



CITY OF POQUOSON

PLANNING DEPARTMENT

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March 28, 2016

To: The Honorable City Council

Through: City Manager

From: Karen Holloway, Environmental Compliance Officer

Subject: **Code Amendment – Article XI.IV, Section 11.4-13(d)(2) Zoning Ordinance As It Pertains To Board of Zoning Appeals Application Fee**

Presented for your consideration and a public hearing is a request to amend Article XI.IV, Section 11.4-13(d)(2) of the Zoning Ordinance. This amendment would update the application fee and add a provision allowing an annual fee adjustment, bringing it into alignment with the existing language cited in Article I, Section 1-4(c)(2) of the City's Zoning Ordinance.

Upon consideration during their March 21, 2016 the Planning Commission recommended approval by a vote of 5 - 0.

This code amendment advertised for a public hearing in the Daily Press on March 4, 2016 and March 11, 2016.

KWH

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE ZONING ORDINANCE
BY CHANGING ARTICLE XLIV ENVIRONMENTAL
MANAGEMENT AREA (EMA) OVERLAY DISTRICT

BE IT ORDAINED by the City Council of the City of Poquoson, Virginia:

Section 1: That the Zoning Ordinance of the City of Poquoson, Virginia be amended by modifying Article XI.IV. Environmental Management Area (EMA) Overlay District:

Section 4-13 – Relief from Requirements

(d)

Exceptions. A request for an exception shall be made in writing and contain the information required in section 11.4-13(c)(2)a., b. and c. of this ordinance. Exceptions to performance standards [section] 11.4-6, use regulations [section] 11.4-9 buffer requirements [section] 11.4-12 and for expansions of existing non-conforming accessory structures or construction of new accessory structures in the RPA may be granted, provided that reasonable and appropriate conditions upon any exception granted shall be imposed as necessary so that the purpose and intent of the Chesapeake Bay Preservation Act is preserved. No exception shall be granted until after public notice is given and after a single hearing is conducted as required by Code of Virginia, § 15.2-2204. Notice to adjacent property owners may be given by first-class mail.

(1)

A request for an appeal to the requirements shall be made in writing to the board of zoning appeals within 15 days as provided for in article I, section 1-4 of the zoning ordinance. The board of zoning appeals shall identify the impacts of the proposed request on water quality and on lands within the RPA through the review of a natural resources inventory and a water quality impact assessment which complies with the provisions of section 11.4-5. The inventory assessment shall be submitted by the applicant at the time of application.

(2)

The board of zoning appeals shall review the application for an exception and/or an appeal with supporting documents and a ~~\$200.00~~ *\$250.00* application fee. *Beginning January 1, 2010, the application fee will be adjusted annually, if necessary, to reflect the consumer price index as determined by the Federal Government rounded to the next dollar.* ~~and~~ *The board of zoning appeals* may grant such relief as it deems consistent with the purpose and intent of the Chesapeake Bay Preservation Act provided that the board of zoning appeals finds

a.

The exception request is not based upon conditions or circumstances that are self-created or self-imposed. The exception must pertain to alleviating requirements imposed by the implementation of the ordinance and shall not afford a special privilege or mere convenience sought by the applicant.

- b. The physical characteristics of the property and/or existing development must be such that, in the opinion of the board, there exists no other reasonable option or location outside of the required buffer area.
- c. The exception request shall be the minimum necessary to afford relief.
- d. Reasonable and appropriate measures shall be proposed in order to maintain or reduce the predevelopment pollutant loading index of the property. The proposed development shall not effectively increase the pollutant loading index.
- e. The exception request shall be consistent with the purpose and intent of the overlay district, and not injurious to the neighborhood, detrimental to the public welfare, or of substantial detriment to water quality.
- f. Granting the exception will not confer upon the applicant any special privileges that are denied by this part to other property owners who are subject to its provisions and who are similarly situated.

(3)

If the board of zoning appeals cannot make the required findings or refuses to grant the exception, the board of zoning appeals shall return the request for the exception together with the natural resources inventory and the written findings and rationale for the decisions to the applicant.

(4)

In granting an exception, the board of zoning appeals may impose reasonable and appropriate conditions, as the board deems necessary to further the purpose and intent of the section and the Chesapeake Bay Act.

(5)

Reviews of appeals may be taken from any decision of the board rendered under this article to the circuit court pursuant to established law.

Section 2: That this ordinance shall be in effect on and after 30 days from its adoption.

ADOPTED: _____

TESTE: _____

City Clerk



CITY OF POQUOSON
Department of Community Development

MEMORANDUM

Date: March 21, 2016
To: The Honorable Chairwoman and Members of the Planning Commission
From: Community Development Department
Subject: Code Amendment – Article XI.IV, Section 11.4-13(d)(2) Zoning Ordinance As It Pertains To Board of Zoning Appeals Application Fee

Introduction

The Community Development Department continues to update portions of the Zoning Ordinance as the need becomes apparent. We currently have one section in need of updating and have prepared it for presentation to you this evening. This section is as follows:

Article XI.IV, Environmental Management Area (EMA) Overlay District, Section 11.4-13.(d)(2) Relief from Requirements

In preparing the Board of Zoning Appeals code amendments it was noted that the processing fee listed in this section of the Zoning Ordinance is outdated. The listed Board of Zoning Appeals application fee is \$200.00; however this fee was increased to \$250.00 in 2009. In addition to updating the application fee it is proposed that the language be expanded to allow for an annual adjustment of the fee if necessary. This amendment would align with the existing application fee cited in Article I, Section 1-4(c)(2) of the City's Zoning Ordinance.

Public Notice

This Code Amendment was advertised for a public hearing in the Daily Press on March 4, 2016 and March 11, 2016.