



New Kent County

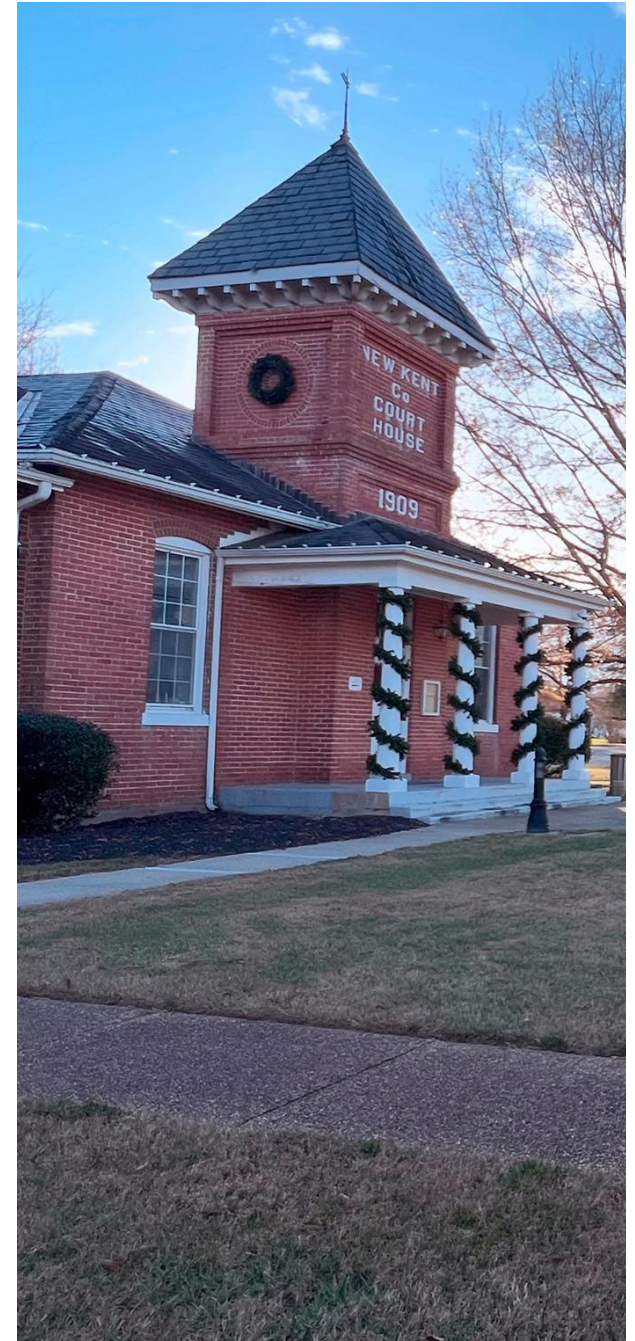
Zoning and Subdivision Ordinance Diagnostic

June 2026



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Overview

Purpose and Scope

Zoning and subdivision regulations are the primary regulatory tools Virginia localities use to implement their adopted Comprehensive Plans and manage land use and development. As a foundational component of the upcoming Zoning and Subdivision Ordinance update, New Kent County commissioned a diagnostic report to examine the Ordinances for compliance with the *Code of Virginia* and other land use and development best practices. Berkley Group, a Virginia-based local government consulting firm, completed this assessment, which included the following tasks:

- Analyze the Zoning and Subdivision Ordinances (Chapters 91 and 98 of the *County Code*) for compliance with the *Code of Virginia*;
- Identify new (2026) *Code of Virginia* requirements and their applicability to New Kent County;
- Analyze the Zoning and Subdivision Ordinances and Chapter 94, Waterways, of the *County Code* for compliance with the *Chesapeake Bay Preservation Act*;
- Provide recommendations to align with current planning best practices; and
- Identify opportunities to implement the tactics identified in *New Kent 2045*, the County's recently adopted Comprehensive Plan.

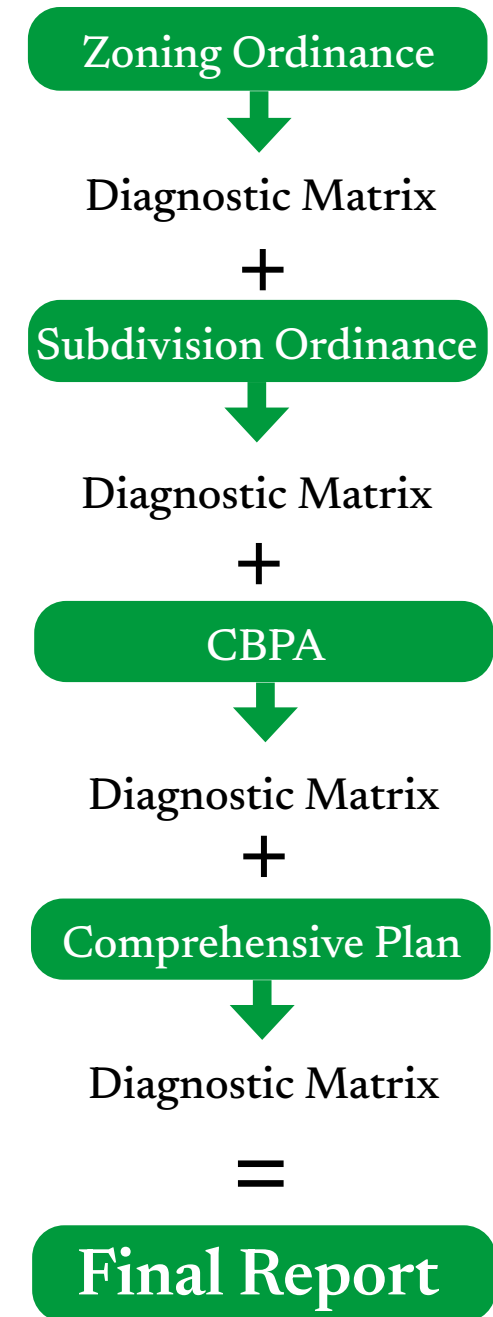


Process

This diagnostic report represents the first phase of New Kent County's overhaul of the Zoning and Subdivision Ordinances. The Ordinance update began in February 2026 with a virtual kick-off meeting with Berkley Group and Community Development staff to discuss broad community goals and specific issues with the Ordinances. Feedback received from County staff was considered in tandem with the diagnostic review and report of the Zoning and Subdivision Ordinances.

Both the Zoning and Subdivision Ordinances were separately assessed for compliance with each pertinent section of *Code of Virginia* Title 15.2, Subtitle II, Chapter 22 (Planning, Subdivision of Land and Zoning) and the 9VAC25-830 *Chesapeake Bay Preservation Area Designation and Management Regulations*. Berkley Group also considered improvements to structure and content. These assessments are included as diagnostic matrices in **Appendices A, B, and C** for easy reference and examination. Additionally, a broad review of the County's recently adopted Comprehensive Plan identified opportunities to implement policies and strategies through the Ordinance update process, as noted in **Appendix D**.

This report summarizes considerations and general recommendations to make the Zoning and Subdivision Ordinances more thorough, user-friendly, and ultimately more reflective of New Kent County's land use and development goals. All findings and recommended changes will be discussed with County staff, the Planning Commission, the Board of Zoning Appeals, and the Board of Supervisors at a kick-off worksession to serve as a roadmap for the forthcoming revisions.



Key Findings

The following list summarizes the key findings of the diagnostic review, in no particular order:

- The Zoning and Subdivision Ordinances should be reorganized and streamlined into a single, user-friendly, and clearly written chapter of the *County Code*. This is to aid staff with administration and enforcement and the community with general interpretation and use.
- Zoning and subdivision provisions should be updated to achieve full compliance with the *Code of Virginia*, as detailed in the recommendations of **Appendices A and B**.
- The Zoning Ordinance would benefit from updated and newly introduced graphical representations - including tables, charts, and illustrative diagrams - to improve usability. Visual aids can help explain and simplify complex requirements, such as dimensional requirements or design standards.
- The Zoning Ordinance should continue utilizing the existing Table of Uses as a best practice; however, the table should be updated and streamlined to reflect revised use categories, updated terminology, and use permissions consistent with the Comprehensive Plan and the *Code of Virginia*. Additionally, individual use lists should be removed from primary district standards to reduce the potential for conflicting provisions and allow the Table of Uses to fully govern.
- All use performance standards should be consolidated into a single Article. Redundant or conflicting standards should be removed, and standards should be updated to reflect current best practices and emerging land uses. Additionally, use standards can also be required for certain uses in lieu of requiring a Conditional Use Permit to streamline the development review process; reduce staff time on frequently requested uses; and address potential impacts through consistent and objective standards.
- The plat review process in the Subdivision Ordinance should be reviewed and updated for clarity, brevity, and removal of redundant provisions.
- Once adopted, the updated Zoning and Subdivision Ordinance should be reviewed annually with the Planning Commission and Board of Supervisors and updated as needed. This is a best practice technique to ensure the Ordinance not only remains compliant with the *Code of Virginia*, but also relevant and responsive to the community's needs and priorities.

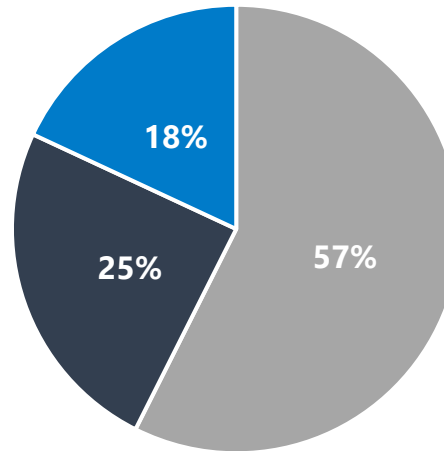
Zoning Ordinance Analysis

The Zoning Ordinance is the local code regulating land use and development in New Kent County. Zoning divides the County into specific districts and establishes regulations concerning the use, placement, spacing, and size of land and buildings within the respective districts. Additionally, the Zoning Ordinance establishes development standards, such as parking, lighting, and landscaping, that shape how development functions and appears within the community. The Zoning Ordinance is the primary tool New Kent County uses to implement the long-range vision found in the Comprehensive Plan.

Code of Virginia

New Kent County's Zoning Ordinance update should incorporate current *Code of Virginia* references and address recent amendments. The Ordinance does not account for several recent updates to the *Code of Virginia*. The Zoning Ordinance diagnostic (**Appendix A**) itemizes each state code section that must be addressed, including those adopted by the General Assembly in 2026. Charts depicting the compliance with each pertinent section of the *Code of Virginia* are included on this page.

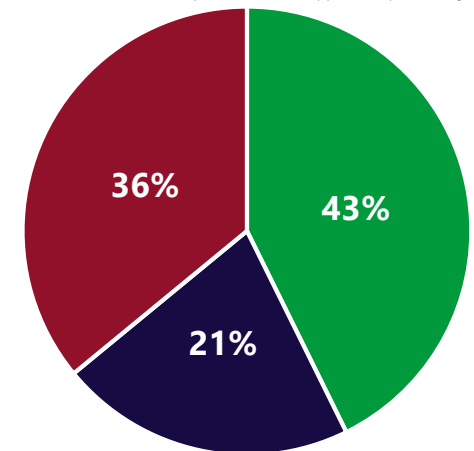
Chart 1
Applicability of
Code of Virginia Sections



- Mandatory Provisions
- Optional Provisions
- N/A Provisions

Chart 2
Compliance with
Mandatory Sections*

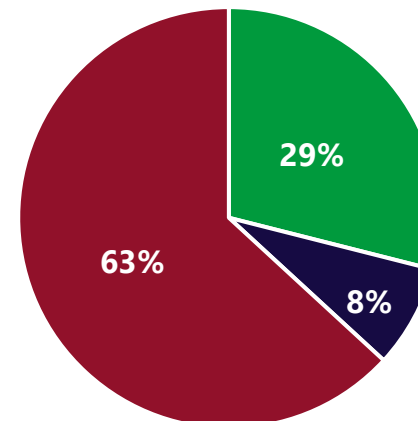
*Chart does not include Optional or Not Applicable percentages.



- Mandatory, Complies
- Mandatory, Partially Complies
- Mandatory, Does Not Comply

Chart 3 | Optional* Provisions Usage

*Total Optional provisions = 25% of all provisions



- Optional, Included
- Optional, Partially Included
- Optional, Not Included

Ordinance Structure and Organization

The Zoning Ordinance has not been wholly updated in decades, instead being periodically amended over time. This has resulted in unclear and conflicting provisions, making administration and interpretation burdensome. The Ordinance should be streamlined for clarity and usability, and conflicting or redundant provisions removed. A restructuring is also recommended to ensure “like” provisions are included together in the appropriate Article or Division. This is particularly necessary for permitting and application procedures, use performance standards, and community design standards.

The actual language of the Ordinance is another aspect of creating a user-friendly set of zoning regulations. As a best practice, all uses of the word “shall” should be removed and replaced with “must” or “will”, as appropriate. Language should also be reviewed to be clearer, more concise, and less archaic to promote a shared community understanding of zoning requirements. Lengthy paragraphs should be restructured into brief multi-level lists. Where appropriate, tables can be used to replace written lists or paragraphs.

While *Code of Virginia* compliance is a major goal of the Ordinance update, it is important to balance compliance and usability. Berkley Group recommends simply citing relevant state code references for any provisions that are the responsibility of the County, staff, or elected officials – for example, vested rights determinations – rather than repeating lengthy statutory language. However, the actual state code text should be enumerated where it is important for applicants or the public to understand specific requirements.

There are several other chapters or articles of the *County Code* that include zoning-related provisions. These chapters or articles should be repealed and the content folded into the Zoning Ordinance. These include:

- **Chapter 6, Article II**, which addresses temporary uses and programming;
- **Chapter 18, Article V**, Planning, which addresses the creation, appointment, and powers and duties of the County Planning Commission; and
- **Chapter 78, Administration**, which addresses appointment of the County’s planning director.

Berkley Group further recommends restructuring the Zoning and Subdivision Ordinances into one single chapter of the Land Development Code – with subdivision regulations operating as a standalone article – to ease administration, clarity, synchronization, and updates.

Recommended Ordinance Structure

1. General Provisions
2. Administration
3. Permits and Applications
4. District Standards
5. Overlay Districts
6. Uses
7. Use Performance Standards
8. Supplemental Development Standards
9. Community Design Standards
10. Nonconformities
11. Subdivision
12. Definitions

Administration

Powers and Duties

The current Zoning Ordinance includes clear *Code of Virginia*-compliant provisions regarding the authority, powers, and duties of the Zoning Administrator and Board of Zoning Appeals (BZA). Chapter 18, Article V of the *County Code* addresses the creation, appointment, and powers and duties of the County Planning Commission. To improve internal consistency and organization, these provisions should be consolidated within the Zoning Ordinance. Additionally, all administrative provisions should be reviewed and updated, as needed, for full alignment with the *Code of Virginia*.

The appointment of the Director of Community Development is addressed in Chapter 78 of the *County Code*. While not directly required by the *Code of Virginia*, incorporating and expanding these provisions within the Zoning Ordinance would improve clarity and transparency regarding the authority and responsibilities of the Director.

Civil Penalties

New Kent County currently does not provide procedures for civil penalties for violations of the Zoning Ordinance, instead

utilizing misdemeanor penalties. However, as a best practice, the County should introduce civil penalties and use such penalties as a first line of defense, moving to misdemeanors as appropriate. Utilizing this more gradual approach will ease the burden of enforcement, save the County time and money, and allow greater focus on repeat or serious violations. A uniform schedule and summons procedure should be applied for civil penalties as detailed in the *Code of Virginia*. Procedures for civil penalties, along with other procedures for code enforcement, would be addressed under the Administration article of the Ordinance.

Proffers

Proffers are voluntary commitments made by an applicant as part of a development proposal to mitigate anticipated impacts or provide for certain improvements that may become community needs as the direct result of the development. The *Code of Virginia* addresses the process for accepting proffers, including cash contributions. A development proposal with included proffer statements is commonly referred to as “conditional zoning”.

New Kent County provides for conditional zoning in the Ordinance, as it is considered a “high-growth locality” and therefore enabled under *Code of Virginia* § 15.2-2298. However, the *Code of Virginia* § 15.2-2303 provides an alternative mechanism for high-growth localities to act under that statute. The primary difference between the two statutes is that proffer statements made in localities acting under § 15.2-2303 are not necessarily required to be consistent with the Comprehensive Plan. This allows developers and localities greater flexibility to address unique challenges in ways that may not be expressly identified in the Comprehensive Plan, but ultimately offer a stronger solution. Additionally, the standard that proffers be reasonably related to the anticipated impacts of the development is not explicitly required under § 15.2-2303; however, there is still federal case law establishing a standard of reasonableness and proportional impact.

County staff has expressed interest in acting under *Code of Virginia* § 15.2-2303 moving forward. As part of Ordinance drafting, Berkley Group recommends a more thorough analysis of the differences between the two state code statutes to determine which would be the most beneficial for New Kent County in practice.

Permitting and Application Procedures

Permitting and application procedures address several processes, including rezonings, conditional zoning, variances, and site plan submittals. These requirements are currently dispersed throughout the Zoning Ordinance. As a best practice for organization and usability, Berkley Group recommends consolidating all permitting and application procedures into a single Article of the Ordinance. Flowcharts may be incorporated to visually demonstrate application and review procedures and improve public understanding of the development process. All procedures should be thoroughly reviewed and updated, as needed, for compliance with the *Code of Virginia* (see **Appendix A**).

Apart from reorganization and compliance with the *Code of Virginia*, several revisions are recommended to permit and application procedures for clarity, administration efficiency, and ease of community understanding. Schematic plan requirements should be clarified to ensure the County receives sufficient information for initial review. Additionally, existing checklists, applications forms, and submission requirements should be reviewed for consistency with the Ordinance standards.

While the fee schedule is in an appendix of the *County Code*, Berkley Group also recommends reviewing planning- and zoning-related fees on a regular basis to ensure they provide appropriate revenue for the County while remaining regionally competitive.

New Kent
COUNTY, VIRGINIA

CONDITIONAL USE PERMIT (CUP) / OR CUP AMENDMENT APPLICATION
County of New Kent, Virginia
Web site: www.newkent-va.us/209/Planning

New Kent County • Planning Division • P.O. Box 150 • New Kent, VA 23124 • Phone 804-969-9600 • Fax 804-969-8531
Use P.O. Box for all mail. Street address: 12007 Courthouse Circle, New Kent, VA 23124 FOR DELIVERIES ONLY

DESCRIPTION OF PROPERTY
Tax Map Parcel Number(s): _____ Total Lot Area (Acres): _____
GPR: _____
Property street address: _____
Current Zoning: _____ Proposed Use: _____
Current Use: _____
Does proposed use include entire property? [] YES [] NO
If no, how much will be used/disturbed for proposed use? _____

OFFICE USE ONLY
DO NOT WRITE IN THIS BOX
Application No.: _____
AFD Status: _____
Date Received: _____
Tax Receipts: YES NO
Fee Amount: \$ _____
Staff Initials: _____

PROPERTY OWNERS INFORMATION
Name: _____
Address: _____
City: _____ State: _____ Zip: _____
Telephone: Cellular: _____ Home: _____
E-mail Address: _____

APPLICANT'S INFORMATION
Name: _____
Address: _____
City: _____ State: _____ Zip: _____
Telephone: Cellular: _____ Home: _____
E-mail Address: _____

AGENTS INFORMATION
Name: _____
Address: _____
City: _____ State: _____ Zip: _____
Telephone: Work: _____ Cellular: _____
E-mail Address: _____

WATER/SEWER SUPPLY
☐ Public Water ☐ Public Sewer ☐ Well ☐ Septic
☐ Other: _____

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New Kent
COUNTY, VIRGINIA

REZONING APPLICATION
County of New Kent, Virginia
Planning Department
Web site: www.co.new-kent-va.us/209/planning

New Kent County • Planning Department • P.O. Box 150 • New Kent, VA 23124 • Phone 804-969-9600 • Fax 804-969-8531
Use P.O. Box for all mail. Street address: 12007 Courthouse Circle, New Kent, VA 23124 FOR DELIVERIES ONLY

DESCRIPTION OF PROPERTY
Tax Map Parcel Number(s): _____ Total Lot Area (Acres): _____
GPR: _____
Property street address: _____
Current Zoning: _____ Proposed Zoning: _____
Current Use: _____
Does proposed zoning/use include entire property? [] YES [] NO
If no, how much will be used for proposed use? _____

OFFICE USE ONLY
DO NOT WRITE IN THIS BOX
Application No.: _____
AFD Status: _____
Date Received: _____
Tax Receipts: YES NO
Fee Amount: \$ _____
Staff Initials: _____

PROPERTY OWNERS INFORMATION
Name: _____
Address: _____
City: _____ State: _____ Zip: _____
Telephone: Cellular: _____ Home: _____
E-mail Address: _____

APPLICANT'S INFORMATION
Name: _____
Address: _____
City: _____ State: _____ Zip: _____
Telephone: Cellular: _____ Home: _____
E-mail Address: _____

AGENT / SURVEYOR INFORMATION
Name: _____
Address: _____
City: _____ State: _____ Zip: _____
Telephone: Cellular: _____ Work: _____
E-mail Address: _____

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New Kent County's Primary Zoning Districts

- Conservation, C-1
- Agricultural, A-1
- Single-Family Residential, R-O
- Single-Family Residential, R-OA
- Single-Family Residential, R-1
- Single-Family Residential, R-1A
- General Residential, R-2
- General Residential, R-2A
- Multiple-Family Residential, R-3
- Mobile Home Parks, MHP
- Business District
- Economic Opportunity, EO
- Industrial
- Courthouse Development
- Planned Unit Development

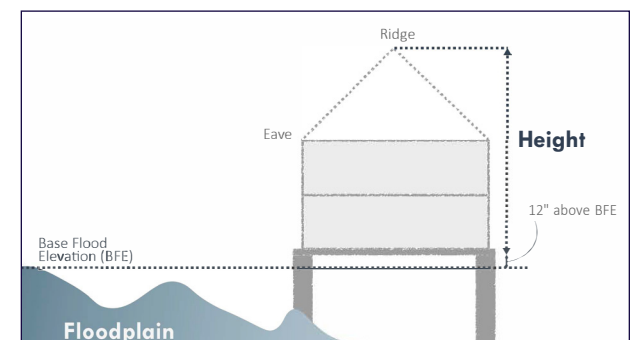
Primary Zoning Districts

New Kent County currently has 15 primary zoning districts, most of which are organized within separate Articles of the Zoning Ordinance. As a best practice for organization and usability, all primary zoning districts should be consolidated into a single Article. Introductory divisions should establish standards applicable to all districts, followed by divisions addressing dimensional standards by district type (i.e., conservation and agriculture, residential, commercial, industrial, and planned districts). The purpose and intent statements of each zoning district should also be updated for clarity and to align with the recently adopted Comprehensive Plan.

Article II of the current Zoning Ordinance contains a table with dimensional standards for conservation, agricultural, and residential zoning districts. Separate dimensional standards tables are provided for commercial and industrial zoning districts. The use of tables to convey dimensional standards is a best practice and should be continued; however, each table should be limited to similar zoning districts to promote usability and consistent comparison between similar districts.

Dimensional standards address height, area, setbacks, and lot coverage. These district standards should be evaluated to ensure consistency and confirm that the provided standards are promoting the desired type, pattern, and scale of development in each district. Revisions should be made where necessary to address inconsistencies, ambiguities, or gaps in the existing regulations. For example, "yard" and "setback" are occasionally used interchangeably, despite being defined separately. Additionally, while the Ordinance establishes the front yard on a corner lot is determined by the shortest street frontage, it does not clearly address circumstances in which frontages are of equal length.

Introducing graphics to illustrate lot types, height requirements, and minimum setbacks and yards is recommended. These visual aids can improve clarity, promote internal consistency, and enhance public understanding of dimensional standards.



*Example dimensional standard graphic.
Spotsylvania County, Virginia*

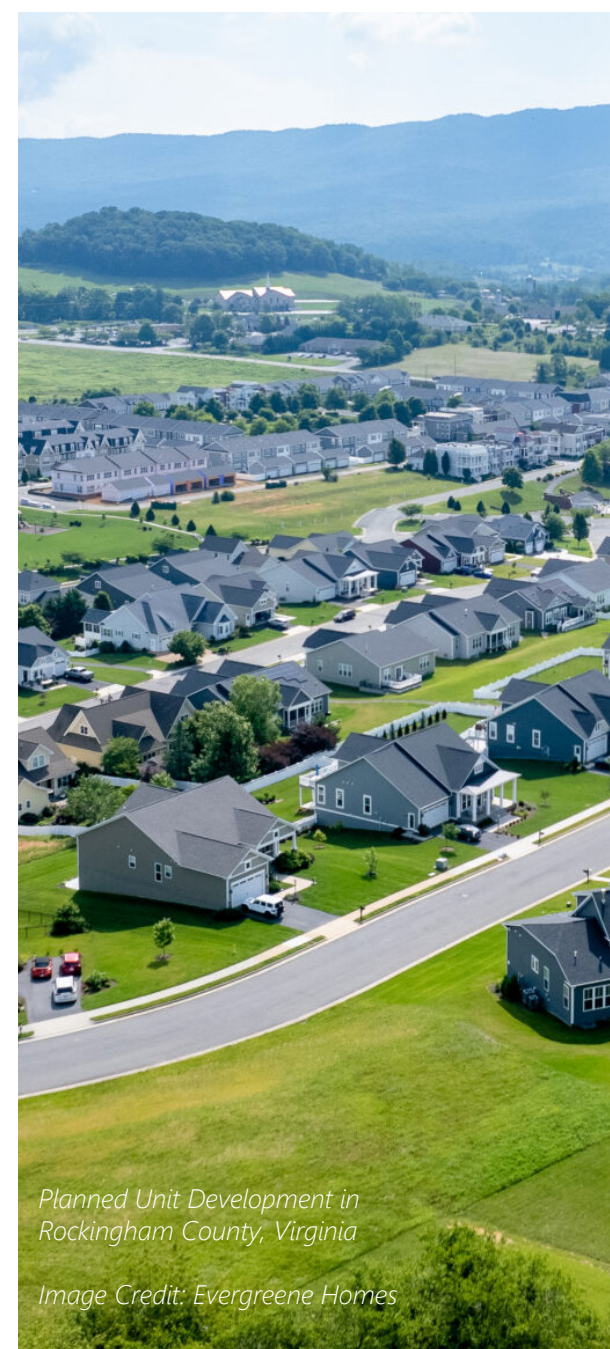
Planned Unit Development

A Planned Unit Development (PUD) is a type of neighborhood intended to provide greater flexibility in neighborhood design by allowing a coordinated mix of housing types, amenities, open space, and light commercial services, based on the context of the surrounding area and community needs. *New Kent 2045*, the County's recently adopted Comprehensive Plan, identifies a need for planned neighborhoods that provide phased commercial development and community-oriented amenities, such as green space and pedestrian infrastructure.

The County's current PUD standards, contained in Article XVIII, are vague and primarily address the application process rather than establishing clear standards for high-quality neighborhood development. Berkley Group recommends a comprehensive update to the PUD regulations to better implement the vision of the Comprehensive Plan and provide clearer expectations for future development. Recommended revisions include:

- Requiring at least two housing types within each PUD;
- Establishing clearer requirements for active and passive recreation, including required amenity types;
- Introducing phasing requirements for commercial development and establishing a maximum percentage of gross acreage that can be used for non-residential purposes;
- Creating an administrative review process to allow minor amendments to approved PUDs; and
- Strengthening standards related to community design, open space, and maintenance of common areas.

Additionally, Berkley Group recommends retooling the PUD framework to more clearly function as a base zoning district. This approach would provide greater regulatory clarity and reinforce the role of PUD developments in creating thoughtfully planned communities.



*Planned Unit Development in
Rockingham County, Virginia*

Image Credit: Evergreene Homes

Overlay Districts

The Zoning Ordinance currently includes two overlay districts: the Plum Point Area Overlay and the Commerce Corridor Overlay. The purpose of overlay districts is to “layer” additional regulations on top of existing base zoning district regulations to address area-specific needs or policy objectives, such as transportation, economic development, environmental protection, or community design.

The Ordinance also includes height restrictions and other prohibited activities in airport zones in Article XXV. These standards are intended to promote aircraft and human safety. Airport restrictions in Article XXV should be reviewed and updated, as needed, to ensure consistency and compliance with current federal regulations and the Virginia model airport safety ordinance. As a best practice, Berkley Group recommends formally establishing an Airport Safety Overlay using the existing airport area restrictions. The County would then need to initiate and handle a rezoning to apply the overlay to the County’s Zoning Map. This approach would improve regulatory clarity, provide stronger enforcement ability, and increase transparency for property owners in these areas.

Additional overlays may also be considered in the future to support the County’s housing, conservation, transportation, and economic development goals.

Uses

New Kent County utilizes a composite Table of Uses that shows all districts, uses, and how those uses are regulated. Uses are organized by overarching use type and then alphabetized. This is best practice for a user-friendly Zoning Ordinance, as it promotes consistency, simplifies administration, avoids conflicts or repetition, and streamlines the process of introducing new uses in the future.

Berkley Group recommends continuing to utilize a use matrix, with several edits and improvements for usability and modernity. A column should be added to reference sections containing uses with associated use performance standards or supplemental regulations. Additionally, the lists of permitted uses currently provided within each zoning district section should be removed to allow the use matrix to govern. This approach would streamline future zoning text amendments and eliminate the risk of inconsistencies between district regulations and the matrix itself.

Uses in the same category and with the same set of land use impacts should be consolidated to avoid redundancy and improve long-term flexibility. For example, in lieu of calling out specific industrial uses, the County can introduce two broad types of industrial uses: “heavy industrial” and “light industrial”. This approach would allow the County to continue reviewing and permitting uses accordingly, even as industry needs and economic development priorities evolve over time.

As uses are consolidated, renamed, and updated, their associated definitions should be revised for clarity and consistency. All uses should be clearly defined; any uses that are no longer permitted should have definitions removed. New uses should also be identified and introduced into the use matrix with appropriate permissions. County staff has identified tow lots, in-home day cares, transitional housing, outdoor vehicle storage, and outdoor event venues as uses that should be clearly defined and permitted in the Zoning Ordinance.

There are several uses for which the *Code of Virginia* requires certain permissions to be established in a Zoning Ordinance, including solar energy facilities, manufactured housing, group homes, accessory dwelling units, and various types of wireless

and telecommunications facilities (see **Appendix A**). New Kent County should ensure that all *Code*-mandated uses are included, with *Code*-compliant definitions and permissions.



Example battery storage system



Example of rooftop solar at a commercial use

Use Performance Standards

Use performance standards are supplemental regulations for specific uses and are intended to limit adverse impacts on potentially incompatible uses. Uses that are permitted by right but may have more significant land use impacts – for example, a gas station adjacent to a residential district – should be given appropriate use standards to help ensure a business-friendly development process while simultaneously addressing potential conflicts between uses.

Article XXII includes performance standards for a variety of uses. However, many performance standards are redundant across uses; for example, outdoor lighting standards. Performance standards that are applicable to most or all uses can be incorporated into the Ordinance through community design standards. This approach ensures standards are consistently applied and promotes a user-friendly document.

Use standards can also be required for certain uses in lieu of requiring a Conditional Use Permit to reduce staff, Planning Commission, and Board of Supervisors time on frequently requested uses while ensuring potential impacts are addressed. Specific recommendations for several use standards

follow. These and other recommendations will evolve as the Zoning and Subdivision Ordinance update continues, and as staff and community input help determine appropriate uses and at what level they should be regulated.

Domestic Agriculture

Domestic agriculture – or the keeping of animals such as pigs, chickens, and horses in residential neighborhoods – is not currently addressed through the Zoning Ordinance. County staff has expressed interest in allowing chickens in residential zoning districts. Berkley Group recommends using guidance from the local Virginia Cooperative Extension field office to properly address animal welfare and prevent health and safety concerns associated with animal overcrowding. Other performance standards commonly associated with domestic agriculture include prohibiting free-range or free-roaming animals, establishing minimum acreage requirements for animal keeping, and banning roosters in certain districts. Safety standards for hobby beekeeping can also be included if desired by the County.

Residential Uses

The Zoning Ordinance generally does not include performance standards for

residential uses. Examples of residential uses for which localities commonly establish additional standards include multi-family residential, townhouses, and short-term rentals.

In some cases, residential performance standards are required by state law. The *Code of Virginia* includes specific standards for temporary family health care structures, accessory dwelling units (ADUs), manufactured housing in traditionally single-family districts, and affordable housing developed as part of a religious institution or non-profit organization. The Ordinance should be updated to ensure all required standards are clearly and consistently addressed, and to address other residential best practices as appropriate for New Kent County.

Telecommunications

Various telecommunications regulations have been added to the *Code of Virginia* over the last fifteen years. While the current Ordinance permits telecommunications structures either by-right or with conditional approval, it does not fully align with state code or clearly address the various types of structures. Definitions should reflect current *Code of Virginia* terms, such as “small cell facility”, “wireless support structure”, and “administrative review-eligible project”.

Performance standards should address both traditional wireless towers and small cell facilities, with regulations tailored to the scale and physical characteristics of each. Additionally, requirements for amateur radio antennas should be addressed separately to ensure compliance with federal protections while maintaining appropriate zoning oversight.

Solar Facilities and Battery Energy Storage

Solar energy facilities and battery energy storage systems remain significant land use considerations for Virginia localities. New Kent County currently defines and regulates both solar generation facilities and energy storage projects in the Zoning Ordinance. Performance standards are also provided and intended to mitigate impacts to viewsheds, visual obstruction, and safety.

However, legislation recently enacted by the General Assembly changes how Virginia localities can regulate battery energy storage systems and certain solar projects. These new laws require solar projects of one megawatt (1MW) or more to be reviewed through the Conditional Use Permit process consistent with specific criteria in the locality’s agricultural, commercial, industrial, and institutional zoning districts, unless such solar projects are otherwise

allowed by right. The legislation also deems battery energy storage systems as permitted accessory uses on properties where solar projects are approved through a special use permit or similar approval.

Data Centers

Data centers are currently one of the most pressing land use issues in Virginia. While data centers present a lucrative revenue source for localities, their impacts on overall community and environmental wellbeing are significant and need to be carefully scrutinized when evaluating applications.

Data centers are not currently permitted in the County. At the time of this report, New Kent County is evaluating the potential adoption of a Technology Overlay District (TOD) to regulate the siting of data centers. Additionally, new *Code of Virginia* standards will require localities to request a noise assessment and electric utility assessment from proposed data centers beginning July 1, 2026 (see **Appendix A**). This requirement will be addressed through the Ordinance update if data centers are introduced as a permitted use. Additional considerations for use permissions and development standards may be introduced during Ordinance drafting, depending on the outcome of the proposed TOD and at the direction of the Board of Supervisors and Planning Commission.

Community Design Standards

In addition to supplementing specific use standards, community design standards ensure development complements New Kent County's unique character and implements the vision of the Comprehensive Plan. Typical standards include regulations for landscaping, open space, parking, fencing, lighting, and signs, all of which are addressed in the current Ordinance to some extent. Reviewing and amending community design requirements will improve understanding and enforcement of these items.

Landscaping, Buffers, and Screening

Landscaping requirements can be leveraged to enhance community character, protect environmental resources, and reduce the impact of potentially incompatible uses. Local ordinances often require landscaping and screening as part of development or other land disturbing activities. These requirements are typically reviewed through application processes, which may include a landscape plan submitted as a part of development approvals. Specific requirements focus on site design, transitional areas, and screening.

Article XXVII of the Zoning Ordinance provides landscaping and buffer standards. Landscaping requirements apply to all

development requiring a site plan. There are several strong provisions in the current landscaping standards that should be retained in the Ordinance update, including incorporation of best practices for Crime Prevention Through Environmental Design (CPTED); requiring native plantings and prohibiting highly and moderately invasive species; and requiring landscaping to be properly installed prior to issuance of a Certificate of Occupancy (CO).

However, there are several ways in which landscaping requirements can be made clearer and more robust. Berkley Group recommends establishing a clear purpose and intent statement for landscaping to tie requirements directly to mitigating adverse impacts and promoting community health, safety, and welfare. The Ordinance also "prefers" the preservation of existing trees in site landscaping but does not provide an enforcement mechanism or other language associated with tree preservation. The County should consider introducing a tree credit system to promote the preservation of existing trees, or similar standards to preserve existing natural features and tree canopy. Additionally, performance bonding does not appear to be required, but should be explicitly introduced to ensure landscaping is properly planted and maintained.

The Ordinance's requirements for transitional buffers are more specific but can still be strengthened to further promote compatibility between potentially conflicting uses. The Ordinance includes a hierarchy of transitional buffers which are applied based on the underlying zoning district and further established in a matrix. This is a best practice that should be continued in the Ordinance update. Consideration should be given to introducing requirements for shrubs and ground cover into Type B and C buffers, along with requiring an opaque fence or wall into the Type C buffer. If this additional screening is not desired at the Type C level, a fourth buffer type can be introduced to provide the highest level of screening and an opaque fence requirement for the most impactful uses, such as solar facilities, data centers, and heavy industrial uses.

It is worth noting that Article IV of the Subdivision Ordinance also provides a set of standards for landscaping, buffers, fencing, and tree planting and replacement. All community design standards should be consolidated into one Article of the Zoning Ordinance to promote consistency and eliminate conflicts between similar provisions.

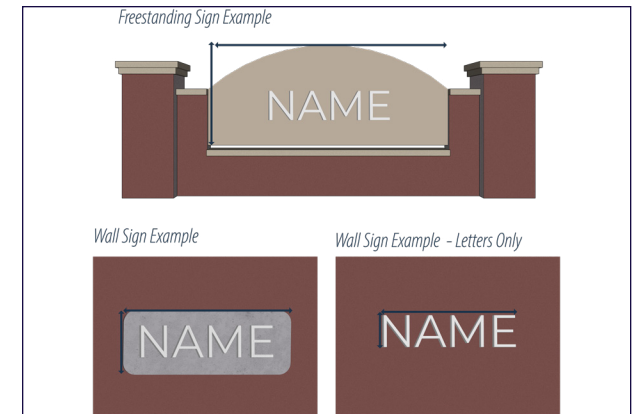
Signs

There are many community benefits to regulating the physical qualities of signs, including reducing clutter, minimizing distractions to drivers, and enhancing community aesthetics. Article XXIV does include several regulations intended to address these issues. However, these sign standards do not comply with *Reed v. Town of Gilbert*, a United States Supreme Court case which requires sign regulations to be “content neutral”. This means that sign standards cannot be based on sign content or written speech on the sign.

Any future sign standards should only regulate the physical characteristics of signs, rather than the speech or content displayed on the sign. As a best practice for content neutrality, Berkley Group recommends updating sign standards to align with the Virginia model sign ordinance, as developed by the Local Government Attorneys of Virginia (LGA).

Updating sign standards for content neutrality will also require the review and updating of sign types. Common sign types include monument or freestanding, wall, canopy, and temporary signs. The dimensional standards and district permissions for sign types should then be updated accordingly to facilitate appropriate sign placement, height, and character. Each sign type should also be clearly defined to assist in Ordinance interpretation and enforcement.

The County’s regulations can also be communicated more effectively through the use of graphics and tables. Recommend including additional graphic components to visualize sign dimensional standards and permissions, which will improve the ability of the public to use and understand the Ordinance.



Sign Type	Number	Area (square feet) LF = Linear Foot	Height (in feet)
Freestanding (1 business)	1 per street frontage	95	8
Freestanding (2+ businesses with coordinated access point(s))	1 per street frontage, per access point	100 ¹	15
Projecting	1 per street frontage	12	n/a
Wall	Unlimited	1.5 sq. ft. for every 1 LF of building face occupied by the tenant; 200 sq. ft. maximum	n/a
Canopy	1 per street frontage	0.5 sq. ft. per LF of canopy fascia on which the sign is mounted	n/a

¹ Provided that any 2 signs on the same public street are at least 75 ft. apart.

Example sign graphic and standards table.
King George County, Virginia

Parking

Off-street parking requirements are another important aspect of community design. When regulated properly, parking requirements can support business growth while improving aesthetics and reducing environmental impacts.

The current off-street parking requirements should be reviewed and updated in their entirety to ensure all uses have off-street parking requirements and that such requirements are not overly excessive. The Ordinance provides for joint or shared parking between uses; to promote clarity and consistency, Berkley Group recommends introducing a formula or calculation to determine the minimum number of shared parking spaces required in lieu of determining on a case-by-case basis. Consideration can also be given to requiring bike parking in high-density residential and the Economic Opportunity zoning districts.

In 2026, a new state code requirement will be enacted requiring localities with a population of at least 20,000 to provide for administrative reductions to parking requirements (see **Appendix A**). This statute will therefore apply to New Kent County and should be incorporated into the existing administrative reduction process.

Additionally, the Zoning Ordinance “strongly encourages” locating off-street parking to the side or rear of the principal structure. The County should consider changing this encouragement to a requirement for commercial and industrial uses along certain functional classifications or in high-intensity zoning districts.

Infrastructure to support the use of electric vehicles (EV) is a continued consideration in Virginia, particularly in localities with interstates as a means of attracting travelers. Parking standards briefly mention EV charging stations. As a best practice, Berkley Group recommends introducing performance standards to promote safety and reduce fire risk. The County can also consider whether it wishes to require EV charging stations along major corridors or within a certain distance of interstate interchanges.

Open Space

Open space requirements are provided in the Subdivision Ordinance, apart from requirements for planned unit developments and the Courthouse Development zoning district. As a best practice to keep similar standards together and prevent the Subdivision Ordinance from containing zoning provisions, all open space requirements should be consolidated

and relocated to a standalone Division in the Zoning Ordinance. Additionally, existing open space provisions are vague and would benefit from greater clarity, particularly regarding requirements for active and passive recreation.



Nonconformities

Legally nonconforming lots, structures, and uses are those which were legally established according to applicable zoning laws at the time that the structure, lot, or use began, but do not meet current zoning regulations. Often, these situations are referred to as “grandfathered” lots, structures, or uses.

State law provides the framework for how nonconforming uses, lots, and structures must be handled through a Zoning Ordinance (*Code of Virginia* 15.2-2307). New Kent County largely complies with the associated state code requirements; this will be maintained through the Zoning Ordinance update.

Definitions

All definitions used in the Zoning Ordinance should be reviewed and updated for consistency, clarity, and ease of interpretation. New Kent County should ensure that every land use permitted in the Ordinance has an accompanying definition, and that all definitions are clear to avoid interpretation issues. All terms and uses required by the *Code of Virginia* and pertinent to New Kent County should be included with an accompanying reference to the appropriate section of the *Code*. These include “affordable housing”, “conditional zoning”, “designated agent”, “incentive zoning”, “mixed use development”, and “zoning”. Terms that are not pertinent to the County, such as “military installation” and “working waterfront”, do not need to be included. Additionally, many of the *Code*-mandated use terms are not included, such as “family day home”, “group home”, “small-cell facility”, and “amateur radio tower”. The lack of clear definitions can present issues in understanding, applying, and enforcing the Ordinance.



Subdivision Ordinance Analysis

The Subdivision Ordinance is the local code regulating how properties in New Kent County can be divided or consolidated. Together with the Zoning Ordinance, the Subdivision Ordinance is also utilized by New Kent County to implement the long-range vision found in the Comprehensive Plan.

Code of Virginia

New Kent County's Subdivision Ordinance update should incorporate current *Code of Virginia* references and address recent amendments to the *Code*. The Ordinance does not account for several provisions of the *Code of Virginia*, including those related to bonding and plat submittal and review. The Subdivision Ordinance diagnostic (**Appendix B**) itemizes each state code section that must be addressed. Charts depicting the compliance with each pertinent section of the *Code of Virginia* are included on this page.

**Chart 1
Applicability of
Code of Virginia Sections**

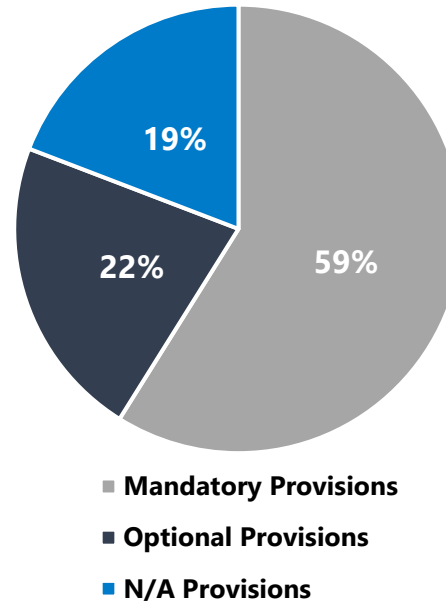


**Chart 2
Compliance with
Mandatory Sections***

*Chart does not include Optional or Not Applicable percentages

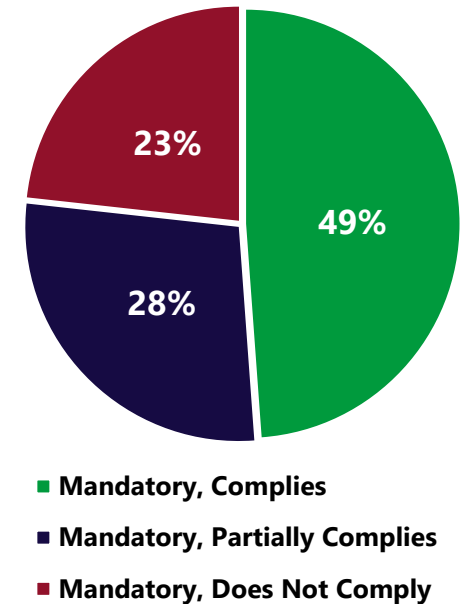
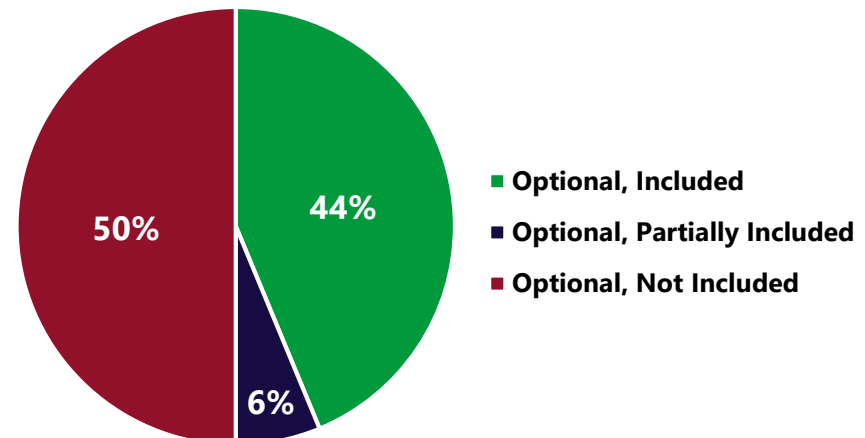


Chart 3 | Optional* Provisions Usage

*Total Optional provisions = 22% of all provisions



Ordinance Structure and Organization

The County's Subdivision Ordinance last underwent a thorough review and rewrite in 2005 and could benefit from a full reorganization. Restructuring the Zoning and Subdivision Ordinances into one single chapter of the Land Development Code, with subdivision regulations operating as a standalone article, would help ease administration, clarity, synchronization, and updates. Further organization should occur through careful and logical rearrangement of relevant information. For example, requirements for preliminary plans, development plans, final plats, and record plats are scattered throughout two articles (Articles II and III) of the current Ordinance. This format not only makes it difficult for applicants to quickly and easily understand what the County requires but can increase the risk of making a redundant or internally conflicting text amendment. Another example is language associated with bonding and performance guarantees (Article V). These requirements are very complex and would benefit from simplification. In lieu of including lengthy paragraphs with verbatim text from the *Code of Virginia*, incorporating direct reference to the pertinent state code section can be used to achieve compliance.

Definitions

Most terms used in the Subdivision Ordinance are defined in Article I. All definitions should be reviewed and updated as appropriate for clarity. If a term is not utilized in the Subdivision Ordinance, it does not need to be included in the definitions list; for example, "tree crown" and "tidal shore". Where terms are used in both the Zoning and Subdivision Ordinances, definitions should be reviewed to ensure that they are the same and do not conflict. Consolidating the ordinances into a single chapter of the *County Code* will also help achieve this by eliminating redundancy.

Recommended Subdivision Article Structure

1. General Provisions
2. Subdivision Types
3. Design Requirements
4. Guarantees
5. Platting Requirements
6. Preliminary Plats
7. Final Plats
8. Construction Plans
9. Vacation of Plats
10. Enforcement,
Violation, and Fees

Plan and Plat Submittal and Review Processes

The Subdivision Ordinance does not currently comply with *Code of Virginia* § 15.2-2260, which states that preliminary plats are only required for subdivisions of more than 50 lots. New Kent County's Ordinance does not clearly specify that preliminary plans and development plans are optional for less than 51 lots. Plan and plat review requirements should also be updated to ensure that all required timeframes and language are provided.

Including separate requirements for a record plat is unnecessary to include in the Ordinance. Many of the listed requirements are duplicated; one set of standards can reduce confusion for applicants and promote consistency between final and recorded plats. The County should have one final plat standard and ensure that plat formatting and included content align with any requirements for recording in Circuit Court.

Increased clarity is also warranted as related to what types of subdivision requests can be made according to a property's zoning classification. For example, the Subdivision Ordinance does not allow Agricultural (A-1) zoned properties to perform

simple subdivisions as currently defined; subdivision is essentially limited to legacy subdivisions and family subdivisions.

Bonding Requirements and Performance Guarantees

The Subdivision Ordinance does not explicitly require the dedication of public utilities and roads to the Virginia Department of Transportation (VDOT), although this is implied in various places. While the *Code of Virginia* provides that bonds are not required to be provided for public use facilities until the construction plans are submitted, the Ordinance requires applicants to post bond before the final plat is recorded, which typically occurs prior to the submittal of construction and/or as-built plans.

Waivers and Modifications

The Subdivision Ordinance includes several allowances for certain standards to be modified or fully waived. It is worth noting there are internal inconsistencies for who is reviewing and granting modifications and/or waivers. In most cases, waivers are handled administratively by the Agent, with input provided by outside agencies as appropriate given the context. However,

the Board of Supervisors is the responsible body for reviewing and granting certain waivers; for example, the street layout requirements in commercial and industrial subdivisions (91-128), while the Agent is responsible for reviewing and granting all other waivers associated with streets and access. In addition to being internally inconsistent, the Board of Supervisors and Planning Commission are no longer allowed to grant subdivision waivers under 2025 amendments to the *Code of Virginia*. Further, if a subdivision exception process is introduced (see page 22), then many subdivision waivers may no longer be necessary to include.

In some cases, there are no standards for how a waiver or modification will be reviewed. For example, Section 91-95 allows the Agent to "waive or modify" the requirement for street cross-sections; however, there are no criteria for what circumstances would warrant a full waiver versus a modification, and the burden of proof is not clearly placed on the applicant. The lack of objective criteria could lead to inconsistent Ordinance administration and legal defensibility issues.

All subdivision waivers and modifications should be reviewed and updated as needed for clarity and compliance with state code.

Subdivision Exceptions

The Subdivision Ordinance has an article (Article VII) entitled “Special Provisions and Exceptions”; however, this article primarily consists of additional standards for certain types of subdivisions, and there are no clear procedures for variations or exceptions as established under this section of *Code of Virginia*. The County should introduce subdivision exceptions to the Ordinance, as guided by *Code of Virginia* § 15.2-2242(A), which allows for exceptions to be granted in unusual situations or when strict adherence to the general regulations would result in substantial injustice or hardship. Standards for subdivision exceptions should address the responsibility of the subdivider to demonstrate the need for an exception, the process by which exceptions are reviewed and approved, and a requirement for approved exceptions to be specifically stated in writing and noted on the recorded final plat. Berkley Group will consider which items are frequently requested for waivers, modifications, or exceptions, and can introduce or modify standards as appropriate to address current needs.

Cluster Subdivisions

One of New Kent County’s priorities for the Zoning and Subdivision Ordinance update, as identified by County staff, is amending standards for cluster subdivisions to make them a more viable tool for agricultural and rural preservation. A cluster subdivision is a type of neighborhood design used in land development where dwellings are grouped closer together on part of a property, while the rest of the land is left as open space in long-term or permanent conservation. When thoughtful standards for cluster subdivisions are established, they can be highly effective for preserving natural drainage systems, vegetation, open space, wildlife corridors, and other important environmental features that help control stormwater runoff and soil erosion.

Standards for cluster development are provided in *Code of Virginia* § 15.2-2286.1, and localities are permitted to include these standards in either the zoning or subdivision ordinances. New Kent County includes standards for cluster development in the Subdivision Ordinance but should consider addressing as part of zoning district standards. While the standards largely comply with state code, revisions should be made to tie cluster development to zoning districts and not to the Comprehensive Plan.

There are several other revisions that can be incorporated to to incentivize cluster development and make it a more viable option for the County moving forward, including:

- Reducing the minimum overall parcel size for a cluster development;
- Increasing the permissible residential density;
- Reducing the minimum lot area for residential dwellings;
- Amending utility requirements to allow greater flexibility; and
- Introducing a range or sliding scale of minimum required open space based on the underlying zoning district.

Chesapeake Bay Preservation Act (CBPA) Analysis

The *Virginia Administrative Code* requires that all Tidewater communities (as defined in Code of Virginia § 62.1-44.15:67) incorporate provisions into their land use tools to address the *Chesapeake Bay Preservation Act* (the Act, or CBPA). These provisions are regulated through 9VAC25-830: Chesapeake Bay Preservation Area Designation and Management Regulations. Chapters 91, 94, and 98 of the *County Code* were reviewed and found to be substantially aligned with CBPA, with relatively minor updates needed for full compliance. Key recommendations are as follows; see **Appendix C** for additional details.*

- Update state code references to reflect current statutory citations.
- Add or update the following CBPA definitions: adaptation measure, canopy tree, daylighted stream, mature tree, nature-based solution, and understory tree.
- Consistently require the delineation of CBPAs and the buildable area on all plans and plats.
- Require climate change resilience and adaptation criteria in accordance with 9VAC25-830-155.

**County staff is currently working with the Virginia Department of Environmental Quality (DEQ) to update Chapter 94 for CBPA compliance; this diagnostic was primarily included for general awareness. The Zoning and Subdivision Ordinance project scope does not include CBPA updates outside of what is specifically applicable to Chapters 91 and 98.*



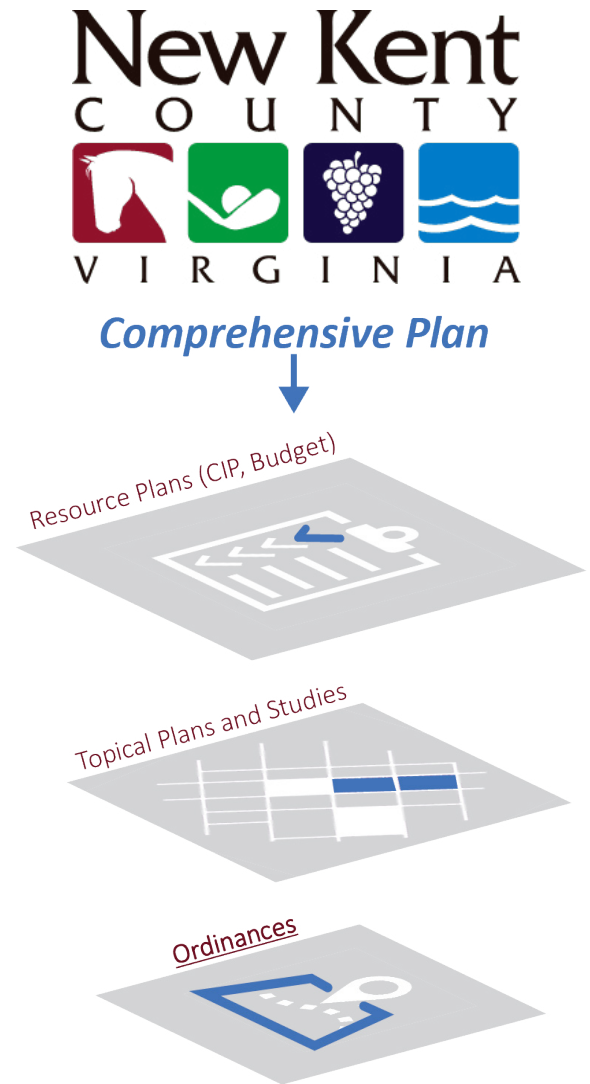
Comprehensive Plan Analysis

The 2045 New Kent County Comprehensive Plan includes goals, along with tactics to achieve those goals organized across several Plan elements, including demographics, economy, housing, natural resources, utilities, public facilities, transportation, and land use.

As the County's primary land use regulatory tool, the Zoning and Subdivision Ordinances serve as a key mechanism for implementing the goals and tactics of the Comprehensive Plan. Amendments to the Zoning and Subdivision Ordinances should therefore allow them to function as a more responsive and effective implementation tool.

Appendix D includes a list of selected tactics from the Comprehensive Plan, along with potential Ordinance amendments that could support implementation of those strategies. It is not intended to be a comprehensive review of all goals and tactics contained in the Comprehensive Plan. Rather, the selected tactics are intended to highlight important themes and priorities most relevant to the County's development regulations. The following are several examples of recommended Ordinance amendments to achieve closer alignment between the Ordinance and Comprehensive Plan:

- Introduce a new use and development standards for "Continuing Care Retirement Community (CCRC)," defined as a unified residential development providing a continuum of care and subject to registration under *Code of Virginia* § 38.2-4900 et seq., to distinguish it from the existing use "Nursing, Convalescent, or Rest Home," which is licensed under *Code of Virginia* § 32.1-123 et seq.
- Consider creating a groundwater protection overlay district to protect sensitive environmental features and overall groundwater health.
- Introduce a maximum requirement for impervious lot coverage in commercial and industrial zoning districts.



- For all new developments, introduce street design requirements for complete streets based on the street types provided in Chapter VIII of the Comprehensive Plan: Residential, Rural Residential, Mixed Use, Town Center, and Boulevard, with coordinated provisions for multimodal infrastructure and buffers.
- Expand requirements for sidewalk installation in residential subdivisions.
- Establish a maximum allowable percentage of commercial development within PUDs. Introduce construction phasing requirements, so that a certain percentage of commercial square footage must be completed prior to the issuance of a certain percentage of residential building permits of total units proposed.
- Review transitional buffer standards, including the provision matrix, to ensure potentially incompatible districts are buffered appropriately.
- Require baseline amenity standards for all new PUD developments, with density bonuses possible for exceeding minimum requirements.



Priority Items for the Zoning and Subdivision Ordinance Update

Berkley Group has identified the following priorities, in no particular order:

1. Ensure all mandatory items included in the *Code of Virginia* are included in the Ordinance; include optional items as directed by New Kent County.
2. Consolidate the Zoning and Subdivision Ordinances into a single chapter of the County's Land Development Code.
3. Consolidate all community design standards into a single article of the Ordinance; update for clarity and consistency. Update sign standards for compliance with *Reed vs. Town of Gilbert*.
4. Consolidate all use performance standards into a single article of the Ordinance; update to ensure they are appropriate for mitigating the anticipated impacts of a given use. Remove repetitive performance standards and apply them as "blanket" development or design requirements.
5. Review and update all permitting and application procedures for clarity, consistency, and alignment with state code, where needed.
6. Update cluster and planned unit development standards to improve the balance between agricultural character and residential growth; seek to enhance their viability as development options.
7. After adoption, annually review and integrate necessary updates into the new Ordinance with the Planning Commission and Board of Supervisors. This is a best practice technique to ensure the Ordinances remain both compliant with the *Code of Virginia* and relevant and responsive to community needs.

Formatting and Style Guidelines

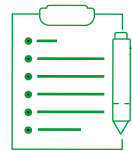
Berkley Group will adhere to the following format and style guidelines when drafting the updated Zoning and Subdivision regulations:



Avoid jargon where possible, including the use of passive voice; use “will” and “must” instead of “shall”.



Use the most recent references to the *Code of Virginia*.



Use logical and consistent organization, including the use of numerical lists over paragraphs.



Incorporate tables, graphics, and charts wherever possible to communicate complex concepts.



Use consistent acronyms.



Consolidate related regulations into unified, organized sections.

Project Timeline and Next Steps

1. Berkley Group and County staff met virtually to kick-off the project in February 2026.
2. Community input was requested through a series of engagement events in May and June 2026. These events consisted of an in-person public workshop, a virtual public workshop, four focus groups with development professionals, and two pop-ups at the County Farmers' Market. A community-wide survey was also circulated for broad community feedback. All community input was reviewed and compiled into a cohesive engagement summary for County consideration.
3. The Board of Supervisors, Planning Commission, and Board of Zoning Appeals will hold a joint working meeting in July 2026 to formally kick-off the Zoning and Subdivision Ordinance update. Review of this report will be one of the agenda items for the meeting. The bodies should provide their comments on this report along with any suggestions for priority policy items to address.
4. Berkley Group and County staff will draft the updated Ordinance together through 2026 and 2027. The Planning Commission and Board of Supervisors will begin meeting jointly in Fall 2026 to review and edit Ordinance drafts.
5. A second round of community engagement will occur in Summer 2027 to receive community feedback on the full draft Ordinance.
6. The Ordinance will be considered by the Planning Commission and Board of Supervisors for adoption through the public hearing process, which is anticipated in late Fall or Winter 2027.



Conclusion

New Kent County's Zoning and Subdivision Ordinance update will not only be critical in addressing state code deficiencies and improving overall usability, but in effectively implementing the community-driven vision established in the recently adopted Comprehensive Plan. As noted in this report, the County's Zoning and Subdivision Ordinances will require revision and restructuring for conformity with the *Code of Virginia* and applicable CBPA requirements, as well as modern best practices related to zoning, land use, and development.

The recommendations outlined in this report constitute a detailed analysis of the County's zoning and subdivision regulations. Revising the Ordinance in accordance with these recommendations will ease administration for staff; facilitate a balance between supporting development growth and preserving community character; and reduce impacts from incompatible uses. An updated Ordinance will also ensure modernity with new uses and aid in fully realizing the future envisioned in the Comprehensive Plan. Keeping this land use tool updated and compliant with the *Code of Virginia* and CBPA should be a commitment the County upholds on a regular basis, including periodic reviews and text amendments.

Berkley Group looks forward to continuing support of New Kent County's land use and development goals and priorities.





APPENDIX

Appendix A: Zoning Ordinance -
Code of Virginia
Diagnostic.....31

Appendix B: Subdivision
Ordinance - Code of Virginia
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Appendix C: Chesapeake
Bay Preservation Act
Diagnostic.....129

Appendix D: Comprehensive
Plan Diagnostic.....143

Appendix A

Zoning Ordinance - Code of Virginia Diagnostic

DIAGNOSTIC COMPLIANCE KEY

- **Yes:** The Zoning Ordinance includes the provisions of the associated *Code of Virginia* section.
- **Partial:** The Zoning Ordinance integrates some, but not all, provisions of the associated *Code of Virginia* section.
- **No:** The Zoning Ordinance does not integrate most or any provisions of the associated *Code of Virginia* section.
- **N/A:** The associated *Code of Virginia* section does not apply to New Kent County.

New Kent County
Zoning and Subdivision Ordinance Update
Appendix A. Code of Virginia Diagnostic Matrix – Zoning Ordinance



Line #	VA Code § 15.2-	Intent	Compliance	Existing Ordinance Section	Comments/Recommendations
1.	2200	<i>Declaration of legislative intent</i>	Yes	Article 1 98-1	This section of the Code of Virginia provides the purpose of Chapter 22 of the Code of Virginia, which is subsequently the purpose for each of the tools discussed therein (Comprehensive Plan and Ordinances). Article 1 of the Zoning Ordinance establishes the purpose and intent of the Ordinance in accordance with Chapter 22 of the Code of Virginia through including direct reference to this section of the Code of Virginia.
2.	2201	<i>Definitions</i>	Partial	Article 1 98-2	This section of the Code of Virginia provides foundational definitions for terms used throughout the Chapter 22 regulations of the Code of Virginia and in locality Zoning Ordinances. Article 1 of the Zoning Ordinance does not include several terms and definitions from this section of the Code. Recommend reviewing the current definitions provided in Article 1 and updating them to better align with Code of Virginia § 15.2-2201, including the introduction of terms and definitions that are not currently provided. Examples of definitions provided in this section of the Code of Virginia that should be introduced into the Zoning Ordinance include <i>affordable housing, conditional zoning, designated agent, incentive zoning, mixed use development, and zoning</i>. Further recommend updating, as needed, any included terms to align with the Code of Virginia definitions; specifically, <i>planned unit development</i> and <i>official map</i>. Terms related to subdivisions (i.e., plat, subdivision, etc.) are defined in the Subdivision Ordinance. Terms that are not relevant to New Kent County, or to the Zoning Ordinance specifically, do not need to be included, such as <i>military installation, planning district commission, and working waterfront</i>.

New Kent County
Zoning and Subdivision Ordinance Update
Appendix A. Code of Virginia Diagnostic Matrix – Zoning Ordinance



Line #	VA Code § 15.2-	Intent	Compliance	Existing Ordinance Section	Comments/Recommendations
3.	2202	<i>Duties of state agencies; electric utilities</i>	N/A	N/A	This section of the Code of Virginia states that any department, board, bureau, commission, or other agency of the Commonwealth that proposes a project in any locality shall, upon the request of the local Planning Commission, furnish reasonable information requested by the local Planning Commission relative to the proposed plans. This section of the Code of Virginia does not need to be included in the Zoning Ordinance, but the Zoning Administrator and Planning Commission should be aware of this Section of the Code.
4.	2203	<i>Existing Planning Commissions and boards of zoning appeals; validation of plans previously adopted</i>	Yes	[Outside of ZO] Chapter 18, Article 5 Article XXVI	This section of the Code of Virginia is a legacy provision that validates Planning Commissions and Boards of Zoning Appeals which were already established at the time of original adoption of Chapter 22 of the Code of Virginia. The County's Planning Commission and Board of Zoning Appeals are established in accordance with current state law (Title 15.2, Chapter 22) and Chapter 18, Article 5 of the New Kent County Code outlines the creation, powers, duties, and rules related to the Planning Commission. Article XXVI in the Zoning Ordinance establishes the Board of Zoning Appeals. Recommend incorporating a reference to Code of Virginia § 15.2-2203 as needed in sections establishing the duties and powers of the Planning Commission and Board of Zoning Appeals, along with other relevant state code references provided in Code of Virginia Title 15.2, Chapter 22, Article 2. Additionally, relocate Planning Commission provisions into the Zoning Ordinance to consolidate zoning-related procedures and improve clarity and usability of the County Code. See Line 20.

New Kent County
Zoning and Subdivision Ordinance Update
Appendix A. Code of Virginia Diagnostic Matrix – Zoning Ordinance



Line #	VA Code § 15.2-	Intent	Compliance	Existing Ordinance Section	Comments/Recommendations
5.	2204	<i>Advertisement of plans, ordinances, etc.</i>	Partial	98-14 98-743 98-782 98-1022	This section of the Code of Virginia establishes requirements for public notice and advertisement prior to action on plans, zoning ordinances, or amendments. Article XXVI of the Zoning Ordinance includes a provision that references this section of state code, and the requirement for public hearings, as related to the Board of Zoning Appeals. Otherwise, the Zoning Ordinance includes provisions in various Articles, such as Conditional Uses and Conditional Zoning, which generally reference public hearings. However, these references are brief and do not clearly establish a consistent, overarching procedure for public notice and hearings. The Ordinance does not include a single section that comprehensively outlines general public hearing and advertisement requirements in alignment with state code. Recommend including a consolidated section within the Zoning Ordinance that establishes general procedures for public notice and hearings, aligned with and directly referencing this section of state code. Individual provisions may continue to reference the requirement for a public hearing, but should defer to this overarching section for procedural requirements.
6.	2205	<i>Additional notice of planning or zoning matters</i>	Optional, Not Included	No Reference	This section of the Code of Virginia allows a locality, in addition to specific notice required by law, to provide notice by any method on any planning or zoning matter that it deems appropriate for notice. The Zoning Ordinance primarily reflects minimum public notice requirements and does not include provisions that establish or encourage additional forms of notice beyond those required by state law. The County may consider incorporating provisions that allow for notice by direct mail or other means, as appropriate, to enhance transparency and public engagement.

New Kent County
Zoning and Subdivision Ordinance Update
Appendix A. Code of Virginia Diagnostic Matrix – Zoning Ordinance



Line #	VA Code § 15.2-	Intent	Compliance	Existing Ordinance Section	Comments/Recommendations
7.	2206	<i>When locality may require applicant to give notice; how given</i>	Optional, Not Included	No Reference	This section of the Code of Virginia allows for a locality to require the applicant of any application to the local governing body, local Planning Commission, or board of zoning appeals to be responsible for all required notices. If New Kent County would like to include this optional provision, recommend incorporating text and include reference to this section of the Code of Virginia.
8.	2207	<i>Public notice of juvenile residential care facilities in certain localities</i>	N/A	N/A	This section of the Code of Virginia allows a locality (which does not have an applicable zoning ordinance) to require public notice and hearing for any applicant who wishes to establish a public or private detention home, group home or other residential care facility for children in need of services or for delinquent youth. This section of the Code of Virginia does not apply to New Kent County, as there is an existing Zoning Ordinance in effect. This Ordinance update will address the public hearing process requirement for these facilities.
9.	2208	<i>Restraining violations of the chapter [Chapter 22 of the Code of Virginia]</i>	Optional, Included	98-11	This section of the Code of Virginia allows any violation or attempted violation of the Zoning Ordinance to be restrained, corrected, or abated by injunction or other appropriate proceeding. The Zoning Ordinance incorporates this provision in the enforcement language of Sec. 98-11 by providing for misdemeanor penalties of Ordinance violations. Recommend incorporating direct reference to this section of the Code of Virginia to strengthen these sections of the Ordinance. Also see Line 12.

New Kent County
Zoning and Subdivision Ordinance Update
Appendix A. Code of Virginia Diagnostic Matrix – Zoning Ordinance



Line #	VA Code § 15.2-	Intent	Compliance	Existing Ordinance Section	Comments/Recommendations
10.	2208.1	<i>Damages for unconstitutional grant or denial by locality of certain permits and approvals</i>	Yes	No Reference	This section of the Code of Virginia states that any applicant aggrieved by a grant or denial of any zoning-related approval or permit – when such grant or denial was unconstitutional pursuant to either federal or state law – shall be entitled to compensatory damages. While appeals by aggrieved parties are addressed as they relate to development procedures and zoning decisions, the Zoning Ordinance does not include language specifically addressing damages for an unconstitutional grant or denial; however, these determinations are likely occurring in practice in the event of an appeal by an aggrieved party. This section of the Code of Virginia does not need to be included in the Zoning Ordinance, but the Zoning Administrator and Planning Commission should be aware of this provision to ensure compliance with Code of Virginia in practice.
11.	2208.2	<i>Damages for an enforcement action undertaken by a locality with willful disregard for applicable law</i>	Yes	No Reference	This section of the Code of Virginia states that anyone against whom an enforcement action is carried out by a locality – where the enforcement action was based upon willful disregard for applicable law – shall be entitled to an award of compensatory damages. This section of the Code of Virginia does not need to be included in the Zoning Ordinance, but the Zoning Administrator and Planning Commission should be aware of this provision to ensure compliance with Code of Virginia in practice.

Line #	VA Code § 15.2-	Intent	Compliance	Existing Ordinance Section	Comments/Recommendations
12.	2209	<i>Civil penalties for violations of zoning ordinance</i>	Optional, Not Included	No Reference	This section of Code of Virginia allows localities to utilize civil penalties for violations of specified provisions of the Zoning Ordinance. It states that this schedule of civil penalties shall be uniform for each type of specified violation, and the penalty for any one violation shall be a civil penalty of not more than \$200 for the initial summons and not more than \$500 for each additional summons. Each day during which the violation is found to have existed shall constitute a separate offense. However, specified violations arising from the same operative set of facts shall not be charged more frequently than once in any 10-day period, and a series of specified violations arising from the same operative set of facts shall not result in civil penalties which exceed a total of \$5,000. New Kent County utilizes criminal penalties in Section 98-11. Recommend establishing civil penalties, in accordance with this section of the Code of Virginia, as a first line of defense for violations of the Zoning Ordinance. This streamlines the process for simple, non-recurring violations and, coupled with misdemeanors, allows a multi-level approach to enforcement that many localities find useful. Recommend ensuring all included references to Code of Virginia are up to date.
13.	2209.1	<i>Extension of approvals to address housing crisis</i>	N/A	N/A	To assist in addressing the housing crisis of the late 2000s and 2010s, Code of Virginia § 15.2-2209.1 extended the approval of final site plans, special exceptions, special use permits, and rezonings (if valid as of January 1, 2017) to July 1, 2020, and allows further extensions of approval by the locality. Extension period has passed. This does not need to be addressed in the Zoning Ordinance, and it is not recommended to further extend the approval period as described in this section of the Code of Virginia.

New Kent County
Zoning and Subdivision Ordinance Update
Appendix A. Code of Virginia Diagnostic Matrix – Zoning Ordinance



Line #	VA Code § 15.2-	Intent	Compliance	Existing Ordinance Section	Comments/Recommendations
14.	2209.1:1	<i>Extension of approvals to address the COVID-19 pandemic.</i>	N/A	N/A	To address impacts on the development industry resulting from the COVID-19 pandemic, this section of the Code of Virginia extends approvals of plats, final site plans, special exceptions, special use permits, and rezonings (if valid as of July 1, 2020) to July 1, 2025, and allows further extensions of approval by the locality. Extension period has passed. This does not need to be addressed in the Zoning Ordinance, and it is not recommended to further extend the approval period as described in this section of the Code of Virginia.
15.	2209.1:2	<i>Extension of land use approvals for solar photovoltaic projects</i>	Yes	No Reference	This section of the Code of Virginia allows any valid special exception, special use permit, conditional use permit, or any modifications of these for a solar photovoltaic project outstanding as of July 1, 2023, any deadline in the permit or Ordinance requiring the project to comment within a certain time may be extended by a resolution from governing body until July 1, 2026, or longer as agreed to by the locality. A text amendment is not necessary to comply with this section of the Code of Virginia, but New Kent County should be implementing this in practice. Note that the extension period will expire shortly after completion of this report; it is not recommended to further extend the approval period as described in this section of the Code of Virginia.
16.	2209.2	<i>Public infrastructure maintenance bonds</i>	N/A	N/A	This section of the Code of Virginia applies only to the City of Charlottesville.
17.	2209.3	<i>Residential land development and construction fee transparency; annual report</i>	Yes	No Reference	Each locality with a population greater than 3,500 must submit an annual report by March 1 of each year to the Department of Housing and Community Development (DHCD) totaling the revenue collected by the locality over the preceding calendar year in connection with residential land development and construction activities. While a text amendment is not necessary to comply with this section of the Code of Virginia, County staff should be aware of this section of the Code and plan to submit annual reports by March 1 as required.

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18.	2209.4	<i>Minimum off-street parking requirements; designated areas; administrative reductions</i>	No	No Reference	This section of the Code of Virginia is new and will take effect on July 1, 2026. It establishes minimum off-street parking requirements in designated areas for localities with a population greater than 600,000, and administrative reductions for off-street parking in localities with a population greater than 20,000. New Kent County's population as of the 2020 U.S. Census was 22,945; therefore, the County is required to include an administrative review process in which developers may request a reduction of minimum off-street parking requirements of not less than 20 percent for residential, multifamily, or mixed-use development proposed on parcels not located within a designated area. New Kent County's Ordinance does include an administrative reduction process for parking. Recommend reviewing and updating the existing language for full alignment with this section of the Code of Virginia.
19.	2209.4	<i>Siting of data centers; site assessment</i>	No	No Reference	This section of the Code of Virginia is new and will take effect on July 1, 2026. It requires localities to require both a noise assessment and site assessment for electric utility providers prior to any approval of a rezoning application, special exception, or special use permit for the siting of a data center or other high energy use facility (HEUF). Recommend updating the Zoning Ordinance to include language from this section of the Code of Virginia.

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20.	2210 - 2222	<i>Local Planning Commissions</i>	Partial	[Outside of ZO] Chapter 18, Article 5	These sections of the Code of Virginia regulate the required establishment, authority, purpose, and procedures of local Planning Commissions. Provisions for the establishment and operation of the Planning Commission are provided in Chapter 18 of the New Kent County Code. Section 18-231 references Code of Virginia § 15.2-2210 et seq., but the chart provided with current term years is outdated and references term limits between 2004-2010. Recommend relocating Planning Commission provisions into the Zoning Ordinance to consolidate zoning-related procedures and improve clarity and usability of the County Code.
21.	2222.1	<i>Coordination of state and local transportation planning</i>	Yes	No Reference	This section of the Code of Virginia requires Virginia Department of Transportation (VDOT) review of Comprehensive Plan amendments and rezonings that will substantially affect transportation on state-controlled highways. A text amendment is not necessary to comply with this section of the Code of Virginia, but New Kent County should be implementing this in practice.
22.	2223 - 2232	<i>The comprehensive plan</i>	N/A	N/A	Code of Virginia §§ 15.2-2223 through 15.2-2232 regulate the requirements and provisions for Comprehensive Plans. These sections of the Code of Virginia are not relevant to this diagnostic but are included to reflect the full list of sections provided in Chapter 22 of Title 15.2 of the Code of Virginia.

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23.	2233 - 2238	<i>The official map</i>	Yes	No Reference	Code of Virginia §§ 15.2-2233 through 15.2-2238 provide the requirements for a locality's official map. These sections grant Planning Commissions the authority to request a map be made that shows streets, waterways, and public spaces. For localities without an official map, these sections regulate the process for adoption and certification of the official map. Where an official map is already adopted, these sections regulate map amendments and modifications. Copies of the adopted official map must be sent to the Commonwealth Transportation Board. A text amendment is not necessary to comply with these sections of the Code of Virginia, but New Kent County should be implementing them in practice during any considerations involving the official map.
24.	2239	<i>Capital improvement plan (CIP)</i>	N/A	N/A	Code of Virginia § 15.2-2239 authorizes the Planning Commission to prepare a CIP based on a locality's comprehensive plan. Inclusion of this section is not applicable to the Zoning Ordinance; however, it is included to reflect the full list of sections provided in Chapter 22 of Title 15.2 of the Code of Virginia and indicate another important tool for the County to utilize.
25.	2240 – 2245.1; 2247 – 2257; 2260 – 2269; 2271 – 2279	<i>Land subdivision and development</i>	N/A	Chapter 91	Code of Virginia §§ 15.2-2240 through 15.2-2279 regulate land subdivisions and development. Every locality must have a subdivision ordinance and ensure the orderly subdivision of land. The County's Subdivision Ordinance is a separate chapter of County Code (Chapter 91) outside of the Zoning Ordinance. These sections of the Code of Virginia regarding subdivisions are not relevant to this diagnostic but are included to reflect the full list of sections provided in Chapter 22 of Title 15.2 of the Code of Virginia. Appendix B includes a diagnostic review of the Subdivision Ordinance to confirm compliance with current Code of Virginia language.

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Line #	VA Code § 15.2-	Intent	Compliance	Existing Ordinance Section	Comments/Recommendations
26.	2246	<i>Site plans submitted in accordance with the zoning ordinance</i>	No	98-861	The Code of Virginia requires that site plans submitted for compliance with the Zoning Ordinance must also comply with the Code of Virginia bonding and performance release requirements. The Zoning Ordinance briefly states the purpose of site plans but does not reference the relevant sections of state code or connection to the requirements of the Subdivision Ordinance. Recommend clearly stating that the intent of a site plan is to ensure compliance with Zoning Ordinance regulations and including any appropriate references to performance guarantees within the Subdivision Ordinance. The following language can also be included: "Pursuant to Code of Virginia § 15.2-2286(A)(8), all development in the County requires approval of a Site Plan in accordance with the procedures and standards in this Division prior to the issuance of a Building Permit or Certificate of Occupancy." Appendix B includes a diagnostic review of the Subdivision Ordinance to confirm compliance with current Code of Virginia language.
27.	2258	<i>Site plan requirements for submission for approval</i>	No	No Reference	This section of the Code of Virginia requires that a site plan include the locations of drainage districts, dam break zones, graves/burial sites, and areas of joint locality control. Article XXII of the Zoning Ordinance addresses site plan requirements; however, it does not include requirements for depicting drainage districts, dam break zones, graves/burial sites, or areas of joint locality control. Recommend including all provisions of this section of the Code of Virginia as site plan submittal requirements.

Line #	VA Code § 15.2-	Intent	Compliance	Existing Ordinance Section	Comments/Recommendations
28.	2259	<i>Designated agent to act on proposed final plat</i>	No	Article XXII Various	As of July 1, 2025, this section of the Code of Virginia establishes that a locality's designated agent must act on plats, site plans, or plans of development within 40 days of a complete first submittal (30 days after a resubmittal). If state-agency review is needed, the locality must forward within 5 business days and the clock adjusts per § 15.2-2222.1. If the agent does not act within the required time, a properly resubmitted plat/plan is deemed approved. Various sections in Article XXII include provisions and timelines for the site plan review process. Section 98-866 specifies that approvals/disapprovals shall be issued no later than 60 days after "all required information is submitted to the zoning administrator." The Zoning Ordinance's provision on preliminary plan resubmittals is inconsistent with state code; the Ordinance provides that an applicant is entitled to three reviews by the Administrator and, if still insufficient, the site plan will be rejected and the applicant must formally reapply. This is not permitted under § 15.2-2259, which allows applicants to continue iterations of the originally submitted plan, even if it has been resubmitted over three times. Additionally, the Zoning Ordinance does not include specified time frames for transmitting plans to applicable state agencies for review. Recommend that all time frames and procedures are revised in accordance with § 15.2-2259. For brevity and to encompass continued changes to this statute, compliance can also be achieved with the following statement: "Site Plans shall be reviewed and subsequently approved or disapproved pursuant to Code of Virginia § 15.2-2259."

Line #	VA Code § 15.2-	Intent	Compliance	Existing Ordinance Section	Comments/Recommendations
29.	2261	<i>Recorded plats or final site plans to be valid for not less than five years</i>	No	98-867	This section of the Code of Virginia requires that recorded subdivision plats and final site plans be valid for at least five years. The Zoning Ordinance states that approval final site plans are valid for one year and that approval shall be revoked in construction is not started within one year of plan approval. Recommend that the validity time frame for approved site plans is revised in accordance with § 15.2-2261 and incorporate a direct reference to this state code section.
30.	2270	<i>Vacation of interests granted to a locality as a condition of site plan approval</i>	No	No Reference	This section of the Code of Virginia provides two methods that allow a locality to vacate any interest in streets, alleys, easements for public rights of passage, easements for drainage, and easements for a public utility that were granted as a condition of a site plan approval. The Zoning Ordinance does not appear to include any provisions for the vacation of interests. Recommend adding a statement regarding such vacations, e.g.: “Any interest in streets, alleys, easements for public rights of passage, easements for drainage, and easements for the public utility granted to New Kent County as a condition of the approval of a site plan may be vacated by the Board of Supervisors in accordance with Code of Virginia § 15.2-2270.” Alternatively, maintain reference to plat vacation provisions in the Subdivision Ordinance. See Appendix B for additional information related to plat vacation and state code compliance.

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31.	2280	<i>Zoning general description</i>	Yes	Various	This section of the Code of Virginia allows for localities to regulate items such as the use of structures, buildings, and land; size, height, area, etc. of buildings; the area of land, water, and air space; and the excavation or mining of soil or other natural resources. Article I establishes the purpose and intent of the County's Zoning Ordinance. Section 98-51 establishes the purpose of the Article containing dimensional standards for each zoning district. Additionally, Articles V through VII, IX through XI, and XIII through XVIII contain sections which establish the purpose and intent for each zoning district. Recommend including a direct reference to this section of the Code of Virginia in an introductory section of the Zoning Ordinance that establishes overall authority and purpose of zoning regulations/the Zoning Ordinance.
32.	2281	<i>Zoning jurisdiction of localities</i>	Yes	98-4	This section of the Code of Virginia states that a county shall have jurisdiction over unincorporated areas and a municipality shall have jurisdiction over any incorporated areas. As there are no incorporated areas in New Kent County, the Zoning Ordinance applies to all areas within the County. Section 98-4 states that the County is divided into various zoning districts. Compliance can be strengthened, and the Ordinance made clearer, by explicitly stating: "Pursuant to Code of Virginia § 15.2-2281, the provisions of this Ordinance apply to all property within the unincorporated territory of New Kent County, Virginia."

Line #	VA Code § 15.2-	Intent	Compliance	Existing Ordinance Section	Comments/Recommendations
33.	2282	<i>Uniformity of regulations</i>	Partial	Various	This section of the Code of Virginia states that regulations within a district must be uniform for each class or kind of building and use, but the regulations in one district may differ from those in other districts. Section 98-51 provides varying minimum dimensional standards for certain industrial or research park developments that do not appear to be clearly tied to distinct base or overlay districts. Additionally, some park classifications referenced in the Ordinance, including "research park," are not clearly defined, which may create ambiguity in how standards are applied and administered. The Zoning Ordinance will be further evaluated during the drafting phase to ensure that all revised and proposed provisions are consistent with this section of the Code of Virginia. Recommend explicitly stating that the regulations set by the Zoning Ordinance within each district shall apply uniformly to each class or kind of structure or land. Additionally, if the County intends to maintain distinct standards for different types of industrial or research park developments, recommend creating separate zoning districts or overlay districts, or incorporating such standards more clearly into the applicable base industrial district regulations.
34.	2283	<i>Purpose of zoning, mandatory provisions:</i>	(See Lines 34-47) Article I includes most of the language provided in this section of Code of Virginia. Article XX references this section of the Code of Virginia, as it relates to the purposes for conditional zoning and proffers. Recommend updating to better align with, and include a direct reference to, this section of the Code of Virginia.		

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Line #	VA Code § 15.2-	Intent	Compliance	Existing Ordinance Section	Comments/Recommendations
35.	i.	<i>Provide for adequate light, air, convenience of access, and safety from fire, flood, impounding structure failure, crime and other dangers</i>	Yes	98-1	Article I includes this provision, though it does not specifically reference impounding structure failure or crime. Recommend updating to include impounding structure failure and crime, as written in this section of the Code of Virginia.
36.	ii.	<i>Reduce or prevent congestion in the public streets</i>	Yes	98-1	Included as written in this section of the Code of Virginia.
37.	iii.	<i>Facilitate the creation of a convenient, attractive, and harmonious community</i>	Yes	98-1	Included as written in this section of the Code of Virginia.
38.	iv.	<i>Facilitate the provision of adequate police and fire protection, disaster evacuation, civil defense, transportation, water, sewerage, flood protection, schools, parks, forests, playgrounds, recreational facilities, airports and other public requirements</i>	Yes	98-1	Included as written in this section of the Code of Virginia.
39.	v.	<i>Protect against destruction of or encroachment upon historic areas and working waterfront development areas</i>	Yes	98-1	Included as written in this section of the Code of Virginia. However, New Kent County does not currently have any established working waterfront development areas, so it is unnecessary to include reference to those.

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Line #	VA Code § 15.2-	Intent	Compliance	Existing Ordinance Section	Comments/Recommendations
40.	vi.	<i>Protect against one or more of the following: overcrowding of land, undue density of population in relation to the community facilities existing or available, obstruction of light and air, danger and congestion in travel and transportation, or loss of life, health, or property from fire, flood, impounding structure failure, panic or other dangers</i>	Yes	98-1	Included as written in this section of the Code of Virginia.
41.	vii.	<i>Encourage economic development activities that provide desirable employment and enlarge the tax base</i>	Yes	98-1	Included as written in this section of the Code of Virginia.
42.	viii.	<i>Provide for the preservation of agricultural and forestal lands and other lands of significance for the protection of the natural environment</i>	Yes	98-1	Included as written in this section of the Code of Virginia.

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43.	ix.	<i>Protect approach slopes and other safety areas of licensed airports, including United States government and military air facilities</i>	No	No Reference	While New Kent County does not contain military bases, they do exist in neighboring jurisdictions. There is an airport in New Kent County; the Ordinance also contains airport safety regulations in Article XXV. Recommend adding the full language of this section of Code of Virginia.
44.	x.	<i>Promote the creation and preservation of affordable housing suitable for meeting the current and future needs of the locality as well as a reasonable proportion of the current and future needs of the planning district within which the locality is situated</i>	No	No Reference	This list item is not included in Article I. Recommend adding the full language of this section of Code of Virginia.
45.	xi.	<i>Provide reasonable protection against encroachment upon military bases, military installations, and military airports and their adjacent safety areas, excluding armories operated by the Virginia National Guard</i>	No	No Reference	This item is not included in Article I. While New Kent County does not contain military bases or facilities, they do exist in neighboring jurisdictions. Recommend adding the full language of this section of Code of Virginia.

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46.	xii.	<i>Reasonable modifications in accordance with the Americans with Disabilities Act of 1990 (42 U.S.C. § 12131 et seq.) or state and federal fair housing laws, as applicable</i>	No	No Reference	This list item is not included in Article I. Recommend adding the full language of this section of Code of Virginia.
47.	-	<i>Such ordinance may also include reasonable provisions, not inconsistent with applicable state water quality standards, to protect surface water and ground water</i>	Optional, Not Included	Outside of ZO	Provisions for water quality standards and protection of surface and ground water are provided for in Chapter 18 Community Development, Article VI, Floodplain Districts; Chapter 82, Environment; and Chapter 94, Waterways, of the New Kent County Code. Where compliance with other sections of County Code related to water quality and surface/groundwater protection is required (e.g., site plan submittal), recommend directly citing those sections of the County Code in the Zoning Ordinance.
48.	2283.1	<i>Sexual offender treatment services prohibition in residential area</i>	Yes	No Reference	This use is not listed in the Zoning Ordinance's residential districts; therefore, it is prohibited and complies with this section of Code of Virginia.
49.	2284	<i>Matters to be considered in drawing and applying zoning ordinances and districts</i>	No	No Reference	This section of the Code of Virginia states the basis and considerations for how zoning ordinances, districts, and amendments thereof should be determined. The Zoning Ordinance provides for Zoning Map boundaries and interpretations but does not include this language from this section of Code of Virginia. Recommend including language from this section of Code of Virginia, along with a direct reference.

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Line #	VA Code § 15.2-	Intent	Compliance	Existing Ordinance Section	Comments/Recommendations
50.	2285	<i>Zoning ordinance and map development, adoption, and amendments - process</i>	Yes	98-14	This section of the Code of Virginia specifies the process for a Planning Commission to prepare and adopt a proposed zoning ordinance and/or official map, and amendments thereto. Article I (Section 98-14) of the Zoning Ordinance specifies the process for zoning map and text amendments and includes direct reference to this section of state code.
51.	2286 (A)	<i>Permitted provisions in zoning ordinances:</i>	(See Lines 49-64) This Section of the Code of Virginia provides optional provisions. New Kent County should consider the provisions listed below for inclusion in the updated ordinance, if not already included.		
52.	1.	<i>Variances and special exceptions</i>	Optional, Included	Article XIX Article XXVI	The Zoning Ordinance allows for variances and special exceptions (or conditional/special uses). The Board of Zoning Appeals hears requests for variances, and the Planning Commission hears requests for conditional use permits. Article XXVI regulates variances; Article XIX regulates conditional uses.
53.	2.	<i>Annexation or boundary adjustment provision</i>	Optional, Not Included	No Reference	This item of the Code of Virginia allows a locality to temporarily apply the Zoning Ordinance to any property coming into the jurisdiction by annexation or otherwise. The Zoning Ordinance was adopted (nonconformities) but does not include provisions for potential future land acquired by the County through annexations or boundary adjustments. Recommend including this provision to allow the temporary application of the Ordinance to any property coming into the territorial jurisdiction of New Kent County by annexation or otherwise. Compliance can be achieved through directly citing this section of state code.

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Line #	VA Code § 15.2-	Intent	Compliance	Existing Ordinance Section	Comments/Recommendations
54.	3.	<i>Governing body special exception permits - Affordable housing special exception provisions</i>	Optional, Partially Included	Article XIX	This item allows a locality to impose conditions with special use permits and also specifies provisions for special use permits related to affordable housing. Article XIX of the Zoning Ordinance provides for conditional use permits. While affordable housing special use provisions are not required to be included in the Zoning Ordinance, New Kent County should be aware of this Code section. If desired by New Kent County, language from this section of the Code of Virginia could be incorporated into the Zoning Ordinance. New Kent County should also be aware of the new legislation requiring localities to permit affordable housing associated with a religious organization or non-profit organization by-right, provided certain criteria are met; see Line 86.

Line #	VA Code § 15.2-	Intent	Compliance	Existing Ordinance Section	Comments/Recommendations
55.	4.	<i>Zoning administrator authorities, provisions, and processes</i>	Optional, Partially Included	98-7 98-11 <i>Various</i>	This item provides for the administration and enforcement of the Ordinance including the appointment or designation of a Zoning Administrator. Section 98-7 of the Zoning Ordinance briefly states that, “the ordinance shall be enforced by the zoning administrator who shall be appointed by the board of supervisors,” but does not include the 90-day timeframe requirement for Zoning Administrator determinations or otherwise clearly establish the powers and duties of the Zoning Administrator. Section 98-11 further details the enforcement of the Ordinance by the Zoning Administrator but does not contain language for appeals by the applicant or the 90-day timeframe requirement for Zoning Administrator determinations. Various portions of the Zoning Ordinance allow for modifications from the Zoning Administrator. While administrative modification provisions are appropriate throughout the Ordinance (e.g., parking, landscaping), the Ordinance should clearly state the enabling authority in an introductory Article. Recommend updating the powers and duties of the Zoning Administrator and clarifying appeals processes in accordance with this section of the Code of Virginia. Further recommend providing all language from this section of the Code of Virginia in the Administration Article of the Zoning Ordinance.

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56.	5.	<i>Imposition of penalties - misdemeanor fines</i>	Optional, Included	98-11	This section of the Code of Virginia allows localities to impose penalties, in the form of a misdemeanor punishable by a fine of no more than \$1,000, for violations of the zoning ordinance. Additional penalties are specified for failure to abate a violation and for violations regarding too many unrelated people living in a single-family dwelling. Section 98-11 includes direct reference to this section of state code, along with some verbatim language. As a best practice, consider introducing the use of civil penalties for zoning violations, and consolidating civil penalties and misdemeanor penalties into a single section and including a reference to the Code of Virginia sections. Recommend using civil penalties as a first line of defense and then moving to misdemeanors as appropriate. See Line 12.
57.	6.	<i>Collection of fees</i>	Optional, Included	<i>Outside of ZO</i> Appendix A	This section of the Code of Virginia authorizes the collection of fees to offset the costs of inspections, permitting, advertising, and other expenses directly related to administering the Zoning Ordinance. Appendix A of the County Code provides a fee schedule.

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58.	7.	<i>Zoning ordinance amendment timelines and process</i>	Optional, Included	98-14	This section of the Code of Virginia states that the governing body may by ordinance amend, supplement, or change the regulations, district boundaries, or classifications of property. The governing body must also make a decision within 12 months unless postponed or withdrawn by the applicant. Section 98-14 states that “regulations, district boundaries or classifications of property” may be amended, as initiated by resolution of the Board of Supervisors. Section 98-14 also states that a decision shall be made within 100 days. Recommend including appropriate references to this section of the Code of Virginia. Also recommend utilizing the maximum amount of time permitted by state code to hear and decide applications. New Kent County should also include language that allows the Planning Commission and property owners to initiate amendments.
59.	8.	<i>Plan of development submission and approval</i>	Optional, Included	Various	For the submission and approval of a plan of development prior to the issuance of building permits to assure compliance with zoning regulations. The Zoning Ordinance addresses “plan of development submission and approval requirements” through various site plan, development review, and Planned Unit Development (PUD) provisions. These various provisions require site plans and/or discretionary approvals, which would both include reviews for compliance with applicable zoning regulations and require approved developments to conform to the approved plans and conditions of approval.
60.	9.	<i>Mixed use or PUD developments</i>	Optional, Included	Various	Article 6 provides regulations for planned unit and mixed-use developments in the following districts: • Economic Opportunity District • Courthouse Development District • Planned Unit Developments

Line #	VA Code § 15.2-	Intent	Compliance	Existing Ordinance Section	Comments/Recommendations
61.	10.	<i>Incentive zoning administration</i>	Optional, Not Included	No Reference	This provision allows for the administration of incentive zoning as appropriate, to accomplish a locality's development goals. An example would be increased project density or other benefit in return for the developer meeting certain criteria for environmentally sustainable and energy-efficient building design, affordable housing creation and preservation, or historical preservation. Incentives/bonuses may be considered by the County, if desired, to facilitate higher residential densities where appropriate; enhanced site design; and housing choice in residential, planned unit, and mixed-use districts.
62.	11.	<i>Downzoning tax credit</i>	Optional, Not Included	Chapter 17A Chapter 21 Article 3 Division 3 Division 12	This provision allows for the downzoning of a landowner's undeveloped or underdeveloped property in exchange for tax credits. This can be used to defer development. Chapter 62, Article II of the County Code establishes agricultural and forestal districts. Part II, Chapter 84, of the County Code establishes a purchase of development rights program, which allows the County to negotiate the purchase of development rights to permanently retain certain lands. New Kent County should consider whether additional downzoning tax credit provisions are an appropriate land use tool to introduce into the Zoning Ordinance, although this is not common and Berkley Group typically does not recommend.

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63.	12.	<i>Environmental site assessments and review</i>	Optional, Partially Included	98-701	This provision allows localities to require Phase I environmental site assessments (ESAs) in accordance with the U.S. Environmental Protection Agency's regulations and the standards of the American Society for Testing and Materials. The Zoning Ordinance does not specifically include any requirements for a standalone Phase I Environmental Site Assessment (ESA); however, related environmental review provisions are incorporated through multiple sections of the County Code. Section 98-701 of the Zoning Ordinance requires an "environmental impact study"; Chapter 91 of the County Code includes provisions for a "environmental resource impact analysis" for subdivisions; and Chapter 94 requires an environmental site assessment as part of Chesapeake Bay Preservation Area requirements. Recommend requiring Phase I ESAs as part of development applications, or at least allowing the Zoning Administrator to require them as needed based on the anticipated land use and site history.

Line #	VA Code § 15.2-	Intent	Compliance	Existing Ordinance Section	Comments/Recommendations
64.	13.	<i>Safety standards for solar panels and battery technologies</i>	Optional, Included	98-878	This provision allows localities to incorporate safety standards for solar panels and battery technologies used as part of solar energy facilities. Section 98-878 includes multiple operational, emergency response, security, setback, infrastructure, and decommissioning standards applicable to both solar generation facilities and energy storage projects. The ordinance specifically requires coordination with local fire, EMS, and emergency management personnel for emergency response training; security fencing and warning signage; setback and screening requirements; and decommissioning and removal procedures for energy storage and solar facilities. Recommend reviewing and updating these requirements as needed to align with current best practices, but current provisions are otherwise in accordance with the Code of Virginia. Further recommend either including direct reference to this section of the Code of Virginia or citing the standards mentioned within.
65.	14.	<i>Environmental disclosure and remediation</i>	Optional, Not Included	No Reference	This provision allows localities to require the disclosure and remediation of contamination and other adverse environmental conditions of a property prior to approval of subdivision and development plans. This requirement is typically applicable for industrial redevelopment projects, or sites once occupied by gas stations, dry cleaners, etc. Recommend incorporating this requirement into site plan submittals.
66.	15.	<i>Single-family residential occupancy regulations</i>	Optional, Not Included	No Reference	This section of the Code of Virginia allows for the enforcement of provisions of the zoning ordinance that regulate the number of persons permitted to occupy a single-family residential dwelling unit, provided such enforcement complies with applicable local, state, and federal fair housing laws. The definition of "family" establishes no more than four unrelated persons in a single housekeeping unit, and the definition of "dwelling, single-family" means a building arranged or designed to be occupied by <i>one family</i>, the structure having only one dwelling unit."

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67.	16.	<i>Zoning inspection warrants</i>	Optional, Not Included	No Reference	It is a best practice to include this optional provision, as it allows for a locality to acquire a warrant if there is a suspected Zoning Ordinance violation. The intent is to prevent unethical searches of private property. The Zoning Ordinance does not incorporate this provision. Recommend adopting this provision as allowed by the Code of Virginia. If the County receives repeated complaints, but is unable to gain access to the property, this is a provision that can be utilized. New Kent County can also implement this in practice without a text amendment, but including direct reference in the Zoning Ordinance helps provide greater transparency to the public.
68.	17.	<i>Administrative approval of development and construction of housing on land owned by 501(c)(3) property tax-exempt nonprofit organizations</i>	Optional, Not Included	No Reference	This section of the Code of Virginia is new and will go into effect on July 1, 2026. It allows for the administrative approval of development and construction of housing on land owned by 501(c)(3) property tax-exempt nonprofit organizations pursuant to § 15.2-2288.9. See Line 86 for recommendation.
69.	2286 (B)	<i>Payment of outstanding debt, taxes, fees</i>	Optional, Not Included	No Reference	This provision allows a locality to require applicants for special use permits, rezonings, variances, and permits to first prove all taxes have been paid and there are no other outstanding charges that constitute a lien on the property. The Zoning Ordinance does not incorporate this provision. Recommend incorporating this as a requirement for the cited types of applications.

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Line #	VA Code § 15.2-	Intent	Compliance	Existing Ordinance Section	Comments/Recommendations
70.	2286.1	<i>Open space provision, cluster dwellings</i>	Partially Included	Subdivision Ordinance 91-127	This section of the Code of Virginia regulates residential cluster developments to preserve open space. These provisions apply to localities with growth rates of 10% or more, but not to localities with population densities greater than 2,000 per square mile. New Kent County's growth between 2010 and 2020 was 24.5% (U.S. Census) and its population density was 109.2 per square mile; therefore, this section applies. The Subdivision Ordinance includes provisions for cluster development in Section 91-127 of the Subdivision Ordinance. While the cluster provisions are largely compliant with what is permissible under § 15.2-2286.1, several updates are needed for full compliance: • Recommend allowing cluster development in the agricultural zoning district and in R-1 and not solely limiting it to specific areas as designated by the Comprehensive Plan. • Recommend eliminating Board of Supervisors approval for variations in open space/recreational space; this is also no longer permissible under § 15.2-2259. Also see Appendix B.
71.	2286.2	Small lot residential zoning district required	N/A	No Reference	This section of the Code of Virginia is new and will take effect on July 1, 2026. It requires any locality with a population of at least 50,000 to adopt, maintain, and apply to land within its boundaries at least one zoning district classification that permits a single-family dwelling on a lot with a minimum lot area not exceeding 3,000 square feet. New Kent County does not meet the population threshold; therefore, this statute is not required to be included in the Zoning Ordinance.

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72.	2287	<i>Optional requirement regarding property interest of local officials</i>	Optional, Not Included	No Reference	This section of the Code of Virginia requires that applicants disclose any members of the Planning Commission or governing body that have a vested interest in property being considered for zoning action. While this may be occurring in practice, recommend adopting this provision as included in state code to clarify and increase transparency in the application and review process.
73.	2287.1	<i>Disclosures in land use proceedings</i>	N/A	N/A	This provision only applies to Loudoun County.
74.	2288	<i>Localities may not require special exception permits for certain agriculture activities</i>	Yes	98-2 98-62	This provision specifies that special use permits may not be required for production agriculture or silviculture activity in an area that is zoned as an agricultural district or classification. <i>Agriculture</i> and <i>agriculture, intensive</i> are both defined in the Zoning Ordinance. <i>Agriculture</i> is permitted by-right in the County's conservation and agricultural zoning districts. <i>Agriculture, intensive</i> is permitted by-right in the County's agricultural district. While not required for inclusion in the Zoning Ordinance, as a best practice, recommend updating the definitions, as needed, to ensure alignment with established Code of Virginia definitions.

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75.	2288.01	<i>Localities may not require special exception permits for small biomass conversion</i>	Yes	No Reference	This section of the Code of Virginia restricts localities from requiring a conditional/special use permit for small-scale conversion of biomass to alternative fuel. The Zoning Ordinance does not mention biomass conversion. This use would therefore be prohibited and would not require a conditional use permit. New Kent County can, if desired, define <i>small-scale conversion of biomass to alternative fuel</i> and add it to the list of permitted uses in agricultural districts. If the use is introduced, recommend introducing use performance standards to clearly address impacts on adjoining properties.
76.	2288.1	<i>Localities may not require a special use permit for certain residential uses</i>	Yes	Various	This section of the Code of Virginia states that no local ordinance shall require a special use permit for development and construction of residential dwellings at the use, height, and density permitted by right under the local zoning ordinance. Special use permits may be used for certain developments that exceed density requirements, involve nonresidential uses, or are located in areas of steep slopes. The Zoning Ordinance permits various types of residential units by right in each residential district as appropriate but does require a CUP for "single-family conversion to two-family" uses in the R-2 and R-2A districts. The Ordinance states the purpose of these districts as "This R-2, R-2A district is composed of certain medium and high concentration residential uses, plus certain areas where similar development appears likely to occur." As such, these are appropriate districts in which to permit duplexes by right, as duplex development is compatible with the district's intended residential character.

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77.	2288.2	<i>Localities may not require special exception permits for certain temporary structures (tents)</i>	Yes	No Reference	This section of the Code of Virginia restricts localities from requiring a special use permit for a temporary (less than three days) tent to be constructed on private property that will be primarily used for private or family-related events. The Zoning Ordinance does not require special use permits for temporary structures. While the Ordinance does provide for a variety of temporary structures, temporary structures of this nature, for private or family-oriented events, are not included. The Zoning Ordinance therefore complies with this section of the Code of Virginia.
78.	2288.3	<i>Localities may not unduly regulate farm wineries</i>	Yes	98-2 98-62	This section of the Code of Virginia restricts localities from unduly regulating licensed farm wineries. <i>Farm winery</i> and <i>commercial winery</i> are separately defined in Article I. As provided in Article II, <i>farm wineries</i> are permitted by-right in agricultural districts and permitted through conditional use permits in the business, economic opportunity, and conservation districts. Consider revising how farm wineries are permitted in various districts, to better differentiate between commercial wineries and farm wineries, with the specific consideration to only permit farm wineries, by-right, in the conservation and agricultural districts. Further recommend revising the two definitions, as needed, to ensure the definition for <i>farm winery</i> is consistent with Code of Virginia.

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79.	2288.3:1	<i>Limited brewery license; local regulation of certain activities</i>	Partial	98-2 98-62	This section of the Code of Virginia states that local restrictions upon activities of legally licensed breweries to market and sell their products shall be reasonable and shall consider the economic impact on such activities. <i>Micro-Brewery</i> is defined in Article I and included as permitted uses in various zoning districts, but there are no associated use performance standards. However, the Ordinance does not clearly provide for <i>farm breweries</i> as an agricultural use permitted by right in agricultural districts, as contemplated by § 4.1-206.1 of the Code of Virginia. Recommend updating the Ordinance to distinguish and permit <i>farm breweries</i> in accordance with this section of the Code of Virginia and § 4.1-206.1.
80.	2288.3:2	<i>Limited distiller's license; local regulation of certain activities.</i>	Partial	Article 2 Article 6 Various	This section of the Code of Virginia states that local restrictions upon activities of legally licensed distilleries to market and sell their products shall be reasonable and shall consider the economic impact on such activities. <i>Distillery</i> is defined in Article I and included as a permitted or conditionally permitted use in various zoning districts, but there are no associated use performance standards. However, the Ordinance does not clearly provide for <i>farm distilleries</i> as an agricultural use permitted by right in agricultural districts as contemplated by § 4.1-206.1 of the Code of Virginia. Recommend updating the Ordinance to distinguish and permit <i>farm distilleries</i> in accordance with this section of the Code of Virginia and § 4.1-206.1.
81.	2288.4	<i>Extension of expiration dates for special use permits</i>	N/A	N/A	This section of the Code of Virginia expired in 2011 and therefore does not apply.

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Line #	VA Code § 15.2-	Intent	Compliance	Existing Ordinance Section	Comments/Recommendations
82.	2288.5	<i>Definition and uses of cemetery</i>	Partial	98-2 98-62 98-873	This section of the Code of Virginia clarifies the meaning of <i>cemetery</i> and includes secondary uses that must be included in their approval. Applicable zoning regulations still apply. The Zoning Ordinance defines <i>cemetery</i>, <i>columbarium</i> in Article I, but it does not align with the definition for <i>cemetery</i> referenced in this section of Code of Virginia. The use is permitted in various districts, primarily through a conditional use permit. Section 98-873 includes additional performance standards for cemeteries, including those associated with other organizations, but does not require additional legislative approvals. Recommend updating the definition of <i>cemetery</i> to better align with the definition provided in Code of Virginia § 54.1-2310, as referenced in § 15.2-2288.5.
83.	2288.6	<i>Agricultural operations; local regulation of certain activities</i>	Partial	98-2 98-62	This section of the Code of Virginia restricts localities from regulating agricultural operations such as agritourism and the processing/sale of products. The Zoning Ordinance does not regulate or provide use standards for specific agricultural activities. <i>Agriculture</i> is permitted by right in the conservation and agricultural districts. <i>Agritourism</i> is defined in Article I using verbatim language from state code. However, agritourism is not specifically identified as a permitted use, and the definition of agriculture does not clearly include agritourism activities. Recommend adding agritourism as a permitted use and definitions including any appropriate use standards, as permitted and in accordance with this section of the Code of Virginia.

Line #	VA Code § 15.2-	Intent	Compliance	Existing Ordinance Section	Comments/Recommendations
84.	2288.7	<i>Solar facilities; local regulation</i>	Partial	Article 6 Division 28	This section of the Code of Virginia speaks to allowing small-scale solar facilities intended for on-site consumption. Note this section was amended in 2026 to require certain ground-mounted solar facilities which serve on-site purposes by permitted inagricultural, commercial, industrial, institutional, or mixed-use districts, subject to applicable height, setback, and historic or corridor protection requirements. The Zoning Ordinance appears to conditionally permit “solar generation facilities” and “energy generation facilities” in certain districts. The Ordinance does not clearly address smaller-scale accessory or on-site solar facilities serving the property on which they are located. Recommend expressly permitting accessory, or on-site, solar facilities in accordance with this section of the Code of Virginia.

Line #	VA Code § 15.2-	Intent	Compliance	Existing Ordinance Section	Comments/Recommendations
85.	2288.8	<i>Special exceptions for solar photovoltaic projects</i>	No	98-2 98-63 98-878	This section of the Code of Virginia requires localities to permit [utility-scale] solar photovoltaic projects and energy storage projects either by-right or through a special use permit/conditional use permit process in every zoning district. As amended in 2026, the statute also establishes statewide standards and criteria that localities may regulate through their zoning ordinances, including setbacks, fencing, height limitations, landscaping and screening, stormwater management, decommissioning plans, and other operational and siting standards identified in subdivisions A(1) through A(12) of this section of the Code of Virginia (as approved in April 2026). This revised section of the Code of Virginia also defines <i>solar photovoltaic project</i> as "a ground-mounted solar facility with a generating capacity of one megawatt or more that is designed to serve, or serves, the electricity or thermal needs of any property other than the property where such facility is located." The Zoning Ordinance permits "solar generation facilities" as a conditional use in the industrial and agricultural districts. The Zoning Ordinance defines this as a facility producing 2 or more MW, which is inconsistent with the new revisions to state code. Additionally, the Zoning Ordinance provides use standards which are inconsistent with the new state code provisions. Recommend revising use permissions and standards to be consistent with this revised section of the Code of Virginia; recommend including direct references to this section of the Code of Virginia.

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Line #	VA Code § 15.2-	Intent	Compliance	Existing Ordinance Section	Comments/Recommendations
86.	2288.9	<i>Affordable housing; religious organizations and other tax-exempt properties.</i>	No	No Reference	This section of the Code of Virginia is new and will take effect on July 1, 2026. It requires any locality that has adopted a zoning ordinance to allow the development or construction of a mixed-use or residential project by a property tax-exempt religious organization or a 501(c)(3) property tax-exempt nonprofit organization by-right. The provisions do not apply to property zoned industrial or to property adjacent to industrially zoned land, and the statutory authority is scheduled to expire on July 1, 2031. Recommend updating the Zoning Ordinance to include language from this section of the Code of Virginia.
87.	2289	<i>Optional requirement of disclosure of real parties in interest for special exception permits, special use permits, amendments to the zoning ordinance, or variances</i>	Optional, Not Included	No Reference	This section of the Code of Virginia allows a locality to require any application for a conditional/special use permit, zoning text or map amendment, or variance to disclose the equitable ownership of the land to be included in the application and all parties of interest. The Zoning Ordinance does not include regulations that require disclosure of interest or equity for special exceptions, rezonings, or variances. This is a recommended best practice that the County may wish to consider adding as a provision in the Zoning Ordinance.

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88.	2290	<i>Manufactured housing uniformity</i>	Partial	Article 6 Division 3 Division 4 Division 5	This section of the Code of Virginia <i>currently</i> requires that the placement of manufactured houses on a permanent foundation and on individual lots be permitted in all agricultural districts, subject to development standards. However, this section of the Code of Virginia was recently updated and will take effect on July 1, 2026. The updated statute will require manufactured dwellings to be permitted by-right in all zoning districts where detached single-family dwellings are also permitted, provided certain criteria are met. The Zoning Ordinance permits manufactured dwellings on permanent foundations by-right in all agricultural districts and specifies development standards within each applicable district's regulations. Recommend updating the Ordinance to permit them by-right in all other zoning districts where single-family dwellings are also permitted and amending development standards to align with recent Code of Virginia updates.
89.	2291	<i>Assisted living and group homes of 8 or fewer residents</i>	Yes	98-2 98-62	This section of the Code of Virginia restricts localities from prohibiting up to 8 unrelated persons residing in a single household, provided they meet certain disability requirements. <i>"Group care residential facility for less than or equal to eight (8) residents"</i> is defined in Article I, but includes outdated terminology and reference. The use is permitted by-right in the A-1, R-O, R-OA, R-1, R-1A, R-2, R-2A, and R-3 districts. Recommend updating the definition of <i>group home</i> to align with the most recent Code of Virginia definition.

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90.	2292	<i>Zoning provision/definition family day home</i>	No	No Reference	This section of the Code of Virginia supplies provisions for home-based day cares serving up to four children and 5-12 children. If serving 1-4 children, the family day home shall be considered residential occupancy by a single family, and allowed by-right. If serving 5-12 children, the family day home may be issued zoning permits. The Zoning Ordinance does not include provisions for family day homes. Recommend clearly defining and permitting family day homes based on the provisions of this Section. Family day homes of 1-4 children should be a by-right use in all districts that allow single-family residences, and family day homes of up to 12 children can be required to obtain zoning permits, if desired by the County.
91.	2292.1	<i>Provision for temporary family health care structure</i>	No	No Reference	This provision states that temporary family health care structures shall be considered as a permitted accessory use in a single-family residential zoning district. The Zoning Ordinance does not establish “temporary health care” as a permitted or accessory use; therefore, it is not explicitly allowed in any zoning districts. Recommend defining <i>temporary health care</i> and <i>temporary health care structure</i> to mirror the requirements and regulations of this section of the Code of Virginia.
92.	2292.3	<i>Development and use of accessory dwelling units</i>	No	98-2 98-10	This section of the Code of Virginia is new and will take effect on July 1, 2026. It provides a definition for accessory dwelling units (ADUs) and requires all single-family residential zoning districts to include ADUs as a by-right accessory use, with certain development criteria. The Zoning Ordinance currently defines ADUs but only allows them for family members of the property owner if certain standards are met. However, the Zoning Ordinance will need to be updated to expand permissions and include the new development criteria provided by state code.

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93.	2292.3	<i>Expedited approval for increased density for certain affordable housing developments</i>	Optional, Not Included	No Reference	This section of the Code of Virginia is new and will take effect on July 1, 2026. It gives localities the option to use an administrative process to approve rezoning applications for affordable housing developments, provided the development meets certain criteria. This provision is not recommended for New Kent County at this time.
94.	2293	<i>Airspace subject to zoning ordinances</i>	No	No Reference	This provision states that a Zoning Ordinance shall be applicable to the superjacent airspace of any nonpublic-owned land area. The Zoning Ordinance does not include language that subjects the airspace to the regulations of the Ordinance, though this Code of Virginia provision would still apply, as well as any applicable regulations from the Federal Aviation Administration (FAA). However, the Ordinance does regulate airport-related airspace hazards and height limitations through Article XXV, which establishes airport flight zones, height limitations, and related restrictions applicable to structures and uses near airports. Recommend including this language as written in the Code of Virginia.

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95.	2293.1	<i>Amateur radio antenna placement</i>	No	98-745	This section of the Code of Virginia states that amateur radio antennas shall be reasonably accommodated with the minimum regulation necessary. In localities having a population density of 120 persons or less per square mile according to the 1990 United States Census, no local ordinance shall (i) restrict amateur radio antenna height to less than 200 feet above ground level as permitted by the Federal Communications Commission or (ii) restrict the number of support structures. New Kent County's population density was approximately 50 persons per square mile according to the 1990 U.S. Census. The Zoning Ordinance contains use standards for "<i>radio, television or communication stations and/or towers which exceed 50 feet in height</i>" in the conservation, agricultural, business, economic opportunity, and industrial districts. Additionally, the Ordinance requires conditional use permits for most communication facility towers, aside from those under 75 feet. The Ordinance does not appear to expressly accommodate amateur radio antennas as required by this section of the Code of Virginia, including the statutory limitation on restricting amateur radio antenna height in low-density localities such as New Kent County. Recommend adding a definition for <i>amateur radio tower</i> and including clear performance standards and procedures for telecommunications in a consolidated section for ease of interpretation.

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96.	2293.2	<i>Regulation of helicopter use</i>	Yes	98-2 98-62	This section of the Code of Virginia provides for localities to require special use permits for repetitive helicopter landings and departures on the same parcel of land. <i>Heliports</i> are defined in Article I; <i>heliports</i> and <i>helipads</i> both require a conditional use permit in various districts and are by-right in others. While these appear to be of a commercial nature, there is no indication that the Zoning Ordinance restricts personal landings, as provided in this section of the Code of Virginia.
97.	2294	<i>Airport safety zoning</i>	Yes	Article XXV	This section of the Code of Virginia requires that any locality that hosts a licensed airport or United States government or military air facility is located, or approach slopes and other safety zones of a licensed airport shall provide for the regulation of the height of structures and natural growth. The Code of Virginia allows this to be a standalone ordinance, or through an overlay district/zone within the Zoning Ordinance. Article XXV, Restrictions Adjacent to Airport, meets this intent. Recommend relocating these provisions to more clearly read as an overlay district, as permitted by this section of state code. Also recommend reviewing to ensure compliance with current federal law.
98.	2295	<i>Optional aircraft noise attenuation ordinances</i>	Optional, Not Included	No Reference	This section of the Code of Virginia provides that a locality may enforce building regulations relating to the provision and installation of acoustical treatment measures. Additionally, this section of the Code of Virginia allows a locality to adopt a noise overlay zone that regulates noise and sounds differently than base districts. The Zoning Ordinance does not include these optional provisions; New Kent County may consider including in the Restrictions Adjacent to Airport regulations (Article XXV).
99.	2295.1	<i>Optional mountain ridge construction ordinances</i>	N/A	N/A	New Kent County does not have mountain ridges that meet this Code of Virginia definition; therefore, this section of the Code is not applicable.

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100.	2295.2	<i>Optional authority to create zoning modification in dam break inundation zones</i>	Optional, Not Included	No Reference	This section of the Code of Virginia allows a locality to, by ordinance, require modification of an application for zoning modification or a special use permit for the area of a development that is proposed within a mapped dam break inundation zone. As New Kent County has several areas with dam break inundation zones, the County may wish to include this provision.
101.	2296	<i>Conditional zoning - legislative policy</i>	Yes	98-781	The Zoning Ordinance provides for conditional zoning at the time of rezoning and complies with this section of the Code of Virginia. Section 91-781 includes language verbatim from this statute. Also see Lines 102 through 107.
102.	2297	<i>Conditional zoning - rezoning/map amendments</i>	Optional, Included	98-782	This section of the Code of Virginia establishes that the Zoning Ordinance may provide for the voluntary proffering of reasonable conditions, by the owner, prior to a public hearing before the governing body provided that (i) the rezoning itself gives rise for the need for the conditions; (ii) the conditions shall have a reasonable relation to the rezoning; (iii) the conditions shall not include a cash contribution to the locality; (iv) the conditions shall not include mandatory dedication of real or personal property for open space, parks, schools, fire departments or other public facilities not otherwise provided for in § 15.2-2241; (v) the conditions shall not include a requirement that the applicant create a property owners' association; (vi) the conditions shall not include payment for or construction of off-site improvements except those provided for in § 15.2-2241; (vii) no condition shall be proffered that is not related to the physical development or physical operation of the property; and (viii) all such conditions shall be in conformity with the comprehensive plan as defined in § 15.2-2223. Section 98-782 of the Zoning Ordinance provides the option for property owners to voluntarily proffer conditions with a rezoning application. This section includes some language verbatim from this section of the Code of Virginia with a direct reference.

Line #	VA Code § 15.2-	Intent	Compliance	Existing Ordinance Section	Comments/Recommendations
103.	2298	<i>Conditional zoning - high-growth amendments</i>	Optional, Included	98-782	This section applies to (i) any locality which has had population growth of 5% or more from the next-to-latest to latest decennial census year; (ii) any city adjoining such city or county; (iii) any towns located within such county; and (iv) any county contiguous with at least three such counties and any town located in that county. This section applies to New Kent County, as the growth rate was approximately 24% from 2010-2020. Section 98-782 substantially mirrors and implements the conditional zoning and voluntary proffer authority authorized under this section of the Code of Virginia. Compliance can be strengthened through adding a direct reference to this section of the Code of Virginia.
104.	2299	<i>Conditional zoning - enforcement</i>	Yes	98-787	This provision specifies the authority of the Zoning Administrator to administer and enforce proffers. Section 98-787 of the Zoning Ordinance includes the provided language in this section of the Code of Virginia nearly verbatim. Compliance can be strengthened through adding a direct reference to this section of the Code of Virginia.
105.	2300	<i>Conditional zoning - records</i>	Partial	98-784	This provision specifies how zoning map amendments and proffers must be retained for public record. Section 98-784 of the Zoning Ordinances includes some of the provided language; however, it is generally outdated and lacks information related to updating the index annually by November 30 and including information related to all proffered cash payments and expenditures. Recommend adding all applicable language from, and direct reference to, this section of the Code of Virginia.

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106.	2301	<i>Conditional zoning - petitions for review of decision</i>	Yes	98-788	This provision specifies the process for aggrieved parties to petition a decision of the Zoning Administrator. Section 98-788 includes the provided language and references this section of the Code of Virginia. Recommend slightly revising the language to more closely mirror the language provided in this section of the Code of Virginia.
107.	2302	<i>Conditional zoning - amendments and variations</i>	Partial	98-783	This section of the Code of Virginia specifies the process for proffer amendments. Section 98-783 allows for proffer amendments and includes a direct reference to this section of the Code of Virginia. Recommend revising to include a provision that allows the waiving of a hearing on any amendment that does not affect use or density, in accordance with this section of the Code of Virginia.
108.	2303	<i>Conditional zoning - certain localities</i>	Optional, Not Included	No Reference	This section of the Code of Virginia applies to: • counties where the urban county executive form of government is in effect; or • cities/towns/counties adjacent to or completely surrounded by such a county; and • counties east of the Chesapeake Bay. Additionally, Code of Virginia § 15.2-2298 states that any such locality may, by ordinance, choose to utilize the conditional zoning authority established in this section. Therefore, New Kent County may choose to act under this section of state code even though it is otherwise enabled by § 15.2-2298. The County has not chosen to act under this statute. As part of the Ordinance drafting process, recommend more closely evaluating the differences in enabling legislation, and acting under the statute providing the County with the greatest flexibility.

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109.	2303.1	<i>Binding development agreements - certain localities</i>	Yes	98-15	This section of the Code of Virginia is included in the Zoning Ordinance.
110.	2303.1:1	<i>Cash proffer option - process</i>	No	No Reference	This section of the Code of Virginia provides that per-unit cash proffers cannot be accepted until after final inspection and prior to certificate of occupancy. New Kent County accepts cash proffers. However, the Zoning Ordinance does not include specific language for cash proffers for residential construction on a per-dwelling unit or per-home basis. Recommend including this language to conform with this section of the Code of Virginia.
111.	2303.2	<i>Proffered cash payments and expenditures - process</i>	No	No Reference	This section of the Code of Virginia requires localities that accept cash proffers to begin construction, site work, engineering, right-of-way acquisition, surveying, or utility relocation on the improvements for which the cash payments were proffered within 12 years of receiving full payment. This section requires localities to account for and report cash proffer collections and expenditures annually, include cash proffer revenues and planned expenditures within the Capital Improvements Program and annual capital budget, and limit the use of proffered funds to capital improvements that expand public facility capacity rather than routine maintenance, renovations, or operating expenses. The Zoning Ordinance does not include this language. Recommend including a statement in the Zoning Ordinance that states “New Kent County will expend, track, and monitor cash proffers in accordance with § 15.2-2303.2 of the Code of Virginia.”

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Line #	VA Code § 15.2-	Intent	Compliance	Existing Ordinance Section	Comments/Recommendations
112.	2303.3	<i>Cash proffers requested or accepted by a locality - process</i>	No	No Reference	This section of the Code of Virginia restricts localities from requiring cash proffer payments prior to issuance of building permits and specifies that cash proffers amounts scheduled to increase annually shall not exceed the annual rate of inflation. The Zoning Ordinance does not include this language. Recommend incorporating the requirements for a locality to accept a cash proffer, with a reference to this section of the Code of Virginia.
113.	2303.4	<i>Provisions applicable to certain proffers</i>	No	No Reference	This section of the Code of Virginia provides that no locality can require an unreasonable proffer for residential development or uses but allows on-site and off-site proffers that the applicant deems reasonable. The Zoning Ordinance does not include this language. Recommend incorporating the requirements for a locality to accept a cash proffer, with a reference to this section of the Code of Virginia.
114.	2304	<i>Affordable dwelling ordinances - certain localities</i>	Optional, Not Included	No Reference	This section of the Code of Virginia is new and will take effect July 1, 2027. It grants all localities the option to provide for an affordable housing dwelling unit program in the Zoning Ordinance. This provision is not recommended for New Kent County at this time.
115.	2305	<i>Affordable dwelling ordinances</i>	Optional, Not Included	No Reference	This section of the Code of Virginia allows localities to establish an affordable housing dwelling unit program to address housing needs. Affordable housing is neither referenced nor addressed in the current Zoning Ordinance. This section of the Code of Virginia is an optional provision that may be considered.

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Line #	VA Code § 15.2-	Intent	Compliance	Existing Ordinance Section	Comments/Recommendations
116.	2306	<i>Optional historical site preservation</i>	Optional, Not Included	No Reference	This section of the Code of Virginia allows localities to adopt ordinances protecting historic resources and/or create a historic district. The governing body may also appoint a review board to administer the Ordinance. The New Kent County Zoning Ordinance does not include historic overlay districts. However, New Kent County has a Historic Commission tasked with advising the Board of Supervisors on development which may impact historical sites and structures. The County Code of Ordinances does not currently establish the Commission or its relationship to zoning. Recommend establishing the purpose and intent; authority; and powers and duties of the Historic Commission in the Zoning Ordinance.
117.	2306.1	<i>Establishment of working waterfront development areas</i>	N/A	N/A	There are no designated working waterfronts in New Kent County.

Line #	VA Code § 15.2-	Intent	Compliance	Existing Ordinance Section	Comments/Recommendations
118.	2307	<i>Protection of vested rights for non-conforming uses</i>	Partial	98-15 98-945 Article XXI	This section of the Code of Virginia regulates vested rights in properties with nonconforming structures or uses. Note that this section was updated and will take effect on July 1, 2026, to specify that a landowner's vested rights in a specific residential project shall not be affected by a subsequent ruling of the local circuit court applicable to a zoning ordinance amendment when such ruling or order affects at least 25 individual parcels within a locality, unless the significant affirmative governmental act approving the specific residential project is the direct subject of such ruling. Article XXI of the Zoning Ordinance provides for nonconforming structures and uses. Section 98-15 addresses the vested rights of property owners, but in relation to Code of Virginia § 15.2-2303.1. Section 98-945 provides for the alteration and replacement of abandoned nonconforming signs, but does not provide for the two-year time period, rather stating an abandoned nonconforming sign must be removed after a 90-day time period. Recommend reviewing and updating provisions for nonconformities to more closely align with state code. Also recommend adding the following language to the Ordinance: "Vested rights determinations shall be made in accordance with Code of Virginia § 15.2-2307."
119.	2307.1	<i>Commercial fishing</i>	N/A	N/A	This section of the Code of Virginia requires that registered commercial fishermen and seafood buyers who have operated their businesses from their waterfront residences for 20+ years shall not be prohibited from continuing their businesses. The Zoning Ordinance does not include specific provisions related to commercial fishing operations or seafood buyers operating from residential properties. The County should be aware of any such existing businesses and ensure that, in practice, they are not prohibited from continuing in accordance with this section of the Code of Virginia.

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Line #	VA Code § 15.2-	Intent	Compliance	Existing Ordinance Section	Comments/Recommendations
120.	2308	<i>Board of Zoning Appeals</i>	Yes	98-1021	Article XXVI establishes the Board of Zoning Appeals (BZA) and contains many of the provisions provided in the Code of Virginia. Section 98-1021 provides for the establishment, membership, and organization of the BZA, including language verbatim from this section of state code. A direct reference to § 15.2-2308 is also included.
121.	2308.1	<i>Boards of zoning appeals, ex parte communications, proceedings</i>	No	No Reference	This section of the Code of Virginia regulates ex parte communications between the BZA and non-legal staff or applicants. The Zoning Ordinance does not include language addressing ex parte communications, although this may be occurring in practice. Recommend adding language regarding ex parte communications and including direct reference to this section of the Code of Virginia.
122.	2309	<i>Zoning appeal board powers and duties</i>	Yes	98-1022	This section of the Code of Virginia establishes the powers and duties of the BZA. These provisions are included nearly verbatim in Section 98-1022 of the Zoning Ordinance, with appropriate references to various sections of the Code of Virginia, rather than enumerating lengthy provisions. While included as an optional provision of the Code of Virginia and may be occurring in practice, recommend including language regarding fixing a schedule of regular meetings through resolution as a best practice.

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Line #	VA Code § 15.2-	Intent	Compliance	Existing Ordinance Section	Comments/Recommendations
123.	2310	<i>Application for special exceptions and variance</i>	Partial	98-1022	This section of the Code of Virginia specifies application procedures for special exceptions/special use permits and variances. Section 98-1022 of the Zoning Ordinance provides procedures for variance relief, but they do not fully align with § 15.2-2310. State code specifies application intake by the Zoning Administrator; transmittal to the BZA secretary for docketing; and Planning Commission referral and participation. While this may be occurring in practice, recommend revising variance provisions to better align with § 15.2-2310 by incorporating docketing and notice requirements, addressing Planning Commission involvement, and establishing resubmittal limitations for substantially similar variance applications where appropriate.
124.	2311	<i>Optional appeals to Board of Zoning Appeals - process</i>	Optional, Included	98-1023	This section of the Code of Virginia specifies the application process for appeals to the BZA. These provisions are included nearly verbatim in Section 98-1023 of the Zoning Ordinance; direct reference to this section of state code is also included.
125.	2312	<i>Appeals to Board procedure - process</i>	Yes	98-1025	This section of the Code of Virginia specifies the review procedures for appeals to the BZA. These provisions are included verbatim in Section 98-1025 of the Zoning Ordinance; direct reference to this section of state code is also included.
126.	2313	<i>Prevention of construction not in accordance with ordinance - process</i>	No	No Reference	This section of the Code of Virginia allows the court to hear issues regarding building construction that may be in violation of the Zoning Ordinance without going to the Board of Zoning Appeals. Recommend including the language provided in this section of the Code of Virginia.

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Line #	VA Code § 15.2-	Intent	Compliance	Existing Ordinance Section	Comments/Recommendations
127.	2314	<i>Writ of Certiorari to review Board's decision</i>	Yes	98-1027	Section 98-1027 of the Zoning Ordinance includes a reference to this section of Code of Virginia. This section of the Code of Virginia was updated and will take effect on July 1, 2026; however, New Kent County will continue to maintain compliance through its inclusion of the direct reference.
128.	2315	<i>Conflict of state and local ordinance</i>	Yes	98-12	This section of Code of Virginia states that where there are conflicts with other statutes, or ordinances, or regulations, the more restrictive provision shall apply. Section 98-12 of the Zoning Ordinance includes language verbatim from this section of state code.
129.	2316	<i>Validation of ordinances prior to 1971</i>	N/A	N/A	This section of the Code of Virginia validates zoning ordinances adopted prior to July 1, 1971. Section 98-13 of the New Kent County Code states that the County's original zoning ordinance was adopted on November 14, 1966, and became effective on January 3, 1967. As such, the County's zoning ordinance falls within the timeframe addressed by this section of state code and is considered valid.
130.	2316.1	<i>Definitions regarding transfer of development rights (TDRs)</i>	Optional, Not Included	No Reference	This section of the Code of Virginia establishes the definitions for Transfer of Development Rights programs. New Kent County does not include a TDR program in the Zoning Ordinance. See Line 131.

Line #	VA Code § 15.2-	Intent	Compliance	Existing Ordinance Section	Comments/Recommendations
131.	2316.2	<i>Optional provisions for transfer of development rights</i>	Optional, Not Included	No Reference	This section of the Code of Virginia allows localities the option to establish TDR programs, in which a locality may designate receiving areas/properties that shall receive development rights <u>only</u> from certain sending areas/properties. This is typically used by counties as a rural area preservation tool. Chapter 84 of the County Code establishes a purchase of development rights program, which allows the County to negotiate the purchase of development rights to permanently retain agricultural, rural, and historic lands. The Zoning Ordinance does not include TDR standards or procedures. It is not recommended to adopt a TDR program if the PDR program continues. However, should the County wish to include provisions for a TDR program, sending and receiving areas must be identified in the Comprehensive Plan. If incorporated, language as outlined in § 15.2-2316.2 of the Code of Virginia must also be included in the Zoning Ordinance.
132.	2316.3	<i>Definitions regarding small cell facilities</i>	No	No Reference	This section of the Code of Virginia establishes the definitions for telecommunications facilities. Section 98-745 of the Zoning Ordinance contains various provisions for telecommunications uses and/or structures. Section 98-62 provides for permissions, based on facility height and there appear to be no clear definitions, aside from a definition for “communication tower” provided in the use standards. The Ordinance does not include the related definitions or regulations provided in this Section of the Code of Virginia. Recommend adding missing definitions as they relate to small-cell wireless. Also recommend further clarifying the purpose and thresholds for administrative review-eligible projects. Note that there are several new definitions as of July 1, 2026.

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Line #	VA Code § 15.2-	Intent	Compliance	Existing Ordinance Section	Comments/Recommendations
133.	2316.4	<i>Permitting and review of small cell facilities</i>	Partial	98-873	This section of the Code of Virginia establishes the permitting/review processes for small cell facilities and establishes administrative review requirements when conditions are met. The Zoning Ordinance includes provisions exempting certain facilities attached to or within existing structures from conditional use permit requirements when specified standards are met. However, the Ordinance does not clearly identify whether these provisions are intended to apply to small cell facilities and related wireless infrastructure regulated under this section of the Code of Virginia. Recommend revising the Ordinance to expressly define small cell facilities, add use performance standards and application/procedural standards to match state code requirements, and update use permissions as needed.
134.	2316.4:1	<i>Zoning; Other wireless facilities</i>	Partial	98-62	This section of the Code of Virginia requires that localities cannot require a special use permit, special exception, or a variance for “administrative-review eligible projects.” The Zoning Ordinance does permit certain communications towers less than 75 ft. in height by-right in some districts. To be completely clear and better align with Code requirements, recommend adding a definition of <i>administrative review-eligible projects</i> and affirming they are a by-right use in appropriate districts. Further recommend providing this is a specific use and revising, as needed, standards to match state code requirements.

Line #	VA Code § 15.2-	Intent	Compliance	Existing Ordinance Section	Comments/Recommendations
135.	2316.4:2	<i>Application reviews</i>	Partial	98-745 98-873	This section of the Code of Virginia establishes guidelines for the review of applications for wireless facilities. It explicitly prevents applications from being denied for various reasons and states the type of requirements that localities cannot require in their applications. Section 98-745 contains various provisions for telecommunications facilities – including buffers, setbacks, and application requirements. However, these are included in the context of conditional use permits in Article XIX. Section 98-973 includes additional performance standards applicable to all communication and broadcast towers. Recommend relocating all performance or supplemental standards to a separate Article. Further recommend adding revising, as needed, the standards for telecommunications to ensure they align with the submittal requirements, review procedures, and decision guidelines provided in this section of Code of Virginia.
136.	2316.4:3	<i>Additional provisions for zoning applications of telecommunications facilities</i>	No	No Reference	This section of the Code of Virginia establishes that localities cannot require zoning approval for routine maintenance or for the replacement of existing wireless facilities. Recommend revising the use standards to include a reference to this section of the Code of Virginia, with language stating, “A locality shall not require zoning approval for (i) routine maintenance or (ii) the replacement of wireless facilities or wireless support structures within a six-foot perimeter with wireless facilities or wireless support structures that are substantially similar or the same size or smaller”.

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Line #	VA Code § 15.2-	Intent	Compliance	Existing Ordinance Section	Comments/Recommendations
137.	2316.4:4	<i>Wireless facility modifications</i>	No	No Reference	This section of the Code of Virginia is new and will take effect on July 1, 2026. It requires localities to approve applications for the modification of existing wireless facilities, provided that certain criteria are met. Recommend updating the Zoning Ordinance to include language from this section of the Code of Virginia.
138.	2316.4:4	<i>Temporary support structures</i>	No	No Reference	This section of the Code of Virginia is new and will take effect on July 1, 2026. It requires temporary support structures, as defined in state code, to be permitted uses, provided that certain criteria are met. Recommend updating the Zoning Ordinance to include language from this section of the Code of Virginia.
139.	2316.5	<i>Moratorium on zoning applications from wireless service providers prohibited</i>	Yes	No Reference	New Kent County does not have a moratorium on zoning applications from wireless service providers. The Zoning Ordinance therefore complies with this section of the Code of Virginia.
140.	2316.6	<i>Siting of solar projects and energy storage projects – definitions</i>	Partial	98-2	This section of the Code of Virginia provides definitions that pertain to § 15.2-2316.6 et. seq. of the Code of Virginia. Section 98-2 of the Zoning Ordinance includes a definition for “energy storage project,” which is the Code of Virginia definition for “energy storage facility.” A definition for “solar generation facility” is also provided, which falls under “solar facility”. The definitions listed in this section of Code of Virginia are not included: <i>energy storage facilities, host locality, and solar project.</i> Recommend updating the definition for “energy storage project” and clearly defining all other terms included in this section of the Code of Virginia.

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Line #	VA Code § 15.2-	Intent	Compliance	Existing Ordinance Section	Comments/Recommendations
141.	2316.7	<i>Negotiations; siting agreement</i>	No	No Reference	This section of the Code of Virginia requires that any applicant for a solar project or an energy storage project give written notice to the locality and request a meeting, where applicant and locality shall discuss and negotiate a siting agreement. This section of the Code of Virginia also provides language for siting agreements contents. While this may be occurring in practice, the Zoning Ordinance does not currently have language aligning with this provision. Recommend including a section to provide regulations specifically for siting of solar projects, following the outline of the provisions of § 15.2-2316.6 et. seq. of the Code of Virginia.
142.	2316.8	<i>Powers of host localities</i>	N/A	N/A	This section of the Code of Virginia states the powers of localities regarding the siting of solar facilities. Powers include hiring consultants, discussing a siting agreement with an applicant, entering into a binding siting agreement, and presenting the agreement at a public hearing. No action is required for compliance; New Kent County needs only to be aware of it.
143.	2316.9	<i>Effect of executed siting agreement; land use approval</i>	No	No Reference	This section of the Code of Virginia states that all land use approvals shall be necessary for a solar facility; a siting agreement shall deem the project in accordance with a Comprehensive Plan, but other land use approvals will be required; and that a governing body cannot deny approval solely based on the absence of a siting agreement. This section of the Code also only applies for sites larger than 5 MW. The Zoning Ordinance does not reference siting agreements. Recommend including a section to provide regulations specifically for siting of solar projects, following the outline of the provisions of § 15.2-2316.6 et. seq. of the Code of Virginia.

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Line #	VA Code § 15.2-	Intent	Compliance	Existing Ordinance Section	Comments/Recommendations
144.	2316.10	<i>Battery energy storage projects as permitted accessory use to approved solar projects.</i>	No	No Reference	This section of the Code of Virginia is new and will take effect on July 1, 2026. It requires localities to permit battery energy storage projects as an accessory use in all zoning districts on any parcel of land that is subject to an approved special exception, as defined in the bill, for a commercial solar photovoltaic generation facility, if such battery energy storage project meets certain criteria. New Kent County currently allows energy storage projects through an approved Conditional Use Permit in the Agricultural and Industrial zoning districts; these permissions will need updating to comply with the state code changes. Recommend updating the Zoning Ordinance to include language from this section of the Code of Virginia.
145.	2317	<i>Road Impact Fees - Applicable to 20k persons +5% growth, or 15% growth</i>	Optional, Not Included	No Reference	This section of the Code of Virginia speaks to road impact fees. It is applicable to localities with a population of 20,000 and at least a 5% growth rate, or any locality with at least 15% growth rate. New Kent County exceeds both the population and growth rate thresholds but has not adopted road impact fees. See Lines 146-157 for additional items related to road impact fees.
146.	2318	<i>Definitions</i>	Required if Road Impact Fees Ordinance Adopted	No Reference	This section of the Code of Virginia includes definitions for terms relating to road impact fees. New Kent County has not adopted regulations that govern road impact fees.
147.	2319	<i>Impact fee authority</i>		No Reference	This section of the Code of Virginia allows applicable localities to impose road impact fees on new developments to pay all or part of the cost of reasonable road improvements that benefit new development. New Kent County has not adopted regulations that govern road impact fees.

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Line #	VA Code § 15.2-	Intent	Compliance	Existing Ordinance Section	Comments/Recommendations
148.	2320	<i>Impact fee service area establishment</i>	Required if Road Impact Fees Ordinance Adopted	No Reference	This section of the Code of Virginia states that applicable localities shall delineate one or more impact fee service areas within its comprehensive plan. New Kent County has not adopted regulations that govern road impact fees.
149.	2321	<i>Adoption of road improvement program (must be done prior to impact fee adoption)</i>		No Reference	This section of the Code of Virginia requires that prior to adopting any system of impact fees, road improvements needs must be assessed – and adopt a road improvements plan after a public hearing. New Kent County has not adopted regulations that govern road impact fees.
150.	2322	<i>Adoption of impact fee, schedule</i>		No Reference	This section of the Code of Virginia requires that an adopted ordinance or regulation for impact fees contain a schedule of fees. New Kent County has not adopted regulations that govern road impact fees.
151.	2323	<i>Applicability of fees</i>		No Reference	This section of the Code of Virginia requires that an adopted ordinance or regulation for impact fees contain a schedule of fees. New Kent County has not adopted regulations that govern road impact fees.
152.	2324	<i>Credit against fees</i>		No Reference	This section of the Code of Virginia requires that the value of any dedication, contribution, or construction from the developer for off-site road or other transportation improvements benefiting the impact fee service area shall be treated as a credit against the impact fees project. New Kent County has not adopted regulations that govern road impact fees.
153.	2325	<i>Updating plan of impact fee</i>		No Reference	This section of the Code of Virginia requires that the road improvement plan, that is the basis of the impact fees, be updated every two years; with amendments to impact fee schedule, as appropriate. New Kent County has not adopted regulations that govern road impact fees.

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154.	2326	<i>Proceeds use</i>	Required if Road Impact Fees Ordinance Adopted	No Reference	This section of the Code of Virginia requires that a road improvement account be established for the impact fee service area and all funds collected through impact fees shall be deposited in an interest-bearing account. Interest earned on deposits becomes funds of the account. The use of the funds shall be for road improvements benefiting the impact fee service area. New Kent County has not adopted regulations that govern road impact fees.
155.	2327	<i>Refund of impact fee</i>		No Reference	This section of the Code of Virginia requires that a locality refund any impact fee for which construction of a project is not completed within a reasonable period of time, not to exceed fifteen years. New Kent County has not adopted regulations that govern road impact fees.
156.	2328	<i>Applicability of Impact Fees</i>	N/A	N/A	This article of the Code of Virginia applies to “urban counties” that have established an urban transportation service district in accordance with § 15.2-2403.1 prior to December 31, 2008. A “urban county” in this context had a population greater than 90,000 according to the 2000 Census and did not maintain its roads as of January 1, 2007. The authority granted by this article expired on December 31, 2008 for any locality that had not established an urban transportation service district and adopted an impact fee ordinance by that date. These provisions do not apply to New Kent County.
157.	2329	<i>Imposition of impact fees</i>	N/A	N/A	See Line above.

Additional Zoning Ordinance Recommendations

Line #	Topic	Consultant Comments / Recommendations
A.	2026 Legislative Changes	Recent amendments adopted by the General Assembly have resulted in numerous changes to the Code of Virginia affecting zoning administration, procedures, permitted uses, solar regulations, housing provisions, and other land use authorities. Many of these changes are mandatory and will need to be incorporated as part of the Zoning Ordinance update process. While several legislative amendments may represent significant policy or procedural changes from the County's current regulations, Berkley Group will provide clear guidance throughout the project to identify where state-mandated revisions are required, distinguish mandatory changes from discretionary policy considerations, and clearly document where revisions have been incorporated into the draft Ordinance.
B.	Organization	The Zoning Ordinance would greatly benefit from a reorganization of content. Arranging the Ordinance in a strategic and clearly organized manner will provide staff and the community with a more user-friendly document, streamlining application and development procedures and making efficient use of staff time and resources. Staff has noted the difficulty of navigating the Ordinance due to one topic often being addressed in several different sections, which results in potential conflicts and increased staff time spent on interpretation. Further, the Zoning and Subdivision Ordinances should be reorganized and streamlined into a single user-friendly, clearly written chapter of the County Code. Berkley Group recommends the following organization: General Provisions; Administration; Permits and Applications; District Standards; Overlay Districts; Uses; Use Performance Standards; Supplemental Development Standards (e.g., affordable housing for religious organizations, cluster development, and other special standards); Community Design Standards; Nonconformities; Subdivision; Definitions.
C.	Definitions	Update the definitions article to clearly define all permitted uses and all state-mandated uses/terms to ease administration and reduce the need for interpretations.
D.	Uses/Use Matrix	Uses for each district should be comprehensively reviewed, updated, and streamlined for all permitted and conditional uses. Outdated terms should be removed (e.g., Gift, record and tobacco shop) and modern uses should be introduced (e.g., mobile restaurant, short-term rental). Furthermore, some uses could be consolidated into one broad use category (e.g., Book, card shop and Florist shop can be combined into one term such as commercial, small). Uses should also be generally reviewed to make sure they are permitted in appropriate zoning districts. Additionally, the Ordinance currently provides a consolidates use table/matrix and individually lists permitted and conditionally permitted uses within each Article pertaining to a district. Recommend only utilizing a matrix to not duplicate efforts, reduce error, and make the ordinance easier to navigate.
E.	Proffers	New Kent County provides for conditional zoning in the Ordinance, as enabled under Code of Virginia § 15.2-2298. However, the Code of Virginia § 15.2-2303 provides high-growth localities with the authority to act under that statute. The primary difference between the two statutes is that proffers in localities acting under § 15.2-2303 are not required to be consistent with the Comprehensive Plan. This allows developers and localities greater flexibility to address unique challenges in ways that may not be expressly identified in the Comprehensive Plan, but ultimately offer a stronger solution. Additionally, "reasonable relation" is not explicitly required under § 15.2-2303; however, there is still federal case law establishing a standard of reasonableness and proportional impact.

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Line #	Topic	Consultant Comments / Recommendations
F.	Enforcement	Pursuant to Code of Virginia § 15.2-2209, consider establishing civil penalties as a first step for violations of the Zoning Ordinance, in addition to the existing criminal penalties. This will ease the burden of administration for minor violations. The Code of Virginia allows for a penalty of \$200 for the initial summons, and \$500 for each additional summons.
G.	Permits and Applications	The Zoning Ordinance would benefit from a thorough review and consolidation of permit and application procedures into a single administrative article. Currently, application procedures, review requirements, submittal standards, public hearing provisions, and approval timelines are dispersed throughout multiple Articles of the Ordinance, making the process difficult to navigate. Several provisions also require updates to align with current Code of Virginia requirements, including timelines for site plan review and approval, public notice procedures, conditional use permit and conditional zoning procedures, and administrative review authorities. Creating a consolidated "Permits and Applications" Article will help clearly establish application requirements, submission materials, completeness review procedures, timelines, public notice requirements, decision-making authorities, appeal procedures, expiration periods, and amendment processes for all zoning-related applications.
H.	Use Standards	It is recommended to review current uses supplied in the Zoning Ordinance and determine where use standards should be created to ensure greater control over certain by-right uses, promote aesthetically pleasing development, and mitigate negative external impacts on surrounding properties. County staff has specifically noted the need to define and develop use standards for emerging uses such as data centers and electric vehicle charging stations. Currently, use standards can be found in Article XXII, which currently contains site plan standards and use standards. Recommend providing all use standards in a standalone Article for ease of administration and to ensure standards are consistently applied. Use standards can also be required for certain uses in lieu of requiring a Conditional Use Permit to reduce staff time on frequently requested uses while ensuring potential impacts are addressed. Specific recommendations for use standards – and uses – will evolve as the Zoning and Subdivision Ordinance update continues and staff and community input show what uses are needed, along with the level of regulation desired to ensure balance for everyone.
I.	Signs	Article XXIV includes several regulations intended to address standards for sign types, placement, size, illumination, and general permitting. However, the current sign standards do not comply with <i>Reed v. Town of Gilbert</i> , a Supreme Court case which requires sign regulations to be "content neutral". This means that sign standards cannot be based on the sign type or written speech on the sign. Sign standards therefore need to be updated to ensure content neutrality.
J.	Ordinance Review	As a best practice, the Zoning Ordinance should be reviewed annually by County Staff and Planning Commission to incorporate updates that reflect new provisions of the Code of Virginia, identify new uses, and identify and remedy problematic regulations and processes. If desired, the Board of Supervisors could also participate in the review process. This maintenance technique is a best practice to keep New Kent County's land use tools relevant and responsive to the needs of the community.

Source: <https://law.lis.virginia.gov/vacode/title15.2/chapter22/>

Appendix B

Subdivision Ordinance - Code of Virginia Diagnostic

DIAGNOSTIC COMPLIANCE KEY

- **Yes:** The Subdivision Ordinance includes the provisions of the associated *Code of Virginia* section.
- **Partial:** The Subdivision Ordinance integrates some, but not all, provisions of the associated *Code of Virginia* section.
- **No:** The Subdivision Ordinance does not integrate most or any provisions of the associated *Code of Virginia* section.
- **N/A:** The associated *Code of Virginia* section does not apply to New Kent County.

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Line #	VA Code § 15.2-	Intent	Compliance	Existing Ordinance Section	Comments/Recommendations
1.	2209.1:1	<i>Extension of approvals to address the COVID-19 pandemic.</i>	N/A	N/A	Due to the COVID-19 pandemic, this section of the Code of Virginia extended approvals of plats, final site plans, special exceptions, special use permits, and rezonings to July 1, 2025, and allows further extension of approval by locality. The extension period has passed and does not need to be addressed in the Ordinance. This section only would apply to New Kent County if extensions were granted.
2.	2240	<i>Authority to develop subdivision ordinances.</i>	Yes	Chapter 91 (Ordinance title) Footnote 1	This section of the Code of Virginia grants localities the authority to adopt ordinances regulating subdivisions and development of land. The Ordinance includes a footnote directly referencing Code of Virginia § 15.2-2240.
3.	2241(A)	<i>Mandatory provisions of a subdivision ordinance. (See Lines 4-14)</i>			
4.	(A)(1)	<i>Plat standards under Virginia Public Records Act.</i>	Partial	91-60	This section of the Code of Virginia requires plat detail standards that conform to § 42.1-82 (Virginia Public Records Act), which governs the form, scale, content, and certifying instruments of plats recorded in the land records. The Subdivision Ordinance references a section of the Virginia Administrative Code that did cite § 42.1-82 but has since been repealed (17VAC15-60-10 et. seq.). Recommend updating the included reference to correctly reference the Virginia Public Records Act (Code of Virginia § 42.1-76 et seq.) to ensure transparency of such plat requirements.

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Line #	VA Code § 15.2-	Intent	Compliance	Existing Ordinance Section	Comments/Recommendations
5.	(A)(2)	<i>Street coordination regulations.</i>	Partial	Division 2 (91-90 through 91-104)	This section of the Code of Virginia requires coordination of proposed streets with existing or planned streets in adjacent subdivisions. Division 2 of the Subdivision Ordinance (Streets, Roads and Access) adequately addresses street standards, including those related to classification, rights-of-way, intersections, and geometric standards. Note that Section 91-92 includes direct reference to state code; however, the referenced section is now outdated. While the Subdivision Ordinance materially complies with this section of state code, Berkley Group recommends updating the included state code reference for complete accuracy.

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Line #	VA Code § 15.2-	Intent	Compliance	Existing Ordinance Section	Comments/Recommendations
6.	(A)(3)	<i>Drainage, flood control, dam break inundation zones, light and air, soil characteristics.</i>	Partial	91-2 91-76 91-95(b) 91-97(h) 91-119 91-127(k)(1)	This section of the Code of Virginia requires provisions for adequate drainage, flood control, dam break inundation zones, light/air, and soil characteristics. The purpose and intent established in Section 91-2 acknowledges the importance of subdivision regulations in providing adequate light and air, as well as protection from flooding. Section 91-76 provides drainage standards, including those intended to comply with Chesapeake Bay preservation regulations. Construction standards for streets require consideration of soils, their load bearing capacities, and stabilization (Sections 91-95 and 91-97). The environmental resource impact analysis required for certain types of subdivision also includes requirements intended to address the items specified in this section of state code. According to the Virginia Flood Risk Information Systems (VFRIS) map, there are several dam break inundation zones in New Kent County. However, the Ordinance neither mentions these zones nor the associated requirement for a required engineering study (also see Line 34). Recommend including direct reference to this section of state code and stating that an engineering study is required for any proposed development within a dam break inundation zone.

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Line #	VA Code § 15.2-	Intent	Compliance	Existing Ordinance Section	Comments/Recommendations
7.	(A)(4)	<i>Street grading and improvements.</i>	Yes	91-74 91-75 91-76 91-90	This section of the Code of Virginia requires that streets and public utilities (such as water and storm/sanitary sewers) be constructed or improved as part of development. Section 91-74 requires the extension of public water to a subdivision if it is located within a public water service area; health department approval is required for private wells. Similar standards exist in Section 91-75 for sewer and septic. Drainage standards are provided in Section 91-76; Section 91-90 requires subdivisions to be designed with an accessible and connected street network.

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Line #	VA Code § 15.2-	Intent	Compliance	Existing Ordinance Section	Comments/Recommendations
8.	(A)(5)	<i>Acceptance of street-related improvements and requirements for guarantees.</i>	Partial	91-92(b) 91-47 91-52 91-57 91-74 91-75 91-109 91-110	This section of the Code of Virginia provides for the conditions under which the locality will accept roads, rights-of-way, and infrastructure for public maintenance. Performance bonds are addresses in Article V; Section 91-109 cites this section of state code and includes verbatim language. Section 91-92(b) requires adequate street rights-of-way to be platted and dedicated for public use. Submittal requirements for preliminary and development plans and final plats also include a requirement for all existing and platted streets and public rights-of-way to be noted on the plat. Standards for utilities vaguely reference dedication to the County (91-74 and 91-75) and Section 91-84 briefly addresses the dedication of land for public purposes. However, in both these sections and the sections addressing street standards, there is no clear language requiring dedication. Note that because New Kent is a County, the dedication would be to the Virginia Department of Transportation in most circumstances. Recommend updating the Ordinance to include the following language: “Dedications of easements and/or ROW to the Virginia Department of Transportation for public use shall be in accordance with Code of Virginia § 15.2-2241(A)(5)” and “A developer shall dedicate to the County for public use all water and sewer systems designed, constructed, and approved to be dedicated as public water and sewer systems.”

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9.	(A)(6)	<i>Conveyance of easements to utility and cable companies.</i>	Partial	91-69 91-70	This section of the Code of Virginia requires developers to grant shared utility easements so cable and communications providers have equal access to serve a subdivision once any utility easement is established. Section 91-69 and 91-70 generally address easements and utilities; however, the full provisions of and reference to this section of the Code of Virginia are not included, namely the 30-day timeframe for developer compliance. Recommend incorporating a direct reference to this section of the Code of Virginia and relevant language to achieve full compliance.
10.	(A)(7)	<i>Monument regulations.</i>	Yes	91-77	This section of the Code of Virginia allows localities to specify the type and placement of permanent survey monuments to define property lines and ROWs. Section 91-77 includes standards for survey monuments, including materiality and locations. The Ordinance requires the location of monuments to be notated on final plats and development plans. While the Subdivision Ordinance complies with this section of state code, recommend providing direct reference to this section of the Code of Virginia to strengthen the Ordinance.
11.	(A)(8)	<i>Plat recordation.</i>	Yes	91-63	This section of the Code of Virginia specifies that if final plats are not recorded within six months of approval, the approval will be withdrawn and the plat marked void. Also provides conditions for a recordation extension related to publicly dedicated improvements. The Ordinance includes language taken almost verbatim from this section of state code in Section 91-63.

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12.	(A)(9)	<i>Ordinance administration and enforcement.</i>	Yes	91-7 91-8 91-13	Provides for administration and enforcement of the Subdivision Ordinance, including review fees. The Subdivision Ordinance grants a subdivision administrator, the "Agent", authority to administer and enforce the Ordinance on behalf of the Board of Supervisors in Section 91-7. Sections 91-8 and 91-13 further detail Ordinance administration and enforcement, including the establishment of fees and procedures for penalizing violations.
13.	(A)(10)	<i>Family subdivisions.</i>	Yes	91-126	This section of the Code of Virginia provides for reasonable provisions for family subdivisions in accordance with § 15.2-2244. Section 91-126 includes special provisions for family subdivisions. For additional clarity, recommend including direct reference to § 15.2-2244 in the Ordinance text. Also see Line 35.
14.	(A)(11)	<i>Release of performance guarantees.</i>	Yes	91-109(d)	This section of the Code of Virginia provides for periodic partial and final release of performance guarantees. The Ordinance states that performance surety will be released in accordance with Code of Virginia § 15.2-2245 and therefore complies with this section of state code.

Line #	VA Code § 15.2-	Intent	Compliance	Existing Ordinance Section	Comments/Recommendations
15.	(A)(12)	<i>Authority to review commercial and residential development plans.</i>	No	No Reference	This section of the Code of Virginia provides for the review of plats, site plans, and development plans for commercial and residential projects in accordance with Code of Virginia §§ 15.2-2259 and 15.2-2260. The Subdivision Ordinance cites neither § 15.2-2259 and § 15.2-2260. Additionally, while the County has a plat review process, it neither complies with current statutes nor directly references those statutes. Recommend including direct reference to these sections of state code. Also see Lines 54 and 55.
16.	(A)(13)	<i>Review Comments and Required Changes.</i>	No	No Reference	This section of the Code of Virginia allows the locality to identify issues in proposed or resubmitted plans/plats and require changes before approval in accordance with Code of Virginia §§ 15.2-2259 and 15.2-2260. The Subdivision Ordinance cites neither § 15.2-2259 and § 15.2-2260. Additionally, while the County has a plat review process, it only partially complies with current statutes and does not directly reference those statutes. Recommend including direct reference to these sections of state code. Also see Lines 54 and 55.
17.	2241(B)	<i>Limits on performance guarantees.</i>	Yes	91-107 91-109	This section of the Code of Virginia limits bonding requirements to those improvements designated on the approved plat or plan. Sections 91-107 and 91-109 address surety in lieu of completion and state that this only applies to those physical improvements shown on the approved development plan and/or final plat.

Line #	VA Code § 15.2-	Intent	Compliance	Existing Ordinance Section	Comments/Recommendations
18.	2241.1	<i>Bonding requirements – guarantees not required prior to construction plans.</i>	No	91-109	This section of the Code of Virginia provides that bonds are not required to be provided for public use facilities until the construction plans are submitted. Section 91-109 requires applicants to post performance bonds prior to the recordation of the final plat, which occurs prior to the submittal of construction and/or as-built plans. Recommend including the following statement in the Ordinance: “In accordance with Code of Virginia § 15.2-2241.1, provided the developer and the County have agreed on the delineation of sections within a proposed development, the developer shall be required to furnish a bond for construction of public facilities only when construction plans are submitted for the section in which such facilities are to be located.”

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Line #	VA Code § 15.2-	Intent	Compliance	Existing Ordinance Section	Comments/Recommendations
19.	2241.2	<i>Bonding requirements – decommissioning of solar energy equipment, facilities, or devices.</i>	Partial	Zoning Ordinance – 98-878(6)	This section of the Code of Virginia provides that as a condition of site plan approval, a locality must require the owner, lessee, or developer to enter into a written decommissioning agreement for solar energy equipment, facilities, or devices. It was updated in 2026. Virginia localities typically address this through zoning regulations, and the County’s Zoning Ordinance (Sec. 98-878) does require the development of a decommissioning plan prior to site plan approval consistent with this section of state code. This language will need to be updated as the result of 2026 updates to the <i>Code of Virginia</i>; namely, adding language addressing stormwater provisions, along with changes in project ownership and the required timeframe for notifying the County accordingly. Recommend updating existing decommissioning requirements to align with state code. A definition of “decommissioning” that aligns with state code should also be provided in the Zoning Ordinance. Also recommend including a cross-reference to this zoning provision in the Subdivision Ordinance.
20.	2242(A)	<i>Optional provisions in subdivision ordinances (See Lines 21-32)</i>			

Line #	VA Code § 15.2-	Intent	Compliance	Existing Ordinance Section	Comments/Recommendations
21.	(A)(1)	<i>Subdivision exceptions.</i>	<i>Optional, Not Included</i>	Article VII	This section of the Code of Virginia allows localities to have a process for variations or exceptions to Subdivision Ordinance requirements. Article VII is entitled “Special Provisions and Exceptions”. However, this article primarily consists of additional standards for family divisions, cluster subdivisions, commercial and industrial subdivisions, and townhouse and condominium subdivisions. Additionally, there are various instances throughout the Ordinance where waivers and/or modifications are allowed, but there are no real procedures for variations or exceptions as established under this section of state code. Recommend introducing processes for variations and exceptions to the Subdivision Ordinance, as guided by state code. Additionally, recommend reviewing the extent of modifications and waivers allowed, and ensuring that these are reviewed and granted administratively in line with § 15.2-2259 (see Line 54).
22.	(A)(2)	<i>Public health official opinion or public system connection.</i>	<i>Optional, Included</i>	91-74 91-75	This section of the Code of Virginia allows localities to require public sewer connections or Health Department approval for private septic systems. Utility standards (Section 91-74 and 91-75) require connection to public water and sewer when available. If private wells or septic systems are utilized, then Health Department approval is required.

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Line #	VA Code § 15.2-	Intent	Compliance	Existing Ordinance Section	Comments/Recommendations
23.	(A)(3)	<i>Private street maintenance disclosure.</i>	<i>Optional, Included</i>	91-103(4)	This section of the Code of Virginia allows localities to require a notice on plats stating that private streets not built to VDOT standards will not be maintained by VDOT. Section 91-103(4) cites this section of state code directly and requires a plat disclosure that states streets shown on the plat are private, may not meet state standards, and will not be maintained by the Commonwealth of Virginia or New Kent County. The Ordinance also requires this disclosure to be included on all subsequent deeds of conveyance.
24.	(A)(4)	<i>Voluntary funding of off-site road improvements.</i>	<i>Optional, Not Included</i>	No Reference	This section of the Code of Virginia allows localities to permit voluntary funding of off-site road improvement by developers beyond what is strictly required. The Subdivision Ordinance does not include provisions for the voluntary funding and construction of off-site road improvements by a developer. Recommend including this optional provision and accompanying language, as written in this section of the Code of Virginia.
25.	(A)(5)	<i>Pro-rata reimbursement for roads.</i>	N/A	N/A	This section of the Code of Virginia allows certain localities to require developers to pay their share of off-site road improvements that serve their development, including reimbursing those who previously paid for those improvements. It only applies to Arlington County, Fairfax County, Loudoun County, Prince William County and any town located within such counties; in Bedford County, Pittsylvania County, Spotsylvania County, and Stafford County; or in the Cities of Alexandria, Chesapeake, Fairfax, Falls Church, Hampton, Manassas, Manassas Park, and Portsmouth.

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Line #	VA Code § 15.2-	Intent	Compliance	Existing Ordinance Section	Comments/Recommendations
26.	(A)(6)	<i>Solar energy provision.</i>	<i>Optional, Not Included</i>	No Reference	This section of the Code of Virginia allows localities to have provisions for establishing and maintaining access to solar energy to encourage the use of solar heating and cooling devices in new subdivisions. The County's Zoning Ordinance conditionally allows solar generation facilities in the Agricultural and Industrial zoning districts. New Kent County may consider incorporating this optional provision into the Subdivision Ordinance, but Berkley Group typically does not recommend inclusion.
27.	(A)(7)	<i>Escrowed funds.</i>	N/A	N/A	Not applicable to New Kent County. This section of the Code of Virginia allows towns with a population between 14,500 and 15,000 to use escrowed developer funds for different but similar improvements, with consent and under specific conditions.

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28.	(A)(8)	<i>Cluster developments.</i>	<i>Optional, Partially Included</i>	91-127	This section of the Code of Virginia allows localities to have cluster developments in accordance with § 15.2-2286.1. Between 2010 and 2020, New Kent County's population increased by 24.5% (U.S. Census), which exceeds the 10% minimum required to enforce this provision. The Subdivision Ordinance includes provisions for cluster development in 91-127. While the cluster provisions are largely compliant with what is permissible under § 15.2-2286.1, several updates are needed for full compliance: • Recommend allowing cluster development in the agricultural zoning district and in R-1 and not solely limiting it to specific areas as designated by the Comprehensive Plan. • Recommend eliminating Board of Supervisors approval for variations in open space/recreational space; this is also no longer permissible under § 15.2-2259.

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Line #	VA Code § 15.2-	Intent	Compliance	Existing Ordinance Section	Comments/Recommendations
29.	(A)(9)	<i>Sidewalk provisions.</i>	<i>Optional, Included</i>	91-99	This section of the Code of Virginia allows localities to require construction of sidewalks or dedication of the land to do so. Section 91-99 requires construction of sidewalks along at least one side of all minor collector and higher order streets, as well as in certain types of residential developments. The extension of sidewalks is also required concurrently with any extensions of existing streets. It is worth noting that this section also states that Zoning Ordinance standards for sidewalks apply. As a best practice to avoid provisions that are either conflicting or redundant, recommend relocating all sidewalk standards from the Zoning Ordinance into subdivision standards. Should the County prefer retaining sidewalk standards in the Zoning Ordinance, the Subdivision Ordinance can be updated to include a cross-reference to zoning for clarity.
30.	(A)(10)	<i>Phase I Environmental Site Assessment (ESA).</i>	<i>Optional, Not Included</i>	No Reference	This section of the Code of Virginia allows localities to require a Phase I Environmental Site Assessment. New Kent County does not include this optional provision. Recommend allowing the Subdivision Agent to require a Phase I Environmental Site Assessment in accordance with ASTM E1527-21 for subdivisions located on former industrial properties and including a reference to this section of the Code of Virginia.

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31.	(A)(11)	<i>Contamination disclosure and remediation.</i>	<i>Optional, Not Included</i>	No Reference	This section of the Code of Virginia allows localities to require disclosure of any possible sources of contamination on subdivided land as well as require remediation prior to subdivision approval. Recommend including a provision to require the disclosure of contamination and other adverse environmental conditions, with direct reference to this section of the Code of Virginia.
32.	(A)(12)	<i>Dedication of land for sidewalk in the Northern Virginia Transportation District.</i>	N/A	N/A	Not applicable to New Kent County. This section of the Code of Virginia is only applicable to towns located in the Northern Virginia Transportation District: the Counties of Arlington, Fairfax, and Loudoun; the Cities of Alexandria, Falls Church, and Fairfax; and such other county or city contiguous to the district that agrees to join the district.
33.	(A)(13)	<i>Electric vehicle (EV) infrastructure</i>	<i>Optional, Not Included</i>	No Reference	This section of the Code of Virginia is new and allows localities to include requirements for electric vehicle (EV) supply equipment, EV-ready charging spaces, or EV-capable parking spaces that provide infrastructure to facilitate future EV charging, including electrical capacity, prewiring, and conduit, as part of subdivision or site plan approval for a development containing commercial, industrial, or multifamily residential uses. Recommend including this optional provision in New Kent County's Ordinance.
34.	2243	<i>Pro rata optional payments.</i>	<i>Optional, Included</i>	91-74 91-75 91-76	This section of the Code of Virginia allows localities to require pro rata payments by a developer for utility improvements located outside the development. Direct reference to this section of state code is included in reference to off-site water, sewer, and drainage improvements.

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Line #	VA Code § 15.2-	Intent	Compliance	Existing Ordinance Section	Comments/Recommendations
35.	2243.1	<i>Dam break inundation zone payment.</i>	No	Not Included	This section of the Code of Virginia requires a developer to supply an engineering study if a development lies within a dam break inundation zone. According to the Virginia Flood Risk Information Systems (VFRIS) map, there are several dam break inundation zones in New Kent County. However, the Ordinance neither mentions these zones nor the associated requirement for a required engineering study. Recommend including direct reference to this section of state code and stating that an engineering study is required for any proposed development within a dam break inundation zone.

Line #	VA Code § 15.2-	Intent	Compliance	Existing Ordinance Section	Comments/Recommendations
36.	2244	<i>Family subdivisions.</i>	Partial	91-126	This section of the Code of Virginia outlines requirements for family subdivisions. All counties are required to include reasonable provisions for family divisions under § 15.2-2244.A.; § 15.2-2244.C. allows for the sale or gift of a lot to a family member provided the locality had a population growth of at least 10% in the last decennial census or is adjacent to such a county. New Kent is a County and therefore required to include family subdivisions, although it is worth noting that between 2010 and 2020, New Kent County's population increased by 24.5% (U.S. Census), which exceeds the 10% minimum required by § 15.2-2244.C to include this provision in the Subdivision Ordinance. Section 91-126 addresses special provisions for family subdivisions and aligns with this section of state code. However, the definition of "immediate family" excludes "stepchild", which is now included in § 15.2-2244. Recommend updating the provided definition of "immediate family" for full alignment with what is provided in the Code of Virginia. Also recommend including direct reference to § 15.2-2244 to strengthen this section of the Ordinance.
37.	2244.1	<i>Additional family subdivision option.</i>	Optional, Included	91-126(a)	This section of the Code of Virginia allows localities permitting family subdivisions under § 15.2-2244 to require up to 15 years ownership/retention, but may require less. New Kent County includes three-year ownership and two-year retention periods for family subdivisions. This falls under the parameter established by state code.

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38.	2244.2	<i>Family subdivisions conveyed to family trust beneficiaries option.</i>	<i>Optional, Not Included</i>	No reference	The Subdivision Ordinance does not mention trust beneficiaries with family subdivisions. Recommend adding trust beneficiaries in accordance with Code of Virginia § 15.2-2242; however, it is not required.
39.	2245	<i>Performance guarantees – partial and final release.</i>	Yes	91-109(d)	This section of the Code of Virginia requires localities to provide for periodic partial and final release of performance guarantees. The Ordinance states that performance surety will be released in accordance with Code of Virginia § 15.2-2245 and therefore complies with this section of state code.
40.	2245.1	<i>Restrictions on tree removal for stormwater management facilities.</i>	Yes	No Reference	This section of the Code of Virginia allows localities to permit, but not require, the removal of trees for stormwater management infrastructure. The Subdivision Ordinance does not require the removal of trees for stormwater management ponds (no mention is made); therefore, it complies with this section of the Code of Virginia.

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Line #	VA Code § 15.2-	Intent	Compliance	Existing Ordinance Section	Comments/Recommendations
41.	2246	<i>Site plans submitted in accordance with the zoning ordinance.</i>	Partial	91-10 91-71	This section of the Code of Virginia requires that site plans submitted for compliance with the Zoning Ordinance must also comply with subdivision review, approval, and bonding procedures where applicable. Section 91-10 states that the County's Zoning Ordinance and Map shall control the type and intensity of all uses within the County, and that an approved site plan is required for subdivision plats for lots with townhouses, condominiums, multiplexes, and shopping centers. Section 91-71 requires lot dimensions to adhere to the Zoning Ordinance, and plan/plat submittal requirements include requirements for notations of zoning district and other associated zoning requirements. While it is heavily implied in the Subdivision Ordinance that compliance with zoning standards is required, it is not explicitly stated. Recommend clearly stating that all subdivisions must comply with the Zoning Ordinance and including direct reference to § 15.2-2246.
42.	2247	<i>Applicability of subdivision ordinance to manufactured homes.</i>	N/A	N/A	Not applicable to New Kent County. This section of the Code of Virginia is an optional provision for localities that do not have a Zoning Ordinance to provide for manufactured homes and manufactured home parks. New Kent County's Zoning Ordinance currently regulates manufactured homes.
43.	2248	<i>Application of municipal subdivision regulations beyond municipal limits.</i>	N/A	N/A	Not applicable to New Kent County. This section of the Code of Virginia allows certain municipalities to apply their subdivision requirements to land beyond their corporate limits. Applies only to municipalities in Giles, Clarke, Culpeper, Loudoun, and Mecklenburg Counties.

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44.	2249	<i>Application of County subdivision regulations within municipal limits.</i>	N/A	N/A	Not applicable to New Kent County. This section of the Code of Virginia allows certain counties to apply their subdivision regulations within a municipality's corporate limits. Applies only to Giles, Clarke, Culpeper, Loudoun, and Mecklenburg Counties.
45.	2250	<i>County and municipality disagreements.</i>	N/A	N/A	Not applicable to New Kent County. When disagreements arise, this section of the Code of Virginia allows certain Counties and municipalities to petition the Circuit Court. Applies only to Giles, Clarke, Culpeper, Loudoun, and Mecklenburg Counties and their municipalities.
46.	2251	<i>Preparation and recommendation of Subdivision Ordinance.</i>	No	Not Included	This section of the Code of Virginia requires the Planning Commission to prepare and recommend the Subdivision Ordinance, with public hearings and notice in accordance with § 15.2-2204. The Subdivision Ordinance does not include this language. Berkley Group recommends adding language to indicate that the Ordinance was adopted in accordance with the provisions in this section of the Code of Virginia. Code of Virginia §§ 15.2-2251 through 15.2-2253 can be referenced in the same introductory section of the Subdivision Ordinance.

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47.	2252	<i>Filing and recording of Subdivision Ordinance.</i>	No	Not Included	This section of the Code of Virginia requires the adopted Subdivision Ordinance to be filed in an office of a locality official (typically the Subdivision Agent) and in the Clerk's office of the Circuit Court. The Subdivision Ordinance does not include this language. Recommend incorporating information related to the filing and recording of an ordinance or amendments, with reference to this section of the Code of Virginia. This statement can be included with the language referenced in Line 46, above.
48.	2253	<i>Subdivision Ordinance amendments.</i>	Partial	91-17	This section of the Code of Virginia requires the Planning Commission to prepare and recommend amendments to the Subdivision Ordinance. Section 91-17 states that amendments to the Subdivision Ordinance will be made in accordance with the applicable provisions of state code, but additional detail is needed for transparency and full compliance. Recommend incorporating information related to the amendment of the Subdivision Ordinance, with reference to this section of the Code of Virginia. This statement can be included with the language referenced in Lines 46 and 47, above.
49.	2254	<i>Statutory provisions of adopted ordinance.</i>	Yes	91-6	Section 91-6 includes language taken almost verbatim from this section of state code. The Subdivision Ordinance complies with this section of the Code of Virginia, but recommend including direct reference to § 15.2-2254 for additional clarity.

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Line #	VA Code § 15.2-	Intent	Compliance	Existing Ordinance Section	Comments/Recommendations
50.	2255	<i>Authority to administer/enforce regulations.</i>	Yes	91-7	This section of the Code of Virginia empowers localities to administer and enforce the Subdivision Ordinance. The Subdivision Ordinance states that the Agent is authorized to administer the regulations of the Ordinance on behalf of the Board of Supervisors. The Ordinance complies with this Section of the Code of Virginia.
51.	2256	<i>Procedure to account for fees for common improvements.</i>	N/A	Not Included	This section of the Code of Virginia is for subdivisions that have an HOA, Board of Directors, or similar governing body. It states that the Board shall prepare an annual report of all fees collected and payments made for improvements. The Subdivision Ordinance only briefly mentions property owners' association (POA) maintenance of easements and private streets but lacks detail, and this provision of state code is not included. A definition of "property owners' association" is provided; however, it cites a section of state code that has been repealed. While compliance with this specific statute is ultimately the responsibility of an HOA/POA and not New Kent County, as a best practice, recommend introducing language for HOAs/POAs into the Subdivision Ordinance. Typical language addresses maintenance of utilities and private streets; requirements associated with by-laws and restrictions; annual reporting; and a statement that the locality bears no responsibility for enforcing or administering and established HOA/POA. Also recommend updating the definition of "property owners' association" to reference the current version of state code.
52.	2257	Procedure to modify certain covenants in Shenandoah County	N/A	N/A	Not applicable to New Kent County. This section of the Code of Virginia only applies to Shenandoah County.

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53.	2258	<i>Plat submittal requirements.</i>	Partial	91-47 91-52 91-57 91-61	This section of the Code of Virginia requires submission of a subdivision plat to the Designated Agent and the delineation of certain features. Also clarifies jurisdictional review responsibilities and applies subdivision procedures to site plans where appropriate. Several sections in Article III provide the required items for preliminary plans, development plans, final plat, and record plat submittal; the Ordinance further states that all plans/plats are to be submitted to the Agent. The Subdivision Ordinance does not currently require plats to identify dam break inundation zones, nor does it require plats to be reviewed by all localities in which a subdivision lies. The Ordinance also does not require for drainage districts to be notated on plats, although it is possible there are no drainage districts within New Kent County. Recommend including dam break inundation zones as required items to be shown on plats in accordance with this section of the Code of Virginia. Berkley Group also recommends including a requirement that if land for a subdivision lies wholly or partly within two localities, the plat be submitted to all localities for review. If drainage districts are present within New Kent County, plan/plat standards should also be updated to require the delineation of those districts.

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Line #	VA Code § 15.2-	Intent	Compliance	Existing Ordinance Section	Comments/Recommendations
54.	2259	<i>Plat review timeframes.</i>	No	Various	This section of the Code of Virginia requires that the Designated Agent (Subdivision Agent) review and approve/disapprove plats within certain timeframes. The Subdivision Ordinance requires plats and plans to be submitted for review to the “Agent”, who is defined in Section 91-5 to be the County Director of Planning or designee. This aligns with July 1, 2025 amendments to this section of state code, which now prohibit governing bodies and Planning Commissions from having review authority for plans and plats. However, various sections of the Ordinance reference the Board of Supervisors reviewing and approving requests for waivers and/or modifications, which is no longer permissible under this section of state code. All waiver requests must now be reviewed administratively. Additionally, the Ordinance provides an option for preliminary plan review by the Planning Commission; this also is no longer allowed. The Ordinance does not provide for the required 45-day review timeframe for resubmitted preliminary plans and development plans. Final plat standards allow up to 60 days for the subdivider to resubmit (Sec. 91-30(2)(d)), but clarity is not provided about the Agent’s role in the resubmittal process. Additionally, the new 40-day timeframe for review of plans/plats of solely commercial or residential development is not addressed. Recommend clearly stating that review of all plans and plats shall occur in accordance with Code of Virginia § 15.2-2259.

Line #	VA Code § 15.2-	Intent	Compliance	Existing Ordinance Section	Comments/Recommendations
55.	2260	<i>Preliminary plat submission.</i>	Partial	91-27 91-28 91-28(4) 91-29(4) 91-32	This section of the Code of Virginia allows localities to require preliminary plats and defines how long preliminary plat approvals remain valid (five years). The Ordinance requires the submittal of a preliminary plan unless otherwise exempt (Sections 91-27 and 28). This does not comply with the state code requirement that localities can only require preliminary plats for subdivisions of at least 51 lots. The Ordinance also states that once approved, preliminary plans are valid for five years. Language in Section 91-32 states that failure to diligently pursue approval of a final plat within three years of preliminary plan approval shall be grounds for the County to revoke the approval, which aligns with the parameters established in this statute. Recommend explicitly stating that preliminary plan submittal is optional, not mandatory, for subdivisions of 50 lots or less.
56.	2261	<i>Validity of recorded plats and final site plans.</i>	No	Not Included	This section of the Code of Virginia requires that recorded subdivision plats and final site plans be valid for at least five years. Newer legislation states that if a recorded subdivision plat dedicates real property to a locality, then the approved final subdivision plats shall remain valid indefinitely. The Ordinance does not include this provision of state code. Recommend clearly stating that recorded plats shall be valid for at least five years – or valid indefinitely if dedicating real property to New Kent County – and including direct reference to this section of state code.

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Zoning and Subdivision Ordinance Update
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Line #	VA Code § 15.2-	Intent	Compliance	Existing Ordinance Section	Comments/Recommendations
57.	2261.1	<i>Recorded plat or final site plans; conflicting zoning conditions.</i>	N/A	N/A	This section of the Code of Virginia establishes that a recorded plat or recorded site plan approved by the governing body controls when it conflicts with zoning conditions from a previous rezoning approval. This provision does not need to be stated in the Ordinance. However, including a reference to § 15.2-2261.1 can help avoid confusion if there are conflicts with older rezoning conditions. Recommend adding reference to Code of Virginia § 15.2-2261.1 clarifying the effect of governing-body-approved, recorded plats, or site plans in the event of a conflict with prior rezoning conditions.
58.	2262	<i>Requisites of plat.</i>	Yes	91-57(16)	This section of the Code of Virginia requires that plats be prepared by a certified professional engineer or land surveyor, who must also provide the source of title. Section 91-57(16) includes direct reference to § 15.2-2262. While the Ordinance complies with state code, recommend adding “certified engineer” to the provision for clarity and to further strengthen compliance.
59.	2263	<i>Expedited review in certain localities.</i>	N/A	N/A	Not applicable to New Kent County. This section of the Code of Virginia allows certain localities to apply establish an separate review procedure for expedited review. Applies only to the Counties of Hanover, Loudoun, Montgomery, Prince William, and Roanoke, and the Town of Leesburg.

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Line #	VA Code § 15.2-	Intent	Compliance	Existing Ordinance Section	Comments/Recommendations
60.	2264	<i>Statement of consent to subdivision.</i>	Partial	91-57(15)	This section of the Code of Virginia requires a statement of consent to subdivide on all plats. The final plat submittal requirements (Section 91-57) include direct reference to this section of state code.
61.	2265	<i>Recordation of approved plat – transportation implications.</i>	No	Not Included	This section of the Code of Virginia states that when a subdivision plat is approved and recorded, it automatically transfers to the locality fee simple title to the land shown as streets, alleys, or for public use and conveys any public easements depicted on the plat, while extinguishing other local interests not shown thereon. The Subdivision Ordinance does not contain this language. As a best practice, recommend including the following into the Subdivision Ordinance: “Recordation of Final Plats shall act as transfer of streets, and the termination of easements and rights-of-way, as outlined in the Code of Virginia § 15.2-2265.”
62.	2266	<i>Validation of plats prior to 1975.</i>	No	No Reference	This section of the Code of Virginia validates any plats recorded prior to 1975, even if technical requirements for recordation were not complied with at the time. The Subdivision Ordinance does not mention plats recorded prior to January 1, 1975, or that they are declared valid and effective. Recommend incorporating the following statement: “Subdivision plats recorded prior to January 1, 1975, that were otherwise valid when recorded, shall be deemed valid and effective in accordance with Code of Virginia § 15.2-2266.”

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Line #	VA Code § 15.2-	Intent	Compliance	Existing Ordinance Section	Comments/Recommendations
63.	2267	<i>Petition to restrict access to certain public streets.</i>	<i>Optional, Not Included</i>	No Reference	This section of the Code of Virginia allows for a petition by two-thirds of a subdivisions' owners to restrict access to a subdivision, allowing only owners/inhabitants of the subdivision to have access. New Kent County may consider including this provision as set forth in this section of the Code of Virginia; however, Berkley Group does not recommend as a best practice.
64.	2268	<i>Localities not obligated to pay for grading, paving, etc.</i>	Yes	91-68 91-109	This section of the Code of Virginia provides that localities are not obligated to pay for grading, paving, sidewalk, sewer, or curb and gutter improvements in a subdivision. Section 91-68 states that all required improvements must be installed by the subdivider at their cost. Section 91-109 also states that the subdivider shall be fully responsible for acquiring any property rights on behalf of New Kent County necessary for the completion and/or maintenance of the subdivision improvements, and that the subdivider is also completely responsible and liable for the entire cost of completing and/or correcting the improvements. Compliance can be strengthened through including direct reference to § 15.2-2268 for additional clarity.
65.	2269	<i>Plans and specifications for utility fixtures and systems.</i>	Yes	91-52	This section of the Code of Virginia requires submission of engineering plans/specifications for utility systems (power, water, sewer, etc.) as part of subdivision review. Section 91-52(8) requires plan and profile views of all utility placements, with supporting documentation, to be submitted at the development plan stage. Compliance can be strengthened through including direct reference to § 15.2-2269 for additional clarity.

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Line #	VA Code § 15.2-	Intent	Compliance	Existing Ordinance Section	Comments/Recommendations
66.	2270	<i>Vacation of interests granted to a locality as a condition of site plan approval.</i>	Yes	Sec. 91-33	This section of the Code of Virginia allows vacation (release) of interests granted to a locality as a condition to site plan approval, through specified procedural steps. The Ordinance achieves compliance through including direct reference to this section of state code in Section 91-33.
67.	2271	<i>Vacation of plat before sale of lot.</i>	Yes	Sec. 91-33	This section of the Code of Virginia provides for localities to allow vacation of a subdivision plat (or portion thereof) before any lot is sold, either by instrument in writing or by ordinance of the governing body. The Ordinance achieves compliance through including direct reference to this section of state code in Section 91-33.
68.	2272	<i>Vacation of plat after sale of lot.</i>	Yes	Sec. 91-33	This section of the Code of Virginia provides that, when a recorded plat is vacated, the title to the lots reverts to the original owners (or their heirs), either by instrument in writing or by ordinance of the governing body. The Ordinance achieves compliance through including direct reference to this section of state code in Section 91-33.
69.	2273	<i>Authority to charge fee for plat vacation.</i>	Optional, Included	Sec. 91-13(4)	This section of the Code of Virginia allows for plat vacation fees of up to \$150. Section 91-13(4) states that New Kent County charges a fee for processing an application to vacate a plat or part thereof; however, the fee is not specified in the Appendix A, Zoning and Subdivision Fees. The County should verify that its fee for plat vacation is established and does not exceed \$150.

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Line #	VA Code § 15.2-	Intent	Compliance	Existing Ordinance Section	Comments/Recommendations
70.	2274	<i>Effect of plat vacation.</i>	Yes	91-33	This section of the Code of Virginia states that once a plat (or portion thereof) is vacated, it is no longer valid and any lots or rights-of-way shown on the plat are eliminated. Section 91-33 states that "Any recorded plat or part thereof, may be vacated pursuant to the provisions of Sections 15.2-2270, 15.2-2271, or 15.2-2272 et seq., Code of Virginia, as applicable."
71.	2275	<i>Relocation or vacation of boundary lines.</i>	Optional, Included	91-27	This section of the Code of Virginia permits a locality to allow for the vacation or relocation of any boundary lines of an approved/recorded plat (also known as boundary line adjustments and extinguishments). Boundary line adjustments (BLAs) and lot consolidations are identified as subdivision types in 91-27; a final plat is required for both. Recommend including provisions for the vacation of boundary lines with a direct reference to § 15.2-2275.
72.	2276	<i>Duty of clerk for vacated plat.</i>	N/A	Not Included	This section of the Code of Virginia imposes duties on the Clerk of the Court regarding recordation of vacated plats. While compliance with this statute is ultimately the responsibility of the Clerk of the Circuit Court and not New Kent County, as a best practice for clarity, recommend including direct reference to § 15.2-2276. See Line 74.
73.	2277	<i>Franklin County Deed Notice of Road Responsibility; Secondary System Eligibility.</i>	N/A	N/A	Not applicable to New Kent County. This section of the Code of Virginia authorizes Franklin County to require a recorded deed notice disclaiming public acceptance and maintenance of roads serving parcels of five acres or more, and provides eligibility for certain streets to be accepted into the secondary system.

Line #	VA Code § 15.2-	Intent	Compliance	Existing Ordinance Section	Comments/Recommendations
74.	2278	<i>Vacating plat of subdivision.</i>	Yes	Sec. 91-33	This section of the Code of Virginia addresses vacating all plats in accordance with §§ 15.2-2272, 15.2-2274, and 15.2-2276. Section 91-33 of the Ordinance includes references to Code of Virginia §§ 15.2-2270, 15.2-2271, and 15.2-2272, et seq. While the Ordinance technically complies with this statute, for complete clarity, recommend editing language to state “§§ 15.2-2270 through 15.2-2276”.
75.	2279	<i>Authority to set homebuilding, setback lines, etc.</i>	Yes	Sec. 91-10(a)	This section of the Code of Virginia permits localities to establish regulations for setbacks, yards, minimum lot sizes, etc. These regulations can be found in the Zoning Ordinance. The Subdivision Ordinance states that the Zoning Ordinance will control the type and intensity of all development within New Kent County, including minimum lot sizes, setbacks, and other associated dimensional standards. The Ordinance therefore complies with this section of state code.

Additional Subdivision Ordinance Recommendations

Additional consultant recommendations begin on the following page.

New Kent County
Zoning and Subdivision Ordinance Update
Appendix B. Code of Virginia Diagnostic Matrix – Subdivision Ordinance



Line #	Topic	Consultant Comments / Recommendations
A.	General Structure and Contents	Recommendations pertaining to the general structure, organization, and format of the Ordinance include: • Simplify the language throughout the entire Ordinance for easier interpretation, especially for the public. This can be done through reducing jargon, introducing more multi-level lists, and simply referencing state code sections in lieu of including lengthy sections of text. • Instead of relegating diagrams and layouts to an appendix, recommend relocating them next to the text they are intended to illustrate. This allows them to serve as useful visual aids for complex regulations. • “Like” provisions should be kept together in the same section and/or division of the Ordinance, particularly for plan and plat requirements, which are currently contained in two separate articles.
B.	Recent Legislative Updates of Relevance	Recent amendments to the Code of Virginia (July 1, 2025) have updated the subdivision plat review process to authorize a locality’s designated agent, such as the Subdivision Administrator or another appointed official, to approve subdivision plats administratively, rather than requiring action by the governing body or Planning Commission. This round of legislative amendments also shortened the timeframe for forwarding plats to state agencies or public authorities (when applicable), requiring transmittal within five (5) business days of receipt of the plat in question, reduced from the previous ten. These changes can be incorporated into the Ordinance through a direct reference to the applicable state code section, allowing the Ordinance to remain current in the event of future amendments.
C.	Plan and Plat Review	The Subdivision Ordinance does not currently comply with Code of Virginia § 15.2-2260, which states that preliminary plats are only required for subdivisions of more than 50 lots. New Kent County’s Ordinance does not specify that preliminary plans and development plans are optional for less than 51 lots. Plan and plat review requirements should also be updated to ensure that all required timeframes and language are provided.
D.	Terms and Definitions	Most terms used in the Subdivision Ordinance are given a definition. Recommend reviewing all definitions and updating as appropriate for clarity. If a term is not utilized in the Subdivision Ordinance, it does not need to be included in the definitions list; for example, “tree crown” and “tidal shore”. Where terms are used in both the Zoning and Subdivision Ordinances, definitions should be reviewed to ensure that they are the same and do not conflict. Consolidating the ordinances into a single ordinance or unified development code can also help achieve this by eliminating redundancy.
E.	Mandatory <i>Code of Virginia</i> Provisions	There are many provisions in the Code of Virginia that localities are required to incorporate into a Subdivision Ordinance. New Kent County’s Ordinance is currently lacking or has only partially included several of those provisions. Incorporating all missing information identified in this diagnostic will ensure compliance with the Code of Virginia, improve transparency for the public, and strengthen the County’s ability to enforce the Ordinance.

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Appendix B. Code of Virginia Diagnostic Matrix – Subdivision Ordinance



Line #	Topic	Consultant Comments / Recommendations
F.	Performance and Maintenance Guarantees (Bonds)	The Subdivision Ordinance does not explicitly require the dedication of public utilities and roads to New Kent County, although this is implied in various places. While state code provides that bonds are not required to be provided for public use facilities until the construction plans are submitted, the Ordinance requires applicants to post bond before the final plat is recorded, which typically occurs prior to the submittal of construction and/or as-built plans. Additionally, the County's language addressing performance guarantees is very complex and would benefit from simplification. Direct reference to the pertinent state code sections can be used to achieve compliance rather than including all text verbatim in lengthy paragraphs.
G.	Cluster Subdivisions	Standards for cluster development are addressed in Code of Virginia § 15.2-2286.1. Assuming localities meet the criteria for allowing cluster development, localities are permitted to provide standards in either the zoning or subdivision ordinances. New Kent County includes standards for cluster development in the Subdivision Ordinance. While the standards largely comply with state code, revisions should be made to tie cluster development to zoning districts and not to the Comprehensive Plan. Additionally, cluster standards should be closely reviewed in their entirety to provide developers with greater flexibility for creative lot layout. Introducing a density bonus for cluster development is another tool that the County may consider to facilitate cluster subdivisions while providing enhanced community and environmental benefit.
H.	Relationship to the Zoning Ordinance	There are several standards in the Subdivision Ordinance that address community design and therefore would be most appropriate for inclusion in zoning standards, particularly standards for sight triangles, landscaping, recreational open space, and outdoor lighting. As standards are relocated, they should be reviewed against existing zoning provisions to eliminate redundancy and address any internal conflicts.

Source: <https://law.lis.virginia.gov/vacode/title15.2/chapter22/>

Appendix C

Chesapeake Bay Preservation Act Diagnostic

DIAGNOSTIC COMPLIANCE KEY

- **Yes:** The Ordinances include the provisions of the associated CBPA section.
- **Partial:** The Ordinances integrates some, but not all, provisions of the associated CBPA section.
- **No:** The Ordinances does not integrate most or any provisions of the associated CBPA section.
- **N/A:** The associated CBPA section does not apply to New Kent County.

Line #	VA Admin. Code Section 9VAC25-830-	Intent	Compliance	Existing Ordinance Section	Comments/Recommendations
<i>Note: Berkley Group is not updating Chapter 94, but is including this matrix and associated report analysis for reference, as well as for awareness for certain provisions that do tie directly to zoning and subdivision standards.</i>					
1.	Part I. Introduction	10	<i>Application of regulations.</i>	Yes	Chapter 94, Article II This section of the Virginia Administrative Code states that all counties, cities, and towns in Tidewater Virginia (as defined in Code of Virginia § 62.1-44.15:68) shall comply with the Chesapeake Bay Preservation Area (CBPA) regulations. As a Tidewater locality, New Kent County has adopted a local Chesapeake Bay Preservation Ordinance.
2.		20	<i>Authority for chapter.</i>	Yes	Sec. 94-31 This section of the Virginia Administrative Code states that VAC Title 9, Agency 25, Chapter 830 is issued under the authority of the Chesapeake Bay Preservation Act. Sec. 94-31(c) confirms that local CBPA regulations are authorized by state code, but cites an outdated Code of Virginia section. Recommend revising state code reference to Code of Virginia § 62.1-44.15:74.

Line #	VA Admin. Code Section 9VAC25-830-		Intent	Compliance	Existing Ordinance Section	Comments/Recommendations
3.		30	<i>Purpose of chapter.</i>	Yes	Sec. 94-31	This section of the Virginia Administrative Code states the purpose for the chapter, as authorized in Code of Virginia § 62.1-44.15:72. The purpose statement provided in Sec. 94-31(a) is consistent with the purpose of this VAC chapter; however, the referenced state code section is outdated. Recommend revising state code reference to Code of Virginia § 62.1-44.15:74.
4.	Part I. Introduction	40	<i>Definitions.</i>	Partial	Sec. 94-33	This section of the Virginia Administrative Code supplies definitions for terms that are related to, or used in, 9VAC25-830. Sec. 94-33 includes most of the CBPA-related definitions verbatim from this section of state code, but some terms should be added or updated. Additionally, several of the state code references included in definitions are outdated and should be updated. Recommend adding or updating the following CBPA terms: <i>adaptation measure, canopy tree, daylighted stream, mature tree, nature-based solution, and understory tree.</i>

Line #	VA Admin. Code Section 9VAC25-830-		Intent	Compliance	Existing Ordinance Section	Comments/Recommendations
5.	Part II. Local Government Programs	50	Local program development.	Yes	Sec. 94-31	This section of the Virginia Administrative Code requires local governments to develop and coordinate local programs to comply with the Chesapeake Bay Preservation Act to protect and improve water quality, prevent pollution, and conserve water resources. The purpose statement provided in Sec. 94-31(a) is consistent with the language of this VAC section.
6.		60	Elements of Program: (See Lines 7-13)			
7.	Part II. Local Government Programs	60(A)(1)	Map delineating the CBPA.	Partial	Sec. 94-35	Sec. 94-35 contains a brief statement that an RPA map is provided as a planning tool, but does not mention the RMA. The CBPA Ordinance does not contain an applicability statement confirming that all applicable preservation areas are identified on a map. However, the CBPA map is available online through the County's website and is also included in the Comprehensive Plan. Recommend adding a statement that all known Chesapeake Bay Preservation Areas are delineated on an official CBPA map.
8.		60(A)(2)	Performance criteria in accordance with 9VAC25-830-120 et seq.	Partial	Various	See Lines 19-23 for additional comments.
9.		60(A)(3)	Comprehensive Plan.	Yes	See 2045 Comp. Plan	The Comprehensive Plan includes language for Chesapeake Bay Preservation Areas and the CBPA map.

Line #	VA Admin. Code Section 9VAC25-830-		Intent	Compliance	Existing Ordinance Section	Comments/Recommendations
10.		60(A)(4)	<i>Zoning Ordinance.</i>	Yes	Sec. 98-5 Sec. 98-865	Section 98-5(b) requires zoning permits to be in accordance with Chapter 94, Article II. Sec. 98-865 further requires all site plans to delineate the RPA and required buffer areas.
11.		60(A)(5)	<i>Subdivision Ordinance.</i>	Yes	Sec. 91-47 Sec. 91-52 Sec. 91-74 Sec. 91-75	The CBPA is required to be delineated on all preliminary plats and plans of development. Water and sewer utilities are also required to be constructed and maintained in accordance with Chapter 94 (Sections 91-74 and 91-75).
12.	Part II. Local Government Programs	60(A)(6)	<i>Plan of development process prior to issuance of building permits.</i>	Yes	Sec. 18-84 Sec. 94-42	Section 94-42 details the CBPA plan of development process, which is required in addition to a site plan/zoning permit required under the Zoning Ordinance. Section 18-84 further confirms that zoning permits are required prior to issuance of a building permit.
13.		60(B)	<i>Website elements.</i> Requires all Tidewater localities to publish information about their CBPA programs on their websites.	Yes	N/A	The County's website includes information about the local CBPA program.
14.	Part III. CBPA Designation	70	<i>Purpose of CBPA designation criteria.</i>	N/A	N/A	This section of the Virginia Administrative Code states the purpose of state criteria for designating CBPAs. This section does not impose regulatory requirements at the local level, but is included here for reference.

Line #	VA Admin. Code Section 9VAC25-830-	Intent	Compliance	Existing Ordinance Section	Comments/Recommendations
15.	80	<i>Resource Protection Areas.</i>	Yes	Sec. 94-35	This section of the Virginia Administrative Code supplies the criteria for RPA designation. Section 94-35 reflects the RPA designation criteria using language verbatim from this section of state code.
16.		<i>Resource Management Areas.</i>	Yes	Sec. 94-36	This section of the Virginia Administrative Code supplies the criteria for RMA designation. Section 94-36 reflects the RPA designation criteria.
17.	Part III. CBPA Designation Criteria	<i>Intensely Developed Areas.</i>	N/A	N/A	This section of the Virginia Administrative Code allows local governments to designate Intensely Developed Areas within Chesapeake Bay Preservation Areas as redevelopment overlays for already-developed areas. New Kent has not designated any Intensely Developed Areas (IDAs). It is unlikely that there are areas of the County that meet the criteria for IDAs, as established in state code.

Line #	VA Admin. Code Section 9VAC25-830-	Intent	Compliance	Existing Ordinance Section	Comments/Recommendations
18.		110	<i>Site-specific refinement of Chesapeake Bay Preservation Area boundaries.</i>	Yes	Sec. 94-35 This section of the Virginia Administrative Code requires local governments to verify, during development or water quality review, site-specific determinations of perennial streams and adjust Resource Protection Area boundaries accordingly, either by conducting the evaluation or requiring the applicant to do so. Section 94-35(c) addresses the delineation of site-specific CBPA boundaries.
19.	Part IV. Land Use and Dev.	120	<i>Purpose of land use and development performance criteria.</i>	Yes	Sec. 94-31 This section of the Virginia Administrative Code provides the purpose and specific goals to be met by implementing land use and development performance criteria to improve water quality. Section 94-31 reflects the purpose of land use and development performance criteria.

20.	Part IV. Land Use and Dev. Performance Criteria	130	<i>General performance criteria.</i>	Partial	Sec. 94-39	This section of the Virginia Administrative Code provides general performance criteria for land development in the CBPA. Section 94-39 is generally consistent with state requirements, with the exception of the following: • An outdated state code reference is included (Code of Virginia § 10.1-560). • Provision regarding disturbance exceeding 2,500 SF but less than one acre is not included. • The Ordinance does not include the requirement for the protection of mature trees during the development process. Recommend: • Revising “Code of Virginia § 10.1-560” to “§ 62.1-44.15:24 or 62.1-44.15:51” as stated in 9VAC25-830-130.5. • Adding the following statement to 94-39(2): “Mature trees shall be protected during development and only removed where necessary, including to provide for the proposed use or development.” This should also be addressed as part of the performance criteria for RPAs in 94-40. • Adding the following statement: “Land-disturbing activities in a Chesapeake Bay Preservation Area that are equal to or greater than 2,500 square feet but less than one acre shall comply with the requirements of 9VAC25-875-740 and 9VAC25-875-750.”
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Line #	VA Admin. Code Section 9VAC25-830-	Intent	Compliance	Existing Ordinance Section	Comments/Recommendations
21.		140	<i>Development criteria for Resource Protection Areas.</i>	Yes	Sec. 94-40 Sec. 94-41 This section of the Virginia Administrative Code provides development criteria specific to Resource Protection Areas. Section 94-40 reflects the criteria for development in the RPA. Most of the development criteria is included verbatim from state code. Water quality impact assessments (WQIAs) are required for any proposed land disturbance, development, or redevelopment in the RPA; standards for WQIAs are included in Section 94-41.
22.	Part IV. Land Use and Dev. Performance Criteria	150	<i>Nonconformities, exemptions, and exceptions in the CBPA.</i>	Yes	Sec. 94-43 Sec. 94-44 Sec. 94-45 This section of the Virginia Administrative Code provides requirements for nonconformities in the CBPA, along with criteria for certain exemptions and exceptions. Sections 94-43 and 94-44 reflect the state's provisions for nonconformities and exemptions in the CBPA, with the exception an outdated state code reference (Code of Virginia §§ 10.1-560 and 10.1-603.1). Section 94-45 further details the administrative and discretionary processes for CBPA exceptions. Recommend revising the state code reference to Virginia Erosion and Stormwater Management Act and/or New Kent County Code Chapter 82, Article I.

Line #	VA Admin. Code Section 9VAC25-830-		Intent	Compliance	Existing Ordinance Section	Comments/Recommendations
23.		155	Climate change resilience and adaptation criteria.	No	No Reference	This section of the Virginia Administrative Code provides criteria and requirements to address coastal resilience and adaptation to sea-level rise and climate change. Chapter 94 does not include language from this section of the Virginia Administrative Code. Recommend adding climate change resilience and adaptation criteria to the CBPA Ordinance. Resilience is now a required component of Comprehensive Plans (§ 15.2-2223.F); addressing resilience in the Ordinance will strengthen consistency between the documents in addition to achieving compliance with state requirements.
24.	Part V. Comp Plan Criteria	160	Purpose of comprehensive plan criteria.	N/A	N/A	This section of the Virginia Administrative Code establishes guidelines to help local governments prepare and evaluate comprehensive plans for consistency with the CBPA. 9VAC25-830-160 and 9VAC25-830-170 regulate Chesapeake Bay requirements and provisions for comprehensive plans only. These provisions are not relevant to this diagnostic but are included here for reference.

Line #	VA Admin. Code Section 9VAC25-830-		Intent	Compliance	Existing Ordinance Section	Comments/Recommendations
25.	Part V. Comp Plan Criteria	170	<i>Comprehensive plan contents.</i>	N/A	N/A	This section of the Virginia Administrative Code addresses Chesapeake Bay Preservation Area requirements as they apply to comprehensive plans. 9VAC25-830-160 and 9VAC25-830-170 regulate Chesapeake Bay requirements and provisions for comprehensive plans only. These provisions are not relevant to this diagnostic but are included here for reference.
26.		180	<i>Purpose of land development ordinances.</i>	N/A	N/A	This section of the Virginia Administrative Code outlines the purpose for creating land development ordinances consistent with CBPA requirements. This section does not impose regulatory requirements at the local level, but is included here for reference.
27.						<i>Land development ordinances, regulations, and procedures: (See Lines 28-32)</i>
28.	Part VI. Land Dev. Ordinances	190(A)(1)	<i>Permitted uses in the CBPA.</i>	Yes	Sec. 94-37	Section 94-37 addresses use regulations in the CBPA.

Line #	VA Admin. Code Section 9VAC25-830-	Intent	Compliance	Existing Ordinance Section	Comments/Recommendations
29.	190(A)(2)	<i>Performance criteria.</i>	Partial	Sec. 94-31 Sec. 94-39 Sec. 94-42	The intent and performance standards of Part IV are incorporated into Sections 94-31 and 94-39 (see Lines 19-20 for additional comments). Section 94-42 further incorporates these standards with the zoning requirements of Chapter 98 by reference. However, the Zoning Ordinance does not explicitly require compliance with the performance criteria included in the CBPA ordinance. Recommend including a statement in the Zoning Ordinance to read: “(A) The provisions of Chapter 94, Article II, Chesapeake Bay Preservation Areas, of the New Kent County Code are incorporated into this Ordinance by reference.” As zoning standards are further evaluated and updated, consideration should also be given to where it may be appropriate to limit impervious coverage on lots and include stricter protections for water quality.
30.	190(A)(3)	<i>Protection of CBPA integrity.</i>	Yes	Sec. 94-35 Sec. 94-36	Sections 94-35 and 94-36 address the protection of CBPAs (see Lines 15-16 for additional comments).

Line #	VA Admin. Code Section 9VAC25-830-	Intent	Compliance	Existing Ordinance Section	Comments/Recommendations
31.	Part VI. Land Dev. Ordinances	190(A)(4)	<i>Require delineation of RPA and RMA boundaries on plats and site plans.</i>	Partial	Sec. 91-57 Sec. 98-862 Sec. 98-865 Section 91-57 requires RPA and RMA delineation on final plats. Sections 98-862 and 98-865 require RPA delineation on site plans, but not RMA delineation. Recommend adding RMA delineation to site plan submittal and final site plan requirements.
32.		190(A)(5)	<i>Buildable area delineation.</i>	Partial	Sec. 91-53 Sec. 94-40 Sec. 98-2 Section 91-53 of the Subdivision Ordinance requires plats to have the buildable lot area included in a table of statistical data, but does not explicitly require delineation. Plan of development requirements under Section 94-40 address encroachments into the buildable area, but do not explicitly require the delineation of the buildable area on plans. The definition of “buildable area” in the Zoning Ordinance (Section 98-2) addresses yards and setbacks, but does not include a reference to CBPA performance criteria. Recommend explicitly stating that all plans and plats must include delineation of the buildable area, excluding any setbacks, yards, and environmental constraints.
33.	Part VII. Local Assistance	200	<i>Purpose of local program assistance.</i>	N/A	N/A
34.		210	<i>Local assistance guidance.</i>	N/A	N/A
35.		220	<i>DEQ liaison.</i>	N/A	N/A
					These sections address administrative structure at the state level and do not need to be reflected in the Ordinance.

Line #	VA Admin. Code Section 9VAC25-830-		Intent	Compliance	Existing Ordinance Section	Comments/Recommendations
36.	Part VII. Local Assistance	200	<i>Planning district comments.</i>	N/A	N/A	This section of the Virginia Administrative Code encourages local governments to get assistance from the local PDC for management of local programs. New Kent can request assistance and comments from PlanRVA as needed; this provision does not need to be reflected in the Ordinance.
37.		240	<i>Preparation and submission of management program.</i>	Yes	Chapter 94, Article II	This section of the Virginia Administrative Code states that local governments must adopt a full management program, in phases. New Kent has adopted a local program; no action is needed.
38.	Part VIII. Implementation and Enforcement	250	<i>Applicability of implementation and enforcement.</i>	N/A	N/A	Part VIII regulates the authority for the State Water Control Board to implement and enforce CBPA regulations to ensure that localities' policy documents and ordinances comply. Part VIII is not directly relevant to the content of the Zoning and Subdivision Ordinances, but it is included here for reference.
39.		260	<i>Administrative proceedings.</i>	N/A	N/A	
40.		270	<i>Legal proceedings.</i>	N/A	N/A	

Source: <https://law.lis.virginia.gov/admincode/title9/agency25/chapter830/>

Appendix D

Comprehensive Plan Diagnostic

A Comprehensive Plan establishes the policy framework for how a community intends to grow and develop over time. As the primary regulatory tool used to implement the Comprehensive Plan, the Zoning and Subdivision Ordinances should align with the Plan to the greatest extent possible. The following chart outlines the implementation strategies in the New Kent County 2045 Comprehensive Plan (adopted June 9, 2025), that are most relevant to zoning regulations. The chart also details specific regulatory actions that would serve to implement each strategy.¹

Tactic #	Policy Language	Potential Ordinance Update
Housing		
H2	Encourage the development of housing and facilities allowing seniors to age in place in the County.	- Permit accessory dwelling units (ADUs), subject to performance standards, in appropriate residential districts to support multigenerational living arrangements. - Introduce a new use and development standards for "Continuing Care Retirement Community (CCRC)," defined as a unified residential development providing a continuum of care and subject to registration under Code of Virginia § 38.2-4900 et seq., to distinguish it from the existing use "Nursing, Convalescent, or Rest Home," which is licensed under Code of Virginia § 32.1-123 et seq. - Expand use permissions for "senior housing" to allow it by-right in additional zoning districts.
Natural Resources		
NR1	Update the New Kent County Code to reflect updated Chesapeake Bay Preservation Act, Erosion and Sediment Control, and Stormwater Management guidance and requirements.	Update the Zoning and Subdivision Ordinances as needed for compliance with state code and CBPA standards. Also see Appendices A, B, and C.

¹ This assessment does not include all goals and tactics provided within the Comprehensive Plan. Some goals and tactics are shared among differing Plan elements, while others may not be directly relevant to the Zoning Ordinance.

Tactic #	Policy Language	Potential Ordinance Update
NR4	Study the location of groundwater recharge boundaries and consider the creation of a groundwater protection overlay district, or other local regulations, to protect these areas.	Consider creating a groundwater protection overlay district to protect sensitive environmental features and overall groundwater health.
NR11	Development will follow guidelines to mitigate stormwater runoff and prevent pollution from reaching waterways.	- Allow the use of permeable materials for parking areas; provide clear guidance as to what materials are considered acceptable. This should be limited to certain zoning districts and/or utility service areas. - Consider introducing a density bonus system for cluster or other types of residential development, in which the incorporation of environmentally-friendly features such as green walls, bioswales, or reuse of greywater is a category for which bonus points could be awarded. - Introduce a maximum requirement for impervious lot coverage in commercial and industrial zoning districts.
Transportation		
T1	Revise the County's development regulations to require the provision of Complete Streets (featuring facilities for automobiles, as well as pedestrians, cyclists, and transit) for new developments within designated growth areas.	- For all new developments, introduce street design requirements for complete streets based on the street types provided in Chapter VIII of the Comprehensive Plan: Residential, Rural Residential, Mixed Use, Town Center, and Boulevard, with coordinated provisions for multimodal infrastructure and buffers. - Amend the definition of "street" for clarity and make consistent across zoning and subdivision regulations.

Tactic #	Policy Language	Potential Ordinance Update								
T2	Enhance pedestrian networks in designated development areas through County-led sidewalk projects, construction associated with new development, and the completion of planned trails and sidewalks associated with existing planned developments.	- Expand requirements for sidewalk installation in residential subdivisions. - Introduce a standard for the minimum amount of open space required to be used for passive recreation specifically, which could include walking trails or shared use paths.								
Land Use										
L3	Adopt regulations that ensure the timely completion of proposed commercial uses in any future Planned Unit Development.	- Establish a maximum allowable percentage of commercial development within Planned Unit Developments (PUDs). - Introduce construction phasing requirements such that a certain percentage of commercial square footage must be completed prior to the issuance of a certain percentage of residential building permits of total units proposed. Example:<table><tr><th>At least X% Commercial Completed...</th><th>...Prior to Y% Residential Building Permits Issued (of Total Units Proposed)</th></tr><tr><td>0%</td><td>25%</td></tr><tr><td>25%</td><td>75%</td></tr><tr><td>75%</td><td>100%</td></tr></table>	At least X% Commercial Completed...	...Prior to Y% Residential Building Permits Issued (of Total Units Proposed)	0%	25%	25%	75%	75%	100%
At least X% Commercial Completed...	...Prior to Y% Residential Building Permits Issued (of Total Units Proposed)									
0%	25%									
25%	75%									
75%	100%									

Tactic #	Policy Language	Potential Ordinance Update
L4	Require new developments to provide natural scenic buffers adjacent to designated scenic byways and other roadways, conflicting adjacent land uses, and protected natural features, with development density bonuses awarded for these practices.	- Require baseline buffer standards for all new developments on applicable roads, with density bonuses possible for increased buffer widths, preservation of natural features, nonstructural BMPs, and similar improvements that exceed minimum requirements. - Review transitional buffer standards, including the provision matrix, to ensure potentially incompatible districts are buffered appropriately. - Require Type C transitional buffers for certain high-intensity commercial and industrial uses, regardless of the adjacent zoning district. Uses for which this may be appropriate include data centers, truck stops, and heavy industrial uses. - Consider introducing a density bonus system for cluster or other types of residential development, in which enhanced riparian or natural buffers is a category for which bonus points could be awarded.
L5	Encourage future Planned Unit Developments to include amenities such as community facilities, public green spaces, and bicycle and pedestrian infrastructure.	Require baseline amenity standards for all new PUD developments, with density bonuses possible for exceeding minimum requirements.

Tactic #	Policy Language	Potential Ordinance Update
L6	Promote increased densities and mixed uses where public utilities are available or adjacent.	• Introduce development standards specific to mixed-use structures to support vertical and horizontal integration of uses, including flexible dimensional standards, shared parking, and coordinated site design. • Require at least two different types of residential housing types in planned unit developments, with a maximum percentage of units that can be detached single-family. • Introduce additional housing types and flexible development formats (e.g., cottage courts, duplexes, small multiplexes, and/or live-work units) to be permitted in appropriate districts. Clear definitions should be included for each, along with additional performance standards in certain districts as needed. • Introduce density bonus incentives to encourage higher-density development in appropriate locations served by public utilities.

Tactic #	Policy Language	Potential Ordinance Update
L7	Promote the location of necessary retail, service, healthcare, and employment uses in appropriate locations within County growth areas.	• Review the list of uses permitted in the Business, Economic Opportunity, and Industrial zoning districts to ensure they incorporate the recommended uses from Appendix B, Future Land Use Matrix, of the Comprehensive Plan. • Introduce new or emerging uses that support entrepreneurship, employment centers, and evolving service needs for residents, such as mobile retail (pop-up shops), co-working spaces, artisan product crafting/manufacturing, controlled environmental agriculture (vertical farming, hydroponics, etc.), and similar emerging trends. • Introduce in-home day care as a use in appropriate districts. • Introduce a definition for transitional housing; review permissions to ensure the use is allowed appropriately. • Consider creating an expedited review process for commercial and industrial site plans that meet certain criteria.
L8	Review and revise the County's zoning and subdivision ordinances to comply with the Comprehensive Plan's guidance on the location, density, and character of future land growth.	• Revise existing development standards for consistency with Appendix B, Future Land Use Matrix, of the Comprehensive Plan.

Tactic #	Policy Language	Potential Ordinance Update
L10	Examine the County's agricultural zoning for improvements that can make farming a profitable and sustainable enterprise.	• Allow for agricultural-related commercial uses in agricultural districts (e.g., farm equipment sales and service, feed and seed store) either by right with standards or with a conditional use permit. • Permit farmers' markets by right with performance standards in agricultural districts instead of through conditional use permit. • Introduce roadside farm stands as a by-right use in agricultural districts. • Permit event venues not directly associated with agricultural operations in agricultural districts through a Conditional Use Permit in order to diversify rural income opportunities while maintaining rural character.