

Chapter 6 BEACHES, BOATS AND WATERWAYS

ARTICLE VII. PERMIT FOR DREDGING, FILLING, ETC., IN WATERS, MARSHLANDS AND LOWLANDS

Sec. 6-154. Issuance; conditions of permit; revocation.

...

(b) In issuing or renewing a permit pursuant to this article, the planning director or his designee may require, as a condition of the permit, any or all of the following in the interest of the public health, safety and welfare:

...

(2) That existing trees and other vegetation located along public street frontage or between the site of the operation and adjacent residential areas be preserved and protected; and

...

...

(Ord. No. 2003, 9-18-90; Ord. No. 2157, 6-23-92; Ord. No. 3418, 6-16-15)

Chapter 23 OFFENSES

ARTICLE I. MISCELLANEOUS OFFENSES

Sec. 23-39. Cutting, etc., of trees, shrubs or other vegetation upon city property.

(a) It shall be unlawful and a Class 3 misdemeanor for any person to cut, trim, damage, deface or remove any tree, shrub or other vegetation upon city property, or to cause, procure or direct the cutting, trimming, damaging, defacing or removal of any such tree, shrub or other vegetation, without the written authorization of the landscape services administrator or the city arborist. If any person shall commit any of the acts prohibited herein upon more than one tree or shrub, a separate violation of this section shall be deemed to have occurred with respect to each such tree or shrub.

(b) The provisions of this section shall not apply to any cutting or trimming of vegetation required by section 23-50 of this Code or to routine trimming of shrubbery upon city property, and shall not apply to city personnel engaged in the performance of their duties.

(Ord. No. 1837, 3-20-89; Ord. No. 2936, 4-4-06; Ord. No. 3122, 3-23-10)

Editor's note— Ord. No. 2936, adopted April 4, 2006, repealed former § 23-39 of the Code in its entirety and renumbered former § 23-39.1 as § 23-39. Former § 23-39 pertained to damaging or defacing property in or on streets, lanes or public squares and derived from the 1965 Code, § 23-28.

Sec. 23-50.1. Removal of certain trees.

(a) Upon determination by the code enforcement administrator or the city arborist, or the officers or employees of their respective departments, that there exists upon any land or premises within the city any tree which, by reason of disease, death, injury, infirmity or other condition, presents a danger to property or to the health and safety of persons or other trees or vegetation, notice shall be served upon the owner of such land or premises or his or her agent or upon the occupant thereof to cause such tree to be removed within a reasonable period of time, not less than seven (7) days nor more than thirty (30) days, specified in such notice. If the danger presented by such tree may be eliminated by the removal of a portion of such tree, the notice shall specify the portion or portions of the tree to be so removed. For purposes of this section, the term "tree" shall be construed to include the plural of the term.

(b) Service of the notice provided for herein shall be by personal service or by certified or registered mail. In the event the land or premises are vacant and the owner thereof or his or her agent cannot be found by the exercise of due diligence, such notice shall be given by

certified or registered mail to the last-known residence or post office box address of the owner and, in addition thereto, shall be posted in a conspicuous place upon the premises. Service of such notice upon one owner or occupant in any manner provided for herein shall be sufficient in the event such land or premises is owned or occupied jointly.

(c) Failure to comply with the terms of a notice issued and served as provided in this section within the time prescribed by such notice shall be punishable as a Class 4 misdemeanor. In addition to any fine imposed hereunder, the code enforcement administrator may, in the name of the city, institute legal action to enjoin the continuing violation of this section and may remove or contract for the removal of any such tree or portion thereof, in which event the cost of such removal, including an administrative fee in the amount of one hundred fifty dollars (\$150.00), shall be charged to the person or persons named in the notice and collected by action at law or as delinquent real estate taxes are collected, or both. The remedies provided for herein shall be cumulative in nature.

(d) The provisions of this section shall not apply to any parcel of land greater than one acre in size which is located in an agricultural zoning district and used principally for agricultural or horticultural purposes.

(Ord. No. 1675, 4-13-87; Ord. No. 1919, 10-2-89; Ord. No. 1931, 10-23-89; Ord. No. 2130, 5-12-92; Ord. No. 2469, 1-13-98; Ord. No. 3015, 5-13-08)

ARTICLE II. NOISE

Sec. 23-69. Maximum sound levels and residential dwellings.

...

(d) Exemptions. The following activities or sources of noise shall be exempt from the daytime prohibition set forth in subsection (b) of this section:

...

(4) Gardening, lawn care, tree maintenance or removal, and other landscaping activities.

(5) Agricultural activities.

...

(Ord. No. 3082, 5-12-09; Ord. No. 3180, 5-24-11)

Chapter 30 SOIL REMOVAL, OTHER LAND-DISTURBING ACTIVITIES

ARTICLE I. IN GENERAL

Sec. 30-1. Excavations for farm ponds or fish ponds for bona fide agricultural operations.

...

(d) The director of planning may grant an exception to the setback requirements imposed by this section when he finds that due to existing conditions and circumstances, the location of a farm pond or fish ponds within the required setback area will not adversely affect the public health, safety and welfare. In reviewing requests for exceptions, the director of planning shall consider the following factors:

...

(7) Protection of trees and other environmental considerations.

...

(Ord. No. 1085, § 31.10, 8-25-80; Ord. No. 2004, 10-2-90; Ord. No. 2308, 2-7-95; Ord. No. 2393, 6-11-96)

ARTICLE III. EROSION AND SEDIMENT CONTROL AND TREE PROTECTION

DIVISION 1. GENERALLY

Sec. 30-56. Findings of council.

The city council has determined that the trees and the lands and waters comprising the watersheds of the city are great natural resources; that as a result of erosion of lands by both winds and water and sediment deposition in waters within the watersheds of the city, such waters are being polluted and despoiled to such a degree that fish, aquatic life, recreation and other uses of lands and waters are being adversely affected; that the rapid shift in land use

from agricultural to nonagricultural uses has accelerated the processes of soil erosion and sedimentation and tree removal; and that it is necessary to establish and implement, through the department of planning, a city-wide coordinated erosion and sediment control program to conserve and to protect the land, water, air, trees and other natural resources of the city. (Ord. No. 1907, 8-21-89; Ord. No. 2144, 6-23-92)

Sec. 30-57. Definitions.

As used in this article, the following words and terms shall have the meanings ascribed to them in this section, unless the context requires a different meaning:

Land-disturbing activity means any man-made change to the land surface which may result in soil erosion from water or wind and the movement of sediments into state waters or onto lands in the city, including, but not limited to, clearing, grading, excavating, transporting, and filling of land, except that the term shall not include:

(1) Minor land-disturbing activities such as home gardens and individual home landscaping, repairs and maintenance work;

...

(6) Tilling, planting or harvesting of agricultural, horticultural or forest crops, livestock feedlot operations, or as additionally set forth by the Board in regulations, including engineering operations as follows: construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds, ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage and land irrigation; however, this exception shall not apply to harvesting of forest crops unless the area on which harvesting occurs is reforested (artificially or naturally) in accordance with the provisions of Code of Virginia, chapter 11 (section 10.1-1100 et seq.), or is converted to bona fide agricultural or improved pasture use as described in Code of Virginia, subsection B of section 10.1-1163

...

(Ord. No. 1907, 8-2-89; Ord. No. 2047, 4-2-91; Ord. No. 2144, 6-23-92; Ord. No. 2242, 6-22-93; Ord. No. 2300, 12-6-94; Ord. No. 2400, 6-25-96; Ord. No. 2440, 3-11-97; Ord. No. 2659, 8-28-01; Ord. No. 2778, 7-1-03; Ord. No. 3258, 8-28-12; Ord. No. 3345, 4-22-14)

Chapter 31 SOLID WASTE

ARTICLE I. IN GENERAL

Sec. 31-1. Definitions.

The following definitions shall apply in the interpretation and enforcement of this chapter:

Refuse means solid waste accumulations consisting of garbage, household trash, vegetative waste, yard trash and business trash as herein defined.

Tree removal activity means the removal of trees wholly or partially felled or damaged by storm, disease or other natural causes, as well as the cutting down and removal of standing trees;

Tree removal contractor means any person, firm, corporation or other entity regularly performing tree removal activity for monetary or other consideration.

Vegetative waste means waste accumulation of tree branches, tree limbs, parts of trees, bark, roots, stumps, bushes or shrubbery generated by yard and lawn care or land-clearing activities.

Yard waste, yard trash means waste accumulations of lawn, grass or shrubbery cuttings or clippings and dry leaf rakings, free of dirt, rocks, large branches and bulky or noncombustible material.

(Ord. No. 1016, § 17-1, 1-14-80; Ord. No. 1580, 1-21-86; Ord. No. 1592, 4-7-86; Ord. No. 1957, 5-7-90; Ord. No. 2034, 2-12-91; Ord. No. 2307, 1-24-94; Ord. No. 2370, 2-6-96; Ord. No. 2450, 6-10-97; Ord. No. 2500, 8-4-98; Ord. No. 2853, 12-7-04)

Chapter 33 STREETS AND SIDEWALKS

ARTICLE I. IN GENERAL

DIVISION 2 PERMIT GENERALLY

Sec. 33-59. Issuance for cutting, trimming or spraying trees or shrubs.

The city manager or his designee may issue a permit under this division for the cutting, trimming or spraying of trees or shrubs on a street only when such work is fully justified in the public interest. Such work shall be done only in a manner prescribed in the permit so issued as directed by the city arborist or the superintendent of landscape services. Any bush, shrub, tree, vegetation, fence, wall, berm, landscape screening or the like, which obscures, hinders or creates visibility obstruction for vehicles entering a street from another street or from a driveway shall be trimmed, relocated, adjusted or removed, whichever action is deemed appropriate or necessary for traffic safety by the traffic engineer's office. For failure to remove, trim, relocate or adjust such item within fourteen (14) days after written notice from the traffic engineer, the city will cause such work to be accomplished at the expense of the owner in question.

(Code 1965, § 32-41; Ord. No. 1078, 8-18-80; Ord. No. 2073, 6-25-91)

DIVISION 3. - PERMIT, INSPECTION AND GUARANTEE FEES

Sec. 33-71. - Schedule.

(a) Permit, inspection and guarantee fees for work for which a permit is required by this article shall be required or not required in accordance with the following schedule:

Type of Project	Permit Fee	Inspection Fee	Minimum Guarantee Fee
...			
(3) Cutting, trimming or spraying trees or shrubs	\$100.00	\$50.00	\$25.00
...			

(Code 1965, § 32-49; Ord. No. 1869, 5-15-89; Ord. No. 2073, 6-25-91; Ord. No. 2377, 3-26-96; Ord. No. 2633, 5-15-01; Ord. No. 2808, 5-11-04; Ord. No. 2876, 5-10-05; Ord. No. 3021, 5-13-08)

Chapter 37 WATER SUPPLY

ARTICLE I. IN GENERAL

Sec. 37-21. Conservation of the public water supply.

(a) Whenever the city manager or director of public utilities finds that a water supply emergency arising out of a shortage of the public water supply may occur if water conservation measures are not taken, he shall, through appropriate means, call upon the general population of the city to employ prudent restraint in water usage and to conserve water voluntarily by whatever means available.

(b) Should the city council, declare there to be an emergency existing in the city arising, either wholly or substantially, out of a shortage of the public water supply, the city manager or the director of public utilities is hereby authorized to order the restriction or prohibition of any or all of the following uses of the water supply:

- (1) Watering of shrubbery, trees, lawns, grass, plants or other vegetation, except from a watering can or other container not exceeding three (3) gallons in capacity.

...
...
(Code 1965, § 37-11; Ord. No. 947, 6-18-79; Ord. No. 1105, 10-13-80; Ord. No. 1293, 6-28-92; Ord. No. 2113, 3-3-92; Ord. No. 3091, 6-23-09)

APPENDIX A ZONING ORDINANCE

ARTICLE 2. GENERAL REQUIREMENTS AND PROCEDURES APPLICABLE TO ALL DISTRICTS

C. CONDITIONAL USES AND STRUCTURES

Sec. 227. Borrow pits.

...
(b) Special requirements.

...
(7) Roadside landscape. Existing trees and ground cover along public street frontage shall be preserved and maintained and replaced during the period of excavation if the appropriate city authorities deem it necessary.
...

...
(Ord. No. 2145, 6-23-92; Ord. No. 2362, 1-9-96; Ord. No. 2414, 8-13-96)

Sec. 232. Communication towers; building-mounted antennas; small wireless facilities.

...
(c) Application requirements. In addition to the information required by section 221, applications for a conditional use permit shall include the following items:

...
(2) A landscaping plan showing the type, size, number and location of plant materials, including existing trees or other plant materials to be used;
...

...
(f) Landscaping and screening requirements. Landscaping and screening shall conform to the following standards:

(1) Existing trees on the lot or within the leased area or other area within the control of the applicant shall be preserved to the maximum extent practicable;

(2) To the extent permitted by applicable setback requirements, towers shall be located on a site so as to maximize the effectiveness of trees as screening;

(3) For towers one hundred (100) feet or less in height, at least one (1) row of evergreen shrubs forming a continuous hedge at least five (5) feet in height, with individual plantings spaced not more than five (5) feet apart, shall be provided. In addition, at least one (1) row of evergreen trees with a minimum caliper of one and three-fourths (1¾) inches at the time of planting and spaced not more than twenty-five (25) feet apart shall be provided within fifteen (15) feet of the perimeter of the required setback line;

(4) For towers more than one hundred (100) feet in height, in addition to the requirements of subdivision (3) above, one (1) row of deciduous trees, with a minimum caliper of two and one-half (2½) inches at time of planting and spaced not more than forty (40) feet apart shall be provided within twenty-five (25) feet of the perimeter of the required setback;

(5) All required landscaping shall: (i) be installed in accordance with established procedures using plant materials of good quality, (ii) be installed by the first planting season following the granting of a conditional use permit, unless appropriate surety in form acceptable to the city attorney is first provided, and (iii) at all times be maintained in healthy and growing condition.

Existing landscaping meeting the requirements of this section or other screening may be used to satisfy the foregoing standards, which may be modified by the city council as it deems appropriate.

...
(Ord. No. 3046, 8-26-08; Ord. No. 3403, 4-21-15)

D. DESIGN, ETC. STANDARDS FOR RETAIL ESTABLISHMENTS AND SHOPPING CENTERS

Sec. 245. Building design.

The following building design features shall apply to retail establishments and shopping centers which are subject to the provisions of this part:

...
(b) Outdoor display areas, vending machines and ground level mechanical equipment:

...
(3) Mechanical or HVAC equipment shall not be installed at ground level along any portion of a building facing a public or internal street unless such location is necessitated by the nature and design of the building it serves. Such equipment shall be screened by a solid fence or wall and native plants, such as wax myrtle or leyland cypress, having good screening characteristics. Shrubs shall be at least three (3) feet high, and trees shall be at least six (6) feet high, at planting. Plants shall be spaced as directed by the city's landscaping, screening and buffering specifications and standards, be maintained at all times in good condition and shall not be trimmed to a height lower than the mechanical equipment they screen.

...
(Ord. No. 2607, 8-22-2000; Ord. No. 3247, 7-10-12)

Sec. 246. Site design.

The following site design characteristics shall apply to retail establishments and shopping centers which are subject to the provisions of this part:

...
(d) Pedestrian access:

...
(2) Connecting internal pedestrian walkways, no less than five (5) feet in width, shall be provided from the public sidewalk or right-of-way to the principal customer entrance of all anchor tenant buildings on the site. Outparcels shall be connected to each other, to the main shopping center and to the public sidewalk system by pedestrian walkways. In addition, walkways shall connect focal points of pedestrian activity such as, but not limited to, transit stops, street crossings, building and store entry points, and parking areas. The walkways should feature adjoining landscaped areas that include trees, shrubs, benches, flower beds, ground cover or similar materials to enhance the appearance of the walkway areas. Such landscaping shall be credited toward the parking lot landscaping requirements of section 5A of the Site Plan Ordinance. Clear sight lines allowing for good natural surveillance and adequate lighting shall be incorporated. Landscaping along the walkways shall be maintained at no more than three (3) feet in height or limbed up to at least seven (7) feet in order to avoid visibility obstructions.

...
(Ord. No. 2607, 8-22-2000)

Sec. 247. Landscaping and buffering.

The following provisions shall be in addition to all other city landscaping provisions:

(a) Any loading dock within view of a residential, office or apartment zoning district or a public street shall be screened by a landscaped berm or a solid wall with landscaping on the outside.

- (b) Sites with existing trees and vegetation along street frontages should, where desirable, retain such features and integrate them into the landscape plan for the site.
 - (c) To the greatest extent possible, no less than twenty-five (25) percent of trees shall be evergreen species.
 - (d) To the greatest extent possible, planting pits shall be backfilled with thirty-six (36) inches of topsoil to provide the most conducive growing environment for new landscape planting.
 - (e) To the greatest extent possible, landscape islands shall be designed so that shrubs or trees are not located on the edges of the island.
- (Ord. No. 2607, 8-22-2000)

G. LANDSCAPE SCREENING AND BUFFERING

Sec. 272. Categories of landscape screening types.

- (a) For purposes of this section, there shall be eight (8) categories of screening to be employed as specified in district regulations to satisfy the screening and buffering requirements of proposed uses of higher intensity to those existing of lower intensity.
- (b) Existing screening materials. When a lot is to be developed such that screening is required and where that lot abuts an existing hedge, wall or other durable landscape barrier on an abutting property, the existing structure or hedge may be used to satisfy the screening requirements of this section, provided that the existing structure meets the minimum standards set forth herein and protection against vehicular encroachment is provided. However, the burden to provide the necessary screening remains with the use to be screened and is a continuing obligation which runs with the land so long as the original relationship exists.

Sec. 273. Provisions of acceptable alternatives.

Amy person who may be required to install screening in conjunction with land development and who believes that by virtue of special consideration of site design, topography, unique relationships to other properties or existing natural vegetation, the application of the specific standards are ineffective in fulfilling the requirements of this section, may submit to the planning director a specific plan for development showing how the purposes of this section may be met by measures other than those listed above. The planning director, after consulting with appropriate city officials, may approve modifications to established standards so long as the effect and intent of the established standards are achieved.

(Ord. No. 2152, 6-23-92)

Sec. 274. Maintenance responsibilities.

The owner and tenant, if any, of any property where screening is required shall be jointly and severally responsible for the maintenance of all screening materials so as to present a healthy, neat and orderly appearance and be kept free from litter and debris. Shrubs or trees planted as a part of any required screening which subsequently dies shall be replaced in accordance with the minimum standards of this section. All screening and landscape areas shall be protected from encroachment by motor vehicles or pedestrians which could damage vegetation or reduce the effectiveness of the screening.

APPENDIX C - SITE PLAN ORDINANCE

ORDINANCE NO. 486

AN ORDINANCE ESTABLISHING SITE PLAN REGULATIONS FOR THE CITY OF VIRGINIA BEACH, PROCEDURES AND REQUIREMENTS IN RELATION TO SITE PLANS, AND PENALTIES FOR VIOLATION OF SUCH REGULATIONS.

Sec. 5A. Parking lot and foundation landscaping.

5A.1. Intent and purposes. The city council of Virginia Beach finds that Virginia Beach is blessed with a diverse and abundant cover of trees and vegetation and that such cover is of general aesthetic value to the city and that the ecological diversity and richness of the city make it a desirable place for residents, owners, and visitors alike; and that the appearance of

Virginia Beach from the public ways contributes ecologically and aesthetically to the growth and economic prosperity of the city; and also that the growth and development attracted to the City of Virginia Beach, because of its natural beauty, often times requires the removal of trees and other plant material, thereby contributing to the depletion of a most valuable natural resource, therefore, it is necessary to protect, preserve and restore this valuable asset. The city council declares the intent and purposes of this ordinance to be as follows:

- (a) To aid in stabilizing the environment's ecological balance by contributing to the processes of air purification, oxygen regeneration, groundwater recharge, and stormwater runoff retardation, while at the same time aiding in noise, glare, and heat abatement;
- (b) To encourage the preservation of existing trees and desirable vegetation;
- (c) To assist in providing clean air;
- (d) To provide visual buffering and enhance the beautification of the city;
- (e) To safeguard and enhance property values and to protect public and private investment;
- (f) To preserve, protect, and restore the unique identity and environment of the City of Virginia Beach and preserve the economic base attracted to the city by such factors;
- (g) To conserve energy; and to protect the public health, safety, and general welfare through the reduction of noise, air and visual pollution, light glare, and moderate air temperature;
- (h) To provide habitat for living things that might not otherwise occur or be found in urban and suburban environments.

...
5A.4. Parking lot interior coverage requirements.

- ...
- (c) Trees shall be provided within the landscaped area in the proportion of one tree per one hundred and fifty (150) square feet of total landscaped area, except any fractional tree shall not be counted as a whole tree.

...
5A.5. Parking lot streets frontage requirements.

- ...
- (c) Trees, hedge forms, and other treatment in accordance with the specifications of the "PARKING LOT AND FOUNDATION LANDSCAPING SPECIFICATIONS AND STANDARDS" shall be placed within the landscaping strip.

...
5A.6. Foundation landscaping requirements.

- ...
- (d) Shrubs or trees shall be provided within the landscaped area in the proportion of at least one shrub or one tree per fifteen (15) square feet of total required landscaped area, except any fractional shrub or tree shall not be counted as a whole shrub or tree.

...
(Ord. No. 1565, 11-4-85; Ord. No. 1974, 6-11-90; Ord. No. 2091, 8-27-91; Ord. No. 2146, 6-25-92)

APPENDIX D STORMWATER MANAGEMENT

Sec. 1-3. Definitions.

In addition to the definitions set forth in 9VAC25-870-10 of the Virginia Stormwater Management Regulations, as amended, which are expressly adopted and incorporated herein by reference, the following words and terms used in this Ordinance have the following meanings unless otherwise specified herein. Where definitions differ, those incorporated herein shall have precedence.

"Best management practice" or "BMP" means schedules of activities, prohibitions of practices, including both structural and nonstructural practices, maintenance procedures, and other

management practices to prevent or reduce the pollution of surface waters and groundwater systems from the impacts of land-disturbing activities.

"Chesapeake Bay Preservation Act land-disturbing activity" means a land-disturbing activity including clearing, grading, or excavation that results in a land disturbance equal or greater than 2,500 square feet and less than one acre in all areas of jurisdictions designated as subject to the Chesapeake Bay Preservation Area Designation and Management Regulations (9VAC25-830) adopted pursuant to the Chesapeake Bay Preservation Act.

"Development" means land disturbance and the resulting landform associated with the construction of residential, commercial, industrial, institutional, recreation, transportation or utility facilities or structures or the clearing of land for non-agricultural or non-silvicultural purposes.

"Impervious cover" means a surface composed of material that significantly impedes or prevents natural infiltration of water into soil.

"Land disturbance" or "land-disturbing activity" means a man-made change to the land surface that potentially changes its runoff characteristics including clearing, grading, or excavation except that the term shall not include those exemptions specified in section 1-4 of this Ordinance.

(Ord. No. 3337, 4-22-14, eff. 7-1-14)

APPENDIX E TREE PLANTING, PRESERVATION AND REPLACEMENT

Sec. 1.1. Narrative.

Trees are proven producers of oxygen, a necessary element for the survival of man. Trees appreciably reduce the ever-increasing and environmentally dangerous carbon dioxide contents in the air, and they play a vital role in purifying the air that man breathes.

Trees precipitate dust and other particulate airborne pollutants to settle on the ground.

Trees, through their root systems, stabilize the water table and play an important and effective part in soil conservation and erosion control.

Trees are an invaluable physical and psychological counterpart to the urban setting, make urban life more comfortable by providing shade and cooling of the air and land, and reducing noise levels and glare.

The city council of Virginia Beach has determined that the planting and preservation of trees within Virginia Beach is not only desirable but essential to the present and future health, safety and welfare of all the citizens.

(Ord. No. 1965, 6-11-90)

Sec. 1.2. Intent.

It is the intent of the City of Virginia Beach to require the planting of trees on residential lots and along residential streets. It is further intended to perpetuate tree growth through these provisions, to encourage tree preservation, provide adequate tree canopy and numbers, in the best interests of the health, safety and welfare of present and future citizens.

(Ord. No. 1965, 6-11-90; Ord. No. 2330, 5-23-95)

Sec. 1.3. Definitions.

For the purposes of this ordinance [appendix], certain terms as defined as follows:

Caliper: The diameter of a tree measured six (6) inches above existing grade.

Canopy cover: The crown "branch" area of a tree measured in square feet after ten (10) years from installation as specified in this ordinance [appendix].

Cultivar: A "variety" of plant denoting an assemblage of cultivated individuals which are distinguished by any significant characteristics and which, reproduced, retain their distinguishing characteristics.

Drip line: An imaginary, perpendicular line that extends downward from the outermost tips of the branches to the ground.

Lot size: That portion of the lot allowed for use in determining the minimum lot size requirements as stated in section 200 of the city zoning ordinance.

Multistem tree: A tree having more than one stem "trunk" emerging from the root system.

Planning director: The director of the department of planning or his designee.

Residential lot: A piece or parcel of land abutting on a street and created by proper legal instrument upon which is to be built one or more dwelling units and shall include single-family condominiums.

Resubdivision: Subdividing an existing subdivision to change the shape or size of the lots without increasing density.

Species: The unit in the botanical classification of plants.

Standard tree: A tree grown with a single erect stem.

Tree: Any self-supporting woody plant of a species which normally grows, in Virginia Beach, at a commonly accepted maturity, to an overall height of a minimum of fifteen (15) feet.

(Ord. No. 1965, 6-11-90; Ord. No. 2153, 6-23-92)

Sec. 1.4. Application.

The terms and provisions of this ordinance [appendix] shall apply to property as follows:

A. Residential.

1. All residential lots shall have trees planted, or canopy cover provided, based upon the following minimum requirements by lot size:
 - a. 1—4,999 square feet:
 - (1) One small tree per attached townhouse interior lot.
 - (2) Two (2) small, or medium, trees for attached townhouse end lots.
 - (3) Two (2) small or medium trees for all other lots.
 - b. 5,000—7,499 square feet: 300 square-foot canopy cover.
 - c. 7,500—9,999 square feet: 400 square-foot canopy cover.
 - d. 10,000—14,999 square feet: 600 square-foot canopy cover.
 - e. 15,000—19,999 square feet: 750 square-foot canopy cover.
 - f. 20,000—29,999 square feet: 900 square-foot canopy cover.
 - g. 30,000—65,339 square feet: 1,000 square-foot canopy cover.
 - h. 65,340—87,119 square feet: 1500 square-foot canopy cover.
 - i. 87,200 square feet and greater: 2,000 square-foot canopy cover.
2. Trees shall be selected from the specifications and standards and shall be a minimum of five (5) to six (6) feet in height for small trees at the time of planting and one and one-half (1½) inches to two (2) inches caliper for medium and large trees at the time of planting. Planting shall be accomplished in accordance with the specifications and standards.
3. Existing or relocated trees on individual lots may be used to satisfy section 1.4.A., provided that:
 - a. The trees meet or exceed the quantities required for lots one to four thousand nine hundred ninety-nine (4,999) square feet or canopy cover as listed in section 1.4.A.1.; and

- b. The trees have been protected in accordance with section 1.4.A.5. during construction and are physically and structurally in good condition per the city arborist or his designee;
 - c. Trees that have canopy extending over adjoining lots will receive credit for only that portion of canopy covering the lot from which the tree is growing. Credit for canopy cover will be given when tree on adjoining lots have canopy extending over an individual lot, but only that portion extending will be credited towards the required canopy cover for the individual lot. Canopy cover for street trees shall be credited toward residential lots in the amount of area on the individual lot measured from the right-of-way line. This credit will be considered only if the outline of the tree canopy, square footage of the tree canopy and type of tree are shown on the site plan when presented to obtain a building permit.
4. Nonacceptable trees: Trees selected for residential use shall not be of a species, variety or cultivar from the nonacceptable tree list in the specifications and standards.
 5. Tree protection during construction: Existing trees that are to be used to meet the requirements of section 1.4 shall be protected in accordance with the following: Before construction activity begins, protective barriers must be securely in place. Minimum undisturbed areas shall be determined by multiplying the tree's diameter breast height (DBH), measured at four and one-half (4½) feet, by one foot. This is the minimum diameter that must be left undisturbed around each tree. This area is approximately the area of the outermost branches (drip line). All construction activities shall be prohibited within the minimum undisturbed areas provided for any tree(s) for which credit is given toward satisfying the residential canopy requirements. All temporary construction activities shall also be prohibited within the minimum undisturbed areas, including all excavating, filling, trenching, construction storage and dumping, and parking of construction equipment/vehicles or employee vehicles.
 6. Inspection and bonding: Each lot shall be inspected and approved prior to the issuance of the certificate of occupancy or final inspection approval. All new trees must be identified with species identification tags and must remain tagged until after the inspection is complete. The inspection shall be performed by the permits and inspections division of the department of planning. Where additional residential lot trees are required, no certificate of occupancy or final inspection approval shall be issued until the required trees have been planted in accordance with City of Virginia Beach typical planting standards. When the occupancy of a structure is desired prior to the completion of the residential lot tree planting requirement, a temporary certificate of occupancy may be issued if the owner or developer provides to the permits and inspections division of the department of planning a disclosure statement accepting responsibility for the installation of the required trees.
- B. Street tree planting:
1. Trees shall be planted within all public rights-of-way in conjunction with new residential development except resubdivisions, undeveloped rights-of-way and townhouse developments where the street design does not provide greenspace for street trees. Trees shall be planted in accordance with a master street tree plan, section 1.4.B.4, that is to be included with the subdivision construction plans. The master street tree plan is to be prepared in accordance with section 1.4.B.4. and approved by the planning director.
 2. All street trees shall be a minimum of one and three-fourths (1¾) to two (2) inch caliper at time of planting for standard trees and five (5) feet to six (6) feet in height for multistem trees at time of planting. Trees shall be guaranteed to be in good physical condition as determined by the city arborist or his designee, for a period of one year by the developer. The one-year period shall commence from the time of final inspection.
 3. Tree selection: Trees shall be selected from the specifications and standards. Tree selection shall be small or medium size and spaced according to the recommended list of street trees in the specifications and standards when distance between sidewalk and curb is four (4) feet. Tree selection shall be medium or large size and spaced according

to the recommended list of street trees in the specifications and standards where the distances between sidewalk and curb is greater than four (4) feet or if a sidewalk is not required.

4. Master street tree plan: A master street tree plan shall be prepared and contain the following information:

- a. A landscape plan drawn to the same scale as the subdivision plan showing the location and spacing of all trees to be planted.
- b. Botanical names, common names, sizes and quantities.
- c. Planting details.
- d. Location of all curb lines, sidewalks and major utilities. Utilities conflicting with placement of trees shall require an adjustment of tree spacing. When adjustment is necessary, spacing shall not exceed the maximum allowable spacing. No trees shall be placed within ten (10) feet of a streetlight pole nor encroach within the visibility triangle as defined by section 201(f) of the city zoning ordinance. Generally, a minimum of four (4) feet of greenspace on either side of the sidewalk shall be required.
- e. Trees on residential lots shall not be used to meet the requirements of street tree planting, except when a lot or group of lots are heavily wooded and the planting of street trees would physically conflict with the canopy of the residential trees. The street tree requirements may be deleted in these areas only. The planning director or his designee shall determine if such a conflict exists.

5. Bonding: Prior to the recordation of any final subdivision plat, the developer shall provide a performance bond with surety, cash escrow, irrevocable letter of credit, any combination thereof, or such other legal arrangement acceptable to the city attorney to cover the costs of such trees and their planting. In the event that the developer fails to plant such trees as required by this ordinance, the city may use the performance bond to cover the cost of purchase and planting of all required street trees. In such event, the developer shall reimburse the city for any excess cost should the cost of purchase and planting of the trees exceed the amount of security provided. A bond shall be required to cover the guarantee period.

C. Exemptions:

1. The requirements of section 1.4.B. of this appendix shall not apply to resubdivisions or to unimproved rights-of-way.
2. The requirements of section 1.4.B. shall not apply to townhouse developments where the street design does not provide adequate greenspace for street trees.

D. Compatibility with best management practices (BMPS). In no case shall a subdivision be approved wherein the design calls for the planting of trees over any underground water retention areas.

(Ord. No. 1965, 6-11-90; Ord. No. 2153, 6-23-92; Ord. No. 2330, 5-23-95)

Sec. 1.5. - Violations and penalties.

Any person who violates any of the provisions of this ordinance [appendix] shall, upon conviction thereof, be guilty of a misdemeanor punishable by a fine of not less than ten dollars (\$10.00) nor more than one thousand dollars (\$1,000.00). Each day that a violation continues shall be considered a separate offense.

(Ord. No. 1965, 6-11-90)

Sec. 1.6. - Variances and appeals.

A. The city manager or his designee is authorized, upon appeal in specific cases, to grant a variance from the terms of the ordinance [appendix] as will not be contrary to the public interest, when owing to special conditions, a literal enforcement of the provisions will result in unnecessary hardship, provided that the spirit of the ordinance [appendix] shall be observed and substantial justice done, as follows:

1. Strict application of the terms of the ordinance [appendix] will effectively prohibit or unreasonably restrict the use of the property.

2. Granting of such variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege.

In authorizing a variance, the city manager or his designee may impose such conditions as may be necessary in the public interest.

B. It is further provided that any decision of the city manager or his designee may be modified, reversed or affirmed by the city council upon appeal by any aggrieved party to such decision, if such appeal is filed within thirty (30) days of such decision.

C. Final decision under this ordinance [appendix] shall be subject to review by the appropriate court of record, if filed within thirty (30) days from the date of council action.

D. Notwithstanding anything in this section to the contrary, variances and appeals arising from provisions of the Chesapeake Bay Preservation Area Ordinance [Appendix F] included or incorporated in this ordinance [appendix] shall be in accordance with Section 110 or Section 111 of the Chesapeake Bay Preservation Area Ordinance as the case may be.
(Ord. No. 1965, 6-11-90; Ord. No. 2153, 6-23-92; Ord. No. 2794, 12-9-03)

APPENDIX F - CHESAPEAKE BAY PRESERVATION AREA ORDINANCE

Sec. 103. Definitions.

The following words and terms used in this ordinance shall have the following meanings, unless the context clearly indicates otherwise.

Best management practice. A practice, or a combination of practices, determined to be the most effective practicable means of preventing or reducing the amount of pollution generated by nonpoint sources to a level compatible with water quality goals.

Buffer area. An area of existing or established vegetation managed to protect other components of a Resource Protection Area and state waters from significant degradation due to land disturbances.

Caliper. The diameter of a tree measured six (6) inches above existing grade.

Development. The construction or installation of any improvement upon a parcel of land, or any land disturbance associated therewith. For floodplain management purposes, development means any man-made change to improved or unimproved real estate, including but not limited to, buildings or other structures, the placement of manufactured homes, streets, mining, dredging, filling, grading, paving, excavation or drilling operations, storage of equipment or materials, or the subdivision of land.

Diameter at breast height. The diameter of a tree measured at a point four and one-half (4-1/2) feet above the existing grade.

Dripline. An imaginary perpendicular line extending downward from the outermost tips of the branches of a tree to the ground.

Impervious cover. A surface composed of any material which significantly impedes or prevents natural infiltration of water into the soil, including, but not limited to, buildings and other structures and the components thereof, concrete, asphalt, or compacted gravel surface.

Land disturbance. Any activity upon land which causes, contributes to, or results in the destruction, removal or covering of the vegetation upon such land, including, but not limited to, clearing, dredging, filling, grading or excavating. The term shall not include minor activities such as home gardening, individual home landscaping and home maintenance.

Silvicultural activities. Forest management activities, including but not limited to the harvesting of timber, the construction of roads and trails for forest management purposes, and the preparation of property for reforestation that are constructed in accordance with the

silvicultural best management practices developed and enforced by the State Forester pursuant to Section 10.1-1105 of the Code of Virginia and are located on property defined as real estate devoted to forest use under Section 58.1-3230 of the Code of Virginia.

(Ord. No. 2006, 11-6-90; Ord. No. 2086, 7-9-91; Ord. No. 2154, 6-23-92; Ord. No. 2190, 11-10-92; Ord. No. 2663, 10-23-01; Ord. No. 2790, 12-9-03; Ord. No. 2855, 12-7-04; Ord. No. 3030, 6-24-08; Ord. No. 3314, 11-26-13)

Sec. 106. Performance standards.

The performance standards set forth in this Section are intended to prevent a net increase in nonpoint source pollution from new development and development on previously developed land where the runoff was treated by a water quality protection best management practice. Stormwater management criteria shall be consistent with the provisions of the Stormwater Management Ordinance [Appendix D].

(A) General performance standards for development and redevelopment. Except as otherwise provided herein, the following standards shall apply to all development and redevelopment in both Resource Protection Areas and Resource Management Areas of the Chesapeake Bay Preservation Area:

(1) Land disturbance shall be limited to the area necessary to provide for the proposed use or development. The limits of land disturbance, including clearing or grading, shall be strictly defined by the construction footprint as shown on the approved plan of development. Clearing shall be allowed only to provide necessary access, site drainage, water quality best management practices, installation of utilities and primary and reserve drainfield sites as detailed on a Virginia Department of Health sewage disposal construction permit. These limits shall be clearly shown on all plans submitted and physically marked on the site.

(2) Existing vegetation shall be preserved to the maximum extent practicable consistent with the use or development proposed and in accordance with the current edition of the Virginia Erosion and Sediment Control Handbook.

(a) Where areas to be preserved are considered to be part of the stormwater management plan for that site, diseased trees or trees weakened by age, storm, fire, or other injury may be removed.

(b) Prior to clearing or grading, suitable protective barriers, such as safety fencing, shall be erected outside of the dripline of any tree or stand of trees to be preserved. These protective barriers shall remain so erected throughout all phases of construction. The storage of equipment, materials, debris, or fill shall not be allowed within the area protected by the barrier.

...

(B) Development criteria for Resource Protection Areas. In addition to the general performance standards set forth in this section, the following standards shall apply to all use, development and redevelopment in Resource Protection Areas, except as otherwise provided herein:

...

(5) Permitted modifications of the buffer area.

(a) In order to maintain the functional value of the buffer area, existing vegetation may be removed only pursuant to an administrative variance, as set forth in Section 110(B) of this ordinance, and only to provide for reasonable sight lines, access paths, general woodlot management, and best management practices, including those that prevent upland erosion and concentrated flows of stormwater, as follows:

1. Trees may be pruned or removed as necessary to provide for sight lines and vistas, provided that where removed, they shall be replaced with other vegetation that is equally effective in retarding runoff, preventing erosion, and filtering nonpoint source pollution from runoff.

2. Any path shall be constructed and surfaced so as to effectively control erosion.
3. Dead, diseased, or dying trees or shrubbery and noxious weeds may be removed and thinning of trees may be allowed pursuant to sound horticultural practices incorporated into City-adopted standards.
4. For shoreline erosion control projects, trees and woody vegetation may be removed, necessary control techniques employed, and appropriate vegetation established to protect or stabilize the shoreline in accordance with the best available technical advice and applicable permit conditions or requirements.

...

(C) Buffer restoration standards. The following standards shall apply in cases in which buffer restoration is required pursuant to the provisions of this Ordinance as a result of development within a Resource Protection Area:

(1) For new impervious cover:

..

(c) In accordance with the Virginia Department of Conservation and Recreation, Chesapeake Bay Local Assistance "Riparian Buffers Modification & Mitigation Guidance Manual, 2003, Reprinted 2006, and all further amendments thereto and editions thereof (Guidance Manual), in order for the buffer to function as intended, it shall contain the full complement of vegetation that includes shade trees, understory trees, shrubs, and ground cover, whether the ground cover is vegetation, leaf litter, or mulch. The composition of the buffer restoration area shall be per Appendix D, Table A of the Guidance Manual;

...

(e) Trees shall not be planted within fifteen (15) feet of the shoreline where such planting would result in marsh shading or interference with the integrity of shoreline structures;

...

(g) All trees, plants and groundcover, required as buffer restoration shall be maintained and not removed or allowed to revert to turf.

(2) For shoreline hardening projects and replacement of upland retaining walls, where construction disturbs vegetation in the Resource Protection Area, such vegetation shall be replaced and may be replaced in kind; provided that trees shall not be planted within fifteen (15) feet of the shoreline where such planting would result in marsh shading or interference with the integrity of shoreline structures.

(Ord. No. 2006, 11-6-90; Ord. No. 2154, 6-23-92; Ord. No. 2190, 11-10-92; Ord. No. 2267, 6-14-94; Ord. No. 2790, 12-9-03; Ord. No. 2855, 12-7-04; Ord. No. 3030, 6-24-08; Ord. No. 3076, 4-28-09; Ord. No. 3341, 4-22-14, eff. 7-1-14)

Editor's note— Ord. No. 2790, adopted Dec. 9, 2003, repealed former § 106 of this appendix and renumbered former § 108 as § 106. Former § 106 pertained to minor projects and derived from Ord. No. 2190, adopted Nov. 10, 1992; and Ord. No. 2267, adopted June 14, 1994.

Sec. 107. Plan of development process.

Any development or redevelopment in the Chesapeake Bay Preservation Area shall be accomplished through a plan of development process consistent with Section 15.2-2286(8) of the Code of Virginia. Approval shall be rendered for a plan prior to commencement of any land-disturbing activity on site or the issuance of any building permit. Plans and information required under this section may be coordinated or combined as deemed appropriate by the City Manager. All information required in this section shall be drawn to the same scale as the preliminary site plan or final subdivision plat, and certified as complete and accurate by persons duly licensed by the Commonwealth of Virginia to practice as such. Any applicant, or

potential applicant, may confer with such departments and other agencies of the City as may be appropriate concerning a general development or redevelopment proposal before submission of an application. Such conference shall not be construed as an application for approval of such proposal.

(A) General plan of development process. Except as otherwise provided herein, the plan of development process for any development or redevelopment in a Chesapeake Bay Preservation Area, except development or redevelopment requiring an administrative variance pursuant to Section 110(B), shall consist of the plans and information identified below:

- ...
- (2) A landscape plan which delineates or complies with the following:
- (a) The location, size, and description of existing and proposed plant material. All existing trees on the site of six (6) inches or greater diameter at breast height shall be shown. Where there are groups of trees, stands may be outlined instead. The specific number of such trees to be preserved outside or within the construction footprint shall be indicated on the plan. Trees and plants to be disturbed or removed to create a desired construction footprint shall be clearly delineated. A description of the proposed measures for mitigation shall include (i) a replanting schedule for trees and other vegetation removed for construction, including a list of plants and trees to be used; (ii) a demonstration that the design of the plan will preserve to the greatest extent possible any trees and vegetation on the site and will provide maximum erosion control and overland flow benefits from such vegetation; and (iii) a demonstration that existing plants are to be used to the greatest extent possible. If no mitigation or planting is required, existing trees may be delineated on the site plan or subdivision plat.
 - (b) A delineation of any required buffer area and any plant material to be added to establish or supplement the buffer area.
 - (c) Within the buffer area, a designation of the trees to be removed for sight lines, vistas, access paths and best management practices, and any vegetation replacing trees removed from the buffer area.
 - (d) A designation of the trees to be removed for shoreline stabilization projects and any replacement vegetation.
 - (e) A depiction of grade changes or other work adjacent to trees which would adversely affect them. Specifications shall be provided as to how grade, drainage, and aeration would be maintained around trees to be preserved.
 - (f) A description of the limits of clearing of existing vegetation, based on all anticipated improvements, including buildings, drives, and utilities, and specifications for the protection of existing trees during clearing, grading, and all phases of construction.
 - (g) All supplementary or replacement plant materials shall be in a healthy condition. Plant materials shall conform to the standards of the most recent edition of the American Standard for Nursery Stock, published by the American Nursery and Landscape Association, and shall be installed according to standard planting practices and procedures.
 - (h) Where areas to be preserved are encroached upon, replacement of existing trees and other vegetation shall be achieved at a ratio of three (3) trees planted to one (1) tree greater than six (6) inches diameter at breast height removed, or by such other measures as in the judgment of the City Manager will adequately compensate for the removal of such trees and other vegetation. Replacement trees shall be a minimum two (2) to two and one-half (2½) inches caliper at the time of planting.

...

(B) Administrative variance plan of development process. Except as otherwise provided herein, the plan of development process for any use, development or

redevelopment in a Chesapeake Bay Preservation Area requiring an administrative variance shall consist of a site plan meeting the applicable requirements of the Site Plan Ordinance (Appendix C), unless deemed unnecessary by the City Manager, which shall contain the plans and information identified below:

- ...
- (6) Specifications for the protection of existing trees and vegetation during clearing, grading and all phases of construction.
- (7) Revegetation schedule.
- (8) Best management practices.
- ...

...
(Ord. No. 2006, 11-6-90; Ord. No. 2080, 7-9-91; Ord. No. 2154, 6-23-92; Ord. No. 2190, 11-10-92; Ord. No. 2267, 6-14-94; Ord. No. 2473, 2-24-98; Ord. No. 2663, 10-23-01; Ord. No. 2790, 12-9-03; Ord. No. 2855, 12-7-04; Ord. No. 3341, 4-22-14, eff. 7-1-14)
Editor's note— Ord. No. 2790, adopted Dec. 9, 2003, renumbered former § 110 of this appendix as § 107.

APPENDIX G SOUTHERN RIVERS WATERSHED MANAGEMENT ORDINANCE

Sec. 4. Definitions.

The following words and terms used in this ordinance shall have the following meanings, unless the context clearly indicates otherwise:

- (a) *Agricultural lands*: Those lands used for the planting and harvesting of crops or plant growth of any kind in the open, pasture, horticulture, dairy farming, floriculture, or the raising of poultry or livestock.
- (b) *Best management practice (BMP)*: A practice, or combination of practices, determined to be the most effective practical means of preventing or reducing the amount of pollution generated by nonpoint sources to a level compatible with water quality goals.
- (c) *Clearing*: The removal of vegetation from surface soils.
...
- (i) *Development*: The construction, alteration or installation of any structure or other improvement upon a parcel of land, or any land disturbance, whether or not undertaken in connection with development, but not including activities associated with agriculture or silviculture or the construction of improvements used primarily for agricultural purposes. For floodplain management purposes, development means any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, the placement of manufactured homes, streets, mining, dredging, filling, grading, paving, excavation or drilling operations, storage of equipment or materials, or the subdivision of land.
...
- (r) *Impervious surface*: A surface which is compacted or covered with a layer of material so that it is highly resistant to infiltration by water, including, but not limited to, most conventionally surfaced streets, roofs, sidewalks, parking lots, and other similar structures.
- (s) *Land disturbance*: Any activity which causes, contributes to, or results in the removal, destruction or covering of the vegetation upon any land, including, but not limited to, clearing, dredging, filling, grading or excavating. The term shall not include minor activity such as home gardening, individual home landscaping and home maintenance.
...
- (w) *Noxious weed*: A plant which is undesirable because it conflicts with, restricts or otherwise interferes with management objectives of this ordinance, including, but not limited to, Johnsongrass, Purple Loosestrife and Shattercane.
...
- (ee) *Silviculture*: The care and cultivation of forest trees.
...
- (mm) *Vegetation*: All plant growth, including, but not limited to, trees, shrubs, vines, ferns, herbs, mosses and grasses.
...

(Ord. No. 2562 9-14-99; Ord. No. 2673, 10-23-01; Ord. No. 3315, 11-26-13)

Sec. 7. - Performance standards.

(a) Development resulting in or requiring a land disturbance exceeding an area of two thousand five hundred (2,500) square feet shall comply with the erosion and sediment control requirements set forth in sections 30-56 through 30-78 of the City Code.

...

- (d) The following design criteria shall apply to the fifty-foot area described in subsection (c):
- (1) Such area shall consist of a mixture of indigenous evergreen and deciduous trees, grass and shrubs;
 - (2) Trees and shrubs, which may be of seedling variety, shall be planted on ten-foot centers; and
 - (3) Except as allowed in subsection (c), vegetation located in such area shall not be cleared, cut or mown.