

A. Recurrent/Nuisance Flooding - Mandate Disclosure (Creation of Virginia Code Statute 55-519.5)

In recent years, the issue of sea level rise, recurrent and or nuisance flooding has become a significant topic of discussion and study. During the 2014 Virginia General Assembly Session, Senate Joint Resolution 3 and House Joint Resolution 16 were approved creating an *“11-member joint subcommittee to formulate recommendations for the development of a comprehensive and coordinated planning effort to address recurrent flooding. The joint subcommittee must submit its report to the Governor and the 2016 Regular Session of the General Assembly.”*

Many studies have substantiated the need for State involvement, including the report made on July 28, 2014 by the National Oceanic and Atmospheric Administration (NOAA). On that date NOAA released a report entitled *“NOAA: ‘Nuisance Flooding’ an increasing problem as costal sea level rise”*. This study examined over 60-years of data on costal water level and local elevation data changes. Within this report NOAA states:

“Eight of the top 10 U.S. cities that have seen an increase in so-called “nuisance flooding”--which causes such public inconveniences as frequent road closures, overwhelmed storm drains and compromised infrastructure--are on the East Coast, according to a new NOAA technical report. This nuisance flooding, caused by rising sea levels, has increased on all three U.S. coasts, between 300 and 925 percent since the 1960s.”

“The extent of nuisance flooding depends on multiple factors, including topography and land cover. The study defines nuisance flooding as a daily rise in water level above the minor flooding threshold set locally by NOAA’s National Weather Service, and focused on coastal areas at or below these levels that are especially susceptible to flooding. The report concludes that any acceleration in sea level rise that is predicted to occur this century will further intensify nuisance flooding impacts over time, and will further reduce the time between flood events.”

Among many other organizations and universities studying this matter is Larry P. Atkinson, and his colleagues who are affiliated with Old Dominion and Norfolk State Universities. Their collaborative study was published in the *“Sea Grant Law and Policy Journal – Volume 5, No.2 in 2013.”* Their study focused on the wide spread effects sea level rise has on coastal communities across the globe due to flooding, storm surges, and other consequences associated with this matter. In this report these researchers concluded:

“Nowhere is this more apparent than the Norfolk/Virginia Beach region along the U.S. Atlantic coastline, where the sea level is rising more rapidly than the global average...”

“...Now sea level is rising more rapidly and the threat will only increase. The legal property issues will be significant and will affect the way communities adapt. In addition to the scientific studies of climate change and sea level rise, an important issue is communicating the scientific results and the nature of increased coastal flooding threat to the public and to decision makers.”

Portsmouth is definitely one of the locality's that is impacted by sea level rise and recurrent nuisance flooding. Under the new flood maps, should a Category 3 hurricane come through Hampton Roads, over 75% of the property in Portsmouth would be flooded. But even without a major hurricane, Portsmouth is subject to flooding just from heavy rainstorms.

One of the charges given to the Joint Subcommittee on Flooding is to:

“...recommend short-term and long-term strategies for minimizing the impact of recurrent flooding...”

The Portsmouth City Council suggests that this Joint Subcommittee consider recommending legislation (Code of Virginia Statute 55-519.5) that would make it mandatory to provide to all prospective buyers of a property, a list of all flood damages to a prospective property in which a claim was made. Providing this homebuyer protection through mandated disclosure laws, will enable consumers to make informed decisions on whether or not to purchase a property in a particular area, and the amount of flood mitigation efforts that may have to be undertaken if they decide to purchase the impacted property.