



TOWN OF OCCOQUAN

Town Hall, 314 Mill Street, Occoquan, VA 22125
www.occoquanva.gov | info@occoquanva.gov | (703) 491-1918

PLANNING COMMISSION MEETING

March 22, 2022 | 6:30 p.m.

1. **Call to Order**
2. **Citizen Comments**
3. **Approval of Minutes**
 - a. February 23, 2022 Meeting Minutes
4. **Public Hearing**
 - a. Public Hearing on Council Zoning Text Amendments to Bring the Town Code into Conformance with DEQ's Recommendations for Implementing the Chesapeake Bay Preservation Act
5. **Action**
 - a. Request to make a Recommendation to Town Council on Zoning Text Amendments to Bring the Town Code into Conformance with DEQ's Recommendations for Implementing the Chesapeake Bay Preservation Act
6. **Presentation**
 - a. Presentation from John Emery, CEO, Apline-X
7. **Adjournment**

Eliot Perkins
Chair, Planning Commission



**TOWN OF OCCOQUAN
PLANNING COMMISSION**
Town Hall - 314 Mill Street, Occoquan, VA 22125

MEETING DATE: 2022-02-23
MEETING TIME: 6:30 PM

Present: Chairperson Eliot Perkins, Commissioners Darryl Hawkins, Ann Kisling, Ralph Newell (remote), Ryan Somma

Town Staff: Kirstyn Jovanovich, Town Manager; Bruce Reese, Town Engineer (remote)

1. Call to Order

The Planning Commission meeting was called to order by Chairman Perkins on 2023-02-23, at 6:34 p.m.

2. Citizen Comments

There were no comments.

3. Approval of Minutes

a. November 16, 2021 Meeting Minutes

Commissioner Kisling motioned to approve the minutes. Commissioner Somma seconded. The motion passed unanimously by voice vote.

4. Action

a. Request to Consider Zoning Text Amendments to Bring the Town Code into Conformance with DEQ's Recommendations for Implementing the Chesapeake Bay Preservation Act and to Set Public Hearing Date

Mr. Reece explained that DEQ Chesapeake Bay ordinance is to be reviewed every five years, and it has been 10-15 years. DEQ outlined things needing review by the town including the Zoning Ordinance, Comprehensive Plan, and site plans reviewed in the last five years. DEQ analyzes and visits sites that were inspected to see how well they were inspected. The Town met with DEQ on Jan 14, 2021, where plans were reviewed and sites visited. They recommended changes to the Comprehensive Plan that were adopted in 2021 by Town Council. Changes were extraordinarily minor, and only touched on one or two pages in 100-page document. Mr. Reece has been working with the Town Manager and Town Attorney to accommodate changes to the Zoning Ordinance based on DEQ recommendations. Changes include updated definitions, spelling errors, references to state code rather than re-iterating the state code and specifying water-dependent uses such as boat docks. Town was asked to remove appeals to the Town Council and let decisions rest with Planning Commission. Other jurisdictions have named a Chesapeake Bay Board to review exceptions to the CB requirements. Because the Planning Commission is capable, it was decided to let those decisions rest with the Planning Commission to act as the

Chesapeake Bay board. The Code further clarifies what is an exemption and what is an exception. Mr. Moore at the DEQ believes adopting these changes will meet the requirements.

Chairperson Perkins asked if Mr. Reece thought there was anything substantive in terms of changes. Mr. Reece did not think there was anything of substance requested by DEQ and no changes to operations in Town of Occoquan.

4. Discussion Items

a. Coronavirus State and Local Fiscal Recovery Funds (SLFRF) Update

Chairperson Perkins said these funds are a generational opportunity for Occoquan. The Town Council had a presentation from Ms. Jovanovich concerning the funds.

Ms. Jovanovich provided the Planning Commission the presentation made to Town Council. \$949,560.76 would come from American Rescue Act. The Town has received half the funds and will get the rest in June. Restrictions on how the money can be spent have slowed the process, but a new development is that money can be used to replace lost public sector funds up to \$10 million in lost revenue. She outlined a list of potential projects and programs., including stormwater system maintenance, deferred maintenance, Town Hall energy updates, gateway projects, signage and entryways, and public facility improvements,

Chairperson Perkins said there is a mixture of maintenance things people don't see and visible projects. He said there is also an opportunity to build a deck behind the Mill House Museum to connect the Riverwalk. The current total is \$1.15 million which is over the \$950K. Planning Commission members are welcome to have a say in priorities and offer recommendations.

b. Community Plan Addendum Status Update

Ms. Jovanovich said there are two years to designate the money and the Town could spend that time figuring out a signage motif. Chairperson Perkins said Ms. Jovanovich will be looking for grant opportunities as well.

c. Planning Commission Priorities Update

▪ Alpine X

Chairperson Perkins said that feasibility studies are now taking place. He has reached out to CEO of Alpine X to see how the Town of Occoquan can partner with them.

▪ North Woodbridge Town Center

Chairperson Perkins said the developer has submitted a zoning request to Prince William County. This will be a \$380 million town center, with more than 900 housing units, and 130k square feet of commercial space. Chairperson Perkins has spoken with the mayor concerning mobility and being able to connect these things, as there will be a need for busses to move people around Alpine, Town Center, and Occoquan.

- Belmont Bay Expansion Project

Chairperson Perkins said this is not as far along as other projects, but it will be significant. The Town will bring in representatives in to see about coordination.

- Mill at Occoquan

Commissioner Hawkins said the final meeting between Mr. Sills and the Architectural Review Board had taken place. The developer brought an Architect representative with materials for approval from the ARB. These were approved unanimously without comment.

Ms. Jovanovich said this means they are approved for exterior elevations. They still need approval for the Riverwalk with the ARB. They still need a final site plan and are still working on FEMA permitting. They are gearing up to start demolition. She has requested plenty of notice on the demolition to notify residents.

- Occoquan Beer Garden

Ms. Jovanovich said permits were issued by the County yesterday. They have an approved site plan. And they just need to meet conditions of approval such as nutrient credits. We should start seeing activity such as landscaping and work on the interior of the building very soon.

5. Adjournment

The meeting was adjourned at 7:14 p.m.

Minutes Prepared by Ryan Somma, Planning Commission Secretary



TOWN OF OCCOQUAN PLANNING COMMISSION

Agenda Communication

4. Public Hearings	Meeting Date: March 22, 2022
4A: Public Hearing on Council Zoning Text Amendments to Bring the Town Code into Conformance with DEQ's Recommendations for Implementing the Chesapeake Bay Preservation Act	

Attachments: a. Public Hearing Notice

Submitted by: Bruce Reese
Town Engineer

Explanation and Summary:

This is a public hearing on a zoning text amendment to bring the Town Code into conformance with the Department of Environmental Quality's (DEQ) recommendations for implementing the Chesapeake Bay Preservation Act.

Should the Planning Commission choose to close the public hearing, the Planning Commission will take action to make a recommendation to the Town Council later on the meeting agenda. The Town Council has scheduled a public hearing on the proposed ordinance on Tuesday, April 5, 2022.

Background

On July 10, 2020, the Town was notified by the Department of Environmental Quality (DEQ) that the local Chesapeake Bay Preservation Act (CBPA) program, which the Town administers, was to be reviewed for compliance. The Town accommodated the CBPA by adopting the Chesapeake Bay Preservation Overlay District within the Zoning Ordinance in 1998 (then § 66-191).

Such reviews are conducted by DEQ periodically to assure compliance by the localities with the intent and letter of the CBPA. This review includes an evaluation of the Town's ordinances, a review of previously approved plans, a review of the Town's Comprehensive Plan, and an inspection of active construction sites. Since the July 2020 notice, Daniel Moore, Principal Environmental Planner with DEQ's Water Division, has conducted the required reviews and inspections. The Town was found to be in compliance with regard to plan review and site enforcement. There were, however, suggestions for changes to the Town's Comprehensive Plan and Zoning Ordinance (now starting at § 157.150 after the recodification).

In December 2021, the Town Council adopted changes to the Town's Comprehensive Plan which included recommendations by Mr. Moore, who has since acknowledged those changes met his criteria for compliance.

After several iterations of changes to the Town's Zoning Ordinance (Chapter 157, beginning at 157.150, Chesapeake Bay Preservation Overlay District), the revisions proposed with this Zoning Text Amendment will bring the Town Code into conformance with DEQ's recommendations for compliance with the CBPA.

Staff Recommendation: Unless public comment provides a reason not to, staff recommends closing the public hearing.

Proposed/Suggested Motion(s):

"I move to close the public hearing."

OR

"I move to continue the public hearing to MEETING DATE."

OR

Other action the Planning Commission deems appropriate.

Town of Occoquan, Virginia
Notice of Planning Commission Public Hearing to Consider
Proposed Amendments to the Occoquan Town Code Generally Relating to
CHESAPEAKE BAY PRESERVATION OVERLAY DISTRICT

March 22, 2022 – 6:30 p.m.

Notice is hereby given pursuant to § 15.2-2204 of the Code of Virginia, as amended, that the Planning Commission of the Town of Occoquan, Virginia, a Municipal Corporation of the Commonwealth of Virginia, will hold a public hearing to consider proposed amendments to the Occoquan Town Code.

The public hearing will be for changes to the Chesapeake Bay Preservation Overlay District to incorporate changes suggested by the Virginia Department of Environmental Quality (DEQ). Among the changes to be made are (1) requiring the delineation of the 100-foot RPA boundary on all plans and plats, (2) assignment of final decision-making authority to the Planning Commission rather than the Town Council, and (3) tracking the DEQ guidance regarding exceptions and exemptions.

The proposed amendments are available for review in the Occoquan Town Hall at 314 Mill Street, Occoquan, Virginia 22125 and online at www.occoquanva.gov.

The hearing is being held on March 22, 2022, at 6:30 p.m. at the Occoquan Town Hall, 314 Mill Street, Occoquan, Virginia 22125. The location of this public hearing is believed to be accessible to persons with disabilities. Any person with questions on the accessibility of the facility should contact the Town Clerk at the above address or by telephone at (703) 491-1918. Persons needing interpreter services for the hearing impaired and/or vision impaired must notify the Town Clerk no later than one week prior to the hearing.

The Planning Commission of the Town of Occoquan, Virginia

3/10 & 3/17/22



TOWN OF OCCOQUAN PLANNING COMMISSION

Agenda Communication

5. Action Items	Meeting Date: March 22, 2022
5A: Request to Make a Recommend to Town Council on Zoning Text Amendment to Bring the Town Code into Conformance with DEQ's Recommendations for Implementing the Chesapeake Bay Preservation Act and Set Public Hearing Date	

Attachments: a. Draft Ordinance

Submitted by: Bruce Reese
Town Engineer

Explanation and Summary:

This is a request to make a recommendation to Town Council on the zoning text amendment to bring the Town Code into conformance with the Department of Environmental Quality's (DEQ) recommendations for implementing the Chesapeake Bay Preservation Act. The Planning Commission will hold its public hearing on this item during their March 22, 2022 meeting.

Background

On July 10, 2020, the Town was notified by the Department of Environmental Quality (DEQ) that the local Chesapeake Bay Preservation Act (CBPA) program, which the Town administers, was to be reviewed for compliance. The Town accommodated the CBPA by adopting the Chesapeake Bay Preservation Overlay District within the Zoning Ordinance in 1998 (then § 66-191).

Such reviews are conducted by DEQ periodically to assure compliance by the localities with the intent and letter of the CBPA. This review includes an evaluation of the Town's ordinances, a review of previously approved plans, a review of the Town's Comprehensive Plan, and an inspection of active construction sites. Since the July 2020 notice, Daniel Moore, Principal Environmental Planner with DEQ's Water Division, has conducted the required reviews and inspections. The Town was found to be in compliance with regard to plan review and site enforcement. There were, however, suggestions for changes to the Town's Comprehensive Plan and Zoning Ordinance (now starting at § 157.150 after the recodification).

In December 2021, the Town Council adopted changes to the Town's Comprehensive Plan which included recommendations by Mr. Moore, who has since acknowledged those changes met his criteria for compliance.

After several iterations of changes to the Town's Zoning Ordinance (Chapter 157, beginning at 157.150, Chesapeake Bay Preservation Overlay District), the revisions

proposed with this Zoning Text Amendment will bring the Town Code into conformance with DEQ's recommendations for compliance with the CBPA.

Staff Recommendation: Recommend recommendation of approval of the ordinance as presented to the Town Council.

Proposed/Suggested Motion(s):

"I move to recommend approval of the attached ordinance as presented."

OR

"I move to recommend approval of the attached ordinance with the following changes:_____."

OR

"I move to recommend disapproval of the attached ordinance because _____."

OR

Other action the Planning Commission deems appropriate.

ORDINANCE # O-2022-XX

AN ORDINANCE TO AMEND SECTIONS 157.152, 157.153, 157.159, 157.160, 157.161, 157.162, AND 157.163 OF THE TOWN CODE GENERALLY RELATING TO CHESAPEAKE BAY PRESERVATION OVERLAY DISTRICT

WHEREAS, The Virginia Department of Environmental Quality (DEQ) has suggested various changes to the Town zoning code to address compliance with the Chesapeake Bay Preservation Act (Article 2.5 of Chapter, 3.1, Title 62.1 of the Code of Virginia); and

WHEREAS, The Town Council and Planning Commission are dedicated to protecting the Chesapeake Bay from pollution.

NOW, THEREFORE, BE IT ORDAINED by the Council for the Town of Occoquan, Virginia meeting in regular session this ___ day of _____, 2022:

1. That the Town Council hereby amends Town Code §§ 157.152, 157.153, 157.159, 157.160, 157.161, 157.162, and 157.163 as follows:

§ 157.152 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. Words and terms not defined in this subchapter but defined in this chapter shall be given the meanings previously set forth.

APPLICANT. A person seeking any determination under this part or permit required by this subchapter.

BEST MANAGEMENT PRACTICE (BMPS). A practice, or a combination of practices, that is 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.

BUFFER AREA. Natural or established vegetation managed to protect other components of a resource protection area and state waters from significant degradation due to land disturbances.

CHESAPEAKE BAY PRESERVATION AREA (CBPA). Any land designated by the Town Council pursuant to part III of the Chesapeake Bay Preservation Area

designation and management regulations, 9 VAC §§ 25-830-70 et seq. and 62.1-44.15:72. A CBPA shall consist of a resource protection area and a resource management area.

CONSTRUCTION FOOTPRINT. 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.

DEVELOPMENT. The construction or substantial alteration of residential, commercial, industrial, institutional, recreation, transportation, or utility facilities or structures.

DIAMETER AT BREAST HEIGHT (DBH). The diameter of a tree measured outside the bark at a point four and one-half feet above ~~height (dBA)~~ the highest point of ground at the tree's base.

DRIPLINE. A vertical projection to the ground surface from the furthest lateral extent of a tree's leaf canopy.

FLOODPLAIN. All lands that would be inundated by floodwater as a result of a storm event of a 100-year return interval.

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

HIGHLY PERMEABLE SOILS. 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 Agricultural Natural Resources Conservation Service.

IMPERVIOUS COVER or IMPERVIOUS SURFACES. A surface composed of any material that significantly impedes or prevents natural infiltration of water into the soil. **IMPERVIOUS SURFACES** ~~It includes, but are not limited to,~~ roofs, buildings, streets, parking areas, and any concrete, asphalt, or compacted gravel surface.

INTENSELY DEVELOPED AREAS (IDAs). A portion of a resource protection area or a resource management area designated by the Town Council where development is concentrated and little of the natural environment remains.

NONPOINT SOURCE POLLUTION. Pollution consisting of constituents such as sediment, nutrients, and organic and toxic substances from diffuse sources, such as runoff from agriculture and urban land development and use.

NONTIDAL WETLANDS. Wetlands other than tidal wetlands that are inundated or saturated by surface water or groundwater 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 § 404 of the Federal Clean Water Act, in 33 C.F.R. § 328.3b.

NOXIOUS WEEDS. Weeds that are difficult to control effectively, such as Johnson grass, kudzu, and multiflora rose.

PLAN OF DEVELOPMENT. The process for site plan or subdivision plat review to ensure compliance with 9 VAC § 25-830, and this subchapter prior to any clearing or grading of a site or the issuance of a building permit.

PRIVATE ROAD. A privately owned and maintained road designed and constructed in accordance with the State Department of Transportation standards.

PUBLIC ROAD. A publicly owned road designed in accordance with the State Department of Transportation standards.

REDEVELOPMENT. The process of developing land that is or has been previously developed, including in-fill development in intensely developed areas.

RESOURCE MANAGEMENT AREA (RMA). The component of the CBPA 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). The component of the CBPA 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 that may result in significant degradation to the quality of state waters. See § 157.153 for areas of applicability.

SUBSTANTIAL ALTERATION. The expansion or modification of a building or development within the resource management area that would result in land disturbance exceeding 2,500 square feet.

THIS SUBCHAPTER. Sections 157.150 through 157.163 of this code.

TIDAL SHORE or SHORE. Land contiguous to a tidal body of water between the mean low water level and the mean high water level.

TIDAL WETLANDS. Vegetated and non-vegetated wetlands as defined in VA Code § 28.2-1300.

WATER-DEPENDENT FACILITY. Development of land that cannot exist outside of the RPA and must be located on the shoreline due to the intrinsic nature of its operation. These facilities include, but are not limited to: ports; the intake and outfall structures of power plants, water treatment plants, sewage treatment plants, and storm sewers; marinas and other boat docking structures; beaches and other public water-oriented recreation areas; and fisheries or other marine resources facilities.

WETLANDS. Tidal and nontidal wetlands.

§ 157.153 AREAS OF APPLICABILITY.

(A) The Chesapeake Bay Preservation Area Overlay District shall apply to all lands identified as CBPAs as designated by the Town Council and as shown on the Occoquan Chesapeake Bay Preservation Area Map. This map, together with all explanatory matter thereon, is adopted by reference and declared to be a part of this subchapter.

(1) The resource protection area (RPA) is hereby established and shall consist of lands adjacent to water bodies with perennial flow that 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; and

(d) A 100-foot vegetated buffer area located adjacent to and landward of the components listed in divisions (A)(1)(a) through (A)(1)(c) above and along both sides of any water bodies with perennial flow.

(2) The RMA is composed of concentrations of the following land categories: floodplains; highly erodible soils, including steep slopes; highly permeable soils; nontidal wetlands not included in the RPA; and other lands, including all areas in the town necessary to protect the quality of state waters.

(B) The Occoquan Chesapeake Bay Preservation Area Map shows the general location of CBPAs and should be consulted by persons contemplating activities within the town prior to engaging in a regulated activity. The specific location of RPAs on a lot or parcel shall be delineated on each site or parcel as required under § 157.158.

(C) All areas within the town limits north of and including Mill Street and Poplar Lane are designated as ~~IDEAS~~IDEASIDAs. These areas shall serve as redevelopment areas. Areas so designated shall comply with all erosion and sediment control requirements and the performance standards for redevelopment in § 157.159.

§ 157.159 PERFORMANCE STANDARDS.

(A) *Purpose and intent.*

(1) The purpose and intent of this section is to prevent a net increase in nonpoint source pollution from new development and achieve a 10% reduction in nonpoint source pollution from redevelopment.

(2) 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, is an especially effective filter of stormwater runoff. Minimizing impervious cover enhances rainwater infiltration and effectively reduces stormwater runoff potential.

(3) Except as otherwise expressly stated in this Chapter, development in Chesapeake Bay Preservation Areas shall comply with state regulations found at 9VAC25-830-130, 9VAC25-830-140, and 9VAC25-830-150.

(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, 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.

(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 six inches ~~dbh~~ DBH shall be preserved outside the construction footprint. Diseased trees or trees weakened by age, storm, fire or other injury may be removed.

(b) Clearing shall be allowed only to provide necessary access, positive site drainage, water quality BMPs, and the installation of utilities, as approved by the Zoning Administrator.

(c) Prior to clearing or grading, suitable protective barriers, such as safety fencing, shall be erected one foot outside of the dripline of any tree or stand of trees to be preserved. These protective barriers shall remain erected throughout all phases of construction. The storage of equipment, materials, debris, or fill shall not be allowed within the area protected by the barrier.

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

(4) Notwithstanding any other provisions of this division (B) or exceptions or exemptions to this division (B), any land disturbing activity exceeding 2,500 square feet, including construction of all single-family houses, shall comply with the requirements of Chapter 152 of this code.

(5) All existing sewage disposal systems not requiring a VPDES permit shall be pumped out at least once every five years, in accordance with the provisions of the County Health Code. New septic tanks and private sewage plants are not permitted.

(6) For any development or redevelopment, stormwater runoff shall be controlled by the use of BMPs that achieve the following.

(a) For development, the post-development nonpoint source pollution runoff load shall not exceed the predevelopment load, based on a Chesapeake Bay watershed-wide average impervious surface cover of 16%.

(b) For any redevelopment site and for sites within ~~IDEAS~~ IDAS, the nonpoint source pollution load shall be reduced by at least 10%. The Zoning Administrator may waive or modify this requirement for redevelopment sites that originally incorporated BMPs for stormwater runoff quality control, provided the following provisions are satisfied:

1. In no case may the post-development nonpoint source pollution runoff load exceed the predevelopment load;

2. Runoff pollution loads must have been calculated and the BMPs selected for the expressed purpose of controlling nonpoint source pollution; and

3. If BMPs are structural, evidence shall be provided that facilities are currently in good working order and performing at the design levels of service. The Zoning Administrator may require a review of both the original structural design and maintenance plans to verify this provision. A new maintenance agreement may be required to ensure compliance with this division (B)(6).

(c) For redevelopment, both the pre- and post-development loadings shall be calculated by the same procedures. However, where the design data is available, the original post-development nonpoint source pollution loadings can be substituted for the existing development loadings.

(7) 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 § 157.161.

(8) Clearing, land disturbance, or development exceeding 500 square feet, ~~on a recorded lot of record as of the date of this chapter amendment,~~ on slopes 20% or greater is prohibited.

(C) 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 delineation of the 100-foot RPA boundary for the retention of an undisturbed and vegetated 100-foot-wide buffer area with permissibility of only water dependent facilities or redevelopment shall be shown on all plans and plats.

(2) The buffer area shall be located adjacent to and landward of other RPA components and along both sides of any waterbody with perennial flow. The full buffer area shall be designated as the landward component of the RPA, in accordance with sections § 157.153 and 157.161.

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

(4) The buffer area shall be maintained to meet the following additional performance standards.

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

1. Trees may be pruned or removed as necessary to provide for 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.

2. Any path shall be constructed and surfaced to effectively control erosion.

3. Dead, diseased, or dying trees or shrubbery and noxious weeds may be removed and thinning of trees may be allowed pursuant to sound horticulture practice as recommended by the town.

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.

(b) 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 allow encroachments into the buffer area in accordance with § 157.161 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 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.

3. The encroachment may not extend into the seaward 50 feet of the buffer area.

(c) Redevelopment within ~~IDEAS~~ IDAs may be exempt from the buffer area, in accordance with § 157.161. Where possible a buffer area shall be provided in order to remove pollutants and protect water quality. Any and all buffer exemptions are to be granted by the Zoning Administrator.

§ 157.160 WATER QUALITY IMPACT ASSESSMENT.

(A) The purpose of the water quality impact assessment is to:

(1) Identify the impacts of proposed development on water quality and lands within RPAs and other environmentally sensitive lands;

(2) Ensure that, where development does take place within RPAs and other sensitive lands, it will be in a manner that will be least disruptive to the natural functions of RPAs and other sensitive lands;

(3) Protect individuals from investing funds for proposed improvements on lands not suited for such development because of high groundwater, erosion, or vulnerability to flood and storm damage;

(4) Provide for administrative relief from the terms of this section when warranted and in accordance with the requirements contained in this section; and

(5) Specify mitigation that will address water quality protection.

(B) A water quality impact assessment is required for any proposed land disturbance, development, or redevelopment within an RPA, including any buffer area modification or encroachment as provided for in § 157.159; and any development in an RMA, floodplain, area of highly erodible soils, or 20% or greater slopes.

(C) There shall be two levels of water quality impact assessments, minor and major.

(1) Minor water quality impact assessment.

(a) A minor water quality impact assessment pertains only to development within an RPA and its 100-foot buffer strip under the following conditions:

1. No more than 6,000 square feet of land disturbance; and
2. No disturbance of the seaward 50 feet of the 100-foot buffer area.

(b) A minor assessment must demonstrate that the undisturbed buffer area, enhanced vegetative plantings, and any required BMPs will result in removal of no less than 75% of sediments and 40% of nutrients from post-development stormwater runoff. It must also demonstrate that it 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, which shows the following:

1. Location of the components of the RPA, including the 100-foot buffer area;

2. 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;

3. Type and location of proposed BMPs to mitigate the proposed encroachment;

4. If development is in an IDEAIDA, proposed measures to restore all or part of the buffer strip, if possible;

5. Location of existing vegetation on-site, including the number and type of trees and other vegetation to be removed in the buffer to accommodate the encroachment or modification; and

6. Re-vegetation plan that supplements the existing buffer vegetation in a manner that provides for pollutant removal, erosion, and runoff control.

(2) Major water quality impact assessment.

(a) 1. A major water quality impact assessment shall be required for any development that:

a. Exceeds 6,000 square feet of land disturbance within an RPA or its buffer strip;

b. Disturbs any portion of the seaward 50 feet of the 100-foot buffer area; or

c. Is located in an RMA and includes areas of floodplain, highly erodible soils, or 20% or greater slopes.

2. The information required in this division (C)(2)(a) shall be considered a minimum unless the Zoning Administrator determines that some of the elements are unnecessary due to the scope and nature of the proposed use and development of land.

(b) The following elements shall be included in the preparation and submission of a major water quality assessment:

1. All of the information required in a minor water quality impact assessment, as specified in this division (C);

2. A hydrogeological element that:

a. Describes the existing topography, soils, hydrology, and geology of the site and adjacent lands; and

b. Describes the impacts of the proposed development on topography, soils, hydrology, and geology on the site and adjacent lands.

3. Indicates the following:

a. Disturbance or destruction of wetlands and justification for such action;

b. Disruptions or reductions in the supply of water to wetland, streams, lakes, rivers, or other water bodies;

c. Disruptions to existing hydrology, including wetland and stream circulation patterns;

d. Source location and description of proposed fill material;

e. Location of dredge material and location of dumping area for such material;

f. Location of and impacts on shellfish beds, submerged aquatic vegetation, and fish spawning areas;

g. Estimation of pre- and post-development pollutant loads in runoff;

h. Estimation of percentage of increase in impervious surface on the site and types of surfacing materials used;

i. Percentage of site to be cleared for the project;

j. Anticipated duration and phasing schedule of the construction project; and

k. Listing of all requisite permits from all applicable agencies necessary to develop the project.

4. Describes the proposed mitigation measures for the potential hydrogeological impacts. Potential mitigation measures include:

a. Proposed erosion and sediment control concepts; 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. Proposed stormwater management system;

c. Creation of wetlands to replace those lost; and

d. Minimizing cut and fill.

(c) A landscape element that:

1. Identifies and delineates the location of all significant plant material on-site, including all trees six inches or greater ~~d.b.h.~~DBH. Where there are groups of trees, stands may be outlined;

2. Describes the impacts of the development or use on the existing vegetation, including:

a. General limits of clearing, based on all anticipated improvements, including buildings, drives, and utilities;

b. Clear delineation of all trees to be removed; and

c. Description of plant species to be disturbed or removed.

3. Describes the potential measures for mitigation. Possible mitigation measures include:

a. Replanting schedule for trees and other significant vegetation removed for construction, including a list of possible plants and trees to be used;

b. Demonstration that the design of the plan will preserve, to 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; and

c. Demonstration that indigenous plants are to be used to the greatest extent possible.

(d) Submission and review requirements.

1. Ten copies of all site drawings and other applicable information as required by divisions (C)(2)(c)1. and (C)(2)(c)2. above shall be submitted to the Zoning Administrator for review.

2. All information required in this section shall be certified as complete and accurate by a professional engineer.

3. A water quality impact assessment shall be prepared and submitted to and reviewed by the Zoning Administrator in conjunction with § 157.161.

4. As part of any major water quality impact assessment submittal, the Zoning Administrator may require review by the Chesapeake Bay Local Assistance Department (CBLAD). Upon receipt of a major water quality impact assessment, the Zoning Administrator will determine if such review is warranted and may request CBLAD to review the assessment and respond with written comments. Any comments by CBLAD will be incorporated into the final review by the Zoning Administrator, provided that such comments are provided by CBLAD within 90 days of the request.

(e) Evaluation procedure.

1. Upon the completed review of a minor water quality impact assessment, the Zoning Administrator will determine if any proposed modification or reduction to the buffer area is consistent with the provisions of this subchapter and make a 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. Impervious surface is minimized;

c. Proposed BMPs, where required, achieve the requisite reductions in pollutant loadings;

d. The development, as proposed, meets the purpose and intent of this section; and

e. 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 water quality impact assessment, the Zoning Administrator will 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. The proposed development within the RPA is water dependent;

b. The disturbance of any wetlands will be minimized;

c. The development will not result in unnecessary disruption of the hydrology of the site;

d. The development will not result in unnecessary degradation to aquatic vegetation or life;

e. The development will not result in unnecessary destruction of plant materials on the site;

f. Proposed erosion and sediment control concepts are adequate to achieve the reductions in erosion and minimize off-site sedimentation;

g. Proposed stormwater management concepts are adequate to control the stormwater runoff and achieve the required performance standard for pollutant control;

h. Proposed re-vegetation of disturbed areas will provide effective erosion and sediment control benefits;

i. The development, as proposed, is consistent with the purpose and intent of the overlay district;

j. 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;

k. The Zoning Administrator shall require additional mitigation where potential impacts have not been adequately addressed. Evaluation of mitigation measures will be made by the Zoning Administrator based on the criteria listed in division (C)(2)(e)1. above and this division (C)(2)(e)2; and

l. The Zoning Administrator 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 Zoning Administrator based on the criteria listed in division (C)(2)(e)1. above and this division (C)(2)(e)2.

§ 157.161 PLAN OF DEVELOPMENT PROCESS.

(A) 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, grading, or filling of the site or the issuance of any building permit, to assure compliance with all applicable requirements of this subchapter.

(B) In addition to the requirements of this section and Chapters 155 and 156 of this code, the plan of development process shall consist of the plans and studies identified in this division (B). These required plans and studies may be coordinated or combined, as deemed appropriate by the Zoning Administrator. The Zoning 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 in this Chapter:

(1) A site plan in accordance with the provisions of Chapter 155 of this code or a subdivision plat in accordance with the provisions of Chapter 156 of this code, as necessary;

(2) An environmental site assessment;

(3) A landscaping plan;

(4) A stormwater management plan; and

(5) An erosion and sediment control plan in accordance with the provisions of Chapter 152 of this code.

(C) An environmental site assessment shall be submitted in conjunction with preliminary site plan or preliminary subdivision plan approval.

(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 bodies with perennial flow;

(d) A 100-foot buffer area located adjacent to and landward of the components listed in divisions (C)(1)(a) through (C)(1)(c) above and along both sides of any waterbody with perennial flow; and

(e) Other sensitive environmental features as determined by the Zoning Administrator.

(2) Wetlands delineations shall be performed consistent with the procedures specified in the current edition of the Federal Manual for Identifying and Delineating Jurisdictional Wetlands, 1987, or as determined by the Army Corps of Engineers (ACOE).

(3) The environmental site assessment shall delineate the site-specific geographic extent of the RPA.

(4) The environmental site assessment shall be drawn at the same scale as the preliminary site plan or subdivision plat and shall be certified as complete and accurate by a professional engineer. This requirement may be waived by the Zoning Administrator when the proposed use or development would result in less than 5,000 square feet of disturbed area.

(5) Any request for exemption from the buffer requirements for properties contained wholly within designated ~~IDEAS~~ IDAs, as allowed by § 157.159(C)(4), must be submitted in writing with the assessment.

(D) A landscaping plan shall be submitted in conjunction with site plan approval or as part of subdivision plat approval. No clearing, grading, or filling of any lot or parcel shall be permitted without an approved landscaping plan.

(1) Contents of the plan.

(a) The landscaping plan shall be drawn to scale and clearly delineate the location, size, and description of existing and proposed plant material. All existing trees on the site six inches or greater ~~dbh~~ DBH shall be shown on the landscaping plan. Where there are groups of trees, stands may be outlined instead. The specific number of trees six inches or greater ~~dbh~~ DBH to be preserved outside the construction footprint shall be indicated on the plan. Trees to be removed to create a desired construction footprint shall be clearly delineated.

(b) Any required buffer area shall be clearly delineated, and any plant material to be added to establish or supplement the buffer area as required by this subchapter shall be shown.

(c) Within the buffer area, trees to be removed for sight lines, vistas, access paths, and BMPs, as provided for in this subchapter, shall be shown. Vegetation required by this subchapter to replace any existing trees within the buffer area shall also be shown.

(d) Trees to be removed for shoreline stabilization projects and any replacement vegetation required by this subchapter shall be shown on the landscaping plan.

(e) Grade changes or other work adjacent to trees that would affect adversely them. Specifications shall be provided as to how grade, drainage, and aeration will be maintained around trees to be preserved.

(f) Specifications for the protection of existing trees during clearing, grading, and all other 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~~ American Hort.

(c) Where areas that are to be preserved, as designated on an approved landscaping plan, are disturbed or encroached, replacement of existing trees and other vegetation will be achieved at a ratio of one planted tree to one removed. Replacement trees shall be of a similar species, a minimum of 12 feet in height and one and one-half inches DBH ~~DBA~~ at the time of planting.

(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 subchapter.

(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 for a period of one year after the developer has completed all real estate sales in the developed property. Unhealthy, dying, or dead plant materials shall be replaced during the next planting season, as required by the provisions of this subchapter.

(E) A stormwater management plan shall be submitted in accordance with Chapter 153 of this code in conjunction with site plan or subdivision plan approval. 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 subchapter.

(1) At a minimum, the stormwater management plan must contain the following:

(a) Location and design of all proposed 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; and

(d) For facilities, verification of structural soundness, including a professional engineer certification.

(2) All engineering calculations must be performed in accordance with procedures outlined in the current edition of the Virginia Stormwater Management Handbook.

(3) The plan shall establish a long-term schedule for inspection and maintenance of stormwater management facilities including all maintenance requirements and persons responsible for performing said maintenance. If the designated maintenance responsibility is with a party other than the town, a maintenance agreement shall be executed between the responsible party and the town.

(F) An erosion and sediment control plan shall be submitted that satisfies the requirements of this subchapter and in accordance with Chapter 152 of this code, in conjunction with site plan or subdivision plan approval.

(G) 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 Chapters 155 and 156 of this code.

(1) Final plans and plats for all lands within CBPAs shall include the following additional information:

(a) The delineation of the 100-foot RPA boundary for the retention of an undisturbed and vegetated 100-foot-wide buffer area, with permissibility of only water dependent facilities or redevelopment;

(b) The delineation of required buffer areas;

(c) All wetlands permits required by law;

(d) A maintenance agreement, as deemed necessary and appropriate by the Zoning Administrator, to ensure proper maintenance of BMPs in order to continue their functions;

(e) Measures to be taken for the protection of the resource protection areas (RPAs) during clearing, grading, and all other phases of construction. The following notations shall be included.

1. All existing vegetation within the RPA shall remain in its undisturbed natural state, except as allowed by this code.

2. Permissible development in the RPA is limited to water-dependent facilities, redevelopment, or other uses specifically allowed by this code.

(f) Gross acreages of the following physical land units shall be tabulated and computed by accurate planimetric methods at the final plan scale: 100-year floodplains; wetlands; existing water features (bodies of water, drainage channels, streams, and the like); and resource protection areas and resource management areas as specified by this subchapter; and

(g) Buildable areas allowed on each lot based on the performance criteria specified in the Chesapeake Bay Preservation Area regulations ~~in this chapter~~; front, side, and rear yard setback requirements established pursuant to this chapter, and any other relevant easements or limitations regarding lot coverage shall be graphically depicted on the site plan.

(2) Installation and bonding requirements are as follows.

(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 the town a form of surety satisfactory to the Zoning Administrator in an amount equal to the remaining plant materials, related materials, and installation costs of the landscaping or other specifications and/or maintenance costs for any required stormwater management facilities.

(c) All required landscaping shall be installed and approved by the first planting season following issuance of a certificate of occupancy, or the surety may be forfeited to the town.

(d) All required stormwater management facilities or other specifications shall be installed and approved within 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 town. The town 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 with the as-built site plan or subdivision plan. If the requirements of the approved plan have been completed to the satisfaction of the Zoning Administrator, such unexpended or unobligated portion of the surety held shall be refunded in accordance with Chapters 155 and 156 of this code. The Zoning Administrator may require a certificate of substantial completion from a professional engineer before making a final inspection.

(H) Administration of the plan of development process shall be in accordance with Chapters 155 and 156 of this code.

(1) If the final plan or any component of the plan of development process, as related to this chapter, is not approved by the Zoning Administrator and/or recommended conditions or modifications are unacceptable to the applicant, the applicant may appeal such administrative decision to the Planning Commission.

(2) The appeal shall be made in writing to the Planning Commission. The Planning Commission shall review the appeal and ~~make recommendation to the Town Council. In reviewing the appeal, the Planning Commission shall~~ determine if:

(a) The plan is in accordance with all applicable ordinances and includes the necessary elements to mitigate any detrimental impact on water quality, adjacent properties, and the surrounding area; or

(b) Such plan meets the purpose and intent of the performance standards in this subchapter.

(3) If the Planning Commission finds that the applicant's plan does not meet the criteria stated in ~~subsection (i)(2) of this section, it shall recommend denial of reject~~ the plan to the Town Council. If the applicant's plan is found to meet the criteria stated in ~~subsection (i)(2) of this section, the Planning Commission shall recommend approval of approve the plan to the Town Council.~~

~~——(4) The Town Council shall consider the findings and rationale of the Planning Commission when voting to deny or approve the applicant's appeal.~~

§ 157.162 NONCONFORMING USES AND NONCOMPLYING STRUCTURES.

(A) The lawful use of a building or structure existing on the effective date of the ordinance from which this section derives or which exists at the time of any amendment to this subchapter, and which is not in conformity with the provisions of the overlay district may be continued in accordance with §§ 157.210 through 157.213.

(B) No change or expansion of use shall be allowed, with the exception that:

(1) ~~The Town Council~~ Planning Commission may grant a nonconforming use and development waiver for 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; and

(b) Any development or land disturbance exceeding 2,500 square feet in area complies with all erosion and sediment control requirement of this subchapter.

(2) An application for a nonconforming use and development waiver shall be made to and upon forms furnished by the Zoning Administrator and shall include, for the purpose of proper enforcement of this section, the following information:

(a) Name and address of the applicant and the property owner;

(b) Legal description of the property;

(c) Type of proposed use and development;

(d) A sketch of the dimensions of the lot or parcel, location of buildings, and proposed additions relative to the lot lines, and boundary of the RPA; and

(e) Location and description of any existing private water supply or sewerage system.

(3) Requests for a nonconforming use and development waiver shall be reviewed by the Planning Commission for compliance with the provisions of this section, ~~who shall forward a recommendation to the Town Council;~~

(4) The Planning Commission shall review the ~~A~~ nonconforming use and development waiver ~~shall become null and void~~ 12 months from the date issued and shall revoke it by affirmative vote if no substantial work has commenced; and

(5) An application for the expansion of a nonconforming principal structure ~~may shall~~ be approved by the ~~Town Council~~ Planning Commission ~~after an administrative review process provided that if it finds 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 subchapter to other property owners in similar situations;

(c) The waiver is in harmony with the purpose and intent of this subchapter 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, either by the current property owner or by a predecessor in title;

(e) Reasonable and appropriate conditions are imposed, as warranted, that will prevent the waiver from causing degradation of water quality; and

(f) The application does not include any accessory structures. ~~Other findings, as appropriate and required by the town, are met; and~~

~~(g) In no case shall this provision apply to accessory structures.~~

§ 157.163 EXEMPTIONS AND EXCEPTIONS.

(A) Exemptions for linear utilities:

(1) Construction, installation, operation, and maintenance of electric, natural gas, fiber optic, telephone transmission lines, underground telecommunications and

cable television lines, railroads, public roads, pedestrian and bike paths, and their appurtenant structures shall be exempt from compliance with this Subchapter so long as they comply with Erosion and Sediment Control Law, the Storm Water Management (SWM) Act of the Code of Virginia and the Prince William County Design and Construction Standards Manual. The exemption of public roads is further conditioned on the road alignment and design being such as to minimize encroachment into the RPA and adverse effects on water quality. A WQIA study will be required for public roads unless the Town grants an exception pursuant to subsection (B) of this section. The applicant shall submit proof of all required compliance to the Zoning Administrator, who shall process the application as provided in this section.

(2) Construction, installation, and maintenance of water and sewer lines owned by a regional service authority shall be exempt from the compliance with this Subchapter if the provisions of the following paragraphs (a) through (d) are met. The applicant shall submit proof of all required compliance to the Zoning Administrator, who shall process the application as provided in this section.

(a) To the degree possible, the location of such utilities and facilities should be outside Resource Protection Areas;

(b) No more land shall be disturbed than is necessary to provide for the necessary utility installation;

(c) All such 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;

(d) Any land disturbance exceeding an area of 2,500 square feet shall comply with all erosion and sediment control requirements of the Design and Construction Standards Manual.

(B) Exceptions.

(1) Exceptions to the requirements of this Subchapter may be granted only as permitted by section 740.06 of the Prince William County Design and Construction Standards Manual. Exceptions for encroachment into the RPA will be processed in accordance with section 700 of the Prince William County Design and Construction Standards Manual either as administrative exceptions or as public hearing exceptions.

(2) When a public hearing is required by section 700 of the Prince William County Design and Construction Standards Manual, the Town Planning Commission shall conduct a public hearing to review a request for an exception for encroachment into the RPA and the associated water quality impact assessment study. The Planning Commission may grant the exception with such conditions and safeguards as stated in section 700 of the Prince William County Design and Construction Standards Manual.

~~(A) Construction, installation, and maintenance of water, sewer, roads, natural gas lines, underground telecommunications, and cable television lines owned, permitted by the town, shall be exempt from the overlay district provided that:~~

~~(1) To the extent possible, the location of such utilities and facilities shall 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 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 2,500 square feet in area shall comply with all town erosion and sediment control requirements.~~

~~(B) Water wells; passive recreation facilities such as boardwalks, trails, and pathways; and historic preservation and archaeological activities within the RPAs may be exempted from the overlay district, 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 2,500 square feet in area shall comply with all town erosion and sediment control requirements.~~

2. That this ordinance is effective _____.

BY ORDER OF THE TOWN COUNCIL

**Meeting Date:
Town Council Meeting
Ord No. O-2022-XX**

RE: An Ordinance to Amend Sections 157.152, 157.153, 157.159, 157.160, 157.161, 157.162, and 157.163 of the Town Code Generally Relating to Chesapeake Bay Preservation Overlay District

**MOTION:
SECOND:
ACTION:**

**Votes:
Ayes:
Nays:
Absent from Vote:
Absent from Meeting:**

CERTIFIED COPY _____

Town Clerk