

**ADOPTED**

SEP 11 2012

Board of Supervisors  
James City County, VA

**ORDINANCE NO. 31A-271**

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 4, GENERAL RESIDENTIAL DISTRICT, R-2, BY AMENDING SECTION 24-251, STATEMENT OF INTENT; BY AMENDING AND RENAMING SECTION 24-252, PERMITTED USES WITH NEW NAME USE LIST; BY DELETING SECTION 24-253, USES PERMITTED BY SPECIAL USE PERMIT ONLY; BY AMENDING AND RENUMBERING SECTION 24-254, OVERALL DENSITY WITHIN SUBDIVISIONS WITH NEW NUMBER 24-253; BY ADDING NEW SECTION 24-254 DENSITY; BY AMENDING SECTION 24-256; BY RENAMING SECTION 24-258, YARD REGULATIONS WITH NEW NAME YARD REQUIREMENTS; BY AMENDING AND RENAMING SECTION 24-260, SPECIAL PROVISIONS FOR TWO-FAMILY DWELLINGS WITH NEW NAME SPECIAL PROVISIONS FOR MULTIFAMILY UP TO TWO UNITS; BY AMENDING AND RENAMING SECTION 24-261, HEIGHT LIMITS WITH NEW NAME HEIGHT OF STRUCTURES; BY AMENDING SECTION 24-263 OPEN SPACE WITHIN MAJOR SUBDIVISIONS; BY AMENDING AND RENAMING SECTION 24-264, OWNERSHIP OF OPEN SPACE WITH NEW NAME ESTABLISHMENT OF HOMEOWNERS ASSOCIATION; BY AMENDING SECTION 24-266, BUFFER REQUIREMENTS; AND BY ADDING NEW SECTION 24-267, PEDESTRIAN ACCOMODATIONS.

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 4, General Residential District, R-2, by amending Section 24-251, Statement of intent; Section 24-252, Use list; Section 24-253, Overall density within subdivisions; Section 24-254, Density; Section 24-256, Setback requirements; Section 24-258, Yard requirements; Section 24-260, Special provisions for multi-family up to two units; Section 24-261, Height of structures; Section 24-263, Open space within major subdivisions; Section 24-264, Establishment of homeowners association; Section 24-266, Buffer requirements; and Section 24-267, Pedestrian accommodations.

## Chapter 24

### ARTICLE V. DISTRICTS

#### DIVISION 4. GENERAL RESIDENTIAL DISTRICT, R-2

##### **Sec. 24-251. Statement of intent.**

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

##### **Sec. 24-252. ~~Permitted uses~~ *Use list.***

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

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

~~Accessory buildings or structures as defined.~~

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

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

~~Home occupations, as defined.~~

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

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

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

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

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

Timbering in accordance with section 24-43.

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

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

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

<i>Use Category</i>	<i>Use List</i>	<i>Permitted Uses</i>	<i>Specially Permitted Uses</i>
<b>Residential Uses</b>	<del>Accessory apartments in accordance with Section 24-32</del>	<del>P</del>	
	<del>Accessory buildings or structures as defined</del>	<del>P</del>	
	<del>Home care facilities <b>Group home or residential facilities, for eight or fewer adults</b></del>	<del>P</del>	<del>SUP</del>
	<del>Five to eight family dwellings <b>Multifamily dwellings of between five and eight units, contained within a residential cluster development with a maximum gross density of more than one unit per acre in accordance with article VI, division 1 of this chapter provided that the overall density does not exceed the permitted density in the previously approved master plan or the James City County Comprehensive Plan</b></del>		<del>SUP</del>
	<del>Four family dwellings <b>Multifamily dwellings, up to and including four units, with a maximum gross density of one unit per acre, contained within residential cluster development with a maximum gross density of one unit per acre in accordance with article VI, division 1 of this chapter</b></del>	<del>P</del>	
	<del>Four family dwellings <b>Multifamily dwellings, up to and including four units, with a maximum gross density of more than one unit per acre, contained within residential cluster development with a maximum gross density of more than one unit per acre in accordance with article VI, division 1 of this chapter</b></del>		<del>SUP</del>
	<del>Two family <b>Multifamily dwellings, up to and including two units, in accordance with section 24-25460</b></del>		<del>SUP</del>
	<del>Residential cluster development with a maximum gross density of one unit per acre in accordance with article VI, division 1 of this chapter</del>	<del>P</del>	
	<del>Residential cluster development with a maximum gross density of more than one unit per acre in accordance with article VI, division 1 of this chapter</del>		<del>SUP</del>

	Single-family detached dwellings with a maximum gross density of one dwelling unit per acre, <b>either</b> <ul style="list-style-type: none"> <li>• in accordance with section 24-254(a), or</li> <li>• contained within residential cluster development in accordance with article VI, division 1 of this chapter</li> </ul>	P	
	Single-family detached dwellings with a maximum gross density of more than one dwelling unit per acre, <b>either</b> <ul style="list-style-type: none"> <li>• in accordance with section 24-254(eb), or</li> <li>• contained within residential cluster development in accordance with article VI, division 1 of this chapter</li> </ul>		SUP
	Three family dwellings contained within a residential cluster development with a maximum gross density of one unit per acre in accordance with article VI, division 1 of this chapter	P	
	Three family dwellings contained within a residential cluster development with a maximum gross density of more than one unit per acre in accordance with article VI, division 1 of this chapter		SUP
	Two family dwellings contained within a residential cluster development with a maximum gross density of one unit per acre in accordance with article VI, division 1 of this chapter	P	
	Two family dwellings contained within a residential cluster development with a maximum gross density of one unit per acre in accordance with article VI, division 1 of this chapter		SUP
<b>Commercial Uses</b>	Accessory buildings or structures as defined	P	
	Adult day care centers		SUP
	<b>Barber and beauty shops</b>		<b>SUP</b>
	Child day care centers		SUP
	Community recreation facilities, including parks, playgrounds, clubhouses, boating facilities, swimming pools, ball fields, tennis courts, and other similar recreation facilities	P	
	Golf courses, country clubs		SUP
	Home occupations as defined	P	
	Off-street parking as required by section 24-53	P	
	<b>Photography studios and sales, artists and sculptor studios</b>		<b>SUP</b>
	Rental of rooms to a maximum of three rooms		SUP
	Retail shops associated with accessory to community recreation facilities	P	
	<b>Tourist homes</b>		<b>SUP</b>
<b>Civic Uses</b>	Cemeteries and memorial gardens		SUP
	Fire stations		SUP
	Libraries		SUP
	Neighborhood resource centers		SUP
	Houses of worship <b>Places of public assembly, including houses of worship and public meeting halls</b>		SUP
	Publically owned solid waste container sites		SUP
	Schools		SUP

	<i>Water impoundments, new or expansion of, less than 50 acres and with dam heights of less than 25 feet</i>	<i>P</i>	
	<i>Water impoundments, new or expansion of, 50 acre or more and dam heights of 25 feet or more</i>		<i>SUP</i>
<b>Utility Uses</b>	<b><i>Camouflaged wireless communication facilities that comply with division 6, Wireless Communication Facilities</i></b>		<b><i>SUP</i></b>
	<i>Electrical generation facilities (public or private), electrical substations with a capacity of 5,000 kilovolt amperes or more, and electrical transmission lines capable of transmitting 69 kilovolts or more</i>		<i>SUP</i>
	<i>Railroad facilities including tracks, bridges, switching yards and stations. However, spur lines which are to serve and are accessory to existing or proposed development adjacent to existing railroad right-of-ways <b>rights-of-way</b> and track and safety improvements in existing railroad right-of-ways <b>rights-of-way</b> are permitted generally and shall not require a special use permit</i>		<i>SUP</i>
	<i>Telephone exchanges and telephone switching stations</i>		<i>SUP</i>
	<i>Transmission pipelines (public or private), including pumping stations and accessory storage, for natural gas, propane gas, petroleum products, chemicals, slurry coal and any other gases, liquids or solids. However, extensions or private connections to existing pipelines which are intended to serve an individual residential or commercial customer and which are accessory to existing or proposed development are permitted generally and shall not require a special use permit</i>		<i>SUP</i>
	<i>Wireless communication facilities that utilize alternative mounting structures, <del>or are building mounted, or are camouflaged,</del> and comply with division 6, Wireless Communications Facilities</i>	<i>P</i>	
	<i>Water facilities (public or private), and sewer facilities (public), including, but not limited to, treatment plants, pumping stations, storage facilities and transmission mains, wells and associated equipment such as pumps to be owned and operated by political jurisdictions. However, the following are permitted generally and shall not require a special use permit:</i> <ul style="list-style-type: none"> <li><i>(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;</i></li> <li><i>(b) Distribution lines and local facilities within a development, including pump stations</i></li> </ul>		<i>SUP</i>
<b>Open</b>	<b><i>Timbering in accordance with section 24-43</i></b>	<b><i>P</i></b>	

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

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

~~Adult day care centers.~~

~~Cemeteries and memorial gardens.~~

~~Child day care centers.~~

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

~~Fire stations.~~

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

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

~~Golf courses, country clubs.~~

~~Home care facilities.~~

~~Houses of worship.~~

~~Libraries.~~

~~Neighborhood resource centers.~~

~~Publicly owned solid waste container sites.~~

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

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

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

~~Schools.~~

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

~~Telephone exchanges and telephone switching stations.~~

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

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

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

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

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

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

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

#### **Sec. 24-2543. Overall density within subdivisions.**

(a) All subdivisions shall have a maximum gross density of one unit per acre, except for minor subdivisions ~~as defined below~~ *as defined in Chapter 19 of the county Code*. In these instances, the lots in a minor subdivision must still adhere to the area requirements set forth in section 24-255.

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

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

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

**Sec. 24-254. Density.**

*The density of a proposed subdivision (other than minor subdivisions, as specified in section 24-253) shall be calculated as the number of units divided by the gross acreage. For the purposes of this section, the gross acreage shall be calculated as follows:*

<i>Percent non-developable</i>	<i>Percent of gross acreage added to the developable land</i>
<i>0 – 20 percent</i>	<i>Use total parcel acreage</i>
<i>21 – 40 percent</i>	<i>20</i>
<i>41 – 70 percent</i>	<i>15</i>
<i>71 – 100 percent</i>	<i>10</i>

*Illustration of Gross Acreage Calculation*

*(a) If a 50-acre parcel has seven acres of non-developable land, then the non-developable area of the site is 14 percent. Because 14 percent is less than 20 percent, the total area of the parcel is used to calculate allowed density.*

*(b) If the 50-acre parcel instead had 14 acres of non-developable land, then the non-developable area of the site is 28 percent. Because 28 percent is between 21 percent and 40 percent, the total developable area of the parcel (36 acres) and 20 percent of the total parcel acreage (ten acres) are added together to obtain the total acreage used to calculate allowed density (46 acres).*

*In this example, if an applicant sought a density of two dwelling units per acre, they would yield a maximum of 100 units in (a) and 92 units in (b).*



**Sec. 24-255. Area requirements.**

- (a) *Public water/sewage disposal.* Lots served by public water and public sewage disposal systems shall have a minimum area of 10,000 square feet.
- (b) *Public sewage disposal only.* Lots served by a public sewage disposal system but not a public water distribution system shall have a minimum area of 12,000 square feet.
- (c) *Public water distribution only.* Lots served by a public water distribution system but not a public sewage disposal system shall have a minimum area of 20,000 square feet.
- (d) *Individual water/sewage disposal.* Lots served by individual water and sewage disposal system shall have a minimum area of 30,000 square feet.
- (e) *Applicability to certain lots.* These minimum sizes shall not apply to lots of less than 12,000 square feet recorded or legally in existence prior to April 8, 1985.

**Sec. 24-256. Setback requirements.**

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

**Sec. 24-257. Minimum lot width.**

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

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

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

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

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

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

**Sec. 24-260. Special provisions for ~~two-family dwellings~~ multifamily up to two units.**

- (a) Lots intended for ~~two-family dwellings~~ multifamily up to two units shall be:
  - (1) Served by a public water system;
  - (2) Served by a public sewer system;
  - (3) Required to have a minimum lot size of 15,000 square feet.
  - (4) Required to meet all other requirements of this district.
- (b) In addition to the above requirements, when each dwelling unit of a ~~two-family dwelling~~ is on an individual lot, each individual lot shall:
  - (1) Have a minimum lot size of 7,500 square feet;
  - (2) Have a minimum lot width of 40 feet; and
  - (3) Have no minimum side yard requirement on the common side lot line.
- (c) Upon application, the board of supervisors may grant a waiver from the public sewer connection requirement referenced above upon finding:
  - (1) The development site is a single lot recorded or legally in existence prior to the date of adoption of this section; and
  - (2) The State Health Department has approved the location and adequacy of the proposed septic drainfields; and
  - (3) The proposed ~~two-family dwelling~~ is multifamily units are located in the Primary Service Area and is are in accord with the James City Service Authority Regulations Governing Utility Service.

**Sec. 24-261. Height limits of structures.**

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

- (1) The height limit for dwellings may be increased to 45 feet and to three stories; provided, that there are two side yards for each permitted use each of which is a minimum of 15 feet plus one foot or more of side yard for each additional foot of building height over 35 feet.
- (2) A public or semipublic building such as a school, church or library may be erected to a height of 60 feet from grade, provided that the required front, side and rear yards shall be increased one foot for each foot in height over 35 feet.
- (3) Church spires, belfries, cupolas, monuments, water towers, athletic field lighting, chimneys, flues, flagpoles, home television antennas and home radio aerials and wireless communications facilities that utilize alternative mounting structures ~~or are building mounted~~ in accordance with division 6, Wireless Communications Facilities, may be erected to a total height of 60 feet from grade. ~~Camouflaged wireless communications facilities may be erected to a total height of 120 feet from grade.~~ Upon application for a height limitation waiver, the payment of appropriate fees, notification of adjacent property owners and following a public hearing, the board of supervisors may grant a height limitation waiver for these structures to exceed 60 feet in height but not to exceed 100 feet, from grade to the top of the structure, and for wireless communications facilities that utilize alternative mounting structures ~~or are building mounted~~ to exceed 60 feet in height but not to exceed the maximum approved height of the structure to which it is mounted, upon finding that:
  - a. Such structure will not obstruct light to adjacent property;
  - b. Such structure will not impair the enjoyment of historic attractions and areas of significant historic interest and surrounding developments;
  - c. Such structure will not impair property values in the surrounding area;
  - d. Such structure is adequately designed and served from the standpoint of safety, and the county fire chief finds that the fire safety equipment to be installed is adequately designed and that the building is reasonably well located in relation to fire stations and equipment, ~~so as to offer adequate protection to life and property;~~ and
  - e. Such structure will not be contrary to the public health, safety and general welfare.
- (4) No accessory building which is within ten feet of any lot line shall be more than one story high. All accessory buildings shall be less than the main building in height; provided, however, the height of an accessory building may exceed the height of the main building if the grade of the lot is such that the elevation of the main building exceeds the elevation of the accessory building. The elevation of the main building and the accessory building shall be measured from the level of the curb or the established curb grade opposite the middle of the main building. In no case shall an accessory building be more than 35 feet in height.

**Sec. 24-262. Sign regulations.**

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

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

~~(a) Within every subdivision consisting of 50 or more lots, there shall be planned and set aside permanently an amount of open space to be maintained exclusively for recreation or conservation and recreation purposes. The amount of such open space shall not be less than 15 percent of the net developable area of the site. The developable area of right of way buffers and perimeter buffers may be counted as open space for the purpose of meeting this requirement to a maximum of 50 percent of the required open space.~~

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

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

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

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

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

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

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

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

*(1) Non-developable areas outside of private lots shall be maintained as open space and should be protected through a conservation easement dedicated to the county or other legal entity approved by the county attorney.*

(2) *In addition, ten percent of the developable area shall also be set aside as open space. The developable area open space may include, but is not limited to:*

- a. *Areas on site necessary to meet county policies pertaining to natural resources, archaeology, and parks and recreation;*
- b. *Areas on site used to achieve density bonus points in accordance with Section 24-254(b);*
- c. *The following areas, up to the percent specified:*
  - 1. *Required right-of-way and perimeter buffers cannot exceed 50 percent of the developable open space required, and*
  - 2. *Stormwater management facilities cannot exceed 20 percent of the developable open space required (this limitation applies to structural best management practices such as wet and dry ponds, but does not apply to bioretention or other low impact design measures)*

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

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

(4) *For the purpose of meeting the developable area open space requirements specified in (c), open space shall be arranged on the site in a manner that is suitable in its size, shape, and location for the conservation and recreational uses intended, with adequate access for all residents. At a minimum, the open space shall adhere to the following standards:*

<i>Item</i>	<i>Numerical Standard</i>	<i>Design Standard</i>
<i>Neighborhood Park</i>	<i>50-77 Units: Provide one park (minimum of 0.3 acre) 78+ Units: Provide 0.0039 acre per unit</i>	<i>Parkland shall be centrally located, with no less than 0.25 acre in a single area and with a minimum width of 60 feet. The parkland should be relatively level land, with a minimum of 70 percent groomed space. The balance may be in natural tree cover.</i>
<i>Playground</i>	<i>Provide one playground</i>	<i>The playground shall have a minimum area of 2,500 square feet and a minimum of five activities.</i>

**Sec. 24-264. Ownership of open space *Establishment of homeowners association.***

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

- ~~(1) The nature of the permanent organization under which common ownership is to be established, including its purpose; how it shall be governed and administered; the provisions made for permanent care and maintenance of the common property including necessary bonds when required by the county; and the method of assessing the individual property for its share of the cost of adequately administering and maintaining and replacing such common property; and~~
- ~~(2) The extent of common interest held by the owner of each individual parcel in the tract held in common.~~

~~*A homeowners association shall be established in accordance with Chapter 19 of the county Code. The homeowners association documents shall set forth the nature (recreation or conservation) and location of the open space(s) in the manner described on the master plan, either through illustration or through incorporation by reference of the development's master plan and/or plan of development. The documents shall generally describe the use and maintenance standards necessary to adhere to the nature of the open space(s) as shown on the development's master plan and/or plan of development.*~~

**Sec. 24-265. BMP requirements.**

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

**Sec. 24-266. Buffer requirements.**

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

- (1) The minimum right-of-way buffer on Community Character Corridor roads as defined in the Comprehensive Plan shall be 150 feet, except when the average lot depth of the parent parcel is less than 600 feet. In those cases, the required buffer shall be at a depth of 25 percent of the average lot depth.
- (2) The minimum right-of-way buffer on all non-Community Character Corridor roads shall be 75 feet, except when the average lot depth of the parent parcel is less than 300 feet. In those cases, the required buffer shall be at a depth of 25 percent of the average lot depth.

- (3) ~~If the buffer is non-wooded as defined for the purpose of this article as having no mature trees, then a minimum of two trees per 400 square feet of area shall be planted with a minimum 50 percent of said trees being evergreen. Otherwise, the buffer shall remain undisturbed or supplemented with additional plantings to achieve the planting ratio stated above. The right-of-way buffer shall be planted in accordance with section 24-96, General landscape area standards. Buffers along Community Character Corridor roads shall also adhere to the Community Character Corridor Buffer Treatment Guidelines and Map.~~

(b) *Perimeter buffers.* Within any major subdivision approved under this ~~article~~ *division*, there shall be planned and maintained a perimeter buffer along the perimeter property lines of the development, except for areas adjacent to road rights-of-way. The minimum perimeter buffer shall be 35 feet. Landscaping guidelines for perimeter buffers shall follow the requirements in section 24-~~94(a)~~96 of this chapter.

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

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

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

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

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

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

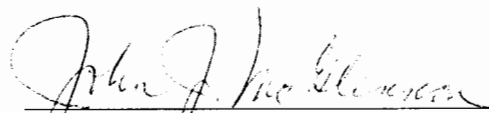
- (2) The stockpile ~~should~~ *shall* not be visible from a Community Character Corridor or Community Character Area, unless the soil stockpiling is needed for approved berming in that buffer.
- (3) Stockpiles shall not exceed 35 feet in height.
- (4) Stockpiles shall be temporary, with a time limit of six months.
- (5) Once the use of the temporary soil stockpiles is completed, the ground must be adequately prepared for planting and revegetated in a manner that meets or exceeds the amount and quality of vegetation on the site previously.
- (6) *Stockpiling shall conform with any applicable requirements of the Virginia Erosion and Sediment Control regulations, the Virginia Erosion and Sediment Control Handbook and County Erosion and Sediment Control program policies.*
- (f) *Limitations on buffers.* ~~Wet ponds, dry detention basins, and other s~~Structural BMPs *such as wet and dry ponds* shall not generally be permitted in the buffers, except that the planning ~~commission~~ *director* may approve them under the following circumstances:
  - (1) The need is necessitated by site conditions rather than economic factors; and
  - (2) The screening/buffering effect of the buffer has been retained by the design of the BMP and any degradation has been mitigated with additional plantings or berms as necessary.
- (g) *Improvements allowable within buffers.* An entrance road, community and directional signage, bicycle and/or pedestrian paths, and utility connections and drainage improvements shall be permitted within the buffer with approval of the planning ~~commission~~ *director*. Permitted utilities and constructed drainage conveyance systems shall cross the buffer at or near a perpendicular angle to the property line, with clearing kept to a minimum necessary to accommodate the utilities, except that minor improvements to natural drainage channels may be permitted at a different angle to the property line upon ~~the recommendation of the environmental director and the~~ approval of the planning ~~commission~~ *director*.
- (h) *Roads within buffers.* Entrance roads through these buffers shall be built to the narrowest cross-section possible. Roads and open space shall be located and designed in a manner that minimizes views of structures within the development from the adjoining primary or secondary road as determined by the planning ~~commission~~ *director*.
- (i) *Appeals.* *In the event the planning director disapproves the items specified in (c), (d), (e), (f), (g), and (h) in this section or recommends conditions or modifications that are unacceptable to the applicant, the applicant may appeal the decision of the planning director to the development review committee which shall forward a recommendation to the planning commission. Any appeal shall be in writing and may be subject to fees as specified in article I of this chapter.*



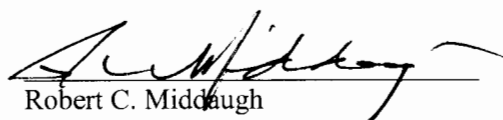
**Sec. 24-267. Pedestrian accommodations.**

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

**Secs. 24-2678 - 24-273. Reserved.**

  
John J. McGlennon  
Chairman, Board of Supervisors

ATTEST:

  
Robert C. Middaugh  
Clerk to the Board

	VOTES		
	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
MCGLENNON	<u>X</u>	___	___
JONES	<u>X</u>	___	___
KENNEDY	<u>Absent</u>	___	___
ICENHOUR	<u>X</u>	___	___
KALE	<u>X</u>	___	___

Adopted by the Board of Supervisors of James City County, Virginia, this 11th day of September, 2012

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