

ORDINANCE NO. 31A-88

AN ORDINANCE TO AMEND CHAPTER 20, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY.

BE IT ORDAINED by the Board of Supervisors of James City County that Chapter 20 of the Code of the County of James City be and the same is, hereby, amended, by the adoption of an amended Chapter 20, Zoning, which amendment constitutes a comprehensive revision of Chapter 20.

**ADOPTED**

APR 8 1988

BOARD OF SUPERVISORS  
JAMES CITY COUNTY  
VIRGINIA

**ZONING ORDINANCE**

**JAMES CITY COUNTY, VIRGINIA**

Adopted April 8, 1985

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**JAMES CITY COUNTY, VIRGINIA**

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## ARTICLE I. IN GENERAL\*

### Section 20-1. Short Title.

This Chapter shall be known and may be cited as the "James City County, Virginia, Zoning Ordinance" or simply as the "Zoning Ordinance."

— \*Editor's note--The Zoning Ordinance and amendments thereto, codified in this Chapter, were prepared by the Planning Commission and public hearings were held thereon, pursuant to prior notices, before passage, in accordance with the Code of Virginia, Section 15.1-493. A certified copy is on file in the Office of the Clerk of the Circuit Court of James City County.

State law reference—Zoning, Code of Virginia, Section 15.1-486 et. seq.

Editor's note--Complete reference to previous ordinance amendments may be found in the Municipal Code Corporation edition of the Code of James City County, Virginia.

### Section 20-2. Definitions.

For the purposes of this Chapter the following words and phrases shall have the meanings respectively ascribed to them by this Section:

ACCESSORY APARTMENT. A separate, complete housekeeping unit that is substantially contained within the structure of, and clearly secondary to, a single-family dwelling. The accessory apartment may not occupy more than thirty-five percent of the floor area of the dwelling.

ACCESSORY BUILDING OR STRUCTURE. A subordinate building or structure customarily incidental to and located upon the same lot occupied by the main use or building. No such accessory building or structure shall be used for housekeeping purposes. Garages or other accessory structures such as carports, porches, decks, and stoops attached to the main building shall be considered part of the main building.

ACCESSORY USE. A subordinate use customarily incidental to and located upon the same lot occupied by the main use or building.

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

ADMINISTRATOR; ZONING ADMINISTRATOR. The official charged with the enforcement of this Chapter.

AGRICULTURE. The tilling of the soil, the raising of crops, orchards, horticulture, forestry, and gardening, including the keeping of animals and fowl.

ALTERATION. Any change or rearrangement in the supporting members of an existing building, such as bearing walls, columns, beams, girders or interior partitions, as well as any change in doors or windows or any enlargement to or diminution of a building or structure, whether horizontally or vertically, or the moving of a building or structure from one location to another.

APARTMENT HOUSE. A building used or intended to be used as the residence of three or more families living independently of each other.

AQUACULTURE. The growing, farming and husbandry of freshwater and marine organisms under controlled conditions, including but not limited to hatcheries, the propagation of ornamental fish and plants and pearl culture. Includes fish farming.

ATTIC. That part of a building which is immediately below and wholly or partly within the roof framing.

AUTOMOBILE. A motor vehicle designed to transport property and/or passengers on its own structure and having a gross registered weight of ten thousand pounds or less. Automobile is inclusive of "passenger car," "pick-up truck," "panel truck," and "van." (Ord. No. 31A-76, 7-11-83)

AUTOMOBILE AND GASOLINE SERVICE STATION. A facility for fueling, minor repairs and maintenance of automobiles. An automobile or gasoline service station may include no more than four enclosed service bays for maintenance and minor repair of automobiles and may also include retail sale of lubricants, tires, batteries and similar accessories. (Ord. No. 31A-76, 7-11-83)

AUTOMOBILE GRAVEYARD. Any lot or place which is exposed to the weather upon which more than five motor vehicles of any kind, incapable of being operated, and which it would not be economically practical to make operative, are placed, located or found. (Code of Virginia, Section 33.1-348)

BASEMENT. A story having part but not more than one-half of its height below grade. A basement shall be counted as a story for the purpose of height regulations, if it is used for business purposes, or for dwelling purposes by other than a janitor employed on the premises.

BUILDING. Any structure having a roof supported by columns or walls, and intended for the shelter, housing or enclosure of any individual, animal, process, equipment, goods or materials of any kind or nature.

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

BUILDING LINE. The line marking the intersection of the vertical building face and the ground plane. For the purpose of this definition, the building face shall be deemed to exclude exterior steps, and architectural features such as canopies, cornices, and eaves which project no more than three feet into the yard.

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 mobile 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 and any other device or vehicular type structure for use as temporary living quarters or shelter during periods of recreation, vacation, leisure time or travel.

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.

DISCONTINUANCE. Discontinuance is defined as:

- (a) Vacancy of a building originally designed or arranged for the nonconforming use for a continuous period of two years;
- (b) Vacancy of land for a period of 90 days;
- (c) Vacancy of any building other than in (a) for a period of six months; or
- (d) Clear intent on the part of the owner to abandon the nonconforming use.

DISTRICT. Districts as referred to in the Code of Virginia, Section 15.1-486.

DWELLING. Any structure which is designed for use for residential purposes, except hotels, motels, boarding houses, lodging houses, tourist cabins, apartments, and travel trailers.

SINGLE-FAMILY. A structure arranged or designed to be occupied by one family, the structure having only one dwelling unit.

TWO-FAMILY. A structure containing two dwelling units separated from one another by a solid wall or floor. For the purpose of this Chapter, the term "two-family dwelling" shall not apply to a single-family dwelling containing an accessory apartment.

MULTIPLE-FAMILY. A structure arranged or designed to be occupied by more than two families.

DWELLING UNIT. One or more rooms in a dwelling designed for living or sleeping purposes, and having at least one kitchen.

ELEVATION. A vertical distance above or below a fixed reference point.

EXTERIOR LOT. Pertaining to lots for three- or four-family dwellings whose units are laid out side-by-side in a row, an exterior lot is a lot intended to contain a dwelling unit sharing only one wall in common with another dwelling unit.

FAMILY. One or more persons related by blood, adoption, or marriage, living and cooking together as a single housekeeping unit, exclusive of household servants. A number of persons not exceeding three, living and cooking together as a single housekeeping unit though not related by blood, adoption, or marriage shall be deemed to constitute a family.

A family is, exclusive of household servants (1) an individual; or (2) two or more persons related by blood, marriage, adoption or guardianship; or (3) a number of persons, not exceeding three, living and cooking together as a single housekeeping unit though not related by blood, marriage, adoption or



guardianship; or (4) not more than two unrelated persons living and cooking together along with two or more persons related by blood, marriage, adoption or guardianship, as a single housekeeping unit. (Ord. No. 31A-71, 6/28/82)

FARMER'S MARKET. An occasional or periodic market held in a structure or open area where farmers sell their produce or farm products.

"FAST FOOD" RESTAURANT. Any establishment whose principal business is the sale of pre-prepared and rapidly prepared food directly to the customer in a ready-to-consume state for consumption either at the restaurant or off premises.

FISH FARM. See Aquaculture.

FLAG LOT. A lot not fronting on or abutting a public road and where access to the public road is by a narrow, private right-of-way.

FLEA MARKET. An occasional or periodic market held in a structure or open area where one or more individuals offer goods for sale to the public. "Flea market" does not include sales held by charitable or non-profit organizations not more than four times a year, farmer's market, or garage or yard sales.

FLOOR AREA. The total number of square feet of floor space within the exterior walls of a building, not including space in cellars, basements or attics.

FLOOR AREA RATIO. A mathematical expression determined by dividing the total floor area of a building by the area of the lot on which it is located, as:

$$\frac{\text{Floor area}}{\text{Lot area}} = \text{Floor area ratio}$$

FRONTAGE. The minimum width of a lot measured along the street from one side lot line to the other.

FUNCTIONAL CLASSIFICATION. A classification of streets, approved by the Governing Body, into the following categories: interstate, expressway, principal arterial, minor arterial, major collector, and minor collector.

GARAGE. A deck, building or structure, or part thereof, used or intended to be used for the parking or storage of vehicles.

GARAGE, PRIVATE. An accessory building which is designed or used for the storage of automobiles owned and used by the occupants of the building to which it is accessory, and which is not operated as a separate commercial enterprise available to the public.

GARAGE, REPAIR. A building or portion thereof, other than a private garage, designed or used for servicing, repairing, equipping, renting, selling, or storing motor-driven vehicles.

GARAGE SALE. The sale of goods by a property owner and his neighbors at the property owner's residence occurring not more than twice a year.

GOLF COURSE. Any area of land, publicly or privately owned, on which the game of golf is played, including accessory uses and buildings customary thereto, but excluding golf driving ranges as defined herein.

GOLF DRIVING RANGE. A limited area on which golf players do not walk, but onto which they drive golf balls from a common driving tee.

GOVERNING BODY. The Board of Supervisors of James City County, Virginia.

GROUP HOME. A residential facility for the care of four or more persons who are physically handicapped, mentally retarded, or developmentally disabled, or who for other reasons require the protection of a supervised group setting.

GUEST ROOM. A room which is intended, arranged or designed to be occupied, or which is occupied, by one or more guests paying direct or indirect compensation therefor, but in which no provision is made for cooking. Dormitories are excluded.

HOME GARDEN. An accessory use in a residential district for the production of vegetables, fruits and flowers generally for use or consumption, or both, by the occupants of the premises.

HOME OCCUPATION. Any occupation or activity which is clearly incidental and secondary to the use of the premises for dwelling purposes and conducted solely by residents of the dwelling, provided that:

- (a) The occupation or activity is conducted entirely within the dwelling, and
- (b) Not more than 25% of the first floor area is used throughout the structure for such occupation or activity, and
- (c) The occupation or activity requires no external alterations, or the use or outdoor storage of machinery or equipment that creates noise, odor, smoke, dust or glare or is dangerous or otherwise detrimental to persons residing in the home or on adjacent property, and
- (d) No exterior evidence of the secondary use exists, with the exception of one sign, not to exceed four square feet. Such a sign must be attached to the dwelling and shall not be illuminated, and
- (e) No articles are displayed or otherwise offered for sale upon the premises, and
- (f) No equipment or process is used that may disrupt neighboring dwellings.
- (g) Traffic is not generated in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street.

HOSPITAL. Any facility in which the primary function is the provision of diagnosis, of treatment, and of medical and nursing services, surgical or nonsurgical, for two or more nonrelated individuals, including hospitals known by varying nomenclature or designation such as sanatoriums, sanitariums and general, acute, short-term, long-term, outpatient and maternity hospitals.

HOTEL. A building designed or occupied as the more or less temporary abiding place for more than 10 individuals who are, for compensation, lodged, with or without meals, and in which provision is not generally made for cooking in individual rooms or suites.

JUNK YARD. The use of any area of land lying within 100 feet of a State highway or the use of more than 200 square feet of land area in any location for the storage, keeping, or abandonment of junk, including scrap metals or other scrap materials.

KENNEL. A place prepared to house, board, breed, handle, or otherwise keep or care for either dogs or cats or both for sale or in return for compensation.

LANDSCAPED OPEN SPACE, AREA OR STRIP. An area containing living plant materials, including trees, flowers, shrubs or grass. Landscaped areas may include pedestrian walks, ornamental objects, decorative planting, lawns, and wooded areas, but at least 50% of the area must be vegetated. Landscaped open space, areas or strips shall not include any building, parking surface, or structure except as stated above.

LIVESTOCK. Domestic animals normally raised on a farm such as horses, cows, swine, goats, sheep, etc.

LIVESTOCK MARKET. A commercial establishment wherein livestock is collected for sale and auctioned off.

LOT. A unit, division, or piece of land occupied or to be occupied by a main structure or group of main structures and accessory structures, together with such yards, open spaces, lot width and lot areas as are required by this Chapter, and having frontage upon a street, either shown on a plat of record or considered as a unit of property and described by metes and bounds.

LOT, AREA OF. The total area of land contained by lot lines and inclusive of any easements that may exist upon the lot. For the purpose of computing coverage of floor area ratio, the area of the lot shall not be considered to include any area of land designated for a future public road right-of-way.

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

LOT, DEPTH OF. The shortest horizontal distance between the front and rear lot lines.

LOT, DOUBLE FRONTAGE. An interior lot having frontage on two streets.

LOT, INTERIOR. Any lot other than a corner lot.

LOT, INTERIOR UNIT. Pertaining to lots for three- or four-family dwellings, an interior unit lot is a lot intended to contain a dwelling unit sharing two walls wholly or in part with another dwelling unit.

LOT LINE, FRONT. The lot line separating a lot from a street right-of-way except in the case of a flag lot, which the front lot line shall be the lot line nearest and parallel or approximately parallel to the street to which the lot has access.

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.

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 single-family dwelling 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.)

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

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 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.

POULTRY. Domestic fowl normally raised on a farm such as chickens, ducks, geese, and turkeys.

PUBLIC WATER AND SEWER SYSTEMS. A water or sewer system owned and operated by a municipality, County, Service Authority or Sanitary District, or owned and operated by a private individual or a corporation approved by the governing body and properly licensed by the State Corporation Commission, and approved by the Virginia Department of Health.

RECREATION FACILITY, COMMERCIAL. A place designed and equipped for the conduct of leisure time activities, sports, or other customary and usual recreation activities, and which is operated as a business.

RECREATION FACILITY, COMMUNITY. A place designed and equipped for recreational activities by the inhabitants for a residential project and which is operated for non-commercial purposes by a developer, homeowner association, non-profit organization, or a governmental agency.

RESIDENTIAL CLUB HOUSE. A facility used by residents of the community for recreational purposes.

REST HOME. Any place, establishment, or institution, public or private, including any day care center for adults, operated or maintained for the maintenance or care of four or more adults who are aged, infirm, or disabled, except the home or residence of any individual who cares for or maintains only persons related to him by blood or marriage. The term "rest home" shall include facilities known by varying nomenclature such as home for adult and domiciliary.

RESTAURANT. Any building in which, for compensation, food or beverages are dispensed for consumption on the premises including, among other establishments, cafes, tea rooms, confectionery shops or refreshment stands.

RETAIL STORES AND SHOPS. Buildings for display and sale of merchandise at retail or for the rendering of personal services (but specifically exclusive of coal, wood, and lumber yards) such as the following which will serve as illustration; drug store, newsstand, food store, candy shop, milk dispensary, dry goods and notions store, antique shop and gift shop, hardware store,

household appliance store, furniture store, florist, optician, music and radio store, tailor shop, barber shop, and beauty shop.

SANITARY LAND FILL. A facility where solid waste is spread in thin layers on the ground, compacted to the smallest practical volume, and covered with soil at the end of each working day.

SETBACK. The distance by which any building or structure must be separated from the front lot line. For buildings, the setback is measured from the building line. For other structures, the setback is measured from the point on the ground vertically below the point of the structure nearest the front lot line.

SETBACK LINE. That line that is the required distance from the street line or any other lot line. The setback line establishes the area within which the principal structure shall be erected or placed.

STORE. See "retail stores and shops," preceding in this Section.

STORY. That portion of a building, other than the basement, included between the surface of any floor and the surface of the floor next above it. If there is no floor above it, the space between the floor and the ceiling next above it.

STORY, HALF. A space under a sloping roof, which has the line of intersection of roof decking and wall face not more than three feet above the top floor level, and in which space not more than two-thirds of the floor area is finished off for use.

STREET; ROAD. A public or private thoroughfare which affords principal means of access to abutting property.

STREET LINE. The line that forms the boundary between a street or road right-of-way and the contiguous property.

STRUCTURE. Anything constructed or erected, the use of which requires permanent location on the ground, or attachment to something having a permanent location on the ground.

THEME PARK. A park or garden facility that is based on a common theme and may include but is not limited to the following: Exhibits, animal acts and displays, rides, shops, and eating facilities encompassing a minimum of ten acres.

TOURIST HOME. A dwelling where lodging or lodging and meals are provided for compensation for up to and including 10 persons and open to transients.

TOWNHOUSE. In a structure containing three or more dwelling units, a dwelling unit for single family occupancy, not more than three stories in height, attached by one or more vertical party walls extending to the roof sheathing without passageway openings to one or more additional such dwelling units, each of which is served by an individual exterior entrance or entrances.

TRAILER. A structure standing on wheels towed or hauled by another vehicle and used for short-term human occupancy, carrying materials, goods, or objects, or as a temporary office.

TRAVEL TRAILER. A mobile unit less than 29 feet in length and less than 4,500 pounds in weight which is designed for human habitation.

TREE. For the landscaping requirements of this Chapter, a tree shall be defined as (a) deciduous shade tree at least eight feet in height, or (b) a flowering tree or evergreen at least six feet in height.

TRUCK. A motor vehicle designed to transport property on its own structure or to transport property on a trailer drawn by it. Truck is inclusive of "tractor trailer vehicle," "tractor truck" and "road tractor" and has a registered gross weight in excess of ten thousand pounds. (Ord. No. 31A-76, 7-11-83)

TRUCK STOP. Any facility offering for sale fuel for commercial vehicles, trucks and automobiles and constructed and designed to enhance maneuverability and fueling of tractor trailer vehicles by the contouring of curbs and aprons, the placement and design of fuel pump islands or other such design criteria. In addition, a truck stop shall have the capability to fuel three or more tractor trailer vehicles at the same time and/or parking facilities for three or more such vehicles. The facility may include provisions for one or more of the following: repairs or maintenance of commercial vehicles and trucks; sleeping accommodations for commercial vehicle or truck crews; sale of parts and/or accessories for commercial vehicles or trucks; or a restaurant. (Ord. No. 31A-76, 7-11-83)

TRUCK TERMINAL. A storage facility for the unloading, transferring and storing of goods and materials being transported by truck. A truck terminal may include facilities for the repair and servicing of trucks. (Ord. No. 31A-76, 7-11-83)

UNIT. See Dwelling Unit.

VARIANCE. A variance is a relaxation of the terms of this Chapter where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the Chapter would result in an unnecessary and undue hardship. As used in this Chapter, a variance is authorized only for height, area, and size of structure or size of yards and open spaces; establishment or expansion of a use otherwise prohibited shall not be allowed by variances in the Zoning Division or District or adjoining Zoning District or Districts.

WAYSIDE STAND; ROADSIDE STAND; WAYSIDE MARKET. Any structure or land use for the sale of agricultural or horticultural produce, livestock, or merchandise produced by the owner or his family on their farm.

WINERY. An establishment located on a farm with a producing vineyard, orchard or similar growing areas and with facilities for fermenting, bottling, storage and sale of wine on the premises.



YARD. An open space on a lot, other than a court, unoccupied and unobstructed from the ground upward except as otherwise provided herein.

FRONT. An open space on the same lot as a building and located between the front building line and the front lot or street line, and extending across the full width of the lot.

REAR. An open unoccupied space on the same lot as a building between the rear building line and the rear line of the lot, and extending the full width of the lot.

SIDE. An open, unoccupied space on the same lot as a building between the side building line and the side line of the lot, and extending from the front yard line to the rear yard line.

ZONING DISTRICT, OVERLAY. Any section of James City County, Virginia, for which regulations governing the use of buildings and land, the height of buildings, the size of yards, and the intensity of use are uniform and which district overlays one or more principal zoning districts so as to impose special requirements in addition to the requirements of the principal zoning district.

ZONING DISTRICT, PRINCIPAL. Any section of James City County, Virginia, for which regulations governing the use of buildings and land, the height of buildings, the size of yards, and the intensity of use are uniform. Whenever used in this ordinance the term "district" or "zoning district" shall mean the same as the term "principal zoning district" as if the latter term were fully set out.

(3-1-69, Art. 17; 1-12-70; 7-20-70; 6-14-71; 9-21-73, Section 1; 1-10-74, Section 4-1; 4-23-74; 7-14-75; 7-22-75; Ord. No. 31A-52, 3-12-79; Ord. No. 31A-53, 3-12-79; Ord. No. 31A-65, 12-27-79.)

Section 20-3. Purpose of Chapter; Zoning Map.

- (a) The Board of Supervisors hereby enacts this Chapter, together with the Zoning Map and all accompanying data thereon or affixed thereto and which is and shall remain on file in the Office of the County Administrator, and which is hereby incorporated in and made a part of this Chapter, for the purpose of promoting the health, safety, and general welfare of the public and for the further purpose of accomplishing the objectives of Sections 15.1-427, 15.1-486 and 15.1-489 of the Code of Virginia.
- (b) This Chapter is designed so as to give reasonable consideration to each of the following purposes, where applicable:
  - (1) To provide for adequate light, air, convenience of access, and safety from fire, flood, and other dangers;
  - (2) To reduce or prevent congestion in the public streets;

- (3) To facilitate the creation of a convenient, attractive and harmonious community;
- (4) To facilitate the provision of adequate police and fire protection, disaster evacuation, civil defense, transportation, water, sewerage, flood protection, schools, parks, forests, playgrounds, recreational facilities, airports, and other public requirements;
- (5) To protect against destruction of or encroachment upon historic areas;
- (6) To protect against one or more of the following: overcrowding of land; undue density of population in relation to the community facilities existing or available; obstruction of light and air; danger and congestion in travel and transportation or loss of life, health, or property from fire, flood, panic or other dangers;
- (7) To encourage economic development activities that provide desirable employment and enlarge the tax base;
- (8) To provide for the preservation of agricultural and forestal lands.

Section 20-5. Zoning Administrator; Administration and Enforcement of Chapter.

This Chapter shall be administered and enforced by the administrator who shall be appointed by the governing body. The administrator shall serve at the pleasure of that body. Compensation for such shall be fixed by resolution of the governing body. (3-1-69, Section 16-1)

Section 20-6. Duty of Those Authorized to Issue Licenses and Permits to Conform to Chapter.

All departments, officials and public employees of this jurisdiction who or which are vested with the duty of authority to issue permits or licenses shall conform to the provisions of this Chapter. They shall issue permits for uses, buildings or purposes only when they are in harmony with the provisions of this Chapter. Any such permit, if issued in conflict with the provisions of this Chapter, shall be null and void. (3-1-69, Section 14-1)

Section 20-8. Administrative Fees.

Fees shall be charged at the time of application to offset the cost of making inspections, issuing permits, advertising notices and other expenses incident to the administration of this ordinance or to the filing or processing of any appeal or amendment thereto. Fees shall be established by resolution of the Board of Supervisors.

#### Section 20-9. Certificate of Occupancy.

Land may be used or occupied and buildings structurally altered or erected may be used or changed in use only after a Certificate of Occupancy has been issued by the administrator. Such a certificate shall state that the building or the proposed use, or the use of the land, complies with the provisions of this Chapter. A similar certificate shall be issued for the purpose of maintaining, renewing, changing, or extending a nonconforming use. The certificate shall be issued within ten days after the erection or structural alteration of such building or part has conformed with the provisions of this Chapter and all applicable codes and ordinances. Upon the request of the holder of a permit the Zoning Administrator may issue a temporary Certificate of Occupancy for a building or structure, or part thereof, before the entire work covered by the permit shall have been completed, provided such portion or portions may be occupied safely prior to full completion of the building or structure without endangering life or public welfare.

#### Section 20-10. Special Use Permits.

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 mobile home.

#### Section 20-10.1. Public Hearings 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 mobile home may be issued after a public hearing is held by the Board of Supervisors only. The fee for a special use permit shall be in accordance with Section 20-8 of this Chapter.

#### Section 20-10.2. Regulations for Mobile Homes Requiring Special Use Permits

Mobile 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 mobile 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. (3-1-69, Section 12-5.)

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.

(c) No parking lot for any exempted property is enlarged or materially altered. If such a parking lot is to be enlarged or materially altered, the existing parking area as well as the new parking area shall be brought into conformance with this Chapter; provided however, the Planning Commission may waive the setbacks and geometric design requirements found in B. 1, 2 and 6 below as they apply to existing parking areas, upon finding that the costs of complying with these standards would impose a severe hardship, or that insufficient area exists to allow such revision.

For purposes of this Section, enlarged or materially altered shall mean expansion or change in the parking lot which either increases the number of parking spaces by more than 15% or reduces the landscaped areas of the parking lot by more than 15%. Nothing in this Section is intended to prohibit paving or surfacing of parking lots, the installation of curbs or bumpers, or other improvements which do not affect the number of spaces or the areas of the site dedicated to landscaped open space.

2. Required off-street parking spaces shall be located on the same lot as the structure or use to which they are accessory or on a lot adjacent thereto which has the same zoning classification.

3. Off-street parking spaces shall be used solely for the parking of vehicles in operating condition by patrons, occupants or employees of the use to which such parking is accessory. Permanent storage of vehicles shall not be allowed. Storage of vehicles for sale shall not be allowed.

4. Parking spaces for the handicapped and any necessary curb cuts and ramps shall be provided in all parking areas in conformance with the standards for numbers and design found in the Virginia Uniform Statewide Building Code.

B. Design.

Parking areas shall be arranged for functional efficiency and convenience and shall be designed to be amenable to surrounding property. Parking areas accessory or otherwise, containing ten or more parking spaces, shall comply with the following:

1. The parking lot shall be separate from the street right-of-way and property lines by a landscaped strip at least ten feet in width. Ingress and egress shall be provided through driveway openings only. In the event a parking lot is adjacent to a parking lot on another parcel, the required landscaped strip along the common property line between the two parking lots may be waived by the Site Plan Review Committee.

2. The parking lot shall be constructed so that spaces are grouped into bays. At the end of each bay, a landscaped island of at least nine feet in width and 15 feet in length shall be built to separate the bays from each other or from traffic lanes. When the parking bays contain double rows of parking spaces, the landscaped island shall be increased to nine feet in width and 30 feet in length. A parking bay may not be constructed to a length of more than 200 feet without constructing a landscaped island. The Administrator may approve islands which vary from 9 x 15 or 9 x 30 rectangles in order to provide desirable geometric design features such as rounded corners and angles to facilitate maneuvering of automobile traffic. However, in no case shall the total area of an island be decreased as a result of such design change..

3. The landscaped area within the parking lot shall not be less than 7.5% of the surface area of the parking lot. The perimeter landscaped strip required by this Chapter shall be excluded from the calculations of the minimum landscaped percentage; except that any portion of the perimeter landscaped strip which exceeds the minimum requirement may be counted as up to one-third of the required landscaped percentage or against up to 2.5% of the surface area of the parking lot. Parking lots with two bays or less of single rows of parking may include the entire perimeter landscaped strip, including the minimum required, in the calculation of the landscape percentage.

4. "Landscaped area," "landscaped setback," "landscaped strip," "landscaped island," or "perimeter open space," as herein used are defined in Section 20-2. Such areas shall be shown on the site plan or a separate landscaping plan for the site which shows the size and type of existing trees, trees to be removed and new trees, shrubs, flowers and grass to be planted. A minimum of one tree shall be provided within the landscaped areas in the parking lot for each ten parking spaces in the lot. Existing trees and natural vegetation shall be retained wherever possible, particularly where they border adjacent property. All landscaped areas contiguous to parking bays shall be protected from intrusion by vehicles by curbs or bumpers.

5. Adequate lighting shall be provided if the uses which are served by the parking lot will be in operation at night. The lighting in parking lots 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.

6. The design of the parking lot shall meet the minimum geometric standards presented in the following table:

MINIMUM OFF-STREET PARKING AREA DIMENSIONS

<u>Angle of Parking (degrees)</u>	<u>Direction of Traffic</u>	<u>Dimension of Stall (feet)</u>	<u>Width of Aisle (feet)*</u>
Parallel	One-way	8 x 22	12
45	One-way	9 x 18	12
60	One-way	9 x 18	18
90	Two-way	9 x 18	23

\* Minimum width of traffic aisles in parking lots for two-way traffic shall be 24 feet.

The minimum aisle dimension of any parking lot designed to accommodate at least 500 vehicles and intended for long-term parking may be reduced by four feet provided: the lot is designed and marked for one-way traffic; the parking spaces form an angle of eighty degrees to ninety degrees with the aisle; each vehicle is individually guided to a parking space by an attendant; and the safety and effective operation of the lot has been clearly demonstrated.

For the purpose of this section the phrase "long-term parking" shall mean parking the duration of which is on the average six hours or more. (Ord. No. 31A-80, 11-16-83).

7. Parking areas, driveways, and entrances shall be surfaced with gravel, stone, asphalt or concrete, and shall be maintained in good repair. Adequate drainage shall be provided for the removal of storm water and a drainage plan shall be submitted with the site plan and approved by the Director of Public Works.

8. The location, size, and number of entrances from parking areas onto public or private roads shall be shown on the site plan. Upon finding that on-site traffic circulation, off-site traffic flow, or public safety would be improved, the Site Plan Review Committee may require the location, number or size of entrances to be limited or increased.

C. Special provisions for bus parking.

If provided, bus parking areas shall be arranged for functional efficiency and convenience and shall be designed to be amenable to surrounding property. Bus parking areas, accessory or otherwise, are exempted from the requirements of B. "Design," but shall comply with A. "General provisions" and with the following:

1. Site plans, in accordance with Article II of this Chapter, shall be submitted for all new off-street parking areas for buses or for any additions to existing off-street parking areas for buses. (This requirement supersedes A. 5 above.)

2. Parking areas to be used for bus parking shall be used for bus parking only. Signs shall be erected within the parking lot indicating those areas designated for bus parking only.

3. For perpendicular or angled parking, the minimum size of a bus parking space shall be 12 feet wide and 40 feet long. For parallel bus parking spaces, the minimum size shall be 12 feet wide by 50 feet long. The width of aisles within bus parking lots shall be determined by the turning radii necessary to safely maneuver into and out of the parking spaces; however, shall in no case be less than 24 feet wide.

4. Bus parking areas shall be surfaced with gravel, stone, asphalt or concrete and shall be maintained in good repair. Adequate drainage shall be provided for the removal of storm water and a drainage plan shall be submitted with the site plan and approved by the County Engineer.

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 mobile 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:

Banks and financial institutions.

Corporate, business and professional offices.

Lumber and building supply.

Plumbing and electrical supply.

Tire, transmission, glass, body and fender, and other automotive product sales and service.

Machinery sales and service.

Photography studios and sales and artist and sculptor studios.

Category C. Uses with unique requirements.

(a) Motels, hotels and tourist homes shall have one parking space per rental unit plus four parking spaces for every 50 rental units plus one parking space per five persons to the maximum capacity of each public meeting and/or banquet room. Accessory uses (restaurants, bars, etc.) shall provide the number of parking spaces required for those uses individually.

(b) Theaters, auditoriums and places of public assembly shall have one parking space per five seats based upon the planned seating capacity.

(c) Hospitals shall provide at least two parking spaces for every bed. Nursing homes or convalescent facilities shall provide one parking space for every three beds, plus one parking space for each employee on the largest shift.

(d) Outdoor retail sales/display areas shall provide at least one parking space per 500 square feet of area.

(e) Bowling alleys shall have three parking spaces per alley plus one space for every 200 square feet of accessory business use.

(f) Barber shops and beauty shops shall have at least three spaces plus two spaces for every barber or beautician chair.

(g) Planned shopping centers, with four or more stores using a common parking lot, shall provide parking spaces according to the following schedule:

<u>Total Retail Floor Area in Square Feet</u>	<u>Number of Spaces per 1,000 Square Feet</u>
1 - 100,000	4
100,001 - 300,000	5
Over 300,000	5.5

Where a theater is proposed in conjunction with any shopping center which contains at least 60,000 square feet of retail floor area, the number of parking spaces required for the theater may be reduced by 25% of what would have been required under (b) above. All shopping centers utilizing the provisions of this paragraph shall have a minimum landscaped strip along street rights-of-way of 20 feet and the landscaped strip along all other property lines shall be a minimum width of 15 feet.

(h) Medical and dental clinics shall provide at least three parking spaces for each doctor or dentist having offices in such clinic.

(i) Mortuaries and funeral homes shall provide at least 30 parking spaces.

(j) Furniture stores, carpet show rooms and indoor vehicular sales show rooms shall have one parking space for every 400 square feet of retail floor area.

(k) Restaurants shall have one parking space for every four seats based upon the maximum seating capacity allowed.

(l) Rental of rooms to a maximum of three shall provide off-street parking totalling one more parking space than the total number of rooms to be rented.

3. Industrial uses: Industries, warehouses and wholesale establishments not selling directly to the public shall provide a minimum of one parking space per two employees on the largest shift.

4. Where the required number of parking spaces is not set forth for a particular use in the preceding Sections, where the applicant is uncertain as to final use or size of the structure or where there is no similar general type of use listed, the Commission shall determine the number of spaces to be provided.

5. Appeals and variances.

(a) Appeals. A property owner may appeal for a change of a commercial use from Category A to Category B or a less restrictive requirement within Category C; however, the burden of proof shall be upon the applicant to show that the particular activity will not reasonably generate parking demand sufficient to justify the parking requirement of its present classification. Appeals for changes to different parking classifications shall be made to the Commission.

(b) Variances. A property owner may be granted a variance by the Board of Zoning Appeals from the minimum off-street parking requirements if it can be shown that due to unique circumstances, a particular activity would not reasonably be expected to generate parking demand sufficient to justify the parking requirement. Any variance granted by the Board of Zoning Appeals shall not allow a greater building area than would have been possible had the original parking requirement been enforced. The Board of Zoning Appeals may place conditions upon the granting of a variance, and may require that the parking area not required upon the granting of the variance be landscaped in addition to the minimum landscaping requirements.

Section 20-12.1. Off-Street Loading Requirements.

On the same premises with every building, structure, or part thereof, erected and occupied for manufacturing, storage, warehouse, goods display, department store, wholesale store, market, hotel, hospital, mortuary, laundry, dry cleaning or other uses similarly involving the receipt or distribution of vehicles, materials or merchandise, there shall be provided and maintained on the lot adequate space for standing, turning, loading and unloading services. In no case shall the required off-street loading space be part of the area used to satisfy the off-street parking requirement, nor shall the space for loading and unloading of vehicles be so located that a vehicle using such loading space projects into any public or private street or alley or driving aisle required for circulation within a parking lot.

Such loading and unloading space shall:

(a) Be an area ten feet by 50 feet, with 15 foot height clearance, and

(b) Be provided according to the following schedule:

<u>Gross Floor Area in Square Feet</u>	<u>Loading and Unloading Spaces Required In Terms of Square Feet of Gross Floor Area</u>
5,001 - 30,000	One space.
30,001 - 150,000	One space plus one space for each 30,000 square feet.
150,001 - 750,000	Five spaces plus one space for each 60,000 square feet in excess of 150,000 square feet.
Over 750,000	15 spaces plus one space for each 120,000 square feet.

(1-10-73, Section 2-2)

For the above uses, with gross floor areas of 2,000 to 5,000 square feet, one loading and unloading space measuring ten feet by 30 feet, with 15 foot height clearance, shall be provided.

#### Section 20-12.2. Maintenance of Landscaping and Screening

- (1) The owner, or his agent, shall be responsible for the maintenance, repair, and replacement of all landscaping materials and barriers as may be required by the provisions of this Chapter.
- (2) All plant material shall be tended and maintained in a healthy growing condition, replaced when necessary, and kept free of refuse and debris.
- (3) Fences and walls shall be maintained in good repair.

#### Section 20-14. Amendment of Chapter.

As provided for by Section 15.1-491(g) of the Code of Virginia, the Board of Supervisors may from time to time amend, supplement or change by Ordinance the boundaries of the districts or the regulations herein established; any such amendment may be initiated by resolution of the Board of Supervisors or by motion of the Planning Commission or by petition of any property owner, contract purchaser with the owner's written consent, or the owner's agent therefor, of the property which is the subject of the proposed zoning map amendment, addressed to the Board of Supervisors. Petitions for change or amendment shall be on forms provided by the County and filed with the application fee established by Section 20-8 of this Chapter. These changes may be made, provided:

- (a) The Planning Commission and the Board of Supervisors shall each hold at least one public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard.

- (b) That notice shall be given of the time and place of such hearing by publication as a box advertisement in at least two issues of some newspaper having a general circulation in the jurisdiction. Such notice shall specify the time and place of hearing at which persons affected may appear and present their views, not less than six days nor more than 21 days after final publication. After enactment of any such plan, ordinance or amendment, further publication thereof shall not be required.
- (c) When a proposed amendment of the Zoning Ordinance involves a change in the zoning classification of 25 or less parcels of land, then, in addition to the advertising as required above, written notice shall be given by the Planning Commission at least five days before the hearing to the owner or owners, their agent or the occupant, of each parcel involved, and to the owners, their agent or the occupant, of all abutting property and property immediately across the street from the property affected. When a proposed amendment of the zoning ordinance involves a change in the zoning map classification of more than 25 but less than 500 parcels of land, then, in addition to the advertising as above required, written notice shall be given at least five days before the hearing to the owner, owners, or their agent of each parcel of land involved. One notice sent by first class mail to the last known address of such owner as shown on the current real estate assessment books shall be deemed adequate compliance with this requirement, provided that a representative of the local commission shall make affidavit that such mailings have been made and file such affidavit with the papers in the case. Nothing in this paragraph shall be construed as to invalidate any subsequently adopted amendment or ordinance because of the inadvertent failure by the representative of the Planning Commission to give written notice to the owner, owners, or their agent of any parcel involved. Such notice shall be sent in accordance with Subsection 15.1-431 of the Code of Virginia.
- (d) No plan, ordinance, or amendment shall be enacted, amended, or reenacted unless the Board of Supervisors has referred the proposal to the Planning Commission for its recommendation or has received the Planning Commission recommendation. Failure of the Planning Commission to report ninety days after the first meeting of the Commission after the proposed plan, amendment, or reenactment has been referred to the Commission shall be deemed approval. After the public hearing required in Subsection (a), above, the Board may make appropriate changes or corrections in the ordinance or proposed amendment.
- (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 20-14.1. 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. (4-23-74)

#### Section 20-14.2. 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. (Ord. No. 31A-70, 8-10-81)

#### Section 20-14.3. 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 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: (Ord. 31A-70, 8-10-81)

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 except for dedication of any street, curb, gutter, sidewalk, bicycle trail, drainage, water or sewer system;
5. Such conditions shall not include payment for or construction of off-site improvements except a pro rata share of sewerage and drainage facilities;
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-70, 8-10-81)

#### Section 20-14.4. Enforcement and Guarantees as to Conditions.

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

1. The ordering in writing of the remedy of any noncompliance with such conditions;
2. The bringing of legal action to ensure compliance with such conditions, including injunction, abatement or other appropriate action or proceeding; and
3. Requiring a guarantee, in an amount sufficient for or conditioned upon the construction of any physical improvements required by the conditions, or a contract for the construction of such improvements and the contractor's guarantee, in like amount and so conditioned, which guarantee may be reduced or released by the Zoning Administrator upon the submission of satisfactory evidence that construction of such improvements has been completed in whole or in part. Failure to meet all conditions shall constitute cause to deny the issuance of any required use, occupancy or building permits as may be appropriate. (Ord. No. 31A-70, 8-10-81)

#### Section 20-14.5. 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. (Ord. No. 31A-70, 8-10-81)

#### Section 20-14.6. Petition for Review of Decision.

Any zoning applicant who is aggrieved by the decision of the Zoning Administrator, pursuant to the provisions of Section 20-14.4, may petition the Board of Supervisors for the review of such decision. Said appeal shall be taken within 30 days from the date of the action complained of and shall be instituted by filing with the Zoning Administrator and with the County Administrator a notice of appeal, specifying the grounds thereof.

The Zoning Administrator shall forthwith transmit to the Board of Supervisors all of the papers constituting the record upon which the action appealed from was taken, and the Board of Supervisors shall proceed to hear the appeal at its next regular scheduled meeting.

An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Zoning Administrator certifies to the Board of Supervisors after the notice of appeal has been filed with him that, by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property. In such case, the proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Supervisors or by a court of record on application or notice to the Zoning Administrator and on due cause shown. (Ord. No. 31A-70, 8-10-81)

#### Section 20-14.7. Amendments and Variations of Conditions.

Conditions proffered and accepted as part of an amendment of the zoning ordinance shall continue in full force and effect until a subsequent amendment changes the zoning on the property covered by such conditions; provided, however, that such conditions shall continue if the subsequent amendment is part of a comprehensive implementation of a new or substantially revised zoning ordinance.

There shall be no amendment or variation of conditions created pursuant to the provisions of this article until after a public hearing before the Board of Supervisors which shall be advertised pursuant to Section 20-14 of this chapter. (Ord. No. 31A-70, 8-10-81)

#### Section 20-14.8. Relation of Section to other Laws.

The provisions contained in this section shall be considered separate from, supplemental to and additional to the provisions contained elsewhere in this Code or other County ordinances. Nothing contained in this section shall be construed as excusing compliance with all other applicable provisions of this Code or other County ordinances. (Ord. No. 31A-70, 8-10-81)



#### Section 20-15. Penalties

Any person, firm or corporation, whether as principal, agent, employee or otherwise, violating, causing or permitting the violation of any of the provisions of this Chapter shall be guilty of a misdemeanor, and upon conviction thereof, may be fined up to \$250.00. Such person, firm or corporation shall be deemed to be guilty of a separate offense for each and every day during which any portion of any violation of this Chapter is committed, continued or permitted by such person, firm or corporation, and shall be punishable as herein provided. (3-1-69, Section 14-2) (Ord. No. 31A-70, 8-10-81)

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## ARTICLE II. SITE PLAN\*

### Section 20-16. 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) Mobile 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. (Ord. No. 31A-45, 3-13-78)
- (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.

\*Editor's note-Ord. No. 31A-45, enacted March 13, 1976, amended Art. II, relative to site plan requirements, to read as set out in Sec.

20-16—20-21.6. Formerly Art. II was derived from Ordinance enacted April 30, 1970; July 20, 1970; June 11, 1973; May 12, 1975; and Sept. 8, 1975.

#### Section 20-17. Preapplication Conference.

Before filing an application for approval of a site development plan, the developer may confer with the administrator or his designee and such other agencies of the County and State as he or the administrator deems advisable concerning the general proposal. At that time the developer or his representative may submit unofficial preliminary studies of the concept of the proposed development for tentative review, comments, and recommendations concerning the development of the tract. Such action does not require formal application or filing of a site plan and is not to be construed as an application for approval in computing time limitations in relation thereto. (Ord. No. 31A-45, 3-13-78)

#### Section 20-18. Site plan—Submittal Generally.

Seven copies of a site plan shall be submitted to the Planning Director, or his designee, who shall review the plans for compliance with these regulations and the requirements for site plans. The Planning Director shall transmit such plans to the Site Plan Review Committee with his comments for their review. The Committee shall consider the site plan submittal within 30 days from when the site plan, meeting all submittal requirements, is submitted to the Planning Office. (Ord. No. 31A-45, 3-13-78)

#### Section 20-18.1. Same—Exceptions.

Upon application and review, the administrator may approve the site plan provided that:

- (a) All materials are presented in accordance with the requirements set forth in this Chapter.
- (b) No unresolved problems exist between the applicant, adjacent property owners, or any departmental reviewing agency, and the site plan is for either:
  - (1) An addition to an existing use with a floor area no greater than 75% of the total floor area of the existing use, or
  - (2) A single business, commercial, or industrial building with a total floor area not to exceed 5,000 square feet, and a maximum height of 35 feet from grade to the top of the structure. (Ord. No. 31A-45, 3-13-78)
  - (3) Single-family or two-family dwellings.
  - (4) No building to be placed on the lot.

Section 20-19. Same—Submittal Contents.

The site plan shall as a minimum contain:

- (a) Title of project.
- (b) Name of engineer, architect, landscape architect, planner and/or licensed surveyor.
- (c) Location of site by an insert map at a scale no less than one inch equals 2,000 feet.
- (d) Indication of the scale, north arrow, zoning, parcel number and such information as the names and numbers of adjacent roads, streams, and bodies of water, railroads and subdivisions, or other landmarks sufficient to clearly identify the location of the property.
- (e) Boundary survey of site.
- (f) All existing and proposed streets and easements, their names, numbers, and width; existing and proposed utilities, watercourses and their names and owners.
- (g) Location, type and size of all entrances to the site.
- (h) Existing topography and proposed finished contours.
- (i) A landscape plan showing woodline before site preparation with species and average diameter of trees indicated with location and diameter of single trees in open areas, areas to be screened, fenced, walled and/or landscaped, with approximate arrangements, plant types and sizes, and size and type of trees to be removed having a minimum diameter breast height of 12 inches.
- (j) Provisions for off-street parking, loading spaces and pedestrian walkways; including sidewalks; calculations indicating the number of parking spaces required and the number provided.
- (k) Number of floors, floor area, height and location of each building.
- (l) For a multifamily residential development, the number, size and type of dwelling units; location, type, and percentage of total acreage of recreation facilities.
- (m) Detailed utility layout including water and sanitary sewer plan with profiles; location of electrical transmission lines, gas pipelines, streetlights, and fire hydrants; and showing the locations of garbage and trash disposal facilities.

- (n) Provisions for the adequate control of storm water drainage and erosion and sedimentation, indicating all proposed temporary and permanent control measures.
- (o) Computations notation to include the total site area, and the amount and percentage of the site covered by open space and buildings, or dwelling units for multifamily residential developments.
- (p) Bylaws of Homeowner Association where applicable.
- (q) Notification of adjacent property owners. It shall be the responsibility of the applicant for site plan approval to notify all adjoining property owners, advising them of the submission of plans to the County and that plans are on file and available for review in the County Department of Planning and Development. No site plan shall be reviewed until the applicant presents evidence to the satisfaction of the Planning Director, or his designee, that all property owners contiguous to and sharing a common property line with said applicants or whose property lies directly across from the proposed development, have been notified in writing prior to the time the site plan is reviewed. Evidence that such notice was sent by mail to the last known address of such owner as shown on the current real estate tax assessment books shall be deemed adequate compliance.

If the administrator determines that one or more of the above submittal requirements is not applicable to the proposed project the administrator may waive those requirements.

The submittal of a site plan with insufficient information shall result in the return of the plans to the applicant without review; such deficiencies shall be noted in written form. (Ord. No. 31A-45, 3-13-78)

#### Section 20-19.1 Same—Public Access.

All site plans shall be kept on file in the Department of Planning and Development and will be available for review by all interested persons during normal business hours for no less than five working days prior to receiving preliminary approval.

This five-day period shall begin at the time the applicant has submitted sufficient evidence to the Planning Director that all adjacent property owners have been notified as required in this Chapter. (Ord. No. 31A-45, 3-13-78)

#### Section 20-20. Same—Review Criteria.

The Site Plan Review Committee, the Planning Director and the Zoning Administrator shall examine and consider site plans with respect to:

- (a) Intensity of land use including developable acreage, density and adequate provisions for open space and recreational facilities as appropriate to the site usage and to the Comprehensive Plan.
- (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. (Ord. No. 31A-45, 3-13-78)

#### Section 20-20.1. Transitional Screening Requirements.

If the Site Plan Review Committee determines that noise, dust and debris, glare, or other objectionable impacts created by a mobile 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 20-21. 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. (Ord. No. 31A-45, 3-13-78)

Section 20-21.1. 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 preliminary approval. However, if an extension of this period is needed due to extenuating circumstances, it may be granted only after submittal of the reasons for the requested extension in writing to the Planning Director. The Planning Director may grant an extension of up to six months, after which time the preliminary approval shall no longer be valid. (Ord. No. 31A-45, 3-13-78)

Section 20-21.2. Revised Site Plan—Submittal Generally.

Seven copies of a revised site plan shall be submitted to the Planning Director or his designee who shall within 60 days review the plans for compliance with applicable County regulations, the requirements for final approval and any conditions of the preliminary approval. The Planning Director shall provide a set of all submittals to relevant agencies or departments for their review and written comments. (Ord. No. 31A-45, 3-13-78)

Section 20-21.3. Same—Submittal Contents.

The revised site plan shall be submitted in separate sheets or overlays as appropriate for accurate representation of the project.

Insufficient submittals may be returned to the applicant with written notification of deficiencies from the Planning Director or his designee. The revised site plan shall as a minimum contain those items set forth in Subsection 20-19(a) through (q).

The zoning administrator shall not issue a temporary Certificate of Occupancy until the applicant has guaranteed the completion of public improvements, including but not limited to public roads, public water and public sewer facilities, shown on the revised plan by providing either a letter of credit, or certified check, or cash escrow, or cash payment, approved by the County Attorney.

Section 20-21.4. Same—Action upon Completion of Review.

Upon final approval of the site plan by the zoning administrator, the Planning Director or his designee shall transmit an approved set of plans to the developer, owner or authorized project agent, and one copy of any correspondence and plans is to be retained by the Planning Director or his designee. (Ord. No. 31A-45, 3-13-78)

Section 20-21.5. Same—Term of Validity; Termination; Extension, Resubmittal.

After final approval, a site plan shall be valid for a period of one year. If after one year from the date such plans were approved, construction has not commenced on the site, the administrator or his designee shall notify the Building Official that approval of such plans has terminated. However, if

due to extenuating circumstances an extension for approval is needed, it may be granted only after the submittal of the approved site plan with reasons for the requested extension attached. The administrator may grant one extension of up to one year, after which time the site plan must be resubmitted for approval. (Ord. No. 31A-45, 3-13-78)

Section 20-21.6. Same—Amendment.

Upon application, an approved site plan may be amended with the approval of the administrator; provided, that such proposed amendment does not:

- (a) Alter a recorded plat.
- (b) Conflict with the specific requirements of this Article.
- (c) Change the general character or content of an approved development plan or use.
- (d) Have an appreciable affect on adjoining or surrounding property.
- (e) Result in any substantial change of major external access points.
- (f) Increase the approved number of dwelling units or height of buildings.
- (g) Decrease the minimum specified yards and open spaces or minimum or maximum specified parking and loading spaces. (Ord. No. 31A-45, 3-13-78)

Amendments not in accordance with (a) through (g) of this section shall be considered as new site plans and submitted under Section 20-18.

Section 20-21.7. Final "As-Built" Plans Required.

For all projects subject to site plan review in accordance with Section 20-16, a copy of final "as-built" plans and specifications for all utilities, permanent drainage and stormwater management facilities, water and sewer facilities and fire hydrants shall be submitted to the Director of Public Works prior to the issuance of any permanent Certificate of Occupancy.

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### ARTICLE III. MOBILE HOME PARKS.

#### Section 20-22. Statement of Intent.

The regulations contained herein are intended to foster the quiet, low and moderate density residential character of mobile home parks. The regulations are designed to stabilize and protect the residential areas in which mobile home parks are likely to be developed and to promote and encourage a suitable environment for family life, both inside of the mobile home park, and in the surrounding area. To these ends, the location of mobile home parks and the expansion of existing mobile 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. (Ord. No. 31A-68, 8-25-80)

#### Section 20-22.1. Area Requirements.

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

Lots containing or intended to contain a single mobile 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 mobile 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 mobile home served by private water and private sewage disposal systems shall have a minimum area of 20,000 square feet. (Ord. No. 31A-68, 8-25-80)

#### Section 20-22.2. 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. (Ord. No. 31A-68, 8-25-80)

#### Section 20-22.3. Minimum Setback Requirements.

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

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

The minimum setback in a mobile home park for mobile homes and all accessory structures shall be 100 feet from the right-of-way of any public street which creates a boundary for the mobile home park. (Ord. No. 31A-68, 8-25-80)

#### Section 20-22.4. Minimum Yard Requirements.

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

No mobile home shall be placed closer than 100 feet from any property boundary separating the mobile home park from adjacent property. (Ord. No. 31A-68, 8-25-80)

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 20-22.5. Underground Utilities.

All utilities within the mobile 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. (Ord. No. 31A-68, 8-25-80)

#### Section 20-22.6. Streets Required.

Each mobile 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 20-22.7. Storm Drainage.

A storm drainage plan shall be included with the site plan of a mobile home park. It shall be the park owner's responsibility to provide for the adequate drainage and erosion controls and their maintenance within the mobile home park. (Ord. No. 31A-68, 8-25-80)

Section 20-22.8. Off-street Parking Required.

Each lot in a mobile 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 mobile 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. (Ord. No. 31A-68, 8-25-80)

Section 20-22.9. Fire Hydrants Required.

Mobile home parks served by a public water system shall provide fire hydrants located within the park such that no mobile 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. (Ord. No. 31A-68, 8-25-80)

Section 20-22.10. Streetlights Required.

The owner of the mobile home park shall provide streetlights within the mobile home park. The location of streetlights shall be shown on the site plan and approved by the Zoning Administrator. (Ord. No. 31A-68, 8-25-80)

Section 20-22.11. Solid Waste Disposal.

Each operator of a mobile 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 pick-up at each mobile 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. (Ord. No. 31A-68, 8-25-80)

Section 20-22.12. Recreation Area Required.

Mobile 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 mobile home spaces in the mobile home park. The area shall be shown on the site plan with a list of equipments and facilities. (Ord. No. 31A-68, 8-25-80)

Section 20-22.13. Applicability of Virginia Uniform Statewide Building Code.

Mobile homes located in mobile 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. (Ord. No. 31A-68, 8-25-80)

Section 20-22.14. Site Plan Required.

Prior to development of a mobile home park, a site plan shall be filed and approved as provided for in Article II of this Chapter. (Ord. No. 31A-68, 8-25-80)

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 mobile home park's tenants shall be the responsibility of the park owner.

Section 20-24. 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. (3-1-69, Sections 12-8 to 12-8-7)

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## ARTICLE IV. DISTRICTS.

### DIVISION 1. GENERALLY.

#### Section 20-25. 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 (3-22-76)
- Residential Agriculture, R-6 (3-22-76)
- Mobile Home Subdivision, R-7
- Residential Planned Unit Development, PUD-R (1-24-77)
- Commercial Planned Unit Development, PUD-C (1-24-77)
- Industrial Planned Unit Development, PUD-I (1-24-77)
- General Business, B-1
- Limited Business, LB
- Limited Industrial, M-1
- General Industrial, M-2 (3-1-69, Sec. 1-1.)

#### Section 20-26. 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. (3-1-69. Subsections 16-3 to 16-3.3.)

Section 20-27.1. Special Requirements for Establishments Selling or Dispensing Vehicular Fuels.

The following special requirements shall apply to automobile service stations, truck stops, truck terminals and other establishments selling or dispensing motor vehicle fuels in any District in which they are located:

- (1) Minimum lot area shall be 20,000 square feet.
- (2) Minimum lot width at the setback line shall be 200 feet or 150 feet where self-service gasoline pumps are subordinate to general retail uses and no repair is conducted.
- (3) No fuel service island or pump canopy shall be located within 15 feet of any adjoining road right-of-way or property line.
- (4) The width of curb openings shall not exceed 35 feet. Where two or more curb openings are proposed, they shall be no closer than 25 feet apart; except that where required for the safe maneuvering of trucks, the curb openings may be increased to a width of 60 feet, and curb openings shall be no closer than 75 feet apart.
- (5) Curb openings shall be no closer than ten feet from an adjoining property line and no closer than 25 feet from a street intersection. Curb openings for truck terminals and truck stops shall be no closer than 25 feet from an adjoining property line.
- (6) Two off-street parking spaces shall be provided for each service bay plus a total of three spaces for employee parking. (1-10-77; Ord. No. 31A-48, 11-15-78)
- (7) A landscaped perimeter strip a minimum of ten feet wide shall be provided along all property lines and road right-of-ways, except where broken by necessary entrances or exits.
- (8) If dumpsters are provided, they shall be screened from adjacent properties by vegetation, landscaping, or fences. Dumpsters shall be placed on concrete pads with a drainage system as required by the Health Department.

Section 20-27.2. Special Provisions for Lots for Public Utilities.

Lots intended for public water and public sewage facilities and other public utilities and structures erected for these purposes, shall be waived from the lot area, lot width, and lot frontage requirements of the District in which they are located provided that such facilities are landscaped and fenced to screen them from nearby roads, residences and other development.

Section 20-27.3. Outdoor Operations and Storage.

Any commercial or industrial operation or storage, conducted in whole or in part out-of-doors shall:

- (a) Set back a minimum of 35 feet from the right-of-way of any street identified on a functional classification with a right-of-way 50 feet or greater in width and 60 feet from the center line of any street identified on a functional classification with a right-of-way less than 50 feet in width, except that the outdoor display of plant materials shall be set back ten feet from any road right-of-way 50 feet or greater in width and 35 feet from the center line of any road right-of-way less than 50 feet in width; and
- (b) Be separated from any property line by a perimeter landscape strip a minimum of ten feet wide; and
- (c) Be well drained with adequate provisions to control storm drainage and erosion; and
- (d) Where the ground cover would be routinely disturbed because of the nature of the activity to be conducted or because of vehicular traffic, the area shall be maintained in an all weather surface; and
- (e) Be screened from adjacent property by landscaping and fencing, except the outdoor displays for sale of vehicles, equipment, machinery and plant materials are exempt from the screening requirements where such screening would interfere with the visibility of the items for sale from a public road; and
- (f) Be limited to uses and items to be stored which do not create noise, odor, dust, or other objectionable effects. The effects of an activity shall be measured at the nearest property line.

Section 20-27.4. Special Requirements for Accessory Apartments.

Accessory apartments shall comply with the following requirements:

- (1) Only one accessory apartment shall be created within a single-family dwelling.



- (2) The accessory apartment shall be designed so that the appearance of the building remains that of a one-family residence. New entrances shall be located on the side or rear of the building, and the apartment may not occupy more than 35% of the floor area of the dwelling.
- (3) For purposes of location and design, the accessory apartment is part of the main structure and shall meet all setback, yard, and height regulations applicable to main structures in the zoning district in which it is located.
- (4) Off-street parking shall be required in accordance with Section 20-12 of this Chapter.

Section 20-27.5. Temporary Offices.

Trailers and portable buildings may be used as temporary offices in any zoning district by issuance of a Certificate of Occupancy by the Zoning Administrator, subject to the following conditions:

- (a) The location of temporary building or structure shall be necessary for use as a business office during the construction of any commercial structure or structures or for the sale or rental of on-site property by a developer; or
- (b) The location of a temporary building or structure shall be necessary for use in conjunction with a temporary special event such as a golf tournament or music festival.
- (c) The temporary building or structure shall not be used for residential purposes.
- (d) A minimum area of 5,000 square feet shall be provided for each structure.
- (e) The structure shall not be placed closer than 15 feet to any lot line.
- (f) The sanitary facilities shall conform to County and State health regulations.
- (g) The electrical connections shall meet the requirements of the Uniform Statewide Building Code.
- (h) The temporary office shall be used for a period not to exceed one year; provided that
- (i) The one year time period may be extended by written request to the Zoning Administrator showing reasonable cause; and
- (j) The temporary office shall be removed from the site within sixty (60) days after the completion of construction.

Section 20-27.6. Limitation on the Number of Dwellings on a Lot.

Two or more principal residential uses may be located on a single lot; provided, however, that yard, area and other dimensional requirements of the zoning district in which the lot is located shall apply to each principal residential use as if the lot were subdivided to accommodate the principal residential uses on individual lots. The placement of two or more principal residential uses on a single lot shall be situated so as to permit the future subdivision of the lot in accordance with the zoning district in which the lot is located and the County's Subdivision Ordinance.

Section 20-27.7. Temporary Mobile Homes.

Certificates of Occupancy for temporary mobile homes may be issued by the Zoning Administrator, subject to Section 20-9 of this Chapter and the following conditions:

- (a) The location of a temporary mobile 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 mobile 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 mobile 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 mobile home shall be removed from the site within 60 days after the completion date of construction.

Section 20-27.8. 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 20-27.9. 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 of 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 20-27.10. Special Requirements for Mobile Homes.

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

- (a) Mobile homes shall be certified as meeting the Mobile Home Construction and Safety Standards promulgated by the Department of Housing and Urban Development and shall comply with the Virginia Industrialized Building Unit and Mobile Home Safety Regulations.

(b) Mobile homes shall have a visible foundation of skirting. The skirting shall be in place within 30 days of placement of the mobile home on the parcel or lot. The tongue and axle of the mobile homes shall be removed if not covered by the skirting.

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DIVISION 2. GENERAL AGRICULTURAL DISTRICT, A-1

Section 20-28. Statement of Intent.

The General Agricultural District, A-1, covers the more rural areas of the County farthest removed from the influence of urban development. The purpose of the district is to protect agricultural and forestry uses and the rural environment from the intrusion of urban-type development and to discourage the random scattering of commercial and industrial uses unrelated to natural resources or rural lifestyles. The A-1 District provides for the type and scale of activities which reduce the need to extend public utilities into remote, rural areas. (3-1-69, Art. 2; 1-10-77.)

Section 20-29. Permitted Uses.

In the General Agricultural District, A-1, structures to be erected or land to be used shall be for the following uses:

- Single-family dwellings.
- Accessory apartments in accordance with Section 20-27.4.
- Two-family dwellings.
- Group quarters for agricultural workers.
- Agriculture, dairying, forestry, general farming, and specialized farming.
- Fish farming and aquaculture.
- Horse and pony farms, (including the raising and keeping of horses), riding stables, horse show areas, polo fields.
- Animal hospitals, veterinary offices, and kennels.
- Food processing and storage.
- Slaughter of animals for personal use but not for commercial purposes.
- Preserves and conservation areas.
- Wayside stands for sale of agricultural products.
- Farmer's Markets.
- Convenience stores with sale of fuel in accordance with Section 20-27.1.
- Schools, libraries.
- Houses of worship.
- Fire stations.
- Post Offices.
- Lodges, civic clubs, fraternal organizations, service clubs.
- 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.
- Hunting clubs.
- Retreat facilities.
- Upholstery shops.
- Resthomes for fewer than 15 adults.
- Wineries.
- Campgrounds of ten acres or less.
- Rental of rooms up to a maximum of three rooms.

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 20-29.1. 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.

Mobile homes in accordance with Section 20-10, Section 20-10.1, Section 20-10.2 and Section 20-27.10.

Mobile 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.

Flea markets.

Hospitals, nursing homes, sanatoria.

Resthomes for 15 or more adults.

Medical clinics.

Cemeteries and memorial gardens.

Telephone exchanges and telephone switching stations.

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.)

Airports.

Automobile repair and service.

Automobile service stations in accordance with Section 20-27.1.

Automobile graveyards.

Petroleum storage, other than on a farm for farm use or accessory for a residence.

Sanitary landfills, in accordance with Section 20-27.9, waste disposal or publicly-owned solid waste container sites.

Campgrounds of more than ten acres.

New or expansion of water impoundment for public or private use of 50 acres or more or a dam height of 25 feet or more.

Storage, stockpiling and distribution of sand, gravel and crushed stone.

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, chemicals, slurry coal and any other gases, liquids or solids. However, extensions or private connections to existing pipelines, which are intended to serve an individual residential or commercial customer and which are accessory to existing or proposed development, are permitted generally and shall not require a Special Use Permit.

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 tracks and safety improvements in existing railroad rights-of-way, are permitted generally and shall not require a Special Use Permit. (11-15-79)

Section 20-30. Area Requirements.

Lots not served by a public sewage disposal system and served by a public water distribution system or individual water system shall have a minimum area of 40,000 square feet.

Lots served by a public sewage disposal system and served by a public water distribution system or an individual water system shall have a minimum area of 30,000 square feet.

Lots intended for two-family dwellings shall have a minimum area of 60,000 square feet.

These minimum sizes shall not apply to lots of less than 30,000 square feet recorded or legally in existence prior to April 8, 1985, the date of adoption of this article. Such lots of less than 30,000 square feet used for residential purposes shall be limited to one single-family residential use. (3-1-69, Section 2-2; 1-10-77; Ord. No. 31A-48, 11-15-78 \_\_\_\_\_)

Section 20-31. Setback Requirements.

Structures shall be located a minimum of 35 feet from any street right-of-way which is 50 feet or greater in width. If the street right-of-way is less than 50 feet in width, structures shall be located a minimum of 60 feet from the center line of the street. This shall be known as the "setback line"; except, that the following shall apply:

- (a) Where 40% or more of frontage on one side of street within the same block is improved with buildings, no building shall project beyond the average front yard so established.
- (b) No building shall be required to have a front yard greater than that of one of two existing buildings on the immediate adjoining lots on each side, whichever is the farthest removed from the street.
- (c) All subdivisions platted and recorded prior to March 1, 1969, with building setback lines shown on their recorded plat, will be allowed to adhere to these established setback lines. (3-1-69, Section 2-3; 4-30-70; 1-10-77)

Section 20-32. Minimum Lot Width.

Lots of less than 40,000 square feet shall have a minimum width at the setback line of 125 feet.

Lots of 40,000 square feet or more shall have a minimum width at the setback line of 150 feet. (3-1-69, Section 2-4; 1-10-77; Ord. No. 31A-48, 11-15-78)



Section 20-33. Yard Regulations.

- (a) Side. The minimum side yard for each main structure shall be 15 feet. The minimum side yard for accessory structures shall be five feet, except that accessory buildings exceeding one story shall have a minimum side yard of 15 feet.
- (b) Rear. Each main structure shall have a rear yard of 35 feet or more. The minimum rear yard for accessory structures shall be five feet, except that accessory buildings exceeding one story shall have a minimum rear yard of 15 feet. (3-1-69, Sections 2-5 - 2-5-2; 1-10-77)

Section 20-33.1. Height Limits.

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

- (a) The height limit for buildings may be increased to 45 feet and to three stories, provided that the two side yards for the building are increased to a minimum of 15 feet plus one foot for each additional foot of the building's height over 35 feet.
- (b) Church spires, belfries, cupolas, monuments, water towers, chimneys, flues, flag poles, home television antennas, home radio aerials, silos, and other structures normally associated with and accessory to farming operations may be erected to a total height of 60 feet from grade.
- (c) No accessory building which is within 15 feet of any lot line shall be more than one story high. All accessory buildings shall not be more than 45 feet in height; except that silos, barns and other structures normally associated with and accessory to farming operations are controlled by (b) above and may exceed 45 feet in height.

Section 20-34. Special Provisions for Corner Lots.

For corner lots, the front of the lot shall be the shorter of the two sides fronting on streets.

No structures shall be located closer than 35 feet to the side street.

Each corner lot shall have a minimum width at the setback line of one hundred fifty (150) feet or more. (1-10-77)

Section 20-34.1. Sign Regulations.

To assure an appearance and condition which is consistent with the purposes of the General Agricultural District, A-1, outdoor signs on the properties within the District shall comply with the regulations for exterior signs in Article VIII of this Chapter. (1-10-77)

0376A

DIVISION 3. LIMITED AGRICULTURAL DISTRICT, A-2

Section 20-35. Statement of Intent.

Generally, the Limited Agricultural District, A-2, covers the portion of the County now occupied by various open uses such as forests, parks, farms or lakes, into which urban-type development could logically expand as the need occurs. This District is established to protect existing and future farming operations, and conserve water and other natural resources. This Zoning District is established for the specific purpose of providing for the orderly expansion of urban development in the County and discouraging the random scattering of residential, commercial and industrial uses. (3-1-69, Art. 3; 1-10-77)

Section 20-36. Permitted Uses.

In the Limited Agricultural District, A-2, structures to be erected on land to be used shall be for the following uses:

- Single-family dwellings.
- Accessory apartments in accordance with Section 20-27.4.
- Group quarters for agricultural workers.
- Agriculture, dairying, forestry, general farming and specialized farming excluding the raising of hogs.
- Fish farming and aquaculture.
- Food processing and storage in a residence.
- Slaughter of animals for personal use but not for commercial purposes.
- Feed, seed, and farm supplies.
- 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.
- Wayside stands for sale of agricultural products.
- House museums.
- Home occupations.
- Off-street parking as required by this Chapter.
- Photography, artist and sculptor studios.
- Wineries.
- Horse and pony farms (including the raising and keeping of horses), riding stables, horse show areas and polo fields.
- Marinas, docks, piers, yacht clubs, boat basins, and servicing, repair and sales facilities for the same with the sale of fuel in accordance with Section 20-27.1.
- Accessory uses, accessory buildings or structures.
- Retreat facilities.
- Hunting clubs.
- Water impoundments of less than 50 acres and with dam heights of less than 25 feet. (Ord. No. 31A-84, 8-13-84)

Section 20-36.1. 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:

- Two-family dwellings.
- Professional, business and governmental offices.
- Convenience stores with the sale of fuel in accordance with Section 20-27.1.
- 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 20-27.9, 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.
- Mobile 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, chemicals, slurry coal and any other gases, liquids or solids. However,

private extensions or connections to existing pipelines, which are intended to serve an individual residential or commercial customer and which are accessory to existing or proposed development, are permitted generally and shall not require a Special Use Permit.

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.  
(8-13-79; Ord. No. 31A-84, 8-13-84)

#### Section 20-37. Area Requirements.

Lots served by public water distribution and public sewage disposal systems shall have a minimum area of 17,500 square feet, however, lots intended for two-family dwellings and served by public water distribution and sewage disposal systems shall have a minimum area of 20,000 square feet.

Lots served by a public water distribution system or a public sewage disposal system but not both shall have a minimum area of 20,000 square feet, however, lots intended for two-family dwellings and served by a public water distribution system or a public sewage disposal system but not both shall have a minimum area of 30,000 square feet.

Lots served by individual water distribution and sewage disposal systems shall have a minimum area of 30,000 square feet, however, lots intended for two-family dwellings and served by individual water distribution and sewage disposal systems shall have a minimum area of 40,000 square feet.

These minimum sizes shall not apply to lots of less than 17,500 square feet recorded or legally in existence prior to April 8, 1985, the date of adoption of this Article. Such lots of less than 17,500 square feet used for residential purposes shall be limited to one single-family residential use.  
(3-1-69, Section 3-2; 1-10-77; Ord. No. 31A-49, 11-15-78)

#### Section 20-38. Setback Requirements.

Structures shall be located a minimum of 35 feet from any street right-of-way which is 50 feet or greater in width. If the street right-of-way is less than 50 feet in width, structures shall be located a minimum of 60 feet from the center line of the street. This shall be known as the "setback line", except that the following shall apply:

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

- (b) No building shall be required to have a front yard greater than that of one of two existing buildings on the immediate adjoining lots on each side, whichever is the farthest removed from the street.
- (c) All subdivisions platted and recorded prior to March 1, 1969, with building setback lines shown on their recorded plat, will be allowed to adhere to these established setback lines. (3-1-69, Section 3-3; 4-30-70; 1-10-77)

Section 20-39. Minimum Lot Width.

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

Lots of 43,560 square feet or more shall have a minimum width at the setback line of 150 feet. (3-1-69, Section 3-4; 1-10-77; Ord. No. 31A-49, 11-15-78)

Section 20-40. Yard Regulations.

- (a) Side. The minimum side yard for each main structure shall be 15 feet. The minimum side yard for accessory structures shall be five feet, except that accessory buildings exceeding one story shall have a minimum side yard of 15 feet.
- (b) Rear. Each main structure shall have a rear yard of 35 feet or more. The minimum rear yard for accessory structures shall be five feet, except that accessory buildings exceeding one story shall have a minimum rear yard of 15 feet. (3-1-69, Sections 3-5-3-5-2; 1-10-77)

Section 20-40.1. Height Limits.

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

- (a) The height limit for buildings may be increased to 45 feet and to three stories, provided that the two side yards for the building are increased to a minimum of 15 feet plus one foot for each additional foot of the building's height over 35 feet.
- (b) Church spires, belfries, cupolas, monuments, water towers, chimneys, flues, flag poles, home television antennas, home radio aerials, silos, and other structures normally associated with and accessory to farming operations may be erected to a total height of 60 feet from grade.

- c). No accessory building which is within 15 feet of any lot line shall be more than one story high. All accessory buildings shall be less than the main building in height, provided however, the height of an accessory building may exceed the height of the main building if the grade of the lot is such that the elevation of the main building exceeds the elevation of the accessory building. The elevation of the main building and accessory building shall be measured from the level of the curb or the established curb grade opposite the middle of the main building. In no case shall an accessory building be more than 45 feet in height; except that silos, barns and other structures normally associated with and accessory to farming operations are controlled by (b) above and may exceed the height of the main structure and may exceed 45 feet in height.

#### Section 20-41. Special Provisions for Corner Lots.

For corner lots, the front of the lot shall be the shorter of the two sides fronting on streets.

No structures shall be located closer than 35 feet to the side street.

Each corner lot shall have a minimum width at the setback line of one hundred twenty-five (125) feet or more. (3-1-69, Sections 3-6 -- 3-6-3; 1-10-77)

#### Section 20-41.1. Sign Regulations.

To assure an appearance and condition which is consistent with the purposes of the Limited Agricultural District, A-2, outdoor signs on the properties within the District shall comply with the regulations for exterior signs in Article VIII of this Chapter. (9-21-73, Section 1-3; 1-10-77)

0377A

DIVISION 4. LIMITED RESIDENTIAL DISTRICT, R-1

Section 20-42. Statement of Intent.

The Limited Residential District, R-1, is composed of certain quiet, low-density residential areas plus certain open areas where similar residential development 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 prohibit all activities of a commercial nature. To these ends, development is limited to low density, and generally permitted uses are limited to single-family dwellings, plus certain additional community-oriented uses that serve the residents of this District. (3-1-69, Art. 4; 3-22-76)

Section 20-43. Permitted Uses.

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

Single-family dwellings.

Schools, libraries and fire stations.

Houses of worship.

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

Off-street parking as required by this Chapter.

Accessory buildings or structures as defined.

Home occupations.

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

Section 20-43.1. Uses Permitted by Special Use Permit Only.

In the Limited Residential District, R-1, buildings to be erected or land to be used for the following or similar uses shall be permitted only after the issuance of a Special Use Permit by the Board of Supervisors:

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

Accessory apartments in accord with Section 20-27.4.

Rental of rooms to a maximum of three rooms.

Day care or child care centers.

Group homes.

Cemeteries and memorial gardens.

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 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, chemicals, slurry coal and any other gases, liquids or solids. However, extensions or private connections to existing pipelines, which are intended to serve an individual residential or commercial customer and which are accessory to existing or proposed development are permitted generally and shall not require a Special Use Permit.

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. (11-15-79)

Residential cluster development in accordance with Article IXA of this Chapter.

Publicly-owned solid waste container sites.

Telephone exchanges and telephone switching stations.

#### Section 20-44. Area Requirements.

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

Lots served by a public sewage disposal system but not a public water distribution system shall have a minimum area of 17,500 square feet.

Lots served by a public water distribution system but not a public sewage disposal system shall have a minimum area of 20,000 square feet.

Lots served by individual water and sewage disposal systems shall have a minimum area of 30,000 square feet.

These minimum sizes shall not apply to lots of less than 15,000 square feet recorded or legally in existence prior to April 8, 1985, the date of adoption of this section. Such lots of less than 15,000 square feet used for residential purposes shall be limited to one single-family residential use. (3-1-69, Sections 4-2 — 4-2-3; 3-22-76)

#### Section 20-45. Setback Requirements.

Structures shall be located a minimum of 35 feet from any street right-of-way which is 50 feet or greater in width. If the street right-of-way is less than 50 feet in width, structures shall be located a minimum of 60 feet from the center line of the street. This shall be known as the "setback line", except that the following shall apply:

- (a) 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.
- (b) No building shall be required to have a front yard greater than that of one of two existing buildings on immediately adjoining lots on each side, whichever is the farthest removed from the street.
- (c) All subdivisions platted and recorded prior to March 1, 1969, with building setback lines shown on their recorded plat, shall be allowed to adhere to these established setback lines. (3-1-69, Section 4-3; 4-30-70; 3-22-76)

#### Section 20-46. Minimum Lot Width.

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

Lots of more than 43,560 square feet shall have a minimum width at the setback line of 150 feet. (3-1-69, Section 4-4; 3-22-76; Ord. No. 31A-50, 11-15-78)

#### Section 20-47. Yard Regulations.

- (a) Side. The minimum side yard for each main structure shall be 15 feet. The minimum side yard for accessory structures shall be five feet, except that accessory buildings exceeding one story shall have a minimum side yard of 15 feet.
- (b) Rear. Each main structure shall have a minimum rear yard setback of 35 feet. The minimum rear yard for accessory structures shall be five feet, except that buildings exceeding one story shall have a minimum rear yard of 15 feet. (3-1-69, Sections 4-5 to 4-5-2; 3-22-76)

#### Section 20-48. Height Limits.

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

- (a) The height limit for dwellings may be increased to 45 feet and to three stories, provided that there are two side yards for each permitted use each of which is a minimum of 15 feet plus one foot or more of side yard for each additional foot of building height over 35 feet.
- (b) A public or semi-public building such as a school, church, library, or general hospital may be erected to a height of 60 feet from grade; provided, that the required front, side and rear yards shall be increased one foot for each foot in height over 35 feet.
- (c) Church spires, belfries, cupolas, monuments, water towers, chimneys, flues, flag poles, home television antennae and home radio aerials may be erected to a total height of 60 feet from grade.
- (d) No accessory building which is within 15 feet of any lot line shall be more than one story high. All accessory buildings shall be less than the main building in height, provided however, the height of an accessory building may exceed the height of the main building if the grade of the lot is such that the elevation of the main building exceeds the elevation of the accessory building. The elevation of the main building and accessory building shall be measured from the level of the curb or the established curb grade opposite the middle of the main building. In no case shall an accessory building be more than 35 feet in height. (3-1-69, Sections 4-6 to 4-6-4; 3-22-76.)

#### Section 20-49. Special Provisions for Corner Lots.

Of the two sides of a corner lot, the front of the lot shall be deemed to be the shorter of the two sides fronting on streets.

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

Each corner lot shall have a minimum width at the setback line of one hundred twenty-five (125) feet. (3-1-69; Sections 4-7 to 4-7-3; 3-22-76.)

#### Section 20-49.1. Sign Regulations.

To assure an appearance and condition which is consistent with the purposes of the Limited Residential District, R-1, outdoor signs on the properties within the District shall comply with the regulations for exterior signs in Article VIII of this Chapter. (9-21-73, Section 1-4; 3-22-76.)

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DIVISION 5. LIMITED RESIDENTIAL DISTRICT, R-2.

Section 20-50. Statement of Intent.

The Limited Residential District, R-2, is composed of certain quiet, low-density residential areas plus certain open areas where similar residential 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 prohibit activities of a commercial nature. To these ends, development is limited to low-density, and permitted uses are limited to dwellings designed to be occupied by one or two families plus certain additional community-oriented uses, that serve the residents of the District. (3-1-69, Art. 5; 3-22-76)

Section 20-51. Permitted Uses.

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

- Single-family dwellings.
- Accessory apartments in accord with Section 20-27.4.
- Schools, libraries and fire stations.
- Houses of worship.
- 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.
- Off-street parking as required by this Chapter.
- Accessory buildings or structures as defined.
- Home occupations.
- Water impoundments of less than 50 acres and with dam heights of less than 25 feet.
- Residential cluster development in accordance with Article IXA of this Chapter.

Section 20-51.1. Uses Permitted by Special Use Permit Only.

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

- Two-family dwellings.
- Day care or child care centers.
- Group homes.
- Cemeteries and memorial gardens.
- 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.
- Rental of rooms to a maximum of three rooms.

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, chemicals, slurry coal and any other gases, liquids or solids. However, extensions or private connections to existing pipelines, which are intended to serve an individual residential or commercial customer and which are accessory to existing or proposed development, are permitted generally and shall not require a Special Use Permit.

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. (11-15-79)

Publicly-owned solid waste container sites.

Telephone exchanges and telephone switching stations.

#### Section 20-52. Area Requirements.

Lots served by public water and public sewage disposal systems shall have a minimum area of 12,000 square feet.

Lots served by a public sewage disposal system but not a public water distribution system shall have a minimum area of 15,000 square feet.

Lots served by a public water distribution system but not a public sewage disposal system shall have a minimum area of 20,000 square feet.

Lots served by individual water and sewage disposal system shall have a minimum area of 30,000 square feet.

These minimum sizes shall not apply to lots of less than 12,000 square feet recorded or legally in existence prior to April 8, 1985, the date of adoption of this section. Such lots of less than 12,000 square feet used for residential purposes shall be limited to one single-family residential use. (3-1-69. Subsections 5-2 - 5-2-5; 3-22-76.

#### Section 20-53. Setback Requirements.

Structures shall be located a minimum of 35 feet from any street right-of-way which is 50 feet or greater in width. Where the street right-of-way is less than 50 feet in width, structures shall be located a minimum of 60 feet from the center line of the street. This shall be known as the "setback line"; except, that the following shall apply:

- (a) 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.
- (b) No building shall be required to have a front yard greater than that of one of two existing buildings on immediately adjoining lots on each side, whichever is the farthest removed from the street.
- (c) All subdivisions platted and recorded prior to March 1, 1969, with building setback lines shown on their recorded plat, shall be allowed to adhere to these established setback lines. (3-1-69, Section 5-3; 4-30-70; 3-22-76)

#### Section 20-54. Minimum Lot Width.

Lots of less than 20,000 square feet shall have a minimum width at the setback line of 80 feet.

Lots of 20,000 square feet to 43,560 square feet shall have a minimum width at the setback line of 100 feet.

Lots of more than 43,560 square feet shall have a minimum width at the setback line of 150 feet. (3-1-69, Subsections 5-4 - 5-4.2; 3-22-76; Ordinance No. 31A-50, 11-15-78)

#### Section 20-55. 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.

(b) Rear. Each main structure shall have a minimum rear yard of 35 feet. The minimum rear yard for accessory structures shall be five feet, except that accessory buildings exceeding one story shall have a minimum rear yard of ten feet. (3-1-69, Subsections 5-5 to 5-5-2; 3-22-76)

Section 20-55.1. Special Provisions for Two-Family Dwellings.

Lots intended for two-family dwellings shall be served by a public water system and a public sewer system. Each lot for a two-family dwelling shall meet the requirements of this District, and shall have a minimum area of 15,000 square feet.

Section 20-56. Height Limits.

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

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

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

(c) Church spires, belfries, cupolas, monuments, water towers, chimneys, flues, flag poles, home television antennas and home radio aerials may be erected to a total height of 60 feet from grade.

(d) No accessory building which is within ten feet of any lot line shall be more than one story high. All accessory buildings shall be less than the main building in height, provided however, the height of an accessory building may exceed the height of the main building if the grade of the lot is such that the elevation of the main building exceeds the elevation of the accessory building. The elevation of the main building and the accessory building shall be measured from the level of the curb or the established curb grade opposite the middle of the main building. In no case shall an accessory building be more than 35 feet in height. (3-1-69, Subsections 5-6 to 5-6-4; 3-22-76)

Section 20-57. Special Provisions for Corner Lots.

For corner lots, the front of the lot shall be the shorter of the two sides fronting on streets.

No structures shall be located closer than 35 feet to the side street.

Each corner lot shall have a minimum width at the setback line of 100 feet. (3-1-69, Subsections 5-7 to 5-7-3; 3-22-76)

Section 20-57.1 Sign Regulations.

To assure an appearance and condition which is consistent with the purposes of the Limited Residential District, R-2, outdoor signs on the properties within the District shall comply with the regulations for exterior signs in Article VIII of this Chapter. (9-21-73, Section 1-5; 3-22-76)

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DIVISION 6. GENERAL RESIDENTIAL DISTRICT, R-3

Section 20-58. Statement of Intent.

The General Residential District, R-3, is composed of certain quiet, low-density residential uses plus 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 low density, and permitted uses are limited to dwellings designed to house up to three families, plus certain public and semi-public, institutional and other related uses. (3-1-69, Art. 6; 3-22-76)

Section 20-59. Permitted Uses:

In the General Residential District, R-3, structures to be erected on land to be used, shall be for the following uses:

- Single-family dwellings.
- Accessory apartments in accord with Section 20-27.4.
- Two-family dwellings.
- Three-family dwellings.
- Schools, libraries and fire stations.
- Houses of worship.
- 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.
- Residential cluster development in accordance with Article IXA of this Chapter.

Section 20-59.1. Uses Permitted by Special Use Permit Only.

In the General Residential District, R-3, structures to be erected on 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:

- Four-family dwellings.
- Group homes.
- Hospitals, nursing homes, sanatoria, and rest homes.
- Professional, business and governmental offices.



Tourist homes.

Lodges, civic clubs, fraternal organizations and service clubs.

Cemeteries and memorial gardens.

Day care and child care centers.

Rental of rooms to a maximum of three rooms.

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 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, 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. (8-13-79)

Telephone exchanges and telephone switching stations.

Publicly-owned solid waste container sites.

(Ord. No. 31A-57, 8-13-79; Ord. No. 31A-84, 8-13-84)

#### Section 20-60. Area Requirements.

Lots served by public water and public sewage disposal systems shall have a minimum lot area of 10,000 square feet.

Lots served by a public sewage disposal system but not a public water distribution system shall have a minimum area of 12,000 square feet.

Lots served by a public water distribution system but not a public sewage distribution system shall have a minimum area of 20,000 square feet.

Lots served by individual water and sewage disposal systems shall have a minimum lot area of 30,000 square feet.

These minimum sizes shall not apply to lots of less than 10,000 square feet recorded or legally in existence prior to April 8, 1985, the date of adoption of the Section. Such lots of less than 10,000 square feet used for residential purposes shall be limited to one single-family residential use. (3-1-69, Subsections 6-2 — 6-2-5; 3-22-76)

Section 20-61. Setback Requirements.

Structures shall be located a minimum of 35 feet from any street right-of-way which is 50 feet or greater in width. If the street right-of-way is less than 50 feet in width, structures shall be located a minimum of 60 feet from the center line of street. This shall be known as the "setback line", except that the following shall apply:

- (a) 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.
- (b) No building shall be required to have a front yard greater than that of one of two existing buildings on immediately adjoining lots on each side, whichever is the farthest removed from the street.
- (c) All subdivisions platted and recorded prior to March 1, 1969, with building setback lines shown on their recorded plat, shall be allowed to adhere to these established setback lines. (3-1-69, Subsection 6-3; 4-30-70; 3-22-76)

Section 20-62. Minimum Lot Width.

Lots of less than 20,000 square feet shall have a minimum width at the setback line of 75 feet, and for each additional permitted use there shall be a minimum of ten feet of additional width at the setback line.

Lots of 20,000 square feet to 43,560 square feet shall have a minimum width at the setback line of 100 feet.

Lots of 43,560 square feet or more, shall have a minimum lot width at the setback line of 150 feet. (3-1-69, Subsections 6-4 — 6-4.2; 3-22-76; Ord. No. 31A-50, 11-15-78)

Section 20-63. 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.

(b) Rear. Each main structure shall have a minimum rear yard of 25 feet. The minimum rear yard for accessory structures shall be five feet, except that accessory buildings exceeding one story shall have a minimum rear yard of ten feet. (3-1-69, Subsections 6-5 — 6-5.2; 3-22-76)

Section 20-63.1. Special Regulations and Area Requirements for Two-, Three-, and Four-Family Dwellings.

Lots intended for two-, three-, or four-family dwellings shall be served by a public water system and a public sewer system. Each lot shall meet the requirements of this District. The minimum lot size for a two-family dwelling on one lot shall be 12,000 square feet, for a three-family dwelling on one lot shall be 18,000 square feet and for a four-family dwelling on one lot shall be 22,000 square feet. The minimum lot size for two-, three-, and four-family dwellings where each dwelling unit is on an individual lot shall be as follows:

- (a) The minimum lot area for each unit of a two-family dwelling shall be 6,000 square feet. The combined lot areas shall total a minimum of 12,000 square feet.
- (b) The minimum lot area for each unit of a three-family or four-family dwelling where the units are constructed in a row shall be as follows.  
  
The minimum lot area for exterior units shall be 6,000 square feet. The minimum lot area for interior units shall be 3,000 square feet.
- (c) The minimum lot area for each unit of a three-family or four-family dwelling where the units are not constructed in a row shall be 5,000 square feet.
- (d) The combined lot areas for a three-family dwelling shall total a minimum of 18,000 square feet, and the combined lot areas for a four-family dwelling shall total a minimum of 22,000 square feet.
- (e) The minimum lot width shall be 50 feet, provided however, the minimum lot width may be reduced to 20 feet for interior unit lots where the units are constructed in a row.

Section 20-64. Height Limits.

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

- (a) The height limit for dwellings may be increased to 45 feet and to three stories, provided that there are two side yards for each permitted use, each of which is a minimum of ten feet, plus one foot or more of side yard for each additional foot of building height over 35 feet.
- (b) A public or semi-public building such as a school, church, library or hospital may be erected to a height of 60 feet from grade, provided that the required front, side and rear yards shall be increased one foot for each foot in height over 35 feet.

- (c) Church spires, belfries, cupolas, monuments, water towers, chimneys, flues, flag poles, home television antennae and home radio aerials may be erected to a total height of 60 feet from grade.
- (d) No accessory building which is within ten feet of any property lot line shall be more than one story high. All accessory buildings shall be less than the main building in height, provided however, the height of an accessory building may exceed the height of the main building if the grade of the lot is such that the elevation of the main building exceeds the elevation of the accessory building. The elevation of the main building and accessory building shall be measured from the level of the curb or the established curb grade opposite the middle of the main building. In no case shall an accessory building be more than 35 feet in height. (3-1-69, Art. 6; 3-22-76)

Section 20-65. Special Provisions for Corner Lots.

For corner lots, the front of the lot shall be the shorter of the two sides fronting on streets.

No structures shall be located closer than 35 feet to the side street.

Corner lots shall have a minimum width at the setback line of 100 feet. (3-1-69, Subsections 6-7-1 — 6-7-3; 3-22-76)

Section 20-65.1. Sign Regulations.

To assure an appearance and condition which is consistent with the purposes of the General Residential District, R-3, outdoor signs on the properties within the District shall comply with the regulations for exterior signs in Article VIII of this Chapter. (9-21-73, Section 1-6; 3-22-76)

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DIVISION 7. RESIDENTIAL PLANNED COMMUNITY DISTRICT, R-4.

Section 20-66. Statement of Intent.

This District is intended to permit development, in accordance with a Master Plan, of large, cluster-type communities in a manner that will protect and preserve the natural resources, trees, watersheds, contours and topographic features of the land, protect and enhance the natural scenic beauty and permit the greatest amount of recreational facilities by leaving large areas permanently open. Within such communities, the location of all improvements shall permit a variety of housing accommodations in an orderly relationship to one another with the greatest amount of open area and the least disturbance to natural features. A Planned Residential District may include a variety of residential accommodations and light commercial activity, but no industrial development is permitted. (3-1-69, Art. 7; 6-12-72.)

Section 20-66.1. Residential Planned Community Defined.

For purposes of this Article, a residential planned community shall be a large, planned development consisting of 400 acres or more under a single ownership or control. The residential planned community is predominated by residential land uses and open space, but also contains such uses as recreation centers, fire stations, schools and retail establishments which make the residential planned community largely self-sufficient. An important feature of the residential planned community is its emphasis on site planning and the retention of large, natural open areas.

Section 20-67. Documents Required for Submission.

- (a) The applicant shall submit the following documents to the Planning Director for submission to the Planning Commission:

- (1) Application for rezoning.
- (2) Master Plan, ten copies.
- (3) Community Impact Statement, ten copies.

The purpose of the Master Plan and Community Impact Statement is to set an overall population and development ceiling for the Planned Community, to determine off-site impacts of the development, and to identify the general arrangement of land uses within it.

- (b) Master Plan. The Master Plan shall be prepared by a licensed surveyor, engineer, architect, landscape architect or planner. A scale may be used so that the entire parcel can be shown on one piece of paper no larger than 30 by 40 inches. It shall include:

- (1) An insert map at a scale of not less than one inch to one mile, showing the property in relation to surrounding roads, subdivisions or major landmarks.
- (2) A north arrow.
- (3) The location of existing property lines, watercourses or lakes, wooded areas and existing roads which are within or adjoin the property.
- (4) The approximate boundaries of each section, land use or density, a general circulation plan with an indication of whether streets are to be public or private, and the approximate location of recreation areas, common open space areas, public facilities and areas proposed for dedication to public use within the project. Each residential section of the Master Plan shall be designated according to the following categories:

<u>Area Designation</u>	<u>Dwelling Type</u>
A	Single family detached
B	Two-family or townhouse
C	Multi-family structures less than three stories
D	Multi-family structures of three or more stories

The above designation shall be the highest and densest use to which such land may be put without amending the Master Plan. However, where the Planning Commission finds the project does not vary the basic concept or character of the planned community and where it does not exceed the maximum density permitted under Section 20-77, the Planning Commission may approve Final Plans for projects with lower densities or a lower category of uses than those shown on the Master Plan without amending the Master Plan.

Common open space shall be located so as to enhance the living environment of the residential planned community. Generally this shall mean that the common open space shall be distributed throughout the community and not aggregated in large areas that provide little or no benefit to the individual uses or the community at large.

- (5) As marginal data it shall contain a table which shows, for each section or area of different uses, the use, approximate phasing, approximate number of dwelling units and density for residential areas, square feet of floor space for commercial areas, and their acreage.
- (6) Schematic plans which shall indicate the phasing of development.

- (7) A statement on the guarantees and assurances to be provided for the maintenance of common open space, recreation areas, sidewalks, parking, private streets, and other privately-owned but common facilities serving the project.
- (c) Community Impact Statement. The Community Impact Statement shall describe the probable effects of the proposed development upon the community. At a minimum, it shall address the following topics:
  - (1) Adequacy of existing public facilities and services to serve the development. Analysis shall be made of sewer, water, schools, fire stations and other major locally financed facilities.
  - (2) Additional on-site and off-site public facilities or services which would be required as a result of the development.
  - (3) Traffic to be generated by the development, the capacity of surrounding roads, specific road improvements necessary.
  - (4) Fiscal impact of the proposed development, such as estimated tax revenues to be generated versus the cost of public improvements to be financed by the County or the State.
  - (5) Impact of construction and permanent changes in land use upon surrounding property, such as aesthetics, vegetation, stormwater drainage, noise and air or water pollution.
  - (6) Employment opportunities to be generated by the development.

Section 20-67.1. Administrative Review Fees.

Submittal of a Master Plan and subsequent revisions proposed by the applicant to the Planning Commission shall be accompanied by a fee as specified in Section 20-8. (5-13-74.)

Section 20-69. Approval of Master Plan; Relationship to Final Plans.

The procedures for public hearing and consideration by the Planning Commission and Board of Supervisors shall be as set forth in Section 20-14. The Board of Supervisors, if it approves the Master Plan, may impose conditions to such approval.

The residential planned community shall be established upon approval of the Master Plan by the Board of Supervisors. Thereafter, all amendments to the Master Plan shall be in accordance with Section 20-14 of this Chapter. Approved final plans, provided for in Section 20-70, shall supersede the Master Plan and schematic plans. Before final approval of the final plan, the developer shall be required to furnish a surety bond, letter of credit, cash escrow, or other form of guarantee against completion of any public improvements specified. (3-1-69, Sections 7-2-3; 6-12-72, Section 7-2.)

Section 20-70. Final plans—Submission; Contents generally.

Following the establishment of a residential planned community, and approval of the Board of Supervisors of a Master Plan therefore, the applicant may furnish to the Site Plan Review Committee or Subdivision Review Committee or the Planning Commission, whichever is appropriate, seven copies of a final plan of any part or section of the community shown on the Master Plan. The term "final plan" shall mean site plan or subdivision plat. Final plans shall be submitted for review in accord with Article II of this Chapter or with the County's Subdivision Ordinance, whichever is applicable. The final plans shall be consistent with the Master Plan as approved, but may vary to any degree which the Planning Commission believes does not vary the basic concept or character of the development. (3-1-69, Sections 7-3 to 7-3-3; 6-12-72, Section 7-3.)

Section 20-70.1. Final plans—Administrative Review Fee.

Submittals of a site plan or preliminary subdivision plat to implement any portion of an approved master plan shall be accompanied by a fee in accord with Section 20-8 of this Chapter or Section 17-54 of the County's Subdivision Ordinance.

Section 20-71. Same—Contents; Proposed Deed of Easement.

- (a) Where land is to be subdivided within the District, the final plan shall comply with the County's Subdivision Ordinance. Where land is not to be subdivided within the District, final plans shall comply with Article II of this Chapter. All final plans shall show the different types of open areas and other public or community amenities, the proposed use of all buildings and of all areas dedicated for public or private common use.
- (b) The applicant shall furnish with a final plan a proposed deed of easement including restrictions safeguarding the permanent use of open areas. (3-1-69, Sections 7-3 to 7-3-3; 6-12-72, Section 7-3.)
- (c) Easements and covenants shall clearly establish the rights of two abutting properties where main buildings are to be constructed on or within five feet of a property line. Such easements/covenants shall establish the rights of each affected owner to gain access to each owner's building for purposes of essential maintenance and service.
- (d) Lot sizes and setback lines shall be shown on final plans.

Section 20-72. Same—Action.

Final plans submitted pursuant to Section 20-70 shall be approved or disapproved in accordance with Article II of this Chapter, or in accordance with the County Subdivision Ordinance.



Section 20-73. Conveyance of Land to Board for Public Purposes.

It shall be the obligation of the applicant, upon the approval of the Master Plan, to convey to the Board of Supervisors or its designee such lands as may be required herein. Prior to the recordation of any subdivision plat or the issuance of any building permit within any area designated on the Master Plan, the applicant shall, upon request of the Board of Supervisors, furnish a deed or deeds, without consideration, to such amount or amounts of land as may be determined by the Board of Supervisors to be reasonably required as sites for additional or expanded public services, including, but not limited to education, fire protection and municipal functions, the need for which services has been or is reasonably anticipated in the future to be occasioned by the development of the residential planned community. The land or lands to which a deed or deeds is to be furnished hereunder may be selected by the applicant, but must be suitable from the standpoint of size, location and topography to the public purposes for which required. The amount of land required to satisfy the requirements of this Section shall be not more than four acres per 1,000 population, computed by reference to the maximum density permitted under the Master Plan. The obligation imposed upon applicant by this Section may be satisfied in whole or in part by written agreement between applicant and the Board of Supervisors. Failure of the applicant to comply with the requirements shall be grounds for withholding approval of any pending or future final plan. (6-12-72, Section 7-3.)

Section 20-75. Addition of Land to Existing Community.

Additional land area may be added to an existing residential planned community if it is adjacent (except for public roads) and forms a logical addition to the existing residential planned community and if it is under the same ownership or control.

The procedure for an addition shall be the same as if an original application were filed, and all of the requirements of this Article shall apply, except the minimum acreage requirement of 400 acres. (3-1-69, Section 7-4; 6-12-72, Section 7-4.)

Section 20-76. Permitted Density—Overall.

The average density of the gross area of the planned residential community shall not exceed four units per acre.

Section 20-77. Permitted Density Within Residential Areas.

The Master Plan shall designate the proposed dwelling unit densities within each residential area shown, according to the following categories:

<u>Area Designation</u>	<u>Dwelling Type</u>	<u>Maximum Density (dwelling units per acre)</u>
A	single family	4
B	two-family or townhouses	9.6
C	multi-family structures less than 3 stories	12
D	multi-family structures of 3 or more stories	18

#### Section 20-77.1. Open Space Requirements.

- (a) At least 40% of the total acreage of the residential planned community shall be designated as open space. Such open space may include parks, lakes, walkways, trails, playground and recreation facilities, golf and sports facilities, nonresidential clubhouse grounds, and rights-of-way and surface easements for drainage and other utilities over areas not within the lines of any residential lot. For the purposes of this section only, required open space may also include roads and parking areas.
- (b) The required open space shall contain recreation open space in the amount of one acre or more per 1,000 population. For the purposes of this section, recreational open space shall mean parks, playgrounds, swimming pools, tennis courts or other similar recreational facilities serving residents of the approved planned community.

#### Section 20-78. Permitted Uses.

In the Residential Planned Community District, R-4, structures to be erected or land to be used shall be for one or more of the following uses:

- Single-family dwellings.
- Two-family dwellings.
- Townhouses and condominiums.
- Apartments.
- Rental of rooms to a maximum of three rooms.
- Houses of worship.
- Schools, libraries, fire stations, and post offices.
- Parks, playgrounds, golf courses, tennis courts, swimming pools, and other public or private recreation areas.
- Yacht clubs, private or commercial marinas, boat storage, and service facilities with sale of fuel in accordance with Section 20-27.1.
- Hunting clubs, conservation areas and preserves.
- Horse and pony farms, riding stables, horse show areas, horse racing tracks and polo fields.
- Private clubs, civic or service clubs, lodges, and fraternal organizations.
- Funeral homes, cemeteries, and memorial gardens.
- Home occupations as defined.

Retail food stores, bakeries, and fish markets.  
Dry cleaners and laundries.

Department stores, wearing apparel, furniture, carpet, shoe, tailor, dressmaking, candy, ice cream, florist, furrier, locksmith, pet, picture framing, stamp and coin, travel bureau, upholstery, yard goods, toys, music and records, tobacco and pipes, jewelry sales and service, books, greeting cards, sporting goods, drugs, plants and garden supplies, hardware and paint, home appliances sales and service, arts and crafts, handicrafts, antiques, gift and photography stores.

Photographer, artist, and sculptor studios.

Corporate, business, professional and governmental offices.

Barbershops and beauty shops.

Banks and other financial institutions.

Hospitals, nursing homes, and rest homes.

Doctor, dentist, and other medical clinics and offices.

Hotels, motels, tourist homes and convention centers.

Restaurants, fast food restaurants, tea rooms, and taverns.

Dinner theaters.

Indoor theaters, museums, public meeting halls, and outdoor entertainment, other than drive-in theaters.

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

Automobile service stations with sale of fuel in accordance with Section 20-27.1.

Property maintenance facilities, sheds or garages.

Equipment storage and restroom facilities in conjunction with other permitted uses.

Accessory buildings or structures, as defined.

Public utilities: Poles, lines, distribution transformers, pipes, meters, and other facilities necessary for the provision and maintenance of utilities including water and sewer facilities.

New or expansion of water impoundments for public or private use of less than 50 acres and dam heights of less than 25 feet.

Water impoundments for public or private use of more than 50 acres and with dam heights of more than 25 feet with a Special Use Permit.

Off-street parking as required by this Chapter.

All uses are subject to the limitations hereinafter provided. (3-1-69, Sections 7-7 to 7-7-12; 6-12-72, Section 7-7; Ord. No. 31A-51, 1-8-79.)

#### Section 20-79. Same—Limitations.

- (a) Commercial uses shall be located in well designed commercial areas of the residential planned community and shall be shown on the Master Plan and on pertinent final plans.
- (b) Not more than 20% of the total area shall be devoted to commercial uses in the residential planned community, and such commercial uses are to be limited to the areas designated on the Master Plan and on pertinent final plans.
- (c) Uses in a residential planned community shall be permissible only in the general location shown on the approved Master Plan as previously set forth.

Section 20-80.1. Utilities.

All development within the R-4 District shall be served by publicly-owned and operated water and sewer systems.

Extensions and expansion of public utilities to serve the development shall be governed by the regulations and policies governing service of the appropriate public agency.

Section 20-80.2. Street Improvements.

- (a) All dedicated public streets shown on the final plan shall meet the design and construction requirements of the State Department of Highways and Transportation standards or the County Subdivision Ordinance, whichever is greater. Such public streets shall be coordinated with the major transportation network shown in the County Comprehensive Plan.

- (b) Private streets may be permitted upon approval of the Board of Supervisors and shall be coordinated with existing or planned streets of both the Master Plan and the County Comprehensive Plan. Private streets shown on the final plan shall meet the requirements of the State Department of Highways, except as specified in (d) below.

The construction of streets whether public or private shall be guaranteed by appropriate surety, letter of credit, cash escrow, or other form of guarantee approved by the County Attorney and Department of Public Works.

- (c) To the extent streets are private rather than public, the applicant must also submit assurances satisfactory to the Planning Commission that a property owner's community association or similar organization has been legally established under which the lots within the area of the final plan will be assessed for the cost of maintaining private streets, and that such assessments shall constitute a pro rata lien upon the individual lots shown on the final plan.

- (d) The uniqueness of each proposal for a residential planned community requires that the specifications for the width, surfacing, construction and geometric design of streets, alleys, ways for public utilities and the specifications for curbs, gutters, sidewalks, street lights and storm water drainage be subject to modification from the specifications established in Chapter 17. The Planning Commission may, therefore, within the limits hereinafter specified, waive or modify the specifications otherwise applicable for a particular facility where the Planning Commission finds that such specifications are not required in the interests of the residents of the residential planned community and that the modifications of such specifications are not inconsistent with the interests of the entire County.

It shall be the responsibility of the applicant to demonstrate to the satisfaction of the Planning Commission with respect to any requested waiver or modification:

- (1) That the waiver or modification will result in design and construction that is in accordance with accepted engineering standards;
- (2) That the waiver or modification is reasonable because of the uniqueness of the residential planned community or because of the large area of the residential planned community within which the nature and excellence of design and construction will be coordinated, pre-planned and controlled;
- (3) That any waiver or modification as to streets is reasonable with respect to the generation of vehicular traffic that is estimated will occur within the area of the Master Plan;
- (4) That any waiver or modification as to sidewalks in "B", "C", "D", or "E" density areas be justified on the basis of anticipated pedestrian traffic or because other provisions are made for pedestrian traffic.
- (5) That traffic lanes of streets are sufficiently wide to carry the anticipated volume and speed of traffic and in no case less than ten feet wide; and
- (6) That waivers or modifications as to base and surface construction of streets and as the condition of ditches or drainage way be based upon soil tests for CBR value and erosion characteristics of the particular subgrade support soils in the area. (6-12-72, Section 7-11.)

Section 20-80.3. Effect of other Provisions of Zoning and Subdivision Regulations on Division.

The provisions of this Division shall not be limited by any provision of any other part of the County Zoning or Subdivision Regulations inconsistent herewith. (3-1-69, Section 7-13; 6-12-72, Section 7-12.)

Section 20-80.4. Sign Regulations.

To assure an appearance and condition which is consistent with the purposes of the Residential Planned Community District, R-4, outdoor signs on the properties within the district shall comply with the regulations for exterior signs in Article VIII of this Chapter, except that unique signing systems may be approved by the Site Plan Review Committee and the Board of Supervisors where such sign systems contribute significantly to the character of the Residential Planned Community. However, in no case shall the sign square foot size exceed the maximum allowed in Article VIII of this Chapter. Home occupation signs shall not be permitted in the Residential Planned Community District. (9-21-73, Section 2-1.)

DIVISION 8. MULTI-FAMILY RESIDENTIAL DISTRICT, R-5.

Section 20-80.5. Statement of Intent.

The Multi-Family Residential District, R-5, is composed of moderate to high density residential areas and other such areas where similar development is likely to occur. It is the purpose of this District to provide for a harmonious and orderly relationship between multi-family residential uses and lower density residential uses or nonresidential uses. A further purpose is to require that development within this District be adequately served by public facilities and that adequate open space and recreational areas be provided for the use of residents and for buffering of adjoining property. (3-22-76.)

Section 20-80.6. Permitted Uses.

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

- Single-family dwellings.
  - Two-family dwellings.
  - Three-family and four-family dwellings.
  - Townhouses and condominiums.
  - Apartments.
  - Accessory apartments in accord with Section 20-27.4.
  - Rental of one room.
  - Accessory buildings or structures as defined.
  - Community recreation facilities, including parks, playgrounds, clubhouses, boating facilities, swimming pools, ballfields, tennis courts, and other similar recreation facilities.
  - Retail shops associated with community recreation facilities.
  - Golf courses, country clubs.
  - Houses of worship.
  - Schools, libraries and fire stations.
  - Marina, boat dock or waterfront recreational facilities.
  - Coin laundries which are accessory to other residential uses and for the primary use of its residents.
  - Restaurants which are accessory to permitted private clubs or marinas.
  - Off-street parking as required by this Chapter.
  - Signs, as permitted by Article VIII of this Chapter.
  - Water impoundments of less than 50 acres and with dam heights of less than 25 feet.
  - Day care and child care centers.
  - Residential cluster development in accordance with Article IXA of this Chapter.
- (3-22-76, Ord. No. 31A-63, 11-15-79)

Section 20-80.6A. Uses Permitted by Special Use Permit Only.

In the Multi-Family Residential District, R-5, buildings to be erected or land to be used for the following or similar uses shall be permitted only after issuance of a Special Use Permit by the Board of Supervisors:

General hospitals, sanatoria, and rest homes.

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

Group homes.

Professional and business offices located in the same structure as and in conjunction with multi-family uses.

Governmental offices.

Temporary offices in accordance with Section 20-27.5.

Lodges, civic clubs, fraternal organizations, service clubs.

Cemeteries and memorial garden.

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.

Rental of two or three rooms.

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, chemicals, slurry coal and any other gases, liquids or solids. However, private extensions or connections to existing pipelines, which are intended to serve an individual residential or commercial customer and which are accessory to existing or proposed development, are permitted generally and shall not require a Special Use Permit.

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.

(Ord. No. 31A-63, 11-15-79)(Ord. No. 31A-73, 7-26-82)

Section 20-80.7. Minimum Site Size.

The minimum site size for a multi-family district shall be 3 acres.

#### Section 20-80.8. Area Requirements.

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

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

The minimum lot area for exterior units shall be 6,000 square feet. The minimum lot area for interior units shall be 3,000 square feet.
- (c) The minimum lot area for each unit of a three-family or four-family dwelling where the units are not constructed in a row shall be 5,000 square feet.
- (d) The lot area for a three-family dwelling shall total a minimum of 18,000 square feet, and the lot area for a four-family dwelling shall total a minimum of 22,000 square feet.

For all other principal and accessory uses there shall be no minimum lot size in the Multi-Family Residential District, R-5, unless otherwise required by this ordinance.

#### Section 20-80.9. Setback Requirements.

- (a) All single family dwellings and their accessory structures shall be located at least 35 feet from the right-of-way of any peripheral street which abuts or borders the site and which has a right-of-way 50 feet or greater in width. If the street right-of-way is less than 50 feet wide, such buildings and structures shall be located a minimum of 60 feet from the center line of the street.
- (b) All other structures shall be located a minimum of 50 feet from the right-of-way of any peripheral street which abuts or borders the site and has a right-of-way width of 50 feet or more. In the event such street has a right-of-way width which is less than 50 feet, such structures shall be located a minimum of 75 feet from



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

- (c) All structures shall be located a minimum of 25 feet from any street which is internal to the project. Exceptions may be given for service drives, driveways, parking areas, alleys and cul-de-sac roads.
- (d) Setbacks from peripheral streets shall be suitably landscaped with a number of trees equal to at least three trees plus one tree per forty feet of frontage. Existing trees and natural vegetation shall be retained wherever possible. This requirement shall not apply to single family dwellings.
- (e) Off-street parking shall not be permitted within required setbacks, except that parking spaces for single family and two-family dwellings may be located within the required setback.

#### Section 20-80.9.1. Minimum Lot Width.

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

#### Section 20-80.10. Yard Regulations.

- (a) For developments containing 200 or less dwelling units, all structures shall be located a minimum of 35 feet from any property line which adjoins property in a Multi-Family Residential District, a Business District, an Agricultural District or public property. For developments containing more than 200 dwelling units, all structures shall be located a minimum of 50 feet from any property line which adjoins property in a Multi-family Residential District, a Business District, an Agricultural District or public property.
- (b) For developments containing 200 or less dwelling units, all structures shall be located a minimum of 50 feet from any property line which adjoins property which is in a residential district other than the R-5. For developments containing more than 200 dwelling units, all structures shall be located a minimum of 75 feet from any property line which adjoins property which is in a residential district other than the R-5. The minimum yard requirement shall be increased by 25 feet for any structures which exceed one story.

- (c) The required yard area shall be suitably landscaped with a number of trees equal to at least three trees plus one tree per 40 feet of property line. Existing trees and natural vegetation shall be retained wherever possible.
- (d) Off-street parking shall be excluded from the first 40 feet of yard nearest the property line. (3-22-76.)
- (e) Single family and two-family dwellings.

The minimum side yard for each single family dwelling or two family dwelling shall be five feet. The minimum rear yard shall be 20 feet. The minimum side and rear yards for structures accessory to single family or two-family dwellings shall be five feet for structures one story or less, and ten feet for structures exceeding one story.

The side and rear yards for any structure in excess of 35 feet shall be increased by one foot for each one foot in height in excess of 35 feet.

#### Section 20-80.11. Density Requirements for Townhouses, Apartments, and Condominiums.

The number of dwelling units which may be constructed shall be determined by the number of net developable acres at the site and the use proposed. The net developable acres shall equal the total gross acres of the site minus stream beds, areas subject to flooding, marsh and areas with slopes exceeding a 25% gradient. The number of units which may be constructed are as follows:

##### DWELLING UNITS PER ACRE

<u>Number of units</u>	<u>Townhouses and Multi-family structures under three stories</u>	<u>Multi-family structures of three stories or more</u>
1-100	8	10
101-200	7	9
Over 200	6	8

Property shall not be subdivided to circumvent this section, and project phases shall be considered one development.

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

#### Section 20-80.12. Subdivision Regulations.

Any subdivision of land within Multi-Family District, R-5, shall comply with the Subdivision Ordinance of the County. (3-22-76.)

Section 20-80.13. Requirements for Improvements and Design.

- (a) Sewer and water. All dwelling units within the Multi-Family Residential District, R-5, shall be served by publicly-owned and operated sewer and water systems.
- (b) Open Space. At least 35% of the gross area of the site shall be retained in open space as defined in Section 20-2.
- (c) Recreation. A playground area or areas with playground equipment shall be provided by the developer. Such areas shall be centrally located and total at least one-half acre for every 50 dwelling units; provided, that the total shall not exceed 10% of the gross area of the site. For multi-family projects with less than 50 dwelling units, the recreation areas shall total 10% of the gross acreage of the site. The developer shall provide and install playground equipment specified on the site plan prior to the issuance of any Certificates of Occupancy. Recreation areas and facilities may be deeded to a residents' association.
- (d) Sidewalks. Sidewalks of a minimum width of four feet shall be constructed between buildings, parking areas and public areas. If paralleling a street, sidewalks shall be separated from the edge of the pavement by a utility strip which shall be at least two feet wide and landscaped. If not constructed of concrete, the material and design shall be specified on the site plan and subject to commission approval.
- (e) Utility lines. All utility lines, including electrical, telephone, and cable television, shall be placed below ground.
- (f) Parking. Off-street parking facilities shall be provided in accordance with Section 20-12 of this Chapter.
- (g) Bicycle storage racks. Bicycle storage and parking racks shall be provided with a capacity of 0.5 space for each dwelling unit in townhouse, apartment, and condominium developments.
- (h) Streets. All streets shall meet the design and construction requirements of the State Department of Highways and Transportation, or the requirements of the County Subdivision Regulations, whichever is greater. All streets shall be consistent with the major thoroughfare plan of the County Comprehensive Plan. The traffic generated by a Multi-Family Residential District, R-5, shall not exceed the capacity of adjoining thoroughfares. The daily traffic shall be determined by multiplying the number of proposed dwelling units by seven (7) vehicle trips per day and compared to the existing traffic and road capacity as determined by the Highway Engineer. The construction of private streets shall be guaranteed by appropriate surety, letter of credit, cash escrow or other form of guarantee approved by the County Attorney and Department of Public Works.

- (i) Fire hydrants. Fire hydrants shall be at locations and of types approved by the County Director of Public Works and County Fire Chief. No structure within the project shall be further than 400 feet from a hydrant.
- (j) Trash collection. If containers are provided, they shall be conveniently located to serve all dwelling units. The sites for such containers shall be attractively screened by natural vegetation, landscaping or fences.
- (k) Street lights. Street lights shall be provided, as required by Section 20-12(B)(5) of this Chapter and the County Subdivision Ordinance. All streetlights shall be specified on the site plan, generally at intersections and in parking lots and other public areas. The lighting shall be directed so as not to produce objectionable glare on adjacent property or into residences within the development. No lighting fixture on pedestrian or bicycle paths, or parking lots shall exceed a height of 15 feet.
- (l) Site plan. A site plan for the project must be approved in accordance with Article II of this Chapter.
- (m) Building height. A building may exceed 35 feet in height only upon the granting of a height limitation exemption by the Planning Commission. Upon application, the Commission may grant a height limitation exception upon finding that:
  - (1) Such building will not block sunlight from adjacent property or otherwise limit the benefits of direct sunlight on adjacent property; and
  - (2) Such building will not impair the enjoyment of historic attractions and areas of significant historic interest; and
  - (3) Such building is adequately designed and served from the standpoint of safety, and the County Fire Chief certifies that the fire safety equipment to be installed is adequately designed and that the building is reasonably well located in relation to fire stations and equipment, so as to offer adequate protection to life and property.
- (n) Maximum number of units and facade variety. A maximum of ten townhouse units shall be included in one structure. The facade of townhouses within a group shall be changed by variation in the depth of front yards, building materials and/or design, so that no more than two abutting units shall be of like appearance.
- (o) Private yards. Each two-family dwelling unit and each townhouse unit shall open directly into a private yard of a minimum of 200 square feet.

- (p) Minimum distances. The distance between two main structures on a single lot shall be a minimum of the height of the taller structure. Accessory structures shall be a minimum of 10 feet from any other structure.
- (q) Drainage Facilities. Adequate facilities for the control of storm water, erosion and sedimentation shall be provided in accordance with the Virginia Erosion and Sediment Control Handbook and the Virginia Department of Highways and Transportation Drainage Manual.
- (r) Natural features and amenities. Existing features which would enhance the residential environment or the County as a whole such as trees, watercourses, historic spots and similar features shall be preserved wherever possible.
- (s) Prior to approval of Final Plans, all public improvements shall be guaranteed by an appropriate surety, letter of credit, cash escrow or other form of guarantee approved by the County Attorney and Department of Public Works.
- (t) The maintenance of common open space, recreation facilities, sidewalks, parking, private streets and other privately-owned but common facilities serving the project shall be guaranteed by the developer, project owner or a properly established homeowners association.

#### Section 20-80.14. Density Bonuses.

In order to encourage attractive architectural and site designs which are harmonious with adjoining property, to encourage the preservation of open space within and around higher density development, to encourage preservation and restoration of historic sites, and to encourage developers to go beyond the minimum standards of the Zoning Ordinance, the Planning Commission may approve the following percentage increases of dwelling units where superior design offsets the problems which would otherwise be created. Density bonuses shall not exceed a maximum of an additional twenty percent (20%):

- (a) Setback bonus. For every 25 feet of setback, in addition to the minimum required from the right-of-way of each peripheral road or adjoining property line which borders the site, 1.5 percent additional dwelling units may be added. Maximum additional setback on each side for which a bonus may be given shall be 100 feet or a maximum 6% bonus for each side of the site. The total setback shall be calculated from the right-of-way or property line to the nearest building on the site. For the purposes of calculation, the site is considered to have four sides. For irregularly shaped parcels, a flexible method of calculation may be used by the Planning Director so the total bonus shall not exceed 20% for this Section.

- (b) Recreation bonus. If the applicant designates, improves and fully develops recreational facilities in excess of the playgrounds required in Section 20-80.13 (c) above, the Planning Director may recommend a bonus of 9% additional dwelling units be granted. Such areas shall be conveniently located and consist of some combination of facilities such as tennis courts, large playgrounds, ball fields, swimming pools, tot lots, bike trails or other like items. Recreation facilities for which a density bonus is granted shall be fully completed before any Certificates of Occupancy may be issued.
- (c) Landscape design. If the applicant presents an unusually attractive and harmonious site plan and building design which retains, relates to and enhances the natural vegetation and terrain of the site or which proposes unusually extensive landscaping and planting of borders, entrances, recreation areas, street frontage, areas surrounding buildings or common open space, the Planning Director may recommend a bonus of 12% additional dwelling units be granted. In order to promote superior design, the award of this bonus shall be made only in cases where the design of the project is clearly superior to the design of typical projects of its type in the community and where the applicant goes beyond the minimum standards required by this Chapter.
- (d) Public facilities. In the event a school, fire station, library, park or other public facility shown in the public facilities plan is proposed in or near the parcel, if the developer is willing to reserve a site suitable for the purpose intended and if the governing body is willing to acquire this site within 24 months of the approval of the final site plan, the Planning Director may recommend a bonus of 9% additional dwelling units be granted to the number of units allowable on the remainder of the parcel. (3-22-76.)

In addition to the 20% density bonus provided for above, the Board of Supervisors may award a density bonus not to exceed a maximum of 10% of the base number of units after a recommendation has been received from the Planning Commission. The award of this density bonus shall be made by the Board of Supervisors only in cases where extraordinary design features such as those listed in (a) through (d) are combined to provide a design clearly superior to typical projects of a similar nature in the community.

#### Section 20-80.15. Relation to Public Utilities.

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

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

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DIVISION 9. RESIDENTIAL AGRICULTURE DISTRICT, R-6

Section 20-80.16. Statement of Intent.

The Residential Agriculture District, R-6, is composed of those portions of the County where a quiet, low-density residential character has already been established and where limited agricultural operations function concurrently, with low-density residential uses. This District is established for the purposes of stabilizing and protecting the existing agricultural low-density residential character from encroachment by non-residential or higher density uses, insuring that limited farming and livestock operations will function harmoniously with residential uses, insuring that future development will be of similar character and protecting watersheds, waterways and natural resources. (3-22-76)

Section 20-80.17. Permitted Uses.

In the Residential Agriculture District, R-6, structures to be erected or land to be used shall be for the following uses:

Single-family dwellings.

Schools, libraries and fire stations.

Houses of worship.

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.

Off-street parking, as required by this Chapter.

Accessory buildings or structures as defined.

Agriculture, including land and buildings for accessory uses, such as forestry, farming, the raising of livestock, excluding hogs, and other agricultural pursuits.

Horse or pony farms (including the raising and keeping of horses), riding stables or horse show areas.

Home occupations as defined.

Boat docks.

Preserves, conservation areas or hunting clubs.

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

(Ord. No. 31A-64, 11-15-79).

Section 20-80.17.1. Uses Permitted by Special Use Permit Only.

In the Residential Agriculture District, R-6, 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:



Rental of rooms to a maximum of three rooms.

Day care or child care centers.

Group homes.

Accessory apartments in accord with Section 20-27.4.

Cemeteries and memorial parks.

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 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, chemicals, slurry coal and any other gases, liquids or solids. However, extensions or private connections to existing pipelines, which are intended to serve an individual residential or commercial customer and which are accessory to existing or proposed development, are permitted generally and shall not require a Special Use Permit.

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.

(Ord. No. 31A-64, 11-15-79; Ord. No. 31A-64, 8-13-84)

#### Section 20-80.18. Area Requirements.

The minimum lot area shall be 43,560 square feet.

This requirement shall not apply to lots of less than 43,560 square feet recorded or legally in existence prior to April 8, 1985, the date of adoption of the Section. Such lots of less than 43,560 square feet used for residential purposes shall be limited to one single-family residential use.

#### Section 20-80.19. Setback Requirements.

- (a) Structures shall be a minimum of 35 feet from any street the right-of-way of which is 50 feet or greater in width, or 60 feet from the center line on any street right-of-way less than 50 feet in width, except that accessory structures, such as sheds, feed pens, stables, kennels, or barns, used in livestock operations shall be located at least 80 feet from any adjoining street, road, or property line. Grazing and pasture areas may extend to the property line, but shall be fenced from adjoining property.

- (b) If a lot has frontage on more than one street, structures shall be located behind all setback lines.

Section 20-80.20. Minimum Lot Width.

The minimum lot width for the permitted uses shall be 150 feet at the setback line. (3-22-76)

Section 20-80.21. Yard Regulations.

- (a) Side. The minimum side yard shall be 15 feet for each main structure. Except for that indicated in Section 20-80.19, the minimum side yard for accessory structures shall be five feet; however, the minimum side yard for accessory buildings exceeding one story shall be 15 feet.
- (b) Rear. Each main structure shall have a minimum rear yard setback of 35 feet. Except for that indicated in Section 20-80.19, the minimum rear yard for accessory structures shall be five feet; however, the minimum rear yard for accessory buildings exceeding one story shall be 15 feet.

Section 20-80.22. Special Provisions for Corner Lots.

Of the two (2) sides of a corner lot, the front shall be deemed to be the shorter of the two sides fronting on streets.

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

Each corner lot shall have a minimum width at the setback line of one hundred fifty (150) feet. (3-22-76)

Section 20-80.22. Height Limits.

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

- (a) The height limit for dwellings may be increased to 45 feet and to three stores, provided that the two side yards for the dwelling are increased to a minimum of 15 feet plus one foot for each additional foot of the building's height over 35 feet.
- (b) Church spires, belfries, cupolas, monuments, water towers, chimneys, flues, flag poles, home television antennas, home radio aerials, silos, and other structures normally associated with and accessory to farming operations may be erected to a total height of 60 feet from grade.

- (c) No accessory building which is within 15 feet of any lot line shall be more than one story high. All accessory buildings shall be less than the main building in height, provided however, the height of an accessory building may exceed the height of the main building if the grade of the lot is such that the elevation of the main building exceeds the elevation of the accessory building. The elevation of the main building and accessory building shall be measured from the level of the curb or the established curb grade opposite the middle of the main building. In no case shall an accessory building be more than 35 feet in height; except that silos, barns and other structures normally associated with and accessory to farming operations are controlled by (b) above and may exceed the height of the main structure and may exceed 35 feet in height.

Section 20-80.23. Sign Regulations.

To assure an appearance and condition which is consistent with the purposes of the Residential Agriculture District, R-6, outdoor signs on the properties within the District shall comply with the regulations for exterior signs in Article VIII of this Chapter.

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DIVISION 10. MOBILE HOME SUBDIVISION DISTRICT, R-7

Section 20-R7.1. Statement of Intent.

The Mobile Home Subdivision District, R-7, is composed of mobile 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 mobile homes placed on individual parcels and certain public and semipublic, institutional and other related uses. (3-1-69, Art. 6; 3-22-76)

Section 20-R7.2. Permitted Uses:

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

- Mobile homes in accordance with Section 20-27.10.
- 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-R7.3. Uses Permitted by Special Use Permit Only.

In the Mobile 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. (8-13-79)

#### Section 20-R7.4. 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-R7.5. 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-R7.6. Minimum Lot Width.

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

#### Section 20-R7.7. 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.

(b) Rear. Each main structure with its longest dimension perpendicular to the principal street frontage shall have a minimum rear yard of 20 feet. Each main structure with its longest dimension parallel to the principal street frontage shall have a minimum rear yard of 35 feet.

#### Section 20-R7.8. Height Limits.

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

- (a) The height limit for dwellings may be increased to 45 feet and to three stories, provided that there are two side yards for each permitted use, each of which is a minimum of ten feet, plus one foot or more of side yard for each additional foot of building height over 35 feet.
- (b) A public or semipublic building such as a school, church, library or hospital may be erected to a height of 60 feet from grade, provided that the required front, side and rear yards shall be increased one foot for each foot in height over 35 feet.
- (c) Church spires, belfries, cupolas, monuments, water towers, chimneys, flues, flag poles, home television antennas and home radio aerials may be erected to a total height of 60 feet from grade.
- (d) No accessory building which is within ten feet of any property lot line shall be more than one story high. All accessory buildings shall be less than the main building in height, provided however, the height of an accessory building may exceed the height of the main building if the grade of the lot is such that the elevation of the main building exceeds the elevation of the accessory building. The elevation of the main building and the accessory building shall be measured from the level of the curb or the established curb grade opposite the middle of the main building. In no case shall an accessory building be more than 35 feet in height. (3-1-69, Art. 6; 3-22-76)

#### Section 20-R7.9. Special Provisions for Corner Lots.

Of the two sides of a corner lot, the front shall be deemed the shorter of the two sides fronting on streets.

No structure shall be located closer than 25 feet to the side street.

Corner lots in subdivisions shall have a minimum width at the setback line of 75 feet.

#### Section 20-R7.10. Sign Regulations.

To assure an appearance and condition which is consistent with the purposes of the Mobile Home Subdivision District, R-7, outdoor signs on the

properties within the District shall comply with the regulations for exterior signs in Article VIII of this Chapter.

Section 20-R7.11. Minimum Site Size.

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

Section 20-R7.12. Perimeter Landscape Regulations.

Along the perimeter of Mobile 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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## DIVISION 11. LIMITED BUSINESS DISTRICT, LB.

### Section 20-LB.1. Statement of Intent.

The Limited Business District, LB, is intended to provide opportunities for a limited range of office, retail, and service establishments of small to moderate size, with small, well-landscaped parking areas. The district is characterized by the absence of nuisance factors such as constant heavy trucking and excessive noise, dust, light and odor. This classification is appropriate where proximity to residential areas, existing land uses, traffic patterns and other factors make it desirable to maintain a commercial character which is less intense than permitted in the General Business District, B-1. To enhance the character of the district and to improve its compatibility with low-density surroundings, limitations on building height and bulk are imposed.

### Section 20-LB.2. Permitted Uses.

In the Limited Business District, LB, buildings or structures to be erected or land to be used shall be for one or more of the following:

- Retail food stores, bakeries and fish markets.
- Dry cleaners and laundries.
- Department stores, wearing apparel, furniture, carpet, shoe, tailor, dressmaking, candy, ice cream, florist, furrier, locksmith, gunsmith (excluding shooting range), pet, picture framing, stamp and coin, travel bureau, upholstery, yard goods, toys, music and records, tobacco and pipes, jewelry sales and service, books, greeting cards and sporting goods stores.
- Drug stores, barber shops and beauty shops.
- Restaurants, tea rooms, and taverns.
- Banks and other financial institutions.
- Plants and garden supply, hardware and paint, and home appliance sales and service stores.
- Feed, seed, and farm supply stores.
- Photography studios and sales, artist and sculptor studios, art and crafts and handicraft shops, antique shops, reproduction and gift shops.
- Office supply stores, secretarial and duplicating services.
- Business, governmental, and professional offices.
- Doctors, dentist and other medical clinics or offices.
- Schools, fire stations, post offices, houses of worship and libraries.
- Lodges, civic clubs, fraternal organizations and service clubs.
- Funeral homes.
- Off-street parking as required by this Chapter.
- Day care and child care centers.
- An apartment or living quarters for a guard, caretaker, proprietor or the person employed on the premises, which is clearly secondary to the commercial use of the property.
- Health clubs, exercise clubs, fitness centers.



Contractor's Offices without the storage of construction equipment or building materials.

Convenience stores with the sale of fuel in accordance with Section 20-27.1.

Plumbing supply (with storage limited to a fully enclosed building).

#### Section 20-LB.3. Uses permitted by Special Use Permit Only.

In the Limited Business District, LB, buildings or structures to be erected or land to be used for one or more of the following uses shall be permitted only after the issuance of a special use permit by the Board of Supervisors.

Automobile service stations with sale of fuel in accordance with Section 20-27.1.

Marinas, docks, piers, yacht clubs, boat basins, and servicing, repair and sale facilities for the same with the sale of fuel in accordance with Section 20-27.1.

Flea markets.

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 customer and which are accessory to existing or proposed development, and distribution lines and local facilities within a 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, chemicals, slurry coal and any other gases, liquids or solids. However, extensions for private connections to existing pipelines, which are intended to serve an individual residential or commercial customer and which are accessory to existing or proposed development, are permitted generally and shall not require a Special Use Permit.

Public or private electrical substations, with a capacity of 5,000 kilovolt amperes or more, and electrical transmission lines capable of transmitting 69 kilovolts or more.

Railroad facilities including tracks, bridges, and stations. However, spur lines which are to serve and are accessory to existing or proposed development adjacent to existing railroad 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. (11-15-79)

Publicly-owned solid waste container sites.

Telephone exchanges and telephone switching stations.

#### Section 20-LB.4. Area Requirements.

No area requirements.

Section 20-LB.5. Setback Requirements.

Structures shall be located 50 feet or more from any street right-of-way which is 50 feet or greater in width. Where the street right-of-way is less than 50 feet in width, structures shall be located 75 feet or more from the center line of the street.

Section 20-LB.6. Yard Regulations.

The minimum side yard shall be 20 feet for each main structure. The minimum rear yard shall be 20 feet.

All accessory structures shall be located at least ten feet from any side lot line.

The minimum side yard shall be increased to 35 feet if the side yard abuts property in a Residential district, and the minimum rear yard shall be increased to 35 feet if the rear yard abuts property in a Residential district. The minimum side and rear yards for any section of a structure in excess of 35 feet in height shall be increased one foot for each two feet of height in excess of 35 feet.

Section 20-LB.7. Special Provisions for the Adjustment of Yard and Open Space Requirements.

To allow the subdivision of commercial property on which commercial units for sale, for sale in condominium, or for lease are constructed as part of a multi-unit structure in which the units share common walls or as part of a multiple-structure commercial development, the Planning Commission may grant, at its discretion, a waiver from any part of Sections 20-LB.6 and 20-LB.8 upon finding:

- (a) The overall complex or structure, if considered as a single unit, meets all of the requirements of Sections 20-LB.6 and 20-LB.8; and
- (b) Adequate parking is provided as per the requirements of this Chapter, and where determined necessary by the Board, adequate easements or other agreements are recorded to guarantee access and maintenance of the parking areas and other common areas; and
- (c) Adequate provisions are made to assure compliance with Article VIII of this Chapter, and where determined necessary by the Board, adequate easements or agreements are recorded to allow grouping of signs on one standard, placement of signs in common areas or other appropriate arrangements made necessary because of the reduced yard area of the individual units; and

- (d) The complex or structure is adequately designed and serviced from the standpoint of safety, and the County Fire Marshal certifies that the fire safety equipment to be installed is adequately designed and the County Building Official certifies the complex is designed to conform to the BOCA Code, so as to offer adequate protection to life and property.

#### Section 20-LB.8. Open Space Regulations.

- (a) At minimum, 35% of the total lot area shall be maintained as landscaped open space as defined in Section 20-2. Existing trees and natural vegetation shall be retained wherever possible.
- (b) A perimeter landscaped strip shall be provided adjoining the side and rear property lines. The landscaped strip shall be at least 10 feet wide, except that the landscape strip shall be at least 15 feet wide where the property abuts a Residential district, and may be broken by driveways perpendicular to the property line and by necessary curb cuts. The perimeter landscaped strip shall contain a number of trees equal to at least one tree per 30 linear feet of landscaped area.
- (c) A landscaped open space strip a minimum of ten feet wide shall be provided adjacent to buildings. Up to one-half of the square footage of this open space may be transferred to the perimeter landscaped strip in order to provide increased screening or buffer for adjacent streets or developed properties. In no case shall parking be located within five feet of any building.

#### Section 20-LB.9. Height and Bulk Limits.

- (a) Buildings may be erected up to 35 feet in height from grade to the top of the structure, including all penthouse, electrical, plumbing, elevator, water tank or other accessory functions, but excluding belfries, cupolas, monuments, water towers, chimneys, flues, and flag poles.
- (b) All accessory structures shall be less than the main structure in height.
- (c) Building coverage shall not exceed 20% of the total lot area, and the floor area ratio shall not exceed .4.

#### Section 20-LB.10. Sign Regulations.

To assure an appearance and condition which is consistent with the purposes of the Limited Business District, outdoor signs on the properties within the district shall comply with the regulations for exterior signs in Article VIII of this Chapter.

Section 20-LB.11. Outdoor Storage Prohibited.

The outdoor storage of materials, supplies, and goods for sale shall be prohibited in the Limited Business District.

Section 20-LB.12. Site Plan Review.

All buildings or complexes of buildings erected, altered, or restored within the district shall be subject to site plan review in accordance with Article II of this Chapter.

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DIVISION 12. GENERAL BUSINESS DISTRICT, B-1.

Section 20-81. Statement of Intent.

Generally, the General Business District, B-1, covers that portion of the community intended for the conduct of general business to which the public requires direct and frequent access, but which is not characterized either by constant heavy trucking other than stocking and delivery of light retail goods, or by any factors other than occasioned by incidental light and noise of congregation of people and passenger vehicles. (3-1-69, Art. 8; 10-11-76)

Section 20-82. Permitted Uses.

In the General Business District, B-1, structures to be erected or land to be used, shall be for one or more of the following uses:

Retail food stores, bakeries and fish markets.

Dry cleaners and laundries.

Department stores, wearing apparel, furniture, carpet, shoe, tailor, dressmaking, candy, ice cream, florist, furrier, locksmith, pet, picture framing, stamp and coin, travel bureau, upholstery, yard goods, toys, music and records, tobacco and pipes, jewelry sales and service, books, greeting cards and sporting goods stores.

Drug stores, barber shops and beauty shops.

Restaurants, fast food restaurants, tea rooms, and taverns.

Banks and other financial institutions.

Plants and garden supply, hardware and paint, and home appliance sales and service stores.

Lumber and building supply (with storage limited to a fully enclosed building).

Plumbing and electrical supply (with storage limited to a fully enclosed building).

Automobile service stations, subject to the special requirements of this Chapter.

Hotels, motels, tourist homes, and convention centers.

Machinery sales and service (with storage and repair limited to a fully enclosed building).

Photography studios and sales, artist and sculptor studios, art and crafts and handicraft shops, antique shops, reproduction and gift shops.

Corporate, business, governmental, and professional offices.

Doctors, dentist and other medical clinics or offices.

Indoor theaters, museums, and public meeting halls.

Schools, fire stations, post offices, houses of worship and libraries.

Lodges, civic clubs, fraternal organizations and service clubs.

Funeral homes.

Cemeteries.

Gunsmith (excluding shooting ranges).

Feed, seed and farm supply stores.

Wholesale and warehousing (with storage limited to a fully enclosed building).

Marinas, docks, piers, yacht clubs, boat basins, and servicing, repair and sale facilities for the same with sale of fuel in accordance with Section 20-27.1.

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

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

Radio and television stations, and accessory antenna or towers which are 60 feet or less in height.

Printing and publishing.

Off-street parking as required by this Chapter.

Day care and child care centers.

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

Telephone exchanges and telephone switching stations.

Office supply stores, secretarial, and duplicating services.

Health clubs, exercise clubs, fitness centers.

Convenience stores with sale of fuel in accordance with Section 20-27.1.

Parking lots and garages.

Veterinary offices.

(3-1-69, Subsection 8-1 - 8-1-42; 8-9-71; 11-30-71; 9-21-73, Section 1-7; 4-8-74; 10-11-76; Ord. No. 31A-60, 11-15-79; Ord. No. 31A-84, 8-13-84)

#### Section 20-82.1. Uses Permitted by Special Use Permit Only.

In the B-1, General Business District, buildings to be erected or land to be used for one or more of the following or similar uses shall be permitted only after the issuance of a Special Use Permit by the Board of Supervisors:

Hospitals and nursing homes.

Antennas and towers in excess of 60 feet in height.

Campgrounds.

Drive-in theaters.

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

Design, research and evaluating laboratories.

Airports.

Sanitary landfills in accordance with Section 20-27.9, waste disposal, and publicly-owned solid waste container sites.

New or expansion of water impoundments for public or private use of 50 acres or more and dam heights of 25 feet or more.

Outdoor sport facilities.

Theme parks of ten acres or more.

Outdoor centers of amusement.

Petroleum storage.

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

Tire, transmission, glass, body and fender and other automotive product sales and service (with storage and major repair limited to a fully enclosed building).

Flea markets.

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 customer and which are accessory to existing or proposed development, and distribution lines and local facilities within a 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, chemicals, slurry coal and any other gases, liquids or solids. However, extensions for private connections to existing pipelines, which are intended to serve an individual 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 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.

(Ord. No. 31A-60, 11-15-79; Ord. No. 31A-84, 8-13-84)

#### Section 20-83. Area Requirements.

No area requirements.

#### Section 20-84. Setback Requirements.

Structures shall be located 50 feet or more from any street right-of-way which is 50 feet or greater in width. Where the street right-of-way is less than 50 feet in width, structures shall be located 75 feet or more from the center line of the street. (3-1-69, Section 8-3; 1-10-73, Section 1-1, 10-11-76)

#### Section 20-84.1. Yard Regulations.

Buildings shall be located 20 feet or more from side or rear property lines, except that the minimum side yard shall be 50 feet if the side yard abuts property in a Residential district, and the minimum rear yard shall be 50 feet if the rear yard abuts property in a Residential district. The

minimum side and rear yards shall be increased an additional one foot for each one foot of building height in excess of 35 feet.

All accessory structures shall be located at least ten feet from any side lot line.

#### Section 20-84.2. Special Provisions for the Waiver of Yard Requirements.

To allow the subdivision of commercial property on which commercial units for sale, for sale in condominium, or for lease are constructed as part of a multi-unit structure in which the units share common walls or as part of a multiple-structure commercial development, the Planning Commission may grant, at its discretion, a waiver from any part of Section 20-84.1 and Section 20-85 upon finding:

- (a) The overall complex or structure, if considered as a single unit, meets all of the requirements of Section 20-84.1 and Section 20-85; and
- (b) Adequate parking is provided as per the requirements of this Chapter, and where determined necessary by the Commission, adequate easements or other agreements are recorded to guarantee access and maintenance of the parking areas and other common areas; and
- (c) Adequate provisions are made to assure compliance with Article VIII of this Chapter, and where determined necessary by the Commission, adequate easements or agreements are recorded to allow grouping of signs on one standard, placement of signs in common areas or other appropriate arrangements made necessary because of the reduced yard area of the individual units; and
- (d) The complex or structure is adequately designed and serviced from the standpoint of safety, and that the County Fire Chief certifies that the fire safety equipment to be installed is adequately designed and the County Building Official certifies the complex is designed to conform to the BOCA Code, so as to offer adequate protection to life and property.

#### Section 20-85. Open Space Regulations.

At least 30% of the total lot area shall be maintained as landscaped open space, as defined in Section 20-2. Such open space shall comply with the following provisions:

- (a) A perimeter landscaped strip shall be provided adjoining the side and rear property lines. The landscaped strip shall be at least ten feet wide, and may be broken by driveways perpendicular to the property line and by necessary curb cuts. The perimeter landscaped strip shall contain a number of trees equal to at least



one tree per 30 linear feet of landscaped area. Existing trees and natural vegetation shall be retained wherever possible. In the event only part of a parcel is to be developed, the required perimeter landscaped strip may be provided adjoining the side and rear site boundaries as shown on the site plan. All other perimeter landscape requirements specified in this section shall be met. When the parcel is fully developed, the perimeter landscaped strip shall be provided adjoining the side and area property lines.

- (b) A landscaped open space strip a minimum of ten feet wide shall be provided adjacent to buildings. Up to one-half of the square footage of this open space may be transferred to the perimeter landscaped strip in order to provide increased screening or buffer for adjacent streets or developed properties. In no case shall parking be located within five feet of any building.

#### Section 20-86. Height and Bulk Limits.

Buildings may be erected up to 60 feet in height from grade to the top of the structure, including all penthouse, electrical, plumbing, elevator, water tank or other accessory functions, but excluding those items listed in (c) below, and in accord with the following criteria:

- (a) Building coverage shall not exceed 25% of the total lot area, and the floor area ratio shall not exceed .6. However, the floor area ratio may be increased to .75 if the additional floor area is used to provide indoor parking.
- (b) A building in excess of 60 feet in height but not in excess of 100 feet from grade to the top of the structure, including all penthouse, electrical, plumbing, elevator, water tank or other accessory functions, but excluding those items listed in (c) below, may be erected only upon the granting of a height limitation waiver by the Planning Commission. Upon application, the Planning Commission may grant a height limitation waiver upon finding that:
  - (1) The aforesaid regulations regarding building coverage, floor area ratio and open space are met;
  - (2) Such building will not impair property values in the surrounding area;
  - (3) Such building will not impair the enjoyment of historic attraction and areas of significant historic interest;
  - (4) Such building is adequately designed and served from the standpoint of safety, and the County Fire Chief certifies the fire safety equipment to be installed is adequately designed, and the building is reasonably well located in relation to fire stations and equipment, so as to offer adequate protection to life and property;

- (5) Such building would not be contrary to the public health, safety or general welfare.
- (c) Church spires, belfries, cupolas, monuments, water towers, chimneys, flues, flag poles, home television antennae and home radio aeralis are exempt. Parapet walls may be up to four feet above the height of the building on which the walls rest.
- (d) No accessory structure which is within ten (10) feet of any lot line shall be more than one (1) story high. All accessory structures shall be less than the main structure in height. (3-1-69, Subsection 8-5 to 8-5-4; 1-10-73, Section 1-3; 10-11-76)

#### Section 20-86.1. Sign Regulations.

To assure an appearance and condition which is consistent with the purposes of the General Business District, B-1, outdoor signs on the properties within the district shall comply with the regulations for exterior signs in Article VIII of this Chapter. (9-21-73, Section 1-7; 10-11-76)

#### Section 20-86.3. Site Plan Review.

All buildings or complexes of buildings erected, altered or restored within the district shall be subject to site plan review in accordance with section 20-16 of this Chapter. (10-11-76)

Editor's note - Section numbers 20-86.2 and 20-86.3 were originally used to number sections in Division 8A of this Article. That division was repealed July 22, 1975, and the numbers subsequently reused.

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DIVISION 13. LIMITED INDUSTRIAL DISTRICT, M-1.

Section 20-87. Statement of Intent.

The primary purpose of the Limited Industrial District, M-1, is to establish an area where the principal use of land is for limited industrial operations which are not ordinarily compatible with residential development. The specific intent of this district is to accomplish the following:

- (a) Encourage the use of land for limited industrial purposes; and
  - (b) Prohibit residential developments on land reserved for limited 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 limited industrial uses.
- (Ord. No. 31A-54, 6-25-79)

Section 20-88. Permitted Uses.

In the Limited Industrial District, M-1, 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 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, compounding, processing or packaging of cosmetic, toiletry, and pharmaceutical products.

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

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

Manufacture and bottling of soft drinks.

Manufacture and processing of textiles and textile products.

Manufacture of carpets and carpet yarns.

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

Welding and machine shops with storage under cover or screened with landscaping and fencing from adjacent property.

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

Water well drilling establishments.

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.

Mobile home sales.

Locksmith and gunsmith shops.

Automobile service stations and truck terminals with sale of fuel in accordance with Section 20-27.1.

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.  
Indoor sport facilities, health clubs and exercise clubs.  
Retail food stores, bakeries and fish markets.  
Department stores, wearing apparel, shoe, tailor, dressmaking, candy, ice cream, florist, furrier, pet, picture framing, stamp and coin, travel bureau, yard goods, toys, music and records, tobacco and pipes, jewelry sales and service, books, greeting cards and sporting goods stores.  
Drugstores, barber shops and beauty shops.  
Publicly-owned solid waste container sites.  
(Ord. No. 31A-54, 6-25-79)

Section 20-88.1. Uses Permitted by Special Use Permit Only.

In the Limited Industrial District, M-1, buildings to be erected or land to be used for one or more of the following or similar uses shall be permitted only after the issuance of a Special Use Permit by the Board of Supervisors:

Truck stop.  
Outdoor sports facilities.  
Theme parks of ten acres or more.  
Radio stations, television stations, transmission relay stations and communication towers which exceed 60 feet in height.  
Petroleum storage.  
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.  
Sanitary landfills in accordance with Section 20-27.9 and waste disposal facilities.  
Resource recovery facilities.  
Airports.  
Hospitals.  
Lodges, civic clubs, fraternal organizations, service clubs and assembly halls.  
Funeral homes.  
Commercial marinas, docks, piers, yacht clubs, boat basins and servicing areas for same.  
Manufacture of furniture.  
Manufacture and sale of glass and glass products.  
Manufacture and storage of ice, including dry ice.  
Manufacture, compounding, processing or packaging of food and food products, but not the slaughter of animals.  
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 customer and which are accessory to

existing or proposed development, and distribution lines and local facilities within a 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, chemicals, slurry coal and any other gases, liquids or solids. However, extensions or private connections to existing pipelines, which are intended to serve an individual customer and which are accessory to existing or proposed development, are permitted generally and shall not require a Special Use Permit. (Ord. No. 31A-54, 6-25-79; (Ord. No. 31A-69, 4-13-81; Ord. No. 31A-78, 7-11-83)

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

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.

#### Section 20-89. Area Requirements.

Minimum lot size shall be 10,000 square feet.  
(Ord. No. 31A-54, 6-25-79)

#### Section 20-89.1. Minimum Lot Width.

Minimum width of lots in the Limited Industrial District, M-1, shall be 75 feet at the setback line.  
(Ord. No. 31A-54, 6-25-79)

#### Section 20-90. Setback Requirements.

Structures shall be located 50 feet or more from any street right-of-way which is 50 feet or greater in width. Where the street right-of-way is less than 50 feet in width, structures shall be located 75 feet or more from the center line of the street. The minimum setback of any portion of a structure which is in excess of 35 feet in height shall be increased one foot for each two feet of the structure's height in excess of 35 feet.

The minimum setback shall also be increased to a minimum of 75 feet from any street with a right-of-way 50 feet or greater in width and 100 feet from any street with a right-of-way of less than 50 feet of width when the property immediately across the street is zoned residential. The minimum setback of any portion of a structure across the street from property zoned residential which is in excess of 35 feet in height shall be increased one

foot for each two feet of the structure's height in excess of 35 feet.  
(Ord. No. 31A-54, 6-25-79)

#### Section 20-90.1. Side and Rear Yards.

Structures shall be located 20 feet or more from side or rear property lines. The side and rear yards for any section of a structure in excess of 35 feet in height shall be increased one foot for each two feet of height in excess of 35 feet.

The minimum side yard shall be increased to 75 feet if the side yard abuts property in a Residential district, and the minimum rear yard shall be increased to 75 feet if the rear yard abuts property in a Residential district. The minimum side and rear yards for any section of a structure in excess of 35 feet in height shall be increased one foot for each two feet of height in excess of 35 feet.  
(Ord. No. 31A-54, 6-25-79)

#### Section 20-90.2. Perimeter Landscape Regulations.

For permitted uses a minimum ten foot wide perimeter landscape strip shall be provided adjoining property lines within which no building structure, driveway or parking surface shall be permitted. Necessary approved entrances, walkways, fences and signs will be allowed.

The perimeter landscape strip shall be increased to 20 feet of width along any property line which is contiguous to property zoned residential. For the purpose of determining the required width of the perimeter landscape strip, property immediately across the street shall be considered contiguous.

The perimeter landscape strip shall contain a number of trees equal to at least one tree per 50 linear feet of landscaped area. Existing trees and natural vegetation shall be retained wherever possible.

#### Section 20-90.3. Special Provisions for the Waiver of Area, Lot Width, Yard and Yard Setback Requirements.

To allow the subdivision of industrial property on which industrial units for sale, for sale in condominium, or for lease are constructed as part of a multi-unit structure in which the units share common walls, or as part of a multiple-structure commercial development the Planning Commission may grant, at its discretion, a waiver from any part of Sections 20-89, 20-89.1, 20-90, 20-90.1, and 20-90.2 upon finding:

- (a) The overall complex or structure, if considered as a single unit, meets all of the requirements of 20-89, 20-89.1, 20-90, 20-90.1, and 20-90.2; and

- (b) Adequate parking is provided as per the requirements of this Chapter, and where determined necessary by the Commission, adequate easements or other agreements are recorded to guarantee access and maintenance of the parking areas and other common areas; and
  - (c) Adequate provisions are made to assure compliance with the requirements of this Chapter with regards to signs, and where determined necessary by the Commission, adequate easements or agreements are recorded to allow grouping of signs on one standard, placement of signs in common areas or other appropriate arrangements made necessary because of the reduced frontage or yard area of the individual units; and
  - (d) The complex or structure is adequately designed and serviced from the standpoint of safety, and that the County Fire Chief certifies that the fire safety equipment to be installed is adequately designed and the County Building Official certifies the complex is designed to conform to the BOCA Code, so as to offer adequate protection to life and property.
- (Ord. No. 31A-54, 6-25-79)

#### Section 20-91. Height Limits.

Buildings and other structures may be erected up to 60 feet in height from grade to the top of the structure.

Water towers, chimneys, flues, flag poles, communication antennae, mechanical penthouse, electrical, plumbing, elevator or other accessory mechanical functions which are part of or on top of a main structure are exempt. Parapet walls may be up to four feet above the height of the building on which the wall rests. (Ord. No. 31A-54, 6-25-79)

#### Section 20-91.1. Height Limitation Waiver.

A structure in excess of 60 feet in height from grade to the top of the structure may be erected only upon the granting of a height limitation waiver by the Planning Commission. Upon application, the Planning Commission may grant a height limitation waiver upon finding that:

- (a) Additional setbacks have been provided as required by Section 20-90 and Section 20-90.1 of this Chapter except that setbacks in excess of 60 feet shall not be required except at the discretion of the Planning Commission; and
- (b) Such structure will not impair the enjoyment of historic attractions and areas of significant historic interest; and
- (c) Such structure will not block sunlight from adjacent property or otherwise limit the benefits of direct sunlight on adjacent property; and



- (d) Such structure is adequately designed and served from the standpoint of safety, and that the County Fire Chief certifies the fire safety equipment to be installed is adequately designed and that the structure is reasonably well located in relation to fire stations and equipment, so as to offer adequate protection to life and property.

(Ord. No. 31A-54, 6-25-79)

#### Section 20-92. Sign Regulations.

To assure an appearance and condition which is consistent with the purposes of the Limited Industrial District, M-1, outdoor signs on the properties within the district shall comply with the regulations for exterior signs in Article VIII of this Chapter.

(Ord. No. 31A-54, 6-25-79)

#### Section 20-93. Utilities.

All development in the Limited Industrial District, M-1, shall be served by public water and sewer.

The location of all utilities and utility easements shall be shown on the site plans and be approved as per the Site Plan Review section of this Chapter.

#### Section 20-94. Site Plan Review.

All buildings or complexes of buildings erected, altered, or restored within the district shall be subject to Site Plan Review in accordance with Article II of this Chapter.

(Ord. No. 31A-54, 6-25-79)

#### Section 20-94.3. Parking Requirements.

Off-street parking and off-street loading shall be provided as required in Article I, Sections 20-12 and 20-12.1 of this Chapter.

(Ord. No. 31A-54, 6-25-79)

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DIVISION 14. GENERAL INDUSTRIAL DISTRICT, M-2.

Section 20-95. 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.
- (Ord. No. 31A-55, 6-25-79)

Section 20-96. 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 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.  
 Manufacture of cans and other metal products from previously processed metals.  
 Welding and machine shops including punch presses and drop hammers.  
 Breweries and other necessary associated activities.  
 Manufacture and bottling of soft drinks.  
 Manufacture and sale of wood products.  
 Wood preserving operations.  
 Manufacture of furniture.  
 Manufacture of carpets and carpet yarns.  
 Manufacture of boats, marine equipment and boat trailers.  
 Manufacture of pottery and ceramic products, using kilns fired only by gas or electricity.  
 Manufacture of batteries.  
 Metal foundry and heavy weight casting.  
 Drop-forge industries, manufacturing forgings with a power hammer.  
 Structural iron and steel fabrication.  
 Contractor offices, equipment storage yards, shops and warehouses.  
 Warehouse, storage, and distribution centers.  
 Boiler shops.  
 Water well drilling establishments.  
 Manufacture and storage of ice, including dry ice.  
 Printing, lithographing, engraving, photocopying, blue printing, 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.  
 Fire stations.  
 Post offices.  
 Accessory uses as defined in Section 20-2 of this Chapter.  
 Off-street parking as required by this Chapter.  
 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.  
 Automobile service stations and truck terminals with sale of fuel in accordance with Section 20-27.1.  
 Publicly owned solid waste container sites.  
 Telephone exchanges and telephone switching stations.  
 Retail sales of products related to the main use provided floor area for retail sales comprises less than 25% of the first floor area of the main use.

(Ord. No. 31A-55, 6-25-79; Ord. No. 31A-84, 8-13-84)

Section 20-96.1. Uses Permitted by Special Use Permit Only.

In the General Industrial District, M-2, buildings to be erected or land to be used for one or more of the following or similar uses shall be permitted only after the issuance of a Special Use Permit by the Board of Supervisors:

- Truck stop.
- Manufacture of fertilizer.
- Manufacture and compounding of chemicals.
- Manufacture and storage of explosives.
- Crushed stone, sand, gravel, or mineral mining; storage and distribution of same.
- Manufacture of cement, lime, gypsum, bricks, and stone products.
- Asphalt mixing plants.
- Paper and pulp manufacture.
- Petroleum refining.
- Petroleum storage.
- Radio stations, television stations, transmission relay stations and communication towers which exceed 100 feet in height.
- Sewage and water treatment or purification plants.
- 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.
- Airports.
- Sanitary landfills in accordance with Section 20-27.9.
- Electric power generating plants.
- Resource recovery facilities.
- Automobile graveyards and scrap metal storage yards.
- (Ord. No. 31A-55, 6-25-79)

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 customer and which are accessory to existing or proposed development, and distribution lines and local facilities within a 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, chemicals, slurry coal and any other gases, liquids or solids. However, extensions or private connections to existing pipelines, which are intended to serve an individual customer and which are accessory to existing or proposed development, are permitted generally and shall not require a Special Use Permit. (Ord. No. 31A-55, 6-25-79; Ord. No. 31A-69, 4-13-81; Ord. No. 31A-78, 7-11-83)

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

Railroad facilities including tracks, bridges, and stations. However, spur lines which are to serve and are accessory to existing or proposed development adjacent to existing railroad 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. (11-15-79)

Section 20-97. Area Requirements.

Minimum lot size shall be 10,000 square feet.  
(Ord. No. 31A-55, 6-25-79)

Section 20-98. Minimum Lot Width.

Minimum width of lots in the General Industrial District, M-2, shall be 75 feet at the setback line.  
(Ord. No. 31A-55, 6-25-79)

Section 20-98.1. Setback Requirements.

Structures shall be located 50 feet or more from any street right-of-way which is 50 feet or greater in width. Where the street right-of-way is less than 50 feet in width, structures shall be located 75 feet or more from the center line of the street. The minimum setback of any portion of a structure which is in excess of 35 feet in height shall be increased one foot for each three feet of the structure's height in excess of 35 feet.

The minimum setback shall also be increased to a minimum of 75 feet from any street with a right-of-way 50 feet or greater in width and 100 feet from any street with a right-of-way of less than 50 feet of width when the property immediately across the street is zoned residential. The minimum setback of any portion of a structure across the street from property zoned residential which is in excess of 35 feet in height shall be increased one foot for each two feet of the structure's height in excess of 35 feet.  
(Ord. No. 31A-55, 6-25-79)

Section 20-98.2. Side or Rear Yards.

Structures shall be located 20 feet or more from side or rear property lines. The side and rear yards for any section of a structure in excess of 35 feet in height shall be increased one foot for each three feet of height in excess of 35 feet.

The minimum side yard shall be increased to 75 feet if the side yard abuts property in a Residential district, and the minimum rear yard shall be increased to 75 feet if the rear yard abuts property in a Residential district. The minimum side and rear yards for any section of a structure in excess of 35 feet in height shall be increased one foot for each two feet of height in excess of 35 feet.  
(Ord. No. 31A-55, 6-25-79)

Section 20-98.3. Perimeter Landscape Regulations.

For permitted uses a minimum ten foot wide perimeter landscape strip shall be provided adjoining property lines within which no building structure, driveway or parking surface will be permitted. Necessary approved entrances, walkways, fences and signs will be allowed.

The perimeter landscape strip shall be increased to 35 feet of width along any property line which is contiguous to property zoned residential. The perimeter landscape strip shall be increased to 20 feet of width along any road right-of-way when the property across the road is zoned residential.

The perimeter landscape strip shall contain a number of trees equal to at least one tree per 50 linear feet of landscaped area. Existing trees and vegetation shall be retained wherever possible.

Section 20-98.4. Special Provisions for the Waiver of Area, Lot Width, Yard and Setback Requirements.

To allow the subdivision of industrial property on which industrial units for sale, for sale in condominium, or for lease are constructed as part of a multi-unit structure in which the units share common walls, or as part of a multiple-structure commercial development the Planning Commission may grant, at its discretion, a waiver from any part of Sections 20-97, 20-98, 20-98.1, 20-98.2 and 20-98.3 upon finding:

- (a) The overall complex or structure if considered as a single unit meets all of the requirements of 20-97, 20-98, 20-98.1, 20-98.2, and 20-98.3; and
- (b) Adequate parking is provided as per the requirements of this Chapter, and where determined necessary by the Commission, adequate easements or other agreements are recorded to guarantee access and maintenance of the parking areas and other common areas; and
- (c) Adequate provisions are made to assure compliance with the requirements of this Chapter with regards to signs, and where determined necessary by the Commission, adequate easements or agreements are recorded to allow grouping of signs on one standard, placement of signs in common areas or other appropriate arrangements made necessary because of the reduced frontage or yard area of the individual units; and
- (d) The complex or structure is adequately designed and serviced from the standpoint of safety, and that the County Fire Chief certifies that the fire safety equipment to be installed is adequately designed and the County Building Official certifies the complex is designed to conform to the BOCA Code, so as to offer adequate protection to life and property.  
(Ord. No. 31A-55, 6-25-79)

Section 20-99. Height Limits.

Buildings and other structures may be erected up to 100 feet in height from grade to the top of the structure.

Water towers, chimneys, flues, flag poles, communication antennae, mechanical penthouse, electrical, plumbing, elevator or other accessory mechanical functions which are part of or on top of a main structure are exempt. Parapet walls may be up to four feet above the height of the building on which the wall rests.

(Ord. No. 31A-55, 6-25-79)

Section 20-99.1. Height Limitation Waiver.

A structure in excess of 100 feet in height from grade to the top of the structure may be erected only upon the granting of a height limitation waiver by the Planning Commission. Upon application, the Planning Commission may grant a height limitation waiver upon finding that:

- (a) Additional setbacks have been provided as required by Section 20-98.1 and Section 20-98.2 of the Chapter except that setbacks in excess of 75 feet shall not be required except at the discretion of the Planning Commission; and
- (b) Such structure will not impair the enjoyment of historic attractions and areas of significant historic interest; and
- (c) Such structure will not block sunlight from adjacent property or otherwise limit the benefits of direct sunlight on adjacent property; and
- (d) Such structure is adequately designed and served from the standpoint of safety, and that the County Fire Chief certifies the fire safety equipment to be installed is adequately designed and that the structure is reasonably well located in relation to fire stations and equipment, so as to offer adequate protection to life and property.

(Ord. No. 31A-55, 6-25-79)

Section 20-100. Sign Regulations.

To assure an appearance and condition which is consistent with the purposes of the General Industrial District, M-2, outdoor signs on the properties within the District shall comply with the regulations for exterior signs in Article VIII of this Chapter.

(Ord. No. 31A-55, 6-25-79)

Section 20-100.1. Utilities.

All development in the General Industrial District, M-2, shall be served by public water and sewer. The location of all utilities and utility easements shall be shown on the site plans and be approved as per the Site Plan Review Section of this Chapter.

(Ord. No. 31A-55, 6-25-79)

Section 20-101. Site Plan Review.

All buildings or complexes of buildings erected, altered, or restored within the District shall be subject to Site Plan Review in accordance with Section 20-16.

(Ord. No. 31A-55, 6-25-79)

Section 20-102.2. Parking Requirements.

Off-street parking and off-street loading shall be provided as required in Article I, Sections 20-12 and 20-12.1 of this Chapter.

(Ord. No. 31A-55, 6-25-79)

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## ARTICLE V. NONCONFORMITIES.

### Section 20-103. Continuation.

If at the time of enactment of or amendment to this Chapter, any legal activity is being pursued or any lot or structure legally utilized in a manner which does not conform to the provisions of this Chapter, such manner of use or purpose may be continued as herein provided.

If any change in title or possession or renewal of a lease of any such lot or structure occurs, the use existing may be continued.

If any nonconforming use, structure or activity, is discontinued for a period exceeding two years after the enactment of or amendment to this Chapter, it shall be deemed abandoned, and any subsequent use shall conform to the requirements of this Chapter.

(3-1-69, Subsections 11-1 to 11-1-5; 5-10-76)

### Section 20-104. Reserved.

Editor's note—Section 20-104 was repealed by Ordinance of May 10, 1976.

### Section 20-106. Changes in Zoning District Boundaries.

Whenever the boundaries of a district are changed, any uses of land or buildings which become nonconforming as a result of such change shall become subject to the provisions of this article. (3-1-69, Section 11-4; 5-10-76)

### Section 20-107. Expansion or Enlargement.

A nonconforming structure to be extended or enlarged shall conform with the provisions of this Chapter. This requirement shall not apply to the following structures:

- (a) Single-family dwellings or mobile homes legally in existence at the time this Chapter was enacted or amended; or,
- (b) A building or structure that would otherwise be conforming except that it does not meet the minimum yard or setback requirements of the district in which it is located due to an action by a local, state or federal public agency over which the owner had no control.

These structures may be expanded or enlarged, provided the expansions comply with the area, setback, minimum lot width, yard, height, sign and other provisions of the district in which they are located, or that the Board of Zoning Appeals establishes the area, setback, lot width, yard and height requirements for the expansion.

Nonconforming uses shall not be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this ordinance.

Section 20-108. Nonconforming Lots.

Any lot of record April 8, 1985, which is less in area or width than the minimum required by this Chapter may be used provided the other requirements of this Chapter are met, or the Board of Zoning Appeals establishes setbacks, side and rear yards, in accordance with Section 20-115(c).

Section 20-109. Restoration or Replacement.

Any nonconforming use or structure damaged or destroyed by fire or other causes beyond the control of the owner may be rebuilt only if reconstruction is commenced within two years following such destruction or damage, provided the discontinuance is from a cause over which the owner had no control. Such reconstruction shall not increase the size or area of the nonconforming use or structure except in accordance with Section 20-107. If any nonconforming structure or any building which has contained a nonconforming use is moved, the subsequent use of the property shall conform to this ordinance.

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ARTICLE VI. APPEALS.

DIVISION 1. BOARD OF ZONING APPEALS.

Section 20-110. Creation, Number, Qualifications, Appointment and Compensation.

A Board of Zoning Appeals, consisting of five residents of the County as members, shall be appointed by the Circuit Court of James City County. Members of the Board may serve without pay other than for traveling expenses.

Section 20-111. Term of Office of Members; Filling Vacancies.

The term of office of members of the Board of Zoning Appeals shall be for five years.

Appointments for vacancies occurring otherwise than by expiration of term shall in all cases be for the unexpired term.

Section 20-112. Disqualification of Member Having Interest in Property in Question before Board.

Any member of the Board of Zoning Appeals shall be disqualified to act upon a matter before the Board with respect to property in which the member has an interest. (3-1-69, Section 13-1-4)

Section 20-113. Removal of Members.

Members of the Board of Zoning Appeals may be removed for cause by the Circuit Court upon written charges and after a public hearing. (3-1-69, Section 13-1-3)

Section 20-114. Chairman and Vice Chairman, Secretary.

The Board of Zoning Appeals shall choose annually from its membership a Chairman and Vice Chairman who shall act in the absence of the Chairman. The board may elect as its secretary either one of its members or a qualified individual who is not a member of the board. A secretary who is not a member of the board shall not be entitled to vote on matters before the board. (3-1-69, Section 13-1-5)

Section 20-115. Powers and Duties; Granting of Variances.

The Board of Zoning Appeals shall have the following powers and duties:

- (a) To hear and decide appeals from any order, requirement, decision, or determination made by an Administrative Officer in the administration or enforcement of this Chapter or of any Ordinance adopted pursuant thereto.
- (b) To authorize upon appeal or original application in specific cases such variance from the terms of this Chapter as will not be contrary to the public interest, when, owing to special conditions, a literal enforcement of the provisions will result in unnecessary hardship, provided that the spirit of this Chapter shall be observed and substantial justice done, as follows:
  - (1) When a property owner can show that his property was acquired in good faith and where by reason of the exceptional narrowness, shallowness, size or shape of a specific piece of property at the time of the effective date of this Chapter, or where by reason of exceptional topographic conditions or other extraordinary situation or condition of such piece of property, or of the use or development of property immediately adjacent thereto, the strict application of the terms of this Chapter would effectively prohibit or unreasonably restrict the use of the property or where the Board is satisfied, upon the evidence heard by it, that the granting of such variance will alleviate a clearly demonstrable hardship approaching confiscation, as distinguished from a special privilege or convenience sought by the applicant, provided that all variances shall be in harmony with the intended spirit and purpose of this Chapter.
  - (2) No such variance shall be authorized by the Board unless it finds: (a) that the strict application of this Chapter would produce undue hardship; (b) that such hardship is not shared generally by other properties in the same Zoning District and the same vicinity; and (c) that the authorization of such variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance.
  - (3) No such variance shall be authorized except after notice and hearing as required by Section 15.1-431 of the Code of Virginia.
  - (4) No variance shall be authorized unless the Board finds that the condition or situation of the property concerned or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to this Chapter.
  - (5) In authorizing a variance the Board may impose such conditions regarding the location, character and other features of the proposed structure for use as it may deem

necessary in the public interest, and may require a guarantee or bond to insure that the conditions imposed are being and will continue to be complied with.

- (c) To hear and decide appeals from the decision of the Zoning Administrator, or applications for such special exceptions as may be authorized by this Chapter. The Board may impose such conditions relating to the use for which a permit is granted as it may deem necessary in the public interest, and may require a guarantee or bond to insure that the conditions imposed are being, and will continue to be complied with. No such special exception may be granted except after notice and hearing as provided by Section 15.1-431 of the Code of Virginia 1950.
- (d) To hear and decide applications for interpretation of the District Map where there is any uncertainty as to the location of a district boundary. After notice to the owners of the property affected by any such question, and after public hearing with notice as required by Section 15.1-431 of the Code of Virginia, the Board may interpret the map in such way as to carry out the intent and purpose of this Chapter for the particular section or district in question. The Board shall not have the power, however, to rezone property or substantially to change the locations of district boundaries as established by Ordinance. (3-1-69, Subsections 13-2 to 13-2-3; 10-11-71)

Section 20-116. Rules and Regulations; Meetings; Compulsory Attendance of Witnesses; Records.

The Board of Zoning Appeals shall adopt rules and regulations as it may consider necessary. The meetings of the Board shall be held at the call of its Chairman or at such times as a quorum of the Board may determine. The Chairman or, in his absence, the Acting Chairman may administer oaths and compel the attendance of witnesses. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicate such fact. It shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board and shall be a public record. All meetings of the Board shall be open to the public. A quorum shall be at least three members. (3-1-69, Subsections 13-3 to 13-3-6)

Section 20-117. Vote Required to Reverse any Order, etc., or to Decide in Favor of any Appellant.

A favorable vote of three members of the Board of Zoning Appeals shall be necessary to reverse any order, requirement, decision or determination of any Administrative Official or to decide in favor of the applicant on any matter upon which the Board is required to pass. (3-1-69, Section 13-3-7)

## DIVISION 2. REGULATIONS GOVERNING APPEALS.

### Section 20-118. 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 no notice to the Zoning Administrator as for good cause shown. (3-1-69, Section 13-4)

### Section 20-119. 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 20-8. (3-1-69, Subsections 13-5 to 13-5-2)

### Section 20-120. 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 60 days. In exercising its powers the Board may reserve or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from. (3-1-69, Section 13-6)

### Section 20-121. 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. (3-1-69, Subsections 13-7 to 13-7-5)

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ARTICLE VII. REPEALED.

Sections 20-121.1 to 20-128. Repealed July 22, 1975.

ARTICLE VIII. SPECIAL REGULATIONS FOR EXTERIOR SIGNS.

Section 20-129. Definitions.

For the purpose of this Article, the following words and phrases shall have the meanings respectively ascribed to them by this Section:

DOUBLE-FACED SIGN. A sign with two parallel or nearly parallel faces, back to back, and located not more than 24 inches from each other.

FLASHING SIGN. An illuminated sign on which the artificial or reflected light is not maintained stationary or constant in intensity and color at all times when in use, and whose intermittent or sequential lights are used primarily to attract attention and not to convey information such as time of day and temperature. Any sign which revolves or moves, whether illuminated or not, shall be considered a flashing sign.

FLAT SIGN. Any sign attached to and erected parallel to the face of or erected or painted on the outside wall of a building and supported throughout its length by such wall or building and not extending more than 18 inches from the building wall.

FREE-STANDING SIGN. A sign not attached to or painted on a building, but which is affixed to the ground. A sign attached to a flat surface such as a fence or wall, not a part of a building, shall be considered a free-standing sign.

GROSS SIGN AREA. That area within a line including the outer extremities of all letters, figures, characters and delineations, or within a line including the outer extremities of the framework or background of the sign, whichever line includes the larger area. The support for the sign background, whether it be columns, a pylon, or a building or part thereof, shall not be included in a sign area. Only one side of a double-faced sign shall be included in a computation of sign area. The area of signs with more than two faces shall be computed by multiplying one-half the perimeter of one face by the height of the sign. The area of cylindrical sign shall be computed by multiplying one-half of the circumference by the height of the sign.

ILLUMINATED SIGN. Any sign designed to give forth artificial light or designed to reflect light from one or more sources of artificial light erected for the purpose of providing light for the sign.

INDIRECTLY ILLUMINATED SIGN. A sign which does not produce artificial light from within itself, but which is opaque and black-lighted, or illuminated by spotlights or floodlights not a part of or attached to the sign itself, or a sign of translucent nontransparent material illuminated from within but with no exposed or exterior bulbs, tubes or other light source.



MARQUEE SIGN. Any sign attached to or hung from a marquee. For the purpose of this Article, a marquee is a covered structure projecting from and supported by a building with independent roof and drainage provisions and which is erected over a doorway or doorways as protection against the weather.

PROJECTING SIGN. A sign which is attached to and projects more than eighteen inches from the face of a wall of a building. The term projecting sign includes a marquee sign.

SIGN. A structure, display or device that is arranged, intended, designed or used as an advertisement, announcement, identification, description or direction. (1-10-73, Section 3-1; 9-21-73, Section 2-3; 10-11-76)

#### Section 20-130. Content of Signs.

No exterior sign shall advertise a product, service, business activity or institution which occurs or is generally conducted, sold, manufactured, produced or offered elsewhere than on the premises where such sign is located. The content or advertising message carried by signs hereafter erected shall be limited to one or more of the following:

- (a) The identification of building or its owners or occupants of the premises;
- (b) Information concerning any lawful, non-business, non-service related activities or messages on or off the premises or information concerning any lawful business related activities on the premises and/or goods or services offered in connection therewith.
- (c) Information concerning the sale, rental or lease of the premises.
- (d) Information on directional signs as prescribed in Section 20-131. (Ord. No. 31A-72, 7-26-82)

#### Section 20-131. Sign Dimensions and Special Regulations.

(a) For properties having less than 400 feet of frontage, the following regulations shall apply:

(1) One free-standing sign shall be permitted on each street frontage.

(2) Such signs shall not exceed 32 square feet per face if located within 75 feet of the road right-of-way, 50 square feet per face if located 75 to 150 feet from the road right-of-way, or 60 square feet per face if located 150 feet or more from the road right-of-way.

(3) Such signs shall not exceed an overall height of twenty (20) feet from grade.

(4) Such signs may be placed within required yards and setbacks, but shall be located at least five feet from any property line.

(5) Individual stores, businesses or professions on the same property shall combine signs on a single standard; and the square footage of the combined signs shall not exceed 32 square feet per face, except as provided herein.

(6) Shopping centers shall be permitted one free-standing sign per major street frontage. A free-standing shopping center sign shall display only the shopping center name. Individual shops and businesses in shopping centers may have building face signs as provided for in subsections (c) and (d) of this Section, or specially designed signing consistent with the overall development plan for shopping center and approval as a part thereof by the Planning Commission.

(7) When two separate businesses are located in separate structures on the same parcel, then one additional sign may be permitted provided there exists at least 200 feet of street frontage for each sign.

(b) Each property having in excess of 400 feet of lot frontage shall be permitted one additional free-standing sign of the same size and height as Subsection (a) above.

(c) In zones where businesses or manufacturing is permitted a building face sign shall also be permitted. The area devoted to such signs shall not exceed the product of one square foot times the length or width of the building. Such signs shall be mounted flat against the building on the side measured above.

(d) When the same building faces onto a public right-of-way or parking lot on the rear or side of the building, an additional sign may be erected at the entrance on that side. The area devoted to such a sign shall not exceed ten percent of the area of the face of the building to the first story height, and such sign must be mounted flat against the building.

(e) Banners or flags used as signs shall be allowed by permit, provided that the same are installed in a permanent fashion, are maintained in good repair at all times and will not constitute a hazard to vehicular traffic.

(f) Signs on entrance marquees or canopies shall be allowed, provided that the total area of such signs if constructed alone or in combination with other building signs does not exceed the maximum allowable dimensions as set forth in Subsection (c) above.

(g) In no case shall a sign be permitted which will detrimentally affect the safety of the traveling public. On a corner lot, no sign shall be erected within a triangular area inscribed by two ten-foot right-of-way legs.

(h) Directional signs may be allowed upon the determination of the administrator or his designee that the sign or signs:

(1) Are necessary to permit vehicular traffic to locate distinctive places of historical significance, businesses, campgrounds, industries and residential areas or other activities which are located off the State primary roads;

(2) Show only the name, mileage and direction; and

(3) Do not exceed ten square feet in size.

(i) In connection with residential subdivisions, no sign intended to be read from any public way adjoining the district shall be permitted except one identification sign, not exceeding 32 square feet in area, for each principal entrance.

#### Section 20-132. Exemptions.

The following signs are exempted from the provisions of these regulations and may be erected or constructed without a permit but in accordance with the structural and safety requirements of the Building Code:

- (a) Official traffic signs, historical markers, provisional warning signs or sign structures when erected or required to be erected by a governmental agency and temporary signs indicating danger.
- (b) Signs authorized by the state highway department to be placed on a highway right-of-way.
- (c) Changing of the copy on a bulletin board, poster board, display encasement, reader board or billboard.
- (d) Temporary nonilluminated signs, not more than six feet square in area, advertising real estate for sale or lease and located on the premises, one such sign for each street frontage.
- (e) Temporary nonilluminated signs, not more than ten square feet in area, erected in connection with new construction work and displayed on the premises during such time as the actual construction work is in progress, one such sign for each street frontage.
- (f) Nonilluminated signs warning trespassers or announcing property as posted, not to exceed four feet per sign.
- (g) Sign on a truck, bus or other vehicle, while in use in a normal course of business. This section should not be interpreted to permit parking for display purposes of a vehicle to which signs are attached in a district where such signs are not permitted.
- (h) Mailboxes and similarly located signs identifying a private residence.

- (i) Home occupation signs not to exceed four square feet. Such signs shall not be illuminated and shall be attached to the dwelling.
- (j) Signs within a business or manufacturing district which are not visible from a public road or abutting property line.
- (k) Signs not to exceed six square feet in area, within a business or manufacturing district, which state the name or number of a building, to be located on the rear or sides of a building on a parcel containing four or more buildings.
- (l) Signs placed upon the exterior of a structure indicating the location of restrooms, bathhouses, entrances or exits.
- (m) Signs not to exceed six square feet in area indicating the entrance or exit from a parking lot, potable water supply, sewage station for recreational vehicles or other notices related to public health or safety. Such signs shall be adjacent to the facility.
- (n) Temporary signs not to exceed twelve square feet per face, erected for a period of up to 60 days, advertising seasonal agricultural products for sale within an agricultural district.
- (o) Special notice placards, not to exceed four square feet in size, attached to a building or to a free-standing sign indicating credit cards which are accepted on the premises; group affiliations of which the business is a member or clubs or groups which utilize, recommend, inspect or approve the business for use by its members.
- (p) Signs conveying political, ideological, religious, social or governmental messages unrelated to businesses, services or manufacturing activities or the goods connected therewith, provided such signs shall not exceed 32 square feet in size and provided that any such signs related to or connected with political campaigns shall not be maintained for longer than 90 days and shall be removed within 10 days after the election to which they pertain. (Ord. No. 31A-72, 7-26-82)

#### Section 20-133. Prohibited Signs.

The following signs are specifically prohibited:

(a) Flashing, animated and rotating signs or appurtenances to signs which are nonstationary.

(b) Displays of intermittent lights resembling or seeming to resemble the flashing lights customarily associated with danger, such as are customarily used by police, fire or ambulance vehicles or for navigation purposes.

(c) Signs so located and so illuminated as to provide a background of colored lights blending with traffic signal lights that might reasonably confuse a motorist when viewed from a normal approach position of a vehicle at a distance of 25 to 300 feet.

(d) Signs which are not an integral part of the building design but fastened to and supported by or on the roof of a building or projecting over or above the roof line or parapet wall of a building, except as otherwise provided herein.

(e) Signs placed or located to conflict with the vision clearance or other requirements of applicable traffic ordinances.

(f) Signs attached to trees, utility poles or other unapproved supporting structure.

(g) Signs which are portable or otherwise designed to be relocated, or are constructed on a chassis or carriage with permanent or removable wheels. (1-10-73, Section 3-1; 9-21-73, Section 2-3; 10-11-76)

#### Section 20-134. Temporary Signs.

The administrator or his designee, upon application, may issue temporary permits for the following signs and displays when in his opinion the use of such signs and displays would be in the public interest and would not result in damage to private property. Such permits shall be valid for a period of up to 30 days following issuance:

(a) Signs of not more than 32 square feet, advertising a special civic or cultural event such as a fair or exposition, play, concert or meeting sponsored by a governmental, charitable or nonprofit organization.

(b) Special decorative displays used for holidays, public demonstrations or promotion for nonpartisan civic purposes.

(c) Special decorative displays used for purposes of advertising the opening of a new store, business or profession. (1-10-73, Section 3-1; 9-21-73, Section 2-3; 10-11-76)

#### Section 20-135. Permits.

The following regulations apply generally to all signs and are in addition to the regulations contained elsewhere in this Chapter.

(a) REQUIRED; APPLICATION; INSPECTION OF SIGNS. No sign, unless herein excepted shall be erected, constructed, structurally altered or relocated, except as provided in this Article and in these regulations, until permit has been issued by the administrator or his designee. Before any permit is issued, an application provided by the administrator or his designee shall be filed together with three sets of drawings or specifications, one to

be returned to the applicant, as such may be necessary to advise and acquaint the administrator or his designee fully with the location in relation to adjacent buildings, construction, materials, manner of illuminating or securing or fastening, and number of signs applied for and the wording of the sign or advertisement to be carried on the sign.

(b) ELECTRICAL PERMIT. All signs which are electrically illuminated shall require a separate Electrical Permit and an inspection.

(c) PERMIT TIME LIMIT. All signs shall be erected on or before the expiration of six months from the date of issuance of the permit, otherwise the permit shall become null and void, and a new permit shall be required.

(d) PERMIT NUMBER. Each sign requiring a permit shall be clearly marked with the permit number and the name of the person or firm placing the sign on the premises.

(e) FEES REQUIRED. For all sign permits, fees shall be required in accordance with Section 20-8 of this Chapter.

#### Section 20-136. Exceptions.

(a) Upon application, the administrator or his designee may grant an on-premises sign limitation waiver which may allow:

- (1) One free-standing sign not to exceed 75 square feet per face;
- (2) One building face sign not to exceed an area equal to 15% of the area of the first story of the front facade of the building, such signs to be mounted flat against the building;
- (3) One free-standing sign not to exceed 32 square feet per face and not to exceed 30 feet in height; or
- (4) One sign to be placed on the roof of the building not to exceed 15% of the area of the first story of the front facade of the building.

(b) Such on-premises sign limitation waivers shall only be granted in unusual circumstances where it can be demonstrated to the administrator or his designee that:

- (1) Unusual topography, vegetation, distance of the business or parcel from the road right-of-way, separation of grade or the location of the driveway in relation to the location of the business and traffic patterns would impose a substantial hardship upon the business by making the advertising signs unreadable from vehicles on the adjoining roadway; or
- (2) The waiver would allow the business to post signs that are consistent with the majority of other businesses located on the same parcel; or

(3) In addition to the provisions for granting sign limitation waivers under (1) and (2) of this Subsection, if the facade of the building is so designed that a building face sign cannot be placed upon it, and a roof sign would be the only reasonable and practical solution consistent with good design, a sign consistent with (4) of Subsection (a) above shall be permitted, provided that the sign is not within 200 feet of residentially zoned property, and

(4) That in (1), (2) and (3) above, such waiver is consistent with traffic safety. (1-10-73, Section 3-1; 9-21-73, Section 2-3; 10-11-76)

#### Section 20-137. Nonconforming Signs.

Any sign existing prior to November 1, 1976, and not conforming to the terms of this Chapter is hereby declared a nonconforming sign and may not be structurally altered or replaced unless such sign conforms to the requirements of the Chapter. Upon the cessation or termination of a particular use on a parcel of real property, the owner thereof shall within 90 days of such cessation or termination remove all nonconforming signs. If the owner shall fail to comply with this requirement, then written notice shall be given by the administrator to the owner advising of the violation. If such signs are then not removed within 10 days, the administrator shall cause such removal and charge the cost to the owner of the premises. (1-10-73, Section 3-1; 9-21-73, Section 2-3; 12-22-75; 10-11-76)

#### Section 20-138. Violation and Penalties.

The violation of any of the provisions of this Article is hereby declared to be a misdemeanor, for which the administrator or his designee shall cause a written notice of violation to be issued to the owner, tenant or lessee of the property on which the sign is located and/or the owner or lessee of the sign. If such violation is not corrected within five days after receipt of the notice of violation, except violations involving portable signs, the administrator or his designee shall remove or cause to be removed at the owner's or tenant's expense such sign and/or institute such other action as may be appropriate. If the violation involves a portable sign, such sign shall be removed immediately, and if not, the administrator or his designee shall remove or cause to be removed at the owner's or tenant's expense such sign and/or institute such other action as may be appropriate. Removal of a sign shall not affect any proceedings instituted prior to removal of such sign. (1-10-73, Section 3-1; 9-21-73, Section 2-3; 10-11-76)

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ARTICLE IX. PLANNED UNIT DEVELOPMENT DISTRICTS.

Section 20-139. Statement of Intent.

The purpose of the Planned Unit Development District is to promote efficient use of land, allow flexible application of development controls, allow various densities and land uses, protect surrounding property and protect the natural features and scenic beauty of the land. This shall be accomplished by permitting a wider range of densities and uses to be developed in accordance with a Master Plan which allows for clustering of uses or densities in various areas of the site. (1-24-77)

Section 20-140. Designation of Zoning District.

Planned Unit Development Districts shall be categorized as either Residential (PUD-R) or Commercial (PUD-C), and upon approval of the Master Plan by the Board of Supervisors, this designation shall be the Zoning District of the parcel. (1-24-77)

Section 20-141. Documents Required for Submission.

(a) The applicant shall submit the following documents to the Zoning Administrator for submission to the Planning Commission:

- (1) Application for rezoning.
- (2) Master Plan, ten copies.
- (3) Community Impact Statement, for any Planned Unit Development containing 50 or more acres or comprising 200 or more dwelling units, ten copies.

(b) Master Plan. The Master Plan shall be prepared by a licensed surveyor, engineer, architect, or landscape architect, or planner. A scale may be used so that the entire parcel can be shown on one piece of paper no larger than 30 inches by 40 inches. It shall include:

- (1) An insert map at a scale of not less than one inch to one mile, showing the property in relation to surrounding roads, subdivisions or major landmarks.
- (2) A north arrow.
- (3) The location of existing property lines, watercourses or lakes, wooded areas and existing roads which are within or adjoin the property.
- (4) The approximate boundaries of each section, land-use or density, the approximate location of proposed streets and rights-of-way with an indication of whether public or private; the approximate location of



recreation areas and common open space areas; and all areas proposed for dedication to public use within the project. Common open space shall be located so as to enhance the living environment of the proposed development. generally this shall mean that the common open space shall be distributed throughout the site and not aggregated in large areas that provide little or no benefit to the individual uses or the development at large.

Each section or area of the Master Plan shall be designated as follows:

<u>Area Designation</u>	<u>Type of Development</u>
A	Single-family detached and attached
B	Two-family, townhouses and condominiums
C	Multi-family structures less than three stories
D	Multi-family structures of three or more stories
E	Commercial Uses
F	Wholesale and Warehouse Uses
G	Office Uses
H	Light Industrial Uses
I	Institutional or Public Uses
J	Areas of Common Open Space, with recreation areas noted

For purposes of this Article, the term "common open space area" shall refer to any tract of land intended to be used in common primarily by residents of the planned unit development.

(5) As marginal data it shall contain a table which shows, for each section or area of different uses, the following (a) the use, (b) approximate phasing, (c) approximate number of dwelling units and density for residential areas, square feet of floor space for commercial or industrial areas and (d) the approximate acreage of each use.

(6) Schematic plans which shall indicate the phasing of development.

(7) A statement satisfactory to the County Attorney on the guarantees and assurances to be provided for the maintenance of common open space, recreation areas, sidewalks, parking, private streets, and other privately-owned but common facilities serving the project.

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

(1) Adequacy of existing public facilities and services to serve the development. Analysis shall be made of sewer, water, schools, fire stations and other major locally financed facilities.

(2) Additional on-site and off-site public facilities or services which would be required as a result of the development.

(3) Traffic to be generated by the project, the capacity of surrounding roads, specific road improvements necessary.

(4) Fiscal impact of the proposed project, such as estimated tax revenues to be generated versus the cost of public improvements to be financed by the County or the State.

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

(6) Employment opportunities to be generated by the development.  
(1-24-77)

#### Section 20-141.1 Master Plan—Administrative Review Fees.

Submittal of a Master Plan and subsequent revisions proposed by the applicant to the Planning Commission shall be accompanied by a fee as specified in Section 20-8.

#### Section 20-142. Procedures.

(a) Report of the Planning Director. The Planning Director may refer copies of the Master Plan and Community Impact Statement to other local public officials for their comments. Within 30 working days of the receipt of the application and accompanying documents, the Planning Director shall prepare a report with recommendations regarding the application. A copy of the report shall be sent to the applicant. The application, Master Plan, Community Impact Statement and report of the Planning Director shall be placed on the agenda of the Planning Commission at its next regularly scheduled meeting.

The report of the Planning Director shall include, but not necessarily be limited to the following:

(1) Evaluation of the proposed density and uses at the site in relation to the County's Comprehensive Plan.

(2) Evaluation and recommended changes in the design of land use, circulation and densities shown on the Master Plan of the property.

(3) Impact of the proposal on surrounding property and the environment.

(4) Evaluation of the fiscal impacts of the proposal and the proposed financing of required improvements.

(5) Recommendations regarding the dedication of property or facilities for public use.

(6) Final recommendations regarding approval of the applications and Master Plan or changes which are necessary.

(b) Consideration by the Planning Commission and Board of Supervisors. The procedures for public hearing and consideration by the Planning Commission and Board of Supervisors shall be as set forth in Section 20-14. The Board of Supervisors, if it approves the Master Plan, may impose conditions to such approval.

Upon approval of the Master Plan by the Board of Supervisors, the Planned Unit Development District is deemed established. Thereafter, all amendments to the Master Plan shall be in accord with Section 20-14 of this Chapter. The Master Plan shall guide the general location of all features shown therein, including land uses, densities, roads, public uses and other features. Approval final plans, provided for in Section 20-142.1, shall supersede the Master Plan and schematic plans. The developer shall be required to furnish a surety bond, letter of credit, cash escrow, or other form of guarantee against completion of all public improvements and streets shown on final plans.

#### Section 20-142.1. Relationship of Final Plans to Master Plan.

Following the establishment of a Planned Unit Development District and approval of the Board of Supervisors of a Master Plan, the applicant may furnish to the Site Plan Review Committee or Subdivision Review Committee or the Planning Commission, whichever is appropriate, seven copies of a final plan of any part or section of the community shown on the Master Plan. The term "final plan" shall mean site plan or subdivision plat. Final plans shall be submitted for review in accord with Article II of this Chapter of the County's Subdivision Ordinance. The final plans shall be consistent with the Master Plan as approved, but may alter to any degree which the Planning Commission believes does not alter the basic concept or character of the development.

#### Section 20-142.2. Final Plans—Contents.

Where land is to be subdivided within the District, the final plan shall comply with the County's Subdivision Ordinance. Where land is not to be subdivided within the District, final plans shall comply with Article II of this Chapter. All final plans shall show the different types of open areas and other public or community amenities, and proposed use of all buildings and of all areas dedicated for public or private common use.

#### Section 20-142.3. Final Plans—Administrative Review Fee.

Submittals of a site plan or preliminary subdivision plat implementing any portion of an approved master plan shall be accompanied by a fee in accord with Section 20-8 of this Chapter or Section 17-54 of the County's Subdivision Ordinance.

Section 20-142.4. Final Plans—Action.

Final plans submitted pursuant to Section 20-142.1 shall be approved or disapproved in accordance with Article II of this Chapter, or in accordance with the County's Subdivision Ordinance.

Section 20-143. Minimum Area of Districts.

Planned Unit Development Districts shall be located on a single parcel of land, or separate but contiguous parcels, which are under one ownership or control and which shall total not less than five acres.

Section 20-143.1. Density.

The number of dwelling units which may be constructed shall be determined by the number of net developable acres at the site and the use proposed. The net developable acres shall equal the total land area of the site minus stream beds, areas subject to flooding, marsh and areas with slopes exceeding a 25% gradient. The number of units which may be constructed are:

<u>Area Designation</u>	<u>Dwelling Type</u>	<u>Maximum Density (dwelling units per acre)</u>
A	Single-family	4
B	Two-family, townhouse, condominium	9.6
C	Multi-family less than three stories	12
D	Multi-family structures of three stories or more	18

Section 20-144. Adequacy of Public Facilities and Roads.

Planned Unit Development Districts shall be so located and developed that they will not exceed the capacity of the adjacent roads which will serve the property or the capacity of public sewer and water systems in the event connections to them are proposed, unless the applicant shall dedicate right-of-way, contribute to the construction of new facilities or create such facilities to the extent of his fair share of such as the percentage of his land developed and so served. The rate of development shall not exceed the rate of construction and increasing capacity of the limiting facility. (1-24-77)

Section 20-145. Open Space.

Thirty-five percent of the gross area of any Planned Unit Development District shall be retained in open space. This may include common open areas,

perimeter open space, buffers between various uses or densities, public open space, recreation areas, easements, areas of excessive slopes, low lying areas, marsh or historic sites or other features which will enhance the value of the site, reduce adverse impacts and otherwise be an asset to the community. (1-24-77) For the purposes of this Article, the term "open space" shall exclude open space in the private yards of individual dwelling units.

Common open space areas shall be protected by assurances, satisfactory to the County Attorney, that set forth the provisions made for the permanent care and maintenance of such property. Easements or covenants shall establish the rights of two abutting properties where main buildings are to be constructed on or within five feet of a property line. Such easements or covenants shall establish the rights of each affected owner to gain access to each owner's building for purposes of essential maintenance and service.

#### Section 20-146. Public Uses.

Prior to the recordation of any subdivision plat or the issuance of any building permit within any area shown on the Master Plan, the applicant shall, upon request of the Board of Supervisors, furnish a deed or deeds, without consideration, to such amount or amounts of land as may be determined by the Board of Supervisors to be reasonably required as sites for additional or expanded public services occasioned by the development of the Planned Unit Development. The land may be selected by the applicant, but must be suitable from the standpoint of size, location and topography, to the public purposes for which required. The amount of land required to satisfy the requirements of this Section shall be not more than one acre per 100 dwelling units proposed or one acre per 30 acres of industrial or commercial uses proposed. The obligation imposed upon applicant by this Section may be satisfied in whole or in part by written agreement between applicant and the Board of Supervisors. Failure of the applicant to comply with these requirements shall be grounds for withholding approval of any pending or future final plan. (1-24-77)

#### Section 20-147. Addition of Land to an Existing Planned Unit Development.

Additional land area may be added to an existing Planned Unit Development if it is adjacent to (except for public roads), forms a logical addition to, and if it is under the same ownership or control as the original parcel. The procedure for an addition shall be the same as if an original application were filed, and the requirements of this article shall apply, except the minimum acreage requirement. (1-24-77)

#### Section 20-148. Height and Spacing of Buildings.

Buildings may be erected up to 60 feet in height from grade to the top of the structure, including all penthouse, electrical, plumbing, elevator, water tank or other accessory functions, but excluding those items listed in (b) below.

(a) A building in excess of 60 feet in height but not in excess of 100 feet, from grade to the top of the structure, including all penthouse, electrical, plumbing, elevator, water tank, radio, television, and microwave antennas and towers or other accessory functions, but excluding those items listed in (b) below, may be erected only upon the granting of a height limitation waiver by the Planning Commission. Upon application, the Planning Commission may grant a height limitation waiver upon finding that:

(1) Such building will not impair property values in the surrounding area; and,

(2) Such building is in accordance with the uses, densities, design, and traffic analysis shown on the original Master Plan; and

(3) Such building is adequately designed and served from the standpoint of safety, and the County Fire Chief certifies that the fire safety equipment to be installed is adequately designed and that the building is reasonably well located in relation to fire stations and equipment, so as to offer adequate protection to life and property.

(b) Church spires, belfries, cupolas, monuments, water towers, chimneys, flues, flag poles, home television antennas and home radio aeriels are exempt. Parapet walls may be up to four feet above the height of the building on which the wall rests. (1-24-77)

#### Section 20-149. Requirements for Improvements and Design.

(a) Water and sewer. All structures and uses within a Planned Unit Development District shall be served by public water and public sewage systems. Extensions and expansions of public utilities to serve the development shall be governed by the regulations and policies governing service of the appropriate public agency.

(b) Recreation areas. Areas on the Master Plan designated as A (single-family detached), B (two-family or townhouses), C (multi-family structures less than three stories) or D (multi-family structures of three or more stories) shall be provided with a recreation area or areas. The developer shall provide and install playground equipment, playfields, tennis courts or other recreation facilities prior to the issuance of Certificates of Occupancy. Such facilities shall be owned and maintained by the developer or a residents' association.

(c) Parking. Off-street parking facilities shall be provided in accordance with the off-street parking requirements of this Chapter.

(d) Streets. All streets shall meet the requirements of the State Department of Highways and Transportation or the requirements of the County subdivision regulations, whichever is greater. Such streets shall be coordinated with the major transportation network shown in the County Comprehensive Plan. The construction of streets, whether public or private, shall be guaranteed by appropriate surety, letter of credit, cash escrow or other form of guarantee approved by the County Attorney and Department of Public Works. Private streets may be permitted upon the approval of the Board of Supervisors.

(e) Fire hydrants. Fire hydrants shall be at locations and of types approved by the County Director of Public Works and County Fire Chief. No structure within the District shall generally be further than four hundred feet from a hydrant.

(f) Street lights. Street lights shall generally be provided at each intersection and adequately spaced in parking lots and other public areas. The lighting shall be directed so as not to produce objectionable glare on adjacent property or into residences within or near the development. No lighting fixture shall exceed a height of 15 feet within residential areas of a Planned Unit Development District, nor 30 feet in commercial or industrial areas.

(g) Drainage Facilities. Facilities for the adequate control of stormwater drainage and erosion and sedimentation shall be provided in accordance with the Virginia Erosion and Sediment Control Handbook and the Virginia Department of Highways and Transportation Drainage Manual.

(h) Natural features and amenities. Existing features which would add value to the residential development or to the County as a whole, such as trees, watercourses, historical sites and similar irreplaceable assets, shall be preserved wherever possible.

(i) Signs. All signs within a Planned Unit Development District shall comply with Article VIII of this Chapter. (1-24-77)

#### Section 20-150. Setback, Side and Rear Yard Requirements.

(a) Residential. For residential uses a minimum landscaped setback of 50 feet shall be maintained from all property lines adjoining a different zoning district and/or the right-of-way of any existing or planned public roads which abut the site. Where multi-family or townhouse structures in a PUD-R District adjoin an existing R-1, R-2, R-3, R-6 or R-7 District, the minimum setback shall be 75 feet.

(b) Commercial. For commercial uses a minimum landscaped setback of 75 feet shall be maintained from all property lines adjoining a different zoning district and/or the right-of-way of any existing or planned public roads which abut the site.

(c) Industrial, public, or institutional uses. For industrial, public, or institutional uses a minimum landscaped setback of 100 feet shall be maintained from all property lines adjoining a different zoning district and/or the right-of-way of any existing or planned public roads which abut the site. Where industrial structures adjoin an existing residentially zoned District the minimum landscaped setback shall be increased to 125 feet.

(d) Internal setbacks. Except for setbacks required on the perimeter of the District and except for industrial structures, there shall be no minimum lot size nor minimum front, side, or rear yard requirements for any lot within a Planned Unit Development District other than as specified in approved final plans.

(e) Landscaping. Required setbacks shall be landscaped, with a number of trees equal to at least one tree per 30 linear feet of landscaped area. When approved, hedges, shrubs, ground cover or flower beds may substitute in part for the planting of trees. Existing trees and natural vegetation shall be retained wherever possible.

(f) Parking restrictions in setbacks. Landscape setbacks shall not be used for streets or for parking except for entrances which may penetrate the setback.

#### Section 20-151. Permitted Uses.

(a) In the Planned Unit Development District - Residential (PUD-R), all structures to be erected or land to be used shall be for the following uses:

##### (1) Residential Uses.

Single-family attached and detached dwellings.  
Two-family dwellings.  
Townhouses and condominiums.  
Apartments  
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.  
Houses of worship.  
Golf courses, country clubs.  
Schools, both private and public.  
Marinas, boat docks and waterfront activities.  
Coin laundries which are accessory to other residential uses and for the primary use of their residents.  
Restaurants which are accessory to permitted private clubs and marinas.  
Fire stations.  
Off-street parking as required by this Chapter.  
Signs, as permitted by this Chapter.  
Nursing home and facilities for the residence and/or care of the aged.  
Accessory buildings or structures.  
(Ord. No. 31A-79, 10-17-83)

##### (2) Commercial Uses.

Retail food stores, bakeries, fish markets.  
Dry cleaners and laundries.  
Department stores, wearing apparel, furniture, carpet, shoe, tailor, dressmaking, candy, ice cream, florist, furrier, locksmith, pet, picture framing, stamp and coin, travel bureau, upholstery, yard goods, toys, music and records, tobacco and pipes, jewelry sales and service, books, greeting cards and sporting goods stores.  
Drug stores and barber or beauty shops.  
Restaurants, tea rooms and taverns.  
Banks and other financial institutions.



Plants and garden supply, hardware and paint, and home appliance sales and service, with storage in a fully enclosed building.

Automotive service stations, with major repair in a fully enclosed building, or retail sale of automotive accessory items.

Photography studios and sales, artist and sculptor studios, arts and crafts and handicraft shops, antique shops, reproduction and gift shops.

Corporate, business, and professional offices.

Doctors, dentists and other medical clinics or offices.

Indoor theaters, museums and public meeting halls.

Schools, fire stations, post offices, public utilities, churches, libraries.

Funeral homes.

Radio and television stations.

Motels, hotels and resort facilities.

(b) In the Planned Unit Development District - Commercial (PUD-C), all structures to be erected or land to be used shall be for one or more of the following uses:

(1) Commercial Uses:

Same as paragraph (2) of Subsection (a) of Section 20-151.

(2) Light Industrial Uses:

Research, design and development laboratories.

Wholesale and warehousing, with storage in a fully enclosed building.

Printing and publishing.

Processing, assembly and manufacture of light industrial products or components, with all storage, processing, assembly, and manufacture conducted in a fully enclosed building, with no dust, noise, odor or other objectionable effect.

(3) Theme parks.

(4) Apartments, townhouses and condominiums.

Section 20-151.1. Access points.

Access points. All commercial and light industrial areas within the District shall have safe and convenient access onto a collector street or major thoroughfare. Turning lanes of sufficient length may be required, to be built and dedicated by the developer. (1-24-77)

Section 20-151.2. Setback requirements for industrial use.

A minimum landscaped setback of fifty (50) feet shall be required from streets which are internal to the site for any industrial structure.

Section 20-152. Requirements for Commercial Uses in the PUD-R District.

If commercial uses specified in Section 20-151(a)(2) are included within the District, they shall be located in well-planned commercial areas and so designated on the Master Plan. In a PUD-R, the commercial area or areas with accompanying parking shall not exceed a total of 30% of the gross area of the District. The size and scale of commercial uses shall be compatible with surrounding residential areas.

Section 20-152.1. Requirements for Light Industrial Uses in the PUD-C District.

If light industrial uses specified in Section 20-151(b)(2) above are included within the District, they shall be located in well-planned Light Industrial areas and so designated on the Master Plan. All light industrial activities shall be of a nature and so conducted that the effects of noise, dust, light, or odor shall not extend beyond the limits of the light industrial area of the District.

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## ARTICLE IXA. RESIDENTIAL CLUSTER DEVELOPMENT

### Section 20-153.1. Statement of Intent.

The purpose and intent of this Article is to promote the efficient and well planned use of land in single-family and two-family residential areas and to encourage the provision and conservation of open space and the establishment of recreational uses to serve specific developments. Residential cluster developments shall preserve the integrity of their sites by protecting and promoting the preservation of features such as steep slopes, stream valleys, desirable vegetation or farmland, and in doing so produce a more efficient and practicable development.

### Section 20-153.2. Residential Cluster Development Defined.

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

### Section 20-153.3. Where Permitted.

A residential cluster development is permitted in the R-1, R-2, R-3, R-5, and R-7 zoning districts. The requirements of this Article shall govern where there is a conflict with the requirements of the underlying district.

### Section 20-153.4. Minimum Site Size.

The minimum site size for a residential cluster development is five acres, except that extensions to an existing cluster development may be smaller.

### Section 20-153.5. Permitted Uses.

Uses permitted in a residential cluster development shall be the same as those permitted in the zoning district in which the residential cluster development is located except that structures containing three or more dwelling units shall not be permitted in a residential cluster development. Two-family dwellings shall be permitted with a Special Use Permit in a residential cluster development in the R-2 district. In the event that the individual units within a two-family dwelling are proposed to be sold as separate living units, a two-family lot may be divided along the common wall separating the units to permit separate deed descriptions for conveyance purposes.

### Section 20-153.6. Utilities.

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

Section 20-153.8. Setback Requirements.

The minimum setback from the right-of-way of internal streets shall be shown on the plan of development. The minimum setback from external streets shall be the same as that required by the zoning district in which the lot is located. The approved setback lines shall be shown on the recorded subdivision plat.

Section 20-153.9. Minimum Lot Width.

No lot width requirements.

Section 20-153.10. Yard Regulations.

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

(a) The minimum distance between any two main buildings within the residential cluster development shall be not less than ten feet.

(b) No building in a residential cluster development in an R-1, R-2, R-3, or R-5 district shall be closer than 35 feet to property outside the residential cluster development. No building in a residential cluster in an R-7 district shall be closer than 50 feet to property outside the residential cluster development.

Section 20-153.11. Density.

In a residential cluster development, the maximum number of dwelling units per acre of net developable area shall be as follows:

<u>Zoning District</u>	<u>Maximum Density</u>
R-1	2.4
R-2	3.0
R-3, R-5	3.5
R-7	4.5

Net developable area shall consist of the total land area of the site minus stream beds, areas subject to flooding, marsh, and areas with slopes exceeding 25% gradient. If the cluster development lies in more than one zoning district, the number of dwelling units shall be calculated separately for each district.

Section 20-153.12. Density Bonuses.

(a) The permitted number of dwelling units defined in Section 20-153.11 may be increased upon the granting of a density bonus by the Board of Supervisors. Upon application, the Board of Supervisors may grant density bonuses in accordance with part (b) hereunder upon finding that the increased density will not impair the character of the area, nor likely reduce the value of surrounding buildings or property.

(b) A density bonus equalling 2.5% of the density calculated according to Section 20-153.11 may be awarded for each condition, specified in (1) through (11) below, which is met by the cluster development; provided, however, that in no case shall the accumulated density bonus exceed ten percent.

1. Provision of sidewalks on all internal streets.
2. Creation of a scenic easement adjoining any road designated as a greenbelt on the Comprehensive Plan. Such scenic easement shall be at least 50 feet wide as measured from the road right-of-way.
3. Creation of a buffer area around any marsh or perennial stream shown on U.S. Geological Survey topographic maps. In tidal areas such buffer shall be at least 20 feet wide as measured from the marsh or stream at mean high water. For nontidal water courses the buffer shall be at least 20 feet wide as measured from the stream bank. The buffer area shall contain no structures or improvements of any kind, except that unpaved footpaths are permitted.
4. Dedication of land accepted by the County. Such land shall be dedicated for use as a school site, fire station site, park site, or other public facility site, shall be suitable for the proposed use and shall be at least two acres in size.
5. Undertaking an archaeological survey of the site according to guidelines provided by the Virginia Historic Landmarks Commission.
6. Preserving any archaeological or historic site or structure judged to be of significant value by the Virginia Historic Landmarks Commission.
7. Preserving in its natural state, any area demonstrated to be a habitat for any endangered, rare, or threatened species of plant or wildlife so designated by the State of Virginia or the federal government, or listed in Rare and Endangered Vascular Plant Species in Virginia, (Duncan M. Porter, Virginia Polytechnic Institute and State University, 1979).

8. Provision of sidewalks joining the cluster development with any arterial or public facility excluding pump stations, fire stations, and dumpster locations. Such sidewalks shall be at least one-half mile in length and shall meet the specifications of the Department of Public Works.
9. Provision of paved bicycle paths at least one-half mile in length.
10. Construction within the project of any lake to be used for recreation or drainage regulation, provided that the lake is open and usable to the residents of the development for recreational purposes.
11. Provision of a community swimming pool, a community recreation building or other similar major recreation facility such as tennis courts.

Section 20-153.13. Density Bonuses—Performance Assurance.

For all improvements proposed by the applicant pursuant to Section 20-153.12, assurances shall be provided, satisfactory to the County Attorney, that such improvements will be constructed and completed for use by project residents within a stated period of time.

Section 20-153.14.. Amount of Open Space Required.

(a) Within every residential cluster development approved under this Article, there shall be planned and set aside permanently an amount of open space to be maintained exclusively for recreation or conservation and recreation purposes. The amount of such open space shall not be less than 15 percent of the net developable area of the site.

(b) In addition, all non-developable area consisting of all stream beds, areas subject to flooding, marsh, and areas with slopes exceeding twenty-five percent gradient, shall be maintained as open space.

(c) Before accepting the open space as meeting the requirements of part (a) of this section, the Subdivision Review Committee shall find that:

1. The required open space land contains in a contiguous area at least the minimum area for a single-family residential lot required by the underlying zoning district;
2. No land lying within a proposed or existing utility easement or drainage facility is counted toward the minimum open space requirement;

3. The land is suitable for the recreational use intended, with adequate access and served with adequate facilities for such purpose.

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

#### Section 20-153.15. Ownership of Open Space.

Within any residential cluster development approved under this Article on which a tract is intended to be used in common for recreational or other public or semipublic purposes, no lot shall be approved, recorded, sold, or used within the development until appropriate documents in a form approved by the County Attorney shall have been executed. Such documents shall set forth the following:

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

#### Section 20-153.16. Review and Approval Process.

##### (a) Subdivision Review Required.

A proposed plan of development for a residential cluster development proposed under this Article shall be filed with the Planning Director who shall submit it to the Subdivision Review Committee or the Site Plan Review Committee whichever is appropriate. The Planning Director and the Subdivision Review Committee or the Site Plan Review Committee shall recommend action on the plan to the Planning Commission, which shall approve the plan of development upon finding that:

1. Such cluster development will preserve the environmental integrity of the site by protecting features such as steep slopes, stream valleys, desirable vegetation or farmland;
2. The cluster development will not impair the character of the area, nor likely reduce the value of surrounding buildings or property; and
3. The proposed project is substantially in accordance with the Comprehensive Plan of James City County.

(b) Plan of Development.

The plan of development shall include all information required to be on a preliminary plat by the Subdivision Ordinance, and shall identify proposed areas and uses of open space including the non-developable areas. As marginal information the plan of development shall show the total area of the site, the net developable area, the proposed facilities qualifying for density bonuses, the total number of dwelling units, and the number of bonus units, the minimum amount of open space required under Section 20-153.14(a), and the total amount of open space proposed.

(c) Status of Approved Plan of Development.

Upon approval of the plan of development under this Article, such plan shall be considered an approved preliminary plat, as defined in the Subdivision Ordinance, and such plan shall thereafter be controlled by the Subdivision Ordinance.

(d) Procedure for Stage Development of Large Residential Cluster Developments.

Nothing in this section shall prevent a developer from developing a residential cluster development in stages or sections, provided that the following conditions are met:

1. The proposed stages or sections shall be delineated on the plan of development.
2. All project data required for the project as a whole shall be given for each such section so established.
3. When any section of a residential cluster development is developed, it shall conform to the plan of development as approved pursuant to this Article.
4. The net density of each section shall not be greater than the permissible density approved for the total development.
5. An agreement shall be executed between the developer and the County which shall be binding upon the developer, his successors, assigns or heirs to the effect that the approved plan of development shall govern the development of total residential cluster development, when developed; provided, however, that this provision does not preclude the adjustment of the plan in accordance with Section 20-153.16(e).
6. No approval for a subsequent section of a residential cluster development shall be given until all conditions, requirements and/or responsibilities of the developer have been fully met in the preceding section of the development.



(e) Amendment of Plan of Development.

Upon application, an approved plan of development may be amended by the Planning Director; provided, however, that a proposed amendment does not:

1. Alter a recorded plat.
2. Conflict with the requirements of this Article.
3. Change the general character or content of an approved plan of development.
4. Impair property values in the surrounding area.
5. Result in any substantial change of major external access points.
6. Increase the approved number of dwelling units for any portion of the previously approved residential cluster development.

Proposed amendments that do not meet these criteria shall be referred to the Planning Commission for review and action.

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## ARTICLE XI. OVERLAY DISTRICTS

### DIVISION 1. RESERVOIR PROTECTION OVERLAY DISTRICT, RP

#### Section 20-168. 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. (Ord. No. 31A-81, 12-5-83)

#### Section 20-169. 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. (Ord. No. 31A-81, 12-5-83)

#### Section 20-170. 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, mobile 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 20-171. 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.

TRIBUTARY STREAM. Any perennial or intermittent stream, including any lake, pond, or other body of water formed thereon, flowing into any water supply reservoir. Such streams are designated by solid or dashed blue lines on U. S. Geological Survey topographic maps.

WATER SUPPLY RESERVOIR. Any impoundment of surface waters owned, operated or controlled by James City County designed to provide drinking water to the public, or any area designated on the Comprehensive Plan of James City County as the site of a future public drinking water impoundment.

WATERSHED. Any area within the watershed boundaries indicated on the James City County Watershed Protection Map. (Ord. No. 31A-81, 12-5-83)

#### Section 20-172. Permitted Uses.

Uses permitted in the Reservoir Protection Overlay District shall be the same as those permitted in the underlying zoning district except as specified in Section 20-173.

Within the Reservoir Protection Overlay District, agricultural or household chemicals, including herbicides, insecticides, fungicides, and pesticides, to be dispersed upon the land or on animals shall be applied in accordance with label directions as attached by the manufacturer. Such chemicals shall be disposed in accordance with regulations cited in 40 CFR 261.5 and 40 CFR 262.51.

#### Section 20-173. Prohibited Uses.

- (a) The following uses shall be prohibited within the Reservoir Protection Overlay District:
  - (1) Storage or production of hazardous wastes as defined in Section 32.1-177 of the Code of VA, 1950, as amended.
  - (2) Transmission pipelines for liquefied natural gas, liquid petroleum products, slurry coal, and any other solids or liquids provided however, that on-site distribution pipelines or connections to existing pipelines, water lines, sewer lines, and storm sewers shall not be prohibited hereunder.
  - (3) Land application of industrial wastes (as defined in guidelines prepared by the Department of Public Works).

- (4) Commercial livestock feeding operations. For the purposes of this article, the term commercial livestock feeding operation shall mean a lot, yard, structure, corral, or other area in which more than 500 animal units (as defined by the U. S. Environmental Protection Agency) of livestock are confined primarily for the purpose of feeding, growing, raising, holding, and birthing prior to slaughter or sale. The term does not include areas which are being used for the raising of crops or other vegetation upon which livestock are allowed to graze or feed.
- (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 20-174. 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 mobile 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 20-178(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 20-174(a) and (b), Section 20-175, Section 20-176 and Section 20-177 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 20-178(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 Public Works or his authorized designee.

Section 20-175. 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 by the Board of Supervisors, provided that subdivisions shall meet the following conditions:

- (a) The overall project density shall not exceed one dwelling unit per acre;
- (b) The applicant shall submit a Runoff Analysis in accordance with Section 20-178; and
- (c) Performance assurances shall be provided that all runoff control and reservoir protection measures proposed in the Project 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 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.

Section 20-176. Stream and Reservoir Setback Requirements.

- (a) Within the Reservoir Protection Overlay District, a buffer strip along any tributary stream shall be required to remain in its natural state or be planted with an erosion retarding vegetative cover. The width of the buffer strip shall be at least 100 feet. All structures shall be located outside of the required buffer strip. No septic tank or septic tank drain field shall be located within 150 feet of a tributary stream.
- (b) All structures shall be located at least 200 feet from any water supply reservoir. No septic tank or septic tank drain field shall be located within 200 feet of the normal pool elevation of a water supply reservoir. All land within 200 feet of the normal pool elevation of a water supply reservoir shall remain in its natural state or be planted with an erosion retarding vegetative cover.
- (c) All distances in (a) and (b) above shall be horizontal measurements. Tributary streams shall be measured from the edge of the water.

Section 20-177. Requirements for Commercial and Industrial Uses.

For the purposes of this article, commercial and industrial activities are defined as activities permitted by right or by special use permit in the General Business B-1, Limited Industrial M-1, or General Industrial M-2 Districts.

- (a) Within the Reservoir Protection Overlay District buildings to be erected or land to be used for commercial or industrial activities shall be permitted in accordance with the underlying zoning district after the issuance of a special use permit by the Board of Supervisors and provided that the following conditions are met:
  - (1) The applicant shall submit a Runoff Analysis in accordance with Section 20-178; and
  - (2) 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 therein. 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.
  - (3) The applicant shall submit to the Planning Director a list of all hazardous substances cited in 44 Fed. Reg. 50777 et seq. (1979) and which are intended to be used on the site, and a description of proposed methods of containment of such substances.
- (b) No Runoff Analysis shall be required for commercial or industrial development involving the establishment of less than 5,000 square feet of impervious surface. No special use permit shall be required for commercial or industrial developments involving the establishment of less than 5,000 square feet of impervious surface, unless required by the underlying zoning district.

Section 20-178. Runoff Analysis.

- (a) The Runoff Analysis shall be performed or reviewed by a Virginia Registered Professional Engineer who shall certify that the study has been conducted in accordance with guidelines prepared by the Department of Public Works. The study shall address at a minimum the following topics:
  - (1) Description of the proposed project including location and extent of impervious surfaces, anticipated use of the land and buildings; description of the site including topographic, hydrologic, and vegetative features.

- (2) Characteristics of natural runoff on the site including its rate and chemical composition including phosphorus concentration, suspended solids, and other chemical characteristics as deemed necessary by the Director of Public Works to make an adequate assessment of water quality.
- (3) Characteristics of runoff on the site with the proposed project, including its rate, and chemical composition including phosphorus concentration, suspended solids, and other chemical characteristics as deemed necessary by the Director of Public Works to make an adequate assessment of water quality.
- (4) Measures that can be employed to reduce the rate of runoff and pollutant loading of runoff from the project area, both during construction and after.
- (5) Performance criteria proposed to assure an acceptable level of runoff quality and rate. At a minimum such criteria shall provide for a 75% reduction of suspended solids and phosphorus, and the retention or infiltration of the first one-inch of runoff from impervious surfaces.
- (6) Proposed runoff control and reservoir protection measures for the project.

(b) Procedure for Submittal and Review.

The applicant shall submit five copies of the Runoff Analysis to the Planning Director, who shall evaluate the study for compliance with these regulations and, if found to be complete, shall within thirty days after the Runoff Analysis has been filed, prepare a report with recommendations on the proposed project.

The Planning Director's report shall include, but not be limited to the following:

- (1) Impact of the proposed project on the water supply reservoir.
- (2) Adequacy of performance criteria specified in the study, including ability to monitor.
- (3) Recommendations for additional reservoir protection measures, if required, including monitoring.
- (4) Final recommendations regarding the proposed project.

A copy of the Planning Director's report shall be sent to the applicant. The Runoff Analysis and the Planning Director's report shall be considered by the Planning Commission within thirty days after completion of the Planning Director's report. Both reports shall be considered by the Planning Commission and the Board of Supervisors in their deliberations on the issuance of a special use permit. (Ord. No. 31A-81, 12-5-83)

Section 20-179. Drainage Exception.

If the engineer performing or reviewing the topographic analysis required by the guidelines, Design Manual for Runoff Analysis, certifies that the natural drainage of any portion of the site is not toward Ware Creek or its tributaries, such land shall be exempt from the provisions of the Reservoir Protection Overlay District. (Ord. No. 31A-86, 12-3-84)

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ARTICLE XI. OVERLAY ZONING DISTRICTS.

DIVISION 2. FLOODPLAIN AREA REGULATIONS.

Section 20-179. Statement of Intent.

These regulations shall apply to all property located within an area designated as a floodplain area, and as such shall supplement the regulations of the Zoning District within which such property is located. These regulations are intended to insure the health, safety and general welfare of the public by insuring that inhabitants and property within a designated floodplain area are safe from damage due to flooding and will not endanger others. This Article complies with the requirements of the National Flood Insurance Program (42 U.S.C. 4001-4128) of the Federal Insurance Administration. These regulations are necessary in order for all property owners within the County to be eligible for the National Flood Insurance Program and thereby purchase such insurance at nominal rates. Where these regulations are at variance with the general regulations of this Chapter, it is intended that these regulations shall apply. (Ord. No. 31A-43, 8-8-77)

Section 20-180. Applicability.

This Article shall only apply to property which is designated as being within a floodplain area. (Ord. No. 31A-43, 8-8-77)

Section 20-181. Definitions.

- (1) A 100 year flood event shall mean an event with a one percent chance of occurring in any year.
- (2) Floodplain means a land area which is likely to be flooded from a 100 year event adjoining a river, stream, watercourse, bay or lake.
- (3) Floodway means the channel of a river, stream or other watercourse and the adjacent land areas reserved to carry a discharge from a 100 year flood.

Section 20-182. Designation of Floodplain Areas.

The 100 year floodplain shall be determined to the satisfaction of the Department of Public Works taking into consideration:

- (1) The existing hydraulic system of the drainage basin; and
- (2) Future land use based on full development as indicated in the most recently adopted Comprehensive Plan.

As a minimum, such floodplain delineated shall be:

- (1) Property within Zone A of a Flood Hazard Boundary Map (FHBM) published by the Federal Insurance Administrator; or
- (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 Department of Planning and Development, Department of Public Works and Department of Code Compliance. (Ord. No. 31A-43, 8-8-77)

#### Section 20-183. 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. (Ord. No. 31A-43, 8-8-77)

#### Section 20-184. 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. (Ord. No. 31A-43, 8-8-77)

#### Section 20-185. Regulations for Mobile Homes.

In floodplain areas, mobile 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.

This Section shall be administered by the Building Official. The Zoning Administrator shall not issue a Special Use Permit for any mobile home in a floodplain area until the applicant has complied with these provisions. (Ord. No. 31A-43, 8-8-77)

Section 20-186. 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. (Ord. No. 31A-43, 8-8-77)

Section 20-187. Regulations for Mobile Home Parks or Mobile Home Subdivisions.

In all floodplain areas, all new mobile home parks or mobile 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. (Ord. No. 31A-43, 8-8-77)

Section 20-188. 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 Public Works or Health Official where applicable. (Ord. No. 31A-43, 8-8-77)

Section 20-189. 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

- (2) The cubic area of the 100 year floodplain to be filled is equaled by additional cubic area to be added to the 100 year floodplain via a dredging or removal of earth.

These requirements are essential to prohibit increased flood hazard to other property and life as a result of such filling. This Section shall be administered by the Director of Public Works. The applicant shall provide whatever data is necessary to make such determinations, as certified by a licensed surveyor or engineer. (Ord. No. 31A-43, 8-8-77)

Filling or other encroachments into a designated floodway that would impair its flood conveyance are prohibited.

#### Section 20-190. Watercourse Modification.

The Federal Insurance Administrator, adjacent jurisdiction and State coordinating office shall be notified prior to the alteration or relocation of the main channel of any watercourse. The flood-carrying capacity to such watercourse shall be maintained. This Section shall be administered by the Director of Public Works. (Ord. No. 31A-43, 8-8-77)

#### Section 20-191. Nonconforming Structures.

Any existing structure not in conformity with the floor elevation requirements of this article which is hereafter damaged by flooding to an extent of 50% of replacement cost at time of damage may not thereafter be restored except with floor elevations as required herein. This Section shall be administered by the Building Official. (Ord. No. 31A-43, 8-8-77)

#### Section 20-192. Designated Official.

The Zoning Administrator is designated to coordinate the implementation of this Article and to submit an annual report to the Administrator of the National Flood Insurance Program concerning such implementation. (Ord. No. 31A-43, 8-8-77)

#### Section 20-193. Amendment.

This article shall be amended upon receipt of Flood Insurance Rate Maps from the Flood Insurance Administrator, to include Zones A1-30, A0 or A99; and upon receipt of final base flood elevations within these zones. (Ord. No. 31A-43, 8-8-77)

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ARTICLE XI. OVERLAY ZONING DISTRICTS

DIVISION 3. AIRPORT APPROACH OVERLAY DISTRICT, AA

Section 20-194. Statement of Intent.

The Airport Approach Overlay District is established for the purpose of protecting the public health, safety, and general welfare by preventing obstructions that constitute a hazard to air navigation. This is accomplished by restricting the height of structures and objects of natural growth in the vicinity of any public or private airport in James City County. The Airport Approach Overlay District is intended to impose special requirements in addition to the regulations of the principal Zoning District where it applies.

Section 20-195. Designation of the Airport Approach Overlay District.

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

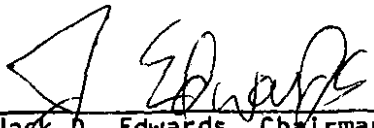
Section 20-196. Approach Surface.

A surface to be known as the approach surface is hereby established and longitudinally centered along an extension of each runway. The approach surface begins at a point 200 feet from the end of the runway and at that point is 500 feet wide. The approach surface then runs along the extended center line of the runway for a distance of 5,000 feet and at that point it is 2,000 feet wide. The approach surface elevation at its beginning point is the same as the center line elevation (extended) of the runway. It then increases in elevation at a slope of one foot vertical to 20 feet horizontal throughout its entire length.

Section 20-197. Height Limits.

No structure shall be erected to a height greater than that established by the dimensions set forth in Section 20-196.

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Jack D. Edwards, Chairman  
Board of Supervisors

ATTEST:

  
\_\_\_\_\_  
James B. Oliver, Jr.  
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, on  
this 8th day of April, 1985.

RES01

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