

Chesapeake Bay Preservation Area Ordinance Specifications Manual

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I. Purpose and Effect

These regulations are adopted pursuant to Article IX of Chapter 26 of the Chesapeake City Code, (“CBPA District ordinance”). They are intended to supplement the CBPA District ordinance with administrative procedures, specifications, guidelines, techniques, and remedial actions. Unless otherwise indicated herein, these regulations shall be deemed binding. In case of conflict with any other ordinance or regulation, the more stringent provision will control. These regulations may only be amended by City Council except that the City Manager’s Designee may make minor amendments relating to: i) administrative procedure; ii) nonbinding guidelines; iii) methods of measurement and calculation; iv) contents of plans and applications; v) delegation of approval authority; and vi) other changes that do not substantially affect the extent or conditions of development under the CBPA District ordinance and that are not inconsistent with purpose and intent of such ordinance.

II. Definitions

The following words and terms used in this Manual have the following meanings, unless the context clearly indicates otherwise. Words and terms not defined in this ordinance but defined elsewhere in the Chesapeake City Code or the Chesapeake Zoning Ordinance shall be given the meanings set forth therein.

Accessory structure shall have the meaning prescribed in the Chesapeake Zoning Ordinance, except that no more than one detached structure located within six feet of the principal building shall be permitted. In the case of a swimming pool,

the six-foot maximum distance of separation shall be measured from the pool wall closest to the principal building.

Agricultural lands means those lands used for the planting and harvesting of crops or plant growth of any kind in the open; pasture; horticulture; dairying; floriculture; or raising of poultry and/or livestock. The term shall not include property on which qualified silvicultural activities are conducted.

Applicant means any person submitting any application required or permitted pursuant to the provisions of this Manual and the CBPA District ordinance.

Best Management Practices or BMPs means a practice or a combination of practices that is determined by the Department of Development and Permits to meet or exceed the water quality objectives set out in the CBPA District ordinance and designed in accordance with the Chesapeake Public Facilities Manual.

Board or CBLAB means the Chesapeake Bay Local Assistance Board or succeeding state board or commission.

Buffer or buffer area means an area of natural or established vegetation managed and preserved to protect other components of the Resource Protection Area and state waters from significant degradation due to land disturbance or development.

Chesapeake Bay Preservation Area, CBPA District or District means those areas delineated on the CBPA Map and the IDA Map as one of the following: (a) Resource Protection Area (RPA), (b) Resource Management Area (RMA) and (c) Intensely Developed Area (IDA). The CBPA District shall also include areas designated RPA or RMA as a result of an approved field delineation as provided in City Code Sections 26-516 and 26-517.

Chesapeake Bay Preservation Area Board or CBPA Board means the board established or designated by City Council to:

- 1) consider appeals from administrative determinations;
- 2) consider requests for exceptions to the provisions of the CBPA District ordinance;
- 3) impose agreed upon civil penalties for violation of the CBPA District ordinance; and
- 4) order correction of violations of the CBPA District ordinance through restoration of the CBPA.

Chesapeake Bay Preservation Area Map or CBPA Map means the map adopted by City Council and incorporated into the CBPA District ordinance to delineate the boundaries of the CBPA District. The boundaries of the CBPA District shown on the CBPA Map shall be subject to refinement by approved field surveys as provided in the CBPA District ordinance.

Chesapeake Bay Preservation Area Review Committee or CBPA Review Committee means the administrative committee consisting of City staff appointed by the City Manager's Designee for the primary purpose of 1) reviewing and acting upon certain administrative approvals, exemptions and waivers permitted under the CBPA District ordinance; and 2) making recommendations to the CBPA Board on requests for exceptions to the provisions of the CBPA District ordinance. Other duties are specified in the ordinance.

Chesapeake Bay Preservation Area Specifications Manual, CBPA Specifications Manual, or Manual means this document setting out administrative procedures, specifications, guidelines, techniques and remedial actions. The term shall also include substantial amendments to this document approved by City Council and minor amendments approved by the City Manager's Designee. Minor amendments are those that do not substantially affect the extent or conditions of development permitted under the CBPA District ordinance and that are not inconsistent with the purpose and intent of such ordinance.

City Manager's Designee means any officer, department head or other employee designated by the City Manager to interpret, administer or enforce the CBPA District Ordinance. There may be one or more designees. This term shall also include designees of the City Manager's Designee, which may include the CBPA Review Committee or one or more members of City staff. The City Manager's Designee shall also:

- (1) Resolve CBPA district boundary disputes;
- (2) Approve delineations, including determinations of perennial flow and perennial water body;
- (3) Act on requests for development in the RMA, including RMAs located wholly or partially in the IDA;
- (4) Act on requests for construction access points under subsection 26-520(b)(7) below;
- (5) Act on requests to remove vegetation from the RPA buffer under subsection 26-520(b)(7);
- (6) Act on requests for exemptions, waivers and other administrative approvals not expressly delegated to the CBPA review committee or the CBPA board;
- (7) Modify requirements for water quality impact assessments;
- (8) Act on requests for approval of water dependent facilities as defined herein; and
- (9) Make minor amendments to the CBPA Specifications Manual.

Construction footprint means the area of all impervious surface, including but not limited to, areas to be improved with buildings, roads, drives, parking areas, sidewalks, pools, decks, porches, sheds, and other structures and improvements, other than fences, subject to the CBPA regulations promulgated by CBLAB.

Development means the construction or substantial alteration of residential, commercial, industrial, institutional, recreational, transportation or utility facilities, buildings or structures, other than fences.

Diameter at Breast Height, or DBH, means the diameter of a tree measured outside the bark at a point four and one-half (4.5) feet above the ground, as determined by the Director of Development and Permits, or designee.

Dripline means a vertical projection to the ground surface from the furthest lateral extent of a tree's leaf canopy. Where a tree's leaf canopy has been altered by trimming, pruning or breakage, the dripline shall be determined by the Director of Development and Permits, or designee.

Highly erodible soils mean soils (excluding vegetation) with an erodibility index (E) from sheet and rill erosion equal to or greater than eight. The erodibility index for any soil is defined as the product of the formula $RKLS/t$, where K is the soil susceptibility to water erosion in the surface layer; R is the rainfall and runoff; LS is the combined effects of slope length and steepness; and T is the soil loss tolerance.

Highly permeable soils means soils with a given potential to transmit water through the soil profile. Highly permeable soils are identified as any soil having a permeability equal to or greater than six inches or water movement per hour in any part of the soil profile to a depth of 72 inches (permeability groups "rapid" and "very rapid") as found in the "National Soil Survey Handbook" of November 1966 in the "Field Office Technical Guide" of the U.S. Department of Agriculture Natural Resources Conservation Service.

Impervious cover means a surface composed of any material that significantly impedes or prevents natural infiltration of water into the soil. Impervious surfaces include, but are not limited to, roofs, buildings, structures, (other than fences) streets, roads, drives parking areas, sidewalks and any concrete, asphalt or compacted gravel surface, as well as the area of any swimming pool, as measured by water surfaces, decks and concrete surfaces.

Infill means utilization of vacant land in or primarily surrounded by developed areas.

Intensely Developed Area or IDA means designated redevelopment areas of the City adopted pursuant to the Chesapeake Bay Preservation Act and regulations promulgated by CBLAB thereunder, as designated on the IDA Map.

Land disturbance in the CBPA District means any activity upon land which causes, contributes to, or results in the removal or covering of the vegetation upon such land, or the disturbance of unvegetated soils, including but not limited to, clearing, dredging, filling, grading or excavating. The term shall not include minor activities such as home gardening, individual landscaping and home maintenance, as determined by the City Manager's Designee; nor shall it include bona fide

silvicultural activities, which are exempt from the provisions of Chapter 26 of the City Code. Bona fide agricultural operations on agricultural lands located within the CBPA District shall be subject to separate standards, set out in the CBPA District ordinance, from those applicable to other land-disturbing activities.

Lot Coverage means the impervious area of any lot or parcel including, but not limited to buildings, drives, parking areas, sidewalks, patios, decks, and similar structures, other than fences.

Mitigation means acts necessary to prevent, limit or remedy conditions that may degrade water quality. The term shall not be given the same meaning as in federal and state wetlands laws and regulations, unless expressly stated herein.

Non-point source pollution means pollution consisting of constituents such as sediment, nutrients, and organic and toxic substances from diffuse sources, including, but not limited to, runoff from developments or operations on agricultural lands.

Nontidal wetlands means those wetlands other than tidal wetlands that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, as defined by the U. S. Environmental Protection Agency pursuant to Section 404 of the Federal Clean Water Act, as amended, and as further described in 33 CFR § 328.3b, as amended, as determined by the City Manager's Designee.

Noxious weeds mean weeds that are difficult to control effectively, such as Johnson grass (*Sorghum halepense*), kudzu (*Pueraria Montana*), common reed (*Phragmites australis*), and multiflora rose (*Rosa multiflora*), as determined by the City Manager's Designee.

Ordinance means Article IX of Chapter 26 of the Chesapeake City Code; this Manual; the CBPA Map and/or the IDA Map.

Perennial flow means water flows continuing throughout the year without interruption, as determined by the City Manager's Designee, in accordance with this Manual.

Perennial water body means a body of water that flows in a natural or man-made channel year-round during a year of normal precipitation. This includes, but is not limited to streams, estuaries, and tidal embayments and may include drainage ditches or channels constructed in wetlands or from former natural drainageways, which convey perennial flow. Lakes and ponds, through which a perennial stream flows, are a part of the perennial stream. Generally, the water table is located above the streambed for most of the year and groundwater is the primary source for stream flow. This definition shall not include qualifying roadside drainage ditches in public rights-of-way or easements; active agricultural ditches meeting best management practices approved by the Virginia Dare Soil and Water Conservation

District; and certain flood control and BMP facilities, all in accordance with the standards set out in CBLAB Regulations and guidance documents

Person means an individual, fiduciary, agent, corporation, firm, partnership, limited liability company, association, organization or any other entity or combination thereof.

Plan means a complete set of documents required by the City Manager's Designee, the CBPA Review Committee or the CBPA Board to review applications or requests for land disturbance or for the division or development of property in the District.

Plat means a physical survey setting out in graphic form the division, or proposed division, of property. The features shown on such plat shall be those required by the Chesapeake City Code and the Chesapeake Zoning Ordinance and such additional features as may be required by regulations and policies implementing such ordinances.

Principal building shall have the same meaning as set out in the Chesapeake Zoning Ordinance, except that for purposes of the Ordinance and this Manual, there shall be no more than one detached structure located within six (6) feet of the primary building supporting the principal use.

Public Facilities Manual, or PFM refers to guidance, specifications, and techniques made available to the public by the Department of Development and Permits, including any and all updates.

Public road means a publicly owned road designed and constructed in accordance with water quality protection criteria at least as stringent as requirements applicable to the Virginia Department of Transportation. This definition includes those roads where the Virginia Department of Transportation exercises direct supervision over the design or construction activities, or both, and cases where secondary roads are constructed or maintained, or both, by a local government in accordance with the standards of that local government.

Redevelopment means the process of developing land which is, or has been, previously developed.

Regional Best Management Facilities or Regional BMPs means stormwater management facilities that drain or treat water from multiple development projects or from a significant portion of a watershed.

Resource Management Area or RMA means that component of the CBPA District that is not classified as the Resource Protection Area. The RMA includes land types that, if improperly disturbed, used or developed, have the potential for causing significant water quality degradation or for diminishing the functional value of the Resource Protection Area.

Resource Protection Area or RPA means that component of the CBPA District comprised of tidal wetlands; tidal shores; nontidal wetlands connected by surface flow and contiguous to tidal wetlands or water bodies with perennial flow; and such other areas that have an intrinsic water quality value due to the ecological and biological processes they perform or are sensitive to impacts which may result in significant degradation to the quality of state waters.

Silvicultural activities means forest management activities, including but not limited to, the harvesting of timber, the construction of roads and trails for forest management purposes, and the preparation of the property for reforestation, that are conducted in accordance with the silvicultural best management practices developed and enforced by the State Forester pursuant to Section 10.1-1105 of the Code of Virginia, as amended, and that are located on property qualifying as "real estate devoted to forest use" under Section 58.1-3230 of the Code of Virginia, as amended.

Substantial alteration means expansion or modification of a building or structure (other than fences), or any other development that would result in a disturbance of land exceeding 2,500 square feet in the RMA.

Surface flow means the flow of water normally associated with wetlands hydrology. The term pertains to the saturation or inundation of the surface of the ground. Water must be visually observable at the top of the uppermost soil horizon, excluding organic litter or "duff," for a period of 35 consecutive days between the dates of March 3 and December 7. When saturation to the surface of the ground is in question, it shall be considered present, when the water level in an open, unlined bore hole is at or on the top of the uppermost soil horizon. Mere runoff shall not be deemed surface flow.

Tidal shore or shore means land contiguous to a tidal body of water between the mean low water level and the mean high water level.

Tidal wetlands means vegetated and nonvegetated wetlands as defined in Section 28.2-1300 of the Code of Virginia, as amended.

Tree group or tree stand means a group of two or more trees which have trunks or canopies in close proximity to one another, as determined by the City Manager's Designee.

Water-dependent facility means development of land that cannot exist outside of the Resource Protection Area (RPA) and must be located on the shoreline by reason of the intrinsic nature of the proposed activity or use. These facilities include, but are not limited to:

- (1) Ports;
- (2) The intake and outfall structures of power plants, water treatment plants and storm sewers;
- (3) Marinas and other boat docking structures;

- (4) Beaches and other public water-oriented recreation areas;
- (5) Public observation decks;
- (6) Fisheries or other marine resource facilities;
- (7) Shoreline protection measures; and
- (8) Wetlands restoration areas that have received preliminary or final approval from all regulating federal and state agencies, provided that the restoration area does not function as a BMP; all as approved by the city manager's designee.

Wetlands mean tidal and nontidal wetlands, as defined in Chapter 26 of the City Code.

III. City Manager's Designee

City Manager's Designee is a term used in the CBPA District ordinance to mean any officer, department head, or other employee designated by the City Manager to interpret, administer or enforce the Ordinance, including this Manual. There may be one or more designees. This term may also refer to designees of the City Manager's Designee, including the CBPA Review Committee or one or more members of City staff.

1. The Director of Planning, or designee, shall serve as the City Manager's Designee responsible for the following:
 - a. Review and resolve disputes in CBPA boundaries under Section 26-517 of the Ordinance;
 - b. Review and act upon requests for development or redevelopment within the RMA, including RMAs that are located wholly or partially in the IDA;
 - c. Review and act upon requests for exemptions, waivers and other administrative approvals not expressly delegated to the CBPA Review Committee or the CBPA Board;
 - d. Modify and evaluate Water Quality Impact Assessments under Section 26-523 of the City Code, in coordination with the Director of Development and Permits or designee;
 - e. Review and act upon requests for approval of water dependent facilities, as defined herein;
 - f. Make minor modifications to this Manual;
 - g. Review Joint Permit Applications (JPAs) in accordance with Army Corps of Engineers specifications for any impacts to the CBPA buffer area;

- i. Electronic Joint Permit Applications (JPAs) received are reviewed for any impacts to the CBPA buffer area, and an electronic file and letter is created with any stipulations for approval.
 - ii. For water dependent structures, refer the applicant to the Virginia Marine Resource Commission (VMRC) to file a JPA.
- h. Interpret and implement the CBPA District ordinance, including this Manual;
- i. Appoint City staff members to serve on the CBPA Review Committee, including two staff members from the Planning Department; three staff member from the Department of Development and Permits (one staff member from Development Engineering, one staff member from the Zoning Administration, and the Landscape Coordinator); one staff member from the Department of Public Works (Environmental Quality Division); one staff member from the Department of Parks, Recreation and Tourism; and one non-voting staff member from the City Attorney's Office;
- j. Review and approve RPA field delineations, under Section 26-517 of the Ordinance and in accordance with the following procedures:

Planning designee conducts initial evaluation of RPA delineation against the following resources:

1. City of Chesapeake Chesapeake Bay Preservation Area Map;
2. U.S. Fish & Wildlife Service National Wetlands Inventory;
3. Most recent topographic information from USGS topographic maps and/or City of Chesapeake LIDAR data; and
4. Most recent aerial photography

For RPA delineations that include perennial water bodies, refer to Section 26-517 of the Chesapeake City Code, and Section VI of the City of Chesapeake CBPA Ordinance Specifications Manual.

If there are apparent discrepancies between the RPA delineation provided by the applicant and possible RPA features indicated by the above-referenced mapping resources, public works designee shall perform further in-field investigation to determine whether revision to the RPA delineation is required, and advise the applicant of necessary revisions.

If there are no apparent discrepancies, then planning designee shall approve the RPA delineation provided by the applicant.

- k. Make determinations regarding designation of perennial flow and perennial water bodies pursuant to Section 26-517 of the City Code, in coordination with the Director of Public Works or designee;
 - l. Review and approve tree canopy calculations for buffer encroachments under Sections 26-520 and 26-521 of the City Code, in coordination with the Director of Development and Permits or designee;
 - m. Assist in developing restoration requirements, in coordination with the Director of Development and Permits or designee;
 - n. Review and approve wetland restoration areas, according to Section 26-515 in the definition of water dependent facility;
 - o. Carry out any and all duties assigned in the CBPA District ordinance or by a City Manager's Designee.
2. The Chesapeake Bay Preservation Area (CBPA) Review Committee is assigned the following duties:
- a. Review and act upon applications for land disturbance, development and redevelopment activities conducted wholly or partially in the RPA, including portions in the IDA;
 - b. Review and act upon redevelopment activities outside the IDA meeting the requirements in Section 26-519;
 - c. Review and act upon development or redevelopment activities within the IDA meeting the requirements in Section 26-519;
 - d. Review and act upon requests for roads or driveways meeting the requirements set forth in Section 26-519;
 - e. Review and act upon requests for flood control or stormwater management facilities meeting the requirements set forth in Section 26-519;
 - f. Make recommendations to the CBPA Board for exception requests (Section 26-528(d)); and
 - g. Carry out any and all duties assigned in the CBPA District ordinance or by the City Manager or a City Manager's Designee (Section 26-518(q)).

3. The Chesapeake Bay Preservation Area Board shall have the following duties:
 - a. Hear and decide requests for exceptions;
 - b. Hear and decide appeals of decisions rendered by the City Manager's Designee or the CBPA review Committee under Section 26-528(e);
 - c. Impose agreed upon civil charges for violations under Section 26-530(f);
 - d. Order restoration of the CBPA District under Section 26-530(h); and
 - e. Carry out any and all duties assigned to the CBPA Board in the CBPA District ordinance or by City Council.
4. The Development and Permits Director shall serve as the City Manager's Designee in performing the following duties:
 - a. Review and act upon CBPA stormwater calculations;
 - b. Review and approve stormwater management facilities and BMPs;
 - c. Issue certification by memorandum that existing stormwater management facilities have sufficient capacity and are in good working order;
 - d. Make determinations regarding the practicability of using low-impact paving alternatives in the IDA;
 - e. Review and act upon access points during construction under Section 26-520(b)(1)c. of the City Code;
 - f. Determine noxious weeds;
 - g. Determine whether existing vegetation can be removed from the RPA buffer under the provisions of Section 26-520(b)(7)c.1., in coordination with the Director of Planning or designee;
 - h. Carry out any and all duties assigned to the Director or Department of Development and Permits in the CBPA District ordinance or by the City Manager or a City Manager's Designee.
5. The Director of Public Works shall serve as the City Manager's Designee in performing the following duties:
 - a. Make determinations regarding designation of perennial flow and perennial water bodies pursuant to Section 26-517 of the City Code, in coordination with the Director of Planning or designee;

- b. If there are apparent discrepancies between the RPA delineation provided by the applicant and possible RPA features indicated by the above-referenced mapping resources, public works designee shall perform further in-field investigation to determine whether revision to the RPA delineation is required, and advise the applicant of necessary revisions;
 - c. Conduct inspections and issue notices of violation to all persons causing or permitting violations of the CBPA District ordinance, including these regulations and any stipulations imposed as a condition of approval;
 - d. Issue stop work orders to all persons causing or permitting violations of the CBPA District ordinance;
 - e. Order correction of violations by restoration of the property as necessary to protect water quality and take other corrective action, such as issuing criminal summons or seeking injunctive relief In coordination with the Director of Planning or designee;
 - f. Fulfill any and all duties relating to enforcement of the CBPA District ordinance, including this Manual, orders and conditions of approval; and
 - g. Carry out any and all duties assigned to the Director of Public Works or designee, in the CBPA District ordinance or by the City Manager or a City Manager's Designee.
6. The Chairman of the Board of the Virginia Dare Soil and Water Conservation District, or designee, may voluntarily serve as the City Manager's Designee in performing the following duties:
- a. Review and act upon requests to encroach into the 100-foot RPA buffer for agricultural activities in accordance with Section 26-520(b)(7)d. of the City Code; and
 - b. Coordinate with the Director of Public Works, or designee to issue notices of violation and implement compliance schedules for all persons causing or permitting violations of the CBPA District ordinance on agricultural lands.

IV. Chesapeake Bay Preservation Area (CBPA) Review Committee

The Chesapeake Bay Preservation Area (CBPA) Review Committee has been formed to review land-disturbance, development, and redevelopment activities conducted wholly or partially within the RPA, including portions in the IDA.

Land-disturbance, development, and redevelopment plans in the RPA shall be submitted to the CBPA Review Committee for review, and depending on the nature of the request, to make recommendations to the CBPA Board or to take final action. The City Manager's Designee (Director of Planning or designee) shall appoint the members of the CBPA Review Committee, and serve as chairperson to schedule applications and conduct meetings. The CBPA Review Committee may adopt rules of procedure to guide its conduct.

The CBPA Review Committee shall take final action on proposed land-disturbance, development or redevelopment in the RPA where 1) requested under the CBPA ordinance Section 26-519; 2) requested under Section 26-520(b)(7)b.2. or b.3. of the CBPA ordinance; 3) requested for the IDA under Section 26-521 of the CBPA ordinance; 4) requested under Section 26-525 of the CBPA ordinance; 5) requested under Section 26-526(d) of the CBPA ordinance; and 6) any other approvals delegated under the CBPA ordinance or by the City Manager's Designee. Final decisions shall be in writing and shall state conditions of approval or reasons for denial. Any final action of the CBPA Review Committee may be appealed to the CBPA Board in writing within ten days of the date of the written determination.

V. CBPA Exception Application Requirements

A. A completed CBPA application must be submitted prior to formal consideration by the CBPA Review Committee and Board. The CBPA Review Committee will not take action on applications which the City Manager's Designee deems incomplete or which are contingent on rezonings or other legislative approval. Unless exempted below, the applicant shall provide the following materials for all CBPA Exception Applications:

1. A CBPA Exception Application shall be submitted through the City's eBUILD system under "Planning" applications found at <https://aca3.accela.com/Chesapeake/> All information listed in items 2 through 8 below shall be included.
2. A site plan, survey, or plat of the proposed development drawn to scale. The plan, survey, or plat of the proposed development shall be prepared by a certified surveyor, architect, landscape architect, or engineer, drawn to scale, depicting all existing and/or proposed buildings; roads; stormwater and flood control facilities; trees, shrubs and other landscaped areas; structures, including but not limited to, porches, stoops, steps, bay windows, signs, sheds, decks, patios, and roof overhangs; sidewalks and driveways; pools; and any other impervious surface or land disturbance other than fences, to be conducted, constructed, or located on the property. The plan survey or plat shall also depict any required zoning setbacks for the proposed development. The plan, survey, or plat shall also depict delineated RPA and the vertical datum used to calculate, and the relation of each existing and proposed building, structure or other facility, including

BMPs, proposed landscaping and vegetation, and areas of land disturbance, in the CBPA District.

3. Any additional drawings, exhibits, pictures, or information to assist the CBPA Board in making their decision, including cross-sections of any proposed BMP or engineered mitigation, pursuant to Section 26-518(j)
 4. The list of addresses of adjacent property owners.
 5. Stamped #10 (4 1/8" x 9 1/2") envelopes. Pre-stamped, dated envelopes from a postage machine shall not be used. Envelopes shall not include a return address.
 6. For applications to be reviewed by the CBPA Review Committee or the CBPA Board, a filing fee as specified in the annual budget ordinance is required per lot for which relief is sought. Application fees can be satisfied directly through eBUILD or via check. Checks shall be made payable to *City of Chesapeake*.
 7. For applications to be reviewed by the CBPA Board, in addition to the filing fee, the applicant is responsible for all newspaper advertising cost for public hearing notification. The applicant will be billed separately for these costs. Costs are for required advertisements for the CBPA Board.
 8. If required per Section 26-523 of the CBPA ordinance, a water quality impact assessment, meeting the requirements of Section 26-523 of the CBPA ordinance shall be required for any land disturbance, development or redevelopment activity within the RPA. This requirement may be modified by the City Manager's Designee for the activities listed in Section 26-519 of the CBPA ordinance.
- B. All exceptions granted shall expire 5 years from the date of issuance unless the use, building or structure is completed within the 5 year period or unless extended by the Board. (Sec. 26-528(j)).
- C. A building permit application shall be submitted for any building, structure, development or redevelopment within the District for which a building permit is required under the Chesapeake City Code or the Chesapeake Zoning Ordinance, other than fences. For developments not requiring a building permit, a CBPA exception application may still be required. CBPA approval does not negate the need for authorization from any other agencies or departments. Applicant must obtain necessary approvals from all other appropriate regulatory agencies, as applicable.

- D. An application for a nonconforming waiver under Section 26-525 of the City Code shall be made to CBPA Review Committee upon forms furnished by the Planning Department and shall include the following information:
1. Name and address of applicant and property owner;
 2. Legal description of the property and type of proposed use and development or construction;
 3. A sketch of the dimensions of the lot or parcel, location of buildings and proposed additions relative to the lot lines, and boundary of the RPA, including the one hundred (100) foot RPA buffer; and
 4. Location and description of any existing private water supply or sewage system.

VI. Delineation of the Resource Protection Area (RPA)

The RPA delineation is required for all development within the Chesapeake Bay Preservation Area District. For tidal areas, the RPA shall be measured from the four-foot (4') elevation mark, based upon 1929 National Geodetic Survey (NGS) vertical datum, 1972 adjustment or by the three-foot (3') elevation for the NAVD 88 Source. The RPA delineation shall follow this four-foot or three-foot elevation line and the 100-foot buffer shall be measured from that line. The vertical datum that is used shall be clearly noted on the development plan.

For non-tidal wetlands connected by surface flow to tidal wetlands or to a perennial water body, the RPA shall be based on an approved wetlands delineation, with the 100-foot buffer to be measured from the landward edge of the delineated wetlands area.

The delineation of the RPA shall also include any necessary determinations of "perennial water bodies," using the most recent U.S. Geological Survey (7 1/2 minute topographic quadrangle map (scale 1:24,000)). The U.S. Geological Survey may only be rebutted by an in-field survey using a scientifically valid system of field indicators of perennial flow, approved by the City Manager's Designee. The determination of the City Manager's Designee in accepting an in-field survey shall conform with CBLAB regulations and guidance documents. In addition, the City Manager's Designee may require an in-field survey where observable conditions or mapping sources indicate that an RPA feature may exist.

In cases where the RPA is determined by a perennial water body (with no surface flow connection to non-tidal wetlands), the RPA shall be measured from the landward top edge of the stream, ditch or other water body.

The RMA area is the area adjacent to the RPA, as designated on the CBPA Map adopted by City Council. The RMA area must be delineated on the site plan for all development within the CBPA District.

All lots greater than 12,000 square feet in total lot area created by recordation of a subdivision plat on or after March 1, 2002, shall have at least seventy-five (75%) of the required lot area located landward of the RPA 100-foot buffer. All lots 12,000 square feet or less in total lot area created by recordation of a valid subdivision plat on or after March 1, 2002, shall have at least eighty percent (80%) of the required lot area located landward of the RPA 100-foot buffer. In no event shall lot area reductions given for open space dedication under Section 19-700 et seq. of the Zoning Ordinance be applied to lots located wholly or partially in the RPA.

VII. CBPA Canopy Requirements

- A. Definitions and minimum sizes for large canopy trees, small canopy trees and woody shrubs shall be the same as set out in the Chesapeake Landscape Specification Manual. Conversion rates shall be as follows: two small canopy trees or ten mulched shrubs (18-24 inches minimum height at planting or of a 3-gallon size) may be substituted for one large canopy tree. Notwithstanding this conversion rate, at least two-thirds of the required canopy coverage shall consist of large canopy trees. Also, there shall be no more than 20% of any single species of large canopy tree on a site. For new development, the calculation area, as defined in the Chesapeake Landscape Specification Manual, shall be based on the gross square footage of the lot or parcel being developed or improved. For any encroachment, other than new development, the gross square footage shall be determined based on the extent to which the encroachment is located within the RPA or RMA. All fractions in calculations made under this section shall be rounded up to the nearest whole number.
- B. Existing trees at least 6-8 feet in height and preserved on the parcel shall be counted towards meeting the total lot canopy requirements set forth herein. Dead trees or trees weakened by age, storm, fire, or other injury, pursuant to Section 26-520(b)(2), may be excluded at the discretion of the Director of Development and Permits, or designee.
- C. Trees planted under Section 19-600 of the Zoning Ordinance and the Chesapeake Landscape specifications Manual Section VI.B.4 must be at least 6-8 feet in height in order to count towards the total lot canopy requirement or encroachment mitigation.
- D. Tidal and sub-aqueous areas shall be excluded from the tree canopy requirement calculations.
- E. The RPA landscaping requirement is a minimum fifty percent (50%) tree canopy coverage. See table below for steps to calculate tree canopy requirements.

RPA Tree Canopy Requirement (50%) Calculation

Canopy Required: Lot Area within RPA _____ SF x 50% = _____ SF
Encroachment Area within RPA _____ SF x 50% = _____ SF

Canopy Credit: 400 SF for Large Canopy Trees (LCT)
200 SF for Small Canopy Trees (SCT)
40 SF for Mulched Shrubs (MS)

Canopy Provided: # LCT x 400 SF = _____ SF
SCT x 200 SF = _____ SF
MS x 40 SF = _____ SF

Total Canopy Provided must equal or exceed Canopy Required.

- F. The RMA landscaping requirement for sites other than commercial or industrial is a minimum twenty percent (20%) tree canopy coverage, with a limit of twenty (20) large canopy trees for single-family residential lots. See table below for steps to calculate tree canopy requirements.

RMA Tree Canopy Requirement (20%) Calculation

Canopy Credit: 400 SF for Large Canopy Trees (LCT)
200 SF for Small Canopy Trees (SCT)
40 SF for Mulched Shrubs (MS)

Canopy Required: Lot Area within RMA _____ SF x 20% = _____ SF
Encroachment Area within RMA _____ SF x 20% = _____ SF

Canopy Provided: # LCT x 400 SF = _____ SF
SCT x 200 SF = _____ SF
MS x 40 SF = _____ SF

Total Canopy Provided must equal or exceed Canopy Required.

- G. Landscaping requirements for townhouse and multi-family development within the RMA is a minimum fifteen percent (15%) tree canopy coverage. See table below for steps to calculate tree canopy requirements.

RMA Tree Canopy Requirement (15%) Calculation

Canopy Credit: 400 SF for Large Canopy Trees (LCT)
200 SF for Small Canopy Trees (SCT)
40 SF for Mulched Shrubs (MS)

Canopy Required: Lot Area within RMA: _____ SF x 15% = _____ SF
Encroachment Area within RMA: _____ SF x 15% = _____ SF

Canopy Provided: # LCT x 400 SF = _____ SF
SCT x 200 SF = _____ SF
MS x 40 SF = _____ SF

Total Canopy Provided must equal or exceed Canopy Required.

- H. Landscaping requirements for commercial or industrial sites within the RMA is a minimum of ten percent (10%) tree canopy coverage. See table below for steps to calculate tree canopy requirements.

RMA Tree Canopy Requirement (10%) Calculation

Canopy Credit: 400 SF for Large Canopy Trees (LCT)
200 SF for Small Canopy Trees (SCT)
40 SF for Mulched Shrubs (MS)

Canopy Required: Lot Area within RMA _____ SF x 10% = _____ SF
Encroachment Area within RMA _____ SF x 10% = _____ SF

Canopy Provided: # LCT x 400 SF = _____ SF
SCT x 200 SF = _____ SF
MS x 40 SF = _____ SF

Total Canopy Provided must equal or exceed Canopy Required.

- I. The Landscaping requirement for the Intensely Developed Area (IDA) within the CBPA is a minimum twenty percent (20%) canopy coverage. See table below for steps to calculate tree canopy requirements.

IDA Tree canopy Requirement 20% Calculation

Canopy Credit: 400 SF for Large Canopy Trees (LCT)
200 SF for Small Canopy Trees (SCT)
40 SF for Mulched Shrubs (MS)

Canopy Required: Lot Area within CBPA _____ SF x 20% = _____ SF
Encroachment Area within CBPA _____ SF x 20% = _____ SF

Canopy Provided: # LCT x 400 SF = _____ SF
SCT x 200 SF = _____ SF
MS x 40 SF = _____ SF

Total Canopy provided must equal or exceed Canopy Required.

- J. All required tree canopy coverage shall be preserved in perpetuity, including natural understory and groundcover. Techniques for the preservation of

natural understory and groundcover set out in CBLAB guidance documents shall be followed. Preservation shall further be ensured through notation on final approved site plans, construction plans and subdivision plats and, if deemed necessary by the approval authority, by a recorded preservation easement.

1. In coordination with the Director of Planning or designee, the removal of dead or diseased trees and vegetation may be approved by the Director of Development and Permits or designee, provided that such trees or vegetation are replaced to meet the tree canopy coverage, including natural understory and groundcover, requirements herein.
2. Tree replacement rates can be found in the “Riparian Buffers Modification & Mitigation Guidance Manual”, provided by the Virginia Department of Conservation and Recreation. The tree canopy coverage, including natural understory and groundcover, shall be maintained and preserved by the landowner.
3. A CBPA Tree Removal Application can be submitted through the City’s eBUILD system under “Planning” applications found at <https://aca3.accela.com/Chesapeake/>.

VIII. Low Impact Design Standards for Intensely Developed Area (IDA)

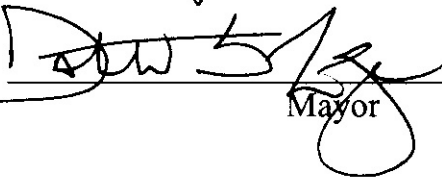
Development in the IDA shall comply with the following low impact design standards. These standards are also recommended for all permitted developments in the CBPA District whenever possible.

- A. All land disturbance, construction, development and redevelopment in the IDA shall minimize impervious cover so as to promote infiltration of stormwater into the ground;
- B. Existing plants and trees shall be preserved to the greatest extent practicable;
- C. All clearing and grading shall be minimized to the greatest extent practicable;
- D. Stormwater runoff treatment shall be installed, if not already existing, in accordance with the Stormwater Management ordinance and the PFM. Stormwater management should incorporate bioretention areas to treat runoff from the entire site, where practicable;
- E. Pervious parking materials, including grid and modular pavement, permeable asphalt, or other semi-permeable materials, shall be used where feasible for all driveways and parking areas not required under the Chesapeake Zoning Ordinance, unless otherwise approved by the Director

of Development and Permits or designee based on a determination that the use of such surfaces is impracticable or not permitted by law;

- F. Landscaping requirements shall meet the twenty percent (20%) tree canopy coverage requirements in Section VII.H. above; and
- G. Development and redevelopment in the IDA shall also adhere to the extent practicable to the 2000 CBLAD Guidance Document entitled "Better Site Design: An Assessment of the Better Site Design Principles for Communities Implementing Virginia's Chesapeake Bay Preservation Act." The document is available on the CBLAD website.

ADOPTED this 26 day of July, 2005.



Mayor

ATTEST:



Clerk of the Council

DECEMBER 9, 2003: Original ordinance adopted by the City Council

DECEMBER 31, 2003: Emergency effective date

JULY 26, 2005: Amendments adopted by the City Council

AUGUST 26, 2005: Effective date of Amendments

JANUARY 20, 2022: **Effective Date of Minor Amendments**