

## Sec. 33.1-4. Definitions.

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(1) *Adverse impacts* are any modifications, alterations or effects on a feature or characteristic of community waters or wetlands, including their quality, quantity, hydrodynamics, surface area, species composition, living resources, aesthetics or usefulness for human or natural uses which are or may potentially be harmful or injurious to human health, welfare, safety or property, to biological productivity, diversity or stability or which unreasonably interfere with the enjoyment of life or property, including outdoor recreation. The term includes secondary and cumulative as well as direct impacts.

(2) *Best management practices (BMPs)* means a practice, or a combination of practices, that is determined by a state, city or designated area-wide planning agency to be the most effective, practical means of preventing or reducing the amount of pollution generated by nonpoint sources to a level compatible with water quality goals.

(3) *Chesapeake Bay Preservation District (SPI-CBPD)* means any land so designated by the Hampton City Council pursuant to Part III of the Chesapeake Bay Preservation Area Designation and Management Regulations, VAC 10-20-70 et seq., and Section 10.1-2109 of the Code of Virginia and pursuant to Chapter 17.3, Article X, of the Hampton City zoning ordinance. A Chesapeake Bay Preservation District shall consist of a resource protection area and a resource management area.

(4) *Clearing* means the removal of vegetative ground cover, including, but not limited to the removal of root mat or topsoil. Clearing does not include the ordinary mowing of grass.

(5) *Coastal Barrier Resources System* means an area comprised of undeveloped barrier islands and associated wetlands as designated under the Coastal Barrier Resources Act, 16 U.S.C.A. § 3505~~1~~.

(6) *Detention* means the collection and storage of surface water for subsequent gradual discharge.

(7) *Developable area* means area that is not constrained by wetlands, or other site limitations. However, the lack of availability of water or other utilities shall not be considered a site limitation, for purposes of assessing a stormwater utility charge.

(8) *Developed nonresidential property* means developed property which does not serve a primary purpose of providing permanent dwelling units. Such property shall include, but not be limited to commercial, industrial, educational, civic, religious, cultural and recreational properties, parking lots, hotels and offices. For the purposes of this article, this definition shall also include developed property on which is located

apartments or mobile home facilities containing more than four (4) residential or dwelling units.

(9) *Developed property* means a parcel of real property that has been altered in whole or in part from its natural state by the addition of improvements, such as buildings, structures, paving and/or other impervious surfaces, if the total square footage of such impervious surface exceeds five hundred (500) square feet.

(10) *Developed residential property* means a developed lot or parcel containing at least one (1) but no more than four (4) residences or dwelling units, and accessory uses related to, but subordinate to, the purpose of providing permanent dwelling facilities. Such property shall include houses, duplexes, triplexes, quadriplexes and mobile homes. For the purposes of this article, each townhouse located on a separate lot shall be considered as a developed residential property and each condominium, although it is not on a separate lot, will also be considered as a developed residential property.

(11) *Developer* means any person who engages in development either as the owner or as the agent of an owner of property.

(12) *Development activity* means:

- a. The construction, installation, alteration, demolition or removal of a structure, impervious surface or drainage facility, best management practices facilities, buffer areas, etc.;
- b. Clearing, scraping, grubbing or otherwise removing or killing the vegetation of a site; or
- c. Adding, removing, exposing, excavating, leveling, grading, digging, burrowing, dumping, piling, dredging or otherwise significantly disturbing the soil, mud or sand of a site.

(13) *Director* means the director of the department of public works or his designee.

(14) *Drainage facility* means any manmade or man-altered component of the drainage system.

(15) *Drainage system* means the system through which water flows from the land. It includes all watercourses (both intermittent and perennial), water bodies and wetlands.

(16) *Dwelling unit* means a single housing unit, mobile home, townhouse, or condominium providing complete, independent living facilities for one (1) or more persons, including provisions for living, sleeping, eating, cooking and sanitation.

(17) *Equivalent residential unit (ERU)* means the equivalent impervious area of the developed residential property class per dwelling unit located within the city based on the statistical average horizontal impervious area of developed residential property in the city. One (1) ERU shall equal two thousand four hundred twenty-nine (2,429) square feet of impervious surface area.

(18) *Erosion* means the wearing or washing away of soil by the action of wind or water.

(19) *Erosion and sediment control plan* means a document providing for the conservation of soil and water resources, as required by the erosion and sediment control ordinance.

(20) *ERU rate* means the service charge fee charged for one (1) ERU, as established in this article.

(21) *Filling* means any depositing or stockpiling of earth materials.

(22) *Flood* means a temporary rise in the level of any water body, watercourse or wetlands which results in the inundation of areas not ordinarily covered by water.

(23) *Grading* means any excavating, filling, leveling or sloping of earth materials, or any combination thereof, including the land in its excavated, filled, leveled or sloped condition.

(24) *Impervious surface* means a surface compacted or covered with a layer of material so that it is highly resistant to infiltration by water. It includes semi-impervious surfaces such as compacted clay, as well as most conventionally surfaced streets, roads, sidewalks, parking lots, and other similar surfaces. Other surfaces such as gravel, dirt, or a mixture thereof, that are regularly used for vehicular access, parking or storage shall also be considered impervious, if there is inadequate vegetative cover to affect the rate of stormwater infiltration.

(25) *Manual of stormwater management practices* means to the guidance, specifications and techniques made available to the public as required by section 33.1-10 of this chapter.

(26) *Natural systems* means systems which predominantly consist of or use those communities of plants, animals, bacteria and other flora and fauna which occur indigenously on the land, in the soil, or in the water.

(27) *Non-point source pollution* means pollution whose sources cannot be pinpointed but rather is washed from the land surface in a diffuse manner by stormwater runoff.

(28) *Nontidal wetlands* means those wetlands other than tidal wetlands that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, as defined by the U.S. Environmental Protection Agency and the U.S. Army Corps of Engineers, pursuant to enforcement of Section 404 of the Federal Clean Water Act in 33 CFR 328.3b.

(29) *Owner* means the person in whom is vested the fee ownership, dominion or title of property, i.e., the proprietor. This term may also include a tenant, if chargeable under his lease for the maintenance of the property, and any agent of the owner or tenant including a developer.

(30) *Person* means any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, county, city, town or other political subdivision of the state, any interstate body or any other legal entity.

(31) *Predevelopment conditions* means the conditions that exist at the time that plans for the land development of a tract of land are approved by the plan approval authority. Where phased development or plan approval occurs (preliminary grading, roads and utilities, etc.), the existing conditions at the time prior to the first item being approved or permitted shall establish predevelopment conditions.

(32) *Receiving bodies of water* means any water bodies, watercourses or wetlands into which surface waters flow either naturally in man-made ditches or in a closed conduit system.

(33) *Resource management area (RMA)* means that component of the Chesapeake Bay Preservation District that is not classified as resource protection areas. The RMA is comprised of land that is contiguous to the variable width RPA buffer for a distance of one hundred (100) feet in the landward direction.

(34) *Resource protection area (RPA)* means that component of the Chesapeake Bay Preservation District comprised of lands adjacent to water bodies with perennial flow that have an intrinsic water quality value due to the ecological and biological processes they perform or that are sensitive to impacts which may result in significant degradation to the quality of state waters. Resource protection areas include: (i) tidal wetlands; (ii) nontidal wetlands connected by surface flow and contiguous to tidal wetlands or water bodies with perennial flow; (iii) tidal shores; and, (iv) a variable width buffer area not less than one hundred (100) feet in width. The variable width buffer area shall be located adjacent to and landward of the components listed in (i) through (iii) above, and along both sides of any water body with perennial flow. The variable width buffer shall also include lands designated as part of the Coastal Barrier Resources System not otherwise listed as a resource protection area feature where present. The buffer area shall be designated as the landward component of the RPA notwithstanding the presence of permitted uses, encroachments, and permitted vegetation clearing in compliance with Chapter 17.3, Article X, of the Hampton City Zoning Ordinance.

(35) *Review committee* means that group of persons, as defined in the zoning ordinance, which convenes to hear requests for relief from the Chesapeake Bay Preservation District regulations and to arbitrate Chesapeake Bay Preservation District boundary disputes.

(36) *Retention* means the collection and storage of runoff without subsequent discharge to surface waters.

(37) *Sediment* means fine particulate material, whether mineral or organic, that is in suspension or has settled in a water body.

(38) *Sedimentation facility* means any structure or area designed to hold runoff water until suspended sediments have settled.

(39) *Service charge* means the user fee based upon the ERU rate applied to the developed residential property and developed nonresidential property.

(40) *Site* means any tract, lot or parcel of land or combination of tracts, lots or parcels of land which are in one (1) ownership or are contiguous and in diverse ownership where development is to be performed as part of a unit, subdivision or project.

(41) *Storm sewer system* or *stormwater system* means all facilities, structures and natural watercourses used for collecting and conveying stormwater to, through and from drainage areas to the point of final outlet, including, but not limited to, the following: streets, curbs and gutters, inlets, conduits and appurtenant features, canals, creeks, channels, catch basins, ditches, drains, sewers, streams, gulches, gullies, flumes, culverts, siphons, retention or detention basins, dams, floodwalls, levees, pumping stations and wetlands.

(42) *Stormwater* means precipitation that is discharged across the land surface or through conveyances to one (1) or more waterways and that may include stormwater runoff, snow melt runoff, and surface runoff and drainage.

(43) *Stormwater management revenues* or *revenues* means all rates, service charges, fees, assessments, rentals, other charges or other income received, including amounts received from the investment or deposits of money in any fund or account and any amounts distributed by the city council from general revenues of the city.

(44) *Stormwater management system* or *system* means the stormwater management infrastructure and equipment of the city and all improvements thereto. Infrastructure and equipment shall include structural and natural stormwater control facilities of all types, including, without limitation, retention and detention basins, open ditches, canals, creeks, conduits, pumping stations, and other plants, structures, and real and personal property used for support of the system.

(45) *Structure* means an edifice or building of any kind or any piece of work artificially built up or composed of parts joined together in some definite manner.

(46) *Subdivide* means to divide a parcel of land into three (3) or more lots or parcels of less than five (5) acres each for the purpose, whether immediate or future, or both, of transfer of ownership or building development, or if a new street is involved in such division, any division of a parcel of land.

(47) *Tidal wetlands* means vegetated land which lies between and contiguous to mean low water and an elevation above mean low water equal to the factor of one and one-half (1 1/2) times the mean tide range, or nonvegetated land which lies contiguous to mean low water and is between mean low water and mean high water.

(48) *Undeveloped property* means any parcel that has not been altered from its natural state in such a manner that the topography or soils on the property have been disturbed or altered to the extent that the rate of surface infiltrating or stormwater has been affected.

(49) *Watershed* means a drainage area or drainage basin contributing to the flow of water in a receiving body of water.

(Ord. No. 994, 12-12-90; Ord. No. 1098, 8-11-93; Ord. No. 1185, 5-28-97; Ord. No. 1373, 5-12-04; Ord. No. 1478, 5-24-07; Ord. No. 08-0004, 1-9-08)