



Town of Parksley

A Progressive Town in Which to Shop and Live



September 21, 2021

RE: CBPA Corrective Action Plan

To Whom it May Concern,

The Parksley Town Council has addressed the requirements in our Chesapeake Bay Act Zoning Ordinance. The attached copy of the Zoning Ordinance was adopted at the Regular Town Council Meeting held September 13, 2021. The Bay Act elements in place are in line with the Town's policies.

The Parksley Town Council reviewed the Bay Act elements contained in the 2006 Comprehensive Plan and found they agree with the Town's current policies.

Best,

III - 5 Chesapeake Bay Preservation Area Overlay District. CBPA

III-5.1 Purpose and Intent.

A. This Chesapeake Bay Preservation Area (CBPA) Overlay District within Article III of the Town of Parksley Zoning Ordinance is enacted to implement the requirements of § 62.1-44.15:69 *et seq.* of the Code of Virginia (The Chesapeake Bay Preservation Act) as part of the Town of Parksley Zoning Ordinance. The intent of the Parksley Town Council and the purpose of this Overlay District is 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 in order to provide for the health, safety, and welfare of the present and future citizens of the Town of Parksley.

B. This Chesapeake Bay Preservation Area Overlay District shall be in addition to and shall overlay all other zoning districts where they are applied so that any parcel of land lying within the CBPA Overlay District shall also lie in one or more of the other zoning districts provided for by the Zoning Ordinance. Unless otherwise stated in the CBPA Overlay District, the review and approval procedures provided for in the Town of Parksley Zoning Ordinance Section III-5.12, Plan of Development Process; the Accomack County Erosion and Sediment Control Ordinance; and the Accomack County Building Code, including all grading permits and building permits, shall be followed in reviewing and approving development, redevelopment, and uses governed by this Overlay District.

III-5.2 Authority. This CBPA Overlay District is enacted under the authority of § 62.1-44.15:69 *et seq.* (*Chesapeake Bay Preservation Act*) and § 15.2-2283, of the Code of Virginia. Section 15.2-2283 states that zoning ordinances shall be designed to give reasonable consideration to the preservation of lands significant for the protection of the natural environment, and that such zoning ordinances may "also include reasonable provisions, not inconsistent with applicable state water quality standards, to protect surface water and groundwater as defined in § 62.1-255" of the Code of Virginia.

III-5.3 Conflict with Other Regulations. In any case where the requirements of this Overlay District conflict with any other provision of the Town of Parksley Code, whichever imposes the more stringent restrictions shall apply.

III-5.4 Definitions. The words and terms used in the CBPA Overlay District shall have the meanings as defined in Article II, Definitions, of the Town of Parksley Zoning Ordinance, unless the context clearly indicates otherwise.

III-5.5 Application of the CBPA District.

A. The CBPA Overlay District shall apply to all lands identified as Chesapeake Bay Preservation Areas as designated by the Parksley Town Council and as shown on the Town of Parksley Chesapeake Bay Preservation Area Overlay District Map. The CBPA Overlay District is composed of a Resource Protection Area (RPA), and a Resource Management Area (RMA).

(1) Resource Protection Areas include the following land categories, the protection of which is necessary to protect the quality of state waters:

- a. Nontidal wetlands connected and contiguous to water bodies with perennial flow;
 - b. A 100-foot vegetated buffer area located adjacent to and on the southern side of Katy Young Branch and along both sides of any other water body with perennial flow.
- (2) Resource Management Areas are generally comprised of the 200 feet of land contiguous to and landward of the Resource Protection Area, except between Jones and Browne Avenues. Beginning at the intersection of Jones Avenue and Gertrude Street, it shall run east along the north edge of Gertrude Street to the east side of Wilson Avenue, turning north along Wilson Avenue to the south edge of Pine Street, then running east along the south side of Pine Street to the west side of Cassatt Avenue, then running south on the west side of Cassatt Avenue to the north side of the alley until rejoining the aforementioned 200 foot line at Browne Avenue.

B. The Town of Parksley Chesapeake Bay Preservation Areas map on page 18 of the Zoning Ordinance shows the general location of CBPAs and should be consulted by persons contemplating activities within the Town of Parksley prior to engaging in a land disturbance activity.

III-5.6 Interpretation of Resource Protection Area Boundaries.

A. Delineation by the Applicant.

The site-specific boundaries of the Resource Protection Area shall be determined by the applicant in accordance with Section III-5.12, Plan of Development Process, or through the development of a water quality impact assessment (WQIA) as required under Section III-5.11 of this Overlay District. A WQIA is required for any land disturbance within the Resource Protection Area and must be submitted by the applicant to the Zoning Administrator or designee for review and approval.

B. Delineation by the Zoning Administrator.

The Zoning Administrator, when requested by an applicant wishing to construct a single-family residence, may perform the delineation. The Zoning Administrator may use hydrology, soils, plant species, and other data, and consult other appropriate resources as needed to perform the delineation.

C. Where Conflict Arises over Delineation.

When the applicant provides a site-specific delineation of the Resource Protection Area, the Zoning Administrator will verify the accuracy of the boundary delineation. In determining the site-specific Resource Protection Area boundary, the Zoning Administrator may render adjustments to the applicant's boundary delineation, in accordance with Section III-5.12, Plan of Development Process, or water quality impact assessment as required under Section III-5.11 of this Overlay District. In the event the adjusted boundary delineation is contested by the applicant, the applicant may seek relief, in accordance with the provisions of Section III-5.12(F) of this Overlay District.

III-5.7 Use Regulations. Permitted uses, special permit uses, accessory uses, and special requirements shall be as established by the underlying-zoning district, unless specifically modified by the requirements set forth herein.

III-5.8 Lot Size. Lot size shall be subject to the requirements of the underlying zoning district(s), provided that any lot shall have sufficient area outside the Resource Protection Area to accommodate an intended development, in accordance with the performance standards in Section III-5.10, when such development is not otherwise allowed in the Resource Protection Area.

III-5.9 Required Conditions for Resource Protection Areas.

- A. Development in the Resource Protection Area may be allowed, subject to approval by the Zoning Administrator and only if it: (i) is water-dependent; or (ii) constitutes redevelopment. A new or expanded water-dependent facility may be allowed provided that:
- (1) It does not conflict with the Parksley Town Plan;
 - (2) It complies with the performance criteria set forth in Section III-5.10 of this Overlay District;
 - (3) Any non-water-dependents component is located outside of Resource Protection Areas; and
 - (4) Access will be provided with the minimum disturbance necessary. Where possible, a single point of access will be provided.
- B. A water quality impact assessment shall be required for any proposed development, redevelopment or land disturbance within the Resource Protection Area and for any development within Resource Management Areas when required by the Zoning Administrator because of the unique characteristics of the site or intensity of development, in accordance with the provisions of Section III-5.11, Water Quality Impact Assessment, of this Overlay District.
- C. Redevelopment within the Resource Protection Area shall be permitted only if it does not increase the amount of impervious cover in the Resource Protection Area, there is no further encroachment into the Resource Protection Area, and the activity conforms to applicable

stormwater management and erosion and sediment control criteria as set forth in Section III-5.10 of this Overlay District.

III-5.10 Performance Standards.

A. Purpose and Intent.

The performance standards establish the means to minimize erosion and sedimentation potential, reduce land application of nutrients and toxins, 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. Minimizing impervious cover enhances rainwater infiltration and effectively reduces stormwater runoff potential.

The purpose and intent of these requirements are also 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 a 40% reduction in nonpoint source pollution from agricultural uses.

B. General Performance Standards for Development and Redevelopment in Chesapeake Bay Preservation Areas.

(1) All development exceeding 2,500 square feet of land disturbance shall be subject to a plan of development process, in accordance with Section III-5.12, Plan of Development Process, of this Overlay District.

(2) 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, the limits of land disturbance, including clearing or grading shall be strictly defined by the construction footprint. These limits shall be clearly shown on submitted plans and physically marked on the development site.
- b. Ingress and egress during construction shall be limited to one access point, unless otherwise approved by the Zoning Administrator.
- c. All plats and site plans submitted for approval in Chesapeake Bay Preservation Areas shall include the delineation of buildable area(s) allowed on each lot. The delineation of buildable areas shall be based on performance criteria specified in Section III-5.10 of this Overlay District, local front and side yard setback requirements, and any other relevant easements or limitations regarding lot coverage.

(3) Indigenous vegetation shall be preserved to the maximum extent practicable consistent with the use or development permitted and in accordance with the *Virginia Erosion and Sediment Control Handbook*, Third Edition, 1992.

- a. Existing trees over six (6) inches diameter at breast height (DBH) shall be preserved outside the construction footprint. Diseased trees, trees that create a danger to the structure, or trees weakened by age, storm, fire, or other injury may be removed.
- b. Clearing shall be allowed only to provide necessary access, sight lines and vistas; positive site drainage; water quality best management practices; and the installation of utilities, as approved by the Zoning Administrator.

(4) Land development shall minimize impervious cover to promote infiltration of stormwater into the ground consistent with the proposed use or development.

- a. Pervious material shall be used for any required parking area, alley, or other low traffic driveway, unless otherwise approved by the Zoning Administrator.

(5) Any land disturbing activity exceeding 2,500 square feet, including construction of all single-family houses, septic tanks, and drainfields, shall comply with the requirements of the Accomack County Erosion and Sediment Control Ordinance.

(6) All on-site sewage disposal systems not requiring a Virginia Pollutant Discharge Elimination System (VPDES) permit shall be pumped out at least once every five years. All plat and site plans submitted for approval in CBPAs with onsite sewage treatment systems shall include the notation, "The onsite sewage treatment system(s) shall have pump-out accomplished at least once every five years or be inspected every five years by an onsite soil evaluator licensed or certified under Chapter 23 of Title 54.1 of the Code of Virginia who provides documentation stating that the septic system has been inspected and has been determined to be functioning properly."

(7) A reserve sewage disposal site with a capacity at least equal to that of the primary sewage disposal site shall be provided. This requirement shall not apply to any lot or parcel recorded prior to October 1, 1989 if such lot or parcel is not sufficient in capacity to accommodate a reserve sewage disposal site, as determined by the local Health Department. All plats and site plans submitted for approval within CBPAs with onsite sewage treatment systems shall include the notation: "Lots located in the Chesapeake Bay Preservation Area Overlay District must have a 100% reserve drainfield site for onsite sewage treatment systems, preferably outside of the Resource Protection Area." Building or construction of any impervious surface shall be prohibited on the area of all sewage disposal sites or on an on-site sewage treatment system which operates under a permit issued by the State Water Control Board, until the structure is served by public sewer.

(8) For any development or redevelopment within CBPAs, 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 (§ 9 VAC 25-870-10 *et seq.*).

(9) Prior to initiating grading or other on-site 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 Zoning Administrator, in accordance with Section III-5.12, Plan of Development Process, of this Overlay District.

(10) Land in CBPAs upon which agricultural activities are conducted shall have a soil and water quality conservation assessment (SWQCA). Such an assessment shall evaluate the effectiveness of existing best management practices pertaining to soil erosion and sediment control, nutrient management and management of pesticides, and, where necessary, results in a plan that outlines additional practices needed to ensure that water quality protection is accomplished consistent with the CBPA Overlay District.

C. Buffer Area Requirements.

The buffer area shall be the landward component of the Resource Protection Area as set forth in Section III-5.5. Notwithstanding permitted uses, encroachments and vegetation clearing as permitted by this Overlay District, the 100-foot wide buffer area is not reduced in width. To minimize the adverse effects of human activities on the Resource Protection Area, 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. This 100-ft buffer area shall be deemed to achieve a 75 percent reduction of sediments and a 40 percent reduction of nutrients.

(1) Permitted modifications of the buffer area:

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

- a. Trees may be pruned or removed as necessary to provide for 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.
- b. Any path shall be constructed and surfaced so as to effectively control erosion.

c. Dead, diseased, or dying trees or shrubbery and noxious weeds (such as Johnson grass, kudzu, and multiflora rose) may be removed and thinning of trees may be allowed as permitted by the Zoning Administrator.

d. 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.

(2) Permitted Encroachments into the Buffer Area

a. When the application of the buffer areas would result in the loss of a buildable area on a lot or parcel recorded prior to October 1, 1989, the Zoning Administrator may permit encroachments into the buffer area in accordance with the following criteria:

(i) Encroachments into the buffer area shall be the minimum necessary to achieve a reasonable buildable area for a principal structure and necessary utilities;

(ii) Where practicable, a vegetated 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

(iii) Encroachment into the Resource Protection Area may not extend into the seaward 50 feet of the buffer.

(3) On agricultural lands within the Resource Protection Area, the agricultural buffer area shall be managed to prevent concentrated flows of surface water from breaching the buffer area and appropriate actions may be taken to prevent noxious weeds from invading the buffer area. Agricultural activities may encroach into the buffer area as follows:

a. 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 [local soil and water conservation district board], 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 50-85 *et seq.* administered by the Virginia Department of Conservation and Recreation;

- b. 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 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.
- c. The buffer area is not required to be designated adjacent to agricultural drainage ditches if the adjacent agricultural land has in place at least one best management practices as considered by the local Soil and Water Conservation District to address the more predominant water quality issue on the adjacent land - either erosion control or nutrient management.
- (4) When agricultural or silvicultural uses within the buffer area cease, and the lands are proposed to be converted 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.

III-5.11 Water Quality Impact Assessment.

A. Purpose and Intent.

The purpose of a water quality impact assessment (WQIA) is to identify the impacts of proposed land disturbance on water quality and lands within the Resource Protection Area consistent with the goals and objectives of this Overlay District, and to determine specific measures for mitigation of those impacts.

B. Water Quality Impact Assessment Required.

- The water quality impact assessment, to be submitted during the zoning review for plot, site, or subdivision review activities, is required for:
- (1) Any proposed land disturbance, development or redevelopment activity, including exempted uses and uses permitted by right, within a Resource Protection Area.
 - (2) Any buffer modification or encroachment pursuant to Section III-5.10(C) of this Overlay District;

(2) Any proposed development in the Resource Management Area if deemed necessary by the Zoning Administrator due to unique characteristics of the site or intensity of the proposed development.

C. Contents of a Water Quality Impact Assessment.

The water quality impact assessment shall be of sufficient specificity to demonstrate the undisturbed buffer area, enhanced vegetative plantings and any required best management practices (BMPs) 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 accelerated erosion, promote infiltration, and filter nonpoint source pollution the equivalent of the full undisturbed 100-foot buffer area. The information required in this section shall be considered a minimum, unless the Zoning Administrator determines that some of the elements are unnecessary due to the nature and scope of the proposed use and development of land. The water quality impact assessment shall be prepared by qualified persons acting within the limits of their professional expertise and license, and shall include the following:

- (1) Location of the components of the Resource Protection Area, including the 100-foot buffer area;
- (2) Location and nature of the proposed encroachment into the buffer area, including type of paving or other surfacing material; limits of clearing or grading; location of any structures, drives, or other impervious cover;
- (3) Type, location of, and maintenance plan for any proposed best management practices (BMPs) necessary to mitigate for the proposed encroachment;
- (4) Location of existing vegetation onsite, including the number and type of trees and other vegetation to be removed from the buffer, to accommodate the encroachment or modification;
- (5) A re-vegetation (buffer modification) plan that supplements the existing buffer vegetation in a manner that provides for pollutant removal, erosion control, infiltration, and filtering of runoff;
- (6) A list of required permits from all applicable agencies necessary to develop the project
- (7) An erosion and sediment control plan in accordance with the requirements of Accomack County's Erosion and Sediment Control Ordinance.

D. Evaluation Procedure.

- (1) The Zoning Administrator may request review of the water quality impact assessment by the Virginia Department of Environmental Quality (DEQ). Any comments by DEQ will be considered by the Zoning Administrator provided that such comments are provided by DEQ within thirty (30) days of the request.

(2) Upon the completed review of a water quality impact assessment, the Zoning Administrator will determine if any proposed encroachment and development into the buffer area is consistent with the purpose and intent of this Overlay District. The Zoning Administrator will make a finding based on the following criteria in conjunction with the requirements of the Plan of Development Process in Section III-5.12, as applicable:

- a. The necessity of the proposed encroachment into the buffer area and the ability to place improvements elsewhere on the site to avoid disturbance of the buffer area;
- b. Within any Resource Protection Area, the proposed development is water-dependent or redevelopment;
- c. The disturbance of wetlands will be minimized;
- d. Impervious surface is minimized;
- e. The development, as proposed, meets the purpose and intent of this Overlay District;
- f. Proposed erosion and sediment control devices are adequate to achieve the reductions in runoff and prevent off-site sedimentation;
- g. Proposed best management practices, where required, or proposed stormwater management facilities and practices are adequate to control the stormwater runoff to achieve the required standard for pollutant control;
- h. The development will not result in unnecessary destruction of plant materials on site;
- i. 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.

III-5.12 Plan of Development Process.

Any development proposing to exceed 2,500 square feet of land disturbance shall be accomplished through a plan of development process prior to any clearing or grading of a site or the issuance of any building permit, to assure compliance with all applicable requirements of this Overlay District. The plan of development process shall generally be satisfied by the approval of a site plan, or a plot plan in accordance with the provisions in Section III-5.12(A) and any additional plans or studies as required by the Administrator.

All plats and plot and site plans submitted for approval in Chesapeake Bay Preservation Areas shall clearly depict the Resource Protection Area and Resource Management Area boundaries, as applicable. All plats and plot and site plans depicting a Resource Protection Area shall include a notation stating "The Resource Protection Area is to remain an undisturbed and vegetated 100-

foot wide buffer. Only water-dependent facilities or redevelopment are permissible in Resource Protection Areas, subject to approval by the Zoning Administrator, as specified in Section III-5.9 of the Town Zoning Ordinance."

A. Plot Plans. One copy of a plot plan drawn to scale for individual single-family dwellings or accessory structures for single-family residences or for commercial development which results in a land disturbance less than 10,000 square feet and which will result in an area of impervious surface of less than 16 percent of any lot or parcel, shall be submitted to the designated authority for review and approval. Any proposed encroachment into the Resource Protection Area shall require an applicant to prepare a site plan as outlined in Section III-5.12(B) in this Overlay District, including the submission of a water quality impact assessment in accordance with Section III-5.11 of this Overlay District.

B. Required Information. At a minimum, the plot plan shall be drawn to scale and contain the following information:

- (1) A boundary survey of the site drawn to scale or site drawing showing the north arrow and property line boundaries and distances.
- (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 locations of all existing driveways, parking areas, or other impervious surfaces.
- (6) Location of all existing and proposed septic tanks and drainfield areas including reserve areas required according to Section III-5.10.B(7) and the location of all existing and proposed wells of this Overlay District, including any required buffer areas.
- (7) Limits of clearing and grading.
- (8) Specifications for the protection of existing trees and vegetation during clearing, grading, and all phases of construction.
- (9) Location of any water bodies with perennial flow and the Resource Protection Area boundary as required in Section III-5.6 of this Overlay District, including any required buffer areas.
- (10) Location of all erosion and sediment control devices.

(11) Amount of impervious surface proposed for the site.

C. Site Plan. A site plan for any proposed development which will result in 10,000 square feet of land disturbance or greater, or any industrial development proposal shall be submitted to the designated authority for review and approval. Any encroachment into the Resource Protection Area shall require an applicant to submit a water quality impact assessment in accordance with Section III-5.11 of this Overlay District.

D. Required Information. The applicant shall submit six (6) prints at a scale of one hundred (100) feet to the inch of the site plan shall contain the information required for a plot plan above and the following additional information:

(1) The proposed title of the project and the names and addresses of the professional(s) preparing the plan, the owner or owners of record, and the applicant, if different, and a signature panel for the designated authority's approval.

(2) Site boundaries, north arrow, scale, the present zoning and current use of the property and all contiguous or abutting parcels.

(3) Existing topography with a maximum contour interval of two (2) feet.

(4) All wetlands permits required by law.

(5) Limits of existing floodplains.

(6) Existing natural land features, trees, water features and all proposed changes to these features shall be indicated on the site plan, including the location of all wooded areas before development, the proposed limits of clearing and all trees to be preserved in accordance with Section III-5.10(B)(3) of this Overlay District.

(7) Public sanitary sewer system, public water mains and fire hydrants.

(8) Slopes, terraces, retaining walls, fencing and screening within required yards, and any shoreline stabilization structures.

(9) Plans for collecting and depositing stormwater and method of treatment of natural and artificial watercourses, including a delineation of proposed limits of floodplains, if any, as created or enlarged by the proposed development.

(10) Stormwater management plan which shows the following:

- a. Location and design of all planned stormwater control devices.
- b. Procedures for implementing non-structural 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 IIIB Surveyor Certification.
- e. The plan shall include a guarantee from the property owner that he or she and subsequent owners shall be responsible for any necessary maintenance or repairs.

E. Review by Administrator. The administrator shall review plot plans, site plans and subdivision plans for compliance with all requirements of this Overlay District. Within sixty (60) days of submission of a plot plan, site plan, or subdivision plan, the applicant shall be advised in writing, by formal letter or by legible markings on the plan, of any additional data that may be required or improvements that need to be made for compliance with this Overlay District.

F. Denial of Plan, Appeal of Conditions or Modifications. In the event the plot plan or site plan is disapproved and recommended conditions or modifications are unacceptable to the applicant, the applicant may appeal such administrative decision to the Town Council. In granting an appeal, the Town Council must find such plan 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 this Overlay District. If the Town Council finds that the applicant's plan does not meet the above stated criteria, they shall deny approval of the plan.

III-5.13 Nonconformities. The lawful use of a building or structure which existed on the effective date of this Overlay District or which exists at the time of any amendment of this Overlay District, and which is not in conformity with new provisions this Overlay District may be continued in accordance with the following provisions and the provisions in Articles VI and VII of this Zoning Ordinance.

A. No change or expansion of use of an existing nonconforming structure shall be allowed with the exception that the Zoning Administrator may grant an application for existing structures on lots of parcels to provide for remodeling and alterations to such nonconforming structures in accordance with Article VII, provided that:

- (1) The alteration, use, improvement, or minor expansion of an existing structure does not increase the nonpoint source pollution load or degrade the quality of surface waters, and encroachment into the buffer area is minimized.
- (2) Any development, redevelopment, or land disturbance exceeding an area of 2,500 square feet complies with all erosion and sediment control requirements of the Accomack County Erosion and Sediment Control Ordinance.

B. Unimproved nonconforming lots of record at the time of the effective date of this Overlay District which are of insufficient size to meet the minimum requirements of this Ordinance regarding area, frontage, setbacks, width, depth, side and rear yards, or buffer area requirements may be used as permitted by the regulations of the underlying district in which the lot is located, with the exception of no encroachment extending into the seaward 50 feet of the Resource Protection buffer area. Lots must comply with all minimum zoning requirements and other applicable ordinances in effect on the date such lot was recorded.

C. An application to alter or expand a nonconforming use shall be made to and upon forms furnished by the Administrator and shall include for the purpose of proper enforcement of this Overlay District 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.

D. Approved applications shall become null and void twelve months from the date issued if no substantial work has commenced.

E. An application for the expansion of a legal principal nonconforming structure may be approved by the Zoning Administrator 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 Overlay District to other property owners in similar situations;
- (3) The waiver is in harmony with the purpose and intent of this Overlay District 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 a degradation of water quality;
- (6) Other findings, as appropriate and required by the Zoning Administrator are met; and
- (7) In no case shall this provision apply to accessory structures.

III-5.14 Exemptions

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

Construction, installation, operation, and maintenance of electric, natural gas, fiber-optic and telephone transmission lines, railroads, and public roads and their appurtenant structures, including sidewalks and lighting, in accordance with (i) regulations promulgated pursuant to the Erosion and Sediment Control Law (§62.1-44.15:51 *et seq.* of the Code of Virginia) and the Stormwater Management Act (§ 62.1-44.15:24 *et seq.* of the Code of Virginia), (11) 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 will be exempt from the CBPA Overlay District requirements. The exemption of public roads is further conditioned on the following:

(1) Optimization of the road alignment and design, consistent with other applicable requirements, to prevent or otherwise minimize (i) encroachment in the Resource Protection Area and (ii) adverse effects on water quality;

(2) Public roads as defined in Article II of the Zoning Ordinance are exempt from the requirements of this Overlay District.

B. Construction, installation, and maintenance of water, sewer, and natural gas and underground telecommunications and cable television lines owned, permitted or both by the Town of Parksley shall be exempt from the CBPA Overlay District provided that:

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

C. Exemptions for Silvicultural Activities.

Silvicultural activities are exempt from the requirements of this Overlay District provided that silvicultural operations adhere to water quality protection procedures prescribed by the Virginia Department of Forestry in the most recent edition of "Virginia's Forestry Best Management Practices for Water Quality [Technical Manual]."

D. Exemptions in Resource Protection Areas.

The following land disturbances in the Resource Protection Area may be exempted from the CBPA Overlay District: (i) water wells; (ii) passive recreation facilities such as boardwalks, trails, and pathways; and (iii) historic preservation and archaeological activities, provided that it is demonstrated to the satisfaction of the Zoning Administrator 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 intended use will not deteriorate water quality;
- (3) The intended use does not conflict with nearby planned or approved uses; and
- (4) Any land disturbance exceeding an area of 2,500 square feet shall comply with all Accomack County erosion and sediment control requirements.

III-5.15 Exceptions.

- A. A request for an exception to the requirements of Sections III-5.9 and III-5.10(C) of this Overlay District shall be made in writing to the Board of Zoning Appeals. It shall identify the impacts of the proposed exception on water quality and lands within the Resource Protection Area through the performance of a water quality impact assessment.
- B. The Board of Zoning Appeals 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 Board of Zoning Appeals shall review the request for an 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 Overlay District if the Board of Zoning Appeals finds:
 - (1) Granting the exception will not confer upon the applicant any special privileges that are denied by this Overlay District to other property owners in the CBPA Overlay 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 non-conforming that are related to adjacent parcels;
 - (3) The exception request is the minimum necessary to afford relief;
 - (4) The exception request will be in harmony with the purpose and intent of the CBPA Overlay 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 Board of Zoning Appeals cannot make the required findings or refuses to grant the exception, the Board of Zoning Appeals shall return the request for an exception 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 Overlay District other than Sections III-5.9 and III-5.10(C) shall be made in writing to the Zoning Administrator. The Zoning Administrator may grant these exceptions provided that:
- a. Exceptions to the requirements are the minimum necessary to afford relief; and
 - b. Reasonable and appropriate conditions are placed upon any exception that is granted, as necessary, so that the purposed and intent of this Overlay District is preserved.
 - c. Exceptions to Section III-5.10(B) may be made provided all the findings noted in Section III-5.15(C) of this Overlay District are made.

Lauren Lewis, Clerk
09/13/2021