

ADOPTED

ORDINANCE NO. 65A-3

DEC 2 1985

BOARD OF SUPERVISORS
JAMES CITY COUNTY
VIRGINIA

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 19A, WETLANDS, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, ARTICLE I, IN GENERAL, SECTION 19A-2, DEFINITIONS; SECTION 19A-6, PUBLIC HEARING; AND SECTION 19A-7, WETLANDS BOARD ACTION.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 19A, Wetlands, is hereby amended and reordained by amending Section 19A-2, Definitions; Section 19A-6, Public hearing; and Section 19A-7, Wetlands board action.

Chapter 19A. Wetlands

Article I. In General

Section 19A-2. Definitions.

For the purpose of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Commission. The state marine resources commission.

Commissioner. The commissioner of marine resources.

Governmental activity. Any or all of the services provided by this county to its citizens for the purpose of maintaining public facilities and shall include, but shall not be limited to, such services as constructing, repairing and maintaining roads, sewage facilities, supplying and treating water, street lights and construction of public buildings.

Nonvegetated wetlands. All that land lying contiguous to mean low water and which land is between mean low water and mean high water not otherwise included in the term "vegetated wetlands" as defined herein.

Person. Any corporation, association or partnership, one or more individuals or any unit of government or agency thereof.

Vegetated Wetlands. All that land lying between and contiguous to mean low water and an elevation above mean low water equal to the factor 1.5 times the mean tide range at the site of the proposed project in this county; and upon which is growing on the effective date of this act or grown thereon subsequent thereto, any one or more of the following: Saltmarsh cordgrass (*Spartina alterniflora*), saltmeadow hay (*Spartina patens*), saltgrass (*Distichlis spicata*), black needlerush (*Juncus roemerianus*), saltwort (*Salicornia* spp.), sea lavender (*Limonium* spp.), marsh elder (*Iva frutescens*), groundsel bush (*Baccharis halimifolia*), wax myrtle (*Myrica* sp.), sea oxeye (*Borrichia frutescens*), arrow arum (*Peltandra virginica*), pickerelweed (*Pontederia cordata*), big cordgrass (*Spartina cynosuroides*), rice cutgrass (*Leersia oryzoides*), wildrice (*Zizania aquatica*), bulrush (*Sprius validus*), spikerush (*Eleocharis* sp.), sea rocket (*Cakile edentula*), southern wildrice (*Zizaniopsis miliacea*), cattails (*Typha* spp.), three-squares (*Scirpus* spp.), buttonbush (*Cephalanthus occidentalis*), bald cypress (*Taxodium distichum*), Black gum (*Nyssa sylvatica*), tupelo (*Nyssa aquatica*), dock (*Rumex* spp.), yellow pond lily (*Nuphar* sp.), marsh fleabane (*Pluchea purpurascens*), royal fern (*Osmunda regalis*), marsh hibiscus (*Hibiscus moscheutos*), beggar's tick (*Bidens* sp.), smartweeds (*Polygonum* sp.), arrowhead (*Sagittaria* spp.), sweet flag (*Acorus calamus*), water hemp (*Amaranthus cannabinus*), reed grass (*Phragmites communis*), and switch grass (*Panicum virgatum*).

Wetlands. All vegetated and nonvegetated wetlands.

Wetlands board or board. A board created as provided in Section 62.1-13.6 of the Code of Virginia. (9-11-72, Section 2; Ord. No. 65A-2, 12-13-82)

Section 19A-6. Public hearing.

Not later than sixty (60) days after receipt of such application, the wetlands board shall hold a public hearing on such application. The applicant, the local governing body, the commissioner, the owner of record of any land adjacent to the wetlands in question, known claimants of water rights in or adjacent to the wetlands in question, the Virginia Institute of Marine Science, the Commission of Game and Inland Fisheries, water control board, the Department of Highways and Transportation and governmental agencies expressing an interest therein shall be notified by the board of the hearing by mail not less than twenty (20) days prior to the date set for the hearing. The wetlands board shall also cause notice of such hearing to be published at least once a week for two (2) weeks prior to such hearing in the newspaper having a general circulation in this county. The costs of such publication shall be paid by the applicant. (9-11-73, Section 6; Ord. No. 65A-2, 12-13-82)

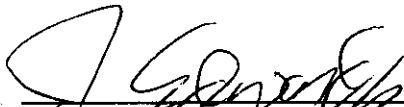
Section 19A-7. Wetlands board action.

In acting on any application for a permit, the board shall grant the application upon the concurring favorable vote of three (3) members. The chairman of the board or in his absence the acting chairman may administer oaths and compel the attendance of witnesses. Any person may appear and be

heard at the public hearing. Each witness at the hearing may submit a concise written statement of his testimony. The board shall make a record of the proceeding, which shall include the application, any written statements of witnesses, a summary of statements of all witnesses, the findings and decision of the board and the rationale for the decision. The board shall make its determination within thirty (30) days from the hearing. If the board fails to act within such time, the application shall be deemed approved. Within forty-eight (48) hours of its determination, the board shall notify the applicant and the commissioner of such determination and if the board has not made a determination, it shall notify the applicant and the commission that thirty (30) days has passed and that the application is deemed approved. The term "act" referenced above shall be the action of taking a vote on the application. If the application receives less than four concurring favorable votes, for a seven-member board and three concurring favorable votes for a five-member board, this will be a determination to deny the permit.

The board shall transmit a copy of the permit to the commissioner. If the application is reviewed or appealed, then the board shall transmit the record of its hearing to the commissioner. Upon a final determination by the commission the record shall be returned to the board. The record shall be open for public inspection at the office of the recording officer of this county. (9-11-73, Section 7; Ord. No. 65A-2, 12-13-82)

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Jack D. Edwards, Chairman
Board of Supervisors

ATTEST:



James B. Oliver, Jr.
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia,
this 2nd day of December, 1985.

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<u>SUPERVISOR</u>	<u>VOTE</u>
BROWN	AYE
DEPUE	AYE
EDWARDS	AYE
MAHONE	AYE
TAYLOR	AYE