

## Fairfax County Wetlands Board Application Guide and Supplementary Information Form

This guide provides an overview of the permitting requirements for projects on the tidal shoreline in Fairfax County. Applicants must submit a Joint Permit Application to the Virginia Marine Resources Commission as well as a Supplementary Information Form to the Fairfax County Wetlands Board (Wetlands Board). The Supplementary Information Form is an Appendix to this document.

### **Wetlands Board Application Submission Requirements**

The Wetlands Board's application process has three requirements.

1. Applicants must submit a **Joint Permit Application (JPA)** to the VMRC. The **JPA** and instructions are found at

<https://www.nao.usace.army.mil/Missions/Regulatory/JPA.aspx>

**Note that as part of the Joint Permit Application, plan view and cross-section view drawings are required for all projects. Follow instructions on the website carefully. Clear and accurate drawings are essential for project review and compliance determination. Incomplete or unclear drawings may cause delays in the processing of your application.**

2. In addition, applicants must file a ***Supplementary Information Form***, which is required by the Wetlands Board, pursuant to *Va. Code Ann. §§ 28.2-1302.4B., and Ch. 116, Wetlands Zoning Ordinance of the Code of Fairfax County.*
3. Finally, applicants must send a check made out to Fairfax County in the amount of \$300.00 to cover the application processing fees, and a letter acknowledging that the applicant and/or the applicant's agent understands that the publication fees for the public hearing will be billed to the applicant or the applicant's agent, as applicable.

The **Supplementary Information Form** is found in the **Appendix**. Fill it out, sign it, and submit it to the Wetlands Board along with your JPA and application fee.

Questions about the wetlands permitting process may be directed to the Wetlands Board Staff Liaison at 703-324-1380.

### **Background Information**

The Commonwealth of Virginia (*Code of Virginia, Ch. 13 of Title 28.2*) and Fairfax County (*Fairfax County Code, Ch. 116, Wetlands Zoning Ordinance*) have requirements to protect wetlands and associated wildlife and natural systems for the benefit of the public. These laws require that the Commonwealth and the County review any project that impacts tidal wetlands, including construction, dredging, filling, excavation, bank stabilization and erosion control projects in or adjacent to tidal wetlands.

By law, property owners in Fairfax County proposing a project that affects tidal wetlands must submit a Joint Permit Application (JPA) with the Virginia Marine Resources Commission. The JPA is forwarded by the VMRC for review by the appropriate State, County, and Federal agencies, including the U. S. Army Corp of Engineers, the Virginia Department of Environmental Quality, the Virginia

Marine Resources Commission, and the Fairfax County Wetlands Board. In addition to information required by the JPA, Supplementary Information also must be submitted to the Wetlands Board, as explained below.

The Wetlands Board reviews the application, inspects the subject property, conducts a public hearing, and considers whether or not alteration or stabilization of the shoreline is warranted based on the guidelines of the Virginia Marine Resources Commission. The Wetlands Board's jurisdiction is known as the **intertidal zone**. The jurisdiction is generally that area between *mean low water* and *mean high water*.

The jurisdiction of the Wetlands Board for **vegetated tidal wetlands** is *the area between mean low water and an elevation above mean low water equal to 1½ times the mean tide range*.

The jurisdiction of the Wetlands Board for **non-vegetated tidal wetlands** is limited to that area between *mean low water* and *mean high water*.

The goal of the Board, through the public hearing and permitting process under this ordinance, is to "...preserve and prevent the despoliation and destruction of wetlands within its jurisdiction while accommodating necessary economic development in a manner consistent with wetlands preservation." § 28.2.1302.9, *Code of Virginia*.

By law (§ 28.2.1302.10, *Code of Virginia*) the Board grants a permit if the anticipated public and private benefit of the proposed activity exceeds its anticipated public and private detriment, and if the proposed development conforms with the standards prescribed in *Code of Virginia*, Section 28.2.1308 and guidelines promulgated pursuant to *Code of Virginia*, Section 28.2.1301.

### **Fairfax County Wetlands Permitting**

All tidal wetlands are valuable. Wetlands perform essential ecological services. They trap sediment and absorb nutrients and pollutants from runoff, thereby improving water quality. They provide habitat to wildlife. They can attenuate flooding and wave energy. Because of their value, the Wetlands Board has committed to a policy of no net loss of wetlands. Property owners should avoid impacts to tidal wetlands, if at all possible. Unavoidable losses or impacts to wetlands must be mitigated. If the Wetlands Board requires a compensation fee for mitigation, the rate is \$28 per square foot.

The Wetlands Board's mitigation policy is here: [https://www.fairfaxcounty.gov/planning-development/sites/planning-development/files/assets/documents/wetlands/mitigation\\_compensation\\_policy\\_adopted.pdf](https://www.fairfaxcounty.gov/planning-development/sites/planning-development/files/assets/documents/wetlands/mitigation_compensation_policy_adopted.pdf)

Guidelines from the Virginia Marine Resources Commission (VMRC) for shoreline stabilization projects state that:

Shoreline protection structures are justified only if there is active, detrimental shoreline erosion which cannot be otherwise controlled; if there is rapid sedimentation adversely affecting marine life or impairing navigation which cannot be corrected by upland modifications; or if there is a clear and definite need to accrete beaches. The guidelines are here: [https://www.mrc.virginia.gov/Notices/2021/Final-Draft-Wetlands-Guidelines-Update\\_03-01-2021.pdf](https://www.mrc.virginia.gov/Notices/2021/Final-Draft-Wetlands-Guidelines-Update_03-01-2021.pdf)

Therefore, applicants for permits must explain and document that one or more of these conditions exist in order to justify a project in or affecting tidal wetlands.

The *Fairfax County Comprehensive Plan, Policy Plan, 2007 Edition, Chesapeake Bay Supplement, Appendix B*, adopted Nov. 15, 2004, page 12 states: "Shoreline stabilization approaches that apply

biological techniques, using native plant species, are preferred where such approaches are consistent with the best available technical guidance provided by the Virginia Marine Resources Commission, the Virginia Institute of Marine Science, and the Shoreline Erosion Advisory Service.”

Consistent with the Comprehensive Plan, it is the policy of the Wetlands Board to favor living shoreline treatments over other treatments (such as bulkheads) that sever natural processes and connections between riparian, intertidal, and aquatic areas such as tidal exchange, sediment movement, plant community transitions, and groundwater flow. This policy was adopted on April 23, 2007 and is here: [https://www.fairfaxcounty.gov/landdevelopment/sites/landdevelopment/files/assets/documents/pdf/final\\_livingshorelinepolicy.pdf](https://www.fairfaxcounty.gov/landdevelopment/sites/landdevelopment/files/assets/documents/pdf/final_livingshorelinepolicy.pdf)

Applicants seeking a permit for a shoreline stabilization project in tidal wetlands should give first consideration to maintaining or creating a “living shoreline.”

A “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.

Living Shoreline Treatments do not include structures that sever natural processes and connections between riparian, intertidal and aquatic areas such as tidal exchange, sediment movement, plant community transitions and groundwater flow.

For further information on living shoreline approaches, visit Center for Coastal Resources Management, Virginia Institute of Marine Science, College of William and Mary <http://ccrm.vims.edu/livingshorelines/index.html> or contact the Wetlands Board County staff liaison.

The Wetlands Board does not require mitigation or compensation for properly designed and sited living shoreline stabilizations. Applicants proposing shoreline stabilization projects other than living shorelines must explain why a living shoreline approach is not feasible in the Supplementary Information Form submitted to the Wetlands Board.

## APPENDIX

### FAIRFAX WETLANDS BOARD SUPPLEMENTARY INFORMATION FORM

In addition to the Wetland Permit Application, your project may require other permits from the Fairfax County Department of Public Works and Environmental Services related to the County's Chesapeake Bay Preservation Ordinance, the Erosion and Sedimentation Control Ordinance and the floodplain regulations of the County's Zoning Ordinance. If a structure is proposed, a building permit will be required.

Name(s) and addresses of applicant(s):

Telephone number of applicant(s):

Email address of applicant(s):

If different: Name(s) and addresses of property owners of the property:

If the application is filed by someone other than the property owners (for example, an agent, contract purchaser, or lessee), a statement endorsing the application must be signed by the property owners, notarized, and filed with the application.

1. What public benefit will be derived from the proposed project?

2. Is the subject shoreline exposed to active, detrimental erosion or rapid sedimentation?

No—Explain below why shoreline conditions warrant alteration or stabilization for the proposed use.

Yes—Explain below how you determined that the erosion on your property is active and detrimental. Examples: Physical signs easily observed such as fallen trees, bare exposed soil with no vegetation growing on it, bank collapse or undercutting.

Pictures or other documentation are helpful, especially spanning a time period (Please provide the time period).

If structures or trees are at risk, provide pictures or documentation which demonstrate the risks.

3. Does this application propose stabilization or alteration of the shoreline using a **living shoreline** design?

Yes

No—Explain why a **living shoreline** treatment is not feasible or appropriate.

All owners of the property must sign below to indicate that they have the power to authorize and do hereby authorize the Wetlands Board and Fairfax County staff representatives on official business to enter the property as necessary to process the application. All persons signing the application acknowledge that they may be required to pay a separate wetlands mitigation fee to compensate for impacts on tidal wetlands.

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Owner Date

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Owner Date