

**A G E N D A**  
**JAMES CITY COUNTY BOARD OF SUPERVISORS**  
**REGULAR MEETING**  
**County Government Center Board Room**  
**101 Mounts Bay Road, Williamsburg, VA 23185**  
**March 9, 2021**  
**5:00 PM**

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**A. CALL TO ORDER**

**B. ROLL CALL**

**C. MOMENT OF SILENCE**

**D. PLEDGE OF ALLEGIANCE**

**E. PUBLIC COMMENT**

**F. CONSENT CALENDAR**

**G. PUBLIC HEARING(S)**

1. Ordinance to Amend County Code Chapter 9, Article 1 Fire Prevention
2. ORD-20-0017. Consideration of Amendments to the Zoning Ordinance to Consider Contractors' Offices and Storage in Planned Unit Development District - Commercial
3. An Ordinance to Amend and Reordain Chapter 4, Building Regulations, of the Code of the County of James City, Virginia, by Amending Article I, Virginia Uniform Statewide Building Code, Division I, Generally, Section 4-3, Adoption; Amendments
4. An Ordinance to Amend and Reordain Chapter 4, Building Regulations, of the Code of the County of James City, Virginia, by Amending Article II, Supplemental Regulations by Adding New Section 4-17, Performance standards for retaining walls; An Ordinance to Amend and Reordain Chapter 23, Chesapeake Bay Preservation, of the Code of the County of James City, Virginia, by Amending Section 23-10, Plan of development
5. Williamsburg Indoor Sports Complex/757 Swim, Inc. Leases

**H. CLOSED SESSION**

**I. ADJOURNMENT**

1. Adjourn until 9 a.m. on March 12, 2021 for the Joint Meeting with the WJCC School Board and Williamsburg City Council to be held via Zoom

**ITEM SUMMARY**

DATE: 3/9/2021

TO: The Board of Supervisors

FROM: Liz Parman, Assistant County Attorney

SUBJECT: Ordinance to Amend County Code Chapter 9, Article 1 Fire Prevention

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**ATTACHMENTS:**

	Description	Type
☐	Memo	Cover Memo
☐	Ordinance	Ordinance
☐	Ordinance	Ordinance

**REVIEWERS:**

Department	Reviewer	Action	Date
Attorney	Kinsman, Adam	Approved	2/8/2021 - 4:00 PM
Publication Management	Daniel, Martha	Approved	2/8/2021 - 4:10 PM
Legal Review	Kinsman, Adam	Approved	2/9/2021 - 8:25 AM
Board Secretary	Fellows, Teresa	Approved	3/2/2021 - 7:57 AM
Board Secretary	Rinehimer, Bradley	Approved	3/2/2021 - 1:29 PM
Board Secretary	Fellows, Teresa	Approved	3/2/2021 - 2:40 PM

## MEMORANDUM

DATE: March 9, 2021

TO: The Board of Supervisors

FROM: Kenny Lamm, Fire Marshal  
Elizabeth Parman, Assistant County Attorney

SUBJECT: Ordinance to Amend County Code, Chapter 9, Article I - Fire Prevention Code

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James City County Code Chapter 9, Article I adopts the Virginia Statewide Fire Prevention Code and further includes amendments to the Fire Prevention Code including various prohibitions on open burning, fees for certain activities, and definitions.

The current version of Article 1 is not well organized and prohibitions and restrictions on open burning are spread across two separate sections. The definition section lacks definitions for certain terms like bonfire and land clearing debris. The County's Ordinance is difficult to read and interpret.

The Fire Marshal and the County Attorney's Office revised the Article so that it would be more user friendly for County residents and for staff. The revisions clarify the prohibitions and restrictions on open burning and add definitions for fire prevention-related terms. The effect of the revision does not significantly change the rules related to fire prevention.

Staff recommends adoption of the attached Ordinance.

KL/EP/md  
Ch9Art1-FirePrevCode-mem

Attachment

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

ORDINANCE TO AMEND AND REORDAIN CHAPTER 9, FIRE PROTECTION AND EMERGENCY SERVICES BY AMENDING ARTICLE 1, FIRE PREVENTION CODE.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 9, Fire Protection and Emergency Services, is hereby amended and reordained by amending Article 1, Fire prevention code.

## **Chapter 9 - Fire Protection and Emergency Services<sup>H1</sup>**

### **Article I. Fire Prevention Code<sup>H2</sup>**

#### **Sec. 9-1. Adoption of Virginia statewide fire prevention code.**

Pursuant to section 27-97 of the Code of Virginia, ~~the 2000 edition of~~ the Virginia Statewide Fire Prevention Code is adopted by James City County, except as otherwise modified or amended in this article, and the same is hereby incorporated fully by reference. This code shall be referred to in this chapter as the “fire prevention code” or “SFPC.” The fire prevention code shall be enforced by the fire official under the direction of the fire chief. For the purposes of this chapter the fire chief shall be the head of the James City County fire department.

(Ord. No. 9A-3, 11-6-89; Ord. No. 9A-10, 6-24-97; Ord. No. 9A-12, 10-14-03; Ord. No. 9A-14, 10-11-05)

#### **Sec. 9-2. Definitions.**

The following words and terms used *in this chapter* and used in the fire prevention code shall have the definitions ascribed to them in this section:

~~*Debris waste.* Includes stumps, wood, brush and leaves from land clearing operations.~~

~~*Bonfire.* An outdoor fire utilized for ceremonial purposes.~~

~~*Fire official.* The fire marshal of the county or his duly authorized representative. For the purposes of this code, the term code official shall also mean fire official.~~

~~*Fireworks.* Any item known as a firecracker, torpedo, skyrocket or other substance or thing, of whatever form or construction, that contains any explosive or flammable compound or substance and is intended or commonly known as fireworks and which explodes, rises into the air, or travels laterally, or fires projectiles into the air. The term “fireworks” shall also include pinwheels, sparklers, fountains or Pharaoh's serpents. The term “fireworks” shall not include auto flares or caps for pistols.~~

~~*IFC.* International Fire Code/2000.~~

~~*Household debris.* Includes household paper and cardboard products only. Does not include household waste including trash, plastic, and glass.~~

*Jurisdiction.* The County of James City, Virginia.

*Land clearing debris.* Includes stumps, wood, brush and leaves from land clearing operations.

*Legal department of the jurisdiction.* The county attorney, *and his deputies and assistants*, or an attorney appointed by the board of supervisors to represent the county in legal matters.

*Local governing body.* The James City County Board of Supervisors.

*Primary service area.* The primary service area (PSA) is the area as defined in [Chapter 24](#), Article I, [Section 24-2](#) of this code.

*Recreational fire.* An outdoor fire burning materials other than rubbish where the fuel being burned is not contained in an incinerator, outdoor fireplace, portable outdoor fireplace, barbeque grill or barbeque pit and has a total fuel area of 3 feet or less in diameter and 2 feet or less in height for pleasure, religious, ceremonial, cooking, warmth or similar purposes.

*Yard waste.* Include leaves, brush, grass, ~~stumps~~, scrub vegetation, bushes, and twigs or branches.

(Ord. No. 9A-3, 11-6-89; Ord. No. 9A-7, 8-16-93; Ord. No. 9A-10, 6-24-97; Ord. No. 9A-12, 10-14-03; Ord. No. 9A-13, 6-14-05)

### **Sec. 9-3. Amendments to the SFPC.**

The fire prevention code is hereby amended, modified and changed as set out in the following subsections of this section.

~~(1) SFPC Section 107.2, Permits required, is hereby added:~~

a) *Permits (amendments to SFPC Section 107.2).*

1) Permits shall be obtained, when required, from the fire official. Permits shall be available at all times on the premises designated in the permit for inspection of the fire official. Fees for such permits, and for inspections, shall be in such amounts as are from time to time established by resolution of the board of supervisors.

~~With exception of 2)~~ *In addition to* mandatory permits for explosives and blasting agents, the county shall require *fees and* permits issued as a part of the Statewide Fire Prevention Code for the following:

~~(a)~~ a. Fireworks - \$100.00 per event or \$200.00 per calendar year (at same site with similar displays) for fireworks.

~~(b)~~ b. Open burning of debris waste as a result of land clearing, ~~refuse as result of agricultural and forestal management practices, and bonfires~~ - \$50.00 for each permit.

~~(2) SFPC Table 107.2, Operational Permit Requirements is hereby added:~~

~~(a)~~ \$100.00 per event or \$200.00 per calendar year (at same site with similar displays) for fireworks.

~~(b)~~ \$50.00 for each waste open burning permit.

~~(e) \$25.00 for each bonfire permit.~~

~~(3) SFPC Section 112.1, Local Board of Fire Prevention Code Appeals (BFPCA), is hereby added:~~

~~The James City County Board of Building Code Appeals is hereby constituted as and shall serve as the James City County Board of Fire Prevention Code Appeals.~~

~~(4) SFPC Section 112.2.1, Chairman is hereby added:~~

~~The chairman of the James City County Board of Building Code Appeals shall also serve as chairman of the James City County Board of Fire Prevention Code Appeals.~~

~~(5) IFC Section 503.2.2, Authority is hereby added:~~

~~Fire apparatus access roads, when required, shall conform to the specifications issued by the fire official. The fire official shall maintain records of those properties which are required to establish and maintain fire apparatus roads.~~

~~(6) IFC Section 307.2.2, Prohibited open burning, is hereby added:~~

~~Open burning shall be allowed without prior notification to the fire official for recreational fires, highway safety flares, smudge pots and similar occupational needs, and the burning of yard waste, and household debris, except garbage, when conducted in accordance with this code; provided, however, pursuant to section 10.1-1142 of the Code of Virginia, that:~~

~~(a) It shall be unlawful for any owner or lessee of land to set fire to, or to procure another to set fire to, any woods, brush, logs, leaves, grass, debris or other inflammable material upon such land unless he previously has taken all reasonable care and precaution, by having cut and piled the same or carefully cleared around the same, to prevent the spread of such fire to lands other than those owned or leased by him. It shall also be unlawful for any employee of any such owner or lessee of land to set fire to or to procure another to set fire to any woods, brush, logs, leaves, grass, debris or other inflammable material upon such land unless he has taken similar precautions to prevent the spread of such fire to any other land.~~

~~(b) Except as provided in subsection (c), during the period beginning February 15 and ending April 30 of each year, even though the precautions required by the foregoing subsection have been taken, it shall be unlawful in this county or any portion thereof organized for forest fire control under the direction of the state forester, for any person to set fire to, or to procure another to set fire to, any brush, leaves, grass, debris or field containing dry grass or other inflammable material capable of spreading fire located in or within three hundred feet of any woodland, brushland or field containing dry grass or other inflammable material, except between the hours of 4:00 p.m. and 12:00 midnight.~~

~~The provisions of this subsection shall not apply to any fires which may be set on federal lands.~~

~~(c) Subsection (b) shall not apply to any fire set between February 15 and March 1 of each year, if:~~

- ~~1. The fire is set for "prescribed burning" that is conducted in accordance with a "prescription" and managed by a "certified prescribed burn manager" as those terms are defined in Va. Code section 10.1-1150.1;~~

2. ~~The burn is conducted in accordance with Va. Code section 10.1-1150.4;~~
3. ~~The state forester has, prior to February 1, approved the prescription for the burn; and~~
4. ~~The burn is being conducted for one of the following purposes: (i) control of exotic and invasive plant species that cannot be accomplished at other times of the year; (ii) wildlife habitat establishment and maintenance that cannot be accomplished at other times of the year; or (iii) management necessary for natural heritage resources.~~

The state forester may on the day of any burn planned to be conducted pursuant to this subsection revoke his approval of the prescription for the burn if hazardous fire conditions exist. The state forester may revoke the certification of any certified prescribed burn manager who violates any provision of this subsection.

- (d) ~~Any person who builds a fire in the open air, or uses a fire built by another in the open air, within 150 feet of any woodland, brushland or field containing dry grass or other inflammable material shall totally extinguish the fire before leaving the area and shall not leave the fire unattended.~~
- (e) ~~Any person violating any of the provisions of this section shall be guilty of a Class 3 misdemeanor for each separate offense. If any forest fire originates as a result of the violation by any person of any provision of this section, such person shall, in addition to the above penalty, be liable to the Commonwealth for the full amount of all expenses incurred by the Commonwealth in suppressing such fire. Such amounts shall be recoverable by action brought by the state forester in the name of the Commonwealth on behalf of the Commonwealth and credited to the Forestry Operations Fund.~~

(7) ~~IFC Section 307.3, Location, is added:~~

~~The location of any open burning for the disposal of land clearing debris waste which has been permitted in accordance with the regulations concerning open burning issued by the Virginia Department of Environmental Quality shall not be less than 1,000 feet from an occupied dwelling or commercial building, when burning outside the PSA, and shall not be less than 2,000 feet from an occupied dwelling or commercial building when burning inside the PSA. A reduction in the burn distance from an occupied dwelling or commercial building inside the PSA and outside the PSA may be permitted by the fire official where written permission of the dwelling occupant or commercial building is obtained by the applicant for the open burn. No open burning for the disposal of land clearing debris waste shall be permitted unless the open burn is conducted in a pit approved by the fire official, with an incineration device which shall reduce smoke and ash, such as an air curtain destructor or other such incineration device as approved by the fire official.~~

(8) ~~IFC Section 1404.3, Open burning, is hereby added:~~

~~Open burning of construction waste, demolition waste, refuse or any other type of waste is prohibited when located at a construction or demolition site. The removal of such waste from a construction or demolition site and the subsequent burning of the same at another location in James City County is also prohibited.~~

~~Exception: Approved open burning for the disposal of land clearing debris waste shall be allowed on construction sites when conducted in accordance with the regulations concerning open burning issued by the Virginia Department of Environmental Quality and this code.~~

~~(9) IFC Section 307.2.2, Prohibited open burning, is hereby added:~~

~~Open burning shall not be used for waste disposal purposes, the quantity of material to be burned shall not exceed five feet in any dimension, and the fuel shall be chosen to minimize the generation and emission of air contaminants.~~

~~Exception: Approved burning for forest management and agriculture practices and open burning for disposal of land clearing debris waste when conducted in accordance with regulations concerning open burning issued by the Virginia Department of Environmental Quality.~~

~~(10) IFC 3301.1.3 Fireworks, Exception 4 is not applicable to [Chapter 9](#), article 1, of this code.~~

~~(11) SFPC Section 3301.2, Permit required, is hereby added:~~

- ~~(a) Except as otherwise provided in this section it shall be unlawful for any person to transport, manufacture, assemble, store, sell, offer or display for sale, or to buy, use, possess, ignite or explode any fireworks without a permit.~~
- ~~(b) The provision of this section shall not be applicable to any organization or group of individuals which has been granted a permit by the fire official for the public or private display of fireworks, provided that such fireworks are stored, handled, transported and used in compliance with the terms and conditions of such permit.~~
- ~~(c) A permit shall be obtained from the fire official for the display or discharge of fireworks. Upon written application by an organization or association representing a fair or amusement park or by any administrator, organization or group of individuals to the county fire department, a permit may be issued for the display of fireworks; provided, that such display shall be held under proper supervision and at a location safe to persons and property. Such application shall include a description of the types of fireworks to be displayed and the location to be used to ensure the safety of those in attendance. The permittee shall furnish a bond or certificate of insurance in the amount required by section 3301.2.4.2 of the Virginia Statewide Fire Prevention Code. A permit, when issued, shall be for a stated period. No such permit shall be issued by the fire official to any organization or association or group of individuals unless the fire official is satisfied that the display will be held at an appropriate site. A member of the fire department shall, prior to the issuance of such a permit, inspect the scene for its appropriateness for the display of fireworks. An authorized member of the fire department may revoke any such permit during the display if such is conducted in any manner not in keeping with the application or in compliance with this section and the display shall thereupon be immediately stopped.~~

~~(12) SFPC Section 3301.2.4.2, Fireworks display is amended to read:~~

~~The permit holder shall furnish a bond or certificate of insurance at a minimum amount of \$1,000,000.00 for the payment of all potential damage caused by either to the person or property due to the permitted display, and arising from any acts of the permit holder, employees, or agent of the permit holder. The property owner shall agree in writing to the bond or certificate of insurance amount prior to the permit being issued.~~

~~(13) SFPC Section 3301.7, Seizure is amended to read:~~



~~The fire marshal or any law enforcement officer shall be authorized to seize, take, remove or cause to be removed, at the expense of the owner, all fireworks offered or exposed for display or sale, stored, possessed or held in violation of this section. Violation of this chapter is a class 1 misdemeanor.~~

~~(Ord. No. 9A-3, 11-6-89; Ord. No. 9A-4, 9-9-91; Ord. No. 9A-6, 5-4-92; Ord. No. 9A-7, 8-16-93; Ord. No. 9A-9, 12-10-96; Ord. No. 9A-10, 6-24-97; Ord. No. 9A-11, 4-27-99; Ord. No. 9A-12, 10-14-03; Ord. No. 9A-13, 6-14-05; Ord. No. 9A-15, 2-27-07)~~

**Sec. 9-4. Open burning prohibitions.** ~~The fire prevention code is hereby amended, modified and changed as set out in the following subsection of this section:~~

~~1. Yard waste.~~

~~(1) IFC Section 307.2.2, Prohibited open burning, is hereby added.~~

~~(a) Notwithstanding any other provision of this Code, open burning of yard waste by any person shall be unlawful within the county except in those areas zoned A-1, General Agriculture; provided, however, even within A-1 acres, yard waste shall not be burned in platted subdivisions consisting of five or more lots of which at least three lots have occupied dwellings or in manufactured home parks. In those areas where the open burning of yard waste is otherwise permitted, it shall be unlawful for any person to burn yard waste during the period beginning February 15 and ending April 30 of each year, except between the hours of 4:00 p.m. and 12:00 midnight.~~

~~(b) Open burning of yard waste performed in an area permitted in paragraph (a) shall comply with any applicable provisions of state law and this article.~~

~~(c) Notwithstanding paragraphs (a) and (b), open burning of yard waste shall be allowed for farming activities and pursuant to a permit for forest management and agriculture practices and open burning for disposal of land clearing refuse when conducted in accordance with regulations concerning open burning issued by the Virginia Department of Environmental Quality.~~

~~2. Land clearing debris.~~

~~(a) Except as otherwise provided in this section, open burning of land clearing debris shall be prohibited.~~

~~(b) Exception: In the event of a declaration of local emergency, pursuant to Title 44, Military and Emergency Laws, of the Code of Virginia, the fire marshal may issue a permit to allow the burning of land clearing debris waste in order to protect the health, safety and welfare of the public.~~

~~(Ord. No. 9A-5, 5-4-92; Ord. No. 9A-7, 8-16-93; Ord. No. 9A-9, 12-10-96; Ord. No. 9A-10, 6-24-97; Ord. No. 9A-12, 10-14-03; Ord. No. 9A-13, 6-14-05)~~

~~State law reference—Code of Va., §§ 27-97 and 10.1-1142.~~

~~—(1)—~~

~~Cross reference—~~

**Footnotes:**

~~(2)~~

~~State law reference~~—13 Virginia Administrative Code 5-51-Virginia Statewide Fire Prevention Code.

*c. Open burning of refuse as a result of agricultural and forestal management practices - \$50.00 for each permit.*

*d. Bonfires - \$25.00 for each permit.*

*e. Explosives and blasting agents - \$250.00 for each permit.*

*b) Recreational Fires and Open Burning.*

- 1) Recreational Fires. Recreational fires are permitted in the county but shall not be conducted within 25 feet of a structure or combustible material.*
- 2) Yard Waste (amendment to SFPC Section 307.1.1). Burning of yard waste is prohibited within the county except in those areas zoned A-1, General Agriculture; provided, however, even within areas zoned A-1, yard waste shall not be burned in platted subdivisions or in manufactured home parks.*

*Open burning of yard waste shall be allowed for farming activities and pursuant to a permit for forest management and agriculture practices and open burning for disposal of land clearing debris when conducted in accordance with regulations concerning open burning issued by the Virginia Department of Environmental Quality.*

- 3) Household Debris (amendment to SFPC Section 307.1.1). Burning of household debris is permitted in the county but shall not be conducted within 25 feet of a structure or combustible material. Burning of household debris shall be contained in a burn barrel or a similar apparatus. The quantity of material to be burned shall not exceed two feet in any dimension, and the fuel shall be chosen to minimize the generation and emission of air contaminants. Open burning shall not be used for waste disposal purposes.*
- 4) Land Clearing Debris (amendment to SFPC Section 307.1.1). Burning of land clearing debris is prohibited within the county unless permitted by the fire official. A permit shall be obtained from the fire official for the burning of land clearing debris.*

*The location of any open burning for the disposal of land clearing debris waste which has been permitted in accordance with the regulations concerning open burning issued by the Virginia Department of Environmental Quality shall not be less than 1,000 feet from an occupied dwelling or commercial building, when burning outside the PSA, and shall not be less than 2,000 feet from an occupied dwelling or commercial building when burning inside the PSA. A reduction in the burn distance from an occupied dwelling or commercial building inside the PSA and outside the PSA may be permitted by the fire official where written permission of the dwelling occupant or commercial building is obtained by the applicant for the open burn. No*

*open burning for the disposal of land clearing debris waste shall be permitted unless the open burn is conducted in a pit approved by the fire official, with an incineration device which shall reduce smoke and ash, such as an air curtain destructor or other such incineration device as approved by the fire official.*

*Exception: In the event of a declaration of local emergency, pursuant to Title 44, Military and Emergency Laws, of the Code of Virginia, the fire marshal may issue a permit to allow the burning of land clearing debris waste in order to protect the health, safety and welfare of the public.*

- 5) Construction Waste (amendment to SFPC Section 3304.3). *Burning of construction waste, demolition waste, refuse or any other type of waste is prohibited when located at a construction or demolition site. The removal of such waste from a construction or demolition site and the subsequent burning of the same at another location in the county is also prohibited.*
- 6) Bonfires. *Bonfires are prohibited within the county unless permitted by the fire official. A permit shall be obtained from the fire official for a bonfire. Recreational fires as defined in the article are not bonfires.*
- 7) Hazardous conditions (amendment to SFPC Section 307.1.1). *Burning is prohibited within the county when atmospheric conditions or local circumstances make such fires hazardous. In call cases, the fire official may order the extinguishment of fires that create or contribute to a hazardous or objectionable condition.*
- 8) Restrictions (amendment to SFPC Section 307.1.1 in accordance with Va. Code section 10.1-1142).
  - a. *It shall be unlawful for any owner or lessee of land to set fire to, or to procure another to set fire to, any woods, brush, logs, leaves, grass, debris, or other inflammable material upon such land unless he previously has taken all reasonable care and precaution, by having cut and piled the same or carefully cleared around the same, to prevent the spread of such fire to lands other than those owned or leased by him. It shall also be unlawful for any employee of any such owner or lessee of land to set fire to or to procure another to set fire to any woods, brush, logs, leaves, grass, debris, or other inflammable material, upon such land unless he has taken similar precautions to prevent the spread of such fire to any other land.*
  - b. *During the period beginning February 15 and ending April 30 of each year it shall be unlawful in this county for any person to set fire to, or to procure another to set fire to, any brush, leaves, grass, debris or field containing dry grass or other inflammable material capable of spreading fire located in or within three hundred feet of any woodland, brushland or field containing dry grass or other inflammable material, except between the hours of 4:00 p.m. and 12:00 midnight.*

*The provisions of this subsection shall not apply to any fires which may be set to prevent damage to orchards or vineyards by frost or freezing temperatures or be set on federal lands.*

*c. Subsection B shall not apply to any fire set during the period beginning February 15 through April 30 of each year, if:*

*1. The fire is set for “prescribed burning” that is conducted in accordance with a “prescription” and managed by a “certified prescribed burn manager” as those terms are defined in § 10.1-1150.1;*

*2. The burn is conducted in accordance with Va. Code § 10.1-1150.4;*

*3. The State Forester has, prior to February 1, approved the prescription for the burn; and*

*4. The burn is being conducted for one of the following purposes: (i) control of exotic and invasive plant species that cannot be accomplished at other times of the year, (ii) wildlife habitat establishment and maintenance that cannot be accomplished at other times of the year or, (iii) management necessary for natural heritage resources.*

*The State Forester may on the day of any burn planned to be conducted pursuant to this subsection revoke his approval of the prescription for the burn if hazardous fire conditions exist. The State Forester may revoke the certification of any certified prescribed burn manager who violates any provision of this subsection.*

*d. Any person who builds a fire in the open air, or uses a fire built by another in the open air, within 150 feet of any woodland, brushland or field containing dry grass or other inflammable material shall totally extinguish the fire before leaving the area and shall not leave the fire unattended.*

*e. Any person violating any provisions of this section shall be guilty of a Class 3 misdemeanor for each separate offense. If any forest fire originates as a result of the violation by any person of any provision of this section, such person shall, in addition to the above penalty, be liable to the Commonwealth for the full amount of all expenses incurred by the Commonwealth in suppressing such fire. Such amounts shall be recoverable by action brought by the State Forester in the name of the Commonwealth on behalf of the Commonwealth and credited to the Forestry Operations Fund.*

*c) Appeals (amendment to SFPC Section 112.1).*

*1) The James City County Board of Building Code Appeals is hereby constituted as and shall serve as the James City County Board of Fire Prevention Code Appeals.*

*2) The chairman of the James City County Board of Building Code Appeals shall also serve as chairman of the James City County Board of Fire Prevention Code Appeals.*

*d) Fireworks (amendments to SFPC Chapter 56).*

*1) Permit required (amendment to SFPC Section 5601.2).*

- a. Except as otherwise provided in this section it shall be unlawful for any person to transport, manufacture, assemble, store, sell, offer or display for sale, or to buy, use, possess, ignite or explode any fireworks without a permit from the fire official.*
- b. The provision of this section shall not be applicable to any organization or group of individuals which has been granted a permit by the fire official for the public or private display of fireworks, provided that such fireworks are stored, handled, transported and used in compliance with the terms and conditions of such permit.*
- c. A permit shall be obtained from the fire official for the display or discharge of fireworks. Upon written application by an organization or association representing a fair or amusement park or by any administrator, organization or group of individuals to the county fire department, a permit may be issued for the display of fireworks; provided, that such display shall be held under proper supervision and at a location safe to persons and property. Such application shall include a description of the types of fireworks to be displayed and the location to be used to ensure the safety of those in attendance. A permit, when issued, shall be for a stated time period. No such permit shall be issued by the fire official to any organization or association or group of individuals unless the fire official is satisfied that the display will be held at an appropriate site. A member of the fire department shall, prior to the issuance of such a permit, inspect the scene for its appropriateness for the display of fireworks. An authorized member of the fire department may revoke any such permit during the display if such is conducted in any manner not in keeping with the application or in compliance with this section and the display shall thereupon be immediately stopped.*

*2) Bond for fireworks display (amendment to SFPC Section 5601.2.4).*

*The permit holder shall furnish a bond or certificate of insurance at a minimum amount of \$1,000,000.00 for the payment of all potential damage caused by either to the person or property due to the permitted display, and arising from any acts of the permit holder, employees, or agent of the permit holder. The property owner shall agree in writing to the bond or certificate of insurance amount prior to the permit being issued.*

*3) Seizure (amendment to SFPC Section 5601.7).*

*The fire marshal or any law enforcement officer shall be authorized to seize, take, remove or cause to be removed, at the expense of the owner, all fireworks offered or exposed for display or sale, stored, possessed or held in violation of this section. Violation of this chapter is a class 1 misdemeanor.*

4) *The possession, manufacture, storage, sale, handling and use of fireworks specified in SFPC Section 5601.1.3, Exception 4, including whirlygigs, sparklers, etc., is prohibited within the county (amendment to SFPC Section 5601.1.3).*

\_\_\_\_\_  
Michael J. Hipple  
Chairman, Board of Supervisors

ATTEST:

\_\_\_\_\_  
Teresa J. Fellows  
Deputy Clerk to the Board

	VOTES		
	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
SADLER	_____	_____	_____
ICENHOUR	_____	_____	_____
LARSON	_____	_____	_____
MCGLENNON	_____	_____	_____
HIPPLE	_____	_____	_____

Adopted by the Board of Supervisors of James City County, Virginia, this 9th day of March, 2021.

Ch9Art1-FirePrevCode-ord

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

ORDINANCE TO AMEND AND REORDAIN CHAPTER 9, FIRE PROTECTION AND EMERGENCY SERVICES BY AMENDING ARTICLE 1, FIRE PREVENTION CODE.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 9, Fire Protection and Emergency Services, is hereby amended and reordained by amending Article 1, Fire prevention code.

## **Chapter 9 - Fire Protection and Emergency Services**

### **Article I. Fire Prevention Code**

#### **Sec. 9-1. Adoption of Virginia statewide fire prevention code.**

Pursuant to section 27-97 of the Code of Virginia, the Virginia Statewide Fire Prevention Code is adopted by James City County, except as otherwise modified or amended in this article, and the same is hereby incorporated fully by reference. This code shall be referred to in this chapter as the “fire prevention code” or “SFPC.” The fire prevention code shall be enforced by the fire official under the direction of the fire chief. For the purposes of this chapter the fire chief shall be the head of the James City County fire department.

(Ord. No. 9A-3, 11-6-89; Ord. No. 9A-10, 6-24-97; Ord. No. 9A-12, 10-14-03; Ord. No. 9A-14, 10-11-05)

#### **Sec. 9-2. Definitions.**

The following words and terms used in this chapter and used in the fire prevention code shall have the definitions ascribed to them in this section:

*Bonfire.* An outdoor fire utilized for ceremonial purposes.

*Fire official.* The fire marshal of the county or his duly authorized representative. For the purposes of this code, the term code official shall also mean fire official.

*Fireworks.* Any item known as a firecracker, torpedo, skyrocket or other substance or thing, of whatever form or construction, that contains any explosive or flammable compound or substance and is intended or commonly known as fireworks and which explodes, rises into the air, or travels laterally, or fires projectiles into the air. The term “fireworks” shall also include pinwheels, sparklers, fountains or Pharaoh's serpents. The term “fireworks” shall not include auto flares or caps for pistols.

*Household debris.* Includes household paper and cardboard products only. Does not include household waste including trash, plastic, and glass.

*Jurisdiction.* The County of James City, Virginia.

*Land clearing debris.* Includes stumps, wood, brush and leaves from land clearing operations.

*Legal department of the jurisdiction.* The county attorney, and his deputies and assistants, or an attorney appointed by the board of supervisors to represent the county in legal matters.

*Local governing body.* The James City County Board of Supervisors.

*Primary service area.* The primary service area (PSA) is the area as defined in [Chapter 24](#), Article I, [Section 24-2](#) of this code.

*Recreational fire.* An outdoor fire burning materials other than rubbish where the fuel being burned is not contained in an incinerator, outdoor fireplace, portable outdoor fireplace, barbeque grill or barbeque pit and has a total fuel area of 3 feet or less in diameter and 2 feet or less in height for pleasure, religious, ceremonial, cooking, warmth or similar purposes.

*Yard waste.* Include leaves, brush, grass, scrub vegetation, bushes, and twigs or branches.

(Ord. No. 9A-3, 11-6-89; Ord. No. 9A-7, 8-16-93; Ord. No. 9A-10, 6-24-97; Ord. No. 9A-12, 10-14-03; Ord. No. 9A-13, 6-14-05)

### **Sec. 9-3. Amendments to the SFPC.**

The fire prevention code is amended, modified and changed as set out in the following subsections.

- a) Permits (amendments to SFPC Section 107.2).
  - 1) Permits shall be obtained, when required, from the fire official. Permits shall be available at all times on the premises designated in the permit for inspection of the fire official. Fees for such permits, and for inspections, shall be in such amounts as are from time to time established by resolution of the board of supervisors.
  - 2) In addition to mandatory permits for explosives and blasting agents, the county shall require fees and permits issued as a part of the Statewide Fire Prevention Code for the following:
    - a. Fireworks - \$100.00 per event or \$200.00 per calendar year (at same site with similar displays) for fireworks.
    - b. Open burning of debris waste as a result of land clearing-- \$50.00 for each permit.
    - c. Open burning of refuse as a result of agricultural and forestal management practices - \$50.00 for each permit.
    - d. Bonfires - \$25.00 for each permit.
    - e. Explosives and blasting agents - \$250.00 for each permit.
- b) Recreational Fires and Open Burning.
  - 1) Recreational Fires. Recreational fires are permitted in the county but shall not be conducted within 25 feet of a structure or combustible material.



- 2) Yard Waste (amendment to SFPC Section 307.1.1). Burning of yard waste is prohibited within the county except in those areas zoned A-1, General Agriculture; provided, however, even within areas zoned A-1, yard waste shall not be burned in platted subdivisions or in manufactured home parks.

Open burning of yard waste shall be allowed for farming activities and pursuant to a permit for forest management and agriculture practices and open burning for disposal of land clearing debris when conducted in accordance with regulations concerning open burning issued by the Virginia Department of Environmental Quality.

- 3) Household Debris (amendment to SFPC Section 307.1.1). Burning of household debris is permitted in the county but shall not be conducted within 25 feet of a structure or combustible material. Burning of household debris shall be contained in a burn barrel or a similar apparatus. The quantity of material to be burned shall not exceed two feet in any dimension, and the fuel shall be chosen to minimize the generation and emission of air contaminants. Open burning shall not be used for waste disposal purposes.
- 4) Land Clearing Debris (amendment to SFPC Section 307.1.1). Burning of land clearing debris is prohibited within the county unless permitted by the fire official. A permit shall be obtained from the fire official for the burning of land clearing debris.

The location of any open burning for the disposal of land clearing debris waste which has been permitted in accordance with the regulations concerning open burning issued by the Virginia Department of Environmental Quality shall not be less than 1,000 feet from an occupied dwelling or commercial building, when burning outside the PSA, and shall not be less than 2,000 feet from an occupied dwelling or commercial building when burning inside the PSA. A reduction in the burn distance from an occupied dwelling or commercial building inside the PSA and outside the PSA may be permitted by the fire official where written permission of the dwelling occupant or commercial building is obtained by the applicant for the open burn. No open burning for the disposal of land clearing debris waste shall be permitted unless the open burn is conducted in a pit approved by the fire official, with an incineration device which shall reduce smoke and ash, such as an air curtain destructor or other such incineration device as approved by the fire official.

Exception: In the event of a declaration of local emergency, pursuant to Title 44, Military and Emergency Laws, of the Code of Virginia, the fire marshal may issue a permit to allow the burning of land clearing debris waste in order to protect the health, safety and welfare of the public.

- 5) Construction Waste (amendment to SFPC Section 3304.3). Burning of construction waste, demolition waste, refuse or any other type of waste is prohibited when located at a construction or demolition site. The removal of such waste from a construction or demolition site and the subsequent burning of the same at another location in the county is also prohibited.

- 6) Bonfires. Bonfires are prohibited within the county unless permitted by the fire official. A permit shall be obtained from the fire official for a bonfire. Recreational fires as defined in the article are not bonfires.
- 7) Hazardous conditions (amendment to SFPC Section 307.1.1). Burning is prohibited within the county when atmospheric conditions or local circumstances make such fires hazardous. In call cases, the fire official may order the extinguishment of fires that create or contribute to a hazardous or objectionable condition.
- 8) Restrictions (amendment to SFPC Section 307.1.1 in accordance with Va. Code section 10.1-1142).
  - a. It shall be unlawful for any owner or lessee of land to set fire to, or to procure another to set fire to, any woods, brush, logs, leaves, grass, debris, or other inflammable material upon such land unless he previously has taken all reasonable care and precaution, by having cut and piled the same or carefully cleared around the same, to prevent the spread of such fire to lands other than those owned or leased by him. It shall also be unlawful for any employee of any such owner or lessee of land to set fire to or to procure another to set fire to any woods, brush, logs, leaves, grass, debris, or other inflammable material, upon such land unless he has taken similar precautions to prevent the spread of such fire to any other land.
  - b. During the period beginning February 15 and ending April 30 of each year it shall be unlawful in this county for any person to set fire to, or to procure another to set fire to, any brush, leaves, grass, debris or field containing dry grass or other inflammable material capable of spreading fire located in or within three hundred feet of any woodland, brushland or field containing dry grass or other inflammable material, except between the hours of 4:00 p.m. and 12:00 midnight.

The provisions of this subsection shall not apply to any fires which may be set to prevent damage to orchards or vineyards by frost or freezing temperatures or be set on federal lands.
  - c. Subsection B shall not apply to any fire set during the period beginning February 15 through April 30 of each year, if:
    1. The fire is set for “prescribed burning” that is conducted in accordance with a “prescription” and managed by a “certified prescribed burn manager” as those terms are defined in § 10.1-1150.1;
    2. The burn is conducted in accordance with Va. Code § 10.1-1150.4;
    3. The State Forester has, prior to February 1, approved the prescription for the burn; and

4. The burn is being conducted for one of the following purposes: (i) control of exotic and invasive plant species that cannot be accomplished at other times of the year, (ii) wildlife habitat establishment and maintenance that cannot be accomplished at other times of the year or, (iii) management necessary for natural heritage resources.

The State Forester may on the day of any burn planned to be conducted pursuant to this subsection revoke his approval of the prescription for the burn if hazardous fire conditions exist. The State Forester may revoke the certification of any certified prescribed burn manager who violates any provision of this subsection.

- d. Any person who builds a fire in the open air, or uses a fire built by another in the open air, within 150 feet of any woodland, brushland or field containing dry grass or other inflammable material shall totally extinguish the fire before leaving the area and shall not leave the fire unattended.
  - e. Any person violating any provisions of this section shall be guilty of a Class 3 misdemeanor for each separate offense. If any forest fire originates as a result of the violation by any person of any provision of this section, such person shall, in addition to the above penalty, be liable to the Commonwealth for the full amount of all expenses incurred by the Commonwealth in suppressing such fire. Such amounts shall be recoverable by action brought by the State Forester in the name of the Commonwealth on behalf of the Commonwealth and credited to the Forestry Operations Fund.
- c) Appeals (amendment to SFPC Section 112.1).
- 1) The James City County Board of Building Code Appeals is hereby constituted as and shall serve as the James City County Board of Fire Prevention Code Appeals.
  - 2) The chairman of the James City County Board of Building Code Appeals shall also serve as chairman of the James City County Board of Fire Prevention Code Appeals.
- d) Fireworks (amendments to SFPC Chapter 56).
- 1) Permit required (amendment to SFPC Section 5601.2).
    - a. Except as otherwise provided in this section it shall be unlawful for any person to transport, manufacture, assemble, store, sell, offer or display for sale, or to buy, use, possess, ignite or explode any fireworks without a permit from the fire official.
    - b. The provision of this section shall not be applicable to any organization or group of individuals which has been granted a permit by the fire official for the public or private display of fireworks, provided that such fireworks are stored, handled, transported and used in compliance with the terms and conditions of such permit.
    - c. A permit shall be obtained from the fire official for the display or discharge of fireworks. Upon written application by an organization or association representing a fair or

amusement park or by any administrator, organization or group of individuals to the county fire department, a permit may be issued for the display of fireworks; provided, that such display shall be held under proper supervision and at a location safe to persons and property. Such application shall include a description of the types of fireworks to be displayed and the location to be used to ensure the safety of those in attendance. A permit, when issued, shall be for a stated time period. No such permit shall be issued by the fire official to any organization or association or group of individuals unless the fire official is satisfied that the display will be held at an appropriate site. A member of the fire department shall, prior to the issuance of such a permit, inspect the scene for its appropriateness for the display of fireworks. An authorized member of the fire department may revoke any such permit during the display if such is conducted in any manner not in keeping with the application or in compliance with this section and the display shall thereupon be immediately stopped.

2) Bond for fireworks display (amendment to SFPC Section 5601.2.4).

The permit holder shall furnish a bond or certificate of insurance at a minimum amount of \$1,000,000.00 for the payment of all potential damage caused by either to the person or property due to the permitted display, and arising from any acts of the permit holder, employees, or agent of the permit holder. The property owner shall agree in writing to the bond or certificate of insurance amount prior to the permit being issued.

3) Seizure (amendment to SFPC Section 5601.7).

The fire marshal or any law enforcement officer shall be authorized to seize, take, remove or cause to be removed, at the expense of the owner, all fireworks offered or exposed for display or sale, stored, possessed or held in violation of this section. Violation of this chapter is a class 1 misdemeanor.

4) The possession, manufacture, storage, sale, handling and use of fireworks specified in SFPC Section 5601.1.3, Exception 4, including whirlygigs, sparklers, etc., is prohibited within the county (amendment to SFPC Section 5601.1.3).

**ITEM SUMMARY**

DATE: 3/9/2021

TO: The Board of Supervisors

FROM: Christy H. Parrish, Zoning Administrator

SUBJECT: ORD-20-0017. Consideration of Amendments to the Zoning Ordinance to Consider Contractors’ Offices and Storage in Planned Unit Development District - Commercial

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**ATTACHMENTS:**

	Description	Type
☐	Memorandum	Cover Memo
☐	Proposed Ordinance Amendment, strikethrough version	Ordinance
☐	Proposed Ordinance Amendment, clean version	Ordinance
☐	Adopted Initiating Resolution	Exhibit
☐	Map of PUD-C zoned areas	Exhibit
☐	Unapproved Minutes of the February 3, 2021 Planning Commission Meeting	Minutes

**REVIEWERS:**

Department	Reviewer	Action	Date
Planning	Holt, Paul	Approved	2/10/2021 - 8:25 AM
Development Management	Holt, Paul	Approved	2/10/2021 - 8:25 AM
Publication Management	Daniel, Martha	Approved	2/10/2021 - 8:28 AM
Legal Review	Kinsman, Adam	Approved	2/10/2021 - 8:43 AM
Board Secretary	Fellows, Teresa	Approved	3/2/2021 - 7:57 AM
Board Secretary	Rinehimer, Bradley	Approved	3/2/2021 - 1:25 PM
Board Secretary	Fellows, Teresa	Approved	3/2/2021 - 2:40 PM

## MEMORANDUM

DATE: March 9, 2021

TO: The Board of Supervisors

FROM: Christy H. Parrish, Zoning Administrator

SUBJECT: Case No. ORD-20-0017. Consideration of Amendments to the Zoning Ordinance to Consider Contractors' Offices and Storage in Planned Unit Development District - Commercial

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### INTRODUCTION

At its November 10, 2020 meeting, the Board of Supervisors adopted an Initiating Resolution to consider the addition of contractor offices and storage as a use in the Planned Unit Development - Commercial (PUD-C) District. Prior to approval of the resolution, the Board encouraged staff to evaluate the outdoor operation element of the use to ensure minimal visual impacts in the District.

There are currently three areas zoned PUD-C in James City County. These areas include: Stonehouse, Villages at Candle Station, and a portion of Zion Baptist Church (6373 Richmond Road).

As indicated in the Statement of Intent, the purpose of the PUD District is to promote the efficient use of land, allow flexible application of development controls, and allow various densities and land uses, all of which are done in accordance with a Master Plan. Master Plans in the PUD District typically include residential areas and commercial or industrial areas, which occur in spatially distant areas. For example, Stonehouse is the largest area zoned PUD, which includes a distinct commercial/industrial area. This master planning approach allows for some commercial/industrial uses within the PUD development, but the commercial/industrial use list is more limited than in the B-1, General Business, M-1, Limited Business/Industrial, or the M-2, General Industrial Districts, in acknowledgement of the nearby residential uses within the PUD.

### CURRENT ORDINANCE REQUIREMENTS

Uses in the PUD District are found in Section 24-493, and are divided into two sub-categories; those allowed in residential areas (PUD-R), and those allowed in commercial areas (PUD-C). Currently, a contractor office and storage is not listed as either a permitted or specially permitted use in the PUD District.

PUD-C mainly consists of business and light industrial type uses with minimal outside elements. Permitted manufacturing and processing and assembly operations must be conducted in a fully enclosed building with no dust, noise, order, or other objectionable effect.

A contractor office is not defined in the Zoning Ordinance. The Code of Virginia § 54.1-1100 defines a contractor "as any person, that for a fixed price, commission, fee, or percentage undertakes to bid upon, or accepts, or offers to accept, orders or contracts for performing, managing, or superintending in whole or in part, the construction, removal, repair or improvement of any building or structure permanently annexed to real property owned, controlled, or leased by him or another person or any other improvements to such real property. For purposes of this chapter, "improvement" shall include (i) remediation, cleanup, or containment of premises to remove contaminants or (ii) site work necessary to make certain real property usable for human occupancy according to the guidelines established pursuant to § 32.1-11.7."

Types of contractors may include, but not limited to, builders, plumbers, electricians, HVAC contractors, mechanical contractors, landscapers, septic and well companies, repair and service contractors, etc. Common accessory uses associated with contractor offices may include storage areas for materials and supplies, areas for company vehicles and oversized vehicles, equipment, noncommercial fuel tanks, etc.

There are five use categories that reference contractor offices in the Zoning Ordinance.

Use	Zoning District	Permitted/Special Use Permit (SUP)
Contractors' warehouses, sheds, and offices.	A-1	SUP
Contractor offices (with materials and equipment storage limited to a fully enclosed building).	LB & B-1	Permitted
Contractor offices, equipment storage yards, shops, and warehouses (with materials and equipment storage limited to a fully enclosed building or screened from adjacent property with landscaping and fencing with a maximum height of 12 feet).	M-1 & M-2	Permitted
Contractor offices, equipment storage yards, shops, and warehouses with storage under cover or screened with landscaping and fencing from adjacent property.	MU	Permitted
Contractor offices, equipment storage yards, shops, and warehouses with storage under cover or screened from adjacent property with landscaping and fencing.	EO	Permitted

**PROPOSED REVISIONS**

At its December 10, 2020 and January 14, 2021 meetings, the Policy Committee discussed adding contractor offices and storage as a use to the PUD-C District. The Committee agreed to permit the use by-right with the addition of performance standards to address the concerns with the outdoor operation element of the use such as parking of oversized vehicles and equipment, visual screening, noise, and proximity to residential areas and roadways.

The draft performance standards include:

Contractor offices, shops, and warehouses uses specified in section 24-493(b) shall be located in areas designated on a master plan as light industrial and shall meet the following performance standards:

- a) All materials and equipment shall be stored in a fully enclosed building;
- b) All operations shall be conducted so that the effects of noise, dust, light or odor shall not extend beyond the limits of the area designated on a master plan as light industrial; and
- c) Oversized vehicles shall be parked behind a building or fully screened with landscaping from adjacent roadways.

Contractor offices, shops, and warehouses uses that do not meet the above performance standards must obtain a special use permit from the board of supervisors in accordance with section 24-9 of this chapter.

**RECOMMENDATION**

At its January 14, 2021 meeting, the Policy Committee reviewed the draft Ordinance language and voted 4-0 to move the amendment forward for review by the Planning Commission.

Case No. ORD-20-0017. Consideration of Amendments to the Zoning Ordinance to Consider Contractors' Offices and Storage in Planned Unit Development District - Commercial  
March 9, 2021  
Page 3

At its February 3, 2021 meeting, the Planning Commission voted to recommend approval to the Board of Supervisors of Case No. ORD-20-0017 by a vote of 7-0 with one minor amendment that corrected a typographical error.

Staff recommends the Board of Supervisors adopt the attached Ordinance revisions.

CHP/md  
Ch24Art5PUD-mem

Attachments:

1. Proposed Ordinance Amendment, strikethrough version
2. Proposed Ordinance Amendment, clean version
3. Adopted Initiating Resolution
4. Map of PUD-C zoned areas
5. Unapproved Minutes of the February 3, 2021 Planning Commission Meeting



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

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 24, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE V, DISTRICTS, DIVISION 14, PLANNED UNIT DEVELOPMENT DISTRICTS, PUD, SECTION 24-493(B), USE LIST; AND BY ADDING SECTION 24-497, PERFORMANCE STANDARDS FOR CONTRACTOR OFFICES, SHOPS, AND WAREHOUSES IN PUD-C DISTRICT.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 24, Zoning, is hereby amended and reordained by amending Article V, Districts, Division 14, Planned Unit Development Districts, PUD, Section 24-493(b), Use list and by adding Section 24-497, Performance standards for contractor offices, shops, and warehouses in PUD-C district.

**Chapter 24**

**ARTICLE V. DISTRICTS**

**DIVISION 14. PLANNED UNIT DEVELOPMENT DISTRICTS, PUD**

**Sec. 24-493. Use list.**

(b) In the planned unit development district, commercial (PUD-C), all structures to be erected or land to be used shall be for one or more of the following uses:

Use Category	Use List	Permitted Uses	Specially Permitted Uses
Residential Uses	Apartments	P	
	Group homes or residential facilities for eight or fewer adults	P	
	Group homes or residential facilities for nine or more adults		SUP
	Home occupations, as defined	P	
	Independent living facilities	P	
	Multifamily dwellings	P	

Commercial Uses	Commercial Uses	Commercial uses: Same as subsection (a) above	
	Assisted living facilities	P	
	Continuing care retirement facilities	P	
	<i>Contractor offices, shops, and warehouses in accordance with section 24-497</i>	<i>P</i>	
	<i>Contractor offices, shops, and warehouses not in accordance with section 24-497</i>		<i>SUP</i>
	Skilled nursing facilities (nursing home)	P	
	Golf courses	P	
	Theme parks	P	
	Mobile food vending vehicles in accordance with section 24-49	P	
Civic Uses	Civic uses as listed in (a) above		
Utility Uses	Utility uses as listed in (a) above		
	Communications facilities (public or private) in compliance with article II, division 6 of this chapter		SUP
	Communications facilities (public or private) in compliance with article II, division 6 of this chapter	P	
	Water facilities (public) 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
	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		

Industrial Uses	Manufacture, compounding, processing or packaging of beverages or food and food products, but not slaughter of animals, where all activities are conducted in a fully enclosed building, with no dust, noise or odor effects	P	
	Manufacture, compounding, processing or packaging of beverages or food and food products, but not slaughter of animals		SUP
	Printing and publishing	P	
	Private streets within “qualifying industrial parks” in accordance with section 24-62	P	
	Processing, assembly and manufacture of light industrial products or components, with all storage, processing, assembly and manufacture conducted in a fully enclosed building, with no dust, noise, odor or other objectionable effect	P	
	Research, design and development facilities or laboratories.	P	
	Wholesale and warehousing, with storage in a fully enclosed building	P	

**Sec. 24-497. Performance standards for contractor offices, shops, and warehouses in the PUD-C district.**

*Contractor offices, shops, and warehouses uses specified in section 24-493(b) shall be located in areas designated on a master plan as light industrial and shall meet the following performance standards:*

- a) All materials and equipment shall be stored in a fully enclosed building;*
- b) All operations shall be conducted so that the effects of noise, dust, light or odor shall not extend beyond the limits of the area designated on a master plan as light industrial; and*
- c) Oversized vehicles shall be parked behind a building or fully screened with landscaping from adjacent roadways.*

*Contractor offices, shops, and warehouses uses that do not meet the above performance standards must obtain a special use permit from the board of supervisors in accordance with section 24-9 of this chapter.*

\_\_\_\_\_  
 Michael J. Hipple  
 Chairman, Board of Supervisors

ATTEST:

VOTES  
AYE    NAY    ABSTAIN

\_\_\_\_\_  
 Teresa J. Fellows  
 Deputy Clerk to the Board

SADLER	_____	_____	_____
ICENHOUR	_____	_____	_____
LARSON	_____	_____	_____
MCGLENNON	_____	_____	_____
HIPPLE	_____	_____	_____

Adopted by the Board of Supervisors of James City County, Virginia, this 9th day of March, 2021.

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

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 24, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE V, DISTRICTS, DIVISION 14, PLANNED UNIT DEVELOPMENT DISTRICTS, PUD, SECTION 24-493(B), USE LIST; AND BY ADDING SECTION 24-497, PERFORMANCE STANDARDS FOR CONTRACTOR OFFICES, SHOPS, AND WAREHOUSES IN PUD-C DISTRICT.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 24, Zoning, is hereby amended and reordained by amending Article V, Districts, Division 14, Planned Unit Development Districts, PUD, Section 24-493(b), Use list and by adding Section 24-497, Performance standards for contractor offices, shops and warehouses in PUD-C district.

**Chapter 24**

**ARTICLE V. DISTRICTS**

**DIVISION 14. PLANNED UNIT DEVELOPMENT DISTRICTS, PUD**

**Sec. 24-493. Use list.**

(b) In the planned unit development district, commercial (PUD-C), all structures to be erected or land to be used shall be for one or more of the following uses:

Use Category	Use List	Permitted Uses	Specially Permitted Uses
Residential Uses	Apartments	P	
	Group homes or residential facilities for eight or fewer adults	P	
	Group homes or residential facilities for nine or more adults		SUP
	Home occupations, as defined	P	
	Independent living facilities	P	
	Multifamily dwellings	P	

Commercial Uses	Commercial Uses	Commercial uses: Same as subsection (a) above	
	Assisted living facilities	P	
	Continuing care retirement facilities	P	
	Contractor offices, shops, and warehouses in accordance with section 24-497	P	
	Contractor offices, shops, and warehouses not in accordance with section 24-497		SUP
	Skilled nursing facilities (nursing home)	P	
	Golf courses	P	
	Theme parks	P	
	Mobile food vending vehicles in accordance with section 24-49	P	
Civic Uses	Civic uses as listed in (a) above		
Utility Uses	Utility uses as listed in (a) above		
	Communications facilities (public or private) in compliance with article II, division 6 of this chapter		SUP
	Communications facilities (public or private) in compliance with article II, division 6 of this chapter	P	
	Water facilities (public) 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
	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		

Industrial Uses	Manufacture, compounding, processing or packaging of beverages or food and food products, but not slaughter of animals, where all activities are conducted in a fully enclosed building, with no dust, noise or odor effects	P	
	Manufacture, compounding, processing or packaging of beverages or food and food products, but not slaughter of animals		SUP
	Printing and publishing	P	
	Private streets within “qualifying industrial parks” in accordance with section 24-62	P	
	Processing, assembly and manufacture of light industrial products or components, with all storage, processing, assembly and manufacture conducted in a fully enclosed building, with no dust, noise, odor or other objectionable effect	P	
	Research, design and development facilities or laboratories.	P	
	Wholesale and warehousing, with storage in a fully enclosed building	P	

**Sec. 24-497. Performance standards for contractor offices, shops, and warehouses in the PUD-C district.**

Contractor offices, shops, and warehouses uses specified in section 24-493(b) shall be located in areas designated on a master plan as light industrial and shall meet the following performance standards:

- a) All materials and equipment shall be stored in a fully enclosed building;
- b) All operations shall be conducted so that the effects of noise, dust, light or odor shall not extend beyond the limits of the area designated on a master plan as light industrial; and
- c) Oversized vehicles shall be parked behind a building or fully screened with landscaping from adjacent roadways.

Contractor offices, shops, and warehouses uses that do not meet the above performance standards must obtain a special use permit from the board of supervisors in accordance with section 24-9 of this chapter.

**RESOLUTION**

INITIATION OF CONSIDERATION OF AMENDMENTS TO THE ZONING ORDINANCE

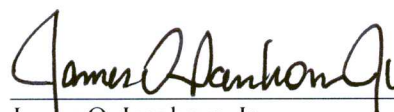
TO CONSIDER CONTRACTORS' OFFICES AND STORAGE IN

PLANNED UNIT DEVELOPMENT DISTRICTS

WHEREAS, the Code of Virginia § 15.2-2286 and County Code Section 24-13 permit the Board of Supervisors of James City County, Virginia (the "Board"), to, by resolution, initiate amendments to the regulations of the Zoning Ordinance that the Board finds to be prudent; and


WHEREAS, the Board is of the opinion that the public necessity, general welfare, and good zoning practice warrant the consideration of amendments to the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby initiate amendment of the James City County Code, Chapter 24, Zoning, Article V, Districts, Division 14, Planned Unit Development (PUD) in order to consider the addition of contractors' offices and storage in the PUD District. The Planning Commission shall hold at least one public hearing on the consideration of amendments to said Ordinances and shall forward its recommendation to the Board of Supervisors in accordance with the law.



James O. Icenhour, Jr.  
Chairman, Board of Supervisors

ATTEST:



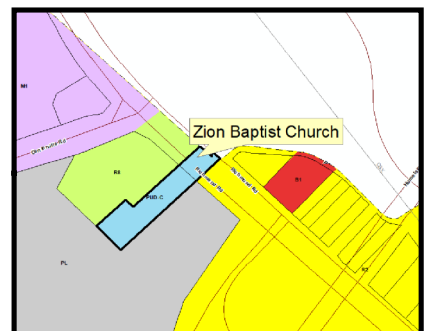
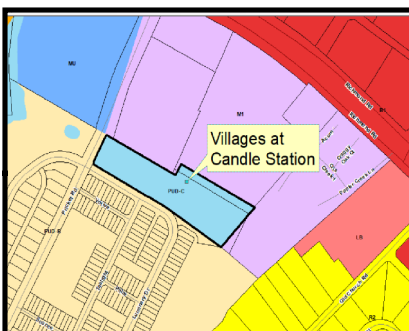
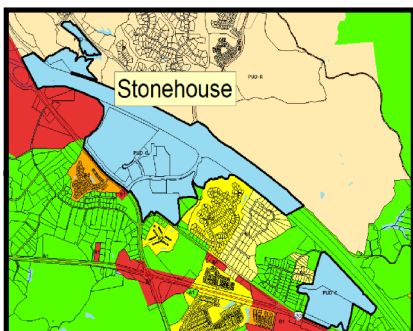
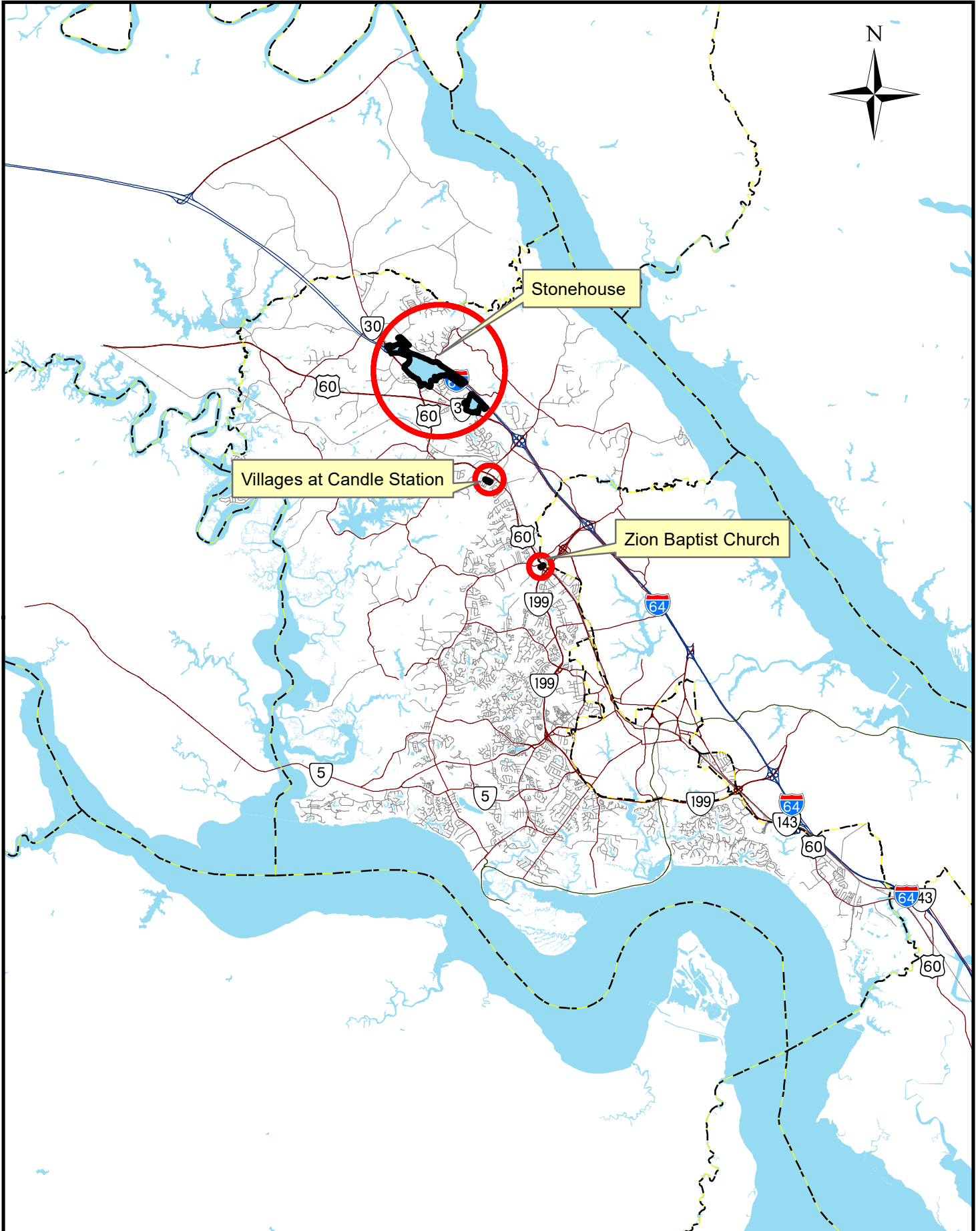
Teresa J. Fellows  
Deputy Clerk to the Board

	VOTES		
	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
SADLER	<input checked="" type="checkbox"/>	___	___
MCGLENNON	<input checked="" type="checkbox"/>	___	___
LARSON	<input checked="" type="checkbox"/>	___	___
HIPPLE	<input checked="" type="checkbox"/>	___	___
ICENHOUR	<input checked="" type="checkbox"/>	___	___

Adopted by the Board of Supervisors of James City County, Virginia, this 10th day of November, 2020.

PUDContOff-res

# Planned Unit Development - Commercial (PUD-C)





**Unapproved Minutes of the February 3, 2021  
Planning Commission Regular Meeting**

**ORD-20-0017. Consideration of Amendments to the Zoning Ordinance to Consider Contractors' Offices and Storage in Planned Unit Development District – Commercial**

Ms. Christy Parrish, Zoning Administrator, stated that at its November 10, 2020 meeting, the Board of Supervisors adopted an Initiating Resolution to consider the addition of contractor offices and storage as a use in the PUD-C District. Ms. Parrish stated that prior to approval of the resolution, the Board encouraged staff to evaluate the outdoor operation element of the use to ensure minimal visual impacts in the district.

Ms. Parrish stated that there are currently three areas zoned PUD-C in James City County. Ms. Parrish stated that these areas include: Stonehouse, Villages at Candle Station, and a portion of Zion Baptist Church at 6373 Richmond Road. Ms. Parrish stated that uses in the PUD district are divided into two sub-categories; those allowed in residential areas (PUD-R), and those allowed in commercial areas (PUD-C). Ms. Parrish further stated that currently, a contractor office and storage is not listed as either a permitted or specially permitted use in the PUD District.

Ms. Parrish stated that PUD-C mainly consists of business and light industrial type uses with minimal outside elements. Ms. Parrish noted that permitted manufacturing and processing and assembly operations must be conducted in a fully enclosed building with no dust, noise, odor, or other objectionable effect.

Ms. Parrish stated that “contractor office” is not defined in the Zoning Ordinance. Ms. Parrish further stated that types of contractors may include, but are not limited to, builders, plumbers, electricians, HVAC contractors, mechanical contractors, landscapers, septic and well companies, repair and service contractors, etc. Ms. Parrish stated that common accessory uses associated with contractor offices may include storage areas for materials and supplies, areas for company vehicles and oversized vehicles, equipment, noncommercial fuel tanks, etc.

Ms. Parrish stated that at its December 10, 2020 and January 14, 2021 meetings, the Policy Committee discussed adding contractor offices and storage as a use to the PUD-C District. Ms. Parrish stated that the Committee agreed to permit the use by-right with the addition of performance standards to address the concerns with the outdoor operation element of the use such as parking of oversized vehicles and equipment, visual screening, noise, and proximity to residential areas and roadways.

Ms. Parrish stated that the draft performance standards include:

Contractor offices, shops, and warehouses uses specified in section 24-493(b) shall be located in areas designated on a master plan as light industrial and shall meet the following performance standards:

- a) All materials and equipment shall be stored in a fully enclosed building;

- b) All operations shall be conducted so that the effects of noise, dust, light or odor shall not extend beyond the limits of the area designated on a master plan as light industrial; and
- c) Oversized vehicles shall be parked behind a building or fully screened with landscaping from adjacent roadways.

Contractor offices, shops, and warehouses uses that do not meet the above performance standards must obtain a special use permit from the board of supervisors in accordance with section 24-9 of this chapter.

Ms. Parrish stated that at its January 14, 2021 meeting, the Policy Committee reviewed the draft ordinance language and voted 4-0 to move the amendment forward for review by the Planning Commission.

Ms. Parrish stated that staff recommends the Planning Commission recommend approval of the attached ordinance revisions to the Board of Supervisors.

Mr. Krapf opened the Public Hearing

As no one wished to speak, Mr. Krapf closed the Public Hearing.

Mr. Haldeman made a motion to recommend approval of the ordinance amendments.

Ms. Julia Leverenz stated that she had discussed a small error in the ordinance with Ms. Parrish. Ms. Leverenz recommended that the motion be to recommend approval of the ordinance as amended.

Ms. Parrish stated that she would ensure that the correct version of the ordinance would be forwarded to the Board of Supervisors.

Mr. Haldeman revised the motion to recommend approval of the ordinance as amended.

On a roll call vote, the Commission voted to recommend approval of ORD-20-0017. Consideration of Amendments to the Zoning Ordinance to Consider Contractors' Offices and Storage in Planned Unit Development District – Commercial, as amended. (7-0)

**ITEM SUMMARY**

**DATE:** 3/9/2021

**TO:** The Board of Supervisors

**FROM:** Tom Coghill, Director of Building Safety & Permits

**SUBJECT:** An Ordinance to Amend and Reordain Chapter 4, Building Regulations, of the Code of the County of James City, Virginia, by Amending Article I, Virginia Uniform Statewide Building Code, Division I, Generally, Section 4-3, Adoption; Amendments

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**ATTACHMENTS:**

	Description	Type
☐	Memorandum	Cover Memo
☐	Ordinance, strikethrough version	Ordinance
☐	Ordinance, clean version	Ordinance

**REVIEWERS:**

Department	Reviewer	Action	Date
Development Management	Holt, Paul	Approved	2/10/2021 - 8:36 AM
Publication Management	Daniel, Martha	Approved	2/10/2021 - 8:40 AM
Legal Review	Kinsman, Adam	Approved	2/10/2021 - 8:44 AM
Board Secretary	Fellows, Teresa	Approved	3/2/2021 - 7:55 AM
Board Secretary	Rinehimer, Bradley	Approved	3/2/2021 - 1:22 PM
Board Secretary	Fellows, Teresa	Approved	3/2/2021 - 2:39 PM

**MEMORANDUM**

DATE: March 9, 2021

TO: The Board of Supervisors

FROM: Tom Coghill, Director of Building Safety & Permits

SUBJECT: An Ordinance to Amend and Reordain Chapter 4, Building Regulations, of the Code of the County of James City, Virginia, by Amending Article I, Virginia Uniform Statewide Building Code, Division I, Generally, Section 4-3, Adoption; Amendments

The Virginia Uniform Statewide Building Code (the “Building Code”) requires that buildings be constructed to meet certain climatic and geographic design criteria, to specifically include items such as snow loads, wind and seismic design, weathering, and other damaging factors such as ice, frost, termites, flood hazards, and freezing temperatures.

The Building Code presents this data in a blank table (Table R301.2(1)) that each locality must fill out based on a set of pre-determined values which are selected based on a locality’s specific location and geography within the state.

TABLE R301.2(1) CLIMATIC AND GEOGRAPHIC DESIGN CRITERIA													
GROUND SNOW LOAD	WIND DESIGN				SEISMIC DESIGN CATEGORY <sup>f</sup>	SUBJECT TO DAMAGE FROM			WINTER DESIGN TEMP <sup>e</sup>	ICE BARRIER UNDERLAYMENT REQUIRED <sup>h</sup>	FLOOD HAZARDS <sup>g</sup>	AIR FREEZING INDEX <sup>i</sup>	MEAN ANNUAL TEMP <sup>j</sup>
	Speed <sup>d</sup> (mph)	Topographic effects <sup>k</sup>	Special wind region <sup>l</sup>	Wind- borne debris zone <sup>m</sup>		Weathering <sup>a</sup>	Frost line depth <sup>b</sup>	Termite <sup>c</sup>					

These values must be adopted into the Code by the Board of Supervisors and cannot be changed or set administratively.

**Recommendation**

The existing values in the County Code are based on a previous version of the Building Code and are outdated. The proposed amendments reflect the currently adopted Building Code and staff does not expect the change will impact or effect any permit requests currently in for staff review. As such, staff considers the proposed amendment to be of a housekeeping nature only and recommends approval.

TC/md  
Ch4Art1CC-VUSB-mem

Attachments:

1. Proposed Ordinance Amendments to Chapter 4, Strikethrough Version
2. Proposed Ordinance Amendments to Chapter 4, Clean Version

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

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 4, BUILDING REGULATIONS, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE I, VIRGINIA UNIFORM STATEWIDE BUILDING CODE, DIVISION I, GENERALLY, SECTION 4-3, ADOPTION; AMENDMENTS.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia that Chapter 4, Building Regulations, is hereby amended and reordained by amending Article I, Virginia Uniform Statewide Building Code, Division I, Generally, Section 4-3, Adoption; amendments.

### **Chapter 4. Building Regulations**

#### **Article I. Virginia Uniform Statewide Building Code**

##### **Division I. Generally**

#### **Sec. 4-3. Adoption; amendments.**

There is hereby adopted by reference in the county that certain code known as the Virginia Uniform Statewide Building Code, and all Virginia Administrative Amendments-Accumulative Supplements thereto in being as of the effective date set forth below or subsequently issued, and the whole thereof, and the same is hereby incorporated herein as fully as if set out in length. The effective date of the provisions of such code is September 9, 1974, and shall control all matters set forth in section 4-1 above, and all other functions which pertain to the installation of systems vital to all buildings and structures and their service equipment as defined by such code, and shall apply to all existing and proposed structures in the county; prior to the enactment of this code, all matters set forth in section 4-1 above were governed by the provisions of the Southern Building Code and amendments thereto. Certain sections and subsections of the Uniform Statewide Building Code are amended as follows:

(1) *Building Code (Current Model Code Referenced in the Virginia Uniform Statewide Building Code):*

- a. Wherever the parenthetical phrases “name of municipality” or “name of jurisdiction” shall be found, the words “County of James City” shall be substituted therefor.
- b. Wherever the parenthetical phrase “date of adoption of this code” shall be found, the word and numbers “September 1, 1974,” shall be substituted therefor.

(2) *Plumbing Code (Current Model Code edition referenced in the Virginia Uniform Statewide Building Code):*

- a. Wherever the parenthetical phrase “date of adoption of this code” appears, substitute the word and numbers “September 1, 1974.”
- b. Wherever the parenthetical phrases “name of municipality” or “name of jurisdiction” shall appear, substitute the words “County of James City.”
- c. The minimum depth for building sewers is 12 inches below grade.

- d. A public water main or public sewer system shall be considered available to a structure when a structure is within the distance to the public water main or sewer as required by the “James City Service Authority Regulations Governing Utility Service.”

(3) *Mechanical Code (Current Model Code edition referenced in the Virginia Uniform Statewide Building Code):*

- a. The date of adoption of this code is September 1, 1974.
- b. Wherever the parenthetical phrases “name and municipality” or “name of jurisdiction” shall appear, substitute the words “County of James City.”

(4) *Electrical Code (Current Model Code edition referenced in the Virginia Uniform Statewide Building Code):*

- a. Wherever reference is made to governmental bodies or area jurisdiction, the words “County of James City” shall be deemed to apply.
- b. Wherever the terms “authority having jurisdiction” or “competent authority” or terms similar in nature are used, it shall be deemed to mean the “building official or a representative he may designate.” Such representative shall normally be the electrical inspector, chief electrical inspector, or fire official.

(5) *One- and Two-Family Dwelling Code (Current Model Code edition referenced in the Virginia Uniform Statewide Building Code):*

- a. Climatic and geographic design criteria *pursuant to the Virginia Residential Code, Table R301.2(1)* is amended by adding the following words and numbers:

~~Roof live load, pounds per square feet—20~~

~~Roof snow load, pounds per square feet—20~~

~~Wind pressure in pounds per square feet—25~~

~~Seismic condition by zone—(one)~~

~~Subject to damage from:~~

<del>Weathering</del>	<del>Yes, severe</del>
<del>Frost line depth</del>	<del>12 inches</del>
<del>Termite</del>	<del>Yes</del>
<del>Decay</del>	<del>Yes</del>
<del>Winter Design Temp</del>	<del>None Required</del>

*Ground Snow Load: 20 pounds per square feet*

*Wind Design*

*Speed: 115 miles per hour*

*Topographic effects: No*

*Special Wind Region: No*

<i>Wind-borne debris zone:</i>	<i>No</i>
<i>Seismic Design Category:</i>	<i>B</i>
<i>Subject to Damage From</i>	
<i>Weathering:</i>	<i>Moderate to Heavy</i>
<i>Front line depth:</i>	<i>12 inches</i>
<i>Termite:</i>	<i>Moderate to Heavy</i>
<i>Winter Design Temp.:</i>	<i>20 degrees</i>
<i>ICE Barrier Underlayment:</i>	<i>Yes, required</i>
<i>Flood Hazards:</i>	<i>FEMA Map dated December 16, 2015</i>
<i>Air Freezing Index:</i>	<i>168</i>
<i>Mean Annual Temp.:</i>	<i>58.4 degrees</i>

- (6) *Requirement to use Virginia Administrative Amendments-Accumulative Supplements.* It is mandatory that the codes referenced in subsections (1) through (5) above be compared with and updated by the Virginia Administrative Amendments-Accumulative Supplements prior to final interpretation of any of the provisions of those codes.

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Michael J. Hipple  
 Chairman, Board of Supervisors

ATTEST:

VOTES

AYE      NAY      ABSTAIN

SADLER	_____	_____	_____
ICENHOUR	_____	_____	_____
LARSON	_____	_____	_____
MCGLENNON	_____	_____	_____
HIPPLE	_____	_____	_____

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Teresa J. Fellows  
 Deputy Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 9th day of March, 2021.

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

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 4, BUILDING REGULATIONS, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE I, VIRGINIA UNIFORM STATEWIDE BUILDING CODE, DIVISION I, GENERALLY, SECTION 4-3, ADOPTION; AMENDMENTS.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia that Chapter 4, Building Regulations, is hereby amended and reordained by amending Article I, Virginia Uniform Statewide Building Code, Division I, Generally, Section 4-3, Adoption; amendments.

### **Chapter 4. Building Regulations**

#### **Article I. Virginia Uniform Statewide Building Code**

#### **Division I. Generally**

#### **Sec. 4-3. Adoption; amendments.**

There is hereby adopted by reference in the county that certain code known as the Virginia Uniform Statewide Building Code, and all Virginia Administrative Amendments-Accumulative Supplements thereto in being as of the effective date set forth below or subsequently issued, and the whole thereof, and the same is hereby incorporated herein as fully as if set out in length. The effective date of the provisions of such code is September 9, 1974, and shall control all matters set forth in section 4-1 above, and all other functions which pertain to the installation of systems vital to all buildings and structures and their service equipment as defined by such code, and shall apply to all existing and proposed structures in the county; prior to the enactment of this code, all matters set forth in section 4-1 above were governed by the provisions of the Southern Building Code and amendments thereto. Certain sections and subsections of the Uniform Statewide Building Code are amended as follows:

(1) *Building Code (Current Model Code Referenced in the Virginia Uniform Statewide Building Code):*

- a. Wherever the parenthetical phrases “name of municipality” or “name of jurisdiction” shall be found, the words “County of James City” shall be substituted therefor.
- b. Wherever the parenthetical phrase “date of adoption of this code” shall be found, the word and numbers “September 1, 1974,” shall be substituted therefor.

(2) *Plumbing Code (Current Model Code edition referenced in the Virginia Uniform Statewide Building Code):*

- a. Wherever the parenthetical phrase “date of adoption of this code” appears, substitute the word and numbers “September 1, 1974.”
- b. Wherever the parenthetical phrases “name of municipality” or “name of jurisdiction” shall appear, substitute the words “County of James City.”
- c. The minimum depth for building sewers is 12 inches below grade.



- d. A public water main or public sewer system shall be considered available to a structure when a structure is within the distance to the public water main or sewer as required by the “James City Service Authority Regulations Governing Utility Service.”

(3) *Mechanical Code (Current Model Code edition referenced in the Virginia Uniform Statewide Building Code):*

- a. The date of adoption of this code is September 1, 1974.
- b. Wherever the parenthetical phrases “name and municipality” or “name of jurisdiction” shall appear, substitute the words “County of James City.”

(4) *Electrical Code (Current Model Code edition referenced in the Virginia Uniform Statewide Building Code):*

- a. Wherever reference is made to governmental bodies or area jurisdiction, the words “County of James City” shall be deemed to apply.
- b. Wherever the terms “authority having jurisdiction” or “competent authority” or terms similar in nature are used, it shall be deemed to mean the “building official or a representative he may designate.” Such representative shall normally be the electrical inspector, chief electrical inspector, or fire official.

(5) *One- and Two-Family Dwelling Code (Current Model Code edition referenced in the Virginia Uniform Statewide Building Code):*

- a. Climatic and geographic design criteria pursuant to the Virginia Residential Code, Table R301.2(1) is amended by adding the following words and numbers:

Ground Snow Load:	20 pounds per square feet
Wind Design	
Speed:	115 miles per hour
Topographic effects:	No
Special Wind Region:	No
Wind-borne debris zone:	No
Seismic Design Category:	B
Subject to Damage From	
Weathering:	Moderate to Heavy
Front line depth:	12 inches
Termite:	Moderate to Heavy
Winter Design Temp.:	20 degrees
ICE Barrier Underlayment:	Yes, required
Flood Hazards:	FEMA Map dated December 16, 2015
Air Freezing Index:	168
Mean Annual Temp.:	58.4 degrees

- (6) *Requirement to use Virginia Administrative Amendments-Accumulative Supplements.* It is mandatory that the codes referenced in subsections (1) through (5) above be compared with and updated by the Virginia Administrative Amendments-Accumulative Supplements prior to final interpretation of any of the provisions of those codes.

**ITEM SUMMARY**

**DATE:** 3/9/2021

**TO:** The Board of Supervisors

**FROM:** Paul D. Holt, III, Director of Community Development and Planning

**SUBJECT:** An Ordinance to Amend and Reordain Chapter 4, Building Regulations, of the Code of the County of James City, Virginia, by Amending Article II, Supplemental Regulations by Adding New Section 4-17, Performance standards for retaining walls; An Ordinance to Amend and Reordain Chapter 23, Chesapeake Bay Preservation, of the Code of the County of James City, Virginia, by Amending Section 23-10, Plan of development

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**ATTACHMENTS:**

	Description	Type
☐	Memorandum	Cover Memo
☐	1. Proposed Ordinance Amendments to Chapter 4, Strikethrough Version	Ordinance
☐	2. Proposed Ordinance Amendments to Chapter 23, Strikethrough Version	Ordinance
☐	3. Proposed Ordinance Amendments to Chapter 4, Clean Version	Exhibit
☐	4. Proposed Ordinance Amendments to Chapter 23, Clean Version	Exhibit

**REVIEWERS:**

Department	Reviewer	Action	Date
Development Management	Holt, Paul	Approved	2/16/2021 - 4:20 PM
Publication Management	Daniel, Martha	Approved	2/16/2021 - 4:27 PM
Legal Review	Kinsman, Adam	Approved	2/19/2021 - 1:40 PM
Board Secretary	Fellows, Teresa	Approved	3/2/2021 - 7:56 AM
Board Secretary	Rinehimer, Bradley	Approved	3/2/2021 - 1:22 PM
Board Secretary	Fellows, Teresa	Approved	3/2/2021 - 2:39 PM

## MEMORANDUM

DATE: March 9, 2021

TO: The Board of Supervisors

FROM: Paul D. Holt, III, Director of Community Development and Planning

SUBJECT: An Ordinance to Amend and Reordain Chapter 4, Building Regulations, of the Code of the County of James City, Virginia, by Amending Article II, Supplemental Regulations by Adding New Section 4-17, Performance standards for retaining walls; An Ordinance to Amend and Reordain Chapter 23, Chesapeake Bay Preservation, of the Code of the County of James City, Virginia, by Amending Section 23-10, Plan of development

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On February 11, 2020, the Board of Supervisors adopted an Initiating Resolution directing staff to study potential amendments to James City County Code to provide for enhanced engineering, review, and approval procedures for certain retaining walls.

As expressed at that meeting and in subsequent discussions:

- Very tall retaining walls can create safety issues and concerns, especially in residential areas where small children live and play.
- Very tall retaining walls can also create significant liabilities for homeowner associations, especially in terms of costs and damage events should a retaining wall fail.
- Very tall retaining walls do not help protect community character or protect the historic and rural character of James City County.

At the November 24, 2020, work session, the Board provided additional guidance and feedback that directed staff to create design standards within the Code that allow for taller wall heights, but with certain performance and design standards designed to help mitigate safety, cost, and community character concerns. Wall designs that follow these performance and design standards could be approved administratively. The Board provided further guidance that changes in elevation created by retaining walls should be less steep and blend more into the natural topography.

Based on the discussions with the Board, the attached Code amendment would apply to all bulkheads, seawalls, and retaining walls three feet or more in height; require certifications as to compaction and drainage systems; require the use of masonry, steel or equivalent materials; require access easements for long-term maintenance or repair needs; prohibit utility crossings; require walls to be broken into stepped walls of at least eight feet apart for every five feet in elevation change (about a 32° slope), while ensuring the total of all wall segments does not exceed 20 feet in height.

### **Recommendation**

Staff recommends the Board of Supervisors adopt the attached Ordinances.

An Ordinance to Amend and Reordain Chapter 4, Building Regulations, of the Code of the County of James City, Virginia, by Amending Article II, Supplemental Regulations by Adding New Section 4-17, Performance Standards for Retaining Walls  
March 9, 2021  
Page 2

PDH/md  
CCCh4-23RetWall-mem

Attachments:

1. Proposed Ordinance Amendments to Chapter 4, Strikethrough Version
2. Proposed Ordinance Amendments to Chapter 23, Strikethrough Version
3. Proposed Ordinance Amendments to Chapter 4, Clean Version
4. Proposed Ordinance Amendments to Chapter 23, Clean Version

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

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 4, BUILDING REGULATIONS, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE II, SUPPLEMENTAL REGULATIONS, BY ADDING NEW SECTION 4-17, PERFORMANCE STANDARDS FOR RETAINING WALLS.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia that Chapter 4, Building Regulations, Article II, Supplemental Regulations, is hereby amended and reordained by adding new Section 4-17, Performance standards for retaining walls.

**Chapter 4. Building Regulations**  
**Article II. Supplemental Regulations**

***Sec. 4-17. Performance standards for retaining walls, bulkheads, and seawalls.***

*Bulkheads, seawalls, and retaining walls supporting three feet or more of ordinary unbalanced fill, or constructed for the purpose of impounding Class I, II, or III-A liquids, or supporting a surcharge other than ordinary unbalanced fill, or located in a flood zone, or that are part of a stormwater BMP shall require a building permit and shall be subject to the following:*

- (a) Upon completion of the wall construction and prior to the issuance of any final inspections by the office of building safety and permits, certifications of the soil compaction and drainage system by an appropriate licensed design professional and a certification that an appropriate licensed design professional has overseen construction of the wall shall be provided to the director of stormwater and resource protection.*
- (b) The materials used to construct the wall shall be masonry and/or steel, or an equivalent, as determined by the building official. Timber materials shall not be used.*
- (c) A minimum twelve-foot wide access easement shall be located along both the bottom of the wall and along the top of the wall. Such easement shall be able to support a tracked vehicle, shall not be located within any required buffer, shall be exclusive of any public or private right-of-way, and shall be free of any structures, fencing, or utilities; provided, however:
  - (i) guards for fall protection may be located at the top of the wall;*
  - (ii) no such access easement shall be required at the bottom of the wall when such wall is a bulkhead or seawall, or the function of the wall is to impound or retain standing water or liquids, or other similar environmental constraints exist as determined by the director of stormwater and resource protection;**

(iii) when the wall is adjacent to shore, perpendicular pier and dock crossings and floating structures are permitted, as approved by the director of stormwater and resource protection; and

(iv) landscaping may be permitted within the easements as approved by the director of stormwater and resource protection.

(d) Should the overall height of the wall exceed five feet of unbalanced fill (i.e., finished grade to finished grade), or exceed five feet above mean high tide when the wall is adjacent to the shore:

1. The wall shall be broken into multiple stepped walls with a minimum horizontal separation between the wall segments of at least eight feet; and

2. The total of all wall segments shall not exceed twenty feet in height.

This section shall not apply to decorative walls less than three feet in height and shall not apply to any dwelling foundation, crawl space, or in the building materials or finishes specific to the construction of a single-family dwelling unit.

Secs. 4-1718.-4-20. Reserved.

\_\_\_\_\_  
Michael J. Hipple  
Chairman, Board of Supervisors

ATTEST:

VOTES

AYE    NAY    ABSTAIN

SADLER	_____	_____	_____
ICENHOUR	_____	_____	_____
LARSON	_____	_____	_____
MCGLENNON	_____	_____	_____
HIPPLE	_____	_____	_____

\_\_\_\_\_  
Teresa J. Fellows  
Deputy Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 9th day of March, 2021.

CCCh4-RetWall-ord

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

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 23, CHESAPEAKE BAY PRESERVATION, OF THE CODE OF COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING SECTION 23-10, PLAN OF DEVELOPMENT.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 23, Chesapeake Bay Preservation, is hereby amended and reordained by amending Section 23-10, Plan of development.

**Chapter 23. Chesapeake Bay Preservation**

**Sec. 23-10. Plan of development.**

Any development or redevelopment exceeding 2,500 square feet of land disturbance in the CBPA shall be accomplished through a plan of development process prior to any clearing or grading of the site or the issuance of any building permit to assure compliance with all applicable requirements of this chapter and any applicable approved watershed management plans. Administration of the plan of development process shall be in accordance with chapter 24 of this Code for site plans and chapter 19 of this Code for subdivision plans. The following plans or studies shall be submitted, unless otherwise provided for:

- (1) *Site and subdivision plans.* Site plans in accordance with the provisions of chapter 24 of the county code or subdivision plans in accordance with chapter 19 of the county code. In the event that chapter 24 does not require the preparation of a site plan for a development activity that exceeds 2,500 square feet of land disturbance, a plan will still be required for the purposes of this chapter that complies with items 2, 3, and 5 of this subsection.
- (2) *Environmental inventory.* An environmental inventory shall be submitted in conjunction with preliminary site plan or preliminary subdivision plan approval applications. Except for the perennial stream determination required in item d. of this subsection, this requirement may be waived by the manager when the proposed use or development would result in less than 5,000 square feet of disturbed area. For existing single-family lots in a RPA, showing items required by subsection a. on the plat plan normally required as part of the building permit application shall satisfy the requirements for an environmental inventory. An environmental inventory is not required for existing single-family lots in the RMA.
  - a. The environmental inventory shall be drawn to scale clearly delineating the following components:
    1. Tidal wetlands;
    2. Tidal shores;
    3. Nontidal wetlands connected by surface flow and contiguous to tidal wetlands or water bodies with perennial flow (i.e., RPA wetlands);
    4. A 100-foot buffer area located adjacent to and landward of the components listed in items 1. through 3. above, and along both sides of any water body with perennial flow;
    5. Nontidal wetlands not included in item 3 (i.e., RMA wetlands);

6. 100-year floodplains as designated by chapter 24 of the county code; and
  7. Slopes 25 percent or greater.
- b. Wetlands delineations shall be performed consistent with the procedures specified in the Federal Manual for Identifying and Delineating Jurisdictional Wetlands currently approved for use by the Army Corps of Engineers.
  - c. The environmental inventory shall be drawn at the same scale as the preliminary site plan or subdivision plan and shall be certified as complete and accurate by a person or firm competent to make the inventory.
  - d. The environmental inventory shall include a reliable, site specific evaluation to determine whether water bodies on or adjacent to the development site have perennial flow. This evaluation shall be provided by the person applying to use or develop the site using one of the county or state approved methods of in-field indicators of perennial flow unless the county has already made a field determination of perennial flow for the site. These site-specific determinations shall be confirmed by the manager and shall be used to establish the boundaries of the RPA.
- (3) *Clearing plan.* A clearing plan shall be submitted in conjunction with site plan review or subdivision plan review. No clearing or grading of any lot or parcel shall be permitted without an approved clearing plan. For existing single-family lots, a clearing line shown on the plat plan normally submitted as part of the building permit application shall satisfy clearing plan requirements. No clearing or grading shall occur on existing single-family lots until a complete building permit application is submitted.

Clearing plans shall be prepared and/or certified by design professionals practicing within their areas of competence as prescribed by the Code of Virginia.

- a. Contents of the plan:
  1. The clearing plan shall be drawn to scale and clearly delineate the location, size and description of existing and proposed plant material. All existing trees on the site 12 inches or greater diameter at breast height (DBH) shall be shown on the clearing plan, or where there are groups of trees, the woodlines of the group may be outlined instead. The specific number of trees 12 inches or greater DBH to be preserved outside of the impervious cover and outside the groups shall be indicated on the plan. Trees to be removed and woodlines to be changed to create desired impervious cover shall be clearly delineated on the clearing plan.
  2. Any required buffer area shall be clearly delineated and any plant material to be added to establish or supplement the buffer area, as required by this chapter, shall be shown on the clearing plan.
  3. Within the RPA buffer area, trees to be removed for sight lines, vistas, access paths, and BMPs, as provided for in this chapter, shall be shown on the plan. Vegetation required by this chapter to replace any existing trees within the buffer area shall also be shown on the clearing plan.
  4. Erosion and sediment controls shall be provided as necessary and in accordance with chapter 8 of the county code.
  5. *Retaining walls, bulkheads, and seawalls shall be shown and all such walls shall be in conformance with section 4-17 of the county code, as amended.*



- b. Plant specifications:
    - 1. All plant materials necessary to supplement the buffer area or vegetated areas outside the impervious cover shall be installed according to standard planting practices and procedures.
    - 2. All supplementary or replacement plant materials shall be living and in healthy condition. Plant materials shall conform to the standards of the most recent edition of the American Standard for Nursery Stock, published by the American Association of Nurserymen.
    - 3. Where areas to be preserved, as designated on an approved clearing plan, are encroached, replacement of existing trees and other vegetation will be achieved at a ratio of two planted trees to one removed. Replacement trees shall be a minimum 1-½ inches caliper at the time of planting.
  - c. Maintenance:
    - 1. The applicant shall be responsible for the maintenance, repair and replacement of all vegetation as may be required by the provisions of this chapter.
    - 2. In buffer areas and areas outside the impervious cover, plant material shall be tended and maintained in a healthy growing condition and free from refuse and debris. Unhealthy, dying or dead plant materials shall be replaced during the next planting season, as required by the provisions of this chapter.
  - d. Installation and bonding requirements:
    - 1. Where buffer areas are required, no certificate of occupancy shall be issued until the installation of required plant material to establish or supplement the buffer is completed, in accordance with the approved clearing plan.
    - 2. When the occupancy of a structure is desired prior to the completion of the plan, a certificate of occupancy may be issued only if the applicant provides a form of surety satisfactory to the county attorney in an amount equal to the costs of the remaining plant materials, related materials and installation costs.
    - 3. All required plant material shall be installed and approved by the first planting season following issuance of a certificate of occupancy or the surety may be forfeited.
- (4) *Stormwater management plan.* A stormwater management plan shall be submitted as part of the plan of development process required by chapter 8 of the county code and in conjunction with site plan or subdivision plan preliminary approval. A stormwater management plan is not required for individual single-family detached residential structures that utilize an agreement in lieu of a stormwater management plan in accordance with section 8-25(a) of the county code. Performance assurances shall be provided that all stormwater management and/or BMP facilities required in plans of development shall be constructed to comply with the performance criteria set forth therein. The form of agreement and type of bond, letter of credit or other security shall be to the satisfaction of and approved by the county attorney. The amount of bond, letter of credit or other security and designated length of completion time shall be set by the manager or his authorized designee.
- a. Contents of the plan must meet the requirements of section 8-25 of the county code.

- b. Plan must be submitted and reviewed in accordance with 9VAC25-870-108 and section 8-27(a) of the county code;
  - c. Prior to land disturbance, the stormwater management plan must be approved by the VSMP authority;
  - d. Exceptions to technical criteria for regulated land-disturbing activities (Part IIB or Part IIC) may be requested in accordance with 9VAC25-870-57 and section 8-28(g) of the county code; and
  - e. Long-term maintenance of stormwater management facilities shall be provided for and conducted in accordance with 9VAC25-870-58 and section 8-29 of the county code.
- (5) *Erosion and sediment-control plan.* An erosion and sediment control plan consistent with the requirements of the Erosion and Sediment Control Law and regulations and chapter 8 of the county code must be designed and implemented during land disturbing activities. Prior to land disturbance, this plan must be approved by the VESCP authority.
- (6) *Landscaping plan.* Landscaping plan in accordance with chapter 24 of the county code.
- (7) *Final plan.* Final site plans or final subdivision plans for all lands within CBPAs shall include the following information:
- a. Delineation of the RPA boundary;
  - b. Delineation of required buffer areas;
  - c. Delineation of RMA wetlands;
  - d. All wetlands permits required by law;
  - e. Delineation of slopes 25 percent or greater; and
  - f. BMP maintenance agreement to ensure proper maintenance of BMPs in order to continue their functions.

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Michael J. Hipple  
 Chairman, Board of Supervisors

ATTEST:

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Teresa J. Fellows  
 Deputy Clerk to the Board

	VOTES		
	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
SADLER	_____	_____	_____
ICENHOUR	_____	_____	_____
LARSON	_____	_____	_____
MCGLENNON	_____	_____	_____
HIPPLE	_____	_____	_____

Adopted by the Board of Supervisors of James City County, Virginia, this 9th day of March, 2021.

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

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 4, BUILDING REGULATIONS, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE II, SUPPLEMENTAL REGULATIONS, BY ADDING NEW SECTION 4-17, PERFORMANCE STANDARDS FOR RETAINING WALLS.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia that Chapter 4, Building Regulations, Article II, Supplemental Regulations, is hereby amended and reordained by adding new Section 4-17, Performance standards for retaining walls.

#### **Chapter 4. Building Regulations**

#### **Article II. Supplemental Regulations**

#### **Sec. 4-17. Performance standards for retaining walls, bulkheads, and seawalls.**

Bulkheads, seawalls, and retaining walls supporting three feet or more of ordinary unbalanced fill, or constructed for the purpose of impounding Class I, II, or III-A liquids, or supporting a surcharge other than ordinary unbalanced fill, or located in a flood zone, or that are part of a stormwater BMP shall require a building permit and shall be subject to the following:

- (a) Upon completion of the wall construction and prior to the issuance of any final inspections by the office of building safety and permits, certifications of the soil compaction and drainage system by an appropriate licensed design professional and a certification that an appropriate licensed design professional has overseen construction of the wall shall be provided to the director of stormwater and resource protection.
- (b) The materials used to construct the wall shall be masonry and/or steel, or an equivalent, as determined by the building official. Timber materials shall not be used.
- (c) A minimum twelve-foot wide access easement shall be located along both the bottom of the wall and along the top of the wall. Such easement shall be able to support a tracked vehicle, shall not be located within any required buffer, shall be exclusive of any public or private right-of-way, and shall be free of any structures, fencing, or utilities; provided, however:
  - (i) guards for fall protection may be located at the top of the wall;
  - (ii) no such access easement shall be required at the bottom of the wall when such wall is a bulkhead or seawall, or the function of the wall is to impound or retain standing water or liquids, or other similar environmental constraints exist as determined by the director of stormwater and resource protection;

- (iii) when the wall is adjacent to shore, perpendicular pier and dock crossings and floating structures are permitted, as approved by the director of stormwater and resource protection; and
  - (iv) landscaping may be permitted within the easements as approved by the director of stormwater and resource protection.
- (d) Should the overall height of the wall exceed five feet of unbalanced fill (i.e., finished grade to finished grade), or exceed five feet above mean high tide when the wall is adjacent to the shore:
- 1. The wall shall be broken into multiple stepped walls with a minimum horizontal separation between the wall segments of at least eight feet; and
  - 2. The total of all wall segments shall not exceed twenty feet in height.

This section shall not apply to decorative walls less than three feet in height and shall not apply to any dwelling foundation, crawl space, or in the building materials or finishes specific to the construction of a single-family dwelling unit.

**Secs. 4-18.-4-20. Reserved.**

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

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 23, CHESAPEAKE BAY PRESERVATION, OF THE CODE OF COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING SECTION 23-10, PLAN OF DEVELOPMENT.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 23, Chesapeake Bay Preservation, is hereby amended and reordained by amending Section 23-10, Plan of development.

**Chapter 23. Chesapeake Bay Preservation**

**Sec. 23-10. Plan of development.**

Any development or redevelopment exceeding 2,500 square feet of land disturbance in the CBPA shall be accomplished through a plan of development process prior to any clearing or grading of the site or the issuance of any building permit to assure compliance with all applicable requirements of this chapter and any applicable approved watershed management plans. Administration of the plan of development process shall be in accordance with chapter 24 of this Code for site plans and chapter 19 of this Code for subdivision plans. The following plans or studies shall be submitted, unless otherwise provided for:

- (1) *Site and subdivision plans.* Site plans in accordance with the provisions of chapter 24 of the county code or subdivision plans in accordance with chapter 19 of the county code. In the event that chapter 24 does not require the preparation of a site plan for a development activity that exceeds 2,500 square feet of land disturbance, a plan will still be required for the purposes of this chapter that complies with items 2, 3, and 5 of this subsection.
- (2) *Environmental inventory.* An environmental inventory shall be submitted in conjunction with preliminary site plan or preliminary subdivision plan approval applications. Except for the perennial stream determination required in item d. of this subsection, this requirement may be waived by the manager when the proposed use or development would result in less than 5,000 square feet of disturbed area. For existing single-family lots in a RPA, showing items required by subsection a. on the plat plan normally required as part of the building permit application shall satisfy the requirements for an environmental inventory. An environmental inventory is not required for existing single-family lots in the RMA.
  - a. The environmental inventory shall be drawn to scale clearly delineating the following components:
    1. Tidal wetlands;
    2. Tidal shores;
    3. Nontidal wetlands connected by surface flow and contiguous to tidal wetlands or water bodies with perennial flow (i.e., RPA wetlands);
    4. A 100-foot buffer area located adjacent to and landward of the components listed in items 1. through 3. above, and along both sides of any water body with perennial flow;
    5. Nontidal wetlands not included in item 3 (i.e., RMA wetlands);

6. 100-year floodplains as designated by chapter 24 of the county code; and
  7. Slopes 25 percent or greater.
- b. Wetlands delineations shall be performed consistent with the procedures specified in the Federal Manual for Identifying and Delineating Jurisdictional Wetlands currently approved for use by the Army Corps of Engineers.
  - c. The environmental inventory shall be drawn at the same scale as the preliminary site plan or subdivision plan and shall be certified as complete and accurate by a person or firm competent to make the inventory.
  - d. The environmental inventory shall include a reliable, site specific evaluation to determine whether water bodies on or adjacent to the development site have perennial flow. This evaluation shall be provided by the person applying to use or develop the site using one of the county or state approved methods of in-field indicators of perennial flow unless the county has already made a field determination of perennial flow for the site. These site-specific determinations shall be confirmed by the manager and shall be used to establish the boundaries of the RPA.
- (3) *Clearing plan.* A clearing plan shall be submitted in conjunction with site plan review or subdivision plan review. No clearing or grading of any lot or parcel shall be permitted without an approved clearing plan. For existing single-family lots, a clearing line shown on the plat plan normally submitted as part of the building permit application shall satisfy clearing plan requirements. No clearing or grading shall occur on existing single-family lots until a complete building permit application is submitted.

Clearing plans shall be prepared and/or certified by design professionals practicing within their areas of competence as prescribed by the Code of Virginia.

- a. Contents of the plan:
  1. The clearing plan shall be drawn to scale and clearly delineate the location, size and description of existing and proposed plant material. All existing trees on the site 12 inches or greater diameter at breast height (DBH) shall be shown on the clearing plan, or where there are groups of trees, the woodlines of the group may be outlined instead. The specific number of trees 12 inches or greater DBH to be preserved outside of the impervious cover and outside the groups shall be indicated on the plan. Trees to be removed and woodlines to be changed to create desired impervious cover shall be clearly delineated on the clearing plan.
  2. Any required buffer area shall be clearly delineated and any plant material to be added to establish or supplement the buffer area, as required by this chapter, shall be shown on the clearing plan.
  3. Within the RPA buffer area, trees to be removed for sight lines, vistas, access paths, and BMPs, as provided for in this chapter, shall be shown on the plan. Vegetation required by this chapter to replace any existing trees within the buffer area shall also be shown on the clearing plan.
  4. Erosion and sediment controls shall be provided as necessary and in accordance with chapter 8 of the county code.
  5. Retaining walls, bulkheads, and seawalls shall be shown and all such walls shall be in conformance with section 4-17 of the county code, as amended.

- b. Plant specifications:
    - 1. All plant materials necessary to supplement the buffer area or vegetated areas outside the impervious cover shall be installed according to standard planting practices and procedures.
    - 2. All supplementary or replacement plant materials shall be living and in healthy condition. Plant materials shall conform to the standards of the most recent edition of the American Standard for Nursery Stock, published by the American Association of Nurserymen.
    - 3. Where areas to be preserved, as designated on an approved clearing plan, are encroached, replacement of existing trees and other vegetation will be achieved at a ratio of two planted trees to one removed. Replacement trees shall be a minimum 1-½ inches caliper at the time of planting.
  - c. Maintenance:
    - 1. The applicant shall be responsible for the maintenance, repair and replacement of all vegetation as may be required by the provisions of this chapter.
    - 2. In buffer areas and areas outside the impervious cover, plant material shall be tended and maintained in a healthy growing condition and free from refuse and debris. Unhealthy, dying or dead plant materials shall be replaced during the next planting season, as required by the provisions of this chapter.
  - d. Installation and bonding requirements:
    - 1. Where buffer areas are required, no certificate of occupancy shall be issued until the installation of required plant material to establish or supplement the buffer is completed, in accordance with the approved clearing plan.
    - 2. When the occupancy of a structure is desired prior to the completion of the plan, a certificate of occupancy may be issued only if the applicant provides a form of surety satisfactory to the county attorney in an amount equal to the costs of the remaining plant materials, related materials and installation costs.
    - 3. All required plant material shall be installed and approved by the first planting season following issuance of a certificate of occupancy or the surety may be forfeited.
- (4) *Stormwater management plan.* A stormwater management plan shall be submitted as part of the plan of development process required by chapter 8 of the county code and in conjunction with site plan or subdivision plan preliminary approval. A stormwater management plan is not required for individual single-family detached residential structures that utilize an agreement in lieu of a stormwater management plan in accordance with section 8-25(a) of the county code. Performance assurances shall be provided that all stormwater management and/or BMP facilities required in plans of development shall be constructed to comply with the performance criteria set forth therein. The form of agreement and type of bond, letter of credit or other security shall be to the satisfaction of and approved by the county attorney. The amount of bond, letter of credit or other security and designated length of completion time shall be set by the manager or his authorized designee.
- a. Contents of the plan must meet the requirements of section 8-25 of the county code.

- b. Plan must be submitted and reviewed in accordance with 9VAC25-870-108 and section 8-27(a) of the county code;
  - c. Prior to land disturbance, the stormwater management plan must be approved by the VSMP authority;
  - d. Exceptions to technical criteria for regulated land-disturbing activities (Part IIB or Part IIC) may be requested in accordance with 9VAC25-870-57 and section 8-28(g) of the county code; and
  - e. Long-term maintenance of stormwater management facilities shall be provided for and conducted in accordance with 9VAC25-870-58 and section 8-29 of the county code.
- (5) *Erosion and sediment-control plan.* An erosion and sediment control plan consistent with the requirements of the Erosion and Sediment Control Law and regulations and chapter 8 of the county code must be designed and implemented during land disturbing activities. Prior to land disturbance, this plan must be approved by the VESCP authority.
- (6) *Landscaping plan.* Landscaping plan in accordance with chapter 24 of the county code.
- (7) *Final plan.* Final site plans or final subdivision plans for all lands within CBPAs shall include the following information:
- a. Delineation of the RPA boundary;
  - b. Delineation of required buffer areas;
  - c. Delineation of RMA wetlands;
  - d. All wetlands permits required by law;
  - e. Delineation of slopes 25 percent or greater; and
  - f. BMP maintenance agreement to ensure proper maintenance of BMPs in order to continue their functions.



**ITEM SUMMARY**

DATE: 3/9/2021

TO: The Board of Supervisors

FROM: Adam R. Kinsman, County Attorney

SUBJECT: Williamsburg Indoor Sports Complex/757 Swim, Inc. Leases

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**ATTACHMENTS:**

	Description	Type
☐	memo	Cover Memo
☐	reso	Resolution

**REVIEWERS:**

Department	Reviewer	Action	Date
Attorney	Kinsman, Adam	Approved	2/16/2021 - 9:18 AM
Publication Management	Daniel, Martha	Approved	2/16/2021 - 9:22 AM
Legal Review	Kinsman, Adam	Approved	2/19/2021 - 1:40 PM
Board Secretary	Fellows, Teresa	Approved	3/2/2021 - 7:57 AM
Board Secretary	Rinehimer, Bradley	Approved	3/2/2021 - 1:33 PM
Board Secretary	Fellows, Teresa	Approved	3/2/2021 - 2:40 PM

## MEMORANDUM

DATE: March 9, 2021

TO: The Board of Supervisors

FROM: Adam R. Kinsman, County Attorney

SUBJECT: Williamsburg Indoor Sports Complex/757 Swim, Inc. Leases

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On August 12, 1999, the Board of Supervisors (the "Board") approved leasing a portion of the Warhill Sports Complex located at 5100 Warhill Trail and further identified as James City County Tax Map Parcel No. 3210100012 (the "Property") to the Williamsburg Indoor Sports Complex, LLC (the "WISC") for the construction of the WISC facility (the "WISC Lease"). On April 26, 2016, the Board approved WISC's request to lease an additional two acres from the County (the "Pool Property") to construct a pool separate from the existing WISC building.

The WISC has indicated that it no longer wishes to operate the pool and has entered into an agreement with 757 Swim, Inc. (the "757") to purchase the pool building and assume control of its operation. While the WISC may sublease the Pool Property to 757 under the terms of the WISC Lease, both parties prefer that the 757 enter into a separate lease with the County (the "757 Lease").

The WISC Lease includes a number of requirements for sharing parking lot construction and maintenance costs with the County, as well as scholarships and other community benefits. With the concurrence of WISC and 757, staff apportioned these costs and benefits - as well as the rent payments for the Pool Property - between the WISC and 757 as follows:

1. **Rent.** The WISC paid five hundred dollars (\$500.00) per month for the Pool Property, which amount increases every five years by five percent (5%) or by the increase or decrease in the Consumer Price Index (the "CPI"), whichever is less.
  - a. The WISC Lease is amended to reduce the rent by five hundred dollars \$500.00.
  - b. The 757 Lease is set at five hundred dollars (\$500.00), which amount will automatically increase by three percent (3%) each year after 2024.
  - c. The WISC Lease was also be amended to eliminate the reference to the CPI and instead automatically increase by three percent (3%) each year after 2024.
2. **Parking Lot Maintenance.** The WISC Lease requires that the WISC contribute fifty percent (50%) towards the cost of maintaining certain parking lots at Warhill.
  - a. The WISC Lease is amended to reduce the parking lot maintenance contribution amount to twenty percent (20%).
  - b. The 757 Lease includes a ten percent (10%) contribution towards parking lot maintenance.
3. **Community Benefits.**
  - a. The WISC Lease is amended to remove all community benefits associated with the pool.
  - b. The 757 Lease includes the following community benefits associated with the pool:

- i. High School Swimming. The Tenant shall allow James City County high schools to practice at the facility during high school swim season from 5:00 a.m.-7:00 a.m. Monday through Friday at no charge.
- ii. Public Safety. Upon reasonable notice and mutually-agreeable dates and times, the Tenant shall make the Pool available as needed for police, SWAT, fire, lifeguard, and other training at no charge.
- iii. Low-Income Swimming Outreach. The Tenant shall offer \$5,000.00 per year in scholarships to pay for swimming classes and pool use for low-income families. The Tenant shall be responsible for reasonable advertisement of the availability of such scholarships and shall coordinate with the James City County Department of Parks and Recreation to identify potential scholarship recipients.
- iv. Bay Rivers District High School Swim Meets. The Tenant shall offer the Pool to serve as the home location for Bay Rivers District High School swim meets with enhanced and professional swim meet offerings at a discounted cost.
- v. Community Access. The Tenant shall offer paid lap swimming memberships.

Should the Board desire to amend the WISC Lease to remove the Pool Property and to enter into a lease with 757 to lease the Pool Property upon terms similar to those set out above, it should adopt the attached resolution.

ARK/md  
WISC-757Lease-mem

Attachment

**RESOLUTION**

**WILLIAMSBURG INDOOR SPORTS COMPLEX/757 SWIM, INC. LEASES**

WHEREAS, on August 12, 1999, the Board of Supervisors of James City County (the “Board of Supervisors”) entered into a lease with the Williamsburg Indoor Sports Complex, LLC (the “WISC”) to operate a recreation center on a portion of real property owned by James City County (the “County”), located at 5100 Warhill Trail and further identified as a portion of James City County Real Estate Tax Map Parcel No. 3210100012 (the “Property”); and

WHEREAS, on April 26, 2016, the Board of Supervisors approved WISC’s request to lease an additional two acres of the Property (the “Pool Property”) for the construction of an indoor pool complex (the “Pool”); and

WHEREAS, the WISC no longer desires to operate the Pool and 757 Swim, Inc. (the “757”) has indicated its desire to enter into a lease with the County to operate the Pool; and

WHEREAS, following a public hearing, the Board of Supervisors is of the opinion that amending the WISC lease to remove the Pool Property and entering into a lease with 757 for the Pool Property is in the best interests of the health, safety, and welfare of the citizens of the County.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the County Administrator to execute those documents necessary to: (1) amend the August 12, 1999 lease with the Williamsburg Indoor Sports Complex, LLC to remove the Pool Property and to make those changes as generally set forth in the March 9, 2021 staff memorandum to the Board of Supervisors; and (2) to enter into a ten-year lease with two five-year renewals with 757 Swim, Inc. to lease the Pool Property upon such terms as generally set forth in the March 9, 2021 staff memorandum to the Board of Supervisors.

\_\_\_\_\_  
Michael J. Hipple  
Chairman, Board of Supervisors

ATTEST:

\_\_\_\_\_  
Teresa J. Fellows  
Deputy Clerk to the Board

	VOTES		
	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
SADLER	_____	_____	_____
ICENHOUR	_____	_____	_____
LARSON	_____	_____	_____
MCGLENNON	_____	_____	_____
HIPPLE	_____	_____	_____

Adopted by the Board of Supervisors of James City County, Virginia, this 9th day of March, 2021.

**ITEM SUMMARY**

DATE: 3/9/2021

TO: The Board of Supervisors

FROM: Teresa J. Fellows, Deputy Clerk

SUBJECT: Adjourn until 9 a.m. on March 12, 2021 for the Joint Meeting with the WJCC School Board and Williamsburg City Council to be held via Zoom

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**REVIEWERS:**

Department	Reviewer	Action	Date
Board Secretary	Fellows, Teresa	Approved	3/2/2021 - 2:42 PM