

A G E N D A
JAMES CITY COUNTY POLICY COMMITTEE
REGULAR MEETING
Building A Large Conference Room
101 Mounts Bay Road, Williamsburg, VA 23185
August 8, 2019
4:00 PM

A. CALL TO ORDER

B. ROLL CALL

C. MINUTES

1. May 9, 2019 Meeting Minutes
2. June 13, 2019 Meeting Minutes

D. OLD BUSINESS

E. NEW BUSINESS

1. Consideration of Amendments to the Zoning Ordinance Regarding Inoperable Motor Vehicles and Oversized Commercial Vehicles

F. ADJOURNMENT

ITEM SUMMARY

DATE: 8/8/2019
TO: The Policy Committee
FROM: Paul D. Holt, III, Secretary
SUBJECT: May 9, 2019 Meeting Minutes

ATTACHMENTS:

	Description	Type
☐	May 9, 2019 Meeting Minutes	Minutes

REVIEWERS:

Department	Reviewer	Action	Date
Policy	Rosario, Tammy	Approved	8/2/2019 - 1:22 PM
Policy	Holt, Paul	Approved	8/2/2019 - 1:30 PM
Publication Management	Burcham, Nan	Approved	8/2/2019 - 1:32 PM
Policy Secretary	Secretary, Policy	Approved	8/2/2019 - 2:04 PM

MINUTES
JAMES CITY COUNTY POLICY COMMITTEE
REGULAR MEETING
Building A Large Conference Room
101 Mounts Bay Road, Williamsburg, VA 23185
May 9, 2019
4:00 PM

A. CALL TO ORDER

Ms. Julia Leverenz called the meeting to order at approximately 4:00 p.m.

B. ROLL CALL

Present:

Julia Leverenz, Chair

Rich Krapf

Tim O'Connor

Absent:

Jack Haldeman

Staff:

Paul Holt, Director of Community Development and Planning

Ellen Cook, Principal Planner

Tammy Rosario, Principal Planner

Tom Leininger, Planner

John Risinger, Community Development Assistant

Max Hlavin, Deputy County Attorney

C. MINUTES

1. April 11, 2019 Meeting Minutes

Ms. Leverenz stated that "York County" should be added to the last sentence of the first paragraph for Item D.1. She stated that the end of the minutes for Item D.1 should reference the next step of the process for the Ordinance amendment.

Mr. Rich Krapf made a motion to approve the April 11, 2019, meeting minutes as amended.

The motion passed 3-0.

D. OLD BUSINESS

1. Proposed Ordinance Amendments to Address Code of Virginia Changes Regarding Wireless Communication Facilities, Stage I

Mr. Thomas Leininger stated that in 2017 and 2018, the General Assembly passed legislation requiring changes to how local Zoning Ordinances may treat applications for wireless communication facilities. He stated that the County would need to update its Zoning Ordinance to be consistent with state and federal requirements. He stated that the new legislation classifies Small Cell Facilities (SCF) projects in two ways. SCFs installed on new structures are classified as Administrative Review Eligible Projects (AREP) - Criteria 1. SCFs installed on existing structures are classified as Small Cell Facilities. He stated that other wireless communication facility projects have three classifications. AREP - Criteria 2 classifies the co-location of wireless facilities on existing structures. Standard Process Projects classify other

types of wireless communication facilities projects such as new towers. Maintenance/Replacement classifies routine maintenance or the replacement of wireless facilities or wireless support structures within a six-foot perimeter wireless facilities or wireless support structures that are substantially similar, or the same size or smaller. He stated that the legislation does not permit the County to require a Special Use Permit, special exception or variance for any application that meets one of the two AREP criteria or for SCFs. He stated that staff recommends creating a new category of the Ordinance for SCFs and AREP – Criteria 1 applications. He stated that staff recommends eliminating or combining the multi-antenna systems category with the new SCF category. He stated that amendments would need to be made to the submittal requirements and review process for new and existing towers. He stated that changes to the process may result in changes to the fee amounts and review times.

Ms. Leverenz asked where the definitions for communication facilities are in the Zoning Ordinance.

Mr. Leininger stated that the definitions are in Section 24-2 of the Zoning Ordinance.

Ms. Leverenz asked if “communication facilities, antennas, towers and/or support structures” (CATS) was a commonly used term.

Mr. Leininger stated that the term was created in 2016 with the last amendment to the wireless communication facilities Ordinance.

Mr. Krapf asked how existing towers would be impacted by the new legislation.

Mr. Leininger stated that adding or the co-location of antennas on existing towers would fall under AREP – Criteria 2 and the replacement of antennas would fall under Maintenance/Replacement.

Mr. Krapf stated that staff’s recommendation to include a new category in the Ordinance for SCFs make sense. He asked if there would be further discussion before staff creates a draft of the proposed Ordinance amendments.

Mr. Leininger stated that staff would create a draft of the Ordinance unless there were additional points the Policy Committee would like to discuss.

Ms. Leverenz asked if SCFs could be required to go through administrative review.

Mr. Leininger confirmed.

Ms. Leverenz stated that the main changes with the new legislation are the required review process for different types of wireless communication facilities. She stated that it might make sense to structure the Ordinance so that sections that apply to all wireless communication facilities are listed first. She stated that a section could then be added to list out which review process would be required for the different types of wireless communication facilities.

Mr. Paul Holt stated that updating the Ordinance in two phases may be beneficial for managing staff workloads. He stated that bringing the Ordinance into compliance with the new legislation would be the first priority.

Mr. Krapf asked if creating a table for the different communication facilities and their requirements would make it easier to comprehend.

Ms. Cook stated that staff would consider using tables or other forms of organization when creating the draft Ordinance.

Mr. Tim O'Connor stated that he has concerns about how many SCFs would be needed to provide coverage across neighborhoods and whether there would be consistency with the type of poles used to mount SCFs.

Mr. Leininger stated that examples of SCFs found in the City of Virginia Beach and the City of Norfolk had the antennas on top of the pole.

Mr. O'Connor stated that SCF technology is still advancing and having a separate section within the Communications Facilities Ordinance would make future Ordinance amendments for the section easier.

Ms. Leverenz agreed. She stated that she would like staff to consider when a more comprehensive update of the Communications Facilities Ordinance would be viable. She asked how the new regulations would affect the administrative review of Communication Facility applications.

Mr. Leininger stated that the overall process would remain the same. He stated that when an application is submitted, staff would need to determine which category it falls under and determine if it is a complete application within 10 days. He stated that fees would be different for SCF applications and that up to 35 SCFs could be shown on one site plan.

Ms. Leverenz asked how many applications for Communication Facilities have been submitted in the past five years.

Mr. Leininger stated that most of the applications received by the County are amendments for existing towers. He stated that he was not aware of any recent application for a new tower.

Ms. Leverenz asked if any applications had been submitted for SCFs.

Mr. Leininger stated that he is expecting to receive applications for SCFs in the future.

Mr. Holt stated that other localities in the Hampton Roads area have started to receive applications for SCFs. Mr. Holt stated that most of the recent applications received by the County were to update the technology on existing towers. He stated that the next trend of applications would likely be to provide support for 5G technology on new towers.

Ms. Leverenz stated that a summary of the discussion was that staff would tweak the existing Ordinance to bring it in to compliance with the Code of Virginia while also considering the possibility of a complete rewrite of the Ordinance.

Mr. Holt stated that there might be a point in the future where it is more advantageous to rewrite the Zoning Ordinance entirely than to rewrite individual Ordinances.

Ms. Leverenz asked what would happen if an application is received before the Ordinance was amended.

Mr. Max Hlavin stated that staff would have to abide by the requirements in the Code of Virginia.

Mr. Holt stated that if an application was received, staff would analyze the Ordinance and the Code of Virginia to determine what regulations would apply.

Mr. Hlavin stated that the Ordinance amendment would make it easier to follow for staff and applicants.

Mr. O'Connor asked if the procedure for height waivers was determined by the Code of Virginia or by the Zoning Ordinance.

Mr. Holt stated that the procedure is defined in the Zoning Ordinance.

Ms. Leverenz asked if there were any further questions.

There were none.

E. NEW BUSINESS

1. ORD-19-0001. Proposed Zoning Ordinance Amendment to Section 24-16, Proffer of Conditions

Mr. Holt stated that in 2016, the General Assembly passed legislation that created barriers for localities implementing proffers. He stated that some of those barriers were removed in legislation passed during the 2019 Session of the General Assembly. He stated that amending the Ordinance would take place in two phases. He stated that the first phase would be to amend the Section 24-16 of the Zoning Ordinance to delete the sentence that prohibits proffers from being accepted.

Mr. Krapf asked if the second phase would be scheduled for future Policy Committee meetings to discuss the implementation and procedures for accepting proffers.

Mr. Holt confirmed.

Mr. O'Connor asked if Section 24-16 should state that the unavailability of proffers is not detrimental to the application.

Mr. Hlavin stated that it was not necessary for the current amendment. He stated that other localities in Virginia are including specific procedures in their proffer Ordinances. He stated that future discussions could be held to determine if the County should have specific procedures in Section 24-16.

Mr. Holt stated that the Code of Virginia lists specific procedures for proffers. He stated that it may be beneficial to have a broad approach for Section 24-16 so that the Ordinance may not need to be amended if changes are made to the Code of Virginia.

Mr. Krapf made a motion to approve Case No. ORD-19-0001. The motion passed 3-0.

Mr. Holt stated that the second phase of the discussion would be about proffer policies that had been rescinded by the Board of Supervisors (BOS) as a result of the legislation passed in 2016 by the General Assembly. He stated that the Policy Committee did not need to take any action during the meeting and that the discussion would be preliminary. He stated that the new legislation passed by the General Assembly requires that proffers contribute to a future needed capacity. He stated that the Outstanding Specimen Tree Option Guidelines and the Natural Resources Policy could be reinstated without changes. He stated that the Route 5 Road Improvement Proffer Policy could not be reinstated because the current traffic studies do not show a need to widen Monticello Avenue. He stated that the Cash Proffer Policy for Schools, Housing Opportunities Policy, and the Residential Redevelopment Policy would need to be altered before they could be reinstated. He stated that staff will continue to work on those three policies and then present their findings to the Policy Committee at a future meeting.

Ms. Leverenz asked if this would have any impact on the Parks and Recreation Master Plan.

Mr. Holt stated that the Parks and Recreation Master Plan had references to proffers for Parks and Recreation facilities and a cash-in-lieu option that had to be removed as a result of the 2016 legislation passed by the General Assembly. He stated that staff is analyzing the possibility of reinstating the cash-in-lieu option.

Ms. Leverenz asked if Section 24-16 could be amended to state that the acceptability of proffers shall be in accordance with the Code of Virginia in effect at the time of the application.

Mr. Hlavin stated that the legislation permits localities to adopt proffer Ordinances with limitations but does not guide the process. He stated that the legislation is supplemental to additional legislation related to conditional zoning.

Ms. Leverenz asked if a resolution for the proffer policies would follow the amendment to Section 24-16.

Mr. Holt confirmed.

Ms. Leverenz asked if the BOS might want to give staff priorities for the policies that need to be reviewed.

Mr. Holt stated that the BOS could give staff priorities for reviewing the policies.

Ms. Leverenz asked if the Policy Committee needed to take any action for the proffer policies.

Mr. Holt stated that no action was necessary. He stated that the policies will be discussed at a future Policy Committee meeting.

Mr. Hlavin stated that some of the past proffer policies would not be re-implemented.

Mr. Holt stated that the pedestrian and bicycle accommodations Ordinance and the standards for archaeological studies Ordinance had been adopted to replace their respective proffer policies.

Mr. O'Connor asked if Commissioners would be able to discuss desired proffers with applicants if the Ordinance amendment is adopted.

Mr. Hlavin stated that the Commissioners could verbally discuss desired proffers with applicants. He stated that a written request for a proffer from the governing body could result in a claim by the applicant.

Mr. O'Connor asked if a brief summary of the new legislation could be presented to the Planning Commission at a future meeting so that the Commissioners are aware of how they will be able to discuss proffers with applicants.

Mr. Holt stated that the updated Comprehensive Plan will result in new data that will better represent cumulative impacts and their costs. He stated that future discussions regarding proffers could be held after the Comprehensive Plan is adopted. He stated that the new legislation allows localities to assess impact fees. He stated that the Board may request for staff to research options related to impact fees.

Ms. Leverenz asked if the General Assembly might be interested in making additional changes to proffers in the next couple of years.

Mr. Hlavin stated that the General Assembly might wait to see the results of the 2019 legislation before seeking to make additional changes.

Mr. Holt stated that the next meeting for the Virginia Coalition of High Growth Communities might generate more feedback on the results of the 2019 legislation.

Ms. Leverenz asked if the 2019 legislation would have had changed the way the Forest Heights Master Plan and Proffer Amendment was reviewed.

Mr. Hlavin stated that the Forest Heights application was being reviewed under the legislation prior to 2016.

Mr. O'Connor asked if there would be a proffer for emergency services.

Mr. Holt stated that there was not an official policy regarding proffers for emergency services.

Ms. Leverenz asked if there was any further questions.

There were none.

2. Proposed Zoning Ordinance Amendment to Section 24-111, Temporary Offices

Mr. Holt stated that an application for an overhead power line to a temporary office had been heard by the Development Review Committee (DRC) in 2018. He stated that the DRC had requested staff to examine whether the Ordinance could be amended to make the process smoother. He stated that the Policy Committee could discuss the included draft Ordinance and that the next step would be for the Planning Commission to vote on an initiating resolution.

Mr. Krapf stated that the existing process was cumbersome for staff and applicants to obtain a waiver for a temporary overhead power line for a temporary office.

Mr. Holt stated that the proposed Ordinance amendment added a provision for staff to analyze whether a temporary office would need a waiver granted by the Planning Commission for overhead utilities. He stated that Section 24-111 (9) b on the proposed resolution could also be amended to state that any overhead electrical services must be removed when the temporary office is removed.

Ms. Leverenz asked if it should state any visible utilities instead of overhead electrical service.

Mr. O'Connor stated that it would be better to define it as overhead utilities instead of visible utilities because an electric meter used during construction could be left in place for permanent operation. He asked if the proposed language for Section 24-111 (8) should state applicant instead of application.

Mr. Holt stated that made more sense within the context of the language.

Ms. Leverenz asked if the proposed language for Section 24-111 (8) should state "If the Director of Planning finds that it is not practicable for the application to meet one or more of the requirements...".

Mr. Holt stated that the proposed language would be interpreted the same way as it would with "one or more" being included.

Mr. O'Connor asked if there was a limitation to the amount of times the time period for the temporary office could be extended.

Mr. Holt stated that there was not.

Mr. O'Connor asked if Section 24-111 (9) should only state that the temporary office shall be removed within 60 days of the completion of construction.

Mr. Holt stated that the one-year time period is helpful to provide a check in point between staff and the applicant.

Mr. O'Connor asked if the extension of the time period for a temporary office should be another one-year time period.

Mr. Holt stated that not defining the length of the extension allows staff to have flexibility for the situation.

Mr. Krapf made a motion to approve the draft Ordinance as amended.

Mr. Holt stated that the discussed amendment to the draft Ordinance was for Section 24-111 (9) b to state "The temporary office and any overhead electrical and associated equipment shall be removed from the site within 60 days after the completion of construction."

Mr. O'Connor asked if the language should reference any overhead utility.

Mr. Holt stated that the language could state "any overhead utility" instead of "any overhead electrical and associated equipment."

Mr. O'Connor confirmed.

Ms. Leverenz stated that the motion was to approve the draft Ordinance as amended for Section 24-111 (9) b to state "The temporary office and any overhead utility shall be removed from the site within 60 days after the completion of construction."

The motion passed 3-0.

F. ADJOURNMENT

Mr. Krapf made a motion to Adjourn. The motion passed 3-0.

Ms. Leverenz adjourned the meeting at approximately 5:30 p.m.

Ms. Julia Leverenz, Chair

Mr. Paul Holt, Secretary

ITEM SUMMARY

DATE: 8/8/2019
TO: The Policy Committee
FROM: Paul D. Holt, III, Secretary
SUBJECT: June 13, 2019 Meeting Minutes

ATTACHMENTS:

	Description	Type
☐	June 13, 2019 Meeting Minutes	Minutes

REVIEWERS:

Department	Reviewer	Action	Date
Policy	Rosario, Tammy	Approved	8/2/2019 - 1:23 PM
Policy	Holt, Paul	Approved	8/2/2019 - 1:31 PM
Publication Management	Burcham, Nan	Approved	8/2/2019 - 1:33 PM
Policy Secretary	Secretary, Policy	Approved	8/2/2019 - 2:05 PM

MINUTES
JAMES CITY COUNTY POLICY COMMITTEE
REGULAR MEETING
Building A Large Conference Room
101 Mounts Bay Road, Williamsburg, VA 23185
June 13, 2019
4:00 PM

A. CALL TO ORDER

Ms. Julia Leverenz called the meeting to order at approximately 4:00 p.m.

B. ROLL CALL

Present:

Julia Leverenz, Chair

Jack Haldeman

Rich Krapf

Absent:

Tim O'Connor

Staff:

Ellen Cook, Principal Planner

Thomas Wysong, Senior Planner

Tori Haynes, Planner

John Risinger, Community Development Assistant

Connor Kennedy, Planning Intern

Renee Liden, Planning Intern

C. MINUTES

There were no minutes.

D. OLD BUSINESS

1. Proposed Ordinance Amendments to Address Protections for the Public Water Supply and Areas of Public Health and Water Quality Sensitivity, Stage II

Ms. Tori Haynes stated that the Policy Committee offered feedback at its April 11, 2019 meeting for the Stage I materials regarding the proposed special regulations for protections for public water supply reservoirs. She stated that recommendations included clarifying definitions, restricting the types of roads that can cross the reservoir protection buffer and continuing to work with the Stormwater and Resource Protection Division (SRP) to ensure that the language does not conflict with the County's Chesapeake Bay Preservation Ordinance. She stated that staff added a new section to the Ordinance and clarified definitions to incorporate the feedback received from the Policy Committee. She stated that the road projects administered by state or federal agencies are not subject to the County's Ordinances. She stated that other types of roads would only be able to impact a reservoir buffer with Planning Director approval if they meet the associated performance standards.

Ms. Haynes stated that staff had reviewed the proposed buffers with SRP and determined that the proposed 100-foot buffer around tributary streams would overlap with the existing Resource Protection Area (RPA) buffer. She stated that the overlap could result in conflicting requirements between the processes. She stated that staff suggests for the proposed 100-foot buffer to apply to only intermittent streams to reduce the chance of overlapping buffers. She

stated that encroachments into the RPA buffer require review by SRP and a public hearing before the Chesapeake Bay Board while the draft Ordinance requires review by the Planning Director with appeals heard by the Development Review Committee. She stated that staff suggests adding language to state that decisions made by the Chesapeake Bay Board would be final for any activities in the RPA. She stated that staff would work with the County Attorney's Office to verify the feasibility of that approach.

Ms. Haynes stated that it is staff's understanding that the Board of Supervisor's guidance has been that the primary focus of the regulations should be for commercial and industrial operations. She stated that feedlots and livestock impoundments had not been included in the draft Ordinance for that reason. She stated that certain agricultural and residential uses could be affected by the Ordinance as it is currently written. She stated that in keeping with the guidance from the Board, staff recommends including language specifying that the Ordinance only applies to commercial and industrial uses. She said that staff will incorporate feedback from the Policy Committee, the County Attorney's Office, and the Board and will present their findings at a future Policy Committee meeting.

Mr. Rich Krapf asked if any regulations governed the amount of agricultural chemicals stored near the RPA.

Ms. Haynes stated that SRP would review the situation in regards to the RPA. She stated that the Soil and Water Conservation District would review the plans for agricultural Best Management Practices.

Mr. Jack Haldeman asked if watersheds are defined in the Ordinance.

Ms. Haynes stated that watersheds are defined in the applicable section of the Ordinance.

Ms. Leverenz asked how staff would inspect the buffers for compliance with the Ordinance.

Ms. Haynes stated that new uses would have to comply with the Ordinance and existing encroachments would be reviewed when complaints are received.

Mr. Krapf asked staff to provide a scenario where a conflict could occur between the proposed 100-foot buffer and the RPA buffer.

Ms. Haynes stated that a citizen owning a lot near a reservoir seeking to build a deck within the RPA would require review by SRP and the Chesapeake Bay Board. She stated that staff wanted the technical review of impacts within the RPA to remain with SRP. She stated that staff wanted the Ordinance to complement the RPA and not conflict with the RPA regulations.

Mr. Krapf asked if that is why staff recommends having the 100-foot buffer only apply to intermittent streams.

Ms. Haynes confirmed. She stated that perennial streams already receive protection through RPA buffers. She stated that intermittent streams would have the 100-foot buffer because they are potentially vulnerable.

Mr. Haldeman stated that he agrees with having the 100-foot buffer only apply for intermittent streams. He stated that he would prefer to have feedlots and other agricultural uses prohibited within the buffer proposed by the Ordinance.

Ms. Haynes asked if they should be prohibited in the entire watershed as heavy industrial uses are or if they should be prohibited in the buffer alone.

Mr. Haldeman stated that they should be prohibited within the buffer.

Mr. Krapf asked staff to analyze the impacts of restricting agricultural uses within the watershed and compare it with restricting agricultural uses within the buffer.

Ms. Ellen Cook asked if the analysis should be done for existing agricultural uses or for potential impacts of new agricultural uses.

Mr. Krapf confirmed.

Ms. Leverenz stated that it could analyze the impacts of existing agricultural uses expanding.

Mr. Krapf stated that looking at current examples could help to understand how the Ordinance may impact future agricultural uses.

Mr. Haldeman stated that sanitary landfills should be prohibited in the buffer.

Ms. Haynes stated that the Ordinance prohibits sanitary landfills in the entire watershed.

Mr. Haldeman stated that subdivision or local roads should not be allowed to encroach in the buffer.

Ms. Haynes stated that subdivision roads would need to be reviewed by the Planning Director.

Mr. Haldeman stated that roads should be prohibited from the buffers. He stated that Section 24-41(c)(3)(f) should not list roads as an exception that can be reviewed by the Planning Director.

Ms. Cook stated that if the Ordinance does not apply to residential uses, then subdivision roads might not be able to be prohibited.

Mr. Haldeman stated that the Ordinance should apply to residential uses.

Ms. Haynes asked if roads used for specific access needs could be permitted.

Mr. Haldeman confirmed.

Mr. Krapf asked if major subdivisions might not be regulated by the Ordinance.

Ms. Cook stated that the current draft of the Ordinance applies to all uses. She stated that staff is suggesting limiting the Ordinance to commercial and industrial uses based on guidance from the Board of Supervisors.

Ms. Leverenz asked what the purpose of limiting the Ordinance to commercial and industrial uses would be.

Ms. Haynes stated that the Board had indicated it was concerned that the Ordinance could adversely affect residential and small agricultural uses. She stated that staff could work with the County Attorney's Office to analyze if it could specify language regarding major subdivisions.

Mr. Haldeman stated that he would be fine with having only roads removed from the Ordinance. He asked if the applicability section would be changed to restrict the Ordinance to commercial and industrial uses.

Ms. Haynes stated that the guidance received by the Board was to limit the Ordinance to

commercial and industrial uses. She stated that the Policy Committee's recommendations would also be incorporated pending further guidance from the Board at the upcoming work session.

Ms. Leverenz stated that the Ordinance should apply to all uses.

Mr. Krapf asked if staff had any concerns with removing roads from the exceptions in the Ordinance.

Ms. Haynes stated that staff could review the potential options for restricting roads from the buffers.

Mr. Haldeman asked if a Stage III of the draft Ordinance would be presented to the Policy Committee.

Ms. Haynes confirmed.

Ms. Leverenz asked if criteria could be added to guide the Planning Director in reviewing potential road encroachments into the buffer.

Ms. Haynes stated that language could be added to that effect.

Mr. Haldeman stated that another item could be added to Section 24-41(c)(3) to allow access roads for the water utility company.

Mr. Krapf asked if any language needed to be added pertaining to major subdivisions.

Ms. Leverenz stated that it would not need to be added if all roads other than access roads for the water utility company are prohibited.

Mr. Haldeman stated that the 100-foot buffer around perennial streams should be removed from the Ordinance. He stated that roads and feedlots should be prohibited within the buffer.

Mr. Krapf stated that further research should be done regarding removing roads from the Ordinance.

Ms. Cook asked if the Policy Committee would like the Ordinance to apply to all uses.

Ms. Leverenz confirmed.

Mr. Haldeman confirmed.

Mr. Thomas Wysong stated that feedlots established before August 6, 1990 could be exempt from the regulation based on Section 24-41(c)(3)(e).

Ms. Haynes stated that staff will review the comments about agricultural uses to ensure the Ordinance addresses them appropriately.

Ms. Leverenz asked if there were any further questions.

There were none.

E. NEW BUSINESS

There was no new business.

F. ADJOURNMENT

Mr. Haldeman made a motion to Adjourn. The motion passed 3-0.

Ms. Leverenz adjourned the meeting at approximately 4:40 p.m.

Ms. Julia Leverenz, Chair

Mr. Paul Holt, Secretary

ITEM SUMMARY

DATE: 8/8/2019

TO: The Policy Committee

FROM: Christy H. Parrish, Zoning Administrator

SUBJECT: Consideration of Amendments to the Zoning Ordinance Regarding Inoperable Motor Vehicles and Oversized Commercial Vehicles

ATTACHMENTS:

	Description	Type
☐	Memorandum	Cover Memo
☐	2019 General Assembly Session – Chapter 508	Backup Material
☐	Section 15.2-905 of the Code of Virginia	Backup Material
☐	Existing Ordinance Regulations	Backup Material
☐	Samples of other locality regulations	Backup Material

REVIEWERS:

Department	Reviewer	Action	Date
Policy	Rosario, Tammy	Approved	8/2/2019 - 3:41 PM
Policy	Holt, Paul	Approved	8/2/2019 - 3:44 PM
Publication Management	Burcham, Nan	Approved	8/2/2019 - 3:45 PM
Policy Secretary	Secretary, Policy	Approved	8/2/2019 - 3:48 PM

MEMORANDUM

DATE: August 8, 2019

TO: The Policy Committee

FROM: Christy H. Parrish, Zoning Administrator

SUBJECT: Consideration of Amendments to the Zoning Ordinance Regarding Inoperable Motor Vehicles and Oversized Commercial Vehicles

INTRODUCTION

During the 2019 session of the General Assembly, James City County requested and the General Assembly granted, amendments to Chapters 779 and 798 of the Acts of Assembly of 1993, which provide a charter for the County of James City County. (Attachment No. 1) This charter amendment grants additional authority to James City County under Section 15.2-905 of the Code of Virginia to regulate the keeping of inoperable motor vehicles on residential, commercial, and agricultural zoned properties two acres in area or smaller (Attachment No. 2).

Section 15.2-905 of the Code of Virginia allows certain localities to restrict the keeping of inoperable vehicles not screened from view and which are not in operating condition, or do not display valid license plates or do not display inspection decals. In order to more effectively address inoperable vehicles in James City County as newly granted by the recent actions of the General Assembly, Section 24-37 of the James City County Zoning Ordinance will need to be amended (Attachment No. 3).

In addition, staff has received complaints regarding the parking and/or keeping of oversized commercial type vehicles in residentially zoned areas. This situation is not adequately addressed in the Zoning Ordinance. Staff has researched neighboring localities and prepared recommended changes to address the parking and keeping of oversized commercial type vehicles in residential zoned areas.

Staff is proposing to evaluate these items in a multiple stage process. In Stage I (the subject of this staff memorandum), staff will identify issues and look for directions for the proposed amendment. Later, in Stage II, staff will provide the Policy Committee with a proposed draft Ordinance for discussion. If needed, staff will draft the final Ordinance accounting for any Policy Committee comments in Stage III.

INOPERABLE VEHICLES

Currently, the James City County Zoning Ordinance regulates inoperable vehicles which are not shielded or screened from view in areas zoned residential or commercial. Areas zoned A-1, General Agricultural, may have up to five inoperable vehicles. Properties with more than five inoperable vehicles would constitute a vehicle graveyard.

An inoperable vehicle, which is not shielded or screened from view, is defined as any motor vehicle which is not in operating condition or which for a period of 60 days or longer has been partially or totally disassembled by the removal of tires and wheels, the engine or other essential parts required for the operation of the vehicle, or on which there are displayed **neither** valid license plates **nor** a valid inspection decal.

Consideration of Amendments to the Zoning Ordinance Regarding Inoperable Motor Vehicles and Oversized Commercial Vehicles

August 8, 2019

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The recent Charter Amendment permits additional authority which allows James City County to regulate inoperable vehicles for properties zoned agricultural less than two acres and vehicles which do not display a valid license plate or valid inspection. This change will allow staff to more effectively address citizen complaints received which will enhance and protect the visual character of the community.

The following is a summary of the proposed changes authorized by the Charter Amendment as prescribed in Code of Virginia:

- Properties that are more than two acres in size and zoned for residential and commercial purposes:
 - No changes.
- Properties less than two acres in size and zoned for agricultural, residential, or commercial purposes:
 - Update that an inoperable motor vehicle shall mean any motor vehicles which is not in operation condition or does not display valid license plates or does not display any inspection decal that is valid for more than 60 days.

It is important to mention that the County does not regulate vehicles that are under active restoration, shielded from view or vehicles bearing Antique or Farm Use license plates issues by the Department of Motor Vehicles.

This portion of amendment appears to be straightforward as it follows language prescribed in the Code of Virginia. Staff will need to review Section 24-22, Penalties; sanctions, injunction relief, fines to ensure there are no inconsistencies as Section 15.2-905 does not permit civil penalties.

PARKING OF OVERSIZED COMMERCIAL VEHICLES IN AREAS ZONED FOR RESIDENTIAL

Over the years, staff has received various concerns and complaints with the parking and keeping of oversized commercial type vehicles on properties zoned for residential purposes. Complaints include parking large dump trucks and tractor trailer trucks on property in residential neighborhoods when they are not in use. At this time the Zoning Ordinance does not address this issue and has limited ability to address the concerns when the oversized commercial vehicle is not associated with a business activity on the property.

At the July 23 Joint Work Session, the Board of Supervisors and the Planning Commission expressed interest in examining and discussing regulations to address oversized vehicles in areas zoned residential. Staff is looking forward to discussing the scope of work including types of oversized vehicles and where to limit such vehicles. Any proposed changes to the Zoning Ordinance to address this issue will only apply to private property. Staff is also looking for feedback on whether to engage in discussions with County Administration and the Police Department about parking oversized vehicles along the right-of-ways in residential areas.

Staff has included examples of regulations from various localities that regulate commercial vehicles parked in residential areas (Attachment No. 4). Staff is not recommending any regulations when an oversized vehicle(s) is located and used on a farm, parked near the location where it used for work, or parked temporarily for loading or unloaded items.

Consideration of Amendments to the Zoning Ordinance Regarding Inoperable Motor Vehicles and Oversized Commercial Vehicles

August 8, 2019

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CONCLUSION

Staff looks forward to the Committee's input on these discussion items.

CHP/nb

InOperOvrszVeh-mem

Attachments:

1. 2019 General Assembly Session - Chapter 508
2. Section 15.2-905 of the Code of Virginia
3. Existing Ordinance Regulations
4. Samples of other Locality Regulations

VIRGINIA ACTS OF ASSEMBLY -- 2019 SESSION

CHAPTER 508

An Act to amend Chapters 779 and 798 of the Acts of Assembly of 1993, which provided a charter for the County of James City, by adding in Chapter 7 a section numbered 7.5, relating to additional planning powers; inoperable vehicles.

[S 1408]

Approved March 18, 2019

Be it enacted by the General Assembly of Virginia:

1. That Chapter 779 of the Acts of Assembly of 1993, which provided a charter for the County of James City, is amended by adding in Chapter 7 a section numbered 7.5 as follows:

§ 7.5. Additional planning powers.

The board of supervisors may, by ordinance, exercise those powers granted to certain localities pursuant to § 15.2-905 of the Code of Virginia. Such powers shall only be exercised on property two acres in area or smaller.

2. That Chapter 798 of the Acts of Assembly of 1993, which provided a charter for the County of James City, is amended by adding in Chapter 7 a section numbered 7.5 as follows:

§ 7.5. Additional planning powers.

The board of supervisors may, by ordinance, exercise those powers granted to certain localities pursuant to § 15.2-905 of the Code of Virginia. Such powers shall only be exercised on property two acres in area or smaller.

§ 15.2-905. Authority to restrict keeping of inoperable motor vehicles, etc., on residential or commercial property; removal of such vehicles

A. The governing bodies of the Counties of Albemarle, Arlington, Fairfax, Henrico, Loudoun, Prince George, and Prince William; any town located, wholly or partly, in such counties; and the Cities of Alexandria, Fairfax, Falls Church, Hampton, Hopewell, Lynchburg, Manassas, Manassas Park, Newport News, Petersburg, Portsmouth, Roanoke, and Suffolk may by ordinance prohibit any person from keeping, except within a fully enclosed building or structure or otherwise shielded or screened from view, on any property zoned or used for residential purposes, or on any property zoned for commercial or agricultural purposes, any motor vehicle, trailer or semitrailer, as such are defined in § 46.2-100, which is inoperable.

The locality in addition may by ordinance limit the number of inoperable motor vehicles that any person may keep outside of a fully enclosed building or structure.

As used in this section, notwithstanding any other provision of law, general or special, "shielded or screened from view" means not visible by someone standing at ground level from outside of the property on which the subject vehicle is located.

As used in this section, an "inoperable motor vehicle" means any motor vehicle, trailer or semitrailer which is not in operating condition; or does not display valid license plates; or does not display an inspection decal that is valid or does display an inspection decal that has been expired for more than 60 days. The provisions of this section shall not apply to a licensed business that is regularly engaged in business as an automobile dealer, salvage dealer or scrap processor.

B. The locality may, by ordinance, further provide that the owners of property zoned or used for residential purposes, or zoned for commercial or agricultural purposes, shall, at such time or times as the governing body may prescribe, remove therefrom any inoperable motor vehicle that is not kept within a fully enclosed building or structure. The locality may remove the inoperable motor vehicle, whenever the owner of the premises, after reasonable notice, has failed to do so. Notwithstanding the other provisions of this subsection, if the owner of such vehicle can demonstrate that he is actively restoring or repairing the vehicle, and if it is shielded or screened from view, the vehicle and one additional inoperative motor vehicle that is shielded or screened from view and being used for the restoration or repair may remain on the property.

In the event the locality removes the inoperable motor vehicle, after having given such reasonable notice, it may dispose of the vehicle after giving additional notice to the owner of the premises. The cost of the removal and disposal may be charged to either the owner of the inoperable vehicle or the owner of the premises and the cost may be collected by the locality as taxes are collected. Every cost authorized by this section with which the owner of the premises has been assessed shall constitute a lien against the property from which the inoperable vehicle was removed, the lien to continue until actual payment of the cost has been made to the locality.

1991, c. 673, § 15.1-11.03; 1992, c. 490; 1995, c. 58; 1997, cc. 587, 741; 1999, c. 901; 2004, cc. 508,

934;2005, c. 775;2013, c. 364;2014, cc. 606, 731.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

Existing Ordinance Language

Sec. 24-37. - Keeping of inoperative vehicles in residential or commercial districts.

(a) It shall be unlawful for any person, firm or corporation to keep, except within a fully enclosed building or structure or otherwise shielded or screened from view, on any property zoned for residential or commercial purposes any motor vehicle, trailer or semitrailer, as such is defined in section 46.2-100 of the Code of Virginia, which is inoperative; provided, however, no more than one such inoperative vehicle may be kept outside of a fully enclosed building or structure if shielded or screened from view by covers. An inoperative motor vehicle shall mean any motor vehicle which is not in operating condition or which for a period of 60 days or longer has been partially or totally disassembled by the removal of tires and wheels, the engine or other essential parts required for the operation of the vehicle or on which there are displayed neither valid license plates nor a valid inspection decal. The provisions of this act shall not apply to a licensed business which on June 26, 1970, is regularly engaged in business as an automobile dealer, salvage dealer or scrap processor.

(b) The owners of property zoned for residential or commercial purposes shall, at such time as the county or its agent may prescribe, remove therefrom any such inoperative motor vehicles, trailers or semitrailers that are not kept within a fully enclosed building or structure. If, after reasonable notice, the owner of the premises has failed to remove such vehicles, the county, through its own agent or employees, may remove them. The county, through its own agent or employees, may dispose of such motor vehicles, trailers or semitrailers after giving additional notice to the owner of the vehicle.

(c) The cost of any such removal and disposal shall be chargeable to the owner of the vehicle or premises and may be collected by the county as taxes and levies are collected. Every cost authorized by this section with which the owner of the premises shall have been assessed shall constitute a lien against the property from which the vehicle was removed, the lien to continue until actual payment of such costs have been made to the county.

City of Williamsburg - Article V. Parking

Zoning Ordinance - Sec. 21-703. - Prohibition of parking certain kinds of vehicles in residential districts

The parking and storage of the following types of vehicles on lots in residential districts (RS-1, RS-2, RM-1, RM-2, RDT and PDR) shall be prohibited, except while loading or unloading on the premises:

- a. Tractor trucks and semitrailers.
- b. Trucks exceeding a registered gross weight of 7,500 pounds.

City of Chesapeake - Article 6, Residential Districts

Zoning Ordinance - 6-2003. - Commercial vehicles in residential areas.

A. Prohibition of vehicles over a specified size. The parking and storage of a commercial vehicle exceeding seven (7) feet in height or twenty (20) feet in length is prohibited in all residential districts. For purposes of this section the phrase "commercial vehicle" shall include self-propelled vehicles, vehicles that are not self-propelled such as utility trailers and other types of trailers designed or used to store or haul equipment and materials and the combination of self-propelled vehicles and vehicles that are not self-propelled.

B. Limitation on smaller commercial vehicles. Commercial vehicles of a smaller size than the dimensions described in subsection A. may be parked in residential districts subject to the following conditions:

1. The commercial vehicle must be parked in an enclosed garage, accessory building or rear yard if any sign graphic, either attached or painted on the vehicle, exceeds ten (10) square feet in total area or if the commercial vehicle is not self-propelled.
2. Only one (1) self-propelled commercial vehicle that does not have an attached or painted sign graphic that exceeds ten (10) square feet in total area may be parked on or in front of any residential lot if it is used by a resident of such lot, except where the commercial vehicle is associated with the maintenance of a multifamily residential development, and is parked in an area specifically identified for such commercial vehicles. Commercial vehicles that are not self-propelled and that are smaller than the dimensions set out in subsection A. shall comply with subsection B.1.
3. No portion of any signs shall project more than one (1) foot above the portion of the motor vehicle to which they are affixed.

C. Exception for commercial vehicles within temporary construction site. Commercial vehicles directly associated with an ongoing construction project may be parked in a residential district within a temporary construction site meeting the requirements of section 13-1503.

D. Normal loading and unloading permitted. This section shall not be interpreted to prohibit commercial vehicles from carrying out normal loading and unloading activities in any residential district.

City of Poquoson

Section 5-10. - Parking of commercial vehicles. (R-S District Regulations)

Section 6-10. - Parking of commercial vehicles. (R-1 District Regulations)

Section 7-10. - Parking of commercial vehicles. (R-2 District Regulations)

The parking of any commercial vehicle in this district is prohibited, except that a commercial vehicle of not more than 2½ tons capacity may be parked in an enclosed garage. A commercial vehicle of one ton capacity (not to exceed manufacturer's gross weight rating of 10,000 pounds) or less may be parked to the rear of the rear line of the main building.

City of Hampton

Sec. 1-32. - Commercial vehicle parking in residential districts.

(1) The parking of commercial vehicles on a lot or any adjacent street in any residential district is prohibited, except under the following provisions:

(a) One (1) commercial vehicle, not exceeding a height of six (6) feet, four (4) inches, nor a measurement, from the center of the front axle to the center of the rear axle of that vehicle or any attached equipment, of eleven (11) feet, six (6) inches, may be parked on a residential lot or adjacent street, provided said lot is occupied by the person responsible for operating the vehicle.

(b) One (1) commercial vehicle, not exceeding a height of six (6) feet, four (4) inches, with a measurement, from the center of the front axle to the center of the rear axle of that vehicle or any attached equipment, between eleven (11) feet, six (6) inches and fifteen (15) feet, seven (7) inches, may be parked on a residential lot. provided it is kept in a garage or behind the rearmost portion of the building on the lot, and further provided said lot is occupied by the person responsible for operating the vehicle.

(c) In no case shall a commercial vehicle with a height exceeding six (6) feet, four (4) inches or a measurement, from the center of the front axle to the center of the rear axle of that vehicle or any attached equipment, exceeding fifteen (15) feet, seven (7) inches be permitted to park in any residential property or adjacent street.

(d) In no case shall more than one (1) commercial vehicle be parked on any residential lot or adjacent street, except that one (1) specifically exempted commercial vehicle may also be parked on the same lot or adjacent street.

(2) The parking of school buses and buses belonging to religious facilities shall be permitted on any property under the control of the school or religious facility owning the bus, regardless of the zoning of such property.

(3) The parking of commercial vehicles, except for specifically exempted vehicles, in multi-family developments shall require the permission of the management and/or homeowners' association, and shall not occur in parking spaces required by chapter 11 of this ordinance. Such parking shall be limited to those vehicles permitted in subsection (1)(a) above.

Isle of Wight County

Sec. 5-1002. - Prohibited uses in certain residential districts.

The following activities are prohibited in the RR, NC, SE, SR, UR, PD-R, PD-MH and residential areas zoned PD-MX districts:

- A. Parking of a commercial vehicle overnight shall be prohibited, unless otherwise expressly permitted by this ordinance.
- B. No construction machinery or similar equipment shall be parked overnight unless the machinery is incidental to improving the premises.

Definition – Sec. 2-1002

Commercial vehicle- A vehicle designed to have more than two (2) rear wheels on a single axle. This shall not apply to pickup body type trucks, passenger van type vehicles, or to vehicles essential for an agricultural use associated with the premises.

York County

Sec. 24.1-271 Accessory uses permitted in conjunction with residential uses.

(h) Parking or storage of small cargo or utility trailers, recreational vehicles and similar equipment, including, but not limited to, boats, boat trailers, motor homes, tent trailers and horse vans, and also including commercial vehicles having a carrying capacity of 1-ton or less and used as transportation by the occupant of the dwelling to and from their place of employment, provided that the following requirements are observed:

- (1) such vehicles or equipment may not be parked or stored in front yards except on the driveway;
- (2) such vehicles or equipment shall not be used for living, housekeeping or business purposes when parked or stored on the lot, provided however, that when the principal structure on the property has been made uninhabitable as a result of a natural disaster for which a local state of emergency declaration has been issued or a fire or other damaging event beyond the control of the owner, motor homes and recreational vehicles may be used for temporary residential occupancy during the time of reconstruction/repair of the principal dwelling. The authorization for such temporary occupancy shall be dependent on issuance of a building permit for the re-construction/repair of the principal residence and shall expire upon issuance of a Certificate of Occupancy for the principal structure or twelve (12) months from the date of the event that damaged the structure, whichever occurs first. For good cause shown and to recognize extenuating circumstances, the Zoning Administrator may extend the authorization for as much as an additional 12-month period or until a Certificate of Occupancy is issued, whichever occurs first.
- (3) wheels or other transporting devices shall not be removed except for necessary repairs or seasonal storage.

The provisions of this subsection shall not be deemed to authorize take-off or landing operations from residential properties for aircraft of any type, including special light-sport aircraft, experimental light-sport aircraft, or ultra-light aircraft, as defined by the Federal Aviation Administration (FAA).