

05-19-118

*(Also See Subdivision Ordinance Amendment 04-19-101,
Zoning Ordinance Amendment ZO-19-478, and
Public Facilities Manual Amendment 128-19-PFM
adopted simultaneously on January 22, 2019)*

*ADOPTION OF AN AMENDMENT TO CHAPTER 118
(CHESAPEAKE BAY PRESERVATION ORDINANCE)
OF THE 1976 CODE OF THE COUNTY OF FAIRFAX,
VIRGINIA*

At a regular meeting of the Board of Supervisors of Fairfax, County, Virginia, held in the Board Auditorium of the Government Center at Fairfax, Virginia, on Tuesday, January 22, 2019 the Board after having first given notice of its intention so to do, in the manner prescribed by law, adopted an amendment regarding Chapter 118 (Chesapeake Bay Preservation Ordinance) of the 1976 Code of the County of Fairfax, Virginia, said amendment so adopted being in the words and figures following, to-wit:

*BE IT ORDAINED BY THE BOARD OF SUPERVISORS OF FAIRFAX COUNTY,
VIRGINIA:*

That Chapter 118 (Chesapeake Bay Preservation Ordinance) is amended as follows:

Amend the Chesapeake Bay Preservation Ordinance, Section 118-1-6, Definitions, by revising Paragraph (r) to read as follows:

(r) "Noxious weeds" means Johnson grass, kudzu, poison ivy, ragweed, poison oak, poison sumac, purple loosestrife, ~~and~~ multiflora rose, running bamboo and any other species hereinafter designated by the State as a noxious weed.

Amend the Chesapeake Bay Preservation Ordinance, Section 118-1-9, Chesapeake Bay Preservation Area Boundaries, by revising Paragraph (d)(1) to read as follows:

(1) ~~RPA's shall include any land characterized by one or more of the following features:~~ Any person who submits an RPA boundary delineation study for the purpose of reclassifying a water body from perennial to intermittent ~~must shall~~ submit written proof of notification (copy of written notification letter and white receipts for certified mailings) of all owners of property abutting and immediately across the street from the parcel(s) containing the water body being studied and a minimum of one homeowners' or civic association within the immediate vicinity as approved by Land Development Services. Such notice ~~must shall~~ include notice to owners of properties abutting and immediately across the street which lie in an adjoining county or municipality. This notification must be to a minimum of ten property owners other than the owner of the parcel for which the study is prepared. If there are fewer than ten different owners of property abutting and immediately across the street from the subject property, then additional notices shall be sent to other property owners in the immediate vicinity so that notices are sent to different owners of not less than ten properties. Notice ~~must shall~~ be sent to the last known address of the owner(s) as shown in the current Real Estate Assessment files. Notice to homeowners' or civic associations shall be sent to the registered address kept on file with the State Corporation Commission, or if none is on file, to the address kept on file by the County Office of Public Affairs. All written notice ~~must shall~~ be sent by certified mail, return receipt requested.

Amend the Chesapeake Bay Preservation Ordinance, Section 118-3-2, General Performance Criteria for Resource Management Areas and Resource Protection Areas, by revising Paragraph (h) to read as follows:

(h) Land upon which agricultural activities are being conducted, including but not limited to crop production, pasture, and dairy and feedlot operations, or lands otherwise defined as agricultural land by the local government, ~~must shall~~ have a soil and water quality conservation assessment conducted that evaluates 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 being accomplished consistent with the Chesapeake Bay Preservation Act and this chapter.

(1) Recommendations for additional conservation practices need address only those conservation issues applicable to the tract or field being assessed. Any soil and water quality conservation practices that are recommended as a result of such an assessment and are subsequently implemented with financial assistance from federal or state cost-share programs must be designed, consistent with cost-share practice standards ~~effective in January 1999~~ in the most recent version of the "Field Office Technical Guide" of the U.S. Department of Agriculture Natural Resources Conservation Service or the most recent version ~~June 2000 edition~~ of the

“Virginia Agricultural BMP Manual” of the Virginia Department of Conservation and Recreation, respectively. Unless otherwise specified in this section, general standards pertaining to the various agricultural conservation practices being assessed ~~will~~ shall be as follows:

(i) For erosion and sediment control recommendations, the goal ~~will~~ shall be, where feasible, to prevent erosion from exceeding the soil loss tolerance level, referred to as “T,” as defined in the most recent version of the “National Soil Survey Handbook” title 430-VI of November 1996 in the “Field Office Technical Guide” of the U.S. Department of Agriculture Natural Resources Conservation Service. However, in no case shall erosion exceed the soil loss consistent with an Alternative Conservation System, referred to as an “ACS”, as defined in the “Field Office Technical Guide” of the U.S. Department of Agriculture Natural Resources Conservation Service.

(ii) For nutrient management, whenever nutrient management plans are developed, the operator or landowner must provide soil test information, consistent with the Virginia Nutrient Management Training and Certification Regulations (4 VAC ~~50-85-5-15~~).

(iii) For pest chemical control, referrals ~~will~~ shall be made to the local cooperative extension agent or an Integrated Pest Management Specialist of the Virginia Cooperative Extension Service. Recommendations ~~must~~ shall include copies of applicable information from the “Virginia Pest Management Guide” or other Extension materials related to pest control.

Amend the Chesapeake Bay Preservation Ordinance, Section 118-3-2, General Performance Criteria for Resource Management Areas and Resource Protection Areas, by adding Paragraph (j) to read as follows

(j) The buildable areas allowed on each lot must be delineated on all preliminary plans, site plans, minor site plans, subdivision plans, infill lot grading plans, conservation plans, rough grading plans, and public improvement plans. The buildable area must be based on: 1) the performance criteria specified in Article 3 of this Code, 2) the minimum required yards of the zoning district in which the lot is located, and 3) any other relevant easements or limitations on lot coverage.

Amend the Chesapeake Bay Preservation Ordinance, Section 118-3-3, Additional Performance Criteria for Resource Protection Areas, by revising Paragraph (e) to read as follows:

(e) On agricultural lands, the buffer area ~~must~~ shall be managed to prevent concentrated flows of surface water from breaching the buffer area and appropriate measures, as recommended by the Northern Virginia Soil and Water Conservation District, may be taken to prevent noxious weeds from invading the buffer area. Agricultural activities may encroach into the buffer area as follows:

(1) Agricultural activities may encroach into the landward 50 feet of the 100-foot wide buffer area when at least one agricultural best management practice which, in the opinion of the Northern Virginia Soil and Water Conservation District Board, addresses the more predominant water quality issue on the adjacent land (erosion control or nutrient management) is being implemented on the adjacent land, provided that the combination of the undisturbed buffer area and the best management practice achieves water quality protection, pollutant removal, and water resource conservation at least the equivalent of the 100-foot wide buffer area. If nutrient management is identified as the predominant water quality issue, a nutrient management plan,

including soil tests, must be developed consistent with the Virginia Nutrient Management Training and Certification Regulations (4 VAC ~~50-85-5-15~~) administered by the Virginia Department of Conservation and Recreation.

(2) Agricultural activities may encroach within the landward 75 feet of the 100-foot wide buffer area when agricultural best management practices which, in the opinion of the Northern Virginia Soil and Water Conservation District Board, address erosion control, nutrient management, and pest chemical control, are being implemented on the adjacent land. The erosion control practices must prevent erosion from exceeding the soil loss tolerance level, referred to as "T," as defined in the most recent version of the "National Soil Survey Handbook" title 430-VI of November 1996 in the "Field Office Technical Guide" of the U.S. Department of Agriculture Natural Resource Conservation Service. A nutrient management plan, including soil tests, must be developed, consistent with the Virginia Nutrient Management Training and Certification Regulations (4 VAC ~~50-85-5-15~~) administered by the Virginia Department of Conservation and Recreation. In conjunction with the remaining buffer area, this collection of best management practices ~~must~~ shall be presumed to achieve water quality protection at least the equivalent of that provided by the 100-foot wide buffer area.

Amend the Chesapeake Bay Preservation Ordinance, Section 118-5-3, Additional Exemptions, by revising Paragraph (c) to read as follows:

- (c) *Silvicultural activities*, provided that such operations adhere to water quality protection procedures prescribed by the Virginia Department of Forestry in the most recent January 1997 edition of *Forestry Best Management Practices for Water Quality in Virginia* as determined by the Virginia Department of Forestry.

This amendment shall become effective on January 23, 2019 at 12:01 a.m.

GIVEN under my hand this 22nd day of January 2019.



CATHERINE A. CHIANESE
Clerk to the Board of Supervisors