

VIRGINIA ACTS OF ASSEMBLY -- 2017 SESSION

CHAPTER 338

An Act to amend and reenact § 28.2-1408.2 of the Code of Virginia, relating to general permit for sand management in the City of Norfolk and the Sandbridge Beach Subdivision.

[H 1517]

Approved March 13, 2017

Be it enacted by the General Assembly of Virginia:

1. That § 28.2-1408.2 of the Code of Virginia is amended and reenacted as follows:

§ 28.2-1408.2. Exemptions.

A. Notwithstanding the requirements of § 28.2-1408 or any other provision of this Code, the Virginia Beach Wetlands Board (~~Board~~) shall make an ongoing determination in the Sandbridge Beach Subdivision to determine which structures or properties are in clear and imminent danger from erosion and storm damage due to severe wave action or storm surge. The owners of such structures or properties shall not be prohibited from erecting and maintaining protective bulkheads or other equivalent structural improvements of the type, size, and configuration as approved by the *Virginia Beach Wetlands Board*. As used in this section, ~~the~~ "Sandbridge Beach Subdivision" means the area that is bounded on the north by Dam Neck Naval Base, on the west by Sandpiper Road, and on the south by Little Island Park.

The *Virginia Beach Wetlands Board* shall not impose arbitrary or unreasonable conditions upon its approval of any such bulkhead or other structural improvement. The *Virginia Beach Wetlands Board* shall maintain a continuing responsibility to ensure that each bulkhead or structural improvement constructed under the authority of this section is maintained in a condition that is safe, structurally sound, and otherwise in conformity with the conditions imposed by the *Virginia Beach Wetlands Board*.

Upon submission of an application to the *Virginia Beach Wetlands Board* pursuant to this section, as a requirement for approval, the applicant must consent in writing to any subsequent construction approved by the *Virginia Beach Wetlands Board* whereby an adjacent property owner desires to tie in a bulkhead at no additional cost with the bulkhead proposed by the applicant. Such consent shall constitute a waiver of property line defenses relating to the bulkhead line.

B. 1. *The Virginia Beach Wetlands Board may develop and adopt, after holding a public hearing, a General Permit for Sand Management and Placement Profiles for properties in the Sandbridge Beach Subdivision. The Virginia Beach Wetlands Board shall publish notice of each hearing at least once a week for two consecutive weeks prior to such hearing in a newspaper having general circulation in Virginia Beach.*

2. *The Norfolk Wetlands Board may develop and adopt, after holding a public hearing, a General Permit for Sand Management and Placement Profiles for properties in the City of Norfolk. The Norfolk Wetlands Board shall publish notice of each hearing at least once a week for two consecutive weeks prior to such hearing in a newspaper having general circulation in the City of Norfolk.*

C. *Any General Permit for Sand Management and Placement Profiles adopted by a wetlands board pursuant to subsection B shall set forth sand management practices that require owners of real property in the permit area to undertake responsible, cost-effective sand management practices that (i) protect and enhance the value and use of their property and (ii) preserve and protect coastal primary sand dunes and public beaches and prevent their despoliation and destruction. The General Permit for Sand Management and Placement Profiles shall specify all permissible sand management practices, including the manner in which sand removed from these properties shall be transported to and placed upon an appropriate sand placement and spreading zone as may be designated in the Placement Profiles adopted by the wetlands board. The sand shall be in the condition of clean beach sand prior to such transport and placement. A wetlands board may from time to time revise such General Permit for Sand Management and Placement Profiles as appropriate, in accordance with this subsection and subsections B and D.*

D. *Following adoption of the General Permit for Sand Management and Placement Profiles, the owner of real property in the permit area, or the designee of such owner, may apply for coverage under the applicable General Permit for Sand Management and Placement Profile by submitting a registration statement to the local wetlands board on a form to be developed by the wetlands board requiring the following information: (i) owner's name; (ii) owner's address; (iii) owner's telephone number and email address; (iv) address of property or properties; (v) designee's name, if any; (vi) designee's address; (vii) designee's telephone number and email address; (viii) identification of the applicable Placement Profile for the property; (ix) signature of owner or designee; and (x) date of application. The wetlands board may impose a reasonable fee in connection with processing the registration statement.*

The wetlands board shall, within 30 days of receipt of a registration statement, notify the owner or his designee in writing whether the registration statement is approved or disapproved. The wetlands

board's written notice of approval or disapproval may be delivered to the applicant via email at the email address stated in the registration statement or it may be delivered via United States mail at the address stated in the registration statement, or both. If the wetlands board fails to notify the applicant in writing within 30 days of receipt of a registration statement, then the registration statement is deemed approved. If the registration statement is disapproved, the wetlands board shall provide in its notification to the applicant a complete statement of the reason for the disapproval. Notwithstanding the requirements of § 28.2-1408 or any other provision of law, if the registration statement is approved, then the applicant is authorized to manage sand in accordance with the applicable General Permit for Sand Management for a period of three years from the date of the application. The approval or disapproval of a registration statement submitted by an applicant is a decision of the wetlands board that is reviewable pursuant to § 28.2-1411.