

ADOPTED

JUN 12 2012

Board of Supervisors
James City County, VA

ORDINANCE NO. 31A-266

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 24, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA BY AMENDING ARTICLE I, IN GENERAL, BY AMENDING SECTION 24-3, PURPOSE OF CHAPTER; ZONING MAP; SECTION 24-7, ADMINISTRATIVE FEES; SECTION 24-8, CERTIFICATE OF OCCUPANCY; SECTION 24-9, SPECIAL USE PERMITS; SECTION 24-10, PUBLIC HEARING REQUIRED; SECTION 24-12, REVOCATION OF SPECIAL USE PERMITS; SECTION 24-13, AMENDMENT OF CHAPTER; AND SECTION 24-23, SUBMITTAL REQUIREMENTS.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 24, Zoning, is hereby amended and reordained by amending Article I, In General, by amending Section 24-3, Purpose of chapter; zoning map; Section 24-7, Administrative fees; Section 24-8, Certificate of occupancy; Section 24-9, Special use permits; Section 24-10, Public hearing required; Section 24-12, Revocation of special use permits; Section 24-13, Amendment of chapter, and Section 24-23, Submittal requirements.

Article I. In General

Sec. 24-1. Short Title.

This chapter shall be known and may be cited as the “James City County, Virginia, Zoning Ordinance” or simply as the “Zoning Ordinance.”

Sec. 24-3. Purpose of chapter; zoning map.

(a) The Board of Supervisors hereby enacts this chapter, together with the zoning map and all accompanying data thereon or affixed thereto ~~and~~ which is and shall remain on file in the office of the county administrator, and which is hereby incorporated in and made a part of this chapter for the purpose of promoting the health, safety and general welfare of the public, and for the further purpose of accomplishing the objectives of sections 15.2-2200, 15.2-2280 and 15.2-2283 of the Code of Virginia.

(b) This chapter is designed ~~so~~ as to give reasonable consideration to each of the following purposes, where applicable:

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

Sec. 24-4. Exclusive nature of the chapter.

This chapter shall be deemed exclusive in nature and only those uses specified shall be permitted in the various zoning districts. If a use is not specified in a zoning district, it shall be prohibited in that district. In the event that a use is not permitted in any zoning district, it may only be permitted after appropriate amendment to the text of this chapter.

Sec. 24-5. Zoning administrator; administration and enforcement of chapter.

This chapter shall be administered and enforced by the zoning administrator who shall be appointed by the governing body. The zoning administrator shall serve at the pleasure of that body. Compensation for such shall be fixed by resolution of the governing body.

Sec. 24-6. Duty of those authorized to issue licenses and permits to conform to chapter.

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

Sec. 24-7. Administrative fees.

- (a) Fees shall be charged at the time of application to offset the cost of making inspections, issuing permits, advertising notices and other expenses incident to the administration of this chapter or to the filing or processing of any appeal or amendment thereto. The following fees shall be charged and collected at the time of application:

<u>Procedure</u>	<u>Fee</u>
(1) Rezoning	\$1,200.00 plus \$75.00 per
.....acre, not to exceed \$15,000.00
(2) Applications for special use permits:	
a. Generally (General special use permits processed with\$1,000.00 plus \$30.00
a rezoning shall pay a rezoning fee only).....	per acre, not to exceed \$5,000.00
b. Manufactured home on an individual lot.....	100.00
c. Family subdivision under section 24-214.....	100.00

- d. Amendment to a special use permit 400.00
- e. Wireless communications facilities under division 6 1,500.00
- (3) Master plan review:
 - a. Initial review of any Residential Cluster, Mixed Use or a PUD
with less than 400 acres (PUD's with 400 acres or more shall
pay a rezoning fee only)..... 200.00
 - b. Revision of approved plan:
 - 1. Residential Cluster 75.00
 - 2. R-4, PUD, Mixed Use 150.00
- (4) Site Plan Review:
 - a. Administrative review:
 - 1. Residential structures or improvements, \$600.00, plus \$60.00 per residential unit.
 - 2. Nonresidential structures or improvements, \$600.00, plus \$0.024 per sq. ft. of building area.
 - 3. Mixed Use structures or improvements, \$600.00, plus \$60.00 per residential unit plus \$0.024
per sq. ft. of nonresidential building area.
 - b. Planning commission review:
 - 1. Residential structures or improvements, \$1,800.00, plus \$60.00 per residential unit.
 - 2. Nonresidential structures or improvements, \$1,800.00, plus \$0.024 per sq. ft. of building area.
 - 3. Mixed Use structures or improvements, \$1,800.00, plus \$60.00 per residential unit plus
\$0.024 per sq. ft. of nonresidential building area.
 - c. Amendment to an approved plan:
 - 1. Residential structures or improvements, \$100.00, plus \$10.00 per residential unit.
 - 2. Nonresidential structures or improvements, \$100.00, plus \$0.004 per sq. ft. of building area.
 - 3. Mixed Use structures or improvements, \$100.00, plus \$10.00 per residential unit plus \$0.004
per sq. ft. of nonresidential building area.

4. Residential or nonresidential structures or improvements where the number of dwelling units or area of building area, pavement, or open space is not changed more than 15 percent, \$100.00.
 - d. Zoning administrator and fire department review only, \$20.00.
 - e. Each additional review after second resubmission, \$250.00 not to include resubmissions that are the result of substantial redesign due to other agency comments.
- (5) Sign permits, \$5.00 per square foot of gross sign area.
- (6) Appeals to the board of zoning appeals, \$500.00.
- (7) Application for a height limitation waiver to the board of supervisors, \$200.00
- (8) Application for administrative variance, \$250.00
- (9) Public hearing applicant deferral request when the applicant fails to meet a staff imposed deadline for additional information relevant to the application except where deferral is the result of a commission or board action, \$350.00 per request.
- (10) Conceptual plan review, \$25.00.
- (11) Zoning verification request, \$100.00.
- (12) Stormwater inspection fees: There shall be a fee for the inspection of public stormwater installations and private stormwater installations required in accordance with section 23-10(4). Such fee shall be \$900 per practice for each best management practice constructed and \$.90 per foot for every foot of stormwater drain or channel constructed and shall be submitted at the time of filing an application for a land disturbance permit.
 - (b) Payment of any permit fees established in section 24-7 shall be waived for the county, any entity created solely by the county and those regional entities to which the county is a party provided that: (1) The other parties to the regional entity similarly waive fees; and (2) The regional entity has locations in more than one locality.

Sec. 24-8. Certificate of occupancy.

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

(b) The ~~zoning administrator~~ *building official* shall not issue a temporary certificate of occupancy until the applicant has guaranteed the completion of public improvements, including, but not limited to, public roads, public water and public sewer facilities, or the completion of required landscape areas and plantings shown on the approved site plan or other approved plan by providing either a letter of credit, certified check, cash escrow or cash payment approved by the county attorney.

Sec. 24-9. Special use permits.

In order to provide for good zoning practices; *and* the purpose the zoning district seeks to accomplish, to provide for adjustments in the relative location of uses and buildings of the same or different classification, and to promote the usefulness of these regulations, special use permits, limited as to location by the district regulations, are permitted as set forth under the terms of this chapter. In considering an application for a special use permit in those districts allowing them, the planning commission and the Board of Supervisors shall give due regard to the James City County Comprehensive Plan, the nature and condition of adjacent uses and structures, and the probable effect upon them of the proposed ~~exception~~ *special use permit*. They shall also

take into account the special characteristics, design, location, construction, methods and hours of operation, effect on traffic conditions, or any other aspects of the particular use or structure that may be proposed by the applicant.

The planning commission and the Board of Supervisors should consider whether the proposed establishment or use will adversely affect the health, safety or welfare of persons residing or working on the premises or in the neighborhood, will unreasonably restrict an adequate supply of light and air to adjacent property, will increase congestion in the streets, will increase public danger from fire, will impair the character of the district or adjacent districts, will be incompatible with the Comprehensive Plan of James City County, will likely reduce or impair the value of buildings or property in surrounding areas, and whether such establishment or use will be in substantial accordance with the general purpose and objectives of this chapter. After a public hearing, if the planning commission determines the above considerations have been protected, the planning commission shall recommend to the Board of Supervisors that the special use permit be granted. The Board of Supervisors shall consider the recommendation of the planning commission and after a public hearing and a determination that the above considerations have been protected shall grant the special use permit. In those instances where the planning commission or the Board of Supervisors find that the proposed use may be likely to have an adverse affect, they shall determine whether such affect may be avoided by the impositions of special requirements or conditions, including, but not limited to, location, design, construction, equipment, maintenance and/or hours of operation, in addition to those expressly stipulated in this chapter and the commission may make their recommendation or the Board of Supervisors may grant the special use permit contingent upon the impositions of such requirements or conditions. An application for a special use permit substantially the same as one previously denied shall not be reconsidered within a one-year period from the date the similar application was denied: *by the Board of Supervisors.*

Sec. 24-10. Public hearing required.

Prior to issuance of a special use permit a public hearing shall be held by the planning commission and by the Board of Supervisors; provided, however, that a special use permit for a manufactured home, temporary classroom trailer, *or* a family subdivision may be issued after a public hearing is held by the Board of Supervisors only. Whenever the planning commission is not required to hold a public hearing, it need not consider the permit nor make a recommendation to the Board of Supervisors for such permit.

Sec. 24-11. Special use permit requirements for certain commercial uses; exemptions.

- (a) *General requirements.* A special use permit issued by the Board of Supervisors shall be required for:
- (1) Any convenience store;
 - (2) Any commercial building or group of buildings which exceeds 10,000 square feet of floor area; or
 - (3) Any commercial building or group of buildings, not including office uses, which generates, or would be expected to generate, a total of 100 or more additional trips to and from the site during the peak hour of the operation, based on the application of the Institute of Transportation Engineers (ITE) traffic generation rates contained in the latest edition of its book entitled *Trip Generation*. The applicable trip generation rate shall be determined by the planning director. The planning director may permit other traffic generation rates to be used if an individual or firm qualified to conduct traffic engineering studies documents that the use would not reasonably be expected to generate the amount of peak hour traffic projected by application of ITE traffic generation rates, provided the documentation is acceptable to the planning director; or
 - (4) Automobile and gasoline service stations.
- (b) *New buildings, additions or expansions.* A special use permit shall be required for a new building, addition or expansion when:
- (1) In combination with the existing structure, it exceeds the thresholds set forth in paragraph (a);

(2) It adds 5,000 square feet or more of commercial floor area or, in combination with other new buildings, additions or expansions, generates 75 or more peak-hour trips than generated by the existing or approved use on May 21, 1990, or than approved in a special use permit, whichever is greater; and

(3) It is located on the same property as the existing structure or other parcel which is a logical component of such property. Factors to determine whether a parcel is a logical component include:

- a. Common ownership or control of the parcels under consideration by the same person(s) or entity (ies), or similar or related entities;
- b. Regardless of factor a. above, shared access to public roads, shared parking arrangements, shared traffic circulation or shared service areas; and
- c. Proximity. For the purpose of this paragraph, "proximity" means adjacent parcels, parcels separated by property under common ownership or control by the same person(s) or entity (ies) or similar or related entities, or parcels separated by a public or private right-of-way.

(c) *Design and submittal requirements.* Any building or use and addition or expansion thereto requiring a special use permit under this section shall comply with the requirements of section 24-23.

(d) *Exemptions.* The following shall be exempt from the requirements of this section:

- (1) Any use or building and expansion or addition thereto with preliminary site plan approval prior to May 21, 1990;
- (2) Any use or building and expansion or addition thereto for which the start of construction began prior to May 21, 1990, in accordance with a site plan approved prior to that date;
- (3) Any use or building and expansion or addition thereto shown on a proffered binding master plan that binds the general location of all of the features on the plan as required under this section;
- (4) Any building located in a mixed use district, residential planned community district or planned unit development district; or

- (5) Any building predominantly used as a warehouse, distribution center, office, or for other industrial or manufacturing purposes. For purposes of this exemption only, the term “predominantly” shall mean 85 percent of the total square feet of the building or more.

Sec. 24-12. Revocation of special use permits.

(a) The governing body may, by resolution, initiate a revocation of a special use permit. When initiated, the revocation process shall be handled as would a new application for a special use permit, following the procedures set forth in section 24-9 of this chapter.

(b) After review by the ~~planning office~~ *planning director* and consideration and recommendation by the planning commission, the governing body shall act on the proposal to revoke the special use permit. Grounds for revocation shall include, but not be limited to, the following:

- (1) A change in conditions affecting the public health, safety and welfare since adoption of the special use permit; or
- (2) Repeated violations of this chapter, including any conditions attached to the special use permit, by the owner/operator of the use; or
- (3) Fraudulent, false or misleading information supplied by the applicant (or his agent) for the special use permit; or
- (4) Improper public notice of the special use permit public hearing(s) when the permit was considered by the planning commission or the governing body; or
- (5) An error or mistake in fact that led to an arbitrary and unreasonable decision made by the governing body when approving the special use permit.

Sec. 24-13. Amendment of chapter.

As provided for by section 15.2-2286(7) of the Code of Virginia, the Board of Supervisors may from time to time amend, supplement or change by ordinance the boundaries of the districts or the regulations herein

established; any such amendment may be initiated by resolution of the Board of Supervisors or by motion of the planning commission or by petition of any property owner, contract purchaser with the owner's written consent, or the owner's agent therefor of the property which is the subject of the proposed zoning map amendment, addressed to the Board of Supervisors. Petitions for change or amendment shall comply with the requirements of section 24-23. These changes may be made, provided:

- (1) The planning commission and the Board of Supervisors shall each hold at least one public hearing in relation thereto at which parties in interest and citizens shall have an opportunity to be heard.
- (2) That notice shall be given of the time and place of such hearing by publication as a box advertisement in at least two issues of some newspaper having a general circulation in the jurisdiction. Such notice shall specify the time and place of *the* hearing at which persons affected may appear and present their views, not less than ~~six~~ *five* days nor more than 21 days after final publication. After enactment of any such plan, ordinance or amendment, further publication thereof shall not be required.
- (3) When a proposed amendment of the zoning ordinance involves a change in the zoning classification of 25 or less parcels of land, then, in addition to the advertising as required above, written notice shall be given by the planning commission at least five days before the hearing to the owner or owners, their agent or the occupant of each parcel involved and to the owners, their agent or the occupant of all abutting property and property immediately across the street from the property affected. When a proposed amendment of the zoning ordinance involves a change in the zoning map classification of more than 25 ~~but less than 500~~ parcels of land, then, in addition to the advertising as above required, written notice shall be given at least five days before the hearing to the owner, owners or their agent of each parcel of land involved. One notice sent by first class mail to the last known address of such owner as shown on the current real estate assessment books shall be deemed adequate compliance with this requirement; provided, that a representative of the local commission shall make affidavit that such mailings have been made and file such affidavit with the papers in the case. Nothing in this paragraph shall be construed as to invalidate any subsequently adopted amendment or ordinance because of the

inadvertent failure by the representative of the planning commission to give written notice to the owner, owners or their agent of any parcel involved. Such notice shall be sent in accordance with section 15.2-2204 of the Code of Virginia.

- (4) No plan, ordinance or amendment shall be enacted, amended or re-enacted unless the Board of Supervisors has referred the proposal to the planning commission for its recommendation or has received the planning commission recommendation. Failure of the planning commission to report 100 days after the first meeting of the commission after the proposed plan, amendment or reenactment has been referred to the commission for action shall be deemed approval. After the public hearing required in subsection (1) above, the board may make appropriate changes or corrections in the ordinance or proposed amendment.
- (5) A petition for a plan or amendment substantially the same as one previously considered shall not be reconsidered within a one-year period from the date the similar petition was decided: *by the Board of Supervisors.*

Sec. 24-14. Construction and severability of provisions.

This chapter shall be liberally construed so as to effectuate the purposes hereof. If any clause, sentence, paragraph, section or subsection of this chapter shall be adjudged by any court of competent jurisdiction to be invalid for any reason, including a declaration that is contrary to the constitution of the commonwealth or of the United States, or if the application thereof to any government, agency, person or circumstance is held invalid, such judgment or holding shall be confined in its operation to the clause, sentence, paragraph, section or subsection hereof, or the specific application hereof, directly involved in the controversy in which the judgment or holding shall have been rendered or made, and shall not in any way affect the validity of any other clause, sentence, paragraph, section or subsection hereof, or affect the validity of the application thereof to any other government agency, person or circumstance.

Sec. 24-15. Purpose of this article.

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

Sec. 24-16. Proffer of conditions.

The owner or owners of property making application for a change in zoning or amendment to a zoning map, as part of their application, may voluntarily proffer in writing reasonable conditions, prior to a public hearing before the Board of Supervisors, which shall be in addition to the regulations provided for in the zoning district or zone sought in the rezoning petition. The conditions shall be proffered as a part of the requested rezoning or amendment to the county's zoning map.

Sec. 24-17. Enforcement and guarantees as to conditions.

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

- (1) The ordering in writing of the remedy of any noncompliance with such conditions;
- (2) The bringing of legal action to ensure compliance with such conditions, including injunction, abatement or other appropriate action or proceeding; and

- (3) Requiring a guarantee, in an amount sufficient for or conditioned upon the construction of any physical improvements required by the conditions, or a contract for the construction of such improvements and the contractor's guarantee, in like amount and so conditioned, which guarantee may be reduced or released by the zoning administrator upon the submission of satisfactory evidence that construction of such improvements has been completed in whole or in part. Failure to meet all conditions shall constitute cause to deny the issuance of any required use, occupancy or building permits as may be appropriate.

Sec. 24-18. Records.

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

Sec. 24-19. Petition for review of decision.

(a) Any zoning applicant who is aggrieved by a decision of the zoning administrator, pursuant to the provisions of section 24-17, may petition the Board of Supervisors for the review of such decision. Such appeal shall be taken within 30 days from the date of the action complained of and shall be instituted by filing with the zoning administrator and with the county administrator a notice of appeal, specifying the grounds thereof.

(b) The zoning administrator shall forthwith transmit to the Board of Supervisors all of the papers constituting the record upon which the action appealed from was taken. The Board of Supervisors shall hear the appeal within 45 days from the date of the filing and give public notice in accordance with section 15.2-2204 of the Code of Virginia of the date fixed for the hearing, and shall give written notice at least five days before the hearing to the owner or owners, their agent or the occupant of each parcel involved and to the

owners, their agent or occupant of all abutting property and property immediately across the street from the property affected.

(c) An appeal shall stay all proceedings in furtherance of the action appealed from, unless the zoning administrator certifies to the Board of Supervisors, after notice of appeal has been filed with him, that, by reason of the facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property.

In such case, the proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Supervisors or by a court of record on application or notice to the zoning administrator and on due cause shown.

Sec. 24-20. Amendments and variations of conditions.

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

(b) There shall be no amendment or variation of conditions created pursuant to the provisions of this article until after a public hearing before the Board of Supervisors which shall be advertised pursuant to section 24-13 of this chapter.

Sec. 24-21. Relation of section to other laws.

The provisions contained in this section shall be considered separate from, supplemental to and additional to the provisions contained elsewhere in this Code or other county ordinances. Nothing contained in this section shall be construed as excusing compliance with all other applicable provisions of this Code or other county ordinances.

Sec. 24-22. Penalties; sanctions, injunctive relief, fines.

(a) Violating, causing or permitting the violation of, or otherwise disregarding any of the provisions of this chapter by any person, firm or corporation, whether as principal, agent, owner lessee, employee or other similar position, shall be unlawful and is subject to the following:

(1) *Criminal sanctions.* Upon conviction, shall be guilty of a misdemeanor and shall be fined not less than \$10.00, nor more than \$1,000.00. Failure to remove or abate a zoning violation within the specified time period shall constitute a separate misdemeanor offense punishable by a fine of not less than \$10.00 nor more than \$1,000.00, and any such failure during any succeeding thirty day period shall constitute a separate misdemeanor offense for each thirty day period punishable by a fine of not less than \$10.00 nor more than \$1,000.00.

(2) *Injunctive relief.* Any violation or attempted violation of this chapter may be restrained, corrected or abated as the case may be by injunction or other appropriate relief.

(3) *Civil fines:*

a. A civil penalty in the amount listed on the schedule below shall be assessed for a violation of the respective offense:

1. Keeping an inoperative vehicle in residential or commercial zoning districts in violation of section 24-37, per vehicle \$100.00
2. Constructing, placing, erecting or displaying a sign on private property without a sign permit issued by the county in violation of section 24-67, per sign 100.00
3. Occupying, or permitting to be occupied, a single-family dwelling (SFD) by more than three unrelated individuals in violation of the definition of "family" in section 24-2, per offense..... 100.00

- 4. Installing, placing or maintaining a dish antennae in violation of section 24-34, per offense 50.00
- 5. Failure to meet the tree replacement requirements for any buffer or setback for timbering in accordance with section 24-43, per offense..... 100.00
- b. Each day during which a violation is found to exist shall be a separate offense. However, in no event shall specified violations arising from the same set of operative facts be charged more frequently than once in a ten-day period and in no event shall a series of such violations result in civil penalties of more than \$3,000.00.
- c. Any person summoned for a scheduled violation may make an appearance in person or in writing by mail to the county treasurer prior to the date fixed for trial in court. Any person so appearing may enter a waiver of trial, admit liability and pay the civil penalty established for the offense charged. Such persons shall be informed of their right to stand trial and that a signature to an admission of liability will have the same force and effect as a judgment of court.
- d. No provisions herein shall be construed to allow the imposition of civil penalties for:
 - 1. Enforcement of the Uniform Statewide Building Code;
 - 2. Activities related to land development or activities related to the construction or repair of buildings and other structures;
 - 3. Violations of the erosion and sedimentation control ordinance;
 - 4. Violations of any provisions of a local zoning ordinance relating to the posting of signs on public property or public right-of-ways; or
 - 5. Violations resulting in injury to any person or persons.

(b) Civil or criminal action may be brought in conjunction with an action for injunctive relief. However, the offense designated for civil penalties above shall be in lieu of criminal enforcement.

Sec. 24-23. Submittal requirements.

(a) The following *information* shall be submitted with any request for an amendment of this chapter, as provided for in section 24-13, or for any building or use and addition or expansion thereto which requires a special use permit under this chapter, provided however, applications for family subdivisions, manufactured homes and temporary classroom trailers shall be exempt from the requirements of this section.

(1) ~~Community impact statement containing:~~ *The community impact statement shall describe the probable effects of the proposed development upon the community and at a minimum shall address the following topics regarding infrastructure and quality of life:*

a. ~~Infrastructure information:~~

~~± a.~~ A traffic impact *study analysis* for all projects that expect to generate 100 or more weekday peak hour trips to and from the site during the *peak hour hours* of the operation *and/or, based on the application of the Institute of Transportation Engineers (ITE) traffic generation rates contained in the latest edition of its book entitled Trip Generation, or those projects with an entrance or exit onto a roadway with a level of service "D" or lower shall be required pursuant to the Traffic Impact Analysis Submittal Requirement Policy. The applicable trip generation rate shall be determined by the planning director. The planning director may permit other traffic generation rates to be used if an individual or firm qualified to conduct traffic engineering studies documents that the use would not reasonably be expected to generate the amount of peak hour traffic projected by application of ITE traffic generation rates, provided the documentation is acceptable to the planning director.* Vehicular access points and drives shall be designed to encourage smooth traffic flow, with controlled turning movements and minimum hazards to vehicular and pedestrian traffic. Buildings, parking areas and drives shall be arranged in a manner that encourages pedestrian access and minimizes traffic movement. No more than one access point on each abutting public street shall be permitted unless specifically approved by the Board of Supervisors after reviewing the applicant's traffic impact *study analysis*; and

- 2.b. A water and sewer impact study for all projects with an anticipated average daily flow greater than ~~30,000 gallons~~, *15,500 gallons* and/or for proposed residential projects containing ~~400~~ *50* lots or more. *Water Conservation information in accordance with Water Conservation Guidelines Policy;* and
- 3.c. ~~A conceptual stormwater management plan showing approximate location, footprint, and type of BMP;~~ *Environmental information in accordance with the Environmental Constraints Analysis for Legislative Cases;* and
- 4.d. An adequate public facilities report in accordance with *Board of Supervisors policy*; ~~to include sewer, water, schools, fire stations, libraries, and other major locally-financed facilities. School information shall be prepared according to the Adequate Public School Facilities Test Policy;~~ and
- e. *Additional on-site and off-site public facilities or services which would be required as a result of the development;* and
 - b. ~~Quality of life information~~
- 1.f. A Phase IA historic and archaeological study if the property is identified as being a highly-sensitive area on the James City County archaeological assessment. If the property is identified as a moderately-sensitive area on the assessment, studies shall be provided in accordance with the currently adopted archaeological policy; and
- 2.g. An environmental inventory in accordance with the James City County Natural ~~Areas~~ *Resource* policy; and
- 3.h. A fiscal impact analysis, *using the worksheet and assumptions provided by the planning division*, when the proposal includes residential dwelling units. *The analysis must estimate revenues to be generated versus the cost of public improvements to be financed by the county or the State using the fiscal impact model prepared by the county. If desired by the applicant supplemental studies may be*

prepared by an individual or firm qualified to conduct a fiscal impact study in a manner and form acceptable to the planning director; and

i. Parks and recreation information based on Parks and Recreation Master Plan Proffer Guidelines.

(2) ~~Master plan prepared in accordance with section 24-484(b)(1)-(5).~~ The master plan shall depict and bind the approximate boundaries and general location of all principal land uses and their building square footage and height, roads, rights-of-ways (*with an indication of whether public or private*), accesses, opens spaces, public uses and other features to be located on the site for which approval is sought. The planning director may require other features, including general location and approximate boundaries of buildings, structures or parking areas, to be incorporated into the master plan where deemed necessary due to the size of the development, access to or location of public roads, distance from residential areas, presence of environmentally sensitive areas or availability of public utilities. *The master plan shall be prepared by a licensed surveyor, engineer, architect, landscape architect or planner. A scale may be used so that the entire parcel can be shown on one piece of paper no larger than 30 inches by 48 inches. The master plan shall also include:*

a. An inset map at a scale of not less than one inch to one mile showing the property in relation to surrounding roads, subdivision or major landmarks;

b. A north arrow, scale, the proposed use, approximate development phasing (if applicable);

c. The location of existing property lines, watercourse or lakes, wooded areas and existing roads which are within or adjoining the property;

d. If applicable, a table which shows for each section or area of different uses: the use; approximate development phasing, maximum number of dwelling units and density for residential areas, maximum square feet of floor space for commercial or industrial areas; and maximum acreage of each use;

e. If applicable, schematic plans which shall indicate the phasing of development and master water, sewer and drainage plans; and

f. *If more than one type of land uses is proposed, each use shall be designated on the master plan as follows:*

<i>Type of Development</i>	<i>Area Designation</i>
<i>Single family</i>	<i>A</i>
<i>Multi family</i>	<i>B</i>
<i>Apartments</i>	<i>C</i>
<i>Commercial uses</i>	<i>E</i>
<i>Wholesale and warehouse uses</i>	<i>F</i>
<i>Office uses</i>	<i>G</i>
<i>Light industrial uses</i>	<i>H</i>
<i>Institutional or public uses</i>	<i>I</i>
<i>Areas of common open space, with recreation areas noted</i>	<i>J</i>
<i>Structures containing a mixture of uses</i>	<i>M*</i>
<i>Other structures, facilities or amenities</i>	<i>X</i>

**Areas of a master plan designated M (structures containing a mixture of uses) shall indicate in parenthesis, following the M designation, the appropriate letter designations of the types of uses contained within the structure (e.g., M (CG)) in the order of their proportion in the mixed use structure.*

A total of 12 copies of the master plan should be submitted along with an application for rezoning or a special use permit; if necessary, additional copies of the master plan may be required for submittal.

The master plan shall be reviewed and approved and thereafter become binding upon approval of a rezoning or a special use permit by the Board of Supervisors. Thereafter, all amendments to the master plan shall be in accordance with section 24-13 of this chapter. Final ~~site~~ *development* plans

may be approved after approval of a master plan by the Board of Supervisors. All final-site *development* plans shall be consistent with the master plan, but may deviate from the master plan if the ~~zoning administrator concludes, after reviewing written comments from the planning director, the~~ *planning director concludes* that the *site development* plan does not: ~~alter the basic concept or~~ character of the development or conflict with any conditions placed on the special use permit.

- a. *Significantly affect the general location or classification of housing units or buildings as shown on the master plan;*
- b. *Significantly alter the distribution of recreation or open space areas on the master plan;*
- c. *Significantly affect the road layout as shown on the master plan;*
- d. *Significantly alter the character of land uses or other features or conflict with any building conditions placed on the corresponding legislatively-approved case associated with the master plan.*

If the ~~zoning administrator~~ *planning director* determines that a proposed change would deviate from the approved master plan, the amendment shall be submitted and approved in accordance with section 24-13. *For additional information regarding master plan submittal requirements refer to the submittal sections for the following zoning districts: R-4, Residential Planned Community; RT, Research and Technology; PUD, Planned Unit Development; MU, Mixed Use; EO, Economic Opportunity; and Residential Cluster Development Overlay District.*

- (3) Any other submittal requirement which may be required by this chapter.
- (4) An application and fee in accordance with ~~section 24-7 of this chapter.~~ *the fee schedule document approved by the James City County Board of Supervisors.*
- (b) Supplemental information should be submitted in accordance with the “Supplemental Submittal Requirements for Special Use Permits and Rezoning” policy as adopted by the Board of Supervisors: *and any additional policies as deemed necessary by the planning director.*


- (c) Unless otherwise required by this chapter, upon written request by the applicant, the ~~director of planning~~ *planning director* may waive any requirement under (a)(1) or (a)(2) above after finding that such information would not be ~~germaine~~ *germane* to the application.

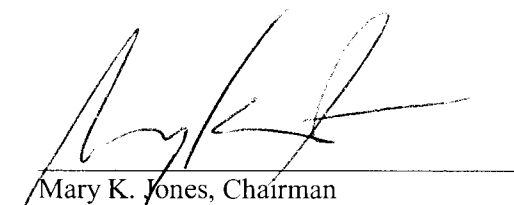
Sec. 24-24. Additional requirements for submittal.

Each person or entity submitting an application for consideration under the provisions of section 24-23 including a special use permit, variance, erosion and sediment control permit, building permit, or any other land disturbance or rezoning measure, shall attach to such application a signed statement from the county treasurer certifying that for property listed in the application all real estate taxes owed to the county have been paid in full. The statement of certification from the county treasurer shall be valid for 30 days. Should the application be submitted more than 30 days after the treasurer has certified payment of taxes, a new certification from the treasurer shall be required.

Sec. 24-25 - 24-31. Reserved.

ATTEST:


Robert C. Middaugh
Clerk to the Board


Mary K. Jones, Chairman
Chairman, Board of Supervisors

<u>SUPERVISOR</u>	<u>VOTE</u>
MCGLENNON	AYE
ICENHOUR	AYE
KALE	AYE
KENNEDY	AYE
JONES	AYE

Adopted by the Board of Supervisors of James City County, Virginia, this 12th day of June, 2012.