

**ADOPTED**

OCT 08 2024

ORDINANCE NO. 31A-360

**Board of Supervisors  
James City County, VA**

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, BY AMENDING DIVISION 1, IN GENERAL, SECTION 24-43, BUFFER AND SETBACK REQUIREMENTS FOR TIMBERING ACTIVITIES; AND BY AMENDING DIVISION 4, LANDSCAPING, SECTION 24-98, LANDSCAPE AREA(S) ALONG RIGHT(S)-OF-WAY; AND BY AMENDING ARTICLE V, DISTRICTS, DIVISION 2, GENERAL AGRICULTURAL DISTRICT, A-1, BY ADDING NEW SECTION 24-223, BUFFER REQUIREMENTS.

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, by amending Division 1, In General, Section 24-43, Buffer and setback requirements for timbering activities; and by amending Division 4, Landscaping, Section 24-98, Landscape area(s) along right(s)-of-way; and by amending Article V, Districts, Division 2, General Agricultural District, A-1, by adding new Section 24-223, Buffer requirements.

### **Chapter 24. Zoning**

#### **Article II. Special Regulations**

##### **Division 1. In General**

###### **Sec. 24-43. Buffer 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 tree removal activities conducted as part of a site plan, subdivision plan, or building permit that is currently under review by the county or has received final approval. 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 community character corridor.* This paragraph shall not apply to the General Agricultural District, A-1. On all other property fronting on roads that are identified as community character corridors on the comprehensive plan, an undisturbed buffer at least 150 feet wide shall be maintained along the community character corridor 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, for properties that are in the primary service area, all timbering activities shall be located a minimum of 50 feet from any public road right-of-way unless done in accordance with other provisions in section 24-43. This distance shall be known as the setback for timbering. In the general agricultural district, A-1, for properties outside the primary service area, there shall be no setback for timbering except that those parcels adjacent to Wooded Community Character Corridors shall have a 50-foot-wide setback for timbering.
- (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 a timber buffer modification application and submit it along with a James City County Tax Map (with topography) 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 ten working 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 or a certified horticulturalist, 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 or a certified horticulturalist, 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 timber buffer modification application if there are unresolved problems between the applicant and 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 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.

#### **Division 4. Landscaping**

##### **Sec. 24-98. 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.

<b>Width Requirements for Landscape Areas along Right(s)-of-Way.</b>			
<b>(1) Community Character Corridors</b>			
	Standard	Minimum width conditioned upon approval of planning director. Reference section 24-98(e) 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) Wooded Community Character Corridors Outside the Primary Service Area</b>			
	Standard		Reduction for lots less than 1.5 acres which were recorded or legally in existence prior to July 3, 1990.
Average Width	100-feet		20-feet or 10% of the average lot depth, whichever is greater.
Minimum Width	50-feet		15-feet
<b>(23) 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>(34) 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 125 feet from the right-of-way of a Wooded Community Character Corridor outside the Primary Service Area, 65 feet from the right-of-way of all other Community Character Corridors 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 24-98 (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.
- (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 24-98 (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 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.
- (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 subsection(s) (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.
- (f) *Right-of-way landscape area performance standards.*
  - (1) Permitted breaks in landscape areas.
    - a. All landscape areas along rights-of-way 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 section 24-96.
- (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.

## Article V. Districts

### Division 2. General Agricultural District, A-1

#### **Sec. 24-223. Buffer requirements.**

- (a) Right-of-way buffer. Within any major subdivision approved under this division, there shall be planned and maintained buffers along all external existing and planned road rights-of-way, as follows:
  - (1) The minimum right-of-way buffer on Wooded Community Character Corridors located outside the primary service area as defined in the comprehensive plan shall be 200 feet.
  - (2) The right-of-way buffer shall be planted in accordance with section 24-96, General landscape area standards and shall also adhere to the Community Character Corridor Buffer Treatment Guidelines and Map.
  - (3) Waiver provisions. The planning director may reduce the buffer depth requirements specified in (1) of this section for residential developments when:
    - (i) The developer demonstrates that due to natural or protected features, or due to adjoining physical features, a reduced buffer will screen the development as effectively as a full buffer; or

- (ii) The developer demonstrates that the development will be adequately screened and buffered from the road using berms and landscaping. Such a request shall be supplemented with a landscaping plan and/or planting plan with photos of the existing site.

In no case shall the right-of-way buffer be reduced by a waiver provision to less than 100 feet. The planning director may also, in the event of granting a waiver, require additional landscaping as determined on a case-by-case basis.

- (b) Requirements for buffers. All required buffers shall be exclusive of lots, remain free of structures and parking, and remain undisturbed, except for additional plantings and selective clearing approved by the planning director or designee. Soil stockpiles and staging areas shall not be permitted within any buffer, except that temporary soil stockpiles may be allowed upon approval by the planning director under the following circumstances:

- (1) The buffer in which the temporary stockpile is to occur is non-wooded, defined as having no mature trees.
- (2) The stockpile shall not be visible from a Community Character Corridor or Community Character Area unless the soil stockpiling is needed for approved berming in that buffer.
- (3) Stockpiles shall not exceed 35 feet in height.
- (4) Stockpiles shall be temporary, with a time limit of six months.
- (5) Once the use of the temporary soil stockpiles is completed, the ground must be adequately prepared for planting and revegetated in a manner that meets or exceeds the amount and quality of vegetation on the site previously.
- (6) Stockpiling shall conform with any applicable requirements of the Virginia erosion and sediment control regulations, the Virginia erosion and sediment control handbook and county erosion and sediment control program policies.

- (c) Limitations on buffers. Structural BMPs such as wet and dry ponds shall not generally be permitted in the buffers, except that the planning director may approve them under the following circumstances:


- (1) The need is necessitated by site conditions rather than economic factors; and
- (2) The screening/buffering effect of the buffer has been retained by the design of the BMP and any degradation has been mitigated with additional plantings or berms as necessary.

- (d) Improvements allowable within buffers. An entrance road, community and directional signage, bicycle and/or pedestrian paths, and utility connections and drainage improvements shall be permitted within the buffer with approval of the planning director. Permitted utilities and constructed drainage conveyance systems shall cross the buffer at or near a perpendicular angle to the property line, with clearing kept to a minimum necessary to accommodate the utilities, except that minor improvements to natural drainage channels may be permitted at a different angle to the property line upon approval of the planning director.


- (e) Roads within buffers. Entrance roads through these buffers shall be built to the narrowest cross-section possible. Roads and open space shall be located and designed in a manner that minimizes views of structures within the development from the adjoining primary or secondary road as determined by the planning director.



(f) Appeals. In the event the planning director disapproves the items specified in this section or recommends conditions or modifications that are unacceptable to the applicant, the applicant may appeal the decision of the planning director to the development review committee which shall forward a recommendation to the planning commission. Any appeal shall be in writing and may be subject to fees as specified in article I of this chapter.

  
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Ruth M. Larson  
Chair, Board of Supervisors

ATTEST:

  
Teresa J. Saeed  
Deputy Clerk to the Board

	VOTES			
	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
NULL	<input checked="" type="checkbox"/>	___	___	___
HIPPLE	<input checked="" type="checkbox"/>	___	___	___
MCLENNON	<input checked="" type="checkbox"/>	___	___	___
ICENHOUR	<input checked="" type="checkbox"/>	___	___	___
LARSON	<input checked="" type="checkbox"/>	___	___	___

Adopted by the Board of Supervisors of James City County, Virginia, this 8th day of October, 2024.

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