

**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**  
**November 14, 2019**  
**4:00 PM**

---

**A. CALL TO ORDER**

**B. ROLL CALL**

**C. MINUTES**

**D. OLD BUSINESS**

1. Consideration of Amendments to the Zoning Ordinance Regarding Inoperative Motor Vehicles and Oversized Commercial Vehicles (Stage II)
2. Proposed Ordinance Amendments to Address Code of Virginia Changes Regarding Wireless Communication Facilities, Stage II

**E. NEW BUSINESS**

1. ORD-2019-0007. Consideration of Warehouse, Storage, and Distribution Centers in the Mixed Use Zoning District, Stage I/II

**F. ADJOURNMENT**

**ITEM SUMMARY**

DATE: 11/14/2019

TO: The Policy Committee

FROM: Christy H. Parrish, Zoning Administrator

SUBJECT: Consideration of Amendments to the Zoning Ordinance Regarding Inoperative Motor Vehicles and Oversized Commercial Vehicles (Stage II)

---

**ATTACHMENTS:**

	Description	Type
▣	Memorandum	Cover Memo
▣	Additional Samples of Other Locality Regulations	Exhibit
▣	Definitions	Exhibit
▣	Classification of Vehicles	Exhibit

**REVIEWERS:**

Department	Reviewer	Action	Date
Policy	Rosario, Tammy	Approved	11/8/2019 - 11:48 AM
Policy	Holt, Paul	Approved	11/8/2019 - 1:44 PM
Publication Management	Burcham, Nan	Approved	11/8/2019 - 1:59 PM
Policy Secretary	Secretary, Policy	Approved	11/8/2019 - 2:16 PM

## MEMORANDUM

DATE: November 14, 2019

TO: The Policy Committee

FROM: Christy H. Parrish, Zoning Administrator

SUBJECT: Consideration of Amendments to the Zoning Ordinance Regarding Inoperative Motor Vehicles and Oversized Commercial Vehicles (Stage II)

---

At its August 8, 2019 meeting, the Policy Committee reviewed and discussed amendments to the Zoning Ordinance regulating inoperative motor vehicles and oversized commercial vehicles.

### INOPERABLE VEHICLES

As discussed, the recent amendment to the County Charter grants additional authority to regulate inoperative motor vehicles for properties zoned agricultural and less than two acres and for those vehicles which do not display a valid license plate or valid inspection. This change will allow staff to more effectively address citizen complaints and will better enhance and protect the visual character of the community.

Staff has drafted the proposed changes to Section 24-37 of the Zoning Ordinance for the Committee's review. Due to formatting and numbering changes, staff is recommending striking and rewriting the entirety of the section. The substantive changes are summarized below:

#### **Summary:**

- Separated the inoperative motor vehicle definition into two subsections and added properties zoned for agricultural less than two acres.
- Redefined language for inoperative motor vehicles to mean any motor vehicles which is not in operating condition or does not display valid license plates or does not display any inspection decal that is valid for more than 60 days for properties less than two acres in size and zoned for agricultural, residential, or commercial purposes.
- Added definition of "shielded or screened from view" to mirror State Code.
- Clarified that the civil penalty applies only to inoperable motor vehicles located on properties zoned for residential or commercial purposes.

#### **Proposed Changes:**

- (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~~

Consideration of Amendments to the Zoning Ordinance Regarding Inoperative Motor Vehicles and Oversized Commercial Vehicles (Stage II)

November 14, 2019

Page 2

~~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.~~

*(a) Keeping of inoperative vehicles in certain zoning areas*

- i. *On any property zoned for residential or commercial purposes, 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, 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.*

*Any person who fails to comply with this subsection shall be subject to penalties set forth in [section 24-22](#) of this chapter.*

- ii. *On any property two acres in area or smaller and zoned for agricultural, residential or commercial purposes, 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, 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 does not display valid license plates; or does not display any inspection decal that is valid; or does display an inspection decal that has been expired for more than 60 days.*

*This provision ~~of this~~ of this act shall not apply to a licensed business that is regularly engaged in business as automobile dealer, salvage dealer or scrap processor.*

*iii. 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.*

*iv. The owners of property zoned for agricultural, 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.*

*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.*

Staff looks forward to receiving any comments or suggestions at the meeting to the above proposed changes.

## **PARKING OF OVERSIZED COMMERCIAL VEHICLES IN AREAS ZONED FOR RESIDENTIAL**

Also the August meeting, staff discussed the parking of oversized commercial vehicles in areas zoned for residential. Since that time, staff has completed additional research and has provided the following:

- Additional regulation samples from other localities including regulations along streets/rights-of-way. Please note that staff focused on counties rather than cities since enabling legislation is often different. (Attachment No. 1)
- Definition examples from various sources including from the Code of Virginia. (Attachment No. 2)
- Classification of vehicles information from the Federal Highway Administration and size examples. (Attachment No. 3)

Staff met with the Assistant County Administrator, Chief of Police, and Assistant County Attorney and discussed the parking of oversized commercial type vehicles along streets in residential districts. Currently, Chapter 13 Motor Vehicles and Traffic of the County Code permits the County Administrator to classify vehicles and restrict parking upon County-owned property, County-maintained roads and streets, and roads that are part of the state secondary system. Signs or markers must be erected when any regulations are made for a particular area.

An amendment to Chapter 13 will be necessary to prohibit the parking of certain types of vehicles along residential streets County-wide. Staff will provide a copy of the attached research and any feedback received from the Policy Committee to the Assistant County Administrator. Staff will then assist with drafting such changes to Chapter 13 for the Board of Supervisors consideration concurrent with the Zoning Ordinance revision.

Consideration of Amendments to the Zoning Ordinance Regarding Inoperative Motor Vehicles and Oversized Commercial Vehicles (Stage II)

November 14, 2019

Page 4

In the meantime, staff looks forward to discussing the next steps in drafting Zoning Ordinance language to address the parking of oversized commercial vehicles in areas zoned residential on private property. One possible avenue would be to incorporate language to Section 24-37 and rename the Section as follows:

Sec. 24-37. Keeping of inoperative vehicles *and oversized vehicles in agricultural residential or commercial districts.*

*(a) Keeping oversized vehicles in certain zoning areas*

*On any property zoned for residential purposes, except on a farm, it shall be unlawful for any person, firm or corporation to keep any oversized vehicle designed for \_\_\_\_\_.*

In addition, the Committee discussed concerns that any proposed language should not intend to over-regulate to the extent possible or cause unintended situations. To this end, staff recommends drafting language based on type (i.e., dump truck, semi-trailer, etc.) and weight of vehicles (i.e., vehicles that exceed a certain weight) in residential areas and to exclude typical sized work vehicles residents may drive to and from work.

## CONCLUSION

Staff looks forward to the Committee's input on these discussion item in advance of finalizing the draft Ordinance revisions.

CHP/nb

InoprOvszVeh-Ph2-mem

### Attachments:

1. Additional Samples of Other Locality Regulations
2. Definitions
3. Classification of Vehicles

## Prince William County

Parking along Streets/ Rights-of- Way	<p>(a) <i>Restricted parking.</i> No person shall park or leave unattended any commercial vehicle on any public highway in any residence district as defined in Code of Virginia, § 46.2-100.</p> <p>(b) <i>Commercial vehicles defined.</i> For the purposes of this section, a commercial vehicle is defined as any of the following:</p> <ul style="list-style-type: none"><li>(1) Any solid waste collection vehicle, tractor truck or tractor truck/semitrailer or tractor truck/trailer combination, dump truck, concrete mixer truck, towing and recovery vehicle with a registered gross weight of 12,000 pounds or more, and any heavy construction equipment, whether located on the highway or on a truck, trailer, or semitrailer.</li><li>(2) Any trailer, semitrailer, or other vehicle in which food or beverages are stored or sold.</li><li>(3) Any vehicle licensed by the Commonwealth for use as a common or contract carrier or as a limousine, except one resident of each single-family dwelling unit zoned for residential use may park one vehicle licensed as a taxicab or limousine on such highways, provided other vehicles are permitted to park thereon.</li><li>(4) Any trailer or semitrailer, regardless of whether such trailer or semitrailer is attached to another vehicle.</li><li>(5) Any vehicle with three or more axles.</li><li>(6) Any vehicle that has a gross vehicle weight rating of 12,000 or more pounds.</li><li>(7) Any vehicle designed to transport 16 or more passengers including the driver.</li><li>(8) Any vehicle of any size that is being used in the transportation of hazardous materials as defined in Code of Virginia, § 46.2-341.4.</li></ul> <p>(c) <i>Exceptions.</i> The provisions of this section shall not apply to (i) any commercial vehicle when taking on or discharging passengers or when temporarily parked pursuant to the performance of work or service at a particular location or (ii) utility generators located on trailers and being used to power network facilities during a loss of commercial power.</p> <p>(d) The provisions of sections <a href="#">13-335</a>, <a href="#">13-343</a>, <a href="#">13-344</a> and <a href="#">13-345</a> shall apply in the enforcement of this section.</p> <p>Note - 46.2-100. Definitions- "Residence district" means the territory contiguous to a highway, not comprising a business district, where 75 percent or more of the property abutting such highway, on either side of the highway, for a distance of 300 feet or more along the highway consists of land improved for dwelling purposes, or is occupied by dwellings, or consists of land or buildings in use for business purposes, or consists of territory zoned residential or territory in residential subdivisions created under Chapter 22 (§ 15.2-2200 et seq.) of Title 15.2.</p>
Zoning Regulations	<p><b>Definition section</b></p> <p><i>Commercial vehicle</i> shall mean any vehicle with a gross vehicle weight registered with the Virginia Department of Motor Vehicles or any other state or government agency as 10,100 pounds or more and used for commercial purposes, or any vehicle, regardless of capacity, which displays advertising thereon or which is licensed as a "for hire" vehicle, or any limousine used as a common or contract carrier. For the purpose of this chapter, commercial vehicles shall not be deemed to include any of the following: police vehicle; emergency vehicle, commuter van, farm vehicle or farm equipment located on property used for agricultural purposes; motor home, camping trailer, tent trailer, boat trailer, horse trailer or similar recreational equipment used as personal property and not for hire; school van or bus.</p>

**Sec. 32-300.02. - Accessory uses.**

Accessory uses shall be permitted in all agricultural and residential districts, subject to the following limitations:

1. Motor vehicle parking and storage. Vehicles and motor vehicles shall be permitted in the agricultural, residential and residential portions of planned development districts as follows:

(a) Commercial vehicles on lots of three or more acres. Except for the prohibited vehicles listed in subsection (e) below, commercial vehicles may be parked in any agricultural, residential or residential portion of a planned district on lots greater than or equal to three acres in size provided the occupant of the dwelling unit is the operator of the vehicle.

(b) Commercial vehicles on lots of less than three acres. Except for the prohibited vehicles listed in subsection (e) below, not more than one commercial vehicle may be parked in any agricultural, residential, or residential portion of a planned district on lots less than three acres in size provided the occupant of the dwelling unit is the operator of the vehicle.

(c) All permitted commercial vehicles must be kept in a garage, accessory building, or in designated improved parking spaces within off-street parking areas which meet or exceed standards and regulations of this chapter and the Design and Construction Standards Manual.

(d) Location and area of vehicle parking and storage on lots less than one acre. All vehicles that are permitted to be parked or stored on residential properties of less than one acre shall be parked or stored only on an improved parking surface, meaning an area surfaced with asphalt, poured or precast concrete, brick, pavers, or other similar material commonly used for parking surfaces. In no event shall a vehicle be parked or stored on a gravel, grass, dirt, or other unimproved surface. Gravel shall not constitute an improved parking surface. If pervious material is used, it must be permanently distinguishable from the adjacent grass/landscaped areas. Such parking or storage areas and similarly improved driveways shall not occupy more than 35 percent of or 720 square feet of the minimum required front yard, whichever is greater. When the parking (excluding driveway) area exceeds 720 square feet, the parking (excluding driveway) area in excess of 720 square feet shall be constructed with a pervious pavement improved surface material as outlined above (gravel is not an acceptable pervious surface for the purposes of this requirement). The improved surface must be under the entire vehicle. Improved parking surfaces only under each tire or partially under a vehicle does not meet the definition of an improved parking surface for the purposes of this section. Modification of the pervious pavement requirement for parking areas exceeding 720 square feet may be requested at time of site plan, provided the applicant demonstrates why pervious pavement will not work in a specific location.

(1) In the case of pipestem lots, areas that are contained within the ingress and egress easement shall not be included when calculating the coverage of the front yard by parking areas and driveways.

(2) This maximum coverage requirement may be varied as a part of the consideration of a modified dwelling unit type requested pursuant to subsection 32-306.12.2. or 32-306.12.5.

(e) Prohibited vehicles regardless of weight. Except as permitted by section 13-327 of the County Code and subsections (g) and (h) below, the following types of vehicles shall not be parked or stored in any residential district or residential portion of a planned district, or on lots of less than ten acres in agricultural districts:

(1) Cement trucks.

(2) Construction equipment.

(3) Dump trucks.



	<p>(4) Garbage, refuse or recycling trucks.</p> <p>(5) Passenger buses (excluding school buses).</p> <p>(6) Tractors or trailers of a tractor-trailer truck.</p> <p>(7) Tow trucks.</p> <p>(f) Prohibited vehicles. Except as permitted by section 13-327 of the County Code and subsections (g) and (h) below, the following vehicles registered with the Virginia Department of Motor Vehicles or any other state or government agency as having a gross vehicle weight of 10,100 pounds or more, shall not be parked or stored in any residential district or residential portion of a planned district, or on lots of less than ten acres in agricultural districts:</p> <p>(1)Box trucks.</p> <p>(2)Flatbed trucks.</p> <p>(3)Stake bed trucks.</p> <p>(4)Step vans.</p> <p>(5)Trailers.</p> <p>(g)Construction equipment. Construction equipment and construction-related vehicles shall not be parked or stored in any agricultural, residential, or residential portion of a planned district except during the tenure of construction, and only when being used for construction purposes on the lot where parked or stored. Valid building and/or site development permits and continuous pursuit of completion of the permitted construction or development shall be required to demonstrate the existence of bona fide construction activity.</p> <p>(h)Agricultural uses and service to residential properties. The provisions of the foregoing subsections 1(a) through (f) shall not be construed to prohibit the parking in any agricultural district of any vehicle or equipment used in bona fide agricultural operations, nor shall the provisions be construed to prohibit the use of any vehicle for deliveries or pick-ups of goods or intermittent home services in residential or agricultural districts.</p>
--	---

**-See next page-**

## Isle of Wight

<p>Parking along Street/ Rights-of- Way</p>	<p><b>Sec. 11-45. - Parking prohibited or restricted in specified places.</b></p> <p>(a) Vehicle classifications. .... For purposes of this section 11-45, the classification of vehicles shall be as follows:</p> <p>(1) Commercial vehicle:</p> <ul style="list-style-type: none"><li>(i) Any vehicle with a gross vehicle weight of ten thousand pounds or more, or a length of twenty-one feet or more, including trailers or other attachments;</li><li>(ii) Any vehicle, regardless of size, used in the transportation of hazardous materials as defined in Section 103 of the Federal Hazardous Materials Transportation Act (49 C.F.R. Part 172, Subpart F);</li><li>(iii) Any heavy construction equipment, whether located on the street or on a truck, trailer or semi-trailer;</li><li>(iv) Any solid waste collection vehicle, tractor truck or tractor truck/semi-trailer or tractor/truck combination, dump truck, concrete mixer truck, or towing or recovery vehicle; or</li><li>(v) Any trailer, semi-trailer or other vehicle in which food or beverages are stored or sold.</li></ul> <p>(2) Passenger-carrying vehicle:</p> <ul style="list-style-type: none"><li>(i) Any vehicle designed to carry sixteen or more passengers, including the driver; or</li><li>(ii) Any vehicle licensed by this commonwealth for use as a common or contract carrier or as a limousine.</li></ul> <p>(3) Recreational vehicle: ..... A self-propelled device designed or used for transporting persons or property for or in connection with recreation, as distinguished from mere transportation, having a gross vehicle weight of ten thousand pounds or more, a length of twenty-one feet or more, including motor homes and campers.</p> <p>(4) Trailers or other attachments: ..... A device, whether or not self-propelled, designed or used for transporting property including such things as motorcycles, travel trailers, campers, boats and automobiles.</p> <p>(b) Designation of specific vehicle classification and areas subject to restriction: ..... No person shall park any commercial vehicle, passenger-carrying vehicle, recreational vehicle or trailers or other attachments on any road, highway or street within the state's secondary system of highways in any of those areas or subdivisions in the county described below:</p> <p>(1) Gatling Pointe (North and South).</p> <p>In the case of subdivisions, the areas governed by this <a href="#">section 11-45</a> shall be those areas commonly known by the names listed above and designated on the plats of subdivision recorded in the Isle of Wight County Circuit Court Clerk's Office. Such restrictions shall have no application to any privately owned street, or any street owned by a property owners' association within the listed areas. In the event a street serves as the dividing line between a designated residential subdivision and an adjoining commercial zoning district, the parking restrictions shall apply only on the residentially zoned side of the street.</p> <p>(c) Procedure for consideration and establishment of designated areas:</p> <p>(1) The determination of streets and areas to be subject to such parking restrictions shall be based on characteristics including, but not necessarily limited to:</p>
---	---

	<p>(i) Location within a residential zoning classification area with special characteristics or features that could be adversely impacted by on-street parking of large vehicles;</p> <p>(ii) Density of development, with primary focus on residential subdivisions with a typical lot size of one acre or less;</p> <p>(iii) Predominant lot width and street frontage characteristics, with primary focus on subdivision settings where typical lot widths are one hundred fifty feet or less;</p> <p>(iv) Location-specific safety issues including, but not limited to, consideration of traffic volumes, street surface width, sight distance, and use characteristics; or</p> <p>(v) Documentation or determination of inappropriate parking of classified vehicles or the potential for such parking to occur.</p> <p>(d) Applicability: ..... The prohibitions and restrictions set forth in this section 11-45 shall have no application when a vehicle is parked or stopped in compliance with the order of a law enforcement officer or a traffic control device, or during a permitted period of time in officially-designated parking areas, or in the case of a vehicular breakdown, or in an emergency which renders it necessary. In addition, the prohibitions and restrictions contained herein shall have no applicability to any vehicle while such vehicle is in actual use for loading or unloading or while actually engaged in the provision of goods or services.</p> <p>(e) Penalty for violation: ..... Any person who violates any provision of this section 11-45 shall be guilty of a traffic infraction, punishable as a Class 4 misdemeanor (two hundred fifty dollars). (12-21-06; 10-18-07; 9-21-17.)</p> <p><b>Sec. 11-51. - Parking limit for certain commercial vehicles in specified districts.</b></p> <p>(a) No person shall park or leave unattended, for more than two continuous hours, on or alongside the roads, highways or streets of the county or state in any residentially zoned area of the county or in any residential subdivision of three or more lots located in an agricultural zoned area, any road tractor, tractor-truck, tractor-truck and trailer, semi-trailer or any truck or motor vehicle with gross weight in excess of ten thousand one hundred pounds, where any such vehicle listed above is used for rent or for hire or for other commercial purposes.</p> <p>(b) This section shall not apply to any vehicle, when it is picking up or delivering merchandise or household goods at any location, or when such vehicle is parked or is left unattended in a zone set forth above in connection with the delivery of persons or material to a work site therein. For purposes of this section, the term "work site" shall mean any location where workmen are engaged in the construction, repair or maintenance of any real estate or personal property. Nor shall this section apply to any bus, either privately or publicly owned, or to motor vehicles carriers when picking up or discharging passengers. (10-1-92; 9-21-17.)</p>
Zoning Regulations	<p><b>Sec. 2-1002. – Definitions</b></p> <p><b>Commercial vehicle.</b> A vehicle designed to have more than two (2) rear wheels on a single axle. This shall not apply to pick up body type trucks, passenger van type vehicles, or to vehicles essential for an agricultural use associated with the premises.</p> <p><b>Article V – Supplementary Use Regulations</b></p> <p><b>Sec. 5-1002. - Prohibited uses in certain residential districts.</b></p> <p>The following activities are prohibited in the RR, NC, SE, SR, UR, PD-R, PD-MH and residential areas zoned PD-MX districts:</p> <p>A. Parking of a commercial vehicle overnight shall be prohibited, unless otherwise expressly permitted by this ordinance.</p> <p>B. No construction machinery or similar equipment shall be parked overnight unless the machinery is incidental to improving the premises. (7-7-05; 9-17-15; 7-19-18; 11-15-18.)</p>

## Henrico County

<p>Parking along Street/ Rights-of- Way</p>	<p><b>Sec. 22-152. - Designation of limited or prohibited parking areas.</b></p> <p>(a) Notwithstanding any other provisions of this chapter, the county manager or his duly authorized representative is hereby authorized, when in his judgment it is in the public interest so to do, to set apart on any of the highways of the county spaces for loading and unloading merchandise, bus stops, taxistands and other places in which no general parking shall be permitted; and he is further authorized to set aside spaces in which parking time shall be further limited; provided that signs shall be posted within or near such spaces so as to advise the public of such parking prohibitions or regulations. It shall be unlawful for any person to fail to comply with the requirements of such signs. If any such regulation concerns parking on the interstate system or the arterial network of the primary system or any extension thereof of the arterial network, it shall be subject to the approval of the state highway commissioner.</p> <p>(b) Notwithstanding any other provisions of this chapter, upon request of the governing body of any political subdivision, including, but not limited to, the Capital Region Airport Commission, owning property in the county, the county manager or his duly authorized representative is hereby authorized, when in his judgment it is in the public interest so to do, to set apart areas on any of the streets or roads within such property, regardless of whether such streets or roads are part of the county road system, expressly for loading and unloading merchandise, bus stops, taxistands and any other places in which no general parking shall be permitted; and he is further authorized to designate areas on such properties as the exclusive and only areas within which the designated activity is permitted on the property; and he is further authorized to set aside spaces in which parking time shall be further limited; provided that signs shall be posted within or near such spaces so as to advise the public of such parking prohibitions or regulations. It shall be unlawful for any person to fail to comply with the requirements of such signs.</p> <p><b>Sec. 22-154. - Parking for certain purposes prohibited.</b></p> <p>(a) It shall be unlawful for any commercial motor vehicle dealer to park any automobile, truck, trailer or other vehicle upon or in any highway, alley or publicly maintained parking lot for the purpose of selling or offering the vehicle for sale or rent. No sign or lettering shall be attached to or placed upon any automobile, truck, trailer or other vehicle parked in or upon any highway, alley or publicly maintained parking lot in the county indicating that such vehicle is offered for sale or rent by any commercial motor vehicle dealer, leasing or rental firm.</p> <p>(b) It shall be unlawful to park any vehicle upon any highway, alley or publicly maintained parking lot in a district where the property contiguous to the abutting curb or edge of the roadway has been zoned for business, commercial or industrial use for the purpose of offering for sale any merchandise to the public or displaying thereupon or therein advertisements for any article.</p>
---	--

<b>Zoning Regulations</b>	<p><b>ARTICLE V. - R-0, R-0A, R-1, R-1A, R-2, R-2A, R-3, R-3A, R-4 AND R-4A ONE-FAMILY RESIDENCE DISTRICTS; USES</b></p> <p><b>Sec. 24-13. - Accessory uses permitted.</b></p> <p>Accessory uses customarily incidental to a permitted principal or conditional use on the same lot therewith, including among others:</p> <p>(a) Private parking areas, garages, and stables accessory to a dwelling. Parking may be provided for noncommercial vehicles, trucks not exceeding 10,000 pounds gross weight, and one commercial vehicle not exceeding 10,000 pounds gross weight. Parking of any truck or commercial vehicle exceeding 10,000 pounds gross weight, or any commercial trailer or wrecker, is permitted only while loading, unloading, or working at or near the location where it is parked. Parking may be provided for one unoccupied manufactured home in an enclosed garage provided the manufactured home is owned by the occupant of the property. Stables shall comply with the distance requirements of <a href="#">section 24-10(b)</a>.</p> <p><b>Sec. 24-102. - Trailers and trailer parks.</b></p> <p>No trailer of any kind shall be parked or stored in any district except as follows:</p> <p>(1) In an R district, one manufactured home may be parked or stored in an enclosed garage on the same lot with the principal use, provided it shall not be occupied for living or business purposes. The wheels or other transporting devices shall not be removed, except for repairs, nor shall the manufactured home be connected to any utility service or to the ground or another structure in any manner that would prevent its ready removal.</p> <p>(2) In any district used for residential purposes, one travel, utility and/or boat trailer, as an accessory use, may be parked or stored in the rear, side yard or in a carport or garage on the same lot with the principal use, provided it shall not be occupied for living or business purposes. The wheels or other transporting devices shall not be removed, except for repairs, nor shall the trailer be connected to any utility service or to the ground or other structure in any manner that would prevent its ready removal.</p> <p><b>Sec. 24-3. Enumerated.</b></p> <p><a href="#">Commercial use means any use in a business, office, office service, or institutional district as classified and defined in this chapter.</a></p>
---------------------------	--

**-See next page-**

## New Kent County

Parking along Street/ Rights-of- Way	<p><b>Sec. 70-136. - County administrator authorized to regulate parking and to erect signs and markers.</b></p> <p>(a) The county administrator may classify vehicles with reference to parking upon county-owned or leased property and <u>county-maintained roads and streets</u> and may designate the time, place and manner such vehicles may be allowed to park thereon. He may make and enforce such additional rules and regulations as parking conditions may require. When any parking regulation is established pursuant to this section, the county administrator shall cause to be erected appropriate signs or markers so that an ordinarily observant person, who may be affected by such regulations, will be aware of such regulation.</p> <p>(b) When any regulation is made pursuant to this section and when appropriate signs and markers have been erected as required by this section, it shall be unlawful for any person to violate any such regulation</p>
Zoning Regulations	<p><b>Sec. 98-10. - Accessory buildings and uses.</b></p> <p>(c) The following accessory uses or structures <u>shall be permitted</u> in conjunction with a residence:</p> <p>(7) 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, provided that such equipment shall not be used for living, housekeeping or business purposes when parked or stored on the lot, and that wheels or transporting devices shall not be removed except for necessary repairs.</p> <p>(f) The following accessory uses and none other <u>shall be permitted</u> in conjunction with apartment or condominium developments in the R-3 district:</p> <p>(7) Parking or storage of small cargo or utility trailers, recreational vehicles and similar equipment, provided that special separate parking areas are included for the same.</p>

**-See next page-**

## King and Queen County

Parking along Street/ Rights-of-Way	<p><b>Sec. 34-1. - Adoption of state law.</b></p> <p>(a) Pursuant to the authority of Code of Virginia, § 46.2-1313, all of the provisions and requirements of the laws of the state contained in Code of Virginia, tit. 46.2 and Code of Virginia, § 18.2-266 et seq., as they may be amended from time to time by the legislature, except those provisions and requirements, the violation of which constitutes a felony, and except those provisions and requirements which by their very nature can have no application to or within the county, are hereby adopted and incorporated in this article by reference and made applicable within the county.</p> <p>(b) References to "highways of the state" contained in the provisions and requirements adopted in this section shall be deemed to refer to the highways and other public ways within the county.</p> <p>(c) The provisions and requirements referred to in subsection (a) of this section are hereby adopted, mutatis mutandis, and made a part of this chapter as fully as though set forth at length in this chapter; and it shall be unlawful for any person within the county to violate or fail, neglect or refuse to comply with any provision of Code of Virginia, tit. 46.2 and Code of Virginia, § 18.2-266 et seq., which is adopted by this section; provided, however, that in no event shall the penalty imposed for the violation of any provision or requirement hereby adopted exceed the penalty imposed for similar offense under Code of Virginia, tit. 46.2 and Code of Virginia, § 18.2-266 et seq.</p>
Zoning Regulations	None found

## City of Williamsburg

Parking along Street/ Rights-of-Way	<p><b>Sec. 11-196. - Buses, trucks, trailers or semitrailers after midnight.</b></p> <p>It shall be unlawful for the owner, operator or driver of any motor passenger bus, camping vehicle, truck (but not including pickup trucks), trailer or semitrailer to park the same or permit the same to be parked on any of the streets, alleys or other public places in the city between the hours of 12:00 midnight and 6:00 a.m. following of any day; provided, however, that the restrictions prescribed by this section in relation to the parking of trucks, trailers or semitrailers shall not be applicable to those portions of the city adjacent to the retail stores receiving goods at night</p>
Zoning Regulations	<p><b>Sec. 21-703. - Prohibition of parking certain kinds of vehicles in residential districts</b></p> <p>(1) 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:</p> <ul style="list-style-type: none"><li>a. Tractor trucks and semitrailers.</li><li>b. Trucks exceeding a registered gross weight of 7,500 pounds.</li></ul>

## York County

<p>Parking along Street/ Rights-of- Way</p>	<p><b>Classification of Vehicles:</b> For the purposes of this subsection, the classification of vehicles shall be as follows:</p> <p><b>a. Commercial Vehicle:</b></p> <ol style="list-style-type: none"><li>1. Any vehicle with a gross vehicle weight of ten thousand (10,000) pounds or more, or a length of 21 feet or more, including trailers or other attachments;</li><li>2. Any vehicle, regardless of size, used in the transportation of hazardous materials as defined in section 103 of the federal Hazardous Materials Transportation Act (49 C.F.R. Part 172, Subpart F);</li><li>3. Any heavy construction equipment, whether located on the street or on a truck, trailer or semi-trailer;</li><li>4. Any solid waste collection vehicle, tractor truck or tractor truck/semi-trailer or tractor/truck combination, dump truck, concrete mixer truck, or towing or recovery vehicle;</li><li>5. Any trailer, semi-trailer or other vehicle in which food or beverages are stored or sold</li></ol> <p><b>b. Passenger Carrying Vehicle</b></p> <ol style="list-style-type: none"><li>1. Any vehicle designed to carry sixteen (16) or more passengers, including the driver.</li><li>2. Any vehicle licensed by this Commonwealth for use as a common or contract carrier or as a limousine.</li></ol> <p><b>c. Recreational Vehicle</b></p> <p>A device, whether or not self-propelled, designed or used for transporting persons or property for or in connection with recreation, as distinguished from mere transportation, having a gross vehicle weight of ten thousand (10,000) pounds or more, or a length of 21 feet or more, including trailers or other attachments, and including such things as motor homes, travel trailers, campers, boats and boat trailers.</p> <p>(3) Designation of Specific Vehicle Classifications and Areas Subject to Restriction No person shall park any commercial vehicle, passenger-carrying vehicle, or recreational vehicle (all as defined herein) on any road, highway or street within the state secondary system of highways in any of those areas or subdivisions in the County as described below. In the case of subdivisions, the areas governed by this subsection shall be those areas commonly known by the names listed below and designated on the plats of subdivision recorded in the clerk's office of the circuit court of the county. Such restrictions shall have no application to any privately owned street, or any street owned by a property owners association within the listed areas. In the event a street serves as the dividing line between a designated residential subdivision and an adjoining commercial zoning district, the parking restrictions shall apply only on the residentially-zoned side of the street.</p> <p>(39 areas listed)</p>
<p>Zoning Regulations</p>	<p><b>Sec. 24.1-271. Accessory uses permitted in conjunction with residential uses.</b></p> <p>The following accessory uses shall be permitted in conjunction with residential uses. No accessory use, activity or structure, except fences, shall be constructed or conducted until the principal use of the lot has commenced, or the construction of the principal building/structure has commenced and is thereafter diligently and continuously pursued to completion. In the case of an existing lawful nonconforming single-family detached residence located in a non-residential district, the normal and customary accessory uses listed below shall, unless otherwise indicated be deemed permitted as a matter of right, subject to all</p>



	<p>respective performance standards. Land uses not listed in this section and not deemed similar to a listed use pursuant to subsection (q) shall be deemed not allowed as residential accessory uses:</p> <p>(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:</p> <p>(1) such vehicles or equipment may not be parked or stored in front yards except on the driveway;</p> <p>(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 reconstruction/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.</p> <p>(3) wheels or other transporting devices shall not be removed except for necessary repairs or seasonal storage.</p>
--	--

## Chesterfield County

Parking along Street/ Rights-of- Way	<p><b>Sec. 13-42. - Parking trucks on residential roads.</b></p> <p>No truck having wheels of the dual-tire type in excess of 6,000 pounds and no trailer, semitrailer or cab for such trailer shall be parked on any road in the county within any residential district as defined in the zoning ordinance.</p>
Zoning Regulations	<p>Permitted with Restrictions -</p> <p>Commercial vehicle parking with associated residential use, excluding school bus parking</p> <p>R-88, R-40, R-25, R-15, R-12, R-9, R-7, R-C Districts R-TH, R-MF Districts MH-2, MH-3 Districts:</p> <p>a. Vehicle does not exceed 10,000 pounds;</p> <p>b. Vehicle has no more than two axles; and</p> <p>c. Vehicle is not one which tows or hauls disabled, wrecked or junked vehicles.</p>

**-See next page-**

## Stafford County

<p>Parking along Street/ Rights-of- Way</p>	<p><b>Sec. 15-55. - Definitions.</b></p> <p><i>Commercial vehicles</i> means any of the following:</p> <ol style="list-style-type: none"><li>(1) Any solid waste collection vehicle, tractor truck or tractor truck/semitrailer or tractor truck/trailer combination, dump truck, concrete mixer truck, towing and recovery vehicle with a registered gross weight of twelve thousand (12,000) pounds or more, and any heavy construction equipment, whether located on the highway or on a truck, trailer, or semitrailer;</li><li>(2) Any trailer, semitrailer, or other vehicle in which food or beverages are stored or sold;</li><li>(3) Any vehicle licensed by the commonwealth for use as a common or contract carrier or as a limousine, except one resident of each single-family dwelling unit zoned for residential use may park one vehicle licensed as a taxicab or limousine on such highways, provided other vehicles are permitted to park thereon;</li><li>(4) Any trailer or semitrailer, regardless of whether such trailer or semitrailer is attached to another vehicle;</li><li>(5) Any vehicle with three (3) or more axles;</li><li>(6) Any vehicle that has a gross vehicle weight rating of twelve thousand (12,000) or more pounds;</li><li>(7) Any vehicle designed to transport sixteen (16) or more passengers including the driver; or</li><li>(8) Any vehicle of any size that is being used in the transportation of hazardous materials as defined in Code of Virginia, § 46.2-341.4.</li></ol> <p><i>Exceptions.</i> The provisions of this section [definition] shall not apply to:</p> <ol style="list-style-type: none"><li>(1) Any commercial vehicle when taking on or discharging passengers or when temporarily parked pursuant to the performance of work or service at a particular location;</li><li>(2) Utility generators located on trailers and being used to power network facilities during a loss of commercial power;</li><li>(3) Any federal, state, or local government vehicle that is parked while on government business;</li><li>(4) Any federal, state, or local law enforcement or emergency vehicle; or</li><li>(5) Any school bus.</li></ol> <p><b>Sec. 15-56. - Designation of restricted parking areas.</b></p> <ol style="list-style-type: none"><li>(a) No person shall park or leave unattended any watercraft, boat trailer, motor home, or camping trailer on any public highway within any restricted parking area set forth in subsection (f) in violation of the terms of the restricted parking area.</li><li>(b) No person shall park or leave unattended any commercial vehicle on any public highway in any residence district located within any restricted parking area set forth in subsection (f) in violation of the terms of the restricted parking area.</li><li>(c) No person shall park any motor vehicle, trailer, or semitrailer for commercial purposes on any public highway in the county located within any restricted parking area set forth in subsection (e) in violation of the terms of the restricted parking area, except for (i) utility generators located on trailers and being used to power network facilities during a loss of commercial power, (ii) when taking on or discharging passengers or when temporarily parked pursuant to the performance of work or service at a particular location; (iii) any federal, state, or local government vehicle that is parked while on government business; (iv) any federal, state, or local law enforcement or emergency vehicle; or (v) any school bus.</li></ol>
---	--

(d) The entirety of the public highways located within any restricted parking area under subsection (e) and set out in subsection (f) below shall constitute restricted parking areas and shall be subject to the provisions of this section.

(e) Petition to create restricted parking area.

(1) The board of supervisors may designate areas for restricted parking for watercraft, boat trailers, motor homes, camping trailers, and commercial vehicles, and the parking of any motor vehicle, trailer, or semitrailer for commercial purposes upon any public highway within the county if it deems appropriate upon:

(A) The board's own initiative after a public hearing; or

(B) Receipt of a petition addressed to the supervisor representing that election district and signed by a majority of the residents and/or owners of affected property and after a public hearing.

(2) For the purposes of this subsection, "a majority of the residents and/or owners of affected property" shall mean:

(A) The owners or residents of at least fifty-one (51) percent of properties with frontage on, immediately adjacent to, or within five hundred (500) feet of a road or any portion thereof proposed as a restricted parking area. The owners or residents of properties which do not have frontage [on] or are not immediately adjacent to such a road cannot be included in the computation unless their primary motor vehicle egress from that property is over a road or portion of a road proposed as a restricted parking area; or

(B) The board of directors of a property owners' association having the power to enforce covenants on properties meeting the description set forth in subsection (e)(2)(A). A written request from the board of directors of such a property owners' association shall be construed as the petition of the owners of all properties under the control of the association meeting the description set forth in subsection (e)(2)(A), provided the request is accompanied by an approved resolution of the board of directors requesting establishment of a restricted parking area; and stating that the request was approved by the board of directors in accordance with the association's bylaws and during a meeting that was held in conformance with any and all requirements of the association's bylaws. The resolution must be certified by the secretary of the property owners' association.

(3) Each designation shall include a description of the restricted parking area.

(4) After the board of supervisors establishes a new restricted parking area under this subsection, the majority of the residents and/or owners of affected property submitting the petition shall make reasonable and good-faith efforts to notify residents and property owners in the new restricted parking area that:

(i) The new restricted parking area was established, and

(ii) The geographical area included within the new restricted parking area.

However, the failure of a majority of the residents and/or owners of affected property submitting the petition to do so shall not affect the validity of the restricted parking area or the sheriff's ability to enforce this division.

(5) The director of the department of planning and zoning or his designee, shall maintain maps of all restricted parking areas, and shall make the maps available for public inspection upon request. The maps shall also be made available and maintained on the county website.

(f) The following constitute the restricted parking areas within Stafford County where the provisions of this section are in full force and effect:

**Many streets / subdivision are named**

Zoning Regulations	Definitions -Vehicle, commercial. Any truck-tractor, trailer, semi-trailer, garbage truck, dump truck, cement truck, or similar vehicles or equipment with any gross weight; or any vehicle with a gross weight of more than ten thousand five hundred (10,500) pounds which is not owned, leased, or operated by the occupant of the property at which it is parked.
--------------------	---

## Culpeper County

Parking along Street/ Rights-of-Way	Only found limitation and restriction on use of certain parking spaces near courthouse and in jail parking lot
Zoning Regulations	<p><b>ARTICLE 9. - SPECIAL PROVISIONS</b></p> <p>The regulations specified in this ordinance shall be subject to the following special provisions as permitted or otherwise specified in the district classifications.</p> <p>9-1. - Use.</p> <p><i>9-1-1 Parking and storage of recreational, utility, and commercial vehicles in residential areas:</i></p> <p><i>9-1-1.1 Truck Tractors, Trailers, and Large Commercial Vehicles in Residential Areas.</i> Parking of commercial vehicles greater than twenty (20) feet long or greater than eight (8) feet high including appurtenances is prohibited on vacant property or property utilized primarily for residential purposes in A, RA, R and PUD Districts, except on a temporary and non-regular basis not exceeding six hours, and except as exempted below. <i>For the purposes of this section, "commercial vehicle" means any motor vehicle, the principal use of which is the transportation of commodities, merchandise, produce, freight, vehicles, animals, passengers for hire, or which is used primarily in construction, including but not limited to bulldozers, backhoes, tractors and cranes.</i></p> <p>9-1-1.2 Exemptions.</p> <p>(a) One (1) vehicle used principally by the resident of the property which is up to thirty (30) feet long, with no height restriction, may be parked in any district.</p> <p>(b) Pickup or light trucks which are primarily used by the property owner for transportation purposes are exempt.</p> <p>(c) School buses normally associated with transporting students to and from school or religious facilities may be parked on school or religious facility property. One (1) school bus may be parked on a lot with a single family dwelling.</p> <p>(d) Up to three (3) commercial vehicles may be stored on A or RA properties within an enclosed building or in an area entirely screened from view from roads or an adjacent properties, as long as the storage of such vehicles is not done in conjunction with the unauthorized operation of a business from the premises.</p>

	<p>(e) Vehicles used for bona fide agricultural operations which are stored on the same property or directly adjacent property to that upon which the agricultural operation takes place are exempt.</p> <p>(f) Tractor Trailers: Parking of tractor trailers is generally prohibited, however a tractor cab under thirty (30) feet in length may be parked in accordance with 9-1-1.2(a) above. One (1) trailer may be parked on properties of three or more acres if it is in the rear yard and screened from view in accordance with 9-1-1.2(d) above.</p> <p>(g) Any property owner may apply for a conditional use permit in accordance with Article 17 of this ordinance to request additional exemptions, which shall be considered on a case by case basis.</p> <p>9-1-1.3 Recreational and utility vehicles are defined as travel trailers, folding tent trailers, motor homes, truck campers removed from a truck or pickup, horse trailers, stock trailers, boat trailers with or without boats, and utility trailers. Recreational and utility vehicles may be parked on property utilized for residential purposes in A, RA, R and PUD Districts provided the following conditions are met:</p> <p>(a) Vehicles shall not intrude into public rights-of-way or obstruct sight visibility from adjacent driveways.</p> <p>(b) Vehicles shall not be parked in the front building setback unless there is no reasonable access to the building side yards or rear yards because of topography or other physical conditions of the site as determined by the Zoning Administrator.</p> <p>(c) Vehicles shall be maintained in a clean, well-kept state which does not detract from the appearance of the surrounding area.</p> <p>(d) At no time shall parked or stored vehicles be occupied or used as a permanent or temporary dwelling unit except that guests may reside in a recreational vehicle on the host's premises on a temporary basis, not to exceed three (3) weeks in any calendar year.</p>
--	---

### **Definition – “The Complete Illustrated Book of Development Definitions (Fourth Edition)”**

**Commercial Vehicle** – Any motor vehicle licensed by the state as a commercial vehicle.

(Comment – Current practice is to permit only certain types of commercial vehicles in residential zones, such as passenger vehicles licensed as commercial vehicles, or vans or small trucks of up to a certain carrying capacity or gross vehicle weight limitation.)

### **Definitions – Code of Virginia (46.2-100 – Motor Vehicles)**

<https://law.lis.virginia.gov/vacode/title46.2/chapter1/section46.2-100/>

**"Motor vehicle"** means every vehicle as defined in this section that is self-propelled or designed for self-propulsion except as otherwise provided in this title. Any structure designed, used, or maintained primarily to be loaded on or affixed to a motor vehicle to provide a mobile dwelling, sleeping place, office, or commercial space shall be considered a part of a motor vehicle. Except as otherwise provided, for the purposes of this title, any device herein defined as a bicycle, electric personal assistive mobility device, electric power-assisted bicycle, motorized skateboard or scooter, or moped shall be deemed not to be a motor vehicle.

**"Passenger car"** means every motor vehicle other than a motorcycle or autocycle designed and used primarily for the transportation of no more than 10 persons, including the driver.

**"Pickup or panel truck"** means (i) every motor vehicle designed for the transportation of property and having a registered gross weight of 7,500 pounds or less or (ii) every motor vehicle registered for personal use, designed to transport property on its own structure independent of any other vehicle, and having a registered gross weight in excess of 7,500 pounds but not in excess of 10,000 pounds.

**"Tractor truck"** means every motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the load and weight of the vehicle attached thereto.

**"Truck"** means every motor vehicle designed to transport property on its own structure independent of any other vehicle and having a registered gross weight in excess of 7,500 pounds. "Truck" does not include any pickup or panel truck.

**"Trailer"** means every vehicle without motive power designed for carrying property or passengers wholly on its own structure and for being drawn by a motor vehicle, including manufactured homes.

**"Semitrailer"** means every vehicle of the trailer type so designed and used in conjunction with a motor vehicle that some part of its own weight and that of its own load rests on or is carried by another vehicle.

**"Utility vehicle"** means a motor vehicle that is (i) designed for off-road use, (ii) powered by a motor, and (iii) used for general maintenance, security, agricultural, or horticultural purposes. "Utility vehicle" does not include riding lawn mowers.

**"Vehicle"** means every device in, on or by which any person or property is or may be transported or drawn on a highway, except electric personal delivery devices and devices moved by human power or used exclusively on stationary rails or tracks. For the purposes of Chapter 8 (§ [46.2-800](#) et seq.), bicycles, electric personal assistive mobility devices, electric power-assisted bicycles, motorized skateboards or scooters, and mopeds shall be vehicles while operated on a highway.

### **Definitions – Code of Virginia (46.2-341.4 – Motor Vehicles – Commercial Driver’s Licenses)**

<https://law.lis.virginia.gov/vacode/title46.2/chapter3/section46.2-341.4/>

**"Commercial motor vehicle"** means, except for those vehicles specifically excluded in this definition, every motor vehicle, vehicle or combination of vehicles used to transport passengers or property which either: (i) has a gross vehicle weight rating of 26,001 or more pounds; (ii) has a gross combination weight rating of 26,001 or more pounds inclusive of a towed vehicle with a gross vehicle weight rating of more

than 10,000 pounds; (iii) is designed to transport 16 or more passengers including the driver; or (iv) is of any size and is used in the transportation of hazardous materials as defined in this section. Every such motor vehicle or combination of vehicles shall be considered a commercial motor vehicle whether or not it is used in a commercial or profit-making activity.

The following are excluded from the definition of commercial motor vehicle:

1. Any vehicle when used by an individual solely for his own personal purposes, such as personal recreational activities;
2. Any vehicle that (i) is controlled and operated by a farmer, whether or not it is owned by the farmer, and that is used exclusively for farm use, as provided in §§ [46.2-649.3](#) and [46.2-698](#); (ii) is used to transport either agricultural products, farm machinery, or farm supplies to or from a farm; (iii) is not used in the operation of a common or contract motor carrier; and (iv) is used within 150 miles of the farmer's farm;
3. Any vehicle operated for military purposes by (i) active duty military personnel; (ii) members of the military reserves; (iii) members of the national guard on active duty, including personnel on full-time national guard duty, personnel on part-time national guard training, and national guard military technicians (civilians who are required to wear military uniforms), but not U.S. Reserve technicians; and (iv) active duty U.S. Coast Guard personnel; or
4. Emergency equipment operated by a member of a firefighting, rescue, or emergency entity in the performance of his official duties.

**"Gross combination weight rating"** means the value specified by the manufacturers of an articulated vehicle or combination of vehicles as the maximum loaded weight of such vehicles. In the absence of such a value specified by the manufacturer, for law-enforcement purposes, the gross combination weight rating shall be the greater of (i) the gross vehicle weight rating of the power units of the combination vehicle plus the total weight of the towed units, including any loads thereon, or (ii) the gross weight at which the articulated vehicle or combination of vehicles is registered in its state of registration; however, the registered gross weight shall not be applicable for determining the classification of an articulated vehicle or combination of vehicles for purposes of skills testing pursuant to § [46.2-341.14](#) or [46.2-341.16](#).

**"Gross vehicle weight rating"** means the value specified by the manufacturer of the vehicle as the maximum loaded weight of a single vehicle. In the absence of such a value specified by the manufacturer, for law-enforcement purposes, the gross vehicle weight rating shall be the greater of (i) the actual gross weight of the vehicle, including any load thereon; or (ii) the gross weight at which the vehicle is registered in its state of registration; however, the registered gross weight of the vehicle shall not be applicable for determining the classification of a vehicle for purposes of skills testing pursuant to § [46.2-341.14](#) or [46.2-341.16](#).

### **Prince William County**

**Commercial vehicle** shall mean any vehicle with a gross vehicle weight registered with the Virginia Department of Motor Vehicles or any other state or government agency as 10,100 pounds or more and used for commercial purposes, or any vehicle, regardless of capacity, which displays advertising thereon or which is licensed as a "for hire" vehicle, or any limousine used as a common or contract carrier. For the purpose of this chapter, commercial vehicles shall not be deemed to include any of the following: police vehicle; emergency vehicle, commuter van, farm vehicle or farm equipment located on property used for agricultural purposes; motor home, camping trailer, tent trailer, boat trailer, horse trailer or similar recreational equipment used as personal property and not for hire; school van or bus.

## **Isle of Wight**

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

## **Stafford**































Definitions -**Vehicle, commercial.** Any truck-tractor, trailer, semi-trailer, garbage truck, dump truck, cement truck, or similar vehicles or equipment with any gross weight; or any vehicle with a gross weight of more than ten thousand five hundred (10,500) pounds which is not owned, leased, or operated by the occupant of the property at which it is parked.

## **Culpeper County**

**Commercial vehicle** - any motor vehicle, the principal use of which is the transportation of commodities, merchandise, produce, freight, vehicles, animals, passengers for hire, or which is used primarily in construction, including but not limited to bulldozers, backhoes, tractors and cranes.

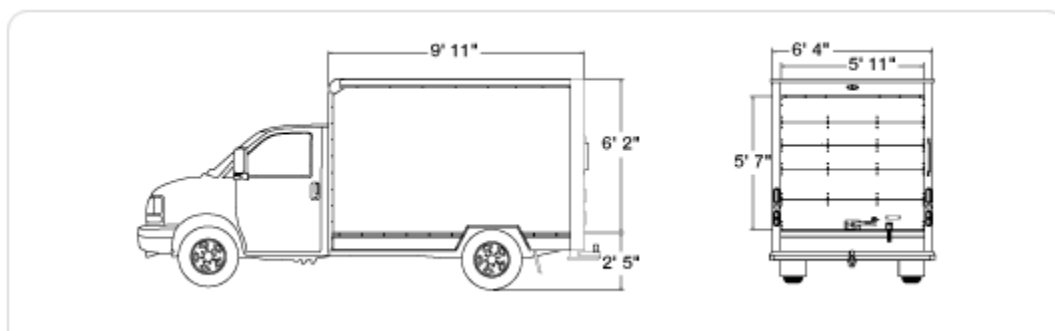


## Federal Highway Administration - Classification of Vehicles

<b>Class 1 - 6,000 lbs &amp; Less</b>			
			
Minivan	Cargo Van	SUV	Pickup Truck
<b>Class 2 - 6,001 to 10,000 lbs</b>			
			
Minivan	Cargo Van	Full-Size Pickup	Step Van
<b>Class 3 - 10,001 to 14,000 lbs</b>			
			
Walk-in	Box Truck	City Delivery	Heavy-Duty Pickup
<b>Class 4 - 14,001 to 16,000 lbs</b>			
			
Large Walk-In	Box Truck	City Delivery	
<b>Class 5 - 16,001 to 19,500 lbs</b>			
			
Bucket Truck	Large Walk-In	City Delivery	
<b>Class 6 - 19,501 to 26,000 lbs</b>			
			
Beverage Truck	Single-Axle	School Bus	Rack Truck
<b>Class 7 - 26,001 to 33,000 lbs</b>			
			
Refuse	Furniture	City Transit Bus	Truck Tractor
<b>Class 8 - 33,001 lbs &amp; Over</b>			
			
Cement Truck	Truck Tractor	Dump Truck	Sleeper

Source - <https://www.energy.gov/sites/prod/files/fotw707.gif.pagespeed.ce.Kgpbxrp68.gif>

## Size Examples –

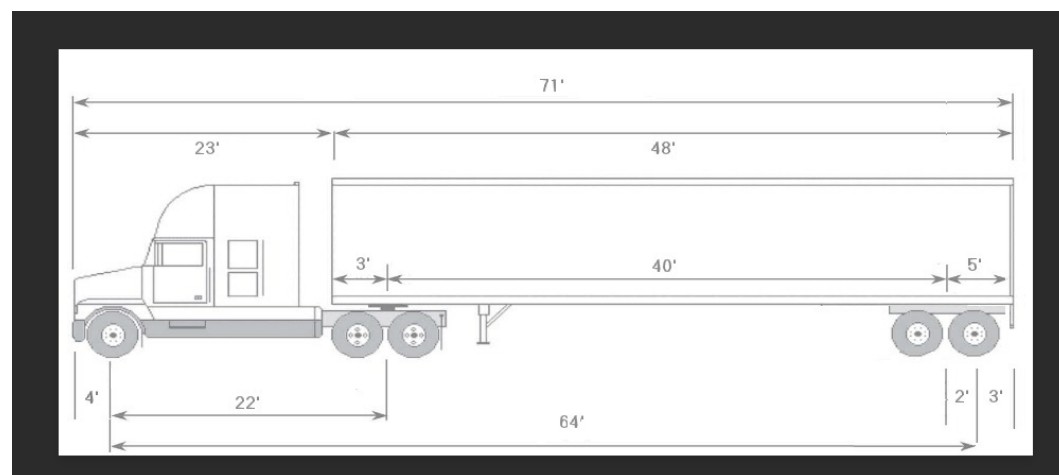


Source - <https://trucksales.uhaul.com/Vehicles/Specs/TM?key=505>



10-Yard Dump Truck Dimensions

Source - [www.sbsg.com/files/images/bg-sand-specs.jpg](http://www.sbsg.com/files/images/bg-sand-specs.jpg)



Source - <http://www.truckscales.com/wp-content/uploads/2017/07/semi48.jpg>

**ITEM SUMMARY**

DATE: 11/14/2019

TO: The Policy Committee

FROM: Tom Leininger, Planner

SUBJECT: Proposed Ordinance Amendments to Address Code of Virginia Changes Regarding Wireless Communication Facilities, Stage II

---

**ATTACHMENTS:**

	Description	Type
☐	Memorandum	Cover Memo
☐	Draft Ordinance Language - Section 24-120 (Definitions)	Backup Material
☐	Draft Ordinance Language - Division 6 - Communications Facilities Sec. 24-122 through 24-128	Backup Material
☐	Wireless Communication Facilities Va. Code §§ 15.2-2316.3 to -2316.5	Backup Material
☐	Minutes from the May 9, 2019 Policy Committee Meeting	Backup Material
☐	Draft Amendments to Performance Standards for CATS Policy	Backup Material

**REVIEWERS:**

Department	Reviewer	Action	Date
Policy	Rosario, Tammy	Approved	11/8/2019 - 12:19 PM
Policy	Holt, Paul	Approved	11/8/2019 - 1:46 PM
Publication Management	Burcham, Nan	Approved	11/8/2019 - 2:02 PM
Policy Secretary	Secretary, Policy	Approved	11/8/2019 - 2:15 PM

## MEMORANDUM

DATE: November 14, 2019

TO: The Policy Committee

FROM: Tom Leininger, Planner

SUBJECT: Proposed Ordinance and Policy Amendments to Address Code of Virginia Changes Regarding Wireless Communication Facilities, Stage II

---

In 2017 and 2018, the General Assembly passed legislation requiring changes to how local Zoning Ordinances may treat applications for wireless communications facilities. Those State Code changes, combined with recent Federal Communications Commission (FCC) decisions regarding facilities intended to support the deployment of 5G technology, continue to effectively erode local zoning authority. As in 2016, James City County will need to once again update its Zoning Ordinance to be consistent with state and federal requirements. In Stage I, staff identified issues and possible directions for the proposed amendments. In Stage II (the subject of this staff memorandum), staff will provide the Policy Committee with a proposed draft Ordinance for discussion. Lastly, in Stage III, staff will draft the final Ordinance accounting for any Policy Committee comments.

The 2035 Comprehensive Plan lends support to these possible Ordinance amendments through goals, strategies, and actions in the Community Character (CC) Section. CC 7.1 states that the County should “update the Wireless Communications Division of the Zoning Ordinance as necessary to accommodate the use of new and emerging wireless communications services.”

At the December 13, 2018 Policy Committee meeting, staff introduced a brief summary of the new legislation to the Policy Committee.

At the May 9, 2019 Policy Committee meeting, staff summarized the differences between the current Zoning Ordinance and the changes that would need to be made to comply with State Code changes. Staff introduced the different facility types and application types covered in the new regulation. The Policy Committee advised staff to revise the Zoning Ordinance to comply with State Code.

Staff has provided draft Ordinance language to Section 24-120 - Definitions to ensure that the Zoning Ordinance complies with State Code. As shown in Attachment No. 1, the draft language has revised the definitions section to incorporate new terms and also redefine terms to better align with State Code. The current Zoning Ordinance does not include a definitions section at the beginning of Division 6.

Staff also proposes including a definitions section with terms specific to Division 6. Staff proposes a series of updates to the section including changing the title of Section 24-122(a) to antenna application types instead of antenna mounting. The new text provides five different applications under which a wireless facility could be reviewed. The Standard Process Projects are the wireless facilities that already exist in the Zoning Ordinance and have limited revisions to their sections. Staff has two additional application types, small cell facilities and administrative review-eligible projects (AREP). These projects have specific criteria that set them apart from the Standard Process Projects. Both the small cell and the AREP applications are permitted in all zoning districts, as required by State Code.

As a reminder, these applications consist of the following:

- Small Cell Facilities: A communication facility to be installed on an existing structure that meet a specific size requirement as defined in the definitions section.
- AREP: The installation of a new structure not more than 50 feet above the ground level, provided that the structure with attached communication facilities meets the requirements defined in the definitions section. Additionally, AREPs can be the co-location on any existing structure of a communications facility that is not a small cell facility.

Additionally, as shown in Attachment No. 2, staff proposes revisions to Sections 24-122 through 24-128 to align with the requirements of State Code. The revisions include specific criteria for each of the application types as part of the submittal requirements, public safety considerations to comply with the FCC, requirements of fees for small cell and AREP applications, and staff review timelines for specific applications.

In addition to revising the Zoning Ordinance, staff proposes changes to the policy titled “Performance Standards for Communications Facilities, Antennas, Towers and Support Structures (CATS) That Require a Special Use Permit,” dated November 8, 2016, and endorsed by the Board of Supervisors (Attachment No. 5). The amendments to the policy include removing text that is covered by the Zoning Ordinance and removing text that is prohibited by State Code.

## **RECOMMENDATION**

Staff looks forward to the Committee’s input on these discussion item in advance of finalizing the draft ordinance and policy amendments.

TL/md  
POA-WirelssCommII-mem

### Attachments:

1. Draft Ordinance Language - Section 24-120 (Definitions)
2. Draft Ordinance Language - Division 6 - Communications Facilities Sec. 24-122 through 24-128
3. Wireless Communication Facilities Va. Code §§ 15.2-2316.3 to -2316.5
4. Minutes from the May 9, 2019 Policy Committee Meeting
5. Draft Amendments to Performance Standards for CATS Policy

Sec. 24-2. - Definitions.

For the purposes of this chapter, the following words and phrases shall have the meaning respectively ascribed to them by this section:

**A**

*Administrative review-eligible project (AREP). Solely for the purposes of article II, special regulations, division 6, communications facilities, antennas, towers and support structures only, either:*

*(1) The installation or construction of a new structure that is not more than 50 feet above ground level, provided that the structure with attached communications facilities is (i) not more than 10 feet above the tallest existing utility pole located within 500 feet of the new structure within the same public right-of-way or within the existing line of utility poles; (ii) not located within the boundaries of a local, state, or federal historic district; and (iii) designed to support small cell facilities (referred to as "AREP-1"); or*

*(2) The co-location on any existing structure of a communications facility that is not a small cell facility (referred to as "AREP-2").*

*Antenna.* A device of which the surface is used to capture an incoming and/or to transmit an outgoing radio-frequency signal. Antennas shall include the following types:

- (1) Omni directional (or 'whip') antenna. An antenna that receives and transmits signals in a 360-degree pattern.
- (2) Directional (or 'panel') antenna. An antenna that receives and transmits signals in a directional pattern typically encompassing an arc of 120 degrees.
- (3) Dish (or parabolic) antenna. A bowl shaped device, less than two meters in diameter, that receives and transmits signals in a specific directional pattern.

**B**

*Base station.* For the purposes of article II, special regulations, division 6, communications facilities, antennas, towers and support structures only, base station shall be defined as a structure or equipment at a fixed location that enables Federal Communications Commission (FCC)-licensed or authorized wireless communications between user equipment and a communications network. The term does not encompass a tower as defined herein or any equipment associated with a tower. Base stations include, without limitation:

- (1) Equipment associated with wireless communications services such as private, broadcast, and public safety services, as well as unlicensed wireless service and fixed wireless services such as microwave backhaul.
- (2) Radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration, including distributed antenna systems and small-cell networks.
- (3) Any structure other than a tower that, at the time the relevant application is filed with the county, supports or houses equipment described in paragraphs (1) and (2) of this definition that has been reviewed and approved under the applicable zoning or siting process, or under another state or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing that support. The term does not include any structure that, at the time the relevant application is filed with the county, does not support or house equipment described in paragraphs (1) and (2) of this definition.

**C**

*Co-location.* The mounting, ~~or installation~~, maintenance, modification, operation, or replacement of communications facilities on, under, within, or adjacent to a base station, building, existing structure, utility pole, or support structure ~~of transmission equipment on an existing tower or existing base station~~ for the purpose of transmitting and/or receiving radio frequency signals or other wireless data for communications purposes. "Co-locate" has a corresponding meaning.

*Communications facility.* A facility for the transmission or reception of radio signals licensed or authorized by the FCC, including facilities associated with radio and television broadcasting. *Equipment at a fixed location that enables wireless communications between user equipment and a communications network, including (i) equipment associated with wireless services, such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services, such as microwave backhaul, and (ii) radio transceivers, antennas, coaxial, or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration.* Communications facilities shall not include facilities used for transmitting or receiving signals by governmental agencies or amateur radio or citizens band radio.

*Concealment element.* Any condition of approval, including any applicable requirements of article II, special regulations, division 6, communications facilities, antennas, towers and support structures, in effect at the time of approval, established and imposed on a communications facility as a concealment technique designed to render the facility minimally visible to the casual observer or otherwise not having the appearance of an antenna or a tower, including conditions or regulations pertaining to antenna size, color of the structure and all equipment, antenna mounting techniques, maximum tower diameters, limitations on tower height relative to a reference tree, screening by trees, including the restrictions on removing trees that are screening the tower, and the size, location, design and screening for ground based equipment.

## E

*Eligible facilities request.* Any request for modification of an existing tower or existing base station that does not substantially change the physical dimensions of such tower or base station, involving:

- (1) ~~Co-location of new transmission equipment~~ *communications facilities.*
- (2) ~~Removal of transmission equipment~~ *communications facilities.*
- (3) ~~Replacement of transmission equipment~~ *communications facilities.*

*Eligible support structure.* Any tower or base station, provided that it is existing at the time the relevant application is filed with the county.

*Equipment enclosure.* A small building, cabinet, or vault used to house and protect the electronic equipment necessary to process wireless communications signals. Associated equipment may include air conditioners and emergency generators.

*Existing.* Having been reviewed and approved under the applicable zoning process. A tower or base station that has not been reviewed and approved because it was not required to be reviewed when it was built, but was lawfully constructed, shall also be deemed "existing."

*Existing structure.* (i) Solely for the purposes of Article VI, Overlay District, Division 3, Floodplain Area Regulations, this term shall mean structures for which the start of construction commenced before the effective date of the FIRM on or before February 6, 1991. (ii) *Solely for the purposes of article II, special regulations, division 6, communications facilities, antennas, towers and support structures only, this term shall mean any structure that is installed or approved for installation at the time a wireless services provider or wireless infrastructure provider provides notice to the locality of an agreement with the owner of the structure to co-locate equipment on that structure. "Existing structure" includes any structure that is currently supporting, designed to support, or capable of supporting the attachment of wireless facilities, including towers, buildings, utility poles, light poles, flag poles, signs, and water towers.*

## H

*Historic and scenic resource area.* Land managed by Colonial Williamsburg, the Jamestown-Yorktown Foundation, the National Park Service, York River State Park, the Virginia Association for Preservation of Antiquities, the Williamsburg Land Conservancy, or properties listed in the National Register, Virginia Historic Landmarks Register, or locally designated historic structures or districts, or Community Character Areas as defined in the Comprehensive Plan.

*Historic structure.* Solely for the purposes of Article VI, Overlay District, Division 3, Floodplain Area Regulations, this term shall also mean any structure that is:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminary determined by the secretary to qualify as a registered historic district;
- (3) Individually listed on a state inventory of historic places in states with historic preservation program which have been approved by the Secretary of the Interior; or
- (4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified by an approved state program as determined by the Secretary of the Interior or directly by the Secretary of the Interior in states with approved programs.

## M

*Micro-wireless facility.* A small cell facility that is not larger in dimension than 24 inches in length, 15 inches in width, and 12 inches in height and that has an exterior antenna, if any, not longer than 11 inches.

*Monopole.* A communications facility tower used to deploy antennas defined as self-supporting with a single shaft of wood, steel or concrete.

*Multi-antenna system.* Communications facilities networked together and connected to a wireless service source so that one or more multiple provisioning (high-powered) antennae which would normally be mounted on a tower to serve a given area are replaced or prevented by a group of lower-power antennas to serve the same geographic area.

*Multiple provisioning antenna.* Antennas used as part of an overall network such as distributive antenna systems that transmit and/or receive radio signals from multiple points and multiple users in a prescribed geographic area.

## N

*Noninterference/intermodulation study.* A study prepared by a licensed engineer indicating potential interference of communications facilities with public safety communication equipment.

## P

*Portable cellular transmission facility (PCTF).* A portable, self contained transmission tower that can be moved to a location and set up to provide wireless service on a temporary or emergency basis. A PCTF is normally vehicle-mounted and may contain a telescoping boom as the antenna support structure. PCTFs include, but are not limited to, Cells-on-Wheels (COW), Site-on-Wheels (SOW), Cell in a Box (CIAB) and Cell on Light Trucks (COLT) or other portable devices as determined by the zoning administrator.

## R



*Radio frequency (RF) report.* A statement from a registered engineer demonstrating that electromagnetic radiation emitted from communications facilities, including all facilities that may already be attached, does or does not result in "public" exposure level outside the communications facilities that exceeds relevant FCC standards.

## S

*Scenic resource corridor.* Community Character Corridors as defined in the Comprehensive Plan; Virginia Byways.

*Small cell facility.* A communications facility to be installed on an existing structure that meets both of the following qualifications: (i) each antenna is located inside an enclosure of no more than six cubic feet in volume, or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an imaginary enclosure of no more than six cubic feet and (ii) all other transmission equipment associated with the facility has a cumulative volume of no more than 28 cubic feet, or such higher limit as is established by the Federal Communications Commission. The following types of associated equipment are not included in the calculation of equipment volume: electric meter, concealment, telecommunications demarcation boxes, back-up power systems, grounding equipment, power transfer switches, cut-off switches, and vertical cable runs for the connection of power and other services.

*Slick stick.* A monopole where all antenna arrays are concealed within the tower.

*Substantial change.* For the purposes of article II, special regulations, division 6, communications facilities, antennas, towers and support structures, substantial change shall be defined as modification to an eligible support structure which meets any of the following criteria:

- (1) *Increase in height.* For towers other than towers in the public rights-of-way, the modification increases the height of the tower by more than ten percent or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet, whichever is greater; for other eligible support structures, the modification increase the height of the structure by more than ten percent or more than ten feet, whichever is greater. Changes in height shall be measured from the original support structure in cases where deployments are or will be separated horizontally, such as on building rooftops; in other circumstances, changes in height should be measured from the dimensions of the tower or base station, inclusive of originally approved appurtenances and any modifications that were approved prior to February 22, 2012.
- (2) *Increase in width.* For towers other than towers in the public rights-of-way, the modification involves adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than 20 feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater; for other eligible support structures, the modification involves adding an appurtenance to the body of the structure that would protrude from the edge of the structure by more than six feet.
- (3) *Excessive equipment cabinets.* For any eligible support structure, the modification involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four cabinets; or, for towers in the public-rights-of-way and base stations, the modification involves installation of any new equipment cabinets on the ground if there are no pre-existing ground cabinets associated with the structure, or else involves installation of ground cabinets that are more than ten percent larger in height or overall volume than any other ground cabinets associated with the structure.
- (4) *Expands tower site.* The modification entails any excavation or deployment outside the current site.
- (5) *Defeats concealment elements.* The modification would defeat the concealment elements of the eligible support structure.

- (6) *Does not comply with conditions of approval.* The modification does not comply with conditions associated with the siting approval of the construction or modification of the eligible support structure or base station equipment; provided that this limitation does not apply to any modification that is noncompliant only in a manner that would not exceed the thresholds identified in paragraphs (1) through (4) of this section.

*Support structure.* The structure to which antenna and other necessary hardware is mounted. Support structures shall include the following:

- (1) *Tower.* A pole or latticed structure designed for the attachment of one or more FFC-licensed or -authorized antenna as the primary use of the structure. This term does not include a base station.
- (2) *Alternative mounting structure.* Light poles, utility transmission structures, water towers, buildings, and other structures other than towers or camouflaged communications facilities which are not primarily designed to support antenna nor are designed taller in order to accommodate antenna.
- (3) *Camouflaged structure.* Any communications facility disguised or hidden by utilizing concealment elements so that all of its components are unnoticeable to the casual observer, or otherwise not having the appearance of an antenna or a tower.
- (4) *Antenna support structures for multi-antenna systems.* Structures whose primary function is to deploy an antenna as part of a multi-antenna system arrangement.

## U

*Usable satellite signal.* A satellite signal which, when viewed on a conventional television set, is at least equal in picture quality to that received from local commercial television stations by use of an outdoor antenna.

## V

*Variance.* In the application of the zoning ordinance, a reasonable deviation from those provisions regulating the shape, size, or area of a lot or parcel of land, or the size, height, area, bulk, or location of a building or structure when the strict application of the ordinance would unreasonably restrict the utilization of the property, and such need for a variance would not be shared generally by other properties, and provided such variance is not contrary to the purpose of the ordinance. It shall not include a change in use, which change shall be accomplished by a rezoning or by a conditional zoning.

## DIVISION 6. - COMMUNICATIONS FACILITIES

### Sec. 24-121. Statement of intent.

The purpose of this article is to provide guidance for the deployment and usage of communications facilities, antennas, towers and/or support structures (CATS).

- (a) The goals for the placement of CATS are to:
  - 1. Protect viewsheds and the scenic beauty of James City County.
  - 2. Deploy CATS in a manner that will not adversely impact property values.
- (b) The objectives for the CATS are to:
  - 1. Ensure that the deployment of CATS will accommodate existing and future technologies by providing sufficient height and facility expansion capabilities to accommodate the needs of the current and future residential, commercial, and industrial marketplace.
  - 2. Ensure all antenna deployments provide substantial coverage area.
  - 3. Promote the use of camouflaged, alternatively mounted and low-rise CATS.

### Sec. 24-122. Antenna mounting.

- (a) ~~Antenna mounting categories~~ *CATS application types*.

~~There are five categories of antenna mounting:~~

*1. Standard Process Projects:*

- a. Tower. Requirements for this mounting category are found in section 24-122(b)(1).*
- ~~2.~~ *b. Alternative Mounting CATS. Requirements for this mounting category are found in section 24-122(b)(2).*
- ~~3.~~ *c. Camouflaged CATS. Requirements for this mounting category are found in section 24-122(b)(3).*
- ~~4.~~ *d. Multi-Antenna System. Requirements for this mounting category are found in section 24-122(b)(4).*
- ~~5.~~ *Portable Transmission Facility (PTF). Requirements for this mounting category application type are found in section 24-122(b)(5).*
- 3. Small Cell Facilities. Requirements for this application type are found in section 24-122(b)(6).*
- 4. Administrative Review-Eligible Projects. Requirements for this application type are found in section 24-122(b)(7).*
- 5. Eligible Facilities Requests. Modifications to CATS determined by the planning director to be an eligible facilities request shall be processed in accordance with section 24-128.*

- (b) Communications facilities, antennas, towers and/or support structures.

- 1. Tower-mounted communications facility. Tower-mounted communications facilities shall be allowed as shown on Table 1.

**Table 1: Tower mounted communications facilities**

<b>Zoning District</b>	<b>Maximum By Right Tower Height</b>	<b>SUP Required</b>
General Agricultural, A-1	Not Permitted	All Towers
Rural Residential, R-8	Not Permitted	All Towers
Limited Residential, R-1	Not Permitted	Not Permitted
General Residential, R-2	Not Permitted	Not Permitted
Residential Redevelopment, R-3	Not Permitted	Not Permitted
Residential Planned Community, R-4 with a designation other than residential on a Board adopted master plan	Not Permitted	All Towers
Residential Planned Community, R-4 with a residential designation on a Board adopted master plan	Not Permitted	Not Permitted
Multifamily Residential, R-5	Not Permitted	Not Permitted
Low-Density Residential, R-6	Not Permitted	Not Permitted
Limited Business, LB	Not Permitted	All Towers
General Business, B-1	≤40'	>40'
Limited Business/Industrial, M-1	≤40'	>40'
General Industrial, M-2	≤40'	>40'
Planned Unit Development, PUD	Not Permitted	All Towers
Mixed Use, MU	Not Permitted	All Towers
Economic Opportunity, EO	Not Permitted	All Towers
Public Lands, PL	≤40'	>40'
Research and Technology District, RT	≤40'	>40'

- a. Tower-mounted communications facilities shall meet the requirements in Table 1 above and the requirements in sections 24-123 through 24-128.1.
2. Alternative mounting structure - CATS. CATS determined by the planning director to be utilizing alternative mounting structures as a concealment element as defined by this ordinance shall be permitted in all zoning districts and shall conform to the following criteria:
  - a. The principal use of the structure to be used for the placement of the antenna shall be for a use not associated with the communications facility as determined by the planning director.
  - b. The principal structure shall be permitted in accordance with the height limitations of the underlying zoning district. Height limitation waivers for CATS may be issued by the board of supervisors upon finding that the proposal is in accordance with the criteria identified in

the height limitation section of the underlying zoning district. CATS utilizing alternative mounting structures shall conform to the following height requirements:

- (1) On alternative mounting structures without a height limitation waiver. CATS utilizing alternative mounting structures may be erected to a total height of 60 feet from grade. CATS utilizing alternative mounting structures in excess of 60 feet, but not to exceed 100 feet, from grade may be permitted by issuance of a height limitation waiver from the board of supervisors.
  - (2) On alternative mounting structures with height limitation waiver. CATS utilizing alternative mounting structures may be erected to a total height of 60 feet from grade. Antennas may be erected in excess of 60 feet from grade on structures that have received a height limitation waiver from the board of supervisors. Such antennas shall be permitted by-right provided that the antenna does not exceed the maximum approved height of the structure to which it is mounted. An antenna may be permitted to exceed the maximum approved height of the structure upon issuance of a separate height limitation waiver from the board of supervisors, but shall not exceed a total height of 100 feet from grade.
- c. The antennas mounted on alternative mounting structures shall also conform to the following requirements:
- (1) All panel antenna shall be no more than five feet measured to the outermost point of the panel antenna from any surface of the existing structure at the point of attachment.
  - (2) All whip antenna shall be no more than ten feet measured to the tip of the whip antenna above the mounting surface of the existing structure at the point of attachment.
  - (3) All parabolic or dish antenna shall be no more than five feet measured to the outermost point of the dish from any surface of the existing structure at the point of attachment.
  - (4) Building-mounted antennas shall be mounted in a manner that is architecturally compatible with the structure on which they are located as determined by the planning director. Building-mounted antennas (excluding whip antennas under five feet in height) shall be completely screened or camouflaged from view from residentially zoned areas or adjacent roadways.
  - (5) Equipment enclosures shall be camouflaged or screened from view by landscaping or a wall or fence.
  - (6) CATS shall meet the requirements in sections 24-123 through 24-128.1.
3. Camouflaged communications facility. Camouflaged CATS as defined by this ordinance shall be permitted pursuant to Table 1.1 below.

**Table 1.1 Camouflaged CATS Determinations**

Zoning District	Planning Director	SUP Required
General Agricultural, A-1	✓	
Rural Residential, R-8		✓
Limited Residential, R-1		✓
General Residential, R-2		✓

Residential Redevelopment, R-3		✓
Residential Planned Community, R-4		✓
Multifamily Residential, R-5		✓
Low-Density Residential, R-6		✓
Limited Business, LB	✓	
General Business, B-1	✓	
Limited Business/Industrial, M-1	✓	
General Industrial, M-2	✓	
Planned Unit Development - Residential, PUD-R*		✓
Planned Unit Development - Commercial, PUD-C*	✓	
Mixed Use, MU	✓	
Economic Opportunity, EO	✓	
Public Lands, PL	✓	
Research and Technology District, RT	✓	
* or similar use designation on a Board adopted master plan zoned PUD		

Upon application for a special use permit for a camouflaged CATS in a residential district, the board of supervisors shall make a determination pursuant to section 24-122(b)(3) whether a proposed tower is camouflaged. Upon application for a by-right camouflaged CATS, the planning director shall make a determination pursuant to section 24-122(b)(3) whether a proposed tower is camouflaged. An appeal of a planning director determination shall be made to the development review committee which shall forward a recommendation to the planning commission. Written notice of the appeal must be received by the planning division within 30 days of the date of the planning director's determination.

4. Applicants may apply for any of the three categories of camouflaged CATS as defined below:
  - a. *Architecturally compatible.* The CATS has the appearance, scale and height of other structures that are generally permitted in the district in which it is to be located. When an architecturally compatible CATS is proposed the following requirements shall be met:
    - (1) The CATS shall use materials best suited to camouflage as determined by the planning director to create the appearance, scale and height of other structures that are generally permitted in the district in which it is to be located;
    - (2) The architecturally compatible CATS shall be placed in the vicinity of another structure that the proposed CATS intends to replicate and be unnoticeable to the casual observer that the primary use of the structure is for a CATS;
    - (3) The architecturally compatible CATS should be no taller than twice the permitted height of the replicated structure up to 70 feet;

- (4) Professional design requirements:
  - i. All CATS shall include a detailed landscaping plan with plan and profile views encompassing native tree buffer, native vegetation, correct ratio to proportion of existing tree buffers or structures, and view of the proposed CATS in profile;
  - ii. The landscape architect providing the landscape plan shall be professionally licensed in the Commonwealth of Virginia;
- (5) Meet the requirements in sections 24-123 through 24-128.1;
- (6) Reserved.
- b. *Native vegetation.* The structure has the appearance of vegetation native to eastern Virginia. Where a native vegetation CATS is proposed the following requirements shall be met:
  - (1) Should the CATS be taller than nearby trees, it shall be buffered with existing mature trees in a manner such that it will not appear out of scale with existing natural vegetation from an off-site view.
  - (2) The CATS shall include a detailed landscaping plan with plan and profile views encompassing native tree buffer, native vegetation, correct ratio in proportion to existing tree buffers or structures, and artistic view of the proposed facility in profile.
  - (3) The landscape architect providing the landscape plan shall be professionally licensed in the Commonwealth of Virginia.
  - (4) The CATS shall use materials best suited to camouflage as determined by the planning director to appear as native vegetation and be unnoticeable to the casual observer that the function of structure is for a CATS.
  - (5) Access drives shall be designed and located in a manner that obscures views of the CATS base or related facilities from the road point of ingress.
  - (6) Meet the requirements in sections 24-123 through 24-128.1.
  - (7) Shall not exceed 120 feet in height.
- c. *Buffered.* The structure is well buffered by tall vegetation and/or other structures. Where a buffered CATS is proposed, the following requirements shall be met:
  - (1) A minimum of a 100-foot, undisturbed buffer of mature trees, or a buffer consisting of other elements such as evergreen trees, buildings, or topography that provide at least the equivalent visual effect of a 100-foot undisturbed buffer of mature deciduous trees, that in combination with the design and color of the structure renders the CATS generally unnoticeable to the off-site casual observer as determined by the planning director.
  - (2) Shall be set back from any off-site existing residential structure no less than 400 feet.
  - (3) The buffer shall remain undisturbed except for any access drives and utilities necessary for the CATS and other improvements or timbering activities that do not alter the visual effect of the buffer as determined by the planning director. The buffer shall be located in an on-site or off-site area that:
    - i. The planning director determines is not likely to be altered such that the visual effect of the buffer would be diminished while the CATS would be in existence, such as lands protected by the Chesapeake Bay Ordinance or other environmental regulations or conservation areas or community character corridors or property depicted as conservation area on the Comprehensive Plan; or

- ii. Such areas where the CATS owner has guaranteed the buffer will remain undisturbed while the CATS is in existence by way of lease agreement, recorded easement or other means acceptable to the planning director. Such leases and easements shall be in effect until such time as the CATS is removed.
- (4) Professional design requirements:
  - i. CATS shall include a detailed landscaping plan with plan and profile views encompassing native tree buffer, native vegetation, correct ratio in proportion of existing tree buffers or structures, and artistic view of the proposed facility in profile.
  - ii. The landscape architect preparing the landscape plan shall be professionally licensed in the Commonwealth of Virginia.
  - iii. Access drives shall be designed and located in a manner that obscures view of the CATS base or related facilities from the point of ingress.
- (5) Meet the requirements in sections 24-123 through 24-128.1.
- (6) Shall not exceed 120 feet in height.
- 4. *Multi-antenna system.* A multi-antenna system such as Distributed Antenna System (DAS) or others as determined by the zoning administrator shall utilize concealment elements and be permitted as shown on Table 2.

**Table 2: Multi-antenna system.** Antennas shall be mounted no higher than stated below unless approved by the board of supervisors. Multi-antenna systems are permitted in the following zoning districts:

Zoning District	Maximum By-Right Antenna Mounting Height	SUP Required
General Agricultural, A-1	≤35'	>35'
Rural Residential, R-8	≤35'	>35'
Limited Residential, R-1	Not Permitted	All Applications
General Residential, R-2	Not Permitted	All Applications
Residential Redevelopment, R-3	Not Permitted	All Applications
Residential Planned Community, R-4	Not Permitted	All Applications
Multifamily Residential, R-5	Not Permitted	All Applications
Low-Density Residential, R-6	Not Permitted	All Applications
Limited Business, LB	Not Permitted	All Applications
General Business, B-1	≤60'	>60'
Limited Business/Industrial, M-1	≤60'	>60'
General Industrial, M-2	≤60'	>60'
Planned Unit Development, PUD	Not Permitted	All Applications
Mixed Use, MU	Not Permitted	All Applications
Public Lands, PL	≤60'	>60'



Economic Opportunity, EO	≤60'	>60'
Research and Technology District, RT	≤60'	>60'

Concealment requirements for antenna mounting of multi-antenna systems:

- a. To the greatest extent possible, antennas should be mounted on structures not originally associated with the communications facility as determined by the zoning administrator.
- b. Antennas shall be generally unnoticeable to the casual observer and/or screened from view as determined by the planning director.
- c. Equipment enclosures shall be camouflaged or screened from view by landscaping, walls or fencing.
- d. Antenna support structures for multi-antenna systems shall be designed to appear as native vegetation or other typical features of the zoning district (such as a light/telephone pole).
- e. Meet the requirements in sections 24-123 through 24-128.1.

5. *Portable Transmission Facility (PTF).*

- a. A PTF shall be permitted for a maximum of 90 days in any 365-day period or longer during an emergency as determined by the county administrator or his designee.
  - (1) Any applicant who is aggrieved by the time limitations for a PTF may petition the board of supervisors for an extension. If additional time is determined to be in the interest of the public, the board of supervisors may grant an extension.
- b. The PTF shall be set back at least two times the height of the PTF from any residential or public structure.
- c. The maximum height of the PTF shall be 120 feet.
- d. The applicant shall submit a conceptual plan of the structure pursuant to section 24-144, an RF report and a noninterference/intermodulation study no fewer than seven business days prior to deployment stating how long the PTF will be in use and demonstrate a public health or safety need. Upon review of the application, the zoning administrator may request additional information, deny the application because of an ordinance violation, or approve the use of the PTF at the location and time duration indicated on the conceptual plan.

6. *Small Cell Facilities. CATS determined by the planning director to be small cell facilities shall be permitted in all zoning districts and shall conform to the following criteria:*

- a. *All applications for small cell facilities as permitted under this subsection shall be processed in accordance with section 24-128.*
- b. *Any application for a small cell facility that also meets the criteria for an eligible facility request shall be processed as an eligible facility request.*
- c. *The installation, placement, maintenance, or replacement of micro-wireless facilities that are suspended on cables or lines that are strung between existing utility poles in compliance with national safety codes shall be exempt from permitting requirements and fees. Evidence of qualification for this exemption shall be provided through a conceptual plan, site plan, building permit plans, or otherwise.*

7. *Administrative Review-Eligible Projects (AREPs). CATS determined by the planning director to be AREPs shall be permitted in all zoning districts and shall be processed in accordance with section 24-128.1. Any application for an AREP-2 that qualifies as an eligible facilities request shall be processed as an eligible facilities request under section 24-128.*

Sec. 24-123. General requirements.

The following requirements shall apply to all CATS, except for eligible facilities requests *and small cell facility applications*, to the extent noted in section 24-128.1:

(a) ~~Setbacks. In addition to meeting the requirements of the underlying zoning district, tower-mounted communications facilities (including camouflaged CATS) shall conform to the following setback requirements:~~

- ~~(1) All towers shall be set back from any off-site existing residential structure by no less than 400 feet. All towers shall be located no closer than 400 feet from an occupied school or building used primarily for daycare.~~
- ~~(2) All towers shall meet the structural requirements set forth in standard of the "Structural Standards for Steel Antenna Towers and Antenna Supporting Structures," or its successors as determined by the building official.~~
- ~~(3) All towers shall comply with the Virginia Uniform Statewide Building Code.~~
- ~~(4) All towers shall be set back from all property lines a minimum of 110 percent of the documented collapse radius.~~
- ~~(5) All setbacks from a public right-of-way shall take into account any planned public right-of-way designated on the Six-Year Primary and Secondary Road Plans or the Comprehensive Plan.~~

(b) *Appearance.* Towers, all CATS equipment enclosures, and security fences shall conform to the following requirements:

- (1) Lighting installed at all CATS, other than low-intensity lighting installed for the purpose of site security, shall be only that required to meet the minimum requirements set forth in the Federal Aviation Administration Advisory Circular AC 70/7460-1J, or its successors. If lighting is required, the planning director shall review the available lighting alternatives and approve the lighting design. Such lighting shall minimize impacts on adjacent property and be located and designed to minimize visibility of the light source from the ground.
- (2) Towers shall be gray in color unless otherwise approved by the planning director and in compliance with the Federal Aviation Administration Advisory Circular AC 70/7460-1J, or its successors.
- (3) No signage of any kind shall be displayed at or on a tower that advertises a product, service or business activity or institution.
- (4) All equipment enclosures shall be screened from public view with fencing and landscaping unless the enclosure is of a similar design and material to that used for a single-family residence and approved by the planning director.

(c) *Security.* Except where otherwise noted, the following security requirements shall apply to all CATS:

- (1) All CATS using alternative mounting structures, and camouflaged CATS shall be equipped with an anti-climbing device, or be designed in a manner that precludes climbing without the use of additional equipment.
- (2) Security fencing, if used, shall conform to the following:

- a) Security fencing shall be screened from view with landscaping.
  - b) Chain-link fences shall be of a black or green color.
  - c) No fence shall exceed six feet in height and it shall contain no barb wire or similar barrier.
- (d) *Satellite earth station antenna.* In addition to the requirements of this section, satellite earth station antennas and other types of incidental antenna shall be provided in accordance with Section 23-34, Special requirements for antennas.
- (e) *Special requirements for certain antenna.* Installation or replacement of any antenna on a tower shall require a special use permit if all of the following conditions apply:
- (1) The tower on which it is to be placed was constructed after the effective date of this ordinance, May 26, 1998;
  - (2) The tower on which it is to be placed is higher than the thresholds for towers requiring a special use permit identified on Table 1; and
  - (3) A special use permit does not already exist which would permit the construction of that tower or the installation of additional antenna on that tower.

Sec. 24-124. Performance standards.

In considering an application for a special use permit for a CATS, the planning director shall prepare a composite report identifying the extent to which the application is in compliance with the "Performance Standards for Communications Facilities, Antennas, Towers and Support Structures (CATS) That Require a Special Use Permit," dated November 8, 2016, and endorsed by the board of supervisors. Such report shall be submitted to the planning commission and board of supervisors prior to the date of the public hearing on the special use permit application. In general, it is expected that all facilities shall substantially meet the provisions of the above performance standards.

Sec. 24-125. Radio frequency standards.

- (a) *Federal communications commission emissions standards.* The CATS shall comply with Federal Communications Commission (FCC) standards for all electromagnetic emissions.
- (b) *Noninterference/modulation with local broadcasts.* The applicant shall ensure that the CATS will not cause localized interference/modulation with the transmittance or reception of area television or radio authorized FCC broadcasts. Prior to preliminary site plan approval of the CATS, a noninterference/modulation study shall be submitted to and approved by the planning director indicating that no interference with any communications equipment will take place. If such interference/modulation is detected at any time, and is not corrected within 60 days, the special use permit or any other permits may be modified or revoked.

Sec. 24-126. Public safety considerations.

- (a) *Noninterference with public safety communications.* The applicant shall ensure that the CATS will not interfere with public safety communications. If such interference is detected, and not corrected or ceased within 24 hours, operation of the CATS shall be terminated and the special use permit or any other permits may be modified or revoked.
- (b) ~~*Antenna mountings for public safety communications.* Applicants shall be required to negotiate in good faith with public safety agencies regarding vacant antenna locations on CATS prior to making these locations available to other providers. The applicant shall provide evidence of these negotiations acceptable to the planning director prior to preliminary site plan approval. In instances where a potential need for the antenna location is identified by a public safety agency, said agency shall have~~

~~the right of first refusal for said antenna location for a period of 90 days after the date of final site plan approval.~~

- (e) All CATS providing voice service shall be reported to the county dispatch center to ensure that all wireless E-911 calls placed within the boundaries of the county are routed to the county dispatch center.

Sec. 24-127. Permit limitations.

- (a) ~~Guarantee of Abandonment and removal.~~ Prior to final site plan approval, the owner of the property on which a CATS is located shall post a performance bond, cash surety, or letter of credit in an amount sufficient to fund removal of an abandoned or unused CATS or any disused portion thereof, and site restoration. This bond or other financial mechanism shall remain in effect throughout the life of the CATS. A CATS shall be considered abandoned or unused if it is not being utilized for the purpose of providing communications services for a period of six months. At such time the CATS shall be removed, except where the CATS is used by the county or deemed necessary by the county for placement of its communications equipment.
- (b) *Right of access.* The county shall be granted access to the CATS for the life of the facility for the purposes of inspection and, in the event a CATS is abandoned or unused, removal.
- (c) *Site restoration.* The site of a removed CATS shall be restored to its original state, except that any installed landscaping shall remain in place.

Sec. 24-128. Processing and submittal requirements for eligible facilities requests *and small cell facility applications.*

- (a) The following shall apply to eligible facilities requests, as that term is defined in section 24-2:

- (1) *Conceptual plan.* A site plan, drawn to scale, shall be submitted that depicts the location of support structure(s), equipment enclosures, landscaped/vegetative buffer areas, the potential location of additional ~~towers or replacement communications facilities or support structures~~ on the site, ~~and fences, access, and ownership and use of adjacent properties.~~ This plan should also include elevation or profile views.

*a) Any eligible facilities request that consists solely of the replacement of communications facilities or support structures within a six-foot perimeter with communications facilities or support structures that are substantially similar or the same size or smaller shall only be required to submit a conceptual plan as required by this subsection to demonstrate that zoning approval is not required, and a noninterference/intermodulation study indicating no potential interference with public safety communications for review by the Fire Department. The further requirements of this section shall not apply to such eligible facilities requests.*

- (2) *Evidence of eligible support structure.* The applicant shall provide evidence of prior approval letters or actions from the county authorizing the initial construction of the support structure. If no approvals were granted by the county for the structure, the applicant shall provide copies of site plan and building permit approvals as evidence that the structure was constructed lawfully.

- (3) *Evidence of eligible request.* The applicant shall provide certification by a Virginia-registered professional engineer specifying the following information in order to verify that the proposal will not result in a substantial change to the existing eligible support structure:

- a) Location and dimensions of all existing and proposed improvements to the structure, including appurtenances, ground equipment and enclosures, landscaped/vegetative buffer areas, fences and access ways. This plan should include elevation or profile views.

- ~~(2)~~ ~~b)~~ Identification of the color of the existing structure and any new appurtenances or fencing.
- ~~(3)~~ ~~c)~~ Depiction of the facility illustrating the maximum height above ground and maximum width of the structure permitted without triggering a substantial change to the facility.

*(b) The following shall apply to small cell facility applications:*

- (1) The applicant shall submit a site plan, drawn to scale, that depicts the location of the existing structure(s) serving as support structure(s), equipment enclosures, landscaped/vegetative buffer areas, the location of communications facilities on the existing structures, and fences. This plan should also include elevation or profile views.*
- (2) The applicant shall provide certification by a Virginia-registered professional engineer specifying the location and dimensions of all existing and proposed communications facilities and support structures, including appurtenances, ground equipment and enclosures, in order to verify that the proposed communications facilities are small cell facilities.*
- (3) The applicant shall provide evidence of permission from the owner of the existing structure to locate the small cell facilities on that existing structure.*
- (4) An applicant may voluntarily submit any conditions that address potential visual or aesthetic effects resulting from the placement of small cell facilities.*
- (5) Each application may include up to 35 small cell facilities.*

*(c) The following shall apply to eligible facilities requests and small cell facility applications:*

~~(d1)~~ *Public safety.* The applicant shall provide certification by a Virginia-registered professional engineer specifying the following information in order to verify that the proposal will not adversely impact public safety:

- ~~(1a)~~ Compliance with all structural and safety requirements of the Virginia Uniform Statewide Building Code, including the BOCA Basic Building Code and section 222(F) of the standards adopted by the Electronics Industry Association, and all amendments thereto, and the National Electrical Code.
- ~~(2b)~~ A radio frequency (RF) report indicating compliance with FCC standards for electromagnetic emissions.
- ~~(3c)~~ A noninterference/intermodulation study indicating no potential interference with public safety communications shall be provided in a manner acceptable to the planning director.

~~(e2)~~ *Timing.* The county will act on eligible facilities requests *and small cell facility applications* within 60 days, adjusted for any tolling due to requests for additional information or mutually agreed upon extensions of time.

~~(1a)~~ The timeframe for review of an eligible facilities request shall begin to run when the application is submitted, but shall be tolled if the county finds the application is incomplete and requests that the applicant submit additional information to complete the application. Such requests shall be made *by electronic mail to a valid address provided in the application* within ~~30~~ *ten* days of submission of the application *and specify any missing information.* After submission of additional information *by the applicant*, the county will notify the applicant within ten days of this submission if the additional information failed to complete

the application. *For review of a small cell facility application, the 60-day period may be extended by the locality in writing for a period not to exceed an additional 30 days.*

(2b) If the county determines that an application for modification of an existing eligible support structure does not qualify as an eligible facilities request or a small cell facility, the county will notify the applicant of that determination in writing and will process the application in accordance with section 24-128.1.

(3c) To the extent federal law and regulations provide a “deemed granted” remedy for eligible facilities requests not acted on within 60 days, or state law provides a “deemed approved” remedy for small cell facilities not acted upon within the appropriate timeframe, no such application shall be deemed granted or deemed approved until the applicant provides notice to the county, in writing.

(4d) Any request that is deemed granted or deemed approved by operation of federal law shall be subject to the requirements of sections 24-122, 24-125, and 24-127.

(d) *The county may disapprove of the proposed location or installation of a small cell facility for:*

- (1) *Material potential interference with other pre-existing communications facilities or with future communications facilities that have already been designed and planned for a specific location or that have been reserved for future public safety communications facilities;*
- (2) *Public safety or other critical public service needs;*
- (3) *In the case of an installation on or in publicly owned or publicly controlled property, an aesthetic impact or lack any required approvals from all departments, authorities, and agencies with jurisdiction over such property;*
- (4) *Conflict with an applicable local ordinance adopted pursuant to § 15.2-2306, or pursuant to local charter on a historic property that is not eligible for the review process established under 54 U.S.C. § 306.108.*

Sec. 24-128.1. Processing and submittal requirements for all other new ~~cats~~ CATS and modifications.

(a) The following shall apply to applications for new CATS and/or for modifications to eligible support structures that are not eligible facilities requests or small cell facility applications:

- (1) *Conceptual plan.* A site plan, drawn to scale, shall be submitted that depicts the location of support structure(s), equipment enclosures, landscaped/vegetative buffer areas, the potential location of additional towers on the site, fences, access, and ownership and use of adjacent properties. This plan should also include elevation or profile views.
- (2) *Preapplication meeting.* Prior to formal application for a camouflaged CATS, multi-antenna system, or a tower submittal, the prospective permittee or its representative shall attend a pre-application meeting with the planning director or his representative. The purpose of this meeting will be to discuss future service plans of the provider, the proposed CATS location, the configuration of the proposed CATS, the feasibility of co-location, the feasibility of alternative tower locations, and the feasibility of a building-mounted CATS, utilizing an alternative mounting structure or a camouflaged CATS. The planning director may request a tower simulation (balloon test) for a camouflaged determination.
- (3) *Professional certification.* The applicant shall provide certification by a Virginia-registered engineer specifying the following information prior to preliminary site plan approval:
  - a. Antenna height, design, structure and capacity, including the number, type, and mounting elevations of antenna that could be accommodated. Applications for new CATS shall include a scaled depiction of the maximum permitted increase in the physical dimensions of the

proposed project that would be permitted according to Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012 and FCC implementing regulations, using the proposed project as a baseline.

- b. Compliance with all structural and safety requirements of the Virginia Uniform Statewide Building Code, including the BOCA Basic Building Code and section 222(F) of the standards adopted by the Electronics Industry Association, and all amendments thereto and the National Electrical Code.
- c. A RF report indicating compliance with FCC standards for electromagnetic emissions.
- d. A noninterference/intermodulation study indicating no potential interference with public safety communications shall be provided in a manner acceptable to the planning director.

(4) *Aesthetics. The applicant may voluntarily submit any conditions that address potential visual or aesthetic effects resulting from the placement of a new CATS.*

(5) *Disapproval. The county may disapprove any application that proposes to locate a new structure, or to co-locate a wireless facility, in an area where all cable and public utility facilities are required to be placed underground by a date certain or encouraged to be undergrounded as part of a transportation improvement project or rezoning proceeding as set forth in objectives contained in a comprehensive plan. The county may disapprove any application, other than an AREP, on the basis of the availability of existing support structures within a reasonable distance that could be used for co-location at reasonable terms and conditions without imposing technical limitations on the applicant.*

- (b) In addition to meeting all other processing and submittal requirements for site plans, any application for a special use permit for the installation of CATS shall comply with the following, and the application shall not be deemed complete until accompanied by these materials, which shall be submitted six weeks prior to the planning commission meeting:

(1) *Federal approval. The applicant shall provide a copy of any approval granted by a federal agency, including conditions imposed by that agency. Search and service area mapping. The applicant shall provide mapping, deemed suitable by the planning director, depicting the following:*

- a. ~~The search area for the proposed CATS along with underlying property lines and divisions. The map shall be of a clearly indicated scale and municipal boundaries and all primary and secondary highways within the search area shall be delineated.~~
- b. ~~The intended service area of the proposed CATS with a radio signal propagation map to include information such as building, car, and ambient coverage or other suitable graphic, depicting the level of signal coverage with and without the proposed CATS. At least one other graphic shall also be provided that shows the relationship of this coverage to that of existing and proposed CATS operated by the same provider and future service plans, within the county and within five miles of the border thereof.~~

(2) *Evidence of attempts at co-location and using alternative locations, designs, and operating procedures. The applicant shall allow other users to locate on the tower and site and shall provide the county, upon request, verifiable evidence of having made good faith efforts to allow such locations. To this end, the applicant shall execute a letter of intent prior to final site plan approval stating that the applicant will make every reasonable effort to accommodate all future requests to share space and that the applicant will negotiate in good faith with any party requesting space on the tower or site, and copies of said letters shall be sent to all communications facilities service providers licensed to serve the county and a copy of their response, if any, shall be provided to the planning director. The planning director may waive this requirement for camouflaged CATS where co-location would preclude the CATS from meeting ordinance requirements for such*

~~facilities, and for communications facilities that utilize alternative mounting structures, or are building-mounted.~~ The applicant shall provide a copy of its co-location policy and the following evidence of attempts to co-locate and attempts to utilize alternative locations, designs, and operating procedures in a manner acceptable to the planning director:

- a. The applicant shall indicate on a map provided by the planning department all existing tower and building mounted CATS, and alternative mounting structures and buildings more than 60 feet tall within a three-mile radius of the proposed new location. The planning director may reduce the radius of this study area where the intended coverage of the proposed CATS is less than three miles.
  - b. Applicants shall provide evidence acceptable to the planning director, ~~including radio signal propagation plottings,~~ that all existing towers, and alternative mounting structures and buildings more than 60 feet tall within a three-mile radius of the site of a proposed CATS have been evaluated with respect to their ability to provide adequate service coverage and antenna-mounting opportunity, and evidence acceptable to the planning director that adequate service coverage cannot be provided through an increase in transmission power, or through the use of camouflaged CATS, alternative mounting structures, building-mounted CATS, or a system that uses lower antenna heights than proposed. The planning director may waive these requirements where documented evidence, satisfactory to the planning director is available that indicates alternative locations and designs are not feasible, and where the intended coverage of the proposed CATS is less than three miles.
  - c. The applicant shall provide evidence deemed suitable by the planning director that good faith negotiations have taken place to use existing CATS, and existing alternative mounting structures and buildings, including copies of letters sent to other service providers and their response, if any, on a request to co-locate on their facility.
  - d. ~~The applicant shall provide verifiable written evidence, deemed suitable by the planning director, of the feasibility of replacing all existing CATS within a three-mile radius of the site of the proposed CATS in order to accommodate the proposed CATS.~~
- (3) ~~Public safety communications antenna requirements.~~ The applicant shall provide written evidence, ~~deemed suitable by the planning director, of consultation with the relevant public safety agencies regarding their need for antenna space at any newly proposed communications facility support structure.~~
- (43) *Balloon test.* At least three weeks prior to the planning commission meeting, the applicant shall conduct a balloon test that simulates both the height of the proposed CATS, and the maximum increase in the physical dimensions of the proposed project permitted according to Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012 and FCC implementing regulations. The balloon test shall be scheduled within the first week following application submittal. The planning director may also require the balloon to be flown at other altitudes to determine impacts. The planning director shall give notice of the balloon test at least seven days prior to the day of the test in a newspaper having a general circulation in the county. The results of the balloon test providing representative photographic evidence of the views of a proposed CATS from residential areas, public rights-of-way, and other sensitive areas identified by the planning director or his representative shall be provided to the planning director at least two weeks prior to the planning commission meeting. Other scaled graphical simulations of potential views encompassing a proposed CATS may be substituted for the balloon test results or required in addition to the balloon test results at the discretion of the planning director.
- (c) *Timing.* The county will act on applications for an AREP-2 and proposed modifications to CATS that are not eligible facilities requests within 90 days, adjusted for any tolling due to requests for additional



information or mutually agreed upon extensions of time. The county will act on *any applications for an AREP-1 or* new CATS within 150 days, adjusted for any tolling due to requests for additional information or mutually agreed upon extensions of time. *Any period specified in this subsection for the county to approve or disapprove an application may be extended by mutual agreement between the applicant and the county.*

- (1) The timeframe for review shall begin to run when the application is submitted, but shall be tolled if the county finds the application is incomplete and requests that the applicant submit additional information to complete the application. *The county shall make* ~~Such requests shall be made by~~ *electronic mail to a valid address provided in the application* within ~~30~~ *ten* days of submission of the application *and specify any missing information.* After submission of additional information, the county will notify the applicant within ten days of this submission if the additional information failed to complete the application.
- (2) If the county denies an application submitted pursuant to this section, the county will notify the applicant of the denial in writing of the reasons for the denial. *If the county is aware of any modifications to the project as described in the application that if made would permit the locality to approve the proposed project, the county shall identify them in the written statement of denial. The county's action on disapproval shall be supported by substantial record evidence contained in a written record publicly released within thirty days of the disapproval.*
- (3) *To the extent federal law and regulations provide a "deemed granted" remedy, or state law provides a "deemed approved" remedy for applications not acted upon within the appropriate timeframe, no such application shall be deemed granted or deemed approved until the applicant provides notice to the county, in writing.*

## Article 7.2. Zoning for Wireless Communications Infrastructure

### § 15.2-2316.3. Definitions.

As used in this article, unless the context requires a different meaning:

"Administrative review-eligible project" means a project that provides for:

1. The installation or construction of a new structure that is not more than 50 feet above ground level, provided that the structure with attached wireless facilities is (i) not more than 10 feet above the tallest existing utility pole located within 500 feet of the new structure within the same public right-of-way or within the existing line of utility poles; (ii) not located within the boundaries of a local, state, or federal historic district; (iii) not located inside the jurisdictional boundaries of a locality having expended a total amount equal to or greater than 35 percent of its general fund operating revenue, as shown in the most recent comprehensive annual financial report, on undergrounding projects since 1980; and (iv) designed to support small cell facilities; or

2. The co-location on any existing structure of a wireless facility that is not a small cell facility.

"Antenna" means communications equipment that transmits or receives electromagnetic radio signals used in the provision of any type of wireless communications services.

"Base station" means a station that includes a structure that currently supports or houses an antenna, transceiver, coaxial cables, power cables, or other associated equipment at a specific site that is authorized to communicate with mobile stations, generally consisting of radio transceivers, antennas, coaxial cables, power supplies, and other associated electronics.

"Co-locate" means to install, mount, maintain, modify, operate, or replace a wireless facility on, under, within, or adjacent to a base station, building, existing structure, utility pole, or wireless support structure. "Co-location" has a corresponding meaning.

"Department" means the Department of Transportation.

"Existing structure" means any structure that is installed or approved for installation at the time a wireless services provider or wireless infrastructure provider provides notice to a locality or the Department of an agreement with the owner of the structure to co-locate equipment on that structure. "Existing structure" includes any structure that is currently supporting, designed to support, or capable of supporting the attachment of wireless facilities, including towers, buildings, utility poles, light poles, flag poles, signs, and water towers.

"Micro-wireless facility" means a small cell facility that is not larger in dimension than 24 inches in length, 15 inches in width, and 12 inches in height and that has an exterior antenna, if any, not longer than 11 inches.

"New structure" means a wireless support structure that has not been installed or constructed, or approved for installation or construction, at the time a wireless services provider or wireless infrastructure provider applies to a locality for any required zoning approval.

"Project" means (i) the installation or construction by a wireless services provider or wireless

infrastructure provider of a new structure or (ii) the co-location on any existing structure of a wireless facility that is not a small cell facility. "Project" does not include the installation of a small cell facility by a wireless services provider or wireless infrastructure provider on an existing structure to which the provisions of § 15.2-2316.4 apply.

"Small cell facility" means a wireless facility that meets both of the following qualifications: (i) each antenna is located inside an enclosure of no more than six cubic feet in volume, or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an imaginary enclosure of no more than six cubic feet and (ii) all other wireless equipment associated with the facility has a cumulative volume of no more than 28 cubic feet, or such higher limit as is established by the Federal Communications Commission. The following types of associated equipment are not included in the calculation of equipment volume: electric meter, concealment, telecommunications demarcation boxes, back-up power systems, grounding equipment, power transfer switches, cut-off switches, and vertical cable runs for the connection of power and other services.

"Standard process project" means any project other than an administrative review-eligible project.

"Utility pole" means a structure owned, operated, or owned and operated by a public utility, local government, or the Commonwealth that is designed specifically for and used to carry lines, cables, or wires for communications, cable television, or electricity.

"Water tower" means a water storage tank, or a standpipe or an elevated tank situated on a support structure, originally constructed for use as a reservoir or facility to store or deliver water.

"Wireless facility" means equipment at a fixed location that enables wireless communications between user equipment and a communications network, including (i) equipment associated with wireless services, such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services, such as microwave backhaul, and (ii) radio transceivers, antennas, coaxial, or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration.

"Wireless infrastructure provider" means any person that builds or installs transmission equipment, wireless facilities, or wireless support structures, but that is not a wireless services provider.

"Wireless services" means (i) "personal wireless services" as defined in 47 U.S.C. § 332(c)(7)(C)(i); (ii) "personal wireless service facilities" as defined in 47 U.S.C. § 332(c)(7)(C)(ii), including commercial mobile services as defined in 47 U.S.C. § 332(d), provided to personal mobile communication devices through wireless facilities; and (iii) any other fixed or mobile wireless service, using licensed or unlicensed spectrum, provided using wireless facilities.

"Wireless services provider" means a provider of wireless services.

"Wireless support structure" means a freestanding structure, such as a monopole, tower, either guyed or self-supporting, or suitable existing structure or alternative structure designed to support or capable of supporting wireless facilities. "Wireless support structure" does not include any telephone or electrical utility pole or any tower used for the distribution or transmission of electrical service.

#### **§ 15.2-2316.4. Zoning; small cell facilities.**

A. A locality shall not require that a special exception, special use permit, or variance be obtained for any small cell facility installed by a wireless services provider or wireless infrastructure provider on an existing structure, provided that the wireless services provider or wireless infrastructure provider (i) has permission from the owner of the structure to co-locate equipment on that structure and (ii) notifies the locality in which the permitting process occurs.

B. Localities may require administrative review for the issuance of any required zoning permits for the installation of a small cell facility by a wireless services provider or wireless infrastructure provider on an existing structure. Localities shall permit an applicant to submit up to 35 permit requests on a single application. In addition:

1. A locality shall approve or disapprove the application within 60 days of receipt of the complete application. Within 10 days after receipt of an application and a valid electronic mail address for the applicant, the locality shall notify the applicant by electronic mail whether the application is incomplete and specify any missing information; otherwise, the application shall be deemed complete. Any disapproval of the application shall be in writing and accompanied by an explanation for the disapproval. The 60-day period may be extended by the locality in writing for a period not to exceed an additional 30 days. The application shall be deemed approved if the locality fails to act within the initial 60 days or an extended 30-day period.

2. A locality may prescribe and charge a reasonable fee for processing the application not to exceed:

- a. \$100 each for up to five small cell facilities on a permit application; and
- b. \$50 for each additional small cell facility on a permit application.

3. Approval for a permit shall not be unreasonably conditioned, withheld, or delayed.

4. The locality may disapprove a proposed location or installation of a small cell facility only for the following reasons:

- a. Material potential interference with other pre-existing communications facilities or with future communications facilities that have already been designed and planned for a specific location or that have been reserved for future public safety communications facilities;
- b. The public safety or other critical public service needs;
- c. Only in the case of an installation on or in publicly owned or publicly controlled property, excluding privately owned structures where the applicant has an agreement for attachment to the structure, aesthetic impact or the absence of all required approvals from all departments, authorities, and agencies with jurisdiction over such property; or
- d. Conflict with an applicable local ordinance adopted pursuant to § 15.2-2306, or pursuant to local charter on a historic property that is not eligible for the review process established under 54 U.S.C. § 306108.

5. Nothing shall prohibit an applicant from voluntarily submitting, and the locality from accepting, any conditions that otherwise address potential visual or aesthetic effects resulting from the placement of small cell facilities.

6. Nothing in this section shall preclude a locality from adopting reasonable rules with respect to the removal of abandoned wireless support structures or wireless facilities.

C. Notwithstanding anything to the contrary in this section, the installation, placement, maintenance, or replacement of micro-wireless facilities that are suspended on cables or lines that are strung between existing utility poles in compliance with national safety codes shall be exempt from locality-imposed permitting requirements and fees.

2017, c. 835.

**§ 15.2-2316.4:1. Zoning; other wireless facilities and wireless support structures.**

A. A locality shall not require that a special exception, special use permit, or variance be obtained for the installation or construction of an administrative review-eligible project but may require administrative review for the issuance of any zoning permit, or an acknowledgement that zoning approval is not required, for such a project.

B. A locality may charge a reasonable fee for each application submitted under subsection A or for any zoning approval required for a standard process project. The fee shall not include direct payment or reimbursement of third-party fees charged on a contingency basis or a result-based arrangement. Upon request, a locality shall provide the applicant with the cost basis for the fee. A locality shall not charge market-based or value-based fees for the processing of an application. If the application is for:

1. An administrative review-eligible project, the fee shall not exceed \$500; and
2. A standard process project, the fee shall not exceed the actual direct costs to process the application, including permits and inspection.

C. The processing of any application submitted under subsection A or for any zoning approval required for a standard process project shall be subject to the following:

1. Within 10 business days after receiving an incomplete application, the locality shall notify the applicant that the application is incomplete. The notice shall specify any additional information required to complete the application. The notice shall be sent by electronic mail to the applicant's email address provided in the application. If the locality fails to provide such notice within such 10-day period, the application shall be deemed complete.
2. Except as provided in subdivision 3, a locality shall approve or disapprove a complete application:
  - a. For a new structure within the lesser of 150 days of receipt of the completed application or the period required by federal law for such approval or disapproval; or
  - b. For the co-location of any wireless facility that is not a small cell facility within the lesser of 90 days of receipt of the completed application or the period required by federal law for such approval or disapproval, unless the application constitutes an eligible facilities request as defined in 47 U.S.C. § 1455(a).
3. Any period specified in subdivision 2 for a locality to approve or disapprove an application may be extended by mutual agreement between the applicant and the locality.

D. A complete application for a project shall be deemed approved if the locality fails to approve or disapprove the application within the applicable period specified in subdivision C 2 or any

agreed extension thereof pursuant to subdivision C 3.

E. If a locality disapproves an application submitted under subsection A or for any zoning approval required for a standard process project:

1. The locality shall provide the applicant with a written statement of the reasons for such disapproval; and
2. If the locality is aware of any modifications to the project as described in the application that if made would permit the locality to approve the proposed project, the locality shall identify them in the written statement provided under subdivision 1. The locality's subsequent disapproval of an application for a project that incorporates the modifications identified in such a statement may be used by the applicant as evidence that the locality's subsequent disapproval was arbitrary or capricious in any appeal of the locality's action.

F. A locality's action on disapproval of an application submitted under subsection A or for any zoning approval required for a standard process project shall:

1. Not unreasonably discriminate between the applicant and other wireless services providers, wireless infrastructure providers, providers of telecommunications services, and other providers of functionally equivalent services; and
2. Be supported by substantial record evidence contained in a written record publicly released within 30 days following the disapproval.

G. An applicant adversely affected by the disapproval of an application submitted under subsection A or for any zoning approval required for a standard process project may file an appeal pursuant to subsection F of § 15.2-2285, or to § 15.2-2314 if the requested zoning approval involves a variance, within 30 days following delivery to the applicant or notice to the applicant of the record described in subdivision F 2.

2018, cc. 835, 844.

#### **§ 15.2-2316.4:2. Application reviews.**

A. In its receiving, consideration, and processing of a complete application submitted under subsection A of § 15.2-2316.4:1 or for any zoning approval required for a standard process project, a locality shall not:

1. Disapprove an application on the basis of:
  - a. The applicant's business decision with respect to its designed service, customer demand for service, or quality of its service to or from a particular site;
  - b. The applicant's specific need for the project, including the applicant's desire to provide additional wireless coverage or capacity; or
  - c. The wireless facility technology selected by the applicant for use at the project;
2. Require an applicant to provide proprietary, confidential, or other business information to justify the need for the project, including propagation maps and telecommunications traffic studies, or information reviewed by a federal agency as part of the approval process for the same structure and wireless facility, provided that a locality may require an applicant to provide a copy of any approval granted by a federal agency, including conditions imposed by that agency;

3. Require the removal of existing wireless support structures or wireless facilities, wherever located, as a condition for approval of an application. A locality may adopt reasonable rules with respect to the removal of abandoned wireless support structures or wireless facilities;
4. Impose surety requirements, including bonds, escrow deposits, letters of credit, or any other types of financial surety, to ensure that abandoned or unused wireless facilities can be removed, unless the locality imposes similar requirements on other permits for other types of similar commercial development. Any such instrument shall not exceed a reasonable estimate of the direct cost of the removal of the wireless facilities;
5. Discriminate or create a preference on the basis of the ownership, including ownership by the locality, of any property, structure, base station, or wireless support structure, when promulgating rules or procedures for siting wireless facilities or for evaluating applications;
6. Impose any unreasonable requirements or obligations regarding the presentation or appearance of a project, including unreasonable requirements relating to (i) the kinds of materials used or (ii) the arranging, screening, or landscaping of wireless facilities or wireless structures;
7. Impose any requirement that an applicant purchase, subscribe to, use, or employ facilities, networks, or services owned, provided, or operated by a locality, in whole or in part, or by any entity in which a locality has a competitive, economic, financial, governance, or other interest;
8. Condition or require the approval of an application solely on the basis of the applicant's agreement to allow any wireless facilities provided or operated, in whole or in part, by a locality or by any other entity, to be placed at or co-located with the applicant's project;
9. Impose a setback or fall zone requirement for a project that is larger than a setback or fall zone area that is imposed on other types of similar structures of a similar size, including utility poles;
10. Limit the duration of the approval of an application, except a locality may require that construction of the approved project shall commence within two years of final approval and be diligently pursued to completion; or
11. Require an applicant to perform services unrelated to the project described in the application, including restoration work on any surface not disturbed by the applicant's project.

B. Nothing in this article shall prohibit a locality from disapproving an application submitted under subsection A of § 15.2-2316.4:1 or for any zoning approval required for a standard process project:

1. On the basis of the fact that the proposed height of any wireless support structure, wireless facility, or wireless support structure with attached wireless facilities exceeds 50 feet above ground level, provided that the locality follows a local ordinance or regulation that does not unreasonably discriminate between the applicant and other wireless services providers, wireless infrastructure providers, providers of telecommunications services, and other providers of functionally equivalent services; or
2. That proposes to locate a new structure, or to co-locate a wireless facility, in an area where all cable and public utility facilities are required to be placed underground by a date certain or encouraged to be undergrounded as part of a transportation improvement project or rezoning

proceeding as set forth in objectives contained in a comprehensive plan, if:

- a. The undergrounding requirement or comprehensive plan objective existed at least three months prior to the submission of the application;
  - b. The locality allows the co-location of wireless facilities on existing utility poles, government-owned structures with the government's consent, existing wireless support structures, or a building within that area;
  - c. The locality allows the replacement of existing utility poles and wireless support structures with poles or support structures of the same size or smaller within that area; and
  - d. The disapproval of the application does not unreasonably discriminate between the applicant and other wireless services providers, wireless infrastructure providers, providers of telecommunications services, and other providers of functionally equivalent services.
- C. Nothing in this article shall prohibit an applicant from voluntarily submitting, and the locality from accepting, any conditions that otherwise address potential visual or aesthetic effects resulting from the placement of a new structure or facility.
- D. Nothing in this article shall prohibit a locality from disapproving an application submitted under a standard process project on the basis of the availability of existing wireless support structures within a reasonable distance that could be used for co-location at reasonable terms and conditions without imposing technical limitations on the applicant.

2018, cc. [835](#), [844](#).

#### **§ 15.2-2316.4:3. Additional provisions.**

A. A locality shall not require zoning approval for (i) routine maintenance or (ii) the replacement of wireless facilities or wireless support structures within a six-foot perimeter with wireless facilities or wireless support structures that are substantially similar or the same size or smaller. However, a locality may require a permit to work within the right-of-way for the activities described in clause (i) or (ii), if applicable.

B. Nothing in this article shall prohibit a locality from limiting the number of new structures or the number of wireless facilities that can be installed in a specific location.

2018, cc. [835](#), [844](#).

#### **§ 15.2-2316.5. Moratorium prohibited.**

A locality shall not adopt a moratorium on considering zoning applications submitted by wireless services providers or wireless infrastructure providers.

2017, c. [835](#).



**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

**PERFORMANCE STANDARDS FOR COMMUNICATIONS FACILITIES, ANTENNAS,  
TOWERS AND SUPPORT STRUCTURES (CATS) THAT REQUIRE A SPECIAL USE PERMIT**

**November 8, 2016**

In order to maintain the integrity of the James City County's significant historic, natural, rural and scenic resources, to preserve its existing aesthetic quality and its landscape, to maintain its quality of life and to protect its health, safety, general welfare, and property values, communications, antennas, towers and support structures (CATS) should be located and designed in a manner that minimizes their impacts to the maximum extent possible and minimizes their presence in areas where they would depart from existing and future patterns of development. To implement these goals, the Planning Commission and the Board of Supervisors have adopted these performance standards for use in evaluating special use permit applications for CATS. While all of the standards support these goals, some may be more critical to the County's ability to achieve these goals on a case by case basis. Therefore, some standards may be weighed more heavily in any recommendation or decision on a special use permit, and cases that meet a majority of the standards may or may not be approved. The terms used in these standards shall have the same definition as those same terms in the Zoning Ordinance. In considering an application for a special use permit, the Planning Commission and the Board of Supervisors will consider the extent to which an application meets the following performance standards. When considering these applications, the Planning Commission and the Board of Supervisors will evaluate the proposal based on both the initial height of the proposed CATS and the maximum increase in the physical dimension of the proposed project permitted by Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012 and the FCC's implementing regulations.

**A. Collocation and Alternatives Analysis**

- ~~1. Applicants should provide verifiable evidence that they have cooperated with others in co-locating additional antenna on both existing and proposed structures and replacing existing towers with ones with greater co-location capabilities. It should be demonstrated by verifiable evidence that such co-locations or existing tower replacements are not feasible and that proposed new sites contribute to the goal of minimizing new tower sites.~~
- ~~2. Applicants should demonstrate the following:~~
  - ~~a. That all existing CATS and potential alternative mounting structures more than 60 feet tall within a three-mile radius of the proposed site for a new CATS cannot provide adequate service coverage or an antenna mounting opportunity.~~
  - ~~b. That adequate service coverage cannot be provided through an increase in transmission power, replacement of an existing CATS within a three mile radius of the site of the proposed CATS, or through the use of a camouflaged CATS, alternative mounting structure, multi-antenna system or a system that uses lower antenna heights than proposed.~~
  - ~~c. The radii of these study areas may be reduced where the intended coverage of the proposed WCE CATS is less than three miles.~~
- ~~3. Towers should be sited in a manner that allows placement of additional CATS facilities. A minimum of two tower locations, each meeting all of the requirements of the Zoning Ordinance and these standards, should be provided at all newly approved tower sites.~~



- ~~4. All newly permitted towers should be capable of accommodating enough antennas for at least three service providers or two service providers and one government agency. Exceptions may be made where shorter heights are used to achieve minimal intrusion of the tower as described in Section B.2. below.~~<sub>1</sub>

A. B. Location and Design

1. CATS should be consistent with existing and future surrounding development and the Comprehensive Plan. While the Comprehensive Plan should be consulted to determine all applicable land use principles, goals, objectives, strategies, development standards, and other policies, certain policies in the Plan will frequently apply. Some of these include the following: (1) CATS should be compatible with the use, scale, height, size, design and character of surrounding existing and future uses, and such uses that are generally located in the land use designation in which the CATS would be located; and (2) CATS should be located and designed in a manner that protects the character of the County's Community Character Corridors and historic and scenic resource areas and their view sheds.
2. CATS should be located and designed consistent with the following criteria:

<i>Proposed Location of CATS</i>	<i>Impact Criteria</i>
<i>a. Within a residential zone or residential designation in the Comprehensive Plan</i>	<i>Use a camouflage design, a well buffered slickstick, Multi-Antenna system, or have a minimal intrusion on to residential areas, historic and scenic resources areas or roads in such areas, or community character corridors.</i>
<i>b. Near a historic or scenic resource area or on a Community Character Corridor</i>	<i>Use a camouflaged design or slicksticks that have minimal intrusion on to residential areas, historic and scenic resources areas or on community character corridors.</i>
<i>c. Within a rural lands designation in the Comprehensive Plan</i>	<i>For areas designated rural lands in the Comprehensive Plan that are within 1,500 feet from the tower, use a well buffered monopole, a camouflaged design, or other design that has minimal intrusion on to residential areas or community character corridors. For rural lands more than 1,500 feet from the tower, no more than the upper 25% of the tower should be visible.</i>
<i>d. Within a commercial or in an industrial designation in the Comprehensive Plan</i>	<i>Use a camouflage design, well buffered monopole, or other design that has minimal intrusion on to residential areas, historic and scenic resources areas or roads in such areas or community character corridors.</i>

*Notes for the above table:*

1. Exceptions to these criteria may be made on a case by case basis where the impact of the proposed CATS is only on the following areas: (1) An area designated residential on the Comprehensive Plan or zoning map which is not a logical extension of a residential subdivision or which is a transitional area between residential and nonresidential uses, (2) a golf course or a

golf course and some combination of commercial areas, industrial areas or utility easements, provided the tower is located on the golf course property, or (3) a scenic easement.

2. A CATS will meet the minimal intrusion criteria if it is not visible off site above the tree line. Such CATS should only be visible off-site when viewed through surrounding trees that have shed their leaves.
3. Camouflaged towers having the design of a tree should be compatible in scale and species with surrounding natural trees or trees native to Eastern Virginia.
4. WCFs CATS should be less than 200 feet in height in order to avoid the need for lighting. Taller heights may be acceptable where views of the WCF from residential areas and public roads are very limited. At a minimum, CATS 200 feet or more in height should exceed the location standards listed above.
5. Towers should be freestanding and not supported with guy wires.
6. Any modification to CATS should adopt the same camouflaging and screening measures as the original structure.

#### B. C. ~~Buffering~~ Screening

1. CATS should be placed on a site in a manner that takes maximum advantage of existing trees, vegetation and structures so as to screen as much of the entire CATS as possible from view from adjacent properties and public roads. Access drives should be designed in a manner that provides no view of the CATS base or related facilities.



Figure 1: Example of a well buffered slickstick with minimal intrusion

2. Towers should be buffered from adjacent land uses and public roads as much as possible. Following buffer widths and standards should be met:

- a. In or adjacent to residential or agricultural zoning districts, areas designated residential or rural lands on the Comprehensive Plan, historic or scenic resource areas or community character corridors, an undisturbed, completely wooded buffer consisting of existing mature trees at least 100-feet-wide should be provided around the tower.
- b. In or adjacent to all other areas, at least a 50-foot-wide vegetative buffer consisting of a mix of deciduous and evergreen trees native to Eastern Virginia should be provided.

PerformanceStand-ord

**ITEM SUMMARY**

DATE: 11/14/2019

TO: The Policy Committee

FROM: Thomas Wysong, Senior Planner

SUBJECT: ORD-2019-0007. Consideration of Warehouse, Storage, and Distribution Centers in the Mixed Use Zoning District, Stage I/II

---

**ATTACHMENTS:**

	Description	Type
☐	Memorandum	Cover Memo
☐	Attachment No. 1 Initiating Resolution	Backup Material
☐	Attachment No.2: Option #1 Proposed Amendment Sec. 24-518	Backup Material
☐	Attachment No.3: Option #2 Proposed Amendment Sec. 24-518	Backup Material

**REVIEWERS:**

Department	Reviewer	Action	Date
Policy	Rosario, Tammy	Approved	11/8/2019 - 12:35 PM
Policy	Holt, Paul	Approved	11/8/2019 - 1:48 PM
Publication Management	Burcham, Nan	Approved	11/8/2019 - 2:01 PM
Policy Secretary	Secretary, Policy	Approved	11/8/2019 - 2:16 PM

## MEMORANDUM

DATE: November 14, 2019

TO: The Policy Committee

FROM: Thomas Wysong, Senior Planner

SUBJECT: ORD-2019-0007. Consideration of Warehouse, Storage, and Distribution Centers in the Mixed Use Zoning District, Stage I/II

---

### Introduction

At its July 9, 2019 meeting, the Board of Supervisors requested the County Attorney prepare an Initiating Resolution for exploring the amendment of the Zoning Ordinance to either remove warehouses, storage, and distribution centers from the Mixed Use (MU) district or allow this use as a specially permitted use. On August 13, the Board of Supervisors adopted the Initiating Resolution. Accordingly, Planning staff has analyzed the impact of removing warehouses, storage, and distribution centers from the permitted use list within the Mixed Use Zoning District and compared it to the impact of reclassifying this use as a specially permitted use within this District.

### Discussion

The Mixed Use Zoning District was added to the Zoning Ordinance in 1992. Since its addition to the Zoning Ordinance, the intent of the Mixed Use Zoning District has been to promote multiuse, master planned communities that are characterized by the convenient and harmonious groupings of uses, structures, facilities, open space, and pedestrian walkways and/or bicycle paths. The Statement of Intent for the District indicates that districts may include residential, commercial, industrial (with a focus on light industrial), office, and other non-residential uses.

The adopted Mixed Use district language includes “warehouse, storage, and distribution centers with storage under cover or screened with landscaping from adjacent property” as a permitted use. Although the Mixed Use district has been revised and reformatted over the years, this use has been consistently listed as a permitted use. Consequently, there are Mixed Use developments in the County that include this use as a component of the Mixed Use development. For example, Liberty Crossing is a Mixed Use development that incorporates a self-storage facility as the principal non-residential use into its design.

In recent months, the Board of Supervisors has held public hearings for a proposed case seeking to amend an existing Mixed Use zoned master plan, which included a self-storage facility use. In this proposal, the self-storage facility would be the sole non-residential use within the development. During the public hearing for this proposal, members of the Board of Supervisors expressed concern regarding self-storage facilities in Mixed Use developments. Specifically, Board members cited the negative visual impact of self-storage facilities, as well as the concern that such facilities may not provide the needed mix of uses intended by the Zoning Ordinance. As noted above, the Board subsequently passed an Initiating Resolution to examine either eliminating this use or allowing it as a specially permitted use.

Staff finds that warehouse, storage, and distribution centers are not a use that most fully fulfills the intent of the Mixed Use district. However, it is possible that the County could receive a proposal in which this use could be appropriately scaled and designed and fittingly located as one component within a Mixed Use development and could potentially serve as a support use for other uses allowed in the Mixed Use district,

such as light industrial or research and development uses. Should the Committee concur, then a path forward would be to allow the use as a specially permitted use rather than eliminating the use altogether.

If the County were to reclassify “warehouse, storage, and distribution centers with storage under cover or screened with landscaping from adjacent property” from a permitted use to a specially permitted use, existing facilities that fall under this category would become lawfully non-conforming. Future expansion of existing facilities could be approved, but only through a Special Use Permit (SUP). New facilities on existing Mixed Use zoned land could also be pursued but only through the SUP process. For those existing Mixed Use developments in which warehouse and storage uses are shown on the Master Plan, this would create an additional public review that would allow for the County to consider whether this use is appropriate and put in place the appropriate conditions needed to mitigate negative impacts.

### **Recommendation**

Planning staff recommends pursuing the second option, in which the warehouse, storage, and distribution center use is reclassified as a specially permitted use. Although this use is typically not conducive to fulfilling the intent of the Mixed Use district, it is possible for a well-designed, site sensitive proposal to fulfill the intent of the Zoning Ordinance. Classifying this use as a specially permitted use would allow for such a proposal to be reviewed and presented for public hearing, which would not otherwise be required for those existing master planned Mixed Use developments that include warehouse and storage uses.

TW/nb  
ORD19-07WrehseMU-mem

### Attachments:

1. Initiating Resolution Adopted August 13, 2019
2. Option No. 1: Proposed Amended Section 24-518
3. Option No. 2: Proposed Amended Section 24-518

**RESOLUTION**

**INITIATION OF CONSIDERATION OF AMENDMENTS TO CHAPTER 24, ZONING, TO**

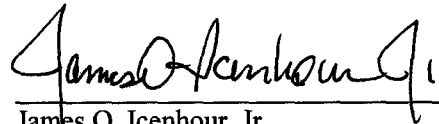
**EVALUATE WAREHOUSES, STORAGE, AND DISTRIBUTION CENTERS AS A**

**PERMITTED USE IN THE MIXED USE DISTRICT**

WHEREAS, Virginia Code § 15.2-2286(A)(7) and County Code § 24-13 permit the Board of Supervisors of James City County, Virginia (the "Board") to, by resolution, initiate amendments to the regulations of the Zoning Ordinance that the Board finds to be prudent; and

WHEREAS, the Board is of the opinion that the public necessity, general welfare, and good zoning practice warrant the consideration of amendments to the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby initiate amendment of James City County Code, Chapter 24, Zoning, Article V, Districts, Division 15, Mixed Use, MU, in order to consider removing warehouses, storage, and distribution centers from the Mixed Use District, or permitting warehouses, storage, and distribution centers in the Mixed Use District as a specially permitted use. The Planning Commission shall hold at least one public hearing on the consideration of amendment of said Ordinance and shall forward its recommendation thereon to the Board of Supervisors in accordance with the law.



James O. Icenhour, Jr.  
Chairman, Board of Supervisors

ATTEST:

  
Teresa Fellows  
Deputy Clerk to the Board

HIPPLE  
LARSON  
SADLER  
MCGLENNON  
ICENHOUR

VOTES

AYE   NAY   ABSTAIN

<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Adopted by the Board of Supervisors of James City County, Virginia, this 13th day of August, 2019.

ZO-Storage-MUDist-res

Sec. 24-518. - Use list.

In the mixed use districts, all structures to be erected or land to be used shall be for one or more of the following uses:

Use Category	Use List	Permitted Uses	Specially Permitted Uses
Industrial Uses	<del>Warehouse, storage and distribution centers with storage under cover or screened with landscaping and fencing from adjacent property</del>	P	

(Ord. No. 31A-141, 5-4-92; Ord. No. 31A-145, 7-6-92; Ord. No. 31A-150, 4-5-93; Ord. No. 31A-152, 8-16-93; Ord. No. 31A-167, 3-26-96; Ord. No. 31A-176, 5-26-98; Ord. No. 31A-184, 12-8-98; Ord. No. 31A-242, 7-14-09; Ord. No. 31A-276, 9-11-12; Ord. No. 31A-291, 8-13-13; Ord. No. 31A-293, 8-12-14; Ord. No. [31A-328](#), 11-8-16)



Sec. 24-518. - Use list.

In the mixed use districts, all structures to be erected or land to be used shall be for one or more of the following uses:

Use Category	Use List	Permitted Uses	Specially Permitted Uses
Industrial Uses	Warehouse, storage and distribution centers with storage under cover or screened with landscaping and fencing from adjacent property	P	SUP

(Ord. No. 31A-141, 5-4-92; Ord. No. 31A-145, 7-6-92; Ord. No. 31A-150, 4-5-93; Ord. No. 31A-152, 8-16-93; Ord. No. 31A-167, 3-26-96; Ord. No. 31A-176, 5-26-98; Ord. No. 31A-184, 12-8-98; Ord. No. 31A-242, 7-14-09; Ord. No. 31A-276, 9-11-12; Ord. No. 31A-291, 8-13-13; Ord. No. 31A-293, 8-12-14; Ord. No. [31A-328](#), 11-8-16)