

AUG 20 1990

ORDINANCE NO. 31A-125

BOARD OF SUPERVISORS
JAMES CITY COUNTY
VIRGINIA

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 20, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE I. IN GENERAL, SECTION 20-14. LANDSCAPING AND TREE PRESERVATION REQUIREMENTS.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 20, Zoning, is hereby amended and reordained by amending Section 20-14. Landscaping and Tree Preservation Requirements.

Chapter 20. Zoning

Article I. In General

Section 20-14. Landscaping and Tree Preservation Requirements

A. Statement of intent

The purpose of this Section is to promote the public health, safety and welfare by providing for 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, Greenbelt Roads, 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; and
5. Provide more comfortable exterior spaces and conserve energy by preserving and providing tree canopies and other landscape features which provide shade and windbreaks.

B. Administration

1. Landscape plan: when required

A landscape plan is required for any site plan or residential plan for development subject to paragraph C.2.d. (5 & 6) and shall be submitted at the time of application for plan approval. The landscape plan shall be prepared and approved in accordance with Article II, Site Plan.

2. 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 Transportation Plan, or any road plan adopted by the Board of Supervisors.

3. 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 incompleted landscaping is guaranteed as provided in Section 20-7.

4. 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.

5. Modification, substitution, transfer

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. Requests for modifications, substitutions or transfers may be granted in the following cases:

- a. 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;
- b. The proposed landscape plan substantially preserves, enhances, integrates and complements existing trees and topography;
- c. 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;
- d. The proposed landscape design or materials involve a readily discernible theme, historic or otherwise, or complements an architectural style or design;

- e. 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 multi-unit 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
- f. 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.

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 recommendation, 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.

C. General requirements for all uses requiring a landscape plan

1. 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 Chapter 19B, 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.

a. 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 Director of Code Compliance which shall ensure that the specified trees will be protected in accordance with these specifications.
- (2) Trees or groups of trees to be preserved shall be clearly marked in the field. All specimen trees shall be clearly marked. Groups of trees shall be preserved rather than single trees. Trees and groups of trees to be preserved shall be enclosed by a substantial, temporary fence or barrier located and maintained outside the drip line before commencement of clearing or grading. The fence 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. 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.

b. Tree removal

Outside impervious areas, diseased trees, or trees weakened by age, storm, fire or other injury may be removed provided trees are replanted as required by Chapter 19B, Chesapeake Bay Preservation Ordinance. Selective hand clearing and intermittent thinning may be permitted outside impervious areas by the Director of Code Compliance for necessary visibility, maintenance, and lawn management.

2. Site landscaping and tree protection requirements

- a. General landscape area standards. Existing trees shall be retained to the maximum extent possible in all landscape areas. Such trees may be removed to accommodate necessary

utilities or drainage structures, or where necessary to abate demonstrable public health or safety hazards. All required landscape areas, other than landscape areas adjacent to buildings and within parking lots, as required below in paragraph C.2.b. and C.2.e., shall contain a number of trees equal to at least one tree and three shrubs per four hundred (400) square feet of total landscape area provided. At least thirty five (35) percent of these trees shall have a minimum caliper of 2-1/2 inches. Fifteen (15) to twenty five (25) percent of the required trees shall be ornamental trees. At least twenty five (25) percent of the total required trees and twenty five (25) percent of the required shrubs shall be evergreen. All required plantings shall conform with 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. Required planting materials shall be of a species that promotes the intent of this Section and that is compatible with the proposed planting environment. 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.

Each mature existing tree may be counted toward meeting the required minimum number of trees, with one viable mature tree substituting for two planted trees and one viable specimen tree substituting for three planted trees. However, no credit shall be given for any mature tree or specimen tree which is not protected in full compliance with the tree protection standards above in paragraph C.1. In such cases, planted trees shall be provided as required above. 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.

- b. Landscape areas adjacent to buildings. A landscape area which is a minimum of ten (10) 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 one ornamental tree or five (5) shrubs per two hundred (200) square feet of planting area provided.
- c. Landscape area along right-of-way. A landscape area having an average width of thirty (30) feet shall be provided adjacent to any existing or planned public road right-of-way. Such landscape areas may be reduced to an average width of twenty (20) feet or ten (10) percent of

the average lot depth, whichever is greater, on lots with less than sixty five thousand (65,000) square feet which were recorded or legally in existence prior to July 3, 1990. Any required landscape area along a right-of-way shall have a minimum width of fifteen (15) feet. All landscape areas along a right-of-way shall contain a minimum amount of square footage which shall be determined by multiplying the applicable average width requirement above times the length of the right-of-way frontage. In no case shall any portion of any landscape area located more than forty five (45) feet from the right-of-way be counted toward meeting the requirements of this paragraph. All landscape areas along right-of-ways shall be continuous along the road right-of-way frontage except where driveway, utility or other breaks are necessary, and shall be designed in a manner that achieves the intent of this Section. All existing viable trees or specimen trees shall be preserved within this landscape area and protected in accordance with the above tree protection standards in paragraph C.1. Such landscape area shall be supplemented where necessary with planted trees and shrubs to achieve the minimum number of trees and shrubs specified in paragraph C.2.a. above.

d. Screening

- (1) Transitional screening. Transitional screening between conflicting land uses and districts shall be provided as required in this paragraph and in paragraph D. Such screening areas shall be left in their undisturbed natural state and supplemented where necessary in accordance with paragraph C.2.a. 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.
- (2) 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.

- (3) 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. Objectionable feature may include, but are not limited to the following: refuse areas, storage yards, loading areas, and detention ponds.
- (4) 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.
- (5) Multiple frontage lots. Lots with multiple frontages shall have screening provided between the rear of the principle use or building and the public right-of-way.
- (6) Residential developments not subject to Article II, site plans. Major subdivisions of residential developments as defined in Chapter 17, 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 multi-family, 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 multi-family, commercial or industrial district contained in paragraph D.

e. 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:

- (1) 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.

- (2) Landscape area. Total landscape area within the parking lot, exclusive of any perimeter landscape areas or any landscape areas around the building, shall not be less than ten (10) percent of the surface area of the parking lot, including drives and circulation areas. On lots or parcels having less than 65,000 square feet which were recorded or legally in existence prior to July 3, 1990, total landscape area within the parking lot shall not be less than seven and five tenths (7.5) percent of the surface area of the parking lot including drives and circulation areas.
- (3) Planting requirements. Landscape areas within a parking lot shall contain a minimum of one tree and two shrubs for each five (5) parking spaces in the parking lot. On lots or parcels having less than 65,000 square feet which were recorded or legally in existence prior to July 3, 1990, landscape areas within the parking lot shall contain a minimum of one (1) tree and two (2) shrubs for each ten (10) parking spaces in the parking lot. At least fifty (50) percent of the required trees shall be deciduous shade trees with a 2-1/2 inch minimum caliper, and at least twenty five (25) percent of the required shrubs shall be evergreen. As provided above, each mature existing tree or specimen tree may be counted toward meeting the required minimum number of trees, with one viable mature tree substituting for two 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 paragraph C.1. above. Required trees shall be reasonably distributed throughout the parking lot in a manner that promotes the intent of this Section, and shall be spaced no more than seventy five (75) feet apart throughout the parking lot. In addition to the above tree and shrub requirements, all parking lots shall be visually screened from public road right-of-ways by evergreen plantings or berms. Such berms shall have a maximum side slope ratio of three horizontal feet to one vertical (3:1) foot, and a level crown with a minimum width of three (3) 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.
- (4) 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: a) one tree and two shrubs shall be provided for each two bus parking spaces, with at least fifty (50) percent of

the required trees consisting of deciduous shade trees with a 2-1/2 inch minimum caliper; and b) in addition to the foregoing tree and shrub requirements, bus parking areas shall be visually screened from all public road right-of-ways by evergreen landscaping or berms to the maximum extent possible. Any berms shall meet the requirements of paragraph 3 above.

D. Landscape requirements by zoning district

All uses and developments requiring a site plan and landscape plan in accordance with Article II, 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.

1. R-5, Multi-family residential district

- a. Setbacks. Setbacks from existing or planned peripheral public street right-of-ways shall contain a landscape area having an average width of thirty (30) feet in accordance with paragraph C.2.c. above. The balance of the setback and setbacks from internal streets shall contain existing trees and plantings in conformance with paragraphs C.2.a. above. This requirement shall not apply to single-family dwellings.
- b. Yards. All required yards shall contain existing trees and plantings in conformance with paragraphs C.2.a. above. This requirement shall not apply to single-family dwellings.
- c. Transitional screening. For developments with two hundred (200) or less units, a transitional screening area in accordance with paragraph C.2.d., with a minimum width of thirty (30) feet shall be provided within the first thirty (30) 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 residential on the Comprehensive Plan. For larger developments, such transitional screening area shall be a minimum of thirty five (35) feet in width.

2. R-7, manufactured home subdivision and manufactured home park
- a. Perimeter landscape area. A perimeter landscape area at least 30 feet in width shall be provided around the entire site in addition to all other yard requirements in manufactured home subdivisions and parks. Such landscape area shall be provided in accordance with paragraphs C.2.a., and C.2.c. above.

3. LB, Limited Business District; B-1, General Business District; M-1, Limited Industrial District; M-2, General Industrial District

- a. 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 10 feet in width or 5 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 with paragraph C.2.a. above. Such area may be broken by necessary driveways or utilities perpendicular to the property line.
- b. Transitional Screening. Landscape areas along property lines of properties zoned LB, B-1, M-1 and M-2 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:

| | |
|---------------|---------|
| LB District: | 30 Feet |
| B-1 District: | 35 Feet |
| M-1 District: | 35 Feet |
| M-2 District: | 50 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 paragraph C.2.d. above.

- c. Landscape Open Space and Impervious Cover.

As required in Chapter 19B, Chesapeake Bay Preservation Ordinance, impervious cover shall not exceed sixty (60) percent of the lot area except where an exception is approved in accordance with Chapter 19B. Provided, however, in no case shall minimum landscape open space be less than that required below for the respective district:

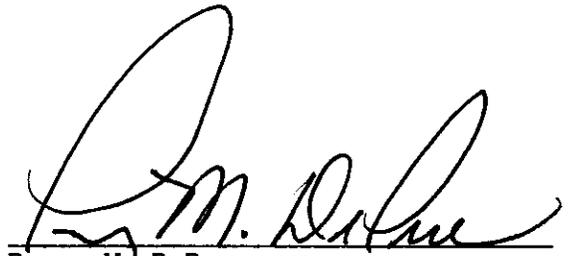
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|---------------|-----------------------|
| LB District: | 35% of total lot area |
| B-1 District: | 30% of total lot area |
| M-1 District: | 30% of total lot area |
| M-2 District: | 25% of total lot area |

4. PUD, Planned Unit Development District

- a. Setbacks. Setbacks from existing or planned peripheral public street right-of-ways shall contain a landscape area having an average width of thirty (30) feet in accordance with paragraph C.2.c. above. The balance of that setback and setbacks from internal streets shall contain existing trees and plantings in conformance with paragraph C.2.a. above. 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 VIII.
- b. Yards. All yards shall contain existing trees and plantings in conformance with paragraph C.2.a. above. 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 VIII.
- c. Transitional screening.
 - (1) Residential. Where a multi-family or townhouse structure in a PUD district is located adjacent to or across a peripheral public street from an R-1, R-2, R-3, R-6 or R-7 residential district or agricultural district if designated low density residential or rural residential on the Comprehensive Plan, a thirty five (35) foot wide transitional screening area in accordance with paragraph C.2.d. above shall be provided within the first 35 feet of yard area or setback from any property line adjoining such district.
 - (2) 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 or M-2 districts as required in paragraph D.3.b. above. The applicable transitional screening requirements shall be determined by the Planning Director in accordance with paragraph D above.

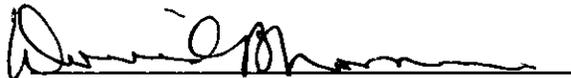
5. Special requirements for certain uses

- a. Commercial, Industrial or Public Uses Exceeding 20,000 square feet. Where such uses exceed twenty thousand (20,000) square feet in gross floor area, the landscape area adjoining all side and rear property lines shall be increased to at least twenty (20) feet in width, in addition to meeting other requirements of this Section. Such area shall be landscaped in accordance with paragraphs C.1. and C.2.a. above and may contain necessary driveways or utilities which are perpendicular to the property line.



Perry M. DePue
Chairman, Board of Supervisors

ATTEST:



David B. Norman
Clerk to the Board

| <u>SUPERVISOR</u> | <u>VOTE</u> |
|-------------------|-------------|
| NORMENT | AYE |
| TAYLOR | ABSENT |
| EDWARDS | AYE |
| KNUDSON | AYE |
| DEPUE | AYE |

Adopted by the Board of Supervisors of James City County, Virginia,
this 20th day of August, 1990.

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