

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 23, CHESAPEAKE BAY PRESERVATION, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING SECTION 23-9, PERFORMANCE STANDARDS.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 23, Chesapeake Bay Preservation, is hereby amended and reordained by amending Section 23-9.

Chapter 23. Chesapeake Bay Preservation

**Section 23-9. Performance standards.**

(a) *Purpose and intent.* The performance standards establish the means to minimize erosion and sedimentation potential, reduce land application of nutrients and toxics, and maximize rainwater infiltration. Natural ground cover, especially woody vegetation, is most efficient in holding soil in place and preventing site erosion. Indigenous vegetation, with its adaptability to local conditions without the use of harmful fertilizers or pesticides, filters and infiltrates stormwater runoff. Keeping impervious cover to a minimum enhances rainwater infiltration and effectively reduces increases of stormwater runoff.

The purpose and intent of these requirements is also to implement the following objectives: prevent a net increase in nonpoint source pollution from new development and development on previously developed land where the runoff was treated by a water quality protection best management practice; achieve a ten percent reduction in nonpoint source pollution from development on previously developed land where the runoff was not treated by one or more water quality best management practices; and achieve a 40 percent reduction in nonpoint source pollution from agricultural and silvicultural uses.

(b) *General performance standards:*

- (1) Land disturbance shall be limited to the area necessary to provide for the proposed use or development.
  - a. In accordance with an approved plan of development, the limits of clearing and/or grading shall be clearly defined. These limits shall be clearly shown on submitted plans and physically marked on the development site in accordance with subsection (2)b. below.
  - b. Impervious cover shall not exceed 60 percent of the site unless it can be demonstrated that the project will have the same impact on water quality as the project would have if it were 60 percent impervious. Demonstration of equivalent water quality will be through compliance with guidelines developed by the manager. For projects with an approved stormwater master plan, compliance with this impervious cover provision can be demonstrated on a project basis

rather than an individual site basis. However, in no case shall impervious cover exceed the limits established in section 24-9(c)(4) of the zoning ordinance.

- c. Ingress and egress during construction shall be limited to one access point, unless otherwise approved by the manager.
- (2) Existing vegetation shall be preserved to the maximum extent practicable, consistent with the use or development permitted by an approved plan of development.
    - a. Existing trees over 12 inches in diameter at breast height shall be preserved except in impervious areas and as necessary to accommodate site grading. Upon approval by the manager, diseased trees or trees weakened by age, storm, fire or other injury may be removed; provided, that when such removal results in a 20 percent or greater reduction in existing tree canopy, a sufficient number of trees with a 1-½ inch caliper shall be planted to restore the full canopy.
    - b. Prior to clearing or grading, suitable protective barriers, such as safety fencing, shall be erected outside of the dripline of any tree or stand of trees to be preserved unless otherwise approved on the clearing plan. Protective barriers shall remain so erected throughout all phases of construction. The storage of equipment, materials, debris or fill shall not be allowed within the area protected by the barrier.
  - (3) Land development shall minimize impervious cover to promote infiltration of stormwater into the ground consistent with the proposed use or development permitted.
  - (4) All development and redevelopment exceeding 2,500 square feet of land disturbance shall be subject to a plan of development review process conducted in accordance with section 23-10 of this chapter.
  - (5) Any land-disturbing activity exceeding 2,500 square feet, including construction of all single-family houses, and septic tanks and drainfields shall comply with the requirements of chapter 8 of this Code.
  - (6) All on-site sewage disposal systems not requiring a NPDES permit shall be pumped out at least once every five years. However, in lieu of requiring proof of septic tank pump-out every five years, owners of on-site sewage disposal systems can submit documentation every five years, certified by a sewage handler permitted by the Virginia Department of Health, that the septic system has been inspected, is functioning properly, and the tank does not need to have the effluent pumped out of it.
  - (7) A reserve sewage disposal site, with a capacity at least equal to that of the primary recorded prior to August 6, 1990, if such lot or parcel is not sufficient in capacity to accommodate a reserve sewage disposal site, as determined by the local health department. Building or construction of any impervious surface shall be prohibited on the area of all sewage disposal sites or on an on-site sewage treatment system which operates under a permit issued by the State Water Control Board until the structure is served by public sewer.
  - (8) For any development or redevelopment, stormwater runoff shall be controlled by the use of BMPs that are consistent with the water quality protection provisions (4 VAC 3-20-71 et seq.) of the Virginia Stormwater Management Regulations (4 VAC 3-20). This consistency shall be

demonstrated by compliance with the criteria and BMP facilities contained in the latest version of the James City County Guidelines for Design and Construction of Stormwater Management BMPs. In addition, increases in the quantity of stormwater runoff resulting from development or redevelopment shall be addressed by the requirements of chapter 8 of the County Code.

- a. If compliance for a development is based in whole or part on the use of existing downstream onsite or offsite structural BMPs, evidence shall be provided that facilities are currently in good working order and performing at the design levels of service. The manager may require a review of both the original design and maintenance plans to verify this provision. A new maintenance agreement may be required to ensure compliance with this chapter;
- (9) Prior to initiating grading or other on-site activities on any portion of a lot or parcel, all wetlands permits required by federal, state and county laws and regulations shall be obtained and evidence of such submitted to the manager. For those projects where no wetlands are proposed to be impacted or where the impacts do not require written authorization, documentation shall be submitted to the manager by a qualified wetlands professional attesting that the wetlands permitting process has been completed and no further documentation is necessary from the regulatory agencies.
- (10) All lands upon which agricultural activities are being conducted shall undergo a soil and water quality conservation assessment. Such assessment shall evaluate the effectiveness of existing practices pertaining to soil erosion and sediment control, nutrient management and management of pesticides, and where necessary, results in a plan that outlines additional practices needed to ensure that water quality protection is accomplished consistent with this chapter. Plans of development or water quality impact assessments are not required for activities on agricultural lands except for land disturbing activities not related to food and/or fiber production.

*(11) For any development or redevelopment, certain RMA's shall be protected as follows:*

- a. *Intermittent streams and non-RPA wetlands shall have a 50-foot buffer. The 50-foot buffer shall begin from the edge of the resource.*
- b. *In addition to the RPA buffer, a 175-foot buffer shall be imposed along creek mainstems with a watershed management plan which has been approved by the Board of Supervisors. The 175-foot buffer shall begin at the edge of the RPA buffer. The 175-foot buffer may be reduced to a minimum of 75 feet in the event the topographical divide is less than 175 feet from the RPA buffer. For the purposes of this section, topographical divide shall mean the high point in terrain, topography or elevation, otherwise known as a ridge line, by which a drainage area is defined, delineated or where there exists an origin of sheet flow.*

*There shall be no encroachments into the 175-foot buffer except for the following:*

1. *Stormwater management facilities;*
2. *Passive recreational facilities, such as boardwalks, trails, and pathways; and*
3. *Public utilities, railroads, public roads and related facilities, provided said utilities, railroads, public roads and related facilities meet the conditions and requirements as set forth in sections 23-13(a)(1) and 23-13(a)(2) of this chapter.*

*c. A 25-foot buffer shall begin at the edge of the 175-foot buffer. The following items shall be prohibited from the 25-foot buffer, unless determined otherwise by the manager:*

- 1. Septic tanks;*
- 2. Primary or reserve septic fields; and*
- 3. Impervious cover.*

*This section shall not apply to the following:*

- 1. Lots or parcels created pursuant to and in accordance with section 19-17 of the county code.*
- 2. Single family residences, and/or manufactured homes on a permanent foundation, on a lot or parcel recorded prior to January 1, 2008.*

*This ordinance shall be effective as of January 1, 2008.*

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John J. McGlennon  
Chairman, Board of Supervisors

ATTEST:

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Sanford B. Wanner  
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 11th day of December, 2007.

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