

# COUNTY OF YORK

## MEMORANDUM

**DATE:** October 5, 2010 (PC Mtg. 10/13/10)

**TO:** York County Planning Commission

**FROM:** J. Mark Carter, Assistant County Administrator

**SUBJECT:** Application Nos. ST-17-10 and ZT-132-10, York County Board of Supervisors: Proposed Subdivision and Zoning Ordinance Amendments

The Board of Supervisors has sponsored these applications to amend the Subdivision and Zoning Ordinances to address various issues. The proposed amendments are intended to address: State Code changes; Board requests (e.g., the amendments to expand options for temporary business signage and for large retail center signage); requests by the development community (e.g., the request to re-evaluate/lower the "senior housing" qualifying age from 62 to 55); and, suggestions by staff in response to issues that have arisen in the day-to-day administration of the ordinance.

The attached summary provides background information, discussion, and a staff recommendation concerning each of the proposed amendments. For several of the issues, staff is recommending slightly revised wording from that which was sponsored. These changes are highlighted by gray shading in proposed Resolution No. PC10-18.

Staff recommends adoption of proposed Resolution Nos. PC10-17 and PC10-18, which will forward the proposed text amendments, including the additional revised language suggested by staff, to the Board of Supervisors with a recommendation for approval and adoption.

**Attachments:**

- Summary of Proposed Amendments, w/ attachments
- Proposed Resolution No. PC10-17 (Subdivision Ordinance amendments)
- Proposed Resolution No. PC10-18 (Zoning Ordinance amendments)

## **Summary**

### **Proposed Zoning and Subdivision Ordinance Amendments October 13, 2010 Planning Commission Meeting**

Staff has completed its review of the land use and development-related legislation that became effective July 1<sup>st</sup> as a result of 2010 General Assembly actions and has identified several areas where changes in either the Subdivision Ordinance or Zoning Ordinance are necessary. In addition, drafts of several other changes have been prepared in response to directions from the Board or as a result of questions or concerns that have arisen in the context of day-to-day administration of the ordinances. All of these suggested amendments are discussed in the following summary and shown on the attached pages.

#### **Chapter 20.5 – SUBDIVISIONS**

- Section 20.5-27 of the Subdivision Ordinance was amended in 2005 to establish certain rules concerning “subdivision” by right-of-way acquisition. As amended, the intent was to recognize as a separate parcel any property that becomes physically separated from its parent tract by a right-of-way acquisition provided the resultant new lot meets minimum area and dimensional standards. However, a recent Virginia Supreme Court case (*W&W Partnership v. Prince William County Board of Zoning Appeals; 2-25-10*) resulted in a ruling that such a “new” lot could only be recognized as a separate and legal lot if the owner records a change in the legal description of the parcels either by metes and bounds or by plat. Based on this Court decision, the County Attorney has recommended that the language in Section 20.5-27 be revised to establish a requirement for preparation of a plat.

*Recommendation: Approval, as drafted.*

#### **Chapter 24.1 - ZONING**

##### **Section 24.1-104. Definitions.**

*Bed and breakfast inn* - As a result of some of the recent discussion concerning tourist home and bed and breakfast proposals, several modifications to the definitions of both terms are proposed. First, the parenthetical cross references between the two are proposed to be deleted since each of these two uses has distinct aspects. Also, the word “meals” is proposed to be changed to *breakfast* and the word “transitory” is proposed to be changed to *transient*. Finally, in the event that the Commission or Board wishes to consider such a requirement, language that would require a bed and breakfast to be owner-occupied and operated is included for discussion. A survey of area jurisdictions indicates the following policies with respect to owner-occupancy:

<b>Jurisdiction</b>	<b>Owner Occupancy Required</b>	<b>Resident Manager Required</b>
Williamsburg	Yes	Yes
James City County	No	No
Newport News	Yes	No
Hampton	No	No
Poquoson	Could be a condition of Special Use Permit approval	

*Recommendation:* Staff recommends approval of the revised wording, but with a modification that would require owner occupancy and operation only for those Bed and Breakfast establishments located in Residential zoning districts (i.e., B&Bs permitted as a matter-of-right in the LB and GB Districts would not be subject to that restriction). The gray-shaded language shown in proposed Resolution No. PC10-18 reflects this recommendation. Staff believes that owner occupancy/operation is the best way to ensure that the residential character of the property, if located in a residential zoning district, is preserved and maintained – recognizing that, by definition, such establishments are, in fact, “dwellings”.

Family – this definition is proposed to be amended to reflect the terminology and departmental references used in Section 15.2-2291 of the Code of Virginia. (reference: House Bill 967). The changes have no impact on policy or effect.

*Recommendation:* Approval, as drafted.

Pool House – a definition is proposed to be added in order to establish a way to differentiate between “accessory apartments” and structures which often are proposed on single-family residential properties in conjunction with accessory swimming pools. In several instances, property owners have sought approval to construct a “pool house” containing a game room (habitable space) and a full bathroom (toilet/sink/shower) which, technically per the County’s definition, makes the structure an “accessory apartment.” These situations were addressed through an administrative interpretation/finding that a “pool house” is a customary residential accessory structure and that it can be distinguished from an “accessory apartment” as long as the bathroom contains a shower and not a bathtub. In addition, the property owner was required to sign a statement acknowledging their understanding that the pool house cannot be used for residential living as an accessory apartment unless authorized by the County through applicable procedures. This definition would memorialize the distinction between an “accessory apartment” and a “pool house” and ensure that structures intended for this purpose are not unnecessarily required to be reviewed and approved as if permanent residential occupancy (i.e., an accessory apartment) were proposed.

*Recommendation:* Approval, as drafted.

Senior Housing – the developer of The Reserve at Williamsburg senior housing community has requested that the Board revisit and reconsider the age-eligibility standard (currently 62) contained in the County’s senior housing definition (see attached letter from First Centrum, LLC, dated April 13, 2010, requesting that the eligible age be

lowered to require occupancy by “at least one person 55 years of age or older”). The question of whether the eligible age should be 62, 55, or something in between was last discussed in 2005 and, ultimately, the Board decided to retain the 62 and older threshold, but also, among other changes, to add a clause preventing residential occupancy by any person under age nineteen (19). It is this provision (protection against school enrollment impacts) and the desire to see York County’s definition align with that of the federal Housing for Older Persons Act of 1995 (HOPA) and other area jurisdictions (e.g., Newport News, James City County and New Kent County set the minimum age of at least one resident at 55), that First Centrum cites as reasons to again consider the 55 years old standard.

*Recommendation: Senior housing industry representatives have advocated consistently for age limits to be set at 55 while the Commission and Board traditionally have been concerned about increased community impacts that might be associated with such projects if they are populated by relatively “young” seniors, particularly since the senior housing provisions offer an opportunity for greater than normal residential densities. Primary among these concerns has been the potential for school impacts; however, as noted above, that concern has been alleviated by virtue of the phrase in the definition prohibiting residency by any person under the age of nineteen (19). Staff believes that the community impact analysis and statement required for any senior housing proposal, and the fact that all senior housing projects are subject to Special Use Permit review and approval, provide adequate opportunities to evaluate any impacts that might be associated with a project, whether its age limit is 62 or 55. Staff sees no reason to recommend against the requested change. Additionally, for consistency, staff recommends that the occupancy percentage for qualifying ages be changed (gray highlighting) from 85% to 80% (as in Section 36-96.7 of the State Code).*

Temporary Family Health Care Structure – Section 15.2-2292.2 has been added to the Code of Virginia (effective July 1, 2010) by action of the General Assembly in its 2010 session (reference: HB 1307), the effect of which is to require that local zoning ordinances allow “temporary family health care structures” on single-family residential lots. The proposed definition is taken directly from the State Code language. In addition to adding the definition, the various performance standards established in and allowed by Section 15.2-2292.2 are proposed to be added to Section 24.1-271 (Residential Accessory Uses). It should be noted that these structures could be characterized as a combination between a mobile home (which the York County Zoning Ordinance does not allow on a single family residential lot) and a detached accessory apartment (which would be subject to Special Use Permit approval in most situations under the terms of the Zoning Ordinance). Nevertheless, the General Assembly has determined that such structures must be permitted on single-family residential lots. Despite the commendable objective – convenience and cost savings for family care-giving – this mandate represents a fairly significant step into local land use decisions by the General Assembly. Nevertheless, it is a mandatory addition to all zoning ordinances. It should be noted, however, that private covenants could negate or over-ride the opportunities required to be provided by the Zoning Ordinance. So, for example, a subdivision with covenants that ban mobile homes might take the position that these structures are not allowed, regardless of opportunities provided by the County zoning regulations.

*Recommendation: Inclusion of this opportunity has been mandated by the General Assembly; therefore, staff recommends approval of the draft language.*

Tourist home. Modifications are proposed to clarify that a tourist home can be in the principal dwelling on a property (e.g., such as the Moss Guest Cottage in Yorktown) or in an accessory structure on a residential property (e.g., such as the Mann tourist home in the Moore House area). Also, modifications are proposed to make it clear that accommodations are for *transient* guests (not permanent residents) and removal of the parenthetical “see also bed and breakfast inn.”

*Recommendation: Approval, as drafted.*

Transient occupancy. The definitions used in the Zoning Ordinance for bed and breakfast, tourist home, hotel, motel, and timeshare all include the term “transient” yet that term is not defined and could be open to debate. The intention is to prohibit such accommodations from being used for permanent residency and, therefore, the County Attorney has suggested that a maximum length of continuous occupancy be established. An examination of the ordinances and practices of various other localities indicates timeframes ranging from thirty (30) to ninety (90) days to be most commonly used. Staff also examined various State Code provisions dealing with classification of businesses for the purposes of sales and business use taxes and those too have thresholds ranging from 30 to 90 days. In consideration of these findings, and in recognition of the existence of several extended-stay lodging facilities in York County, staff recommends that the term “transient occupancy” be defined as a temporary stay by a visitor for a period less than ninety (90) continuous days.

*Recommendation: Approval, as drafted. This change will also be helpful in the event of a reoccurrence of a problem experienced several years ago in a single-family residential subdivision where a single-family dwelling was being rented on a daily and weekly basis to “transients” essentially as if it were a timeshare unit or hotel room. Enforcement efforts against this violation were successful but only after the case was heard both by the Board of Zoning Appeals and in Circuit Court.*

#### **Section 24.1-110. Interpretations.**

Section 15.2-2311 of the Code of Virginia was amended in the 2010 General Assembly session (reference: House Bill 1063) to require supplementary information dealing with appeal costs and filing contact information to be included in the standard zoning action/decision record statement. Additional language is proposed to comply with this mandate.

*Recommendation: Approval, as drafted.*

#### **Section 24.1-114. Conditional zoning**

House Bill 374 and Senate Bill 632 established a mandatory provision stipulating that any cash proffers structured on a per-dwelling unit or per-home basis shall be payable only after completion of the final inspection and prior to the time of issuance of any certificate of occupancy. This mandate expires on July 1, 2014 and is intended to ensure that developers/builders are not required to pay such proffers up front, for example at a plan approval or building permit stage. Section 24.1-114 is proposed to be amended to incorporate this required language. It should be noted that no per-dwelling unit or per-home proffers are in effect in York County.

*Recommendation: Approval, as drafted*

### **Section 24.1-245. Greenbelts.**

The Greenbelt provisions were originally recommended and established as one of several available methods of helping to preserve and protect the aesthetic character of various entrance and other highway corridors in the County. For example, these provisions have successfully protected and preserved the existing tree canopies along parts of Victory Boulevard and Route 134 as they have developed. However, in reviewing the list of Greenbelt roads and considering future development potential, staff has noted the absence of Interstate 64 – a route that carries more total traffic and tourist traffic than any other in the County and which has been recognized by the Historic Triangle jurisdictions as being important to area appearance and visitor perceptions. Since there are still several parcels along the York County portion of the Interstate on which development could occur, staff recommends consideration of a 45-foot Greenbelt designation as a way to help protect the character and appearance of the corridor].

It is important to note that the Greenbelt provisions are not intended to prevent development from being visible from highway corridors. Instead, they provisions are intended to preserve the wooded character of a corridor while still allowing views through the trees to the developed parts of a site. Scrub growth can be removed and trees can be limbed-up to provide line of sight visibility of developed areas. The Greenbelt along the Route 134 frontage of the Tabb Library and the YMCA, as well as the Route 171 frontage of Walgreens, provide examples of how the Greenbelt provisions preserve desirable tree canopies along a corridor while at the same time providing visibility for development. The same opportunities would exist along I-64 frontages should the property/development owner desire and, as with the Walgreens, the allowable freestanding business signage for the development still could be located within the Greenbelt area. With respect to residential development, the Creekside Landing and Felgates Woods subdivisions, both of which have significant Interstate frontage, demonstrate the aesthetic benefits of a buffer of trees although the buffers for each were provided as a consequence of the cluster development regulations rather than a “greenbelt” requirement.

*Recommendation: Approval, as drafted.*

### **Section 24.1-271. Accessory uses in conjunction with residential uses**

(o). (new section)

As discussed in the comments on new Definitions, *pool houses* are proposed to be added to the list of allowable Accessory Uses, not as a policy change but rather to memorialize past administrative decisions. One additional sentence is proposed (highlighted with shading) to clarify that a pool house is not an accessory apartment and cannot be used for residential purposes.

(p) (new section)

This new section is drafted to incorporate the allowable performance standards established in HB 1307, which mandates that localities allow *temporary family health care structures* as an accessory use in conjunction with single-family detached dwellings.

Recommendation: *Approval, as drafted.*

**Section 24.-273 (d). Pier and boathouse setbacks**

This section is proposed to be modified to eliminate the language that requires a 10-foot setback for docks and piers from the imaginary extension of a property line into a body of water. In consultation with the County Attorney, it has been determined that there is no authority for the County to impose such a requirement in a water body beyond mean low water except in the rare instance when a property was created by a King's Grant, in which case the property lines could extend beyond mean low water. As noted in the ordinance language, the Virginia Marine Resources Commission (VMRC) would continue to be involved in the review and permitting of piers and docks.

Recommendation: *Approval, as drafted.*

**Section 24.1-306. Table of Land Uses**

The Economic Development Authority has recommended that the Table of Land Uses be revised to add Auto Body / Painting Shops as a Permitted (P) use in the GB-General Business and EO-Economic Opportunity districts. A letter dated July 22, 2010 from the EDA Chairman is attached.

Recommendation: *Discussions with the Director of Economic Development indicate that, despite the wording of the letter, the EDA's objectives would be met if such uses were allowed as S-Special Use Permit uses rather than P-Permitted uses. Therefore, the proposal was advertised for public hearing as "either P or S" to ensure that both alternatives could be considered.*

*The Director of Economic Development points out several considerations in support of providing an opportunity for stand-alone body/painting shops to be located in the GB and EO Districts:*

- *Body/painting shops can, per current Ordinance requirements, be approved by Special Use Permit if they exist in conjunction with automobile sales establishments.*
- *Although allowed as Permitted (P) uses in the IL and IG Districts, those industrial locations do not provide the exposure desired and necessary for a successful auto collision repair facility.*
- *The Ebby's expansion, which had to be processed as a nonconforming use expansion, demonstrates that such uses can, given properly designed conditions, exist compatibly in a tourist corridor and adjacent to a residential area.*
- *The fact that such uses are not currently authorized in the GB District prevented Ebby's from even proposing and requesting approval to use and expand into the well-suited, abutting and vacant commercial building/property.*
- *The Bruce's Super Body Shop establishment on the Route 60 corridor in James City County provides another example of how a modern body/painting shop can be designed and operated in a manner compatible with general commercial, retail, and restaurant development.*

*In staff's opinion, the points noted by the Director of Economic Development are valid and make this proposal worthy of consideration, provided the opportunity is by Special Use Permit and not a matter-of-right (Permitted). Staff believes the Special Use Permit process, coupled with the requirements of the Route 17 Corridor and Tourist Corridor Management (TCM) overlay districts, provide sufficient opportunities to ensure, through special use permit conditions/performance standards, that any proposed new or expanded auto body/painting shop is compatible with its surroundings. Accordingly, staff recommends approval of an amendment to allow Auto Body Work & Painting as a Special Use Permit (S) use in both the GB and EO Districts.*

### **Sections 24.1-333 and 340. Storage trailers/cargo units in GB and EO Districts**

The requirements set out in Sections 333 and 340 were adopted in 2005 to recognize the needs of certain businesses for seasonal storage. To date, only two businesses – the Tabb WalMart and the Great Wolf Lodge – have sought and secured approval for construction of the required walled enclosure. The Great Wolf Lodge application, as well as Mr. Moberg's January 19, 2010 letter to Chairman Wiggins (attached), has brought attention to the possibilities for placement of such storage containers in locations far less visible than was the case with WalMart. Accordingly, staff suggests consideration of an amendment that would provide an administrative approval option for placement without the walled enclosure provided the following requirements can be met:

- The trailers/cargo units are totally obscured from view from any public roadway or customer parking area by virtue of their placement behind a building or buildings;
- The trailers/cargo units can be effectively screened from view from adjacent properties by buildings, fencing, landscaping, topography or distance.

Providing an opportunity for administrative approval of placements meeting these performance standards would shorten the review time by 30 to 45 days and, in staff's opinion, would not be contrary to the original purpose of these provisions.

*Recommendation: Staff believes that situations such as the Great Wolf Lodge request can be addressed more expeditiously and efficiently through administrative review and approval. As drafted, the administrative approval option would be available only in those situations where the cargo units are totally obscured from public roadways or customer parking areas by a building and when they can be effectively screened from view from adjacent properties. Given the ever increasing desire of businesses to meet their storage needs with these units, establishment of this additional opportunity seems appropriate and without adverse impact. Accordingly, staff recommends approval of the change for both the GB and EO Districts, as drafted.*

### **Section 24.1-373. FMA-Floodplain Management Area Overlay District**

After last year's nor'easter, a number of residents (particularly those in the Seaford and Dandy areas) whose properties sustained flood damage inquired about grant assistance for flood-proofing/structural elevation and, specifically, about their possible eligibility for a federal grant program targeted to "repetitive loss" structures that can provide up to \$30,000 toward the cost of elevating a residence above flood hazard levels. That particular grant opportunity is available for structures that have sustained single-event flood damage exceeding 50% of the pre-flood value of the structure, or damage from two or more events where, on average, the amount of damage from each event has been at least 25% - i.e., a cumulative damage of 50% or more. However, in order for multiple-loss (*repetitive*) properties to be eligible, the locality must have a "repetitive loss" clause/provision in its flood hazard ordinance. York County's ordinance does not contain that provision.

At first glance, this might seem to be a glaring omission in the York County provisions that should be corrected. However, before making such a decision, it is important to understand the effect and consequences. While adoption of a repetitive loss clause would be beneficial for those seeking a \$30,000 grant to assist in funding a *voluntary* elevation of their dwelling (note: the cost of elevating a residential structure can be far in excess of \$30,000), it could be detrimental to other property owners who might not have the means to cover the gap between total cost and available grant funding but who would be required to elevate their structure if it meets the repetitive loss definition. Currently, it is only those structures that sustain a single-event loss exceeding 50% of their value that are required to be elevated when they are rebuilt/repared. To maintain FEMA approval of the County's flood hazard ordinance, which is essential to the continued eligibility of York County properties for the National Flood Insurance Program (NFIP), the repetitive loss provision, if included, must apply in all situations – not just those where elevation is a voluntary initiative.

Under the current provisions, property owners have sometimes pleaded with the Building Official to assess the damage to their residence so that it exceeds the 50% grant eligibility standard. However, if the repetitive loss provision is added, staff predicts there could be numerous instances when property owners will plead that the Building Official do the opposite – underestimate the cost of the flood damage – so that, when added to the amount of damages from previous events, the 50% threshold will not be exceeded and they will not be required to incur the expense to elevate their structure. Unfortunately, FEMA requirements prevent the ordinance from being structured in a way to be beneficial to all property owners under all scenarios.

*Recommendation:* Staff believes that the number of property owners who could be adversely affected by being required to elevate their residences is likely greater than the number who could benefit from becoming eligible for grant funding. As a result, staff recommends that the repetitive loss provision not be added to the ordinance.

### **Section 24.1-375. TCM-Tourist Corridor Management Overlay District**

As noted previously in the discussion about Greenbelt corridors, Interstate 64 and Route 199 are major tourist entry corridors as well as “windows” to all travelers on the appearance and character of York County. For those reasons, and because there is still a vast amount of privately-owned and potentially developable land adjacent to and highly visible from the Interstate and Route 199, staff suggests that consideration be given to designating both as TCM corridors. Doing so would establish a higher performance standard with respect to architectural character and site aesthetics. The designation would not preclude any of the land uses that are allowed by the terms of the underlying zoning classifications.

*Recommendation:* Approve the designation of I-64 and Route 199 as TCM corridors.

Also suggested for consideration in the TCM district are the following changes:

- Subsection (6) – By letter dated April 12, 2010, Abel Dream Center, a County business and Benjamin Moore Paints retailer, requested that the Route 17 Corridor Overlay District be amended to include the Benjamin Moore “Historical Colors Collection” in the *Yorktown Color Palette*. Currently, the Yorktown Color Palette is defined to consist of the Sherwin Williams “Preservation Exterior Palette” and the Martin Senour “Williamsburg Palette.” Specifying those two palettes/collections does not require that those particular paint brands be used.

Staff has examined the Benjamin Moore “Historical Colors Collection” and believes they are tasteful and compatible with the colors already specified. Accordingly, staff recommends that the Board include that collection in the realm of allowable colors for both the Route 17 Corridor and TCM overlay districts. However, recognizing that there are numerous other paint retailers in York County that might also wish to have their products specified, staff suggests that the

ordinance language be structured so as to allow the Board to establish a *Corridor Overlay Color Palette* by resolution. Such a procedure would allow any future requests for consideration of additional color charts for the Rt. 17 or TCM overlay districts to be reviewed more expeditiously and without need for a formal ordinance amendment procedure. Additionally, the name change would distinguish it from the more limited Yorktown Palette that would continue to be used in the Yorktown Historic District.

*Recommendation:* Approval, as drafted. The Corridor Overlay Palette, to be approved by Board Resolution, would be defined to consist of the Sherwin Williams “Preservation Exterior Palette,” Martin Senour “Williamsburg Palette,” and Benjamin Moore “Historical Colors Collection.”

- Subsection (10) – Staff recommends that the provision limiting signs to “generally...no more than three (3) colors” be deleted. In practice, this requirement has been troublesome to enforce while trying to honor and accommodate business owners’ signage needs and desires, particularly in the case of the color configurations often necessitated by franchise and branding requirements. Staff has attempted to work with property owners and sign companies to administer the term “generally” with the greatest degree of flexibility possible. However, even under a liberal interpretation of that term, it is often difficult to accommodate the desired (and/or required) color scheme for certain signs. In retrospect, staff has observed that the number of colors is not as much a predictor of quality signage as was originally thought. As an alternative, staff suggests eliminating the limit on the number of colors in favor of a provision that would only prohibit the use of ultra-bright “neon” or “fluorescent” colors (as is the case for buildings also).

*Recommendation:* Approval, as drafted (with slight revisions for clarification)

### **Section 24.1-378. Route 17 Corridor Overlay District**

The amendments recommended for the TCM Overlay are also suggested for the Route 17 Corridor Overlay.

*Recommendation:* Approval, as drafted.

### **Section 24.1-407. Accessory Apartments**

Correction of a drafting error is proposed. As currently written, a strict reading would preclude consideration of a Special Use Permit to authorize a detached accessory apartment larger than 600 s.f. on RC or RR property larger than 5 acres or 1 acre, respectively, even though the same could be considered for much smaller R20 or R13 properties. Revised language is proposed to correct this discrepancy.

*Recommendation:* Approval, as drafted.

**Section 24.1-502. Information Required on Site Plans**

Subsection (n) is proposed to be amended to allow the required number of site plan sets/copies, as well as the number of copies of required supplementary information, to be set through an administrative action rather than by ordinance. This would provide more flexibility to adjust to and accommodate new procedures established by either internal or external review agencies (e.g., the recent changes in the VDOT processes have had an impact on the number of sets of plans necessary to ensure expeditious review).

*Recommendation: Approval, as drafted.*

**Article VII. Signs**

Several sections of Article VII are proposed to be amended in response to the Board's direction to increase opportunities for temporary signs used to announce such things as special sales, childcare enrollment, employment opportunities, etc. and also to provide opportunities for large-scale signage for regional shopping centers with Interstate highway frontage.

The proposed changes to the Temporary Signs/Banners section are intended to increase the opportunities for use of such signs throughout the course of a calendar year. As requested by the Board, a copy of the draft provisions for temporary signage was provided to the York County Chamber of Commerce for review and comment and the feedback provided to date is that the draft changes adequately address their issues of concern.

*Recommendation: Approval, as drafted.*

The proposed changes to the shopping center sign standards have been drafted, at the Board's request, so as to allow signs on the scale of those that are associated with the Peninsula Towne Center and Power Plant commercial centers along I-64 in Hampton. The provisions are drafted to apply only to regional shopping centers meeting the following criteria:

- At least 350,000 square feet of tenant space;
- Located on a parcel with at least 1,500 feet of Interstate frontage;
- Parcel must have direct access to a Primary System highway that intersects the Interstate.

Centers meeting these criteria would be allowed to install a freestanding sign on the Interstate frontage having an area not exceeding 600 square feet (i.e., four times the normal 150 square foot limit) and a height not exceeding 45 feet (i.e., 3- to 4.5 times, depending on the zoning classification, the normally allowed sign height). Several factors have been cited by proponents of larger and taller signage for regional shopping centers with the primary one being that normal signage allowances do not provide the

long-distance visibility that is necessary, given Interstate speeds, for drivers to recognize and negotiate lane changes and exits that will take them to the shopping destination.

*Recommendation: Staff recommends that the enhanced signage opportunities be added to the Zoning Ordinance. However, after further review of the draft language, several modifications are recommended for clarification purposes. These changes are highlighted with shading in proposed Resolution No. PC10-18. Obviously, this provision will apply to and benefit only one development at the present time – that being the Marquis retail center. However, the size, market area and orientation of that development make it unique in terms of signage needs, just as the Sentara-Williamsburg Regional Medical Center was deemed several years ago to be unique enough to warrant special signage allowances.*

### **Section 24.1-802. Nonconforming Structures**

A new subsection (e) is proposed in order to incorporate language that was added to Section 15.2-2307 by action of the 2010 General Assembly (reference: House Bill 552). Interestingly, the Code makes this provision, which deals with the vesting of an improvement for which the locality has issued a permit (other than a Building Permit), optional rather than mandatory. Activity covered by this could include physical property improvements authorized by a Land Disturbing Activity Permit or by a Certificate to Construct (e.g., in the case of sewer or water). In either case, staff is of the opinion that such improvements should enjoy nonconforming, as opposed to illegal, status in the event some code enforcement issue arises.

*Recommendation: Approval, as drafted.*

### **Section 24.1-904. Appeals from Decision of the Board**

Section 24.1-904 is proposed to be amended to incorporate language that was added to Section 15.2-2314 of the Code of Virginia in the 2010 General Assembly session (reference: House Bill 1063). The intent of this State Code language is to clarify how an appeal of a Board of Zoning Appeals action/decision should be framed and presented.

*Recommendation: Approval, as drafted.*

### **Attachments**

- Letters requesting various changes:
  - Letter from First Centrum, LLC, dated April 13, 2010, concerning senior housing age eligibility
  - Letter dated July 22, 2010 from R. Anderson Moberg, Chairman – EDA, to Chairman Wiggins concerning auto body / painting shops
  - Letter dated January 19, 2010 from R. Anderson Moberg, Chairman – EDA, to Chairman Wiggins concerning storage containers
  - Letter dated April 12, 2010 from Susan Hughes of Abel Dream Center requesting inclusion of Benjamin Moore paints in the Yorktown Color Palette



# FIRST CENTRUM, LLC

21400 Ridgetop Circle, Suite 250 – Sterling, Virginia 20166  
Telephone (703) 406-3471 – Facsimile (703) 406-3474

April 13, 2010

Mr. James McReynolds  
County Administrator  
York County Virginia  
P.O. Box 532  
Yorktown, VA 23690-0532

Re: Consideration of Modification of Age Restriction for  
Senior Housing in York County Code

Dear Mr. McReynolds:

First Centrum is the developer of The Reserve at Williamsburg, a 71 acre property rezoned as PD-17-06 in September of 2006. The Reserve will consist of 459 units of senior housing and 7.7 acres of commercial property.

To date we have constructed all the public infrastructure and have completed and opened for occupancy 120 luxury age restricted apartments, named Verena at the Reserve. Construction has started on the 6,500 square foot clubhouse for the active adult, for-sale section, and we expect to have homes completed and available for sale in early 2011 subject to improving market conditions.

We understand that York County will soon consider technical amendments to your zoning ordinance.

We hereby request that the County consider changing the definition of “Senior Housing (Housing for Older Persons)” in Sec. 24.1-104 of the zoning ordinance as follows: the requirement for occupancy “of at least one person sixty-two (62) years of age or older” shall be modified to “of at least one person fifty-five (55) years of age or older”.

Under the current definition of Senior Housing in York County, persons renting and in particular selling homes under this age restriction have a competitive disadvantage to senior communities in immediately neighboring jurisdictions that use 55 years and not 62 years as a minimum age for occupancy in age restricted communities. This includes residents of York County who have purchased homes in senior communities and who seek to resell their homes under this current restriction.

For instance, the following for-sale communities in the immediate market area have a minimum age for residents of 55 and older:

- Colonial Heritage – James City County
- The Settlement at Powhatan Creek – James City County
- The Villas at Five Forks – James City County
- Four Seasons at New Kent Vineyards – New Kent County

These four communities together represent several thousand units of age-restricted for-sale housing, and every sale that is made at one of those communities solely because the occupant is 55 and not 62 years of age represents potential lost revenue from recordation taxes, personal property taxes and real property taxes for York County. Each of these communities mentioned above has an exception for a certain number of units that do not need to comply with the age restriction ranging from 10% to 20% of the overall amount. The Reserve has a 15% exception in this regard.

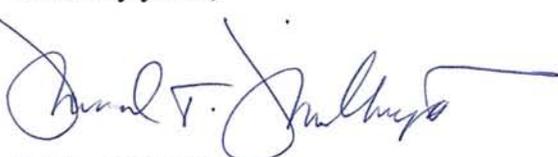
Federal law with respect to age restricted housing was clarified under the Housing for Older Persons Act of 1995 ("HOPA"). Under HOPA, housing for "older persons" is defined as "housing designed and operated for occupancy by persons who are 55 years of age or older". HOPA also states that "at least 80 percent of the occupied units are occupied by at least one person who is 55 years of age or older".

Modifying this portion of the York County zoning code will simply place elderly housing communities in York County on an even playing field with neighboring jurisdictions. No other elements of any approvals or the County zoning code would change, i.e. the minimum age of all residents of an elderly community being at least 19, and no more than 15% of the units in a development can be occupied without at least one person being the age of 55 or older.

We urge you to strongly consider this important modification to the zoning code at the earliest opportunity. The builders and individual owners of senior housing dwellings in York County should not have a competitive disadvantage to neighboring jurisdictions.

We appreciate the opportunity to comment on this matter and thank you and the Board of Supervisors for their consideration.

Sincerely yours,

A handwritten signature in blue ink, appearing to read "Michael T. Milhaupt", with a long horizontal flourish extending to the right.

Michael T. Milhaupt  
Executive Vice President

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### 24 CFR Part 100

[Docket No. FR-4094-F-02]

RIN 2529-AA80

### Implementation of the Housing for Older Persons Act of 1995

**AGENCY:** Office of the Assistant Secretary for Fair Housing and Equal Opportunity, HUD.

**ACTION:** Final rule.

**SUMMARY:** This rule implements the Housing for Older Persons Act of 1995 (HOPA). HOPA amended the requirements for qualification for the housing for persons who are 55 years of age or older portion of the "housing for older persons" exemption established in the Fair Housing Act. In addition, HOPA established a good faith defense against civil money damages for persons who reasonably relied in good faith on the application of the "housing for older persons" exemption even when, in fact, the housing provider did not qualify for the exemption. This rule updates HUD's regulations to reflect the changes made by HOPA.

**EFFECTIVE DATE:** May 3, 1999.

**FOR FURTHER INFORMATION CONTACT:** Sara K. Pratt, Director, Office of Enforcement, Office of Fair Housing and Equal Opportunity, Room 5206, 451 Seventh Street, SW, Washington, DC 20410-0500, telephone (202) 708-0836. (This is not a toll-free number.) Hearing or speech-impaired individuals may reach this office by calling the toll-free Federal Information Relay Service (TTY) at 1-800-877-8399.

#### SUPPLEMENTARY INFORMATION:

#### Information Collection Requirements

The information collection requirements contained in §§ 100.306 and 100.307 of this rule have been submitted to the Office of Management and Budget (OMB) for review under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520) and have been assigned approval number 2529-0046. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number.

#### I. Background

##### A. The Housing for Older Persons Act of 1995

The Fair Housing Act (Title VIII of the Civil Rights Act of 1968, as amended, 42 U.S.C. 3601-3619) (the Act) exempts

"housing for older persons" from the Act's prohibitions against discrimination because of familial status. Section 807(b)(2)(C) of the Act exempts housing intended and operated for occupancy by persons 55 years of age or older which satisfies certain criteria. HUD has adopted implementing regulations further defining the "housing for older persons" exemption at 24 CFR part 100, subpart E.

The Housing for Older Persons Act of 1995 (Pub. L. 104-76, 109 Stat. 787, approved December 28, 1995) (HOPA) revised the definition of the original exemption contained in the Act for housing designed and operated for occupancy by persons who are 55 years of age or older. Section 2 of HOPA redefined this portion of the exemption to describe housing:

- (C) Intended and operated for occupancy by persons 55 years of age or older, and—
- (i) At least 80 percent of the occupied units are occupied by at least one person who is 55 years of age or older;
  - (ii) The housing facility or community publishes and adheres to policies and procedures that demonstrate the intent required under this subparagraph; and
  - (iii) The housing facility or community complies with rules issued by the Secretary [of HUD] for verification of occupancy, which shall—
    - (I) Provide for verification by reliable surveys and affidavits; and
    - (II) Include examples of the types of policies and procedures relevant to a determination of compliance with the requirement of clause (ii). Such surveys and affidavits shall be admissible in administrative and judicial proceedings for the purposes of such verification.

The new requirements under HOPA are equivalent to the original provisions of the Fair Housing Act. Like the original section 807(b)(C) of the Act, HOPA requires that a facility or community seeking to claim the 55 and older exemption show three factors: (1) That the housing be intended and operated for persons 55 years of age or older; (2) that at least 80 percent of the occupied units be occupied by at least one person who is 55 years of age or older; and (3) the housing facility or community publish and adhere to policies and procedures that demonstrate its intent to qualify for the exemption. The housing facility or community must also comply with rules issued by HUD for the verification of occupancy.

One substantive change made by HOPA was the elimination of "significant facilities and services" previously required by the Act to meet the 55-and-older exemption. Section 807(b)(2)(C) of the Act originally required that housing designed for

persons who are 55 years of age or older provide "significant facilities and services specifically designed to meet the physical or social needs of older persons." HOPA also added the new requirement that a housing facility or community seeking the 55-and-older exemption comply with HUD regulations on verification of occupancy.

In addition, section 3 of HOPA added a new section 807(b)(5) to the Act. This new section established a good faith defense against civil money damages for a person who reasonably relies in good faith on the application of the housing for older persons exemption, even when, in fact, the housing facility or community does not qualify for the exemption. New section 807(b)(5) provides:

(5)(A) A person shall not be held personally liable for monetary damages for a violation of this title if such person reasonably relied, in good faith, on the application of the exemption under this subsection relating to housing for older persons.

(B) For purposes of this paragraph, a person may only show good faith reliance on the application of the exemption by showing that—

- (i) such person has no actual knowledge that the facility or community is not, or will not be, eligible for such exemption; and
- (ii) The facility or community has stated formally, in writing, that the facility or community complies with the requirements for such exemption.

#### B. This Rule

This rule revises § 100.304, which presents an overview of the exemption, to more closely track the HOPA requirements. The rule also creates a new § 100.305, which updates the 80 percent occupancy requirements. A new § 100.306 describes how a facility or community may establish its intent to operate as housing designed for persons at least 55 years of age or older. New § 100.307 sets forth the necessary procedures for verification of the 80 percent occupancy requirements. Finally, a new § 100.308 implements the good faith defense against civil money damages.

Section 2 of HOPA requires that any implementing HUD regulations "include examples of the types of policies and procedures relevant to a determination of compliance with" the statute's intent requirement. Accordingly, paragraph (a) of § 100.306 lists several factors which HUD considers relevant in determining whether the housing facility or community intends to operate as housing for older persons. Section 100.306(b) states, however, that such

# Economic Development Authority

York County, Virginia

July 22, 2010

Donald E. Wiggins, Chairman  
York County Board of Supervisors  
P. O. Box 532  
Yorktown, VA 23690

Dear Mr. Wiggins:

At the June meeting of the Economic Development Authority, the members voted unanimously to request that the Board of Supervisors consider sponsoring a Zoning Text Amendment. The specific amendment would be to allow automotive body shops by right in the General Business and Economic Opportunity Zoning Districts. As you may be aware, the automotive body shop industry has matured a great deal in the past few years and their facilities have significantly improved. Additionally, the new environmental regulations for this industry have virtually eliminated problems with paint fumes and related issues. In general, the members felt that this type of land use fits well in the General Business and Economic Opportunity Zoning District and should be permitted by right.

If you have any questions regarding this request, please contact me directly. Thank you very much for your continued support.

Sincerely,



R. Anderson Moberg  
Chairman

Copy James O. McReynolds  
✓ J. Mark Carter  
James W. Noel, Jr.

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# Economic Development Authority

York County, Virginia

January 19, 2010

The Honorable Donald E. Wiggins, Chairman  
York County Board of Supervisors  
P. O. Box 532  
Yorktown, VA 23690

Re: York County Code §24.1-333 C3

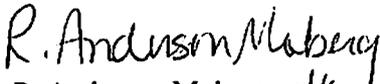
Dear Mr. Wiggins:

At the December Economic Development Authority meeting, we discussed a recent zoning violation case involving the Lightfoot Wal-Mart's use of cargo units for storage of excess inventory. The authority was briefed by staff on the history of this requirement in the Zoning Ordinance in relation to the Tabb Wal-Mart. The Authority members understand the need to screen these cargo units when they are highly visible from public right-of-way and/or residential developments. However, in the case of the Lightfoot Wal-Mart, the cargo units are stored behind the building and not are visible from a public right-of-way or a residential development. In this case it does not seem to be a reasonable request to require that the retailer construct an expensive walled enclosure to screen the cargo units.

The Authority voted unanimously to request that the Board of Supervisors sponsor an amendment to the Zoning Ordinance which would allow the use of these units without a screening wall, when they do not negatively impact the public or adjacent property owners.

If you have any questions regarding this request or require additional information, please contact me or Jim Noel in the Office of Economic Development.

Sincerely,

  
R. Anderson Moberg - dm -  
Chairman

Copy James O. McReynolds  
✓ J. Mark Carter

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Thursday, January 14, 2010

Welc



HOME | Code | On-Line Services | County Services | County Government | Doing Business | Economic Development | Tourism

You are here: Code » Chapter 24.1 » Sec. 24.1-333.

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- Chapt. 7 - Reserved
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- Chapt. 24.1 - Zoning

ZONING

ARTICLE III. DISTRICTS

DIVISION 3. BUSINESS DISTRICTS

Sec. 24.1-333. GB-General business district.

(a) Statement of intent. The GB district is intended to provide opportunities for a broad range of commercial activities. Many of these uses are characterized by the need for large amounts of outdoor display and storage of goods or materials, significant parking and loading space requirements, a dependency on truck traffic, and, in general, an activity level and aesthetic character which set them apart from the types of uses permitted in the lower intensity commercial districts. The GB district is intended for application in areas designated for general commercial and tourist commercial development by the comprehensive plan but with specific attention to the suitability of such areas and their surroundings for accommodating the demands and impacts of high intensity commercial development.

(b) Dimensional standards. Each lot created or used shall be subject to the following dimensional standards:

GB-GENERAL BUSINESS DISTRICT

Use Classification	Minimum Lot Requirements		Minimum Yard Requirements			Maximum Building Height
	Area	Width	Front	Side	Rear	
All Permitted & Special Uses	20,000 sf	100'	45'	10'	10'	50'
Minimum district size: none						
NOTE: These minimum lot requirements apply where both public water and public sewer are available. For lots not served by public water and public sewer, refer to section 24.1-204.						
Performance standards and special use permit requirements or conditions may increase yard and lot requirements. See article IV.						

(c) Special requirements.

(1) Outdoor storage of goods or materials shall not be permitted in front yards. In side and rear yards, outdoor storage shall be in a fully buffered area which meets all applicable setback requirements.

(2) Outdoor display of merchandise shall be limited to that merchandise which:

- a. is in working order and ready for sale; and
- b. is located in side or rear yards; or
- c. if in front, can be accommodated in the area immediately adjoining the front of the principal building and extending not more than ten feet (10') from it except:
  1. In the case of a permitted gasoline sales establishment, outdoor display can be accommodated on the pump islands;
  2. In the case of permitted vehicle sales establishments, landscape nurseries and materially similar uses, outdoor display which does not encroach upon any required element on the site shall be permitted.

No such display shall encroach upon any required parking or loading area or vehicular circulation area. Outdoor displays of merchandise shall not cause injury or harm to or reduce the viability of any required landscaping.

(3) Other provisions of this ordinance notwithstanding, the use of trailers, as defined in section 24.1-104, for outdoor storage purposes in conjunction with a principal permitted use shall be permitted by special exception approved by the board of supervisors subsequent to conducting a duly advertised public hearing. Such activity shall be subject to the following standards and such others as the board may deem appropriate:

- a. the use of trailers/cargo units shall be clearly accessory and incidental to the principal use of the property;
- b. such trailer or cargo unit shall not be visible from any adjacent right-of-way and shall be screened from view from such rights-of-way and adjacent properties by a walled enclosure at least two (2) feet higher than the height of the tallest trailer/cargo unit with such wall being constructed of as an extension of the principal building;

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Yorktown, VA 23692  
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April 12, 2010

Division of Development and Compliance

York County Environmental and Development Services

To Whom It May Concern:

As you may be aware, Abel Paints, LLC is a York County business, specializing in retail sales of interior and exterior paints, located on Route 17 in Yorktown. As part the process of opening back in November 2006, we were asked to comply with certain aspects of the Route 17 Corridor Overlay District regulations. Part of this compliance included the color and manufacturer paint that was to be applied to the exterior of the building.

Abel Paints is an authorized dealer of Benjamin Moore Paints, a nationally recognized brand that has been manufacturing paint for over eighty years. One of the color collections that Benjamin Moore offers is the "Historical Colors Collection." It is this collection that I would like to submit for consideration as part of the Yorktown Color Palette.

As a member of the local Chamber of Commerce, as well as a business located inside the Route 17 Corridor Overlay District, I feel that the addition of the Historic Color Collection by Benjamin Moore would offer an opportunity to keep new business revenue in York County, rather than sending it to the surrounding areas.

I would be happy to discuss this further at your convenience. Please feel free to contact me with any questions. Abel Paints, LLC looks forward to continuing our business here in York County.

Sincerely,

Susan Hughes, Administrative Assistant

Abel Paints, LLC. DBA: Abel Dream Center

PLANNING COMMISSION  
COUNTY OF YORK  
YORKTOWN, VIRGINIA

Resolution

At a regular meeting of the York County Planning Commission held in the Board Room, York Hall, Yorktown, Virginia, on the \_\_\_\_ day of \_\_\_\_\_, 2010:

\_\_\_\_\_

Present

Vote

Christopher A. Abel, Chair  
M. Sean Fisher, Vice Chair  
Alexander T. Hamilton  
Mario C. Buffa  
Richard M. Myer, Jr.  
John R. Davis

\_\_\_\_\_

On motion of \_\_\_\_\_, which carried \_\_\_\_, the following resolution was adopted:

A RESOLUTION TO RECOMMEND APPROVAL OF APPLICATION NO. ST-17-10 TO AMEND THE YORK COUNTY SUBDIVISION ORDINANCE (CHAPTER 20.5, YORK COUNTY CODE) TO ADD LANGUAGE REQUIRING PREPARATION OF A PLAT IN ORDER FOR A PARCEL BISECTED BY A RIGHT-OF-WAY ACQUISITION TO BE CONSIDERED TO HAVE BEEN LAWFULLY SUBDIVIDED.

WHEREAS, Application No. ST-17-10 has been sponsored by the Board of Supervisors to allow consideration of amendments necessary to keep the Subdivision Ordinance current with respect to State Code requirements and case law; and

WHEREAS, said application has been forwarded to the York County Planning Commission in accordance with applicable procedure; and

WHEREAS, the Planning Commission has conducted a duly advertised public hearing on this application; and

WHEREAS, the Commission has carefully considered the public comments with respect to this application;

NOW, THEREFORE, BE IT RESOLVED by the York County Planning Commission this the \_\_\_ day of \_\_\_\_\_, 2010, that Application No. ST-17-10 be, and it is hereby, transmitted to the York County Board of Supervisors with a recommendation of approval to amend the York County Subdivision Ordinance (Chapter 20.5, York County Code) to read and provide as follows:

\*\*\*

**Sec. 20.5-27. Classification of subdivisions.**

Subdivisions shall be classified as follows:

- (a) *Public service lots, rights-of-way.* When a lot is created for the sole purpose of developing a sewage or water facility or any other public facility, or for the sole purpose of widening or enlarging a road right-of-way, to be owned and operated or maintained by the Commonwealth of Virginia, county, other governmental or municipal entity, service authority, or sanitary district and title to such property passes at the same time as the plat is recorded, such lot shall be exempt from the requirements of this chapter except that the record plat shall adhere to the standards established in section 20.5-31(a) of this chapter. In the event that acquisition of a road right-of-way for a street, road or highway by the county or an agency or department of the Commonwealth of Virginia or the United States bisects an existing parcel, the result shall be deemed to constitute a lawful subdivision of the parcel provided that ~~only if~~ both of the resulting parcels meet the minimum lot area and dimensional requirements specified for the zoning district in which located and provided further that the owner causes a plat, prepared and approved pursuant to this chapter, to be recorded in the land records to define the boundaries of said parcels. In the event this is not the case, the parcel shall be deemed to remain a single parcel, despite the fact that it is bisected by a public right-of-way.

\*\*\*

PLANNING COMMISSION  
COUNTY OF YORK  
YORKTOWN, VIRGINIA

Resolution

At a regular meeting of the York County Planning Commission held in York Hall, Yorktown, Virginia, on the \_\_\_\_ day of \_\_\_\_\_, 2010:

---

Present

Vote

Christopher A. Abel, Chair  
M. Sean Fisher, Vice Chair  
Alexander T. Hamilton  
Mario C. Buffa  
Richard M. Myer, Jr.  
John R. Davis

---

On motion of \_\_\_\_\_, which carried \_\_\_\_, the following resolution was adopted:

A RESOLUTION TO RECOMMEND APPROVAL OF APPLICATION NO. ZT-132-10 TO AMEND VARIOUS SECTIONS OF THE YORK COUNTY ZONING ORDINANCE (CHAPTER 24.1, YORK COUNTY CODE)

WHEREAS, Application No. ZT-132-10 has been sponsored by the Board of Supervisors to allow consideration of amendments necessary to keep the Zoning Ordinance current with respect to State Code requirements and to address various other issues identified for consideration by the Board; and

WHEREAS, said application has been forwarded to the York County Planning Commission in accordance with applicable procedure; and

WHEREAS, the Planning Commission has conducted a duly advertised public hearing on this application; and

WHEREAS, the Commission has carefully considered the public comments with respect to this application;

NOW, THEREFORE, BE IT RESOLVED by the York County Planning Commission this the \_\_\_\_ day of \_\_\_\_\_, 2010, that Application No. ZT-132-10 be, and it is hereby, transmitted to the York County Board of Supervisors with a recommendation of approval to amend the York County Zoning Ordinance (Chapter 24.1, York County Code) to read and provide as follows:

## Sec. 24.1-104. Definitions

\*\*\*

*Bed and breakfast inn* ~~(tourist home)~~. A dwelling in which, for compensation, ~~mealsbreakfast~~ and overnight accommodations are provided for ~~transienttransitory~~ guests. ~~When the establishment is located in a Residential zoning district, the owner of the property operator of the inn~~ shall live on the premises or in an adjacent premises ~~and shall be the operator/provider of the bed and breakfast accommodations and services.~~

\*\*\*

*Family*. An individual, or two (2) or more persons related by blood, marriage or adoption, or a group of not more than four (4) unrelated persons, occupying a single dwelling unit. For purposes of single-family residential occupancy, the term also shall be deemed to encompass the residents of group homes or other residential facilities, as defined in Section 15.2-2291 of the Code of Virginia, which are licensed by the department of ~~mental health, mental retardation and substance abuse services behavioral health and developmental services~~ or the department of social services and which are occupied by not more than eight (8) ~~individuals with mental illness, mental retardation, or developmental disabilities mentally ill, mentally retarded, developmentally disabled, or persons who are~~ aged, infirm or disabled, ~~persons~~ together with one (1) or more resident counselors. Mental illness and developmental disability does not include current illegal use of or addiction to a controlled substance as defined in section 54.1-3401, Code of Virginia.

\*\*\*

*Pool House*. A detached accessory structure located on a lot containing a single-family detached residential structure and an accessory in-ground swimming pool. Such pool house may contain a bathroom consisting of a sink, toilet and shower, but not a bathtub.

\*\*\*

*Senior Housing*. As permitted by the terms of the Virginia Housing Law, Section 36-96.7 of the Code of Virginia (1950, as amended) and the federal Housing for Older Persons Act of 1995 (HOPA), senior housing or housing for older persons can include: i) that which is provided under any state or federal program that is designed and operated to assist elderly persons, as defined by such program; or (ii) a housing community or facility wherein at least ~~80% 85%~~ of the units are occupied by at least one person ~~fifty-five (55) sixty-two (62)~~ years of age or older and wherein none of the residents in the community or facility are under the age of nineteen (19). The requirements of "Housing for Older Persons" as set forth in the Virginia Fair Housing Law and HOPA shall control as to any allowable exemptions to the occupancy rules. The developer, owner, property owners association and/or manager of the housing community or facility shall establish, make available and adhere to policies and procedures which implement the occupancy criteria. Senior housing arrangements may be further distinguished as one or more of the following categories:

- *Independent Living Facility*: A building or series of buildings containing independent dwelling units intended to provide housing for older persons not requiring health or other services offered through a central management structure/source. The facility may include ownership or rental units and must be subject to appropriate covenants, conditions, management policies or other procedures to ensure that the facility provides only housing for older persons, as defined above.
- *Congregate Care Facility*: A building or series of buildings containing residential living facilities intended as housing for older persons and which offers the residents of such facility the opportunity to receive their meals in a central dining facility, to receive housekeeping services and to participate in activities, health services, and other services offered through a central management structure/service.
- *Assisted Living Facility*: A building or series of buildings containing residential living facilities for older persons and which provides personal and health care services, 24-hour supervision, and various types of assistance (scheduled and unscheduled) in daily living and meeting the requirements of Section 63.2-1800, et. seq. of the Code of Virginia (1950), as amended.

- *Continuing Care Retirement Community (CCRC).* A senior housing development that is planned, designed and operated to provide a full range of accommodations for older persons, including independent living, congregate care and assisted living facilities, and which may also include a nursing home (skilled-care facility) component. Residents may move from one level to another level of housing accommodations as their needs change. CCRCs may include ownership and rental options but must be subject to appropriate covenants, conditions, management policies or other procedures to ensure that the facility provides only housing for older persons, as defined above.

\*\*\*

Temporary family health care structure. A transportable residential structure, providing an environment facilitating a caregiver's provision of care for a mentally or physically impaired person, and which has been primarily assembled at a location other than the site of installation.

\*\*\*

*Tourist home.* An establishment, either in a private dwelling or in a structure accessory and subordinate to a private dwelling, in which that supplies temporary accommodations are provided to overnight transient guests for a fee. (See also "Bed and breakfast inn")

\*\*\*

Transient occupancy. Occupancy of a lodging unit or accommodation on a temporary basis for less than (ninety) 90 continuous days by a visitor whose permanent address for legal purposes is not the lodging unit occupied by the visitor.

\*\*\*

#### **Sec. 24.1-110. Interpretations.**

\*\*\*

- (c) Any decision, order, requirement or determination by the zoning administrator shall be rendered in writing and shall include the following statement:

*You have thirty (30) days in which to appeal this decision to the Board of Zoning Appeals, in accordance with section 15.2-23114.1-496.b, Code of Virginia, or this decision shall be final and unappealable. The filing fee for an appeal application is \_\_\_\_\_ (stating the amount of the fee). Information regarding the appeal application process can be obtained by contacting the Secretary of the Board of Zoning Appeals [(757)890-3532].*

\*\*\*

#### **Sec. 24.1-114. Conditional zoning.**

\*\*\*

- (d) *Effect of conditions.*

- (1) The provisions of this section shall be considered separate from, supplemental to and in addition to the provisions contained elsewhere in this chapter or other county ordinances. Nothing contained in this section shall be construed as excusing compliance with all other applicable provisions of this Code.
- (2) Once proffered and accepted by the board as part of an amendment to the zoning map, such conditions shall continue in full force and effect until amended as provided herein.
- (3) Conditions once proffered and accepted by the board shall immediately become effective with approval of the application to amend the zoning map. Upon approval, any site plan, subdivision plat, or development plan thereafter submitted for the development of the property in question shall be in conformance with all proffered conditions and no development shall be approved by any county official in the absence of said conformance.

- (4) In the event proffered conditions include the dedication of real property or the payment of cash, such property shall not transfer and such payment of cash shall not be made until the facilities for which said property is dedicated or cash is tendered are included in the capital improvement program, except that items which are not normally included in such capital improvement program may be accepted at any time. -In the event a proffer accepted prior to July 1, 2014, which involves a pledge of a cash payment for residential construction on a per-dwelling unit or per-home basis, the cash payment pursuant to such proffer shall be collected or accepted only after completion of the final inspection and prior to the time of the issuance of any certificate of occupancy for the subject property.

\*\*\*

## ARTICLE II. GENERAL REGULATIONS

\*\*\*

### **Sec. 24.1-245. Greenbelts.**

- (a) Greenbelts shall be provided contiguous to the street right-of-way along the following roads in accordance with the specified minimum widths:
- (1) Bypass Road (Route 60) - 35 feet
  - (2) Denbigh Boulevard (Route 173) - 35 feet
  - (3) Fort Eustis Boulevard (Route 105) -35 feet
  - (4) Hampton Highway (Route 134) - 35 feet
  - (5) Merrimac Trail (Route 143) between I-64 at Exit 230 (Camp Peary/Colonial Williamsburg) and Queen Creek - 45 feet
  - (6) Penniman Road (Route 641) between the Colonial Parkway and Route 199 - 45 feet
  - (7) Route 132 - 45 feet
  - (8) Route 199 - 45 feet
  - (9) Victory Boulevard (Route 171) - 35 feet
  - (10) East Rochambeau Drive from Oaktree Road (west) intersection to Mooretown Road and from Mooretown Road to dead end - 45 feet
  - (11) Mooretown Road from Lightfoot Road to a point 1,400 feet south of its intersection with Clark Lane - 45 feet
  - (12) Mooretown Road from Airport Road to Waller Mill Road - 45 feet
  - (13) Lightfoot Road from Route 60 to Rochambeau Drive (west) - 45 feet, except where the parcel also has frontage on Route 199, in which case the Lightfoot Road greenbelt shall be 35 feet.
  - (14) Rochambeau Drive (west) from Lightfoot Road to James City County line - 45 feet
  - (15) Interstate 64 – 45 feet.

The 10-foot perimeter landscape strip normally required at the rear of buildings by Section 24-244(b) of this Chapter shall not be required on parcels subject to the 45-foot Greenbelt provision.

\*\*\*

## DIVISION 7. ACCESSORY USES

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

The following accessory uses shall be permitted in conjunction with residential uses. No accessory use, activity or structure, except fences, shall be constructed or conducted until the principal use of the lot has commenced, or the construction of the principal building/structure has commenced and is thereafter diligently and continuously pursued to completion. Land uses not listed in this section and not deemed similar to a listed use pursuant to subsection (o) shall be deemed not allowed as residential accessory uses:

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n) Small wind energy systems subject to the standards set forth in section Nos. 24.1-231 and 274 of this chapter and provided that roof-mounted systems shall not be permitted in conjunction with single-family detached dwellings.

o) Pool house when in conjunction with an accessory permanently constructed in-ground swimming pool. Such structures shall not be considered to be an accessory apartment and shall not be used for residential purposes.

p) Temporary family health care structures for use by a caregiver in providing care for a mentally or physically impaired person on property that is zoned for single-family residential use and that owned or occupied by the caregiver as his residence, subject to the following performance standards

- (1) occupancy of the structure shall be by a mentally or physically impaired person who, for the purposes of this section, shall be deemed to be a person who is a resident of Virginia and who requires assistance with two or more activities of daily living, as defined in Section 63.2-2200 of the Code of Virginia and as certified in writing by a physician licensed by the Commonwealth of Virginia;
- (2) a maximum of one (1) resident occupant, who shall be the mentally or physically impaired person, shall be permitted;
- (2) the structure shall not exceed 300 square feet in gross floor area;
- (3) the structure shall comply with all applicable provisions of the Industrialized Building Safety Law and the Uniform Statewide Building Code;
- (4) placement on a permanent foundation shall not be required or permitted;
- (5) only one such structure shall be permitted on a lot;
- (6) the structure shall comply with all setback requirements applicable to principal structures in the district in which located;

- (7) such structure shall be connected to all necessary public and/or private utilities and shall comply with all applicable requirements of the Virginia Department of Health;
- (8) no signage advertising or otherwise promoting the existence of the structure shall be permitted either on the exterior of the temporary family health care structure or elsewhere on the property;
- (9) prior to placement of such a structure on a residential property, the property owner shall obtain a permit, available from the office of the zoning administrator; the zoning administrator shall require submission of a sketch plan and such other documentation as deemed necessary to ensure compliance with the standards set forth herein;
- (10) any temporary family health care structure installed pursuant to this section shall be removed within 30 days of the occurrence of the mentally or physically impaired person no longer receiving or no longer needing the assistance of a caregiver;
- (11) for the purposes of this section, the term caregiver means an adult who provides care for a mentally or physically impaired person within the Commonwealth and the caregiver shall be either related by blood, marriage, or adoption to, or shall be the legally appointed guardian of, the mentally or physically impaired person for who care is being provided; and,
- (12) on an annual basis, at least 30 days prior to the anniversary date of the initial permit issuance, the caregiver shall be required to provide evidence of compliance with the terms of this section and to grant zoning and code enforcement personnel the opportunity to conduct an inspection of the property and the structure at a time mutually acceptable to the caregiver and the inspection personnel.

(g) Other uses and structures of a similar nature which are customarily associated with and incidental to residential uses as determined by the zoning administrator.

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#### **Sec. 24.1-273. Location, height, and size requirements.**

Except where other provisions of this chapter are more restrictive, the following requirements shall apply to the location, height, and size of all accessory uses or structures in all districts, including the planned development district unless the approving ordinance for such district (project) has established alternative or supplementary requirements:

- (a) With the exception of statues, arbors, trellises, flagpoles, fences, walls or roadside stands, accessory buildings or structures shall not be located closer to the front lot line than the principal building façade provided, however, that where the setback of the principal building exceeds fifty feet (50'), accessory buildings and structures shall be subject only to a fifty-foot (50') minimum setback requirement.
- (b) Accessory buildings or structures located closer to the front lot line than the rear of the principal building shall observe the side yard requirements applicable to the principal building. When the rear façade of the principal building has more than one plane, the accessory building side yard requirements shall be determined based on accessory building location in relation to those rear facades as depicted in Figure II-7.1, Appendix A.
- (c) An accessory building or structure attached to a principal building by any wall or roof construction, or located within ten feet (10') of any principal building, shall be considered a part of the principal building and shall observe all yard regulations applicable thereto. Setback and spacing requirements for accessory in-ground swimming pools shall be measured to the edge of the water. Setback and

spacing requirements for above-ground pools shall be measured to the outer edge of the pool wall or any above-ground decking surrounding the pool.

- (d) Accessory buildings and structures shall observe minimum side and rear yard setbacks of five feet (5') except where the provisions of this chapter specifically require otherwise and provided, however:
- (1) There shall be no side and rear yard requirements for fences or walls; and
  - (2) There shall be no rear yard requirement for docks, piers or boathouses; however, a setback of ten feet (10') from side lot lines extended to mean low ~~or extensions thereof into bodies of water~~, shall be observed. All such uses shall be subject to applicable permitting requirements of the Virginia Marine Resource Commission and United States Army Corps of Engineers.
- (e) Roadside stands shall be set back at least twenty feet (20') from any road right-of-way.
- (f) The above listed requirements shall not apply to the parking or storage of small cargo or utility trailers, recreational vehicles and similar equipment; however, no such trailer, vehicle, or equipment shall be stored within twenty feet (20') of any public road right-of-way, unless in a driveway.
- (g) Except as authorized by section 24.1-231 or section 24.1-274 of this chapter, no accessory building or structure shall exceed the maximum height limitation established for the district or the height of the structure to which it is accessory, whichever is less, provided, however, that buildings which are accessory to a single-story building may be constructed to a maximum height not exceeding 1.25 times the height of the principal building. In cases where this is permitted, the accessory building shall be separated from the principal building by a distance of at least twenty feet (20') and shall observe a minimum side and rear yard setback of ten (10) feet rather than the normally applicable five (5) feet.
- (g) With the exception of barns and similar structures associated with a bona fide agricultural/farming operation, the building footprint (i.e., lot coverage) of a structure accessory to a residential use shall not exceed the area of the building footprint of the principal residential structure.
- (h) Accessory structures shall be located on the same lot as the principal structure. Where adjoining lots are under single ownership and an accessory structure is proposed to be located so as to straddle an interior property line, or where the accessory and principal structures would be on different lots, the owner shall be responsible for preparing and recording, prior to issuance of a building permit, a survey plat to vacate the interior lot line(s) as necessary to ensure the principal and accessory structures are located on the same lot.

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**Sec. 24.1-306. Table of land uses.**

USES	RESIDENTIAL DISTRICTS						COMMERCIAL AND INDUSTRIAL DISTRICTS						
	RC	RR	R20	R13	R7	RMF	NB	LB	GB	WCI	EO	IL	IG
	CATEGORY 12 – MOTOR VEHICLE / TRANSPORTATION												
1. Car Wash								S	S		S		
2. Automobile Fuel Dispensing Establishment/ Service Station (May include accessory convenience store and/or car wash)									S		S	S	
3. Auto Repair Garage									S			P	P
4. Auto Body Work & Painting									PS		PS	P	P
5. Auto or Light Truck Sales, Rental, Service (New or used vehicles sales) (Including Motorcycles or R.V.'s)													
a) Without Auto Body Work & Painting									S		S	P	P
b) With Body Work & Painting									S		S	P	P
6. Heavy Truck and Equipment Sales, Rental, Service									S			P	P
7. Farm Equipment Sales, Rental, Service									S			P	P
8. Manufactured Home Sales, Rental, Service									S			S	S
9. Boat Sales, Service, Rental, and Fuel Dispensing									P	P		S	
10. Marine Railway, Boat Building and Repair										P		P	P
11. Truck Stop												S	S
12. Truck Terminal												P	P
13. Heliport									S		S	S	S
14. Helipad									S		S	S	S
15. Airport											S	S	S
16. Bus or Rail Terminal									P		S	P	P
17. Taxi or Limousine Service									P			P	
18. Towing Service / Auto Storage or Impound Yard												S	S
18a. Recreational Vehicle Storage Facility									S			P	P
19. Automobile Graveyard, Junkyard													S
20. Bus Service/Repair Facility												P	P

(Ord. No. 09-22(R), 10/20/09)

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**Sec. 24.1-333. GB-General business district.**

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(c) *Special requirements.*

- (1) Outdoor storage of goods or materials shall not be permitted in front yards. In side and rear yards, outdoor storage shall be in a fully buffered area which meets all applicable setback requirements.
- (2) Outdoor display of merchandise shall be limited to that merchandise which:

- a. is in working order and ready for sale; and
- b. is located in side or rear yards; or
- c. if in front, can be accommodated in the area immediately adjoining the front of the principal building and extending not more than ten feet (10') from it except:
  1. in the case of a permitted gasoline sales establishment, outdoor display can be accommodated on the pump islands;
  2. in the case of permitted vehicle sales establishments, landscape nurseries and materially similar uses, outdoor display which does not encroach upon any required element on the site shall be permitted.

No such display shall encroach upon any required parking or loading area or vehicular circulation area. Outdoor displays of merchandise shall not cause injury or harm to or reduce the viability of any required landscaping.

(2)(3)

Other provisions of this ordinance notwithstanding, the use of trailers, as defined in section 24.1-104, for outdoor storage purposes in conjunction with a principal permitted use shall be permitted by special exception approved by the board of supervisors subsequent to conducting a duly advertised public hearing. Such activity shall be subject to the following standards and such others as the board may deem appropriate:

- a. the use of trailers/cargo units shall be clearly accessory and incidental to the principal use of the property;
- b. such trailer or cargo unit shall not be visible from any adjacent right-of-way and shall be screened from view from such rights-of-way and adjacent properties by a walled enclosure at least two (2) feet higher than the height of the tallest trailer/cargo unit with such wall being constructed of as an extension of the principal building;
- c. the exterior finish of the enclosure wall shall match and/or complement the faces of the principal building with which it is aligned.
- d. the wall shall incorporate articulations, pilasters, belt and/or header courses or other decorative treatments to break up any continuous linear expanse greater than twenty-five (25) feet in length.
- e. Landscaping shall be placed around the perimeter of the enclosure in accordance with the building perimeter landscaping requirements specified by this chapter.
- f. The above provisions notwithstanding, the zoning administrator may authorize the placement of such trailers/cargo units on a site without need for installation of the walled enclosure in situations where the trailers/cargo units are totally obscured from view from any public roadway or customer parking area by virtue of their placement behind a building or buildings on the site and when such units can be effectively screened from view from adjacent properties by buildings, fencing, landscaping, topography or distance

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**Sec. 24.1-340. EO-Economic opportunity district.**

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(c) *Special requirements.*

- (1) Outdoor storage of goods or materials shall:
  - a. not be permitted in any front yards;
  - b. not encroach upon any required landscaping;
  - c. not encroach upon any required parking or loading zoning space;
  - d. be screened from public rights-of-way or adjoining properties which are zoned or used less intensively.
- (2) Outdoor display of merchandise shall be permitted in any yard area provided that such display:
  - a. shall not encroach upon any required perimeter infiltration yards adjoining a lot line;
  - b. shall not encroach upon any required parking or loading space;
  - c. when located in any front yard, shall be limited to that merchandise which is in working order and ready for sale; and
  - d. shall not cause injury or harm or reduce the viability of any required landscaping.
- (3) All uses shall be conducted so as not to produce hazardous, objectionable or offensive conditions at or beyond property line boundaries by reason of odor, dust, lint, smoke, cinders, fumes, noise, vibration, heat, glare, solid and liquid wastes, fire or explosion.
- (4) Other provisions of this ordinance notwithstanding, the use of trailers, as defined in section 24.1-104, for outdoor storage purposes in conjunction with a principal permitted use shall be permitted by special exception approved by the board of supervisors subsequent to conducting a duly advertised public hearing. Such activity shall be subject to the following standards and such others as the board may deem appropriate:
  - a. the use of trailers/cargo units shall be clearly accessory and incidental to the principal use of the property;
  - b. such trailer or cargo unit shall not be visible from any adjacent right-of-way and shall be screened from view from such rights-of-way and adjacent properties by a walled enclosure at least two (2) feet higher than the height of the tallest trailer/cargo unit with such wall being constructed of as an extension of the principal building;
  - c. the exterior finish of the enclosure wall shall match and/or complement the faces of the principal building with which it is aligned.
  - d. the wall shall incorporate articulations, pilasters, belt and/or header courses or other decorative treatments to break up any continuous linear expanse greater than twenty-five (25) feet in length.

e. Landscaping shall be placed around the perimeter of the enclosure in accordance with the building perimeter landscaping requirements specified by this chapter.

f. The above provisions notwithstanding, the zoning administrator may authorize the placement of such trailers/cargo units on a site without need for installation of the walled enclosure in situations where the trailers/cargo units are totally obscured from view from any public roadway or customer parking area by virtue of their placement behind a building or buildings on the site and when such units can be effectively screened from view from adjacent properties by buildings, fencing, landscaping, topography or distance.

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### **Sec. 24.1-373. FMA-Floodplain management area overlay district.**

(c) For the purposes of this section, the following terms shall have the following meanings:

Repetitive loss structure. A structure covered by a contract for flood insurance that has sustained flood-related damages on two (2) separate occasions during a 10-year period, ending on the date of the event for which the second flood insurance claim is made, in which the cost of repair, on the average, equaled or exceeded 25 percent of the pre-damage market value of the building at the time of each such flood event.

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Substantial damage. Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent (50%) of the market value of the structure before the damage occurred. The term "substantial damage" shall also be deemed to include damage that results in a structure being determined to be a "repetitive loss structure" as defined herein.

Substantial improvement. Any repair, reconstruction, rehabilitation, addition, or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure before the "start of construction" of the improvement. This term includes the repair/reconstruction of structures which have incurred "substantial damage" regardless of the actual amount of repair work performed. The term does not, however, include either:

- Any alteration of an "historic structure," provided that the alteration will not preclude the structure's continued designation as an "historic structure."
- Any project for improvement of a structure to correct existing violations of Virginia or county health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to ensure safe living conditions.

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(e) Special standards and requirements.

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(7) Construction standards for properties in Zone AE. All new construction, or substantial improvement, or repair/reconstruction of substantial damage in Zone AE of the floodplain management area shall occur in accordance with the applicable floodplain construction provisions for Zone AE contained in the Virginia Uniform Statewide Building Code. The zoning administrator shall be satisfied that all applicable provisions have been complied with prior to issuing building permits or temporary or permanent certificates of occupancy.

In addition, the following standards shall apply:

- a. It is strongly recommended that all new and replacement electrical equipment, and heating, ventilating, air conditioning and other service facilities be installed with a freeboard at least one and one-half feet (1½') above the base flood elevation or otherwise designed and located so as to prevent water from entering or accumulating within the system.
  - b. It is strongly recommended that all electrical distribution panels be installed with a freeboard at least three feet (3') above the base flood elevation or otherwise designed and located so as to prevent inundation.
  - c. In all cases, elevation of the lowest floor of the structure, including basements, to a freeboard at least one and one-half feet (1½') above the base flood elevation or, in the case of non-residential structures, floodproofing to at least that level, is strongly encouraged and may result in a reduction of flood insurance premiums.
- (8) *Construction standards for properties in Zone VE.* All new construction, ~~or~~ [substantial improvement-improvement, or repair/reconstruction of substantial damage](#) in Zone VE of the floodplain management area shall occur in accordance with the applicable floodplain construction provisions for Zone VE contained in the Virginia Uniform Statewide Building Code. The zoning administrator shall be satisfied that all applicable provisions have been complied with prior to issuing building permits or temporary or permanent certificates of occupancy. In addition, the following standards shall apply:
- a. All new construction or development shall be located landward of the reach of the mean high tide.
  - b. Any man-made alteration of a sand dune or any part thereof shall be prohibited.
  - c. No structure or any part thereof may be constructed on fill material of any kind.
  - d. It is strongly recommended that all new and replacement electrical equipment, and heating, ventilating, air conditioning and other service facilities be installed with a freeboard at least three feet (3') above the base flood elevation or otherwise designed and located so as to prevent water from entering or accumulating within the system.
  - e. It is strongly recommended that all electrical distribution panels be installed with a freeboard at least six feet (6') above the base flood elevation or otherwise located so as to prevent inundation.
  - f. In all cases, elevation of the bottom of the lowest horizontal structural member of the lowest floor of the structure, excluding pilings or columns, to a freeboard at least three feet (3') above the base flood elevation is strongly encouraged and may result in a reduction of flood insurance premiums.
- (9) *Construction standards for properties in Zone A.* All new construction, ~~or~~ [substantial improvements, or repair/reconstruction of substantial damage](#) in Zone A must comply with all standards applicable to Zone AE contained in this section and the floodplain construction provisions of the Virginia Uniform Statewide Building Code. In addition, the owner and developer of such property shall provide to the zoning administrator sufficiently detailed hydrologic and hydraulic analyses, certified by a licensed engineer, to determine the base flood elevation for the property and the location of the 100-Year Flood Boundary. Upon approval by the zoning administrator, copies of all such detailed analyses shall be transmitted to the Federal Insurance Administrator for incorporation into the FIRM.
- (10) Under no circumstances shall any use, activity, and/or development adversely affect the

capacity of the channels or floodway of any watercourse, drainage ditch, or any other drainage system or facility.

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**Sec. 24.1-375. TCM-Tourist corridor management overlay district.**

- (a) *Statement of intent.* In accordance with section 15.2-2306 Code of Virginia and the objectives of the comprehensive plan, the tourist corridor management overlay district regulations are designed and intended to protect the aesthetic and visual character of the transportation corridors leading into and through the designated historic districts of Williamsburg and Yorktown. All development proposed within these corridors shall be subject to procedures and standards in addition to those in the district regulations. Primarily this overlay district is intended to provide a positive visual experience for those visitors coming into and through the county. The provisions that follow include both *requirements* (using the word "shall") that must be met and *recommendations* (using the word "should") that suggest desirable features and treatments that property owners are encouraged to voluntarily incorporate into their building/site designs.
- (b) *Applicability.* The special provisions established in this section shall apply to development on parcels which are located along major tourist corridors used to access historic districts in Williamsburg and Yorktown that have been designated on the Virginia Landmarks Register. All lands within two hundred fifty feet (250') of the following arterial rights-of-way shall be included in the overlay district. Where the property is bisected by this line, the overlay designation shall apply to all construction proposed beyond the 250-foot line to a depth of 500 feet, or to the boundary of the property, whichever is less:
- (1) George Washington Memorial Highway (Route 17) north of Cook Road
  - (2) Richmond Road (Route 60)
  - (3) Bypass Road (Route 60)
  - (4) Pocahontas Trail (Route 60)
  - (5) Route 132
  - (6) Merrimac Trail (Route 143) west of Queen Creek
  - (7) Goosley Road (Route 238) east of Route 17
  - (8) Cook Road (Route 704), but excluding the east side of the road between Route 17 and Old York Hampton Highway (Route 634)
  - (9) Colonial National Historical Parkway
  - (10) Second Street from Merrimac Trail to the City of Williamsburg boundary line
  - (11) Interstate 64 and any frontage roads (F-xxx) that abut and run parallel to the I-64 right-of-way
  - (12) Route 199 (Lightfoot area), from I-64 to Route 60, and Route 199 (Penniman area) from Route 143 to Penniman Road

The boundary of the tourist corridor overlay district shall be shown on the zoning map and shall be delineated as a surveyed line on any site plan or subdivision plat proposed for property located within this district. The boundary shall be measured from the future right-of-way line if the proposed development will be required to add right-of-way, either because of its traffic

impact or if the roadway is shown on an adopted statewide, regional, or county plan as requiring additional right-of-way within a twenty (20) year period.

- (c) *Use Regulations.* Permitted uses, special permit uses, accessory uses, dimensional standards and special requirements shall be as established by the underlying zoning district, unless specifically modified by the requirements set forth herein.
- (d) *Tree protection.*
- (1) No person shall cut, destroy, move or remove any living, disease-free tree of any species having a trunk caliper of eight inches (8") or larger, measured four and one-half feet (4½') above ground level, in conjunction with any development of land in this district unless and until final approval of required site plans and subdivision plans shall be obtained that authorizes such action.
  - (2) No person shall cut or clear trees for any reason or for the sole purpose of offering land for sale. Land may, however, be underbrushed (bushhogged).
  - (3) When located within a zoning district which permits such activity, the clear-cutting of trees strictly in conjunction with timbering or silvicultural activities is permitted provided that clear-cutting shall not occur within one hundred feet (100') of the right-of-way of any corridor designated in this section and only when in compliance with a forest management plan approved by the Virginia Department of Forestry. The term "clear-cutting" as used herein shall mean the cutting of more than twenty-five percent (25%) of the trees located on the site.
- (e) *Replacement of trees.* Should the zoning administrator determine that trees eight inches (8") in diameter or greater or vegetation which contributes to the buffering effect have been removed without specific site plan or subdivision plan approval for such removal, the zoning administrator shall require replacement of such trees or vegetation. The minimum height of the new replacement trees shall be twelve feet (12'). The minimum height and spread of new shrubs shall be three feet (3'). The zoning administrator may require replacement at ratios greater than one-to-one (1:1) in recognition of the size, spatial coverage, and maturity differences between replacement trees and the trees being replaced. Ratios shall generally conform to the provisions of §24.1-241 relating to tree credits for mature trees.
- (f) *Special architectural standards along tourist corridors.* No building exterior or structure including signs shall have architectural materials inconsistent in quality, appearance, or detail with other architectural materials commonly used in the District. Specific consideration shall be given to compatibility with adjacent properties, thus preventing an adverse impact to existing or future development which could cause a depreciation in property values.

Design and architectural features shall demonstrate consistency with the following provisions:

- (1) Large work area doors or open bays shall not open toward or face the external roadways.
- (2) Heating, ventilating and air conditioning equipment, duct work, air compressors, other fixed operating machinery shall be either screened from view or located so that such items are not visible from the highway. Large trash receptacles, dumpsters, utility meters, aboveground tanks, satellite dishes, antennas, etc., shall be similarly located or screened.
- (3) Fences in front of buildings on the site are discouraged, but if used, fencing shall be landscaped to minimize visibility from the external roads or be of a style which is harmonious with adjacent development. Security and screening fencing required by other terms of the Zoning Ordinance shall be permitted but shall be buffered from direct view by appropriate landscaping.

- (3) Long monotonous facade designs shall be avoided including, but not limited to, those characterized by unrelieved repetition of shape or form or by unbroken extension of line. Any front-facing façade greater than 50 feet in length shall incorporate wall plane projections or recesses or bay divisions extending at least 20% of the length of the façade. Architectural details such as foundation high-lights (belt courses, water tables), lintels, sills, awnings, contrasting cornices or bands of material at the first floor or roof level, projections at entries, wall and roof articulations, bay divisions, and other architectural treatments should be used to create visual interest and to avoid plain, unvaried facades.
- (5) Rooflines on large-scale buildings should be broken with features such as hips, cross gables and dormers. Flat-roofed structures should incorporate parapet walls or other treatments to provide visual interest as well as to shield any direct views of the roof deck or rooftop mechanical equipment. When renovating one-story buildings with flat roofs, consideration should be given to adding gable or hipped roofs, or parapet walls or other treatments to add height and visual interest.
- (6) Generally no more than three (3) colors shall be used per building. Roofs and window glazing (e.g., tinted or reflective windows) shall not be counted against the three-color limitation. Semitransparent stains are recommended for application on natural wood finishes. Paint colors for exterior surfaces, including trim and accent features, shall be selected from the [Yorktown Corridor Overlay](#) –Color Palette which shall be defined as those exterior colors represented on [such color charts as are approved by resolution adopted by the Board of Supervisors from time to time. the “Preservation Exterior Palette” published by Sherwin Williams Company or on the “Williamsburg Collection” palette published by Martin Senour Paints, provided however, that this](#) [The adoption of a particular color chart](#) shall not be construed to require the use of paints from these companies and color matches from other paint suppliers will be acceptable. The Zoning Administrator shall have the authority to approve requests for use of other colors that are similar to and compatible with those specifically shown on the referenced [and approved](#) palette. The use of metallic colors, black (except as an accent or trim color), or fluorescent colors is not permitted. Trim and decorative materials made from wood, metal, composite materials, and concrete should be used where appropriate to contrast with wall materials. In the case of additions or redevelopment, if original quality building materials are to be retained, the new building materials should match or coordinate as closely as possible in terms of material, color and texture.
- (5) No portion of a building constructed of barren and unfinished concrete masonry unit (cinder block) or corrugated material or sheet metal shall be visible from any adjoining property or public right-of-way. This shall be not be interpreted to preclude the use of architectural block as a building material. Acceptable building materials for front or highly-visible elevations include, but are not limited to: brick, split-faced block, dryvit or other simulated stucco (EIFS), steel-surfaced/pre-finished insulated dimensional wall panels, pre-formed simulated brick or architectural block panels, and wood or synthetic clapboard siding. Attractive façade treatments are also encouraged on any elevation that is visible from an adjoining property.
- (6) Gasoline station canopies and bank, fast-food or other drive-thru establishment canopies shall be integrally related to the overall building design by using the same or complementary roof forms, materials, colors, and architectural treatments. Canopy lighting shall be recessed into the ceiling or framework of the canopy.
- (9) Building lighting shall be recessed under roof overhangs or generated from concealed source, low level light fixtures. Site lighting shall be from concealed sources (i.e., the luminaire or bulb itself is not visible), shall be of a clear white or amber light that does not distort colors, and shall not spill over onto adjoining properties, buffers, highways, or in any way impair with the vision of motor vehicle operators. Lighting fixtures or devices

- shall be of a directional or cut-off type capable of shielding the light source from direct view and providing well-defined lighting patterns. Exposed neon (gas-filled) tubing shall not be permitted on exterior building surfaces or on signs.
- (10) ~~Signs shall generally have no more than three (3) colors.~~ Free-standing signs shall be of a ground-mounted monument type and, with the exception of shopping center signs, shall not be larger than thirty-two (32) square feet nor erected to a height greater than ten feet (10'). Other provisions of this chapter notwithstanding, shopping center signs shall be limited to a maximum area of ninety-six (96) square feet and a maximum height of fifteen (15) feet. The use of colors commonly referred to as "neon" or "fluorescent" and which are unnaturally bright shades of reds, oranges, yellows, greens, or blues on signs shall not be permitted on signs.
- (11) Outdoor storage shall be permitted in accordance with the underlying zoning district, provided however, that all outdoor storage areas shall be screened so that they are not visible from public rights-of-way, internal roadways, and adjacent property. In the case of any new development established after the date of adoption of this section, the parking of any vehicles licensed as "trucks" by the Department of Motor Vehicles and used in the operation of the business shall be considered "outdoor storage" and shall be screened/buffered from view from public rights-of-way. This shall not be deemed to require screening of vehicles stopped temporarily for delivery/pick-up or loading/unloading. Outdoor display areas shall not encroach into any required front yard landscape area.
- (12) Parking areas shall have ten percent (10%) of their surface areas in landscaped islands. Surface parking within forty-five feet (45') of a public road right-of-way shall be screened from direct view from the public road by shrubbery and earthforms.
- (13) Site landscaping shall be designed to blend the architecture of the structures on the site with the natural landscape and character of the surroundings.
- (14) Compliance with the provisions of this subsection shall be evidenced by the submission to the zoning administrator of the following plans and information, in addition to complying with all applicable provisions of the subdivision ordinance or article V of this chapter:
- a. Comprehensive sign plan including design, materials, and colors to be utilized.
  - b. Architect's or artist's rendering of all proposed structures depicting the front, side and rear elevations including architectural treatment of all structural exteriors to be visible from an external roadway, including building materials and colors to be utilized.
  - c. Rendering of the landscape treatment in perspective view depicting parking areas visible from public road. If appropriate, this rendering may be combined with the one in subparagraph b. above.
  - d. The location and design of all proposed exterior site lighting within the proposed development.
  - e. Photographs or drawings of neighboring uses and architectural styles.
- (g) *Appeals.* In the event the zoning administrator disapproves plans submitted under the provisions of this section or recommends conditions or modifications which are unacceptable to the applicant may request that such plans shall be forwarded to the planning commission for review and action at a public meeting at which the applicant shall have an opportunity to present its case and reasons for appeal. The plans shall be approved by the planning commission if it finds such plans to be in accordance with all applicable ordinances and consistent with the

intent of protecting the aesthetic and visual character of the district. If the planning commission finds that such plans do not meet the above stated criteria, it shall deny approval of the plans or shall approve them with reasonable conditions which implement the intent of this district. This section shall not be interpreted to confer upon the planning commission any right to override the decision of the zoning administrator on any issue not directly related to the specific additional requirements of this section. In any case in which an applicant is dissatisfied with a decision of the planning commission, the applicant may appeal the decision to the board of supervisors within thirty (30) days by filing a notice of appeal with the clerk of the board of supervisors. Said appeal shall be reviewed by the board of supervisors at a public meeting at which the applicant shall have an opportunity to present its case and reasons for appeal. In accordance with the terms of section 15.2-2306 of the Code of Virginia, the applicant shall be entitled to appeal the decision of the board of supervisors to the circuit court within thirty (30) days of the board's decision.

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**Sec. 24.1-378. Route 17 corridor overlay district.**

(a) Statement of intent. In accordance with section 15.2-2306 of the Code of Virginia and the objectives of the comprehensive plan, the Route 17 corridor overlay district regulations are designed and intended to protect the aesthetic and visual character of the Route 17 corridor leading to the Yorktown historic district. All development proposed within the corridor shall be subject to the procedures and standards set forth in this section in addition to those required by the underlying district regulations. Primarily, this overlay district is intended to provide a positive visual experience for those visitors coming into and through the county along this corridor. The provisions that follow include both requirements (using the word "shall") that must be met and recommendations (using the word "should") that suggest desirable features and treatments that property owners are encouraged to voluntarily incorporate into their building/site designs.

(b) Applicability. The special provisions established in this section shall apply to development on parcels which are located along Route 17 between the Newport News city line and Cook Road. The overlay designation shall apply to all parcels with frontage on Route 17 and shall extend to the depth of the property or 500 feet, whichever is less.

The boundary of the tourist corridor overlay district shall be shown on the zoning map and shall be delineated as a surveyed line on any site plan or subdivision plat proposed for property located within this district. The boundary shall be measured from the existing right-of-way line, or the future right-of-way line if the proposed development will be required to add right-of-way either because of its traffic impact or if the roadway is shown on an adopted statewide, regional, or county plan as requiring additional right-of-way within a twenty (20) year period.

(c) Use Regulations. Permitted uses, special permit uses, accessory uses, dimensional standards and special requirements shall be as established by the underlying zoning district, unless specifically modified by the requirements set forth herein.

(d) Special architectural standards.

(1) No portion of a building façade facing (i.e., parallel to) or highly-visible from a public right-of-way shall be constructed of barren or unfinished concrete masonry unit (cinder block), corrugated material, sheet metal or vertical metal siding. Acceptable building materials for front or highly-visible elevations include, but are not limited to: brick, split-faced block, dryvit or other simulated stucco (EIFS), steel-surfaced/pre-finished insulated dimensional wall panels, pre-formed simulated brick or architectural block panels, and wood or synthetic clapboard siding. Attractive façade treatments are also encouraged on any elevation that is visible from an adjoining property.

- (2) Any front-facing façade greater than 50 feet in length shall incorporate wall plane projections or recesses or bay divisions extending at least 20% of the length of the façade. Architectural details such as foundation highlights (belt courses, water tables), lintels, sills, awnings, contrasting cornices or bands of material at the first floor or roof level, projections at entries, wall and roof articulations, bay divisions, and other architectural treatments should be used to create visual interest and to avoid plain, unvaried facades.
- (3) Rooflines on large-scale buildings should be broken with features such as hips, cross gables and dormers. Flat-roofed structures should incorporate parapet walls or other treatments to provide visual interest as well as to shield any direct views of the roof deck or rooftop mechanical equipment. When renovating one-story buildings with flat roofs, consideration should be given to adding gable or hipped roofs, or parapet walls or other treatments to add height and visual interest.
- (4) Large work area doors or open bays that open toward or face Route 17 should be avoided. Such features, whether front, side or rear-facing, shall be buffered from view from view from Route 17, adjacent roadways and development by architectural elements and/or decorative fencing and/or evergreen landscaping.
- (5) Heating, ventilating and air conditioning equipment, duct work, air compressors, other fixed operating machinery shall be either screened from view or located so that such items are not visible from the highway. Large trash receptacles, dumpsters, utility meters, aboveground tanks, satellite dishes, antennas, etc., shall be similarly located or screened.
- (6) Fences in front of buildings on the site are discouraged, but if used, fencing shall be landscaped to minimize visibility from the external roads or be of a decorative style that is harmonious with adjacent development. Security and screening fencing required by other terms of the Zoning Ordinance shall be permitted but wherever possible shall be buffered from direct view by appropriate landscaping.
- (7) Generally no more than three (3) colors shall be used per building. Roofs and window glazing (e.g. tinted or reflective windows) shall not be counted against the three-color limitation. Paint colors for exterior surfaces, including trim and accent features, shall be selected from the [Yorktown Corridor Overlay Color Palette](#) which shall be defined as those exterior colors represented on [such color charts as are approved by resolution adopted by the Board of Supervisors from time to time. the "Preservation Exterior Palette" published by Sherwin Williams Company or on the "Williamsburg Collection" palette published by Martin Senour Paints, provided however, that this](#) [The adoption of a particular color chart](#) shall not be construed to require the use of paints from these companies and color matches from other paint suppliers will be acceptable. The Zoning Administrator shall have the authority to approve requests for use of other colors that are similar to and compatible with those specifically shown on the referenced palette. Semitransparent stains are recommended for application on natural wood finishes. The use of metallic colors, black (except as an accent or trim color), or fluorescent colors is not permitted. Trim and decorative materials made from wood, metal, composite materials, and concrete should be used where appropriate to contrast with wall materials. In the case of additions or redevelopment, if original quality building materials are to be retained, the new building materials should match or coordinate as closely as possible in terms of material, color and texture.
- (8) [The use of colors commonly referred to as "neon" or "fluorescent" and which are unnaturally bright reds, oranges, yellows, greens or blues on signs shall not be permitted.](#)

- (9) Outdoor storage shall be permitted in accordance with the underlying zoning district, provided however, that all outdoor storage areas shall be screened so that they are not visible from public rights-of-way, internal roadways, and adjacent property. In the case of any new development established after the date of adoption of this section, the parking of any vehicles licensed as "trucks" by the Department of Motor Vehicles and used in the operation of the business shall be considered "outdoor storage" and shall be screened/buffered from view from public rights-of-way. This shall not be deemed to require screening of vehicles stopped temporarily for delivery/pick-up or loading/unloading. Outdoor display areas shall not encroach into any required front yard landscape area.
- (10) Gasoline station canopies and bank, fast-food or other drive-thru establishment canopies shall be integrally related to the overall building design by using the same or complementary roof forms, materials, colors, and architectural treatments. Canopy lighting shall be recessed into the ceiling or framework of the canopy.
- (11) Site landscaping should be designed to blend the architecture of the structures on the site with the natural landscape and character of the surroundings.
- (12) Compliance with the provisions of this subsection shall be evidenced by the submission to the zoning administrator of the following plans and information, in addition to complying with all applicable provisions of the subdivision ordinance or article V of this chapter:
  - a. Comprehensive sign plan including design, materials, and colors to be utilized.
  - b. Architect's or artist's rendering of all proposed structures depicting the front, side and rear elevations including architectural treatment of all structural exteriors to be visible from an external roadway, including building materials and colors to be utilized.
  - c. Rendering or photo-simulation of the landscape treatment in perspective view depicting parking areas visible from public road. If appropriate, this rendering may be combined with the one in sub-paragraph b. above.
  - d. The location and design of all proposed exterior site lighting within the proposed development.
  - e. Photographs or drawings of neighboring uses and architectural styles.
- (e) Appeals. In the event the zoning administrator disapproves plans submitted under the provisions of this section or recommends conditions or modifications which are unacceptable to the applicant may request that such plans shall be forwarded to the planning commission for review and action at a public meeting at which the applicant shall have an opportunity to present its case and reasons for appeal. The plans shall be approved by the planning commission if it finds such plans to be in accordance with all applicable ordinances and consistent with the intent of protecting the aesthetic and visual character of the district. If the planning commission finds that such plans do not meet the above stated criteria, it shall deny approval of the plans or shall approve them with reasonable conditions which implement the intent of this district. This section shall not be interpreted to confer upon the planning commission any right to override the decision of the zoning administrator on any issue not directly related to the specific additional requirements of this section. In any case in which an applicant is dissatisfied with a decision of the planning commission, the applicant may appeal the decision to the board of supervisors within thirty (30) days by filing a notice of appeal with the clerk of the board of supervisors. Said

appeal shall be reviewed by the board of supervisors at a public meeting at which the applicant shall have an opportunity to present its case and reasons for appeal. In accordance with the terms of section 15.2-2306 of the Code of Virginia, the applicant shall be entitled to appeal the decision of the board of supervisors to the circuit court within thirty (30) days of the board's decision.

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**Sec. 24.1-407. Standards for accessory apartments in conjunction with single-family detached dwellings.**

- (a) Not more than one (1) accessory apartment may be permitted in conjunction with a single-family detached dwelling.
- (b) Accessory apartments may be considered and authorized in accordance with the following schedule/procedures:

- 1. Accessory apartments not exceeding 600 square feet or 25% of the floor area of the principal structure, whichever is less, and attached to the principal structure (the single-family detached dwelling unit), shall be permitted as a matter of right in the RC, RR, R20 and R13 zoning districts. Attached accessory apartments in excess of the 600 square feet/25% limitation, but not exceeding 800 square feet or 35% of the floor area of the principal structure, whichever is less, may be authorized by special use permit in the RC, RR, R20 and R13 zoning districts.
- 2. Accessory apartments proposed in detached structures in the RC or RR zoning districts shall be permitted as a matter of right if the subject property meets the following minimum area requirements and the size of the accessory apartment does not exceed ~~the~~ 600 square feet or 25% of the principal structure floor area, whichever is less:

<u>District</u>	<u>Minimum Area</u>
RC	5 acres
RR	1 acre

In addition, detached accessory apartments may be authorized in proposed on the RC, RR, properties of lesser area, and any proposed in the R20, and R13 zoning districts, shall require authorization by special use permit up to a maximum floor area limit of and shall not exceed 800 square feet or 35% of the principal structure floor area, whichever is less.

- 3. Notwithstanding the above limitations, on property in the RC or RR zoning districts which is at least twice as large as the applicable conventional development (i.e., not a "cluster" development) minimum lot size for that district/property, or on property in the R20 zoning district which is at least four times as large, an attached or detached accessory apartment shall be permitted as a matter of right provided that it does not exceed 800 square feet or 35% of the principal structure floor area, whichever is less. Upon authorization by special use permit, the maximum size of an accessory apartment, whether attached or detached, on properties meeting the above noted minimum area thresholds may be increased to 1,000 square feet or 49% of the floor area of the principal structure, whichever is less.
- (c) Access to an accessory apartment whether in the principal structure or in a detached accessory structure, shall be designed so that the premises continues to have the appearance from the principal street frontage of one single family detached dwelling unit and its customary accessory structures. No new entrance to accommodate an accessory apartment shall be installed on the front façade (facing the street) of an existing or proposed principal structure. The applicant

shall be responsible for submitting sketches and/or plans to demonstrate compliance with this condition.

- (d) For the purposes of determining allowable floor area for an accessory apartment, all "habitable space," as defined and determined under the terms of the Building Code, shall be included in the calculation and shall be considered a part of the apartment. Space which does not meet the "habitable" criteria shall not be counted in floor area calculations for the accessory apartment.
- (e) Notwithstanding the provisions of Section 24.1-273(c) of this chapter, for the purposes of this section, the term "attached" shall be construed to require connection by enclosed, heated, habitable space. Structures which are merely attached by a wall or roof construction, or which are within ten (10) feet of the principal structure shall not be considered "attached."
- (f) The maximum number of bedrooms in an accessory apartment shall be one (1).
- (g) Adequate provisions shall be made for off-street parking of motor vehicles in such a fashion as to be compatible with the character of the single-family residence and adjacent properties.
- (h) Approval of accessory apartments shall be contingent upon prior certification by the health department that any on-site water supply and sewage treatment facilities are adequate to serve the total number of bedrooms proposed on the property (principal and accessory).
- (i) The accessory apartment shall be occupied only by family members or guests of the occupant of the single-family dwelling or by a bona fide medical/health caretaker or domestic employee of the occupant of the single family dwelling. The apartment shall not be offered to the general public (i.e., non-family members/ non-guests) for rental or other occupancy arrangements.
- (j) All utilities serving the accessory apartment (e.g., electric, water, sewer, gas) shall be registered to the occupant of the principal residence. Registration/billing of utility accounts to different parties (e.g. the occupant of the principal residence and the occupant of the accessory apartment) shall be prohibited, even if separate meters for the principal residence and accessory apartment are used.
- (k) Prior to issuance of a Building Permit for the accessory apartment the property owner shall prepare and record with the Clerk of the Circuit Court, at his expense, a deed restriction on the property stipulating that the accessory apartment will be used, occupied and maintained in accordance with the above-noted restrictions and such others as may be prescribed by the York County Board of Supervisors in approving the special use permit. A copy of any resolution authorizing the accessory apartment shall be attached to the deed restriction as an exhibit. Such restrictions shall not be voided, in whole or in part, unless specifically authorized by the County Administrator in recognition of some subsequent change in the zoning restrictions applicable to accessory apartments or upon removal of the accessory apartment through demolition or alterations to the structure.

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## ARTICLE V. SITE PLANS

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### Sec. 24.1-502. Information required on site plans.

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- (n) *Number of copies.* ~~Ten (10) Plan submissions shall be~~ clearly legible, blue or black line folded copies of the site plan and shall be submitted to the zoning administrator with accompanied by the appropriate application form and fee. No plan shall be deemed received until all relevant fees and applications are submitted. In addition, copies/sets of any supplementary reports or calculations (e.g., drainage calculations, traffic impact studies) shall be submitted with the plan submission. ~~-The number of copies of site plans and supplementary information/studies~~

required shall be that number deemed sufficient, by as determined by the zoning administrator, to cover distributions to the relevant review departments/agencies and to provide a file copy to be maintained in the Department of Environmental and Development Services and the required number of copies shall be communicated in procedural information made available to prospective applicants by the Department.

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## ARTICLE VII. SIGNS

### Sec. 24.1-700. Applicability.

No sign shall be erected, altered, expanded, reconstructed, replaced or relocated on any property except in conformance with the provisions of this article and all other applicable ordinances and regulations of the county. Repainting or refacing an existing sign or making minor non-structural repairs shall not require a permit.

### Sec. 24.1-701. Sign classifications.

Signs, as defined in article I, shall be classified according to one or more of the following definitions:

*Advertising sign.* A sign which directs attention to a business, profession, product, service, activity or entertainment which is not conducted, sold or offered on the premises upon which such sign is located.

*Banner.* A piece of cloth, plastic or other flexible material on which words, letters, figures, colors, designs or symbols are inscribed or affixed for the purposes of advertisement, identification, display or direction and which is suspended for display, typically from buildings or poles.

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*Pennants.* Pieces of cloth, plastic or flexible material, generally triangular or rectangular in shape, and which typically are strung together in a series on lines which are hung from poles, between buildings or in other arrangements for the purpose of decoration or attracting attention.

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*Portable sign.* Any sign not permanently attached to a structure or permanently mounted in the ground which can be transported to other locations. Portable signs shall include, but not be limited to, signs which are trailer-mounted or otherwise designed to be relocated, or are constructed on a chassis or carriage with permanent or removable wheels.

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*Temporary sign.* A sign, banner, ~~balloon, pennant,~~ poster, or advertising display constructed of cloth, plastic, sheet-metal, cardboard, wallboard, ~~plywood-~~ or other like materials, intended to be displayed for a limited period of time, and not permanently attached to a building or the ground.

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### Sec. 24.1-704. Temporary signs.

The zoning administrator, upon application, may issue permits for the following temporary signs ~~and banners~~. Such signs shall not count against the normal sign area allowances for the property on which located. All temporary signs and banners shall be subject to the setback and sight-triangle clearance standards applicable to permanent signs. Temporary signs and banners shall be limited to one (1) per street frontage:

- (a) Banners or other temporary signs, not exceeding forty (40) thirty-two (32) square feet in area, which promote a special civic, cultural or religious event such as a fair, exposition, play, concert

or meeting sponsored by a governmental, charitable, not-for-profit or religious organization. The duration of such permit shall not exceed thirty (30) days.

- (aa) Banners or other temporary signs not exceeding forty (40) square feet in area which identify and are associated with a temporary business activity involving the sale of seasonal commodities as permitted pursuant to sections 24.1.-306 and 24.1-440 of this chapter and which may be displayed for the duration of the seasonal commodities sales operation.
- (b) Banners or temporary signs not exceeding forty (40) ~~thirty-two (32)~~ square feet in area, and six (6) feet in height if freestanding, when used in conjunction with the opening of a new business or an establishment going out of business in any commercial or industrial district or a legally existing nonconforming business in any other district. The duration of such permit shall not exceed sixty (60) ~~thirty (30)~~ days and only one such sign shall be permitted. "Grand-Opening" temporary signage shall be permitted only within the one-year period after the actual business opening occurs. The completion of a major interior or exterior remodeling or a change in ownership for a pre-existing business shall be deemed eligible for temporary "grand-opening" banners within the one-year period after the renovation or ownership change.

(bb) In addition to the above, new businesses may install a temporary banner or free-standing sign, not exceeding forty (40) square feet in area and six (6) feet in height if freestanding, for the following purposes:

- (1) announcing employment opportunities (e.g., "Now Hiring" or "Help Wanted");
- (2) announcing "Now Enrolling" in the case of a childcare or daycare center;
- (3) announcing a sales event such as a "Clearance Sale" or "Truckload Sale", an anniversary of the business operation (e.g., "25<sup>th</sup> Year in Business"), or other business-related messages, including those that refer to a specific item, product or brand that is offered by the business;
- (4) identifying/advertising a temporary business activity as permitted under Section 24.1-306 – Category 8 – Temporary Uses.

Such temporary sign or banner must be on the site of such business. Only one such sign shall be permitted per street frontage and the maximum allowable size shall be forty (40) ~~thirty-two (32)~~ square feet and six (6) feet in height, if freestanding. The maximum duration for a permit for such sign may be displayed for a maximum of 120 days in any single calendar year. The 120-days maximum display allowance may be used as 120 consecutive days or may be broken into as many as six (6) separate time periods during the course of a calendar year. The permit application for such sign shall specify the time period(s) during which the sign will be displayed.

- (c) Temporary portable signs, not exceeding thirty-two (32) square feet in area or one (1) per parcel, which are intended to identify or display information pertaining to an establishment for which permanent free-standing signage is on order as evidenced by presentation of a copy of an executed order form for such permanent signage to the Zoning Administrator. Such permit shall expire and the portable sign shall be removed upon erection of the permanent sign or thirty (30) ~~120~~ days whichever shall occur first. In addition, temporary banners or sign sleeves, neither of which exceed normal sign area allowances, may be used when permanent signage is on order, as evidenced in the manner described above or when in the opinion of the zoning administrator other temporary business circumstances, such as relocation due to fire or disaster, warrant such use and the size of the temporary banner/sleeve does not exceed normally permitted sign area allowances. Such signage may be authorized for periods greater than thirty (30) days terms of up to 120 days, and may be renewed for good cause shown.
- (d) Temporary signs and banners when used to announce the grand opening and initiation of sales or leasing of lots and/or dwelling units within a newly developing residential project having at least ten (10) lots or units. The cumulative area of all such signs and banners erected for any single residential project shall not exceed forty (40) square feet. Signs and banners shall not be illuminated. The duration of such permit shall not exceed thirty (30) ~~120~~ days.

- (e) Temporary signs and banners when used to announce special events such as new home shows being conducted within a residential subdivision or development. The cumulative area of all such signs and banners erected for any single event shall not exceed forty (40) square feet. Signs and banners shall not be illuminated. Such signs shall not be erected more than fourteen (14) days prior to the event and shall be removed within seven (7) days following the closing of the event; provided, however, that no sign or banner shall be permitted to remain in place for any event for more than thirty (30) days between the first appearance and its removal of the banner.

**Sec. 24.1-705. Special sign regulations applicable to shopping centers.**

Shopping centers, as defined in section 24.1-104, shall be subject to the following sign regulations:

- (a) All signs shall comply with the general provisions specified in section 24.1-702 unless otherwise specified herein.
- (b) The following provisions shall apply to shopping center free-standing signs, notwithstanding the district in which located:
- (1) One (1) free-standing sign shall be permitted for each street frontage.
  - (2) The maximum area of any one (1) free-standing sign shall be one hundred fifty (150) square feet.
  - (3) The maximum cumulative free-standing sign area per shopping center shall be two hundred (200) square feet.
- (c) Each individual tenant within a shopping center shall be permitted one (1) marquee or canopy sign provided that such sign shall not exceed a maximum area of three (3) square feet and shall have a minimum ground clearance to the bottom of the sign of not less than eight (8) feet.
- (d) In addition to the marquee or canopy sign, wall signs shall be permitted provided that the cumulative area of such signs, including the marquee sign, shall not exceed the maximum cumulative sign area allowable in the district in which located, as specified in section 24.1-703.
- (e) Individual free-standing signs for individual shopping center tenants shall not be permitted. For the purposes of this section, lawfully subdivided outparcels which have been depicted on the approved shopping center site plan shall be considered as separate parcels and may be signed as such.
- (f) The above provisions notwithstanding in addition to the signage opportunities set forth above, a regional shopping center containing in excess of 350,000 square feet of tenant space and which is located on a parcel having at least 1,500 feet of frontage on an Interstate System highway and having direct access to a Primary System highway intersecting the interstate shall be entitled to the following special signage allowance:
- (1) Subject to compliance with the terms of Section 33.1-370 of the Code of Virginia, the shopping center may install a one (1) freestanding monument-style sign identifying the name of the center and such tenants as desired along its Interstate System frontage.
  - (2) Such sign shall not exceed 600 square feet in area and 45 feet in height.
  - (3) Such sign shall not count against or negate the signage opportunities otherwise available to the center along its other public street/highway frontages.

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**Sec. 24.1-802. Nonconforming structures.**

- (a) *Enlargement or alteration.* No structure which is nonconforming by reason of a conflict with the setback, yard, height or similar regulations of the district in which located may be enlarged, extended, structurally altered or moved in any way which increases its nonconformance with the applicable setback, yard, height or similar regulations of the district in which located. Except as may be provided in article II relative to front yards in built-up areas, any addition to nonconforming structures shall comply in all respects with the applicable setback, yard, height or similar regulations of the district in which located.
- (b) *Damage or destruction.* A nonconforming structure which is damaged or destroyed by a natural disaster, act of God, or other cause beyond the control of the owner may be reconstructed at the location of its original foundation, or at a location on the lot which is conforming or more nearly conforming provided that such reconstruction occurs within two (2) years of such damage or destruction and provided that a site plan submitted in accordance with article V of this chapter is approved. If such building is damaged greater than 50 percent and cannot be repaired, rebuilt or replaced except to restore it to its original nonconforming condition, the owner shall have the right to do so. The owner shall apply for a building permit and any work done to repair, rebuild or replace such building shall be in compliance with the provisions of the Uniform Statewide Building Code and any work done to repair, rebuild or replace such building shall be in compliance with the provisions of the local flood plain regulations adopted as a condition of participation in the National Flood Insurance Program. However, if the nonconforming building or structure is in an area under a federal disaster declaration and the damage or destruction is a direct result of the conditions that gave rise to the disaster declaration, then the allowable timeframe for reestablishment or reconstruction shall be four (4) years. Repair, rebuilding or replacement of structures shall be in compliance with the terms of the Virginia Uniform Statewide Building Code and all applicable terms of the Floodplain Management Overlay District regulations (section 24.1-373 of this chapter) and in a manner that eliminates or reduces nonconforming features to the extent possible. Reconstruction shall be deemed to have occurred upon the issuance of a building permit for the structure, provided that completion is thereafter diligently pursued. If a building permit has not been issued for such reconstruction within two (2) years or four (4) years if applicable, of the damage or destruction, then such structure may be reconstructed only in full accordance with all normally applicable provisions of this chapter.

For purposes of this section, "act of God" shall include any natural disaster or phenomenon including a hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, earthquake or fire caused by lightning or wildfire. For purposes of this section, owners of property damaged by an accidental fire have the same rights to rebuild such property as if it were damaged by an act of God. Nothing herein shall be construed to enable the property owner to commit an arson under Code of Virginia section 18.2-77 or 18.2-80, and obtain vested rights under this section.

Nothing in this section shall be deemed to prohibit normal and ordinary repairs and maintenance for a nonconforming structure. However, owner-initiated demolition and rebuilding/reconstruction of all or any structural portion of a nonconforming structure, shall not be permitted unless the need for demolition is the result of a natural disaster or other cause beyond the control of the owner.

- (c) *Special provisions for manufactured housing units.* Nothing in this section shall be construed to prevent the removal of a valid nonconforming manufactured home from a mobile home park and replacing that home with another comparable manufactured home that meets the current HUD manufactured housing code, provided that the degree of nonconformity with any yard or setback requirements applicable to the district in which located does not increase. In such mobile or manufactured home park, a single-section home may replace a single-section home and a multi-section home may replace a multi-section home. If the nonconforming mobile or manufactured home is located on a property not within a mobile home park, it may be replaced with a newer manufactured home, either single- or multi-section, that meets the current HUD manufactured housing code and provided that any nonconformity with yard or setback requirements does not increase. Such replacement unit shall retain the valid nonconforming status of the home.

- (d) Other provisions of this Chapter notwithstanding, when the owner of a building which would normally be considered not to meet the criteria for a legally existing nonconforming structure can document that such building was permitted by a Building Permit issued by York County and that the building was constructed in accordance with the Building Permit and was issued a Certificate of Occupancy by the County, such building shall be deemed nonconforming but not illegal. In addition, where the owner of a building which would normally be considered not to meet the criteria to be a legally existing nonconforming structure has paid taxes to the County for such building for a period in excess of fifteen (15) years such building shall be deemed to be nonconforming, but not illegal, provided that it is brought into compliance with the Uniform Statewide Building Code.
- (e) Other provisions of this Chapter notwithstanding, where York County has issued a permit, other than a Building Permit, that authorized construction of an improvement to real property and the improvement was thereafter constructed in accordance with such permit, such improvement, if not in conformance with this chapter, shall be deemed to be nonconforming, but not illegal

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**Sec. 24.1-904. Appeals from decisions of board.**

Any person or persons jointly or severally aggrieved by any decision of the board of zoning appeals, or any aggrieved taxpayer or any officers, department, board or bureau of the county may file with present ~~to~~ the county circuit court a petition that shall be styled "In Re: [date] Decision of the Board of Zoning Appeals of York County" specifying the grounds on which aggrieved; within thirty (30) days after the final decision by the board of zoning appeals, ~~a petition specifying the grounds on which aggrieved.~~ The court shall review and decide on such petition in accordance with the provisions established by section 15.2-2314, Code of Virginia.

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