoning Districts are new districts upon adoption of these amendments.

- 1-4.1.2 (A) AC, Agricultural Conservation District
- 1-4.1.2 (B) RC, Rural Conservation District
- 1-4.1.2 (C) RR, Rural Residential District
- 1-4.1.2 (D) RN, Residential Neighborhood District
- 1-4.1.2 (E) PRD, Planned Residential Development District
- 1-4.1.2 (F) PVD, Planned Village Development District
- 1-4.1.2 (G) BN, Business Neighborhood District
- 1-4.1.2 (H) BG, Business General District
- 1-4.1.2 (I) IG, Industrial General District
- 1-4.1.2 (J) PIP, Planned Industrial Park District
- 1-4.1.2 (K) WC, Water-Related Commercial District
- 1-4.1.2 (L) RU, Residential Urban District

#### 1-4.1.3 Overlay Zoning Districts

- 1.4.1.3 (A) CB-OD, Chesapeake Bay Preservation Area Overlay District

### **1-4.2 Zoning Map**

The boundaries of all zoning districts are hereby fixed and established as shown on the map entitled "Official Zoning Map, Westmoreland County, Virginia." The Official Zoning Map is hereby adopted and shall be deemed a part of this Ordinance as fully as if it were set out herein in detail. A copy of the Official Zoning Map shall be maintained in the office of the Zoning Administrator.

### **1-4.3 Zoning of Entire Jurisdiction**

It is the intent of this Zoning Ordinance that the entire incorporated area of the County of Westmoreland, including all land, submerged land, water areas, and waterways be included in the zoning districts established by this Zoning Ordinance.

#### **1-4.3.1 Excluded Areas**

Any area not shown on the Official Zoning Map as being included in any district shall be deemed to be in the A-1 District.

#### **1-4.3.2 Adjacent Areas**

If not otherwise specifically designated or defined in this Ordinance, water areas, waterways, alleys, roads, streets, highways, railroads and public-rights-way shall be deemed to be in the same zoning district as the immediately abutting property.

### **1-4.4 Interpretation of Zoning District Boundaries**

The boundaries of the various districts as shown on the Official Zoning Map shall be determined by the boundaries as shown and outlined thereon, or as indicated on a plat accompanying a rezoning. The Zoning Administrator shall interpret such information in order to determine zoning district boundaries. The following rules shall apply in the determination of zoning district boundaries:

1-4.4.1 Boundaries indicated as approximately following the centerlines of streets, highways, or alleys shall be construed to follow center lines except where such location would change the zoning status of a lot or parcel, in which case the boundary shall be interpreted in such manner to avoid changing the zoning of any lot or parcel or portion thereof. 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.

1-4.4.2 Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.

1-4.4.3 Boundaries indicated as following County limit lines shall be construed as following such County limits.

1-4.4.4 Boundaries indicated as following railroad lines shall be construed to be at the center line of the railroad right-of- way.

1-4.4.5 Boundaries indicated as following shorelines of bodies of water shall be construed to follow such shorelines, and in the event of change in the shoreline

shall be construed as moving with the actual shoreline. Boundaries indicated as approximately following the centerlines of streams, rivers, canals, lakes or other bodies of water shall be construed to follow such centerlines, unless otherwise specified in 1.4.3.9 or 1.4.3.10 below.

- 1-4.4.6 Boundaries indicated as parallel to or extensions of features indicated in sections 1.4.3.1 through 1.4.3.6 above shall be so construed. Distances and dimensions not specifically indicated on the Official Zoning Map shall be determined from the scale of the map.
- 1-4.4.7 Where natural or man-made features actually existing on the ground are at variance with those shown on the official zoning map, the Zoning Administrator shall interpret the district boundaries.
- 1-4.4.8 Where a zoning district boundary divides a parcel of land, the location of such boundary, unless dictated by dimensions shown on the Zoning Map, shall be determined by use of the scale appearing on the Zoning Map, and scaled to the nearest foot.
- 1-4.4.9 Where a property is adjacent to an ungranted bed under public waters located within the County boundary, the zoning district boundary shall extend to the mean low-water mark as set forth in §28.2-1201 of the Code of Virginia, 1950, as amended, and such mean low-water mark shall be the waterfront lot line for purposes of this ordinance.
- 1-4.4.10 Where a property is adjacent to submerged land under a river or creek held by a party or parties other than the Commonwealth of Virginia under a special grant or compact according to law, the zoning district boundary shall extend to include the submerged land included in the parcel by lawful survey as set forth in §28.2 –1201 of the Code of Virginia, 1950, as amended.

## **1-5 Limitations and Methods for Measurements of Lots, Yards and Related Terms**

### **1-5.1 Lot Access Requirements**

No structure requiring a building permit shall be erected upon any lot which does not have frontage on a public road, as specified in the individual district regulations, except as may be specifically provided in this Ordinance or in the Subdivision Ordinance.

### **1-5.2 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 road shall be determined by measurement along the front yard around the private road.

### **1-5.3 Regular Lots, Determination of Front Yard**

- 1-5.3.1 On regular interior lots, the front shall be construed to be the portion nearest the street.
- 1-5.3.2 On regular corner lots, except as provided for in 1.5.3.3 below, the front for purposes of setbacks shall be both boundaries that front a street.
- 1-5.3.3 In an agricultural or conservation zoning district (A-1, C-1, AC, RC) 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.
- 1-5.3.4 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.
- 1-5.3.5 On regular 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.

### **1-5.4 Regular Lots, Yards Adjacent to Street**

- 1-5.4.1 A front yard setback of at least the depth required in the district shall be provided across the entire frontage of a regular lot.
- 1-5.4.2 Other yards adjacent to streets shall be provided across or along the entire portion of the lot adjacent to the street.
- 1-5.4.3 Street line shall be used 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.

### **1-5.5 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.

### **1-5.6 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.

### **1-5.7 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.

### **1-5.8 Irregular Lots, Dimensional Requirements**

An irregular lot shall be considered to meet the dimensional requirements of the district in which located, provided:

- 1-5.8.1 Lot area shall meet district requirements for the proposed use. Lot width need not meet district requirements if requirements set forth below are met.
- 1-5.8.2 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.
- 1-5.8.3 Building area remaining after required yards have been provided shall have dimensions and locations appropriate for all buildings proposed.

### **1-5.9 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. 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.

### **1-5.10 Setback Measurement From Streets**

All setbacks from public streets shall be measured from the wider of (a) the existing dedicated right-of-way (front lot line), 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.

### **1-5.11 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 depth is the horizontal distance between the front lot line and the rear lot line. If the lot is of irregular dimensions, the lot depth 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.

### **1-5.12 Height Regulations**

No new building, nor the enlargement of any building, shall hereafter be erected to exceed either forty-five (45) feet or to exceed three (3) stories in height.

### **1-5.13 Pipestem Lots**

The front setback line of pipestem lots as defined herein shall be measured from the point at which the pipestem portion of the lot meets the bulk portion of the lot. All other setback and yard requirements shall also be measured from the boundaries of the bulk portion of the lot, excluding the pipestem portion.