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Chapter 24

ARTICLE V. DISTRICTS

DIVISION 11. LIMITED BUSINESS/INDUSTRIAL DISTRICT, M-1

Sec. 24-410. Statement of intent.

The primary purpose of the Limited Business/Industrial District, M-1, is to establish an area where the principal use of land is for limited business/industrial operations which are not ordinarily compatible with residential development. The specific intent of this district is to accomplish the following:

- (1) Encourage the use of land for limited business and industrial purposes;
- (2) Prohibit residential developments on land reserved for limited business and industrial uses;
- (3) Permit certain commercial and office uses in a manner which is compatible with limited business and industrial uses; and
- (4) Establish minimum requirements to protect the health, safety and welfare of the citizens of James City County from the effects of the development of limited business and industrial uses.

(Ord. No. 31A-88, § 20-87, 4-8-85; Ord. No. 31A-144, 6-1-92)

Sec. 24-411. Permitted uses.

Reference section 24-11 for special use permit requirements for certain commercial uses and exemptions.

In the Limited Business/Industrial District, M-1, buildings to be erected or land to be used shall be for one or more of the following or similar uses:

Accessory uses as defined in section 24-2.

Adult day care centers.

An apartment or living quarters for a guard, caretaker, proprietor, or other person employed on the premises which is clearly secondary to the business or industrial use of the property.

Antennas and towers, self-supported, (not attached to buildings) and tower mounted wireless communications facilities which are 60 feet or less in height.

Automobile sales and service with major repair limited to a fully enclosed building.

Automobile service stations; if fuel is sold, then in accordance with section 24-38.

Banks and other similar financial institutions.

Barber and beauty shops.

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Business, professional and governmental offices.

Child day care centers.

Commercial marinas, docks, piers, yacht clubs, boat basins and servicing areas for same; if fuel is sold, then in accordance with section 24-38.

Contractor offices, equipment storage yards, shops and warehouses with storage limited to a fully enclosed building or screened with landscaping and fencing from adjacent property.

Courier services.

Data processing centers.

Drugstores.

Dry cleaners and laundries.

Farmer's markets.

Feed, seed and farm supply stores.

Fire stations.

Funeral homes.

Health clubs, exercise clubs, and fitness centers.

Heavy equipment sales and service, with major repair limited to a fully enclosed building or screened with landscaping and fencing from adjacent property.

Hotels, motels or convention centers with accessory retail sales, barber shops and beauty shops located within the hotel, motel or convention center for the principal benefit of the resident guest.

Houses of worship.

Indoor sport facilities.

Industrial dry cleaner and laundry.

Industrial and technical training schools.

Janitorial service establishments.

Kennels.

Laser technology production.

Lumber and building supply stores with storage limited to a fully enclosed building or screened with landscaping and fencing from adjacent property.

Machinery sales and service with major repair limited to a fully enclosed building.

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Manufacture and assembly of musical instruments, toys, novelties, and rubber and metal stamps.

Manufacture and bottling of soft drinks and wine.

Manufacture and processing of textiles and textile products.

Manufacture and storage of ice, including dry ice.

Manufacture, assembly, or fabrication of sheet metal products.

Manufacture, compounding, assembly or treatment of products made from previously prepared paper, plastic, metal, textiles, tobacco, wood, paint, fiber glass, glass, rubber, leather, cellophane, canvas, felt, fur, horn, wax, hair, yarn, and stone.

Manufacture, compounding, processing or packaging of cosmetic, toiletry and pharmaceutical products.

Manufacture of cans and other products from previously processed metals.

Manufacture of carpets and carpet yarns.

Manufacture of furniture.

Manufacture of glass and glass products.

Manufacture of pottery and ceramic products using kilns fired only by gas or electricity.

Manufacture or assembly of appliances, tools, firearms, hardware products and heating, cooling or ventilating equipment.

Manufacture or assembly of electronic instruments, electronic devices or electronic components.

Manufacture or assembly of medical, drafting, metering, marine, photographic and mechanical instruments.

Manufactured home or mobile home sales.

Marine or waterfront businesses to include receipt, storage and transshipment of waterborne commerce, or seafood receiving, packing and distribution.

Medical clinics and offices.

Micro-breweries.

Nonemergency medical transport.

Nurseries.

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

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Plumbing and electrical supply stores with storage limited to a fully enclosed building or screened with landscaping and fencing from adjacent property.

Post offices.

Printing, lithographing, engraving, photocopying, blueprinting and publishing establishments.

Private streets within "qualifying industrial parks" in accordance with section 24-55.

Publicly owned solid waste container sites.

Radio and television stations and accessory antenna or towers, self-supported, (not attached to buildings) which are 60 feet or less in height.

Research, development and design facilities or laboratories.

Restaurants, tearooms and taverns.

Retail and service stores, including the following stores: books, cabinet, candy, carpet, coin, department, dressmaking, florist, furniture, furrier, garden supply, greeting card, gunsmith (excluding shooting ranges), hardware, home appliance sales and service, ice cream, jewelry sales and service, locksmith, music and records, paint, pet, picture framing, plant supply, shoe, sporting goods, stamp, tailor, tobacco and pipes, toys, travel bureau, upholstery, wearing apparel, and yard goods.

Retail food stores, bakeries and fish markets.

Security service offices.

Telephone exchanges and telephone switching stations.

Timbering in accordance with section 24-43.

Tire, transmission, glass, body and fender and other automotive product sales and service with major repair limited to a fully enclosed building and vehicle storage screened from adjacent property by landscaping and fencing.

Vehicle and trailer sales and service with major repair limited to a fully enclosed building.

Vehicle rentals.

Veterinary hospitals.

Warehouse, storage and distribution centers with storage limited to a fully enclosed building or screened with landscaping and fencing from adjacent property,

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

Water well drilling establishments.

Welding and machine shops with storage limited to a fully enclosed building or screened with landscaping and fencing from adjacent property.

Wireless communications facilities that utilize alternative mounting structures, or are building mounted, or are camouflaged, and comply with division 6, Wireless Communications Facilities.
(Ord. No. 31A-88, § 20-88, 4-8-85; Ord. No. 31A-110, 9-12-88; Ord. No. 31A-128, 12-3-90; Ord. No. 31A-144, 6-1-92; Ord. No. 31A-146, 8-3-92; Ord. No. 31A-150, 4-5-93; Ord. No. 31A-152, 8-16-93; Ord. No. 31A-167, 3-26-96; Ord. No. 31A-176, 5-26-98; Ord. No. 31A-177, 8-18-98; Ord. No. 31A-208, 8-13-02; Ord. No. 31A-214, 8-10-04; Ord. No. 31A-236, 8-12-08)

Sec. 24-412. Uses permitted by special use permit only.

In the Limited Business/Industrial District, M-1, buildings to be erected or land to be used for one or more of the following or similar uses shall be permitted only after the issuance of a special use permit by the board of supervisors:

Antennas and towers (not attached to buildings) in excess of 60 feet in height.

Convenience stores; if fuel is sold, then in accordance with section 24-38.

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

Heliports, helistops and accessory uses.

Hospitals.

Manufacture, compounding, processing or packaging of food and food products, but not the slaughter of animals.

Outdoor sports facilities with water and sewer facilities for golf courses as approved by the board of supervisors.

Petroleum storage.

Propane storage, distribution and sale.

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.

Resource recovery facilities.

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Shooting ranges, indoor.

Solid waste transfer stations.

Theme parks of ten acres or more.

Tower mounted wireless communication facilities in accordance with division 6, Wireless Communications Facilities, in excess of 60 feet in height.

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

Truck stops; if fuel is sold, then in accordance with section 24-38.

Truck terminals; if fuel is sold, then in accordance with section 24-38.

Water facilities (public or private), and sewer facilities (public), including, but not limited to, treatment plants, pumping stations, storage facilities and transmission mains, wells and associated equipment, such as pumps to be owned and operated by political jurisdictions. However, the following are permitted generally and shall not require a special use permit:

- (a) Private connections to existing mains that are intended to serve an individual customer and that are accessory to existing or proposed development, with no additional connections to be made to the line; and
- (b) Distribution lines and local facilities within a development, including pump stations.

Water impoundments, new or expansion of, 50 acres or more or with dam heights of 25 feet or more. (Ord. No. 31A-88, § 20-88.1, 4-8-85; Ord. No. 31A-100, 4-6-87; Ord. No. 31A-121, 5-21-90; Ord. No. 31A-144, 6-1-92; Ord. No. 31A-146, 8-3-92; Ord. No. 31A-149, 2-1-93; Ord. No. 31A-153, 11-1-93; Ord. No. 31A-156, 5-16-94; Ord. No. 31A-176, 5-26-98; Ord. No. 31A-177, 8-18-98; Ord. No. 31A-236, 8-12-08)

Sec. 24-413. Outdoor operations and storage.

Any commercial or industrial operation or storage conducted in whole or in part out-of-doors shall meet the requirements of section 24-41.

(Ord. No. 31A-144, 6-1-92)

Sec. 24-414. Area requirements and minimum lot width.

- (a) Minimum lot size shall be 10,000 square feet.
- (b) Minimum width of lots shall be 75 feet at the setback line.
(Ord. No. 31A-88, §§ 20-89, 204-89.1, 4-8-85; Ord. No. 31A-144, 6-1-92)

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Sec. 24-415. Setback requirements.

(a) Structures shall be located 50 feet or more 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 75 feet or more from the center line of the street. The minimum setback of any portion of a structure which is in excess of 35 feet in height shall be increased one foot for each two feet of the structure's height in excess of 35 feet.

(b) The minimum setback shall also be increased to a minimum of 75 feet from any street with a right-of-way 50 feet or greater in width and 100 feet from any street with a right-of-way of less than 50 feet of width when the property immediately across the street is zoned residential. The minimum setback of any portion of a structure across the street from property zoned residential which is in excess of 35 feet in height shall be increased one foot for each two feet of the structure's height in excess of 35 feet.

(c) Setbacks for commercial uses may be reduced to 25 feet from any street right-of-way which is 50 feet or greater in width or 50 feet from the centerline of the street where the street right-of-way is less than 50 feet in width with approval of the development review committee.

A site shall not be considered for a setback reduction if it is located on a planned road that is designated for widening improvements. A planned road includes any road or similar transportation facility as designated on the Comprehensive Plan, Six-Year Primary or Secondary Road Plan, Peninsula Area Transportation Plan or any road plan adopted by the board of supervisors. The development review committee will consider a setback reduction only if the setback reduction will achieve results which clearly satisfy the overall purposes and intent of section 24-86 (Landscaping and Tree Preservation Requirements); if the setbacks do not negatively impact adjacent property owners; and if one or more of the following criteria are met:

- (1) The site is located on a Community Character Corridor or is designated a Community Character Area on the Comprehensive Plan Land Use Map, and proposed setbacks will better complement the design standards of the Community Character Corridor.
- (2) The adjacent properties have setbacks that are non-conforming with this section, and the proposed setbacks will better complement the established setbacks of adjacent properties, where such setbacks help achieve the goals and objectives of the Comprehensive Plan.
- (3) The applicant has offered site design which meets or exceeds the Development Standards of the Comprehensive Plan.

(d) In areas where the board of supervisors has adopted specific design guidelines that call for reduction of setbacks in excess of those permitted in sub-section (c), the development review committee can approve reductions upon finding substantial conformance with recommendations from the guidelines and compliance with the criteria from sub-section (c) above.

(Ord. No. 31A-88, § 20-90, 4-8-85; Ord. No. 31A-144, 6-1-92; Ord. No. 31A-241, 6-9-09)

Sec. 24-416. Yard regulations.

(a) Structures shall be located 20 feet or more from side or rear property lines. The side and rear yards for any section of a structure in excess of 35 feet in height shall be increased one foot for each two feet of height in excess of 35 feet.

(b) The minimum side yard shall be increased to 75 feet if the side yard adjoins property in a residential district, or an agricultural district that is designated for residential use on the Comprehensive Plan. The minimum rear yard shall be increased to 75 feet if the rear yard adjoins property in a residential district or an agricultural district that is designated for residential use on the Comprehensive Plan. The minimum side and rear yards for any section of a structure in excess of 35 feet in height shall be increased one foot for each two feet of height in excess of 35 feet.

(c) Accessory structures may be located within the required side or rear yards upon approval of the planning commission; provided, however, that no structure shall be located within ten feet of any property line. (Ord. No. 31A-88, § 20-90.1, 4-8-85; Ord. No. 31A-100, 4-6-87; Ord. No. 31A-112, 2-6-89; Ord. No. 31A-123, 7-2-90; Ord. No. 31A-144, 6-1-92; Ord. No. 31A-177, 8-18-98)

Sec. 24-417. Reserved.

Sec. 24-418. Special provisions for the waiver of area, lot width, yard and yard setback requirements.

The following may be eligible for a waiver from any part of section 24-414 through 24-416:

The subdivision of business/industrial property on which business and industrial units for sale, for sale in condominium, or for lease are both:

- (a) Constructed as part of a multiunit structure in which the units share common walls or as part of a multiple-structure commercial development; and
- (b) The entire development has been planned and designed as a comprehensive coordinated unit under a single master plan.

In these instances, the planning commission may grant, at its discretion, a waiver from any part of section 24-414 through 24-416 upon finding:

- (1) The overall complex or structure, if considered as a single unit, meets all of the requirements of section 24-414 through 24-416;
- (2) Adequate parking is provided as per the requirements of this chapter. The planning commission also may require recordation of adequate easements or other agreements to guarantee access and maintenance of the parking areas and other common areas;
- (3) Adequate provisions are made to assure compliance with the requirements of this chapter with regards to signs. The planning commission also may require the recordation of adequate easements or agreements to allow grouping of signs on one standard sign, placement of signs in common areas or other appropriate arrangements made necessary as a result of the reduced frontage or yard area of the individual units; and
- (4) The complex or structure is adequately designed and serviced from the standpoint of safety. The county fire chief finds that the fire safety equipment to be installed is adequately designed, and the county building official finds that the complex is designed to conform to the Uniform Statewide Building Code, so as to offer adequate protection to life and property.

(Ord. No. 31A-88, § 20-90.3, 4-8-85; Ord. No. 31A-123, 7-2-90; Ord. No. 31A-144, 6-1-92; Ord. No. 31A-177, 8-18-98)

Sec. 24-419. Height limits and height limitation waivers.

(a) Structures may be erected up to 60 feet in height from grade to the top of the structure. Camouflaged wireless communications facilities may be erected to a total height of 120 feet from grade. Structures in excess of 60 feet in height from grade to the top of the structure may be erected only upon the granting of a height limitation waiver by the board of supervisors.

(b) Water towers, church spires, belfries, cupolas, monuments, chimneys, flues, flagpoles, communication antennae, mechanical penthouse, electrical, plumbing, elevator, parapet walls or other accessory mechanical functions which are part of or on top of a main structure shall be considered part of the structure.

(c) Upon application for a height limitation waiver, the payment of appropriate fees, notification of adjacent property owners and following a public hearing, the board of supervisors may grant a height limitation waiver upon finding that:

- (1) Additional setbacks have been provided as required by section 24-415 and section 24-416; however, the board may waive additional setbacks in excess of 60 feet;
- (2) Such structure will not obstruct light from adjacent property;
- (3) Such structure will not impair the enjoyment of historic attractions and areas of significant historic interest and surrounding developments;
- (4) Such structure will not impair property values in the area;
- (5) Such structure is adequately designed and served from the standpoint of safety and that the county fire chief finds the fire safety equipment to be installed is adequately designed and that the structure is reasonably well located in relation to fire stations and equipment, so as to offer adequate protection to life and property; and

(6) Such structure will not be contrary to the public health, safety and general welfare.
(Ord. No. 31A-88, § 20-91, 4-8-85; Ord. No. 31A-144, 6-1-92; Ord. No. 31A-166, 1-23-96; Ord. No. 31A-176, 5-26-98)

Sec. 24-420. Reserved.

Sec. 24-421. Sign regulations and parking requirements.

(a) To assure an appearance and condition which is consistent with the purposes of the Limited Business/Industrial District, M-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.

(b) Off-street parking and off-street loading shall be provided as required in sections 24-53 and 24-54.
(Ord. No. 31A-88, § 20-93, 4-8-85; Ord. No. 31A-144, 6-1-92)

Sec. 24-422. Utilities.

(a) Unless otherwise specified in this district, all development in the Limited Business/Industrial District, M-1, shall be served by public water and sewer.

(b) The location of all utilities and utility easements shall be shown on the site plans and be approved as per article III, Site Plan, of this chapter. (Ord. No. 31A-88, § 20-92, 4-8-85; Ord. No. 31A-144, 6-1-92; Ord. No. 31A-156, 5-16-94)

Sec. 24-423. Site plan review.

All structures or complexes of structures erected, altered or restored within the district shall be subject to Site Plan Review in accordance with article III of this chapter.
(Ord. No. 31A-88, § 20-94, 4-8-85; Ord. No. 31A-144, 6-1-92)

Secs. 24-424 - 24-434. Reserved.

Chapter 24

ARTICLE V. DISTRICTS

DIVISION 12. GENERAL INDUSTRIAL DISTRICT, M-2

Sec. 24-435. Statement of intent.

The primary purpose of the General Industrial District, M-2, is to establish an area where the principal use of land is for industrial operations which are not compatible with residential or commercial service establishments. The specific intent of this district is to accomplish the following:

- (1) Encourage the use of land for industrial purposes;
 - (2) Prohibit residential and commercial service developments on land reserved for industrial uses; and
 - (3) Establish minimum requirements to protect the health, safety and welfare of the citizens of James City County from the effects of the development of industrial uses.
- (Ord. No. 31A-88, § 20-95, 4-8-85; Ord. No. 31A-144, 6-1-92)

Sec. 24-436. Permitted uses.

In the General Industrial District, M-2, buildings to be erected or land to be used shall be for one or more of the following or similar uses:

Accessory uses as defined in section 24-2.

An apartment or living quarters for a guard, caretaker, proprietor, or other person employed on the premises which is clearly secondary to the industrial use of the property.

Antennas and towers, self-supported (not attached to buildings), and tower mounted wireless communications facilities which are 60 feet or less in height.

Automobile service stations; if fuel is sold, then in accordance with section 24-38.

Banks and other similar financial institutions as an accessory use to other permitted uses.

Boiler shops.

Breweries and other necessary associated activities.

Business, professional and governmental offices.

Child day care centers as an accessory use to other permitted uses.

Contractor offices, equipment storage yards, shops and warehouses.

Drop-forge industries, manufacturing, forgings with a power hammer.

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

Fire stations.

Health clubs, exercise clubs, and fitness centers as an accessory use to other permitted uses.

Heavy equipment sales and service, with major repair limited to a fully enclosed building or screened with landscaping and fencing from adjacent property.

Industrial and technical training schools.

Janitorial service establishments.

Laser technology production.

Manufacture and assembly of musical instruments, toys, novelties and rubber and metal stamps.

Manufacture and bottling of soft drinks and wine.

Manufacture and processing of acrylic and other synthetic fibers.

Manufacture and processing of textiles and textile products.

Manufacture and sale of manufactured homes, mobile homes, modular homes and industrialized housing units.

Manufacture and sale of wood products.

Manufacture and storage of ice, including dry ice.

Manufacture, assembly or fabrication of sheet metal products.

Manufacture, compounding, assembly or treatment of products made from previously prepared paper, plastic, metal, textiles, tobacco, wood, paint, fiber glass, glass, rubber, wax, leather, cellophane, canvas, felt, fur, horn, hair, yarn, and stone.

Manufacture, compounding, processing or packaging of cosmetic, toiletry and pharmaceutical products.

Manufacture, compounding, processing or packaging of food and food products, but not the slaughter of animals.

Manufacture of batteries.

Manufacture of boats, marine equipment and boat trailers.

Manufacture of cans and other metal products from previously processed metals.

Manufacture of carpets and carpet yarns.

Manufacture of furniture.

Manufacture of glass and glass products.

Manufacture of pottery and ceramic products, using kilns fired only by gas or electricity.

Manufacture or assembly of aircraft and aircraft parts.

Manufacture or assembly of appliances, tools, firearms, hardware products and heating, cooling or ventilating equipment.

Manufacture or assembly of automobiles, trucks, machinery or equipment.

Manufacture or assembly of electronic instruments, electronic devices or electronic components.

Manufacture or assembly of medical, drafting, metering, marine, photographic and mechanical instruments.

Marine or waterfront businesses to include the receipt, storage and transshipment of waterborne commerce, or seafood receiving, packing or distribution.

Metal foundry and heavy weight casting.

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

Post offices.

Printing and publishing establishments.

Private streets within "qualifying industrial parks" in accordance with section 24-55.

Propane storage, distribution, and sale.

Publicly owned solid waste container sites.

Radio and television stations and accessory antenna or towers, self-supported (not attached to buildings), which are 60 feet or less in height.

Research, development and design facilities or laboratories.

Restaurants as an accessory use to other permitted uses.

Retail sales of products related to the main use, provided floor area for retail sales comprises less than 25 percent of the first floor area of the main use.

Security service offices.

Structural iron and steel fabrication.

Telephone exchanges and telephone switching stations.

Timbering in accordance with section 24-43.

Warehouse, storage and distribution centers.

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

Water well drilling establishments.

Welding and machine shops including punch presses and drop hammers.

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

(Ord. No. 31A-88, § 20-96, 4-8-85; Ord. No. 31A-110, 9-12-88; Ord. No. 31A-128, 12-3-90; Ord. No. 31A-144, 6-1-92; Ord. No. 31A-146, 8-3-92; Ord. No. 31A-150, 4-5-93; Ord. No. 31A-167, 3-26-96; Ord. No. 31A-176, 5-26-98; Ord. No. 31A-177, 8-18-98; Ord. No. 31A-214, 8-10-04; Ord. No. 31A-229, 9-25-07; Ord. No. 31A-236, 8-12-08)

Sec. 24-437. Uses permitted by special use permit only.

In the General Industrial District, M-2, buildings to be erected or land to be used for one or more of the following or similar uses shall be permitted only after the issuance of a special use permit by the board of supervisors:

Antennas and towers (not attached to buildings) in excess of 60 feet in height.

Asphalt mixing plants.

Automobile graveyards and scrap metal storage yards.

Child day care centers.

Crushed stone, sand, gravel, or mineral mining; storage and distribution of same.

Heliports, helistops and accessory uses.

Manufacture and compounding of chemicals.

Manufacture of cement, lime, gypsum, bricks and non-previously prepared stone products (i.e., stone and rock used for general erosion control and road construction).

Petroleum refining.

Petroleum storage.

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.

Ready mix concrete production.

Resource recovery facilities.

Solid waste transfer stations.

Tower mounted wireless communication facilities in accordance with division 6, Wireless Communications Facilities, in excess of 60 feet in height.

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

Truck stops; if fuel is sold, then in accordance with section 24-38.

Truck terminals; if fuel is sold, then in accordance with section 24-38.

Water facilities (public or private), and sewer facilities (public), including, but not limited to, treatment plants, pumping stations storage facilities and transmission mains, wells and associated equipment such as pumps to be owned and operated by political jurisdictions. However, the following are permitted generally and shall not require a special use permit:

- (a) Private connections to existing mains that are intended to serve an individual customer and that are accessory to existing or proposed development, with no additional connections to be made to the line; and
- (b) Distribution lines and local facilities within a development, including pump stations.

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

Wood preserving operations.

(Ord. No. 31A-88, § 20-96.1, 4-8-85; Ord. No. 31A-144, 6-1-92; Ord. No. 31A-146, 8-3-92; Ord. No. 31A-149, 2-1-93; Ord. No. 31A-153, 11-1-93; Ord. No. 31A-176, 5-26-98; Ord. No. 31A-177, 8-18-98; Ord. No. 31A-214, 8-10-04; Ord. No. 31A-236, 8-12-08)

Sec. 24-438. Outdoor operations and storage.

Any commercial or industrial operation or storage conducted in whole or in part out-of-doors, shall meet the requirements of section 24-41 of this chapter.

(Ord. No. 31A-144, 6-1-92)

Sec. 24-439. Area requirements and minimum lot width.

(a) Minimum lot size shall be 10,000 square feet.

(b) Minimum width of lots shall be 75 feet at the setback line.

(No. 31A-88, §§ 20-97, 20-98, 4-8-85; Ord. No. 31A-144, 6-1-92)

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Sec. 24-440. Setback requirements.

(a) Structures shall be located 50 feet or more 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 75 feet or more from the center line of the street. The minimum setback of any portion of a structure which is in excess of 35 feet in height shall be increased one foot for each three feet of the structure's height in excess of 35 feet.

(b) The minimum setback shall also be increased to a minimum of 75 feet from any street with a right-of-way 50 feet or greater in width and 100 feet from any street with a right-of-way of less than 50 feet of width when the property immediately across the street is zoned residential. The minimum setback of any portion of a structure across the street from property zoned residential which is in excess of 35 feet in height shall be increased one foot for each two feet of the structure's height in excess of 35 feet.

(Ord. No. 31A-88, § 20-98.1, 4-8-85; Ord. No. 31A-144, 6-1-92)

Sec. 24-441. Yard regulations.

(a) Structures shall be located 20 feet or more from side or rear property lines. The side and rear yards for any section of a structure in excess of 35 feet in height shall be increased one foot for each three feet of height in excess of 35 feet.

(b) The minimum side yard shall be increased to 75 feet if the side yard adjoins property in a residential district, or an agricultural district that is designated for residential use on the Comprehensive Plan. The minimum rear yard shall be increased to 75 feet if the rear yard adjoins property in a residential district or an agricultural district that is designated for residential use on the Comprehensive Plan. The minimum side and rear yards for any section of a structure in excess of 35 feet in height shall be increased one foot for each two feet of height in excess of 35 feet.

(c) Accessory structures may be located within the required side or rear yards upon approval of the planning commission; provided, however, that no structure shall be located within ten feet of any property line. (Ord. No. 31A-88, § 20-98.2, 4-8-85; Ord. No. 31A-100, 4-6-87; Ord. No. 31A-112, 2-6-89; Ord. No. 31A-123, 7-2-90; Ord. No. 31A-144, 6-1-92; Ord. No. 31A-177, 8-18-98)

Sec. 24-442. Reserved.

Sec. 24-443. Special provisions for the waiver of area, lot width, yard and setback requirements.

The following may be eligible for a waiver from any part of section 24-439 through 24-441:

The subdivision of business/industrial property on which business and industrial units for sale, for sale in condominium or for lease are both:

- (a) Constructed as part of a multiunit structure in which the units share common walls or as part of a multiple-structure commercial development; and
- (b) The entire development has been planned and designed as a comprehensive coordinated unit under a single master plan.

In these instances, the planning commission may grant, at its discretion, a waiver from any part of section 24-439 through 24-441 upon finding:

- (1) The overall complex or structure, if considered as a single unit, meets all of the requirements of sections 24-439 through 24-441;
- (2) Adequate parking is provided as per the requirements of this chapter. The planning commission also may require recordation of adequate easements or other agreements to guarantee access and maintenance of the parking areas and other common areas;
- (3) Adequate provisions are made to assure compliance with the requirements of this chapter with regards to signs. The planning commission also may require the recordation of adequate easements or agreements to allow grouping of signs on one standard sign, placement of signs in common areas or other appropriate arrangements made necessary as a result of the reduced frontage or yard area of the individual units; and
- (4) The complex or structure is adequately designed and serviced from the standpoint of safety. The county fire chief finds that the fire safety equipment to be installed is adequately designed, and the county building official finds that the complex is designed to conform to the Uniform Statewide Building Code, so as to offer adequate protection to life and property.

(Ord. No. 31A-88, § 20-98.4, 4-8-85; Ord. No. 31A-123, 7-2-90; Ord. No. 31A-144, 6-1-92; Ord. No. 31A-177, 8-18-98)

Sec. 24-444. Height limits and height limitation waivers.

(a) Structures may be erected up to 60 feet in height from grade to the top of the structure. Camouflaged wireless communications facilities may be erected to a total height of 120 feet from grade. Structures in excess of 60 feet in height from grade to the top of the structure may be erected only upon the granting of a height limitation waiver by the board of supervisors.

(b) Water towers, chimneys, flues, flagpoles, communication antennae, mechanical penthouse, electrical, plumbing, elevator, parapet walls or other accessory mechanical functions which are part of or on top of a main structure shall be considered part of the structure.

(c) Upon application for a height limitation waiver, the payment of appropriate fees, notification of adjacent property owners and following a public hearing, the board of supervisors may grant a height limitation waiver upon finding that:

- (1) Additional setbacks have been provided as required by section 24-440 and section 24-441; however, the Board may waive additional setbacks in excess of 60 feet;
- (2) Such structure will not obstruct light from adjacent property;
- (3) Such structure will not impair the enjoyment of historic attractions and areas of significant historic interest and surrounding developments;
- (4) Such structure will not impair property values in the area;

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- (5) Such structure is adequately designed and served from the standpoint of safety and that the county fire chief finds the fire safety equipment to be installed is adequately designed and that the structure is reasonably well located in relation to fire stations and equipment, so as to offer adequate protection to life and property; and
- (6) Such structure will not be contrary to the public health, safety and general welfare.
(Ord. No. 31A-88, § 20-99, 4-8-85; Ord. No. 31A-144, 6-1-92; Ord. No. 31A-166, 1-23-96; Ord. No. 31A-176, 5-26-98)

Sec. 24-445. Reserved.

Sec. 24-446. Sign regulations and parking requirements.

- (a) To assure an appearance and condition which is consistent with the purposes of the General Industrial District, M-2, outdoor signs on the properties within the district shall comply with the regulations for exterior signs in article II, division 3 of this chapter.
- (b) Off-street parking and off-street loading shall be provided as required in sections 24-53 and 24-54.
(Ord. No. 31A-88, § 20-100, 4-8-85; Ord. No. 31A-144, 6-1-92)

Sec. 24-447. Utilities.

All development in the General Industrial District, M-2, shall be served by public water and sewer unless this requirement is waived in accordance with section 24-448. The location of all utilities and utility easements shall be shown on the site plans and be approved as per article III, Site Plan, of this chapter.
(Ord. No. 31A-88, § 20-100.1, 4-8-85; Ord. No. 31A-111, 1-9-89; Ord. No. 31A-144, 6-1-92)

Sec. 24-448. Public utilities waiver.

- (a) The board of supervisors may waive the public water and sewer service requirement specified by section 24-447 upon finding:
 - (1) The development is located in the primary service area as designated by the land use element of the Comprehensive Plan;
 - (2) The development is located in an area not planned for extension of public water or sewer service as part of the adopted master water or sewer plan; and
 - (3) The development causes no adverse impact on the water resources of the county.
- (b) A condition of such waiver shall be that the development shall connect to public water and sewer at such time that the board of supervisors determines utilities are available.
- (c) The board of supervisors may attach additional conditions to any such waiver.
(Ord. No. 31A-111, 1-9-89)

Sec. 24-449. Site plan review.

All structures or complexes of structures erected, altered or restored within the district shall be subject to Site Plan Review in accordance with article III of this chapter.

(Ord. No. 31A-88, § 20-101, 4-8-85; Ord. No. 31A-144, 6-1-92)

Secs. 24-450 - 24-459. Reserved.

Chapter 24

ARTICLE V. DISTRICTS

DIVISION 13. RESEARCH AND TECHNOLOGY DISTRICT, RT

Sec. 24-460. Statement of intent.

The primary purpose of the Research and Technology District, RT, is to establish an area where the principal use of land is for research and technology operations which are not ordinarily compatible with residential and retail business development. The specific intent of this district is to accomplish the following:

- (1) Encourage the use of land for research and technology purposes;
 - (2) Encourage large-scale, master-planned developments in a campus or park-like setting;
 - (3) Prohibit residential and retail business developments on land reserved for research and technology uses; and
 - (4) Establish minimum requirements to protect the health, safety and welfare of the citizens of James City County from the effects of the development of research and technology uses.
- (Ord. No. 31A-144, 6-1-92; Ord. No. 31A-181, 9-8-98)

Sec. 24-461. Permitted uses.

In the Research and Technology District, RT, buildings to be erected or land to be used shall be for one or more of the following or similar uses:

Accessory uses as defined in section 24-2.

Antennas and towers, self-supported (not attached to buildings), and tower mounted wireless communications facilities which are 60 feet or less in height.

An apartment or living quarters for a guard, caretaker, proprietor or other person employed on the premises which is clearly secondary to the research and technology use of the property.

Banks and other similar financial institutions as an accessory use to other permitted uses.

Child day care centers as an accessory use to other permitted uses.

Clinics as an accessory use to other permitted uses.

Corporate offices.

Courier services.

Data processing centers as an accessory use to other permitted uses.

Fire stations.

Health clubs, exercise clubs and fitness centers as accessory use to other permitted uses.

Industrial and technical training schools.

Laser technology production.

Manufacture, compounding, processing or packaging of cosmetic, toiletry and pharmaceutical products.

Manufacture or assembly of electronic instruments, electronic devices or electronic components.

Manufacture or assembly of medical, drafting, metering, marine, photographic and mechanical instruments.

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

Private streets within "qualifying industrial parks" in accordance with section 24-55.

Publicly owned solid waste container sites.

Radio and television studios and accessory antenna or towers, self-supported (not attached to buildings), which are 60 feet or less in height.

Research, development and design facilities or laboratories.

Restaurants as an accessory use to other permitted uses.

Telephone exchanges and telephone switching stations.

Timbering in accordance with section 24-43.

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

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

(Ord. No. 31A-144, 6-1-92; Ord. No. 31A-146, 8-3-92; Ord. No. 31A-150, 4-5-93; Ord. No. 31A-167, 3-26-96; Ord. No. 31A-176, 5-26-98; Ord. No. 31A-181, 9-8-98)

Sec. 24-462. Uses permitted by special use permit only.

In the Research and Technology District, RT, buildings to be erected or land to be used for one or more of the following or similar uses shall be permitted only after the issuance of a special use permit, by the board of supervisors:

Antennas or towers (not attached to buildings) in excess of 60 feet in height.

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

Heliports and helistops and accessory uses.

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

Solid waste transfer stations.

Tower mounted wireless communication facilities in accordance with division 6, Wireless Communications Facilities, in excess of 60 feet in height.

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

Warehouse, storage and distribution centers to serve only uses permitted in the RT, research and technology district, with storage limited to a fully enclosed building or screened with landscaping and fencing from adjacent property.

Waste disposal facilities.

Water facilities (public or private), and sewer facilities (public), including, but not limited to, treatment plants, pumping stations, storage facilities and transmission mains, wells and associated equipment such as pumps to be owned and operated by political jurisdictions. However, the following are permitted generally and shall not require a special use permit:

- (a) private connections to existing mains that are intended to serve an individual customer and that are accessory to existing or proposed development, with no additional connections to be made to the line; and
- (b) distribution lines and local facilities within a development, including pump stations.

Water impoundments, new or expansion of, 50 acres or more or with dam height of 25 feet or more. (Ord. No. 31A-144, 6-1-92; Ord. No. 31A-146, 8-3-92; Ord. No. 31A-149, 2-1-93; Ord. No. 31A-153, 11-1-93; Ord. No. 31A-176, 5-26-98; Ord. No. 31A-181, 9-8-98)

Sec. 24-463. Outdoor operations and storage.

Any research or technology operation or storage conducted in whole or in part out-of-doors shall meet the requirements of section 24-41.

(Ord. No. 31A-144, 6-1-92; Ord. No. 31A-181, 9-8-98)

Sec. 24-464. Documents required for submission.

(a) *Required documents.* The applicant shall submit the following documents to the planning director for submission to the planning commission:

- (1) Application for rezoning
- (2) Master plan, 30 copies, ten submitted with application for rezoning with balance of required copies submitted at the request of staff in preparation for planning commission review.

(b) *Master plan.* The master plan shall be prepared by a licensed surveyor, engineer, architect, landscape architect, or planner. A scale may be used so that the entire parcel can be shown on one piece of paper no larger than 30 inches by 48 inches. It shall include:

- (1) An inset map at a scale of not less than one inch to one mile showing the property in relation to surrounding roads, subdivisions or major landmarks.
- (2) A north arrow.
- (3) The location of existing property lines, watercourses or lakes, wooded areas and existing roads which are within or adjoin the property.
- (4) The approximate location of proposed streets and rights-of-ways with an indication of whether public or private; the approximate location of common open space areas and all areas proposed for dedication to public use within the project.

Each section or area of the master plan shall be designated as follows:

<u>Area Designation</u>	<u>Type of Development</u>
F	Warehouse uses
G	Office uses
H	Light industrial, research or technology uses
I	Institutional or public uses
J	Areas of common open space
M*	Structures containing a mixture of uses
X	Other structures, facilities or amenities

For purposes of this article, the term “common open space area” shall refer to any tract of land intended to be used in common primarily by users of the RT, research and technology district.

*Areas of a master plan designated M(structures containing a mixture of uses) shall indicate in parenthesis, following the M designation, the appropriate letter designations of the types of uses contained within the structure (e.g., M(HF)) in the order of their proportion in the structure.

- (5) Where applicable, the master plan shall contain a table which shows, for each section or area of different uses, the following:
 - a. The use;
 - b. Approximate development phasing;
 - c. Maximum square feet of floor space for office, industrial, research, or technology uses.
 - d. Maximum acreage of each use.
- (6) Schematic plans which shall indicate the phasing of development and master water, sewer, and drainage plans.
- (7) A statement satisfactory to the county attorney on the guarantees and assurances to be provided for the maintenance of common open space, sidewalks, parking, private streets, and other privately owned but common facilities serving the project.

The master plan shall depict and bind the approximate boundaries and general location of all principal land uses, structure square footage, roads, rights-of-ways, accesses, open spaces, public uses, and other features located or to be located on the sites. The master plan shall be reviewed and upon approval by the board of supervisors shall become binding. Thereafter, all amendments to the master plan shall be in accordance with section 24-13 of this chapter. Approved development plans, provided for in section 24-467, shall supersede the master plan and schematic plans.

(Ord. No. 31A-181, 9-8-98)

Sect. 24-465. Master plan - Administrative review fees.

Submittal of a master plan and subsequent revisions proposed by the applicant to the planning commission shall be accompanied by a fee as specified in section 24-7.

(Ord. No. 31A-181, 9-8-98)

Sec. 24-466. Procedures.

(a) *Report of the planning director.* The planning director may refer copies of the master plan to other local public officials for their comments, and the planning director shall prepare a report with recommendations regarding the application. A copy of the report shall be sent to the applicant. When all materials necessary for application are complete and the application is deemed ready for planning commission review, the application, master plan, and report of the planning director shall be placed on the agenda of the planning commission at its next regularly scheduled meeting.

The report of the planning director shall include, but not necessarily be limited to, the following:

- (1) Evaluation of the proposed uses at the site in relation to the county's Comprehensive Plan.
- (2) Evaluation and recommended changes in the design of land use and circulation shown on the master plan of the property.

- (3) Impact of the proposal on surrounding property and the environment.
- (4) Final recommendation regarding approval of the application and master plan or changes which are necessary.

(b) *Consideration by the planning commission and board of supervisors.* The procedures for public hearing and consideration by the planning commission and board of supervisors shall be as set forth in section 24-13.

(c) *Guarantees.* The code compliance director shall not issue any certificate of occupancy until the applicant has guaranteed the completion of public improvements, including, but not limited to, public roads, public water and sewer facilities, shown on the development plan by providing either a letter of credit, certified check, cash escrow, cash payment or other surety, approved by the county attorney.
(Ord. No. 31A-181, 9-8-98)

Sec. 24-467. Development plan.

Development plans shall be submitted and reviewed in accordance with article III of this chapter or with the county's subdivision ordinance, whichever is applicable. Development plans may be submitted for review after approval of a master plan by the board of supervisors. All development plans shall be consistent with the master plan. Development plans may deviate from the master plan if the planning commission concludes, after reviewing written comments from the planning director, that the plan does not significantly alter the character of land uses or other features or conflict with any conditions placed on the approval of rezoning. A conceptual plan may be submitted to the planning commission for this purpose in a form sufficient to illustrate the proposed deviations. If the planning commission determines that a proposed change would significantly deviate from the approved master plan, the applicant may submit alternative proposed development plans or proceed with amendment of a master plan in accordance with section 24-13.
(Ord. No. 31A-181, 9-8-98)

Sec. 24-468. Same - Administrative review fee.

Submittals of a site plan or preliminary subdivision plat implementing any portion of an approved master plan shall be accompanied by a fee in accordance with section 24-7 or section 19-15.
(Ord. No. 31A-181, 9-8-98)

Sec. 24-469. Minimum area of districts.

Research and technology districts shall be located on a single parcel of land, or separate but contiguous parcels, which shall total not less than twenty-five acres.
(Ord. No. 31A-181, 9-8-98)

Sec. 24-470. Requirements for improvements and design.

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

- (b) *Parking.* Off-street parking facilities shall be provided in accordance with the off-street parking requirements of sections 24-53 and 24-474.
 - (c) *Street.* All streets shall meet the requirements of the Virginia Department of Transportation. The construction of streets, whether public or private, shall be guaranteed by appropriate surety, letter of credit, cash escrow or other form of guarantee approved by the county attorney and director of the environmental division. Private streets may be permitted within “qualifying industrial parks” in accordance with section 24-55.
 - (d) *Fire hydrants.* Fire hydrants shall be at locations and of types approved by the service authority manager and county fire chief. No structure within the district shall generally be further than 400 feet from a hydrant.
 - (e) *Streetlights.* Streetlights shall generally be provided at each intersection and adequately spaced in parking lots and other public areas. The lighting shall be directed so as not to produce objectionable glare on adjacent property within or near the development. No lighting fixture shall exceed a height of 30 feet in this district.
 - (f) *Drainage facilities.* Facilities for the adequate control of stormwater drainage and erosion and sedimentation shall be provided in accordance with the Virginia Erosion and Sediment Control Handbook and the Virginia Department of Transportation Drainage Manual.
 - (g) *Natural features and amenities.* Existing features such as specimen trees, wildlife habitats, watercourses, historical sites, and similar irreplaceable assets shall be preserved to the maximum extent possible.
 - (h) *Landscaping.* All landscaping and tree preservation shall be undertaken in accordance with section 24-86 and Chapter 23 of the county's Chesapeake Bay Preservation Ordinance.
- (Ord. No. 31A-181, 9-8-98)

Sec. 24-471. Open space.

(a) Development within the research and technology districts shall provide usable open space area to create a park-like setting. The amount of open space shall be not less than ten percent of the developable area of the site, and where possible shall be continuous open space. Nondevelopable area consisting of all stream beds, areas subject to flooding, wetlands and areas with slopes exceeding 25 percent gradient shall not be counted towards meeting the open space requirement. For the purposes of this article, open space shall not include any landscape area in parking lots or adjacent to structures. The requirements of this section shall supplement the requirements of the county's Chesapeake Bay Ordinance, section 24-86 (landscaping and tree preservation requirements) and other county requirements relating to open space. For the purposes of this article, open space may include, but is not limited to:

- (1) Perpetual easement(s) of no less than 50 feet in width dedicated to James City County or another group approved by the county adjoining any road designated as a community character corridor on the Comprehensive Plan which shall be left in a natural, undisturbed state.
- (2) Buffer area(s) of no less than 50 feet around a Resources Management Area wetland as measured from the landward edge of the wetland.

- (3) Preservation of any archaeological site, any landmark registered in the Virginia Landmarks Register, the National Register of Historic Places or National Historic Site register.
- (4) Preservation of any developable area demonstrated to be a habitat for any endangered, rare or threatened species of plant or wildlife so designated by the federal government, the State of Virginia (as referenced by the county's Natural Areas Inventory or listed in Virginia's Endangered Species, (Virginia Department of Game and Inland Fisheries, 1991)), where preservation of such area is not required by local, state or federal law.
- (5) Bikeways, bike paths, hiking trails, greenways or other similar amenity, excluding sidewalks.
- (6) Public or private picnic areas, parks, plazas or other gathering areas.

Open space area shall be protected by easements, maintenance agreements and/or other assurances, satisfactory to the county attorney, that set forth the provisions made for the permanent care and maintenance of such property.

(Ord. No. 31A-181, 9-8-98)

Sec. 24-472. Setback requirements.

(a) *Required perimeter setback from research and technology districts.* For uses permitted in research and technology districts, the following setbacks are required and shall be left in its natural undisturbed state:

- (1) A minimum landscaped setback of 100 feet shall be maintained from the right-of-way of any existing or planned public roads which abut the site; and
- (2) A minimum landscaped setback of 50 feet shall be maintained from all property lines adjoining a different zoning district. Where uses permitted in the research and technology district adjoin an existing residentially zoned district or an A-1 District that is designated low-density residential or rural lands on the Comprehensive Plan, the minimum landscaped setback shall be increased to 100 feet.

(b) *Lesser perimeter setback requirements for research and technology districts; criteria for determination.* The development review committee may recommend approval of a reduction in the perimeter setback as specified in section 24-472 (a) (2) only if the following criteria are met:

- (1) The proposed setback, by substitution of technique or design, will achieve results which clearly satisfy the overall purposes and intent of the setback requirements of this section and the intent of section 24-86 (Landscaping and Tree Preservation Requirements);
- (2) The proposed setback shall have no additional adverse impact on adjacent properties or public areas;
- (3) The proposed setback will not result in detrimental impacts to the orderly development or character of the area, the environment, sound engineering or planning practice, or the goals, objectives, strategies and policies of the Comprehensive Plan; and
- (4) The setback serves to minimize the visual intrusion and other negative impacts of new development or redevelopment on adjacent development.

(c) *Location of structures.* Structures shall be located 50 feet or more 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 75 feet or more from the center line of the street. The minimum setback of any portion of a structure which is in excess of 35 feet in height shall be increased one foot for each two feet of the structure's height in excess of 35 feet.

(d) *Lesser setback requirements for research and technology area internal to research and technology districts; criteria for determination.* The development review committee may recommend approval of a setback of less than 50 feet as specified in section 24-472 (c) above, for those areas of a research and technology district that are internal to a research and technology district. A setback reduction may be eligible for review by the development review committee only if the following criteria are met:

- (1) The proposed setback, by substitution of technique or design, will achieve results which clearly satisfy the overall purposes and intent of the setback requirement of this section and the intent of section 24-86 (Landscaping and Tree Preservation Requirements);
- (2) The proposed setback shall have no additional adverse impact on adjacent properties or public areas; and
- (3) The proposed setback will not result in detrimental impacts to the orderly development or character of the area, the environment, sound engineering or planning practice, or the goals, objectives, strategies and policies of the Comprehensive Plan.

The development review committee may recommend approval of a reduction to section 24-472 (c) upon finding that one or more of the following criteria are met:

- (i) The proposed setback meets the intent of the master plan and is in keeping with the overall character of development that encourages open space; or
- (ii) The proposed setback is for the purpose of integrating proposed research and technology development with adjacent development; or
- (iii) The proposed setback substantially preserves, enhances, integrates and complements existing trees and topography; or
- (iv) The proposed setback is due to unusual size, topography, shape or location of the property, or other unusual conditions, excluding the proprietary interests of the developer.

(e) *Requests for modifications.* Requests for modifications to the setbacks as specified in sections 24-472 (a) and (c) shall be filed in writing with the planning director and shall identify the reasons for such requests together with the proposed alternative. The planning director shall make a recommendation to the development review committee to approve, deny or conditionally approve the request and shall include a written statement certifying that one or more of the above criteria are met.

(f) *No minimum lot size or yard requirements.* Except for required setbacks as stated in this section, there shall be no minimum lot size nor minimum side or rear yard requirements for any lot within a research and technology district other than as specified in approved development plans.

(g) *Uses prohibited.* Landscape setbacks shall not be used for streets or for parking except for entrances and driveways which may cross the setback at a perpendicular or near perpendicular angle as possible. (Ord. No. 31A-144, 6-1-92; Ord. No. 31A-181, 9-8-98)

Sec. 24-473. Height limits and height limitation waivers.

(a) Structures may be erected up to 60 feet in height from grade to the top of the structure. Camouflaged wireless communications facilities may be erected to a total height of 120 feet from grade. Structures in excess of 60 feet in height from grade to the top of the structure may be erected only upon the granting of a height limitation waiver by the board of supervisors.

(b) Water towers, chimneys, flues, flagpoles, communication antennae, mechanical penthouse, electrical, plumbing, elevator, parapet walls or other accessory mechanical functions which are part of or on top of a main structure shall be considered part of the structure.

(c) Upon application for a height limitation waiver, the payment of appropriate fees, notification of adjacent property owners and following a public hearing, the board of supervisors may grant a height limitation waiver upon finding that:

- (1) Additional setbacks have been provided as required by section 24-472(c); however, the board may waive additional setbacks in excess of 60 feet;
- (2) Such structure will not obstruct light from adjacent property;
- (3) Such structure will not impair the enjoyment of historic attractions and areas of significant historic interest and surrounding developments;
- (4) Such structures will not impair property values in the area;
- (5) Such structure is adequately designed and served from the standpoint of safety and that the county fire chief finds the fire safety equipment to be installed is adequately designed and that the structure is reasonably well located in relation to fire stations and equipment, so as to offer adequate protection to life and property; and
- (6) Such structures will not be contrary to the public health, safety and general welfare.

(Ord. No. 31A-144, 6-1-92; Ord. No. 31A-166, 1-23-96; Ord. No. 31A-176, 5-26-98; Ord. No. 31A-181, 9-8-98)

Sec. 24-474. Sign regulations and parking requirements.

(a) To assure an appearance and condition which is consistent with the purposes of the Research and Technology District, RT, outdoor signs on the properties within the district shall comply with the regulations for exterior signs in article II, division 3 of this chapter.

(b) Off-street parking and off-street loading shall be provided as required in sections 24-53 and 24-54. (Ord. No. 31A-144, 6-1-92; Ord. No. 31A-181, 9-8-98)

Sec. 24-475. Utilities.

(a) All development shall be served by public water and sewer.

(b) The location of all utilities and utility easements shall be shown on the site plans and be approved as per article III, Site Plan of this chapter.

(Ord. No. 31A-144, 6-1-92; Ord. No. 31A-181, 9-8-98)

Sec. 24-476. Site plan review.

All structures or complexes of structures erected, altered or restored within the district shall be subject to Site Plan Review in accordance with article III of this chapter.

(Ord. No. 31A-144, 6-1-92; Ord. No. 31A-181, 9-8-98)

Secs. 24-477 - 24-481. Reserved.

Chapter 24

ARTICLE V. DISTRICTS

DIVISION 14. PLANNED UNIT DEVELOPMENT DISTRICTS

Sec. 24-482. Statement of intent.

The purpose of the planned unit development district is to promote efficient use of land, allow flexible application of development controls, allow various densities and land uses, protect surrounding property and protect the natural features and scenic beauty of the land. This shall be accomplished by permitting a wider range of densities and uses to be developed in accordance with a master plan which allows for clustering of uses or densities in various areas of the site.

(Ord. No. 31A-88, § 20-139, 4-8-85)

Sec. 24-483. Designation of zoning district.

Planned unit development districts shall be categorized as either residential (PUD-R) or commercial (PUD-C), and upon approval of the master plan by the board of supervisors, this designation shall be the zoning district of the parcel.

(Ord. No. 31A-88, § 20-140, 4-8-85)

Sec. 24-484. Documents required for submission.

(a) *Required documents.* The applicant shall submit the following documents to the zoning administrator for submission to the planning commission:

- (1) Application for rezoning.
- (2) Master plan, 30 copies, ten submitted with application for rezoning with balance of required copies submitted at the request of staff in preparation for planning commission review.
- (3) Community impact statement, for any planned unit development containing 50 or more acres or comprising 200 or more dwelling units, 30 copies, ten submitted with application for rezoning with balance of required copies submitted at the request of staff in preparation for planning commission review.

(b) *Master plan.* The master plan shall be prepared by a licensed surveyor, engineer, architect, landscape architect or planner. A scale may be used so that the entire parcel can be shown on one piece of paper no larger than 30 inches by 48 inches. It shall include:

- (1) An inset map at a scale of not less than one inch to one mile showing the property in relation to surrounding roads, subdivisions or major landmarks.
- (2) A north arrow.

- (3) The location of existing property lines, watercourses or lakes, wooded areas and existing roads which are within or adjoin the property.
- (4) The approximate boundaries of each section, land use or density, the approximate location of proposed streets and right-of-ways with an indication of whether public or private; the approximate location of recreation areas and common open space areas; and all areas proposed for dedication to public use within the project. Common open space shall be located so as to enhance the living environment of the proposed development. Generally this shall mean that the common open space shall be distributed throughout the site in moderate-sized, concentrated, contiguous areas and not aggregated in large areas that provide little or no benefit to the individual uses or the development at large.

Each section or area of the master plan shall be designated as follows:

<u>Area Designations</u>	<u>Type of Development</u>
A	Single-family
B	Attached structures containing two to four dwelling units
C	Attached structures less than three stories and containing more than four dwelling units
D	Attached structures of three or more stories and containing more than four dwelling units
E	Commercial uses
F	Wholesale and warehouse uses
G	Office uses
H	Light industrial uses
I	Institutional or public uses
J	Areas of common open space, with recreation areas noted

For purposes of this article, the term "common open space area" shall refer to any tract of land intended to be used in common primarily by residents of the planned unit development.

- (5) As marginal data it shall contain a table which shows, for each section or area of different uses, the following:
 - a. The use;
 - b. Approximate development phasing;
 - c. Maximum number of dwelling units and density for residential areas, maximum square feet of floor space for commercial or industrial areas; and
 - d. Maximum acreage of each use.

- (6) Schematic plans which shall indicate the phasing of development and master water, sewer and drainage plans.
 - (7) A statement satisfactory to the county attorney on the guarantees and assurances to be provided for the maintenance of common open space, recreation areas, sidewalks, parking, private streets, and other privately owned but common facilities serving the project.
 - (c) *Community impact statement.* The community impact statement shall describe the probable effects of the proposed development upon the community. At a minimum, it shall address the following topics:
 - (1) Adequacy of existing public facilities and services to serve the development. Analysis shall be made of sewer, water, schools, fire stations and other major locally financed facilities.
 - (2) Additional on-site and off-site public facilities or services which would be required as a result of the development.
 - (3) A traffic impact study shall be prepared by an individual or firm qualified to conduct traffic engineering studies in a manner and form acceptable to the planning director. Such study shall address projected traffic generation, internal and external traffic, turning movements and distribution at each access point, traffic distribution, capacity of surrounding roads, and road and access improvements.
 - (4) Fiscal impact of the proposed project, such as estimated revenues to be generated versus the cost of public improvements to be financed by the county or the state. Such study shall be prepared by an individual or firm qualified to conduct a fiscal impact analysis in a manner and form acceptable to the planning director.
 - (5) Impact of construction and permanent changes in land use upon surrounding property, such as aesthetics, vegetation, stormwater drainage, noise and air or water pollution.
 - (6) Employment opportunities to be generated by the development.
- (Ord. No. 31A-88, § 20-141, 4-8-85; Ord. No. 31A-89, 9-9-85; Ord. No. 31A-145, 7-6-92; Ord. No. 31A-193, 5-25-99)

Sec. 24-485. Master plan-Administrative review fees.

Submittal of a master plan and subsequent revisions proposed by the applicant to the planning commission shall be accompanied by a fee as specified in section 24-7.
(Ord. No. 31A-88, § 20-141.1, 4-8-85)

Sec. 24-486. Procedures.

(a) *Report of the planning director.* The planning director may refer copies of the master plan and community impact statement to other local public officials for their comments. Within 30 working days of the receipt of the application and accompanying documents, the planning director shall prepare a report with recommendations regarding the application. A copy of the report shall be sent to the applicant. The application, master plan, community impact statement and report of the planning director shall be placed on the agenda of the planning commission at its next regularly scheduled meeting.

The report of the planning director shall include, but not necessarily be limited to, the following:

- (1) Evaluation of the proposed density and uses at the site in relation to the county's Comprehensive Plan.
- (2) Evaluation and recommended changes in the design of land use, circulation and densities shown on the master plan of the property.
- (3) Impact of the proposal on surrounding property and the environment.
- (4) Evaluation of the fiscal impacts of the proposal and the proposed financing of required improvements.
- (5) Recommendations regarding the dedication of property or facilities for public use.
- (6) Final recommendations regarding approval of the application and master plan or changes which are necessary.

(b) *Consideration by the planning commission and board of supervisor.* The procedures for public hearing and consideration by the planning commission and board of supervisors shall be as set forth in section 24-13. The board of supervisors, if it approves the master plan, may impose conditions to such approval.

Upon approval of the master plan by the board of supervisors, the planned unit development district is deemed established. Thereafter, all amendments to the master plan shall be in accord with section 24-13 of this chapter. The master plan shall guide the general location of all features shown therein, including land uses, densities, roads, public uses and other features. Approved final plans, provided for in section 24-487, shall supersede the master plan and schematic plans. The zoning administrator shall not issue any certificate of occupancy until the applicant has guaranteed the completion of public improvements, including, but not limited to, public roads, public water and public sewer facilities, shown on the final plan by providing either a letter of credit, certified check, cash escrow, cash payment or other surety, approved by the county attorney. (Ord. No. 31A-88, § 20-142, 4-8-85; Ord. No. 31A-93, 12-2-85; Ord. No. 31A-145, 7-6-92)

Sec. 24-487. Relationship of final plans to master plan.

Following the establishment of a planned unit development district and approval of the board of supervisors of a master plan, the applicant may furnish to the planning commission seven copies of a final plan of any part or section of the community shown on the master plan. The term "final plan" shall mean site plan or subdivision plat. Final plans shall be submitted for review in accord with article III of this chapter or the county's subdivision ordinance. The final plans shall be consistent with the master plan as approved, but may alter to any degree which the planning commission believes does not alter the basic concept or character of the development. The planning commission may make this determination using conceptual preliminary plans. If the variations are approved at the conceptual preliminary plan level, final plans shall be consistent with the variations approved by the planning commission. (Ord. No. 31A-88, § 20-142.1, 4-8-85; Ord. No. 31A-112, 2-6-89; Ord. No. 31A-193, 5-25-99)

Sec. 24-488. Final plans-Contents.

Where land is to be subdivided within the district, the final plan shall comply with the county's subdivision ordinance. Where land is not to be subdivided within the district, final plans shall comply with article III of this chapter. All final plans shall show the different types of open areas and other public or community amenities, and proposed use of all buildings and of all areas dedicated for public or private common use. (Ord. No. 31A-88, § 20-142.2, 4-8-85)

Sec. 24-489. Same-Administrative review fee.

Submittals of a site plan or preliminary subdivision plat implementing any portion of an approved master plan shall be accompanied by a fee in accord with section 24-7 or section 19-15. (Ord. No. 31A-88, § 20-142.3, 4-8-85; Ord. No. 31A-130, 5-6-91)

Sec. 24-490. Same-Action.

Final plans submitted pursuant to section 24-487 shall be approved or disapproved in accordance with article III of this chapter or in accordance with the county's subdivision ordinance. (Ord. No. 31A-88, § 20-142.4, 4-8-85)

Sec. 24-491. Minimum area of districts.

Planned unit development districts shall be located on a single parcel of land or separate but contiguous parcels which are under one ownership or control and which shall total not less than five acres. (Ord. No. 31A-88, § 20-143, 4-8-85)

Sec. 24-492. Density.

The gross density of the net developable area of the planned unit development shall not exceed the maximum density suggested by the Comprehensive Plan and in no case shall exceed four dwelling units per acre. The number of dwelling units which may be constructed in any area designation shall be determined by the number of net developable acres at the site and the use proposed. The net developable acres shall equal the total land area of the site minus stream beds, areas subject to flooding, marsh and areas with slopes exceeding a 25 percent gradient. The number of units which may be constructed are:

<i>Area Designation</i>	<i>Dwelling Type</i>	<i>Maximum Density (Dwelling Units Per Acre)</i>
A	Single-family	4
B	Attached structures containing two to four dwelling units, or townhouses	9.6
C	Attached structures less than three stories and containing more than four dwelling units	12

D

Attached structures of three stories
or more and containing more than four
dwelling units

18

(Ord. No. 31A-88, § 20-143.1, 4-8-85; Ord. No. 31A-89, 9-9-85; Ord. No. 31A-102, 6-1-87; Ord. No. 31A-113, 4-3-89; Ord. No. 31A-145, 7-6-92)

Sec. 24-493. Adequacy of public facilities and roads.

Planned unit development districts shall be so located and developed that they will not exceed the capacity of the adjacent roads which will serve the property or the capacity of public sewer and water systems in the event connections to them are proposed, unless the applicant shall dedicate right-of-way, contribute to the construction of new facilities or create such facilities to the extent of his fair share of such as the percentage of his land developed and so served. The rate of development shall not exceed the rate of construction and increasing capacity of the limiting facility.

(Ord. No. 31A-88, § 20-144, 4-8-85)

Sec. 24-494. Open space.

(a) Thirty-five percent of the gross area of any planned unit development district shall be retained in open space. This may include common open areas, perimeter open space, buffers between various uses or densities, public open space, recreation areas, easements, areas of excessive slopes, low lying areas, marshes or historic sites or other features which will enhance the value of the site, reduce adverse impacts and otherwise be an asset to the community. For the purposes of this article, the term "open space" shall exclude open space in the private yards of individual dwelling units.

(b) Common open space areas shall be protected by assurances, satisfactory to the county attorney, that set forth the provisions made for the permanent care and maintenance of such property. Easements or covenants shall establish the rights of two abutting properties where main buildings are to be constructed on or within five feet of a property line. Such easements or covenants shall establish the rights of each affected owner to gain access to each owner's building for purposes of essential maintenance and service.

(Ord. No. 31A-88, § 20-145, 4-8-85)

Sec. 24-495. Addition of land to an existing planned unit development.

Additional land area may be added to an existing planned unit development if it is adjacent to (except for public roads), forms a logical addition to and if the addition will come under common ownership or control as the original parcel. The procedure for an addition shall be the same as if an original application were filed, and the requirements of this article shall apply, except the minimum acreage requirement.

(Ord. No. 31A-88, § 20-147, 4-8-85; Ord. No. 31A-145, 7-6-92; Ord. No. 31A-193, 5-25-99)

Sec. 24-496. Height and spacing of structures.

(a) Structures may be erected up to 60 feet in height from grade to the top of the structure, including all church spires, belfries, cupolas, athletic field lighting, monuments, flagpoles, penthouse, electrical, plumbing, elevator, water tank or other accessory functions which are part of the structure and

accessory and nonaccessory wireless communications facilities that utilize alternative mounting structures or are building mounted in accordance with division 6, Wireless Communications Facilities. Camouflaged wireless communications facilities may be erected to a total height of 120 feet from grade.

- (b) A structure in excess of 60 feet in height but not in excess of 100 feet from grade to the top of the structure, including all church spires, belfries, cupolas, athletic field lighting, monuments, flagpoles, penthouse, electrical, plumbing, elevator, water tank, radio, television, and microwave antennas and towers or other accessory functions, and accessory and nonaccessory wireless communications facilities that utilize alternative mounting structures or are building mounted in accordance with division 6, Wireless Communications facilities in excess of 60 feet in height but not in excess of the maximum approved height of the structure to which it is mounted, may be erected only upon the granting of a height limitation waiver by the board of supervisors.

Upon application for a height limitation waiver, the payment of appropriate fees, notification of adjacent property owners and following a public hearing, the board of supervisors may grant a height limitation waiver upon finding that:

- (1) Such structure is in accordance with the uses, densities, design and traffic analysis shown on the original master plan;
 - (2) Such structure will not obstruct light from adjacent property;
 - (3) Such structure will not impair the enjoyment of historic attractions and areas of significant historic interest and surrounding developments;
 - (4) Such structure will not impair property values in the surrounding area;
 - (5) 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
 - (6) Such structure would not be contrary to the public health, safety or general welfare.
- (Ord. No. 31A-88, § 20-148, 4-8-85; Ord. No. 31A-89, 9-9-85; Ord. No. 31A-145, 7-6-92; 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)

Sec. 24-497. Requirements for improvements and design.

- (a) *Water and sewer.* Except as set forth herein, all structures and uses within a planned unit development district shall be served by public water and public sewage systems. Extensions and expansions of public utilities to serve the development shall be governed by the regulations and policies governing service of the appropriate public agency. Nonresidential structures and uses may be permitted to temporarily operate on individual well and septic systems provided the following conditions are met:
 - (1) The structure or use shall not be within the minimum connection distance for public utilities as determined by the James City Service Authority;

- (2) Individual wells shall be approved by the health department and the director of code compliance prior to preliminary site plan approval;
 - (3) Individual septic tank systems shall be approved by the health department prior to preliminary site plan approval;
 - (4) The structure or use shall connect to public utilities within thirty days of the date that such facilities are constructed within the minimum connection distance for public utilities as determined by the James City Service Authority;
 - (5) Extensions and/or expansions of public water and/or sewer to serve the structure or use are being planned or constructed by the developer or the appropriate public agency. Such extensions and/or expansions shall be within the minimum connection distance for public utilities as determined by the James City Service Authority. If such extensions and/or expansions are being planned and constructed by the developer, their construction shall be guaranteed by surety, letter of credit, cash escrow or other form of guaranty approved by the county attorney;
 - (6) The fire marshal of James City County shall determine that there is adequate fire protection for the proposed structure or use; and
 - (7) The foregoing notwithstanding, the structure or use shall connect to public utilities within three years from the date of final site plan approval.
- (b) *Recreation areas.* Areas on the master plan designated as A (single-family detached), B (attached structures containing two to four dwelling units), C (attached structures less than three stories) or D (attached structures of three or more stories) shall be provided with a recreation area or areas. The developer shall provide and install playground equipment, playfields, tennis courts or other recreation facilities prior to the issuance of certificates of occupancy. Such facilities shall be owned and maintained by the developer or a residents' association.
 - (c) *Parking.* Off-street parking facilities shall be provided in accordance with the off-street parking requirements of section 24-53.
 - (d) *Street.* All streets shall meet the requirements of the Virginia Department of Transportation or the requirements of the county subdivision regulations, whichever is greater. Such streets shall be coordinated with the major transportation network shown in the county Comprehensive Plan. The construction of streets, whether public or private, shall be guaranteed by appropriate surety, letter of credit, cash escrow or other form of guarantee approved by the county attorney and environmental director. Private streets may be permitted upon the approval of the board of supervisors.
 - (e) *Fire hydrants.* Fire hydrants shall be at locations and of types approved by the service authority and county fire chief. No structure within the district shall generally be further than 400 feet from a hydrant.
 - (f) *Streetlights.* Streetlights shall generally be provided at each intersection and adequately spaced in parking lots and other public areas. The lighting shall be directed so as not to produce objectionable glare on adjacent property or into residences within or near the development. No lighting fixture shall

exceed a height of 15 feet within residential areas of a planned unit development district nor 30 feet in commercial or industrial areas.

- (g) *Drainage facilities.* Facilities for the adequate control of stormwater drainage and erosion and sedimentation shall be provided in accordance with the *Virginia Erosion and Sediment Control Handbook* and the *Virginia Department of Transportation Drainage Manual*.
- (h) *Natural features and amenities.* Existing features which would add value to the residential development or to the county as a whole, such as trees, watercourses, historical sites and similar irreplaceable assets, shall be preserved to the maximum extent possible.
- (i) *Signs.* To assure an appearance and condition which is consistent with the purposes of the planned unit development district, outdoor signs on the properties within the district shall comply with the regulations for exterior signs in article II, division 3 of this chapter, except that unique signing systems may be approved by the planning commission where such sign systems contribute significantly to the character of the planned community. However, in no case shall the sign's square foot size exceed the maximum allowed in article II, division 3 of this chapter.

(Ord. No. 31A-88, § 20-149, 4-8-85; Ord. No. 31A-105, 2-22-88; Ord. No. 31A-123, 7-2-90; Ord. No. 31A-145, 7-6-92; Ord. No. 31A-161, 5-1-95; Ord. No. 31A-193, 5-25-99)

Sec. 24-498. Setback requirements and yard regulations.

- (a) *Peripheral setbacks.* Any planned unit development, PUD, district approved under this article, shall adhere to the following setback requirements:
 - (1) Residential.
 - a. *Perimeter setbacks.* For residential uses a minimum landscape setback of 50 feet shall be maintained from all property lines adjoining a different zoning district which abut the site. Where attached structures in a PUD-R District adjoin an existing R-1, R-2 or R-6 District, or an A-1 or R-8 District that is designated low-density residential or rural lands on the Comprehensive Plan, the minimum setback shall be 75 feet.
 - b. *Right-of-way buffer setbacks.* For residential uses, 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 external 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 external 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.
- c. *Waiver provisions.* In instances where properties have more than a 300-foot average depth and are located along a Community Character Corridor, the planning commission may reduce the buffer depth requirements of this section for residential developments when:
1. 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 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 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 allowable within buffers.* An entrance road, community and directional signage, bicycle and/or pedestrian paths, and utility connections and drainage improvements shall be permitted within the buffer with approval of the planning 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 the views of structures within the development from the adjoining primary or secondary road as determined by the planning commission.
- (2) *Commercial.* For commercial uses a minimum landscape setback of 75 feet shall be maintained from all property lines adjoining a different zoning district which abut the site and/or existing or planned public roads or properties that are peripheral to the planned unit development district.
- (3) *Industrial, public or institutional uses.* For industrial, public or institutional uses a minimum landscaped setback of 100 feet shall be maintained from all property lines adjoining a different zoning district which abut the site and/or existing or planned public roads or properties that are peripheral to the planned unit development district. Where industrial structures adjoin an existing residentially zoned district or an A-1 District that is designated low-density residential or rural lands on the Comprehensive Plan, the minimum landscaped setback shall be increased to 125 feet.
- (b) *Internal setback requirements for industrial uses.* A minimum setback of 50 feet shall be required from streets which are internal to the site for any industrial structure.
 - (c) *Yard regulations.* Except for setbacks specified in section 24-498 (a) and (b) above, there shall be no minimum lot size nor minimum front, side or rear yard requirements for any lot within a planned unit development district other than as specified in approved final plans.
 - (d) *Parking restrictions in setbacks.* Landscape setbacks shall not be used for streets or for parking except for entrances which may penetrate the setback.
- (Ord. No. 31A-88, § 20-150, 4-8-85; Ord. No. 31A-123, 7-2-90; Ord. No. 31A-145, 7-6-92; Ord. No. 31A-193, 5-25-99)

Sec. 24-499. Permitted uses.

- (a) In the planned unit development district, residential (PUD-R), all structures to be erected or land to be used shall be for the following uses:

- (1) Residential uses:

Accessory buildings or structures, as defined.

Apartments.

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

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

Fire stations.

Golf courses, country clubs.

Houses of worship.

Marinas, docks piers, boat basins and waterfront activities; if fuel is sold, then in accordance with section 24-38.

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

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

Restaurants which are accessory to permitted private clubs and marinas.

Retail shops associated with community recreation facilities.

Schools.

Single-family dwellings.

Telephone exchanges and telephone switching stations.

Timbering in accordance with section 24-43.

Townhouses.

Two-family dwellings.

- (2) Commercial uses:

Automotive service stations, with major repair in a fully enclosed building, or retail sale of automotive accessory items; if fuel is sold, then in accordance with section 24-38.

Banks and other similar financial institutions.

Barber and beauty shops.

Business and professional offices.

Drug stores.

Dry cleaners and laundries.

Fire stations.

Funeral homes.

Houses of worship.

Indoor theaters.

Libraries.

Medical clinics or offices.

Motels, hotels and resort facilities.

Museums.

Photography studios and sales, artist and sculptor studios, arts and crafts and handicraft shops, antique shops, reproduction and gift shops.

Plants and garden supply, hardware and paint, and home appliance sales and service, with storage in a fully enclosed building.

Post offices.

Public meeting halls.

Public utilities.

Radio and television stations.

Restaurants, tea rooms and taverns.

Retail and service stores, including the following stores: books, candy, carpet, coin, department, dressmaking, florist, furniture, furrier, greeting card, ice cream, jewelry sales and service, locksmith, music and records, pet, picture framing, shoe, sporting goods, stamp, tailor, tobacco and pipes, toys, travel bureau, upholstery, wearing apparel and yard goods.

Retail food stores, bakeries, fish markets.

Schools.

Telephone exchanges and telephone switching stations.

Timbering in accordance with section 24-43.

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

(b) In the planned unit development district, commercial (PUD-C), all structures to be erected or land to be used shall be for one or more of the following uses:

(1) Commercial uses: Same as paragraph (2) of subsection (a) above.

(2) Light industrial uses:

Printing and publishing.

Processing, assembly and manufacture of light industrial products or components, with all storage, processing, assembly and manufacture conducted in a fully enclosed building, with no dust, noise, odor or other objectionable effect.

Research, design and development facilities or laboratories.

Wholesale and warehousing, with storage in a fully enclosed building.

(3) Theme parks.

(4) Apartments, townhouses and condominiums.

(5) Private streets within "qualifying industrial parks" in accordance with section 24-55.

(6) Golf courses.

(c) In the planned unit development district, residential (PUD-R) or commercial (PUD-C), all structures to be erected or land to be used for the following uses shall be permitted only after the issuance of a special use permit by the board of supervisors.

(1) Tower mounted wireless communication facilities in accordance with division 6, Wireless Communications Facilities.

(2) Water facilities (public) and sewer facilities (public), including but not limited to, treatment plants, pumping stations, storage facilities and transmission mains, wells and associated equipment such as pumps to be owned and operated by political jurisdictions. However, the following are permitted generally and shall not require a special use permit.

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.
(Ord. No. 31A-88, § 20-151, 4-8-85; Ord. No. 31A-89, 9-9-85; Ord. No. 31A-100, 4-6-87; Ord. No. 31A-102, 6-1-87; Ord. No. 31A-145, 7-6-92; Ord. No. 31A-150, 4-5-93; Ord. No. 31A-167, 3-26-96; Ord. No. 31A-176, 5-26-98; Ord. No. 31A-193, 5-25-99; Ord. No. 31A-206, 6-26-01; Ord. No. 31A-216, 2-22-05)

Sec. 24-500. Access points.

All commercial and light industrial areas within the district shall have safe and convenient access onto a collector street or major thoroughfare. Turning lanes of sufficient length may be required to be built and dedicated by the developer.

(Ord. No. 31A-88, § 20-151.1, 4-8-85; Ord. No. 31A-145, 7-6-92)

Sec. 24-501. Requirements for commercial uses in the PUD-R District.

If commercial uses specified in section 24-499(a)(2) are included within the district, they shall be located in well-planned commercial areas and so designated on the master plan. In a PUD-R, the commercial area or areas with accompanying parking shall not exceed a total of 30 percent of the gross area of the district. The size and scale of commercial uses shall be compatible with surrounding residential areas.

(Ord. No. 31A-88, § 20-152, 4-8-85; Ord. No. 31A-145, 7-6-92; Ord. No. 31A-193, 5-25-99)

Sec. 24-502. Requirements for light industrial uses in the PUD-C District.

If light industrial uses specified in section 24-499(b)(2) above are included within the district, they shall be located in well planned light industrial areas and so designated on the master plan. All light industrial activities shall be of a nature and so conducted that the effects of noise, dust, light or odor shall not extend beyond the limits of the light industrial area of the district.

(Ord. No. 31A-88, § 20-152.1, 4-8-85; Ord. No. 31A-145, 7-6-92; Ord. No. 31A-193, 5-25-99)

Secs. 24-503 - 24-513. Reserved.

Chapter 24

ARTICLE V. DISTRICTS

DIVISION 15. MIXED USE, MU

Sec. 24-514. Statement of intent.

(a) The purpose of the mixed use district is to promote a broad spectrum of land uses in more intensive developments on lands designated mixed use by the Comprehensive Plan. The mixed use district is designed to:

- (1) Promote a multiuse master-planned community which may include residential, commercial, industrial (with a predominant focus on light industrial), office and other nonresidential uses;
- (2) Provide flexibility, unity and diversity in land planning and development resulting in convenient and harmonious groupings of uses, structures and common facilities; varied type, design and layout of residential, employment and social centers; and appropriate relationships of open spaces to intended uses and structures which include attractive and usable open space linked by pedestrian walkways and/or bicycle paths;
- (3) Reduce commuter driver demands on highways and roads by concentrating employment, housing and recreation opportunities in locations served by, or convenient to, public transportation; and
- (4) Permit densities and intensities of development in excess of those normally permitted in customary residential and commercial zoning districts.

(b) This shall be accomplished by providing for the development and redevelopment of a variety of land uses within the mixed use district and in structures within the Mixed Use District in accordance with the uses generally described in the Comprehensive Plan for areas designated mixed use. The mixed use district is the preferred Zoning District for development within those areas designated Mixed Use in the Comprehensive Plan.

(Ord. No. 31A-141, 5-4-92; Ord. No. 31A-184, 12-8-98)

Sec. 24-515. Documents required for submission.

(a) *Required documents.* The applicant shall submit the following documents to the planning director for submission to the planning commission:

- (1) Application for rezoning.
- (2) Traffic impact study for any development containing a use or combination of uses which generates, or would be expected to generate, 150 or more additional trips per day to and from the site during peak hour of operation based on the application of the Institute of Transportation Engineers (ITE) traffic generation rates contained in the latest edition of their book entitled Trip Generation. The traffic impact study shall address projected traffic generation, internal and external traffic, turning movements and distribution at each access point, traffic distribution, capacity of surrounding roads,

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and roads and access improvements. The traffic impact study shall conform to the standards of the Virginia Department of Transportation and be prepared by an individual or firm qualified to conduct traffic engineering studies in a manner and form acceptable to the planning director.

- (3) Master plan, 30 copies, ten submitted with application for rezoning with balance of required copies submitted at the request of staff in preparation for planning commission review. Master plans shall not be required as part of an application for rezoning a parcel when the proposed use for the parcel is a structure or combination of structures whose total floor area is less than 20,000 square feet.

The planning director may waive the master plan submittal requirement for a proposed development consisting of a single use structure if the applicant can demonstrate that a master plan would not be beneficial to a review of the impacts associated with the proposed development.

- (4) Community impact statement, for any Mixed Use development containing 50 or more acres or comprising 200 or more dwelling units, 30 copies, ten submitted with application for rezoning with balance of required copies submitted at the request of staff in preparation for planning commission review.

(b) *Master plan.* The master plan shall be prepared by a licensed surveyor, engineer, architect, landscape architect or planner. A scale may be used so that the entire parcel can be shown on one piece of paper no larger than 36 inches by 48 inches. The master plan shall include:

- (1) An inset map at a scale of not less than one inch to one mile (1" = 1 mile), showing the property in relation to surrounding roads, subdivisions or major landmarks.
- (2) A north arrow.
- (3) The location of existing property lines, watercourses or lakes, wooded areas and existing roads which are within, adjoin or provide access to the property.
- (4) The approximate boundaries of each section, land-use or density, the approximate location of proposed streets and right-of-ways with an indication of whether public or private; the approximate location of recreation areas and common open space areas; and all areas proposed for dedication to public use within the project.

Each section or area of the master plan shall be designated as follows:

<u>Area Designation</u>	<u>Type of Development</u>
A	Single-family dwelling units
B	Attached structures containing two to four dwelling units
C	Attached structures less than three stories and containing more than four dwelling units
D	Attached structures of three or more stories and containing more than four dwelling units
E	Commercial uses
F	Wholesale and warehouse uses
G	Office Uses

H	Industrial uses
I	Institutional or public uses
J	Areas of common open space, with recreation areas noted
M*	Structures containing a mixture of uses
X	Other structures, facilities or amenities

*Areas of a master plan designated M (structures containing a mixture of uses) shall indicate in parenthesis, following the M designation, the appropriate letter designations of the types of uses contained within the structure (e.g., M (CG)) in the order of their proportion in the mixed use structure.

- (5) Where applicable, the master plan shall contain a table which shows, for each section or area of different uses, the following:
- a. The use;
 - b. Approximate development phasing;
 - c. Maximum number of dwelling units and density for residential areas;
 - d. Maximum square feet of floor space for commercial, office or industrial areas;
 - e. Maximum square feet of floor space and percentage mix of floor space of each use for those structures containing a mixture of uses; and
 - f. Maximum acreage of each use.

The master plan shall depict and bind the approximate boundaries and general location of all principal land uses, structure square footage, number of dwelling units and densities, roads, right-of-ways, accesses, open spaces, public uses and other features located or to be located on the site. The master plan shall be reviewed and upon approval by the board of supervisors shall become binding. Thereafter, all amendments to the master plan shall be in accordance with section 24-13 of this chapter. Approved development plans, provided for in section 24-518, shall supersede the master plan and conceptual or schematic plans.

(c) *Community impact statement.* The community impact statement shall describe the probable effects of the proposed development upon the community. At a minimum, it shall address the following topics:

- (1) Adequacy of existing public facilities and services to serve the development. Analysis shall be made of sewer, water, schools, fire stations and other major locally financed facilities;
 - (2) Additional on-site and off-site public facilities or services which would be required as a result of the development;
 - (3) Impact of construction and permanent changes in land use upon surrounding property, such as aesthetics, vegetation, stormwater drainage, noise and air or water pollution; and
 - (4) Employment opportunities to be generated by the development.
- (Ord. No. 31A-141, 5-4-92)

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Sec. 24-516. Master plan-Administrative review fees.

Submittal of a master plan and subsequent revisions proposed by the applicant to the planning commission shall be accompanied by a fee as specified in section 24-7.

(Ord. No. 31A-141, 5-4-92)

Sec. 24-517. Procedures.

(a) *Report of the planning director.* The planning director may refer copies of the master plan and community impact statement to other local public officials for their comments and the planning director shall prepare a report with recommendations regarding the application. A copy of the report shall be sent to the applicant. When all materials necessary for application are complete and the application is deemed ready for planning commission review, the application, master plan, community impact statement and report of the planning director shall be placed on the agenda of the planning commission at its next regularly scheduled meeting.

The report of the planning director shall include, but not necessarily be limited to, the following;

- (1) Evaluation of the proposed density and uses at the site in relation to the county's Comprehensive Plan;
- (2) Evaluation and recommended changes in the design of land use, circulation and densities shown on the master plan of the property;
- (3) Impact of the proposal on surrounding property and the environment; and
- (4) Evaluation of the traffic impact study and community impact statement.

(b) *Consideration by the planning commission and board of supervisors.* The procedures for public hearing and consideration by the planning commission and board of supervisors shall be as set forth in section 24-13.

(c) *Guarantees.* The director of code compliance shall not issue any certificate of occupancy until the applicant has guaranteed the completion of public improvements, including, but not limited to, public roads and public water and public sewer facilities, shown on the approved development plan by providing either a letter of credit, certified check, cash escrow, cash payment or other surety, approved by the county attorney. (Ord. No. 31A-141, 5-4-92; Ord. No. 31A-184, 12-8-98)

Sec. 24-518. Development plans.

(a) Development plans shall be submitted and reviewed in accordance with article III of this chapter or with the county's subdivision ordinance, whichever is applicable. Development plans may be submitted for review after approval of a master plan by the board of supervisors. All development plans shall be consistent with the master plan. Development plans may deviate from the master plan if the planning commission concludes, after reviewing written comments from the planning director, that the plan does not significantly alter the character of land uses or other features or conflict with any conditions placed on the approval of rezoning. A conceptual plan may be submitted to the planning commission for this purpose in a form sufficient

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to illustrate the proposed deviations. If the planning commission determines that a proposed change would significantly deviate from the approved master plan, the applicant may submit alternative proposed development plans or proceed with amendment of a master plan in accordance with section 24-13.

(b) Documentation satisfactory to the county attorney for the maintenance of common open space, recreation areas, sidewalks, parking, private streets and other privately owned but common facilities serving the project shall be submitted as part of any application for development plan review.
(Ord. No. 31A-141, 5-4-92)

Sec. 24-519. Addition of land to an existing mixed use development.

Additional land area zoned for mixed use may be added to an existing mixed use district if it is adjacent to (except parcels separated by a public or private right-of-way) and forms a logical addition to the original parcel. Up to three additions of land zoned Mixed Use to an existing mixed use district shall be permitted on approval of the development review committee, provided that the acreage of a single addition or sum of additions equal an amount less than or equal to 25 percent of the original development. In no case shall an addition or sum of additions be greater than 25 acres. Applications for more than three additions or an addition greater than 25 acres shall be considered as new applications and comply with the requirements of section 24-13.
(Ord. No. 31A-141, 5-4-92)

Sec. 24-520. Minimum area of districts.

Mixed use districts shall be located on a single parcel of land, or separate but contiguous parcels, which shall total not less than five acres. Mixed use districts may be located on a parcel of less than five acres provided that the purpose of the district is to provide for the development of a mixed use structure or mixed use structures within an area designated Mixed Use in the Comprehensive Plan.
(Ord. No. 31A-141, 5-4-92)

Sec. 24-521. Permitted uses.

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

(1) *Residential uses:*

Accessory structures, as defined in section 24-2.

Apartments.

Multiple-family dwellings.

Single-family dwellings.

Timbering in accordance with section 24-43.

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Townhouses.

Two-family dwellings.

Dwelling units, regardless of structure type, should be clustered or otherwise grouped to maximize the preservation of open space and other aesthetic amenities consistent with the intent of article VI, division 1, Residential Cluster Development.

(2) *Nonresidential uses:*

Accessory structures, as defined in section 24-2.

Adult day care centers.

Antique shops.

Arts and crafts shops.

Automobile rental.

Automobile repair and service including tire, transmission, glass, body and fender, and other automotive products sales (new and/or rebuilt) and service with major repair under cover and storage of parts and vehicle storage screened from adjacent property by landscaping and fencing.

Automobile service stations; if fuel is sold, then in accordance with section 24-38.

Banks and other similar financial institutions.

Barber and beauty shops.

Business, professional and governmental offices.

Child day care centers.

Clubs, public or private, civic or service clubs, country clubs, lodges and fraternal organizations.

Community recreation facilities, public or private, including parks, playgrounds, clubhouses, boating facilities, swimming pools, ball fields, tennis courts and other similar recreation facilities.

Contractor offices, equipment storage yards, shops and warehouses with storage under cover or screened with landscaping and fencing from adjacent property.

Convenience stores; if fuel is sold, then in accordance with section 24-38.

Data processing centers.

Drug stores.

Dry cleaners and laundries.

Employment services or agencies.

Family care homes, foster homes or group homes serving physically handicapped, mentally ill, mentally retarded or other developmentally disabled persons, for more than five persons.

Farmer's markets.

Feed, seed and farm supply stores.

Fire stations.

Fish farming.

Food processing and storage, but not the slaughter of animals.

Funeral homes, cemeteries and memorial gardens.

Gift stores.

Greenhouses and nurseries.

Group quarters for agricultural workers.

Handicrafts stores.

Health clubs, exercise clubs and fitness centers.

Heavy equipment sales and service, with major repair under cover or screened with landscaping and fencing from adjacent property.

Home care facilities.

Home occupations as defined.

Hospitals.

Hotels, motels, tourist homes and convention centers.

Houses of worship and cemeteries accessory hereto.

Indoor sport facilities.

Indoor theaters.

Industrial and technical training schools.

Janitorial service establishments.

Libraries.

Limousine service.

Lumber and building supply with storage limited to a fully enclosed building or screened with landscaping and fencing from adjacent property.

Machinery sales and service with major repair under cover.

Manufacture and assembly of musical instruments, toys, novelties and rubber and metal stamps.

Manufacture and bottling of soft drinks and wine.

Manufacture and processing of textiles and textile products in structures of not more than 2,000 square feet.

Manufacture, compounding, assembly or treatment of products made from previously prepared paper, plastic, metal, textiles, tobacco, wood, paint, fiber glass, glass, rubber, leather, cellophane, canvas, felt, fur, horn, wax, hair and yarn in structures of not more than 2,000 square feet

Manufacture, compounding, processing or packaging of cosmetic, toiletry and pharmaceutical products.

Manufacture of carpets and carpet yarns in structures of not more than 2,000 square feet.

Manufacture of pottery and ceramic products, using kilns fired only by gas or electricity.

Manufacture or assembly of appliances, tools, firearms, hardware products and heating, cooling or ventilating equipment.

Manufacture or assembly of electronic instruments, electronic devices or electronic components.

Manufacture or assembly of medical, drafting, metering, marine, photographic and mechanical instruments.

Nonemergency medical transport.

Nursing homes.

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

Office supply stores, secretarial and duplicating services.

Parking lots and garages.

Photographer, picture, artist and sculptor stores and studios.

Plumbing and electrical supply with storage limited to a fully enclosed building or screened with landscaping and fencing from adjacent property.

Post offices.

Printing and publishing establishments,

Private streets within "qualifying industrial parks" in accordance with section 24-55.

Processing, assembly and manufacture of light industrial products or components, with all storage, processing, assembly and manufacture conducted indoors and under cover, with no dust, noise, odor or other objectionable effect.

Property maintenance facilities, sheds or garages.

Public billiard parlors, arcades, pool rooms, bowling alleys, dance halls and other indoor centers of amusement.

Public meeting halls.

Rental of rooms to a maximum of three rooms.

Research, development and design facilities or laboratories

Rest homes.

Restaurants, tea rooms and taverns.

Retail and service stores, including the following stores: books, cabinet, candy, carpet, coin, department, dressmaking, florist, furniture, furrier, garden supply, greeting card, gunsmith (excluding shooting ranges), hardware, home appliance sales and service, ice cream, jewelry sales and service, locksmith, music and records, paint, pet, picture framing, plant supply, shoe, sporting goods, stamp, tailor, tobacco and pipes, toys, travel bureau, upholstery, wearing apparel, and yard goods.

Retail food stores, bakeries and fish markets.

Security service offices.

Schools.

Taxi service.

Telephone exchanges and telephone switching stations.

Timbering in accordance with section 24-43.

Veterinary hospitals.

Warehouse, storage and distribution centers with storage under cover or screened with landscaping and fencing from adjacent property.

Water impoundments, new or expansion of.

Welding and machine shops with storage limited to a fully enclosed building or screened with landscaping and fencing from adjacent property.

Wireless communications facilities that utilize alternative mounting structures, or are building mounted, or are camouflaged, and comply with division 6, Wireless Communications Facilities. (Ord. No. 31A-141, 5-4-92; Ord. No. 31A-145, 7-6-92; Ord. No. 31A-150, 4-5-93; Ord. No. 31A-152, 8-16-93; Ord. No. 31A-167, 3-26-96; Ord. No. 31A-176, 5-26-98; Ord. No. 31A-184, 12-8-98)

Sec. 24-522. Uses permitted by special use permit only.

In the mixed use districts, all structures to be erected or land to be used for one or more of the following uses shall be permitted only after the issuance of a special use permit by the board of supervisors:

Campgrounds.

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.

Fast food restaurants.

Flea markets.

Golf courses.

Heliports, helistops and accessory uses.

Manufacture, compounding, assembly or treatment of products made from previously prepared paper, plastic, metal, textiles, tobacco, wood, paint, fiber glass, glass, rubber, leather, cellophane, canvas, felt, fur, horn, wax, hair and yarn in structures of 2,000 square feet and greater.

Manufactured home or mobile home sales.

Marinas, docks, piers, yacht clubs, boat basins, boat storage and servicing, repair and sale facilities for the same; if fuel is sold, then in accordance with section 24-38.

Marine or waterfront businesses to include the receipt, storage and transshipment of waterborne commerce, or seafood receiving, packing or distribution under cover or screened with landscaping and fencing from adjacent property.

Museums.

Petroleum storage.

Publicly owned solid waste container sites.

Radio stations, television stations, transmission relay stations and communication towers.

Railroad facilities including tracks, bridges and stations. However, spur lines which are to serve and are accessory to existing or proposed development adjacent to existing railroad 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. Rental of more than three rooms in a single-family dwelling unit.

Resource recovery facilities.

Shooting ranges, indoor.

Solid waste transfer stations.

Theme Parks.

Tower mounted wireless communication facilities in accordance with division 6, Wireless Communications Facilities.

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

Truck stop; if fuel is sold, then in accordance with section 24-38.

Truck terminals; if fuel is sold, then in accordance with section 24-38.

Vehicle and trailer sales and service (with major repair limited to a fully enclosed building).

Water facilities (public or private), and sewer facilities (public), including, but not limited to, treatment plants, pumping stations, storage facilities and transmission mains, wells and associated equipment such as pumps to be owned and operated by political jurisdictions. However, the following are permitted generally and shall not require a special use permit:

- (a) Private connections to existing mains that are intended to serve an individual customer and that are accessory to existing or proposed development, with no additional connections to be made to the line; and
- (b) Distribution lines and local facilities within a development, including pump stations.

Water well drilling establishments.

Wineries.

(Ord. No. 31A-141, 5-4-92; Ord. No. 31A-145, 7-6-92; Ord. No. 31A-149, 2-1-93; Ord. No. 31A-153, 11-1-93; Ord. No. 31A-176, 5-26-98; Ord. No. 31A-184, 12-8-98; Ord. No. 31A-218, 7-12-05)

Sec. 24-523. Density.

(a) The number of dwelling units which may be constructed in any residential or mixed use-residential area designation as indicated on the master plan shall be determined by the number of gross acres at the site and the use proposed. The maximum densities of dwelling units per acre which may be constructed are:

<u>Area Designation</u>	<u>Dwelling Type</u>	<u>Maximum Density (Dwelling Units Per Acre)</u>
A	Single-family structures	6
B	Attached structures containing two to four dwelling units, or townhouses	10
C	Attached structures less than three stories and containing more than four dwelling units	12
D	Attached structures of three stories or more and containing more than four dwelling units	18

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

<u>Percentage of Nondevelopable Area</u>	<u>Gross Acreage Shall Equal</u>
Less than 35%	Total Area of Parcel
More than 35%	Developable Land Plus Up To 35% of the Parcel's Land

(c) Developable area shall consist of the total land area of the site minus stream beds, areas subject to flooding, wetlands and area's with slopes exceeding 25 percent gradient.
(Ord. No. 31A-141, 5-4-92)

Sec. 24-524. Open space.

Development within the mixed use districts shall provide usable open space area. The amount of open space shall be not less than ten percent of the developable area of the site. Nondevelopable area consisting of all stream beds, areas subject to flooding, wetlands and areas with slopes exceeding 25 percent gradient shall not be counted towards meeting the open space requirement. For the purposes of this article, open space does not include any landscape area in parking lots or adjacent to structures. The requirements of this section shall supplement the requirements of the county's Chesapeake Bay Ordinance, section 24-86 (landscaping and tree preservation requirements) and other county requirements relating to open space. For the purposes of this article, open space may include, but is not limited to:

- (1) Perpetual easement(s) of no less than 50 feet in width dedicated to James City County or another group approved by the county adjoining any road designated as a greenbelt road on the Comprehensive Plan.
- (2) Buffer area(s) of no less than 50 feet around an RMA wetland as measured from the landward edge of the wetland.
- (3) Preservation of any archaeological site, any landmark registered in the Virginia Landmarks Register, the National Register of Historic Places or National Historic Site register.

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- (4) Preservation of any developable area demonstrated to be a habitat for any endangered, rare or threatened species of plant or wildlife so designated by the federal government, the State of Virginia (as referenced by the county's Natural Areas Inventory or listed in *Virginia's Endangered Species*, (Virginia Department of Game and Inland Fisheries, 1991)), where preservation of such area is not required by local, state or federal law.
- (5) Bikeways, bike paths, hiking trails, greenways or other similar amenity, excluding sidewalks.
- (6) Public or private picnic areas, parks, plazas or other gathering areas.
- (7) Public or private community facilities such as swimming pools, tennis courts, and recreation buildings. Golf courses may also be counted as open space for the purpose of meeting the open space requirement to a maximum of 60 percent of the required open space.

Open space area shall be protected by easements, maintenance agreements and/or other assurances satisfactory to the county attorney.

(Ord. No. 31A-141, 5-4-92)

Sec. 24-525. Height of structures.

(a) Structures may be erected up to 60 feet in height from grade to the top of the structure, including all church spires, belfries, cupolas, athletic field lighting, monuments, flagpoles, penthouse, electrical, plumbing, elevator, water tank or other accessory functions which are part of the structure and accessory and nonaccessory wireless communications facilities that utilize alternative mounting structures or are building mounted in accordance with division 6, Wireless Communications Facilities. Camouflaged wireless communications facilities may be erected to a total height of 120 feet from grade.

(b) A structure in excess of 60 feet in height but not in excess of 100 feet from grade to the top of the structure, including all church spires, belfries, cupolas, athletic field lighting, monuments, flagpoles, penthouse, electrical, plumbing, elevator, water tank, radio, television and microwave antennas, and towers or other accessory functions, and accessory and nonaccessory wireless communications facilities that utilize alternative mounting structures or are building mounted in accordance with division 6, Wireless Communications Facilities in excess of 60 feet in height but not in excess of the maximum approved height of the structure to which it is mounted, may be erected only upon the granting of a height limitation waiver by the board of supervisors.

(c) Upon application for a height limitation waiver, the payment of appropriate fees, notification of adjacent property owners and following a public hearing, the board of supervisors may grant a height limitation waiver upon finding that:

- (1) Such structure is in accordance with the uses, densities, design and traffic analysis shown on the original master plan;
- (2) Such structure will not obstruct light from adjacent property;
- (3) Such structure will not impair the enjoyment of historic attractions and areas of significant historic interest and surrounding developments;
- (4) Such structure will not impair property values in the surrounding area;

(5) 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 structure is reasonably well located in relation to fire stations and equipment, so as to offer adequate protection to life and property; and

(6) Such structure would not be contrary to the public health, safety or general welfare.
(Ord. No. 31A-141, 5-4-92; Ord. No. 31A-145, 7-6-92; 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)

Sec. 24-526. Requirements for improvements and design.

(a) *Water and sewer.* All structures and uses within a mixed use districts shall be served by publicly owned and operated water and sewer systems.

(b) *Recreation areas.* Residential areas and mixed use structures and areas designated on the master plan shall be provided with a recreation area or areas adequate to meet the needs of the residents. The developer shall provide and install playground equipment, playfields, tennis courts or other recreation facilities in accordance with the guarantees established as part of master plan or final Development Plan approval. The composition of the facilities to be installed shall be approved by the planning director. Such facilities shall be owned and maintained by the developer or a residents' association.

(c) *Parking.* Off-street parking facilities shall be provided in accordance with the off-street parking requirements of section 24-53.

(d) *Streetlights.* Streetlights shall generally be provided at each intersection and other public areas. The lighting shall be directed so as not to produce objectionable glare on adjacent property or into residences within or near the development.

(e) *Natural features and amenities.* Existing features such as specimen trees, wildlife habitats, watercourses, historical sites and similar irreplaceable assets shall be preserved to the maximum extent possible.

(f) *Signs.* All signs within a mixed use district shall comply with article II, division 3 of this chapter.

(g) *Traffic circulation.* Vehicular access points and drives shall be designed to encourage smooth traffic flow with controlled turning movements and minimum hazards to vehicular and pedestrian traffic. Buildings, parking areas and drives shall be arranged in a manner that encourages pedestrian access and minimizes traffic movement. All streets shall be constructed and designed in accordance with section 24-528.

(h) *Landscaping.* All landscaping and tree preservation shall be undertaken in accordance with section 24-86 and Chapter 23 of the County Code, the Chesapeake Bay Preservation Ordinance.
(Ord. No. 31A-141, 5-4-92; Ord. No. 31A-184, 12-8-98; Ord. No. 31A-205, 5-8-01)

Sec. 24-527. Setback requirements.

(a) *Location of structures.* Structures shall be located 50 feet or more from any external existing or planned public road right-of-way, or any internal arterial road right-of-way, which is 50 feet or greater in width. Where the external existing or planned public road right-of-way, or the internal arterial road right-of-way, is less than 50 feet in width, structures shall be located 75 feet or more from the centerline of the external existing or planned or internal arterial public road.

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(b) *Required set back from mixed use districts.* For commercial, industrial, office, residential and mixed uses a setback of 50 feet shall be maintained from the perimeter of a mixed use district. The setback shall be left in its natural undisturbed state and/or planted with additional or new landscape trees, shrubs and other vegetative cover such that the setback serves to minimize the visual intrusion and other negative impacts of new development or redevelopment on adjacent development.

(c) *Setback modifications; criteria for determination.* Reduction of the width of the setbacks specified in subsections (a) and (b) above may be approved for a mixed use zoning district that is designated Mixed Use by the Comprehensive Plan upon demonstration that the proposed setback, by substitution of technique or design, will achieve results which clearly satisfy the overall purposes and intent of the setback requirement of this section and the intent of section 24-86 (Landscaping and Tree Preservation Requirements), shall have no additional adverse impact on adjacent properties or public areas, and will not result in detrimental impacts to the orderly development or character of the area, the environment, sound engineering or planning practice, or the goals, objectives, strategies and policies of the Comprehensive Plan. In addition, a request for a setback modification must meet one or more of the following criteria:

- (1) The proposed setback is for the purpose of integrating proposed mixed use development with adjacent development;
- (2) The proposed setback substantially preserves, enhances, integrates and complements existing trees and topography;
- (3) The proposed setback is due to unusual size, topography, shape or location of the property, or other unusual conditions, excluding the proprietary interests of the developer.

Reduction of the width of the setbacks may also be approved for a mixed use zoning district that is not designated Mixed Use by the Comprehensive Plan upon finding that the proposed setback meets one or more of the criteria listed above and both of the following additional criteria:

- (1) Properties adjacent to the properties being considered for a reduction in setback must be compatible;
- (2) The proposed setback reduction has been evaluated by appropriate county, state or federal agencies and has been found to not adversely impact the public health, safety or welfare.

(d) *Requests for modifications.* Requests for modifications pursuant to subsection (c) above shall be filed in writing with the planning director and shall identify the reasons for such requests together with the proposed alternative. The planning director shall make a recommendation to the planning commission to approve, deny or conditionally approve the request and shall include a written statement certifying that one or more of the above criteria are met.

(e) *No minimum lot size or yard requirements.* Except for required setbacks specified in (a) and (b) above, there shall be no minimum lot size nor minimum front, side or rear yard requirements for any lot within a Mixed Use Development District other than as specified in approved final plans.

(f) *Uses prohibited.* Setbacks shall not be used for streets or for parking except for entrances and driveways which may penetrate the setback.
(Ord. No. 31A-141, 5-4-92)

Sec. 24-528. Street improvements.

(a) All dedicated public streets shown on the development plan shall meet the design and construction requirements of the Virginia Department of Transportation's standards or the county subdivision ordinance, whichever is greater. Such public streets shall be coordinated with the major transportation network shown in the county Comprehensive Plan.

(b) Private streets may be permitted upon the approval of the board of supervisors and shall be coordinated with existing or planned streets of both the master plan and the county Comprehensive Plan. Private streets shown on the development plan shall meet the requirements of the Virginia Department of Transportation, except as specified in paragraph (d) below.

The construction of streets whether public or private shall be guaranteed by appropriate surety, letter of credit, cash escrow or other form of guarantee approved by the county attorney and environmental director.

(c) To the extent streets are private rather than public, the applicant must also submit assurances satisfactory to the planning commission that a property owner's community association or similar organization has been legally established under which the lots within the area of the development plan will be assessed for the cost of maintaining private streets and that such assessments shall constitute a pro rata lien upon the individual lots shown on the development plan.

(d) The uniqueness of each proposal for a mixed use development requires that the specifications for the width, surfacing, construction and geometric design of streets with associated drainage and the specifications for curbs and gutters be subject to modification from the specifications established in chapter 19. The planning commission may, therefore, within the limits hereinafter specified, waive or modify the specifications otherwise applicable for these facilities where the planning commission finds that such specifications are not required in the interests of the residents and property owners of the mixed use development and that the modifications of such specifications are not inconsistent with the interests of the entire county.

It shall be the responsibility of the applicant to demonstrate to the satisfaction of the planning commission with respect to any requested waiver or modification:

- (1) That the waiver or modification will result in design and construction that is in accordance with accepted engineering standards;
- (2) That the waiver or modification is reasonable because of the uniqueness of the mixed use development or because of the large area of the mixed use development within which the nature and excellence of design and construction will be coordinated, preplanned and controlled;
- (3) That any waiver or modification as to streets is reasonable with respect to the generation of vehicular traffic that is estimated will occur with the area of the master plan;
- (4) That traffic lanes of streets are sufficiently wide enough to carry the anticipated volume and speed of traffic and in no case less than ten feet wide; and
- (5) That waivers or modifications as to base and surface construction of streets and as to the condition of ditches or drainage ways be based upon the soil tests for California Bearing Ratio value and erosion characteristics of the particular subgrade support soils in the area.

(Ord. No. 31A-205, 5-8-01)

Secs. 24-529 - 24-534. Reserved.