

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 12TH DAY OF SEPTEMBER, NINETEEN HUNDRED EIGHTY-EIGHT, AT 7:03 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

A. ROLL CALL

Jack D. Edwards, Chairman, Berkeley District
 Thomas D. Mahone, Vice-Chairman, Jamestown District
 Perry M. DePue, Powhatan District
 Thomas K. Norment, Jr., Roberts District
 Stewart U. Taylor, Stonehouse District

David B. Norman, County Administrator
 Frank M. Morton, III, County Attorney

B. MINUTES - August 22, 1988

Mr. Edwards asked if there were corrections or additions to the minutes.

Mr. Mahone made a motion to approve the minutes as presented.

On a roll call, the vote was AYE: Norment, Taylor, Mahone, DePue, Edwards (5). NAY: (0).

C. PRESENTATIONS

1. NACo Achievement Awards 1988

Mr. Anthony Conyers, Jr., Manager, Community Services, introduced 1) Gerri Robertson, who presented the Transportation - A Key to Unemployment Award to Mr. Edwards; 2) Barbara Gary and Mary Hubbard, with Ms. Gary presenting the Targeted Area Self-Sufficiency Project to Mr. Edwards; 3) Mr. Robert Smith, Management Assistant of James City Service Authority, who presented the Odor Control Program (Abatement) Award to Mr. Stewart Taylor, Chairman of the Board of Directors; and 4) Mr. Robert Key, Police Chief, who in turn, introduced Tommy Hardin, who presented the Partners Against Crime (PAC) to Mr. Edwards.

2. Architectural Gold Medal Design Award, James City County/Williamsburg Recreation Center

Mr. Anthony Conyers introduced Ms. Sandra McPherson, Director of Parks and Recreation, who, on behalf of Wayne Hughes of Hughes Group Architects, Inc., presented the Gold Medal Design Award for the swimming pool at the James City County/Williamsburg Recreation Center to Mr. Edwards.

Ms. McPherson also presented to Mr. Edwards a New Facility Award for 1988 for the James City County/Williamsburg Recreation Center, which was received from Virginia Parks and Recreation Society at its annual conference.

D. PROCLAMATION

1. Voter Registration Month

Mr. Edwards made a motion to approve the resolution.

On a roll call, the vote was AYE: Norment, Taylor, Mahone, DePue, Edwards (5). NAY: (0).

RESOLUTIONVOTER REGISTRATION MONTH

WHEREAS, the vote allows our citizens to show their concern over issues important to them; and

WHEREAS, the vote is the means by which the leaders of our country, the Commonwealth of Virginia and our County are elected.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, does hereby designate September 1988 as

VOTER REGISTRATION MONTH

in James City County and urges all James City County residents, who are eligible, to fully exercise their citizenship and register to vote.

E. PUBLIC HEARINGS1. Case No. Z-9-88. Elizabeth Vaiden

Mr. Marvin Sowers, Jr., Director of Planning, stated that Ms. Elizabeth Vaiden had applied to rezone approximately 1.5 acres from A-2, Limited Agricultural, to B-1, General Business at 3292 Ironbound Road to allow for an antique and gift shop.

Mr. Sowers commented that the Board postponed the case on August 1, and since that time, the applicant had submitted proffers applicable to the case. Staff recommended that this case be referred back to the Planning Commission for consideration.

Mr. Edwards opened the public hearing.

Mr. Norment indicated that he would abstain from voting.

1. Gregory Davis, Esq., Anderson and Franck, representative for the applicant, requested the Board approve the rezoning. He stated that signatures had been obtained from neighbors favoring rezoning, and the applicant has complied with Planning Commission concerns.

2. Sasha Digges, 3612 Ironbound Road, spoke to the rezoning, referring to opposition expressed by citizens regarding a nearby rezoning that his firm had submitted in 1987.

3. Gerald Johnson, 3515 Wimbledon Way, voiced concerns about traffic generated, use of property, and additional business zoning.

4. Larry Cline, Fort Eustis, who recently purchased property in Baron Woods, spoke in opposition to the rezoning, expressing his desire to keep the area in its present state.

5. Paul Brown, associate of Sasha and Ed Digges, spoke in opposition to the change in zoning, stating that rezoning would result in a downgrade of home values in the area.

Mr. Edwards closed the public hearing.

After a brief discussion by the Board that the applicant could use the property under the current zoning by obtaining a special use permit, Mr. Edwards made a motion to deny the application.

On a roll call, the vote was: AYE: Mahone, DePue, Edwards (3).
NAY: Taylor (1) ABSTAIN: Norment.

2. Case No. Z-13-88. Robert B. Wiatt, Jr.

Mr. Sowers stated that Mr. Robert B. Wiatt, Jr., had applied to rezone approximately 1.41 acres from A-1, General Agricultural to B-1, General Business at 7059 Richmond Road, to allow an existing take-out deli and amusement center to install seating for operation as a restaurant.

Mr. Edwards opened the public hearing, and as no one wished to speak, he closed the public hearing.

Mr. DePue made a motion to approve the application.

On a roll call, the vote was AYE: Norment, Taylor, Mahone, DePue, Edwards (5). NAY: (0).

R E S O L U T I O N

CASE NO. Z-13-88. ROBERT B. WIATT, JR.

WHEREAS, in accordance with Section 15.1-431 of the Code of Virginia, and Section 20-15 of the James City County Zoning Ordinance, a public hearing was advertised, adjoining property owners notified and a hearing scheduled on Zoning Case No. Z-13-88 for rezoning 1.41 acres from A-1, General Agricultural, to B-1, General Business on property identified as Parcel (1-10) on James City County Real Estate Tax Map No. (24-1); and

WHEREAS, the Planning Commission following its public hearing on July 26, 1988, unanimously recommended approval of Case No. Z-13-88.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Zoning Case No. Z-13-88.

3. Case No. Z-15-88. George W. Broxton

Mr. Sowers stated that Mr. George W. Broxton had applied to rezone approximately .92 acres from A-2, Limited Agricultural, to M-1, Limited Industrial at 5607 Mooretown Road to allow the development of an electrical contractor's office and warehouse.

Mr. Edwards opened the public hearing, and as no one wished to speak, he closed the public hearing.

Mr. DePue made a motion to approve the application.

On a roll call, the vote was AYE: Norment, Taylor, Mahone, DePue, Edwards (5). NAY: (0).

R E S O L U T I O N

CASE NO. Z-15-88. GEORGE W. BROXTON

WHEREAS, in accord with Section 15.1-431 of the Code of Virginia, and Section 20-15 of the James City County Zoning Ordinance, and public hearing was advertised, adjoining property owners notified and a hearing scheduled and conducted on Zoning Case No. Z-15-88 for rezoning approximately 92 acres from A-2, Limited Agricultural, to M-1, Limited Industrial, on property identified as Parcel (1-6A) on James City County Real Estate Tax Map No. (33-3); and

WHEREAS, in accord with Planning Department's recommendation, the Planning Commission following its public hearing on July 26, 1988, unanimously recommended approval of Case No. Z-15-88 with proffers.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Zoning Case No. Z-15-88 and accepts the voluntary proffers.

4. Case No. Z-16-88. Zoning Ordinance Amendment

Mr. Larry Davis, Assistant County Attorney, stated that the proposed amendments to Chapter 20, Zoning, result from recent action taken by the General Assembly, specifically noting that mobile homes are now identified as manufactured homes if they meet the State Code definition of a manufactured home.

Mr. Edwards opened the public hearing, and as no one wished to speak, he closed the public hearing.

Mr. Norment made a motion to approve the ordinance amendment.

On a roll call, the vote was AYE: Norment, Taylor, Mahone, DePue, Edwards (5). NAY: (0).

5. Case No. SUP-24-88. James City Sanitary Landfill Expansion

Mr. Sowers stated that the James City Service Authority had applied for a Special Use Permit to allow expansion of the James City Sanitary Landfill by a total of 190 acres in A-1, General Agricultural zoning.

Mr. Taylor asked about the use for the five acres located across Jolly Pond Road.

Mr. David Norman, County Administrator, responded that a report would be given to the Board regarding plans for that five acres of property.

Mr. Edwards opened the public hearing, and as no one wished to speak, he closed the public hearing.

After noting that this addition would give the Landfill a useful life span of approximately 55-60 years, Mr. DePue made a motion to approve the special use permit.

On a roll call, the vote was AYE: Norment, Taylor, Mahone, DePue, Edwards (5). NAY: (0).

R E S O L U T I O N

CASE NO. SUP-24-88. JAMES CITY COUNTY SANITARY LANDFILL EXPANSION

WHEREAS, the Board of Supervisors of James City County, has adopted by Ordinance specific land uses that shall be subjected to a special use permit process.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of Special Use Permit No. SUP-24-88 for the operation of a sanitary landfill and operations facilities on 190 acres identified as Parcel (1-2) on James City County Real Estate Tax Map No. (30-2) in accordance with the following conditions:

1. The use and operation of the Landfill shall comply with all State and Federal Regulations.
2. A valid State Department of Waste Management Permit shall be maintained while the Landfill is being operated on this site.
3. The construction, use and operation of the Landfill shall comply with all State Erosion Control and Sedimentation Regulations, as specified in the Virginia Erosion and Sediment Control Handbook.

4. A 100-foot wide, undisturbed buffer strip shall be maintained along the exterior property line of the tract covered by this permit.

6. Ordinance to Authorize Acquisition of Real Property - Alabama Company

Mr. Frank Morton, III, County Attorney, stated this was a follow-up ordinance, after advertisement, of the emergency ordinance adopted at the August 1, 1988, Board of Supervisors' meeting.

Mr. Edwards opened the public hearing.

1. Mr. Gary McAlister, general partner of Alabama Company, expressed disapproval of the County's taking of acreage for the proposed construction of a water system.

Mr. Edwards closed the public hearing.

Mr. Edwards made a motion to approve the ordinance.

Following a brief discussion of the landlocked acreage, Mr. Edwards withdrew the motion, and stated that further discussion would be held during executive session, as recommended by the County Attorney, and without objection, the matter was deferred.

7. Ordinance to Amend and Reordain Chapter 11, Motor Vehicles and Traffic

Mr. Davis stated the proposed amendment to County Code Sections 11.40-1 and 11.40-5 would increase the minimum fine for an uncontested parking ticket for parking in a handicapped parking space to \$50, and add the State law requirement that handicapped parking spaces be identified by an above-grade sign.

Mr. Edwards opened the public hearing, and as no one wished to speak, he closed the public hearing.

After a brief discussion regarding the handicapped regulations in surrounding jurisdictions, Mr. Norment made a motion to approve the ordinance.

On a roll call, the vote was AYE: Norment, Taylor, Mahone, DePue, Edwards (5). NAY: (0).

F. CONSENT CALENDAR

Mr. Edwards asked if any Board member wished to remove any item from the Consent Calendar.

Mr. Norment asked that Item 1 be removed.

Mr. Mahone made a motion to approve Items 2, 3 and 4 of the Consent Calendar.

On a roll call, the vote was AYE: Norment, Taylor, Mahone, DePue, Edwards (5). NAY: (0).

2. Additional Allocation for In-Home Services

R E S O L U T I O N

APPROPRIATION TO THE SOCIAL SERVICES DEPARTMENT

WHEREAS, the State Department of Social Services has provided supplemental funding to render additional services through the In-home Services Program of the local Department of Social Services (Account #007-083-5719).

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the following appropriation amendments:

Revenues:

Revenue From the Commonwealth \$2,520

Expenditures:

In-home Services \$2,520

3. Child Day Care - Fee System

R E S O L U T I O N

APPROPRIATION TO THE SOCIAL SERVICES DEPARTMENT

WHEREAS, the State Department of Social Services has provided supplemental funding to render additional services through the Day Care Fee System Program of the local Department of Social Services (Account #007-083-5720).

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the following appropriation amendments:

Revenues:

Revenue From the Commonwealth \$21,158

Expenditures:

Child Day Care Fee System \$21,158

4. Corn Crop Disaster Assistance

R E S O L U T I O N

CORN CROP DISASTER ASSISTANCE

WHEREAS, agriculture is a vital element of the economic base of James City County; and

WHEREAS, drought conditions have seriously affected the yield of the corn crop in James City County and available resources are insufficient to cope with the effects of the drought.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, respectfully request that the VPI Extension Service, Agriculture Stabilization and Conservation Service and the Farmers Home Administration make available all possible assistance to farmers, for the loss of their corn crop, according to the provisions of the Drought Disaster Assistance Act, Bill No. 5015 approved by the Congress of the United States, on August 9, 1988.

1. Landfill Excavation Contract

Mr. Norment asked whether Key Construction Company had previously worked for the County, and the location of the company.

Mr. David Clark, Solid Waste Manager, replied that Key Construction Company of Clarksville, Virginia had done excavation at the County's Landfill for the past two years.

Mr. Norment made a motion to approve the resolution.

On a roll call, the vote was AYE: Norment, Taylor, Mahone, DePue, Edwards (5). NAY: (0).

RESOLUTION

LANDFILL EXCAVATION CONTRACT

WHEREAS, funds were approved in the FY 89 Landfill Operating Budget for landfill excavation; and

WHEREAS, a Request for Bids was issued, responses evaluated and the low qualified bidder determined for said landfill excavation; and

WHEREAS, it has been determined that Key Construction Company, Inc., has met the qualifications to perform this landfill excavation.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby authorize the County Administrator to enter into a contract with Key Construction Company, Inc., in the amount of \$138,626.63 to perform the landfill excavation.

G. BOARD CONSIDERATIONS

1. Evaluation of York River Crossing Study and Draft Environmental Draft Statement

Ms. Victoria Gussman, Manager, Development Management, recognized Ms. Kay Robertson, staff Planner; Bryant McCormick, Virginia Department of Transportation; Ron Bixby of Parsons Brinkerhoff; and George Homewood, York County Planning staff, in the audience. Ms. Gussman then presented the staff review of the Draft Environmental Impact Statement (DEIS).

Alternative 1 (upriver crossing - bridge and approach roads) extends 11 miles between I-64/Route 646 Interchange in York County and Route 17 west of Ark in Gloucester. Three of the eleven miles would lie within the County between York River at Riverview Plantation subdivision and Barlow's Pond on Newman Road.

Alternative 5 (upriver crossing - bridge and approach roads) would be new construction and lie between Route 17 at Short Lane in Gloucester County and I-64/Route 199 in York County, crossing undeveloped property in Cheatham Annex.

Alternatives 1 and 5 would have the least effect on present traffic congestion, would bring more traffic through James City County, and would reinforce York County plans for future commercial development at the I-64, Exit 55 or 57 interchange areas.

Ms. Gussman concluded that the effect of any York River crossing combined with a James River crossing had not been thoroughly studied, and that Alternative 5 had been endorsed by most local governments and other organizations.

On August 30, 1988, the Planning Commission recommended: support of Alternative 5 in favor of any downriver crossing; stress the need for a four-lane controlled access facility between the I-64 and the bridge; express concerns about the effects of Alternative 1, especially its intrusion on Riverview Plantation subdivision; and request a regional traffic input study.

Following discussion of the resolution, the Board, by consensus, deleted the language, "2. Study the long range regional impact of the crossing alternatives before and after the selection of a preferred alternative."

Mr. Edwards made a motion to approve the amended resolution.

On a roll call, the vote was AYE: Norment, Taylor, Mahone, DePue, Edwards (5). NAY: (0).

YORK RIVER CROSSING STUDY

WHEREAS, the Federal Highway Administration of the U. S. Department of Transportation and the Virginia Department of Transportation have conducted a Draft Environmental Impact Statement for the George P. Coleman Bridge York River Crossing Study; and

WHEREAS, public comments about the Study are being accepted for a limited period; and

WHEREAS, an evaluation of the Study has been conducted and demonstrated Alternative 5 to be consistent with long-range regional transportation needs; and

WHEREAS, The Planning Commission at its work session on August 30, 1988, recommended support of Alternative 5, a new upriver bridge and approach roads between the southern I-64/Route 199 Interchange in York County and Route 17 at Short Lane in Gloucester County.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby express its support for crossing Alternative 5 as a four-lane, controlled access facility.

BE IT FURTHER RESOLVED that the Board of Supervisors of James City County, Virginia, requests that FHWA and VDOT remove Alternative 1 (new upriver bridge and approach roads between I-64/Route 646 Interchange in York County and Route 17 west of Ark in Gloucester County) from further consideration.

2. Proposed Repeal and Replacement of Chapter 3, Animals and Fowls

Mr. Morton stated that the proposed ordinance does not include a provision for inoculation of domestic cats. State Code provisions would be enforced requiring that all domestic cats be vaccinated prior to age four months.

Mr. Edwards made a motion to approve the ordinance.

On a roll call, the vote was: AYE: Norment, Taylor, DePue, Edwards (4). NAY: Mahone (1).

3. Case No. Z-6-88. Mill Creek Landing, Limited

Mr. Sowers stated that Mr. Alvin P. Anderson had applied on behalf of Mill Creek Landing, Limited to rezone approximately 179 acres from R-6, Residential Agricultural, to R-1, Limited Residential, with proffers, located at 324 Neck-O-Land Road. He further stated revised proffers, changing the density from 208 units to 199 units, had been received.

1. Mr. Robert Gilley, 2130 Lake Powell Road, requested consideration of fencing areas along the wetlands area to protect them from dogs.

After the Board commended the staff and developer for the negotiating process and commented on the level of service generated by traffic, the proffer statement, and community concerns, Mr. Norment made a motion to approve the rezoning.

On a roll call, the vote was: AYE: Norment, Taylor, Mahone, Edwards (4). NAY: DePue (1).

R E S O L U T I O N

CASE NO. Z-6-88. MILL CREEK LANDING

WHEREAS, in accordance with Section 15.1-431 of the Code of Virginia, and Section 20-15 of the James City County Zoning Ordinance, a public hearing was advertised, adjoining property owners notified and a hearing scheduled on Zoning Case No. Z-6-88 for rezoning approximately 179 acres from R-6 to R-1 with proffers on property identified as Parcel (1-42) on James City County Real Estate Tax Map No. (47-4); and

WHEREAS, the Planning Commission following its public hearing on March 22, 1988, recommended approval of Case No. Z-6-88, with proffers, by a vote of 8-1.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Zoning Case No. Z-6-88 with proffers.

H. PUBLIC COMMENT

1. Mr. Gerry Belsky, on behalf of the National Democratic Policy Committee, spoke in support of the Ware Creek project.

2. Mr. Ed Riley, 611 Tam O'Shanter, distributed copies to the Board of a health bulletin regarding Lyme disease.

I. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. David Norman, County Administrator, announced a Peninsula Planning District Commission meeting on September 20, to discuss the establishment of a regional refuse authority.

Mr. Norman indicated a need for an executive session for personnel and legal matters, and requested this meeting be recessed until Saturday, September 17, 1988, at 9:00 a.m., at the Recreation Center.

J. BOARD REQUESTS AND DIRECTIVES

Mr. Norment asked for an update on Mr. Sam Noury's manufactured home situation.

Mr. Mahone referred to the memorandum in the reading file regarding the Athletic Field Lighting, and made a motion to change the "lights out" policy from 11:00 p.m to 10:30 p.m.

On a roll call, the vote was: AYE: Mahone, DePue (2). NAY: Norment, Taylor, Edwards (3).

Mr. Norment asked staff to continue working on the swimming pool ordinance.

Mr. Norment asked staff to obtain a plaque honoring the late former sheriff, Mr. Archie Brenegan.

Mr. Mahone expressed a desire to change his vote made at the July 11, 1988, Board of Supervisors' meeting on a rezoning case, and made a motion to rescind action taken on Case No. Z-29-87, Five Forks Associates.

After Board discussion, on a roll call, the vote was: AYE: Taylor, Mahone (2). NAY: Norment, DePue, Edwards (3).

Mr. DePue appealed to City and County citizens to contact their elected representatives and give input regarding the joint school system.

Mr. Edwards made a motion to go into executive session to discuss legal and personnel matters pursuant to Section 2.1-344(a)(1)(6) of the Code of Virginia, 1950, as amended, at 9:40 p.m.

On a roll call, the vote was AYE: Norment, Taylor, Mahone, DePue, Edwards (5). NAY: (0).

Mr. Edwards reconvened the Board into open session at 10:40 p.m.

Mr. Norment nominated Rosalind Byrd to a three-year term on the Parks and Recreation Commission, term expiring April 12, 1991; Mr. Mahone nominated Sara Patton and Gerard Fisher, both to a four-year term on the Lower James River Advisory Committee, terms expiring September 12, 1992; Mr. Edwards reappointed Robert Halpin to a three-year term on the Peninsula Agency on Aging, term expiring September 30, 1991; and reappointed Henry Lindsey to a five-year term on the Wetlands Board, term expiring October 1, 1993.

Mr. Edwards made a motion to approve the nominations and reappointments.

On a roll call, the vote was AYE: Norment, Taylor, Mahone, DePue, Edwards (5). NAY: (0).

Mr. Edwards made a motion to approve upgrading of a Planner I position to Principal Planner.

On a roll call, the vote was AYE: Norment, Taylor, Mahone, DePue, Edwards (5). NAY: (0).

R E S O L U T I O N

PLANNING DEPARTMENT POSITIONS

WHEREAS, the Board of Supervisors of James City County recognizes the need to respond to growth management issues facing the County; and

WHEREAS, the County Administrator has recommended the upgrade of a Planner I position to a Principal Planner to provide additional assistance in the Planning Department in their growth management efforts; and

WHEREAS, the County Administrator has further recommended that the additional funds needed for the proposed position upgrade are available within present allocations in the FY 89 Budget.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors, of James City County, Virginia, approves the position upgrade, and authorizes that the personnel changes be funded from current allocations.

Mr. Edwards made a motion to recess until 9:00 a.m., Saturday, September 17, 1988.

The Board recessed at 10:45 p.m.



David B. Norman
Clerk to the Board

SEP 12 1988

BOARD OF SUPERVISORS
JAMES CITY COUNTY

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 11, MOTOR VEHICLES AND TRAFFIC, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, ARTICLE III, STOPPING, STANDING AND PARKING, SECTION 11-40.1. PARKING SPACES RESERVED FOR HANDICAPPED; SUMMONS FOR UNAUTHORIZED USE; PENALTY; AND SECTION 11-40.5. UNCONTESTED PAYMENT OF PARKING CITATION PENALTIES; CERTIFICATION OF CONTEST OF CITATION.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 11, Motor Vehicles and Traffic, is hereby amended and reordained effective December 1, 1988, by amending Section 11-40.1. Parking spaces reserved for handicapped; summons for unauthorized use, penalty; and Section 11-40.5. Uncontested payment of parking citation penalties; certification of contest of citation.

Chapter 11. Motor Vehicles and Traffic

Article III. Stopping, Standing and Parking

Section 11-40.1. Parking spaces reserved for handicapped; summons for unauthorized use; penalty.

(a) It shall be unlawful for any operator of a motor vehicle to park in a parking space identified by an above-grade sign as reserved for the handicapped except:

1. A person possessing a special handicapped vehicle parking permit issued by the Commissioner of Motor Vehicles pursuant to Section 46.1-254.2 of the Code of Virginia or a person transporting by passenger car, van or pickup truck the holder of any such permit, which permit shall be displayed in the window of the vehicle transporting the holder of the permit in order to permit the vehicle to park lawfully in a parking space reserved for the handicapped;

2. A handicapped person driving a motor vehicle displaying state license plates designated for handicapped persons or a state decal issued to handicapped persons and issued pursuant to Section 46.1-104.1 of the Code of Virginia, or a person transporting a handicapped person in a motor vehicle displaying such license plates or decals; or
3. A disabled veteran driving a motor vehicle displaying special license plates issued pursuant to Section 46.1-149.1 of the Code of Virginia or a person transporting a disabled veteran in a motor vehicle displaying such special license plates.

(b) Any police officer of James City County may issue a summons charging a person parking in violation of subsection (a) of this Section, or, if such person is not known, then the registered owner of the motor vehicle parked in violation of paragraph (a).

(c) Violation of the provisions of paragraph (a) of this section shall be a traffic infraction punishable by a fine of not more than one hundred dollars (\$100.00).

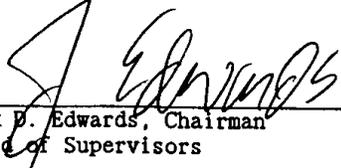
(d) The owner or duly authorized agent of a private parking space, or an agent of a public authority having control of a public space, which space is properly designated and marked for handicapped parking, shall have authority to have any vehicle not displaying handicapped parking permits or plates as described in paragraph (a) removed and stored. Possession may be regained by payment to the person who removed the vehicle of all reasonable costs for the removal and storage. The vehicle owner may contest the removal in the manner provided by Section 46.1-254 (E) of the Code of Virginia. (Ord. No. 66A-9, 5-10-82; Ord. No. 66A-11, 8-8-83)

Section 11-40.5. Uncontested payment of parking citation penalties; certification of contest of citation.

(a) Every person receiving a citation from a law-enforcement officer that he has violated a provision of the County Code regulating parking may waive his right to appear and be tried for the offense set forth in the citation. Such waiver shall be effective upon voluntary payment of ten dollars (\$10.00) to the county treasurer's office, within five (5) days after receipt of the citation, or upon voluntarily placing ten dollars (\$10.00) in a reply mail envelope and mailing it to the county treasurer's office, so that it is postmarked within forty-eight (48) hours after receipt of the citation; provided, however, that any citation for a violation of Section 11-40.1 shall require a voluntary payment of fifty dollars (\$50) to effectuate the aforesaid waiver. Such person shall not thereafter be required to appear before the general district court for trial upon the charge set forth in the citation.

(b) All uncontested parking citations paid under this section shall be accounted for by the county treasurer. All contested parking citations shall be certified in writing, upon an appropriate form, to the general district court by the county treasurer.

(c) Whenever a reply mail envelope is used for transmitting cash, check, draft or money order by mail to the county treasurer's office pursuant to the provisions of this section, the responsibility for receipt of the cash, check, draft or money order by the treasurer shall be that of the registered owner of the vehicle on which the citation was placed. (Ord. No. 66A-19, 7-7-86)



Jack B. Edwards, Chairman
Board of Supervisors

ATTEST:


David B. Norman
Clerk to the Board

<u>SUPERVISOR</u>	<u>VOTE</u>
NORMENT	AYE
TAYLOR	AYE
MAHONE	AYE
DEPUE	AYE
EDWARDS	AYE

Adopted by the Board of Supervisors of James City County, Virginia,
this 12th day of September, 1988.

0224U

ORDINANCE NO. 7A-13

SEP 12 1988

BOARD OF SUPERVISORS
JAMES CITY COUNTY
VIRGINIA

AN ORDINANCE OF THE COUNTY OF JAMES CITY, VIRGINIA, PROVIDING FOR THE REPEAL OF SECTION 3-1 THROUGH SECTION 3-24 OF CHAPTER 3, ANIMALS AND FOWL, BY REPEALING AND REPLACING SAID SECTIONS WITH NEW SECTION 3-1 THROUGH 3-28.

BE IT ORDAINED by the Board of Supervisors of the County of James City Virginia, that Section 3-1 through Section 3-24 are hereby repealed and replaced by enacting and reordaining new Section 3-1. Definitions, Section 3-2. Enforcement of dog laws; animal warden and other officers, Section 3-3. Penalties, Section 3-4. Wild animals not to be brought into or kept within county, Section 3-5. Disposition of carcasses, Section 3-6. Nuisance animals generally, Section 3-7. Running at large prohibited; violations, Section 3-8. Running at large prohibited April 15 through July 15, Section 3-9. Impoundment and redemption of dogs not wearing tags or dogs running at large, Section 3-10. Disposition of impounded dogs not redeemed by owners, Section 3-11. Stray dogs, Section 3-12. Dogs killing or injuring livestock or poultry, Section 3-13. Compensation for livestock and poultry killed by dogs, Section 3-14. Female dogs in season, Section 3-15. Abandonment of dogs prohibited, Section 3-16. Unlicensed dogs prohibited, Section 3-17. Dog license application, Section 3-18. Displaying receipts; door-to-door verification of, Section 3-19. Duplicate license tags, Section 3-20. Annual tax imposed on dogs and kennels; amount of tax, Section 3-21. Annual license tax, when and where due; exemption for certain dogs, Section 3-22. Dog license tags to be worn, Section 3-23. Report of existence of rabid animal, Section 3-24. Vaccination of dogs, Section 3-25. Emergency ordinance requiring confinement or restraint of dogs and cats when rabid animal at large, Section 3-26. Confinement or destruction of dogs or cats showing signs of, or suspected of having, rabies, Section 3-27. Destruction or confinement of dog or cat bitten by rabid animal, and Section 3-28. Confinement or destruction of animal which has bitten a person or has been exposed to rabies.

Chapter 3
Animals and Fowl
Article I. In General

Section 3-1. Definitions.

For the purpose of this chapter, the following words shall have the meaning given herein.

(a) "Owner" shall mean any person who (i) has a right of property in an animal, (ii) keeps or harbors an animal, (iii) has an animal in his care, or (iv) acts as a custodian of an animal.

(b) "Person" shall mean any individual, partnership, firm, joint stock company, corporation, association, trust, estate, or other legal entity.

State Law Reference - Va. Code Section 3.1-796.66.

Section 3-2. Enforcement of dog laws; animal warden and other officers.

Enforcement of this chapter is vested in an animal warden and animal control officers, who shall be appointed pursuant to Virginia Code Section 3.1-796.104.

Section 3-3. Penalties.

Any violation of a provision of this chapter shall be unlawful and punishable by a fine of up to one hundred dollars (\$100.00).

Payment of the annual dog license tax required by this chapter subsequent to a summons to appear before a court for failure to pay such tax within the time specified in Section 3-21 shall not operate to relieve the owner from the penalties provided.

Section 3-4. Wild animals not to be brought into or kept within county.

It shall be unlawful for any person to bring or keep any wild animal within the county; provided, however, that wild animals shall be permitted to be brought into and kept within the county for purposes of exhibit or as a part of a permanent animal show when the wild animals are located within a thematic park situated in the county. As used in this section, "wild animal" means any animal which by nature or disposition is untamed.

Section 3-5. Disposition of carcasses.

The owner of any animal or fowl which has died from any cause shall forthwith cremate or bury the carcass thereof in a lawful and sanitary manner. If he fails to do so within twenty-four hours after notice by the police department, animal warden or other county officer, the county shall have such carcass so disposed of by its own agents or employees, in which event the expenses therefor shall be chargeable to and paid by the owner of such carcass and may be collected as taxes and levies are collected.

State Law reference - Authority of board of supervisors to enact this section, Code of Va., Section 15.1-11(1); additional state law as to disposition of animal and fowl carcasses, Code of Va., Section 18.2-510; additional state law as to disposition of dog carcasses, Code of Va., Section 3.1-796.121.

Section 3-6. Nuisance animals generally.

(a) All animal owners shall exercise proper care and control of their animals to prevent them from becoming a public nuisance. Excessive, continuous or untimely barking, molesting passersby, biting or attacking any person without provocation on one or more occasions, chasing vehicles, habitually attacking other domestic animals, trespassing upon school grounds or trespassing upon private property in such manner as to damage property, shall be deemed a nuisance. Repeated running at large after citation of the owner by the animal warden or any animal control officer shall also be deemed a nuisance.

(b) Any person owning any animal constituting a nuisance shall be summoned before the general district court to show cause why such animal should not be confined, destroyed, removed or the nuisance otherwise abated and, upon proof that the animal constitutes a public nuisance, the animal in question shall, by order of the general district court, either be confined, destroyed, removed or the nuisance otherwise abated as such court shall order. It shall be unlawful and shall constitute contempt of court for any person to harbor or conceal any animal which has been ordered destroyed or removed by the general district court, or to fail to confine or restrain an animal when such an order has been entered by the court.

(c) If the animal control warden or his duly authorized agent has reason to believe that any animal has, without provocation, attacked or bitten any person, said animal may be taken into custody and confined by the animal warden pending determination by the courts pursuant to this section.

(d) Any person who owns any dog, cat or other animal that has been adjudged a nuisance pursuant to this section by the general district court and who appeals that decision to the circuit court shall be responsible for the fees connected with the impounding of the animal by the animal warden. If on appeal the circuit court determines that the dog, cat or other animal is not a nuisance, no such fees for the impounding of the animal shall be imposed.

Article II. Dogs In General

Section 3-7. Running at large prohibited; violations.

(a) Dogs shall not run at large in the County except in those areas zoned A-1, Agriculture, General, and A-2, Agriculture, Limited, provided, however, even within A-1 and A-2 areas dogs shall not run at large in platted subdivisions consisting of five or more lots, of which at least three lots have occupied dwellings, or in manufactured home parks.

(b) For purposes of this Section "at large" shall mean off the premises of the owner and not under the control of the owner, or his agent either by a leash, cord or chain; provided, however, that a dog shall not be considered at large if during the hunting season it is on a bona fide hunt in the company of a licensed hunter or during field trials or training periods when accompanied by its owner.

(c) Any dog observed or captured while unlawfully running at large, without proper identification, shall be disposed of in accordance with sections 3-9 and 3-10.

(d) For any dog identified as to ownership, if such dog can be captured, the owner shall reimburse the county at the rate of four dollars (\$4.00) per day for impoundment, and shall be subject to a fine of not less than fifteen dollars (\$15.00) nor more than one hundred dollars (\$100.00). Owners of dogs not impounded shall be issued a summons for violation of this provision. Each day thereafter that this section is not complied with shall constitute a separate offense.

State Law Reference - Va. Code Section 3.1-796.93

Section 3-8. Running at large prohibited April 15th through July 15th.

Notwithstanding Section 3-7, above, dogs are prohibited from running at large in the county in each calendar year during the period from April 15th to July 15th. During this time all dogs shall be kept on a leash or under direct control of the owner to insure that the dog is not roaming, running or self-hunting off the property of the owner.

The provisions of Subsections (b), (c) and (d) of Section 3-7 shall be likewise applicable to this Section.

State Law Reference - Va. Code Section 3.1-796.93

Section 3-9. Impoundment and redemption of dogs not wearing tags or dogs running at large.

The animal warden and other officers appointed under the provisions of this article are hereby required to impound any dog not wearing a collar with a current dog license tag securely attached thereto as prescribed by Section 3-22 or any dog running at large in violation of Section 3-6 or Section 3-7. Such dogs shall be impounded in a dog pound designated by the board of

supervisors for a period of five days, such period to commence on the day immediately following the day the dog is initially confined in the facility, unless sooner claimed by the owner. During this five-day period, the dog may be returned to its owner, upon proof of ownership, purchase of dog tag and display of rabies vaccination certificate. A charge of four dollars (\$4.00) per day for boarding the dog shall be paid by the owner to the treasurer before the dog may be released. If the rightful owner of any dog confined may be readily identified, the operator or custodian of the pound shall make a reasonable effort to notify the owner of the dog of the dog's confinement within forty-eight hours following its confinement.

State Law Reference - Va. Code Section 3.1-796.96

Section 3-10. Disposition of impounded dogs not redeemed by owners.

If an impounded dog has not been claimed by its owner after five days, the dog may be given to any person who pays the costs of impoundment, vaccination for rabies and license tag; provided, however, that no more than two animals or a family of animals shall be delivered during any thirty-day period to any such person. In the event the rightful owner shall claim such dog at any time, the adopting person shall relinquish possession of such dog to the rightful owner upon being reimbursed any expenses incurred pursuant to such adoption, plus a reasonable fee for the keep of the dog while in his possession. If the animal has not been claimed, it may be humanely destroyed or disposed of by sale or gift to a federal agency, or state-supported institution, agency of the Commonwealth, agency of another state, or a licensed federal dealer, or by delivery to any local humane society or shelter.

No provision set forth in this article shall prohibit the destruction of a critically injured or critically ill animal for humane purposes.

State Law Reference - Va. Code Section 3.1-796.96

Section 3-11. Stray dogs and dangerous dogs.

Any dog running at large and not wearing means to identify its owner, shall be considered a stray. It shall be the duty of the animal warden and animal control officers to capture stray dogs. The animal warden and animal control officers shall use due diligence in performing this duty.

If any dog, whether wearing means to identify its owner or not, poses a substantial and immediate danger to human life or health, and capturing the dog is unreasonable under the circumstances, the animal warden or any animal control officer may, in the exercise of discretion, kill such dog.

Section 3-12. Dogs killing or injuring livestock or poultry.

It shall be the duty of the animal warden or any animal control officer who may find a dog in the act of killing or injuring livestock or poultry to kill such dog forthwith whether such dog bears a tag or not. Any person finding a dog in the act of killing or injuring livestock or poultry shall also have the right to kill such dog on sight. If the animal warden has reason to believe that a dog is killing livestock or poultry, he shall be empowered to seize such dog solely for the purpose of examining such dog in order to determine whether it committed any of the depredations mentioned in this section. The animal warden or any other person, who has reason to believe that a dog is killing livestock, or committing any of the depredations mentioned in this section, shall apply to a magistrate of the county, who shall issue a warrant requiring the owner, if known, to appear before the general district court at a time and place named therein, at which time evidence shall be heard. If it shall appear that the dog is a livestock killer, or has committed any of the depredations mentioned herein, the general district court shall order that the dog be killed immediately by the animal warden or other officer designated by the court.

State Law References - Va. Code Section 3.1-796.116

Section 3-13. Compensation for livestock and poultry killed by dogs.

Any person who has any livestock or poultry killed or injured by any dog not his own shall be entitled to receive as compensation the fair market value of such livestock or poultry not to exceed four hundred dollars (\$400.00) per animal or fowl, provided that: (i) the claimant has furnished evidence within sixty days of discovery of the quantity and value of the dead or injured livestock and the reasons the claimant believes that death or injury was caused by a dog; (ii) the animal warden or other officer shall have been notified of the incident within seventy-two hours of its discovery; and (iii) the claimant first has exhausted his legal remedies against the owner, if known, of the dog doing the damage for which compensation under this section is sought. Exhaustion shall mean a judgment against the owner of the dog upon which an execution has been returned unsatisfied. Upon payment under this section, James City County shall be subrogated to the extent of compensation paid to the right of action to the owner of the livestock or poultry against the owner of the dog and may enforce the same in an appropriate action at law.

State Law Reference - Va. Code Section 3.1-796.118

Section 3-14. Female dogs in season.

It shall be unlawful for the owner of any unspayed female dog to permit such dog to be outside the confined premises of the owner's yard or lot while such dog is "in season," unless such dog is on a leash and under the control of a responsible person capable of physically restraining the dog.

Section 3-15. Abandonment of dogs prohibited.

It shall be unlawful for any person to abandon any dog within the County.

State Law Reference - Va. Code Section 3.1-796.73

Article III. Dog Licenses*

Section 3-16. Unlicensed dogs prohibited.

It shall be unlawful for any person to own a dog four months old or older in the county unless the dog is licensed, as required by the provisions of this article.

*State Law Reference - Authority of Local Governing Bodies and Licensing of Dogs, Code of Va., Section 3.1-796.84 et seq.

Section 3-17. Dog license application.

(a) Every owner of a dog over the age of four months owned, possessed or kept in the County of James City shall obtain a dog license by making an oral or written application with the county treasurer, or his designee.

(b) Each application for a dog license shall be accompanied by the amount of license tax required by this article and a rabies vaccination certificate which shall not expire prior to July 1st of the license period; provided, however, a current rabies vaccination certificate issued by a licensed veterinarian within twelve months of the license application date shall be accepted even if the expiration of the rabies vaccination certificate occurs between January 1st and July 1st of the license period.

(c) The treasurer, or his designee, shall only have authority to license dogs of resident owners who reside within the boundary limits of the county and may require information to this effect from any applicant. Upon receipt of proper application and rabies vaccination certificate as required by this chapter, the treasurer, or his designee, shall issue a license receipt for the amount on which he shall record the name and address of the owner, the date of payment, the year for which issued, the serial number of the tag, whether male, unsexed female, female or kennel, and deliver the metal license tags or plates provided for herein. Such tags shall be stamped or otherwise permanently marked to show the name of the county, the sex of the dog, the calendar year for which issued and bear a serial number.

(d) The information thus received shall be retained by the treasurer, open to public inspection during the period for which such license is valid. All unsold tags shall be recorded and the unissued tags destroyed by the treasurer at the end of the dog tax year.

State Law Reference - Va. Code Section 3.1-796.86

Section 3-18. Displaying Receipts; door-to-door verification of.

Dog license receipts shall be carefully preserved by licensees and exhibited promptly upon request for inspection by the animal warden or other officer of the County. The animal warden or other duly appointed officers may check such receipts door-to-door at any time during the license year.

State Law Reference - Va. Code Section 3.1-796.92

Section 3-19. Duplicate license tags.

If a dog license tag should become lost, destroyed or stolen, the owner shall at once apply to the county treasurer, or his designee, for a duplicate license tag, presenting the original license receipt. Upon affidavit of the owner before the county treasurer, or his designee, that the original license tag has been lost, destroyed or stolen, the treasurer shall issue a duplicate license tag which shall be immediately affixed to the collar of the dog by its owner. The treasurer, or his designee, shall endorse the number of the duplicate license tag and the date of issuance on the face of the original license receipt. The fee for a duplicate tag for any dog shall be one dollar (\$1.00).

State Law Reference - Va. Code Section 3.1-796.91

Section 3-20. Annual tax imposed on dogs and kennels; amount of tax.

There is hereby imposed an annual dog license tax upon all dog kennels and all dogs over the age of four months which are owned, possessed or kept in the county, as follows:

All dogs regardless of sex	\$ 4.00
Kennel for up to 10 dogs	10.00
Kennel for 11 to 20	15.00
Kennel for over 20 dogs	25.00
Duplicate for lost, destroyed or stolen tags	1.00

State Law Reference - Va. Code Section 3.1-796.87

Section 3-21. Annual license tax, when and where due; exemption for certain dogs.

(a) The license tax levied by Section 3-20 shall be due on January 1st and payable not later than January 31st of each year. Payment of the license tax shall be made to the county treasurer, or his designee.

(b) If a dog shall become four months of age or come into the possession of any person between January 1 and November 1 of any year, the license tax for the current calendar year shall be paid by the owner.

(c) If a dog shall become four months of age or come into the possession of any person between October 31 and December 31 of any year, the license tax for the succeeding calendar year shall be paid by the owner and this license shall protect the dog from the date of purchase.

(d) There shall be no charge for the tag of any dog that is trained and serves as a guide dog for a blind person or that is trained and serves as a hearing dog for a deaf or hearing impaired person. As used in this section, "hearing dog" means a dog trained to alert its owner by touch to sounds of danger and sounds to which the owner should respond.

State Law Reference - Va. Code Sections 3.1-796.87, 3.1-796.88

Section 3-22. Dog license tags to be worn.

Dog license tags shall be securely fastened to a substantial collar by the owner and worn by such dog. It shall be unlawful for the owner to permit any licensed dog to run or roam at large at any time without a license tag. The owner of the dog may remove the collar and license tag required by this section (i) when the dog is engaged in lawful hunting, (ii) when the dog is competing in a dog show, (iii) when the dog has a skin condition which would be exacerbated by the wearing of a collar, (iv) when the dog is confined, or (v) when the dog is under the immediate control of its owner.

State Law Reference - Va. Code Section 3.1-796.92

Article IV. Rabies Control

Section 3-23. Report of existence of rabid animal.

Every person having knowledge of the existence of an animal apparently afflicted with rabies shall report immediately to the health department the existence of such animal, the place where seen, the owner's name, if known, and the symptoms suggesting rabies.

State Law Reference - Va. Code Section 3.1-796.98

Section 3-24. Vaccination of dogs.

(a) It shall be unlawful for any person to own, keep, hold or harbor any dog over the age of four months within the County, unless such animal has been inoculated against rabies and has a current rabies vaccination certificate issued by a licensed veterinarian. The vaccine used shall be licensed by the United States Department of Agriculture for use in that species. If, however, such vaccination would threaten the physical well-being of such animal, the owner of such animal shall obtain a certificate, signed by a licensed veterinarian, certifying such fact, and the owner shall keep such animal in quarantine until the same is vaccinated.

(b) Any person transporting a dog into the county from some other jurisdiction shall comply with the requirements of subsection (a) of this section within thirty days subsequent to bringing such animal into the county.

(c) A veterinarian vaccinating a dog as required by this section shall issue to the owner of the animal a rabies vaccination certificate showing:

- (1) Date of vaccination;
- (2) Expiration date of vaccination;
- (3) Sex and breed of the animal;
- (4) The animal's weight, color and marks;
- (5) Name of the owner;
- (6) Amount and kind of vaccine injection; and
- (7) Method of injection.

(d) Rabies vaccination certificates shall be carefully preserved by owners of dogs and exhibited promptly upon request for inspection by the animal warden or other officer of the County. The animal warden or other duly appointed officers may check such certificates door-to-door at any time during the year.

State Law Reference - Va. Code Section 3.1-796.97:1

Section 3-25. Emergency ordinance requiring confinement or restraint of dogs and cats when rabid animal at large.

When there is sufficient reason to believe that a rabid animal is at large, the board of supervisors shall have the power to pass an emergency ordinance, which shall become effective immediately upon passage, requiring owners of all dogs and cats in the county to keep the same confined on their premises, unless leashed under restraint of the owner in such a manner that persons or animals will not be subject to the danger of being bitten by the

rabid animal. Any emergency ordinance enacted pursuant to the provisions of this section shall be operative for a period not to exceed thirty days, unless renewed by the board of supervisors.

State Law Reference - Va. Code Section 3.1-796.98

Section 3-26. Confinement or destruction of dogs or cats showing signs of, or suspected of having, rabies.

At the discretion of the director of health, dogs or cats showing active signs of rabies or suspected of having rabies shall be confined under competent observation for such a time as may be necessary to determine a diagnosis. The director of health shall determine the location and conditions of confinement for such animal. If confinement is impossible or impracticable, such dog or cat shall be euthanized by one of the methods prescribed or approved by the state veterinarian, as provided in Virginia Code Section 3.1-796.96.

State Law Reference - Va. Code Section 3.1-796.98

Section 3-27. Destruction or confinement of dog or cat bitten by rabid animal.

Any dog or cat for which no proof of current rabies vaccination is available, and which is exposed to rabies through a bite, or through saliva or central nervous system tissue, in a fresh open wound or mucous membrane, by an animal believed to be afflicted with rabies shall be confined in a pound, kennel or enclosure approved by the health department for a period not to exceed six months, at the expense of the owner; however, if this is not feasible, the dog or cat shall be euthanized by one of the methods approved by the state veterinarian as provided in Virginia Code Section 3.1-796.96. A rabies vaccination shall be administered prior to release. Inactivated rabies vaccine may be administered at the beginning of confinement. Any dog or cat so bitten, or exposed to rabies through saliva or central nervous system tissue, in a fresh open wound or mucous membrane with proof of a valid rabies vaccination, shall be revaccinated immediately following the bite and shall be confined to the premises of the owner, or other site as may be approved by the health department, for a period of ninety days.

State Law Reference - Va. Code Section 3.1-796.98

Section 3-28. Confinement or destruction of animal which has bitten a person or has been exposed to rabies.

At the discretion of the director of health, any animal which has bitten a person shall be confined under competent observation for at least ten days, unless the animal develops active symptoms of rabies or expires before that time; provided, that a seriously injured or sick animal may be humanely

euthanized as provided in Virginia Code Section 3.1-796.96 and its head sent to the health department for evaluation. The director of health shall determine the location and conditions of confinement for such animal.

When any animal, other than a dog or cat, exposes a person to rabies through a bite, or through saliva or central nervous system tissue, in a fresh open wound or mucous membrane, that animal shall be confined at the discretion of the health director in a manner approved by the health department or humanely euthanized as provided in Section 3.1-796.96 of the Virginia Code and its head sent to the Division of Consolidated Laboratory Services of the Department of General Services or the local health department for evaluation.

When any animal, other than a dog or cat, is exposed to rabies through a bite, or through saliva or central nervous system tissue, in a fresh open wound or mucous membrane, by an animal believed to be afflicted with rabies, that newly exposed animal shall be confined at the discretion of the health director in a manner approved by the health department or humanely euthanized as provided in Section 3.1-796.96 of the Virginia Code.

State Law Reference - Va. Code Section 3.1-796.98



Jack D. Edwards, Chairman
Board of Supervisors

ATTEST:



David B. Norman
Clerk to the Board

<u>SUPERVISOR</u>	<u>VOTE</u>
NORMENT	AYE
TAYLOR	AYE
MAHONE	NAY
DEPUE	AYE
EDWARDS	AYE

Adopted by the Board of Supervisors of James City County, Virginia,
this 12th day of September, 1988.

0210U

consideration of James City County, Virginia, rezoning the Property from the Existing Zoning to the Proposed Zoning and pursuant to Section 15.1-491 of the Code of Virginia, 1950, as amended, and Section 20-18 of the Zoning Ordinance of James City County, Virginia, the Owner agrees that in addition to the regulations provided and the Proposed Zoning, they shall meet and comply with all of the following conditions of the development of the Property:

CONDITIONS

Prior to the utilization of the Property as permitted in the Proposed Zoning regulations, the Owner shall cause the existing improvements on the Property to be altered and/or relocated to meet the setback requirements of the Proposed Zoning and connect said improvements to public water.

George W. Broxton
GEORGE W. BROXTON

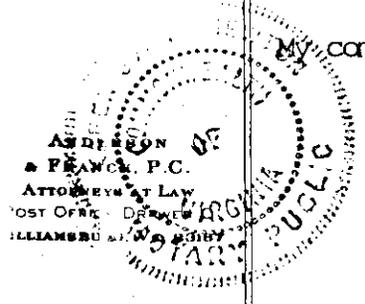
Janie F. Broxton
JANIE F. BROXTON

STATE OF VIRGINIA
COUNTY OF JAMES CITY, to-wit:

The foregoing instrument was acknowledged before me this 1st day of September, 1988, by George W. Broxton.

Karen S. Dewitt
NOTARY PUBLIC

My commission expires: June 8, 1990



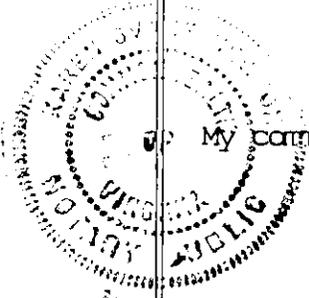
STATE OF VIRGINIA

COUNTY OF JAMES CITY, to-wit:

The foregoing instrument was acknowledged before me this 1st day of September, 1988, by Janie F. Broxton.

Karen Spent
NOTARY PUBLIC

My commission expires: June 8, 1990



VIRGINIA: City of Williamsburg and County of James City, to wit:
In the Clerk's office of the Circuit Court of the City of Williamsburg and County of James City the 16 day of SEPT, 1988. This AGREE was presented with certificate annexed and admitted to record at 1203 o'clock
Teste: Helene S. Ward, Clerk
by Helene S. Ward
Deputy Clerk

10,654

AGREEMENT

WHEREAS, Mill Creek Landing, Ltd., a Virginia corporation (hereinafter called "the Owner") owns certain real property in James City County, Virginia, (hereinafter called "the Property") and more particularly described as follows:

All those tracts pieces or parcels of land situate, lying and being in James City County, Virginia, and designated as Parcel "A", containing 178.72 acres and Parcel "B":, containing 0.44 acres, being two of the parcels shown and set forth on a certain plat of survey entitled "A SURVEY FOR CONVEYANCE - JAMES F. AYERS ET ALS. TO UVB OF WMSBG., TR.- PART OF NECK-O-LAND FARM, LYING IN JAMESTOWN DISTRICT, JAMES CITY COUNTY, VIRGINIA" dated January 6, 1970, revised February 2, 1970 and August 4, 1970, made by L.V. Woodson & Associates, Engineers & Surveyors, and recorded in the Clerk's Office of the Circuit Court for the City of Williamsburg and County of James City, Virginia, in Plat Book 27, Page 43, to which plat reference is hereby made.

Subject, however, to all restrictive covenants, conditions, easements and limitations of record or apparent on the ground.

Together with all right, title and interest in and to easements, rights of way, roads and lanes located on or adjacent to the property that may run with or be appurtenant to the land hereby conveyed, including but not limited to those accesses and rights of way leading to and from the property to Virginia State Road No. 682, as shown on the aforesaid plat.

It being the same property conveyed to the Owner by Deed dated June 19, 1986 from Reybold Homes, Inc., a Delaware Corporation, recorded June 30, 1986 in James City County Deed Book 306, Page 709.

WHEREAS, the Owner has applied for a rezoning of the Property from the Residential Agriculture District, R-6 ("the Existing Zoning") to the Limited Residential District, R-1 all pursuant to Section 20-149 through 20-158 of the Zoning Ordinance of James City County, Virginia ("the Proposed Zoning"); and

WHEREAS, James City County, Virginia may be unwilling to rezone

approval by James City County, Virginia, a Phase I archaeological study for the Property. A Phase I study shall include reconnaissance, systematic surface collection and shovel test pits every 90 to 150 feet.

4. The Property shall not be subdivided into more than One Hundred Ninety Nine (199) single family dwelling lots plus associated recreational and common area lots.

5. No dwelling erected on the Property shall be erected within the 100 year flood plain area.

6. The Owner, at its expense, shall incorporate in its subdivision plans of the Property, a fifty (50) foot landscape buffer on that portion of the Property within four hundred (400) feet of and facing the property known as the Colonial National Historic Park, within which buffer, the Owner, at its expense, shall provide an evergreen landscape buffer, twenty five (25) feet in width, utilizing existing, transplanted or new evergreen trees, as needed, to effect a permanent evergreen landscape screen between the Property and the Colonial National Historic Park, which landscaping shall be approved by the Subdivision Review Committee of the James City County Planning Commission.

7. The subdivision plans of the Property shall have not more than two (2) entrance roads from the Property to Neck-O-Land Road.

8. The subdivision plans of the Property shall provide for an internal road connecting each of the two (2) adjacent properties to the Property.

9. The Owner, at its expense, shall relocate the drainage ditches, if necessary, and widen that portion of the pavement of Neck-

O-Land Road adjacent to and fronting the Property to a total width of twenty two (22) feet, all of which improvements shall be within the Property and the existing right-of-way of said road. The said improvements shall be installed at such time as may be prescribed by the Virginia Department of Transportation.

10. The Owner, at its expense, shall construct a left turn lane within and from Neck-O-Land Road to the Property, all of which improvements shall be within the Property and the existing right-of-way of said road. The said improvements shall be installed at such time as may be prescribed by the Virginia Department of Transportation.

11. Where trees are removed from the Property in the Owner's performance of the obligations imposed pursuant to conditions numbered nine (9) and ten (10), said area shall be replanted with plantings as may be reasonably appropriate and approved by the Subdivision Review Committee for the James City County Planning Commission.

MILL CREEK LANDING, LTD.

By: Larry Cooke - Agent

STATE OF VIRGINIA

COUNTY OF JAMES CITY, to-wit:

The foregoing instrument was acknowledged before me this 12th day of September, 1988, by Larry Cooke, Agent of and on behalf of Mill Creek Landing, Ltd.

Allison H. Chey
Notary Public

VIRGINIA: City of Williamsburg and County of James City, to-wit:

My commission expires: 2/7/89

In the Clerk's office of the Circuit Court of the City of Williamsburg and County of James City the 16 day of SEPT, 1988. This AGREE

was presented with certificate annexed and admitted to record at 12:05 o'clock

Teste: Richard S. Ward, Clerk

By: [Signature]
Deputy Clerk

BOARD OF SUPERVISORS
JAMES CITY COUNTY
VIRGINIA

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 20, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, ARTICLE I. IN GENERAL, SECTION 20-2, DEFINITIONS, SECTION 20-8, SPECIAL USE PERMITS, SECTION 20-9, PUBLIC HEARINGS REQUIRED, SECTION 20-10, REGULATIONS FOR MOBILE HOMES REQUIRING SPECIAL USE PERMITS, SECTION 20-12 MINIMUM OFF-STREET PARKING, SECTION 20-18, PROFFER OF CONDITIONS; ARTICLE II. SITE PLAN, SECTION 20-35, CERTAIN PLANS SUBJECT TO REVIEW BY PLANNING COMMISSION, SECTION 20-42, TRANSITIONAL SCREENING REQUIREMENTS; ARTICLE III. MOBILE HOME PARKS, SECTION 20-61, STATEMENT OF INTENT, SECTION 20-62, AREA REQUIREMENTS, SECTION 20-64, MINIMUM SETBACK REQUIREMENTS, SECTION 20-65, MINIMUM YARD REQUIREMENTS, SECTION 20-66, UNDERGROUND UTILITIES, SECTION 20-67, STREETS REQUIRED, SECTION 20-68, STORM DRAINAGE, SECTION 20-69, OFF-STREET PARKING REQUIRED, SECTION 20-70, FIRE HYDRANTS REQUIRED, SECTION 20-71, STREETLIGHTS REQUIRED, SECTION 20-72, SOLID WASTE DISPOSAL, SECTION 20-73, RECREATION AREA REQUIRED, SECTION 20-74, APPLICABILITY OF VIRGINIA UNIFORM STATEWIDE BUILDING CODE, SECTION 20-75, SITE PLAN REQUIRED; ARTICLE IV. DISTRICTS, DIVISION 1. GENERALLY, SECTION 20-87, DIVISION OF UNINCORPORATED AREAS INTO DISTRICTS, SECTION 20-95, TEMPORARY MOBILE HOMES, SECTION 20-98, SPECIAL REQUIREMENTS FOR MOBILE HOMES; DIVISION 2. GENERAL AGRICULTURAL DISTRICT, A-1, SECTION 20-111, USES PERMITTED BY SPECIAL USE PERMIT ONLY; DIVISION 3. LIMITED AGRICULTURAL DISTRICT, A-2, SECTION 20-131, USES PERMITTED BY SPECIAL USE PERMIT ONLY; DIVISION 10. MOBILE HOME SUBDIVISION DISTRICT, R-7, SECTION 20-284, STATEMENT OF INTENT, SECTION 20-285, PERMITTED USES, SECTION 20-286, USES PERMITTED BY SPECIAL USE PERMIT ONLY, SECTION 20-293, SIGN REGULATIONS, SECTION 20-294, MINIMUM SITE SIZE, SECTION 20-295, PERIMETER LANDSCAPING REGULATIONS; DIVISION 13. LIMITED

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BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 20, Zoning, is hereby amended and reordained by amending Article I. In General, Sections 20-2, Definitions, Section 20-8, Special use permits, Section 20-9, Public hearings required, Section 20-10, Regulations for manufactured homes requiring special use permits, Section 20-12 Minimum off-street parking; Section 20-18, Proffer of Conditions; Article II. Site plan, Section 20-35, Certain plans subject to review by planning commission, Section 20-42, Transitional screening requirements; Article III. Manufactured home parks, Section 20-61, Statement of intent, Section 20-62, Area requirements, Section 20-64, Minimum setback requirements, Section 20-65, minimum yard requirements, Section 20-66, Underground utilities, Section 20-67, Streets required, Section 20-68, Storm drainage, Section 20-69, Off-street parking required, Section 20-70, Fire hydrants required, Section 20-71, Streetlights required, Section 20-72, Solid waste disposal, Section 20-73, Recreation area required, Section 20-74, Applicability of Virginia Uniform Statewide Building Code, Section 20-75, Site

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ZONING ORDINANCE

JAMES CITY COUNTY, VIRGINIA

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BUILDING, MAIN. The principal structure or one of the principal buildings on a lot, or the building or one of the principal buildings housing the principal use on the lot.

CAMPGROUND. Any area, place, parcel or tract of land of four acres or more on which three or more campsites are occupied or intended for occupancy, or facilities are established or maintained, wholly or in part, for the accommodation of camping units for periods of overnight or longer, whether the use of the campsites and facilities is granted gratuitously, or by rental fee, lease, or conditional sale, or by covenants, restrictions and easements, "Campground" includes but is not limited to a travel camp, recreation camp, family campground, camping resort, recreational vehicle park and camping community. "Campground" does not include a summer camp, migrant labor camp, or park for manufactured homes as defined in sections 32.1-203, 35-1.1 and 36.71 of the Code of Virginia, or a construction camp, storage area for unoccupied camping units, or property upon which the individual owner may choose to camp and not be prohibited or encumbered by covenants, restrictions, and conditions for providing his sanitary facilities within his property lines.

CAMPING UNIT. A tent, tent trailer, travel trailer, camping trailer, pickup camper, motor home, recreational vehicle or any other commonly used temporary shelter device used as temporary living quarters or shelter during periods of recreation, vacation, leisure time or travel. To qualify as a camping unit, vehicular and mobile units shall be eligible to be currently licensed and registered by a governmental body and be legal to travel on Virginia highways without special permits for size, weight or other reasons. For purposes of this definition, temporary shelter device shall mean a unit not occupied by the same persons in the campground for more than thirty days in any sixty day period. A mobile home or manufactured home shall not be considered a camping unit.

CAMPSITE. Any plot of ground within a campground used or intended for occupation by the camping unit.

CELLAR. A story having more than one-half of its height below grade and which may not be occupied for dwelling purposes.

COMMISSION, THE. The Planning Commission of James City County, Virginia.

CONDOMINIUM. A building, or group of buildings, in which units are owned individually, and the structure, common areas, and common facilities are owned by all the owners on a proportional, undivided basis.

CONVENIENCE STORE. A single store, the ground floor area of which is four thousand square feet or less and which offers for sale, primarily, most of the following articles: Bread, milk, cheese, canned and bottled foods and drinks, tobacco products, candy, papers and magazines, and general hardware articles. Gasoline may also be offered for sale but only as a secondary activity of a convenience store.

DAIRY. A commercial establishment for the manufacture, processing, distribution and sale of dairy products.

DAY CARE OR CHILD CARE CENTER. An establishment offering group care to six or more children away from their own home for any part of a day.

DIAMETER BREAST HEIGHT. The diameter of a tree trunk measured 4.5 feet from the ground.

LOT LINE, REAR. The lot line opposite and most distant from the front lot line; or in the case of triangular or otherwise irregularly shaped lots, a line ten feet in length entirely within the lot, parallel to and at a maximum distance from the front lot line.

LOT, WIDTH OF. The horizontal distance between side lot lines measured at the setback line.

LOT OF RECORD. A lot which has been recorded in the Clerk's Office of the Circuit Court.

MANUFACTURE; MANUFACTURING. The assembly of components, pieces or sub-assemblies, or the processing or converting, of raw, unfinished materials, or products into articles or substances of different character, or for use for a different purpose.

MANUFACTURED HOME. A manufactured home is a structure subject to federal regulation, which is transportable in one or more sections; is eight body feet or more in width and forty body feet or more in length in the traveling mode, or is 320 or more square feet when erected on site; is built on a permanent chassis; is designed to be used as a single-family dwelling, with or without a permanent foundation, when connected to the required utilities; and includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure.

MANUFACTURED HOME PARK. A lot or parcel, not part of a manufactured home subdivision, on which are located or which are arranged or equipped for the accommodation of three or more manufactured homes occupied as single-family dwellings.

MEDICAL CLINIC. An establishment where patients are admitted for examination and treatment by one or more physicians, dentists or psychologists and where patients are not usually lodged overnight. "Medical clinic" includes a facility known as surgical out-patient clinic.

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, 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.)

MOTEL. One or more buildings containing individual sleeping rooms, designed for or used temporarily by automobile tourists or transients, with garage or parking space conveniently located to each unit. Cooking facilities may be provided for each unit.

NET DEVELOPABLE AREA. The total gross land area of a site minus stream beds, areas subject to flooding, marsh, and areas with slopes exceeding twenty-five percent gradient.

NONCONFORMING LOT. An otherwise legally platted lot that does not conform to the minimum area or width requirements of this Chapter for the district in which it is located either at the effective date of this Chapter or as a result of subsequent amendments to the Chapter.

NONCONFORMING ACTIVITY OR USE. The otherwise legal use of a building or structure or of a tract of land that does not conform to the use regulations of this Chapter for the district in which it is located, either at the effective date of this Chapter or as a result of subsequent amendments to the Chapter.

NONCONFORMING BUILDING OR STRUCTURE. An otherwise legal building or structure that does not conform with the lot area, yard, height, lot coverage, or other area regulations of this Chapter, or is designed or intended for a use that does not conform to the use regulations of this Chapter for the district in which it is located, either at the effective date of this Chapter, or as a result of subsequent amendments to the Chapter.

NURSING HOME. Any facility or any identifiable component of any facility in which the primary function is the provision, on a continuing basis, of nursing services and health-related services for the treatment and inpatient care of two or more nonrelated individuals, including facilities known by varying nomenclature or designation such as convalescent homes, skilled care facilities, intermediate care facilities, extended care facilities and infirmaries.

OFF-STREET PARKING AREA. Space provided for vehicular parking outside the dedicated street right-of-way.

OPEN SPACE. Space suitable for recreation, gardens or landscaping which may include areas left in their natural state, trails, ponds, stream banks, recreation areas, areas of excessive slopes, low-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.

PARCEL. A contiguous area of land described in a single description as one of a number of lots on a plat; separately owned, either publicly or privately; and capable of being separately conveyed.

PARKS AND PLAYGROUNDS. Land set aside for nonprofit activities of a recreational nature such as fishing, boating, swimming, camping, hiking, picnicking, outdoor games, and sports incidental to the foregoing.

PARKING AREA. Any public or private land area or structure designed and used for parking motor vehicles including parking lots, garages, private driveways and legally designated areas of public streets.

PARKING LOT. An off-street, outdoor area, usually surfaced and improved, for the parking of motor vehicles.

PEN. A small enclosure used for the concentrated confinement and housing of animals or poultry; a place for feeding and fattening animals; a coop. Enclosed pasture or range with an area in excess of one hundred (100) square feet for each hog or small animal or 200 square feet for each larger animal shall not be regarded as a pen.

PRINCIPAL RESIDENTIAL USE. A single-family dwelling, including a mobile home, manufactured home and a modular home; a two-family dwelling; or a multiple-family dwelling. The occupancy of a building by a caretaker or watchman for sleeping quarters shall not constitute a principal residential use.

In order to provide for good zoning practices, the purpose the Zoning District seeks to accomplish, to provide for adjustments in the relative location of uses and buildings of the same or different classification, and to promote the usefulness of these regulations, Special Use Permits, limited as to location by the District regulations are permitted as set forth under the terms of this Chapter. In considering an application for a Special Use Permit in those Districts allowing them, the Planning Commission and the Board of Supervisors shall give due regard to the James City County Comprehensive Plan, the nature and condition of adjacent uses and structures, and the probable effect upon them of the proposed exception. They shall also take into account the special characteristics, design, location, construction, methods and hours of operation, effect on traffic conditions, or any other aspects of the particular use or structure that may be proposed by the applicant. The Planning Commission and the Board of Supervisors should consider whether the proposed establishment or use will adversely affect the health, safety, or welfare of persons residing or working on the premises or in the neighborhood, will unreasonably restrict an adequate supply of light and air to adjacent property, will increase congestion in the streets, will increase public danger from fire, will impair the character of the District or adjacent Districts, will be incompatible with the Comprehensive Plan of James City County, will likely reduce or impair the value of buildings or property in surrounding areas, and whether such establishment or use will be in substantial accordance with the general purpose and objectives of this Chapter. After a public hearing if the Planning Commission determines the above considerations have been protected, the Planning Commission shall recommend to the Board of Supervisors that the Special Use Permit be granted. The Board of Supervisors shall consider the recommendation of the Planning Commission and after a public hearing and a determination that the above considerations have been protected shall grant the Special Use Permit. In those instances where the Planning Commission or the Board of Supervisors find that the proposed use may be likely to have an adverse affect, they shall determine whether such affect may be avoided by the imposition of special requirements or conditions, including, but not limited to, location, design, construction, equipment, maintenance and-or hours of operation, in addition to those expressly stipulated in this Chapter and the Commission may make their recommendation or the Board of Supervisors may grant the Special Use Permit contingent upon the imposition of such special requirements or conditions. The Planning Commission need not make a recommendation to the Board of Supervisors for the issuance of a Special Use Permit for a manufactured home.

Section 20-9. Public hearing required.

Prior to issuance of a special use permit a public hearing shall be held by the Planning Commission and by the Board of Supervisors; provided however, that a special use permit for a manufactured home, temporary classroom trailer, or as required by Sections 20-531 or 20-533 of this chapter may be issued after a public hearing is held by the Board of Supervisors only. Whenever the Planning Commission is not required to hold a public hearing, it need not consider the permit nor make a recommendation to the Board of Supervisors for such permit. The fee for a special use permit shall be in accordance with Section 20-6 of this Chapter. (Ord. No. 31A-88, Section 20-10.1, 4-8-85)

Section 20-10. Regulations for Manufactured Homes Requiring Special Use Permits

Manufactured homes requiring Special Use Permits shall comply with the following regulations:

- (a) An application and a vegetative screening plan shall be submitted to the Administrator.
- (b) No manufactured home shall be placed within 300 feet of any of the following interstate highways, principal or minor arterial streets, or major collector streets:

Interstate 64
Route 60 West (Richmond Road)
Route 5 (John Tyler Highway)
Route 30 (Old Stage Road, Barhamsville Road and
Rochambeau Drive)
Route 607 (Croaker Road) from Richmond Road to
Riverview Road
Route 614 from Brick Bat Road to Jamestown Road

Section 20-11. Widening of Highways and Streets.

Whenever there shall be plans in existence, approved by either the State Department of Highways 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, or the dedication or reservation of additional right-of-way in order to preserve and protect the planned future right-of-way for such proposed street or highway as part of its review of subdivision plats, site plans or master plans.

Section 20-12. Minimum Off-Street Parking.

There shall be provided at the time of erection of any main building or at the time any main building is enlarged, minimum off-street parking with adequate landscaping and provision for entrance and exit by standard sized automobiles, as follows:

A. General provisions.

1. No Certificate of Occupancy shall be issued for any structure which does not comply with these requirements; however, structures already in use are exempted, provided that:

- (a) Such structure at the time of its erection complied with the provisions of all applicable ordinances of James City County.
- (b) Exempted buildings remain in continuous use and at no time remain vacant or unused for a continuous period of one year.

5. Bus parking areas shall be separated from all street rights-of-way and property lines by a landscaped strip ten feet or greater in width. Bus parking areas which contain four or more spaces shall be separated from all street rights-of-way and property lines by a landscaped strip 20 feet or greater in width. The landscaped strip shall contain a number of trees equal to at least one tree for each two bus spaces or fraction thereof in addition to other required plantings.

6. Adequate lighting shall be provided if the uses which are served by the bus parking area will be in operation at night. The lighting shall be directed so as not to produce objectionable glare on adjacent property or streets, and no lighting fixture shall exceed a height of 30 feet.

D. Minimum off-street parking requirements.

1. Residential uses: The minimum number of off-street parking spaces shall be: two spaces per single-family residential unit; three spaces per single family dwelling with an accessory apartment; two spaces per townhouse dwelling unit; and two spaces per manufactured home. Other residential uses shall provide 1.5 spaces per residential unit. Spaces in accessory garages conforming to the size and area requirements for parking spaces and having suitable ingress and egress shall be counted towards the required minimum number of parking spaces for each dwelling.

2. Commercial uses: Commercial and institutional uses shall be divided into various categories according to the parking demand which they generate, as follows:

Category A. High Parking Demand Generators shall provide one parking space per 200 square feet of retail floor area, to include:

- General retail stores.
 - Retail food stores, bakeries, and fish markets.
 - Laundries and dry cleaners.
 - Wearing apparel, shoes, yard goods, toys, music and records, tailors, dressmakers, candy, ice cream, florist, furrier, locksmith, pet, picture framing, stamp and coin, travel bureau, tobacco and pipes, jewelry sales and service, books, greeting cards, and sporting goods stores.
 - Drug stores.
 - Plants and garden supply, hardware and paint, and home appliance sales and service.
 - Antique, novelty, arts and crafts, and gift shops.
 - Libraries and post offices.
 - Lodges, civic clubs, fraternal organizations, service clubs, public billiard parlors, arcades, pool rooms, dance halls, and private clubs.
- All other commercial uses not specified in Category B or C below.

Category B. Moderate Parking Demand Generators shall provide one parking space per 250 square feet of retail floor area, to include:

- (e) A petition for a plan or amendment substantially the same as one previously considered shall not be reconsidered within a one year period from the date the similar petition was decided.

Section 20-16. Construction and Severability of Provisions.

This Chapter shall be liberally construed so as to effectuate the purposes hereof. If any clause, sentence, paragraph, section or subsection of this Chapter shall be adjudged by any Court of competent jurisdiction to be invalid for any reason, including a declaration that 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.

Section 20-17. Purpose of Article.

It is the general policy of the County, in accordance with the laws of the Commonwealth of Virginia, to provide for the orderly development of land, for all purposes, through zoning and other land development legislation. Frequently where competing and incompatible uses conflict, traditional zoning methods and procedures are inadequate. In these cases, more flexible and adaptable zoning methods are needed to permit land uses and at the same time to recognize effects of change. It is the purpose of this article to provide a more flexible and adaptable zoning method to cope with situations found in such zoning through conditional zoning, whereby a zoning reclassification may be allowed subject to certain conditions proffered by the zoning applicant for the protection of the community that is not applicable to land similarly zoned. The provisions of this article shall not be used for the purpose of discrimination in housing.

Section 20-18. Proffer of conditions.

The owner or owners of property making application for a change in zoning or amendment to a zoning map, as part of their application, may voluntarily proffer in writing reasonable conditions, prior to a public hearing before the Board of Supervisors, which shall be in addition to the regulations provided for in the zoning district or zone sought in the rezoning petition. The conditions shall be proffered as a part of the requested rezoning or amendment to the County's zoning map. It is expressly provided, however, that the conditions so proffered are subject to the following limitations:

1. The rezoning itself must give rise to the need for the conditions;
2. Such conditions shall have a reasonable relation to the rezoning;

3. Such conditions shall not include a cash contribution to the County;
 4. Such conditions shall not include mandatory dedication of real or personal property for open space, parks, schools, fire departments or other public facilities not otherwise provided for in subdivision A(f) of Code of Virginia, Section 15.1-466.
 5. Such conditions shall not include payment for or construction of off-site improvements except those provided for in subdivision A(j) of Code of Virginia, Section 15.1-466.
 6. No condition shall be proffered that is not related to the physical development or physical operation of the property; and
 7. All such conditions shall be in conformity with the comprehensive plan of the County.
- (Ord. No. 31A-88, Section 20-14.3, 4-8-85; Ord. No. 31A-100, 4-6-87)

Section 20-19. Enforcement and Guarantees as to Conditions.

The Zoning Administrator shall be vested with all necessary authority on behalf of the County to administer and enforce conditions attached to a rezoning or amendment to a zoning map, including:

1. The ordering in writing of the remedy of any noncompliance with such conditions;
2. The bringing of legal action to ensure compliance with such conditions, including injunction, abatement or other appropriate action or proceeding; and
3. Requiring a guarantee, in an amount sufficient for or conditioned upon the construction of any physical improvements required by the conditions, or a contract for the construction of such improvements and the contractor's guarantee, in like amount and so conditioned, which guarantee may be reduced or released by the Zoning Administrator upon the submission of satisfactory evidence that construction of such improvements has been completed in whole or in part. Failure to meet all conditions shall constitute cause to deny the issuance of any required use, occupancy or building permits as may be appropriate.

Section 20-20. Records.

The zoning map of the County shall show by an appropriate symbol on the map the existence of conditions attaching to the zoning on the map. The Zoning Administrator shall keep in his office and make available for public inspection a conditional zoning index. The index shall provide ready access to the ordinance creating conditions in addition to the regulations provided for in a particular zone.

ARTICLE II. SITE PLAN

Section 20-35. Certain Plans Subject to Review by Planning Commission.

For the purpose of assuring public safety, good arrangement and insuring harmony with the Comprehensive Plan, site plans for the following major uses and additions and expansions thereto shall be subject to review for approval by the Planning Commission's Site Plan Review Committee and the Zoning Administrator:

- (a) Multiple-family dwellings.
- (b) Townhouses and condominiums.
- (c) Churches; temples, synagogues; cemeteries.
- (d) Docks, marinas, wharves, piers, bulkheads and the like and any over-water structures, except private over-water piers and boat houses accessory to single-family dwelling.
- (e) Hotels; motels and motor lodges.
- (f) Business, commercial and industrial buildings and developments.
- (g) Manufactured home parks.
- (h) Campgrounds.
- (i) Public parks, recreation facilities.
- (j) Public utilities or public service or transportation uses; buildings, generating, purification or treatment plants; water storage tanks; pumping or regulator stations; telephone exchange, transformer or substations; and power transmission lines.
- (k) Schools and State institutions.
- (l) Hospitals and nursing homes.
- (m) State and public buildings.
- (n) Towers.
- (o) Two or more two-family dwellings on the same parcel.
- (p) Three or more single-family dwellings on the same parcel.
- (q) Off-street parking areas with ten or more spaces, or any additions to existing off-street parking areas except for single-family residences.

- (b) Design and layout of the site including buildings; signs; recreation facilities; garbage and trash disposal facilities; sedimentation and erosion controls; storm drainage, stormwater management, sanitary sewage disposal, and water supply exit and entrance points on the site including line sizes; areas to be landscaped with approximate arrangement and plant types and sizes indicated; and provisions for pedestrian and vehicular traffic movements within and adjacent to the site. Particular emphasis shall be placed upon the review of on-site aesthetics; public safety features; environmental, historic and vegetative preservations; efficient layout of buildings, parking areas, off-street loading and unloading; and movement of people, goods and vehicles (including emergency vehicles) from access roads, within the site, between buildings and vehicles. Vehicular access to the site shall be designed to aid overall traffic flow and to permit vehicles a safe ingress and egress.

Design standards contained in this Chapter as they relate to traffic circulation, parking, performance standards, location of structures, setbacks, yards, bulk, height and building coverage shall apply, where applicable, to site plan approval. The design criteria established in the James City County Subdivision Ordinance and applicable standards of the State Department of Highways shall apply where appropriate, to site plan approval.

Section 20-42. Transitional Screening Requirements.

If the Site Plan Review Committee determines that noise, dust and debris, glare, or other objectionable impacts created by a manufactured home park, or multi-family, or commercial or industrial land uses will have a detrimental effect on existing adjoining residential properties, the committee may require that landscaped or architectural barriers be provided between the residential and commercial or industrial land uses, and that setbacks be increased to provide adequate buffers to adjacent uses.

The owner of the multi-family, or commercial or industrial land use shall be responsible for the installation, maintenance, repair and replacement of all required landscaping materials and barriers.

Section 20-43. Notification of Findings; Processing.

The Planning Director or his designee shall notify in writing the applicant, owner or developer regarding the findings of the Site Plan Review Committee. Notification shall be given within ten working days following the review by the Site Plan Review Committee or the Planning Director.

Section 20-44. Preliminary Approval--Term of Validity; Extension; Resubmittal.

Preliminary approval of a site plan shall be valid for a period of six months. A revised site plan must be presented and properly filed with the Planning Director, or his designee, prior to the termination date of the

ARTICLE III. MANUFACTURED HOME PARKS.

Section 20-61. Statement of Intent.

The regulations contained herein are intended to foster the quiet, low and moderate density residential character of manufactured home parks. The regulations are designed to stabilize and protect the residential areas in which manufactured home parks are likely to be developed and to promote and encourage a suitable environment for family life, both inside of the manufactured home park, and in the surrounding area. To these ends, the location of manufactured home parks and the expansion of existing manufactured home parks shall require, in addition to the site plan approval required by Article II of this Chapter and a Special Use Permit as provided for in Article IV of this Chapter.

Section 20-62. Area Requirements.

Each manufactured home in a manufactured home park shall be placed upon a separate and individual lot.

Lots containing or intended to contain a single manufactured home served by public water and public sewage disposal systems shall have a minimum area of 6,000 square feet.

Lots containing or intended to contain a single manufactured home served by a public sewage disposal system or by a public water system shall have a minimum area of 10,000 square feet.

Lots containing or intended to contain a single manufactured home served by private water and private sewage disposal systems shall have a minimum area of 20,000 square feet.

Section 20-63. Minimum Lot Width.

The minimum width of a lot less than 10,000 square feet in area shall be 60 feet measured at the setback line.

The minimum width of a lot more than 10,000 square feet in area, but less than 20,000 square feet in area, shall be 80 feet measured at the setback line.

The minimum width of a lot 20,000 square feet or greater in area shall be 100 feet measured at the setback line.

Section 20-64. Minimum Setback Requirements.

The minimum setback in a manufactured home park for manufactured homes and all accessory structures shall be 15 feet from the right-of-way of internal private streets.

The minimum setback in a manufactured home park for manufactured homes and all accessory structures shall be 35 feet from the right-of-way of internal public streets.

The minimum setback in a manufactured home park for manufactured homes and all accessory structures shall be 100 feet from the right-of-way of any public street which creates a boundary for the manufactured home park.

Section 20-65. Minimum Yard Requirements.

No manufactured home shall be placed closer than 15 feet from any lot line within the manufactured home park.

No manufactured home shall be placed closer than 100 feet from any property boundary separating the manufactured home park from adjacent property.

The minimum side yard for accessory structures shall be five feet, except that accessory buildings exceeding one story shall have a minimum side yard of 15 feet.

The minimum rear yard for accessory structures shall be five feet, except that accessory buildings exceeding one story shall have a minimum side yard of 15 feet.

Section 20-66. Underground Utilities.

All utilities within the manufactured home park, including but not limited to electrical distribution lines, telephone lines, cable television lines, natural gas lines, sewer lines and water lines, shall be placed underground.

Section 20-67. Streets Required.

Each manufactured home lot shall front on a public or private street. All streets shall meet the design and construction standards of the Virginia Departments of Highways and Transportation, or the County's subdivision ordinance, whichever is greater. The construction and maintenance of private streets shall be guaranteed by a surety bond, letter of credit, cash escrow, or other form of surety approved by the County Attorney and Department of Public Works. Public streets shall be part of Virginia Department of Highways and Transportation road system.

Section 20-68. Storm Drainage.

A storm drainage plan shall be included with the site plan of a manufactured home park. It shall be the park owner's responsibility to provide for the adequate drainage and erosion controls and their maintenance within the manufactured home park.

Section 20-69. Off-street Parking Required.

Each lot in a manufactured home park shall contain at least two off-street parking spaces each at least nine feet by 18 feet in size; or

Shall have access to a parking lot which meets the design standards contained in the Off-street Parking requirements of this Chapter, Section 20-12, and provides two spaces for each manufactured home lot it is intended to serve. The location and the design of any parking lot shall be shown on the site plan and is subject to approval with the site plan.

Section 20-70. Fire Hydrants Required.

Manufactured home parks served by a public water system shall provide fire hydrants located within the park such that no manufactured home lot is more than 500 feet by road frontage from a fire hydrant. Locations of the fire hydrant shall be approved by the Fire Chief and shown on the site plan.

Section 20-71. Streetlights Required.

The owner of the manufactured home park shall provide streetlights within the manufactured home park. The location of streetlights shall be shown on the site plan and approved by the Zoning Administrator.

Section 20-72. Solid Waste Disposal.

Each operator of a manufactured home park shall provide for the disposal of the solid waste generated by the park tenants. Dumpsters at locations shown and approved on the site plan or provisions for individual solid waste pickup at each manufactured home site shall be provided. If dumpsters are provided, they shall be placed on concrete pads with a drain connected to a septic drainfield as required by the Health Department, and shall be screened by vegetation, landscaping and-or fences.

Section 20-73. Recreation Area Required.

Manufactured home parks with 25 lots or more shall have a developed recreation area to be maintained by the park owner.

The area shall have terrain suitable for active recreation. The size of the recreation area shall be not less than 400 square feet multiplied by the number of manufactured home spaces in the manufactured home park. The area shall be shown on the site plan with a list of equipments and facilities.

Section 20-74. Applicability of Virginia Uniform Statewide Building Code.

Manufactured homes located in manufactured home parks shall meet all applicable sections of the Virginia Uniform Statewide Building Code including, but not limited to, requirements for permanent tie downs located on each lot.

Section 20-75. Site Plan Required.

Prior to development of a manufactured home park, a site plan shall be filed and approved as provided for in Article II of this Chapter.

The construction and maintenance of all common open space areas, parking, recreation areas and other privately-owned areas and facilities for the common use of the manufactured home park's tenants shall be the responsibility of the park owner.

Section 20-76. Temporary Trailer Parks.

Special use permits for temporary trailer parks may be issued by the governing body, subject to the following conditions:

- (a) That the location of a temporary trailer park is necessary for the housing of construction workers employed on an industrial or highway construction project.
- (b) That the request is filed by or certified to by the industry or state department of highways as being essential to the construction.
- (c) That a minimum area of 2,000 square feet be provided for each space.
- (d) That sanitary facilities conform to the state health department's "Trailer Camp Sanitation" requirements.
- (e) That the period of operating such temporary park shall concur with the anticipated period of the construction. Applications for renewal may be submitted if more time is required to complete the project. However, such renewal applications must be filed at least 45 days prior to the expiration of the original temporary use permit.
- (f) Bond. The governing body, in granting such a special use permit, may require the posting of a bond to assure that the temporary trailer court will be removed and the site left in good order at the expiration of the permit.
- (g) The governing body shall establish such additional requirements as are in the best interest of the public.

Section 20-77 - Section 20-86. Reserved

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ARTICLE IV. DISTRICTS.

DIVISION 1. GENERALLY.

Section 20-87. Division of Unincorporated Areas into Districts.

For the purposes of this Chapter, the unincorporated areas of James City County, Virginia are hereby divided into the following Districts, as shown on the Zoning Map:

General Agricultural, A-1
 Limited Agricultural, A-2
 Limited Residential, R-1
 Limited Residential, R-2
 General Residential, R-3
 Residential Planned Community, R-4
 Multi-family Residential, R-5
 Residential Agriculture, R-6
 Manufactured Home Subdivision, R-7
 Residential Planned Unit Development, PUD-R
 Commercial Planned Unit Development, PUD-C
 Industrial Planned Unit Development, PUD-I
 General Business, B-1
 Limited Business, LB
 Limited Industrial, M-1
 General Industrial, M-2

Section 20-88. Interpretation of Zoning Map.

Unless District boundary lines are fixed by dimensions or otherwise clearly shown or described, and where uncertainty exists with respect to the boundaries of any of the aforesaid Districts as shown on the Zoning Map, the following rules shall apply:

- (a) Where District boundaries are indicated as approximately following or being at right angles to property lines, or the center lines of streets, highways, alleys, or railroad tracks, such property lines, center lines, or lines at right angles to such property lines or center lines shall be construed to be such boundaries, as the case may be.
- (b) Where a District boundary is indicated to follow a river, creek or branch or other body of water, such boundary shall be construed to follow the center line at low water or at the limit of jurisdiction, and in the event of change in the shoreline, such boundary shall be construed as moving with the actual shoreline.
- (c) If no distance, angle, curvature description or other means is given to determine a boundary line accurately and the foregoing provisions do not apply, the same shall be determined by the use of the scale shown on the Zoning Map. In case of subsequent dispute, the matter shall be referred to the Board of Zoning Appeals which shall determine the boundary.

Section 20-95. Temporary Manufactured Homes.

Certificates of Occupancy for temporary manufactured homes may be issued by the Zoning Administrator, subject to Section 20-7 of this Chapter and the following conditions:

- (a) The location of a temporary manufactured home shall be necessary for the housing of a property owner on the same lot, during the reconstruction of a dwelling destroyed by fire or other causes beyond the control of the owner.
- (b) A minimum area of 5,000 square feet shall be provided for the manufactured home.
- (c) Sanitary facilities shall conform to County and State Health regulations.
- (d) Electrical connections shall meet the requirements of the County Electrical Code.
- (e) The period for the use of any such temporary manufactured home shall not exceed the completion date of construction as submitted by the applicant or one year from the date of issue, whichever be the shortest period, except that a Certificate of Occupancy may be renewed one time for an additional period not to exceed six months. Any such application for renewal shall be submitted to the Zoning Administrator at least 30 days prior to the expiration of the initial Certificate of Occupancy.
- (f) The temporary manufactured home shall be removed from the site within 60 days after the completion date of construction.

Section 20-96. Public Utilities.

Except where a public utility requires a Special Use Permit, public utilities shall be allowed as a permitted use in each zoning district. Public utilities include poles, power lines, distribution transformers or substations, pipes, meters, telephone exchanges, and other facilities necessary for the provision and maintenance of utilities, including water and sewer facilities, water storage tanks, pumping or regulator stations.

The location of all utilities and utility easements shall be shown on the site plans, or subdivision plats, as appropriate. New utilities are to be placed underground except for required transformers, switching equipment, meter pedestals, telephone pedestals, outdoor lighting poles and meter and service connections attached to buildings. In consideration of voltage requirements, existing overhead service, existing tree cover and physical features of the site and the surrounding area, the Planning Commission may waive requirements for underground utilities upon a favorable recommendation of the Site Plan Review Committee, or the Subdivision Review Committee, as appropriate. Waivers in subdivisions must comply with Section 17-45 of the Subdivision Ordinance.

Section 20-97. Special Requirements for Sanitary Landfills.

Sanitary landfills shall comply with the following requirements:

- (a) Refuse shall be placed in an excavation or in an area which can readily receive cover material and be thoroughly compacted to a depth not greater than two feet.
- (b) An adequate amount of the proper type equipment shall be provided to move the compact and to cover the refuse at least every twenty-four hours regardless of machinery breakdown.
- (c) All solid waste received shall be buried each day with the exception of bulky materials (e.g., tree stumps).
- (d) A daily cover of not less than six inches and at completion of the fill at least two feet or earth shall cover a grade no greater than 2 percent.
- (e) No burning of garbage or refuse containing garbage shall be allowed and all such burning allowed as prescribed by the Air Pollution Control Board.
- (f) Adequate provisions shall also be made for adequate supervision of the landfill operation, to prevent blowing paper, to control dust, and to provide insect and rodent control measures.

Section 20-98. Special Requirements for Manufactured Homes or Mobile Homes.

All manufactured homes located or relocated after April 8, 1985 shall comply with the following requirements:

- (a) Manufactured homes shall be certified as meeting the Mobile Home Construction and Safety Standards promulgated by the Department of Housing and Urban Development. It shall be the responsibility of the manufactured home owner to provide proof that the manufactured home complies with these standards.
- (b) Manufactured homes shall have a visible foundation of skirting. The skirting shall be in place within 30 days of placement of the manufactured home on the parcel or lot. The tongue and axle of the manufactured homes shall be removed if not covered by the skirting.

Mobile homes shall not be located or relocated.

Section 20-99. Special Provisions for Garage Sales.

Garage sales shall be permitted in all districts.

Professional offices of not more than 2,000 square feet with no more than one office per lot.

Commercial equipment repair accessory to a dwelling with no outdoor storage or operations and the use occupies a building not larger than 2,000 square feet.

Waterfront business activities: Wholesale and retail marine interests, such as boat docks, piers, yacht clubs and servicing facilities therefor; docks and areas for the receipt, storage, and transshipment of waterborne commerce; seafood and shellfish receiving, packing and shipping plants; and recreational activities primarily conducted on or about a waterfront. All such uses shall be contiguous to a waterfront.

Petroleum storage on a farm for farm use, or as an accessory use and not for resale.

Tourist homes.

Day or child care centers.

Feed, seed, and farm supplies.

Farm equipment sales and service.

House museums.

Home occupation.

Beauty shops and barber shops.

Gift shops and antique shops.

Lumber and building supply stores.

Storage and repair of heavy equipment on a farm.

Contractors' warehouses, sheds and offices under 3,000 square feet.

Manufacture and sale of wood products.

Off-street parking as required by this Chapter.

Accessory uses as defined.

Accessory buildings or structures.

Water impoundments of less than 50 acres and with dam heights of less than 25 feet.

Section 20-111. Uses Permitted by Special Use Permit Only.

In the General Agriculture District, A-1, buildings to be erected or land to be used for the following or similar uses shall be permitted only after the issuance of a Special Use Permit by the Board of Supervisors.

Manufactured homes in accordance with Section 20-8, Section 20-9, Section 20-10 and Section 20-98.

Manufactured home parks.

Commercial livestock feeding operations containing 1,000 animal units or more (as defined in 1976 by the U. S. Environmental Protection Agency).

Slaughterhouses.

Horse racing tracks.

Commercial recreation facility, including indoor tennis, miniature golf, and other similar recreation facilities.

Restaurants, taverns.

Dinner theaters and dance halls as an accessory use to a restaurant or tavern.

Group homes.

Seminaries.

Storage and repair of heavy equipment.

Contractors' warehouses, sheds and offices over 3,000 square feet.

Section 20-131. Uses Permitted by Special Use Permit Only.

In the Limited Agricultural District, A-2, structures to be erected or land to be used for the following or similar uses shall be permitted only after the issuance of a Special Use Permit by the Board of Supervisors:

- Subdivisions of land into more than five (5) residential lots.
- Two-family dwellings.
- Professional, business and governmental offices.
- Convenience stores with the sale of fuel in accordance with Section 20-89.
- Farm equipment sales and service establishments.
- Farmer's markets.
- Raising of hogs.
- Flea markets.
- Manufacture and sale of wood products.
- Sanitary landfills in accordance with Section 20-97, waste disposal or publicly-owned solid waste container sites.
- Airports.
- Gift shops, antique shops.
- Restaurants, taverns.
- Beauty shops, barber shops, and drug stores.
- Hospitals, nursing homes, sanatoria, and rest homes.
- Medical clinics.
- Group homes.
- Manufactured home parks.
- Tourist homes.
- Lodges, civic clubs, fraternal organizations, and service clubs.
- Cemeteries and memorial gardens.
- Radio and television stations or towers.
- Photography sales, and arts and crafts shops.
- Excavation or filling, borrow pits, extraction, processing and removal of sand, gravel, stripping of top soil but farm pond construction, field leveling or stripping of sod for agricultural purposes and excavations in connection with development which has received subdivision or site plan approval are permitted generally without a Special Use Permit.
- Hotels and motels.
- Day care or child care centers.
- Campgrounds.
- New or expansion of water impoundments for public or private use of 50 acres or more or a dam height of 25 feet or more.
- Food processing and storage, but not the slaughter of animals.
- Commercial livestock feeding operations containing 1,000 animal units or more (as defined in 1976 by the U. S. Environmental Protection Agency).
- Public or private water and sewer facilities, 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, private connections to existing mains which are intended to serve an individual residential or commercial customer and which are accessory to existing or proposed development, and distribution lines and local facilities within a subdivision or development, are permitted generally and shall not require a Special Use Permit.
- Public or private transmission pipelines, including pumping stations and accessory storage, for natural gas, propane gas, petroleum products,

Section 20-284. Statement of Intent.

The Manufactured Home Subdivision District, R-7, is composed of manufactured home subdivisions, and certain open areas where similar development appears likely to occur. The regulations for this District are designed to stabilize and protect the essential characteristics of the District, to promote and encourage a suitable environment for family life and to limit activities of a commercial nature. To these ends, development is limited to manufactured homes placed on individual parcels and certain public and semipublic, institutional and other related uses.

Section 20-285. Permitted Uses:

In the Manufactured Home Subdivision District, R-7, structures to be erected or land to be used, shall be for the following uses:

- Manufactured homes in accordance with Section 20-98.
- Schools, libraries.
- Houses of worship.
- Fire stations.
- Community recreation facilities, including parks, playgrounds, clubhouses, boating facilities, swimming pools, ball fields, tennis courts, and other similar recreation facilities.
- Retail shops associated with community recreation facilities.
- Golf courses, country clubs.
- Home occupations.
- Off-street parking as required by this Chapter.
- Accessory buildings or structures as defined.
- Water impoundments of less than 50 acres and with a dam height of less than 25 feet.
- Property maintenance facilities, sheds or garages.

Section 20-286. Uses Permitted by Special Use Permit Only.

In the Manufactured Home Subdivision District, R-7, structures to be erected or land to be used for the following or similar uses shall be permitted only after the issuance of a Special Use Permit by the Board of Supervisors:

- Group homes.
- Lodges, civic clubs, fraternal organizations and service clubs.
- Cemeteries and memorial gardens.
- Day care and child care centers.
- New or expansion of water impoundments for public or private use of 50 acres or more and a dam height of 25 feet or more.
- Public or private water and sewer facilities, 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, private connections to existing mains which are intended to serve an individual residential or commercial customer

and which are accessory to existing or proposed development, and distribution lines and local facilities within a subdivision or development, are permitted generally and without a Special Use Permit.

Public or private transmission pipelines, including pumping stations and accessory storage, for natural gas, propane gas, petroleum products, chemicals, slurry coal and other gases, liquids or solids. However, private extensions or connections to existing pipelines, which are intended to serve an individual residential or commercial customer and which are accessory to existing or proposed development, are permitted generally and shall not require a Special Use Permit.

Public or private electrical 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.

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 rights-of-way, and track and safety improvements in existing railroad rights-of-way, are permitted generally and shall not require a Special Use Permit.

Telephone exchanges and telephone switching stations.

Section 20-287. Area and Utility Requirements.

The minimum lot area shall be 7,500 square feet and all lots shall be served by public water and public sewer.

Section 20-288. Setback Requirements.

Structures shall be located a minimum of 25 feet from any street right-of-way which is 50 feet or greater in width, except that signs advertising sale or rent of property may be erected up to the property line. If the street right-of-way is less than 50 feet in width, structures shall be located a minimum of 50 feet from the center line of street. This shall be known as the "setback line", except that in subdivisions the following shall apply:

Where 40% or more of frontage on one side of a street within the same block is improved with buildings, no building shall project beyond the average front yard so established.

Section 20-289. Minimum Lot Width.

The minimum lot width at the setback line shall be 60 feet.

Section 20-290. Yard Regulations.

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

Section 20-293. Sign Regulations.

To assure an appearance and condition which is consistent with the purposes of the Manufactured Home Subdivision District, R-7, outdoor signs on the properties within the District shall comply with the regulations for exterior signs in Article VII of this Chapter.

Section 20-294. Minimum Site Size.

The minimum site size for a manufactured home subdivision district shall be 10 acres.

Section 20-295. Perimeter Landscape Regulations.

Along the perimeter of Manufactured Home Subdivision Districts a landscape strip at least 30 feet wide shall be provided in addition to all other yard requirements for this district. No building, driveway or parking surface shall be permitted provided however, necessary approved entrances, walkways, bikepaths, fences and signs will be allowed.

The perimeter strip shall contain a number of trees equal to at least one tree per 40 linear feet of landscaped strip.

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

Printing, lithographing, engraving, photocopying, blueprinting, and publishing establishments.

Corporate, business, professional, and governmental offices.

Data processing centers.

Research, development, and design facilities.

Industrial and technical training schools.

Commercial banks, credit unions, and other similar financial institutions.

Employment services or agencies.

Janitorial service establishments.

Security service offices.

Furniture and carpet stores.

Cabinet and upholstery shops.

Veterinary hospitals and kennels.

Dry cleaners and laundries.

Automobile sales and service with major repair under cover.

Home appliance sales and service.

Wholesale and retail lumber and building supply stores with storage under cover or screened with landscaping and fencing from adjacent property.

Wholesale and retail plumbing and electrical supply stores with storage under cover or screened with landscaping and fencing from adjacent property.

Machinery sales and service with major repair under cover.

Heavy equipment sales and service, with major repair under cover.

Vehicle and trailer sales and service, with major repair under cover.

Wholesale and retail nurseries.

Plant and garden supply and hardware and paint stores.

Manufactured home or mobile home sales.

Locksmith and gunsmith shops.

Automobile service stations and truck terminals with sale of fuel in accordance with Section 20-89.

Tire, transmission, glass, body and fender and other automotive products sales and service with major repair under cover and vehicle storage screened from adjacent property by landscaping and fencing.

Farm supply feed and seed stores.

Wholesale and retail marine or waterfront businesses to include receipt, storage and transshipment of waterborne commerce, or seafood receiving, packing and distribution.

Restaurants, tearooms and taverns.

Hotels, motels and conference or convention centers with accessory retail sales, barber shops and beauty shops located within the hotel, motel and conference or convention center for the principal benefit of the resident guest.

Apartment or living quarters for a guard, caretaker, or other person employed on the premises which is clearly secondary to the industrial use of the property.

Farmer's markets.

Places of worship.

Fire stations.

Post offices.

Telephone exchanges and telephone switching stations.

Accessory uses as defined in Section 20-2 of this Chapter.

Off-street parking as required by this Chapter.

DIVISION 14. GENERAL INDUSTRIAL DISTRICT, M-2.

Section 20-374. Statement of Intent.

The primary purpose of the General Industrial District, M-2, is to establish an area where the principal use of land is for industrial operations which are not compatible with residential or commercial service establishments. The specific intent of this District is to accomplish the following:

- (a) Encourage the use of land for industrial purposes; and
- (b) Prohibit residential and commercial service developments on land reserved for industrial uses; and
- (c) Encourage the discontinuance of existing uses which would not be permitted as new uses under the provision of this Chapter; and
- (d) Establish minimum requirements to protect the health, safety and welfare of the citizens of James City County from the effects of the development of industrial uses.

Section 20-375. Permitted Uses.

In the General Industrial District, M-2, buildings to be erected or land to be used shall be for one or more of the following or similar uses:

- Manufacture or assembly of automobiles, trucks, machinery or equipment.
- Manufacture or assembly of electronic instruments, electronic devices or electronic components.
- Manufacture or assembly of medical, drafting, metering, marine, photographic and mechanical instruments.
- Manufacture or assembly of appliances, tools, firearms, hardware products, and heating, cooling or ventilating equipment.
- Manufacture, assembly or fabrication of sheet metal products.
- Manufacture, compounding, processing or packaging of cosmetic, toiletry, and pharmaceutical products.
- Manufacture and assembly of musical instruments, toys, novelties, and rubber and metal stamps.
- Manufacture and sale of manufactured homes, mobile homes, modular homes, and industrialized housing units.
- Manufacture, compounding, processing or packaging of food and food products, but not the slaughter of animals.
- Manufacture or assembly of aircraft and aircraft parts.
- Manufacture, compounding, assembly or treatment of products made from previously prepared paper, plastic, metal, textiles, tobacco, wood, paint, fiber glass, glass, rubber, wax, leather, cellophane, canvas, felt, fur, horn, hair, and yarn.
- Manufacture of glass and glass products.
- Manufacture and processing of acrylic and other synthetic fibers.
- Manufacture and processing of textiles and textile products.

relocation on the same lot may be approved by the zoning administrator, provided the new location is less nonconforming than the original location, and further provided that the new location shall not cause a greater detrimental impact on conforming uses in the neighborhood.

- (7) A nonconforming use may expand in accordance with the provisions of section 20-403 of this chapter.
- (8) A nonconforming use may be extended throughout any part of a structure originally arranged or designed for such activity, provided that current parking requirements shall be adhered to upon such extension.
- (9) No structure used as a part of a nonconforming use shall be moved to any other lot unless such lot is properly zoned to permit the use, nor shall such a structure be moved within the lot on which it exists, unless a relocation is specifically provided for in section 20-399 et seq. of this chapter.
- (10) A nonconforming office building meeting all current zoning requirements except connection to public water and sewer which is located within an industrial district may be replaced upon issuance of a special use permit excepting the use from the public water and sewer requirements. The replacement office building shall not exceed 4,000 square feet in floor area.
- (11) Nonconforming mobile homes or manufactured homes in any Agricultural or Residential district may be replaced with manufactured homes upon issuance of a special use permit. For purposes of this Article a nonconforming mobile home or manufactured home shall be defined as any mobile home or manufactured home which does not meet all current zoning requirements which was (1) located in the county prior to April of 1969, or any replacement thereof; (2) located pursuant to a conditional use permit, either with or without an expiration date; (3) located pursuant to a special use permit; or (4) a replacement for a mobile home or manufactured home located pursuant to a conditional or special use permit not specifically prohibited by the permit.

(b) A nonconforming use may change as a matter of right to a more restricted nonconforming use, upon issuance by the zoning administrator of an approval for such a change. The zoning administrator's approval, which shall not be given until the nonconforming status of the use has been verified in accordance with section 20-405 of this chapter, shall include a determination in writing that the proposed use is "more restricted" than the existing nonconforming use. If the zoning administrator determines the proposed use is not "more restricted" than the existing nonconforming use, the application for a change to a more restricted nonconforming use shall be denied. An appeal from such a determination shall be to the board of zoning appeals as provided by section 20-432 of this chapter.

DIVISION 2. REGULATIONS GOVERNING APPEALS.

Section 20-432. Initiation and Effect of Appeal; Restraining Orders.

An appeal to the Board of Zoning Appeals may be taken by any person aggrieved or by any Officer, Department, Board or Bureau of the County affected by any decision of the Zoning Administrator. Such appeal shall be taken within thirty days after the decision appealed from by filing with the Zoning Administrator, and with the Board, a notice of appeal specifying the grounds thereof. The Zoning Administrator shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed was taken. An appeal shall stay all proceedings in furtherance of the action appealed from unless the Zoning Administrator certifies to the Board that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property, in which case proceeding shall not be stayed otherwise than by a restraining order granted by the Board or by a Court of Record, on application and on notice to the Zoning Administrator as for good cause shown.

Section 20-433. Procedure; Deposit if Public Hearing Required.

Appeals shall be mailed to the Board of Zoning Appeals in care of the Zoning Administrator, and a copy of the appeal shall be mailed to the Secretary of the Planning Commission. A third copy should be mailed to the individual, Official, Department, or Agency concerned, if any.

Appeals requiring an advertised public hearing shall be accompanied by a certified check payable to the Treasurer for the amount set forth in Section 20-6.

Section 20-434. Public Hearing; Authority of Board.

The Board of Zoning Appeals shall fix a reasonable time for the hearing of an application or appeal, given public notice hereof as well as due notice to the parties in interest, and decide the matter within ninety (90) days. In exercising its powers the Board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from. (Ord. No. 31A-88, Section 20-120, 4-8-85)

Section 20-435. Petition for Certiorari to Review Decision of Board.

- (a) Any person or persons jointly or severally aggrieved by any decision of the Board of Zoning Appeals, or any taxpayer or any Officer, Department, Board, or Bureau of the County may present to the Circuit Court of James City County a petition specifying the grounds on which aggrieved within 30 days after the filing of the decision in the Office of the Board.

- (b) Upon the presentation of such petition, the court will allow a writ of certiorari to review the decision of the Board of Zoning Appeals and will prescribe therein the time within which a return thereto must be made and served upon the petitioner's attorney, which will not be less than ten days and may be extended by the Court. The allowances of the writ will not stay proceedings upon the decision appealed from, but the Court may, on application, on notice to the Board and on due cause shown, grant a restraining order.
- (c) The Board of Zoning Appeals shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies thereof or of such portions thereof as may be called for by such writ. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.
- (d) If, upon the hearing, it shall appear to the Court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a Commissioner to take such evidence as it may direct and report the same to the Court with his findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the Court shall be made. The Court may reverse or affirm, wholly or partly, or may modify the decision brought up for review.
- (e) Costs shall not be allowed against the Board unless it shall appear to the Court that it acted in bad faith or with malice in making the decision appealed from. In the event the decision of the board is affirmed, the court may order the person or persons who requested the issuance of the writ of certiorari to pay the costs incurred in making a return of the record pursuant to the writ of certiorari. (Ord. No. 31A-88, Section 20-121, 4-8-85)

Section 20-436 - Section 20-445. Reserved

0392A

DIVISION 1. RESERVOIR PROTECTION OVERLAY DISTRICT, RP

Section 20-524. Statement of Intent.

The purpose of this District is to control and regulate runoff at the source to protect against and minimize the pollution of and deposition of sediment in existing or proposed public drinking water supply reservoirs in James City County. This District is intended to prevent causes of degradation of the water supply reservoir as a result of operating or the accidental malfunctioning of the use of land or its appurtenances within the drainage area of such water sources. The regulations in this district are found to be necessary to protect the health, safety, and general welfare of the people of the County.

The Reservoir Protection Overlay District is intended to impose special requirements in addition to the regulations of the principal Zoning District in which the water supply reservoir is located.

Section 20-525. Designation of the Reservoir Protection Overlay District.

The governing body of James City County, Virginia hereby establishes and delineates on the Zoning District Map the Reservoir Protection Overlay District, to be referred to on the Zoning District Map by the symbol RP.

Section 20-526. Existing Structures and Land Uses.

The provisions of this article shall apply only to structures constructed and land uses established after December 5, 1983. Expansions of existing structures and land uses, however, shall comply with the provisions of this article. If a structure or activity is destroyed or damaged to the extent that the cost of restoration to its condition before the occurrence shall exceed seventy-five percent (75%) of the cost of reconstructing the entire activity or structure, it shall be restored only if it complies with the requirements of this article; provided however this shall not apply to single-family dwellings, manufactured homes, two-family dwellings, three-family dwellings, four-family dwellings, townhouses or multi-family dwellings legally in existence, and they may be repaired or replaced.

Section 20-527. Definitions.

For the purpose of this Division, the following words and phrases shall have the meanings ascribed to them below:

BULK STORAGE. Above-ground storage of liquids in excess of 1,320 gallons.

IMPERVIOUS SURFACE. An area which prevents the infiltration of water into the soil. Buildings, paved roads and parking lots, sidewalks and any area of concrete or asphalt are impervious surfaces. Compacted soil aggregate and crusher run shall be considered to be impervious surfaces.

(5) Sanitary landfills.

(b) The following uses shall be prohibited within 200 feet of a tributary stream and within 200 feet of the normal pool of a water supply reservoir (these distances shall be horizontal measurements):

- (1) Bulk storage of petroleum and asphalt products and compounds.
- (2) Storage of hazardous substances in reportable quantities as listed in 44 Fed. Reg. 50777 et seq. (1979).

Section 20-530. Requirements for Residential Uses.

- (a) Each residential lot shall have a minimum area of one acre (43,560 square feet); provided, however, the minimum area requirement of one acre shall not apply to lots recorded or legally in existence as of December 5, 1983. Such lots of less than one acre used for residential purposes shall be limited to one principal residential use.
- (b) For residential subdivisions of more than five lots and manufactured home parks, the applicant shall, at the time of filing a site plan or a preliminary plat for a subdivision, submit five copies of a Runoff Analysis in accordance with Section 20-534(a). Performance assurances shall be provided that all runoff control and reservoir protection measures proposed in the Runoff Analysis shall be constructed, operated and maintained so as to meet the performance criteria set forth in the study. The form of agreement and type of bond or letter of credit shall be approved by the County Attorney. The amount of bond or letter of credit and designated length of completion time shall be set by the Director of Public Works or his authorized designee.
- (c) Development in the Planned Unit Development-Residential (PUD-R) district may be exempted from the requirements of Section 20-530(a) and (b), Section 20-531, Section 20-532 and Section 20-533 of this article provided the applicant at the time of filing for a rezoning shall provide five copies of a Runoff Analysis in accordance with Section 20-534(a), and performance assurances that all runoff control and reservoir protection measures proposed in the Runoff Analysis shall be constructed, operated and maintained so as to meet the performance criteria set forth therein. The form of agreement and type of bond or letter of credit and designated length of completion time shall be set by the Director of Code Compliance or his authorized designee.

Section 20-531. Area Requirements - Exceptions.

Residential lots smaller than one acre shall be permitted in accordance with the underlying zoning district after the issuance of a special use permit

- (2) Property within Zones A-1-30 of a Flood Insurance Rate Map (FIRM) published by the Federal Insurance Administrator.

Such maps shall be available for inspection in the Division of Code Compliance and Development Management Department.

Section 20-550. Permits.

No special permit shall be required by this Article. An application for subdivision, site plan, rezoning, Building Permit, Special Use Permit, Sediment and Erosion Control Permit, Wetlands Permit or other local development permit shall be considered an application for development under this Article. The applicant shall be informed of the provisions of this Article as they may apply to the property, and no permit shall be issued until the applicant has complied with such provisions.

Section 20-551. Regulations for Construction.

The construction or placing of any structure or obstruction, filling, or changing the cross-section or flow characteristics within the 100 year floodplain as shown on the flood hazard boundary map shall not be permitted unless the project is in conformance with the following requirements:

- (1) New structures or additions to any existing structure shall have the lowest floor, including the basement and crawl space, elevated to or above the level of the 100 year flood.
- (2) Utility and sanitary facilities shall be flood proofed up to the level of the 100 year flood.

This Section shall be administered by the Building Official. 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 Building Official.

Section 20-552. Regulations for Mobile Homes and Manufactured Homes.

In floodplain areas, mobile homes and manufactured homes shall be anchored to resist flotation, collapse or lateral movement by providing over-the-top and frame ties to ground anchors in either of the following arrangements:

- (1) Over-the-top ties at each corner plus one frame tie at the middle of each side; or
- (2) Frame ties at each corner plus no less than five evenly spaced additional frame ties per side.

All ties to the ground shall be able to carry a force of 4,800 pounds.

SECTION 20-550. REGULATIONS FOR SUBDIVISIONS AND BLUE PLANS.

The applicant of any subdivision of land or site plan within the County shall submit with his application a statement by a licensed surveyor or engineer as to whether or not any property shown on the plat or plan is at an elevation lower than the 100 year flood level. Where a 100 year flood level exists the extent of this area shall be shown on the plat or plan. Further, the elevation of the finished surface of the ground at each building location shall be shown. This Section shall be administered by the subdivision agent.

Section 20-554. Regulations for Manufactured Home Parks or Manufactured Home Subdivisions.

In all floodplain areas, all new manufactured home parks or manufactured home subdivisions shall have an alternate vehicular access and escape route approved by the Zoning Administrator prior to approval of any Special Use Permit or occupancy of the site.

Section 20-555. Regulations for Public Utilities.

Nonessential or improper installation of public utilities and public facilities in floodplain areas shall be prohibited:

- (1) Water supply system. New or replacement water supply systems in a floodplain area shall be designed to eliminate infiltration of floodwaters.
- (2) Sanitary sewerage systems. New or replacement sanitary systems shall be designed to minimize or eliminate infiltration of floodwaters or discharge of effluents into floodwaters.
- (3) Septic tanks. New or replacement septic tank drain fields shall be placed where they shall not be impaired or contaminated by a base flood.

This Section shall be administered by the Director of Code Compliance or Health Official where applicable.

Section 20-556. Regulations for Filling of Floodplain Areas.

Filling of land which has an elevation lower than the elevation of a 100 year flood shall be prohibited unless:

- (1) Such fill will not increase the level of flooding on any other property; or

This Section shall be administered by the Building Official. The Zoning Administrator shall not issue a Special Use Permit for any manufactured home in a floodplain area until the applicant has complied with these provisions.

Section 20-553. Regulations for Subdivisions and Site Plans.

The applicant of any subdivision of land or site plan within the County shall submit with his application a statement by a licensed surveyor or engineer as to whether or not any property shown on the plat or plan is at an elevation lower than the 100 year flood level. Where a 100 year flood level exists the extent of this area shall be shown on the plat or plan. Further, the elevation of the finished surface of the ground at each building location shall be shown. This Section shall be administered by the subdivision agent.

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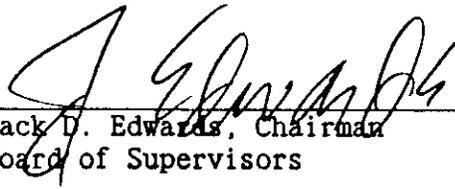
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Jack D. Edwards, Chairman
Board of Supervisors

ATTEST:



David B. Norman
Clerk to the Board

<u>SUPERVISOR</u>	<u>VOTE</u>
NORMENT	AYE
TAYLOR	AYE
MAHONE	AYE
DEPUE	AYE
EDWARDS	AYE

Adopted by the Board of Supervisors of James City County, Virginia,
this 12th day of September, 1988.

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