

ADOPTED

MAY 8 2001

ORDINANCE NO. 31A-204

BOARD 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 I, IN GENERAL, SECTION 24-2, DEFINITIONS, AND SECTION 24-22, PENALTIES; SANCTIONS, INJUNCTIVE RELIEF, FINES; AND BY AMENDING ARTICLE II, SPECIAL REGULATIONS, DIVISION 1, IN GENERAL, SECTION 24-43, BUFFER, GREENBELT AND SETBACK REQUIREMENTS FOR TIMBERING ACTIVITIES.

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 I, In General, Section 24-2, Definitions; and Section 24-22, Penalties; sanctions, injunctive relief, fines; and by amending Article II, Special Regulations, Division I, In General, Section 24-43, Buffer and setback requirements for timbering activities.

Chapter 24. Zoning

Article I. In General

**Sec. 24-2. Definitions.**

*Community character corridor. A road shown and identified on the Land Use Plan Map in the Comprehensive Plan as a community character corridor.*

**Sec. 24-22. Penalties; sanctions, injunctive relief, fines.**

(3) *Civil fines:*

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a. A civil penalty in the amount listed on the schedule below shall be assessed for a violation of the respective offense:

1. Keeping an inoperative vehicle in residential or commercial zoning districts in violation of section 24-37, per vehicle.....\$100.00
  
2. Constructing, placing, erecting or displaying a sign on private property without a sign permit issued by the county, in violation of section 24-72, per sign.....100.00
  
3. Occupying, or permitting to be occupied, a single-family dwelling (SFD) by more than three unrelated individuals in violation of the definition of "family" in section 24-2, per offense.....100.00
  
4. Installing, placing or maintaining a dish antennae in violation of section 24-34, per offense..... 50.00
  
5. *Failure to meet the tree replacement requirements for any buffer or setback for timbering in accordance with section 24-43, per offense..... 100.00*

Article II. Special Regulations

Division 1. In General

**Sec. 24-43. Buffer, ~~greenbelt~~ and setback requirements for timbering activities.**

The requirements in this section shall apply to timbering activities located in all districts. This section shall not apply to timbering activities conducted as part of an approved site plan, subdivision plan, or building permit. Approval of site plans, subdivision plans, or building permits shall be in accordance with other provisions of the zoning ordinance and shall not be governed or guided by the provisions of this section. This section shall also not apply to timbering activities where all timbering is conducted outside of the buffers or setback for timbering listed in paragraph (1), (2) or (3) or for timbering within such buffers or setback for timbering to construct access drives having a maximum width of 30 feet. The following provisions shall apply to all timbering activities subject to this section except as otherwise noted:

- (1) *Buffer along public roads.* This paragraph shall not apply to the General Agricultural District, A-1. An undisturbed buffer at least 75 feet wide shall be maintained along all public roads. No trees or other vegetation shall be removed from this buffer except as permitted under this section.
- (2) Buffer along ~~greenbelt roads~~ *community character corridors*. This paragraph shall not apply to the General Agricultural District, A-1. On all other property fronting on roads that are identified as ~~greenbelt roads~~ *community character corridors* on the Comprehensive Plan, an undisturbed buffer at least 150 feet wide shall be maintained along the ~~greenbelt roads~~

*community character corridors* on properties that are zoned residential. No trees or other vegetation shall be removed from this buffer except as permitted under this section.

- (3) *Setback for timbering.* In the General Agricultural District, A-1, a setback for timbering shall be provided in accordance with section 24-215(c).
- (4) *Buffer and setback for timbering measurement and determinations.* The width of required buffers and setbacks for timbering shall exclude any planned future right-of-way as designated on the Six-Year Primary or Secondary Road Plan.
- (5) *Tree protection.* Required buffer areas and setbacks for timbering shall be marked by painting trees along the interior edge of the buffer. Equipment, timber, or other materials shall not be placed within the buffer or setback for timbering area.
- (6) *Processing requirements.* Prior to commencing any timbering activities within a buffer or setback for timbering except for a 30-foot access drive, the property owner or agent shall complete an application and submit it along with a James City County Tax Map (with topography and planimetric detail at a scale of 1"=200') to the planning director that shows the site's property lines, any existing and proposed driveway entrances, required buffer areas and setbacks for timbering, and tree protection measures. The planning director shall determine whether to permit timbering activities within a buffer or setback for timbering in accordance with paragraphs (7) and (8) below. Upon approval of the application by the planning director, timbering activities within a buffer or setback for timbering may proceed.

All timbering activities within a buffer or setback for timbering including location of driveways or any other land disturbing activities, shall take place only in those areas indicated on the approved map and in accordance with the methods approved by the planning director. The planning director shall have no more than 14 days from the filing of such application to approve or disapprove the application. If disapproved, the planning director shall write a letter to the applicant identifying the revisions to be made to gain approval.

- (7) *Modifications.* The planning director may grant modifications to the buffer, setback for timbering, and tree protection requirements when, in the opinion of the planning director, an alternative design provides equivalent measures, or retains the rural character of the property, or when buffers, setbacks for timbering, or tree protection are unnecessary due to a site's physical conditions such as topography or presence of streambeds, wetlands or other natural features. The planning director may also permit tree removal within the buffer or setback for timbering when trees are weakened, dying, diseased, or insect damaged, or, in the opinion of the state forester, unlikely to survive or such removal will enhance the long term effectiveness of the buffer or setback for timbering as a visual barrier.
- (8) *Partial timbering within a buffer or setback for timbering.* The planning director may approve partial timbering of buffer areas and setback for timbering and the use and type of equipment for partial timbering, after considering the following:
  - a. The effect of the timbering on the long-term effectiveness of the buffer area, or setback for timbering and on adjacent roads and properties;

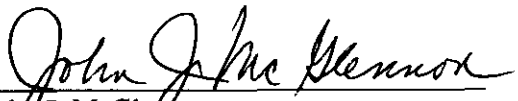
- b. The anticipated development of the property and the surrounding area;
  - c. The condition of any adjacent dwelling or subdivision including whether the structures are abandoned or dilapidated;
  - d. Any recommendations of the state forester, including recommendations on the use and type of equipment for partial timbering;
  - e. The health and diversity of trees with emphasis on protection of mixed hardwood trees, and the reforestation of the buffer or setback for timbering; and
  - f. The market value of the timber in the buffer or setback for timbering and the timber to be removed, and the market value of the timber on the balance of the property.
- (9) *Development review committee review.* The development review committee shall consider the timbering application if there are unresolved problems between the applicant or the planning director.
- (10) *Tree Replacement.* If timbering occurs within the buffers or setbacks for timbering described above in paragraphs (1), (2) and (3) and such timbering is not approved in accordance with paragraphs (7) and (8) above, trees shall be replaced at a ratio of one tree for each 800 square feet of area timbered. *All replacement trees shall be of a species native to eastern Virginia.* Such trees shall meet the standards for trees stated in Section 24-2. The number *and type* of trees and their placement shall be approved by the planning director.

*All trees shall be planted within 30 days from the date the trees were removed from the buffer or setback unless such period does not fall within the planting season. In such cases, their replacement in the next planting season (October 1 through March 31) shall be guaranteed by entering into a written agreement with the county and furnishing to the county a certified check, bond with surety satisfactory to the county, or a letter of credit in an amount to cover all costs of the plantings and their installation as estimated by the planning director. Such written agreement shall be entered into and such financial guarantee shall be provided to the County within 30 days from the date the trees were removed. The form of the agreement, financial guarantee, or type of surety shall be to the satisfaction of and approved by the county attorney. If the improvements are not completed in a timely manner, the planning director shall proceed to complete the improvements by calling on the surety or financial guarantee. After the first full growing season (February 1 to November 30) after planting, any trees not in a healthy growing condition or determined to be dead, diseased, or dying, shall be replaced as determined by the planning director. Thereafter, all trees shall be maintained in a healthy growing environment and in a healthy growing condition.*

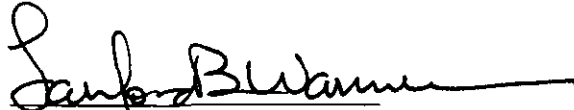
*The planning director may allow some or all of the trees required by this paragraph to be planted outside the buffer or off-site when, if in the opinion of the planning director, such an alternative mitigates the environmental, buffering, or wildlife habitat impacts of the tree removal.*

*(11) Violations and penalties. Prior to any criminal or civil enforcement under this section, the administrator or his designee shall give five days written notice of the violation to the owner*

*of the property prior to commencing enforcement. The violation of any provision of this section concerning tree replacement in paragraph 10 above is subject to a civil fine pursuant to section 24-22. The violation of any other provisions in this section is subject to a criminal sanction under section 24-22.*

  
John J. McGlenon  
Chairman, Board of Supervisors

ATTEST:

  
Sanford B. Wanner  
Clerk to the Board

<u>SUPERVISOR</u>	<u>VOTE</u>
HARRISON	AYE
KENNEDY	NAY
NERVITT	AYE
GOODSON	AYE
MCGLENNON	AYE

Adopted by the Board of Supervisors of James City County, Virginia, this 8th day of May, 2001.