

ADOPTED

SEP 11 2012

Board of Supervisors
James City County, VA

ORDINANCE NO. 31A-272

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 24, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE V, DISTRICTS, BY ADDING DIVISION 4.1, RESIDENTIAL REDEVELOPMENT DISTRICT, R-3, SECTION 24-273, STATEMENT OF INTENT; SECTION 24-273.1, WHERE PERMITTED, MINIMUM SITE SIZE; SECTION 24-273.2, USE LIST; SECTION 24-273.3, BUFFER REQUIREMENTS; SECTION 24-273.4, MINIMUM LOT WIDTH AND AREA REQUIREMENTS; SECTION 24-273.5, SETBACK AND YARD REQUIREMENTS; SECTION 24-273.6, DENSITY; SECTION 24-273.7, OVERALL DENSITY WITHIN SUBDIVISIONS; SECTION 24-273.8, REQUIREMENTS FOR IMPROVEMENTS AND DESIGN; SECTION 24-273.9, OPEN SPACE; SECTION 24-273.10, OWNERSHIP AND MAINTENANCE OF OPEN SPACE; AND SECTION 24-273.11, HEIGHT OF STRUCTURES.

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, by adding Division 4.1, Residential Redevelopment District, R-3, Section 24-273, Statement of intent; Section 24-273.1, Where permitted, site size; Section 24-273.2, Use list; Section 24-273.3, Buffer requirements; Section 24-273.4, Minimum lot width and area requirements; Section 24-273.5, Setback and yard requirements; Section 24-273.6, Density; Section 24-273.7, Overall density within subdivisions; Section 24-273.8, Requirements for improvements and design; Section 24-273.9, Open space; Section 24-273.10, Ownership and maintenance of open space; and Section 24-273.11, Height of structures.

CHAPTER 24

ARTICLE V. DISTRICTS

DIVISION 4.1. RESIDENTIAL REDEVELOPMENT DISTRICT, R-3

Sec. 24-273. Statement of intent.

The purpose of the residential redevelopment district is to encourage the replacement or reuse of existing buildings or previously developed sites to accommodate new residential development that provides benefits to the county, but would be difficult to achieve with other zoning districts. The principal uses and development form should preserve or improve the desirable and viable characteristics of the previous use and the adjacent parcels. The desired result is improved function and appearance of the same use or introduction of a use or uses compatible and/or complementary to the surrounding developed areas.

All parcels to be zoned residential redevelopment should conform to the residential redevelopment policy.

Sec. 24-273.1. Where permitted, minimum site size.

A Residential Redevelopment District, R-3, is permitted in areas designated Low Density Residential by the Comprehensive Plan. The minimum site size is five acres.

Sec. 24-273.2. Use list.

In the Residential Redevelopment District, R-3, structures to be erected or land to be used shall be for one or more of the following uses:

<i>Use Category</i>	<i>Use List</i>	<i>Permitted Uses</i>	<i>Specially Permitted Uses</i>
<i>Residential Uses</i>	<i>Accessory buildings or structures as defined</i>	<i>P</i>	
	<i>Accessory apartments in accordance with section 24-32</i>	<i>P</i>	
	<i>Apartments</i>	<i>P</i>	
	<i>Group homes or residential facilities, for eight or fewer adults</i>	<i>P</i>	
	<i>Group homes or residential facilities, for nine or more adults</i>		<i>SUP</i>
	<i>Independent living facilities</i>		<i>SUP</i>
	<i>Multifamily dwellings up to and including four units</i>	<i>P</i>	
	<i>Multifamily dwellings greater than four units</i>	<i>P</i>	
	<i>Single-family dwellings</i>	<i>P</i>	
<i>Commercial Uses</i>	<i>Accessory buildings or structures as defined</i>	<i>P</i>	
	<i>Adult day care centers</i>	<i>P</i>	
	<i>Assisted living facilities</i>		<i>SUP</i>

	<i>Barber and beauty shops</i>		<i>SUP</i>
	<i>Business, professional and governmental offices</i>		<i>SUP</i>
	<i>Child day care centers</i>	<i>P</i>	
	<i>Coin laundries which are accessory to other residential uses and for the primary use of its residents</i>	<i>P</i>	
	<i>Community recreation facilities, including parks, playgrounds, clubhouses, boating facilities, swimming pools, ball fields, tennis courts and other similar recreation facilities</i>	<i>P</i>	
	<i>Continuing care retirement facilities</i>		<i>SUP</i>
	<i>Hospitals and mental health facilities</i>		<i>SUP</i>
	<i>Off-street parking as required by section 24-53</i>	<i>P</i>	
	<i>Photography studios and sales, artist and sculptor studios</i>		<i>SUP</i>
	<i>Professional and business offices located in the same structure as and in conjunction with multifamily uses</i>		<i>SUP</i>
	<i>Rental of one room</i>	<i>P</i>	
	<i>Rental of two or three rooms to a maximum of three rooms</i>		<i>SUP</i>
	<i>Retail shops accessory to community recreation facilities</i>	<i>P</i>	
	<i>Temporary offices in accordance with section 24-111</i>		<i>SUP</i>
	<i>Tourist homes</i>		<i>SUP</i>
	<i>Places of public assembly, such as meeting halls and houses of worship</i>	<i>P</i>	
	<i>Schools, libraries and fire stations</i>	<i>P</i>	
	<i>Skilled nursing facilities (nursing homes)</i>		<i>SUP</i>
	<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 acres or more and dam heights of 25 feet or more</i>		<i>SUP</i>
<i>Utility Uses</i>	<i>Camouflaged wireless communications facilities that comply with division 6, Wireless Communication Facilities</i>		<i>SUP</i>
	<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 and stations. However, spur lines which are to serve and are accessory to existing or proposed development adjacent to existing railroad rights-of-way and track and safety improvements in existing railroad rights-of-way 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 for private connections to existing pipelines, which are intended to serve an individual residential or commercial customer and which are accessory to existing or proposed development, are permitted generally and shall not require a special use permit</i>		<i>SUP</i>
	<i>Wireless communications facilities that utilize alternative mounting structures 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> <i>(a) Private connections to existing mains that are intended to serve an individual customer and that are accessory to existing or proposed development, with no additional connections to be made to the line; and</i> <i>(b) Distribution lines and local facilities within a development, including pump stations</i>		<i>SUP</i>
<i>Open</i>	<i>Timbering in accordance with section 24-43</i>	<i>P</i>	

Sec. 24-273.3. Buffer requirements.

(a) Right-of-way buffer. Within any residential redevelopment district approved under this 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) 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 residential redevelopment district approved under this division, there shall be a perimeter buffer along the perimeter property lines of the development except for areas adjacent to road rights-of way. Existing buffers up to 75 feet shall be preserved in their entirety. In those instances where the existing buffer is greater than 75 feet, the minimum buffer shall be 75 feet. In all other circumstances the minimum buffer shall be 20 feet. The buffer shall be left in its natural undisturbed state and/or planted with additional or new landscape trees, shrubs, and other vegetative cover as determined by the planning director such that the setback serves to minimize the visual intrusion and other negative impacts of new development or redevelopment on adjacent development, consistent with article II, division 4 of this chapter.

(c) Buffer modifications; criteria for determination. Reduction of the width or waiver of the buffers specified in subsections (a) and (b) above may be approved by the planning director for a residential redevelopment district. Reductions may be approved upon the applicant's demonstration that the proposed buffer, by substitution of technique or design, will achieve results which clearly satisfy the overall purposes and intent of the buffer requirement of this section and the intent of article II, division 4 of this chapter; shall have no additional adverse impact on adjacent properties or public areas; and will not result in detrimental impacts to the orderly development or character of the area, the environment, sound engineering or planning practice, or the goals, objectives, strategies and policies of the Comprehensive Plan.

In addition, a request for a buffer reduction or waiver must meet one or more of the following criteria:

- (1) The request is for the purpose of integrating proposed residential redevelopment with adjacent development;*
- (2) The requested buffer width substantially preserves, enhances, integrates and complements existing trees and topography;*
- (3) The request is due to unusual size, topography, shape or location of the property, location of existing structures, or other unusual conditions, excluding the proprietary interests of the developer;*

(d) Requests for modifications. Requests for modifications pursuant to subsection (c) above shall be filed in writing with the planning director and shall identify the reasons for such requests together with the proposed alternative.

(e) Uses prohibited. Buffers shall not be used for streets or for parking except for entrances and driveways which may penetrate the buffer.

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

Sec. 24-273.4. Minimum lot width and area requirements.

There are no minimum lot width or area requirements.

Sec. 24-273.5. Setback and yard requirements.

(a) *Front. There is no front setback requirement.*

(b) *Side. The minimum side yard shall be five feet.*

(c) *Rear. The minimum rear yard shall be 20 feet.*

(d) *The rear and side yards may be reduced to zero feet with the approval of the planning director, provided that easements or covenants establish the rights of two abutting properties where main buildings are to be constructed on or within five feet of a property line. Such easements or covenants shall establish the rights of each affected owner to gain access to each owner's building for purposes of essential maintenance and service. The minimum distance between any two buildings within residential redevelopment shall be governed by the Virginia Uniform Statewide Building Code.*

Sec. 24-273.6. Density.

The density of a proposed subdivision 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. 24-273.7. Overall density within subdivisions.

No project shall have a density (including bonuses) of more than four units per acre. In order to achieve the densities listed below, the developer shall make assurances in a master plan, proffers, or other document approved by the county attorney, for the density bonus items.

Density	Required density bonus points from list below
Up to 2.5	None required
More than 2.5, but no more than 3	3
More than 3, but no more than 3.5	4
More than 3.5, but no more than 4	5

	Bonus Item Options	Bonus Points
A.	For every 15 percent of the total units that meet the definition of workforce housing (starting above the threshold set forth in the Residential Redevelopment Policy, as amended).	2, up to a max of 4
B.	Designing a stormwater management plan that meets Chesapeake Bay Preservation Ordinance standards and requirements through extensive use of Better Site Design/Low Impact Development techniques, as approved by the engineering and resource protection division.	1.5
C.	Undertaking or funding a stream restoration project or stormwater management facility retrofit within the same sub-watershed, as identified by an approved watershed management plan or by the engineering and resource protection division.	1.5
D.	Meeting a majority of items (a) – (d) listed in section 24-551, open space development design elements, as determined by the planning director.	1.5
E.	Achieving green building certification using EarthCraft, LEED or equivalent program for all units.	1
F.	Dedicating to the county a public use site, the developable portion of which is suitable for a public facility, as determined by the county administrator or designee.	1
G.	Constructing a greenway trail and dedicating a public use easement in a location indicated by the approved Greenway Master Plan, the Virginia Outdoors Plan, or such other useful and logical location as approved by the parks and recreation director or designee.	1
H.	Providing pedestrian accommodations on one side of all internal roadways, where this would exceed the requirements in set forth in section 24-35 of this chapter.	1
I.	Developing binding design guidelines for the development that include superior architectural and design standards. Elements that the guidelines shall address include, but need not be limited to, provision of rear or side loading garages; use of universal design concepts; and attention to the quality of, and variation in, elements of the units such as facade materials and colors; windows, roof pitches, porches and entryways; and heights and setbacks from the right-of-way. Design guidelines shall be submitted concurrent with the master plan, and shall be reviewed and approved by the planning director.	0.5

J.	<i>Preserving and rehabilitating an on-site structure identified in the document entitled Historical Structures Survey, prepared by Virginia Department of Historic Resources, and dated May 2008. The structure may be re-used as a community clubhouse or private residence with appropriate deed restrictions. If the proposed cluster is within a community character area (CCA) designated by the Comprehensive Plan, this bonus would also be available for rehabilitation and legal preservation of a structure elsewhere within that CCA.</i>	0.5
K.	<i>For projects with fewer than 50 residential units, providing a neighborhood park of 0.25 acre, with a minimum width of 60 feet. The parkland should be centrally located, relatively level land with a minimum of 70 percent groomed space. The balance may be left in natural tree cover.</i>	1
L.	<i>Providing at least 25 percent of the total units which are offered at fair market rate. Such units shall be fully integrated into the development with regard to location, exterior materials, appearance from the street, and other attributes as determined by the planning director.</i>	0.5
M.	<i>Providing one playground with a minimum area of 2,500 square feet and a minimum of five activities.</i>	0.5

Sec. 24-273.8. Requirements for improvements and design.

(a) *Water and sewer. All structures and uses within a residential redevelopment district shall be served by publicly owned and operated water and sewer systems.*

(b) *Parking. Off-street parking facilities shall be provided in accordance with the off-street parking requirements of article II, division 2 of this chapter.*

(c) *Signage. All signs within a residential redevelopment district shall comply with article II, division 3 of this chapter.*

(d) *Streets. All dedicated public streets shown on the development plan shall meet the design and construction requirements of the Virginia Department of Transportation's standards or the requirements of the county subdivision ordinance, regulations, whichever is greater. Such public streets shall be coordinated consistent with the major transportation network thoroughfare plan shown in the Comprehensive Plan. Private streets may be permitted in accordance with the provisions of section 24-62 of this chapter.*

(e) *Pedestrian accommodations. Pedestrian accommodations shall be provided in accordance with section 24-35 of this chapter.*

(f) *Outdoor lighting. Outdoor lighting shall generally be provided as required by article II, division 7 of this chapter and the county subdivision ordinance.*

(g) *Signs. Outdoor signs shall comply with the regulations for exterior signs in article II, division 3 of this chapter.*

Sec. 24-273.9. Open space.

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

(a) 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.

(b) 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:

- (1) Areas on site necessary to meet county policies pertaining to natural resources, archaeology, and parks and recreation;*
- (2) Areas on site used to achieve density bonus points in accordance with section 24-273.7;*
- (3) The following areas, up to the percent specified:*
 - a. Required right-of-way and perimeter buffers cannot exceed 50 percent of the developable open space required, and*
 - b. 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).*

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

- (1) Area on any individual private lots, or in the case of condominiums, within fifteen feet of the units, with the exception of easements for streetscapes, or*
- (2) Land within public road rights-of-way and utility or drainage easements.*

(d) In meeting the developable area open space requirements specified in (b), open space shall be arranged on the site in a manner that is suitable in its size, shape, and location for the conservation and recreational uses intended, with adequate access for 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 should 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, minimum 70 percent groomed space. The balance may be in natural tree cover.</i>

(e) The requirements found in (b) - (d) in this section may be waived by the planning director if an equivalent amount of qualifying off-site open space is already in existence. To qualify for the waiver, the off-site open space must meet the following criteria:

- (1) The off-site open space will remain as open space for the foreseeable future, such as open space located in a public park or at a public school.*
- (2) The open space is within 1,800 feet of 60 percent of the residential redevelopment district units, as measured by the shortest pedestrian route between the units and open space.*
- (3) A pedestrian connection between the district and the open space is already in existence or assurances are made on the master plan, proffers or other document approved by the county attorney that one shall be provided.*

Sec. 24-273.10. Ownership and maintenance of open space.

Residential redevelopments shall have a homeowners association established in accordance with Chapter 19 of the county Code. An alternative organization may be established, as long as the alternative is acceptable to the zoning administrator and county attorney; demonstrates appropriate ownership of open space identified on the approved master plan; and demonstrates appropriate maintenance or preservation of the open space, consistent with the approved master plan.

Sec. 24-273.11. Height of structures.

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

(a) 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.

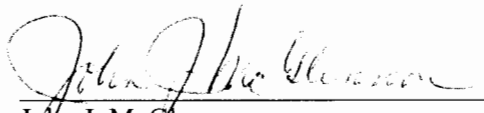
(b) A public or semipublic building such as a school, church or library may be erected to a height of 60 feet from grade, provided that the required front, side and rear yards shall be increased one foot for each foot in height over 35 feet.

(c) Church spires, belfries, cupolas, monuments, water towers, athletic field lighting, chimneys, flues, flagpoles, home television antennas and home radio aerals and wireless communications facilities that utilize alternative mounting structures in accordance with division 6, Wireless Communications Facilities, may be erected to a total height of 60 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 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:

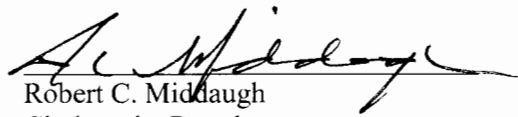
- (1) Such structure will not obstruct light to adjacent property;*

- (2) *Such structure will not impair the enjoyment of historic attractions and areas of significant historic interest and surrounding developments;*
- (3) *Such structure will not impair property values in the surrounding area;*
- (4) *Such structure is adequately designed and served from the 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, to offer adequate protection to life and property; and*
- (5) *Such structure will not be contrary to the public health, safety and general welfare.*

(d) 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.


 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.