

Motion 1

BOARD MOTION

Chesapeake Bay Preservation Ordinance

July 7, 2003 AT 3:00 PM

I move that the Board of Supervisors adopt the proposed amendments to the Chesapeake Bay Preservation Ordinance, the Subdivision Ordinance, the Erosion and Sedimentation Control Ordinance, the Zoning Ordinance, and the Public Facilities Manual as recommended by the Planning Commission with the exception of the change to the definition of "water body with perennial flow" dated July 7, 2003, distributed to the Board today and that these amendments shall become effective at 12:01 a.m. of the day following the date that the Board adopts the map of Chesapeake Bay Preservation Areas.

The amendments to the Chesapeake Bay Preservation Ordinance are identified in your Board package as Planning Commission Recommendation dated 5/7/03 and the amendments to the Subdivision Ordinance, the Erosion and Sedimentation Control Ordinance, the Zoning Ordinance, and the Public Facilities Manual dated 4/15/03 are attached to the Staff Report dated May 19, 2003.

Amendment
to
Planning Commission Recommendation

7/7/03

Proposed Amendments to Chapter 118 (Chesapeake Bay Preservation Ordinance)
of
The Code of the County of Fairfax

~~(dd) "Water body with perennial flow " means a body of water flowing in a natural or man-made channel year-round, except during periods of drought. The term "water body with perennial flow" includes perennial streams, estuaries, and tidal embayments. Lakes and ponds that form the source of a perennial stream, or through which the perennial stream flows, are a part of the perennial stream. The width of the perennial stream extends from top of bank to top of bank of the channel or to the limits of the normal water level for a pond or lake. Generally, the water table is located above the streambed for most of the year and groundwater is the primary source for stream flow. In the absence of pollution or other manmade disturbances, a perennial stream is capable of supporting aquatic life.~~

~~[This definition of "Water body with perennial flow" shall be effective from (insert effective date of amendments) through December 31, 2003]~~

(dd) "Water body with perennial flow " means a body of water flowing in a natural or man-made channel year-round, except during periods of drought. The term "water body with perennial flow" includes perennial streams, estuaries, and tidal embayments. A perennial stream means any stream that is both perennial and so depicted on the map of Chesapeake Bay Preservation Areas adopted by the Board of Supervisors pursuant to Section 118-1-9(a). Streams identified as perennial on the adopted map are based on field studies conducted by the Department of Public Works and Environmental Services. Lakes and ponds that form the source of a perennial stream, or through which the perennial stream flows, are a part of the perennial stream. The width of the perennial stream extends from top of bank to top of bank of the channel or to the limits of the normal water level for a pond or lake. The width of a perennial stream may be measured from top-of-bank to top-of-bank or at the Ordinary High Water Mark (OHWM) as defined by 33 CFR Part 328.3(e). The aerial extent of a pond or lake is measured at the OHWM. Generally, the water table is located above the streambed for most of the year and groundwater is the primary source for stream flow. In the absence of pollution or other manmade disturbances, a perennial stream is capable of supporting aquatic life.

[This definition of "Water body with perennial flow" shall be effective January 1, 2004]

Staff comments:

Changes to the May 7, 2003, Planning Commission recommendation are shown with double strike through and double underline. It was originally intended that the first definition of "water body with perennial flow" be operative from the effective date until January 1, 2004, at which point in time the new map of Chesapeake Bay Resource Preservation Areas would have been adopted by the Board and the second definition would become operative. The current proposal is for the entire ordinance to become effective upon adoption of the map. Therefore, only the second definition is needed. A change to the definition is proposed to allow the stream width to be measured from top-of-bank to top-of-bank or using OHWM.