



## Legislation Text

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File #: 24-0007, Version: 1

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Ordinance to Amend and Re-Enact the Zoning Ordinance of the City of Hampton, Virginia by Amending Chapter 2, Section 2-2 Entitled, "Definitions" to Add a Definition of "Mitigation Bank"

### Background Statement:

This proposed amendment adds a new definition for "mitigation bank". Mitigation banks are commercial enterprises which receive money from developers to create new wetlands in order to offset loss of wetlands from development in other areas. This amendment is in conjunction with ZOA No. 24-0006, which establishes mitigation bank as a use within the "Table of Uses Permitted" requiring approval of a Use Permit in all zoning districts.

Mitigation banks are regulated at the state level by either the Virginia Department of Environmental Quality or the Virginia Marine Resources Commission, depending on the type of wetlands being created. The use is regulated at the federal level by the U.S. Army Corps of Engineers and, depending on the project type, may also require approval from the Hampton Wetlands Board. The creation of the wetlands requires extensive construction activity which can be conducted all at once, or could be phased over a number of years, depending on the enterprise and funding for the mitigation. The created wetlands are required to be maintained in perpetuity. If the created wetlands are tidal or else non-tidal but connected to tidal wetlands, their establishment would expand the Chesapeake Bay Preservation Overlay (O-CBP) area, which would potentially limit the use of neighboring properties.

While the creation of new wetlands is desirable and in accordance with City policies on resiliency and living with water, there are potential impacts of the use which need to be accounted for. Potential impacts on neighboring properties could include construction activity wear of roads, traffic, noise, and O-CBP (Chesapeake Bay Overlay district) buffer expansion. Therefore, staff recommends that any mitigation bank must have approval from City Council via the Use Permit process, so that site- and enterprise-specific conditions can be tailored to the proposed mitigation bank.

### Recommendation:

Staff Recommendation:

Approve

Planning Commission Recommendation:

Approve

**WHEREAS**, the public necessity, convenience, general welfare and good zoning practice so require;

**BE IT ORDAINED** by the City Council of the City of Hampton, Virginia that Chapter 2, Section 2-2 of the Zoning Ordinance of the City of Hampton, Virginia be amended to read as follows:

### CHAPTER 2 - DEFINITIONS

...

**Sec. 2-2. - Definitions.**

...

Mitigation bank. A site where wetlands are restored, created, enhanced, or preserved expressly for the purpose of providing compensatory mitigation for authorized impacts on other sites, including on-site impacts incidental to the construction or operation of the bank, as regulated by the state and federal government. Such sites are developed and operated pursuant to a signed banking agreement or instrument.