

CHESAPEAKE BAY PRESERVATION ORDINANCE
EXCEPTION REVIEW COMMITTEE BY-LAWS

ARTICLE 1

ESTABLISHMENT

Section 1. Name. The name of this organization shall be the Chesapeake Bay Preservation Ordinance Exception Review Committee (hereinafter referred to as the “Exception Review Committee”, “Committee” or “ERC”).

Section 2. Purpose. The purpose of the Exception Review Committee shall be to administer the provisions of Article 6 of Chapter 118 of The *Code of the County of Fairfax, Virginia* (Code) in such a manner that the intent of the Chapter is maintained.

Section 3. Authority and Establishment. The Exception Review Committee is established in accordance with the requirements of Chapter 118 of the Code and 9 VAC 10-20-150.

ARTICLE 2

MEMBERSHIP

Section 1. Membership. The Exception Review Committee shall be composed of eleven (11) members, one from each of the nine (9) magisterial districts and two (2) at-large, with demonstrated knowledge of and interest in environmental issues and shall be appointed by the Board of Supervisors. The members shall serve in a voluntary capacity and receive no compensation. Members shall exempt themselves from voting on any action in which their financial interests or those of their immediate family or employer are directly involved.

Section 2. Appointment.

- (a) Appointments will be for a term of four years.
- (b) Members may serve more than one term.

Section 3. Severance of Membership.

(a) Members are expected to attend meetings on a regular basis. Members shall notify the Clerk to Committee if they expect to miss a meeting. The Clerk to the Committee shall notify the Clerk to the Board of Supervisors, the ERC Chair and Secretary and the non-attending member in the event the non-attending member misses three or more consecutive meetings or five total meetings within a calendar year. In the absence of just cause, the member shall be subject to removal by the Board of Supervisors.

(b) Members who wish to resign from the Exception Review Committee shall do so in writing and submit the resignation to the Board of Supervisors, the ERC Chair, and the Clerk to the Board.

ARTICLE 3

OFFICERS AND DUTIES

Section 1. Officers and Terms of Office.

(a) The officers of the Exception Review Committee shall be a Chair, Vice Chair, and Secretary.

(b) The Chair, Vice Chair, and Secretary shall be elected by majority vote of the Exception Review Committee at the first Committee meeting each calendar year.

(c) Any member of the Exception Review Committee is eligible to serve in any of these offices, provided, however, that no member shall hold more than one office at the same time.

(d) The term of office shall begin on January 1 and shall be for a period of one year or until a successor is elected.

(e) If an office becomes vacant for any reason, it shall be filled by an election at the next regular meeting having a quorum of members present. The newly elected officer shall complete the unexpired term of the officer succeeded.

Section 2. Duties of Officers.

(a) The Chair shall preside at all general meetings of the Exception Review Committee and is eligible to offer motions and vote at all times.

(b) The Vice Chair shall perform the duties of the Chairman in his/her absence or incapacity.

(c) Under direction of the Secretary, the Clerk to the ERC shall prepare the agendas, shall record and maintain minutes of all meetings; submit all minutes to the members for approval; after approval by the Exception Review Committee members, mail or deliver copy of said minutes to the Clerk to the Board and a representative of the Department of Public Works and Environmental Services; maintain official set of records and membership roster for the Committee; and perform other related duties, as necessary.

Section 3. Duties of the Committee.

(a) The Exception Review Committee shall administer the provisions of Article 6 of Chapter 118 of the Code, hold business meetings and public hearings as required or authorized herein, and approve or disapprove, in whole or in part or with modification, exception requests in such a manner that the intent of the Code is maintained. The ERC shall have the authority to defer, to a date and time certain, action on an exception application in order to consider modification of an exception request made by the applicant.

(b) As necessary to inform decisions of the Committee, the ERC may seek expert advice and legal counsel on scientific, engineering, legal, and related matters associated with protection of Chesapeake Bay and Fairfax County watersheds under Chapter 118 of the Code and 9 VAC 10-20 and may schedule presentations of such information, to be given at its business meetings, whether held in public or executive session under the provisions of the Virginia Freedom of Information Act, §§2.2-3700 *et seq.* Code of Virginia (VFOIA).

(c) As necessary to facilitate consistency in decision-making, the Committee may correspond or meet with the Planning Commission to discuss specific applications or general matters associated with implementation of the Chesapeake Bay Preservation Ordinance, such correspondence or meetings to be between designated representatives of each body or the bodies as a whole. All such correspondence or meetings are subject to the requirements of VFOIA.

ARTICLE 4

MEETINGS

Section 1. Time and Place. The Exception Review Committee shall meet a minimum of once a month, on the first Wednesday, at 2:00 PM in an appropriate public hearing room in Fairfax County. The meeting dates and times may be adjusted at the discretion of the Committee. If no applications are pending, a meeting may be cancelled at the discretion of the officers. As needed, the Committee may convene for business at facilities not necessarily intended to serve as a public hearing room, where the business of the Committee is thus better served.

Section 2. Quorum. Six members of the Exception Review Committee shall constitute a quorum but a lesser number may meet and adjourn. When a quorum is present, a majority of votes cast is sufficient for the adoption of any motion that is in order.

Section 3. Special meetings. Special meetings may be called by the Chair provided at least five business days notice of such meeting is delivered to each member in writing at the address designated by each member of the Committee. The Department of Public Works and Environmental Services (DPWES) must be notified in writing at least five business days prior to the special meeting.

Section 4. Adjournment of meetings. Any regular or special meeting may be adjourned to a date and time certain prior to the next regular meeting.

Section 5. Conduct of meetings. The meetings of the Exception Review Committee shall be conducted in accordance with the current edition of *Roberts Rules of Order, Newly Revised*, except as may be otherwise specifically provided in these Bylaws and Procedures and except as *Roberts Rules of Order* shall conflict with applicable state law or the Code.

Section 6. Meeting agenda. After consultation with the Chair and Vice-Chair, and with the assistance of the Clerk to the Committee, the Secretary shall set up the meeting agenda and may change the content and/or order as necessary to ensure efficiency in the operation of the Committee. This agenda will be published on a website dedicated to ERC proceedings in a manner sufficiently timely as to permit participation at public hearings by interested members of the public.

Section 7. Records.

(a) The Exception Review Committee shall keep written records and minutes of all its proceedings, showing evidence presented, findings of fact and law by the Exception Review Committee, and the vote of each member upon each question, or if absent or failing to vote, such fact.

(b) Every decision of the Exception Review Committee shall be recorded and shall fully set forth the circumstances of the application and the findings of fact and law on which the decision is based. Every decision of the Exception Review Committee shall be made by resolution adopted by a majority of all of the members present, except as otherwise specifically provided in this Chapter, and that resolution shall incorporate by reference the findings of fact and law upon which the Committee makes its decision.

(c) All records of the Exception review Committee shall be public records unless specifically exempted by VFOIA. Exception Review Committee records of general interest to the public shall be placed on a website dedicated to ERC proceedings. Such records shall include the content of staff reports and recommendations on an application, the Committee's findings of fact and law regarding an application; and the final resolution regarding the application. Matters excepted by the VFOIA shall not be published; provided, however, that a majority vote of the members present at a meeting may authorize the publication and/or posting of such matters to the extent allowed by law.

ARTICLE 5

PUBLIC HEARINGS

Section 1. Public Hearings. All public hearings conducted by the Exception Review Committee shall be in accordance with the provisions of Chapter 118, §118-6-2 of the Code, after advertisement of the required legal notices pursuant to Virginia Code § 15.2-2204. Any person may appear and testify at a public hearing, either in person or by an authorized agent or attorney. Hearings will be conducted in accordance with the *Rules of Procedures for Hearings before the Chesapeake Bay Preservation Ordinances Exception Review Committee*.

Section 2. Closed Hearings. All meetings of the ERC shall be open to the public, provided that the ERC may hold closed hearings or meetings in executive session by a majority vote of the members present at such meeting, subject to the requirements of VFOIA.

ARTICLE 6

EFFECTIVE DATE AND AMENDMENTS

Section 1. Effective date. This Charter and these by-laws shall become effective upon approval by the Exception Review Committee and may be amended by the Exception Review Committee.

Section 2. Amendments to the Bylaws. Amendments to these bylaws may be made at any regular meetings of the Exception Review Committee following an introduction and discussion at a previous regular meeting.

END OF BYLAWS

Adopted: February 18, 2004
Amended: November 03, 2004