

RESOLUTION

CHESAPEAKE BAY PRESERVATION ORDINANCE TRANSITION -

AMENDMENTS AND GRANDFATHERING/VESTING RULES

WHEREAS, the Board of Supervisors is considering comprehensive revisions and amendments to sections of Chapter 23, Chesapeake Bay Preservation, of the Code of the County of James City, Virginia; and

WHEREAS, the orderly transition from the existing Chesapeake Bay Ordinance to the revised Ordinance requires transition rules to affect the changes in law.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby adopts the grandfathering/vesting rules for the revised Chesapeake Bay Preservation Ordinance, which has an effective date of January 1, 2004, as set forth below:

All site and subdivision plans (conceptual or preliminary) must comply with the revised Ordinance unless the plans fall under one or more of the following criteria:

1. *Final Site and Subdivision Plans.* Approved final plans that are still valid in accordance with Chapter 19 and Chapter 24 of the County Code will not be subject to the revised Ordinance. However, revisions to such approved plans that impact an established Resource Protection Area (RPA) (RPA based on the original USGS solid blue line streams) will have to comply with the provisions of the revised Ordinance relating to the exception process. These plans will not be subject to a review of the RPA delineation involving on-site determination of water bodies with perennial flow.
2. *Preliminary Site and Subdivision Plans.* Approved preliminary plans that are still valid in accordance with Chapter 19 and Chapter 24 of the County Code will not be subject to the revised Ordinance. However, revisions to such approved plans that impact an established RPA (RPA based on the original USGS solid blue line streams) will have to comply with the provisions of the revised Ordinance relating to the exception process. These plans will not be subject to a review of the RPA delineation involving on-site determination of water bodies with perennial flow.
3. *Site and Subdivision Plans in the Review Process.* Plans already in the development review process and those accepted for review prior to the effective date of the Ordinance will not be subject to the revised Ordinance. However, "accepted" shall mean that the plan contains all the information required in the Zoning and Subdivision Ordinances at the time of submission. Any plan determined to be deficient will need to be resubmitted, and if submitted after the effective date, it will have to comply with the revised Ordinance. However, revisions to such plans after submission that impact an established RPA (RPA based on the original USGS solid blue line streams) will have to comply with the provisions of the revised Ordinance relating to the exception process. These plans will not be subject to a review of the

RPA delineation involving on-site determination of water bodies with perennial flow.

4. Conceptual Plans. Conceptual plans approved prior to the effective date of the Ordinance will not be grandfathered nor will they grandfather any subsequent site or subdivision plans.
5. Rezoning and Special Use Permits. Approved rezoning and special use permits will have to comply with the provisions of the revised Ordinance unless the property cannot legally be developed to the proffered density, use, or square footage because of the new rules, or there is a specific feature (such as a house or other structure; a road, storm drain, or some other facility) shown on the proffered zoning plan that is located within the RPA, in which case the landowner may develop to the proffered density, use, or square footage minimizing any intrusions into RPA to the extent possible. The specific feature must be built consistent with all other applicable zoning and subdivision requirements. Once the specific feature is developed as shown on the proffered zoning plan, the provisions of the Ordinance RPA applies in full to any future development.

Jay T. Harrison, Sr.
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 25th day of November, 2003.

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