

MEMORANDUM OF AGREEMENT

BETWEEN

CITY OF CHESAPEAKE
CITY OF VIRGINIA BEACH
HAMPTON ROADS PLANNING DISTRICT COMMISSION
VIRGINIA DEPARTMENT OF CONSERVATION AND RECREATION
VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY
VIRGINIA DEPARTMENT OF GAME AND INLAND FISHERIES
UNITED STATES ARMY CORPS OF ENGINEERS
UNITED STATES COAST GUARD
UNITED STATES FISH AND WILDLIFE SERVICE

TO

IMPROVE WATER USE CONFLICT EDUCATION FOR THE
NORTH LANDING RIVER

1. PARTIES TO THE AGREEMENT

This Memorandum of Agreement (MOA) is between the following entities:

- City of Chesapeake, Virginia
- City of Virginia Beach, Virginia
- Hampton Roads Planning District Commission
- Virginia Department of Conservation and Recreation
- Virginia Department of Environmental Quality
- Virginia Department of Game and Inland Fisheries
- United States Army Corps of Engineers
- United States Coast Guard
- United States Fish and Wildlife Service

2. ENABLING AUTHORITY

The enabling authority for the participants to enter into the MOA is contained in the following Code of Virginia and United States Code citations:

Cities of Chesapeake and Virginia Beach

Section 15.2-1300 of the Code of Virginia enables local governments to enter into agreements with one another for joint action pursuant to the provisions of the section.

Hampton Roads Planning District Commission

Section 15. 2-4205 of the Code of Virginia enables the Hampton Roads Planning District Commission to enter into all contracts or agreements, as it may determine, which are necessary and incidental to the performance of its duties and to the execution of the powers granted under this chapter.

Virginia Department of Conservation and Recreation

Section 10.1-104 of the Code of Virginia enables the Director of the Department of Conservation and Recreation to make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers, including but not limited to contracts with private nonprofit organizations, the United States, other state agencies and political subdivisions of the Commonwealth. DCR is a riparian landowner of natural area preserves dedicated under Section 10.1-213 of the Code of Virginia. Section 10.1-413.2 of the Code of Virginia designates a section of the North Landing River and its tributaries as a State Scenic River. DCR is designated as the administering agency pursuant to Section 10.1-405 of the Code of Virginia.

Virginia Department of Environmental Quality

Section 10.1-1186 of the Code of Virginia grants the Director of the Department of Environmental Quality the power, or to delegate as appropriate, to make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this chapter, including, but not limited to, contracts with the United States, other states, other state agencies and governmental subdivisions of the Commonwealth.

Virginia Department of Game and Inland Fisheries

Section 29.1-109 of the Code of Virginia grants the Director the power to make and enter into all contracts and agreements necessary or incidental to the performance of his duties and the execution of his powers, including, but not limited to, contracts with the United States, other state agencies and governmental subdivisions of the Commonwealth.

United States Army Corps of Engineers

General statutory authority allows the U. S. Army Corps of Engineers to enter Cooperative Agreements beneficial to the public that do not require funding or other commitments of resources.

United States Coast Guard

Section 13109 of Title 46 of the United States Code enables the Secretary of Transportation, in carrying out responsibilities under this chapter, to consult with State and local governments, public and private agencies, organizations and committees, private industry, and other persons having an interest in boating safety.

United States Fish and Wildlife Service

Section 661 of Title 16 of the United States Code grants the Secretary of the Interior the authority to provide assistance to, and cooperate with, Federal, State and public or private agencies and organizations in the development, protection, rearing, and stocking of all species of wildlife, resources thereof, and their habitat, in controlling losses of the same from disease or other causes, in minimizing damages from overabundant species, in providing public shooting and fishing areas, including easements across public lands for access thereto, and in carrying out other measures necessary to effectuate the purposes of said sections.

3. PURPOSE OF THE AGREEMENT

This MOA is intended to achieve two primary goals:

- To promote safe boating through an increase in public awareness of existing and potential waterway use conflicts; and
- To protect rare and unique ecosystems from damage by on-water uses by raising public awareness of the importance of these native ecosystems to the health of the River and the continued viability of this important natural and recreational resource.

The North Landing River is host to a broad range of uses. This fact combined with the narrow, winding nature of the River sets the stage for potential collisions and other conflicts between the diverse set of users. The River is a designated component of the Intracoastal Waterway (ICW). The ICW serves a wide variety of commercial and recreational craft moving up and down the Mid-Atlantic Coast. The River is also very popular for recreational power boating, canoeing, kayaking, water skiing, jet skiing and fishing. The through traffic on the ICW is forced into close proximity with other users in the upper reaches of the main stem of the River.

The North Landing River watershed contains some of the most diverse and unspoiled wetland ecosystems in Virginia. A substantial portion of the shoreline of the River and its tributaries has been purchased by The Nature Conservancy and the Virginia Department of Conservation and Recreation to protect these wetland habitats. The North

Landing River and its tributaries were designated as a State Scenic River by Chapter 490 and 891 of the 1988 Virginia Acts of Assembly and by Chapter 656 of the 1989 Virginia Acts of Assembly.

The River's narrow and curving tributaries limit visibility and the waterway is prone to accidents. Recreational safety is also at risk due to the significant increase in boat registrations and the decrease in attendance in safe boating classes. The North Landing River has the highest number of accidents within the three subwatersheds of the Southern Watershed Area. On-water activities have the potential to adversely impact these sensitive areas in several ways. Both jet and prop powered craft have the potential to damage shallow water ecosystems. Boat wake can erode fragile shoreline areas. In addition, oil and gas discharges are a source of water pollution. Finally, human intrusion and noise can disturb the flora and fauna in these wetland areas.

Many of the problems currently experienced on the River can be attributed to a lack of public awareness about the location of environmentally sensitive areas and the impact of human activities on these areas. Many users of the river may not be aware of the location of the areas along the river that are most suitable for their activities, leading to conflicts between different uses and causing damage to fragile areas of the river.

4. PUBLIC AWARENESS CAMPAIGN STRATEGY

A map depicting suggested use areas and definitions of the Use Categories are contained in Appendix A and Appendix B of this document. The public awareness campaign strategy outlined by this MOA is based on the North Landing River Water Use Categories and North Landing River Water Use Plan Map. The Categories include Low Impact Recreation, General Recreation, and Special Use/High Speed Recreation areas. These recommended water use areas are located to minimize conflicts between various water uses and to minimize adverse impacts on aquatic and shoreline ecosystems. These water use categories and recommended use area designations, however, do not apply to the channel of the Intracoastal Waterway. The intent is that the signatory agencies use the Categories and Map in boater safety education programs, literature and signage. It is not intended that the Categories and Map be used as a water zoning system or as a basis for enforcement activities.

A second aspect of the strategy involves the appropriate siting of new boat launching facilities. The intent is that new facilities should be located to minimize on-water use conflicts, and designed to minimize the visual impact on natural surroundings and adverse impacts on aquatic and shoreline ecosystems. The signatory agencies agree to consult with each other before siting such facilities. The information exchanged through this consultation will be advisory in nature and in no way limits the autonomy of the signatory agencies in making such decisions.

5. TERMS OF THE AGREEMENT

Each of the signatory entities in this cooperative regional planning effort agrees to participate on a voluntary basis in the following activities:

- Incorporate the North Landing River Water Use Plan and associated text in boater safety classes and other educational programs focused on users of the North Landing River and its tributaries;
- Consult with other signatory agencies on how best to minimize on-water conflicts and adverse impacts on aquatic and shoreline ecosystems before siting boat launching facilities;
- Participate in the development of educational materials to promote the North Landing River Water Use Plan;
- Participate in before and after surveys of users of the North Landing River to determine the suitability and effectiveness of the public education strategy;
- Participate in quarterly meetings to discuss educational efforts; and
- Participate in an evaluation of the plan after one year of implementation efforts. (If necessary the evaluation process will include restructuring of the plan based on input from users of the North Landing River.)

A committee consisting of volunteers from each of the signatory agencies will be created to develop educational materials for use in boater education programs and to assist in the performance of the North Landing User Survey.

6. REPORTING AND DOCUMENTATION

Within three months of the effective date of the Memorandum of Agreement and again one year after the effective date of the Agreement, the HRPDC will conduct surveys of users of the North Landing River to determine the suitability and effectiveness of the public education strategy. The HRPDC will also be responsible for organizing quarterly meetings of the parties to the agreement to discuss educational efforts. The HRPDC staff will record and publish meeting minutes. The HRPDC will conduct an evaluation of the plan after one year of implementation efforts among parties to the agreement. (If necessary the evaluation process will include restructuring of the plan based on input from users of the North Landing River.)

7. POINTS OF CONTACT

All parties to the Memorandum of Agreement will designate specific points of contact. These points of contact are included as Appendix D to this Agreement.

8. MODIFICATIONS

Modifications to this Memorandum of Agreement must be submitted in writing and approved by all parties to the Memorandum of Agreement.

9. EFFECTIVE DATE

The effective date of the Memorandum of Agreement shall be the date of the signing of the last party to the Memorandum of Agreement.

10. DURATION AND TERMINATION OF THE AGREEMENT

The duration of this Memorandum of Agreement will be until such time as it is terminated upon agreement of all parties; however, any party to the Memorandum of Agreement may terminate their participation by written notice to all other parties.

11. MANNER OF FINANCING

The Waterway Use Conflict Memorandum of Agreement will not require financing or budgeting from or by the signatory agencies; however, this clause will not preclude grant funding from one signatory to another for the purpose of carrying out the purposes of the Memorandum of Agreement.

12. OWNERSHIP OF PROPERTY

It is not the intent of the signatory parties that this Memorandum of Agreement will result in the purchase, ownership, holding or conveying of any real or personal property.

13. APPENDICES

- A. North Landing River Water Use Plan Map
- B. North Landing River Water Use Categories
- C. History
- D. Points of Contact

LIST OF SIGNATORIES

City of Chesapeake

City of Virginia Beach

Hampton Roads Planning District Commission

Virginia Department of Conservation and Recreation

Virginia Department of Environmental Quality

Virginia Department of Game and Inland Fisheries

United States Army Corps of Engineers

United States Coast Guard

United States Fish and Wildlife Service

SIGNATURE PAGE FOR THE CITY OF CHESAPEAKE

IN WITNESS WHEREOF, the following individuals execute this agreement

City Manager, City of Chesapeake

City Manager, City of Virginia Beach

Executive Director, Hampton Roads Planning District Commission

Director, Virginia Department of Conservation and Recreation

Director, Virginia Department of Environmental Quality

Director, Virginia Department of Game and Inland Fisheries

Norfolk District Engineer, United States Army Corps of Engineers

Commander (Aoax), 5th Coast Guard District, United States Coast Guard

Refuge Manager, Back Bay National Wildlife Refuge, United States Fish and Wildlife Service

CITY OF CHESAPEAKE

By: _____

Date: _____

Attest: _____

Date: _____

SIGNATURE PAGE FOR THE CITY OF VIRGINIA BEACH

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Refuge Manager, Back Bay National Wildlife Refuge, United States Fish and Wildlife Service

CITY OF VIRGINIA BEACH

By: _____

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**SIGNATURE PAGE FOR THE
HAMPTON ROADS PLANNING DISTRICT COMMISSION**

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HAMPTON ROADS PLANNING DISTRICT COMMISSION

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**SIGNATURE PAGE FOR THE
VIRGINIA DEPARTMENT OF CONSERVATION AND RECREATION**

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VIRGINIA DEPARTMENT OF CONSERVATION AND RECREATION

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**SIGNATURE PAGE FOR THE
VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY**

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VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

By: _____

Date: _____

Attest: _____

Date: _____

**SIGNATURE PAGE FOR THE
VIRGINIA DEPARTMENT OF GAME AND INLAND FISHERIES**

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City Manager, City of Virginia Beach

Executive Director, Hampton Roads Planning District Commission

Director, Virginia Department of Conservation and Recreation

Director, Virginia Department of Environmental Quality

Director, Virginia Department of Game and Inland Fisheries

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Commander (Aoax), 5th Coast Guard District, United States Coast Guard

Refuge Manager, Back Bay National Wildlife Refuge, United States Fish and
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VIRGINIA DEPARTMENT OF GAME AND INLAND FISHERIES

By: _____

Date: _____

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**SIGNATURE PAGE FOR THE
UNITED STATES ARMY CORPS OF ENGINEERS**

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UNITED STATES ARMY CORPS OF ENGINEERS

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Date: _____

**SIGNATURE PAGE FOR THE
UNITED STATES COAST GUARD**

IN WITNESS WHEREOF, the following individuals execute this agreement

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Director, Virginia Department of Game and Inland Fisheries

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UNITED STATES FISH AND WILDLIFE SERVICE

By: _____

Date: _____

Attest: _____

Date: _____

APPENDIX A

**NORTH LANDING RIVER WATER
USE PLAN MAP**



North Landing River Water Use Guide



VIRGINIA BEACH

Chesapeake VIRGINIA



Source of Basemap: U.S. Fish & Wildlife Service National Wetlands Inventory

APPENDIX B

NORTH LANDING RIVER WATER USE CATEGORIES

WATER USE CATEGORIES

The purpose of the water use categories is to minimize conflict between various uses and protect the North Landing River's valuable natural resources. This unique watershed contains some of the most diverse and unspoiled wetland systems in Virginia. Also, due to the physical configuration of the North Landing River, boater safety is a major concern. With the goals of safety and habitat protection in mind, the intent is that the water use categories be used for future planning and educational endeavors. These water use categories, however, do not apply to the channel of the Intracoastal Waterway.

LOW IMPACT RECREATION

Goals:

The Low Impact Recreation category is intended to achieve two primary goals. The first goal is to promote safe boating by separating low impact activities such as canoeing, kayaking and fishing from high-speed recreational activities. The second goal is to protect the sensitive and unique natural resources of the North Landing River from the potential adverse impacts of inappropriate boating activity.

Policies:

- Both jet and prop powered craft have the potential to damage shallow water ecosystems. Boat wake can erode fragile shoreline areas. In addition, oil and gas discharges are a source of water pollution. Finally, human intrusion and noise can disturb the flora and fauna in these wetland areas. Great care should be taken by boaters to avoid excess noise and wake in these areas by maintaining carefully controlled speeds and navigating in established channels where possible.
- Low Impact activities such as wildlife observation, fishing, environmental education, canoeing and kayaking should be promoted in this area.
- New boat launching facilities should be oriented toward canoe and kayak launching.

GENERAL RECREATION

Goals:

The goals for the General Recreation category are the promotion of motorized recreational activities in the safest areas and minimizing environmental impact from these activities.

Policies

- Low Impact recreational activities should be limited to through traffic in the General Recreation Area, except for stationary fishing vessels, which may be anchored in areas outside of the main channel while in the process of fishing. Persons fishing should be aware that the channel will be used by larger, motorized vehicles.
- Motorized boaters should operate at a minimum of 500 feet from the shoreline where possible.
- Motorized boating should take place at no wake speeds within 500 feet of the shoreline where possible.
- Where possible, motorized boats should operate at no wake speeds when they are within 500 feet of non-motorized craft that are passing through the General Recreation area.

SPECIAL USE/HIGH SPEED RECREATION

Goals:

The goal of the Special Use/High Speed Recreation area is to focus intense, high-speed motorized boating activities such as water skiing and jet skiing in the safest and least environmentally sensitive areas.

Policies:

- Encourage high speed recreation only in these areas.
- Discourage other forms of recreational activities in these areas to minimize conflicts.
- Vessel traffic should proceed through these areas at a slow, no-wake speed.

APPENDIX C

HISTORY

HISTORY

To protect natural resources, sensitive lands and water supplies, the cities of Chesapeake and Virginia Beach, in partnership with the Hampton Roads Planning District Commission and the Virginia Coastal Program, developed the Southern Watershed Management Program (SWAMP). SWAMP's purpose is the development of a collaborative management effort for the Southern Watershed Area. The SWA includes the watersheds of Back Bay, the Northwest River, and the North Landing River. One goal of the cities of Chesapeake and Virginia Beach is to establish a cooperative approach to raising public awareness of waterway use conflicts on the North Landing River, which is both a heavily used component of the Atlantic Intracoastal Waterway and a State Scenic River. The area under consideration includes the Chesapeake and the Albemarle Canal.

One possible approach to managing these competing uses is through a Memorandum of Agreement (MOA) among the agencies with management responsibilities. This MOA addresses competing waterway uses including commercial vessels, waterskiing and jet ski activities, non-motorized watercraft and sensitive natural resources. The MOA focuses on a cooperative public education effort on waterway uses and protecting the extensive and sensitive land holdings of the Department of Conservation and Recreation and The Nature Conservancy. The methodology incorporated in the HRPDC study Managing Multiple Recreational Use Conflicts in the Waters of Hampton Roads (Volumes I and II) has been used to develop the proposed management system to be embodied in the MOA.

In order to develop a Waterway Use Conflict MOA, the HRPDC coordinated the formation of a committee in January 1999 of potential signatory agencies. The committee's objectives were to:

- Create a better understanding of the existing problems on the North Landing River;
- Establish recommended use areas for the North Landing River (Low Impact Recreation, General Recreation, and Special Use/High Speed Recreation areas);
- Define safety issues due to conflicts between various on-water activities and uses that take place on the North Landing River and its tributaries;
- Identify appropriate siting of launch facilities (such as boat ramps and marinas);
- Determine goals of the MOA:
 - Addressing identified boating safety issues;

- Reducing existing and potential waterway use conflicts;
 - Preserving the integrity of the natural resources of the North Landing; and
 - Enhancing the recreational experience for all users.
- Create Water Use Plan and explanation of water use classifications;
 - Implement signage for educational purposes; and
 - Build consensus on text of MOA by all potential parties.

Waterway Use Conflict Committee Members:

Mr. Clay Bernick, City of Virginia Beach, Dept. of Planning
 Ms. S.K.B. (Kris) Dougherty, VDGIF, State Game Warden
 Ms. Jerry Hoddinott, City of Chesapeake, Dept. of Public Utilities
 Mr. Fred Hazelwood, Park Manager, First Landing State Park
 Mr. Peter Fay, USCG Auxiliary
 Ms. Christie Glenn, Hampton Roads Planning District Commission
 Mr. Rick Henderson, Corps of Engineers
 Ms. Laura McKay, Dept. of Environmental Quality
 Mr. Erik Molleen, First Landing State Park
 Mr. Jack Nourie, USCG Auxiliary and HRRBSC
 Ms. Peg Nourie, USCG Auxiliary and HRRBSC
 Ms. Jaleh Pett, City of Chesapeake, Dept. of Planning
 Mr. Steve Phillips, USCG and HRRBSC
 Ms. Amy Ring, Hampton Roads Planning District Commission
 Mr. John Stasko, Back Bay Natl. Wildlife Refuge
 Ms. Caryl Thompson, City of Virginia Beach, Parks and Recreation
 Mr. Phil Roehrs, City of Virginia Beach, Office of Beach Management
 Mr. Joel Scussel, Corps of Engineers
 Mr. Hugo Valverde, Hampton Roads Planning District Commission
 Mr. Brian Van Eerden, The Virginia Chapter, The Nature Conservancy
 Mr. Eric Walberg, Hampton Roads Planning District Commission

APPENDIX D
POINTS OF CONTACT

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Mr. Fred Hazelwood
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Lieutenant Diane Gawrys
State Game Warden
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