

THE
ST. MARY'S COUNTY
SUBDIVISION ORDINANCE



ADOPTED AUGUST 31, 2010
EFFECTIVE SEPTEMBER 14, 2010

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ORDINANCE

WHEREAS, Article 66B of the Maryland Annotated Code empowers the St. Mary's County Board of County Commissioners (hereinafter the "Board") to adopt a Comprehensive Plan and to enact implementing ordinances to promote the health, safety and welfare of St. Mary's County and to provide for the administration, enforcement and amendment thereof in accordance with the Comprehensive Plan; and

WHEREAS, on March 23, 2010, the Board executed Ordinance 2010-01 to adopt the St. Mary's County Comprehensive Plan (hereinafter the "Comprehensive Plan") and to make the Plan effective as of April 6, 2010; and

WHEREAS, the Plan establishes a growth management strategy for the future development, conservation and preservation of the County's physical lands and waters and for the promotion and protection of the public health, safety, morals and general welfare; and

WHEREAS, a portion of that growth management strategy embraces land use regulation, including zoning, subdivision and environmental protection regulations in response to the provisions of Article 66B and the Natural Resources Article of the Maryland Annotated Code; and

WHEREAS, the Board thereafter directed the St. Mary's County Planning Commission (hereinafter the "Planning Commission") to prepare amendments to the St. Mary's County Subdivision Ordinance to implement the Comprehensive Plan; and

WHEREAS, the Planning Commission directed the St. Mary's County Department of Land Use and Growth Management (hereinafter "Staff") to accordingly prepare a draft Subdivision Ordinance, dated April 30, 2010 (hereinafter the "Draft Subdivision Ordinance"); and

WHEREAS, the Planning Commission and the Board conducted joint public hearings on said Draft Subdivision Ordinance on May 18, 19 and 20, 2010, following due notice published in the April 30 and May 5, 2010 editions of *The Enterprise*, a newspaper of general circulation in St. Mary's County; and

WHEREAS, the public hearing record remained open for additional written testimony until June 15, 2010; and

WHEREAS, during May and June 2010 the Planning Commission held eight (8) work sessions to deliberate on the public testimony received at the hearings and during the open record period, and gave direction to Staff to make certain changes to the Draft Subdivision Ordinance; and

WHEREAS, on June 28, 2010, Staff delivered to the Planning Commission a modified Draft Subdivision Ordinance, which incorporated all revisions directed by the Planning Commission; and

WHEREAS, the Planning Commission completed its deliberations and by way of adopting Planning Commission Resolution No. 10-04, did recommend to the Board the repeal of the St. Mary's County Subdivision Ordinance (Ordinance Z-02-02), and the adoption of said revised Draft Subdivision Ordinance, dated June 28, 2010 (hereinafter the "Recommended Subdivision Ordinance"); and

WHEREAS, during July and August 2010 the Board held seven (7) work sessions to deliberate on the public testimony received at the hearings and during the open record period, as well as on said Recommended Subdivision Ordinance; and

WHEREAS, as a result of these deliberations the Board gave direction to Staff to make certain changes to the Recommended Subdivision Ordinance; and

WHEREAS, on August 31, 2010, Staff delivered to the Board a Final Subdivision Ordinance, which incorporates all revisions directed by the Board; and

WHEREAS, the Board finds that adoption and implementation of the Final Subdivision Ordinance is necessary to protect and promote the public health, safety and welfare.

NOW THEREFORE BE IT ORDAINED by the St. Mary's County Board of County Commissioners that the St. Mary's County Subdivision Ordinance (Ordinance Z-02-02) is hereby repealed in its entirety; and

BE IT FURTHER ORDAINED by the St. Mary's County Board of County Commissioners that said Final Subdivision Ordinance dated August 31, 2010 as set forth in Attachment 1 hereto, is hereby adopted as the St. Mary's County Subdivision Ordinance; and

BE IT FURTHER ORDAINED by the St. Mary's County Board of County Commissioners that the foregoing recitals are hereby incorporated and adopted as if fully set forth; and

BE IT FURTHER ORDAINED by the St. Mary's County Board of County Commissioners that in the event any portion of this ordinance is found to be unconstitutional, illegal, null or void, by a court of competent jurisdiction, it is the intent of the Board of County Commissioners to sever only the invalid portion or provision, and that the remainder of the ordinance shall be enforceable and valid, unless deletion of the invalid portion would defeat the clear purpose of the ordinance, or unless deletion of the invalid portion would produce a result inconsistent with the purpose and intent of the Board of County Commissioners in enacting this ordinance; and

BE IT FURTHER ORDAINED by the Board of County Commissioners for St. Mary's County that this enactment shall be effective on the date written below.

Those voting Aye: 4 Mattingly, Dement, Russell, Raley

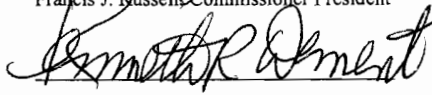
Those voting Nay: 1 Jarboe

DATE OF ADOPTION: August 31, 2010

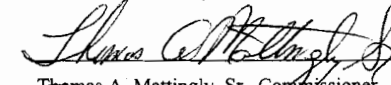
EFFECTIVE DATE: September 14, 2010

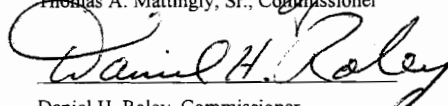
BOARD OF COUNTY COMMISSIONERS
ST. MARY'S COUNTY, MARYLAND


Francis J. Russell, Commissioner President


Kenneth R. Dement, Commissioner

No
Lawrence D. Jarboe, Commissioner


Thomas A. Mattingly, Sr., Commissioner

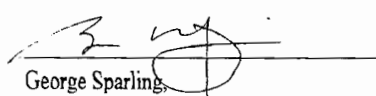

Daniel H. Raley, Commissioner

ATTEST:



John Savich
County Administrator

APPROVED AS TO FORM AND LEGAL
SUFFICIENCY:



George Sparling
County Attorney

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1 **ARTICLE 1. GENERAL PROVISIONS**

2 **CHAPTER 10 TITLE, PURPOSE AND ORGANIZATION**

3 Sections:

- 4 10.1 Title.
- 5 10.2 Authority.
- 6 10.3 Purpose.
- 7 10.4 Organization of the Subdivision Ordinance.
- 8 10.5 Applicability.
- 9 10.6 Minimum Standards.
- 10 10.7 Approval of Subdivision Plat.

11 **10.1. Title.**

12 This document shall be known as the “St. Mary’s County Subdivision Ordinance” and may also
13 be referred to as “the Subdivision Ordinance”, or “this Ordinance”.

14 **10.2. Authority.**

15 Pursuant to the authority and provisions of Title 5, Article 66B of the Maryland Annotated Code,
16 the following regulations governing the subdivision of land within the unincorporated areas of St.
17 Mary’s County, Maryland are hereby established.

18 **10.3. Purpose.**

19 This Subdivision Ordinance is intended:

- 20 1. To guide, regulate and control the division, portioning and conveyance of land within the
21 unincorporated area of St. Mary’s County in a manner consistent with the St. Mary’s
22 County Comprehensive Plan, Comprehensive Zoning Ordinance and Article 66B of the
23 Maryland Annotated Code.
- 24 2. Land shall be suitable for the purpose for which it is subdivided and adequate and
25 effective public facilities shall be available, as determined by the Planning Commission.
26 In addition, the public improvements shall conform to and be compatible with all other
27 County laws, regulations, plans, programs and standards.
- 28 3. To protect and provide for the public health, safety, and general welfare and to prevent
29 overcrowding of land and undue congestion of population.
- 30 4. To encourage the orderly and beneficial development of all parts of the County.
- 31 5. To protect and conserve the value of land throughout the County and the value of
32 buildings and improvements upon the land, by minimizing conflicts among the uses of
33 land and buildings.
- 34 6. To guide public and private policy and action in order to provide adequate, effective and
35 efficient public facilities and services.
- 36 7. To provide the most beneficial relationship between the uses of land and buildings and
37 the circulation of traffic throughout the County, having particular regard to the avoidance
38 of congestion in the streets and highways, and the pedestrian traffic movements
39 appropriate to the various uses of land and buildings, and to provide for proper location
40 and width of streets and building lines.
- 41 8. To establish reasonable standards of design and procedures for subdivisions and
42 resubdivisions, in order to further the orderly layout and use of land; and to insure proper
43 legal descriptions and recording of subdivided land.

1 9. To prevent the pollution of air, surface waters; to assure the adequacy of drainage
2 facilities; to safeguard the water table; and to encourage the wise use and management of
3 natural resources throughout the County in order to preserve the integrity, stability, and
4 beauty of the County and the value of the land.

5 10. To preserve for open space through the most efficient and effective design and layout of
6 the land, including the use of average density in providing for minimum width and area
7 of lots, while preserving the density of land as established by the County Comprehensive
8 Zoning Ordinance.

9 **10.4. Organization of the Subdivision Ordinance.**

10 This Ordinance consists of five (5) articles. Without superseding the specific regulations set forth
11 in each article, the general structure and content of the articles are as follows:

- 12 1. **Article 1: General Provisions.** The overall organization and applicability of the
13 regulations are included in this article. General rules are provided for interpretation,
14 conflicts with other laws and regulations, relation to deed restrictions and prior
15 regulations, construction of language, and severability.
- 16 2. **Article 2: Administration.** This article outlines detailed procedures for the administration
17 of this Ordinance, including responsibilities of decision-making bodies, common
18 procedures that apply to all development applications, notice and public hearing
19 procedures, and requirements for (a) administrative decisions; (b) appeals of
20 administrative decisions; (c) vested rights and authority to continue nonconforming
21 projects; and (d) amendments to the Ordinance.
- 22 3. **Article 3: Subdivision Standards and Approvals.** This article establishes standards and
23 procedures for review of subdivisions and plats..
- 24 4. **Article 4: Enforcement.** This article provides for the prosecution of violations of this
25 Ordinance.
- 26 5. **Article 5: Definitions.** This article provides a list of terms and their meanings.

27 **10.5. Applicability.**

28 The provisions of this Ordinance shall apply to the partitioning and use of all land within the
29 unincorporated areas of St. Mary's County unless expressly and specifically exempted or
30 provided otherwise in this Ordinance. No subdivision may be undertaken without prior
31 authorization, or exemption from regulation, by this Ordinance. All regulated development shall
32 comply with the standards, criteria, and procedures of this Ordinance and any other applicable
33 statute, law or regulation.

34 **10.6. Minimum Standards.**

35 Unless otherwise provided herein, the provisions of this Ordinance are minimum standards
36 necessary to accomplish the purposes of this Ordinance, and nothing herein is intended, nor shall
37 it be construed to, prevent any development or land use in St. Mary's County from exceeding the
38 minimums.

39 **10.7. Approval of Subdivision Plat.**

40 Until a plat of the subdivision is approved in accordance with these regulations or is deemed
41 otherwise legally of record, no land within the unincorporated area of St. Mary's County shall be
42 subdivided nor shall any lot be sold or transferred, building erected, or subdivision plat recorded.

1 **CHAPTER 11 RULES**

2 Sections:

- 3 11.1 Purpose.
4 11.2 General Rules.
5 11.3 Rules for Construction of Language.
6 11.4 Severability.

7 **11.1. Purpose.**

8 The purpose of this chapter is to establish general rules for the application of this Subdivision
9 Ordinance. The meaning and construction of words and phrases defined in this chapter apply
10 throughout this Ordinance. Definitions of general terms are presented in Article 5 Definitions.

11 **11.2. General Rules.**

- 12 1. **Zoning Permit Required.** No preliminary subdivision plat shall be approved by the
13 Planning Commission until a valid zoning permit is obtained by the applicant from the
14 Planning Director.
- 15 2. **Compliance Required.** No person, firm or entity may use, occupy, or develop land or
16 structures, or any part thereof, or authorize or permit the use, occupancy, or development
17 of land or structures under the control of such person, except in accord with all applicable
18 provisions of this Ordinance.
- 19 3. **Lot of Record.** Every building hereafter erected, reconstructed, converted, moved, or
20 structurally altered shall be located on a lot of record. There may be more than one
21 principal building or use on a lot of record provided, however, that each such principal
22 use shall be assessed density of residential use or intensity (F.A.R.) of non-residential use
23 as if on a subdivided lot.
- 24 4. **Conflict with Other Laws and Regulations.** Where a conflict occurs between this
25 Ordinance and a state statute or another county ordinance or regulation, the more
26 restrictive provision shall control.
- 27 5. **Relation to Deed Restrictions and Other Private Agreements.** This Ordinance does not
28 abrogate or annul a private easement, covenant, agreement, deed restriction, recorded plat
29 or other restrictive covenant. If, however, this Ordinance imposes a greater restriction
30 than that imposed by such easement, covenant, agreement, recorded plat, deed restriction,
31 or other restrictive covenant, this Ordinance shall control. In no circumstances, however,
32 shall the County have any obligation to enforce a restrictive covenant, easement, or
33 equitable servitude, not required as a condition of approval for any development activity
34 or land use.
- 35 6. **Relation to Prior Regulations.** This Ordinance does not validate or legalize a division of
36 land established, developed or maintained in violation of a prior ordinance, county
37 resolutions or ordinances, easements, covenants, agreements, plots, deed restrictions or
38 other restrictive covenants running in favor of the County in effect prior to the effective
39 date of this Ordinance.

40 **11.3. Rules for Construction of Language.**

41 The following rules shall apply to the construction of language in this Ordinance:

- 42 1. The specific controls the general.

- 1 2. Unless the context clearly indicates the contrary, the following conjunctions shall be
2 interpreted as follows:
- 3 a. "And" indicates that all connected words or provisions apply;
- 4 b. "Or" indicates that the connected words or provisions may apply singly or in any
5 combination; and
- 6 c. "Either or" indicates that the connected words or provisions apply singly but not
7 in combination.
- 8 3. In case of conflict between the text and a diagram, the text controls.
- 9 4. References to departments, commissions, boards, and other offices or instrumentalities
10 are to those of St. Mary's County, unless otherwise indicated.
- 11 5. A reference to days is to calendar days unless otherwise indicated in this Ordinance or
12 specified by state law. If a deadline falls on a weekend or County holiday, the time for
13 performing an act is extended to the next working day. A working day is any day that is
14 not a Saturday, Sunday or official County holiday.
- 15 6. In computing a period of days, the day of the act or event from which the designated
16 period of days begins to run is excluded, and the last day of the period is included, unless
17 the last day is not a working day. If the last day is not a working day, the period runs until
18 the end of the next day which is a working day. In computing a period of less than seven
19 days, Saturdays, Sundays and County holidays are excluded.
- 20 7. Use of "shall," "will" or "must" is mandatory; "should" is directive, but not binding, and
21 "may" is permissive.
- 22 8. Use of "including," "includes," "such as," "additional," or "supplemental" is illustrative
23 and not intended as an exhaustive listing, unless the context clearly indicates the contrary.
- 24 9. Section and subsection headings contained in this Ordinance are for convenience only
25 and do not govern, limit, modify or in any manner affect the scope, meaning or intent of
26 any provision of this Ordinance.
- 27 10. Words used in the present tense include the future, words masculine in gender shall
28 include the feminine gender and words used in the singular include the plural, and the
29 plural, the singular, unless the context clearly indicates to the contrary.

30 **11.4. Severability.**

31 If any provision, section, subsection, sentence, paragraph, clause or phrase or portion of this
32 Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the
33 remainder of this Ordinance shall not be affected. If any application of this Ordinance to a
34 particular structure, land or water is adjudged unconstitutional or invalid by a court of competent
35 jurisdiction, such judgment shall not be applicable to any said structure, land or water not
36 specifically included in said judgment.