

ADOPTED

DEC 12 2023

**Board of Supervisors
James City County, VA**

ORDINANCE NO. 65A-12

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 22, WETLANDS, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE I, IN GENERAL, SECTION 22-3, PERMITTED USES, AND BY AMENDING ARTICLE II, USE PERMITS, SECTION 22-5, APPLICATIONS, MAPS, DOCUMENTS TO BE OPEN TO PUBLIC INSPECTION; SECTION 22-6, PUBLIC HEARING; SECTION 22-7, WETLANDS BOARD ACTION; AND SECTION 22-11, PERMIT TO BE IN WRITING.

BE IT ORDAINED, by the Board of Supervisors of the County of James City, Virginia, that Chapter 22, Wetlands, is hereby amended and reordained by amending Article I, In general, Section 22-3, Permitted uses, and by amending Article II, Use permits, Section 22-5, Applications, maps, documents to be open to public inspection, Section 22-6, Public hearing, Section 22-7, Wetlands board action; and Section 22-11, Permit to be in writing.

Chapter 22. WETLANDS

ARTICLE I. - IN GENERAL

Sec. 22-3. Permitted uses.

The following uses of and activities on wetlands are permitted, if otherwise permitted by law:

- (a) The construction and maintenance of noncommercial catwalks, piers, boathouses, boat shelters, fences, duckblinds, wildlife management shelters, footbridges, observation decks and shelters and other similar structures; provided, that such structures are so constructed on pilings as to permit the reasonably unobstructed flow of the tide and preserve the natural contour of the wetlands;
- (b) The cultivation and harvesting of shellfish and worms for bait;
- (c) Noncommercial outdoor recreational activities, including hiking, boating, trapping, hunting, fishing, shellfishing, horseback riding, swimming, and skeet and trap shooting and shooting on shooting preserves; provided, that no structure shall be constructed except as permitted in subsection (a) of this section;
- (d) Other outdoor recreational activities, provided they do not impair the natural functions or alter the natural contour of the wetlands;
- (e) Grazing, haying, and cultivating and harvesting agricultural, forestry or horticultural products;
- (f) Conservation, repletion and research activities of the commission, the Virginia Institute of Marine Science, the Department of Game and Inland Fisheries and other conservation-related agencies;

- (g) The construction or maintenance of aids to navigation which ~~which~~ *that* are authorized by governmental authority;
- (h) Emergency measures decreed by any duly appointed health officer of a governmental subdivision acting to protect the public health;
- (i) The normal maintenance and repair of, or addition to, presently existing roads, highways, railroad beds, or the facilities abutting on or crossing wetlands, provided, that no waterway is altered and no additional wetlands are covered;
- (j) Governmental activity in wetlands owned or leased by the Commonwealth of Virginia or a political subdivision thereof;
- (k) The normal maintenance of man-made drainage ditches, provided that no additional wetlands are covered. This subdivision does not authorize construction of any drainage ditch; and
- (l) The construction of living shoreline projects authorized pursuant to a general permit developed under subsection B of Virginia Code § 28.2-104.1.

ARTICLE II. - USE PERMITS

Sec. 22-5. Applications, maps, documents to be open to public inspection.

All applications, maps and documents submitted shall be open for public inspection at the ~~engineering~~ *stormwater* and resource protection division office.

Sec. 22-6. Public hearing.

Not later than 60 days after receipt of a complete application, the wetlands board shall hold a public hearing on the application. The applicant, the local governing body, commissioner, 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 department of ~~Game and Inland Fisheries~~ *Wildlife Resources*, the *State* Water Control Board, the *Virginia* Department of Transportation, and any governmental agency expressing an interest in the application shall be notified of the hearing. The board shall mail *or email* these notices not less than 20 days prior to the date set for the hearing. The wetlands board shall also (i) cause notice of the hearing to be published at least once ~~a week for two weeks in the seven days~~ prior to such hearing in a newspaper of general circulation in this county; (ii) *post a notice of the hearing on the county website at least 14 days prior to such hearing; and (iii) provide a copy of such notice to the Commission for submittal to the Virginia Regulatory Town Hall.* The published notice shall specify the place or places within the county where copies of the application may be examined. The costs of such publication shall be paid by the applicant. *In the event that the board submits a correct and timely notice for publication and the newspaper fails to publish the notice or publishes the notice incorrectly, the board shall be deemed to have met the notice requirements of this subsection so long as the notice is published in the next available edition of such newspaper.*

Sec. 22-7. Wetlands board action.

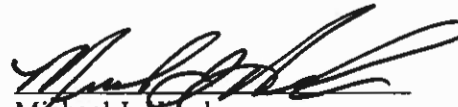
- (a) Approval of a permit application shall require the affirmative vote of three members of a five-member board or four members of a seven-member board.
- (b) The chairman of the board, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. Any person may testify 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

proceedings, 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.


- (c) The board shall make its determination within 30 days of the hearing. If the board fails to act within that time, the application shall be deemed approved. Within 48 hours of its determination, the board shall notify the applicant and the commissioner of its determination. If the board fails to make a determination within the 30-day period, it shall notify the applicant and the commission that the application is deemed approved. For purposes of this section, "act" means taking a vote on the application. If the application receives less than four affirmative votes from a seven-member board or less than three affirmative votes from a five-member board, the permit shall be denied.
- (d) If the board's decision is reviewed or appealed, 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 ~~engineering~~ **stormwater** and resource protection division office of this county.

Sec. 22-11. Permit to be in writing.

The permit shall be in writing, ~~and~~ signed by the chairman of the board or his authorized representative, ~~and notarized~~. A copy of the permit shall be transmitted to the commissioner.


 Michael J. Hipple
 Chairman, Board of Supervisors

ATTEST:


 Teresa J. Saeed
 Deputy Clerk to the Board

	VOTES			
	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
SADLER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
ICENHOUR	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
MCGLENNON	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
LARSON	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
HIPPLE	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Adopted by the Board of Supervisors of James City County, Virginia, this 12th day of December, 2023.