



PLANNING & DEVELOPMENT



Overview of the Plan Amendment: Coastal Resource Management/Tidal Shoreline Erosion Control (2013-CW-9CP)

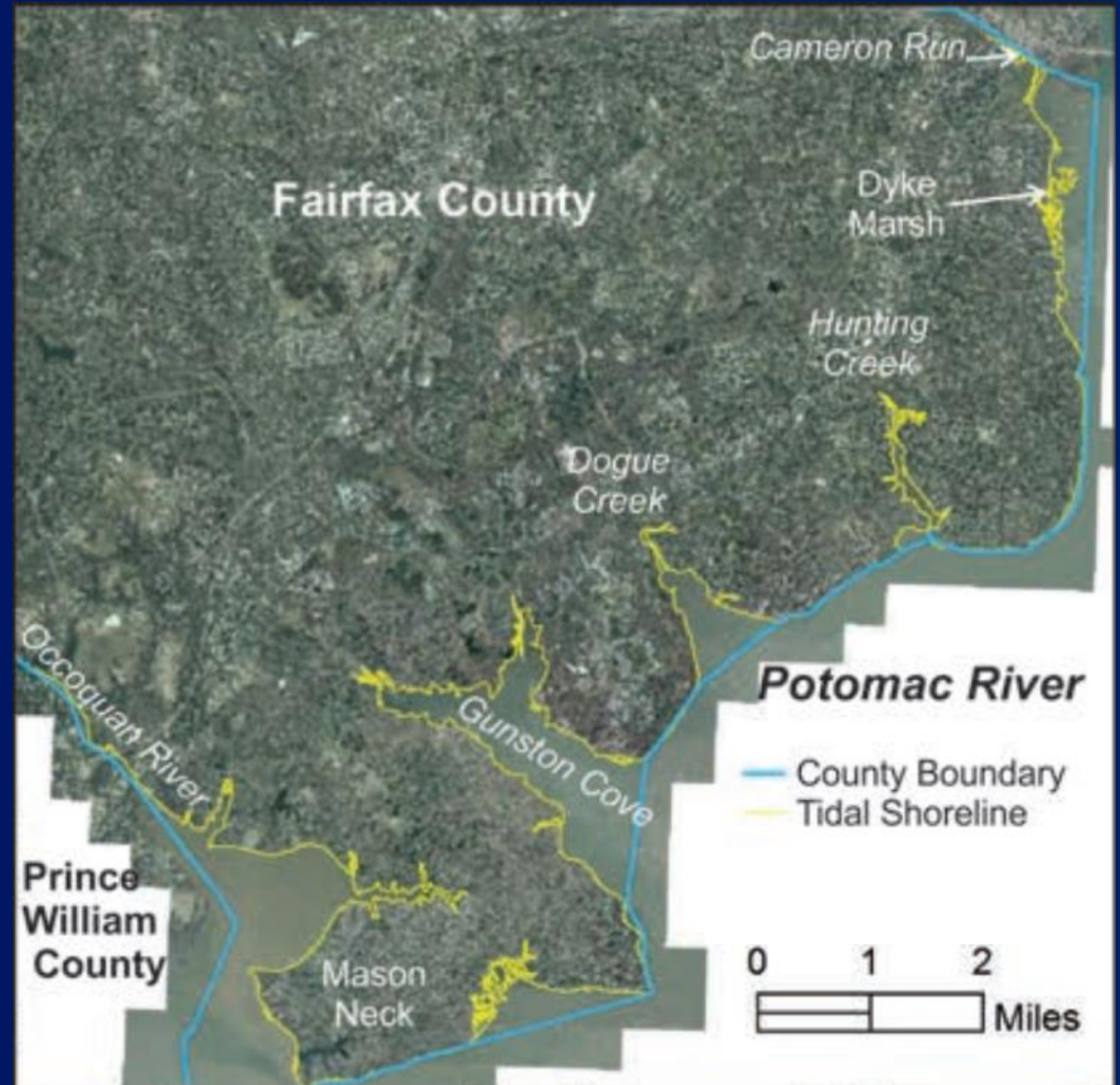
Environmental Quality Advisory Council – July 14, 2021

Department of Planning and Development

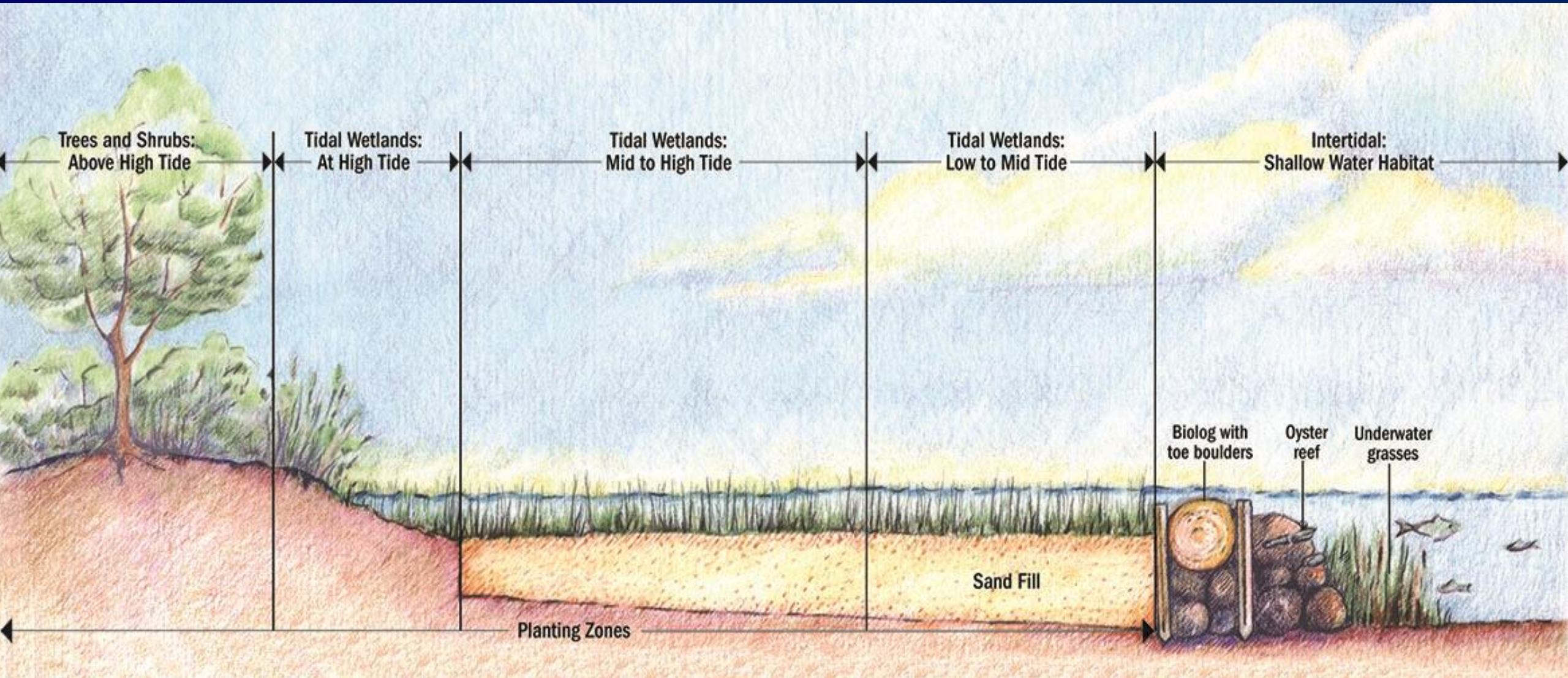
2011 Senate Bill 964 and Board Authorization

Countywide Plan Amendment for
**Coastal Resource
Management/Tidal Shoreline Erosion
Control 2013-CW-9CP** was
authorized on July 9, 2013:

- “Investigate the extent to which (if any) the Environment section of the Policy Plan will need to be amended to comply with §15.2-2223.2 of the Code of Virginia, which requires, for Tidewater localities (including Fairfax County), incorporation into comprehensive plans of comprehensive resources management guidance develop by the Virginia Institute of Marine Science (VIMS).”



2020 Senate Bill 776



2020 Senate Bill 7761 Cont. 1

140 natural contour of the wetlands;
141 5. Grazing, haying, and cultivating and harvesting agricultural, forestry or horticultural products;
142 6. Conservation, repletion and research activities of the Commission, the Virginia Institute of Marine
143 Science, the Department of Game and Inland Fisheries and other conservation-related agencies;
144 7. The construction or maintenance of aids to navigation which are authorized by governmental
145 authority;
146 8. Emergency measures decreed by any duly appointed health officer of a governmental subdivision
147 acting to protect the public health;
148 9. The normal maintenance and repair of, or addition to, presently existing roads, highways, railroad
149 beds, or facilities abutting on or crossing wetlands, provided that no waterway is altered and no
150 additional wetlands are covered;
151 10. Governmental activity in wetlands owned or leased by the Commonwealth or a political
152 subdivision thereof;
153 11. The normal maintenance of man-made drainage ditches, provided that no additional wetlands are
154 covered. This subdivision does not authorize the construction of any drainage ditch; and
155 12. The construction of living shoreline projects authorized pursuant to a general permit developed
156 under subsection B of § 28.2-104.1.

157 § 4. A. Any person who desires to use or develop any wetland within this _____ (county, city, or
158 town), other than for the purpose of conducting the activities specified in § 3 of this ordinance, shall
159 first file an application for a permit directly with the wetlands board or with the Commission.

160 B. The permit application shall include the following: the name and address of the applicant; a
161 detailed description of the proposed activities; a map, drawn to an appropriate and uniform scale,
162 showing the area of wetlands directly affected, the location of the proposed work thereon, the area of
163 existing and proposed fill and excavation, the location, width, depth and length of any proposed channel
164 and disposal area, and the location of all existing and proposed structures, sewage collection and
165 treatment facilities, utility installations, roadways, and other related appurtenances or facilities, including
166 those on adjacent uplands; *a statement indicating whether use of a living shoreline as defined in*
167 *§ 28.2-104.1 for a shoreline management practice is not suitable, including reasons for the*
168 *determination*; a description of the type of equipment to be used and the means of equipment access to
169 the activity site; the names and addresses of owners of record of adjacent land and known claimants of
170 water rights in or adjacent to the wetland of whom the applicant has notice; an estimate of cost; the
171 primary purpose of the project; any secondary purposes of the project, including further projects; the
172 public benefit to be derived from the proposed project; a complete description of measures to be taken
173 during and after the alteration to reduce detrimental offsite effects; the completion date of the proposed
174 work, project, or structure; and such additional materials and documentation as the wetlands board may
175 require.

176 C. A nonrefundable processing fee shall accompany each permit application. The fee shall be set by
177 the applicable governing body with due regard for the services to be rendered, including the time, skill,
178 and administrator's expense involved.

199 statements of all witnesses, the findings and decision of the board, and the rationale for the decision.
200 C. The board shall make its determination within 30 days of the hearing. If the board fails to act
201 within that time, the application shall be deemed approved. Within 48 hours of its determination, the
202 board shall notify the applicant and the Commissioner of its determination. If the board fails to make a
203 determination within the 30-day period, it shall promptly notify the applicant and the Commission that
204 the application is deemed approved. For purposes of this section, "act" means taking a vote on the
205 application. If the application receives less than four affirmative votes from a seven-member board or
206 less than three affirmative votes from a five-member board, the permit shall be denied.

207 D. If the board's decision is reviewed or appealed, the board shall transmit the record of its hearing
208 to the Commissioner. Upon a final determination by the Commission, the record shall be returned to the
209 board. The record shall be open for public inspection at the same office as was designated under § 5 of
210 this ordinance.

211 § 8. The board may require a reasonable bond or letter of credit in an amount and with surety and
212 conditions satisfactory to it, securing to the Commonwealth compliance with the conditions and
213 limitations set forth in the permit. The board may, after a hearing held pursuant to this ordinance,
214 suspend or revoke a permit if the applicant has failed to comply with any of the conditions or
215 limitations set forth in the permit or has exceeded the scope of the work described in the application.
216 The board may, after a hearing, suspend a permit if the applicant fails to comply with the terms and
217 conditions set forth in the application.

218 § 9. In fulfilling its responsibilities under this ordinance, the board shall preserve and prevent the
219 despoliation and destruction of wetlands within its jurisdiction while accommodating necessary economic
220 development in a manner consistent with wetlands preservation *and any standards set by the*
221 *Commonwealth in addition to those identified in § 28.2-1308 to ensure protection of shorelines and*
222 *sensitive coastal habitats from sea level rise and coastal hazards, including the provisions of guidelines*
223 *and minimum standards promulgated by the Commission pursuant to § 28.2-1301 of the Code of*
224 *Virginia.*

225 § 10. A. In deciding whether to grant, grant in modified form or deny a permit, the board shall
226 consider the following:
227 1. The testimony of any person in support of or in opposition to the permit application;
228 2. The impact of the proposed development on the public health, safety, and welfare; and
229 3. The proposed development's conformance with standards prescribed in § 28.2-1308 of the Code of
230 Virginia and guidelines promulgated pursuant to § 28.2-1301 of the Code of Virginia.

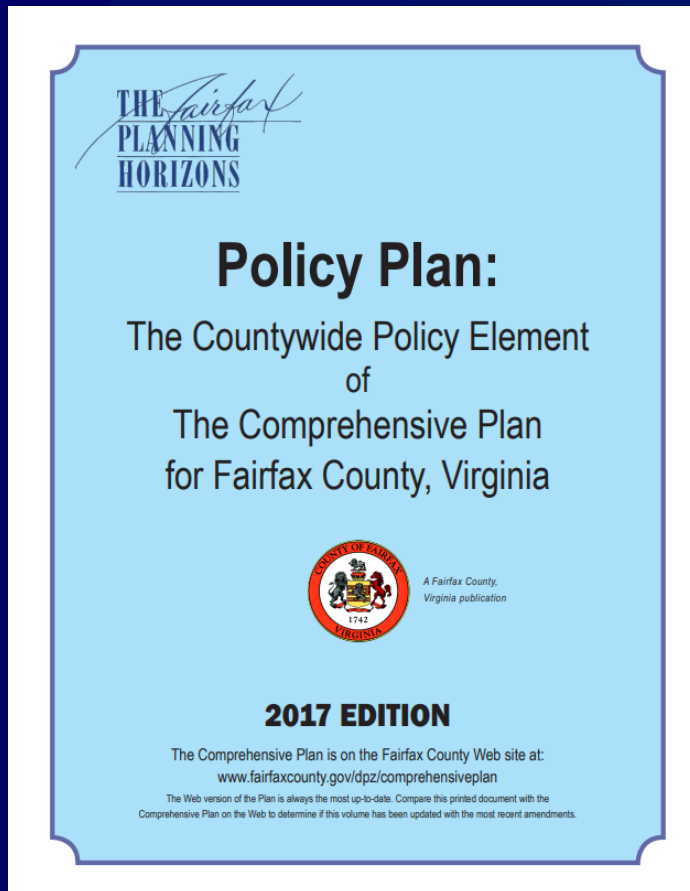
231 B. The board shall grant the permit if all of the following criteria are met:
232 1. The anticipated public and private benefit of the proposed activity exceeds its anticipated public
233 and private detriment.
234 2. The proposed development conforms with the standards prescribed in § 28.2-1308 of the Code of
235 Virginia and guidelines promulgated pursuant to § 28.2-1301 of the Code of Virginia.
236 3. The proposed activity does not violate the purposes and intent of this ordinance or Chapter 13
237 (§ 28.2-1300 et seq.) of Title 28.2 of the Code of Virginia.

238 C. If the board finds that any of the criteria listed in subsection B of this section are not met, the
239 board shall deny the permit application but allow the applicant to resubmit the application in modified

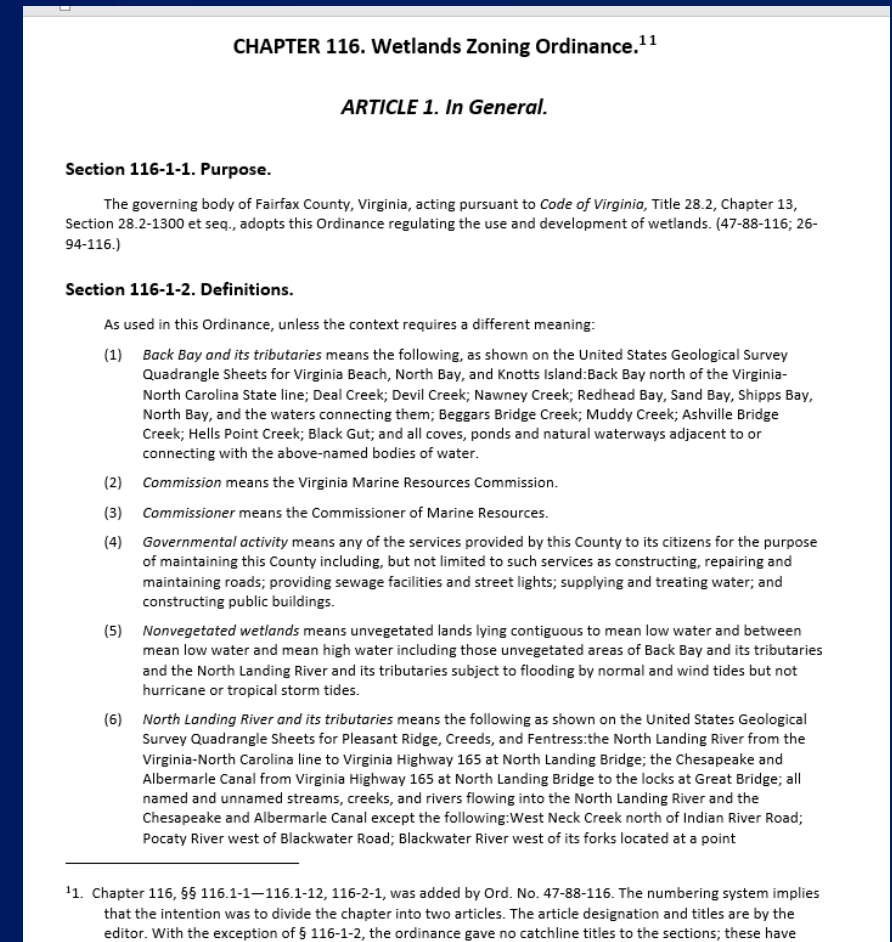
71 § 1. The governing body of _____, acting pursuant to Chapter 13 (§ 28.2-1300 et seq.) of Title
72 28.2 of the Code of Virginia, adopts this ordinance regulating the use and development of wetlands.
73 § 2. As used in this ordinance, unless the context requires a different meaning:

Future Actions

- Comprehensive Plan, Policy Plan, Environment



- County Wetlands “Zoning Ordinance”/County Code



Proposed Changes - Comprehensive Plan, Policy Plan, Environment

- **MODIFY:** Fairfax County Comprehensive Plan, 2017 Edition, Policy Plan, Environment, as amended through December 3, 2019, pages 10-11:

development, redevelopment, shoreline erosion control, and shoreline access.

Objective 3: **Protect the Potomac Estuary and the Chesapeake Bay from the avoidable impacts of land use activities in Fairfax County.**

Policy a. Ensure that new development and redevelopment complies with the county's Chesapeake Bay Preservation Ordinance, as applied to Chesapeake Bay Preservation Areas adopted by the Board of Supervisors as generally depicted in Figure 5 of the *Chesapeake Bay Supplement* to the Comprehensive Plan, as may be amended by the Board of Supervisors.

Policy b. Support the analysis and recommendations contained in the *Chesapeake Bay Supplement* to the Comprehensive Plan.

Policy c. Where tidal shoreline erosion control measures are needed, apply techniques that are consistent with the "Guidelines for Tidal Shoreline Erosion Control Measures" in the Environment Appendix.

Policy d. Boating and other tidal shoreline access structures should be sited, designed, and constructed in a manner that minimizes adverse environmental impacts. Where county approval of tidal shoreline access structures is needed, the following guidelines should be consulted and considered in the decision-making process: the Chesapeake Bay Program's document entitled "Chesapeake Bay Area Public Access Technical Assistance Report;" and the following guidelines issued by the Virginia Marine Resources Commission; "Shoreline Development BMPs," "Wetlands Guidelines," and "Subaqueous Guidelines."

Proposed Changes - Comprehensive Plan, Policy Plan, Environment, Cont. 1

- **MODIFY:** Fairfax County Comprehensive Plan, 2017 Edition, Policy Plan, Environment, as amended through December 3, 2019, pages 23-24:

APPENDIX 1

GUIDELINES FOR TIDAL SHORELINE EROSION CONTROL MEASURES

Measures to control erosion along the county's tidal shoreline are often pursued in order to protect adjacent property. Where county approval of tidal shoreline erosion control measures is needed, the following guidelines issued by the Virginia Marine Resources Commission should be consulted and considered in the decision-making process: "Shoreline Development BMPs," "Wetlands Guidelines," and "Subaqueous Guidelines." Consistent with these documents, shoreline protection structures should only be pursued where there is active, detrimental shoreline erosion which cannot be otherwise controlled, and such structures should be constructed in a manner that minimizes adverse wetlands impacts.

Shoreline stabilization approaches that apply biological techniques, using native plant species, are preferred where such approaches are consistent with the best available technical guidance, which may include guidance provided by the Virginia Marine Resources Commission, the Virginia Institute of Marine Science, and the Shoreline Erosion Advisory Service. Unless otherwise advised through such guidance, the following preferences, as refined from guidance developed by the Hampton Roads Planning District Commission and subsequently recommended for broader application in tidal areas by the Division of Chesapeake Bay Local Assistance of the Virginia Department of Conservation and Recreation (formerly the Chesapeake Bay Local Assistance Department), should be applied, where feasible, in determining the appropriate approaches to shoreline stabilization (with practices listed in decreasing order of preference):

**Areas with Low Erosion Rates (< 1 ft/yr.)
(low energy shorelines with an average fetch exposure of <1
nautical mile)**

1. Vegetative stabilization with or without bank re-grading
2. Revetments
3. Bulkheads

**Areas with Moderate Erosion Rates (1- 3 ft/yr.)
(medium energy shorelines with an average fetch exposure of 1-5
nautical miles)**

1. Vegetative stabilization with/or without bank grading
2. Revetments
3. Breakwaters
4. Groins*
5. Bulkheads

Proposed Changes - Comprehensive Plan, Policy Plan, Environment, Cont. 2

- **ADD:** Fairfax County Comprehensive Plan, 2017 Edition, Policy Plan, Glossary, as amended through March 20, 2018, page 10

LIVING SHORELINE: "Living shoreline" means a shoreline management practice that provides erosion control and water quality benefits; protects, restores, or enhances natural shoreline habitat; and maintains coastal processes through the strategic placement of plants, stone, sand fill, and other structural and organic materials. When practicable, a living shoreline may enhance coastal resilience and attenuation of wave energy and storm surge.

LDR: See Low Density Residential Areas.

LEVEL OF SERVICE: A qualitative measure of the effect of a number of traffic factors, including speed and travel time, traffic interruptions, freedom to maneuver, safety, driving comfort and convenience, and traffic volume. These factors are used to measure the functioning of a road or intersection with traffic, and the resulting level of service is expressed by a rating of "A" (best) through "F" (worst).

LIVE/WORK UNITS: A unit consisting of both a commercial/office and a residential component, or, alternatively, units within the same building that are convertible to either a commercial/office use, residential use, or both.

LOCAL PARKS: Parks that serve local, or nearby residents, communities and workers; are easily accessible; and offer active and/or passive recreational facilities. The character, location, and access of local parks will vary depending upon the context; for example, whether the park is in a suburban neighborhood, a mixed use development, or an urban center.

LOCAL STREET: A street which is primarily intended to provide direct access to properties abutting the roadway and within the immediate vicinity. A Local Street offers the lowest level of mobility and usually does not serve a bus route. Overall operating speeds are low in order to permit frequent stops or turning movements to be made with maximum safety. Service to through traffic movement is deliberately discouraged.

LOS: See Level of Service.

LOW DENSITY RESIDENTIAL AREAS: The primary purpose of Low Density Residential Areas is to ensure the preservation of environmental resources by limiting development primarily to low density, large lot residential and open space uses. The rapidly decreasing supply of land in the county, coupled with the loss of natural habitat, plus the vital role that portions of these areas serve in protecting water quality dictates that development in these areas be minimized.

LOW IMPACT DEVELOPMENT (LID): The use of site and subdivision design techniques in coordination with stormwater management engineering to mimic the hydrologic conditions associated with an undeveloped site to the greatest extent practicable.

LOW-INCOME HOUSEHOLDS: Households with incomes that are less than 50 percent of the Metropolitan Statistical Area (MSA) median household income, adjusted for family size.

MAKERSPACE: Community workshop facilities that integrate multiple uses at a single site, and

Proposed Changes – Wetlands Zoning Ordinance

- **MODIFY:** Fairfax County Chapter 116. Wetlands Zoning Ordinance

CHAPTER 116. Wetlands Zoning Ordinance.¹¹

ARTICLE 1. In General.

Section 116-1-1. Purpose.

The governing body of Fairfax County, Virginia, acting pursuant to *Code of Virginia*, Title 28.2, Chapter 13, Section 28.2-1300 et seq., adopts this Ordinance regulating the use and development of wetlands. (47-88-116; 26-94-116.)

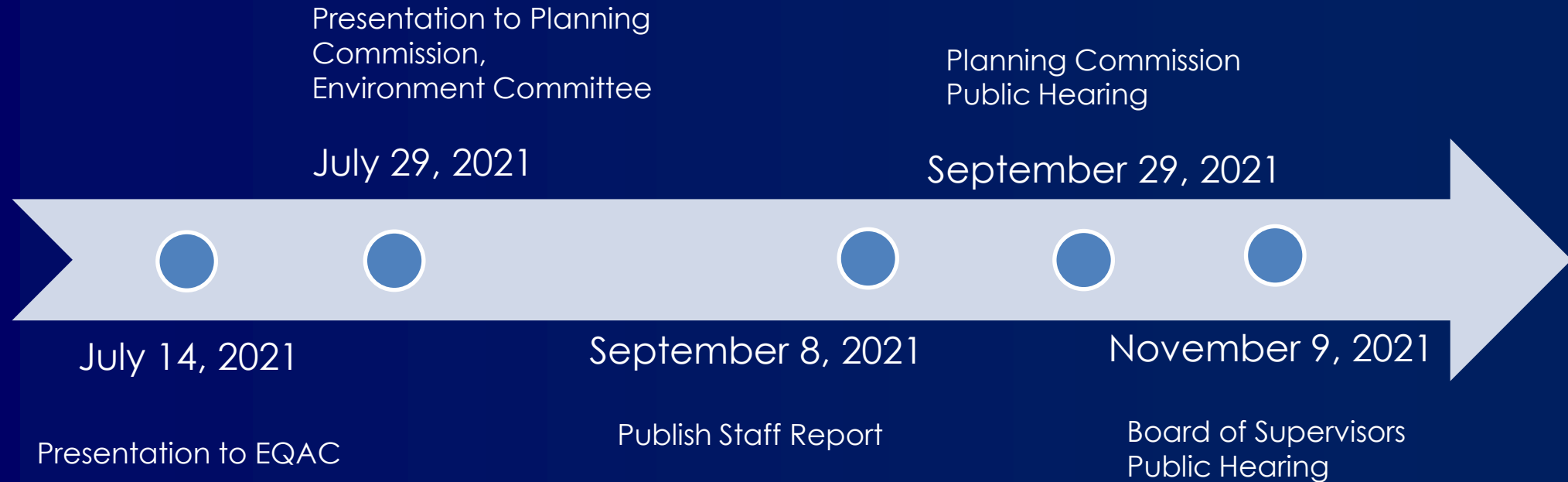
Section 116-1-2. Definitions.

As used in this Ordinance, unless the context requires a different meaning:

- (1) *Back Bay and its tributaries* means the following, as shown on the United States Geological Survey Quadrangle Sheets for Virginia Beach, North Bay, and Knotts Island: Back Bay north of the Virginia-North Carolina State line; Deal Creek; Devil Creek; Nawney Creek; Redhead Bay, Sand Bay, Shipps Bay, North Bay, and the waters connecting them; Beggars Bridge Creek; Muddy Creek; Ashville Bridge Creek; Hells Point Creek; Black Gut; and all coves, ponds and natural waterways adjacent to or connecting with the above-named bodies of water.
- (2) *Commission* means the Virginia Marine Resources Commission.
- (3) *Commissioner* means the Commissioner of Marine Resources.
- (4) *Governmental activity* means any of the services provided by this County to its citizens for the purpose of maintaining this County including, but not limited to such services as constructing, repairing and maintaining roads; providing sewage facilities and street lights; supplying and treating water; and constructing public buildings.
- (5) *Nonvegetated wetlands* means unvegetated lands lying contiguous to mean low water and between mean low water and mean high water including those unvegetated areas of Back Bay and its tributaries and the North Landing River and its tributaries subject to flooding by normal and wind tides but not hurricane or tropical storm tides.
- (6) *North Landing River and its tributaries* means the following as shown on the United States Geological Survey Quadrangle Sheets for Pleasant Ridge, Creeds, and Fentress: the North Landing River from the Virginia-North Carolina line to Virginia Highway 165 at North Landing Bridge; the Chesapeake and Albermarle Canal from Virginia Highway 165 at North Landing Bridge to the locks at Great Bridge; all named and unnamed streams, creeks, and rivers flowing into the North Landing River and the Chesapeake and Albermarle Canal except the following: West Neck Creek north of Indian River Road; Pocaty River west of Blackwater Road; Blackwater River west of its forks located at a point

¹¹ Chapter 116, §§ 116.1-1—116.1-12, 116-2-1, was added by Ord. No. 47-88-116. The numbering system implies that the intention was to divide the chapter into two articles. The article designation and titles are by the editor. With the exception of § 116-1-2, the ordinance gave no catchline titles to the sections; these have been added by the editor.

Project Schedule & Milestones





PLANNING & DEVELOPMENT



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Department of Planning and Development