

ADOPTED

NOV 12 1996

ORDINANCE NO. 183A-1

BOARD OF SUPERVISORS  
JAMES CITY COUNTY  
VIRGINIA

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 19B, CHESAPEAKE BAY PRESERVATION, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING SECTION 19B-3, DEFINITIONS; SECTION 19B-5, PERMITTED USES; SECTION 19B-7, REQUIRED CONDITIONS; SECTION 19B-8, DETERMINING RESOURCE PROTECTION AREA BOUNDARIES; SECTION 19B-9, PERFORMANCE STANDARDS; SECTION 19B-10, PLAN OF DEVELOPMENT; SECTION 19B-11, WATER QUALITY IMPACT ASSESSMENT; SECTION 19B-12, WAIVERS; SECTION 19B-14, EXCEPTIONS; SECTION 19B-15, APPLICATIONS FOR WAIVERS OR EXCEPTIONS; SECTION 19B-16, GRANTING WAIVERS OR EXCEPTIONS; AND SECTION 19B-17, APPEALS.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 19B, Chesapeake Bay Preservation is hereby amended and reordained by amending Section 19B-3, Definitions; Section 19B-5, Permitted uses; Section 19B-7, Required conditions; Section 19B-8, Determining resource protection area boundaries; Section 19B-9, Performance standards; Section 19B-10, Plan of development; Section 19B-11, Water quality impact assessment; Section 19B-12, Waivers; Section 19B-14, Exceptions; Section 19B-15, Applications for waivers or exceptions; Section 19B-16, Granting waivers or exceptions; and Section 19B-17, appeals.

**Chapter 19B. Chesapeake Bay Preservation**

**Sec. 19B-3. Definitions.**

For the purpose of this chapter, the following words and phrases shall have the meanings ascribed below:

~~*Manager means the Manager of Development Management or his designee.*~~

**Sec. 19B-5. Permitted uses.**

Permitted uses, special permit uses, accessory uses and special requirements shall be as established by the zoning district for that lot, parcel or acreage as specified in Chapter 20 of this Code, unless specifically modified by the requirements set forth herein. All land-disturbing activities shall be prohibited on slopes of ~~twenty-five (25)~~ percent or greater unless permitted in other sections of this chapter and determined by the ~~director of code compliance~~ *manager* to be consistent with the intent of this chapter.

**Sec. 19B-7. Required conditions.**

(c) A water quality impact assessment shall be required for any proposed development or redevelopment within RPAs and for any other development within RMAs when required by the ~~director of code compliance~~ *manager* because of the unique characteristics of the site or intensity of development or potential impacts on water quality or RPAS.

**Sec. 19B-8. Determining resource protection area boundaries.**

The CBPA map shall be used as a guide to the general location of RPAS. Site-specific boundaries of the RPA shall be determined by the applicant through the performance of an environmental inventory. Site-specific boundaries determined by the applicant shall be reviewed and approved by the ~~director of code compliance~~ *manager*.

**Sec. 19B-9. Performance standards.**

(b) *General performance standards:*

- (1) Land disturbance shall be limited to the area necessary to provide for the desired use or development.
  - a. In accordance with an approved plan of development, the limits of clearing and/or grading shall be clearly defined. These limits shall be clearly shown on submitted plans and physically marked on the development site in accordance with subsection (2)b. below.
  - b. Impervious cover shall not exceed ~~sixty (60)~~ percent of the site.
  - c. Ingress and egress during construction shall be limited to one ~~(1)~~ access point, unless otherwise approved by the ~~director of code compliance~~ *manager*.

- (7) For any development or redevelopment, stormwater runoff shall be controlled by the use of BMPs that achieve the following:
- b. For redevelopment sites, the nonpoint source pollution load shall be reduced by at least ten (10) percent. The ~~director of code compliance~~ *manager* may waive or modify this requirement for redevelopment sites that originally incorporated best management practices for stormwater runoff quality control, provided the following provisions are satisfied:
    - 1. In no case may the post-development nonpoint source pollution runoff load exceed the predevelopment runoff load;
    - 2. If BMPs are structural, evidence shall be provided that facilities are currently in good working order and performing at the design levels of service. The ~~director of code compliance~~ *manager* may require a review of both the original structural design and maintenance plans to verify this provision. A new maintenance agreement may be required to ensure compliance with this chapter;
- (8) Prior to initiating grading or other on-site activities on any portion of a lot or parcel, all wetlands permits required by federal, state and county laws and regulations shall be obtained and evidence of such submitted to the ~~director of code compliance~~ *manager*, and
- (c) *Buffer area requirements.* To minimize the adverse effects of human activities on the other components of RPAS, state waters and aquatic life, a 100-foot buffer area of vegetation that is effective in retarding runoff, preventing erosion and filtering nonpoint source pollution from runoff shall be retained if present and established

during development where it does not exist. A buffer area not less than ~~one hundred (100)~~ feet in width shall be located adjacent to and landward of other RPA components and along both sides of any tributary stream. The full buffer area shall be designated as the landward component of the RPA. The ~~one hundred (100)~~ foot buffer area shall be deemed to achieve a ~~seventy-five (75)~~ percent reduction of sediments and a ~~forty (40)~~ percent reduction of nutrients. A combination of a buffer area not less than ~~fifty (50)~~ feet in width and appropriate BMPs located landward of the buffer area which collectively achieve water quality protection, pollutant removal, and water resource conservation at least the equivalent of the ~~one hundred (100)~~ foot buffer area may be employed in lieu of the 100-foot buffer if approved by the ~~director of code compliance~~ *manager*. All subdivision plats submitted for approval after August 6, 1990, shall clearly identify the boundaries of any RPA within the property. Such plat shall contain a statement that all existing vegetation within the RPA shall remain in its undisturbed natural state, except for vegetation weakened by age, storm, fire or other natural cause. Developers shall install signs identifying the landward limit of the RPA. Signs shall be obtained, installed and maintained in accordance with guidelines established by the ~~director of code compliance~~ *manager*. The following additional performance criteria shall apply:

- (1) In order to maintain the functional value of the buffer area, indigenous vegetation may be removed only to provide for reasonable sight lines, access paths, general wood lot management and BMPS, as follows:
  - a. 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. Any removal of existing vegetation shall require approval following review of the plan of development;
  - b. Access paths shall be constructed and surfaced so as to effectively control erosion;

- c. Dead, diseased, or dying trees or shrubbery may be removed at the discretion of the landowner, based upon the approval of the ~~director of code compliance~~ *manager*, who may require a recommendation by a professional forester or arborist; and
- d. 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.

**Sec. 19B-10. Plan of development.**

Any development or redevelopment exceeding ~~two thousand five hundred (2,500)~~ square feet of land disturbance in the CBPA shall be accomplished through a plan of development process prior to any clearing or grading of the site or the issuance of any building permit unless the ~~director of code compliance~~ *manager* determines that due to the scope and nature of the proposed development certain of the required information is unnecessary. Administration of the plan of development process shall be in accordance with chapter 20 of this Code for site plans and chapter 17 of this Code for subdivision plans. The following plans or studies shall be submitted, unless otherwise provided for:

- (1) *Site and subdivision plans.* Site plans in accordance with the provisions of chapter 20 of this Code or subdivision plans in accordance with chapter 17 of this Code;

- (2) *Environmental inventory.* An environmental inventory shall be submitted in conjunction with preliminary site plan or preliminary subdivision plan approval applications. This requirement may be waived by the ~~director of code compliance~~ *manager* when the proposed use or development would result in less than ~~five thousand~~ (5,000) square feet of disturbed area. For existing single-family lots in a RPA, showing items a. 1. through 4. below on the plat plan normally required as part of the building permit application shall satisfy the requirements for an environmental inventory. An environmental inventory is not required for existing single-family lots in the RMA.
- (4) *Stormwater management plan.* A stormwater management plan shall be submitted as part of the plan of development process required by this chapter and in conjunction with site plan or subdivision plan preliminary approval. A stormwater management plan is not required for existing single family lots.

To control stormwater runoff structural BMPs shall be required for site plans with impervious cover exceeding ten ~~(10)~~ percent of site area and for subdivisions with more than one-half dwelling unit per acre. Single-family subdivisions of five ~~(5)~~ lots or less shall not be subject to this requirement. Any contiguous property owned by the same subdivider, or deemed by the ~~director of code compliance~~ *manager* as a logical part of a contiguous subdivision, cannot be subdivided into greater than five ~~(5)~~ lots without complying with the requirements of this chapter. BMPs shall be designed and constructed in accordance with guidelines established by the ~~director of code compliance~~ *manager*.

Performance assurances shall be provided that all BMPs required in plans of development shall be constructed to comply with the performance criteria set forth therein. The form of agreement and type of bond, letter of credit or other security shall be to the satisfaction of and approved by the county

attorney. The amount of bond, letter of credit or other security and designated length of completion time shall be set by the ~~director of code compliance~~ *manager* or his authorized designee.

**Sec. 19B-11. Water quality impact assessment.**

A water quality impact assessment shall be required for any proposed development or redevelopment with RPAs and for development or redevelopment in RMA, when required by the ~~director of code compliance~~ *manager*, because of the unique characteristics of the site or intensity of the proposed development or redevelopment or potential impact on water quality or RPAS. A water quality impact assessment shall identify impacts of proposed development on water quality and land in RPAs and recommended measures for mitigation of these impacts. Water quality impact assessments shall address NSP components set forth in Section 19B-3 of this chapter and shall follow guidelines established by the ~~director of code compliance~~ *manager*. Development or redevelopment within an RMA shall not require a water quality impact assessment when impervious cover is less than ~~forty (40)~~ percent of the total site area.

**Sec. 19B-12. Waivers.**

It is not the intent of this chapter to prevent beneficial use or minor modification or alteration of structures legally existing prior to adoption of this chapter, or to prevent the practical use of lots or structures existing prior to adoption of this chapter whose proximity to a RPA leaves insufficient area suitable for building outside the RPA, or which lacks soil suitable for reserve or alternate drainfields, or which contains other factors which make



the property practically unusable upon application of the requirements of this chapter. Waivers to all or part of this chapter may be granted by the ~~director of code compliance~~ *manager* to allow the beneficial use of property; provided that:

- (1) Waivers granted shall be the minimum necessary to provide for buildable area or practical beneficial use;
- (2) Facilities, to the extent practical, which are not water dependent shall be located outside of a RPA;
- (3) Waivers granted shall cause no increase in nonpoint source pollution load;
- (4) Land disturbances in excess of ~~two thousand five hundred~~ (2,500) square feet shall comply with chapter 5A of this Code; and
- (5) The application for waiver is made pursuant to Section 19B-15.

**Sec. 19B-14. Exceptions.**

(a) Exceptions to the requirements of this chapter may be granted by the ~~director of code compliance~~ *manager*; provided that exceptions to the requirements shall be the minimum necessary to afford relief and reasonable and appropriate conditions upon any exception granted shall be imposed as necessary so that the purpose and intent of the Act is preserved.

(b) Exceptions from these requirements may be granted for the following land disturbances in RPAS: water wells; passive recreational facilities, such as boardwalks, trails, and pathways; and, historic preservation and archaeological activities; provided, that it is demonstrated to the satisfaction of the ~~director of code compliance~~ *manager* that:

- (1) Any required permits, except those to which this exception specifically applies, shall have been issued;
- (2) Sufficient and reasonable proof is submitted that the intended use will not deteriorate water quality; and
- (3) The intended use does not conflict with nearby planned or approved uses.

**Sec. 19B-15. Applications for waivers or exceptions.**

Applications for waivers or exceptions shall be made in writing to the ~~director of code compliance~~ *manager* and shall include the following:

- (1) Name and address of applicant and property owner;
- (2) Legal description of the property and type of proposed use and development;
- (3) A sketch of the dimensions of the lot or parcel, location of buildings and proposed additions relative to the lot lines, the RPA, slopes greater than ~~twenty-five (25)~~ percent and all wetlands; and

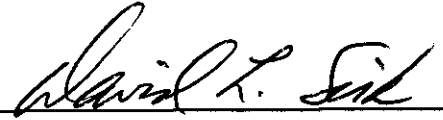
- (4) Location and description of any existing private water supply or sewage system.

**Sec. 19B-16. Granting waivers or exceptions.**

The ~~director of code compliance~~ *manager* may grant waivers or exceptions as set forth herein. When reviewing applications, the ~~director~~ *manager* will consider written comments from the county engineer, the director of planning and other interested parties. Waivers or exceptions granted will become null and void if building foundations are not completed within ~~twelve (12)~~ months.

**Sec. 19B-17. Appeals.**

(a) An owner of property subject to an administrative decision, order or requirement under this chapter may appeal by submitting a written application for review to the wetlands board ("board") no later than ~~thirty (30)~~ days from the rendering of such decision, order or requirement. The board shall hear the appeal as soon as practical after receipt of the application. The appellant, the board of supervisors, the ~~director of code compliance~~ *manager*, the planning director and any person or agency expressing an interest in the matter shall be notified by the board not less than ten ~~(10)~~ days prior to the date of the hearing. Published notice of the board's public meetings shall state that appeals from decision under the Chesapeake Bay Preservation Ordinance may be heard.



David L. Sisk, Chairman  
Board of Supervisors

ATTEST:



Sanford B. Wanner  
Clerk to the Board

<u>SUPERVISOR</u>	<u>VOTE</u>
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TAYLOR	AYE
MAGOON	ABSENT
DEPUE	AYE
EDWARDS	AYE
SISK	AYE

Adopted by the Board of Supervisors of James City County, Virginia, this 12th day of November, 1996.