

**AN ORDINANCE TO AMEND CHAPTER 41.1 OF THE CODE OF THE CITY OF HAMPTON, VIRGINIA, ENTITLED, "WETLANDS", BY ADDING THERETO A NEW SECTION 41.1-17.1 ENTITLED, "WETLANDS MITIGATION" AND AMENDING SECTION 41.1-22 ENTITLED, "PENALTIES".**

**BE IT ORDAINED** by the Council of the City of Hampton, Virginia that the Code of the City of Hampton, Virginia, be amended as follows:

**Sec. 41.1-17.1 Wetlands Mitigation.**

Pursuant to Virginia Marine Resources Commission Wetlands Mitigation Compensation Policy, the Board may require compensation for all permitted wetland losses. In those cases where the Board has determined that neither on-site, in-kind nor out-of-kind compensation nor off-site, in-kind nor out-of-kind compensation is practicable, the Board may charge the applicant an in lieu fee. Because of the difficulty and uncertainty associated with the creation of wetlands, the in lieu fee shall be determined by multiplying the replacement ratio by the amount charged per square foot in accordance with the Wetlands Board's Mitigation-Compensation Policy, as amended.

**Sec. 41.1-22 Penalties.**

(a) Without limiting the remedies which may be obtained under this chapter, any person who violates any provision of this chapter or who violates or fails, neglects or refuses to obey any wetlands board notice, order, rule, regulations or permit condition authorized by this chapter shall, upon finding by circuit court, be assessed a civil penalty not to exceed twenty-five thousand dollars (\$25,000.00) for each day of violation. Such civil penalties may, at the discretion of the court assessing them, be directed to be paid into the treasury of the City of Hampton for the purpose of abating environmental damage to or restoring wetlands therein in such a manner as the court may, by order, direct; except that where

the violator is the city itself, or its agent, the court shall direct the penalty to be paid into the state treasury.

- (b) Without limiting the remedies which may be obtained under this chapter, and with the consent of any person who has violated any provision of the chapter or who has violated or failed, neglected or refused to obey any Wetlands Board order, rule, regulation or permit condition authorized by this chapter, the wetlands board may provide, in an order issued by the Wetlands Board against such person, for the one-time payment of civil charges for each violation in specific sums, not to exceed ten thousand dollars (\$10,000.00) for each violation. Civil charges shall be in lieu of any appropriate civil penalty which could be imposed under the subsection (a) of this section. Civil charges may be in addition to the cost of any restoration ordered by the Wetlands Board. (Ord. No. 1104, 98-22-93)
- (c) All funds collected pursuant to Section 41.1-17.1 and Section 41.1-22(b) shall be placed into a special revenue account to be used solely as approved by the City Manager for the creation, enhancement, or restoration of tidal wetlands. Such creation, enhancement or restoration projects shall be subject to review and recommendation by the Wetlands Board.

Adopted on Second reading at a regular meeting of the City Council of the City of Hampton, Virginia, held January 9, 2007.

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Mayor

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Clerk of Council