

# Caroline County Board of Supervisors Agenda Executive Summary

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**Meeting Date:** September 27, 2022

**Title:** First Reading: TXT-07-2022, TXT-08-2022, TXT-09-2022,  
TXT-10-2022 & SO-01-2022  
Chesapeake Bay Overlay District Amendments

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*(Check Mark)*

Consent

Action

No Action (Information Only)

Resolution

Closed Meeting

Public Hearing

Ordinance

PowerPoint Presentation

**Summary:** Staff is bringing forward for first reading the attached proposed text amendments related to the County's Chesapeake Bay Overlay District regulations.

Planning staff has been working with the Virginia Department of Environmental Quality on amendments to the County's subdivision/zoning regulations related to the Chesapeake Bay Preservation Program. The amendments are related to issues identified by DEQ staff as part of its program review and which DEQ has given until mid-November to finalize.

The Planning Commission has scheduled a public hearing for the proposed amendments at the September 22nd meeting, and upon finalization will be forwarded to the Board for your consideration. Staff requests that the Board schedule this matter for public hearing at your November meeting.

**Budget Impact:** None

**Action(s) requested of the Board of Supervisors:** Conduct first reading of the proposed text amendments and, if appropriate, authorize advertisement of a public hearing for the November Board meeting.

**Presenter:** Michael A. Finchum, Director, Planning & Community Development

**TXT-07-2022**: An Ordinance to amend the Zoning Ordinance of Caroline County, 1) by amending Article XV, *Supplemental Regulations*, by adding Section 24, *Overlay Districts*, and 2) to include Section 1 Chesapeake Bay Preservation Areas.

**TXT-08-2022**: An Ordinance to amend the Zoning Ordinance of Caroline County by Repealing Article XV, *Supplemental Regulations*, Section 17, Chesapeake Bay Area Overlay District. This section will be replaced by Article XV, Section 24 of the Caroline County Zoning Ordinance.

**TXT-09-2022**: An Ordinance to amend the Zoning Ordinance of Caroline County by repealing and replacing Article XIII, *Parking*. The purpose of the amendment is to modify the general standards, and establish provisions for reducing the number of required parking spaces and providing opportunities for shared parking.

**TXT-10-2022**: An Ordinance to amend the Zoning Ordinance of Caroline County by Amending Article XV, *Supplemental Regulations*, Section 14 Site Plans, by repealing and replacing subparagraph 18 Chesapeake Bay Preservation Areas. The purpose of this amendment is to cross reference requirements of the Chesapeake Preservation Area Overlay District with Site Plan regulations.

**SO-01-2022**: An Ordinance to amend the Subdivision Ordinance of Caroline County by adding section 6.3.xxxvi and 6.9xxi Chesapeake Bay Preservation Area delineation requirements. The purpose of this amendment is to cross reference the requirements of the Chesapeake Bay Preservation Area regulations in the Zoning Ordinance with the platting requirements of the Subdivision Ordinance.

**TXT-07-2022: An Ordinance to amend the Zoning Ordinance of Caroline County, 1) by amending Article XV, Supplemental Regulations, by adding Section 24, Overlay Districts, and 2) to include Section 1 Chesapeake Bay Preservation Areas.**

## **ARTICLE XV SECTION 24 OVERLAY DISTRICTS**

### **SECTION 1-Chesapeake Bay Preservation Area**

(Adopted 05/12/92; as amended 11/8/2022)

#### **24.1-1. Purpose and Intent**

A. This Section is adopted to protect and promote the public health, safety and welfare by implementing the requirements of Sections 10.1-2100 et seq. and Section 15.2-2283 of the Code of Virginia and the Chesapeake Bay Preservation Areas and Management Regulations, VAC 10-20-10, et seq., adopted by the ~~Chesapeake Bay Local Assistance Board~~ **Virginia Department of Environmental Quality (hereafter DEQ)** and further to:

1. protect existing high quality state waters;
2. restore all other state waters to a condition or quality that will permit all reasonable public uses and will support the propagation and growth of all aquatic life, including game fish, which might reasonably be expected to inhabit them;
3. safeguard the clean waters of the Commonwealth from pollution;
4. prevent any increase in pollution;
5. reduce existing pollution; and
6. promote water resource conservation.

B. This Section establishes the criteria to be used ~~by Caroline County, Virginia,~~ in granting, denying, or modifying requests to use, develop or subdivide land in designated Chesapeake Bay Preservation Areas. In preservation areas, these criteria shall be applied in addition to the requirements of the erosion and sediment control, zoning and subdivision requirements of the Code of Caroline County.

C. This Section is enacted under the authority of Code of Virginia, Sec. 10.1-2100, et seq., 1950, as amended.

#### ~~17.2~~ **24.1.2. Definitions**

The following words and terms used in this Section have the following meanings, unless the context clearly indicates otherwise.

“Act” means the Chesapeake Bay Preservation Act, Code of Virginia, sec. 10.1-2100, et seq., 1950, as amended.

**“Administrator” means the Zoning Administrator designated by the Board of Supervisors of Caroline County, or his designee.**

“Agricultural lands” means those lands that are currently, (i.e., natural or native vegetation has been removed,) used and managed primarily for the commercial 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 and consists of a minimum of five acres. Pasture used as an accessory use to a residential use shall not be considered bonafide agriculture land.

“Best Management Practices” (BMP's) means a practice, or combination of practices, that are determined by a state or designated area wide planning agency to be the most effective, practical means of preventing or reducing the amount of pollution generated by nonpoint sources to a level compatible with water quality goals.

“Board” means the Board of Supervisors of Caroline County, Virginia.

“Buffer area” means an area of natural or established vegetation managed to protect other components of a Resource Protection Area and state waters from significant degradation due to land disturbances.

~~“CBLAD” means the Chesapeake Bay Local Assistance Department.~~

“Chesapeake Bay Preservation Area (CBPA)” means any land designated by the Board pursuant to Part III of the Chesapeake Bay Preservation Area Designation and Management Regulations, 9 VAC 10-20-10 et seq., and Section 10.1-2107 of the Code of Virginia. A Chesapeake Bay Preservation Area shall consist of a Resource Protection Area and a Resource Management Area.

“Construction footprint” means the area of all impervious surface, including but not limited to buildings, roads and drives, parking areas, sidewalks and the area necessary for construction of such improvements.

“County” means Caroline County, Virginia.

“Development” means the construction, or substantial alteration of residential, commercial, industrial, institutional, recreation, transportation, or utility facilities, **uses** or structures.

“Diameter at breast height (DBH)” means the diameter of a tree measured outside the bark at a point 4.5 feet above the ground.

“Director” means the Director of Planning and Community Development and/or his designee.

“Dripline” means a vertical projection to the ground surface from the furthest lateral extent of a tree’s leaf canopy.

“Floodplain” means all lands that would be inundated by flood water as a result of a storm event of a 100-year return interval.

“Health Department” means the Virginia Department of Health.

“Highly erodible soils” means soils (excluding vegetation) with an erodibility index (EI) from sheet and rill erosion equal to or greater than eight. The erodibility index for 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 of 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 1996 in the “Field Office Technical Guide” of the U.S. Department of Agriculture National 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, streets, parking areas, and any concrete, asphalt, or compacted gravel surface.

“Land disturbance” means any activity upon which causes, contributes to, or results in the removal or covering of the vegetation upon such land, including, but not limited to, clearing, grading, filling, dredging, or excavating. This term shall not include minor activities such as home gardening, planting of trees and shrubs, and home maintenance.

“Lot coverage” means the impervious area of any lot or parcel including, but not limited to buildings, drives, parking areas, sidewalks, patios, decks, etc.

“Nonpoint source pollution” means pollution consisting of constituents such as sediment, nutrients, and organic and toxic substances from diffuse sources, such as runoff from agricultural and urban land development and use.

“Non-tidal wetlands” mean 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, in 33 C.F.R. 328.3b.

“Non-vegetated Wetland” means un-vegetated lands lying contiguous to mean low water and between mean low water and mean high water, subject to flooding by normal wind tides but not hurricane or tropical storm tides.

“Noxious Weeds” means weeds such as Johnson Grass, Kudzu, and multiflora rose.

“Perennial stream” means a water body with water flowing in a natural or man-made channel year-round, except during periods of drought. The term “water bodies”

includes estuaries and tidal embankments and may include drainage ditches or channels constructed in wetlands or from former natural drainage ways, which convey perennial flow. Lakes and ponds that are the source of a perennial stream, or through which a perennial stream flows are part of a 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.

“Planning Department” means the ~~Caroline County~~ Department of Planning and Community Development.

“Plan of Development” means the process for site plan or subdivision plat review as required to ensure compliance with Code of Virginia, Section 10.1-2109 and this Article, prior to any clearing and grading of a site and the issuance of a building permit.

“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, (VDOT), including regulations promulgated pursuant to (i) the Erosion and Sediment Control Law (§ 10.1-603.1 et seq. of the Code of Virginia). This definition includes those roads where the VDOT exercises direct supervision over the design or construction activities, or both, and cases where secondary roads are constructed and maintained, or both, by Caroline County in accordance with County standards. Public Roads do not include roads designed and/or constructed by a private developer using VDOT standards.

“Redevelopment” means the process of developing land that is or has been previously developed.

**“Regulations” means the Chesapeake Bay Preservation Area Designation and Management Regulations, 9VAC25, et seq, promulgated by the Chesapeake Bay Local Assistance Board, as amended.**

“Resource Management Area (RMA)” means that component of the Chesapeake Bay Preservation Area that is not classified as the Resource Protection Area. RMAs include land types that, if improperly 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 (RPA)” means that component of the Chesapeake Bay Preservation Area comprised of lands adjacent to water bodies with perennial flow 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 bona fide 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 property for reforestation that are conducted in accordance with the silvicultural best management practices developed and enforced by the State Forester pursuant to § 10.1-1105 of the Code of Virginia and are located on property defined as real estate devoted to forest use under § 58.1-3230 of the Code of Virginia.

“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 **within** the Resource Management Area ~~only~~.

“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 non-vegetated wetlands as defined in Section 28.2-1300 of the Code of Virginia.

“Use” means an activity on the land other than development including, but not limited to, agriculture, horticulture, and silviculture.

“Vegetated wetlands” means lands lying between and contiguous to mean low water and an elevation above mean lower water equal to the factor one and one-half times the mean tide range at the site of the proposed project in the County, and upon which is growing any of the following species: saltmarsh cordgrass (*Spartina alterniflora*), saltmeadow hay (*Spartina patens*), saltgrass (*Distichlis spicata*), black needlerush (*Juncus roemerianus*), saltwort (*Salicornia* spp.), sea lavender (*Limonium* spp.), marsh elder (*Iva frutescens*), groundsel bush (*Baccharis halimifolia*), wax myrtle (*Myrica* sp.), sea oxeye (*Borrchia frutescens*), arrow arum (*Peltandra virginica*), pickerelweed (*Pontederia cordata*), big cordgrass (*Spartina cynosuroides*), rice cutgrass (*Leersia oryzoides*), wildrice (*Zizania aquatica*), bulrush (*Scirpus validus*), spikerush (*Eleocharis* sp.), sea rocket (*Cakile edentula*), southern wildrice (*Zizaniopsis miliacea*), cattail (*Typha* spp.), three square (*Scirpus* spp.), buttonbush (*Cephalanthus occidentalis*), bald cypress (*Taxodium distichum*), black gum (*Nyssa sylvatica*), tupelo (*Nyssa aquatica*), dock (*Rumex* spp.), yellow pond lily (*Nuphar* sp.), mards fleabane (*Pluchea purpurascens*), royal fern (*Osmunda regalis*), marsh hibiscus (*Hibiscus moscheutos*), beggar’s tick (*Bidens* sp.), smartweed (*Polygonum* sp.), arrow head (*Sagittaria* spp.), sweet flag (*Acorus calamus*), water hemp (*Amaranthus cannabinus*), reed grass (*Phragmites communis*), or switch grass (*Panicum virgatum*).

“Water-dependent facility” means a development of land that cannot exist outside of the Resource Protection Area and must be located on the shoreline by reason of the intrinsic nature of its operation. These facilities include, but are not limited to (i) ports; (ii) the intake and outfall structures of power plants, water treatment plants, sewage treatment plants, and storm sewers; (iii) marinas and other boat docking structures; (iv) beaches and other public water-oriented recreation areas; and (v) fisheries or other marine resources facilities.

“Wetlands” includes tidal and nontidal wetlands, vegetated and nonvegetated wetlands.

### **24.1.3. 3-2. Applicability**

The CBPA Overlay District shall apply to all lands identified and designated as CBPAs by the Board and as generally shown on the CBPA Map dated December 13, 2016. The CBPA Map, together with all explanatory matter thereon, is hereby adopted by reference and included as a part of this section. The CBPA **map** ~~shows only~~ **identifies** the general location of CBPAs ~~and~~ **and** should be consulted by persons contemplating activities within

the County prior to engaging in a regulated activity. It is not the intent of this Section ~~Article~~ to require that all lands within the County be designated as CBPA areas. The extent of the RMA designation is intended to be based upon the prevalence and relation of the RMA land types and other appropriate land areas to water protection.

#### **24.1.3.1. 3.2.1. Designation of Resource Protection Areas (RPA).**

A. At minimum, RPAs shall consist of lands adjacent to water bodies with perennial flow, **and include the following features:** that have an intrinsic water quality value due to the ecological and biological process they perform or are sensitive to impacts which may cause significant degradation to the quality of state waters. In their natural condition, these lands provide for the removal, reduction or assimilation of sediments, nutrients and potentially harmful or toxic substances in runoff entering the bay and its tributaries.

(1) — RPAs shall include:

1. Tidal wetlands;
2. Non-tidal wetlands connected by surface flow and contiguous to tidal wetlands or water bodies with perennial flow;
3. Tidal shores;
4. A 100-foot vegetated buffer area located adjacent to and landward of the components listed in subsections (a) through (d) **1-3** above, and along both sides of any water body with perennial flow. The full buffer areas shall be designated as the landward component of the RPA notwithstanding the presence of permitted uses, encroachments, and permitted vegetation clearing compliance with subsection 17.9.F.

B. Delineation of RPA Boundaries: The Site specific **designation of the RPA** boundaries of the RPA shall be designated **performed** by the applicant or the County through the performance of a site-specific environmental assessment. Designation of the components listed in part **24.1.3.1.A (1)** of this subsection shall be subject to approval by the Administrator and conducted in accordance with **24.1.6 or 24.1.7** subsection 17.11-  
\_\_\_ of this Section or subsection \_\_\_ 17.10 **and approved by the Administrator.**

(1) Delineation by the Applicant

The site-specific boundaries of the RPA shall be determined by the applicant through the performance of an environmental site assessment this section, and subject to approval **approved** by the **Administrator** in accordance with subsection **24.1.6** or **24.1.7.C** as appropriate. 17.11 or Section 17.10 of this Section. The CBPA Map may be used as a guide to the general location of RPA's. **The Administrator shall verify the accuracy of the boundary delineation. In determining the site-specific RPA boundary, The Administrator and may render adjustments to the applicant's boundary delineation, in accordance with subsection 24.1.7.C 17.11 of this Section. In the event the adjusted boundary is contested by the applicant, the applicant may seek relief, in accordance with the provision of as provided in subsection 24.1.7.I. 17.11.I**



(2) Delineation by the Planning Department

When requested by an applicant constructing a single family dwelling, the **Zoning Administrator** may perform **the** delineation, ~~The Administrator may use an approved site-specific method or the Administrator may waive this requirement, under subsection 17.11, if no potential RPA features are identified using all available local information, including Local information may include any or all of the following deemed applicable: topographic maps, soil surveys, other applicable mapping, drainage area calculations and on-site indicators including~~ **such as** hydrology, soils, plant species and other stream/wetland indicators. **The Administrator may waive this requirement, as set forth in 24.1.7, if no potential RPA features are identified using available local information.**

~~(3) Conflicts~~

~~Where the applicant has provided a site-specific delineation of the RPA, the Administrator shall verify the accuracy of the boundary delineation. In determining the site-specific RPA boundary, The Administrator may render adjustments to the applicant's boundary delineation, in accordance with subsection 17.11 of this Section. In the event the adjusted boundary is contested by the applicant, the applicant may seek relief, in accordance with the provision of subsection 17.11.~~

**24.1.3.2 3.2.2. Designation of Resource Management Areas (RMA).**

A. ~~Resource Management Areas~~ **RMA**s shall include land types that, if improperly used or developed, have potential for causing significant water quality degradation or for diminishing the functional value of the RPA. An RMA shall be provided contiguous to the entire inland boundary of the RPA **and shall include the following features:**

~~(4) The RMA's includes:~~

An area three hundred (300) feet in width contiguous to and landward of an RPA:

~~At the time of development,~~ Other lands designated by the Administrator **Board** to protect the quality of state waters, including but not limited to:

1. Floodplains;
2. Highly erodible soils;
3. Highly permeable soils;
4. Steep slopes in excess of 15%;
5. Non-tidal wetlands, not included under the RPA designation

~~Other lands designated by the Board to protect the quality of state waters, including but not limited to an area three hundred (300) feet in width contiguous to and landward of an RPA.~~

C. ~~Resource Management Areas~~ **RMA**s shall encompass a **sufficient** land area large enough to provide significant water quality protection through the employment of the criteria in subsection ~~17.8.B~~ **24.1.6.B** and the County's Comprehensive Plan.

- B. If the boundaries of a RMA include only a portion of a ~~lot, tract,~~ parcel of land, or development project, the entire ~~lot, parcel or development,~~ **the Director may deem the** entire parcel or project ~~may be deemed to be in the RMA based upon~~ **the components of section A above.**

#### **24.1.4 3.3 Land Use**

Permitted uses, special exception permit uses, accessory uses and special regulations shall be as established by the ~~underlying zoning district. unless specifically modified by the requirements of this Section.~~

#### **24.1.5 3.4 Lot Sizes**

Lot sizes shall be subject to the requirements of the underlying zoning district, except that any lot **created after the effective date of this section** shall have sufficient area outside the RPA to accommodate the proposed development, ~~in accordance with~~ **subject to** the performance standards in subsection ~~24.1.6.B 47.8.B,~~ when the proposed development is not otherwise allowed in the RPA.

#### **24.1.6 3.5 Performance Standards for Chesapeake Bay Preservation Areas CBPA Performance Standards.**

##### **A. Purpose and Intent.**

D. (1) Performance standards establish the means to minimize erosion and sedimentation potential, reduce land application of nutrients and toxics, and maximize rainwater infiltration. Natural ground cover, especially woody vegetation, is most effective in holding soil in place and preventing site erosion. Indigenous vegetation, with its adaptability to local conditions without the use of harmful fertilizers or pesticides, filters stormwater runoff. ~~Keeping~~ **Minimizing** impervious cover ~~to a minimum~~ enhances rainwater infiltration and effectively reduces stormwater runoff potential.

E. (2) ~~It is further~~ **The** intent of these requirements **is** ~~to implement the following objectives:~~ prevent a net increase in nonpoint source pollution from new development; achieve a 10% reduction in nonpoint source pollution from redevelopment; and achieve 40% reduction in nonpoint source pollution from agricultural uses.

##### **B General Performance Standards for Development and Redevelopment.**

(1) Land disturbance shall be limited to the area necessary to provide for the proposed use or development **designated by the zoning district of the parcel.**

- a. ~~In accordance with an approved site plan or subdivision plat,~~ The limits of land disturbance including clearing or grading shall be strictly defined by the construction footprint, ~~The Administrator shall review and approve the construction footprint through the plan of development process.~~ These limits **which** shall be clearly shown on submitted plans and physically marked on the development site.

1. ~~The construction footprint shall not exceed the limits for such as designated by the zoning district of the lot or parcel. **(Covered with addition above)**~~
    - b. Ingress and egress during construction shall be limited to one access point, unless otherwise approved by the Administrator.
    - c. ~~The Administrator shall review and approve~~ The construction footprint **shall be reviewed and approved** through the plan of development process set forth in **section 24.1.7**.
- (2) Indigenous vegetation shall be preserved to the maximum extent practicable consistent with the **proposed** use or development ~~proposed~~ and in accordance with the Virginia Erosion and Sediment Control Handbook.
- a. Existing trees over ~~two (2)~~ **six (6)** inches diameter at breast height (DBH) **and other woody vegetation** shall be preserved outside the approved construction footprint. ~~Diseased trees or trees weakened by age, storm, fire, or other injury may be removed when approved by the Planning Department. Other woody vegetation on site shall also be preserved outside the approved construction footprint.~~
  - b. Existing trees over six (6) inches diameter at breast height (DBH) shall be preserved within the construction footprint to the greatest extent possible.
  - c. ~~Site clearing for construction activities shall be allowed as approved by the Administrator through the plan of development review process outlined under subsection 17.11 of this Section.~~
  - d. Prior to clearing, grading and/or filling, **commencement of development**, any tree(s) to be preserved shall be identified and protected from construction activities. **with** suitable protective barriers, ~~like safety fencing~~, shall be erected **and maintained** five (5) feet outside the dripline of any tree or stand of trees to be preserved, **and** ~~Erected protective barriers~~ shall remain throughout all phases of construction. ~~The storage of equipment, materials, debris, or fill shall not be allowed within protected areas.~~
  - e. **Dead, diseased or dying** trees or trees weakened by age, storm, fire, or other injury may be removed when approved by the Planning Department.
- (3) Land development shall minimize impervious cover consistent with the proposed use or development.
- a. **Parking and access shall be provided as set forth in Article XIII of the Zoning Ordinance.** ~~Grid and modular pavements or pervious pavement shall be used for any required parking area, alley, or other low traffic driveway, unless otherwise approved by the Administrator. **(Move to Article XIII)**~~
  - b. ~~Parking space size shall be 162 square feet. Parking space width shall be nine (9) feet; parking space length shall be eighteen (18) feet. Two-way drives shall be a minimum of twenty-two (22) feet. **(Move to Article XIII)**~~

- c.** Impervious coverage on any lot or parcel shall be limited to the lot coverage permitted under the zoning district requirements of said lot or *for the* parcel as noted on the approved plan of development or site plan. **A minimum of \_\_\_\_ % of the property shall be retained in open space.**
- (4) Where the best management practices, *not subject to Virginia DEQ Stormwater coverage are* utilized *which* require regular or periodic maintenance in order to continue their functions, a maintenance agreement from the owner or developer ~~will be required by~~ *shall be provided to the County and recorded in the records of the Office of the Clerk of the Circuit Court.*
- (2) ~~Notwithstanding any other provisions of this Section or exceptions or exemptions thereto,~~ Any land disturbing activity that exceeds 2,500 square feet, including construction of all single-family houses, shall comply with the requirements of Chapter 45 of the Caroline County Code.
- (3) All ~~land disturbance~~ development and redevelopment within CBPAs exceeding 2,500 square feet of land disturbance shall be subject to *the appropriate* plan of development process set forth in *required by* Article 15, Section 14 *and Article XVII Section 4 of the Zoning this Ordinance, or subdivision plat approval in accordance with the Caroline County Subdivision Ordinance.* including *A* Water Quality Impact Assessment in accordance with pursuant *to subsection 24.1.6.D* 17.10 of this *may be required.* Section and site plan approval in accordance with Article 15, Section 14, ~~Article XVII Section 4,~~ or subdivision plat approval in accordance with the Caroline County Subdivision Ordinance.
- (4) All on-site sewage disposal systems not requiring a VPDES permit shall be:
1. *be* pumped out at least once every five years. ~~as provided in Chapter 92 of the Caroline County Code.~~
  2. For new construction *have* a reserve sewage disposal site with an *of* equivalent capacity ~~at least equal to that of~~ *to* the primary sewage disposal site. ~~shall be provided, in accordance with Chapter 92 of the Caroline County Code.~~ This requirement shall not apply to any parcel recorded prior to October 1, 1989, if the parcel does not have sufficient area to accommodate a reserve sewage disposal site, as determined by the local Health Department. ~~Building and/or construction of impervious surfaces shall be prohibited on the area of all sewage disposal sites until the structure is served by public sewer or an on-site sewer treatment system that operates under a permit issued by the State Water Control Board.~~
- (5) For any development or redevelopment Stormwater runoff shall be controlled by the use of best management practices consistent with the water quality protection provisions of the Virginia Stormwater Management

Regulations (4VAC 3-20-10, et seq.) *as approved by DEQ for any development or redevelopment.*

1. ~~For development, the~~ Post-development nonpoint source pollution runoff loads shall not exceed the pre-development load; based on the calculated average land cover condition of the County.
2. For sites within Intensely Developed Areas, or other isolated redevelopment sites, the non-point source pollution load shall be reduced by at least 10 percent (10%). The Administrator may waive or modify this requirement for redevelopment sites that originally incorporated best management practices for stormwater runoff quality control, provided the following provision are satisfied:
  1. ~~In no case may~~ *shall* the Post-development non-point source pollution runoff loads shall not exceed the pre-development loads;
  2. Runoff pollution loads ~~must have been~~ *shall be* calculated and the *appropriate* BMPs selected for the express purpose of controlling nonpoint source pollution and
  3. Where structural ~~best management practices~~ *BMPs* are already in place, evidence shall be provided that facilities are ~~currently~~ in good working order and performing at the design levels or service. The Administrator may require the review of the original structural design and maintenance plan to verify this provision and a new maintenance agreement may be required to assure compliance with this subsection.
- (9) ~~Prior to initiating any grading or other on-site~~ *No* land disturbing activities *shall be initiated until* ~~on any portion of a lot or parcel, all~~ *federal or state* wetlands permits ~~required by federal, state, and local laws and regulations~~ shall be obtained and evidence of such submitted to the Administrator. ~~in accordance with subsection 17.11 of this Section.~~
- (10) Land used for bona fide agricultural activities shall have a soil and water quality conservation plan *assessment prepared* ~~approved by the local~~ *Hanover-Caroline* Soil and Water Conservation District. The plan shall ~~be based upon the Field Office Technical Guide of the U.S. Department of Agriculture Soil Conservation Service and~~ accomplish water quality protection consistent with this Ordinance.

**C. ~~Additional RPA Development Criteria for Resource Protection Areas.~~**

~~In addition to the general performance criteria set forth in subsection 17.8 of this Section, The following additional criteria shall also be required in all~~ *RPAs* ~~Resource Protection Areas.~~

- (1) ~~Land~~ *Development* may *only* be allowed in the Resource Protection Area, subject to approval by the ~~Administrator county,~~ *only* if it meets one or more of the following criteria:

- a. The development is water dependent;
  - b. The development constitutes redevelopment;
  - c. The development constitutes development or redevelopment within a designated Intensity Developed area;
  - d. The development is a road or driveway crossing that ~~satisfies the conditions set forth in of subsection 24.1.6.C 17.9.D of this Section~~ or;
  - e. The development is a new use subject pursuant to the provisions of subsection ~~24.1.6.C.2 17.9.B of this Section~~.
  - f. The development is a regional flood control or stormwater management facility.
- (2) A new or expanded water dependent facility may be allowed provided that the following criteria are met:
- a. It does not conflict with the comprehensive plan;
  - b. It complies with the development criteria set forth in subsection 24.1.6.
  - c. Any component that is not water-dependent is located outside of the RPA, and;
  - d. Access to the water-dependent facility will be provided with the minimum disturbance necessary, and where practicable, a single point of access will be provided.
- (3) Redevelopment ~~on~~ **of** isolated redevelopment sites shall be permitted ~~in the Resource Protection Area only if provided~~ there is no increase in the amount of impervious cover and no further encroachment within the RPA. ~~and it Redevelopment~~ shall conform to all applicable erosion and sediment control ~~and stormwater management requirements set for the in Chapter 45 of the~~ **Caroline County Code**, and with all applicable stormwater management requirements of other state and federal agencies. Redevelopment efforts ~~should~~ **shall** include the establishment of buffers and other water quality measures to improve water quality whenever possible.
- (4) Roads and driveways not exempt under subsection ~~and which, therefore, must comply with the provisions of this Section,~~ may be constructed in or across RPAs ~~if each of provided~~ the following conditions are met:
- a. The Administrator ~~makes a finding that~~ **finds** that there are no reasonable alternatives to aligning the road or drive in or across the RPA;
  - b. The alignment and design of the road or driveway are optimized, consistent with other applicable requirements, to minimize encroachment in the RPA and minimize adverse effects on water quality;
  - c. The design and construction of the road or driveway satisfy all applicable criteria of this Section and the Regulations; including submission of a water quality impact assessment and;
  - d. The Administrator reviews the plan for the road or driveway proposed in or across the RPA in coordination with is subject to the

plan of development requirements as required under process in subsection **24.1.7** or a subdivision plan.

- (5) A water quality impact assessment as outlined in subsection **24.1.6.D** of this Section shall be required for any proposed land disturbance, development or redevelopment within Resource Protection Areas and for any other development within Resource Management Areas when required by the Administrator because of the unique characteristics of the site or intensity of development, in accordance with the performance standards in subsection **24.1.6** of this Section.

- (6) Buffer Area Requirements.

~~To minimize the adverse effects of human activities on the other components of RPAs, state waters and aquatic life,~~ A 100-foot **vegetated** buffer area of vegetation that is effective in retarding runoff, preventing erosion, and filtering nonpoint source pollution from runoff shall be retained if present and established where it does not exist.

The buffer area shall be located adjacent to and landward of other RPA components and along both sides of any water body with perennial flow. The full 100 foot buffer area shall be designated as the landward component of the RPA, in accordance with subsections \_\_\_\_\_, \_\_\_\_\_, and \_\_\_\_\_ of this Section. **The 100-foot buffer area** may not be reduced in width, notwithstanding permitted uses, encroachments, and vegetation clearing, as set forth in this subsection. ~~the 100-foot buffer areas may not be reduced in width.~~

The 100-foot buffer area shall be deemed to achieve a **seventy-five (75) percent** (75%) reduction of sediments and a **forty (40) percent** (40%) reduction of nutrients.

- (7) Permitted Modifications to the buffer area:

- (a) ~~In order to maintain the functional value of the buffer area,~~ Indigenous vegetation may **only** be removed **to provide for reasonable sight lines, access paths, and general woodlot management**, subject to approval by the Administrator ~~only to provide for reasonable sight lines, access paths, general woodlot management, and best management practices, including those that prevent the upland erosion and concentrated flows of stormwater,~~ as follows:

1. Trees may be pruned or removed as necessary to provide the sight lines and vistas, provided that where removed, they shall be replaced with other vegetation that is equally effective in retarding runoff, preventing erosion, and filtering nonpoint source pollution from runoff. The plant list as found in the Chesapeake Bay Local Assistance Department's Riparian Buffers Modification & Mitigation Manual shall be used as a guide for choosing replacement vegetation, and

a minor WQIA may be required to confirm the equivalency of replacement vegetation.

2. Any path shall be constructed and surfaced so as to effectively control erosion.
3. Dead, diseased, or dying trees or shrubbery **may be removed and thinning of trees permitted** as determined in writing by a certified arborist, or licensed landscape architect ~~may be removed as permitted by the Administrator.~~ and noxious weeds (such as Johnson grass, kudzu and multiflora rose) ~~may be removed and thinning of trees~~ allowed as permitted by the Administrator.
4. For shoreline erosion control projects, trees and woody vegetation may be removed, **provided** necessary control techniques **are** employed, and appropriate vegetation established to protect or stabilize the shoreline in accordance with the best available technical advice and applicable permit conditions. ~~or requirements.~~

(8) ~~Permitted Encroachments into the buffer area.~~

(a) When the application of the buffer areas will result in the loss of a buildable area on a parcel recorded prior to October 1, 1989, ~~the encroachments into the buffer area may be allowed by the Administrator,~~ as set forth in subsection \_\_\_\_\_ and the following criteria:

1. ~~Encroachments into the buffer areas~~ shall be the minimum necessary to achieve a reasonable buildable area for a principal structure and necessary utilities;
2. Where practical a vegetative area **equal to the area of encroachment** that will maximize water quality protection **and** mitigate the effects of the buffer encroachment ~~and is equal to the area of encroachment into the buffer area~~ shall be established elsewhere on the lot or parcel;
3. The encroachment may not extend into the seaward 50 feet of the buffer area.

(b) On agricultural lands the agricultural buffer area shall be managed to prevent concentrated flows of surface water from breaching the buffer area and appropriate measures may be taken to prevent noxious weeds from invading the buffer area. Encroachments into the buffer may be allowed as follows:

1. Bona fide agricultural activities may encroach into the landward 50 feet of the 100-foot wide buffer area when at least one agricultural best management practice, which, in the opinion of the Hanover/Caroline Soil and Water Conservation District, addresses the more predominant water quality issue on the adjacent land – erosion control or nutrient management – is being implemented on the adjacent land, provided that the combination of the



undisturbed buffer area and the best management practice achieves water quality protection, pollutant removal, and water resource conservation at least the equivalent of the 100-foot wide buffer area. If nutrient management is identified as the predominant water quality issue, a nutrient management plan, including soil test, must be developed consistent with the "Virginia Nutrient Management Training and Certification Regulations (4 VAC 5-15-10 et seq.) administered by the Virginia Department of Conservation and Recreation.

2. Agricultural activities may encroach within the landward 75 feet of the 100-foot wide buffer area when agricultural best management practices which address erosion control, nutrient management, and pest chemical control, are being implemented on the adjacent land. The erosion control practices must prevent erosion from exceeding the soil loss tolerance level, referred to as "T", as defined in the "National Soil Survey Handbook" of November 1996 in the "Field Office Technical Guide" of the U. S. Department of Agriculture Natural Resource Conservation Service. A nutrient management plan, including soil test, must be developed consistent with the "Virginia Nutrient Management Training and Certification Regulations (4 VAC 5-15-10 et seq.) administered by the Virginia Department of Conservation and Recreation. In conjunction with the remaining buffer area, this collection of best management practices shall be presumed to achieve water quality protection at least the equivalent of that provided by the 100-foot wide buffer area.
  3. The buffer area is not required to be designated adjacent to agricultural drainage ditches if the adjacent agricultural land has at least one best management practices in place in accordance with a conservation plan approved by the Hanover/Caroline Soil and Water Conservation District.
  4. All agricultural BMPs and soil and water quality conservation plans shall be based on the Field Office Technical Guide of the U.S. Department of Agriculture - Soil Conservation Service.
- (c) When agricultural or silvicultural uses within the buffer area cease, and the lands are proposed to be converted back to other uses, the full 100-foot wide buffer area shall be reestablished. In reestablishing the buffer, management measures shall be undertaken to provide woody vegetation that assures the buffer functions are maintained or established.

**D. Water Quality Impact Assessment (WQIA) (WQIA)**

~~B. Purpose and Intent. There shall be two levels of water quality impact assessments, a minor assessment and a major assessment.~~

- (1) The purpose of a WQIA is to:
  - (a) identify the impacts of proposed land disturbance, ~~development or redevelopment~~ on water quality and lands within RPAs and other environmentally-sensitive lands;
  - (b) ensure that, where land disturbance, ~~development or redevelopment~~ does take place within RPAs and other sensitive lands, it will occur on those portions of a site and in a manner that will be least disruptive to the natural functions of RPAs and other sensitive lands;
  - (c) to protect individuals from investing funds for improvements proposed for location on lands unsuited for such development because of high ground water, erosion, or vulnerability to flood and storm damage,
  - (d) provide for administrative relief from terms of this Section when warranted and in accordance with the requirements contained herein; and
  - (e) specify mitigation ~~which will~~ **measures to** address water quality protection.

(2) Applicability

~~A water quality impact assessment~~ **WQIA** shall be required:

- (a) for any proposed land disturbance ~~development or redevelopment~~ activity within **an RPA** a Resource Protection Area;
- (b) **for** any buffer modification or encroachment **permitted** provided for in subsection \_\_\_\_\_;
- (c) for any other development in Resource Management Areas **an RMA** as deemed necessary by the Administrator due to the unique site characteristics or intensity of the proposed use or development.

~~There shall be two levels of a Water quality impact assessments~~ **WQIAs** shall be **are further defined** as minor assessment and a **or** major.

(3) Minor Water Quality Impact Assessments

- (a) A minor WQIA shall be required for **any proposed** land disturbance ~~development or redevelopment~~ within a CBPA which causes ~~no more than~~ **of** 5,000 square feet or less, of land disturbance and/or which proposes to modify or encroach into the landward 50 feet of the 100 foot buffer area ~~as permitted under subsection 17.9.F (2) and (3) of this Section.~~ A minor assessment ~~must~~ **shall** demonstrate that the undisturbed buffer area, enhanced vegetative

plantings and any required best management practices will result in the removal of ~~no less than 75 percent~~ of sediments and 40 percent of nutrients from post-development stormwater runoff and that will retard runoff, prevent erosion, and filter nonpoint source pollution the equivalent of the full undisturbed 100-foot buffer area. A minor assessment shall include a site-drawing to scale, prepared by a licensed engineer or licensed surveyor, which shows the following:

- (b) ~~the~~ location of the components of the RPA, including the 100-foot buffer area and the location of any water body with perennial flow;
  - (c) ~~the~~ location and nature of the proposed encroachment into the buffer area, including: type of paving material; areas of clearing or grading; ~~the~~ location, ~~type and amounts of~~ any structures, drives or other impervious cover, and sewage disposal systems or ~~reserve drainfield sites~~;
  - (d) ~~the~~ type and location of proposed BMP's to mitigate the proposed encroachment.
  - (e) Location of existing ~~onsite~~ **onsite** vegetation onsite, including the number and type of trees and other vegetation to be removed in the buffer to accommodate the encroachment or modification.
  - (f) Re-vegetation plan that supplements the existing buffer vegetation in a manner that provides for pollutant removal, erosion and runoff control.
- (4) Major Water Quality Impact Assessments

~~Major water quality studies~~ shall be required for any development which (i) exceeds 5,000 square feet of land disturbance within CBPAs and proposes to modify or encroach into the landward 50 feet of the 100-foot buffer area; (ii) proposes to disturb any portion of any component of an RPA or any portion of the buffer area within 50 feet of any other component of an RPA; or (iii) is located solely in an RMA and is deemed necessary by the Planning Department. The information required in this subsection shall be considered a minimum, unless the Administrator determines that some of the elements are unnecessary due to the scope and nature of the proposed use and development of land.

- a. The following elements shall be included in a major WQIA: ~~???~~ **Move to POD process**
- (b) All information required in a minor water quality study. ~~as specified in subsection 17.10.B.~~
- (c) A hydrogeological analysis that includes:
  - 1. A description of the existing topography, soils, hydrology, and geology of the site and adjacent lands and which includes:
    - a. the location of all slopes in excess of 15%;

- b. the location and type of highly permeable, impermeable *or highly erodible* soils which are highly permeable, impermeable *or highly erodible*;
  - c. ~~the location of highly erodible soils;~~
  - d. ~~the depth to bedrock;~~
  - e. the depth to seasonal water table;
  - f. the identification of any soils ~~which are unsuitable~~ for development.
2. A description the impacts of the proposed development on the topography, soils, hydrology and geology on the site and adjacent land.
3. ~~An indication~~ *Identification* of the following:
- a. the disturbance or destruction of wetlands and justification for such action;
  - b. any disruptions or reductions in the supply of water to wetlands, streams, lakes, rivers or other water bodies;
  - c. any disruptions to existing hydrology including wetland and stream circulation patterns;
  - d. the source location and description of proposed fill material;
  - e. the location of dredging and location of dumping area for such material;
  - f. an estimation of pre- and post-development pollutant loads in runoff;
  - g. an estimation of percent increase in impervious surface on site and type(s) of surfacing materials used;
  - h. the percentage of the site to be cleared;
  - i. the proposed phasing or construction schedule of the project;
  - j. a listing of all requisite permits from all applicable agencies necessary to develop project.
4. A description of the proposed mitigation measures for the potential hydrogeological impacts. Potential mitigation measures include, but are not limited to:
- a. ~~any additional proposed erosion and sediment controls requests beyond these normally required under subsection \_\_\_\_; of this Section; these additional concepts may~~ including minimizing the extent of the cleared area, perimeter controls, reduction of runoff velocities, measures to stabilize disturbed areas, schedule and personnel for site inspection; *Do we need to really include???*
  - b. a ~~proposed~~ stormwater management system for nonpoint source quality or quantity control;

- c. the creation of wetlands onsite or appropriate offsite location to replace those lost;
- d. minimiz*ing* of cut and fill.

(d) A vegetative section that:

1. Identifies and delineates the location of all woody plant material on site, including all trees on site ~~two (2)~~ *six (6)* *inches* or greater diameter at breast height or, where there are groups of trees, ~~said stands~~ *such groups* may be outlined.
2. Describes the impacts of the development ~~or use that it will have~~ on the existing vegetation including:
  - a. the general limits of clearing, based on all proposed improvements, including buildings, drives and utilities;
  - b. a clear delineation of all trees and the woody vegetation which will be removed;
  - c. a description of plant species to be disturbed or removed.
3. Describes the proposed mitigation measures, including:
  - a. a design plan and replanting schedule for trees and vegetation removed, including a list of proposed plants and trees to be used;
  - b. a demonstration that the re-vegetation plan that supplements the existing buffer vegetation in a manner that provide for pollutant removal, erosion and runoff control.
  - c. a demonstration that the design of the plan will preserve the greatest extent possible any significant trees and vegetation on the site and will provide maximum erosion control and overland flow benefits from such vegetation.
  - d. a demonstration that indigenous plants are to be used to the greatest extent possible.

5. WQIA Submission and Review Requirements.

~~(5) Five copies of all site drawings and other applicable information as required by Subsections 17.10.B and C, above, shall be submitted to the Administrator for review.~~

- a. All information required in this subsection shall be certified as complete and accurate by a professional engineer or a certified land surveyor.

- b. A minor WQIA shall be prepared and submitted by the Applicant and reviewed by the Administrator in conjunction with subsection \_\_\_\_\_ of this Section.
  - c. A major WQIA shall be prepared and submitted by the Applicant and reviewed by the Administrator in conjunction ~~with a request for a rezoning, special use permit, or in conjunction~~ with the Plan of Development Process ~~as set forth~~ in subsection \_\_\_\_ 17.11.
  - d. ~~As part of any major WQIA submittal,~~ The Administrator may request review by **the DEQ Office of Local Government Assistance** ~~CBLAD~~ or other appropriate agencies. Upon receipt of a major WQIA, the Administrator will determine if such review is warranted and may request CBLAD to review the study and respond with written comments. Any comments by CBLAD will be incorporated into the final review by the Administrator provided that such comments are provided by CBLAD within 30 days of the request.
6. Evaluation Procedure.
- a. Upon the completed review of a minor WQIA, the Administrator will determine if any proposed modification or encroachment into to the buffer area is consistent with the provisions of this Section, and make finding based upon the following criteria:
    - 1) The necessity of the proposed encroachment and the ability to place improvements elsewhere on the site to avoid disturbance of the buffer area;
    - 2) Whether impervious surface is minimized;
    - 3) Whether proposed mitigation measures, including the revegetation plan and site design, result in minimal disturbance to all components of the RPA, including the 100-foot buffer area;
    - 4) Whether proposed mitigation measure will work to retain all buffer area functions: pollutant removal, erosion and runoff control;
    - 5) Whether proposed best management practices, where required, achieve the requisite reductions in pollutant loadings;
    - 6) Whether the development, as proposed, meets the purpose and intent of this Section;
    - 7) Whether the cumulative impact of the proposed development, when considered in relation to other development in the vicinity, both existing and proposed, will not result in a significant degradation of water quality.
  - b. Upon ~~the completed~~ review of a major WQIA, the Administrator shall determine if **whether** the proposed development is consistent with the purpose and intent of this Section and make a finding based upon the following criteria:
    - (a) ~~Whether within any RPA,~~ the proposed development is water-dependent or redevelopment;
    - (b) ~~Whether~~ the disturbance of wetlands will be minimized;

- (c) ~~Whether~~ the development will not result in significant disruption of the hydrology of the site;
  - (d) ~~Whether~~ the development will not result in significant degradation to aquatic vegetation or life;
  - (e) ~~Whether~~ the development will not result in unnecessary destruction of plant materials on site;
  - (f) ~~Whether~~ **the** proposed erosion and sediment control plans are adequate to ~~achieve the reductions in~~ **reduce** runoff and prevent off-site sedimentation;
  - (g) ~~Whether~~ proposed stormwater management plans are adequate to control the stormwater runoff to achieve “no net increase” in pollutant loadings;
  - (h) ~~Whether~~ proposed re-vegetation of disturbed areas will provide optimum erosion and sediment control benefits as well as runoff control and pollutant removal equivalent of the full 100-foot undisturbed buffer area;
  - (i) ~~Whether~~ the design, location and maintenance of any proposed drainfield will be in accordance with requirements of subsection       ;
  - (j) ~~Whether~~ the development, as proposed, is consistent with the purpose, spirit and intent of the Overlay District;
  - (k) ~~Whether~~ the cumulative impact of the proposed development, when considered in relation to other **existing and proposed** development in the vicinity ~~both existing and proposed~~, will not result in a significant degradation of water quality.
- (c) The Administrator shall require additional mitigation where potential impacts ~~have not been~~ **are not** adequately addressed. ~~Evaluation of mitigation measures will be made by the Administrator based on the criteria listed in (a) and (b) above in Subsections (1) and (2) above.~~
- (d) If the Administrator ~~shall~~ finds the proposal ~~to be~~ is inconsistent with the purpose and intent of this Section when the impacts created by the proposal cannot be mitigated, **it shall be denied**. ~~Evaluation of the impacts will be made by the Administrator based on the criteria listed in Subsections (1) and (2) above (a) and (b).~~

### **3.6 1.7 Plan of Development Process.**

Any development or redevelopment exceeding 2,500 square feet of land disturbance shall be accomplished through a plan of development process prior to any **site** clearing or grading ~~of the site or the issuance of any building permit. to assure compliance with all applicable requirements of this Section.~~

#### A. Required Information.

In addition to the requirements of Article 15, Section 14, ~~a residential plot plan in accordance with~~ **Article XV Section 24.1.\_\_\_\_** 17.11.B, or the requirements of Section 6 of the Caroline County Subdivision Ordinance, the plan of development process shall consist of the plans and studies identified below, ~~These required plans and studies~~ **which**

may be coordinated or combined, as deemed appropriate by the Administrator. The Administrator may determine that some of the following information is unnecessary due to the scope and nature of the proposed development.

The following plans or studies shall be submitted, unless otherwise provided for:

- ~~1. A site plan in accordance with the provisions of Article 15, Section 14, a residential plot plan in accordance with subsection 17.11.B, or a subdivision plat in accordance with the provisions of Section 6 of the Caroline County Subdivision Ordinance;~~
- ~~8) An environmental site assessment, except where a residential plot plan is accepted.~~
2. A landscape plan, except where a residential plot plan is accepted.
3. A stormwater management plan, except where a residential plot plan is accepted and calculations show stormwater management is not required.
4. An erosion and sediment control plan in accordance with the provisions of Chapter 45 of the Code of Caroline County. For single family dwellings or accessory structures thereto, with no RPA encroachment, an agreement in lieu of a plan may be entered into with **accepted by** the County.
5. A Water Quality Impact Assessment for all development or redevelopment exceeding 2,500 square feet of land disturbance.

***The Administrator may determine that some of the following information above is unnecessary due to the scope and nature of the proposed development.***

#### B. Residential Plot Plans Requirements.

A residential plot plan for individual single family homes, additions thereto and accessory buildings shall be required **and submitted to the Planning Department for review and approval** as set forth in **required by** Article XVII of the Zoning Ordinance. to the Planning Department, At a minimum, the plot plan shall be drawn to scale by a licensed engineer or licensed surveyor and contain the following:

- ~~(1) A boundary survey of the site (if available) or site drawing showing the north arrow and property line measurements.~~
- ~~(2) Area of the lot/parcel.~~
- ~~(3) Location, dimensions and use of proposed and existing structures including marine and temporary structures. In the case of **For** temporary structures, the **estimated** date when the structures will be removed. must be indicated.~~
- ~~(4) Location of all building restriction lines, setbacks, easements, covenant restrictions and rights-of-way.~~
- ~~(5) Dimensions and location of all driveways, parking areas or any other impervious surfaces.~~



- ~~(6) — Location of all existing and proposed septic tanks, and drainfield areas including and reserve areas and the location of all existing and proposed wells.~~
- ~~(7) — Limits of all clearing and grading.~~
- ~~(8) — Location of the limits of the RPA including any water body with perennial flow and any additional required buffer areas.~~
- ~~(9) — Location of all proposed erosion and sediment control devices.~~
- ~~(10) — Total proposed area of impervious surface area.~~

**Already in Article XVII of ZO**

C. Environmental Site Assessment.

An environmental site assessment shall be submitted in conjunction with a preliminary **final** site plan or subdivision plat.

- ~~1) — The environmental site assessment shall be drawn to scale and clearly delineate the following environmental features:
 
  - ~~(a) — Tidal wetlands;~~
  - ~~(b) — Tidal shores;~~
  - ~~(c) — Nontidal wetlands connected by surface flow and contiguous to tidal wetlands or water body with perennial flow;~~
  - ~~(d) — A 100-foot buffer area located adjacent to and landward of the components listed in subsections (a) through (c) above, and along both sides of any water body with perennial flow;~~
  - ~~(e) — Other sensitive environmental features as determined by the Board.~~~~
- ~~2) — Wetlands delineations shall be performed consistent with the procedures specified in the Federal Manual for Identifying and Delineating Jurisdictional Wetlands, 1987.~~
- ~~3) — The environmental site assessment shall delineate the site-specific geographic extent of the RPA on the specific site or parcel as required by under subsections \_\_\_\_ and \_\_\_\_ of this Section Article XV Section 24 of the Zoning Ordinance.~~
- ~~4) — The environmental site assessment shall be drawn at the same scale as the preliminary **final** subdivision plat or site plan, and shall be certified as complete and accurate by a professional engineer, a certified land surveyor or a certified landscape architect. This requirement may be waived by the Administrator when the proposed use or development would result in less than 5,000 square feet of disturbed area. **(Move to Site Plan and Subdivision Ordinance)**~~

#### D. Landscape Plan.

A landscape plan shall be prepared in conjunction **with the** ~~the requirements of site plan and/or subdivision review and approval, or as otherwise part of the~~ as a condition of rezoning or special exception permit approval. Landscape plans shall be prepared and/or certified by design professionals practicing within their areas of competence as prescribed by the Code of Virginia.

##### 1) Contents of the Plan.

- (a) The landscape plan shall be drawn to scale and clearly delineate the location, size, and description of existing and proposed plant material. All existing groups of trees on the site two (2) inches or greater diameter at breast height (DBH) shall be shown on the landscape plan, or where there are groups of trees, said stands may be outlined instead. The specific number of trees two (2) inches or greater DBH to be preserved outside of the building envelope shall be indicated on the plan. Trees and other woody vegetation proposed to be removed to create the desired construction footprint shall be clearly delineated on the landscape plan.
- (b) Any ~~required~~ RPA buffer area shall be clearly delineated and any plant material to be added to establish or supplement the buffer area, as required by this Section, shall be shown on the landscape plan.
- (c) Within the buffer area, trees and other woody vegetation to be removed for sight lines, vistas, access paths, and best management practices, as provided for in this Section, shall be shown on the plan. Vegetation required by subsection ~~17.9 F (2)~~ \_\_\_\_\_ to replace any existing trees within the buffer area shall also be shown on the landscape plan.
- (d) Trees and other woody vegetation to be removed for shoreline stabilization projects and any replacement vegetation required by this Section shall be shown on the landscape plan.
- (e) ~~The plan shall depict~~ **Identification of** grade changes or other work adjacent to trees **to be preserved** which would **adversely** affect them. ~~adversely~~. Specifications shall be provided as to how grade, drainage, and aeration ~~would~~ **will** be maintained around **such** trees ~~to be preserved~~.
- (f) ~~The landscape plan will include~~ **S**pecifications for the protection of existing trees and other vegetation during clearing, grading, and all phases of construction.

##### 2) Plant Specifications.

- (a) All plant materials necessary to supplement the buffer area or vegetated areas outside the construction footprint shall be installed according to standard planting practices and procedures.

- (b) All supplementary or replacement plant materials shall be living and in a healthy condition. Plant materials shall conform to the standards of the most recent edition of the American Standard for Nursery Stock, published by the American Association of Nurserymen.
- (c) Where areas to be preserved, as designated on an approved landscape plan, are encroached, replacement of existing trees and other vegetation will be achieved at a ratio of three (3) planted tree to one (1) removed. Replacement trees shall be a minimum one and one-half (1.5) inches DBH at the time of planting. At the discretion of the Administrator, replacement may be achieved at ratios of one (1) to one (1) at 3.5 inch at DBH, or two (2) to one (1) at 2 .5 inches DBH.

3) Maintenance.

- (a) The applicant shall be responsible for the maintenance and replacement of all vegetation as may be required by the provisions of this Section.
- (b)** In buffer areas and areas outside the construction footprint, plant material shall be tended and maintained in a healthy growing condition and free from refuse and debris. Unhealthy, dying, or dead plant materials shall be replaced during the next planting season, as required by the provisions of this Section. **(Move to Site Plan Regulations???)**

E. Stormwater Management Plan.

- 1) *A stormwater management plan for parcels in excess of one acre, shall be submitted for review and approval to the Department of Environmental Quality in conjunction with site plan or subdivision plan approval.*
- 2) A stormwater management plan *for parcels of 2500 square feet to one acre,* shall be submitted *for review and approval by the County* as part of the plan of development process required by this Section and in conjunction with site plan or subdivision plan approval, *except for residential plot plans.*

(a) Contents of the Plan

The stormwater management plan shall contain **sufficient information and** ~~maps, charts, graphs, tables, photographs, narrative descriptions, explanations and citations to supporting references as appropriate~~ to communicate the information required by this Section. At a minimum, the stormwater management plan must contain the following:

- 1. the location and design of all planned stormwater control devices;

2. procedures for implementing nonstructural stormwater control practices and techniques;
  3. pre- and post-development nonpoint source pollutant loadings with supporting documentation of all utilized coefficients and calculations;
  4. for facilities, verification of structural soundness, including a Professional Engineer or Class IIIB Surveyor Certification.
- (b) ~~Site specific facilities shall be designed for the ultimate development of the contributing watershed based on zoning, comprehensive plans, local public facility master plans, or other similar planning documents.~~
- (c) All engineering calculations must be performed in accordance with procedures outlined in the current edition of the Virginia Stormwater Management Handbook.
- (d) The plan shall establish a long-term schedule for inspection and maintenance of stormwater management facilities that includes all maintenance requirements and persons responsible for performing maintenance. ~~If the designated maintenance responsibility is with a party other than Caroline County then~~ A maintenance agreement shall be executed between the responsible party and Caroline County.

#### F. Erosion and Sediment Control Plan.

An erosion and sediment control plan that satisfies the requirements of this Section shall be prepared in accordance with Chapter 45 of the Code of Caroline County, and submitted with an application for site plan or subdivision plat approval.

#### G. Final Plans *and Plats*

Final plans *and plats* for property within CBPAs **shall be reviewed and approved** final plats **as provided in Section 6 of the Subdivision Ordinance** for land to be subdivided or site plans for land not to be subdivided as required in *under* Article 15, Section 14 of this Ordinance.

- 1) ~~Final subdivision plats and site plans for all lands within CBPAs shall include the following additional information:~~
  - (a) ~~The delineation of the Resource Protection Area boundary, including the 100-foot buffer component;~~
  - (b) ~~A plat or plan note stating that no land disturbance is allowed in the buffer area without review and approval by the Planning Administrator **Administrator**.~~
  - (c) ~~**Evidence that all required** wetlands permits **have been issued**; required by law;~~
  - (d) ~~A maintenance agreement as deemed necessary and appropriate by the Administrator **Administrator** to ensure proper maintenance of best management practices in order to continue their functions, **for all improvements required under 24.1.7.E.2 of the Zoning Ordinance.**~~

- (e) ~~Evidence that the required DEQ stormwater management coverage has been issued.~~ (Move to Section 6.3.xxi and Article XV Section 14 of Zoning Ordinance)

2) Installation and Bonding Requirements.

- (a) Where buffer areas, landscaping, stormwater management facilities or other specifications of an approved plan are required, no certificate of occupancy shall be issued until the installation of required plant materials or facilities is completed, in accordance with the approved site plan.
- (b) When the occupancy of a structure is desired prior to the completion of the required landscaping, stormwater management facilities, or other specifications of an approved plan, a certificate of occupancy may be issued ~~only~~ if the applicant provides **surety in a form and amount satisfactory to the** ~~Caroline County a form of surety satisfactory to the County Attorney in an amount equal to the~~ remaining plant materials, related materials and installation costs of the required landscaping or facilities and/or maintenance costs for any required stormwater management facilities during the construction period.
- (c) All required landscaping shall be installed and approved by the first planting season following issuance of a certificate of occupancy or a surety may be forfeited to the County.
- (d) All required stormwater management facilities or other specifications shall be installed and approved within eighteen (18) months of project commencement. Should the applicant fail, after proper notice, to initiate, complete or maintain appropriate actions required by the approved plan, the surety may be forfeited to the County. The County may collect from the applicant the amount by which the reasonable cost of required actions exceeds the amount of the surety held.
- (e) After all required actions of the approved site plan have been completed, the applicant must submit a written request for a final inspection. If the requirements of the approved plan have been completed to the satisfaction of the ~~Planning Administrator~~ **Administrator**, such unexpected or unobligated portion of the surety held shall be refunded to the applicant or terminated within sixty (60) days following the receipt of the applicant's request for final inspection. The ~~Administrator~~ **Administrator** may require a certificate of substantial completion from a Professional Engineer or Class IIIB Surveyor before making a final inspection.

H. Administrative Responsibility.

Administration of the plan of development process shall be in accordance with Article 15, Section 14 **and/or** Article XVII of this Ordinance or Section 6, of Caroline County Subdivision Ordinance, **as appropriate**. The ~~Administrator~~ **Administrator** shall approve, ~~approve subject to conditions, or disapprove the plans in accordance with the reviewing authorities' recommendations.~~ The ~~Administrator~~ shall return notification of plan review

~~results to the applicant, including recommended conditions or modifications. In the event that the results and/or recommended conditions or modifications are acceptable to the applicant, the plan shall be so modified, if required, and approved.~~

#### I. Denial of Plan, Appeal of Conditions or Modifications.

In the event ~~the final plan~~ or any component of the plan of development process **as it relates to this section** is disapproved and recommended conditions or modifications are unacceptable to the applicant, the applicant may appeal such administrative decision to the Planning Commission. In granting an appeal, the Planning Commission must find the plan to be in accordance with all applicable ordinances and include necessary elements to mitigate any detrimental impact on water quality and upon adjacent property and the surrounding area, or such plan meets the purpose and intent of the performance standards in this Section. If the Planning Commission finds that the applicant's plan does not meet the above criteria, it shall deny ~~approval~~ of the plan.

### ~~3.7~~ **1.8 Nonconforming Uses and Non-complying Structures**

The lawful use of a building, ~~or~~ structure **or land** approved which existed on May 12, 1992, or which exists at the time of any amendment to this Section, and which is not in conformity with the provisions of the Overlay District may continue in accordance with Article 16 of the Zoning Ordinance and this section. If a conflict exists between Article 16 and this section, Article 16 shall control.

No change or expansion of a nonconforming **use or** structure shall be allowed except as provided in this section:

- A. ~~The Administrator~~ **Administrator** may grant a nonconforming use and/or ~~non-complying~~ structures a waiver for principal structures on legal nonconforming ~~lots or~~ parcels to provide for remodeling and alterations to such nonconforming structures provided that:
  1. There will be no increase in nonpoint source pollution load;
  2. ~~Any~~ **There shall be no** development or land disturbance ~~exceeding an area in~~ **excess** of 2,500 square feet, **which shall comply** with all erosion and sediment control requirements of this section.
  
- B. A nonconforming use and/or ~~non-complying~~ structure waiver ~~may be~~ **is** granted by the ~~Administrator~~ **Administrator** for the expansion of a nonconforming principal structure subject to the provisions of Article 16 (Non-conforming uses), and through an administrative review process provided that the following findings are made:
  1. The request for the waiver is the minimum necessary to afford relief;
  2. Granting the waiver will not confer upon the applicant any specific privileges that are denied by this Section to other property owners in similar situations;
  3. The waiver is in harmony with the purpose and intent of this Section and does not result in water quality degradation
  4. The waiver is not based on conditions or circumstances that are self-created or self-imposed;

5. Reasonable and appropriate conditions are imposed, as warranted, that will prevent the waiver from causing degradation of water quality;
  6. Other findings, as appropriate and required by the County are met and;
  7. In no case shall this provision apply to accessory structures
- C. An application for a nonconforming use and/or waiver shall be made to the **Administrator** and up on forms furnished by the Planning Department and which contains ~~include for the purpose of proper enforcement of this Section,~~ 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;
  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 Resource Protection Area;
  4. Location and description of any existing private water supply or sewage system.
  5. **Proposed location of any land disturbance and the area in square feet.**
- D. A nonconforming use and development waiver shall become null and void twelve months from the date issued if no substantial work has commenced.

### **3.8 1.9 Exemptions**

The following activities and uses are exempt from

#### A. Exemptions for Public Utilities, Railroads, Public Roads, and Facilities

- 1) Construction, installation, operation, and maintenance of electric, natural gas, fiber-optic, and telephone transmission lines, railroads, and public roads and their appurtenant structures in accordance with (i) regulations promulgated pursuant to the Erosion and Sediment Control Law (§ 10.1-560 et seq. of the Code of Virginia) and the Stormwater Management Act (§ 10.1-603.1 et seq. of the Code of Virginia), (ii) an erosion and sediment control plan and a stormwater management plan approved by the Virginia Department of Conservation and Recreation, or (iii) local water quality protection criteria at least as stringent as the above state requirements are deemed to comply with this Section. The exemption of public roads is further conditioned on the following:
- 2) The road alignment and design has been optimized, consistent with all applicable requirements, to prevent or otherwise minimize the encroachment in the Resource Protection Area and to minimize the adverse effects on water quality.

#### B. Exemptions for Local Utilities and other service lines.

- 1) Construction, installation, and maintenance of water, sewer, natural gas lines, underground and telecommunications and cable television lines owned **and/or** permitted ~~or both~~ by **Caroline the** County ~~or regional service authority~~ shall be exempt from the CBPA District provided: ~~that:~~

- a. ~~To the extent possible,~~ The location of such utilities and facilities should be outside RPAs to the extent possible;
- b. ~~No more~~ Land disturbance ~~than is~~ shall be necessary to provide for the ~~proposed~~ utility installation;
- c. All construction, installation, and maintenance of utilities and facilities shall be in compliance with all applicable state and federal requirements and permits and shall be designed and conducted in a manner that protects water quality; and
- d. Any land disturbance exceeding an area of 2,500 square feet shall comply with Chapter 45 of the County Code.
- e.

C. Exemptions for Silvicultural Activities.

- 1) ~~Bona fide~~ Silvicultural activities shall be exempt from the requirements of this Section provided that the operations adhere to the water quality protection procedures prescribed by the Virginia Department of Forestry in its (January 1997 edition of the "Best Management Practices Handbook for Forestry Operations").

D. Exemptions *for Activities* in Resource Protection *Areas*.

- 1) Land disturbing activities for water wells, passive recreation facilities (boardwalks, trails, pathways, etc.), and historic preservation and archeological activities in ~~Resource Protection Areas~~ may be exempt from the ~~CBPA District~~ provided it is demonstrated to the satisfaction of the ~~Administrator~~ *Administrator* that:
  - a. Any *other* required permits, ~~except those to which this exemption specifically applies,~~ shall have been issued;
  - b. ~~Sufficient and reasonable proof is submitted~~ *The applicant demonstrates* that the proposed use will not deteriorate water quality;
  - c. The proposed use does not conflict with nearby planned or approved uses; and
  - d. Any land disturbance exceeding 2,500 square feet in area shall comply with ~~all erosion and sediment control requirements of~~ Chapter 45 of the County Code.

**3.9 1.10 Exceptions**

- A. A request for an exception to the requirements of this ~~Overlay~~ District shall be made in writing to the Planning Commission on forms available in the Planning Department. It shall identify the impacts of the proposed ~~variance~~ *exception* on water quality and on lands within the RPA through the performance of a WQIA ~~which complies with the provisions of~~ *as specified in* subsection 17.10 1.\_\_\_\_.



- B. ~~The County shall notify the affected public of any such exception requests and shall consider these requests in~~ **A** public hearing shall be conducted in accordance with §15.2-2204 of the Code of Virginia. ~~except that only one hearing shall be required.~~
- C. The Planning Commission shall review the request for the exception and **and** the water quality impact assessment **WQIA**. **The Commission** and may grant the exception with such conditions and safeguards as deemed necessary to further the purpose and intent of this Section, provided the Planning Commission **it** finds:
1. Granting the ~~exception~~ **request** will not confer upon the applicant any special privileges that are denied by this Section to other property owners in the CBPA District;
  2. The ~~exception~~ **request** is not based upon conditions or circumstances that are self-created or self-imposed, nor does the request arise from conditions or circumstances either permitted or nonconforming that are related to adjacent parcels;
  3. The ~~exception~~ **request** is the minimum necessary to afford relief;
  4. The ~~exception~~ request ~~will be~~ **is** consistent with the purpose and intent of the CBPA District, and not injurious to the neighborhood or otherwise detrimental to the public **health, safety and general** welfare and is not of substantial detriment to water quality; and;
  5. Reasonable and appropriate conditions **can be and** are imposed ~~which will~~ **to** prevent the ~~exception~~ request from causing a degradation of water quality.
- D. If the Planning Commission cannot make the required findings or refuses to grant the exception, the Planning Commission shall ~~return the request for an exception together with the water quality impact assessment and the~~ **provide** written findings and rationale for the decision to the applicant.
- E. A request for an exception to the requirements of this Section other than Section 17.9, shall be made in writing to the Administrator. The Administrator may grant these exceptions provided that he finds upon a finding that:
- 1) Exceptions to the requirements are the minimum necessary to afford relief; and
  - 2) Reasonable and appropriate conditions are placed upon any exception that is granted, as necessary, so that the purpose and intent of this section is preserved.
  - 3) Exceptions to Section 17.8, may be made provided that the findings noted in Section 17.14(c) are made by the Administrator.

### ~~3.10~~ **1.11 Conflict of Article with other Regulations and Severability**

~~In any case~~ **Where** the requirements of this Section conflict with any other provision of this Code **Ordinance** or **other** existing **County**, state or federal regulations, ~~whichever imposes~~ the more stringent restrictions shall apply.

### **3.14 1.12 Severability**

In the event any portion of this Section is declared void for any reason, such decision shall not affect the remaining portion of the Section, which shall remain in full force and effect, and for this purpose, the provisions of this Section are hereby declared to be severable.

### **3.12 1.13 Penalties.**

- A. Any person who: (i) violates any provision of this Section or (ii) violates or fails, neglects, or refuses to obey any final notice, order, rule, regulation, or variance or permit condition issued by the County and authorized under this Section shall, upon such finding by an appropriate circuit court, be assessed a civil penalty not to exceed \$5,000 for each day of violation. Such civil penalties may, at the discretion of the court assessing them, be directed to be paid into the treasury of the County for the purpose of abating environmental damage to or restoring Chesapeake Bay Preservation Areas therein, in such a manner as the court may direct by order, except that if the violator is the County or its agent, the court shall direct the penalty to be paid into the state treasury.
- B. Nothing in this section shall be deemed to limit the authority of the County to apply to the County Circuit Court for injunctive relief to enjoin a violation or threatened violation of this Section, or to seek damages in a civil action, including but not limited to the recovery of any cost(s) incurred for any conservation action undertaken by the County to preserve the Chesapeake Bay Preservation Area in accordance with this subsection.
- C. With the consent of any person who: (i) violates any provision of this Section related to the protection of water quality in Chesapeake Bay Preservation Areas or (ii) violates or fails, neglects, or refuses to obey any notice, order, rule, regulation, or variance or permit condition issued by the County and authorized under this subsection, the County may provide for the issuance of an order against such person for the one-time payment of civil charges for each violation in specific sums, not to exceed \$10,000 for each violation. Such civil charges shall be paid into the treasury of the County in which the violation occurred for the purpose of abating environmental damage to or restoring Chesapeake Bay Preservation Areas therein, except that where the violator is found to be the County or its agent, the civil charges shall be paid into the state treasury. Civil charges shall be in lieu of any appropriate civil penalty that could be imposed under subsection (A) above. Civil charges may be in addition to the cost of any restoration required or ordered by the County or the Administrator of Planning.

**TXT-08-2022: An Ordinance to amend the Zoning Ordinance of Caroline County by Repealing Article XV, Supplemental Regulations, Section 17, Chesapeake Bay Area Overlay District. This section will be replaced by Article XV, Section 24 of the Caroline County Zoning Ordinance.**

**SECTION 17 – Chesapeake Bay Preservation Area Overlay District**

(Adopted 05/12/92; as amended 12/13/16)

**17.1 Purpose and Intent**

A. This Section is adopted to protect and promote the public health, safety and welfare by implementing the requirements of Sections 10.1-2100 *et seq.* and Section 15.2-2283 of the Code of Virginia and the Chesapeake Bay Preservation Areas and Management Regulations, VAC 10-20-10, *et seq.*, adopted by the Chesapeake Bay Local Assistance Board and further to:

1. protect existing high quality state waters;
2. restore all other state waters to a condition or quality that will permit all reasonable public uses and will support the propagation and growth of all aquatic life, including game fish, which might reasonably be expected to inhabit them;
3. safeguard the clean waters of the Commonwealth from pollution;
4. prevent any increase in pollution;
5. reduce existing pollution; and
6. promote water resource conservation.

B. This Section establishes the criteria to be used by Caroline County, Virginia, in granting, denying, or modifying requests to use, develop or subdivide land in designated Chesapeake Bay Preservation Areas. In preservation areas, these criteria shall be applied in addition to the requirements of the erosion and sediment control, zoning and subdivision requirements of the Code of Caroline County.

C. This Section is enacted under the authority of Code of Virginia, Sec. 10.1-2100, *et seq.*, 1950, as amended.

**17.2 Definitions**

The following words and terms used in this Section have the following meanings, unless the context clearly indicates otherwise.

“Act” means the Chesapeake Bay Preservation Act, Code of Virginia, sec. 10.1-2100, *et seq.*, 1950, as amended.

“Agricultural lands” means those lands that are currently, (i.e., natural or native vegetation has been removed,) used and managed primarily for the commercial 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 and consists of a minimum of five acres. Pasture used as an accessory use to a residential use shall not be considered bonifide agriculture land.

"Best Management Practices" (BMP's) means a practice, or combination of practices, that are determined by a state or designated area wide planning agency to be the most effective, practical means of preventing or reducing the amount of pollution generated by nonpoint sources to a level compatible with water quality goals.

"Board" means the Board of Supervisors of Caroline County, Virginia.

"Buffer area" means an area of natural or established vegetation managed to protect other components of a Resource Protection Area and state waters from significant degradation due to land disturbances.

"CBLAD" means the Chesapeake Bay Local Assistance Department.

"Chesapeake Bay Preservation Area (CBPA)" means any land designated by the Board pursuant to Part III of the Chesapeake Bay Preservation Area Designation and Management Regulations, 9 VAC 10-20-10 et seq., and Section 10.1-2107 of the Code of Virginia. A Chesapeake Bay Preservation Area shall consist of a Resource Protection Area and a Resource Management Area.

"Construction footprint" means the area of all impervious surface, including but not limited to buildings, roads and drives, parking areas, sidewalks and the area necessary for construction of such improvements.

"County" means Caroline County, Virginia.

"Development" means the construction, or substantial alteration of residential, commercial, industrial, institutional, recreation, transportation, or utility facilities or structures.

"Diameter at breast height (DBH)" means the diameter of a tree measured outside the bark at a point 4.5 feet above the ground.

"Director" means the Director of Planning and Community Development and/or his designee.

"Dripline" means a vertical projection to the ground surface from the furthest lateral extent of a tree's leaf canopy.

"Floodplain" means all lands that would be inundated by flood water as a result of a storm event of a 100-year return interval.

"Health Department" means the Virginia Department of Health.

"Highly erodible soils" means soils (excluding vegetation) with an erodibility index (EI) from sheet and rill erosion equal to or greater than eight. The erodibility index for 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 of 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 1996 in the "Field Office Technical Guide" of the U.S. Department of Agriculture National 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, streets, parking areas, and any concrete, asphalt, or compacted gravel surface.

"Land disturbance" means any activity upon which causes, contributes to, or results in the removal or covering of the vegetation upon such land, including, but not limited to, clearing, grading, filling, dredging, or excavating. This term shall not include minor activities such as home gardening, planting of trees and shrubs, and home maintenance.

"Lot coverage" means the impervious area of any lot or parcel including, but not limited to buildings, drives, parking areas, sidewalks, patios, decks, etc.

"Nonpoint source pollution" means pollution consisting of constituents such as sediment, nutrients, and organic and toxic substances from diffuse sources, such as runoff from agricultural and urban land development and use.

"Nontidal wetlands" mean 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, in 33 C.F.R. 328.3b.

"Nonvegetated Wetland" means unvegetated lands lying contiguous to mean low water and between mean low water and mean high water, subject to flooding by normal wind tides but not hurricane or tropical storm tides.

"Noxious Weeds" means weeds such as Johnson Grass, Kudzu, and multiflora rose.

"Perennial stream" means a water body with water flowing in a natural or man-made channel year-round, except during periods of drought. The term "water bodies" includes estuaries and tidal embankments and may include drainage ditches or channels constructed in wetlands or from former natural drainageways, which convey perennial flow. Lakes and ponds that are the source of a perennial stream, or through which a perennial stream flows are part of a 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.

"Planning Department" means the Caroline County Department of Planning and Community Development.

"Plan of Development" means the process for site plan or subdivision plat review as required to ensure compliance with Code of Virginia, Section 10.1-2109 and this Article, prior to any clearing and grading of a site and the issuance of a building permit.

"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, (VDOT), including regulations promulgated pursuant to (i) the Erosion and Sediment Control Law (§ 10.1-603.1 et seq. of the Code of Virginia). This definition includes those roads where the VDOT exercises direct supervision over the design or construction activities, or both, and cases where secondary roads are constructed and maintained, or both, by Caroline County in accordance with County standards. Public Roads do not include roads designed and/or constructed by a private developer using VDOT standards.

"Redevelopment" means the process of developing land that is or has been previously developed.

"Regulations" means the Chesapeake Bay Preservation Area Designation and Management Regulations, VAC 10-20-10, et seq, promulgated by the Chesapeake Bay Local Assistance Board, as amended.

"Resource Management Area (RMA)" means that component of the Chesapeake Bay Preservation Area that is not classified as the Resource Protection Area. RMAs include land types that, if improperly 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 (RPA)" means that component of the Chesapeake Bay Preservation Area comprised of lands adjacent to water bodies with perennial flow 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 bona fide 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 property for reforestation that are conducted in accordance with the silvicultural best management practices developed and enforced by the State Forester pursuant to § 10.1-1105 of the Code of Virginia and are located on property defined as real estate devoted to forest use under § 58.1-3230 of the Code of Virginia.

"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 in the Resource Management Area only.

"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.

"Use" means an activity on the land other than development including, but not limited to, agriculture, horticulture, and silviculture.

"Vegetated wetlands" means lands lying between and contiguous to mean low water and an elevation above mean lower water equal to the factor one and one-half times the mean tide range at the site of the proposed project in the County, and upon which is growing any of the following species: saltmarsh cordgrass (*Spartina alterniflora*), saltmeadow hay (*Spartina patens*), saltgrass (*Distichlis spicata*), black needlerush (*Juncus roemerianus*), saltwort (*Salicornia* spp.), sea lavender (*Limonium* spp.), marsh elder (*Iva frutescens*), groundsel bush (*Baccharis halimifolia*), wax myrtle (*Myrica* sp.), sea oxeye (*Borrchia frutescens*), arrow arum (*Peltandra virginica*), pickerelweed (*Pontederia cordata*), big cordgrass (*Spartina cynosuroides*), rice cutgrass (*Leersia oryzoides*), wildrice (*Zizania aquatica*), bulrush (*Scirpus validus*), spikerush (*Eleocharis* sp.), sea rocket (*Cakile edentula*), southern wildrice (*Zizaniopsis miliacea*), cattail (*Typha* spp.), three square (*Scirpus* spp.), buttonbush (*Cephalanthus occidentalis*), bald cypress (*Taxodium distichum*), black gum (*Nyssa sylvatica*), tupelo (*Nyssa aquatica*), dock (*Rumex* spp.), yellow pond lily (*Nuphar* sp.), mards fleabane (*Pluchea purpurascens*), royal fern (*Osmunda regalis*), marsh hibiscus (*Hibiscus moscheutos*), beggar's tick (*Bidens* sp.), smartweed (*Polygonum* sp.), arrow head (*Sagittaria* spp.), sweet flag (*Acorus calamus*), water hemp (*Amaranthus cannabinus*), reed grass (*Phragmites communis*), or switch grass (*Panicum virgatum*).

"Water-dependent facility" means a development of land that cannot exist outside of the Resource Protection Area and must be located on the shoreline by reason of the intrinsic nature of its operation. These facilities include, but are not limited to (i) ports; (ii) the intake and outfall structures of power plants, water treatment plants, sewage treatment plants, and storm sewers; (iii) marinas and other boat

docking structures; (iv) beaches and other public water-oriented recreation areas; and (v) fisheries or other marine resources facilities.

“Wetlands” includes tidal and nontidal wetlands, vegetated and nonvegetated wetlands.

### 17.3 Applicability

The CBPA Overlay District shall apply to all lands identified and designated as CBPAs by the Board and as generally shown on the CBPA Map dated December 13, 2016. The CBPA Map, together with all explanatory matter thereon, is hereby adopted by reference and included as a part of this section. The CBPA shows only the general location of CBPAs, it should be consulted by persons contemplating activities within the County prior to engaging in a regulated activity. It is not the intent of this Section to require that all lands within the County be designated as CBPA areas. The extent of the RMA designation is intended to be based upon the prevalence and relation of the RMA land types and other appropriate land areas to water protection.

### 17.4 Designation of Resource Protection Areas (RPA).

A. At minimum, RPAs shall consist of lands adjacent to water bodies with perennial flow that have an intrinsic water quality value due to the ecological and biological process they perform or are sensitive to impacts which may cause significant degradation to the quality of state waters. In their natural condition, these lands provide for the removal, reduction or assimilation of sediments, nutrients and potentially harmful or toxic substances in runoff entering the bay and its tributaries.

(1) RPAs shall include:

- (a) Tidal wetlands;
- (b) Nontidal wetlands connected by surface flow and contiguous to tidal wetlands or water bodies with perennial flow;
- (c) Tidal shores;
- (d) A 100-foot vegetated buffer area located adjacent to and landward of the components listed in subsections (a) through (c) above, and along both sides of any water body with perennial flow. The full buffer areas shall be designated as the landward component of the RPA notwithstanding the presence of permitted uses, encroachments, and permitted vegetation clearing compliance with subsection 17.9.F.

B. Delineation of RPA Boundaries: The site specific boundaries of the RPA shall be designated by the applicant or the County through the performance of a site-specific environmental assessment. Designation of the components listed in part A(1) of this subsection shall be subject to approval by the Director and conducted in accordance with subsection 17.11 of this Section or subsection 17.10.

(1) Delineation by the Applicant

The site-specific boundaries of the RPA shall be determined by the applicant through the performance of an environmental site assessment, subject to approval by the Director, and in accordance with subsection 17.11 or Section 17.10 of this Section. The CBPA Map may be used as a guide to the general location of RPA's.

(2) Delineation by the Planning Department

When requested by an applicant constructing a single family dwelling, the Director may perform delineation. The Director may use an approved site-specific method or the Director may waive this requirement, under subsection 17.11, if no potential RPA features are identified using all available local information. Local information may include all of the following deemed applicable: topographic maps, soil surveys, other applicable mapping, drainage area calculations and on site indicators including hydrology, soils, plant species and other stream/wetland indicators.

(3) Conflicts

Where the applicant has provided a site-specific delineation of the RPA, the Director shall verify the accuracy of the boundary delineation. In determining the site-specific RPA boundary, the Director may render adjustments to the applicant's boundary delineation, in accordance with subsection 17.11 of this Section. In the event the adjusted boundary is contested by the applicant, the applicant may seek relief, in accordance with the provision of subsection 17.11.I

**17.5 The Resource Management Area (RMA).**

A. Resource Management Areas shall include land types that, if improperly used or developed, have potential for causing significant water quality degradation or for diminishing the functional value of the RPA. An RMA shall be provided contiguous to the entire inland boundary of the RPA.

(1) The RMA's includes:

- (a) An area three hundred (300) feet in width contiguous to and landward of an RPA;
- (b) At the time of development, other lands may be designated by the director to protect the quality of state waters, including but not limited to:
  - 1. Floodplains;
  - 2. Highly erodible soils;
  - 3. Highly permeable soils;
  - 4. Steep slopes in excess of 15%;
  - 5. Nontidal wetlands, not included under the RPA designation
- (c) Other lands designated by the Board to protect the quality of state waters, including but not limited to an area three hundred (300) feet in width contiguous to and landward of an RPA.

(2) Resource Management Areas shall encompass a land area large enough to provide significant water quality protection through the employment of the criteria in subsection 17.8.B, and the County's Comprehensive Plan.

B. If the boundaries of a RMA include only a portion of a lot, tract, parcel of land, or development project, the entire lot, parcel or development project may be deemed to be in the RMA.

**17.6 Uses**

Permitted uses, special exception permit uses, accessory uses and special regulations shall be as established by the underlying zoning district, unless specifically modified by the requirements of this Section.

**17.7 Lot Sizes**

Lot sizes shall be subject to the requirements of the underlying zoning district(s), except that any lot shall have sufficient area outside the RPA to accommodate the proposed development, in accordance with the performance standards in subsection 17.8.B, when the proposed development is not otherwise allowed in the RPA.

**17.8 Performance Standards for Chesapeake Bay Preservation Areas.**

A. Purpose and Intent.

- (1) The performance standards establish the means to minimize erosion and sedimentation potential, reduce land application of nutrients and toxics, and maximize rainwater infiltration. Natural ground cover, especially woody vegetation, is most effective in holding



soil in place and preventing site erosion. Indigenous vegetation, with its adaptability to local conditions without the use of harmful fertilizers or pesticides, filters stormwater runoff. Keeping impervious cover to a minimum enhances rainwater infiltration and effectively reduces stormwater runoff potential.

- (2) It is the further intent of these requirements to implement the following objectives: prevent a net increase in nonpoint source pollution from new development; achieve a 10% reduction in nonpoint source pollution from redevelopment; and achieve 40% reduction in nonpoint source pollution from agricultural uses.

**B. General Performance Standards for Development and Redevelopment.**

- (1) Land disturbance shall be limited to the area necessary to provide for the proposed use or development.
  - (a) In accordance with an approved site plan or subdivision plat, the limits of land disturbance, including clearing or grading shall be strictly defined by the construction footprint. The Director shall review and approve the construction footprint through the plan of development process. These limits shall be clearly shown on submitted plans and physically marked on the development site.
  - (b) The construction footprint shall not exceed the limits for such as designated by the zoning district of the lot or parcel.
  - (c) Ingress and egress during construction shall be limited to one access point, unless otherwise approved by the Director.
- (2) Indigenous vegetation shall be preserved to the maximum extent practicable consistent with the use or development proposed and in accordance with the Virginia Erosion and Sediment Control Handbook.
  - (a) Existing trees over two (2) inches diameter at breast height (DBH) shall be preserved outside the approved construction footprint. Diseased trees or trees weakened by age, storm, fire, or other injury may be removed when approved by the Planning Department. Other woody vegetation on site shall also be preserved outside the approved construction footprint.
  - (b) Existing trees over six (6) inches diameter at breast height (DBH) shall be preserved within the construction footprint to the greatest extent possible.
  - (c) Site clearing for construction activities shall be allowed as approved by the Director through the plan of development review process outlined under subsection 17.11 of this Section.
  - (d) Prior to clearing, grading and/or filling, any tree(s) to be preserved shall be identified and protected from construction activities. Suitable protective barriers like safety fencing, shall be erected five (5) feet outside the dripline of any tree or stand of trees to be preserved. Erected protective barriers shall remain throughout all phases of construction. The storage of equipment, materials, debris, or fill shall not be allowed within protected areas.
- (3) Land development shall minimize impervious cover consistent with the proposed use or development.
  - (a) Grid and modular pavements or pervious pavement shall be used for any required parking area, alley, or other low traffic driveway, unless otherwise approved by the Director.
  - (b) Parking space size shall be 162 square feet. Parking space width shall be nine (9) feet; parking space length shall be eighteen (18) feet. Two-way drives shall be a minimum of twenty-two (22) feet.
  - (c) Impervious coverage on any lot or parcel shall be limited to the lot coverage permitted under the zoning district requirements of said lot or parcel as noted on the approved plan of development or site plan.

- (4) Where the best management practices utilized require regular or periodic maintenance in order to continue their functions, a maintenance agreement from the owner or developer will be required by the County.
- (5) Notwithstanding any other provisions of this Section or exceptions or exemptions thereto, any land disturbing activity that exceeds 2,500 square feet, including construction of all single-family houses, shall comply with the requirements of Chapter 45 of the Caroline County Code.
- (6) All development and redevelopment within CBPAs exceeding 2,500 square feet of land disturbance shall be subject to a plan of development process, including a Water Quality Impact Assessment in accordance with subsection 17.10 of this Section and site plan approval in accordance with Article 15, Section 14 or subdivision plat approval in accordance with the Caroline County Subdivision Ordinance.
- (7) All on-site sewage disposal systems not requiring a VPDES permit shall be:
- (a) pumped out at least once every five years, as provided in Chapter 92 of the Caroline County Code.
  - (b) For new construction, a reserve sewage disposal site with an equivalent capacity at least equal to that of the primary sewage disposal site shall be provided, in accordance with Chapter 92 of the Caroline County Code. This requirement shall not apply to any parcel recorded prior to October 1, 1989, if the parcel does not have sufficient area to accommodate a reserve sewage disposal site, as determined by the local Health Department. Building and/or construction of impervious surfaces shall be prohibited on the area of all sewage disposal sites until the structure is served by public sewer or an on-site sewer treatment system that operates under a permit issued by the State Water Control Board.
- (8) For any development or redevelopment, stormwater runoff shall be controlled by the use of best management practices consistent with the water quality protection provisions of the Virginia Stormwater Management Regulations (4VAC 3-20-10, et seq.).
- (a) For development, the post-development nonpoint source pollution runoff load shall not exceed the pre-development load; based on the calculated average land cover condition of the County.
  - (b) For sites within Intensely Developed Areas, or other isolated redevelopment sites, the nonpoint source pollution load shall be reduced by at least 10 percent (10%). The Director may waive or modify this requirement for redevelopment sites that originally incorporated best management practices for stormwater runoff quality control, provided the following provision are satisfied:
    - 1. In no case may the post-development non-point source pollution runoff load exceed the pre-development load;
    - 2. Runoff pollution loads must have been calculated and the BMPs selected for the express purpose of controlling nonpoint source pollution and
    - 3. Where structural best management practices are already in place evidence shall be provided that facilities are currently in good working order and performing at the design levels or service. The Director may require the review of the original structural design and maintenance plan to verify this provision and a new maintenance agreement may be required to assure compliance with this subsection.
- (9) Prior to initiating any grading or other on-site land disturbing activities on any portion of a lot or parcel, all wetlands permits required by federal, state, and local laws and regulations shall be obtained and evidence of such submitted to the Director, in accordance with subsection 17.11 of this Section.

- (10) Land used for bona fide agricultural activities shall have a soil and water quality conservation plan approved by the local Soil and Water Conservation District. The plan shall be based upon the Field Office Technical Guide of the U.S. Department of Agriculture Soil Conservation Service and accomplish water quality protection consistent with this Ordinance.

#### **17.9 Additional Development Criteria for Resource Protection Areas.**

In addition to the general performance criteria set forth in subsection 17.8, of this Section, the following criteria shall also be required in all Resource Protection Areas.

A. Land development may be allowed in the Resource Protection Area, subject to approval by the Director, only if it meets one or more of the following criteria:

- (1) The development is water dependent;
- (2) The development constitutes redevelopment;
- (3) The development constitutes development or redevelopment within a designated Intensity Developed area;
- (4) The development is a road or driveway crossing satisfying the conditions set forth in subsection 17.9.D of this Section or;
- (5) The development is a new use subject to the provisions of subsection 17.9.B of this Section.

B. A new or expanded water dependent facility may be allowed provided that the following criteria are met:

- (1) It does not conflict with the comprehensive plan;
- (2) It complies with the development criteria set forth in subsection 17.8.
- (3) Any component that is not water-dependent is located outside of RPAs and;
- (4) Access to the water-dependent facility will be provided with the minimum disturbance necessary, and where practicable, a single point of access will be provided.

C. Redevelopment on isolated redevelopment sites shall be permitted in the Resource Protection Area only if there is no increase in the amount of impervious cover and no further encroachment within the RPA, and it shall conform to all applicable erosion and sediment control and stormwater management requirements set for the in the Caroline County Code, and with all applicable stormwater management requirements of other state and federal agencies. Redevelopment efforts should include the establishment of buffers and other water quality measures to improve water quality whenever possible.

D. Roads and driveways not exempt under subsection 17.13 and which, therefore, must comply with the provisions of this Section, may be constructed in or across RPAs if each of the following conditions are met:

- (1) The Director makes a finding that there are no reasonable alternatives to aligning the road or drive in or across the RPA;
- (2) The alignment and design of the road or driveway are optimized, consistent with other applicable requirements, to minimize encroachment in the RPA and minimize adverse effects on water quality;
- (3) The design and construction of the road or driveway satisfy all applicable criteria of this Section and the Regulations including submission of a water quality impact assessment and;

- (4) The Director reviews the plan for the road or driveway proposed in or across the RPA in coordination with the plan of development requirements as required under subsection 17.11 or subdivision plan.

E. A water quality impact assessment as outlined in subsection 17.10 of this Section shall be required for any proposed land disturbance, development or redevelopment within Resource Protection Areas and for any other development within Resource Management Areas when required by the Director because of the unique characteristics of the site or intensity of development, in accordance with the performance standards in subsection 17.8 of this Section.

F. Buffer Area Requirements.

- (1) To minimize the adverse effects of human activities on the other components of RPAs, state waters and aquatic life, a 100-foot buffer area of vegetation that is effective in retarding runoff, preventing erosion, and filtering nonpoint source pollution from runoff shall be retained if present and established where it does not exist.

The buffer area shall be located adjacent to and landward of other RPA components and along both sides of any water body with perennial flow. The full 100 foot buffer area shall be designated as the landward component of the RPA, in accordance with subsections 17.3, 17.4, and 17.11 of this Section. Notwithstanding permitted uses, encroachments, and vegetation clearing, as set forth in this subsection, the 100-foot buffer areas may not be reduced in width.

The 100-foot buffer area shall be deemed to achieve a 75 percent (75%) reduction of sediments and a 40 percent (40%) reduction of nutrients.

- (2) Permitted modifications to the buffer area:

- (a) In order to maintain the functional value of the buffer area, indigenous vegetation may be removed subject to approval by the Director only to provide for reasonable sight lines, access paths, general woodlot management, and best management practices, including those that prevent the upland erosion and concentrated flows of stormwater, as follows:

1. Trees may be pruned or removed as necessary to provide the sight lines and vistas, provided that where removed, they shall be replaced with other vegetation that is equally effective in retarding runoff, preventing erosion, and filtering nonpoint source pollution from runoff. The plant list as found in the Chesapeake Bay Local Assistance Department's Riparian Buffers Modification & Mitigation Manual shall be used as a guide for choosing replacement vegetation, and a minor WQIA may be required to confirm the equivalency of replacement vegetation.
2. Any path shall be constructed and surfaced so as to effectively control erosion.
3. Dead, diseased, or dying trees or shrubbery, as determined in writing by a certified arborist or licensed landscape architect may be removed as permitted by the Director and noxious weeds (such as Johnson grass, kudzu and multiflora rose) may be removed and thinning of trees allowed as permitted by the Director.
4. For shoreline erosion control projects, trees and woody vegetation may be removed, necessary control techniques employed, and appropriate vegetation established to protect or stabilize the shoreline in accordance with the best available technical advice and applicable permit conditions or requirements.

- (3) Permitted Encroachments into the buffer area.

- (a) When the application of the buffer areas will result in the loss of a buildable area on a parcel recorded prior to October 1, 1989, the encroachments into the buffer area may be allowed by the Director, as set forth in subsection 17.11 and the following criteria:
1. Encroachments into the buffer areas shall be the minimum necessary to achieve a reasonable buildable area for a principal structure and necessary utilities;
  2. Where practical a vegetative area that will maximize water quality protection, mitigate the effects of the buffer encroachment and is equal to the area of encroachment into the buffer area shall be established elsewhere on the lot or parcel; and
  3. The encroachment may not extend into the seaward 50 feet of the buffer area.
- (b) On agricultural lands the agricultural buffer area shall be managed to prevent concentrated flows of surface water from breaching the buffer area and appropriate measures may be taken to prevent noxious weeds from invading the buffer area. Encroachments into the buffer may be allowed as follows:
1. Bona fide agricultural activities may encroach into the landward 50 feet of the 100-foot wide buffer area when at least one agricultural best management practice, which, in the opinion of the Hanover/Caroline Soil and Water Conservation District, addresses the more predominant water quality issue on the adjacent land – erosion control or nutrient management – is being implemented on the adjacent land, provided that the combination of the undisturbed buffer area and the best management practice achieves water quality protection, pollutant removal, and water resource conservation at least the equivalent of the 100-foot wide buffer area. If nutrient management is identified as the predominant water quality issue, a nutrient management plan, including soil test, must be developed consistent with the “Virginia Nutrient Management Training and Certification Regulations (4 VAC 5-15-10 et seq.) administered by the Virginia Department of Conservation and Recreation.
  2. Agricultural activities may encroach within the landward 75 feet of the 100-foot wide buffer area when agricultural best management practices which address erosion control, nutrient management, and pest chemical control, are being implemented on the adjacent land. The erosion control practices must prevent erosion from exceeding the soil loss tolerance level, referred to as “T”, as defined in the “National Soil Survey Handbook” of November 1996 in the “Field Office Technical Guide” of the U. S. Department of Agriculture Natural Resource Conservation Service. A nutrient management plan, including soil test, must be developed consistent with the “Virginia Nutrient Management Training and Certification Regulations (4 VAC 5-15-10 et seq.) administered by the Virginia Department of Conservation and Recreation. In conjunction with the remaining buffer area, this collection of best management practices shall be presumed to achieve water quality protection at least the equivalent of that provided by the 100-foot wide buffer area.
  3. The buffer area is not required to be designated adjacent to agricultural drainage ditches if the adjacent agricultural land has at least one best management practices in place in accordance with a conservation plan approved by the Hanover/Caroline Soil and Water Conservation District.
  4. All agricultural BMPs and soil and water quality conservation plans shall be based on the Field Office Technical Guide of the U.S. Department of Agriculture - Soil Conservation Service.

- (c) When agricultural or silvicultural uses within the buffer area cease, and the lands are proposed to be converted back to other uses, the full 100-foot wide buffer area shall be reestablished. In reestablishing the buffer, management measures shall be undertaken to provide woody vegetation that assures the buffer functions are maintained or established.

#### 17.10 Water Quality Impact Assessment (WQIA)

A. Purpose and Intent. There shall be two levels of water quality impact assessments, a minor assessment and a major assessment.

(1) The purpose of a WQIA is to:

- (a) identify the impacts of proposed land disturbance, development or redevelopment on water quality and lands within RPAs and other environmentally-sensitive lands;
- (b) ensure that, where land disturbance, development or redevelopment does take place within RPAs and other sensitive lands, it will occur on those portions of a site and in a manner that will be least disruptive to the natural functions of RPAs and other sensitive lands;
- (c) to protect individuals from investing funds for improvements proposed for location on lands unsuited for such development because of high ground water, erosion, or vulnerability to flood and storm damage,
- (d) provide for administrative relief from terms of this Section when warranted and in accordance with the requirements contained herein; and
- (e) specify mitigation which will address water quality protection.

(2) Applicability

A water quality impact assessment shall be required:

- (a) for any proposed land disturbance, development or redevelopment activity within a Resource Protection Area;
- (b) any buffer modification or encroachment provided for in subsections 17.9.F;
- (c) for any other development in Resource Management Areas as deemed necessary by the Director due to the unique site characteristics or intensity of the proposed use or development. There shall be two levels of water quality impact assessments: a minor assessment and a major assessment.

B. Minor Water Quality Impact Assessments

(1) A minor WQIA shall be required for land disturbance, development or redevelopment within a CBPA which causes no more than 5,000 square feet of land disturbance and/or which proposes to modify or encroach into the landward 50 feet of the 100 foot buffer area as permitted under subsection 17.9.F (2) and (3) of this Section. A minor assessment must demonstrate that the undisturbed buffer area, enhanced vegetative plantings and any required best management practices will result in the removal of no less than 75 percent of sediments and 40 percent of nutrients from post-development stormwater runoff and that will retard runoff, prevent erosion, and filter nonpoint source pollution the equivalent of the full undisturbed 100-foot buffer area. A minor assessment shall include a site-drawing to scale, prepared by a licensed engineer or licensed surveyor, which shows the following:

- (a) Location of the components of the RPA, including the 100-foot buffer area and the location of any water body with perennial flow;
- (b) Location and nature of the proposed encroachment into the buffer area, including: type of paving material; areas of clearing or grading; location of any structures, drives or other impervious cover, and sewage disposal systems or reserve drainfield sites;
- (c) Type and location of proposed BMP's to mitigate the proposed encroachment.

- (d) Location of existing vegetation onsite, including the number and type of trees and other vegetation to be removed in the buffer to accommodate the encroachment or modification.
- (e) Re-vegetation plan that supplements the existing buffer vegetation in a manner that provides for pollutant removal, erosion and runoff control.

C. Major Water Quality Impact Assessments

Major water quality studies shall be required for any development which (i) exceeds 5,000 square feet of land disturbance within CBPAs and proposes to modify or encroach into the landward 50 feet of the 100-foot buffer area; (ii) proposes to disturb any portion of any component of an RPA or any portion of the buffer area within 50 feet of any other component of an RPA; or (iii) is located solely in an RMA and is deemed necessary by the Planning Department. The information required in this subsection shall be considered a minimum, unless the Director determines that some of the elements are unnecessary due to the scope and nature of the proposed use and development of land.

(1) The following elements shall be included in a major WQIA:

- (a) All information required in a minor water quality study, as specified in subsection 17.10.B.
- (b) A hydrogeological analysis that includes:
  1. A description of the existing topography, soils, hydrology, and geology of the site and adjacent lands and which includes:
    - a. the location of all slopes in excess of 15%;
    - b. the location and type of soils which are highly permeable or impermeable;
    - c. the location of highly erodible soils;
    - d. the depth to bedrock;
    - e. the depth to seasonal water table;
    - f. the identification of any soils which are unsuitable for development.
  2. A description the impacts of the proposed development on the topography, soils, hydrology and geology on the site and adjacent land.
  3. An indication of the following:
    - a. the disturbance or destruction of wetlands and justification for such action;
    - b. any disruptions or reductions in the supply of water to wetlands, streams, lakes, rivers or other water bodies;
    - c. any disruptions to existing hydrology including wetland and stream circulation patterns;
    - d. the source location and description of proposed fill material;
    - e. the location of dredging and location of dumping area for such material;
    - f. an estimation of pre- and post-development pollutant loads in runoff;
    - g. an estimation of percent increase in impervious surface on site and type(s) of surfacing materials used;
    - h. the percentage of the site to be cleared;
    - i. the proposed phasing or construction schedule of the project;
    - j. a listing of all requisite permits from all applicable agencies necessary to develop project.

4. A description of the proposed mitigation measures for the potential hydrogeological impacts. Potential mitigation measures include, but are not limited to:
  - a. any additional proposed erosion and sediment controls requests beyond these normally required under subsection 17.11.F of this Section; these additional concepts may include minimizing the extent of the cleared area, perimeter controls, reduction of runoff velocities, measures to stabilize disturbed areas, schedule and personnel for site inspection;
  - b. a proposed stormwater management system for nonpoint source quality or quantity control;
  - c. the creation of wetlands onsite or appropriate offsite location to replace those lost;
  - d. the minimization of cut and fill.

(c) A vegetative section that:

1. Identifies and delineates the location of all woody plant material on site, including all trees on site two (2) inches or greater diameter at breast height or, where there are groups of trees, said stands may be outlined.
2. Describes the impacts of the development or use that it will have on the existing vegetation including:
  - a. the general limits of clearing, based on all proposed improvements, including buildings, drives and utilities;
  - b. a clear delineation of all trees and the woody vegetation which will be removed;
  - c. a description of plant species to be disturbed or removed.
3. Describes the proposed mitigation measures, including:
  - a. a design plan and replanting schedule for trees and vegetation removed, including a list of proposed plants and trees to be used;
  - b. a demonstration that the re-vegetation plan that supplements the existing buffer vegetation in a manner that provide for pollutant removal, erosion and runoff control.
  - c. a demonstration that the design of the plan will preserve the greatest extent possible any significant trees and vegetation on the site and will provide maximum erosion control and overland flow benefits from such vegetation.
  - d. a demonstration that indigenous plants are to be used to the greatest extent possible.

D. WQIA Submission and Review Requirements.

- (1) Five copies of all site drawings and other applicable information as required by Subsections 17.10.B and C, above, shall be submitted to the Director for review.
- (2) All information required in this subsection shall be certified as complete and accurate by a professional engineer or a certified land surveyor.
- (3) A minor WQIA shall be prepared and submitted by the Applicant and reviewed by the Director in conjunction with subsection 17.10.B of this Section.



- (4) A major WQIA shall be prepared and submitted by the Applicant and reviewed by the Director in conjunction with a request for a rezoning, special use permit, or in conjunction with the Plan of Development Process as set forth in subsection 17.11.
- (5) As part of any major WQIA submittal, the Director may request review by CBLAD or other appropriate agencies. Upon receipt of a major WQIA, the Director will determine if such review is warranted and may request CBLAD to review the study and respond with written comments. Any comments by CBLAD will be incorporated into the final review by the Director provided that such comments are provided by CBLAD within 30 days of the request.

E. Evaluation Procedure.

- (1) Upon the completed review of a minor WQIA, the Director will determine if any proposed modification or encroachment into to the buffer area is consistent with the provisions of this Section and make finding based upon the following criteria:
  - (a) The necessity of the proposed encroachment and the ability to place improvements elsewhere on the site to avoid disturbance of the buffer area;
  - (b) Whether impervious surface is minimized;
  - (c) Whether proposed mitigation measures, including the revegetation plan and site design, result in minimal disturbance to all components of the RPA, including the 100-foot buffer area;
  - (d) Whether proposed mitigation measure will work to retain all buffer area functions: pollutant removal, erosion and runoff control;
  - (e) Whether proposed best management practices, where required, achieve the requisite reductions in pollutant loadings;
  - (f) Whether the development, as proposed, meets the purpose and intent of this Section;
  - (g) Whether the cumulative impact of the proposed development, when considered in relation to other development in the vicinity, both existing and proposed, will not result in a significant degradation of water quality.
- (2) Upon the completed review of a major WQIA, the Director shall determine if the proposed development is consistent with the purpose and intent of this Section and make a finding based upon the following criteria:
  - (a) Whether within any RPA, the proposed development is water-dependent or redevelopment;
  - (b) Whether the disturbance of wetlands will be minimized;
  - (c) Whether the development will not result in significant disruption of the hydrology of the site;
  - (d) Whether the development will not result in significant degradation to aquatic vegetation or life;
  - (e) Whether the development will not result in unnecessary destruction of plant materials on site;
  - (f) Whether proposed erosion and sediment control plans are adequate to achieve the reductions in runoff and prevent off-site sedimentation;
  - (g) Whether proposed stormwater management plans are adequate to control the stormwater runoff to achieve "no net increase" in pollutant loadups;
  - (h) Whether proposed re-vegetation of disturbed areas will provide optimum erosion and sediment control benefits as well as runoff control and pollutant removal equivalent of the full 100-foot undisturbed buffer area;
  - (i) Whether the design, location and maintenance of any proposed drainfield will be in accordance with requirements of subsection 17.8 B.(7);
  - (j) Whether the development, as proposed, is consistent with the purpose, spirit and intent of the Overlay District;

- (k) Whether the cumulative impact of the proposed development, when considered in relation to other development in the vicinity, both existing and proposed, will not result in a significant degradation of water quality.
- (3) The Director shall require additional mitigation where potential impacts have not been adequately addressed. Evaluation of mitigation measures will be made by the Director based on the criteria listed above in Subsections (1) and (2) above.
- (4) The Director shall find the proposal to be inconsistent with the purpose and intent of this Section when the impacts created by the proposal cannot be mitigated. Evaluation of the impacts will be made by the Administrator based on the criteria listed in Subsections (1) and (2) above.

#### **17.11 Plan of Development Process.**

Any development or redevelopment exceeding 2,500 square feet of land disturbance shall be accomplished through a plan of development process prior to any clearing or grading of the site or the issuance of any building permit to assure compliance with all applicable requirements of this Section.

##### **A. Required Information.**

In addition to the requirements of Article 15, Section 14 or the requirements of Section 6 of the Caroline County Subdivision Ordinance, the plan of development process shall consist of the plans and studies identified below. These required plans and studies may be coordinated or combined, as deemed appropriate by the Director. The Director may determine that some of the following information is unnecessary due to the scope and nature of the proposed development.

The following plans or studies shall be submitted, unless otherwise provided for:

- (1) A site plan in accordance with the provisions of Article 15, Section 14, a residential plot plan in accordance with subsection 17.11.B, or a subdivision plat in accordance with the provisions of Section 6 of the Caroline County Subdivision Ordinance;
- (2) An environmental site assessment, except where a residential plot plan is accepted.
- (3) A landscape plan, except where a residential plot plan is accepted.
- (4) A stormwater management plan, except where a residential plot plan is accepted and calculations show stormwater management is not required.
- (5) An erosion and sediment control plan in accordance with the provisions of Chapter 45 of the Code of Caroline County. For single family dwellings or accessory structures thereto, with no RPA encroachment, an agreement in lieu of a plan may be entered into with the County.
- (6) A Water Quality Impact Assessment for all development or redevelopment exceeding 2,500 square feet of land disturbance.

##### **B. Residential Plot Plan Requirements.**

A residential plot plan for individual single family homes, additions thereto and accessory buildings shall be submitted to the Planning Department. At a minimum, the plot plan shall be drawn to scale by a licensed engineer or licensed surveyor and contain the following:

- (1) A boundary survey of the site (if available) or site drawing showing the north arrow and property line measurements.

- (2) Area of the lot/parcel.
- (3) Location, dimensions and use of proposed and existing structures including marine and temporary structures. In the case of temporary structures, the date when the structures will be removed must be indicated.
- (4) Location of all building restriction lines, setbacks, easements, covenant restrictions and rights-of-way.
- (5) Dimensions and location of all driveways, parking areas or any other impervious surfaces.
- (6) Location of all existing and proposed septic tanks and drainfield areas including reserve areas and the location of all existing and proposed wells.
- (7) Limits of all clearing and grading.
- (8) Location of the limits of the RPA including any water body with perennial flow and any additional required buffer areas.
- (9) Location of all erosion and sediment control devices.
- (10) Total proposed area of impervious surface.

C. Environmental Site Assessment.

An environmental site assessment shall be submitted in conjunction with a preliminary site plan or preliminary subdivision plan.

- (1) The environmental site assessment shall be drawn to scale and clearly delineate the following environmental features:
  - (a) Tidal wetlands;
  - (b) Tidal shores;
  - (c) Nontidal wetlands connected by surface flow and contiguous to tidal wetlands or water body with perennial flow;
  - (d) A 100-foot buffer area located adjacent to and landward of the components listed in subsections (a) through (c) above, and along both sides of any water body with perennial flow;
  - (e) Other sensitive environmental features as determined by the Board.
  - (f)
- (2) Wetlands delineations shall be performed consistent with the procedures specified in the Federal Manual for Identifying and Delineating Jurisdictional Wetlands, 1987.
- (3) The environmental site assessment shall delineate the site-specific geographic extent of the RPA on the specific site or parcel as required under subsections 17.4 and 17.8 of this Section.
- (4) The environmental site assessment shall be drawn at the same scale as the preliminary subdivision plat or site plan, and shall be certified as complete and accurate by a professional engineer, a certified land surveyor or a certified landscape architect. This requirement may be waived by the Director when the proposed use or development would result in less than 5,000 square feet of disturbed area.

D. Landscape Plan.

A landscape plan shall be prepared in conjunction with the requirements of site plan and/or subdivision review and approval or as part of the conditions of rezoning and special exceptions.

Landscape plans shall be prepared and/or certified by design professionals practicing within their areas of competence as prescribed by the Code of Virginia.

(1) Contents of the Plan.

- (a) The landscape plan shall be drawn to scale and clearly delineate the location, size, and description of existing and proposed plant material. All existing groups of trees on the site two (2) inches or greater diameter at breast height (DBH) shall be shown on the landscape plan, or where there are groups of trees, said stands may be outlined instead. The specific number of trees two (2) inches or greater DBH to be preserved outside of the building envelope shall be indicated on the plan. Trees and other woody vegetation proposed to be removed to create the desired construction footprint shall be clearly delineated on the landscape plan.
- (b) Any required RPA buffer area shall be clearly delineated and any plant material to be added to establish or supplement the buffer area, as required by this Section, shall be shown on the landscape plan.
- (c) Within the buffer area, trees and other woody vegetation to be removed for sight lines, vistas, access paths, and best management practices, as provided for in this Section, shall be shown on the plan. Vegetation required by subsection 17.9 F (2) to replace any existing trees within the buffer area shall also be shown on the landscape plan.
- (d) Trees and other woody vegetation to be removed for shoreline stabilization projects and any replacement vegetation required by this Section shall be shown on the landscape plan.
- (e) The plan shall depict grade changes or other work adjacent to trees which would affect them adversely. Specifications shall be provided as to how grade, drainage, and aeration would be maintained around trees to be preserved.
- (f) The landscape plan will include specifications for the protection of existing trees and other vegetation during clearing, grading, and all phases of construction.

(2) Plant Specifications.

- (a) All plant materials necessary to supplement the buffer area or vegetated areas outside the construction footprint shall be installed according to standard planting practices and procedures.
- (b) All supplementary or replacement plant materials shall be living and in a healthy condition. Plant materials shall conform to the standards of the most recent edition of the American Standard for Nursery Stock, published by the American Association of Nurserymen.
- (c) Where areas to be preserved, as designated on an approved landscape plan, are encroached, replacement of existing trees and other vegetation will be achieved at a ratio of three (3) planted tree to one (1) removed. Replacement trees shall be a minimum one and one-half (1.5) inches DBH at the time of planting. At the discretion of the Director, replacement may be achieved at ratios of one (1) to one (1) at 3.5 inch at DBH, or two (2) to one (1) at 2 .5 inches DBH.

(3) Maintenance.

- (a) The applicant shall be responsible for the maintenance and replacement of all vegetation as may be required by the provisions of this Section.

- (b) In buffer areas and areas outside the construction footprint, plant material shall be tended and maintained in a healthy growing condition and free from refuse and debris. Unhealthy, dying, or dead plant materials shall be replaced during the next planting season, as required by the provisions of this Section.

E. Stormwater Management Plan.

A stormwater management plan shall be submitted as part of the plan of development process required by this Section and in conjunction with site plan or subdivision plan approval.

(1) Contents of the Plan.

The stormwater management plan shall contain maps, charts, graphs, tables, photographs, narrative descriptions, explanations and citations to supporting references as appropriate to communicate the information required by this Section. At a minimum, the stormwater management plan must contain the following:

- (a) the location and design of all planned stormwater control devices;
  - (b) procedures for implementing nonstructural stormwater control practices and techniques;
  - (c) pre- and post-development nonpoint source pollutant loadings with supporting documentation of all utilized coefficients and calculations;
  - (d) for facilities, verification of structural soundness, including a Professional Engineer or Class III Surveyor Certification.
- (2) Site specific facilities shall be designed for the ultimate development of the contributing watershed based on zoning, comprehensive plans, local public facility master plans, or other similar planning documents.
- (3) All engineering calculations must be performed in accordance with procedures outlined in the current edition of the Virginia Stormwater Management Handbook.
- (4) The plan shall establish a long-term schedule for inspection and maintenance of stormwater management facilities that includes all maintenance requirements and persons responsible for performing maintenance. If the designated maintenance responsibility is with a party other than Caroline County then a maintenance agreement shall be executed between the responsible party and Caroline County.

F. Erosion and Sediment Control Plan.

An erosion and sediment control plan that satisfies the requirements of this Section shall be prepared in accordance with Chapter 45 of the Code of Caroline County, and submitted with an application for site plan or subdivision plat approval.

G. Final Plans

Final plans for property within CBPAs shall be final plats for land to be subdivided or site plans for land not to be subdivided as required in Article 15, Section 14 of this Ordinance.

- (1) Final subdivision plats and site plans for all lands within CBPAs shall include the following additional information:
- (a) The delineation of the Resource Protection Area boundary, including the 100-foot buffer component;
  - (b) A plat or plan note stating that no land disturbance is allowed in the buffer area without review and approval by the Planning Director.
  - (c) All wetlands permits required by law;

- (d) A maintenance agreement as deemed necessary and appropriate by the Director to ensure proper maintenance of best management practices in order to continue their functions.
- (2) Installation and Bonding Requirements.
- (a) Where buffer areas, landscaping, stormwater management facilities or other specifications of an approved plan are required, no certificate of occupancy shall be issued until the installation of required plant materials or facilities is completed, in accordance with the approved site plan.
  - (b) When the occupancy of a structure is desired prior to the completion of the required landscaping, stormwater management facilities, or other specifications of an approved plan, a certificate of occupancy may be issued only if the applicant provides to Caroline County a form of surety satisfactory to the County Attorney in an amount equal to the remaining plant materials, related materials and installation costs of the required landscaping or facilities and/or maintenance costs for any required stormwater management facilities during the construction period.
  - (c) All required landscaping shall be installed and approved by the first planting season following issuance of a certificate of occupancy or a surety may be forfeited to the County.
  - (d) All required stormwater management facilities or other specifications shall be installed and approved within eighteen (18) months of project commencement. Should the applicant fail, after proper notice, to initiate, complete or maintain appropriate actions required by the approved plan, the surety may be forfeited to the County. The County may collect from the applicant the amount by which the reasonable cost of required actions exceeds the amount of the surety held.
  - (e) After all required actions of the approved site plan have been completed, the applicant must submit a written request for a final inspection. If the requirements of the approved plan have been completed to the satisfaction of the Planning Director, such unexpected or unobligated portion of the surety held shall be refunded to the applicant or terminated within sixty (60) days following the receipt of the applicant's request for final inspection. The Director may require a certificate of substantial completion from a Professional Engineer or Class III B Surveyor before making a final inspection.

#### H. Administrative Responsibility.

Administration of the plan of development process shall be in accordance with Article 15, Section 14 of this Ordinance or Section 6, of Caroline County Subdivision Ordinance. The Director shall approve, approve subject to conditions, or disapprove the plans in accordance with the reviewing authorities' recommendations. The Director shall return notification of plan review results to the applicant, including recommended conditions or modifications. In the event that the results and/or recommended conditions or modifications are acceptable to the applicant, the plan shall be so modified, if required, and approved.

#### I. Denial of Plan, Appeal of Conditions or Modifications.

In the event the final plan or any component of the plan of development process is disapproved and recommended conditions or modifications are unacceptable to the applicant, the applicant may appeal such administrative decision to the Planning Commission. In granting an appeal, the Planning Commission must find the plan to be in accordance with all applicable ordinances and include necessary elements to mitigate any detrimental impact on water quality and upon adjacent property and the surrounding area, or such plan meets the purpose and intent of the performance standards in this Section. If the Planning Commission finds that the applicant's plan does not meet the above criteria, it they shall deny approval of the plan.

### 17.12 Nonconforming Uses and Non-complying Structures

- A. The lawful use of a building or structure which existed on May 12, 1992, or which exists at the time of any amendment to this Section, and which is not in conformity with the provisions of the Overlay District may be continued in accordance with Article 16 of this Ordinance and this subsection. If a conflict exists between Article 16 and this section, Article 16 shall control.
- B. No change or expansion of a nonconforming structure shall be allowed except as provided in this subpart that:
- (1) The Director may grant a nonconforming use and/or non-complying structures a waiver for principal structures on legal nonconforming lots or parcels to provide for remodeling and alterations to such nonconforming structures provided that:
    - (a) There will be no increase in nonpoint source pollution load;
    - (b) Any development or land disturbance exceeding an area of 2,500 square feet complies with all erosion and sediment control requirements of this Section.
  - (2) A nonconforming use and/or non-complying structure waiver may be granted by the Director for the expansion of a nonconforming principal structure subject to the provisions of Article 16 (Non-conforming uses), and through an administrative review process provided that the following findings are made:
    - (a) The request for the waiver is the minimum necessary to afford relief;
    - (b) Granting the waiver will not confer upon the applicant any specific privileges that are denied by this Section to other property owners in similar situations;
    - (c) The waiver is in harmony with the purpose and intent of this Section and does not result in water quality degradation
    - (d) The waiver is not based on conditions or circumstances that are self-created or self-imposed;
    - (e) Reasonable and appropriate conditions are imposed, as warranted, that will prevent the waiver from causing degradation of water quality;
    - (f) Other findings, as appropriate and required by the County are met and;
    - (g) In no case shall this provision apply to accessory structures
  - (3) An application for a nonconforming use and/or waiver shall be made to and upon forms furnished by the Planning Department and shall include for the purpose of proper enforcement of this Section, the following information:
    - (a) Name and address of applicant and property owner;
    - (b) Legal description of the property and type of proposed use and development;
    - (c) 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 Resource Protection Area;
    - (d) Location and description of any existing private water supply or sewage system.
  - (4) A nonconforming use and development waiver shall become null and void twelve months from the date issued if no substantial work has commenced.

### 17.13 Exemptions

- A. Exemptions for Public Utilities, Railroads, Public Roads, and Facilities

Construction, installation, operation, and maintenance of electric, natural gas, fiber-optic, and telephone transmission lines, railroads, and public roads and their appurtenant structures in accordance with (i) regulations promulgated pursuant to the Erosion and Sediment Control Law (§ 10.1-560 et seq. of the Code

of Virginia) and the Stormwater Management Act (§ 10.1-603.1 et seq. of the Code of Virginia), (ii) an erosion and sediment control plan and a stormwater management plan approved by the Virginia Department of Conservation and Recreation, or (iii) local water quality protection criteria at least as stringent as the above state requirements are deemed to comply with this Section. The exemption of public roads is further conditioned on the following:

- (1) The road alignment and design has been optimized, consistent with all applicable requirements, to prevent or otherwise minimize the encroachment in the Resource Protection Area and to minimize the adverse effects on water quality.

**B. Exemptions for Local Utilities and other service lines.**

Construction, installation, and maintenance of water, sewer, natural gas lines, underground and telecommunications and cable television lines owned, permitted or both by Caroline County or regional service authority shall be exempt from the CBPA District provided that:

- (1) To the extent possible, the location of such utilities and facilities should be outside RPAs;
- (2) No more land shall be disturbed than is necessary to provide for the proposed utility installation;
- (3) All construction, installation, and maintenance of utilities and facilities shall be in compliance with all applicable state and federal requirements and permits and shall be designed and conducted in a manner that protects water quality; and
- (4) Any land disturbance exceeding an area of 2,500 square feet shall comply with all Caroline County erosion and sediment control requirements.

**C. Exemptions for Silvicultural Activities.**

Bona fide silvicultural activities shall be exempt from the requirements of this Section provided that the operations adhere to the water quality protection procedures prescribed by the Virginia Department of Forestry in its January 1997 edition of the "Best Management Practices Handbook for Forestry Operations".

**D. Exemptions in Resource Protection Activities.**

Land disturbing activities for water wells, passive recreation facilities (boardwalks, trails, pathways, etc.), and historic preservation and archeological activities in Resource Protection Areas may be exempt from the CBPA District provided it is demonstrated to the satisfaction of the Director that:

- (1) Any required permits, except those to which this exemption specifically applies, shall have been issued;
- (2) Sufficient and reasonable proof is submitted that the proposed use will not deteriorate water quality;
- (3) The proposed use does not conflict with nearby planned or approved uses; and
- (4) Any land disturbance exceeding 2,500 square feet in area shall comply with all erosion and sediment control requirements of Chapter 45 of the County Code.

**17.14 Exceptions**

- A. A request for an exception to the requirements of this Overlay District shall be made in writing to the Planning Commission on forms available in the Planning Department. It shall identify the impacts of the proposed variance on water quality and on lands within the RPA through the performance of a WQIA which complies with the provisions of subsection 17.10.
- B. The County shall notify the affected public of any such exception requests and shall consider these requests in a public hearing in accordance with §15.2-2204 of the Code of Virginia, except that only one hearing shall be required.



- C. The Planning Commission shall review the request for the exception and the water quality impact assessment and may grant the exception with such conditions and safeguards as deemed necessary to further the purpose and intent of this Section provided the Planning Commission finds:
- (1) Granting the exception will not confer upon the applicant any special privileges that are denied by this Section to other property owners in the CBPA District;
  - (2) The exception request is not based upon conditions or circumstances that are self-created or self-imposed, nor does the request arise from conditions or circumstances either permitted or nonconforming that are related to adjacent parcels;
  - (3) The exception request is the minimum necessary to afford relief;
  - (4) The exception request will be consistent with the purpose and intent of the CBPA District, and not injurious to the neighborhood or otherwise detrimental to the public welfare and is not of substantial detriment to water quality; and;
  - (5) Reasonable and appropriate conditions are imposed which will prevent the exception request from causing a degradation of water quality.
- D. If the Planning Commission cannot make the required findings or refuses to grant the exception, the Planning Commission shall return the request for an exception together with the water quality impact assessment and the written findings and rationale for the decision to the applicant.
- E. A request for an exception to the requirements of provisions of this Section other than Section 17.9, shall be made in writing to the Director. The Director may grant these exceptions provided that he finds:
- (1) Exceptions to the requirements are the minimum necessary to afford relief; and
  - (2) Reasonable and appropriate conditions are placed upon any exception that is granted, as necessary, so that the purpose and intent of this Section is preserved.
  - (3) Exceptions to Section 17.8, may be made provided that the findings noted in Section 17.14(c) are made by the Director.

#### **17.15 Conflict of Article with other Regulations and Severability**

- A. In any case where the requirements of this Section conflict with any other provision of this Code or existing state or federal regulations, whichever imposes the more stringent restrictions shall apply.
- B. In the event any portion of this Section is declared void for any reason, such decision shall not affect the remaining portion of the Section, which shall remain in full force and effect, and for this purpose, the provisions of this Section are hereby declared to be severable.

#### **17.16 Penalties.**

- A. Any person who: (i) violates any provision of this Section or (ii) violates or fails, neglects, or refuses to obey any final notice, order, rule, regulation, or variance or permit condition issued by the County and authorized under this Section shall, upon such finding by an appropriate circuit court, be assessed a civil penalty not to exceed \$5,000 for each day of violation. Such civil penalties may, at the discretion of the court assessing them, be directed to be paid into the treasury of the County for the purpose of abating environmental damage to or restoring Chesapeake Bay Preservation Areas therein, in such a manner as the court may direct by order, except that if the violator is the County or its agent, the court shall direct the penalty to be paid into the state treasury.

- B. Nothing in this section shall be deemed to limit the authority of the County to apply to the County Circuit Court for injunctive relief to enjoin a violation or threatened violation of this Section, or to seek damages in a civil action, including but not limited to the recovery of any cost(s) incurred for any conservation action undertaken by the County to preserve the Chesapeake Bay Preservation Area in accordance with this subsection.
- C. With the consent of any person who: (i) violates any provision of this Section related to the protection of water quality in Chesapeake Bay Preservation Areas or (ii) violates or fails, neglects, or refuses to obey any notice, order, rule, regulation, or variance or permit condition issued by the County and authorized under this subsection, the County may provide for the issuance of an order against such person for the one-time payment of civil charges for each violation in specific sums, not to exceed \$10,000 for each violation. Such civil charges shall be paid into the treasury of the County in which the violation occurred for the purpose of abating environmental damage to or restoring Chesapeake Bay Preservation Areas therein, except that where the violator is found to be the County or its agent, the civil charges shall be paid into the state treasury. Civil charges shall be in lieu of any appropriate civil penalty that could be imposed under subsection (A) above. Civil charges may be in addition to the cost of any restoration required or ordered by the County or the Director of Planning.

REPEALED

**TXT-09-2022: An Ordinance to amend the Zoning Ordinance of Caroline County by repealing and replacing Article XIII, *Parking*. The purpose of the amendment is to modify the general standards, and establish provisions for reducing the number of required parking spaces and providing opportunities for shared parking.**

**(Proposed Amendments to reduce impervious parking area)**

**Article XIII  
Off-Street Parking and Loading Requirements**

Amended through 11/24/15

**Section 1 - Off-Street Parking Requirements**

There shall be provided at the time of erection of any main building or at the time any main building is enlarged minimum off-street parking space with adequate provision for entrance and exit by standard sized automobiles. All parking spaces shall be a minimum of one hundred eighty (180) square feet with a minimum width of nine (9) feet. ***Two-way drives shall be a minimum of twenty-two (22) and a maximum of twenty-four (24) feet in width.***

Off-street parking requirements are as follows:

1. Single and two-family residences - two (2) spaces per unit.
2. Apartments, condominiums, or other multi-family dwellings - two (2) spaces per unit.
3. Townhouse dwellings - two (2) spaces per unit.
4. Churches - one (1) space per five (5) seats in main assembly area.
5. Hospitals, nursing homes, convalescent homes, or similar uses - one (1) space per two (2) beds capacity.
6. Hotels, motels, tourist homes, or other commercial lodging facilities - one (1) space per rental unit.
7. Community buildings, clubs, lodges, museums, libraries, or similar uses - four (4) spaces per 1,000 square feet of floor area.
8. Auditoriums, theaters, stadiums, or similar places of public assembly - one (1) space per four (4) seats.
9. Eating and drinking establishments - one (1) space per four (4) seats; drive-in restaurants - one (1) space per seventy-five (75) square feet of floor area. Notwithstanding the above, eating and drinking establishments and drive-in restaurants shall each have a minimum of ten (10) spaces.

10. Automobile service stations - one (1) space per gasoline pump.
11. Professional offices, personal service shops, insurance and real estate offices, financial institutions or medical or dental clinics - one (1) space per two hundred (200) square feet of floor area, with a minimum of five (5) spaces.
12. Animal hospitals - one (1) space per four hundred (400) square feet of floor area, with a minimum of four (4) spaces.
13. Retail stores - one (1) space per two hundred (200) square feet of floor area, with a minimum of five (5) spaces; retail food stores over four thousand (4,000) square feet - one (1) space per one hundred (100) square feet of floor area.
14. Shopping Center - One (1) space per two hundred fifty (250) square feet of floor area for retail development within a shopping center. (Amended 11/24/15)
15. Amusement places, dance halls, skating rinks, swimming pools, or exhibition halls - one (1) space per 100 square feet of floor area.
16. Funeral homes and liquor stores - one (1) space per 100 square feet of floor area, with a minimum of thirty (30) spaces.
17. Furniture, large machinery, equipment, automobile, or boat sales stores - three (3) spaces per 1,000 square feet of floor area.
18. Manufacturing or wholesale distribution facilities - one (1) space per two employees. The number of employees shall be based on the maximum number of persons the establishment is designed to accommodate on a single work shift.
19. Elementary or middle schools - one (1) space per twenty-five (25) classroom seats.
20. High schools or colleges - one (1) space per five (5) classroom seats.
21. Day schools or nursery schools - two (2) spaces for each classroom.

~~The parking space requirement for a use not specifically listed above shall be the same as for a listed use of similar characteristics of parking demand generation. Where fractional spaces result, the parking spaces required shall be constructed **rounded up or down** to be the next highest **closest** whole number.~~

~~Parking space as required in the foregoing shall be on the same lot with the main building, **except as qualified in Section 2.** Every parcel of land hereafter used as a public parking area shall be surfaced with gravel, stone, asphalt, **porous pavers** or concrete. Appropriate curbing or barriers shall be provided as determined by the Administrator. Any lights used to illuminate said parking areas shall be so arranged as to reflect the light away from adjoining premises in a residential district.~~

## **Section 2 - Off-Street Loading Requirements**

Uses which involve the receipt or distribution by vehicles of materials or merchandise shall provide and maintain adequate off-street space for standing, loading and unloading purposes. This space shall be in addition to that required for off-street parking. The location of the loading area shall not interfere with the movement of vehicles within the prescribed parking areas. Each off-street loading space shall be a minimum of twelve (12) feet in width and of sufficient depth to accommodate the largest vehicles servicing the establishment, but said length shall not be less than 25 feet. Loading space shall be required as follows:

1. Commercial uses - one (1) space per 7,500 square feet of floor area, not to exceed a total of five (5) spaces.
2. Industrial uses - one (1) space per 10,000 square feet of floor space, not to exceed a total of eight (8) spaces.

## **Section 3 General Parking Standards.**

Parking space requirement for a use not specifically listed above shall be the same as for a listed use of similar characteristics of parking demand generation. Where fractional spaces result, the parking spaces required shall be ~~constructed~~ **rounded up or down** to be the next ~~highest~~ **closest** whole number.

Parking spaces shall be **located** on the same lot with the main building, **except where the applicable zoning district regulations permit off-site parking spaces.** Every parcel of land hereafter used as a public parking area shall be surfaced with ~~gravel, stone,~~ asphalt, **porous pavers** or concrete. Appropriate curbing or barriers shall be provided as determined by the Administrator. Any lights used to illuminate ~~said~~ parking areas shall be source shielded and directed downward and arranged so as to reflect the light away from adjoining properties ~~premises in a residential district and public rights-of-way.~~

**Parking lot lighting on properties not subject to occupancy at night shall be reduced to the minimum levels necessary to provide security lighting for the property.**

If more than one type of permitted use occupies a single structure or parcel, the total parking requirements shall be the sum of the requirements for each of the permitted uses unless shared parking or a reduction in parking is allowed under the provisions of this Ordinance.

When computing parking spaces based on gross floor area, areas within the footprint of a building which are used solely for parking spaces and associated driveways, **or areas within a structure not normally occupied during business hours (eg; supply/storage rooms, rest rooms, etc)** are not included as part of the floor area calculation used for determining required parking.

**Grid and modular pavers or pervious pavement shall be used for any required parking area, alley, or other low traffic driveway, in excess of the requirements of this section as approved by the Director.**

The size of a parking space shall be 162 square feet, with a width of nine (9) feet and a length of eighteen (18) feet.

#### Section 4 Reduction in Off-Street Parking

In lieu of the numerical parking or loading space standards contained in this article, applicants may have a site and/or use specific parking and/loading space analysis and plan prepared by a professional qualified to perform such studies, for submission to the county for consideration. The professional qualifications of the preparer shall accompany the analysis.

1. Such analysis and plan shall be based on parking/loading demands at comparable uses or establishments taken within twelve (12) months of the date of submission and shall include comparisons with the Institute of Transportation Engineers (ITE) Parking Generation report (3rd Edition, 2004, or as it may be amended from time to time).
2. The parking analysis may also propose, and the zoning administrator may approve, the construction of a portion of the required parking for a site in an "overflow" or "peak demand" lot. Such lots shall be designed with grid paving systems that allow grass to grow within the paver voids, porous pavement or other similar materials to reduce stormwater runoff and promote on-site absorption of runoff. Curbing and wheel stops may be eliminated from this portion of the parking lot.
3. If approved by the zoning administrator, the site-specific parking or loading plan shall guide the development for the site, provided that, if the plan provides for fewer parking or loading spaces than would otherwise be required, an area sufficient to accommodate one-half of the difference shall be reserved for a period of five years and maintained as landscaped open space during that time. A reserved area shall not be required where the site and use-specific parking analysis and plan refers to a use for which a specific or comparable listing is not provided in this article.

#### Section 5-Shared Parking

Shared parking may be considered for land uses with different parking demand patterns for which it can be demonstrated that the different uses can use the same parking spaces/areas throughout the day. Shared parking strategies will result in fewer total parking spaces needed when compared to the total number of spaces needed for each land use or business separately. Examples of land uses for which shared parking maybe appropriate include office, restaurants, retail, colleges, churches, and theaters.

1. Applicants for new development or significant redevelopment shall examine the feasibility of utilizing shared parking arrangements . Significant redevelopment is any development that increases building size or land uses so that the site's trip generation and/or parking demand increases by more than 10 percent or more than 10 spaces greater than the minimum number of parking spaces required by this article, whichever is greater.
2. Applicants may have shared parking analysis and plan prepared by a professional qualified to perform such studies, for submission to the county for consideration. The professional qualifications of the preparer shall accompany the analysis

**TXT-10-2022: An Ordinance to amend the Zoning Ordinance of Caroline County, Virginia by Repealing and Replacing Article XV, Supplemental Regulations, Section 14 Site Plans, paragraph 18 Chesapeake Bay Preservation Areas. The purpose of this amendment is to cross reference the requirements of Article XV Section 24.1 Chesapeake Bay Preservation Areas with the Site Plan requirements of this section.**

18. Chesapeake Bay Preservation Areas.

~~The location of any Chesapeake Bay Preservation Areas shall be shown on the site plan as determined by field delineation or where approved by the Director, as determined by the Caroline County Chesapeake Bay Overlay District Maps.~~

***Where a parcel of land contains a Resource Protection Area as identified pursuant to Article XV, Section 24.1 of the Zoning Ordinance, the site plan shall include the following additional information:***

- (a) The delineation of the Resource Protection Area boundary, including the 100-foot buffer component;***
- (b) A note stating that no land disturbance is allowed in the buffer area without review and approval by the Director.***
- (c) Evidence that all required wetlands permits have been issued***
- (d) A maintenance agreement as deemed necessary and appropriate by the Director to ensure proper maintenance of best management practices in order to continue their functions, for all improvements required under 24.1.7.E.2 of the Zoning Ordinance.***
- (e) Where the parcel(s) are part of a major subdivision, evidence that the required DEQ stormwater management coverage has been issued.***

***For properties with an identified Chesapeake Bay Preservation Area, an environmental site assessment shall be submitted which shall contain the following information:***

- 1) The environmental site assessment shall be drawn to scale and clearly delineate the following environmental features:***
  - (a) Tidal wetlands;***
  - (b) Tidal shores;***
  - (c) Nontidal wetlands connected by surface flow and contiguous to tidal wetlands or water body with perennial flow;***
  - (d) A 100-foot buffer area located adjacent to and landward of the components listed in subsections (a) through (c) above, and along both sides of any water body with perennial flow;***
  - (e) Other sensitive environmental features as determined by the Board.***
- 2) Wetlands delineations shall be performed consistent with the procedures specified in the Federal Manual for Identifying and Delineating Jurisdictional Wetlands, 1987.***

- 3) *The environmental site assessment shall delineate the site-specific geographic extent of the RPA on the parcel as required by Article XV Section 24 of the Zoning Ordinance.*
- 4) *The environmental site assessment shall be drawn at the same scale as the final subdivision plat or site plan, and shall be certified as complete and accurate by a professional engineer, a certified land surveyor or a certified landscape architect. This requirement may be waived by the Administrator when the proposed use or development would result in less than 5,000 square feet of disturbed area.*



**SO-01-2022: An Ordinance to amend the Subdivision Ordinance of Caroline County by adding section 6.3.xxxvi and 6.9.xxi Chesapeake Bay Preservation Area delineation requirements. The purpose of this amendment is to cross reference the requirements of the Chesapeake Bay Preservation Area regulations in the Zoning Ordinance with the platting requirements of the Subdivision Ordinance.**

6.3.C Preliminary Plat

- xxxvi Where a parcel of land contains a Resource Protection Area as identified pursuant to Article XV, Section 24.1 of the Zoning Ordinance, the Final subdivision plats shall include the following additional information:
- (1) The delineation of the Resource Protection Area boundary, including the 100-foot buffer component;
  - (2) A note stating that no land disturbance is allowed in the buffer area without review and approval by the Director.
  - (3) Evidence that all required wetlands permits have been issued
  - (4) A maintenance agreement as deemed necessary and appropriate by the Director to ensure proper maintenance of best management practices in order to continue their functions, for all improvements required under Article 24.1.7.E.2 of the Zoning Ordinance.
  - (5) Where the parcel(s) are part of a major subdivision, evidence that the required DEQ stormwater management coverage has been issued.

6.9.3 Final Plat

- xxii For properties with an identified Chesapeake Bay Preservation Area, an environmental site assessment shall be submitted which shall contain the following information:
- (1) The environmental site assessment shall be drawn to scale and clearly delineate the following environmental features:
    - (a) Tidal wetlands;
    - (b) Tidal shores;
    - (c) Nontidal wetlands connected by surface flow and contiguous to tidal wetlands or water body with perennial flow;
    - (d) A 100-foot buffer area located adjacent to and landward of the components listed in subsections (a) through (c) above, and along both sides of any water body with perennial flow;
    - (e) Other sensitive environmental features as determined by the Board.

- (2) Wetlands delineations shall be performed consistent with the procedures specified in the Federal Manual for Identifying and Delineating Jurisdictional Wetlands, 1987.
- (3) The environmental site assessment shall delineate the site-specific geographic extent of the RPA on the parcel as required by Article XV Section 24 of the Zoning Ordinance.
- (4) The environmental site assessment shall be drawn at the same scale as the final subdivision plat or site plan, and shall be certified as complete and accurate by a professional engineer, a certified land surveyor or a certified landscape architect. This requirement may be waived by the Administrator when the proposed use or development would result in less than 5,000 square feet of disturbed area.