

**ADOPTED**

**MAY 25 1999**

ORDINANCE NO. 31A-195

BOARD OF SUPERVISORS  
JAMES CITY COUNTY  
VIRGINIA

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 24, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE V, DISTRICTS, DIVISION 3, LIMITED RESIDENTIAL DISTRICT, R-1, SECTION 24-231, STATEMENT OF INTENT; SECTION 24-232, PERMITTED USES; SECTION 24-233, USES PERMITTED BY SPECIAL USE PERMIT ONLY; BY RENUMBERING SECTION 24-234, AREA REQUIREMENTS WITH NEW NUMBER 24-235; BY AMENDING AND RENUMBERING SECTION 24-235, SETBACK REQUIREMENTS WITH NEW NUMBER 24-236; BY AMENDING AND RENUMBERING SECTION 24-236, MINIMUM LOT WIDTH WITH NEW NUMBER 24-237; BY AMENDING AND RENUMBERING SECTION 24-237, YARD REGULATIONS WITH NEW NUMBER 24-238; BY AMENDING AND RENUMBERING SECTION 24-238, HEIGHT LIMITS WITH NEW NUMBER 24-240; BY AMENDING SECTION 24-239, SPECIAL PROVISIONS FOR CORNER LOTS; BY AMENDING AND RENUMBERING SECTION 24-240, SIGN REGULATIONS WITH NEW NUMBER 24-241; BY AMENDING, RENUMBERING AND RENAMING SECTION 24-241, OVERALL DENSITY WITHIN MAJOR SUBDIVISIONS WITH NEW NAME, OVERALL DENSITY WITHIN SUBDIVISIONS, AND WITH NEW NUMBER 24-234; BY ADDING NEW SECTION 24-242, OPEN SPACE WITHIN MAJOR SUBDIVISIONS; SECTION 24-243, OWNERSHIP OF OPEN SPACE; SECTION 24-244, BMP REQUIREMENTS; AND SECTION 24-245, BUFFER REQUIREMENTS.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 24, Zoning, is hereby amended and reordained by amending Article V, Districts, Division 3, Limited Residential District, R-1, Section 24-231, Statement of intent; Section 24-232, Permitted uses; Section 24-233, Uses permitted by special use permit only; Section 24-234, Overall density within subdivisions; Section 24-235, Area requirements; Section 24-236, Setback requirements; Section 24-237, Minimum lot width; Section 24-238,

Yard regulations; Section 24-239, Special provisions for corner lots; Section 24-240, Height limits; Section 24-241, Sign regulations; Section 24-242, Open space within subdivisions; Section 24-243, Ownership of open space; Section 24-244, BMP requirements; and Section 24-245, Buffer requirements.

## Chapter 24. Zoning

### Article V. Districts

#### Division 3. Limited Residential District, R-1

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

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

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

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

Accessory buildings or structures as defined.

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

Home occupations as defined.

Houses of worship.

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

Schools, libraries and fire stations.

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

Timbering in accordance with section 24-43.

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

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

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

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

Accessory apartments in accordance with section 24-32.

Cemeteries and memorial gardens.

Day care and child day care centers.

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

*Fire stations.*

Golf courses, country clubs.

Home care facilities.

*Houses of worship.*

*Libraries.*

*Neighborhood resource centers.*

Publicly owned solid waste container sites.

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

Rental of rooms to a maximum of three rooms.

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

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

**Schools.**

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

Telephone exchanges and telephone switching stations.

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

Water facilities (public or private), and sewer facilities (public), including, but not limited to, treatment plants, pumping stations, storage facilities and transmission mains, wells and associated equipment such as pumps to be owned and operated by political jurisdictions. However, private connections to existing mains, with no additional connections to be made to the line, 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, including pump stations, *the following* are permitted generally and shall not require a special use permit:

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

(b) *distribution lines and local facilities within a development, including pump stations.*

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

**Sec. 24-241 234. Overall density within ~~major~~ subdivisions.**

(a) All ~~major~~ subdivisions shall have a maximum gross density of one unit per acre. For the purposes of this section, the term "major subdivision" shall be defined as a division of a tract of land into six or more lots, *except for minor subdivision as defined below. In these instances, the lots in a minor subdivision must still adhere to the area requirements set forth in section 24-235.*

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

(c) Upon application, the board of supervisors may grant a special use permit for subdivisions to have a maximum gross density of more than one unit per acre, but of no more than two units per acre upon finding the developer has made assurances in a master plan or otherwise for the following:

- (1) Implementation of Streetscape Guidelines as defined in the Streetscape Guidelines Policy.
- (2) Implementation of the county's Archaeological Policy.
- (3) Provision of sidewalks on at least one side of all internal streets in the development, including the entrance road. This requirement may be waived by the planning commission if the development is infill development of less than 20 units where sidewalks do not exist and are not planned on adjacent property. In addition, a sidewalk shall be provided as required in section 24-35.
- (4) Provision of recreation facilities as recommended in the county's Comprehensive Parks and Recreation Master Recreation Plan. Upon application for an exception, the Board of Supervisors may approve alternate facilities or allow cash contributions in lieu of constructing a percentage of the facilities, provided that the alternate facilities or cash contributions are consistent with the recommendations and contributions per unit presented in the master plan.
- (5) Implementation of the county's Natural Resources Policy.

**Sec. 24-234 235. Area requirements.**

- (a) *Public water/sewage disposal.* Lots served by public water and public sewage disposal systems shall have a minimum area of 15,000 square feet.
- (b) *Public sewage disposal only.* Lots served by a public sewage disposal system but not a public water distribution system shall have a minimum area of 17,500 square feet.
- (c) *Public water distribution only.* Lots served by a public water distribution system but not a public sewage disposal system shall have a minimum area of 20,000 square feet.
- (d) *Individual water/sewage disposal.* Lots served by individual water and sewage disposal systems shall have a minimum area of 30,000 square feet.
- (e) *Applicability to certain lots.* These minimum sizes shall not apply to lots of less than 15,000 square feet recorded or legally in existence prior to April 8, 1985.

**Sec. 24-235 236. Setback requirements.**

Structures shall be located a minimum of 35 feet from any street right-of-way which is 50 feet or greater in width. If ~~Where~~ the street right-of-way is less than 50 feet in width, structures shall be located a minimum of 60 feet from the centerline of the street. This shall be known as the "setback line"; ~~provided, that~~ all subdivisions platted

and recorded prior to March 1, 1969, with building setback lines shown on their recorded plat, shall be allowed to adhere to these established setback lines.

**Sec. 24-236 237. Minimum lot width.**

- (a) Lots of up to ~~and including~~ 43,560 square feet shall have a minimum width at the setback line of 100 feet.
- (b) Lots of more than 43,560 square feet shall have a minimum width at the setback line of 150 feet.

**Sec. 24-237 238. 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 ~~accessory~~ buildings exceeding one story shall have a minimum rear yard of 15 feet.

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

- (a) ~~Of the two sides of a corner lot, the~~ ~~The~~ front of the lot shall be deemed to be the shorter of the two sides fronting on streets.
- (b) No structure shall be located closer than 35 feet to the side street.
- (c) Each corner lot shall have a minimum width at the setback line of 125 feet.

**Sec. 24-238 240. Height limits.**

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

- (1) The height limit for dwellings may be increased to 45 feet and to three stories; provided, that there are two side yards for each permitted use each of which is a minimum of 15 feet plus one foot or more of side yard for each additional foot of building height over 35 feet.
- (2) A public or semipublic building such as a school, church or library may be erected to a height of 60 feet from grade, provided that the required front, side and rear yards shall be increased one foot for each foot in height over 35 feet.

- (3) Church spires, belfries, cupolas, monuments, water towers, chimneys, flues, flagpoles, home television antennae and home radio aeriels and wireless communications facilities that utilize alternative mounting structures or are building mounted in accordance with division 6, Wireless Communications Facilities, may be erected to a total height of 60 feet from grade. Camouflaged wireless communications facilities may be erected to a total height of 120 feet from grade. Upon application for a height limitation waiver, the payment of appropriate fees, notification of adjacent property owners and following a public hearing, the board of supervisors may grant a height limitation waiver for these structures to exceed 60 feet in height but not to exceed 100 feet, from grade to the top of the structure, and for wireless communications facilities that utilize alternative mounting structures or are building mounted to exceed 60 feet in height but not to exceed 120 feet in grade to the top of the structure, upon finding that:
- a. Such structure will not obstruct light to adjacent property;
  - b. Such structure will not impair the enjoyment of historic attractions and areas of significant historic interest and surrounding developments;
  - c. Such structure will not impair property values in the surrounding area;
  - d. Such structure is adequately designed and served from the standpoint of safety, and the county fire chief finds that the fire safety equipment to be installed is adequately designed and that the building is reasonably well located in relation to fire stations and equipment, so as to offer adequate protection to life and property; and
  - e. Such structure will not be contrary to the public health, safety and general welfare.
- (4) No accessory building which is within 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 the accessory building shall be measured from the level of the curb or the established curb grade opposite the middle of the main building. In no case shall an accessory building be more than 35 feet in height.

**Sec. 24-240 241. Sign regulations.**

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

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

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

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

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

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

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

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

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

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

**Sec. 24-243. Ownership of open space.**

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

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

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



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

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

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

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

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

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

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

(b) *Perimeter buffers. Within any major subdivision approved under this article, there shall be planned and maintained a perimeter buffer along the perimeter property lines of the development, except for areas adjacent to road rights-of-way. The minimum perimeter buffer shall be 35 feet. Landscaping guidelines for perimeter buffers shall follow the requirements in section 24-86(c) of this chapter.*

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

(1) *The development is less than 5 acres and a majority of the development's units are dedicated to affordable housing; or*

(2) *The developer demonstrates that due to natural or protected features, or due to adjoining physical features, a reduced buffer will screen the development as effectively as a full buffer; or*

(3) *The developer demonstrates that the development will be adequately screened and buffered from the road using berms and landscaping. Such a request shall be supplemented with a landscaping plan and/or planting plan with photos of the existing site.*

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

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

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

*(1) The buffer in which the temporary stockpile is to occur is nonwooded, defined as having no mature trees.*

*(2) The stockpile should not be visible from a Community Character Corridor or Community Character Area, unless the soil stockpiling is needed for approved berming in that buffer.*

*(3) Stockpiles shall not exceed 35 feet in height.*

*(4) Stockpiles shall be temporary, with a time limit of six months.*

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

*(f) Wet ponds, dry detention basins, and other structural BMPs shall not generally be permitted in the buffers, except that the planning commission may approve them under the following circumstances:*

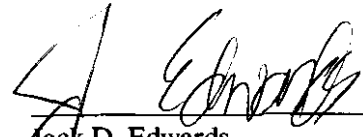
*(1) The need is necessitated by site conditions rather than economic factors; and*

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

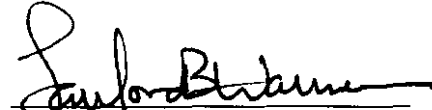
*(g) An entrance road, community and directional signage, bicycle and/or pedestrian paths, and utility connections and drainage improvements shall be permitted within the buffer with approval of the planning commission. Permitted utilities and constructed drainage conveyance systems shall cross the buffer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

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

Secs. 24-242 246 - 24-250. Reserved.

  
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Jack D. Edwards  
Chairman, Board of Supervisors

ATTEST:

  
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Sanford B. Wanner  
Clerk to the Board

<u>SUPERVISOR</u>	<u>VOTE</u>
NERVITT	AYE
SISK	AYE
MCGLENNON	AYE
BRADSHAW	AYE
EDWARDS	AYE

Adopted by the Board of Supervisors of James City County, Virginia, this 25th day of May, 1999.