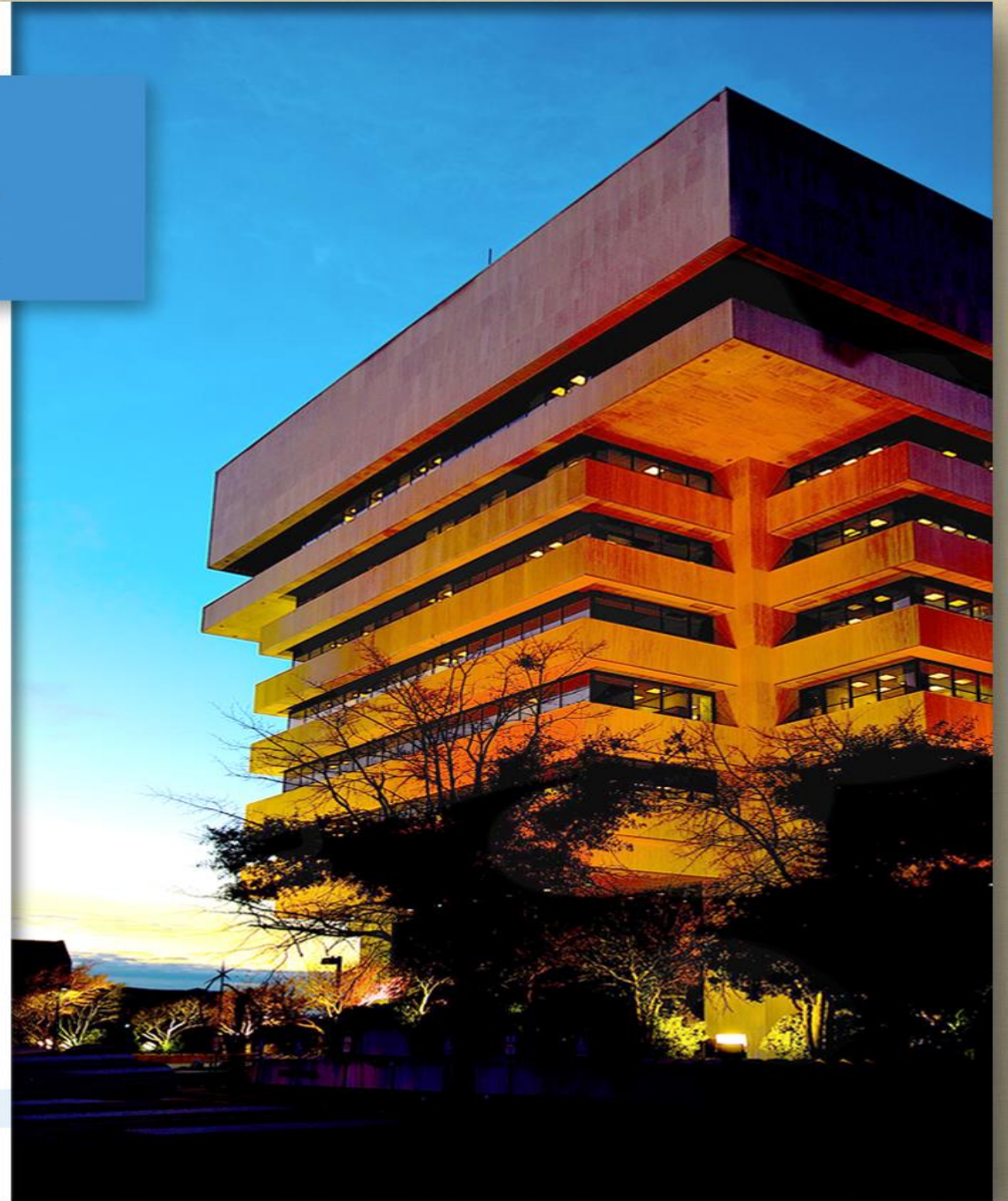


# HAMPTON VA

**Zoning Ordinance Amendments  
#20-0134 & #20-0194  
and  
City Code Amendment  
# 20-0192  
Fences, Shrubs and Overgrowth**

City Council  
July 8, 2020



# Purpose

Given the new State Code Authority to regulate overgrowth, we were tasked with updating our codes

- Updates to City Code
  - Add regulations for overgrowth
- Updating Zoning Ordinance
  - Adding regulations for natural fences
  - Technical amendments for fences

# Background

- House Bill 549 (2020) and Senate Bill 340 (2020) grant the City of Hampton additional powers to regulate overgrown shrubs, trees, and other such vegetation
- Effective July 1, 2020
- City of Hampton worked for 5 years to gain this authority, as a response to Council concerns

# State Code Authority

§ 15.2-901.

3. The owners of occupied or vacant developed or undeveloped property therein, including such property upon which buildings or other improvements are located, shall cut the grass, weeds and other foreign growth, including running bamboo as defined in § [15.2-901.1](#), on such property or any part thereof at such time or times as the governing body shall prescribe; or may, whenever the governing body deems it necessary, after reasonable notice as determined by the locality, have such grass, weeds or other foreign growth cut by its agents or employees, in which event the cost and expenses thereof shall be chargeable to and paid by the owner of such property and may be collected by the locality as taxes are collected. For purposes of this provision, one written notice per growing season to the owner of record of the subject property shall be considered reasonable notice. No such ordinance adopted by any county shall have any force and effect within the corporate limits of any town. No such ordinance adopted by any county having a density of population of less than 500 per square mile shall have any force or effect except within the boundaries of platted subdivisions or any other areas zoned for residential, business, commercial or industrial use. No such ordinance shall be applicable to land zoned for or in active farming operation. *In any locality within Planning District 23, such ordinance may also include provisions for cutting overgrown shrubs, trees, and other such vegetation.*

# Current City Code Ordinance

- **Sec. 24-37. - Accumulations of trash, garbage, refuse, litter and other like substances and cutting of grass and weeds near residential or commercial structures.**
- (a) It shall be unlawful for the owner of any property, or any occupant or other person who is responsible for the maintenance and upkeep of any property, occupied or vacant, including the area adjoining such property extending to the curb line or the paved portion of the roadway and/or the center line of an abutting alley, to permit the accumulation on such property of trash, garbage, refuse, litter and other like substances, except as may be placed there for purposes of collection in accordance with [chapter 32.1](#) of this Code. In the event the owner, occupant or other person responsible for any property shall fail or refuse to remove any accumulation referred to above, or in the event the property upon which such accumulation is found is unoccupied, the city manager or his designee shall give written notice to the owner of such property to clear off and remove from the property all such trash garbage, refuse, litter and other like substances, within seven (7) days from the date of such notice. A violation of this subsection shall be punishable as a criminal misdemeanor with a fine of at least \$100.00 but not more than \$1,000.00 per violation. Each day during which the condition is ongoing shall constitute a separate offense.
- (b) It shall be unlawful for the owner of any land, or any occupant or other person who is responsible for the maintenance and upkeep of any land, occupied or vacant including the area adjoining such property extending to the curb line or the paved portion of the roadway and or the center line of an abutting alley, to permit grass, weeds and other foreign growth on such property to exceed a height of ten (8) inches, within one hundred fifty (150) feet of any residential or commercial structure, or any structure designed for use in connection therewith.

# Proposed Change to City Code Ordinance

*(c) **Cutting of overgrown shrubs, trees, and other such vegetation.** It shall be unlawful for the owner of any land, or any occupant or other person who is responsible for the maintenance and upkeep of any land, occupied or vacant, including the area adjoining such property extending to the center line of an abutting alley, to permit overgrown shrubs, trees, and other such vegetation (collectively, for purposes of this section, "overgrowth") to exist in a manner that is in violation of this section. Overgrowth shall include, but not be limited to, noxious weeds, vines, ivy, and any other plant material that may inhibit the growth of native vegetation.*

*(1) Overgrowth shall be unlawful if any one or more of the following applies:*

- (i) The overgrowth is abandoned, neglected, or not adequately maintained;*
- (ii) The overgrowth has caused the primary improvements on the property to be wholly or substantially screened from view from pedestrians standing at ground level upon any right-of-way abutting any property line;*
- (iii) The overgrowth obstructs the view of address numerals;*
- (iv) The overgrowth obstructs access to emergency escape and rescue opening points, as defined by the Virginia Uniform Statewide Building Code, or path of travel from any street to the primary entrance of any primary or accessory structure;*
- (v) The overgrowth is growing into or on primary to accessory structures in a manner that is detrimental to the structure or has caused damaged to a structure;*
- (vi) The overgrowth is likely to result in rodent harborage on the property;*
- (vii) The overgrowth constitutes any other public health, safety, welfare, or fire hazard.*

# Examples



*(ii) The overgrowth has caused the primary improvements on the property to be wholly or substantially screened from view from pedestrians standing at ground level upon any right-of-way abutting any property line*

# Examples



- (i) The overgrowth is abandoned, neglected, or not adequately maintained;*
- (ii) The overgrowth has caused the primary improvements on the property to be wholly or substantially screened from view from pedestrians standing at ground level upon any right-of-way abutting any property line;*
- (iii) The overgrowth obstructs the view of address numerals;*
- (iv) The overgrowth obstructs access to emergency escape and rescue opening points, as defined by the Virginia Uniform Statewide Building Code, or path of travel from any street to the primary entrance of any primary or accessory structure;*



# Examples



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# Examples



- ➔ (i) The overgrowth is abandoned, neglected, or not adequately maintained;
- ➔ (iii) The overgrowth obstructs the view of address numerals;
- ➔ (iv) The overgrowth obstructs access to emergency escape and rescue opening points, as defined by the Virginia Uniform Statewide Building Code, or path of travel from any street to the primary entrance of any primary or accessory structure;

# Examples



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# Examples



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# Enforcement

- Inspector finds that a violation of City Code Ordinance 24-37(c) exists
- Owner of record would receive a notice of violation
- If violation is not corrected within the specified time period:
  - City contractor will correct the violation; or
  - Inspector can request a summons for court

# Enforcement

If the City contractor abates the violation:

- Lien placed on the property for the cost to correct violation plus any applicable administration fees

If the contractor is not able to abate the violation:

- Summons issued to the owner of record
- If convicted in court:
  - They may receive a fine of up to \$1000 and abatement will be ordered
  - Subsequent convictions same as initial

# Zoning Ordinance Amendments

ZOA #20-0134

Section 1-18 “Fence and wall regulations”

ZOA #20-0194

Section 2-2 “Definitions”



# Zoning Ordinance – New Definitions

**Fence.** An accessory structure, including but not limited to a barrier, railing, or other upright structure, constructed of materials of a nature to indicate a degree of intended permanence, the components of which are not readily or easily removed, that acts in the manner to prevent or eliminate vision, viewing, or access to a property.

**Natural Fence.** Any natural or dense vegetation, including but not limited to hedges, trees and shrubs, that acts in the same manner as a fence to create a screen or barrier that operates to prevent or eliminate vision, viewing, or access to a property.

# Zoning Ordinance – Technical Amendments

- Fences in setbacks
- Vision clearance on corner lots
- Encroachments into City easements
- New impervious area in the Chesapeake Bay Preservation Overlay

# Recommendations

Staff recommends **approval** of:

Zoning Ordinance Amendment #20-0134 & #20-0194  
City Code Amendment #20-0192