

## DIVISION 8. - RURAL RESIDENTIAL DISTRICT, R-8

### Sec. 24-347. - Statement of intent.

Generally, the Rural Residential District, R-8, is intended for application to rural areas of the county which remain inside the primary service area where utilities and urban services are planned but not yet fully available and where urban development may be expected in the near future. The district may also be applied to certain outlying areas where residences exist at similar densities or may be appropriate in view of housing needs. The district is intended to maintain a rural environment suitable for farming, forestry and low-density rural residence, together with certain recreational and public or semipublic and institutional uses, until such time as an orderly expansion of urban development is appropriate.

(Ord. No. 31A-88, § 20-35, 4-8-85; Ord. No. 31A-114, 5-1-89; Ord. No. 31A-122, 6-18-90)

### Sec. 24-348. - Use list.

In the Rural Residential District, R-8, structures to be erected or land to be used shall be for the following uses:

Use Category	Use List	Permitted Uses	Specially Permitted Uses
Residential Uses	Accessory apartments, attached, in accordance with <u>section 24-32</u> .	P	
	Accessory apartments, detached, in accordance with <u>section 24-32</u> .		SUP
	Accessory buildings and structures.	P	
	Accessory uses, as defined herein.	P	

	Group home or residential facility, for eight or fewer adults.	P	
	Group homes or residential facilities for nine or more adults.		SUP
	Group quarters for agricultural workers.		SUP
	Home care facilities.		SUP
	Manufactured home parks.		SUP
	Manufactured homes in accordance with <u>section 24-107</u> and <u>section 24-108</u> not located within the primary service area.		SUP
	Site-built single-family detached dwellings and modular homes.	P	
	Two-family dwellings.		SUP

Commercial Uses	Accessory buildings and structures.	P	
	Accessory uses, as defined herein.	P	
	Adult day-care centers.		SUP
	Airports and landing fields, helistops or heliports and accessory uses.		SUP
	Barber and beauty shops.		SUP
	Business, governmental and professional offices.		SUP
	Campgrounds.		SUP
	Cemeteries and memorial gardens, not accessory to a church or other place of worship.		SUP
	Child day-care centers.		SUP

	Community recreation facilities, public or private, including parks, playgrounds, clubhouses, boating facilities, swimming pools, ball fields, tennis courts and other similar recreation facilities, but not those approved as a part of a planned unit development.		SUP
	Convenience stores; if fuel is sold, then in accordance with <u>section 24-38</u> .		SUP
	Drug stores.		SUP
	Farm equipment sales and service establishments.		SUP
	Farmers' markets, limited in area to 2,500 square feet.	P	

	Farmers' markets over 2,500 square feet.		SUP
	Feed, seed and farm supplies.		SUP
	Flea markets, temporary or seasonal.		SUP
	Food processing and storage, but not the slaughter of animals.		SUP
	Food processing and storage in a residence.		SUP
	Gift shops, antique shops.		SUP
	Golf courses and country clubs.		SUP
	Greenhouses, commercial.		SUP
	Home occupations, as defined herein.	P	

	Horse and pony farms of less than 50 animals (including the raising and keeping of horses), riding stables.	P	
	Horse and pony farms with 50 or more animals.		SUP
	Horse show areas, polo fields.		SUP
	Hospitals.		SUP
	Hotels and motels.		SUP
	House museums.	P	
	Hunting clubs.		SUP
	Kennels.		SUP
	Medical clinics or offices.		SUP
	Nurseries.	P	

	Nursing homes and facilities for the residence and/or care of the aged.		SUP
	Off-street parking as required by <u>section 24-54</u> .	P	
	Photography, artist and sculptor studios.		SUP
	Photography sales and arts and crafts shops.		SUP

	<p>Railroad facilities including tracks, bridges, switching yards and stations.</p> <p>However, spur lines, which are to serve and are accessory to existing or proposed development adjacent to existing railroad right-of-ways, and track and safety improvements in existing railroad right-of-ways, are permitted generally and shall not require a special use permit.</p>		SUP
	Rental of rooms to a maximum of three rooms.		SUP
	Restaurants, taverns.		SUP
	Rest homes for fewer than 15 adults.	P	



	Rest homes for 15 or more adults.		SUP
	Retail shops associated with community recreation facilities.		SUP
	Retreat facilities		SUP
	Sanitary landfills in accordance with <u>section 24-40</u> , waste disposal or publicly owned solid waste container sites.		SUP
	Slaughter of animals for personal use, but not for commercial purposes.	P	
	Tourist homes.		SUP
	Veterinary hospitals.		SUP

	Wayside stands for sale of agricultural products over 500 square feet in area.		SUP
	Wayside stands for seasonal sale of agricultural products, limited in area to 500 square feet.	P	
	Yacht clubs and marinas and commercial and service facilities accessory thereto.		SUP
Agricultural Uses	Accessory buildings and structures.	P	
	Accessory uses, as defined herein.	P	

	Commercial livestock or poultry operations for more than 100 slaughter or feeder cattle, 70 dairy cattle, 250 swine, 1,000 sheep, lambs, goats or similar animals, 50 horses, 10,000 chickens or 5,500 turkeys or ducks.		SUP
	Fish farming and aquaculture.		SUP

	General agriculture, dairying, forestry, general farming and specialized farming, excluding the raising of hogs, but not commercial livestock or poultry operations which require a special use permit in the General Agricultural District, A-1.	P	
	Petroleum storage on a farm as an accessory use and not for resale.	P	
	Raising of hogs.		SUP
	Storage and repair of heavy equipment as accessory use to a farm.	P	

	Wineries, as herein defined, including a shop for retail sale of wine, but not including other commercial accessory uses.	P	
Civic Uses	Accessory buildings and structures.	P	
	Accessory uses, as defined herein.	P	
	Fire stations or rescue squad stations, volunteer or otherwise.		SUP
	Neighborhood Resource Centers.		SUP
	Places of public assembly used primarily as an event facility in accordance with <u>section 24-48</u> .	P	

	Places of public assembly used primarily as an event facility not in accordance with <u>section 24-48</u> .		SUP
	Places of public assembly.		SUP
	Post offices and public buildings generally.		SUP
	Schools, libraries, museums and similar institutions.		SUP
	Seminaries.		SUP
Utility Uses	Communications facilities (public or private) in compliance with article II, division 6 of this chapter.		SUP
	Communications facilities (public or private) in compliance with article II, division 6 of this chapter.	P	

	Electrical generation facilities (public or private), electrical substations with a capacity of 5,000 kilovolt amperes or more and electrical transmission lines capable of transmitting 69 kilovolts or more.		SUP
	Radio and television stations or towers.		SUP
	Telephone exchanges and telephone switching stations.		SUP

	<p>Tower mounted wireless communications facilities in accordance with division 6, Wireless Communications Facilities, over 35 feet in height.</p>		SUP
	<p>Transmission pipelines (public or private), including pumping stations and accessory storage, for natural gas, propane gas, petroleum products, chemicals, slurry coal and any other gases, liquids or solids. However, private extensions or connections to existing pipelines, which are intended to serve an individual residential or</p>		SUP



	commercial customer and which are accessory to existing or proposed development, are permitted generally and shall not require a special use permit.		
	Utility substations.		SUP
	Water facilities (public or private), and sewer facilities (public), including, but not limited to, treatment plants, pumping stations, storage facilities and transmission mains, wells and associated equipment such as pumps to be owned and operated by political jurisdictions. However, the		SUP

following are permitted generally and shall not require a special use permit:

(a) Private connections to existing mains that are intended to serve an individual customer and are accessory to existing or proposed development, with no additional connections to be made to the line.

(b) Distribution lines and local facilities within a development, including pump stations.

	Water impoundments, new or expansion of, less than 20 acres and with dam heights of less than 15 feet.	P	
	Water impoundments, new or expansion of, 20 acres or more or with dam heights of 15 feet or more.		SUP
	Wireless communications facilities that utilize alternative mounting structures and comply with division 6, Wireless Communications Facilities.	P	

Open Uses	Preserves and conservation areas for protection of natural features and wildlife.	P	
	Timbering in accordance with <u>section 24-43</u> .	P	
Industrial Uses	Accessory buildings and structures.	P	
	Accessory uses, as defined herein.	P	

	Excavation or filling, borrow pits, extraction, processing and removal of sand and gravel and stripping of topsoil (but not farm pond construction, field leveling or stripping of sod for agricultural purposes and excavations in connection with development which has received subdivision or site plan approval, which activities do not require a special use permit).		SUP
	Manufacture and sale of wood products.		SUP

(Ord. No. 31A-88, § 20-36, 4-8-85; Ord. No. 31A-99, 10-6-86; Ord. No. 31A-114, 5-1-89; Ord. No. 31A-122, 6-18-90; Ord. No. 31A-131, 6-3-91; Ord. No. 31A-145, 7-6-92; Ord. No. 31A-167, 3-26-96; Ord. No. 31A-176, 5-26-98; Ord. No. 31A-202, 12-21-99; Ord. No. 31A-259, 1-10-12; Ord. No. 31A-293, 8-12-14; Ord. No. 31A-319, 11-8-16; Ord. No. 31A-336, 8-8-17; Ord. No. 31A-348, 7-14-20)

Sec. 24-349. - Reserved.

**Editor's note**— Ord. No. 31A-336 adopted August 8, 2017, repealed § 24-349. Former § 24-349 pertained to uses permitted by special use permit only and derived from Ord. No. 31A-88, adopted April 8, 1985; Ord. No. 31A-104, adopted October 5, 1987; Ord. No. 31A-110, adopted September 12 1988; Ord. No. 31A-114, adopted May 1, 1989; Ord. No. 31A-122, adopted June 18, 1990; Ord. No. 31A-131, adopted June 3, 1991; Ord. No. 31A-145, adopted July 6, 1992; Ord. No. 31A-153, adopted November 1, 1993; Ord. No. 31A-176, adopted May 26, 1998; Ord. No. 31A-202, adopted December 21, 1999; Ord. No. 31A-208, adopted August 13, 2002; Ord. No. 31A-220, adopted October 11, 2005; Ord. No. 31A-242, adopted July 14, 2009; Ord. No. 31A-259, adopted January 10, 2012; Ord. No. 31A-293, adopted August 12, 2004; Ord. No. 31A-319, adopted November 8, 2016.

Sec. 24-350. - Area requirements.

*Minimum lot size.* The minimum lot size shall be three acres.

(Ord. No. 31A-88, § 20-37, 4-8-85; Ord. No. 31A-99, 10-6-86; Ord. No. 31A-202, 12-21-99)

Sec. 24-351. - Setback requirements.

Structures shall be located a minimum of 35 feet from any street right-of-way which is 50 feet or greater in width. Where the street right-of-way is less than 50 feet in width, structures shall be located a minimum of 60 feet from the centerline of the street. This shall be known as the "setback line," except that the following shall apply:

- (1) Where 40 percent or more of frontage on one side of street within the same block is improved with buildings, no building shall project beyond the average front yard so established.
- (2) No building shall be required to have a front yard greater than that of one of two existing buildings on the immediately adjoining lots on each side, whichever is the farthest removed from the street.
- (3) All subdivisions platted and recorded prior to March 1, 1969, with building setback lines shown on their recorded plat, will be allowed to adhere to these established setback lines.

(Ord. No. 31A-88, § 20-38, 4-8-85; Ord. No. 31A-202, 12-21-99)

Sec. 24-352. - Minimum lot width.

- (a) Lots of up to 43,560 square feet shall have a minimum width at the setback line of 100 feet.
- (b) Lots of 43,560 square feet or more shall have a minimum width at the setback line of 150 feet.

(Ord. No. 31A-88, § 20-39, 4-8-85)

Sec. 24-353. - Yard regulations.

- (a) *Side.* The minimum side yard for each main structure shall be 15 feet. The minimum side yard for accessory structures shall be five feet, except that accessory buildings exceeding one story shall have a minimum side yard of 15 feet.
- (b) *Rear.* Each main structure shall have a rear yard of 35 feet or more. The minimum rear yard for accessory structures shall be five feet, except that accessory buildings exceeding one story shall have a minimum rear

yard of 15 feet.

(Ord. No. 31A-88, § 20-40, 4-8-85)

Sec. 24-354. - Height limits.

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

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

(Ord. No. 31A-88, § 20-40.1, 4-8-85; Ord. No. 31A-114, 5-1-89; Ord. No. 31A-166, 1-23-96; Ord. No. 31A-176, 5-26-98; Ord. No. 31A-215, 2-22-05; Ord. No. 31A-223, 4-11-06; Ord. No. 31A-232, 12-11-07; Ord. No. 31A-259, 1-10-12; Ord. No. 31A-319, 11-8-16)

Sec. 24-355. - Special provisions for corner lots.

- (a) For corner lots, the front of the lot shall be the shorter of the two sides fronting on streets.
- (b) No structures shall be located closer than 35 feet to the side street.
- (c) Each corner lot shall have a minimum width at the setback line of 125 feet or more.

(Ord. No. 31A-88, § 20-41, 4-8-85)

Sec. 24-356. - Sign regulations.

To assure an appearance and condition which is consistent with the purposes of the Rural Residential District, R-8, outdoor signs on the properties within the district shall comply with the regulations for exterior signs in article II, division 3 of this chapter.

(Ord. No. 31A-88, § 20-41.1, 4-8-85; Ord. No. 31A-122, 6-18-90)

Sec. 24-357. - BMP requirements.

To assure an appearance and condition which is consistent with the purpose of the Rural Residential District, R-8, structural BMPs serving the properties within the district shall comply with the landscaping regulations in article II, division 4 of this chapter.

(Ord. No. 31A-202, 12-21-99)

Sec. 24-358. - Buffer requirements.

- (a) *Right-of-way buffer.* Within any major subdivision approved under this article, there shall be planned and maintained buffers along all external existing and planned arterial road rights-of-way, as follows:
  - (1) The minimum right-of-way buffer on Community Character Corridor roads as defined in the Comprehensive Plan shall be 150 feet, except when the average lot depth of the parent parcel is less than 600 feet. In those cases, the required buffer shall be at a depth of 25 percent of the average lot depth.
  - (2) The minimum right-of-way buffer on all non-Community Character Corridor roads shall be 75 feet, except when the average lot depth of the parent parcel is less than 300 feet. In those cases, the required buffer shall be at a depth of 25 percent of the average lot depth.
  - (3) If the buffer is non-wooded as defined for the purpose of this article as having no mature trees, then a minimum of two trees per 400 square feet of area shall be planted with a minimum 50 percent of said trees being evergreen. Otherwise, the buffer shall remain undisturbed or supplemented with additional plantings to achieve the planting ratio stated above.
- (b) *Perimeter buffers.* Within any major subdivision approved under this article, there shall be planned and maintained a perimeter buffer along the perimeter property lines of the development, except for areas adjacent to road rights-of-way. The minimum perimeter buffer shall be 35 feet. Landscaping guidelines for



perimeter buffers shall follow the requirements in section 24-94(a) of this chapter.

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

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

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

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

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

- (1) The buffer in which the temporary stockpile is to occur is nonwooded, defined as having no mature trees.
- (2) The stockpile should not be visible from a Community Character Corridor or Community Character Area, unless the soil stockpiling is needed for approved berming in that buffer.
- (3) Stockpiles shall not exceed 35 feet in height.
- (4) Stockpiles shall be temporary, with a time limit of six months.
- (5) Once the use of the temporary soil stockpiles is completed, the ground must be adequately prepared for planting and revegetated in a manner that meets or exceeds the amount and quality of vegetation on the site previously.

(f) *Limitations on stormwater management facilities within buffers.* Wet ponds, dry detention basins, and other structural BMPs shall not generally be permitted in the buffers, except that the planning commission may approve them under the following circumstances:

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

(g) *Improvements allowed within buffers.* An entrance road, community and directional signage, bicycle and/or

pedestrian paths, and utility connections and drainage improvements shall be permitted within the buffer with approval of the planning commission. Permitted utilities and constructed drainage conveyance systems shall cross the buffer at or near a perpendicular angle to the property line, with clearing kept to a minimum necessary to accommodate the utilities, except that minor improvements to natural drainage channels may be permitted at different angle to the property line upon the recommendation of the environmental director and the approval of the planning commission.

- (h) *Roads within buffers.* Entrance roads through these buffers shall be built to the narrowest cross-section possible. Roads and open space shall be located and designed in a manner that minimizes views of structures within the development from the adjoining primary or secondary road as determined by the planning commission.

(Ord. No. 31A-202, 12-21-99)

Secs. 24-359—24-366. - Reserved.

## DIVISION 2. - GENERAL AGRICULTURAL DISTRICT, A-1

### Sec. 24-211. - Statement of intent.

The General Agricultural District, A-1, is intended for application to the rural areas of the county generally outside of the primary service area and where utilities and urban services generally do not exist and are not planned for the near future. The purpose of the district is to maintain a rural environment suitable for farming, forestry and low-density rural residence and at the same time to provide for certain recreational and public or semipublic and institutional uses which may require a spacious site and which, with proper conditions imposed, are compatible with rural surroundings. The district also serves to limit the scattering of commercial, industrial and urban residential uses into rural areas where such uses are not planned. The area regulations of the district are intended to provide a measure of flexibility in lot size and arrangement if coupled with a design review to ensure more careful use of the land.

(Ord. No. 31A-88, § 20-28, 4-8-85; Ord. No. 31A-114, 5-1-89)

### Sec. 24-212. - Use list.

Use Category	Use List	Permitted Uses	Specially Permitted Uses
Residential Uses	Accessory apartments, attached, in accordance with <u>section 24-32</u> .	P	
	Accessory apartment, detached, in accordance with <u>section 24-32</u> .		SUP
	Accessory buildings and structures.	P	
	Accessory uses, as defined herein.	P	
	Group home or residential facility, for eight or fewer adults.	P	
	Group homes or residential facilities for nine or more adults.		SUP
	Group quarters for agricultural workers.		SUP

	Home care facilities.		SUP
	Manufactured homes that are on a permanent foundation.	P	
	Manufactured home parks in accordance with the special provisions of article IV.		SUP
	Single-family detached dwellings.	P	
	Two-family dwellings.		SUP
Commercial Uses	Accessory buildings and structures.	P	
	Accessory uses, as defined herein.	P	
	Adult day care centers.		SUP
	Airports and landing fields, heliports or helistops and accessory uses.		SUP
	Animal hospitals, veterinary offices and kennels.		SUP
	Automobile graveyards.		SUP
	Automobile repair and service.		SUP
	Automobile service stations; if fuel is sold, then in accordance with <u>section 24-38</u> .		SUP
	Beauty and barber shops.		SUP
	Campgrounds.		SUP
	Cemeteries and memorial gardens, not accessory to a church or other place of worship.		SUP

	Commercial equipment repair accessory to a dwelling with no outdoor storage or operations and the use occupies a building not larger than 2,000 square feet.		SUP
	Community recreation facilities, public or private, including parks, playgrounds, clubhouses, boating facilities, swimming pools, ball fields, tennis courts and other similar recreation facilities except for facilities approved as part of a subdivision created pursuant to <u>section 24-214(c)</u> .		SUP
	Contractors' warehouses, sheds, and offices.		SUP
	Convenience stores; if fuel is sold, then in accordance with <u>section 24-38</u> .		SUP
	Day care and child care centers.		SUP
	Dinner theaters and dance halls as an accessory use to a restaurant or tavern.		SUP
	Farm equipment sales and service.		SUP
	Farmers' markets, limited in area to 2,500 square feet.	P	
	Farmers' markets over 2,500 square feet in area.		SUP
	Feed, seed and farm supplies.		SUP
	Flea markets, temporary or seasonal.		SUP
	Food processing and storage.		SUP
	Gift shops and antique shops.		SUP
	Golf courses and country clubs.		SUP
	Greenhouses, commercial.	P	

	Home occupations, as defined herein.	P	
	Horse and pony farms (including the raising and keeping of horses), riding stables.	P	
	Horse racing tracks.		SUP
	Horse show areas, polo fields.		SUP
	Hospitals and nursing homes.		SUP
	House museums.	P	
	Hunting preserve or club, rifle or pistol range, trap or skeet shooting.		SUP
	Lumber and building supply stores.		SUP
	Medical clinics.		SUP
	Nurseries.	P	
	Off-street parking as required by <u>section 24-54</u> .	P	
	Petroleum storage, other than on a farm for farm use or accessory for a residence.		SUP
	Professional offices of not more than 2,000 square feet with no more than one office per lot.		SUP
	Race tracks for animals or vehicles, including racing courses for power boats.		SUP

	Railroad facilities, including tracks, bridges, switching yards and stations. However, spur lines, which are to serve and are accessory to existing or proposed development adjacent to existing railroad right-of-ways, and track and safety improvements in existing railroad right-of-ways, are permitted generally and shall not require a special use permit.		SUP
	Rental of rooms to a maximum of three rooms.		SUP
	Rest homes for fewer than 15 adults.	P	
	Rest homes for 15 or more adults.		SUP
	Restaurants, taverns.		SUP
	Retreat facilities.		SUP
	Retail sale and repair of lawn equipment with outdoor display area up to 2,500 square feet and repair limited to a fully enclosed building.		SUP
	Retail sales of plant and garden supplies.		SUP
	Retail shops associated with community recreation facilities.		SUP
	Sanitary landfills, in accordance with <u>section 24-40</u> , construction debris landfills, waste disposal or publicly owned solid waste container sites.		SUP
	Slaughter of animals for personal use but not for commercial purposes.	P	
	Slaughterhouses.		SUP
	Small-scale alcohol production.		SUP

	Tourist homes.		SUP
	Upholstery shops.		SUP
	Waterfront business activities: marine interests, such as boat docks, piers, yacht clubs, marinas and commercial and service facilities accessory thereto, docks and areas for the receipt, storage, and transshipment of waterborne commerce; seafood and shellfish receiving, packing and shipping plants; and recreational activities primarily conducted on or about a waterfront. All such uses shall be contiguous to a waterfront.		SUP
Agricultural Uses	Accessory buildings and structures.	P	
	Accessory uses, including agritourism activities, as defined in <u>section 24-2</u> .	P	
	Fish farming and aquaculture, but shall not include the processing of such products.	P	
	Food processing and storage, when it occurs in private homes per Code of Virginia § 3.2-5130 subdivisions A 3, 4, and 5.	P	
	General agriculture operation, production agriculture or silviculture activity, dairying, forestry, general farming, and specialized farming, including the keeping of horses, ponies and livestock, but not intensive agriculture as herein defined and not commercial slaughtering or processing of animals or poultry.	P	
	Limited farm brewery.	P	
	Limited farm distillery.	P	
	Intensive agriculture as herein defined.	P	



	Petroleum storage on a farm as an accessory use and not for resale.	P	
	Sale of agricultural or silvicultural products, or the sale of agricultural-related or silvicultural-related items incidental to the agricultural operation, including wayside stands.	P	
	Storage and repair of heavy equipment as an accessory use to a farm.	P	
	Wineries, as herein defined, including a shop for retail sale of wine, but not including other commercial accessory uses.	P	
	Wineries, with accessory commercial facilities.		SUP
Civic Uses	Accessory buildings and structures.	P	
	Accessory uses, as defined herein.	P	
	Fire stations, rescue squad stations, volunteer or otherwise.		SUP
	Places of public assembly used primarily as an event facility in accordance with <u>section 24-48</u> .	P	
	Places of public assembly used primarily as an event facility not in accordance with <u>section 24-48</u> .		SUP
	Places of public assembly.		SUP
	Post offices and public buildings generally.		SUP
	Schools, libraries, museums and similar institutions, public or private.		SUP
	Seminaries.		SUP

Utility Uses	Communications facilities (public or private) in compliance with article II, division 6 of this chapter.		SUP
	Communications facilities (public or private) in compliance with article II, division 6 of this chapter.	P	
	Electrical generation facilities (public or private), electrical substations with a capacity of 5,000 kilovolt amperes or more, and electrical transmission lines capable of transmitting 69 kilovolts or more.		SUP
	Telephone exchanges and telephone switching stations.		SUP
	Transmission pipelines (public or private), including pumping stations and accessory storage, for natural gas, propane gas, petroleum products, chemicals, slurry coal and any other gases, liquids or solids. However, private extensions or connections to existing pipelines, which are intended to serve an individual residential or commercial customer and which are accessory to existing or proposed development, are permitted generally and shall not require a special use permit.		SUP
	Utility substations.		SUP

	Water facilities (public or private), and sewer facilities (public), including, but not limited to, treatment plants, pumping stations, storage facilities and transmission mains, wells and associated equipment such as pumps to be owned and operated by political jurisdictions. However, private connections to existing mains, with no additional connections to be made to the line, which are intended to serve an individual residential or commercial customer and which are accessory to existing or proposed development, and distribution lines and local facilities within a subdivision or development, including pump stations,, are permitted generally and shall not require a special use permit.		SUP
	Water impoundments, new or expansion of, less than 20 acres and with dam heights of less than 15 feet.	P	
	Water impoundments, new or expansion of, 20 acres or more or with dam heights of 15 feet or more.		SUP
Open Uses	Preserves and conservation areas for protection of natural features and wildlife.	P	
	Timbering in accordance with <u>section 24-43</u> .	P	
Industrial Uses	Accessory buildings and structures.	P	
	Accessory uses, as defined herein.	P	
	Excavation or filling, borrow pits, extraction, processing and removal of sand and gravel and stripping of top soil (but not farm pond construction, field leveling or stripping of sod for agricultural purposes and excavations in connection with development which has received subdivision or site plan approval, which do not require a special use permit.)		SUP

	Manufacture and sale of wood products.		SUP
	Solid waste transfer stations.		SUP
	Storage and repair of heavy equipment.		SUP
	Storage, stockpiling and distribution of sand, gravel and crushed stone.		SUP

**Editor's note—** Ord. No. 31A-296, adopted June 9, 2015, amended § 24-212 in its entirety to read as herein set out. Former § 24-212 pertained to use list. See the Code Comparative Table for complete derivation.

(Ord. No. 31A-312, 11-8-16; Ord. No. 31A-335, 8-8-17; Ord. No. 31A-348, 7-14-20)

Sec. 24-213. - Reserved.

**Editor's note—** Ord. No. 31A-296, adopted June 9, 2015, repealed § 24-213, which pertained to uses permitted by special use permit only. See the Code Comparative Table for complete derivation.

Sec. 24-214. - Area requirements.

- (a) *Minimum lot size.* The minimum lot size, except as otherwise specified herein, shall be:
  - (1) One acre for nonresidential uses;
  - (2) Three acres for single-family dwellings;
  - (3) A ratio of one acre of open land per seven horses, eight dairy cattle, 13 slaughter or feeder cattle, 33 swine, or 130 sheep shall be provided for each agricultural operation; and
  - (4) Twenty acres for intensive agriculture:
    - a. No more than 1,000 veal, cattle, horses or similar animals or 3,000 sheep, lambs, goats or similar animals or 7,500 swine or 50,000 turkeys or 100,000 chickens shall be confined at any one site.
- (b) *Minimum lot size for residential lots created after May 1, 1989.* No lot created under the area requirements of this section after May 1, 1989, the date of adoption of this section, unless created pursuant to paragraphs (c) or (d) below, shall be used for any residential dwelling unless the lot size is three acres or more. Provided, however, lots of less than six acres recorded or legally in existence prior to May 1, 1989, the date of adoption of this section, shall be permitted to be subdivided into two lots for single-family residential use so long as no lot size is less than two acres.
- (c) *Purpose of area requirements; conditions for subdivisions with approved special use permits.* It is the purpose of the area requirements in this district to discourage urban residential developments, but at the same time to encourage careful design of low-density residential subdivisions in order to make best use

of the land, reduce development costs and preserve natural amenities and open space. To this end, the minimum lot size may be reduced in subdivisions which are approved by special use permit in accord with the general standards of article I and the special standards of this district. Upon issuance of a special use permit, a subdivision may be approved with a minimum lot size of less than three acres; provided, that all of the following conditions are met:

- (1) The overall gross density of the subdivision shall not exceed one dwelling unit per two acres.
  - (2) There shall be at least three residential lots in the subdivision.
  - (3) No lot shall be less than one acre in area.
  - (4) The subdivision shall only be for single-family detached dwellings.
  - (5) All lots shall front on an approved public street created by the subdivision and no lot shall have direct access to a street not a part of the subdivision. This condition shall not apply to subdivisions of less than five lots.
  - (6) Provision shall be made in subdivision plats and lot conveyances to ensure that lot purchasers have adequate notice regarding limitations on resubdivision of parcels and no resubdivision or sale by any means shall be permitted which would in any way create a violation of this chapter.
  - (7) The general design standards of this section shall be complied with.
  - (8) The subdivision design shall provide good building sites and at the same time make best use of topography and minimize grading and destruction of natural vegetation.
  - (9) The subdivision design shall provide for protection of conservation areas as specified in the Comprehensive Plan or other sections of this chapter.
  - (10) No more than 30 percent of any lot shall be located in a floodplain area as defined in this chapter; provided, however, that up to 50 percent of the area of any lot may be covered by the waters of a lake, pond or canal planned and approved as a part of and wholly within the subdivision.
  - (11) Maintenance of any common open space shall be assigned to a homeowners' association or other approved entity.
  - (12) Lots shall be arranged and building sites shall be designated so as to promote harmonious relationships with the environment and existing public streets and roads; and to this end, the design shall employ such techniques as may be appropriate to a particular case, including location of lots of various sizes, location of building sites with respect to project boundary lines, location of open space and buffer areas and maintenance of vegetation. Unless the subdivision is less than five lots, all structures shall be located a minimum of 150 feet from all roads existing prior to the platting of the subdivision.
- (d) *Lot size for family subdivisions with special use permits.* Upon issuance of a special use permit, a family subdivision may be approved with a minimum lot size of less than three acres, provided no lot shall be less than one acre.
- (e) *Minimum lots sized for two-family dwellings.* Lots for two-family dwellings shall have a minimum area of five acres.
- (f) *Not applicable to lots in existence prior to May 1, 1989.* These minimum sizes shall not apply to lots of

less than three acres recorded or legally in existence prior to May 1, 1989, the date of adoption of this article. Such lots of less than three acres used for residential purposes shall be limited to one single-family residential use.

(Ord. No. 31A-88, § 20-30, 4-8-85; Ord. No. 31A-114, 5-1-89; Ord. No. 31A-165, 9-18-95)

Sec. 24-215. - Setback requirements.

- (a) Structures, except those associated with intensive agricultural uses, shall be located a minimum of 50 feet from any street right-of-way which is 50 feet or greater in width. If the street right-of-way is less than 50 feet in width, structures shall be located a minimum of 75 feet from the centerline of the street; except that where the minimum lot area is three acres or more, the minimum setback shall be 75 feet from any street right-of-way which is 50 feet or greater in width and 100 feet from the centerline of any street right-of-way less than 50 feet in width. Devices for nutrient management plans, pens, and structures associated with intensive agricultural uses shall be 250 feet from any dwelling not owned by the operator of the use, all property lines not associated with the use, all public roads, and 1,000 feet from platted residential subdivisions, residentially zoned districts, areas designated for residential use on the comprehensive plan, schools, parks and playgrounds, recreation areas, public wells, water tanks and reservoirs.
- (b) All subdivisions platted and recorded prior to March 1, 1969, with building setback lines shown on their recorded plat will be allowed to adhere to these established setback lines.

(Ord. No. 31A-88, § 20-31, 4-8-85; Ord. No. 31A-114, 5-1-89; Ord. No. 31A-165, 9-18-95; Ord. No. 31A-169, 5-28-96; Ord. No. 31A-257, 11-22-11)

Sec. 24-216. - Minimum lot width and frontage.

- (a) Lots of five acres or more shall have a minimum lot width at the setback line of 250 feet.
- (b) Lots of three acres or more but less than five acres shall have a minimum lot width at the setback line of 200 feet.
- (c) Lots of one acre or more but less than three acres shall have a minimum lot width at the setback line of 150 feet.
- (d) The minimum lot frontage abutting a public right-of-way shall be 25 feet.

(Ord. No. 31A-88, § 20-32, 4-8-85; Ord. No. 31A-114, 5-1-89)

Sec. 24-217. - Yard regulations.

- (a) *Side*. The minimum side yard for each main structure shall be 15 feet. The minimum side yard for accessory structures shall be five feet, except that accessory buildings exceeding one story shall have a minimum side yard of 15 feet.
- (b) *Rear*. Each main structure shall have a rear yard of 35 feet or more. The minimum rear yard for accessory structures shall be five feet, except that accessory buildings exceeding one story shall have a minimum rear yard of 15 feet.

Sec. 24-218. - Height limits.

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

- (1) The height limit for buildings may be increased to 45 feet and to three stories; provided, that the two side yards for the building are increased to a minimum of 15 feet plus one foot for each additional foot of the building's height over 35 feet.
- (2) Church spires, belfries, cupolas, monuments, water towers, athletic field lighting, chimneys, flues, flagpoles, home television antennas, home radio aerials, silos and other structures normally associated with and accessory to farming operations may be erected to a total height of 60 feet from grade.

Upon application for a height limitation waiver, the payment of appropriate fees, notification of adjacent property owners and following a public hearing, the board of supervisors may grant a height limitation waiver for these structures to exceed 60 feet in height but not to exceed 100 feet, from grade to the top of the structure, upon finding that:

- a. Such structure will not obstruct light to adjacent property;
  - b. Such structure will not impair the enjoyment of historic attractions and areas of significant historic interest and surrounding developments;
  - c. Such structure will not impair property values in the surrounding area;
  - d. Such structure is adequately designed and served from the standpoint of safety, and the county fire chief finds that the fire safety equipment to be installed is adequately designed and that the building is reasonably well located in relation to fire stations and equipment, so as to offer adequate protection to life and property; and
  - e. Such structure will not be contrary to the public health, safety and general welfare.
- (3) No accessory building which is within 15 feet of any lot line shall be more than one story high. All accessory buildings shall not be more than 45 feet in height; except that silos, barns and other structures normally associated with and accessory to farming operations are controlled by subsection (2) above and may exceed 45 feet in height.
  - (4) Heights of communications facilities shall be permitted in accordance with division 6, communications facilities, antennas, towers and support structures.

(Ord. No. 31A-88, § 20-33, 4-8-85; Ord. No. 31A-114, 5-1-89; Ord. No. 31A-166, 1-23-96; Ord. No. 31A-176, 5-26-98; Ord. No. 31A-223, 4-11-06; Ord. No. 31A-232, 12-11-07; Ord. No. 31A-259, 1-10-12; Ord. No. 31A-312, 11-8-16)

Sec. 24-219. - Special provisions for corner lots.

- (a) For corner lots, the front of the lot shall be the shorter of the two sides fronting on streets.
- (b) No structures shall be located closer than 50 feet to the side street.

(c) Each corner lot shall have a minimum width at the setback line of 150 feet or more.

(Ord. No. 31A-88, § 20-34, 4-8-85; Ord. No. 31A- 114, 5-1-89)

Sec. 24-220. - Sign regulations.

To assure an appearance and condition which is consistent with the purposes of the General Agricultural District, A-1, outdoor signs on the properties within the district shall comply with the regulations for exterior signs in article II, division 3 of this chapter.

(Ord. No. 31A-88, § 20-34.1, 4-8-85)

Secs. 24-221—24-230. - Reserved.



## Chapter 19 - SUBDIVISIONS

*Footnotes:*

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**Cross reference**— *Building regulations, Ch. 4; erosion and sedimentation control, Ch. 8; zoning, Ch. 24.*

**State Law reference**— *Land subdivision and development, Code of Va., § 15.2-2240 et seq.; local planning, Code of Va., § 15.2-2212 et seq.*

### ARTICLE I. - GENERAL PROVISIONS

#### Sec. 19-1. - Short title.

This chapter shall be known and may be cited as the "Subdivision Ordinance of James City County, Virginia," or simply as the "Subdivision Ordinance."

(Ord. No. 30A-15, 1-9-89)

#### Sec. 19-2. - Definitions.

The following definitions shall apply in the interpretation and enforcement of this chapter.

*Agent.* The James City County planning director or his designee.

*Alternative on-site sewage disposal system.* A treatment works that is not a conventional on-site sewage disposal system and does not result in a point source discharge.

*Approved.* The word "approved" shall be considered to be followed by the words "or disapproved," when the sense so requires.

*Block.* Land containing lots which are bounded by streets or a combination of conservation areas, streets, public parks, cemeteries, railroads, rights-of-way, shorelines or boundaries of the county.

*Brownfield site.* Real property wherein the expansion, redevelopment, or reuse may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant.

*Central water system.* A water system in which all connections in the subdivision are served by one or more water sources through a common distribution system owned and operated by the James City Service Authority. Central water system shall include all structures, hydrants, property, equipment and appurtenances used in the production, storage and distribution of water.

*Commission.* The James City County Planning Commission.

*Common open space.* A parcel of land, an area of water, or a combination of land and water within a site designed and intended primarily for the use or enjoyment of residents, occupants, and owners within that development in which ownership is held in common with other owners of that development.

*Conventional on-site sewage disposal system.* A treatment works consisting of one or more septic tanks with gravity, pumped, or siphoned conveyance to a gravity distributed subsurface drainfield.

*County attorney.* The James City County attorney or his designee.

*Cul-de-sac.* A street with only one outlet having a circular turn-around for a safe and convenient reverse traffic movement.

*Development review committee.* An administrative subcommittee of the commission charged with reviewing major subdivisions, conceptual plans, appeals of agent decisions, and exceptions to this chapter and making recommendations to the commission.

*Division of building safety and permits.* The James City County director of building safety and permits or his designee.

*Dwelling.* Any structure, or portion thereof, which is designed for use for residential purposes, except hotels, motels, boardinghouses, lodging houses, tourist cabins, time-share units, motor lodges, tents, travel trailers, recreational vehicles and similar accommodations. Dwellings may include the following types:

1. Single-family detached. A detached structure arranged or designed to be occupied by one family, the structure having only one dwelling unit.
2. Multi-family. A building or structure including, but not limited to, townhouses, duplexes, and triplexes that are arranged or designed to be occupied by more than one family living in separate dwelling units with separate cooking, toilet facilities, and entrances.
3. Apartments. A building or structure arranged or designed to be occupied by three or more families living in separate dwelling units but sharing the entrance to the building.

*Easement.* A right granted by a property owner permitting a designated part or interest of the property to be used by others for a specific use or purpose.

*Engineering and resource protection division.* The director of the James City County engineering and resource protection division or his designee.

*Fire chief.* The James City County fire chief or his designee.

*Governing body.* The James City County board of supervisors.

*Health department.* The Commonwealth of Virginia Department of Health or an authorized official, agent or employee thereof.

*Highly erodible soils.* Soils (excluding vegetation) with an erodibility index (EI) from sheet and rill erosion equal to or greater than eight. The erodibility index for any soil is defined by the Universal Soil Loss Equation as the product of the formula  $RKLS-T$  where K is the soil susceptibility to water erosion in the surface layer; R is the rainfall and runoff; LS is the combined effects of slope length and steepness; and T is the soil loss tolerance.

*Highly permeable soils.* Soils with a given potential to transmit water through the soil profile. Highly permeable soils are identified as any soil having a permeability equal to or greater than six inches of water movement per hour in any part of the soil profile to a depth of 72 inches (permeability groups "rapid" and "very rapid") as found in the "National Soil Survey Handbook" of November 1996, as amended, in the "Field Office Technical Guide" of the U.S. Department of Agricultural Natural Resources Conservation Service.

*Hydric soils.* Soils that are saturated, flooded or ponded long enough during the growing season to support wetland vegetation.

*Impervious cover.* A surface composed of any material that significantly impedes or prevents infiltration of water into the soil. Impervious surfaces include, but are not limited to: roofs, buildings, streets, parking areas, and any concrete, asphalt, or compacted gravel surface.

*Improvements.* All public and quasipublic utilities and facilities including, but not limited to, streets, sanitary sewers, waterlines, stormwater management and erosion control facilities, electrical service, monuments, signs, sidewalks and streetlights required by this chapter.

*Lot.* A parcel of land occupied or to be occupied by a main structure or group of main structures and accessory structures, together with such yards, open space, lot width, and lot areas as are required by Chapter 24, Zoning, either shown on a plat of record or considered as a unit of property and described by metes and bounds. A lot is synonymous with parcel or tract.

*Lot, corner.* A lot abutting on two or more streets at their intersection. Of the two sides of a corner lot, the front shall be deemed to be the shorter of the two sides fronting on streets.

*Lot, double frontage.* An interior lot having frontage on two streets.

*Lot, flag.* A lot where a majority of the parcel does not abut a public right-of-way, but that achieves access to the public road by a narrow section of land not less than 25 feet in width.

*Lot frontage.* The measurement of a lot along a street right-of-way from one side lot line to the other.

*Lot, interior.* Any lot other than a corner lot.

*Lot of record.* A lot, a plat or description of which has been recorded in the clerk's office of the circuit court.

*Lot width.* The horizontal distance between side lot lines measured at the setback line.

*Monument.* An iron pipe a minimum of 3/4 inches in diameter with a 24 inch length or a 5/8 inches in diameter reinforcing bar with a 24 inch length driven three inches to nine inches below the surface of the adjacent ground or an alternate type as approved by the agent.

*Plat.* A map or plan for a tract or parcel of land meeting the requirements of this chapter which is to be or which has been subdivided. When used as a verb, "plat" is synonymous with "subdivide."

*Property.* A unit or units of land of such size and dimensions that it may be subdivided into two or more lots.

*Public sewer.* A sewer system owned and operated by a municipality, county, service authority or the Hampton Roads Sanitation District Commission, approved by the governing body, licensed by the State Corporation Commission if required by law, and approved by the health department and State Water Control Board where appropriate.

*Public water.* A water system owned and operated by a municipality, county or service authority, approved by the governing body, licensed by the State Corporation Commission if required by law, and approved by the health department.

*Right-of-way.* The total width of land dedicated or reserved for public or restricted travel, including pavement, ditches, drainage facilities, curbing, gutters, pipes, sidewalks, shoulders and land necessary for the maintenance thereof. The right-of-way may contain public or private utilities.

*Road, future or planned future right-of-way.* Any road or similar transportation facility as shown on an approved plan of development or master plan or designated on the Comprehensive Plan, Six-Year Primary or Secondary Road Plan, Hampton Roads Long Range Transportation Plan or any road plan adopted by the board of supervisors.

*Runoff.* Precipitation which enters downstream waterways or properties.

*Service authority.* The James City Service Authority.

*Service authority manager.* The manager of the James City Service Authority or his designee.

*Service authority regulations.* The James City Service Authority Regulations Governing Utility Service.

*Setback line.* A line showing the closest point from a property line that a dwelling or principal structure may be constructed consistent with the zoning ordinance.

*Soil absorption systems.* On-site sewage disposal systems which utilize the soil to provide final treatment and disposal of effluent from a septic tank in a manner that does not result in a point-source discharge and does not create a nuisance, health hazard or ground or surface water pollution.

*Street.* An existing or platted right-of-way dedicated for the use of the general public, or portions thereof, either accepted by the transportation department or approved as a private transportation system under the zoning ordinance. A street shall provide access to property by vehicular and pedestrian traffic for all purposes of travel transportation or parking to which it is adopted and devoted. This term is synonymous with road, lane, drive, avenue, right-of-way, highway, or any other thoroughfare.

*Street functional classification.* Streets shall be functionally classified as follows:

1. Interstate: A highway that is part of the nationwide U.S. Interstate Highway System connecting or involving different states.
2. Expressway and freeway: A roadway designated exclusively for unrestricted movement of traffic. Access is only with selected arterial streets by means of interchanges.
3. Arterial streets (principal, minor): Streets and roads which function within a regional network conveying traffic between major activity centers. The purpose of such streets is to carry relatively large volumes of traffic at higher speeds, and not to serve abutting lots except indirectly through intersecting streets. The arterial classification is further subdivided into "principal arterial" and "minor arterial" based on traffic volumes.
4. Collector streets (major, minor): Streets designed to conduct and distribute traffic between streets of lower order and streets of higher order linking major activity centers. The collector classification is further divided into "major collector" and "minor collector."
5. Local or access streets: Streets designed to carry low to moderate volumes of traffic, at low operating speeds. The primary function of these streets is to provide access to individual lots, typically within a residential subdivision.

The functional classification status of a specific road shall be determined by the agent after consulting with the transportation department.

*Subdivide.* The division of property into two or more lots.

*Subdivider.* An individual, corporation, partnership or other entity owning any property to be subdivided.

*Transportation department.* The Commonwealth of Virginia Department of Transportation or an authorized official, agent or employee thereof.

*Yard.* The space which lies between the lot line and the nearest point of a structure. The minimum yard required is defined for each zoning district.

(Ord. No. 30A-15, 1-9-89; Ord. No. 30A-27, 12-15-99; Ord. No. 30A-30, 4-13-04; Ord. No. 30A-35, 5-27-08; Ord. No. 30A-39, 7-26-11; Ord. No. 30A-41, 12-11-12; Ord. No. 30A-42, 8-13-13)

Sec. 19-3. - Compliance with chapter mandatory.

- (a) No person shall subdivide land without making and recording a plat of subdivision and fully complying with the provisions of this chapter.
- (b) No plat of any subdivision shall be recorded unless and until it shall have been submitted to and approved by the agent.
- (c) No person shall sell or transfer any land of a subdivision before such plat has been duly approved and recorded as provided herein unless such subdivision was lawfully created prior to the adoption of a subdivision ordinance applicable thereto; provided, that nothing herein contained shall be construed as preventing the recordation of the instrument by which such land is transferred or the passage of title as between the parties to the instrument.
- (d) No clerk of any court shall file or record a plat of a subdivision required by this chapter until such plat has been approved by the agent as required herein.
- (e) The requirements of this chapter shall be considered separate from, and supplementary to, any requirements otherwise specified by this Code or by state or federal law. Nothing contained herein shall excuse compliance with other applicable ordinances or laws. Where local requirements are in conflict with mandatory state or federal requirements, the state or federal requirements shall prevail.

(Ord. No. 30A-15, 1-9-89)

Sec. 19-4. - Penalties.

Any person, firm or corporation, whether as principal, agent, employee or otherwise, violating the provisions of this chapter shall be subject to a fine of not more than \$500.00 for each lot or parcel of land so subdivided or transferred or sold. The description of such lot or parcel by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt any transaction from such penalties or from other remedies.

(Ord. No. 30A-15, 1-9-89; Ord. No. 30A-27, 12-15-99)

**State Law reference—** Code of Va., § 15.2-2254

Sec. 19-5. - Administration and enforcement of chapter.

The agent is hereby delegated to administer and enforce the provisions of this chapter. The agent shall be considered the agent of the governing body. Notwithstanding an appeal as provided for in section 19-8, approval or disapproval by the agent shall constitute approval or disapproval as though it were given by the governing body. The agent may consult

with the commission on matters contained herein and may call for written opinions or decisions from other county departments, the transportation department, and the health department in considering details of any submitted plat.

(Ord. No. 30A-15, 1-9-89; Ord. No. 30A-27, 12-15-99)

**State Law reference**— State law governing land subdivision and development, Code of Va., § 15.2-2240 et seq.

Sec. 19-6. - Effect of private contracts.

This chapter bears no relation to any private easement, covenant, agreement or restriction, and the responsibility of enforcing such private easement, covenant, agreement or restriction is not implied herein to any public official. When this chapter calls for more restrictive standards than are required by private contract, the provisions of this chapter shall control.

(Ord. No. 30A-15, 1-9-89)

Sec. 19-7. - Changes, erasures and revisions.

No change, erasure or revision shall be made on any preliminary or final plat, nor on accompanying data sheets, after the agent has approved in writing the plat or sheets, unless authorization for such changes has been granted in writing by the agent.

(Ord. No. 30A- 15, 1-9-89)

Sec. 19-8. - Subdivider may appeal from disapproval of plat.

In the event a plat for subdivision is disapproved by the agent or commission, the subdivider may appeal to the governing body. The governing body may override the recommendation of the agent or commission and approve said plat. No appeal shall be made unless it is filed in writing with the clerk of the governing body within 30 days of disapproval by the agent or commission.

(Ord. No. 30A-15, 1-9-89)

Sec. 19-9. - Plan and plat preparation-by whom prepared.

Each subdivision plan and plat shall be prepared by an individual duly qualified as set forth in title 54.1 of the Code of Virginia.

(Ord. No. 30A-15,1-9-89; Ord. No. 30A-27, 12-15-99)

Sec. 19-10. - How chapter may be amended.

This chapter may be amended in whole or in part by the governing body. Any such amendment shall either originate with or be submitted to the commission for recommendation prior to adoption. If no recommendation is received from the commission after 60 days from submission, the governing body may act without a recommendation. No such amendment shall be adopted without a public hearing having been held by the governing body.

(Ord. No. 30A-15, 1-9-89)

**State Law reference**— For state law as to amendments to county subdivision ordinances, see Code of Va., § 15.2-2253; required filing of amendments, Code of Va., § 15.2-2252.

Sec. 19-11. - Resubdivision same as subdivision.

Any change in a recorded subdivision plat that modifies, creates or adjusts lot lines shall be approved in the same manner and under the same requirements as a new subdivision. This section applies to any subdivision plat of record, whether or not recorded prior to the adoption of a subdivision ordinance. Where a street, alley, easement for public passage or other public area laid out or described in such plat is affected, the plat shall be vacated pursuant to section 19-12 prior to resubdivision.

(Ord. No. 30A-15, 1-9-89)

Sec. 19-12. - Vacation of recorded plat.

Any recorded plat, or part thereof, may be vacated by the governing body pursuant to Code of Va., § 15.2-2271 through § 15.2-2276, as amended or Code of Va., § 15.2-2006 through § 15.2-2008, as amended, as applicable.

(Ord. No. 30A-15, 1-9-89; Ord. No. 30A-41, 12-11-12; Ord. No. 30A-43, 3-8-16)

Sec. 19-13. - Construction and severability of provisions.

This chapter shall be liberally construed so as to effectuate its purposes. If any clause, sentence, paragraph, section or subsection of this chapter shall be adjudged by any court of competent jurisdiction to be invalid for any reason, including a declaration that it is contrary to the constitution of the Commonwealth or of the United States, or if the application thereof to any government, agency, person or circumstance is held invalid, such judgment or holding shall be confined in its operation to the clause, sentence, paragraph, section or subsection hereof, or the specific application hereof, directly involved in the controversy in which the judgment or holding shall have been rendered or made, and shall not in any way affect the validity of any other clause, sentence, paragraph, section or subsection hereof, or affect the validity of the application thereof to any other government, agency, person or circumstance.

(Ord. No. 30A-15, 1-9-89)

Sec. 19-14. - Private streets declaration.

If approved streets in a subdivision are not to be constructed to meet the standards necessary for inclusion in the secondary system of state highways, or are not to be dedicated to the transportation department, the subdivision plat and all deeds conveying lots in the subdivision shall contain a statement advising that the streets in the subdivision shall not be maintained by the transportation department or the county, and where applicable, do not meet state design standards.

(Ord. No. 30A-15, 1-9-89; Ord. No. 30A-27, 12-15-99; Ord. No. 30A-41, 12-11-12)

Sec. 19-15. - Fees.

Fees shall be charged to offset the cost of reviewing plats and plans, making inspections and other expenses incident to the administration of this chapter. The following fees shall be charged and collected as provided below or as set forth in County Code Appendix A—Fee Schedule for Development Related Permits.

- (1) *Fees waived.* Payment of any permit set forth in County Code Appendix A—Fee Schedule for Development Related Permits shall be waived for the county, any entity created solely by the county and those regional entities to which the county is a party provided that: (i) the other parties to the regional entity similarly waive fees; and (ii) the regional entity has locations in more than one locality.

(Ord. No. 30A-15, 1-9-89; Ord. No. 30A-20, 5-6-91; Ord. No. 30A-25, 6-25-96; Ord. No. 30A-27, 12-15-99; Ord. No. 30-28, 5-14-02; Ord. No. 30A-29, 4-22-03; Ord. No. 30A-32, 10-26-04; Ord. No. 30A-34, 4-24-07; Ord. No. 30A-35, 5-27-08; Ord. No. 30A-40, 8-9-11; Ord. No. 30A-41, 12-11-12; Ord. No. 30A-42, 8-13-13; Ord. No. 30A-47, 6-12-18)

#### Sec. 19-16. - Saving provision.

The adoption of this chapter shall not abate any pending action, liability or penalty of any person accruing or about to accrue, nor waive any right of the county under any provision in effect prior to the adoption of this chapter, unless expressly provided for in this chapter. Any subdivision plan which has received preliminary approval prior to the adoption of this chapter and for which a final plat is recorded within one year from the date of preliminary approval shall have vested rights under the ordinance in effect at the date of preliminary approval. Failure to record a plat within one year shall render the preliminary approval null and void.

(Ord. No. 30A-15, 1-9-89)

#### Sec. 19-17. - Special provisions for family subdivisions.

In the Rural Residential, R-8, and General Agricultural, A-1 districts, a single division of a lot or parcel is permitted for the purpose of sale or gift to a member of the immediate family of the property owner. For the purposes of this section, a member of the immediate family is defined as any person who is a natural or legally defined offspring, 18 years of age or older or an emancipated minor under Virginia Code section 16.1-331 et seq., or parent of the owner. Such subdivision shall be subject only to the following provisions:

- (1) The property owner shall have owned the lot or parcel for a period of not less than five years prior to the application for a family subdivision. The property owner shall provide evidence of ownership satisfactory to the county attorney's office with the subdivision application.
- (2) Only one such division shall be allowed per family member and shall not be made for the purpose of circumventing this chapter. Lots created under this section shall be titled in the name of the immediate family member for whom the subdivision is made for a period of no less than three years unless such lots are subject to an involuntary transfer such as foreclosure, death, judicial sale, condemnation or bankruptcy.
- (3) The minimum width, yard and area requirements of all lots, including the remaining property from which the lot is subdivided, shall be in accordance with the zoning ordinance. Land proposed for subdivision shall be suitable for platting in accordance with section 19-32.
- (4) For property not served with public water and public sewer, each lot shall have its on-site sewage disposal



system and water source approved by the health department and shall be shown on the subdivision plat.

- (5) Each lot or parcel of property shall front on a road which is part of the transportation department system of primary or secondary highways or shall front upon a private drive or road which is in a right-of-way or easement of not less than 20 feet in width. Such right-of-way shall remain private and shall include a driveway within it consisting of, at a minimum, an all-weather surface of rock, stone or gravel, with a minimum depth of three inches and a minimum width of ten feet. The right-of-way shall be maintained by the adjacent property owners in a condition passable at all times. The provision of an all-weather drive shall be guaranteed in accordance with section 19-74. An erosion and sediment control plan with appropriate surety shall be submitted for approval if the proposed right-of-way and drive construction disturbs more than 2,500 square feet.
- (6) The corners of all lots created by family subdivisions shall be marked with iron pipes as provided for in section 19-35.
- (7) A final subdivision plan shall be submitted to the agent for approval as provided in section 19-29 of this chapter along with an affidavit describing the purposes of the subdivision and identifying the members of the immediate family receiving the lots created. Any plan submitted shall be subject to the fee set forth in section 19-15.
- (8) The above requirements shall be set forth in a subdivision agreement approved by the county attorney and recorded in the circuit court clerk's office for the City of Williamsburg and County of James City.

(Ord. No. 30A-15, 1-9-89; Ord. No. 30A-19, 2-4-91; Ord. No. 30A-27, 12-15-99; Ord. No. 30A-41, 12-11-12; Ord. No. 30A-42, 8-13-13)

#### Sec. 19-18. - Exceptions.

The commission may grant an exception to any requirement of the chapter, subject to the following:

- (1) No such exception shall be granted unless the subdivider petitions the commission in writing. The petition should be submitted with the initial submission of the subdivision plan and shall state fully the grounds for the exception and all the facts relied upon by the subdivider. The agent may require such additional information as he may deem necessary to process the request for the exception.
- (2) The agent shall provide written notification of the exception request to all adjacent property owners. The notification shall adhere to the following requirements:
  - (a) Such notice shall specifically describe the exception requested and the date, time and location of the development review committee meeting first considering such request; and
  - (b) Such notice shall be mailed by the agent at least ten days before the development review committee meeting; and
  - (c) Evidence that such notice was sent by first class mail to the last known address as shown on the current real estate tax assessment book shall be deemed adequate compliance.
- (3) The burden shall be on the subdivider to demonstrate the need for an exception.
- (4) The commission shall not approve any exception unless it first receives a recommendation from the development review committee and unless it finds that:
  - (a) Strict adherence to the ordinance requirement will cause substantial injustice or hardship;

- (b) The granting of the exception will not be detrimental to public safety, health, or welfare, and will not adversely affect the property of others;
  - (c) The facts upon which the request is based are unique to the property and are not applicable generally to other property so as not to make reasonably practicable the formulation of general regulations to be adopted as an amendment to this chapter;
  - (d) No objection to the exception has been received in writing from the transportation department, health department, or fire chief; and
  - (e) The hardship or injustice is created by the unusual character of the property, including dimensions and topography, or by other extraordinary situation or condition of such property. Personal, financial, or self-inflicted hardship or injustice shall not be considered proper justification for an exception.
- (5) The commission in authorizing an exception may impose such reasonable conditions in addition to the regulations of this chapter as it may deem necessary in the public interest. The commission may require a guarantee or bond to ensure that the conditions imposed are being and will continue to be complied with.
- (6) If granted, such exception shall be specifically stated in writing together with the supporting justifications and filed with the subdivision plan or such plat or plans deemed necessary by the agent. A note shall be prominently placed on the record plat detailing any exception so granted.

(Ord. No. 30A-15, 1-9-89; Ord. No. 30A-27, 12-15-99; Ord. No. 30A-41, 12-11-12)

## ARTICLE II. - PROCEDURES AND DOCUMENTS TO BE FILED

### Sec. 19-19. - Preapplication conference and submission of conceptual plan.

- (a) Before submittal of any preliminary or final subdivision plan, the applicant is advised to confer with the subdivision agent and such other agencies of the state and county as the agent deems advisable concerning the proposed subdivision.
- (b) Prior to the submission of any major subdivision plan, the applicant or his representative is advised to submit three copies of a conceptual plan for review by the planning director, or his designee; such action does not constitute the submission of a preliminary plan and is not to be construed as an application for approval in computing time limitations in relation thereto. The planning division shall transmit comments to the applicant within 21 calendar days of submittal of a conceptual plan which meets all applicable submittal criteria.
- (c) The conceptual plan may be granted conceptual plan approval with conditions that should be satisfied prior to final plan approval by the zoning administrator; such action does not constitute final subdivision approval or preliminary plan approval.
- (d) Conceptual plans shall, at a minimum, identify or contain:
  - (1) property lines, project title, title block, legend, north arrow and graphic scale, zoning and zoning of surrounding properties
  - (2) vicinity and location maps and site address
  - (3) county tax parcel identification number, site boundary and parcel site information
  - (4) building location and orientation, location of buildings on adjacent properties, building and landscape

- setbacks, buffers such as resource protection areas (RPA) and community character corridors (CCC)
- (5) entrances/exits/access to the site (vehicular, pedestrian, greenway, etc.) and location of nearby roads
  - (6) greenway connections (on-site and those adjacent to the subject property)
  - (7) narrative description of the proposed use of site
  - (8) location of stormwater management facilities
  - (9) recorded easements (conservation, utility, rights-of-way, etc.)
  - (10) unique natural/visual features (viewsheds, water features, wetlands, etc.)
  - (11) unique natural/visual features to be preserved (mature or specimen trees, known archaeological sites, etc.)
  - (12) list of currently binding proffers or special use permit conditions
  - (13) location of entry signs
  - (14) existing topography of site using county base mapping (five foot contour) or other mapping sources or surveys
- (e) If the planning director determines that one or more of the above submittal requirements is not applicable to the proposed project, the planning director may waive those requirements.

(Ord. No. 30A-15, 1-9-89; Ord. No. 30A-26, 5-11-99; Ord. No. 30A-41, 12-11-12; Ord. No. 30A-51, 3-12-19)

#### Sec. 19-20. - Overall plan.

For multiphased subdivisions which are not subject to a binding master plan approved in accordance with article I of the zoning ordinance, the subdivider shall submit to the agent an overall plan for all phases of the proposed subdivision as part of the first preliminary plan submittal. The purpose of such an overall plan is to permit the agent to advise the subdivider whether his plans are generally in accordance with the requirements of this chapter. The commission, upon submission of any overall plan, may study it and advise the subdivider where it appears that changes are appropriate. The agent may mark the overall plan indicating appropriate changes. The subdivider shall return such overall plan to the agent with each preliminary plan. The overall plan shall, at a minimum, show the name, location and dimensions of all streets entering the property, adjacent to the property or terminating at the boundary of the property to be subdivided. It shall also show the location of all proposed streets, their functional classification (e.g., arterial, collector, etc.) and any future extensions, lots, development phases, parks, playgrounds and other proposed uses of the land to be subdivided and their approximate dimensions and a conceptual layout of the water and sewer systems. The overall plan is not binding on the subdivider or the governing body. Review of an overall plan does not constitute final subdivision approval or preliminary plan approval. For multiphased subdivisions reviewed under this section, review of an overall plan does not, in any way, guarantee approval of future subdivision phases.

(Ord. No. 30A-15, 1-9-89; Ord. No. 30A-27, 12-15-99; Ord. No. 30A-41, 12-11-12)

#### Sec. 19-21. - Classification of subdivisions.

Parcels of land existing as of January 1, 1989, shall be considered and known as "parent parcels."

- (a) *Minor subdivision.* A minor subdivision shall be any division of a parent parcel into not more than five parcels abutting an existing public road within the transportation department system and which does not create a

new street or extend an existing street.

- (1) Any contiguous or internal property owned by the same subdivider, or deemed by the agent as a logical part of a contiguous or internal subdivision, cannot be subdivided into greater than five parcels without being reviewed as, and meeting the requirements of, a major subdivision. Any such subdivisions of a parent parcel shall not exceed a total of nine parcels, including the parent parcel.
- (2) Family subdivisions as allowed by section 19-17 shall not count toward this five parcel total. A preliminary or final plan shall include only those submittal requirements of this chapter and requirements for design and minimum requirements required by article III deemed necessary by the agent.
- (b) *Major subdivision.* A major subdivision shall be any division of a parent parcel into six or more parcels or any division which creates a new street or extends any existing street. However, where additional lots are being created for the sole purpose of permanent open space or for the purpose of being dedicated to a conservation organization, as evidenced by documentation acceptable to the planning director, the subdivision may be reviewed as, and meet the requirements of, a minor subdivision.
- (c) *Multifamily subdivision.* A multifamily subdivision shall be a division of a tract of land into lots for multifamily units as shown on an approved site plan pursuant to the zoning ordinance. A preliminary or final plan shall include only those requirements for design and minimum improvements required by article III of this chapter deemed necessary by the agent.

(Ord. No. 30A-15, 1-9-89; Ord. No. 30A-27, 12-15-99; Ord. No. 30A-41, 12-11-12)

Sec. 19-22. - Procedure for review of minor subdivisions or multifamily subdivisions.

- (a) The subdivider shall submit to the agent one reproducible copy plus eight prints of a final plan for a minor or multifamily subdivision. If a preliminary plan is submitted, the number of copies of the preliminary plans required shall be determined by the agent. Upon submittal, the subdivider shall pay the appropriate subdivision plan review fee.
- (b) Upon meeting all submittal requirements, the plan shall be reviewed by the agent and other agencies of the county and state as deemed necessary by the agent. The agent shall transmit county staff review comments to the subdivider within 45 days. Eight copies of a revised plan shall be submitted to the agent who shall within 30 days review the second submittal of plans for compliance with applicable county regulations, the requirements for final approval and any conditions of the preliminary approval. The agent shall review each subsequent submittal of revised plans within 21 days. The agent shall within 90 days approve or deny the subdivision plan and notify the subdivider of the action in writing. If a final plan is approved, such approval shall be in accordance with section 19-30. The agent shall certify such approval by signing the record plat. If a preliminary plan is approved, the agent shall include in the notification of preliminary approval all conditions required for final approval. If disapproved, the agent shall state in the notification to the subdivider the specific reasons for denial. The reasons for denial shall identify deficiencies in the plan which cause the disapproval by reference to specific duly adopted ordinances, regulations or policies, and shall generally identify such modifications or corrections as will permit approval of the plan.

(Ord. No. 30A-15, 1-9-89; Ord. No. 30A-16, 11-6-89; Ord. No. 30A-27, 12-15-99; Ord. No. 30A-37, 6-22-10; Ord. No. 30A-41, 12-11-12)

Sec. 19-23. - Procedure for preliminary plan review for major subdivisions.

- (a) The subdivider shall submit to the agent 12 copies of the preliminary subdivision plan for a major subdivision and pay the appropriate subdivision plan review fee.
- (b) Upon meeting all submittal requirements, the plan shall be reviewed by the agent and other agencies of the county and state as deemed necessary by the agent. The agent shall prepare a composite report on the proposed subdivision to determine if it meets the requirements of this chapter and the zoning ordinance. The report shall include review requirements by other agencies. The preliminary plan and the agent's composite report shall be reviewed by the commission. In order for subdivision plans to be considered by the commission at one of its regularly scheduled monthly meetings, such plans shall be received by the planning division at least five weeks in advance of the respective commission meeting.
- (c) The commission shall consider the plan and either grant preliminary approval or disapprove it within 90 days of submittal. The plan may be granted preliminary approval with conditions. The agent shall notify the applicant of the commission's findings in writing within seven days of the commission meeting. Such notice shall state any actions, changes, conditions or additional information that shall be required to secure final approval of the subdivision. If disapproved, the notice shall state the specific reasons for disapproval. The reasons for denial shall identify deficiencies in the plan which cause the disapproval by reference to specific duly adopted ordinances, regulations or policies, and shall generally identify such modifications or corrections as will permit approval of the plan.

(Ord. No. 30A-15, 1-9-89; Ord. No. 30A-16, 11-6-89; Ord. No. 30A-27, 12-15-99; Ord. No. 30A-37, 6-22-10; Ord. No. 30A-41, 12-11-12; Ord. No. 30A-44, 7-26-16)

Sec. 19-24. - Procedure for preliminary plan review for major subdivisions of fewer than fifty lots.

Major subdivisions of fewer than 50 lots, including such major subdivisions that are part of a multiphased subdivision of 50 lots or more, may, at the agent's discretion, be reviewed under the procedures set forth in section 19-22.

(Ord. No. 30A-15, 1-9-89; Ord. No. 30A-16, 11-6-89; Ord. No. 30A-26, 5-11-99; Ord. No. 30A-27, 12-15-99; Ord. No. 30A-41, 12-11-12)

Sec. 19-25. - Effect of approval of preliminary plan.

Approval by the commission or the agent of the preliminary plan shall not constitute a guarantee of approval by the agent of the final plat.

(Ord. No. 30A-15, 1-9-89; Ord. No. 30A-27, 12-15-99)

Sec. 19-26. - Term of validity for the preliminary plan and extension.

- (a) Once a preliminary subdivision plan is approved, it shall be valid for a period of five years, provided the subdivider (i) submits a final subdivision plat for all or a portion of the property within one year of such approval, and (ii) thereafter diligently pursues approval of the final subdivision plat. "Diligent pursuit of approval" means that the subdivider has incurred extensive obligations or substantial expenses relating to the submitted final subdivision plat or modifications thereto. However, no sooner than three years following such

preliminary subdivision plan approval, and upon 90 days written notice by certified mail to the subdivider, the commission or agent may revoke such approval upon a specific finding of facts that the subdivider has not diligently pursued approval of the final subdivision plat.

- (b) If a subdivider records a final plat, which may be a section of a subdivision as shown on an approved preliminary plan, and furnishes to the county a certified check, cash escrow, bond, or letter of credit in an amount and form acceptable to the county for the estimated cost of construction of the facilities to be dedicated within said section for public use and maintained by the locality, the commonwealth or other public agency, the developer shall have the right to record the remaining sections shown on the preliminary plan for a period of five years from the date of the latest recorded plat of subdivision for the property. The five-year period of validity shall extend from the date of the latest recorded plat. Such right shall be subject to the terms and conditions of the Code of Virginia and subject to engineering and construction standards and the zoning ordinance requirements in effect at the time that each remaining section is recorded.

(Ord. No. 30A-15, 1-9-89; Ord. No. 30A-18, 1-22-91; Ord. No. 30A-36, 1-12-10)

#### Sec. 19-27. - Preliminary plan-submittal requirements.

The preliminary plan for a minor or major subdivision shall be on a blue-line or black-line print. The scale shall be 100 feet to the inch for the overall view, and the scale of the detailed drawings shall be appropriate to the level of detail but not less than 60 feet to the inch, except in cases where the agent approves an alternate scale. If more than one sheet is used, sheets shall be numbered in sequence and an index shall be provided. The preliminary plan for a minor or major subdivision shall include the following information:

- (a) The name of the subdivision, owner, subdivider, and surveyor or engineer, the date of drawing, number of sheets, north arrow, tax parcel identification number, zoning and graphic scale. The plan shall also list any proffers or special use permit conditions that affect the property.
- (b) The location of the proposed subdivision on an inset map at a scale of not less than one inch equals 2,000 feet, showing adjoining roads, their names and numbers, subdivisions and other landmarks.
- (c) A closed boundary survey, or existing survey of record, total acreage, acreage of subdivided area, existing buildings and improvements, existing graves, objects or structures marking a place of burial, names of owners and existing property lines within the boundaries of the tract and for adjacent properties thereto, proposed monuments, lots, lot numbers, lot areas, blocks, building setback and yard lines. If any exceptions have been granted by the planning commission in accordance with section 19-18, the plan shall include a note detailing any exception so granted.
- (d) All existing, platted and proposed streets, both private and public, including their names, route numbers and widths; existing and proposed utility or other easements, existing and proposed sidewalks, public areas, parking spaces, culverts, drains, watercourses, lakes, their names and other pertinent data. If the streets are to be private, the plan shall include a private streets declaration in accordance with section 19-14.
- (e) A drainage plan showing the proposed drainage system including all open ditches, closed storm drain pipes and stormwater management facilities proposed to convey the subdivision drainage to an adequate receiving channel. The plan shall include sizes of all pipes and ditches, types of pipes and ditch linings, drainage easements and construction details of any stormwater management facilities. Drainage

calculations shall be submitted with a design report with computations and drainage map to verify the design of the drainage system including the adequacy of the channel receiving drainage from the proposed subdivision.

For multiphased subdivisions, a drainage map shall be provided with drainage calculations for all phases of the subdivision to determine the adequacy of receiving channels. If receiving channels are not adequate, the map shall include the location of proposed stormwater management facilities.

The drainage plan shall include the topographic plan and a soil map of the site. The topographic plan shall be based on recent field run or aerial two-foot contour intervals. Five-foot contour intervals may be used with the approval of the agent. Spot elevations shall be shown at topographic low and high points.

- (f) A stormwater management plan showing proposed stormwater management facilities including best management practices (BMPs) in accordance with chapters 8, 18A and 23 of the county code, and associated checklists. Such plan shall include construction details for all parts of the stormwater and drainage system, including pipe bedding and backfill.
- (g) An erosion and sediment narrative and control plan showing the location, type and details of proposed erosion and sediment control devices to be used during and after construction. The plan shall meet all requirements of the erosion and sediment control ordinance and associated checklists and shall be provided at a scale of 50 feet to the inch except in cases where the engineering and resource protection director approves an alternate scale. The plan shall show existing and proposed contours at intervals of no more than two feet except in cases where the engineering and resource protection director approves an alternative interval.
- (h) Cross-sections showing the proposed street construction, depth and type of base, type of surface, compaction, shoulders, curbs and gutters, sidewalks, bikeways, utilities, side ditches and other features of the proposed streets.
- (i) Street profiles showing the proposed grades for the streets and drainage facilities, including elevations of existing and proposed ground surface at all street intersections and at points of major grade change along the centerline of streets, together with proposed connecting grade lines and vertical curve information.
- (j) Size and location of existing sanitary sewer and water facilities; location and method of proposed connections to existing sewer and water facilities; size and location of proposed sewer and water facilities showing location of proposed water meters, gate valves, fire hydrants, fittings, manholes, sewer laterals and cleanouts; grinder pump locations; profile views of water and sewer mains with manhole rim and invert elevations and percent of slope; sewage pump station location, design and details; and water well facility location, design and details. A capacity study of the existing system, in accordance with service authority regulations, may be required. All improvements shall be in accordance with the latest service authority Water and Sanitary Sewer Design and Acceptance Criteria Standards and Specifications.
- (k) As provided for in Code of Va., §§ 10.1-606.2 et seq., when any part of the land proposed for subdivision lies in a mapped dam break inundation zone, such fact shall be set forth on the plan of the proposed subdivision.
- (l) As provided for in the Code of Va., § 15.2-2242, the agent may request submittal of a phase I environmental site assessment, where the proposed subdivision is located on a brownfield site, or where initial assessments indicate dumping or other contaminating activities have occurred on the property.

- (m) A phased clearing plan in accordance with section 24-89 of the zoning ordinance.
- (n) An outdoor lighting plan in accordance with section 24-130 of the zoning ordinance (these requirements do not apply to lighting on single family lots).
- (o) The following environmental information about the site proposed for development including:
  - (1) All existing easements, disturbed area, impervious cover, and percent impervious estimate;
  - (2) Flood zone designation, Resource Protection Areas (RPAs), soils (highly erodible, hydric, permeable, hydrologic soils group A and B);
  - (3) Full environmental inventory consistent with section 23-10(2) of the county's Chesapeake Bay Preservation ordinance (perennial stream assessment, delineated wetlands, limits of work);
  - (4) Demonstration that the project complies with section 23-9(b)(1), (2), and (3) of the county's Chesapeake Bay Preservation ordinance (how disturbance is being minimized, indigenous vegetation preserved, and impervious cover minimized);
  - (5) County watershed, steep slopes (grade 25 percent or more), sites known for populations of rare or threatened species, locations of existing conservation easements, wooded areas and wildlife habitat; and
  - (6) Description of better site design or low impact development techniques if such is being used.
- (p) For proposed minor subdivisions, a copy of the plat showing the parent parcel to assist in verifying the requirements listed in section 19-21.
- (q) For proposed major subdivisions and multifamily subdivisions, a landscape plan showing street trees per section 19-73.1, and any applicable requirements of article II, division 4 of the zoning ordinance.
- (r) A phase I archaeological study for the area within the limits of disturbance (project area) in accordance with section 24-50 of the zoning ordinance. These requirements do not apply if one or more of the following criteria are met:
  - (1) The preliminary plan is for a minor subdivision as defined in section 19-24.
  - (2) The preliminary plan is for a family subdivision as defined in section 19-17.
  - (3) The preliminary plan is for property boundary line adjustments and/or extinguishments.
  - (4) A phase I archaeological study for the project area has been previously completed and no further study is recommended.
  - (5) The preliminary plan is for an amendment that proposes land disturbance of less than 2,500 square feet.
  - (6) The project area is subject to adopted proffers and/or SUP conditions that requires compliance with the archaeological policy.
- (s) A natural resource inventory for the area within the limits of disturbance (project area) in accordance with section 24-51 of the zoning ordinance. These requirements do not apply if one or more of the following criteria are met:
  - (1) The preliminary plan is for a minor subdivision as defined in section 19-24.
  - (2) The preliminary plan is for a family subdivision as defined in section 19-17.
  - (3) The preliminary plan is for property boundary line adjustments and/or extinguishments.



- (4) An approved natural resource inventory for the project area has been completed and either found no resources or a natural resource inventory recommendation has been appropriately addressed as determined by the director of planning.
- (5) The preliminary plan is for an amendment that proposes land disturbance of less than 2,500 square feet.
- (6) The Virginia Department of Conservation and Recreation (DCR), or other appropriate state agency, already determined, through a project review, that resources are not on site or would only be located in areas, such as RPAs, that are protected through other regulations.
- (7) The project area has been previously disturbed as evidenced by existing site features, historic aerial photography, or other documentation deemed sufficient by the director of planning; provided, however, for a site that has been previously disturbed, the director of planning shall consult with the Department of Conservation and Recreation (DCR) to determine if a natural heritage resource has been re-established on the site.
- (8) The project area is subject to adopted proffers and/or SUP conditions that requires compliance with the Natural Resource Policy.

- (t) If the director of planning determines that one or more of the above submittal requirements is not applicable to the proposed project, the director of planning may waive those requirements.

(Ord. No. 30A-15, 1-9-89; Ord. No. 30A-16, 11-6-89; Ord. No. 30A-17, 2-5-90; Ord. No. 30A-22, 7-17-95; Ord. No. 30A-26, 5-11-99; Ord. No. 30A-27, 12-15-99; Ord. No. 30A-41, 12-11-12; Ord. No. 30A-49, 8-14-18; Ord. No. 30A-48, 6-12-18)

#### Sec. 19-28. - Preliminary plan-multifamily subdivisions.

The preliminary plan for a multifamily subdivision shall be on a blue-line or black-line print. The scale shall be 100 feet to the inch for the overall view, and the scale of the detailed drawings shall be appropriate to the level of detail but not less than 60 feet to the inch, except in cases where the agent approves an alternate scale. If more than one sheet is used, sheets shall be numbered in sequence and an index shall be provided. The preliminary plan shall include the following information:

- (a) The name of the subdivision, owner, subdivider and surveyor or engineer, the date of drawing, number of sheets, north arrow, tax parcel identification number, zoning, and graphic scale. The plan shall also list any proffers or special use permit conditions that affect the property.
- (b) Location of the proposed subdivision on an inset map at a scale of not less than one inch equals 2,000 feet, showing adjoining roads, their names and numbers, subdivisions and other landmarks.
- (c) A closed boundary survey, or existing survey of record, total acreage, acreage of subdivided area, existing buildings, existing graves, objects or structures marking a place of burial, names of owners and existing property lines within the boundaries of the tract and for adjacent properties thereto, proposed monuments, lots, lot numbers, lot areas, blocks, building setback and yard lines. If any exceptions have been granted by the planning commission in accordance with section 19-18, the plan shall include a note detailing any exception so granted.
- (d) All existing, platted and proposed streets, including their names, numbers and widths; existing and proposed utility, drainage or other easements, public areas and parking spaces; culverts, drains and watercourses, lakes, their names and other pertinent data. If the streets are to be private, the plan shall

include a private streets declaration in accordance with section 19-14.

(e) All parcels of land to be dedicated for public use and conditions of such dedication.

(Ord. No. 30A-15, 1-9-89; Ord. No. 30A-16, 11-6-89; Ord. No. 30A-27, 12-15-99; Ord. No. 30A-41, 12-11-12)

Sec. 19-29. - Final plan-submittal requirements.

The final plan for a subdivision shall be on blue-line or black-line print. The scale shall be 100 feet to the inch except in cases where the agent approves an alternate scale. The size of the record plat portion of the final plan shall not be smaller than 8 <sup>1</sup>/<sub>2</sub> " x 11" or larger than 18" x 24" inches. If more than one sheet is used, sheets shall be numbered in sequence and an index shall be provided. In addition to the requirements of the preliminary plan, the final plan for a subdivision shall meet the requirements of 17VAC15-60 et seq. and shall include the following:

- (a) The accurate location and dimensions by bearings and distances, including all curve data, for all lots, and street lines and centerlines of streets. Distances and bearings shall balance and close with an accuracy of not less than one in 10,000 units.
- (b) The data of all curves along the street frontage shall be shown in detail at the curve or in a curve data table containing the following: delta, radius, arc, tangent, chord and chord bearings.
- (c) When the subdivision consists of land acquired from more than one source of title, the outlines of these tracts shall be indicated by dashed lines, and the identification of the respective tracts shall be shown on the plat.
- (d) A certification of each owner's consent duly acknowledged before a licensed notary public in the following format:

*Owner's Certificate*

The subdivision of land shown on this plat and known as (name of subdivision) is with the free consent and in accordance with the desire of the undersigned owners, proprietors and/or trustees.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name printed

*Certificate of Notarization*

Commonwealth of Virginia

City/County of \_\_\_\_\_

I, \_\_\_\_\_ (Print Name), a Notary Public in and for the City/County and State aforesaid, do hereby certify that the persons whose names are signed to the foregoing writing have acknowledged the same before me in the City/County aforesaid.

Given under my hand this \_\_\_\_\_ day of \_\_\_\_\_, (Year).

\_\_\_\_\_  
(Signature)

My commission expires: \_\_\_\_\_.

Notary registration number: \_\_\_\_\_.

- (e) Certificates signed by the surveyor or engineer setting forth the source of title of the owners of the land subdivided, the place of record of the last instrument in the chain of title, and that the subdivision

conforms to all requirements of the board of supervisors and ordinances of the County of James City, Virginia, in the following format:

*Certificate of Source of Title*

The property shown on this plat was conveyed by (previous owner) to (current owner) by (type of instrument), dated (date) and recorded in the Office of the Clerk of the Circuit Court of the County of James City in Deed Book (number), Page (number) or Instrument (number).

*Engineer or Surveyor's Certificate*

I hereby certify that, to the best of my knowledge or belief, this plat complies with all of the requirements of the Board of Supervisors and Ordinances of the County of James City, Virginia, regarding the platting of subdivisions within the county.

_____	_____
Date	Name
	_____
	Name printed

(f) Certificate of approval as follows:

*Certificate of Approval*

This subdivision is approved by the undersigned in accordance with existing subdivision regulations and may be admitted to record.

_____	_____
Date	Virginia Department of Transportation
_____	_____
Date	Virginia Department of Health
_____	_____
Date	Subdivision Agent of James City County

- (g) If the subdivided property contains wetlands and/or resource protection areas, there shall be a note on the plat which states the following:
- "Wetlands and land within resource protection areas shall remain in a natural undisturbed state except for those activities permitted by section 23-7 of the James City County Code."
- (h) If the subdivided property contains a natural open space easement, there shall be a note on the plat which states the following:
- "Natural open space easements shall remain in a natural undisturbed state except for those activities referenced on the deed of easement."
- (i) The plat shall include the following note:
- "Unless otherwise noted, all drainage easements designated on this plat shall remain private."
- (j) If the streets are to be private, the plat shall include a private streets declaration in accordance with section 19-14.
- (k) If any exceptions have been granted by the planning commission in accordance with section 19-18, the plat shall include a note detailing any exception so granted.
- (l) If the subdivided property requires on-site sewage disposal systems, the plat shall include the following note: "On-site sewage disposal system information and soils information should be verified and reevaluated by the Health Department prior to any new construction."

(m) If the subdivided property contains an on-site sewage disposal system, the plat shall include the following note:

"On-site sewage disposal systems shall be pumped out at least once every five years per section 23-9(b)(6) of the James City County Code."

(n) The plat shall include the following note:

"Monuments shall be set in accordance with sections 19-34 through 19-36 of the county code."

(o) As provided for in Code of Va., § 10.1-606.2, et seq., when any part of the land proposed for subdivision lies in a mapped dam break inundation zone, such fact shall be stated on the plat of the proposed subdivision.

(Ord. No. 30A-15, 1-9-89; Ord. No. 30A-23, 7-17-95; Ord. No. 30A-27, 12-15-99; Ord. No. 30-33, 2-13-07; Ord. No. 30A-38, 10-12-10; Ord. No. 30A-41, 12-11-12; Ord. No. 30A-45, 7-26-16)

#### Sec. 19-30. - Procedure for approval of final plan.

The subdivider shall submit for review and approval eight copies of the final plan for a major subdivision or as many copies of the final plat for minor subdivisions or multifamily subdivisions as deemed necessary by the agent. Upon approval of the final plan by the agent, the subdivider shall submit one reproducible copy plus eight prints of the record plat portion of the final plat to the agent for review and approval. The record plat shall not be approved until the applicant:

- (1) Has complied with the requirements and minimum standards of design set forth in this chapter;
- (2) Has incorporated such changes or complied with such conditions on the final plan as may have been stipulated in the letter of notification following action by the commission or agent on the preliminary plan;
- (3) Has made satisfactory arrangements for performance assurances as specified in article IV of this chapter, including improvements required by agencies including the Virginia Department of Transportation and James City Service Authority;
- (4) Has submitted data for major subdivisions in accordance with the "GIS Data Submittal Requirements for Major Subdivisions" policy, as approved by the governing body; and
- (5) Has executed all certificates required in section 19-29.

(Ord. No. 30A-15, 1-9-89; Ord. No. 30A-27, 12-15-99; Ord. No. 30A-41, 12-11-12; Ord. No. 30A-50, 8-14-18)

#### Sec. 19-31. - Term of validity for the final plan.

The subdivider shall record the approved record plat in the clerk's office of the circuit court of the county within 180 days after approval thereof; otherwise, such approval shall become null and void.

(Ord. No. 30A-15, 1-9-89)

### ARTICLE III. - REQUIREMENTS FOR DESIGN AND MINIMUM IMPROVEMENTS

#### Sec. 19-32. - Land must be suitable.

- (a) The agent shall not approve the subdivision of land if it is determined, after adequate investigations conducted by the transportation department, the health department or the engineering and resource protection director, that the site is not suitable for platting because of possible flooding, improper drainage, steep slopes, utility easements or other features harmful to the safety, health and general welfare of the public.
- (b) In determining the suitability of lots, the minimum criteria shall be for each lot to have an accessible building site that is in compliance with the requirements of the zoning ordinance, and with suitable access from an approved street as specified in sections 19-39 and 19-40.
- (c) Land not suitable within a proposed subdivision shall be platted for uses not endangered by periodic or occasional inundation and which otherwise shall not produce conditions contrary to public welfare or such land shall be combined with other suitable lots.

(Ord. No. 30A-15, 1-9-89; Ord. No. 30A-27, 12-15-99; Ord. No. 30A-39, 7-26-11; Ord. No. 30A-41, 12-11-12)

Sec. 19-33. - Location of utilities.

- (a) All utilities, including, but not limited to, wires, cables, pipes, conduits and appurtenant equipment for electricity, voice, video and data, gas, cable television or similar service, shall be placed underground; provided, that the following utilities shall be permitted above ground:
  - (1) Electric transmission lines and facilities in excess of 50 kilovolts;
  - (2) Equipment, including electric distribution transformers, switch gear, meter pedestals, telephone pedestals, outdoor lighting poles or standards, radio antenna and associated equipment, which is, under accepted utility practices, normally installed above ground;
  - (3) Meters, service connections and similar equipment normally attached to the outside wall of the customer's premises.
- (b) Whenever existing utilities are located aboveground in proposed subdivisions, they shall be removed and placed underground except where they are within ten feet of existing public street rights-of-way.
- (c) Where approved by the transportation department, with the exception of sewer laterals and water service lines, all utilities shall be placed within easements or street rights-of-way, unless otherwise required by the service authority.

(Ord. No. 30A-15, 1-9-89; Ord. No. 30A-27, 12-15-99; Ord. No. 30A-41, 12-11-12; Ord. No. 30A-42, 8-13-13)

Sec. 19-34. - Locations and specifications for monuments.

- (a) Monuments shall be set at all street corners, at all points where the street line intersects the exterior boundaries of the subdivision, and at right-angle points and at the beginning and end points of curve along each street. Minimum requirements for monument material and installation shall be the same requirements contained in section 19-35 below. Alternate types of monuments may be used if approved by the agent prior to installation.
- (b) At least two new or existing monuments at exterior subdivision boundaries shall be referenced to the county geodetic control network. Control monuments other than those installed by James City County may be used with the approval of the agent and provided that the precision of other monuments used is at least equal to

that of James City County control monuments. Subdivision plats must show the coordinate values in U.S. survey feet of two or more monuments so referenced. Additionally, the geodetic control monument from which the coordinate values are derived shall be referenced including its published coordinate values.

- (c) This requirement shall apply to all subdivisions provided a county geodetic control monument exists within one mile of any exterior subdivision boundary. Surveys connecting to the James City County control monument network shall be conducted with a precision of 1:10,000. Surveyors may be required to submit coordinate value computations and supporting data to the agent.

(Ord. No. 30A-15, 1-9-89; Ord. No. 30A-21, 5-6-91; Ord. No. 30A-27, 12-15-99; Ord. No. 30A-41, 12-11-12)

#### Sec. 19-35. - Lot corner monuments.

All lot corners shall be marked with an iron pipe monument not less than three-fourths inch in diameter and 24 inches long or a five-eighths inch in diameter reinforcing bar monument 24 inches long. The top of such monuments shall be driven three inches to nine inches below the surface of the ground. When rock is encountered, a hole shall be drilled four inches deep in the rock into which shall be cemented a steel rod one-half inch in diameter. The top of the rod shall be flush with the finished adjacent ground grade. Alternate types of monuments may be used if approved by the agent prior to installation.

(Ord. No. 30A-15, 1-9-89; Ord. No. 30A-21, 5-6-91; Ord. No. 30A-27, 12-15-99; Ord. No. 30A-41, 12-11-12)

#### Sec. 19-36. - Monuments-general requirements.

The subdivider shall be responsible for replacing any monument that is damaged, disturbed or destroyed during construction. All monuments disturbed or destroyed shall be reset by a surveyor licensed in the Commonwealth of Virginia.

(Ord. No. 30A-15, 1-9-89; Ord. No. 30A-21, 5-6-91; Ord. No. 30A-27, 12-15-99; Ord. No. 30A-41, 12-11-12; Ord. No. 30A-45, 7-26-16)

#### Sec. 19-37. - Easements.

Appropriate easements shall be provided by the subdivider. The easements shall be of sufficient width for the specified use, shall meet any applicable agency easement standards, and shall include the right of ingress and egress for installation and maintenance of such use. Wherever possible, easements should be adjacent and parallel to property lines. The agent may require that easements through adjoining property be provided.

(Ord. No. 30A-15, 1-9-89; Ord. No. 30A-27, 12-15-99; Ord. No. 30A-41, 12-11-12)

#### Sec. 19-38. - Lot size.

The minimum lot size shall be in accordance with the zoning ordinance provided, however:

- (1) That where public water or public sewer systems or both such systems are not available, such minimum lot size may be increased by the agent in accordance with the recommendation of the health department;  
and
- (2) Whenever there shall be plans in existence, approved by either the transportation department or by the

governing body, for the widening, extension, or construction of any street or highway, the commission may require additional setbacks and yards for any new construction or for any structures altered or remodeled adjacent to the future planned right-of-way in order to preserve and protect the planned future right-of-way for such proposed street or highway.

(Ord. No. 30A-15, 1-9-89; Ord. No. 30A-27, 12-15-99)

Sec. 19-39. - Lot arrangements, design and shape.

The lot arrangement, design and shape shall be related to the topography such that each lot has:

- (1) An acceptable building site in compliance with the requirements of the zoning ordinance and applicable health regulations;
- (2) Suitable access to the building site from an approved street. In the case of flag lots, it must be possible to gain access to the building site through the portion of the flag that abuts the street in a manner that meets all applicable regulations. However, if the flag lot is located in a minor subdivision subject to the shared driveway provisions in section 19-71, the requirement of being able to gain access through the flag may be waived by the agent;
- (3) Unusually shaped or elongated lots, as determined by the agent, established primarily for the purpose of providing minimum square footage, or meeting minimum lot width, setback or yard requirements, shall not be permitted; and
- (4) Sidelines of lots shall be approximately at right angles or radial to the street line.

(Ord. No. 30A-15, 1-9-89; Ord. No. 30A-27, 12-15-99; Ord. No. 30A-41, 12-11-12)

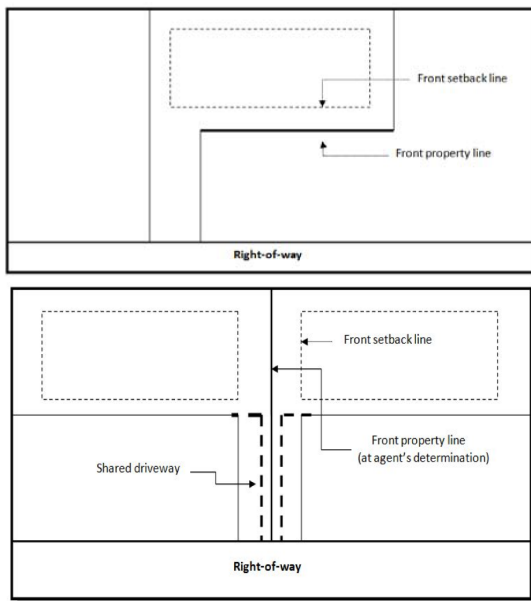
Sec. 19-40. - Lot access and frontage.

Each lot shall abut and have access to a proposed public street to be dedicated by the subdivision plat or to an existing publicly dedicated street. For flag lots, the minimum lot frontage abutting such public street right-of-way shall be 25 feet. In zoning districts which permit private streets and where such streets have been approved via the process specified in section 24-62 of the zoning ordinance, the access and minimum lot frontage requirements can be met through frontage on a private street. If the existing streets do not meet the minimum transportation department width requirement, including adequate right-of-way to accommodate the appropriate pavement width, drainage, sidewalks and bikeways, the subdivider shall dedicate adequate right-of-way necessary for the street to meet such minimum requirement.

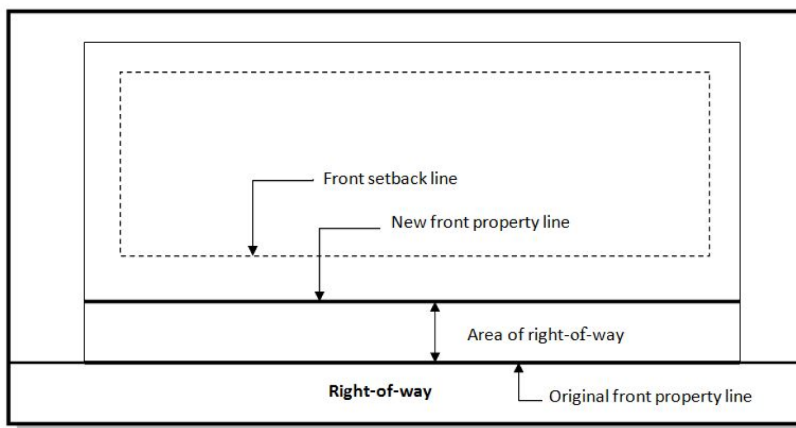
(Ord. No. 30A-15, 1-9-89; Ord. No. 30A-27, 12-15-99; Ord. No. 30A-41, 12-11-12; Ord. No. 30A-42, 8-13-13)

Sec. 19-41. - Building setbacks and yards.

- (a) *Front setback.* The front setback line shall be a line parallel with the front property line at the minimum distance specified in the zoning district regulations and determined as follows:

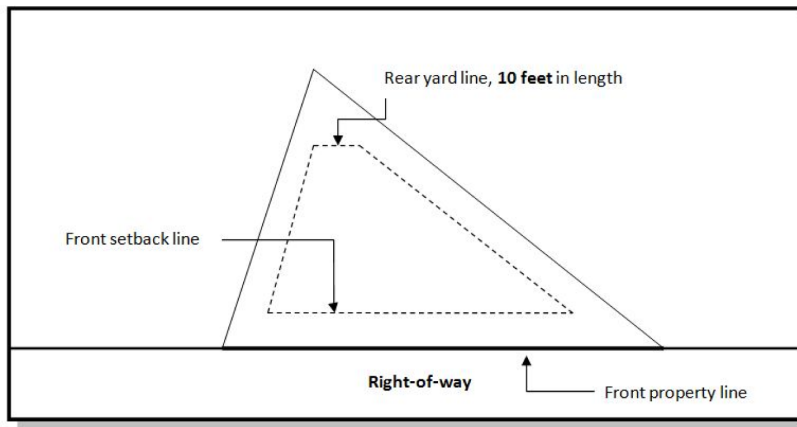


- (1) For a flag lot, the front setback shall be measured from the front lot line, which is the lot line nearest and parallel or approximately parallel to the street to which the lot has access (see graphic). However, for lots within minor subdivisions that front on a shared driveway, the agent may determine that the front lot line is the lot line running parallel, or approximately parallel, to the shared driveway. In those instances the front setback line shall be measured accordingly (see graphic).
- (2) For a corner lot, the front property line of the lot shall be the shorter of the two sides fronting on streets, and the front setback line shall be measured accordingly.
- (3) In instances where right-of-way has been dedicated in accordance with section 19-42 of this chapter, the front setback line shall be measured from the new property line (i.e., the internal line of the dedicated area) (see graphic).



- (b) *Side and rear yard setbacks.* The front property line shall be used to determine the side and rear property lines. The minimum side and rear yard setback as specified in the zoning ordinance shall then be measured from these property lines. For rear yards where the lot is triangular or otherwise irregularly shaped, the yard setback shall be a line ten feet in length entirely within the lot, parallel to and at a maximum distance from the front lot line (see graphic).





(Ord. No. 30A-15, 1-9-89; Ord. No. 30A-41, 12-11-12)

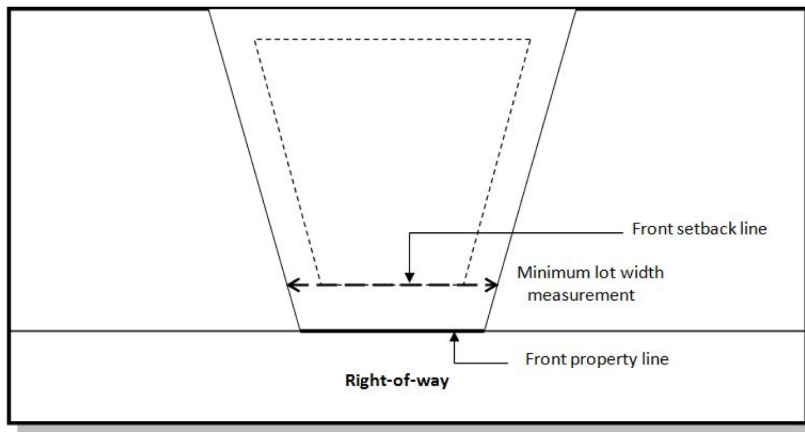
Sec. 19-42. - Street right-of-way dedication.

- (a) The subdivider of any major subdivision shall construct and dedicate a new public street to provide access to the lots. In zoning districts which permit private streets and where such streets have been approved by the process specified in section 24-62 of the zoning ordinance, the new street may be private.
- (b) In the case of lots fronting on an existing street right-of-way, if the existing street right-of-way is less than 50 feet in width, the subdivider shall dedicate half of the width necessary to result in a 50 foot right-of-way. In instances where the right-of-way is a prescriptive easement and the land is owned by the property owner to the street's centerline, the full area must be dedicated. In all other instances, the width dedicated shall be one half of the numerical difference between the existing width and 50 feet. Such area on the plat shall be indicated as dedicated to public use. This requirement may be waived or modified if an alternative minimum right-of-way width has been deemed appropriate by the agent.
- (c) In addition, whenever there are plans in existence, approved by either the transportation department or by the governing body, for the widening, extension or construction of any street or highway, the agent may require dedication of right-of-way sufficient to preserve and protect the planned future right-of-way for such proposed street or highway.
- (d) The area of the property dedicated as right-of-way shall not be counted toward meeting the minimum area requirements specified in the zoning districts.

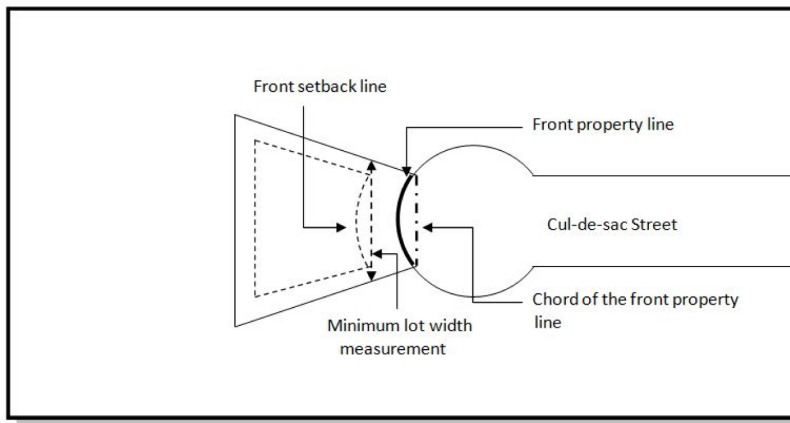
(Ord. No. 30A-41, 12-11-12)

Sec. 19-43. - Lot width.

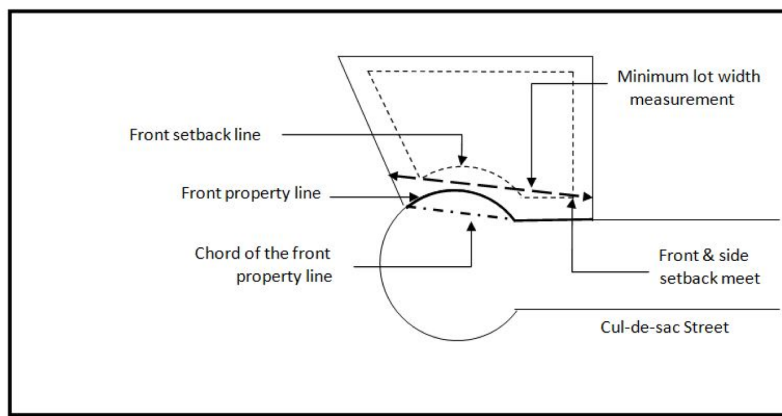
- (a) Where the front property line is straight, the lot width shall be measured as the distance between the side lot lines measured at the front setback line along a straight line parallel to the front property line (see graphic).



- (b) Where the front property line is an arc, the lot width shall be measured as the distance between the side lot lines measured at the front setback line along a straight line parallel to the chord of the front property line. For the purposes of meeting this requirement, "at the front setback line" shall mean that the line used to measure the width passes through at least one of the points formed by the meeting of the front setback line and the side setback line (see graphic).



- (c) In the case of irregular lots (front lot lines that contain arcs of opposing directions or both an arc and a straight segment), the lot width measurement method ((a) or (b) above) shall be based on the arc or straight segment that is of greatest length (see graphic).



- (d) Unusually shaped or elongated lots, as determined by the agent, that render reasonable measurement of the setbacks and minimum lot widths impossible, shall not be permitted.
- (e) Should the proposed lot fail to meet minimum lot width at the minimum front setback distance specified in

the zoning district regulations, the overall front setback distance may be increased to the point where the minimum lot width is met, if that is possible, provided that the resulting lot continues to meet all other setback and yard requirements and retains a suitable buildable area.

(Ord. No. 30A-41, 12-11-12)

Sec. 19-44. - Lot remnants.

Remnants of lots not meeting minimum lot requirements shall not generally be created by the subdividing of a tract. All such remnants shall be added to adjacent lots or, as approved by the agent, identified as common open space or natural open space.

(Ord. No. 30A-15, 1-9-89; Ord. No. 30A-27, 12-15-99; Ord. No. 30A-41, 12-11-12)

Sec. 19-45. - Double frontage lots.

Double frontage lots shall not be permitted except where it is necessary that they abut existing streets with a functional classification other than local. Any access to such an existing street shall be prohibited by easement. This section shall apply to corner lots only if the lots abut such an existing street.

(Ord. No. 30A-15, 1-9-89; Ord. No. 30A-41, 12-11-12)

Sec. 19-46. - Separate ownership of lots to be subdivided.

Where the land covered by a subdivision includes two or more parcels in separate ownership, and lot arrangement is such that a property line is extinguished in the subdivision, each lot so divided shall be transferred by deed to single ownership simultaneously with the recording of the final plat. Such a deed shall be recorded with the final plat.

(Ord. No. 30A-15, 1-9-89; Ord. No. 30A-41, 12-11-12)

Sec. 19-47. - Lot frontage.

Lots within major subdivisions shall not front on existing streets other than streets which are part of a recorded subdivision or an extension thereof.

(Ord. No. 30A-15, 1-9-89; Ord. No. 30A-41, 12-11-12)

Sec. 19-48. - Block length.

The length of blocks shall be determined by public safety, traffic flow and existing topographic conditions. Where streets are approximately parallel, connecting streets shall be provided. In addition, a minimum 50-foot right-of-way shall be platted to the property line at suitable intervals, as determined by the agent, where appropriate to afford access to undeveloped land. Such rights-of-way shall meet all applicable transportation department regulations.

(Ord. No. 30A-15, 1-9-89; Ord. No. 30A-41, 12-11-12)

Sec. 19-49. - Block width.

Blocks shall be designed to consist of two tiers of lots. If such block design is prevented by topographical conditions, open space, buffers, size of the property, adjoining major streets, railroads or waterways, the agent may approve a single tier of lots.

(Ord. No. 30A-15, 1-9-89; Ord. No. 30A-27, 12-15-99; Ord. No. 30A-41, 12-11-12)

Sec. 19-50. - Street alignment and layout.

- (a) Streets in new subdivisions shall be designed to coordinate with other existing or planned streets contiguous to or within the general area of the subdivision as to location, width, grades and drainage. All street intersections shall be in accordance with transportation department standards. Street intersection jogs, with centerline offsets of less than 200 feet, shall be prohibited.
- (b) Where streets are planned in multi-phased subdivisions, and when those streets are planned to be constructed in different phases, the following requirements shall apply:
  - (1) These rights-of-way shall be clearly marked on the plats and labeled "Future Public Street" or "Future Public Street Extension" as appropriate.
  - (2) The following notation shall be incorporated into any plat showing a stub or future street: "This right-of-way is platted with the intent of being extended and continued in order to provide ingress and egress to and from future subdivisions or adjacent property."

(Ord. No. 30A-15, 1-9-89; Ord. No. 30A-27, 12-15-99; Ord. No. 30A-41, 12-11-12)

Sec. 19-51. - Street construction standards.

- (a) Subdivision streets, unless otherwise specifically provided for in this chapter, shall be paved and dedicated for public use in the state system of primary or secondary highways. Streets shall have a right-of-way width in accordance with transportation department standards. Street construction plans shall be submitted to the transportation department for approval as part of the subdivision review process required by this chapter. Construction of subdivision streets, unless otherwise permitted by this chapter, shall be in conformance with transportation department standards and accepted into the state system of primary or secondary highways prior to release of the construction surety. Streets of the entire subdivision as depicted on the master plan shall be designed to fit into a street hierarchy separating streets into categories based on traffic levels in accordance with transportation department standards.
- (b) Any private street permitted shall be certified to the satisfaction of the director of community development, or his designee, as having been constructed in accordance with all ordinance requirements and approved plans. Until such time as the director of community development has accepted and approved such certification, surety required to guarantee the proper construction of such private streets shall not be released. Construction certification shall be in accordance with administrative guidelines for certification of private street construction.

(Ord. No. 30A-15, 1-9-89; Ord. No. 30A-24, 1-23-96; Ord. No. 30A-27, 12-15-99; Ord. No. 30A-41, 12-11-12; Ord. No. 30A-42, 8-13-13; Ord. No. 30A-46, 10-11-16)

Sec. 19-52. - Street drainage.

- (a) All drainage conveyance systems and associated components shall comply with the James City County drainage c guidelines.
- (b) Streets with a longitudinal slope of less than 0.75 percent as shown on the profile sheet of the preliminary and final plan shall be constructed as curb and gutter streets or as open ditch streets with a concrete paved ditch. The minimum longitudinal slope for any street to be constructed with a paved ditch shall be 0.5 percent.
- (c) The minimum longitudinal slope for curb and gutter sections shall be 0.3 percent. If curb and gutter is proposed for any portion of a subdivision, it shall be required for all subsequent sections which extend a curb and gutter improved street.
- (d) Drainage from street rights-of-way must be contained in either a pipe system constructed of materials approved by the transportation department, when within a street right-of-way, or a concrete paved ditch to the point where it outfalls into a drainage system that is adequate to convey the anticipated stormwater flows. Adequacy shall be provided consistent with state minimum standards. The paved ditch must have a minimum longitudinal slope of 0.3 percent. The upstream invert of any outlet pipe shall be 0.5 feet higher than the downstream invert and have a minimum slope of 0.2 percent. The downstream invert of the pipes or ditches must be at or above natural, existing ground. Side slopes of ditches not located within a public street right-of-way shall not exceed a slope of 3:1. These requirements may be waived or modified by the engineering and resource protection director upon written request and justification by the owner or developer.

(Ord. No. 30A-15, 1-9-89; Ord. No. 30A-27, 12-15-99; Ord. No. 30A-39, 7-26-11; Ord. No. 30A-41, 12-11-12)

#### Sec. 19-53. - Pedestrian accommodations.

Pedestrian accommodations shall be required for all major subdivisions in accordance with section 24-35 of the zoning ordinance.

(Ord. No. 30A-17, 2-5-90; Ord. No. 30A-41, 12-11-12)

#### Sec. 19-54. - Cul-de-sac streets.

Cul-de-sac streets shall not exceed 1,000 feet in length. A cul-de-sac's length is measured from the center point of its turnaround, along the centerline of its right-of-way, to the centerline of the right-of-way of the nearest diverging or intersecting road. Each cul-de-sac shall be terminated by a turnaround meeting minimum transportation department and fire department standards.

(Ord. No. 30A-15, 1-9-89; Ord. No. 30A-27, 12-15-99; Ord. No. 30A-41, 12-11-12)

#### Sec. 19-55. - Private streets.

There shall be no private streets permitted in any subdivision except where permitted by the zoning ordinance.

(Ord. No. 30A-15, 1-9-89; Ord. No. 30A-41, 12-11-12)

#### Sec. 19-56. - Street and subdivision names.

- (a) Proposed streets which align with existing streets shall bear the names of the existing streets. Names of proposed streets or subdivisions shall not duplicate, irrespective of suffixes, or be similar in sound or spelling

to existing street or subdivision names in James City County, the City of Williamsburg, or the northern portions of York County, and the southern portions of New Kent County which may be served by the Williamsburg or James City County Post Office, by common zip code or by interjurisdictional emergency services.

- (b) Street names shall be indicated on the preliminary and final plat and shall be approved by the agent. Names of existing streets or subdivisions shall not be changed except by approval of the governing body.

(Ord. No. 30A-15, 1-9-89; Ord. No. 30A-27, 12-15-99; Ord. No. 30A-41, 12-11-12)

#### Sec. 19-57. - Street signs.

Permanent street identification signs shall be installed at all intersections. The signs shall be of a design approved by the agent, but at a minimum, the sign face shall meet all the design requirements of the transportation department.

(Ord. No. 30A-15, 1-9-89; Ord. No. 30A-27, 12-15-99; Ord. No. 30A-41, 12-11-12)

#### Sec. 19-58. - Public water.

If public water is available, it shall be extended to all lots within a subdivision including recreation lots. Availability of public water shall be determined in accordance with the service authority regulations governing utility service.

(Ord. No. 30A-15, 1-9-89; Ord. No. 30A-41, 12-11-12)

#### Sec. 19-59. - Water facilities.

- (a) Major subdivisions inside the primary service area must connect to the service authority or Newport News Waterworks water system and the public sewer system.
- (b) If public water is not available, the subdivider of any major subdivision outside the primary service area shall construct a central water system including distribution lines, storage, treatment and supply facilities within the subdivision. Central water service shall be extended to all lots within a subdivision, including recreation lots. Upon completion and acceptance of the improvements, the water system, together with all necessary easements and rights-of-way, including the well lot, shall be dedicated to the service authority by deed and an accompanying plat.
- (c) The central water system requirement may be waived by the service authority manager. Such a waiver shall be requested in writing by the subdivider and approved prior to submission of preliminary plans. Any waiver may be subject to reasonable conditions which shall be communicated in writing to the agent and subdivider.

(Ord. No. 30A-15, 1-9-89; Ord. No. 30A-41, 12-11-12)

#### Sec. 19-60. - Individual wells.

If public water is not available, each lot in a minor subdivision shall be served by an individual well. All individual wells shall be approved by the health department or the service authority prior to approval of the subdivision plat.

(Ord. No. 30A-15, 1-9-89; Ord. No. 30A-41, 12-11-12)

#### Sec. 19-61. - Public sewer.

If public sewer is available, it shall be extended to all lots within the subdivision, including recreation lots. Availability shall be determined in accordance with the service authority regulations governing utility service.

(Ord. No. 30A-15, 1-9-89; Ord. No. 30A-41, 12-11-12)

Sec. 19-62. - Individual sewer.

If public sewer is not available, each subdivision lot shall be served by individual on-site sewage disposal systems in accordance with the following:

- (1) Individual on-site sewage disposal systems for each lot must be approved by the health department and shall be a soil absorption system of conventional or alternative design.
- (2) The plans for such subdivisions shall include specific on-site sewage disposal system locations, including primary and reserve drainfields and soils information, as well as appropriate notation as required in section 19-29 (l) and (m). The immediate area in and around each proposed system must be shown using a contour interval not greater than two feet; the contour area shown outside the system should be sufficient to establish the relationship of the area to relevant topographic features such as, but not limited to, drainage ways, sink holes, road cuts, and steep slopes. The record plat shall clearly designate each lot which has been approved by a soil absorption system of alternate design and shall contain a note which clearly discloses that such alternate systems may entail additional expenses.
- (3) For the purpose of subdivision of new lots, the on-site sewage disposal system must meet health department regulations that enable the health department to approve the system in perpetuity through a certification letter. For these new proposed lots, the applicant shall obtain subdivision approval from the county prior to health department issuance of any construction permits.

Any proposed lots not suitable for the installation of on-site sewage disposal systems shall be combined with lots that are suitable.

(Ord. No. 30A-15, 1-9-89; Ord. No. 30A-27, 12-15-99; Ord. No. 30A-31, 4-13-04; Ord. No. 30A-41, 12-11-12)

Sec. 19-63. - Regulations governing utility service.

All subdividers shall comply with the service authority regulations governing utility service.

(Ord. No. 30A-15, 1-9-89; Ord. No. 30A-41, 12-11-12)

Sec. 19-64. - Inspection of public water, sewer, and stormwater system.

- (a) Inspection of public water or sewer system installations shall be the responsibility of the service authority. Any subdivider of a subdivision shall obtain a certificate to construct sewer or water lines and facilities from the service authority prior to either extending existing facilities or building new facilities. Certificates to construct shall not be issued until the subdivider has paid the service authority inspection fees.
- (b) Inspection of public stormwater system installations shall be the responsibility of the county. Any subdivider of a subdivision shall obtain a certificate to construct stormwater system installations prior to either altering existing installations or building new installations. Surety provided in accordance with section 19-74 shall not be released until approved in accordance with section 19-74(b).

(Ord. No. 30A-15, 1-9-89; Ord. No. 30A-20, 5-6-91; Ord. No. 30A-27, 12-15-99; Ord. No. 30A-32, 10-26-04; Ord. No. 30A-35, 5-27-08; Ord. No. 30A-41, 12-11-12; Ord. No. 30A-42, 8-13-13)

Sec. 19-65. - Fire protection.

Fire hydrants shall be installed in subdivisions at locations designated by the fire chief and the service authority at the time of an extension or construction of a public water system.

(Ord. No. 30A-15, 1-9-89; Ord. No. 30A-41, 12-11-12)

Sec. 19-66. - Streetlights.

- (a) The subdivider shall install streetlights as determined by the engineering and resource protection director and in accordance with article II, division 7 of the zoning ordinance and the streetlight standards policy, as approved by the governing body, in those subdivisions which require the construction of streets. The subdivider shall deposit with the agent one year's rent for the streetlight system prior to approval of the final plan. If the streets within the subdivision are not accepted by the transportation department prior to the end of the one-year billing period covered by the deposit, the subdivider shall compensate the county for any additional rental charges incurred prior to release of the subdivision surety.
- (b) Streetlights, in subdivisions with private streets, shall be installed by the subdivider as determined by the engineering and resource protection director and in accordance with article II, division 7 of the zoning ordinance and the streetlight standards policy, as approved by the governing body. Such streetlights shall be maintained and all operating expenses paid by the homeowners' association or other legal entity responsible for such expenses. The establishment of a homeowners' association or other legal entity shall be demonstrated to the satisfaction of the county attorney.

(Ord. No. 30A-15, 1-9-89; Ord. No. 30A-27, 12-15-99; Ord. No. 30A-39, 7-26-11; Ord. No. 30A-41, 12-11-12)

Sec. 19-67. - Off-site sewer, water, and drainage costs.

The subdivider shall be required to pay a pro rata share of the cost of providing reasonable and necessary sewer, water or drainage improvements located outside of the property limits of the land owned or controlled by him whenever the following conditions exist:

- (1) The county determines that such off-site improvements to sewer, water or drainage are necessitated at least in part by the construction or improvement of the subdivision.
  - (2) The county or other appropriate authority has established a general sewer, water or drainage improvement program for an area having related and common water, sewer and drainage conditions.
  - (3) The subdivider's property is located within said designated area covered by such program.
  - (4) The estimated cost of the total water, sewer or drainage improvement program has been determined.
  - (5) The estimated water flow, sewage flow or stormwater runoff has been established for the designated area served by such program.
- (b) The subdivider's share of the above-estimated cost of improvements shall be limited to the proportion of such estimated cost which the increased water and sewage flow or increased volume and velocity of stormwater



runoff to be actually caused by his subdivision bears to the total estimated volume and velocity of such water, sewage or runoff from such area in its fully developed state.

- (c) Such payment received by the county shall be expended only for construction of those facilities for which the payment was required, and until so expended shall be held in an interest-bearing account for the benefit of the subdivider; provided, however, that, in lieu of such payment, the county may permit the subdivider to post a bond with surety satisfactory to the county conditioned on payment at commencement of such construction.

(Ord. No. 30A-15, 1-9-89; Ord. No. 30A-41, 12-11-12)

#### Sec. 19-68. - Off-site road improvements.

A subdivider may voluntarily contribute and the county may accept funds for off-site road improvements substantially generated and reasonably required by the construction or improvement of the subdivision.

(Ord. No. 30A-15, 1-9-89; Ord. No. 30A-41, 12-11-12)

#### Sec. 19-69. - Dedication and reservation of land for public purposes.

- (a) A subdivider may be required to dedicate or reserve land in the following ways:
  - (1) Up to a maximum of five percent of the land subdivided for public purposes including, but not limited to, parks, playgrounds, well lots, schools, libraries, municipal buildings and similar public or semipublic uses;
  - (2) Whenever there shall be plans in existence, approved by either the transportation department or by the governing body, for the widening, extension or construction of any street or highway, the commission may require the dedication or reservation of necessary right-of-way, including right-of-way for turn lanes, drainage, sidewalks and bikeways, in order to preserve and protect the planned future right-of-way for such proposed street or highway.

The governing body shall not be required to compensate any owner for such land if the need for the land is substantially generated by the subdivision. No land shall be reserved in such manner that would render it unusable to the subdivider if not used for the intended public purpose. The subdivider may petition the governing body to release the reservation of any land so reserved if not used for a proper purpose within a reasonable time.

- (b) A subdivider that provides for the transfer of adequate and suitable land for parks and playgrounds to a subdivision homeowners' association or a subdivision recreation association shall not be required to dedicate additional land for parks and playgrounds.

(Ord. No. 30A-15, 1-9-89; Ord. No. 30A-27, 12-15-99; Ord. No. 30A-41, 12-11-12)

#### Sec. 19-70. - Establishment of homeowners association.

Within any major subdivision approved under this article in which an area is intended to be used in common for recreation and/or conservation, or other public or semipublic purposes, or where other improvements have been made in which operation and/or maintenance is the responsibility of the homeowners, no lot shall be approved, recorded, sold,

or used within the development until appropriate documents in a form approved by the county attorney have been executed. Such documents shall set forth the following:

- a. The nature of the permanent organization under which common ownership is to be established, including its purpose, and provisions establishing requirements for mandatory membership;
- b. How it shall be governed and administered;
- c. The provisions made for permanent care and maintenance of the common property or improvements, including surety when required by the county;
- d. The method of assessing the individual property for its share of the cost of adequately administering, maintaining and replacing such common property; and
- e. The extent of common interest held by the owner of each individual parcel in the tract held in common with others.

(Ord. No. 30A-27, 12-15-99; Ord. No. 30A-41, 12-11-12; Ord. No. 30A-42, 8-13-13)

Sec. 19-71. - Entrance feature review.

The developer shall submit plans for all residential subdivision identification signs, supporting structures, and entrance features to be reviewed with the preliminary subdivision plans under the requirements of article II, division 3 of the zoning ordinance.

(Ord. No. 30A-27, 12-15-99; Ord. No. 30A-41, 12-11-12)

Sec. 19-72. - Stormwater management feature review.

Stormwater management features shall be screened in accordance with article II, division 4 of the zoning ordinance.

(Ord. No. 30A-27, 12-15-99; Ord. No. 30A-41, 12-11-12)

Sec. 19-73. - Shared driveway requirements for minor subdivisions.

- (a) For all minor subdivisions of three or more lots, direct access from all lots to the existing road shall be limited to one shared driveway.

This requirement shall not apply to developed lots within a proposed minor subdivision. However, as long as there are three or more other lots that are undeveloped, this requirement shall apply to those lots. Upon the request of the subdivider, and after finding that such waiver would not adversely affect public health, safety or welfare, the agent may waive this requirement for subdivisions inside the primary service area which are along local roads, as defined.

- (b) Such driveway shall have a paved surface at least ten feet wide consisting of two inches of pavement over four to six inches of stone aggregate. In addition, the shared driveway must meet all applicable transportation department requirements for the portion of the driveway that ties into the public road. A detail depicting the driveway specifications shall be included on the subdivision plat. An erosion and sediment control plan and land disturbance permit may be required for the shared driveway, as determined by the engineering and resource protection director.

- (c) Such driveway shall be located within a shared access easement that is depicted on the subdivision plat.
- (d) No such subdivision shall be recorded until appropriate shared care and maintenance documents in a form approved by the county attorney have been executed. Such documents shall be recorded concurrently with the subdivision plat and shall set forth the following:
  - (1) The provisions made for permanent care and maintenance of the shared driveway and any associated easement, including surety when required by the county; and
  - (2) The method of assessing the individual property for its share of the cost of adequately administering, maintaining and replacing such shared driveway.

(Ord. No. 30A-27, 12-15-99; Ord. No. 30A-41, 12-11-12; Ord. No. 30A-42, 8-13-13)

#### Section 19-73.1. - Street trees.

Street trees shall meet the following requirements:

- (a) In all major subdivisions, deciduous shade trees shall be planted as street trees along all rights-of-way within the subdivision. Such trees shall generally be located within a five-foot landscape preservation easement contiguous to such right-of-way. Where located within an easement, the subdividing landowner shall dedicate the easement together with a maintenance easement to the property owners' association or other entity approved by the agent and county attorney. Street trees may also be located within the right-of-way. When located within the right-of-way, the trees will need to meet any applicable Virginia Department of Transportation (VDOT) standards and maintenance provisions. Street trees should only be located within the right-of-way when topographic, utility or other constraints prohibit the landscape preservation easement from being located adjacent to the right-of-way.
- (b) The easement or right-of-way shall contain at a minimum, one tree planted approximately every 40 feet.
- (c) All trees planted to meet this requirement shall have a minimum caliper of one and one-half inch and conform to the provisions of section 24-94 of the zoning ordinance. Existing trees within the landscape preservation easement that are protected and preserved in accordance with the standards contained in the zoning ordinance may be used to satisfy the planting requirement.
- (d) All street trees shall be deciduous shade trees that are native species or street trees commonly planted in James City County and adaptive to the soils and climate of James City County. If an applicant wishes to substitute the required shade trees with an evergreen or ornamental tree, a landscape modification request form referenced in section 24-91 of the zoning ordinance may be submitted for consideration by the planning director.
- (e) Installation. Unless otherwise approved by the director of planning or his designee, plantings shall occur between September and February while the plant materials are dormant. Installation shall be guaranteed in accordance with article IV of this chapter.

(Ord. No. 30A-48, 6-12-18)

#### ARTICLE IV. - PERFORMANCE ASSURANCES

Sec. 19-74. - Installation of improvements and bonding.

- (a) Prior to approval of the final plat, all publicly or privately maintained and operated improvements which are required by this chapter shall be completed at the expense of the subdivider. Pending such actual completion, the subdivider may obtain final plat approval by providing for completion of the required improvements by entering into an agreement with the county and furnishing to the county a certified check, bond with surety satisfactory to the county, or a letter of credit in an amount to cover the cost of all the improvements required to be installed by the subdivider as estimated by the engineering and resource protection director. Such documents shall be submitted to the engineering and resource protection director. The form of the agreement and type of surety shall be to the satisfaction of and approved by the county attorney. The length of time in which the improvements are to be completed shall be determined by the engineering and resource protection director. If the improvements are not completed in a timely manner, the engineering and resource protection director shall proceed to complete the improvements by calling on the surety.
- (b) Upon written request by the subdivider, the engineering and resource protection director shall make periodic partial releases of surety in a cumulative amount equal to no less than 80 percent of the original amount of the surety based upon the percentage of facilities completed and approved by the county, service authority or state agency having jurisdiction. Periodic partial releases shall not occur before the completion of at least 30 percent of the facilities covered by any surety or after completion of more than 80 percent of said facilities. The engineering and resource protection director shall not be required to execute more than three periodic partial releases in any twelve-month period.
- (c) Within 30 days after receipt of written notice by the subdivider of completion of part or all of the facilities required to be constructed, the engineering and resource protection director shall notify the subdivider of any nonreceipt of approval by an applicable state agency, or of any specified defects or deficiencies in construction and suggested corrective measures. "Written notice" shall consist of a letter from the subdivider to the engineering and resource protection director requesting reduction or release of the surety along with a set of as-built plans, if required, and a certificate of completion by a duly licensed engineer.
- (d) If no action is taken by the engineering and resource protection director within the thirty-day period, the request shall be deemed approved and a partial release granted to the subdivider. No final release shall be granted until after expiration of such thirty-day period and there is an additional request in writing sent by certified mail to the county administrator. The engineering and resource protection director shall act within ten working days of receipt of this request. If no action is taken, the request shall be deemed approved and final release granted to the subdivider.
- (e) Upon final completion of said facilities, the engineering and resource protection director shall release any remaining surety to the subdivider. For the purposes of final release, completion shall be deemed to mean either:
  - (1) Acceptance of the public facility for operation and maintenance by the state agency, county government department or agency or other public authority which is responsible for maintaining and operating such facility upon acceptance. This process only applies to those agencies that operate and maintain the applicable systems.
  - (2) Review and approval of the facility's as-builts and construction certifications as required, and acceptable resolution of any field-related deficiencies as determined by the engineering and resource protection

director.

- (f) In instances of multifamily or apartment development that will not involve subdivision of land, required public improvements shall be guaranteed in accordance with section 24-8 and 24-42 of the zoning ordinance. In addition, in instances of conditions attached to a rezoning or amendment to a zoning map, improvements required by the conditions shall be guaranteed in a public improvement bond in accordance with section 24-17 of the zoning ordinance.

(Ord. No. 30A-15, 1-9-89; Ord. No. 30A-27, 12-15-99; Ord. No. 30A-39, 7-26-11; Ord. No. 30A-41, 12-11-12)