

**Policy Committee
Government Center Complex
Large Conference Room, Building A**

August 30, 2011 - 4:00 p.m.

A. Roll Call

B. Minutes

1. June 16, 2011
2. July 13, 2011

C. Old Business

D. New Business

1. Residential Use Districts
2. Multi-Use Districts

E. Adjournment

MEMORANDUM

DATE: August 30, 2011
TO: Policy Committee
FROM: Ellen Cook, Senior Planner II
SUBJECT: Revisions to the R-1, R-2, and R-5 Districts

Staff presented a framework for revisions to the Residential Districts to the Policy Committee in February 2011. Staff's memo noted that a number of "housekeeping" items would be brought forward for Policy Committee consideration. This memo and the attached revised ordinances deal with these changes, as well as inclusion of certain commercial uses in these districts as was suggested by the Policy Committee during Stage 1. Residential district materials were provided to the Board of Supervisors for its March and April 2011 work sessions at which time Board members discussed re-examining the development density calculations. For the R-5 district, staff has adjusted the development density provisions and made an adjustment to the percentage of nondevelopable land (from 35% to 25%) that triggers use of the density formula approach, as was also done in the draft Cluster Overlay District (reviewed by the Policy Committee on July 18, 2011).

Changes that were made to both the R-1 Limited Residential District and the R-2 General Residential Districts

- Coordinated the density bonus system for obtaining a density of more than one, but no more than two units per acre, with the Cluster Overlay District. The method of calculating density (based solely on the gross area of the site), was not proposed to be changed.
- Generally coordinated open space, ownership of open space, and buffer requirements sections with the Cluster Overlay District. Added park and playground numerical and design standard requirements which are consistent with the Parks and Recreation Master Plan guidelines for these items.

Changes that were made to both the R-2 General Residential Districts and the R-5 Multifamily Residential District

- During Stage 1, the Policy Committee suggested consideration of some commercial uses in the residential districts. Staff has added select commercial uses as specially permitted uses.

Changes made only to the R-5 Multifamily Residential District

- Changed the permitted uses to include only multifamily dwellings containing more than four dwelling units. Deleted the area, minimum lot width and yard requirements that had applied to the single family dwellings and the multifamily dwellings of two, three and four units which had previously been permitted or specially permitted. This change is to emphasize the use of this district for developments of a higher density, which is consistent with the Comprehensive Plan.
- Changed the right-of-way buffer requirement to match the R-1 and R-2 districts (150' for Community Character Corridors and 75' for non-CCC roads, while providing for waivers if appropriate). The perimeter setbacks were retained, but classified as "perimeter buffers" and consolidated into a table.
- Adjusted the development density provisions and made an adjustment to the percentage of nondevelopable land (from 35% to 25%) that triggers use of the density formula approach, as was also done in the draft Cluster Overlay District.
- Changed the density bonus items to match density bonus items available in the Cluster Overlay District.
- Changed the open space requirement language from 35% of the gross area of the site to 10% of the net

- developable area. The open space language was generally revised to mirror R-1 and R-2.
- The private yards requirement in Section 24-311 was deleted to provide flexibility. The drainage facilities requirement in the same section was also deleted since these requirements are listed in the Site Plan section of the ordinance (and included elsewhere in the County Code).

Changes made in all three districts

- Match residential unit terminology between districts to consistently use single family, multifamily dwelling, and apartments.
- A new section that references meeting Pedestrian Accommodation requirements was added.
- In the permitted use lists, the term “houses of worship” has been replaced with “places of public assembly.” This broader term could include uses such as lodges and civic organizations.

Staff requests the Policy Committee offer comment on the draft ordinance prior to the Board of Supervisors work session in October.

Attachments

1. Revised R-1 Ordinance
2. Revised R-2 Ordinance
3. Revised R-5 Ordinance

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

Sec. 24-231. Statement of intent.

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

Sec. 24-232. Permitted uses.

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

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

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

Open

Timbering in accordance with section 24-43

P

~~Accessory buildings or structures as defined.~~

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

~~Home occupations as defined.~~

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

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

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

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

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

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

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

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

~~Adult day care centers.~~

~~Cemeteries and memorial gardens.~~

~~Child day care centers.~~

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

~~Golf courses, country clubs.~~

~~Home care facilities.~~

~~Houses of worship.~~

~~Libraries.~~

~~Neighborhood resource centers.~~

~~Publicly owned solid waste container sites.~~

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

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

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

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

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

~~Schools.~~

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

~~Telephone exchanges and telephone switching stations.~~

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

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

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

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

Sec. 24-234. Overall density within subdivisions.

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

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

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

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

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

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

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

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

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

Sec. 24-235. Area requirements.

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

Sec. 24-236. Setback requirements.

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

Sec. 24-237. Minimum lot width.

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

Sec. 24-238. Yard requirements regulations.

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

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

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

Sec. 24-240. Height limits.

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

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

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

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

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

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

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

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

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

Sec. 24-241. Sign regulations.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 24-244. BMP requirements.

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

Sec. 24-245. Buffer requirements.

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

- (1) The minimum right-of-way buffer on Community Character Corridor roads as defined in the Comprehensive Plan shall be 150 feet, except when the average lot depth of the parent parcel is less than 600 feet. In those cases, the required buffer shall be at a depth of 25 percent of the average lot depth.
- (2) The minimum right-of-way buffer on all non-Community Character Corridor roads shall be 75 feet, except when the average lot depth of the parent parcel is less than 300 feet. In those cases, the required buffer shall be at a depth of 25 percent of the average lot depth.
- ~~(3) If the buffer is non-wooded as defined for the purpose of this article as having no mature trees, then a minimum of two trees per 400 square feet of area shall be planted with a minimum 50 percent of said trees being evergreen. Otherwise, the buffer shall remain undisturbed or supplemented~~

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 24-246. Pedestrian Accommodation.

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

Secs. 24-2468 - 24-250. Reserved.

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

Sec. 24-251. Statement of intent.

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

Sec. 24-252. Permitted uses.

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

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

	Residential cluster development with a maximum gross density of more than one unit per acre in accordance with article VI, division 1 of this chapter		SUP
	Single-family detached dwellings with a maximum gross density of one dwelling unit per acre, <i>either</i> <ul style="list-style-type: none"> • in accordance with Section 24-254(a), or • <i>in accordance with article VI, division 1 of this chapter</i> 	P	
	Single-family detached dwellings with a maximum gross density of more than one unit per acre, <i>either</i> <ul style="list-style-type: none"> • in accordance with section 24-254(c) or • <i>in accordance with article VI, division 1 of this chapter</i> 		SUP
	Three family dwellings contained within a residential cluster development with a maximum gross density of one unit per acre in accordance with article VI, division 1 of this chapter	P	
	Three family dwellings contained within a residential cluster development with a maximum gross density of more than one unit per acre in accordance with article VI, division 1 of this chapter		SUP
	Multifamily <i>dwellings</i> up to two units, in accordance with section 24-25460		SUP
	Two family dwellings contained within a residential cluster development with a maximum gross density of one unit per acre in accordance with article VI, division 1 of this chapter	P	
	Two family dwellings contained within a residential cluster development with a maximum gross density of more than one unit per acre in accordance with article VI, division 1 of this chapter		SUP
Commercial Uses	Accessory buildings or structures as defined	P	
	Adult day care centers		SUP
	<i>Barber and beauty shops</i>		SUP
	<i>Business, governmental and professional offices</i>		SUP
	Child day care centers		SUP
	Community recreation facilities, including parks, playgrounds, clubhouses, boating facilities, swimming pools, ball fields, tennis courts and other similar recreation facilities	P	
	Golf courses, country clubs		SUP
	Home occupations as defined	P	
	Off-street parking as required by section 24-53	P	
	<i>Photography studios and sales, artist and sculptor studios</i>		SUP
	Rental of rooms to a maximum of three rooms		SUP
	Retail shops <i>accessory to associated with</i> community recreation facilities		SUP
	<i>Tourist home</i>		SUP
Civic	Cemeteries and memorial gardens		SUP

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

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

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

~~Accessory buildings or structures as defined.~~

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

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

~~Home occupations, as defined.~~

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

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

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

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

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

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

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

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

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

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

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

~~Adult day care centers.~~

~~Cemeteries and memorial gardens.~~

~~Child day care centers.~~

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

~~Fire stations.~~

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

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

~~Golf courses, country clubs.~~

~~Home care facilities.~~

~~Houses of worship.~~

~~Libraries.~~

~~Neighborhood resource centers.~~

~~Publicly owned solid waste container sites.~~

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

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

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

~~Schools.~~

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

~~Telephone exchanges and telephone switching stations.~~

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

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

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

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

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

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

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

Sec. 24-254. Overall density within subdivisions.

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

~~(b) For the purposes of this section, the term minor 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.*~~

(*Note: Moved to the definitions section.)

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

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

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

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

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

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

Sec. 24-255. Area requirements.

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

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

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

Sec. 24-256. Setback requirements.

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

Sec. 24-257. Minimum lot width.

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

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

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

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

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

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

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

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

Sec. 24-261. Height limits.

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

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

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

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

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

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

Sec. 24-262. Sign regulations.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 24-264. Ownership of open space.

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

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

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

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

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

Sec. 24-265. BMP requirements.

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

Sec. 24-266. Buffer requirements.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 24-267. Pedestrian Accommodation.

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

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

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

Sec. 24-304. Statement of intent.

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

Sec. 24-305. Permitted uses.

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

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

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

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

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

~~Accessory buildings or structures as defined.~~

~~Adult day care centers.~~

~~Apartments.~~

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

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

~~Day care and child care centers.~~

~~Houses of worship.~~

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

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

~~Rental of one room.~~

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

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

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

~~Schools, libraries and fire stations.~~

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

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

~~Townhouses.~~

~~Three family and four family dwellings.~~

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

~~Two-family dwellings.~~

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

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

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

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

~~Cemeteries and memorial gardens.~~

~~Electrical generation facilities (public or private), electrical substations with a capacity of 5,000 kilovolt amperes or more and electrical transmission lines capable of transmitting 60 kilovolts or more.~~

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

~~City County Comprehensive Plan.~~

~~Golf courses, country clubs.~~

~~Governmental offices.~~

~~Home care facilities.~~

~~Hospitals and rest homes.~~

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

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

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

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

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

~~Single family dwellings.~~

~~Telephone exchanges and telephone switching stations.~~

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

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

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

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

Sec. 24-3067. Minimum site size.

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

Sec. 24-308. Area requirements.

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

- ~~(1) The minimum lot area for each unit of a two family dwelling shall be 6,000 square feet.~~
- ~~(2) The minimum lot area for each unit of a three family or four family dwelling where the units are constructed in a row shall be as follows: The minimum lot area for exterior units shall be 6,000 square feet. The minimum lot area for interior units shall be 3,000 square feet.~~
- ~~(3) The minimum lot area for each unit of a three family, or four family dwelling where the units are not constructed in a row shall be 5,000 square feet.~~
- ~~(4) The lot area for a three family dwelling shall total a minimum of 18,000 square feet and the lot area for a four family dwelling shall total a minimum of 22,000 square feet. For all other principal and accessory uses there shall be no minimum lot size in the Multifamily Residential District, R 5, unless otherwise required by this chapter.~~

Sec. 24-307. Buffers and setback requirements

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 24-309. Setback requirements.

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

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

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

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

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

Sec. 24-310. Minimum lot width.

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

Sec. 24-311. Yard regulations.

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

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

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

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

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

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

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

Illustration of Gross Density Calculation.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 24-3103. Subdivision regulations.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 24-316. Relation to public utilities.

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

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

(DELETED)

Sec. 24-312 . Pedestrian Accommodation.

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

Secs. 24-31~~4~~7 - 24-326. Reserved.