



City of Hampton

AUGUST 20, 2008

To: Hampton City Council

From: James Freas, Senior City Planner

Re: Amendment to the SPI-CBPD for consistency with State Regulations

On January 9, 2008 the Hampton City Council adopted an amendment to the Chesapeake Bay Preservation District (SPI-CBPD) that added Coastal Barrier Resource Islands to the Resource Protection Area (RPA) buffer. As a part of that amendment, language was included that clarified the location of the RPA buffer relative to water bodies with perennial flow. The Division of Chesapeake Bay Local Assistance (DCBLA) determined that the amendment to the CBPD constituted a major program change, initiating a consistency review of our CBPD ordinances and map. On June 16th, the Chesapeake Bay Local Assistance Board (CBLAB) found Hampton's amended program consistent with the Chesapeake Bay Act and Regulations, with one condition regarding the clarified language on the RPA buffer on water bodies with perennial flow. The condition requires that reference to these perennial water bodies necessarily being connected to tidal waters be removed by September 30, 2008. The Chesapeake Bay Act regulations require water bodies with perennial flow to have a RPA buffer whether or not they are connected to tidal waters. A water body is defined as having perennial flow when it can be shown that, under normal rainfall conditions, there is water flowing through a given water body throughout the majority of the year. The purpose of the proposed amendment to the SPI-CBPD is to correct the ordinance language in this section in order to make it consistent with the Chesapeake Bay Act regulations. The proposed change to the ordinance is shown below – the strike-through indicating language to be removed and underlined text indicating a new addition.

§ 17.3-64 2 b (iii) (3)

The buffer shall be located adjacent to, landward of and along both sides of any tidal wetlands, any non-tidal wetlands connected by surface flow and contiguous to tidal wetlands or water bodies with perennial flow, any tidal shore, any water body ~~bodies~~ with perennial flow ~~connected to tidal waters~~, and include any lands designated as part of the Coastal Barrier Resources System, where present. The full buffer area shall be designated as the landward component of the RPA. Notwithstanding permitted uses, encroachments and vegetation clearing as set forth in this ordinance, the width of the buffer area remains a minimum of one hundred (100) feet.

This Zoning Ordinance Amendment removes language that was added as part of the January, 2008 amendments to Hampton's Chesapeake Bay Program. This change to the ordinance language will not result in any changes to how the Chesapeake Bay Program is administered. As part of a currently on-going compliance evaluation of the City's Chesapeake Bay Program, staff will determine if any additional changes to the ordinance or program administration are necessary based on the state's guidance regarding perennial water bodies.