

Department of Planning
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Chesapeake, Virginia 23328-5225
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Chesapeake Bay Preservation Area CBPA EXCEPTION APPLICATION INSTRUCTIONS

PURPOSE

When an applicant can demonstrate that the application of the Chesapeake Bay Preservation Area (CBPA) ordinance to a lot or parcel located within the CBPA District would unreasonably restrict the utilization of the property under its current zoning classification, a CBPA Exception application can be submitted for consideration by the Wetlands/CBPA Board. All prohibited development within the Resource Protection Area (RPA) of the CBPA District shall require submittal of a CBPA Exception application.

Certain encroachments in the RPA are either exempt or require CBPA Committee approval only. All applicants shall consult the Planning Department to determine which CBPA application is required and to identify any potential problem areas.

The filing fee for the CBPA Review Committee application is \$200.00 per lot for which relief is sought. The applicant is also responsible for all of the advertising costs of providing the required notice of public hearing.

PROCESS

The deadline for submitting a CBPA Review Committee application is exactly two weeks prior to the first and third Tuesday of each month. All applications are to be submitted to the Planning Department prior to 5:00 p.m. A copy of the meeting schedule can be found in the Planning Department or on the City's website at:

<http://www.cityofchesapeake.net/services/depart/planning/chesbaypreservation.shtml>

The Planning Department will review the application for completeness. If the application is found to be incomplete, the Department will return the application, site plans and filing fee to the applicant, with a description of the manner in which the application is incomplete.

Once an application is determined to be complete, the application will be reviewed by the CBPA Review Committee, which is made up of representatives from the:

- Planning Department,
- Department of Development and Permits,
- Public Utilities Department,
- Zoning Administration,
- Economic Development,
- City Arborist.

The CBPA Review Committee will either recommend the application for approval to the Wetlands/CBPA Board, recommend the application for denial to the Wetlands/CBPA Board or will ask the applicant to submit revisions to the site plan or application, if required or recommended.

Notwithstanding any initial determination of completeness, the Planning Director or the CBPA Review Committee may at any time during the review process find that essential information is lacking and may deem the application incomplete. The Planning Department will prepare a legal notice advertisement. The applicant is responsible for all of the advertising costs of providing the required notice of hearing.

The Planning Department will forward a copy of the application and staff report to each Wetlands/CBPA Board member. A copy of the staff report will be provided to the applicant. All staff reports are available for review in the Planning Department no later than the Monday prior to the scheduled Wetlands/CBPA Board Meeting

The Chesapeake Wetlands/CBPA Board will hold a public hearing the third Wednesday of the month usually 40-45 days after the filing of the application. The public hearing is open to all citizens. The applicant or agent must attend the Wetlands/CBPA Board public hearing. Failure of the applicant or agent to attend the Wetlands/CBPA Board Public Hearing may delay action by the Wetlands/CBPA Board thereby delaying processing of the application.

At the public hearing, the Wetlands/CBPA Board will hear proponents and opponents of the application, as well as staff comments and recommendations. The Wetlands/CBPA Board considers all information and either approves the application as presented, approves it with conditions or safeguards, or disapproves the application.

ADJACENT PROPERTY OWNERS

Attach a listing of the 13 digit tax map number, names and addresses of all persons, firms, or corporations owning all abutting property and property immediately across the street or road from the subject property.

The adjacent proper owner information can be found in the Real Estate office on the 4th floor of the City Hall building. They will make a print out of the adjacent property owners.

Use the attached Adjacent Property Owner List of Addresses form or the AVERY 5260 label format. If unable to utilize the form or computer format, please submit the list on 8½" x 11" paper.

Include stamped (not metered) #10 envelopes (4 1/8" x 9½") with the name and mailing address of each property owner typed or printed legibly.

Please do not use pre-dated meter stamped envelopes or envelopes which include a return address.

SITE PLAN / PLAT REQUIREMENTS

As a part of this application, a site plan or plat of the property drawn to scale (not reduced) and prepared by a certified surveyor or engineer must be submitted. All plans or plats shall adhere to the following standards:

- Folded to a size no larger than 9" x 14" and shall include a vicinity map. Please fold with the site plan facing out.
- All plans shall have a north arrow.
- If a revision is submitted, please include the Planning Department's application number in the title block.
- The limits of disturbance shall be clearly delineated
- If existing structures or other impervious areas are to be removed, note that they will be removed on the site plan or plat.

A scaled plan shall include:

- A survey or plat drawn to scale which shows accurate site boundary, topographic information with elevations, site-specific field delineated RPA feature, and existing BMP's
- Location and nature of the proposed encroachment into the RPA buffer area
- Areas of clearing, filling or grading
- Location of any buildings, structures, roads, drives, or other impervious cover
- Location of 50 foot and 100 foot RPA buffer area
- Location of existing RPA buffer vegetation and any necessary tree protection fencing
- Sewage disposal systems or reserve drainfield sites
- Erosion and Sediment Control measures
- Type and location of BMPs (if required) and other measures to mitigate the impact of the encroachment
- Trees to be preserved or installed to meet tree canopy coverage requirements in section 26-520(b)(3).

DELINEATION OF THE RESOURCE PROTECTION AREA (RPA)

The RPA delineation is required on the site plan utilized for all development within the Chesapeake Bay Preservation Overlay District. The RPA delineation is part of the required environmental assessment and can be prepared by a certified surveyor, landscape architect, engineer, or designated City staff. The CBPA Review Committee has determined three methods to be utilized for all RPA delineations within the City of Chesapeake.

1. All tidal areas shall measure the 100-foot RPA buffer from the four-foot (4') elevation mark, based upon 1929 National Geodetic Survey (NGS) vertical datum, 1972 adjustment. The RPA delineation shall follow this four-foot elevation line and the 100-foot buffer shall be measured from that line. If using the NAVD 88 datum, the three-foot (3') elevation mark must be indicated on the plan and used as a reference to delineate the RPA.
2. From all perennial water bodies with no surface flow connection to non-tidal wetlands, the RPA buffer shall be measured from the top edge of the active channel, stream, or ditch or the top of bank.
3. From all non-tidal wetland areas connected by surface flow to tidal wetlands or to a perennial water body, the RPA shall be based on an approved delineation, with the 100-foot buffer being measured from the landward edge of the delineated wetlands area. All field delineations will be subject to staff verification and will be handled on a case-by-case basis.

The delineation of the RPA shall also include any necessary determinations of "perennial water bodies," using the most recent U.S. Geological Survey (7½ minute topographic quadrangle map (scale 1:24,000)); or scientifically valid system of field indicators of perennial flow, approved by the City Manager's Designee. The determination shall also conform to the Chesapeake Bay Local Assistance Board (CBLAB) regulations and guidance documents.

The Resource Management Area (RMA) is the area adjacent to the RPA, as designated on the CBPA map. The Intensely Developed Area (IDA) is a designated redevelopment area as shown on the City's IDA Map. The CBPA map and the IDA map can be found in the Chesapeake Planning Department or online at:

<http://www.cityofchesapeake.net/services/depart/infotech/gis/maps.shtml>

The RMA and IDA area must be delineated on the site plan utilized for all development within the CBPA district.

All lots greater than 12,000 square feet in total lot area created by recordation of a subdivision plat on or after March 1, 2002, shall have at least seventy-five (75%) of the required lot area located landward of the 100-foot RPA buffer. All lots 12,000 square feet or less in total lot area created by recordation of a valid subdivision plat on or after March 1, 2002 shall have at least eighty percent (80%) of the required lot area located landward of the 100-foot RPA buffer.



CBPA Exception Application

CHESAPEAKE PLANNING DEPARTMENT

APPLICATION NUMBER: CBPA- _____
(Assigned by Chesapeake Planning Department)

1. ADDRESS / LOCATION OF PROJECT: _____

2. 13-Digit Tax Map Number(s): _____,
_____, _____

3. Subdivision Name with Lot #: _____

4. **Applicant(s):** _____

Address: _____

City: _____ State: ____ Zip: _____

Daytime Phone: _____ FAX Number: _____

E-mail address: _____

Interest in subject property: _____

5. **Agent (if applicable):** _____

Agency: _____

Address: _____

City: _____ State: ____ Zip: _____

Daytime Phone: _____ FAX Number: _____

E-mail address: _____

6. **Owner(s) of property:** (If different from applicant)

Name: _____

Address: _____

City: _____ State: ____ Zip: _____

Daytime Phone: _____ FAX Number: _____

E-mail address: _____

Signature of Applicant/Agent & Date: _____

WATER QUALITY IMPACT ASSESSMENT (WQIA)

APPLICATION NUMBER: CBPA-

1. Describe the purpose and necessity of the proposed encroachment. Include any design and location alternatives considered with the layout of the improvements. Describe why the improvements could not be located elsewhere on the site to avoid disturbance of the 100-foot buffer area or other RPA component:

2. Is the proposed encroachment the minimum necessary to afford relief based on the lot size, layout and land area (square footage) outside the RPA?

YES NO

3. Is the size of the proposed building/improvement similar to adjacent properties?

YES NO

4. Lot recordation Information: MB _____ PAGE _____ Date: _____

Was the subject lot recorded prior to October 1, 1989?

YES NO

Was the subject lot recorded between October 1, 1989 and March 1, 2002?

YES NO

Lot created in conformity with the subdivision ordinance?

YES NO N/A

5. Has this property undergone previous CBPA review?

YES NO If yes, application # CBPA-

Have all mitigation measures from previous CBPA Application been addressed?

YES NO N/A

WATER QUALITY IMPACT ASSESSMENT (WQIA) (continued)

Calculations:

- A. Area of lot: _____ ft.²
- B. Encroachment Area: Landward 50' Buffer _____ ft.² Seaward 50' Buffer: _____ ft.²
- C. Existing impervious Area: _____ ft.²
- D. New Impervious Area: _____ ft.² E. Area of disturbance: _____ ft.²
- F. Total Post Development Impervious Area (C +D): _____ ft.²
- G. Percent Imperviousness of Site (F/A * 100%): _____ % (I_{SITE})
- H. Watershed Impervious Percentage: _____ % (I_{SHED})*

*A map of the City's Watersheds (Master Drainage Map) can be found here:

<http://www.cityofchesapeake.net/services/depart/pub-wrks/watershed/index.shtml>

After locating the correct watershed (Eastern, Southern, or Western Branch of the Elizabeth River) from the map, use one of the three watershed percentages located below for I_{SHED}:

- Eastern Branch of the Elizabeth River - 52%
- Southern Branch of the Elizabeth River - 28%
- Western Branch of the Elizabeth River - 26%

If G (I_{SITE}) > H (I_{SHED}) then Stormwater Calculations are required

Upon completion of the stormwater calculations, describe the type(s) of best management practices to be installed and maintained to achieve the requisite reduction in pollutant loads:

Provisions of section 26-520 of the CBPA Ordinance

- Is the proposed activity water-dependent? YES NO
- Is the disturbance of any wetlands minimized? YES NO N/A
- Will the proposed activity result in significant degradation of the hydrology of the site?
 YES NO
- Will this development cause a significant degradation to vegetation or aquatic life?
 YES NO
- Will the proposed stormwater management facilities (BMPs) adequately control the stormwater runoff to achieve the required performance standard for pollutant control?
 YES NO N/A
- Will the proposed re-vegetation of disturbed areas provide optimum erosion and sediment control benefits? YES NO

WATER QUALITY IMPACT ASSESSMENT (WQIA) (continued)

Describe methods of Erosion and Sediment Control (note: an erosion and sediment control plan is required for land disturbance greater than 2,500 ft²):

Will the design and location of any proposed drainfield will be in accordance with the requirements of the CBPA Ordinance? YES NO N/A

Will the cumulative impact of the proposed land disturbance, use, development or redevelopment, when considered in relation to other development in the vicinity, both existing and proposed, result in a significant degradation of water quality?

YES NO If "YES", describe the cumulative impact:

Preservation of Indigenous Vegetation/ Land Disturbance

What is the condition of the existing RPA and/or buffer? (Describe existing vegetation within the buffer.)

Proposed Mitigation:

Is vegetation replacement proposed to mitigate for the proposed encroachment?

YES NO If "NO", what is the proposed mitigation?

APPLICANT'S JUSTIFICATION FOR THE REQUESTED EXCEPTION

An exception cannot be granted unless specific findings are made. There are six (6) findings, according to Section 26-527 of the Chesapeake City Code. Please describe how the particular CBPA exception request would meet these six findings:

1. The requested exception to the criteria is the minimum necessary to afford relief;

2. Granting the exception will not confer upon the applicant any special privileges that are denied by this ordinance to other property owners who are subject to its provisions and who are similarly situated;

3. The exception request is in harmony with the purpose and intent of the CBPA ordinance and is not of substantial detriment to water quality;

4. The exception request is not based upon conditions or circumstances that are self-created or self-imposed;

5. Reasonable and appropriate conditions are imposed, as warranted, to prevent the proposed activity from causing degradation of water quality;

6. Other findings and conditions, as appropriate and required by the Wetlands/CBPA Board, are met.

(attach additional sheets, if necessary)

SPECIAL POWER OF ATTORNEY

Application No: CBPA-

Property Description (13-digit Tax Map Number, Street Address or Common Description, Borough): _____

Nature of **CBPA Exception** sought: _____

I/we _____, am/are

the applicant(s) for the above referenced application; the owner(s) of the property described above and I/we do hereby make, constitute, and appoint _____

_____, my true and lawful attorney-in-fact, and grant unto my attorney-in-fact full power and authority to make application for the CBPA Exception application described above, and to perform all acts and make all representations as such person shall deem necessary or appropriate in regard to said application, without any limitation whatsoever, including but not limited to the following authority: to offer conditions to which the proposed use of the property would be subject, and to modify or amend any documents in whole or in part relating to the application.

The rights, powers, and authority of said attorney-in-fact herein granted shall commence and be in full force and effect on the _____ day of _____, 20____, and shall remain in full force and effect thereafter until actual notice, by certified mail, return receipt requested is received by the Planning Department of the City of Chesapeake stating that the terms of this power have been revoked or modified.

Applicant/Owner:

Applicant/Owner:

sign _____

sign _____

Name, Title _____

Name, Title _____

Company _____

Company _____

Commonwealth/State of _____

City of _____

Subscribed and sworn to before me this _____ day of _____, 20____,

By _____

NOTARY PUBLIC

Notary Registration No. _____

My commission expires: _____

If the owner or applicant is a corporation, partnership, or similar entity, documentation must be attached which establishes that the person signing on behalf of the entity has the authority to act on behalf of and to bind that entity.

| |
|---|
| ADJACENT PROPERTY OWNERS LIST OF ADDRESSES |
|---|

Tax Map #: _____

Name: _____

Street: _____

City: _____

State/Zip: _____

Tax Map #: _____

Name: _____

Street: _____

City: _____

State/Zip: _____

Tax Map #: _____

Name: _____

Street: _____

City: _____

State/Zip: _____

Tax Map #: _____

Name: _____

Street: _____

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Tax Map #: _____

Name: _____

Street: _____

City: _____

State/Zip: _____

Tax Map #: _____

Name: _____

Street: _____

City: _____

State/Zip: _____

Tax Map #: _____

Name: _____

Street: _____

City: _____

State/Zip: _____

CBPA EXCEPTION APPLICATION CHECKLIST

- The original CBPA Exception application, with original signatures, and one (1) copy of the completed CBPA application**, including all required information listed below. All information must be typed or clearly printed on the application and 8½" x 11" paper as needed. Please ensure the following is consolidated with each application:
 - Twelve (12) copies of a full-size site plan, survey or plat** of the proposed development drawn to scale. Site Plan or Survey. Reduced to 8½" x 11" paper.
 - Twelve (12) copies of a site plan, survey or plat** reduced to 8½" x 11" paper.
 - Vicinity map** on 8½" x 11" paper. This may be included on the survey of the property.
 - The original and one (1) copy of a water quality impact assessment (WQIA)** as required by Section 26-523 of the Chesapeake City Code and Stormwater Water Quality Calculations (If I_{SITE} > I_{SHED})
 - The adjacent property owner's list of addresses** on the form provided with this application or Avery 5260 label format.
 - Any additional drawings, pictures, or information which will assist the CBPA Review Committee in making their decision.
- Any additional drawings, pictures, or information, which will assist the Wetlands/CBPA Board in making their decision.
- The **\$200.00 filing fee per lot** for which relief is sought.
- Stamped #10 (4 1/8" x 9½") envelopes** with the name and mailing address of each adjacent property owner printed legibly. **(Do not use pre-stamped, dated envelopes from a postage machine. Also, do not include a return address on the envelopes.)**
- In addition to the filing fee, the applicant is responsible for all newspaper advertising costs for public hearing notification. **The applicant will be billed separately for these costs.** The average cost is \$100 per advertisement, with a minimum of two (2) advertisements required (average \$200 per application). If your application is the sole application before the Board then the application costs will be higher. These costs are for the required advertisements for the Wetlands/CBPA Board.
- This completed CBPA Exception Application checklist.

Please do NOT submit copies of the instructions with your submission.