

**BOARD OF SUPERVISORS  
COUNTY OF NEW KENT  
VIRGINIA**

**O-13-05**

At the regular meetings of the Board of Supervisors of the County of New Kent in the Boardroom of the County Office Building in New Kent, Virginia, on the 13<sup>th</sup> day of June, 2005 and the 11<sup>th</sup> day of July, 2005:

<i>Motion made by:</i>	<i>Mr. Sparks</i>	<i>Mr. Trout</i>	<i>Mr. Trout</i>	<i>Mr. Burrell</i>	<i>Mr. Hill</i>
<i>Date:</i>	<i>June 13, 2005</i>	<i>June 13, 2005</i>	<i>July 11, 2005</i>	<i>July 11, 2005</i>	<i>July 11, 2005</i>
<i>Member</i>	<u><i>Sec. 94-33</i></u>	<u><i>Sec. 94-39</i></u>	<u><i>Sec. 94-40</i></u>	<u><i>Sec. 94-42</i></u>	<u><i>Sec. 38.176</i></u>
Mark E. Hill	Aye	Aye	Nay	Aye	Aye
D. M. Sparks	Aye	Aye	Aye	Aye	Aye
James H. Burrell	Absent	Absent	Aye	Aye	Aye
Stran L. Trout	Aye	Aye	Aye	Aye	Aye
W. R. Davis, Jr.	Aye	Aye	Nay	Aye	Aye
<i>Motions carried</i>	<i>4:0</i>	<i>4:0</i>	<i>3:2</i>	<i>5:0</i>	<i>5:0</i>

**AN ORDINANCE TO AMEND SECTIONS 94-33, 94-39, 94-40 AND 94-42 OF THE CODE OF NEW KENT COUNTY (ENVIRONMENTAL-CHESAPEAKE BAY PRESERVATION AREAS) AND SECTION § 38-176 (HEALTH AND SANITATION-SEPTIC TANKS) IN ORDER TO PROVIDE A DEFINITION FOR ‘SUBSTANTIAL ALTERATION,’ TO CLARIFY THE REQUIREMENTS FOR ENVIRONMENTAL SITE ASSESSMENTS AND BUFFER AREA ENCROACHMENTS AND TO PROVIDE FOR SET BACKS FROM RPA BUFFERS, AND TO MODIFY THE REQUIREMENTS RLATED TO THE USE OF ON-SITE SEWAGE TREATMENT SYSTEMS.**

WHEREAS, the New Kent County Board of Supervisors (the “Board”) permits inspections of on-site sewage treatment systems located in Chesapeake Bay Protection Areas as an alternative to the mandatory pumping requirement of every septic tank at least every five years; and

WHEREAS, the Board desires to reference this alternative in Chapter 38 of the New Kent County Code to make it consistent with Chapter 94; and

WHEREAS, the Board desires also to adopt other amendments to Chapter 94, to clarify certain sections in accordance with recommendations made by the Chesapeake Bay Local Assistance Department and to provide for a setback from the RPA buffer; and

WHEREAS, the Board has conducted a duly advertised public hearing on this ordinance and carefully considered the comments provided at the hearing.

NOW THEREFORE BE IT ORDAINED this, the 11<sup>th</sup> day of July, 2005, by the New Kent County Board of Supervisors that the Code of New Kent County is amended as follows and as shown in italics:

**Sec. 94-33. Definitions.**

“Substantial alteration” means expansion or modification of a building or development that would result in a disturbance of land exceeding an area of 2,500 square feet *and is permitted in the Resource Management Area only.*

**Sec. 94-39. Development Criteria.**

*(8) f. The procedure for calculating stormwater management pre- and post- development loads must be the same so that comparable numbers may be obtained.*

**Sec. 94-40. Additional Development Criteria for Resource Protection Areas.**

(c)(4) Permitted encroachments into the buffer area. When the application of the buffer area would result in the loss of a buildable area on a lot or parcel recorded prior to October 1, 1989, encroachments into the buffer area may be allowed through an administrative process as set forth in Section 94-45(a) of this Article, in accordance with the following criteria [criteria a. through c. to remain the same].

*(c)(7) To ensure a useable backyard, allow for accessory structures, etc., without the need for encroachment, all structures must be set-back at least twenty (20) feet from the edge of all RPA buffer areas, provided, however, that where an encroachment into the RPA is allowed, as permitted by Section 94-45 of this Article, the setback may be reduced or eliminated.*

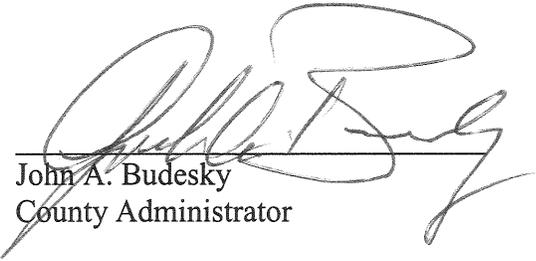
**Sec. 94-42. Plan of development process.**

(a)(4) The environmental site assessment shall be drawn at the same scale as the preliminary site plan or subdivision plat, and shall be certified as complete and accurate by a professional engineer or a certified land surveyor. The requirement *for a professional engineer or a certified land surveyor* may be waived by the Director of Planning when the proposed use or development would result in *less than 5,000 square feet of disturbed area.*

**Sec. 38-176. Septic tank pump out.**

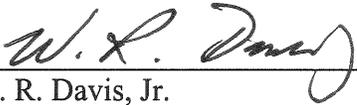
All septic tank systems not requiring an NPDES permit and located within either a resource protection area or a resource management area, as defined in chapter 94, article II of this Code shall be pumped out at least once every five years, *however, in lieu of requiring proof of septic tank pump-out every five years, owners of on-site sewage treatment systems may submit documentation every five years, certified by a sewage handler permitted by the Virginia Department of Health, that the septic system has been inspected, is functioning properly, and the tank does not need to have the effluent pumped out of it.*

This ordinance shall be effective upon the date of adoption.



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John A. Budesky  
County Administrator



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W. R. Davis, Jr.  
Chairman