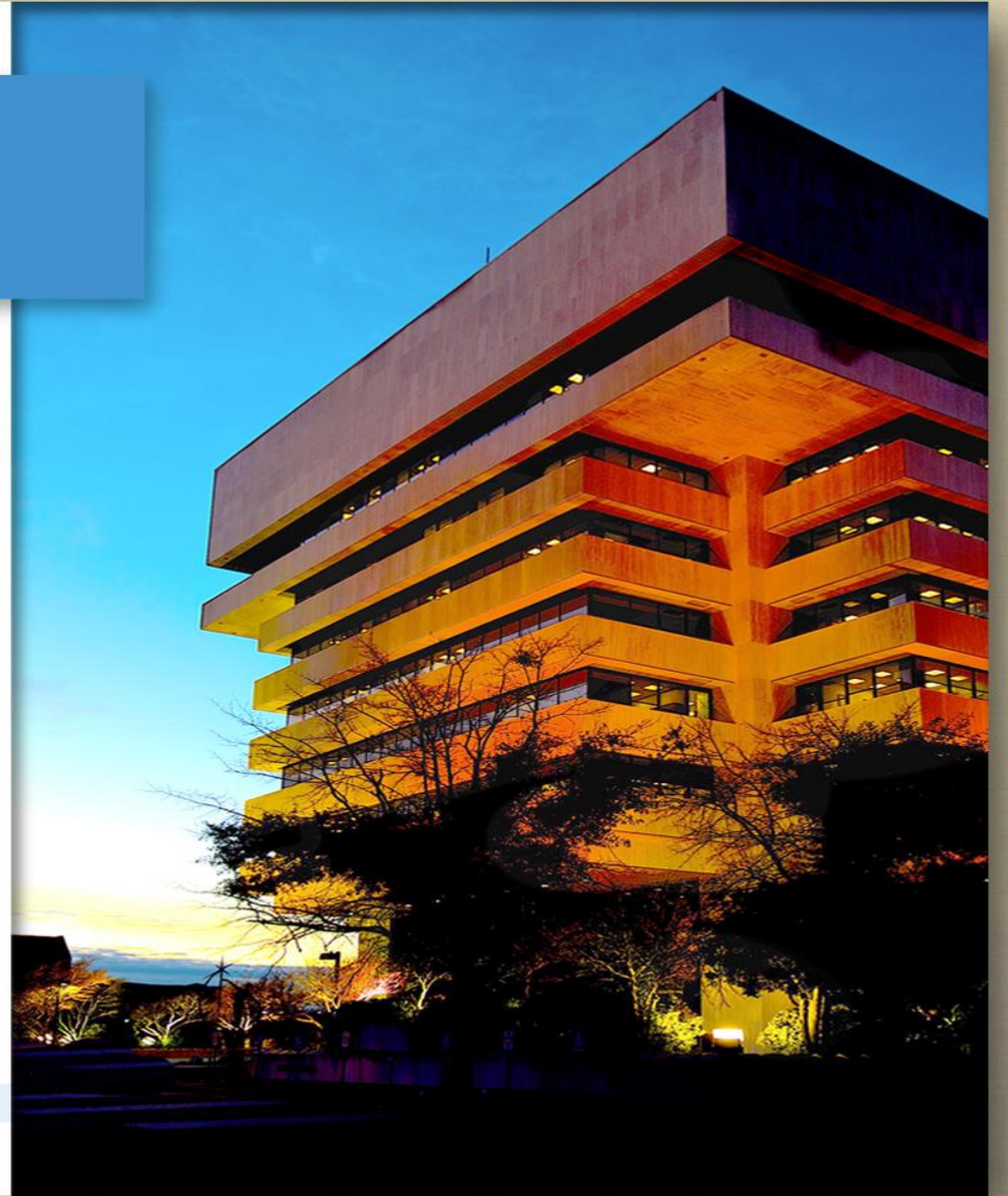


HAMPTON VA

City Code Amendment

24-37 (b) & (c)

**City Council
April 14, 2021**



Purpose

- Amendment to the City Code Ordinance 24-37 (b) & (c), high grass & overgrowth within the Chesapeake Bay Preservation Districts

High Grass & Overgrowth

- We currently enforce a high grass ordinance that requires homeowners to keep lawns cut below 8”
- We recently adopted the overgrowth ordinance in July
- When we amended the ordinance and added the overgrowth criteria, we did not amend the exceptions at that time
- Due to questions that have come up regarding properties located in the Chesapeake Bay Districts, we want to clarify and update the exceptions to the ordinance

Current Exception

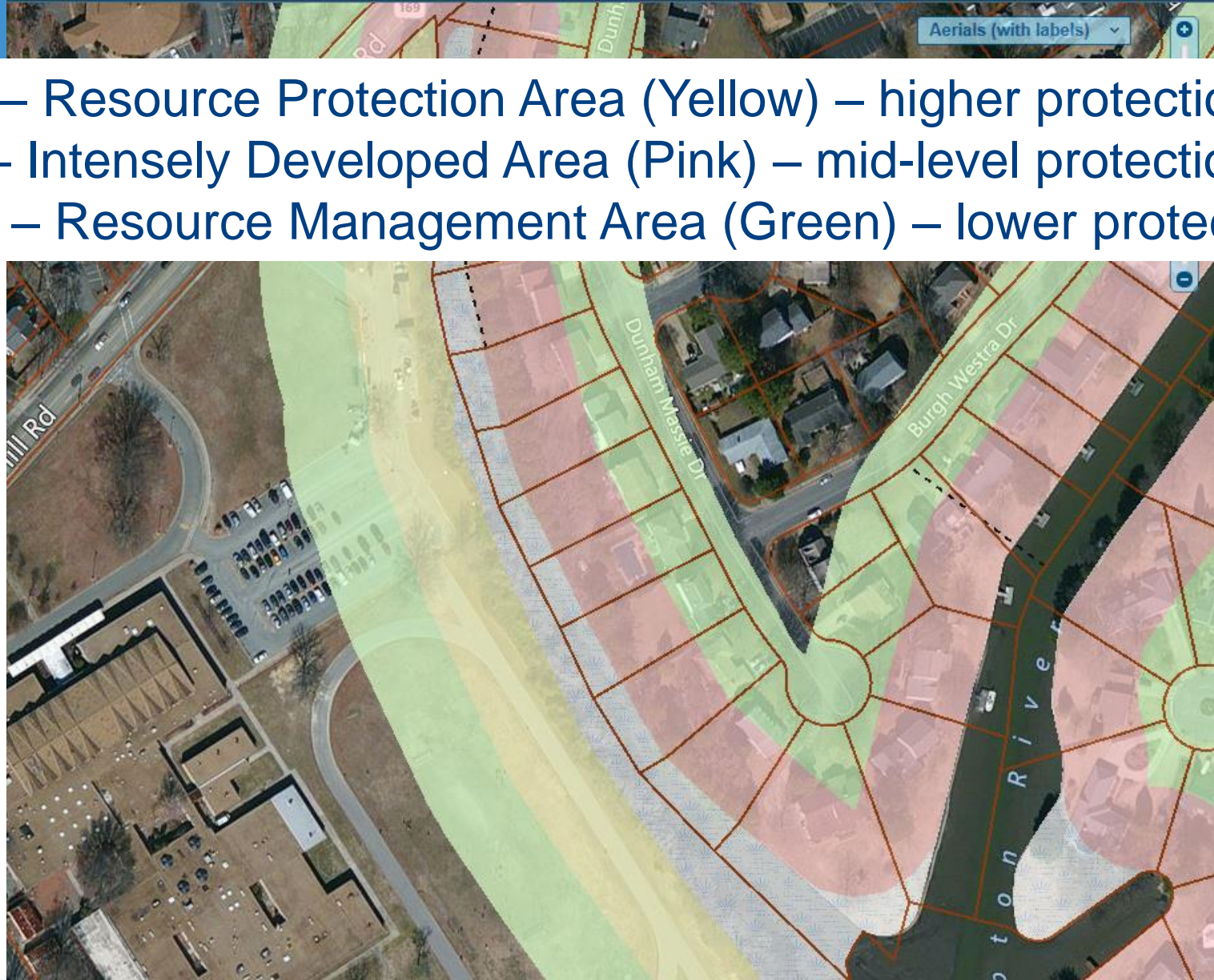
Areas required to be vegetated by the
Special Public Interest—**Chesapeake
Bay Preservation District** of the Zoning
Ordinance of the City of Hampton

State Law

Chesapeake Bay Preservation Act (1988)

- State law; localities required to implement
- Provisions located in and enforced through the zoning ordinance
 - Operates as an overlay district, supplementing the base zone regulations
 - Zoning concepts apply: e.g., vested rights, legal nonconformities, Notices of Violation, enforcement in court

RPA – Resource Protection Area (Yellow) – higher protection
IDA – Intensely Developed Area (Pink) – mid-level protection
RMA – Resource Management Area (Green) – lower protection



General Provisions of Chesapeake Bay Act

Applies in all districts – RPA, IDA, & RMA:

- Minimize land disturbance
- Minimize impervious cover
- Preserve indigenous vegetation
- E&S and stormwater management plans necessary at 2,500 SF of disturbance (non-CBPD is 10,000 SF)

Purpose of City Code 24-37

Unlawful Property Maintenance Conditions

- Require maintenance of properties to prevent hazards related to:
- Public health
- Safety
- Welfare
- Fire hazard

Desired Outcome

- To amend the City Code in an effort to allow these ordinances to work together for the best possible outcome
- The result:
 - Require maintenance of properties, including those located within the Chesapeake Bay Overlay, to prevent hazardous conditions
 - Minimize land disturbance and preserve native vegetation to the greatest extent possible

Overgrowth Exception

- **Overgrowth**
 - Current ordinance does not allow us to enforce overgrowth on properties designated as being in the Chesapeake Bay Preservation District

Example



Example



Property located
in the CBPD but would
meet the criteria of the
Overgrowth Ordinance

High Grass Exception

- **High Grass**
 - Current ordinance exempts properties located in the Chesapeake Bay Preservation District
 - We have interpreted this exception to only apply to areas of the property where a lawn has not been legally established
 - This amendment will codify that interpretation

Example



Grass is higher than 8" maximum; legally established lawn within the Chesapeake Bay Preservation District

Restoration of Established Lawn

- **DEQ Guidance:** If the landowner is not requesting any type of land disturbance on the site and are only letting lawn go back to a natural state, the City cannot require they follow the Bay Act requirements. The City could encourage it and provide a copy of the buffer manual to provide the reasoning behind it. If down the line the landowner decides they do not want the volunteer vegetation and plan to remove it, that would need to be approved by the locality.
- Educate homeowners on preferred restoration methods
- Supply homeowners with native plant guides
- Suggest signage indicating that the area is being restored to a natural riparian buffer

Chesapeake Bay High Grass Waiver

- The City is authorized to allow grass to exceed 8” in height under certain situations
- Only apply to properties located in Chesapeake Bay Preservation Districts
- Property owner would be required to submit a signed buffer establishment application
- Require that the buffer be maintained in perpetuity unless otherwise permitted by the Zoning Ordinance
- Require signage in the area where buffer is established

Example of Established Riparian Buffer



Proposal

- In areas required to be vegetated by the Chesapeake Bay Preservation Overlay District of the Zoning Ordinance of the City of Hampton:
 - **High Grass** - the cutting of grass and weeds will be required where a lawn has been legally established, unless an approved buffer establishment application is in place
 - For the purposes of this section, a “lawn” shall mean an area of grasses or other durable plants which are maintained at a short height for aesthetic or recreational purposes.
 - **Overgrowth** - must comply with the same criteria as those properties located outside of the Chesapeake Bay Preservation District. The owner or contractor shall comply with and obtain all required permits in accordance with the Zoning Ordinance prior to the removal of vegetation

Staff Recommendation

Approve City Code Amendment # 21-0133