

DEPARTMENT OF TRANSPORTATION

Chapter 200 – Vegetation Control Regulations on State Rights-of-Way

24VAC30-200-10. Definitions.

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

"Agent" means the person, firm, or corporation representing the permittee.

"Board" means the Commonwealth Transportation Board as defined in § 33.1-1 of the Code of Virginia.

"Certified arborist" means an individual who has taken and passed the certification examination sponsored by the International Society of Arboriculture and who maintains a valid certification status.

"Cutting" means to completely remove at ground level.

"Daylighting" means to prune or remove vegetation to improve the motorists' view of an outdoor advertising structure or business.

"Department" means the Virginia Department of Transportation (VDOT) and its employees.

"Federal-aid primary highway" means any highway as defined in § 33.1-351 of the Code of Virginia.

"Inspector" means any employee designated by the Commonwealth Transportation Commissioner or local government official, to review and approve or deny the permit application and landscape plan, inspect the work performed under authority of this chapter, and make a final approval concerning the work performed.

"Interstate system" means any highway as defined in § 33.1-48 of the Code of Virginia.

"Land Use Permit ~~Manual~~ Regulations" means the ~~manual~~ (24VAC30-150) maintained regulations (24VAC30-151) promulgated by the board for the purpose of authorizing activities within the limits of state rights-of-way.

"Limited access highway" means any highway as defined in § 33.1-57 of the Code of Virginia.

"Local beautification project" means any project in a locality that includes installation of plant materials, using public or other funds, in any public right-of-way within a city or town, or on a highway or street in a county with the county manager form of government.

"Local government official" means an employee of a local government delegated authority by the city or town council or county board of supervisors where the public right-of-way is within the jurisdictional limits of a city or town on a highway or street not within the jurisdiction of the Commonwealth Transportation Commissioner under § 33.1-353 of the Code of Virginia, or on a highway or street in a county with the county manager form of government.

"Permittee" means the person, firm, or corporation owning the outdoor advertising sign, advertisement, or advertising structure or the business for whom the vegetation control work is being performed.

"Pruning" means to remove branches from healthy vegetation in a manner that is acceptable using the natural method under the standards and guidelines listed in 24VAC30-200-40 published by the American National Standards Institute, the American Association of Nurserymen, and the International Society of Arboriculture.

"Specifications" means the current Virginia Department of Transportation's Road and Bridge Specifications (effective January 2002).

"Unightly" means vegetation to be selectively removed at VDOT's or the local government official's discretion.

24VAC30-200-20. General provisions.

A. Permits will be issued by the department to control vegetation in front of a sign/structure that is not exempt from the provisions of § 33.1-355 of the Code of Virginia or business that is visible from any highway as defined in § 33.1-351 of the Code of Virginia and regulated by the territorial limitations as defined in § 33.1-353 of the Code of Virginia provided the vegetation control work meets the criteria set forth in § 33.1-371.1 and this chapter. An application may be filed with the Commonwealth Transportation Commissioner by an agent, including but not limited to companies that trim trees. In all other areas the local government official shall issue the permits.

B. All cutting to make an outdoor advertising structure more visible from the roadway shall be limited to vegetation with trunk base diameters of less than six inches. All cutting to make a business more visible from the roadway shall be limited to vegetation with trunk base diameters of less than two inches. All stumps shall be treated with a cut-stump pesticide applied by a licensed pesticide applicator with a license issued by the Virginia Department of Agriculture and Consumer Services in Category 6. All pesticides shall be approved by the department or local government official prior to use. Selective thinning in accordance with specifications or removal of unsightly vegetation will be allowed on an individual basis to enhance the health and growth of the best trees or to eliminate roadway hazards if recommended by the certified arborist supervising the work and agreed to by the department or local government official. Trees that are diseased, damaged by insects, unsightly, or that pose a safety hazard may be removed when recommended by the certified arborist supervising the work and approved by the department or local government official. When tree removal is recommended by the certified arborist and approved by this permit, the permittee shall provide a list of suitable trees and shrubs and a landscape plan to replace vegetation removed to the inspector or

local government official for review and approval prior to issuance of the permit. The certified arborist and the department or local government official shall agree on size and species of replacement vegetation. The permittee shall plant, at his expense, all replacement vegetation at the locations shown on the landscape plan in accordance with the specifications. The establishment period for replacement vegetation shall be in accordance with § 605.05 of the specifications. No pruning of vegetation to make an outdoor advertising sign more visible from the roadway will be permitted if the cut at the point of pruning will exceed four inches in diameter. No pruning of vegetation to make a business more visible from the roadway will be permitted if the cut at the point of pruning will exceed two inches in diameter. No leader branches shall be cut off in such a manner as to retard the normal upright growth of the tree unless recommended by the certified arborist and approved by the department or local government official. All trees and brush removed shall be cut at ground level. Dogwood or other small flowering trees on the site shall not be removed. The use of climbing irons or spurs is positively forbidden in any tree.

C. When daylighting signs, every effort shall be made to form a picture frame around the sign with remaining vegetation so as to accent the beauty of the surrounding roadside. A picture frame effect shall be achieved by leaving vegetation in place that will cover the sign structure supports below the face as seen from the main-traveled way.

D. A permit must be obtained from the department or local government official prior to any vegetation control work on the state's rights-of-way. All work shall be performed by the permittee at his expense, including permit and inspection fees.

E. A violation of this chapter shall, in addition to penalties provided in § 33.1-377 of the Code of Virginia, result in a permittee or its agent or both losing its vegetation control permit privilege for five years. Additionally, the bond amount used to secure the permit

will be used for any reparations to the site. Inadvertent violations of this permit will require replacement on a four-to-one basis with other suitable small trees approved by the department or local government official to enhance the roadside beauty. The department or local government official shall have full authority to determine specie and size of all replacement vegetation if inadvertent cutting occurs.

24VAC30-200-30. Special provisions.

A. The permittee shall attach two each 8" x 10" color glossy photographs (a closeup and a distant view) with the permit application showing the vegetation to be controlled, the highway, and the sign or business.

The permit for selective pruning or tree cutting, or both, will be inspected by the department or local government official and approval or denial given.

A permit may be denied any applicant, and all permits issued by the board or local government official may be revoked whenever, in the opinion of the inspector, the safety, use, or maintenance of the highway so requires or the integrity of the permit system so dictates.

If, during or before work begins, it is deemed necessary by the department or local government official to assign inspectors to the work, the permittee shall pay the department or local government issuing the permit an additional inspection fee in an amount that will cover the salary, expense and mileage allowance, equipment rental, etc., of the inspector or inspectors assigned by the department or local government for handling work covered by this chapter. Said inspection fee to be paid promptly each month on bills rendered by the department or local government.

The absence of a state or local government inspector does not in any way relieve the permittee of his responsibility to perform the work in accordance with provisions of § 33.1-371.1 of the Code of Virginia, this chapter, or permit.

B. The inspector or local government official shall be notified at least seven days in advance of the date any work is to be performed and when completed, in order that an inspection may be made.

C. No trees, shrubs, vines, or plant material, except as covered by this chapter, shall be cut or disturbed. Stubs and dead wood in trees covered by this chapter must be removed, whether occasioned by present requirements or not.

Pruning of trees shall only be performed by qualified tree workers who, through related training or experience or both, are familiar with the techniques and hazards of arboricultural work including trimming, maintaining, repairing or removing trees, and the equipment used in such operations. The supervisor, a certified arborist, and tree workers shall be approved by the inspector or local government official, prior to issuance of a permit to perform work under this chapter. The certified arborist supervising the work shall remain on-site whenever work is underway.

All brush, wood, etc., shall be chipped and beneficially used or removed immediately and disposed of in accordance with the Solid Waste Management Regulations (9VAC20-80-10 et seq.) of the Virginia Waste Management Board.

D. All access and work shall be accomplished from the abutting property side of rights-of-way on interstate and other limited access highways, except where a local beautification project has allowed landscape plant material to be planted within a median area. Plant material in median areas may be relocated to other areas within the local beautification project limits in accordance with an approved landscape plan. All work performed on VDOT rights-of-way shall comply with the Virginia Work Area Protection Manual (part of 24VAC30-310-10 et seq.). Any damage caused to property owned by the Commonwealth shall be repaired or replaced in kind when work is complete.

All work done under this chapter on the right-of-way shall in all respects be subject to department or local government official directions and shall be completed to the satisfaction of the inspector or local government official, or his representative.

E. The department or local government official reserves the right to stop the work at any time the terms of this chapter are not satisfactorily complied with, and the department or local government official may, at its discretion, complete any of the work covered in the permit at the expense of the permittee. If it is in the best interest of traffic safety, the department or local government official may complete or have completed at the expense of the permittee any of the work that must be done to properly protect the traveling public.

F. The permittee shall immediately have corrected any condition that may arise as a result of this work that the department or local government official deems hazardous to the traveling public or state maintenance forces even though such conditions may not be specifically covered in this chapter or in the Land Use Permit [Manual \(24VAC30-150-10 et seq.\) Regulations \(24VAC30-151\)](#).

G. Permittees and their agents to whom permits are issued shall at all times indemnify and save harmless the Commonwealth Transportation Board, local city or town councils, local boards of supervisors, and the Commonwealth of Virginia and its employees, agents, and officers from responsibility, damage, or liability arising from the exercise of the privilege granted in such permit except if political subdivisions are the applicants. Then special arrangements will be made whereby the agent of the political subdivision performing the work will indemnify and save harmless the board and others. All work shall be performed by the permittee at his expense. All permit and inspection fees shall be paid to the department or local government official by the permittee.

H. The permittee agrees that if the work authorized by this chapter including any work necessary to restore shoulders, ditches, and drainage structures to their original condition, is not completed by the permittee to the satisfaction of the department or local government official, the department or local government official will do whatever is required to restore the area within the right-of-way to department standards, and the permittee will pay to the Commonwealth or local government official the actual cost of completing the work. When the permittee is a political subdivision, this requirement will be satisfied by a sum certain that will appear in the permit.

I. Road and street connections and private and commercial entrances are to be kept in a satisfactory condition. Entrances shall not be blocked. Ample provisions must be made for safe ingress and egress to adjacent property at all times. Where entrances are disturbed, they shall be restored to the satisfaction of the department or local government official.

J. Road drainage shall not be blocked. The pavement, shoulders, ditches, roadside and drainage facilities, shall be kept in an operable condition satisfactory to the department or local government official. Necessary precautions shall be taken by the permittee to ensure against siltation of adjacent properties, streams, etc., in accordance with the Virginia Erosion and Sediment Control Law (§ 10.1-560 et seq. of the Code of Virginia) and Virginia Erosion and Sediment Regulations (4VAC50-30-10 et seq.).

K. Any conflicts with existing utility facilities shall be resolved between the permittee and the utility owners involved. The permittee shall notify and receive clearance from the utility owner or owners and comply with the Overhead High Voltage Line Safety Act (§ 59.1-406 et seq. of the Code of Virginia) before proceeding with work in the vicinity of utilities.

L. Where landscape is disturbed on state rights-of-way or local street and roads not under the jurisdiction of the Commonwealth Transportation Commissioner in accordance with § 33.1-353 of the Code of Virginia, it shall be replaced with a minimum of two inches of topsoil and reseeded according to department specifications.

24VAC30-200-35. Appeal to the Commonwealth Transportation Commissioner.

A. Appeals by the local government official.

1. The local government official appeal of a landscape plan shall be in writing within 60 days of the permittee submitting a permit application and accompanied by a \$400 fee.
2. The appeal shall specify reasons why the local government official is dissatisfied with the landscape plan and why it does not meet the intent of § 33.1-371.1 of the Code of Virginia. It shall include any motorist or worker safety concerns, selection of plant material, placement of plant material, method or time-of-year for planting or relocating plant material, and any other pertinent information.

B. Appeals by the permittee.

1. The permittee appeal of a landscape plan shall be in writing within 10 days after final action of the local government official and shall be accompanied by a \$400 fee.
2. The appeal shall specify reasons why the permittee is dissatisfied with the action or stipulations placed on the permittee by the local government official including all pertinent information to help the Commonwealth Transportation Commissioner make a final determination.

C. Commonwealth Transportation Commissioner's determination of appeal.

The Commonwealth Transportation Commissioner shall consult department personnel with expertise in horticulture and landscape architecture in making a final determination on the merits of the landscape plan presented by the permittee, weigh objections by both the local government official and the permittee, and shall provide a final determination within 30 days of receipt of the appeal request.

24VAC30-200-40. Listing of documents incorporated by reference.

Information pertaining to the availability and cost of any of these publications should be directed ~~to the division indicated by~~ in writing to the Virginia Department of Transportation, 1401 East Broad Street, Richmond, Virginia 23219, or to the agency address indicated.

1. ~~24VAC30-150, Land Use Permit Manual (1983), Asset Management Division,~~ 24VAC30-151 Land Use Permit Regulations (2010), VDOT
2. VDOT Road and Bridge Specifications (effective January 2002), ~~Scheduling and Contract Division,~~ VDOT
3. 24VAC30-310-10, Virginia Supplement to the Manual on Uniform Traffic Control Devices (Virginia Work Area Protection Manual), ~~Traffic Engineering Division,~~ VDOT
4. 4VAC50-30, Virginia Erosion and Sediment Control Regulations, Division of Soil and Water Conservation, Department of Conservation and Recreation, 203 Governor St., Richmond, Va. 23219
5. 9VAC20-80, Solid Waste Management Regulations, Waste Division, Department of Environmental Quality, 629 E. Main St., Richmond, Va. 23240
6. American National Standards Institute (ANSI) Standard for Tree Care Operations, Tree, Shrub and Other Woody Plant Maintenance-Standard Practices - ANSI A300-1995 (effective June 1, 1995), Pruning, Trimming,

Repairing, Maintaining, and Removing Trees, and Cutting Brush-Safety Requirements - ANSI Z133.1-1994 (effective August 1, 1994), American National Standards Institute, 11 West 42nd Street, New York, New York 10036

7. American National Standards Institute (ANSI) American Standard for Nursery Stock - ANSI Z60.1-1996 (effective November 6, 1996), American Association of Nurserymen, 1250 I Street, N.W., Suite 500, Washington, DC 20005

8. Tree Pruning Guidelines (effective 1995), International Society of Arboriculture, P.O. Box GG, Savoy, Illinois 61874