

NOV 22 2011

ORDINANCE NO. 31A-253BOARD OF SUPERVISORS  
JAMES CITY COUNTY  
VIRGINIA

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 24, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE II, SPECIAL REGULATIONS, DIVISION 1, IN GENERAL; BY DELETING SECTION 24-41, OUTDOOR OPERATIONS AND STORAGE; BY AMENDING DIVISION 4, LANDSCAPING, BY AMENDING AND RENAMING SECTION 24-86, LANDSCAPING AND TREE PRESERVATION REQUIREMENTS WITH NEW NAME STATEMENT OF INTENT; BY AMENDING SECTION 24-87, ADMINISTRATION; BY RENUMBERING SECTION 24-88, MODIFICATION, SUBSTITUTION, TRANSFER, WITH NEW NUMBER 24-91; BY AMENDING AND RENUMBERING SECTION 24-89, TREE PROTECTION AND CRITERIA FOR TREE REMOVAL FOR ALL USES REQUIRING A LANDSCAPE PLAN, WITH NEW NUMBER 24-88; BY RENUMBERING SECTION 24-90, SIZE REQUIREMENTS FOR NEW PLANTINGS, WITH NEW NUMBER 24-92; BY AMENDING AND RENUMBERING SECTION 24-91, SUMMARY OF DEFINITIONS FOR TREES AND SHRUBS, WITH NEW NUMBER 24-93; BY RENUMBERING SECTION 24-92, PLANT MATERIAL STANDARDS, WITH NEW NUMBER 24-94; BY AMENDING AND RENUMBERING SECTION 24-93, TREE CREDITS, WITH NEW NUMBER 24-95; BY AMENDING AND RENUMBERING SECTION 24-94, GENERAL LANDSCAPE AREA STANDARDS, WITH NEW NUMBER 24-96; BY RENUMBERING SECTION 24-95, LANDSCAPE AREAS ADJACENT TO BUILDINGS, WITH NEW NUMBER 24-97; BY AMENDING AND RENUMBERING SECTION 24-96, LANDSCAPE AREA(S) ALONG RIGHT(S)-OF-WAY, WITH NEW NUMBER 24-98; BY AMENDING AND RENUMBERING SECTION 24-97, OFF-STREET PARKING LOT LANDSCAPING, WITH NEW NUMBER 24-99; BY AMENDING AND RENUMBERING SECTION 24-98, SCREENING, WITH NEW NUMBER 24-100; BY AMENDING AND RENUMBERING SECTION 24-99, LANDSCAPE REQUIREMENTS BY ZONING DISTRICT, WITH NEW NUMBER 24-101; AND BY ADDING NEW SECTIONS 24-89,

PHASED CLEARING PLAN; SUBMITTAL REQUIREMENTS; AND 24-90, GENERAL STANDARDS.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 24, Zoning, is hereby amended and reordained by amending Article II, Special Regulations, Division 1, In General, Section 24-41, Reserved; by amending Division 4, Landscaping, Section 24-86, Statement of intent; Section 24-87, Administration; Section 24-88, Tree protection and criteria for tree removal for all uses requiring a landscape plan; Section 24-89 Phased clearing plan; submittal requirements; Section 24-90, General standards; Section 24-91, Modification, substitution, transfer; Section 24-92, Size requirements for new plantings; Section 24-93, Summary of definitions for trees and shrubs; Section 24-94, Plant material standards; Section 24-95, Tree credits; Section 24-96, General landscape area standards; Section 24-97, Landscape areas adjacent to buildings; Section 24-98, Landscape area(s) along right(s)-of-way; Section 24-99, Off-street parking lot landscaping; Section 24-100, Screening; and Section 24-101, Landscape requirements by zoning district.

## **Chapter 24. Zoning**

### **ARTICLE II. SPECIAL REGULATIONS**

#### **DIVISION 1. IN GENERAL**

##### **~~Section 24-41. Outdoor operations and storage.~~**

~~Any commercial or industrial operation or storage conducted in whole or in part out of doors shall:~~

- ~~(1) Set back a minimum of 35 feet from the right-of-way of any street identified on a functional classification with a right-of-way 50 feet or greater in width and 60 feet from the centerline of any street identified on a functional classification with a right-of-way less than 50 feet in width, except that the outdoor display of plant materials shall be set back ten feet from any road right-of-way 50 feet or greater in width and 35 feet from the centerline of any road right-of-way less than 50 feet in width; and~~
- ~~(2) Be well drained with adequate provisions to control storm drainage and erosion; and~~

- ~~(3) Where the ground cover would be routinely disturbed because of the nature of the activity to be conducted or because of vehicular traffic, the area shall be maintained in an all-weather surface; and~~
- ~~(4) Be screened from adjacent property by landscaping and fencing, except the outdoor displays for sale of vehicles, equipment, machinery and plant materials are exempt from the screening requirements where such screening would interfere with the visibility of the items for sale from a public road; and~~
- ~~(5) Be limited to uses and items to be stored which do not create noise, odor, dust or other objectionable effects. The effects of an activity shall be measured at the nearest property line.~~

#### **DIVISION 4. LANDSCAPING**

##### **Section 24-86. ~~Landscaping and tree preservation requirements.~~ *Statement of intent.***

The purpose of this ~~section~~ *division* is to promote the public health, safety and welfare by providing for the preservation *and planting of trees in order to safeguard and enhance residential and commercial real estate values; reduce noise, glare, and heat; conserve energy; buffer noise and wind; mitigate storm water runoff; protect properties from erosion; and provide habitats for wildlife.*

*These objectives will be realized through regulatory measures which seek to encourage planting of trees, discourage tree removal and promote preserving specimen trees. The preservation, installation, and maintenance of trees and plant materials which will:*

- (1) Ensure development which is consistent with the goals of the Comprehensive Plan related to natural resources, environmental and land use standards, community character corridors, and aesthetics;
- (2) Retain the historic and natural character of James City County by reducing the visual impact of signs, parking lots, buildings and structures and protecting, preserving and enhancing its natural physical wooded character with emphasis on preserving the existing tree canopy and other indigenous vegetation and providing such canopy and vegetation where it does not exist;

(3) Minimize the environmental and land use impacts of developments associated with noise, glare, dust and movement; changes in appearance, character and value of neighboring properties; and effects on air and water quality, stormwater runoff, groundwater recharge and soil erosion by preserving existing tree canopies and indigenous vegetation and restoring such canopies and vegetation and providing other landscape features;

(4) Promote traffic safety by controlling views and visually defining circulation patterns;

(5) Provide more comfortable exterior spaces and conserve energy by preserving and providing tree canopies and other landscape features which provide shade and windbreaks; and

(6) Ensure the location, type, and maintenance of plant materials creates and maintains a safe environment for users of the site.

**Section 24-87. Administration.**

(a) *Landscape plan and tree clearing and protection plan: when required.* A landscape plan *and tree clearing and protection plan* is required for any site plan or residential *subdivision* plan for development subject to sections ~~24-98~~ 24-100 (f) and (g) and shall be submitted at the time of application for plan approval. The landscape plan shall be prepared and approved in accordance with article III, Site Plan. The landscape plans shall also indicate the location of all existing and planned utilities *and any proposed outstanding specimen tree. The tree clearing and protection plan shall be prepared and approved in accordance with section 23-10 (3) of the County's Chesapeake Bay Preservation Ordinance. The landscape plans shall also indicate the location of all existing and planned utilities, and any proposed designated outstanding specimen tree as defined in section 24-93 of the zoning ordinance; and*

(b) *A narrative shall accompany the plan explaining how only trees necessary for the development of the site are proposed to be removed and that no adverse impacts are created on adjacent properties that result in damaged trees.*

~~(b)~~(e) *Landscape plan; who prepares.* A Virginia registered landscape architect, a member of the Virginia Society of Landscape Designers, or a Certified Virginia Nurseryman with experience preparing planting plans and landscape construction drawings, shall prepare landscape plans for projects that propose a new building or group of new buildings whose building footprint(s) exceeds 2,500 square feet; or propose site improvements which result in the disturbance of 5,000 or more square feet of land area.

~~(c)~~(d) *Plan requirements and determinations.* Where requirements of this section are based on zoning or planning designations, such designations shall be determined by the county zoning district map, Comprehensive Plan and Six-Year Secondary Road Plan and the official planning and zoning documents of the adjoining jurisdiction if applicable. Required landscape areas shall exclude any planned future right-of-way as designated on the Comprehensive Plan, Six-Year Primary or Secondary Road Plan, ~~Peninsula Area~~ Long Range Transportation Plan, approved master plan, or any road plan adopted by the board of supervisors.

~~(d)~~(e) *Installation of required landscaping, performance guarantee.* Where a landscape plan is required, landscaping shall be installed and existing trees shall be preserved in conformance with the approved landscape plan. A certificate of occupancy shall not be issued until all landscaping has been installed in accordance with the approved landscape plan unless the installation of any incompletd landscaping is guaranteed as provided in section 24-8.

~~(e)~~(f) *Maintenance of landscaping.* The owner, or his agent, shall be responsible for the maintenance, repair and replacement of all landscaping materials, fences and barriers as may be required by the provisions of this section. All plant materials, including existing trees preserved to meet the requirements of this section, shall be tended and maintained in a healthy growing condition, replaced when necessary, and kept free of refuse and debris. Fences and walls shall be maintained in good repair. Replacement material shall conform to the original intent of the approved landscape plan and any replacement planting shall meet the minimum requirements of this section.

**Section 24-8988. Tree protection and criteria for tree removal for all uses requiring a landscape plan.**

(a) *Standards for tree protection and impervious cover.* Existing mature trees shall be preserved except in impervious areas and impervious cover shall be limited to the extent permitted in the county's Chesapeake Bay Preservation Ordinance. Existing mature and specimen trees shall be integrated into the overall plan of development and shall be preserved so as to promote the intent of this section. The commission or planning director, depending upon the applicable review process, may require that certain mature trees or specimen trees be preserved upon determination that they contribute significantly to the character of the county and that preservation is necessary to satisfy the intent of this section. The purpose of this paragraph is to protect such trees and other amenities which could otherwise be lost due to careless site design or construction. All trees to be preserved shall be protected in accordance with the standards of this section.

(b) *Tree protection.*

- (1) All trees to be preserved shall be protected before, during and after the development process in accordance with specifications contained in the *Virginia Erosion and Sediment Control Handbook*. The applicant shall include a conservation checklist for review and approval by the ~~environmental~~ *engineering and resource protection* director which shall ensure that the specified trees will be protected in accordance with these specifications.
- (2) Groups of trees shall be preserved rather than single trees. Trees or groups of trees to be preserved shall be clearly marked in the field.
- (3) Trees and groups of trees to be preserved shall be enclosed by a substantial, temporary fence or barrier as specified by the ~~environmental~~ *engineering and resource protection* director. The location, type, and installation standards for protective tree fencing shall be clearly shown on the site plan. The fence or barrier shall be located and maintained outside the

dripline before commencement of clearing or grading. The fencing or barrier shall remain throughout construction and any subsequent grading or excavation unless otherwise approved on a clearing and grading plan. In no case shall materials, debris, fill, vehicles or equipment be stored within this enclosure, nor shall the topsoil layer be disturbed except in accordance with tree protection standards approved as part of the conservation checklist.

- (4) The developer shall be responsible for ensuring these areas are protected in accordance with this section. Where changes from the existing natural grade level are necessary, permanent protective structures, such as tree walls or wells, shall be properly installed in accordance with the *Virginia Erosion and Sediment Control Handbook*, as required by the ~~environmental engineering and resource protection~~ director.

*(c) Tree removal:*

Outside impervious areas, trees may be removed in accordance with sections ~~24-96 (e) (2) and (3)~~ 98 (f) (2) and (3).

**Section 24-89. Phased clearing plan; submittal requirements.**

- (a) "Phased clearing" means the clearing or grading of a parcel of land in distinct portions with the stabilization of each disturbed section before the cutting and removal of trees or grading of the next section. A phased clearing plan shall be required to be submitted with the tree clearing and protection plan on all sites upon which more than 25 acres are disturbed. The size of each phase will be established at site plan review and as approved by the planning director or Development Review Committee (DRC) and the planning commission for plans meeting the criteria of section 24-147. Phased clearing plans and grading plans shall be coordinated to provide a balancing of cut and fill operations to minimize the need to transport fill materials on- or off-site. Exemptions to these phased

*clearing plan submittal requirements may be granted by the planning director for parcels that have an insignificant amount of existing trees or when it can be shown that clearing the site in portions would be impractical and that phasing would not provide any economical, environmental, or public benefit.*

**Section 24-90. General standards.**

*(a) All tree removal shall be limited to the area required for the practical development of the site. No clear cutting shall be permitted except when it is shown that the complete removal of vegetation is necessary for the development of the site. Clear cutting is defined as removal of large areas of existing vegetation in areas not necessary for the construction of buildings and/or the infrastructure associated with the development.*

*(b) This ordinance strongly encourages the planting of trees native to eastern Virginia and/or adaptable to the coastal conditions and climate of James City County. As a resource for developing tree plans, the planning director or his designee shall maintain and make available to the public a list of desirable trees based on their adaptability to the climate of eastern Virginia.*

**Section 24-88 9I. Modification, substitution, transfer.**

*(a) Findings for acceptance of modifications, substitutions, or transfers.* The commission or planning director may modify, permit substitutions for any requirement of this section, or permit transfer of required landscaping on a site upon finding that:

- (1) Such requirement would not promote the intent of this section;*



- (2) The proposed site and landscape plan will satisfy the intent of this section and its landscape area requirements to at least an equivalent degree as compared to a plan that strictly complies with the minimum requirements of this section;
- (3) The proposed site and landscape plan will not reduce the total amount of landscape area or will not reduce the overall landscape effects of the requirements of this section as compared to a plan that strictly complies with the minimum requirements of this section;
- (4) Such modification, substitution or transfer shall have no additional adverse impact on adjacent properties or public areas; and
- (5) The proposed site and landscape plan, as compared to a plan that strictly complies with the minimum requirements of this section, shall have no additional detrimental impacts on the orderly development or character of the area, adjacent properties, the environment, sound engineering or planning practice, Comprehensive Plan, or on achievement of the purposes of this section.

(b) *Cases for modifications, substitutions, or transfers.* Requests for modifications, substitutions or transfers may be granted in the following cases:

- (1) The proposed landscape plan, by substitution of technique, design or materials of comparable quality, but differing from those required by this section, will achieve results which clearly satisfy the overall purposes of this section in a manner clearly equal to or exceeding the desired effects of the requirements of this section;
- (2) The proposed landscape plan substantially preserves, enhances, integrates and complements existing trees and topography;
- (3) Where, because of unusual size, topography, shape or location of the property or other unusual conditions, excluding the proprietary interests of the developer, strict application of

the requirements of this section would result in significant degradation of the site or adjacent properties;

- (4) The proposed landscape design or materials involve a readily discernible theme, historic or otherwise, or complements an architectural style or design;
- (5) Where it is necessary to allow the subdivision of property on which commercial or industrial units will be for sale, for sale in condominium or for lease, and such units are constructed as part of a multiunit structure in which the units share common walls or are part of a multiple-structure development, and the entire development has been planned and designed as a cohesive, coordinated unit under a single master plan; or
- (6) Where transfers of required landscape areas to other areas on a site are necessary to satisfy other purposes of this section, including transfers to increase screening or preserve existing trees, provided such transfers do not reduce overall landscape requirements for a development.

(c) *Process for requesting modifications, substitutions, or transfers.* Requests for modifications, substitutions or transfers shall be filed in writing with the planning director and shall identify the specific requirement of this section and the reasons and justifications for such request together with the proposed alternative. Depending upon whether the landscape plan is subject to commission or administrative review, the commission or planning director shall approve, deny, conditionally approve or defer action on such request and shall include a written statement certifying the above findings. The commission or planning director may require the applicant to provide plans, documentation or other materials to substantiate these findings.

In the case of approvals or conditional approvals, this statement shall include a finding as to the public purpose served by such recommendations, particularly in regard to the purposes of this section. The planning director shall notify the applicant in writing as to the reasons for such action within 30 days

of submittal of administrative plans meeting all applicable submittal criteria or within five working days of such decision by the commission.

**Section 24-90 92. Size requirements for new plantings.**

Planted trees and shrubs shall conform to the minimum size requirements outlined in the following table.

| Size Requirements for New Plantings  |  |   |
|--|--|---|
| Category   | Type   | Minimum Size at Planting  |
| Trees  | Deciduous Shade Tree (D)                               | Minimum Caliper is= 1.5".   |
|  | Evergreen (E)  | If multi-stemmed, minimum height shall be 8-feet.<br>If single-stemmed, minimum caliper shall be 1.25" with minimum height of 8-feet. |
| Ornamental Tree  | Single-Stemmed (D) or (E)                              | 1.25" in caliper and 8-feet in height.  |
|  | Multi-Stemmed (D) or (E)                               | 8-feet in height  |
| Shrub  | Low Growing Woody Plant having several permanent stems | 18" if evergreen.<br>22" if deciduous.  |
| Caliper - The diameter of a tree trunk measured 6" above-ground for nursery stock. |  |   |

**Section 24-94 93. Summary of definitions for trees and shrubs.**

Outlined below is a quick reference of the definitions for trees and shrubs. Please refer to section 24-2 for complete definitions of these terms.

| Type                             | Character  | Minimum Size   |
|----------------------------------|--|--|
| Specimen Tree                    | Free of disease and significant damage or which is notable by virtue of its <del>outstanding</del> size and quality for its particular species.  | Diameter at breast height (DBH) is 24" or greater.   |
| <i>Outstanding Specimen Tree</i> | <i>Free of disease and significant damage or which is notable by virtue of its outstanding size, form, shape, spread, and quality for its particular species as determined by the planning director or his designee per the Outstanding Specimen Tree Designation guidelines and form.</i> | <i>Trees designated as outstanding specimens by the planning director or his designee.</i> |
| Mature Tree                      | Free of disease and significant damage.  | DBH is 8" or greater   |

|  |  |  |
|--|--|--|
| Understory or Ornamental Tree  | Trees that typically do not exceed a height of 40-feet at maturity. Understory are those trees typically found within a native plant community. Common understory examples include: Wax Myrtle, American Holly, and Dogwood. Examples of ornamental trees include Japanese Maple and Crape Myrtle. |  |
| Overstory Tree   | Trees that typically exceed a height of 40-feet at maturity. Common examples include: Loblolly Pine, Oaks, Red Maple, and London Plane Tree.   |  |
| Diameter at breast height (DBH) -The diameter of a tree trunk measured 4.5 feet from the ground. |  |  |

**Section 24-92 94. Plant material standards.**

- (a) All required plantings shall conform to the most recent edition of *American Standard for Nursery Stock*, published by the American Association of Nurserymen, and shall be planted in accordance with the most recent edition of *Guidelines for Planting Landscape Trees and Planting and Care of Trees and Shrubs*, published by the Virginia Cooperative Extension Service.
- (b) Required planting materials shall be of a species that promotes the intent of this division and that is compatible with the proposed planting environment.
- (c) Transplanting for the purpose of achieving a larger size tree may be approved, provided it is done in accordance with accepted horticultural and silvicultural practices.

**Section 24-93-95. Tree credits.**

- (a) Existing viable trees, preserved on the site in accordance with the tree protection standards outlined in section 24-89 88 (b), may provide tree credits which shall reduce the number of new trees required to be installed.

(b) The trees to be saved shall be clearly identified on the landscaping plan *and tree clearing and protection plan*. The plans shall identify the *specific* location, number, size, and type of trees proposed to be saved and the requested tree credits.

(c) The amount of tree credit is outlined in the following chart.

| Tree Credits   |                            |
|--|----------------------------|
| Trees to be saved:   | Tree Credits:              |
| 1 viable ornamental tree meeting the minimum size at planting as described in section 24- <del>90-93</del> .*  | 1 planted ornamental tree. |
| 3 viable trees meeting the minimum size at planting as described in section 24- <del>90-93</del> .*  | 1 planted tree.            |
| 1 viable mature tree.  | 2 planted trees.           |
| 1 viable specimen tree.  | 3 planted trees.           |
| 1 viable outstanding specimen tree as approved by the planning director or his designee.   | 5 planted trees            |
| No credit shall be given for any trees that are not protected in full compliance with the tree protection standards listed in section 24- <del>89</del> 88(b).   |                            |
| * The trees to be saved shall be “tagged” in the field <del>and the</del> <i>in order for</i> the planning director or his designee <del>shall to</del> inspect the trees to determine which trees are eligible to receive credit. Only those trees which are healthy, of the minimum size noted above, and are of a suitable quality shall be deemed acceptable for receiving credit. |                            |

#### Section 24-~~94~~ 96. General landscape area standards.

(a) *Tree preservation and the minimum number required.* Existing trees shall be retained to the maximum extent possible in all landscape areas. All required landscape areas, other than landscape areas adjacent to buildings and within parking lots as required in sections 24-95 ~~and~~ 24-97 *and* 24-99, shall contain at least a minimum number of trees and shrubs as specified in the following chart:

| Quantity Requirements - General Landscape Area Standards |                  |   |
|--|------------------|---|
| AND  |                  |   |
| Number of Trees  | Number of Shrubs | Per   |
| 1  | 3                | 400 square feet of total landscape area provided. |

(b) *Size and mixture requirements.*

| Size and Mixture Requirements - General Landscape Areas |        |   |
|---|--------|---|
| Percentage  | Of     | Shall Be:   |
| At least 35%  | Trees  | Minimum Caliper of 2.5" at planting   |
| Minimum of 15%<br>and Maximum of 25%                    | Trees  | Ornamental trees  |
| At least 35%  | Trees  | Evergreen Trees which will achieve a minimum height of 40 feet at maturity.       |
| At least 40%  | Trees  | Deciduous Shade Trees which will achieve a minimum height of 50 feet at maturity. |
| At least 35%  | Shrubs | Evergreen   |

(c) *Distribution, mixture and placement.* Planted trees and shrubs shall be reasonably distributed throughout the site singly or in groups, with an appropriate mix of planting types and species which achieves the purposes of this section. Required landscape areas shall be designed so as to not create vehicular and pedestrian hazards.

**Section 24-95 97. Landscape areas adjacent to buildings.**

A landscape area which is a minimum of ten feet wide shall be provided adjacent to buildings. Up to one-half of this area may be transferred elsewhere on the site. This area shall contain a number of trees and shrubs equal to at least the minimums specified in the following chart.

| Quantity Requirements - Adjacent to Buildings |                  |                                   |
|---|------------------|-----------------------------------|
| OR  |                  |                                   |
| Number of Tree(s)                             | Number of Shrubs | Per                               |
| 1 ornamental                                  | 5                | 200 square feet of planting area. |

**Section 24-~~96~~-98. Landscape area(s) along right(s)-of-way.**

- (a) *Width requirements.* A landscape area having an average width as specified in the following chart shall be provided adjacent to any existing or planned road right-of-way.

| Width Requirements for Landscape Areas along Right(s)-of-Way.  |          |   |   |
|--|----------|---|---|
| <b>(1) Community Character Corridors</b>   |          |   |   |
|  | Standard | Minimum width conditioned upon approval of planning director. Reference section 24- <del>96</del> 98( <del>d</del> ) ( <i>e</i> ) for the criteria. | Reduction for lots less than 1.5 acres which were recorded or legally in existence prior to July 3, 1990. |
| Average Width  | 50-feet  | 30-feet   | 20-feet or 10% of the average lot depth, whichever is greater.  |
| Minimum Width  | 25-feet  | 20-feet   | 15-feet   |
| <b>(2) All Other Roads</b>   |          |   |   |
|  | Standard |   | Reduction for Lots less than 1.5 acres which were recorded or legally in existence prior to July 3, 1990. |
| Average Width  | 30-feet  |   | 20-feet or 10% of the average lot depth, whichever is greater.  |
| Minimum Width  | 15-feet  |   | 15-feet   |
| <b>(3) Further Reductions for Master Planned Communities with approved Design Guidelines.</b>  |          |   |   |
| The standards provided above can be further reduced for developments that are part of an approved master-planned community and have a governing set of design guidelines approved by the county. The design guidelines shall specify architectural standards, building placement and massing, parking location, sidewalks, street-lighting, streetscape standards, landscaping, signage, and other important community aesthetic features. |          |   |   |

(b) *Square footage calculation for landscape areas.* All landscape areas along a right-of-way shall contain a minimum amount of square footage which shall be equal to:

| Square Footage Calculation  |
|---|
| Square Footage = [Applicable Average Width Requirement] * [Length of Right-of-Way Frontage] |

In no case shall any portion of any landscape area located more than 65 feet from the right-of-way of a community character corridor or 45 feet from the right-of-way along all other roads be counted toward meeting the requirements of this paragraph. All required square footage shall be contiguous and located in an area that is directly adjacent to the right-of-way except as provided for in section 24-96 98 ~~(e)~~(f)(1).

(c) *Outdoor operations and storage.*

*Any commercial or industrial operation or storage conducted in whole or in part out-of-doors shall:*

- (1) Be screened from the right of way and conform to the landscape requirements in section 24-98 and 24-100 (a) of the zoning ordinance. Evergreen tree and shrub mixture requirements of section 24-94 (b) shall be used to screen the outdoor operations from the public right-of-way; and*
- (2) Be well drained with adequate provisions to control storm drainage and erosion; and*
- (3) Where the ground cover would be routinely disturbed because of the nature of the activity to be conducted or because of vehicular traffic, the area shall be maintained in an all-weather surface; and*
- (4) Be screened from adjacent property by landscaping and fencing, except that outdoor displays for sale of vehicles, equipment, machinery and/or plant materials shall be exempt from the screening requirements where such screening would materially interfere with the visibility of the items for sale from a public road; and*



*(5) Be limited to uses and items to be stored which do not create noise, odor, dust or other objectionable effects. The effects of an activity shall be assessed at the nearest property line.*

~~(e)~~(d) *“Construction zone” setback for structures.*

(1) All structures shall be setback a minimum of 15-feet from the perimeter of the landscape area buffer required in section 24-96 98 (a). For example, if the required landscape area buffer measures 50-feet in width from the right-of-way, then the structure(s) shall be no closer than 65-feet from the right-of-way.

(2) The “construction zone” setback shall be ~~shall be~~ clearly delineated on the site plan.

(3) This “construction zone” setback shall not apply to parking lots. Parking lots may be constructed up to the edge of the required landscape buffer provided no grading, tree removal, or land disturbance occurs within the required landscape buffer.

~~(d)~~(e) *Waiver criteria for landscape areas along community character corridors.* The average width requirement of the required landscape areas along community character corridors may be reduced by the planning director if number (1) and/or (2) provided below is satisfied. In no case shall the total reduction exceed 20 feet. In deciding whether a reduction in the standard landscape area width is warranted, the planning director shall consider the impact of proposed road and/or utility improvements on existing trees and vegetation. Planned road and/or utility improvements that will remove existing trees and vegetation will reduce the likelihood of a reduction in landscape area required. In approving a reduction request, the planning director may require additional plantings beyond the minimum ordinance requirements, alter the mixture of plantings provided, and/or specify the types of plantings to be used.

(1) The applicant may achieve a maximum reduction of 10 feet by providing superior site design with a combination of elements such as:

a. Parking located away from public view behind buildings or screened by other architectural features (i.e. decorative brick walls);

- b. Innovative use of grading and topography to minimize visual impacts of parking and other unsightly features (i.e. dumpsters, HVAC equipment, loading areas, etc.);
  - c. Provision of pedestrian amenities beyond what the ordinance requires. Examples may include brick pavers to connect existing and planned pedestrian walkways, lighting, and benches; or
  - d. The use of monument style signs that are of a scale and type that complement the positive features of the surrounding architecture and streetscape. The use of wood, brick, or other natural features is recommended.
- (2) The applicant may achieve a maximum reduction of 15 feet by providing superior architecture and building materials that meet the following standards.
- a. The building architecture and materials complement the positive features of nearby existing or planned development and/or the character of Colonial Williamsburg and James City County:
  - b. Architecture and materials should be unique and not replicate standard and/or conventional prototypes; and
  - c. The proposed location of the building and parking areas shall not require the removal of specimen trees or large stands of viable mature trees.

~~(e)~~(f) *Right-of-way landscape area performance standards.*

- (1) Permitted breaks in landscape areas.
- a. All landscape areas along right-of-ways shall be continuous along the road right-of-way frontage, except where driveway, utility or other breaks running perpendicular to the right-of-way are necessary, and shall be designed in a manner that achieves the intent of this division.

- b. No new utilities, outside of those running parallel to permitted breaks in the required landscape areas, shall be located within the required landscape area(s) unless a waiver is granted by the planning director. The planning director shall grant a waiver only if the applicant can sufficiently demonstrate that there are unavoidable physical or regulatory constraints that warrant an intrusion into the landscape area.

(2) Tree preservation and criteria for tree removal.

- a. All existing viable mature trees (eight inches or greater diameter at breast height (DBH)) and specimen trees (24 inches or greater DBH) shall be preserved within the required right-of-way landscape area. All understory trees of two inches or greater DBH shall be preserved.
- b. The planning director or his designee may permit the removal of understory and overstory trees exceeding these size thresholds after an on-site inspection. The trees must be tagged to allow for easy identification. The planning director or his designee shall authorize removal of the tagged trees only if they are of poor quality, diseased, not consistent with the existing or planned plant species and design, poorly situated so as to interfere with the growth of other viable trees and/or shrubs, compromise safety, or interfere with other planned site improvements such as sidewalks and/or signs.

(3) Buffer grooming and enhancement.

- a. Trees below the size thresholds stated above in paragraph (2) and underbrush may be hand-removed from the landscape area. No grading shall be permitted; however, hand grooming is permitted.
- b. Overstory tree limbs may be removed/"limbed-up" to a maximum height of ten feet above the base of the tree. Understory tree limbs may be removed/"limbed-up" to a maximum height of

six feet. These height limitations shall not restrict the removal of dead, diseased, or injured tree limbs above the height limits mentioned above.

(4) Tree protection required. The required landscape area shall be fully protected by a substantial, temporary fence or barrier with a minimum height of 40-inches. The location, type, and installation standards for this fence shall be clearly shown on the site plan. This fence shall be installed prior to the issuance of a land disturbance permit and shall remain standing until all construction activities on site have been completed.

(5) Landscaping required. Required landscape areas shall be supplemented where necessary with planted trees and shrubs to achieve the minimum number of trees and shrubs specified in ~~paragraph~~ section 24-94 96.

*(6) Landscaping treatments of community character corridor buffers. Right of way landscape areas along community character corridors as designated on the Community Character Corridor Buffer Designation and Treatment Map shall be designed to meet the design standards found in the Community Character Corridor Buffer Treatment Guidelines as determined by the planning director.*

**Section 24-97 99. Off-street parking lot landscaping.**

Parking areas, accessory or otherwise, containing ten or more parking spaces shall contain landscaping and landscape areas in accordance with all of the following:

(a) *Preservation of trees.* Parking lots shall be designed and constructed so that existing viable trees are preserved in a manner which will meet the intent and satisfy the requirements in this section to the maximum extent possible. Where such existing trees do not fully satisfy these requirements, additional trees shall be planted in an amount which meets or exceeds the stated minimum requirements. The requirements in this paragraph shall be in addition to other requirements stated in this section.

(b) *Landscape area and planting requirements.* Total landscape area within the parking lot shall at least meet the minimum standards specified in the following chart.

| (1) General Requirements for Parking Lot Landscaping.   |   |
|---|---|
| Percentage of Landscape Area Required within the Parking Lot                                    | Based On:   |
| Minimum 10%   | Surface Area of Parking, including drives & circulation areas, exclusive of any perimeter landscape areas or landscape areas around the building. |
| <b>Lots less than 65,000 square feet recorded or legally in existence prior to July 3, 1990</b> |   |
| Minimum 7.5%  | Surface Area of Parking, including drives & circulation areas, exclusive of any perimeter landscape areas or landscape areas around the building. |

| (2) Quantity Requirements for Parking Lot Landscaping.   |                  |                                       |
|--|------------------|---------------------------------------|
| AND  |                  |                                       |
| Number of Trees  | Number of Shrubs | Per                                   |
| 1  | 2                | 5 parking spaces in the parking lot.  |
| <b>Lots less than 65,000 square feet recorded or legally in existence prior to July 3, 1990</b>  |                  |                                       |
| 1  | 2                | 10 parking spaces in the parking lot. |
| As provided above, each mature existing tree or specimen tree may be counted toward meeting the required minimum number of trees, with one (1) viable mature tree substituting for two (2) planted trees and one viable specimen tree substituting for three planted trees. No credit shall be given for any mature or specimen tree which is not protected in full compliance with the tree protection standards in section 24-89 88 (b) above. |                  |                                       |

| (3) Size and Mixture Requirements for Parking Lot Landscaping. |       |   |
|--|-------|---|
| Percentage   | Of    | Shall Be:   |
| At least <del>35%</del> 25%                                    | Trees | Evergreen Trees which will achieve a minimum height of 40 feet at maturity. |

|               |        |   |
|---------------|--------|---|
| At least 50%. | Trees  | Deciduous Shade Trees with a 2.5 inch caliper which will achieve a minimum height of 50 feet at maturity. |
| At least 50%  | Shrubs | Evergreen   |

|   |
|---|
| (4) Minimum Spacing Requirements for Required Trees in Parking Areas  |
| The required trees shall be spaced no more than <del>75</del> 99 feet apart throughout the parking lot. These trees shall be evenly and reasonably distributed throughout the parking lot in a manner that promotes the intent of this section. |

(c) *Parking lot screening.* In addition to the above tree and shrub requirements, all parking lots shall be visually screened from public road rights-of-way by evergreen plantings or berms that create a screen a minimum of three feet in height. Such berms shall have a maximum side slope ratio of three horizontal feet to one vertical foot and a level crown with a minimum width of three feet for maintenance and planting purposes. Any berm shall be designed and constructed to ensure that proper erosion prevention and control practices have been utilized.

(d) *Special requirements for bus parking lots.* Bus parking areas shall contain landscape areas in accordance with the above requirements except that plantings shall be provided as follows:

|  |                         |                      |
|--|-------------------------|----------------------|
| (1) Quantity Requirements for Bus Parking Lots |                         |                      |
| <b>AND</b>                                     |                         |                      |
| <b>Number of Trees</b>                         | <b>Number of Shrubs</b> | <b>Per</b>           |
| 1  | 2                       | 2 bus parking spaces |

|  |       |   |
|--|-------|---|
| (2) Size & Mixture Requirements for Bus Parking Lots |       |   |
| Percentage   | Of    | Shall Be:   |
| At least <del>35%</del> 25%                          | Trees | Evergreen Trees which will achieve a minimum height of 40 feet at maturity. |

|              |       |   |
|--------------|-------|---|
| At least 50% | Trees | Deciduous Shade Trees with a 2.5 inch caliper which will achieve a minimum height of 50 feet at maturity. |
|--------------|-------|---|

*(e) Excavation of parking lot islands.*

- 1) All parking lot islands, peninsulas, and planting areas shall be excavated to remove all crusher run or parking lot base material and back filled with quality topsoil, except those areas where existing vegetation is to be preserved. The topsoil shall be high in organic matter and shall allow water to percolate readily. The excavation of these planting areas shall be to a minimum of 24" and will freely allow penetration of a hand-held probe to a minimum of 24".*
- 2) Inspection of these planting areas shall be conducted by engineering and resource protection inspectors during the construction process.*

**Section 24-98100. Screening.**

(a) *Transitional screening.* Transitional screening between conflicting land uses and districts shall be provided as required in this paragraph and in section 24-99 101. Such screening areas shall be left in their undisturbed natural state and supplemented where necessary in accordance with paragraph section 24-94 96 and with additional plantings to provide an effective visual screen. Such areas shall be continuous except where driveways, utilities and other breaks are necessary. All breaks shall cross transitional screening areas at right angles. Where such breaks are necessary, different design requirements may be imposed to achieve an equivalent screening effect. Transitional screening areas shall not contain accessory structures, storage, parking or loading.

(b) *Additional transitional screening requirements.* If the commission determines that noise, dust and debris, glare or other objectionable impacts created by a proposed development will have a

detrimental effect on adjoining properties which will not be adequately addressed by transitional screening required by this section, the commission may increase minimum transitional screening requirements or setbacks and may require landscaping or architectural barriers which provide a visual screen between a proposed development and adjoining properties.

(c) *Objectionable features.* Objectionable features shall be visually screened by landscaping or architectural barriers from or by adjacent residential districts, agricultural districts which are designated for residential use on the Comprehensive Plan and public streets. ~~Objectional~~ *Objectionable* features may include, but are not limited to, the following: refuse areas, storage yards, and loading areas.

(d) *Stormwater management facilities, detention ponds, and best management practices (BMPs).* Stormwater management facilities, detention ponds, and BMPs that are visible from roads, adjoining properties, or open to public view shall be designed such that:

- (1) These facilities shall not be allowed within required landscape buffers along community character corridors (CCCs) unless a waiver is granted by the planning director. In order for the planning director to consider a waiver request, the applicant shall request a waiver in writing and shall present plans and documentation supporting the waiver request. The planning director shall consult with the ~~environmental~~ *engineering and resource protection* director and shall make a determination to approve or deny the waiver request within 30 days of its receipt. The waiver request will not be approved unless the applicant can document topographical or unusual physical constraints on the property that require placement of the BMP within the right-of-way landscape area;
- (2) The structural aspects (i.e. riser pipes, inlets, etc.) are hidden from public view and/or adjoining property owners view, or adequately screened from these views by innovative structural design, berms, and/or landscaping;



(3) The facility shall be well landscaped with an emphasis on making the facility appear more natural than man-made, as determined by the planning director; and

(4) The facilities shall be designed and landscaped in such a manner that they are sensitive to the character of the site and surrounding properties. Unless it can be demonstrated by the applicant that an alternative design better meets the intent of this section, the facilities shall be designed with a curvilinear shape, shall be designed to complement the existing topography of the site, and/or shall be designed and landscaped in a manner that visually reduces their size, and supports growth of wetlands vegetation.

(e) *Historic landmarks and buildings.* The commission may require screening of any use, or portion thereof, upon a determination that the use would otherwise have a negative visual impact on property listed on the Virginia Historical Landmarks Register.

(f) *Multiple frontage lots.* Lots with multiple frontages shall have screening provided between the rear of the principal use or building and the public right-of-way.

(g) *Residential developments not subject to article III, Site Plan.* Major subdivisions of residential developments, as defined in Chapter 19, shall conform with screening requirements for multiple frontage lots. Such developments shall also provide transitional screening along any property line which is adjacent to or across a peripheral public street from any multifamily, commercial or industrial zoning district. The amount of transitional screening shall be based on the zoning district adjacent to or across a peripheral public street from the proposed residential development. Such residential developments shall provide transitional screening in accordance with the requirements for the multifamily, commercial or industrial district contained in section 24-99 101.

**Section 24-99101. Landscape requirements by zoning district.**

All uses and developments requiring a site plan and landscape plan in accordance with article III, Site Plan, and this section shall comply with the above requirements and those which follow. Where no landscape requirements are provided for a specific zoning district, the landscape plan shall be prepared in accordance with the requirements for the district which is deemed by the planning director to be the most similar to the character of the proposed use, situation and surrounding conditions. In making this determination, the following shall be considered: the characteristics of the proposed use and surrounding area, existing zoning and Comprehensive Plan designations and use regulations of this chapter. At a minimum, required setbacks and yards shall be provided as landscape areas which meet the requirements of this section.

(a) *R-5, Multifamily residential district:*

- (1) Setbacks: Setbacks from existing or planned peripheral roads, including peripheral roads shown on count approved development plans, shall contain a landscape area having an average width of 50 feet and meet requirements outlined in section 24-96 98(b), ~~(e)~~ (d), and ~~(e)~~ (f). The balance of the setback and setbacks from internal streets shall contain existing trees and plantings in conformance with section 24-94 96. This requirement shall not apply to single-family dwellings.
- (2) Yards: All required yards shall contain existing trees and plantings in conformance with section 24-94 96. This requirement shall not apply to single family dwellings.
- (3) Transitional screening: For developments with 200 or ~~less~~ *fewer* units, a transitional screening area in accordance with section 24-98 100, with a minimum width of 35 feet, shall be provided within the first 35 feet of yard area or setback from any property line when adjacent to or across a peripheral public street from any residential district other than R-5 or

any agricultural district designated for low-density residential or rural lands on the Comprehensive Plan. For larger developments, such transitional screening area shall be a minimum of 40 feet in width.

(b) *Manufactured home subdivision and manufactured home park:*

Perimeter Landscape Area: If the park fronts on a public right-of-way, then a landscape area shall be provided that meets the minimum requirements of section 24-174. In all other areas a perimeter landscape area shall be provided in accordance with section 24-174 around the entire site in addition to all other yard requirements in manufactured home subdivisions and parks.

(c) *LB, Limited Business District; B-1, General Business District; M-1, Limited Business/Industrial District; M-2, General Industrial District; RT, Research and Technology District.*

(1) Side and rear landscape area: A landscape area adjoining all side and rear property lines shall be provided which is at least 15 feet in width. Along the rear property lines, such landscape area may be reduced to a minimum of ten feet in width or five percent of the average lot depth, whichever is greater, on lots with less than 65,000 square feet which were recorded or legally in existence prior to July 3, 1990. Such landscape area shall be landscaped in accordance section 24-94 98. Such area may be broken by necessary driveways or utilities perpendicular to the property line.

(2) Special requirements for industrial uses: Landscape standards in section 24-94 96 and section 24-95 97 for certain landscape areas shall be reduced for all uses in M-2 or RT districts, or for industrial uses in M-1 districts, when the following requirements of this paragraph are met. For purposes of this section, industrial uses shall include any permitted use or use permitted by special use permit in an M-2 or RT district except automobile service stations, offices, employment agency~~ies~~, or schools.

- a. Landscape areas along rights-of-way and side and rear property lines: Where such a landscape area is not adjacent to a public street, and the landscape area is adjacent to one of the industrial districts listed above, then the requirements provided in the following chart shall apply:

| Quantity Requirements |                  |  |
|-----------------------|------------------|--|
| Number of Trees       | Number of Shrubs | Per                                      |
| 1                     | 0                | 600 square feet of total landscape area. |

For such landscape areas, none of the deciduous trees shall be required to be of a 2-½ inch minimum caliper. All required trees shall meet the other minimum standards of this section; or

- b. Landscape areas adjacent to buildings: A landscape area which is a minimum of ten feet wide shall be provided adjacent to one-half of the perimeter of the building. Up to one-half of this landscape area may be eliminated where such landscape area would be along a portion of a buildings perimeter that is not visible from a public street, and that same side of the building is not visible from any district other than one of the industrial districts listed above. Such landscape area shall be landscaped in accordance with section ~~24-95~~ 97 unless a modification is granted under section ~~24-88~~ 91.
- (3) Transitional screening: Landscape areas along property lines of properties zoned LB, B-1, M-1, M-2, and RT shall be increased to the following widths when adjacent to or across a public street from a residential district or agricultural district if designated residential on the Comprehensive Plan:

| Transitional Screening |         |
|------------------------|---------|
| LB District            | 30 feet |
| B-1 District           | 35 feet |
| M-1 District           | 35 feet |
| M-2 District           | 50 feet |
| RT District            | 35 feet |

Such landscape areas shall be exclusive of any planned future right-of-way and shall be left in an undisturbed natural state and supplemented with additional plantings to create a visual screen in accordance with section 24-98 100.

- (4) Landscape open space and impervious cover: As required in Chapter 23, Chesapeake Bay Preservation Ordinance, impervious cover shall not exceed 60 percent of the lot area except where an exception is approved in accordance with Chapter 23. Provided, however, in no case shall minimum landscape open space be less than that required below for the respective district:

| Required Landscape Open Space |                           |
|-------------------------------|---------------------------|
| District                      | Percent of Total Lot Area |
| LB District                   | 35                        |
| B-1 District                  | 30                        |
| M-1 District                  | 30                        |
| M-2 District                  | 25                        |
| RT District                   | 30                        |

- (d) *PUD, planned unit development district, MU, mixed use district:*

- (1) Landscape setbacks:

- (a) Landscape setbacks in PUD, planned unit development district. Setbacks from existing or planned peripheral public roads shall contain a landscape area having an average width in accordance with section 24-498, except for industrial and commercial uses which shall

have an average width of 30 feet in accordance with section 24-~~96~~ 98(b), ~~(e)~~ (d), and ~~(e)~~ (f). The balance of that setback and setbacks from internal streets shall contain existing trees and plantings in conformance with section 24-~~94~~ 96. Landscape requirements along internal streets shall not apply to single-family dwellings. Requirements of this paragraph shall not apply to active recreation playing areas designated on the master plan and approved in accordance with article V, division 14.

(b) Landscape setbacks in mixed use, mixed use district. Setbacks from existing or planned peripheral roads, including peripheral roads shown on county approved development plans, shall contain a landscape area having a minimum width in accordance with section 24-~~96~~ 98. The balance of that setback and setbacks from internal streets shall contain existing trees and plantings in conformance with section 24-~~94~~ 96. Landscape requirements along internal streets shall not apply to single-family dwellings. Requirements of this paragraph shall not apply to active recreation playing areas designated on the master plan and approved in accordance with article V, division 14.

(2) Yards: All yards shall contain existing trees and plantings in conformance with section 24-~~94~~ 96. This requirement shall not apply to single-family dwellings or active recreation playing areas designated on the master plan and approved in accordance with article V, division 14 of this chapter.

(3) Special requirements for industrial uses: Landscape standards in section 24-~~94~~ 96 and section 24-~~95~~ 97 for certain landscape areas shall be reduced for industrial uses in PUD and MU districts, when the following requirements of this paragraph are met. For purposes of this section, industrial uses shall include any permitted use or use permitted by special use permit in an M-2 or RT district except automobile service stations, offices, employment agency*ies*, or schools.

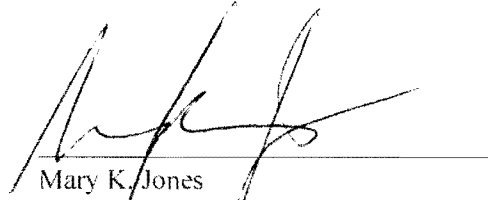
- a. *Landscape areas in setbacks and yards.* Where such a landscape area is not adjacent to a public street, and the landscape area is adjacent to one of the districts or land bays listed above, no shrubs shall be required within such landscape area, and the required trees may be provided at a ratio of one tree per 600 square feet of landscape area. For such landscape areas, none of the deciduous trees shall be required to be of a 2-½ inch minimum caliper. All required trees shall meet the other minimum standards of this section; or
- b. *Landscape areas adjacent to buildings.* A landscape area which is a minimum of ten feet wide shall be provided adjacent to one-half of the perimeter of the building. Up to one-half of this landscape area may be eliminated where such landscape areas would be along a portion of a buildings perimeter that is not visible from a public street, and that same side of building is not visible from any district other than one of the districts listed above. Such area shall be landscaped in accordance with section 24-95 97 unless a modification is granted under section 24-88 91.

(4) Transitional screening.

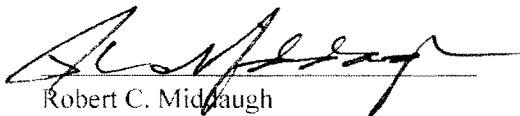
- a. *Residential.* Where a multifamily or townhouse structure in a PUD district is located adjacent to or across a peripheral public street from an R-1, R-2, or R-6 residential district or agricultural district if designated low-density residential or rural lands on the Comprehensive Plan, a 35-foot wide transitional screening area in accordance with section 24-98 100 shall be provided within the first 35 feet of yard area or setback from any property line adjoining such district.
- b. *Commercial, industrial, public or institutional uses.* Where a commercial, industrial, public or institutional use in a PUD district is located adjacent to or across a peripheral public street from any residential district or agricultural district if designated for

residential use on the Comprehensive Plan, transitional screening shall be provided in accordance with requirements for LB, B-1, M-1, M-2, or RT districts as required in section 24-~~99~~ 101 (c) (3). The applicable transitional screening requirements shall be determined by the planning director in accordance with section 24-~~99~~ 101.

**Cross reference** - Chesapeake Bay Preservation regulations, Ch. 23.

  
\_\_\_\_\_  
Mary K. Jones  
Chairman, Board of Supervisors

ATTEST:

  
\_\_\_\_\_  
Robert C. Midgough  
Clerk to the Board

| SUPERVISOR | VOTE |
|------------|------|
| KENNEDY    | AYE  |
| GOODSON    | AYE  |
| MCGLENNON  | AYE  |
| ICENHOUR   | AYE  |
| JONES      | AYE  |

Adopted by the Board of Supervisors of James City County, Virginia, this 22nd day of November, 2011.

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