

# Article 1 | Introduction

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## Sec. 1.1 Title

This ordinance and the Official Zoning Map shall be officially known and cited as the “Zoning Ordinance of the Town of Leesburg.” It is referred to herein as the “Zoning Ordinance” or “this Ordinance.”

## Sec. 1.2 Authority

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

## **Sec. 1.3 Jurisdiction**

The provisions of this Zoning Ordinance shall apply to all property within the corporate limits of the Town of Leesburg, Virginia, excepting those areas determined by law to be under the sovereign control of the United States of America or the Commonwealth of Virginia.

## **Sec. 1.4 Effective Date**

Except as otherwise expressly stated herein, the provisions of this Zoning Ordinance shall become effective February 25, 2003.

## **Sec. 1.5 Purpose**

This Zoning Ordinance is adopted in order to protect the health, safety, and welfare of the residents of Leesburg; to advance the objectives set out in Section 15.2-2200 of the Code of Virginia, 1950, as amended; and to implement the Leesburg *Town Plan*.

## **Sec. 1.6 Implementation of the *Town Plan***

This Zoning Ordinance has been prepared in accordance with the *Town Plan*. It is intended that decisions made pursuant to this Zoning Ordinance will implement and be consistent with the goals and objectives contained in the *Town Plan*. Developments that were legally established under regulations that predate this Zoning Ordinance will not be deemed inconsistent with the *Town Plan*.

## **Sec. 1.7 Commentary**

Commentaries are included in this Zoning Ordinance whenever necessary to clarify the intent of a specific provision or provide additional information. These commentaries are a guide for administrative officials and the public to use in interpreting and understanding the Zoning Ordinance. Should any conflicts between the commentary and the general text of the Zoning Ordinance be found, the general text shall control.

## **Sec. 1.8 Rules of Interpretation/Construction of Language**

### **1.8.1 Meanings and Intent**

All provisions, terms, phrases and expressions contained in this Zoning Ordinance shall be construed according to the purpose set out in Sec. 1.5.

### **1.8.2 Headings, Illustrations and Text**

In case of any difference of meaning or implication between the text of this Zoning Ordinance and any heading, drawing, table, figure, or illustration, the text shall control.

### **1.8.3 Lists and Examples**

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.

#### **1.8.4 Computation of Time**

All references to “days” are to calendar days unless otherwise expressly stated. The time in which an act is to be completed shall be computed by excluding the first day and including the last day. If the last day is a Saturday, Sunday, or holiday observed by the town, that day shall be excluded. For example, Sec. 3.1.3.B gives staff 10 business days to accept or reject a rezoning application for processing. If an application is filed on Thursday, November 15<sup>th</sup>, staff has until close of business Thursday, November 29<sup>th</sup> to accept or reject the application. Because the 15<sup>th</sup> is the day the application was filed it is excluded; likewise, Saturdays and Sundays are excluded because only business days are counted in this case.

#### **1.8.5 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.

#### **1.8.6 Delegation of Authority**

Whenever a provision appears requiring the head of a department or another officer or employee of the town 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.

#### **1.8.7 Technical and Nontechnical Terms**

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 shall be construed and understood according to such meaning.

#### **1.8.8 Public Officials and Agencies**

All public officials, bodies, and agencies to which references are made are those of the Town of Leesburg unless otherwise expressly provided. Whenever reference is made to a public official’s title or 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.

#### **1.8.9 Mandatory and Discretionary Terms**

The words “shall,” “will,” and “must” are mandatory. The words “may” and “should” are advisory and discretionary terms.

#### **1.8.10 Conjunctions**

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 1 or more of the connected items, conditions, provisions, or events may apply.

#### **1.8.11 Tenses and Plurals**

Words used in one tense (past, present, or future) include all other tenses, unless the context clearly indicates the contrary. The singular includes the plural, and the plural includes the singular.

## Sec. 1.9 Conflicting Provisions

### 1.9.1 Repeal

All Zoning Ordinances, maps or parts thereof in conflict with the provisions of this Zoning Ordinance are hereby repealed. Except as expressly provided in this Zoning Ordinance, such repeal shall not affect or impair any act done, offense committed or right accrued, or liability, penalty, forfeiture or punishment incurred prior to the time such repeal takes effect; the same may be enjoyed, asserted, enforced, prosecuted or inflicted, as fully and to the same extent as if such repeal had not been affected.

### 1.9.2 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.

### 1.9.3 Conflict with Other Town 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 town, 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 town ordinance.

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

## Sec. 1.10 Transitional Provisions

The following transitional provisions shall apply to various activities, actions and other matters pending or occurring on February 25, 2003:

### 1.10.1 Violations Continue

Any violation of the previous zoning regulations of the town shall continue to be a violation under this Zoning Ordinance and shall be subject to penalties and enforcement under [Article 17](#), unless the use, development, construction or other activity complies with the express terms of this Zoning Ordinance.

### 1.10.2 Nonconformities Under Previous Ordinance or Resolution

A legal nonconformity is a use, setback, lot width or the like that was legal at the time it was established but which no longer complies with the regulations of the Zoning Ordinance. Any legal nonconformity under the previous zoning regulations of the town shall be considered a legal nonconformity under this Zoning Ordinance, provided that the situation that resulted in the nonconforming status under the previous regulations continues to exist. Such legal nonconformity may continue in accordance with the provisions of [Article 16](#) (Nonconformities). If, however, a legal nonconformity under prior ordinance becomes conforming as a result of the adoption of this Zoning Ordinance or any subsequent

amendment to this Zoning Ordinance, then such situation shall no longer be considered a legal nonconformity.

### 1.10.3 Existing Special Exception Uses

- A. Approved Special Exceptions** Any special exception lawfully approved prior to February 25, 2003, or any amendment thereof, shall continue to be valid after February 25, 2003, subject to the period of validity provided for in Sec. 3.4.16 (Termination of Use). Development in accordance with an approved special exception shall meet the requirements of this Zoning Ordinance, provided that in the event of 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.
- B. Existing Uses** Any use in legal existence prior to February 25, 2003, and still in legal existence on February 25, 2003, that 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 Sec. 3.4 (Special Exceptions).

### 1.10.4 Existing Variances

Any variance lawfully approved prior to February 25, 2003, 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.

### 1.10.5 Pending Applications

This Zoning Ordinance shall apply to all applications officially accepted after February 25, 2003, with the following exceptions:

- A. Rezoning and Special Exceptions.** All rezonings and special exception applications officially accepted prior to February 25, 2003, shall be processed pursuant to the provisions of the Zoning Ordinance in effect at the time of acceptance.
- B. Plats and Plans.** All preliminary or final subdivision plats, boundary line adjustments, Site Plan Waivers, plats of vacation or site plans officially accepted prior to February 25, 2003, shall be processed pursuant to the provisions of the Zoning Ordinance in effect at the time of acceptance.
- C. Proffers and Special Exception Conditions.** The text of this Zoning Ordinance shall apply to any property covered by a previous grant of zoning with proffered conditions pursuant to Section 15.2-2297 of the Code of Virginia except that in those cases where the requirements of this Zoning Ordinance conflict with a specific proffered condition, the proffered condition shall supersede the requirements of this Zoning Ordinance.
- D. Zoning Permit Issued/Plan Approval Issued Prior to Effective Date.** Nothing in this Zoning Ordinance shall require a change in any plans or construction for a structure where:

1. Zoning Permits. A Zoning Permit for such structure was lawfully issued prior to February 25, 2003, and the permit had not expired prior to February 25, 2003.
2. Site Plan or Subdivision Plat. A final site plan or subdivision plat, or any amendment thereof, was lawfully approved prior to February 25, 2003, and the approval had not by its own terms expired prior to February 25, 2003.
3. Right to Occupy as Nonconformity. Upon completion of any structure under subparagraphs 1 or 2 above, a Certificate of Occupancy shall be issued for the use designated on the zoning permit, subject thereafter to the provisions of [Article 16](#) (Nonconformities).

## **Sec. 1.11 Severability**

Should any article, section, clause, or provision of this Zoning Ordinance be declared by any Virginia or federal court of competent jurisdiction to be invalid, the same shall not affect the validity of this Zoning Ordinance as a whole, or any part thereof other than that which is so declared to be invalid.