

**BOARD OF SUPERVISORS
COUNTY OF NEW KENT
VIRGINIA**

O-18-07 (R2)

At the regular meeting of the Board of Supervisors of the County of New Kent in the Boardroom of the Administration Building in New Kent, Virginia, on the 23rd day of July, 2007:

Present:	Vote:
W. R. Davis, Jr.	Aye
Mark E. Hill	Aye
David M. Sparks	Aye
James H. Burrell	Aye
Stran L. Trout	Aye

Motion was made by Mr. Hill, which carried 5:0, to adopt the following ordinance:

**AN ORDINANCE AMENDING CHAPTER 98,
OF THE NEW KENT COUNTY CODE TO INCLUDE
PERFORMANCE STANDARDS FOR BUSINESS,
COMMERCIAL, SERVICE, MANUFACTURING,
INDUSTRIAL, AND STORAGE USES**

WHEREAS, the New Kent County Board of Supervisors ("the Board") has forwarded a comprehensive rewrite of Chapter 98, Zoning Ordinance, to the Zoning Ordinance Review Committee to review and make recommendations to the Board and Planning Commission ("the Commission"); and

WHEREAS, the Zoning Ordinance Re-write Committee has completed a thorough review of the proposed performance standards included in the comprehensive zoning ordinance re-write and has forwarded its recommendation to the Planning Commission and Board of Supervisors for consideration; and

WHEREAS, the Planning Commission scheduled and conducted a formal and duly advertised public hearing in accordance with the applicable

requirements of the Code of Virginia, carefully considering the public comment received; and

WHEREAS, the Commission has voted to forward a favorable recommendation to the New Kent County Board of Supervisors to amend Chapter 98 of the New Kent County Code to implement performance standards for business, commercial, service, industrial, manufacturing, storage type uses in business and manufacturing zoning classifications; and

WHEREAS this ordinance amendment has been advertised for public hearing before the Board of Supervisors in full accord with applicable provisions of the Code of Virginia; and

WHEREAS, in order to assure compliance with the Code of Virginia, it is stated by the Board of that the public purpose for this Ordinance is to further the public necessity, convenience, general welfare and good zoning in the County of New Kent and that approval will further these public purposes; and

NOW THEREFORE BE IT ORDAINED this, the 9th day of July 2007, by the New Kent County Board of Supervisors that Chapter 98 of the New Kent County Zoning Ordinance be amended by adding section 98-872 to read and provide as follows:

Sec. 98-870. Purpose and application of performance standards.

- (a) The purpose of this section is to establish performance standards allowed in the county in business and manufacturing zoning classifications. The purpose of such performance standards is to ensure compatibility with surrounding uses, conformity with the adopted comprehensive plan, and the protection of the public interest and welfare.
- (b) Henceforth, all proposed developments and uses of land shall be designed and constructed in accordance with the applicable portions of these standards based on the category of the use. These standards apply whether the use is permitted as a matter of right or with a conditional use permit.
- (c) Nothing in this article shall be interpreted as preventing the imposition of additional standards and requirements on uses for which conditional use permits or special exceptions are required.
- (d) Where standards are set forth as applying to all uses within a certain category of uses, there shall be no requirement for the specific use to be

individually listed in order for the performance standards to apply. The zoning administrator in his or her sole discretion is authorized to determine the applicability of standards to specific uses and situations.

- (e) Where standards are set forth as applying to all uses within a certain category of uses, there may also be additional standards set out for sub-categories of uses and/or specific uses. In such cases, all relevant standards—general, sub-category and specific—apply to the specific use.
- (f) All relevant standards—general, sub-category and specific—applicable to a use shall also apply to the access to such use to the extent such access is from other than a public road under public maintenance.

Sec. 98-871. Specific conditions applicable to business, commercial and service uses in business and manufacturing zoning classifications.

(a) *Standards for all business, commercial and service uses.*

- (1) Other than in any Village district all off-street parking and loading spaces for all commercial and retail uses shall be consistent with the transitional buffer requirements found in article XXVII of this ordinance.
- (2) All development shall comply with landscaping standards found in article XXVII of this ordinance.
- (3) Outdoor lighting shall be sufficient to protect public safety and shall comply with the standards of the Crime Prevention through Environmental Design Guidelines produced by the Virginia Crime Prevention Association and dated December 2004; however, no outdoor lighting fixture shall be installed, aimed, or directed to produce light or glare that spills over into neighboring properties or the public right-of-way that exceeds 0.5 foot candles within two feet of the property line of the light source. All site lighting fixtures shall be mounted a maximum of twenty five feet (25') above ground, shall be full-cutoff, as defined by the Illuminating Engineering Society of North America (IESNA), and shall have fully shielded and/or recessed luminaires with horizontal-mount flat lenses that prevent upward light scatter and protect the dark night sky. All site lighting fixture styles and illumination levels shall be compatible with the architecture of the principal building on the site.

- (4) Outdoor speaker or paging systems shall be directed away from property lines and shall not be audible on adjacent properties or rights-of-way.
- (5) The minimum front setback from a right-of-way for structures such as fuel dispensing pumps, pump islands, canopies, customer service kiosks, and similar uses shall be forty feet (40') unless the district in which the use is located allows a lesser setback for the principal structure. All lighting mounted on or under canopies shall be full-cutoff or recessed fixtures that prevent upward light scatter and protect the dark night sky.
- (6) Any fuel dispensing or car wash activities conducted as accessory uses in conjunction with a commercial or retail operation shall be subject to the performance standards set forth in the relevant subsections below.
- (7) All utilities serving any business, commercial or service use shall be placed underground. Existing overhead utilities that require relocation or expansion for any reason shall be removed and placed underground.
- (8) Irrigation of business and commercial properties shall require the use of low water volume and water-conserving systems. Any irrigation system, regardless of type shall be equipped with devices to measure natural rainfall and meter irrigation water usage and timing accordingly.
- (9) Access to business, commercial or service activities and on-site traffic circulation shall be designed to promote the safe and harmonious flow of vehicular and pedestrian traffic within the development itself, to adjacent existing or future development and to limit the disruption of external traffic. Site access shall be designed in general accordance with the recommendations contained in the National Cooperative Highway Research Program (NCHRP) Report 348, *Access Management Guidelines for Activity Centers* and the relevant standards of the Virginia Department of Transportation.
- (10) No outdoor storage of goods or materials shall be permitted in any front yard nor shall it encroach upon any required landscaping, public or private street right-of-way, parking facility, or loading space.
- (11) All dumpster pads, loading areas and outdoor storage areas shall be screened from view of all public streets or residential properties by

landscaping supplemented by masonry or wooden fencing. Illumination of dumpster pads and the area between dumpsters and the service doors of facilities that utilize the dumpsters for trash disposal shall be provided in accordance with the standards of the Crime Prevention through Environmental Design Guidelines for any facility having working hours between dusk and dawn.

- (12) All spills of hazardous materials shall be contained on the site and cleaned up immediately using approved methods. The fire chief shall be notified of all such incidents that meets the reporting standards established by the New Kent County or State or Federal agencies.
- (13) In the event the business, commercial or service activity ceases operation, written notice shall be provided by the owner/operator to the Zoning Administrator within thirty (30) days after such activity ceases. The following provisions apply:
- A. The property shall be maintained in a clean and neat manner with no accumulation of debris, garbage or detritus; all landscape materials shall be tended, trimmed and kept in a healthy growing condition; all structures on the site shall be maintained in a clean and neat manner, painted or re-painted at appropriate intervals; and all signage referring to the closed business, commercial or service activity shall be removed or covered with a durable opaque material.
 - B. In the event the business, commercial or service activity remains inactive for a period in excess of two (2) years, the owner/operator shall be responsible for performing the following:
 - i. All specialized equipment that may hinder future use or sale of the property shall be removed;
 - ii. The real property where such specialized equipment has been located shall be restored to the same grade or condition as the remainder of the property and maintained either as landscaped green area or as paved parking area until a new site plan for same has been approved by the County. Except in the restored area that is established as landscaped green area, the paved area shall be re-stripped to match the remainder of the parking lot.

- iii. If the inactive business included fueling equipment or operations, all tanks, tank lines, fueling equipment (including the gas pumps and fueling islands) shall be removed; all applicable state and federal environmental protection and mitigation requirements shall be observed in the removal and site restoration process.
- C. The requirement to remove the above-noted specialized equipment may be stayed for a maximum of six (6) months in the event the property owner provides documentation to the zoning administrator of the existence of an executed and pending contract for sale or lease of the property for the same use. If such an extension is granted, the actual conveyance, and the re-establishment of the use, must occur within said six (6) month period. In the event such contract lapses, the removal requirement shall be immediately reinstated.

(b) Standards for all motor vehicle services and related uses.

- (1) The site plan shall detail the physical methods to be employed on the premises to ensure that no hazardous or petroleum-based products are permitted to infiltrate into groundwater or surface water resources and that all federal, state and local requirements are fully satisfied.
- (2) No vehicle parking, storage or display associated with such uses shall be permitted to occur on adjacent public rights-of-way.
- (3) Car washes shall utilize a low-volume water recycling system which provides for an average of at least eighty percent (80%) recycled water per wash.
- (4) For all business, commercial and service uses other than truck stops that provide commercial fueling of vehicles as a component of that business, the standards below apply. These standards are additive to any standards that already pertain to such uses. Where these standards conflict with the standards for another business, commercial or services use, the more restrictive of the two standards shall apply.

- A. Pumps and pump islands shall be designed and spaced such that vehicle fuels can be delivered to only one side of a vehicle at a time.
- B. No more than two pumps capable of fueling large over-the-road trucks shall be provided. Such pumps shall be separated from non over-the-road truck pumps.
- C. All parking on the premises shall occur in designated and marked parking spaces in accordance with the following provisions:
 - i. Parking spaces shall not be provided for large over-the-road tractor-trailer type trucks.
 - ii. Loading zones providing for temporary standing of trucks while loading or unloading shall not accommodate more than two (2) trucks.
 - iii. Signs and pavement and curb markings shall be installed to prevent parking other than where specifically permitted and designated on the site.
- D. No over-the-road-trucks shall remain on the premises for greater than four (4) hours, unless that vehicle is actually under repair.
- E. Fire extinguishers and fire lanes in types, numbers and locations approved by the fire chief shall be provided and shown on the site plan.

(c) *Standards for child care center, adult care center, day care center, preschool, nursery.*

- (1) The minimum area required per child or adult for indoor space and outdoor recreational space shall be in conformance with the requirements for licensing by the state. All outdoor areas shall be adequately fenced or otherwise protected from hazards, traffic and driveways.
- (2) All loading and unloading of patrons other than from school buses or public transportation shall take place on-site and not in the public right-of-way.
- (3) All child and adult care facilities shall be located on the principal entrance floor and any other level which is not more than one-half

above or below the grade at the location from which egress is provided to the street unless an elevator is available.

- (4) The zoning administrator shall not grant a permit until the applicant demonstrates an ability to meet all state certification requirements and state and local health department requirements.

(d) *Standards for commerce parks.*

- (1) Commerce parks shall be designed and implemented to provide a mixed use business environment where services to the business enterprises and the employees of those enterprises are commingled within the park.
- (2) Uses permitted in commerce parks shall include the various types of establishments and uses listed as being permitted in the table of land uses for the particular district in which located. In addition, the following uses shall also be permitted:
 - A. Day Care Centers, nursery schools
 - B. Technical, vocational, business schools
 - C. Conference centers, including golf courses
 - D. Post office stations
 - E. Health, exercise, fitness centers, swimming pools
 - F. Florists
 - G. Office equipment and office supply retail sales
 - H. Banks, financial institutions, brokerages
 - I. Hotels, motels
 - J. Sit down and carry-out restaurants
 - K. Printing, photocopying, blueprinting, reprographic, telecommunication, mailing, facsimile reception/transmission services and other similar business services
 - L. Emergency care and first aid centers or clinics

- M. Computer hardware and software development and installation, including retail sales and service
- (3) Uses permitted as accessory uses within a commerce park, however not permitted as free standing uses, unless permitted by the underlying zoning district, include:
- A. Boutiques, wearing apparel shops
 - B. Book, magazine, and card shops
 - C. Barber and beauty shops, personal care and grooming shops
 - D. Apparel services
 - E. Convenience stores
- (4) The minimum area required for the development of a commerce park under these provisions shall be five (5) acres.
- (5) Any commerce park developed under these provisions shall provide the following minimum design features:
- A. Recorded restrictive covenants which serve to ensure the architectural and aesthetic unity of the proposed office or industrial park shall be established. Such covenants shall include design guidance for all building facades facing and visible to a public street or residential property. Additional covenants relating to the design and maintenance of landscaping, environmental protection, buffering, fencing, and screening shall also be provided. Copies of the covenants shall be submitted to the county with development plans. The developers' legal counsel shall certify that the standards contained herein have been met and shall clearly define the manner in which met. These covenants shall be in addition to any other covenants which may be necessary to comply with other provisions of this chapter.
 - B. All ground areas within the park not developed in buildings, roads, driveways, pedestrian walkways, parking areas, loading areas, lakes, utility and drainage structures, or storage facilities shall be maintained with grass or other

suitable ground cover and further landscaped with trees, shrubs, and flowering plants so as to create and maintain a "park-like" environment.

- C. All streets and roads within the development shall be designed and dedicated for public use.
 - D. Outdoor architectural lighting shall conform to CPTED Guidelines and shall be provided at least at all major roadway intersections in order adequately to illuminate vehicular and pedestrian circulation routes, particularly at potential points of conflict. Lighting fixtures and the intensity of illumination shall be compatible with both the natural and architectural characteristics of the development.
 - E. Parking facilities located in front of the principal building in commerce parks shall be landscaped to provide one (1) deciduous shade tree and three (3) shrubs per each five (5) parking spaces.
 - F. The following general standards for access and internal traffic circulation shall apply to all developments utilizing these provisions:
 - i. Access to individual lots within the commerce park shall be exclusively from a public internal road system. The zoning administrator may modify this requirement in consideration of the topography and configuration of the site.
 - ii. Buildings and uses or groups of buildings and uses within the development shall be oriented to each other and in relation to parking areas and pedestrian routes in order to minimize the need for excess internal traffic movements.
 - iii. Pedestrian circulation systems may be installed within the required landscape yards of properties in the park.
- (6) The process and procedure for establishing a commerce park shall be initiated by the property owner by submission of preliminary plans and documents relating to the commerce park together with a written request to establish a commerce park.

- A. The zoning administrator shall review and make a determination in writing regarding the applicability of these provisions within thirty (30) days of receiving the written application.
- B. In making a determination regarding the applicability of these provisions to any proposed development, the zoning administrator shall specifically review the following:
 - i. The adequacy of the proposed restrictive and protective covenants in promoting and ensuring an aesthetically pleasing "park-like" environment.
 - ii. Compatibility of the proposed design with the policies established within the comprehensive plan.
 - iii. The provision of safe and convenient circulation and access.
 - iv. The adequacy of all proposed landscaping and screening or the ability to provide adequate landscaping and screening.
 - v. Those features which serve to clearly promote mixed use commercial, business and services development.
- C. The restrictive and protective covenants required herein shall be recorded contemporaneously with the first plat.
- D. The zoning administrator may deny requests for approval of commerce parks upon finding that such proposal does not meet the standards established herein, or when such proposal would not be in accord with adopted plans or policies, or would be incompatible with existing and planned land uses, or would create adverse traffic congestion and conditions beyond that which could occur as a matter of right, or would not be in furtherance of the public health, safety, or welfare.
- E. Final plats recorded for a commerce park and all deeds for lots within such development shall bear a statement indicating that the land is within an approved commerce park and shall specifically reference the existence of the restrictive and protective covenants.

F. Adverse decisions by the Zoning Administrator shall be referred automatically to the Planning Commission for review.

(e) *Standards for construction contractor offices.*

- (1) Construction contractor offices and storage yards shall be designed to minimize the noise impact of trucks, generators, and heavy equipment on adjacent properties and to prevent such noise from being audible on adjacent or nearby residential properties at any greater level than typical for residential areas.
- (2) Outdoor storage shall not encroach on any required setbacks or landscape yards and shall be effectively screened from view from public streets and adjacent property by use of landscaping supplemented by fencing.
- (3) Storage yards for construction materials and equipment shall be designed and located so as to minimize visual impacts on adjacent properties and public rights-of-way. Landscaping supplemented by fencing, if necessary, shall be required to enclose and screen such storage yards from direct views from adjacent public streets or from adjacent commercial or residential properties. The location of such outdoor storage areas shall be consistent with all applicable standards of the district in which located.
- (4) All portions of storage yards shall be treated and maintained in such manner as to prevent dust or debris from blowing or spreading onto adjoining properties or onto any public right-of-way. Such yards shall be maintained in a clean and orderly manner. Junk construction residue and debris shall not be permitted to be stored.
- (5) Construction contractor office operations in the A-1 district must be conducted as a home occupation under the conditions established for home occupations.

(f) *Standard for convenience stores.*

- (1) Convenience stores may have access only to streets classified as collectors or a higher order unless within and a part of a Planned Unit Development or a designated Village.

(g) *Standards for game rooms and amusement facilities.*

- (1) Other than in designated Villages, game rooms, amusement arcades, pool and billiard halls and similar amusement facilities shall not be located closer than one thousand feet (1,000') to any school nor within two hundred feet (200') of any residentially zoned lot line.
- (2) Applications for such uses shall include proposed rules of operation and management standards which address:
 - A. procedures to preclude gambling and loitering;
 - B. regulations regarding the use of the establishment by school age children;
 - C. procedures for enforcement of rules;
 - D. hours of operation;
 - E. size of the establishment and number of amusement machines;
 - F. number of adult attendants required to be on the premises at all times; and
 - G. provisions and designs that will afford law enforcement officers the ability to view interior activities from the parking lot.
- (3) The zoning administrator may in his or her discretion refer applications to the planning commission for review and consideration of additional conditions to ensure compatibility with surrounding development and uses.

(h) *Standards for lumberyards and building materials establishments.*

- (1) Outdoor storage yards or areas for lumber or building materials and delivery vehicles shall be designed and located so as to minimize visual impacts on adjacent properties and public rights-of-way. Landscaping supplemented by fencing shall be utilized so as to enclose and screen such storage yards in a manner which disrupts direct views of the storage yard from adjacent rights-of-way and properties. The location of such outdoor storage areas shall be

consistent with all applicable standards of the district in which located.

- (2) Such uses shall be designed to minimize the noise impact on adjacent properties of trucks, forklifts, and other heavy equipment and to prevent such noise from being audible on adjacent or nearby residential properties at any greater level than typical for residential areas.

(i) *Standards for mini-storage facilities and mini-warehouses.*

- (1) All storage for mini-storage warehouses shall be within a completely enclosed building provided, however, that the outdoor accessory storage of recreational vehicles on the same site is acceptable if such storage is screened from view from adjacent streets and residential properties by landscaping supplemented by fencing.
- (2) Loading docks shall not be permitted as part of any individual storage unit.
- (3) Except for purposes of loading and unloading, there shall be no parking or storage of commercial trucks, trailers, and moving vans. This shall not apply to rental trucks and trailers available for hire by consumers.
- (4) The minimum distance between warehouse buildings shall be twenty-five feet (25'). Where vehicular circulation lanes and parking and loading spaces are to be provided between structures, the minimum separation distance shall be increased accordingly in order to ensure vehicular and pedestrian safety and adequate emergency access.
- (5) No activities such as sales or servicing of goods or materials shall be conducted from such storage units. The operation of such a facility shall in no way be deemed to include a transfer and storage business where the use of vehicles is a part of such business.
- (6) Storage of hazardous and flammable materials shall not be permitted. The owner or operator shall establish rules and regulations for tenants that require that any liquid-fuel powered object or device stored in any storage unit shall have all liquid fuel drained and fuel tanks shall be left unsealed during storage.
- (7) The maximum length of any single storage building shall be two hundred (200') feet.

- (8) Mini storage warehouses located in any district other than the Industrial district shall have all sides visible to a public right of way faced in brick, architectural block, residential siding, or some other material approved by the Zoning Administrator as being compatible with surrounding properties, development and the intent of the district in which located. Doors providing access to individual units shall face inward and any direct views from public roads of such doors shall be obscured by landscaping supplemented if necessary by earth-forms.
- (j) *Standards for motor vehicle service stations and motor vehicle repair garages.*
- (1) Motor vehicle service and minor repairs shall be deemed to include engine tune-ups, oil changes and lubrication, and the repair or installation of mufflers, tailpipes, exhaust pipes, catalytic converters, brakes, shock absorbers, tires, batteries, and similar automotive components as determined by the zoning administrator. Repairs specifically shall not include body work and painting.
 - (2) All major repair or installation work shall be conducted indoors. Used or damaged equipment removed from vehicles during the repair process shall be stored indoors or shall be deposited in an approved covered outdoor collection receptacle for appropriate off-site disposal.
 - (3) Temporary overnight outdoor storage and parking of vehicles waiting for repair or pickup shall be permitted. Appropriate and adequate parking areas shall be provided and set aside on the site for such vehicles. No long-term (forty-five (45) days or more) storage and parking of vehicles which require major repair work shall be permitted.
 - (4) Landscaping supplemented by fencing if necessary shall be utilized to fully screen vehicular storage areas. All fencing shall be maintained in good condition and kept free of litter and debris.
- (k) *Standards for motor vehicle body work and painting.*
- (1) All major work shall be conducted indoors.

- (2) Used or damaged equipment removed from vehicles during the process shall be stored indoors or shall be deposited in an approved covered outdoor collection receptacle for appropriate off-site disposal.
 - (3) Temporary overnight outdoor storage and parking of vehicles waiting for repair or pickup shall be permitted. Appropriate and adequate parking areas shall be provided and set aside on the site for such vehicles. No long-term storage (forty-five (45) days or more) and parking of vehicles which require major repair work shall be permitted.
 - (4) Landscaping supplemented by fencing if necessary shall be utilized to fully screen vehicular storage areas. All fencing shall be maintained in good condition and kept free of litter and debris.
 - (5) Ventilation systems shall be utilized which prevent objectionable emissions, including, without limitation, odors, paint particles, and residues from migrating to adjacent properties. Compliance with this standard shall be certified by a professional engineer or architect.
- (l) *Standard for plant nurseries, garden centers, and landscape contracting and storage establishments.*
- (1) Plant nurseries, garden centers, greenhouses, and landscape contracting and storage establishments shall be designed and used primarily for the growing of nursery stock for gardens, grounds, and yards and the wholesale or retail sale of such stock; and the off-site installation of such stock. Such uses may include the sale of ancillary items which are customarily associated with maintaining and preserving the life and health of nursery stock, grounds, gardens and yards.
- (m) *Standards for timeshare resorts (interval ownership).*
- (1) Timeshare resorts shall be comprised of two or more residential units for which the exclusive right of use, possession, or occupancy circulates among various owners or lessees thereof in accordance with a fixed time schedule on a periodically recurring basis.
 - (2) Residential occupancy for more than six (6) months during any twelve (12) month period of any units by any individual or family other than that of a resident manager or staff and family thereof shall not be permitted.

- (3) All agreements and restrictions pertaining to ownership and maintenance of common areas on the site shall comply fully with section 55-360 et seq., Code of Virginia, the Virginia Real Estate Time-Share Act. Certification by the developer's legal counsel that the referenced standards have been met shall be submitted with development plans.
- (4) Timeshare resort development shall follow the site development and design standards contained in this chapter for the style(s) of residential units to which it is most similar.

(n) *Standards for shopping centers.*

- (1) The dimensional requirements for the development of a shopping center shall be based on the size of the center measured in gross square feet available for occupancy as follows notwithstanding the regulations of the district in which the center is located:

Requirement	Size of Center	
	≤15,000 sq. ft.	>15,000 sq. ft.
Minimum Parcel Area ¹	30,000 sq. ft.	3 acres
Minimum Parcel Width	175 feet	250 feet
Minimum Building Setback ²		
All parking at side and rear	30 feet	30 feet
Parking in front	75 feet	100 feet
Minimum Side Yard	20 feet	35 feet
Minimum Rear Yard	20 feet	35 feet

- (2) The following performance standards shall apply to all shopping centers with greater than 15,000 square feet of gross space available for occupancy.

- A. A minimum twenty-foot (20') landscape yard shall be provided around the perimeter of the shopping center site. Along all public street frontages, landscape yards shall be expanded to twenty-five feet (25'). Landscape yards shall be landscaped with natural vegetation or with an appropriate combination of low-growing trees and shrubs to screen

¹ Minimum parcel area must all be comprised of developable area

² For purposes of this paragraph only, "front" shall be determined by the principal road adjacent to the site and building orientation.

direct views of parking areas, but not the shopping center itself from adjacent public streets.

- B. The minimum landscaped open space for shopping centers shall be twenty-five percent (25%) of the net developable area of the site. The area of the required perimeter landscape yards and parking lot landscaped islands may be included when calculating such percentage. No less than fifty percent (50%) of the required site landscaping shall be located in front of the principal building on the site.
 - C. Where no parking is provided or accommodated in front of the principal building on site, or where the shopping center site is larger than twenty (20) acres the amount of landscaped open space required may be reduced to twenty percent (20%) provided that no less than sixty-five percent (65%) of the required open space is located in front of the principal building in the center and that direct views of parking from adjacent public roads are significantly disrupted by landscape methods.
 - D. Landscaping plans for shopping centers shall be prepared by a Virginia certified landscape architect.
- (3) Access to shopping center out-parcels shall be designed such that the internal circulation system alone provides adequate access to each proposed out-parcel. Individual access to existing public roads for out-parcels shall not be permitted except as may be approved by the zoning administrator upon the demonstration within the traffic impact analysis that such an individual access will not violate the access management provisions of this chapter or the subdivision ordinance, will improve internal circulation and will not adversely affect traffic flows on the adjacent public roadway(s).
 - (4) Accommodations for pedestrian circulation must be provided throughout the center and shall be appropriately separated from vehicular circulation in order to minimize congestion and safety hazards.
 - (5) Buildings or groups of buildings within the center shall be oriented in relation to parking areas in a manner which minimizes the need for internal automotive movement once patrons have entered the site. Facilities and access routes for shopping center deliveries, servicing,

and maintenance shall, so far as reasonably practicable, be separated from customer access routes and parking areas.

(o) *Standards for veterinary clinics, animal hospitals, commercial kennels, and animal boarding and grooming establishments.*

- (1) Veterinary clinics, which term shall also include animal hospitals and commercial kennels, located within two hundred feet (200') of a residential property line shall be within a completely enclosed building. Such building shall be adequately soundproofed and constructed so that there will be no emission of odor or noise detrimental to other properties or uses in the area.
- (2) All animals shall be kept in pens or other enclosures designed and maintained for secure confinement.
- (3) A waste management plan which ensures sanitary handling of animal wastes and prevents contamination or pollution of adjacent lands or water bodies shall be submitted to and approved by the zoning administrator and the Virginia Department of Health prior to establishment of such uses.

Sec. 98-872. Specific conditions applicable to manufacturing, industrial, and storage uses in business and manufacturing zoning classifications.

(a) *Standards for all industrial uses.*

- (1) All off-street parking and loading space for limited industrial uses shall be located not less than thirty-five feet (35') from any residential property line and shall be effectively screened from view from adjacent residential properties by landscaping, supplemented, as necessary, by appropriate fencing materials.
- (2) Structures of thirty thousand (30,000) square feet or greater shall have fire lanes surrounding the structure(s) unless approved otherwise by the fire chief.
- (3) Outdoor storage shall not be located closer than twenty-five feet (25') to any property line.
- (4) Bay doors shall be oriented away from streets and residential properties or screened from direct views by landscape means.

- (5) Outdoor lighting shall be sufficient to protect public safety and shall comply with the standards of the Crime Prevention through Environmental Design Guidelines produced by the Virginia Crime Prevention Association and dated December 2004; however, no outdoor lighting fixture shall be installed, aimed, or directed to produce light or glare that spills over into neighboring properties or the public right-of-way that exceeds 0.5 foot candles within two feet of the property line of the light source. All site lighting fixtures shall be mounted a maximum of twenty five feet (25') above ground, shall be full-cutoff, as defined by the Illuminating Engineering Society of North America (IESNA), and shall have fully shielded and/or recessed luminaires with horizontal-mount flat lenses that prevent upward light scatter and protect the dark night sky. All site lighting fixture styles and illumination levels shall be compatible with the architecture of the principal building on the site.
- (6) Outdoor paging system speakers shall be directed away from all residential property lines.
- (7) All manufacturing, industrial or storage uses shall be conducted so as not to produce hazardous 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.
- (8) Service drives or other areas shall be provided for off-street loading in such a way that in the process of loading or unloading, no truck will block the passage of other vehicles on the service drive or extend into any fire lane or other public or private drive or street used for circulation.
- (9) All manufacturing, industrial and storage uses and sites shall be operated and maintained in a neat and orderly manner, free from junk, inoperable equipment, trash, or debris (unless allowed by law otherwise). Buildings shall be maintained in a sound condition, in good repair and appearance. Weeds shall be cut as frequently as necessary, but not less than twice a year.
- (10) Incidental retail sales of products manufactured or assembled on site shall be permissible as an accessory use.
- (11) All necessary state and federal permits shall be obtained, or evidence that they are not required provided, prior to approval of any plan of development for industrial uses.

(12) Access to industrial uses, unless entirely via public roads, shall require the same zoning consideration as the use itself.

(b) *Standards for industrial uses in the Economic Opportunity district.*

(1) Unless the items are for retail sale, no outdoor storage of goods or materials shall be permitted in any front yard nor shall it encroach upon any required landscaping, public or private street right-of-way, parking facility, or loading space.

(2) All dumpster pads, loading areas and outdoor storage areas shall be screened from view of all public streets or residential properties by landscaping supplemented by masonry or wooden fencing.

(c) *Standard for all wholesaling and warehouse uses.*

(1) When located adjacent to or within 1,250 feet of a residential property line, sound baffles shall be utilized to prevent noise that creates an unreasonable nuisance on adjacent and nearby residential properties.

(d) *Standard for distillation of ethanol.* [Existing Sect 98-745(b)(8)]

(1) All equipment associated with an ethanol distillation process must be located at least two hundred feet (200') from all property lines.

(e) *Standards for mining, excavating, borrow pits and gravel pits.*

(1) Except as otherwise allowed for bona fide agricultural or silvicultural uses, no surface mine, which term shall include mining, excavating, borrow pits and gravel pits, shall be established, operated, or enlarged except as shall be permitted by conditional use permit. In granting said use permit, the Board may authorize the establishment of, or any expansion or enlargement of, surface mining operations, subject to the following conditions, as well as any other reasonable conditions which the Board determines to be necessary.

(2) The restoration or reclamation of nonconforming, inactive, or abandoned borrow pits utilizing clean fill soil may be authorized by the Board. The depositing of any material other than clean fill soil shall be classified as a landfill and is prohibited.

- (3) Any application for the authorization of such use shall be accompanied by a copy of the application required under the Virginia Minerals Other than Coal Surface Mining Law and the Virginia Department of Environmental Quality.
- (4) The requirements pertaining to location, operation, and restoration of surface mines borrow pits and gravel pits are contained below:
 - A. The Board shall determine that the property proposed for the surface mine shall be of sufficient size to accommodate the mining operation together with any buffers that may be necessary to ensure reasonable compatibility with adjacent properties and uses.
 - B. If an existing surface mining or restoration and reclamation operation is enlarged or extended, these standards shall apply to both the then existing surface mine and the proposed extension or enlargement.
 - C. The Board, in considering whether to grant a conditional use permit shall determine that the mining operation can be conducted in a manner that is compatible with adjacent and nearby properties and that the site can be restored to a usable and productive purpose and condition. The Board shall impose all such conditions as it deems necessary to ensure operational compatibility and site restoration.
 - D. Local residential streets shall not be used for access to the surface mining or restoration operations. The permittee shall be limited to using those routes which are specified in its application and approved by the Board in authorizing the conditional use permit.
 - E. The Board may, in consultation with VDOT, require the operator to post a sufficient surety or guarantee to cover any potential damages to the public road system attributable to the operation.
 - F. All buildings, structures, storage areas, and accessory activities associated with the operations shall be subject to all applicable requirements of the zoning district in which the proposed surface mine is to be located. This is not to be interpreted to preclude the placement on-site of temporary

accessory structures which are to be removed upon expiration of the permit.

- G. All equipment used for the extraction or placement or transportation of materials shall be constructed, maintained, and operated in such a manner as to eliminate any noise, dust, or vibration which would be injurious or create an unreasonable nuisance to persons living in the vicinity.
- H. All storage areas, yards, service roads or other non-vegetated open areas within the boundaries of the surface mining area shall be maintained so as to prevent dust or other wind blown air pollutants. Proposed methods of dust and debris control and equipment proposed for such control shall be included in the plan of operation and shall be located at the site during such operations.
- I. The Board shall require the applicant to demonstrate how access to the site will be controlled and trespassing will be prevented during the time that mining operations are occurring on the property and after such operations have ceased.
- J. Surface mines shall be kept free from junk, inoperable equipment, trash, or unnecessary debris. Buildings shall be maintained in a sound condition, in good repair and appearance. Weeds shall be cut as necessary, but not less than twice a year. Only that equipment which is used in the operation of the surface mine shall be maintained and stored on the site, unless, however, vehicle storage or maintenance is permitted in the zoning district in which such mining activity is located. Equipment shall be removed from the site when mining ceases.
- K. The use of explosives in conjunction with the mining activity shall not be permitted unless specifically authorized by the Board in granting a conditional use permit.
- L. Routine maintenance of equipment shall be conducted in such a fashion as to not allow the depositing of oil, grease, or other deleterious materials on the ground or within the confines of any future or existing water bodies.

- (5) Restoration and reclamation of the site shall be pre-planned and be approved as a part of the initial conditional use permit.
- (6) The zoning administrator shall be the final plan approving authority ensuring all conditions established by the Board have been met, however, no final action shall be taken until the comments and recommendations of all reviewing agencies and departments have been received.
- (7) If the Board has required posting of surety for any aspect of the site operations, the following general requirements shall apply to such surety for surface mining and restoration operations:
 - A. Prior to commencement of the authorized activity, the permittee shall post with the zoning administrator a certified check, letter of credit, or cash escrow with surety satisfactory to the zoning administrator, approved as to form and content by the county attorney, guaranteeing the faithful performance of all conditions and requirements of the conditional use permit for which the Board required surety. The amount of such surety shall be approved by the zoning administrator and shall be sufficient to guarantee performance of those aspects of the site operations that the Board deemed necessary in the conditional use permit.
 - B. If the site is to be disturbed and restored in phases, the surety may be reduced in a manner approved by the county attorney and an amount approved by the zoning administrator as phases are completed and approved.
 - C. In the event any part of the approved operation or restoration covered by surety has not been followed, the zoning administrator shall require the forfeiture of such surety to cover the cost of necessary operational and restoration activities.
 - D. Except as provided hereinabove, surety shall not be released until the zoning administrator certifies that the requirements of the approved restoration plan have been met. In this regard, the zoning administrator may, in order to evaluate the adequacy and success of revegetation efforts, delay the final release of surety guarantee for two (2) growing seasons after the time of planting.

- (8) The following requirements shall govern any proposed changes in the approved plans of operations or restoration:
- A. If a permittee proposes changes in an approved original plan, or if additional land not shown as a part of the approved conditional use permit is to be disturbed, the permittee shall submit an amended application, operations plan and restoration plan which shall be reviewed in the same manner as an original plan and shall be subject to all provisions of this ordinance, as amended.
 - B. All amendments, changes, and modifications of plans shall be valid only when evidenced by a written approval from the zoning administrator.
 - C. A reasonable extension of time may be granted by the zoning administrator when he finds that weather conditions make compliance with an approved time schedule impractical.
- (f) *Standards for storage yards for office and construction office trailers.*
- (1) Such establishments shall be for the purpose of storage of office and construction trailers which are available for rent or lease on a temporary basis in conjunction with construction projects being conducted on other sites.
 - (2) All setback, yard, and similar regulations of the district in which located shall apply to trailers stored or otherwise maintained on the property.
 - (3) All trailers stored at the site shall be in a condition which will allow their transport to construction sites and use for storage or office purposes. Trailers which have deteriorated to a condition not conducive to transport, storage or office use, as determined by the zoning administrator, shall not be permitted to be stored on the subject site.
 - (4) All such storage yards shall be screened from view from adjacent public rights-of-way by appropriate opaque privacy fencing and supplementary landscaping.
 - (5) A site plan shall be required for such uses.

(g) *Standard for recycling centers and plants.*

- (1) Unless operated within a fully enclosed building with sound attenuation materials or devices, mechanical motorized equipment shall not be located within two hundred feet (200') of any adjoining property which is within an agricultural, conservation or residential zoning district. This shall not be interpreted to preclude the occasional use of trucks and loading or moving equipment, but is intended to apply to permanent or semi-permanent installation of large processing equipment.

(h) *Standards for salvage yards, automobile graveyards, junkyards.*

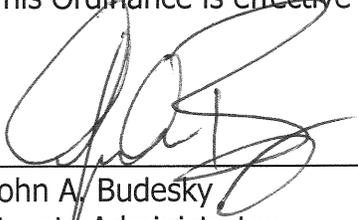
- (1) Salvage yards, automobile graveyards and junkyards shall comply in all respects with the terms of all other county ordinances and regulations.
- (2) No storage or display of inoperable vehicles or vehicle parts shall be located in any required landscape area, best management practice area depicted on a site plan, Chesapeake Bay resource protection area, or required open space.
- (3) Storage areas of such uses shall be effectively screened from view from all public streets and adjacent properties by landscaping supplemented by appropriate fencing materials. The landscape plan to accomplish this shall comply with landscape ordinance unless a more stringent standard is required by the Board during the issuance of a conditional use permit.
- (4) All vehicles shall be drained of all liquids, fuel and oil prior to placement within the salvage yard. All liquids, fuel and oil shall be stored and disposed of in accordance with all Federal and State statutes and regulations.

BE IT FURTHER ORDAINED this, the 9th day of July 2007, by the New Kent County Board of Supervisors that Chapter 98 of the New Kent County Zoning Ordinance be amended by deleting the following sections from 98-745, Specific Use Conditions and renumbering the remaining sections accordingly:

- 98-745 (3) Bed and Breakfast/home stay establishment
- 98-745 (4) Campgrounds, camping units and campsites
- 98-745 (6) Child care center, day care center, preschool, nursery
- 98-745 (8) Ethanol distillation in A-1 zoning district

BE IT FURTHER ORDAINED that staff shall give a review and formal report of this ordinance in eighteen months.

This Ordinance is effective immediately.



John A. Budesky
County Administrator



Stran L. Trout
Chairman