

**ADOPTED**

SEP 11 2012

Board of Supervisors  
James City County, VA

**ORDINANCE NO. 31A-274**

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 6, MULTIFAMILY RESIDENTIAL DISTRICT, R-5, BY AMENDING AND RENAMING SECTION 24-305, PERMITTED USES WITH NEW NAME USE LIST; BY DELETING SECTION 24-306, USES PERMITTED BY SPECIAL USE PERMIT ONLY; BY RENUMBERING SECTION 24-307, MINIMUM SITE SIZE WITH NEW NUMBER 24-306; BY DELETING SECTION 24-308, AREA REQUIREMENTS; SECTION 24-309, SETBACK REQUIREMENTS; 24-310, MINIMUM LOT WIDTH; AND SECTION 24-311, YARD REGULATIONS; BY AMENDING, RENUMBERING AND RENAMING SECTION 24-312, DENSITY REQUIREMENTS FOR TOWNHOUSES, APARTMENTS AND CONDOMINIUMS WITH NEW NUMBER AND NAME 24-307, OVERALL DEVELOPMENT DENSITY; BY ADDING NEW SECTION 24-308, DENSITY; BY AMENDING AND RENUMBERING SECTION 24-313, SUBDIVISION REGULATIONS WITH NEW NUMBER 24-309; BY AMENDING AND RENUMBERING SECTION 24-314, REQUIREMENTS FOR IMPROVEMENTS AND DESIGN WITH NEW NUMBER 24-310; BY DELETING SECTION 24-315, DENSITY BONUSES; AND SECTION 24-316, RELATION TO PUBLIC UTILITIES; BY ADDING NEW SECTION 24-311, BUFFERS AND SETBACK REQUIREMENTS; AND NEW SECTION 24-312, PEDESTRIAN ACCOMODATIONS; AND BY RESERVING SECTIONS 24-313 THROUGH SECTION 24-316.

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 6, Multifamily Residential District, R-5, by amending Section 24-305, Use list; Section 24-306, Minimum site size; Section 24-307, Overall development density; Section 24-308, Density; Section 24-309, Subdivision regulations; Section 24-310, Requirements for improvements and design; Section 24-311, Buffers and setback requirements; Section 24-312, Pedestrian accommodations; Section 24-267, Pedestrian Accommodation and reserving Sections 24-313 through 24-316.

## Chapter 24

### ARTICLE V. DISTRICTS

#### DIVISION 6. MULTIFAMILY RESIDENTIAL DISTRICT, R-5

##### **Sec. 24-304. Statement of intent.**

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

##### **Sec. 24-305. ~~Permitted uses~~ Use list.**

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

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

~~Accessory buildings or structures as defined.~~

~~Adult day care centers.~~

~~Apartments.~~

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

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

~~Day care and child care centers.~~

~~Houses of worship.~~

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

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

~~Rental of one room.~~

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

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

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

~~Schools, libraries and fire stations.~~

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

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

~~Townhouses.~~

~~Three family and four family dwellings.~~

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

~~Two family dwellings.~~

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

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

<i>Use Category</i>	<i>Use List</i>	<i>Permitted Uses</i>	<i>Specially Permitted Uses</i>
<b><i>Residential Uses</i></b>	<del>Accessory apartments in accord with section 24-32.</del>	<i>P</i>	
	<del>Accessory buildings or structures as defined</del>	<i>P</i>	
	<del>Apartments</del>	<i>P</i>	
	<del>Five to eight family dwellings contained within a residential eluster development provided that the overall density does not exceed the permitted density in the previously approved master plan or the James City County Comprehensive Plan.</del>		<i>SUP</i>
	<del>Home care facilities <b><i>Group home or residential facilities, for eight or fewer adults</i></b></del>	<i>P</i>	<i>SUP</i>
	<del><b><i>Group home or residential facilities, for nine or more adults</i></b></del>		<i>SUP</i>
	<del><b><i>Independent living facilities</i></b></del>		<i>SUP</i>
	<del><b><i>Multifamily dwellings containing two or more dwelling units</i></b></del>	<i>P</i>	
	<del>Residential cluster developments in accordance with article VI, division 1 of this chapter.</del>	<i>P</i>	
	<del>Single family dwellings.</del>		<i>SUP</i>
	<del>Single family dwellings contained within a cluster development in accordance with article VI, division 1 of this chapter</del>	<i>P</i>	
<del>Three family and four family dwellings.</del>	<i>P</i>		

	Townhouses.	P	
	Two family dwellings.	P	
<b>Commercial Uses</b>	<i>Accessory buildings or structures as defined</i>	P	
	<i>Adult day care centers</i>	P	
	<b><i>Assisted living facilities</i></b>		<b>SUP</b>
	<b><i>Barber and beauty shops</i></b>		<b>SUP</b>
	<b><i>Business, professional and governmental offices</i></b>		<b>SUP</b>
	<i>Day care and Child day care centers</i>	P	
	<i>Coin laundries which are accessory to other residential uses and for the primary use of its residents</i>	P	
	<i>Community recreation facilities, including parks, playgrounds, clubhouses, boating facilities, swimming pools, ballfields, tennis courts and other similar recreation facilities</i>	P	
	<b><i>Continuing care retirement communities</i></b>		<b>SUP</b>
	<i>Golf courses, country clubs</i>		<b>SUP</b>
	<b><i>Home occupations, as defined</i></b>	P	
	<i>Hospitals and rest homes and mental health facilities</i>		<b>SUP</b>
	<i>Lodges, civic clubs, fraternal organizations, service clubs</i>		<b>SUP</b>
	<i>Marina, boat dock or waterfront recreational facilities</i>	P	
	<i>Off-street parking as required by section 24-53</i>	P	
	<b><i>Photography studios and sales, artist and sculptor studios</i></b>	P	
	<i>Professional and business offices located in the same structure as and in conjunction with accessory to multifamily uses</i>		<b>SUP</b>
	<i>Rental of one room</i>	P	
	<i>Rental of two or three rooms to a maximum of three rooms</i>		<b>SUP</b>
	<i>Restaurants which are accessory to permitted private clubs or marinas</i>	P	
	<i>Retail shops associated with accessory to community recreation facilities</i>	P	
<i>Signs, as permitted by article II, division 3 of this chapter.</i>	P		
<b><i>Skilled nursing facilities (nursing homes) Nursing homes and facilities for the residence and/or care of the aged.</i></b>		<b>SUP</b>	
<i>Temporary offices in accordance with section 24-111</i>		<b>SUP</b>	
<b><i>Tourist homes</i></b>	P		
<b>Civic</b>	<i>Cemeteries and memorial gardens</i>		<b>SUP</b>
	<b><i>Fire stations</i></b>	P	
	<b><i>Libraries</i></b>	P	
	<i>Houses of worship. Places of public assembly, including houses of worship and public meeting halls</i>	P	
	<i>Schools, libraries and fire stations.</i>	P	
	<i>Water impoundments, new or expansion of, 50 acres or more or with dam heights of 25 feet or more</i>		<b>SUP</b>
	<i>Water impoundments, new or expansion of, less than 50 acres and with dam heights of less than 25 feet</i>	P	

<i>Utility</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, 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 <del>rights-of-way</del> and track and safety improvement in existing railroad <del>right-of-ways</del> <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, private extensions or connections to existing pipelines, which are intended to serve an individual residential or commercial customer and which are accessory to existing or proposed development, are permitted generally and shall not require a special use permit</i>		<i>SUP</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 equipments such as pumps to be owned and operated by political jurisdictions. However, private connections to existing mains, with no additional connections to be made to the line, which are intended to serve an individual residential or commercial customer and which are accessory to existing or proposed development, and distribution lines, and local facilities within a subdivision or development, including pump stations, are permitted generally and shall not require a special use permit</i>		<i>SUP</i>
	<i>Wireless communications 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>Open</i>	<i>Timbering in accordance with section 24-43</i>	<i>P</i>	

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

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

Cemeteries and memorial gardens.

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

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

~~Golf courses, country clubs.~~

~~Governmental offices.~~

~~Home care facilities.~~

~~Hospitals and rest homes.~~

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

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

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

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

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

~~Single-family dwellings.~~

~~Telephone exchanges and telephone switching stations.~~

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

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

~~Water facilities (public or private), and sewer facilities (public), including, but not limited to, treatment plants, pumping stations, storage facilities and transmission mains, wells and associated equipments such as pumps to be owned and operated by political jurisdictions. However, private connections to existing mains, with no additional connections to be made to the line, which are intended to serve an individual residential or commercial customer and which are accessory to existing or proposed~~

~~development, and distribution lines, and local facilities within a subdivision or development, including pump stations, are permitted generally and shall not require a special use permit.~~

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

**Sec. 24-307. Minimum site size.**

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

**Sec. 24-308. Area requirements.**

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

- ~~(1) The minimum lot area for each unit of a two family dwelling shall be 6,000 square feet.~~
- ~~(2) The minimum lot area for each unit of a three family or four family dwelling where the units are constructed in a row shall be as follows: The minimum lot area for exterior units shall be 6,000 square feet. The minimum lot area for interior units shall be 3,000 square feet.~~
- ~~(3) The minimum lot area for each unit of a three family, or four family dwelling where the units are not constructed in a row shall be 5,000 square feet.~~
- ~~(4) The lot area for a three family dwelling shall total a minimum of 18,000 square feet and the lot area for a four family dwelling shall total a minimum of 22,000 square feet.~~

~~For all other principal and accessory uses there shall be no minimum lot size in the Multifamily Residential District, R-5, unless otherwise required by this chapter.~~

**Sec. 24-309. Setback requirements.**

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

~~(b) All other structures shall be located a minimum of 50 feet from the right of way of any peripheral street which abuts or borders the site and has a right of way width of 50 feet or more. In the event such street has a right of way width which is less than 50 feet, such structures shall be located a minimum of 75 feet from~~

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

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

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

**Sec. 24-310. Minimum lot width.**

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

**Sec. 24-311. Yard regulations.**

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

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

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

~~(d) Single-family and two-family dwellings. The minimum side yard for each single-family dwelling or two-family dwelling shall be five feet. The minimum rear yard shall be 20 feet. The minimum side and rear yards for structures accessory to single-family or two-family dwellings shall be five feet for structures one-story or less and ten feet for structures exceeding one story.~~

~~The side and rear yards for any structure in excess of 35 feet shall be increased by one foot for each one foot in height in excess of 35 feet.~~



**Sec. 24-31207. ~~Density requirements for townhouses, apartments and condominiums~~ Overall development density.**

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

(b) ~~Calculating gross density.~~ For the purpose of calculating gross density, gross acreage shall equal the sum of the total developable area and up to 35 percent of the total area as calculated below:

<i>Gross Acreage</i>	
<del>Percentage of</del> <i>Nondevelopable Area</i>	<i>Gross Acreage</i>
<del>Less than 35%</del>	Total area of parcel
<del>More than 35%</del>	Developable land plus up to 35% of the parcel's land

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

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

BASE DWELLING UNITS PER ACRE		
Number of units	<del>Townhouses and multifamily structures</del> Multifamily and apartments under three stories	Multifamily structures and apartments three stories or more
1-100	8	10
101-200	7	9
Over 200	6	8

(c) *Density bonuses.* In order to encourage attractive architectural and site designs which are harmonious with adjoining property, to encourage the preservation of open space within and around higher density development, to encourage preservation and restoration of historic sites and to encourage developers to go beyond the minimum standards of the zoning ordinance, the board of supervisors may approve density bonuses as specified in the density bonus item options table in Section 24-549 of this chapter. Density bonuses shall not exceed a maximum of an additional 20 percent above the maximum dwelling units per acre that would otherwise be permitted and in no case shall exceed 12 units per acre, in accordance with the following:

<i>Bonus increase from base density</i>	<i>Required density bonus points from list</i>
<i>Up to the base density</i>	<i>0</i>
<i>Greater than the base density, up to and including ten percent above the base density</i>	<i>1</i>
<i>Greater than ten percent above the base density, up to and including 20 percent above the base density</i>	<i>2</i>

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

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

**Sec. 24-308. 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. 24-31309. Subdivision regulations.**

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

**Sec. 24-31410. Requirements for improvements and design.**

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

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

(1) *Non-developable areas shall be maintained as open space and shall not be included on any private lot, and should be protected though 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 24-308;*

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

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

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

(4) *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 and served with adequate facilities for such purpose. Existing features which would enhance the residential environment or the county as a whole such as trees, watercourses, historic spots and similar features shall be preserved to the maximum extent possible.*

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

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

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

(fe) *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 county subdivision ordinance, whichever is more stringent. Such public streets shall be coordinated with the major transportation network shown in the Comprehensive Plan. Private streets may be permitted in accordance with the provisions of section 24-62. The traffic generated by a Multifamily Residential District, R-5, shall not exceed the capacity of adjoining thoroughfares. The daily traffic shall be determined by multiplying the number of proposed dwelling units by the appropriate trip generation rate as listed in the latest edition of a book entitled *Trip Generation* published by the Institute of Transportation Engineers and compared to the existing traffic and road capacity as determined by the highway engineer.

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

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

~~(if) *Streetlights Outdoor lighting.* Streetlights Outdoor lighting shall be provided, as required by section 24-53(e)(3) article II, division 7 of this chapter and the county subdivision ordinance. All streetlights shall be specified on the site plan, generally at intersections and in parking lots and other public areas. The light shall be directed so as not to produce objectionable glare on adjacent property or into residences within the development. No lighting fixture on pedestrian or bicycle paths or parking lots shall exceed a height of 15 feet.~~

(jg) *Structure height.* Structures may be erected up to 35 feet in height from grade to the top of the structure, including all church spires, belfries, cupolas, monuments, penthouse, electrical, plumbing, elevator, athletic field lighting, water tank or other accessory functions which are part of the structure and accessory and nonaccessory wireless communications facilities that utilize alternative mounting structures, ~~or are building mounted~~ in accordance with division 6, Wireless Communications Facilities. ~~Camouflaged wireless communications facilities may be erected to a total height of 120 feet from grade.~~ A structure in excess of 35 feet in height from grade to the top of the structure, including all church spires, belfries, cupolas, monuments, penthouse, electrical, plumbing, elevator, athletic field lighting, water tank, radio, television and microwave antennas and towers or other accessory functions, and for wireless communications facilities that utilize alternative mounting structures ~~or are building mounted~~ to exceed 35 feet in height but not to exceed the

maximum approved height of the structure to which it is mounted, may be erected only upon the granting of a height limitation waiver by the board of supervisors. Upon application for a height limitation waiver, the payment of appropriate fees, notification of adjacent property owners and following a public hearing, the board of supervisors may grant a height limitation waiver upon finding that:

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

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

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

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

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

~~(o)~~ *Natural features and amenities.* Existing features which would enhance the residential environment or the county as a whole such as trees, watercourses, historic spots and similar features shall be preserved to the maximum extent possible.

~~(p)~~ *Guarantee for improvements.* The zoning administrator shall not issue any 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, shown on the approved site plan by providing either a letter of credit, certified check, cash escrow, cash payment, or other surety, approved by the county attorney.

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

(k) *Signs.* To assure an appearance and condition which is consistent with the purposes of this district, outdoor signs shall comply with the regulations for exterior signs in article II, division 3 of this chapter.

**Sec. 24-315. Density bonuses.**

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

- (1) *Setback bonus.* For every 25 feet of setback, in addition to the minimum required from the right-of-way of each peripheral road or adjoining property line which borders the site, one and one-half percent additional dwelling units may be added. Maximum additional setback on each side for which a bonus may be given shall be 100 feet or a maximum six percent bonus for each side of the site. The total setback shall be calculated from the right of way or property line to the nearest building on the site. For the purposes of calculation, the site is considered to have four sides. For irregularly shaped parcels, a flexible method of calculation may be used by the planning director so the total bonus shall not exceed 20 percent for this section.
- (2) *Recreation bonus.* If the applicant designates, improves and fully develops recreational facilities in excess of the playgrounds required in section 24-314(c) above, the planning director may recommend a bonus of nine percent additional dwelling units be granted. Such areas shall be conveniently located and consist of some combination of facilities such as tennis courts, large playgrounds, ball fields, swimming pools, tot lots, bike trails or other like items. Recreation facilities for which a density bonus is granted shall be fully completed before any certificate of occupancy may be issued.
- (3) *Landscape design.* If the applicant presents an unusually attractive and harmonious site plan and building design which retains, relates to and enhances the natural vegetation and terrain of the site or which proposes unusually extensive landscaping and planting of borders, entrances, recreation areas, street frontage, areas surrounding buildings or common open space, the planning director may recommend a bonus of 12 percent additional dwelling units be granted. In order to promote superior design, the award of this bonus shall be made only in cases where the design of the project is clearly superior to the design of typical projects of its type in the community and where the applicant goes beyond the minimum standards required by this chapter.
- (4) *Public facilities.* In the event a school, fire station, library, park or other public facility shown in the public facilities plan is proposed in or near the parcel, if the developer is willing to reserve a site suitable for the purpose intended and if the governing body is willing to acquire this site within 24 months of the approval of the final site plan, the planning director may recommend a bonus of nine percent additional dwelling units be granted to the number of units allowable on the remainder of the parcel.

**Sec. 24-311. Buffers and setback requirements**

(a) *Right-of-way buffer. Within any development 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 development approved under this 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 as specified in the following table:*

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

*Landscaping guidelines for perimeter buffers shall follow the requirements in section 24-96 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 director may reduce the buffer depth requirements 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 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 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 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 planning 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 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 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. Structural BMPs such as wet and dry ponds shall not generally be permitted in the buffers, except that the planning director may approve them under the following circumstances:*

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



(g) *Improvements allowable within buffers.* An entrance road, community and directional signage, bicycle and/or pedestrian paths, and utility connections and drainage improvements shall be permitted within the buffer with approval of the planning director. 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 approval of the planning 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 director.

(i) *Setback and yard requirements.* There shall be no minimum lot size or minimum front, side or rear setback or yard requirements for any lot within a R-5 district other than as specified in the approved final plans.

(j) *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 who 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.

(k) *Relation to article II, division 4.* Any development approved under this division shall adhere to the buffer and setback requirements listed above. Where these requirements are more stringent than those found in article II, division 4 of this chapter, these requirements shall supersede them.

**Sec. 24-316. Relation to public utilities.**

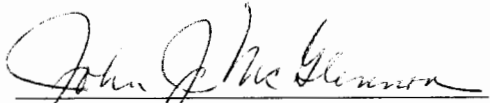
(a) ~~— Multifamily Residential District, R-5, shall be so located in relation to sanitary sewers, water lines, storm sewers, surface drainage systems and other utility systems that neither extension nor enlargement shall be required which results in higher net public cost or earlier incursion of public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

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

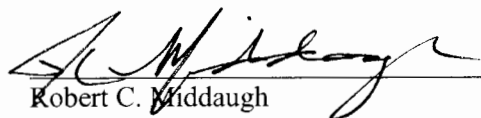
**Sec. 24-312. Pedestrian accommodations.**

*Pedestrian accommodations shall be provided in accordance with Section 24-35 of this chapter.*

**Secs. 24-3173 - 24-326. 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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