

What are wetlands? Do I have tidal wetlands on my property?

Wetlands are environmentally sensitive areas that are subject to stricter regulations. A wetlands delineation may be required to identify all wetlands on your property. The area between mean low water and an elevation above mean low water 1.5 times the average tidal range make up Wetlands Board jurisdiction. These wetland areas can either be vegetated or bare – both are protected under Virginia and Poquoson laws. If you have any questions about whether your project will impact tidal wetlands, please contact the City of Poquoson, 757-868-3040.

How do I identify wetlands on my property? A wetlands delineation will need to be completed by a professional environmental consultant. The delineation will identify all tidal, non-tidal, and upland areas on your property. Depending on the project and wetlands impacts, the wetlands delineation may need to be confirmed by either the U.S. Army Corps of Engineers or by the Department of Environmental Quality (DEQ).

Why protect wetlands? Wetlands are unique landscapes that provide valuable services for the entire City including storing water to mitigate flooding, filtering water of pollutants, and providing habitat for wildlife. Wetlands are economically important in Virginia because they provide shelter and protection for young fish and crabs.

What is a Wetlands Permit? A Wetlands Permit is issued by the City of Poquoson Wetlands Board and grants permission to impact tidal wetlands. The goal of the permitting process is to limit the destruction of the wetlands while accommodating necessary economic development.

Do I need a Wetlands Board permit? If you are doing work that will impact jurisdictional tidal wetlands, you may need a permit from the City of Poquoson Wetlands Board. Other Activities are exempt from the Wetlands Board permitting

requirements but still require you to submit a permit application and obtain permits from other agencies.

How do I apply for a permit? Effective September 1, 2025 US Army Corps of Engineers (USACE) became the central point of receipt for all requests in the Commonwealth of Virginia. You must submit a Joint Permit Application (JPA) to the USACE prior to commencing any project that will impact tidal or non-tidal waters, tidal or non-tidal wetlands, and/or dune/beach resources. This includes but is not limited to construction, dredging, filling, excavation, or maintenance within these areas. USACE will then distribute your application to the Poquoson Wetland Board, Virginia Department of Environmental Quality (DEQ), and the Virginia Marine Resource Commission (VMRC) as well as additional agencies, as needed depending on the project. Each agency will review your application and will contact you if additional actions are required. The JPA is available online at: <https://rrs.usace.army.mil/rrs>. The form can either be submitted electronically or by mail to the USACE.

What happens if my project requires a permit? If Poquoson staff determines that your application requires a permit from the Wetlands Board, you will be notified by email and/or mail. Board meetings are held on the third Wednesday of the month at City Hall at 5:00 p.m. and are open to the public. Prior to being scheduled for a hearing, you must pay the \$520 application fee. A hearing must be held no later than sixty (60) days after receipt of your complete application, including payment. Additionally, Wetlands Board members will conduct site inspections of the project area prior to meeting date.

Note: As of July 1, 2020 all applications must include a detailed statement indicating if a living shoreline is suitable for shoreline management. The statement must list the reasons for such a determination.

What happens at a Wetlands Board hearing? At the hearing, staff will prepare a report and presentation on the application. The applicant and/or designated agent will have the opportunity to present their application and answer any questions from the Board members. Testimony from persons in support or opposition to the project may also be heard

After reviewing all the evidence at the public hearing, the Board may:

- Grant the permit as requested, in modified form, or with a reasonable bond;
- Deny the permit with or without prejudice;
- Request additional information from the applicant;
- Defer the decision for up to thirty (30) days.

Note: As of July 1, 2020 the VMRC and Poquoson Wetlands Board are required to permit only living shoreline approaches to shoreline management unless the best available science shows that a living shoreline isn't suitable for the site.

How does the Wetlands Board make a decision?

In deciding the case, the Board must consider the testimony of persons in support or opposition to the application; the impact on public health, safety, and welfare; and conformance with legal standards and guidelines. In order to grant the permit, the following criteria must be met:

- The anticipated public and private benefit of proposal exceeds its public and private detriment.

- The proposal conforms to the standards and guidelines. The proposal does not violate the spirit and intent of Title 28.2 of the Virginia Code and the Poquoson Wetlands Ordinance.

If any of the criteria are not met, the application must be denied by the Wetlands Board.

Approval of the application and proposal requires affirmative votes from at least four of the seven board members. If not enough votes, the application is denied but can be resubmitted in a modified form.

Can I appeal the decision of the Wetlands Board?

You may appeal the decision of the Wetlands Board within ten (10) calendar days of the Board's decision to the VMRC.

What other permits do I need from the city?

Depending on the size, location, and type of project, you may require a building permit, land disturbance permit, construction general permit, and/or Chesapeake Bay Preservation Area approval.

How long does the permitting process take?

If your project requires a Wetlands Board permit, it must be heard within 60 days of receiving your complete application. After a hearing there is a ten-day waiting period before the permit may be issued. To expedite the process, please ensure your permit application includes all the required information and provide contact information where staff can reach you in case there are additional questions.

What is the penalty if I act in a wetland without a permit?

Any person who knowingly, intentionally, negligently, or continually violates any order, rule, or regulation of the Wetlands Board or the City of Poquoson Code shall be guilty of a Class I

misdemeanor and subject to civil and criminal penalties.

What should I do if I see a violation of the Wetland Ordinance? Who can I call if I have additional questions?

Any questions regarding wetlands on your property or the permitting process, please contact the Environmental Compliance Officer at 757-868-3035. To report a violation, please use the permitting portal which is available on the city website, www.ci.poquoson.va.us or by phone 757-868-3035.

Additional Resources: Shoreline Erosion Advisory Service (SEAS) is a free program through the Department of Conservation and Recreation that provides technical assistance to property owners experiencing erosion. SEAS is available to visit your property and provide written recommendations, review plans, and provide additional information. For more information, contact: Mike Vanlandingham, Shoreline Engineer, mike.vanlandingham@dcv.virginia.gov, 804-443-1494

The Shoreline Management Handbook (<https://www.vims.edu/ccrm/advisory/ccrmp/handbook/index.php>) is maintained by the Center for Coastal Resources Management and provides information on laws/jurisdictions, permitting, and project design decision tools.



*Poquoson
Wetlands
Board*