

1 **Ordinance To Amend And Re-Enact Article III of Chapter 41.1 Of The City Code Of The City**  
2 **Of Hampton, Virginia Entitled “Wetlands” to Reflect Changes Made to the Tidal Wetlands**  
3 **Act Regarding Advertising, Notice, and Permit Issuance Requirements**

4  
5 **BE IT ORDAINED** by the Council of the City of Hampton, Virginia that Article III of Chapter 41.1  
6 of the City Code of the City of Hampton, Virginia, be amended and re-enacted as follows:  
7

8 **CHAPTER 41.1 – WETLANDS**

9 **ARTICLE XIII. – WETLANDS ZONING ORDINANCE**

10 **Sec. 41.1-6. – Definitions.**

11 . . . .

12 Governmental activity means any or all of the services provided by this city to its citizens for the  
13 purpose of maintaining this city including, but not limited to, such services as constructing,  
14 repairing, and maintaining roads, providing sewage facilities and street lights; supplying and  
15 treating water; and constructing public buildings.  
16

17 **Sec. 41.1-7. – Permitted uses and activities.**

18 (1) The construction and maintenance of noncommercial catwalks, piers, boathouses, boat  
19 shelters, fences, duckblinds, wildlife management shelters, footbridges, observation decks, and  
20 shelters and other similar structures, provided that such structures are so constructed on pilings  
21 as to permit the reasonably unobstructed flow of the tide and preserve the natural contour of the  
22 wetlands;

23 . . . .

24 (5) Grazing, haying and cultivating and harvesting agricultural, forestry, or horticultural products;

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26 (6) Conservation, repletion, and research activities of the Commission, the Virginia Institute of  
27 Marine Science, the Department of ~~Game and Inland Fisheries~~ *Wildlife Resources* and other  
28 conservation-related agencies;

29  
30 (7) The construction or maintenance of aids to navigation ~~which~~ *that* are authorized by  
31 governmental authority;

32 . . . .

33 **Sec. 41.1-8. – Required; application generally.**

34 . . . .

35 (3) A map, drawn to an appropriate and uniform scale, showing the area of wetlands directly  
36 affected; the location of the proposed work thereon; the area of existing and proposed fill and  
37 excavation; the location, width, depth, and length of any proposed channel and the disposal area;  
38 and the location of all existing and proposed structures, sewage collection and treatment facilities,  
39 utility installations, roadways and other related appurtenances or facilities, including those on  
40 adjacent uplands;

41 . . . .

42 **Sec. 41.1-9. – Public inspection of application.**

43 All applications, maps and documents submitted shall be open for public inspection at the office  
44 of the community development department as specified in the advertisement *public notice* for  
45 public hearing required under section 41.1-10 of this article.

46  
47 **Sec. 41.1-10. – Public hearing on application.**

48 Not later than sixty (60) days after receipt of a complete application, the wetlands board shall hold  
49 a public hearing on the application. The applicant, Hampton City Council, commissioner, owner  
50 of record of any land adjacent to the wetlands in question, known claimants of water rights in or  
51 adjacent to the wetlands in question, the Virginia Institute of Marine Science, the Department of  
52 ~~Game and Inland Fisheries~~ *Wildlife Resources*, the *State* Water Control Board, the Department  
53 of Transportation and any governmental agency expressing an interest in the application shall be  
54 notified of the hearing. The board shall mail *or email* these notices not less than twenty (20) days  
55 prior to the date set for the hearing. The wetlands board shall also (i) cause notice of ~~such the~~  
56 hearing to be published at least once *in the seven days* ~~a week for two (2) weeks~~ prior to such  
57 hearing in the newspaper of general circulation in this city.; (ii) *post a notice of the hearing on its*  
58 *website at least 14 days prior to such hearing; and (iii) provide a copy of such notice to the*  
59 *Commission for submittal to the Virginia Regulatory Town Hall.* The ~~public published~~ notice shall  
60 specify the place or places within the city where copies of the application may be examined. The  
61 costs of publication shall be paid by the applicant. *In the event that the board submits a correct*  
62 *and timely notice for publication and the newspaper fails to publish the notice or publishes the*  
63 *notice incorrectly, the board shall be deemed to have met the notice requirements of this*  
64 *subsection so long as the notice is published in the next available edition of such newspaper.*

65 . . . .

66 **Sec. 41.1-14. – Factors to be considered in making decision as to grant or denial.**

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68 (1) In deciding whether to grant, grant in modified form, or deny a permit, the board shall consider  
69 the following:

- 70 a. The testimony of any person in support of or in opposition to the permit application;
- 71 b. The impact of the proposed development on the public health, safety and welfare; and
- 72 c. The proposed development's conformance with standards prescribed in § 28.2-1308 of
- 73 the Code of Virginia and guidelines promulgated pursuant to § 28.2-1301 of the Code of
- 74 Virginia.

75 . . . .

76 **Sec. 41.1-15. – Permit.**

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