

# **BOARD OF SUPERVISORS WORK SESSION**

## **GOVERNMENT CENTER BOARD ROOM**

**SEPT. 25, 2012 - 4 P.M.**

**A. Call to Order**

**B. Roll Call**

**C. Board Discussions**

1. Energy Use and Carbon Emissions Report

2. Zoning/Subdivision Ordinance Update

a. Housekeeping Items and Subdivision Ordinance

- Summary
- Memorandum 1a
- Attachment 1a-1 - Policy Committee Minutes 090412
- Attachment 1a-2 - Flood plain Ordinance Amendments
- Attachment 1a-3 - Procedural Descriptions
- Attachment 1a-4 - Definitions
- Attachment 1a-5 - Research and Technical District
- Attachment 1a-6 - Private Street Amendments
- Memorandum 1b
- Attachment 1b-2 - Subdivision Ordinance

b. Housing Opportunities Resolution

3. Legislative Agenda

**D. Adjournment**

## MEMORANDUM COVER

**Subject:** Zoning/Subdivision Ordinance Update Work Session – Housekeeping Items and Subdivision Ordinance

**Action Requested:** Shall the Board concur with staff's recommendations and provide guidance for proceeding to final ordinance language for the presented topics?

**Summary:** Staff has crafted draft ordinances for the following topics, which are presented in separate memorandums:

1. Housekeeping Items
2. Subdivision Ordinance

The draft ordinances have been attached for review prior to finalizing the ordinance language for the Planning Commission and Board review and action.

**Fiscal Impact:** N/A

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

**Assistant County Administrator**

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

**County Administrator**

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

**Attachments:**

1. Housekeeping Items memorandum and attachments
2. Subdivision Ordinance memorandum and attachments

**WORK SESSION**

**Date:** September 25, 2012

MEMORANDUM

DATE: September 25, 2012

TO: The Board of Supervisors

FROM: Tamara A. M. Rosario, Principal Planner

SUBJECT: Zoning/Subdivision Ordinance Update Work Session – Housekeeping Items

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Over the last year, the Board of Supervisors has adopted a number of zoning ordinance amendments as part of the Zoning Ordinance Update process. Staff has now been implementing and following the revised ordinances for several months. As a result, staff has identified five ordinance sections - floodplain area, procedural descriptions/submittal requirements, definitions, RT-Research and Technology, and private streets - where additional revisions are necessary either to fix minor grammatical or consistency issues or to further clarify the previously adopted ordinances. The Policy Committee considered the proposed changes to the above-referenced ordinance sections on September 4, 2012. The following list represents a brief summary of each of the specific changes proposed by staff with Policy Committee recommendations in *italics*.

**1. Floodplain Ordinance:**

On November 22, 2011, the Board of Supervisors adopted a series of amendments to the Floodplain Area regulations in the Zoning Ordinance. Since that time, staff has noticed several minor items that required further amendment or clarification. Those items include:

- Section 24-590 – Changes two references to the County Engineer to instead reference the Development Management Director or his designee. This change is necessary because there is no longer a designated County Engineer position.
- Section 24-595 – Clarifies ordinance language that requires utilities to be flood proofed to the level of two feet above the 100-year base flood elevation to specifically state that mechanical, plumbing, gas, and electrical systems are all considered utilities for the purposes of the Floodplain Area Regulations are also subject to this requirement. This change will also further improve the County's Community Rating System (CRS) rating while benefiting homeowners within the floodplain.

*The Policy Committee supported staff's proposed revisions.*

**2. Procedural Descriptions/Submittal Requirements:**

On June 12, 2012, the Board of Supervisors adopted a series of amendments to the Procedure Description and Submittal regulations in the Zoning Ordinance. Since its adoption, staff has noticed a few items that required further amendment or clarification. Those items include:

- Section 24-23 (2)(f) – Adds a procedure allowing applicants to appeal the Planning Director's decision regarding master plan consistency determination to the Development Review Committee (DRC). This addition is consistent with the role of the DRC as presented in other sections of the Zoning Ordinance.

- Section 24-23 (4) – Reverts approved language referencing a fee schedule back to the original language referencing Section 24-7. This change is necessary because the Administrative Fees section was not removed from the ordinance.
- Section 24-145 (b) – Changes two references to the Zoning Administrator to instead reference of the Planning Director. This change is necessary to ensure consistency with the rest of the Zoning Ordinance.

*The Policy Committee supported staff's proposed revisions with the additional change of re-inserting a category "D" for apartments and splitting the general multifamily category "B" into "B" – multifamily containing up to 4 dwelling units and "C" – multifamily containing more than 4 dwelling units. This change will make the submittal requirements table consistent with what was adopted in the Mixed Use, R-4 and Planned Unit Development district ordinances.*

### **3. Definitions**

On July 11, 2012, the Planning Commission recommended approval of a series of amendments to the Definitions section in the Zoning Ordinance, and the Board of Supervisors adopted these amendments on September 11, 2012. After the Planning Commission consideration on July 11, staff noticed a few items that required further amendment, mostly to correct grammatical errors. Staff determined that because the Planning Commission had already considered the initial amendments, that any further changes should be handled through the housekeeping ordinance items rather than making changes to the ordinance between the Planning Commission and Board of Supervisors meetings. Those items include definitions for the following:

- Acreage parcel;
- Building, height of;
- Functional classification;
- Iso-foot candle diagram;
- Mobile home;
- Noninterference/intermodulation study;
- Start of construction; and
- Tourist home.

*The Policy Committee supported staff's proposed changes to the above definitions and also asked staff to correct a formatting error in the noninterference/intermodulation definition.*

### **4. RT, Research and Technology**

On July 11, 2012, the Planning Commission recommended approval of a series of amendments to the residential and multiple use sections in the Zoning Ordinance, and the Board of Supervisors adopted these amendments on September 11, 2012. Staff has noticed that the RT, Research and Technology District, which was not included in the package of amendments adopted on September 11, contains some language that is parallel to language in the residential and multiple use districts and should be aligned with those districts. The major examples include:

- Converting the permitted/specially permitted use lists into table format;
- Simplification of the Submittal Requirements section;
- Changes to several items in the Requirements for Improvements and Design section to coordinate with changes to private streets and outdoor lighting;
- Removal of the nondevelopable land definition which is now covered in the Definitions section;
- Changes in the Setback Requirements section to specify Planning Director review of reductions and



- modifications, with appeal to the Development Review Committee; and
- Changes to coordinate with the wireless communication facility amendments.

*The Policy Committee supported staff's proposed changes to this district. The Committee did, however, discuss the use listed as "warehouse, storage and distribution centers to serve only uses permitted in the RT, research and technology district, with storage limited to a fully enclosed building or screened with landscaping and fencing from adjacent properties." This use is currently a specially permitted use, and the Committee asked whether it would be more appropriate as a permitted use. The categorization of this use as an SUP appeared to be for the purpose of placing some limits on what should be, according to the statement of intent for RT, considered a secondary use in the district. However, upon further review and consideration, staff concurs with the idea of making this a permitted use given that the language already significantly limits warehouse, storage and distribution centers to only those that serve uses permitted in the RT district.*

## **5. Private Streets**

On November 22, 2011, the Board of Supervisors adopted a series of amendments to the private streets regulations in the Zoning Ordinance. Since that time, staff has developed the R-3, Residential Redevelopment, district which will require a reference.

*The Policy Committee supported staff's proposed revision, with an adjustment to the table to remove the row listing the R-5 Cluster provision, since this option has been removed from the R-5 District ordinance.*

Staff notes that the Policy Committee's suggested changes listed above have not yet been reflected in the draft ordinances as attached, pending Board of Supervisors review. Staff requests that the Board offer comment on the proposed revisions prior to presenting the final ordinance language to the Planning Commission on November 7, 2012.

  
Tamara A. M. Rosario

CONCUR:

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Allen J. Murphy, Jr.

TAMR/nb  
HousSubOrd\_HKeep\_mem

### Attachments:

1. Unapproved Policy Committee Minutes (September 4, 2012)
2. Floodplain Ordinance Amendments
3. Procedural Descriptions/Submittal Requirements – includes Sections 24-23 and 24-145
4. Definitions
5. Research and Technology Amendments
6. Private Street Amendments

MEMORANDUM

DATE: September 25, 2012

TO: The Board of Supervisors

FROM: Ellen Cook, Senior Planner II

SUBJECT: Zoning/Subdivision Ordinance Update Work Session – Subdivision Ordinance

Staff presented a framework for revisions to the Subdivision Ordinance to the Policy Committee in February 2011. At that meeting, the Policy Committee generally concurred with staff's recommended amendments. The Committee also had some discussion regarding the role the Development Review Committee should play in the review of major subdivision plans. Following the Policy Committee meeting, the framework for Subdivision Ordinance revisions was provided to the Board of Supervisors at its March 22, 2011 and April 26, 2011, work sessions, along with a number of other ordinance update topics. Staff did not receive any comments from the Board on the Subdivision Ordinance.

Since those meetings, staff has proceeded to Stage II of the process by creating a draft of the amended Subdivision Ordinance, which is attached. Included in the amendments are the following items:

- With regard to on-site sewage disposal systems, amendments to better match terms used in the *Code of Virginia*, to clarify submittal requirements, and to clarify the procedural need to obtain a certification letter of approval from the Health Department prior to approval of new lots by the County;
- A requirement in the family subdivision provisions for five years of ownership prior to subdivision and limitation of its use to the R-8 and A-1 zoning districts; and
- General updates and clarifications in response to agency (JCSA, Engineering and Resource Protection, etc.) comments and to frequently asked questions.

The Policy Committee considered these proposed changes on September 4, 2012. The Policy Committee concurred with the changes as presented, with the suggested addition of a definition for multifamily and several other minor revisions for consistency and clarity. These changes are reflected in the minutes, but have not yet been changed in the draft ordinance as attached.

Staff requests that the Board of Supervisors offer comment on the proposed revisions prior to presenting the final ordinance language to the Planning Commission on November 7, 2012.

  
Ellen Cook

CONCUR:

\_\_\_\_\_  
Allen J. Murphy, Jr.

EC/nb  
HousSubOrd-Sub\_mem

Attachments:

1. Unapproved Policy Committee Minutes (September 4, 2012) – this set of minutes is included with the Housekeeping Items memorandum
2. Draft Subdivision Ordinance



# JAMES CITY COUNTY ENERGY USE & CARBON EMISSIONS REPORT

## 2012

August 2012

General Services

# Efficiency Measures Taken in Existing Buildings



Investments in the Capital Maintenance portion of the CIP make upgrades in efficiency measures possible. Some examples include:

Automated Building Controls	HVAC Equipment Upgrades	Lighting	Water Heating	Miscellaneous
Building A	Building A	Building A	Community Center (pool)	Petroleum Reduction Program
Building B	Building E	Building B		Time Clock on Air Compressor
Building E	Building F	Building E		23 Hybrids & 31 Flex Fuel vehicles
Building F	Community Center	Community Center		
Fleet Building	Fleet Building	Fleet Building		
Fire Station #3	Fire Station #3	Freedom Park		
Freedom Park	Freedom Park			

# Sustainability Measures in New Buildings



The JCC Sustainable Building Policy for new construction and major renovation projects sets a standard for LEED Silver Certification and Energy Star energy performance targets

Measures	New Law Enforcement Center (LEED Gold)	New Fire Administration Building (LEED Silver)	Building D (LEED Silver)
Geothermal Well Field	X		X
White PVC roof to reflect heat	X	X	
Building Materials purchased locally	X	X	X
Wood from sustainable forests	X		
'Green' countertops (made with recycled materials)		X	
Maximized indirect light from windows	X		
High-efficiency windows and doors	X	X	X
Energy efficient HVAC	X	X	X
Thermal analysis of building / Insulation Replaced		X	X
High efficiency plumbing fixtures	X	X	X
Recycled Construction Debris	X	X	X
Low VOC materials	X	X	X
Installed conduits for electric vehicles		X	
Purchased RECs to cover electricity usage	X		

August 2012

General Services

# Electricity Usage in JCC Facilities 2007-2012



FY	Annual Total kWh	Total Square Footage	Annual kWh/sf
2007	25,040,185	412,176	60.8
2008	24,589,309	423,403	58.0
2009	24,286,674	424,170	57.3
2010	23,291,900	426,570	54.6
2011	24,027,914	426,570	56.3
2012	23,758,799	491,236	48.4

**In spite of the 19% growth of our building footprint in the past five years, total electricity usage has decreased 5% and electricity per square foot decreased 20%.**

**\*In the US, buildings account for 65% of electricity consumption (U.S. Green Building Council)**

**\*\*Buildings & facilities account for 52% of JCC electricity consumption**

August 2012

General Services

# Total Energy Usage (MMBtu)

FY	Electricity	Natural Gas	Total	MMBtu/sf
2007	85,437	49,510	134,947	0.33
2008	83,899	46,391	130,290	0.31
2009	82,866	46,203	129,069	0.30
2010	79,472	47,308	126,780	0.30
2011	81,983	50,779	132,762	0.31
2012	81,065	41,970	123,035	0.25

In spite of the growing building footprint of 19% over five years, total energy usage decreased by 10%. Total energy usage per square foot decreased 24%.

Using projected energy rates from 2007, JCC has saved over \$1.1M in electric costs and \$138k in natural gas costs through increased energy efficiency over the last 5 years for a total of \$1.2M in energy savings!

# Fleet Fuel Efficiency



Year	Miles Travelled	Fuel Usage	Total MPG
2007	4,129,661	288,459	14.3
2008	4,277,437	302,662	14.1
2009	3,954,648	285,371	13.9
2010	3,290,508	228,161	14.4
2011	3,474,236	254,887	13.6
2012	3,503,310	263,000	13.3

1. FY11 Class I vehicles (<14,000 lbs; compact cars to pickup trucks) averaged 19.72 MPG
2. FY11 Class II vehicles (14,001 – 26,000 lbs; large pickup trucks to ambulances) averaged 5.46 MPG
3. FY11 Class III vehicles (>26,001 lbs; dump trucks, fire trucks, etc...) averaged 5.27 MPG

August 2012

General Services



# Long-term Goals



By reducing energy usage in James City County facilities we have reduced taxpayer expenditures.

Additionally, energy savings create the added benefit of lowering carbon emissions, which is consistent with our long-term goals:

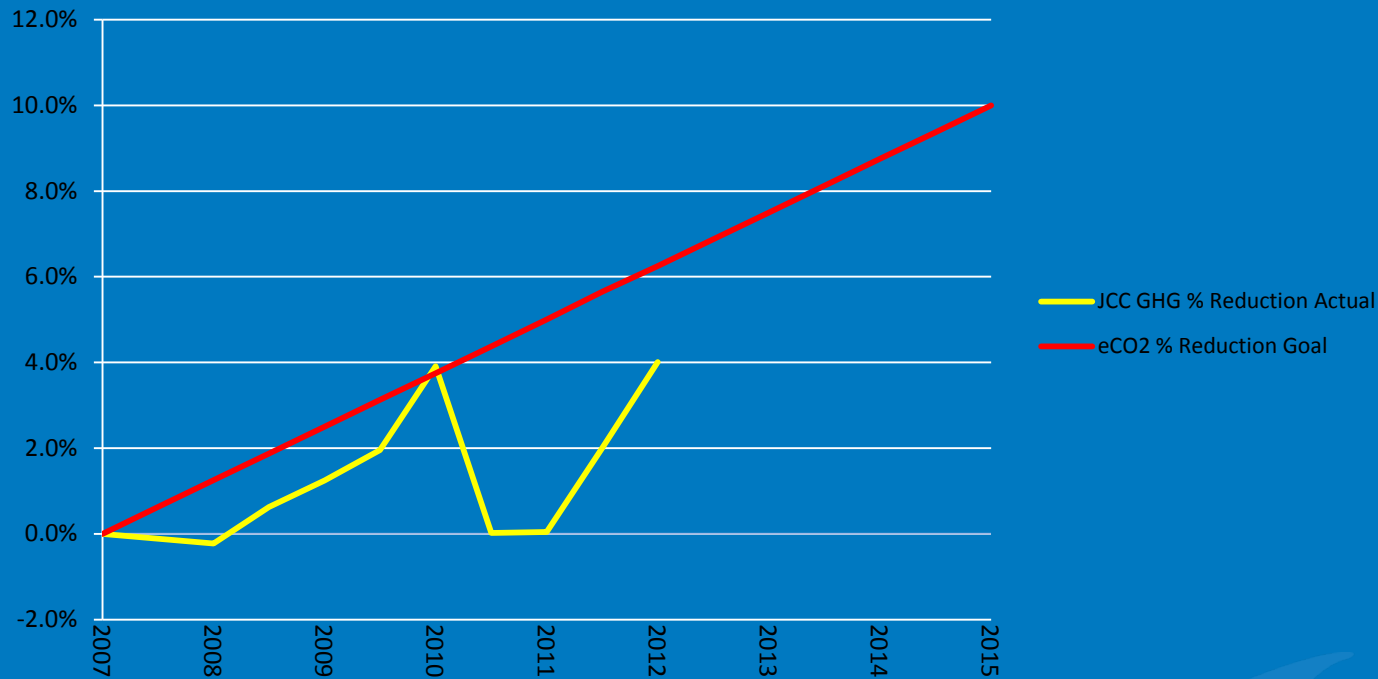
1. *Create, inventory and track county government carbon emissions*
2. *Create policies and programs to reduce carbon emissions to 80% below 2007 levels by 2050*

# Carbon Footprint

Goal: 80% Reduction of FY07 eCO2 emissions by 2050



GHG Emissions % Reductions



As a result of saving energy, our carbon emissions are generally decreasing.

August 2012

General Services

# Recommendations



## Additional Energy Conservation & Carbon Emissions Reduction Strategies:

- |    |   |
|----|---|
| 1. | Continue to evaluate building envelopes   |
| 2. | Energy Scorecard-Identify Areas of Concern, implement and enforce energy management policies                                  |
| 3. | Increase employee awareness and accountability through an interdepartmental “Energy Team” with a focus on energy conservation |
| 4. | Centralize energy management software and interval meters on buildings  |
| 5. | Strive to get Energy Star rating on JCC buildings   |
| 6. | Continue to track and investigate anomalies on JCC buildings through Planet Footprint   |

## ORDINANCE NO.

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 24, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE I, IN GENERAL, BY AMENDING SECTION 24-2, DEFINITIONS.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 24, Zoning, is hereby amended and reordained by amending Article I, In General, Section 24-2, Definitions.

### Article I. In General

#### **Sec. 24-2. Definitions.**

For the purposes of this chapter, the following words and phrases shall have the meaning respectively ascribed to them by this section:

**Acreage parcel.** A parcel of land, regardless of area, described by metes and bounds which is not a numbered lot on any recorded ed subdivision plat.

**Basement.** A story having part but not more than one-half of its height below grade. A basement shall be counted as a story for the purpose of height regulations if it is used for business purposes or for dwelling purposes by other than a janitor employed on the premises. Solely for the purposes of Article VI, Overlay District, Division 3, Floodplain Area Regulations, this term shall mean any area of the building having its floor sub grade sub-grade *subgrade*(below ground level) on all sides.

**Building, height of.** The vertical distance measured from the level of the curb or the established curb grade opposite the middle of the front of the structure to the highest point of the roof if a flat roof, to the deck line of a mansard roof, or to the mean height level between the eaves and ridge of a gable, hip or gambrel roof. For buildings set back from the street line, the height shall *be* measured from the average elevation of the ground surface along the front of the building.

***Street*** functional classification. ~~A classification of streets, approved by the governing body, into the following categories: Interstate, expressway, principal arterial, minor arterial, major collector and minor collector.~~ *Streets shall be functionally classified as follows:*

- (1) Interstate: A highway that is part of the nationwide U.S. Interstate Highway System connecting or involving different states.
- (2) Expressway *and Freeway*: A roadway designated exclusively for unrestrictive movement of traffic. Access is only with selected arterial streets by means of interchanges.

- (3) Arterial streets (principal, minor). ~~A street specifically designed to move high volumes of traffic from collector streets through the county and not designed to serve abutting lots except indirectly through intersecting streets. Arterial streets shall include all U.S. Highways, state primaries with one, two or three digit numbers, state secondary roads with three digit numbers, and any other street which the subdivision agent determines is functionally equivalent to these transportation department classifications. This definition shall not include three digit numbered streets which are part of a recorded subdivision or an extension thereof.~~ *Streets and roads which function within a regional network conveying traffic between major activity centers. The purpose of such streets is to carry relatively large volumes of traffic at higher speeds, and not to serve abutting lots except indirectly through intersection streets.* The arterial classification is further subdivided into “principal arterial” and “minor arterial” based on traffic volumes.
- (4) Collector streets (major, minor): ~~A street with relatively low speed and low volume providing circulation within and between neighborhoods. Collector streets usually serve short trips and are intended for collecting trips from local streets and distributing them to the arterial network.~~ *Streets designed to conduct and distribute traffic between streets of lower order and streets of higher order linking major activity centers.* The collector classification is further divided into “major collector” and “minor collector.”

(5) *Local or access streets. Streets designed to carry low to moderate volumes of traffic, at low operating speeds. The primary function of these streets is to provide access to individual lots, typically within a residential subdivision.*

*The functional classification status of a specific road shall be determined by the agent after consulting with the transportation department.*

~~Iso-foot candle~~ *footcandle* diagram. A diagram consisting of lines showing the relative illumination in foot candles from a light source or group of light sources.

Mobile home. A mobile home is a structure not meeting the specifications or requirements of a manufactured home, designed for transportation, after fabrication, on streets and highways on its own wheels or on flat bed or other ~~trailers-trailer~~, and arriving at the site where it is to be occupied as a dwelling complete and ready for occupancy except for minor and incidental unpacking and assembly operation, location on jacks or permanent foundations, connection to utilities and the like. (See "trailer" and "travel trailer" following in this section.)

Noninterference/intermodulation study. A study prepared by a licensed engineer indicating potential interference *of wireless communications facilities* with public safety communication equipment. lying areas and marshes and landscaped areas required by this chapter. Such space must be free of automobile traffic and parking and be readily accessible to all those for whom it is required.

Start of construction. The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement is within 180 days of the permit date. The actual start means either the first placement of permanent

construction of a structure on a site (such as the pouring of slab or footings, the installation of piles, the construction of columns or any work beyond the stage of excavation) or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, or filling; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration on any wall, ceiling, floor, or other structural part of a building, whether or not the ~~alteration~~ **alteration** affects the external dimensions of the building.

Tourist home. A dwelling where lodging or lodging and meals are provided for compensation for up to five rooms ~~and~~ **which are** open to transients.

## **POLICY COMMITTEE MEETING**

September 4, 2012

4:00 p.m.

County Government Center, Building A

### **1) Roll Call**

#### **Present**

Mr. Rich Krapf  
Mr. Tim O'Connor  
Ms. Robin Bledsoe  
Mr. Al Woods

#### **Staff Present**

Mr. Christopher Johnson  
Ms. Tammy Rosario  
Ms. Leanne Reidenbach  
Ms. Ellen Cook  
Mr. Jose Ribeiro

#### **Absent**

Mr. Rich Krapf called the meeting to order at 4:00 p.m.

### **2) Minutes**

On a motion by Mr. Tim O'Connor, the Policy Committee approved the minutes of the March 20, 2012 meeting (3-0, Ms. Bledsoe was not yet present).

### **3) Old Business**

There was no old business to discuss at this meeting.

### **4) New Business**

#### **a) Housekeeping Items**

Mr. Krapf recommended that all the housekeeping topics be handled together and addressed on a question-specific basis by the Committee. The topics included floodplain ordinance, procedural descriptions/submittal requirements, definitions, RT – Research and Technology and private streets.

Mr. Al Woods asked for an example of the practical origin for the non-grammatical/consistency-related ordinance changes.

Ms. Leanne Reidenbach explained that the County had received an application for a building permit where the residence was outside the flood elevation but the mechanical equipment was within the flood elevation. As a result, staff discussed that the original intent of the floodplain ordinance was that mechanical equipment would be included as part of the residence, but that this was not clear in the ordinance language so staff decided to clarify it now.

Mr. Woods asked what floodproofing would include and what sort of mechanical devices could be left in the floodplain.

Ms. Reidenbach noted that it would be up to the applicant to demonstrate that the equipment is adequately floodproofed or pulled out of the flood elevation to the satisfaction of the Building Safety and Permits Division in order to meet the revised ordinance language.

Ms. Tammy Rosario explained another example. When the original private streets ordinance changes were processed on an expedited timeline, staff did not anticipate the later creation of the

R-3 residential district. With that new district, it became necessary to go back and add R-3 to the private streets regulations.

Mr. Woods asked if there was a technology available to help staff identify where certain ordinance topics are referenced in the ordinance text so that staff could determine what needs to be amended.

Ms. Rosario said that aside from the “search and find” functions, that there was no technology and that staff kept a physical list and relied on discussion and common reviewers to pinpoint other areas that need changing.

Mr. O’Connor noted that on page 22, two phrases appear to have been accidentally merged into “noninterference intermodulation study.”

Mr. Jose Ribeiro said that typo would be corrected.

Mr. O’Connor asked about the definition of tourist homes on page 23. He asked whether there was a requirement that the owner or property manager live in the home as well.

Ms. Rosario said that there was not and adding that requirement would be a new standard.

Mr. Krapf asked about the fiscal impact analysis (FIA) requirement language on page 13. He asked whether the Committee needed to revisit the County FIA worksheet after the review of New Town Section 12 and the large discrepancy between the County’s result and the applicant’s result.

Ms. Reidenbach and Mr. Ribeiro explained that the County’s form is intended to be free and easy for the applicant and uses a standard methodology and assumptions to help in comparisons. It also leaves the opportunity for the applicant to still submit their own analysis that includes other assumptions/methods. They noted that the County’s worksheet was the preferred method/assumptions from the Department of Financial and Management Services. Staff provided the results of both the FIA worksheet and any applicant supplements.

Mr. Woods asked for clarification regarding the change to Section 24-23 on page 6.

Mr. Ribeiro noted that part was to fix an omission in typical language. Staff did not include language initially about to whom applicants could appeal the findings of the Planning Director in decisions of master plan consistency. This ordinance amendment fixes that. The second part of the section dealt with fees. Mr. Ribeiro explained the discussion between staff and the County Attorney on whether fees could be removed from the ordinance as originally proposed. It was determined that the fee schedule should remain in the ordinance, but it was too late to remove the language that referenced the separate fee schedule attachment in the version of the ordinance that was adopted. This amendment removes those references so the section reverts back to the original fee schedule language.

Mr. Woods asked about paragraph 3 on page 22 related to the change to the definition of arterial streets.



Ms. Rosario said that change was proposed so that the definitions in the zoning ordinance and in the subdivision ordinance would be consistent.

Ms. Ellen Cook noted that the subdivision ordinance previously only defined arterial street and that the definitions did not match with previous definitions in the zoning ordinance. Also that local street classification had previously not been included in the definition.

Mr. Woods asked about the amendment on page 32 in Section 24-466 of the RT district and noted that it seemed like a more substantive change to strike requirements for street surety. He said that the change seemed more related to design of roads than to surety.

Ms. Cook noted that the requirement was relocated to the private street ordinance. It was stricken from this section to avoid duplication and also to have consistency between this district and the previously adopted commercial districts.

Mr. Richard Costello, AES Consulting Engineers, noted that page 38 referenced the R-5 district with cluster overlay. He said that the recently proposed residential district amendments eliminated the possibility of cluster overlay in R-5. Mr. Costello also said that the multi-family and apartment categories for residential uses on page 15 in submittal requirements were inconsistent with the proposed changes in the R-4 and mixed use districts. He said that there were changes to substitute the Development Review Committee in the ordinance language when the Planning Commission was referenced. He said that the DRC could be dissolved and then the ordinance would have to be amended to revert back to saying the Planning Commission. Mr. Costello also noted that the definitions of the various residential uses and the various senior living facilities was very consistent and noted staff had done a good job with this.

Ms. Rosario noted that staff would look into these items.

Mr. O'Connor noted that he did not know what sort of utility requirements that uses in the RT zone may require and questioned whether the current use list would limit what kinds of companies may locate in an RT area if they operate using alternative energy or have higher demands for utilities or taller maximum height limits.

Mr. Chris Johnson said that 60 feet is a common height requirement across districts and noted that this would have to be looked at across the ordinance if it was something the Committee was concerned with. He stated that there are no RT zoning districts in the County so any property would have to go through a rezoning or get an SUP and a height waiver could be part of that request.

Mr. O'Connor asked for clarification about why warehousing and distribution facilities were specially permitted uses in the RT district.

Mr. Woods noted that it would likely be necessary for some of the manufacturing uses to require a warehouse or distribution facility.

Ms. Cook reiterated that there is no RT zoned land so staff has little experience in administering this district. She noted that there was no change proposed to the language, just reorganization of the display of permitted and specially permitted uses. Ms. Cook said that she thought warehousing may

be considered an accessory use in those circumstances and would need to consult with the Zoning Administrator.

Mr. Woods asked what the initial justification was in making it a specially permitted use.

Mr. Krapf asked about what the concerns were with warehousing and distribution facilities that required the SUP. He noted that it is probably related to impacts on adjacent properties such as noise and traffic or proximity to other zoning districts.

Ms. Cook noted that current staff had not been involved with the initial development of the RT district so did not know the specific intent, but it seemed like there were two reasons: (1) that staff was tailoring the ordinance to allow economic development uses which may take up smaller sites and produce more revenue and (2) there are significant impacts that are paired with warehousing and distribution facilities. Stand-alone warehousing usually requires a large building and a lot of land and generate a lot of traffic.

Mr. Johnson noted that the language was consistent with what is in other commercial and business districts.

Mr. O'Connor asked that the language be clarified or that a square footage threshold be set for allowing warehousing by-right or through an SUP. He said that his primary concern was that warehousing be treated consistently across zoning districts.

Mr. Krapf said that he would prefer a clarification of the use rather than limiting the size.

Mr. Costello said that the Building Code allows for accessory uses up to 10% of the size of the primary building. This way there could be small day cares or storage facilities or cafeterias to serve the specific site.

Ms. Rosario noted that the housekeeping items are scheduled for a Board work session on September 25 so staff would work on refining the warehousing/distribution facilities use in preparation for that meeting.

On a motion by Mr. Krapf, the Policy Committee recommended approval of the proposed amendments subject to staff looking into warehousing in RT, correcting the definition heading for "non-interference study" and evaluating consistency between the master plan use table in the submittal requirements ordinance and the tables in the residential districts.

#### **b) Subdivision Ordinance Amendments**

Mr. Krapf asked the Policy Committee members for any questions, comments or concerns on the draft Subdivision Ordinance.

Mr. Krapf asked about the definition of flag lot. Mr. Woods explained and drew a picture of a flag lot. Staff added that a depiction of a flag lot was included in the proposed graphics.

Mr. Woods inquired about the requirement for the twenty-five foot width of the lot fronting the street. Staff and the Committee discussed how this requirement relates to the width of the driveway.

Mr. O'Connor noted other elements of a site that might also need to be within the twenty-five foot "flagpole" portion of the lot, such as lines for grinder pumps.

Mr. O'Connor asked if it was possible to do a subdivision in the County without forming a Homeowners Association (HOA).

Ms. Cook stated that this was only possible for minor subdivisions, which consist of five or fewer lots.

The Committee discussed the reasons that generate the need for HOAs, including maintenance of required stormwater management facilities, and maintenance of common or recreational open space. The Committee discussed the role of the Chesapeake Bay Act in relation to the stormwater management facilities, and how the ownership and maintenance role of the locality versus of the HOA differs between localities, and may change depending on meeting evolving regulations.

Mr. O'Connor inquired about the requirement for five years of prior ownership in order to qualify for a family subdivision.

Ms. Cook discussed the origin of the proposed amendment, noting that the change was intended to be consistent with expectations expressed by the Board over the years in their review of family subdivision special use permits. The change is intended to emphasize the primary purpose of family subdivisions where a landowner engaged in farming or other production undertakes a subdivision in order to allow a family member to live on the land and likely be engaged in that activity as well.

Mr. O'Connor asked whether such a requirement would lead some property owners to feel that they weren't being treated equally or fairly. He also noted in relation to this issue the current ordinance requirements for accessory apartments.

Ms. Cook noted that the family subdivision process was something owners would only need to pursue if they were seeking relief from one of two particular requirements – minimum lot frontage, and minimum parcel size (1 acre versus 3 acres in the A-1 District). If meeting either of these requirements was not an issue, and landowner could subdivide land for a family member through the normal subdivision process.

Ms. Bledsoe inquired if there were a legal precedent for requiring five years of prior ownership.

A citizen stated that he knew of at least two other localities that had a similar requirement, and that he didn't know of any legal challenge that had occurred as a result.

Ms. Cook confirmed that during Stage I of the process of examining the subdivision ordinance, staff had investigated the requirements in other Virginia localities and found several with this requirement, as well as a variety of other types of requirements.

Mr. Krapf stated that he had been under the impression that those pursuing family subdivisions had to adhere to all the typical requirements of the zoning district, but was interested to hear that in A-1, a property owner would be able to have a smaller lot size (1 acre instead of 3 acres) than would otherwise be required.

Ms. Cook confirmed that with the approval of a special use permit from the Board, a property owner could have a smaller lot size.

Mr. O'Connor inquired about an example in Lanexa where some lots had been subdivided, and asked if that had been a family subdivision or just a minor subdivision.

Ms. Cook stated that if she had the correct location in mind, that that example was just a minor subdivision through the normal process.

Mr. Krapf stated that could see the intent of the five years of ownership in terms of looking for some sort of permanence to the applicant's situation.

Ms. Rosario stated that since the subdivision ordinance does allow subdivision of land equally among property owners, in this instance where special allowance is being made, the Board has sought to clarify the intended specific user group for family subdivisions.

Mr. Costello commented that he saw the family subdivision provisions as a benefit, and that it made sense to look for indication that this was a long-term thing for the family. Mr. Costello noted that the ordinance had already provided for the land to be owned by the family member for three years after subdivision, unless in circumstances of death or other involuntary transfer.

Mr. O'Connor noted that he was more in line with the requirement to own the property after subdivision, but still felt that the five years of prior ownership meant that some property owners would be able to pursue this while others would not, and could see the requirement creating a hardship for people.

Mr. Costello stated that the Committee could suggest to the Board a shorter period of prior ownership.

Mr. Krapf stated that he appreciated the good discussion and noted that it was good to talk about the reason for the provisions in the ordinance in order to make sure they still were valid.

Mr. O'Connor inquired about Section 19-21, where the terms are being changed from "townhouse or condominium subdivision" to "multifamily subdivision," and whether the word "lots" in the description was accurate since certain types of buildings would not have ownership determined on a lot basis.

Mr. Costello said that using the term lots was consistent with the definitions of multifamily and apartment that were now in the ordinance.

Ms. Cook and Mr. Johnson clarified that the word lot was appropriate since this section would only apply in instances where multifamily units were developed in a manner than involved actual

subdivision of land into lots around the units. Otherwise, the subdivision ordinance would not be applicable, and the review process would occur through submission of a site plan only.

Mr. O'Connor stated that he had reviewed the various requirements for drainage and stormwater management, both in terms of the submittal information and in terms of the standards that needed to be met. He inquired whether the items listed were flexible to allow more recent best practices versus only having an emphasis on covered pipes.

Mr. Costello noted that drainage issues for multifamily and apartments were covered under the site plan section of the Zoning Ordinance, and that the requirements found in the subdivision ordinance were primarily designed to describe single family neighborhood situations.

Ms. Cook further noted that the Engineering and Resource protection staff had provided their comments on the language and had indicated that their suggestions were compatible with up-to-date practices.

Mr. Krapf stated that given the many nuances in the ordinances, at some point in the future it would be helpful to add footnotes or references within the ordinance to refer readers to other applicable requirements.

Mr. O'Connor moved to the next item, referencing Section 19-59, Water Facilities, and inquired whether the description of the central well elements should be revised to include treatment of the water, if that routinely took place.

Ms. Cook stated that she was not sure of exactly what treatment of the water took place, but that it would make sense to add the word to the section to cover that possibility.

Mr. Costello stated that he had several suggestions. He referenced Section 19-19, suggesting that the ordinance be revised to include showing property lines and road locations for conceptual plans. In Section 19-59, he suggested striking the word "public" prior to service authority to make the reference consistent with other locations in the ordinance. He also noted some adjustments to multifamily definition references.

Mr. Krapf and staff confirmed the items that needed to be addressed, and Mr. Krapf asked for a motion to endorse the subdivision ordinance draft subject to those items.

Mr. Woods so moved, and the motion passed unanimously.

## **5) Other Business**

Ms. Rosario noted that staff would be looking to set a Policy Committee meeting in the next month to discuss changes to the ordinance to address soil stockpiles.

Ms. Rosario and the Committee briefly discussed the reasons this was being brought forward, and then began to discuss the timeframes the Committee members were available in September.

## **6) Adjournment**

Mr. O'Connor moved to adjourn. The meeting was adjourned at 5:25 p.m.

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Rich Krapf, Chair of the Policy Committee

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 24, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE VI, OVERLAY DISTRICTS, DIVISION 3, FLOODPLAIN AREA REGULATIONS, SECTION 24-590, DESIGNATION OF FLOODPLAIN DISTRICTS AND SECTION 24-595 REGULATIONS FOR CONSTRUCTION.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 24, Zoning, is hereby amended and reordained by amending Section 24-590, Designation of floodplain district and Section 24-595, Regulations for construction.

Chapter 24. Zoning

Article VI. Overlay Districts

Division 3. Floodplain Area Regulations

Sec. 24-590. Designation of floodplain districts.

(a) The various floodplain districts shall include areas subject to inundation by waters of the 100-year flood. The minimum basis for the delineation of these districts shall be, but not limited to, the September 28, 2007, flood insurance study prepared by the Federal Emergency Management Agency (FEMA), Federal Insurance Agency (FIA), since other flood-prone areas exist in James City County which are not shown on the floodplain maps. To determine these areas, the 100-year flood elevations and floodways from federal, state and local sources may be used when available. Where the specific 100-year flood elevation cannot be determined for an area by using available sources of data, then the applicant for the proposed use, development and/or activity shall determine this elevation to the satisfaction of the ~~county engineer~~ *development manager or his designee* in

accordance with hydrologic and hydraulic engineering techniques. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computations, etc., shall consider full development of the watershed and shall be submitted in sufficient detail to allow a thorough review by the ~~county engineer~~ *development manager or his designee*.

Where flood elevations are provided by the FIA, these elevations shall not be changed except with FEMA approval. Local sources of flood-prone area data include, but are not limited to, the following reports: *Drainage Study of Upper Powhatan Creek Watersheds, Camp Dresser and McKee 1987; Mill Creek-Lake Watershed Study, GKY and Associates, 1988; Powhatan Creek Floodplain Study, Williamsburg Environmental Group, 2008; Upper Powhatan Creek Floodplain Study, Williamsburg Environmental Group, 2010.*

(b) The floodway district, minimally shown on the maps accompanying the flood insurance study, is established for purposes of these regulations using the criterion that certain areas within the floodplain must be kept free of encroachment in order that the 100-year flood be conveyed without increasing the water surface areas included in this district.

(c) The flood-fringe district shall be that area of the 100-year floodplain not included in the floodway district. The basis for the outmost boundary of the district shall be the 100-year flood elevations minimally shown as Zone AE on the maps accompanying the flood insurance study.

(d) The approximated floodplain district shall be that floodplain area for which no detailed flood profiles or elevations are provided but where a 100-year floodplain boundary has been approximated. Such areas are minimally shown as Zone A on the maps accompanying the flood insurance study.

#### Sec. 24-595. Regulations for construction.

(a) The construction or placement of any structure or obstruction, filling or changing the cross-section or flow characteristics within the 100-year floodplain shall not be permitted unless the project is in conformance with the following requirements:



- (1) In case of residential usage, the finished elevation of the lowest floor, including the basement or cellar of the building, shall be at least two feet above the 100-year flood elevation. For nonresidential structures, watertight floodproofing in accordance with the Virginia Uniform Statewide Building Code may be provided in lieu of the finished grade requirement described herein. Prior to issuance of a certificate of occupancy, the owner of any structure located in a floodplain district shall submit a completed elevation certificate or floodproofing certificate as appropriate to the director of building safety and permits.
  - (2) Utility and sanitary facilities, *including but not limited to mechanical, plumbing and electrical systems and gas lines*, shall be floodproofed up to the level of two feet above the 100-year base flood elevation.
  - (3) Encroachments, including fill, new construction, substantial improvements and other development are prohibited within the floodway or any floodplain district having a 100-year elevation greater than 7-1/2 feet (North American Vertical Datum - NAVD, 1988) unless it has been demonstrated through hydrologic and hydraulic analyses that the proposed encroachment would not result in any increase in flood levels during the occurrence of the base flood discharge. Hydrologic and hydraulic analyses shall be undertaken by a professional engineer and shall be submitted in sufficient detail to allow a thorough review by the development manager or his designee.
  - (4) All other federal and state permits shall be obtained by the applicant before a building permit can be issued.
- (b) It shall be the responsibility of the applicant to provide this data, certified by a licensed surveyor or engineer or other source acceptable to the director of building safety and permits.

**ORDINANCE NO. \_\_\_\_\_**

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 24, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA BY AMENDING ARTICLE I, IN GENERAL, BY AMENDING SECTION 24-3, PURPOSE OF CHAPTER; ZONING MAP; SECTION 24-7, ADMINISTRATIVE FEES; SECTION 24-8, CERTIFICATE OF OCCUPANCY; SECTION 24-9, SPECIAL USE PERMITS; SECTION 24-10, PUBLIC HEARING REQUIRED; SECTION 24-12, REVOCATION OF SPECIAL USE PERMITS; SECTION 24-13, AMENDMENT OF CHAPTER; AND SECTION 24-23, SUBMITTAL REQUIREMENTS.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 24, Zoning, is hereby amended and reordained by amending Article I, In General, by amending Section 24-3, Purpose of chapter; zoning map; Section 24-7, Administrative fees; Section 24-8, Certificate of occupancy; Section 24-9, Special use permits; Section 24-10, Public hearing required; Section 24-12, Revocation of special use permits; Section 24-13, Amendment of a chapter, and Section 24-23, Submittal requirements.

**Article I. In General**

**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) 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. A traffic impact analysis for all projects that expect to generate 100 or more weekday peak hour trips to and from the site during the hours of operation and/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. 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 analysis; and

- b. A water and sewer impact study for all projects with an anticipated average daily flow greater than, 15,500 gallons and/or for proposed residential projects containing 50 lots or more. Water Conservation information in accordance with Water Conservation Guidelines Policy; and
- c. Environmental information in accordance with the Environmental Constraints Analysis for Legislative Cases; and
- d. An adequate public facilities report in accordance with board of supervisors policy to include sewer, water, schools, fire stations, libraries, and other major locally-financed facilities. School information shall be prepared according to the Adequate Public School Facilities Test Policy; and
- e. Additional on-site and off-site public facilities or services which would be required as a result of the development; and
- f. 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; and
- g. An environmental inventory in accordance with the James City County Natural Resource policy; and
- h. A fiscal impact analysis, using the worksheet and assumptions provided by the planning division, when the proposal includes residential dwelling units. The analysis must estimate revenues to be generated versus the cost of public improvements to be financed by the county or the State using the fiscal impact model prepared by the county. 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 planning director; and

- i. Parks and recreation information based on Parks and Recreation Master Plan Proffer Guidelines.
- (2) 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, rights-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 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 30 inches by 48 inches. The master plan shall also include:
- a. 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;
  - b. A north arrow, scale, the proposed use, approximate development phasing (if applicable);
  - c. The location of existing property lines, watercourse or lakes, wooded areas and existing roads which are within or adjoining the property;
  - d. 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;
  - e. If applicable, schematic plans which shall indicate the phasing of development and master water, sewer and drainage plans; and
  - f. If more than one type of land uses is proposed, each use shall be designated on the master plan

as follows:

Type of Development	Area Designation
Single family	<b>A</b>
Multi family	<b>B</b>
Apartments	<b>C</b>
Commercial uses	<b>E</b>
Wholesale and warehouse uses	<b>F</b>
Office uses	<b>G</b>
Light industrial uses	<b>H</b>
Institutional or public uses	<b>I</b>
Areas of common open space, with recreation areas noted	<b>J</b>
Structures containing a mixture of uses	<b>M*</b>
Other structures, facilities or amenities	<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 development plans may be approved after approval of a master plan by the board of supervisors. All final development plans shall be consistent with the master plan, but may deviate from the master plan if, the planning director concludes that the development plan does not:

- a. Significantly affect the general location or classification of housing units or buildings as shown on the master plan;
- b. Significantly alter the distribution of recreation or open space areas on the master plan;
- c. Significantly affect the road layout as shown on the master plan;
- d. Significantly alter the character of land uses or other features or conflict with any building conditions placed on the corresponding legislatively-approved case associated with the master plan.

If the planning director 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. *In the event the planning director disapproves the amendment, the applicant may appeal the decision of the planning director to the development review committee who shall forward a recommendation to the planning commission.* For additional 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 ~~the fee schedule document approved by the James City County board of supervisors.~~ *section 24-7 of this chapter.*
- (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 and any additional policies as deemed necessary by the planning director.
- (c) Unless otherwise required by this chapter, upon written request by the applicant, the planning director may waive any requirement under (a)(1) or (a)(2) above after finding that such information would not be germane to the application.

**ORDINANCE NO. \_\_\_\_\_**

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 24, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA BY AMENDING ARTICLE III, SITE PLAN, BY AMENDING SECTION 24-143, WHEN SITE PLANS REQUIRED; SECTION 24-144, PREAPPLICATION CONFERENCE AND SUBMISSION OF CONCEPTUAL PLAN; SECTION 24-145, SITE PLAN SUBMITTAL REQUIREMENTS; SECTION 24-148, PROCEDURE FOR COMMISSION REVIEW OF SITE PLANS; SECTION 24-149, PROCEDURE FOR REVIEW OF SITE PLANS BY THE COMMISSION'S DESIGNEE(S); SECTION 24-150, PROCEDURES FOR ADMINISTRATIVE REVIEW OF SITE PLANS; SECTION 24-151, REVIEW CRITERIA GENERALLY; SECTION 24-153, SUBMITTAL OF REVISED SITE PLAN GENERALLY; SECTION 24-155, ACTION UPON COMPLETION OF REVIEW OF REVISED SITE PLAN; SECTION 24-156, TERM OF VALIDITY OF FINAL APPROVAL; SECTION 24-157, AMENDMENT OF APPROVED SITE PLANS; SECTION 24-158, FINAL "AS-BUILT" PLANS REQUIRED; AND SECTION 24-159, COMPLIANCE WITH SITE PLAN REQUIRED.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 24, Zoning, is hereby amended and reordained by amending Article III, Site Plan, by amending Section 24-143, When site plans required; Section 24-144, Preapplication conference and submission of conceptual plan; Section 24-145, Site plan submittal requirements; Section 24-148, Procedure for commission review of site plans; Section 24-149, Procedure for review of site plans by the commission's designee(s), Section 24-150, Procedures for administrative review of site plans; Section 24-151, Review criteria generally; Section 24-153, Submittal of revised site plan generally; Section 24-155, Action upon completion of review of revised site plan; Section 24-156, Term of validity of final approval; Section 24-157, Amendment of approved site plans; Section 24-158, Finals "as built" plans required; and Section 24-24-159, Compliance with site plan required.

## Chapter 24 Zoning

### Article III. Site Plan

#### **Sec. 24-145. Site plan submittal requirements.**

- (a) Site plans shall, at a minimum, identify or contain:
  - (1) Project title, title block, north arrow, legend, graphic scale, zoning, parcel identification 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 equal to 2,000 feet;
  - (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) Existing topography using county base mapping (two (2) foot contour or greater with the prior approval of the Engineering and Resource Protection Director), or other mapping sources or resources, and proposed finished contours.
  - (8) Spot elevations shown at topographic low and high points;
  - (9) A landscaped 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 24-130;



- (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 multi-family or apartment 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 multi-family or apartment developments;
- (18) Bylaws of homeowner association where applicable;
- (19) Copies of notification to adjacent property owners;
- (20) Copy of conceptual plan (if applicable);
- (21) Narrative description of compliance of plan to any proffers or special use permit conditions; and
- (22) The following environmental information about the site proposed for development including:
  - a. All existing easements, disturbed area, impervious cover, and percent impervious estimates;
  - 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, impervious cover minimized);
  - e. County watershed, steep slopes (grade 25 percent 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~~ *planning director* determines that one or more of the above submittal requirements is not applicable to the proposed project, the ~~zoning administrator~~ *planning director* 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.

## Chapter 24

### ARTICLE V. DISTRICTS

#### DIVISION 13. RESEARCH AND TECHNOLOGY DISTRICT, RT

##### **Sec. 24-460. Statement of intent.**

The primary purpose of the Research and Technology District, RT, is to establish an area where the principal use of land is for research and technology operations which are not ordinarily compatible with residential and retail business development. The specific intent of this district is to accomplish the following:

- (1) Encourage the use of land for research and technology purposes;
- (2) Encourage large-scale, master-planned developments in a campus or park-like setting;
- (3) Prohibit residential and retail business developments on land reserved for research and technology uses; and
- (4) Establish minimum requirements to protect the health, safety and welfare of the citizens of James City County from the effects of the development of research and technology uses.

##### **Sec. 24-461. ~~Permitted uses~~ *Use list*.**

In the Research and Technology District, RT, buildings to be erected or land to be used shall be for one or more of the following or similar uses:

~~Accessory uses as defined in section 24-2.~~

~~Antennas and towers, self supported (not attached to buildings), and tower mounted wireless communications facilities which are 60 feet or less in height.~~

~~An apartment or living quarters for a guard, caretaker, proprietor or other person employed on the premises which is clearly secondary to the research and technology use of the property.~~

~~Banks and other similar financial institutions as an accessory use to other permitted uses.~~

~~Child day care centers as an accessory use to other permitted uses.~~

~~Clinics as an accessory use to other permitted uses.~~

~~Corporate offices.~~

~~Courier services.~~

~~Data processing centers as an accessory use to other permitted uses.~~

~~Fire stations.~~

~~Health clubs, exercise clubs and fitness centers as accessory use to other permitted uses.~~

~~Industrial and technical training schools.~~

~~Laser technology production.~~

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

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

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

~~Off street parking as required by section 24-54.~~

~~Private streets within "qualifying industrial parks" in accordance with section 24-62.~~

~~Publicly owned solid waste container sites.~~

~~Radio and television studios and accessory antenna or towers, self supported (not attached to buildings), which are 60 feet or less in height.~~

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

~~Restaurants as an accessory use to other permitted uses.~~

~~Telephone exchanges and telephone switching stations.~~

~~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 camouflaged, and comply with division 6, Wireless Communications Facilities.~~

Use Category	Use List	Permitted Uses	Specially Permitted Uses
Residential Uses	An apartment or living quarters for a guard, caretaker, proprietor or other person employed on the premises which is clearly secondary to the research and technology use of the property.	P	
Commercial Uses	Accessory uses and structures as defined in section 24-2	P	
	Banks and other similar financial institutions as an accessory use to other permitted uses	P	
	Child day care centers as an accessory use to other permitted uses	P	
	Clinics as an accessory use to other permitted uses	P	
	Corporate offices	P	
	Courier services	P	
	Data processing centers as an accessory use to other permitted uses	P	
	Health clubs, exercise clubs and fitness centers as accessory use to other permitted uses	P	
	Off-street parking as required by <del>section 24-54 article II, division II of this chapter</del>	P	
	Restaurants as an accessory use to other permitted uses	P	
Civic	Fire stations	P	
Utility	Antennas or towers (not attached to buildings) in excess of 60 feet in height		SUP
	Antennas and towers, self-supported ( <del>not attached to buildings</del> ), and tower mounted wireless communications facilities which are 60 feet or less in height.	P	
	Electrical generation facilities (public or private), steam generation facilities, 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 and television studios and accessory antenna or towers, self-supported, (not attached to buildings), which are 60 feet or less in height	P	
	Railroad facilities including tracks, bridges, switching yards and stations. <del>However,</del> 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	P	
	Tower mounted wireless communication facilities in accordance with division 6, Wireless Communications Facilities, in excess of 60 feet in height		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		SUP

	gases, liquids or solids. <del>However,</del> Extensions or private connections to existing pipelines, which are <del>intended to serve</del> an individual 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. <del>However,</del> 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		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 or with dam height of 25 feet or more		SUP
	Wireless communications facilities that utilize alternative mounting structures, or are camouflaged, and comply with division 6, Wireless Communications Facilities	P	
Open	Timbering in accordance with section 24-43	P	
Industrial	Heliports and helistops and accessory uses		SUP
	Industrial and technical training centers or schools	P	
	Laser technology production	P	
	Manufacture, compounding, processing or packaging of cosmetic, toiletry and pharmaceutical products	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	
	Private streets within "qualifying industrial parks" in accordance with section 24-62	P	
	<del>Publicly owned solid waste container sites</del>	<del>P</del>	
	Research, development and design facilities or laboratories	P	
	Solid waste transfer stations and container sites, public or private		SUP
	Warehouse, storage and distribution centers to serve only uses permitted in the RT, research and technology district, with storage limited to a fully enclosed building or screened with landscaping and fencing from adjacent property		SUP
	Waste disposal facilities		SUP



**~~Sec. 24-462. Uses permitted by special use permit only.~~**

~~In the Research and Technology District, RT, buildings to be erected or land to be used for one or more of the following or similar uses shall be permitted only after the issuance of a special use permit, by the board of supervisors:~~

~~Antennas or towers (not attached to buildings) in excess of 60 feet in height.~~

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

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

~~Solid waste transfer stations.~~

~~Tower mounted wireless communication facilities in accordance with division 6, Wireless Communications Facilities, in excess of 60 feet in height.~~

~~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 customer and which are accessory to existing or proposed development, are permitted generally and shall not require a special use permit.~~

~~Warehouse, storage and distribution centers to serve only uses permitted in the RT, research and technology district, with storage limited to a fully enclosed building or screened with landscaping and fencing from adjacent property.~~

~~Waste disposal facilities.~~

~~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 impoundments, new or expansion of, 50 acres or more or with dam height of 25 feet or more.~~

**Sec. 24-4632. Outdoor operations and storage.**

Any research or technology operation or storage conducted in whole or in part out-of-doors shall meet the requirements of section 24-4198.

**Sec. 24-4643. Documents required for submission.**

~~(a) Required documents.~~ The applicant shall submit the following documents *documents in accordance with section 24-23* 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) 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.~~

~~(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 30 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 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 location of proposed streets and rights of ways with an indication of whether public or private; the approximate location of 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 Designation</u>	<u>Type of Development</u>
F	Warehouse uses
G	Office uses
H	Light industrial, research or technology uses
I	Institutional or public uses
J	Areas of common open space
M*	Structures containing a mixture of uses



~~X~~ ~~Other structures, facilities or amenities~~

~~For purposes of this article, the term 'common open space area' shall refer to any tract of land intended to be used in common primarily by users of the RT, research and technology district.~~

~~\*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(HF)) in the order of their proportion in the structure.~~

- ~~(5) Where applicable, the master plan shall contain a table which shows, for each section or area of different uses, the following:~~
  - ~~a. The use;~~
  - ~~b. Approximate development phasing;~~
  - ~~c. Maximum square feet of floor space for office, industrial, research, or technology uses.~~
  - ~~d. Maximum acreage of each use.~~
- ~~(6) Schematic plans which shall indicate the phasing of development and master water, sewer, and drainage plans.~~
- ~~(7) A statement satisfactory to the county attorney on the guarantees and assurances to be provided for the maintenance of common open space, sidewalks, parking, private streets, and other privately owned but common facilities serving the project.~~

~~The master plan shall depict and bind the approximate boundaries and general location of all principal land uses, structure square footage, roads, rights of ways, accesses, open spaces, public uses, and other features located or to be located on the sites. The master plan shall be reviewed and upon approval by the board of supervisors 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 24-467, shall supersede the master plan and schematic plans.~~

**~~Sect. 24-465. 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.~~

**Sec. 24-466. Procedures.**

(a) *Report of the planning director.* The planning director may refer copies of the master plan 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, 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 uses at the site in relation to the county's Comprehensive Plan.
- (2) Evaluation and recommended changes in the design of land use and circulation shown on the master plan of the property.
- (3) Impact of the proposal on surrounding property and the environment.
- (4) Final recommendation regarding approval of the application and master plan or changes which are necessary.

(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 building safety and permits 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 sewer facilities, shown on the development plan by providing either a letter of credit, certified check, cash escrow, cash payment or other surety, approved by the county attorney.

**~~Sec. 24-467. Development plan.~~**

~~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 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.~~

**~~Sec. 24-468. Same—Administrative review fee.~~**

~~Submittals of a site plan or preliminary subdivision plat implementing any portion of an approved master plan shall be accompanied by a fee in accordance with section 24-7 or section 19-15.~~

**~~Sec. 24-4695. Minimum area of districts.~~**

~~Research and technology districts shall be located on a single parcel of land, or separate but contiguous parcels, which shall total not less than twenty-five acres.~~

**~~Sec. 24-47066. Requirements for improvements and design.~~**

- (a) *Water and sewer.* All structures and uses within a research and technology district shall be served by publicly owned and operated water and sewer systems.
- (b) *Parking.* Off-street parking facilities shall be provided in accordance with the off-street parking requirements of ~~sections 24-53 and 24-474~~ *article II, division 2 of this chapter.*
- (c) *Street.* 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 more stringent.~~ *Such public streets shall be coordinated with the major transportation network shown in the Comprehensive Plan.* ~~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 engineering and resource protection. Private streets may be permitted within 'qualifying industrial parks' in accordance with section 24-55 upon the approval of the board of supervisors in accordance with the provisions of section 24-62.~~
- (d) *Fire hydrants.* Fire hydrants shall be at locations and of types approved by the service authority manager and county fire chief. ~~No structure within the district shall generally be further than 400 feet from a hydrant.~~
- (e) ~~Streetlights~~ *Outdoor Lighting.* ~~Streetlights~~ *Outdoor lighting* shall ~~generally be provided at each intersection and adequately spaced in parking lots and other public areas be provided, as required by article II, division 7 of this chapter and the county subdivision ordinance. The lighting shall be directed so as not to produce objectionable glare on adjacent property within or near the development. No lighting fixture shall exceed a height of 30 feet in this district.~~
- (f) ~~Drainage facilities.~~ ~~Facilities for the adequate control of stormwater drainage and erosion and sedimentation shall be provided in accordance with the Virginia Erosion and Sediment Control Handbook and the Virginia Department of Transportation Drainage Manual.~~
- (g) *Natural features and amenities.* Existing features such as specimen trees, wildlife habitats, watercourses, historical sites, and similar irreplaceable assets shall be preserved to the maximum extent possible.
- (h) *Landscaping.* All landscaping and tree preservation shall be undertaken in accordance with ~~section 24-86~~ *article II, division 4 of this chapter,* and Chapter 23 of the county's Chesapeake Bay Preservation Ordinance.

#### **Sec. 24-47167. Open space.**

(a) Development within the research and technology districts shall provide usable open space area to create a park-like setting. The amount of open space shall be not less than ten percent of the developable area of the site, and where possible shall be continuous open space. ~~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 shall 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~~ *article II, division 4 of this chapter* (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 community character corridor on the Comprehensive Plan which shall be left in a natural, undisturbed state.
- (2) Buffer area(s) of no less than 50 feet around a Resources Management Area 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)),~~ onsite that is set aside to meet the county's natural resource policy where preservation of such area is not required by other 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.

Open space area shall be protected by easements, maintenance agreements and/or other assurances, satisfactory to the county attorney, that set forth the provisions made for the permanent care and maintenance of such property.

**Sec. 24-47268. Setback requirements.**

(a) *Required perimeter setback from research and technology districts.* For uses permitted in research and technology districts, the following setbacks are required and shall be left in its natural undisturbed state:

- (1) A minimum landscaped setback of 100 feet shall be maintained from the right-of-way of any existing or planned public roads which abut the site; and
- (2) A minimum landscaped setback of 50 feet shall be maintained from all property lines adjoining a different zoning district. Where uses permitted in the research and technology district adjoin an existing residentially zoned district or an A-1 District that is designated low-density residential or rural lands on the Comprehensive Plan, the minimum landscaped setback shall be increased to 100 feet.

(b) *Lesser perimeter setback requirements for research and technology districts; criteria for determination.* The ~~development review committee~~ *planning director* may recommend approval of a reduction in the perimeter setback as specified in section 24-47268 (a) (2) only if the following criteria are met:

- (1) The proposed setback, by substitution of technique or design, will achieve results which clearly satisfy the overall purposes and intent of the setback requirements of this section and the intent of ~~section 24-86~~ *article II, Division 4 of this chapter* (Landscaping and Tree Preservation Requirements);
- (2) The proposed setback shall have no additional adverse impact on adjacent properties or public areas;



- (3) The proposed setback 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; and
- (4) The setback serves to minimize the visual intrusion and other negative impacts of new development or redevelopment on adjacent development.

(c) *Location of structures.* Structures shall be located 50 feet or more 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 75 feet or more from the center line of the street. The minimum setback of any portion of a structure which is in excess of 35 feet in height shall be increased one foot for each two feet of the structure's height in excess of 35 feet.

(d) *Lesser setback requirements for research and technology area internal to research and technology districts; criteria for determination.* The ~~development review committee~~ *planning director* may recommend approval of a setback of less than 50 feet as specified in section 24-47268 (c) above, for those areas of a research and technology district that are internal to a research and technology district. A setback reduction may be eligible for review by the ~~development review committee~~ *planning director* only if the following criteria are met:

- (1) 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~~ *article II, division 4 of this chapter* (Landscaping and Tree Preservation Requirements);
- (2) The proposed setback shall have no additional adverse impact on adjacent properties or public areas; and
- (3) The proposed setback 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.

The ~~development review committee~~ *planning director* may recommend approval of a reduction to section 24-47268 (c) upon finding that one or more of the following criteria are met:

- (i) The proposed setback meets the intent of the master plan and is in keeping with the overall character of development that encourages open space; or
- (ii) The proposed setback is for the purpose of integrating proposed research and technology development with adjacent development; or
- (iii) The proposed setback substantially preserves, enhances, integrates and complements existing trees and topography; or
- (iv) The proposed setback is due to unusual size, topography, shape or location of the property, or other unusual conditions, excluding the proprietary interests of the developer.

(e) *Requests for modifications.* Requests for modifications to the setbacks as specified in sections 24-47268 (a) and (c) 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 development review committee 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. *In the event the planning director denies the request 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 as stated in this section, there shall be no minimum lot size nor minimum side or rear yard requirements for any lot within a research and technology district other than as specified in approved development plans.

(g) *Uses prohibited.* Landscape setbacks shall not be used for streets or for parking except for entrances and driveways which may cross the setback at a perpendicular or near perpendicular angle as possible.

**Sec. 24-47369. Height limits and height limitation waivers.**

(a) Structures may be erected up to 60 feet in height from grade to the top of the structure. ~~Camouflaged wireless communications facilities may be erected to a total height of 120 feet from grade.~~ Structures in excess of 60 feet in height from grade to the top of the structure may be erected only upon the granting of a height limitation waiver by the board of supervisors.

(b) Water towers, chimneys, flues, flagpoles, communication antennae, mechanical penthouse, electrical, plumbing, elevator, parapet walls or other accessory mechanical functions which are part of or on top of a main structure *and accessory and nonaccessory wireless communication facilities that utilize alternative mounting structures in accordance with division 6, Wireless Communications Facilities,* shall be considered part of the structure.

(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) Additional setbacks have been provided as required by section 24-47268(c); however, the board may waive additional setbacks in excess of 60 feet;
- (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 structures will not impair property values in the area;
- (5) Such structure is adequately designed and served from the standpoint of safety and that the county fire chief finds 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 structures will not be contrary to the public health, safety and general welfare.

**Sec. 24-4740. Sign regulations and parking requirements.**

(a) — To assure an appearance and condition which is consistent with the purposes of the Research and Technology District, RT, outdoor signs on the properties within the district shall comply with the regulations for exterior signs in article II, division 3 of this chapter.

~~(b) — Off street parking and off street loading shall be provided as required in sections 24-53 and 24-54.~~

**Sec. 24-475. Utilities.**

~~(a) — All development shall be served by public water and sewer.~~

~~(b) — The location of all utilities and utility easements shall be shown on the site plans and be approved as per article III, Site Plan of this chapter.~~

**Sec. 24-4761. Site plan review.**

All structures or complexes of structures erected, altered or restored within the district shall be subject to Site Plan Review in accordance with article III of this chapter.

**Secs. 24-4772 - 24-481. Reserved.**

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 24, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE II, SPECIAL REGULATIONS, DIVISION 2, HIGHWAYS, STREETS, PARKING AND LOADING, BY AMENDING SECTION 24-62, SPECIAL PROVISIONS FOR PRIVATE STREETS.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 24, Zoning, is hereby amended and reordained by amending Article II, Special Regulations, Division 2, Highways, Streets, Parking and Loading, Section 24-62, Special provisions for private streets.



**Chapter 24. Zoning**  
**ARTICLE II. SPECIAL REGULATIONS**  
**DIVISION 1. IN GENERAL**

**Division 2. Highways, Streets, Parking and Loading**

**Sec. 24-62. Special provisions for private streets.**

(a) Approval process.

(1) Generally. Private streets may be permitted for the uses listed in Table 1 below upon approval of the board of supervisors unless otherwise specified and shall be coordinated with existing or planned streets of approved master plans and the Comprehensive Plan. Such approval shall be requested in writing. Table 1: Zoning districts and uses where private streets may be permitted

Use		Qualified Industrial Park per Sec. 24-62(a)(2)	Manufactured Home Park per Sec. 24-181	Single-Family Residential	Multi-Family Residential	All uses permitted in zoning district
Zoning District	A-1, General Agriculture	X	✓	X	X	X
	R-1, Limited Residential	X	X	X	X	X
	R-1, with cluster overlay	X	X	X	X	X
	R-2, General Residential	X	X	X	X	X
	R-2, with cluster overlay	X	X	X	✓	X
	<i>R-3, Residential Redevelopment</i>	<del>X</del>	<del>X</del>	✓	✓	✓
	R-4, Residential Planned Community	✓	✓	✓	✓	✓
	R-5, Multi-Family Residential	X	X	B	B	B
	R-5, with cluster overlay	X	X	B	B	B
	R-6, Low Density Residential	X	X	X	X	X
	R-8, Rural Residential	X	✓	X	X	X
	LB, Limited Business	X	X	X	X	X
	B-1, General Business	X	X	X	X	X
	M-1, Limited Business/Industrial	✓	X	X	X	X
	RT, Research & Technology	✓	X	X	X	X
	M-2, General Industrial	✓	X	X	X	X
	PUD, Planned Unit Development	✓	✓	✓	✓	✓
	MU, Mixed Use	✓	✓	✓	✓	✓
	PL, Public Land	X	X	X	X	X
	EO, Economic Opportunity	✓	✓	✓	✓	✓

✓ : permitted with board approval

X: not permitted

B: By-right

(2) Qualifying Industrial Parks

- a. A "qualifying industrial park" shall be defined as an industrial and/or business park that has an actual or planned size of at least 1,000,000 square feet. The "Qualifying Industrial Park Square Footage Adjustments" shall be applied, to determine the qualifying industrial park square footage in order to determine whether the qualifying threshold can or would be reached. Qualifying square footage is computed by multiplying the existing or planned total square footage by the square footage credit listed in the following chart.

<b>Qualifying Industrial Park Square Footage Adjustments</b>	
<b>Use</b>	<b>Square Footage Credit</b>
Existing industrial/office/warehouse development	1
Other Permitted Development	0.75
Planned industrial/office/warehouse development	0.75
Other Permitted Development	0.5

The planned development adjustments listed above shall be applied to undeveloped property zoned Mixed-Use, MU; Limited Business/Industrial District, M-1; General Industrial District, M-2; Research and Technology District, RT; and Planned Unit Development and allows nonindustrial/office and/or nonwarehouse activity to occur based on master plan projections which have been approved by the board of supervisors. For undeveloped property not subject to a binding master plan the square footage shall be determined by multiplying 0.75 by 25 percent of the net-developable area of the project.

If an industrial/office/warehouse development is proffered exclusively, the existing development adjustments listed above may be applied upon examination of the proffers.

- b. Requests for board approval of private streets in qualifying industrial parks shall include a traffic impact analysis and square footage estimates for the proposed industrial park. The traffic impact analysis shall be in conformance with the submittal requirements of section 24-23. Additionally, the traffic impact analysis shall address internal circulation and capacity.

(3) Guarantees. The construction of streets whether public or private shall be guaranteed by surety, in an amount and in a form approved by the county attorney.

(4) To the extent streets are private rather than public, the applicant shall also submit assurances satisfactory to the county attorney that a property owner's community association or similar organization has been legally established under which the lots within the area of the final 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.

(b) Minimum Standards:

(1) Private streets shown on the development plan shall meet the construction and geometric requirements of the Virginia Department of Transportation and the Administrative Guidelines for Certifications of Private Street Construction, except as specified in paragraph (2) below.

(2) If the uniqueness of a proposal requires that the specifications for the width, surfacing, construction and geometric design of streets, alleys, ways for public utilities, with associated drainage and specifications for curbs and gutters be subject to modification from the specifications established in chapter 19, the development manager or his designee, within the limits hereinafter specified, may waive or modify the specifications otherwise applicable for a particular private road (or road network) if the specifications are not required in the interests of the residents, occupants, workers, customers of businesses and property owners of the 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 development manager or his designee with respect to any requested waiver or modification that:

- a. The waiver or modification shall result in design and construction that is in accordance with accepted engineering standards;
- b. The waiver or modification is reasonable because of the uniqueness of the development or because of the development within which the nature and excellence of design and construction will be coordinated, preplanned and controlled;

- c. Any waiver or modification pertaining to streets is reasonable with respect to the generation of vehicular traffic that is estimated to occur within the area of the development;
- d. 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
- e. 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.

The applicant may appeal the decision of the development manager or his designee to the development review committee (DRC).

## Chapter 19

### SUBDIVISIONS

#### ARTICLE I. GENERAL PROVISIONS

##### Sec. 19-1. Short Title.

This chapter shall be known and may be cited as the "Subdivision Ordinance of James City County, Virginia," or simply as the "Subdivision Ordinance."

##### Sec. 19-2. Definitions.

The following definitions shall apply in the interpretation and enforcement of this chapter.

*Agent.* The James City County ~~Director of Planning~~ *director* or his designee.

*Alternative onsite sewage disposal system.* A treatment works that is not a conventional onsite sewage disposal system and does not result in a point source discharge.

*Approved.* The word "approved" shall be considered to be followed by the words "or disapproved," when the sense so requires.

*Arterial streets.* ~~A street specifically designed to move high volumes of traffic from collector streets through the county and not designed to serve abutting lots except indirectly through intersecting streets. Arterial streets shall include all U.S. Highways, state primaries with one, two, or three digit numbers, state secondary roads with three digit numbers, and any other street which the agent determines is functionally equivalent to these transportation department classifications. This definition shall not include three digit numbered streets which are part of a recorded subdivision or an extension thereof.~~

*Block.* Land containing lots which are bounded by streets or a combination of conservation areas, streets, public parks, cemeteries, railroads, rights-of-way, shorelines or boundaries of the county.

*Brownfield site.* Real property wherein the expansion, redevelopment, or reuse may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant.

*Central water systems.* A water system in which all connections in the subdivision are served by one or more water sources through a common distribution system owned and operated by the James City Service Authority. Central water system shall include all structures, hydrants, property, equipment and appurtenances used in the production, storage and distribution of water.

*Commission.* The James City County Planning Commission.

*Common open space.* A parcel of land, an area of water, or a combination of land and water within a site designed and intended primarily for the use or enjoyment of residents, occupants, and owners within that development in which ownership is held in common with other owners of that development.

*Condominium.* ~~A building, or group of buildings, in which units are owned individually, and the structures, common area, and common facilities are owned by all the owners on a proportional, undivided basis.~~

*Conventional onsite sewage disposal system.* A treatment works consisting of one or more septic tanks with gravity, pumped, or siphoned conveyance to a gravity distributed subsurface drainfield.

*County attorney.* The James City County Attorney or his designee.

~~*County engineer.* The James City County Engineer or his designee.~~

*Cul-de-sac.* A street with only one outlet having a circular turn-around for a safe and convenient reverse traffic movement.

*Development review committee.* An administrative subcommittee of the commission charged with reviewing major subdivisions, conceptual plans, appeals of agent decisions, and exceptions to this chapter and making recommendations to the commission.

*Division of building safety and permits.* The James City County Director of Building Safety and Permits or his designee.

*Easement.* A right granted by a property owner permitting a designated part or interest of the property to be used by others for a specific use or purpose.

*Engineering and resource protection division.* The Director of the James City County Engineering and Resource Protection Division or his designee.

*Fire chief.* The James City County Fire Chief or his designee.

*Governing body.* The James City County Board of Supervisors.

*Health department.* The Commonwealth of Virginia Department of Health or an authorized official, agent or employee thereof.

*Highly erodible soils.* Soils (excluding vegetation) with an erodibility index (EI) from sheet and rill erosion equal to or greater than eight. The erodibility index for any soil is defined by the Universal Soil Loss Equation as the product of the formula  $RKLS-T$ , as defined by the "Food Security Act (F.S.A.) Manual" of August, 1988 in the "Field Office Technical Guide" of the U.S. Department of Agriculture Soil Conservation Service, where K is the soil susceptibility to water erosion in the surface layer; R is the rainfall and runoff; LS is the combined effects of slope length and steepness; and T is the soil loss tolerance.

*Highly permeable soils.* Soils with a given potential to transmit water through the soil profile. Highly permeable soils are identified as any soil having a permeability equal to or greater than six inches of water movement per hour in any part of the soil profile to a depth of 72 inches (permeability groups "rapid" and "very rapid") as found in the "National Soils Survey Handbook" of July 1983 November 1996, as amended, in the "Field Office Technical Guide" of the U.S. Department of Agricultural Soil and Natural Resources Conservation Service.

*Hydric soils.* Soils that are saturated, flooded or ponded long enough during the growing seasons to develop anaerobic conditions in the upper part, which are saturated for usually one week or more in the growing period and have the capacity to support hydrophytic wetland vegetation.

*Impervious cover.* A surface composed of any material that significantly impedes or prevents infiltration of water into the soil. Impervious surfaces include, but are not limited to: roofs, buildings, streets, parking areas, and any concrete, asphalt, or compacted gravel surface.

**Improvements.** All public and quasipublic utilities and facilities including, but not limited to, streets, sanitary sewers, waterlines, stormwater management and erosion control facilities, electrical service, monuments, signs, sidewalks and streetlights required by this chapter.

**Lot.** A parcel of land occupied or to be occupied by a main structure or group of main structures and accessory structures, together with such yards, open space, lot width, and lot areas as are required by Chapter 24, Zoning, either shown on a plat of record or considered as a unit of property and described by metes and bounds. A lot is synonymous with parcel or tract.

**Lot, corner.** A lot abutting on two or more streets at their intersection. Of the two sides of a corner lot, the front shall be deemed to be the shorter of the two sides fronting on streets.

**Lot, double frontage.** An interior lot having frontage on two streets.

**Lot, flag.** A lot not fronting on or abutting a public road and where access to the public road is by a narrow, private right-of-way not less than 25 feet in width.

**Lot, frontage.** The ~~minimum width measurement~~ of a lot ~~measured~~ along a street right of way from one side lot line to the other ~~along a straight line~~.

**Lot, interior.** Any lot other than a corner lot.

**Lot of record.** A lot, a plat or description of which has been recorded in the clerk's office of the circuit court.

**Lot width.** ~~The horizontal distance between side lot lines measured at the setback line.~~

**Monument.** An iron pipe a minimum of 3/4 inches in diameter with a 24 inch length or a 5/8 inches in diameter reinforcing bar with a 24 inch length driven three inches to nine inches below the surface of the adjacent ground or an alternate type as approved by the ~~agent~~ ~~county engineer~~.

**Plat.** A map or plan for a tract or parcel of land meeting the requirements of this chapter which is to be or which has been subdivided. When used as a verb, "plat" is synonymous with "subdivide."

**Property.** A unit or units of land of such size and dimensions that it may be subdivided into two or more lots.

**Public sewer.** A sewer system owned and operated by a municipality, county, service authority or the Hampton Roads Sanitation District Commission, approved by the governing body, licensed by the State Corporation Commission if required by law, and approved by the health department and State Water Control Board where appropriate.

**Public water.** A water system owned and operated by a municipality, county or service authority, approved by the governing body, licensed by the State Corporation Commission if required by law, and approved by the health department.

**Right-of-way.** The total width of land dedicated or reserved for public or restricted travel, including pavement, ditches, drainage facilities, curbing, gutters, pipes, sidewalks, shoulders and land necessary for the maintenance thereof. The right-of-way may contain public or private utilities.

**Road, future or planned future right-of-way.** Any road or similar transportation facility as shown on an approved plan of development or master plan or designated on the Comprehensive Plan, Six-Year Primary or Secondary Road Plan, ~~Peninsula Transportation Plan~~ Hampton Roads Long Range Transportation Plan or any road plan adopted by the board of supervisors.



*Runoff.* Precipitation which enters downstream waterways or properties.

~~*Septic tank system.* An individual nondischarge system approved by the health department which contains all the necessary apparatus for treating wastewater including a sewage holding tank and areas identified for primary and reserve drainfields.~~

*Service authority.* The James City Service Authority.

*Service authority manager.* The manager of the James City Service Authority or his designee.

*Service authority regulations.* The James City Service Authority Regulations Governing Utility Service.

*Setback line.* A line showing the closest point from a property line that a dwelling or principal structure may be constructed consistent with the zoning ordinance.

*Soil absorption systems.* On-site sewage disposal systems which utilize the soil to provide final treatment and disposal of effluent from a septic tank in a manner that does not result in a point-source discharge and does not create a nuisance, health hazard or ground or surface water pollution.

~~*Stormwater division.* The director of the James City County stormwater division or his designee.~~

*Street.* An existing or platted right-of-way dedicated for the use of the general public, or portions thereof, either accepted by the transportation department or approved as a private transportation system under the zoning ordinance. A street shall provide access to property by vehicular and pedestrian traffic for all purposes of travel transportation or parking to which it is adopted and devoted. This term is synonymous with road, lane, drive, avenue, right-of-way, highway, or any other thoroughfare.

*Street functional classification.* Streets shall be functionally classified as follows:

(1) *Interstate:* A highway that is part of the nationwide U.S. Interstate Highway System connecting or involving different states.

(2) *Expressway and freeway:* A roadway designated exclusively for unrestricted movement of traffic. Access is only with selected arterial streets by means of interchanges.

(3) *Arterial streets (principal, minor)* Streets and roads which function within a regional network conveying traffic between major activity centers. The purpose of such streets is to carry relatively large volumes of traffic at higher speeds, and not to serve abutting lots except indirectly through intersecting streets. The arterial classification is further subdivided into "principal arterial" and "minor arterial" based on traffic volumes.

(4) *Collector streets (major, minor)* Streets designed to conduct and distribute traffic between streets of lower order and streets of higher order linking major activity centers. The collector classification is further divided into "major collector" and "minor collector."

(5) *Local or access streets.* Streets designed to carry low to moderate volumes of traffic, at low operating speeds. The primary function of these streets is to provide access to individual lots, typically within a residential subdivision.

The functional classification status of a specific road shall be determined by the agent after consulting with the transportation department.

*Subdivide.* The division of property into two or more lots.

*Subdivider.* An individual, corporation, partnership or other entity owning any property to be subdivided.

~~*Townhouse.* A dwelling unit for single family occupancy in a structure containing three or more such dwelling units 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 units, and each of which is serviced by an individual exterior entrance or entrances.~~

*Transportation department.* The Commonwealth of Virginia Department of Transportation or an authorized official, agent or employee thereof.

*Yard.* The space which lies between the lot line and the nearest point of a structure. The minimum yard required is defined for each zoning district.

### **Sec. 19-3. Compliance with chapter mandatory.**

(a) No person shall subdivide land without making and recording a plat of subdivision and fully complying with the provisions of this chapter.

(b) No plat of any subdivision shall be recorded unless and until it shall have been submitted to and approved by the agent.

(c) No person shall sell or transfer any land of a subdivision before such plat has been duly approved and recorded as provided herein unless such subdivision was lawfully created prior to the adoption of a subdivision ordinance applicable thereto; provided, that nothing herein contained shall be construed as preventing the recordation of the instrument by which such land is transferred or the passage of title as between the parties to the instrument.

(d) No clerk of any court shall file or record a plat of a subdivision required by this chapter until such plat has been approved by the agent as required herein.

(e) The requirements of this chapter shall be considered separate from, and supplementary to, any requirements otherwise specified by this Code or by state or federal law. Nothing contained herein shall excuse compliance with other applicable ordinances or laws. Where local requirements are in conflict with mandatory state or federal requirements, the state or federal requirements shall prevail.

### **Sec. 19-4. Penalties.**

Any person, firm or corporation, whether as principal, agent, employee or otherwise, violating the provisions of this chapter shall be subject to a fine of not more than \$500.00 for each lot or parcel of land so subdivided or transferred or sold. The description of such lot or parcel by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt any transaction from such penalties or from other remedies.

**State law reference**-Code of Va., §15.2-2254

### **Sec. 19-5. Administration and enforcement of chapter.**

The agent is hereby delegated to administer and enforce the provisions of this chapter. The agent shall be considered the agent of the governing body. Notwithstanding an appeal as provided for in section 19-8, approval or disapproval by the agent shall constitute approval or disapproval as though it were given by the governing body. The agent may consult with the commission on matters contained herein and may call for written opinions or decisions from other county departments, the transportation department, and the health department in considering details of any submitted plat.

**State law reference**-State law governing land subdivision and development, Code of Va., § 15.2-2240 et seq.

**Sec. 19-6. Effect of private contracts.**

This chapter bears no relation to any private easement, covenant, agreement or restriction, and the responsibility of enforcing such private easement, covenant, agreement or restriction is not implied herein to any public official. When this chapter calls for more restrictive standards than are required by private contract, the provisions of this chapter shall control.

**Sec. 19-7. Changes, erasures and revisions.**

No change, erasure or revision shall be made on any preliminary or final plat, nor on accompanying data sheets, after the agent has approved in writing the plat or sheets, unless authorization for such changes has been granted in writing by the agent.

**Sec. 19-8. Subdivider may appeal from disapproval of plat.**

In the event a plat for subdivision is disapproved by the agent or commission, the subdivider may appeal to the governing body. The governing body may override the recommendation of the agent or commission and approve said plat. No appeal shall be made unless it is filed in writing with the clerk of the governing body within 30 days of disapproval by the agent or commission.

**Sec. 19-9. Plan and plat preparation-by whom prepared.**

Each subdivision plan and plat shall be prepared by an individual duly qualified as set forth in title 54.1 of the Code of Virginia.

**Sec. 19-10. How chapter may be amended.**

This chapter may be amended in whole or in part by the governing body. Any such amendment shall either originate with or be submitted to the commission for recommendation prior to adoption. If no recommendation is received from the commission after 60 days from submission, the governing body may act without a recommendation. No such amendment shall be adopted without a public hearing having been held by the governing body.

**State law references**-For state law as to amendments to county subdivision ordinances, see Code of Va., § 15.2-2253; required filing of amendments, Code of Va., § 15.2-2252.

**Sec. 19-11. Resubdivision same as subdivision.**

Any change in a recorded subdivision plat that modifies, creates or adjusts lot lines shall be approved in the same manner and under the same requirements as a new subdivision. This section applies to any subdivision plat of record, whether or not recorded prior to the adoption of a subdivision ordinance. Where a street, alley, easement for public passage or other public area laid out or described in such plat is affected, the plat shall be vacated pursuant to section 19-12 prior to resubdivision.

#### **Sec. 19-12. Vacation of recorded plat.**

Any recorded plat, or part thereof, may be vacated *by the governing body* pursuant to ~~section~~ *Code of Va., § 15.2-2271 through section § 15.2-2276 of the Code of Virginia*, as amended. Any such vacation shall operate to destroy the force and effect of the recording of the plat so vacated and to divest all public rights in, and to reinvest to the owners, proprietors and trustee, if any, the title to the streets, alleys, easements for public passage and other public areas laid out or described in such plat.

#### **Sec. 19-13. Construction and severability of provisions.**

This chapter shall be liberally construed so as to effectuate its purposes. 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 it 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.

#### **Sec. 19-14. Private streets declaration.**

If approved streets in a subdivision are not to be constructed to meet the standards necessary for inclusion in the secondary system of state highways, or are not to be dedicated to the ~~Virginia Department of Transportation~~ *department*, the subdivision plat and all deeds conveying lots in the subdivision, shall contain a statement advising that the streets in the subdivision shall not be maintained by the transportation department or the county, and where applicable, do not meet state design standards.

#### **Sec. 19-15. Fees.**

Fees shall be charged to offset the cost of reviewing plats and plans, making inspections and other expenses incident to the administration of this chapter. The following fees shall be charged and collected as provided below:

- (1) *General plan review.* There shall be a fee for the examination of every plan reviewed by the agent or commission. For all subdivisions that do not require public improvements, the fee for a major or minor subdivision shall be \$200.00 per plan plus \$70.00 per lot for each lot over two lots in the subdivision plat. For all subdivisions that require public improvements, the fee for a major or minor subdivision shall be \$250.00 per plan plus \$70.00 per lot for each lot over two lots in the subdivision plat. The fee for townhouse or condominium subdivisions which have undergone site plan review shall be \$50.00. The fee shall be submitted to the agent at the time of filing the plat for review. Any check shall be payable to the James City County treasurer. An additional fee of \$250.00 shall be collected for any review after the second re-submission not to include resubmittals that are the result of substantial redesign due to additional agency comments.
- (2) *Inspection fee for water and sewer lines.* There shall be a fee for the inspection by the service authority of public water and sewer system installations. Such fee shall be \$1.43 per foot for every foot of sewer main or water main constructed and shall be submitted as specified by the service authority regulations.

- (3) *Inspection fee for stormwater installations.* There shall be a fee for the inspection by the stormwater division 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.
- (4) *Fees waived.* Payment of any permit fees established in section 19-15 shall be waived for the county, any entity created solely by the county and those regional entities to which the county is a party provided that: (1) ~~The~~ other parties to the regional entity similarly waive fees; and (2) ~~The~~ regional entity has locations in more than one locality.

#### **Sec. 19-16. Saving provision.**

The adoption of this chapter shall not abate any pending action, liability or penalty of any person accruing or about to accrue, nor waive any right of the county under any provision in effect prior to the adoption of this chapter, unless expressly provided for in this chapter. Any subdivision plan which has received preliminary approval prior to the adoption of this chapter and for which a final plat is recorded within one year from the date of preliminary approval shall have vested rights under the ordinance in effect at the date of preliminary approval. Failure to record a plat within one year shall render the preliminary approval null and void.

#### **Sec. 19-17. Special provisions for family subdivisions.**

*In the Rural Residential, R-8 and General Agricultural, A-1 districts, A* single division of a lot or parcel is permitted for the purpose of sale or gift to a member of the immediate family of the property owner. For the purposes of this section, a member of the immediate family is defined as any person who is a natural or legally defined offspring, 18 years of age or older or an emancipated minor under Virginia Code section 16.1-331 et seq., or parent of the owner. Such subdivision shall be subject only to the following provisions:

- (1) *The property owner shall have owned the lot or parcel for a period of not less than five years prior to the application for a family subdivision. The property owner shall provide evidence of ownership satisfactory to the county attorney's office with the subdivision application.*
- (2) Only one such division shall be allowed per family member and shall not be made for the purpose of circumventing this chapter. Lots created under this section shall be titled in the name of the immediate family member for whom the subdivision is made for a period of no less than three years unless such lots are subject to an involuntary transfer such as foreclosure, death, judicial sale, condemnation or bankruptcy.
- (3) The minimum width, yard and area requirements of all lots, including the remaining property from which the lot is subdivided, shall be in accordance with the zoning ordinance. Land proposed for subdivision shall be suitable for platting in accordance with section 19-32.
- (4) For property not served with public water and public sewer, each lot shall have its ~~septic tank~~ *onsite sewage disposal* system and water source approved by the health department and shall be shown on the subdivision plat.
- (5) Each lot or parcel of property shall front on a road which is part of the transportation department system of primary or secondary highways or shall front upon a private drive or road which is in a right-of-way or easement of not less than 20 feet in width. Such right-of-way shall remain private and shall include a



driveway within it consisting of, at a minimum, an all-weather surface of rock, stone or gravel, with a minimum depth of three inches and a minimum width of ten feet. The right-of-way shall be maintained by the adjacent property owners in a condition passable at all times. The provision of an all-weather drive shall be guaranteed in accordance with section 19-72. An erosion and sediment control plan with appropriate surety shall be submitted for approval if the proposed right-of-way and drive construction disturbs more than 2,500 square feet.

- (56) The corners of all lots created by family subdivisions shall be marked with iron pipes as provided for in section 19-35.
- (67) A final subdivision plan shall be submitted to the agent for approval as provided in section 19-29 of this chapter along with an affidavit describing the purposes of the subdivision and identifying the members of the immediate family receiving the lots created. Any plan submitted shall be subject to the fee set forth in section 19-15.
- (78) The above requirements shall be set forth in a subdivision agreement approved by the county attorney and recorded in the circuit court clerk's office for the City of Williamsburg and County of James City.

#### **Sec. 19-18. Exceptions.**

The commission may grant an exception to any requirement of the chapter, subject to the following:

- (1) No such exception shall be granted unless the subdivider petitions the commission in writing. The petition *shall be submitted with the initial submission of the subdivision plan and* shall state fully the grounds for the exception and all the facts relied upon by the subdivider. The agent may require such additional information as he may deem necessary to process the request for the exception.
- (2) The agent shall provide written notification of the exception request to all adjacent property owners. The notification shall adhere to the following requirements:
- (a) Such notice shall specifically describe the exception requested and the date, time and location of the development review committee meeting first considering such request; and
  - (b) Such notice shall be mailed by the agent at least ten days before the development review committee meeting; and
  - (c) Evidence that such notice was sent by first class mail to the last known address as shown on the current real estate tax assessment book shall be deemed adequate compliance.
- (3) The burden shall be on the subdivider to demonstrate the need for an exception.
- (4) The commission shall not approve any exception unless it first receives a recommendation from the development review committee and unless it finds that:
- (a) Strict adherence to the ordinance requirement will cause substantial injustice or hardship;
  - (b) The granting of the exception will not be detrimental to public safety, health, or welfare, and will not adversely affect the property of others;

- (c) The facts upon which the request is based are unique to the property and are not applicable generally to other property so as not to make reasonably practicable the formulation of general regulations to be adopted as an amendment to this chapter;
  - (d) No objection to the exception has been received in writing from the transportation department, health department, or fire chief; and
  - (e) The hardship or injustice is created by the unusual character of the property, including dimensions and topography, or by other extraordinary situation or condition of such property. Personal, financial, or self-inflicted hardship or injustice shall not be considered proper justification for an exception.
- (5) The commission in authorizing an exception may impose such reasonable conditions in addition to the regulations of this chapter as it may deem necessary in the public interest. The commission may require a guarantee or bond to ensure that the conditions imposed are being and will continue to be complied with.
- (6) If granted, such exception shall be specifically stated in writing together with the supporting justifications and filed with the subdivision plan or such plat or plans deemed necessary by the agent. A note shall be prominently placed on the record plat detailing any exception so granted.

## ARTICLE II. PROCEDURES AND DOCUMENTS TO BE FILED

### Sec. 19-19. Preapplication conference and submission of conceptual plan.

- (a) Before submittal of any preliminary or final subdivision plan, the applicant is advised to confer with the subdivision agent and such other agencies of the state and county as the agent deems advisable concerning the proposed subdivision.
- (b) Prior to the submission of any major subdivision plan, the applicant or his representative is advised to submit three copies of a conceptual plan for review by the ~~director of planning~~ **planning director**, or his designee; such action does not constitute the submission of a preliminary 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 21 calendar 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 plan approval by the zoning administrator; such action does not constitute final subdivision approval or preliminary plan approval. ~~Submittal of a preliminary 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 19-23.~~ 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 identification number, site boundary and parcel site information**

- (4) ~~location of parking area(s)~~ building location and orientation, location of buildings on adjacent properties, building and landscape setbacks, buffers such as resource protection areas (RPA) and community character corridors (CCC)
- (5) ~~landscape areas/buffers~~
- (65) entrances/exits/access to the site (vehicular, pedestrian, greenway, etc.)
- (76) greenway connections (on-site and those adjacent to the subject property)
- (87) ~~narrative description of the~~ proposed use of site
- (9) ~~building/landscape setbacks per James City County ordinance~~
- (10) ~~site zoning and zoning of surrounding properties~~
- (118) location of stormwater management facilities
- (12) ~~graphic scale~~
- (139) ~~recorded~~ easements (conservation, utility, *rights-of-way*, etc.)
- (140) unique natural/visual features (viewsheds, water features, wetlands, ~~RPA buffer, known archaeological sites, etc.~~)
- (151) unique natural/visual features to be preserved (mature *or specimen* trees, *known archaeological sites, etc.*)
- (162) list of currently binding proffers or special use permit conditions
- (173) location of entry signs
- (184) ~~existing~~ topography of site *using county base mapping (five foot contour) or other mapping sources or surveys*

(e) If the planning director determines that one or more of the above submittal requirements is not applicable to the proposed project, the planning director may waive those requirements.

#### Sec. 19-20. ~~Master plan~~ *Overall plan.*

For multiphased subdivisions *which are not subject to a binding master plan approved in accordance with article I of the zoning ordinance*, the subdivider shall submit to the agent ~~a master~~ *an overall* plan for all phases of the proposed subdivision as part of the *first* preliminary plan submittal. The purpose of such a ~~master~~ *an overall* plan is to permit the agent to advise the subdivider whether his plans are generally in accordance with the requirements of this chapter. The commission, upon submission of any ~~master overall~~ plan, may study it and advise the subdivider where it appears that changes are appropriate. The agent may mark the ~~master overall~~ plan indicating appropriate changes. The subdivider shall return such ~~master overall~~ plan to the agent with each preliminary plan. The ~~master overall~~ plan shall, at a minimum, show the name, location and dimensions of all streets entering the property, adjacent to the property or terminating at the boundary of the property to be subdivided. It shall also show the location of all proposed streets, their ~~category~~ *functional classification* (e.g., arterial, collector, etc.) and any future extensions, lots, development phases, parks, playgrounds and other proposed uses of the land to be subdivided and their approximate dimensions and a conceptual layout of the water and sewer systems. The ~~master overall~~ plan is not binding on the subdivider or the governing body. Review of an ~~master overall~~ plan does not constitute final subdivision approval or preliminary plan approval. For multiphased subdivisions reviewed under this section, review of an ~~master overall~~ plan does not, in any way, guarantee approval of future subdivision phases.

#### Sec. 19-21. Classification of subdivisions.

*Parcels of land existing as of January 1, 1989, shall be considered and known as "parent parcels."*

(a) *Minor subdivision.* A minor subdivision shall be any division of a ~~tract of land~~ *parent parcel* into not more than five ~~lots~~ *parcels* abutting an existing public road within the transportation department system of ~~primary or secondary highways~~ and which does not create a new street or extend an existing street.



(1) Any contiguous or internal property owned by the same subdivider, or deemed by the agent as a logical part of a contiguous or internal subdivision, cannot be subdivided into greater than five ~~lots~~ *parcels* without being reviewed as, and meeting the requirements of, a major subdivision. *Any such subdivisions of a parent parcel shall not exceed a total of nine parcels.*

(2) ~~A minor subdivision may include family subdivisions as defined herein. Family subdivisions as allowed by section 19-17 shall not count toward this five parcel total.~~ A preliminary or final plan shall include only those submittal requirements of this chapter and requirements for design and minimum requirements required by article III deemed necessary by the agent.

(b) *Major subdivision.* A major subdivision shall be ~~any~~ division of a ~~tract of land~~ *parent parcel* into six or more ~~lots~~ *parcels* or any division which creates a new street or extends any existing street. However, where additional lots are being created for the sole purpose of permanent open space or for the purpose of being dedicated to a conservation organization, as evidenced by documentation acceptable to the ~~director of planning~~ *director*, the subdivision may be reviewed as, and meet the requirements of, a minor subdivision.

(c) ~~Townhouse or condominium~~ *Multifamily* subdivision. A ~~townhouse or condominium~~ *multifamily* subdivision shall be a division of a tract of land into lots for ~~townhouses or condominiums~~ *multifamily units* as shown on an approved site plan pursuant to the zoning ordinance. A preliminary or final plan shall include only those requirements for design and minimum improvements required by article III of this chapter deemed necessary by the agent.

**Sec. 19-22. Procedure for review of minor subdivisions, ~~townhouse or condominium~~ or *multifamily* subdivisions.**

(a) The subdivider shall submit to the agent one reproducible copy plus eight prints of a final plan for a minor, ~~townhouse or condominium~~ or *multifamily* subdivision. If a preliminary plan is submitted, the number of copies of the preliminary plans required shall be determined by the agent. Upon submittal, the subdivider shall pay the appropriate subdivision plan review fee.

(b) Upon meeting all submittal requirements, the plan shall be reviewed by the agent and other agencies of the county and state as deemed necessary by the agent. The agent shall transmit county staff review comments to the subdivider within 45 days. Eight copies of a revised plan shall be submitted to the agent 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 agent shall review each subsequent submittal of revised plans within 21 days. The agent shall within 90 days approve or deny the subdivision plan and notify the subdivider of the action in writing. If a final plan is approved, such approval shall be in accordance with section 19-30. The agent shall certify such approval by signing the record plat. If a preliminary plan is approved, the agent shall include in the notification of preliminary approval all conditions required for final approval. If disapproved, the agent shall state in the notification to the subdivider the specific reasons for denial. The reasons for denial shall identify deficiencies in the plan which cause the disapproval by reference to specific duly adopted ordinances, regulations or policies, and shall generally identify such modifications or corrections as will permit approval of the plan.

**Sec. 19-23. Procedure for preliminary plan review for major subdivisions.**

(a) The subdivider shall submit to the agent twelve copies of the preliminary subdivision plan for a major subdivision and pay the appropriate subdivision plan review fee.



(b) Upon meeting all submittal requirements, the plan shall be reviewed by the agent and other agencies of the county and state as deemed necessary by the agent. The agent shall prepare a composite report on the proposed subdivision to determine if it meets the requirements of this chapter and the zoning ordinance. The report shall include review requirements by other agencies. The preliminary plan and the agent's composite report shall be reviewed by the development review committee (DRC) when it meets to make its recommendation to the commission. In order for subdivision 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.

(c) The commission shall consider the plan and either grant preliminary approval or disapprove it within 90 days of submittal. The plan may be granted preliminary approval with conditions. The agent shall notify the applicant of the commission's findings in writing within seven days of the commission meeting. Such notice shall state any actions, changes, conditions or additional information that shall be required to secure final approval of the subdivision. If disapproved, the notice shall state the specific reasons for disapproval. The reasons for denial shall identify deficiencies in the plan which cause the disapproval by reference to specific duly adopted ordinances, regulations or policies, and shall generally identify such modifications or corrections as will permit approval of the plan.

(d) The subdivider may, at their discretion, submit an enhanced conceptual plan for review by the agent, other agencies of the county and state deemed necessary by the agent and the DRC in advance of preparation of fully engineered plans. The agent shall prepare a composite report on the proposed subdivision to determine its consistency with the requirements of this chapter and the zoning ordinance. The report shall include review ~~comments and~~ requirements by other agencies. The enhanced conceptual plan and the agent's composite report shall be ~~reviewed~~ *considered* by the DRC ~~when it meets at one of its scheduled meetings~~ 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. The agent shall notify the subdivider of the commission's findings within seven working days of the commission meeting. Such notice shall state any actions, changes, conditions or additional information that shall be required to secure final approval of the subdivision. If disapproved, the notice shall state the specific reasons for disapproval. The reasons for denial shall identify deficiencies in the plan which cause the disapproval by reference to specific duly adopted ordinances, regulations or policies, and shall generally identify such modifications or corrections as will permit approval of the plan. Plans granted preliminary approval by the commission at the conceptual stage can move forward into full design for further review administratively by the agent *and other agencies as deemed necessary by the agent*. 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, legends, 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 (~~B~~building, ~~L~~andscape) and ~~B~~uffers (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~~ *five* 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~~ Location 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.

**Sec. 19-24. Procedure for preliminary plan review for major subdivisions of fewer than fifty lots.**

Major subdivisions of fewer than 50 lots, including such major subdivisions that are part of a multiphased subdivision of 50 lots or more, may, at the agent's discretion, be reviewed under the procedures set forth in section 19-22, ~~provided however, if the submitted preliminary plan does not have an approved conceptual plan, as set forth in section 19-19, then the preliminary plan shall be reviewed by the commission under the requirements of section 19-23.~~

**Sec. 19-25. Effect of approval of preliminary plan.**

Approval by the commission or the agent of the preliminary plan shall not constitute a guarantee of approval by the agent of the final plat.

**Sec. 19-26. Term of validity for the preliminary plan and extension.**

(a) Once a preliminary subdivision plan is approved, it shall be valid for a period of five years, provided the subdivider (i) submits a final subdivision plat for all or a portion of the property within one year of such approval, and (ii) thereafter diligently pursues approval of the final subdivision plat. "Diligent pursuit of approval" means that the subdivider has incurred extensive obligations or substantial expenses relating to the submitted final subdivision plat or modifications thereto. However, no sooner than three years following such preliminary subdivision plan approval, and upon 90 days written notice by certified mail to the subdivider, the commission or agent may revoke such approval upon a specific finding of facts that the subdivider has not diligently pursued approval of the final subdivision plat.

(b) If a subdivider records a final plat, which may be a section of a subdivision as shown on an approved preliminary plan, and furnishes to the county a certified check, cash escrow, bond, or letter of credit in an amount and form acceptable to the county for the estimated cost of construction of the facilities to be dedicated within said section for public use and maintained by the locality, the commonwealth or other public agency, the developer shall have the right to record the remaining sections shown on the preliminary plan for a period of five years from the date of the latest recorded plat of subdivision for the property. The five-year period of validity shall extend from the date of the latest recorded plat. Such right shall be subject to the terms and conditions of the Code of Virginia and subject to engineering and construction standards and the zoning ordinance requirements in effect at the time that each remaining section is recorded.

**Sec. 19-27. Preliminary plan-Submittal requirements.**

The preliminary plan for a minor or major subdivision shall be on a blue-line or black-line print. The scale shall be 100 feet to the inch *for the overall view, and the scale of the detailed drawings shall be appropriate to the level of detail but not less than 60 feet to the inch*, except in cases where the agent approves an alternate



scale. If more than one sheet is used, sheets shall be numbered in sequence and an index shall be provided. The preliminary plan for a minor or major subdivision shall include the following information:

- (a) The name of the subdivision, owner, subdivider, and surveyor or engineer, the date of drawing, number of sheets, north arrow, *tax parcel identification number, zoning and graphic* scale. ~~If true north is used, the method of determination shall be shown.~~ The plan shall also list any proffers or special use permit conditions that affect the property.
- (b) The location of the proposed subdivision on an inset map at a scale of not less than one inch equals 2,000 feet, showing adjoining roads, their names and numbers, subdivisions and other landmarks.
- (c) A closed boundary survey, or existing survey of record, total acreage, acreage of subdivided area, existing buildings *and improvements*, existing graves, objects or structures marking a place of burial, names of owners and existing property lines within the boundaries of the tract and for adjacent properties thereto, proposed monuments, lots, lot numbers, lot areas, blocks, building setback and yard lines. If any exceptions have been granted by the planning commission in accordance with section 19-18, the plan shall include a note detailing any exception so granted.
- (d) All existing, platted and proposed streets, both private and public, including their names, *route* numbers and widths; existing and proposed utility or other easements, existing and proposed sidewalks, public areas, parking spaces, culverts, drains, watercourses, lakes, their names and other pertinent data. If the streets are to be private, the plan shall include a private streets declaration in accordance with section 19-14.
- (e) A drainage plan showing the proposed drainage system including all open ditches, closed storm drain pipes and stormwater management facilities proposed to convey the subdivision drainage to an adequate *receiving* channel. The plan shall include sizes of all pipes and ditches, types of pipes and ditch linings, drainage easements and construction details of any stormwater management facilities. Drainage calculations shall be submitted with a *design report with computations and* drainage area map to verify the design of the drainage system including the adequacy of the channel receiving drainage from the proposed subdivision.

For multiphased subdivisions, a drainage area map shall be provided with drainage calculations for all phases of the subdivision to determine the adequacy of receiving channels. If receiving channels are not adequate, the map shall include the location of proposed stormwater management facilities.

The drainage plan shall include the topographic plan and a soil map of the site. The topographic plan ~~submittal requirements vary depending on the location of the proposed development. Outlined below are the topographic plan submittal requirements for each specific area of the county, shall be based on recent field run or aerial two-foot contour intervals. Five-foot contour intervals may be used with the approval of the agent. Spot elevations shall be shown at topographic low and high points.~~

~~Areas generally south of the boundary line—Reference the county tax map for the boundary line location. For all subdivisions planned in this area, the subdivision mapping and design shall be based on topographic surveys which are either derived from on-site field surveys or aerial photography. James City County topographic maps shall not be used for this purpose unless the county engineer permits the use of field-verified James City County Topographic Maps. Subdivision plans shall show at least one contour line for each 100 feet of horizontal distance and shall show existing and proposed contours at intervals of no more than five feet. The contour interval shall be in whole feet.~~

~~Areas generally north of the boundary line—Reference the county tax map for the boundary line location. The topographic plan submittal requirements are the same as those required for areas generally south of the boundary line except that James City County topographic plans may be used. The applicant shall assume all risk associated with the accuracy and the precision of these maps.~~

- (f) A stormwater management plan showing proposed stormwater management facilities including best management practices (BMPs) in accordance with chapters 8, 18A and 23 of the county code, and associated checklists. Such plan shall include construction details for all parts of the stormwater and drainage system, including pipe bedding and backfill.
- (fg) An erosion and sediment narrative and control plan showing the location, type and details of proposed erosion and sediment control devices to be used during and after construction. The plan shall meet all requirements of the erosion and sediment control ordinance and associated checklists and shall be provided at a scale of 100 50 feet to the inch except in cases where the environmental engineering and resource protection director approves an alternate scale. The plan shall show existing and proposed contours at intervals of no more than five two feet except in cases where the engineering and resource protection director approves an alternative interval.
- (gh) Cross-sections showing the proposed street construction, depth and type of base, type of surface, compaction, shoulders, curbs and gutters, sidewalks, bikeways, utilities, side ditches and other features of the proposed streets.
- (hf) Street profiles showing the proposed grades for the streets and drainage facilities, including elevations of existing and proposed ground surface at all street intersections and at points of major grade change along the centerline of streets, together with proposed connecting grade lines therewith and vertical curve information.
- (ij) Size and location of existing sanitary sewer and water facilities; location and method of proposed connections to existing sewer and water facilities; size and location of proposed sewer and water facilities showing location of proposed water meters, gate valves, fire hydrants, fittings, manholes, sewer laterals and cleanouts; grinder pump locations; profile views of water and sewer mains with manhole rim and invert elevations and percent of slope; sewage pump station location, design and details; and water well facility location, design and details. A capacity study of the existing system, in accordance with service authority regulations, may be required. All improvements shall be in accordance with the latest service authority Water and Sanitary Sewer Design and Acceptance Criteria Standards and Specifications.
- ~~(j) The preliminary plan for a major subdivision shall contain a copy of conceptual plan reviewed under the requirements of section 19-19.~~
- (k) As provided for in Code of Va., § 10.1-606.2, et seq., when any part of the land proposed for subdivision lies in a mapped dam break inundation zone, such fact shall be set forth on the plan of the proposed subdivision.
- (l) As provided for in the Code of Va., § 15.2-2242, the agent may request submittal of a phase I environmental site assessment, where the proposed subdivision is located on a brownfield site, or where initial assessments indicate dumping or other contaminating activities have occurred on the property.
- (m) A phased clearing plan in accordance with section 24-89 of the zoning ordinance.

- (n) *An outdoor lighting plan in accordance with section 24-130 of the zoning ordinance.*
- (o) *The following environmental information about the site proposed for development including:*
  - (1) *All existing easements, disturbed area, impervious cover, and percent impervious estimate;*
  - (2) *Flood zone designation, Resource Protection Areas (RPAs), soils (highly erodible, hydric, permeable, hydrologic soils group A and B);*
  - (3) *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);*
  - (4) *Demonstration that the project complies with section 23-9(b)(1), (2), and (3) of the county's Chesapeake Bay Preservation ordinance (how disturbance is being minimized, indigenous vegetation preserved, and impervious cover minimized);*
  - (5) *County watershed, steep slopes (grade 25 percent or more), sites known for populations of rare or threatened species, locations of existing conservation easements, wooded areas and wildlife habitat; and*
  - (6) *Description of better site design or low impact development techniques if such is being used.*
- (p) *For proposed minor subdivisions, a copy of the plat showing the parent parcel to assist in verifying the requirements listed in section 19-21.*

**Sec. 19-28. Preliminary plan-Townhouse and condominium Multifamily subdivisions.**

The preliminary plan for a ~~townhouse or condominium~~ multifamily subdivision shall be on a blue-line or black-line print. The scale shall be 100 feet to the inch *for the overall view, and the scale of the detailed drawings shall be appropriate to the level of detail but not less than 60 feet to the inch*, except in cases where the agent approves an alternate scale. If more than one sheet is used, sheets shall be numbered in sequence and an index shall be provided. The preliminary plan shall include the following information:

- (a) The name of the subdivision, owner, subdivider and surveyor or engineer, the date of drawing, number of sheets, north arrow, *tax parcel identification number, zoning, and graphic scale. If true north is used, the method of determination must be shown.* The plan shall also list any proffers or special use permit conditions that affect the property.
- (b) Location of the proposed subdivision on an inset map at a scale of not less than one inch equals 2,000 feet, showing adjoining roads, their names and numbers, subdivisions and other landmarks.
- (c) A closed boundary survey, or existing survey of record, total acreage, acreage of subdivided area, existing buildings, existing graves, objects or structures marking a place of burial, names of owners and existing property lines within the boundaries of the tract and for adjacent properties thereto, proposed monuments, lots, lot numbers, lot areas, blocks, building setback and yard lines. If any exceptions have been granted by the planning commission in accordance with section 19-18, the plan shall include a note detailing any exception so granted.
- (d) All existing, platted and proposed streets, including their names, numbers and widths; existing and proposed utility, drainage or other easements, public areas and parking spaces; culverts, drains and watercourses, lakes, their names and other pertinent data. If the streets are to be private, the plan shall include a private streets declaration in accordance with section 19-14.
- (e) All parcels of land to be dedicated for public use and conditions of such dedication.



**Sec. 19-29. Final plan-Submittal requirements.**

The final plan for a subdivision shall be on blue-line or black-line print. The scale shall be 100 feet to the inch except in cases where the agent approves an alternate scale. The size of the record plat portion of the final plan shall not be smaller than 8 1/2" x 11" or larger than 18" x 24" inches. If more than one sheet is used, sheets shall be numbered in sequence and an index shall be provided. In addition to the requirements of the preliminary plan, the final plan for a subdivision shall include the following:

- (a) The accurate location and dimensions by bearings and distances, including all curve data, for all lots, and street lines and centerlines of streets. Distances and bearings shall balance and close with an accuracy of not less than one in 10,000 units.
- (b) The data of all curves along the street frontage shall be shown in detail at the curve or in a curve data table containing the following: delta, radius, arc, tangent, chord and chord bearings.
- (c) When the subdivision consists of land acquired from more than one source of title, the outlines of these tracts shall be indicated by dashed lines, and the identification of the respective tracts shall be shown on the plat.
- (d) A certification of each owner's consent duly acknowledged before a licensed notary public in the following format:

*Owner's Certificate*

The subdivision of land shown on this plat and known as (name of subdivision) is with the free consent and in accordance with the desire of the undersigned owners, proprietors and/or trustees.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name printed

*Certificate of Notarization*

Commonwealth of Virginia

City/County of \_\_\_\_\_

I, \_\_\_\_\_ (Print Name), a Notary Public in and for the City/County and State aforesaid, do hereby certify that the persons whose names are signed to the foregoing writing have acknowledged the same before me in the City/County aforesaid.

Given under my hand this \_\_\_\_\_ day of \_\_\_\_\_, (Year).

\_\_\_\_\_  
(Signature)

My commission expires: \_\_\_\_\_.

Notary registration number: \_\_\_\_\_.

- (e) Certificates signed by the surveyor or engineer setting forth the source of title of the owners of the land subdivided, the place of record of the last instrument in the chain of title, and that the subdivision

conforms to all requirements of the board of supervisors and ordinances of the County of James City, Virginia, in the following format:

*Certificate of Source of Title*

The property shown on this plat was conveyed by (previous owner) to (current owner) by (type of instrument), dated (date) and recorded in the Office of the Clerk of the Circuit Court of the County of James City in Deed Book (number), Page (number) or Instrument (number).

*Engineer or Surveyor's Certificate*

I hereby certify that, to the best of my knowledge or belief, this plat complies with all of the requirements of the Board of Supervisors and Ordinances of the County of James City, Virginia, regarding the platting of subdivisions within the county.

_____	_____
Date	Name
	_____
	Name printed

(f) Certificate of approval as follows:

*Certificate of Approval*

This subdivision is approved by the undersigned in accordance with existing subdivision regulations and may be admitted to record.

_____	_____
Date	Virginia Department of Transportation
_____	_____
Date	Virginia Department of Health
_____	_____
Date	Subdivision Agent of James City County

(g) If the subdivided property contains wetlands and/or resource protection areas, there shall be a note on the plat which states the following:

"Wetlands and land within resource protection areas shall remain in a natural undisturbed state except for those activities permitted by section 23-7 of the James City County Code."

(h) If the subdivided property contains a natural open space easement, there shall be a note on the plat which states the following:

"Natural open space easements shall remain in a natural undisturbed state except for those activities referenced on the deed of easement."

(i) The plat shall include the following note:

"Unless otherwise noted, all drainage easements designated on this plat shall remain private."

(j) If the streets are to be private, the plat shall include a private streets declaration in accordance with section 19-14.



- (k) If any exceptions have been granted by the planning commission in accordance with section 19-18, the plat shall include a note detailing any exception so granted.
- ~~(l) Prior to final approval, data for major subdivisions shall be submitted in accordance with the "GIS Data Submittal Requirements for Major Subdivisions" policy, as approved by the governing body. This requirement may be waived provided a note is placed on the final plat stating that the engineer or surveyor of record did not draft the subdivision plans with a computer.~~
- ~~(m)~~ If the subdivided property contains ~~drainfield locations for a septic tank~~ requires onsite sewage disposal systems, the plat shall include the following note: "Septic tank Onsite sewage disposal system information and soils information should be verified and reevaluated by the Health Department prior to any new construction."
- ~~(n)~~ If the subdivided property contains an on-site sewage treatment disposal system, the plat shall include the following note:  

"On-site sewage treatment disposal systems shall be pumped out at least once every five years per section 23-9(b)(6) of the James City County Code."
- (n) The plat shall include the following note:  

"Monuments shall be set in accordance with sections 19-34 through 19-36 of the county code. Subsequent to completion of all improvements, but prior to final release of surety for a subdivision or any part thereof, the subdivider shall provide to the agent a surveyor's certificate that the monuments as shown on the record plat have been installed, were properly set, are properly aligned, and are undamaged. The provision of the certification shall be within six months of plat approval, unless otherwise arranged in advance, in writing, with the agent."
- (o) As provided for in Code of Va., § 10.1-606.2, et seq., when any part of the land proposed for subdivision lies in a mapped dam break inundation zone, such fact shall be stated on the plat of the proposed subdivision.

#### **Sec. 19-30. Procedure for approval of final plan.**

The subdivider shall submit for review and approval eight copies of the final plan for a major subdivision or as many copies of the final plat for minor subdivisions, ~~townhouse or condominium or multifamily subdivisions~~ as deemed necessary by the agent. Upon approval of the final plan by the agent, the subdivider shall submit one reproducible copy plus eight prints of the record plat portion of the final plat to the agent for review and approval. The record plat shall not be approved until the applicant:

- (1) Has complied with the requirements and minimum standards of design set forth in this chapter;
- (2) Has incorporated such changes or complied with such conditions on the final plan as may have been stipulated in the letter of notification following action by the commission or agent on the preliminary plan;

- (3) Has made satisfactory arrangements for performance assurances as specified in article IV of this chapter; ~~and~~
- (4) *Has submitted data for major subdivisions in accordance with the "GIS Data Submittal Requirements for Major Subdivisions" policy, as approved by the governing body; and*
- (4~~5~~) Has executed all certificates required in section 19-29.

**Sec. 19-31. Term of validity for the final plan.**

The subdivider shall record the approved record plat in the clerk's office of the circuit court of the county within 180 days after approval thereof; otherwise, such approval shall become null and void.

**ARTICLE III. REQUIREMENTS FOR DESIGN AND MINIMUM IMPROVEMENTS**

**Sec. 19-32. Land must be suitable.**

(a) The agent shall not approve the subdivision of land if ~~he~~ *it is* ~~determines~~, after adequate investigations conducted by the transportation department, the health department or the ~~director of~~ engineering and resource protection *director*, that the site is not suitable for platting because of possible flooding, improper drainage, steep slopes, utility easements or other features harmful to the safety, health and general welfare of the public.

(b) In determining the suitability of lots, the minimum criteria shall be for each lot to have an accessible building site *that is in compliance with the requirements of the zoning ordinance, and with suitable access from an approved street as specified in sections 19-39 and 19-40.*

(c) Land not suitable within a proposed subdivision shall be platted for uses not endangered by periodic or occasional inundation and which otherwise shall not produce conditions contrary to public welfare or such land shall be combined with other suitable lots.

**Sec. 19-33. Location of utilities.**

(a) All utilities, including, but not limited to, wires, cables, pipes, conduits and appurtenant equipment for electricity, ~~telephone,~~ *voice, video and data,* gas, cable television or similar service, shall be placed underground; provided, that the following utilities shall be permitted above ground:

- (1) Electric transmission lines and facilities in excess of 50 kilovolts;
- (2) Equipment, including electric distribution transformers, switch gear, meter pedestals, telephone pedestals, outdoor lighting poles or standards, radio antenna and associated equipment, which is, under accepted utility practices, normally installed above ground;
- (3) Meters, service connections and similar equipment normally attached to the outside wall of the customer's premises.

(b) Whenever existing utilities are located aboveground in proposed subdivisions, they shall be removed and placed underground except where they are within ten feet of existing public street rights-of-way.

(c) Where approved by the transportation department, with the exception of sewer laterals and water service lines, all utilities shall be placed within easements or street rights-of-way, unless otherwise required by the service authority, in accordance with "Typical Utility Details" (see Appendix A) as published by the service authority or as may be otherwise approved by the agent.

#### **Sec. 19-34. Locations and specifications for monuments.**

(a) Monuments shall be set at all street corners, at all points where the street line intersects the exterior boundaries of the subdivision, and at right-angle points and at the beginning and end points of curve along each street. Minimum requirements for monument material and installation shall be the same requirements contained in section 19-35 below. Alternate types of monuments may be used if approved by the ~~county engineer~~ *agent* prior to installation.

(b) At least two new or existing monuments at exterior subdivision boundaries shall be referenced to the county geodetic control network. Control monuments other than those installed by James City County may be used, ~~provided that the other monuments were installed by York County or the City of Newport News Waterworks with the approval of the agent~~ and also provided that the precision of other monuments used is at least equal to that of James City County control monuments. Subdivision plats must show the coordinate values in U.S. survey feet of two or more monuments so referenced. Additionally, the geodetic control monument from which the coordinate values are derived shall be referenced including its published coordinate values.

(c) This requirement shall apply to all subdivisions provided a county geodetic control monument exists within one mile of any exterior subdivision boundary. Surveys connecting to the James City County control monument network shall be conducted with a precision of 1:10,000. Surveyors may be required to submit coordinate value computations and supporting data to the ~~county engineer~~ *agent*.

#### **Sec. 19-35. Lot corner monuments.**

All lot corners shall be marked with an iron pipe monument not less than three-fourths inch in diameter and 24 inches long or a five-eighths inch in diameter reinforcing bar monument 24 inches long. The top of such monuments shall be driven three inches to nine inches below the surface of the ground. When rock is encountered, a hole shall be drilled four inches deep in the rock into which shall be cemented a steel rod one-half inch in diameter. The top of the rod shall be flush with the finished adjacent ground grade. Alternate types of monuments may be used if approved by the ~~county engineer~~ *agent* prior to installation.

#### **Sec. 19-36. Monuments-General requirements.**

The subdivider shall be responsible for replacing any monument which is damaged, disturbed or destroyed during construction. All monuments disturbed or destroyed shall be reset by a surveyor licensed in the Commonwealth of Virginia. ~~Prior to final release of the surety required for a subdivision, the subdivider shall provide certification from a licensed surveyor that monuments required by this chapter have been properly placed. Subsequent to completion of all improvements, but prior to final release of surety for a subdivision or any part thereof, the subdivider shall provide to the agent a surveyor's certification that the monuments as shown on the record plat have been installed, were properly set, are properly aligned, and are undamaged. The provision of the certification shall be within six months of plat approval, unless otherwise arranged in advance, in writing, with the agent.~~

#### **Sec. 19-37. Easements.**

Appropriate easements shall be provided by the subdivider. The easements shall be of sufficient width for the specified use, *shall meet any applicable agency easement standards*, and shall include the right of ingress and egress for installation and maintenance of such use. Wherever possible, easements should be adjacent and parallel to property lines. The agent may require that easements through adjoining property be provided.

#### **Sec. 19-38. Lot size.**

The minimum lot size shall be in accordance with the zoning ordinance provided, however:

- (1) That where public water or public sewer systems or both such systems are not available, such minimum lot size may be increased by the agent in accordance with the recommendation of the health department; and
- (2) Whenever there shall be plans in existence, approved by either the transportation department or by the governing body, for the widening, extension, or construction of any street or highway, the commission may require additional setbacks and yards for any new construction or for any structures altered or remodeled adjacent to the future planned right-of-way in order to preserve and protect the planned future right-of-way for such proposed street or highway.

#### **Sec. 19-39. Lot arrangements, design and shape.**

The lot arrangement, design and shape shall be related to the topography such that each lot has:

- (1) An acceptable building site in compliance with the requirements of the zoning ordinance and applicable health regulations; ~~and~~
- (2) Suitable access to the building site from an approved street. *In the case of flag lots, it must be possible to gain access to the building site through the portion of the flag that abuts the street in a manner that meets all applicable regulations. However, if the flag lot is located in a minor subdivision subject to the shared driveway provisions in section 19-71, the requirement of being able to gain access through the flag may be waived by the agent; and*
- (3) Unusually shaped or elongated lots, as determined by the agent, established primarily for the purpose of providing minimum square footage, *or meeting minimum lot width, setback or yard requirements*, shall not be permitted.
- (4) *Sidelines of lots shall be approximately at right angles or radial to the street line.*

#### **Sec. 19-40. ~~Lot location~~ Lot access and frontage.**

Each lot shall abut and have access to a proposed public street to be dedicated by the subdivision plat or to an existing publicly dedicated street, ~~unless otherwise specifically provided for in this chapter~~. *The minimum lot frontage abutting such public street right-of-way shall be 25 feet. In zoning districts which permit private streets and where such streets have been approved via the process specified in section 24-62 of the zoning ordinance, the access and minimum lot frontage requirements can be met through frontage on a private street.* If the existing streets do not meet the minimum transportation department width requirement, including



adequate right-of-way to accommodate the appropriate pavement width, drainage, sidewalks and bikeways, the subdivider shall dedicate adequate right-of-way necessary for the street to meet such minimum requirement.

**~~Sec. 19-41. Side lot lines.~~**

~~Sidelines of lots shall be approximately at right angles or radial to the street line.~~

**Sec. 19-41. Building setbacks and yards.**

(a) *Front setback.* The front setback line shall be a line parallel with the front property line at the minimum distance specified in the zoning district regulations and determined as follows:

- (1) *For a flag lot, the front setback shall be measured from the front lot line, which is the lot line nearest and parallel or approximately parallel to the street to which the lot has access (see graphic). However, for lots within minor subdivisions that front on a shared driveway, the agent may determine that the front lot line is the lot line running parallel, or approximately parallel, to the shared driveway. In those instances the front setback line shall be measured accordingly (see graphic).*
- (2) *For a corner lot, the front property line of the lot shall be the shorter of the two sides fronting on streets, and the front setback line shall be measured accordingly.*
- (3) *In instances where right-of-way has been dedicated in accordance with section 19-42 of this chapter, the front setback line shall be measured from the new property line (i.e., the internal line of the dedicated area) (see graphic).*

(b) *Side and rear yard setbacks.* The front property line shall be used to determine the side and rear property lines. The minimum side and rear yard setback as specified in the zoning ordinance shall then be measured from these property lines. For rear yards where the lot is triangular or otherwise irregularly shaped, the yard setback shall be a line ten feet in length entirely within the lot, parallel to and at a maximum distance from the front lot line (see graphic).

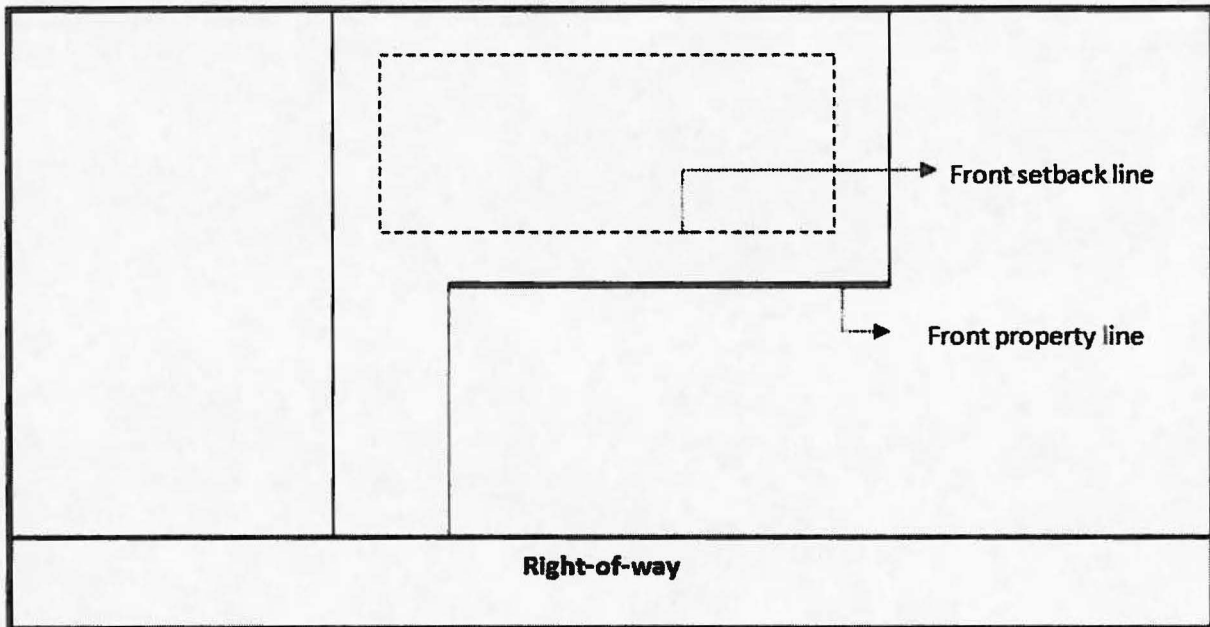
**Sec. 19-42. Street right-of-way dedication.**

(a) *The subdivider of any major subdivision shall construct and dedicate a new public street to provide access to the lots. In zoning districts which permit private streets and where such streets have been approved by the process specified in section 24-62 of the zoning ordinance, the new street may be private.*

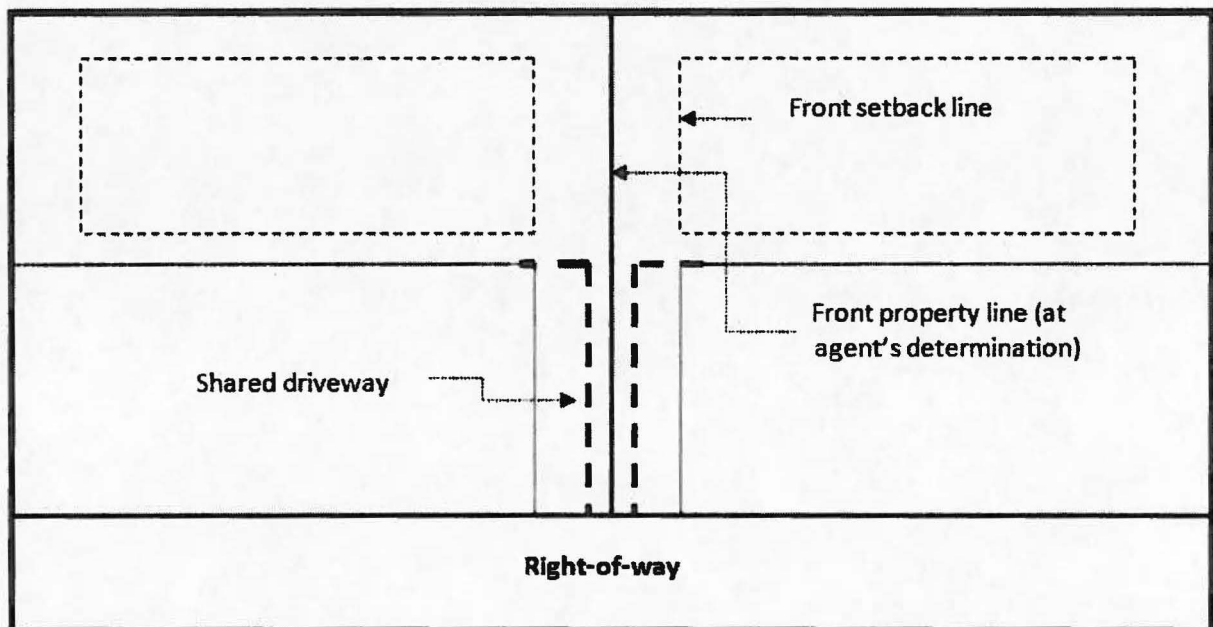
(b) *In the case of lots fronting on an existing street right-of-way, if the existing street right-of-way is less than 50 feet in width, the subdivider shall dedicate half of the width necessary to result in a 50 foot right-of-way. In instances where the right-of-way is a prescriptive easement and the land is owned by the property owner to the street's centerline, the full area must be dedicated. In all other instances, the width dedicated shall be one half of the numerical difference between the existing width and 50 feet. Such area on the plat shall be indicated as dedicated to public use. This requirement may be waived or modified if an alternative minimum right-of-way width has been deemed appropriate by the agent.*

(c) *In addition, whenever there are plans in existence, approved by either the transportation department or by the governing body, for the widening, extension or construction of any street or highway, the agent may require dedication of right-of-way sufficient to preserve and protect the planned future right-of-way for such proposed street or highway.*

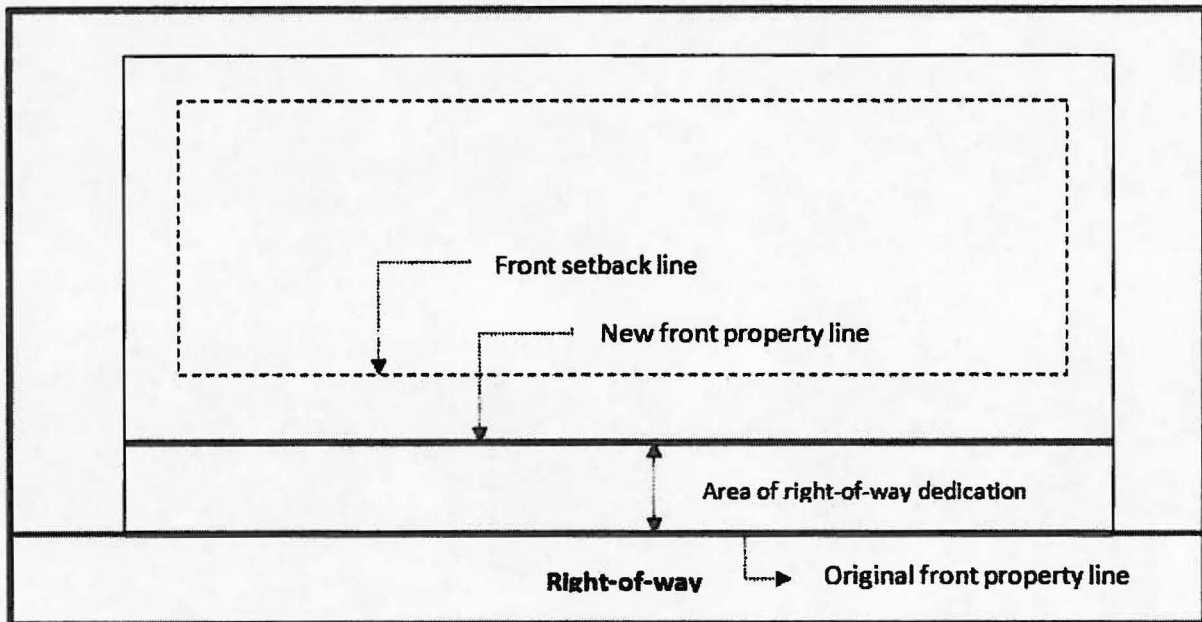
**Section 19-41 (a)(1) Building setbacks and yard**



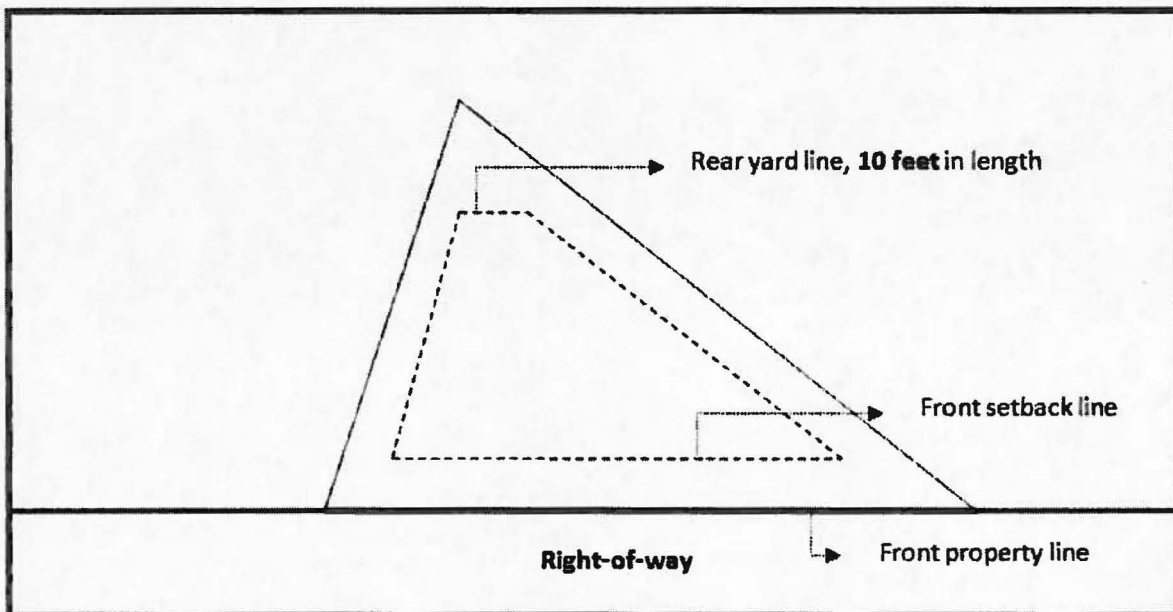
**Section 19-41 (a) (1) Building setbacks and yard**



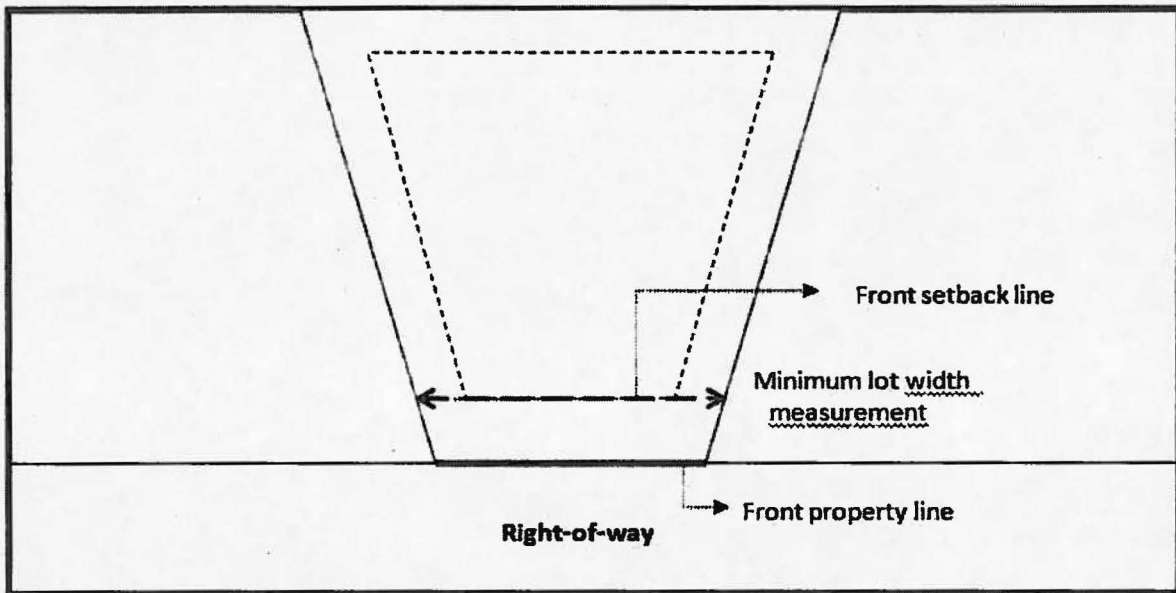
**Section 19-41 (a) (3) Building setbacks and yard**



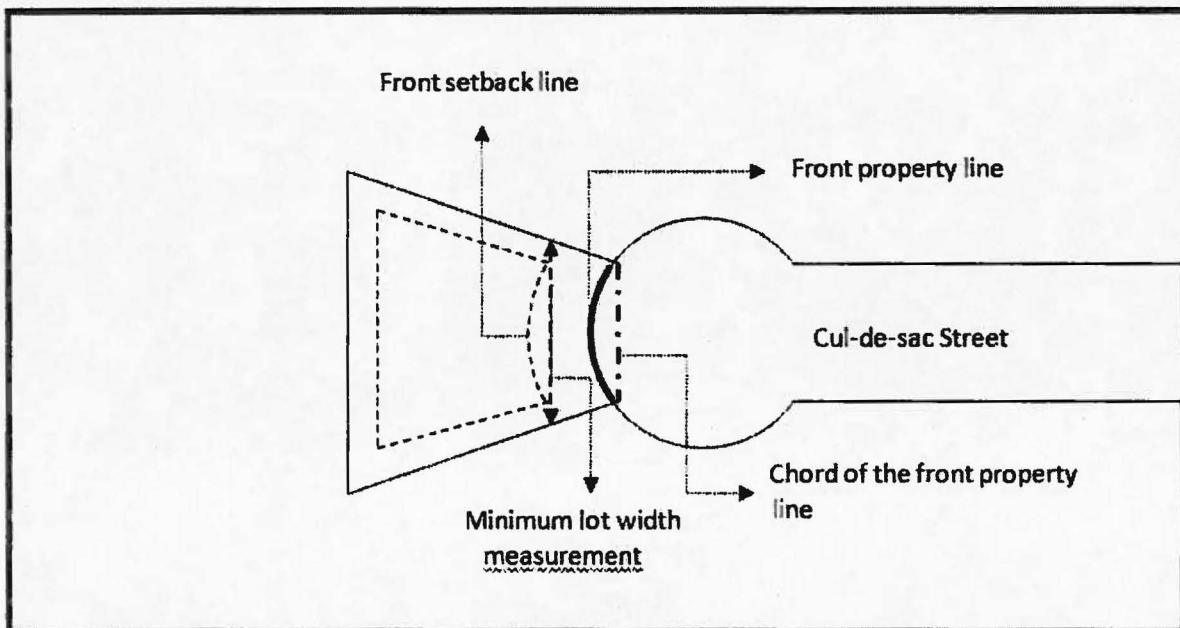
**Section 19-41 (b) Building setbacks and yard**



**Section 19-43 (a) Lot Width**

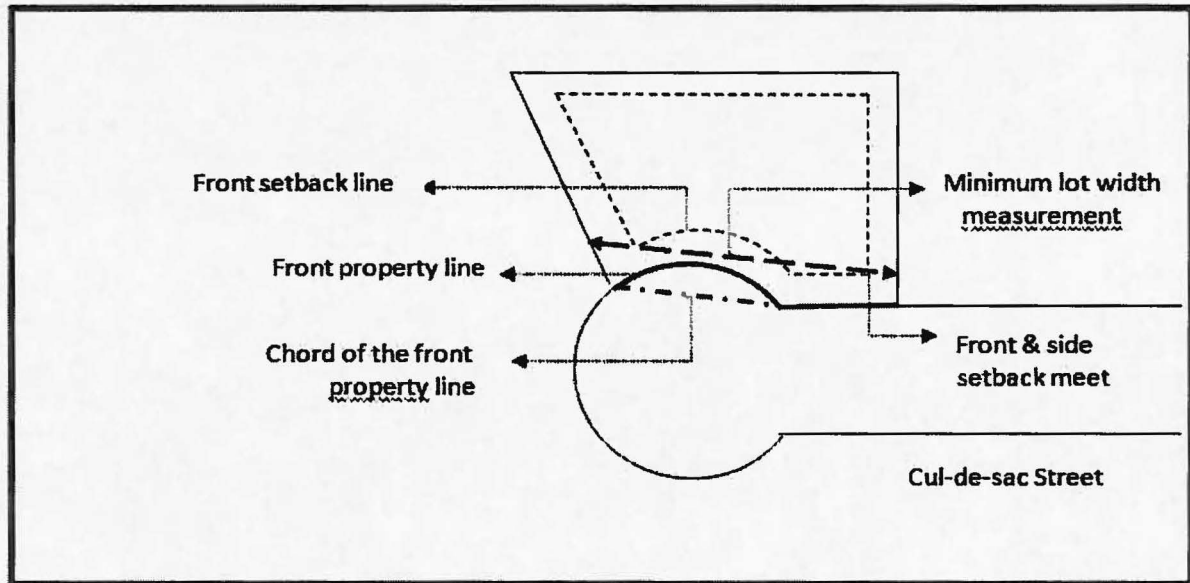


**Section 19-43(b) Lot width**





**Section 19-43 (c) Lot width**



*(d) The area of the property dedicated as right-of-way shall not be counted toward meeting the minimum area requirements specified in the zoning districts.*

**Sec. 19-43. Lot width.**

*(a) Where the front property line is straight, the lot width shall be measured as the distance between the side lot lines measured at the front setback line along a straight line parallel to the front property line (see graphic).*

*(b) Where the front property line is an arc, the lot width shall be measured as the distance between the side lot lines measured at the front setback line along a straight line parallel to the chord of the front property line. For the purposes of meeting this requirement, "at the front setback line" shall mean that the line used to measure the width passes through at least one of the points formed by the meeting of the front setback line and the side setback line (see graphic).*

*(c) In the case of irregular lots (front lot lines that contain arcs of opposing directions or both an arc and a straight segment), the lot width measurement method ((a) or (b) above) shall be based on the arc or straight segment that is of greatest length (see graphic).*

*(d) Unusually shaped or elongated lots, as determined by the agent, that render reasonable measurement of the setbacks and minimum lot widths impossible, shall not be permitted.*

*(e) Should the proposed lot fail to meet minimum lot width at the minimum front setback distance specified in the zoning district regulations, the overall front setback distance may be increased to the point where the minimum lot width is met, if that is possible, provided that the resulting lot continues to meet all other setback and yard requirements and retains a suitable buildable area.*

**Sec. 19-424. Lot remnants.**

Remnants of lots not meeting minimum lot requirements shall not generally be created by the subdividing of a tract. All such remnants shall be added to adjacent lots or, as approved by the agent, identified as common open space or natural open space.

**Sec. 19-435. Double frontage lots.**

Double frontage lots shall not be permitted except where it is necessary that they abut ~~arterial~~ *existing* streets with a functional classification other than local. Any access to ~~such an arterial~~ *existing* street shall be prohibited by easement. This section shall apply to corner lots only if ~~such the~~ lots abut ~~such an arterial~~ *existing* street.

**Sec. 19-446. Separate ownership of lots to be subdivided.**

Where the land covered by a subdivision includes two or more parcels in separate ownership, and lot arrangement is such that a property line is extinguished in the subdivision, each lot so divided shall be transferred by deed to single ownership simultaneously with the recording of the final plat. Such a deed shall be recorded with the final plat.

**Sec. 19-457. Lot frontage.**

Lots within major subdivisions shall not front on ~~arterial~~ *existing* streets *other than streets which are part of a recorded subdivision or an extension thereof.*

**Sec. 19-468. Block length.**

The length of blocks shall be determined by public safety, traffic flow and existing topographic conditions. Where streets are approximately parallel, connecting streets shall be provided. In addition, a minimum 50-foot right-of-way shall be platted to the property line at suitable intervals, as determined by the agent, where appropriate to afford access to undeveloped land. *Such rights-of-way shall meet all applicable transportation department regulations.*

**Sec. 19-479. Block width.**

Blocks shall be designed to consist of two tiers of lots. If such block design is prevented by topographical conditions, open space, buffers, size of the property, adjoining major streets, railroads or waterways, the agent may approve a single tier of lots.

**Sec. 19-4850. Street alignment and layout.**

(a) Streets in new subdivisions shall be designed to coordinate with other existing or planned streets contiguous to or within the general area of the subdivision as to location, width, grades and drainage. All street intersections shall be in accordance with transportation department standards. Street intersection jogs, with centerline offsets of less than ~~150~~ *200* feet, shall be prohibited.

(b) Where streets are planned in multi-phased subdivisions, and when those streets are planned to be constructed in different phases, the following requirements shall apply:

- (1) These rights-of-way shall be clearly marked on the plats and labeled "Future Public Street" or "Future Public Street Extension" as appropriate.
- (2) The following notation shall be incorporated into any plat showing a stub or future street:  
"This right-of-way is platted with the intent of being extended and continued in order to provide ingress and egress to and from future subdivisions or adjacent property."

**Sec. 19-4951. Street construction standards.**

(a) Subdivision streets, unless otherwise specifically provided for in this chapter, shall be paved and dedicated for public use in the state system of primary or secondary highways. Streets shall have a right-of-way width in accordance with transportation department standards. Street construction plans shall be submitted to the transportation department for approval as part of the subdivision review process required by this chapter. Construction of subdivision streets, unless otherwise permitted by this chapter, shall be in conformance with transportation department standards and accepted into the state system of primary or secondary highways prior to release of the construction surety bond. Streets of the entire subdivision as depicted on the master plan shall be designed to fit into a street hierarchy separating streets into categories based on traffic levels in accordance with transportation department standards.

(b) Any private street permitted shall be certified to the satisfaction of the ~~county engineer~~ *development manager*, or his designee, as having been constructed in accordance with all ordinance requirements and approved plans. Until such time as the ~~county engineer~~ *development manager* has accepted and approved such certification, surety required to guarantee the proper construction of such private streets shall not be released. Construction certification shall be in accordance with administrative guidelines ~~prepared by the county engineer for certification of private street construction.~~

#### **Sec. 19-502. Street drainage.**

(a) *All drainage conveyance systems and associated components shall comply with the James City County drainage design guidelines.*

(ab) Streets with a longitudinal slope of less than 0.75 percent as shown on the profile sheet of the preliminary and final plan shall be constructed as curb and gutter streets or as open ditch streets with a concrete paved ditch. The minimum longitudinal slope for any street to be constructed with a paved ditch shall be 0.5 percent.

(bc) The minimum longitudinal slope for curb and gutter sections shall be 0.3 percent. If curb and gutter is proposed for any portion of a subdivision, it shall be required for all subsequent sections which extend a curb and gutter improved street.

(ed) Drainage from street rights-of-way must be contained in either a pipe system constructed of materials approved by the transportation department, when within a street right-of-way, or a concrete paved ditch to the point where it outfalls ~~into natural drainage or enters a common area~~ *into a drainage system that is adequate to convey the anticipated stormwater flows. Adequacy shall be provided consistent with state minimum standards.* The paved ditch must have a minimum longitudinal slope of 0.3 percent. The upstream invert of any outlet pipe shall be 0.5 feet higher than the downstream invert and have a minimum slope of 0.2 percent. The downstream invert of the pipes or ditches must be at or above natural, existing ground. Side slopes of ditches not located within a public street right-of-way shall not exceed a slope of 3:1. These requirements may be waived or modified by the ~~director of engineering and resource protection~~ *director* upon written request and justification by the owner or developer.

#### **Sec. 19-513. ~~Sidewalks~~ Pedestrian accommodations.**

~~Sidewalks~~ *Pedestrian accommodations* shall be required for all major subdivisions in accordance with section 24-35 of the zoning ordinance.

#### **Sec. 19-524. Cul-de-sac streets.**

Cul-de-sac streets shall not exceed 1,000 feet in length. *A cul-de-sac's length is measured from the center point of its turnaround, along the centerline of its right-of-way, to the centerline of the right-of-way of the nearest diverging or intersecting road.* Each cul-de-sac shall be terminated by a turnaround meeting minimum transportation department ~~and fire department~~ standards.

#### **Sec. 19-535. Private streets.**

There shall be no private streets permitted in any subdivision except where permitted by the zoning ordinance or by section 19-17 of this chapter; ~~provided, however, private streets may be allowed in townhouse~~



~~and condominium subdivisions if the private streets are approved by the commission and meet, unless specifically exempted, all other street requirements in this chapter.~~

**Sec. 19-546. Street and subdivision names.**

(a) Proposed streets which align with existing streets shall bear the names of the existing streets. Names of proposed streets or subdivisions shall not duplicate, irrespective of suffixes, or be similar in sound or spelling to existing street or subdivision names in James City County, the City of Williamsburg, or the northern portions of York County, and the southern portions of New Kent County which may be served by the Williamsburg or James City County Post Office, by common zip code or by interjurisdictional emergency services.

(b) Street names shall be indicated on the preliminary and final plat and shall be approved by the agent. Names of existing streets or subdivisions shall not be changed except by approval of the governing body.

**Sec. 19-557. Street signs.**

Permanent street identification signs shall be installed at all intersections. The signs shall be of a design approved by the agent, but at a minimum, ~~either the street sign or the alphanumeric lettering shall be of a reflective material~~ *the sign face shall meet all the design requirements of the transportation department.*

**Sec. 19-568. Public water.**

If public water is available, it shall be extended to all lots within a subdivision including recreation lots. Availability of public water shall be determined in accordance with the service authority regulations *governing utility service.*

**Sec. 19-579. Water facilities.**

(a) Major subdivisions inside the primary service area must connect to the public service authority or Newport News Waterworks water system and the public sewer system.

(ab) If public water is not available, the subdivider of any major subdivision *outside the primary service area* shall construct a central water system including distribution lines, storage, and supply facilities within the subdivision. Central water service shall be extended to all lots within a subdivision, including recreation lots. Upon completion and acceptance of the improvements, the water system, together with all necessary easements and rights-of-way, including the well lot, shall be dedicated to the service authority by deed and an accompanying plat.

(bc) The central water system requirement may be waived by the service authority manager. Such a waiver shall be requested in writing by the subdivider and approved prior to submission of preliminary plans. Any waiver may be subject to reasonable conditions which shall be communicated in writing to the agent and subdivider.

**Sec. 19-5860. Individual wells.**

If public water is not available, each lot in a minor subdivision shall be served by an individual well. All individual wells shall be approved by the health department or the service authority prior to approval of the subdivision plat.

**Sec. 19-5961. Public sewer.**

If public sewer is available, it shall be extended to all lots within the subdivision, including recreation lots. Availability shall be determined in accordance with the service authority regulations governing utility service.

**Sec. 19-602. Individual sewer.**

If public sewer is not available, each subdivision lots shall be served by individual ~~septic tank~~ onsite sewage disposal systems in accordance with the following:

(1) Individual ~~septic tank~~ onsite sewage disposal systems for each lot must be approved by the health department and shall be a soil absorption system of conventional or alternate design.

(2) The plans for such subdivisions shall include specific ~~septic tank~~ onsite sewage disposal system locations, including primary and reserve drainfields and soils information as required by health department regulations, as well as appropriate notation as required in section 19-29 (l) and (m). *The immediate area in and around each proposed system must be shown using a contour interval not greater than two feet; the contour area shown outside the system should be sufficient to establish the relationship of the area to relevant topographic features such as, but not limited to, drainage ways, sink holes, road cuts, and steep slopes.* The record plat shall clearly designate each lot which has been approved by a soil absorption system of alternate design and shall contain a note which clearly discloses that such alternate systems may entail additional expenses.

(3) *For the purpose of subdivision of new lots, the applicant shall obtain subdivision approval from the county prior to health department issuance of any construction permits. For these new proposed lots, the on-site sewage disposal system must meet health department regulations that enable the health department to approve the system in perpetuity through a certification letter.*

Any proposed lots not suitable for the installation of ~~septic tank~~ onsite sewage disposal systems shall be combined with lots that are suitable.

**Sec. 19-613. Regulations governing utility service.**

All subdividers shall comply with the service authority regulations governing utility service.

**Sec. 19-624. Inspection of public water, sewer, and stormwater system.**

(a) Inspection of public water or sewer system installations shall be the responsibility of the service authority. Any subdivider of a subdivision shall obtain a certificate to construct sewer or water lines and facilities from the James City Service Authority (JCSA) prior to either extending existing facilities or building new facilities. Certificates to construct shall not be issued until the subdivider has paid the JCSA

~~service authority~~ inspection fees in accord with section 19-15 of this chapter. A certificate to construct shall be required prior to final approval of the subdivision plat.

(b) Inspection of public stormwater system installations shall be the responsibility of the ~~stormwater division~~ county. Any subdivider of a subdivision shall obtain a certificate to construct stormwater system installations prior to either altering existing installations or building new installations. Surety provided in accordance with section 19-72 shall not be released until approved by the ~~stormwater division~~ in accordance with section 19-72-4(b).

#### **Sec. 19-635. Fire protection.**

Fire hydrants shall be installed in subdivisions at locations designated by the fire chief and the service authority at the time of an extension or construction of a public water system.

#### **Sec. 19-646. Streetlights.**

(a) The subdivider shall install streetlights as determined by the ~~director of engineering and resource protection~~ director and in accordance with ~~article II, division 7 of the zoning ordinance and the~~ streetlight standards policy, as approved by the governing body, in those subdivisions which require the construction of streets. The subdivider shall deposit with the agent one year's rent for the streetlight system prior to approval of the final plan. If the streets within the subdivision are not accepted by the transportation department prior to the end of the one-year billing period covered by the deposit, the subdivider shall compensate the county for any additional rental charges incurred prior to release of the subdivision surety.

(b) Streetlights, in subdivisions with private streets, shall be installed by the subdivider as determined by the ~~director of engineering and resource protection~~ director and in accordance with ~~article II, division 7 of the zoning ordinance and the~~ streetlight standards policy, as approved by the governing body. Such streetlights shall be maintained and all operating expenses paid by the homeowners' association or other legal entity responsible for such expenses. The establishment of a homeowners' association or other legal entity shall be demonstrated to the satisfaction of the county attorney.

#### **Sec. 19-657. Off-site sewer, water, and drainage costs.**

The subdivider shall be required to pay a pro rata share of the cost of providing reasonable and necessary sewer, water or drainage improvements located outside of the property limits of the land owned or controlled by him whenever the following conditions exist:

- (1) The county determines that such off-site improvements to sewer, water or drainage are necessitated at least in part by the construction or improvement of the subdivision.
- (2) The county or other appropriate authority has established a general sewer, water or drainage improvement program for an area having related and common water, sewer and drainage conditions.
- (3) The subdivider's property is located within said designated area covered by such program.
- (4) The estimated cost of the total water, sewer or drainage improvement program has been determined.
- (5) The estimated water flow, sewage flow or stormwater runoff has been established for the designated area served by such program.

(b) The subdivider's share of the above-estimated cost of improvements shall be limited to the proportion of such estimated cost which the increased water and sewage flow or increased volume and velocity of stormwater runoff to be actually caused by his subdivision bears to the total estimated volume and velocity of such water, sewage or runoff from such area in its fully developed state.

(c) Such payment received by the county shall be expended only for construction of those facilities for which the payment was required, and until so expended shall be held in an interest-bearing account for the benefit of the subdivider; provided, however, that, in lieu of such payment, the county may permit the subdivider to post a bond with surety satisfactory to the county conditioned on payment at commencement of such construction.

**Sec. 19-668. Off-site road improvements.**

A subdivider may voluntarily contribute and the county may accept funds for off-site road improvements substantially generated and reasonably required by the construction or improvement of the subdivision.

**Sec. 19-679. Dedication and reservation of land for public purposes.**

(a) A subdivider may be required to dedicate or reserve land in the following ways:

(1) Up to a maximum of five percent of the land subdivided for public purposes including, but not limited to, parks, playgrounds, well lots, schools, libraries, municipal buildings and similar public or semipublic uses;

(2) Whenever there shall be plans in existence, approved by either the transportation department or by the governing body, for the widening, extension or construction of any street or highway, the commission may require the dedication or reservation of necessary right-of-way, including right-of-way for turn lanes, drainage, sidewalks and bikeways, in order to preserve and protect the planned future right-of-way for such proposed street or highway.

The governing body shall not be required to compensate any owner for such land if the need for the land is substantially generated by the subdivision. No land shall be reserved in such manner that would render it unusable to the subdivider if not used for the intended public purpose. The subdivider may petition the governing body to release the reservation of any land so reserved if not used for a proper purpose within a reasonable time.

(b) A subdivider that provides for the transfer of adequate and suitable land for parks and playgrounds to a subdivision homeowners' or a subdivision recreation association shall not be required to dedicate additional land for parks and playgrounds.

**Sec. 19-6870. Establishment of homeowners association.**

Within any major subdivision approved under this article in which an area is intended to be used in common for recreation and/or conservation, or other public or semipublic purposes, or where other improvements have been made in which operation and/or maintenance is the responsibility of the homeowners, no lot shall be approved, recorded, sold, or used within the development until appropriate documents in a form approved by the county attorney have been executed. Such documents shall set forth the following:



- a. The nature of the permanent organization under which common ownership is to be established, including its purpose, and provisions establishing requirements for mandatory membership;
- b. How it shall be governed and administered;
- c. The provisions made for permanent care and maintenance of the common property or improvements, including bonds when required by the county;
- d. The method of assessing the individual property for its share of the cost of adequately administering and maintaining and replacing such common property; and
- e. The extent of common interest held by the owner of each individual parcel in the tract held in common with others.

**Sec. 19-6971. Entrance feature review.**

The developer shall submit plans for all residential subdivision identification signs, supporting structures, and entrance features to be reviewed with the preliminary subdivision plans under the requirements of article II, division 3 of the zoning ordinance.

**Sec. 19-7072. Stormwater management feature review.**

Stormwater management features shall be screened in accordance with article II, division 4 of the zoning ordinance.

**Sec. 19-713. Shared driveway requirements for minor subdivisions.**

(a) For all minor subdivisions of three or more lots, ~~unless exempted below,~~ direct access from all lots to an ~~the~~ existing arterial road shall be limited to one shared driveway. ~~Such driveway shall be approved by the county engineer, however, at a minimum, in addition to the requirements found in section 19-32(e), said driveway shall be constructed of a paved surface at least ten feet wide and three inches deep. No such subdivision shall be recorded until appropriate documents in a form approved by the county attorney have been executed. Such documents shall set forth the following:~~

- ~~(1) The provisions made for permanent care and maintenance of the shared driveway and any associated easement, including bonds when required by the county; and~~
- ~~(2) The method of assessing the individual property for its share of the cost of adequately administering, maintaining and replacing such shared driveway.~~

*This requirement shall not apply to developed lots within a proposed minor subdivision. However, as long as there are three or more other lots that are undeveloped, this requirement shall apply to those lots. Upon the request of the subdivider, and after finding that such waiver would not adversely affect public health, safety or welfare, the agent may waive this requirement for subdivisions inside the primary service area which are along local roads, as defined.*

~~(b) The requirements in (a) above shall apply only to undeveloped lots with a proposed minor subdivision and shall not apply to any proposed lot that is greater than five acres in size.~~

*(b) Such driveway shall have a paved surface at least ten feet wide consisting of two inches of pavement over four to six inches of stone aggregate. In addition, the shared driveway must meet all applicable transportation department requirements for the portion of the driveway that ties into the public road. A detail*

depicting the driveway specifications shall be included on the subdivision plat. An erosion and sediment control plan and land disturbance permit may be required for the shared driveway, as determined by the engineering and resource protection director.

(c) Such driveway shall be located within a shared access easement that is depicted on the subdivision plat.

(d) No such subdivision shall be recorded until appropriate shared care and maintenance documents in a form approved by the county attorney have been executed. Such documents shall be recorded concurrently with the subdivision plat and shall set forth the following:

- (1) The provisions made for permanent care and maintenance of the shared driveway and any associated easement, including bonds when required by the county; and
- (2) The method of assessing the individual property for its share of the cost of adequately administering, maintaining and replacing such shared driveway.

#### ARTICLE IV. PERFORMANCE ASSURANCES

##### Sec. 19-724. Installation of improvements and bonding.

(a) Prior to approval of the final plat, all publicly or privately maintained and operated improvements which are required by this chapter shall be completed at the expense of the subdivider. Pending such actual completion, the subdivider may obtain final plat approval by providing for completion of the required improvements by entering into an agreement with the county and furnishing to the county a certified check, bond with surety satisfactory to the county, or a letter of credit in an amount to cover the cost of all the improvements required to be installed by the subdivider as estimated by the ~~director of~~ engineering and resource protection ~~director~~. Such documents shall be submitted to the ~~director of~~ engineering and resource protection ~~director~~. The form of the agreement and type of surety shall be to the satisfaction of and approved by the county attorney. The length of time in which the improvements are to be completed shall be determined by the ~~director of~~ engineering and resource protection ~~director~~. If the improvements are not completed in a timely manner, the ~~director of~~ engineering and resource protection ~~director~~ shall proceed to complete the improvements by calling on the surety.

(b) Upon written request by the subdivider, the ~~director of~~ engineering and resource protection ~~director~~ shall make periodic partial releases of surety in a cumulative amount equal to no less than 80 percent of the original amount of the surety based upon the percentage of facilities completed and approved by the county, service authority or state agency having jurisdiction. Periodic partial releases shall not occur before the completion of at least 30 percent of the facilities covered by any surety or after completion of more than 80 percent of said facilities. The ~~director of~~ engineering and resource protection ~~director~~ shall not be required to execute more than three periodic partial releases in any twelve-month period.

(c) Within 30 days after receipt of written notice by the subdivider of completion of part or all of the facilities required to be constructed, the ~~director of~~ engineering and resource protection ~~director~~ shall notify the subdivider of any nonreceipt of approval by an applicable state agency, or of any specified defects or deficiencies in construction and suggested corrective measures. "Written notice" shall consist of a letter from the subdivider to the ~~director of~~ engineering and resource protection ~~director~~ requesting reduction or release of the surety along with a set of as-built plans, if required, and a certificate of completion by a duly licensed engineer.

(d) If no action is taken by the ~~director of engineering and resource protection~~ *director* within the thirty-day period, the request shall be deemed approved and a partial release granted to the subdivider. No final release shall be granted until after expiration of such thirty-day period and there is an additional request in writing sent by certified mail to the county administrator. The ~~director of engineering and resource protection~~ *director* shall act within ten working days of receipt of this request. If no action is taken, the request shall be deemed approved and final release granted to the subdivider.

~~(e) Upon final completion and acceptance of said facilities, the director of engineering and resource protection or his designee shall release any remaining surety to the subdivider. For the purpose of final release, the term "acceptance" is deemed to mean when said public facility is accepted by and taken over for operation and maintenance by the state agency, county government department or agency, or other public authority which is responsible for maintaining and operating such facility upon acceptance. Upon final completion of said facilities, the engineering and resource protection director shall release any remaining surety to the subdivider. For the purposes of final release, completion shall be deemed to mean either:~~

*(1) Acceptance of the public facility for operation and maintenance by the state agency, county government department or agency or other public authority which is responsible for maintaining and operating such facility upon acceptance. This process only applies to those agencies that operate and maintain the applicable systems.*

*(2) Review and approval of the facility's as-builts and construction certifications as required, and acceptable resolution of any field-related deficiencies as determined by the engineering and resource protection director.*

*(f) In instances of multifamily or apartment development that will not involve subdivision of land, required public improvements shall be guaranteed in accordance with section 24-8 and 24-42 of the zoning ordinance. In addition, in instances of conditions attached to a rezoning or amendment to a zoning map, improvements required by the conditions shall be guaranteed in a public improvement bond in accordance with section 24-17 of the zoning ordinance.*

## **RESOLUTION**

### **HOUSING OPPORTUNITIES POLICY**

WHEREAS, the 2009 Comprehensive Plan recognizes the importance of providing housing opportunities which are affordable for homeowners and renters with particular emphasis on households earning 30 to 120 percent of James City County's Area Median Income (AMI); and

WHEREAS, consideration of measures to promote affordable and workforce housing was included as part of the Zoning Ordinance update methodology adopted by the Board of Supervisors in May 2010; and

WHEREAS, the Policy Committee recommended endorsement of the Housing Opportunities Policy to the Planning Commission on X, 2011; and

WHEREAS, the James City County Planning Commission, after a public hearing, recommended approval of the Housing Opportunities Policy on X, 2012 by a vote of 7-0.

NOW THEREFORE, BE IT RESOLVED, that the Board of Supervisors of James City County, Virginia, hereby establishes the following Housing Opportunities Policy in order to identify criteria whereby the provision of workforce housing in residential and multiple-use rezoning cases is done in a consistent manner:

The Housing Section of the 2009 Comprehensive Plan sets the following goal for housing opportunities in the County: *"Achieve high quality in design and construction of all residential development and neighborhood design, and provide a wide range of choices in housing type, density, price range, and accessibility."* In order to address the objectives of this goal, this policy is designed to increase the range of housing choices in the County through the provision of affordable and workforce housing in all rezoning applications that include a residential component.

This policy identifies criteria whereby the provision of affordable and workforce housing (rental and ownership) in residential rezoning cases is consistent yet flexible. Provision of housing at different price ranges is a strategy to achieve the greater housing diversity goal described in the 2009 Comprehensive Plan.

## 1. Definitions

- a. Affordable Housing. Housing available at a sales price or rental amount that does not exceed 30 percent of the total monthly income of households earning between 30 percent and 80 percent of the area median income as determined by the U.S. Department of Housing and Urban Development (HUD).
- b. Workforce Housing. Housing available at a sales price or rental amount that does not exceed 30 percent of the total monthly income of households earning between 80 percent and 120 percent of the area median income as determined by the U.S. Department of Housing and Urban Development (HUD).

## 2. Provision and Integration of Housing Opportunity Dwelling Units

- a. At least 20 percent of a development's proposed dwelling units should be offered for sale or made available for rent at prices that are targeted at households earning 30 to 120 percent of Area Median Income (AMI). Of that 20 percent, the units should be targeted at the AMI ranges specified below:

Units targeted to (percent of AMI):	Percent of the development's proposed dwelling units expected
30 percent – 60 percent	8
Over 60 percent - 80 percent	7
Over 80 percent – 120 percent	5

- b. These units should be fully integrated in the development with regard to location, architectural detailing, quality of exterior materials, and general appearance.

## 3. Applicability of Cash Proffers for Housing Opportunity Dwelling Units

- a. Units targeted at household meeting 30 to 120 percent of AMI will have reduced expectations for cash proffers in accordance with the amounts set forth in the Cash Proffer Policy for Schools adopted by the Board of Supervisors on July of 2007, as amended, other cash proffers related for water and sewer improvements (typically proffered to the James City Service Authority), and other public facility and infrastructure capital improvement program items. The reductions in the expected proffer amounts would be as follows:

Units targeted to (percent of AMI):	Percent cash proffer reduction:
30 percent – 60 percent	100 percent
Over 60 percent - 80 percent	60 percent
Over 80 percent – 120 percent	30 percent



#### 4. Retention of Workforce Housing Opportunity Units over time

- a. For rental units, units must be made available at the targeted rents for a period of at least 30 years.
- b. For-sale units, sales of all targeted units as specified in paragraph one shall include a soft second mortgage payable to the benefit of James City County or third party approved by the Office of Housing and Community Development and the County Attorney's Office. The term of the soft second mortgage shall be at least 50 years. In addition, a provision shall be included in the deed that establishes a County right of first refusal in the event that the owner desires to sell the unit.

#### 5. In-lieu Contribution to the Housing Fund

Applicants may choose to offer cash contributions in-lieu of the provision of the percentages of **affordable and** workforce housing units specified above. Such cash contributions shall be payable to the James City County Housing Fund. The Housing Fund will be used to increase the supply and availability of units targeted at households earning 30 to 120 percent of AMI in the County. If applicants choose to offer a cash contribution in-lieu of construction of the units, the guideline minimum amount per unit shall be:

Units targeted to (percent of AMI):	Cash in-lieu amount
30 percent – 60 percent	The cost to construct a 1,200 square foot dwelling as determined below
Over 60 percent - 80 percent	The cost to construct a 1,200 square foot dwelling as determined below
Over 80 percent - 120 percent	The cost to construct a 1,400 square foot dwelling as determined below

Beginning in February 2013, and continuing in every subsequent February, the Housing and Community Development Director shall establish the average square foot cost to construct a workforce dwelling unit plus the average costs of a lot in the subject development. The construction cost shall be determined based on the cost information provided by at least three builders of workforce dwellings in James City County. If no workforce housing costs are available from James City County builders, the Director at his sole discretion may consult builders from nearby localities.

#### 6. Procedures

- a. For rental units, the developer shall provide assurances in a form acceptable to the County Attorney that the development will provide a statement of rental prices, demonstrating that they are within the specified **affordable and workforce** housing income range, for the proffered units for each year of the 30-year term.

b. For for-sale units, the developer shall offer units at prices that fit within the affordable and workforce housing price range as stated in the definitions<sup>1</sup>, which shall be calculated and made available on an annual basis by the County.

- i. With regard to the soft-second mortgages, the James City County Office of Housing and Community Development (“OHCD”) shall be named beneficiary of a second deed of trust for an amount equal to the sales price of the market rate unit and the sales price of the proffered unit. The soft second shall be a forgivable loan, upon the terms specified in Section 5 above, in a form approved by OHCD and the County Attorney. The soft second deed of trust, the deed of trust note, and the settlement statement shall be subject to the approval of the County Attorney and Housing and Community Development Director prior to closing. The original note and deed of trust and a copy of the settlement statement identifying the net sales price shall be delivered by the closing agent of the OHCD after the deed of trust is recorded and no later than 45 days after closing. If down-payment assistance loans are authorized by OHCD, the lien on the deed of trust for the soft second may be recorded in third priority.
- ii. Owner shall consult with and accept referrals of, and sell to qualified buyers from the OHCD on a noncommission basis.
- iii. Prior to closing, OHCD shall be provided with copies of the HUD deed and the original deed of trust and note for the soft second.

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John J. McGlennon  
Chairman, Board of Supervisors

ATTEST:

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Robert C. Middaugh  
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this X day of X, 2012.

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<sup>1</sup> The prices shall be established based on payment of 30 percent of household income toward housing cost.

**JAMES CITY COUNTY  
DRAFT 2013 LEGISLATIVE PROGRAM**

**Part I.        Legislation to be Introduced on Behalf of the County**

DRAFT



**JAMES CITY COUNTY  
DRAFT 2013 LEGISLATIVE PROGRAM**

**Part II.        Position/Legislation Supported by the County**

2-1.    STATE FUNDING FOR TOURISM

The County urges the General Assembly to increase funding for the Virginia Tourism Corporation (“VTC”) to promote tourism in Virginia generally, and the Historic Triangle in particular.

2-2.    APPLICATION OF TRANSIENT OCCUPANCY TAX TO TRAVEL COMPANIES AND INTERNET SALES

James City County supports a clarification of Virginia Code § 58.1-3819 et seq., to make sure that the transient occupancy tax applies to the entire amount charged for rooms by travel companies and on Internet sales regardless of any discounted rates paid by such companies for such rooms. This would provide equal taxing of room sales by Virginia businesses and Internet sales companies.

2-3.    INTER-CITY RAIL IN SOUTHEAST VIRGINIA

The County supports planning for a commuter rail system from Richmond through the Peninsula to Virginia Beach to connect urban centers for commuters and provide transportation alternatives for tourism.

2-4.    TRANSPORTATION FUNDING

James City County urges the General Assembly to address critical transportation infrastructure needs. Transportation should be addressed as a statewide issue rather than a regional or local issue.

2-5.    MAINTENANCE OF NEW AND EXISTING SECONDARY ROADS

James City County opposes any legislation that would transfer to counties the responsibilities to construct, maintain or operate new or existing roads without adequate state funding.

2-6.    BEHAVIORAL HEALTH AND COMPREHENSIVE SERVICES ACT (“CSA”) FUNDING

James City County urges the General Assembly to: 1) adequately fund the Medicaid waiver program to reduce the waiting list of individuals and families now eligible for services; 2) provide services to children with serious emotional disorders; and 3) to cover reasonable administrative costs for CSA programs. Adequate funding and services will help prevent the mentally ill from being released early from treatment, living on the streets, going to jail, or being inappropriately placed in residential facilities or other government programs.

2-7.    SUBSTANCE ABUSE AND MENTAL HEALTH TREATMENT

James City County supports maintaining State funding for mental health and substance abuse treatment in jails and juvenile detention facilities given the overwhelming percentage of adults and juveniles in the system diagnosed with mental health and/or substance abuse conditions.

2-8. TAX EQUITY BETWEEN CITIES AND COUNTIES

James City County supports equal taxing authority for cities and counties.

2-9. STATE FUNDING FOR PUBLIC EDUCATION, PRE-K, K-12 AND HIGHER EDUCATION

The County supports restoring the funding cuts made to pre-K and K-12 funding. In addition, the County supports restoring the funding cuts made to higher education which could cripple some of the most prestigious higher education institutions in the world, including the College of William & Mary.

2-10. ADEQUATE FUNDING FOR PUBLIC LIBRARIES

James City County supports the State maintaining funding to public libraries to make sure that the State and the localities maintain their proportionate share of funding.

2-11. PROVIDE ADEQUATE FUNDING FOR STATE MANDATES

Given the difficult budget year faced by the Commonwealth and localities, James City County calls upon the General Assembly to oppose unfunded mandates and to reduce existing State mandates commensurate with any reduction in State funding to localities. This is consistent with Governor McDonald's initiative to reduce imposing unfunded mandates on localities.

2-12. MAIN STREET FAIRNESS ACT / STREAMLINED SALES TAX AGREEMENT

James City County supports legislation enabling Virginia to endorse the Streamlined Sales Tax Agreement and to become a full member of the Streamlined Sales Tax Governing Board.

2-13. LOCAL AID TO THE COMMONWEALTH

The County supports legislation that would end "local aid to the Commonwealth."

2-14. LEGISLATIVE PROGRAMS OF THE VIRGINIA MUNICIPAL LEAGUE, THE VIRGINIA ASSOCIATION OF COUNTIES AND THE VIRGINIA COALITION OF HIGH GROWTH COMMUNITIES

James City County supports the legislative programs of the Virginia Municipal League, the Virginia Association of Counties and the Virginia Coalition of High Growth Communities.