

SUSSEX COUNTY COUNCIL
PERIMETER BUFFER UPDATE
FEBRUARY 20, 2024

OVERVIEW

- County Council ranked Perimeter Buffers as the first item to update for the development design initiative
- Staff developed the following outline of suggested updates for Perimeter Buffers
- Staff will draft an Ordinance for introduction using this outline

SECTION I. DEFINITIONS

PERIMETER BUFFERS OUTLINE

I. Definitions

This section defines specific terms.

The terms below are provided in high level, summary form; the actual definitions have more details:

1. **Clearing or Cleared** – the clearing of woodlands that is regulated under the Sediment and Stormwater Management rules
2. **Forest Assessment** – the process for determining habitat and trees of high value to be preserved
3. **Perimeter Buffer** – a managed area around the outer perimeter of any major subdivision that is 30' in width
4. **Perimeter Buffer Landscape Plan** – a plan prepared by a licensed professional that depicts specific requirements
5. **Perimeter Buffer Protection Area** – the area adjacent to the Perimeter Buffer that contains existing woodlands and remains protected during construction
6. **Woodlands** – contiguous area of wood vegetation at least 10,000 sq. feet in size that contains specific tree sizes

**SECTION II.
PERIMETER BUFFER
GENERAL STANDARDS**

PERIMETER BUFFERS OUTLINE

II. Perimeter Buffer General Standards

This section defines the standards to which a Perimeter Buffer should be planted or preserved, in the case of existing woodlands.

- All trees and shrubs must be local and native species
- Plantings to ANSI A300 standards; 70% deciduous and 30% evergreen; 15 trees per 100 feet
- All trees and shrubs must be 6 feet in height at time of planting and obtain a minimum height of 10 feet
- The buffer can include both existing woodlands and planted trees
- When a Resource Buffer (115-193) is required, the Resource Buffer takes precedence over and is not in addition to the Perimeter Buffer
- Permanent signage will mark the Perimeter Buffer

PERIMETER BUFFERS OUTLINE

II. Perimeter Buffer General Standards cont.

The Perimeter Buffer rules will distinguish when:

1) **EXISTING WOODLANDS** are in place where the Perimeter Buffer is to be located.

OR

2) **NO WOODLANDS** are in place where the Perimeter Buffer is to be located.

PERIMETER BUFFERS OUTLINE

II. Perimeter Buffer General Standards cont.

The following lists the rules for **EXISTING WOODLANDS** to be used for the Perimeter Buffer:

- Requires a forest assessment by certified professional
- The woodlands will be shown on the site plan and landscape plan
- Woodlands shall remain in its natural state with limited activity within
- The Perimeter Buffer woodlands will be protected by an area that “buffers-the-buffer” by 20’ and is called the Perimeter Buffer Protection Area
- The buffer and protection area will be fenced-off/marked during construction
- Selective clearing, removal of invasive species and dead trees in the woodlands is permitted
- Walking trails are permitted in the woodlands
- Access points to the woodlands for buffer maintenance is permitted
- Any removal or damage of trees within the woodlands is subject to mitigation requirements
- The woodlands grounds is forbidden to be cleared, graded, or grubbed

PERIMETER BUFFERS OUTLINE

II. Perimeter Buffer General Standards cont.

The following lists the rules for **WOODLANDS--CLEARED WITHIN FIVE YEARS OF APPLICATION:**

- Cleared area that makes up the Perimeter Buffer is measured and known as “Cleared Area”
- Perimeter Buffer planted back with at least 15 trees every 50 linear feet
- New Woodlands planted that is 2.0 times the size of the Cleared Area; 50 trees per acre
- New Woodlands may border Perimeter Buffer; at no time shall Perimeter Buffer be less than 30’ in width
- Perimeter Buffer and New Woodlands shall meet planting requirements of Section II
- Applicant may choose to replant property other than the one harvested or protect an off-site Woodlands area, as reviewed and approved by P&Z Commission.
 - If off-site, the area must be located within the same twelve-digit HUC defined by USGS
 - Replanted or protected property must be protected under a perpetual conservation
 - Replanted or protected property must be 2.0 times the size of the Cleared Area

PERIMETER BUFFERS OUTLINE

II. Perimeter Buffer General Standards cont.

The following lists the rules when **NO WOODLANDS** exist to be used for the Perimeter Buffer:

- The developer must comply with the Perimeter Buffer standards and landscape plan
- The newly planted buffer will be fenced off/marked during construction
- All Perimeter Buffer (existing or planted) will have a two-year guarantee

SECTION III.
PERIMETER BUFFER LANDSCAPE PLAN

PERIMETER BUFFERS OUTLINE

III. Perimeter Buffer Landscape Plan

This section defines the information and detail to be demonstrated on the plan to meet the requirements and standards of the Perimeter Buffer and Protection Areas.

- The approximate location of the protective fencing
- The locations, spacing, height, and species of new trees and shrubs
- The location of the Perimeter Buffer signage
- Measures to avoid sedimentation intrusions and erosion
- A summary table of the new trees to be planted and existing trees to be retained
- A note confirming the full cost of replacement for the trees and shrubs
- A planting schedule for the installation of the Perimeter Buffer
- The Perimeter Buffer, per phase, must be planted prior to the first residential building permit for the respective phase
- Provides a “miscellaneous clause” allowing the PZ Commission to approve a plan with other features along the roadway frontage not necessarily part of the Perimeter Buffer requirements.

**SECTION IV.
TIMING; BONDS & GUARANTEES**

PERIMETER BUFFERS OUTLINE

IV. Timing; Bonds & Guaranties

This section defines the timing of the Perimeter Buffer installation and the guaranties required for the protection of the buffer's trees and shrubs.

- The Perimeter Buffer, per phase, must be planted prior to the first residential building permit for the respective phase
- When Woodlands exist, the Perimeter Buffer and Protection Area shall be protected and marked prior to the Notice to Proceed for site work or construction
- The developer is responsible for the removal of all stakes, guy wires and protective fencing
- A Performance Bond or other guaranty to cover the Perimeter Buffer in the amount of 125% (or \$50,000, whichever is greater) of the cost of the installation and value of the replacement plantings
- All guaranties for the Perimeter Buffer (existing or planted) will be for two years

**SECTION V.
PERIMETER BUFFER MAINTENANCE**

PERIMETER BUFFERS OUTLINE

V. Perimeter Buffer Maintenance

This section defines the responsibility for the health and survival of the Perimeter Buffer.

- The developer is responsible for the survival of the Perimeter Buffer for two years
- The perpetual maintenance of the Perimeter Buffer will be a recorded declaration or restrictive covenant

SECTION VI.
PERIMETER BUFFER TREE MITIGATION

PERIMETER BUFFERS OUTLINE

VI. Perimeter Buffer Tree Mitigation

This section defines what happens when trees or shrubs are removed or damaged without authorization.

- Tree mitigation will be required when the Perimeter Buffer or Protection Area or existing woodlands is damaged without authorization
- An Act of God or natural causes is exempt and subject to the Perimeter Buffer Maintenance Requirements
- A mitigation plan must be developed by a licensed professional
- Tree replacement will be at a rate of 3 trees for every 1 tree removed or damaged
- All trees and shrubs will meet the Perimeter Buffer standards and landscape plan requirements

**SECTION VII.
VIOLATIONS AND PENALTIES**

PERIMETER BUFFERS OUTLINE

VII. Violations and Penalties

This section defines the penalties for violations of the new requirements that may be imposed.

- The penalties apply to a violation by a person, the landowner, the HOA, or developer
- A fine of \$10,000 per quarter acre, pro rata, of disturbance to the Perimeter Buffer and/or Protection Area may be imposed
- A tree mitigation plan for the disturbance will be required
- All building permits, zoning permits, and inspections will be held until the tree mitigation is complete and approved by the PZ Commission

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