

# **BOARD OF SUPERVISORS WORK SESSION**

## **GOVERNMENT CENTER BOARD ROOM**

**FEB 28, 2012 - 4 P.M.**

### **A. Call to Order**

### **B. Roll Call**

### **C. Board Discussions**

1. Stage II Zoning Ordinance Update for Non-Priority Items –  
Continued from January 24, 2012, Work Session (**Summary**)  
(**Memorandum**)

- Attachment 1 - R-1 District Text
- Attachment 2 - R-2 District Text
- Attachment 3 - R-5 District Text
- Attachment 4 - Cluster Overlay District Text
- Attachment 5 - Cluster Response to Policy Committee
- Attachment 6 - Acreage Calculation Possibilities
- Attachment 7 - Density Bonus Input Spreadsheet
- Attachment 8 - Density Calculation Examples
- Attachment 9 - Mixed Use District Text
- Attachment 10 - Mixed Use Construction Phasing Policy Guideline
- Attachment 11 - R-4 District Text
- Attachment 12 - PUD District Text
- Attachment 13 - Article 1 Text
- Attachment 14 - Article III Text
- Attachment 15 - Impact Analysis Guidelines Final
- Attachment 16 - Environmental Constraints Analysis Policy

- Attachment 15 - Impact Analysis Guidelines Final
- Attachment 16 - Environmental Constraints Analysis Policy
- Attachment 17 - Environmental Submittal Requirements Checklist
- Attachment 18 - Fiscal Impact Study
- Attachment 19 - Nonconformities Text

#### **D. Closed Session**

1. Consideration of a personnel matter, involving the mid-year performance of the County Administrator pursuant to Section 2.2-3711(A)(1) of the Code of Virginia

#### **E. Break**

**MEMORANDUM COVER**

**Subject:** Stage II Zoning Ordinance Update for Non-Priority Items - Continued from January 24, 2012, Work Session

**Action Requested:** Shall the Board concur with staff's recommendations and provide guidance for proceeding to Stage III of the zoning ordinance update for the presented topics?

**Summary:** For Stage II of the Zoning and Subdivision Update process, staff has crafted draft ordinances and policies for the topics within the following non-priority categories:

- 1. Residential districts
- 2. Multiple use districts
- 3. Administrative items

The draft ordinances, policies, and guidelines have been attached for your review prior to Stage III, when the Planning Commission and Board of Supervisors will review the final ordinance language in the coming months.

**Fiscal Impact:** N/A

**FMS Approval, if Applicable:** Yes  No

**Assistant County Administrator**

Doug Powell \_\_\_\_\_

**County Administrator**

Robert C. Middaugh \_\_\_\_\_

**Attachments:**

- 1. Memorandum
- 2. 19 Attachments

**WORK SESSION**

**Date:** February 28, 2012

MEMORANDUM

DATE: February 28, 2012

TO: The Board of Supervisors

FROM: Tamara A. M. Rosario, Principal Planner  
Allen J. Murphy, Jr., Acting Development Manager

SUBJECT: Stage II Zoning Ordinance Update for Non-Priority Items – Continued from January 24, 2012, Work Session

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For Stage II of the zoning and subdivision ordinances update process, staff has crafted draft ordinances and policies for the topics within non-priority categories, which included:

1. Residential districts
2. Multiple use districts
3. Administrative items

Staff drafted the Stage II ordinances and policies for these topics based on feedback provided last spring when the Policy Committee, Planning Commission, and Board of Supervisors reviewed initial proposals during Stage I of the process. The Policy Committee considered the draft ordinances and policies at its meetings in July and September 2011.

The draft ordinances and policies were then forwarded to the Board of Supervisors for its September 27, 2011, and January 24, 2012, work sessions. The purpose of this work session is to continue the discussion of the residential districts and multiple use districts and to begin discussion of the administrative items.

Accordingly, attached for the Board's review are the draft ordinances and policies as they were presented to the Policy Committee. The Board's comments will inform Stage III of the process, when the Planning Commission and Board of Supervisors will review the final ordinance language. The proposed revisions related to each item are summarized in the list below. *Policy Committee comments, which have not been incorporated into the draft ordinances and policies, are noted in italics. In addition, the Board's comments and questions from the September 27, 2011, and January 24, 2012, work sessions are noted, where applicable. In some instances, additional material related to those comments and questions has been included.*

**I. Residential Districts and Housing Opportunities Policy**

For Stage II of the zoning and subdivision ordinances update process, staff has constructed draft ordinances and guidelines for the following residential topics.

1. R-1, R-2, and R-5  
Changes that were made to both the R-1, Limited Residential, District and the R-2, General Residential, District included coordinating the density bonus system with the cluster overlay district (although the method of calculating density based on the gross area of the site was not proposed to be changed); generally coordinating the open space, ownership of open space, and buffer requirements sections with the cluster overlay district; and adding a park and playground numerical and design standard requirement. A change that was made to both the R-2, General Residential, District and the R-5, Multi-family Residential, District, was the inclusion of select commercial uses as specially permitted uses per suggestion of the Policy Committee during Stage I. Changes to the R-5 district were more substantial and

included changing the permitted uses to include only multi-family dwellings containing more than four dwelling units; revising the right-of-way buffer requirement to match the R-1 and R-2 districts (150 feet for Community Character Corridors (CCC) and 75 feet for non-CCC roads, while providing for waivers if criteria listed in the ordinance are met); adjusting the nondevelopable land density formula to coordinate with the cluster overlay district; revising the density bonus items to coordinate with the cluster overlay district; adjusting the open space requirement language; and deleting the private yards requirement to provide design flexibility.

*The Policy Committee generally concurred with the draft with several minor comments on adding references to the County policies which are available online and on making language more concise.*

*The Board's comments at its September 27, 2011, and January 24, 2012, work sessions are summarized under the Cluster Overlay District section below.*

## 2. Cluster Overlay District

The draft ordinance follows the items discussed during Stage I of the process, with the more significant changes consisting of the following: revising the nondevelopable land definition; in the density calculation section, changing the percentage that triggers use of the nondevelopable land formula; revising the density standards and bonus items; revising the amount of open space that is required to a tiered system linked to desired density; adjusting the new nondevelopable land definition; including new design information for open space and for development; and adding language for a review and approval process where submission of a conceptual plan prior to the legislative process is strongly encouraged. Along with the draft, staff included information in response to a number of questions that arose during Policy Committee meetings (see Attachment No. 5).

*The Policy Committee generally concurred with the draft and asked for a few minor changes. The Committee did ask staff to make note in future cover memorandums that revisions might be necessary depending on the outcome of the Transfer of Development Rights (TDR) feasibility analysis (this comment was made prior to the TDR analysis results being presented to the Board in October 2011).*

*At its September 27, 2011, work session, the Board had an extensive discussion on a number of key topics.*

- *The Board discussed the way that density is calculated in the residential and some of the multiple use districts, and whether it should be based on gross land area, net land area (which does not include the nondevelopable land), or a calculated area based on the percentage of nondevelopable land. The Board requested that in terms of the third method (calculated area), staff investigate an altered scale that limits the density achievable at the highest level of nondevelopable land, perhaps using a stepped scale method.*

Staff put together information which compared net, gross, the current calculated method, and a potential “stepped scale” method for the Board’s consideration (Attachment No. 6).

- *The Board discussed the density bonus item options in the cluster overlay district. The Board discussed whether the bonus item list should be shorter and more prioritized. The Board requested that staff provide a spreadsheet or other form to gather the Board’s feedback on high, medium, and low priorities.*

On October 14, 2011, staff emailed a table to the Board to gather input (see Attachment No. 7). Staff remains interested in receiving feedback from the Board on bonus items.

- *The Board discussed the R-5, Multifamily Residential, District, and the Cluster Overlay District and the connection between the two. The Board discussed the way the density provisions and incentives in each of the districts worked, and whether it made sense to either remove the R-5 cluster option or reduce the base densities in R-5 and allow the densities to be achieved through greater use of the density bonus items. The Board requested that staff examine each of those options.*

Since the work session in September, staff has evaluated the options and does now recommend that the R-5 cluster option be removed. The R-5 district would then continue forward as a district that supports moderate to high density residential areas with multi-family and apartment dwellings. The cluster overlay option in R-5 would have been less likely to be used than in R-1 and R-2, where greater incentives exist for their use.

*At its January 24, 2012, work session, the Board continued to discuss the density calculation method. The Board requested that staff provide examples of the stepped scale option in relation to the residential districts, relating the examples to past cases or to existing County parcels.*

Staff has provided examples in Attachment No. 8 of scenarios including by-right, legislatively approved, and a hypothetical development proposal on an existing County property. Please note that the attached examples include information using both the existing, and the new proposed nondevelopable area definitions.

## **II. Multiple Use Districts**

Staff previously presented discussion items for changes to the Mixed-Use (MU); Planned Unit Development (PUD); and R-4, Residential Planned Community, districts.

The most substantive changes were made to the MU district. The overall base density was lowered and now includes density bonuses similar to what is included with the Cluster ordinance. A required mixing of uses (not more than 80 percent of one use type) was included in the density section. Provisions were also included that require unified open space design, as well as complementary site design. At the recommendation of the Office of Economic Development, several of the uses listed that were previously permitted up to 2,000 square feet and specially permitted at greater sizes, were revised to have a threshold of 5,000 square feet. Finally, staff included a construction phasing guideline, to be reviewed at the rezoning level, with a phasing plan approved by the Board of Supervisors.

Staff made similar changes to the PUD district, including changes to the density calculation (to include a density bonus), as well as housekeeping revisions similar to MU that do not change the content of the district, but rather change the arrangement of sections of the ordinance (i.e., use list table, removal of procedural sections to another section of the ordinance, etc.).

The changes to the R-4 district were mostly organizational in nature. Changes to the use list, removal of procedural requirements, and clarifying the wording of the gross density calculation table were the major changes.

*The Policy Committee reviewed the draft ordinances in September and the members were generally supportive of the changes. Questions mainly focused on ensuring compatibility with the changes that were made to the Commercial zoning districts and the ability to accommodate a possible TDR program (this comment was made prior to the TDR analysis results being presented to the Board in October 2011).*

### **III. Administrative Items**

#### **1. Procedural Descriptions, Submittal Requirements, and Administrative Items**

Staff made revisions to items under Article I (General) and Article III (site plan), particularly the removal of Section 24-7 (administrative fees), the reorganization of items under Section 24-23 (submittal requirements for legislative cases), and amendments to Section 24-143 (site plan submittal requirements). Staff is currently working revising definition in Section 24-2 and creating illustrations which will accompany some of the definitions in order to best clarify their meaning. New and revised definitions and illustrations will be submitted for review at a later time.

*The Policy Committee concurred with staff's revised ordinances.*

#### **2. Traffic Impact Analysis Guidelines**

A Traffic Impact Analysis (TIA) is a study which assesses the effects of a particular development's projected traffic on the transportation network. Submission of a TIA is required by the zoning ordinance during the review of any legislative application that is expected to generate 100 or more weekday peak hour trips or located on a road with a Level of Service (LOS) "D" or lower. The ordinance does not currently define or provide any guidance to an applicant regarding the scope of work or expected results of a TIA. To increase predictability and make expectations clear, staff has drafted a policy document to define the required elements and expected results of a TIA for legislative applications.

*The Policy Committee concurred with staff's draft TIA guidelines.*

#### **3. Environmental Constraints Analysis**

Three items have been drafted - a policy, a short list of environmental requirements to be amended to Section 24-145 of the ordinance (site plan requirements), and an environmental checklist. The policy covers expectations in terms of environmental submittal requirements for legislative cases. The amendment to Section 24-145 provides clarifications as to what type of environmental information should be provided for administrative cases. The environmental checklist mirrors this information, but will be made available as part of the site plan application.

*The Policy Committee concurred with staff's revised ordinances.*

#### **4. Fiscal Impact Study**

Staff has drafted a fiscal impact study which will be made available as part of residential rezoning applications at no cost to applicants. The study has been reviewed by the James City County Financial and Management Services Director, Mr. John McDonald; Mr. Donald Messmer of the Wessex Group; the James City County Economic Development Director, Mr. Russell Seymour; the City of Williamsburg Economic Development Director, Ms. Michele DeWitt; and the York County Principal Planner, Mr. Tim Cross, with positive input.

*The Policy Committee concurred with staff's draft checklist and policy.*

5. Nonconformities

Staff proposed to specifically include reference to “structure” in addition to reference to nonconforming uses throughout the ordinance for clarity. In the past, the Attorney’s Office has expressed concern that the current ordinance does not specifically reference structures when discussing nonconforming status, which could lead to legal issues should an appeal be challenged in court.

*The Policy Committee generally concurred with the draft with several minor comments on adding references and making language more concise.*

**V. Conclusion**

Staff requests that the Board of Supervisors offer comment on these draft ordinances and guidelines prior to presenting the final ordinance language to making preparations for advertising the ordinance during Stage III of the process.

  
Tamara M. Rosario

CONCUR:

  
Allen J. Murphy, Jr.

TMR/AJM/nb  
NonPriorSt2\_mem

Attachments:

1. R-1 – Draft Ordinance
2. R-2 – Draft Ordinance
3. R-5 – Draft Ordinance
4. Cluster Overlay District – Draft Ordinance
5. Cluster Overlay District – Response to Policy Committee Questions
6. Cluster Overlay District – Acreage Calculation Possibilities
7. Cluster Overlay District – Density Bonus Input Spreadsheet
8. Cluster Overlay District – Density Calculation Examples
9. Mixed Use – Draft Ordinance
10. Mixed Use – Draft Construction Phasing Policy
11. R-4 – Draft Ordinance
12. PUD – Draft Ordinance
13. Administrative Items – Article I In General – Draft Ordinance
14. Administrative Items – Article III Site Plan – Draft Ordinance
15. Administrative Items – Traffic Impact Analysis – Draft Guidelines
16. Administrative Items – Environmental Constraints Analysis – Draft Policy
17. Administrative Items – Environmental Submittal Requirements Checklist for Site Plans
18. Administrative Items – Fiscal Impact Study – Draft Guidelines
19. Nonconformities – Draft Ordinance

**Chapter 24**  
**ARTICLE V. DISTRICTS**  
 DIVISION 3. LIMITED RESIDENTIAL DISTRICT, R-1

**Sec. 24-231. Statement of intent.**

The Limited Residential District, R-1, is composed of certain quiet, low-density residential areas plus certain open areas where similar residential development is likely to occur. The regulations for this district are designed to stabilize and protect the essential characteristics of the district, to ~~prohibit all~~ *limit* activities of a commercial nature and to implement the policies and designations of the Comprehensive Plan applicable to low-density residential areas. To these ends, development is limited to low-density residential and generally permitted uses are limited to single-family dwellings, plus certain additional community-oriented uses that serve the residents of this district.

**Sec. 24-232. Permitted uses.**

In the Limited Residential District, R-1, structures to be erected or land to be used, shall be for one or more of the following uses:

Use Category	Use List	Permitted Uses	Special Permit Uses
Residential Uses	Accessory buildings or structures as defined	P	
	Accessory apartments in accordance with Section 24-32		SUP
	Home care facilities		SUP
	<del>Residential cluster development</del> <i>Single-family detached dwellings</i> in accordance with article VI, division 1 of this chapter		SUP
	Single-family detached dwellings with a maximum gross density of one dwelling unit per acre in accordance with Section 24-234(a)	P	
	Single-family detached dwellings with a maximum gross density of more than one unit per acre in accordance with section 24-234(c)		SUP
Commercial Uses	Accessory buildings or structures as defined	P	
	Adult day care centers		SUP
	Child day care centers		SUP
	Community recreation facilities, including parks, playgrounds, clubhouses, boating facilities, swimming pools, ball fields, tennis courts and other similar recreation facilities	P	
	Golf courses, country clubs		SUP
	Home occupations as defined	P	
	Off-street parking as required by section 24-53	P	
	Rental of rooms to a maximum of three rooms		SUP
	Retail shops and food service establishments <i>accessory to</i> <del>associated with</del> community recreation facilities		SUP
Civic	Cemeteries and memorial gardens		SUP
	<del>Places of public assembly</del> <i>Houses of worship</i>		SUP
	Libraries		SUP
	Neighborhood resource centers		SUP

	Publicly owned solid waste container sites		SUP
	Schools		SUP
	Water impoundments, new or expansion of, less than 50 acres and with dam heights of less than 25 feet	P	
	Water impoundments, new or expansion of, 50 acres or more and dam heights of 25 feet or more		SUP
Utility	Electrical generation facilities, public or private, electrical substations with a capacity of 5,000 kilovolt amperes or more and electrical transmission lines capable of transmitting 69 kilovolts or more		SUP
	Railroad facilities including tracks, bridges and stations. However, spur lines which are to serve and are accessory to existing or proposed development adjacent to existing railroad right-of-ways and track and safety improvements in existing railroad right-of-ways are permitted generally and shall not require a special use permit		SUP
	Telephone exchanges and telephone switching stations		SUP
	Transmission pipelines (public or private), including pumping stations and accessory storage, for natural gas, propane gas, petroleum products, chemicals, slurry coal and any other gases, liquids or solids. However, extensions for private connections to existing pipelines, which are intended to serve an individual residential or commercial customer and which are accessory to existing or proposed development, are permitted generally and shall not require a special use permit		SUP
	Wireless communications facilities that utilize alternative mounting structures, or are building mounted, or area camouflaged, and comply with division 6, Wireless Communications Facilities	P	
	Water facilities (public or private), and sewer facilities (public), including, but not limited to, treatment plants, pumping stations, storage facilities and transmission mains, wells and associated equipment such as pumps to be owned and operated by political jurisdictions. However, the following are permitted generally and shall not require a special use permit:  <ul style="list-style-type: none"> <li>(a) Private connections to existing mains that are intended to serve an individual customer and that are accessory to existing or proposed development, with no additional connections to be made to the line; and</li> <li>(b) Distribution lines and local facilities within a development, including pump stations</li> </ul>		SUP

Open	Timbering in accordance with section 24-43	P	
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~~Accessory buildings or structures as defined.~~

~~Community recreation facilities, including parks, playgrounds, clubhouses, boating facilities, swimming pools, ball fields, tennis courts, and other similar recreation facilities.~~

~~Home occupations as defined.~~

~~Off-street parking as required by section 24-53.~~

~~Single family detached dwellings with a maximum gross density of one dwelling unit per acre in accordance with section 24-234(a).~~

~~Timbering in accordance with section 24-43.~~

~~Water impoundments, new or expansion of, less than 50 acres and with dam heights of less than 25 feet.~~

~~Wireless communications facilities that utilize alternative mounting structures, or are building mounted, or are camouflaged, and comply with division 6, Wireless Communications Facilities.~~

**~~Sec. 24-233. Uses permitted by special use permit only.~~**

~~In the Limited Residential District, R-1, buildings, to be erected or land to be used for the following or similar uses shall be permitted only after the issuance of a special use permit by the board of supervisors:~~

~~Accessory apartments in accordance with section 24-32.~~

~~Adult day care centers.~~

~~Cemeteries and memorial gardens.~~

~~Child day care centers.~~

~~Electrical generation facilities (public or private), electrical substations with a capacity of 5,000 kilovolt amperes or more, and electrical transmission lines capable of transmitting 69 kilovolts or more.  
Fire stations.~~

~~Golf courses, country clubs.~~

~~Home care facilities.~~

~~Houses of worship.~~

~~Libraries.~~

~~Neighborhood resource centers.~~

~~Publicly owned solid waste container sites.~~

~~Railroad facilities including tracks, bridges, switching yards and stations. However, spur lines which are to serve and are accessory to existing or proposed development adjacent to existing railroad right of ways~~

~~and track and safety improvements in existing railroad right of ways are permitted generally and shall not require a special use permit.~~

~~Rental of rooms to a maximum of three rooms.~~

~~Residential cluster development in accordance with article VI, division 1 of this chapter.~~

~~Retail shops and food service establishments associated with community recreation facilities.~~

~~Schools.~~

~~Single family detached dwellings with a maximum gross density of more than one unit per acre in accordance with section 24-234(c).~~

~~Telephone exchanges and telephone switching stations.~~

~~Transmission pipelines (public or private), including pumping stations and accessory storage, for natural gas, propane gas, petroleum products, chemicals, slurry coal and any other gases, liquids or solids. However, extensions or private connections to existing pipelines which are intended to serve an individual residential or commercial customer and which are accessory to existing or proposed development are permitted generally and shall not require a special use permit.~~

~~Water facilities (public or private), and sewer facilities (public), including, but not limited to, treatment plants, pumping stations, storage facilities and transmission mains, wells and associated equipment such as pumps to be owned and operated by political jurisdictions. However, the following are permitted generally and shall not require a special use permit:~~

- ~~(a) Private connections to existing mains that are intended to serve an individual customer and are accessory to existing or proposed development, with no additional connections to be made to the line;~~
- ~~(b) Distribution lines and local facilities within a development, including pump stations.~~

~~Water impoundments, new or expansion of, 50 acres or more and dam heights of 25 feet or more.~~

#### **Sec. 24-234. Overall density within subdivisions.**

(a) All subdivisions shall have a maximum gross density of one unit per acre, except for minor subdivisions ~~as defined below~~. In these instances, the lots in a minor subdivision must still adhere to the area requirements set forth in section 24-235.

~~(b) For the purposes of this section, the term minor subdivisions shall be defined as a division of a tract of land into not more than five lots abutting an existing public road within the transportation department road system and which does not create a new street or extend an existing street. Any contiguous property owned by the same subdivider, or deemed by the development review committee as a logical part of a contiguous subdivision cannot be subdivided into greater than five lots without meeting the density requirements.\*~~

~~(\*Note: Moved to the definitions section.)~~

~~(be) Upon application, the board of supervisors may grant a special use permit for subdivisions to have a maximum gross density of more than one unit per acre, but of no more than two units per acre upon finding the developer has made assurances in a master plan or otherwise for *at least two points as specified in the density bonus item options table in Section 24-549 of this chapter.*~~  
the following:

- ~~(1) Implementation of Streetscape Guidelines as defined in the Streetscape Guidelines Policy.~~

~~(2) Implementation of the countys Archaeological Policy.~~

~~(3) Provision of sidewalks on at least one side of all internal streets in the development, including the entrance road. This requirement may be waived by the planning commission if the development is infill development of less than 20 units where sidewalks do not exist and are not planned on adjacent property. In addition, a sidewalk shall be provided as required in section 24-35.~~

~~(4) Provision of recreation facilities as recommended in the countys Comprehensive Parks and Recreation Master Recreation Plan. Upon application for an exception, the Board of Supervisors may approve alternate facilities or allow cash contributions in lieu of constructing a percentage of the facilities provided that the alternate facilities or cash contributions are consistent with the recommendations and contributions per unit presented in the master plan.~~

~~(5) Implementation of the countys Natural Resources Policy.~~

**Sec. 24-235. Area requirements.**

(a) *Public water/sewage disposal.* Lots served by public water and public sewage disposal systems shall have a minimum area of 15,000 square feet.

(b) *Public sewage disposal only.* Lots served by a public sewage disposal system but not a public water distribution system shall have a minimum area of 17,500 square feet.

(c) *Public water distribution only.* Lots served by a public water distribution system but not a public sewage disposal system shall have a minimum area of 20,000 square feet.

(d) *Individual water/sewage disposal.* Lots served by individual water and sewage disposal systems shall have a minimum area of 30,000 square feet.

(e) *Applicability to certain lots.* These minimum sizes shall not apply to lots of less than 15,000 square feet recorded or legally in existence prior to April 8, 1985.

**Sec. 24-236. Setback requirements.**

Structures shall be located a minimum of 35 feet from any street right-of-way which is 50 feet or greater in width. Where the street right-of-way is less than 50 feet in width, structures shall be located a minimum of 60 feet from the centerline of the street. This shall be known as the "setback line"; all subdivisions platted and recorded prior to March 1, 1969, with building setback lines shown on their recorded plat, shall be allowed to adhere to these established setback lines.

**Sec. 24-237. Minimum lot width.**

(a) Lots of up to and including 43,560 square feet shall have a minimum width at the setback line of 100 feet.

(b) Lots of more than 43,560 square feet shall have a minimum width at the setback line of 150 feet.

**Sec. 24-238. Yard ~~requirements~~ regulations.**

(a) *Side.* The minimum side yard for each main structure shall be 15 feet. The minimum side yard for accessory structures shall be five feet, except that accessory buildings exceeding one story shall have a minimum side yard of 15 feet.

(b) *Rear.* Each main structure shall have a minimum rear yard of 35 feet. The minimum rear yard for accessory structures shall be five feet, except that accessory buildings exceeding one story shall have a minimum rear yard of 15 feet.

**Sec. 24-239. Special provisions for corner lots.**

(a) The front of the lot shall be deemed to be the shorter of the two sides fronting on streets.

(b) No structure shall be located closer than 35 feet to the side street.

(c) Each corner lot shall have a minimum width at the setback line of 125 feet.

**Sec. 24-240. Height limits.**

Buildings may be erected up to two stories and shall not exceed 35 feet in height from grade, except that:

(1) The height limit for dwellings may be increased to 45 feet and to three stories; provided, that there are two side yards for each permitted use each of which is a minimum of 15 feet plus one foot or more of side yard for each additional foot of building height over 35 feet.

(2) A public or semipublic building such as a school, church or library may be erected to a height of 60 feet from grade, provided that the required front, side and rear yards shall be increased one foot for each foot in height over 35 feet.

(3) Church spires, belfries, cupolas, monuments, water towers, athletic field lighting, chimneys, flues, flagpoles, home television antennae and home radio aerials and wireless communications facilities that utilize alternative mounting structures or are building mounted in accordance with division 6, Wireless Communications Facilities, may be erected to a total height of 60 feet from grade. Camouflaged wireless communications facilities may be erected to a total height of 120 feet from grade. Upon application for a height limitation waiver, the payment of appropriate fees, notification of adjacent property owners and following a public hearing, the board of supervisors may grant a height limitation waiver for these structures to exceed 60 feet in height but not to exceed 100 feet, from grade to the top of the structure, and for wireless communications facilities that utilize alternative mounting structures or are building mounted to exceed 60 feet in height but not to exceed the maximum approved height of the structure to which it is mounted, upon finding that:

a. Such structure will not obstruct light to adjacent property;

b. Such structure will not impair the enjoyment of historic attractions and areas of significant historic interest and surrounding developments;

c. Such structure will not impair property values in the surrounding area;

d. Such structure is adequately designed and served from the standpoint of safety, and the county fire chief finds that the fire safety equipment to be installed is adequately designed and that the building is reasonably well located in relation to fire stations and equipment, so as to offer adequate protection to life and property; and

e. Such structure will not be contrary to the public health, safety and general welfare.

**Sec. 24-241. Sign regulations.**

To assure an appearance and condition which is consistent with the purposes of the Limited Residential District, R-1, outdoor signs on the properties within the district shall comply with the regulations for exterior signs in article II, division 3 of this chapter.

**Sec. 24-242. Open space within major subdivisions.**

*Within every subdivision consisting of 50 or more lots, there shall be planned and set aside permanently an amount of open space to be maintained exclusively for conservation and recreation purposes.*

*(a) Non-developable areas shall be maintained as open space and shall not be included on any private lot, except that areas with slopes of 25 percent or more contiguous to the non-developable area may be incorporated into individual lots provided the sloped areas are placed in conservation easements dedicated to the county and approved by the county attorney.*

*(b) In addition, ten percent of the developable area of the site shall also be set aside as open space.*

*1. The developable area open space may include, but is not limited to:*

*a. Areas on site necessary to meet county policies pertaining to natural resources, archaeology, and parks and recreation;*

- b. Area(s) for which a density bonus is also being proposed, as listed in Section X (i.e. wildlife habitat corridors, watershed management plan conservation areas, etc.);
- c. The following areas, up to the percent specified
  - i. Required right-of-way and perimeter buffers – cannot exceed 50% of the developable open space required
  - ii. Stormwater management facilities – cannot exceed 20% of the developable open space required (this limitation applies to structural best management practices such as wet and dry ponds, but does not apply to bioretention or other low impact design measures)

(c) For the purpose of meeting the developable open space requirements specified in (b), open space area may not include:

1. Area on any individual private lots or yards, with the exception of easements for streetscapes
2. Land within public road rights-of-way and utility or drainage easements

(d) In meeting the developable area open space requirements specified in (b), open space shall be arranged on the site in a manner that is suitable in its size, shape, and location for the conservation and recreational uses intended, with adequate access for the entire development. At a minimum, the open space shall adhere to the following standards:

Item	Numerical Standard	Design Standard
Neighborhood Park	50 – 77 Units: Provide 1 park (minimum of 0.3 acres)  78+ Units: Provide 0.0039 acres per unit	Parkland should be centrally located, with no less than 0.25 acres in a single piece and with a minimum width of 60 ft. The parkland should be relatively level non-floodplain land outside the RPA, minimum 70% groomed space and the balance may be in natural tree cover.
Playground	Provide 1 playground	The playground should have a minimum area of 2,500 square feet and have a minimum of five activities.

~~(a) Within every subdivision consisting of 50 or more lots, there shall be planned and set aside permanently an amount of open space to be maintained exclusively for recreation or conservation and recreation purposes. The amount of such open space shall not be less than ten percent of the net developable area of the site. The developable area of right of way buffers and perimeter buffers may be counted as open space for the purpose of meeting this requirement to a maximum of 50 percent of the required open space.~~

~~(b) In addition, all nondevelopable area consisting of all stream beds, areas subject to flooding under the 100-year storm event, and wetlands shall be maintained as open space. Areas with slopes of 25 percent or more which are contiguous to the above mentioned areas may be incorporated into individual lots provided that the sloped areas are placed in conservation easements approved by the county attorney.~~

~~(c) Before accepting the open space as meeting the requirements of paragraph (a) of this section, the planning commission shall find that:~~

~~(1) No land lying within a proposed or existing road right of way, utility easement or drainage facility is counted toward the minimum open space requirement; and~~

~~(2) The land is suitable in its size, shape, and location for the conservation and recreational uses intended, with adequate access for the entire development and served with adequate facilities for such purpose; and~~  
~~(3) No part of a private yard or area determined by the planning director to be a part thereof, with the exception of easements for streetscapes, shall be counted as meeting the open space requirements of this chapter; and~~

~~(4) No more than 50 percent of the required open space shall be used for active recreational uses.~~

~~(d) Evidence shall be given that satisfactory arrangements will be made for the perpetual preservation of designated open space areas to relieve the county of any obligation to maintain.~~

#### **Sec. 24-243. Ownership of open space. Establishment of homeowners association**

*A homeowners association shall be established in accordance with Section 19-68 of the Subdivision Ordinance.*

~~Within any residential development approved under this article on which a tract is intended to be used in common for recreational or other public or semipublic purposes, no lot shall be approved, recorded, sold or used within the development until a declaration of covenants and restrictions or other document necessary to establishing a mandatory permanent home owners organization has been approved by the county attorney and has been executed. Such documents shall set forth the following:~~

~~(1) The nature of the permanent organization under which common ownership is to be established, including its purpose; how it shall be governed and administered; the provisions made for permanent care and maintenance of the common property including necessary bonds when required by the county; and the method of assessing the individual property for its share of the cost of adequately administering and maintaining and replacing such common property; and~~

~~(2) The extent of common interest held by the owner of each individual parcel in the tract held in common.~~

*The homeowner's association documents shall set forth the nature (recreation or conservation) and location of the open space(s) in the manner described on the master plan, either through illustration or through incorporation by reference of the development's master plan and/or plan of development. The documents shall generally describe the use and maintenance standards necessary to adhere to the nature of the open space(s) as shown on the development's master plan and/or plan of development.*

#### **Sec. 24-244. BMP requirements.**

To assure an appearance and condition which is consistent with the purpose of the Limited Residential District, R-1, structural BMPs serving the properties within the district shall comply with the landscaping regulations in article II, division 4 of this chapter.

#### **Sec. 24-245. Buffer requirements.**

(a) *Right-of-way buffer.* Within any major subdivision approved under this article, there shall be planned and maintained buffers along all external existing and planned arterial road rights-of-way, as follows:

(1) The minimum right-of-way buffer on Community Character Corridor roads as defined in the Comprehensive Plan shall be 150 feet, except when the average lot depth of the parent parcel is less than 600 feet. In those cases, the required buffer shall be at a depth of 25 percent of the average lot depth.

(2) The minimum right-of-way buffer on all non-Community Character Corridor roads shall be 75 feet, except when the average lot depth of the parent parcel is less than 300 feet. In those cases, the required buffer shall be at a depth of 25 percent of the average lot depth.

~~(3) If the buffer is non-wooded as defined for the purpose of this article as having no mature trees, then a minimum of two trees per 400 square feet of area shall be planted with a minimum 50 percent of said trees being evergreen. Otherwise, the buffer shall remain undisturbed or supplemented~~

~~with additional plantings to achieve the planting ratio stated above. The buffer shall be planted in accordance with Section 24-XX, General landscape area standards, and buffers along Community Character Corridor roads shall also adhere to the Community Character Corridor Buffer Designation Map and Buffer Treatment Guidelines.~~

(b) *Perimeter buffers.* Within any major subdivision approved under this article, there shall be planned and maintained a perimeter buffer along the perimeter property lines of the development, except for areas adjacent to road rights-of-way. The minimum perimeter buffer shall be 35 feet. Landscaping guidelines for perimeter buffers shall follow the requirements in section 24-94(a)XX of this chapter.

(c) *Waiver provisions.* In instances where properties have more than a 300-foot average depth and are located along a Community Character Corridor, or in all instances of perimeter buffers, the planning ~~director~~ ~~commission~~ may reduce the buffer depth requirements *specified in (a) and (b)* of this section for residential developments when:

- (1) The development is less than ~~five~~ ~~ten~~ acres and a majority of the development's units are dedicated to affordable housing; or
- (2) The developer demonstrates that due to natural or protected features, or due to adjoining physical features, a reduced buffer will screen the development as effectively as a full buffer; or
- (3) The developer demonstrates that the development will be adequately screened and buffered from the road using berms and landscaping. Such a request shall be supplemented with a landscaping plan and/or planting plan with photos of the existing site.

In no case shall the right-of-way buffer be reduced by a waiver provision to less than 75 feet. The perimeter buffer shall not be reduced by a waiver provision to less than 20 feet. The planning ~~director~~ ~~commission~~ may also, in the event of granting a waiver, require additional landscaping as determined on a case by case basis.

(d) *Modifications to the landscape requirements.* The planning ~~director~~ ~~commission~~ may modify, permit substitutions, or permit transfer of required landscaping in accordance with the provisions set forth in article II, division 4 of this chapter.

(e) *Requirements for buffers.* All required buffers shall be exclusive of lots, remain free of structures and parking, and remain undisturbed, except for additional plantings and selective clearing approved by the director of planning or his designee. Soil stockpiles and staging areas shall not be permitted within any buffer, except that temporary soil stockpiles may be allowed upon approval by the planning ~~director~~ ~~commission~~ under the following circumstances:

- (1) The buffer in which the temporary stockpile is to occur is non-wooded, defined as having no mature trees.
- (2) The stockpile should not be visible from a Community Character Corridor or Community Character Area, unless the soil stockpiling is needed for approved berming in that buffer.
- (3) Stockpiles shall not exceed 35 feet in height.
- (4) Stockpiles shall be temporary, with a time limit of six months.
- (5) Once the use of the temporary soil stockpiles is completed, the ground must be adequately prepared for planting and revegetated in a manner that meets or exceeds the amount and quality of vegetation on the site previously.
- (6) *Stockpiling shall conform with any applicable requirements of the Virginia Erosion and Sediment Control regulations, the Virginia Erosion and Sediment Control Handbook and County Erosion and Sediment Control program policies.*

(f) *Limitations on buffers.* ~~Wet ponds, dry detention basins, and other s~~ Structural BMPs *such as wet and dry ponds* shall not generally be permitted in the buffers, except that the planning ~~director~~ ~~commission~~ may approve them under the following circumstances:

- (1) The need is necessitated by site conditions rather than economic factors; and
- (2) The screening/buffering effect of the buffer has been retained by the design of the BMP and any degradation has been mitigated with additional plantings or berms as necessary.

(g) *Improvements allowable within buffers.* An entrance road, community and directional signage, bicycle and/or pedestrian paths, and utility connections and drainage improvements shall be permitted within the buffer with approval of the planning ~~director~~ **commission**. Permitted utilities and constructed drainage conveyance systems shall cross the buffer at or near a perpendicular angle to the property line, with clearing kept to a minimum necessary to accommodate the utilities, except that minor improvements to natural drainage channels may be permitted at different angle to the property line upon ~~the recommendation of the environmental director and the approval of the planning director~~ **the approval of the planning commission**.

(h) *Roads within buffers.* Entrance roads through these buffers shall be built to the narrowest cross-section possible. Roads and open space shall be located and designed in a manner that minimizes views of structures within the development from the adjoining primary or secondary road as determined by the planning ~~director~~ **commission**.

*(i) Appeals. In the event the planning director disapproves of the items specified in (c), (e), (f), (g), and (h) above or recommends conditions or modifications that are unacceptable to the applicant, the applicant may appeal the decision of the planning director to the development review committee who shall forward a recommendation to the planning commission. Any appeal shall be in writing and may be subject to fees as specified in the planning division's fee schedule.*

**Sec. 24-246. Pedestrian Accommodation.**

*Pedestrian accommodations shall be provided in accordance with Section 24-35.*

**Secs. 24-246~~8~~ - 24-250. Reserved.**

**Chapter 24**  
**ARTICLE V. DISTRICTS**  
 DIVISION 4. GENERAL RESIDENTIAL DISTRICT, R-2

**Sec. 24-251. Statement of intent.**

The General Residential District, R-2, is composed of certain quiet, low-density residential areas plus certain open areas where similar residential development is likely to occur. The regulations for this district are designed to stabilize and protect the essential characteristics of the district, to promote and encourage the clustering of residential developments to maximize shared and purposeful open space, to protect the natural environment and to promote a sense of community, to ~~limit~~ ~~prohibit~~ all activities of a commercial nature and to implement the policies and designations of the Comprehensive Plan applicable to low-density residential areas. To these ends, development is limited to low-density residential and permitted uses are limited to dwellings designed to be occupied by one family or more than one family under certain conditions plus certain additional community-oriented uses that serve the residents of the district.

**Sec. 24-252. Permitted uses.**

In the General Residential District, R-2, structures to be erected or land to be used, shall be for one or more of the following uses:

Use Category	Use List	Permitted Uses	Special Permit Uses
Residential Uses	Accessory buildings or structures as defined	P	
	Accessory apartments in accordance with Section 24-32	P	
	<del>Five to eight family dwellings</del> <i>Multifamily dwellings of between five and eight units</i> , contained within a residential cluster development with a maximum gross density of more than one unit per acre in accordance with article VI, division 1 of this chapter <del>provided that the overall density does not exceed the permitted density in the previously approved master plan or the James City County Comprehensive Plan</del>		SUP
	<del>Four family dwellings</del> <i>Multifamily dwellings, up to and including four units</i> , contained within residential cluster development with a maximum gross density of one unit per acre in accordance with article VI, division 1 of this chapter	P	
	<del>Four family dwellings</del> <i>Multifamily dwellings, up to and including four units</i> , contained within residential cluster development with a maximum gross density of more than one unit per acre in accordance with article VI, division 1 of this chapter		SUP
	Home care facilities		SUP
	<del>Residential cluster development with a maximum gross density of one unit per acre in accordance with article VI, division 1 of this chapter</del>	P	

	<del>Residential cluster development with a maximum gross density of more than one unit per acre in accordance with article VI, division 1 of this chapter</del>		SUP
	Single-family detached dwellings with a maximum gross density of one dwelling unit per acre, <i>either</i> <ul style="list-style-type: none"> <li>• in accordance with Section 24-254(a), or</li> <li>• <i>in accordance with article VI, division 1 of this chapter</i></li> </ul>	P	
	Single-family detached dwellings with a maximum gross density of more than one unit per acre, <i>either</i> <ul style="list-style-type: none"> <li>• in accordance with section 24-254(c) or</li> <li>• <i>in accordance with article VI, division 1 of this chapter</i></li> </ul>		SUP
	<del>Three family dwellings contained within a residential cluster development with a maximum gross density of one unit per acre in accordance with article VI, division 1 of this chapter</del>	<del>P</del>	
	<del>Three family dwellings contained within a residential cluster development with a maximum gross density of more than one unit per acre in accordance with article VI, division 1 of this chapter</del>		SUP
	Multifamily <i>dwellings</i> up to two units, in accordance with section 24-254 <b>60</b>		SUP
	<del>Two family dwellings contained within a residential cluster development with a maximum gross density of one unit per acre in accordance with article VI, division 1 of this chapter</del>	<del>P</del>	
	<del>Two family dwellings contained within a residential cluster development with a maximum gross density of more than one unit per acre in accordance with article VI, division 1 of this chapter</del>		SUP
Commercial Uses	Accessory buildings or structures as defined	P	
	Adult day care centers		SUP
	<i>Barber and beauty shops</i>		SUP
	<i>Business, governmental and professional offices</i>		SUP
	Child day care centers		SUP
	Community recreation facilities, including parks, playgrounds, clubhouses, boating facilities, swimming pools, ball fields, tennis courts and other similar recreation facilities	P	
	Golf courses, country clubs		SUP
	Home occupations as defined	P	
	Off-street parking as required by section 24-53	P	
	<i>Photography studios and sales, artist and sculptor studios</i>		SUP
	Rental of rooms to a maximum of three rooms		SUP
	Retail shops <i>accessory to</i> <del>associated with</del> community recreation facilities		SUP
	<i>Tourist home</i>		SUP
Civic	Cemeteries and memorial gardens		SUP

	<del>Places of public assembly</del> Houses of worship		SUP
	Libraries		SUP
	Neighborhood resource centers		SUP
	Publically owned solid waste container sites		SUP
	Schools		SUP
	Water impoundments, new or expansion of, less than 50 acres and with dam heights of less than 25 feet	P	
	Water impoundments, new or expansion of, 50 acres or more and dam heights of 25 feet or more		SUP
Utility	Electrical generation facilities, public or private, electrical substations with a capacity of 5,000 kilovolt amperes or more and electrical transmission lines capable of transmitting 69 kilovolts or more		SUP
	Railroad facilities including tracks, bridges and stations. However, spur lines which are to serve and are accessory to existing or proposed development adjacent to existing railroad right-of-ways and track and safety improvements in existing railroad right-of-ways are permitted generally and shall not require a special use permit		SUP
	Telephone exchanges and telephone switching stations		SUP
	Transmission pipelines (public or private), including pumping stations and accessory storage, for natural gas, propane gas, petroleum products, chemicals, slurry coal and any other gases, liquids or solids. However, extensions for private connections to existing pipelines, which are intended to serve an individual residential or commercial customer and which are accessory to existing or proposed development, are permitted generally and shall not require a special use permit		SUP
	Wireless communications facilities that utilize alternative mounting structures, or are building mounted, or area camouflaged, and comply with division 6, Wireless Communications Facilities	P	
	Water facilities (public or private), and sewer facilities (public), including, but not limited to, treatment plants, pumping stations, storage facilities and transmission mains, wells and associated equipment such as pumps to be owned and operated by political jurisdictions. However, the following are permitted generally and shall not require a special use permit:  (a) Private connections to existing mains that are intended to serve an individual customer and that are accessory to existing or proposed development, with no additional		SUP

	connections to be made to the line; and (b) Distribution lines and local facilities within a development, including pump stations		
Open	Timbering in accordance with section 24-43	P	

~~Accessory apartments in accordance with section 24-32.~~

~~Accessory buildings or structures as defined.~~

~~Community recreation facilities, including parks, playgrounds, clubhouses, boating facilities, swimming pools, ball fields, tennis courts, and other similar recreation facilities.~~

~~Four family dwellings contained within a residential cluster development with a maximum gross density of one unit per acre in accordance with article VI, division 1 of this chapter.~~

~~Home occupations, as defined.~~

~~Off-street parking as required by section 24-53.~~

~~Residential cluster development with a maximum gross density of one unit per acre in accordance with article VI, division 1 of this chapter.~~

~~Retail shops associated with community recreation facilities.~~

~~Single family detached dwellings with a maximum gross density of one unit per acre in accordance with section 24-254(a).~~

~~Three family dwellings contained within a residential cluster development with a maximum gross density of one unit per acre in accordance with article VI, division 1 of this chapter.~~

~~Timbering in accordance with section 24-43.~~

~~Two family dwellings contained within a residential cluster development with a maximum gross density of one unit per acre in accordance with article VI, division 1 of this chapter.~~

~~Water impoundments, new or expansion of, less than 50 acres and with dam heights of less than 25 feet.~~

~~Wireless communications facilities that utilize alternative mounting structures, or are building mounted, or are camouflaged, and comply with division 6, Wireless Communications Facilities.~~

**Sec. 24-253. Uses permitted by special use permit only.**

In the General Residential District, R-2, buildings to be erected or land to be used for the following or similar uses shall be permitted only after issuance of a special use permit by the board of supervisors:

~~Adult day care centers.~~

~~Cemeteries and memorial gardens.~~

~~Child day care centers.~~

~~Electrical generation facilities (public or private), electrical substations with a capacity of 5,000 kilovolt amperes or more, and electrical transmission lines capable of transmitting 69 kilovolts or more.~~

~~Fire stations.~~

~~Five to eight family dwellings contained within a residential cluster development with a maximum gross density of more than one unit per acre in accordance with article VI, division 1 of this chapter provided that the overall density does not exceed the permitted density in the previously approved master plan or the James City County Comprehensive Plan.~~

~~Four family dwellings contained within a residential cluster development with a gross density of more than one unit per acre in accordance with article VI, division 1 of this chapter.~~

~~Golf courses, country clubs.~~

~~Home care facilities.~~

~~Houses of worship.~~

~~Libraries.~~

~~Neighborhood resource centers.~~

~~Publicly owned solid waste container sites.~~

~~Railroad facilities including tracks, bridges, switching yards and stations. However, spur lines which are to serve and are accessory to existing or proposed development adjacent to existing railroad right of ways and track and safety improvements in existing railroad right of ways, are permitted generally and shall not require a special use permit.~~

~~Rental of rooms to a maximum of three rooms.~~

~~Residential cluster development with a maximum gross density of more than one unit per acre in accordance with article VI, division 1 of this chapter.~~

~~Schools.~~

~~Single family detached dwellings with a maximum gross density of more than one unit per acre in accordance with section 24-254(e).~~

~~Telephone exchanges and telephone switching stations.~~

~~Three family dwellings contained within a residential cluster development with a maximum gross density of more than one unit per acre in accordance with article VI, division 1 of this chapter.~~

~~Transmission pipelines (public or private), including pumping stations and accessory storage, for natural gas, propane gas, petroleum products, chemicals, slurry coal and any other gases, liquids or solids. However, extensions or private connections to existing pipelines, which are intended to serve an individual residential or commercial customer and which are accessory to existing or proposed development, are permitted generally and shall not require a special use permit.~~

~~Two family dwellings contained within a residential cluster development with a maximum gross density of more than one unit per acre in accordance with article VI, division 1 of this chapter.~~

~~Two family dwellings in accordance with section 24-254.~~

Water facilities (public or private), and sewer facilities (public), including, but not limited to, treatment plants, pumping stations, storage facilities and transmission mains, wells and associated equipment such as pumps to be owned and operated by political jurisdictions. However, the following are permitted generally and shall not require a special use permit:

- (a) Private connections to existing mains, that are intended to serve an individual customer and are accessory to existing or proposed development, with no additional connections to be made to the line;
- (b) Distribution lines and local facilities within a development, including pump stations.

Water impoundments, new or expansion of, 50 acres or more and a dam height of 25 feet or more.

#### **Sec. 24-254. Overall density within subdivisions.**

(a) All subdivisions shall have a maximum gross density of one unit per acre, except for minor subdivision as defined below. In these instances, the lots in a minor subdivision must still adhere to the area requirements set forth in section 24-255.

~~(b) For the purposes of this section, the term minor subdivisions shall be defined as a division of a tract of land into not more than five lots abutting an existing public road within the transportation department road system and which does not create a new street or extend an existing street. Any contiguous property owned by the same subdivider, or deemed by the development review committee as a logical part of a contiguous subdivision cannot be subdivided into greater than five lots without meeting the density requirements of a major subdivision.\*~~

(\*Note: Moved to the definitions section.)

~~(b)e~~ Upon application, the board of supervisors may grant a special use permit for subdivisions to have a maximum gross density of more than one unit per acre, but of no more than two units per acre upon finding the developer has made assurances in a master plan or otherwise for *at least two points as specified in the density bonus item options table in Section 24-549 of this chapter.* the following:

- ~~(1) Implementation of Streetscape Guidelines as defined in the Streetscape Guidelines Policy.~~
- ~~(2) Implementation of the countys Archaeological Policy.~~
- ~~(3) Provision of sidewalks on at least one side of all internal streets in the development, including the entrance road. This requirement may be waived by the planning commission if the development is infill development of less than 20 units where sidewalks do not exist and are not planned on adjacent property. In addition, a sidewalk shall be provided as required in section 24-35.~~

~~(4) Provision of recreation facilities as recommended in the countys Comprehensive Parks and Recreation Master Recreation Plan. Upon application for an exception, the Board of Supervisors may approve alternate facilities or allow cash contributions in lieu of constructing a percentage of the facilities provided that the alternate facilities or cash contributions are consistent with the recommendations and contributions per unit presented in the master plan.~~

~~(5) Implementation of the countys Natural Resources Policy.~~

#### **Sec. 24-255. Area requirements.**

(a) *Public water/sewage disposal.* Lots served by public water and public sewage disposal systems shall have a minimum area of 10,000 square feet.

(b) *Public sewage disposal only.* Lots served by a public sewage disposal system but not a public water distribution system shall have a minimum area of 12,000 square feet.

- (c) *Public water distribution only.* Lots served by a public water distribution system but not a public sewage disposal system shall have a minimum area of 20,000 square feet.
- (d) *Individual water/sewage disposal.* Lots served by individual water and sewage disposal system shall have a minimum area of 30,000 square feet.
- (e) *Applicability to certain lots.* These minimum sizes shall not apply to lots of less than 12,000 square feet recorded or legally in existence prior to April 8, 1985.

**Sec. 24-256. Setback requirements.**

Structures shall be located a minimum of 25 feet from any street right-of-way which is 50 feet or greater in width. Where the street right-of-way is less than 50 feet in width, structures shall be located a minimum of 50 feet from the centerline of the street. This shall be known as the "setback line"; all subdivisions platted and recorded prior to March 1, 1969, with building setback lines shown on their recorded plat, shall be allowed to adhere to these established setback lines. Off-street parking shall not be permitted within the required setbacks, except that parking spaces for single-family and two-family dwellings may be located within the required setback.

**Sec. 24-257. Minimum lot width.**

- (a) Lots of less than 20,000 square feet shall have a minimum width at the setback line of 75 feet.
- (b) Lots of 20,000 square feet to 43,560 square feet shall have a minimum width at the setback line of 100 feet.
- (c) Lots of more than 43,560 square feet shall have a minimum width at the setback line of 150 feet.

**Sec. 24-258. Yard ~~requirements~~ regulations.**

- (a) *Side.* The minimum side yard for each main structure shall be ten feet. The minimum side yard for accessory structures shall be five feet, except that accessory buildings exceeding one story shall have a minimum side yard of ten feet.
- (b) *Rear.* Each main structure shall have a minimum rear yard of 35 feet. The minimum rear yard for accessory structures shall be five feet, except that accessory buildings exceeding one story shall have a minimum rear yard of ten feet.

**Sec. 24-259. Special provisions for corner lots.**

- (a) The front of the lot shall be the shorter of the two sides fronting on streets.
- (b) No structures shall be located closer than 25 feet to the side street.
- (c) Each corner lot shall have a minimum width at the setback line of 100 feet.

**Sec. 24-260. Special provisions for multifamily up to two units.**

- (a) Lots intended for multifamily up to two units shall be:
  - (1) Served by a public water system;
  - (2) Served by a public sewer system;
  - (3) Required to have a minimum lot size of 15,000 square feet.
  - (4) Required to meet all other requirements of this district.
- (b) In addition to the above requirements, when each dwelling unit is on an individual lot, each individual lot shall:
  - (1) Have a minimum lot size of 7,500 square feet;
  - (2) Have a minimum lot width of 40 feet; and
  - (3) Have no minimum side yard requirement on the common side lot line.
- (c) Upon application, the board of supervisors may grant a waiver from the public sewer connection requirement referenced above upon finding:
  - (1) The development site is a single lot recorded or legally in existence prior to the date of adoption of this section; and

- (2) The State Health Department has approved the location and adequacy of the proposed septic drainfields; and
- (3) The proposed multifamily units are located in the Primary Service Area and is in accord with the James City Service Authority Regulations Governing Utility Service.

**Sec. 24-261. Height limits.**

Buildings may be erected up to two stories and shall not exceed 35 feet in height from grade, except that:

(1) The height limit for dwellings may be increased to 45 feet and to three stories; provided, that there are two side yards for each permitted use each of which is a minimum of 15 feet plus one foot or more of side yard for each additional foot of building height over 35 feet.

(2) A public or semipublic building such as a school, church or library may be erected to a height of 60 feet from grade, provided that the required front, side and rear yards shall be increased one foot for each foot in height over 35 feet.

(3) Church spires, belfries, cupolas, monuments, water towers, athletic field lighting, chimneys, flues, flagpoles, home television antennas and home radio aerials and wireless communications facilities that utilize alternative mounting structures or are building mounted in accordance with division 6, Wireless Communications Facilities, may be erected to a total height of 60 feet from grade. Camouflaged wireless communications facilities may be erected to a total height of 120 feet from grade. Upon application for a height limitation waiver, the payment of appropriate fees, notification of adjacent property owners and following a public hearing, the board of supervisors may grant a height limitation waiver for these structures to exceed 60 feet in height but not to exceed 100 feet, from grade to the top of the structure, and for wireless communications facilities that utilize alternative mounting structures or are building mounted to exceed 60 feet in height but not to exceed the maximum approved height of the structure to which it is mounted, upon finding that:

- a. Such structure will not obstruct light to adjacent property;
- b. Such structure will not impair the enjoyment of historic attractions and areas of significant historic interest and surrounding developments;
- c. Such structure will not impair property values in the surrounding area;
- d. Such structure is adequately designed and served from the standpoint of safety, and the county fire chief finds that the fire safety equipment to be installed is adequately designed and that the building is reasonably well located in relation to fire stations and equipment, so as to offer adequate protection to life and property; and
- e. Such structure will not be contrary to the public health, safety and general welfare.

(4) No accessory building which is within ten feet of any lot line shall be more than one story high. All accessory buildings shall be less than the main building in height; provided, however, the height of an accessory building may exceed the height of the main building if the grade of the lot is such that the elevation of the main building exceeds the elevation of the accessory building. The elevation of the main building and the accessory building shall be measured from the level of the curb or the established curb grade opposite the middle of the main building. In no case shall an accessory building be more than 35 feet in height.

**Sec. 24-262. Sign regulations.**

To assure an appearance and condition which is consistent with the purpose of the General Residential District, R-2, outdoor signs on the properties within the district shall comply with the regulations for exterior signs in article II, division 3 of this chapter.

**Sec. 24-263. Open space within major subdivisions.**

*Within every subdivision consisting of 50 or more lots, there shall be planned and set aside permanently an amount of open space to be maintained exclusively for conservation and recreation purposes.*

(a) Non-developable areas shall be maintained as open space and shall not be included on any private lot, except that areas with slopes of 25 percent or more contiguous to the non-developable areas may be incorporated into individual lots provided the sloped areas are placed in conservation easements approved by the county attorney.

(b) In addition, fifteen percent of the developable area of the site shall also be set aside as open space.

1. The developable area open space may include, but is not limited to:

- a. Areas on site necessary to meet County policies pertaining to natural resources, archaeology, and parks and recreation;
- b. Area(s) for which a density bonus is also being proposed, as listed in Section 24-254 (i.e. wildlife habitat corridors, watershed management plan conservation areas, etc.);
- c. The following areas, up to the percent specified
  - i. Required right-of-way and perimeter buffers – cannot exceed 50% of the developable open space required
  - ii. Stormwater management facilities – cannot exceed 20% of the developable open space required (this limitation applies to structural best management practices such as wet and dry ponds, but does not apply to bioretention or other low impact design measures)

(c) For the purpose of meeting the developable open space requirements specified in (b), open space area may not include:

- 1. Area on any individual private lots or yards, with the exception of easements for streetscapes
- 2. Land within public road rights-of-way and utility or drainage easements

(d) In meeting the developable area open space requirements specified in (b), open space shall be arranged on the site in a manner that is suitable in its size, shape, and location for the conservation and recreational uses intended, with adequate access for the entire development. At a minimum, the open space shall adhere to the following standards:

Item	Numerical Standard	Design Standard
Neighborhood Park	50 – 77 Units: Provide 1 park (minimum of 0.3 acres)  78+ Units: Provide 0.0039 acres per unit	Parkland should be centrally located, with no less than 0.25 acres in a single piece and with a minimum width of 60 ft. The parkland should be relatively level non-floodplain land outside the RPA, minimum 70% groomed space and the balance may be in natural tree cover.
Playground	Provide 1 playground	The playground should have a minimum area of 2,500 square feet and have a minimum of five activities.

(a) Within every subdivision consisting of 50 or more lots, there shall be planned and set aside permanently an amount of open space to be maintained exclusively for recreation or conservation and recreation purposes. The amount of such open space shall not be less than fifteen percent of the net developable area of the site. The developable area of right of way buffers and perimeter buffers may be counted as open space for the purpose of meeting this requirement to a maximum of 50 percent of the required open space.

~~(b) In addition, all nondevelopable area consisting of all stream beds, areas subject to flooding under the 100-year storm event, and wetlands shall be maintained as open space. Areas with slopes of 25 percent or more which are contiguous to the above mentioned areas may be incorporated into individual lots provided that the sloped areas are placed in conservation easements approved by the county attorney.~~

~~(c) Before accepting the open space as meeting the requirements of paragraph (a) of this section, the planning commission shall find that:~~

~~(1) No land lying within a proposed or existing road right-of-way, utility easement or drainage facility is counted toward the minimum open space requirement; and~~

~~(2) The land is suitable in its size, shape, and location for the conservation and recreational uses intended, with adequate access for the entire development and served with adequate facilities for such purpose; and~~

~~(3) No part of a private yard or area determined by the planning director to be a part thereof, with the exception of easements for streetscapes, shall be counted as meeting the open space requirements of this chapter; and~~

~~(4) No more than 50 percent of the required open space shall be used for active recreational uses.~~

~~(d) Evidence shall be given that satisfactory arrangements will be made for the perpetual preservation of designated open space areas to relieve the county of any obligation to maintain.~~

#### **Sec. 24-264. Ownership of open space.**

*A homeowners association shall be established in accordance with Section 19-68 of the Subdivision Ordinance.*

~~Within any residential development approved under this article on which a tract is intended to be used in common for recreational or other public or semipublic purposes, no lot shall be approved, recorded, sold or used within the development until a declaration of covenants and restrictions or other document necessary to establishing a mandatory permanent home owners organization has been approved by the county attorney and has been executed. Such documents shall set forth the following:~~

~~(1) The nature of the permanent organization under which common ownership is to be established, including its purpose; how it shall be governed and administered; the provisions made for permanent care and maintenance of the common property including necessary bonds when required by the county; and the method of assessing the individual property for its share of the cost of adequately administering and maintaining and replacing such common property; and~~

~~(2) The extent of common interest held by the owner of each individual parcel in the tract held in common.~~

*The homeowner's association documents shall set forth the nature (recreation or conservation) and location of the open space(s) in the manner described on the master plan, either through illustration or through incorporation by reference of the development's master plan and/or plan of development. The documents shall generally describe the use and maintenance standards necessary to adhere to the nature of the open space(s) as shown on the development's master plan and/or plan of development.*

#### **Sec. 24-265. BMP requirements.**

To assure an appearance and condition which is consistent with the purpose of the General Residential District, R-2, structural BMPs serving the properties within the district shall comply with the landscaping regulations in article II, division 4 of this chapter.

#### **Sec. 24-266. Buffer requirements.**

(a) *Right-of-way buffer.* Within any major subdivision approved under this article, there shall be planned and maintained buffers along all external existing and planned arterial road rights-of-way, as follows:

- (1) The minimum right-of-way buffer on Community Character Corridor roads as defined in the Comprehensive Plan shall be 150 feet, except when the average lot depth of the parent parcel is less than 600 feet. In those cases, the required buffer shall be at a depth of 25 percent of the average lot depth.
- (2) The minimum right-of-way buffer on all non-Community Character Corridor roads shall be 75 feet, except when the average lot depth of the parent parcel is less than 300 feet. In those cases, the required buffer shall be at a depth of 25 percent of the average lot depth.
- (3) ~~If the buffer is non-wooded as defined for the purpose of this article as having no mature trees, then a minimum of two trees per 400 square feet of area shall be planted with a minimum 50 percent of said trees being evergreen. Otherwise, the buffer shall remain undisturbed or supplemented with additional plantings to achieve the planting ratio stated above.~~ *The buffer shall be planted in accordance with Section 24-XX, General landscape area standards, and buffers along Community Character Corridor roads shall also adhere to the Community Character Corridor Buffer Designation Map and Buffer Treatment Guidelines.*

(b) *Perimeter buffers.* Within any major subdivision approved under this article, there shall be planned and maintained a perimeter buffer along the perimeter property lines of the development, except for areas adjacent to road rights-of-way. The minimum perimeter buffer shall be 35 feet. Landscaping guidelines for perimeter buffers shall follow the requirements in section 24-94(a)XX of this chapter.

(c) *Waiver provisions.* In instances where properties have more than a 300-foot average depth and are located along a Community Character Corridor, or in all instances of perimeter buffers, the planning ~~director~~ *commission* may reduce the buffer depth requirements *specified in (a) and (b)* of this section for residential developments when:

- (1) The development is less than ~~five~~ *ten* acres and a majority of the development's units are dedicated to affordable housing; or
- (2) The developer demonstrates that due to natural or protected features, or due to adjoining physical features, a reduced buffer will screen the development as effectively as a full buffer; or
- (3) The developer demonstrates that the development will be adequately screened and buffered from the road using berms and landscaping. Such a request shall be supplemented with a landscaping plan and/or planting plan with photos of the existing site.

In no case shall the right-of-way buffer be reduced by a waiver provision to less than 75 feet. The perimeter buffer shall not be reduced by a waiver provision to less than 20 feet. The planning ~~director~~ *commission* may also, in the event of granting a waiver, require additional landscaping as determined on a case by case basis.

(d) *Modifications to the landscape requirements.* The planning ~~director~~ *commission* may modify, permit substitutions, or permit transfer of required landscaping in accordance with the provisions set forth in article II, division 4 of this chapter.

(e) *Requirements for buffers.* All required buffers shall be exclusive of lots, remain free of structures and parking, and remain undisturbed, except for additional plantings and selective clearing approved by the director of planning or his designee. Soil stockpiles and staging areas shall not be permitted within any buffer, except that temporary soil stockpiles may be allowed upon approval by the planning ~~director~~ *commission* under the following circumstances:

- (1) The buffer in which the temporary stockpile is to occur is non-wooded, defined as having no mature trees.
- (2) The stockpile should not be visible from a Community Character Corridor or Community Character Area, unless the soil stockpiling is needed for approved berming in that buffer.
- (3) Stockpiles shall not exceed 35 feet in height.
- (4) Stockpiles shall be temporary, with a time limit of six months.

(5) Once the use of the temporary soil stockpiles is completed, the ground must be adequately prepared for planting and revegetated in a manner that meets or exceeds the amount and quality of vegetation on the site previously.

(6) *Stockpiling shall conform with any applicable requirements of the Virginia Erosion and Sediment Control regulations, the Virginia Erosion and Sediment Control Handbook and County Erosion and Sediment Control program policies.*

(f) *Limitations on buffers.* ~~Wet ponds, dry detention basins, and other s~~Structural BMPs *such as wet and dry ponds* shall not generally be permitted in the buffers, except that the planning ~~director~~commission may approve them under the following circumstances:

(1) The need is necessitated by site conditions rather than economic factors; and

(2) The screening/buffering effect of the buffer has been retained by the design of the BMP and any degradation has been mitigated with additional plantings or berms as necessary.

(g) *Improvements allowable within buffers.* An entrance road, community and directional signage, bicycle and/or pedestrian paths, and utility connections and drainage improvements shall be permitted within the buffer with approval of the planning ~~director~~commission. Permitted utilities and constructed drainage conveyance systems shall cross the buffer at or near a perpendicular angle to the property line, with clearing kept to a minimum necessary to accommodate the utilities, except that minor improvements to natural drainage channels may be permitted at different angle to the property line upon ~~the recommendation of the environmental director and the approval of the planning~~ ~~director~~commission.

(h) *Roads within buffers.* Entrance roads through these buffers shall be built to the narrowest cross-section possible. Roads and open space shall be located and designed in a manner that minimizes views of structures within the development from the adjoining primary or secondary road as determined by the planning ~~director~~commission.

(i) *Appeals.* *In the event the planning director disapproves of the items specified in (c), (e), (f), (g), and (h) above or recommends conditions or modifications that are unacceptable to the applicant, the applicant may appeal the decision of the planning director to the development review committee who shall forward a recommendation to the planning commission. Any appeal shall be in writing and may be subject to fees as specified in the planning division's fee schedule.*

**Sec. 24-267. Pedestrian Accommodation.**

*Pedestrian accommodations shall be provided in accordance with Section 24-35.*

**Secs. 24-267 - 24-273. Reserved.**

**Chapter 24**  
**ARTICLE V. DISTRICTS**  
**DIVISION 6. MULTIFAMILY RESIDENTIAL DISTRICT, R-5**

**Sec. 24-304. Statement of intent.**

The Multifamily Residential District, R-5, is composed of moderate to high-density residential areas and other such areas where similar development is likely to occur. It is the purpose of this district to provide for a harmonious and orderly relationship between multifamily residential uses and lower-density residential uses or nonresidential uses. A further purpose is to require that development within this district be adequately served by public facilities, that adequate open space and recreational areas be provided for the use of residents and for buffering of adjoining property and to implement the policies and designations of the Comprehensive Plan.

**Sec. 24-305. Permitted uses.**

In the Multifamily Residential District, R-5, structures to be erected or land to be used shall be for the following uses held for rent, for sale by individual unit or for sale in condominium:

Use Category	Use List	Permitted Uses	Special Permit Uses	
Residential Uses	Accessory buildings or structures as defined	P		
	Accessory apartments in accordance with Section 24-32	P		
	Apartments	P		
	<del>Five to eight family dwellings contained within a residential cluster development provided that the overall density does not exceed the permitted density in the previously approved master plan or the James City County Comprehensive Plan</del>			SUP
	Home care facilities			SUP
	<del>Multifamily dwellings containing more than four dwelling units</del>	P		
	Nursing homes and facilities for the residence and/or care of the aged			SUP
	<del>Residential cluster developments in accordance with article VI, division 1 of this chapter</del>	P		
	<del>Single family dwellings contained within a cluster development in accordance with article VI, division 1 of this chapter</del>	P		
	<del>Single family dwellings</del>			SUP
	<del>Three family and four family dwellings</del>	P		
	<del>Townhouses</del>	P		
	<del>Two family dwellings</del>	P		
Commercial Uses	Accessory buildings or structures as defined	P		
	Adult day care centers	P		
	<del>Barber and beauty shops</del>			SUP
	Child day care centers	P		
	Coin laundries which are accessory to other residential uses and for the primary use of its residents	P		
	Community recreation facilities, including parks, playgrounds, clubhouses, boating facilities, swimming pools, ball fields, tennis courts and other similar recreation facilities	P		
	Golf courses, country clubs			SUP

	<i>Business, Professional, and</i> Governmental offices		SUP
	<i>Home occupations, as defined</i>	P	
	Hospitals and rest homes		SUP
	<del>Lodges, civic clubs, fraternal organizations, service clubs</del>		SUP
	Marina, boat dock or waterfront recreation facilities	P	
	Off-street parking as required by section 24-53	P	
	<i>Photography studios and sales, artist and sculptor studios</i>	P	
	Professional and business offices located in the same structure as and <i>accessory to</i> <del>in conjunction with</del> multifamily uses.		SUP
	Rental of one room	P	
	Rental of two or three rooms to a maximum of three rooms		SUP
	Restaurants which are accessory to permitted private clubs or marinas	P	
	Retail shops <i>accessory to</i> <del>associated with</del> community recreation facilities	P	
	Temporary offices in accordance with section 24-111		SUP
	<i>Tourist home</i>	P	
Civic	Cemeteries and memorial gardens		SUP
	<del>Houses of worship</del> <i>Places of public assembly</i>	P	
	Schools, libraries and fire stations	P	
	Water impoundments, new or expansion of, less than 50 acres and with dam heights of less than 25 feet	P	
	Water impoundments, new or expansion of, 50 acres or more and dam heights of 25 feet or more		SUP
Utility	Electrical generation facilities, public or private, electrical substations with a capacity of 5,000 kilovolt amperes or more and electrical transmission lines capable of transmitting 69 kilovolts or more		SUP
	Railroad facilities including tracks, bridges and stations. However, spur lines which are to serve and are accessory to existing or proposed development adjacent to existing railroad right-of-ways and track and safety improvements in existing railroad right-of-ways are permitted generally and shall not require a special use permit		SUP
	Telephone exchanges and telephone switching stations		SUP
	Transmission pipelines (public or private), including pumping stations and accessory storage, for natural gas, propane gas, petroleum products, chemicals, slurry coal and any other gases, liquids or solids. However, extensions for private connections to existing pipelines, which are intended to serve an individual residential or commercial customer and which are accessory to existing or proposed development, are permitted generally and shall not require a special use permit		SUP
	Wireless communications facilities that utilize alternative mounting structures, or are building mounted, or area camouflaged, and comply with division 6, Wireless Communications Facilities	P	
	Water facilities (public or private), and sewer facilities (public), including, but not limited to, treatment plants, pumping stations, storage facilities and transmission mains, wells and		SUP

	<p>associated equipment such as pumps to be owned and operated by political jurisdictions. However, the following are permitted generally and shall not require a special use permit:</p> <p>(a) Private connections to existing mains that are intended to serve an individual customer and that are accessory to existing or proposed development, with no additional connections to be made to the line; and</p> <p>(b) Distribution lines and local facilities within a development, including pump stations</p>		
Open	Timbering in accordance with section 24-43	P	

~~Accessory apartments in accord with section 24-32.~~

~~Accessory buildings or structures as defined.~~

~~Adult day care centers.~~

~~Apartments.~~

~~Coin laundries which are accessory to other residential uses and for the primary use of its residents.~~

~~Community recreation facilities, including parks, playgrounds, clubhouses, boating facilities, swimming pools, ballfields, tennis courts and other similar recreation facilities.~~

~~Day care and child care centers.~~

~~Houses of worship.~~

~~Marina, boat dock or waterfront recreational facilities.~~

~~Off street parking as required by section 24-53.~~

~~Rental of one room.~~

~~Residential cluster developments in accordance with article VI, division 1 of this chapter.~~

~~Restaurants which are accessory to permitted private clubs or marinas.~~

~~Retail shops associated with community recreation facilities.~~

~~Schools, libraries and fire stations.~~

~~Signs, as permitted by article II, division 3 of this chapter.~~

~~Single family dwellings contained within a cluster development in accordance with article VI, division 1 of this chapter.~~

~~Townhouses.~~

~~Three family and four family dwellings.~~

~~Timbering in accordance with section 24-43.~~

~~Two-family dwellings.~~

~~Water impoundments, new or expansion of, less than 50 acres and with dam heights of less than 25 feet.~~

~~Wireless communications facilities that utilize alternative mounting structures, or are building mounted, or are camouflaged, and comply with division 6, Wireless Communications Facilities.~~

**~~Sec. 24-306. Uses permitted by special use permit only.~~**

~~In the Multifamily Residential District, R-5, buildings to be erected or land to be used for the following or similar uses shall be permitted only after issuance of a special use permit by the board of supervisors:~~

~~Cemeteries and memorial gardens.~~

~~Electrical generation facilities (public or private), electrical substations with a capacity of 5,000 kilovolt amperes or more and electrical transmission lines capable of transmitting 69 kilovolts or more.~~

~~Five to eight family dwellings contained within a residential cluster development provided that the overall density does not exceed the permitted density in the previously approved master plan or the James~~

~~City-County Comprehensive Plan.~~

~~Golf courses, country clubs.~~

~~Governmental offices.~~

~~Home care facilities.~~

~~Hospitals and rest homes.~~

~~Lodges, civic clubs, fraternal organizations, service clubs.~~

~~Nursing homes and facilities for the residence and/or care of the aged.~~

~~Professional and business offices located in the same structure as and in conjunction with multifamily uses.~~

~~Railroad facilities including tracks, bridges, switching yards and stations. However, spur lines which are to serve and are accessory to existing or proposed development adjacent to existing railroad right-of-ways and track and safety improvement in existing railroad right-of-ways are permitted generally and shall not require a special use permit.~~

~~Rental of two or three rooms to a maximum of three rooms.~~

~~Single-family dwellings.~~

~~Telephone exchanges and telephone switching stations.~~

~~Temporary offices in accordance with section 24-111.~~

Transmission pipelines (public or private), including pumping stations and accessory storage, for natural gas, propane gas, petroleum products, chemicals, slurry coal and any other gases, liquids or solids. However, private extensions or connections to existing pipelines, which are intended to serve an individual residential or commercial customer and which are accessory to existing or proposed development, are permitted generally and shall not require a special use permit.

Water facilities (public or private), and sewer facilities (public), including, but not limited to, treatment plants, pumping stations, storage facilities and transmission mains, wells and associated equipments such as pumps to be owned and operated by political jurisdictions. However, private connections to existing mains, with no additional connections to be made to the line, which are intended to serve an individual residential or commercial customer and which are accessory to existing or proposed development, and distribution lines, and local facilities within a subdivision or development, including pump stations, are permitted generally and shall not require a special use permit.

Water impoundments, new or expansion of, 50 acres or more or with dam heights of 25 feet or more.

#### **Sec. 24-3067. Minimum site size.**

The minimum site size for a multifamily district shall be three acres.

#### **Sec. 24-308. Area requirements.**

The minimum lot size for a single family dwelling shall be 10,000 square feet. The minimum lot size for a two family dwelling on one lot shall be 12,000 square feet, for a three family dwelling on one lot shall be 18,000 square feet and for a four family dwelling on one lot shall be 22,000 square feet. Each lot shall meet the requirements of this district, except the side yard at the common wall may be reduced to zero for dwelling units sharing a common wall or walls and located on separate lots. The minimum lot size for two-, three-, and four-family dwellings where each dwelling unit is on an individual lot shall be as follows:

(1) The minimum lot area for each unit of a two family dwelling shall be 6,000 square feet.

(2) The minimum lot area for each unit of a three family or four family dwelling where the units are constructed in a row shall be as follows: The minimum lot area for exterior units shall be 6,000 square feet. The minimum lot area for interior units shall be 3,000 square feet.

(3) The minimum lot area for each unit of a three family-, or four family dwelling where the units are not constructed in a row shall be 5,000 square feet.

(4) The lot area for a three family dwelling shall total a minimum of 18,000 square feet and the lot area for a four family dwelling shall total a minimum of 22,000 square feet. For all other principal and accessory uses there shall be no minimum lot size in the Multifamily Residential District, R-5, unless otherwise required by this chapter.

#### **Sec. 24-307. Buffers and setback requirements**

(a) *Peripheral setbacks.* Any development approved under this article shall adhere to the following setback requirements. Where these requirements are more stringent than those found in Article II, Division 4 of this Chapter, these requirements shall supersede them.

(1) *Right-of-way buffer.* Within any development approved under this article, there shall be planned and maintained buffers along all external existing and planned arterial road rights-of-way, as follows:

(a) The minimum right-of-way buffer on Community Character Corridor roads as defined in the Comprehensive Plan shall be 150 feet, except when the average lot depth of the parent parcel is less than 600 feet. In those cases, the required buffer shall be at a depth of 25 percent of the average lot depth.

- (b) The minimum right-of-way buffer on all non-Community Character Corridor roads shall be 75 feet, except when the average lot depth of the parent parcel is less than 300 feet. In those cases, the required buffer shall be at a depth of 25 percent of the average lot depth.
- (c) The buffer shall be planted in accordance with Section 24-XX, General landscape area standards, and buffers along Community Character Corridor roads shall also adhere to the Community Character Corridor Buffer Designation Map and Buffer Treatment Guidelines.

(2) Perimeter buffers. Within any major subdivision approved under this article, there shall be planned and maintained a perimeter buffer along the perimeter property lines of the development, except for areas adjacent to road rights-of-way. The minimum perimeter buffer shall be as specified in the following table:

	Developments of 200 or less units	Developments of more than 200 units
Adjacent to property in a multifamily district, business district, industrial district, or an agricultural district designated for such uses on the Comprehensive Plan Land Use Map, or public property	35'	50'
Adjacent to property in a residential district other than R-5 or in an agricultural district designated for low-density residential or rural residential on the Comprehensive Plan	50', which shall be increased to 75' for any structures which exceed one story	75', which shall be increased to 100' for any structures which exceed one story

Landscaping guidelines for perimeter buffers shall follow the requirements in section 24-XX of this chapter.

(3) Waiver provisions. In instances where properties have more than a 300-foot average depth and are located along a Community Character Corridor, or in all instances of perimeter buffers, the planning director may reduce the buffer depth requirements specified in (a)(1) and (a)(2) of this section for residential developments when:

- (a) The development is less than ten acres and a majority of the development's units are dedicated to affordable housing; or
- (b) The developer demonstrates that due to natural or protected features, or due to adjoining physical features, a reduced buffer will screen the development as effectively as a full buffer; or
- (c) The developer demonstrates that the development will be adequately screened and buffered from the road using berms and landscaping. Such a request shall be supplemented with a landscaping plan and/or planting plan with photos of the existing site.

In no case shall the right-of-way buffer be reduced by a waiver provision to less than 75 feet. The perimeter buffer shall not be reduced by a waiver provision to less than 20 feet. The planning director may also, in the event of granting a waiver, require additional landscaping as determined on a case by case basis.

(4) Modifications to the landscape requirements. The planning director may modify, permit substitutions, or permit transfer of required landscaping in accordance with the provisions set forth in article II, division 4 of this chapter.

(5) Requirements for buffers. All required buffers shall be exclusive of lots, remain free of structures and parking, and remain undisturbed, except for additional plantings and selective clearing approved by the director of planning or his designee. Soil stockpiles and staging areas shall not be permitted within any

buffer, except that temporary soil stockpiles may be allowed upon approval by the planning director under the following circumstances:

- (a) The buffer in which the temporary stockpile is to occur is non-wooded, defined as having no mature trees.
- (b) The stockpile should not be visible from a Community Character Corridor or Community Character Area, unless the soil stockpiling is needed for approved berming in that buffer.
- (c) Stockpiles shall not exceed 35 feet in height.
- (d) Stockpiles shall be temporary, with a time limit of six months.
- (e) Once the use of the temporary soil stockpiles is completed, the ground must be adequately prepared for planting and revegetated in a manner that meets or exceeds the amount and quality of vegetation on the site previously.
- (f) Stockpiling shall conform with any applicable requirements of the Virginia Erosion and Sediment Control regulations, the Virginia Erosion and Sediment Control Handbook and County Erosion and Sediment Control program policies.

(6) Limitations on buffers. Structural BMPs such as wet and dry ponds shall not generally be permitted in the buffers, except that the planning director may approve them under the following circumstances:

- (1) The need is necessitated by site conditions rather than economic factors; and
- (2) The screening/buffering effect of the buffer has been retained by the design of the BMP and any degradation has been mitigated with additional plantings or berms as necessary.

(7) Improvements allowable within buffers. An entrance road, community and directional signage, bicycle and/or pedestrian paths, and utility connections and drainage improvements shall be permitted within the buffer with approval of the planning director. Permitted utilities and constructed drainage conveyance systems shall cross the buffer at or near a perpendicular angle to the property line, with clearing kept to a minimum necessary to accommodate the utilities, except that minor improvements to natural drainage channels may be permitted at different angle to the property line upon approval of the planning director.

(8) Roads within buffers. Entrance roads through these buffers shall be built to the narrowest cross-section possible. Roads and open space shall be located and designed in a manner that minimizes views of structures within the development from the adjoining primary or secondary road as determined by the planning director.

(b) Yard regulations. Except for setbacks specified in (a)(1) and (a)(2) above, there shall be no minimum lot size nor minimum front, side or rear yard requirements for any lot within a R-5 district other than as specified in the approval final plans.

(c) Appeals. In the event the planning director disapproves of the items specified in subsections (a)(3), (a)(5), (a)(6), (a)(7), and (a)(8) above or recommends conditions or modifications that are unacceptable to the applicant, the applicant may appeal the decision of the planning director to the development review committee who shall forward a recommendation to the planning commission.

#### **Sec. 24-309. Setback requirements.**

(a) All single family dwellings and their accessory structures shall be located at least 35 feet from the right of way of any peripheral street which abuts or borders the site and which has a right of way 50 feet or greater in width. If the street right of way is less than 50 feet wide, such buildings and structures shall be located a minimum of 60 feet from the centerline of the street.

(b) All other structures shall be located a minimum of 50 feet from the right of way of any peripheral street which abuts or borders the site and has a right of way width of 50 feet or more. In the event such street has a right of way width which is less than 50 feet, such structures shall be located a minimum of

75 feet from the centerline of the street. An additional 25-foot setback from peripheral roads identified on a functional classification shall be required for any structure which exceeds one story.

(c) All structures shall be located a minimum of 25 feet from any street which is internal to the project. Exceptions may be given for service drives, driveways, parking areas, alleys and cul-de-sac roads.

(d) Off-street parking shall not be permitted within required setbacks, except that parking spaces for single-family and two-family dwellings may be located within the required setback.

#### **Sec. 24-310. Minimum lot width.**

The minimum lot width measured at the setback line shall be 80 feet for single-family dwellings; 100 feet for a two-family dwelling on one lot; and 50 feet for each unit of a two-family, three-family or four-family dwelling where each dwelling unit is located on a separate lot; provided, however, the minimum lot width may be reduced to 20 feet for interior unit lots where the units are constructed in a row. For all other principal uses there shall be no minimum lot width in the R-5 District.

#### **Sec. 24-311. Yard regulations.**

(a) For developments containing 200 or less dwelling units, all structures shall be located a minimum of 35 feet from any property line which adjoins property in a multifamily residential district, a business district, an industrial district, an agricultural district which is designated for multifamily, commercial or industrial use on the Comprehensive Plan or public property. For developments containing more than 200 dwelling units, all structures shall be located a minimum of 50 feet from any property line which adjoins property in a multifamily residential district, a business district, an industrial district, an agricultural district which is designated for multifamily, commercial or industrial use on the Comprehensive Plan or public property.

(b) For developments containing 200 or less dwelling units, all structures shall be located a minimum of 50 feet from any property line which adjoins property which is in a residential district other than the R-5 or in an agricultural district designated for low-density residential or rural residential on the Comprehensive Plan. For developments containing more than 200 dwelling units, all structures shall be located a minimum of 75 feet from any property line which adjoins property which is in a residential district other than the R-5 or in an agricultural district designated for low-density residential or rural residential on the Comprehensive Plan. The minimum yard requirement shall be increased by 25 feet for any structures which exceed one story.

(c) Off-street parking shall be excluded from the first 40 feet of yard nearest the property line.

(d) Single-family and two-family dwellings. The minimum side yard for each single-family dwelling or two-family dwelling shall be five feet. The minimum rear yard shall be 20 feet. The minimum side and rear yards for structures accessory to single-family or two-family dwellings shall be five feet for structures one-story or less and ten feet for structures exceeding one story. The side and rear yards for any structure in excess of 35 feet shall be increased by one foot for each one foot in height in excess of 35 feet.

#### **Sec. 24-30912. Density requirements for townhouses, multifamily and apartments and condominiums.**

(a) *Gross density limitation.* No project shall have a gross density (including bonuses) of more than 12 units per acre.

(b) *Calculating gross density.* For the purposes of calculating density, gross acreage shall equal the total area of the parcel when less than 25% of the total site area is non-developable. For parcels where more than 25% of the total site area is non-developable, the gross acreage shall equal the total developable area of the parcel plus 25% of the total parcel acreage.

**Illustration of Gross Density Calculation.**

(a) If a fifty acre parcel has 7 acres of non-developable land, then the non-developable area of the site is 14%. Since 14% is less than 25%, the total area of the parcel is used to calculate allowed density.

(b) If the fifty acre parcel instead had 14 acres of non-developable land, then the non-developable area of the site is 28%. Since 28 is greater than 25%, the total developable area of the parcel (36 acres) and 25% of the total parcel acreage (12.5 acres) are added together to obtain the gross acreage used to calculate allowed density (48.5 acres).

In this example, if an applicant sought a density of 2 dwelling units per acre, they would yield 100 units in (a) and 97 units in (b).

~~(c) Determination of developable area. Developable area shall consist of the total land area of the site minus stream beds, areas subject to flooding, marsh and areas with slopes exceeding a 25 percent gradient.~~

(c) ~~Determination of number of dwelling units. The number of dwelling units which may be constructed shall be determined by the number of net developable gross acres at the site and the use proposed. The number of units which may be constructed shall be determined by the gross acreage at the site and the use proposed, as follows:~~

<b>BASE DENSITY DWELLING UNITS PER ACRE</b>		
Number of Units	Multifamily and Apartments under three stories	Multifamily and Apartments three stories or more
1-100	8	10
101-200	7	9
Over 200	6	8

(d) In order to encourage attractive architectural and site designs which are harmonious with adjoining property, to encourage the preservation of open space within and around higher density development, to encourage preservation and restoration of historic sites and to encourage developers to go beyond the minimum standards of the Zoning Ordinance, the planning commission may approve the following ~~density bonuses~~. ~~percentage increases of dwelling units where superior design offsets the problems which would otherwise be created.~~ Density bonuses shall not exceed a maximum of an additional 20 percent ~~above the maximum dwelling units per acre that would otherwise be permitted as listed in the table above.~~

(1) ~~Setback bonus. For every 25 feet of setback, in addition to the minimum required from the right of way of each peripheral road or adjoining property line which borders the site, one and one half percent additional dwelling units may be added. Maximum additional setback on each side for which a bonus may be given shall be 100 feet or a maximum six percent bonus for each side of the site. The total setback shall be calculated from the right of way or property line to the nearest building on the site. For the purposes of calculation, the site is considered to have four sides. For irregularly shaped parcels, a flexible method of calculation may be used by the planning director so the total bonus shall not exceed 20 percent for this section.~~

(2) ~~Recreation If the applicant designates, improves and fully develops recreational facilities in excess of the playgrounds required in section 24-314(c) above, the planning director may recommend a bonus of nine percent additional dwelling units be granted. Such areas shall be conveniently located and consist of some combination of facilities such as tennis courts, large playgrounds, ball fields, swimming pools, tot lots, bike trails or other like items. Recreation facilities for which a density bonus is granted shall be fully completed before any certificate of occupancy may be issued.~~

(3) *Landscape design.* If the applicant presents an unusually attractive and harmonious site plan and building design which retains, relates to and enhances the natural vegetation and terrain of the site or which proposes unusually extensive landscaping and planting of borders, entrances, recreation areas, street frontage, areas surrounding buildings or common open space, the planning director may recommend a bonus of 12 percent additional dwelling units be granted. In order to promote superior design, the award of this bonus shall be made only in cases where the design of the project is clearly superior to the design of typical projects of its type in the community and where the applicant goes beyond the minimum standards required by this chapter.

(4) *Public facilities.* In the event a school, fire station, library, park or other public facility shown in the public facilities plan is proposed in or near the parcel, if the developer is willing to reserve a site suitable for the purpose intended and if the governing body is willing to acquire this site within 24 months of the approval of the final site plan, the planning director may recommend a bonus of nine percent additional dwelling units be granted to the number of units allowable on the remainder of the parcel.

<i>Bonus Increase from Base Density</i>	<i>Required Density Bonus Items from List Below</i>
<i>Up to the base density</i>	<i>0</i>
<i>10% above the base density</i>	<i>1</i>
<i>20% above the base density</i>	<i>2</i>

<i>Density Bonus Item Options</i>	
<i>A.</i>	<p><i>Retention of one of the following underlined environmentally-related conservation features. The underlined item must constitute at least 5% of the developable area of the site.</i></p> <ul style="list-style-type: none"> <li>• <i><u>100 foot buffers</u> around non-RPA wetland features (isolated wetlands), intermittent streams, or from floodplain zones A or AE (where not already part of the RPA), or from the edge of the RPA buffer</i></li> <li>• <i>Retention of <u>soils in hydrologic groups A and B</u> (retain at least 50% of these soils)</i></li> <li>• <i>Preservation of a <u>Conservation Area as identified by an approved watershed management plan</u></i></li> <li>• <i>Preservation of <u>wildlife habitat corridors</u> that:</i> <ul style="list-style-type: none"> <li><i>Protect a corridor at least 100 feet in width from one protected area (on or off the cluster property) to another protected area</i></li> <li><i>Consist of mature forestland</i></li> </ul> </li> </ul>
<i>B.</i>	<p><i>Commitment to either undertake or fund a stream restoration project or stormwater management facility retrofit within the same sub-watershed, as identified by an approved watershed management plan or by the Engineering and Resource Protection Division</i></p>

C.	<i>Design of a stormwater management plan that uses Better Site Design/Low Impact Development Techniques to meet the majority of applicable Chesapeake Bay Preservation Ordinance standards and requirements, as approved by the Engineering and Resource Protection Division</i>
D.	<i>100 foot buffer from the internal edge of a right-of-way and/or perimeter buffer (must constitute at least 5% of the developable area of the site)</i>
E.	<i>Commitment to achieve green building certification beyond the basic certified level using EarthCraft, LEED or equivalent program, in accordance with the County's Green Building for Private Development Policy</i>
F.	<i>For every 10% of the units committed to provision of affordable/workforce housing (starting above the threshold set in the County's Affordable and Workforce Housing Policy), a density bonus of 1 shall be applied.</i>
G.	<i>Dedication to the County of a public use site, the developable portion of which is suitable for a public facility, as determined by the County Administrator or designee</i>
H.	<i>Commitment to construct a greenway trail and dedicate a public use easement in a location indicated by the approved Greenway Master Plan, the Virginia Outdoors Plan, or such other useful and logical location as is approved by the Director of Parks and Recreation or designee</i>
I.	<i>Development of binding design guidelines for Planning Director approval that include architectural and design standards above and beyond standard practice. Examples include, but are not limited to, rear or side loading garages; style type, materials, height and setback variation; and unit design accessible to the disabled.</i>
J.	<i>Use of an infill site (80% of the property's boundaries abut previously developed land)</i>
K.	<i>Preservation and rehabilitation of an on-site structure identified in the County's Architectural survey (structure may be re-used as a community clubhouse, private residence with appropriate deed restrictions, etc.) If the proposed cluster is within a designated Community Character Area, this bonus would also be available for rehabilitation and legal preservation of a structure elsewhere within that CCA.</i>
L.	<i>Preservation of at least two contiguous acres of healthy, mature, native forestland</i>
M.	<i>Retention of at least five contiguous acres of agricultural land of prime or statewide importance</i>
N.	<i>Provision of a WATA bus stop that would be within 1,300 feet of 85% of the proposed units, if determined by WATA to be at an appropriate location</i>
O.	<i>Construction of shared vehicular access between properties (where more than one property owner is involved, evidence of a binding legal agreement between the parties should be provided at the master plan stage to qualify for this density bonus)</i>

(e) *Subdivision in order to circumvent provisions prohibited.* Property shall not be subdivided to circumvent this section and project phases shall be considered one development.

~~(f) Condominiums and application of density to two, three, and four family dwellings. Units for sale in condominium may be in townhouse or apartment like structures and the number of dwelling units per acre shall be permitted accordingly. The densities specified above in this section shall not apply to two, three and four family dwellings.~~

(Condominium statement is DELETED since allowing condominium ownership is discussed in Section 24-33 of the ordinance already)

### **Sec. 24-3103. Subdivision regulations.**

Any subdivision of land within Multifamily District R-5 shall comply with the subdivision ordinance of the County.

### **Sec. 24-3114. Requirements for improvements and design.**

(a) *Sewer and water.* All dwelling units within the Multifamily Residential District, R-5, shall be served by publicly owned and operated sewer and water systems.

~~(b) *Open space.* At least 35 percent of the gross area of the site shall be retained in open space as defined in section 24-2. There shall be planned and set aside permanently an amount of open space to be maintained exclusively for conservation and recreation purposes.~~

~~(a) *Non-developable areas shall be maintained as open space. These areas shall not be included on any private lot, and should be protected through a dedicated conservation easement.*~~

~~(b) *In addition, ten percent of the developable area of the site shall also be set aside as open space.*~~

~~1. *The developable area open space may include, but is not limited to:*~~

~~a. *Areas on site necessary to meet County policies pertaining to natural resources, archaeology, and parks and recreation;*~~

~~b. *Area(s) for which a density bonus is also being proposed, as listed in Section 24-309;*~~

~~c. *The following areas, up to the percent specified*~~

~~i. *Required right-of-way and perimeter buffers – cannot exceed 50% of the developable open space required*~~

~~ii. *Stormwater management facilities – cannot exceed 20% of the developable open space required (this limitation applies to structural best management practices such as wet and dry ponds, but does not apply to bioretention or other low impact design measures)*~~

~~(c) *For the purpose of meeting the developable open space requirements specified in (b), open space area may not include:*~~

~~1. *Area on any individual private lots, with the exception of easements for streetscapes*~~

~~2. *Land within public road rights-of-way and utility or drainage easements*~~

~~(d) *Open space shall be arranged on the site in a manner that is suitable in its size, shape, and location for the conservation and recreational uses intended, with adequate access for the entire development and served with adequate facilities for such purpose. Existing features which would enhance the residential environment or the county as a whole such as trees, watercourses, historic spots and similar features shall be preserved to the maximum extent possible.*~~

(c) *Recreation.* A playground area or areas with playground equipment shall be provided by the developer. Such areas shall be centrally located and total at least one-half acre for every 50 dwelling units; provided, that the total shall not exceed ten percent of the gross area of the site. For multifamily projects with less than 50 dwelling units, the recreation areas shall total ten percent of the gross acreage of the site. The developer shall provide and install playground equipment specified on the site plan prior to

the issuance of any Certificates of Occupancy. Recreation areas and facilities may be deeded to a residents' association.

(d) *Utility lines.* All utility lines, including electrical, telephone and cable television, shall be placed below ground.

(e) *Parking.* Off-street parking facilities shall be provided in accordance with Article II, Division 2 ~~section 24-53~~ of this chapter.

(f) *Streets.* All streets shall meet the design and construction requirements of the Virginia Department of Transportation or the requirements of the county subdivision regulations, whichever is greater. All streets shall be consistent with the major thoroughfare plan of the county Comprehensive Plan. The traffic generated by a Multifamily Residential District, R-5, shall not exceed the capacity of adjoining thoroughfares. The daily traffic shall be determined by multiplying the number of proposed dwelling units by the appropriate trip generation rate as listed in the latest edition of a book entitled *Trip Generation* published by the Institute of Transportation Engineers and compared to the existing traffic and road capacity as determined by the highway engineer. The construction of private streets shall be guaranteed by appropriate surety, letter of credit, cash escrow or other form of guarantee approved by the county attorney and director of code compliance.\*

\*(Note: this section will be amended as part of the Development Standards private streets memo.)

(g) *Fire hydrants.* Fire hydrants shall be at locations and of types approved by the director of *building safety and permits* code compliance and county fire chief. ~~No structure within the project shall be further than 400 feet from a hydrant.~~

(h) *Trash collection.* If containers are provided, they shall be conveniently located to serve all dwelling units. The sites for such containers shall be attractively screened by natural vegetation, landscaping or fences.

(i) *Streetlights and Parking Lot Lighting.* Streetlights and *parking lot lighting* shall be provided as required by section ~~XX-XXX 24-53(e)(3)~~ of this chapter and the county subdivision ordinance. ~~All streetlights shall be specified on the site plan, generally at intersections and in parking lots and other public areas. The light shall be directed so as not to produce objectionable glare on adjacent property or into residences within the development. No lighting fixture on pedestrian or bicycle paths or parking lots shall exceed a height of 15 feet.~~

(j) *Structure height.* Structures may be erected up to 35 feet in height from grade to the top of the structure, including all church spires, belfries, cupolas, monuments, penthouse, electrical, plumbing, elevator, athletic field lighting, water tank or other accessory functions which are part of the structure and accessory and nonaccessory wireless communications facilities that utilize alternative mounting structures, or are building mounted in accordance with division 6, Wireless Communications Facilities. Camouflaged wireless communications facilities may be erected to a total height of 120 feet from grade. A structure in excess of 35 feet in height from grade to the top of the structure, including all church spires, belfries, cupolas, monuments, penthouse, electrical, plumbing, elevator, athletic field lighting, water tank, radio, television and microwave antennas and towers or other accessory functions, and for wireless communications facilities that utilize alternative mounting structures or are building mounted to exceed 35 feet in height but not to exceed the maximum approved height of the structure to which it is mounted, may be erected only upon the granting of a height limitation waiver by the board of supervisors. Upon application for a height limitation waiver, the payment of appropriate fees, notification of adjacent property owners and following a public hearing, the board of supervisors may grant a height limitation waiver upon finding that:

- (1) Such structure will not obstruct light from adjacent property;
- (2) Such structure will not impair the enjoyment of historic attractions and areas of significant historic interest and surrounding developments;
- (3) Such structure will not impair property values in the surrounding area;
- (4) Such structure is adequately designed and served from the stand point of safety and the county fire chief certifies that the fire safety equipment to be installed is adequately designed and that the building is reasonably well located in relation to fire stations and equipment, so as to offer adequate protection to life and property; and.
- (5) Such structure would not be contrary to the public health, safety and general welfare.

(k) *Maximum number of units and facade variety.* A maximum of ten ~~townhouse~~ multifamily dwellings units shall be included in one structure. The facade of ~~townhouses~~ multifamily dwellings within a group shall be changed by variation in the depth of front yards, building materials and/or design so that no more than two abutting units shall be of like appearance.

~~(l) Private yards. Each two family dwelling unit and each townhouse unit shall open directly into a private yard of a minimum of 200 square feet.~~  
(DELETED)

m) *Minimum distances.* The distance between two main structures on a single lot shall be a minimum of the height of the taller structure. Accessory structures shall be a minimum of ten feet from any other structure.

~~(n) Drainage facilities. Adequate facilities for the control of stormwater, erosion and sedimentation shall be provided in accordance with the Virginia Erosion and Sediment Control Handbook and the Virginia Department of Transportation's Drainage Manual.~~  
(DELETED)

~~(o) Natural features and amenities. Existing features which would enhance the residential environment or the county as a whole such as trees, watercourses, historic spots and similar features shall be preserved to the maximum extent possible.~~  
(Retained – moved to open space section above)

(p) *Guarantee for improvements.* ~~The zoning administrator shall not issue any~~ No certificate of occupancy shall be issued until the applicant has guaranteed the completion of public improvements, including, but not limited to, public roads, public water and public sewer facilities, shown on the approved site plan by providing either a letter of credit, certified check, cash escrow, cash payment, or other surety, approved by the county attorney.

(q) *Maintenance of common open space, recreation facilities, etc.* The maintenance of common open space, recreation facilities, sidewalks, parking, private streets and other privately owned but common facilities serving the project shall be guaranteed by the developer, project owner or a properly established homeowners' association.

#### **Sec. 24-316. Relation to public utilities.**

(a) Multifamily Residential District, R-5, shall be so located in relation to sanitary sewers, water lines, storm sewers, surface drainage systems and other utility systems that neither extension nor enlargement shall be required which results in higher net public cost or earlier incursion of public cost than would development in forms generally permitted under existing zoning for the area.

(b) Extensions and expansions of public utilities to serve the project shall be governed by the regulations and policies governing service of the appropriate public agency.

(DELETED)

***Sec. 24-312 . Pedestrian Accommodation.***

*Pedestrian accommodation shall be provided in accordance with Section 24-35.*

**Secs. 24-314~~7~~ - 24-326. Reserved.**

**Chapter 24**  
**Article I. In General**

**Sec. 24-2. Definitions**

*Developable Area. Developable area shall consist of the total land area of the site minus Resource Protection Area as defined in the Chesapeake Bay Preservation Ordinance, areas subject to flooding under the 100-year storm event (FEMA zones A and AE), and areas of 1,000 square feet or greater containing slopes exceeding 25 percent gradient.*

*Non-developable Area. Non-developable areas consist of all Resource Protection Area as defined in the Chesapeake Bay Preservation Ordinance, areas subject to flooding under the 100-year storm event (FEMA zones A and AE), and areas of 1,000 square feet or greater containing slopes exceeding 25 percent gradient*

**Chapter 24**  
**ARTICLE VI. OVERLAY DISTRICTS**  
**DIVISION 1. RESIDENTIAL CLUSTER DEVELOPMENT**

**Sec. 24-538. Statement of intent.**

The purpose and intent of this article is to achieve innovative and quality designs of residential developments above one dwelling unit per acre that provide avenues for affordable housing, minimize environmental impacts, provide for usable and meaningful open space, and provide recreation amenities within a more practical and efficient development. Recognizing that greater variety and affordability are more obtainable with higher densities, developers have the flexibility to provide this product and still provide reasonable amenities within variously priced residential cluster communities. Hand in hand with the opportunities offered in higher density development is the expectation that the development will provide certain benefits to the community. As stated in the comprehensive plan, examples of these benefits include mixed-cost housing, affordable housing, unusual environmental protection or development that adheres to the principles of open space development design. Such design may include maintaining open fields; preserving scenic vistas; protecting wildlife habitats and corridors; retaining natural vegetative buffers around water bodies, wetlands, and along roads; preserving historic sites; creating adequate recreational areas; designing efficient pedestrian circulation to include trail systems; and ensuring that common land adjoins protected open space on adjacent parcels.

**Sec. 24-539. Residential cluster development defined.**

A "residential cluster development," for purposes of this article, shall be a planned development of land consisting of predominantly residential uses together with its recreational facilities, supporting roads, utilities and other public facilities.

**Sec. 24-540. Where permitted.**

A residential cluster development is permitted in the R-1, R-2, and R-5 zoning districts *inside the Primary Service Area*. The requirements of this article shall govern where there is a conflict with the requirements of the underlying district.

**Sec. 24-541. Minimum site size.**

The minimum site size for a residential cluster development is five acres, except that extensions to an existing cluster development may be less than five acres. The planning director may waive the minimum site size requirements for residential cluster developments which provide affordable housing set forth in section 24-549 below. However, in no case shall such development be less than two acres. Such a waiver

may be considered upon the applicant providing a written request to the planning director to waive the minimum acreage requirement demonstrating to the satisfaction of the planning director that:

- (1) The proposed development is consistent with the comprehensive plan; and
- (2) Verification of affordable housing is provided; and
- (3) Evidence that the property can be subdivided as proposed.

Upon receipt of the request, the planning director shall, within thirty days of the request, either grant or deny the waiver with reasons to that effect.

#### **Sec. 24-542. Permitted uses.**

Uses permitted in a residential cluster development shall be the same as those permitted in the zoning district in which the residential cluster development is located. In the event that the individual units within attached dwellings are proposed to be sold as separate living units, the attached dwelling may be divided to permit separate deed descriptions for conveyance purposes. A limited amount of commercial development may be allowed within residential clusters as permitted in the zoning district in which the development is located. Commercial uses shall be shown on the master plan and be consistent with the Comprehensive Plan *land use description and development standards*.

#### **Sec. 24-543. Utilities.**

Lots in a residential cluster development shall be served by a public sewage disposal system and a public water system.

#### **Sec. 24-544. Buffer requirements.**

(a) *Right-of-way buffer.* Within any ~~major subdivision~~ *residential cluster* approved under this article, there shall be planned and maintained buffers along all external existing and planned arterial road rights-of-way, as follows:

- (1) The minimum right-of-way buffer on Community Character Corridor roads as defined in the Comprehensive Plan shall be 150 feet, except when the average lot depth of the parent parcel is less than 600 feet. In those cases, the required buffer shall be at a depth of 25 percent of the average lot depth.
- (2) The minimum right-of-way buffer on all non-Community Character Corridor roads shall be 75 feet, except when the average lot depth of the parent parcel is less than 300 feet. In those cases, the required buffer shall be at a depth of 25 percent of the average lot depth.
- (3) ~~If the buffer is non-wooded as defined for the purpose of this article as having no mature trees, then a minimum of two trees per 400 square feet of area shall be planted with a minimum 50 percent of said trees being evergreen. Otherwise, the buffer shall remain undisturbed or supplemented with additional plantings to achieve the planting ratio stated above. The buffer shall be planted in accordance with Section 24-XX, General landscape area standards, and buffers along Community Character Corridor roads shall also adhere to the Community Character Corridor Buffer Designation Map and Buffer Treatment Guidelines.~~

(b) *Perimeter buffers.* Within any ~~major subdivision~~ *residential cluster* approved under this article, there shall be planned and maintained a perimeter buffer along the perimeter property lines of the development, except for areas adjacent to road rights-of-way. The minimum perimeter buffer shall be 35 feet. Landscaping guidelines for perimeter buffers shall follow the requirements in section 24-~~XX~~ of this chapter.

(c) *Waiver provisions.* In instances where properties have more than a 300-foot average depth and are located along a Community Character Corridor, or in all instances of perimeter buffers, the planning

~~director~~ ~~commission~~ may reduce the buffer depth requirements *specified in (a) and (b)* of this section for residential developments when:

- (1) The development is less than five acres and a majority of the development's units are dedicated to affordable housing; or
- (2) The developer demonstrates that due to natural or protected features, or due to adjoining physical features, a reduced buffer will screen the development as effectively as a full buffer; or
- (3) The developer demonstrates that the development will be adequately screened and buffered from the road using berms and landscaping. Such a request shall be supplemented with a landscaping plan and/or planting plan with photos of the existing site.

In no case shall the right-of-way buffer be reduced by a waiver provision to less than 75 feet. The perimeter buffer shall not be reduced by a waiver provision to less than 20 feet. The planning ~~director~~ ~~commission~~ may also, in the event of granting a waiver, require additional landscaping as determined on a case by case basis.

(d) *Modifications to the landscape requirements.* The planning ~~director~~ ~~commission~~ may modify, permit substitutions, or permit transfer of required landscaping in accordance with the provisions set forth in article II, division 4 of this chapter.

(e) *Requirements for buffers.* All required buffers shall be exclusive of lots, remain free of structures and parking, and remain undisturbed, except for additional plantings and selective clearing approved by the director of planning or his designee. Soil stockpiles and staging areas shall not be permitted within any buffer, except that temporary soil stockpiles may be allowed upon approval by the planning ~~director~~ ~~commission~~ under the following circumstances:

- (1) The buffer in which the temporary stockpile is to occur is non-wooded, defined as having no mature trees.
- (2) The stockpile should not be visible from a Community Character Corridor or Community Character Area, unless the soil stockpiling is needed for approved berming in that buffer.
- (3) Stockpiles shall not exceed 35 feet in height.
- (4) Stockpiles shall be temporary, with a time limit of six months.
- (5) Once the use of the temporary soil stockpiles is completed, the ground must be adequately prepared for planting and revegetated in a manner that meets or exceeds the amount and quality of vegetation on the site previously.
- (6) *Stockpiling shall conform with any applicable requirements of the Virginia Erosion and Sediment Control regulations, the Virginia Erosion and Sediment Control Handbook and County Erosion and Sediment Control program policies.*

(f) *Limitations on buffers.* ~~Wet ponds, dry detention basins, and other s~~ Structural BMPs *such as wet and dry ponds* shall not generally be permitted in the buffers, except that the planning ~~director~~ ~~commission~~ may approve them under the following circumstances:

- (1) The need is necessitated by site conditions rather than economic factors; and
- (2) The screening/buffering effect of the buffer has been retained by the design of the BMP and any degradation has been mitigated with additional plantings or berms as necessary.

(g) *Improvements allowable within buffers.* An entrance road, community and directional signage, bicycle and/or pedestrian paths, and utility connections and drainage improvements shall be permitted within the buffer with approval of the planning ~~director~~ ~~commission~~. Permitted utilities and constructed drainage conveyance systems shall cross the buffer at or near a perpendicular angle to the property line, with clearing kept to a minimum necessary to accommodate the utilities, except that minor improvements to

natural drainage channels may be permitted at different angle to the property line upon the recommendation of the environmental director and the approval of the planning director commission.

(h) *Roads within buffers.* Entrance roads through these buffers shall be built to the narrowest cross-section possible. Roads and open space shall be located and designed in a manner that minimizes views of structures within the development from the adjoining primary or secondary road as determined by the planning director commission.

(i) *Appeals.* In the event the planning director disapproves of the items specified in (c), (e), (f), (g), and (h) above or recommends conditions or modifications that are unacceptable to the applicant, the applicant may appeal the decision of the planning director to the development review committee who shall forward a recommendation to the Planning Commission.

#### **Sec. 24-545. Setback requirements.**

The minimum setback from the right-of-way shall be shown on the plan of development and on the recorded subdivision plat. The minimum setback from external streets shall be the same as that required by the zoning district in which the lot is located, except as superceded by section 24-544. The minimum setback from internal streets may be reduced to zero provided that no building in a residential cluster shall be closer than 3525\* feet to the internal edge of perimeter buffers. Off-street parking shall not be permitted within the required setbacks, except that parking spaces for single-family and two-family dwellings may be located within the required setback.

(\*Note: This amendment is to provide some additional design flexibility and meet sustainability goals, while still largely maintaining buffer and external setback consistency with conventional subdivisions so as to not adversely affect existing adjacent developments.)

#### **Sec. 24-546. Minimum lot width and area requirements.**

There are no lot width or area requirements.

#### **Sec. 24-547. Yard regulations.**

The rear and side yards may be reduced to zero, provided that easements or covenants establish the rights of two abutting properties where main buildings are to be constructed on or within five feet of a property line. Such easements or covenants shall establish the rights of each affected owner to gain access to each owner's building for purposes of essential maintenance and service. Reductions of rear or side yards made under this provision shall also be subject to the following conditions:

- (a) The minimum distance between any two buildings within the residential cluster development shall be governed by the State of Virginia Building Code.
- (b) No building in a residential cluster development shall be closer than 3525\* feet to the internal edge of perimeter buffers.

(b) *That easements or covenants establish the rights of two abutting properties where main buildings are to be constructed on or within five feet of a property line. Such easements or covenants shall establish the rights of each affected owner to gain access to each owner's building for purposes of essential maintenance and service. Documents establishing such easements or covenants shall be satisfactory to the county attorney and submitted prior to approval of the development plan.*

(\*Note: This amendment is to provide some additional design flexibility and meet sustainability goals, while still largely maintaining buffer and external setback consistency with conventional subdivisions so as to not adversely affect existing adjacent developments.)

**Sec. 24-548. Density.**

In a residential cluster development, the minimum and maximum number of dwelling units per acre of gross acreage as calculated below shall be as follows:

<i>Comprehensive Plan Designation</i>	<i>Minimum</i>	<i>Maximum</i>
Low-Density Residential	0	4.0
Moderate-Density Residential	4.0	12.0

*For the purposes of calculating density, gross acreage shall equal the total area of the parcel when less than 25% of the total site area is non-developable. For parcels where more than 25% of the total site area is non-developable, the gross acreage shall equal the total developable area of the parcel plus 25% of the total parcel acreage.*

For the purpose of calculating gross density, gross acreage shall be calculated as shown below:

<i>Gross Acreage</i>	
<i>Percentage of Nondevelopable Area</i>	<i>Gross Acreage Shall Equal:</i>
Less than 35	Total area of parcel
35 or more	Developable land plus 35% of the parcel=s land

Developable area shall consist of the total land area of the site minus stream beds, areas subject to flooding under the 100 year storm event, wetlands and areas with slopes exceeding 25 percent gradient. If the cluster development lies in more than one Comprehensive Plan Land Use Designation, the number of dwelling units shall be calculated separately for each designation.

**Sec. 24-549. Density Standards.**

~~(a) Low density residential cluster development. Within any low density residential cluster development, the following standards shall apply:~~

- ~~(1) Residential cluster developments of one unit per acre or less may be permitted in areas designated low density residential on the comprehensive plan land use map upon the approval of a master plan by the planning commission in accordance with section 24-553.~~
- ~~(2) Residential cluster developments of more than one unit per acre, but of no more than two units per acre may be permitted in areas designated low density residential on the comprehensive plan land use map upon the issuance of a special use permit from the board of supervisors and upon the approval of a master plan by the planning commission in accordance with section 24-553. In order to achieve this density, the developer shall make assurances in a master plan or otherwise for the following:
 
  - ~~a. Implementation of Streetscape Guidelines as defined in the Streetscape Guidelines Policy.~~
  - ~~b. Implementation of the county’s Archaeological Policy.~~
  - ~~c. Provision of sidewalks on at least one side of all internal streets in the development, including the entrance road. This requirement may be waived by the planning commission if the development is infill development of less than 20 units where sidewalks do not exist or are not planned on adjacent property. In addition, a sidewalk shall be provided as required in section 24-35.~~
  - ~~d. Provision of recreation facilities as recommended in the county=s Comprehensive Parks and Recreation Master Recreation Plan. Upon application for an exception, the Board of~~~~

~~Supervisors may approve alternate facilities or allow cash contributions in lieu of constructing a percentage of the facilities, provided that the alternate facilities or cash contributions are consistent with the recommendations and contributions per unit presented in the master plan.~~

~~e. Implementation of the county's Natural Resources Policy.~~

~~(3) Residential cluster developments of more than two units per acre, but of no more than three units per acre may be permitted in areas designated low density residential on the comprehensive plan land use map upon the issuance of a special use permit by the board of supervisors and upon the approval of a master plan by the planning commission in accordance with section 24-553. In addition to items (2)(a) through (e) above, the developer shall make assurances in a master plan or otherwise for the following:~~

~~a. Provision of pedestrian and/or bicycle trails, where topographically feasible, which connect cul de sacs throughout the development to each other and to the recreation area; or provision of sidewalks on both sides of all internal streets in the development, including the entrance road; or a combination of trails and sidewalks as stated above. This requirement may be waived by the planning commission if the development is infill development of less than 20 units where sidewalks do not exist or are not planned on adjacent property.~~

~~b. Construction of curb and gutter design on all streets within the development. This requirement may be waived or modified by the planning commission under the following circumstances:~~

~~1. The development is infill development of less than 20 units where curb and gutter does not exist or is not planned on adjacent property, or~~

~~2. Along those segments of road, including the entrance road, where structures are not planned.~~

~~(4) At its discretion, the board of supervisors may award density bonuses to a gross allowable base density of two dwelling units per acre for the following items, provided that no total density exceeds four dwelling units per acre in areas designated low density residential on the comprehensive plan land use map. In addition, the board of supervisors may waive one or more of the requirements for standards (3)(a) and (b) above in approving these density bonuses; however, standards (2)(a) through (e) shall remain as requirements of the developments.~~

~~a. An additional 0.5 dwelling unit per acre may be awarded for every ten percent of the total number of dwelling units dedicated to affordable housing. The applicant must provide the planning director confirmation of the initial sale price for the affordable units prior to the issuance of building permits. The applicant shall also enter into an agreement with the county, approved by the county attorney, which restricts the initial sales prices of the designated affordable units to an actual sales price at or below the allowable sales price limit set for the year in which the unit is built for a period of five years, and which controls the project phases in which such units are built. Such units shall be generally dispersed throughout the proposed development and not concentrated in one area of the development.~~

~~b. An additional 0.5 dwelling unit per acre for superior layout and quality design which incorporates environmentally sensitive natural design features such as preservation of scenic vistas, preservation of natural areas as suggested by the Natural Areas Inventory, protection of wildlife habitat corridors, and the creation of buffer areas around RMA wetlands, and sustainable building practices as referenced in *The Sustainable Building Sourcebook* from the City of Austin's Green Building Program, or the *Sustainable Building Technical Manual* by the United States Department of Energy.~~

~~c. An additional 0.5 dwelling unit per acre for superior layout and quality design which incorporates community design features such as interconnecting streets, multiple entrance/exit points to the development, a mixture of unit types and/or unit prices, and~~

~~group or shared parking. Such layout and design elements shall appear on any residential cluster plan submitted for a special use permit.~~

~~No density bonus shall be awarded for any improvement, design, or action otherwise required by county, state, or federal law.~~

~~(b) Moderate density residential cluster development. Within any moderate density residential cluster development, the following standards shall apply:~~

~~(1) Residential cluster developments of four units per acre but less than nine units per acre may be permitted in areas designated moderate density residential on the comprehensive plan land use map and zoned R 5 upon the approval of a master plan by the planning commission in accordance with section 24 553. In order to achieve this density, the developer shall make assurances in a master plan or otherwise for the following:~~

~~a. Implementation of Streetscape Guidelines as defined in the Streetscape Guidelines Policy.~~

~~b. Implementation of the county=s Archaeological Policy.~~

~~c. Provision of sidewalks on both sides of all internal streets and drive aisles in the development, including the entrance road. This requirement may be waived or modified by the planning commission under the following circumstances:~~

~~1. The development is infill development of less than 20 units where sidewalks do not exist or are not planned on adjacent property, or~~

~~2. The planning director agrees with the applicant that there will be no practical destination ——— point or route connected to the segment of sidewalk now or in the future.~~

~~d. Provision of recreation facilities as recommended in the county=s Comprehensive Parks and Recreation Master Recreation Plan. Upon application for an exception, the board of supervisors may approve alternate facilities or allow cash contributions in lieu of constructing a percentage of the facilities, provided that the alternate facilities or cash contributions are consistent with the recommendations and contributions per unit presented in the master plan.~~

~~e. Construction of curb and gutter design on all streets within the development. This requirement may be waived or modified by the planning commission under the following circumstances:~~

~~1. The development is infill development of less than 20 units where curb and gutter does not exist or is not planned on adjacent property, or~~

~~2. Along those segments of road, including the entrance road, where structures are not planned.~~

~~f. Implementation of the county=s Natural Resources Policy.~~

~~(2) At its discretion, the planning commission may award density bonuses to a gross allowable base density of nine dwelling units per acre for the following items, provided that no total density exceeds 12 dwelling units per acre in areas designated moderate density residential on the comprehensive plan land use map. Standards (1)(a) through (f) shall remain as requirements of the developments:~~

~~a. An additional 0.5 dwelling unit per acre for every ten percent of the total number of dwelling units dedicated to affordable housing. The applicant must provide the planning director confirmation of the initial sale price for the affordable units prior to the issuance of building permits. The applicant shall also enter into an agreement with the county, approved by the county attorney, which restricts the initial sales prices of the designated affordable units to an actual sales price at or below the allowable sales price limit set for the year in which the unit is built for a period of five years, and which controls the project phases in which such~~

~~units are built. Such units shall be generally dispersed throughout the proposed development and not concentrated in one area of the development.~~

- ~~b. An additional 0.5 dwelling unit per acre for superior layout and quality design which incorporates environmentally sensitive natural design features such as preservation of scenic vistas, preservation of natural areas as suggested by the Natural Areas Inventory, and the creation of buffer areas around RMA wetlands, and sustainable building practices as referenced in *The Sustainable Building Sourcebook* from the City of Austin's Green Building Program, or *The Sustainable Building Technical Manual* by the United States Department of Energy.~~
- ~~c. An additional 0.5 dwelling unit per acre for superior layout and quality design which incorporates community design features such as interconnecting streets, multiple entrance/exit points to the development, a mixture of unit types and/or unit prices, and group or shared parking. Such layout and design elements shall appear on any residential cluster plan submitted for a special use permit.~~
- ~~d. An additional one dwelling unit per acre for land dedicated and accepted by the county for a public use site. The site shall be suitable for the proposed use, and shall be a minimum of five acres.~~

~~No density bonus shall be awarded for any improvement, design, or action otherwise required by county, state, or federal law.~~

*The density standards applicable in areas designated Low Density Residential and Moderate Density Residential by the Comprehensive Plan are as listed in the table below. The approval process for cluster development shall be as stated in Section 24-553. In order to achieve the densities listed below, the developer shall make assurances in a master plan or otherwise for the density bonus items.*

<i>Density Designation on the Comprehensive Plan</i>	<i>Moderate Density Residential Designation on the Comprehensive Plan</i>	<i>Percent of Developable Acreage as Open Space</i>	<i>Required Density Bonus Items from List Below</i>
<i>Up to 1</i>	<i>4</i>	<i>25%</i>	<i>None</i>
<i>More than 1, but no more than 2</i>	<i>More than 4, but no more than 6</i>	<i>25%</i>	<i>2</i>
<i>More than 2, but no more than 3</i>	<i>More than 6, but no more than 9</i>	<i>30%</i>	<i>4</i>
<i>More than 3, but no more than 4</i>	<i>More than 9, but no more than 12</i>	<i>35%</i>	<i>6</i>

*Except as specified below, each of the lettered items shall result in a density bonus of 1 point.*

<i>Density Bonus Item Options</i>	
<i>A.</i>	<i>For every 10% of the units committed to provision of affordable/workforce housing (starting above the threshold set in the County's Affordable and Workforce Housing Policy*), a density bonus of 1.5 shall be applied. (*Note: This item may need to be adjusted based on development of a Policy)</i>
<i>B.</i>	<i>Design of a stormwater management plan that meets Chesapeake Bay Preservation Ordinance standards and requirements through extensive use of Better Site Design/Low Impact Development techniques, as approved by the Engineering and Resource Protection Division, shall result in a density bonus of 1.5.</i>

C.	Development of binding design guidelines for Planning Director approval that include superior architectural and design standards shall result in a density bonus of 1.5. Examples include, but are not limited to, rear or side loading garages; style type, materials, height and setback variation; and use of Universal Design concepts.
D.	Meeting a majority of items (a) – (d) listed in Section 24-551, Open Space Development Design, as determined by the planning director, shall result in a density bonus of 1.5.
E.	Retention of one of the following underlined environmentally-related conservation features. The underlined item must constitute at least 5% of the developable area of the site. <ul style="list-style-type: none"> <li>• <u>100 foot buffers</u> around non-RPA wetland features (isolated wetlands), intermittent streams, or from floodplain zones A or AE (where not already part of the RPA), or from the edge of the RPA buffer</li> <li>• Retention of <u>soils in hydrologic groups A and B</u> (retain at least 50% of these soils)</li> <li>• Preservation of a <u>Conservation Area as identified by an approved watershed management plan</u></li> <li>• Preservation of <u>wildlife habitat corridors that:</u> <ul style="list-style-type: none"> <li>○ Protect a corridor at least 100 feet in width from one protected area (on or off the cluster property) to another protected area, and</li> <li>○ Consist of mature forestland</li> </ul> </li> </ul>
F.	Commitment to either undertake or fund a stream restoration project or stormwater management facility retrofit within the same sub-watershed, as identified by an approved watershed management plan or by the Engineering and Resource Protection Division.
G.	100 foot buffer from the internal edge of a right-of-way and/or perimeter buffer (must constitute at least 5% of the developable area of the site).
H.	Commitment to achieve green building certification beyond the basic certified level using EarthCraft, LEED or equivalent program, in accordance with the County's Green Building for Private Development Policy.
I.	Dedication to the County of a public use site, the developable portion of which is suitable for a public facility, as determined by the County Administrator or designee.
J.	Commitment to construct a greenway trail and dedicate a public use easement in a location indicated by the approved Greenway Master Plan, the Virginia Outdoors Plan, or such other useful and logical location as approved by the Director of Parks and Recreation or designee.
K.	Use of an infill site (80% of the property's boundaries abut previously developed land).
L.	Preservation and rehabilitation of an on-site structure identified in the County's Architectural survey (structure may be re-used as a community clubhouse, private residence with appropriate deed restrictions, etc.) If the proposed cluster is within a designated Community Character Area, this bonus would also be available for rehabilitation and legal preservation of a structure elsewhere within that CCA.
M.	Preservation of a single area of healthy, mature, native forestland at least two acres in size.
N.	Retention of a single area of agricultural land of prime or statewide importance at least five acres in size.
O.	Provision of a WATA bus stop that would be within 1,300 feet of 85% of the proposed units, if determined by WATA to be at an appropriate location.
P.	Construction of shared vehicular access between properties (where more than one property owner is involved, evidence of a binding legal agreement between the parties should be provided at the master plan stage to qualify for this density bonus).

**Sec. 24-5502. Amount of open space required. Open Space**

(a) ~~Within every residential cluster development approved under this article, there shall be planned and set aside permanently an amount of open space to be maintained exclusively for conservation and recreation purposes. It is recommended that the open space be protected by establishing a permanent conservation easement. The amount of such open space shall include not less than 40 percent of the net developable area of the site in low density residential areas and 35 percent of the net developable area in moderate density residential areas. These amounts may be reduced to the following percentages at the discretion of the planning commission if the proposed development dedicates the following percentage of its total units to affordable housing:~~

<del>Percentage of Total Units Dedicated to Affordable Housing</del>	<del>Percentage of Open Space Required in Low Density Residential</del>	<del>Percentage of Open Space Required in Moderate Density Residential</del>
<del>10 to 55</del>	<del>30</del>	<del>25</del>
<del>More than 55 to 100</del>	<del>25</del>	<del>20</del>

~~Golf courses may be counted as open space for the purpose of meeting this requirement to a maximum of 30 percent of the required open space. The developable area of right-of-way buffers and perimeter buffers may be counted as open space for the purpose of meeting this requirement to a maximum of 50 percent of the required open space.~~

~~(b) In addition, all nondevelopable areas consisting of all stream beds, areas subject to flooding under the 100-year storm event, and wetlands shall be maintained as open space. Areas with slopes of 25 percent or more which are contiguous to the above mentioned areas may be incorporated into individual lots provided that the sloped areas are placed in conservation easements approved by the county attorney.~~

~~(c) Before accepting the open space as meeting the requirements of paragraph (a) of this section, the planning commission shall find that:~~

- ~~(1) No land lying within a proposed or existing road right-of-way, utility easement or drainage facility is counted toward the minimum open space requirement; and~~
- ~~(2) The land is suitable in its size, shape and location for the conservation and recreational purposes for which it is intended, with adequate access for the entire development and served with adequate facilities for such purpose; and~~
- ~~(3) No part of a private yard or area determined by the planning commission to be a part thereof, with the exception of easements for streetscapes, shall be counted as meeting the open space requirements of this chapter; and~~

~~(d) Evidence shall be given that satisfactory arrangements will be made for the perpetual maintenance of designated open space areas to relieve the county of future maintenance.~~

*Within every residential cluster development approved under this article, there shall be planned and set aside permanently an amount of open space to be maintained exclusively for conservation and recreation purposes.*

*(a) Non-developable areas shall be maintained as open space. These areas shall not be included on any private lot, and should be protected through a dedicated conservation easement.*

(b) A percentage of the developable area of the site shall also be set aside as open space, as specified in Section 24-549.

1. The developable area open space may include, but is not limited to:

- a. Areas on site necessary to meet County policies pertaining to natural resources, archaeology, and parks and recreation;
- b. Area(s) for which a density bonus is also being proposed, as listed in Section X (i.e. wildlife habitat corridors, watershed management plan conservation areas, etc.);
- c. The following areas, up to the percent specified
  - i. Golf courses – cannot exceed 30% of the developable open space required
  - ii. Required right-of-way and perimeter buffers – cannot exceed 50% of the developable open space required
  - iii. Stormwater management facilities – cannot exceed 20% of the developable open space required (this limitation applies to structural best management practices such as wet and dry ponds, but does not apply to bioretention or other low impact design measures)

(c) For the purpose of meeting the developable open space requirements specified in (b), open space area may not include:

1. Area on any individual private lots, or in the case of condominiums, within fifteen feet of the units
2. Land within public road rights-of-way and utility or drainage easements

Conceptual and/or master plans shall include a table with the open space information as follows:

<b>Open Space</b>	
<b>Nondevelopable Open Space, as defined</b>	<b>Acreage</b>
<b>Developable Open Space Required</b>	<b>Acreage</b>
<b>Developable Open Space Provided</b>	<b>Acreage</b>
<ul style="list-style-type: none"> <li>• Area(s) used to meet County policies pertaining to natural resources, archaeology, and parks and recreation (provide subtotals if applicable)</li> </ul>	
<ul style="list-style-type: none"> <li>• Area(s) for which a density bonus is also being proposed (provide subtotals if applicable)</li> </ul>	
<ul style="list-style-type: none"> <li>• Area of golf courses</li> </ul>	
<ul style="list-style-type: none"> <li>• Area in required right-of-way and perimeter buffers</li> </ul>	
<ul style="list-style-type: none"> <li>• Area in stormwater management facilities</li> </ul>	
<ul style="list-style-type: none"> <li>• Other qualifying open space area</li> </ul>	
<b>Total</b>	

Open space shall be arranged on the site in a manner that coordinates with the open space development design section. While every site is different, the applicant, as part of the conceptual and/or master plan review process, shall demonstrate through a narrative document or exhibits that the following were considerations in designing the open space.

*(a) Conservation/general open space:*

- 1. Located to preserve existing significant natural and historic features and scenic viewsheds such as ponds and views to open water, particularly those than can be seen from public roads (See Attached Graphic A – to be inserted as is, if copyright permission is obtained, or with a similar depiction)*
- 2. Located to adjoin any neighboring areas of open space, other protected areas, and non-protected natural areas that would be candidates for inclusion as part of a future protected open space (See Attached Graphic B – to be inserted as is, if copyright permission is obtained, or with a similar depiction)*
- 3. Located so as to be interconnected and contiguous to the extent possible, and located so as to benefit and be accessible to the maximum number of units*
- 4. Prominently located within the development (for example, at the terminus of key views along roads, at the intersection of arterial or collector streets, at topographic high points or centrally located within the residential area).*

*(b) Recreation*

- 1. Cluster developments shall adhere to the Parks and Recreation Master Plan Proffer Guidelines. Any additional land intended for recreation shall be useable for the purpose intended, and also follow the design specifications in the Parks and Recreation Master Plan Proffer Guidelines.*

**Section 24-551. Open Space Development Design**

*While every site is different, the applicant, as part of the conceptual and/or master plan review process, shall demonstrate through a narrative document or exhibits that the following were considered in designing the development. These considerations shall be coordinated with the open space design.*

- a. The design should take advantage of the compact design by clustering development into a walkable scale neighborhood and preserving significant open space and natural features;*
- b. The development should be designed to complement existing topography and minimize the need for alteration of the landscape;*
- c. The development should use a mixture of diverse unit types, lot sizes, and/or unit prices\*;*
- d. The design should use a creative layout. Examples could include:*
  - 1. Fronting on open space*
  - 2. Constructed with one side exterior wall along the side property line to allow side or rear yard garages*
  - 3. Detached or attached homes on loop lanes, such as in Figure 1.*

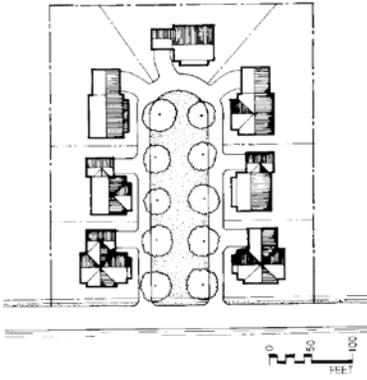


Figure 1. Example of homes on loop lanes.

4. The development should use Better Site Design Techniques such as group or shared parking, and shared driveways
5. The development design should have clear access from the units to the open space by abutting it, or via sidewalks or trails

\*(This item may need to be adjusted based on the content of a possible Affordable Housing Policy)

**Sec. 24-5523. Ownership of open space. Establishment of homeowners association**

A homeowners association shall be established in accordance with Section 19-68 of the Subdivision Ordinance.

Within any residential cluster development approved under this article on which a tract is intended to be used in common for recreational or other public or semipublic purposes, no lot shall be approved, recorded, sold or used within the development until a declaration of covenants and restrictions or other documents necessary to establishing a permanent homeowners organization has been approved by the county attorney and has been executed. Such documents shall set forth the following:

- (1) The nature of the permanent organization under which common ownership is to be established, including its purpose; how it shall be governed and administered; the provisions made for permanent care and maintenance of the common property including necessary bonds when required by the county; and the method of assessing the individual property for its share of the cost of adequately administering and maintaining and replacing such common property.
- (2) The extent of common interest held by the owner of each individual parcel in the tract held in common.

The homeowner's association documents shall set forth the nature (recreation or conservation) and location of the open space(s) either through illustration or through incorporation by reference of the development's master plan. The documents shall generally describe the use and maintenance standards necessary to adhere to the nature of the open space(s) as shown on the development's master plan.

**Sec. 24-5530. BMP requirements.**

To assure an appearance and condition which is consistent with the purpose of the residential cluster development overlay district, structural BMPs serving the properties within the district shall comply with the landscaping regulations in article II, division 4 of this chapter.

**Sec. 24-5541. Performance assurance.**

For all improvements proposed by the applicant pursuant to section 24-549, assurances shall be provided, satisfactory to the county attorney, that such improvements will be constructed and completed for use by project residents within a specific, reasonable period of time.

**Sec. 555. Pedestrian Accommodation.**

*Pedestrian accommodation shall be provided in accordance with Section 24-35.*

**Sec. 24-5564. Review and approval process.**

(a) *Conceptual Plan and Master Plan. Any conceptual or master plan for a residential cluster development proposed under this article shall include the elements listed below. For master plans, these elements shall be in addition to meeting the requirements of Section 24-23.*

- (1) *Where a bonus density above the base density is sought, depiction and/or documentation of the items that the applicant plans to pursue;*
- (2) *Conceptual development design, including required setbacks and buffers, and illustration of the features listed above in the open space and open space development design sections;*
- (3) *Marginal data and depiction which shows the gross acreage of the site, the nondevelopable area, the total number of dwelling units and/or lots, and, in the table format specified above, the amount of open space required by section, and the amount of open space provided; and*
- (4) *Conceptual stormwater design, illustrating use of better site design and low impact development techniques, where possible.*

**(b) Approval Process.**

- (1) *In instances where a special use permit is not required by the residential district, a master plan shall be filed with the planning director who shall recommend action on the plan to the development review committee. The development review committee shall approve the master plan upon finding that the proposed cluster development meets the requirements of this ordinance and is in accordance with the applicable Residential Designation Description of the Comprehensive Plan of James City County.*
- (2) *In instances where a special use permit is required by the residential district:*
  - i. *Prior to submission of a master plan for legislative action, the applicant is strongly encouraged to file a conceptual plan for review by the development review committee. The development review committee shall provide a recommendation on the conceptual plan based upon their findings regarding the extent that the proposed cluster development meets the requirements of this ordinance and is in accordance with the applicable Residential Designation Description of the Comprehensive Plan of James City County.*
  - ii. *A master plan in accordance with Section 24-23 shall be submitted and shall follow the process established in that section. The recommendations and findings of the development review committee on any conceptual plan shall be presented to the Planning Commission.*

~~A master plan for a residential cluster development proposed under this article shall be filed with the planning director, who shall submit it to the planning commission and board of supervisors in instances where a special use permit is required or to the development review committee in cases where a special use permit is not required. The planning director shall recommend action on the plan to the planning commission, and to the board of supervisors in instances where a special use permit is required. The planning commission and board of supervisors, where applicable, shall approve the master plan upon finding that:~~

- ~~(1) Such cluster development will preserve the environmental integrity of the site by protecting features such as wetlands, steep slopes, stream valleys, or natural vegetation; and~~
- ~~(2) The cluster development will not impair the character of the area or create unacceptable adverse off-site infrastructure impacts; and~~
- ~~(3) The proposed project is in accordance with the Comprehensive Plan of James City County; and~~

~~(4) The structures within the residential cluster development are sited in a way that preserves prominent open space features which are within or adjoin the site, such as open fields or farmland, scenic vistas, sight lines to historic areas or structures, and archaeological sites.~~

~~(b) Master plan. The master plan shall identify proposed areas and uses of open space including the nondevelopable areas. The master plan shall be prepared by a licensed surveyor, engineer, architect, landscape architect or a planner. A scale shall be used so that the entire parcel can be shown on one piece of paper no larger than 36 inches by 48 inches. It shall include:~~

~~(1) An inset map at a scale of not less than one inch to one mile, showing the property in relation to surrounding roads, subdivisions or landmarks.~~

~~(2) A north arrow.~~

~~(3) The location of existing property lines, existing above and below ground utility easements, scenic easements, watercourses or lakes, wooded areas and existing woods which are within or adjoin the property.~~

~~(4) The boundaries of each section, topography and approximate location of proposed streets, proposed areas and uses of open space, proposed parking areas, proposed recreation areas, proposed lots and/or buildings, and phasing of development.~~

~~(5) Marginal data which shows the gross acreage of the site, the net developable area, the proposed facilities qualifying for density bonuses or required per the density standards, the total number of dwelling units and/or lots, the number of bonus units and/or lots, the minimum amount of open space required by section 24-551(a) and the total amount of open space.~~

~~(6) Master water, sewer and drainage plans and schematic plans.~~

~~(7) All required setbacks, right of way buffers and perimeter buffers; all preserved tree areas, preserved slopes, open space areas and proposed bicycle/pedestrian access thereto; and proposed storm water management facilities.~~

~~(c) Status of master plan. The approval of the master plan under this section shall not be considered an approved preliminary plat as defined in the subdivision ordinance.~~

~~(d) Administrative consistency review. The planning director may determine certain minor changes to a development plan are consistent with the master plan. A conceptual plan may be submitted to the planning director for this purpose in a form sufficient to illustrate the proposed deviations. For the purpose of this section, minor determinations of consistency include changes that meet all of the following:~~

~~(1) Do not significantly affect the general location or classification of housing units or buildings as shown on the master plan.~~

~~(2) Do not significantly alter the distribution of recreation or open space areas on the master plan.~~

~~(3) Do not significantly affect the road layout as shown on the master plan.~~

~~(4) Do not significantly alter the character of land uses or other features or conflict with any binding conditions placed on the corresponding legislatively approved case associated with the master plan.~~

~~The planning director shall notify the chair of the development review committee when minor determinations of consistency are approved. Determinations of consistency that do not meet the criteria listed above shall follow the procedures for development plan review as outlined in section 24-554 (e) of the zoning ordinance.~~

~~(e) *Development plan review.* Development plans shall be submitted and reviewed in accordance with article III of this chapter or with the county's subdivision ordinance, whichever is applicable. Development plans may be submitted for review after approval of a master plan by the board of supervisors. All development plans shall be consistent with the master plan. Development plans may deviate from the master plan if the planning commission concludes, after reviewing written comments from the planning director, that the plan does not significantly alter the character of land uses or other features or conflict with any binding conditions placed on the approval of rezoning. A conceptual plan may be submitted to the planning commission for this purpose in a form sufficient to illustrate the proposed deviations. If the planning commission determines that a proposed change would significantly deviate from the approved master plan, the applicant may submit alternative proposed development plans or proceed with amendment of a master plan in accordance with section 24-13.~~

~~(f) *Master plan review fees.* Submittal of a master plan shall be accompanied by the fee charged for master plan review in accordance with the current fee schedule section 24-7 of this chapter.~~

~~(g) *Master plan Agreement.* Prior to final approval of the first sectional plan, an agreement shall be executed between the developer and the county which shall be binding upon the developer, his successors, assigns or heirs to the effect that the approved master plan shall govern the development of the total residential cluster development. This provision does not preclude the adjustment of the plan in accordance with section 24-553(d).~~

~~(h) *Sectional plans Action.* Sectional plans submitted in accordance with subsection (d) shall be reviewed in accordance with and shall meet the requirements of, article III of this chapter or the county's subdivision ordinance, whichever is appropriate. However, all sectional plans submitted for moderate density cluster development shall be reviewed in accordance with and meet the requirements of article III of this chapter.~~

**Secs. 24-557~~5~~ - 24-563. Reserved.**

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## Policy Committee Specific Input & Staff Responses

At the February 2011 Policy Committee meeting, a specific list of items to consider was provided to staff. Please find below the items on the list and staff information on how these items were addressed in the draft ordinance process.

### **1. Make Cluster Overlay by-right.**

The current ordinance already allows for by-right Low Density Residential-designated clusters in R-2 at the base density (1 unit per acre or less), and for Moderate Density Residential-designated clusters in R-5 between 4 and 12 units per acre, with DRC/PC approval of a master plan. In practice, there is very little pre-zoned R-1, R-2 or R-5 land, so a legislative action (rezoning to the base district) is typically necessary in any case. Due to this circumstance, staff has not proposed changing the cluster approval process.

### **2. Require a conceptual plan.**

The draft ordinance includes language to strongly encourage submission of a conceptual plan prior to the legislative process.

### **3. A primary objective is to provide a diversity of housing types.**

This idea is included in the development design section as an item that the applicant should demonstrate they considered at the conceptual and/or master plan stage.

### **4. Establish percentage guidelines for types of dwellings (i.e. semi-detached, multi-family, single family).**

The JCC ordinance uses cluster as an overlay within the PSA. The overlay applies to R-1, R-2 and R-5, which are districts oriented to different types of residential development. In R-1, no multifamily/attached units are permitted. Conversely, in R-5, multifamily is the focus and single family dwellings are typically permitted only with a SUP. Given the differences in focus of these underlying districts, specific dwelling type requirements for the overlay would be difficult to develop in a manner that preserved the intended character of the district. Staff has included this idea in the development design section as an item that the applicant should demonstrate that they considered at the conceptual and/or master plan stage. Separate from the ordinance language itself, this issue could also be a consideration of the PC or BOS during rezoning of any particular development project.

### **5. Establish a range of permitted lot sizes and an overall average for the development.**

The cluster overlay currently allows for complete flexibility in lot sizes, since there is no minimum lot size as is common in the base (R-1, R-2, R-5) districts. To balance the benefits of this flexibility with the goal of encouraging variety within cluster communities, staff has included the idea of a range of lot sizes in the development design section as an item that the applicant should demonstrate that they considered at the conceptual and/or master plan stage.

### **6. Establish a base open space percentage requirement.**

The open space percentage requirements are listed in the density standards section.

**7. Provide a definition of open space following open space design principles.**

Staff has included a revised section on open space that lists what can be counted toward the required developable open space. It also has information on what considerations should be made in designing the open space layout.

**8. Include illustrated open space design principles.**

Staff has included some graphics in the open space and open space development design sections.

**9. Include some commercial uses**

- **Consider by-right neighborhood commercial uses.**
- **Consider other commercial uses requiring a special use permit.**
- **Establish a maximum percent of acreage permitted for commercial uses.**

Since the cluster is an overlay district, staff has been looking at this in relation to the base districts (R-1, R-2 and R-5) and will offer ideas for the Committee's consideration with the other residential housekeeping items in August.

**10. Provide a density bonus on a sliding scale of open space provided based on design principles.**

This idea has been addressed in the density standards section.

**11. Provide a density bonus for putting open space into a permanent conservation easement.**

The current cluster ordinance states that open space should be put in conservation easements, and additionally, applicants get credit through the stormwater management point system for putting land in easements. For these reasons, staff has not proposed to include this as a density bonus item. A number of other environmental measures are included in the density standards bonus items list.

**12. Provide a density bonus for providing affordable housing.**

This idea is addressed in the density standards section.

**13. Structure density bonuses to allow for a combination of approaches.**

This idea is addressed in the density standards section.



## Policy Committee Specific Input & Staff Responses

At the February 2011 Policy Committee meeting, a specific list of items to consider was provided to staff. Please find below the items on the list and staff information on how these items were addressed in the draft ordinance process.

### **1. Make Cluster Overlay by-right.**

The current ordinance already allows for by-right Low Density Residential-designated clusters in R-2 at the base density (1 unit per acre or less), and for Moderate Density Residential-designated clusters in R-5 between 4 and 12 units per acre, with DRC/PC approval of a master plan. In practice, there is very little pre-zoned R-1, R-2 or R-5 land, so a legislative action (rezoning to the base district) is typically necessary in any case. Due to this circumstance, staff has not proposed changing the cluster approval process.

### **2. Require a conceptual plan.**

The draft ordinance includes language to strongly encourage submission of a conceptual plan prior to the legislative process.

### **3. A primary objective is to provide a diversity of housing types.**

This idea is included in the development design section as an item that the applicant should demonstrate they considered at the conceptual and/or master plan stage.

### **4. Establish percentage guidelines for types of dwellings (i.e. semi-detached, multi-family, single family).**

The JCC ordinance uses cluster as an overlay within the PSA. The overlay applies to R-1, R-2 and R-5, which are districts oriented to different types of residential development. In R-1, no multifamily/attached units are permitted. Conversely, in R-5, multifamily is the focus and single family dwellings are typically permitted only with a SUP. Given the differences in focus of these underlying districts, specific dwelling type requirements for the overlay would be difficult to develop in a manner that preserved the intended character of the district. Staff has included this idea in the development design section as an item that the applicant should demonstrate that they considered at the conceptual and/or master plan stage. Separate from the ordinance language itself, this issue could also be a consideration of the PC or BOS during rezoning of any particular development project.

### **5. Establish a range of permitted lot sizes and an overall average for the development.**

The cluster overlay currently allows for complete flexibility in lot sizes, since there is no minimum lot size as is common in the base (R-1, R-2, R-5) districts. To balance the benefits of this flexibility with the goal of encouraging variety within cluster communities, staff has included the idea of a range of lot sizes in the development design section as an item that the applicant should demonstrate that they considered at the conceptual and/or master plan stage.

### **6. Establish a base open space percentage requirement.**

The open space percentage requirements are listed in the density standards section.

**7. Provide a definition of open space following open space design principles.**

Staff has included a revised section on open space that lists what can be counted toward the required developable open space. It also has information on what considerations should be made in designing the open space layout.

**8. Include illustrated open space design principles.**

Staff has included some graphics in the open space and open space development design sections.

**9. Include some commercial uses**

- **Consider by-right neighborhood commercial uses.**
- **Consider other commercial uses requiring a special use permit.**
- **Establish a maximum percent of acreage permitted for commercial uses.**

Since the cluster is an overlay district, staff has been looking at this in relation to the base districts (R-1, R-2 and R-5) and will offer ideas for the Committee's consideration with the other residential housekeeping items in August.

**10. Provide a density bonus on a sliding scale of open space provided based on design principles.**

This idea has been addressed in the density standards section.

**11. Provide a density bonus for putting open space into a permanent conservation easement.**

The current cluster ordinance states that open space should be put in conservation easements, and additionally, applicants get credit through the stormwater management point system for putting land in easements. For these reasons, staff has not proposed to include this as a density bonus item. A number of other environmental measures are included in the density standards bonus items list.

**12. Provide a density bonus for providing affordable housing.**

This idea is addressed in the density standards section.

**13. Structure density bonuses to allow for a combination of approaches.**

This idea is addressed in the density standards section.



### Density Bonus Items Feedback Table

At its September 27, 2011 work session, the Board reviewed the draft residential districts and discussed the proposed density bonus item option tables.

The density bonus item options currently proposed to be available in the R-1, R-2, R-5, Cluster Overlay, Mixed Use, and Planned Unit Development districts are listed in the table below. (The R-3 district also has a density bonus item table that contains some items that are the same, and some that are particular to the redevelopment context.) In general, items listed in the density bonus table are meant to incentivize things that cannot be required (due to state code or other factors), and to offer flexibility to sites that may have unique features.

During the work session, the Board requested more detailed manner, and it was noted that perhaps a ranking by each Board member of their high, medium and low priorities would be helpful. The majority of items were proposed to be worth one point, with four items (A, B, C, and D) worth 1.5.

It was suggested that a greater range of point values might be appropriate - for example, low priority items worth 0.5, medium worth 1, and high worth 1.5 or 2; staff could use this system as the default, unless there is feedback that indicates otherwise. The number of density bonus items necessary to reach a given density varies by district - as an example, the draft proposed table in the Cluster Overlay district showing how many points are needed to attain density increases is shown at the end of this email, together with links to the full text of each of the relevant districts.

**Board members can provide their feedback by indicating the priority they would assign to each of the items in the table below, and any preferences on the point assignment system.**

	Density Bonus Item Options: Current Proposed Language	Current Proposed Point Value	Board Feedback: Is this a High, Medium or Low Priority to You?  Or would you eliminate?
X.	Example Item		M
A.	For every 10% of the units committed to provision of affordable/workforce housing (starting above the threshold set in the County's Affordable and Workforce Housing Policy*), a density bonus of 1.5 shall be applied. (*Note: This item may need to be adjusted based on development of a Policy)	1.5	
B.	Design of a stormwater management plan that meets Chesapeake Bay Preservation Ordinance standards and requirements through extensive use of Better Site Design/Low Impact Development techniques, as approved by the Engineering and Resource Protection Division, shall result in a density bonus of 1.5.	1.5	

C.	Development of binding design guidelines for Planning Director approval that include superior architectural and design standards shall result in a density bonus of 1.5. Examples include, but are not limited to, rear or side loading garages; style type, materials, height and setback variation; and use of Universal Design concepts.	1.5	
D.	Meeting a majority of items (a) – (d) listed in Section 24-551, Open Space Development Design, as determined by the planning director, shall result in a density bonus of 1.5.	1.5	
E.	Retention of one of the following underlined environmentally-related conservation features. The underlined item must constitute at least 5% of the developable area of the site. <ul style="list-style-type: none"> <li>• <u>100 foot buffers</u> around non-RPA wetland features (isolated wetlands), intermittent streams, or from floodplain zones A or AE (where not already part of the RPA), or from the edge of the RPA buffer</li> <li>• Retention of <u>soils in hydrologic groups A and B</u> (retain at least 50% of these soils)</li> <li>• Preservation of a <u>Conservation Area as identified by an approved watershed management plan</u></li> <li>• Preservation of <u>wildlife habitat corridors</u> that: <ul style="list-style-type: none"> <li>○ Protect a corridor at least 100 feet in width from one protected area (on or off the cluster property) to another protected area, and</li> <li>○ Consist of mature forestland</li> </ul> </li> </ul>	1	
F.	Commitment to either undertake or fund a stream restoration project or stormwater management facility retrofit within the same sub-watershed, as identified by an approved watershed management plan or by the <u>Engineering and Resource Protection Division</u> .	1	
G.	100 foot buffer from the internal edge of a right-of-way and/or perimeter buffer (must constitute at least 5% of the developable area of the site).	1	
H.	Commitment to achieve green building certification beyond the basic certified level using EarthCraft, LEED or equivalent program, in accordance with the County's Green Building for Private Development Policy.	1	
I.	Dedication to the County of a public use site, the developable portion of which is suitable for a public facility, as determined by the County Administrator or designee.	1	
J.	Commitment to construct a greenway trail and dedicate a public use easement in a location indicated by the approved Greenway Master Plan, the Virginia Outdoors Plan, or such other useful and logical location as approved by the Director of Parks and Recreation or designee.	1	
K.	Use of an infill site (80% of the property's boundaries abut previously developed land).	1	

L.	Preservation and rehabilitation of an on-site structure identified in the County's Architectural survey (structure may be re-used as a community clubhouse, private residence with appropriate deed restrictions, etc.) If the proposed cluster is within a designated Community Character Area, this bonus would also be available for rehabilitation and legal preservation of a structure elsewhere within that CCA.	1	
M.	Preservation of a single area of healthy, mature, native forestland at least two acres in size.	1	
N.	Retention of a single area of agricultural land of prime or statewide importance at least five acres in size.	1	
O.	Provision of a WATA bus stop that would be within 1,300 feet of 85% of the proposed units, if determined by WATA to be at an appropriate location.	1	
P.	Construction of shared vehicular access between properties (where more than one property owner is involved, evidence of a binding legal agreement between the parties should be provided at the master plan stage to qualify for this density bonus).	1	

Example From the Cluster Overlay District:

Density (Units per Acre)		Percent of Developable Acreage as Open Space	Required Density Bonus Points from List Above
Low Density Residential Designation on the Comprehensive Plan	Moderate Density Residential Designation on the Comprehensive Plan		
Up to 1	4	25%	0
More than 1, but no more than 2	More than 4, but no more than 6	25%	2
More than 2, but no more than 3	More than 6, but no more than 9	30%	4
More than 3, but no more than 4	More than 9, but no more than 12	35%	6

The full text of the districts is available at:

<http://www.jccegov.com/agendas/bosagendas/092711bosws.html>.

R-1 district is Attachment 2, R-2 district is Attachment 3, R-5 district is Attachment 4, R-3 district is Attachment 5, Cluster Overlay district is Attachment 7, Mixed Use district is Attachment 13, and the Planned Unit Development district is Attachment 16.

**Attachment 8: Density Calculation Examples – Numbers listed are the Unit Yield**

<b>Development</b>	<b>Gross</b>	<b>35% Formula</b>	<b>Stepped Scale</b>	<b>Net</b>	<b>Approved</b>
<b>By-Right Development zoned R-1 (Marywood)</b>					
Development statistics under existing nondevelopable definition: - 115 gross acres -16 nondevelopable acres - 14% nondevelopable - Maximum gross density of one unit per acre in R-1	115	115	115	99	90
Development statistics under new nondevelopable definition: -115 gross acres - 44 nondevelopable acres - 38% nondevelopable	115	111	94	71	90
<b>Legislative Development that proposed R-2 Cluster (Powhatan Terrace)</b>					
Development statistics under existing nondevelopable definition: -16.5 gross acres -6.1 nondevelopable acres - 37% nondevelopable - R-2 Clusters designated LDR are recommended for a maximum density of 4 du/ac. For this development, owner made MP/proffer provisions for density bonus items that would take them up to 3 du/ac max – this analysis is therefore based on 3 du/ac, but should additional density bonus items have been provided for, the 4 du/ac max could have been sought.	50	49	41	31	36
Development stats under new nondevelopable definition: - 8.3 nondevelopable acres - 49.7% nondevelopable	50	42	32	25	36
<b>Legislative Development that proposed R-2 Conventional Subdivision (Windmill Meadows)</b>					
Development statistics under existing nondevelopable definition: - 43.43 gross acres - 0 nondevelopable acres - 0% nondevelopable - The maximum gross density in R-2 with a SUP is two units per acre.	87	87	87	87	78
Development statistics under new nondevelopable definition: - 43.43 gross acres - 2.8 nondevelopable acres - 6.5% nondevelopable - The maximum gross density in R-2 with a SUP is two units per acre.	87	87	87	81	78

<b>Legislative Development that proposed R-5 (Chestnut Grove)</b>					
Development statistics under existing nondevelopable definition: - 8.95 gross acres - 1.76 nondevelopable acres - 19.7% nondevelopable -The max. density in R-5 for townhouse development of less than 100 units is 8 units per acre.	72	72	72	58	40
Development statistics under existing nondevelopable definition: - 3.34 nondevelopable acres - 37% nondevelopable	72	82	59	45	40
<b>Hypothetical development proposal on an existing property in JCC</b>					
Approximate developable statistics under existing nondevelopable definition: - 181 gross acres - 43.6 nondevelopable acres -24% nondevelopable - Hypothetically, this analysis projects an owner proposing R-2 Cluster and making MP/proffer provisions for density bonus items that would take them up to 3 du/ac max – this analysis is therefore based on 3 du/ac, but should additional density bonus items be provided for, the 4 du/ac max could be sought.	542	542	520	412	n/a
Approximate development stats under new nondevelopable definition: - 65.6 nondevelopable acres - 36.2% nondevelopable	542	535	454	346	n/a

**Chapter 24**  
**ARTICLE V. DISTRICTS**  
DIVISION 15. MIXED USE, MU

**Sec. 24-514. Statement of intent.**

(a) The purpose of the mixed use district is to promote a broad spectrum of land uses in more intensive developments on lands designated mixed use by the Comprehensive Plan. The mixed use district is designed to:

(1) Promote a multiuse master-planned community which may include residential, commercial, industrial (with a ~~predominant~~ focus on light industrial), office and other nonresidential uses;

(2) Provide flexibility, unity and diversity in land planning and development resulting in convenient and harmonious groupings of uses, structures and common facilities; varied type, design and layout of residential, employment and social centers; and appropriate relationships of open spaces to intended uses and structures which include attractive and usable open space linked by pedestrian walkways and/or bicycle paths;

(3) Reduce commuter ~~driving~~ ~~driver~~ demands on highways and roads by concentrating employment, housing and recreation opportunities in locations served by, or convenient to, public transportation; and

(4) Permit densities and intensities of development in excess of those normally permitted in customary residential and commercial zoning districts.

(b) This shall be accomplished by providing for the development and ~~or~~ redevelopment of a variety of land uses ~~and structures~~ within the mixed use district ~~and in structures within the Mixed Use District~~ in accordance with the uses generally described in the Comprehensive Plan for areas designated mixed use. The mixed use district is the preferred ~~Zoning District~~ for development within those areas designated Mixed Use in the Comprehensive Plan.

(Ord. No. 31A-141, 5-4-92; Ord. No. 31A-184, 12-8-98)

**Sec. 24-515. Documents required for submission.**

(a) *Required documents.* The applicant shall submit ~~documents in accordance with section 24-23 the following documents~~ to the planning director ~~for submission to the planning commission prior to any rezoning or special use permit application consideration by the planning commission.~~

~~(1) Application for rezoning.~~

~~(2) Traffic impact study for any development containing a use or combination of uses which generates, or would be expected to generate, 150 or more additional trips per day to and from the site during peak hour of operation based on the application of the Institute of Transportation Engineers (ITE) traffic generation rates contained in the latest edition of their book entitled Trip Generation. The traffic impact study shall address projected traffic generation, internal and external traffic, turning movements and distribution at each access point, traffic distribution, capacity of surrounding roads, and roads and access improvements. The traffic impact study shall conform to the standards of the Virginia Department of Transportation and be prepared by an individual or firm qualified to conduct traffic engineering studies in a manner and form acceptable to the planning director.~~

~~(3) Master plan, 30 copies, ten submitted with application for rezoning with balance of required copies submitted at the request of staff in preparation for planning commission review. Master plans shall not be required as part of an application for rezoning a parcel when the proposed use for the parcel is a structure or combination of structures whose total floor area is less than 20,000 square feet.~~

The planning director may waive the master plan submittal requirement for a proposed development consisting of a single use structure if the applicant can demonstrate that a master plan would not be beneficial to a review of the impacts associated with the proposed development.

~~(4) Community impact statement, for any Mixed Use development containing 50 or more acres or comprising 200 or more dwelling units, 30 copies, ten submitted with application for rezoning with balance of required copies submitted at the request of staff in preparation for planning commission review.~~

~~(b) Master plan. The master plan shall be prepared by a licensed surveyor, engineer, architect, landscape architect or planner. A scale may be used so that the entire parcel can be shown on one piece of paper no larger than 36 inches by 48 inches. The master plan shall include:~~

~~(1) An inset map at a scale of not less than one inch to one mile (1" = 1 mile), showing the property in relation to surrounding roads, subdivisions or major landmarks.~~

~~(2) A north arrow.~~

~~(3) The location of existing property lines, watercourses or lakes, wooded areas and existing roads which are within, adjoin or provide access to the property.~~

~~(4) The approximate boundaries of each section, land use or density, the approximate location of proposed streets and right of ways with an indication of whether public or private; the approximate location of recreation areas and common open space areas; and all areas proposed for dedication to public use within the project.~~

Each section or area of the master plan shall be designated as follows:

<u>Area</u>	<u>Type of Development</u>
A	Single family dwelling units
B	Attached structures containing two to four dwelling units
C	Attached structures less than three stories and containing more than four dwelling units
D	Attached structures of three or more stories and containing more than four dwelling units
E	Commercial uses
F	Wholesale and warehouse uses
G	Office Uses

<del>H</del>	<del>Industrial uses</del>
<del>I</del>	<del>Institutional or public uses</del>
<del>J</del>	<del>Areas of common open space, with recreation areas noted</del>
<del>M*</del>	<del>Structures containing a mixture of uses</del>
<del>X</del>	<del>Other structures, facilities or amenities</del>

~~\*Areas of a master plan designated M (structures containing a mixture of uses) shall indicate in parenthesis, following the M designation, the appropriate letter designations of the types of uses contained within the structure (e.g., M (CG)) in the order of their proportion in the mixed-use structure.~~

~~(15) Where applicable, the master plan shall contain a table which shows, for each section or area of different uses, the following:~~

- ~~a. The use (s);~~
- ~~b. Construction Approximate development phasing;~~
- ~~c. Maximum number of dwelling units and density for residential areas;~~
- ~~d. Maximum square feet of floor space for commercial, office or industrial areas;~~
- ~~e. Maximum square feet of floor space and percentage mix of floor space of each use for those structures containing a mixture of uses; and~~
- ~~f. Maximum acreage of each use.~~

The master plan shall depict and bind the approximate boundaries and general location of all principal land uses, structure square footage, number of dwelling units and densities, roads, right-of-ways, accesses, open spaces, public uses and other features located or to be located on the site. ~~The master plan shall be reviewed and approved~~ Upon approval by the board of supervisors, *the master plan* shall become binding. Thereafter, all amendments to the master plan shall be in accordance with section 24-13 of this chapter. Approved development plans, provided for in section 24-518, shall supersede the master plan and conceptual or schematic plans.

*(2) Construction phasing. A project build-out schedule shall be submitted for review by the planning director, the planning commission and board of supervisors, in accordance with the board of supervisors adopted construction phasing guidelines adopted on \_\_\_\_\_. The purpose of such phasing plan shall be to provide assurance to the board of supervisors that infrastructure improvements will be constructed in order to support the development intensities proposed. The project build-out schedule shall also provide assurances that the development will include both the proposed non-residential and residential elements at certain project milestones and/or at build-out.*

~~(c) Community impact statement. The community impact statement shall describe the probable effects of the proposed development upon the community. At a minimum, it shall address the following topics:~~

- ~~(1) Adequacy of existing public facilities and services to serve the development. Analysis shall be made of sewer, water, schools, fire stations and other major locally financed facilities;~~
- ~~(2) Additional on-site and off-site public facilities or services which would be required as a result of the development;~~

~~(3) Impact of construction and permanent changes in land use upon surrounding property, such as aesthetics, vegetation, stormwater drainage, noise and air or water pollution; and~~

~~(4) Employment opportunities to be generated by the development.~~

(Ord. No. 31A-141, 5-4-92)

**~~Sec. 24-516. Master plan Administrative review fees.~~**

~~Submittal of a master plan and subsequent revisions proposed by the applicant to the planning commission shall be accompanied by a fee as specified in section 24-7.~~

~~(Ord. No. 31A-141, 5-4-92)~~

**Sec. 24-5167. Procedures.**

(a) *Report of the planning director.* The planning director may refer copies of the master plan and community impact statement to other local public officials for their comments and the planning director shall prepare a report with recommendations regarding the application. A copy of the report shall be sent to the applicant. When all materials necessary for application are complete and the application is deemed ready for planning commission review, the application, master plan, community impact statement, *fiscal impact statement and traffic study* and report of the planning director shall be placed on the agenda of the planning commission at its next regularly scheduled meeting.

The report of the planning director shall include, but not necessarily be limited to, the following;

- (1) Evaluation of the proposed density and uses at the site in relation to the county's Comprehensive Plan;
- (2) Evaluation and recommended changes in the design of land use, circulation and densities shown on the master plan of the property;
- (3) Impact of the proposal on surrounding property and the environment; and
- (4) Evaluation of the traffic impact study and community impact statement.

(b) *Consideration by the planning commission and board of supervisors.* The procedures for public hearing and consideration by the planning commission and board of supervisors shall be as set forth in section 24-13.

(c) *Guarantees.* The director of code compliance shall not issue any certificate of occupancy until the applicant has guaranteed the completion of public improvements, including, but not limited to, public roads, and public water and public sewer facilities, shown on the approved development plan by providing either a letter of credit, certified check, cash escrow, cash payment or other surety, approved by the county attorney.

(Ord. No. 31A-141, 5-4-92; Ord. No. 31A-184, 12-8-98)

**Sec. 24-5178. Development plans.**

(a) Development plans shall be submitted and reviewed in accordance with ~~#~~Article III of this chapter or with the county's subdivision ordinance, whichever is applicable. Development plans may be submitted

for review after approval of a master plan by the board of supervisors. All development plans shall be consistent with the master plan. Development plans may deviate from the master plan if the planning ~~commission~~ **director** concludes, ~~after reviewing written comments from the planning director,~~ that the plan does not significantly alter the character of land uses or other features or conflict with any conditions placed on the approval of rezoning. A conceptual plan may be submitted ~~to the planning commission~~ for this purpose in a form sufficient to illustrate the proposed deviations. If the planning ~~commission~~ **director** determines that a proposed change would significantly deviate from the approved master plan, the applicant may submit alternative proposed development plans or proceed with amendment of a master plan in accordance with section 24-13.

*(b) Appeals. In the event the planning director disapproves of the items specified in section 24-517 (a) or recommends conditions or modifications that are unacceptable to the applicant, the applicant may appeal the decision of the planning director to the development review committee who shall forward a recommendation to the planning commission.*

~~(c)~~ Documentation satisfactory to the county attorney for the maintenance of common open space, recreation areas, sidewalks, parking, private streets and other privately owned but common facilities serving the project shall be submitted as part of any application for development plan review.

(Ord. No. 31A-141, 5-4-92)

**~~Sec. 24-5189. Addition of land to an existing mixed use development.~~**

~~Additional land area zoned for mixed use may be added to an existing mixed use district if it is adjacent to (except parcels separated by a public or private right of way) and forms a logical addition to the original parcel. Up to three additions of land zoned Mixed Use to an existing mixed use district shall be permitted on approval of the development review committee, provided that the acreage of a single addition or sum of additions equal an amount less than or equal to 25 percent of the original development. In no case shall an addition or sum of additions be greater than 25 acres. Applications for more than three additions or an addition greater than 25 acres shall be considered as new applications and comply with the requirements of section 24-13.~~

(Ord. No. 31A-141, 5-4-92)

**~~Sec. 24-51920. Minimum area of districts.~~**

Mixed use districts shall be located on a single parcel of land, or separate but ~~adjacent-contiguous~~ **adjacent** parcels, which shall total not less than five acres. Mixed use districts may be located on a parcel of less than five acres provided that the purpose of the district is to provide for the development of a mixed use structure or mixed use structures within an area designated Mixed Use in the Comprehensive Plan.

(Ord. No. 31A-141, 5-4-92)

**~~Sec. 24-5204. Permitted uses.~~**

In the mixed use districts, all structures to be erected or land to be used shall be for one or more of the following uses:

Use Category	Use List	Permitted Uses	Special Permit Uses
Residential Uses	Accessory structures, as defined in section 24-2	P	
	<del>Accessory apartments</del>	<del>P</del>	
	Apartments	P	
	Family care homes, foster homes or group homes serving physically handicapped, mentally ill, intellectually disabled or other developmentally disabled persons for more than five persons	P	
	<del>Group quarters for agricultural workers</del>	<del>P</del>	
	Home care facilities	P	
	<del>Home occupations, as defined</del>	<del>P</del>	
	<del>Multiple-family dwellings up to and including four dwelling units</del>	<del>P</del>	
	<del>Multi-family more than four dwelling units</del>	<del>P</del>	
	Single-family dwellings	P	
	Nursing homes	P	
	<del>Townhouses</del>	<del>P</del>	
	<del>Two-family dwellings</del>	<del>P</del>	
Commercial Uses	Accessory structures, as defined in section 24-2	P	
	Adult day care centers	P	
	Antique shops	P	
	Arts and crafts shops	P	
	Automobile rental	P	
	Automobile repair and service including tire, transmission, glass, body and fender, and other automotive product sales (new and/or rebuilt) and service with major repair under cover and storage of parts and vehicle storage screened from adjacent property by landscaping and fencing	P	
	Automobile service stations; if fuel is sold, then in accordance with section 24-38	P	
	Banks and other similar financial institutions	P	
	Barber and beauty shops	P	
	Business, professional and governmental offices	P	
	Campgrounds		SUP
	Child day care centers	P	
	<del>Clubs, public or private, civic or service clubs, county clubs, lodges and fraternal organizations</del>	<del>P</del>	
	Community recreation facilities, public or private, including parks, playgrounds, clubhouses, boating facilities, swimming pools, ball fields, tennis courts and other similar recreation facilities	P	
	Contractor offices, equipment storage yards, shops and warehouses with storage under cover or screened with landscaping and fencing from adjacent property	P	
	Convenience stores; if fuel is sold, then in accordance with section 24-38	P	

Data processing centers	P	
Drug stores	P	
Dry cleaners and laundries	P	
Employment services or agencies	P	
Farmer's markets	P	
Fast food restaurants		SUP
Feed, seed and farm supply stores	P	
Fish farming	P	
Flea markets		SUP
Funeral homes, cemeteries and memorial gardens	P	
Gift stores	P	
Golf courses		SUP
Greenhouses and nurseries	P	
Handicraft stores	P	
Health clubs, exercise clubs and fitness centers	P	
Home occupations as defined	P	
Hotels, motels, tourist homes and convention centers	P	
Indoor sport facilities	P	
Indoor theaters	P	
Janitorial service establishments	P	
Limousine service	P	
Lumber and building supply with storage limited to a fully enclosed building or screened with landscaping and fencing from adjacent property	P	
Marinas, docks, piers, yacht clubs, boat basins, boat storage and servicing, repair and sale facilities for the same; if fuel is sold, then in accordance with section 24-38		SUP
Marine or waterfront businesses to include the receipt, storage and transshipment of waterborne commerce, or seafood receiving, packaging or distribution under cover or screened with landscaping and fencing from adjacent property		SUP
Museums	P	SUP
Off-street parking as required by section 24-53	P	
Office supply stores, secretarial and duplicating services	P	
Parking lots and garages	P	
Photographer, picture, artist and sculptor stores and studios	P	
Plumbing and electrical supply with storage limited to a fully enclosed building or screened with landscaping and fencing from adjacent property	P	
Printing and publication establishments	P	
Property maintenance facilities, sheds or garages	P	
Public billiard parlors, arcades, pool rooms, bowling alleys, dance halls and other indoor centers of amusement	P	

	Rental of more than three rooms in a single-family dwelling unit		SUP
	Rental of rooms to a maximum of three rooms	P	
	Rest homes	P	
	Restaurants, tea rooms and taverns	P	
	Retail and service stores, including the following stores: books, cabinet, candy, carpet, coin, department, dressmaking, florist, furniture, furrier, garden supply, greeting card, gunsmith (excluding shooting ranges), hardware, home appliance sales and service, ice cream, jewelry sales and service, locksmith, music and records, paint, pet, picture framing, plan supply, shoe, sporting goods, stamp, tailor, tobacco and pipes, toys, travel bureau, upholstery, wearing apparel, and yard goods	P	
	Retail food stores, bakeries and fish markets	P	
	Security service offices	P	
	Shooting ranges, indoor		SUP
	Taxi service	P	
	Theme parks		SUP
	Truck stop; if fuel is sold, then in accordance with section 24-38		SUP
	Truck terminals; if fuel is sold, then in accordance with section 24-38		SUP
	Vehicle and trailer sales and service (with major repair limited to a fully enclosed building)	P	
	Veterinary hospitals	P	
	Water well drilling establishments	P	
Agricultural	Wineries		SUP
Civic	Fire stations	P	
	<del>Houses of worship and cemeteries accessory hereto</del>	<del>P</del>	
	Libraries	P	
	Nonemergency medical transport	P	
	<i>Places of public assembly, such as houses of worship, public meeting halls, lodges or fraternal organizations</i>	<del>P</del>	
	<del>Public meeting halls</del>	<del>P</del>	
	Post offices	P	
	Schools	P	
	Water impoundments, new or expansion of	P	
Utility	Electrical generation facilities, public or private, electrical substations with a capacity of 5,000 kilovolt amperes or more and electrical transmission lines capable of transmitting 69 kilovolts or more		SUP
	Radio stations, television stations, transmission relay stations and communication towers		SUP
	Telephone exchanges and telephone switching stations	P	
	Tower mounted wireless communication facilities in accordance with division 6, Wireless		SUP

	Communication Facilities		
	Transmission pipelines (public or private), including pumping stations and accessory storage, for natural gas, propane gas, petroleum products, chemicals, slurry coal and any other gases, liquids or solids. However, extensions for private connections to existing pipelines, which are intended to serve an individual residential or commercial customer and which are accessory to existing or proposed development, are permitted generally and shall not require a special use permit		SUP
	Wireless communications facilities that utilize alternative mounting structures, or are building mounted, or area camouflaged, and comply with division 6, Wireless Communications Facilities	P	
	Water facilities (public or private), and sewer facilities (public), including, but not limited to, treatment plants, pumping stations, storage facilities and transmission mains, wells and associated equipment such as pumps to be owned and operated by political jurisdictions. However, the following are permitted generally and shall not require a special use permit:  <ul style="list-style-type: none"> <li>(a) Private connections to existing mains that are intended to serve an individual customer and that are accessory to existing or proposed development, with no additional connections to be made to the line; and</li> <li>(a) Distribution lines and local facilities within a development, including pump stations</li> </ul>		SUP
	Water impoundments, new or expansion of	P	
Open	Timbering in accordance with section 24-43	P	
Industrial Uses	Food processing and storage, but not the slaughter of animals	P	
	Heavy equipment sales and service, with major repair under cover or screened with landscaping and fencing from adjacent property	P	
	Heliports, helistops		SUP
	Hospitals	P	
	Industrial and technical training schools	P	
	Laser technology production	P	
	Machinery sales and service with major repair under cover	P	
	Manufacture and assembly of musical instruments, toys, novelties and rubber and metal stamps	P	
	Manufacture and bottling of soft drinks and wine	P	
Manufacture and processing of textiles and textile products in structures not more than 52,000 square feet	P		

Manufacture and processing of textiles and textile products in structures more than 52,000 square feet		SUP
Manufacture, compounding, assembly or treatment of products made from previously prepared paper, plastic, metal, textiles, tobacco, wood, paint, fiber glass, glass, rubber, leather, cellophane, canvas, felt, fur, horn, wax, hair, and yarn in structures of not more than 52,000 square feet	P	
Manufacture, compounding, assembly or treatment of products made from previously prepared paper, plastic, metal, textiles, tobacco, wood, paint, fiber glass, glass, rubber, leather, cellophane, canvas, felt, fur, horn, wax, hair, and yarn in structures of not more than 52,000 square feet		SUP
Manufacture, compounding, processing or packaging of cosmetic, toiletry and pharmaceutical products	P	
Manufacture of carpets and carpet yarns in structures of not more than 52,000 square feet	P	
<del>Manufactured home or mobile home sales</del>		SUP
Manufacture of pottery and ceramic products, using kilns fired only by gas or electricity	P	
Manufacture or assembly of appliances, tools, firearms, hardware products and heating, cooling or ventilating equipment	P	
Manufacture or assembly of electronic instruments, electronic devices or electronic components	P	
Manufacture or assembly of medical, drafting, metering, marine, photographic and mechanical instruments	P	
Petroleum storage		SUP
Private streets within “qualifying industrial parks” in accordance with section 24-55	P	
Processing, assembly and manufacture of light industrial products or components, with all storage, processing, assembly and manufacture conducted indoors and under cover, with no dust, noise, odor or other objectionable effect	P	
Publicly owned solid waste container sites		SUP
Railroad facilities including tracks, bridges and stations. However, spur lines which are to serve and are accessory to existing or proposed development adjacent to existing railroad right-of-ways and track and safety improvements in existing railroad right-of-ways are permitted generally and shall not require a special use permit		SUP
Research, development and design facilities or laboratories	P	
Resource recovery		SUP
Solid waste transfer stations		SUP

	Warehouse, storage and distribution centers with storage under cover or screened with landscaping and fencing from adjacent property	P	
	Welding and machine shops with storage limited to a fully enclosed building or screened with landscaping and fencing from adjacent property	P	

~~(1) Residential uses:~~

~~Accessory structures, as defined in section 24-2.~~

~~Apartments.~~

~~Multiple family dwellings.~~

~~Single family dwellings.~~

~~Timbering in accordance with section 24-43.~~

~~Townhouses.~~

~~Two family dwellings.~~

~~Dwelling units, regardless of structure type, should be clustered or otherwise grouped to maximize the preservation of open space and other aesthetic amenities consistent with the intent of article VI, division 1, Residential Cluster Development.~~

~~(2) Nonresidential uses:~~

~~Accessory structures, as defined in section 24-2.~~

~~Adult day care centers.~~

~~Antique shops.~~

~~Arts and crafts shops.~~

~~Automobile rental.~~

~~Automobile repair and service including tire, transmission, glass, body and fender, and other automotive products sales (new and/or rebuilt) and service with major repair under cover and storage of parts and vehicle storage screened from adjacent property by landscaping and fencing.~~

~~Automobile service stations; if fuel is sold, then in accordance with section 24-38.~~

~~Banks and other similar financial institutions.~~

~~Barber and beauty shops.~~

~~Business, professional and governmental offices.~~

~~Child day care centers.~~

~~Clubs, public or private, civic or service clubs, country clubs, lodges and fraternal organizations.~~

~~Community recreation facilities, public or private, including parks, playgrounds, clubhouses, boating facilities, swimming pools, ball fields, tennis courts and other similar recreation facilities.~~

~~Contractor offices, equipment storage yards, shops and warehouses with storage under cover or screened with landscaping and fencing from adjacent property.~~

~~Convenience stores; if fuel is sold, then in accordance with section 24-38.~~

~~Data processing centers.~~

~~Drug stores.~~

~~Dry cleaners and laundries.~~

~~Employment services or agencies.~~

~~Family care homes, foster homes or group homes serving physically handicapped, mentally ill, intellectually disabled or other developmentally disabled persons for more than five persons.~~

~~Farmer's markets.~~

~~Feed, seed and farm supply stores.~~

~~Fire stations.~~

~~Fish farming.~~

~~Food processing and storage, but not the slaughter of animals.~~

~~Funeral homes, cemeteries and memorial gardens.~~

~~Gift stores.~~

~~Greenhouses and nurseries.~~

~~Group quarters for agricultural workers.~~

~~Handicrafts stores.~~

~~Health clubs, exercise clubs and fitness centers.~~

~~Heavy equipment sales and service, with major repair under cover or screened with landscaping and fencing from adjacent property.~~

~~Home care facilities.~~

~~Home occupations as defined.~~

~~Hospitals.~~

~~Hotels, motels, tourist homes and convention centers.~~

~~Houses of worship and cemeteries accessory hereto.~~

~~Indoor sport facilities.~~

~~Indoor theaters.~~

~~Industrial and technical training schools.~~

~~Janitorial service establishments.~~

~~Libraries.~~

~~Limousine service.~~

~~Lumber and building supply with storage limited to a fully enclosed building or screened with landscaping and fencing from adjacent property.~~

~~Machinery sales and service with major repair under cover.~~

~~Manufacture and assembly of musical instruments, toys, novelties and rubber and metal stamps.~~

~~Manufacture and bottling of soft drinks and wine.~~

~~Manufacture and processing of textiles and textile products in structures of not more than 2,000 square feet.~~

~~Manufacture, compounding, assembly or treatment of products made from previously prepared paper, plastic, metal, textiles, tobacco, wood, paint, fiber glass, glass, rubber, leather, cellophane, canvas, felt, fur, horn, wax, hair and yarn in structures of not more than 2,000 square feet.~~

~~Manufacture, compounding, processing or packaging of cosmetic, toiletry and pharmaceutical products.~~

~~Manufacture of carpets and carpet yarns in structures of not more than 2,000 square feet.~~

~~Manufacture of pottery and ceramic products, using kilns fired only by gas or electricity.~~

~~Manufacture or assembly of appliances, tools, firearms, hardware products and heating, cooling or ventilating equipment.~~

~~Manufacture or assembly of electronic instruments, electronic devices or electronic components.~~

~~Manufacture or assembly of medical, drafting, metering, marine, photographic and mechanical instruments.~~

~~Nonemergency medical transport.~~

~~Nursing homes.~~

~~Off street parking as required by section 24-53.~~

~~Office supply stores, secretarial and duplicating services.~~

~~Parking lots and garages.~~

~~Photographer, picture, artist and sculptor stores and studios.~~

~~Plumbing and electrical supply with storage limited to a fully enclosed building or screened with landscaping and fencing from adjacent property.~~

~~Post offices.~~

~~Printing and publishing establishments,~~

~~Private streets within "qualifying industrial parks" in accordance with section 24-55.~~

~~Processing, assembly and manufacture of light industrial products or components, with all storage, processing, assembly and manufacture conducted indoors and under cover, with no dust, noise, odor or other objectionable effect.~~

~~Property maintenance facilities, sheds or garages.~~

~~Public billiard parlors, arcades, pool rooms, bowling alleys, dance halls and other indoor centers of amusement.~~

~~Public meeting halls.~~

~~Rental of rooms to a maximum of three rooms.~~

~~Research, development and design facilities or laboratories.~~

~~Rest homes.~~

~~Restaurants, tea rooms and taverns.~~

~~Retail and service stores, including the following stores: books, cabinet, candy, carpet, coin, department, dressmaking, florist, furniture, furrier, garden supply, greeting card, gunsmith (excluding shooting ranges), hardware, home appliance sales and service, ice cream, jewelry sales and service, locksmith, music and records, paint, pet, picture framing, plant supply, shoe, sporting goods, stamp, tailor, tobacco and pipes, toys, travel bureau, upholstery, wearing apparel, and yard goods.~~

~~Retail food stores, bakeries and fish markets.~~

~~Security service offices.~~

~~Schools.~~

~~Taxi service.~~

~~Telephone exchanges and telephone switching stations.~~

~~Timbering in accordance with section 24-43.~~

~~Veterinary hospitals.~~

~~Warehouse, storage and distribution centers with storage under cover or screened with landscaping and fencing from adjacent property.~~

~~Water impoundments, new or expansion of.~~

~~Welding and machine shops with storage limited to a fully enclosed building or screened with landscaping and fencing from adjacent property.~~

~~Wireless communications facilities that utilize alternative mounting structures, or are building mounted, or are camouflaged, and comply with division 6, Wireless Communications Facilities.~~

(Ord. No. 31A-141, 5-4-92; Ord. No. 31A-145, 7-6-92; Ord. No. 31A-150, 4-5-93; Ord. No. 31A-152, 8-16-93; Ord. No. 31A-167, 3-26-96; Ord. No. 31A-176, 5-26-98; Ord. No. 31A-184, 12-8-98; Ord. No. 31A-242, 7-14-09)

**Sec. 24-522. Uses permitted by special use permit only.**

~~In the mixed use districts, all structures to be erected or land to be used for one or more of the following uses shall be permitted only after the issuance of a special use permit by the board of supervisors:~~

~~Campgrounds.~~

~~Electrical generation facilities, public or private, electrical substations with a capacity of 5,000 kilovolt amperes or more and electrical transmission lines capable of transmitting 69 kilovolts or more.~~

~~Fast food restaurants.~~

~~Flea markets.~~

~~Golf courses.~~

~~Heliports, helistops and accessory uses.~~

~~Manufacture, compounding, assembly or treatment of products made from previously prepared paper, plastic, metal, textiles, tobacco, wood, paint, fiber glass, glass, rubber, leather, cellophane, canvas, felt, fur, horn, wax, hair and yarn in structures of 2,000 square feet and greater.~~

~~Manufactured home or mobile home sales.~~

~~Marinas, docks, piers, yacht clubs, boat basins, boat storage and servicing, repair and sale facilities for the same; if fuel is sold, then in accordance with section 24-38.~~

~~Marine or waterfront businesses to include the receipt, storage and transshipment of waterborne commerce, or seafood receiving, packing or distribution under cover or screened with landscaping and fencing from adjacent property.~~

~~Museums.~~

~~Petroleum storage.~~

~~Publicly owned solid waste container sites.~~

~~Radio stations, television stations, transmission relay stations and communication towers.~~

~~Railroad facilities including tracks, bridges and stations. However, spur lines which are to serve and are accessory to existing or proposed development adjacent to existing railroad right of ways and track and safety improvements in existing railroad right of ways are permitted generally and shall not require a special use permit. Rental of more than three rooms in a single family dwelling unit.~~

~~Resource recovery facilities.~~

~~Shooting ranges, indoor.~~

~~Solid waste transfer stations.~~

~~Theme Parks.~~

~~Tower mounted wireless communication facilities in accordance with division 6, Wireless Communications Facilities.~~

~~Transmission pipelines (public or private), including pumping stations and accessory storage, for natural gas, propane gas, petroleum products, chemicals, slurry coal and any other gases, liquids or solids. However, extensions for private connections to existing pipelines, which are intended to serve an individual residential or commercial customer and which are accessory to existing or proposed development, are permitted generally and shall not require a special use permit.~~

~~Truck stop; if fuel is sold, then in accordance with section 24-38.~~

~~Truck terminals; if fuel is sold, then in accordance with section 24-38.~~

~~Vehicle and trailer sales and service (with major repair limited to a fully enclosed building).~~

~~Water facilities (public or private), and sewer facilities (public), including, but not limited to, treatment plants, pumping stations, storage facilities and transmission mains, wells and associated equipment such as pumps to be owned and operated by political jurisdictions. However, the following are permitted generally and shall not require a special use permit:~~

~~(a) Private connections to existing mains that are intended to serve an individual customer and that are accessory to existing or proposed development, with no additional connections to be made to the line; and~~

~~(b) Distribution lines and local facilities within a development, including pump stations.~~

~~Water well drilling establishments.~~

~~Wineries.~~

(Ord. No. 31A-141, 5-4-92; Ord. No. 31A-145, 7-6-92; Ord. No. 31A-149, 2-1-93; Ord. No. 31A-153, 11-1-93; Ord. No. 31A-176, 5-26-98; Ord. No. 31A-184, 12-8-98; Ord. No. 31A-218, 7-12-05)

**Sec. 24-5213. Density.**

(a) The number of dwelling units which may be constructed in any residential or mixed use-residential area designation as indicated on the master plan shall be determined by the number of gross acres at the site and the use proposed. The maximum densities of dwelling units per acre which may be constructed are:

<u>Area Designation</u>	<u>Dwelling Type</u>	<u>Maximum Base Gross Density (Dwelling Units Per Acre)</u>	<u>Maximum Gross Density with density bonus (see table under section 24-521 (b))</u>
A	Single-family structures	3 6	6
B	<del>Multi-family Attached</del> structures containing two up to four dwelling units; or townhouses	5 10	10
C	<del>Multi-family Attached</del> structures less than three stories and containing more than four dwelling units	6 12	12
D	<del>Apartments Attached</del> structures of three or more stories and containing more than four dwelling units	9 18	18

(b) For the purposes of calculating gross density, gross acreage shall equal the sum of the total developable area and up to 35 percent of the total area of the parcel as calculated below:

	<u>Gross Acreage</u>
<u>Percentage of Nondevelopable Area</u>	<u>Gross Acreage Shall Equal</u>
Less than 35%	Total Area of Parcel
More than 35%	Developable Land Plus Up To 35% of the Parcel's Land

(c) Developable area shall consist of the total land area of the site minus stream beds, areas subject to flooding, wetlands and area's with slopes exceeding 25 percent gradient.

(1) For the purposes of calculating density, gross acreage shall equal the total area of the parcel when less than 25% of the total site area is non-developable. For parcels where more than 25% of the total site

area is non-developable, the gross acreage shall equal the total developable area of the parcel plus 25% of the total parcel acreage.

(b) In addition to the base density standards from section 24-521 (a) a density bonus can be achieved with the provision of options as detailed below. In order to achieve the densities listed below, the developer shall make assurances in a master plan or otherwise for the density bonus items.

Bonus Increase from Base Density	Required Density Bonus Items from List Below
Up to the base density	0
33% above the base density	2
66% above the base density	4
100% above the base density	6

Density Bonus Item Options	
A.	<p>Retention of one of the following underlined environmentally-related conservation features. The underlined item must constitute at least 5% of the developable area of the site.</p> <ul style="list-style-type: none"> <li>• <u>100 foot buffers</u> around non-RPA wetland features (isolated wetlands), intermittent streams, or from floodplain zones A or AE (where not already part of the RPA), or from the edge of the RPA buffer</li> <li>• Retention of <u>soils in hydrologic groups A and B</u> (retain at least 50% of these soils)</li> <li>• Preservation of a <u>Conservation Area as identified by an approved watershed management plan</u></li> <li>• Preservation of <u>wildlife habitat corridors that:</u>  <ul style="list-style-type: none"> <li>Protect a corridor at least 100 feet in width from one protected area (on or off the cluster property) to another protected area</li> <li>Consist of mature forestland</li> </ul> </li> </ul>
B.	Commitment to either undertake or fund a stream restoration project or stormwater management facility retrofit within the same sub-watershed, as identified by an approved watershed management plan or by the Engineering and Resource Protection Division
C.	Design of a stormwater management plan that uses Better Site Design/Low Impact Development Techniques to meet the majority of applicable Chesapeake Bay Preservation Ordinance standards and requirements, as approved by the Engineering and Resource Protection Division
D.	100 foot buffer from the internal edge of a right-of-way and/or perimeter buffer (must constitute at least 5% of the developable area of the site)
E.	Commitment to achieve green building certification beyond the basic certified level using EarthCraft, LEED or equivalent program, in accordance with the County's Green Building for Private Development Policy
F.	For every 10% of the units committed to provision of affordable/workforce housing (starting above the threshold set in the County's Affordable and Workforce Housing Policy), a density bonus of 1 shall be applied.
G.	Dedication to the County of a public use site, the developable portion of which is suitable for a public facility, as determined by the County Administrator or designee
H.	Commitment to construct a greenway trail and dedicate a public use easement in a location indicated by

	<i>the approved Greenway Master Plan, the Virginia Outdoors Plan, or such other useful and logical location as is approved by the Director of Parks and Recreation or designee</i>
<b>I.</b>	<i>Development of binding design guidelines for Planning Director approval that include architectural and design standards above and beyond standard practice. Examples include, but are not limited to, rear or side loading garages; style type, materials, height and setback variation; and unit design accessible to the disabled.</i>
<b>J.</b>	<i>Use of an infill site (80% of the property's boundaries abut previously developed land)</i>
<b>K.</b>	<i>Preservation and rehabilitation of an on-site structure identified in the County's Architectural survey (structure may be re-used as a community clubhouse, private residence with appropriate deed restrictions, etc.) If the proposed cluster is within a designated Community Character Area, this bonus would also be available for rehabilitation and legal preservation of a structure elsewhere within that CCA.</i>
<b>L.</b>	<i>Preservation of at least two contiguous acres of healthy, mature, native forestland</i>
<b>M.</b>	<i>Retention of at least five contiguous acres of agricultural land of prime or statewide importance</i>
<b>N.</b>	<i>Provision of a WATA bus stop that would be within 1,300 feet of 85% of the proposed units, if determined by WATA to be at an appropriate location</i>
<b>O.</b>	<i>Construction of shared vehicular access between properties (where more than one property owner is involved, evidence of a binding legal agreement between the parties should be provided at the master plan stage to qualify for this density bonus)</i>

*(c) To achieve the intent of a mixed use development, no single use shall exceed 80 percent of the permitted uses within a mixed use zoning district.*

(Ord. No. 31A-141, 5-4-92)

#### **Sec. 24-5224. Open space.**

Development within the mixed use districts shall provide usable open space area. The amount of open space shall be not less than ten percent of the developable area of the site. Nondevelopable area ~~consisting of all stream beds, areas subject to flooding, wetlands and areas with slopes exceeding 25 percent gradient~~ shall not be counted towards meeting the open space requirement. For the purposes of this article, open space does not include any landscape area in parking lots or adjacent to structures. The requirements of this section shall supplement the requirements of the county's Chesapeake Bay Ordinance, section 24-86 (landscaping and tree preservation requirements) and other county requirements relating to open space. For the purposes of this article, open space may include, but is not limited to:

- (1) Perpetual easement(s) of no less than 50 feet in width dedicated to James City County or another group approved by the county adjoining any road designated as a ~~greenbelt road~~ *Community Character Corridor* on the Comprehensive Plan.
- (2) Buffer area(s) of no less than 50 feet around an RMA wetland as measured from the landward edge of the wetland.
- (3) Preservation of any archaeological site, any landmark registered in the Virginia Landmarks Register, the National Register of Historic Places or National Historic Site register.
- (4) Preservation of any developable area demonstrated to be a habitat for any endangered, rare or threatened species of plant or wildlife so designated by the federal government, the State of Virginia (as referenced by the county's Natural Areas Inventory or listed in *Virginia's Endangered Species*, (Virginia

Department of Game and Inland Fisheries, 1991)), where preservation of such area is not required by local, state or federal law.

(5) Bikeways, bike paths, hiking trails, greenways or other similar amenity, excluding sidewalks.

(6) Public or private picnic areas, parks, plazas or other gathering areas.

(7) Public or private community facilities such as swimming pools, tennis courts, and recreation buildings. Golf courses may also be counted as open space for the purpose of meeting the open space requirement to a maximum of 60 percent of the required open space.

Open space area shall be protected by easements, maintenance agreements and/or other assurances satisfactory to the county attorney.

(Ord. No. 31A-141, 5-4-92)

### **Sec. 24-5235. Height of structures.**

(a) Structures may be erected up to 60 feet in height from grade to the top of the structure, including all church spires, belfries, cupolas, athletic field lighting, monuments, flagpoles, penthouse, electrical, plumbing, elevator, water tank or other accessory functions which are part of the structure and accessory and nonaccessory wireless communications facilities that utilize alternative mounting structures or are building mounted in accordance with division 6, Wireless Communications Facilities. Camouflaged wireless communications facilities may be erected to a total height of 120 feet from grade.

(b) A structure in excess of 60 feet in height but not in excess of 100 feet from grade to the top of the structure, including all church spires, belfries, cupolas, athletic field lighting, monuments, flagpoles, penthouse, electrical, plumbing, elevator, water tank, radio, television and microwave antennas, and towers or other accessory functions, and accessory and nonaccessory wireless communications facilities that utilize alternative mounting structures or are building mounted in accordance with division 6, Wireless Communications Facilities in excess of 60 feet in height but not in excess of the maximum approved height of the structure to which it is mounted, may be erected only upon the granting of a height limitation waiver by the board of supervisors.

(c) Upon application for a height limitation waiver, the payment of appropriate fees, notification of adjacent property owners and following a public hearing, the board of supervisors may grant a height limitation waiver upon finding that:

(1) Such structure is in accordance with the uses, densities, design and traffic analysis shown on the original master plan;

(2) Such structure will not obstruct light from adjacent property;

(3) Such structure will not impair the enjoyment of historic attractions and areas of significant historic interest and surrounding developments;

(4) Such structure will not impair property values in the surrounding area;

(5) Such structure is adequately designed and served from the standpoint of safety and the county fire chief finds that the fire safety equipment to be installed is adequately designed and that the structure is

reasonably well located in relation to fire stations and equipment, so as to offer adequate protection to life and property; and

(6) Such structure would not be contrary to the public health, safety or general welfare.

(Ord. No. 31A-141, 5-4-92; Ord. No. 31A-145, 7-6-92; Ord. No. 31A-166, 1-23-96; Ord. No. 31A-176, 5-26-98; Ord. No. 31A-223, 4-11-06; Ord. No. 31A-232, 12-11-07)

**Sec. 24-5246. Requirements for improvements and design.**

*(a) Complementary design. Mixed-Use districts are intended to have an integrated character with strong unifying design elements and therefore shall meet the following standards:*

*(1) Unified building design. Building design should be coordinated with regard to color, materials, architectural form and detailing to achieve design harmony, continuity, and horizontal and vertical relief and interest.*

*Development shall focus on pedestrian-scaled design, a mixing of uses within buildings, and general design standards (such as landscaping, road design, etc.).*

*(2) Unified open space. Projects shall include a unifying internal system of pedestrian-oriented paths, open spaces and walkways that function to organize and connect buildings, and provide connections to common origins and destinations (such as transit stops, restaurants, child care facilities and convenience shopping centers). All buildings or building clusters within the development must be connected with linkages other than roads (i.e., sidewalks, bikeways or multi-use paths). The master plan shall utilize open space and natural features that serve as buffers and transitions to adjacent area(s). See section 24-522 for more details on open space.*

~~(bα)~~ *Water and sewer.* All structures and uses within a mixed use districts shall be served by publicly owned and operated water and sewer systems.

~~(bβ)~~ *Recreation areas.* Residential areas and mixed use structures and areas designated on the master plan shall be provided with a recreation area or areas adequate to meet the needs of the residents. The developer shall provide and install playground equipment, playfields, tennis courts or other recreation facilities in accordance with the guarantees established as part of master plan or final Development Plan approval. The composition of the facilities to be installed shall be approved by the planning director. Such facilities shall be owned and maintained by the developer or a residents' association.

~~(d)~~ *Parking.* Off street parking facilities shall be provided in accordance with the off street parking requirements of section 24-53. ~~The visibility of parking lots or structures shall be minimized by placement to the side or rear of buildings and/or with landscape screening.~~

~~(e)~~ *Streetlights.* Streetlights shall generally be provided at each intersection and other public areas. The lighting shall be directed so as not to produce objectionable glare on adjacent property or into residences within or near the development.

~~(f)~~ *Natural features and amenities.* Existing features such as specimen trees, wildlife habitats, watercourses, historical sites and similar irreplaceable assets shall be *shown on the master plan and site plan and* preserved to the maximum extent possible.

~~(g)~~ *Signs.* All signs within a mixed use district shall comply with article II, division 3 of this chapter.

~~(h)~~ *Traffic circulation.* Vehicular access points and drives shall be designed to encourage smooth traffic flow with controlled turning movements and minimum hazards to vehicular and pedestrian traffic. Buildings, parking areas and drives shall be arranged in a manner that encourages pedestrian access and minimizes traffic movement. All streets shall be constructed and designed in accordance with section 24-528.

~~(h)~~ *Landscaping.* All landscaping and tree preservation shall be undertaken in accordance with section 24-86 and Chapter 23 of the County Code, the Chesapeake Bay Preservation Ordinance.

*(i) Dwelling units, regardless of structure type, should shall be clustered or otherwise grouped to maximize the preservation of open space and other aesthetic amenities consistent with the intent of article VI, division 1, Residential Cluster Development. (This section has been relocated from the use list section, but is not a new requirement.*

*(j) Pedestrian accommodation. Pedestrian accommodation shall be provided in accordance with section 24-35.*

(Ord. No. 31A-141, 5-4-92; Ord. No. 31A-184, 12-8-98; Ord. No. 31A-205, 5-8-01)

#### **Sec. 24-5257. Setback requirements.**

*(a) Location of structures.* Structures shall be located 50 feet or more from any external existing or planned public road right-of-way, or any internal arterial road right-of-way, which is 50 feet or greater in width. Where the external existing or planned public road right-of-way, or the internal arterial road right-of-way, is less than 50 feet in width, structures shall be located 75 feet or more from the centerline of the external existing or planned or internal arterial public road.

*(b) Required set back from mixed use districts.* For commercial, industrial, office, residential and mixed uses a setback of 50 feet shall be maintained from the perimeter of a mixed use district. The setback shall be left in its natural undisturbed state and/or planted with additional or new landscape trees, shrubs and other vegetative cover such that the setback serves to minimize the visual intrusion and other negative impacts of new development or redevelopment on adjacent development.

*(c) Setback modifications; criteria for determination.* Reduction of the width of the setbacks specified in subsections (a) and (b) above may be approved for a mixed use zoning district that is designated Mixed Use by the Comprehensive Plan upon demonstration that the proposed setback, by substitution of technique or design, will achieve results which clearly satisfy the overall purposes and intent of the setback requirement of this section and the intent of section 24-86 (Landscaping and Tree Preservation Requirements), shall have no additional adverse impact on adjacent properties or public areas, and will not result in detrimental impacts to the orderly development or character of the area, the environment, sound engineering or planning practice, or the goals, objectives, strategies and policies of the Comprehensive Plan. In addition, a request for a setback modification must meet one or more of the following criteria:

(1) The proposed setback is for the purpose of integrating proposed mixed use development with adjacent development;

(2) The proposed setback substantially preserves, enhances, integrates and complements existing trees and topography;

(3) The proposed setback is due to unusual size, topography, shape or location of the property, *existing structures*, or other unusual conditions, excluding the proprietary interests of the developer.

Reduction of the width of the setbacks may also be approved for a mixed use zoning district that is not designated Mixed Use by the Comprehensive Plan upon finding that the proposed setback meets one or more of the criteria listed above and both of the following additional criteria:

(1) Properties adjacent to the properties being considered for a reduction in setback must be compatible;

(2) The proposed setback reduction has been evaluated by appropriate county, state or federal agencies and has been found to not adversely impact the public health, safety or welfare.

(d) *Requests for modifications.* Requests for modifications pursuant to subsection (c) above shall be filed in writing with the planning director and shall identify the reasons for such requests together with the proposed alternative. The planning director shall ~~make a recommendation to the planning commission to~~ approve, deny or conditionally approve the request and shall include a written statement certifying that one or more of the above criteria are met.

*(e) Appeals. In the event the planning director disapproves of the items specified in section 24-525 (d) or recommends conditions or modifications that are unacceptable to the applicant, the applicant may appeal the decision of the planning director to the development review committee who shall forward a recommendation to the planning commission.*

~~(f) No minimum lot size or yard requirements.~~ Except for required setbacks specified in (a) and (b) above, there shall be no minimum lot size nor minimum front, side or rear yard requirements for any lot within a Mixed Use Development District other than as specified in approved final plans.

~~(g) Uses prohibited.~~ Setbacks shall not be used for streets or for parking except for entrances and driveways which may penetrate the setback.

(Ord. No. 31A-141, 5-4-92)

### **Sec. 24-5268. Street improvements.**

(a) All dedicated public streets shown on the development plan shall meet the design and construction requirements of the Virginia Department of Transportation's standards or the county subdivision ordinance, whichever is greater. Such public streets shall be coordinated with the major transportation network shown in the county Comprehensive Plan.

(b) Private streets may be permitted upon the approval of the board of supervisors *in accordance with the provisions of Sec. 24-62.* ~~and shall be coordinated with existing or planned streets of both the master plan and the county Comprehensive Plan. Private streets shown on the development plan shall meet the requirements of the Virginia Department of Transportation, except as specified in paragraph (d) below.~~

~~—The construction of streets whether public or private shall be guaranteed by appropriate surety, letter of credit, cash escrow or other form of guarantee approved by the county attorney and environmental director.~~

~~—(c) To the extent streets are private rather than public, the applicant must also submit assurances satisfactory to the planning commission that a property owner's community association or similar organization has been legally established under which the lots within the area of the development plan~~

~~will be assessed for the cost of maintaining private streets and that such assessments shall constitute a pro rata lien upon the individual lots shown on the development plan.~~

~~—(d)—The uniqueness of each proposal for a mixed use development requires that the specifications for the width, surfacing, construction and geometric design of streets with associated drainage and the specifications for curbs and gutters be subject to modification from the specifications established in chapter 19. The planning commission may, therefore, within the limits hereinafter specified, waive or modify the specifications otherwise applicable for these facilities where the planning commission finds that such specifications are not required in the interests of the residents and property owners of the mixed use development and that the modifications of such specifications are not inconsistent with the interests of the entire county.~~

~~—It shall be the responsibility of the applicant to demonstrate to the satisfaction of the planning commission with respect to any requested waiver or modification:~~

- ~~(1) That the waiver or modification will result in design and construction that is in accordance with accepted engineering standards;~~
- ~~(2) That the waiver or modification is reasonable because of the uniqueness of the mixed use development or because of the large area of the mixed use development within which the nature and excellence of design and construction will be coordinated, preplanned and controlled;~~
- ~~—(3) That any waiver or modification as to streets is reasonable with respect to the generation of vehicular traffic that is estimated will occur with the area of the master plan;~~
- ~~—(4) That traffic lanes of streets are sufficiently wide enough to carry the anticipated volume and speed of traffic and in no case less than ten feet wide; and~~
- ~~—(5) That waivers or modifications as to base and surface construction of streets and as to the condition of ditches or drainage ways be based upon the soil tests for California Bearing Ratio value and erosion characteristics of the particular subgrade support soils in the area.~~

(Ord. No. 31A-205, 5-8-01)

**Secs. 24-529 - 24-534. Reserved.**

## **JAMES CITY COUNTY CONSTRUCTION PHASING GUIDELINES**

Construction within Mixed-Use development shall be sequenced in accordance with a project build-out schedule submitted for review as a part of the initial application, and approved by the board of supervisors. As a guideline, project proposals that adhere to the following sequencing requirements will be considered consistent with the objectives of the phasing plan:

- (1) Building permits for up to 10% of the residential units may be issued prior to commencing any commercial construction; and
- (2) Certificate of occupancy must be issued for at least 25% of the commercial square footage as shown on the master plan, prior to building permits being issued for any residential unit above 50% of the total proposed units as shown on the master plan; and
- (3) Prior to issuance of Building Permits for construction of the final 20% of the residential units, certificates of occupancy must be issued for at least 80% of the commercial square footage as shown on the master plan.

**Chapter 24**  
**ARTICLE V. DISTRICTS**  
DIVISION 5. RESIDENTIAL PLANNED COMMUNITY  
DISTRICT, R-4

**Sec. 24-274. Statement of intent.**

This district is intended to permit development, in accordance with a master plan, of large, cluster-type communities in a manner that will protect and preserve the natural resources, trees, watersheds, contours and topographic features of the land, protect and enhance the natural scenic beauty and permit the greatest amount of recreational facilities by leaving large areas permanently open. Within such communities, the location of all improvements shall permit a variety of housing accommodations in an orderly relationship to one another with the greatest amount of open area, the least disturbance to natural features and to implement the policies and designations of the Comprehensive Plan. A planned residential district may include a variety of residential accommodations and light commercial activity, but no industrial development is permitted.

(Ord. No. 31A-88, 20-66, 4-8-85; Ord. No. 31A-142, 5-4-92)

**Sec. 24-275. Residential planned community defined.**

For purposes of this article, a residential planned community shall be a large, planned development consisting of 400 acres or more under a single ownership or control. The residential planned community is predominated by residential land uses and open space, but also contains such uses as recreation centers, fire stations, schools and retail establishments which make the residential planned community largely self-sufficient. An important feature of the residential planned community is its emphasis on site planning and the retention of large, open areas.

(Ord. No. 31A-88, 20-66.1, 4-8-85; Ord. No. 31A-142, 5-4-92)

**Sec. 24-276. Documents required for submission.**

(a) *Generally*. The applicant shall submit *documents in accordance with section 24-23 of the zoning ordinance* ~~the following documents~~ to the planning director for submission to the planning commission *prior to any rezoning or special use permit application*:

~~(1) Application for rezoning.~~

~~(2) Master plan, 30 copies, ten submitted with the application for rezoning with the balance of the required copies submitted at the request of staff in preparation for planning commission review.~~

~~(3) Community impact statement, 30 copies, ten submitted with the application for rezoning with the balance of the required copies submitted at the request of staff in preparation for planning commission review.~~

The purpose of the master plan and community impact statement is to set an overall population and development ceiling for the Planned Community, to determine off-site impacts of the development and to identify the general arrangement of internal land uses.

(b) *Master plan.* ~~The master plan shall be prepared by a licensed surveyor, engineer, architect, landscape architect or planner. A scale may be used so that the entire parcel can be shown on one piece of paper no larger than 36 inches by 48 inches. It shall include:~~

~~(1) An inset map at a scale of not less than one inch to one mile (1" = 1 mile), showing the property in relation to surrounding roads, subdivisions or major landmarks.~~

~~(2) A north arrow.~~

~~(3) The location of existing property lines, watercourses or lakes, wooded areas and existing roads which are within or adjoin the property.~~

(4) The approximate boundaries of each section, land use or density, a general circulation plan with an indication of whether streets are to be public or private, and the approximate location of recreation areas, sidewalks and other pedestrian access ways, common open space areas, public facilities and areas proposed for dedication to public use within the project. Each residential section of the master plan shall be designated according to the following categories:

Area Designation

Dwelling Type

A	Single-family
B	<del>Multi-family</del> Attached structures containing two <del>up</del> to and including four dwelling units
C	<del>Multi-family</del> Attached structures less than three stories and containing more than four dwelling units
D	<del>Apartments</del> Attached structures of three or more stories and containing more than four dwelling units

The above designation shall be the highest and densest use to which such land may be put without amending the master plan. However, where the planning ~~commission~~ *director* finds the project does not vary the basic concept or character of the planned community and where it does not exceed the maximum density permitted under section 24-27985, the planning ~~commission~~ *director* may approve final plans for projects with lower densities or a lower category of uses than those shown on the master plan without amending the master plan. Common open space shall be located in a usable way and located so as to enhance the living environment of the residential planned community. Generally this shall mean that the common open space shall be distributed throughout the community and not aggregated in large areas that provide little or no benefit to the individual uses or the community at large.

(5) As marginal data it shall contain a table which shows, for each section or area of different uses, the use, approximate phasing, maximum number of dwelling units and density for residential areas, square feet of floor space for commercial areas, and their acreage.

(6) Schematic plans which shall indicate the phasing of development and master water, sewer and drainage plans.

(7) A statement on the guarantees and assurances to be provided for the maintenance of common open space, recreation areas, sidewalks, parking, private streets and other privately owned but common facilities serving the project.

~~(c) Community impact statement. The community impact statement shall describe the probable effects of the proposed development upon the community. At a minimum, it shall address the following topics:~~

~~(1) Adequacy of existing public facilities and services to serve the development. Analysis shall be made of sewer, water, schools, fire stations and other major locally financed facilities;~~

~~(2) Additional on-site and off-site public facilities or services which would be required as a result of the development;~~

~~(3) A traffic impact study shall be prepared by an individual or firm qualified to conduct traffic engineering studies in a manner and form acceptable to the planning director. Such study shall address projected traffic generation; internal and external traffic; turning movements and distribution at each access point; traffic distribution; capacity of surrounding roads; and road and access improvements;~~

~~(4) Fiscal impact of the proposed development, such as estimated tax revenues to be generated versus the cost of public improvements to be financed by the county or the state. Such study shall be prepared by an individual or firm qualified to conduct a fiscal impact analysis in a manner and form acceptable to the planning director;~~

~~(5) Impact of construction and permanent changes in land use upon surrounding property, such as aesthetics, vegetation, stormwater drainage, noise and air or water pollution; and~~

~~(6) Employment opportunities to be generated by the development.~~

~~(Ord. No. 31A-88, 20-67, 4-8-85; Ord. No. 31A-89, 9-9-85; Ord. No. 31A-118, 2-5-90; Ord. No. 31A-142, 5-4-92; Ord. No. 31A-145, 7-6-92)~~

**~~Sec. 24-277. Administrative review fees.~~**

~~Submittal of a master plan and subsequent revisions proposed by the applicant to the planning commission shall be accompanied by a fee as specified in section 24-7.~~

~~(Ord. No. 31A-88, 20-67.1, 4-8-85)~~

**~~Sec. 24-278. Approval of master plan; relationship to final plans; amendments.~~**

~~(a) The procedures for approval of a master plan shall be as specified in the procedures for public hearing and consideration by the planning commission and board of supervisors shall be as set forth in section 24-13.~~

~~(b) The residential planned community shall be established upon approval of the master plan by the board of supervisors. Thereafter, all amendments to the master plan shall be in accordance with section 24-13. Approved final plans, provided for in section 24-279, shall supersede the master plan and schematic plans. The zoning administrator shall not issue any certificate of occupancy until the applicant has guaranteed the completion of public improvements, including, but not limited to, public roads, public~~

water and public sewer facilities, shown on the final plan by providing either a letter of credit, certified check, cash escrow, cash payment, or other surety, approved by the county attorney.

(Ord. No. 31A 88, 20 69, 4 8 85; Ord. No. 31A 92, 12 2 85; Ord. No. 31A 142, 5 4 92; Ord. No. 31A 145, 7 6 92)24 5 5 4

**Sec. 24-279. Final plans-Submission; contents generally; variations from approved master plan.**

The term "final plan" shall mean site plan or subdivision plat. Final plans shall be submitted for review in accord with article III of this chapter or with the county's Subdivision Ordinance, whichever is applicable. The final plans shall be consistent with the master plan as approved, but may vary to any degree which the planning commission believes does not vary the basic concept or character of the development.

(Ord. No. 31A 88, 20 70, 4 8 85; Ord. No. 31A 112, 2 6 89; Ord. No. 31A 142, 5 4 92)

**Sec. 24-280. Same-Administrative review fee.**

Submittals of a site plan or preliminary subdivision plat to implement any portion of an approved master plan shall be accompanied by a fee in accord with section 24 7 or section 19 15.

(Ord. No. 31A 88, 20 70.1, 4 8 85; Ord. No. 31A 130, 5 6 91)

**Sec. 24-281. Same-Contents; proposed deed of easement.**

(a) Where land is to be subdivided within the district, the final plan shall comply with the county's subdivision ordinance. Where land is not to be subdivided within the district, final plans shall comply with article III of this chapter. All final plans shall show the different types of open areas and other public or community amenities, the proposed use of all buildings and of all areas dedicated for public or private common use.

(b) The applicant shall furnish with a final plan a proposed deed of easement including restrictions safeguarding the permanent use of open areas.

(c) Easements and covenants shall clearly establish the rights of two abutting properties where main buildings are to be constructed on or within five feet of a property line. Such easements/covenants shall establish the rights of each affected owner to gain access to each owner's building for purposes of essential maintenance and service.

(d) Lot sizes and setback lines shall be shown on final plans.

(Ord. No. 31A 88, 20 71, 4 8 85)

**Sec. 24-282. Same-Action.**

Final plans submitted pursuant to section 24 279 shall be approved or disapproved in accordance with article III of this chapter or accordance with the county subdivision ordinance.

(Ord. No. 31A 88, 20 72, 4 8 85)

**Sec. 24-27783. Addition of land to existing community.**

(a) Additional land area may be added to an existing residential planned community if it is adjacent (except for public roads) and forms a logical addition to the existing residential planned community and if it is under the same ownership or control.

(b) The procedure for an addition shall be the same as if an original application were filed and all of the requirements of this article shall apply, except the minimum acreage requirement of 400 acres.

(Ord. No. 31A-88, 20-75, 4-8-85; Ord. No. 31A-142, 5-4-92)

**Sec. 24-27884. Permitted density overall.**

(a) The gross density of the total area of the planned residential community shall not exceed two dwelling units per acre.

(b) *Calculating gross density.* For the purposes of calculating density, gross acreage shall equal the total area of the parcel when less than 25% of the total site area is non-developable. For parcels where more than 25% of the total site area is non-developable, the gross acreage shall equal the total developable area of the parcel plus 25% of the total parcel acreage. For the purpose of calculating gross density, gross acreage shall equal the sum of the total developable area and up to 35 percent of the total area as calculated below:

<u>Gross Acreage</u>	
<u>Percentage of Nondevelopable Area</u>	<u>Gross Acreage</u>
Less than 35%	Total area of parcel
More than 35%	Developable land plus up to 35% of the parcel's land

(c) Developable area shall consist of the total land area of the site minus stream beds, areas subject to flooding, marsh and areas with slopes exceeding a 25 percent gradient.

(Ord. No. 31A-88, 20-76, 4-8-85; Ord. No. 31A-102, 6-1-87; Ord. No. 31A-113, 4-3-89; Ord. No. 31A-142, 5-4-92)

**Sec. 24-27985. Permitted density within residential areas.**

The master plan shall designate the proposed dwelling unit densities within each residential area shown, according to the following categories:

<u>Area Designation</u>	<u>Dwelling Type</u>	<u>Maximum Gross Density (Dwelling Units Per Acre)</u>
A	Single-family	4
B	Multi-family Attached structures containing two up to and including four dwelling units	9.6

C	<del>Multi-family</del> Attached structures less than three stories and containing more than four dwelling units	12
D	<del>Apartments</del> Attached structures of three or more stories and containing more than four dwelling units	18

Units for sale in condominium may be in any of the dwelling types listed above and the number of dwelling units per acre shall be determined by the dwelling type.

(Ord. No. 31A-88, 20-77, 4-8-85; Ord. No. 31A-89, 9-9-85; Ord. No. 31A-142, 5-4-92; Ord. No. 31A-145, 7-6-92)

**Sec. 24-2806. Open space requirements.**

(a) At least 40 percent of the total acreage of the residential planned community shall be designated as open space. Such open space may include parks, lakes, walkways, trails, playground and recreation facilities, sports facilities, nonresidential clubhouse grounds, and right-of-ways and surface easements for drainage and other utilities over areas not within the lines of any residential lot. Golf courses may also be counted as open space for the purpose of meeting this requirement to a maximum of 60 percent of the required open space.

(b) The required open space shall contain recreation open space in the amount of one acre or more per 350 dwelling units. For the purposes of this section, recreational open space shall mean parks, playgrounds, swimming pools, tennis courts or other similar recreational facilities serving residents of the approved planned community.

(Ord. No. 31A-88, 20-77.1, 4-8-85; Ord. No. 31A-142, 5-4-92)

**Sec. 24-2817. Permitted uses.**

In the residential planned community district, R-4, structures to be erected or land to be used shall be for one or more of the following uses:

Use Category	Use List	Permitted Uses	Special Permit Uses
Residential Uses	Accessory buildings or structures as defined	P	
	Apartments	P	
	<del>Home occupations, as defined</del>	<del>P</del>	
	<del>Multi-family up to and including four dwelling units</del>	<del>P</del>	
	<del>Multi-family more than four dwelling units</del>	<del>P</del>	

	Single family dwellings	P	
	<del>Townhouses and condominiums</del>	<del>P</del>	
	<del>Two family dwellings</del>	<del>P</del>	
Commercial Uses	Accessory buildings or structures as defined	P	
	Automobile service stations; if fuel is sold, then in accordance with section 24-38	P	
	Banks and other similar financial institutions	P	
	Barber and beauty shops	P	
	Business, professional and governmental offices	P	
	Department stores, wearing apparel, furniture, carpet, shoe, tailor, dressmaking, candy, ice cream, florist, furrier, locksmith, pet, picture framing, stamp and coin, travel bureau, upholstery, yard goods, toys, music and records, tobacco and pipes, jewelry sales and service, books, greeting cards, sporting goods, drugs, plants and garden supplies, hardware and paint, home appliances sales and service, arts and crafts, handicrafts, antiques, gift and photography stores	P	
	Dinner theaters	P	
	Dry cleaners	P	
	Funeral homes, cemeteries and memorial gardens	P	
	Home occupations as defined	P	
	Horse and pony farms, riding stables, horse show areas, horse racing tracks and polo fields	P	
	Hospitals, <del>nursing homes and rest homes</del>	P	
	Hotels, motels, tourist homes and convention centers	P	
	Hunting clubs, conservation areas and preserves	P	
	Indoor theaters, museums, public meeting halls and outdoor entertainment, other than drive-in theaters	P	
	Medical clinics and offices	P	
	<del>Nursing homes</del>	<del>P</del>	
	Off-street parking as required by section 24-53 of this chapter	P	
	Parks, playgrounds, golf courses, tennis courts, swimming pools and other public or private recreation areas	P	
	Photographer, artist and sculptor studios	P	
	Property management facilities, sheds or garages	P	
	Public billiard parlors, arcades, pool rooms, bowling alleys, dance halls and other centers of amusement	P	
	Rental of rooms to a maximum of three rooms	P	
	Restaurants, fast food restaurants, tea rooms and taverns	P	
	Yacht clubs, private or commercial marinas, boat storage and service facilities; if fuel is sold, then in accordance with section 24-38		

Civic	Fire stations	P	
	Libraries	P	
	Post offices	P	
	Private clubs, civic or service clubs, lodges and fraternal organizations <i>or places of public assembly</i>	P	
	Houses of worship	P	
	Schools	P	
	Water impoundments, new or expansion of, less than 50 acres and with dam heights of less than 25 feet	P	
	Water impoundments, new or expansion of, 50 acres or more and dam heights of 25 feet or more		SUP
	Wireless communications facilities that utilize alternative mounting structures, or are building mounted, or are camouflaged, and comply with division 6, Wireless Communications Facilities		
Utility	Public utilities: Poles, lines, distribution transformers, pipes, meters and other facilities necessary for the provision and maintenance of utilities including water and sewer facilities	P	
	Telephone exchanges and telephone switching stations	P	
	Tower mounted wireless communication facilities in accordance with division 6, Wireless Communications Facilities		SUP
	Water facilities (public) and sewer facilities (public), including but not limited to, treatment plants, pumping stations, storage facilities and transmission mains, wells and associated equipment such as pumps to be owned and operated by political jurisdictions shall be a permitted use only after the issuance of a special use permit by the board of supervisors. However, the following are permitted generally and shall not require a special use permit: (1) Private connections to existing mains, that are intended to serve an individual customer and are accessory to existing or proposed development, with no additional connections to be made to the line; (2) Distribution lines and local facilities within a development; including pump stations.		SUP
	Wireless communications facilities that utilize alternative mounting structures, or are building mounted, or area camouflaged, and comply with division 6, Wireless Communications Facilities	P	
Open	Timbering in accordance with section 24-43	P	

~~Accessory buildings or structures, as defined.~~

~~Apartments.~~

~~Automobile service stations; if fuel is sold, then in accordance with section 24-38.~~

~~Banks and other similar financial institutions.~~

~~Barber and beauty shops.~~

~~Business, professional and governmental offices.~~

~~Department stores, wearing apparel, furniture, carpet, shoe, tailor, dressmaking, candy, ice cream, florist, furrier, locksmith, pet, picture framing, stamp and coin, travel bureau, upholstery, yard goods, toys, music and records, tobacco and pipes, jewelry sales and service, books, greeting cards, sporting goods, drugs, plants and garden supplies, hardware and paint, home appliances sales and service, arts and crafts, handicrafts, antiques, gift and photography stores.~~

~~Dinner theaters.~~

~~Dry cleaners and laundries.~~

~~Funeral homes, cemeteries and memorial gardens.~~

~~Home occupations as defined.~~

~~Horse and pony farms, riding stables, horse show areas, horse racing tracks and polo fields.~~

~~Hospitals, nursing homes and rest homes.~~

~~Hotels, motels, tourist homes and convention centers.~~

~~Houses of worship.~~

~~Hunting clubs, conservation areas and preserves.~~

~~Indoor theaters, museums, public meeting halls and outdoor entertainment, other than drive in theaters.~~

~~Medical clinics and offices.~~

~~Off street parking as required by section 24-53 of this chapter.~~

~~Parks, playgrounds, golf courses, tennis courts, swimming pools and other public or private recreation areas.~~

~~Photographer, artist and sculptor studios.~~

~~Private clubs, civic or service clubs, lodges and fraternal organizations.~~

~~Property maintenance facilities, sheds or garages.~~

~~Public billiard parlors, arcades, pool rooms, bowling alleys, dance halls and other centers of amusement.  
Public utilities: Poles, lines, distribution transformers, pipes, meters and other facilities necessary for the provision and maintenance of utilities including water and sewer facilities.~~

~~Rental of rooms to a maximum of three rooms.~~

~~Restaurants, fast food restaurants, tea rooms and taverns.~~

~~Retail food stores, bakeries and fish markets.~~

~~Schools, libraries, fire stations and post offices.~~

~~Single family dwellings.~~

~~Telephone exchanges and telephone switching stations.~~

~~Timbering in accordance with section 24-43.~~

~~Townhouses and condominiums.~~

~~Two family dwellings.~~

~~Water impoundments, new or expansion of, 50 acres or more with dam heights of more than 25 feet with a special use permit.~~

~~Water impoundments, new or expansion of, less than 50 acres and dam heights of less than 25 feet.~~

~~Wireless communications facilities that utilize alternative mounting structures, or are building mounted, or are camouflaged, and comply with division 6, Wireless Communications Facilities.~~

~~Yacht clubs, private or commercial marinas, boat storage and service facilities; if fuel is sold, then in accordance with section 24-38.~~

All uses are subject to the limitations hereinafter provided.

(Ord. No. 31A-88, 20-78, 4-8-85; Ord. No. 31A-89, 9-9-85; Ord. No. 31A-142, 5-4-92; Ord. No. 31A-145, 7-6-92; Ord. No. 31A-167, 3-26-96; Ord. No. 31A-176, 5-26-98)

#### **Sec. 24-2828. Limitations.**

(a) Commercial uses shall be located in well-designed commercial areas of the residential planned community and shall be shown on the master plan and on pertinent final plans.

(b) Not more than 20 percent of the total area shall be devoted to commercial uses in the residential planned community and such commercial uses are to be limited to the areas designated on the master plan and on pertinent final plans.

(c) Uses in a residential planned community shall be permissible only in the general location shown on the approved master plan as previously set forth.

(Ord. No. 31A-88, 20-79, 4-8-85; Ord. No. 31A-142, 5-4-92)

**Sec. 24-2839. Utilities.**

(a) All development within the R-4 District shall be served by publicly owned and operated water and sewer systems,

(b) Extensions and expansions of public utilities to serve the development shall be governed by the regulations and policies governing service of the appropriate public agency.

(c) Recreational maintenance facilities, maintenance facilities, temporary sales offices, temporary construction offices and accessory structures may be permitted to temporarily operate on individual well and septic systems provided the following is met:

(1) The structure shall not be within the minimum connection distance for public utilities as determined by the James City Service Authority;

(2) Individual wells shall be approved by the health department and the *planning director* ~~director of code compliance~~ prior to preliminary site plan approval;

(3) Individual septic tank systems shall be approved by the health department prior to preliminary site plan approval;

(4) The structure shall connect to public water within five years from the date of final site plan approval and shall be guaranteed by appropriate surety, letter of credit, cash escrow or other form of guarantee approved by the county attorney and the director of code compliance. The structure shall connect to public utilities within 30 days of the date that such facilities are constructed within the minimum connection distance for public utilities as determined by the James City Service Authority; and

(5) No more than one structure served by an individual well and septic system shall be permitted at one time within a Planned Community.

~~(d) Water facilities (public) and sewer facilities (public), including but not limited to, treatment plants, pumping stations, storage facilities and transmission mains, wells and associated equipment such as pumps to be owned and operated by political jurisdictions shall be a permitted use only after the issuance of a special use permit by the board of supervisors. However, the following are permitted generally and shall not require a special use permit:~~

~~(1) Private connections to existing mains, that are intended to serve an individual customer and are accessory to existing or proposed development, with no additional connections to be made to the line;~~

~~(2) Distribution lines and local facilities within a development; including pump stations.~~

(Ord. No. 31A-88, 20-80.1, 4-8-85; Ord. No. 31A-142, 5-4-92; Ord. No. 31A-216, 2-22-05)

**Sec. 24-2840. Street improvements.**

(a) All dedicated public streets shown on the ~~final~~ development plan shall meet the design and construction requirements of the Virginia Department of Transportation's standards or the county

subdivision ordinance, whichever is greater. Such public streets shall be coordinated with the major transportation network shown in the county Comprehensive Plan.

(b) Private streets may be permitted *in accordance with the provisions of Sec. 24-63*, upon approval of the board of supervisors and shall be coordinated with existing or planned streets of both the master plan and the county Comprehensive Plan. Private streets shown on the final plan shall meet the requirements of the Virginia Department of Transportation, except as specified in paragraph (d) below.

~~The construction of streets whether public or private shall be guaranteed by appropriate surety, letter of credit, cash escrow or other form of guarantee approved by the county attorney and director of code compliance.~~

~~(c) To the extent streets are private rather than public, the applicant must also submit assurances satisfactory to the planning commission that a property owner's community association or similar organization has been legally established under which the lots within the area of the final plan will be assessed for the cost of maintaining private streets and that such assessments shall constitute a pro rata lien upon the individual lots shown on the final plan.~~

~~(d) The uniqueness of each proposal for a residential planned community requires that the specifications for the width, surfacing, construction and geometric design of streets, alleys, ways for public utilities and the specifications for curbs, gutters, sidewalks, street lights and storm water drainage be subject to modification from the specifications established in Chapter 19. The planning commission may, therefore, within the limits hereinafter specified, waive or modify the specifications otherwise applicable for a particular facility where the planning commission finds that such specifications are not required in the interests of the residents of the residential planned community and that the modifications of such specifications are not inconsistent with the interests of the entire county.~~

~~It shall be the responsibility of the applicant to demonstrate to the satisfaction of the planning commission with respect to any requested waiver or modification:~~

- ~~(1) That the waiver or modification will result in design and construction that is in accordance with accepted engineering standards;~~
- ~~(2) That the waiver or modification is reasonable because of the uniqueness of the residential planned community or because of the large area of the residential planned community within which the nature and excellence of design and construction will be coordinated, preplanned and controlled;~~
- ~~(3) That any waiver or modification as to streets is reasonable with respect to the generation of vehicular traffic that is estimated will occur within the area of the master plan;~~
- ~~(4) That any waiver or modification as to sidewalks in AB@, AC@, AD@, or AE@ density areas be justified on the basis of anticipated pedestrian traffic or because other provisions are made for pedestrian traffic.~~
- ~~(5) That traffic lanes of streets are sufficiently wide to carry the anticipated volume and speed of traffic and in no case less than ten feet wide; and~~
- ~~(6) That waivers or modifications as to base and surface construction of streets and as to the condition of ditches or drainage ways be based upon soil tests for CBR value and erosion characteristics of the particular subgrade support soils in the area.~~

(Ord. No. 31A-88, 20-80.2, 4-8-85; Ord. No. 31A-105, 2-22-88; Ord. No. 31A-142, 5-4-92)

**~~Sec. 24-291. Effect of other provisions of zoning and subdivision regulations on division.~~**

~~The provisions of this division shall not be limited by any provision of any other part of the county zoning or subdivision regulations inconsistent herewith.~~

~~(Ord. No. 31A-88, 20-80.3, 4-8-85; Ord. No. 31A-142, 5-4-92)~~

**Sec. 24-28592. Sign regulations.**

To assure an appearance and condition which is consistent with the purposes of the residential planned community district, R-4, outdoor signs on the properties within the district shall comply with the regulations for exterior signs in article II, division 3 of this chapter, except that unique signing systems may be approved by the planning commission and the board of supervisors where such sign systems contribute significantly to the character of the residential planned community. However, in no case shall the sign's square foot size exceed the maximum allowed in article II, division 3 of this chapter. Home occupation signs shall not be permitted in the residential planned community district.

(Ord. No. 31A-88, 20-80.4, 4-8-85; Ord. No. 31A-112, 2-6-89; Ord. No. 31A-142, 5-4-92)

**Sec. 24-28693. Height limits.**

Structures may be erected up to 60 feet in height from grade to the top of the structure, including all penthouse, electrical, plumbing, elevator, water tank, athletic field lighting, or other accessory functions, which are part of the structure. Camouflaged wireless communications facilities may be erected to a total height of 120 feet from grade. A structure in excess of 60 feet in height but not in excess of 100 feet, from grade to the top of the structure, including all penthouse, electrical, plumbing, elevator, water tank, radio, television and microwave antennas and towers or other accessory functions, and accessory and nonaccessory wireless communications facilities that utilize alternative mounting structures or are building mounted in accordance with division 6, Wireless Communications Facilities in excess of 60 feet in height but not in excess of the maximum approved height of the structure to which it is mounted, may be erected only upon the granting of a height limitation waiver by the board of supervisors. Upon application for a height limitation waiver, the payment of appropriate fees, notification of adjacent property owners and following a public hearing, the board of supervisors may grant a height limitation waiver upon finding that:

- a. Such structure is in accordance with the uses, densities, design and traffic analysis shown on the original master plan;
- b. Such structure will not obstruct light from adjacent property;
- c. Such structure will not impair the enjoyment of historic attractions and areas of significant historic interest and surrounding developments;
- d. Such structure will not impair property values in the surrounding area;
- e. Such structure is adequately designed and served from the standpoint of safety and the county fire chief finds that the fire safety equipment to be installed is adequately designed and that the building is reasonably well located in relation to fire stations and equipment, so as to offer adequate protection to life and property; and

f. Such structure will not be contrary to the public health, safety and general welfare.

(Ord. No. 31A-89, 9-9-85; Ord. No. 31A-142, 5-4-92; Ord. No. 31A-145, 7-6-92; Ord. No. 31A-166, 1-23-96; Ord. No. 31A-176, 5-26-98; Ord. No. 31A-223, 4-11-06; Ord. No. 31A-232, 12-11-07)

**Sec. ~~24-294~~. Uses permitted by special use permit only.**

~~Tower mounted wireless communication facilities in accordance with Division 6, Wireless Communications Facilities.~~

(Ord. No. 31A-219, 8-9-05)

**Secs. 24-295 - 24-303. Reserved.**

**Chapter 24**  
**ARTICLE V. DISTRICTS**  
DIVISION 5. RESIDENTIAL PLANNED COMMUNITY  
DISTRICT, R-4

**Sec. 24-274. Statement of intent.**

This district is intended to permit development, in accordance with a master plan, of large, cluster-type communities in a manner that will protect and preserve the natural resources, trees, watersheds, contours and topographic features of the land, protect and enhance the natural scenic beauty and permit the greatest amount of recreational facilities by leaving large areas permanently open. Within such communities, the location of all improvements shall permit a variety of housing accommodations in an orderly relationship to one another with the greatest amount of open area, the least disturbance to natural features and to implement the policies and designations of the Comprehensive Plan. A planned residential district may include a variety of residential accommodations and light commercial activity, but no industrial development is permitted.

(Ord. No. 31A-88, 20-66, 4-8-85; Ord. No. 31A-142, 5-4-92)

**Sec. 24-275. Residential planned community defined.**

For purposes of this article, a residential planned community shall be a large, planned development consisting of 400 acres or more under a single ownership or control. The residential planned community is predominated by residential land uses and open space, but also contains such uses as recreation centers, fire stations, schools and retail establishments which make the residential planned community largely self-sufficient. An important feature of the residential planned community is its emphasis on site planning and the retention of large, open areas.

(Ord. No. 31A-88, 20-66.1, 4-8-85; Ord. No. 31A-142, 5-4-92)

**Sec. 24-276. Documents required for submission.**

(a) *Generally*. The applicant shall submit *documents in accordance with section 24-23 of the zoning ordinance* ~~the following documents~~ to the planning director for submission to the planning commission *prior to any rezoning or special use permit application*:

~~(1) Application for rezoning.~~

~~(2) Master plan, 30 copies, ten submitted with the application for rezoning with the balance of the required copies submitted at the request of staff in preparation for planning commission review.~~

~~(3) Community impact statement, 30 copies, ten submitted with the application for rezoning with the balance of the required copies submitted at the request of staff in preparation for planning commission review.~~

The purpose of the master plan and community impact statement is to set an overall population and development ceiling for the Planned Community, to determine off-site impacts of the development and to identify the general arrangement of internal land uses.

(b) *Master plan.* ~~The master plan shall be prepared by a licensed surveyor, engineer, architect, landscape architect or planner. A scale may be used so that the entire parcel can be shown on one piece of paper no larger than 36 inches by 48 inches. It shall include:~~

~~(1) An inset map at a scale of not less than one inch to one mile (1" = 1 mile), showing the property in relation to surrounding roads, subdivisions or major landmarks.~~

~~(2) A north arrow.~~

~~(3) The location of existing property lines, watercourses or lakes, wooded areas and existing roads which are within or adjoin the property.~~

(4) The approximate boundaries of each section, land use or density, a general circulation plan with an indication of whether streets are to be public or private, and the approximate location of recreation areas, sidewalks and other pedestrian access ways, common open space areas, public facilities and areas proposed for dedication to public use within the project. Each residential section of the master plan shall be designated according to the following categories:

Area Designation

Dwelling Type

A	Single-family
B	<del>Multi-family</del> Attached structures containing two <del>up</del> to and including four dwelling units
C	<del>Multi-family</del> Attached structures less than three stories and containing more than four dwelling units
D	<del>Apartments</del> Attached structures of three or more stories and containing more than four dwelling units

The above designation shall be the highest and densest use to which such land may be put without amending the master plan. However, where the planning ~~commission~~ *director* finds the project does not vary the basic concept or character of the planned community and where it does not exceed the maximum density permitted under section 24-27985, the planning ~~commission~~ *director* may approve final plans for projects with lower densities or a lower category of uses than those shown on the master plan without amending the master plan. Common open space shall be located in a usable way and located so as to enhance the living environment of the residential planned community. Generally this shall mean that the common open space shall be distributed throughout the community and not aggregated in large areas that provide little or no benefit to the individual uses or the community at large.

(5) As marginal data it shall contain a table which shows, for each section or area of different uses, the use, approximate phasing, maximum number of dwelling units and density for residential areas, square feet of floor space for commercial areas, and their acreage.

(6) Schematic plans which shall indicate the phasing of development and master water, sewer and drainage plans.

(7) A statement on the guarantees and assurances to be provided for the maintenance of common open space, recreation areas, sidewalks, parking, private streets and other privately owned but common facilities serving the project.

~~(c) Community impact statement. The community impact statement shall describe the probable effects of the proposed development upon the community. At a minimum, it shall address the following topics:~~

~~(1) Adequacy of existing public facilities and services to serve the development. Analysis shall be made of sewer, water, schools, fire stations and other major locally financed facilities;~~

~~(2) Additional on-site and off-site public facilities or services which would be required as a result of the development;~~

~~(3) A traffic impact study shall be prepared by an individual or firm qualified to conduct traffic engineering studies in a manner and form acceptable to the planning director. Such study shall address projected traffic generation; internal and external traffic; turning movements and distribution at each access point; traffic distribution; capacity of surrounding roads; and road and access improvements;~~

~~(4) Fiscal impact of the proposed development, such as estimated tax revenues to be generated versus the cost of public improvements to be financed by the county or the state. Such study shall be prepared by an individual or firm qualified to conduct a fiscal impact analysis in a manner and form acceptable to the planning director;~~

~~(5) Impact of construction and permanent changes in land use upon surrounding property, such as aesthetics, vegetation, stormwater drainage, noise and air or water pollution; and~~

~~(6) Employment opportunities to be generated by the development.~~

~~(Ord. No. 31A-88, 20-67, 4-8-85; Ord. No. 31A-89, 9-9-85; Ord. No. 31A-118, 2-5-90; Ord. No. 31A-142, 5-4-92; Ord. No. 31A-145, 7-6-92)~~

**~~Sec. 24-277. Administrative review fees.~~**

~~Submittal of a master plan and subsequent revisions proposed by the applicant to the planning commission shall be accompanied by a fee as specified in section 24-7.~~

~~(Ord. No. 31A-88, 20-67.1, 4-8-85)~~

**~~Sec. 24-278. Approval of master plan; relationship to final plans; amendments.~~**

~~(a) The procedures for approval of a master plan shall be as specified in the procedures for public hearing and consideration by the planning commission and board of supervisors shall be as set forth in section 24-13.~~

~~(b) The residential planned community shall be established upon approval of the master plan by the board of supervisors. Thereafter, all amendments to the master plan shall be in accordance with section 24-13. Approved final plans, provided for in section 24-279, shall supersede the master plan and schematic plans. The zoning administrator shall not issue any certificate of occupancy until the applicant has guaranteed the completion of public improvements, including, but not limited to, public roads, public~~

water and public sewer facilities, shown on the final plan by providing either a letter of credit, certified check, cash escrow, cash payment, or other surety, approved by the county attorney.

(Ord. No. 31A 88, 20 69, 4 8 85; Ord. No. 31A 92, 12 2 85; Ord. No. 31A 142, 5 4 92; Ord. No. 31A 145, 7 6 92)24 5 5 4

**Sec. 24-279. Final plans-Submission; contents generally; variations from approved master plan.**

The term "final plan" shall mean site plan or subdivision plat. Final plans shall be submitted for review in accord with article III of this chapter or with the county's Subdivision Ordinance, whichever is applicable. The final plans shall be consistent with the master plan as approved, but may vary to any degree which the planning commission believes does not vary the basic concept or character of the development.

(Ord. No. 31A 88, 20 70, 4 8 85; Ord. No. 31A 112, 2 6 89; Ord. No. 31A 142, 5 4 92)

**Sec. 24-280. Same-Administrative review fee.**

Submittals of a site plan or preliminary subdivision plat to implement any portion of an approved master plan shall be accompanied by a fee in accord with section 24 7 or section 19 15.

(Ord. No. 31A 88, 20 70.1, 4 8 85; Ord. No. 31A 130, 5 6 91)

**Sec. 24-281. Same-Contents; proposed deed of easement.**

(a) Where land is to be subdivided within the district, the final plan shall comply with the county's subdivision ordinance. Where land is not to be subdivided within the district, final plans shall comply with article III of this chapter. All final plans shall show the different types of open areas and other public or community amenities, the proposed use of all buildings and of all areas dedicated for public or private common use.

(b) The applicant shall furnish with a final plan a proposed deed of easement including restrictions safeguarding the permanent use of open areas.

(c) Easements and covenants shall clearly establish the rights of two abutting properties where main buildings are to be constructed on or within five feet of a property line. Such easements/covenants shall establish the rights of each affected owner to gain access to each owner's building for purposes of essential maintenance and service.

(d) Lot sizes and setback lines shall be shown on final plans.

(Ord. No. 31A 88, 20 71, 4 8 85)

**Sec. 24-282. Same-Action.**

Final plans submitted pursuant to section 24 279 shall be approved or disapproved in accordance with article III of this chapter or accordance with the county subdivision ordinance.

(Ord. No. 31A 88, 20 72, 4 8 85)

**Sec. 24-27783. Addition of land to existing community.**

(a) Additional land area may be added to an existing residential planned community if it is adjacent (except for public roads) and forms a logical addition to the existing residential planned community and if it is under the same ownership or control.

(b) The procedure for an addition shall be the same as if an original application were filed and all of the requirements of this article shall apply, except the minimum acreage requirement of 400 acres.

(Ord. No. 31A-88, 20-75, 4-8-85; Ord. No. 31A-142, 5-4-92)

**Sec. 24-27884. Permitted density overall.**

(a) The gross density of the total area of the planned residential community shall not exceed two dwelling units per acre.

(b) *Calculating gross density.* For the purposes of calculating density, gross acreage shall equal the total area of the parcel when less than 25% of the total site area is non-developable. For parcels where more than 25% of the total site area is non-developable, the gross acreage shall equal the total developable area of the parcel plus 25% of the total parcel acreage. For the purpose of calculating gross density, gross acreage shall equal the sum of the total developable area and up to 35 percent of the total area as calculated below:

<u>Gross Acreage</u>	
<u>Percentage of Nondevelopable Area</u>	<u>Gross Acreage</u>
Less than 35%	Total area of parcel
More than 35%	Developable land plus up to 35% of the parcel's land

(c) Developable area shall consist of the total land area of the site minus stream beds, areas subject to flooding, marsh and areas with slopes exceeding a 25 percent gradient.

(Ord. No. 31A-88, 20-76, 4-8-85; Ord. No. 31A-102, 6-1-87; Ord. No. 31A-113, 4-3-89; Ord. No. 31A-142, 5-4-92)

**Sec. 24-27985. Permitted density within residential areas.**

The master plan shall designate the proposed dwelling unit densities within each residential area shown, according to the following categories:

<u>Area Designation</u>	<u>Dwelling Type</u>	<u>Maximum Gross Density (Dwelling Units Per Acre)</u>
A	Single-family	4
B	<del>Multi-family</del> Attached structures containing two up to and including four dwelling units	9.6

C	<del>Multi-family</del> Attached structures less than three stories and containing more than four dwelling units	12
D	<del>Apartments</del> Attached structures of three or more stories and containing more than four dwelling units	18

Units for sale in condominium may be in any of the dwelling types listed above and the number of dwelling units per acre shall be determined by the dwelling type.

(Ord. No. 31A-88, 20-77, 4-8-85; Ord. No. 31A-89, 9-9-85; Ord. No. 31A-142, 5-4-92; Ord. No. 31A-145, 7-6-92)

**Sec. 24-2806. Open space requirements.**

(a) At least 40 percent of the total acreage of the residential planned community shall be designated as open space. Such open space may include parks, lakes, walkways, trails, playground and recreation facilities, sports facilities, nonresidential clubhouse grounds, and right-of-ways and surface easements for drainage and other utilities over areas not within the lines of any residential lot. Golf courses may also be counted as open space for the purpose of meeting this requirement to a maximum of 60 percent of the required open space.

(b) The required open space shall contain recreation open space in the amount of one acre or more per 350 dwelling units. For the purposes of this section, recreational open space shall mean parks, playgrounds, swimming pools, tennis courts or other similar recreational facilities serving residents of the approved planned community.

(Ord. No. 31A-88, 20-77.1, 4-8-85; Ord. No. 31A-142, 5-4-92)

**Sec. 24-2817. Permitted uses.**

In the residential planned community district, R-4, structures to be erected or land to be used shall be for one or more of the following uses:

Use Category	Use List	Permitted Uses	Special Permit Uses
Residential Uses	Accessory buildings or structures as defined	P	
	Apartments	P	
	<del>Home occupations, as defined</del>	<del>P</del>	
	<del>Multi-family up to and including four dwelling units</del>	<del>P</del>	
	<del>Multi-family more than four dwelling units</del>	<del>P</del>	

	Single family dwellings	P	
	<del>Townhouses and condominiums</del>	<del>P</del>	
	<del>Two family dwellings</del>	<del>P</del>	
Commercial Uses	Accessory buildings or structures as defined	P	
	Automobile service stations; if fuel is sold, then in accordance with section 24-38	P	
	Banks and other similar financial institutions	P	
	Barber and beauty shops	P	
	Business, professional and governmental offices	P	
	Department stores, wearing apparel, furniture, carpet, shoe, tailor, dressmaking, candy, ice cream, florist, furrier, locksmith, pet, picture framing, stamp and coin, travel bureau, upholstery, yard goods, toys, music and records, tobacco and pipes, jewelry sales and service, books, greeting cards, sporting goods, drugs, plants and garden supplies, hardware and paint, home appliances sales and service, arts and crafts, handicrafts, antiques, gift and photography stores	P	
	Dinner theaters	P	
	Dry cleaners	P	
	Funeral homes, cemeteries and memorial gardens	P	
	Home occupations as defined	P	
	Horse and pony farms, riding stables, horse show areas, horse racing tracks and polo fields	P	
	<del>Hospitals, nursing homes and rest homes</del>	<del>P</del>	
	Hotels, motels, tourist homes and convention centers	P	
	Hunting clubs, conservation areas and preserves	P	
	Indoor theaters, museums, public meeting halls and outdoor entertainment, other than drive-in theaters	P	
	Medical clinics and offices	P	
	<del>Nursing homes</del>	<del>P</del>	
	Off-street parking as required by section 24-53 of this chapter	P	
	Parks, playgrounds, golf courses, tennis courts, swimming pools and other public or private recreation areas	P	
	Photographer, artist and sculptor studios	P	
	Property management facilities, sheds or garages	P	
	Public billiard parlors, arcades, pool rooms, bowling alleys, dance halls and other centers of amusement	P	
	Rental of rooms to a maximum of three rooms	P	
	Restaurants, fast food restaurants, tea rooms and taverns	P	
	Yacht clubs, private or commercial marinas, boat storage and service facilities; if fuel is sold, then in accordance with section 24-38		

Civic	Fire stations	P	
	Libraries	P	
	Post offices	P	
	Private clubs, civic or service clubs, lodges and fraternal organizations <i>or places of public assembly</i>	P	
	Houses of worship	P	
	Schools	P	
	Water impoundments, new or expansion of, less than 50 acres and with dam heights of less than 25 feet	P	
	Water impoundments, new or expansion of, 50 acres or more and dam heights of 25 feet or more		SUP
	Wireless communications facilities that utilize alternative mounting structures, or are building mounted, or are camouflaged, and comply with division 6, Wireless Communications Facilities		
Utility	Public utilities: Poles, lines, distribution transformers, pipes, meters and other facilities necessary for the provision and maintenance of utilities including water and sewer facilities	P	
	Telephone exchanges and telephone switching stations	P	
	Tower mounted wireless communication facilities in accordance with division 6, Wireless Communications Facilities		SUP
	Water facilities (public) and sewer facilities (public), including but not limited to, treatment plants, pumping stations, storage facilities and transmission mains, wells and associated equipment such as pumps to be owned and operated by political jurisdictions shall be a permitted use only after the issuance of a special use permit by the board of supervisors. However, the following are permitted generally and shall not require a special use permit: (1) Private connections to existing mains, that are intended to serve an individual customer and are accessory to existing or proposed development, with no additional connections to be made to the line; (2) Distribution lines and local facilities within a development; including pump stations.		SUP
	Wireless communications facilities that utilize alternative mounting structures, or are building mounted, or area camouflaged, and comply with division 6, Wireless Communications Facilities	P	
Open	Timbering in accordance with section 24-43	P	

~~Accessory buildings or structures, as defined.~~

~~Apartments.~~

~~Automobile service stations; if fuel is sold, then in accordance with section 24-38.~~

~~Banks and other similar financial institutions.~~

~~Barber and beauty shops.~~

~~Business, professional and governmental offices.~~

~~Department stores, wearing apparel, furniture, carpet, shoe, tailor, dressmaking, candy, ice cream, florist, furrier, locksmith, pet, picture framing, stamp and coin, travel bureau, upholstery, yard goods, toys, music and records, tobacco and pipes, jewelry sales and service, books, greeting cards, sporting goods, drugs, plants and garden supplies, hardware and paint, home appliances sales and service, arts and crafts, handicrafts, antiques, gift and photography stores.~~

~~Dinner theaters.~~

~~Dry cleaners and laundries.~~

~~Funeral homes, cemeteries and memorial gardens.~~

~~Home occupations as defined.~~

~~Horse and pony farms, riding stables, horse show areas, horse racing tracks and polo fields.~~

~~Hospitals, nursing homes and rest homes.~~

~~Hotels, motels, tourist homes and convention centers.~~

~~Houses of worship.~~

~~Hunting clubs, conservation areas and preserves.~~

~~Indoor theaters, museums, public meeting halls and outdoor entertainment, other than drive in theaters.~~

~~Medical clinics and offices.~~

~~Off street parking as required by section 24-53 of this chapter.~~

~~Parks, playgrounds, golf courses, tennis courts, swimming pools and other public or private recreation areas.~~

~~Photographer, artist and sculptor studios.~~

~~Private clubs, civic or service clubs, lodges and fraternal organizations.~~

~~Property maintenance facilities, sheds or garages.~~

~~Public billiard parlors, arcades, pool rooms, bowling alleys, dance halls and other centers of amusement.  
Public utilities: Poles, lines, distribution transformers, pipes, meters and other facilities necessary for the provision and maintenance of utilities including water and sewer facilities.~~

~~Rental of rooms to a maximum of three rooms.~~

~~Restaurants, fast food restaurants, tea rooms and taverns.~~

~~Retail food stores, bakeries and fish markets.~~

~~Schools, libraries, fire stations and post offices.~~

~~Single family dwellings.~~

~~Telephone exchanges and telephone switching stations.~~

~~Timbering in accordance with section 24-43.~~

~~Townhouses and condominiums.~~

~~Two family dwellings.~~

~~Water impoundments, new or expansion of, 50 acres or more with dam heights of more than 25 feet with a special use permit.~~

~~Water impoundments, new or expansion of, less than 50 acres and dam heights of less than 25 feet.~~

~~Wireless communications facilities that utilize alternative mounting structures, or are building mounted, or are camouflaged, and comply with division 6, Wireless Communications Facilities.~~

~~Yacht clubs, private or commercial marinas, boat storage and service facilities; if fuel is sold, then in accordance with section 24-38.~~

All uses are subject to the limitations hereinafter provided.

(Ord. No. 31A-88, 20-78, 4-8-85; Ord. No. 31A-89, 9-9-85; Ord. No. 31A-142, 5-4-92; Ord. No. 31A-145, 7-6-92; Ord. No. 31A-167, 3-26-96; Ord. No. 31A-176, 5-26-98)

#### **Sec. 24-2828. Limitations.**

- (a) Commercial uses shall be located in well-designed commercial areas of the residential planned community and shall be shown on the master plan and on pertinent final plans.
- (b) Not more than 20 percent of the total area shall be devoted to commercial uses in the residential planned community and such commercial uses are to be limited to the areas designated on the master plan and on pertinent final plans.
- (c) Uses in a residential planned community shall be permissible only in the general location shown on the approved master plan as previously set forth.

(Ord. No. 31A-88, 20-79, 4-8-85; Ord. No. 31A-142, 5-4-92)

**Sec. 24-2839. Utilities.**

(a) All development within the R-4 District shall be served by publicly owned and operated water and sewer systems,

(b) Extensions and expansions of public utilities to serve the development shall be governed by the regulations and policies governing service of the appropriate public agency.

(c) Recreational maintenance facilities, maintenance facilities, temporary sales offices, temporary construction offices and accessory structures may be permitted to temporarily operate on individual well and septic systems provided the following is met:

(1) The structure shall not be within the minimum connection distance for public utilities as determined by the James City Service Authority;

(2) Individual wells shall be approved by the health department and the *planning director* ~~director of code compliance~~ prior to preliminary site plan approval;

(3) Individual septic tank systems shall be approved by the health department prior to preliminary site plan approval;

(4) The structure shall connect to public water within five years from the date of final site plan approval and shall be guaranteed by appropriate surety, letter of credit, cash escrow or other form of guarantee approved by the county attorney and the director of code compliance. The structure shall connect to public utilities within 30 days of the date that such facilities are constructed within the minimum connection distance for public utilities as determined by the James City Service Authority; and

(5) No more than one structure served by an individual well and septic system shall be permitted at one time within a Planned Community.

~~(d) Water facilities (public) and sewer facilities (public), including but not limited to, treatment plants, pumping stations, storage facilities and transmission mains, wells and associated equipment such as pumps to be owned and operated by political jurisdictions shall be a permitted use only after the issuance of a special use permit by the board of supervisors. However, the following are permitted generally and shall not require a special use permit:~~

~~(1) Private connections to existing mains, that are intended to serve an individual customer and are accessory to existing or proposed development, with no additional connections to be made to the line;~~

~~(2) Distribution lines and local facilities within a development; including pump stations.~~

(Ord. No. 31A-88, 20-80.1, 4-8-85; Ord. No. 31A-142, 5-4-92; Ord. No. 31A-216, 2-22-05)

**Sec. 24-2840. Street improvements.**

(a) All dedicated public streets shown on the ~~final~~ development plan shall meet the design and construction requirements of the Virginia Department of Transportation's standards or the county

subdivision ordinance, whichever is greater. Such public streets shall be coordinated with the major transportation network shown in the county Comprehensive Plan.

(b) Private streets may be permitted *in accordance with the provisions of Sec. 24-63*, upon approval of the board of supervisors and shall be coordinated with existing or planned streets of both the master plan and the county Comprehensive Plan. Private streets shown on the final plan shall meet the requirements of the Virginia Department of Transportation, except as specified in paragraph (d) below.

~~The construction of streets whether public or private shall be guaranteed by appropriate surety, letter of credit, cash escrow or other form of guarantee approved by the county attorney and director of code compliance.~~

~~(c) To the extent streets are private rather than public, the applicant must also submit assurances satisfactory to the planning commission that a property owner's community association or similar organization has been legally established under which the lots within the area of the final plan will be assessed for the cost of maintaining private streets and that such assessments shall constitute a pro rata lien upon the individual lots shown on the final plan.~~

~~(d) The uniqueness of each proposal for a residential planned community requires that the specifications for the width, surfacing, construction and geometric design of streets, alleys, ways for public utilities and the specifications for curbs, gutters, sidewalks, street lights and storm water drainage be subject to modification from the specifications established in Chapter 19. The planning commission may, therefore, within the limits hereinafter specified, waive or modify the specifications otherwise applicable for a particular facility where the planning commission finds that such specifications are not required in the interests of the residents of the residential planned community and that the modifications of such specifications are not inconsistent with the interests of the entire county.~~

~~It shall be the responsibility of the applicant to demonstrate to the satisfaction of the planning commission with respect to any requested waiver or modification:~~

- ~~(1) That the waiver or modification will result in design and construction that is in accordance with accepted engineering standards;~~
- ~~(2) That the waiver or modification is reasonable because of the uniqueness of the residential planned community or because of the large area of the residential planned community within which the nature and excellence of design and construction will be coordinated, preplanned and controlled;~~
- ~~(3) That any waiver or modification as to streets is reasonable with respect to the generation of vehicular traffic that is estimated will occur within the area of the master plan;~~
- ~~(4) That any waiver or modification as to sidewalks in AB@, AC@, AD@, or AE@ density areas be justified on the basis of anticipated pedestrian traffic or because other provisions are made for pedestrian traffic.~~
- ~~(5) That traffic lanes of streets are sufficiently wide to carry the anticipated volume and speed of traffic and in no case less than ten feet wide; and~~
- ~~(6) That waivers or modifications as to base and surface construction of streets and as to the condition of ditches or drainage ways be based upon soil tests for CBR value and erosion characteristics of the particular subgrade support soils in the area.~~

(Ord. No. 31A-88, 20-80.2, 4-8-85; Ord. No. 31A-105, 2-22-88; Ord. No. 31A-142, 5-4-92)

**~~Sec. 24-291. Effect of other provisions of zoning and subdivision regulations on division.~~**

~~The provisions of this division shall not be limited by any provision of any other part of the county zoning or subdivision regulations inconsistent herewith.~~

~~(Ord. No. 31A-88, 20-80.3, 4-8-85; Ord. No. 31A-142, 5-4-92)~~

**Sec. 24-28592. Sign regulations.**

To assure an appearance and condition which is consistent with the purposes of the residential planned community district, R-4, outdoor signs on the properties within the district shall comply with the regulations for exterior signs in article II, division 3 of this chapter, except that unique signing systems may be approved by the planning commission and the board of supervisors where such sign systems contribute significantly to the character of the residential planned community. However, in no case shall the sign's square foot size exceed the maximum allowed in article II, division 3 of this chapter. Home occupation signs shall not be permitted in the residential planned community district.

(Ord. No. 31A-88, 20-80.4, 4-8-85; Ord. No. 31A-112, 2-6-89; Ord. No. 31A-142, 5-4-92)

**Sec. 24-28693. Height limits.**

Structures may be erected up to 60 feet in height from grade to the top of the structure, including all penthouse, electrical, plumbing, elevator, water tank, athletic field lighting, or other accessory functions, which are part of the structure. Camouflaged wireless communications facilities may be erected to a total height of 120 feet from grade. A structure in excess of 60 feet in height but not in excess of 100 feet, from grade to the top of the structure, including all penthouse, electrical, plumbing, elevator, water tank, radio, television and microwave antennas and towers or other accessory functions, and accessory and nonaccessory wireless communications facilities that utilize alternative mounting structures or are building mounted in accordance with division 6, Wireless Communications Facilities in excess of 60 feet in height but not in excess of the maximum approved height of the structure to which it is mounted, may be erected only upon the granting of a height limitation waiver by the board of supervisors. Upon application for a height limitation waiver, the payment of appropriate fees, notification of adjacent property owners and following a public hearing, the board of supervisors may grant a height limitation waiver upon finding that:

- a. Such structure is in accordance with the uses, densities, design and traffic analysis shown on the original master plan;
- b. Such structure will not obstruct light from adjacent property;
- c. Such structure will not impair the enjoyment of historic attractions and areas of significant historic interest and surrounding developments;
- d. Such structure will not impair property values in the surrounding area;
- e. Such structure is adequately designed and served from the standpoint of safety and the county fire chief finds that the fire safety equipment to be installed is adequately designed and that the building is reasonably well located in relation to fire stations and equipment, so as to offer adequate protection to life and property; and

f. Such structure will not be contrary to the public health, safety and general welfare.

(Ord. No. 31A-89, 9-9-85; Ord. No. 31A-142, 5-4-92; Ord. No. 31A-145, 7-6-92; Ord. No. 31A-166, 1-23-96; Ord. No. 31A-176, 5-26-98; Ord. No. 31A-223, 4-11-06; Ord. No. 31A-232, 12-11-07)

**Sec. ~~24-294~~. Uses permitted by special use permit only.**

~~Tower mounted wireless communication facilities in accordance with Division 6, Wireless Communications Facilities.~~

(Ord. No. 31A-219, 8-9-05)

**Secs. 24-295 - 24-303. Reserved.**

## Chapter 24

### ARTICLE I. IN GENERAL

#### Section 24-1. Short Title

This chapter shall be known and may be cited as the “James City County, Virginia, Zoning Ordinance” or simply as the “Zoning Ordinance.”  
(Ord. No. 31A-88, § 20-1, 4-8-85)

**Section 24-2. Definitions** *(A list of amendments to the Definitions section with illustrations will be provided for review at a later time)*

#### Sec. 24-3. Purpose of chapter; zoning map.

(a) The board of supervisors hereby enacts this chapter, together with the zoning map and all accompanying data thereon or affixed thereto ~~and~~ which is and shall remain on file in the office of the county administrator, and which is hereby incorporated in and made a part of this chapter for the purpose of promoting the health, safety and general welfare of the public, and for the further purpose of accomplishing the objectives of sections 15.2-2200, 15.2-2280 and 15.2-2283 of the Code of Virginia.

(b) This chapter is designed so as to give reasonable consideration to each of the following purposes, where applicable:

- (1) To provide for adequate light, air, convenience of access and safety from fire, flood, and other dangers;
  - (2) To reduce or prevent congestion in the public streets;
  - (3) To facilitate the creation of a convenient, attractive and harmonious community;
  - (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;
  - (5) To protect against destruction of or encroachment upon historic areas;
  - (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;
  - (7) To encourage economic development activities that provides desirable employment and enlarge the tax base;
  - (8) To provide for the preservation of agricultural and forestal lands.
- (Ord. No. 31A-88 § 20-3, 4-8-85)

#### Sec. 24-4. Exclusive nature of the chapter.

This chapter shall be deemed exclusive in nature and only those uses specified shall be permitted in the various zoning districts. If a use is not specified in a zoning district, it shall be prohibited in that district. In the event that a use is not permitted in any zoning district, it may only be permitted after appropriate amendment to the text of this chapter.  
(Ord. No. 31A-100, 4-6-87)

**Sec. 24-5. Zoning administrator; administration and enforcement of chapter.**

This chapter shall be administered and enforced by the zoning administrator who shall be appointed by the governing body. The zoning administrator shall serve at the pleasure of that body. Compensation for such shall be fixed by resolution of the governing body.

(Ord. No. 31A-88, § 20-5, 4-8-85)

**Sec. 24-6. Duty of those authorized to issue licenses and permits to conform to chapter.**

All departments, officials and public employees of this jurisdiction who or which are vested with the duty of authority to issue permits or licenses shall conform to the provisions of this chapter. They shall issue permits for uses, buildings or purposes only when they are in harmony with the provisions of this chapter. Any such permit, if issued in conflict with the provisions of this chapter, shall be null and void.

(Ord. No. 31A-88, § 20-6, 4-8-85)

**Sec. 24-7. Administrative fees.**

Fees shall be charged *and collected* at the time of application to offset the cost of making inspections, issuing permits, advertising notices and other expenses incident to the administration of this chapter or to the filing or processing of any appeal or amendment thereto. ~~The following fees shall be charged and collected at the time of application.~~ *Fees shall be charged in accordance with the Fee Schedule document provided by the James City County Development Management Department and approved by the James City County Board of Supervisors.*

<u>Procedure</u>	<u>Fee</u>
(1) Rezoning	\$1,200.00 plus \$75.00 per acre, not to exceed \$15,000.00
(2) Applications for special use permits:	
a. Generally (General special use permits processed with a rezoning shall pay a rezoning fee only)	\$1,000.00 plus \$30.00 per acre, not to exceed \$5,000.00
b. Manufactured home on an individual lot	100.00
c. Family subdivision under section 24-214	100.00
d. Amendment to a special use permit	400.00
e. Wireless communications facilities under division 6	1,500.00
(3) Master plan review:	
a. Initial review of any Residential Cluster, Mixed Use or a PUD with less than 400 acres (PUD's with 400 acres or more shall pay a rezoning fee only)	200.00
b. Revision of approved plan:	
1. Residential Cluster	75.00
2. R-4, PUD, Mixed Use	150.00
(4) Site Plan Review:	
a. Administrative review:	

1. ~~Residential structures or improvements, \$600.00, plus \$60.00 per residential unit.~~
  2. ~~Nonresidential structures or improvements, \$600.00, plus \$0.024 per sq. ft. of building area.~~
  3. ~~Mixed Use structures or improvements, \$600.00, plus \$60.00 per residential unit plus \$0.024 per sq. ft. of nonresidential building area.~~
- b. ~~Planning commission review:~~
1. ~~Residential structures or improvements, \$1,800.00, plus \$60.00 per residential unit.~~
  2. ~~Nonresidential structures or improvements, \$1,800.00, plus \$0.024 per sq. ft. of building area.~~
  3. ~~Mixed Use structures or improvements, \$1,800.00, plus \$60.00 per residential unit plus \$0.024 per sq. ft. of nonresidential building area.~~
- c. ~~Amendment to an approved plan:~~
1. ~~Residential structures or improvements, \$100.00, plus \$10.00 per residential unit.~~
  2. ~~Nonresidential structures or improvements, \$100.00, plus \$0.004 per sq. ft. of building area.~~
  3. ~~Mixed Use structures or improvements, \$100.00, plus \$10.00 per residential unit plus \$0.004 per sq. ft. of nonresidential building area.~~
  4. ~~Residential or nonresidential structures or improvements where the number of dwelling units or area of building area, pavement, or open space is not changed more than 15 percent, \$100.00.~~
- d. ~~Zoning administrator and fire department review only, \$20.00.~~
- e. ~~Each additional review after second resubmission, \$250.00 not to include resubmissions that are the result of substantial redesign due to other agency comments.~~
- (5) ~~Sign permits, \$5.00 per square foot of gross sign area.~~
- (6) ~~Appeals to the board of zoning appeals, \$250.00.~~
- (7) ~~Application for a height limitation waiver to the board of supervisors, \$200.00~~
- (8) ~~Application for administrative variance, \$100.00~~
- (9) ~~Public hearing applicant deferral request when the applicant fails to meet a staff imposed deadline for additional information relevant to the application except where deferral is the result of a commission or board action, \$350.00 per request.~~
- (10) ~~Conceptual plan review, \$25.00.~~
- (11) ~~Zoning verification request, \$100.00.~~
- (12) ~~Stormwater inspection fees: There shall be a fee for the inspection of public stormwater installations and private stormwater installations required in accordance with section 23-10(4). Such fee shall be \$900 per practice for each best management practice constructed and \$.90 per foot for every foot of stormwater drain or channel constructed and shall be submitted at the time of filing an application for a land disturbance permit.~~
- (Ord. No. 31A-88, C 20-8, 4-8-85; Ord. No. 31A-130, 5-6-91; Ord. No. 31A-145, 7-6-92; Ord. No. 31A-166, 1-23-96; Ord. No. 31A-170, 6-25-96; Ord. No. 31A-176, 5-26-98; Ord. No. 31A-178, 8-18-98; Ord. No. 31A-190, 4-13-99; Ord. No. 31A-212, 4-22-03; Ord. No. 31A-225, 4-24-07; Ord. No. 31A-235, 5-27-08)

### **Sec. 24-8. Certificate of occupancy.**

(a) Land may be used or occupied and buildings structurally altered or erected may be used or changed in use only after a certificate of occupancy has been issued by the ~~zoning administrator~~ *building official*. Such a certificate shall state that the building or the proposed use, or the use of the land, complies with the provisions of this chapter. A similar certificate shall be issued for the purpose of maintaining, renewing, changing or extending a nonconforming use. The certificate shall be issued within ten days after the erection or structural alteration of such building or part has conformed with the provisions of this chapter and all applicable codes and ordinances. Upon the request of the holder of a permit, the ~~zoning administrator~~ *building official* may issue a temporary certificate of occupancy for a building or structure, or part thereof, before the entire work covered by the permit shall have been completed, provided such portion or portions may be occupied safely prior to full completion of the building or structure without endangering life or public welfare.

(b) The ~~zoning administrator~~ *building official* shall not issue a temporary certificate of occupancy until the applicant has guaranteed the completion of public improvements, including, but not limited to, public roads, public water and public sewer facilities, or the completion of required landscape areas and plantings shown on the approved site plan or other approved plan by providing either a letter of credit, certified check, cash escrow or cash payment approved by the county attorney.

(Ord. No. 31A-88, § 20-10, 4-8-85; Ord. No. 31A-110, 9-12-88; Ord. No. 31A-116, 11-6-89)

### **Sec. 24-9. Special use permits.**

In order to provide for good zoning practices; *and* the purpose the zoning district seeks to accomplish, to provide for adjustments in the relative location of uses and buildings of the same or different classification, and to promote the usefulness of these regulations, special use permits, limited as to location by the district regulations, are permitted as set forth under the terms of this chapter. In considering an application for a special use permit in those districts allowing them, the planning commission and the board of supervisors shall give due regard to the James City County Comprehensive Plan, the nature and condition of adjacent uses and structures, and the probable effect upon them of the proposed ~~exception~~ *use permit*. They shall also take into account the special characteristics, design, location, construction, methods and hours of operation, effect on traffic conditions, or any other aspects of the particular use or structure that may be proposed by the applicant.

The planning commission and the board of supervisors should consider whether the proposed establishment or use will adversely affect the health, safety or welfare of persons residing or working on the premises or in the neighborhood, will unreasonably restrict an adequate supply of light and air to adjacent property, will increase congestion in the streets, will increase public danger from fire, will impair the character of the district or adjacent districts, will be incompatible with the Comprehensive Plan of James City County, will likely reduce or impair the value of buildings or property in surrounding areas, and whether such establishment or use will be in substantial accordance with the general purpose and objectives of this chapter.

After a public hearing, if the planning commission determines the above considerations have been protected, the planning commission shall recommend to the board of supervisors that the special use permit be granted. The board of supervisors shall consider the recommendation of the planning commission and after a public hearing and a determination that the above considerations have been protected shall grant the special use permit.

An application for a special use permit substantially the same as one previously denied shall not be reconsidered within a one-year period from the date the similar application was denied *by the board of supervisors.*

(Ord. No. 31A-88, + 20-10, 4-8-85; Ord. No. 31A-110, 9-12-88; Ord. No. 31A-116, 11-6-89)

#### **Sec. 24-10. Public hearing required.**

Prior to issuance of a special use permit a public hearing shall be held by the planning commission and by the board of supervisors; provided, however, that a special use permit for a manufactured home, temporary classroom trailer, *or* a family subdivision may be issued after a public hearing is held by the board of supervisors only. Whenever the planning commission is not required to hold a public hearing, it need not consider the permit nor make a recommendation to the board of supervisors for such permit.

(Ord. No. 31A-88, § 20-10.1, 4-8-85; Ord. No. 31A-108, 4-18-88; Ord. No. 31A-110, 9-12-88; Ord. No. 31A-114, 5-1-89; Ord. No. 31A-201, 12-1-99)

#### **Sec. 24-11. Special use permit requirements for certain commercial uses; exemptions.**

*(This section is being reviewed under commercial districts)*

(a) *General requirements.* A special use permit issued by the board of supervisors shall be required for:

(1) Any convenience store;

(2) Any commercial building or group of buildings which exceeds ~~10,000~~ **20,000** square feet of floor area; or

(3) Any commercial building or group of buildings, not including office uses, which generates, or would be expected to generate, a total of 100 or more additional trips to and from the site during the peak hour of the operation, based on the application of the Institute of Transportation Engineers (ITE) traffic generation rates contained in the latest edition of its book entitled *Trip Generation*. The applicable trip generation rate shall be determined by the planning director. The planning director may permit other traffic generation rates to be used if an individual or firm qualified to conduct traffic engineering studies documents that the use would not reasonably be expected to generate the amount of peak hour traffic projected by application of ITE traffic generation rates, provided the documentation is acceptable to the planning director; or

(4) Automobile ~~and gasoline~~ service stations **which sell or dispense fuel.**

(b) *New buildings, additions or expansions.* A special use permit shall be required for a new building, addition or expansion when:

(1) In combination with the existing structure, it exceeds the thresholds set forth in paragraph (a);

(2) It adds ~~5,000~~ **10,000** square feet or more of commercial floor area or, in combination with other new buildings, additions or expansions, generates ~~75~~ **100** or more peak-hour trips than generated by the existing or approved use on May 21, 1990, or than approved in a special use permit, whichever is greater; and

(3) It is located on the same property as the existing structure or other parcel which is a logical component of such property. Factors to determine whether a parcel is a logical component include:

a. Common ownership or control of the parcels under consideration by the same person(s) or entity(ies), or similar or related entities;

- b. Regardless of factor a. above, shared access to public roads, shared parking arrangements, shared traffic circulation or shared service areas; and
  - c. Proximity. For the purpose of this paragraph, "proximity" means adjacent parcels, parcels separated by property under common ownership or control by the same person(s) or entity(ies) or similar or related entities, or parcels separated by a public or private right-of-way.
- (c) *Design and submittal requirements.* Any building or use and addition or expansion thereto requiring a special use permit under this section shall comply with the requirements of section 24-23.
- (d) *Exemptions.* The following shall be exempt from the requirements of this section:
- (1) Any use or building and expansion or addition thereto with preliminary site plan approval prior to May 21, 1990;
  - (2) Any use or building and expansion or addition thereto for which the start of construction began prior to May 21, 1990, in accordance with a site plan approved prior to that date;
  - (3) Any use or building and expansion or addition thereto shown on a proffered binding master plan that binds the general location of all of the features on the plan as required under this section;
  - (4) Any building located in a mixed use district, residential planned community district or planned unit development district; or
  - (5) Any building predominantly used as a warehouse, distribution center, office, or for other industrial or manufacturing purposes. For purposes of this exemption only, the term "predominantly" shall mean 85 percent of the total square feet of the building or more.
- (Ord. No. 31A-121, 5-21-90; Ord. No. 31A-145, 7-6-92; Ord. No. 31A-155, 1-3-94; Ord. No. 31A-201, 12-1-99)

**Sec. 24-12. Revocation of special use permits.**

(a) The governing body may, by resolution, initiate a revocation of a special use permit. When initiated, the revocation process shall be handled as would a new application for a special use permit, following the procedures set forth in section 24-9 of this chapter.

(b) After review by the ~~planning office~~ *director of planning* and consideration and recommendation by the planning commission, the governing body shall act on the proposal to revoke the special use permit. Grounds for revocation shall include, but not be limited to, the following:

- (1) A change in conditions affecting the public health, safety and welfare since adoption of the special use permit; or
- (2) Repeated violations of this chapter, including any conditions attached to the special use permit, by the owner/operator of the use; or
- (3) Fraudulent, false or misleading information supplied by the applicant (or his agent) for the special use permit; or
- (4) Improper public notice of the special use permit public hearing(s) when the permit was considered by the planning commission or the governing body; or

- (5) An error or mistake in fact that led to an arbitrary and unreasonable decision made by the governing body when approving the special use permit.

(Ord. No. 31A-102, 6-1-87)

**Sec. 24-13. Amendment of chapter.**

As provided for by section 15.2-2286(7) of the Code of Virginia, the board of supervisors may from time to time amend, supplement or change by ordinance the boundaries of the districts or the regulations herein established; any such amendment may be initiated by resolution of the board of supervisors or by motion of the planning commission or by petition of any property owner, contract purchaser with the owner's written consent, or the owner's agent therefore of the property which is the subject of the proposed zoning map amendment, addressed to the board of supervisors. Petitions for change or amendment shall comply with the requirements of section 24-23. These changes may be made, provided:

- (1) The planning commission and the board of supervisors shall each hold at least one public hearing in relation thereto at which parties in interest and citizens shall have an opportunity to be heard.
- (2) That notice shall be given of the time and place of such hearing by publication as a box advertisement in at least two issues of some newspaper having a general circulation in the jurisdiction. Such notice shall specify the time and place of hearing at which persons affected may appear and present their views, not less than ~~six~~ *five* days nor more than 21 days after final publication. After enactment of any such plan, ordinance or amendment, further publication thereof shall not be required.
- (3) When a proposed amendment of the zoning ordinance involves a change in the zoning classification of 25 or less parcels of land, then, in addition to the advertising as required above, written notice shall be given by the planning commission at least five days before the hearing to the owner or owners, their agent or the occupant of each parcel involved and to the owners, their agent or the occupant of all abutting property and property immediately across the street from the property affected. When a proposed amendment of the zoning ordinance involves a change in the zoning map classification of more than 25 ~~but less than 500 parcels of land~~, then, in addition to the advertising as above required, written notice shall be given at least five days before the hearing to the owner, owners or their agent of each parcel of land involved. One notice sent by first class mail to the last known address of such owner as shown on the current real estate assessment books shall be deemed adequate compliance with this requirement; provided, that a representative of the local commission shall make affidavit that such mailings have been made and file such affidavit with the papers in the case. Nothing in this paragraph shall be construed as to invalidate any subsequently adopted amendment or ordinance because of the inadvertent failure by the representative of the planning commission to give written notice to the owner, owners or their agent of any parcel involved. Such notice shall be sent in accordance with section 15.2-2204 of the Code of Virginia.
- (4) No plan, ordinance or amendment shall be enacted, amended or re-enacted unless the board of supervisors has referred the proposal to the planning commission for its recommendation or has received the planning commission recommendation. Failure of the planning commission to report 100 days after the first meeting of the commission after the proposed plan, amendment or reenactment has been referred to the commission for action shall be deemed approval. After the public hearing required in subsection (1) above, the board may make appropriate changes or corrections in the ordinance or proposed amendment.
- (5) A petition for a plan or amendment substantially the same as one previously considered shall not be reconsidered within a one-year period from the date the similar petition was decided *by the board of supervisors*.

(Ord. No. 31A-88, § 20-14, 4-8-85; Ord. No. 31A-201, 12-1-99; Ord. No. 31A-210, 12-10-02)

**Sec. 24-14. Construction and severability of provisions.**

This chapter shall be liberally construed so as to effectuate the purposes hereof. If any clause, sentence, paragraph, section or subsection of this chapter shall be adjudged by any court of competent jurisdiction to be invalid for any reason, including a declaration that is contrary to the constitution of the commonwealth or of the United States, or if the application thereof to any government, agency, person or circumstance is held invalid, such judgment or holding shall be confined in its operation to the clause, sentence, paragraph, section or subsection hereof, or the specific application hereof, directly involved in the controversy in which the judgment or holding shall have been rendered or made, and shall not in any way affect the validity of any other clause, sentence, paragraph, section or subsection hereof, or affect the validity of the application thereof to any other government agency, person or circumstance.

(Ord. No. 31A-88, § 20-14.1, 4-8-85)

**Sec. 24-15. Purpose of this article.**

It is the general policy of the county, in accordance with the laws of the Commonwealth of Virginia, to provide for the orderly development of land, for all purposes, through zoning and other land development legislation. Frequently where competing and incompatible uses conflict, traditional zoning methods and procedures are inadequate. In these cases, more flexible and adaptable zoning methods are needed to permit land uses and at the same time to recognize effects of change. It is the purpose of this article to provide a more flexible and adaptable zoning method to cope with situations found in such zoning through conditional zoning, whereby a zoning reclassification may be allowed subject to certain conditions proffered by the zoning applicant for the protection of the community that is not applicable to land similarly zoned. The provisions of this article shall not be used for the purpose of discrimination in housing.

(Ord. No. 31A-88, § 20-14.2, 4-8-85)

**Sec. 24-16. Proffer of conditions.**

The owner or owners of property making application for a change in zoning or amendment to a zoning map, as part of their application, may voluntarily proffer in writing reasonable conditions, prior to a public hearing before the board of supervisors, which shall be in addition to the regulations provided for in the zoning district or zone sought in the rezoning petition. The conditions shall be proffered as a part of the requested rezoning or amendment to the county's zoning map. It is expressly provided, however, that the conditions so proffered are subject to the following limitations:

- (1) The rezoning itself must give rise to the need for the conditions;
- (2) Such conditions shall have a reasonable relation to the rezoning;
- (3) All such conditions shall be in conformity with the Comprehensive Plan of the county;
- (4) No proffer shall be accepted by the county unless it has adopted a capital improvement program pursuant to Virginia Code, section 15.2-2239. In the event proffered conditions include the dedication of real property or payment of cash, such property shall not transfer and such payment of cash shall not be made until the facilities for which such property is dedicated or cash is tendered are included in the capital improvement program; provided, that nothing herein shall prevent the county from accepting proffered conditions which are not normally included in such capital improvement program;

(5) If proffered conditions include the dedication of real property or the payment of cash, the proffered conditions shall provide for the disposition of such property or cash payment in the event the property or cash payment is not used for the purpose for which proffered  
(Ord. No. 31A-88, § 20-14.3, 4-8-85; Ord. No. 31A-100, 4-6-87; Ord. No. 31A-110, 9-12-88; Ord. No. 31A-115, 6-5-89)

**Sec. 24-17. Enforcement and guarantees as to conditions.**

The zoning administrator shall be vested with all necessary authority on behalf of the county to administer and enforce conditions attached to a rezoning or amendment to a zoning map, including:

- (1) The ordering in writing of the remedy of any noncompliance with such conditions;
- (2) The bringing of legal action to ensure compliance with such conditions, including injunction, abatement or other appropriate action or proceeding; and
- (3) Requiring a guarantee, in an amount sufficient for or conditioned upon the construction of any physical improvements required by the conditions, or a contract for the construction of such improvements and the contractor's guarantee, in like amount and so conditioned, which guarantee may be reduced or released by the zoning administrator upon the submission of satisfactory evidence that construction of such improvements has been completed in whole or in part. Failure to meet all conditions shall constitute cause to deny the issuance of any required use, occupancy or building permits as may be appropriate.  
(Ord. No. 31A-88, § 20-14.4, 4-8-85)

**Sec. 24-18. Records.**

The zoning map of the county shall show by an appropriate symbol on the map the existence of conditions attached to the zoning on the map. The zoning administrator shall keep in his office and make available for public inspection a conditional zoning index. The index shall provide ready access to the ordinance creating conditions in addition to the regulations provided for in a particular zone.  
(Ord. No. 31A-88, § 20-14.5, 4-8-85)

**Sec. 24-19. Petition for review of decision.**

(a) Any zoning applicant who is aggrieved by a decision of the zoning administrator, pursuant to the provisions of section 24-17, may petition the board of supervisors for the review of such decision. Such appeal shall be taken within 30 days from the date of the action complained of and shall be instituted by filing with the zoning administrator and with the county administrator a notice of appeal, specifying the grounds thereof.

(b) The zoning administrator shall forthwith transmit to the board of supervisors all of the papers constituting the record upon which the action appealed from was taken. The board of supervisors shall hear the appeal within 45 days from the date of the filing and give public notice in accordance with section 15.2-2204 of the Code of Virginia of the date fixed for the hearing, and shall give written notice at least five days before the hearing to the owner or owners, their agent or the occupant of each parcel involved and to the owners, their agent or occupant of all abutting property and property immediately across the street from the property affected.

(c) An appeal shall stay all proceedings in furtherance of the action appealed from, unless the zoning administrator certifies to the board of supervisors, after notice of appeal has been filed with him, that, by reason of the facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property. In

such case, the proceedings shall not be stayed otherwise than by a restraining order which may be granted by the board of supervisors or by a court of record on application or notice to the zoning administrator and on due cause shown.

(Ord. No. 31A-88, § 20-14.6, 4-8-85; Ord. No. 31A-217, 4-26-05)

**Sec. 24-20. Amendments and variations of conditions.**

(a) Conditions proffered and accepted as part of an amendment of the zoning ordinance shall continue in full force and effect until a subsequent amendment changes the zoning on the property covered by such conditions; provided, however, that such conditions shall continue if the subsequent amendment is part of a comprehensive implementation of a new or substantially revised zoning ordinance.

(b) There shall be no amendment or variation of conditions created pursuant to the provisions of this article until after a public hearing before the board of supervisors which shall be advertised pursuant to section 24-13 of this chapter.

(Ord. No. 31A-88, § 20-14.7, 4-8-85)

**Sec. 24-21. Relation of section to other laws.**

The provisions contained in this section shall be considered separate from, supplemental to and additional to the provisions contained elsewhere in this Code or other county ordinances. Nothing contained in this section shall be construed as excusing compliance with all other applicable provisions of this Code or other county ordinances.

(Ord. No. 31A-88, § 20-14.8, 4-8-85)

**Sec. 24-22. Penalties; sanctions, injunctive relief, fines.**

(a) Violating, causing or permitting the violation of, or otherwise disregarding any of the provisions of this chapter by any person, firm or corporation, whether as principal, agent, owner lessee, employee or other similar position, shall be unlawful and is subject to the following:

(1) *Criminal sanctions.* Upon conviction, shall be guilty of a misdemeanor and shall be fined not less than \$10.00, nor more than \$1,000.00. Failure to remove or abate a zoning violation within the specified time period shall constitute a separate misdemeanor offense punishable by a fine of not less than \$10.00 nor more than \$1,000.00, and any such failure during any succeeding thirty day period shall constitute a separate misdemeanor offense for each thirty day period punishable by a fine of not less than \$10.00 nor more than \$1,000.00.

(2) *Injunctive relief.* Any violation or attempted violation of this chapter may be restrained, corrected or abated as the case may be by injunction or other appropriate relief.

(3) *Civil fines:*

a. A civil penalty in the amount listed on the schedule below shall be assessed for a violation of the respective offense:

- 1. Keeping an inoperative vehicle in residential or commercial zoning districts in violation of section 24-37, per vehicle ..... \$100.00
- 2. Constructing, placing, erecting or displaying a sign on private property without a sign permit issued by the county in violation of section 24-67, per sign..... 100.00

3. Occupying, or permitting to be occupied, a single-family dwelling (SFD) by more than three unrelated individuals in violation of the definition of "family" in section 24-2, per offense ..... 100.00
  4. Installing, placing or maintaining a dish antennae in violation of section 24-34, per offense ..... 50.00
  5. Failure to meet the tree replacement requirements for any buffer or setback for timbering in accordance with section 24-43, per offense ..... 100.00
- b. Each day during which a violation is found to exist shall be a separate offense. However, in no event shall specified violations arising from the same set of operative facts be charged more frequently than once in a ten-day period and in no event shall a series of such violations result in civil penalties of more than \$3,000.00.
- c. Any person summoned for a scheduled violation may make an appearance in person or in writing by mail to the county treasurer prior to the date fixed for trial in court. Any person so appearing may enter a waiver of trial, admit liability and pay the civil penalty established for the offense charged. Such persons shall be informed of their right to stand trial and that a signature to an admission of liability will have the same force and effect as a judgment of court.
- d. No provisions herein shall be construed to allow the imposition of civil penalties for:
1. Enforcement of the Uniform Statewide Building Code;
  2. Activities related to land development or activities related to the construction or repair of buildings and other structures;
  3. Violations of the erosion and sedimentation control ordinance;
  4. Violations of any provisions of a local zoning ordinance relating to the posting of signs on public property or public right-of-ways; or
  5. Violations resulting in injury to any person or persons.

(b) Civil or criminal action may be brought in conjunction with an action for injunctive relief. However, the offense designated for civil penalties above shall be in lieu of criminal enforcement. (Ord. No. 31A-88, §20-15, 4-8-85; Ord. No. 31A-100, 4-6-87; Ord. No. 31A-129, 3-4-91; Ord. No. 31A-182, 10-13-98; Ord. No. 31A-204, 5-8-01)

**Sec. 24-23. Submittal requirements.**

(a) The following *information* shall be submitted with any request for an amendment of this chapter, as provided for in section 24-13, or for any building or use and addition or expansion thereto which requires a special use permit under this chapter, provided however, applications for family subdivisions, manufactured homes and temporary classroom trailers shall be exempt from the requirements of this section.

(1) Community impact statement. *The community impact statement shall describe the probable effects of the proposed development upon the community and at a minimum, shall address the following topics regarding infrastructure and quality of life:*

~~a. Infrastructure information:~~

- a. A traffic impact ~~study~~ *analysis* for all projects that expect to generate 100 or more weekday peak hour trips to and from the site during the peak hour of the operation, based on the

application of the Institute of Transportation Engineers (ITE) traffic generation rates contained in the latest edition of its book entitled Trip Generation, or those projects with an entrance or exit onto a roadway with a level of service “D” or lower *shall be required pursuant to the Traffic Impact Analysis Submittal Requirement Policy*. The applicable trip generation rate shall be determined by the planning director. The planning director may permit other traffic generation rates to be used if an individual or firm qualified to conduct traffic engineering studies documents that the use would not reasonably be expected to generate the amount of peak hour traffic projected by application of ITE traffic generation rates, provided the documentation is acceptable to the planning director *based on the TIA policy requirements*. Vehicular access points and drives shall be designed to encourage smooth traffic flow, with controlled turning movements and minimum hazards to vehicular and pedestrian traffic. Buildings, parking areas and drives shall be arranged in a manner that encourages pedestrian access and minimizes traffic movement. No more than one access point on each abutting public street shall be permitted unless specifically approved by the board of supervisors after reviewing the applicant's traffic impact ~~study~~ *analysis*; and

- ~~b.~~ A water and sewer impact study for all projects with an anticipated average daily flow greater than ~~30,000 gallons~~, *15,000 gallons* and/or for proposed residential projects containing ~~100~~ *50* lots or more. *Water conservation information in accordance with Water Conservation Guidelines Policy adopted by the board of supervisors on November of 2007.*
  - ~~c.~~ ~~A conceptual stormwater management plan showing approximate location, footprint, and type of BMP; and~~
  - ~~c.~~ An adequate public facilities report in accordance with Board of Supervisors policy *to include sewer, water, schools, fire, stations, libraries, and other major locally finances facilities. Schools information shall be prepared according to the Adequate Public School Facilities Test Policy adopted by the board of supervisors on June of 1998.*
  - ~~d.~~ *Additional on-site and off-site public facilities or services which would be required as a result of the proposal.*
- ~~b. Quality of life information~~
- ~~e.~~ A Phase IA historic and archaeological study if the property is identified as being a highly-sensitive area on the James City County archaeological assessment. If the property is identified as a moderately-sensitive area on the assessment, studies shall be provided in accordance with the currently adopted archaeological policy;
  - ~~f.~~ An environmental inventory in accordance with the James City County Natural ~~Areas~~ *Resource* policy;
  - ~~g.~~ *An Environmental Constraints Analysis in accordance with the James City County Environmental Submittal Policy for Legislative Cases;*
  - ~~h.~~ A fiscal impact ~~analysis~~ *study* when the proposal includes residential dwelling units. *If desired by the applicant supplemental studies may be prepared by an individual or firm qualified to conduct a fiscal impact study in a manner and form acceptable to the director of planning; and*
  - ~~i.~~ *Parks and recreation information based on Parks and Recreation Master Plan Proffer Guidelines adopted by the board of supervisors on June of 2009.*

(2) Master plan. The master plan shall depict and bind the approximate boundaries and general location of all principal land uses and their building square footage and height, roads, right-of-ways (*with an indication of whether public or private*), accesses, opens spaces, public uses and other features to be located on the site for which approval is sought. The planning director may require other features, including general location and approximate boundaries of buildings, structures or parking areas, to be incorporated into the master plan where deemed necessary due to the size of the development, access to or location of public roads, distance from residential areas, presence of environmentally sensitive areas or availability of public utilities. *The master plan should be prepared by a licensed surveyor, engineer, architect, landscape architect or planner. A scale may be used so that the entire parcel can be shown on one piece of paper no larger than 30 inches by 48 inches. The master plan shall also include:*

1. *An inset map at a scale of not less than one inch to one mile showing the property in relation to surrounding roads, subdivision or major landmarks;*
2. *A north arrow, scale, the proposed use, approximate development phasing (if applicable);*
3. *The location of existing property lines, watercourse or lakes, wooded areas and existing roads which are within or adjoining the property;*
4. *If applicable, a table which shows for each section or area of different uses: the use; approximate development phasing, maximum number of dwelling units and density for residential areas, maximum square feet of floor space for commercial or industrial areas; and maximum acreage of each use;*
5. *If applicable, schematic plans which shall indicate the phasing of development and master water, sewer and drainage plans.*
6. *If more than one type of land uses are proposed each use shall be designated on the master plan as follows:*

<i>Type of Development</i>	<i>Area Designation</i>
<i>Single family</i>	<b>A</b>
<i>Multi-family (up to and including four dwelling units)</i>	<b>B</b>
<i>Multi-family (more than four dwelling units)</i>	<b>C</b>
<i>Apartments</i>	<b>D</b>
<i>Commercial uses</i>	<b>E</b>
<i>Wholesale and warehouse uses</i>	<b>F</b>
<i>Office uses</i>	<b>G</b>
<i>Light industrial uses</i>	<b>H</b>
<i>Institutional or public uses</i>	<b>I</b>
<i>Areas of common open space, with recreation areas noted</i>	<b>J</b>
<i>Structures containing a mixture of uses</i>	<b>M*</b>
<i>Other structures, facilities or amenities</i>	<b>X</b>

Areas of a master plan designated M (structures containing a mixture of uses) shall indicate in parenthesis, following the M designation, the appropriate letter designations of the types of uses contained within the structure (e.g., M (CG)) in the order of their proportion in the mixed use structure.

*A total of 12 copies of the master plan should be submitted along with an application for rezoning or a special use permit; if necessary, additional copies of the master plan may be required for submittal.* The master plan shall be reviewed and approved and thereafter become binding upon approval of a rezoning or a special use permit by the board of supervisors. Thereafter, all amendments to the master

plan shall be in accordance with section 24-13 of this chapter. Final ~~site development~~ plans may be approved after approval of a master plan by the board of supervisors. All final ~~site development~~ plans shall be consistent with the master plan, but may deviate from the master plan if the ~~zoning administrator concludes, after reviewing written comments from the planning director,~~ the ~~director of planning concludes that~~ the site plan does not alter the basic concept or character of the development or conflict with any conditions placed on the special use permit. If the zoning administrator determines that a proposed change would deviate from the approved master plan, the amendment shall be submitted and approved in accordance with section 24-13.

*For specific information regarding master plan submittal requirements refer to the submittal sections for the following zoning districts: R-4, Residential Planned Community; RT, Research and Technology; PUD, Planned Unit Development; MU, Mixed Use; EO, Economic Opportunity; and Residential Cluster Development Overlay District.*

- (3) Any other submittal requirement which may be required by this chapter.
- (4) An application and fee in accordance with ~~section 24-7 of this chapter.~~ *the fee schedule provided by the James City County Development Management Department and adopted by the board of supervisors.*
- (b) Supplemental information should be submitted in accordance with the “Supplemental Submittal Requirements for Special Use Permits and Rezonings” policy as adopted by the board of supervisors *on December of 1999 and any additional policies as necessary.*
- (c) Unless otherwise required by this chapter, upon written request by the applicant, the director of planning may waive any requirement under (a)(1) or (a)(2) above after finding that such information would not be germane to the application.  
(Ord. No. 31A-201, 12-1-99)

#### **Section 24-24. Additional requirements for submittal.**

Each person or entity submitting an application for consideration under the provisions of section 24-23 including a special use permit, variance, erosion and sediment control permit, building permit, or any other land disturbance or rezoning measure, shall attach to such application a signed statement from the county treasurer certifying that for property listed in the application all real estate taxes owed to the county have been paid in full. The statement of certification from the county treasurer shall be valid for 30 days. Should the application be submitted more than 30 days after the treasurer has certified payment of taxes, a new certification from the treasurer shall be required.

**State law reference**-Permitted provisions in zoning ordinances; amendments; applicant to pay delinquent taxes; penalties, Code of VA., §15.2-2286.  
(Ord. No. 31A-247, 8-10-10)

**Secs. 24-25 - 24-31. Reserved.**

## Chapter 24

### ARTICLE III. SITE PLAN

#### Sec. 24-142. Statement of intent.

(a) The purpose of this article is to encourage sound and innovative design and to ensure that land is used in a manner that is efficient, in harmony with neighboring property and the environment, and in accordance with the Comprehensive Plan and provisions of this chapter or other parts of the James City County Code.

(b) Nothing herein shall require the approval of any development, use or plan, or any feature thereof, which shall be found by the commission or the zoning administrator to constitute a danger to the public health, safety or general welfare, or which shall be determined to be a violation of federal, state or county laws or regulations.

(Ord. No. 31A-132, 10-14-91)

#### Sec. 24-143. When site plans required.

Site plans shall be required for the following major uses and additions and expansions thereto:

- (1) ~~Multiple~~ ~~Multi~~-family dwellings *with a combined total of four units or more*; except for the addition of individual private decks and fences accessory thereto.
- (2) ~~Townhouses or condominiums~~ *Apartments*; except for the addition of individual private decks and fences accessory thereto.
- (3) ~~Churches, temples, synagogues or cemeteries~~; *Places of public assembly, such as churches, temples, synagogues, cemeteries; and public meeting halls;*
- (4) Docks, marinas, wharves, piers, bulkheads and the like or any overwater structures, except private overwater piers and boat houses accessory to ~~a~~ single-family dwelling;
- (5) ~~Business~~; *Commercial or industrial buildings or developments*;
- (6) Manufactured home parks;
- (7) Campgrounds;
- (8) Public parks or recreation facilities;
- (9) Public utilities, public service or transportation uses, transmission mains, buildings, generating, purification or treatment plants, water storage tanks, pumping or regulator stations, telephone exchange, transformer or substations, or power transmission lines;
- (10) Schools or public buildings;
- (11) Hospitals or nursing homes;
- (12) ~~Towers~~; *Wireless communications facilities*;

~~(13) Two or more two-family dwellings on the same parcel;~~

(13) Three or more single-family dwellings on the same parcel; or

(14) Off-street parking areas or any additions to existing off-street parking areas except for single-family residences.

(Ord. No. 31A-132, 10-14-91; Ord. No. 31A-160, 5-1-95)

#### **Sec. 24-144. Preapplication conference and submission of conceptual plan.**

(a) Before filing an application for approval of a site development plan, the applicant is advised to confer with the planning director, or his designee, and such other agencies of the county, state and/or federal governments as the planning director suggests to be advisable concerning the general proposal.

(b) Prior to the submission of a site plan, the applicant or his representative, is advised to submit three copies of a conceptual plan for review by the director of planning, or his designee; such action does not constitute the submission of a site plan and is not to be construed as an application for approval in computing time limitations in relation thereto. The planning division shall transmit comments to the applicant within ~~24 calendar~~ **10 working** days of submittal of a **conceptual** plan which meets all applicable submittal criteria.

(c) The conceptual plan may be granted conceptual plan approval with conditions that should be satisfied prior to final site plan approval by the zoning administrator; such action does not constitute site plan approval or preliminary approval. ~~Submittal of a site plan that does not incorporate the conditions set forth during the conceptual plan review period, shall be reviewed by the commission under the requirements of section 24-148.~~ Unless required by the planning director, a resubmittal of conceptual plans shall not be necessary.

(d) Conceptual plans shall, at a minimum, ~~show:~~ **identify or contain:**

(1) ~~Property lines;~~ **Project title, title block, legend, north arrow and graphic scale, zoning and zoning of surrounding properties;**

(2) ~~Building locations and orientation;~~ **Vicinity and location maps and site address;**

(3) ~~Building locations on adjacent properties;~~ **County tax parcel number, site boundary, and parcel size information;**

(4) ~~Location of parking area(s);~~ **Buildings location and orientation, location of buildings on adjacent properties, building and landscape setbacks, buffers such as Resource Protection Areas (RPA) and CCC (Community Character Corridors);**

~~(5) Landscape areas/buffers;~~

(5) Entrances/exits/access to the site (vehicular, pedestrian, greenway, etc.);

(6) Greenway connections (on-site and those adjacent to the subject property);

(7) **Narrative description of the** proposed use of site;

~~(8) Building/landscape setbacks per James City County ordinance;~~

~~(9) Site zoning and zoning of surrounding properties;~~

- (8) Location of stormwater management facilities;
  - ~~(12) Graphic scale;~~
  - (9) **Recorded** easements (conservation, utility, **rights-of-way**, etc.);
  - (10) Unique natural/visual features (viewsheds, water features, wetlands, **etc.**) ~~RPA buffer, known archaeological sites, etc.);~~
  - (11) Unique natural/visual features to be preserved (~~mature specimen trees, etc.);~~ **known archeological sites, etc);**
  - (12) List of currently binding proffers or SUP conditions;
  - (13) Location of entry signs; and
  - (14) **Existing** topography of site ~~using county base mapping (5 foot contour) or other mapping sources or surveys.~~
- (e) If the zoning administrator determines that one or more of the above submittal requirements is not applicable to the proposed project, the zoning administrator may waive those requirements.

(Ord. No. 31A-132, 10-14-91; Ord. No. 31A-192, 5-11-99)

**Sec. 24-145. Site plan submittal requirements.**

- (a) Site plans shall, at a minimum, **identify or** contain:
  - (1) ~~Title of project;~~ **Project title, title block, north arrow, legend, graphic scale, zoning, parcel number and such information as the names and numbers of adjacent roads, streams and bodies of water, railroads and subdivisions, or other landmarks sufficient to clearly identify the location of the property;**
  - (2) Name of engineer, architect, landscape architect, planner and/or licensed surveyor;
  - (3) **Vicinity and** location of site by an inset map at a scale no less than one inch equals 2,000 feet;
  - ~~(4) Indication of the scale, north arrow, zoning, parcel number and such information as the names and numbers of adjacent roads, streams and bodies of water, railroads and subdivisions, or other landmarks sufficient to clearly identify the location of the property;~~
  - (4) Boundary survey of site;
  - (5) Location, type and size of all entrances to the site. All existing and proposed streets and easements, their names, numbers and width; \
  - (6) **Existing and proposed utilities with easements and sizes, projected peak water and wastewater flows, watercourses and their names and owners;**
  - ~~(7) Location, type and size of all entrances to the site;~~

- (7) Existing topography *using county base mapping (five foot contours) or other mapping sources or resources*, and proposed finished contours;
- (8) *Spot elevations shown at topographic low and high points;*
- (9) A landscape plan showing woodline before site preparation with species and average diameter of trees indicated with location and diameter of single trees in open areas; areas to be screened, fenced, walled and/or landscaped, with approximate arrangements, plant types and sizes; and size and type of trees to be removed having a minimum diameter breast height of 12 inches;
- (10) *A tree preservation plan and a phased clearing plan in accordance with Sections 24-87 and 24-90;*
- (11) *An outdoor lighting plan in accordance with Section 24-101;*
- (12) Provisions for off-street parking, loading spaces and pedestrian walkways including existing and proposed sidewalks, calculations indicating the number of parking spaces required and the number provided;
- (13) Number of floors, floor area, height and location of each building;
- (14) For a multifamily *or apartment residential* development, the number, size and type of dwelling units and the location, type and percentage of total acreage of recreation facilities;
- (15) Detailed utility layout including water and sanitary sewer plan with profiles; location of electrical transmission lines, gas pipelines, streetlights and fire hydrants; and showing the locations of garbage and trash disposal facilities;
- (16) Provisions for the adequate control of stormwater drainage and erosion and sedimentation, indicating all proposed temporary and permanent control measures;
- (17) Computation notations to include the total site area, and the amount and percentage of the site covered by open space and buildings, or dwelling units for multifamily *residential or apartment* developments;
- (18) Bylaws of homeowner association where applicable;
- (19) Copies of notification to adjacent property owners; and.
- (20) Copy of conceptual plan ~~reviewed under the requirements of section 24-144.~~ *(if applicable)*
- (21) *Narrative description of compliance of plan to any proffers or special use permit conditions*
- (22) *The following environmental information about the site proposed for development including:*
  - a. *All existing easements, disturbed area, impervious cover, and percent impervious estimate;*
  - b. *Flood zone designation, Resource Protection Areas (RPAs), soils (highly erodible, hydric, permeable, hydrologic soils group A & B);*
  - c. *Full environmental inventory consistent with section 23-10(2) of the County's Chesapeake Bay Preservation Ordinance (perennial stream assessment, delineated wetlands, limits of work);*

d. Demonstration that the project complies with section 23-9(b)(1), (2), & (3) of the County's Chesapeake Bay Preservation Ordinance (how disturbance is being minimized, indigenous vegetation preserved, and impervious cover minimized);

e. County watershed, steep slopes (grade 25% or more), sites known for populations of rare or threatened species, locations of existing conservation easements, wooded areas and wildlife habitat; and

f. Description of Better Site Design or Low Impact Development (LID) techniques if being used.

(b) If the zoning administrator determines that one or more of the above submittal requirements is not applicable to the proposed project, the zoning administrator may waive those requirements.

(c) The submittal of a site plan with insufficient information shall result in the return of the plans to the applicant without review; such deficiencies shall be noted in written form.

~~(d) If the submitted site plan does not have an approved conceptual plan, as set forth in section 24-144, then the site plan shall be reviewed by the commission under the requirements of section 24-148.~~

(Ord. No. 31A-132, 10-14-91; Ord. No. 31A-192, 5-11-99)

#### **Sec. 24-146. Public access to site plan.**

(a) It shall be the responsibility of the applicant for site plan approval to notify all adjoining property owners, advising them of the submission of plans to the county and that plans are on file and available for review in the planning division. No site plan shall be reviewed until the applicant presents evidence to the satisfaction of the planning director, or his designee, that all property owners contiguous to and sharing a common property line with such applicants or whose property lies directly across from the proposed development have been notified in writing prior to the time the site plan is reviewed. Evidence that such notice was sent by mail to the last-known address of such owner as shown on the current real estate tax assessment books shall be deemed adequate compliance.

(b) All site plans shall be kept on file in the planning division and will be available for review by all interested persons during normal business hours for no less than five working days prior to receiving preliminary approval. This five-day period shall begin at the time the applicant has submitted sufficient evidence to the planning director that all adjacent property owners have been notified as required in this article. (Ord. No. 31A-132, 10-14-91)

#### **Sec. 24-147. Criteria for review.\***

(a) Upon application and review, the development review committee (DRC) and the commission, or the commission's designee(s), shall consider site plans if any of the following conditions are present:

(1) The site plan proposes:

a. ~~A fast food restaurant; or a~~ A multifamily unit development of 10 or more units which is not subject to a binding, legislatively approved master plan, or

b. A shopping center; or

c. A single building or group of buildings which contain a total floor area that exceeds 30,000 square feet ~~or a multifamily unit development of 50 or more units, which is not subject to a binding master plan that has been legislatively approved; which are not predominantly to be used as a warehouse, distribution center, office, or for other industrial or manufacturing purpose. The term "predominantly" shall be defined as 85 percent of the total square feet of the building or more.~~

(2) There are unresolved ~~problems~~ *conflicts* between the applicant, adjacent property owners or any departmental reviewing agency. *Unresolved conflicts shall be defined as disagreement in the interpretation or application of ordinance requirements which have a material impact on the proposed developments off-site impacts and/or density as determined by the director of planning.*

(b) Site plans which meet any of the conditions listed above shall generally be reviewed by the DRC and the commission in accordance with section 24-148. However, the commission's designee may consider and review, pursuant to section 24-149, any site plan which the ~~development manager~~ *economic development director* determines, *to* create or significantly expand a use which contributes to the achievement of the economic development goals of the Comprehensive Plan.

(c) If site plans do not qualify for review by the commission or its designees under this section, they may be considered and reviewed administratively by the zoning administrator: *under the terms of section 24-150.* (Ord. No. 31A-132, 10-14-91; Ord. No. 31A-136, 1-6-92; Ord. No. 31A-157, 11-12-94; Ord. No. 31A-191, 4-13-99; Ord. No. 31A-246, 6-22-10)

#### **Sec. 24-148. Procedure for commission review of site plans.**

(a) The applicant shall submit to the planning director, or his designee, ten copies of the site plan and pay the appropriate application fee. Site plans shall first be reviewed by the DRC who shall forward a recommendation to the commission. In order for site plans to be considered by the DRC at one of its regularly scheduled monthly meetings, such site plans shall be received by the planning division at least five weeks in advance of the respective DRC meeting.

(b) Upon meeting all submittal requirements, the site plan shall be reviewed by the planning division and other agencies of the county, state and/or federal government as deemed necessary by the planning director. The planning division shall prepare a composite report on the proposed site plan which shall include review ~~requirements~~ *comments and requirements* by other agencies *and determine consistency with all applicable zoning ordinance requirements, policies and regulations.* The DRC shall consider the composite report and the site plan and make a recommendation to the commission.

(c) The commission shall consider the recommendation of the DRC and either grant preliminary approval, defer or disapprove the site plan. The site plan may be granted preliminary approval with conditions that must be satisfied prior to final approval by the zoning administrator. The planning division shall notify the applicant of the commission's findings within ten working days of the commission meeting. Such notice shall state any actions, changes, conditions or additional information that shall be required to secure preliminary or final approval. If disapproved, the notice shall state the specific reasons for disapproval.

(d) The applicant may, at their discretion, submit an enhanced conceptual plan for review by the planning division, other agencies of the county, state and/or federal government as deemed necessary by the ~~planning director~~ *director of planning* and the DRC in advance of preparation of fully engineered plans. The planning division shall prepare a composite report on the proposed plans which shall include review *comments and requirements* by other agencies and determine consistency with all applicable zoning ordinance requirements, policies and regulations. The *composite report and the* enhanced conceptual plan ~~and the planning division's composite report~~ shall be ~~reviewed~~ *considered* by the DRC *at one of its regularly scheduled monthly meetings when it meets* to make its recommendation to the commission. The commission shall consider the recommendation of the DRC and either grant preliminary approval, defer or disapprove the plan. The plan may be granted preliminary approval with conditions that must be satisfied prior to final approval by the zoning administrator. The planning division shall notify the applicant of the commission's findings within ten working days of the commission meeting. Such notice shall state any actions, changes, conditions or additional information that shall be required to secure preliminary or final approval. If disapproved, such notice shall

state the specific reasons for disapproval. Plans granted preliminary approval by the commission at the conceptual stage can move forward into full design for further review administratively by the planning division *and other agencies as deemed necessary by the director of planning*. In order for enhanced conceptual plans to be considered by the DRC at one of its regularly scheduled monthly meetings, such plans shall be received by the planning division at least five weeks in advance of the respective DRC meeting.

- (e) The enhanced conceptual plan shall at a minimum contain:
  - (1) Project title, title block, legend, north arrows and ~~plan~~ **graphic** scale labeled;
  - (2) Vicinity and location maps and site address;
  - (3) Site owner and developer information;
  - (4) County tax parcel number, site boundary and parcel size information;
  - (5) Setbacks (Building, Landscape) and Buffers (RPA, Community Character);
  - (6) Adjacent property information;
  - (7) Existing site features such as property lines, roads, buildings, roads, driveways, and utilities;
  - (8) Existing topography using county base mapping (5 foot contours) or other mapping sources or surveys. Spot elevations shall be shown at topographical low or high points;
  - (9) Existing and proposed rights-of-way and easements;
  - (10) Layout of proposed improvements showing design placement, circulation, parking spaces, handicapped parking spaces, loading spaces, parking islands, recreation areas, and streetlights;
  - (11) Landscape plan identifying general location of plantings and buffer/perimeter screening plantings;
  - (12) Narrative indicating the purpose of the project and compliance with any proffer and master plan requirements;
  - (13) Location and size of existing water mains and proposed connection point(s);
  - (14) Proposed location of water meters, waterlines, and fire hydrants;
  - (15) Proposed building usage and number of floors;
  - (16) Preliminary water demands based on proposed use and required fire flow;
  - (17) Fire flow test performed to determine adequate capacity
  - (18) Location of all existing or proposed private wells;
  - (19) Location and size of existing sanitary sewer lines and manholes and proposed connection point(s);
  - (20) Proposed sanitary sewer, pump or lift stations, and grinder pump(s);
  - (21) Verification of sewer flow acceptance;
  - (22) Location of primary and secondary onsite disposal system;
  - (23) Narrative description of project, including usage and size to determine appropriate ITE code(s) and compliance with Chapter 527 Traffic Impact Analysis Regulations and Access Management Regulations;
  - (24) Proposed entrance location(s) and distance to nearest existing intersections, crossovers, and/or adjacent intersections;
  - (25) Proposed build out year and phasing information;
  - (26) Typical road sections including street widths, curb type, shoulders, sidewalks, bike lanes, planting strips, right-of-way lines, proposed utility locations, centerline curve data;
  - (27) Traffic Impact Study for projects that propose 100 or more lots, uses that generate in excess of 100 peak hour trips;
  - (28) Proposed design features or elements for which waivers will be sought;
  - (29) Project site area, disturbed area, impervious cover and percent impervious estimates;
  - (30) Applicable FEMA FIRM panel information and zone designations;
  - (31) County watershed, subwatershed and catchment;
  - (32) Identify if the site is subject to the county's Special Stormwater Criteria (SSC);
  - (33) Overall soils map for the site along with general soil descriptions for each soil mapping unit present on the site, including preliminary locations of highly erodible, hydric, permeable and Hydrologic Soil Group A and B soils;
  - (34) Full Environmental Inventory consistent with section 23-10(2) of the county's Chesapeake Bay

- Preservation ordinance containing a perennial stream assessment, delineated wetlands confirmed by applicable federal and/or state agencies, limits of work, a table listing all inventory components, whether they are present on the site and quantified impacts, and offsite work areas, if proposed;
- (35) Demonstration that the project complies with section 23-9(b)(1), (2) and (3) of the county's Chesapeake Bay Preservation ordinance to limit land disturbing, preserve existing vegetation and minimize impervious cover consistent with the proposed land use or permitted development;
  - (36) Locations of existing and proposed stormwater management/BMP facilities, with county BMP ID Code numbers and labels to show intended BMP type in accordance with designations in the county BMP manual;
  - (37) Identify location of areas intended to be dedicated in conservation easement for natural open space, BMP worksheet or stormwater compliance purposes;
  - (38) Demonstration that the project complies with the county's 10-point system for water quality and stream channel protection, and Minimum Standard #19 of the Virginia Erosion and Sediment Control regulations by provision of a worksheet for BMP Point System;
  - (39) Demonstration that storm drainage systems and BMP outfalls must outlet into adequate, defined natural or man-made receiving channels;
  - (40) Identify preliminary location of primary proposed stormwater drainage system conveyances such as inlets, storm drainage piping, culverts and stormwater conveyance channels for primary systems;
  - (41) List of all known federal, state and local permits that are required for the project as well as any exceptions, variances or waivers that must be obtained or pursued.
- (Ord. No. 31A-132, 10-14-91; Ord. No. 31A-246, 6-22-10)

**Sec. 24-149. Procedure for review of site plans by the commission's designee(s).**

- (a) The applicant shall submit to the planning director, or ~~his~~ *its* designee, ten copies of the site plan and pay the appropriate application fee.
  - (b) Upon meeting all submittal requirements, the site plan shall be reviewed by the planning division and other agencies of the county, state and/or federal government as deemed necessary by the planning director. The planning division shall prepare a composite report on the proposed site plan which shall include review *comments and* requirements by other agencies and submit the report to the Commission's designees for consideration.
  - (c) The Commission's designees shall consider the planning division's report and either grant preliminary approval, defer, disapprove or refer the site plan back to the ~~DRC development review committee and full Commission~~. The site plan may be granted preliminary approval with conditions that must be satisfied prior to final approval by the zoning administrator. The planning division shall provide written notice to the applicant of the Commission's designee's decision. Such notice shall state any actions, changes, conditions or additional information that shall be required to secure preliminary or final approval. If disapproved, the notice shall state the specific reasons for disapproval.
- (Ord. No. 31A-136, 1-6-92)

**Sec. 24-150. Procedures for administrative review of site plans.**

- (a) The applicant shall submit to the planning director, or designee, ten copies of the site plan and pay the appropriate application fee.
- (b) Upon meeting all submittal requirements, the site plan shall be reviewed by the planning division and other agencies of the county, state and/or federal government as deemed necessary by the planning director. The planning division shall transmit county staff comments to the applicant within 45 days of the initial submittal of plans meeting all applicable submittal criteria. No plan shall be approved until all staff and other agency comments are satisfied.

- (c) The site plan may be granted preliminary approval *with conditions that must be satisfied prior to final approval* by the planning division or deferred. It *or* may also be approved or disapproved by the zoning administrator. ~~The site plan may be granted preliminary approval with conditions that must be satisfied prior to final approval by the zoning administrator.~~ The planning division shall notify the applicant of any action taken on the site plan within ten working days of such action. Such notice shall state any actions, changes, conditions or additional information that shall be required to secure preliminary or final approval. If disapproved, the notice shall state the specific reasons for denial.

(Ord. No. 31A-132, 10-14-91; Ord. No. 31A-246, 6-22-10)

#### **Sec. 24-151. Review criteria generally.**

~~The director of planning, zoning administrator,~~ the planning commission, *or* its designee(s), ~~the planning director and the zoning administrator~~ shall *examine review* and consider site plans with respect to:

- (1) Intensity of land use including developable acreage, density and adequate provisions for open space and recreational facilities as appropriate to the site usage and to the Comprehensive Plan *Development Standards*;
- (2) Design and layout of the site including *all existing and proposed* buildings, *exterior* signs, recreation facilities, garbage and trash disposal facilities, sedimentation and erosion controls, storm drainage, stormwater management, sanitary sewage disposal and water supply ~~exit and entrance points~~ *locations* on the site including line sizes, areas to be landscaped with approximate arrangement and plant types and sizes indicated, and provisions for pedestrian and vehicular traffic movements within and adjacent to the site. Particular emphasis shall be placed upon the review of on-site aesthetics; public safety features; environmental, historic and vegetative preservation; efficient layout of buildings, parking areas *and* off-street loading and unloading; ~~and movement of people, goods and vehicles (including emergency vehicles) from access roads, within the site, between buildings and vehicles.~~ Vehicular access to the site shall be designed to aid overall traffic flow and to permit vehicles, *including emergency vehicles, a safe means of* ingress and egress;
- (3) Design standards contained in this chapter as they relate to traffic circulation, parking, *lighting*, performance standards, location of structures, *buildings and landscape* setbacks, ~~yards, bulk,~~ *yard requirements* height and building coverage *limits* shall apply, where applicable, to site plan approval. The design criteria established in the county subdivision ordinance and applicable standards of the State Department of Transportation shall apply where appropriate to site plan approval.

(Ord. No. 31A-132, 10-14-91; Ord. No. 31A-136, 1-6-92)

#### **Sec. 24-152. Term of validity for preliminary approval.**

Preliminary approval of a site plan shall be valid for a period of one year. A revised site plan must be presented and properly filed with the planning director, or his designee, and receive final approval from the zoning administrator prior to the termination date of the preliminary approval.

(Ord. No. 31A-132, 10-14-91)

#### **Sec. 24-153. Submittal of revised site plan generally.**

Ten copies of a revised site plan shall be submitted to the planning director, or ~~his~~ *its* designee, who shall within 30 days review the second submittal of plans for compliance with applicable county regulations, the requirements for final approval and any conditions of the preliminary approval. The planning director, or ~~his~~ *its* designee, shall review each subsequent submittal of revised plans within 21 days. The planning director

shall provide a set of all submittals to ~~relevant~~ applicable agencies or departments for their review and written comments. The revised site plan shall be submitted on separate sheets or overlays as appropriate for accurate representation of the project. Insufficient submittals may be returned to the applicant with written notification of deficiencies from the planning director or his designee. The revised site plan shall, at a minimum, contain those items set forth in ~~subsection 24-145(a)(1) through (17).~~  
(Ord. No. 31A-132, 10-14-91; Ord. No. 31A-246, 6-22-10)

#### **Sec. 24-154. Reserved.**

#### **Sec. 24-155. Action upon completion of review of revised site plan.**

Upon final approval of the site plan by the zoning administrator, the planning director, or ~~his~~ *its* designee, shall transmit two approved sets of plans to the developer, owner or authorized project agent. ~~and one~~ *One* copy of any correspondence and *approved set of plans* is to be retained *on file* by the planning director or his designee. *in Records Management.*  
(Ord. No. 31A-132, 10-14-91)

#### **Sec. 24-156. Term of validity of final approval.**

(a) Final approval of a site plan submitted under the terms of this article shall ~~expire~~ *be valid from the date of approval for a period of five years.* ~~after the date of such approval.~~ During that period, all building permits shall be obtained or the development shall be put into use. When building permits have been issued, the site plan approval shall run concurrently with the building permit term of validity for only those buildings and improvements covered by a *the* permit(s).

(b) ~~The approved final site plan shall be valid for a period of five years from the date of approval.~~ For so long as the final site plan remains valid in accordance with the provisions of this section, no change or amendment to any county ordinance, map, resolution, policy or plan adopted subsequent to the date of approval of the final site plan shall adversely affect the right of the developer or successor in interest to commence and complete an approved development in accordance with the lawful terms of the site plan unless there has been a mistake, fraud or a change in circumstances substantially affecting the public health, safety or welfare *as determined by the director of planning, and the director of building safety and permits.*

(c) Application for minor modifications to approved site plans made during the five-year term of validity shall not constitute a waiver of provisions of this section nor shall the approval of such minor modifications extend the ~~period~~ *term* of validity *of the originally approved site plan.* Any minor modification shall be made in accordance with section 24-157.

(d) The provisions of this section shall not be construed to affect any litigation nonsuited and thereafter refiled; the authority of the governing body to impose valid conditions upon approval of any special use permit, conditional use permit or special exception; the application to parcels of land subject to final site plans, to the greatest extent possible, of the provisions of the county's Chesapeake Bay Preservation ordinance, or any county ordinance adopted to comply with the requirements of the federal Clean Water Act Section 402(p) Stormwater Program and regulations promulgated thereunder by the Environmental Protection Agency.  
(Ord. No. 31A-132, 10-14-91; Ord. No. 31A-147, 11-2-92)

#### **Sec. 24-157. Amendment of approved site plans.**

(a) Upon application, an approved site plan may be amended with the approval of the zoning administrator, provided that such proposed amendment does not:

- (1) Alter a recorded plat;

- (2) Conflict with the specific requirements of this article;
- (3) Change the general character or content of an approved development plan or use;
- (4) Have an appreciable affect on adjoining or surrounding property;
- (5) Result in any substantial change of major external access points;
- (6) Increase the approved number of dwelling units or height of buildings;
- (7) Decrease the specified yards and open spaces or specified parking and loading spaces; or
- (8) *Increase specified parking and loading spaces.*

(b) Amendments not in accordance with subsections (a)(1) through ~~(7)~~(8) of this section shall be considered as new site plans and resubmitted for approval. Approval of an amendment under this section shall not extend the term of validity of the original approved site plan.  
(Ord. No. 31A-132, 10-14-91)

**Sec. 24-158. Final "as-built" plans required.**

For all projects subject to site plan review in accordance with section 24-143, a copy of final "as-built" plans and specifications for all water and sewer facilities and fire hydrants shall be submitted to the James City Service Authority prior to the issuance of any permanent final certificate of occupancy *by the Building Safety and Permits Division.*  
(Ord. No. 31A-132, 10-14-91)

**Sec. 24-159. Compliance with site plan required.**

- (a) *Inspection and supervision during development:*
  - (1) Unless otherwise specifically provided in this chapter, the construction standards for all ~~off-site~~ *on-site* and *off-site* improvements required by this chapter, the site plan or other documents approved by the county shall conform to county design and construction standards. The director of ~~code compliance~~ *building safety and permits* or ~~his~~ *their* agents shall, after approval of the plan and specifications, inspect construction of all improvement and land disturbances to assure conformity with the approved plans to the maximum extent possible.
  - (2) The owner or agent shall notify the director of ~~code compliance~~ *building safety and permits* in writing three days prior to the beginning of all street or storm sewer work shown to be constructed on the site plan.
  - (3) The stormwater division shall, after approval of the plan and specifications, inspect construction of all stormwater installations, including but not limited to BMPs, storm drains, channels, inlets, and outfalls to assure conformity with the approved plans to the maximum extent possible.
  - (4) The owner or agent shall provide adequate supervision on the site during installation of all required improvements and have a responsible superintendent or foreman, together with one set of the approved plans, profiles and specifications available at the site at all times when the work is being performed.

- (b) *Sanctions, penalties and relief.* Any person, firm or corporation, whether as principal, agent, owner, lessee, employee or similar position, who violates or fails to comply with any provision of this article, permits such violation or erects any structure or uses any land or structure prior to preliminary approval or contrary to a site plan shall be subject to criminal sanctions, civil penalties and/or injunctive relief as provided in section 24-22.

(Ord. No. 31A-132, 10-14-91; Ord. No. 31A-235, 5-27-08)

**Sec. 24-160. Administrative review fees.**

Submittal of a site plan and subsequent revisions proposed by the applicant shall be accompanied by a fee as

specified in section 24-7.

(Ord. No. 31A-130, 5-6-91)

**Secs. 24-161 - 24-170. Reserved.**

## **Traffic Impact Analysis Submittal Requirements Policy**

### **I. GENERAL**

In 2006, the Traffic Impact Analysis Regulations known as “Chapter 527” was approved by the General Assembly of Virginia to expand the role of the Virginia Department of Transportation (VDOT) in the land planning and development review process. Accordingly, James City County requires submission of all Traffic Impact Analyses (TIA’s) to be conformance with the aforementioned regulations. In addition, all TIA’s shall conform to the current versions of the Manual of Uniform Traffic Control Devices (MUTCD), the VDOT Road Design Manual, VDOT Access Management Regulations and Standards, the American Association of State Highway and Transportation Officials (AASHTO) and the Institute of Transportation Engineers (ITE) manuals unless otherwise approved by the Planning Director.

### **II. APPLICABILITY**

A. Submission of a TIA shall be required when one or more of the following apply:

- Projects that expect to generate 100 or more weekday peak hour trips to and from the site during the peak hour of operation based on the ITE manual’s trip generation rates.
- Projects with an entrance or exit onto a roadway with a Level Of Service “D” or lower operation.

Note: VDOT has different requirements that trigger a 527 TIA than County Ordinance. Should a TIA be required by VDOT, but not be triggered County requirements, this policy would not be applicable and no additional TIA is required.

### **III. EXCEPTIONS**

A TIA does not have to be updated/submitted if a TIA or 527 TIA was previously submitted for a rezoning or Special Use Permit and all assumptions made in the TIA remain valid.

### **IV. PROCEDURE**

A scoping meeting with VDOT and Planning Division staff is required for any proposal that requires the submission of a TIA. A scoping meeting is required when the proposed development generates more than 100 peak hour site trips. At this meeting the Planning Director will determine the minimum scope of work and if additional analysis’s pursuant to Section VI B are applicable. Fifteen paper copies and a digital copy of the TIA shall be submitted during application of the project with the County.

### **V. WHO PREPARES**

A TIA should be prepared by a professional engineer or a transportation planner. Generally, a licensed engineer prepares a TIA; however, for smaller applications, the Planning Director may approve TIAs that have not been certified by an engineer.

### **VI. CONTENTS OF A TRAFFIC IMPACT ANALYSIS**

A. The Traffic Impact Analysis shall at minimum include the following:

- Executive Summary
- Introduction
- Analysis of Existing Conditions
- Analysis of Future Conditions without Development

- Projected Trip Generation
- Analysis of Future Conditions with Development
- Signal Warrant Analysis
- Improvements necessary to achieve an overall Level of Service “C” on adjacent roadways/signalized intersections. The Planning Director may approve movements in certain lane groups of LOS “D” in urban environments.
- Conclusion

#### B. Supplemental Analysis

As determined at the scoping meeting, the Planning Director may also request the following analysis as a component of the TIA:

- Weaving Analysis
- Merge and Diverge Analysis
- Corridor Traffic Signal Progression Analysis
- Queuing/Turn Lane Analysis
- Expanded Study Area
- Examination of Transit and Travel Demand Management Measures
- Accident/Safety Analysis
- Sight Distance Analysis

## R E S O L U T I O N

### ENVIRONMENTAL CONSTRAINTS ANALYSIS FOR LEGISLATIVE CASES

WHEREAS, in order to fully understand the impacts of a development on the local environment, consistent information should be provided to planning staff and members of the Planning Commission and Board of Supervisors prior to approval of a legislative case (special use permits and rezonings);

WHEREAS, a thorough environmental analysis will ensure that development is not planned for areas which may not be able to accommodate it due to environmental constraints; and

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby endorse the following:

Any application for a use requiring a special use permit and/or rezoning, shall be accompanied by an Environmental Constrains Analysis containing, at a minimum, the information below. All or portions of the Environmental Constraints Analysis may be excluded from legislative cases application as determined by the director of planning.

#### **I. Hydrologic Features:**

1. Location of all bodies of water such as streams, ponds, lakes, impoundments, rivers;
2. Name of watershed the project is located in;
3. Approximate location of tidal and non-tidal wetlands (e.g. sinkholes, wetland, springs, seeps, etc);
4. Approximate location of perennial and intermittent streams;
5. Description of receiving streams;
6. Floodplain delineation for 100 and 500-year storm events including tidal flooding, if applicable.

#### **II. Physical Features:**

1. Approximate location of steep slopes greater than 25% based on County GIS or better source (all sources must be referenced). The scale for which this shall be provided is at the discretion of the engineering and resource protection director;

2. Soils, especially prime agricultural lands and HSG A&B soils, based on the County soil survey;
3. Soils erodability based on the county soils survey;
4. Areas of forest, woodland cover and wildlife corridors;
5. Pre-development topography based on County GIS or alternate source approved by the engineering and resource protection director (all sources must be referenced)

**III. Prohibited or Restricted Development Areas:**

1. Location of required buffers and existing conservation easements;
2. Sites with known populations of rare, threatened or endangered species of plants or animals per studies done in accordance with the Natural Resource Policy;
3. Location of trees to be preserved in accordance with the Chez Bay Ordinance;
4. Preliminary location of Resource Protection Areas and of legal wetlands.

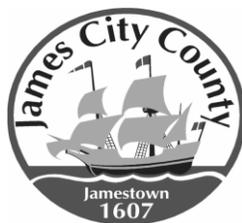
**IV. Existing and Proposed Changes to the site**

1. The nature of existing and approved but not yet built development(s) on the site;
2. Location of surrounding properties and neighborhoods;
3. Proposed limit of disturbance and a disturbance area estimate;
4. Calculation of existing and proposed pervious and impervious areas (e.g. parking areas, roads, sidewalks, buildings, etc);
5. If used, description of Better Site Design or Low Impact Development Techniques (e.g. pervious pavement, walks, infiltration areas, etc.);
6. Description of how disturbance is being minimized, indigenous vegetation is being preserved, and impervious cover reduced; and
7. Proposed conceptual stormwater management plan, including pre and post-development discharge analysis.

**V. Narrative Analysis of Environmental Constraints and Recommended Environmental Measures to Conform with the Proposed Environmental Analysis.**

### **Environmental Submittal Requirements for Site Plans**

- Existing topography
- Existing and proposed site features (buildings, roads, driveways, utilities, property lines)
- Existing easements
- Disturbed area, impervious cover, and percent impervious estimate
- Flood zone designation
- Required buffers
- Soils (highly erodible, hydric, permeable, hydrologic soils group A & B)
- Full environmental inventory consistent with section 23-10(2) of the County's Chesapeake Bay Preservation Ordinance (perennial stream assessment, delineated wetlands, limits of work)
- Demonstration that the project complies with section 23-9(b)(1), (2), & (3) of the County's Chesapeake Bay Preservation Ordinance (how disturbance is being minimized, indigenous vegetation preserved, and impervious cover minimized)
- Locations of proposed and existing storm water management/BMP facilities
- County watershed
- Steep slopes (grade 25%)
- Sites with known populations of rare, threatened or endangered species of plants or animals per studies done in accordance with the Natural Resource Policy
- Locations of existing conservation easements
- Areas of forest, woodland cover and wildlife corridors
- Description of Better Site Design or Low Impact Development (LID) techniques if being used



Please make sure to use the accompanying Excel Spreadsheet to calculate the numbers below.

Version 8.24.11

## FISCAL IMPACT STUDY

### WORKSHEET AND ASSUMPTIONS

Please fill out all *applicable* sections. Please use the provided spreadsheet to perform calculations. If space provided is insufficient, please feel free to include additional pages. If you have any questions, please contact the Planning Office at (757) 253-6685 or [planning@james-city.va.us](mailto:planning@james-city.va.us)

- 1a) PROPOSAL NAME \_\_\_\_\_
- 1b) Does this project propose residential units? Yes \_\_\_\_\_ No \_\_\_\_\_ (if no, skip Sec. 2)
- 1c) Does this project include commercial or industrial uses? Yes \_\_\_ No \_\_\_ (If no, skip Sec. 3)

#### Fiscal Impact Analysis Worksheet Section 2: Residential Developments

2a) TOTAL NEW DWELLING UNITS. Please indicate the total number of each type of proposed dwelling unit. Then, *add* the total number of new dwelling units.

Single Family Detached		Apartment	
Townhome/Condominium/Single Family Attached		Manufactured Home	
Total Dwelling Units			

Are any units affordable? Yes \_\_\_\_\_ No \_\_\_\_\_ (If yes, how many?) \_\_\_\_\_

#### Residential Expenses – School Expenses

2b) TOTAL NEW STUDENTS GENERATED. *Multiply* the number of each type of proposed unit from (2a) its corresponding Student Generation Rate below. Then, *add* the total number of students generated by the proposal.

Unit Type	Number of Proposed Units (from 2a)	Student Generation Rate	Students Generated
Single Family Detached		0.40	
Townhome/Condo/Attached		0.17	
Apartment		0.31	
Manufactured Home		0.46	
Total			

2c). TOTAL SCHOOL EXPENSES. *Multiply* the total number of students generated from (2b) by the Per-Student Total Expenses below.

Total Students Generated	Per-Student Operating Expenses	Per-Student Capital Expenses	Per-Student Total Expenses	Total School Expenses

	\$5920.16	\$2176.06	<b>\$8096.22</b>	\$
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### **Residential Expenses - Non-School Expenses**

2d) TOTAL POPULATION GENERATED. *Multiply* the number of proposed units from (2a) and multiply by the Average Household Size number below.

Total Units Proposed	Average Household Size	Total Population Generated
	<b>2.08</b>	

2e) TOTAL NON-SCHOOL EXPENSES. *Multiply* the population generated from (2d) by the Per-Capita Non-School Expenses below.

Total Population Generated	Per-Capita Non-School Expenses	Total Non-School Expenses
	<b>\$762.14</b>	\$

2f) TOTAL RESIDENTIAL EXPENSES. *Add* school expenses from (2c) and non-school expenses (2e) to determine total residential expenses.

Total School Expenses	Non-School Expenses	Total Residential Expenses
\$	\$	\$

### **Residential Revenues**

2g) TOTAL REAL ESTATE EXPECTED MARKET VALUE. Write the number of each type of units proposed from (2a). Then *determine the average* expected market value for each type of unit. Then, *multiply* the number of unit proposed by their average expected market value. Finally, *add* the total expected market value of the proposed units.

Unit Type:	Number of Units:	Average Expected Market Value:	Total Expected Market Value:
Single Family Detached		\$	\$
Townhome/Condo/Multifamily		\$	\$
Total:		N/A	\$

2h) TOTAL REAL ESTATE TAXES PAID. *Multiply* the total market value from (2g) by the real estate tax rate below.

Total Market Value	Real Estate Tax Rate	Total Real Estate Taxes Paid
\$	<b>0.0077</b>	\$

2i) TOTAL PERSONAL PROPERTY TAXES PAID. *Multiply* the total real estate taxes paid (2h) by the property tax average below.

Real Estate Tax Paid	Personal Property Tax Average	Personal Property Taxes Paid
\$	<b>0.15</b>	\$

2j) TOTAL SALES & MEALS TAXES PAID. *Multiply* the total real estate taxes paid (2h) by the sales and meals tax average below:

Real Estate Tax Paid	Sales and Meals Tax Average	Total Sales & Meals Taxes Paid
\$	.09	\$

2k) TOTAL CONSERVATION EASEMENT TAXES PAID. If the proposal contains a conservation easement, *multiply* the size of the proposed conservation easement by the conservation easement assessment rate.

Proposed Conservation Easement Size	Assessment Rate	Conservation Easement Taxes Paid
	\$2000/acre (prorated)	\$

2l) TOTAL HOA TAXES PAID. If the HOA will own any property that will be rented to non-HOA members, *multiply* the expected assessed value of those rentable facilities by the real estate tax rate below.

HOA Property Type	Total Assessed Value	Real Estate Tax Rate	Total HOA Taxes Paid
		.0077	\$

2m) TOTAL RESIDENTIAL REVENUES. *Add* all residential taxes paid to the County from (2h) through (2l).

<b>Total Residential Revenues</b>	\$
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2n) RESIDENTIAL FISCAL IMPACT. Subtract total residential revenues (2m) from total residential expenses (2f).

Total Residential Expenses	Total Residential Revenues	Total Residential Fiscal Impact
		\$

### **Fiscal Impact Analysis Worksheet Section 3: Commercial and Industrial Developments**

#### **Commercial and Industrial Expenses**

3a) TOTAL NEW BUSINESSES. How many new businesses are proposed? \_\_\_\_\_  
(include all businesses that will rent or lease space at the location as part of the proposal, including probable tenants of an office park or strip mall).

3b) TOTAL COMMERCIAL EXPENSES. *Multiply* the total business real estate expected assessment value from (3c) below by the Commercial Expenses Rate below.

Total Expected Assessment Value	Commercial Expense Rate	Total Commercial Expenses
	0.0045	\$

### Commercial & Industrial Revenues

3c) TOTAL REAL ESTATE EXPECTED ASSESSMENT VALUE. *Estimate* the expected real estate assessment value, at buildout, of all proposed commercial element properties below.

Proposed Business Properties (by use and location)	Expected Assessment Value
Total:	\$

3d) TOTAL REAL ESTATE TAXES PAID. *Multiply* the total expected market property value from (3c) by the real estate tax rate below.

Expected Market Value	Real Estate Tax Rate	Real Estate Taxes Paid
	0.0077	\$

3e) TOTAL BUSINESS PERSONAL PROPERTY TAXES PAID. *Multiply* the total business capitalization for each proposed commercial element by the business personal property tax rate below. Then *add* the total personal property taxes paid.

Proposed Business Name	Total Business Capitalization	Personal Property Tax Rate	Total Business Property Taxes Paid
		0.01	
		0.01	
		0.01	
Total:		N/A	\$

3f) TOTAL BUSINESS MACHINERY AND TOOLS TAXES PAID. If any manufacturing is proposed, *multiply* the total business capitalization for each proposed manufacturing element by the business machinery and tools tax rate below. Then, *add* the machinery and tools tax paid.

Proposed Business Name	Total Business Capitalization	Machinery and Tools Tax Rate	Total Business Property Taxes Paid
		0.01	
		0.01	
		0.01	
Total:		N/A	\$

3g) **TOTAL SALES TAXES PAID.** *Estimate* the applicable total gross retail sales, prepared meals sales, and hotel/motel room sales for proposal's commercial elements below. Then, *multiply* the projected commercial gross sales by the applicable sales tax rates. Then, *add* the total sales taxes paid.

Tax Type	Projected Gross Sales	Sales Tax Rates	Sales Taxes Paid
Retail Sales		<b>0.01 of Gross Retail Sales</b>	
Prepared Meals		<b>0.04 of Prepared Sales</b>	
Hotel, Motel		<b>0.02 of Gross Sales*</b>	
<b>Total:</b>	<b>N/A</b>	<b>N/A</b>	\$

\*Actual Occupancy Tax is 5% of Gross Sales, however, 60% of those funds are targeted to tourism.

3h) **TOTAL BUSINESS LICENSES FEES PAID.** Estimate each business element's total gross sales. *Multiply* each business element's projected gross sales by the Annual Business License rate to determine annual business licenses fee paid.

Proposed Business Name(s)	Business Type* (see exhibit sheet)	Projected Total Gross Sales	Business License Rate	Annual Business License Fees Paid
	Professional Services		<b>0.0058</b>	
	Retail Services		<b>0.0020</b>	
	Contractors		<b>0.0016</b>	
	Wholesalers		<b>0.0005</b>	
	Exempt*		<b>No fee due</b>	
	Other Services		<b>0.0036</b>	
	<b>Total</b>	<b>N/A</b>	<b>N/A</b>	\$

3i) **TOTAL COMMERCIAL AND INDUSTRIAL REVENUES.** *Add* the total taxes and fees paid by all of the business elements from (3d) through (3h).

<b>Total Commercial and Industrial Revenues</b>	\$
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3j) **COMMERCIAL FISCAL IMPACT.** *Subtract* total commercial and industrial revenues (3i) from total commercial and industrial expenses (3b).

Total Commercial Expenses	Total Commercial Revenues	Total Commercial Fiscal Impact
		\$

3k) **TOTAL PROPOSED FISCAL IMPACT.** *Add* residential fiscal impacts (2n) and commercial fiscal impacts (3j).

Residential Fiscal Impact	Commercial Fiscal Impact	Total Proposed Fiscal Impact
		\$

### **Fiscal Impact Analysis Worksheet Section 4: Current Land Use**

**Current Residential Use** (If there are no existing residential units, skip to (4g)).

4a) TOTAL CURRENT DWELLING UNITS. Please indicate the total number of each type of existing dwelling unit. Then, *add* the total number of existing dwelling units.

Single Family Detached		Apartment	
Townhome/Condominium/Single Family Attached		Manufactured Home	
Total Dwelling Units			

### **Residential Expenses - School Expenses**

4b) TOTAL CURRENT STUDENTS. *Multiply* the number of existing units from (4a) by its corresponding Student Generation Rate below. Then, *add* the total number of existing students.

Unit Type	Number of Existing Units	Student Generation Rate	Existing Students
Single Family Detached		0.40	
Townhome/Condo/Attached		0.17	
Apartment		0.31	
Manufactured Home		0.46	
Total		N/A	

4c) TOTAL CURRENT SCHOOL EXPENSES. *Multiply* the total number of current students from (4b) by the per-student school cost below.

Number of Existing Students	Per-Student School Cost	Current School Expenses
	\$8096.22	\$

### **Residential Expenses - Non-School Expenses**

4d) TOTAL CURRENT POPULATION. *Multiply* the total number of existing units from (4a) by average household size below.

Total Existing Units	Average Household Size	Total Current Population
	2.08	\$

4e) TOTAL CURRENT NON-SCHOOL EXPENSES. *Multiply* the current population from (4d) by per-capita non-school expenses below.

Total Current Population	Per-Capita Non-School Expenses	Current Non-School Expenses
	\$762.14	\$

4f) TOTAL RESIDENTIAL EXPENSES. *Add* school expenses from (4c) and non-school expenses from (4e).

School Expenses	Non-School Expenses	Residential Expenses
\$	\$	\$

**Residential Revenues**

4g) TOTAL CURRENT ASSESSMENT VALUE. *Search* for each residential property included in the proposal on the Parcel Viewer at <http://property.iccegov.com/parcelviewer/Search.aspx>. *Indicate* each property's total assessment value below. Then, *add* total assessment values.

Property Address and Description	Assessment Value
	\$
	\$
	\$
Total:	\$

4h) TOTAL CURRENT REAL ESTATE TAXES PAID. *Multiply* the total assessment value from (4g) by the real estate tax rate below.

Total Assessment Value	Real Estate Tax Rate	Real Estate Taxes Paid
	.0077	\$

4i) TOTAL CURRENT PERSONAL PROPERTY TAXES PAID. *Multiply* total real estate taxes paid from (4h) by the personal property tax average below.

Real Estate Tax Paid	Personal Property Tax Average	Personal Property Paid
	0.15	\$

4j) TOTAL CURRENT SALES AND MEALS TAXES PAID. *Multiply* the total real estate taxes paid from (4h) by the sales and meals tax average below.

Real Estate Tax Paid	Sales and Meals Tax Average	Average Excise Tax Paid
	.09	\$

4k) TOTAL CURRENT RESIDENTIAL REVENUES. *Add* all current residential taxes paid to the County from (4h) through (4j).

<b>Total Current Residential Revenues</b>	\$
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4l) CURRENT RESIDENTIAL FISCAL IMPACT. *Subtract* total residential revenues (4k) from total residential expenses (4f).

Total Residential Expenses	Total Residential Revenues	Total Residential Fiscal Impact
		\$

4m) FINAL RESIDENTIAL FISCAL IMPACT. *Subtract* current residential fiscal impact from (4l) from proposed residential fiscal impact from (2n).

Proposed Residential Impact	Current Residential Impact	Final Residential Fiscal Impact
		\$

### Current Commercial Use

**Current Commercial Expenses** (if there are no current businesses or commercial properties, skip to (5k).

5a) TOTAL CURRENT BUSINESSES. How many businesses exist on the proposal properties?  
\_\_\_\_\_ (include all businesses that rent or lease space at the location).

5b) TOTAL CURRENT COMMERCIAL EXPENSES. *Multiply* the current number of businesses operating on the proposal properties by the per-business expense rate below.

Total Expected Assessment Value	Commercial Expense Rate	Total Commercial Expenses
	0.0045	\$

### Current Commercial Revenues

5c) TOTAL CURRENT ASSESSMENT VALUE. *Search* for each commercial property included in the proposal on the Parcel Viewer at <http://property.iccegov.com/parcelviewer/Search.aspx>. *Indicate* each property's total assessment value below. Then, *add* total assessment values.

Addresses	Assessment Value	Real Estate Tax Rate	Real Estate Tax Paid
		.0077	
		.0077	
Total:			\$

5d) TOTAL CURRENT BUSINESS PERSONAL PROPERTY TAXES PAID. *Multiply* the total business capitalization for each current commercial element by the business personal property tax rate below. Then *add* the total personal property taxes paid.

Current Business	Total Business Capitalization	Personal Property Tax Rate	Business Property Taxes Paid
		0.01	
		0.01	
		0.01	
Total:		N/A	\$

5e) TOTAL CURRENT MACHINERY AND TOOLS TAX PAID. If any manufacturing exists, *multiply* the total capitalization for manufacturing equipment by the business machinery and tools tax rate below.

Current Business	Total Business Capitalization	Personal Property Tax Rate	Machinery and Tools Tax Paid
		0.01	\$

• Businesses will paying tools tax will pay it instead business personal property.

5f) TOTAL CURRENT SALES TAXES PAID. *Estimate* the applicable total gross retail sales, prepared meals sales, and hotel/motel sales for existing commercial elements below. Then, *multiply* the projected commercial gross sales by the applicable sales tax rates. Then, *add* the total sales taxes paid.

Activity	Projected Gross Sales	Tax Rate	Sales Taxes Paid
Retail Sales		0.01 of Gross Retail Sales	
Prepared Meals		0.04 of Prepared Sales	
Hotel, Motel		0.02 of Gross Sales*	
Total:	N/A	N/A	\$

\*Actual Occupancy Tax is 5% of Gross Sales, however, 60% of those funds are targeted to tourism.

5g) TOTAL CURRENT BUSINESS LICENSES FEES PAID. *Estimate* each current business element's total gross sales. Then, *multiply* each business element's projected gross sales by the Annual Business License rate to determine annual business licenses fee paid. Then, *add* the total business license fees paid.

Business Type	Gross Sales	Business License Rate	Annual Business License Fees Paid
Professional Services		\$0.0058	
Retail Sales		\$0.0020	
Contractors		\$0.0016	
Wholesalers		\$0.0005	
Manufacturers		No tax	
Other Services		\$0.0036	
Total:	N/A	N/A	\$

5h) TOTAL CURRENT COMMERCIAL REVENUES. *Add* all current commercial revenues paid by existing businesses from (5c) through (5g).

<b>Total Current Commercial Revenues</b>	\$
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5i) CURRENT COMMERCIAL FISCAL IMPACT. *Subtract* total commercial revenues (5h) from total residential expenses (5b).

Total Commercial Expenses	Total Commercial Revenues	Total Commercial Fiscal Impact
		\$

5j) FINAL COMMERCIAL FISCAL IMPACT. *Subtract* current commercial fiscal impact from (5i) from proposed commercial fiscal impact from (3j).

Proposed Commercial Impact	Current Commercial Impact	Final Commercial Fiscal Impact
		\$

5k) FINAL FISCAL IMPACT. *Subtract* the final commercial fiscal impact from (5i) from final residential fiscal impact from (4m).

Final Residential Impact	Final Commercial Impact	Final Fiscal Impact
		\$

### **Fiscal Impact Worksheet Section 6: Phasing**

#### **Residential Phasing**

6a) *Copy and paste* the residential phasing template from the accompanying Excel sheet to the page below.

#### **Commercial Phasing**

6b) *Copy and paste* the commercial phasing template from the accompanying Excel sheet to the page below.

#### **Final Phasing Projections**

6c) *Copy and paste* the final phasing projection from the accompanying Excel sheet to the page below.

### **Fiscal Impact Worksheet Section 7: Employment**

7a) *Copy and paste* the employment projections from the accompanying Excel sheet to the page below.

### **DEFINITIONS AND ASSUMPTIONS**

**Apartment** – a building used, or intended to be used as the residence of three or more families living independently of each other. (JCC Code 24-1-2). Tenants have no equity in the dwelling.

**Assessment Value** – assessment value is assumed to be within 1% of market value. Market value drives assessment value.

**Buildout** – all data and assumptions reflect the fiscal impact of the proposal at buildout.

**Commercial Expense Rate** – The commercial expense rate uses the proportional valuation method (see below) to determine individual business expenses. Under that method, businesses are collectively responsible for contributing 15% of the non-school budget (\$ 10,391,694). Dividing this portion of the budget by the total commercial real estate in the County (\$2,060,690,000) gives a commercial expense rate of 0.0045. This rate assumes that the costs of providing County services to a business are directly correlated with that businesses' property assessment. This assumes more valuable properties have generally more intense uses, incurring greater County expenses.

**Condomium** – a building, or group of buildings, in which units are owned individually and the structure, common areas and common facilities are owned by all the owners on a proportional, undivided basis. (JCC Code 24-1-4)

**Contractor** - any person, firm or corporation accepting or offering to accept orders or contracts for doing any work on or in any building or structure, any paving, curbing or other work on sidewalks, streets, alleys, or highways, any excavation of earth, rock, or other materials, any construction of sewers, and any installation of interior building components. (Code of Virginia § 58.1-3714)

**Direct Impact** – The worksheet only calculates direct financial impacts on the County budget. The worksheet is only one of many development management tools, and, as such, does not make a determination whether any type of development ‘should’ happen based solely on that proposal’s fiscal impact. The tool is not designed to measure non-budget impacts, such as increased traffic, or non-budget benefits, such as forwarding the goals of the Comprehensive Plan. Costs incurred by other entities, such as other localities or the State, remain uncounted.

**Dwelling** – any structure which is designed for use for residential purposes, except hotels, motels, boardinghouses, lodging houses, and tourist cabins. (JCC Code 24-1-4.1)

**Exempt** – certain types of business activities or products are exempted from annual County business licenses. These include manufacturers, insurance agencies, apartment complexes, and gasoline sales.

**Fees & Licenses** – all fees collected by the County, including business & professional licenses, planning fees, building permit fees, stormwater fees, environmental inspection fees, septic tank fees, dog licenses, and motor vehicle licenses, are deducted from the per- capita and per-business budgetary costs of each department that collects them.

**Fiscal Impact Analysis** – the County has created a set of standardized data and assumptions to streamline both the creation and review of fiscal impact studies. The County had no itemized list of questions for fiscal impact study creators to answer, resulting in portions of fiscal impact studies with no bearing on the County’s budgetary bottom line. The guesswork is removed from the creation of these documents. The data used by fiscal impact study authors also came from a myriad of sources, often within the County, which were difficult to verify. The fiscal impact analysis worksheet allows consistency across multiple fiscal impact studies, as well.

**Fiscal Impact Analysis Worksheet** – The worksheet helps the applicant present relevant data to the County, using data verified by the County. The worksheet provides consistency across all fiscal impact analyses.

**Non-School Expenses** – Non-school expenses includes all FY10 non-school budget spending. Non-School expenses are calculated using the Proportional Variation method. Using the Proportional Variation method, residents and businesses are assumed to be responsible for differing percentages of the County’s non-school spending.

**Manufacturing** – assembly of components, pieces, or subassemblies, or the process of converting raw, unfinished materials into different products, substances, or purposes.

**Market Value** – market value is assumed to be within 1% of assessment value. Market value drives assessment value.

**Manufactured Home** – A Manufactured Home is a structure not meeting the specifications or requirements of a manufactured home, designed for transportation, after fabrication. (JCC Code 24-1-8.1) The only Manufactured Homes counted in the Student Generation figure are those in designated Manufactured Home parks. Manufactured Homes on individual lots are indistinguishable from single-family detached dwellings for the purposes of the worksheet.

**Phasing** – all residential developments are assumed to have an absorption rate of 20% per annum. All commercial development are assumed to have an absorption rate of 20% per annum. The date stamp Year 1 in the phasing template represents 365 days after Board of Supervisors approval.

**Professional Services** - work performed by an independent contractor within the scope of the practice of accounting, actuarial services, architecture, land surveying, landscape architecture, law, dentistry, medicine, optometry, pharmacy or professional engineering. Professional services shall also include the services of an economist procured by the State Corporation Commission. (Code of Virginia\_§ 2.2-4301)

**Proportional Valuation Impact** – proportional valuation impact assumes that a proposed residential or commercial project's fiscal impact is proportional to the percentage of the total tax base that is either residential or commercial. James City's proportional valuation is calculated using the County's Real Estate Mapping GIS program. The program calculated a aggregate property assessment value of \$13,763,228,800 for the entire County. The program calculated an aggregate commercial and industrial assessment value of \$2,060,690,000. Dividing the commercial value by the total value shows that commercial and industrial properties compose 15% of the total property tax base, and are responsible for 15% of County non-school expenses. This results in residential development being responsible for Schools impacts and 85% of non-school County operations. The proportional valuation method does not factor other assorted residential and commercial taxes, fees, and licenses into account. As 15% of the tax base, businesses contribute 15% for all County non-school expenses. As 85% of the tax base, residents contribute 85% for all County non-school expenses. Furthermore, individual business expenses to the County are calculated using the proportional valuation impact method. (See Commercial Expense Rate)

**Per-Business Expense Rate** – the per-business expense rate assumes that the County incurs non-school expenses equal to 0.04% of the commercial real estate assessment of any given business.

**Per Capita Evaluation Method** – this worksheet uses the Per Capita Evaluation method to assign per-capita and per-business costs to non-school expenses. This method assumes that current per-capita and per-business expenditures and service levels are consistent with future per-capita and per-business expenditures and service levels.

**Per Capita** – per capita calculations divide each department’s spending, minus fees and State contributions, by the current County population. This number excludes institutional residents in detention at correctional facilities and mental institutions. Total population is determined from James City County Planning Division figures.

JCC Population 2010	Dwelling Units 2010
62879*	30221**

\*JCC Planning Division Population Count Minus Institutional Population

\*\*JCC Codes Compliance Division Housing Unit Count + Apartment Count

**Per Student** – per student calculations divide County contributions to WJCC Schools, minus State educational contributions, by the total number of K-12 students living in James City and also attending WJCC Schools. Total students are determined from Williamsburg James City County Schools 2009-2010 School Year enrollment reports.

**Per Business** – per business calculations divide each departments spending, minus fees and State contributions, by the total number of County businesses. Total businesses are determined by the number of business licenses issued.

Total Number of JCC Businesses	5400*
Percentage of Property Tax Assessments	15%**

\*James City County Commissioner of the Revenue

\*\*Commercial impacts are calculated on a proportional variation process

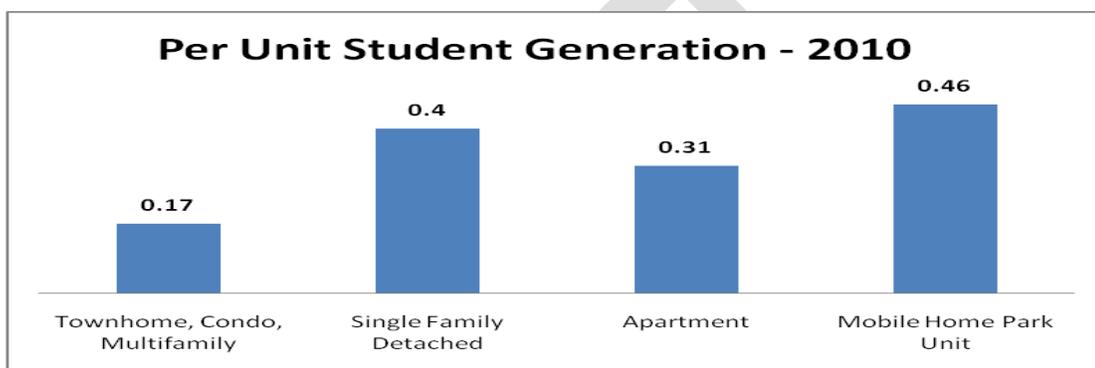
**Proffer** – proffers paid for schools can only be applied toward the capital expense portion of per-student school expenses. (See Board of Supervisors’ Proffer Policy).

**Retail Services** – display and sale of merchandise at retail or the rendering of personal services, such as food, drugs, clothing, furniture, hardware, appliances, barber and beauty, antiques, and household uses, and other uses. (JCC Code 24-1-10)

**Single Family Detached Dwelling** – A detached structure arranged or designed to be occupied by one family, the structure only having one dwelling unit. (JCC Code 24-1-4.1)

**State Contributions** – The State contributes both targeted and unspecified funds to the James City County budget. Funds for specific departments were subtracted from the budget totals of those departments. Unspecified state fund amounts were compiled, then evenly subtracted (7.75% of each department total) across all non-school departments.

**Student Generation Rate** - The student generation rate the number of students produced by a individual dwelling unit per year. Different domestic units produce students are different rates. Using WJCC enrollment figures, an address was found for WJCC student residing in James City County. Using the James City County Real Estate Division's Property Information map on the James City County website, the number of students from each subdivision was determined. Using the Real Estate Division's Real Estate Parcel Count, the number of improved lots in each neighborhood was determined. Total students from each neighborhood were divided by the total number of units from that neighborhood to determine the average number of students per housing unit. The student generation numbers for 256 subdivisions was determined this way, along with the same method for counting students from apartments and Manufactured Home parks.



**Townhome** – in a structure containing three or more dwelling units, a dwelling unit for single family occupancy, not more than three stories in height, attached by one or more vertical party walls extending to the roof sheathing without passageway openings to one or more additional such dwelling units, each of which is served by an individual exterior entrance or entrances. (Sec. 24-1-12.1)

**Annual Update Methodology** – The Williamsburg-James City County school enrollment spreadsheet is the trigger for the Fiscal Impact Worksheet’s annual update. All other data will be available when the enrollment Excel file becomes available in September. To ensure the validity of County data and assumptions, the Fiscal Impact Worksheet should be updated annually. Some data will merely be updated, while other data, such as the school Student Generation Rate, will be used to create long-term averages.

#### **Data Required for Update**

1. Real Estate Assessment (REA)’s Parcel Count sheet. The Parcel Count sheet is a constantly updated file showing developed parcels and assessment values by subdivision.
2. The Property Information Network (PIN) is always available from at <http://property.jccgov.com/parcelviewer/Search.aspx> . The PIN will be used to reconcile WJCC subdivision classifications with those approved by Planning.
3. Acquire the most recent population estimate from the Planning office. Estimates are updated quarterly.
4. Acquire the most current number of building permits from Codes Compliance. Their records will show the net change in living units (residential C.O.’s minus demolitions) in the County for the year.
5. Call local apartment complexes and determine how many units each has for rental. This information will be used to update apartment student enrollment data.
6. The GIS program is constantly updated by REA Mapping staff. The GIS program will be used to sum total residential and commercial property value in the County.
7. Financial and Management Services (FMS) will have a copy of the most recent fiscal year budget. The budget will be used to determine the per-student, per-capita, and per-business costs of County services.

#### **Reference**

Burchell, Robert and David Listokin. (1978). *The Fiscal Impact Handbook*.  
New Jersey: Rutgers Center for Urban Policy Research.

## Chapter 24

### Article VII. Nonconformities

#### Sec. 24-628. ~~Nonconforming uses~~ *Statement of Intent*.

(a) *Purpose and intent.* The purpose of this article is to regulate nonconforming uses *and structures* in a manner consistent with sound planning and zoning principles. The general intent is that, over time, nonconforming uses will be discontinued in favor of uses conforming to this chapter and the zoning map. However, it is also recognized that nonconforming uses need not be entirely static and that under certain circumstances nonconforming uses *and structures* may change according to law and the provisions of this chapter.

(b) *Term defined.* The term "nonconforming use" shall mean any activity using land, building, sign, lot, and/or structure for purposes which were legally established prior to the effective date of this chapter, or subsequent amendment to it, and which would not be permitted to be established in a zoning district in which it is located by the currently adopted regulations. "*Nonconforming structure shall mean any structure not in conformance with current ordinance regulations.*"

(c) *Status.* The nonconforming status of any nonconforming use shall adhere solely to the use of the land and not to the owner, tenant or other holder of any legal title to the property or the right to make use thereof.

(d) *Accessory or incidental uses.* A use that is accessory or incidental to a permitted principal use cannot be made the basis for a nonconforming principal use.

#### Sec. 24-631. Permitted changes of nonconforming uses.

(a) A nonconforming use may be changed, altered, repaired, restored, replaced, relocated or expanded only in accordance with the provisions of this article and subject to the appropriate approvals (including, among others, verification of the nonconforming use, site plan approval, building permit approval and zoning approval under this chapter) otherwise required by law.

(b) A nonconforming use may change to a conforming use.

(c) A nonconforming use may change to a more restricted nonconforming use upon approval by the zoning administrator. The zoning administrator's approval shall include a determination in writing that the proposed use is "more restricted" than the existing nonconforming use and shall not be given until the nonconforming status of the use has been verified in accordance with section 24-630 of this article. In determining whether a proposed use is a "more restricted" nonconforming use, the following factors, among others, shall be considered:

- (1) Whether the proposed use will change the size and scope of the existing use and the magnitude of such change;
- (2) Whether the proposed use will increase the intensity of the nonconforming use, including hours of operation, traffic, lighting, odor, noise and similar impacts;
- (3) Whether the proposed use will have a more or less detrimental effect on conforming uses in the neighborhood; and

- (4) How the quantum overall effect of the factors evaluated in preceding subsections (c)(1), (c)(2) and (c)(3) relate to the purpose, policies and objectives of this chapter.

*(d) Upon approval of the change to more restrictive use, site plan approval as set forth in ordinance is required when structural modifications or additions are necessary.*

### **Sec. 24-633. Expansion/improvements to nonconforming uses.**

(a) *Restriction for structure.* A nonconforming use may be extended throughout any part of a structure originally arranged or designed for such activity; provided, that current parking requirements shall be adhered to upon such extension.

(b) *Restriction for area.* Any permitted expansion shall occur only on the lot occupied by the nonconforming use *or structure* and no area of any lot not originally devoted to the nonconforming use shall be utilized for any aspect of such expansion; *notwithstanding the combination of lots to bring a nonconforming structure into compliance.*

(c) *One-family dwellings.* For a nonconforming one-family dwelling use, the dwelling may be expanded without limitation, except as provided for in this chapter. In addition, new or expanded residential accessory structures and uses (such as a storage shed, garage, swimming pool, etc.) may be permitted subject to the provisions of this chapter. Expansion of the dwelling and new or expanded accessory structures and uses shall meet all current zoning requirements, including height, yard and setbacks, for the zoning district in which they are located or the R-1 zoning district if such dwelling is not located in a zoning district where a residential use is permitted. In no case shall a nonconforming one-family dwelling be modified to accommodate additional dwelling units.

(d) *Business or industrial uses.* For uses in any district where the activity is permitted in the zoning district in which the lot is located, but where the current zoning requirements (including, but not limited to, parking, yards, setbacks, landscaping, screening and buffering, height, signs, lot coverage, connection to public sewer and water) are not met, expansion of the building, and expansion of the land area within the lot devoted to activities other than buildings, may be approved, provided all current zoning requirements applicable to the expansion are met.

(e) *Businesses or industrial uses not connected to public water and sewer.* Expansion of a use meeting all zoning requirements except for connection to public water and public sewer may be permitted upon approval of a special use permit excepting the use from the public water and public sewer requirements.

(f) *Expansion allowance resulting from right-of-way dedication.* Existing business or industrial uses which are permitted within any district and which have been made nonconforming with respect to open space, perimeter landscape requirements or setback requirements as a result of a right-of-way dedication to the county or the Virginia Department of Transportation without compensation shall be allowed to expand in accordance with the current zoning ordinance under the conditions which existed prior to the dedication.

(g) *Miscellaneous changes.* Minor alterations, cosmetic modifications, interior renovations and similar changes for nonconforming uses *or structure* may be permitted, subject to the following standards:

- (1) Such changes shall not increase the land area occupied by any aspect of the nonconforming use and shall not increase the gross floor area of any nonconforming structure; and,

(2) Such construction shall meet all current zoning ordinance requirements for the zoning district in which the nonconforming use is located or the zoning district assigned by the zoning administrator as a part of the nonconforming use verification process, whichever requirements are more strict.

(h) *Expansion required by law.* Improvements may be made to the nonconforming use *or structure* for the sole purpose of accessibility or public safety when such improvements are necessitated by a local, state, or federal law. Such improvements may be approved by the zoning administrator and are not subject to paragraphs (d) and (g) of this section.

**Sec. 24-634. Restoration/replacement of a nonconforming use *or structure*.**

(a) A nonconforming use *or structure* damaged by casualty may be restored in accordance with the provisions of this section, provided such restoration has started within 12 months of the date of the casualty and is complete within 24 months of the date of the casualty. By casualty shall mean as a result of a fire or other cause beyond the control of the owner or by an act of God. By casualty shall not include damage caused by age or ordinary wear and tear or damage intentionally caused by the owner or an agent thereof.

(b) Nonconforming uses other than buildings and signs (such as, but not limited to, underground storage tanks, private sewage disposal systems and parking lots) may be restored or replaced when such structures become unsafe or unsound. A relocation on the same lot may be approved by the zoning administrator, provided the new location is less nonconforming than the original location, and further provided that the new location shall not cause a greater detrimental impact on conforming uses in the neighborhood.

(c) Such restoration shall not include any minor alterations, cosmetic modifications, interior renovations or similar changes unless approved under the provisions of section 24-633 of this article, nor shall such restoration include any expansion unless approved under the provisions of section 24-633. Such restoration may include changes that make the use *or structure* less nonconforming than it was prior to the casualty.

(d) Nothing in this section shall be construed to prevent the removal of a valid nonconforming manufactured home from property and replacement of that unit with another comparable manufactured home that meets the current HUD manufactured housing code. Such replacement unit shall retain the valid nonconforming status of the prior unit. For purposes of this article, a "nonconforming mobile home or manufactured home" shall be defined as any mobile home or manufactured home which does not meet all current zoning requirements and which was:

- (1) Located in the county prior to April of 1969, or any replacement thereof;
- (2) Located pursuant to a conditional use permit, either with or without an expiration date;
- (3) Located pursuant to a special use permit; provided, however, any manufactured home located pursuant to a special use permit with an expiration date shall be removed from the site upon expiration of the special use permit unless a new special use permit is approved to lawfully continue the use; or
- (4) A replacement for a mobile home or manufactured home located pursuant to a conditional or special use permit not specifically prohibited by the permit.

(e) A nonconforming office building meeting all current zoning requirements except connection to public water and sewer which is located within an industrial district may be replaced upon issuance of a special use permit excepting the use from the public water and sewer requirements. The replacement office building shall not exceed 4,000 square feet in floor area.

**Sec. 24-637. Appeals.**

Administrator's decision; appeal to board of zoning appeals. The decision of the zoning administrator under section 24-631(c), section 24-630(c), and section 24-633(a)(3) shall be final after 30 days unless an appeal is filed to the board of zoning appeals in accordance with section 24-663 of this chapter.