



Legislation Text

File #: 17-0250, **Version:** 1

Ordinance to Amend and Re-Enact Chapter 2 of the Zoning Ordinance of the City of Hampton, Virginia Entitled "Definitions" By Amending Section 2-2 Pertaining to Chesapeake Bay Preservation District Definitions

Background Statement:

The Chesapeake Bay Preservation Act was enacted by the Virginia General Assembly in 1988 as an element of Virginia's effort to manage water pollution. The purpose of the Bay Act is to improve water quality through land use planning practices that balance economic development and water quality protection. Each Tidewater locality must develop a water quality preservation program that meets the requirements of the Act and associated regulations. In 2016, Hampton's program was reviewed by the Virginia Department of Environmental Quality (DEQ) and determined to be in compliance with the Bay Act. Out of the review process and in pursuit of a longer-term goal to update aspects of the O-CBP District, staff has drafted a proposal to reorganize and "streamline" the ordinance to make the program more effective and easier to use for both staff and the public.

The three most prominent proposed changes to the ordinance are (1) transferring responsibility for review of exceptions to the ordinance requirements from the existing Chesapeake Bay Review Committee to the Board of Zoning Appeals; (2) creating a new requirement to provide a "special green area" to be located between primary structures and the Resource Protection Area (RPA) buffer or Intensely Developed Area (IDA); and (3) maximizing the number of decisions that can be made administratively by staff, including review of "permitted encroachments" into the RPA buffer.

The shift in responsibility for exception reviews from the Chesapeake Bay Review Committee (largely made up of city staff) to the Board of Zoning Appeals (a citizen appointed body) is intended to eliminate conflicts in the existing review process, and place this duty with an existing board that is already structured to deal with quasi-judicial decisions regarding zoning provisions. The "special green area" requirement is a proactive measure to ensure that homes have usable yards outside the protected RPA buffer. Broader authority for administrative decision-making is driven by a desire to simplify and expedite applications for "permitted encroachments" into the buffer, which will reduce the number of public hearings required and associated delay for applicants. Since these encroachments are considered "permitted" as long as they meet specified criteria, a lengthy public hearing process was considered to be unnecessary. The proposed changes to the ordinance have been reviewed and accepted by Virginia DEQ.

As part of the overall effort to update zoning regulations related to Hampton's Bay Act program, staff is also proposing to amend definitions in Chapter 2 of the Zoning Ordinance pertaining to the O-CBP District. This amendment provides those definitions.

Recommendations:

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 Section 2-2 of Chapter 2 of the Zoning Ordinance of the City of Hampton, Virginia be amended to read as follows:

CHAPTER 2 - DEFINITIONS

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Sec. 2-2. - Definitions.

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Gas station. Any structure, premises, enclosure, equipment, or space used for the dispensing or sale of any gasoline or oils, or other type fuels for motor vehicles.

Green area. That space on the same lot as the principal building or buildings which is either landscaped in accordance with the City of Hampton Landscape Guidelines if applicable, planted with grass, planted with ornamental vegetation, or developed and maintained for recreational purposes, but which excludes that portion of the lot which is utilized for off-street parking purposes.

Green design. An integrated framework of design, construction and operational practices that encompassed the environmental, economic and social impacts of buildings; green building practices recognize the interdependence of the natural and built environments and seek to minimize the use of energy, water and other natural resources and provide a healthy, productive indoor environment.

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Impervious surface. A surface composed of any material that significantly impedes or prevents natural infiltration of water into the soil. Impervious surfaces include, but are not limited to, roofs, buildings, streets, parking areas, and any concrete, asphalt or compacted gravel surface.

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Residential streets. Rights-of-way used primarily for access to the abutting residential properties and designed to discourage their use by through traffic.

Resource Delineation. A site-specific determination of the boundaries of Chesapeake Bay Preservation District depicted on a physical survey of the site or parcel that is prepared and certified as complete and accurate by a licensed professional engineer, land surveyor, architect or landscape architect licensed to do business in the state of Virginia; drawn at a scale of not less than one hundred (100) feet to the inch on a print not greater than twenty-four (24) inches by thirty-six (36) inches to clearly delineate with labels the following, on and adjacent to the development site, unless such components are waived by the Zoning Administrator:

- (a) Topographic information;
- (b) Tidal shores and tidal wetlands as verified by recent physical survey;
- (c) Non-tidal wetlands delineated accordance with the comprehensive onsite determination method specified in the Federal Manual for Identifying and Delineating Jurisdictional Wetlands, 1987, as it may be amended from time to time (provide U.S Army Corps of Engineers

Jurisdictional Determination);

- (d) Waterbodies with perennial flow as determined by a qualified professional using a state approved, scientifically valid system of in-field indicators of perennial flow; and
- (e) Site-specific boundaries of the RPA, IDA, and RMA as defined in the ordinance and adjusted as necessary as a result of the above-referenced information.

Resource management area (RMA). That component of the O-CBP District that is not classified as the resource protection area. The RMA is comprised of land that is contiguous to the variable width buffer for a distance of one hundred (100) feet in the landward direction.

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Solar energy equipment (solar panel). A panel designed to absorb and convert the sun's rays into usable forms of energy.

Special green area. Additional green area adjacent to primary structures where required by the provisions of the O-CBP District - Chesapeake Bay Preservation Overlay.

Stormwater. 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.

Water-dependent facility. A development of land that cannot exist outside of the resource protection area and must be located on the shoreline by reason of the nature of its operation, such as ports, the intake and outfall structure of power plants, water treatment plants, sewage treatment plants and storm sewers, marinas and other boat docking structures, not to include office, showrooms or other sales areas, beaches and other public water-oriented recreation areas, and fisheries and similar marine resources facilities.

Water quality impact assessment, major. A major water quality impact assessment shall include:

- (a) A resource delineation;
- (b) A water quality impact assessment meeting the requirements of Sec. 33.2-12 of the city code, except that, in consultation with the Director or Public Works or his designee, the Zoning Administrator may waive certain requirements of Sec. 33.2-12; and
- (c) Additional materials as may be required by the Zoning Administrator.

Water quality impact assessment, minor. A minor water quality impact assessment shall include:

- (a) A resource delineation; and
- (b) An analysis of impact to water quality from the proposed development. For the purpose of a minor water quality impact assessment, impacts to water quality from proposed development are assumed to be offset by buffer establishment, replacement, and restoration methods outlined in Chapter 5.1 of the Virginia Department of Environmental Quality Riparian Buffers Modification and Mitigation Guidance Manual.

Wind energy system setback. The distance from the base of the structure, tower, pole or building upon which the wind energy system is mounted to a public right-of-way, overhead public utility line or lot line, whichever is closest.

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